



SARATOGA

California

Community Development Department

13777 Fruitvale Avenue

Saratoga, CA 95070

408.868.1222

February 26, 2020

SHP Quito Village LLC
c/o Steve Lynch, Director of Planning and Entitlement
965 Page Mill Road
Palo Alto, CA. 94304

RE: Application No. MISC20-0001 – 19764-18850 Cox Avenue – SB35 Additional Comments Letter

Dear Steve,

After further review of the site's density and right of way dedication requirements, the Planning Division provides these additional comments on the project's consistency with SB 35's objective planning standards. These comments are intended to clarify the City's February 20, 2020 letter to the applicant. This letter is not a final determination of consistency and eligibility. The City will provide the final determination within the time period provided by Government Code section 65913.4.

SITE DENSITY

As an initial matter, the City reaffirms that the maximum density for this site is 20 dwelling units per acre ("du/acre"). The General Plan's Land Use Map designates the project site as Commercial Retail, and the City's zoning map zones the site as Commercial – Neighborhood.

The General Plan's Land Use Element and Housing Element both specify the maximum density for this land use designation. In the Land Use Element, Table LU-1 states that mixed residential/commercial uses are permitted in areas designated Commercial Retail with a maximum of 20 du/acre excluding density bonuses. The Housing Element also provides in Table 3-1 that Commercial Retail has a permitted density of 20 du/acre for mixed use developments. Table 3-5 summarizes the mixed-use development standards and repeats this density of 20 du/acre.

While several provisions of the General Plan and municipal code suggest that the Planning Commission could reduce this density upon making certain findings (see, e.g., Housing Element Table 3-5 and Municipal Code sections 15-19.035(f) and 15-17.050), these provisions do not apply to this Project for two reasons.

First, this Project is submitted under SB 35, and thus only objective standards may be applied. The findings required by these provisions involve subjective judgment by the Planning Commission.

Second, State Density Bonus Law and SB 35 both specify that when there are a range of densities allowed on the site, the City must apply the maximum allowable density. Government Code section 65915(o)(2) defines "maximum allowable residential density" when a range of density is permitted to mean the "maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project" and that further, if there is a perceived inconsistency between the general plan land use element and the zoning ordinance, then "the general plan density shall prevail." Government Code section

65913.4(a)(5)(A) contains a similar provision, finding that the applicable density for the consistency determination for an SB 35 project is the “maximum density allowed within the land use designation.” Further, if there is any conflict between the zoning or general plan standards, the SB 35 project must be consistent with the standards found in the general plan. Gov. Code § 65913.4(a)(5)(B). Here, the maximum density allowed for the Project site, assuming a range of potentially applicable densities, is 20 du/acre. Thus, this density must be applied.

Given the applicable density of 20 du/acre, we note that the total number of units proposed (91) is within the allowable density. As a result, all 91 units must be considered in calculating eligibility under SB 35, as well as any density bonus. SB 35 requires that 10 percent of a project’s units be dedicated as affordable to households making at or below 80 percent of the area median income, and HCD’s SB35 Streamlined Ministerial Approval Process Guidelines (“SB35 Guidelines”) provide that “[a]ll affordability calculations resulting in fractional units shall be rounded up to the next whole number.”

Similarly, to qualify for two concessions pursuant to the Density Bonus Law, this project proposes dedicating 10 percent of the units to very-low-income households. In calculating the number of affordable units required to satisfy this requirement, the Density Bonus Law also requires that any fractional affordable unit be rounded up to the next whole number. *See* Gov. Code § 65915(f)(5).

Action Item:

As stated in our February 20, 2020 letter to you, Staff requires that the applicant update the density bonus application and other documents of the application materials to reflect the maximum density for the project to be 20 dwelling units per acre. These updated materials must indicate the total number of units proposed (if different from the 91 units originally proposed) and the number of affordable units provided.

RIGHT OF WAY DEDICATION

Section 14-25.030(a) of the Saratoga Municipal Code requires street right-of-way improvements to conform to the minimums as set forth in Table 1 Chapter 14 – Subdivisions (found within Saratoga Municipal Code section 14-10.320). That Table requires a total right-of-way width of 90 feet for all “4-lane undivided thoroughfare[s].” Cox Avenue is a 4-lane undivided thoroughfare: at the proposed project site, the total width between exterior curb faces or shoulder edges is 64 feet. Moreover, the City has treated this portion of Cox Avenue as a “4-lane undivided thoroughfare,” as defined in Table 1 Chapter 14. Thus, as required by this provision of the Code, the applicant must dedicate a 45-foot right of way as measured from the street centerline to the City in order to comply with this standard.

We understand that there is some text in the Circulation Element of General Plan that suggests the portion of Cox Avenue fronting the Project is not considered a “minor arterial.” However, Figure 2 clearly shows it as such. Moreover, the General Plan itself does not contain right-of-way standards for “minor arterials.” Instead, all right-of-way standards are contained in the Municipal Code. The Municipal Code does not refer to “minor arterials,” but rather refers to “4-lane undivided thoroughfares.” As discussed above, this portion of Cox is clearly a “4-lane undivided thoroughfare” subject to the standards set forth in Table 1.

Here, because the pavement width of Cox Avenue is 64-feet wide, a 45-foot right-of-way dedication from the street centerline would include 32 feet within the existing street plus an additional 13 feet from the face of curb to the property line. This is consistent with Table 1, which requires a sidewalk border (distance from face of curb to property line) of 13 feet on either side of the street. This additional 13-foot area will be used for a City-owned and -maintained sidewalk and planting strip. The City recognizes that the adjacent, commercial, Bank of the West property apparently dedicated a 42-foot right-of-way when this property was developed. This development occurred many years ago and staff is not aware of the facts of that dedication.

Nonetheless, the following facts might have justified a variance from the mandatory 45-foot right-of-way: this was a commercial property, zoned C-N, with a monolithic sidewalk (sidewalk adjacent to the curb) and no planting strip. In contrast, here the project includes a residential subdivision and a planting strip that will front the mostly residential and limited commercial (mixed-use) property.

Action Item:

Applicant shall revise the proposed boundary and easements to show the required street dedications (for both Cox Avenue and Paseo Presada) and show the front yard setbacks from the newly established property lines. Provide description of any setback deficiency and if a second concession is being requested with associated rationale.

As noted above, this letter provides preliminary feedback and is not the final eligibility/consistency determination.

If you have any questions, please contact me at 408-868-1235 or criordan@saratoga.ca.us

Respectfully,

Christopher Riordan

Christopher Riordan, AICP
Senior Planner