

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

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
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www.hcd.ca.gov



February 4, 2022

David Kelley, City Manager
City of Cloverdale
124 N. Cloverdale Blvd.
Cloverdale, CA 95425

Dear David Kelley:

**RE: City of Cloverdale, Proposed Alexander Valley Apartments – Follow Up Letter
of Support and Technical Assistance**

The California Department of Housing and Community Development (HCD) continues to monitor the status of the Alexander Valley Apartments (Project) and applauds the Planning Commission's Project approval on January 11, 2022. HCD is aware that the Project was appealed on January 20, 2022 and will be considered by the City Council on February 9, 2022. In our previous correspondence dated January 4, 2022 (enclosed), HCD expressed support of the Project and detailed the City's obligations under the Housing Accountability Act (HAA) and Housing Element Law in an effort to assist the City in its decision making. In anticipation of the upcoming hearing, the purpose of this letter is to further remind the City of its obligations under key provisions of state law relevant to the Project.

Housing Accountability Act

As outlined in the previous letter, the Alexander Valley Apartments Project qualifies for protection under the HAA; in particular, Government Code section 65589.5, subdivision (d). This provision significantly limits a jurisdiction's ability to deny a compliant housing development for very low-, low-, or moderate-income households, including farmworker housing, unless specific public health and safety findings are made and supported by a preponderance of the evidence in the record, as follows:

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

identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete (Gov. Code, § 65589.5, subd. (d)(2)).

Accordingly, please be aware that denial of the Project may risk violation of the HAA and that failure to comply may be grounds for enforcement action by the state. In addition, conditioning approval in a manner that renders the housing development project infeasible may risk violation of the HAA in the same way as an action to deny the project; such an action is subject to the same above-noted public health and safety findings pursuant to Government Code section 65589.5, subdivision (d)(2). Please see the [Housing Accountability Act Technical Assistance Advisory](#)¹ on HCD's website for additional guidance on the HAA.

Housing Element and No Net Loss Law

In addition, as noted in HCD's previous letter, the site for the Project was identified in the City's 5th Cycle Housing Element Residential Vacant Land Inventory² as being suitable to accommodate a portion of the City's RHNA (site "10" including subject parcel 001211018). Accordingly, if the development is denied, or approved with fewer units than what was assumed in the sites inventory, the City must make the written findings set forth in Government Code section 65863, subdivision (b)(2), or identify additional site capacity to accommodate the remaining RHNA by income group pursuant to Government Code section 65863, subdivision (c)(2), if deemed necessary. Please see the [No Net Loss Law Technical Assistance Advisory](#)³ on HCD's website for additional guidance on No Net Loss Law.

In sum, HCD urges the City Council to uphold the Planning Commission's approval of the Alexander Valley Apartments. If you have any questions or need additional technical assistance, please feel free to contact Lisa Frank, of our staff, at lisa.frank@hcd.ca.gov.

Sincerely,



Shannan West
Housing Accountability Unit Chief

Enclosure

cc: Kevin Thompson, Assistant City Manager/Community Development Director

¹ <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/hcd-memo-on-haa-final-sept2020.pdf>

² City of Cloverdale 5th Cycle Housing Element, pgs.2-49, 2-52

³ <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb-166-final.pdf>

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January 4, 2022

David Kelley, City Manager
City of Cloverdale
124 N. Cloverdale Blvd.
Cloverdale, CA 95425

Dear David Kelley:

**RE: City of Cloverdale, Proposed Alexander Valley Apartments – Letter of Support
and Technical Assistance**

The California Department Housing and Community Development (HCD) received a request for technical assistance regarding the Alexander Valley Apartments (Project). The purpose of this letter is to express HCD's support of the Project and to assist the City of Cloverdale (City) with its decision-making by providing technical assistance related to the Housing Accountability Act (Gov. Code, § 65589.5) and State Housing Element Law (Gov. Code, § 65580). HCD recognizes the challenge of interpreting ever-changing housing and land use laws and appreciates the opportunity to provide technical assistance.

HCD is aware that the City Planning Commission will be considering the Project at its January 11, 2022 public hearing. The upcoming hearing will be the second conducted for the Project, as the City continued the item at its meeting of November 2, 2021. HCD understands Pacific West Communities Inc. is seeking approval for a project that would result in 75 multifamily rental apartments affordable for very low- and low-income households making 30-60 percent of Area Median Income (AMI), inclusive of a manager's unit and 37 units for farmworker households. The units would be distributed among three detached three-story buildings with a range of one- to three-bedroom configurations, a community building, and ancillary amenities including a tot lot, garden, picnic area, and recreation space. Additionally, the application includes a request under State Density Bonus Law (SDBL) entitling the project to an increase in the otherwise allowable density, four concessions and incentives, waivers from physical development standards, and reduced parking requirements as set forth in Government Code section 65915, subdivisions (d), (e)(1), and (p)(1). As such, the project utilizes a reduction in private open space requirements, a waiver from the covered parking requirement, and the SDBL reduced vehicular parking ratios.

Housing Accountability Act

As the City is aware, the California Legislature first enacted the Housing Accountability Act (HAA) in 1982 and recently amended it to expand and strengthen its provisions as part of an overall recognition of the critically low volumes of housing stock in the state. HCD reiterates that the proposed Project meets the HAA's definition of "housing development project"; therefore, the City must consider its obligation under the HAA (Gov. Code, § 65589.5), which establishes limitations to a local government's ability to deny, reduce the density of, or make infeasible housing development projects, including farmworker housing that are consistent with objective local development standards and contribute to meeting housing need (Gov. Code, § 65589.5, subdivision (b), (d) and (j)).

During deliberations on the Project, HCD observed that the Planning Commission requested various design changes that the project sponsor was directed to address, suggesting that project approval, if obtained, would be contingent on these modifications. HCD also observed that some of these changes were open to interpretation and not part of objective written development standards, such as adding more trees and making the open space larger. It is HCD's understanding that these modifications were requested despite the Project's demonstrated compliance with the City's general plan and zoning development standards applicable to the site¹, inclusive of the modifications authorized pursuant to SDBL. The City should evaluate the application of such conditions for consistency with the HAA.

In light of this, the City should also be aware that the HAA establishes protections not only for all qualifying housing development projects, but also increased protections for projects, like the Alexander Valley Apartments, which meet the definition of "Housing for very low-, low-, or moderate-income households" (Government Code, § 65589.5 subd.(h)(3)). Specifically, in addition to limiting the imposition of conditions that lower the residential density of *any* housing development project, the HAA further limits the imposition of conditions on housing for very low-, low-, or moderate-income households, including farmworker housing, that would have a substantial adverse impact on the viability or affordability of providing the affordable units, unless specific findings are made pursuant to Government Code 65589.5 subdivision (d), and supported by a preponderance of the evidence in the record. Such conditions include, but are not limited to: *design changes, conditions that directly or indirectly lower allowable density*, or conditions that reduce the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning regulations (Government Code, § 65589.5 subd.(i)).

More generally, HCD reminds the City that the HAA establishes its own standard for determining consistency with local government requirements for housing development projects. A housing development project is deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement,

¹ City of Cloverdale Staff Report for Alexander Valley Apartments dates Nov.2, 2021, p.4-5

or other similar provision if there is substantial evidence that could allow a reasonable person to conclude that the housing development project is consistent, compliant, or in conformity with applicable standards and requirements. Please see the [Housing Accountability Act Technical Assistance Advisory](#)² on HCD's website for additional guidance on the HAA.

Housing Element Commitments

Through State Housing Element Law, the Legislature established that “the availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order” (Gov. Code, § 65580). The City of Cloverdale helps to advance these goals through specific housing programs in its adopted housing element. The City's programs in its adopted 5th Cycle (2015-2023) Housing Element, in part, commit to facilitate the development of housing for lower-income households and agricultural workers, particularly on opportunity and infill sites. For example (with emphasis added):

- IP-2.1.3 commits to “pursue grants and other funding to improve connectivity to the planned SMART station site *and emphasize residential development opportunity on nearby sites.*”
- IP-3.6.1 commits to “Work closely with Sonoma County representatives to address farmworker housing needs *and coordinate the construction of farm worker housing in the community.*”
- IP-3.1.1 commits to “Assist housing developers *in identifying opportunities to finance affordable housing intended for occupancy by households with special needs*, particularly extremely low-income households, seniors, disabled and developmentally disabled persons, *farmworkers*, and homeless persons.”

HCD commends the City's ongoing efforts to facilitate housing consistent with these programs, including the recently approved entitlement for the Baumgardner project in 2020 – a portion of which includes 59 new homes for farmworker families – and development of transitional housing on the City-owned Cherry Creek property. As the City is aware, the State of California remains in a housing crisis and the provision of much-needed housing, especially affordable housing, continues to be a priority of the highest order. Approval of this Project will help meet this housing challenge as well as directly fulfill several of the City's stated housing goals, policies, and implementation programs such as those noted above. In addition, HCD reminds the City that the site for the Alexander Valley Apartments (site “10” including subject parcel 001-211-018) was identified in the 5th Cycle Housing Element Residential Vacant Land Inventory³ as being suitable to accommodate a portion of the City's RHNA.

² <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/hcd-memo-on-haa-final-sept2020.pdf>

³ City of Cloverdale 5th Cycle Housing Element, pgs.2-49, 2-52

David Kelley, City Manager
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In sum, HCD supports approval of the Alexander Valley Apartments project during this critical housing crisis and hopes for a speedy resolution of this matter. HCD appreciates this opportunity to provide information to assist the City in its decision making. If you have any questions or need additional technical assistance, please feel free to contact Lisa Frank, of our staff, at lisa.frank@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Melinda Coy", with a long, sweeping horizontal stroke extending to the right.

Melinda Coy
Senior Housing Accountability Manager

cc: Kevin Thompson, Assistant City Manager/Community Development Director