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13 600 FOOTHILL OWNER, LP

14 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
15 IN AND FOR THE COUNTY OF LOS ANGELES  
16 [DIVISION]

17 600 FOOTHILL OWNER, LP, a California  
18 limited partnership,

19 Plaintiff,

20 vs.

21 CITY OF LA CAÑADA FLINTRIDGE; THE  
22 CITY OF LA CAÑADA FLINTRIDGE  
23 COMMUNITY DEVELOPMENT  
24 DEPARTMENT; AND THE CITY OF LA  
25 CAÑADA FLINTRIDGE CITY COUNCIL,  
26 AND DOES 1-50.

27 Defendants.

) Case No.: [Case Number]

) **VERIFIED PETITION FOR WRIT OF**  
) **MANDATE AND COMPLAINT FOR**  
) **DECLARATORY AND INJUNCTIVE**  
) **RELIEF**

) (Code Civ. Proc. §§ 1085 & 1094.5; 525,  
) 526, 1060; Gov. Code §§ 65589.5 (Housing  
) Accountability Act), 65580 et seq. (Housing  
) Element Law), 8899.50 (Affirmatively  
) Furthering Fair Housing), 65920 et seq.  
) (Permit Streamlining Act), 65915 et seq.  
) (Density Bonus Law), 66410 et seq.  
) (Subdivision Map Act)).

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**OVERVIEW OF WRIT PETITION AND COMPLAINT**

1  
2 1. California is facing a housing crisis of unprecedented proportion; meanwhile, the City  
3 of La Cañada Flintridge (“City”) and other Respondents are doing everything in their power to deny,  
4 delay, prevent and make financially infeasible any new mixed use or multifamily housing (especially  
5 any type of apartment, condominium, and/or affordable housing) within the boundaries of the City in  
6 violation of California’s Housing Accountability Act (“HAA”) and other relevant laws. Gov. Code  
7 §§ 65589.5, *et seq.* Indeed, the negative attitude toward new housing is highlighted with City’s current  
8 Mayor Gunter (without any stated research or support) attack on the State Legislature, Governor and  
9 State Department of California Housing and Community Development (“HCD”), when he  
10 proclaimed: *“the [housing element] law was passed with no research or evidence to back it up*  
11 *whatsoever and was assigned to a State organization that is understaffed and ill-prepared to prepare*  
12 *documents of this complexity amounting to many rules that were, by design, completely independent*  
13 *from each individual city, or its locale, or topography, or demography.”* Exhibit 1, Minutes from  
14 City Council July 5, 2022 Meeting.

15 2. The essence of the City’s lackluster track record on housing and the intertwined events  
16 in this case are summarized as follows:

17 (a) The City has demonstrated a forty (40) year history of essentially not approving  
18 or permitting new housing, other than single-family homes (mostly rebuilds) and four new  
19 condominiums on the west side of the City;

20 (b) The City has adhered to a Downtown Village Specific Plan (the “DVSP”)   
21 that has either failed (potentially by design), with not one new housing unit built since the DVSP  
22 was adopted over 22 years ago;

23 (c) Three alternative projects proposed for the property located at the 1.29-  
24 acre property at 600 Foothill Boulevard in La Cañada Flintridge, California (the “Property”) and  
25 within the DVSP were halted by Respondents. First, an Oakmont Assisted Living project, which  
26 only required a conditional use permit for entitlements; second, Petitioner’s “senior housing  
27 project,” which received unanimous approval from the City’s Planning Commission and  
28 recommended for approval by City staff, but was rejected by the City Council, including then-

1 Mayor Walker who read a *pre-prepared* speech of denial; and third, Petitioner’s “Builder’s  
2 Remedy” Project (defined, *infra* ¶¶ 16-17), which is, in part, subject to this dispute. The City  
3 Council halted this project as the “completeness determination” stage of processing, after  
4 Petitioner expended hundreds of thousands of dollars in furtherance of the Project on plans,  
5 studies and other supporting materials.

6 (c) The City, through its City Council, has determined to “self-certify” and  
7 “back date” a Housing Element to avoid the negative repercussions under state law, including  
8 processing the Project under the Builder’s Remedy. If the City was allowed to “self-certify” its  
9 Housing Element (and back date), it would strip HCD of its statutory authority over Housing  
10 Element compliance.

11 (d) The City’s recently adopted Housing Element for the Sixth Regional  
12 Housing Needs Allocation (“RHNA”) cycle is defective and necessary corrective actions will need  
13 to be taken, including the defects identified by HCD.

14 (e) Meager attempts by the City to prepare a substantially compliant Housing  
15 Element have forced the City to adopt statutorily-required zoning amendments under state law,  
16 which the City failed to do by the statutory deadline and still has failed to do as of the date of this  
17 filing. The City has demonstrated bad faith related to its attempts to adopt a compliant Housing  
18 Element, including (i) using sites such as the United States Post Office, California Department of  
19 Transportation Rights of Way, and properties rejected by their owners as housing sites for an  
20 inventory; (ii) inappropriate or complete lack of supportable assumptions, comparables and  
21 financial analysis; and (iii) not affirmatively furthering fair housing (“AFFH”).

22 (f) Significant conflicts-of-interest have been omnipresent in the City  
23 Council’s decision-making processes regarding the Housing Element, the Project subject to this  
24 dispute, and prior projects for the Property which were prematurely and improperly rejected. The  
25 City has ignored these conflicts, including: (i) former-Mayor Walker (now City Councilmember)  
26 violating clear rules against conflicts and personal gain by fully participating (and actually  
27 coordinating as Mayor) in the City’s adoption of a Housing Element (she recused on vote only);  
28 (ii) improper collusion between Councilmember Kim Bowman and a local opposition group

1 opposed to Petitioner’s projects (and housing more generally), and (iii) improper influence on the  
2 City by former Mayor Stephen Del Guercio.

3 (g) To secure justice, Petitioner seeks not only declaratory relief from this Court that  
4 the protections of the HAA (including the Builder’s Remedy) apply to this case, but also  
5 injunctive relief preventing the City from its continued bad faith acts and a mandate that for  
6 Project approval.

7 3. The City’s history of not approving multifamily housing and the wrongful acts and  
8 omissions of Respondents are presented in this Petition to not only provide background for the  
9 requested relief but also for the court to potentially find “bad faith” under the HAA for purposes  
10 of (i) the minimum fine of at least \$50,000 per housing unit, and (ii) the Court to order approval  
11 of the Project pursuant to Government Code Section 65589.5(k)(1)(A)(ii), which provides in  
12 relevant part: “[t]he court may issue an order or judgment directing the local agency to approve  
13 the housing development project or emergency shelter if the court finds that the local agency acted  
14 in bad faith when it disapproved or conditionally approved the housing development or emergency  
15 shelter in violation of this section.” For purposes of the HAA, “‘bad faith’ includes, but is not  
16 limited to, an action that is “frivolous or otherwise entirely without merit.” Gov Code § 65589.5(l).

17 **PARTIES**

18 4. Petitioner and Plaintiff 600 Foothill Owner, LP is a California limited partnership  
19 (hereinafter “Petitioner”) that owns the Property which contains the former Christian Science  
20 Reading Room. Petitioner submitted preliminary and formal land use applications with  
21 Respondent and Defendant City to redevelop the Property into a 119,650 square foot (“sq. ft.”),  
22 five-story, mixed use project with 80 mixed-income residential dwelling units, 14 hotel units,  
23 7,287 sq. ft. of office and two levels of underground parking containing 190 vehicle parking spaces  
24 (the “Project”). The Project is a “housing development project” pursuant to the HAA, Gov. Code  
25 § 65589.5(h)(2)(B), and Petitioner is an “applicant” of the Project pursuant to the HAA, Gov. Code  
26 § 65589.5(k)(1)(A).

27 5. Respondent and Defendant City is a municipal agency in the County of Los  
28 Angeles, California.

1 6. Respondent and Defendant La Cañada Flintridge Community Development  
2 Department (“Department”) is a department within City responsible for the current and long-term  
3 land use planning in the local community, including the application of the City’s General Plan,  
4 Zoning Ordinance, and Subdivision Ordinance, and the preparation of the City’s Housing Element  
5 of the General Plan and updated thereto.

6 7. Respondent and Defendant La Cañada Flintridge City Council (“City Council”) is  
7 the elected legislative and policy-making body of the City, entrusted with enacting all local  
8 regulations and directing any actions necessary to provide for the general welfare of the  
9 community. Defendants Department and City Council shall hereinafter collectively be referred to  
10 as “Respondents.”

11 8. The true names and capacities of Defendants sued as DOES 1 through 50 are  
12 unknown to Petitioner, who therefore sue each defendant by such fictitious names, and will  
13 amend this filing to show their true names and capacities at such time as they are ascertained.  
14 Petitioner is informed and believes, and based thereon alleges, that each of the Defendants  
15 designated herein as a DOE is legally responsible in some manner for the events alleged in this  
16 filing.

### JURISDICTION AND VENUE

17  
18 9. The Court has general subject matter jurisdiction over State law claims, including  
19 mandamus claims pursuant to Code Civ. Proc. §§ 1085 & 1094.5 and Gov. Code § 65589.5.

20 10. The Court has personal jurisdiction over Respondents pursuant to Code Civ. Proc.  
21 § 410.10.

22 11. Venue for this action properly lies with this Court pursuant to Code Civ. Proc. §§  
23 392, 393(b), 394 and 395.

24 12. Petitioner has performed any and all conditions precedent to filing this action and  
25 have exhausted any and all available administrative remedies to the extent required by law.  
26 Petitioner submitted its preliminary application for the Project pursuant to Gov. Code § 65941.1  
27 and submitted its full application for the Project within 180 days with all of the information  
28 required to process the development application consistent with Gov. Code § 65940, 65941 and



1 65941.5, and therefore the procedures for review of the application are governed by this state law.  
2 As described in paragraphs 62 to 65, *infra*, after a public hearing on May 1, 2023, Respondent City  
3 Council issued a final decision to deny Petitioner’s appeal pursuant to the Permit Streamlining Act  
4 and uphold the City’s March 1, 2023 incompleteness determination of the Project’s formal  
5 application.<sup>1</sup>

6 13. Petitioner has no plain, speedy or adequate remedy in the ordinary course of law.  
7 Petitioner seeks enforcement of an important right affecting the public interest, and will confer a  
8 significant public benefit. As the State Legislature found and declared when enacting the HAA,”  
9 [t]he lack of housing, including emergency shelters, is a critical problem that threatens the  
10 economic, environmental, and social quality of life in California.” Gov. Code § 65589.5(a)(1)(A).  
11 The Project’s provision of 80 dwelling units of much-needed housing – including 16 low-income  
12 dwelling units – will further the Legislature’s often-declared public policy goal to “significantly  
13 increase the approval and construction of new housing for all economic segments of California’s  
14 communities.” Gov. Code § 65589.5(a)(2)(K).

15 **STATEMENT OF FACTS**

16 **Background on State Housing Crisis and the Housing Accountability Act**

17 14. The State of California is facing a housing crisis of unprecedented proportion. The  
18 failure to produce sufficient homes and apartments over the past decades in the City and elsewhere  
19 in the State has caused the State to have the highest poverty rate in the nation (inclusive of housing

20 <sup>1</sup> As discussed in paragraph 67, *infra*, following the May 1, 2023 vote, Respondents served the  
21 Completeness Determination on Petitioner. The Completeness Determination purported to set forth  
22 Respondents’ finding that the Project’s formal application had been deemed complete, and stated  
23 that “Staff will continue their review of the project and you will be notified when next steps have  
24 been determined.” The Completeness Determination did not explain its inconsistency with the May  
25 1, 2023 City Council determination denying Petitioner’s appeal and upholding the March 1, 2023  
26 incompleteness determination. Indeed, the Completeness Determination is directly contrary to the  
27 May 1, 2023 City Council determination and accompanying Resolution No. 23-14, and was  
28 therefore apparently issued unlawfully in an effort to suggest that the administrative process has not  
been exhausted. As set forth herein, Respondent City Council issued a final decision to deny  
Petitioner’s appeal, and Petitioner has therefore exhausted its administrative remedies  
notwithstanding the issuance of the subsequent Completeness Determination. Moreover, to the  
extent that the Completeness Determination purports to provide additional administrative pathway  
for the Project, pursuit of that administrative pathway would be futile in view of Respondents’  
consistent and formally-adopted position that it possesses a substantially compliant Housing  
Element, and is therefore entitled to disapprove the Project pursuant to Government Code Section  
65589.5(d)(5).

1 costs).<sup>2</sup> The chronic lack of supply and rising housing costs disproportionately impact (and limit  
2 advancement of) disadvantaged communities and younger Californians.<sup>3</sup>

3 15. To combat the housing crisis, our Legislature has enacted dozens of new and  
4 amended housing laws over the past decade. These laws take a variety of forms: to new  
5 streamlining mechanisms for transit-oriented and urban in-fill developments; by-right approval  
6 processes for accessory dwelling units and duplexes; to enhanced protections under the HAA.  
7 Several protections under the HAA are of critical importance to this litigation.

8 16. While the HAA generally restricts the ability of local agencies to disapprove and  
9 reduce density of qualifying housing development projects, subdivision (d) of the HAA includes  
10 additional protections for “[h]ousing for very low, low-, or moderate-income households”  
11 (hereinafter “affordable housing projects”).<sup>4</sup> Under Subdivision (d), a local government cannot  
12 disapprove an affordable housing project unless it makes one of five written findings. To  
13 disapprove a project under Government Code Section 65589.5, Subdivision (d)(5), the local  
14 government must find as follows: “The housing development project or emergency shelter is  
15 inconsistent with both the jurisdiction’s zoning ordinance and general plan land use designation as  
16 specified in any element of the general plan as it existed on the date the application was deemed  
17 complete, *and the jurisdiction has adopted a revised housing element in accordance with Section*  
18 *65588 that is in substantial compliance with this article.*” (emphasis added).

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20  
21 <sup>2</sup> M. Keith, *California has the Highest Poverty Level of all States in the US, According to US*  
22 *Census Bureau Data*, Business Insider (Sept. 14, 2021), available at  
<http://www.businessinsider.com/california-has-highest-poverty-level-in-the-us-census-bureau-2021-9>

23 <sup>3</sup> UC Berkeley Terner Center for Housing Innovation, *California’s Housing Future: Challenges and*  
24 *Opportunities, Final Statewide Housing Assessment 2025*; available at  
[https://www.hcd.ca.gov/policy-research/plans-reports/docs/sha\\_final\\_combined.pdf](https://www.hcd.ca.gov/policy-research/plans-reports/docs/sha_final_combined.pdf); see also *The*  
25 *Real Cost Measure in California 2021*, United Ways of California,  
<http://www.unitedwaysca.org/the-real-cost-measure-in-california-2021> (last accessed Jul. 3, 2023)  
26 (explaining that “[h]ouseholds of all races struggle, but is highest for Latino and Black Families”  
and for those with less education, and households led by single mothers).

27 <sup>4</sup> Gov. Code § 65589.5(h)(3) defines “[h]ousing for very low, low-, or moderate-income  
28 households” as those that contains either (A) 20 percent low-income housing, or (B) 100 percent  
moderate-income housing.

1           17. A necessary condition to this denial finding is that a local jurisdiction has a  
2 compliant Housing Element. Without one, a jurisdiction cannot deny an affordable housing project  
3 — even if the project is inconsistent with the jurisdiction’s zoning and general plan. Subdivision  
4 (d)(5) of the HAA is commonly referred to as the “Builder’s Remedy.” Although the Builder’s  
5 Remedy has long been a facet of the HAA, its relevancy has resurfaced in tandem with state  
6 mandates for local agencies to update their Housing Elements for the Sixth Cycle RHNA planning  
7 period.

8                           **The City’s Demonstrated Failure to Produce Housing for Over Forty Years**

9           18. While some cities and counties have embraced the need for change and new  
10 housing laws, others have ignored (or openly defied) clear statutory mandates. One such  
11 jurisdiction is the City.

12           19. The City is an affluent, suburban community situated at the base of the San Gabriel  
13 Mountains, 18 miles northeast of downtown Los Angeles. The City’s population has remained  
14 stagnant over the past forty years.<sup>5</sup> Over the past decade, the City has experienced a population  
15 increase of only 1.1 percent. According to the U.S. Census Bureau, as of July 1, 2022, the City had  
16 a population of 19,752 residents.<sup>6</sup> This represents a four percent *decrease* from the City’s April 1,  
17 2020 U.S. Census Bureau figure (of 20,572 residents). The City’s growth rate is dwarfed by those  
18 of nearby cities of Glendale and Pasadena, as well as Los Angeles County more generally:<sup>7</sup>

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20  
21  
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23 \_\_\_\_\_  
24 <sup>5</sup> Flemming, J, *Protests, lawsuits and a dead rat: A wealthy California city’s epic fight to block growth*, L.A. Times, April 24, 2023

25 <sup>6</sup> U.S. Census Bureau, QuickFacts, QuickFacts La Cañada Flintridge city, California (last accessed  
26 Jun. 8, 2023); available at <https://www.census.gov/quickfacts/fact/table/lacanadaflintridgecitycalifornia,losangelescountycalifornia,CA/PST045222>.

27 <sup>7</sup> City of La Canada Flintridge 2021-2029 Housing Element (Feb. 2023), at Table HE-1 (last  
28 accessed Jul. 13, 2023); available at [https://cityoflcf.org/wp-content/uploads/2023/04/20230223\\_HE\\_Adopted-Draft-TRACK-CHANGES\\_3rd-Submital4HCD.pdf](https://cityoflcf.org/wp-content/uploads/2023/04/20230223_HE_Adopted-Draft-TRACK-CHANGES_3rd-Submital4HCD.pdf)

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Table HE-1. Regional Population Growth

City	2010	2020	Change (2010–2020)	
Los Angeles	3,792,621	4,010,684	218,063	5.7%
Glendale	191,719	205,331	13,612	7.1%
Pasadena	137,122	144,842	7,720	5.6%
La Cañada Flintridge	20,246	20,261	15	0%

Sources: U.S. Census Bureau. (2010). American Community Survey 2014-2019 estimates.

20. The City’s housing stock consists primarily of single-family homes. As of July 2022, 90 percent of the residential units in the City were owner-occupied. This is in stark contrast to the percentages in nearby Glendale and Pasadena, who have owner-occupied housing rates of 33.8 percent and 42.3 percent, respectively. The median value of homes in the City was \$1.4 million in 2020 and \$2 million in 2021, as compared to \$647,000 in Los Angeles County.<sup>8</sup> The City’s February 2023 Sixth Cycle Housing Element acknowledges that: “[High home values], combined with the City’s historic isolation, slow growth through much of the 20th century, and history of racial restrictions, has contributed to a concentration of white, affluent residents throughout the entire City.”<sup>9</sup>

21. The City’s lack of growth and high cost of living stem from an abysmal track record of producing housing opportunities for new residents. The February 2023 version of the City’s Sixth Cycle Housing Element — a critical document in this dispute — admits that between 2013 and 2022, the City produced only twenty-one (21) dwelling units. This represents 0.3 percent increase in housing units over a nine-year period. Moreover, the February 2023 Housing Element confirms that this meager increase fully consisted of new single-family homes. Table HE 2-7 of the February 2023 Sixth Cycle Housing Element demonstrates that the number of multi-family residential units in the City (346) has not changed over this nine-year period.

22. The City fell short of its housing production mandates during the 5th Cycle RHNA planning period (2013-2021), in terms of both affordable and total units. For the 5th Cycle, the

<sup>8</sup> *Id.* at Appendix D, D9; see also U.S. Census Bureau, QuickFacts La Cañada Flintridge city, California, *supra*.

<sup>9</sup> *Id.*

1 City was allocated a RHNA mandate of 112 total residential units, consisting of 30 very low  
2 income units, 18 low income units, 20 moderate income units, and 44 above moderate income  
3 units. During the 5th Cycle, the City approved 76 units – all of which were in the above moderate  
4 income category.<sup>10</sup> In other words, the City did not approve a single affordable unit during the 5th  
5 Cycle RHNA planning period.

6 23. For the current Sixth Cycle (October 2021 – October 2029), the City has a RHNA  
7 obligation of 612 units, including 252 very low income units, 135 low income units, 139 moderate  
8 income units, and 86 above moderate income units.<sup>11</sup> As of the date of this petition, the Sixth Cycle  
9 is already 20 percent complete, and the City has not approved a single affordable unit.

10 24. In many respects, the City and its resistance towards new housing project embodies  
11 the State’s housing crisis. While multiple factors may have contributed to the City’s lackluster  
12 track record on housing, one primary reason is the City’s decisionmakers’ open endorsement of  
13 anti-growth, status-quoist policies to preserve the “quiet and charming” character of the City. In  
14 the quoted opinion of a former City Planning Commissioner, “People like people of their own  
15 tribe, ... Be it black, be it white. People want to be with people that are like them.”<sup>12</sup>

16 **Prior Attempts to Develop the Property**

17 25. Despite the City’s lackluster reception to new housing opportunities, there have  
18 been two prior attempts to develop the Property before the current Project — both of which were  
19 unsuccessful.

20 26. First, Oakmont Senior Living (“Oakmont”) submitted land use applications in  
21 January 2015 to redevelop the Property into a three-story, seventy-two (72) bed assisted living  
22 facility with a 19,151 sq. ft. semi-subterranean parking garage. Oakmont’s project was subject to  
23 two hearings before the City: (i) an April 16, 2015 hearing before the City’s Design Commission  
24 to conduct a preliminary design review of the project; and (ii) a January 23, 2018 Planning  
25 Commission hearing. The Planning Commission unanimously voted to continue their

26 <sup>10</sup> HCD, Annual Progress Report Permitting Summary Table, available at  
27 <https://www.hcd.ca.gov/policy-research/docs/annualprogressreport.xlsx>

28 <sup>11</sup> *Id.*

<sup>12</sup> Exhibit 2, Dillon, L., Los Angeles Times, California lawmakers have tried for 50 years to fix the  
state’s housing crisis. Here’s why they’ve failed (Jun. 29, 2017).

1 consideration of the proposal to a date uncertain. Oakmont ultimately abandoned its proposal after  
2 experiencing community backlash, including from a group known as Together La Cañada  
3 (“TLC”), a local group that has opposed redevelopment of the Property for nearly a decade.<sup>13</sup>

4 27. Second, in June 2020, Petitioner applied to City for necessary land use entitlements  
5 to develop a senior housing project at the Property. Petitioner applied for a three-story, 77,310 sq.  
6 ft. mixed-use project comprised of 47 senior housing units, 12 hotel units, and 7,600 sq. ft. of  
7 office uses (“Prior Project”). Despite the Property’s inclusion in the City’s Fifth Cycle Housing  
8 Element Appendix of “Vacant and Underutilized Properties” — each of which is a candidate to  
9 accommodate additional housing units to meet the City’s RHNA target — the City demanded that  
10 Applicant apply for discretionary entitlements, including a General Plan Amendment, a Zone  
11 Change, a Conditional Use Permit, a Vesting Tentative Tract Map, and a tree removal permit. The  
12 City’s Planning Commission recommended approval of the Project and found it to have no  
13 unmitigable significant environmental impacts under the California Environmental Quality Act  
14 (“CEQA”).<sup>14</sup> In Resolution 21-53, the City’s Planning Commission adopted the Project’s  
15 Mitigated Negative Declaration. However, when the Project came before the consideration of the  
16 City Council, the City Council adopted a resolution denying the Prior Project without prejudice.<sup>15</sup>  
17 At this meeting, the Mayor merely read a pre-prepared speech of denial.

18 28. The existing structures at the Property currently sit vacant. Petitioner is deriving no  
19 economic value from the Property during the pendency of the more recent entitlement process  
20 (described below) and this litigation.

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24 <sup>13</sup> Exhibit 3; Cardine, S., La Cañada Valley Sun, *Commissioners ask for more time to consider*  
25 *senior living facility on Foothill* (Jan. 24, 2018); also Exhibit 4; Cardine, S., La Cañada Valley Sun,  
26 *Group forms to challenge Oakmont senior center, preserve ambiance of LCF* (Mar. 22, 2018).

27 <sup>14</sup> Exhibit 5; Planning Commission Resolution recommending approval of CEQA that the project  
28 had no significant environmental impacts and that the Mitigated Negative Declaration under CEQA  
should be adopted by the City Council.

<sup>15</sup> As these instances demonstrate, Respondent City Council’s antagonism toward the Project and  
toward Petitioners is well-understood, and reflect an organized, politically motivated opposition to  
Petitioners’ proposals.

**City’s Repeated Failure to Adopt a Substantially Compliant Housing Element**

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29. State law requires a housing element to be updated by a city every eight years. The deadline for Southern California cities (including the City) to adopt an amended housing element for the sixth RHNA cycle that substantially complied with state law was October 15, 2021. Gov. Code § 65588(e)(3)(A).

30. To date, the City has produced three draft Housing Elements for HCD’s review: (i) the first iteration was a non-adopted draft version submitted to HCD on October 3, 2021, (ii) the second iteration was adopted on October 4, 2022 and submitted to HCD on October 7, 2022 (“October 2022 Housing Element”), and (iii) the third iteration was adopted on February 21, 2023 and submitted to HCD on February 23, 2023 (“February 2023 Housing Element”). None has been found by HCD to be in substantial compliance with housing element laws, Gov. Code §§ 65588 et seq. (hereinafter “State Housing Element Law.”)

31. After the City submitted the initial draft Housing Element on October 3, 2021, HCD issued a letter dated December 3, 2021, finding that the initial draft did not comply with State Housing Element Law, and that significant revisions were required. Exhibit 6.

32. After the City adopted the October 2022 Housing Element, on December 6, 2022, HCD again issued a determination that the October 2022 Housing Element was not in substantial compliance with the law, and that “*additional revisions are necessary to fully comply with State Housing Element Law...*” Exhibit 7. Specifically, HCD identified a number of deficiencies with the October Housing Element, including but not limited to:

- The Housing Element does not “affirmatively further fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2, nor does it include an assessment of fair housing in the City.
- The Housing Element fails to include an inventory of land suitable and available for residential development, including vacant sites and sites having a realistic and demonstrated potential for redevelopment during the planning period to meet the City’s RHNA mandate.

- The Housing Element does not address or remove governmental and nongovernmental constraints to the maintenance, improvement and development of housing, including housing for all income levels for persons with disabilities. *Id.*

33. Subsequently, at a January 12, 2023 Planning Commission meeting, the City staff publicly acknowledged in the record that the City’s October Housing Element was not in substantial compliance with State Housing Element Law. According to the meeting minutes, “[Planning] Director [Susan] Koleda explained that the State (HCD) did not find the draft Housing Element that was submitted to them for review in December 2022 in substantial compliance with state housing law. However, a very productive meeting took place with staff and HCD on January 12, 2023, where they identified only *a few corrections that the City must make in order for the Housing Element to be in conformance.* The next step would be to make the HCD requested changes and submit the Housing Element to the City Council for approval and then resubmit to HCD.”<sup>16</sup>

**Petitioner Submits SB 330 Preliminary Application for the Project and “Vests” to the HAA’s Builder’s Remedy**

34. This year, the City was presented with an opportunity to reverse its performance on housing with Petitioner’s second proposal to develop the 600 Foothill project – the first and only mixed use and/or multifamily housing project proposed during the Sixth RHNA Cycle.

35. On November 14, 2022, Petitioner submitted a preliminary application pursuant to Senate Bill (“SB”) 330 for the Project with the City, accompanied by a letter from Petitioner’s counsel. (Gov. Code § 65941.1). As proposed in the preliminary application, the Project would consist of an 80-unit mixed use housing project, including 14 hotel rooms, 7,791 square feet of office space, and two levels of underground parking. Of the 80 dwelling units, 16 (i.e., 20 percent of the total units) are proposed to be reserved for low-income residents. Applicant’s submittal

<sup>16</sup> Meeting Minutes of the Planning Commission January 12, 2023 meeting; available at [https://lacanadaflintridge-ca.granicus.com/DocumentViewer.php?file=lacanadaflintridge-ca\\_89950fc2c26b5ede59b879bec27a7856.pdf&view=1](https://lacanadaflintridge-ca.granicus.com/DocumentViewer.php?file=lacanadaflintridge-ca_89950fc2c26b5ede59b879bec27a7856.pdf&view=1) (emphasis added).



1 explained that, under State Density Bonus Law (“SDBL”) (Gov. Code §§ 65915 et seq.), the  
2 Project qualifies for a 35 percent density bonus; two incentives and concessions from development  
3 standards that result in actual and identifiable affordable housing cost reductions; and an unlimited  
4 amount of waivers from development standards that would physically preclude construction of the  
5 Project at the density sought. (Gov. Code §§ 65915(d)(2); (e)(1); (f)(1). Petitioner reserved the  
6 right to utilize SDBL concessions, incentives and waivers to the extent required, but maintains that  
7 those would not be required to resolve zoning and General Plan inconsistencies due to the Project’s  
8 qualification of the HAA’s Builder’s Remedy.

9 36. The SB 330 submittal package also explained that, as of January 1, 2020, an  
10 application for a housing development project is “deemed complete” if a qualifying SB 330  
11 “preliminary application” has been submitted. (Gov. Code § 65589.5(h)(5).) A project shall be  
12 deemed to have submitted a qualifying preliminary application upon providing a local agency with  
13 all the information specified in Gov. Code § 65941.1(a). While not required under statute, local  
14 agencies — like the City — are encouraged to adopt their own form SB 330 preliminary  
15 application. The City has done so, and Applicant used the City’s form SB 330 preliminary  
16 application for its November 14, 2022 preliminary application submittal.

17 37. Applicant’s submittal further explained that the Project is a “housing development  
18 project” as defined in the HAA because “it is a “[m]ixed-use development consisting of residential  
19 and nonresidential uses with at least two thirds of the square footage designated for residential  
20 use.” (Gov. Code § 65589.5(h)(2).) With the submittal of the SB 330 preliminary application, the  
21 Project secured “vested rights that would prohibit the City from denying or reducing density of  
22 [the Project], except for stringent findings.” (Gov. Code § 65589.5(h)(5).) Applicant apprised the  
23 City that, under the HAA, a local agency cannot deny a housing development project for very low-  
24 , low-, or moderate-income households, unless it makes one of five findings in Gov. Code §  
25 65589.5, subdivision (d). For purposes of the HAA, “housing for very low-, low-, or moderate-  
26 income households” includes projects that dedicate 20 percent of units for low-income households.  
27 The Project dedicates 20 percent of its units for low-income households, and is therefore “housing  
28 for very low-, low-, or moderate-income households.” (Gov. Code § 65589.5(h)(3).)

1           38. One such denial finding — known as the “Builder’s Remedy” — is that the housing  
2 development project is inconsistent with both the jurisdiction’s zoning ordinance and general plan  
3 land use designation as it existed on the date the application was deemed complete, *and the*  
4 *jurisdiction has adopted a revised housing element ... that is in substantial compliance with this*  
5 *article.”* (Gov. Code § 65589.5(d)(5); emphasis added.) Recognizing that the City had not adopted  
6 a substantially compliant Sixth Cycle Housing Element by November 14, 2022, Applicant’s  
7 submittal package expressly put the City on notice that it “cannot lawfully deny the Project based  
8 on zoning/General Plan inconsistency, and cannot require [Applicant] to apply for entitlements to  
9 resolve such inconsistencies ....” The submittal package also stated that “the City must process  
10 [the forthcoming formal application for the Project] pursuant to the HAA and Permit Streamlining  
11 Act, even if the City subsequently comes into compliance with its Housing Element after the  
12 submission of the SB 330 preliminary application.”

13           39. In other words, as early as November 14, 2022, Applicant put the City on notice  
14 that the Builder’s Remedy applied to the Project, and that the Project had secured vested rights to  
15 the City’s lack of having a substantially compliant Sixth Cycle Housing Element.

16           **Applicant Meets with City and Parties Agree Builder’s Remedy Applies; Applicant**  
17           **Submits Formal Land Use Applications**

18           40. Following Applicant’s submittal of the SB 330 preliminary application, Applicant  
19 and its counsel arranged a meeting with the City’s Planning Director (Susan Koleda), Planning  
20 Staff (Emily Stadnicki) and the City’s outside counsel (Elena Gerli) on December 8, 2022 at 9:00  
21 a.m. to discuss the City’s processing and review of the proposed Project.

22           41. At the December 8, 2022 meeting, it was largely understood and agreed between  
23 the Project team and City representatives that the Project qualified for processing consistent with  
24 the Builder’s Remedy. At no time during the December 8, 2022 meeting did City staff or their  
25 counsel suggest that the Builder’s Remedy did not apply to the Project. City staff suggested that  
26 Applicant submit an application for the Planning Commission’s review and approval, but  
27 acknowledged that the City could only apply “objective” development standards consistent with  
28 the HAA.

1           42. On January 13, 2023, less than 60 days following the SB 330 preliminary  
2 application submittal, Applicant submitted a formal application package for the Project, consisting  
3 of applications for Conditional Use Permit (USE-2023-0016), Tentative Tract Map (LAND-2023-  
4 0001), and Tree Removal Permit (DEV-2023-0003)). The Project Description in the January 13,  
5 2023 submittal states that the Project would consist of a 119,650 square foot, five-story, mixed use  
6 project with 80 mixed-income residential units, 14 local-serving hotel units, 7,287 sq. ft. of office and  
7 two levels of underground parking containing 190 vehicle parking spaces on a 1.29 gross acre parcel.  
8 Among other things, the cover letter for the January 13, 2023 formal application submittal re-affirmed  
9 that (i) the Project would be entitled to a 35 percent density bonus, concessions/incentives, and waivers  
10 under State Density Bonus Law; (ii) the Project qualified for a Class 32 categorical exemption from  
11 CEQA (Cal. Code. Regs. Tit. 16 § 15332); and (iii) the Project was subject to the HAA's Builder's  
12 Remedy, and thus the City could not disapprove or render the Project infeasible based on any  
13 inconsistency with the City's General Plan and zoning standards.

14           43. The January 13, 2023 submittal also reemphasized that Applicant had secured  
15 vested rights to the HAA's Builder's Remedy by virtue of the November 14, 2022 SB 330  
16 preliminary application filing. Applicant apprised the City of recent HCD technical guidance  
17 which affirmed a housing development project's ability to vest to a local agency's non-compliant  
18 Housing Element. See HCD, *3030 Nebraska Avenue, Santa Monica - Letter of Technical*  
19 *Assistance* (Oct. 5, 2022) at 2. (... "[i]f the submittal [of a preliminary application] occurs at a time  
20 when the jurisdiction does not have a compliant housing element, any potential benefits afforded  
21 to the applicant as a result of the jurisdiction's noncompliant status would remain throughout the  
22 entitlement process even if the jurisdiction subsequently achieves compliance during the  
23 entitlement process.")<sup>17</sup>

24           44. After Applicant submitted its formal application package, the City subsequently  
25 generated and sent Applicant an invoice for all requisite application fees on January 17, 2023.  
26 Applicant paid all requisite application fees on January 31, 2023.

27 \_\_\_\_\_  
28 <sup>17</sup> <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/santa-monica-TA-100522.pdf>; last accessed Jun. 8, 2023.

1                    **The City Issues the First Incompleteness Determination Pursuant to the Permit**  
2                    **Streamlining Act**

3                    45.        On February 10, 2023, the City issued a four-page incompleteness determination  
4                    letter in response to Applicant’s January 13, 2023 formal application submittal (“First  
5                    Incompleteness Determination”), finding the submittal incomplete for a number of reasons.  
6                    Among other things, the First Incompleteness Determination requested (i) additional details  
7                    regarding Applicant’s site plan, floor plans, landscape plans, elevations, and grading plans, (ii)  
8                    supporting documentation for the VTTM application (e.g., easement affidavit); and (iii) that  
9                    Applicant submit a “paper form” Density Bonus application. Exhibit 8. The First Incompleteness  
10                    Determination also stated that “the City does not consider an application submitted until the  
11                    necessary fees are paid, which starts the 30-day application completeness determination under the  
12                    California Permit Streamlining Act.” *Id.* at 1.

13                    46.        The First Incompleteness Determination identified no inconsistencies between the  
14                    Project and the City’s then-current General Plan or zoning standards. The First Incompleteness  
15                    Determination did not aver that the HAA’s Builder’s Remedy did not apply to the Project.

16                    47.        Upon receipt of the First Incompleteness Determination, Applicant commenced to  
17                    diligently compiling the supplemental information and application materials requested by the City.  
18                    Applicant submitted a supplemental package in response to the First Incompleteness  
19                    Determination on April 28, 2023.

20                    **City Unlawfully “Self-Certifies” the February 2023 Housing Element**

21                    48.        On February 21, 2023, the City Council adopted Resolution No. 23-08, to self-  
22                    certify the October 2022 Housing Element as being in substantial compliance with State Housing  
23                    Element Law — despite a complete lack of statutory or regulatory authority to do so. The City  
24                    Council’s position was that, somehow, the October 2022 Housing Element had been in substantial  
25                    compliance from this entire period (i.e., from October 2022 to February 2023). This policy change  
26                    flew in the face of (i) two HCD letters finding that the October 2022 and February 2023 Housing  
27                    Elements were not in substantial compliance; and (ii) public statements in the record from City’s  
28                    Planning Director admitting that the October 2022 Housing Element was not in substantial

1 compliance. See, e.g., Exhibit 9, Meeting Minutes from January 12, 2023 Planning Commission  
2 Meeting (“Director Koleda explained that HCD did not find the draft Housing Element that was  
3 submitted to them for review in December [sic] 2022 in substantial compliance with state housing  
4 law.”)

5 49. The topic of “self-certification” was subject to much discussion at the City  
6 Council’s February 21, 2023 hearing. In fact, both Planning Staff and the City Attorney explained  
7 that “self-certification” was not an option under State Housing Element Law. (See City Council,  
8 February 21, 2023 Special Meeting, Video Recording at 01:29:02 et seq.; available at  
9 [https://lacanadaflintridgecagranicus.com/player/clip/1130?view\\_id=4&redirect=true&h=c6b011](https://lacanadaflintridgecagranicus.com/player/clip/1130?view_id=4&redirect=true&h=c6b011d0ea7ace4afdf199c21097464c)  
10 [d0ea7ace4afdf199c21097464c](https://lacanadaflintridgecagranicus.com/player/clip/1130?view_id=4&redirect=true&h=c6b011d0ea7ace4afdf199c21097464c)) (last accessed Jun. 8, 2023).)

- 11 • *“We had a lot of discussion regarding the self-certification and whether it was*  
12 *appropriate. I also had a call with HCD this afternoon, and the consensus from everyone*  
13 *was that this is not an option.”* (Community Development Director, Susan Koleda, 1:41:45  
14 - 1:42:22).
- 15 • *“Under state law there is a provision regarding the adoption of the Sixth Housing Element.*  
16 *Under that state law, the housing element must be found in substantial compliance by*  
17 *HCD. There are several provisions in state law that provide this. ... since revisions to*  
18 *current state law regarding the Sixth revision, HCD is required to find the housing*  
19 *element in substantial compliance.”* (City Attorney Guerra, 1:43:28 - 1:45:18).

20 Subsequent quotations from the City Council at the February 21, 2023 Special Meeting  
21 demonstrate that the decisionmakers knew self-certification of the October 2022 Housing Element  
22 was not lawful, but were nonetheless committed to that approach to avoid the negative  
23 repercussions for failing to have a compliant Housing Element (presumably, the Project):

- 24 • “[City Attorney Guerra], I have a question as far as format. Is it possible to have the  
25 [October 2022 Housing Element] remain completely intact, but have all the explanations  
26 or the clarifications that HCD asked for be in an Appendix at the end, so that you’re not  
27 tearing the report apart?” (Councilmember Walker, 1:57:50 – 1:58:25). “No, HCD wants  
28 them incorporated into the Housing Element itself.” (Koleda, 1:58:30-1:58:36).
- “HCD has told us directly that they don’t accept the ‘self-certification’ rule; we cannot  
make a state agency do something. ... We’re trying to make sure that we’re getting [HCD]  
to agree with us as fast as possible, while still protecting our future rights, if we can  
maneuver the law back ... *which would then clear the decks on other items.*”)  
(Councilmember Gunter, 2:07:26 - 2:18:18); emphasis added.

- “HCD isn’t going to change their mind. We’re not arguing with [HCD], we’re arguing with someone else. .... [w]e can go talk to our senators and *try to get the law changed*. ... The longer we wait on this one, the worse it gets.” (Councilmember Gunter, 2:14:15 - 2:14:55); emphasis added.

The meeting minutes of the February 21, 2023 City Council hearing confirm that, prior to that point, the City did not consider self-certification to be viable. See, e.g., Exhibit 10, at 4 (“Lastly, since the posting of the agenda packet, staff received several inquiries regarding the ‘self-certification’ process identified in Government Code 655858(f)(2). *The City Attorney, City’s housing consultants, and staff had several discussions regarding self-certification and whether it was appropriate. The consensus was that self-certification is not an option for the City.*”); *id.* (“In response to a question raised by Councilmember Bowman, City Attorney Guerra explained that there is a provision in state law pertaining to the adoption of the sixth revision of the Housing Element. Under this law, *the HE must be found [sic] substantial compliance with HCD.*”); *id.* at 6 (“In response to a question raised by Mayor Eich, ... [Susan Koleda] noted that HCD may take issue with the City using the October 4th date which was the second submittal when the City submits for the third time.”)

50. The City’s “backdating” the October 2022 Housing Element as substantially compliant is particularly dubious considering the substantial revisions made to the February 2023 Housing Element. A redline comparison of the October 2022 and February 2023 Housing Elements demonstrates the numerous *changes* the City made its response to HCD’s deficiency letters.<sup>18</sup> A number of policies and programs in the Housing Element were revised and/or supplemented, including but not limited to (i) policies for religious institutions; (ii) special needs housing; (iii) mitigation for housing in proximity to freeways, (iv) the Appendix C Site Inventory of candidate sites for re-zoning (12 sites were revised in total); (v) the Appendix D, Integration and Segregation program; and (vi) D2 Sites Inventory (changes to pages D61 and D62). In certain places the text of the October 2022 Housing Element was completely revised, so as to render the

<sup>18</sup> See, La Canada Flintridge, February 2023 Housing Element Redline Against October 2022 Housing Element, available at [https://cityoflcf.org/wp-content/uploads/2023/04/20230223\\_HE\\_Adopted-Draft-TRACK-CHANGES\\_3rd-Submittal4HCD.pdf](https://cityoflcf.org/wp-content/uploads/2023/04/20230223_HE_Adopted-Draft-TRACK-CHANGES_3rd-Submittal4HCD.pdf)

1 original text incorrect. See, e.g., redline, at 4, 86 (revising Safety Element to change the number  
2 of neighborhoods, residences and percentage of housing stock that have a single point of access  
3 and egress for purposes of prohibiting ADU developments); *id.* at 76-78 (substantial revisions  
4 made to the building plan check and permit fee schedules); *id.* at 91 (revising Table HE-39 (now  
5 HE-45) on number of RHNA units allocated to ADUs and “pipeline projects,” and removing  
6 reference to project as a pipeline project); *id.* at 96-98 (revising density ranges for the High Density  
7 Residential (R-3) and Mixed Use (MU) zones to 25-30 du/ac instead of 20-30 du/ac).

8 51. To downplay the extent of these revisions, the City Council has routinely referred  
9 to them as “clarifications,” or “additional information” added to the October 2022 Housing  
10 Element. Beyond that, certain City Councilmembers went as far as to direct staff to intentionally  
11 downplay the wording of the revisions made in the February 2023 Housing Element. At the  
12 February 21, 2023 City Council meeting, Councilmember Walker “suggested removing ‘the  
13 document was subsequently revised to comply with state housing law’ from the first page.” Walker  
14 also told staff that the phrases “significant changes” and “substantial changes” were throughout  
15 the February 2023 Housing Element, and that those should be revised to “substantive changes.”  
16 Exhibit 10 at 8.

17 52. Nevertheless, even with the changes made to the February 2023 Housing Element,  
18 a number of deficiencies still exist, particularly with inadequacy of site inventory for low-income  
19 units. In the February 2023 Housing Element, all but 19 of the low- and very low-income units  
20 planned in the City’s Housing Element are attributed to non-vacant parcels. Thus, the City is  
21 relying on non-vacant sites to provide well over half of the City’s RHNA allocation of 387 units  
22 in these income categories. The City is therefore subject to Gov. Code § 65583.2(g)(2), which  
23 requires an analysis of the impediment created by the existing uses on these sites. This section  
24 specifies that “[a]n existing use shall be presumed to impede additional residential development,  
25 absent findings based on substantial evidence that the use is likely to be discontinued during the  
26 planning period.” This analysis is “in addition to” the other analyses required for non-vacant  
27 housing element sites more generally.

28

1           53.     The City’s sites inventory is provided as Appendix C to its Housing Element. There,  
2 under “Criteria,” the City has listed evidence that each site is likely to experience redevelopment,  
3 including evidence that the existing use is likely to be discontinued by 2029. For many sites, the  
4 Housing Element does not provide evidence that each existing use is likely to be discontinued  
5 during the planning period. Indeed, far from being likely to be discontinued during the planning  
6 period, many of the owners of sites listed in the site inventory have informed Respondents that  
7 their sites will not be redeveloped as projected, and have requested that they be removed from the  
8 inventory. Factors that the City utilized as evidence of likely discontinuation of use have no clear  
9 correlation with likelihood of discontinuation, such as: the presence of buildings older than 30  
10 years; improvement-to-land value ratio of less than 1.0; lack of recent reassessment; and the  
11 presence of “antiquated commercial uses with significant surface parking.” Evidence that the  
12 existing uses on these sites are likely to discontinue is absent for many sites, and there is evidence  
13 that existing uses will continue.

14           54.     The City’s Housing Element is also deficient with respect to its obligation to  
15 Affirmatively Further Fair Housing. Gov. Code § 65583(c)(10). Most significantly, the Housing  
16 Element clusters virtually all projected housing for lower-income individuals along Foothill  
17 Boulevard near the 210 Freeway. Exhibit 7 (HCD Letter) at 2; Redline (Housing Element),  
18 Appendix C at C7. This approach, which leaves affluent neighborhoods untouched, violates state  
19 law’s mandate to take “meaningful actions that, taken together, address significant disparities in  
20 housing needs and in access to opportunity, replacing segregated living patterns with truly  
21 integrated and balanced living patterns, transforming racially and ethnically concentrated areas of  
22 poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and  
23 fair housing laws,” Gov. Code § 8899.50, a mandate that is expressly incorporated into State  
24 Housing Element Law. Gov. Code § 65583(c)(10).

25           55.     The City submitted the February 2023 Housing Element to HCD on February 23,  
26 2023.

27  
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1                    **City Issues a Second Incompleteness Determination Following “Self-Certified” Housing**  
2                    **Element, which Applicant Timely Appealed**

3                    56.        Following its decision to self-certify, on March 1, 2023, the City issued Applicant  
4 a second incompleteness determination claiming that the HAA’s Builder’s Remedy did not apply  
5 to the Project (“Second Incompleteness Determination”). Exhibit 11. The Second Incompleteness  
6 determination was purported to “serve as a supplement” to the First Incompleteness Determination.  
7 *Id.* at 1. Based on its position that the Project was not subject to the HAA’s Builder’s Remedy, the  
8 City informed Applicant that the Project would be subject to the density of 12-15 dwelling units  
9 per acre, a substantial reduction in Applicant’s proposed density of 30 dwelling units per acre. *Id.*  
10 The City also claimed the Project was required to comply with numerous development standards  
11 under the DVSP (including setbacks, height restrictions, and vehicle and bike parking  
12 requirements) — which would otherwise be inapplicable to a Builder’s Remedy project. *Id.* at 2.  
13 The Second Incompleteness Determination provided Applicant with a 10-day period (i.e., by  
14 March 11, 2023) to submit an appeal to the Second Incompleteness Determination.

15                    57.        On March 9, 2023, Applicant submitted a timely appeal to the City’s Second  
16 Incompleteness Determination pursuant to the Permit Streamlining Act, Gov. Code § 65943(c).  
17 Applicant’s appeal was accompanied by cover letters from counsel dated March 9, 2023 and April  
18 30, 2023, which argued that the City’s Second Incompleteness Determination was unlawful.  
19 Exhibits 13 and 14. Among other things, Applicant’s apprised the City that:

- 20                    • The City had unlawfully determined that the Project was not subject to  
21 review under the HAA’s Builder’s Remedy because (i) there was no legal  
22 authority for the City to backdate its October 2023 Housing Element, and (ii)  
23 the Project had “vested” to the non-compliant October 2023 Housing  
24 Element by virtue of its SB 330 preliminary application. Exhibit 12 at 4.
- 25                    • The Second Incompleteness Determination, on its face, violates statutory  
26 mandates of the PSA, which requires local agencies to provide applicants  
27 with an “exhaustive list of items that were not complete” within 30 days of  
28 receiving a formal application. The PSA requires a local agency to “transmit  
the determination” (singular, not plural”) to an Applicant within 30 days after

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receipt of the formal application. Applicant explained there is no basis in law allowing local agencies to issue multiple incompleteness determinations on the same submittal (i.e., one on February 10, 2023 and another on March 1, 2023). Exhibit 13 at 9.

58. The Second Incompleteness Determination was untimely and therefore void under the PSA. The City issued the Second Incompleteness Determination on March 1, 2023 — forty-seven (47) days after Applicant submitted its January 13, 2023 formal application. Applicant explained that the PSA expressly requires local agencies to issue completeness determination “within 30 days after receipt of the application,” and must be confined to “those items actually required on the lead agency’s submittal requirement checklist.” Applicant explained that the City’s practice of issuing completeness determination from 30 days following the payment of application fees was not supported by law. Exhibit 14 at 9. Upon receipt of the appeal, the City Manager, Mr. Mark R. Alexander, notified Applicant via letter on April 7, 2023 that the City Manager had elevated the appeal directly to the City Council. The letter notified Applicant that the appeal would be heard at a public hearing before the City Council on May 1, 2023.

59. The appeal hearing took place on May 1, 2023 at 9:00 a.m. at City Hall. At this hearing, Applicant’s counsel delivered an oral presentation to the City Council explaining that the HAA’s Builder’s Remedy applied to the Project, and refuted a number of points raised in the staff report for the May 1, 2023 hearing.<sup>19</sup>

60. Prior to voting on the appeal, the City Council heard the opinion of City Attorney Guerra that a denial of the appeal was not a “denial of the project” for purposes of the HAA. Specifically, the City Attorney opined that “the Project hasn’t been fully developed yet, in terms of what the plans are, what the height of the building is,” and “the only issue today is an administrative *decision* on how the Project will be processed.” *Id.*; at 0:50-24 –0:51:46. This is in stark contrast to the admonishment Applicant provided to the City Council both in writing and

<sup>19</sup> See Video Recording of May 1, 2023 City Council Special Hearing, available at [https://lacanadaflintridge-ca.granicus.com/player/clip/1163?view\\_id=4&redirect=true&h=7c16b4d325574d59701f9cfc340dfe](https://lacanadaflintridge-ca.granicus.com/player/clip/1163?view_id=4&redirect=true&h=7c16b4d325574d59701f9cfc340dfe)

1 verbally at the May 1, 2023 hearing. See, e.g., Exhibit 14 at 13 (Applicant letter explaining that  
2 the HAA’s definition of “disapprove the housing project” includes “any instance in which the local  
3 agency ‘[v]otes on a proposed housing development project *application* ...”). Applicant also  
4 apprised the City of a recent trial court decision of this Court which applied this definition in the  
5 context of completeness determination appeals — like here — in which a local agency upholds a  
6 completeness determination on grounds that conflict with the HAA. *Id.*

7 61. Moreover, the discussion at the May 1, 2023 City Council Special Hearing  
8 demonstrated the City Council’s bad faith consideration of the Project. Exhibit 14 (Minutes). For  
9 instance, City Attorney Guerra stated that “[As] the Mayor had indicated earlier, we don’t know  
10 what the actual project is going to look like on the merits, and this is not before the City Council  
11 today.” *Id.* at 8. To the contrary, Applicant’s SB 330 submittal, January 13, 2023 formal  
12 application submittal, and April 28, 2023 submittal each supplied the City with numerous details  
13 about the Project. Similarly, Community Development Director Koleda’s comment that the City  
14 had reserved its right to make additional comments regarding incompleteness following the initial  
15 incompleteness determination flatly ignored Government Code Section 65943(a)’s instruction that  
16 “the lead agency shall provide the applicant with an exhaustive list of items that were not  
17 complete,” and that “the local agency shall not request the applicant to provide any new  
18 information that was not stated in the initial list of items that were not complete.” *Id.* at 9.

19 62. Further, Councilmember Bowman testified that he “does not see this as a denial,  
20 [but] as an opportunity for the project to be reviewed under what was adopted in the October 2022  
21 Housing Element.” *Id.* The Project site is located within the Downtown Village Specific Plan.  
22 While the Downtown Village Specific Plan does designate three land use districts that can  
23 accommodate residential development at densities of up to 15 units per acre, the Project site is not  
24 within one of these land use districts. Instead, the Project site is within the “Institutional (DVSP)”  
25 land use district, which permits places of worship, day care centers, fire stations, hospitals,  
26 libraries, schools, and the like. Residential uses are not permitted in the Institutional (DVSP)  
27 district.<sup>20</sup> The Housing Element proposes to rezone the Property site from Institutional (DVSP) to

28 <sup>20</sup> [https://cityoflcf.org/wp-content/uploads/2019/11/LCF-DVSP\\_Chpt6\\_Land-Use.pdf](https://cityoflcf.org/wp-content/uploads/2019/11/LCF-DVSP_Chpt6_Land-Use.pdf)

1 a new “Mixed Use 12” designation, which would allow residential uses at a density of 12-15  
2 dwelling units per acre. Exhibit 15 at 101, Site Inventory at Site 97. As such, the assertion that the  
3 Project must be reviewed and processed subject to the currently-applicable zoning and the Housing  
4 Element only serves to underscore that the City Council’s May 1, 2023 determination was a de  
5 facto denial of the Project, given that residential uses are not permitted on the Project site at any  
6 density under the current designation, and that Respondents will purportedly rezone the Project  
7 site to allow only 12-15 units per acre, substantially below the Project’s proposed density.

8 63. Upon the conclusion of Applicant’s testimony and public comment, the City  
9 Council unanimously voted to adopt Resolution No. 23-14, denying Applicant’s appeal and  
10 upholding the Second Incompleteness Determination on the basis that the HAA’s Builder’s  
11 Remedy was inapplicable to the Project. Exhibit 15 at 10.

12 **City Issues June 24th Letter to Petitioner in Bad Faith**

13 64. On June 24, 2023, the City sent a letter to Petitioner stating that it remains the City's  
14 position (as affirmed by City Council on May 1, 2023) that the 2021-2029 Housing Element was  
15 in substantial compliance with state law as of October 4, 2022. Exhibit 16. The letter states that  
16 City staff “reviewed the [P]roject for consistency with the City’s General Plan, applicable  
17 provisions of the Downtown Village Specific Plan (DVSP), the Zoning Code, and the density  
18 proposed within the 2021-2029 Housing Element. In accordance with Cal. Gov. Code §  
19 65589.5(j)(2)(A), this letter served as an explanation of the reasons that the City considers *the*  
20 *proposed project to be inconsistent*, not in compliance, or not in conformity with these  
21 aforementioned guiding documents.” *Id.* at 1.

22 65. In addition to raising subjective design standards rendered inapplicable under the  
23 HAA, the City’s June 24, 2023 letter re-iterates the City’s position that the Project is inconsistent  
24 with density and open space requirements. Furthermore, the letter raises issues related to “traffic,”  
25 implying that the City seeks to impose level-of-service (“LOS”) standards under CEQA for  
26 transportation impacts, as opposed to the new legal standard: vehicle-miles traveled (“VMT”). *Id.*  
27 at 2. This is a direct violation of SB 743, which former Governor Jerry Brown signed into law on  
28 September 27, 2013, and started a process intended to fundamentally change how transportation

1 impact analysis is conducted as part of the CEQA review of projects. On July 7, 2020, the City  
2 Council voted to adopt “Vehicle Miles Travelled” Baselines and Thresholds of Significance for  
3 purposes of Analyzing Transportation Impacts under CEQA; and exclude “Level of Service”  
4 analysis from Traffic Impact Analysis Guidelines. In the minutes to that meeting, Councilmember  
5 Gunter noted that he does not feel it is appropriate for applicants to conduct the LOS analysis  
6 report. Exhibit 17.

7 **City Issues “Completeness Determination” Despite Minimal Changes Made to the Project**

8 66. On May 26, 2023, Respondents sent Petitioner a letter entitled “Application  
9 Completeness Determination for Conditional Use Permit (USE-2023-0016), Tentative Tract Map  
10 83375 (LAND-2023-0001), and Tree Removal Permit (DEV-2023-0003) for Mixed Use Project  
11 located at 600 Foothill Boulevard.” Exhibit 18 (the “Completeness Determination”). In the  
12 Completeness Determination, Respondents stated that, “based on a review of the additional  
13 application submittals, as well as revisions to the previously submitted plans and documentation,  
14 the above-referenced project has been deemed complete. Staff will continue their review of the  
15 project and you will be notified when the next steps have been determined.” The Completeness  
16 Determination contained no explanation as to how the Project’s formal application had become  
17 “complete,” especially in light of the fact that Petitioner made minimal changes regarding the  
18 Project as originally proposed. Moreover, the Completeness Determination provided no  
19 explanation as to how a completeness determination could be issued in direct conflict with  
20 Resolution No. 23-14 and the City Council’s May 1, 2023 decision to deny Petitioner’s appeal.

21 **Despite its Attempt to “Back-Date” the Housing Element, the City has Failed to Adopt the**  
22 **Statutorily-Required Zoning Amendments**

23 67. Despite the City’s position that the October 2022 Housing Element was  
24 substantially compliant with State Housing Element Law at the time of adoption, the City has not  
25 adopted the statutorily required zoning amendments.

26 68. A jurisdiction’s adoption of a substantially compliant Housing Element (upon  
27 receipt of HCD’s certification) is only the first step in achieving compliance with State Housing  
28 Element Law. If a local jurisdiction is required to adopt zoning amendments to create sufficient

1 capacity to achieve its RHNA mandate, it is required to adopt re-zoning legislation within certain  
2 timeframes.

3 69. Assembly Bill (“AB”) 1398, enacted in 2021, imposes a one-year rezoning rule on  
4 cities (like the City) that fail to adopt their sixth-cycle Housing Elements within 120 days after the  
5 October 15, 2021 statutory deadline. Among other things, the legislative analysis for AB 1398  
6 notes:

- 7
- 8 • “In place of the existing requirement, this bill would require that any local government  
9 that fails to adopt its housing element within 120 days of the statutory deadline would  
10 only have one year from the housing element's statutory deadline to complete any  
11 required rezonings, instead of the current allotment of three years and 120 days....”
  - 12 • “This bill also adds that, to avoid the expedited timeline, the housing element must be  
13 determined by HCD to be substantially compliant with Housing Element Law. This  
14 change removes the circumstances where jurisdictions adopt non-compliant housing  
15 elements to avoid penalties.”<sup>21</sup>

16 70. In 2022, the Legislature provided a limited exception for Southern California cities  
17 that had their Housing Elements certified by HCD on or before October 15, 2022. (Gov. Code §  
18 65583.4(a)(3). Under current law, “[a] jurisdiction that adopts a housing element more than one  
19 year after the [October 15, 2021] statutory deadline . . . shall not be found in substantial compliance  
20 with this article” until its rezoning is complete. Gov. Code § 65588(e)(4)(C)(iii).

21 71. Public comments at City Council meetings from October 2022 to February 2023  
22 demonstrate that the City’s decisionmakers were fully cognizant of this statutory deadline to re-  
23 zone, and the repercussions the City faces until that is achieved. See e.g., Exhibit 1, February 8,  
24 2022 City Council Meeting Minutes at 6 (City’s housing consultant Veronica Tam explaining to  
25 City Council that “[i]f you are unable to adopt the Housing Element by . . . the statutory deadline,  
26 you cannot receive a compliance status from the state until you have made changes to development  
27 standards to accommodate your regional housing needs allocation. Until that is done, no matter  
28 what, your Housing Element will not be certified by the state.”); Exhibit 1, February 8, 2022 City  
Council Meeting Minutes at 25 (City’s housing consultant Patricia Bluman explaining that (“the  
City would have to update the Zoning Code to implement the Housing Element because new

<sup>21</sup> See AB 1398, Assembly Floor Analysis (Sep. 8, 2021); available at  
[https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=202120220AB1398#](https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202120220AB1398#)

1 legislation requires this within one year. By October 14, 2022, cities have to implement their  
2 Housing Elements through the amendments.”); *Id.* (Mayor Eich stating that “everything has to be  
3 in effect by October 15, [2022].”); *Id.* (City Attorney Guerra explain that “if the housing element  
4 is not in place by October 15, property owners could enforce it against the City.”); Exhibit 19,  
5 April 5, 2022 Joint City Council and Community Development Department Meeting Minutes at  
6 24 (Director Koleda explaining that (“The Housing Element was due to the state on October 15,  
7 2021 and the City is required to complete their rezoning by October 15, 2022.”); Exhibit 1 July 5,  
8 2022 City Council Meeting Minutes at 14 (Director Koleda confirming that the statutory deadline  
9 “for Housing Element adoption, certification, and re-zoning” is October 15, 2022, “which is why  
10 staff is working on a concurrent process with the Housing Element and the development standards  
11 for the zoning.”).

12 72. The City’s February 2023 Housing Element itself acknowledges that “[t]he  
13 rezoning of adequate sites is due October 15, 2022.” Exhibit 16 at 112.

14 73. Thus, to date, the City has failed in both regards: it has not adopted a housing  
15 element found to be substantially compliant with state law by HCD, nor has it adopted the requisite  
16 zoning amendments. Since the City failed to adopt a substantially compliant housing element  
17 certified by HCD by October 15, 2022, section 65588(c)(4)(C)(iii) applies. The City cannot be  
18 considered to be in substantial compliance until it has completed the rezoning required by sections  
19 65583(c)(1)(A) and 65583.2(c).

20 **HCD’s Refutes City’s Ability to “Self-Certify” its Housing Element, and Issues Letters**  
21 **Confirming the City Lacked (and Still Lacks) a Substantially Compliant Housing Element**

22 74. On March 16, 2023, HCD released a document titled “Summary and Clarification  
23 of Requirements for Housing Element Compliance,” (Exhibit 20) which confirmed that local  
24 agencies are precluded from unilaterally certifying their housing elements as being in substantial  
25 compliance with State Housing Element Law. The HCD document reads, in pertinent part:

26  
27 “If HCD finds the draft element is not substantially compliant, revise the draft to  
28 address any findings by HCD or adopt without changes and include written findings

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explaining why the jurisdiction believes that the draft substantially complies. Promptly following adoption, submit the adopted housing element to HCD and receive findings on the adopted element from HCD. *In other words, a jurisdiction does not have the authority to determine that its adopted element is in substantial compliance but may provide reasoning why HCD should make a finding of substantial compliance. In addition, a jurisdiction is “in compliance” as of the date of HCD’s letter finding the adopted element in substantial compliance. Any other letters are not a finding of substantial compliance.* HCD recommends that a jurisdiction adopt only after receiving a letter from HCD finding the draft meets statutory requirements.” (Footnotes omitted, emphasis in original.)

75. A few days later, on March 22, 2023, HCD issued a Letter of Technical Assistance to the City that was specific to the Project. Exhibit 21. HCD stated that “[a]s of the date of this letter, the City’s housing element is not in substantial compliance with the law.” HCD’s letter to the City explained: that “... a local jurisdiction does not have the authority to determine that its adopted element is in substantial compliance but may provide reasoning why HCD should make a finding of substantial compliance. A local jurisdiction is ‘in compliance’ as of the date of HCD’s letter finding the adopted element in substantial compliance. A local jurisdiction cannot ‘backdate’ compliance to the date of adoption of a housing element. Moreover, as stated above, the October 4, 2022, adopted element did not substantially comply with State Housing Element Law.” *Id.*

76. On April 24, 2023, HCD issued another letter to the City, confirming that the February 2023 Housing Element was not in substantial compliance with State Housing Element Law. (Exhibit 22) The April 24, 2023 HCD letter reminds the City that its February 2023 Housing Element was adopted more than one year past the statutory deadline of October 15, 2021, and as a result, the City is legally required to complete rezoning prior to being found in compliance with State Housing Element Law. *Id.* at 1-2; citing Gov. Code § 65588(e)(4)(C)(iii). Pursuant to the



1 letter, the City is required to adopt the following re-zoning programs in the February 2023 Housing  
2 Element: Program 1 (Adequate Residential Sites to Accommodate the Regional Housing Needs  
3 Allocation (RHNA), Program 4 (Downtown Village Specific Plan), Program 5 (Religious  
4 Institution Housing Overlay), and Program 6 (By Right Approval for Projects with 20 percent  
5 Affordable Units). As of the date of this petition, the City has not adopted these rezoning programs.

6 77. Most recently, on June 8, 2023, HCD issued a formal Notice of Violation (“NOV”)  
7 to the City for violations of State Housing Element Law and the HAA. Exhibit 23. According to  
8 the NOV, these violations occurred “when the City, despite technical assistance from HCD, denied  
9 an appeal related to the application for the [Project].” *Id.* at 1. As it pertains to the City’s Housing  
10 Element, HCD determined that:

11  
12 “[t]he City cannot ‘backdate’ its housing element compliance date to an earlier date  
13 so as to avoid approving a Builder’s Remedy application. In short, the [October  
14 2022 Housing Element] did not substantially comply with State Housing Element  
15 Law, regardless of any declaration by the City. Therefore, the Builder’s Remedy  
16 applies, and the City’s denial of the Project application based on inconsistency with  
17 zoning and land use designation is a violation of the HAA. HCD further reminds  
18 the City that, as of the date of this letter, the City remains out of compliance with  
19 Housing Element Law unless and until it completes statutorily required rezoning.”  
20 *Id.* at 1-2.

21 The NOV again notified the City that a local agency “has no authority to determine that its adopted  
22 [housing] element is in substantial compliance with State Housing Element Law.” *Id.* at 4.  
23 Revising and retroactively finding the October 2022 Housing Element to be in substantial  
24 compliance, “the City directly contradicted its declaration that [the October 2022 Housing  
25 Element] substantially complied with State Housing Element Law.” *Id.* at 4.

26 78. As pertains to the Project, the NOV determined that the City’s adoption of  
27 Resolution 23-14, which denied Applicant’s appeal of the Second Incompleteness Determination,  
28 “effectively denied the Project as proposed in violation of the HAA, Gov. Code. §§ 65589.5(d);

1 (h)(6)(A). *Id.* at 5. HCD confirmed that, because the City’s Housing Element was not in substantial  
2 compliance as of November 14, 2022 — when Applicant submitted its SB 330 preliminary  
3 application — the City cannot rely on zoning and land use standards to deny the Project. *Id.*

4 79. The NOV opined that the City’s findings in adopting Resolution 23-14 conflict with  
5 the PSA as well as the HAA. *Id.* at 5, fn. 4 (“The [Second Incompleteness Determination] appears  
6 to incorrectly determine the Project application was incomplete because the Project was  
7 inconsistent with zoning standards. Inconsistency with local zoning standards is a reason to deny  
8 an application in some circumstances, but it is not a basis for deeming an application incomplete.  
9 The City’s finding therefore conflicts with the [PSA] (Gov. Code § 65943(a)) and the HAA (Gov.  
10 Code, § 65941.1(d)(1)).”)

11 80. As of the date of this petition, the City has not adopted the statutorily mandated  
12 rezoning, nor received a letter from HCD confirming that the City’s February 2023 Housing  
13 Element is in substantial compliance with state law.

14 **City Councilmembers Exhibit Unacceptable Probability of Bias Toward the Project and**  
15 **Deprive Petitioner its Right to a Fair and Impartial Hearing**

16 81. Throughout the history of this case, various members of Defendant City Council  
17 have demonstrated a clear pattern of bias toward Petitioner and its attempts to redevelop the  
18 Property. These decisionmakers presided at the May 1, 2023 City Council hearing to consider  
19 Petitioner’s appeal to the City’s Second Incompleteness Determination.

20 82. Councilmember Terry Walker was the Mayor when the City Council considered  
21 Petitioner’s prior proposal to develop the Property. Petitioner understands that Councilmember  
22 Walker owns or has a legal interest in the following properties: 4364 Beulah, La Cañada Flintridge,  
23 CA (home) and 1400 Foothill Blvd., La Cañada Flintridge, CA (veterinary clinic). The 4364  
24 Beulah property is located just 0.6 miles from the Property, and the 1400 Foothill Blvd. property  
25 is located 1.1 miles away. At the November 16, 2021 City Council meeting, Councilmember  
26 Walker indicated “that she lives on Beulah Drive and drives past the site probably once a day going  
27 to the grocery store. She stated that she is very familiar with the site and the traffic concerns.”  
28 Councilmember Walker expressed concerns about the project’s impacts on traffic (presumably for

1 personal reasons). Councilmember Walker did not apprise the public that as of July 1, 2020, traffic  
2 and congestion impacts are no longer considered environmental impacts for purposes of CEQA.  
3 Before voting to deny the prior project, then-Mayor Walker delivered a lengthy speech setting  
4 forth the reasons for her denial vote. Petitioner obtained a copy of Ms. Walker’s pre-written speech  
5 via a Public Records Act request, which closely aligns with Ms. Walker’s verbal comments at the  
6 November 16, 2021 meeting. Exhibit 24. Ms. Walker’s stated reason for her denial vote was that  
7 she “did not like the process,” alluding to a process set forth in the City’s Municipal Code.

8 83. At City Council meetings to discuss the Housing Element and housing opportunity  
9 sites identified therein, Walker herself identified numerous properties on the site inventory for  
10 which she had a conflict of interest. However, Ms. Walker only recused herself only from voting  
11 on certain properties to be included in the draft Housing Element — not the Housing Element in  
12 its entirety. Moreover, despite recusing herself in a limited fashion, she still participated in the City  
13 Council’s discussion and consideration of the Housing Element as a whole (improper recusal; and  
14 segmentation of decision-making).<sup>22</sup>

15 84. Councilmember Kim Bowman — the newest member of the City Council —  
16 presided at the May 1, 2023 City Council hearing on Petitioner’s appeal. Of the decisionmakers,  
17 Councilmember Bowman delivered the lengthiest comments, in a pre-prepared written statement,  
18 explaining his position to deny the appeal on the basis that the HAA’s Builder’s Remedy did not  
19 apply to the Project. Subsequent to the May 1, 2023 hearing, Petitioner has obtained public records  
20 which reveal that Councilmember Bowman has been in close communication with the members  
21 of TLC — the local citizens group opposed to the Project — concerning the Housing Element, the  
22 Builder’s Remedy, and the Project. These records include, but are not limited to:

- 23 • A September 28, 2022 email from Ms. Hossepian directly to Councilmember  
24 Bowman’s personal email address, stating “Let’s discuss today at our

25 <sup>22</sup> There are numerous advisory opinions from the Fair Political Practices Commission (“FPPC”) which recognize these types of conflicts and how to handle them. The FPPC advisory opinions specifically deal with Specific Plans and RHNA (Regional Housing Needs Assessment). See, e.g., FPPC Advisory Opinions: (i) Jean B, Savaree – A-23-049 – April 3, 2023 – Davis, (ii) Kristopher J. Kokotaylo – A-22-070(a) – August 22, 2022 – Huntington Beach, (iii) Lisa A. Travis – A- 20 - 001 – January 27, 2020 – Sacramento, and (iv) Alisha Patterson – A-21-081 – June 21, 2021 – Claremont.

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conference call please.” Ms. Hossepian’s email include an earlier email from the same date that another TLC member sent Mayor Eich regarding Housing Element compliance. In addition to demonstrating that TLC members were also sending documents to Mayor Eich, this email implies that Councilmember Bowman had scheduled at least one call with the members of TLC to Housing Element compliance. Exhibit 25.

- An October 24, 2022 email from Councilmember Bowman to Ms. Hossepian, concerning an article in the Los Angeles Times concerning the Builder’s Remedy, titled “*Thousands of apartments may come to Santa Monica, other wealthy cities under little-known law.*” Mr. Bowman replied to Ms. Hossepian as follows: “I read that article today. I’m hopeful things will be more straight forward for us because our [Housing Element] is in, we think it will be deemed compliant, and so far no one’s attempted to use the builder’s remedy that I know of (I just talked with the city manager and attorney this morning). We still have a lot of work to do, so I’m glad you’re staying up on the latest and engaged.” Exhibit 26.
- An email exchange from December 8-11, 2022 between Anita Diego and Councilmember Bowman discussing the applicability of the Builder’s Remedy to the Project. Ms. Diego’s email to Councilmember Bowman includes a number of questions, including the following: “[the City] is one of 53 (out of 89) jurisdictions in Los Angeles county whose HEs are out of compliance. The builder's remedy is available but Jon Curtis [i.e., a principal of Petitioner] has to build 20% low income, or 100% middle income, right? Does it apply to "mixed use"? HCD has not yet posted their review letter online, right?” In response to these questions, Councilmember Bowman stated: “I’m not an expert in this area of the law, but my understanding is there are conditions and it may apply to mixed use. Here’s a summary I found that I think looks right (the last section): <https://abag.ca.gov/sites/default/files/documents/2022-10/Builders-Remedy-and-Housing-Elements.pdf>.” Ms. Diego replied: “Thank

1 you for the time you took to research this. I will read it and *pass it on to the*  
2 *TLC group.*” Exhibit 27.

- 3 • A December 12, 2022 email from Councilmember Bowman to Anita Diego  
4 concerning HCD’s finding that the City’s October 2022 Housing Element was  
5 not in substantial compliance with state law. Mr. Bowman states “More work  
6 to do. [HCD] want[s] additional background information and the rezoning.”  
7 Ms. Diego replies as follows: “Thank you for this. The TLC group received this  
8 and we have been working on researching what can be done legally.” Exhibit  
9 28.
- 10 • A January 20, 2023 email sent from Anita Hossepian (a TLC member) to other  
11 TLC members (e.g., Nancy Antopolis, Scott Van Dellen) as well as to  
12 Councilmember Bowman’s personal email. The email attaches a March 29,  
13 2022 article prepared by Professor Christopher Elmendorf of the University of  
14 California, Davis regarding the Builder’s Remedy. Exhibits 29 and 30. The  
15 email correspondence from Ms. Hossepian states: “I hope this may help us  
16 understand the issue better for the future.”

17 85. In addition to these facts, City Councilmembers have repeatedly voiced strong  
18 opinions in favor of local control and against state housing laws more generally. On the topic of  
19 complying with state housing element mandates, Councilmember Richard Gunter stated at a July  
20 5, 2022 City Council hearing on the Housing Element that “everyone realizes what a difficult  
21 situation the state has put the City in.” Without any stated research or factual support, Mr. Gunter  
22 stated that the “law was passed with no research or evidence to back it up whatsoever and was  
23 assigned to a state organization that is understaffed and ill-prepared to prepare documents of this  
24 complexity amounting to many rules that were, by design, completely independent from each  
25 individual city, or its locale, or topography, or demography.” Exhibit 1. On the topic of housing  
26 element compliance, Councilmember Walker has stated that “this is tough and none of us want to  
27 change the character of the City. The City is trying to protect the character as much as we can.”  
28 Exhibit 1.

1           86.     Lastly, Petitioner is informed and believed that various City Councilmembers have  
 2     been unduly influenced by an influential resident of the City: Stephen Albert Del Guercio. Mr. Del  
 3     Guercio served on the City Council from 2001 to 2013, including three one-year terms as Mayor.  
 4     At a City Council meeting approximately two weeks before the hearing on Petitioner’s first  
 5     Project, Mr. Del Guercio was seen directing speakers and had a line of influential citizens sit in  
 6     the back row of City Council Chambers. Petitioner alleges that Mr. Del Guercio has a personal  
 7     interest in having the South side of Foothill Blvd. (where the Property is located) to be less dense  
 8     as compared to the North side of Foothill Blvd. at the (so as to make Petitioner’s Project infeasible).  
 9     Petitioner provided City staff with evidence showing that the streets and infrastructure were  
 10    superior to the south of Foothill Blvd, which was able to support densities sought at the Property  
 11    by Petitioner. The City Council nevertheless ignored this evidence, presumably due to Mr. Del  
 12    Guercio’s undue influence. Lastly, Mr. Del Guercio was a “co-chair” of Councilmember Walker’s  
 13    2020 campaign, and hosted a fundraising event, where thousands of dollars were raised. Del  
 14    Guercio personally donated over \$2,000 for a kickoff for Walker’s campaign, and has openly  
 15    endorsed Ms. Walker’s election to City Council per her campaign website.<sup>23</sup>

16           87.     These well-documented biases against Petitioner, the Project, and housing  
 17    development more generally, defined the outcome of the May 1, 2023 City Council hearing to  
 18    consider Petitioner’s appeal of the Second Incompleteness Determination.

19                                   **FIRST CAUSE OF ACTION**

20                           **(Petition for Writ of Mandate – Violation of State Housing Element Law)**

21                                   **(Code Civ. Proc. § 1085; Gov. Code §§ 65580 et seq.)**

22           88.     Petitioner incorporates and realleges all of the foregoing paragraphs.

23           89.     Pursuant to Government Code Section 65587(b), an action to challenge the legal  
 24    adequacy of a housing element shall be brought under Code of Civil Procedure Section 1085.

25           90.     Petitioner is an interested party for purposes of this Section.

26

27

28           <sup>23</sup> See, Terry Walker for City Council, Testimonials (last accessed Jul. 19, 2023), available at  
<https://www.voteterrywalker.com/>

1           91.     The City’s Housing Element does not substantially comply with State law and the  
2 City is therefore subject to an action under Government Code Section 65587(b).

3           92.     As set forth above, the statutory deadline for Respondents to adopt a compliant  
4 housing element for the Sixth Planning Cycle was October 15, 2021. Gov. Code § 65588(e)(3).

5           93.     Per Government Code Section 65583(c)(1)(A), because Respondents “failed to  
6 adopt a housing element that [HCD] found to be in substantial compliance with [State Housing  
7 Element Law] within 120 days of” that deadline, they were required to complete all required  
8 rezoning by October 15, 2022. Respondents did not do so. Further, Respondents failed to adopt a  
9 substantially compliant housing element within one year from the statutory deadline, as required  
10 by Government Code Section 65588(e)(4)(C)(iii).

11           94.     Because Respondents failed to complete all required rezoning by October 15, 2022,  
12 per Government Code Section 65588(e)(4)(C)(iii), Respondents “shall not be found in substantial  
13 compliance with [State Housing Element Law] until it has completed the rezoning[.]” As of this  
14 filing, Respondents have still not completed the required rezoning and, as such, are in violation of  
15 Housing Element Law.

16           95.     Further, Respondents’ adopted Housing Element fails to affirmatively further fair  
17 housing as required by numerous provisions of State Housing Element Law. Government Code  
18 Section 65583(a)(3) requires, among other things, that the housing element include “an analysis  
19 of the relationship of the sites identified in the land inventory to the jurisdiction’s duty to  
20 affirmatively further fair housing.” Government Code Section 65583(b)(1) requires that the  
21 housing element set forth “a statement of the community’s goals, quantified objectives, and  
22 policies relative to affirmatively furthering fair housing[.]” Government Code Section 65583(c)(1)  
23 requires that the housing element include programs that “[i]dentify sites actions that will be taken  
24 to make sites available during the planning period[.]” and specifically requires that “[s]ites shall  
25 be identified as needed to affirmatively further fair housing and to facilitate and encourage the  
26 development of a variety of housing for all income levels, including multifamily rental housing[.]”  
27 Government Code Section 65583(c)(5) requires that the housing element include programs that  
28 “[p]romote and affirmatively further fair housing opportunities and promote housing throughout

1 the community.” Most directly, Government Code Section 65583(c)(10) requires that the housing  
2 element itself “[a]ffirmatively further fair housing in accordance with Chapter 15 (commencing  
3 with Section 8899.50) of Division 1 of Title 2.”

4 96. Government Code Section 8899.50 provides that all public agencies must take  
5 “meaningful actions that, taken together, address significant disparities in housing needs and in  
6 access to opportunity, replacing segregated living patterns with truly integrated and balanced living  
7 patterns, transforming racially and ethnically concentrated areas of poverty into areas of  
8 opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.”  
9 Respondents are “public agencies” for purposes of these obligations. Respondents’ adopted  
10 Housing Element fails to affirmatively further fair housing because, *inter alia*, it clusters virtually  
11 all projected housing for lower-income individuals along Foothill Boulevard near the 210 Freeway,  
12 leaving affluent areas untouched. As such, Respondents’ adopted Housing Element fails to  
13 affirmatively further fair housing and is not in substantial compliance with State Housing Element  
14 Law for that reason as well.

15 97. In addition, Respondents’ adopted Housing Element fails to substantially comply  
16 with State Housing Element Law because its site inventory is inadequate. Government Code  
17 Section 65583(a)(3) states that the housing element must include “[a]n inventory of land suitable  
18 and available for residential development, including vacant sites and sites having realistic and  
19 demonstrated potential for redevelopment during the planning period to meet the locality’s housing  
20 need for a designated income level, and an analysis of the relationship of zoning and public  
21 facilities and services to these sites, and an analysis of the relationship of the sites identified in the  
22 land inventory to the jurisdiction’s duty to affirmatively further fair housing.” The inventory  
23 identified in Respondents’ adopted Housing Element fails to satisfy the statutory requirements.  
24 For example, as discussed above, the inventory relies on non-vacant parcels to satisfy more than  
25 50 percent low- and very low-income RHNA, but fails to make findings based on substantial  
26 evidence that those existing uses are likely to be discontinued during the planning period, as  
27 required by Government Code Section 65583.2(g)(2). As such, Respondents’ adopted Housing  
28



1 Element fails to satisfy the requirements of Government Code Section 65583(a)(3), and is not in  
2 substantial compliance with State Housing Element Law.

3 98. Petitioner has no available administrative remedies.

4 99. Petitioner has no plain, speedy, or adequate remedy at law.

5 100. Accordingly, Petitioner is entitled to a writ of mandate.

6 **SECOND CAUSE OF ACTION**

7 **(Writ of Mandate, Affirmatively Furthering Fair Housing)**

8 **(Code Civ. Proc. § 1085; Gov. Code § 8899.50)**

9 101. Petitioner incorporates and realleges all of the foregoing paragraphs.

10 102. Government Code Section 8899.50(b) requires all public agencies to administer  
11 their programs and activities relating to housing and community development in a manner to  
12 affirmatively further fair housing, and to take no action inconsistent with their obligation to  
13 affirmatively further fair housing.

14 103. Pursuant to Government Code Section 8899.50(a)(2), Respondents are a public  
15 agency for purposes of this requirement.

16 104. Government Code Section 8899.50(a)(1) defines “affirmatively furthering fair  
17 housing” as “taking meaningful actions, in addition to combating discrimination, that overcome  
18 patterns of segregation and foster inclusive communities free from barriers that restrict access to  
19 opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing  
20 means taking meaningful actions that, taken together, address significant disparities in housing  
21 needs and in access to opportunity, replacing segregated living patterns with truly integrated and  
22 balanced living patterns, transforming racially and ethnically concentrated areas of poverty into  
23 areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing  
24 laws.” Government Code Section 8899.50(a)(1) further provides that the “duty to affirmatively  
25 further fair housing extends to all of a public agency’s activities and programs relating to housing  
26 and community development.”

27 105. As detailed herein, Respondents have engaged in a decades-long effort to frustrate  
28 the development of affordable and multi-family housing, with only four multi-family residential

1 units constructed since 1980.<sup>24</sup> More recently, Respondents' practice of frustrating development  
2 of affordable and multi-family housing has resulted in the construction of only twenty one dwelling  
3 units from 2013-2022, all of which were market rate single family homes, notwithstanding  
4 Respondents' legal obligation to accommodate 112 new affordable housing units during the same  
5 period. This practice, which continues to this day, constitutes a violation of Respondents' duty to  
6 Affirmatively Further Fair Housing.

7 106. Respondents' continued refusal to complete the rezoning required to accommodate  
8 its Sixth Cycle RHNA, itself an action that is itself required in order for Respondents to comply  
9 with State Housing Element Law, demonstrates Respondents' failure to take meaningful actions  
10 to Affirmatively Further Fair Housing.

11 107. Respondents' unlawful determination that the application for the Project is  
12 incomplete on the basis of zoning and General Plan inconsistency, the standards of which are  
13 inapplicable to the Project in view of Respondents' failure to adopt a housing element that  
14 substantially complies with State Housing Element law, further demonstrates Respondents' failure  
15 to take meaningful actions to Affirmatively Further Fair Housing.

16 108. Respondents' adopted Housing Element also fails to take meaningful actions to  
17 Affirmatively Further Fair Housing. For example, as discussed above, the adopted Housing  
18 Element site inventory clusters virtually all projected housing for lower-income individuals along  
19 Foothill Boulevard near the 210 Freeway, leaving affluent areas untouched.

20 109. Petitioner has no available administrative remedies.

21 110. Petitioner has no plain, speedy, or adequate remedy at law.

22 111. Accordingly, Petitioner is entitled to a writ of mandate.

23  
24  
25  
26  
27  
28 <sup>24</sup> Flemming, J., *Protests, lawsuits and a dead rat: A wealthy California city's epic fight to block growth*, L.A. Times, April 24, 2023.

**THIRD CAUSE OF ACTION**

**(Petition for Writ of Mandate – Violation of the Housing Accountability Act)**

**(Code Civ. Proc. §1094.5; Gov. Code §§ 65589.5(d))**

112. Petitioner incorporates and realleges all of the foregoing paragraphs.

113. Pursuant to Government Code Section 65589.5(m), an action to enforce the provisions of the HAA shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure.

114. Pursuant to Government Code Section 65589.5(k)(1)(A)(k), an applicant may bring an action to enforce compliance with the HAA.

115. Petitioner is an applicant for purposes of this statute.

116. The Project is a “housing development project” as defined by Government Code Section 65589.5(h)(2) because at least two-thirds of the square footage of the Project will be designated for residential use.

117. The Project meets the statutory definition of “Housing for very low, low-, or moderate-income households” set forth in Government Code Section 65589.5(h)(3) because 20 percent of the total residential units will be sold or rented to lower income households as defined in Section 50079.5 of the Health and Safety Code.

118. As of the submission of the preliminary application for the Project on November 14, 2022, Respondents had not adopted a housing element that was in substantial conformance with Title 7, Article 10.6 of the Government Code.

119. Pursuant to Government Code Section 65589.5(o)(1), the Project is subject only to the ordinances, policies, and standards adopted and in effect on November 14, 2022, the date of the submission of the preliminary application for the Project containing all the information required by subdivision (a) of Government Code Section 65941.1.

120. Government Code Section 65589.5(d) provides that “[a] local agency shall not disapprove a housing development project . . . for very low, low-, or moderate-income households . . . 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,” unless the agency

1 makes written findings, based upon a preponderance of the evidence in the record,” that one of  
2 five specific criteria in the statute are satisfied. Gov. Code § 65589.5(d).

3 121. Respondents cannot make, and have not made or purported to make, written  
4 findings pursuant to Government Code Section 65589.5(d).

5 122. Specifically, Respondents cannot (and did not) make written findings pursuant to  
6 Government Code Section 65589.5(d)(5), because they had not adopted a revised housing element  
7 that was in substantial compliance with Title 7, Article 10.6 of the Government Code as of the  
8 submission of the preliminary application for the Project on November 14, 2022.

9 123. Government Code Section 65589.5(d)(5)(B) provides: “If the local agency has  
10 failed to identify in the inventory of land in its housing element sites that can be developed for  
11 housing within the planning period and are sufficient to provide for the jurisdiction’s share of the  
12 regional housing need for all income levels pursuant to Section 65584, then this paragraph shall  
13 not be utilized to disapprove or conditionally approve a housing development project proposed for  
14 a site designated in any element of the general plan for residential uses or designated in any element  
15 of the general plan for commercial uses if residential uses are permitted or conditionally permitted  
16 within commercial designations.”

17 124. The Project is designated for residential uses in the adopted housing element, which  
18 is an element of Respondents’ General Plan.

19 125. As acknowledged by HCD in its December 6, 2022 correspondence to  
20 Respondents, the adopted Housing Element’s inventory of land fails to identify sites that can be  
21 developed for housing within the 6th Cycle planning period and that are sufficient to provide for  
22 Respondents’ share of the RHNA for all income levels. Respondents are therefore independently  
23 precluded from disapproving the Project pursuant to Government Code Section 65589.5(d),  
24 regardless of whether Respondents had timely adopted a housing element that was in substantial  
25 conformance with Title 7, Article 10.6 of the Government Code.

26 126. Per Government Code Section 65589.5(h)(6), “disapprove the housing  
27 development project” “includes any instance in which a local agency ... [v]otes on a proposed  
28

1 housing development project application and the application is disapproved, including any  
2 required land use approvals or entitlements necessary for the issuance of a building permit.”

3 127. Respondents’ May 1, 2023 vote to uphold their determination that the application  
4 for the Project was incomplete on the basis of zoning and General Plan inconsistency constitutes  
5 an unlawful disapproval of the Project in violation of Government Code Section 65589.5(d).  
6 Specifically, Respondents voted on the Project application on May 1, 2023 and, in determining  
7 that the Project was inconsistent with zoning and General Plan standards and must be processed in  
8 accordance with the zoning contemplated by the adopted General Plan, unlawfully disapproved  
9 the Project without making the requisite findings under Government Code Section 65589.5(d).  
10 The applicant is entitled to bring an action to enforce the Government Code Section 65589.5(d)  
11 pursuant to Government Code (k)(1)(A)(i).

12 128. Moreover, through its May 1, 2023 vote to uphold its determination that the  
13 application for the Project was incomplete on the basis of zoning and General Plan inconsistency,  
14 Respondents acted in bad faith in disapproving the Project. Government Code Section  
15 65589.5(k)(1)(A)(ii) provides that “[t]he court may issue an order or judgment directing the local  
16 agency to approve the housing development project or emergency shelter if the court finds that the  
17 local agency acted in bad faith when it disapproved or conditionally approved the housing  
18 development or emergency shelter in violation of this section.” For purposes of the HAA, “bad  
19 faith’ includes, but is not limited to, an action that is frivolous or otherwise entirely without merit.”  
20 Government Code Section 65589.5(l).

21 129. Respondents’ position that it had adopted a housing element that was in substantial  
22 compliance with Title 7, Article 10.6 of the Government Code as of the submission of the  
23 preliminary application for the Project on November 14, 2022, which it relied upon in its May 1,  
24 2023 vote, was frivolous and entirely without merit. In fact, Respondents knew that this position  
25 was frivolous and without merit, because they were informed and repeatedly expressed an  
26 understanding that they lacked a compliant housing element at the February 8, 2022 City Council  
27 meeting, and again at the April 5, 2022 City Council meeting. At both of these meetings, staff and  
28 consultants informed Respondent City Council of the law regarding housing element compliance,

1 and Respondents City Council expressed an understanding that directly contradicted the erroneous  
2 positions that Respondents took in connection with their May 1, 2023 vote. As such, Respondents'  
3 May 1, 2023 vote to uphold their determination that the application for the Project was incomplete  
4 on the basis of zoning and General Plan inconsistency was frivolous and entirely without merit,  
5 and constituted a bad faith disapproval of the Project, and Petitioner is therefore entitled to  
6 appropriate relief under Government Code Section 65589.5(k)(1)(A)(ii).

7 130. Respondents' May 26, 2023 Completeness Determination, by which it purported to  
8 find that the Project's formal application has been deemed complete, does not cure Respondents'  
9 violations. That Completeness Determination was issued in apparent contravention of the May 1,  
10 2023 resolution adopted by Respondents upholding their incompleteness determination on the  
11 basis of zoning and General Plan inconsistency. The May 26, 2023 Completeness Determination  
12 is inconsistent with and contrary to Respondents' repeatedly-stated and formally-adopted position  
13 that the Project cannot be processed or approved as proposed as a consequence of zoning and  
14 General Plan inconsistency, was issued without explanation as to the inconsistency in approach  
15 and in an apparent attempt to confuse the issues, and is in fact further evidence of Respondents'  
16 bad faith approach to processing the Project.

17 131. Petitioner has no available administrative remedies.

18 132. Petitioner has no plain, speedy, or adequate remedy at law.

19 133. Accordingly, Petitioner is entitled to a writ of mandate.

20 **FOURTH CAUSE OF ACTION**

21 **(Petition for Writ of Mandate – Violation of the Housing Accountability Act)**

22 **(Code Civ. Proc. § 1094.5; 65589.5(o))**

23 134. Petitioner incorporates and realleges all of the foregoing paragraphs.

24 135. Pursuant to Government Code Section 65589.5(m), an action to enforce the  
25 provisions of the HAA shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure.

26 136. Pursuant to Government Code Section 65589.5(k)(1)(A)(k), an applicant may bring  
27 an action to enforce compliance with the HAA.

28 137. Petitioner is an applicant for purposes of this statute.



1 147. Pursuant to Government Code Section 65589.5(m), an action to enforce the  
2 provisions of the HAA shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure.

3 148. Pursuant to Government Code Section 65589.5(k)(1)(A)(k), an applicant may bring  
4 an action to enforce compliance with the HAA.

5 149. Petitioner is an applicant for purposes of this statute.

6 150. The Project is a “housing development project” as defined by Government Code  
7 Section 65589.5(h)(2) because at least two-thirds of the square footage of the Project will be  
8 designated for residential use.

9 151. The Project meets the statutory definition of “Housing for very low, low-, or  
10 moderate-income households” set forth in Government Code Section 65589.5(h)(3) because 20  
11 percent of the total residential units will be sold or rented to lower income households as defined  
12 in Section 50079.5 of the Health and Safety Code.

13 152. As of the submission of the preliminary application for the Project on November  
14 14, 2022, Respondents had not adopted a housing element that was in substantial conformance  
15 with Title 7, Article 10.6 of the Government Code.

16 153. Pursuant to Government Code Section 65589.5(o)(1), the Project is subject only to  
17 the ordinances, policies, and standards adopted and in effect on November 14, 2022, the date of  
18 the submission of the preliminary application for the Project containing all the information  
19 required by subdivision (a) of Government Code Section 65941.1.

20 154. Pursuant to Government Code Section 65589.5(j)(1), “when a proposed housing  
21 development project complies with applicable, objective general plan, zoning, and subdivision  
22 standards and criteria, including design review standards, in effect at the time that the application  
23 was deemed complete, but the local agency proposes to disapprove the project or to impose a  
24 condition that the project be developed at a lower density, the local agency shall base its decision  
25 regarding the proposed housing development project upon written findings supported by a  
26 preponderance of the evidence” that certain specific, adverse impacts to health and safety exist and  
27 cannot be satisfactorily mitigated without disapproving the project or imposing a condition that  
28 the project be developed at a lower density.



1           155. Respondents’ zoning and General Plan standards are not “applicable, objective”  
2 standards for purposes of Government Code Section 65589.5(j), given that those standards may  
3 not be used as a basis for disapproving the Project pursuant to Government Code Section  
4 65589.5(d)(5), because Respondents lacked a housing element that substantially complied with  
5 State Housing Element Law at the time the complete preliminary application for the Project was  
6 submitted on November 14, 2022.

7           156. Respondents’ refusal to process the application for the Project on the basis of  
8 zoning and General Plan inconsistency, their May 1, 2023 vote to uphold their determination that  
9 the application for the Project is incomplete on the same basis, and their insistence that the Project  
10 be processed in accordance with the zoning contemplated by the adopted General Plan, constitutes  
11 an unlawful proposal to disapprove the Project and/or impose conditions that it be developed at a  
12 lower density without having made the requisite findings required by Government Code Section  
13 65589.5(j). The applicant is entitled to bring an action to enforce the Government Code Section  
14 65589.5(j) pursuant to Government Code (k)(1)(A)(i).

15           157. Moreover, through its May 1, 2023 vote to uphold its determination that the  
16 application for the Project was incomplete on the basis of zoning and General Plan inconsistency,  
17 Respondents acted in bad faith in disapproving the Project. Government Code Section  
18 65589.5(k)(1)(A)(ii) provides that “[t]he court may issue an order or judgment directing the local  
19 agency to approve the housing development project or emergency shelter if the court finds that the  
20 local agency acted in bad faith when it disapproved or conditionally approved the housing  
21 development or emergency shelter in violation of this section.” For purposes of the HAA, “bad  
22 faith’ includes, but is not limited to, an action that is frivolous or otherwise entirely without merit.”  
23 Government Code Section 65589.5(l).

24           158. Respondents’ position that they had adopted a housing element that was in  
25 substantial compliance with Title 7, Article 10.6 of the Government Code as of the submission of  
26 the preliminary application for the Project on November 14, 2022, which it relied upon in its May  
27 1, 2023 vote, was frivolous and entirely without merit. In fact, Respondents knew that this position  
28 was frivolous and without merit, because they were informed and repeatedly expressed an

1 understanding that they lacked a compliant housing element at the February 8, 2022 City Council  
2 meeting, and again at the April 5, 2022 City Council meeting. At both of these meetings, staff and  
3 consultants informed Respondent City Council of the law regarding housing element compliance,  
4 and Respondent City Council expressed an understanding that directly contradicted the erroneous  
5 positions that Respondents took in connection with its May 1, 2023 vote. As such, Respondents'  
6 May 1, 2023 vote to uphold their determination that the application for the Project was incomplete  
7 on the basis of zoning and General Plan inconsistency was frivolous and entirely without merit,  
8 and constituted a bad faith disapproval of the Project, and Petitioner is therefore entitled to  
9 appropriate relief under Government Code Section 65589.5(k)(1)(A)(ii).

10 159. Respondents' May 26, 2023 Completeness Determination, by which it purported to  
11 find that the Project's formal application has been deemed complete, does not cure Respondents'  
12 violations. That Completeness Determination was issued in apparent contravention of the May 1,  
13 2023 resolution adopted by Respondents upholding their incompleteness determination on the  
14 basis of zoning and General Plan inconsistency. The May 26, 2023 Completeness Determination  
15 is inconsistent with and contrary to Respondents' repeatedly-stated and formally-adopted position  
16 that the Project cannot be processed or approved as proposed as a consequence of zoning and  
17 General Plan inconsistency, was issued without explanation as to the inconsistency in approach  
18 and in an apparent attempt to confuse the issues, and is in fact further evidence of Respondents'  
19 bad faith approach to processing the Project.

20 160. Petitioner has no available administrative remedies.

21 161. Petitioner has no plain, speedy, or adequate remedy at law.

22 162. Accordingly, Petitioner is entitled to a writ of mandate.

23 **SIXTH CAUSE OF ACTION**

24 **(Petition for Writ of Mandate – Violation of the Permit Streamlining Act)**

25 **(Code Civ. Proc. §§ 1085; Gov. Code § 65920 et seq.)**

26 163. Petitioner incorporates and realleges all of the foregoing paragraphs.

27 164. Government Code Section 65940(a)(1) provides that "Each public agency shall  
28 compile one or more lists that shall specify in detail the information that will be required from any

1 applicant for a development project.” This list or lists “shall also indicate the criteria which the  
2 agency will apply in order to determine the completeness of any application submitted to it for a  
3 development project.” Gov. Code Section 65941(a).

4 165. Government Code Section 65943(a) provides that, “Not later than 30 calendar days  
5 after any public agency has received an application for a development project, the agency shall  
6 determine in writing whether the application is complete and shall immediately transmit the  
7 determination to the applicant for the development project. If the application is determined to be  
8 incomplete, the lead agency shall provide the applicant with an exhaustive list of items that were  
9 not complete. That list shall be limited to those items actually required on the lead agency’s  
10 submittal requirement checklist. In any subsequent review of the application determined to be  
11 incomplete, the local agency shall not request the applicant to provide any new information that  
12 was not stated in the initial list of items that were not complete.” (emphasis added). This process  
13 is informational, not substantive.

14 166. Respondents’ May 1, 2023 vote to uphold the determination that the application for  
15 the Project was incomplete on the basis of zoning and General Plan inconsistencies is erroneous,  
16 and violates the Permit Streamlining Act.

17 167. Respondents’ May 1, 2023 vote to uphold their determination that the application  
18 for the Project was incomplete on the basis of zoning and General Plan inconsistencies is erroneous  
19 because those alleged inconsistencies were not set forth in Respondents’ First Incompleteness  
20 Determination, and therefore violates Government Code Section 65943(a)’s instruction that “the  
21 lead agency shall provide the applicant with an exhaustive list of items that were not complete,”  
22 and that “the local agency shall not request the applicant to provide any new information that was  
23 not stated in the initial list of items that were not complete.” While Respondents purported to issue  
24 a subsequent incompleteness determination detailing inconsistencies with zoning and the General  
25 Plan on March 1, 2023, those allegations were not set forth in the Respondents’ February 10, 2023  
26 incompleteness determination, and because Government Code Section 65943(a) countenances  
27 only an “initial,” “exhaustive” list of bases for an agency’s incompleteness determination,  
28

1 allegations raised subsequent to the First Incompleteness Determination are waived and may not  
2 serve as a basis for an incompleteness determination under Government Code Section 65943(a).

3 168. In addition, Respondents' May 1, 2023 vote to uphold their determination that the  
4 application for the Project was incomplete on the basis of zoning and General Plan inconsistencies  
5 violates the Permit Streamlining Act because Respondent City Council improperly used the appeal  
6 process provided by the Permit Streamlining Act to reach a substantive, merits-based  
7 determination regarding the Project.

8 169. Moreover, Respondents' Second Incompleteness Determination was submitted  
9 more than 30 days after Petitioner submitted the Project application on January 13, 2023. As such,  
10 Respondents' purported March 1, 2023 incompleteness determination in violation of Government  
11 Code Section 65943(a)'s instruction that any such determination be made in writing "Not later  
12 than 30 calendar days after any public agency has received an application for a development  
13 project," and the allegations raised therein are therefore waived and may not serve as a basis for  
14 an incompleteness determination under Government Code Section 65943(a).

15 170. In determining, and then adopting a resolution upholding its determination, that the  
16 application for the Project was incomplete based solely on purported noncompliance with  
17 substantive zoning standards and criteria, rather than on incomplete information set forth in the  
18 "initial list of items that were not complete," Respondents acted in violation of Government Code  
19 Section 65943(a).

20 171. Further, Respondents' May 1, 2023 vote to uphold its determination that the  
21 application for the Project was incomplete on the basis of zoning and General Plan inconsistencies  
22 is erroneous as a matter of law because, pursuant to Government Code Section 65589.5(o)(1), the  
23 Project is subject only to the ordinances, policies, and standards adopted and in effect on November  
24 14, 2022, the date of the submission of the preliminary application for the Project containing all  
25 the information required by subdivision (a) of Government Code Section 65941.1. Because  
26 Respondents lacked a housing element that substantially complied with State Housing Element  
27 Law as of the date that the preliminary application for the Project containing all the information  
28 required by subdivision (a) of Government Code Section 65941.1 was submitted, Respondents'

1 May 1, 2023 determination purported to apply standards that were not in effect at the time of  
2 submission, and is therefore erroneous and in violation of Government Code Section 65943(a).

3 172. Mandamus relief is available to compel a local agency to take a ministerial act that  
4 is prescribed by law. See, e.g., Ochoa v. Anaheim City Sch. Dist., 11 Cal. App. 5th 209, 223-24  
5 (2017) (citing numerous authorities). Petitioner has a “clear, present and beneficial right” to the  
6 issuance of the permit that State law requires the City to provide to allow the Site’s development.  
7 *Id.* (citing Santa Clara County Counsel Attys. Assn. v. Woodside, 7 Cal. 4th 525, 539-540 (1994)).

8 173. Petitioner has no available administrative remedies.

9 174. Petitioner has no plain, speedy, or adequate remedy at law.

10 175. Accordingly, Petitioner is entitled to a writ of mandate.

11 **SEVENTH CAUSE OF ACTION**

12 **(Writ of Mandate, State Density Bonus Law)**

13 **(Code Civ. Proc. § 1085; Gov. Code §§ 65915 et seq.)**

14 176. Petitioner incorporates and realleges all of the foregoing paragraphs.

15 177. Government Code Section 65915(a)(1) provides: “When an applicant seeks a  
16 density bonus for a housing development within, or for the donation of land for housing within,  
17 the jurisdiction of a city, county, or city and county, that local government shall comply with this  
18 section.”

19 178. As set forth in its preliminary and formal applications, Petitioner sought a density  
20 bonus for the Project, and as such Respondents’ conduct is governed by Government Code Section  
21 65915.

22 179. Government Code Section 65915(b)(1) provides: “A city, county, or city and  
23 county shall grant one density bonus, the amount of which shall be as specified in subdivision (f),  
24 and, if requested by the applicant and consistent with the applicable requirements of this section,  
25 incentives or concessions, as described in subdivision (d), waivers or reductions of development  
26 standards, as described in subdivision (e), and parking ratios, as described in subdivision (p), if an  
27 applicant for a housing development seeks and agrees to construct a housing development,  
28 excluding any units permitted by the density bonus awarded pursuant to this section, that will

1 contain ... [t]en percent of the total units of a housing development, including a shared housing  
2 building development, for rental or sale to lower income households, as defined in Section 50079.5  
3 of the Health and Safety Code.”

4 180. The Project designates twenty percent of its total units for rental to lower income  
5 households as defined in Section 50079.5 of the Health and Safety Code, and therefore satisfies  
6 the requirements of Government Code Section 65915(b)(1).

7 181. Respondents’ refusal to process the application for the Project on the basis of  
8 zoning and General Plan inconsistency, their May 1, 2023 vote to uphold their determination that  
9 the application for the Project is incomplete on the same basis, and their insistence that the Project  
10 be processed in accordance with the zoning contemplated by the adopted General Plan, constitutes  
11 an unlawful denial of Petitioner’s requested density bonus, in violation of Government Code  
12 Section 65915(b)(1)’s instruction that “a city, county, or city and county shall grant one density  
13 bonus” to all qualifying projects.

14 182. Government Code Section 65915(d)(1) provides: “An applicant for a density bonus  
15 pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the  
16 specific incentives or concessions that the applicant requests pursuant to this section, and may  
17 request a meeting with the city, county, or city and county. The city, county, or city and county  
18 shall grant the concession or incentive requested by the applicant unless the city, county, or city  
19 and county makes a written finding, based upon substantial evidence, of any of the following: (A)  
20 The concession or incentive does not result in identifiable and actual cost reductions, consistent  
21 with subdivision (k), to provide for affordable housing costs, as defined in Section 50052.5 of the  
22 Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).  
23 (B) The concession or incentive would have a specific, adverse impact, as defined in paragraph  
24 (2) of subdivision (d) of Section 65589.5, upon public health and safety or on any real property  
25 that is listed in the California Register of Historical Resources and for which there is no feasible  
26 method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the  
27  
28

1 development unaffordable to low-income and moderate-income households. (C) The concession  
2 or incentive would be contrary to state or federal law.”

3 183. As set forth in its November 14, 2022 preliminary application, Petitioner requested  
4 two incentives and concessions from development standards that result in actual and identifiable  
5 affordable housing cost reductions.

6 184. Respondents’ refusal to process the formal application for the Project on the basis  
7 of zoning and General Plan inconsistency, their May 1, 2023 vote to uphold their determination  
8 that the application for the Project is incomplete on the same basis, and their insistence that the  
9 Project be processed in accordance with the zoning contemplated by the adopted General Plan,  
10 constitutes a denial of Petitioner’s requested incentives and concessions. Because Respondents  
11 failed to make the findings required by Government Code Section 65915(d)(1) prior to denying  
12 these requested incentives and concessions, that denial was unlawful and in violation of  
13 Government Code Section 65915(d)(1).

14 185. Government Code Section 65915(d)(3) provides: “The applicant may initiate  
15 judicial proceedings if the city, county, or city and county refuses to grant a requested density  
16 bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus,  
17 incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable  
18 attorney’s fees and costs of suit.” Pursuant to Section 65915(d)(3), Petitioner is entitled to an order  
19 requiring Respondents to grant the requested density bonus and the requested incentives, and to  
20 award it reasonable attorney’s fees and costs.

21 186. Petitioner has no available administrative remedies.

22 187. Petitioner has no plain, speedy, or adequate remedy at law.

23 188. Accordingly, Petitioner is entitled to a writ of mandate.  
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**EIGHTH CAUSE OF ACTION**

**(Writ of Mandate, Subdivision Map Act)**

**(Code Civ. Proc. § 1085; Gov. Code §§ 66410 et seq.)**

189. Petitioner incorporates and realleges all of the foregoing paragraphs.

190. Government Code Section 66474 provides that a “legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following: (a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451. (b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans. (c) That the site is not physically suitable for the type of development. (d) That the site is not physically suitable for the proposed density of development. (e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. (f) That the design of the subdivision or type of improvements is likely to cause serious public health problems. (g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.”

191. Respondents’ refusal to process the application for the Project on the basis of zoning and General Plan inconsistency, their May 1, 2023 vote to uphold their determination that the application for the Project is incomplete on the same basis, and their insistence that the Project be processed in accordance with the zoning contemplated by the adopted General Plan, constitutes a denial of the tentative map for the Project. Because Respondents failed to make the findings



1 required by Government Code Section 66474 prior to denying the tentative map, that denial was  
2 unlawful and in violation of Government Code Section 66474.

3 192. Government Code Section 66474.2(a) states that, “[e]xcept as otherwise provided  
4 in subdivision (b) or (c), in determining whether to approve or disapprove an application for a  
5 tentative map, the local agency shall apply only those ordinances, policies, and standards in effect  
6 at the date the local agency has determined that the application is complete pursuant to Section  
7 65943 of the Government Code.”

8 193. Respondents’ May 26, 2023 Completeness Determination set forth Respondents’  
9 determination that the tentative map application for the Project was complete as of that date.

10 194. Respondents’ refusal to process the application for the Project on the basis of  
11 zoning and General Plan inconsistency, their May 1, 2023 vote to uphold their determination that  
12 the application for the Project is incomplete on the same basis, and their insistence that the Project  
13 be processed in accordance with the zoning contemplated by the adopted General Plan, constitutes  
14 an unlawful application of ordinances, policies, and standards that were not in effect as of May 26,  
15 2023, the date of Respondents’ determination that the tentative map application for the Project was  
16 complete, in violation of Government Code Section 66474.2(a).

17 195. Petitioner has no available administrative remedies.

18 196. Petitioner has no plain, speedy, or adequate remedy at law.

19 197. Accordingly, Petitioner is entitled to a writ of mandate.

20 **NINTH CAUSE OF ACTION**

21 **(Writ of Mandate, Right to Fair Adjudicatory Hearing)**

22 **(Code Civ. Proc. § 1094.5(b))**

23 198. Petitioner incorporates and realleges all of the foregoing paragraphs.

24 199. Quasi-adjudicative administrative actions are reviewed under administrative  
25 mandamus procedures. One inquiry in such cases includes “whether there was a fair trial.” Code  
26 Civ. Proc., § 1094.5(b).

27 200. The California common law doctrine against conflicts of interest prohibits public  
28 officials from placing themselves in a position where their private or personal interest may conflict

1 with their official duties. “When functioning in such an adjudicatory capacity, a city council must  
2 be ‘neutral and unbiased.’” Woody’s Group, Inc. v. City of Newport Beach (2015) 233  
3 Cal.App.4th 1012, 1021. Allowing a biased decision maker to participate in an adjudicative  
4 decision is enough to invalidate the decision.” Petrovich Dev. Co., LLC v. City of Sacramento, 48  
5 Cal.App.5th 963, 973 (2020); Woody’s, supra, at 1022.

6 201. Various members of Respondent City Council have consistently demonstrated an  
7 acceptance of unlawful conflicts of interest and bias against Petitioner and the development of the  
8 Project.

9 202. Councilmember Walker owns property that is 0.6 miles away from the Project, her  
10 family business (a veterinarian clinic) is zero miles away from a conflict for the Housing Element.  
11 Councilmember Walker previously stated in public forums that she drives past the Project site  
12 every day and is personally affected by traffic. Councilmember Walker did not recuse herself from  
13 City Council meetings concerning Housing Element sites that were within 1,000 feet of her  
14 property. Rather, she only recused herself from votes, which is an improper segmentation. In  
15 addition, as Mayor at the time, Councilmember Walker also directed and discussed the site  
16 inventory and the Housing Element and strategy and then delivered a pre-prepared speech  
17 advocating the denial of Petitioner’s prior project. *Id.*

18 203. Between October 2022 and March 2023, Councilmember Bowman was in personal  
19 contact with TLC — the local opposition group to the Projects — via email and text  
20 communications. See, *supra*, ¶ 84. The substance of the communications include the Project, the  
21 Builder’s Remedy, and Housing Element compliance. *Id.* These emails imply that Councilmember  
22 Bowman held at least one call with these members to discuss the City’s Housing Element  
23 compliance, and demonstrate that Bowman and TLC members shared articles, academic papers  
24 and other materials concerning the Builder’s Remedy.

25 204. Various members of Respondent City Council have made public comments in  
26 opposition of State housing laws and the purported diminishment of local autonomy over land use  
27 decisions. See, *supra*, ¶ 85.

28

1 205. Because these members of Respondent City Council presided at the May 1, 2023  
2 hearing despite demonstrating an unacceptable probability of bias against Petitioner and the  
3 Project, Petitioner was denied its fundamental right to a fair and impartial adjudicatory hearing in  
4 violation of Section 1094.5(b) of the Code of Civil Procedure and the common law conflict-of-  
5 interest doctrine.

6 **TENTH CAUSE OF ACTION**

7 **(Injunctive Relief)**

8 **(Code Civ. Proc. §§ 525 & 526)**

9 206. Petitioner incorporates and realleges all of the foregoing paragraphs.

10 207. Respondents' refusal to comply with California law has caused and threatens to  
11 cause Petitioner irreparable and substantial harm. No amount of monetary damages or other legal  
12 remedy can adequately compensate Petitioner for the irreparable harm it has suffered and will  
13 continue to suffer from the violations of law described herein. Petitioner has no plain, speedy, and  
14 adequate remedy at law, in that unless Respondents are enjoined by this Court from taking  
15 unlawful action with respect to the Project, Petitioner will continue to be denied its statutory rights.

16 **ELEVENTH CAUSE OF ACTION**

17 **(Declaratory Relief)**

18 **(Code Civ. Proc. § 1060)**

19 208. Petitioner incorporates and realleges all of the foregoing paragraphs.

20 209. An actual controversy has arisen and now exists between Petitioner and  
21 Respondents concerning the obligations and duties of Respondents under California law. As set  
22 forth *infra*, Petitioner contends that Respondents lacked a housing element that substantially  
23 complied with State housing law as of the submission of the preliminary application for the Project,  
24 that the Project was entitled to be processed in accordance with the standards in effect at the time  
25 that preliminary application was submitted, that Respondents' determination that the application  
26 for the Project was incomplete on the basis of zoning and General Plan inconsistency was  
27 erroneous and contrary to law, and that Respondents are precluded by law from disapproving the  
28 Project under Government Code 65589.5. Petitioner is informed and believes, and on that basis

1 alleges, that Respondents contend in all respects to the contrary. A judicial determination and  
2 declaration as to the validity and legality of Respondents' actions is therefore necessary and  
3 appropriate in order to determine the duties of Respondents and the rights of Petitioner.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Petitioner prays for relief as follows:

6 1. For a writ of mandate or other appropriate relief, including an injunction,  
7 declaration, or order, compelling Respondents to adopt a revised housing element pursuant to  
8 Government Code Section 65754.

9 2. For a writ of mandate or other appropriate relief, including an injunction,  
10 declaration, or order, compelling Respondents pursuant to Government Code Section 65587(d)(1)  
11 compelling Respondents to complete the required rezoning consistent with an HCD-approved  
12 housing element.

13 3. For a writ of mandate or other appropriate relief, including an injunction,  
14 declaration, or order, compelling Respondents to set aside the May 1, 2023 Resolution No. 23-14  
15 denying Petitioner's appeal.

16 4. For a writ of mandate or other appropriate relief, including an injunction,  
17 declaration, or order, compelling Respondents review and process applications pursuant to the  
18 Permit Streamlining Act's provisions, including refraining from refusing to process development  
19 applications based on erroneous assertions of incompleteness.

20 5. For a writ of mandate or other appropriate relief, including an injunction,  
21 declaration, or order, compelling Respondents to comply with the HAA, including refraining from  
22 refusing to process the application for the Project based on zoning and General Plan inconsistency,  
23 incompatibility with inapplicable standards and criteria, and/or ordinances, policies and standards  
24 that were not in effect at the time the complete preliminary application for the Project was  
25 submitted.

26 6. For a writ of mandate or other appropriate relief, including an injunction,  
27 declaration, or order, to set aside City's June 24 determination of future planning and legal  
28 application requirements conditions that would be imposed and requirements that are inconsistent

1 with a Builder's Remedy application.

2 7. For a writ of mandate or other appropriate relief, including an injunction,  
3 declaration, or order (i) against City for violating the HAA and imposing inappropriate CEQA and  
4 planning and planning requirements, including by applying standards on density, opens space, and  
5 design requirements and any use of LOS traffic analysis at all as opposed to utilizing VMT for  
6 determining transportation impacts, (ii) against City as to applying standards rendered inapplicable  
7 under the HAA in CEQA, such as zoning and General Plan consistency.

8 8. For a writ of mandate or other appropriate relief, including an injunction,  
9 declaration, or order, finding that Respondents acted in bad faith when they disapproved or  
10 conditionally approved the Project in violation of the HAA pursuant to Government Code Section  
11 65589.5(k)(1)(A)(ii), and directing Respondents to approve the Project.

12 9. For a writ of mandate or other appropriate relief, including an injunction,  
13 declaration, or order, compelling Respondents to comply with their statutory obligation to  
14 Affirmatively Further Fair Housing.

15 10. For a writ of mandate or other appropriate relief, including an injunction,  
16 declaration, or order, compelling Respondents to comply with their statutory obligations under  
17 Government Code Section 65915, to grant the Project the requested density bonus and incentives  
18 and concessions, and awarding actual outside and in-house attorneys' fees and costs to Petitioner,  
19 including all of Petitioner's City application and processing fees and third party costs spent or  
20 owed by Petitioner in pursuit of Petitioner's Project.

21 11. For a writ of mandate or other appropriate relief, including an injunction,  
22 declaration, or order, compelling Respondents to comply with their statutory obligations under  
23 Government Code Section 66410 et seq., and to approve the tentative map for the Project.

24 12. For a declaration that the Housing Element adopted by Respondents on February  
25 21, 2023 does not substantially comply with State law.

26 13. For a declaration that the November 14, 2022 preliminary application for the  
27 Project contained all the information required by subdivision (a) of Government Code Section  
28 65941.1, and was therefore deemed complete, and that the Project is therefore entitled to be

1 processed subject only to the ordinances, policies, and standards adopted and in effect as of that  
2 date, including Respondents' lack of a compliant housing element and the consequences that flow  
3 therefrom.

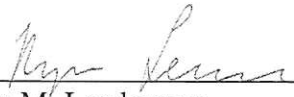
4 14. For costs of suit as allowed by law, including attorney's fees pursuant to Gov. Code  
5 §65589.5(k)(1)(A) and Code Civ. Proc. § 1021.5.

6 15. For fines to be assessed as warranted pursuant to Gov. Code § 65589.5(k)(1)(B).

7 16. For such other and further relief as may be just and proper.

8 Dated: July 21, 2023

Respectfully submitted,  
HOLLAND & KNIGHT LLP

11   
12 \_\_\_\_\_  
13 Ryan M. Leaderman  
14 Kevin J. Ashe  
15 William E. Sterling  
16 Attorneys for Petitioner and Plaintiff  
17 600 FOOTHILL OWNER, LP

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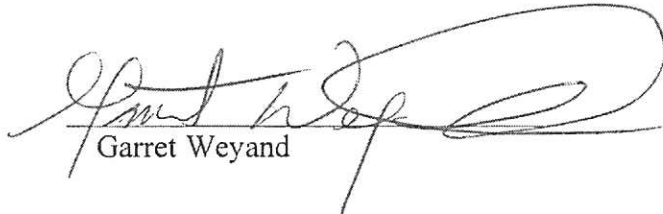
VERIFICATION

I, Garret Weyand, certify and declare as follows:

I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF and know its contents. I am a partner in 600 Foothill Owner, L.P., and in that capacity, I am duly authorized to execute this Verification on behalf of 600 Foothill Owner, L.P.

Based on information and belief, I declare under penalty of perjury under the laws of the State of California and the United States that the matters stated in the foregoing Verified Petition for Writ of Mandate and Declaratory and Injunctive Relief are true and correct.

Executed this 21 day of July, 2023 in Glendale, California

  
Garret Weyand

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Los Angeles, CA 90071  
Tel: 213.896.2400  
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# EXHIBIT 1





**REGULAR CITY COUNCIL MEETING**

**CALL TO ORDER:** Mayor Walker called the Regular Meeting to order at 6:00 p.m.

**ROLL CALL:** Councilmember Jonathan C. Curtis, Michael T. Davitt, Richard B. Gunter III, Mayor Pro Tem Keith Eich, and Mayor Terry Walker.

**STAFF PRESENT:** City Manager Alexander, Assistant City Manager Alameda, City Attorney Guerra, Director of Community Development Koleda, Director of Finance Kung, Director of Public Works DeChellis, Division Manager Parseghian, Principal Planner Stadnicki, Assistant Planner Harris, Assistant Planner Yesayan, and City Clerk Moreno.

**PLEDGE OF ALLEGIANCE:** Becky Gelhaar led the pledge of allegiance.

**COMMENTS FROM THE PUBLIC:**

**Marissa Castro Salvati**, Public Affairs Region Manager, and Interim District Manager Alfred Diaz, on behalf of Southern California Edison, addressed the City Council regarding the power outages that occurred last week. Mr. Diaz shared a PowerPoint explaining the circuit interruptions, the reason for the outages, and the mitigation plans to prevent future outages.

The City Council thanked Ms. Salvati and Mr. Diaz for the information and for the work they do to create a more reliable and safe power system.

**Rody Stephenson** thanked the City Council for the action they took on the budget to begin addressing the capital-related items and the Climate Action Plan. He discussed the part-time CAP Coordinator position that was added to the budget. He also expressed concern for the need to replace Council Member Curtis on the sub-committee for climate action related issues as quickly as possible; and suggested the City begin planning the activities to reduce carbon omissions using the \$200,000 allocated in the budget for undefined activities.

**Pat Anderson** invited the City Council to come to the Mixer at Olberz Park on July 21<sup>st</sup> sponsored by the City. It will be a circus theme and families, as well as children, are welcome. More information is available on the City's website and the Chamber's website. The Chamber will be offering free document shredding on Saturday, October 8<sup>th</sup> from 8:00 a.m. to 11:00 a.m. in the parking Lot of USC Verdugo Hills Hospital. More information is available on the Chamber's website.

**David Haxton** discussed reducing the trash hauling fee by 5% to City residents from the current 10% fee for residential and commercial, for wear and tear on city streets. He expressed his opinion regarding the funds being placed in the General Fund rather than a restricted fund for street repairs is a tax and should be voted on by the residents. He also suggested use of general funds to pay for the sewer study south of Foothill rather than federal stimulus money. The sewer study costs should

be funded by the houses south of Foothill and reimbursement made to the City after a sewer district is created and approved.

**Sabrina Dorfine** addressed the City Council regarding the power outages and the lack of communication from Edison. The residents affected were not prepared for the outage, and she urged the City Council to hold a townhall meeting with Edison and the residents who were affected. She advised the City Council about two public safety incidents that occurred in her neighborhood and the inadequate information she received from the Sheriff's office.

**Alan Pygin** requested monthly updates regarding the pickleball court.

The Mayor confirmed that the City Council did not approve the pickleball project. It only approved funding to have a study done.

In response to Mr. Stephenson's public comment, Mayor Walker advised that, at the next meeting on July 19<sup>th</sup>, the City Council will appoint a new mayor and that mayor will be making appointments to the committees.

#### **PRESENTATIONS:**

a) Staff Update on Projects

City Manager Alexander advised that staff will have a pickleball update scheduled for the August 16<sup>th</sup> meeting.

Public Works Director DeChellis advised that he had no new updates since the previous week. In response to Mayor Pro Tem Eich's question regarding the horse trail on Baptiste, he advised it would be July 15<sup>th</sup>.

b) Recognition of Becky Gelhaar as the 28<sup>th</sup> Congressional District Woman of the Year.

Mayor Walker presented Ms. Gelhaar with a proclamation recognizing her many contributions to the community and acknowledged her for being named as the "28<sup>th</sup> Congressional District Woman of the Year," by Congressman Adam Schiff.

Ms. Gelhaar thanked the City Council for the recognition and expressed her thankfulness for being a member of the La Cañada Flintridge community.

c) Recognition of the International Exchange Students from Villanueva de la Cañada, Spain

Mayor Walker introduced Dr. Nespor who presented a PowerPoint of the Sister Cities exchange trip to Spain along with Mayor Walker, Council Members Eich and Gunter. She showed photos of various locations visited during the trip.

La Cañada Flintridge exchange student Ashley, President of the Sister Cities Youth Group and a member of the Space Academy, shared her experience while living in Spain under the Sister City Exchange Program. She introduced her Spanish sister Lea and showed photographs of her visit.

Ryan, another exchange student, also shared a PowerPoint of his experiences during the two weeks living in Spain with his Spanish brother Pablo, and his family.

Sam Shrinsky, representing LCF Youth Council and Sister Cities International Space Academy, traveled to Spain with the group and shared his experiences during the trip. He thanked the Mayor and City Council, as well as Dr. Nespor for making the exchange possible for them.

Mayor Walker presented Certificates to each of the exchange students and thanked them for their participation in the program. Mayor Walker announced Villanueva de la Cañada dedicated a park to the City of La Cañada Flintridge. The City renamed the trail above Descanso Gardens to Friendship Trail and dedicated the trail to Villanueva de la Cañada.

### **REORDERING OF AND ADDITIONS TO THE AGENDA:**

At the request of Council Member Eich, the City Council concurred to move Item 11 before Item 10.

Council Member Curtis announced that the City Council had received correspondence on Item 9 and that he would recuse himself from items 9 and 11 because he has an interest in a property that may or may not be subject to the Housing Element. The City Council concurred to pull Item 9 from the Consent Calendar for separate consideration.

### **CONSENT CALENDAR:**

City Attorney Guerra advised that Senate Bill 1436 requires city councils throughout the State to provide a verbal summary of city council actions on salaries or benefits of the city's executive team at the public meeting at which the final action is to be taken. Accordingly, Agenda Item 5 includes a proposed motion to approve a resolution to adopt salary ranges for Fiscal Year 2022-2023. The resolution includes a salary adjustment for two (2%) percent increase retroactive to July 1, 2022, for the following executive classifications (whether filled or unfilled): Director of Administrative Services, Director of Community Development, the Finance Director, and the Director of Public Works. The resolution further incorporates a salary adjustment for the Assistant City Manager (whether filled or unfilled), by five (5%) percent retroactive to July 1, 2022. Agenda Item 6 also includes a proposed motion to approve a resolution to adopt the salary range for the 2021-2022 Fiscal Year for the position of City Manager (whether filled or unfilled) for seven (7%) percent increase retroactive effective April 1, 2022.

The City Manager was asked to address Mr. Haxton's comments about the use of General Funds to pay for the sewer study. City Manager Alexander explained that the requested action is to appropriate monies to perform the study for sewers in what used to be called sewer districts four, five, and six. The decision on whether to seek reimbursement from the residents for that study would come later, as the City Council determines what assessment vote to place before the residents of those districts. So that's a decision that would be made later.

A **MOTION** was made by Council Member Eich, and second by Council Member Curtis, and carried (5 - 0) to approve the Consent Calendar Items 1 through 8. Item 9 was pulled from the Consent Calendar and acted on separately.

1. **Approval of Warrant Resolution No. 22-11 dated July 5, 2022, for \$479,051.01**  
(Approved 5 – 0, as recommended)
2. **Receive and File Commission Meeting Action Agendas:**
  - a) **Public Safety Commission Action Agenda for June 27, 2022**  
(Approved 5 – 0, as recommended)
3. **Adoption of the Fiscal Year 2022-23 Annual Budget and Financial Plan**  
(Approved 5 – 0, as recommended)
4. **Resolution Adopting the Appropriations Limits for Fiscal Year 2022-23 at \$25,857,818**  
(Approved 5 – 0, as recommended)
5. **Adoption of a Resolution Establishing Salary Ranges for Fiscal Year 2022-23, Effective July 1, 2022**  
(Approved 5 – 0, as recommended)
6. **Approval of a Resolution Establishing Salary Ranges for Fiscal Year 2021-22, Specifically, Amending the Salary Range of City Manager (only), Effective April 1, 2022**  
(Approved 5 – 0, as recommended)
7. **Denial of Claim of Paul Moll**  
(Approved 5 – 0, as recommended)
8. **Denial of Claim of Noemi Moll**  
(Approved 5 – 0, as recommended)

Council Member Curtis recused himself and left the Chamber.

#### **ITEM 9 WAS PULLED FROM CONSENT**

9. **Renewal of Consultant Agreement with CityPlace Planning Inc. for General Plan Implementation Work – Zoning Code Update**

Community Development Director Koleda provided a brief staff report explaining the City has a yearly contract with the consultant for the implementation of the Zoning Code update. The contract for Fiscal Year 2021-2022 ended June 30<sup>th</sup>, 2022. The renewal is to move forward with all the required zoning changes that will be needed as required by the Housing Element update. The contract would cover this Fiscal Year, July 1, 2022 through June 30, 2023.

The City Council discussed whether to move forward with this item considering a letter that was received just before the meeting. The Mayor had not had an opportunity to read the letter and was hesitant to move forward but, at the same time, realized there is a matter of urgency to the contract. After City Council discussion regarding the necessity of approving the renewal of the agreement

to move forward with the Housing Element and Zoning Code updates, the City Council concurred to approve the contract renewal this evening since it did not pertain directly to the General Plan.

A **MOTION** was made by Council Member Eich, and second by Council Member Gunter, and carried (4 – 0, Council Member Curtis was recused) to approve item 9 as presented.

The City Council recessed at 7:11 pm and reconvened at 7:16 pm at which time Mayor Walker announced that the City Council would be re-ordering the remainder of the items as originally ordered. Item 11 discusses housing density and refers to the R-3 Zone. She explained that she and her husband own a business in that zone, although they do not own the property. Initially, counsel thought it would not be a problem since it was city-wide zoning effort; however, since the item specifically mentions R-3 Zoning, she would recuse herself from deliberating on that discussion just to be safe and so that there is no perceived conflict of interest.

The City Council concurred to re-order the agenda to deliberate on Item 11 after Item 10.

#### **PUBLIC HEARINGS:**

- 10. First Reading and Introduction of an Ordinance Amending Chapter 5.02 of the La Cañada Flintridge Municipal Code Regarding Regulation of Community Noise Generated from Landscape Maintenance Equipment and Specifically Prohibiting the Use of Gas-Powered Leaf Blowing Machines and Finding the Ordinance Exempt from the California Environmental Quality Act**

**RECOMMENDATION: Conduct the public hearing, take public testimony, and entertain a motion directing the City Attorney to read the title of the attached ordinance, waive further reading, and introduce the ordinance on a roll call vote**

Principal Planner Emily Standnicki provided a brief staff report representing the Climate Action Plan ad hoc subcommittee's recommendation for a ban of gas-powered leaf blowers as a complement to the CAP update process which was discussed in April. The City Council agreed and further asked for constraints on general landscape maintenance hours. The proposed ordinance effectuates these changes.

The multiple impacts that emissions from gas powered leaf blowers have on the environment, the health of landscape workers, and bystanders as well as noise pollution was previously discussed. A ban is also consistent with City goals identified in the Climate Action Plan, and the air quality element of the City's General Plan.

Ms. Standicki advised she met with JPL and the school district who are on board with the ban. JPL already uses electric blowers and shared the model that is working well for them. The district has offered to help inform the city's private schools through their contacts. Staff is also discussing the possibility of a group discount in conjunction with the City's contractors.

As proposed, there will be almost one-year grace period during which staff will educate the public and gardeners on the change. Staff is also looking into the feasibility of financial incentives and rebates and will return with information on that later.

She advised staff is proposing that landscape maintenance activities be restricted to 8:00 am to 5:00 pm on Monday through Friday; 9:00 am to 5:00 pm on Saturday; and 10:00 am to 5:00 pm on Sunday. with an additional evening hour during Daylight Savings. She noted some changes to the draft.

Staff is also proposing a restriction on tree trimming and removal on weekends and holidays. As mentioned in the agenda report, unpermitted removal of City-protected trees often occurs on the weekend when code enforcement is not available to respond. Even though the Sheriff can be called, they cannot be expected to determine if a tree is protected or if permission has already been granted. This restriction would eliminate confusion for all parties. The draft ordinance is similar to what neighboring cities' policies allow.

Public Works would like an exception for field maintenance at schools beginning at 7am on weekdays, as the fields need to be accessible to students beginning at 8am; and an exception for the trees in the public right-of-way and median maintenance on Foothill and Verdugo which needs to be done in very low traffic hours for safety purposes. Staff is still refining that language and will bring it back August 16th.

Ms. Standnicki summarized by indicating that public testimony should be taken, along with the City Councils' comments, and staff would return with revisions in August.

The City Council discussed the proposed ordinance, highlighting that it is very detailed and confirming the ordinance addresses three separate issues with one ordinance. The first, is a ban on two cycle gas leaf blowers; the second, is an update to hours of landscaping maintenance work; and third, is to restrict tree trimming and tree removal work above and beyond all of that.

The City Council asked questions regarding the implementation date on the gas-powered leaf blowers. The City Council requested staff to provide more detail on the information plan to reach the vendors and homeowners when the ordinance is brought back in August; and how the City will be making use of the year between now and when the ordinance becomes effective.

Mayor Walker opened the public hearing.

The following individuals addressed the City Council:

**David Haxton** made several suggested improvements for the draft ordinance to include gas-powered trimmers also known as weed whackers. He suggested the City prohibit not just tree removals, but also stump grinding. His third suggestion is the definition of landscape maintenance equipment should not include hand tools such as hammers, saws, etc., but, rather, define hand tools for landscape maintenance as quiet pruners, clippers, loppers, pruning saws. Allow tree trimming on weekends and holidays using hand tools by homeowners doing their own trimming.

Mr. Haxton suggested conforming the landscaping maintenance hours to construction hours 7am to 6pm weekdays and 9am to 5pm weekends and holidays. Allow do-it-yourselfers to mow their

lawns in the evening if quieter electric equipment is used. Finally, fines for violations should not be limited to the user only, but also imposed on the resident of the house.

**John Hale** disagreed with Mr. Haxton's suggestion to allow the start time to be at 7:00 am to 6:00 pm. He felt the ordinance should be clear that it's not just leaf blowing; but also, gasoline powered pieces of equipment that are used on lawns and particularly on trees.

**Matthew Cannata** agreed with Mr. Hale regarding all gas-powered lawn equipment. By restricting the use of the gas-powered equipment within La Cañada Flintridge, the environment will improve, and the elderly and children will feel safer.

**Judy Trumbo**, a member of the Climate Coalition, expressed her and her husband's support of the ordinance. She agreed with the findings of the ordinance as to why it is in the public's interest; and how it implements the goals of the CAP and General Plan Air Quality Element. If the goal is to reduce noise impacts for the health and enjoyment of the community, then it should apply 24/7 and equitably. She felt the decibel level should be measured from 50 feet regardless of the time and felt funding to help defray the cost of electric leaf blowers should be directed at the small-scale garden businesses that do the majority of the landscaping.

**Rody Stephenson** expressed support of the proposed ordinance; however, he felt it should cover more equipment than just leaf blowers. He also mentioned not restricting it to two-stroke engines but rather restrict it to any equipment that runs on fossil fuels.

**Ann Tryba** agreed with everyone's comments and felt the comments about banning tree cutting and removal on the weekends was very wise. She felt homeowners should be allowed to use pruning shears on the weekend. She encouraged the City to use the one-year period to reach out to the public to make sure they understand who this is for and the reasons. She also felt the fines should be applicable to the homeowners as well as the landscapers.

There being no further public comments, Mayor Walker closed the public hearing.

The City Council discussed the issue. Council Member Davitt expressed concern about implementation and enforcement. The City needs to have a comprehensive plan in place for implementation that is equitable and fair. The tree trimming on weekends was also troubling to him. If he called a tree trimmer and the trimmer was available on Saturday, he should be allowed to trim his trees on Saturday. He felt it was okay to include landscapers on the Sunday ban with the ability for residents to do their own.

Mayor Pro Tem Eich expressed his concern with the ordinance including three separate issues, i.e., leaf-blowers, landscaping, and tree trimming. He also agreed that there was no implementation plan, no enforcement plan, and no funding. He would recommend the City ban all leaf blowers and not get into two-cycle, four-cycle, or electric. He indicated the complaints he receives is about the noise, not the environmental concerns. He agreed with Council Member Davitt that lawn equipment, whether private or commercial, should not be permitted on Sundays. He also agreed that City-approved arborists should be allowed to trim trees on Saturdays.

Council Member Gunter felt tree trimming ought to be a separate item relative to the tree ordinance related to protecting City trees. He expressed concern that there was no plan in place and suggested the City begin to notify the public that the City intends to ban the use of internal combustion leaf blowers within a year, rather than use the year to develop the ordinance and the plan. He also felt limiting the landscape activities to a smaller time zone was logical since more people are working from home now.

Mayor Walker also believed the tree trimming and removal should be separate from this issue because they are two separate issues. She felt the ordinance should address the leaf blowers and not link in all the other lawn equipment because it hasn't been researched. She agreed that it should not be limited to two-stroke engines, but all fossil-fueled power engines. She did not feel lack of enforcement should be a stopping block for moving forward. She agreed with Mr. Haxton that stump grinding should be included with tree removal. She agreed that hand tools by residents should be allowed. She also agreed with Mr. Haxton that the residents should be held responsible along with the vendors and contractors. She felt the times needed to be more uniform rather than different hours on different days. She felt the ordinance should state weekdays 8:00 am to 5:00 pm, weekends 9:00 am to 5:00 pm. She also felt the noise levels should be standard rather than louder during the week and lower on the weekend.

Staff was directed to go back and consider the comments and separate out the other issues and only deal with the leaf blower. The City Council also suggested that staff look at the implementation process that South Pasadena prepared and come back in another month and address these issues and still maintain the June 2023 effective date.

The City Council concurred not to introduce the ordinance on first reading and directed staff to bring the ordinance back at a future City Council meeting.

The Mayor thanked the staff for their hard work and for the audience's input.

Mayor Walker recused herself for the remainder of the meeting and left the Council Chambers.

Mayor Pro Tem Eich assumed the chair.

**ORDINANCES:** None

**OTHER BUSINESS:**

**11. Discussion on Potential Housing Density for Lower Income Units Required to Accommodate the Regional Housing Needs Assessment within the 2021-2029 6<sup>th</sup> Cycle Housing Element**

**RECOMMENDATION: Consider and provide direction to staff**

Community Development Director Koleda presented a PowerPoint advising that the sub-committee has been meeting on a regular basis working on the Site Inventory that was identified in the first draft of the Housing Element that was submitted to HCD. The City has received comments and is working on the second draft of the Housing Element. She noted the Site Inventory was identified as an issue by HCD. HCD is aware that, as part of past Housing Elements, the City rezoned areas to allow for 20 to 30 units per acre; and this Housing Element is allowing



mixed use in the R-3 (high density residential area), but this has not resulted in the production of any new multi-family housing in the last eight years regardless of income level.

After meeting with HCD and discussing their comments, HCD would not accept the density of 20 to 30 lower income units based on the lack of evidence that that density is high enough to make the transition from the current use to the multi-family that it had been rezoned for. HCD also received comments from property owners, that were identified in the first draft of the of the Site Inventory, that they were either not interested in being included or that the density was not high enough to justify them changing from the current use to multi-family.

Ms. Koleda indicated staff has begun the process of contacting all commercial property owners as well as religious institutions within the city, informing them that the City was in the process of developing the Site Inventory, including those not included in the first draft. She has received several inquiries from property owners who are interested in being included, some of which were not included in the first draft Site Inventory. The outreach is generating more interest from property owners and, accordingly, staff will continue to meet with property owners to review the proposal and to gauge their interest. Having their agreement to be included in the Site Inventory goes a long way to HCD accepting that.

Director Koleda noted that the existing development standards have been identified as constraints to development such as height, setbacks, parking standards, amenities, open space requirements, all of which add to the cost of developing multi-family units. Staff realized that these constraints would have to be addressed. Staff recognized that the moderate and lower-income units are not likely to be constructed within the City without a requirement to do so, such as inclusionary regulations. Especially a 100% affordable project would not appear without significant state funding and multiple funding sources. She noted that is true for almost every jurisdiction throughout the state.

Director Koleda reminded the City Council that when they held the joint workshop with the Planning Commission, it was agreed to hire a consultant to prepare an economic analysis of the appropriate density to accommodate lower income housing units in the City. Michael Baker International (MBI) was hired as a sub-consultant to CityPlace Planning, the City's Housing Element consultant. MBI utilized a recent sale of a medical office on Foothill Boulevard as the base condition. They looked at the sale price, the costs associated with conversion, and what the operating income would be. All this information was included in the analysis and they made a determination that a density of a minimum of 26 units per acre would be comparable to a medical office use when looking at gross value per square foot of parcel area.

Director Koleda advised that Michael Baker analyzed three scenarios: 100% above-moderate and 15% inclusionary on 0.5 acres (which would be affordable to lower-income residents); 15% inclusionary on 1.0; and 15% inclusionary on 1.5 acres. She stressed the minimum density of 26 units is draft. It may be modified or increased depending on what other development standards the community finds acceptable, and what the City Council approves for the sites. She explained the conditions that could cause changes to the developable area. There is a direct correlation between the density and the development standards that are required. She advised staff did not

have the development standards yet, because staff needed the density before moving forward to the development standards that will be incorporated into any revised zoning. She showed a slide depicting the economic analysis that was prepared by Michael Baker explaining the data used to conclude 26 units per acre for each scenario.

Director Koleda then explained the Regional Housing Needs Allocation (RHNA) which is assigned to each jurisdiction by Southern California Association of Governments (SCAG). La Cañada Flintridge has a total of 612 units that must be provided for in this Housing Element Cycle. The lower income, which includes the very low and low categories, is a total of 387 units. Based on State law, the City is required to have a buffer of anywhere between 15% and 30% and staff has used a median of 20% which totals 464 lower income units that must be zoned for in this Housing Element Cycle. She explained the requirements to accommodate the RHNA. Lower income housing must meet a very specific requirement of a minimum of 20 dwelling units to the acre of density. The City can go higher, but not lower and sites must be between 0.5 acres and 10 acres. Two or more parcels can be combined; however, they must be contiguous. A new requirement for this Housing Element Cycle states that sites for affordable housing must be distributed throughout the City.

The minimum density makes a big difference as to how many sites the City will have to identify. Ms. Koleda explained that 464 units at 20 dwelling units per acre would require 23.2 acres; the same number of units at 25 dwelling units per acre would require 18.6 acres; and the same number of units at 30 dwelling units per acre would require 15.5 acres. The higher the minimum density the fewer sites the City will have to identify within the Site Inventory. She pointed out that, although there is a range of 20 to 30, the City cannot use a mid-point of 25 units per acre. The City must use the base which is 20 because the City does not have any approved projects to show that development can occur at a higher density. Ms. Koleda emphasized that the economist's calculation of 26 units per acre is the number where it becomes economically advantageous to the property owner.

Council Member Gunter confirmed the reason the City had to have a consultant prepare the analysis was because there have been no apartments built in the City in more than ten years, the State is requiring the City to prove that the Housing Element meets the State's minimum guidelines. Council Member Gunter was comfortable with the analysis and the 26 units per acre.

Council Member Davitt asked whether staff was certain that HCD will accept the analysis and conclusion.

Director Koleda responded the analysis will allow the City to address the property owners anticipated to be on the Sites Inventory and provide them with the information to show them that rezoning their property to allow for multi-family is not going to harm them, and, in fact, would be beneficial to them by providing a wider range of uses that they could potentially develop on their property.

In response to Council Member Davitt's question regarding the HCD mandating the City to get concurrence from the property owners that they are not objecting to the rezoning, Ms. Koleda

advised that, according to HCD, the onus is on the City to prove that the site is available and can realistically be transitioned to multi-family within this eight-year period.

Ms. Koleda confirmed that all jurisdictions must go through this process.

Mayor Pro Tem Eich confirmed with Ms. Koleda that staff was looking for direction from the City Council. The City is attempting to balance the size of the Site Inventory and the number of acres the City will rezone, and designate, with this density, the number of dwelling units per acre.

Mayor Pro Tem Eich asked whether ADUs and the religious overlays count towards the low-income units.

Ms. Koleda responded that a percentage of ADUs will count within the lower income. In the SCAG region there has been a study done that determines the percentage of ADUs that can be assigned to the lower-income categories; another percentage is in the moderate; and the remaining would be in the above-moderate. She did not know what the percentages were for the City. She specified that four years into the housing cycle, the City will have to audit the ADUs to ensure the City has met the percentage of lower-income households. The City will have to rezone additional area to take care of those that are not included. She confirmed that staff was including numerous areas within the religious overlay.

Thereafter a lengthy discussion ensued between City Council and staff regarding ADUs, religious overlays, and density scenarios.

The following individuals addressed the City Council:

**David Haxton** expressed concern that two council members were recused, and two of the three remaining members are on the sub-committee. He noted that Michael Baker's Economic Analysis was not a part of the staff report and felt the public should see it. He also commented on using one measurement to determine units per acre. He suggested the City have an inclusionary housing ordinance that requires a certain percentage of housing for low-income. He also felt the City should have higher density bonuses for affordable housing than the minimum required by state law.

**Judy Trumbo** discussed the RHNA having a long legal history of being upheld. She was in favor of the analysis the City had done. She pointed out the City had people of all income levels working in the City, providing goods and services to the community, so the community needs to provide a broader range of housing for people to live in.

**Scott Christopher** encouraged the City Council to look closely at the assumptions used in the analysis. He suggested the City Council have an independent third party review the analysis and prepare a sensitivity analysis looking at a range of assumptions as opposed to a set of specific assumptions. He used the 600 Foothill Boulevard project as a comparison. An individual site analysis is essential for all the potential impacts before a site is rezoned.

**Scott Van Dellen** commented on the Michael Baker analysis indicating the medical building that was used for this project might have been overstated in value. He questioned why using a range of units rather than using a single number like 26. He also agreed with Mayor Pro Tem Eich that

there could be other sites and mentioned the Methodist church lot. He also felt the ADU second unit lot line design standards are too restrictive and felt that was the reason applications have declined. He felt the ADU share of the RHNA should be increased.

Community Development Director Koleda responded to Mayor Pro Tem's request to place the feasibility study on the website, stating it was still a draft. However, she would be glad to email a PDF copy to anyone who wishes to see it.

**Alex Khatchaturian** expressed his view that the City was going to have to increase the density because there is a tradeoff between acreage and density citing Assembly Bill 1397 criteria for the assessment of the realistic availability of non-vacant sites during the planning period.

**Alexandra Hack**, a partner on the 600 Foothill project, addressed the assumptions made on the site used as a feasible benchmark for development of the medical office. She provided a brief history of the purchase and conversion of the property to a pediatric clinic. The staff report equates this property at 26 units per acre for a comparable housing project but it is important to note that this is not a random development project, so the cost figures are not comparable to today's new housing construction costs. She also stated it was not advisable to adopt an inclusionary housing ordinance since it would result in additional costs to development in a jurisdiction that is already prohibitive toward development. She indicated that HCD already stated that 20 to 30 units per acre would not be acceptable, therefore discussion should start at 30 units per acre as a minimum.

**Linda Deacon** agreed with comments made by Mr. Christopher and Mr. Van Dellen. She thought the City needed to be conscious of parking and traffic issues and take a hard look at making ADUs more useful to the City because it does cut the land costs and spreads the parking throughout the City rather than concentrating in one place.

**Julia Gaskill** discussed the timeline for public comments on the Housing Element because she wants to make sure that all comments, including correspondence and emails, will be included in the official administrative record that will get submitted with the application to HCD.

City Manager Alexander explained that the official Housing Element adopted by the City Council would be submitted to HCD. He explained the administrative record is not the housing element; the administrative record is all the input, documents, comments that are received by the City Council as part of the City Council's deliberation process. Correspondence and email are part of the administrative record but only those comments that are submitted, or verbally given at a City Council meeting are part of the meeting minutes.

Director Koleda confirmed that the Housing Element does not include public comments received or directed to the City Council or Planning Commission that were made during this process.

A lengthy discussion occurred between Ms. Gaskill and the City Council regarding the public submitting correspondence directly to HCD.

Mayor Pro Tem Eich reminded the audience that there is a video on the City's website providing a basic overview of the RHNA. It is two to three minutes in length and goes over the basics.

**Patty Wynne Hughes** stated that her property on Foothill has been listed as a potential rezone site. She has not been contacted by the City and has no idea if her property is still being considered. She advised that most of her neighbors did not know that their property was being considered nor do they know to go to the website to look at a video. She asked if there was a way that people can be made aware of what's going on.

Mayor Pro Tem Eich advised that the public can subscribe to receive the City Council and Planning Commission meeting agendas and the Community Development Director was maintaining a list of individuals specifically interested in receiving updates.

Director Koleda explained staff has looked at the single-family houses that were previously included in the last Housing Cycle and the first draft of this one. She indicated that, after talking with HCD, staff has done its best to remove every existing single-family residence off the list. Ms. Koleda advised that she and the consultant maintain the list and Ms. Hughes is welcome to contact Ms. Koleda to see if her residence is still on the list.

Council Member Gunter stated that he thought everyone who has listened to this, and the range of comments received, everyone realizes what a difficult situation the state has put the City in. He explained that a law was passed with no research or evidence to back it up whatsoever and was assigned to a state organization that is understaffed and ill-prepared to prepare documents of this complexity amounting to many rules that were, by design, completely independent from each individual city, or its locale, or topography, or demography. As a result, the City, staff, consultants, and others are working as hard as they can to weave their way through some difficult rule-making that is making it nearly impossible to meet state guidelines in a way that is consistent with what we find important in La Cañada Flintridge.

He felt the research the staff has conducted to date, the decisions the City Council has made working with the City Planners, he is comfortable the analysis prepared by Michael Baker was relevant enough to the work that the City is trying to do, and that it results in a useful number. He went on to state some of the inconsistencies between the predated rules of HCD and laws that were recently passed. He mentioned the numerous lawsuits cities have filed against the state with zero success rate.

Council Member Davitt noted that HCD cares about numbers and doesn't care about all the other factors that the City deals with at the local planning level. The State has pushed this on local jurisdictions because they do not believe that local jurisdictions have the ability to govern itself and zone for housing, so they have created this one size fits all law. He thinks what is important is that whatever comes out of this process, it is not requiring any individual, corporate, or commercial property owner to do anything different than what they are currently doing. He thought the sub-committee and the consultants have done a good job and, if 26 units is a feasible number, then that is fair. He also thought that the City can adjust density in different locations. He felt ADUs weren't going to solve the problem, but they could be pushed to the maximum to help.

Mayor Pro Tem Eich discussed the range stating that if he were a commercial parcel owner he would not want to be pigeon-holed into a specific number. A range provides different options. He

noted that HCD doesn't take the higher number into account if the minimum number for low-income meets that 20 dwelling units per acre. Therefore, we can look at each situation and apply the density that makes sense. No commercial property owner must build housing. They can maintain commercial use and make it a restaurant, retail, office space, or medical building. None of this forces them to build residential units; but they have the choice of adding it. They can be 100% residential but maintain their commercial property entitlement of having it available for commercial use. He felt the Michael Baker study was valuable because it provided an objective standard that was not based on emotion or personal financial interest. He added that 26 sounds reasonable and meets the objective standard. The City can use that as a guide when the City looks at its Housing Element.

A big piece of the Housing Element is the Site Inventory where the City will have a number of parcels and density and that is what HCD looks at. We can calculate using those parcels and property size and their density to know where they fit strategically in those numbers and report back to HCD. The site inventory with the sites and densities is just one element. The Housing Element also needs to include things to support, and we can achieve those things as a City. We will have various programs in the Housing Element the City can use to encourage ADUs. He felt comfortable knowing 26 is a good objective standard. It met the 20 to 30 range.

Community Development Director Koleda confirmed that staff had direction. Staff and the consultant will be contacting property owners and holding discussions on density and will present a revised Site Inventory to the sub-committee and have further discussions on different density ranges in different areas. Staff will begin to identify those and bring them back for discussion.

Director Koleda confirmed that the deadline was October 15<sup>th</sup> for the Housing Element adoption, certification, and rezoning which is why staff is working on a concurrent process with the Housing Element and the development standards update for the zoning. There is a bill that potentially will allow one-year additional time for the rezoning, but staff is not counting on that. She also confirmed that the second draft would have to be out for public review for a minimum of 14 days, and the City can either adopt it or send it to HCD without adoption. The HCD has 60 days to respond back to the City, the survey and design element will go separately in parallel with the Housing Element.

Mayor Pro Tem Eich confirmed the next one to three weeks is critical in terms of a draft Housing Element being provided from the sub-committee and staff for that two-week public comment period. The City Council may or may not adopt it before it is sent to HCD. The 60-day timeline will begin for HCD to provide review or certification. Separately from all of that, in the next one to three weeks, we would have a separate track of the survey and design standards conversations beginning. Ultimately, the speed of that, and the zoning changes that may occur, depend upon this legislative bill that could allow us more time, potentially up to a year, to work through all the design standards and guidelines. The City can then update the zoning at the appropriate time.

City Manager Alexander interjected that if the City Council does not adopt the Housing Element and just sends it to HCD, HCD is not likely to certify it until the City Council adopts the Housing Element. Director Koleda confirmed that was correct; however, if there were a timing issue, staff

would send it to the HCD and bring it to City Council for adoption; and inform HCD that it now has been adopted. Thereafter, a brief discussion ensued as to the benefit of sending the Housing Element after it is adopted. The City Manager noted the benefit of sending it in adopted. If HCD completes their review faster than expected and the City hasn't yet adopted it, then it would get kicked back and City will have to start all over again.

In response to a question by Council Member Davitt regarding status of the extension bill, Mr. Alexander advised that staff has a meeting with representatives from the League of California Cities who is tracking the bill and who are looking for local government input on the proposed legislation next week. Staff has already provided some input. He surmised that the bill hasn't yet gone too far.

City Attorney Guerra responded to Mr. Haxton's comments about the sub-committee stating that, in the first draft of the Housing Element, no RHNA sites were identified in the R-3 Zone. At this point, for the second draft, no sites have been identified whatsoever. Staff is going through the process to identify those sites. It is premature to determine if there is a conflict with respect to the Mayor. Tonight's decision regarding density and potentially increasing the number of sites. So, for purposes of tonight's discussion, we felt it appropriate for the Mayor to recuse herself from the discussion. However, based on the direction given by the City Council, staff will determine which sites and density will be applied, then a draft will be prepared and, at that time, based on what is presented, we will obviously evaluate the composition of the ad-hoc committee, if it is necessary.

**CONCLUDING BUSINESS:**

Meetings attended at the expense of the local Agency

None.

Regional and local representation

None.

Request for future agenda items

None.

Councilmembers' comments

Council member Davitt complimented the Mayor Pro Tem on running the meeting. He thanked everyone for coming to the meeting.

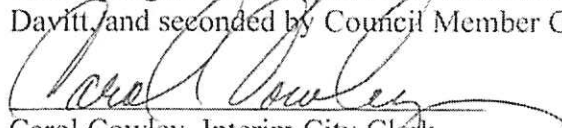
Council Member Gunter stated that the City Council discusses all sorts of important issues that affects the City two Tuesdays a month. After this turnout, the City Council would very much like to see the audience on other issues that the City Council discusses. He suggested the audience tell their friends to come to the meetings.

City Manager and/or staff comments

City Manager Alexander reminded everyone that the City is hosting the Chamber mixer on July 21<sup>st</sup> at Olberz Park at 6:00 pm. It is a circus theme so hopefully everyone will join in the circus celebration.

#### **ADJOURNMENT**

There being no further business to come before the City Council, it was moved by Council Member Davitt, and seconded by Council Member Gunter to adjourn the meeting at 9:31 pm.



Carol Cowley, Interim City Clerk

Minutes approved by the City Council on August 2, 2022.



# EXHIBIT 2



# California lawmakers have tried for 50 years to fix the state's housing crisis. Here's why they've failed

By LIAM DILLON ([HTTP://WWW.LATIMES.COM/LA-BIO-LIAM-DILLON-STAFF.HTML](http://www.latimes.com/la-bio-liam-dillon-staff.html))

JUNE 29, 2017, 3 A.M.



Azucena Gutierrez, 38, stands outside her apartment in Boyle Heights before leaving for her job in Torrance last fall. (Mark Boster / Los Angeles Times)

**A**

fter an hour of debate, Herb Perez had had enough.

Perez, a councilman in the Bay Area suburb of Foster City, was tired of planning for the construction of new homes to comply with a 50-year-old state law designed to help all Californians live affordably.

Everyone knows, Perez told the crowd at a 2015 City Council meeting, that the law is a failure. It requires cities and counties to develop plans every eight years for new home building in their communities. After more than a year of work and spending nearly \$50,000, Foster City had an 87-page housing plan that proposed hundreds of new homes, mapped where they would go and detailed the many ways the city could help make the construction happen. But a crucial element was missing: Foster City was never going to approve all the building called for in the voluminous proposal, Perez said.

“What I’m seeing here is an elaborate shell game,” Perez said. “Because we’re kind of lying. It’s the only word I can come up with. We have no intention of actually building the units.”

**“We’re kind of lying”: Foster City city councilman says his city won’t approve the homebuilding it’s planning for**

Perez's prediction came true. Despite soaring demand for housing in the Bay Area, the city hasn't approved any new development projects in more than five years.

Foster City's experience is shared by governments across California: The law requires cities and counties to produce prodigious reports to plan for housing — but it doesn't hold them accountable for any resulting home building.

The law, passed in 1967, is the state's primary tool to encourage housing development and address a statewide shortage of homes that drives California's affordability problems.

Now, a bill from Sen. Scott Wiener (D-San Francisco) would, for the first time, force cities and counties that have fallen behind on their housing goals to take steps to (<http://www.latimes.com/politics/essential/la-pol-ca-essential-politics-updates-california-cities-will-have-to-make-it-1485196277-htmlstory.html>) eliminate some of the hurdles they put in front of development (<http://www.latimes.com/politics/essential/la-pol-ca-essential-politics-updates-california-cities-will-have-to-make-it-1485196277-htmlstory.html>), such as multiple planning reviews for individual projects. Wiener's legislation passed the state Senate this month (<http://www.latimes.com/politics/essential/la-pol-ca-essential-politics-updates-california-senate-passes-package-of-1496339298-htmlstory.html>) and is awaiting a vote in the Assembly as part of a package of bills aimed at addressing the state's housing problems.

“

**The law has been completely ineffective at addressing the issue of housing affordability.**

”

—Paavo Monkkonen, UCLA professor

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“The system is so broken,” Wiener said. “It gives the public a false sense that a step has been taken toward having more housing when in fact it’s just an illusion.”

One of the main criticisms of the law is that it hasn’t spurred enough new home building. Fewer than half of the 1.5 million new homes the law said developers would need to build over eight years leading up to 2014 — the law’s most recent reporting period — were built.

In addition, state officials don’t know if cities and counties have met their housing goals. Local governments are supposed to give the state information on home building each year, but many don’t. As a result, there is no reliable measure of how many houses are being built in California for low-, middle- and upper-income residents.

State lawmakers have known about the law’s weaknesses for decades but haven’t fixed them. They have added dozens of new planning requirements to the process but have not provided any incentive, such as a greater share of tax dollars, for local governments to meet their housing goals.

“The law has been completely ineffective at addressing the issue of housing affordability,” said Paavo Monkkonen, an associate professor of urban planning at UCLA. “If anything, it’s a waste of people’s time.”

## **Prison beds and student dormitories count as low-income housing?**

California’s housing affordability troubles have contributed to the state’s poverty rate, which is the highest in the nation (<https://www.census.gov/content/dam/Census/library/publications/2016/demo/p60-258.pdf>). It also has burdened millions with high rents (<http://www.hcd.ca.gov/policy-research/plans-reports/docs/California's-Housing-Future-Full-Public-Draft.pdf>) and, according to a recent study by the McKinsey Global Institute, created a more than \$100-billion annual

drag on the state economy (<http://www.mckinsey.com/global-themes/urbanization/closing-californias-housing-gap>) by lowering disposable incomes and limiting construction jobs.

Ben Metcalf, the state's top housing official, has said the affordability problems are as bad as they've ever been in California's history (<http://www.latimes.com/politics/essential/la-pol-ca-essential-politics-updates-california-housing-affordability-1483490282-htmllstory.html>). And the state is expected to add an additional 6.5 million people ([http://www.dof.ca.gov/Forecasting/Demographics/Projections/documents/P\\_PressRelease.pdf](http://www.dof.ca.gov/Forecasting/Demographics/Projections/documents/P_PressRelease.pdf)) over the next two decades.

The primary driver of the affordability problem is a lack of home building. Developers in California need to roughly double the 100,000 homes they build each year to stabilize housing costs, according to the McKinsey study (<http://www.mckinsey.com/global-themes/urbanization/closing-californias-housing-gap>) and reports from the state Department of Housing and Community Development (<http://www.hcd.ca.gov/policy-research/plans-reports/docs/California's-Housing-Future-Full-Public-Draft.pdf>) and nonpartisan Legislative Analyst's Office (<http://www.lao.ca.gov/reports/2015/finance/housing-costs/housing-costs.aspx>).

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Home construction depends on complex factors including the cost of land, materials and labor, the availability of financing for developers and interest rates on mortgages for homeowners. But decisions made by California's cities and counties are important, too, and many of those local governments have made it even more difficult to build new housing.

More than two-thirds of California's coastal communities have adopted measures — such as caps on population or housing growth, or building height limits — aimed at limiting residential development, according to the Legislative Analyst's Office

(<http://www.lao.ca.gov/reports/2015/finance/housing-costs/housing-costs.aspx>). A UC Berkeley study of California's local land-use regulations found that every growth-control policy a city puts in place raises housing costs by as much as 5% there

(<http://socrates.berkeley.edu/~raphael/QR%20Regulation%20110804.pdf> ).

The housing supply law, known formally as the “housing element,” is supposed to help knock down local barriers to development by requiring cities to plan for new housing that would accommodate children born in California and people expected to relocate to the state. Over an eight-year period, state officials send estimates of housing needed to meet projected population growth to 19 regional agencies, including the Southern California Assn. of Governments in the Los Angeles area.

These agencies outline how many new homes are needed across four income levels: very low, low, moderate and above-moderate. So, in theory, all cities and counties would receive their fair share of growth. Local governments must show they've zoned enough land for the new housing — and the state must sign off on those plans. But the state doesn't hold cities accountable for the goals they set, and the plans are often ignored.

Even so, city and county officials resent the law, arguing it unfairly takes away their power over development in their communities. To avoid complying, local governments have over the years asked state lawmakers to, among other things, count prison beds and student dormitories as low-income housing and allow cities that place foster children in their communities to reduce the number of low-income homes they need to plan for.

In one case, La Habra Heights, in Los Angeles County, asked that it be exempted from the law because the city was too hilly for apartment complexes.

## ‘People want to be with people who are like them’

At the base of the San Gabriel Mountains, the affluent bedroom community of La Cañada Flintridge has few apartment or condominium complexes — and many of the city’s 20,000 residents and public officials want to keep it that way.

Four years ago, city leaders wrote a plan to make room for multifamily housing in several sections of the city. But, to discourage developers, they chose areas already occupied by single-family homes and, in one case, a big-box retailer. As a result, developers would have needed to buy up the homes one by one or, in the case of the retailer, purchase the commercial real estate and force the store out. In devising the plan, city officials assured concerned residents that it would be prohibitively expensive for developers.

“

**People like people of their own tribe. I think the attempt to change it is ludicrous.**

”

—Herand Der Sarkissian, a former La Cañada Flintridge planning commissioner

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“Everybody on this dais and that’s here is on the same page,” Planning Commission Chairman Rick Gunter told the audience at a November 2013 hearing on the housing plan. “We like living here. We like the way it is now.”



Herand Der Sarkissian, a former La Cañada Flintridge planning commissioner who approved the city's housing plan, said in an interview it didn't make sense for the state to try to force low-income housing into La Cañada Flintridge because the city's high land costs made it fiscally irresponsible. He added that any state efforts to integrate housing of all income levels into wealthy communities are doomed.

“People like people of their own tribe,” Der Sarkissian said. “I think the attempt to change it is ludicrous. Be it black, be it white. People want to be with people who are like them. To force people through legislation to change in that way is impractical.”

None of the multifamily housing called for in the La Cañada Flintridge housing plan has been built.

In Redondo Beach, officials told the state in 2014 they would work toward the city's housing goal by supporting a proposed commercial and residential development with 180 apartments — nine of them reserved for very poor families — to replace a run-down strip mall and parking lot along the Pacific Coast Highway. The city zoned the land for that amount of housing.

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But in numerous hearings over the next two years, planning commissioners and council members argued the development was too big, and the city ultimately approved 115 apartments with none set aside for low-income residents. The developer has since sued Redondo Beach and

the project remains in limbo (<http://www.dailybreeze.com/government-and-politics/20170208/bring-on-the-lawyers-redondo-beach-rejects-deal-with-legado-for-115-units-on-pch>).

La Cañada Flintridge and Redondo Beach did not report housing construction data to the state from 2006 to '14. Some new homes were built in both cities, according to permit information, but far fewer than were outlined in the cities' plans over that period.

These and similar examples across California show that the housing law is a “complete farce,” Wiener said. His legislation would do away with some planning reviews that are often levied on projects in cities that haven't kept pace with their housing goals.

“Many local communities basically run a scam where they spend all sorts of time — lots of public hearings, lots of public discussion — and then it's over and you have this collection of paper sitting on a shelf,” Wiener said. “It doesn't result in any additional housing.”

## **‘With this living situation, I can't even think of having children right now’**

Sandwiched between wealthier communities to the north and south and more industrial areas to the east, the coastal Los Angeles County city of Torrance has swaths of single-family neighborhoods and lots of land for commercial and industrial business.

**“A city should be allowed to say we're full”: Torrance city councilman argues against new homebuilding**

“At some point, a city should be allowed to say we’re full,” Bill Sutherland, then a Torrance city councilman, grumbled before voting for the city’s most recent housing plan in 2013. “I think we are actually at that point.”

Torrance’s growth has slowed. Less than half of 1,828 houses called for in the city’s previous housing plan were built, according to construction permit data.

The lack of home building has had consequences.

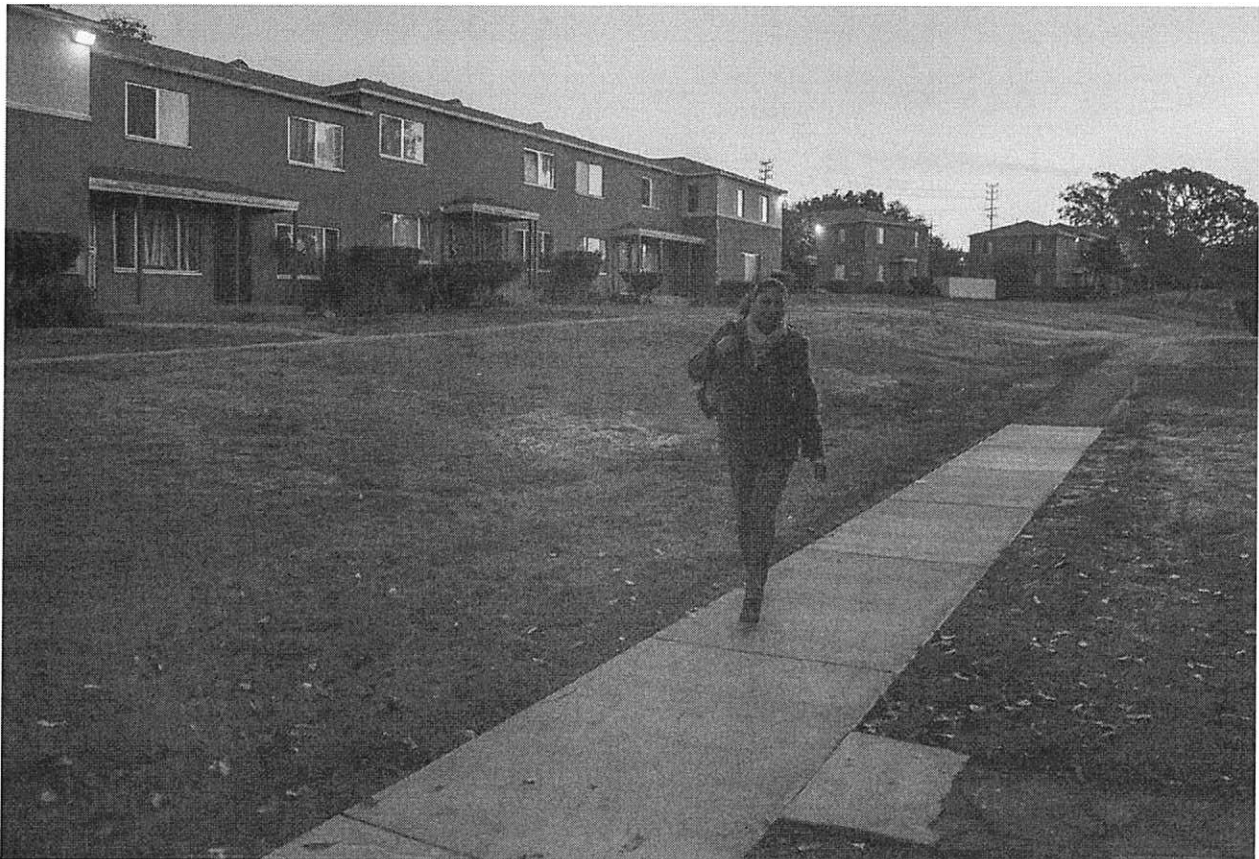
Nearly 40% of Torrance’s 147,000 residents now pay more than 30% of their incomes on housing, according to federal data. In 2014, Toyota Motor Corp. decided to relocate its North American headquarters — and 3,000 jobs — from Torrance to Plano, Texas, citing as one factor the Lone Star State’s lower cost of living (<http://www.latimes.com/business/autos/la-fi-toyota-move-20140429-story.html>).

High costs have left housing in Torrance out of reach for Azucena Gutierrez and other workers in the city.

Every weekday, Gutierrez goes into Torrance homes to teach prenatal and infant care to new and expectant parents. Gutierrez, 38, earns less than \$15 an hour.

She lives in Los Angeles' Boyle Heights neighborhood, crowding into a two-bedroom apartment with her husband, who is a substitute teacher, their 14-year-old son and 5-year-old daughter. Steep housing costs have forced Gutierrez's older sister to move in with them too.

Gutierrez would like to live near her job and for her children to attend Torrance's better rated schools. But the \$1,600-a-month rent she saw advertised for a one-bedroom apartment in Torrance was more than the \$1,500 she pays now for more room across town.



Azucena Gutierrez, 38, leaves her home before sunrise in Boyle Heights and heads to her job in Torrance. Gutierrez lives with her husband, children and sister and pays \$1,500 a month for her two-bedroom apartment. A one-bedroom in Torrance would cost her \$1,600 per month. (Mark Boster / Los Angeles Times)

“I waste a lot of time in traffic,” Gutierrez said. “Time I can’t get it back. I’m spending close to two hours driving every day. That’s 10 hours [a week] I could be spending with my family.”

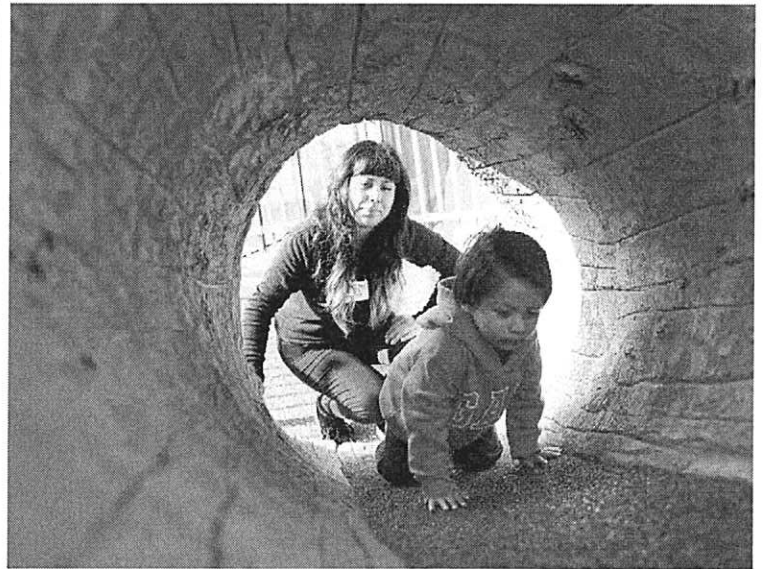
Gutierrez’s colleagues share her struggles. Georgina Romero, 28, makes \$13.50 an hour teaching toddlers and pays \$600 a month to live with her boyfriend, mother, two younger siblings and her sister’s boyfriend in a three-bedroom house in Watts.

She moved there in March to help her mother with her housing costs. Before that, Romero paid \$300 a month to live with her boyfriend in a 400-square-foot garage behind his parents’ house in Lawndale.

“I would love to have children,” Romero said. “But with this living situation, I can’t even think of having children right now. I don’t feel like I’m stable enough.”



Georgina Romero, 28, used to live with her boyfriend in a garage behind his parents' home in Lawndale. (Mark Boster / Los Angeles Times)



Romero works at a head start office in Torrance and said she wants children but doesn't feel stable enough in her living situation. (Mark Boster / Los Angeles Times)

Torrance Mayor Patrick Furey said he’s sympathetic to those who can’t afford to live in his city. But, he added, Torrance shouldn’t have to make changes to the character of its neighborhoods to accommodate new housing.

Instead of Torrance, he said, nearby cities should take on the needed growth.

“You won’t have the ZIP Code you want,” Furey said, “but it’s close enough.”

## **‘No intention of facing up to housing responsibilities’**

The state’s housing law faced problems from the start.

In 1967, Gov. Ronald Reagan signed the law, which had a simple goal: Cities and counties would have to plan “for the housing needs of all economic segments of the community.” But just five months after the first plans were due in July 1969, state officials realized local governments were ignoring the law, with a report warning about “discouraging indications” that a number of communities had “no intention of facing up to housing responsibilities.”

Over the years, legislators passed numerous bills adding detailed rules to local government housing plans. But things only got worse.

**Torrance workers struggle to find nearby housing**

By 1993, the law's increased paperwork requirements turned it into "an energy- and money-guzzling bureaucratic maze," said Timothy Coyle, then-director of the Department of Housing and Community Development, at a legislative oversight hearing that year. He called the law "broken" because it did nothing to encourage cities to permit more homes.

Coyle said in a recent interview that the law "was destined to fail."

Today, the state lacks basic information on the law's effectiveness. More than a quarter of California's 539 cities and counties failed to tell the state how many homes were built within their boundaries over the eight-year period leading up to 2014, according to a Times review of housing department data.

Wiener's legislation would require all cities and counties to turn in home-building data and remove some of their ability to review and block new development if they fall behind their housing goals.

Gov. Jerry Brown has also said he'd also support tying state financial aid to whether local governments met their housing goals

(<http://www.ebudget.ca.gov/2017-18/pdf/BudgetSummary/HousingandLocalGovernment.pdf>). Still, if the state plans to hold cities and counties accountable for meeting those targets, the targets themselves might require reevaluation.

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Bay Area counties are on track to meet their overall home-building goals for the eight-year reporting period ending in 2023, the Legislative Analyst's Office found recently (<http://www.lao.ca.gov/LAOEconTax/Article/Detail/226>).

But developers aren't building nearly enough homes to affect affordability, the analyst's office also said. The Bay Area has added half a million more jobs than houses since 2011, and other fast-growing parts of the country — around Austin, Texas; Portland, Ore.; and Raleigh, N.C. — are building homes at more than twice the rate of the Bay Area.

Perez, the Foster City councilman, believes the state is ignoring the housing law's problems.

Developers have built more than 500 homes in Foster City since the council approved its housing plan in 2015, a number that already exceeds the new houses called for under the plan through 2023.

But all those new homes came from projects approved before 2012 that home builders are just now putting on the market. And the city has turned away other developers interested in building housing where the city's plan said they could, Perez said.

Since early 2015, Foster City's median home value has increased 13% to a record \$1.5 million, more than seven times the national average.

Perez believes state politicians should hold cities accountable for approving new housing projects by providing money to local governments that do, and penalizing those that don't. Otherwise, he said, cities will continue to act as he said Foster City did — signing off on plans to appease state regulators but blocking housing from being built.



“I think the most important part of this is that there’s complicity on the part of the state,” Perez said. “They created this fake thing that they know no one has any intention of doing, and then they say they’ve done something about housing.”

## How many homes were built in your city?

Less than half the new homes called for in California’s most recent eight-year housing plan, which ended in 2014, were built, according to permit data from the construction industry. See how building stacked up compared to state targets, and whether cities and counties reported their homebuilding to state regulators.

Filter

Alameda County

### Alameda

Reported



Units needed

259/2,046

Percent built

13%

Alameda County

### Albany

Reported



Units needed

123/276

Percent built

45%

Alameda County

### Berkeley

Reported



Units needed

2,097/2,431

Percent built

86%

**EXHIBIT 3**



NEWS

# Commissioners ask for more time to consider senior living facility on Foothill

BY SARA CARDINE

JAN. 24, 2018 5:25 PM PT

Plans for a 72-bed senior living facility on Foothill Boulevard at Woodleigh Lane were put on hold Tuesday, after city planning commissioners requested more time to analyze the project and respond to numerous public concerns raised during a lengthy public hearing.

“We need to re-review this — it’s a lot to digest,” said Commissioner Mike Hazen, after input was collected from applicant Oakmont Senior Living and more than 20 public speakers over a three-hour period.

About 100 residents packed the meeting room in City Hall past 11 p.m., spilling out into an overflow seating area to learn more about a proposal calling for construction of a 78,117-square-foot, three-story facility with semi-subterranean parking and a 2,231-square-foot church that would rehouse the current landowners of 600 Foothill Blvd., First Church of Christ, Scientist.

The 1.29-acre parcel is zoned institutional under the city’s Downtown Village Specific Plan, which sets long-range design and planning guidelines for the city’s town center, including schools, churches and facilities like the community center and water districts.

It is owned by the church, which plans to sell the property to Oakmont for an unspecified amount and enter a 99-year lease agreement for use of the new church building.

Commissioners were asked to consider a variance for an overall building height that exceeds the city's allowance by 15 feet, a tree removal permit for several trees and a conditional use permit for operation of the facility.

Several of Tuesday's speakers shared concerns about the massiveness and density of a project being located hundreds of feet from a relatively quiet residential area, and how a creeping trend of city-approved variances for height and setback encroachments threatens to change La Cañada's semirural character.

Michael and Elza Gross, Woodleigh Lane homeowners who live about 280 feet from the project area, said much has changed since they moved into a house near Foothill Boulevard shielded by a wooded lot, 10-foot privacy wall and old-growth eucalyptus trees, all of which were torn down as the surrounding area was rezoned institutional.

They joined others in asking why concessions should be made for the gain of a for-profit commercial enterprise.

"Why do we have a [Downtown] Village Specific Plan when you're consistently and routinely giving variances, which then set a precedent for the next developer who comes in?" Elza Gross asked. "We pride ourselves in the semi-rural atmosphere of this town and I want to keep it — I want to keep it for myself, my children, my grandchildren and my neighbors."

Resident Lisa Brownfield, however, questioned whether the area really was residential in nature.

"Foothill Boulevard is not a residential street," she said. "As such, this building should not have to conform to residential standards."

Other speakers questioned the city's process for deeming the project's impacts on aesthetics, street parking and traffic near an already tricky intersection "less than

significant” and their recommendation of such a dense project.

Steve Del Guercio, a former La Cañada mayor and planning commissioner, said the city’s General Plan places limits on population density and building intensity (defined as the gross building area divided by the lot area) that Oakmont’s project vastly exceeds.

“If you did that math you’d come up with a permitted floor area of 19,667 square feet,” he said. “[This project] is some 60,000 square feet greater than what’s permitted under the land use designation in the General Plan — that’s four times more.”

Ken Kidd, Oakmont’s vice president of site acquisition and development, said he spent years researching the community and its needs before the company chose La Cañada Flintridge for the project. The city’s aging population and lack of senior housing (only 12 beds exist inside city limits, he said) made it an ideal location.

In his rebuttal to neighbors’ comments, Kidd reiterated Oakmont’s good intentions and said the information was a lot to take in.

“We really want to be good neighbors — it’s absolutely a nonstarter for us unless we can be,” he said. “It’s almost impossible for me to rebut all the comments that were made tonight. I just need to soak it up and, hopefully, we can carry on with this another time.”

The matter was continued to an undetermined date to allow city staff and Oakmont officials to further analyze comments made at Tuesday’s hearing.

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**Twitter:** [@SaraCardine](https://twitter.com/SaraCardine)



Sara Cardine

Sara Cardine covers the city of Costa Mesa for the Daily Pilot. She comes from the La Cañada Valley Sun, where she spent six years as the news reporter covering La Cañada Flintridge and recently received a first-place Public Service Journalism award from the California News Publishers Assn. She's also worked at the Pasadena Weekly, Stockton Record and Lodi-News Sentinel, which instilled in her a love for community news. (714) 966-4627

**EXHIBIT 4**



NEWS

## Group forms to challenge Oakmont senior center, preserve ambiance of LCF

BY SARA CARDINE

MARCH 22, 2018 9 AM PT

When a proposed 72-bed senior living facility at Foothill Boulevard at Woodleigh Lane came before the Planning Commission in January, commissioners requested more time to consider resident concerns about the project's size and potential impact on views, traffic and parking.

Now, nearly two months later, with no news about when the matter could be heard again by the commission, neighbors opposed to the project have begun amassing support against it.

Calling themselves Together La Cañada (TLC), members of the 501(c)(4) nonprofit group say they want to advocate for responsible growth compatible with the Downtown Village Specific Plan, a document created in 2000 to guide development in the city's Town Center along Foothill Boulevard, from La Cañada Boulevard to Crown Avenue.

"Oakmont is simply a symptom of the larger problem, which is we're not adhering to the guidelines in our Downtown Village Specific Plan," said Woodleigh Lane homeowner Michael Gross, who founded the group in February. "[Commissioners] are consistently issuing variances — do we have a set of rules, or do we not?"

Gross says TLC isn't looking to run Oakmont out of town but rather to insist projects comply with city guidelines regarding parking, traffic flow and pedestrian safety and to



call on city officials to uphold and enforce those guidelines. The facility as it's currently proposed does not meet those standards, he adds.

So far, about 200 concerned citizens have shown support for the cause. Among them is attorney Steve Del Guercio, a former La Cañada mayor who helped oversee the adoption of the city's general plan and was a planning commissioner when the DVSP was adopted.

Del Guercio said at the time the document was drafted, it was intended to provide developers insight into the community's vision for the Town Center area. Among its many tenets is a restriction limiting buildings to two stories.

"The basic concept of keeping community development to a smaller, pedestrian-friendly scale is as valid today as it was back then," he said, adding it would be a travesty if Oakmont's 48-foot overall building height were approved.

Supporters of the project, including La Cañada Flintridge Chamber of Commerce president and chief executive Pat Anderson, say an in-town senior center would provide a housing solution for La Cañada seniors who can no longer stay in their homes.

"It's so desperately needed to take care of those who need memory care and those who need assisted living but don't want to leave the area," Anderson said. "There's no question in my mind it will help. That is the overriding reason we support this project."

Anderson said she is waiting to see how the Planning Commission continues its review of the project and does not know whether a compromise on the size or scale of the project can be reached.

Gross said Together La Cañada would be willing to come together with city officials and Oakmont representatives to discuss possible solutions, despite past comments by the developer that a 72-bed facility was a threshold needed to make the project work.

He said the city should complete a full environmental review of the impacts and conduct its own traffic and parking studies.

“We want to play nice and find a good common ground,” Gross said. “We’d welcome a compromise, but ultimately, let’s look at it all — pedestrian safety, parking, traffic — and let’s do a real study.”

Del Guercio said he hoped banding together as TLC would give concerned residents a voice and the ear of decision makers in the community.

“My hope is we achieve a positive resolution,” he said.

For more information on Together La Cañada, visit the group on Facebook, call (818) 952-0123 or email [togetherlaCañada@gmail.com](mailto:togetherlaCañada@gmail.com).

[sara.cardine@latimes.com](mailto:sara.cardine@latimes.com)

**Twitter:** [@SaraCardine](https://twitter.com/SaraCardine)



Sara Cardine

Sara Cardine covers the city of Costa Mesa for the Daily Pilot. She comes from the La Cañada Valley Sun, where she spent six years as the news reporter covering La Cañada Flintridge and recently received a first-place Public Service Journalism award from the California News Publishers Assn. She’s also worked at the Pasadena Weekly, Stockton Record and Lodi-News Sentinel, which instilled in her a love for community news. (714) 966-4627

**EXHIBIT 5**

**CITY OF LA CAÑADA FLINTRIDGE**

**RESOLUTION NO. 21-31**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA CAÑADA FLINTRIDGE, CALIFORNIA, UPHOLDING THE APPEAL, REVERSING THE PLANNING COMMISSION ADOPTION OF, AND DENYING WITHOUT PREJUDICE, THE ADOPTION OF THE MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM PREPARED PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR A NEW MIXED USE PROJECT LOCATED AT 600 FOOTHILL BOULEVARD**

**WHEREAS**, a project that includes a request for General Plan Amendment (PLAN-2020-0002) to amend the General Plan Land Use and Housing Elements to incorporate a new Mixed Use 3 Land Use District into the Downtown Village Specific Plan (DVSP) and set a density of 20-30 du/ac and floor area ratio of 1.5:1 for the new Mixed Use 3 land use district, Zone Change (PLAN-2020-0001) to implement General Plan Amendment (PLAN-2020-0002) including modification of the DVSP to include a mixed Use 3 land use district, adopt a list of permitted uses and development standards and amend the land use district from Institutional to Mixed Use 3 on 1.29 acres located at 600 Foothill Boulevard, Conditional Use Permit (USE-2020-0750) Flintridge to allow demolition of the two existing structures and associated surface parking lot to facilitate the development of a 77,310 square foot, three-story, mixed use structure with 47 active senior housing units (age-restricted to seniors aged 55 years old and over), 12 non-serviced hotel units, 7,600 square feet of office uses, and one level of underground parking containing 111 vehicle parking spaces, Tree Removal Permit (DEV-2020-0057) to remove ten protected trees to facilitate development of the project, Vesting Tentative Tract Map 83375 (LAND-2021-0001) for a 49 parcel condominium map and Density Bonus per state law to allow a 20 percent density bonus for senior housing on a 1.29 acre parcel located at 600 Foothill Boulevard was filed by 600 Foothill Owner, LP (hereinafter the "Applicant") with the City of La Cañada Flintridge, said requests incorporated herein by reference; and

**WHEREAS**, the project site has a General Plan Land Use designation of Downtown Village Specific Plan (DVSP) and is located within the Institutional land use district of the DVSP. The project includes a General Plan Amendment and Zone Change to permit amendment of the DVSP to implement a Mixed Use 3 land use district that would permit the development proposed under this project; and

**WHEREAS**, the subject site is a 1.29 acre parcel located at the southwest corner of Foothill Boulevard and Woodleigh Lane that contains two existing structures, associated surface parking, ornamental landscaping and 12 protected trees; and

**WHEREAS**, all surrounding parcels are located within the Downtown Village Specific Plan, with those to the north across Foothill Boulevard being within the Institutional (U.S. Post Office) and Mixed Use 2 land use district, to the east across Woodleigh Lane are parcels within the Institutional (La Cañada Thursday Club) and Mixed Use 2 land use district, and to the south

and west parcels are within the Institutional (La Cañada Presbyterian Church) land use district; and

**WHEREAS**, on June 24, 2021, a duly noticed public hearing on the Application was held before the City of La Cañada Flintridge Planning Commission and continued to a date certain of July 29, 2021 then adjourned to September 2, 2021; on this date the Planning Commission voted to recommend approval of the Application and directed a Resolution be placed on the September 23, 2021 Consent Calendar for adoption; during that meeting staff identified a noticing omission and the Resolution was placed on the October 14, 2021 Consent Calendar for adoption; and

**WHEREAS**, an Initial Study was prepared for the Application in compliance with the California Environmental Quality Act (CEQA) and CEQA Guidelines and circulated for public review between May 6, 2021 and June 9, 2021, for a 20-day review. Based on the Initial Study, it has been determined that the project will not have a significant effect on the environment and a Mitigated Negative Declaration has been prepared for the project; and

**WHEREAS**, the Planning Commission reviewed the facts contained in the staff reports dated June 24, 2021, July 29, 2021 and September 2, 2021 regarding the Mitigated Negative Declaration for the project, which included applications for General Plan Amendment, Zone Change, Conditional Use Permit, Tree Removal Permit, Vesting Tentative Tract Map 83375, Density Bonus per state law and heard and considered the testimony of the Applicant and the public; including all written correspondence received, with all testimony received being made a part of the public record; and

**WHEREAS**, although additional information and analysis was provided after the circulation of the MND, per CEQA Guidelines Section 15073.5, recirculation of the document was not required as the document has not been substantially revised after public notice of its availability had been given. Additionally, conditions of approval approved for the project, specifically the requirement for a traffic signal and pedestrian crosswalk at the intersection of Foothill Boulevard and Woodleigh Lane, do not require recirculation of the MND per CEQA Guidelines Section 15073.5(c)(3), since the condition of approval was not required by CEQA, the installation of such improvement within the existing public right-of-way will not create a new significant environmental effect and is not necessary to mitigate an avoidable significant effect; and

**WHEREAS**, Public Resources Code Section 21151.5 requires an approving authority to complete and adopt a Mitigated Negative Declaration prepared for a project within 180 days of deeming the project complete; and

**WHEREAS**, General Plan Amendment (PLAN-2020-002), Zone Change (PLAN-2020-0001), Conditional Use Permit (USE-2020-0750), and Tree Removal Permit (DEV-2020-0057) were deemed complete on November 19, 2020; however, the project was voluntarily revised by the Applicant with the submittal of Vesting Tentative Tract Map 83375 (LAND-2021-0001) on April 20, 2021, with the revised project being deemed complete on May 4, 2021, and 180-days from such date is October 30, 2021; and

**WHEREAS**, on October 14, 2021, the Planning Commission of the City of La Cañada

Flintridge adopted: Resolution No. 21-53 adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared pursuant to CEQA, Resolution No. 21-36 recommending the City Council approve the General Plan Amendment, Resolution No. 21-37 recommending the City Council approve the Zone Change, Resolution No. 21-38 approving the Conditional Use Permit, Resolution No. 21-39 approving the Tree Removal Permit, and Resolution No. 21-40 approving the Vesting Tentative Tract Map 83375; and

**WHEREAS**, on October 20, 2021, a Notice of Determination was posted by the Los Angeles County Clerk pursuant to CEQA Guidelines 15075(a); and

**WHEREAS**, a timely appeal was filed by Together La Cañada of the Planning Commission adoption of Resolution No. 21-53 adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, Resolution No. 21-38 approving the Conditional Use Permit, Resolution No. 21-39 approving the Tree Removal Permit, and Resolution No. 21-40 approving the Vesting Tentative Tract Map 83375; and

**WHEREAS**, on November 16, 2021, a duly noticed public hearing on the Appeal was held before the City of La Cañada Flintridge City Council; and

**WHEREAS**, the City Council has reviewed the facts contained in the agenda report dated November 16, 2021, regarding the General Plan Amendment and Zone Change, and the Appeal of the adoption of the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, Conditional Use Permit, Tree Removal Permit, Vesting Tentative Tract Map 83375 and Density Bonus, and heard and considered the testimony of the Applicant, Appellant and the public; including any written correspondence received, with all testimony received being made a part of the public record; and

**WHEREAS**, after reviewing all information contained within the public record, the City Council deliberated and voted to deny the General Plan Amendment and Zone Change, directing staff to place Resolutions for Denial on the Consent Calendar of the December 7, 2021 Regular Meeting of the City Council; and

**WHEREAS**, on December 7, 2021, the City Council adopted Resolution No. 21-xx denying General Plan Amendment (PLAN-2020-0002) and Resolution No. 21-xx denying Zone Change (PLAN-2020-0001); and

**WHEREAS**, all legal prerequisites to the adoption of this Resolution have occurred.

**NOW THEREFORE**, the City Council of the City of La Cañada Flintridge does resolve as follows:

**Section 1.** The City Council finds and determines that the above recitals are true and correct and incorporated herein by reference.

**Section 2.** *Environmental Review*

a. Based on the denial by the City Council of General Plan Amendment (PLAN-2020-0002) and Zone Change (PLAN-2020-0001), the associated Conditional Use Permit, Tree Removal Permit, Vesting Tentative Tract Map 83375 and Density Bonus cannot be approved due to inconsistency with the City's adopted and existing General Plan and Downtown Village Specific Plan. Accordingly, there is no project.

b. Based on the denial of the above referenced applications and that there is no project, the appeal of the Planning Commission adoption of the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program is now moot.

**Section 3.** Based on any one, and/or all, of the above findings, the City Council of the City of La Cañada Flintridge hereby upholds the appeal, thus reversing the Planning Commission adoption of, and denying without prejudice, the adoption of the Mitigated Negative Declaration (CEQA-000003-2021) and the Mitigation Monitoring and Reporting Program for the development of a mixed use project located at 600 Foothill Boulevard.

**PASSED, APPROVED AND ADOPTED** this 7<sup>th</sup> day of December, 2021.

DocuSigned by:  
*Teresa Walker*  
7EF030601DD5AD7...  
Teresa M. Walker, Mayor

ATTEST:


DocuSigned by:  
*Tania Moreno*  
94AE4A4BA9FF48D...  
Tania Moreno, City Clerk

State of California )  
County of Los Angeles ) ss.  
City of La Cañada Flintridge )

I, Tania Moreno, City Clerk of the City of La Cañada Flintridge, California, do hereby certify that the foregoing Resolution No. 21-31 was duly adopted by the City Council of the City of La Cañada Flintridge at a Regular Meeting held on the 7<sup>th</sup> day of December, 2021, by the following vote:

AYES: COUNCILMEMBERS: CURTIS, DAVITT, GUNTER, EICH AND WALKER  
NOES: COUNCILMEMBERS: NONE  
ABSENT: COUNCILMEMBERS: NONE  
ABSTAIN: COUNCILMEMBERS: NONE

Dated: December 7, 2021

DocuSigned by:  
  
94AE4A4BA9FF48B...  
Tania Moreno, City Clerk



**EXHIBIT 6**

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
(916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)



December 3, 2021

Susan Koleda, Director of Community Development  
Planning Division  
City of La Canada Flintridge  
One City Center Drive  
La Canada Flintridge, CA 91011

Dear Susan Koleda:

**RE: City of La Canada Flintridge's 6<sup>th</sup> Cycle (2021-2029) Draft Housing Element**

Thank you for submitting the City of La Canada Flintridge's (City) draft housing element received for review on October 6, 2021. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on November 29, 2021 with you and consultants Veronica Tam, Patricia Bluman, Claudia Tedford, and Katie Matchett. In addition, HCD considered comments from Adam Buchbinder from Campaign for Fair Housing Elements pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). For example, the Affirmatively Furthering Fair Housing (AFFH) analysis should provide local data and programs should have definitive timelines to provide a beneficial impact in the planning period. The enclosed Appendix describes these, and other revisions needed to comply with State Housing Element Law.

As a reminder, the City's 6th cycle housing element was due October 15, 2021. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (October 15, 2021), then any rezoning to accommodate the regional housing needs allocation (RHNA), including for lower-income households, shall be completed no later than one year from the statutory deadline. Otherwise, the local

government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i).

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

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate.

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

We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact John Buettner, of our staff, at [john.buettner@hcd.ca.gov](mailto:john.buettner@hcd.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul McDougall', with a stylized flourish at the end.

Paul McDougall

Senior Program Manager

Enclosure

## APPENDIX CITY OF LA CANADA FLINTRIDGE

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <http://www.hcd.ca.gov/community-development/building-blocks/index.shtml> and includes the Government Code addressing State Housing Element Law and other resources.

### A. Housing Needs, Resources, and Constraints

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

Fair Housing Enforcement and Outreach: The element must include the City's ability to provide enforcement and outreach capacity which can consist of actions such as the City's ability to investigate complaints, obtain remedies, or the City's ability to engage in fair housing testing. While the element provides basic information and data in this area, it should explain the types of outreach and educational efforts relative to furthering fair housing, including affecting groups with protected characteristics.

Racial/Ethnic Areas of Concentration of Poverty(R/ECAP): The element includes information relative to (R/ECAP) but should also address concentrated areas of affluence. The combination of the R/ECAP and areas of affluence analyses will help guide goals and actions to address fair housing issues. The analysis should evaluate the patterns and changes over time at a local (e.g., neighborhood to neighborhood) and regional level (e.g., city to region).

Local Data and Knowledge, and Other Relevant Factors: The element does not address this requirement. The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the City related to fair housing issues. The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers. Also, the element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element can analyze historical land use and investment practices or other information and demographic trends.

Sites Inventory: The element must include an analysis demonstrating whether sites identified to meet the RHNA are distributed throughout the community in a manner that affirmatively furthers fair housing. A full analysis should address the income categories of identified sites with respect to location, the number of sites and units by all income

groups and how that effects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). The element should also discuss whether the distribution of sites improves or exacerbates conditions. If sites exacerbate conditions, the element should identify further program actions that will be taken to mitigate this (e.g., anti-displacement strategies).

Contributing Factors: While the Summary of Fair Housing Issues (p. D44) briefly summarizes fair housing issues, these issues do not appear to be rooted in the analysis and do not appear adequate to facilitate the formulation of meaningful action. The element must list and prioritize contributing factors to fair housing issues. Contributing factors create, contribute to, perpetuate, or increase the severity of fair housing issues and are fundamental to adequate goals and actions. The analysis shall result in strategic approaches to inform and connect goals and actions to mitigate contributing factors to affordable housing.

Goals, Actions, Metrics, and Milestones: The element must be revised to add or modify goals and actions based on the outcomes of a complete analysis. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, metrics, and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection.

2. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)*

While the element quantifies the projected extremely low-income households, it must also analyze the needs of extremely low-income (ELI) households. The analysis of ELI housing needs should consider tenure, rates and trends of overcrowding and overpayment.

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

The element identifies the approximate age of the housing stock (p. 31-32) and general information on code compliance but it must also estimate the number of units in need of rehabilitation and replacement.

4. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

The City has a regional housing need allocation (RHNA) of 612 housing units, of which 387 are for lower-income households. To address this need, the element relies on vacant and underutilized sites, including sites in Specific Plan Areas. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Progress in Meeting the RHNA: As you know, the City's RHNA may be reduced by the number of new units pending, approved, permitted or built since July 1, 2021 by demonstrating availability and affordability based on rents, sale prices or other mechanisms ensuring affordability (e.g., deed restrictions). The element notes 64 units of which 23 units are affordable to lower-income households are pending approval. The element should indicate what remaining approvals are necessary for this process, expected timing for those approvals and demonstrate their availability in the planning period.

Sites Inventory: While the element provides an inventory of sites in Appendix C, the inventory does not describe existing uses for these sites nor indicate whether the sites are vacant or nonvacant. The inventory must be revised to include this information. Descriptions of existing uses should include sufficient detail to facilitate an analysis of the potential for addition development on nonvacant sites.

Suitability of Nonvacant Sites: The element identifies nonvacant sites to accommodate the regional housing need for households of all incomes, stating that "a specific analysis was conducted on properties within the City to identify vacant and underutilized properties" (p. 77). This statement alone is not adequate to demonstrate the potential for additional development in the planning period. A complete analysis should describe the methodology used to determine the additional development potential within the planning period. The methodology must consider factors including the extent to which existing uses may impede additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites. (Gov. Code, § 65583.2, subd. (g)). Development trends and market analysis should relate to the sites identified in the sites inventory. For sites with residential uses, the inventory could also describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses. For nonresidential sites, the inventory could also describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment.

Realistic Capacity: The element appears to assume residential development on sites with zoning that allow 100 percent non-residential uses, but to support this assumption, the element must analyze the likelihood of residential development in nonresidential zones. The element could describe any performance standards mandating a specified portion of residential and any factors increasing the potential for residential development such as incentives for residential use, and residential development trends in the same nonresidential zoning districts.

Small Sites and Lot Consolidation: The element identifies several sites consisting of aggregated small parcels less than half acre. For parcels anticipated to be consolidated, the element must demonstrate the potential for lot consolidation. For example, analysis describing the City's role or track record in facilitating small-lot consolidation, policies or incentives offered or proposed to encourage and facilitate lot consolidation, conditions rendering parcels suitable and ready for redevelopment, recent trends of lot consolidation, and information on the owners of each aggregated site. For parcels anticipated to develop individually, the element must describe existing and proposed policies or incentives the City will offer to facilitate development of small sites. Please be aware sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size and affordability were successfully developed during the prior planning period or unless the housing element describes other evidence to HCD that sites are adequate to accommodate housing for lower-income households. (Gov. Code, § 65583.2, subd. (c)(2)(A).)

Accessory Dwelling Units (ADU): ADUs may be counted toward the RHNA based on past permitted units and other factors. In the element, the City projects 120 ADUs to be constructed over the planning period, averaging 15 units per year. This projection differs from past ADU annual permit figures of 5 in 2018, 2 in 2019, and 13 in 2020, averaging approximately 7 units per year. The element should be revised to reconcile these figures, adjust assumptions as necessary or include additional analysis and programs to demonstrate the increase over past trends.

Infrastructure: While the element describes water and sewer infrastructure, it must also demonstrate sufficient existing or planned dry utilities supply capacity, including the availability and access to distribution facilities, to accommodate the City's RHNA.

Sites with Zoning for a Variety of Housing Types:

- *Accessory Dwelling Units (ADUs):* The element indicates the City modifies its zoning code to ease barriers to the development of ADU's. However, after a cursory review of the City's ordinance, HCD discovered several areas which were not consistent with State ADU Law. This includes, but is not limited to, zones where ADUs are allowed, conversion restrictions, among other factors. HCD will provide a complete listing of ADU non-compliance issues under a separate cover. As a result, the element should add a program to update the City's ADU ordinance in order to comply with state law.

In addition, the element states that the City in the process of updating its Safety Element, which is proposing to "prohibit ADUs and junior accessory dwelling units (JADUs) in" twelve neighborhoods due to safety concerns (p. 48) and will be updating the City's zoning codes within two years of adoption of the housing element (Program 15, p. 111). However, the element must provide an analysis of whether this is a potential constraint.

- *Low Barrier Navigation Centers and Permanent Supportive Housing:* Low barrier navigation centers and permanent supportive housing shall be a use by-right in

zones where multifamily and mixed uses are permitted, including nonresidential zones. The element should either demonstrate compliance with these requirements or add or modify program as appropriate.

5. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Government Code section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7).*

Fees and Exaction: The element must describe all required fees for single family and multifamily housing development, including building and impact fees, and analyze their impact as potential constraints on housing supply and affordability. For example, the analysis could identify the total amount of fees and their proportion to the development costs for both single family and multifamily housing.

Codes and Enforcement: The element must describe the City's building and zoning code enforcement processes and procedures and analyze their impact as potential constraints on housing supply and affordability.

Constraints on Housing for Persons with Disabilities: The element briefly describes its reasonable accommodation procedures and states that Program 15 is to accommodate changes in the procedures and zoning code that make requests easier and time frames for approvals shorter. However, the element should also analyze any potential constraints on housing for persons with disabilities and revise programs, as appropriate, to address identified constraints.

Zoning and Fees Transparency: The element must clarify its compliance with new transparency requirements for posting all zoning and development standards for each parcel on the jurisdiction's website pursuant to Government Code section 65940.1, subdivision (a)(1).

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

6. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between*



receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6)).

Developed Densities and Permit Times: The element must be revised to include analysis of requests to develop housing at densities below those anticipated, and the length of time between receiving approval for a housing development and submittal of an application for building permits that potentially hinder the construction of a locality's share of the regional housing need.

7. *Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)*

Farmworker Housing: The element indicates that there are no farmworkers employed in fulltime farming occupations in the City. However, farmworkers from the broader area and those employed seasonally may have housing needs, including within the City's boundaries. As a result, the element should at least acknowledge the housing needs of permanent and seasonal farmworkers at a county-level (e.g., using USDA county-level farmworker data) and include programs as appropriate.

## **B. Housing Programs**

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)*

To address the program requirements of Government Code section 65583, subd. (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the City's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials.

Numerous programs indicate an "ongoing" implementation status or do not contain definitive implementation timelines (e.g., month and year) other than broad periods of time after adoption of the element. While this may be appropriate for some programs, programs

with specific implementation actions must include completion dates resulting in beneficial impacts within the planning period. All programs should be revisited and revised as necessary.

In addition, Program 8 (ADUs) commits to 1) monitoring changes in state law and updating zoning codes regularly, 2) facilitating the development of ADUs, 3) developing a monitoring program to ensure the City is on track for ADU production, and 4) providing information to the public regarding benefits and procedures for approval. Action 1 should be revised to clarify what is meant by “regularly” and offer a more definitive time frame for these updates. Action 2 states that the City will be “facilitating the development” of ADUs but should clarify how the City will facilitate development and if the City will offer incentives. Action 3 states that the City will develop a monitoring program to track goals within six months of adoption of the element and provides a date of April 2025 to review production and revise the program if the City is not meeting its goals. This Action should include monitoring of affordability assumptions in addition to production. The City should also consider more frequent reviews other than every four years and adjust the date of review accordingly.

2. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city’s or county’s share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding A4, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

Shortfall of Adequate Sites: Currently, the element identifies a shortfall of adequate sites with zoning to accommodate the RHNA within the planning period. In order to provide sufficient sites to accommodate the RHNA, Program 1 (Adequate Residential Sites to Accommodate the RHNA) and Program 4 (Downtown Village Specific Plan) should commit to, among other things, redesignate and amend the Zoning Map to rezone the properties identified in the Sites Inventory to accommodate the RHNA. In addition, these programs must specifically commit to acreage, allowable densities and anticipated units and, if necessary to accommodate the housing needs of lower-income households, commit to meeting all requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i). For example, Program 4 states that the City will amend the DVSP to increase the density in the MU-2 district to 15-25 dwelling units per acre. However, this range does not meet the minimum density standard of 20 units per acre for lower-income sites.

3. *The housing element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

While the element provides for assistance in the development of adequate housing to meet the needs of extremely low- and lower-income households in Programs 13, 15 and 16, these programs do not adequately meet the requirements. The programs must include specific actions and timelines to assist in the development of housing for (ELI) households. The program(s) could commit the City to adopting priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to (ELI) households; assisting, supporting or pursuing funding applications; and outreach and coordination with affordable housing developers.

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

As noted in Findings A5 and A6, the element requires a complete analysis of potential governmental and non-governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

5. *The housing element shall include programs to conserve and improve the condition of the existing affordable housing stock. (Gov. Code, § 65583, subd. (c)(4).)*

Program 10: Residential Rehabilitation Program: Action 2 should commit to how the City will target lower-income, including ELI, and special needs populations, what types of outreach will be performed, and provide a definitive timeline as to when these actions will take place other than on an “ongoing” basis.

Program 13: Multi-Family Housing Acquisition and Rehabilitation: This Program should commit to provide more information on when the City will apply for funds and how the City intends on targeting lower-income households, including definitive timelines.

6. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding A1, the element must include a complete analysis of AFFH. The element must be revised to add goals and actions based on the outcomes of a

complete analysis. Currently the element only addresses AFFH in Program 22. The element could revise other program actions to address the City's obligation to AFFH including how programs address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection. In addition, the element should describe how all the City's housing programs comply with and further the requirements and goals of Government Code section 8899.50, subdivision (b).

### **C. Public Participation**

*Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(8).)*

While the element includes a summary of the public participation process (p. 4 and Appendix A), it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. The element should describe the efforts to circulate the housing element among low- and moderate-income households and organizations that represent them and to involve such groups and persons in the element throughout the process. In addition, the element should also summarize the public comments and describe how they were considered and incorporated into the element.

In addition, HCD understands the City made the element available to the public just prior to submittal to HCD, but the element is not clear as to when this took place. By not providing an opportunity for the public to review and comment on a draft of the element in advance of submission, the City may not yet have complied with statutory mandates to make a diligent effort to encourage the public participation in the development of the element and it reduces HCD's ability to consider public comments in the course of its review. The availability of the document to the public and opportunity for public comment prior to submittal to HCD is essential to the public process and HCD's review. The City must proactively make future revisions available to the public, including any commenters, prior to submitting any revisions to HCD and diligently consider and address comments, including making revisions to the document where appropriate. HCD's future review will consider the extent to which the revised element documents how the City solicited, considered, and addressed public comments in the element. The City's consideration of public comments must not be limited by HCD's findings in this review letter.

**EXHIBIT 7**

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
(916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)



December 6, 2022

Susan Koleda, Director  
Community Development Department  
City of La Canada Flintridge  
One City Center Drive  
La Canada Flintridge, CA 91011

Dear Susan Koleda:

**RE: La Canada Flintridge's 6<sup>th</sup> Cycle (2021-2029) Adopted Housing Element**

Thank you for submitting the City of La Canada Flintridge's (City) housing element adopted October 4, 2022 and received for review on October 10, 2022. Pursuant to Government Code section 65585, subdivision (h), the California Department of Housing and Community Development (HCD) is reporting the results of its review. HCD considered comments from Together La Canada, 600 Foothill Owner LP (represented by Holland and Knight), Garret Weyand, and Californians for Homeownership pursuant to Government Code section 65585, subdivision (c).

The adopted housing element addresses most statutory requirements described in HCD's May 26, 2021 review; however, additional revisions are necessary to fully comply with State Housing Element Law (Article 10.6 of the Gov. Code) as follows:

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

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

Enforcement and Outreach: While the City has received two fair housing cases referred to litigation, the element must analyze the outcome of these cases and address the City's compliance with existing fair housing laws.

Sites Inventory: While the element now analyzes census tracts and sites with a concentration of affordable units (p. D71-73), it should still discuss whether the

distribution of sites improves or exacerbates conditions. This is critical as the sites to accommodate the lower-income households are only located along Foothill Boulevard near the 210 Freeway. If sites exacerbate conditions, the element should include programs to mitigate conditions (e.g., anti-displacement strategies) and promote inclusive communities.

Programs: As noted above, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs.

2. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

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

Suitability of Nonvacant Sites: The element should include analysis on the extent that existing uses may impede additional residential development. While the element provided sample projects, the element should relate those projects to the existing uses identified in the sites inventory to demonstrate redevelopment potential and evaluate the extent existing uses impede additional development. Supplemental information can include information on leases or vacancy rates, condition of the existing structure, expressed developer or property owner interest or other factors. In particular, the element identifies sites with religious institutions and existing private schools but should demonstrate the likelihood that those uses would discontinue in the planning period or indicate whether the owners of those properties have indicated their interest in developing housing within the planning period.

In addition, as the element relies on nonvacant sites to accommodate 50 percent or more of the housing needs for lower-income households, the adoption resolution must make findings based on substantial evidence in a complete analysis that existing uses are not an impediment and will likely discontinue in the planning period.

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

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

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

Program 15: Special Needs Housing: While the program commits to amend the reasonable accommodation “to make the process easier and less expensive”, it should describe the amendments that the City will take including and not limited to removing any associated fees which pose a constraint to housing for persons with disabilities.

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

Pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), a jurisdiction that failed to adopt a compliant housing element within one year from the statutory deadline cannot be found in compliance until rezones to make prior identified sites available or accommodate a shortfall of sites pursuant to Government Code section 65583, subdivision (c), paragraph (1), subparagraph (A) and Government Code section 65583.2, subdivision (c) are completed. As this year has passed and Program 1 (Adequate Residential Sites to Accommodate the Regional Housing Needs Allocation (RHNA), Program 4 (Downtown Village Specific Plan), Program 5 (Religious Institution Housing Overlay), and Program 6 (By Right Approval for Projects with 20 percent Affordable Units) have not been completed, the housing element is out of compliance and will remain out of compliance until the rezonings have been completed.

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



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

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

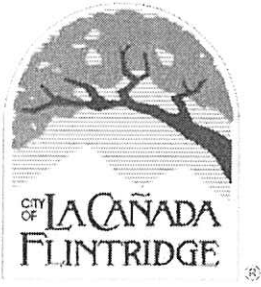
We are committed to assisting the City of La Canada Flintridge in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Tristan Lanza, of our staff, at [tristan.lanza@hcd.ca.gov](mailto:tristan.lanza@hcd.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Paul McDougall", with a stylized flourish at the end.

Paul McDougall  
Senior Program Manager

**EXHIBIT 8**



City Council  
Keith Eich, Mayor  
Richard B. Gunter, Mayor Pro Tem  
Kim Bowman  
Michael T. Davitt  
Terry Walker

February 10, 2023

Alexandra Hack  
Cedar Street Partners LLC  
500 North Brand Boulevard, 20<sup>th</sup> Floor  
Glendale, California 91203

**RE: Application Completeness Determination for Conditional Use Permit (USE-2023-0016), Tentative Tract Map 83375 (LAND-2023-0001), and Tree Removal Permit (DEV-2023-0003) for Mixed Use Project located at 600 Foothill Boulevard**

Dear Ms. Hack,

On January 13, 2023, the Planning Department received the above referenced applications for a Mixed Use project at 600 Foothill Boulevard. Associated fees were not paid until January 31, 2023. Per the instructions for submittal of applications, the City does not consider an application as submitted until the necessary fees are paid, which starts the 30-day application completeness determination under the California Permit Streamlining Act. However, to avoid any potential conflict and without waiving the City's rights to assert the 30-day review period began on January 31, 2023, the City has reviewed the application materials and is providing this letter within the 30-day window of the upload of the applications to the City's online permitting portal.

Based on a review of the materials and plans by the City, your application is deemed **incomplete** at the current time, based on the information submitted and analysis below.

#### Conditional Use Permit

##### *Required Information on the Site Plan*

The submitted site plan does not adequately identify all information necessary for analyzing the proposed project, including:

1. Location and approximate distance from property line of the nearest structures on all properties surrounding the project site. This information may be submitted as a separate map or included on the site plan.
2. List name, address, and phone number of all affected utilities. Show proposed screening of any electrical transformer and Water District backflow device.
3. Adjacency Items - All existing structures, walls, fences, yards, signs, parking, driveways, trees, and grades within 100 feet of the project boundary, including the opposite side of Woodleigh Avenue.

4. The following information required to be shown on the site plan is missing or incomplete:
  - a. The proposed new locations for the relocated gas meter (Note #18) and the relocated street light (Note #24).
  - b. Correct/remove the "Existing neighborhood buildings" notation (that appears to identify the easement) in the legend.
  - c. Provide cross sections through the site, including two in a north-south direction and the other two east-west.
  - d. Show the required 32' turning radius for the fire department access.
  - e. Wall shown on north elevation (Sheet A-202) must be shown on site plan.
  - f. Show actual footprint on Level 1 on site plan.
  - g. Identify fire and domestic backflow devices.
5. The site plan fails to identify the correct right-of-way for Woodleigh Lane per General plan Circulation Element Figure CE-1 Roadway Classification Map. Woodleigh Lane is identified as a "Residential Collector", which per General Plan Circulation Element Figure CE-2 Standard Street Sections, has a right-of-way width of 60-feet, with a half street pavement width (curb to curb) of 20-feet plus a ten foot parkway and sidewalk. On Sheet A-100, Woodleigh Lane is shown with a half street pavement width of 15-feet and a parkway and sidewalk width of ten-feet. Given the significant increase in traffic anticipated between the previous religious institution use and the proposed mixed use project, staff believe there is a nexus for requiring additional right-of-way dedication and construction on Woodleigh Lane to accommodate the additional traffic. The right-of-way identified per the General Plan shall be incorporated into revised plans.

#### *Required Information on the Floor Plans*

The submitted floor plans do not adequately identify all information necessary for analyzing the proposed project, including:

1. All dimensions of interior rooms or other enclosed areas.
2. Location of all plumbing equipment, existing or proposed.
3. Occupant load calculations and Occupancy Classification for each room, for each area, for and the entire structure (including non-residential).
4. Provisions for accessibility to the elderly and physically disabled which are required by law for buildings and facilities to be used by the public.
5. Clarify whether there is a pedestrian pathway from stairs to/from Level P1 to Level 1 or if the bottom of the stairs at Level P1 ends at the fire access road.
6. Provide grades for the stairs adjacent to Foothill Boulevard on Sheet A-103.
7. Sheets A-101 and A-102 identify car parking space sizes of 9'x18' for a standard space, 9'x15' for a compact space and tandem car parking spaces. The City standard for a car parking space is 9'x20'. Compact spaces are not permitted, nor are tandem spaces.

#### *Elevations*

1. Is all the expected venting and mechanical equipment shown on the roof plan?
2. How is roof level accessed?
3. Show parapet heights on all side of buildings.
4. Label the power poles.

### *Landscape Plans*

1. Provide a landscape plan that identifies the species, location, size of the plants and any landscaping, and including pictures of the type of plants and landscaping to be added.
2. Include an irrigation plan that complies with the City's Water Efficient Landscaping Ordinance.
3. Landscape plans shall comply with the County of Los Angeles Fire Department Fuel Modification Guidelines.

### *Grading Plans*

1. Show the location of all proposed cut and fill slopes.
2. Provide quantities of cut and fill and their ultimate disposition.
3. Identify any retaining walls, including the size (length, height, and any other information).
4. Include LID and drainage information from the Drainage Report/VTTM.

The above are listed in the following City handout: [https://cityoflcf.org/wp-content/uploads/2020/02/Requirements\\_for\\_Plans.pdf](https://cityoflcf.org/wp-content/uploads/2020/02/Requirements_for_Plans.pdf)

### Vesting Tentative Tract Map (VTTM)

#### *Required Submittals*

This application requires the following supportive documentation:

1. Tentative Map Easement Affidavit
2. Tentative Map Disclosure Affidavit
3. Tentative Map Supplemental Information

These forms are fillable documents and can be found on the City's webpage that outlines required submittals: <https://cityoflcf.org/connectlcf-submittals/>.

#### *Required Information on the Map*

The submitted TTM does not adequately identify all information necessary for analyzing the proposed project, including:

1. Map shall be revised to state "City of La Cañada Flintridge" and identify the number and types of parcels.
2. Lot Numbers – A number shall be assigned to each air space parcel including designated common/open spaces.
3. Condominiums – when a map is a condominium or lease project, the following information shall be indicated on the map:
  - a. All vehicular and pedestrian access ways, including widths of such ways.
  - b. All vehicle parking space dimensions.
  - c. All recreation and service areas and facilities.
4. Revised Woodleigh Lane per the comments above and show the additional five-foot of right-of-way dedication.

The above are listed in the following City handout: [https://cityoflcf.org/wp-content/uploads/2020/02/Required\\_Submittal\\_Preparation\\_of\\_Tentative\\_Maps.pdf](https://cityoflcf.org/wp-content/uploads/2020/02/Required_Submittal_Preparation_of_Tentative_Maps.pdf)

### Tree Removal Permit

There are no outstanding items for this application.

### Density Bonus

Staff understands that you are requesting a Density Bonus based on state law and Zoning Code Section 11.19 Affordable Housing Density Bonus. An application identifying all information required by state law in order for the City to prepare a Density Bonus Agreement shall be submitted. Since this is one application that cannot be submitted electronically through the Connect LCF online portal, a paper application is attached. The Density Bonus Agreement will be prepared by the City's legal representation and processed concurrently with the proposed project. The fee associated with the Density Bonus Agreement will include a deposit of \$2,000, with charges at the fully allocated hourly rates for all personnel involved, including any outside costs.

### California Environmental Quality Act (CEQA)

The CEQA process required will be determined when the application is deemed complete.

### Los Angeles County Fire Department Review

The applicant is responsible for submitting for review to the LA County Fire Department, Fire Prevention Division, Land Development Unit, including the VTTM and Conditional Use Permit through the EpicLA online system. Expect comments, plan check fees and additional correspondence from that agency.

Please resubmit revised plans and materials based on the information provided above. The City reserves the right to provide additional comments based on the submittal of revised plans.

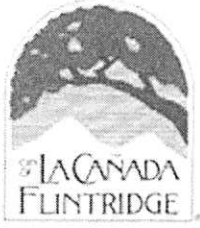
We look forward to working with you and Cedar Street Partners on this project.

Sincerely,



Susan Koleda, AICP  
Director of Community Development

# EXHIBIT 9



**MINUTES OF THE CITY OF LA CAÑADA FLINTRIDGE  
REGULAR PLANNING COMMISSION MEETING  
HELD ON THURSDAY, JANUARY 12, 2023**

**CALL TO ORDER**

Commissioner Kindhouse called the meeting to order at 6:47 p.m.

**ROLL CALL**

Also present were Commissioners Oh and Hazen. Chair McConnell and Vice Chair Mehrotra were both absent.

**PLEDGE OF ALLEGIANCE**

The Flag Salute was recited.

**COMMENTS FROM THE PUBLIC**

There were none.

**REORDERING OF THE AGENDA**

The agenda was not reordered.

**CONSENT CALENDAR**

1. **Planning Commission Minutes:**
  - a) Regular Planning Commission Meeting of October 27, 2022
  - b) Special Planning Commission Meeting of November 17, 2022

M/S/C - Oh/Hazen to approve the Minutes. Approved 3-0.

**CONTINUED PUBLIC HEARINGS**

There were none.

**PUBLIC HEARINGS**

There were none.

**OTHER BUSINESS**

Were reviewed.

2. **Report of Director's Reviews:**
  - a) **Hillside Development Permit (HILL-2022-0014); Dolmayan; 364 Corona Drive:** A request to allow a 599 square-foot single-story addition to an existing single-story addition to an existing single-story residence located on a hillside lot at 364 Corona Drive.
  - b) **Hillside Development Permit (HILL-2022-0051); Copper; 3900 Chevy Chase Drive:** A request to allow expansion of an unroofed rear-yard deck located at 3900 Chevy Chase Drive.



- c) **Hillside Development Permit (HILL-2022-0043); Habib; 5801 Ocean View Boulevard:** A request to allow a 462 square-foot addition to an existing single-story residence at 5801 Ocean View Boulevard.
- d) **Director's Review – Setback Modification (EXCP-2022-0005); Taheri/Mahmoudian; 5244 Stardust Road:** A request to allow a 1,051 square-foot addition to encroach 1'-6" into the required north side yard setback at 5244 Stardust Road.

## **CONCLUDING BUSINESS**

### Commissioner's Comments

There were none.

### Staff Comments

Director Koleda indicated that she would not be attending the upcoming Regular Meeting of January 26, 2023. Principal Planner Stadnicki will attend in her place.

Director Koleda explained that the State (HCD) did not find the draft Housing Element that was submitted to them for review in December 2022 in substantial compliance with state housing law. However, a very productive meeting took place with staff and HCD on January 12, 2023, where they identified only a few corrections that the City must make in order for the Housing Element to be in conformance. The next step would be to make the HCD requested changes and submit the Housing Element to the City Council for approval and then resubmit to HCD.

## **ADJOURNMENT**

M/S/C - Kindhouse/Oh to adjourn the meeting at 6:51 p.m. Approved 3-0.



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Secretary to the Planning Commission

**EXHIBIT 10**

City of La Cañada Flintridge  
City Council Minutes  
Special Meeting



Tuesday, February 21, 2023  
City Council Chambers  
One Civic Center Drive  
La Cañada Flintridge, CA 91011

**SPECIAL CITY COUNCIL MEETING – CLOSED SESSION**

**CALL TO ORDER:** Mayor Eich called the Special Meeting to order at 5:20 p.m.

**ROLL CALL:** Councilmember Kim Bowman, Michael T. Davitt, Terry Walker, Mayor Pro Tem Richard B. Gunter III, and Mayor Keith Eich.

Councilmember Kim Bowman participated via teleconference.

**STAFF PRESENT:** City Manager Alexander, City Attorney Guerra, Director of Community Development Koleda, Interim Director of Administrative Services Parseghian, and City Clerk Garcia.

**COMMENTS FROM THE PUBLIC**

City Attorney Guerra read the Closed Session titles into the record.

**CLOSED SESSION**

**1. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION**

[Pursuant to Government Code Sections 54954.5(c), 54956.9(d)(1)]

**Case Name:** Tripathi v. City of La Cañada Flintridge

**Case Number:** Los Angeles County Superior Court Case No. BC 633162

**2. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION**

[Pursuant to Government Code Sections 54954.5(c), 54956.9(d)(1)]

**Case Name:** Orozco v. City of La Cañada Flintridge

**Case Number:** Los Angeles County Superior Court Case No.3003410

**3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

[Initiation of Litigation Pursuant to Government Code Sections 54954.5(c), 54956.9(d)(4)]

**Number of Cases:** One (1)

The City Council convened into Closed Session.

**RECONVENE OPEN SESSION AND ANNOUNCE ANY ACTION TAKEN**

City Attorney Guerra noted that Councilmember Bowman participated in the Closed Session discussions via teleconference. He reported that the City Council discussed items one, two and three. The City Council was provided with an update on each item but no reportable action was taken.

**COMMENTS FROM THE CITY COUNCIL:** None

**ADJOURNMENT**

A **MOTION** was made by Mayor Pro Tem Gunter, seconded by Councilmember Davitt, and carried (5 – 0), to adjourn the Special meeting at 6:36 p.m.

DocuSigned by:

*Tania Garcia*

94AE4A4BA9FF48B  
Tania Garcia, City Clerk

Minutes approved by the City Council on May 16, 2023.

City of La Cañada Flintridge  
City Council Minutes  
Regular Meeting



Tuesday, February 21, 2023  
City Council Chambers  
One Civic Center Drive  
La Cañada Flintridge, CA 91011

**REGULAR CITY COUNCIL MEETING**

**CALL TO ORDER:** Mayor Eich called the Regular Meeting to order at 6:37 p.m.

**ROLL CALL:** Councilmember Kim Bowman, Michael T. Davitt, Terry Walker, Mayor Pro Tem Richard B. Gunter III, and Mayor Keith Eich.

Councilmember Kim Bowman participated via teleconference.

**STAFF PRESENT:** City Manager Alexander, City Attorney Guerra, Director of Community Development Koleda, Director of Finance Kung, Director of Public Works DeChellis, Interim Director of Administrative Services Parseghian, Senior Management Analyst Nguyen, and City Clerk Garcia.

**PLEDGE OF ALLEGIANCE:** Lieutenant Vienna led the pledge of allegiance.

**COMMENTS FROM THE PUBLIC:** None

**PRESENTATIONS:**

**a) Public Safety Update**

Chief Pat Sprengel, Assistant Fire Chief, Los Angeles County Fire Department presented the Fire Activity update. He reported 130 responses with 87 patients receiving medical services and 57 patients transported. There were 2 fires in the month. The most significant fire was a structure fire caused by faulty electrical that caused approximately \$200,000 worth of damages. The second fire was caused by an outside warming fire. He reported eight hazardous conditions and eight traffic accidents. The safety tip of the month is carbon monoxide awareness. Lastly, he reported that the National Weather Service issued a warning for extreme low temperatures, high wind, and low elevation snow Tuesday night through Saturday. He anticipated closure of Angeles Crest Highway.

Lieutenant Vienna presented the Crime Report update for January 2023. He reported zero murders, rapes, grand thefts autos, and arsons. He also reported one robbery, one aggravated assault, 14 burglaries, and 35 thefts. He advised that the robbery was at the 76 gas station and the suspect was arrested. The aggravated assault was a drunk driver who hit a security vehicle at Jet Propulsion Laboratory. He commented on a break-in at Paradise Elementary School. There were 35 larcenies, five were vehicle burglaries, six thefts from unlocked vehicles, and 18 catalytic converter thefts. There were four vandalisms, one narcotics arrest, and two identity thefts. There were 16 reported collisions, 11 were non-injury and five with injuries. There were 70 citations and 48 warnings issued. With regards to the Flock Camera System, there were two vehicles recovered, one arrest, and 25 stolen felony case hits. Traffic collisions decreased from 22 in December to 16 in January. Traffic citations decreased from 99 in December to 70 in January. There were seven trespassing or possible trespassing calls. He noted that a family reported a broken window and bullet fragment

that entered their home. No one was injured and the incident was reported after it happened. He announced that the City and Sheriff's Department have invited the Homeless Outreach Services team and Los Angeles Homeless Services Authority to present at the March 7, 2023 City Council meeting on the issue of homelessness. Also, the City and Sheriff's Department continue to work on a public education campaign to mitigate some of the burglary issues. He announced a catalytic converter etching event on March 4, 2023 at La Cañada High School. In closing, he urged the public not to drink and drive and wished everyone a happy Mardi Gras.

#### **b) City Treasurer's Report**

City Treasurer Kelly Wine presented the City Treasurer's report for the month of January. Although there were no bond purchases or redemptions, the total investments continued to gain better returns due to generous money market rates. She reported no changes in ending balances from the previous month's balances of 24.5 million in bonds and 19.3 million in money market and cash. She informed that January was a month of investor enthusiasm due to indicators of inflation easing. The two-year benchmark treasury note dropped and there is a continuing strength in jobs. Also, consumer spending picked up indicating a rebound in household income and ability to spend. The Federal Reserve will continue to raise interest rates to try to slow the economy and cool inflation. They meet again in March and are expected to raise borrowing rates. She indicated that they would continue to maximize the current benefit of money market rates.

#### **c) Staff Update on Pending Projects**

Director of Public Works DeChellis reported that the remaining items for the Foothill Boulevard Link Bikeway and Pedestrian Greenbelt Project include the new landscape and completion of the bus shelter. Due to the rain, completion is anticipated by mid-March. The remaining item for the Soundwall Phase III Project is the landscaping and will be completed by March. The bid opening for the 2023 Citywide Street Resurfacing Project will be on March 9, 2023, and completed by early July. The bid opening for the 2023 Miscellaneous Concrete Repair Project will be on March 16, 2023, and completed in June. The Soundwall Phase IV Project will be considered by the California Transportation Commission on March 23, 2023. If approved, the construction will start late spring or early summer. Lastly, the plans for the Sister City Friendship Path Project are being finalized, construction will begin in May and finish in July.

In response to a question raised by Mayor Eich, Director of Public Works DeChellis advised that the Soundwall Construction on Interstate 210 Freeway Phase II Project will be re-advertised for bids. City Manager Alexander added that Public Works will be scoping the project differently combining phase two and phase four to get a better economy of scale.

#### **REORDERING OF AND ADDITIONS TO THE AGENDA:**

The City Council agreed to discuss and consider item 12 before item 11.

#### **CONSENT CALENDAR:**

In response to a question raised by Mayor Eich, City Clerk Garcia indicated that Youth Council members entering grades 9 -11 serve a two-year term and members entering grade 12 serve a one-year term. Also, staff would contact school administrators regarding the school appointments.

A **MOTION** was made by Councilmember Walker, seconded by Mayor Pro Tem Gunter, and carried (5 – 0) to approve Consent Calendar Items 1 – 10.

- 1. Approval of Minutes of the City Council Meetings:**
  - a) Special City Council Meeting of September 12, 2022
  - b) Special City Council Meeting of October 18, 2022**(Approved 5 – 0, as recommended)**
  
- 2. Approval of Warrant Resolution No. 23-03 dated February 21, 2023, for \$1,624,453.34**  
**(Approved 5 – 0, as recommended)**
  
- 3. Receive and File Commission Meeting Action Agendas:**
  - a) Design Commission Action Agenda for February 2, 2023
  - b) Parks and Recreation Commission Action Agenda for February 8, 2023
  - c) Planning Commission Action Agenda for February 9, 2023**(Approved 5 – 0, as recommended)**
  
- 4. Receive and File Public Safety Reports for January 2023**  
**(Approved 5 – 0, as recommended)**
  
- 5. Receive and File Monthly Report of Investments for January 2023**  
**(Approved 5 – 0, as recommended)**
  
- 6. Resolution Appointing a Voting Delegate and Alternate Voting Delegate to the California Joint Powers Insurance Authority 2023 Annual Board of Directors Meeting**  
**(Approved 5 – 0, as recommended)**
  
- 7. City Manager’s Annual Report of City Activities: 2022**  
**(Approved 5 – 0, as recommended)**
  
- 8. Schedule for Appointments to Fill Expiring Terms on City Commissions and Committees**  
**(Approved 5 – 0, as recommended)**
  
- 9. Rejection of all Bids Received for the Soundwall Construction on Interstate 210 Freeway, Phase II Project (Contract 22/23-6)**  
**(Approved 5 – 0, as recommended)**
  
- 10. Update on County Fire Brush Clearance Inspections**  
**(Approved 5 – 0, as recommended)**

**PUBLIC HEARINGS:**

- 11. Adoption of a Resolution Authorizing a General Plan Amendment (PLAN-2022-0003), Adopting the Revised 2021-2029 Housing Element and Finding the Project Exempt from the California Environmental Quality Act**

Director of Community Development Koleda explained that the second draft of the Housing Element (HE) was adopted by the City Council on October 4, 2022 and submitted to the California Department of Housing and Community Development (HCD) the same week. Staff received comments from HCD on December 6, 2022 indicating that the HE was not in substantial compliance. After receiving the letter, the City met with HCD on January 12, 2023 in which two Councilmembers participated as members of the subcommittee. She stated that she would be going over the comments provided by HCD and clarifications that the City is required to incorporate into the HE.

The first item is that HCD confirmed that the two alleged cases of fair housing violations and litigation do not exist. This was actually HCD reading it incorrectly. The second item they asked the City to identify was that the proposed distribution of RHNA units improves access to high resource opportunity areas. HCD did note that all sites were in proximity to I-210 and State Route 2. The City advised that Foothill Boulevard is the only area that the City has access to public sewer, public transportation, and commercial services. Subsequently, HCD asked the City to add Program 24 that would add mitigation to air quality to satisfy that comment. With regards to the religious institute overlay zone area, HCD was concerned that the City had not demonstrated that the existing development of these sites would not be an impediment to future development. The City had noted that the religious institute overlay zone was calculated at 50 percent of parking and open space. HCD supported the calculations because it proves that the existing development would not be an impediment. The City also noted that we have been in conversations with several of the faith-based institutions and they have indicated a desire to partner with developers for affordable housing projects. HCD also requested to include in the HE, as a good faith measure, that the City contacted all commercial and religious institutions twice when reviewing the sites inventory. The commercial and religious institutions that provided details on insurmountable impediments were removed from the sites inventory. They also asked the City to revise the adoption resolution to include additional language on the non-vacant sites as required by state law. Also, HCD verified that, because the draft HE was submitted prior to October 15, 2021, AB 2339 does not apply. The seventh item is that HCD and the City agreed on the revised reasonable accommodations ordinance revisions. The City and HCD also discussed that there were no changes to the site inventory from the second version of October 4<sup>th</sup>. The revisions focused on providing additional detail and not substantive changes. The HE also indicates that the City followed all the public hearing notices, published this version of the HE on the City's website and sent a notification email with a link to all those who previously requested information.

Director of Community Development Koleda said that one of the themes in the discussion with HCD were the constraints that the City had to deal with which included: very little undeveloped land; 3 – 4 percent commercial vacancy rate; small and narrow / shallow commercial parcels; HCD advised the City not to rezone R-1 parcels; parks / open space generally joint use; City owns no surplus land; and no land zoned for industrial. She then explained that the certification process was as follows: second adopted HE not accepted by HCD on December 6, 2022; revised HE posted on City's website on February 10, 2023; and HE resubmission by February 24, 2023. Lastly, since the posting of the agenda packet, staff received several inquiries regarding the "self-certification" process identified in Government Code 655858(f)(2). The City Attorney, City's housing consultants, and staff had several discussions regarding self-certification and whether it was



appropriate. The consensus was that self-certification is not an option for the City. In closing, she recommended that the City Council adopt the proposed resolution.

In response to a question raised by Councilmember Bowman, City Attorney Guerra explained that there is a provision in state law pertaining to the adoption of the sixth revision of the housing element. Under this law, the HE must be found substantial compliance by HCD. He confirmed that Government Code 655858(f)(2) is on the books. However, the provision appears to be a leftover provision from prior versions of the housing element law where the City could possibly self-certify its compliance with state law. He advised that he does not know what HCD would do if the City decides to self-certify.

Mayor Eich asked if it is possible to do both self-certification and submit to HCD.

City Attorney Guerra responded that the City could add a statement in the resolution stating that the City self-certified, or certify that the October 4<sup>th</sup> version did comply with state law. However, what HCD will do with that he cannot say. If the City Council desires, they could modify Section Five to read “The City Council hereby approves General Plan Amendment Plan 2022-003 adopting the 2021-2029 Housing Element, which is hereby incorporated into the City of La Cañada Flintridge General Plan. Further, the City Manager or Community Development Director is hereby authorized to make minor modifications to the 2021-2029 Housing Element in response to comments from the California Department of Housing and Community Development, provided said modifications do not affect or contradict policies and programs adopted by the City Council. The City further certifies that the City's Housing Element was in substantial compliance with state housing element law as of the October 4, 2022 Housing Element adopted by the City Council, and will continue to be compliant with state housing element law with the Housing Element adopted by this resolution.” This statement will support that the City believes, that at the time the City submitted the HE in October 4, 2023, the City believed it was in substantial compliance.

Mayor Eich opened the public hearing at 8:21 p.m.

Linnea Lourenco, resident, mentioned that she brought with her a copy of the October 4<sup>th</sup> adopted HE and it represents all the diligent work by staff, officials, and subcommittee. She respectfully requested the City Council's leadership in certifying the HE as being substantially compliant and protecting the City through the adoption of a resolution that has been modified. The document was adopted on October 4<sup>th</sup> and it is complete without any further changes. As mentioned by Ms. Koleda, the state also agrees with this position and only asked clarification. She asked why the state has not certified the HE and what is the holdup. The delays from the process of HCD leaves the City unprotected against penalties and loopholes. She noted that self-certification allows for cities to adopt its housing element without changes and include written findings. She advised that the Association of Bay Area Governments have created templates for their cities allowing them to self-certify while still pursuing state certification. She mentioned a few cities who have self-certified. Even the California for Homeownership recognizes self-certification as a viable solution in its settlement agreement with South Pasadena. She requested that the City Council keep the clarification language requested by the state in the body of the adoption resolution as it is now, add the suggestion made by the City Attorney, and add exhibits for written findings of substantial compliance using templates available from other jurisdictions. She reiterated that every day that

passes without any certification, leaves the City exposed to penalties and loopholes. The City Council's decision to self-certify while still pursuing state certification will benefit the community.

Julia Gaskell, resident, voiced that she wants to make sure that the October 4<sup>th</sup> date for adoption for the HE remains and that it isn't February 23<sup>rd</sup>. She wants to make sure that the clarifications were based on the adopted HE of October 4, 2022. She noted that she is concerned because the cover page states "third HCD submittal February 23, 2023" and the subsequent 21 pages state "adopted February 23, 2022." She proposed changing that to "approved and submitted February 23, 2023" to avoid mix-up with when the HE was adopted. She advised that, at the February 9, 2023 Planning Commission meeting, two members asked what the date of adoption would be. Ms. Koleda responded that it would be October 4, 2022.

Mayor Eich closed the public hearing at 8:31 p.m.

In response to questions raised by Councilmember Walker, Director of Community Development Koleda explained that HCD does not allow clarifications included as attachments or in the form of a resolution. The HE itself must be revised to incorporate the clarifications. The City's third submittal is listed as the third submittal in the HCDs website.

In response to a question raised by Mayor Eich, Director of Community Development Koleda indicated that the City is not required to adopt the HE prior to submitting it to HCD. She noted that HCD may take issue with the City using the October 4<sup>th</sup> date which was the second submittal when the City submits for the third time.

In response to a question raised by Mayor Eich, Director of Community Development Koleda responded that the date in the header is used for tracking purposes. This way, HCD and the City are aware of which version is being looked at.

Councilmember Bowman stated that the City Council has not discussed the attachments to the resolution issue brought up during public comments.

In response to a question raised by Councilmember Bowman, City Attorney Guerra advised that Government Code 655858(f)(2) requires the City to provide findings in the HE itself.

Councilmember Bowman asked if the City needs additional language in Section Five to meet Government Code 655858(f)(2) requirements or if attachments need to be included.

City Attorney Guerra responded that, if the City Council is interested in pursuing the self-certification, he would then suggest beefing up the findings to support that and somehow make it consistent with the fact that the City is adopting the updated version which is going to be submitted to HCD. He would need additional time to mesh them together to make them legally consistent.

In response to a question raised by Mayor Eich, City Attorney Guerra noted that the self-certification would be in the resolution. Staff can look at the templates mentioned by Ms. Lourenco for language to incorporate. He reiterated that if the City Council wants to pursue self-certification,

he would want to mesh them because he would hate for HCD to reject the resolution and submission because of the two different approaches.

Councilmember Walker stated that the City wants to get this passed in the most expedient way possible and delaying it only makes the City more vulnerable. If there is a way to latch on to the October 4<sup>th</sup> date, it would be great.

City Attorney Guerra read the suggested language for Section Five of the resolution.

Mayor Pro Tem Gunter noted that HCD has told the City that they do not accept self-certification. The City cannot make a state agency do something. Section Five indicates that it is the City's position to have a compliant HE by October 4<sup>th</sup>. Concurrently, the City recognizes the state has regulatory powers that are beyond the City's ability to control. The City is trying to get HCD to agree as soon as possible while still protecting the City's future rights. He noted that if the City tries to exercise self-certification, then the City is not truly submitting the HE to HCD.

Councilmember Bowman noted that the language in the law is substantially compliant. He noted that the City could note in the resolution that the City believes it was substantially compliant in October.

Mayor Pro Tem Gunter noted that, when the City met with HCD, they indicated that the City had it right but asked us to explain how it is right. Therefore, the City did not make any changes, only added clarification language. However, the prudent thing to do now is submit the HE as fast as possible.

Councilmember Bowman noted that the City is being incredibly consistent about its position as to the HE of October 4<sup>th</sup> and articulated that as clearly as possible. He asked City Attorney Guerra if he needs more time to amend the resolution so that the City is consistent rather than just the assertion that the City believes it is substantially compliant.

City Attorney Guerra responded that the statute provides that the City has to make written findings explaining the reasons why the City believes it was substantially compliant on October 4<sup>th</sup>. If the City is going to implement Government Code 655858(f)(2), then the City should beef up the resolution.

City Manager Alexander asked if a city has submitted their housing element and received certification or approval, and then subsequently asked to amend their housing element, and resubmitted to HCD, would HCD then consider the submission date the first or second date?

Director of Community Development Koleda responded that, until HCD certifies the second submission, the first housing element is still in effect. As soon as a City submits an amendment, it is considered a draft until HCD recertifies the new document.

City Manager Alexander noted that Ms. Koleda previously stated that HCD will consider the resubmission the third version. That would be HCD's action, but the City's action could be to consider this submittal 2.1.

Mayor Pro Tem Gunter asked if there's a reason that the City Council can't approve the resolution with the City Attorney's suggestion. He noted that the City does not have to hold up the submittal. He noted that HCD is not going to change their mind no matter what. He noted that it should be submitted quickly and then talk to senators to try to get some laws changed. The longer we wait, the worse it gets.

In response to a question raised by Mayor Eich, City Attorney Guerra explained that if the City Council desires to pursue the self-certification, he recommends doing it in the strongest way possible for it to be legally defensible.

In response to a question raised by Councilmember Davitt, City Attorney Guerra clarified that the City can submit two separate resolutions. The City Council can adopt a resolution tonight and give staff time to prepare a second resolution. However, he would prefer one resolution even if it takes a few days.

A break was taken from 8:50 p.m. to 9:09 p.m.

City Attorney Guerra advised that, in discussion with staff, he recommends to proceed with the attached resolution with two modifications. On page four of the resolution, the second whereas currently states "on February 10, 2023, the amended third draft of the housing element." He recommended striking the language "third" and read "the amended draft housing element." The second modification would be to add the language he stated earlier at the end of Section Five, which states "the City further certifies that the City's Housing Element was in substantial compliance with state housing element law as of the October 4, 2022 Housing Element adopted by the City Council, and will continue to be compliant with state housing element with the Housing Element adopted by this resolution." He noted that the document will say adopted October 4 amended February 2023. Lastly, he recommended bringing a second resolution at the next regularly scheduled City Council meeting to invoke belt-and-suspenders as Councilmember Bowman mentioned the position that the City is compliant with state housing law as of October 4, 2022.

Councilmember Walker noted that it is important to be consistent and redundancy is not a bad thing. She suggested removing "the document was subsequently revised to comply with state housing law" from the first page. Director Community Development clarified that that section refers to the revisions that were made between the first and the second draft element, not this revised version. She said that we made significant changes between the first and second element.

Councilmember Walker commented that the words "significant changes" and "substantial changes" are throughout the documents. She suggested changing significant to substantive.

Councilmember Walker recused herself because of property boundaries on the site plan from sites 77, 1, 2, 3, 19, 21, 22, 23, 27, 28, 29, 110, 111, 112, 113, 1400 Foothill Boulevard, and 79.

A **MOTION** was made by Councilmember Davitt, seconded by Mayor Pro Tem Gunter, and carried (5 – 0, with the aforementioned recusals by Councilmember Walker) to adopt the proposed Resolution with the revision to the second recital on page four removing the word "third"; add the

statement in Section Five as stated by the City Attorney regarding the substantial compliance date of October 4, 2022; add a signature line for the City Attorney approving the resolution as to form; make minor non substantive changes to clarify in the resolution any October 4<sup>th</sup> dates that might be relevant; and review significant versus substantive wording to be consistent with direction from the City Council. Direct staff to prepare a separate resolution with regards to self-certification. Lastly, direct staff to forward the Adopted Housing Element to the Department of Housing and Community Development.

**ORDINANCES:** None

**OTHER BUSINESS:**

**12. Approval of the Mayors' Discovery Park Recreational Enhancements Conceptual Plan**

Item 12 was considered and discussed before Item 11 as requested by the City Council.

Interim Director of Administrative Services Parseghian explained that the City is slated to receive approximately \$190,000 in Prop 68 funds to encourage recreational activities at various facilities owned by the City or with a 10-year lease. The City, School District, and Parks and Recreation Commission have looked at various options and determined that Mayors' Discovery Park is the optimal location. As part of this project, the Commission has held countless public hearings. The residents voiced their opinions that Mayors' Discovery Park is a quaint park and would like to keep it this way. He presented the recommendations prioritized by the Commission. They recommended the installation of a playground where the current sandbox is located, installation of outdoor exercise equipment, replacement of the fountain with a stage, installation of a bocce ball court, and replacing the existing benches with gameboard benches. Staff is also recommending LED retrofit lighting. These items are eligible totaling at approximately \$237,000. He advised that staff is not supporting the Commission's recommendation of a dog waste station because it would increase the number of dogs off leash. Because of the double gate, the park acts as an unofficial dog park. All the enhancements will be ADA accessible and would maximize green space. Lastly, the City will take this opportunity to initiate a couple of maintenance items that will be paid with general funds. The estimated project cost is \$280,000. The project is estimated at \$190,000 and the rest will cover the maintenance items. He presented the schematics of the layouts including the site plan, drawings of the playground, gameboard benches, stage, exercise equipment, and bocce ball court.

In response to a question raised by Mayor Eich, Interim Director of Administrative Services Parseghian clarified that all dogs must be on a 6 foot or less leash at City owned facilities per Code.

In response to questions raised by Councilmember Bowman, Interim Director of Administrative Services Parseghian noted that staff is recommending mulch and not rubberized asphalt because of the cost. Rubberized asphalt would cost \$40,000 - \$45,000 more. The current plan proposes rubberized asphalt on the paths leading to the playground. The proposed playground equipment is based on extensive conversations with the vendor. Their proposal is based on interactions with other municipalities and the playground at Memorial Park. Staff is proposing a swing set which is

popular for younger kids. Also, a color that blends with the environment. Lastly, he noted that Councilmember Bowman sent staff a firetruck-themed playground option that might work out. Councilmember Bowman noted that the firetruck-themed playground he shared with staff has a similar footprint and cost.

Interim Director of Administrative Services Parseghian added that he has been in discussions with Landscape Structure, Inc. but the City Council may choose to go with a different vendor if the footprint does not change.

In response to a question raised by Mayor Eich, Interim Director of Administrative Services Parseghian advised that the fence around the playground is not required. However, the rubberized asphalt path is required.

Mayor Eich opened the public comment period at 7:13 p.m.

Maura Brown, resident, spoke in support of the proposed plan. She explained that Mayors' Discovery Park is unique for its privacy, security, charm, and adds a carousel of activities. The proposed plan has something for the community's youngest members and eldest members. The plan proposes quiet activities that can be done simultaneously without impacting the enjoyment of others. She added that it might be time to revisit the conversation of a dog park in the City. Nonetheless, she does not believe that the park is well served by converting it to a single activity when it has the natural structure to serve a variety of people. She urged the City Council to approve the proposed plan and thanked the Commission and staff.

Sally Spangler, resident, indicated that she frequents the park often with her dog. She commented that her dog is too active for her to walk him safely on the streets. Mayors' Discovery Park offers a closed environment that is safe for dogs. The playground equipment and Gazebo at Memorial Park are fabulous and well used. She said that the School District office has a stage that is never used. She noted that she visits Mayors' Discovery Park often and does not see what the previous speaker cited. She believes there's more people who desire a dog park. She indicated that the exercise equipment on Cornishon is always empty. As far as bocce ball, a court is not required, all one needs is equipment.

Christin Schmidt, resident, commented that the purpose of renovating Mayors' Discovery Park is to maximize the green space. The proposed rendering includes a lot of mulch, rubberized asphalt and concrete. It doesn't make sense to get rid of the grass and adding other materials. He asked if the grant would cover converting the park into a dog park. He also noted that his father who did not attend the meeting supports the idea of converting it to a dog park.

Interim Director of Administrative Services Parseghian clarified that Prop 68 funds are for recreation activities for humans and it does not cover a dog park. He also clarified that the exercise equipment will be on decomposed granite to make sure it drains without creating water issues.

Mayor Eich clarified that the park is the entrance to the Church of Jesus Christ of Latter-day Saints. There is a walkway from the park to the softball fields.

Deborah Pitts, resident, commented that she has 14 dogs. She noted that she has a disability that prohibits her from walking long distances. She commented that using the park has been a lifesaver. She said that there is a great community of dog lovers in the City. The last time a dog park was proposed, there was not much enthusiasm in the community. She advised that Mayors' Discovery Park is an ideal location because it is enclosed and not large enough for sports. She noted that it does not make sense to spend \$280,000 as indicated by staff or \$500,000 indicated in the agenda report. She commented that the gameboard tables will not be used because of the noise from the freeway. She advised that kids playing a few feet from the freeway is not good for their health. She indicated that the problem with the leash law can be solved with a sentence that states "unless such dog is within a city established and posted dog park or leash optional area."

Korimaya, resident, stated that she previously spoke regarding the accident that involved her elderly dog and her so she can relate with the people who want a dog park. However, she does not think Foothill Boulevard is safe area for a dog park. She commented that the trash isn't being taken out regularly and the vinery is growing. The schematics are beautiful but wished there was less concrete. She noted that Mayors' Discovery Park should be a family space and not just dogs. She noted that the proposed plan will invite more families. She asked, regardless of the outcome, that maintenance be upheld. The bathrooms still do not work and are not accessible to the public. Also, there is construction equipment in the front of the park blocking the pathways. She suggested inverting the fences around the children's play area and enabling an area for dogs to be off leash.

Tracy Feehan, resident, explained that she was at the dedication of Mayors' Discovery Park along with her mother-in-law and former Mayor Joan C. Feehan. The park was intended to be a passive park and not an activity park. It was also setup with a fountain for children that has not been used for a number of years and the entire park has become very neglected. The grass is a mud pit in winter and in summer it's all weeds. Although the rendering is nice it is not accurate, and the trees are not the same. She noted that her dogs love to run around at the park. It's enclosed and would be a perfect dog park for residents that cannot walk the hilly parts of the City. She noted that the proposed exercise equipment will not be used like the equipment at FIS. The gameboard tables will not be used because it is too loud. Kids never use the sandbox because of the deferred maintenance. She also commented on the medians throughout the City that are not acceptable.

James Whooley, resident, spoke in support of the proposed plan. He commented that it is a good plan for the reasons stated by Ms. Brown. He added that it would be nice to plant a few more trees for shade. He noted that the fence around the playground may disrupt the flow of kids running from the grass to the play equipment. He advised that the baseball field on Cornishon is used as an unofficial dog park by a lot of people. He indicated that it is not a good idea to convert Mayors' Discovery Park to a dog park. He supports the plan because it is consistent with what the park was intended for. Lastly, he expressed concerns about young kids around town in powered bicycles, especially on Foothill Boulevard at night, in fast speeds.

Scott Lorenz, resident, thanked staff and the City Council. He spoke in support of the proposed plan. He noted that he has two daughters and has visited the park since it was built. He has been at the park for sport team events, gatherings, and events. A dog park would essentially exclude community members and would serve a single purpose.

Sheila Gluck, resident, stated that there is a neighborhood of houses behind this park. Her house is about 100 feet from the back of the park near the bocce ball court and stage. She asked the City Council to consider putting the noisiest items away from the houses and the quieter items close to the homes, to avoid disturbing residents who live nearby.

Lauren Oakes, resident, commented that about 10-15 years ago she was on a few PTA committees. At that time the PTA funded rubberized asphalt at a few elementary schools because they thought it would be safer for the kids. They had a raft of severe broken elbows, wrists, and legs. They found research from the racehorse industry that horses who fall on rubberized asphalt have a much worse break. So, one of the moms chained herself to a playground structure. Subsequently, the PTA paid to rip out what they had paid to put in and replaced it with wood chips. She asked why we would put impermeable surfaces and pay taxes on it when we can stick to decomposed granite and grass. She noted that her family uses the park for baseball. She supports the idea of playground equipment and adding more trees. She also supports a dog park and adding a fence. She spoke in opposition of the stage and gameboard tables.

Eric Palladino, resident, stated that we can have it both ways if we have the correct fencing that leads to the baseball field. He noted that he moved to the City in 2017 from New York and affirmed that bocce ball will be loud. He noted that, over the years, he has spent a lot of time at the park with his dog and made a lot of friends. He said that Memorial Park and Cornishon are great but the City does not have a dog park.

Mayor Eich closed the public comment period at 7:41 p.m.

In response to questions raised by the City Council, Interim Director of Administrative Services Parseghian noted that the exercise equipment will be decomposed granite with a base of concrete. Staff is proposing a hybrid between the rubberized asphalt for the playground path of travel and the rest mulch. Also, there is a small concrete sidewalk at the entrance. He noted that the restrooms are open and two of the sinks are being fixed. He indicated that the fountain has been off due to maintenance issues and drought conservation requirements. With regards to the exercise equipment at FIS, he has seen people using it, but staff has not collected data.

Mayor Eich noted that the transition from rubberized asphalt to mulch causes a lot of problems.

Interim Director of Administrative Services Parseghian clarified that it is not a requirement to put rubberized asphalt, however, under state and federal ADA laws, every element must be accessible. Decomposed granite surfaces are not accessible surfaces. Although decomposed granite is allowed, it is not soft enough for us to use.

Mayor Eich stated that the fencing could be replaced around the playground with a rock wall that could be a seating area. Interim Director of Administrative Services Parseghian advised that the fence can be replaced with a rock wall if the City Council desires.

Mayor Eich commented on the lot to the south owned by Caltrans and potentially purchasing it for a future dog park. Interim Director of Administrative Services Parseghian advised that the proposed plan would allow for that lot to be a dog park.



Councilmember Bowman explained that he spends a lot of time at the different parks with his kid. Memorial Park has play equipment suited for kids that are a little bit older. Having a space for kids under six makes sense. He added that one park cannot do it all and that there is potential down the road to add a dog park. If we want to have more green space it's going to take efforts by the community, City and School District to redo the areas between Verdugo Boulevard and Chevy Chase Drive, between Foothill Boulevard and north down. Rather than dividing a small park, we need to grow the green space. He spoke in support of the layout including the exercise equipment. He said that it makes sense to have water permeable areas and accessibility. He commented that mulch is better than sand because it stays cleaner and lasts longer. He indicated that he does not like the playground structure too much. Parts of a playground that get well-used are areas where kids can climb up and slide down, other things are not necessary. The firetruck-themed playground that he shared with staff includes a wheel that kids would love. Also, he sent staff another playground vendor's information to consider. He supports the layout but would like to revisit the playground structure. Also, he agreed that we should remove the fencing around the playground and replace it with a seating area. He noted that he is glad the City is making the most of the space available but would want the community to work harder to try to repurpose more space.

Councilmember Davitt noted that the challenge when you try to redesign something is that you are going to have 12 versions and 12 different opinions, and 50 different people with different things they want. The City Council is trying to balance this with what is best for the overall community. This has gone through a vetting process with comments from the public and Commission. The improvements are necessary, and the improvements presented are fine with small tweaks to the playground equipment and fencing. He indicated that he is fully supportive of moving forward with the conceptual design and addressing the concerns about rubber, grass and play equipment.

Mayor Pro Tem Gunter concurred with Councilmember Davitt. He expressed his support to the proposed plan. He noted that Councilmember Bowman made good observations. The Commission did a thoughtful job listening to all the different folks and making sure our parks are the best they can be. There is time to fine tune a few things but supports the improvements and pursuing the grant.

Councilmember Walker commented that one of the technicians at her pet clinic once told her that she would never take her kids to Mayors' Discovery Park because it is a dog park and has deferred maintenance. She indicated that the park was not designed as a passive park it was designed as a family park, that's the reason it has a kitchen. Somehow it morphed into a dog park. Although she would love to see a dog park in the City, this park was designed for families for older and younger generations to enjoy. She spoke in support of the concept but not the fence around the playground. She indicated that dogs are not excluded, they just have to be on a leash. She agreed that we could tweak the playground equipment.

Mayor Eich thanked staff, residents, and the Commission. He spoke in support of the park being multiuse and not having a specific use. Families often see the park as being in disrepair so as part of this project he hopes to add a routine maintenance plan to keep the park beautiful. He spoke in support of adding a dog waste station. He would also like to clean the kitchen and paint the bathrooms. He asserted that bocce ball is not a loud sport and likes that the court will have other uses. He would like a second look at the rubberized asphalt and fencing, and the playground structure. He agreed with Councilmember Bowman that kids like to climb up and slide down.

Interim Director of Administrative Services Parseghian stated that staff has the direction needed and will fine tune the design. The next step is to apply for the grant and prepare the bid documents. He advised that staff will make changes to the proposed fencing and rubberized asphalt.

In response to a question raised by Mayor Eich, Interim Director of Administrative Services Parseghian indicated that the Commission has discussed the possibility of purchasing the Caltrans lot and will continue this discussion.

**CONCLUDING BUSINESS:**

**Meetings attended at the expense of the local Agency -**

Mayor Eich reported that he attended a City Selection Committee meeting. The Committee is in the process of appointing members to the Los Angeles Affordable Housing Trust Fund. He attended a ribbon cutting ceremony for Everson Clare on February 15, 2023 and Chamber Mixer hosted by Fresh Brothers Pizza on February 16, 2023. Lastly, he attended worship services and lunch at the Lutheran Church in the Foothills honoring their 75<sup>th</sup> anniversary on February 19, 2023.

Councilmember Davitt reported that he attended a California Contract Cities Association Board meeting on February 16, 2023, in the City of Monterey Park in which they recognized Brandon Tsay who disarmed the Monterey Park shooter in Alhambra.

Councilmember Walker reported that she attended the ribbon cutting ceremony for Everson Clare.

**Regional and local representation – None**

**Request for future agenda items –**

In response to a question raised by Councilmember Bowman, Councilmember Davitt explained that the leaf blower subcommittee will be meeting soon, and he will report back in a few weeks.

Mayor Eich noted that the City Manager’s job opening has been posted.

**Councilmembers’ comments – None**

**City Manager and/or staff comments –**

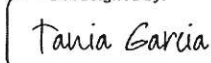
Director of Public Works DeChellis announced the upcoming neighborhood meetings on the Soundwall Phase IV Project on February 22, 2023, from 6 p.m. – 8 p.m., March 1, 2023, from 6 p.m. – 8 p.m., and March 2, 2023.

City Manager Alexander noted that the Annual City Manager’s Report for 2022 is on tonight’s agenda and commended staff for their hard work.

**MOTION TO ADJOURN:**

A **MOTION** was made by Mayor Pro Tem Gunter, seconded by Councilmember Davitt, and carried (5 – 0), to adjourn the Regular City Council meeting at 9:24 p.m.

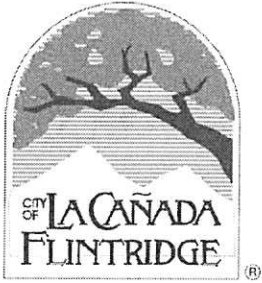
DocuSigned by:



Tania Garcia, City Clerk

Minutes approved by the City Council on May 16, 2023.

**EXHIBIT 11**



City Council  
Keith Eich, Mayor  
Richard B. Gunter, Mayor Pro Tem  
Kim Bowman  
Michael T. Davitt  
Terry Walker

March 1, 2023

Alexandra Hack  
Cedar Street Partners LLC  
500 North Brand Boulevard, 20<sup>th</sup> Floor  
Glendale, California 91203

**RE: Application Completeness Determination for Conditional Use Permit (USE-2023-0016), Tentative Tract Map 83375 (LAND-2023-0001), and Tree Removal Permit (DEV-2023-0003) for Mixed Use Project located at 600 Foothill Boulevard**

Dear Ms. Hack,

This letter shall serve as a supplement to the City's letter of February 10, 2023 (which is incorporated herein by reference), where the City reserved the right to provide additional comments. The application is still deemed **incomplete**, as specified in the aforementioned letter. Per City policy and as documented during the application process, the City considers the effective date of an application as the day the applicable invoice(s) are paid. Therefore, since invoices for your applications for Conditional Use Permit, Tentative Tract Map and Tree Removal Permit were paid on January 31, 2023, the 30-day period for comments per the California Permit Streamlining Act is March 1, 2023.

Based on the City Council's recent determination that the City's 2021-2029 Housing Element that was adopted on October 4, 2023 was substantially compliant with state housing law, your applications for Conditional Use Permit (USE-2023-0016), Tentative Tract Map 83375 (LAND-2023-0001), and Tree Removal Permit (DEV-2023-0003) for mixed use project located at 600 Foothill Boulevard will be processed in accordance with the adopted Housing Element. Should the City receive additional information that this project qualifies as a Builder's Remedy project, the City will certainly consider it. If you disagree with this determination, you may appeal to the Director of Community Development within 10 days of the date of this letter.

Based on the adopted Housing Element, the site at 600 Foothill Boulevard may be developed with multifamily or mixed use with a density of 12-15 dwelling units per acre. The objective development standards applicable to the site, consistent with the Mixed Use 2 designation, are as follows:

- Front setback (Foothill Blvd) – contiguous with front property line or up to an average of 10 feet from the front property line (DVSP Section 7.2.1.1).
- Exterior side setback - fifteen (15) feet average; at no point less than five feet.
- Rear and interior side setbacks - Adjacent to commercial zone: five feet minimum at rear; no minimum at side.
- Building Height. No building shall exceed: (a) Thirty-five (35) feet: to highest point on the building; and (b) twenty-eight (28) feet: to the top of the building wall; both as measured from the nearest adjacent finish grade, except that fill exceeding three feet shall be counted as part of the building height. This method of measurement avoids a penalty for buildings which step with the terrain.
- Exceptions to the Basic Height Standard. Architectural extensions of up to fifty (50) feet in height are allowed for an area of up to ten percent of a building's floor area, provided that the horizontal dimension of each individual extension does not exceed twenty (20) percent of the corresponding building dimension.
- Parking structures - Downtown Village Specific Plan (DVSP), Section 7.4.2.4 (color and minimum lighting level).
- Bicycle parking – DVSP Section 7.4.4.1.

Please submit revised plans and materials based on the information provided above and within the February 10, 2023 letter. The City reserves the right to provide additional comments based on the submittal of revised plans.

Should you have any question, please contact me at [estadnicki@lcf.ca.gov](mailto:estadnicki@lcf.ca.gov) or (818) 790-8881.

Sincerely,



Emily Stadnicki, AICP  
Principal Planner

**EXHIBIT 12**

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March 9, 2023

Susan Koleda  
Community Development Director  
City of La Cañada Flintridge  
One Civic Center Drive  
La Cañada Flintridge, California 91011

**Re: Appeal of City's March 1, 2023 Incompleteness Determination for the 600 Foothill Builder's Remedy Project**

Ms. Koleda,

Our firm represents 600 Foothill Owner, LP ("600 FH LP"), property owner and applicant of the 600 Foothill project ("Project") located at 600 Foothill Blvd. in the City of La Cañada Flintridge ("City").<sup>1</sup> On January 13, 2023, 600 FH, LP submitted an entitlement application for the builder's remedy Project pursuant to the Housing Accountability Act ("HAA"), which included applications for a Conditional Use Permit (USE-2023-0016), a Tentative Tract Map (LAND-2023-0001), and Tree Removal Permit (DEV-2023-0003).<sup>2</sup> On February 10, 2023 the City issued a four page incompleteness determination letter ("Incompleteness Determination"). Subsequently, on March 1, 2023, the City issued a subsequent incompleteness determination ("Subsequent Incompleteness Determination"), which provided the applicant with a 10-day period (i.e., by March 11, 2023) to submit an appeal.<sup>3</sup>

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<sup>1</sup> The Project consists of a 119,650 square foot ("sq. ft."), five-story, mixed use project with 80 mixed-income residential units, 14 local-serving hotel units, 7,287 sq. ft. of office and two levels of underground parking containing 190 vehicle parking spaces on a 1.29 gross acre parcel.

<sup>2</sup> See Gov. Code §§ 65589.5(d). The Housing Accountability Act's "builder's remedy" requires the City to approve an affordable housing project even if there may be inconsistencies with General Plan and zoning use designation and standards.

<sup>3</sup> Per the Community Development Director's March 3, 2023 e-mail to 600 FH LP, there is no filing fee for the appeal of the Subsequent Incompleteness Determination.

Pursuant to Government Code Section 65943(c) and based on the points and authorities below, 600 FH LP hereby submits a timely appeal to the City's Subsequent Incompleteness Determination.

**I. Completeness Determinations are Due within 30 Days of Application Submittal, Not Payment of Application Fees**

As a preliminary point, the City is incorrect that completeness/incompleteness determinations are due 30 days from the date application "fees" are paid. Government Code Section 65943(a) provides that "[n]ot later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project." If the application is determined to be incomplete, the lead agency shall "provide the applicant with an **exhaustive list of items** that were not complete." The list must "be limited to those items actually required on the lead agency's submittal requirement checklist."<sup>4</sup> Further, "if a written determination is not made within 30 days after receipt of the application ... the application shall be deemed complete for purposes of this chapter."

The provisions above do not mention "fees" or "application fees" for purposes of the 30 day deadline. Indeed, if such fees were missing from the application submittal, the City may have been able to identify them as a missing item in the Subsequent Incompleteness Determination itself. The City may not, however, treat missing application fees as a way to extend the 30-day deadline to provide a completeness determination.

Moreover, the Subsequent Incompleteness Determination fails to explain that the City did not generate a fee invoice for 600 FH LP's application submittal until January 17, 2023. If the City's position was correct, it (as well as other cities and counties) would be able to extend the 30-day completeness determination deadline by languishing in generating a fee invoice for applicants.

Further, the provisions above explain that the City had only one opportunity to provide 600 FH LP with an "exhaustive list of items." There is no basis in law for the City to provide multiple completeness determinations (i.e., one on February 10, 2023 and another on March 1, 2023) on the same application, unless and until the applicant has provided a revised or modified application addressing the list of deficient or missing items in the initial Incompleteness Determination. The City's deadline for the "exhaustive list of items that were not complete" was one month from the January 13, 2023 application filing. The Subsequent Incompleteness Determination is late and falls outside the applicable completeness determination window.

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<sup>4</sup> The Incompleteness Determination states that "per the instructions for submittal of applications, the City does not consider an application as submitted until the necessary fees are paid." However, the City ConnectLCF Required Submittals page, Document Submission Standards, and Planning Division application submittals do not state this. See <https://cityoflcf.org/connectlcf-submittals/#plansblt>, [https://cityoflcf.org/wp-content/uploads/2020/02/Requirements\\_for\\_Plans.pdf](https://cityoflcf.org/wp-content/uploads/2020/02/Requirements_for_Plans.pdf) and [https://cityoflcf.org/wp-content/uploads/2020/02/Document-Submission-Standards\\_LCF.pdf](https://cityoflcf.org/wp-content/uploads/2020/02/Document-Submission-Standards_LCF.pdf) accessed March 8, 2023. In fact, step 11 of ConnectLCF "How to Apply" for a permit or entitlement case is silent about payment of fees. Instead, it says that an application case number will be issued once the prior ten steps, none of which requires payment of fees, are completed. See [https://cityoflcf.org/wp-content/uploads/2020/02/CSS-Apply\\_LCF.pdf](https://cityoflcf.org/wp-content/uploads/2020/02/CSS-Apply_LCF.pdf) accessed March 8, 2023.



## II. The Subsequent Incompleteness Determination is Erroneous Because the City Lacks a Substantially-Compliant Housing Element

The City’s Subsequent Incompleteness Determination recites a newly-formed policy decision of the City, chiefly, that the City Council “self-certification” of the October 4, 2023 Housing Element is (and has been) substantially compliant with state housing element laws. Accordingly, the City is unwilling to process the Project under the HAA’s builder’s remedy and erroneously purports that the Project must comply with the October 2023 Housing Element (including the residential density limitation of 12-15 du/ac for the Project site).

As explained below, the City’s unilateral decision to “self-certify” a draft Housing Element from October 4, 2023 — which has undergone substantial revisions and numerous HCD comments since that date — is wholly unlawful under state law. Underscoring the unlawfulness of the City’s actions, the City has not done any of the required rezonings necessary in order to have a substantially compliant Housing Element.<sup>5</sup> While we understand that HCD is preparing a Technical Advisory on Housing Element substantial compliance, the agency has already opined on this type of unlawful approach the City is utilizing. On March 7, 2023, HCD added a *Summary and Clarification of Requirements for Compliance* page to the Housing Element website.<sup>6</sup> Among other things, the web page clarifies that:

- To be in substantial compliance with state Housing Element laws, a local agency must (i) submit a draft Housing Element to HCD, (ii) receive findings from HCD determining that the draft Housing Element is substantially compliant, and (iii) consider HCD findings prior to adopting the Housing Element.<sup>7</sup>
- A jurisdiction does not have the authority to determine that its adopted element is in substantial compliance, but may provide reasoning why HCD should make a finding of substantial compliance.
- A jurisdiction is “in compliance” as of the date of HCD’s letter finding the adopted element in substantial compliance. Any other letters are not a finding of substantial compliance.

This guidance from HCD — the state agency statutorily tasked with enforcing housing element law — directly invalidates the City’s position of unilaterally “self-certifying” an earlier draft of the Housing Element. To be clear, because HCD has not offered any written documentation confirming that the City’s October 2022 draft Housing Element (or revisions made thereto) are substantially compliant, the Project remains protected by the HAA’s builder’s remedy.

The City Council’s “self-certification” and “back-dating” of the Housing Element are especially arbitrary and capricious given the discussion of this very point at the February 27, 2023 City

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<sup>5</sup> Gov. Code §§ 65583(c)(1)(A), 65583.4, and 65588(e)(4)(C).

<sup>6</sup> <https://www.hcd.ca.gov/planning-and-community-development/housing-elements>, last accessed on March 8, 2023.

<sup>7</sup> *Id.*, citing Gov. Code, § 65585(b)(3), (d)

Council Special Meeting. At that meeting, the Planning Department gave a comprehensive presentation of the October 4, 2022 Draft Housing Element, HCD's December 6, 2022 comments on that draft, and the City's meeting with HCD on January 12, 2023 to discuss such comments. Planning Staff and/or the City Attorney expressly reported to the City Council that:<sup>8</sup>

- *"We had a lot of discussion regarding the self-certification and whether it was appropriate. I also had a call with HCD this afternoon, and the consensus from everyone was that this is not an option."* (Planning Staff, 1:41:45 - 1:42:22).
- *"Under state law there is a provision regarding the adoption of the Sixth Housing Element. Under that state law, the housing element must be found in substantial compliance by HCD. There are several provisions in state law that provide this. ... since revisions to current state law regarding the Sixth revision, HCD is required to find the housing element in substantial compliance."* (City Attorney, 1:43:28 - 1:45:18).

While decision-makers may rely on staff's expertise to satisfy the "substantial evidence" standard, a complete disregard for staff's expertise and recommendation would be a primary example of an arbitrary and capricious decision.

### **III. The Project "Vested" to the City's Lack of Substantially-Compliant Housing Element on November 14, 2022**

Even if the City's recent "self-certification" was a lawful approach (it is not), that would not diminish the vested rights the Project has to the City's non-compliant status. As noted in 600 FH LP's January 13, 2023 application cover letter, 600 FH LP submitted a Senate Bill ("SB") 330 preliminary application on November 14, 2022 for the Project. With the submission of all requisite information for an SB 330 preliminary application, the Project secured "vested rights" to the regulations, policies and impact fees applicable to the Project in effect at that time.<sup>9</sup> HCD's Letter of Technical Assistance, dated October 5, 2022 for the 3030 Nebraska Avenue project in Santa Monica, California,<sup>10</sup> confirms that:

*"[i]f the submittal [of a preliminary application] occurs at a time when the jurisdiction does not have a compliant housing element, any potential benefits afforded to the applicant as a result of the jurisdiction's noncompliant status would remain throughout the entitlement process even if the jurisdiction subsequently achieves compliance during the entitlement process."*

Here, 600 FH LP's SB 330 preliminary application vested the Project to the City's non-compliant status as of November 14, 2022. At that time, there was no substantially compliant Housing Element as evidenced by HCD's subsequent comments that the Housing Element was not in

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<sup>8</sup> City Council, February 21, 2023 Special Meeting, Video Recording at 01:29:02 et seq.; available at [https://lacadaflinridge-ca.granicus.com/player/clip/1130?view\\_id=4&redirect=true&h=c6b011d0ea7ace4afdf199c21097464c](https://lacadaflinridge-ca.granicus.com/player/clip/1130?view_id=4&redirect=true&h=c6b011d0ea7ace4afdf199c21097464c)

<sup>9</sup> Gov. Code §§ 65589.5(h)(5); 65941.1

<sup>10</sup> <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/santa-monica-TA-100522.pdf>

compliance; the subsequent numerous revisions made to the Housing Element in February 2023; the absence of rezoning; and the City’s failure to receive a letter from HCD confirming that the October 2022 draft Housing Element was in substantial compliance. There is no legal basis allowing a local agency to “back-date” its purported compliance with state housing element laws.

#### **IV. 600 FH LP Reserves Right to Challenge Other Instances of the City’s Non-Compliance**

Notwithstanding anything herein, 600 FH LP reserves the right to challenge other instances of City non-compliance, including (i) any re-affirmed incompleteness determination for the Project, (ii) any summary denial that the Project may receive on those grounds, (iii) the City Council’s “self-certification” of the non-compliant Housing Element, and/or (iv) the City’s failure to re-zone by the statutory deadline.<sup>11</sup> 600 FH LP preserves all arguments to further such claims, including, but not limited to:

- The Housing Element does not “affirmatively further fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2, nor does it include an assessment of fair housing in the City.<sup>12</sup>
- The Housing Element fails to include an inventory of land suitable and available for residential development, including vacant sites and sites having a realistic and demonstrated potential for redevelopment during the planning period to meet the City’s RHNA mandate.<sup>13</sup>
- The Housing Element does not address or remove governmental and nongovernmental constraints to the maintenance, improvement and development of housing, including housing for all income levels for persons with disabilities.<sup>14</sup>

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<sup>11</sup> Gov. Code § 65583(c)(1)(A).

<sup>12</sup> See, HCD December 3, 2021 Letter at 1; citing Gov. Code § 65583(c)(10)(A).

<sup>13</sup> *Id.* at 2.

<sup>14</sup> *Id.* at 3.

**V. Conclusion**

For the reasons discussed herein, 600 FH LP respectfully request that the City reverse its Subsequent Incompleteness Determination and proceed with reviewing the Project consistent with the protections of the HAA's builder's remedy.

Respectfully,

HOLLAND & KNIGHT LLP

A handwritten signature in cursive script, appearing to read "Ryan M. Leaderman".

Ryan M. Leaderman  
Kevin J. Ashe

cc: Mayor and Honorable City Councilmembers  
Tania Moreno, City Clerk  
600 Foothill Owner, LP

**EXHIBIT 13**

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April 30, 2023

Honorable Councilmembers  
c/o Susan Koleda  
Community Development Director  
City of La Cañada Flintridge  
One Civic Center Drive  
La Cañada Flintridge, California 91011

**Re: Supplemental Information and Responses to Staff Report - 600 Foothill  
Project is Subject to the Housing Accountability Act's Builder's Remedy**

Honorable City Councilmembers,

Our firm represents 600 Foothill Owner, LP (“600 FH LP” or the “Applicant”), property owner and applicant of the 600 Foothill project (“Project”) located at 600 Foothill Blvd. in the City of La Cañada Flintridge (“City”).<sup>1</sup> On November 14, 2022, 600 FH LP filed a preliminary application pursuant to Senate Bill (“SB”) 330, which vested the Project to development standards and fees in effect at that date. When 600 FH LP submitted its SB 330 Preliminary Application, the City did not have a Housing Element that was in substantial compliance with the law. Subsequently, on January 13, 2023, 600 FH LP submitted an entitlement application for the builder’s remedy<sup>2</sup> Project pursuant to the Housing Accountability Act (“HAA”), which included applications for a Conditional Use Permit (USE-2023-0016), a Tentative Tract Map (LAND-2023-0001), and Tree Removal Permit (DEV-2023-0003).

On February 10, 2023, the City issued: (1) a four page incompleteness determination letter, and on March 1, 2023, (2) a subsequent incompleteness determination claiming that the HAA’s builder’s remedy does not apply to the Project. The City provided Applicant with a 10-day period (*i.e.*, by

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<sup>1</sup> The Project consists of a 119,650 square foot (“sq. ft.”), five-story, mixed use project with 80 mixed-income residential units, 14 local-serving hotel units, 7,287 sq. ft. of office and two levels of underground parking containing 190 vehicle parking spaces on a 1.29 gross acre parcel.

<sup>2</sup> See Gov. Code §§ 65589.5(d). The HAA’s “builder’s remedy” requires the City to approve an affordable housing project even if there may be inconsistencies with General Plan and zoning use designation and standards.

March 11, 2023) to submit an appeal on the City's incompleteness determination, which Applicant timely submitted.

For the reasons discussed herein, the City is legally obligated to process, review and decide on the Project subject to the protections of the builder's remedy. If it fails to do so, the City could face substantial penalties for violating the express provisions of the HAA. As such, the City is legally obligated to process the builder's remedy Project because (i) the City lacked a substantially compliant Housing Element at the time that 600 FH LP submitted its SB 330 Preliminary Application; (ii) 600 FH LP submitted a full entitlement application for the Project on January 13, 2023; and (iii) 600 FH LP has submitted a complete response to the Incompleteness Determinations as of April 28, 2023.

### **1. Background: Current State of Multifamily Housing Production in the City**

The City's population is the same now as in 1980, exhibiting zero population growth over more than forty years.<sup>3</sup> The City has only permitted three new multifamily dwelling units since 1980.<sup>4</sup> This long standing City aversion for new multifamily housing that could potentially accommodate those who already work in the community, such as teacher's aides, cashiers, retail clerks, dental assistants, and waiters, is also evident in the City's zero lower income housing production and permitting numbers going back at least the last ten years.

The City demonstrated an abysmal record of housing production for lower income individuals during the previous 5<sup>th</sup> Cycle Regional Housing Needs Assessment ("RHNA") planning period (2013-2021). During this period, the City had a RHNA allocation of 112 units, including 30 very low income units, 18 low income units, 20 moderate income units, and 44 above moderate income units. During the 5<sup>th</sup> Cycle of RHNA, the City permitted 94 above market units and zero below market units out of the 112 dwelling unit RHNA allocation.<sup>5</sup>

During this current 6<sup>th</sup> Cycle RHNA, the City has a RHNA obligation of 612 units, including 252 very low income units, 135 low income units, 139 moderate income units, and 86 above moderate income units.<sup>6</sup> The Project's 16 low income units (out of 80 dwelling units in total) consist of **ALL** of the proposed low income units under consideration by the City in the current planning cycle. With respect to approvals of lower income units, the City's success rate is also nonexistent, or extraordinarily successful if one wants to block housing for lower income households. In 2021, 2022 and 2023, the City's success rate for entitling low income units is zero; the City has approved not a single lower income unit. In summary, in this current 6<sup>th</sup> Cycle of RHNA, the City has entitled, permitted and completed zero low income units.

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<sup>3</sup> Jack Flemming, *Protests, lawsuits and a dead rat: A wealthy California city's epic fight to block growth*, L.A. Times, April 24, 2023 (**Exhibit 1**).

<sup>4</sup> *Id.* citing SCAG, 2018 La Canada Flintridge Profile.

<sup>5</sup> See <https://www.hcd.ca.gov/planning-and-community-development/housing-open-data-tools/housing-element-implementation-and-apr-dashboard> accessed April 29, 2023.

<sup>6</sup> *Id.*

The City has a multi-year history of producing zero affordable units. If the Project is denied, the City will have zero affordable units in development. Such a denial would be consistent with the two other recent effective housing project denials at the Project site: the City’s denial of Oakmont’s 72 unit senior housing project<sup>7</sup> and the City’s more recent denial of 600 FH LP’s prior development at Project site (both the 47 dwelling unit/12 key hotel).<sup>8</sup> The City has a demonstrated long history of producing no low income units, and in particular, the City’s denial of the builder’s remedy project here would be the third recent denial of a multifamily project at this location, constituting a taking of property without just compensation.<sup>9</sup>

## 2. The Housing Accountability Act and Builder’s Remedy

A housing development project is subject only to the ordinances, policies, and standards in effect when the preliminary application is submitted. Gov’t Code § 65589.5(o)(1). The HAA limits a local government’s authority to deny, make infeasible or reduce the density of housing development projects. Gov’t Code § 65589.5(d). A jurisdiction shall not disapprove a housing development project for low income households or render such project infeasible unless it makes one of five written findings supported by substantial evidence. Gov’t Code § 65589.5(d). One such finding is:

“The housing development project ... is inconsistent with both the jurisdiction’s zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, *and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.*” Gov’t Code § 65589.5(d)(5).

This provision — which is commonly referred to as the “builder’s remedy” — allows a local agency to block a qualifying housing project only upon a showing that the project is inconsistent with the agency’s General Plan and zoning (as of the date the application was deemed complete), and the local government “has adopted a revised housing element in accordance with the statutory deadlines that is in substantial compliance” with Housing Element Law.

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<sup>7</sup> After an approximately four to five year entitlement process with multiple hearings, as well as receipt of a dead rat, the Project proponents were not able to receive Project approval; City actions caused an effective denial of the Oakmont senior housing project.

<sup>8</sup> Denial of 600 Foothill Boulevard entitlement applications PLAN-2020-001, PLAN-2020-002, USE-2020-0750, LAND-2021-001, DEV-2020-0057 (**Exhibit 2**), with full City files on this project incorporated by reference.

<sup>9</sup> A Christian Science church was formerly located on the Project site. Similar to the Applicant, the church faced City hostility to redevelopment efforts, particularly with the senior housing project. The Applicant reserves a right to assert a claim under the Religious Land Use and Institutionalized Persons Act (“RLUIPA”) for unlawful discrimination with respect to land use regulations.



### 3. The City Lacked (and Still Lacks) A Compliant Housing Element at the Time the Project's SB 330 Preliminary Application was Submitted

Here, the City does not refute that the Project is subject to the HAA.<sup>10</sup> The City only disputes that the Project is not entitled to the builder's remedy because the SB 330 Preliminary Application was submitted when the City's Housing Element was in substantial conformance with State Housing Element Law. This is patently false.

As mentioned above, the Project's SB 30 Preliminary Application was filed with the City on November 14, 2022. At that time, the City lacked a substantially compliant Housing Element — which is still the case as of the date of this letter.<sup>11</sup> When 600 FH LP submitted its SB 330 Preliminary Application, the last City approved version of the Housing Element was an October 2022 draft which was not in substantial compliance with Housing Element law.

HCD has made it abundantly clear that, if a SB 330 preliminary application is filed at a time when a local agency lacks a substantially compliant Housing Element, the Project has secured a vested right to proceed under the HAA's builder's remedy even if the jurisdiction subsequently achieves compliance during the entitlement process (something the City has still not achieved).<sup>12</sup> Specifically, HCD's Letter of Technical Assistance, dated October 5, 2022 for the 3030 Nebraska Avenue project in Santa Monica, California (**Exhibit 3**)<sup>13</sup> confirms that:

*“[i]f the submittal [of a preliminary application] occurs at a time when the jurisdiction does not have a compliant housing element, any potential benefits afforded to the applicant as a result of the jurisdiction's noncompliant status would remain throughout the entitlement process even if the jurisdiction subsequently achieves compliance during the entitlement process.”*

On December 6, 2022, HCD provided a letter to the City determining that the October Housing Element was not in substantial compliance with the law (**Exhibit 4**). The HCD December 6, 2022 letter stated: “The adopted housing element addresses most statutory requirements described in HCD's May 26, 2021 review; **however, additional revisions are necessary to fully comply with State Housing Element Law...**” (Emphasis Added.) Deficiencies identified by HCD include:

- Failure to adequately affirmatively further fair housing in accordance with the law.
- Failure to adequately provide an inventory of land suitable and available for residential development, including a failure to include a complete site analysis.

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<sup>10</sup> The Project contains more than two-thirds residential square footage, as demonstrated in the Project's site plans; and 20 percent low income units. The Project qualifies as a “housing development project” subject to the HAA. Gov't Code § 65589.5(h)(3).

<sup>11</sup> See April 24, 2023 HCD Letter (**Exhibit 8**)

<sup>12</sup> Department of Housing and Community Development, *Letter of Technical Assistance re 2020 Nebraska Avenue, Santa Monica*, dated October 5, 2022 at 2, available at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/santa-monica-TA-100522.pdf>

<sup>13</sup> *Id.*

- Failure to adequately address removal of governmental and nongovernmental constraints to the maintenance, improvement, and development of housing.

As addressed in the March 9, 2023 appeal letter, the October 2022 Housing Element had significant deficiencies, including:

- The Housing Element does not “affirmatively further fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2, nor does it include an assessment of fair housing in the City.”<sup>14</sup>
- The Housing Element fails to include an inventory of land suitable and available for residential development, including vacant sites and sites having a realistic and demonstrated potential for redevelopment during the planning period to meet the City’s RHNA mandate.<sup>15</sup>
- The Housing Element does not address or remove governmental and nongovernmental constraints to the maintenance, improvement and development of housing, including housing for all income levels for persons with disabilities.<sup>16</sup>

The City’s public acknowledgement of lack of October 2022 Housing Element substantial conformity is reflected in the January 12, 2023 Planning Commission Meeting minutes (**Exhibit 5**) where Community Development Director Koleda publicly said that the October Housing Element was not in compliance.

“Director Koleda explained that the State (HCD) did not find the draft Housing Element that was submitted to them for review in December 2022 in substantial compliance with state housing law. However, a very productive meeting took place with staff and HCD on January 12, 2023, where they identified only a few **corrections that the City must make in order for the Housing Element to be in conformance**. The next step would be to make the HCD requested changes and submit the Housing Element to the City Council for approval and then resubmit to HCD.” (Emphasis Added.)

Here, Community Development Director Koleda, as reflected in the approved January 12, 2023 Planning Commission Minutes, admitted that HCD did not find the Housing Element in substantial compliance with the law; and that changes were necessary to make the Housing Element in compliance with the law.

On February 23, 2023 the City purported to “self-certify” its October 4, 2023 Housing Element as being in substantial compliance with the law — despite such action lacking any statutory or regulatory authority to do so. The City’s position was that, somehow, the October 4, 2022 Housing

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<sup>14</sup> See, HCD December 3, 2021 Letter at 1; citing Gov. Code § 65583(c)(10)(A).

<sup>15</sup> *Id.* at 2.

<sup>16</sup> *Id.* at 3.

Element was in substantial compliance this entire time, despite HCD's and the Community Development Director's statement to the contrary *and* the multiple revisions made to the October 4, 2022 Housing Element. In fact, neither the October 2022 nor February 2023 Housing Element version was in substantial compliance with Housing Element law.

When the topic of "self-certification" made its way to the City Council for discussion, Planning Staff and the City Attorney expressly reported that self-certification was not legally allowed, and that HCD is required to make a Housing Element substantial compliance determination:<sup>17</sup>

- *"We had a lot of discussion regarding the self-certification and whether it was appropriate. I also had a call with HCD this afternoon, and the consensus from everyone was that this is not an option."* (Planning Staff, 1:41:45 - 1:42:22).
- *"Under state law there is a provision regarding the adoption of the Sixth Housing Element. Under that state law, the housing element must be found in substantial compliance by HCD. There are several provisions in state law that provide this. ... since revisions to current state law regarding the Sixth revision, HCD is required to find the housing element in substantial compliance."* (City Attorney, 1:43:28 - 1:45:18).

The redline of the February approved Housing Element compared to the Housing Element available in October 2022<sup>18</sup> demonstrates many changes were made throughout the Housing Element. Changes were made on redline page 96 re religious institutions; p. 126 special needs; p. 136 Program 24 Mitigation for Housing in Proximity to Freeways; Appendix C revised site inventory list where changes were made to at least 12 sites; Appendix D, D.2.2 Integration and Segregation (several pages changed), and D6 Sites Inventory (changes to pages D61 and D62). These changes demonstrate a substantial number of changes compared to the October version. Further, these many changes demonstrate that the version of the document that was publicly available at the time of the SB 330 Preliminary Application was not in substantial compliance with the law.

The HCD Technical Advisory Memo of March 16, 2023 (**Exhibit 6**) confirms that there is no substantial compliance of a Housing Element until HCD determines a Housing Element is in substantial compliance.

*"If HCD finds the draft element is not substantially compliant, revise the draft to address any findings by HCD or adopt without changes and include written findings explaining why the jurisdiction believes that the draft substantially complies. Promptly following adoption, submit the adopted housing element to HCD and receive findings on the adopted element from HCD.*

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<sup>17</sup> City Council, February 21, 2023 Special Meeting, Video Recording at 01:29:02 et seq.; available at [https://lacadaflintridge-](https://lacadaflintridge-ca.granicus.com/player/clip/1130?view_id=4&redirect=true&h=c6b011d0ea7ace4afdf199c21097464c)

[ca.granicus.com/player/clip/1130?view\\_id=4&redirect=true&h=c6b011d0ea7ace4afdf199c21097464c](https://lacadaflintridge-ca.granicus.com/player/clip/1130?view_id=4&redirect=true&h=c6b011d0ea7ace4afdf199c21097464c)  
<sup>18</sup> [https://cityoflcf.org/wp-content/uploads/2023/02/LCF\\_HE\\_third-submittal-draft-020923.pdf](https://cityoflcf.org/wp-content/uploads/2023/02/LCF_HE_third-submittal-draft-020923.pdf)

**In other words, a jurisdiction does not have the authority to determine that its adopted element is in substantial compliance but may provide reasoning why HCD should make a finding of substantial compliance.**

**In addition, a jurisdiction is “in compliance” as of the date of HCD’s letter finding the adopted element in substantial compliance. Any other letters are not a finding of substantial compliance.**

**HCD recommends that a jurisdiction adopt only after receiving a letter from HCD finding the draft meets statutory requirements.”**

(Footnotes Omitted, emphasis in original.)

Subsequent to HCD’s March 16, 2023 Technical Advisory Memo, HCD reiterated directly to the City in a March 22, 2023 letter (**Exhibit 7**) that there was no City Housing Element in compliance with the law. “As of the date of this letter, the City’s housing element is not in substantial compliance with the law.” HCD’s letter states that:

“... a local jurisdiction does not have the authority to determine that its adopted element is in substantial compliance but may provide reasoning why HCD should make a finding of substantial compliance. A local jurisdiction is “in compliance” as of the date of HCD’s letter finding the adopted element in substantial compliance. A local jurisdiction cannot ‘backdate’ compliance to the date of adoption of a housing element. Moreover, as stated above, the October 4, 2022, adopted element did not substantially comply with State Housing Element Law.”

The April 24, 2023 HCD Letter (**Exhibit 8**) further confirms that the City is not currently in substantial compliance and that the October 2022 draft was unambiguously not in substantial compliance with the law. As stated in this most recent HCD letter, “... the housing element cannot be found in substantial compliance until the City has completed Program 1 (Adequate Residential Sites to Accommodate the Regional Housing Needs Allocation (RHNA), Program 4 (Downtown Village Specific Plan), Program 5 (Religious Institution Housing Overlay), and Program 6 (By Right Approval for Projects with 20 percent Affordable Units).”<sup>19</sup>

Factually and legally, it was not only the Applicant stating that the October 2022 Housing Element was not compliant with Housing Element Law, it was also the Community Development Director, City Attorney,<sup>20</sup> and perhaps most importantly, HCD. Pursuant to Government Code § 65585(d) HCD determines whether the draft Housing Element substantially complies with legal

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<sup>19</sup> Even if the City re-zones properties so as to eventually have a substantially compliant Housing Element, the Project site under the last proposed Housing Element, would result in only 12 to 15 dwelling units per acre, substantially less than adjacent areas and across Foothill Boulevard. This would constitute impermissible spot zoning.

<sup>20</sup> See January 12, 2023 Planning Commission Meeting minutes (**Exhibit 5**); see also City Council, February 21, 2023 Special Meeting, Video Recording at 01:29:02 et seq.; available at [https://lacanadaflintridge-ca.granicus.com/player/clip/1130?view\\_id=4&redirect=true&h=c6b011d0ea7ace4afdf199c21097464c](https://lacanadaflintridge-ca.granicus.com/player/clip/1130?view_id=4&redirect=true&h=c6b011d0ea7ace4afdf199c21097464c).

requirements. As noted by HCD in its April 24, 2023 letter, “HCD required critical revisions to substantially comply with State Housing Element Law, including additional analysis to demonstrate the adequacy of the sites and policy and programmatic changes.” HCD’s clear and unambiguous confirmation of lack of substantial compliance is consistent not just in its April 24, 2023 letter, March 22, 2023 letter, March 16, 2023 Technical Advisory Memo, and December 6, 2022 letter, but also in recent case law. In *Martinez v. Clovis* (April 7, 2023) (5<sup>th</sup> Dist. F082914, Super. Ct. No. 19CECG03855), the 5<sup>th</sup> District of the Court of Appeal listed the proper procedure for a determination of substantial compliance with Housing Element Law after a local agency adopts a draft Housing Element:

“After a draft is submitted, the HCD must review it, consider any written comments from any public agency, group, or person, and make written findings as to whether the draft substantially complies with the Housing Element Law. (§ 65585, subs. (b)(3), (c), (d); *Fonseca, supra*, 148 Cal.App.4th at p. 1184.)”

*Martinez* at 7.

The case goes on to state that it is HCD’s purview to determine substantial compliance:

“If the HCD finds the housing element amendment substantially complies, the housing element enjoys a rebuttable presumption of validity. (§ 65589.3.)

If the HCD finds the adopted housing element does not substantially comply with the Housing Element Law, it “shall notify” the local government and “may notify the office of the Attorney General” that the local government is in violation of state law. (§ 65585, subd. (j).)”

*Martinez* at 8.

Not only was there no substantially compliant Housing Element at the time of filing of the Project’s SB 330 Preliminary Application, there still has been no re-zoning as required by AB 1398/Government Code § 65588(e)(4)(C)(iii) (“A jurisdiction that adopts a housing element more than one year after the statutory deadline described in subparagraph (A) or (C) of paragraph (3) shall not be found in substantial compliance with this article until it has completed the rezoning required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 and subdivision (c) of Section 65583.2.”). As such, here, by operation of law, there cannot be a substantially compliant Housing Element because there has been no re-zoning.

#### **4. The Staff Report Publicly Released Thursday Evening Makes a Number of “New” Arguments that Were Not Before the City Council “Self-Certification” Action – None of Which is Persuasive**

We have reviewed the City Council staff report for the May 1, 2023 appeal hearing. The staff report is riddled with factual inaccuracies and unlawful positions, which 600 FH LP responds to in the following table:

Excerpt from City Council Staff Report	Applicant Response
<p>“The developer submitted the preliminary application for a project that is inconsistent with the City’s adopted 6th Cycle Housing Element <i>on the theory</i> that it constitutes a “builder’s remedy” project under Section 65985.5(d) of the Government Code, and based on developer’s assertion that the City’s then-adopted Housing Element was not in substantial compliance with state law.” (at 2).</p>	<p>The staff report fails to acknowledge that Applicant and its counsel met with City Planning staff, including the Community Development Director, and the City Attorney on December 8, 2022. It was widely agreed on that call that the builder’s remedy applied due to the City’s lack of a compliant Housing Element. The parties agreed on which entitlements would be needed for the revised Project. Therefore, the application package was submitted on much more than a “theory” that the builder’s remedy applied.</p>
<p>“The prior incompleteness determination dated February 10, 2023 was not responded to or appealed by Applicant and, is therefore, not before the City Council.” (at 3).</p>	<p>The staff report is based on a legal fallacy that the City was somehow authorized to issue two “incompleteness” determinations (one dated February 10 and March 1, 2023). Gov. Code 65943(a) provides that, no later than 30 days after an agency receives an application for a development project, the agency shall determine in writing whether the application is complete and “shall immediately transmit the determination” (not “determinations”). If the application is deemed incomplete, the lead agency “shall provide the applicant with an exhaustive list of items that were not complete.” While local agencies are allowed to review an applicant’s response to an incompleteness determination, they are not allowed to identify “new” deficiencies. Otherwise, the “exhaustive” language above would be rendered meaningless.</p> <p>Under a strict reading of the provisions above, the City was not permitted to issue “two incompleteness determinations,” and doing so violates two express provisions above (i.e., the first determination was required to include an “exhaustive list,” that could not be supplemented by a second incompleteness determination. Second, the latter determination was not “immediately” sent to Applicant by virtue of the date of the first incompleteness application.).</p> <p>Applicant reserves any and all rights to challenge the City’s adherence to Gov. Code Sec. 65943(a).</p>
<p>“The City Council did not “self-certify” or attempt to “back date” the Housing Element when it adopted the 2021-2029 Housing Element on February 21, 2023, with the adoption of Resolution No. 23-08 (Attachment 6). However, the City Council took the position that the Housing Element adopted on October 4,</p>	<p>That is exactly what the City Council did. See, Resolution 23-08, Section 5: “The City <i>further certifies that the City’s Housing Element was in substantial compliance with State Housing Element law as of the October 4, 2022 Housing Element adopted by the City Council ....</i>”</p>

Excerpt from City Council Staff Report	Applicant Response
<p>2022 ... is substantially compliant with state housing law (Government Code § 65580 et seq).” (at 5).</p>	<p>The term “self-certify” is meant to convey that, under state law, local agencies do not have authority to certify their Housing Elements as substantially compliant with state Housing Element law. That authority resides only with HCD.</p>
<p>“Comments on the October 4, 2022 submittal, received from HCD on December 6, 2022, (Attachment 7) on the second adopted version of the City’s Housing Element, merely required clarification and additional information within areas of the document but did not result in any amendment of the Sites Inventory or substantive policy changes.” (at 5).</p>	<p>The staff report intentionally downplays the significance of HCD’s December 6, 2022 Letter to the City. In that letter, HCD identified more than “clarifications” and “additional information.” Paragraph two of the letter expressly states “additional revisions are necessary to fully comply with State Housing Element Law.” HCD requested a number of revisions including:</p> <ul style="list-style-type: none"> <li>• The Housing Element must “discuss whether the distribution of sites [on the Site Inventory] improves or exacerbates” the concentration of affordable units. (at 1-2).</li> <li>• The Housing Element must include “a complete assessment of fair housing” and based on that assessment, “add or modify programs.” (at 2).</li> <li>• The Housing Element must “include analysis on the extent that existing uses may impede additional residential development.” (at 2).</li> </ul> <p>HCD also noted that the City’s Housing Element did “<i>not include a complete site analysis</i>; therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types.” (at 2-3).</p> <p>These changes are much more substantial than mere “clarifications.” Even if the staff report’s view of the HCD Letter were true, nothing in statute supports the City’s position that a Housing Element is in “substantial compliance,” once it has prepared a site inventory to which HCD requests no further amendments to (despite requesting numerous revisions in various other places in the Housing Element). The City does not have the authority to unilaterally interpret and apply State Housing Element Law. Further, Community Development Director Susan Koleda’s publicly admitted at the Planning</p>

Excerpt from City Council Staff Report	Applicant Response
	Commission on January 12, 2023 that the City did not have a Housing Element in substantial compliance.
<p>“As such, the City Council determined that the version of the Housing Element adopted October 4, 2022, is in substantial compliance with state housing law. This is supported by the matrix, included as Attachment 8, which is based on <i>HCD’s Housing Element Compliance Checklist, a Quick Reference of Statutory Requirements for Housing Element Updates</i>, Updated 1/2021.1.” (at 6.)</p>	<p>The staff report cannot legitimately claim that the October 2022 Housing Element was in substantial compliance because – based on City staff’s unilateral review – it complied with HCD’s <i>Housing Element Compliance Checklist, a Quick Reference of Statutory Requirements for Housing Element Updates</i> (Jan 2021).</p> <p>The staff report critically ignores the following preface to that guidance document, which in no way abrogates HCD as the sole reviewing authority to determine substantial compliance:</p> <p style="padding-left: 40px;">“Completion of this checklist <i>is not an indication of statutory compliance</i> but is intended to provide a check to ensure that relevant requirements are included in the housing element <i>prior to submittal to the Department of Housing and Community Development</i> pursuant to Government Code section 65585(b).”<sup>21</sup></p>
<p>“While the City Council determined that the second version of the Housing Element, adopted October 4, 2022, is substantially compliant, the City has continued in good faith to address and incorporate HCD’s comments.” (at 6).</p>	<p>The staff report’s puzzling admission suggests more work to the Housing Element was needed after the October 4, 2022. Why did the City feel it was necessary to address HCD’s additional comments after the October 2022 Housing Element was adopted if it complied with all statutory mandates? Once a Housing Element is substantially compliant with state Housing Element law (by virtue of receiving HCD’s confirmation by letter), no further amendments or revisions to the Housing Element are needed. Moreover, if the City truly felt that it was in substantial compliance in October 2022, why has it still not taken any steps to re-zone properties even though it is nearly seven months since the City’s purported self-certified Housing Element adoption? Such a delay in re-zoning exists precisely because the City did not honestly view its Housing Element to be in substantial compliance in October 2022 or in the following months.</p>
<p>As such, a revised Housing Element was posted by public review on February ), adopted on</p>	<p>The revisions made between the October 2022 and February 2023 Housing Element were anything but</p>

<sup>21</sup> <https://www.hcd.ca.gov/community-development/housing-element/docs/housing%20element%20completeness%20checklist.pdf> accessed April 29, 2023.



Excerpt from City Council Staff Report	Applicant Response
<p>February 21, 2023 and submitted to HCD for review on February 23, 2023. The limited revisions required to address HCD’s comments contained within the December 6, 2022, letter were highlighted in yellow in the third public review draft to show the very limited extent of the changes.” (at 6).</p>	<p>“limited.” As noted above, changes were made re religious institutions; special needs; Program 24 Mitigation for Housing in Proximity to Freeways; Appendix C revised site inventory list where changes were made to at least 12 sites; Appendix D, D.2.2 Integration and Segregation (several pages changed), and D6 Sites Inventory (changes to pages D61 and D62). These changes demonstrate a substantial number of changes compared to the October version.</p>
<p>“On April 24, 2023, the City received comments back from HCD. The letter provides that HCD requires no further revisions to the February 23, 2023 submitted Housing Element. Rather, once the required rezoning was completed and submitted, HCD states that it could find the City’s Housing Element in substantial compliance. Given that no further revisions to the City’s 6th Cycle 2021-2029 Housing Element were required after the February 23, 2023 submittal, and the February 2023 version only provide minimal clarifications to the adopted October 4, 2023 version, this supports the City Council’s position that the City’s Housing Element was substantially compliant prior to the submittal of the applicant/appellant’s SB 330 application on November 14, 2022.”</p>	<p>The staff report mischaracterizes the current state of affairs. It suggests that, once re-zoning is accomplished, HCD will somehow confirm that the October 2022 Housing Element is (and was) in substantial compliance. That is not the way the law works.</p> <p>Pursuant to Government Code section 65588, subdivision (e)(4)(C)(iii), a jurisdiction that failed to adopt a compliant Housing Element within one year from the statutory deadline cannot be found in compliance until rezones to accommodate a shortfall of sites pursuant to Government Code section 65583, subdivision (c), paragraph (1), subparagraph (A) and Government Code section 65583.2, subdivision (c) are completed. Once the City completes these programs, a copy of the resolution or ordinance should be transmitted to HCD. HCD will review the documentation and issue correspondence identifying the updated status of the City’s Housing Element compliance.</p> <p>In other words, since the City failed to adopt a compliance Housing Element by the statutory deadline, the City can only attain substantial compliance once it completes the requisite re-zoning. Not only was there no substantially compliant Housing Element in October 2022 and no substantially compliant Housing Element in February 2023, there still is no substantially compliant Housing Element. The effective date for substantial compliance will NOT be the date of the tardy Housing Element adoption, but the date in which compliant zoning amendments are made and approved by HCD. The HCD April 24, 2023 letter couldn’t be clearer.</p>

## 5. If the Appeal is Denied, the City's Incompleteness Determinations will Act as a Summary Denial of the Project and Subject the City to Liability under the HAA

If the City Council upholds the March 1, 2023 incompleteness determination and denies this appeal, it will be “disapproving” the Project within the meaning of the HAA. The HAA’s definition of “disapprove the housing development project” including any instance in which the local agency “[v]otes 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.” This provision has been interpreted to cover a local agency’s incompleteness determination and refusal to process a project in accordance with the HAA. See, *Yes in My Back Yard et al. v. City of Los Angeles et al.*, Case No. 21STCP03883 at \*32-33 (Cal. Super. July 29, 2022) (**Exhibit 9**) (trial court rejecting City’s argument that the City Council’s denial of applicant’s appeal to city’s completeness determination was not subject to the HAA because the City Council had not taken a final vote on the project entitlements.) Such an action will be actionable under the HAA. Gov. Code § 65589.5(m) (“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 ... *disapproving*, or *any other final action* on a housing development project ...”)

Doing so may subject the City to significant legal ramifications, including a court order requiring the City take action on the Project (including reviewing it in accordance with the builder’s remedy). The City may also be responsible for attorney’s fees and costs for a party seeking to enforce the HAA. If a city fails to comply a court order referenced above, there is a minimum fine of \$10,000 per dwelling unit (i.e., \$800,000 for an 80 unit development). Upon a showing that the City acted in bad faith, it may face fines of up to \$50,000 per dwelling unit. Gov’t Code § 65589.5(k). Such fines and attorney’s fees/costs are additional to the penalties the City already may face for failing to adopt a compliant Housing Element by the statutory deadline, including:

- Loss of land use and permitting control;<sup>22</sup>
- Loss of state funding (e.g., infill infrastructure and local housing trust, regional transportation funding);
- Risk of civil enforcement actions from HCD (and Cal. Attorney General) with penalties ranging from \$10,000 to \$600,000 per month;<sup>23</sup> and
- Judicially appointed agent with authority to bring the Housing Element into compliance.<sup>24</sup>

While the financial penalties may seem severe, the Legislature has increasingly made clear that those mandates are to be taken seriously and that local agencies and courts should interpret them with a view to giving “the fullest possible weight to the interest of, and the approval and provision of, housing.” *California Renters Legal Advoc. & Educ. Fund v. City of San Mateo*, 68 Cal. App. 5th 820, 902, citing Gov. Code § 65589.5, subd. (a)(2)(L); see also *Save Lafayette v. City of Lafayette*, 85 Cal. App. 5th 842 (2022), review denied (Mar. 15, 2023) (under the HAA, a housing

<sup>22</sup> Gov. Code § 65755(a)(1) – (3); see also *Mejia v. City of Mission Viejo* (2006)(court suspending city’s land use authority over three parcels to preserve them for affordable housing).

<sup>23</sup> Gov. Code § 65585(j).

<sup>24</sup> Gov. Code § 65585(l)(3)(B).

development project must be judged by the planning and zoning standards that existed when the application was deemed complete, not by any later changes to those standards); *Yes in My Back Yard v. City of Simi Valley*, 2021 WL 4813822, at \*5 (Cal.Super. May 17, 2021) (trial court ruling that petitioners were entitled to remedy due to city's failure to make requisite findings under the HAA when denying housing development project).

## 6. Conclusion

The City must process the Project application as a builder's remedy project due to the lack of a substantially compliant Housing Element at the time of the SB 330 Preliminary Application filing, as well as the due to the City's continued lack of re-zoning that is required to comply with AB 1398. The staff report's proposed recommendation of no builder's remedy here flouts the law and facts demonstrating that there was no substantially compliant Housing Element at the time the SB 330 Preliminary Application was filed.

There is a chronic need for high-quality multifamily housing in the City, especially given the City's stagnant population growth since 1980 and the absence of the development of anything more than three new multifamily units during this same time period. The Project would further the City's RHNA mandate and match the current market demand for housing. If the City persists in denying builder's remedy at the outset and restraining the development of reasonable and needed high-quality housing, just as it has done for the two previous housing proposals at the Project site, the City will have effectively denied the Project. Pursuant to the HAA and Housing Element Law, 600 FH LP will pursue all potential legal actions against the City to bring the Project to fruition.

Respectfully,

HOLLAND & KNIGHT LLP



Ryan M. Leaderman  
Kevin J. Ashe

cc: Tania Moreno, City Clerk  
Susan Koleda, Community Development Director  
600 Foothill Owner, LP

Enclosures:

Exhibit 1 April 24, 2023 Los Angeles Times Article

- Exhibit 2 600 Foothill Boulevard Prior Project file
- Exhibit 3 October 5, 2022 HCD Santa Monica Letter
- Exhibit 4 December 6, 2022 HCD Incomplete Letter
- Exhibit 5 January 12, 2023 Planning Commission Meeting Minutes
- Exhibit 6 March 16, 2023 HCD Housing Element Technical Advisory Memo
- Exhibit 7 March 22, 2023 HCD Letter
- Exhibit 8 April 24, 2023 HCD Incomplete Letter
- Exhibit 9 *Yes in My Backyard* Case

**EXHIBIT 14**

City of La Cañada Flintridge  
City Council Minutes  
Special Meeting



Tuesday, May 1, 2023  
City Council Chambers  
One Civic Center Drive  
La Cañada Flintridge, CA 91011

**SPECIAL CITY COUNCIL MEETING**

**CALL TO ORDER:** Mayor Eich called the Special Meeting to order at 9:02 a.m.

**ROLL CALL:** Councilmember Kim Bowman, Michael T. Davitt, Terry Walker, Mayor Pro Tem Richard B. Gunter III, and Mayor Keith Eich.

**STAFF PRESENT:** City Manager Alexander, City Attorney Guerra, Deputy City Attorney Elena Gerli, Special Legal Counsel Peter C. Sheridan, Director of Community Development Koleda, Director of Administrative Services Parseghian, Principal Planner Stadnicki, and City Clerk Garcia.

**PLEDGE OF ALLEGIANCE:** Pat Anderson led the pledge of allegiance.

**COMMENTS FROM THE PUBLIC:** None

Mayor Eich provided a general overview of the discussion format to allow the City Council, applicant, and public to focus on the issue and not get sidetracked into other unrelated issues. He noted that the issue before the City Council involves a proposed development project at 600 Foothill Boulevard. This project is still in the application stage where the application has not yet been deemed complete by the City. The City Council will discuss and review a staff decision regarding how this project will be processed and reviewed by the City. The primary question is whether the project will be treated as a builder's remedy project under state housing law or not. Staff will provide more information on what that means and entails. He indicated that the applicant has also challenged some procedural questions related to staff's decision which will be reviewed. The issues before the City Council today are narrowly focused on this administrative decision by staff. To contrast, he will indicate what is not before the City Council today. Specifically, what is not before the City Council is the actual and substantive aspects of this project. The project is still in the application stage, and the application has not yet been deemed complete by the City. Therefore, at this time, we do not know how the project will eventually be proposed. The City Council will not be discussing the size, height, design, or environmental impacts such as traffic and noise of the project. It is premature for these items to be discussed and, therefore, will not be discussed today. After the project application has been deemed complete by the City, the environmental review, conducted in accordance with state law, and the project analyzed by staff in accordance with the applicable laws and regulations, then the public will have the opportunity to review the proposal and participate in public meetings. The City Council will welcome all comments on these issues at the appropriate time. The format for today's meeting will be as follows: verbal report from staff, questions from the City Council, public hearing, applicant, or appellant will have an opportunity to speak then the public, followed by a rebuttal from the applicant appellant if they choose to. The City Council will then deliberate and potentially make a decision.

**PUBLIC HEARING:**

**1. Consideration of an Appeal of the Incompleteness Determination Dated March 1, 2023, of Conditional Use Permit (USE-2020-0750), Tree Removal Permit (DEV-2020-0057), and Vesting Tentative Tract Map 83375 (LAND-2021-0001) for a Proposed Mixed Use Project at 600 Foothill Boulevard. The Prior Incompleteness Determination (Dated February 10, 2023) was not Responded to or Appealed by Applicant**

Director of Community Development Koleda explained that, on November 11, 2022, the applicant submitted an SB 330 application for a project at 600 Foothill Boulevard. In January 2023, the applicant submitted entitlement application materials which included a Conditional Use Permit, Tree Removal Permit, and a Vesting Tentative Tract Map for a “builder's remedy” project pursuant to the Housing Accountability Act. Determination of incompleteness was made by staff on February 10 and March 1, 2023. The February 10<sup>th</sup> letter was not appealed therefore it is not subject to discussion today. The March 1<sup>st</sup> supplemental incompleteness letter concluded that the project did not constitute a builder's remedy project as stated in City Council Resolution 23-08, the City Council determined that the City's 2021-2029 Housing Element, adopted on October 4, 2022, was substantially compliant with the state Housing Element Law. As such, the applications for the mixed-use project would be processed in accordance with the Housing Element adopted on October 4, 2022. The applicant was given the opportunity to appeal this determination which they did in a timely matter pursuant to the Permit Streamlining Act that a final written determination by the agency on an appeal not later than 60 calendar days after receipt of the applicant's written appeal. Because of the timeframes associated with public notification hearings, the City Manager elevated this matter directly to the City Council. This hearing is very narrowly focused on the March 1<sup>st</sup> incompleteness determination by staff. The second argument of the appeal is whether the project is or is not a builder's remedy project under the Housing Accountability Act. The third argument of the appeal is whether the project vested as a builder's remedy project upon submittal of the SB 330 preliminary application, which was filed with the City on November 14, 2022, with invoices paid on November 14, 2022.

Director of Community Development Koleda noted that, regarding the first argument of the appeal, the applicant submitted or uploaded to the City's online portal applications for a Conditional Use Permit, Vesting Tentative Tract Map, and a Tree Removal Permit on January 13, 2023. The project was invoiced on January 17, 2023 because the applications were uploaded in the afternoon on a Friday afternoon and the following Monday was a state and federal holiday. The applicant was notified when the project was invoiced and the invoices were actually paid on January 31, 2023. The City did provide two incompleteness determinations on the project. When an application is submitted through the City's online portal, there is a statement that says “By submitting, I confirm, I have provided accurate information to the best of my knowledge. I agree a submittal of an application does not mean automatic acceptance of a permit/project/case. I agree to provide, in a timely manner, all requested documentation needed to process this application. I understand additional fees may be assessed following permit application review. I understand all fees must be paid in full prior to approval/issuance of any permits/case. I also understand that the 30-day time limit to determine the completeness of a development application per Government Code section 65943 does not begin until after all invoiced fees have been paid.” Pursuant to the statement, that is the day that the City considers the application as submitted. She pointed out that, regardless of the incompleteness determination of March 1<sup>st</sup>, the project does remain incomplete under the Permit Streamlining Act and cannot be processed at the current time. She acknowledged that, on

Friday afternoon, the applicant submitted additional information for both the Conditional Use Permit and the Vesting Tentative Tract Map. Staff has not had an opportunity to review that information as of yet. But, again, we will make another incompleteness determination within 30 days of last Friday when that information was received. Until all the application materials and information required are received, staff will determine what level of CEQA analysis is appropriate for the project. Then, the project will be forwarded to the appropriate body for a review of the merits of the project. She advised that staff does not believe that the first argument of the appeal is valid and recommended that the City Council deny that portion of the appeal upholding the validity of the March 1, 2023 Incompleteness Determination.

Director of Community Development Koleda stated that the second argument of the appeal is that the March 1, 2023 incompleteness determination is erroneous because the City lacks a substantially compliant Housing Element. The applicant stated that the City's alleged position that the 2021-2029 Housing Element is substantially compliant with state housing law through a self-certification process is unlawful under state law and that the California Department of Housing and Community Development has not offered written documentation confirming the City's 2021-2029 Housing Element is substantially compliant with the Housing Accountability Act and that the builder's remedy provisions are applicable and the 600 Foothill project is a builder's remedy project. In October 2022, the City Council adopted Resolution No. 22-35 adopting the second version of the City's Housing Element. While the City Council determined that the second version of the Housing Element was substantially compliant and met the statutory requirements, the City has continued in good faith to address and incorporate HCD's comments that were received on that second version. In February 2023, the City Council adopted Resolution 23-08, which adopted the revised Housing Element. In determining that the October 4, 2022, version was substantially compliant with State Housing Law staff prepared a matrix included in the agenda report. This was based on the HCD's housing element compliance checklist; a quick reference of statutory requirements for housing elements updated in January 2021. The matrix identified the housing element requirements per the Government Code and information on how the City complied with the requirements. The matrix demonstrated that the Housing Element adopted in October 2022 meets all of the statutory requirements and is, therefore, substantially compliant. Consequently, staff took the position that the builder's remedy project under the Housing Accountability Act is not available to applicants pursuing housing projects since the City Council found that the Housing Element was in compliance with and met the statutory requirements as of October 4, 2022. There were very limited revisions to the Housing Element between the second and the third versions. She reiterated that the second version was adopted in October 2022 and the third version in February 2023. The February 2023 version contained very limited revisions to address HCD's comments contained in their letter dated December 6, 2022. The third and adopted version provided on the City's website highlighted in yellow only the changes that occurred between the October 2022 and February 2023 versions. On April 24, 2023, the City received comments back on the third version from HCD. The letter with HCD's comments was provided in the agenda packet. HCD stated in the letter that they found the Housing Element was still out of compliance because the rezoning that was required to implement the Housing Element had not yet been completed. Staff is working diligently on getting that completed. However, there are no further revisions to the City's Six Cycle 2021-2029 Housing Element that were required. She reiterated that the February 2023 version only provided minimal clarifications to the adopted October 4, 2022 version. This supports the City Council's position that the City's Housing Element was substantially compliant prior to the



submittal of the SB 330 application on November 14, 2022. The agenda report provides quite a substantial timeline of all of the actions that have been taken with regard to the City's preparation and adoption of the Six Cycle Housing Element. She indicated that, in preparing the Housing Element to address all of the statutory requirements, the City revised the documents in response to numerous public comments. However, the comments and actions of the principles associated with the 600 Foothill project do appear to be designed to hinder the adoption and certification process of the Housing Element rather than to assist in the preparation and to help the City meet the statewide goals for housing. In summary, staff does not believe that the appeal on the grounds is valid and it is recommending that the City Council deny this portion of the appeal affirming that the builders remedy is not available for the mixed-use project at 600 Foothill since the City's Housing Element adopted October 4, 2020 meets the statutory requirements of state housing element law.

Director of Community Development Koleda noted that the third argument on the appeal was that the project vested due to the City's lack of a substantially compliant Housing Element as of November 14, 2022. She reiterated that the applicant did submit an SB 330 application on November 11 and paid the invoice for this on November 14. This is the day under SB 330 that the applicant is allowed to freeze the applicable fees and development standards that are applied to the project, and we are all in agreement on this November 14 date. She explained that, under SB 330, an applicant is required to submit a formal application within 180 days of their preliminary application. The applicant/appellant did submit for a conditional use permit, a vesting tentative tract map, and a tree removal permit in January 2023 and paid the invoices on January 31, 2023. This was within 180 days of the SB 330 preliminary application. At the current time, the 600 Foothill site is identified within the Downtown Village Specific Plan as institutional. The institutional land use district does not allow multiuse projects or any multiuse housing and, therefore, does not have any density applied to it. However, the Housing Element that was adopted in October 2022 did identify this site as being allowed to change to a mixed-use designation, which would have a density of 12 to 15 dwelling units per acre. Since the Housing Element was the most recently adopted of the planning documents and it was prepared to comply with state housing element laws, the processing of the 600 Foothill project application would be allowed for mixed-use, including residential uses, at a density of 12 to 15 units to the acre. The project's SB 330 application froze the development standards at 12 to 15 units to the acre and any applicable objective development standards that can be enforced so as not to make this project any feasible. For this reason, staff is recommending that the City Council deny the appeal on this point.

In conclusion, Director of Community Development Koleda recommended that the City Council find that this project and the appeal is subject to the General Plan, adopted 2021-2029 Housing Element dated October 4, 2022, and the Downtown Village Specific Plan objective development and design standards and will be processed accordingly. She stated that the decision on the appeal is not a decision on the merits of the project but only on whether the project is entitled to be processed as a builder's remedy project. If the appeal is denied, the project will be processed accordingly as a standard nonbuilders remedy project including any applicable environmental review.

Mayor Eich called upon the applicant/appellant. He noted that he will then open the public hearing.

Ryan Leaderman, Holland & Knight LLP, indicated that he represents the 600 Foothill owner LP. He stated that it is an exciting time to work in land use and that the world is changing dramatically. Land use used to be creative groveling where you asked the City Council and planning staff for help to get through a project because all the power was in the city. Now we are living in a different world with a housing crisis and the state legislature has amended the laws, stringently, to address this housing crisis. He commented that the first time he remembers seeing a homeless person begging for money was during the 84 Olympics. He noted that he is sure many read the recent LA Times article about this project. The article mentioned a homeless person taking shelter at the church site. Homelessness is present in the City. He asked where JPL staff and teachers live. The 5<sup>th</sup> and 6<sup>th</sup> Cycle Housing Elements produced zero low-income units. If the City takes away this project, there will be zero low-income housing units in production. The LA Times article was helpful and illuminated that, since 1980, there have been three multifamily units produced in the City. The population has been stagnant for over 45 years. He indicated that we are not living in 1980 anymore and the laws have changed, and the City Council has a role to play. This project complies with the builder's remedy laws. He noted that when a city does not have a Housing Element that is in substantial compliance, when a project has 20 percent low-income housing, that project has to supersede zoning and the General Plan per state law. There must be findings that cannot be made here in order to deny this project. There was no substantially compliant Housing Element when this project submitted its SB 330 preliminary application. He noted that Ms. Koleda just mentioned that HCD says that there still isn't a Housing Element that is in compliance because the required rezoning has not occurred. The City must process this as a builder's remedy project. At this project site, there was a 72-unit senior housing project denied. There was another housing project denied. There is a historical pattern of banning low-income or multifamily housing in the City, and the City Council can change this. There is a chronic need for housing for the people who come and work in the City who do not have these options. Denying this project would mean zero low-income units in the pipeline. The record is replete with information showing that there was no substantially compliant Housing Element in November 2022 when this SB 330 preliminary application was filed. The redline of the February Housing Element shows there weren't just minor changes, there were pages and pages of changes related to religious institutions, special needs, freeway mitigation, Affirmatively Furthering Fair Housing, and site inventories list. It is an artifice to say that there were no changes or just minor changes between the October and the February Housing Element. The applicant met with the Planning Director and the City Attorney in December to talk about how to process this builder's remedy application. There was never a moment during that meeting where they were told they can't file builders remedy because the Housing Element approved in October is completely valid. There was an acknowledgment then that builder's remedy was the appropriate mechanism, and we were figuring out in a friendly way how to process the application. The City Attorney and the Planning Director have been in public forums talking about the non-compliant Housing Element. He told the City Council to look at the minutes from the Planning Commission hearing in January 2023. The City has gone on public record saying there was no substantially compliant housing element. He noted that he wished the staff report would be more balanced and give the facts and information about the repeated HCD letters stating that the Housing Element is not in substantial compliance. He asked why the staff is not providing that information to the City Council. He noted that his colleague Kevin Ashe is going to rebut some of the misstatements and inaccuracies in the staff report. He will be talking about the legal ramifications for violating state law.

Kevin Ashe, Holland & Knight LLP, indicated that he will be rebutting some of the factual and legal inaccuracies in the staff report and talking about the ramifications under the Housing Accountability Act. He noted that he was surprised to see that the staff report was a one-sided argumentative paper that almost seem to resemble a legal brief more than an objective weighing of both sides to apprise. He noted that there are six inconsistencies with the staff report that he would like to address. First, the staff report says that we submitted the preliminary application on the theory that builder's remedy applied. That was not the case, they met with the Planning Director, staff, and legal counsel prior to submitting and it was understood that the builder's remedy applied because the Housing Element that was in effect at that time was not in substantial compliance. Second, there is a fallacy in the staff report that there were two incompleteness determinations and, because we've only responded to one, that the applicant has somehow waived their right to challenge the earlier. The law says that a local agency has 30 days to submit a completeness determination and it has to include an exhaustive list of all items. While the City can submit a completeness determination and the applicant can address it, you can't create more multiple incompleteness determinations. There is one bite at the apple and staff does not have the opportunity to submit two a few days apart just because the City Council made this new policy view about the status of its Housing Element. Page three of the staff report says the City Council did not self-certify or attempt to backdate the Housing Element but took a position five months later that the Housing Element was in substantial compliance. That is exactly what the City Council did. Resolution No. 23-08, section five states that the City further certifies that the Housing Element was in substantial compliance as of October 4<sup>th</sup>. Cities and counties do not have the authority under law to unilaterally certify this. Page six of the staff report includes a matrix confirming that the Housing Element meets all the requirements because it satisfies HCDs checklist. The staff report ignores that that checklist was merely guidance. Finally, the staff report includes language to the effect that once the City takes the requisite rezoning HCD we'll find the Housing Element in compliance from October 2022. This is not the way the law works. HCD has made this clear on multiple occasions. Cities that have failed to adopt the housing element and rezoning within the statutory deadlines will not have a substantially compliant housing element until it does the rezoning and HCD reviews the resolution and signs off. Lastly, if the City Council upholds this incompleteness determination and rejects the appeal, the City will be effectively denying the project under the Housing Accountability Act. We don't get to restart the process only to go to the Planning Commission and then the City Council on the merits of the project and then get denied. The Housing Accountability Act defines disapprove a housing development project to include any instance in which the local agency votes on the housing development project application and courts have heard that an incompleteness determination if rejected and failure to follow the Housing Accountability Act can be actionable and can be the denial under the Housing Accountability Act. If the City Council goes down this approach, it should be apprised of the full suite of potential penalties. There might be a court order imposing specific requirements that the City follow failures to comply can range and substantial penalties. These are totally different and additive to the penalties that the City may face for failing to have a substantial compliant housing element irrespective of this project.

Mayor Eich opened the public hearing at 9:40 a.m.

Pat Anderson, President and CEO of the La Cañada Chamber of Commerce, indicated that the events of the past year have redefined local control as we know it. How do we meet the ever-

increasing demands of the state while taking care of business at home? Sensible progress depends on collaboration plans and processes that balance economic prosperity for our businesses and the security of our residents. The Chamber remains steadfast in their mission to grow sales tax revenue for the City and to encourage community development to secure the best possible future for the City. They believe we are well-positioned to lead both traditional and new policies and procedures. They are working with the California Chamber and many chambers throughout the state to meet the needs of a growing state.

Anne Tryba, resident, noted that Mr. Lederman's comment regarding the stagnant population is an interesting point for the City Council to consider. She supports development that satisfies the needs of the state within the parameters of the City. She noted that the City Council holds the key to figuring out what works because the stagnant population is not going to serve the City well. She noted that her kids moved out because they can't afford to live in the City. The housing situation affects new families and those who want to continue to live in the City but don't need a big house anymore. She noted that there seems to be a legal dispute about whether or not the City had a fully adopted Housing Element at the time when this appeal was made. The dates presented by staff have merit, but it also sounds like we didn't have a Housing Element. She noted that the project that was previously proposed for that site was reasonable. This seems to be a legal issue and we would prefer the City not to pay a lot of money.

David Haxton, resident, noted that there are two issues that bother him. The first issue is the substantial compliance. A week ago, HCD sent a letter to the City saying you are not in substantial compliance. Staff has made a presentation to the City Council saying that you are in substantial compliance. However, staff made no mention that the state has said the City is not in substantial compliance with no explanation of why staff feels the state is wrong. He noted that there have not been any reasonable explanation why staff is right, and the state is wrong. The second issue that bothers him is that, when the applicant submitted their applications for the builder's remedy, staff was under the belief that there was not a substantially compliant Housing Element. The applicant, in good faith, submitted their applications and paid the fees. It was not until the February City Council meeting that, through public comment, the City Council thought it was a good idea to direct staff to change the wording. He reiterated that it bothers him that staff told applicants in November and January that it was builder's remedy and then in February they are saying it's not because the City had a substantially compliant Housing Element back in October.

Ron Dietel, resident, said that the staff did a good job with regards to the recommendation to reject this appeal and suggested that the City Council reject it based on the staff report. He encouraged the City to stick by the standards and requirements that have been set forth in City laws and state laws. If the City Council makes any exceptions today, you will certainly face them again in the future. For example, the St. George property is currently for sale and the preschool will be closing. If you make any exceptions here, you will most likely make exceptions in the future.

Mayor Eich closed the public hearing at 9:50 a.m. He offered time for the applicant/appellant to rebuttal.

Ryan Leaderman, Holland & Knight LLP, thanked the members of the community who participated in the hearing. He indicated that we did not hear much opposition to the project or in

support of the City's position, just one speaker. He noted that the last speaker encouraged the City to uphold the law and he agreed. The City did not have a substantially compliant Housing Element at the time the SB 330 preliminary application was filed. The evidence shows that staff treated it as if there was no substantially compliant Housing Element. It was not until February when staff and the City Council determined that the October Housing Element was in substantial conformance with the law. He noted that it's just patently unfair. The housing laws are super clear on this and HCD's latest letter was very clear that the City still does not have a substantially compliant Housing Element. We understand that the project must go through the normal iterative process. The applicant submitted a complete package last week and the City should review it in compliance with the law. He asked the City Council to go forward and allow this project to proceed.

City Attorney Guerra responded to a few points made by Mr. Leaderman and Mr. Ashe. The first comment that he heard was that a decision to deny the builder's remedy appeal would be a denial of the project. He disagreed with the first comment on two points. First, if the City Council were to grant the appeal and approve the builder's remedy, the project would not be approved. Conversely, if you were to deny the builder's remedy, it would not be disapproved. The reason is the project hasn't been really fully developed yet, in terms of what the plans are, what the height of the building is, and what the site is exactly. The Mayor had indicated earlier, we don't know what the actual project is going to look like on the merits, and this is not before the City Council today. The only issue today is an administrative decision and how the project will be processed. Most of the City Council members are former Planning Commission members and know that you get a set of plans, you see how that project is going to look, the site plan, the design, the setbacks, all that would be before you. However, this is not before the City Council today, and that has not been made available to the public at this point in time. Therefore, it is premature to say that it would be a denial of the project. Secondly, on the incompleteness letter, state law only says that we have to provide an incomplete determination within 30 days of it being submitted. The law does not say we have to provide one, two, or three letters. The applicant was aware that when it submitted the application it had to pay the fees. He indicated that he is not aware of any city that is not able to recover its reasonable cost for processing an application. With regards to the applicant's suggestion that we just had to process it upon receipt and that we were limited to that 30 days, he is not aware of that state law, and they haven't pointed to any. Staff was timely within the 30-day period of receiving fees. The third point was the matrix. HCD identifies a matrix of what is required to comply with state law and staff in the matrix as shown that each of the required elements of a compliant housing element was complied with as of October 4<sup>th</sup>. There is a difference between what HCD believes and what the checklist is to comply with state law. The courts have determined and have stated that the court determines and has the final determination of what substantial compliance is. If you review the matrix and you determine that staff and the Housing Element that was adopted on October 4<sup>th</sup> met all those requirements, then he believes, in good faith that the City Council can make the determination that it was a substantially compliant Housing Element as of October 4<sup>th</sup> irrespective of what HCD says. This was affirmed in a recent case, *Martinez vs City of Clovis*. In that case, HCD found a housing element to be in substantial compliance. The court disagreed and won. The same would be true here. While the applicant says HCD has the final determination the court would make that final determination if the City Council were to find that Housing Element as of October 4<sup>th</sup> was substantially compliant and deny the builder's remedy.

City Manager Alexander noted that there is one other point to the City Attorney's second point. He asked whether there was a reservation for additional comments above the initial incompleteness letter sent in February.

Director of Community Development Koleda responded that there was a right to submit additional comments. Those comments came in the March 1<sup>st</sup> letter.

City Attorney Guerra noted that the reason that language was added was because as of the date of the letter the fees had been paid had not been paid.

Ryan Leaderman, Holland & Knight LLP, noted that state law requires a determination about completeness of an application to be exhaustive. Reservation of rights is not exhaustive. State law is really clear on the permit streamlining act.

City Attorney Guerra respectfully disagreed with Mr. Leaderman.

Councilmember Bowman thanked staff, appellant, and legal counsel on all sides for giving the City Council an opportunity to have a robust record to consider these issues. He declined opportunities and invitations to think about things that are outside the narrow scope of what has been noticed for this meeting. The issues that are before the City Council are narrowly tailored, as the Mayor stated at the beginning of the meeting, to address these procedural questions and this administrative issue. In review of this record and the arguments made, he believes that the Housing Element and elements that are required in the Government Code are met by the submission that was put forward in October. He acknowledged that that is not something that is universally agreed to in this room and that HCD in its letters has disagreed with that position as well. However, in consideration of the actual elements of the law, in comparison to what was put forward in the adopted Resolution put together in good faith, he would say substantially the same as what ultimately was determined to be acceptable by HCD. The City is in good faith able to say that we had a compliant Housing Element in October 2022. On the basis of that fact, he believes the second and third portions of the argument made by appellant fail. Without an unsubstantial or incomplete housing element, builder's remedy is not applicable in this case. Therefore, because the City had a substantially compliant Housing Element per the sections of code required, he believes the second and third portions fail, and builder's remedy is not applicable. This project should be reviewed as any submitted project would and, in this case, in accordance with the existing law, existing Housing Element, and the normal regulatory process. He does not see this as a denial. He sees this as an opportunity for the project to be reviewed under what was adopted in the October 2022 Housing Element. The first question is also procedural. In reviewing the timeline and hearing the discussions, the concept of how many bites of the apple is not an issue. The question of when does the 30-day clock run, is the timing that the City uses the fee clock. He does not believe staff acted inappropriately in the way it handled the incompleteness determination. To the extent that he believes staff has appropriately handled that portion, that we had a substantially compliant Housing Element on October, and builder's remedy is not appropriate, he intends to support the resolution.

Councilmember Walker concurred with Councilmember Bowman. She thanked staff for the exhaustive process and work.

Councilmember Davitt reiterated that this item is not an evaluation of the project. This item is not a determination about creating housing and opportunities for housing in our community. The item being considered is a procedural issue. He concurred with Councilmember Bowman that the City was in substantial compliance therefore the project does not qualify as a builder’s remedy project. The project must be processed with the appropriate zoning and Housing Element.

Mayor Pro Tem Gunter thanked staff for all their work. He fully concurred with Councilmember Bowman and Councilmember Davitt. He supports the staff report and resolution.

Mayor Eich concurred with the City Council’s comments. He noted that if the City Council denies the appeal, they are not denying the project. This item is a very narrowly scoped administrative decision. He noted that he is fully supportive and thanked staff for their report and resolution today to deny the appeal and uphold the Planning Division’s incompleteness determination.

A **MOTION** was made by Councilmember Bowman, seconded by Mayor Pro Tem Gunter, and carried (5 – 0), to adopt the Resolution denying the appeal and upholding the Planning Division’s March 1, 2023 incompleteness determination for the mixed-use project at 600 Foothill Boulevard, on the basis that the “builder’s remedy” under the Housing Accountability Act does not apply and is not available for the project, and that the project did not “vest” as a “builder’s remedy” project as alleged in the project’s SB 330 Preliminary Application submission dated November 14, 2022, because the City’s Housing Element was, as of October 4, 2022, in substantial compliance with the Housing Element law.

A roll vote was taken, and the results were as follows:

**AYES:** Bowman, Davitt, Walker, Gunter, and Eich **NOES:** None **ABSTAIN:** None **ABSENT:** None

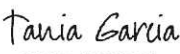
**CONCLUDING BUSINESS:**

**Councilmembers’ comments** – None

**City Manager and/or staff comments** – none

**ADJOURNMENT**

A **MOTION** was made by Mayor Pro Tem Gunter, seconded by Councilmember Davitt, and carried (5 – 0), to adjourn the Special Meeting at 10:06 a.m.

DocuSigned by:  
  
94AE444B9FF48B  
Tania Garcia, City Clerk

Minutes approved by the City Council on June 20, 2023.

**EXHIBIT 15**





# CITY OF LA CAÑADA FLINTRIDGE

## 2021-2029 Housing Element

Adopted Third HCD Submittal  
October 4, 2022 February 23, 2023

**City of La Cañada Flintridge**  
Community Development Department  
One Civic Center Drive  
La Cañada Flintridge, CA 91011  
(818) 790-8881

La Cañada United Methodist Church and La Cañada Congregational Church have indicated their interest in working with non-profit housing providers to build needed low-income housing in La Cañada Flintridge. In January 2023, La Cañada United Methodist Church provided written confirmation of this interest, (Appendix F). Further outreach will be conducted with the La Cañada Lutheran Church, Kingdom Hall of the Jehova’s Witnesses, and Church of the Latter Day Saints. Past efforts to reach them has not been successful.

Table HE-48 summarizes the proposed sites that are identified in Appendix C, Sites Inventory. While the actual size of the area a religious institution might propose for multifamily housing would vary from site to site, a conservative estimate of potentially available portions of seven properties have been identified for the purposes of the Sites Inventory, totaling approximately 6.61 acres; this translates to a potential of 168 dwelling units. The City is using the same density (25-30 dwelling units per acre) for the proposed RI-OZ as is currently allowed for the R-3 and MU zones; therefore, the same density factor of 25 dwelling units per acre for the proposed RI-OZ is being used. Given the fact that most affordable housing requires density bonuses, the City considers the assumed density factor to be conservative.

#### ■ **Downtown Village Specific Plan (DVSP)**

The DVSP was established by the City in November 2000, with the goal of strengthening the DVSP area as the “heart” of the community and as a logical place for people to gather, shop, do business, and live in a range of housing types. The DVSP area is characterized by a variety of low-intensity uses, with the majority of the non-vacant properties in the area constructed at least 60 years ago. The median year buildings in the area were constructed is 1955, making most of the structures at least 65 years old. (The exception to this is the Town Center project, which significantly transformed a portion of the DVSP, including revisions to the circulation plan in the area.). These older properties are occupied primarily by independent small businesses. Redevelopment of these properties or relocation of existing businesses would not involve the strategic planning of regional or national chains and therefore could occur independently and as market conditions evolve. While most buildings are in good condition and businesses seem to be economically viable operations, the intensification potential offered by the updated General Plan, high land values, the impact of the COVID-19 pandemic on small businesses and increasing market demand make redevelopment feasible. This section provides an overview of the DVSP as it relates to the Sites Inventory, including the density target.

- **Mixed Use 12 (MU-12):** Provides opportunities for residential development and commercial development within the same building. Program 4 proposes to expand the district to allow for residential and commercial development on the same parcel of land, or standalone residential. Program 4 proposes to remove the MU1 district and create the MU-12

district. The density for the MU- 12 district is proposed to change from 0 – 15 dwelling units per acre to 12-15 dwelling units per acre, and a minimum density factor of 12 is identified. The MU-12 designation is applied in areas where a transition in density along Foothill Boulevard is desired.

- **Mixed Use 25 (MU-25):** Offers more flexible opportunities for residential development with housing permitted on the first or second story on the same parcel of land, or side by side within the same area. Multi-family residential development is currently permitted at densities of up to 15 units per acre without a requirement for retail or commercial uses. In order to encourage flexibility of uses and promote multi-family residential (including senior) development in the DVSP, Program 4 proposes to remove the MU2district to create MU-25, and proposes to increase the density from up to 15 dwelling units per acre to 25 to 30 units per acre and modify development standards to mitigate constraints to development. The MU-25 designation will allow all residential, or a combination of residential and commercial with an overall FAR of 1.5 for any project in this district. Since there are no development trends in the DVSP MU 25 district under the existing density or for the new density proposed, the City is using the average density of 25 dwelling units per acre as the density factor.
- **Residential:** This Land Use District is exclusively designated for residential development. Single-family homes, townhomes, apartments, and condominiums are permitted in this district at densities of 15 units per acre. In 2014, the City amended the DVSP designation to allow multi-family housing for all household types. No new development has occurred in this district recently, so the City is using the density factor of 12 dwelling units per acre as before. This would accommodate townhomes and other similar medium density residential building types.

The intensification currently permitted, increases in density proposed in the MU-12 and MU 25 district, and the revisions to development standards in the DVSP proposed by Program 5 (RI-OZ) all indicate that the DVSP offers potential for redevelopment to mixed use and stand-alone residential development in the 6th Cycle Housing Element.

#### ■ Accessory Dwelling Units (ADUs)

The City allows and regulates accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) (collectively considered ADUs) in compliance with California Government Code Sections 65852.2 and 65852.22, with the most recent ADU/JADU ordinance adopted in 2020. New State laws passed since 2017 have substantially relaxed the development standards and procedures for the construction of ADUs. As a result, the City has seen increases in ADUs in the community, increasing from just a few units annually in 2018 (five units) and 2019 (two units), to 13 units in 2020; in 2021, the City issued 10 building permits for ADUs/JADUs. In the first six months

of 2022, the City issued 24 building permits for ADUs/JADUs. Therefore, averaging the number of building permits in 2020 (13), 2021 (10) and not yet completed 2022 (24), an average of 15.7 ADU/JADU permits have been issued. This Housing Element also includes Program 8 to facilitate the development of ADUs, in accordance with state law.

For the purpose of RHNA credits, the City assumes 15 ADUs annually for a total of 120 ADUs over the eight-year planning period of the Housing Element.

According to the SCAG Regional Accessory Dwelling Unit Affordability Analysis (for LA County II), which provides local governments in the SCAG region with assumptions for ADU affordability that can be used to assign ADUs to income categories for the purposes of 6th Cycle Housing Elements, the following percentages of units may be applied to the required income categories:

- 23.5 percent of ADUs are considered affordable to very low income households;
- 44.6 percent to low income households;
- 2.1 percent to moderate income households, and
- 29.8 percent to above-moderate income households.

This is the estimate the City of La Cañada Flintridge uses to estimate the income affordability of ADUs for the 6th Cycle Housing Element, which is provided in Table HE-47.

**Table HE-47. Estimated Number of ADUs During 6th Cycle Planning Period**

Income Category	Percent of Units Per Income Category	Number of Units Per Income Category
Extremely Low	15.0%	18
Very Low	8.5%	10
Low	44.6%	53
Moderate	2.1%	3
Above Moderate	29.8%	36
<b>Total:</b>	<b>100%</b>	<b>120 ADUs</b>

Source: SCAG, Regional Accessory Dwelling Unit Affordability Analysis (for LA County II), 2020.

### 9.4.1.5 Public Services and Infrastructure Availability

All sites identified in Appendix C are located on or near Foothill Boulevard and no significant public service or infrastructure constraints have been identified. These locations also support the City’s safety policies as expressed in the updated Safety Element.

### 9.4.1.6 Summary of Adequacy of Sites Inventory to Meet the City’s RHNA

Table HE-48 summarizes the City’s accommodation of the RHNA for all income groups by zone, as provided in the Sites Inventory. Note that credits toward the 6<sup>th</sup> Cycle RHNA (approved and pipeline projects) are not included.

**Table HE-48. Adequacy of Sites to Accommodate the 2021-2029 RHNA by Zone**

Proposed Zoning District	Lower Income	Moderate Income	Above Moderate Income	Total
R-3 (Multifamily Residential)	45	---	---	45
Mixed Use	252	---	8	260
DVSP—MU-12	---	77	20	97
DVSP—MU-25	43	59	17	119
DVSP—RI-OZ	---	25	---	25
RI-OZ (PSP)	143	---	---	143
<b>Total</b>	<b>483</b>	<b>161</b>	<b>45</b>	<b>689</b>

Table HE-49 summarizes the City’s accommodation of the RHNA for all income groups during the 2021-2029 planning period, including a summary of the Sites Inventory (Appendix C), ADU projections, and units credited toward the RHNA as described in Section 9.4.1.2. Figures HE-A1 through HE-A5 in Appendix C depict the location of each parcel contained in Table HE-49, not including ADUs or credited units. After accounting for development credits, anticipated ADUs, and realistic capacity of vacant and underutilized sites, the

City has identified surplus capacity of 233 units in the lower income category (very low and low combined), which represents an average of 60 percent for the combined lower income category; and 27 surplus units (representing 19 percent) in the moderate income units.

**Table HE-49. Complete Summary of 6th Cycle RHNA**

Income	RHNA	Issued	Pending/ Pipeline	Sites Inventory	ADUs	Total	Surplus	% Surplus
Very Low	252	8	11	332	28	379	127	50%
Low	135	16	21	151	53	241	106	78%
Moderate	139	1	1	161	3	166	27	19%
Above Moderate	86	10	58	45	36	149	63	73%
<b>Total</b>	<b>612</b>	<b>35</b>	<b>91</b>	<b>689</b>	<b>120</b>	<b>935</b>	<b>323</b>	<b>52%</b>

## 9.4.2 Financial Resources

### 9.4.2.1 Community Development Block Grant (CDBG) Funds

Through the CDBG program, HUD provides funds to local governments for funding a wide range of community development activities for low-income persons. The CDBG program provides formula funding to larger cities and counties, while smaller cities (less than 50,000 in population) can either receive funding from the county or compete for funding that is allocated by the state. La Cañada Flintridge receives its allocation of CDBG funds through the Los Angeles County Community Development Commission.

The CDBG program is very flexible in that the funds can be used for a wide range of activities. The eligible activities include, but are not limited to: acquisition and/or disposition of real estate or property; public facilities and improvements; relocation, rehabilitation, and construction (under certain limitations) of housing; homeownership assistance; and clearance activities. Unfortunately, the City's CDBG allocation has been declining over the 5<sup>th</sup> Cycle of the Housing Element, dropping from \$114,950 in Fiscal Year (FY) 2013/2014, to \$60,488 in FY 2021-22. This is a 47 percent decline over the past 8 years, which negatively affects the City's ability to assist low income persons. The 2021-2022 FY allocation was recommended to be split between the Resident Rehabilitation Program (\$50,488) and the Sewer Connection program (\$10,000).

### **9.4.3 Administrative Resources**

Non-profit agencies can assist the City in accessing outside funds in support of affordable housing and in implementing the City's housing programs. The following non-profit agencies have been involved in developing housing in nearby communities.

#### **9.4.3.1 Habitat for Humanity—San Gabriel Valley**

Habitat for Humanity is a non-profit, Christian organization dedicated to building affordable housing and rehabilitating homes for lower income families. With the help of volunteers and homeowners/partner families, Habitat for Humanity constructs and repairs homes for families, which are then sold to partner families at no profit with affordable, no-interest loans. Volunteers, churches, businesses, and other groups provide most of the labor for the construction of the homes. Land for new homes is usually donated by government agencies or individuals. Since its founding in 1990, the San Gabriel Valley Habitat for Humanity has partnered with numerous families and volunteers to construct single-family and attached housing throughout the San Gabriel Valley, including projects in Pasadena, Glendale, and El Monte. A representative from Habitat for Humanity participated in the focus group session the City held to gather input from non-profit developers.

#### **9.4.3.2 HumanGood**

HumanGood was created when three large nonprofits, including the former , Southern California Presbyterian Homes (SCPH), joined to provide senior housing projects throughout California, as well as several other states. Projects in nearby communities include multi-family projects in Glendale and Duarte.

#### **9.4.3.4 National Community Renaissance (CORE)**

National CORE, formerly known as the Southern California Housing Corporation, is one of the largest nonprofit developers and managers of affordable housing in southern California. Based in the Inland Empire, CORE finances, develops, and manages affordable housing throughout southern California, including properties in Orange, San Diego, and Los Angeles Counties.

### **9.4.4 Opportunities for Energy Conservation**

There is a growing awareness at the national and state levels of the importance to implement green practices. State law mandates cities and regions to implement such practices in order to reduce impacts on the environment. For instance, cities must comply with SB 375, the goal of which is to reduce greenhouse gases in the state.

Although including energy efficient measures can increase production costs of ownership and rental housing, over time housing with energy conservation features reduces costs, as the consumption of fuel and electricity is decreased. This can result in monthly housing costs that are equal to or less than what they otherwise would have been had no energy conservation devices been incorporated in the new residential buildings. This section provides an overview of opportunities for energy conservation during the 2021 to 2029 Housing Element planning period.

#### **9.4.4.1 State Regulations**

Title 24 of the California Administrative Code establishes energy conservation standards that must be applied to all new residential buildings. The regulations specify energy saving design for walls, ceilings and floor installations, as well as heating and cooling equipment and systems, gas cooling devices, conservation standards and the use of non-depleting energy sources, such as solar energy or wind power. Compliance with the energy standards is achieved by satisfying certain conservation requirements and an energy budget. Among the alternative ways to meeting the energy standards are the following:

- **Alternative 1:** The passive solar approach which requires proper solar orientation, appropriate levels of thermal mass, south facing windows, and moderate insulation levels.
- **Alternative 2:** Generally requires higher levels of insulation than Alternative 1, but has no thermal mass or window orientation requirements.
- **Alternative 3:** Also is without passive solar design but requires active solar water heating in exchange for less stringent insulation and/or glazing requirements.

Residential developers must comply with these standards while localities are responsible for enforcing the energy conservation regulations.

#### **9.4.4.2 State and Federal Programs**

The California Department of Community Services and Development, in partnership with the network of local community services agencies that assist lower-income households, administers the Low Income Home Energy Assistance Program (LIHEAP). LIHEAP provides financial assistance to lower income households to offset the costs of heating and/or cooling their residences.

#### **9.4.4.3 Local Measures**

The City works to address energy conservation in a number of different ways. Two policy documents, the City's 2013 Energy Action Plan and 2016 Climate



Action Plan, identify a broad range of policies and implementation measures to reduce energy consumption across the City. The Energy Action Plan includes goals, policies, implementation strategies, and monitoring to reduce residential electricity use by 15 percent. Strategies include educating residents about energy use and encouraging them to replace household appliances for more energy efficient models. Developing a citywide Climate Action Plan is also part of the implementation for the Energy Action Plan.

The City's Climate Action Plan includes measures to address climate change across a set of six areas, including energy, water, transportation, solid waste, urban greening, and adaptation. Several of these areas have a direct impact on energy consumption and include strategies such as encouraging solar installations and promoting urban greening to reduce energy use by residential development. The Climate Action Plan also encourages compact, mixed use development patterns to reduce energy consumption.

The City's Residential Design Guidelines also address solar orientation. The building orientation, street layout, lot design, landscaping, and street tree configuration of all residential projects are reviewed to maximize solar access and energy conservation. The City also participates in the Construction and Demolition Debris Management program (C&D) and Calsense, both administered by the Public Works Department. Calsense provides irrigation controllers, water and labor saving accessories and water management software. The City uses this system at City facilities, medians, parks and school district sites. In addition, Calsense allows the City to detect water line breaks and reduce or stop the potential for slope failures, manpower efforts, and water loss. Over time, both programs have had significant success in reducing construction debris and water usage.

#### **9.4.4.4 Private Sector Programs**

In addition to the City's initiatives, local utility companies also offer assistance to make energy conservation improvements:

- **Southern California Gas Company** offers the Energy Assistance Program, which provides no-cost energy-saving home improvements and furnace repair or replacement services for qualified limited-income renters and homeowners.
- **Southern California Edison Company** offers the Energy Savings Assistance Program, which helps income-qualified households conserve energy and reduce their electricity costs. The program pays all costs of purchasing and installing energy-efficient appliances and equipment, which are free to eligible customers.

## 9.5 Housing Plan

This chapter of the Housing Element contains goals and policies the City will implement to address a number of important housing-related issues during the 2021-2029 planning period. While many of the programs have been carried forward from the previous period, others have been revised or added to reflect the community's needs and constraints as identified in previous chapters of the Housing Element and/or new circumstances and state laws.

As a built-out, affluent, predominantly single-family residential community with an extremely limited amount of remaining vacant land, the challenge for the City of La Cañada Flintridge is to promote a variety of individual choices regarding tenure, type, and location of housing throughout the community that accommodates the 6<sup>th</sup> Cycle RHNA, especially for lower- and moderate-income households and those with special needs. The following Housing Plan presents the City's eight-year Housing Plan for this 2021-2029 planning cycle, including goals and policies (Section 9.5.1) and Programs (Section 9.5.2), which are intended to overcome this challenge, address the identified housing needs of the community, and promote equal opportunity for all residents to reside in decent, safe housing.

- **Goals** are the results that the City desires to achieve over the housing planning period. They are general expressions of values or preferred outcomes, and therefore, are abstract in nature and may not be fully attained. The goals are the basis for City policies and actions during this period.
- **Policies** are specific statements that will guide decision-making. Policies serve as the directives to developers, builders, service providers, decision makers, and others who will initiate or review new development projects or seek to provide housing-related services in La Cañada Flintridge. Some policies stand alone as directives, but others require that additional actions be taken. These additional actions are listed under "programs" below.
- **Programs** are the core of the City's housing strategy. Programs translate goals and policies into actions. These include on-going programs, procedural changes, zoning ordinance changes, and other actions that implement the housing policies and help achieve housing goals. Each program identifies the responsible agency, funding source, timeframe for implementation, and specific objectives.

### 9.5.1 Goals and Policies

This section of the Housing Element contains the goals and policies the City intends to implement to address a number of important housing related issues. The following major issue areas are addressed by the goals and policies of this Element:

- Provide a wide variety of housing types to meet the needs of existing and future residents;
- Ensure that existing housing is maintained and preserved;
- Facilitate housing for lower- and moderate income households and those with special needs;
- Ensure compatibility with the natural and built environment and the safety of persons and property; and
- Promote equal housing opportunity for all (affirmatively further fair housing) in accordance with California Government Code Section 8899.50(b).

Each issue area and the supporting goals and policies are identified and discussed in the following section. Many of the goals and policies are mutually supportive and are intended to work together to accomplish the desired outcomes.

### 9.5.1.1 Variety of Housing Types

Providing a variety of housing in terms of types (e.g., single-family, accessory dwelling units, duplexes, apartments, and condominiums), tenure (rental and ownership), and cost will allow the City to fulfill a broad range of housing needs for households of all income categories. Maintaining diversity in housing choice and cost will allow existing and future La Cañada Flintridge residents an opportunity to find housing that meets their individual and household needs, regardless of age, disability, household type, income, or special need.

**HE Goal 1: Provide a wide variety of housing types, tenure, affordability levels, and adequate supply of housing to meet the existing and future needs of city residents.**

**HE Policy 1.1:** Facilitate a range of residential development types in the city, including low density single-family homes, accessory dwelling units, apartments and condominiums, and mixed use residential development, to accommodate the City's RHNA.

**HE Policy 1.2:** Remove governmental constraints to the development and preservation of housing that is affordable to moderate- and lower-income households and those with special needs through revision of appropriate development standards and land use controls and efficient permit processing procedures.

**HE Policy 1.3:** Facilitate mixed use, multifamily, and senior housing development within the Downtown Village Specific Plan area and other locations along Foothill Boulevard to expand housing opportunities for all income groups.

**HE Policy 1.4:** Assist residential developers in identifying land suitable for new housing development.

**HE Policy 1.5:** Support the dispersion of ADUs and JADUs throughout the city's lower density single-family neighborhoods, except for the neighborhoods with a single point of ingress/egress within the Very High Fire Hazard Severity Zone (VHFHSZ), as identified in the updated Safety Element.

**HE Policy 1.6:** Locate higher density residential development in proximity to public transportation, public sanitary sewer, public and private retail and service establishments, recreational opportunities, and other amenities.

**HE Policy 1.7:** Support the development of childcare facilities to provide improved housing conditions benefitting households lacking in-home childcare capability.

**HE Policy 1.8:** Promote and facilitate new partnerships with organizations that include, but are not limited to, religious institutions, school districts, social service providers, and healthcare providers to support housing for special needs populations.

**HE Policy 1.9:** Monitor all regulations, ordinances, departmental processing procedures, and fees related to the rehabilitation and/or construction of dwelling units to assess their impact on housing costs and make modifications as appropriate to reduce governmental constraints to development of housing.

### **9.5.1.2 Maintenance and Enhancement of Existing Housing**

Housing and neighborhood conservation is an important component of maintaining and improving the quality of life for residents. In general, housing over 30 years old usually is in need of some major rehabilitation, such as a new roof, repair of termite damage, foundation work, plumbing, etc. With approximately 80 percent of La Cañada Flintridge's housing stock built prior to 1980, preventive maintenance is essential to ward off widespread housing deterioration.

#### **HE Goal 2: Maintain and enhance the quality of existing residential neighborhoods in the city.**

**HE Policy 2.1:** Promote increased awareness among property owners and residents of the importance of property maintenance to long-term neighborhoods quality and housing values.

**HE Policy 2.2:** Use the City's code enforcement program to bring substandard units into compliance with the City's Property Maintenance Ordinance and other codes, and to ensure the maintenance of the overall condition of residential neighborhoods in La Cañada Flintridge.

**HE Policy 2.3:** Encourage property owners to consider the benefits of home repair and remodelling using design and materials consistent with the existing or historic character of the residence and that are deemed fire safe.

**HE Policy 2.4:** Encourage property owners to participate in the state Earthquake Brace and Bolt program and/or other programs designed to improve the quality and long-term viability of housing.

### **9.5.1.3 Adequate Residential Opportunities for a Broad Range of Needs**

To facilitate new residential development that accommodates the 6<sup>th</sup> Cycle RHNA, the City plays an important role in both assisting in the identification and promotion of potential sites for future development. In addition, providing regulatory and available financial assistance will be essential to support the production of affordable housing. Promoting diversity in housing choice and cost will allow La Cañada Flintridge residents an opportunity to find housing that meets their individual and household needs, regardless of age, disability, household type, or income.

**HE Goal 3: Facilitate and encourage the development of housing for lower- and moderate-income households and households with special needs, including seniors and persons with disabilities.**

**HE Policy 3.1:** Encourage private sector and non-profit affordable housing developers to produce housing with particular emphasis on underserved segments of the community and households with special needs, including affordable and market-rate housing for seniors

**HE Policy 3.2:** Facilitate the development of low- and moderate-income housing by allowing developers a density bonus, as required by state law.

**HE Policy 3.3:** Accommodate the development of residential units that are accessible to or are adaptable for conversion to residential use by persons with disabilities.

**HE Policy 3.4:** Maintain an up-to-date residential sites inventory and provide to interested developers with information on available development incentives.

**HE Policy 3.5:** Support the assembly of small vacant or underutilized parcels to enhance the feasibility of redevelopment and infill development.

**HE Policy 3.6:** Encourage the integration, on a community level, of housing constructed expressly for lower- and moderate-income households with market-rate residential development.

**HE Policy 3.7:** Encourage the construction of ADUs and JADUs, such as fee reduction, streamlined permitting, public education, and other appropriate strategies.

**HE Policy 3.8:** Explore options for regulatory and available financial assistance to support the production of affordable housing.

### 9.5.1.4 Community Safety and Compatibility with the Natural and Built Environment

As a hillside community located in the Crescenta Valley in the foothills of the San Gabriel Mountains and the Angeles National Forest, residential development in La Cañada Flintridge is constrained by a variety of environmental factors. These factors, which are described in greater detail elsewhere in the Housing Element, include: steep slopes, drainage basins, with the associated risk of debris flows; the entire city being located within the Very High Fire Hazard Severity Zone (VHFHSZ); many long, narrow, winding roads; and 12 identified neighborhoods with a single point of ingress and egress. Protection of persons and property from environmental factors and human-made impacts, and conservation of the natural environment are all important considerations when identifying areas for new residential development, especially for persons with special needs and at-risk populations. The need to ensure adequate water supply for fire suppression and the City's transition from septic systems to installation of sewers also impact the appropriate location for higher density housing. (Note: City does not have a municipal-type water system and has no authority over water districts.)

**HE GOAL 4: Ensure that new housing is located and designed to be sensitive to the existing natural and built environment and to mitigate safety concerns.**

**HE Policy 4.1:** Protect residential neighborhoods from excessive noise through appropriate planning to minimize traffic and incompatible land uses.

**HE Policy 4.2:** Require that new residential development is coordinated with the provision of infrastructure and public services.

**HE Policy 4.3:** Locate new higher density residential development along the city's commercial corridors to promote the benefits of smart growth principles, including a reduction in vehicle miles travelled and greenhouse gas (GHG) emissions and associated energy consumption.

**HE Policy 4.4:** Encourage the use of energy conservation devices and passive design concepts, which make use of the natural climate to increase energy efficiency and reduce housing costs.

**HE Policy 4.5:** Regularly examine new residential construction methods and materials and upgrade the City's residential building and design standards as appropriate to ensure energy efficiency.

**HE Policy 4.6:** Provide affordable and special needs housing with priority for water and sewer allocations should water and sewer capacity become a constraining factor to housing development.

**HE Policy 4.7:** Provide residents the opportunity to approve benefit assessment districts for the installation of sewers.

**HE Policy 4.8:** Protect the safety of existing and future residents by implementing goals and policies in the Safety Element, especially those that

address impacts relating to: the city being located entirely within the VHFHSZ; the potential for debris flows; neighborhoods with only one point of ingress and egress; and streets that are narrow.

**HE Policy 4.9:** Encourage non-conforming development to upgrade to use more fire-safe building materials.

### 9.5.1.5 Affirmatively Further Fair Housing (AFFH)

In 2018, Assembly Bill 686 (AB 686) introduced an obligation to affirmatively further fair housing (AFFH) into California state law. AB 686 defined “affirmatively further fair housing” to mean “taking meaningful actions, in addition to combat discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity” for persons of color, persons with disabilities, and other protected classes. Specifically, these meaningful actions must aim to accomplish the following:

- Address significant disparities in housing needs and in access to opportunity;
- Replace segregated living patterns with truly integrated and balanced living patterns;
- Transform racially and ethnically concentrated areas of poverty into areas of opportunity; and
- Foster & maintain compliance with civil rights and fair housing laws.

AB 686 creates new requirements that apply to all Housing Elements due for revision on or after January 1, 2021, which includes the 6<sup>th</sup> Cycle Housing Element update for the SCAG region. Each jurisdiction’s Housing Element must include an assessment of fair housing (AFH) in each of five analysis areas:

1. Fair housing enforcement and outreach;
2. Segregation and integration;
3. Disparities in access to opportunity;
4. Disproportionate needs/displacement; and
5. Racially/ethnically concentrated areas of poverty.

Per HCD, the Sites Inventory required for the Housing Element also “...must assess whether the identified sites serve the purpose of replacing segregated living patterns with truly integrated and balanced living patterns. Analysis should not be limited to the identification of sites for lower income households but should incorporate the jurisdiction’s projected housing development at all income levels. It should assess the extent to which it either further entrenches or ameliorates existing patterns of segregation and/or exclusion of protected class members.”

As discussed in Chapter 9.2 (Community Profile) and Appendix D (AFFH), households in La Cañada Flintridge are predominantly in the “above moderate” income category, and the city is considered a “high resource” area due to its

excellent schools, high labor market engagement, low poverty rate, proximity to quality employment opportunities, quality housing stock, and high environmental scores. Unlike many jurisdictions in the SCAG region, which have “Racially or Ethnically Concentrated Areas of Poverty,” (R/ECAPs), the AFFH Assessment prepared for the Housing Element update found that La Cañada Flintridge is a “racially or ethnically concentrated area of affluence” (R/ECAA) (see Appendix D for details). In order to make adequate provision for the housing needs of all segments of the community, the City must ensure equal and fair housing opportunities are available to all residents. This means that through its goals, policies, and programs, the City must identify meaningful actions to expand the range of housing opportunities provided in La Cañada Flintridge, including lower and moderate income residents (including extremely low income households), housing for seniors on fixed incomes, the disabled, large families, female-headed households with children, and the homeless.

**HE GOAL 5: Promote equal housing opportunities for all persons in accordance with state and federal fair housing laws.**

**HE Policy 5.1:** Affirmatively further fair housing and promote equal housing opportunities for persons of all socioeconomic segments.

**HE Policy 5.2:** Promote housing along with supportive services to meet the special housing and service needs of seniors, homeless individuals and families, large households, single parents, and persons with disabilities.

**HE Policy 5.3:** Assist in the enforcement of fair housing laws by cooperating with local fair housing agencies to promote fair housing practices, and monitor, investigate, and enforce violations of fair housing laws.

**HE Policy 5.4:** Refer individuals concerned with possible violations of applicable fair housing laws to the fair housing service provider to ensure timely and effective response to such concerns. Publish information on these services on the City’s website and provide brochures at public counters.

**HE Policy 5.5:** Provide increased outreach and education for the broader community of residents, residential property owners, and property managers regarding fair housing practices and requirements.

**HE Policy 5.6** Administer all City programs and activities related to housing and community development in compliance with California Government Code Section 8899.50(b), in a manner that affirmatively furthers fair housing and is in no way materially inconsistent with the City’s obligation to affirmatively further fair housing.

## 9.5.2 Housing Programs

The goals and policies contained in the Housing Element address La Cañada Flintridge’s identified housing needs and are implemented through a series of housing programs offered through the Community Development Department and the Division of Building and Safety. Housing programs define the specific



excellent schools, high labor market engagement, low poverty rate, proximity to quality employment opportunities, quality housing stock, and high environmental scores. Unlike many jurisdictions in the SCAG region, which have “Racially or Ethnically Concentrated Areas of Poverty,” (R/ECAPs), the AFFH Assessment prepared for the Housing Element update found that La Cañada Flintridge is a “racially or ethnically concentrated area of affluence” (R/ECAA) (see Appendix D for details). In order to make adequate provision for the housing needs of all segments of the community, the City must ensure equal and fair housing opportunities are available to all residents. This means that through its goals, policies, and programs, the City must identify meaningful actions to expand the range of housing opportunities provided in La Cañada Flintridge, including lower and moderate income residents (including extremely low income households), housing for seniors on fixed incomes, the disabled, large families, female-headed households with children, and the homeless.

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## 9.5.2 Housing Programs

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actions the City will undertake to achieve the stated goals and policies within the eight-year (2021-2029) planning period. La Cañada Flintridge’s housing programs address the following five major focus areas:

- Provide new housing opportunities;
- Conserve and maintaining existing housing;
- Facilitate the provision of housing for lower and moderate-income and special needs households;
- Ensure environmental sensitivity and community safety; and
- Promote equal housing opportunity

Some of the Housing Programs below entail updating the City’s Codes and Ordinances to comply with State law. The City recognizes it must comply with State law, and seeks to update the Codes and Ordinance in a timely manner.

A major focus of La Cañada Flintridge’s Housing Plan is to adequately provide a balanced inventory of housing types, style, and prices to allow the City to meet the housing needs of all residents in the community in accordance with the City’s RHNA. La Cañada Flintridge is primarily built out and few vacant residentially zoned sites remain in the city. Much of the land area is constrained by topographic and other environmental features, and the entire city is located within the Very High Fire Hazard Severity Zone. Recent and future development relies primarily on the redevelopment of nonvacant properties, particularly along Foothill Boulevard, where mixed use and multifamily residential development are permitted. The following programs are intended to provide adequate residential sites to meet the City’s RHNA.

### **PROGRAM 1: Adequate Residential Sites to Accommodate the RHNA**

With very little vacant land, significant environmental, safety, and infrastructure constraints regarding the majority of existing residentially zoned property, and the lack of transit service beyond primary arterials, the City’s strategy to provide adequate sites to accommodate the RHNA is to identify and facilitate opportunities for future residential development via recycling of existing commercial sites to mixed use and stand-alone multifamily development in high opportunity areas along and near Foothill Boulevard. This will be accomplished by redesignating and rezoning certain properties to accommodate the densities identified in the Sites Inventory.

#### **Quantified Objectives and Time Frame:**

1. **Rezoning of Adequate Sites:** The rezoning of adequate sites is due October 15, 2022. The City is proposing to adopt the Housing Element in early October 2022, and is actively pursuing the implementation of the rezoning program. Following adoption of the Housing Element, the City will amend the Land Use Element to redesignate and amend the Zoning Map to rezone the properties identified in the Sites Inventory to accommodate the RHNA by October 2023. A total of 72 properties consisting of 30.5 total acres (including properties in the DVSP) will allow

residential development. Of the 72 total sites, 25 properties (19.14 acres) will be appropriately zoned to allow by-right approval of lower income units at a density of 25-30 dwelling units per acre for a net potential of 483 units. For a lower income development, residential use must occupy at least 50% of the total floor area of a mixed-use project. Total FAR for both the residential and nonresidential portion of a mixed use building shall not exceed 1.5.

2. **Rezoning of Adequate Sites in the DVSP:** See Program 4 regarding rezoning property within the Downtown Village Specific Plan (DVSP).
3. **Information:** Provide information on sites within the city and development incentives available through the City's density bonus ordinance in support of affordable housing and on available financial assistance through the City, county, and state. (Ongoing)

**Responsible Agencies:** Community Development Department

**Funding Source:** General fund

## **PROGRAM 2: No Net Loss**

The City will ensure that it monitors its compliance with SB 166 (No Net Loss) and maintains an inventory of residential sites to accommodate the City's total 6<sup>th</sup> Cycle Regional Housing Needs Assessment of 612 units, including 252 very low, 135 low, 139 moderate, and 86 above moderate income units.

### **Quantified Objectives and Time Frame:**

1. **Sites Monitoring Program:** By April 2023, develop a procedure to monitor the development of vacant and nonvacant sites in the sites inventory and ensure that adequate sites are available to accommodate the City's RHNA allocation by income category throughout the 6<sup>th</sup> Cycle planning period. The procedure will monitor:
  - a. Unit count and income/affordability assumed on parcels included in the sites inventory.
  - b. Actual units constructed and income/affordability when parcels are developed.
  - c. Net change in capacity and summary of remaining capacity in meeting the City's remaining RHNA.
2. **Additional Sites:** Create and maintain a list of additional sites with appropriate zoning that could be added to the City's Sites Inventory if and when an analysis provided through the Annual Progress Report (APR) indicates that sufficient sites may not exist to accommodate the City's remaining RHNA, by income level, for the planning period. (By April 2023)
3. **Sites Information:** Provide information on available sites and development incentives to interested developers and property owners on the City's website (By April 2023 through October 2029 (end of 6<sup>th</sup> Cycle).

**Responsible Agency:** Community Development Department

**Funding Source:** General fund

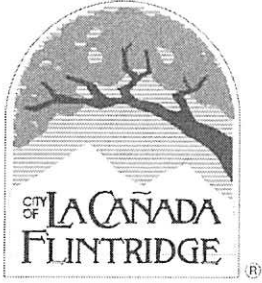
### **PROGRAM 3: Governmental Constraints to Housing Development**

Governmental constraints to development of multifamily and affordable housing in La Cañada Flintridge were identified in Section 9.3 (Constraints) and via discussions with market-rate and non-profit developers. As a part of the comprehensive update to the Zoning Code, the City will amend certain development standards to mitigate the identified constraints and ensure that the development standards are adequate to allow the achievement of the maximum density permitted to accommodate housing types that are affordable to households in all income categories, while preserving and revitalizing existing communities. The comprehensive Zoning Code update also proposes amendments to permitting processes to revise development review processes for residential uses, including changing the requirement for a CUP for residential uses in the MU zone to a ministerial permit. The update also proposes to add a separate use category for senior housing that would be allowed via a ministerial permit.

#### **Quantified Objectives and Time Frame:**

1. **Development Standards:** The City is currently in the process of comprehensively updating the Zoning Code. Several chapters pertaining to residential development standards have already been reviewed and recommendations have been proposed by the Planning Commission to mitigate constraints to development, including reducing parking standards, reducing setbacks, reducing open space requirements, and modifying the way building height is measured. The Michael Baker Market Feasibility Analysis resulted in a recommendation to establish a base density of 25 dwelling units per acre for high density housing. A component of that study (currently underway) is to test existing development standards and revise them to ensure that high density housing can feasibly be built in the City. A series of scenarios are being analyzed to match the average parcel sizes in the City to ensure target densities can feasibly be achieved. As a result of the constraints analysis prepared for the Housing Element update, those draft sections will be reviewed to determine if additional revisions are needed. In particular, parking standards and building height will be reconsidered. The Zoning Code will be amended by October 2023.
2. **Objective Design Standards:** The Zoning Code currently includes design standards for multifamily and mixed use development. As a part of the comprehensive update to the Zoning Code, the City has initiated the preparation of objective design standards and will delete the discretionary design guidelines. (By October 2023)

**EXHIBIT 16**



City Council  
Keith Eich, Mayor  
Richard B. Gunter, Mayor Pro Tem  
Kim Bowman  
Michael T. Davitt  
Terry Walker

June 24, 2023

Alexandra Hack  
Cedar Street Partners LLC  
500 North Brand Boulevard, 20<sup>th</sup> Floor  
Glendale, California 91203

**RE: Conditional Use Permit (USE-2023-0016), Tentative Tract Map 83375 (LAND-2023-0001), and Tree Removal Permit (DEV-2023-0003) for Mixed Use Project located at 600 Foothill Boulevard**

Dear Ms. Hack,

On May 26, 2023, the above referenced applications for a Mixed Use project at 600 Foothill Boulevard were deemed complete. As noted in my email of May 31, 2023, it remains the City's position (as affirmed by City Council on May 1, 2023) that the 2021-2029 Housing Element was in substantial compliance with state law as of October 4, 2022. Based on that, staff reviewed the project for consistency with the General Plan, applicable provisions of the Downtown Village Specific Plan (DVSP), the Zoning Code, and the density proposed within the 2021-2029 Housing Element. In accordance with Cal. Gov. Code § 65589.5(j)(2)(A), this letter serves as an explanation of the reasons that the City considers the proposed project to be inconsistent, not in compliance, or not in conformity with these aforementioned guiding documents.

1. **Density**

The project is proposing 80 units on a 1.29 acre site, which amounts to a density of 62 du/ac. This proposed density exceeds the base density of 12-15 du/acre, which was adopted for the site as part of the 2021-2029 Housing Element. These inconsistencies continue to exist even when a 35% density bonus for affordable housing is factored in.

2. **Open Space Requirements**

The proposed project is located in the Downtown Village Specific Plan ("Specific Plan") and will therefore be subject to the requirements of the Specific Plan even after it is rezoned. The Specific Plan includes the following requirement:

*7.5.4 Open Space: There shall be a minimum outdoor open space (including patios, walkways and planting areas) of 400 square feet per unit. There shall be an average outdoor open space (including patios, walkways and planting areas) of 600 square feet per unit.*

However, the proposed project would have an average of 468 square feet of outdoor open space per unit, which is inconsistent with the Specific Plan.

### **3. Design Requirements**

The Specific Plan includes the following requirement:

*7.4.14.1 Building designs for all structures 35,000 square feet in area or larger shall be influenced in terms of materials, colors, forms and details by the following architectural styles: Spanish, Mission, Spanish Colonial Revival and Italian Renaissance.*

The proposed project exceeds 35,000 square feet in area. However, the proposed project would not be influenced in terms of materials, colors, forms and details by any of the architectural styles listed above, which is inconsistent with the Specific Plan.

### **4. Other Impacts of the Project**

The project may have other impacts that require conditions or mitigation measures in order to comply with city standards, including but not limited to traffic impacts and environmental impacts, and if the project does not comply with these conditions and/or mitigation measures, it will be inconsistent with city standards. However, whether or not inconsistencies exist is currently impossible to know since environmental review has not yet been conducted and the City has not had sufficient time to conduct traffic studies and other pertinent studies to assess impacts. As noted above, the application was deemed complete on May 26, 2023, and state law requires the City to send out this letter within 30 days of determining that the application is complete, which does not provide sufficient time to conduct relevant technical studies.

Consequently, the City reserves the right to condition the project in any way necessary to offset or mitigate adverse impacts of the project or to ensure that the project complies with City requirements and state law.

For example, the City's Circulation Element includes the following policies:

*Circulation Element (CE) Policy 1.2.2: Require new developments to conform to LOS standards and project impact criteria of the City of La Cañada Flintridge and other mandated programs. This includes mitigation of traffic impacts to the surrounding street system.*

*Circulation Policy 1.2.3: Pursue right-of-way acquisition to meet the City's adopted standards. In non-residential areas, density bonuses may be considered in conjunction with right-of-way dedication. Right-of-way upgrades will serve to*

*benefit not only vehicles, but all forms of transportation. Although dedication of right-of-way is anticipated to be the primary means to upgrade right-of-way widths, the City may consider alternatives to right-of-way acquisition, such as easements, alternate routes, and designated access roads.*

*Circulation Element Policy 5.2.2: Develop an integrated intersection and traffic signal improvement plan for Foothill Boulevard that balances the need between progressive traffic movements, at reasonable speeds, with the need for safe and convenient pedestrian crossings. Require developers to contribute their fair share to these planned improvements to maintain and improve traffic conditions at acceptable levels.*

If a traffic study finds that the project will not meet the City's LOS standards, then the project will be inconsistent with those standards and will be conditioned so as to meet the standards, which may include, but would not be limited to, right-of-way improvements or right-of-way dedication. Intersection, striping, traffic signal, and other related improvements may also be required to mitigate traffic and circulation impacts.

Furthermore, the project may be required to construct or contribute money toward infrastructure improvements and to pay a fair share toward the provision of public services required by the project, per the following policy:

*Housing Element Policy 4.2: Require that new residential development is coordinated with the provision of infrastructure and public services.*

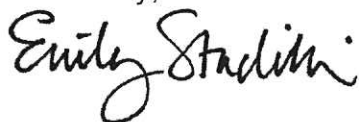
### **Requested Concessions**

Staff notes that two concessions have been requested in accordance with La Cañada Flintridge Municipal Code Chapter 11.19 and California Government Code Section 65915. They would include an extension to the 35-foot height limitation and the allowance of reduced parking stall dimensions and tandem parking. These concessions will be analyzed in the staff report prepared for the Planning Commission and approved through approval of the Density Bonus Agreement by City Council.

If you intend to pursue the project "as is", and do not choose to revise the plans, staff will schedule the project for a hearing before the Planning Commission as soon as possible and outline the deficiencies staff identified in regard to compliance with the City's existing Codes.

We look forward to working with you and Cedar Street Partners on this project.

Sincerely,



Emily Stadnicki, AICP  
Principal Planner



**EXHIBIT 17**

City of La Cañada Flintridge  
City Council Minutes  
Regular Meeting



Tuesday, July 7, 2020  
City Council Chambers  
One Civic Center Drive  
La Cañada Flintridge, CA 91011

## REGULAR CITY COUNCIL MEETING

**CALL TO ORDER:** Mayor Davitt called the Regular Meeting to order at 6:00 p.m.

**ROLL CALL:** Participating via video conference: Councilmember Keith Eich, Richard B. Gunter III, Terry Walker, Mayor Pro Tem Jonathan C. Curtis, and Mayor Michael T. Davitt

**STAFF PRESENT:** City Manager Alexander, Assistant City Manager Alameda, Interim City Attorney Guerra, Director of Public Works DeChellis, Director of Finance Hosken, Director of Community Development Koleda, Division Manager Parseghian, Division Manager Wilson, Management Analyst Dodd, and City Clerk Moreno.

To demonstrate the City Council's commitment to social distancing, Mayor Davitt, Mayor Pro Tem Curtis, Councilmember Eich, Councilmember Gunter and Councilmember Walker participated in this meeting via video conference as provided under the Governor's Executive Order N-25-20. Additionally, all staff participated in this meeting via conference call as provided under the Governor's Executive Order N-25-20.

**PLEDGE OF ALLEGIANCE:** Councilmember Eich led the pledge of allegiance.

### COMMENTS FROM THE PUBLIC:

Mayor Davitt stated that the City of La Cañada Flintridge encourages community members to take steps to protect against the coronavirus COVID-19, including appropriate social distancing as outlined in the Governor's Executive Order and the Los Angeles County Department of Public Health's "Safer at Home" order (available on the City's website). As such, City Council meetings are now exclusively conducted electronically to minimize the risk of exposure and opportunity for community spread. The City Hall Council Chambers will not be available for public attendance during City Council meetings. If you are interested in addressing the City Council, please submit your comment(s) via e-mail to [ccpubliccomment@lcf.ca.gov](mailto:ccpubliccomment@lcf.ca.gov). For items listed on the Consent Calendar or on any items not listed on the agenda, comments may be submitted during the "Comments from the Public" agenda item. E-mails may be submitted only until close of the "Comments from the Public" period. A copy of each timely submitted e-mail will be provided to each City Council member, will be acknowledged as received during "Comments from the Public," and will be made a part of the public record of the meeting, but will not be read aloud. All e-mails timely submitted shall also be made available on the City's website as soon as reasonably practicable during the City Council meeting, or as soon as reasonably practicable thereafter, to ensure public access to public comments (found here: <https://cityoflcf.org/city-clerk/agenda-minutes>). Any e-mails received after the close of the "Comments from the Public" period will still be provided to each City Council member but will not be included as part of the public record of the meeting. If you are interested in addressing the City Council regarding specific items listed on the agenda (other than Consent Calendar items), e-mails may be submitted only until close of the public comment period for the specific agenda item. A copy of each timely submitted e-mail will be provided to each City Council member, will be acknowledged as received during the public

comment period for the specific agenda item, and will be made a part of the public record of the meeting, but will not be read aloud. All e-mails timely submitted shall also be made available on the City's website as soon as reasonably practicable during the City Council meeting, or as soon as reasonably practicable thereafter, to ensure public access to public comments (found here: <https://cityoflcf.org/city-clerk/agenda-minutes>). Any e-mails received after the close of the public comment period for the specific agenda item will still be provided to each City Council member but will not be considered as part of the public record for that specific agenda item.

City Clerk Moreno stated that the City received a total of 2 comments from Edward Llerena and Betsy Hall. She added that copies of the public comments were forwarded to the City Council. Copies of the public comments are included as Attachment 1.

City Manager Alexander added that the public comments have been posted on the City's website.

## **PRESENTATIONS:**

### **a) Legislative Update**

Division Manager Wilson explained that the state legislature is currently in recess, which began on July 2<sup>nd</sup>. The State capitol in Sacramento announced it has closed after an Assemblymember and four others who work in the building tested positive for COVID-19. State officials have indicated that the California assembly session, for now, is postponed indefinitely. They had been scheduled to reconvene on Monday, July 13<sup>th</sup>. Despite this closure, there are several other items to report. She stated that that before going into recess, the legislature gave final approval to a budget package on June 25<sup>th</sup>, including numerous budget-related bills that further the implementation of the FY 2020-21 State Budget. The budget package was signed by the Governor on June 29<sup>th</sup>. She stated that with the legislature in recess, the status of these, following previously discussed bills, has not changed: AB 953 (Ting/Bloom); SB 773 (Skinner); SB 902 (Wiener); SB 995 (Atkins); SB 1085 (Skinner); SB 1120 (Atkins); and SB 1385 (Caballero). She reported on AB 2167 (Daly) and SB 292(Rubio) (Companion). With regards to AB 2167, the City's lobbyist has indicated that the bill, along with companion bill SB 292, were introduced by the insurance industry to address two main problems related to recent major wildfire disasters: (1) they are too concentrated in certain regions of the state; and (2) rates are inadequate across the board, but especially in high risk regions of the state, which has apparently resulted in an increase in homeowners' insurance non-renewals. Because of Proposition 103 passed by the voters in 1988, insurers believe that it is too difficult for them to voluntarily write more insurance in high risk regions. The goal of the bill is to decrease the number of non-renewals by allowing each insurer to be able to individually identify the impediments it faces to writing more insurance in these high risk regions and make a filing with the Department of Insurance Commissioner that allows those company-specific reasons to be addressed. The City's lobbyist indicated that the bill will allow insurers to propose policies for homeowners' insurance in specified counties at rates expected to be higher than allowed under current parameters, rates may include reinsurance costs, and insurers may only submit special rates for policies in a county that qualifies. Furthermore, the Insurance Commissioner, whose important duties would be partially stripped by this bill, has stated that: the bill will increase the cost of insurance even in urban areas with reduced risk of wildfires that have so far escaped major rate increases; will let insurance companies "cherry pick" who they want to

offer insurance to – the bill does not mandate that insurers write in high risk areas, where a majority of insurance non-renewals are occurring in the state; does not guarantee that policyholders will be able to find companies willing to write insurance they can afford; does not address the most important things that first responders and consumers have identified as necessary – namely home hardening and wildfire mitigation that will reduce the risk of devastating fire, bring down the cost of insurance, and make it widely available; and the bill is supported by the insurance industry – and opposed by all the consumer groups that work on insurance issues. Subsequently, the bill has only received a handful of “no” votes so far from some of the most consumer-friendly Assembly Members, and the League has a “Watch” position. AB 2167 will require a 2/3’s vote from the Legislature for passage.

Division Manager Wilson also reported on the propositions that the Secretary of State has certified that will be on the November ballot. She provided an update on the ballots affecting the City. Proposition 15, the Tax on Commercial and Industrial Properties for Education and Local Government Funding Initiative requires commercial and industrial properties to be taxed based on market value and dedicates revenue. It is an effort to revise the property tax rules that have existed in California since the passage of Proposition 13 in 1978. The Proposition would allow market-rate values for commercial and industrial properties to be used as the basis for assessing property taxes owed and would phase in that change over three years. Some properties occupied by small businesses would have a longer transition period to the higher taxes, while some business property owners would be exempt from the new law. Proposition 19, the Property Tax Transfers, Exemptions, and Revenue for Wildfire Agencies and Counties Amendment, changes tax assessment transfers and inheritance rules. Homeowners over 55 or older would receive certain tax breaks, and it would be limited to owner-occupied homes. Most of the resulting revenues collected by narrowing this tax break would go toward local firefighting efforts. Proposition 20, the Criminal Sentencing, Parole, and DNA Collection Initiative, makes changes to policies related to criminal sentencing charges, prison release, and DNA collection. This Proposition would place limits on the sentence reductions included in the previous Propositions 47 and 57 and would expand DNA collection.

Division Manager Wilson reported on the Invest in America Act. This week, City staff spoke to Raffi Hamparian, Metro’s federal lobbyist and on-site DC representative, about the possibility of getting soundwall funding from the Invest in America Act, which recently passed the House. The City was notified that the level of funding from the House in the bill was a 40-45 percent increase in funding from the present. They said the bill pending in the Senate is only about a 10-15 percent increase. Unfortunately, it is not expected that the bill will be passed and signed prior to the election. The lobbyist expects the adoption of a continuing Resolution, which has normally been for a period of 6 to 12 months until it is taken up again. No other city individually has contacted Metro’s lobbyist regarding their funding needs and, at this point, the City’s needs for soundwalls will be considered by them.

Mayor Davitt requested a written list of the propositions.

#### **b) Staff Update on Project**

Director of Public Works DeChellis provided an update on City projects. The construction on the 2020 Citywide Resurfacing Project started in early June and should be completed by the end of July. The 2020 Miscellaneous Concrete Repairs Project will start construction in July and will be completed in August. The Foothill Boulevard Restriping Project is scheduled to start later this month and completed in early September. The Lanterman House Maintenance Repairs are scheduled to start soon and finish by the end of July. He also reported on a City of Glendale project on Verdugo Boulevard. This project is scheduled to start on July 21<sup>st</sup> and be completed on July 27<sup>th</sup>. The paving operations will consist of two days of grinding and three days of paving. During this time, the 2 freeway on and off ramps will be closed. The contractor is working with Caltrans to set up traffic control and detour signs.

In response to a question raised by Mayor Davitt, Director of Public Works DeChellis clarified that the City of Glendale's project will start on Tuesday, July 21<sup>st</sup> and will be completed by Monday, July 27<sup>th</sup>. He added that the on ramp and off ramp will be closed for the whole duration of the project.

In response to a question raised by City Manager Alexander, Director of Public Works DeChellis explained that Caltrans has added yellow framing for added visibility and safety reasons around all the traffic signal heads at all intersections they control.

City Manager Alexander added that the City has received a few complaints from residents who feel the yellow framing is unsightly.

**REORDERING OF AND ADDITIONS TO THE AGENDA:** None

**CONSENT CALENDAR:**

A **MOTION** was made by Councilmember Eich, seconded by Councilmember Walker, and carried (5 – 0) to approve Consent Calendar 1 through 6.

A roll call vote was taken, and the results were read by City Clerk Moreno as follows:

**AYES:** Davitt, Curtis, Eich, Gunter, Walker; **NOES:** None

**1. Minutes of the City Council Meeting:**

- a) Regular City Council Meeting of June 16, 2020  
(Approved 5 – 0, as recommended)

**2. Approval of Warrant Resolution No. 20-14 dated July 7, 2020 for \$674,336.83  
(Approved 5 – 0, as recommended)**

**3. Receive and File Commission Meeting Action Agendas:**

- a) Planning Commission Action Agenda for June 11, 2020
- b) Planning Commission Action Agenda for June 25, 2020
- c) Public Works and Traffic Commission for June 17, 2020  
(Approved 5 – 0, as recommended)

4. **Approve and Accept Work by AMG & Associates, Inc., for the Civic Center Renovation Project, Contract 17/18-5 and Direct the City Clerk to File the Notice of Completion (Approved 5 – 0, as recommended)**
5. **Approval of a Professional Services Agreement with Willdan Inc. for Interim Public Works Inspector Services (Approved 5 – 0, as recommended)**
6. **Professional Services Agreement with Willdan Inc. for Interim City Engineer Services (Approved 5 – 0, as recommended)**

**PUBLIC HEARINGS:**

7. **Public Hearing and Consideration of Amendment to the Master Schedule of Fees and Charges**

Division Manager Parseghian explained that, each year, staff reviews the Master Schedule of Fees and Charges to determine if any changes are needed due to state law or capital improvement projects. Staff takes this opportunity to propose new fees for cost recovery purpose. The key changes are as follows: fee increase for Building & Safety; new fees for Lanterman Auditorium as cost recovery; and other minor adjustments to comply with state law, such as notary fees. He recommended the adoption of the proposed resolution.

Councilmember Walker noted that this is a neutral approach and the City is simply recovering costs. She added that the City is matching revenue with expenses.

Mayor Davitt opened the public hearing at 6:30 p.m.

City Clerk Moreno stated that the City did not receive any public comments.

Mayor Davitt closed the public hearing at 6:31 p.m.

A **MOTION** was made by Councilmember Eich, seconded by Mayor Pro Tem Curtis, and carried (5 – 0) to adopt Resolution 20-xx amending the Master Schedule of Fees and Charges for City Services to Incorporate New and Revised Fees and those previously adopted under Resolution No. 19-21.

A roll call vote was taken, and the results were read by City Clerk Moreno as follows:

**AYES:** Davitt, Curtis, Eich, Gunter, Walker; **NOES:** None

8. **Adoption of Vehicles Miles Travelled (VMT) Threshold of Significance**

Director of Community Development Koleda explained that changes in state law require all local jurisdictions to adopt new California Environmental Quality Act (“CEQA”) thresholds. This will change how the City evaluates projects for transportation impacts. The City will now use Vehicle Miles Travelled (VMT) instead of Level of Service (LOS) as the metric to evaluate transportation

impacts in CEQA documents such as Environmental Impact Reports. She added that the San Gabriel Valley Council of Governments (SGVCOG) coordinated with a majority of its member cities in contracting with Fehr and Peers to provide professional consultant services to complete the San Gabriel Valley Regional VMT Analysis Model. Staff has prepared new CEQA transportation impact thresholds for consideration by the Planning Commission and adoption by the City Council. She introduced Consultant Spencer Reed to provide a presentation.

Spencer Reed, Fair and Pers Consultant, explained that his firm was contracted by SGVCOG for the implementation study. He noted that SB 743, signed by Governor Brown in 2013, started a process intended to change how transportation is analyzed by municipalities. The bill eliminates LOS and requires agencies to determine transportation impacts under CEQA and requires the use of VMT instead. The state's goal to change the metric used is to encourage land use and transportation decisions. He added that CEQA plays an important role in the process. He explained that his firm worked with SGVCOG to identify methodologies, thresholds, and feasible mitigation measures. He noted that the state provided several ways to screen out local serving projects. Lastly, he noted that it is appropriate for the City to adopt new local CEQA thresholds of significance for transportation impacts and new Local Transportation Assessment Guidelines.

Director of Community Development Koleda explained that the City staff addressed several issues while working with the consultant. They addressed the type of projects that would be screened out from VMT analysis. She clarified that staff does not anticipate many projects to be screened out. Staff recommended that the proposed baseline VMT is the average VMT for the SGVCOG northwest subarea. A project's VMT will be compared to the baseline VMT when determining potentially significant impacts. Staff is also recommending that the City utilize a threshold consistent with 15 percent below the subregion's average VMT for land development projects. She added that staff did receive a comment from a Planning Commissioner who disagreed with the requirement for LOS metrics in addition to the VMT analysis.

Councilmember Gunter noted that the state signed this into law five years ago. Although, he understands the reason behind the staff's recommendation, he feels that this might be confusing for the public.

In response to the comments by Councilmember Gunter, Director of Community Koleda explained that the guidance checklist, provided by the state, has been modified to remove any reference to LOS analysis to avoid confusion. The LOS analysis will be included as an attachment buried in the environmental documents. She added that applicants will be required to hire a traffic engineer to conduct the study that will then be reviewed by the City's traffic Engineer.

Councilmember Gunter noted that he does not feel it is appropriate for the applicant to conduct the LOS analysis report.

In response to questions raised by Councilmember Eich, Director of Community Development Koleda explained that the threshold is consistent with 15 percent below the subregion's average VMT for land development projects. The City had other options but staff felt that using the state threshold was the most suitable option. She also noted that staff does not anticipate more than one project per year.

Mayor Davitt inquired if the City Council has the authority to modify the guidelines in the future.

Director of Community Development Koleda responded that the City Council may modify the guidelines with justifications on the new thresholds.

In response to a question raised by Mayor Pro Tem Curtis, Director of Community Development Koleda clarified that the Planning Commissioner agreed with Councilmember Gunter. They felt that requiring the applicant to conduct the LOS analysis was excessive.

In response to a question raised by Mayor Davitt, Director of Community Development Koleda explained that there is no risk in not requiring applicants to conduct the LOS analysis.

Mayor Davitt asked the City Council for their feedback.

Interim City Attorney Guerra reminded the Mayor to open the public hearing before the City Council's discussion.

Mayor Davitt opened the public hearing at 6:58 p.m.

City Clerk Moreno stated that the City did not receive comments via email.

Mayor Davitt closed the public hearing at 6:59 p.m.

Councilmember Gunter recommended excluding the LOS analysis from the Traffic Impact Analysis Guidelines and revisit it in the future.

Councilmember Walker added that it would be ideal to simplify the process and still meet CEQA requirements.

Interim City Attorney Guerra clarified that the appropriate motion would be to adopt the resolution as presented and direct staff to exclude "Level of Service" analysis from Traffic Impact Analysis Guidelines.

A **MOTION** was made by Councilmember Gunter, seconded by Councilmember Eich, and carried (4 – 0 – 1) to adopt the attached Resolution, adopting "Vehicle Miles Travelled" Baselines and Thresholds of Significance for purposes of Analyzing Transportation Impacts under the California Environmental Quality Act; and exclude "Level of Service" analysis from Traffic Impact Analysis Guidelines which are being prepared by staff and will be presented at a future meeting.

A roll call vote was taken, and the results were read by City Clerk Moreno as follows:

**AYES:** Davitt, Eich, Gunter, Walker; **NOES:** None; **ABSTAINED:** Curtis

**ORDINANCES:** None

**OTHER BUSINESS:**



## **9. Appointment to Fill Scheduled and Unscheduled Vacancies on the Youth Council and Public Works & Traffic Commission**

The City Council concurred that making the appointment is a difficult decision due to the number of highly qualified applicants. They thanked all the applicants for their interest in serving the community.

City Clerk Moreno commenced with the ballot process to fill two scheduled vacancies and one unscheduled vacancy on the Youth Council. The two scheduled vacancies are set to expire on May 31, 2022 and the unscheduled term is set to expire on May 31, 2021. The applicant names listed on the Youth Council ballot are as follows: Winston Cho, Elyse Hwang, Jacob Lee, Brendan Ehrhart, Stephanie Hwang, Paige Speaker, Enzo Fong, Jayden Husfield, Emily Strauss, Amanda Grabel, Kerry Ji, Seo "Lauren" Young Hong, and Chase Kerstein. She asked the Councilmembers to open the electronic ballot and make their selections for the Youth Council vacancies.

An electronic ballot vote was taken to fill the two scheduled vacancies on the Youth Council, and the results were read by City Clerk Moreno. Chase Kerstein and Emily Strauss received a majority of the votes and were appointed to the Youth Council.

An electronic ballot vote was taken to fill an unscheduled vacancy on the Youth Council, and the results were read by City Clerk Moreno. Brendan Ehrhart received the majority of the votes and was appointed to the Youth Council.

City Clerk Moreno continued with the ballot process to fill an unscheduled vacancy on the Public Works and Traffic Commission. The unscheduled term is set to expire on May 31, 2023. The applicant names listed on the Public Works and Traffic Commission ballot are as follows: Arun Jain and Todd Royal.

An electronic ballot vote was taken to fill an unscheduled vacancy on the Public Works and Traffic Commission, and the results were read by City Clerk Moreno. Arun Jain received the majority of the votes and was appointed to the Public Works and Traffic Commission.

The City Council congratulated the newly appointed commissioners and thanked all the highly qualified applicants for their interest in serving the community.

## **10. Status of Delinquent Sewer Connections**

Management Analyst Dodd provided a report on the status of delinquent sewer connections. He explained that the public sewer lines are available for all residents north of Foothill Boulevard. The Notice of Completion for Sewer District 1 was recorded on September 30, 1999, Sewer District 2 on November 21, 2005, and Sewer Districts 3 A and B on April 28, 2008. Per the City's Municipal Code, the residents were required to connect within 5 years of recordation of the Notice of Completion. In March and July 2018, notification letters were sent to 190 unconnected addresses north of Foothill Boulevard. Currently there are 64 homes that need to be connected. Furthermore, in January 2019, the City's Code Enforcement Officer went door-to-door to notify unconnected property owners. Many of the unconnected homes are below street grade, which

increases the cost of the connection. The City offers a Community Development Block Grant as an incentive of approximately \$8,000 to qualified low to moderate income households. In addition, the Community Development Department has placed holds on any permits, aside from sewer permits, that are applied to unconnected households. City Prosecutor Ken Dapeer has suggested flagging a select handful of the unconnected homes with unresponsive property owners to seek court action. Other methods of enforcement include administrative citations and reporting of public nuisance on the title of the property.

Councilmember Walker noted that Sewer District 1 has been completely paid off.

Mayor Davitt opened the public comment period at 7:22 p.m.

City Clerk Moreno stated that the City did not receive any public comments.

Mayor Davitt closed the public comment period at 7:22 p.m.

Mayor Davitt noted that this has been an ongoing challenge for the City. Past City Councils have attempted to get all homes connected. He stated that the City has 64 homes still pending. He noted that the City Council could direct staff to continue to send letters or consider a more stringent approach.

Councilmember Eich noted that it would be interesting to see the Public Works and Traffic Commission explore the issue and make a recommendation on how to best approach the issue. He added that the Commission and residents could work together.

Councilmember Walker stated that she is having a hard time understanding delinquencies in Sewer District 1. She stated that it has been 20 years and she has not seen any progress. She noted that the City must start by addressing Sewer District 1. She emphasized the importance of having consequences for those who do not connect. She added that it is time that the City stop the debate and stick to a process.

Mayor Davitt explained that the City Council has discussed this issue in the past. He would like this to go back to the Public Works and Traffic Commission with the direction that the City needs compliance and adding a timeframe. He added that we have new Commissioners and Councilmembers. He added that there are mechanisms to get this done.

Mayor Pro Tem Curtis concurred with Mayor Davitt. He added that this has been an issue and he recognizes the current financial difficulties. He noted that the Commission could look at the financial aspects and a timeframe. However, he said that we need to resolve this issue.

Councilmember Gunter concurred with Councilmember Walker. He recognized the financial difficulties but believes we must be fair to all residents and move forward with enforcement. He agreed that the Commission should review the issue and add a timeframe.

Director of Public Works DeChellis clarified that this process started before he began his career with the City. Staff has sent several letters and code enforcement has visited each property. He

noted that, a while ago, the plan was to begin to prosecute but that was put on hold during the new City Hall project. The City prosecutor suggested prosecuting a handful of homes to see the Court's decision. However, due to the pandemic, he recommended recording a Notice of Public Nuisance against the properties. The Notice of Public Nuisance is an alternative available for Council consideration.

Councilmember Walker noted that she appreciates the City Council wanting to send the issue back to the Commission. However, the City is at the point where we must write one last letter starting the Notice of Public Nuisance procedure. She noted that she does not believe that sending this back to the Commission will be a good use of their time.

Councilmember Eich asked if all the homes received a copy of tonight's agenda.

Director of Public Works DeChellis responded that the homeowners were not notified of tonight's agenda but have received three letters asking them to connect.

Councilmember Eich agreed that the City could start sending letters to Sewer District 1 regarding the Notice of Public Nuisance procedure and ask the Commission to discuss Sewer Districts 2 and 3.

Councilmember Gunter stated that delinquencies in Sewer District 2 have not connected in 15 years.

Councilmember Walker noted that the City could move forward with severe letters to Sewer District 1 and at the same time notify Sewer Districts 2, 3A and 3B. She recommended moving forward with all districts but stronger with Sewer District 1.

Mayor Pro Tem Curtis added that the City could write the letter and subsequently record the Notice of Public Nuisance. Existing lenders will see the notice and have a problem with it. He noted that he is open for suggestions from the City Council.

Mayor Davitt concurred that the City needs to see some progress. He recommended moving forward with the suggested plan for Sewer District 1 but instead of prosecution we do a notice. He also recommended giving Sewer District 2 more time and establishing a timeline for Districts 3A and 3B based on the original plan. This will allow the City to directly notify residents and put more pressure on Sewer District 1. He agreed with moving forward with the original plan for Sewer District 1 and to give the other districts about 90 to 180 extra days. He added that this will give staff time to update the City Council.

Mayor Pro Tem Curtis noted that if the City Council is interested in additional tools, the non-connection fine may be modified.

Director of Public Works DeChellis clarified that the item was presented to obtain feedback and direction from the City Council. He noted that if they would like, they may add a \$100 administrative fine per day.

Councilmember Walker inquired if the City may add to the letter that the City is moving forward with a Notice of Public Nuisance and possible prosecution.

Director of Public Works DeChellis responded that, during the pandemic, it could take months for the court to hear a case.

Councilmember Eich suggested sending a letter to Sewer District 1 and asking for a response within 60 days before making a ruling judgment.

Councilmember Gunter concurred with Councilmember Eich but would change it to 30 days.

Councilmember Eich agreed with Councilmember Gunter to give residents 30 days to respond.

Mayor Davitt asked if staff needed a motion.

Interim City Attorney Guerra responded that staff does not need a formal motion if there is consensus.

Councilmember Walker added that she would like the Public Works Department to continue to work on a plan to address Sewer Districts 2, 3A and 3B.

Director of Public Works DeChellis stated that he will follow-up and get feedback from residents in Sewer District 1.

City Manager Alexander stated that, as the City proceeds with Sewer District 1, staff will outline a process for the other districts and notify the residents that this is coming.

#### **CONCLUDING BUSINESS:**

**Meetings attended at the expense of the local Agency – None**

#### **Regional and local representation**

Mayor Davitt reported that he attended a California Contract Cities meeting regarding law enforcement and the Sheriff's Department. He noted that he will be attending a liability meeting with City Manager Alexander. He noted that the City received a Happy 4<sup>th</sup> of July message from their sister city Villanueva de la Cañada.

**Request for future agenda items – None**

#### **Councilmembers' comments**

Mayor Davitt congratulated Interim City Attorney Guerra on his appointment as City Attorney.

#### **City Manager and/or staff comments**

City Manager Alexander explained that the recent Covid-19 news has not been good. The County is reporting an increase in positive cases. Considering the increase in cases, it is not likely that large gatherings will be allowed anytime soon. The Music-in-the-Park concerts scheduled for July

-August 9<sup>th</sup> have been cancelled. The City has coordinated with some of the bands to stream some of their past performances on the City's website and Spectrum channels.


Mayor Davitt stated that streaming their performances is a good idea.

Mayor Davitt adjourned the Regular meeting in memory of long-time resident Harriet Hammons.

Mayor Pro Tem Curtis added that Harriet Hammons was an amazing person who was always engaged in our community.

**ADJOURNMENT:**

Mayor Davitt adjourned the Regular meeting at 7:54 p.m.

DocuSigned by:  
  
94AF4A4BA9FF48B

Tania Moreno, City Clerk

Minutes approved by the City Council on August 4, 2020.

you can stop it

Edward Llerena <[REDACTED]@gmail.com>

Thu 7/2/2020 3:25 PM

To: Public Comment Email <ccpubliccomment@lcf.ca.gov>

**I OPPOSE the demands from LCBLM to defund the CRESCENTA VALLEY SHERIFF STATION AND DETERMINATION OF OUR CITY'S CONTRACT WITH OUR SHERIFF.**

**[EXTERNAL EMAIL]**

## Airbnb disturbances

Betsy <b[REDACTED]@gmail.com>

Sun 7/5/2020 11:06 AM

To: Public Comment Email <ccpubliccomment@lcf.ca.gov>

Dear Council Members,

It is my understanding that regulations for Airbnb short term rentals will not be considered until October of 2020. Is there any way to accelerate this?

My neighbors and I have been dealing with an Airbnb party house at 4724 Castle Rd. for months. Just last Saturday, June 27th, there was a large and loud gathering of at least 70 people that prompted several calls to the sheriff by the surrounding neighbors. In the past year, my neighbors and I have contacted code enforcement, members of the city council, law enforcement and Airbnb numerous times for noise disturbances of loud music and people yelling. Occasionally the noise is reduced, but more often than not, it returns to full volume within a few hours or whenever the next renter moves in. The owner, who does not live on the property, is unable or unwilling to enforce his own rules for no parties or loud noise.

In conclusion, I hope we will not have to wait four months or more before some sort of restrictions can be implemented, especially while many are staying at, and working from, home.

Thank you.

-Betsy Hall

[EXTERNAL EMAIL]

**EXHIBIT 18**





May 26, 2023

Alexandra Hack  
Cedar Street Partners LLC  
500 North Brand Boulevard, 20<sup>th</sup> Floor  
Glendale, California 91203

**RE: Application Completeness Determination for Conditional Use Permit (USE-2023-0016), Tentative Tract Map 83375 (LAND-2023-0001), and Tree Removal Permit (DEV-2023-0003) for Mixed Use Project located at 600 Foothill Boulevard**

Dear Ms. Hack,

This letter is to inform you that based on a review of the additional application submittals, as well as revisions to the previously submitted plans and documentation, the above-referenced project has been deemed complete. Staff will continue their review of the project and you will be notified when the next steps have been determined.

Should you have any questions, please contact me at [estadnicki@lcf.ca.gov](mailto:estadnicki@lcf.ca.gov) or (818) 790-8881.

Sincerely,

Emily Stadnicki, AICP  
Principal Planner