

March 25, 2025

TO: Staff

FROM: Amy J. Bodek, AICP, Director of Regional Planning



SENATE BILLS 35 AND 423: STREAMLINED APPROVAL PROCESS FOR MULTIFAMILY RESIDENTIAL DEVELOPMENTS (UPDATED)

Background

On September 29, 2017, the Governor approved [Senate Bill \(SB\) 35 \(Wiener\)](#), which added [Section 65913.4](#) to the Government Code to require a streamlined ministerial review process for eligible multifamily residential developments that include a specified level of affordability, pay prevailing wages to all construction workers, hire a skilled and trained workforce, and meet other criteria pertaining to project locations and pre-existing site conditions. [Senate Bill \(SB\) 423 \(Wiener\)](#), which became effective January 1, 2024, made changes to the law and extended the operation of the streamlined, ministerial approval process to January 1, 2036. Changes include revised location requirements for the coastal zone and state responsibility area, new labor requirements for prevailing wages, skilled and trained labor force, and health care expenditures, as well as public meeting requirements after receiving a notice of intent. This memo provides information on those changes and clarifies other existing provisions. The following forms have been revised: Prevailing Wage Certification, Health Care Expenditure Certification, Skilled and Trained Workforce Certification, and SB 35 Preliminary Application. This memo supersedes any prior memos regarding SB 35 and SB 423. I encourage you to discuss these modifications with your respective staff in order to provide a consistent transition to the new regulations.

A copy of the new State law (Attachment A) is attached for your reference. Please be aware of the following changes pertaining to the approval of eligible projects (major changes *italicized and underlined*).

I. ELIGIBILITY FOR STREAMLINED MINISTERIAL REVIEW¹

A multifamily residential use is eligible for the streamlined ministerial review process specified in this memo if all of the following criteria are met:

¹ It is not the intent of this memo to capture all projects that may be eligible for a streamlined ministerial review pursuant to SB 35. For more information on SB 35, see HCD's guidance at hcd.ca.gov/planning-and-community-development/statutory-determinations.

A. Project Components.

1. The project shall consist of two or more attached residential units and is one of the following:
 - a. A development of more than 10 dwelling units,² exclusive of additional units provided by a density bonus, with at least 10% of such dwelling units set aside for lower-income households³ (if the development is for-sale) or very low-income households³ (if the development is rental), subject to any of the following as applicable:⁴
 - i. Application Requirements.
 - (a) An Administrative Housing Permit ([Section 22.166.040](#)) application is required for all developments subject to this paragraph I.A.1.a;
 - (b) A Ministerial Site Plan Review ([Chapter 22.186](#)) application is required if the project is a non-subdivision development;
 - (c) A tentative map and a final map or a parcel map ([Title 21](#)) are required if the project is a subdivision; and
 - (d) *A Coastal Development Permit (Chapter 22.56) is required if the project is located in the Coastal Zone.*
 - ii. Duration of Affordability.
 - (a) All set-aside rental units shall be subject to 55 years of affordability; and
 - (b) All set-aside for-sale units shall be subject to 45 years of affordability; or
 - b. A development of 10 dwelling units or less, exclusive of additional units provided by a density bonus, with the required affordable housing set-aside pursuant to [Chapter 22.121](#) (Inclusionary Housing) if applicable⁵, subject to any of the following as applicable:
 - i. A Ministerial Site Plan Review ([Chapter 22.186](#)) application is required if the project is a non-subdivision development;

² The total number of units in a development includes all projects developed on sites adjacent to a site if the adjacent site had been subdivided from the site developed.

³ Or the applicable affordable set-aside required pursuant to [Chapter 22.121 \(Inclusionary Housing\)](#), whichever is greater.

⁴ The set-aside calculation shall be subject to [Chapter 22.120.100 \(Rules and Calculations\)](#).

⁵ *An Administrative Housing Permit (Section 22.166.040) application is required for all developments subject to Chapter 22.121 (Inclusionary Housing).*

- ii. A tentative map and a final map or a parcel map ([Title 21](#)) are required if the project is a subdivision; and
 - iii. *A Coastal Development Permit (Chapter 22.56) is required if the project is located in the Coastal Zone.*
2. If the project is a mixed-use development, at least 2/3 of the total floor area shall be designated for residential use,⁶ and the following shall apply:
- a. Both residential and commercial components of a qualified mixed-use development are eligible for the streamlined ministerial review. However, certain operational uses of individual businesses in the commercial component may be subject to additional permitting requirements (e.g., a CUP for alcoholic beverage sales) and/or other applicable objective standards (e.g., a 30-day maximum stay in a hotel) as set forth in [Title 22](#); and
 - b. If the commercial component is not part of a vertical mixed-use structure, construction of the residential component of a mixed-use development shall be completed prior to, or concurrent with, the commercial component.

B. Project Location. The project shall satisfy all of the following:

1. The project site is a legal parcel or parcels located entirely within an urbanized area or urban cluster, as designated by the U.S. Census Bureau;
2. The project site has at least 75% of its perimeter adjoining parcels developed with urban uses, which include any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses;⁷
3. The project site is zoned for⁸ residential or residential and commercial mixed-use developments, or has a General Plan land use designation that allows residential or residential and commercial mixed-use developments by-right or with a Conditional Use Permit; and
4. No portion of the project site shall be located in any of the following:
 - a. Prime Farmland or Farmland of Statewide Importance,⁹ as identified by

⁶ Additional dwelling units, floor area, incentive, or waiver or reduction of development standards granted pursuant to [Chapter 22.120.190](#) (Density Bonus) shall be included in the square footage calculation.

⁷ Parcels that are only separated by a street or highway shall be considered adjoining.

⁸ "Zoned for" means a zone in which these are permitted by right or with a conditional use permit.

⁹ This layer is available on GIS-NET.

the California Department of Conservation;

- b. Wetlands,⁸ as defined in the U.S. Fish and Wildlife Service Manual;
- c. A Very High Fire Hazard Severity Zone⁸ as identified by the State Department of Forestry and Fire Protection, or the state responsibility area as defined in [Section 4102](#) of the California Public Resources Code, unless all new and existing structures on the project site will be in compliance with fire hazard mitigation measures pursuant to current building standards and fire safety regulations, including, but not limited to, those established under all of the following or their successor provisions:
 - i. [Section 4291](#) of the Public Resources Code or [Section 51182](#) of the Government Code, as applicable;
 - ii. [Section 4290](#) of the Public Resources Code; and
 - iii. Chapter 7A of the California Building Code ([Title 24 of the California Code of Regulations](#));
- d. A hazardous waste site listed pursuant to [Section 65962.5](#) of the Government Code (the Cortese List, which is available at <https://calepa.ca.gov/SiteCleanup/CorteseList>), or a hazardous waste site designated by the State Department of Toxic Substances Control (which is available at <https://www.envirostor.dtsc.ca.gov/public/map/>), pursuant to Section 25356 of the Health and Safety Code, unless either of the following apply:
 - i. The site is an underground storage tank site that received a uniform closure letter issued pursuant to [Section 25296.10\(g\)](#) of the Health and Safety Code based on closure criteria established by the State Water Resources Control Board for residential use or residential mixed uses.
 - ii. The State Department of Public Health, State Water Resources Control Board, State Department of Toxic Substances Control, or the Department of Public Health making a determination pursuant to [Section 25296.10\(c\)](#) of the Health and Safety Code, has otherwise determined that the site is suitable for residential use or residential mixed uses.
- e. A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the project complies with applicable seismic protection building code standards adopted by the State Building Standards Commission under the State Building Standards Law (Part 2.5 (commencing with [Section 18901](#)) of Division 13 of the Health and Safety Code), and by Public Works under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2 of

the Government Code;¹⁰

- f. A special flood hazard area¹¹ subject to inundation by the 1% annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency (FEMA) in any official maps published by the FEMA, unless:
 - i. The site has been subject to a Letter of Map Revision prepared by the FEMA and issued to the County; or
 - ii. The site meets FEMA requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to [Part 59 \(commencing with Section 59.1\)](#) and [Part 60 \(commencing with Section 60.1\)](#) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations;¹²
 - g. A regulatory floodway¹⁰ as determined by the FEMA in any official maps published by the FEMA, unless the development has received a no-rise certification in accordance with [Section 60.3\(d\)\(3\) of Title 44](#) of the Code of Federal Regulations;
 - h. A Significant Ecological Area or lands under conservation easement or 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](#)], or in a habitat conservation plan pursuant to the [Federal Endangered Species Act of 1973](#), or other adopted natural resource protection plan; or
 - i. A critical habitat designated by the U.S. Fish and Wildlife Service.
5. Coastal Zone.¹³ SB 35 projects are allowed in the Coastal Zone if the project meets all of the following:
- a. Must be zoned for multifamily housing pursuant to a certified local coastal program or a certified land use plan; and
 - b. Must be outside any of the following:
 - i. An area of the coastal zone subject to Public Resources Code Section 30603, subdivisions (a)(1) and (a)(2),
 - ii. A location vulnerable to five feet of sea level rise;¹⁴

¹⁰ Public Works verifies compliance with seismic protection standards in the Building Code during their review process.

¹¹ This layer is available on GIS-NET.

¹² A hydrology study must be submitted to and reviewed by the Department of Public Works to determine the sites' compliance with all applicable FEMA requirements for flood plain management criteria.

¹³ [Division 20 \(Beginning with Section 30000\)](#) of the Public Resources Code. This layer is available on GIS-NET.

¹⁴ As determined by the National Oceanic and Atmospheric Administration, the Ocean Protection Council, the United States Geological Survey, the University of California, or a local government's coastal hazards vulnerability assessment. This layer is available on GIS-NET.

- iii. A 100-foot radius of a wetland;¹⁵ or
- iv. Prime agricultural land.¹⁶

C. Pre-Existing Site Condition. The project is not located on a site where any of the following apply:

1. There is an existing residential use, which is subject to a recorded covenant and agreement restricting rents to levels affordable to moderate, lower, or very low-income households, that would be demolished as a result of the proposed development;
2. There is an existing residential use, which has been occupied by tenants during the 10-year period prior to the application submittal, that would be demolished as a result of the proposed development;
3. There was a residential use occupied by tenants and subsequently demolished during the 10-year period prior to the application submittal;
4. There is an existing historic structure, which was placed on a national, state, or local historic register, that would be demolished as a result of the proposed development;¹⁷
5. There is an existing residential use, which is occupied by tenants, that would require a subdivision (e.g., condo conversion) as a result of the proposed development; or
6. There is an existing mobile home park, recreational trailer park, or travel trailer park.

The applicant shall submit a “Pre-Existing Site Condition Questionnaire” (Attachment B).

D. Zoning Conformance.

The project, excluding any additional density, waivers, and/or incentives granted via the Administrative Housing Permit, shall comply with all applicable objective planning, zoning, or subdivision requirements where the project is located.

1. Density and Floor Area Ratio (FAR). In determining whether the project is consistent with development standards pertaining to maximum allowable density and FAR, the General Plan shall prevail and supersede any contrary

¹⁵ As defined in [Section 30121](#) of the Public Resources Code. This layer is available on GIS-NET.

¹⁶ As defined in [Sections 30113](#) and [30241](#) of the Public Resources Code. This layer is available on GIS-NET.

¹⁷ County designated historic resources are identified on the Department’s Historic Resources layer in GIS-NET. For State and Nationally listed historic resources, staff must download and search the Built Environment Resource Directory (BERD) spreadsheet, which is available on the [California Office of Historic Preservation website](#) (select “Los Angeles” under “Resources by County”).

provisions in [Title 22](#).

2. Parking

- a. The project shall be exempt from any parking requirements if any of the following apply:
 - i. The project is located within a ½ mile of public transit.¹⁸
 - ii. The project is located within a historic district;
 - iii. When on-street parking permits are required but not offered to the occupants of the development; or
 - iv. When there is a car share vehicle located within one block of the development.¹⁹ For example, this can be verified by checking the maps on Zipcar (zipcar.com).
- b. If the project does not fall within any of the criteria described in Subsection 2.a. above, one parking space shall be required per unit unless fewer parking spaces are required pursuant to [Title 22](#), in which case the parking ratio provided in Title 22 shall prevail.

E. Labor Compliance.

Projects subject to this memo shall meet the applicable labor requirements as shown in Table A, below, based on project parameters. The applicant shall submit a notarized Prevailing Wage Certification (Attachment C), a Health Care Expenditure Certification (Attachment D), a Skilled and Trained Workforce Certification (Attachment E), or a Source of Funds Questionnaire (Attachment F), where applicable.

| Table A: Labor Requirements for SB 35 Projects | | | | |
|---|-------------------------------------|---------------------------------------|--------------------------------|--|
| Number of Units | Prevailing Wages¹ | Employ Apprentices₂ | Health Care³ | Skilled and Trained Workforce⁴ |
| 2 to 10 | Yes ⁵ | - | - | - |
| 11 to 49 | Yes | - | - | Yes |
| 50 or more | Yes | Yes | Yes | Yes |

¹⁸ Per HCD guidelines, "public transit" means location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge a set fare, run on fixed routes, and are available to the public.

¹⁹ A block can be up to 1,000 linear feet of pedestrian travel along a public street from the development.

Table A: Labor Requirements for SB 35 Projects

Notes:

1. Pursuant to the State Prevailing Wage Law ([Sections 1773 et seq.](#) of the Labor Code of the Labor Code).
2. Construction craft employees must either participate in an apprenticeship program approved by the California Division of Apprenticeship Standards pursuant to [Section 3075](#) of the Labor Code, or request dispatch of apprentices from a state-approved apprenticeship program. A contractor without construction craft employees must ensure its subcontractors comply with this clause.
3. Each contractor with construction craft employees shall make health care expenditures for each employee in an amount per hour worked on the development equivalent to at least the hourly pro rata cost of a Covered California Platinum level plan for two adults 40 years of age and two dependents 0 to 14 years of age for the Covered California rating area in which the development is located.
4. Skilled and Trained Workforce requirements are for projects over 85 feet in height above grade, except for projects with all units, excluding manager's unit(s), reserved for lower or very low-income households.
5. Only if the project is a "public work" as defined in [Section 1720](#) of the Labor Code.

F. Tribal Cultural Resources.

1. Preliminary Application Required. Prior to submitting an application for the streamlined ministerial review specified in this memo, the applicant must notify the Department of their intent by submitting an SB 35 Preliminary Application (Attachment G).
2. Tribal Notification and Consultation. Within 30 days of the acceptance of a complete SB 35 Preliminary Application, staff must notify each California Native American tribe that is traditionally and culturally affiliated with the geographic area of the project of the applicant's intent to submit the application. After receiving the notice, the tribe(s) has/have 30 days to request a scoping consultation to discuss potential impacts to tribal cultural resources. Staff should refer to the SB 35 Tribal Consultation Procedures (Attachment H) and SB 35 Tribal Consultation Flowchart (Attachment I) to complete the Tribal Notification/Consultation Process prior to determining eligibility for streamlined ministerial review.
3. Application Acceptance. After acceptance of the complete SB 35 Preliminary Application, an application for streamlined ministerial review may be accepted only if one of the following applies:
 - a. All tribes that received a notice of the applicant's intent to submit an

application for streamlined ministerial review did not accept the invitation to engage in a scoping consultation;

- b. The tribe(s) accepted the invitation to engage in a scoping consultation, but substantially failed to engage in the scoping consultation after repeated documented attempts by staff to engage the tribe;
- c. The parties to the scoping consultation(s) find that no potential tribal cultural resource will be affected by the project; or
- d. A scoping consultation between a tribe(s) and staff has resulted in an enforceable agreement between the tribe(s) and the Department on methods, measures, and conditions for tribal cultural resource treatment. Staff shall ensure that the enforceable agreement is included in the requirements and conditions for the project.

4. Written Notification on Ineligibility.

- a. A written notification shall be provided to the applicant and to any tribe that is a party to the scoping consultation if, after the scoping consultation, the project is found to be ineligible for streamlined ministerial review due to any of the following reasons:
 - i. The project site contains a tribal cultural resource that is on a national, state, tribal, or local historic register list;
 - ii. There is a potential tribal cultural resource that could be affected by the project and the parties to a scoping consultation do not document an enforceable agreement on methods, measures, and conditions for tribal cultural resource treatment; or
 - iii. The parties to a scoping consultation do not agree as to whether a potential tribal cultural resource will be affected by the project.
- b. In addition, the written notification provided to the applicant must include information on how the applicant may apply for a Conditional Use Permit or other discretionary entitlement(s) for the project.

II. APPLICATION PROCESS

- A. **Public Meeting.** Upon receiving the SB 35 Preliminary Application, a public meeting shall be held by the Regional Planning Commission (RPC) within 45 days to receive public comments by testimony or in writing if the proposed development is located in a census tract that is designated as any of the following by the California Tax Credit Allocation Committee and the California Department

of Housing and Community Development:²⁰

- a. Moderate resource area;
- b. Low resource area; or
- c. An area of high segregation and poverty.

No application for the streamlined ministerial review as described in paragraph I.A.1 shall be accepted until the required public meeting has been held.

B. Written Notification on Ineligibility after Application Submittal.²¹ After the application for the streamlined ministerial review is accepted, if, upon reviewing all required application materials, it is determined that a project is ineligible for the streamlined ministerial review in accordance with the criteria specified in paragraph I.A through I.F above, the applicant shall be notified, in writing, of which criterion or criteria the project fails to meet with detailed explanations within the required time period, as follows:

1. Within 60 days of application submittal if the project contains 150 or fewer units.
2. Within 90 days of application submittal if the project contains more than 150 units.

C. Permit Processing Timeline. A decision on the Administrative Housing Permit, the Site Plan Review, and/or the subdivision application shall be made within the required time period, as follows:

1. Within 90 days of application submittal if the project contains 150 or fewer units.
2. Within 180 days of application submittal if the project contains more than 150 units.

D. Modification. Following the approval of the Administrative Housing Permit, the Site Plan Review, and/or the subdivision application but prior to the issuance of a building permit for the project, the applicant may submit a written request to modify the project. Approval of the modification request must be completed within 60 days of submittal of the modification, subject to the following findings:

1. The change is consistent with all criteria set forth in this memo and HCD's [Streamlined Ministerial Approval Process Guidelines](#);
2. The change, including modifications to additional density, waivers, and/or incentives granted via the Administrative Housing Permit, will not modify the project's consistency with all eligibility criteria for streamlined review and the

²⁰ This TCAC layer is available on GIS-NET.

²¹ "Application submittal" refers to the application for streamlined ministerial review as described in paragraph I.A.1, not the SB 35 Preliminary Application.

requirements of [Chapter 22.120](#) (Density Bonus), if applicable; and

3. The change complies with objective planning, zoning, or subdivision requirements that were adopted after the original application was submitted if it results in either of the following:
 - a. The total number of residential units or total square footage of construction²² changes by 15% or more; or
 - b. The total number of residential units or total square footage of construction²³ changes by 5% or more, and it is necessary to subject the project to objective requirements beyond those in effect when the original application was submitted in order to mitigate or avoid a specific, adverse impact, as that term is defined [Section 65589.5\(j\)\(1\)\(A\)](#) of the California Government Code, upon the public health or safety and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.
- E. Additional Requirements.** For all SB 35 projects, the applicant shall submit the Applicant Acknowledgement Form (Attachment J), acknowledging that the review and approval of the proposed project by LA County Planning does not guarantee approval or clearance by other departments.

III. APPROVAL EXPIRATION AND TIME EXTENSION

The streamlined ministerial approval is valid for three years,²⁴ except that:

- A. A project may receive a discretionary one-time, one-year extension if the applicant can provide documentation that there has been significant progress toward getting the development construction ready, such as filing a building permit application.
- B. The approval shall not expire if the project 1) contains a minimum of 50% of the total number of units for lower or very low-income households; and 2) receives public funding for affordable housing other than tax credits.
- C. Approval shall remain valid beyond the three years so long as construction activity, including demolition and grading activity, on the development site has begun pursuant to a permit issued by the County²⁵ and is in progress.
- D. If an applicant submits a written request to modify the project, approval shall be extended for the number of days between the submittal of a modification request

²² The calculation of the square footage of construction changes shall not include underground space.

²³ The calculation of the square footage of construction changes shall not include underground space.

²⁴ If litigation is filed challenging the approval, three years from the date of the final judgment upholding that approval.

²⁵ Applies retroactively to projects approved prior to January 1, 2022.

and the date of its final approval, plus an additional 180 days to allow time to obtain a building permit. If litigation is filed relating to the modification request, the time shall be further extended for the pendency of the litigation. The extension required by this paragraph shall only apply to the first request for a modification submitted by the applicant.

If you have any questions regarding this memo, please contact Tina Fung in the Housing Policy Section at (213) 974-6417 or tfung@planning.lacounty.gov.

AJB:CC:ER:TF:JD

Attachments:

- A. [Government Code Section 65913.4](#)
- B. [Pre-Existing Site Condition Questionnaire](#)
- C. [Prevailing Wage Certification](#)
- D. [Health Care Expenditure Certification](#)
- E. [Skilled and Trained Workforce Certification](#)
- F. [Source of Funds Questionnaire](#)
- G. [SB 35 Preliminary Application](#)
- H. [SB 35 Tribal Consultation Procedures](#)
- I. [SB 35 Tribal Consultation Flowchart](#)
- J. [SB 35 Applicant Acknowledgment Form](#)

- c: County Counsel
Public Works
Fire Department
Public Health
Parks and Recreation
Los Angeles County Development Authority