

**From:** [James Lloyd](#)  
**To:** [PlanningCommission AP](#)  
**Cc:** [CDD-Admin AP](#); [OCM AP](#); [CityClerk AP](#); [CityAttorney AP](#); [Momoko Ishijima](#)  
**Subject:** public comment re item 2 for 4/28/25 Planning Commission meeting  
**Date:** Friday, April 25, 2025 1:36:31 PM  
**Attachments:** [Sunnyvale - 777 Sunnyvale Saratoga Road - HAA Letter - 25 April 2025.pdf](#)

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Dear Sunnyvale Planning Commission:

The California Housing Defense Fund (“CalHDF”) submits the attached public comment re item 2 for 4/28/25 Planning Commission meeting, the proposed 242-unit housing development project at 777 Sunnyvale Saratoga Road, which includes 12 units for moderate income households, 16 units for low-income households, and eight units for very-low income households.

Sincerely,

James M. Lloyd  
Director of Planning and Investigations  
California Housing Defense Fund



CalHDF is grant & donation funded  
Donate today - <https://calhdf.org/donate/>



**Apr 25, 2025**

**City of Sunnyvale  
456 W. Olive Ave.  
Sunnyvale, CA 94086**

**Re: Proposed Housing Development Project at 777 Sunnyvale Saratoga Road**

**By email: [planningcommission@sunnyvale.ca.gov](mailto:planningcommission@sunnyvale.ca.gov)**

**Cc: [comdev@sunnyvale.ca.gov](mailto:comdev@sunnyvale.ca.gov); [citymgr@sunnyvale.ca.gov](mailto:citymgr@sunnyvale.ca.gov);  
[cityclerk@sunnyvale.ca.gov](mailto:cityclerk@sunnyvale.ca.gov); [cityatty@sunnyvale.ca.gov](mailto:cityatty@sunnyvale.ca.gov);  
[mishijima@sunnyvale.ca.gov](mailto:mishijima@sunnyvale.ca.gov)**

Dear Sunnyvale Planning Commission:

The California Housing Defense Fund (“CalHDF”) submits this letter to remind the Commission of its obligation to abide by all relevant state housing laws when evaluating the proposed 242-unit housing development project at 777 Sunnyvale Saratoga Road, which includes 12 units for moderate income households, 16 units for low-income households, and eight units for very-low income households (15% affordable). These laws include the Housing Accountability Act (“HAA”), the Density Bonus Law (“DBL”), and California Environmental Quality Act (“CEQA”) guidelines.

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

CalHDF also writes to emphasize that the DBL offers the proposed development certain protections. The City must respect these protections. In addition to granting the increase in residential units allowed by the DBL, the City must not deny the project the proposed waivers and concessions with respect to non-recessed windows, standards for vehicle access, height, 5th story stepback, daylight plane angle, ground floor active use, landscape and open space, lockable storage, community room, ground floor commercial area, ground floor plate height, building length and articulation, perimeter landscaping, setback and landscape standards, visual impact standards, distance between main buildings, and setback and build-to line, unless it makes written findings as required by Government Code, section 65915, subdivision (e)(1) that the waivers would have a specific, adverse impact upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, or as required by Government Code, section 65915, subdivision (d)(1) that the concessions would not result in identifiable and actual cost reductions, that the concessions would have a specific, adverse impact on public health or safety, or that the concessions are contrary to state or federal law. The City, if it makes any such findings, bears the burden of proof. (Gov. Code, § 65915, subd. (d)(4).) Of note, the DBL specifically allows for a reduction in required accessory parking in addition to the allowable waivers and concessions. (*Id.* at subd. (p).) Additionally, the California Court of Appeal has ruled that when an applicant has requested one or more waivers and/or concessions pursuant to the DBL, the City “may not apply any development standard that would physically preclude construction of that project as designed, even if the building includes ‘amenities’ beyond the bare minimum of building components.” (*Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 775.)

Additionally, the project is exempt from state environmental review pursuant to CEQA Guidelines section 15183, Projects Consistent with a Community Plan, General Plan, or Zoning, given that potential environmental impacts were evaluated as part of the environmental review of the El Camino Real Specific Plan. And recent caselaw from the California Court of Appeal affirms that local governments err, and may be sued, when they improperly refuse to grant a project a CEQA exemption or streamlined CEQA review to which it is entitled. (*Hilltop Group, Inc. v. County of San Diego* (2024) 99 Cal.App.5th 890, 911.).

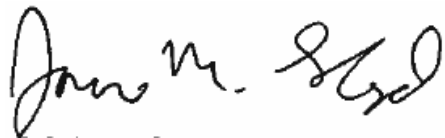
As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New housing such as this is a public benefit: it will provide badly needed affordable housing; it will bring new customers to local businesses; it will grow the City’s tax base; and it will reduce displacement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

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

Sincerely,



Dylan Casey  
CalHDF Executive Director



James M. Lloyd  
CalHDF Director of Planning and Investigations