



SAN FRANCISCO  
PLANNING  
DEPARTMENT

# PLANNING DIRECTOR BULLETIN NO. 5

## Senate Bill No. 35 Affordable Housing Streamlined Approval

This Bulletin outlines how the Planning Department administers streamlined approval set forth in Government Code Section 65913.4.

First Issued:  
DECEMBER 2017

References:  
Government Code Section 65913.4  
Planning Code Section 206.4  
Planning Code Section 315

California Senate Bill 35 (SB-35) was signed by Governor Jerry Brown on September 29, 2017 and will be effective January 1, 2018. SB-35 applies in cities that are not meeting their Regional Housing Need Allocation (RHNA) goal for construction of above-moderate income housing and/or housing for households below 80% area median income (AMI). SB-35 amends Government Code Section 65913.4 to require local entities to streamline the approval of certain housing projects by providing a ministerial approval process, removing the requirement for CEQA analysis, and removing the requirement for Conditional Use Authorization or other similar discretionary entitlements granted by a Planning Commission. This bulletin outlines how the Planning Department administers streamlined approval set forth in Government Code Section 65913.4.

### SECTION 1: ELIGIBILITY CRITERIA

Currently, San Francisco meets its RHNA goal for construction of above-moderate income housing. However, the City is not meeting the RHNA goal for affordable housing below 80% AMI. Therefore, at this time, projects providing on-site affordable housing at 80% AMI are eligible for streamlining in San Francisco if they meet **all** of the following criteria:

- Affordability.** At least 50% of the proposed residential units must be dedicated as affordable to households at 80% AMI for either rental or ownership projects. In order to assure that the affordable units remain so dedicated, they must comply with the San Francisco Inclusionary Affordable Housing Program Procedures Manual with regard to monitoring, enforcement, and procedures for eligibility, including the lottery.
- Number of Units.** The development must contain at least two or more residential units.
- Zoning and Residential Uses.** The development must be located on a legal parcel or parcels that are zoned for residential uses. At least 2/3 of the floor area of the proposed building must be dedicated to residential uses.

- Location.** The development must be located on a property that is not within a coastal zone, prime farmland, wetlands, a high fire hazard severity zone, hazardous waste site, a delineated earthquake fault zone, a flood plain, a floodway, a community conservation plan area, a habitat for protected species, or under a conservation easement.
- Demolition of Residential Units.** The project does not demolish any housing units that have been occupied by tenants in the last 10 years; are subject to any form of rent or price control, or are subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low incomes.
- Historic Buildings.** The project does not demolish a historic structure that is on a national, state, or local historic register. A local historic register includes those properties listed within Article 10 or 11 of the San Francisco Planning Code.
- Consistent with Objective Standards.** The project must meet all objective standards of the Planning Code at the time of SB-35 application submittal. Such objective standards are those that require no personal or subjective (discretionary) judgment, such as objective dimensional requirements, and as otherwise set forth below.
- Prevailing Wages.** If the development is not in its entirety a public work, as defined in Government Code Section 65913.4 (a)(8)(A), all construction workers employed in the execution of the development must be paid at least the general prevailing rate of per diem wages for the type of work and geographic area.
- Skilled and Trained Workforce provisions.** A skilled and trained workforce, as defined in Government Code Section 65913.4 (a)(8)(B)iii, must complete the development if the project consists of 75 or more units that are not 100 percent subsidized affordable housing.
- Subdivisions.** The development did not or does not involve a subdivision of a parcel that is subject to the California Subdivision Map Act, unless the development either (i) receives a low-income housing tax credit and is subject to the requirement that prevailing wages be paid, or (ii) is subject to the requirements to pay prevailing wages and to use a skilled and trained workforce.

## SECTION 2: ADDITIONAL ELIGIBILITY CONSIDERATIONS

There are various programs and entitlement paths in the Planning Code for projects providing 50-100% of the residential units as affordable. The following section provides information about these specific project types.

### **100% Affordable Housing Projects under Planning Code Section 315**

Currently, 100% Affordable Housing Projects are considered a principally permitted use and must comply with administrative review procedures provided in Planning

Code Section 315. Under Planning Code Section 315, an Affordable Housing Project may seek exceptions to Planning Code requirements that may otherwise be available through the Planning Code, including but not limited to Sections 253, 303, 304, 309, and 329, without a Planning Commission hearing. These have been considered discretionary exceptions from the objective controls of the Planning Code.

When SB 35 becomes effective as of January 1, 2018, the Planning Department will ministerially grant an SB-35 eligible project any exception that is equal to or less than the Zoning Modifications automatically granted to a 100% Affordable Housing Bonus Project pursuant to Planning Code Section 206.4. Any 100% Affordable Housing Project granted such an exception, pursuant to Planning Code Section 315 and this Bulletin, will be considered to be consistent with the objective controls of the Planning Code.

Under Planning Code Section 206.4, qualifying projects are entitled to receive certain Zoning Modifications, as well as a density bonus and height increase. These modifications are provided in detail as follows:

- **Rear Yard.** The required rear yard per Section 134 or any applicable special use district may be reduced to no less than 20% of the lot depth or 15 feet, whichever is greater. Corner properties may provide 20% of the lot area at the interior corner of the property to meet the minimum rear yard requirement, provided that each horizontal dimension of the open area is a minimum of 15 feet; and that the open area is wholly or partially contiguous to the existing midblock open space, if any, formed by the rear yards of adjacent properties.
- **Dwelling Unit Exposure.** The dwelling unit exposure requirements of Section 140(a)(2) may be satisfied through qualifying windows facing an unobstructed open area that is no less than 15 feet in every horizontal dimension, and such open area is not required to expand in every horizontal dimension at each subsequent floor.
- **Off Street Loading.** No off-street loading spaces under Section 152.
- **Automobile Parking.** Up to a 100% reduction in the minimum off-street residential and commercial automobile parking requirement under Article 1.5 of the Planning Code.
- **Open Space.** Up to a 10% reduction in common open space requirements if required by Section 135, but no less than 36 square feet of open space per unit.
- **Inner Courts as Open Space:** In order for an inner court to qualify as useable common open space, Section 135(g)(2) requires it to be at least 20 feet in every horizontal dimension, and for the height of the walls and projections above the court on at least three sides (or 75% of the perimeter, whichever is greater) to be no higher than one foot for each foot that such point is horizontally distant from the opposite side of the clear space in the court. 100 Percent Affordable Housing Bonus Projects may instead provide an inner court that is at least 25 feet in every horizontal dimension, with no restriction on the heights of adjacent walls. All area within such an inner court shall qualify as common open space under Section 135.

### **100% Affordable Housing Bonus Projects under Planning Code Section 206.4**

The 100% Affordable Housing Bonus Program allows for objective Zoning Modifications in association with a Development Bonuses, including a density bonus and height increase. Projects that are eligible for the 100% Affordable Housing Bonus Program pursuant to Section 206.4 qualify for streamlining pursuant to SB-35, provided they meet all eligibility requirements above, and require no additional Planning Code exceptions from the Planning Commission.

### **State Density Bonus Projects under Planning Code Section 206.5 or 206.6**

Projects that use the State Density Bonus Program and meet all other eligibility requirements above qualify for streamlining under SB-35. Any waivers, concessions, or incentives, conferred through the State Density Bonus Law are considered code-complying, and therefore are consistent with the objective standards of the Planning Code.

### **Mixed-Income Affordable Projects (50-99% Affordable)**

Mixed-income projects that provide at least 50% of units that are affordable to qualifying households and meet all other eligibility requirements above are eligible for streamlining pursuant to SB-35. If Planning Code exceptions are required as part of a project approval including, but not limited to, a Variance (Sec. 305), a Downtown Authorization Project (Sec. 309), a HOME-SF Project Conditional Use authorization (Sec. 303), or a Large Project Authorization (Sec. 329), the project is not eligible for streamlining because it does not comply with objective standards of the Planning Code.

### **Development Review Process**

Projects that elect to take advantage of streamlining stipulated in SB-35 must submit a site or building permit application and a SB-35 Streamlined Development application indicating the project's eligibility. CEQA review is not required for SB-35 eligible projects because they are subject to a ministerial approval process. The site or building permit will be subject to any applicable neighborhood notice requirements in the Planning Code; however, the Department will not accept Discretionary Review applications for these projects because they are subject to a ministerial approval process.

SB-35 includes timelines for streamlined ministerial review. Planning staff must determine if a project is eligible for streamlining within 60 days of application submittal for projects of 150 or fewer units, and 90 days for projects containing more than 150 units. If the Department provides written comments to a Project Sponsor detailing how a project is not SB-35 eligible as proposed, then the 60 or 90 day timeline will restart upon submittal of a revised development application in response to the that written notice.

Design review or public oversight must be completed in 90 days for 150 or fewer units and 180 days for projects with more than 150 units. The Planning Director may decide, on a case by case basis, to schedule a design review hearing for an SB-35 project at the Planning Commission and/or Historic Preservation Commission.

This Bulletin applies to Planning Department approval, and do not affect the approvals and/or processes of other approval agencies (i.e. Department of Building Inspection, Fire Department, Public Works, etc.).

The Department will provide application materials to the public when SB-35 becomes effective in January 2018.

For additional information, please contact Kate Conner at 415-575-6914 or by email at [kate.conner@sfgov.org](mailto:kate.conner@sfgov.org).

Approved:

A handwritten signature in black ink, appearing to read "John Rahaim", with a long horizontal flourish extending to the right.

John Rahaim  
Director of Planning



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