



# SARATOGA

California

## Community Development Department

13777 Fruitvale Avenue

Saratoga, CA 95070

408.868.1222

March 9, 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 – SB 35 60-Day Consistency Determination – Application Consistent and Eligible for Streamlining**

Dear Mr. Lynch,

The Planning Division has reviewed the development plans submitted on January 9, 2020, and the additional diagrams and information submitted on March 4, 2020, for redevelopment of an existing shopping center located at 19764-18850 Cox Avenue with 4,999 square feet of commercial-retail and 251,436 square feet of residential. The project proposes to subdivide the existing 6.269-acre site (6.04 net acres) into two parcels; a 0.27-acre parcel to locate the commercial-retail building and a 5.77-acre parcel to accommodate the residential buildings. The residential component of the project comprises 90 units in 17 buildings. The project proposes to provide 10 percent of the units affordable to very-low income households.

The project provides 53 surface parking spaces to service the commercial-retail use and guests, and 180 spaces in enclosed garages to service the residential units (townhomes). The project also includes amenities such as approximately 76,871 square feet of landscaping, including a central park, a pocket park, and an open plaza near the commercial building.

The City sent you an SB 35 Preliminary Eligibility and Corrections Letter on February 20, 2020, requesting additional information that was necessary for the City to determine if the project complied with the law's objective planning standards. On February 26, 2020, the City sent an SB 35 Additional Comments Letter regarding the project's consistency with the site density and right of way dedication requirements and requesting additional information. You provided this additional information in the form of supplemental exhibits and diagrams and a supplemental project description on March 4, 2020. Staff has reviewed these additional submittals as part of the application package.

Pursuant to Government Code section 65913.4(b)(1), the Planning Division staff find that the proposed project is **consistent** with the law's objective planning standards and is **eligible** for its streamlined, ministerial review.

1. **NUMBER OF UNITS.** Where at least ten (10) units must be provided, the project provides 90 dwelling units as part of a mixed-use project where the residential development is at least two-thirds of the proposed development's square footage.<sup>1</sup>
2. **AFFORDABILITY.** Where at least 10 percent of the units must be affordable to low-income households (80% or less of Area Median Income), the project proposes to provide 10 percent of the total number of units as affordable to very-low-income (50% or less of Area Median Income) households, or 9 units. The applicant has also provided sufficient information for the City to determine that the affordable units will be distributed throughout the development and will be of comparable size and quality to the market rate units. The applicant has acknowledged and agreed to maintain these units as affordable and will record this obligation in an agreement between the applicant and the City.
3. **URBAN INFILL.** The project is located on a legal parcel located within City of Saratoga jurisdiction. The project site abuts residential and commercial/office uses which are considered "urban uses" pursuant to definitions included in SB35.
4. **ZONED OR PLANNED RESIDENTIAL USES.** The subject property is zoned C-N (Commercial - Neighborhood) and has the General Plan land use designation of Commercial Retail. Pursuant to Sections 15-19.030(b) and 15-58.020(a) of Saratoga Municipal Code, mixed-use development with a maximum density of 20 dwelling units per acre is allowed on the site with a Conditional Use Permit. However, pursuant to SB35, the applicant is not subject to a Conditional Use Permit requirement if it complies with the objective planning standards listed in subdivision (a) of SB35.
5. **CONSISTENT WITH OBJECTIVE STANDARDS.** The project is consistent with the objective General Plan, zoning, and subdivision ordinance standards. The applicant has provided sufficient information for the City to determine that it satisfies the standards discussed in the February 20, 2020 and February 26, 2020 letters. Specifically, each mezzanine covers less than 50% of the floor below it; no less than five feet along all property lines that abut streets will be landscaped and/or improved with sidewalks; and the applicant will secure a future permit for the proposed monument sign and this sign shall conform to the City's objective sign standards. Further, applicant has confirmed that the project will dedicate the required public street right of way. Applicant has requested, and provided the requisite support for, two concessions/incentives pursuant to the density bonus law. The first concession/incentive waives the requirement that only commercial uses may be located on the ground floor abutting a street of a mixed-use development. The second concession/incentive requests "a

---

<sup>1</sup> The City notes that Table 5-1 of the Supplemental Quito Village Project Description (found on page 13) still states that the project will create 91 condo units on one lot of record. The City understands this to be a typographical error. As stated in previous correspondence, if the project proposed 91 units, it would be required to dedicate 10 of those units to very low-income households in order to continue to qualify for SB 35 and the two requested incentives/concessions under the Density Bonus Law.

reduction of setback requirements” applicable along Cox Avenue.<sup>2</sup> Quito Village Project Description – Supplemental Appendix G at pg. 2.

The project qualifies for these two concessions/incentives under the State Density Bonus Law and local density bonus ordinance because it will provide ten percent of the “total units [in the] housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.”<sup>3</sup> Gov. Code § 65915(b)(1)(B), (d)(2)(B).

The applicant has provided sufficient justifications for both the concessions/incentives. Both concessions/incentives result in identifiable and actual cost reductions to provide for affordable housing costs or affordable rents. The waiver of the City’s commercial frontage requirement reduces the construction costs and makes it financially feasible for the project to provide its affordable units. The reduction of the setbacks along Cox Avenue allows the project to be developed at its proposed density and with nine affordable units. If the setback standards were applied, and given the City’s other objective standards, including its open space requirements and height limits, the applicant would be forced either to reduce the site density or the size of the units. These changes would increase the affordable housing costs as the project would be able to offer fewer or smaller market rate units to offset the affordable housing costs or rents.

6. **PARKING.** The project is not located within one-half mile of the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods, as defined by Section 102(r) of HCD’s SB35 Guidelines. Therefore, according to SB 35 and the Housing and Community Development’s SB35 Streamlined Ministerial Approval Process Guidelines (“SB35 Guidelines”), the City may not require more than one parking space per unit. The project satisfies this requirement by providing two garage spaces for each townhome unit (180 spaces) and 53 surface parking spaces (28 of which are guest parking for the townhomes).
  
7. **LOCATION.** The proposed project site is **not** located:
  - a. On prime farmland or farmland of statewide importance as defined by United States Department of Agriculture land inventory and monitoring criteria, as modified for California, wetlands as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993),

---

<sup>2</sup> Staff notes that the applicant asserts that there are no applicable setbacks on the commercial parcel. That is incorrect. The setback applicable to the commercial frontage on Cox Avenue is 15 feet pursuant to Saratoga Municipal Code section 15.19.030(f)(1) because the lot is across the street from a P-A district. However, staff interprets the request for a reduction in setbacks to apply to the entire project frontage along Cox Avenue. The project meets the setback requirements along Paseo Presada.

<sup>3</sup> The applicant is not seeking to develop above “maximum allowable gross residential density” and therefore does not require a “a density increase over the otherwise maximum” density. Gov. Code § 65915(f).

- b. Within a very high fire hazard severity zone as determined by the Department of Forestry and Fire Protection pursuant to Section 51178 or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code,
- c. On a hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code (<https://calepa.ca.gov/sitecleanup/corteselist/>),
- d. Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2,
- e. Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency,
- f. Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency,
- g. On lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan,
- h. On lands that provides habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code),
- i. On land under conservation easement,

- j. On a site that previously contained housing of any kind or on a site that is subject to the Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act, or
  - k. On a site with historic structures listed on a local, state, or federal register.
8. **SUBDIVISIONS.** Staff finds that the project is consistent with all the objective development standards outlined in the City's subdivision ordinance. The applicant has provided a letter certifying that 1) all construction workers will be paid the applicable prevailing wages, and 2) a skilled and trained workforce will be used to complete the project.
9. **PREVAILING WAGE/SKILLED AND TRAINED WORKFORCE.** The applicant has provided a certificate indicating that it intends to pay applicable prevailing wages and employ a skilled and trained workforce to execute the project. The project applicant shall be required to provide on a monthly basis, while the project is in construction, a report demonstrating compliance with the requirement to provide skilled and trained workforce. Pursuant to SB35, the applicant will also be required to pay all contractors and subcontractors on the project at least the general prevailing rate of per diem wages.

**This letter is the final eligibility/consistency determination. This is not the final project approval. Staff will continue to process the application and issue a final approval, including standard conditions of approval, within the timeframes specified in Government Code section 65913.4(c)(1).**

If you have any questions, please contact me at 408-868-1235 or [criordan@saratoga.ca.us](mailto:criordan@saratoga.ca.us)

Respectfully,

*Christopher Riordan*

Christopher Riordan, AICP  
Senior Planner

Attachments:

SB 35 Preliminary Eligibility and Corrections Letter from City to Applicant (February 20, 2020)  
SB 35 Additional Comments Letter from City to Applicant (February 26, 2020)