

From: [SoCal Industrial Equities](#)
To: [Barbara Burkhart](#)
Cc: [Richard Jacobs](#)
Subject: Re: Consistency Review Letter - Record ID #PLN2024-00299 - 505 E LOS OLIVOS ST
Date: Friday, April 10, 2026 3:24:45 PM

Ms. Burkhart,

Thank you for your consistency review letter in response to the lot line adjustment application. I have cc:ed our attorney and respectfully suggest that you forward this correspondence to the City Attorney who has advised on this matter to date.

While there are many issues to still be resolved between us and the City regarding the project as a whole, this email addresses the questions of consistency for the lot line adjustment application.

1. Completeness.

As a preliminary matter, please confirm that the lot line adjustment application is now deemed complete as a matter of law. As I am sure you are aware, lot line adjustments are governed by the Permit Streamlining Act. (Gov. Code Section 66412(d).) Under the Permit Streamlining Act, the City had 30 days to determine that the application was complete or incomplete, and unless there was a written determination that the application was incomplete, it is complete as a matter of law. (Gov. Code Section 65943(a).) Therefore, as more than 30 days have passed and the City's response letter addressed only inconsistency questions but did not make a written finding that the application was incomplete, it is now complete as a matter of law. Please confirm that the City agrees that the lot line adjustment application is complete as a matter of law.

2. CEQA

As this may implicate CEQA, I do want to confirm that the City is taking the position that these parcels and project are subject to the new rubric set forth in SB158, specifically the newly adopted Public Resources Code Section 21080.73. Please confirm that the City agrees that the newly adopted section applies to this project.

3. Consistency.

I will address each of the findings below.

A. Finding 1: Lot Line Adjustment Consistency (SBMC §§27.02.010; 27.40.040; 30.140.050)

The City has found the lot line adjustment inconsistent on the grounds that adjusted Parcel 2 would fall entirely within the Mission Creek development limitation area under SBMC §30.140.050, rendering it undevelopable and therefore not conforming to SBMC §27.40.040.

We respectfully disagree for the following reasons:

- The purpose of the lot line adjustment is not to create a new developable parcel on Parcel 2, but rather to consolidate developable area onto adjusted Parcel 1. No development is proposed on adjusted Parcel 2, and the applicant does not seek to develop Parcel 2. The lot line adjustment is to define the boundary between the developable and non-developable portions of the site — a reasonable and common land use planning approach in proximity to watercourses.
- SBMC §27.40.040's requirement that resultant lots conform to the Zoning Ordinance and General Plan must be read in light of the Builder's Remedy. To the extent that this finding is predicated on zoning and General Plan conformance — specifically the RS-15 designation and Mission Creek development limitations — the Builder's Remedy limits the City's ability to impose those standards as a basis for rejection.
- The finding that Parcel 2 is "undevelopable" does not make the lot line adjustment improper. The creation of an undevelopable parcel adjacent to a watercourse is consistent with sound environmental and land use policy, and the SBMC does not explicitly prohibit a lot line adjustment that results in a parcel reserved for open space or creek protection purposes.

B. Finding 2: Land Use — Multi-Unit Residential Not Allowed (SBMC Table §30.20.020)

The City finds the project inconsistent because the RS-15 zoning designation only permits single-unit and limited two-unit residential uses, and the project proposes 270 units. This finding goes directly to the heart of the Builder's Remedy.

Under Government Code Section 65589.5(d), a city that lacks a compliant Housing Element cannot deny a qualifying housing development project on the basis that it is inconsistent with the city's zoning ordinance or general plan land use designation. This is precisely the purpose of the Builder's Remedy — to prevent cities from using local zoning to block housing development submitted under SB330 during periods of Housing Element non-compliance. Because the City lacked a certified Housing Element at the time of the preliminary application, this finding cannot serve as a valid basis for denial or conditions that render the project infeasible.

C. Finding 6: Maximum Base Residential Density — 1 Unit Per Lot (SBMC Table §30.20.020.A)

The City finds the project inconsistent because the RS-15 zone permits only 1 unit per lot, and the project proposes 270 units. This finding, like Finding 2, is a zoning-based density restriction that is directly preempted by the Builder's Remedy under Government Code Section 65589.5(d). The City may not use its base residential

density standards to deny or render infeasible a Builder's Remedy project submitted during a period of Housing Element non-compliance.

D. Finding 8: Maximum Height — 30 Feet (City Charter Section 1506; SBMC Table 30.20.030.A)

The City finds the proposed height of 112 feet inconsistent with the 30-foot height limit applicable to RS-15 zones under both the City Charter and the SBMC. We acknowledge that height limitations may qualify as objective development standards under state law. However, we note the following:

- Under the Housing Accountability Act (HAA) and related state law, even objective standards may not be applied in a manner that renders a Builder's Remedy project infeasible or that has the effect of precluding housing. A categorical 30-foot height limit that would preclude a 270-unit multifamily development on this site would effectively nullify the project entirely, which is contrary to the purposes of the Builder's Remedy.
- We respectfully request that the City identify whether there is any height limit applicable to this site under which the proposed density could be achieved, or alternatively, that the City identify how the project height design can be optimized to maintain the proposed density within the constraints of applicable state law.
- To the extent the City Charter's height limit is being applied here, we reserve the right to challenge whether such a provision can lawfully preempt state housing law as embodied in Government Code Section 65589.5.

E. Findings 17 and 18: General Plan Land Use Designation — Low Density Residential (3 du/acre)

The City finds the project's proposed density of 71.43 du/acre inconsistent with the General Plan's 3 du/acre Low Density Residential designation. As with the zoning findings above, this General Plan land use finding is precisely the type of standard that the Builder's Remedy is designed to override. Government Code Section 65589.5(d) explicitly prevents a city from denying a qualifying housing project on the basis of inconsistency with the general plan land use designation when the project was submitted while the City's Housing Element was out of compliance. This finding cannot support denial of the project or the lot line adjustment.

4. Conclusion

For the foregoing reasons, the City's findings of inconsistency with respect to the lot line adjustment — to the extent they are predicated on zoning designations (RS-15), General Plan land use designations (Low Density Residential, 3 du/acre), density

limits, use restrictions, or objective standards that render the proposed project infeasible — are not valid grounds for denial of the project or the lot line adjustment under the Builder's Remedy. The City has acknowledged this project's Builder's Remedy status, and the applicable legal framework substantially limits the City's authority to impose those local standards. We respectfully request that the City reconsider its findings with respect to the lot line adjustment in light of the Builder's Remedy protections afforded to this project.

However, as the City's current position is such that it constitutes a denial of the project under Government Code Section 65589.5, please institute the administrative review procedures set forth in Government Code Section 65589.5(h)(6)(E).

Thank you.

Ben Eilenberg
The Mission LLC

On Wed, Apr 8, 2026 at 3:48 PM Barbara Burkhart <bburkhart@santabarbaraca.gov> wrote:

Hello Mr. Eilenberg,

Please find attached an updated consistency review letter, to include the Lot Line Adjustment, for the above referenced application.

Barbara



Barbara Burkhart
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