



# City of Santa Barbara

Community Development Department

SantaBarbaraCA.gov

July 31, 2025

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Ben Eilenberg, THE MISSION LLC  
socalindustrialequities@gmail.com

**Re: 1609 Grand Avenue (PLN2024-00181)  
Qualification for AB 130 CEQA Exemption**

Dear Mr. Eilenberg:

On July 3, 2025, you emailed to inquire whether your development application may be eligible for the new California Environmental Quality Act ("CEQA") exemption enacted under Assembly Bill ("AB") 130 (2025).

As discussed in more detail below, after review, City staff has determined that the project at 1609 Grand Avenue (the "Project") does not appear to qualify for AB 130.

**The Project Is Not Consistent With the City's General Plan and Zoning.**

A project must be consistent with the applicable general plan and zoning ordinance to qualify for the AB 130 exemption. (Pub. Res. Code § 21080.66(a)(4).) The Project is not consistent with the City's General Plan and Zoning.

The Project application has invoked the builder's remedy as it existed prior to December 31, 2024, which means that a qualifying project cannot be denied based on inconsistencies with a City's zoning ordinance and general plan land use designation. (Gov. Code § 65589.5(d)(5).) However, under this version of the builder's remedy (i.e., before the enactment of AB 1893, which took effect on January 1, 2025), the California Department of Housing and Community Development ("HCD") opined that a builder's remedy project was not considered consistent with general plan or zoning designations for the purposes of evaluating eligibility for a CEQA exemption.<sup>1</sup> In other words, a city's limited ability to deny a project based on general plan and zoning inconsistencies does not mean that a project is consistent with a city's general plan and zoning regulations for other purposes. HCD has further opined that the HAA amendments enacted by AB 1893 (2024) allow projects that meet AB 1893's definition of a "builder's remedy project" to be deemed consistent with applicable development standards and therefore eligible for CEQA exemptions requiring general plan and zoning consistency.

Here, the Project has not invoked AB 1893, and thus appears to be proceeding under the HAA as it existed prior to AB 1893's enactment. We also note that the Project exceeds the density limitations of a defined "builder's remedy project" under AB 1893, so the Project as currently

<sup>1</sup> See HCD Letter of Technical Assistance to City of San Jose (Feb 7, 2025), available at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/sanjose-hau-1359-ta-ab1893-02062025.pdf>.

proposed is unable to use the newer version of the law or be deemed consistent with the City's general plan and zoning standards.<sup>2</sup>

Accordingly, because the Project is not proceeding under AB 1893, the Project is not consistent with the City's General Plan and Zoning "for all purposes" and thus does not meet the requirements of Public Resources Code section 21080.66, subdivision (a)(4)(A).

### **SB 131 Could Limit the Scope of CEQA Review**

Under Senate Bill ("SB") 131 (2025), housing projects that nearly qualify for a CEQA exemption but fall short due to a single unmet condition are eligible for a streamlined review process whereby these projects are subject only to review of the specific environmental effect that disqualifies them, not a full CEQA checklist. (See Pub. Resources Code § 21080.1.) To the extent inconsistency with the applicable general plan and zoning ordinance is considered a "single condition," the Project will be eligible for SB 131's streamlined review. However, inconsistency with the applicable general plan and zoning ordinance has the potential to cause environmental effects in nearly all topic areas. The City will continue with its review to determine which topic areas are affected, and prepare a focused EIR on those topics.

### **Conclusion**

In sum, the Project does not qualify for the new AB 130 statutory exemption from CEQA. The scope of CEQA review will be limited by SB 131, but due to the Project's anticipated environmental effects from its inconsistency with the applicable general plan and zoning ordinance, most if not all of the CEQA topic areas will continue to be studied. If you have any questions or further information that may influence this determination, we encourage you to contact the City for further discussion.

Sincerely,



Allison DeBusk  
Interim Community Development Director

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<sup>2</sup> Under AB 1893, a builder's remedy project must have a density such that the number of units, as calculated before the application of a density bonus, complies with certain conditions. First, the density cannot exceed the greatest of the following: (1) fifty percent greater than the "default" or "Mullin" density on the site; (2) three times the density allowed by the general plan, zoning ordinance, or state law, whichever is greater; or (3) the density that is consistent with the density specified in the housing element. (Gov. Code § 65589.5(h)(11)(C)(i).) Second, if any portion of the site is located within one-half mile of a major transit stop, a very low vehicle travel area, or a high or highest resource census tract, the greatest allowable density shall be 35 units per acre more than the amount allowable under the first condition. (Gov. Code § 65589.5(h)(11)(C)(ii).) The Project exceeds all of these applicable density limits.