

APPENDIX A – SB 35 ELIGIBILITY CHECKLIST

This table lists the Project’s compliance with SB 35’s eligibility requirements for the streamlined ministerial approval of compliant housing developments. All citations are to California Government Code Section 65913.4 (SB 35) unless otherwise stated.

In reviewing the Project’s compliance with objective standards, Gov. Code Section 65913.4(b)(3) and amended by AB 1485, states that “a development is consistent with the objective planning standards specified in subdivision (a) if there is substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.” Thus, if a reasonable person would conclude that the Project is consistent with the objective standards presented in this table, the City must find it consistent.

Eligibility Requirement	Requirement Satisfied?
<p>1. Is the project a multifamily housing development with 2 or more units? Subd. (a)(1).</p> <p>The Project is a multifamily housing development that will provide 91 housing units.</p>	<p>Yes</p>
<p>2. Is the project located in an area designated by the U.S. census Bureau as an urbanized area? Subd. (a)(2)(A).</p> <p>The Project is located in the City of Saratoga, which is within the U.S. Census San Jose Urban Area.</p>	<p>Yes</p>
<p>3. Is more than 75% of the Project site’s perimeter developed with urban uses? Subds. (a)(2)(B), (h)(8).</p> <p>SB 35 defines “urban uses” as “any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.” SB 35 also clarifies that parcels that are only separated by a street or highway are considered to be adjoined. Based on these standards, the entirety of the Project site’s perimeter is developed with urban uses.</p>	<p>Yes</p>

Eligibility Requirement	Requirement Satisfied?
<p>4. Does the site have either zoning or a general plan designation that allows for residential use or residential mixed-use development, with at least two-thirds of the square footage designated for residential use? Subd. (a)(2)(C).</p> <p>The site has a zoning designation that allows for residential mixed-use development with two-thirds of the square footage of the Project allowed for residential use. The Project site is in the C-N (Commercial Neighborhood) district and the Saratoga Zoning Code allows mixed-use developments in the C-N district. The Saratoga Municipal Code states that “[t]he City may impose no conditions limiting the percentage of the total allowable residential floor area on the mixed-use site to less than or equal to fifty percent. That percentage may be greater than fifty percent if approved by the Planning Commission during a design review process upon the Commission making the following findings...” SMC section 15-58.020(c). This means that the zoning for the site allows for mixed-use developments with two-thirds of the square footage allowed for residential use. The total square footage of residential uses exceeds the two-thirds requirement.</p>	<p>Yes</p>
<p>5. Will the applicant record a land use restriction for the Project’s affordable housing units? Subd. (a)(3).</p> <p>The Saratoga Municipal Code requires that projects applying for a density bonus enter an affordable housing agreement with the City that includes “the number and proportion of housing units affordable to moderate, lower, and very low income households, standards for maximum qualifying household incomes and maximum rents or sale prices, the party responsible for certifying rents and sales prices of affordable housing units, the process that will be used to certify incomes of tenants or purchasers of the affordable housing units, the manner in which vacancies will be marketed and filled, deed restrictions on the affordable housing units binding on property upon sale or transfer, enforcement mechanisms to ensure that affordable units are continuously occupied by eligible households are not sold, rented, leased, subset, assigned, or otherwise transferred to noneligible households, and project phasing, including the timing of completion, and rentals or sale of the affordable housing units, in relation to the timing of the</p>	<p>Yes</p>

Eligibility Requirement	Requirement Satisfied?
<p>market-rate units”. SHP Quito Village LLC will enter and record such an agreement for the applicable minimum term prior to the issuance of any building permits, as required by the Saratoga Municipal Code.</p>	
<p>6. Has HCD determined that the local jurisdiction is subject to SB 35? Gov’t Code Sec. 65913.4(a)(4)(A).</p> <p>HCD has determined that the City of Saratoga is subject to SB 35 as it did not issue sufficient building permits to meet its share of the Regional Housing Needs Assessment (RHNA) for the most recent reporting period. During the 2015 to 2018 period HCD used to determine whether a jurisdiction is subject to SB 35, Saratoga did not meet its permitting progress towards any income category (very low, low, moderate, or above-moderate).</p>	Yes
<p>7. Will the Project include the required percentage of below market rate housing units? Subd.(a)(4)(B).</p> <p>When a jurisdiction approves fewer building permits than were required by the regional housing needs assessment cycle for that reporting category in either the above-moderate or below-moderate income categories, the project proponent may choose between dedicating 10% or 50% of the project’s housing units to households making below 80% of the area median income. Subd. (a)(4)(B)(iii). Because the City of Saratoga has issued fewer building permits than required for all income categories, the project will include at least 10% of housing units dedicated to households with incomes below 80% of the area median income.</p>	Yes
<p>8. Is the Project consistent with “objective zoning standards” and “objective design review standards?” Subd. (a)(5).</p> <p>The Project will comply with all applicable objective standards, as detailed in Appendix B - Objective Standards Consistency Analysis. SB 35 defines “objective zoning standards,” “objective subdivision standards,” and “objective design review standards” as “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 development applicant or proponent and the public official prior to submittal.” “Objective</p>	Yes

Eligibility Requirement	Requirement Satisfied?
<p>design review standards” must be published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application and broadly applicable to development within the jurisdiction. A locality may not require a development proponent to meet any standard for which the locality typically exercises subjective discretion, on a case-by-case basis, about whether to impose that standard on similarly situated development proposals. SB 35 also clarifies that if objective zoning and design review standards are inconsistent with standards found in the General Plan, then “a development shall be deemed consistent with the objective zoning standards pursuant to this subdivision if the development is consistent with the standards set forth in the general plan.”</p> <p>In reviewing the Project’s compliance with objective standards, Gov. Code Section 65913.4(b)(3) states that “a development is consistent with the objective planning standards specified in subdivision (a) if there is substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.”</p> <p>The Project as proposed is consistent with all applicable objective standards, allowing for the concession permitted under the State Density Bonus Law. Gov. Code section 65915(d)(1) and SMC section 15-81.030. The Project qualifies for two concessions based on the inclusion of 10% of the total units for very low-income households. As described in the Project Description, one concession will be used to allow residential uses at the ground floor level abutting the site’s adjacent streets (SMC section 15-58.020(b)).</p> <p>Many Zoning Code and General Plan standards are aspirational or visionary, meaning that they involve personal or subjective judgment or are not uniformly verifiable, and thus are not “objective zoning standards” or “objective design review standards” as defined under SB 35. However, in addition to meeting all the objective standards as defined by SB 35, the project has nonetheless been designed to comply with and be consistent with the subjective standards in the Saratoga</p>	

Eligibility Requirement	Requirement Satisfied?
<p>Municipal Code and General Plan. Project consistency with these standards is described in Appendix C - Subjective Standards Consistency Analysis.</p>	
<p>9. Is the Project located outside of the all types of areas exempted from SB 35? Subd. (a)(6-7).</p> <p>The Project site is not located within any of the below exempt areas:</p> <p>Subd. (a)(6) exempt areas:</p> <ul style="list-style-type: none"> • Coastal zone • Prime farmland or farmland of statewide importance • Wetlands • High or very high fire hazard severity zones • Earthquake fault zone (unless the development complies with applicable seismic protection building code standards) • Floodplain or floodway designated by FEMA • Lands identified for conservation in an adopted natural community conservation plan or habitat conservation plan • Habitat for a state or federally protected species • Land under a conservation easement <p>Subd. (a)(7) exempt areas:</p> <ul style="list-style-type: none"> • A development that would require the demolition of housing that: <ul style="list-style-type: none"> ○ Is subject to recorded rent restrictions ○ Is subject to rent or price control ○ Was occupied by tenants within the last 10 years • A site that previously contained housing occupied by tenants within past 10 years • A development that would require the demolition of a historic structure on a national, state, or local register • The property contains housing units that are occupied by tenants, and units at the property are/were offered for sale to the general public by the subdivider or subsequent owner of the property. 	<p>Yes</p>

Eligibility Requirement	Requirement Satisfied?
<p>10. Will all construction workers employed in the Project be paid at least the general prevailing wage? Subd. (a)(8)(A).</p> <p>As detailed in the attached letter (see Appendix D), SHP Quito Village LLC certifies that all construction workers employed in the execution of the development will be paid at least the general prevailing wage of per diem wages.</p>	Yes
<p>11. Will all construction workers employed in the Project be certified as a “skilled and trained workforce”? Subd. (a)(8)(B).</p> <p>As detailed in the attached letter (see Appendix D), SHP Quito Village LLC certifies that a skilled and trained workforce shall be used to complete the project.</p>	Yes
<p>12. May the Project include a subdivision of a parcel because the project developer will pay prevailing wages and use a “skilled and trained workforce”? Subd. (a)(9)(B).</p> <p>The Project may include a subdivision because SHP Quito Village LLC will pay prevailing wages and use a “skilled and trained” workforce, as described in items 10 and 11 above.</p>	Yes