



INFORMATION REPORT

COUNCIL MEETING

8/10, 2021

DATE: July 29, 2021

TO: City Manager
DEPARTMENT: Planning and Community Development
SUBJECT: **SB35 and 831 Water Street Project Status Update
(PLFYI 054)**

APPROVED:

DATE: 07.30.21

Background

The state legislature passed SB 35 in 2017 as part of a 15-bill package to address the state's housing shortage and high cost of housing. SB 35 is designed to remove barriers to the development of affordable residential urban infill projects and to limit certain types of discretionary home rule oversight that have prevented the development of an adequate supply of housing within the state. SB 35 requirements apply to the City of Santa Cruz and other urban areas of the state that have failed to make adequate progress toward their Regional Housing Needs Allocations (RHNA) as determined by the California Department of Housing and Community Development (HCD). When a project qualifies for streamlined ministerial approval under SB 35, the City has a limited time to apply its objective standards to the project and is strictly prohibited from applying any discretionary standards that would chill the development of affordable housing on a suitable site identified in its general plan.

On July 1, 2021, the Planning Department received an application for an SB35 project at 823, 831, 833, and 905 Water Street, a project that is commonly known as the 831 Water Street development. This is the first SB35 project application that the City has received. This memo is intended to serve as an update on the process and also to provide preliminary information about the City Council's role in the process. The requirements for SB35 applications can be found under California Government Code Section 65913.4, and there is an informative guidebook prepared by HCD that is available on the HCD website. <https://www.hcd.ca.gov/policy-research/docs/sb-35-guidelines-update-final.pdf>

Additionally, various documents referenced in this memo are available on the project webpage on the City's website at: <https://www.cityofsantacruz.com/831Water>

The following steps have already been completed consistent with SB35 requirements:

- Notice of Intent deemed complete on 6/15/21.
- Notices to and consultation with Native American Tribes traditionally and culturally affiliated with the geography of the project site.
- Signed Enforceable Agreement between the Indian Canyon Mutsun Band of Costanoan Ohlone and the City of Santa Cruz. (Agreement provided on the 831 Water Street webpage of the City's website.)
- Formal Application for Development received on 7/1/21. Application is for a five story, mixed-use development consisting of 149 residential units.

- Revised Application for Development received on 7/27/21. Application is for a five story, mixed-use development consisting of 145 residential units and includes an extension of the 60-day review period – see Current Status section below.

Now that an SB 35 application for a development of less than 150 residential units has been received, the City has 60 days from the submittal date to determine if the application is in conflict with any objective planning standards that were in place at the time the application was submitted and inform the applicant of all conflicts. Planning and other appropriate departments, including Public Works, Water, Fire, and Parks & Rec, are in the process of reviewing the City’s codes and adopted plans to identify the objective standards that apply to the project. If there are areas where the project is inconsistent with objective standards, the City must provide a written documentation letter to the applicant listing each conflicting objective standard and provide a description of how the project is in conflict. If the City fails to provide the written documentation letter, the project is deemed to qualify for streamlined ministerial processing under SB 35.

HCD provides the following definition and description of objective vs. subjective requirements. These are likely familiar terms from recent housing projects and the work in progress to formulate objective zoning standards for multi-family projects.

“Objective zoning standard”, “objective subdivision standard”, and “objective design review standard” means standards 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 applicant or development proponent and the public official prior to submittal, and includes only such standards as are published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application.

When determining consistency with objective zoning, subdivision, or design review standards, the local government shall only use those standards that meet the definition referenced in Section 102(q). For example, design review standards that require subjective decision-making, such as consistency with “neighborhood character,” shall not be applied as an objective standard unless “neighborhood character” is defined in such a manner that is non-discretionary.

Example Objective Design Review

Objective design review could include use of specific materials or styles, such as Spanish-style tile roofs or roof pitches with a slope of 1:5. Architectural design requirements such as “craftsman style architecture” could be used so long as the elements of “craftsman style architecture” are clearly defined (e.g., “porches with thick round or square columns and low-pitched roofs with wide eaves”), ideally with illustrations.

The density bonus process is incorporated into the SB35 review, meaning that a request for a density bonus does not trigger any additional review when it is a part of an SB35 project. The applicant will be required to provide justification for any requested incentives/concessions or waivers, however, these modifications in development standards are required to be considered as consistent with objective standards.

The city has also assured the public that a second community meeting will be held, as the first meeting was noticed with less than two weeks' lead time, and this meeting will be held within the 60-day timeframe. This meeting cannot be required pursuant to SB35; however, the city and applicant are in agreement that hosting another community meeting will be helpful for furthering community discussion. The online meeting will be held on August 12, 2021 between 6 pm – 7:30 pm. The meeting was noticed in accordance with the Community Engagement Policies, including posting on the City's website, mailed notices, and on-site posting.

City Council's Role

Section 65913.4(d)(1) of the Government Code allows jurisdictions to complete design review or public oversight of the development as a part of the SB35 objective standards review process. The City has determined that we will utilize this process for the 831 Water Street project to assess compliance with objective standards and to respond to questions from the public about the SB 35 process and the City's role in that process.

It is important to note that this SB 35 design review and public oversight process is not the same as a public hearing which, in the past, provided a venue for councilmembers to hear the concerns of the public and address those by concerns by including conditions of approval, require revisions, or even deny a project based on potentially subjective City standards. The Council's role in this SB 35 process will be to review the written documentation letter that we intend to provide to the applicant and assess compliance with the identified objective criteria. The SB 35 law states that this process "shall not in any way inhibit, chill, or preclude the ministerial approval" process, so the City Council will not take action on the project other than to provide feedback to staff to include in the ministerial review.

(d) (1) Any design review or public oversight of the development may be conducted by the local government's planning commission or any equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as appropriate. That design review or public 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, and shall be broadly applicable to development within the jurisdiction. That design review or public oversight shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(A) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(B) Within 180 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

This code section also provides a longer timeframe than the 60-day review period. The City's understanding is that a letter must be provided to the applicant within 60 days; therefore, the City will need to hold the City Council public oversight meeting within the 60-day review period to allow for staff to incorporate councilmember's comments into the letter. The City's understanding is also that the applicant can use the additional review time provided in the code section above (in

this case, between the time the letter is provided within 60 days and when the application must be approved, 30 days later) to submit additional information or make minor alterations to the project to address areas that were identified as inconsistent with objective standards.

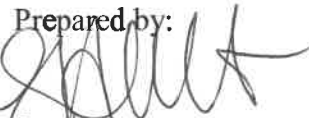
Current Status

On July 16, 2021, the City met with the applicant to discuss the project. In this meeting, the City indicated that while a full review of compliance with objective standards was not yet complete, the City noticed that the plans that were submitted on July 1st did not include revisions to address fire access requirements, which was an issue that was identified during the Preapplication review. The applicant was not aware that they had submitted an incorrect set of plans and submitted a revised set on July 27, 2021. The City’s reading of the state law is that the timeline does not automatically restart if major plan revisions are submitted; however, in this case, the applicant voluntarily provided the City with an extension of the review time to evaluate the revised plan set. The new 60-day deadline for review is September 27, 2021. The project webpage on the City’s website provides the revised plans for public review.


With the submittal of these revisions, it is anticipated that the City Council will hear the project on September 14, 2021.

Public Correspondence

The City has received many concerns from the public regarding the height, massing, and design of the development and potential bike, traffic, and parking impacts, among other things. The City has also heard from the public that there are hydrologic issues at this site that will create negative impacts on the subject and adjacent developments. Once a thorough review of the application is completed, staff will know the areas where the project is inconsistent with objective standards and where modifications are needed. While SB 35 legislation does not require the applicant to engage in meaningful dialog with the public or to revise the project based on public concerns, the applicant has already met once with the community and has submitted an application for state affordable housing funds that, if awarded through that competitive process, would allow for project modifications (a reduction of one story) desired by some members of the community. The applicant has agreed to share this information in the second community meeting in response to the community’s concerns.

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ATTACHMENTS:

None