



City Council AGENDA REPORT

DATE: 09/29/2021

AGENDA OF: 10/12/2021

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 Approximately 5,012 Square Feet of Ground Floor Commercial and 140 Residential Units (With 50% of the Base Units as Affordable per SB35) with Shared Underground Parking. (Owner: Novin Development Corp.) (PL)

RECOMMENDATION: Review the objective standards table and find the project consistent with the standards necessary for granting of the Density Bonus and with all objective standards except for the minor deficiencies detailed in the agenda report and the associated objective standards table, and direct the Planning and Community Development Department to continue to work with the applicants to resolve the remaining minor deficiencies and ensure that all objective standards are met prior to the City's SB 35 review deadline.

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 applicants 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 (Leadership in Energy and Environmental Design) 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 on 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 in an effort to further 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 Policy, 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).

City staff scheduled a City Council Public Oversight meeting for September 14, 2021 in order to allow for the City Council to review the project's compliance with objective standards, to hear public testimony, and to ministerially approve or deny the SB35 and density bonus request. The City received additional information from the applicant on September 9, 2021 (Attachment 3), after the agenda report and associated analysis of compliance with objective standards was prepared for the September 14, 2021 City Council meeting. With the additional materials likely to affect staff's recommendation, it was recommended that the item be continued to the October 12, 2021 City Council meeting to allow for further analysis of the revised plans' consistency with objective standards. City Council followed staff's recommendation and continued the item to October 12, 2021. With the submittal of additional materials, the applicant also voluntarily extended the City's review period to October 14, 2021 to allow for the continuance and for the City to meet the timeframes specified in SB35.

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 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 eight 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 2,404 square feet of ground floor retail facing the corner of N. Branciforte Avenue and Water Street, five live/work (2,250 square feet of work/retail) units facing Water Street, and a mix of 64 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 140 residential units include 5 live/work, 64 studios (342 to 399 square feet), 53 one-bedrooms (423 to 494 square feet), 15 two-bedrooms (647 to 748 square feet), and 3 three-bedrooms (1,169 to 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. The applicants are proposing an underground garage which will provide 136 vehicle spaces as well as storage for 140 bikes. Including the eight commercial spaces at grade level, a total of 144 parking spaces are proposed on site.

DISCUSSION: The applicant has proposed an SB 35 project that also includes a density bonus request. Staff 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 Reporting Year | | ANNUAL ELEMENT PROGRESS REPORT | | | | | | | | | | 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. | |
|---|---------------------|--|------|------|------|------|------|------|------|------|------|---|--------------------------------------|
| Santa Cruz 2020 (Jan. 1 – Dec. 31) | | Housing Element Implementation (CCR Title 25 §6202) | | | | | | | | | | | |
| Table B | | | | | | | | | | | | | |
| Regional Housing Needs Allocation Progress | | | | | | | | | | | | | |
| Permitted Units Issued by Affordability | | | | | | | | | | | | | |
| | | 1 | 2 | | | | | | | | | 3 | 4 |
| Income Level | | RHNA Allocation by Income Level | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | Total Units to Date (all years) | Total Remaining RHNA by Income Level |
| 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 | |
| Total RHNA | | 747 | | | | | | | | | | | |
| Total Units | | | 145 | 172 | 163 | 150 | 155 | 79 | | | | 864 | 123 |

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 versus 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 September 9, 2021, the City now has until October 14th 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 mostly consistent with the objective standards, with just a few minor items that staff has discussed with and that are currently being addressed by the applicant. The items would not require significant modification to the plans and can be addressed within the 90-day deadline (November 13, 2021), if not before the City Council meeting. The standards are documented in the attached Objective Standards Assessment Table (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 general plan and 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. The applicant has provided plans for a base project that meets all of the CC (Community Commercial) development standards, including height, setbacks, open space, etc., and the determined base density is 109 units.

Market-rate projects providing certain percentages 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. With a base density of 109 units, a minimum of 55 affordable units would be required to be provided for the project to be eligible for SB 35 streamlining. The applicants are proposing 71 affordable units (80% AMI or lower), well exceeding the Density Bonus requirement and qualifying the project for a 50% Density Bonus, permitting up to 164 units. With 140 units proposed, the project falls within the allowed number of units permitted under Density Bonus law. The affordability requirements for the City's inclusionary ordinance, State Density Bonus, and SB 35 are further explained below.

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.” The project is entitled to up to three (3) concessions or incentives that provide actual and identifiable cost reduction for the affordable units. The applicant is requesting two (2) concessions for the project, one to locate all affordable units together in a single building, and the other to not provide the required number of electric vehicle charging stations on site.

Concession 1: *SCMC 24.16.025(2) requires that “Inclusionary units shall be dispersed throughout the residential development to prevent the creation of a concentration of affordable units within the residential development.” The applicant is requesting an incentive/concession for locating all affordable units together in a single building due to financing requirements for State affordable housing tax credits. SCMC 24.16.260 Requirement to disperse affordable units throughout the development – 4 CCR section 10337(a) requires projects that receive state and federal affordable housing funds record a regulatory agreement against the property awarded the tax credits. The affordable rental project cannot be deed restricted unless at least one parcel is created for all of the affordable units against which the regulatory agreement can be recorded.*

The project has applied to receive state and local affordable housing grant funds, and is required by its financing sources to separate the affordable units from the market rate units (housed in a separate building) so that a deed restriction (required by Section 10337(a) of the State’s Low Income Housing Tax Credit regulations) can be recorded on the parcel with the affordable units. Evenly dispersing the units throughout the two buildings would render the projects ineligible for one of its major sources of funding and, without these tax credits, the project would be unable to obtain financing sufficient to allow the project to move forward. In the applicant’s State Affordable Housing Tax Credit application, it identifies that the tax credit funding source would provide approximately \$23 million of the \$41 million required, providing over half of the project funding. While it may potentially be possible for the applicant to map the project as a condo complex and record regulatory agreements against each of the individual units dispersed throughout the project, the additional costs associated with the mapping, development of Covenants, Conditions and Restrictions as part of a home owners association, Department of Real Estate approvals, and agreement processing would add to the project’s administrative costs. Because the City cannot carry its burden of proof to refute these cost considerations or prove that the requested concession would violate state or federal law or create a specific adverse impact on health and safety or the physical environment that cannot be mitigated, or adversely impact real property listed on the California Register of Historical Resources, the City is required to grant the requested concession.

Concession 2: *Zoning Code Section 24.12.241 specifies that 12% of the provided parking include an electric vehicle (EV) charging station. Based on 144 spaces provided on site, eighteen (18) EV charging spaces are required to be provided. The project proposes six (6), which is fewer than is required. The applicant has requested a concession and incentive to reduce the number of Electric Vehicle Supply Equipment (EVSE) charging stations by 12 units from the required 18 to a total of six (6) installed units for a minimum cost saving of \$6,000. The applicant also outlines additional savings in labor and project electrical upgrades that would not otherwise be required to build the project. The applicant estimates these additional labor savings range from \$14,750 to \$40,500 per charging station. Given that there is no evidence that this concession and incentive would violate state or federal law, create a specific adverse impact on health and safety or the physical environment that cannot*

be mitigated, or adversely impact real property listed on the California Register of Historical Resources, the City is required to grant this concession/incentive as required by state law.

The project applicant is allowed to request as many waivers from development standards as needed if the development standard would preclude the density bonus project from being built at the allowed density. The applicant has requested four waivers of development standards, all of which are required to be waived if they preclude project development. The city must grant these waivers unless they violate state or federal law, create a specific adverse impact on health and safety or the physical environment that cannot be mitigated, or adversely impact real property listed on the California Register of Historical Resources. There is no evidence that the following waivers requested should not be granted as required by state law:

Waiver 1: *The project proposes to exceed the maximum height of 3 stories and 40 feet as required in the C-C zone district, proposing a four story building at approximately 48 feet, and a five story building at approximately 59 feet. Complying with the 3 story and 40 foot standard would require the building to reduce the number of floors and eliminate a substantial number of residential units (See Density Bonus Calculations Plan Page G02.0). This would physically preclude the construction of the project that would include the number of residential units allowed under the State Density Bonus Law.*

Waiver 2: *The project proposes a reduction to the private open space requirements. The Zoning Code requires 100 square feet of private open space for each unit. With 140 units proposed, 14,000 sf of private open space is required, and 6,510 sf is proposed. Setbacks and easement areas which prohibit the encroachment of balconies limit the amount of space for providing private open space for each unit. Therefore the constrained site physically precludes the inclusion of the required open space which would require reducing the size and or number of residential units.*

Waiver 3: *The project proposes a reduction to the common open space requirements. The Zoning Code requires 150 square feet of common open space for each unit. With 140 units proposed, 21,000 sf of common open space is required, and 19,830 sf is proposed. Common open space has been maximized on the site by taking advantage of the roof decks and at-grad areas, whereby the requirement is very close to being met. However, the constrained site physically precludes the inclusion of the required open space which would require reducing the size and or number of residential units.*

Waiver 4: *The project proposes to exceed the maximum 1.75 FAR as outlined in the MXHD designation of the General Plan. With a 2.28 FAR, the project proposes an FAR in excess of the allowable maximum prescribed by the General Plan. Reducing the floor area to meet the 1.75 FAR standard would require reducing the unit count and physically precludes the number of residential units that are allowed under the State Density Bonus Law.*

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.

In correspondence received from the public the question has been raised as to what would qualify as a “specific adverse impact on health and safety or the physical environment that cannot be mitigated”, specifically as it relates to Concession 2 for the reduction of the EV stations. Government Code section 65589.5(d)(2) states that “A local agency shall not disapprove a housing development project, . . . including through the use of design review standards, unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following:

(2) The housing development project . . . as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.”

Based on this code section, the project would need to violate an existing written health and safety standard in effect on the date the application is deemed complete. In regards to the concession to reduce the number of required EV stations, it is difficult to raise a significant, quantifiable, direct, and unavoidable impact. Arguments have been raised that the reduction in vehicle charging stations will contribute to climate change. However, not only does the City not have a written public health or safety standard related to EV charging stations, the provision of housing in this transit-rich, walkable, and bikeable area reduces reliance on vehicles for daily trips, thereby reducing vehicle miles traveled and associated greenhouse gas emissions. SB 35 law states that it shall be “interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, increased housing supply” (65913.4(n)). Additionally, density bonus “shall be interpreted liberally in favor of producing the maximum number of total housing units” (65915(r)). Therefore, unless there is a preponderance of evidence of a violation of a written health and safety standard or policy, the concession or waiver must be granted.

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. With a base density of 109 units, a minimum of 55 affordable units would be required to be provided for the project to qualify for SB 35 streamlining. The applicants are proposing 71 affordable units at or below 80% AMI, well exceeding the Density Bonus requirement and qualifying the project for a 50% Density Bonus. By committing to providing the 71 affordable units, the project meets all of the affordable housing requirements, including:

- 20% of base units @ 80% AMI: City Inclusionary
- 24% of base units @ 60% AMI or 15% of base units @ 50% AMI: Density Bonus (50% bonus) –There are various ways to meet the Density Bonus affordability requirements, but the final breakdown will be largely based on the funding source requirements. A condition of approval will be included that requires that these minimum affordability requirements are being met and that they are written in to the Affordable Housing Agreement.
- 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 SB 35 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 SB 35 streamlined permit processing including granting of the density bonus request.

Applications submitted under SB 35 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 building permit review 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. With the request for a Density Bonus, the applicant is proposing two concessions and four waivers to the development standards.

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

| SETBACK REQUIREMENTS SUMMARY | | | |
|-------------------------------------|-----------------|-----------------|---------------------------------|
| Provision | Required | Proposed | Complies? |
| Building Height | 40 feet | 63 feet | No (though Density Bonus waiver |

| | | | |
|---|--|--------------------|---|
| | | | established compliance) |
| 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 14,000 square feet | 6,510 square feet | No (though Density Bonus waiver established compliance) |
| Common Open Space/Unit | 150 square feet/unit 21,000 square feet | 19,830 square feet | No (though Density Bonus waiver established compliance) |
| Distance between buildings | 10 feet | 14 feet | Yes |

Parking Requirements. The City's Zoning Ordinance would require a total of 192 parking spaces on site based on the number and type of units (158), guest parking (14), and commercial retail parking (20). Based on Density Bonus Law the standards are lower and would require a total of 107 spaces on site based on the number and type of units (79), guest parking (8), and commercial retail parking (20). 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 136 spaces. Including the eight commercial spaces at grade level, a total of 144 parking spaces are proposed on site. This far exceeds the number of spaces required.

Lot Line Adjustment. The project site is currently made up of three parcels for a total of 39,607 square feet. The application includes a lot line adjustment to reduce the number of lots from three to two, with the proposed lot line splitting the two buildings so that they are on separate parcels. As described above, the intent of separating the buildings is to separate the affordable units from the market rate units so that a deed restriction (required by Section 10337(a) of the State's Low Income Housing Tax Credit regulations) can be recorded on the parcel with the affordable units in order to receive state and local affordable housing grant funds, and this separation is required by its financing sources. Staff has reviewed the proposed lot line adjustment and while it is consistent with the Zoning Ordinance, our Building Department is currently reviewing the location of the new lot line as it relates to Building and Fire Codes. With the lot line splitting the underground garage, in addition to the proposed pedestrian bridges connecting the two buildings, Building Department staff is working with the project architects to determine the feasibility of the lot line location. If this configuration was determined to not be feasible, another option would be to divide the buildings into airspace condominiums to achieve a similar result. If revisions to the lot line adjustment are necessary, they could be reviewed at the building permit stage. Alternatively, if a property line between the buildings proves problematic from a Building or Fire Code perspective, two (or more)

condominium lots could be created through a Tentative Map and Parcel Map. While those processes would typically require public hearings, they would be ministerially processed under SB 35 and could be approved prior to the issuance of a building permit. Key points here are that these mapping changes require few changes to the actual project plans, and one or more mapping options can be readily accomplished.

Public Improvements. As indicated in the objective standards table, staff has identified that the project is currently not consistent with a requirement to provide an improvement plan that reflects an easement or dedication to include a southbound N. Branciforte right turn lane on to Water Street. This improvement is required to be implemented as part of the Capital Improvement Program previously approved by the City Council. Public Works staff has developed a conceptual plan for the right turn lane whereby the applicants grant a 4-foot sidewalk easement along a portion of the eastern property line to accommodate the right turn lane as well as an 8-foot sidewalk. Based on the conceptual plan, Building “A” can be moved approximately four feet to the west, or the wall of the proposed commercial/retail space can be recessed four feet to accommodate the sidewalk. With these changes being minor in nature and not significantly changing the site layout, they can be addressed by the applicant in the 30-day period following the City Council oversight meeting. A condition of approval will be included that requires the easement be recorded prior to building permit issuance, and that the street improvements be constructed as part of the project.

The project is proposing a new driveway along Water Street which accesses the underground parking garage. Members of the community have expressed concern with the location of the driveway, and city staff has analyzed the site for alternative locations. Based on the initial analysis, staff has concluded that the proposed location is the best location for the driveway access given the various factors associated with the site, such as shape and proximity to a signalized intersection. The City has initiated a traffic study to address concerns surrounding the driveway location as it relates to the slope of the street, bike lane, bus stop and site distance. Recommendations proposed as part of the traffic study will be included as conditions of approval for the project, which could include incorporation of vehicle warning devices at the driveway to warn cyclists and pedestrians of vehicles exiting the driveway, or potentially relocating the bus stop.

Of note, the original objectives standards table attached to the September 14, 2021 City Council Staff Report (published on September 9, 2021), Municipal Code Section 15.20.050(a) regarding driveway location was identified as an objective standard. However, after consultation with the city attorney’s office and recent case law that was released after that staff report, it was determined that this requirement is subjective. In *California Renters Legal Advocacy and Education Fund v. City of San Mateo*, opinion filed on September 10, 2021, it was determined that “A standard that cannot be applied without personal interpretation or subjective judgement is not ‘objective’ under the HAA.” Code Section 15.20.050(a) states that “No driveway shall be so located as to create a hazard to pedestrians or motorists, or invite or compel illegal or unsafe traffic movements.” Without the standard having any numeric value or specificity, case law has suggested that if there are two “reasonable” interpretations of a provision, it is not objective.

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. At the time of preparation of this staff report, the Planning and Community Development Department has determined that the project is mostly consistent with the objective standards, with just a few minor items that staff has discussed with and are currently being addressed by the applicant. The items would not require significant modification to the plans and can be addressed within the 90-day deadline (November 13, 2021), if not before the City Council meeting. The standards are documented in the attached Objective Standards Assessment Table (Attachment 1). The following objective standards are still outstanding and need to be addressed:

| Objective Standard | City Analysis of Compliance with Standards |
|---|--|
| <p>M2.1.3 Implement pedestrian, bike, mass transit, and road system improvements through the Capital Improvements Program</p> | <p>The project conflicts with this objective standard.</p> <p>Improvement plans shall reflect an easement or dedication required for the city to implement the Capital Improvement Program approved by the City Council that includes southbound N. Branciforte right turn lane.</p> <p>This is a minor item that can be addressed prior to the 90-day deadline and without significant modifications to the plans.</p> |
| <p>M4.1.5 Where there are proposed or existing plan lines, require developments to dedicate land for rights-of-way, and require that sidewalks be added or repaired within, and in the area adjacent to, new developments.</p> | <p>The project conflicts with this objective standard.</p> <p>Improvement plans shall reflect an easement or dedication required for the city to implement the Capital Improvement Program approved by the City Council that includes southbound N. Branciforte right turn lane.</p> <p>This is a minor item that can be addressed prior to the 90-day deadline and without significant modifications to the plans.</p> |
| <p>NRC7.1.4 Require new development to provide for passive and natural heating and cooling opportunities, including beneficial site orientation and dedication of solar easements.</p> | <p>The project conflicts with this objective standard.</p> <p>Plans must show how project provides for passive and natural heating and cooling opportunities.</p> <p>This is a minor item that can be addressed prior to the 90-day deadline and without significant modifications to the plans.</p> |
| <p>Chapter 10.85 TRAFFIC IMPACT FEES FOR CAPITAL PROJECTS</p> <p>10.85.010 AUTHORITY</p> <p>The ordinance codified in this chapter is enacted pursuant to the Mitigation Fee Act, California Government Code Section 66000 et seq.,</p> | <p>The project conflicts with this objective standard.</p> <p>Improvement plans shall reflect an easement or dedication required for the city to implement the Capital Improvement Program approved by the City</p> |

and to the Charter City authority provided by the Constitution of the State of California.

10.85.020 INTENT AND PURPOSE

- (a) The city council of the city of Santa Cruz declares that:
 - (1) Adequate capital transportation improvements and facilities are needed to protect and advance the health, safety, and general welfare of the city's citizens;
 - (2) The city of Santa Cruz provides transportation improvements, facilities and services for residents, businesses, visitors, and employees within the city;
 - (3) New development within the city will create an additional burden on the existing transportation system;
 - (4) In order to implement the goals and objectives of the Santa Cruz general plan, to mitigate the impacts caused by new and anticipated development identified in the general plan, and maintain acceptable levels of traffic service within the city, traffic mitigation projects contemplated by and described in the general plan must be constructed;
 - (5) The city council has determined that a traffic impact fee is needed in order to finance these capital improvements and to pay for new development's fair share of the acquisition and improvement construction costs and other costs necessary or convenient to insure conformity to or implementation of the general plan;
 - (6) In establishing the fee described in the following sections, the city council has found the fee to be consistent with the general plan.
- (b) This chapter applies to fees charged as a condition of development approval to defray the cost of certain transportation improvements required to serve new development within designated areas of the city of Santa Cruz. This chapter does not replace normal subdivision map exactions or other measures required to mitigate site specific impacts of a development project including, but not limited to, mitigations imposed pursuant to the California Environmental Quality Act; regulatory and processing fees; fees required pursuant to a development agreement; funds collected pursuant to a reimbursement agreement that exceed the developer's share of public improvement costs; or assessment district proceedings, benefit assessments, or taxes.
- (c) Fees collected pursuant to this chapter are not intended to replace or limit requirements to provide mitigation of traffic impacts not mitigated by the traffic impact fee, created by a specific project, and imposed as conditions of approval upon development projects as part of the development review process.

10.85.040 TRAFFIC IMPACT FEE

- (a) A traffic impact fee is hereby established to be assessed in connection with the issuance of any development permit for development in areas of the city designated by city council resolution. In accordance with the general plan, the fee shall be used to pay costs associated with the mitigation of traffic impacts attributable to the development that is the subject of the permit. The city council shall, in a city council resolution, set forth the specific amount of the fee, describe the benefit and impact areas on which the traffic impact fee is imposed, list the specific capital improvements to be financed, describe the estimated cost of these facilities, describe the reasonable relationship between this fee and the various types of new developments, and set forth time for payment.

Council that includes southbound N. Branciforte right turn lane.

This is a minor item that can be addressed prior to the 90-day deadline and without significant modifications to the plans.

The applicant will be required to pay the TIF fee and construct the right turn lane. TIF shall be applied toward the right turn lane construction costs.

The project will be required to meet this standard as a condition of approval prior to building permit issuance.

Exhibit PW-D resolution NS-28,574

(b) To the extent that the traffic impact fee includes components for financing projects already included in fees collected under other city ordinances, such other fees, when paid, shall be a credit against the appropriate components of the traffic impact fee. To the extent that some or all of the project financing or to be financed by the traffic impact fee are financed through a community facilities district, special assessment district or other financing mechanism, participation in such other financing mechanism shall be a credit against the appropriate component of the traffic impact fee.

(c) As described in the fee resolution, this traffic impact fee shall be paid by each developer either prior to issuance of a building permit or prior to issuance of a certificate of occupancy of the commercial or industrial project or the respective dwelling units in a residential project, or at such earlier time permitted by law, as set forth in, if applicable, Government Code Section [66007](#) or successor legislation.

24.12.250 BIKE PARKING REQUIREMENTS

1. Bicycle parking facilities shall be provided for any new building, addition or enlargement of an existing building, or for any change in the occupancy, except when the project property is located within the Parking District Number 1.

2. Bike Spaces and Type Required. Bicycle parking facilities' quantity and type shall be provided in accordance with the following schedule, with fractional quantity requirements for bike parking over one-half to be rounded up. Each bicycle parking space shall be no less than six feet long by two feet wide and shall have a bicycle rack system in compliance with the bike rack classifications listed in subsection (3). Fractional amounts of the type of parking facilities may be shifted as desired:

| | | Number of Bicycle Parking Spaces Required | Classification |
|----|---|---|--|
| a. | Commercial, industrial, office, retail, service | | 20% Class 1 80% Class 2 |
| | Number of auto parking spaces | 2 + 15% of auto parking requirement | |
| b. | Multifamily residential (3 or more units) | 1 space per unit | 100% Class 1 garages or secure accessible indoor areas count One space per four units Class 2 |
| c. | Public or commercial recreation | 35% of auto parking | 10% Class 1 90% Class 2 |
| d. | Schools | 1 space per 3 students | 100% Class 2 secured, covered |
| e. | Park-and-ride lots and transit centers | 35% of auto parking | 80% Class 1 20% Class 2 |
| f. | Lodging | 1 space per 5 units | 10% Class 1 90% Class 2 |

3. Classification of Facilities.

The project conflicts with this objective standard.

The project will be required to meet this standard as a condition of approval prior to building permit issuance.

The project will be required to have adequate bike parking spaces and types.

24.12.250 part 2(a)- If using Gov Code § 65913.4 to prohibit the application of parking requirements, project requires two Class 2 bicycle parking spaces for the commercial component. These are not currently shown on the plans.

- 24.12.250 part 2(b)- the project requires one Class 1 parking space per multifamily unit and one Class 2 bicycle parking space per four units for multifamily projects. For this 140 unit project, that results in 140 Class 1 bicycle parking spaces and 36 Class 2 bicycle parking spaces. Currently, the plan set shows unidentified number of bicycles in bike storage within the underground parking lot on page G02.4, but provides no details of how these rooms are secured, access, spacing between bicycles, other required elements as called for in 24.12.250
 - The calculations on Sheet B0.2 are incorrect and should be updated to reflect the accurate requirements.
 - Sheet G02.4 shows a bike storage area within the underground parking structure with no details. There are no details included on how these meet the requirements of Class 1 bike parking to be either a "locker, individually locked enclosure or supervised area within a building providing protection therein from theft,

a. "Class 1 bicycle facility" means a locker, individually locked enclosure or supervised area within a building providing protection for each bicycle therein from theft, vandalism and weather.

b. "Class 2 bicycle facility" means a stand or other device constructed so as to enable the user to secure by locking the frame and one wheel of each bicycle parked therein. Racks must be easily usable with both U-locks and cable locks. Racks should support the bikes in a stable upright position so that a bike, if bumped, will not fall or roll down. Racks that support a bike primarily by a wheel, such as standard "wire racks," are damaging to wheels and thus are not acceptable. (See Bikes are Good Business design guidelines.)

4. Location and Design of Facilities.

a. Bicycle parking should be located in close proximity to the building's entrance and clustered in lots not to exceed sixteen spaces each.

b. Bicycle parking facilities shall support bicycles in a stable position without damage to wheels, frame or other components.

c. Bicycle parking facilities should be located in highly visible, well-lighted areas to minimize theft and vandalism.

d. Bicycle parking facilities shall be securely anchored to the lot surface so they cannot be easily removed and shall be of sufficient strength to resist vandalism and theft.

e. Bicycle parking facilities shall not impede pedestrian or vehicular circulation, and should be harmonious with their environment both in color and design. Parking facilities should be incorporated whenever possible into building design or street furniture.

f. Racks must not be placed close enough to a wall or other obstruction so as to make use difficult. There must be sufficient space (at least twenty-four inches) beside each parked bike that allows access. This access may be shared by adjacent bicycles. An aisle or other space shall be provided to bicycles to enter and leave the facility. This aisle shall have a width of at least six feet to the front or rear of a bike parked in the facility.

g. Paving is not required, but the outside ground surface shall be finished or planted in a way that avoids mud and dust.

h. Bike parking facilities within auto parking areas shall be separated by a physical barrier to protect bicycles from damage by cars, such as curbs, wheel stops, poles or other similar features.

5. Variation to Requirements.

a. Substitution of Car Parking with Bike Parking. New and preexisting developments may reduce up to ten percent of their parking requirement with the provision of unrequired additional bike parking, as long as the spaces are conveniently located near the entrance. This parking reduction must yield at least six bike parking spaces per converted auto space.

b. Where the provision of bike parking is physically not feasible the requirements may be waived or reduced to a feasible level by the zoning administrator in accordance with city bike parking standards for existing buildings.

vandalism, and weather" as set forth in SCMC 24.12.250 part 3(a).

- o None of the required Class 2 bicycle parking spaces for the multifamily component are currently shown on the plan set. These 36 spaces shall comply with SCMC 24.12.250 part 4 and be clustered in groups of no more than 16 bicycle parking spaces, be located in highly visible and well lit areas, be securely anchored, have a minimum of 24" beside each bicycle and aisles of at least 6'. Any bicycle parking within auto parking areas shall be separated from autos by a physical barrier. All bike parking shall not impede pedestrian circulation.

This is a minor item that can be addressed prior to the 90-day deadline. Considering the site plan and floor plans, the additional bike parking can easily be accommodated throughout the site.

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 SB 35 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 4, except that public correspondence that was included with the September 14, 2021 City Council materials is not attached hereto. That correspondence is available online from the September 14, 2021 Council Agenda, accessible from <https://www.cityofsantacruz.com/government/city-council/council-meetings>.

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. As noted above, the City also hosted a special City Council meeting on September 7, 2021 to discuss SB 35.

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 over 50 percent of the units deed restricted to various levels of affordability, the project meets equity goals by providing housing for a wide range of income levels. 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. This also supports equity goals by reducing transportation costs. 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 review the objective standards table, find the project consistent with the standards necessary for being eligible for the density bonus and with objective standards, and direct the Planning and Community Development Department to continue to work with the applicants to

resolve the remaining minor deficiencies and ensure that all objective standards are met prior to the City's SB 35 review deadline, and grant the requested Density Bonus. The Planning and Community Development Department would provide a written documentation letter to the applicant identifying what objective criteria is not being met and provide the 30-day timeline for the applicant to resolve those items pursuant to SB 35.

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 new residential units. 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.

Prepared By:
Ryan Bane
Senior Planner

Submitted By:
Lee Butler
Deputy City Manager

Approved By:
Rosemary Menard
Interim City Manager

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. Project Plans and Materials – Submitted September 9, 2021
3. Additional Public Comments Received
4. Public Comments from the August 12, 2021 Community Meeting