



## Community Development Department Planning Division

### STREAMLINED HOUSING DEVELOPMENT SB35 Pre-Application Eligibility Checklist

Government Code section 65913.4, also known as Senate Bill 35 (SB 35), requires the City to review qualifying multifamily housing development projects using a ministerial review process. Eligible projects must comply with objective planning standards, provide specified levels of affordable housing, and meet other specific requirements, as detailed below.

The following information and checklist is intended as a guide to help applicants and the City's Community Development determine if a project is eligible for streamlined processing under SB 35. To be eligible for SB 35, a project must meet **ALL** of the following criteria, from 1 through 10:

1.  **PRELIMINARY APPLICATION.** The applicant must submit a preliminary application that includes all of the information described in Government Code section 65941.1.
2.  **CALIFORNIA NATIVE AMERICAN TRIBE CONSULTATION.** Tribal consultation notice has been provided to any/all California Native American tribes that are traditionally and culturally affiliated with the geographic area of the proposed development. (Please note: the City of Benicia will initiate tribal consultation upon receipt of the Preliminary Application and Checklist)
  - Tribal consultation has taken place and has concluded.
  - California Native American Tribes have either (1) agreed that there are no potential impacts associated with the development or (2) if the Tribe has identified potential impacts, the parties have agreed to mitigation.
3.  **NUMBER AND TYPE OF UNITS.** The project must be a multifamily housing development that contains at least two residential units and comply with the minimum and maximum residential density range permitted for the site, plus any applicable density bonus.
4.  **AFFORDABILITY.** If more than 10 residential units are proposed, at least 10 percent of the project's total units must be dedicated as affordable to households making below 80 percent of the area median income.
  - If the project will contain subsidized units, the applicant has recorded or is required by law to record, a land use restriction for the following minimum durations, as applicable:
    - 55 years for rental units.
    - 45 years for homeownership units.
5.  **URBAN INFILL.** The project must be located on a legal parcel or parcels within the incorporated City limits. 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.

6.  **ZONED OR PLANNED RESIDENTIAL USES.** The project must be located on a site that is either zoned or has a General Plan designation for residential or residential mixed-use development, including sites where residential uses are permitted as a conditional use. If the multifamily housing development is a mixed-use development, at least two-thirds of the project's square footage must be designated for residential use.
7.  **CONSISTENT WITH OBJECTIVE STANDARDS.** The project must meet all objective zoning and design review standards in effect at the time the application is submitted.
- If the project is consistent with the minimum and maximum density range allowed within the applicable General Plan land use designation, it is deemed consistent with housing density standards.
  - Any density bonus or any concessions, incentives, or waivers of development standards or reduction of parking standards requested under the Density Bonus Law in Government Code section 65915 are deemed consistent with objective standards.
  - Objective standards are those that require no personal or subjective judgment and must be verifiable by reference to an external and uniform source available prior to submittal. Sources of objective standards include, without limitation:
    - General Plan
    - Benicia Municipal Code
    - Downtown Mixed Use Master Plan
    - Benicia Objective Design Standards
    - Arsenal Historic Conservation Plan
    - Downtown Historic Conservation Plan
8.  **PARKING.** The project must provide at least one parking space per unit; however, no parking is required if the project meets any of the following criteria:
- The project is located within any Historic District.
  - The development is located within one-half mile of public transit.
  - On-street parking permits are required but not offered to the occupants of the project.
  - The project is located within one block of a car share vehicle station.
9.  **LOCATION.** The project must be located on a property that is **outside** each of the following areas:
- 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 City of Benicia's voters.
  - Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
  - 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 does not apply to sites excluded from the specified hazard zones by the City, 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.

- 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 Department of Toxic Substances Control has cleared the site for residential use or residential mixed-uses.
- 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.
- A flood plain as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has been issued a flood plain development permit 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.
- A floodway as determined by maps promulgated 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.
- 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.
- 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).
- Lands under conservation easement
- A site that would require demolition of housing that is:
  - Subject to recorded restrictions or law that limits rent to levels affordable to moderate, low, or very-low income households.
  - Subject to rent control.
  - Currently occupied by tenants or that was occupied by tenants within the past 10 years.

- A site that previously contained housing occupied by tenants that was demolished within the past 10 years.
  - A site that would require demolition of an historic structure that is on a local, state, or federal register.
  - A parcel of land or site governed by the Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act.
10.  **SUBDIVISIONS.** The project does not involve an application to create separately transferable parcels under the Subdivision Map Act. However, a subdivision is permitted if either of the following apply:
- The project is financed with low-income housing tax credits (LIHTC) and satisfies the prevailing wage requirements identified in item 9 of this Eligibility Checklist.
  - The project satisfies the prevailing wage and skilled and trained workforce
11.  **PREVAILING WAGE.** The project proponent must certify that at least one of the following is true:
- The entirety of the project is a public work as defined in Government Code section 65913.4(8)(A)(i).
  - The project is not in its entirety a public work and 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
  - The project includes 10 or fewer units AND is not a public work AND does not require subdivision.
12.  **SKILLED AND TRAINED WORKFORCE.** If the project consists of 75 or more units that are not 100 percent subsidized affordable housing, the project proponent must certify that it will use a skilled and trained workforce, as defined in Government Code section 65913.4(8)(B)(ii).<sup>1</sup>

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<sup>1</sup> Beginning January 1, 2022, the skilled and trained workforce requirement is reduced to apply to projects of 50 units or more that are not 100 percent subsidized affordable housing.