

The Village at Laguna Hills

Attachment i

Housing Accountability Act Report (PlaceWorks)



TECHNICAL MEMORANDUM

DATE April, 5 2021

TO City of Laguna Hills

ADDRESS 24035 El Toro Road, Laguna Hills, CA 92653

CONTACT David Chantarangsu, Planning Director

FROM Karen Gulley, Managing Principal

SUBJECT **Application of the Housing Accountability Act to the Entitlement of The Village at Laguna Hills**

PROJECT NUMBER LAH-07.3

As requested, the following is an assessment of how the Housing Accountability Act (HAA) (Government Code Section 65589.5) applies to the application to redevelop the Laguna Hills Mall submitted by Merlone Geier Partners, LLC. The HAA establishes the state’s overarching policy that a local government cannot deny, reduce the density of, or make a housing development project infeasible when consistent with local development standards.¹ The HAA was originally adopted in 1982, but in 2017, 2018 and 2019, the Legislature amended and strengthened its provisions to significantly limit the ability of a local government to deny an affordable or market-rate housing project that is consistent with the planning and zoning requirements.

For a development to qualify for the protections under the HAA it must meet the definition of a “housing development project”. This means that a proposed project must consist of residential units only, or a mixed-use development consisting of at least two-thirds of the square footage designated for residential use, or transitional or supportive housing. The development may occupy more than one parcel, so long as the development is included in the same development application.² The Village at Laguna Hills is a mixed-use project that meets the definition of a “housing development project”. Based on the square footages by type of use below, the residential component is more than two-thirds of the project (69%). It should be noted that building area calculations were performed both with and without structured parking to determine if the residential/ non-residential building ratios would change. For both approaches, the residential building area was more than two-thirds of the project (69%).

¹ Housing Accountability Act Technical Advisory Memo by the Department of Housing and Community Development, dated September 15, 2020.

² Ibid.

The Village at Laguna Hills Building Breakdown By Land Use

BUILDING	NET SQUARE FEET	PERCENT DISTRIBUTION (NET)	PARKING STRUCTURE	GROSS SQUARE FEET (INCLUDING PARKING)	PERCENT DISTRIBUTION
RESIDENTIAL SUBTOTAL	1,856,068	69%	1,106,434	2,962,502	69%
Residential I	458,520		253,170	711,690	
Residential II	287,654		174,691	462,345	
Residential III	377,129		221,484	598,613	
Residential IV	394,084		241,540	635,624	
Residential V	338,681		215,549	554,230	
COMMERCIAL SUBTOTAL	367,198	14%	224,000	591,198	14%
Existing Buildings	23,095			23,095	
Pads	22,600			22,600	
Retail Anchor 1	28,000			28,000	
Retail Anchor 2	40,000			40,000	
Cinema	50,000			50,000	
Hotel	117,198			117,198	
Retail under Hotel	10,805			10,805	
Shops	18,000			18,000	
Retail under Residential	40,000			40,000	
Shops under Residential	17,500			17,500	
Parking Structure A			224,000	224,000	
OFFICE SUBTOTAL	465,000	17%	281,200	746,200	17%
Office 1	107,640			107,640	
Office 2	125,720			125,720	
Office 3	86,000			86,000	
Office 4	145,640			145,640	
Parking Structure B			281,200	281,200	
TOTAL	2,688,266	100%	1,611,634	4,299,900	100%

The HAA also includes additional provisions if the development project contains certain levels of housing for very low-, low-, or moderate-income households. The threshold is at least 20% of the total units be sold or rented to lower-income households. The project applicant has indicated that 200 units of the 1,500 total units will be dedicated to low-income households. This number represents 13% of the total units, therefore, the proposed project does not qualify for the additional protections under the HAA. Other criteria in the HAA pertaining to housing proposed for moderate-income persons or families is also not met with the proposed project.

The state's Housing and Community Development Department has prepared a Housing Accountability Act Decision Matrix, which is shown in Exhibit A. This matrix is intended to be used by local jurisdictions to understand how their decision to approve, deny, or make a project infeasible is impacted by the HAA. Exhibit A contains a highlighted decision path that is applicable to The Village at Laguna Hills. The following is a description of the decision path:

Step A) Does the project meet the definition of a housing development?

The answer is "yes" as shown in the above table.

Step B) Are 20% of the total units affordable to very low- or low-income households, 100% affordable to moderate- or middle-income households, or an emergency shelter?

The answer is "no" as documented above.

Step C) Is the project consistent with objective general plan, zoning, subdivision, and design standards and criteria?

The answer is "yes". The development project is consistent with standards of the Urban Village Specific Plan. Those standards addressed the following aspects of the project:

- » Development Intensity
- » Residential Density
- » Circulation and Right-of-Way Design
- » Street Edge Conditions
- » Building Setback
- » Building Height
- » Parking Standards
- » Landscape Requirements
- » Open Space Requirements

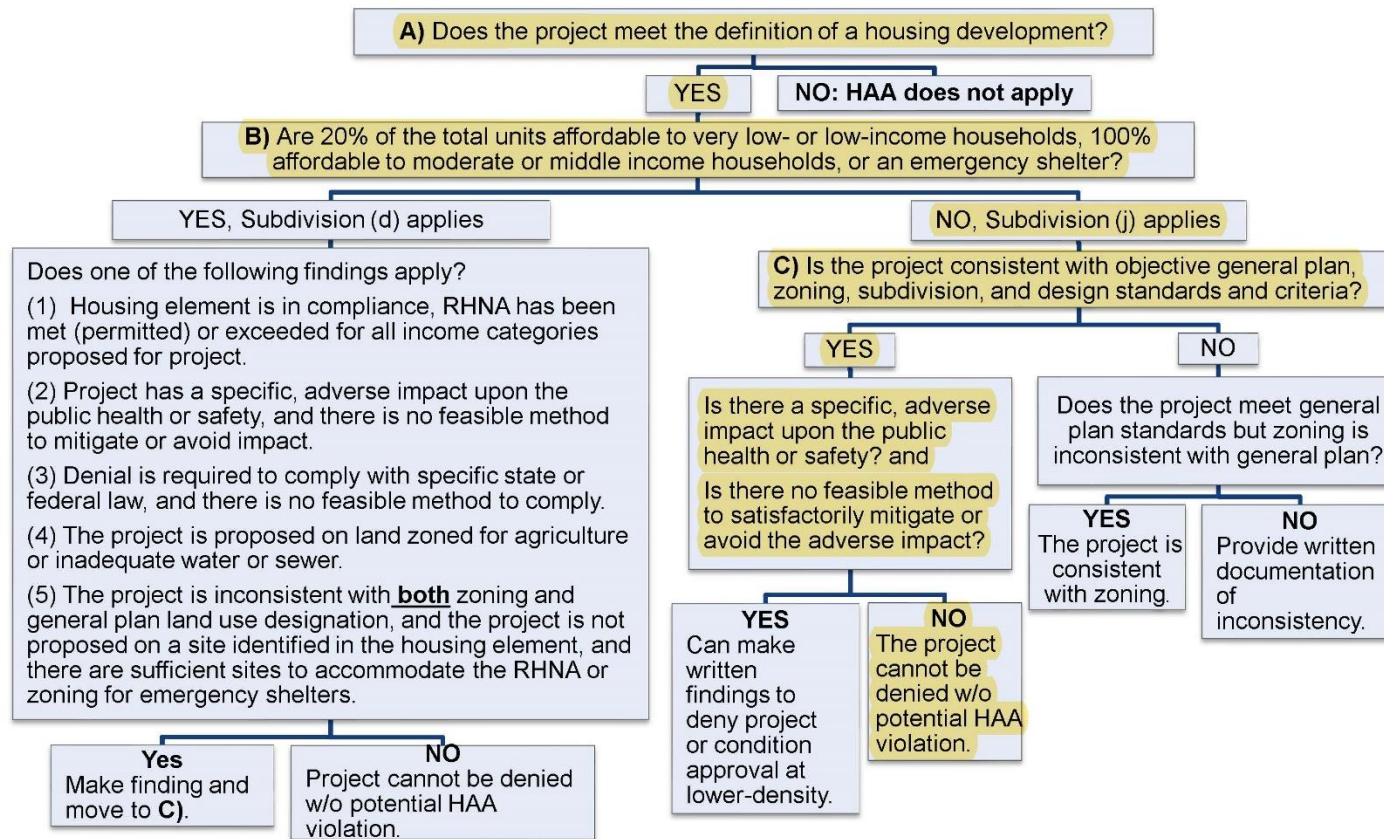
Step C) (Continued) Is there a specific, adverse impact upon the public health or safety? And Is there no feasible method to satisfactorily mitigate or avoid the adverse impact?

The answer is "no", pending any public comments at the public hearing that results in direction from the Planning Agency/City Council to undertake further analysis. The EIR Addendum and accompanying technical studies (e.g., air quality, traffic, noise) prepared for The Village at Laguna Hills, do not identify any new or substantially more severe significant environmental impacts than those identified in the previously certified Program Environmental Impact Report for the City of Laguna Hills General Plan Update (Program EIR) (State Clearinghouse No. 20080811100), including the 2016 Addendum to the Program EIR for the Five Lagunas Project. If the EIR Addendum does not identify any new adverse impacts on public health or safety as a result of project implementation, no mitigation is identified or required.

The outcome of applying the decision matrix is that the project cannot be denied without a potential HAA violation.

Housing Accountability Act Decision Matrix

This decision tree generally describes the components of the HAA. Both affordable and market-rate developments are protected by components of the HAA. The statute contains detailed requirements that affect the applicability of the HAA to a specific housing project based on its characteristics.



Denial of a Housing Development Project that is Consistent with Applicable Plans, Standards

If the City disapproves the project or imposes a condition that the project be developed at a lower density, the City must base its decision upon written findings that 1) the project would have a specific adverse impact upon the public health or safety; and 2) there is no feasible method to avoid or mitigate the adverse impact. The HAA provides additional protections for projects that contain housing affordable to very low, low- or moderate-income households. The City would need to make specific additional findings based on a preponderance of evidence standard in order to deny or make it infeasible to develop the affordable housing.

Violations of the HAA

If a jurisdiction is found to have acted in violation of the HAA, a court will issue an order compelling compliance within 60 days. If a jurisdiction fails to comply with the order, the court must impose a fine. The minimum fine is \$10,000 per housing unit in the proposed project. If the court finds that a local government acted in bad faith, the fine becomes \$50,000 per unit.

Limitations on Hearings

The city can only conduct up to five hearings, including continuances, for a housing development project that is consistent with applicable general plan and zoning standards. The hearing includes any public hearing, workshop, or similar meeting; however, the requirement does not supersede the standards of review pursuant to CEQA. The City must make a final decision on a residential project within 90 days after certification of an EIR or 60 days after adoption of an MND.