**Questions - HAA and SB 35**

**Question 1**

A developer proposes to knock down an older single family home and build a mcmansion. The building meets all objective criteria. The developer claims he is exempt from design review because of the Housing Accountability Act.

1. Does the HAA apply?
2. Would the answer have been different if the proposal had an ADU?
3. Could the city deny the project? Could it require the ADU be removed?
4. Can the city apply subjective design guidelines or require reduced massing to protect the neighboring property from shadows?
5. Could the city deny the right to knockdown the building because demolition is different than construction?
6. Could the developer utilize SB 35?
7. What could the city have done to avoid this problem?

**Question 2**

A developer proposes a 10 unit development. The city does not ask if the developer is using the HAA nor does the developer mention it in their proposal. Forty-five days after the application is determined to be complete, the city asks for modifications to the development because it does not meet the zoning rules for building height or setback. The developer claims that the city missed their 30 day window and must now approve the project and that it is exempt from CEQA.

1. Who is right?
2. Could the city add conditions of approval like adding sidewalks and a stoplight?
3. What if these conditions of approval requirements made the project infeasible?
4. How can the city avoid this problem?

**Question 3**

A developer proposes a 40-unit development on a slope with a compound roof. The city determines that the building exceeds the height limit established in the zoning for the property, but meets all other objective criteria. The developer argues that the zoning code does not specify how to measure the height of the buildings clearly and the height should have been measured differently. The developer is making a reasonable argument, but the city has never measured height that way, even though city staff admit the code is a little ambiguous.

1. Can the city deny the project under the HAA?
2. Could they deny it under SB 35?
3. Could they require it to be lower if the project remains feasible?

**Question 4**

A city rezones downtown to allow buildings up to 60 feet in height unless extraordinary community benefits are provided, in which case the buildings may be up to 90 feet in height. A developer proposes a 90-foot building that meets all objective criteria. The developer invokes the HAA and claims the community benefits clause is not objective and therefore does not apply [or claims that, in the absence of clear objective standards, the benefits they are offering are adequate, and that anything more than was they are offering will kill the project].

1. Does the HAA apply?
2. What could the city do to avoid this problem?
3. How would SB 35 apply?

**Question 5**

A city adopts a specific plan and rezones the area around a transit station. The specific plan and the zoning allow 60-foot buildings at 80 units per acre. At the edge of the zone, where the property abuts a single-family neighborhood, the specific plan calls for new buildings to be similar in height and massing so the development transitions to the adjacent single-family neighborhood. The proposed development does not reduce its height or massing adjacent to the existing neighborhood, but meets the height and density rules throughout the property. Neighbors are up in arms about the overall density and the interface with their properties. The developer argues that they have met all objective standards that apply to the development and other requirements are subjective in nature.

1. Can the city deny the project under the HAA?
2. Per the HAA, could the city require 1-bedroom units instead of 2 bedroom units as a condition of approval to reduce the project’s intensity? – UNCLEAR, RISKY, NO DEFINITION OF DENSITY, WITHOUT A CLEAR DEFINITION OF DENSITY.
3. Would it be different if the project qualified for SB 35?
4. What would have been a way to avoid the problem?

**Question 6**A developer proposes a hideously ugly 150-unit development on 1 acre in an R4 zone. The development is made up of 120 units (110 market rate and 15 affordable units) and 25 units per California’s density bonus law. The developer states an intention to use SB 35 and the city is subject to the 10% affordable housing rule for Streamlined Approvals. The development meets all the rules for SB 35 (e.g. not in a coastal zone, wage rules, etc.).

1. How long does the city have to provide a list of all inconsistencies with current ‘objective’ zoning and design review standards?
2. How long does it have to complete all review of the proposal?
3. While reviewing the application, the city realizes that their newly adopted zoning code forgot to define FAR for the R4 zone. They rush to fix the problem and complete the edit 60 days after the application is received, but before they deem it complete. Can the city apply the newly adopted FAR rules? What if the city fixes the zoning code and, in the interim, determines the application does not comply with SB 35. Can the new FAR rules apply to the project?
4. Can the city approve the project on the condition that it work with the Design Review Board to improve the design?
5. The R4 zone allows 100 units per acre and the corresponding general plan category (medium density residential) specifies 80-120 units per acre. Does the development meet the density rules per SB 35?
6. Can the city require a stoplight be added as a condition of approval? What if this (and other similar conditions make the project infeasible)?
7. The developer is proposing one car share and no other parking for the entire project even though it is miles from transit. Can the city require parking or more car share spots? Can the city require bike parking?