



FREQUENTLY ASKED QUESTIONS (FAQs)

SB 35 STREAMLINED MULTIFAMILY REVIEW PROCESS GUIDE



California Senate Bill 35 (SB 35) creates a streamlined and ministerial approval process for certain housing projects. SB 35 applies in jurisdiction 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, including potentially removing the requirement for CEQA analysis, and removing the requirement for Use Permit, Design Review or other similar discretionary entitlements granted by a Planning Commission. This document outlines how the Planning Division administers streamlined approval set forth in Government Code Section 65913.4.

Since its adoption in 2017, SB 35 has been amended several times, the most recent occurred in 2020 under Assembly Bill AB 168 (Native American consultation) which requires applicants to submit a notice of intent in the form of a preliminary application that includes all of the information described in Government Code Section 65941.1 (SB 330). AB 180 effectively created a two-step process. First step is for applicants to submit a Preliminary Application, which will trigger a consultation with and the second step California Native American tribes that are traditionally and culturally affiliated with the area of the site to determine if they wish to engage in a scoping consultation. Once this process is complete, then an SB 35 application may be submitted. *An SB 35 application cannot be made until the notice and scoping consultation is complete and either an agreement is reached or no tribe elects to participate in a scoping consultation.*

Currently, the California Department of Housing and Community Development (HCD) determined the County does not meet the RHNA goal for affordable housing below 80% AMI. Therefore, HCD determined that the County is subject to SB 35 streamlining for such projects. See the SB 35 Statewide Determination [HERE](#).

WHAT IS SENATE BILL 35 (SB 35)?

California Senate Bill 35 (SB-35) creates a streamlined approval process for multi-unit housing projects that include a specified percentage of units affordable to lower income households. SB-35 projects are exempt from discretionary review if the project is consistent with objective zoning and design standards. This is a voluntary program a project applicant may elect to pursue if certain eligibility criteria are met.

WHERE DOES IT APPLY?

SB-35 applies in cities that are not meeting their Regional Housing Needs Allocation (RHNA) for construction of above-moderate income housing, or housing affordable for persons with incomes below 80% area median income (AMI). Currently, Marin County does not meet the RHNA goal for affordable housing for persons with incomes below 80% AMI. Therefore, SB-35 requires the County to streamline approval of certain housing projects by providing a ministerial approval process. Eligible projects are required to provide 50% of the units as affordable housing. The provisions of this program are in effect until **January 1, 2026**, unless the State extends or does not repeal Government Code Section 65913.4.

IS MY PROJECT ELIGIBLE?

Eligibility for SB-35 streamlining is determined by meeting the requirements listed on the SB-35 Eligibility Checklist on page 5, which are state-mandated and cannot be waived or amended. Applicants intending to request SB-35 streamlining must first submit a Notice of Intent in the form of a [Preliminary Housing Development Application](#). At that time, the County will initiate a California Native American Tribes consultation process prior to submittal of an application. Applications will not be accepted without providing sufficient evidence that the project meets all eligibility criteria.

IF IT QUALIFIES FOR SB 35, WHAT ZONING STANDARDS APPLY?

Qualifying projects must be consistent with all of the County's objective standards, including the Countywide Plan, the Marin County Development Code, the Multi-Family Design Guidelines, and any applicable community plan, master plans and specific plans. Modifications to otherwise-applicable standards under density bonus law do not affect a project's eligibility.

WHAT ARE OBJECTIVE PLANNING STANDARDS?

Objective planning standards are standards that involve no personal or subjective judgement by a public official. These standards can be found in the County Code and General Plan/Local Coastal Program. For example, a building height limit of 3 stories is an objective standard. In comparison, a requirement that a building must blend appropriately with the neighborhood character is a subjective standard.

WHAT ARCHITECTURAL STYLES ARE ALLOWED?

The Objective Design Standards establish the required architectural style and exterior architectural features by which SB-35 projects are evaluated.

WHAT ARE THE PARKING REQUIREMENTS?

If a project qualifies, no more than one parking space per residential unit is required. For projects that meet the requirements specified in Government Code section 65913.4(d)(1), no residential parking is required. Mixed-use projects must provide parking for the commercial component of the development as required by the Department of Public Works (DPW). Applicants are encouraged to contact the DPW Land Development Division at (415) 473-3755 or at the following URL link: [Contact Land Development - Marin County Public Works](#)

ARE PUBLIC HEARINGS ALLOWED FOR SB 35 PROJECTS?

Public hearings are not allowed on SB 35 projects because they are ministerial projects which do not require use permit, design review or other discretionary local government review or approval.

SB 35 allows "design review or public oversight" to occur if a County so chooses. This process may be conducted by the planning commission or equivalent board or commission responsible for review and approval of development projects. Design review or public oversight must be objective and strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards that were in effect before the application was submitted. This process may not in any way "inhibit, chill, or preclude the ministerial approval" allowed by SB 35.

ARE THERE ANY EXCEPTIONS?

No, the requirements for streamlined ministerial approval are state-mandated and cannot be waived or amended. A multi-unit housing project that does not meet one or more of the requirements listed on the SB-35 Eligibility Checklist, or the mandatory Objective Designs, or if an exception to any objective zoning or other development standard is requested (such as a variance, modification, exception, waiver, or similar) is not eligible and will be subject to the City's discretionary review process.

CAN STUDIES ANALYZING THE POTENTIAL IMPACTS ON THE ENVIRONMENT OR COMMUNITY BE REQUIRED?

Projects eligible for the streamlining provisions of SB 35 are considered ministerial. Ministerial projects are not subject to CEQA. Therefore, an applicant of an SB 35 project cannot be required to prepare any studies that would be required under CEQA (i.e., traffic, air quality, noise, etc.)

The County can only require an applicant to abide by objective planning standards that were in effect at the time the SB 35 application was submitted. If an objective planning standard requires certain studies to be performed and there are objective standards to address the preparation and results of those studies, then the applicant would be required to prepare and implement those requirements.

DOES APPROVAL EXPIRE?

Streamlined approval does not expire if the project includes public investment in housing affordability, beyond tax credits, where 50% of the units are deed restricted to households making below 80% of the area median income. For all other projects, approval expires after 3 years. Approval may remain valid if vertical construction is in progress.

In this case, the project received public funding from the Local Housing Trust Fund (LHTF) Program, which is administered by the State of California (HCD). Therefore, the streamlined approval does not expire.

HOW DO I APPLY FOR STREAMLINED REVIEW?

To apply for a project that qualifies under SB 35, an applicant must follow the following two-step procedure summarized below:

1. First, before applying for approval of a project under SB 35, AB 168 requires the County to complete consultation with California Native American tribes that are traditionally and culturally affiliated with the area of the site to determine if they wish to engage in a scoping consultation. AB 168 is available for review here: http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB168.

To initiate the tribal consultation process, the applicant must submit a notice of intent in the form of a preliminary application that includes all of the information described in Government Code Section 65941.1. The County will then notify California Native American tribes that are traditionally and culturally affiliated with the area of the site to determine if they wish to engage in a scoping consultation. An SB 35 application cannot be made until the notice and scoping consultation is complete and either an agreement is reached or no tribe elects to participate in a scoping consultation. The County's preliminary application form is attached describing the required information.

2. Next, submit an SB 35 Application Packet with requisite fees to the front counter in the Community Development Agency, 3501 Civic Center Drive, Room 308, San Rafael, CA 94903-4157. The application must be submitted along with all of the material identified in the application checklist to confirm that the project qualifies for SB 35.

NOTE: *The Marin County Planning Division strongly recommends that applicants schedule a pre-application meeting with County staff to review the submittal requirements in the application checklist and*

the conceptual design. In addition to the County provided SB 35 eligibility checklist, please comply with each of the pre-application submittal requirements. To schedule a pre-application meeting, please call the Planning Department at (415) 473-6269 or via e-mail at cdaplanning@marincounty.org



STREAMLINED REVIEW PROCESS

This is a summary of the affordable housing streamlined approval process for projects that meet the eligibility criteria according to and California Government Code §65913.4.

STEP 1:	CONFIRM THE PROJECT IS ELIGIBLE SUBMIT A NOTICE OF INTENT
	The first step is to confirm that the project meets the eligibility criteria. Read the attached SB-35 Eligibility Checklist on page 3 to confirm the project is eligible.
STEP 2:	SUBMIT A NOTICE OF INTENT
	Once you have confirmed that the project meets all eligibility criteria, submit a Notice of Intent to submit an application in the form of the City's Preliminary Housing Development Pre-Application .
STEP 3:	TIMELINES FOR TRIBAL SCOPING CONSULTATION
	Upon receipt of a Notice of Intent, the City will engage in a scoping consultation with any California Native American tribe that is affiliated with the geographic area. There is a 30-30-30 timeline: <ol style="list-style-type: none"> 1. Notice. Within 30 days, the City will provide formal notice for each Tribe. 2. Acceptance. Each Tribe has 30 days to accept the invitation to engage in consultation. 3. Consultation. The city initiates consultation within 30 days of acceptance of the invitation.
STEP 4:	SUBMIT A COMPLETE APPLICATION
	Once the Tribal Scoping Consultation has been concluded, and the project meets the eligibility criteria, applicants can submit an SB-35 application.
STEP 5:	TIMELINES FOR MINISTERIAL REVIEW
	The timelines for streamlined review are as follows: <ol style="list-style-type: none"> 1. Application Review. Planning staff will determine if the application is complete, and if the project conflicts with any objective zoning and design review standards, within 60 days for projects of 150 or fewer units and 90 days for more than 150 units. 2. Design Review. After the application is determined to be complete, a noticed public hearing will be scheduled at the Architectural Board of Review or Historic Landmarks Commission. Review shall be objective and strictly focused on assessing compliance with applicable criteria and objective design review standards. 3. Action on the Application. Action on the application including ministerial design review must be completed in 90 days for 150 or fewer units and 180 days for projects with more than 150 units, measured from the date of a complete application submittal. 4. Expiration. A decision to approve the project will expire after three years. A denial of a qualifying streamlined housing project may be appealed by the applicant to the City Council.
STEP 6:	SUBMIT A BUILDING PERMIT

A building permit must be issued prior to the three-year approval expiration date. A project may receive a one-time, one-year time extension if the applicant shows significant progress.



STREAMLINED ELIGIBILITY CRITERIA

A project may be eligible for the streamlined review process if it meets the following criteria:

Multifamily Residential Development	The project must involve the development of 2 or more attached residential units. The project may be mixed use, but a minimum of two-thirds of above ground development square footage must be designated for residential use
Infill Parcels Only	At least 75% of the perimeter of the site must adjoin parcels developed with urban uses, which includes current or former residential, commercial, public institutional, or transit facility uses. Parcels separated by a street or highway are considered adjoining.
Consistent with Objective Standards	The project must be consistent with objective zoning, subdivision, and design review standards.
Labor Requirements	All projects of 10 units or more are subject to special labor requirements. Projects involving subdivisions or lot mergers may qualify for SB 35 streamlining with certain labor requirements.
No Demolition of Housing or Historic Structures	The project cannot involve demolition of certain categories of housing or a historic structure and cannot develop on a site where rental housing was demolished within the last 10 years.
Affordable Housing Requirements	In addition to the affordability requirements of in County Code Chapter 22.22, multi-family housing projects, including mixed-use development, must provide at least 50% of the units as deed restricted affordable housing for households making below 80% of the Area Median Income.
Not Within Protected Resource Areas	The project site cannot be in the Coastal Zone, a conservation area, or a hazardous waste site, and cannot contain protected species habitat, prime farmland, farmland of statewide importance, wetlands, floodways, or conservation easements. Projects in a very high fire hazard severity zone, earthquake fault zone, or 100-year flood plain must mitigate those hazards.



STREAMLINED REVIEW TIMELINE

