



## City Council AGENDA REPORT

**DATE:** 09/02/2021

**AGENDA OF:** 09/14/2021

**DEPARTMENT:** Planning and Community Development

**SUBJECT:** **831 Water Street: CP20-0121 (APN 009-212-30, -31, -38)** – A Public Oversight Meeting to Assess Compliance with the City's Objective Standards Criteria and Accompanying Density Bonus Request for an Affordable Housing Project Proposed Pursuant to SB 35 (Planning and Zoning: Affordable Housing: Streamlined Approval Process). The Proposed Project Includes Demolition of Existing Commercial Buildings and Construction of a Five-story Mixed-use Building and a Four-story Residential Building Consisting of 2,727 Square Feet of Ground Floor Retail and 145 Residential Units (With 50% of the Base Units as Affordable per SB35) with Shared Underground Parking. (Owner: Novin Development Corp.) (PL)

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**RECOMMENDATION:** Review the objective standards table, deny the application based on the fact that the project does not meet the city's objective standards and is therefore not eligible for SB 35, and direct the Planning and Community Development Department to prepare a written documentation letter that would be provided to the applicant that references the Council's denial and identifies what objective criteria are not being met and why. In order to proceed with the development, the applicants would need to correct any deficiencies and resubmit the application. Resubmittal of the application would restart the City's review timeline.

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**BACKGROUND:** On October 12, 2020 the Planning and Community Development Department received a Pre-Application to review a proposed development at the northwest corner of Water Street and North Branciforte Avenue (823, 831, 833, and 905 Water Street), a project that is commonly known as the 831 Water Street development. The purpose of the Pre-application review is to allow applicants to receive preliminary feedback from City staff. This enables an applicant to address significant design issues before a formal application is filed. For larger projects such as this, a Pre-application review allows early public input at community meetings in accordance with the City's Community Outreach Policy. This original proposal included demolition of the commercial buildings on the site and construction of two five-story, mixed-use buildings consisting of 151 apartments with shared underground parking, ground-floor commercial and residential amenity space, and rooftop open space and commercial bar/lounge. The project also included a request for a State Density Bonus of 35% pursuant to providing a minimum of 11% of the base density as affordable to Very Low Income households. The original proposal also alluded

to providing as much as 51% of units as affordable to households between 30% and 80% of Area Median Income, including requests to increase building height and Floor Area Ratio (FAR) as density bonus incentives/concession and/or waivers. On January 27, 2021, the applicant's held a community meeting that was attended by over 200 community members. Just prior to the meeting, the applicant informed City staff that they intended to apply for an SB35 project and this information was provided to the public at the community meeting. The most prevalent comments and concerns raised by the community were as follows:

- Neighborhood compatibility - such as height, size, and general architecture;
- The design does not reflect the historic design of the Villa de Branciforte area;
- Solar impacts on adjacent residences;
- Excessive traffic on already congested surrounding intersections;
- Excavation may disturb or uncover historic artifacts;
- The project should be LEED certified;
- General support of an affordable housing development but at a reduced scale;
- Concerns with separate buildings for low income and market rate or "workforce" tenants; and
- Concerns with high groundwater at this location that may be overlooked if measured during a drought year.

A number of community members spoke in support of the development, including but not limited to some who support the affordable housing but not the design or massing of the buildings.

The applicant stated that they had not formally submitted an SB 35 application at that point and City staff provided a standard Pre-application review letter for the project. The benefit of this Pre-Application review outside of the SB35 process was that the applicant was able to hear the community's concerns at an early stage of the project, which is the intent of the community engagement policy.

A Notice of Intent to submit a SB 35 application for development was received by the Planning and Community Development Department on June 3, 2021. The notice was reviewed by staff, and on June 10, 2021, the city requested additional information pursuant to California Government Code 65941.1. The applicant provided the additional information on June 15, 2021, and the City determined that the Notice of Intent to Submit a SB 35 application was complete June 23, 2021. Pursuant to Government Code section 65913.4, the City provided notice to each California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed development, as provided by the Native American Heritage Commission. A representative of the Ohlone-Costanoan Tribe contacted the City requesting a scoping consultation regarding the project and authorized the participation of the applicant in the consultation meeting which was held on June 15, 2021. The result of the consultation meeting was the signing of an enforceable agreement between the City and the Ohlone-Costanoan Tribe that establishes methods, measures, and conditions for treatment of any potential tribal cultural resources that could be affected by the proposed project. The enforceable agreement includes a requirement for the applicant to provide on-site monitoring by a Native American monitor as well as an archaeologist during excavation and grading activities, which will ensure that any cultural resources uncovered will be handled appropriately regardless of the cultural affiliation of the resource. The conditions of the Enforceable Agreement are included in the Objective Standards Assessment Table (Attachment 1), where they are referenced as being conditions of approval for the proposed project.

On July 1, 2021, the Planning and Community Development Department received a formal application for an SB 35 project at the 831 Water Street site. The formal application included plans for a mixed-use development consisting of 149 residential units with ground floor retail within two 5-story buildings, which was the same design that was submitted during the prior Pre-application review stage. On July 27, 2021 the applicants submitted a revised application with plans for a similar mixed-use development consisting of 145 residential units with a five-story building consisting of ground floor retail with residences above, and a four-story building consisting of only residential units. With the revised application, the applicant voluntarily extended the 60-day review period for the SB 35 application to September 27, 2021.

The applicant indicated that the elimination of a story on one of the buildings, the addition of larger units, and the removal of the rooftop bar were changes that were directly influenced by public feedback.

The first community meeting was noticed with less than two weeks lead time and the City agreed that a second community meeting would be held for furthering community discussion. On August 12, 2021, a second community meeting was held, where over 200 interested parties attended to obtain information about the project and the SB 35 process. The meeting was noticed in accordance with the Community Engagement Policies, including posting on the City's website, mailed notices, and on-site posting. Comments and concerns were similar to the first community meeting and have been provided for review as an attachment to the staff report (Attachment 2).

#### Project Description

The project site contains three parcels totaling 39,607 square feet (0.91 acres) on the northwest corner of Water Street and N. Branciforte Avenue. The parcel currently contains a one-story multi-tenant commercial building and a separate drive-in car wash which are proposed to be demolished. Commercial and residential uses surround the project site; the site is bounded by single-family homes to the north and west, with commercial and public facilities across Water Street and N. Branciforte Avenue to the south and east. The Water Street corridor consists of mainly commercial retail uses, with N. Branciforte mostly consisting of single-family and multi-family residential.

The fairly level site is at grade with N. Branciforte Avenue, with the bordering Water Street dropping away fairly dramatically as it heads west along the southern property line. A vertical retaining wall borders the sidewalk, increasing in height to the west as Water Street drops toward Ocean Street. The site is fully paved with the exception of some small landscape strips along the western and northern property lines that contain large shrubs. Street access is currently gained from curb cuts along N. Branciforte Avenue and Water Street. In addition, a fire access easement currently exists across the site to provide fire emergency access to the end of Belvedere Terrace which dead ends at the western portion of the site.

The proposed mixed-use project consists of two separate multi-story buildings over a shared underground parking garage accessed from Water Street. One additional access is from N. Branciforte Avenue which serves as both a fire access lane to the north of the building, as well as a driveway for access to three at-grade commercial parking spaces and the trash enclosure. The existing fire access easement for Belvedere Terrace is proposed to be reoriented along the southern edge of the property. The eastern building (Building A), is proposed at five stories in height, with 2,727 square feet of ground floor retail facing the corner of N. Branciforte Avenue and Water Street, with a mix of 74 units consisting of studio, one-bedroom, two-bedroom, and three-bedroom units. The western building (Building B) is proposed at four stories in height,

with a community room, office, laundry and lobby on the first floor. It would contain 71 units consisting of studio, one-bedroom, and two-bedroom units. The proposed 145 residential units include 64 studios (399 square feet), 63 one-bedrooms (408 to 497 square feet), 15 two-bedrooms (647 to 929 square feet), and 3 three-bedrooms (1,175 square feet).

Residential amenities include a 1,400 square foot common space community room, laundry facilities, private balconies, roof decks on top of both buildings to provide common open space for residents, in addition to designated open space areas at grade level. Two bike parking structures are located along the northern property line to provide bike storage for 108 bikes. The applicants are proposing an underground garage which will provide 138 spaces. Including the three commercial spaces at grade level, a total of 141 parking spaces are proposed on site.

**DISCUSSION:** The applicant has proposed an SB 35 project, and while it is not specifically included in the revised application submitted on July 27<sup>th</sup>, it is assumed that the revised project will also include a density bonus request. We have received many comments from the public regarding the City's level of discretion in the application and have provided information below regarding the SB 35 and density bonus requirements and intended limitations. The Council also hosted a special meeting on September 7, 2021 where they received information regarding and discussed SB 35 projects and the density bonus. The recording of that meeting is available on the City's website from the Council meeting agendas page.

### SB 35

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 has 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). The below table shows the RHNA numbers that the City reported in the 2020 Annual Housing Element Progress Report, coupled with some updates to reflect additional Very Low Income units that were included in a project that was issued building permits in 2019. The first green column shows assigned RHNA and the last green column shows the number of housing units that are required in order to meet that assignment.

Jurisdiction Santa Cruz Reporting Year 2020 (Jan. 1 – Dec. 31)		<b>ANNUAL ELEMENT PROGRESS REPORT</b> Housing Element Implementation (CCR Title 25 §6202)										This table is auto-populated once you enter your jurisdiction name and current year data. Past year information comes from previous APRs. Please contact HCD if your data is different than the material supplied here.	
<b>Table B</b>													
<b>Regional Housing Needs Allocation Progress</b>													
<b>Permitted Units Issued by Affordability</b>													
		1	2									3	4
<b>Income Level</b>		<b>RHNA Allocation by Income Level</b>	2015	2016	2017	2018	2019	2020	2021	2022	2023	<b>Total Units to Date (all years)</b>	<b>Total Remaining RHNA by Income Level</b>
Very Low	Deed Restricted	180	5	1		6	45					57	123
	Non-Deed Restricted												
Low	Deed Restricted	118	7	15	13	47	17					199	
	Non-Deed Restricted				6	51	43						
Moderate	Deed Restricted	136										233	
	Non-Deed Restricted		39	112	41	1	16	24					
Above Moderate		313	94	44	109	90	26	12				375	
<b>Total RHNA</b>		<b>747</b>											
<b>Total Units</b>			<b>145</b>	<b>172</b>	<b>163</b>	<b>150</b>	<b>155</b>	<b>79</b>				<b>864</b>	<b>123</b>

Note: units serving extremely low-income households are included in the very low-income permitted units totals  
Cells in grey contain auto-calculated formulas

At this time, the City is short by 123 Very Low Income units but has exceeded all the other categories. With the City currently being short 123 Very Low Income units, the City must accept applications for SB 35 projects and process them in a manner consistent with the state legislation.

When a project qualifies for a 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 or from taking actions or implementing any process that would chill, inhibit, or preclude the development of affordable housing on a suitable site identified in its general plan. For an SB 35 application for a development of less than 150 residential units, 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. As part of the review for this SB 35 project, the Planning and Community Development Department has coordinated with other appropriate City departments to produce a table of objective standards based on the City’s Municipal Code and adopted policies, directives, and plans. 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.*

With the revised plans submitted on July 27, 2021, the City has until September 27<sup>th</sup> to provide the applicant with a written documentation letter listing each conflicting objective standard and providing a description of how the project is in conflict. At the time of preparation of this staff report, the Planning and Community Development Department has determined that the project is inconsistent with several objective standards as documented in the Objective Standards Assessment Table and attachments (Attachment 1).

#### Density Bonus

To address California’s need for affordable housing, the State enacted the density bonus law (Government Code §§ 65915 – 65918) in 1979 to encourage the provision of affordable housing units by offering a combination of benefits to developers. For projects that include the requisite number of affordable housing units, and upon the request of an applicant, cities are required to (i) allow more market rate units to be built than otherwise allowed by the applicable zoning designation); (ii) provide “incentives or concessions,” such as reduced development standards, that result in actual and identifiable cost savings for the project; (iii) provide “waivers or modifications” of development standards that would physically preclude the project from being constructed; and (iv) allow reduced parking requirements.

Cities have very limited discretion when reviewing density bonus applications. Cities are generally obligated to grant a density bonus and incentives, concessions, waivers, or reductions in development standards to the developer so long as the proposed development complies with the applicable affordability requirements and the waivers or incentives/concessions meet certain standards. Projects that include a specified amount of affordable housing are entitled to a density bonus, even if the density bonus would allow a project to exceed the maximum density under the City’s zoning code.

The amount of the density bonus is based on the number of affordable units at each income level that are included in a project. To determine whether a project qualifies for a density bonus, the percentage of affordable units is based on the maximum number of units that would be permitted under the City’s zoning code (i.e., the “base density”). In areas where there is no density range,

Section 24.16.255(6) of the Zoning Ordinance requires an applicant to submit base plans, or plans showing a project that fully conforms to objective standards, in order to determine the number of units that could be constructed on the site, thus establishing the base density.

Projects providing a greater number of affordable units or units at deeper levels of affordability are entitled to an increase in density up to 50% of the total number of units that are allowed under the City's Zoning Ordinance, depending on specified percentages and levels of affordability. The additional units help offset the increased costs associated with the increased number of or more deeply affordable units. The density bonus units themselves are not required to be affordable and, pursuant to Section 24.16.250(2) of the Zoning Code (as well as the State Density Bonus and California case law), "density bonus units shall not be included in the "total units" when determining the number of affordable units required to qualify a housing development for a density bonus." Thus, by law, the percentages of affordable units that qualify a project for the density bonus are based on the base project only and not the base project plus the density bonus units.

In addition to allowing more market rate units to offset the cost of providing affordable units, the law also provides a variety of tools that applicants can utilize to make projects physically or more economically feasible, including incentives/concessions and waivers that allow for modification of development standards if those standards would result in "actual and identifiable cost reductions" to the project or that "physically preclude" construction of the density bonus project.

The project site is located in the Community Commercial (C-C) zone district, where there is no maximum density for a mixed use project. The project site is also designated as Mixed Use High Density (MXHD) in the City's General Plan and, although this designation includes a density range of 10 – 55 dwelling units per acre, General Plan policy LU3.8 allows for one-bedrooms and studios to exceed the densities in the General Plan. The project consists primarily of one-bedroom and studio units; therefore, there is no maximum density for the project in terms of "dwelling units per acre." The density of the site is limited by the building envelope created by objective development standards (FAR, height, setbacks, etc.), consistent with the General Plan, which states the following in its Land Use Element on page 40: "Residential uses are encouraged as part of mixed-use developments in commercial districts. The residential density for these projects is controlled by the commercial district development standards in the Zoning Ordinance and Building Code." An early submittal of the project plans included a density bonus request, with no request in the actual density of the project but with requests for incentives/concessions to concentrate the affordable housing units in one building and to provide EV charging in parking stacker spaces rather than providing separate EV charging parking spaces, and with requests for waivers to exceed maximum height/stories, reduce required open space, and to encroach into slope setbacks.

The most recent plan submittal on July 27, 2021 provided a revised site and building design but did not include a revised narrative with a density bonus request, nor did the submittal include base density plans that appropriately reflect a fully conforming project. Therefore staff could not conduct an analysis as to the permitted density bonus nor the requested incentives/concessions or waivers.

Pursuant to density bonus state law and the City's zoning ordinance, the applicant will be required to provide justification for any requested incentives/concessions or waivers, and the City must

approve the requests unless it can make any of following findings based on “substantial evidence”:

**Incentives/Concessions (California Government Code Section 65915(d))**

(A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

**Waivers (California Government Code Section 65915(e))**

Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

The density bonus process is wrapped into the SB 35 legislation and any modifications to development standards that are granted by the City under the density bonus law are required to be considered as consistent with objective standards. While we do not currently have the accurate numbers for the base project, the following is a summary of what will be required in regards to affordable housing:

- 20% of base units @ 80% AMI: City Inclusionary
- 24% of base units @ 60% AMI or 15% of base units @ 50% AMI: Density Bonus
- 50% of base units @ 80% AMI: SB 35

**City Council’s Role**

Section 65913.4(d)(1) of the California Government Code allows jurisdictions to complete a design review or public oversight meeting of the development as a part of the SB35 objective standards review process; however, the process must ultimately remain ministerial. The role of the City Council for this project must focus on compliance with objective standards. The City Council is to assess compliance with objective standards, listen to public testimony, and provide direction to the applicant as to the project’s eligibility for SB35 streamlined permit processing including granting of the density bonus request.

Applications submitted under SB35 must follow a ministerial process, which is defined in the HCD Guidelines as a “process for development approval involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely ensures that the proposed development meets all the "objective zoning standards," "objective subdivision standards," and "objective design review standards" in effect at the time that the application is submitted to the local government, but uses no special discretion or judgment in reaching a decision.”

Cities’ roles have shifted pursuant to recent changes to the Housing Accountability Act. Prior to those changes, planning and zoning permit applications were processed in a much more discretionary manner, meaning that the city reviews a proposed housing and mixed-use development for consistency with the zoning ordinance, the subdivision ordinance, and the more general city goals and policies, and makes findings of approval or denial. As part of this process, city staff and hearing bodies regularly considered issues such as neighborhood compatibility, potential nuisance factors, and the size or housing type proposed, against policies that are adopted as general goals but are not always fully supported by objective regulations. A project that requires a public hearing did and still does allow for any member of the public to weigh in on a project, including the staff recommendation and process, and the hearing body has an opportunity to agree or disagree with staff’s recommendation or require additional changes to the project. The process of public participation and final approval by a hearing body at a public hearing could be ministerial if all of the codes, policies, and findings are objective; however, that has not historically been the requirement and therefore many of the City’s codes, policies, and findings continue to be subjective, leaving room for interpretation and flexibility with the intent to recognize that not all parcels or projects have the same resources and constraints.

The building permit process is an example of ministerial review, and no public process is associated with the building permit process because no subjective requirements for the public or a hearing body are considered, as objective requirements are definitive. In the building permit process, staff merely applies objective standards and approves the permit if the application is consistent with all applicable requirements.

The statutory scheme enacted pursuant to SB 35 requires the city to process an SB 35 application similar to a building permit application, meaning that there is no discretion in the decision, and the City is merely tasked with finding whether the development complies with definitive requirements. Therefore, it is important to note that the SB 35 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 concerns by including conditions of approval, requiring revisions, or even denying a project based on potentially subjective City standards or policies. The Council’s role in this SB 35 process will be to review the Objective Standards Assessment Table that will be provided to the applicant, assess compliance with the identified objective criteria, and provide direction to staff as to the project’s eligibility for permit streamlining pursuant to granting of the density bonus and compliance with objective standards. SB 35 states that this process “shall not in any way inhibit, chill, or preclude the ministerial approval” process, and if the city does not provide a written letter to the applicant within the required timeframes, the application is deemed to be eligible, so it is not recommended that the City Council delay a decision.

*CC (Community Commercial) Zone District Regulations.* The purpose of the CC district is “To provide locations throughout the community for a variety of commercial and service uses for residents of the city and the region which promote the policies of the General Plan; to encourage

a harmonious mixture of a wide variety of commercial and residential activities including limited industrial uses, if they are compatible and nuisance free.” The CC zone district normally allows for mixed-use developments consisting of ground floor commercial and multiple dwellings with the approval of a Special Use Permit, which would not be required under SB 35.

The maximum height of buildings in the CC zone district is three stories and 40 feet and the proposed project exceeds these limitations as well as other development standards. It is assumed that the applicant will propose the use of a density bonus to modify these standards; however, as of the preparation of this report, the applicant has not submitted a proposal for a density bonus or provided the required associated justification for incentives/concessions or waivers.

The table below summarizes the project’s compliance with the CC requirements:

<b>SETBACK REQUIREMENTS SUMMARY</b>			
<b>Provision</b>	<b>Required</b>	<b>Proposed</b>	<b>Complies?</b>
Building Height	40 feet	63 feet	No
Front Setback (N. Branciforte Ave.)	0 feet	0 feet	Yes
Rear Setback (west property line)	0 feet	5 feet	Yes
Interior Side Setback (North property line)	20 feet	20 feet	Yes
Exterior Side Setback (Water Street)	0 feet	20 feet	Yes
Private Open Space/Unit	100 square feet/unit 14,500 square feet	Unable to determine	No
Common Open Space/Unit	150 square feet/unit 15,000 square feet	Unable to determine	No
Distance between buildings	10 feet	10 feet	Yes

*Parking Requirements.* The City’s Zoning Ordinance would require a total of 191 parking spaces on site based on the number and type of units (163), guest parking (17), and commercial retail parking (11). However, SB 35 (Gov. Code 65913.4) prohibits jurisdictions from applying parking requirements to projects that are located within a half mile of public transit, for which this project complies. With that being said, the applicants are proposing an underground garage which will provide 138 spaces. Including the three commercial spaces at grade level, a total of 141 parking spaces are proposed on site.

### Objective Standards

The Planning and Community Development Department and other City departments, including Public Works, Water, Fire, and Housing and Economic Development have reviewed the City’s codes and adopted plans and policies to identify the objective standards that apply to the project. Attachment 1 is the Objective Standards Assessment Table for the Council to review. The attachment lists a number of objective standards that are currently not met, as of the preparation of this report. Some of the more significant items that are either missing from the submittal or not consistent with objective standards include:

- Lack of information about density bonus requests, including no information on the base project or the requested concessions/incentives or waivers;
- Lack of various plan sheets, such as landscape plans and civil engineering plans showing grading and drainage;
- Lack of a lot line adjustment or tentative map application, one of which is required because the new structures proposed over existing property lines would be inconsistent with Building Code requirements;
- Lack of an archeology report; and
- Lack of information showing required transportation improvements.

The attached table contains a more comprehensive list, along with more explanation for each objective standard that is not being met.

### Public Correspondence

In addition to the feedback received at the community meetings, 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. The public has also provided concerns about the SB35 streamlining process including the reduced timeframes, limited discretion, and inability to decipher the pertinent objective standards and specific City process. Public correspondence is included as Attachment 3.

City staff have attempted to provide the public with as much information as possible by making all relevant materials available on the project website including application materials received, informational memos to the City Council, formal feedback to the applicant, and informational resources. The project website also allows for members of the public to sign-up for email notifications on upcoming relevant public meetings and when new information is posted to the website. All of the resources that are utilized for determining the required process and assessing compliance with objective standards are publically available online. Additionally, city staff have attempted to provide thorough responses to questions from the public and have regularly met with members of the public throughout the process to understand concerns, hear feedback, and provide information.

### Health in All Policies (HiAP)

HiAP is a collaborative approach to improving the health of all people by incorporating health considerations into decision-making across sectors and policy areas. HiAP is based on 3 pillars: *equity, public health, and sustainability*. The goal of HiAP is to ensure that all decision-makers are informed about the health, equity, and sustainability impacts of various policy options during the policy development process. With the project located along a major commercial corridor and within 1/3 mile from the Ocean Street corridor, 2/3 mile from the downtown, and less than 1/2 mile to five separate grocery stores, it encourages a sustainable and healthy lifestyle allowing residents to walk and ride to the job centers and commercial uses in the downtown and vicinity. The site is also located along a major transit corridor allowing for residents to use public transit to gain access to other areas of the city, thereby further promoting sustainable transportation use.

### Summary and Recommendation

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. The Council's role in this SB 35 process is to review the objective standards table and assess compliance with the identified objective criteria. Based on the process established by SB 35, staff recommends that the City Council deny the application based on the fact that the project does not meet the city's objective standards and is therefore not eligible for SB 35. The Planning and Community Development Department would provide a written documentation letter to the applicant identifying what objective criteria is not being met, and the SB 35 application would be denied. In order to proceed with the development, the applicants would need to prepare and submit a new SB 35 application, restarting the city's project review timeline.

**FISCAL IMPACT:** The planned development would generate a property tax increase due to the proposed improvements to the property, in addition to revenues from associated permits and city fees that cover costs for providing those plan review and inspection services. Provision of broader city services to residential units generally exceeds the service level demand of commercial uses, so city service costs will increase. With the reduction in commercial square footage, the project could result in an accompanying sales tax reduction, though this will ultimately depend on the future use and the comparison of those sales tax revenues with those existing.

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**ATTACHMENTS:**

1. Objective Standards Assessment Table and Exhibits A - E
  - Exhibit A City Standard Details
  - Exhibit B City Standard Specifications
  - Exhibit C Master Fee Schedule 2019 NS-29,484
  - Exhibit D TIF Program Resolution NS-28,574
  - Exhibit E Refuse Container Design Standards
2. Public Comments from the August 12, 2021 Community Meeting
3. Additional Public Comments Received