



This Bulletin outlines how the Planning Department administers streamlined approval for affordable and supportive housing.

PLANNING DIRECTOR BULLETIN NO. 5

Streamlined Approval Processes for Affordable and Supportive Housing

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References:
Government Code Section 65650 (Assembly Bill 2162)
Government Code Section 65913.4 (Senate Bill 35)
Planning Code Section 206.4
Planning Code Section 315

INTRODUCTION:

The State of California has introduced various programs for streamlining housing production, including Senate Bill 35 which became effective January 1, 2018, and Assembly Bill 2162 which became effective January 1, 2019. These two programs require local jurisdictions to provide a ministerial approval process for affordable, mixed-income, and Supportive Housing projects that meet certain criteria. The ministerial approval process removes the requirement for CEQA analysis, and removes the requirement for Conditional Use Authorization or other similar discretionary entitlements granted by the Planning Commission. This bulletin includes the eligibility criteria for each program, and outlines how the Planning Department administers streamlined approval.

SB-35 (CA GOVT. CODE SECTION 65913.4)

Overview

California Senate Bill 35 (SB-35) was signed by Governor Jerry Brown on September 29, 2017 and became 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.

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 in the “Additional Eligibility Criteria for Ministerial Approval” 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.

SB 35 Development Review Timeline

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 projects with 150 or fewer units and 180 days for projects with more than 150 units.

AB 2162 (CA GOVT. CODE SECTION 65650)

Overview

California Assembly Bill No. 2162 (AB-2162) was signed by Governor Jerry Brown on September 26, 2018 and will be effective January 1, 2019. AB-2162 applies statewide and requires that supportive housing be a use that is permitted by right in zones where multifamily and mixed-use development is permitted. AB-2162 amends Government Code Section 65583 and adds Code Section 65650 to require local entities to streamline the approval of housing projects containing a minimum amount of Supportive Housing 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 65650.

What is Supportive Housing?

Supportive Housing is defined as housing with no limit on the length of stay, that is occupied by the target population, and is linked to on-site or off-site services that assist the supportive housing resident in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community (CA-HSC 50675.14). Target populations include homeless individuals, youth and families, and people with disabilities.

Eligibility Criteria

Projects are eligible for streamlining under AB-2162 if they meet all of the following criteria:

- **Affordability.** All of the proposed residential units must be dedicated as affordable to households at 80% AMI or below for a period of at least 55 years. At least 25% of the total number of units, or 12 units (whichever is greater) must be restricted for residents of Supportive Housing who meet the Target Population. If there are fewer than 12 units in the project, then the entire project must be restricted for residents of Supportive Housing.
- **Supportive Services.** Supportive Services include, but are not limited to, a combination of subsidized, permanent housing, intensive case management, medical and mental health care, substance abuse treatment, employment services, and benefits advocacy. For projects with 20 units or fewer, at least 90 square feet of space must be dedicated to supportive services. For projects with more than 20 units at least 3% of the non-residential floor area must be dedicated to supportive services.
- **Zoning.** The project must be in a District that allows for multifamily (2 or more units) or mixed-use zoning.
- **Replacement of Existing Units.** If the project demolishes any existing residential unit, then the project must include replacement unit(s) in the Supportive Housing Development in the manner described in CA Govt. Code Section 65915(c)(3).
- **Amenities.** Each unit, excluding the manager's unit, must have at least a bathroom, refrigerator, stovetop and sink.
- **Consistent with Objective Standards.** The project must comply with objective, written development standards and policies which apply to other multifamily developments within the same Zoning District. Such objective standards are those that require no personal or subjective (discretionary) judgment, such as objective dimensional requirements, and as otherwise set forth below.

AB 2162 Development Review Timeline

AB-2162 includes timelines for streamlined ministerial review. Planning staff must determine if a project is eligible for streamlining within 30 days of application submittal. If the Department provides written comments to a Project Sponsor detailing how a project is not AB-2162 eligible as proposed, then the 30 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 60 days for projects with 50 or fewer units and 120 days for projects with more than 50 units.

Additional Eligibility Considerations for Ministerial Approval

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

May be used in conjunction with: SB 35 and AB 2162

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.

The Planning Department will ministerially grant an 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

May be used in conjunction with: SB 35 and AB 2162

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 or AB-2162, 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

May be used in conjunction with: SB 35 and AB 2162

Projects that use the State Density Bonus Program and meet all other eligibility requirements above qualify for streamlining under SB-35 and AB-2162. 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)

Applicable to SB 35 projects only

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 must submit a site or building permit application, a Project Application, and either an AB-2162 or SB-35 supplemental application indicating the project's eligibility. CEQA review is not required for eligible projects because they are subject to a ministerial approval process. The site or building permit will not be subject to any applicable neighborhood notice requirements in the Planning Code, as the Department will not accept Discretionary Review applications for these projects because they are subject to a ministerial approval process. 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.

CONTACT

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