

State of California

GOVERNMENT CODE

Section 65852.28

65852.28. (a) A development proponent may submit an application for a housing development project on a lot that is subdivided pursuant to Section 66499.41 and that meets the requirements of this section.

(b) (1) For any housing development on a lot that is subdivided pursuant to Section 66499.41, a local agency may impose objective zoning standards, objective subdivision standards, or objective design standards that are related to the housing development or to the design or improvement of a parcel, and do not conflict with this section or Section 66499.41.

(2) Notwithstanding paragraph (1), a local agency shall not impose on a housing development on a lot that is subdivided pursuant to Section 66499.41 an objective zoning standard, objective subdivision standard, or objective design standard that does or is any of the following:

(A) (i) Physically precludes the development of a project built to densities as specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2. This paragraph does not preclude a local agency from adopting an ordinance that allows developments at a density greater than the maximum density specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2.

(ii) Notwithstanding clause (i), for a development located on a lot that meets the definition of clause (ii) of subparagraph (A) of paragraph (2) of subdivision (a) of Section 66499.41, a local agency may impose a height limit of no less than the height allowed pursuant to the existing zoning designation applicable to the lot.

(B) Imposes any requirement that applies to a project solely or partially on the basis that the subdivision or housing development receives approval pursuant to this section.

(C) Requires a setback between the units, except as required in the California Building Code (Title 24 of the California Code of Regulations).

(D) Requires that parking be enclosed or covered.

(E) Imposes side and rear setbacks from the original lot line inconsistent with subparagraph (B) of paragraph (2) of subdivision (b) of Section 65852.21.

(F) Imposes parking requirements inconsistent with paragraph (1) of subdivision (c) of Section 65852.21.

(G) (i) For a housing development project consisting of three to seven units, inclusive, impose a floor area ratio standard that is less than 1.0.

(ii) For a housing development project consisting of 8 to 10 units, inclusive, impose a floor area ratio standard that is less than 1.25.

(c) (1) A local agency shall ministerially consider, without discretionary review or a hearing, an application submitted to a local agency pursuant to this section.

(2) A local agency shall approve or deny an application for a housing development project submitted to a local agency pursuant to this section within 60 days from the date the local agency receives a completed application. If the local agency does not approve or deny a completed application within 60 days, the application shall be deemed approved. If the local agency denies the application, the local agency shall, within 60 days from the date the local agency receives the completed application, return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the applicant can remedy the application.

(d) A local agency may disapprove a housing development project that meets the requirements of this section if it makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(e) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(f) This section shall become operative on July 1, 2024.

(g) The amendments made to this section by the act adding this subdivision shall become operative on July 1, 2025.

(Amended by Stats. 2024, Ch. 294, Sec. 2. (SB 1123) Effective January 1, 2025. Operative July 1, 2025, by its own provisions.)