Outlook

[EXT EMAIL] public comment re item 6 for tonight's Planning Commission hearing

From James Lloyd <james@calhdf.org>
Date Wed 5/20/2026 12:16 PM
To Planning <Planning@cityofchino.org>
Cc City Clerk <cityclerk@cityofchino.org>; Fred Galante <fgalante@awattorneys.com>; Administration <Administration@cityofchino.org>; lreich@cityofchino.gov <lreich@cityofchino.gov>

1 attachment (241 KB)
Chino - Riverside Drive and Magnolia Avenue - HAA Letter.pdf;

Dear Chino Planning Commission,

The California Housing Defense Fund submits the attached public comment re item 6 for tonight's Planning Commission hearing, the proposed 100-unit housing development project located at Riverside Drive and Magnolia Avenue, which includes 10 moderate-income units.

Sincerely,

James M. Lloyd
Director of Planning and Investigations
California Housing Defense Fund
james@calhdf.org
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May 20, 2026

City of Chino
13220 Central Avenue
Chino, CA 91710

Re: Proposed Housing Development Project at Riverside Drive and Magnolia Avenue

To: Planning@cityofchino.org

Cc: lreich@cityofchino.gov; Cityclerk@cityofchino.org; fgalante@awattorneys.com; administration@cityofchino.org

Dear Chino Planning Commission,

The California Housing Defense Fund (CalHDF) submits this letter to remind the City of its obligation to abide by all relevant state laws when evaluating the proposed 100-unit housing development project located at Riverside Drive and Magnolia Avenue, which includes 10 moderate-income units. These laws include the Housing Accountability Act (HAA), the Density Bonus Law (DBL), AB 130, 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. Furthermore, if the City rejects the project or impairs its feasibility, it must conduct "a thorough analysis of the economic, social, and environmental effects of the action." (*Id.* at subd. (b).)

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 side frontback, side setback, rear setback, height and location of fence and wall, outdoor living area, common open space, private open space, floor plates, and undergrounding of utility devices. If the City wishes to deny requested waivers, Government Code section 65915, subdivision (e)(1) requires findings 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. If the City wishes to deny requested concessions, Government Code section 65915, subdivision (d)(1) requires findings 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.)

Of note, it appears that the City may choose to deny the requested concession for undergrounding of utility lines. This would be a mistake. Concessions for undergrounding of utilities are routinely granted all over the state, and there is no basis in the DBL for the City to deny such a concession. To deny the concession, the City may not simply cite the fact that it made legislative findings when adopting its undergrounding ordinance. Rather, it must make findings that the concession would create a specific adverse impact and that there is no way to avoid the specific adverse impact. (Gov. Code, § 65915, subdivision (d)(1)(B).) "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." (Gov. Code, § 65589.5, subd. (d)(2).) This is the HAA standard for health and safety impacts, which is highly challenging to satisfy.

This City must quantify the impact, it must show that it is significant, and it must show that it is unavoidable. The City has not done any of these. Rather, the City, in its staff report and memorandum, has simply cited previously made legislative findings rather than discuss how the instant project would itself make a health and safety impact.

Additionally, the standards themselves are not objective, which is a requirement for any standard to be the basis of health and safety findings pursuant to the HAA. City code section

13.32.050(D): “In the exercise of the discretion granted to the city engineer herein, he or she shall determine which utility devices shall be placed underground …” However, the HAA defines “objective” as “involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.” (Gov. Code, § 65589.5, subd. (h)(9).” Because the City’s underground ordinance relies entirely on the discretion of the City Engineer, it violates the HAA’s requirement to involve “ no personal or subjective judgment by a public official.” (See *ibid*.) Additionally, because it is so entirely dependent on the City Engineer’s discretion, it is not “knowable by both the development applicant or proponent and the public official.” (See *ibid*.)

Furthermore, Code section 13.32.070(E) allows property owners to just buy out of the requirement. Given this, and the fact that the development site is surrounded by existing development that was developed with overhead utilities, it is clear that these health and safety concerns are simply without basis. If the City is already allowing property owners to buy out of the requirement at the discretion of the City Engineer, there is no way that these standards rise to the level of health and safety impacts pursuant to the HAA.

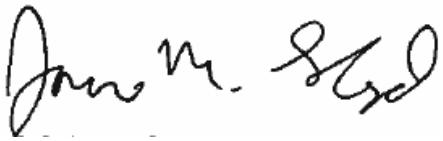
Finally, the project is exempt from state environmental review pursuant to section 15332 of the CEQA Guidelines. The project is also eligible for a statutory exemption from CEQA pursuant to AB 130 (Pub. Res. Code, § 21080.66). Caselaw from the California Court of Appeal has affirmed that local governments 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 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 City 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.

Sincerely,

Dylan Casey
CalHDF Executive Director



James M. Lloyd
CalHDF Director of Planning and Investigations