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April 2, 2026

VIA E-MAIL @ *community.development@cityofsanrafael.org*

City of San Rafael Planning Division
City of San Rafael
c/o Planning Manager Kavanaugh-Lynch (*Margaret.Kavanaugh-Lynch@cityofsanrafael.org*)
1400 Fifth Avenue, Top Floor
San Rafael, CA 94901

Re: Challenged "Course of Conduct Undertaken for an Improper Purpose" Notice (Gov. Code § 65589.5(h)(6)(E)) Regarding 235–281 Coleman Drive SB 35 Project

Dear Planning Division:

We represent River Landon LLC ("Applicant") in connection with its housing development project utilizing Senate Bill ("SB") 35 (the "Project") at 253–281 Coleman Drive (the "Property") in the City of San Rafael (the "City"). The purpose of this letter is to provide written notice to the City regarding its engagement in a "course of conduct undertaken for an improper purpose" in its ongoing violations of SB 35 and the Housing Accountability Act (Gov. Code, § 65589.5, et seq.) ("HAA") in its processing of the Project. Should the City fail to cease this course of conduct, then it will have further violated the HAA. (Gov. Code, § 65589.5, subd. (h)(6)(E).) The Project is subject to these HAA protections, as well as protections afforded by Section 65589.5(d)(5) of the Government Code.

1. Challenged Conduct and Why It Constitutes Disapproval

As detailed in **Exhibit A**, the City has engaged in conduct for an improper purpose. The City's legally and factually unsupported, inconsistent, and shifting demands, including the City's latest position that it will not accept or process a re-submittal from Applicant—despite SB 35 expressly contemplating and requiring an opportunity for applicants to respond to, revise, and address prior feedback from the City—constitutes disapproval for purposes of the HAA. (Gov. Code, § 65589.5, subd. (h)(6)(E)(i); Gov. Code, § 65913.4(c)(1)(C).)

The City's improper conduct, if not remedied, is yet another violation of the HAA[1]. (Gov. Code, § 65589.5, subd. (h)(6)(E)(v).)

[1] Applicant currently has litigation pending against the City for its multiple violations of the HAA, SB 35, as well as other state law and federal Constitutional claims arising from Applicant's efforts to develop the

2. City Actions for Compliance with the HAA

The City's improper processing conduct violates the HAA. The City must take immediate action in response to this written notice, including:

- Within five working days of receiving this written notice (*i.e.*, by April 9, 2026), the City ***must*** (I) post this notice on its internet website, (II) provide a copy of the notice to any person who has made a written request for notices pursuant to subdivision (f) of Section 21167 of the Public Resources Code, and (III) file the notice with the county clerk of each county[2] in which the Project will be located. (Gov. Code, § 65589.5, subd. (h)(6)(E)(ii).) All pages of the notice (all 25 pages) must be included when the City posts the notice, provides the notice to any person who has made a written request, and files the notice with the county clerk.

- Within between 60 and 90 days of receiving this written notice, the City must consider all objections, comments, evidence, and concerns about the Project or this written notice and then issue a *written* statement that it will *immediately cease* the abovementioned challenged conduct or issue written findings that comply with both of the following requirements: (I) an objective basis for why the challenged course of conduct is *necessary* and (II) *clear instructions* on what the applicant must submit or supplement so that the local agency can make a final determination regarding the next necessary approval or set the date and time of the next hearing [the latter of which is inapplicable to the SB 35 Project]. (Gov. Code, § 65589.5, subds. (h)(6)(E)(iii)–(iv).) **Importantly, the City *must* continue to process the Project despite this notice**. (Gov. Code, § 65913.4, subd. (c)(1)(C).)

* * *

We look forward to the City's timely compliance with the abovementioned requirements of the HAA. We remind the City that an improper disapproval of the Project under the HAA could subject the City to a *minimum* fine in the amount of $10,000 per unit in the housing development, which amount, depending on the facts, can reach a minimum of $50,000 per housing unit if a court finds the City acted in bad faith. (Gov. Code, § 65589.5, subds. (k)(1)(A)(ii), (k)(1)(B), (l).) Further, Applicant would be entitled to attorneys' fees and costs of suit. (Gov. Code, § 65589.5, subd. (k)(1)(A)(ii); Gov. Code, § 65914.2, subd. (b)(1).)

Property. (*See River Landon LLC v. Hinkle et al*, U.S. District Court for the Northern District of California Case No. 3:25-cv-04904-LB.)

[2] In turn, the county clerk shall post the notice and make it available for public inspection in the manner set forth in subdivision (c) of Section 21152 of the Public Resources Code. (Gov. Code, § 65589.5, subd. (h)(6)(E)(ii).)

Sincerely,

Cox, Castle & Nicholson LLP

Andrew B. Sabey

cc: Andrea Visveshwara, City Attorney
Kevin Siegel, Burke, Williams & Sorensen, LLP
Nira Doherty, Burke, Williams & Sorensen, LLP

Exhibits:
A. Challenged Course of Conduct Table

Exhibit A

Challenged Course of Conduct

The following conduct has been undertaken by the City for an improper purpose:

	Challenged conduct:	**City sent/sends documentation which states:**	**Applicant's response**
	Applying non-objective standards to development	Refuse collection areas shall be …located in areas convenient to users and collectors. There shall be adequate ingress and egress to all utilities.	These are non-objective standards.
		Walls, etc. shall be used to screen parking and loading areas from view	This is a non-objective standard. What percentage of view shall be shielded, and from what angles, from how far upslope?
	Sending documentation/stating inconsistency by alleging standards are applicable that have no connection to the development submittal	Structures may encroach into a required yard with a compensating increase subject to approval by the hearing body	The applicant did not request any such encroachment

	Challenged conduct:	City sent/sends documentation which states:	Applicant's response
		Fences located within the front and streetside setbacks may be 4 feet tall etc. The plans do not contain enough detail for the city to determine whether the project complies with the fence standards at this time	No fences have been proposed
	Sending documentation/stating inconsistency that improperly relies on local standards when State standards have preempted those local standards	The city equates all of these together - housing types to single family/multifamily to a zoning classification – single family to low density, multifamily to medium/high density zones. The city claims that the development must comply with medium density residential development/multifamily developments of a minimum of 3 attached units. It provides no explanation of how that would be permitted in a low density residential zone nor how it would be permitted	State law preempts this in SB 35 which authorizes multifamily housing on *any* residential land. SB 35 provides for any qualifying multifamily development of 2 or more units on any residentially zoned land.

	Challenged conduct:	City sent/sends documentation which states:	Applicant's response
		in a single family zone such as the subject lots (such is not permitted under city code)	
		Developments must provide two covered parking spaces per unit	No covered parking is required under State law
	Sending documentation /stating inconsistency by purporting a standard is not met when the development contains/includes nothing to which that standard applies	Additionally, on streets less than twenty-six feet, a minimum of two additional on-site parking spaces must be provided	The street is 26' wide, is clearly such and is clearly marked as such
		Where the proposed landscape area is equal to or greater than 2,500 sq ft	Sheet A.0.5. The landscaping is less than 2,500 sq.ft.
		Section requires driveways serving residential uses with less than 6 vehicle parking spaces to be a min. of 10 feet wide	The driveway serves 39 parking spaces. The driveway (private street) is 26', and wider in parts
		No subdivision of land into two (2) or more lots or parcels for the purpose of development shall be approved unless it is determined that the following utilities and services can be provided	No subdivision of land into two or more lots is being proposed

	Challenged conduct:	City sent/sends documentation which states:	Applicant's response
		Table 1.4 Objective Design Standards adopted March 2024. First sentence of the standards. "These standards apply to all "residential multifamily" "residential single-family"..development.., all of which are terms defined in SRMC section 14.03.030": 14.03.030: ""Residential, multifamily means medium and high density residential development,.... containing three (3) or more attached dwelling units.." – a zoning designation for land zoned medium and high density per the zoning ordinance and General Plan. Residential single family means low density residential development	The development is clearly not in either of those categories. Further, the development vested prior to these standards being created The subject lots *are not in this zoning*. This is not applicable to the development

	Challenged conduct:	City sent/sends documentation which states:	Applicant's response
		containing one (1) primary residential dwelling unit for use by a single household on a single parcel	
	Sending documentation/stating inconsistency by alleging that planning data is not in the development submittal when it is	Plans do not show screening of parking from the street	The plans clearly show screening of parking from the street.
		Insufficient information has been provided in plans to verify the proposed height	Heights are clearly shown on A2.2 to A3.4 - 15 sheets comprehensively showing the height as defined by municipal code for every building.
		New streets and driveway grades shall not exceed 18 per cent. The projects plans do not appear to indicate the proposed slope	A.0.2 site plan very clearly shows the gradient of the street at 8%, as do A.0.3, A.0.8.
		The cover page notes that all spaces are 9 by 19 feet, the application does not contain information to determine where all parking spaces (sic)	Parking is shown on the parking sheet A.0.3 and is clearly shown as 19' x 9'
		Lighting for parking areas must be mounted at maximum of 15 feet	A.0.3 Parking & circulation plan. The plans state "Parking lighting is mounted at 14' from floor"

	Challenged conduct:	City sent/sends documentation which states:	Applicant's response
	Sending documentation that misrepresents city municipal code	Side yard setback to be 10 feet and front yard setback to be 20 feet.	*In fact* municipal code defines the yard requirement as the average on the block. (14.04.030)
		Hillside Design Guidelines state Fences and walls over 3 feet in height that face public streets SHOULD (not shall) Definitions in Hillside guidelines – SHOULD (not shall) and where SHOULD is used it states are not mandatory. City *rewrites* this code in its consistency analysis stating the word is "requires"	City misstates its own code
		Res 14890: The affordable housing units shall possess a distribution of bedroom counts proportionate to that of the market-rate units within the residential development project "The affordable housing units shall have access to the same amenities and	This code *does not exist* The code *in fact* states "Compatibility with the…amenities…of the

	Challenged conduct:	City sent/sends documentation which states:	Applicant's response
		common spaces as the market rate units"	other developed units". The city rewrote this code specifically for the consistency notice on the fly to make it objective. Compatible is non-objective. But the code simply doesn't exist There are many examples of the city making up the code for the consistency letter of October 2025. Yes – just inventing municipal code, to delay this compliant application.
	Asking for documents that have already been provided	Geotechnical report is required	Geotechnical report has been provided
	Demanding documents that are CEQA reports	A Transportation Analysis report is required per city Guidelines.	Page 1 of these Guidelines describe the report as producing an outcome "that include[s] conditions of approval and/or mitigation measures under CEQA" Requiring this report is prohibited under SB 35.

	Challenged conduct:	City sent/sends documentation which states:	Applicant's response
	Claiming – both directly and indirectly – that the housing development project did not vest on May 15, 2023. **Making written statements that adopt, repeat, flow from, or attempt to give effect to the City's erroneous position that the housing development project did not vest on May 15, 2023**		Definitive codification of **specifically SB 35 vesting**: Govt Code 65913.4(d) (1) review "strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction **before submission of a development application**, and shall be broadly applicable to development within the jurisdiction"
	Ignoring Govt Code 65905.5 (c)(1)	City raises multiple items (see above) that are subject to the applying of density bonus and waivers and thus its (c)(1) letter in those regards is invalid and not issued consistent with State law.	"The receipt of a density bonus including any incentives, concessions, or waivers pursuant to Section 65915 shall not constitute a valid basis on which to find that a proposed housing development project is inconsistent, not in

	Challenged conduct:	City sent/sends documentation which states:	Applicant's response
			compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.
	Issuing inconsistency letters under 65913.4 (c) (A) & (C) without first approving density bonus and waivers & incorporating their effect into 65913.4 (c) communications	Example The General Plan limits height on the site to 30 feet tall. All primary dwellings exceed 30 feet in height.	
	Sending documentation alleging inconsistency of items that are resolved by issuance of a bonus & waivers, which bonus & waivers are being improperly delayed by the city		The applicant had applied for a waiver of this standard, but the city is unreasonably and with no valid reason delaying the issuance of the waiver The development is entitled to a bonus & waivers under State law.

	Challenged conduct:	City sent/sends documentation which states:	Applicant's response
	Stating "the applicant has not submitted sufficient information to enable the City to analyze this standard; therefore the Project is not consistent with this standard" because the applicant has submitted plans that provide substantial evidence	Repeated continually throughout the purported 'inconsistency' letter	This is NOT the standard by which SB 35 developments are reviewed by a local government: Govt Code 65913.4 (f) (1). "..shall not require studies nor information that do not pertain directly to determining whether the development is consistent with *objective* planning standards" Govt Code 65913.4 (c)(3) "For purposes of this section, a development is consistent with the objective planning standards specified in subdivision (a) if there is substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards. The local government shall not

	Challenged conduct:	City sent/sends documentation which states:	Applicant's response
			determine that a development… *is in conflict with the objective planning standards on the basis that application materials are not included*, if the application contains substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards" The development submitted contained substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.
	Representing that the city can end the processing of an SB 35 project by issuing a denial letter (and after the 60 day (c)(1) period). **Representing that an applicant cannot resubmit and processing be continued**		Govt Code 65913.4 (a) "…. satisfies all of the **following objective planning standards:** (1) The development is a multifamily housing

	Challenged conduct:	City sent/sends documentation which states:	Applicant's response
			development that contains two or more residential units…"etc. Then, 65913.4(c)(1) ….Upon a determination that a development submitted pursuant to this section is in conflict with any of the objective planning standards **specified in subdivision (a)**, the local government staff or relevant local planning and permitting department that made the determination shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards.

	Challenged conduct:	City sent/sends documentation which states:	Applicant's response
			65913.4 (c)(1)(C) [shall provide written documentation] "within 30 days of submittal of any development proposal that was resubmitted to address written feedback provided by the local government pursuant to this paragraph" The city has no authorization to require that an applicant 'start again from the beginning"- nor be subject to changed or significantly changed city planning standards since the applicant designed the development and submitted its SB 35 application. By way of this section, the Statute provides (and the Legislature definitively intended for) the absolute right to resubmit the application. If this were not

	Challenged conduct:	City sent/sends documentation which states:	Applicant's response
			so, a city could simply require that an applicant start at the back of the line again each time the city raised an issue – and the city could start its incomplete all over again, creating very extensive delays, and, restart its 'scoping consultation process' all over again, and as importantly the development would lose its vesting, and the development be subjected to significant amendment by the applicant if new applicable standards had been created by the local government in the interim.
	Needlessly raising the cost of obtaining approvals	The city continually raises subjects in writing that do not conform to State law (see this notice), and that often stop processing of this streamlined ministerial application, & that lead to the applicant engaging in	

	Challenged conduct:	City sent/sends documentation which states:	Applicant's response
		extensive unnecessary work, and work that is not required by state law	
	Failing to follow the processes outlined in Govt Code 65913.4 as described in the case law, including 40 Main Street Offices LLC v. City of Los Altos		See attached excerpts from Order Granting Consolidated Petitions for Writ of Mandate, *40 Main Street Offices, LLC v. City of Los Altos*, Case No. 19CV349845 (County of Santa Clara, April 24, 2020).
	Delaying approval of housing in the residential zones in favor of development more acceptable in general to residents of the City in the downtown/commercial districts. **Following a policy of denying housing on the improper basis that residential lots have or may have circulation, access, and slope issues.**	City advised applicant that "there are issues with these lots."	Housing of all types, including housing with yards, and in all parts of San Rafael, is supported by Affirmatively Furthering Fair Housing requirements and Federal Fair Housing law, No Net Loss law, Housing Crisis Act, Housing Element Law

It should be noted that it is the applicant's position that the development is subject to Gov't Code Section 65589.5(d)(5).

Excerpts from

Order Granting Consolidated Petitions for Writ of Mandate

***40 Main Street Offices, LLC v. City of Los Altos*,**

Case No. 19CV349845 (County of Santa Clara, April 24, 2020)

get the City Council to recognize the mandatory timelines and requirements of SB 35 and the consequences of its having earlier failed to meet those provisions, and to correct its prior erroneous approach.

Finally, the Court concludes that the injustice that would result in the absence of estoppel is enough to justify application of the doctrine here.

For all of these reasons, the Court rejects the City's statute-of-limitations defense and reaches the merits of petitioners' claims.

B. Petitioners Are Entitled to Relief on the Merits

Petitioners allege that the City's conduct violated three different housing statutes: (1) the streamlining statute (§ 65913.4, SB 35); (2) the Density Bonus Law (§ 65915); and (3) the Housing Accountability Act (§ 65589.5).

1. The City Failed to Comply with Section 65913.4

i. Statutory Background

In 2017, the Legislature passed SB 35 to reform land-use and housing law, including by creating "a streamlined, ministerial approval process for infill developments in localities that have failed to meet their regional housing needs assessment [ ] numbers."[13] (Sen. Rules Com., Rep. on Sen. Bill No. 35 (2017–2018 Reg. Sess.) May 27, 2017.)

Section 65913.4, subdivision (a) states in relevant part: "A development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process provided by subdivision (b) and not subject to a conditional use permit if the development satisfies all of the [ ] objective planning standards" set forth further in subdivision (a).

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[13] As part of the housing element of a municipality's general plan, it must calculate its Regional Housing Needs Allocation or Assessment (RHNA), which is the " 'existing and projected need for housing' " in the area for individuals and households of all income levels. (*Fonseca v. City of Gilroy* (2007) 148 Cal.App.4th 1174, 1186, fn. 8, quoting Gov. Code, § 65583.) If a municipality's present and projected housing needs exceed its housing stock and land available for development, it must work to satisfy its RHNA by increasing the availability of land for housing development by, for example, changing zoning and development restrictions. (Gov. Code, § 65583, subd. (c)(1)(A).)

The objective planning standards that operate as eligibility criteria for streamlined, ministerial review consist of inclusionary and exclusionary criteria. In the abstract, the inclusionary and exclusionary criteria balance the primary policy of expediting housing construction with the competing policy of safe, well-designed construction as embodied in existing law. To illustrate, a proposed development must be "a multifamily housing development that contains two or more residential units" in an urban area that will not displace existing rent-controlled and income-restricted housing. (§ 65913.4, subds. (a)(1)–(2), (a)(7).) A mixed-use development still qualifies if "at least two-thirds of the square footage of the development [are] designated for residential use." (§ 65913.4, subd. (a)(2)(C).) Exclusionary criteria disqualify a development proposed for construction in or on a coastal zone, fire zone, flood plain, earthquake fault zone, hazardous-waste site, wetland, or prime farmland. (§ 65913.4, subd. (a)(6).)

Currently, the statute specifies that when evaluating consistency with the standards above, a development is consistent "if there is substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards."[14] (§ 65913.4, subd. (b)(3).) Unless an agency timely explains to a developer in writing the reasons why the proposed development is not consistent with the eligibility criteria, "the development shall be deemed to satisfy the objective planning standards in subdivision (a)." (§ 65913.4, subds. (b)(1)–(2).) An agency's deadline for notifying a project proponent of ineligibility for streamlined, ministerial review is either 60 or 90 days depending on the size of the proposed development. (§ 65913.4, subds. (b)(1)(A)–(B).)

Proposed developments that qualify for streamlined, ministerial review may still be subject to design review or public oversight with the limitation that this oversight "shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application,

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[14] Section 65913.4, subdivision (b)(3) became effective January 1, 2020. (Sen. Bill No. 235 (2019–2020 Reg. Sess.) § 5.3; Assem. Bill No. 1485 (2019–2020 Reg. Sess.) § 1.)

and shall be broadly applicable to development within the jurisdiction." (§ 65913.4, subd. (c)(1).) The design review must be completed, if at all, within 90 or 180 days[15] depending on the size of the development and "shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect … ."[16] (§ 65913.4, subd. (c)(1).)

ii. Application

The City's notice of inconsistency here, its SB 35 denial letter of December 7, 2018, was neither code-compliant nor supported by substantial evidence.

Section 65913.4 subdivision (b)(1) provides: "If a local government determines that a development submitted pursuant to this section is in conflict with any of the objective planning standards specified in subdivision (a), it shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards … ." The Court concludes here that the City failed to comply with this notice requirement

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[15] This means that for a smaller development, the deadline for notice of ineligibility is 60 days (§ 65913.4, subd. (b)(1)(A)) and an agency may take an additional 30 days to complete design review or public oversight for a total of 90 days (§ 65913.4, subd. (c)(1)). For a larger development, the deadline for notice of ineligibility is 90 days (§ 65913.4, subd. (b)(1)(B)) and an agency may take an additional 90 days to complete design review or public oversight for a total of 180 days (§ 65913.4, subd. (c)(2)).

[16] Notably, while section 65913.4, subdivision (c) gives localities additional time to review objective design standards, the Legislature also enumerates compliance with "objective design review standards" as an objective planning standard—an eligibility criterion—in subdivision (a)(5). There does not appear to be a substantive distinction between these two terms. The descriptions in subdivisions (a)(5) and (c) of what design standards may be applied are so similar that they suggest the terms are equivalent. The statutory framing of design standards as both eligibility criteria and criteria capable of review during the extended timeframe for public oversight is problematic because of the distinct deadlines for making those distinct determinations. Treating compliance with objective design standards as an objective planning standard under subdivision (a) arguably renders as surplusage the later deadline for design review in subdivision (c)(1). Courts typically avoid interpreting statutes in such a manner. (*Arnett v. Dal Cielo* (1996) 14 Cal.4th 4, 22.) Ultimately, the Court need not resolve this ambiguity based on the particular record and arguments advanced here. The City did not comply by either deadline and does not ask for additional time to conduct public oversight in its supplemental brief on the scope of relief that is warranted.

because the City did not adequately identify objective standards and provide an explanation of inconsistencies supported by substantial evidence in its SB 35 denial letter.

First, the City did not adequately identify applicable objective standards with which the project did not comply. The City conceded its initial error in asserting that a higher percentage of affordable units was required; it had relied on an outdated and incorrect HCD determination. (AR000169.) Thus, it is undisputed that the first bullet point in the City's denial letter was based on an incorrect and inapplicable standard.

As for the other two bullet points, the City did not adequately identify the standards or code provisions it was referring to or relying on. It concluded the project lacked "the required number of off-street residential and visitor parking spaces" and "adequate access/egress to the proposed off-street parking." (AR000127.) But it is not apparent from this vague statement just what those purported standards are or where they can be located. Thus, the City did not adequately identify the parking standards it was relying on. And notwithstanding the opacity and ambiguity of the City's statement, it is apparent that it was not relying on permissible, objective standards for parking. First, section 65913.4, subdivision (d)(2) states that "the local government shall not impose automobile parking requirements for streamlined developments approved pursuant to this section that exceed one parking space per unit." (§ 65913.4, subd. (d)(2).) And for projects meeting certain criteria—such as projects within one-half mile of transit—no parking requirements may be imposed. (§ 65913.4, subd. (d)(1).) Consequently, the City not only failed to identify the purported parking requirement but also failed to account for the prohibitions in section 65913.4, subdivision (d) as well. Moreover, the City has yet to identify any evidence in the record to support the conclusion that it could require more parking based on the location and characteristics of the project here.

As for ingress and egress, "adequacy" is not an objective standard that may be applied to streamlined projects. Objective standards are those "that involve no personal or subjective judgment by a public official and are 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 before submittal." (§ 65913.4, subd. (a)(5).) What qualifies as

adequate—in the absence of an identifiable standard or definition—is simply a matter of personal or subjective judgment. To date, the City has not identified a uniformly verifiable, knowable standard for adequate ingress and egress. Accordingly, it impermissibly relied on a subjective standard in its denial letter.

What's more, there is no explanation in the denial letter about how the proposal was inconsistent with the unspecified standards applied by the City. For example, the City did not explain that the project provided only X number of parking spaces when the required number was Y. So, the City's denial letter was not code-compliant in this regard as well.

The City does not present a convincing argument to support a contrary conclusion. In the City's papers, it does not clearly and directly counter petitioners' supporting points. For example, the City does not argue that it adequately identified all of the objective standards set forth in its denial letter or that all of the standards it identified qualified as objective standards permissibly applied in the course of streamlined review. And the City does not explain how its cursory reference to such standards qualified as "an explanation for the reason or reasons the development conflicts with that standard or standards." (§ 65913.4, subd. (b)(1).)[17] Instead, the City argues the denial letter, when read in conjunction with the incomplete notice, put Developer on sufficient notice so as to somehow satisfy section 65913.4. This argument lacks merit.

The first problem with the City's contention is that it relies on an unspecified standard for the sufficiency of notice in lieu of the standard spelled out by the Legislature in section 65913.4, subdivision (b)(1). Although not clearly articulated by the City, it seems to invoke the concept of notice in the context of the constitutional minimum for procedural due process. (See generally *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1275–1280.) But the issue here is not whether the City met the constitutional minimum. The issue is whether it complied with the applicable statutory requirements.

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[17] Section 65913.4 does not merely require a statement of reasons for denying an application for streamlined review. Rather, it imposes the more specific requirement of an explanation of how the proposed development conflicts with the objective standards that the municipality identifies.

The City does not advance a persuasive argument for disregarding the specific statutory requirements for notice. While it purports to invoke a principle of statutory construction that places substance over form, it is not necessary to rely on, and the City does not fairly interpret and rely on, that principle. (See generally *Troyk v. Farmers Group, Inc.* (2009) 171 Cal.App.4th 1305, 1332 [discussing scope and limitations of concept of substantial compliance].) In actuality, the City urges a complete disregard for the language of the statute in a vacuum and without regard for the statute's purpose. In other words, the City disregards the form and the substance of the statute. The language the City asks the Court to ignore—what it suggests is a mere formality—is in fact the specific procedure at the heart of the statute that effectuates its purpose. In the absence of deemed compliance under section 65913.4, subdivision (b), the statute would operate as a mere suggestion without an enforcement mechanism. And, because section 65913.4, subdivision (b) is consistent with and effectuates the purpose of the statute, there is no inconsistency between that "form" and the substance of the statute necessitating a reconciliation of those concepts under the canon invoked by the City. The City's argument in this regard is questionable and its reliance on *County of Kern v. TCEF, Inc.* (2016) 246 Cal.App.4th 301 is misplaced. The Court applies the requirements for a notice of inconsistency that are plainly spelled out in the statute, not an amorphous due process standard that would do violence to its very language and purpose.

The second problem with the City's argument is that it relies on an implausible and unreasonable interpretation of the record. The City states that its incomplete notice and denial letter provide sufficient documentation when read together. But the terms of these documents do not support such a construction. The City explicitly stated that it was proceeding as though it had *two* applications submitted by Developer in November 2018. It purported to deny one application and find the other incomplete. The correspondence setting forth those distinct decisions, while issued together, cannot be fairly read and interpreted in the manner the City now urges. The incomplete notice does not purport to specify inconsistencies with objective standards under SB 35; it purports to specify the additional information required before a traditional, *discretionary review* could be commenced. Similarly, the denial letter does not purport to require additional