



Sep 12, 2024

City of Santa Rosa
100 Santa Rosa Avenue
Santa Rosa, CA 95404

Re: Proposed Housing Development Project at 746 Acacia Lane

By email: planningcommission@srcity.org

Cc: CMOffice@srcity.org; CityClerk@srcity.org; Planning@SRcity.org;
caoffice@srcity.org; SHartman@srcity.org

Dear Santa Rosa Planning Commission,

The California Housing Defense Fund (“CalHDF”) submits this letter to remind the Commission of its obligation to abide by all relevant state laws when evaluating the proposed 25-unit housing development project at 746 Acacia Lane, which includes three affordable units. These laws include the Housing Accountability Act (“HAA”), the Density Bonus Law (“DBL”), and California Environmental Quality Act (“CEQA”) guidelines.

The HAA provides the project legal protections. It requires approval of zoning and general plan compliant housing development projects unless findings can be made regarding specific, objective, written health and safety hazards. (Gov. Code, § 65589.5, subd. (j).) The HAA also bars cities from imposing conditions on the approval of such projects that would reduce the project’s density unless, again, such written findings are made. (*Ibid.*) As a development with at least two-thirds of its area devoted to residential uses, the project falls within the HAA’s ambit, and it complies with local zoning code and the City’s general plan. The Planning Commission must therefore approve the project unless it makes written findings regarding health and safety as mentioned above – which it cannot do since the preponderance of the evidence in the record does not support such findings. (*Ibid.*) Increased density, concessions, and waivers that a project is entitled to under the DBL (Gov. Code, § 65915) do not render the project noncompliant with the zoning code or general plan, for purposes of the HAA. (Gov. Code, § 65589.5, subd. (j)(3).)

The DBL offers the project certain benefits. (See Gov. Code, § 65915.) The Commission must respect these benefits. Specifically, the Commission must grant the increase in density as well as the developer's requested concessions and waivers with respect to setbacks, lot size, private open space, and lot coverage. And, as mentioned above, these waivers and concessions do not impede the HAA's application to the project. Pursuant to the DBL, the project is also entitled to a relaxed accessory parking requirement. (*Id.* at subd. (p).) Furthermore, the California Court of Appeal has ruled that when an applicant has requested one or more waivers and/or concessions pursuant to the DBL, the City "may not apply any development standard that would physically preclude construction of that project as designed, even if the building includes 'amenities' beyond the bare minimum of building components." (*Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 775.)

Finally, the project is exempt from state environmental review under the Class 32 CEQA categorical exemption (In-Fill Development Projects) pursuant to § 15332 of the CEQA Guidelines, as the project is consistent with the applicable general plan designation and all applicable general plan policies as well as the applicable zoning designation and regulations; the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; the project site has no value as habitat for endangered, rare or threatened species; approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services. And recent caselaw from the California Court of Appeal affirms that local governments err, and may be sued, when they improperly refuse to grant a project a CEQA exemption or streamlined CEQA review to which it is entitled. (*Hilltop Group, Inc. v. County of San Diego* (2024) 99 Cal.App.5th 890, 911.)

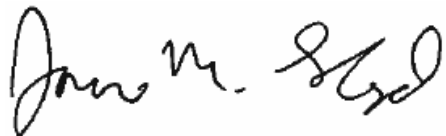
As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New housing such as this is a public benefit: it will bring new customers to local businesses; it will grow the City's tax base; and it will reduce displacement of existing residents by reducing competition for existing housing. While no one project will solve the statewide housing crisis, the proposed development is a step in the right direction. CalHDF urges the Commission to approve it, consistent with its obligations under state law.

CalHDF is a 501(c)(3) non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

Sincerely,

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

Dylan Casey
CalHDF Executive Director

A handwritten signature in black ink, appearing to read "James M. Lloyd". The signature is written in a cursive, flowing style.

James M. Lloyd
CalHDF Director of Planning and Investigations