DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
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November 4, 2026

Abraham Prado, Director of Planning, Building, and Code Enforcement
County of San Benito
481 4th Street, 1st Floor
Hollister, CA 95023-3840

Dear Abraham Prado:

RE: San Benito County – 340 Bridgevale Road – Letter of Support and Technical Assistance

The purpose of this letter is for the California Department of Housing and Community Development (HCD) to express support for the proposed 100 percent affordable housing project at 340 Bridgevale Road, known as Baler Place (Project), and to provide technical assistance to the County of San Benito (County) regarding its obligations under state housing law with respect to this Project, as well as the County's overall compliance with state housing laws, most notably Housing Element Law.

Background

CRP Affordable Housing and Community Development (Applicant) has proposed a 100 percent affordable 53-unit housing project at 340 Bridgevale Road with a mix of one-, two, and three-bedroom units. The Project application was submitted in late 2023.

On January 17, 2024, Abraham Prado, Director of Planning, Building, and Code Enforcement, signed a document titled "Verification of Environmental Review and Land Use Entitlements" for inclusion in the Applicant's application for Low Income Housing Tax Credits (LIHTCs). In that document, Director Prado stated, "Property is zoned by right for multifamily and the project as proposed is not subject to discretionary review" (emphasis added).

On January 19, 2024, Director Prado signed a document titled "Local Approvals and Environmental Review Verification" for inclusion in the Applicant's application for Multifamily Super NOFA funds from HCD. In that document, Director Prado again confirmed, "The project is zoned by right for multifamily and the project as proposed is not subject to discretionary review."

On March 12, 2024, the County sent the Applicant a letter titled “Complete – Planning Development Review.” In this letter, the County stated, “This letter is to inform you that planning has reviewed your proposed submittal and has found it to be consistent with County ordinances and development standards and can be submitted to the building department for approval.” The County also noted that the project site has a zoning designation of Residential Multifamily (RM) and stated, “The RM District allows multi-family development by right (as a permitted use), with design review at an administrative level by the County of San Benito.”

On March 13, 2024, Director Prado signed a document titled “Verification of Zoning and Other Required Local Approvals” for inclusion in the Applicant’s application for HOME program funds from HCD. In this document, Director Prado again reiterated, “The property is zoned by right for multifamily and the project as prosed [sic] is not subject to discretionary review.”

On March 18, 2025, the County sent the Applicant a second letter titled “Complete – Planning Design Review of Entitlement Set Dated 01/15/2025.” In this letter, the County stated, “This letter is to inform you that planning has reviewed your proposed submittal for design review, as well as routed the design to other Agencies, and has deemed the design review complete. Please note the additional items that need to be addressed prior to building permit issuance.” The County also noted again that the project site has a zoning designation of Residential Multifamily (RM) and stated, “The RM District allows multi-family development by right (as a permitted use), with design review at an administrative level by the County of San Benito.”

HCD understands that, following that March 18, 2025 letter, the Project’s entitlements were fully approved. The Applicant then proceeded to begin completing items on the County’s building permit checklist in reliance on the County’s final determination and approvals.

On April 28, 2026, the County Board of Supervisors (Board) held a hearing under the Tax and Equity Fiscal Responsibility Act (TEFRA) in connection with the proposed issuance of revenue bonds by the California Municipal Finance Authority (the “CMFA”) to finance the Project. Bond repayment is the sole responsibility of the Applicant and the CMFA; the County is not responsible for the debts, liabilities, and obligations incurred through this bond financing. At that hearing, the Board failed to approve the TEFRA financing, against staff recommendation.

On June 22, 2026, the County sent the Applicant a letter contradicting all its prior approvals and written communications: “While multi-family residential development is a permitted use within the RM zoning district, the County Code further specifies the review process applicable to particular residential development projects based on the nature and scale of the proposed developments. Pursuant to Section 25.02.001, Table

25.02-A of the San Benito County Code, new multi-family residential developments containing five or more dwelling units are subject to a Major Development Plan Review. Because the proposed project includes 53 new dwelling units, staff has determined that the project falls within the Major Development Plan Review threshold under the County Code." The letter further stated that "next steps in the process will include … [a] public hearing before the Planning Commission for consideration of the application."

Analysis

HCD is extremely concerned by the County's actions. The County previously approved the Project—noting repeatedly, in multiple communications to the Applicant, memorialized in writing, that the Project was by right and not subject to discretionary review. Indeed, more than one year after the County's ministerial approval of the Project, the County now asserts the Project is subject to a Major Development Plan review, including a Planning Commission hearing. Likewise, HCD is extremely concerned that the County did not approve the Project's TEFRA financing. These actions are inconsistent with state housing laws and with the County's adopted 6th cycle Housing Element.

Inconsistency Between General Plan and County Code

The County's 6th cycle housing element was determined by HCD to be in substantial compliance with Housing Element Law on February 3, 2026. Prior to that date, the County's 5th cycle housing element remained in effect. Therefore, the entire processing of the Project from application submission in late 2023 through Planning Design Review completion in March 2025 was completed under the 5th cycle housing element.

The County's 5th cycle housing element clearly states that projects in the RM district are subject to ministerial approval: "San Benito County ministerially allows multifamily rental housing in its highest-density residential zoning district, Residential Multiple (RM)."[1]

Furthermore, the 5th cycle housing element does not include any reference to Major Development Plan Review for multi-family residential developments containing five or more dwelling units. In fact, the housing element explicitly notes that multi-family projects larger than fourplexes are ministerially allowed: "RM ministerially allows duplexes, fourplexes, condominiums, apartments, and other higher-density housing, plus the residential types allowed in R1. … In this district, development requests for multifamily dwellings are ministerial and only require a building permit."[2]

[1] San Benito County Housing Element 2014-2023, p. 5-64. Available at https://www.hcd.ca.gov/housing-elements/docs/san-benito-cou-5th-adopted042116.pdf.
[2] *Id*., p. 5-74.

The housing element is one of several elements of the County's general plan. The general plan is the County's guiding document, and County zoning ordinances must be consistent with the general plan.[3] In its initial processing of the Project, the County appropriately applied the ministerial process outlined in the governing general plan document (specifically, in the housing element of the general plan). The County's antithetical June 22, 2026 letter that the Project is now subject to Major Development Plan review process is inconsistent with the County's general plan, and its approved housing element applicable to this Project.

Required Approval Timelines

The County should not take further action to disapprove the Project at this time. A public agency that is the lead agency for a development project shall approve or disapprove the project within 60 days from the date of receipt of a complete application if the project is subject to ministerial review by the public agency.[4] While the County did not provide a letter to the Applicant expressly determining that a specific version of the application was complete, an application must be complete before a jurisdiction can undertake a consistency review. Because the County's March 12, 2024 letter finds the project consistent with County ordinances and development standards, the application must therefore have been determined to be complete on or before March 12, 2024. As such, the County had 60 days – or until May 11, 2024 at the latest – to approve or disapprove the Project. That date has long since passed. Therefore, the County should no longer take further action to disapprove the Project.

HCD understands that the County's position is that the determination that the project was subject to ministerial review was made in error, which would mean that the approval timeline for projects subject to ministerial review does not apply. However, even if that were true, a 60-day approval period would still apply.

The County provided written documentation that the project was exempt from California Environmental Quality Act (CEQA):

- The January 17, 2024 document titled "Verification of Environmental Review and Land Use Entitlements," signed by Director Prado, states "The project qualifies as an infill exemption and is therefore exempt from CEQA/NEPA."
- The January 19, 2024 document titled "Local Approvals and Environmental Review Verification," also signed by Director Prado, states "The project qualifies as an infill exemption and is therefore exempt from CEQA."

[3] Gov. Code, § 65860, subd. (a).
[4] Gov. Code, § 65950, subd. (a)(6).

Even if the project was not subject to ministerial review but was instead eligible for a CEQA exemption, the lead agency for a development project shall approve or disapprove the project within 60 days from the determination by the lead agency that the project is exempt from CEQA.[5] Given that the CEQA exemption determination was first made on January 17, 2024, the County would have had 60 days – or until March 17, 2024 – to approve or disapprove the Project. That date has also passed. Accordingly, the County should no longer take further action to disapprove the Project.

Inconsistencies with Housing Element

The County's requirement that the Project undergo Major Development Review even after the Project has already been approved, and the County's failure to approve the Project's TEFRA resolution, are actions inconsistent with several of the policies and programs in the County's adopted 6th cycle housing element,[6] including but not limited to the following:

- Policy 2.2: Encourage development of affordable housing by non-profit organizations primarily engaged in housing construction or management.

- Program 1-1: Affordable Housing Developers. "The County recognizes that affordable housing cannot be supplied solely by market-rate developers, so the County will continue to work with affordable housing developers to expand the supply of lower-income units, including extremely low-income units."

- Program 1-7: Federal and State Housing Funding Sources. "The County shall seek financial assistance to provide financing to assist housing construction of extremely low-, very low-, low-, and moderate-income units that serve families and special needs groups using CDBG, USDA, HOME, CalHome, and other federal and state funding sources."

- Program 1-15: Low-Income Housing Tax Credit (LIHTC) Program. "Work with local non-profit affordable and market-rate housing developers to utilize LIHTC funds to provide newly constructed affordable housing rental units within the County."

[5] Gov. Code, § 65950, subd. (a)(5).
[6] San Benito County Housing Element 2023-2031. Available at https://www.sanbenitocountyca.gov/departments/resource-management-agency/housing-programs-division/2023-2031-6th-cycle-housing-element.

HCD shall review any action or failure to act by the County that it determines is inconsistent with an adopted housing element, including any failure to implement any program actions included in the housing element. If HCD finds that the action or failure to act by the County does not substantially comply with Housing Element Law, HCD may revoke its findings that the County's housing element is in compliance with Housing Element Law until it determines that the County has come into compliance with state law.[7]

Furthermore, the County's Regional Housing Needs Allocation (RHNA) for the 6th cycle is 754 units, including 444 low- and very low-income units. This project is listed as a pipeline project in the County's 6th cycle housing element. This project would provide 53 low-income units to count towards the County's RHNA. According to the 2025 Annual Progress Report the County has only met 2.4 percent of its RHNA for lower-income units. As you are aware, the Project has been awarded funding in the forms of LIHTCs, Infill Infrastructure Grant funds, and HOME funds, among others. By requiring additional review after the Project has already received its approvals, the County puts the Project at risk of losing its awarded funding and further frustrates the County's ability to achieve it RHNA.

Conclusion
Based on the foregoing, the County should rescind its requirement that the Project undergo Major Development Review, affirm its previous and existing approvals, and approve the Project's TEFRA resolution expeditiously.

HCD has enforcement authority over Housing Element Law, among other state housing laws. Accordingly, HCD may review local government actions to determine consistency with these laws. If HCD finds that a jurisdiction is in violation of state law, HCD may notify the California Office of the Attorney General.[8] Please be advised that HCD will be monitoring the County's actions on this Project.

If you have any questions regarding this letter or require additional technical assistance, please contact Stephanie Reyes at stephanie.reyes@hcd.ca.gov.

Sincerely,



Melinda Coy
Assistant Deputy Director, Housing Accountability

[7] Gov. Code, § 65585, subd. (i).
[8] Gov. Code, § 65585, subd. (j).