I. CALL TO ORDER: Chairman Shaw

- Pledge of Allegiance: Commissioner Price
- Roll Call: Commissioners Ellis, Krick, Price, Schuler, Chairman Shaw

II. PUBLIC COMMENTS - On Items Not on the Agenda

A five-minute limitation shall apply to each member of the public who wishes to address the Chairman and Commissioners for items not on the agenda. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public. (Items received under this heading may be referred to staff or future study, research, completion and/or future Commissioner Action.) PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.

III. CONSENT CALENDAR ITEMS:

Note: All items listed on the Consent Calendar may be enacted by a single motion without separate discussion. If a discussion or a separate vote on any item is desired by a Planning Commissioner, that item may be removed from the Consent Calendar and considered separately. All remaining items not removed from the Consent Calendar by a Planning Commissioner shall be voted on prior to discussion of the item(s) requested to be pulled.

Minutes of October 4, 2017 Regular Planning Commission meeting...Page 1

IV. PUBLIC HEARING:

DISCUSS AND CONSIDER TENTATIVE TRACT MAP NO. 37298. PROPOSAL TO SUBDIVIDE APPROXIMATELY 199 GROSS ACRES OF VACANT LAND FOR PURPOSES OF CREATING 360 SINGLE FAMILY LOTS, 1 LOT FOR FUTURE MEDIUM DENSITY RESIDENTIAL DEVELOPMENT, 2 COMMERCIAL LOTS, 2 LOTS FOR PARKS, 14 OPEN SPACE (1 NUMBERED AND 13 LETTERED) LOTS, 1 SCHOOL LOT, AND PUBLIC STREETS, ALL WITHIN THE BUTTERFIELD SPECIFIC PLAN AREA.
Order of Procedure:

1. Staff report presentation
2. Planning Commission questions for staff and applicant
3. Open public comments
4. Close public comments
5. Planning Commission discussion
6. Motion and Second
7. Planning Commission discussion on motion
8. Call the question (Roll call vote)

Recommendation:

That the Planning Commission continue Tentative Tract Map No. 37298 to the December 6, 2017 Regular Planning Commission meeting.

V. REVIEW AND DISCUSSION ITEMS:

I. Planned Unit Developments

Staff Report – Patty Nevins

II. Housing Policy Overview

Staff Report – Patty Nevins

NO ACTION IS RECOMMENDED

VI. PLANNING COMMISSIONER COMMENTS:

VII. COMMUNITY DEVELOPMENT DIRECTOR’S COMMENTS:

VIII. ADJOURNMENT:

The City of Banning Planning Commission is hereby adjourned to the regular Planning Commission meeting of December 6, 2017 starting at 6:30 p.m. in the City Council Chambers.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Division (951) 922-3125. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting [28 CFR 35.102-35.104 ADA title II].
City of Banning

REGULAR PLANNING COMMISSION MEETING MINUTES

October 4, 2017

A regular meeting of the City of Banning Planning Commission was held on Wednesday, October 4, 2017 at 6:30 p.m., in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, CA, 92220.

Commissioners Present:
- Chairman Shaw
- Vice-Chairman Krick
- Commissioner Ellis
- Commissioner Price
- Commissioner Schuler

Staff Present:
- Community Development Director, Patty Nevins
- Interim Assistant City Attorney, Gregg W. Kettles
- Contract Planner, Marie Gilliam
- Recording Secretary, Sandra Calderon

I. CALL TO ORDER

The meeting was called to order at 6:30 p.m. by Chairman Shaw.

II. PUBLIC COMMENTS

None

III. CONSENT CALENDAR ITEMS


ACTION: Motion/Second (ELLIS/PRICE) to approve the September 6, 2017 Planning Commission meeting minutes. (Motion Carried 5 -0)

IV. PUBLIC HEARING

1. DISCUSS AND CONSIDER CONDITIONAL USE PERMIT AMENDMENT 17-8004, DESIGN REVIEW 17-7003 AND A NOTICE OF EXEMPTION, FOR THE EXPANSION OF AN EXISTING PRIVATE SCHOOL AND THE INSTALLATION OF TWO MODULAR BUILDINGS AND ASSOCIATED IMPROVEMENTS, LOCATED AT 1325 MOUNTAIN AVENUE

Director Nevins presented the staff report. She said the request tonight is for a Conditional Use Permit Amendment (CUPA) and a Design Review (DR) by Mountain Avenue Baptist Church for
two new modular buildings to be added to the existing school for that site. In January of 2017, Mountain Avenue Baptist Church received approval from the Planning Commission for an expansion of a private school and the installation of five (5) modular buildings, plus significant landscaping improvements that were included.

The new expansion proposes two additional modular units that will be used as a library and a science lab.

Director Nevins discussed correction to the numbering that relates to the Conditions of Approval on page 13 of the staff report.

Commissioner Krick said that item #5 of the original Conditions of Approval was not included to the list that is being proposed tonight.

Contract Planner Gilliam stated that the condition was combined with Condition #4 in the current staff report.

Commissioner Krick asked if the buildings are going to look a little different than the pictures being shown.

Director Nevins said yes, there is a condition in this approval that there will be a wainscoting-type treatment.

Commissioner Shaw asked about the status of the buildings that were originally approved in January 2017 and asked for the total number of modular buildings at the site.

Pastor Richard Szydlowski said there are seven (7) modular buildings on site, and they hope to obtain the building permits for the first five (5) modular buildings within the next two weeks.

Commissioner Ellis said the improvements will make a good addition to the area and will be a benefit to the residents.

Chairman Shaw opened the public hearing for comments.

No public comments.

Commissioner Shaw closed public comment.

**ACTION (SCHULER/PRICE): A motion was moved, seconded and carried that the Planning Commission take the following action:**

That the Planning Commission adopt Resolution 2017-17:

I. Adopting a Notice of Exemption pursuant to CEQA Section 15162 (Subsequent EIR’s and Negative Declarations).

II. Approving Conditional Use Permit Amendment 17-8004 for the expansion of an existing school, subject to the Findings and Conditions of Approval contained therein; and
III. Approving Design Review No. 17-7003 for the installation of two modular buildings and associated improvements to accommodate the expansion of an existing school, subject to the Findings and Conditions of Approval contained therein.

(Motion Carried 5 -0)

V. PLANNING COMMISSIONER COMMENTS:

Commissioner Schuler said she would like to discuss Planned Unit Developments (PUDs) on a future agenda. Discussion was made and Assistant City Attorney Kettles recommended a vote from the Commission.

ACTION (SCHULER/ELLIS): A motion was moved, seconded and carried that the Planning Commission take the following action:

Discuss Chapter 17.92 Planned Unit Developments on a future agenda for possible removal from the City Code.

(Motion Carried 5 -0)

Commissioner Ellis said he’s not looking for guidelines to approve or disapprove a project, but he would like a better understanding of the guidelines that currently pertain to PUD’s to better handle any future projects. Commissioner Ellis requested that the discussion also include “public housing” and “affordable housing” requirements, as well as state housing regulations pertinent to the City. Commissioner Shaw commented that the vote tonight is to bring forward a discussion on elements of the current PUD ordinance. Subsequent to the requested Planning Commission discussion, research by Planning staff may include modification of standards or guidelines in the present ordinance to recommend to City Council.

VI. COMMUNITY DEVELOPMENT DIRECTOR’S COMMENTS:

Director Nevins reminded the Planning Commission about a Special Meeting with the City Council on October 24th and State of the City address at the Museum of Pinball.

VII. ADJOURNMENT:

There being no further business, the meeting was adjourned at 6:53 p.m.

Respectfully submitted,

__________________________
Sandra Calderon
Recording Secretary

THE ACTION MINUTES SUMMARIZE ACTIONS TAKEN BY THE PLANNING COMMISSION. A COPY OF THE MEETING IN ITS ENTIRETY IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING FROM THE CITY CLERK’S OFFICE.
CITY OF BANNING
Planning Commission Report

MEETING DATE: November 1, 2017

TO: Planning Commission

FROM: Patty Nevins, Community Development Director

SUBJECT: TENTATIVE TRACT MAP NO. 37298. PROPOSAL TO SUBDIVIDE APPROXIMATELY 199 GROSS ACRES OF VACANT LAND FOR PURPOSES OF CREATING 360 SINGLE FAMILY LOTS, 1 LOT FOR FUTURE MEDIUM DENSITY RESIDENTIAL DEVELOPMENT, 2 COMMERCIAL LOTS, 2 LOTS FOR PARKS, 14 OPEN SPACE (1 NUMBERED AND 13 LETTERED) LOTS, 1 SCHOOL LOT, AND PUBLIC STREETS, ALL WITHIN THE BUTTERFIELD SPECIFIC PLAN AREA

RECOMMENDATION:

The applicant has requested that the Planning Commission continue this item to the December 6, 2017 regular meeting date in order for the applicant to further review the proposed Conditions of Approval and consider additional proposed infrastructure and water planning. Staff recommends that the Planning Commission open the public hearing, receive any public testimony, and continue the item and public hearing to the December 6, 2017 regular Planning Commission meeting.

APPLICANT INFORMATION:

Project Applicant: Pardee Homes
1250 Corona Pointe Court, #600
Corona, CA 92879

Property Owner: Pardee Homes
1250 Corona Pointe Court, #600
Corona, CA 92879
Project Location: North of Wilson Street, east of Highland Springs Avenue, generally in the southwesterly portions of the Butterfield Specific Plan.

APN Information: 408-120-001 through -005, 408-120-007 through -009; portions of 408-120-006, 408-120-010, 408-120-019, 408-120-020.

PUBLIC COMMUNICATION

Tentative Tract Map No. 37298 was advertised in the Record Gazette newspaper on October 20, 2017 (Attachment 1). Additionally, the notice was mailed to all property owners within 300 feet of the Project and the mailing was expanded to include property owners within 300’ of the Specific Plan boundaries. As of the date of this report, staff has not received any verbal or written comments for or against the proposal.

Prepared By:

Patty Nevins
Community Development Director
Attachment 1

Proof of Publication
I am a citizen of the United States and a resident of the State of California; I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer and publisher of Record Gazette, a newspaper published in the English language in the City of Banning, County of Riverside, and adjudicated a newspaper of general circulation as defined by the laws of the state of California by the Superior Court of the County of Riverside, under the date October 14, 1966, Case No. 54737. That the notice, of which the annexed is a copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

October 20, 2017

Executed on: 10/20/2017

At Banning, CA

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Signature
CITY OF BANNING
Planning Commission Staff Report

MEETING DATE:     November 1, 2017

TO:               Planning Commission

FROM:             Patty Nevins, Community Development Director

SUBJECT:          Planned Unit Developments

STAFF RECOMMENDATIONS:

This item is for information and discussion only; there is no recommended action.

BACKGROUND:

At the October 4, 2017 Planning Commission meeting, it was requested that the City of Banning’s Planned Unit Development Ordinance be placed on a future agenda for discussion. Planned unit developments in the City of Banning are regulated by Chapter 17.92 and Section 17.08.170 of the Municipal Code, attached.

Attachments:

1. Banning Municipal Code Chapter 17.92
2. Banning Municipal Code Section 17.08.170

Prepared By:      Reviewed and Recommended By:

[Signatures]
Marie Gilliam      Patty Nevins
Contract Planner   Community Development Director
ATTACHMENT 1
Chapter 17.92 of the Municipal Code
Planned Unit Developments
Chapter 17.92
PLANNED UNIT DEVELOPMENTS

Sections:

17.92.010 Purpose.
17.92.020 Design criteria and considerations.
17.92.030 Development standards.
17.92.040 Open spaces, common areas and facilities.
17.92.050 Application and processing procedures.
17.92.060 Permitted uses.
17.92.070 Authority.

17.92.010 Purpose.

Planned Unit Development permits allow greater flexibility in design in integrated developments than is possible through the strict application of zoning district regulations, and encourage the design of well-planned facilities which offer a variety of land uses through creative and innovative planning, including but not limited to the following types of development:

A. Residential Development. Residential developments, which may include a variety of housing types and site plans, accessible open (green spaces) or common recreational areas and facilities, and other features of substantial benefit to a viable and balanced community.

B. Residential/Commercial Development. Mixed residential/commercial developments that would permit but not be limited to apartments, convenience shopping facilities, professional office, commercial, recreational facilities, or other compatible land uses grouped in a well-designed and coordinated site development.

C. Industrial/Commercial Development. Well-designed and controlled groupings of research, service and/or light industrial/commercial uses within an area containing visual and operational amenities, and features, such as selective occupancies, setbacks, landscaping and bulk and building material controls. (Zoning Ord. dated 1/31/06, § 9123.01.)

17.92.020 Design criteria and considerations.

A. In administering the provisions of this chapter, the Community Development Department and the Planning Commission shall take into consideration the extent to which the proposed Planned Unit Development (PUD) generally promotes the purposes of this chapter. It is intended that this chapter be applied to developments capable of achieving the distinct environmental and developmental characteristics and benefits intended by the Planned Unit Development criteria set forth in this chapter.

B. The PUD shall observe the following design criteria:

1. The overall plan shall be comprehensive, and include all land, buildings, landscaping and their interrelationships.

2. The plan shall provide for adequate open space, circulation, off-street parking, recreational facilities and other pertinent amenities as related to the intended use and intensity of development. Buildings, structures and facilities in the parcel shall be well integrated, and oriented to the topographic and natural landscape features of the site, including wildlife passage corridors, when possible.

3. The proposed development shall be compatible with existing and planned land uses and with circulation patterns on adjoining properties. It shall not constitute a disruptive element to the neighborhood or community.

4. The internal street system should not be a dominant feature in the overall design; rather it should be designed for the efficient and safe flow of vehicles without creating a disruptive influence on the activity and function of any common areas and facilities.

5. Common areas and recreational facilities shall be located so as to be readily accessible to the occupants of the PUD and shall be well related to any common open spaces provided.
6. Architectural unity and harmony should be achieved so far as practicable within the development, as well as with historical and other desirable characteristics of the immediate neighborhood, the broader community, and environmental features such
as wetlands, trees, other vegetation, and wildlife habitat. (Zoning Ord. dated 1/31/06, § 9123.02.)

17.92.030 Development standards.

In addition to the general provisions of this ordinance and the requirements of the underlying zones, unless modified herein, a PUD shall comply with the following standards:

A. Design standards. The PUD project shall be designed to promote more economical and efficient use of the land, to provide a higher level of urban amenities, and to preserve the natural scenic qualities of open spaces. Overall standards for open spaces, circulation, off-street parking and other design criteria should be incorporated to create a harmonious, integrated project of such high quality as to justify exceptions to the regulations that pertain to the zoning district affecting the proposed project.

B. Density standards. The density standards of the zone in which the property is located shall apply to residential uses. The total number of dwelling units permitted on a residential portion of planned development shall be computed by multiplying the gross acreage of the site by the permitted density factor.

C. Minimum Lot Size. Residential lot size in a Planned Unit Development may be reduced below the minimum standards required by the zoning ordinance. However, as a prerequisite, the developer shall demonstrate that there is a reasonable relationship between the proposed lot size and the usable and accessible open area within the total development. When the required minimum lot area is reduced below the standards set forth in any residential zone, the additional amount of open space provided (above the minimum requirements of the zone) shall be equal to or greater than the sum of all reductions of the required minimum lot size.

D. Yards.

1. Front Yards. Front yard setback compatible with the existing or potential development adjacent and/or opposite from existing development shall be required to provide for an orderly and uniform transition along the streetscape to preserve, protect, and enhance the properties adjacent to the proposed planned development. The front yard of the proposed Planned Unit Development shall not be less than that of the developed lots, and shall not be less than the minimum requirements of the zoning district in which they are located. Where this is not the case, front yard setbacks shall be shown on the development plan and shall be subject to approval as shown or modified by the Planning Commission.

2. Side and rear yards. The side and rear yards for each lot shall be shown on the development plan and shall be subject to approval, as shown, or as modified, by the Planning Commission.

E. Development Standards. Development standards for building height, landscaping, lot coverage, types of structures, access and signs, shall meet the requirements of the underlying zones.

F. Parking. Parking requirements for each land use shall be consistent with Chapter 17.28, Parking Requirements. (Zoning Ord. dated 1/31/06, § 9123.03.)

17.92.040 Open spaces, common areas and facilities.

Common open spaces shall comprise not less than thirty percent (30%) of the gross site area. Common open space shall be that portion of the gross site area developed for recreational use (such as swimming pool, tennis court, golf course, children’s playground, picnic area), and designated for the use and enjoyment of all the occupants within the development, but shall not include streets, highways or other vehicular rights-of-way.

A. The topographic constraints of said open space shall be such that at least fifty percent (50%) thereof shall be comprised of level land, or land of moderate slopes not exceeding ten percent (10%) grade. No grading slope or area exceeding a ten percent (10%) grade shall be counted as open space.

B. The defined streambed of any water course shall not be counted as open space.

C. A declaration of covenants, conditions and restrictions relating to the repair, maintenance and management of the open spaces and common areas and facilities, signed and acknowledged by those parties having any record title to the land to be devel-
oped, and enforceable by the City shall be recorded. Such declaration shall provide that an assessment for the purposes of care, maintenance and improvement of the open spaces, common area and facilities upon any lot shall be a lien upon the lot and shall establish a method for making the claim and foreclosure, including power of sale.

D. Common open space shall be left in its natural attractive, unique or scenic state, unless landscaped in accordance with an approved landscaping plan. Preservation of scenic landscape features such as watercourses, rock outcroppings, hillsides, sensitive land areas, existing vegetation, wildlife, unique topographic features and views shall be encouraged. Open spaces shall be integrated into the overall design of the project.

E. All improvements, located within the common open space, such as landscaping, parks, recreational facilities, travel ways, and parking area, shall be maintained in a safe condition and a state of good repair.

F. Any failure to maintain such improvements located within the common areas shall be declared to be unlawful and a public nuisance endangering the health, safety and general welfare of the public and a determent to the surrounding community.

G. In addition to any other remedy provided by law for the abatement, removal or correction of such public nuisance, the City, after giving proper notice, may cause the necessary work of maintenance or repair to be done, and the cost thereof shall be assessed against the development property owners and the City may record and collect this assessment in the same manner as property taxes are recorded and collected. (Zoning Ord. dated 1/31/06, § 9123.04.)

17.92.050 Application and processing procedures.

An application for a Planned Use Development Permit shall be filed in a manner consistent with the requirements contained in Chapter 17.48, Applications and Fees. (Zoning Ord. dated 1/31/06, § 9123.05.)

17.92.060 Permitted uses.

In order to classify, regulate, restrict, and control the uses of land, buildings, and structures, to regulate and limit the type, height, bulk, and architecture of buildings and structures, and to regulate landscaping, open space, and density, the uses permitted pursuant to Planned Unit Development Permit shall be limited to the following:

A. Residentially Zoned Districts.
   1. All uses permitted in residential zones, including but not limited to single family detached or attached dwelling, duplex and multiple family dwelling units;
   2. Commercial uses are permitted, providing that the juxtaposition of commercial uses with residential uses is deemed compatible and will not unreasonably interfere with the peaceful and relatively quiet use of the residential uses; provided, however, that said commercial uses shall not occupy more than ten percent (10%) of the site;
   3. Educational, cultural and institutional uses are also permitted in PUDs which are located in residential zoning districts, and are not subject to the above ten percent maximum.

B. Industrial and Commercial Zone Districts.
   1. All uses permitted in industrial or commercial zones, provided that the juxtaposition of industrial uses with commercial uses is compatible and complementary.
   2. Residential uses are permitted, provided that the residential use is either above or behind the primary commercial or industrial use, and that separate access is provided. (Zoning Ord. dated 1/31/06, § 9123.06.)

17.92.070 Authority.

Upon compliance by the applicant with the procedures set forth in this chapter and Chapter 17.48, Applications and Fees, the Community Development Department may, as provided herein and upon approval by the Planning Commission, issue in any zoning district a Planned Unit Development Permit designating an area for Planned Unit Development and establishing conditions, standards and require-
ments for such development pursuant to this chapter.
(Zoning Ord. dated 1/31/06, § 9123.07.)
ATTACHMENT 2
Section 17.08.170 of the Municipal Code
Planned Unit Development
code enforcement action consistent with the nuisance provisions of the Banning Municipal Code, Title 8.

J. All structures shall include a trash enclosure, constructed to the standards established by the public works department, and sufficient in size to accommodate the trash generated by the business. The trash enclosure shall include three walls and a gate, in a style compatible with the structure's architecture. The gate shall be maintained in working order and shall remain closed except when in use. Pedestrian access shall be provided.

K. A bicycle rack shall be installed in a convenient location visible from the inside of the store.

L. Public pay telephones provided on-site shall not be set up for incoming calls. Public telephones shall be featured with call out service only.

M. On-site video games may not be installed or operated on the premises.

N. A six-foot high decorative masonry wall shall be required along the property line adjacent to any residential structure.

O. The location, style and number of newspaper stands shall be approved by the community development director. (Zoning Ord. dated 1/3/06, § 9102.03(2)(L).)

17.08.170 Planned unit development.

A planned unit development (PUD) generally provides amenities beyond those expected in conventional residential developments. PUDs can achieve greater flexibility in design; they can improve the quality of residential neighborhoods through good planning; and PUDs provide for appropriate use of land which is sufficiently unique in its physical characteristics, scenic beauty, or other circumstances to warrant special methods of development. PUDs can also provide mixed use development, including a mix of commercial and residential development consistent with Section 17.08.160.

The purpose of a PUD is to allow clustered residential subdivisions and small lot subdivisions in zoning districts that allow higher densities:

VLDR, LDR, MDR, and HDR. PUDs are prohibited in other zones. PUDs are subject to Design Review. Single family dwellings in PUDs may be either attached or detached.

A. Density. The underlying residential land use district shall determine the maximum number of dwelling units allowed in a PUD. Where parcels span more than one zone, the maximum number of dwelling units shall be determined by adding together the allowable density for each zone. Density transfer through the PUD project area is permitted for the promotion of clustering units in those areas suited to
development, thus preserving the green space and natural features of the site.

B. Lot Size and Site Coverage. PUDs may create lot sizes to accommodate the creation of attached single family dwelling units or clustered subdivisions. Structures shall not occupy more than forty percent of the gross site area. Smaller lot sizes can be considered on a case-by-case basis; however, smaller lots must demonstrate unique lot orientations (e.g. clustering with open space) and must provide project amenities such as common open spaces (unencumbered by utility easements), parks, recreation facilities, etc.

C. Number of Attached Units and Height of Structures. The maximum average number of single family units attached in any manner to form a single structure is six. Attached single family structures shall not exceed three stories or 42 feet. Detached single family structures shall not exceed two and one half stories, or 35 feet.

D. Setbacks.

1. Structural Setbacks from the project perimeter boundary

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>Front Yard</td>
<td>15 feet</td>
<td></td>
</tr>
<tr>
<td>Rear Yard</td>
<td>15 feet</td>
<td></td>
</tr>
<tr>
<td>Side Yard</td>
<td>15 feet</td>
<td></td>
</tr>
</tbody>
</table>

2. The minimum dwelling unit side structural setback from other dwelling unit structures is 15 feet, plus one additional foot for each 15 feet of structure length.

E. Open Space.

1. All PUDs with twelve or more dwelling units shall provide at least 30% of the total property as useable open space for passive and active recreational uses. Useable open space shall not include:
   a. Rights-of-way;
   b. Vehicle parking areas;
   c. Areas adjacent to or between any structures which are less than 15 feet apart;
   d. Setbacks;
   e. Patios and private yards;
   f. Or slope areas greater than eight percent.

2. Useable open space that is encumbered by an underlying utility easement can be included in the open space requirement, but shall not be included in the required park land dedication as required in Banning Municipal Code Chapter 15.68.

F. Amenities. All PUDs shall provide recreational amenities within the site such as a: swimming pool; spa; clubhouse; tot lot with play equipment; court game facilities for tennis, basketball or racquetball; improved softball or baseball fields; or day care facilities. The type of amenities shall be approved by the Community Development Director and provided according to the following schedule:

<table>
<thead>
<tr>
<th>Units</th>
<th>Amenities</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 10</td>
<td>1 amenity</td>
</tr>
<tr>
<td>11-50</td>
<td>2 amenities</td>
</tr>
<tr>
<td>51 to 100</td>
<td>3 amenities</td>
</tr>
<tr>
<td>101 to 200</td>
<td>4 amenities</td>
</tr>
<tr>
<td>201 to 300</td>
<td>5 amenities</td>
</tr>
<tr>
<td>Above 500</td>
<td>one amenity should be added for each 100 additional units or fraction thereof.</td>
</tr>
</tbody>
</table>

G. Private Streets. Private streets shall be permitted when there is a homeowner's association established to maintain them. Streets shall be built to standards and specifications no less than those for public works construction.
H. Covenants.
   1. Lots and dwelling units within a PUD may not be sold unless a corporation, homeowner’s association, assessment district or other approved appropriate legal entity has been legally formed with the right to assess all those properties which are jointly owned or benefited to operate and maintain all of the mutually available features of the development including, but not limited to, open space, amenities, landscaping or slope maintenance landscaping (which may be on private lots adjacent to street rights-of-way).
   2. No lot or dwelling unit may be sold unless all approved and required open space, amenities, landscaping and other improvements have been completed, or if completion is assured by a bond or other financing guarantee method approved by the City Engineer and/or City Attorney.
   I. Fire Code. All parts of any structures shall be within 150 feet of paved access for single story residences, and within 50 feet of paved access for multi-story residential units.
   J. Additional Standards. In addition to the PUD development requirements, the following specific standards contained in the zoning ordinances shall apply, including but not limited to:
      1. Day care facilities;
      2. Guest houses;
      3. Lighting;
      4. Minimum room size;
      5. Minimum dwelling size;
      6. Mobile homes and manufactured housing;
      7. Mobile home park subdivision;
      8. Golf courses and related facilities;
      9. Recreational vehicle storage.
(Zoning Ord. dated 1/31/06, § 9102.03(2)(M.).)

17.08.180 Senior citizen/congregate care housing design standards
Senior group housing developments are subject to development standards contained in this section, as well as to the development permit review process. These shall be constructed in the following manner:

A. Public Transit.
   1. Dial-a-ride transportation shuttles shall be provided, and the number of these shall be determined during the development permit review process. A bus turn-out and shelter on the on-site arterial frontage shall be dedicated if the senior citizen housing development is located on a bus route as determined by the director.
   2. A minimum of one comfortable, well constructed benches shall be provided adjacent to shuttle bus stops. Paved areas for shuttle parking shall be adequate in size and condition, and shall be suitably striped.

B. Handicapped Accessibility. The primary pedestrian entrance to the development, to the common areas, and to the parking facility, and to each unit, shall be provided with legal, handicapped access. Indoor common areas and living units shall be handicap adaptable, and be provided with all necessary safety equipment such as safety bars, as well as with emergency signal intercom systems as determined by the Director.

C. Regulations.
   1. Senior group housing including, but not limited to independent living, assisted living and congregate housing, shall conform with all local, state, and federal requirements. The senior group housing facility must conform to all standards of the underlying zoning district in all matters. This includes the number of dwelling units per development which is governed by the underlying zone and is specified earlier in this chapter. This also includes all landscaping and open requirements, as well as all other requirements.

   2. Residential occupancy shall be limited to single persons over 60 years of age, and to married couples or domestic partners of which one spouse or partner is over 60 years of age.

D. Minimum Floor Area. The minimum floor for each residential unit is as follows:

<table>
<thead>
<tr>
<th>Type</th>
<th>Minimum Floor Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Studio</td>
<td>500 square feet</td>
</tr>
<tr>
<td>One bedroom</td>
<td>600 square feet</td>
</tr>
<tr>
<td>Two bedroom</td>
<td>750 square feet</td>
</tr>
</tbody>
</table>
BACKGROUND:

At the October 4, 2017 Planning Commission Meeting, it was requested that background information on housing policy and regulations pertinent to the City of Banning be placed on a future agenda for discussion. The attached overview has been prepared in response.

The City of Banning, and all local jurisdictions in the state of California, are subject to a variety of existing laws pertaining to the provision of housing for all economic segments of the community. Applicable laws, regulations and policies at the state, regional and local level have been highlighted and briefly summarized to provide an overview of the setting which the City must consider in planning the community.

A package of fifteen new laws designed to facilitate the development of housing, and “affordable housing” in particular, were also very recently signed into law by the Governor. Analysis of these new regulations is underway by the City Attorney and will be provided in the near future.

Attachments:

1. Housing Policy Overview
2. Government Code § 65589.5
3. Government Code § 65863
Prepared By:

Marie Gilliam
Contract Planner

Reviewed and Recommended By:

Patty Nevins
Community Development Director
ATTACHMENT 1
Housing Policy Overview
The City of Banning, and all local jurisdictions in the state of California, is subject to a variety of existing laws pertaining to the provision of housing for all economic segments of the community. A number of applicable laws, regulations, and policies at the state, regional, and local level are highlighted and briefly summarized herein to provide an overview of the setting which the City must consider in planning the community.

**The Housing Element**

The most fundamental and comprehensive planning tool required by the State to address housing issues is the Housing Element of the General Plan ("GP"). The Housing Element is a policy planning document and a mandatory element of the GP, required by law to be updated every eight years. Through the Housing Element, communities must plan for their "fair share" of regional housing market need for various income levels. The heart of the Housing Element is called the Regional Housing Needs Assessment ("RHNA"). The RHNA process originates with the State Department of Housing and Community Development ("HCD"). Forecasts regarding the regional and local housing need are then refined and apportioned to local jurisdictions by regional councils of governments. Local allocations are determined in conjunction with member agencies. These projections set quantitative targets intended to facilitate the development of housing at various income levels in each jurisdiction and ensure local zoning regulations provide land use capacity to support and guide anticipated future growth, including transit-oriented, mixed-use and infill development.

While a community is not obligated to actually provide housing to meet the quantitative targets, the RHNA defines the “distribution of housing development capacity” by income level that each city and county must zone for in a planning period. Responsibilities related to sub-regional delegation, and the scope of housing services performed, are voluntarily assumed by communities acting together as a sub-regional entity for RHNA housing need allocation purposes. Any re-zoning of sites identified in a Housing Element must be completed within 3 years of either the date of adoption or 90 days after the receipt of HCD’s comments on the draft element, whichever is earlier.

The City of Banning’s current Housing Element was adopted in 2015, and the next Housing Element planning period will start in 2021, preceded by the RHNA process to determine each jurisdiction’s share of the regional housing need. In the last Housing Element cycle, the City’s quantified objectives for the development, rehabilitation and conservation of housing during the 2013-2021 planning period totaled 3,792 dwelling units. This allocation was further broken down by income categories, based on a family of four in year 2013, as illustrated below. As a point of reference, the Riverside County Median Income for a family of four in 2013 was $65,000.
<table>
<thead>
<tr>
<th>Income Level</th>
<th>Income</th>
<th>Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Extremely Low Income</td>
<td>$20,100</td>
<td>436 dwelling units</td>
</tr>
<tr>
<td>Very Low Income</td>
<td>$33,500</td>
<td>436 dwelling units</td>
</tr>
<tr>
<td>Low Income</td>
<td>$53,600</td>
<td>593 dwelling units</td>
</tr>
<tr>
<td>Moderate Income</td>
<td>$78,000</td>
<td>685 dwelling units</td>
</tr>
<tr>
<td>Above Moderate Income</td>
<td>$78,000+</td>
<td>1643 dwelling units</td>
</tr>
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In an effort to meet State law requirements and the City's Housing Element goals, the City offers incentives for the development of affordable housing, including, but not limited to, priority processing of subdivision maps and specific plans that include affordable housing units, expedited review for the subdivision of larger sites into buildable lots, financial assistance (based on availability of federal, state, local foundations, and private housing funds), and modification of development requirements, such as reduced parking standards for seniors, assisted care, and special needs housing on a case-by-case basis. In addition, State law mandates, and the City allows, construction of accessory dwelling units and manufactured housing. In compliance with State law, the City also offers density bonuses under certain circumstances when applicants agree to set aside a certain percentage of units in a new development for various lower income level households or other potentially vulnerable populations (for example, seniors, veterans, etc.). Some cities also have chosen to mandate the development of affordable housing through inclusionary housing requirements and the collection of fees in lieu of providing affordable units within the proposed development.

**State Level Regulatory Setting**

Housing Element updates and compliance are overseen by HCD, which sets schedules for the update of Housing Elements, reviews local housing policy, and certifies compliance of the Housing Element with applicable laws. Jurisdictions that fail to adopt a Housing Element update within 120 days of the statutory deadline revert to a 4 year rather than an 8 year planning period. When a local government fails to adopt an updated Housing Element by the deadline, or adopts an element that does not comply with the law, the city or county is regarded as noncompliant and is subject to penalties. If the General Plan or any element is not in compliance with the law, a petitioner - be it an environmentalist, low income housing advocate, or builder - can request a hearing or a trial. If a court finds that the General Plan or any of its mandatory elements do not substantially comply with the law, then the court in its order of judgment may specify one or more actions such as:

- Suspension of the authority of the entity to issue building permits or any other related permits for residential housing;

- Suspension of the authority of the entity to grant zoning changes, variances, or both.

In addition, the Governor recently signed a package of new laws that are designed to promote the development of housing, and encourage the construction of affordable housing in
particular. In part, these bills expand HCD’s enforcement authority to confirm that cities are complying with their Housing Elements. The City Attorney’s Office has begun to analyze these new laws and will be providing additional details in the coming weeks.

**Maintaining Sites Available for Housing Development – the “No Net Loss” Provisions**

As part of the Housing Element process, the City must identify specific sites that are suitable and available for the development of housing to meet the City’s share of the regional housing need for various income levels. Gov. Code § 65583(a)(3). Under Government Code Section 65863, a city may not reduce the allowable residential density of any parcel or approve a project with a “lower residential density,” unless the City makes specific findings. Government Code Section 65863 is commonly known as the “No Net Loss” provision.

The Legislature recently enacted Senate Bill 166, which amends Government Code Section 65863, and strengthens the requirement that local agencies must maintain sites available to fulfill the City’s unmet housing need during the entire housing planning period. Under the revised law, the City may not take any action to allow the City’s site inventory to be insufficient to meet the City’s remaining unmet share of the regional housing need for lower- and moderate-income households. Essentially, the City may not approve a project on a site identified in the Housing Element site inventory at a “lower residential density,” unless it makes specific written findings identified in State law. In short, the City must maintain sites available to allow the City to meet its share of the regional housing need at each income level.

If the City approves a development project at a lower density than was identified in the City’s Housing Element for that specific parcel and the remaining sites in the Housing Element site inventory are not adequate to accommodate the City’s share of the regional housing need, the City must identify additional sites to meet the need by income level within 180 days of the initial project approval. As the amendments to the No Net Loss provisions are extensive and detailed, the City Attorney will be providing additional information in the coming weeks.

**The Housing Accountability Act**

The Housing Accountability Act (“HAA”), codified in Government Code Section 65589.5, was enacted to ensure that local agencies do not “reject or make infeasible” housing developments that contribute to meeting the jurisdiction’s fair share of the regional housing need. While the HAA focuses primarily on the approval of affordable housing projects – by essentially limiting local agencies’ discretion to deny projects reserved for very low, low, and moderate income households – the law also includes provisions limiting local agencies’ discretion to deny market-rate housing projects. Under the HAA, local agencies may disapprove or render an affordable housing project infeasible through the imposition of extensive conditions of approval only by making specific written findings outlined in State law. Similarly, if a market-rate housing development complies with objective criteria and standards in the agency’s planning, zoning, and subdivision regulations, the agency may not disapprove the project or reduce the project’s density unless it makes specific written findings outlined in State law.

Much like the No Net Loss provisions, the Legislature recently enacted a law, Assembly Bill 1515 (“AB 1515”), which strengthens the Housing Accountability Act. As amended, the HAA
places greater burdens on local agencies when they disapprove or impose conditions on proposed housing developments, both affordable and market-rate developments. The City Attorney will be providing the City with guidance regarding the details of the amended HAA.

**Encouraging the Development of Accessory Dwelling Units**

In the last two years, the State Legislature has enacted a number of bills amending Government Code Section 65852.2, which are intended to promote the development of “accessory dwelling units” (“ADUs”). These units are sometimes known as “granny flats” or “second units.” According to the State’s legislative findings, accessory dwelling units are an essential component of the effort to increase California’s housing supply and create additional opportunities for more naturally affordable rental housing.

Under State law, local agencies must allow for the development of ADUs through a ministerial approval process – either by following the limited development standards in State law or by adopting a local ordinance that establishes reasonable standards for ADUs. While Section 65852.2 does not mandate the exact standards that local agencies must establish for ADUs, the local agencies have limited authority to tailor local development standards. Under the law, a local ordinance must designate areas where ADUs may be permitted and establish development standards related to height, setbacks, lot coverage, maximum unit size, landscaping, and certain architectural requirements. The statute includes some limitations on parking, setback, and other development standards that cities may establish.

Local agencies may require, however, that the property owner be an owner-occupant (either by occupying the ADU or the primary unit). By statute, the local ordinance also may require that rental terms for the ADU be longer than 30 days, essentially to prevent ADUs from being used as vacation rentals. Finally, Section 65852.2 requires a limited ministerial review process for property owners who wish to convert an existing accessory structure (e.g., a pool house, studio, or garage) into an ADU. Since the State recently amended Section 65852.2 to clarify some provisions adopted in the previous year, the City Attorney will be providing additional guidance on the details of this law in the coming weeks.

**Subsidized Housing Programs**

Subsidized housing programs are created under federal law and are operated independently by Public Housing Authorities, which in this area is the Riverside County Housing Authority. The Housing Authority of the County of Riverside is a public agency chartered by the State of California to administer the development, rehabilitation, or financing of affordable housing programs enabled by federal law.

The two main types of government-subsidized housing are public housing and the Section 8 program.

- The Department of Housing and Urban Development (HUD) oversees and helps implement both programs. Local housing authorities manage public housing units, which they offer at rents affordable to low-income households.
• The Section 8 program provides vouchers to low-income families to make up the difference between the maximum rent for an area, as calculated by HUD, and what the families can afford.

HUD makes low-income units available to households with annual incomes at 80 percent, 50 percent, and 30 percent of the County's median income. HUD categorizes households at these levels as "low income," "very low income" and "extremely low income," respectively. Generally, families at any of the three classifications are eligible for a public housing unit. For Section 8 housing, the household income cannot surpass 50 percent of the County's median income.

Income verification is required to qualify for low-income housing. If accepted into a public housing or Section 8 unit, HUD/local agency will review income documents annually to ensure compliance with income requirements. In addition to income documents, other types of information may be required. For instance, documentation of family size may be required to determine where the household income sits in the HUD income requirements. Applicants must also prove that they are a citizen or legal resident of the United States to qualify for government-funded low-income housing.
State of California

GOVERNMENT CODE

Section 65589.5

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

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

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

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

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

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

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

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:
(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

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

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

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

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

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

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

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

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

(f) (1) Nothing in this section shall be construed to prohibit a local agency from requiring the development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction’s share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development.
(2) Nothing in this section shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction’s need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

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

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

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

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

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

(A) Residential units only.

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

(C) Transitional housing or supportive housing.

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

(4) “Area median income” means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.
(5) “Disapprove the development project” includes any instance in which a local agency does either of the following:

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

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

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

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

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

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

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

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

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

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

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

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

(Amended by Stats. 2016, Ch. 420, Sec. 1. (AB 2584) Effective January 1, 2017.)
ATTACHMENT 2
Government Code § 65863
State of California

GOVERNMENT CODE

Section 65863

65863. (a) Each city, county, or city and county shall ensure that its housing element inventory described in paragraph (3) of subdivision (a) of Section 65583 or its housing element program to make sites available pursuant to paragraph (1) of subdivision (c) of Section 65583 can accommodate its share of the regional housing need pursuant to Section 65584, throughout the planning period.

(b) No city, county, or city and county shall, by administrative, quasi-judicial, legislative, or other action, reduce, or require or permit the reduction of, the residential density for any parcel to, or allow development of any parcel at, a lower residential density, as defined in paragraphs (1) and (2) of subdivision (g), unless the city, county, or city and county makes written findings supported by substantial evidence of both of the following:

(1) The reduction is consistent with the adopted general plan, including the housing element.

(2) The remaining sites identified in the housing element are adequate to accommodate the jurisdiction’s share of the regional housing need pursuant to Section 65584.

(c) If a reduction in residential density for any parcel would result in the remaining sites in the housing element not being adequate to accommodate the jurisdiction’s share of the regional housing need pursuant to Section 65584, the jurisdiction may reduce the density on that parcel if it identifies sufficient additional, adequate, and available sites with an equal or greater residential density in the jurisdiction so that there is no net loss of residential unit capacity.

(d) The requirements of this section shall be in addition to any other law that may restrict or limit the reduction of residential density.

(e) This section requires that a city, county, or city and county be solely responsible for compliance with this section, unless a project applicant requests in his or her initial application, as submitted, a density that would result in the remaining sites in the housing element not being adequate to accommodate the jurisdiction’s share of the regional housing need pursuant to Section 65584. In that case, the city, county, or city and county may require the project applicant to comply with this section. The submission of an application for purposes of this subdivision does not depend on the application being deemed complete or being accepted by the city, county, or city and county.

(f) This section shall not be construed to apply to parcels that, prior to January 1, 2003, were either (1) subject to a development agreement, or (2) parcels for which an application for a subdivision map had been submitted.
(g) (1) If the local jurisdiction has adopted a housing element for the current planning period that is in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3, for purposes of this section, “lower residential density” means the following:

(A) For sites on which the zoning designation permits residential use and that are identified in the local jurisdiction’s housing element inventory described in paragraph (3) of subdivision (a) of Section 65583, fewer units on the site than were projected by the jurisdiction to be accommodated on the site pursuant to subdivision (c) of Section 65583.2.

(B) For sites that have been or will be rezoned pursuant to the local jurisdiction’s housing element program described in paragraph (1) of subdivision (c) of Section 65583, fewer units for the site than were projected to be developed on the site in the housing element program.

(2) (A) If the local jurisdiction has not adopted a housing element for the current planning period within 90 days of the deadline established by Section 65588 or the adopted housing element is not in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 within 180 days of the deadline established by Section 65588, “lower residential density” means any of the following:

(i) For residentially zoned sites, a density that is lower than 80 percent of the maximum allowable residential density for that parcel.

(ii) For sites on which residential and nonresidential uses are permitted, a use that would result in the development of fewer than 80 percent of the number of residential units that would be allowed under the maximum residential density for the site.

(B) If the council of governments fails to complete a final housing need allocation pursuant to the deadlines established by Section 65584.05, then for purposes of this paragraph, the deadline pursuant to Section 65588 shall be extended by a time period equal to the number of days of delay incurred by the council of governments in completing the final housing need allocation.

(Amended by Stats. 2008, Ch. 709, Sec. 12.7. Effective January 1, 2009.)