

Exhibit A: Determination of Eligibility for Streamlined Ministerial Permitting

Project: Jefferson Ridge

Application: HD-1

Location: Vicinity of Park Road, Adams Street and Jefferson Street

APN: 0080-150-050, -380, -390, -400, and -410

The table below lists the eligibility provisions of Senate Bill 35 combined with responses setting forth the Department’s specific findings with respect to the eligibility criteria for streamlined ministerial permitting, given the documentation provided by the applicant and publicly accessible information regarding the Project Site. Based upon this information, the City of Benicia has determined that the project demonstrates compliance with the eligibility criteria for streamlined ministerial permitting because it is consistent with all adopted objective planning standards of the City of Benicia contained in the Benicia General Plan, Municipal Code, Zoning Ordinance, Subdivision Ordinance, Objective Planning and Design Standards, and the Arsenal Historic Conservation Plan.

Eligibility Criteria Government Code Section 65913.4		
	Yes	No
<p>General</p> <p>Has the California Department of Housing and Community Development (“HCD”) determined that the local agency is subject to SB 35?</p> <p><i>Benicia is listed as an agency subject to SB 35. HCD’s June 25, 2019, determination regarding SB 35 applicability is available online at:</i></p> <p><i>The Department of Housing and Community Development’s has determined that Benicia is subject to SB 35 streamlining provisions when the proposed development includes ≥10% Affordability.</i></p>	X	
<p>(a)(1)</p> <p>Is the project a multifamily housing development of two or more residential units?</p> <p><i>In order to qualify for SB 35 streamlined, ministerial approval the proposed project must be a multifamily housing development that contains two or more residential units or a qualifying mixed-use project that provides at least 2/3 of square footage as residential use. The applicant has proposed a multifamily development that contains more than two units, and 76,960 of total 78,960 gross square feet would be for residential use, which meets the minimum required number of units and mixed-use requirements of SB 35.</i></p>	X	
<p>(a)(2)(A)</p> <p>Is the site a legal parcel(s)?</p>	X	

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	Yes	No
<p><i>According to the title report submitted by the applicant, the subject property includes 5 legal parcels. The project application includes a request for a tentative parcel map to create 5 legal parcels. Accordingly, the project meets the legal parcel requirements of SB 35.</i></p>		
<p>(a)(2)(A)</p> <p>Is a site located in an urbanized area or urban cluster as designated by the United States Census Bureau?</p> <p><i>For a project to be considered urban infill it must be located within the City limits and at least 75 percent of the perimeter of the site must adjoin parcels that are developed with urban uses. For purposes of SB 35, "urban uses" means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses. Parcels that are only separated by a street or highway shall be considered adjoined. This project is within the City limits and is 100% surrounded by parcels that are developed for urban uses.</i></p>	X	
<p>(a)(2)(B)</p> <p>Does at least 75% of the perimeter of the site adjoining parcels currently or formerly developed with urban uses as defined by government code section 65913.4(h)(8)?</p> <p>Government code section 65913.4(h)(8) defines "urban uses" to mean any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.</p> <p><i>This project is within the City limits and is 100% surrounded by parcels that are developed for urban uses.</i></p>	X	
<p>(a)(2)(C)</p> <p>Is the site zoned for residential use or residential mixed-use development, or has a general plan destination that allows residential use or a mix of residential and nonresidential uses, but at least 2/3 of the square footage of the development designated for residential use?</p> <p>Additional density, floor area, and units, and any other concession, incentive, or waiver a development standards granted pursuant to the density bonus law in section 65915 shall be included in the square footage calculation. The square footage of the development should not include underground space, such as basements or underground parking garages.</p>	X	

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	Yes	No
<p><i>The site is designated in the Benicia General Plan for Lower Arsenal Mixed Use, which includes residential uses. Additionally, 99% of the proposed floor area would be comprised of a multifamily residential use.</i></p>		
<p>(a)(3)(A)</p> <p>The development proponent has committed to record, prior to the issuance of the first building permit, a land use restriction or covenant providing that any lower or moderate income housing units required pursuant to subparagraph (B) of paragraph (4) shall remain available at affordable housing costs or rent to persons and families of lower or moderate income for no less than the following periods of time:</p> <p>(i) Fifty-five years for units that are rented. (ii) Forty-five years for units that are owned.</p> <p>(B) The city or county shall require the recording of covenants or restrictions implementing this paragraph for each parcel or unit of real property included in the development.</p> <p><i>R&A committed to record a land use restriction or covenant providing that all required affordable units are offered at affordable levels for the term specified in section (a)(3)(A). Such a commitment is necessary to establish eligibility for streamlined, ministerial review under SB 35.</i></p> <p><i>Please refer to (a)(4)(C) below.</i></p> <p><i>Note that execution of an actual land use restriction or covenant is a separate matter to be completed prior to issuance of the first building permit issued for the project, if approved.</i></p>	X	
<p>(a)(4)(A), (a)(4)(B), & (a)(4)(C)</p> <p>The development satisfies subparagraphs (A) and (B) below:</p> <p style="padding-left: 40px;">(A) Is located in a locality that the department has determined is subject to this subparagraph on the basis that the number of units that have been issued building permits, as shown on the most recent production report received by the department, is less than the locality’s share of the regional housing needs, by income category, for that reporting period. A locality shall remain eligible under this subparagraph until the department’s determination for the next reporting period.</p> <p style="padding-left: 40px;">(B) The development is subject to a requirement mandating a minimum percentage of below market rate housing based on one of the following:</p>	X	

Eligibility Criteria
Government Code Section 65913.4

	Yes	No
<p>(i) The locality did not submit its latest production report to the department by the time period required by Section 65400, or that production report reflects that there were fewer units of above moderate-income housing issued building permits than were required for the regional housing needs assessment cycle for that reporting period. In addition, if the project contains more than 10 units of housing, the project does either of the following:</p> <p>(I) The project dedicates a minimum of 10 percent of the total number of units to housing affordable to households making at or below 80 percent of the area median income. However, if the locality has adopted a local ordinance that requires that greater than 10 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, that local ordinance applies.</p> <p>(II) (ia) If the project is located within the San Francisco Bay area, the project, in lieu of complying with subclause (I), dedicates 20 percent of the total number of units to housing affordable to households making below 120 percent of the area median income with the average income of the units at or below 100 percent of the area median income. However, a local ordinance adopted by the locality applies if it requires greater than 20 percent of the units be dedicated to housing affordable to households making at or below 120 percent of the area median income, or requires that any of the units be dedicated at a level deeper than 120 percent. In order to comply with this subclause, the rent or sale price charged for units that are dedicated to housing affordable to households between 80 percent and 120 percent of the area median income shall not exceed 30 percent of the gross income of the household.</p> <p>(i) For purposes of this subclause, “San Francisco Bay area” means the entire area within the territorial boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and County of San Francisco.</p> <p>(ii) The locality’s latest production report reflects that there were fewer units of housing issued building permits affordable to either very low income or low-income households by income category than were required for the regional housing needs assessment cycle for that reporting period, and the project seeking approval dedicates 50 percent of the total number of units to housing affordable to households making at or below 80 percent of the area median income. However, if the locality has adopted a local ordinance that requires that greater than 50 percent of the units be dedicated to housing affordable to households making at or</p>		

Eligibility Criteria
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	Yes	No
<p>below 80 percent of the area median income, that local ordinance applies.</p> <p>(iii) The locality did not submit its latest production report to the department by the time period required by Section 65400, or if the production report reflects that there were fewer units of housing affordable to both income levels described in clauses (i) and (ii) that were issued building permits than were required for the regional housing needs assessment cycle for that reporting period, the project seeking approval may choose between utilizing clause (i) or (ii).</p> <p>(a)(4)(C)</p> <p>(i) A development proponent that uses a unit of affordable housing to satisfy the requirements of subparagraph (B) may also satisfy any other local or state requirement for affordable housing, including local ordinances or the Density Bonus Law in Section 65915, provided that the development proponent complies with the applicable requirements in the state or local law.</p> <p>(ii) A development proponent that uses a unit of affordable housing to satisfy any other state or local affordability requirement may also satisfy the requirements of subparagraph (B), provided that the development proponent complies with applicable requirements of subparagraph (B).</p> <p>(iii) A development proponent may satisfy the affordability requirements of subparagraph (B) with a unit that is restricted to households with incomes lower than the applicable income limits required in subparagraph (B).</p> <p><i>For projects that include 10 or more residential units, at least 10 percent of the project's total units, prior to calculating any density bonus, must be dedicated as affordable to low-income households (households at or below 80% of the Area Median Income (AMI)). The applicant does not propose the use of the State Density Bonus. The project includes 121 units, 10% of which would be held for low-income households. These units will be sold to owners, so they must be held affordable for 45 years.</i></p> <p><i>In addition, the project must demonstrate compliance with the standards of the Inclusionary Housing Ordinance per BMC section 17.70.320, which will be evaluated as objective standards pursuant to the Benicia Municipal Code.</i></p>		
<p>(a)(5)</p> <p>The development, excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in Section 65915, is consistent with objective zoning standards, objective subdivision standards, and objective</p>	X	

Eligibility Criteria
Government Code Section 65913.4

	Yes	No
<p>design review standards in effect at the time that the development is submitted to the local government pursuant to this section, or at the time a notice of intent is submitted pursuant to subdivision (b), whichever occurs earlier. For purposes of this paragraph, “objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean 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 development applicant or proponent and the public official before submittal. These standards may be embodied in alternative objective land use specifications adopted by a city or county, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances, subject to the following:</p> <p>(A) A development shall be deemed consistent with the objective zoning standards related to housing density, as applicable, if the density proposed is compliant with the maximum density allowed within that land use designation, notwithstanding any specified maximum unit allocation that may result in fewer units of housing being permitted.</p> <p>(B) In the event that objective zoning, general plan, subdivision, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective zoning and subdivision standards pursuant to this subdivision if the development is consistent with the standards set forth in the general plan.</p> <p><i>The General Plan land use designation for the site is Lower Arsenal Mixed Use, which allows residential use and a Floor Area Ratio of up to 2.0.</i></p> <p><i>The site is zoned Office Commercial (CO). The CO District permits residential land use and establishes specific development standards which are applied in combination with other applicable standards of the Benicia Zoning Ordinance, Chapter 17 of the Benicia Municipal Code. Pursuant to Resolutions No. 05-54 and 05-55, the Benicia City Council has determined that parking is an accessory use and is allowed on the ground level.</i></p> <p><i>The applicant has not requested development incentives or concessions pursuant to the State Density Bonus Law.</i></p> <p><i>Compliance with all applicable objective standards has been reviewed and the City has determined that the project is not consistent with such standards as detailed in Exhibit A.</i></p>		
<p>(a)(6)(A)</p> <p>The development is not located on a site that is any of the following:</p>	X	

Eligibility Criteria Government Code Section 65913.4		
	Yes	No
<p>(A) A coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.</p> <p><i>The site is not in an identified coastal zone.</i></p>		
<p>(a)(6)(B)</p> <p>The development is not located on a site that is any of the following:</p> <p>(B) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.</p> <p><i>The site is identified as "Urban and Built-up Land" by the California Department of Conservation, not prime farmland.</i></p>	X	
<p>(a)(6)(C)</p> <p>The development is not located on a site that is any of the following:</p> <p>(C) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).</p> <p><i>The National Wetlands Inventory does not identify any wetlands within the boundaries of the subject parcel.</i></p>	X	
<p>(a)(6)(D)</p> <p>The development is not located on a site that is any of the following:</p> <p>(D) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.</p> <p><i>There are no Very High Fire Hazard Severity Zones identified within the Benicia City Limits.</i></p>	X	
<p>(a)(6)(E)</p>	X	

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	Yes	No
<p>The development is not located on a site that is any of the following:</p> <p>(E) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.</p> <p><i>SB 35's streamlining provisions do not apply to housing development projects that are located on a site that is "a hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses." (Gov. Code section 65913.4 (a)(6)(E)).</i></p> <p><i>The Department of Toxic Substances Control has removed APN 0080-150-050, 0080-150-380, 0080-150-390, 0080-150-400, 0080-150-410 from the Cortese list.</i></p>		
<p>(a)(6)(F)</p> <p>The development is not located on a site that is any of the following:</p> <p>(F) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.</p> <p><i>The California Geological Survey's Fault Activity Map does not identify any fault zones in the immediate vicinity of the project site.</i></p>	X	
<p>(a)(6)(G)</p> <p>The development is not located on a site that is any of the following:</p> <p>Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined</p>	X	

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	Yes	No
<p>approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:</p> <p style="padding-left: 40px;">(i) The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction.</p> <p style="padding-left: 40px;">(ii) The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.</p> <p><i>FEMA does not identify this parcel as being located in a flood plain or floodway.</i></p>		
<p>(a)(6)(H)</p> <p>The development is not located on a site that is any of the following:</p> <p>(H) Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.</p> <p><i>FEMA does not identify this parcel as being located in a flood plain or floodway.</i></p>	X	
<p>(a)(6)(I)</p> <p>The development is not located on a site that is any of the following:</p> <p>(I) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.</p> <p><i>There are no Natural Community Conservation Plans within the Benicia city limits.</i></p>	X	

Eligibility Criteria Government Code Section 65913.4		
	Yes	No
<p>(a)(6)(J)</p> <p>The development is not located on a site that is any of the following:</p> <p>(J) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).</p> <p><i>The project site is surrounded by development and was previously developed. It is not likely habitat for protected species.</i></p>	X	
<p>(a)(6)(K)</p> <p>The development is not located on a site that is any of the following:</p> <p>(K) Lands under conservation easement.</p> <p><i>There are no Natural Community Conservation Plans within the Benicia city limits.</i></p>	X	
<p>(a)(7)</p> <p>The development is not located on a site where any of the following apply:</p> <p>(A) The development would require the demolition of the following types of housing:</p> <ul style="list-style-type: none"> (i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income. (ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power. (iii) Housing that has been occupied by tenants within the past 10 years. <p>(B) The site was previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent submits an application under this section.</p> <p>(C) The development would require the demolition of a historic structure that was placed on a national, state, or local historic register.</p> <p>(D) The property contains housing units that are occupied by tenants, and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.</p>	X	

Eligibility Criteria Government Code Section 65913.4		
	Yes	No
<i>There are no existing structures on the site, no housing would be demolished as part of this project.</i>		
<p>(a)(8)</p> <p>The development proponent has done both of the following, as applicable:</p> <p>(A) Certified to the locality that either of the following is true, as applicable:</p> <p>(i) The entirety of the development is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.</p> <p>(ii) If the development is not in its entirety a public work, that all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the development is subject to this subparagraph, then for those portions of the development that are not a public work all of the following shall apply:</p> <p><i>The project shall comply with standard conditions of approval ensuring compliance with this requirement.</i></p>	X	
<p>(a)(9)</p> <p>The development did not or does not involve a subdivision of a parcel that is, or, notwithstanding this section, would otherwise be, subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land, unless the development is consistent with all objective subdivision standards in the local subdivision ordinance, and either of the following apply:</p> <p>(A) The development has received or will receive financing or funding by means of a low-income housing tax credit and is subject to the requirement that prevailing wages be paid pursuant to subparagraph (A) of paragraph (8).</p> <p>(B) The development is subject to the requirement that prevailing wages be paid, and a skilled and trained workforce used, pursuant to paragraph (8).</p> <p><i>The project demonstrates consistency with all objective subdivision standards of the local subdivision ordinance. Evaluation of compliance with applicable objective standards of the City of Benicia is included in Exhibit A.</i></p>	X	
<p>(a)(10)</p> <p>The development shall not be upon an existing parcel of land or site that is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing</p>	X	

Eligibility Criteria
Government Code Section 65913.4

	Yes	No
with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).		
<i>The project is not proposed on land subject to Mobilehome Residency Law.</i>		