

**3550 El Camino Real, Santa Clara, California  
 Government Code Section 65913.4 | Project Re-Submittal  
 Revised Applicant Statement  
 December 15, 2021**

**INTRODUCTION**

This is a response to the City of Santa Clara’s letter of inconsistency dated 11/15/21, relevant to the application for a development permit pursuant to Government Code 65913.4, otherwise known as Senate Bill 35 (SB 35). The Project is located at 3550 El Camino Real near the intersection of Flora Vista Ave. This Applicant Statement is submitted by Resources for Community Development (RCD) for a



proposed mixed-use project with permanently affordable housing, ground floor commercial space and associated residential amenities. The project will renovate the existing motel on site to create long-term apartments and replace the existing surface parking lot with a new mixed-use structure.

The project utilizes a density bonus pursuant to State Density Bonus Law, Government Code Section 65915 (SDBL), with concessions/incentives to support the proposed project. The project qualifies for the maximum unlimited density bonus and four concessions/incentives as it is a 100% affordable housing project within a ½ mile of public transit. Please see the attached Density Bonus Statement for a longer explanation of the proposed density bonus and requested concessions. The project is also subject to the protections of Government Code section 65915.5, the Housing Accountability Act.

Pursuant to Government Code § 65913.4(b), the project sponsors were informed by City staff that an agreement was reached with the tribal representatives on an enforceable agreement on October 18, 2021. Moving forward, the City of Santa Clara is required by SB35 to adhere to the following schedule for planning approvals:

<b>Table 1: Planning Approval Schedule</b>	
Submission Date	Original Submittal: 10/19/2021
Deadline for City to notify applicant of consistency with objective standards	City’s Response: 11/15/21
Deadline for issuance of planning approval if no conflicts with objective standards exist	Re-Submittal date plus 30 days (1/14/2022)

With those laws and policies in mind, the following sets forth the Applicant Statement. This Statement also includes the following attachments:

1. Attachment A – Explanation of Exemplary Design: Description of how the Project’s Exemplary Design provides appropriate transition measures from the project to existing neighborhoods surrounding the site.
2. Attachment B – Compliance with Objective Planning Standards: Extensive review of all zoning, relevant general plan and design standards, an analysis of whether they are objective and apply to the project, and an analysis of the project’s compliance.
3. Attachment C – Density Bonus Statement: Provides legislative background for the State Density Bonus, summarizes the requested incentives and waivers, and directly addresses the requirements of the SCMC § 18.78.

**1. PROJECT OVERVIEW**

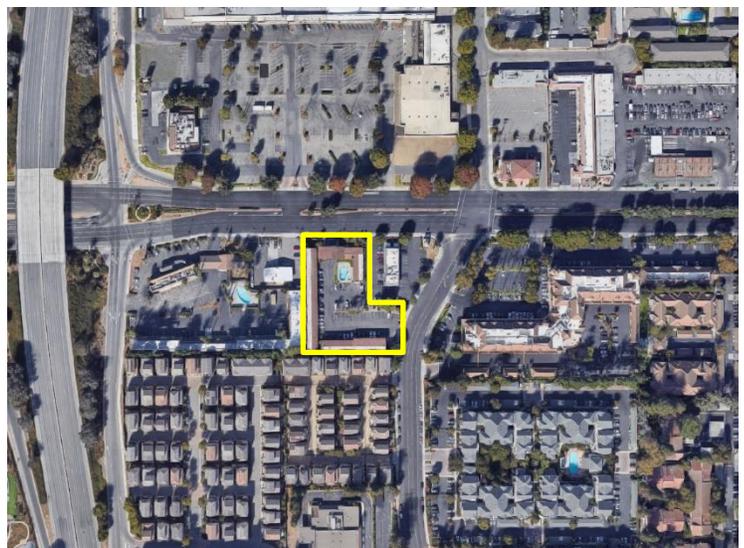
**a. Project Location**

The proposed project at 3550 El Camino Real near the intersection with Flora Vista Avenue sits in the heart of the proposed El Camino Real Specific Plan area. The immediate surrounding area contains townhomes to the rear and commercial establishments on all other sides. The neighborhoods surrounding the El Camino Real commercial corridor are populated with single family homes and small apartment buildings. The area is currently being studied for rezoning under the El Camino Real Specific Plan process but has not been implemented at this time. The project site is in the El Camino Real Focus Area and is part of “Site 2” parcel group.

<b>Table 2: Surrounding Uses and Zoning</b>		
<i>Direction</i>	<i>Use</i>	<i>Zoning</i>
Site	Motel and surface parking lot	CT
North	Lawrence Square Shopping Mall	CC
East	Restaurant and commercial	PD
South	Townhomes	PD
West	Commercial and hotel	CT

**b. Project Description**

The project will renovate the existing motel to create new, long-term, affordable rental apartments and will construct a new mixed-use apartment building with ground floor retail along the El Camino Real frontage. Residents will access the mixed-use building either through a ground floor entrance along El Camino Real, through the parking structure, or through the main residential entrance in the center of the site. Parking is provided within the main building through parking stackers and through a small surface parking lot. Fire access is provided along El Camino Real and through an internal fire access road and turnaround area in the surface parking lot.



Vicinity Map

A comprehensive table analyzing the project's consistency with all applicable zoning and design review standards is included as an attachment 'Compliance with Objective Zoning and Design Standards Table.' Table 3 identifies key development standards.

<b>Table 3: Major Zoning Development Standards</b>			
<i>General Plan Designations (Mixed Use and Residential Combining) Zoning District per AB 3194</i>			
<b>Characteristic</b>	<b>Standard</b>	<b>Proposed Project</b>	<b>Notes</b>
Residential Units	Min. 50 du/acre, Max. 120 du/acre	107 du/acre	Compliant through General Plan
Commercial Floor Area	Min. 0.15 FAR  With 10% reduction from GP standard, Min. 0.135 FAR	0.14 FAR	Exceeds General Plan Requirement Through Exemplary Design Allowance (see Attachment A)
Maximum Intensity (FAR)	No standard	2.4 (118,580/48,949)	Compliant
Maximum Building Height (feet)	35' maximum	76' to roof deck	Compliant through VHDMU Zoning
Maximum Stories	No standard	7	Compliant
<b>Setbacks</b>			
Front	No standard	15' for commercial, 10' for residential	Exceeds Requirements of VHDMU Zoning
Side	No standard	10'	Exceeds Requirements of VHDMU Zoning
Rear	No standard	3'	Exceeds Requirements of VHDMU Zoning
<b>Open Space</b>			
Common Open Space	Each lot shall have 30% of the lot area developed into permanently maintained open landscape areas.	1,100 SF	Compliant through SDBL
<b>Parking</b>			
Automobile	0 spaces per SB35	81 spaces	Exceeds SB35 Standard
Bicycle	No standard	120 Class 1 Spaces, 10 Class 2 Spaces	Exceeds Requirements

### **c. Project Residential Affordability**

The proposed project is subject to three different residential affordability criteria per the State of California statutes and the SCMC as follows:

1. Gov Code § 65913.4 et seq. SB35 requires 50% of the units in an eligible housing project to be affordable units dedicated to households with incomes below 80% AMI, see Gov. Code § 65913.4(a)(4)(B).

2. Gov Code § 65915. State Density Bonus Law requires a rental project to provide 100% of its units to low-income households with incomes of less than 80% AMI to be eligible for an unlimited density bonus and up to four incentives, see Gov. Code § 65915(f)(3)(D)(ii).
3. SCMC Chapter 17.40. The City of Santa Clara requires rental properties of more than 10 units to provide 15% of the units at below-market rate rents. The rents must average to less than 100% AMI.

The project complies with all of these affordability requirements, and it will enter into a regulatory agreement with the City to dedicate 100% of units to low-income households (those earning less than 80% AMI), except for a manager's unit(s) as permitted by State law.

#### **d. Environmental Review**

SB 35 specifies that the approval process is “ministerial”, and approval will be granted if the project complies with “objective standards,” meaning standards for which no subjective judgment is exercised. Because CEQA does not apply to ministerial approvals, the local agency is not permitted to conduct environmental review of the project, or require any additional studies.

## **2. LEGISLATIVE CONTEXT**

The housing crisis continues to have a significant impact on Californians across the state. Pursuant to SB 35, cities that are not completely on track to meet their RHNA housing production obligations will be required to follow a streamlined, ministerial approval process for qualified housing projects. In June 2021, HCD confirmed that Santa Clara has produced insufficient very-low income, lower income, and moderate-income housing units and therefore is subject to SB35 streamlining provisions for projects providing 50% of their units as affordable at 80% AMI. (See [SB 35 Determination Methodology and Background Data](#) revised July 2021).

The project also includes a density bonus pursuant to Government Code Section 65915, with the waivers and concessions and incentives, as allowed per SDBL and the Santa Clara density bonus ordinance provisions. Finally, the proposed project is also subject to Government Code Section 65589.5, also known as the Housing Accountability Act (HAA). The project's consistency with each of these provisions of State law is discussed in detail below. All three of these Government Code sections are state legislative efforts that recognize the severity of California's housing crisis and the difficulties associated with developing new housing at appropriately zoned, transit-oriented, and urbanized locations.

As set forth in this Applicant Statement, the project is entitled to streamlined ministerial approval under SB35. In addition, the Housing Accountability Act (Gov. Code § 65589.5) also requires the City of Santa Clara to approve the project because it is consistent with all objective standards. Under the Housing Accountability Act, the City is only permitted to reject a project if it can make findings based on a *preponderance* of evidence that the project would have a significant, unavoidable, and quantifiable impact on “objective, identified written public health or safety standards, policies, or conditions.” (Gov. Code §65589.5(j)). The Legislature recently affirmed its expectation that these types of conditions “arise infrequently.” (Ch. 243, Stats. 2018, § 1 (adding subdivision (a)(3) to Gov. Code § 65585.5)). Here, there is no evidence, let alone a preponderance of evidence, that the project would have any impact on public health and safety.

Assembly Bill 3194 modified the Housing Accountability Act in 2018 so that, “a proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan” (Gov. Code § 65589.5(j)(4)). The project site’s zoning was inconsistent with the site’s General Plan designation of Residential Mixed Use because the height, density, and setback standards could not be accommodated.

Furthermore, per Gov. Code § 65589.5(j)(4) , “If the local agency has complied with paragraph (2), the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning which is consistent with the general plan, however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.” In this case, the City of Santa Clara has stated that the project complies with the objective standards and criteria of Very High Density Mixed Use (VHDMU) zoning. In consultation with City staff, the proposed project fits the objective standard requirements of VHDMU because the Height, Density, and Setbacks did not comply with the site’s Thoroughfare Commercial (CT) zoning. Therefore, it is a better match, consistent with AB 3194, that the proposed project conforms to the objective standards and criteria of VHDMU zoning.

ATTACHMENT A

**Explanation of Project Exemplary Design with Appropriate Transition to the Existing Neighborhoods**

5.5.1-P7 For new mixed-use development with **exemplary design** that provides **appropriate transition measures to existing neighborhoods**, allow a ten percent reduction in the minimum required residential density and/or a ten percent reduction in the minimum allowed non-residential square footage, provided that the reduced density and/or intensity is compatible with planned uses on neighboring properties and consistent with other applicable General Plan policies. Reductions in square footage are applied after FAR calculations.

5.5.2 Transition Goals and Policies Transition policies are applicable to sites where new development is of a different land use classification and/or intensity to that of adjacent neighborhoods. Transition Policies may apply to areas where residential uses abut retail, commercial, office, research and development, or industrial development. Transition Policies do not apply to new development in the Downtown Core within the Downtown Focus Area in order to promote a revitalized destination in the heart of Santa Clara. Transition Policies for properties in proximity to historic resources are also included in the Historic Preservation Policies in Section 5.6. Transition Policies are intended to address compatibility between existing and new development and may be applied in order to:

- Adjust building height, scale and massing along the site perimeter abutting lower-intensity uses. For example, a multi-story commercial building could be taller along the street frontage, and shorter near the portion of the site that abuts a residential parcel, as illustrated in Figure 5.5-1.

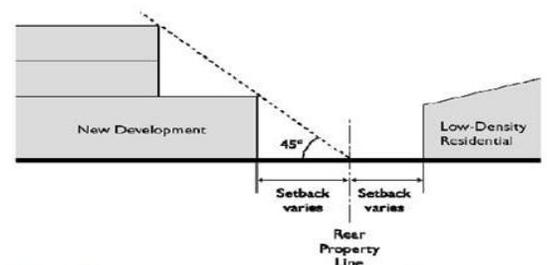


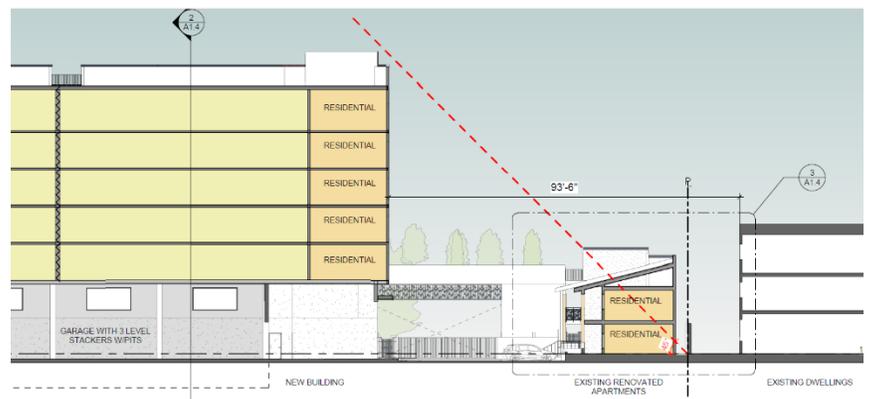
Figure 5.5-1: Example of Transition with Existing, Lower Intensity Development

5.5.2-P6 Adjust new building height, scale and massing along the site perimeter abutting planned lower-intensity uses.

Figure 5.5.1 General Plan Setback for Commercial FAR Reduction

**Project Response**

The project General Plan designation is Regional Mixed Use, where a minimum FAR of 0.15 for commercial uses is required. The proposed project complies with Section 5.5.2 and Figure 5.5.1 of the General Plan because it provides a 45 degree angle of massing transition for the new structures as measured from the rear property line. This entitles the project to the 10% reduction in Commercial FAR, for a total requirement of 1.35 FAR. In addition, many other exemplary design features are provided as described below.



Proposed Setback and angle

5.5.1-P7 For new mixed use development with exemplary design that provides appropriate transition measures to existing neighborhoods, allow a ten percent reduction in the minimum required residential

density and/or a ten percent reduction in the minimum allowed non-residential square footage, provided that the reduced density and/or intensity is compatible with planned uses on neighboring properties and consistent with other applicable General Plan policies. Reductions in square footage are applied after FAR calculations.

Clara Gardens is a mixed-use affordable housing development which transforms an antiquated motel into a new mixed-use building fronting the El Camino Real, enhancing the frontage with active uses including commercial spaces and an entry lobby. The frontage enhancements include new sidewalks, landscaping, and screening of utilities. The design also removes an entry/exit drive through the motel enhancing the pedestrian safety and walkability along the El Camino Real. The building frontage will provide transparency and activity and will add additional lighting from the building along the El Camino Real, which will greatly enhance safety. The El Camino Real design steps down the massing and articulates the façade to appear as two separate buildings. The following additional exemplary design components are included:

- The new seven-story building is located along the El Camino Real and a great distance from the rear property and adjacent neighbors, between 85 and 90 feet from the adjacent neighboring residences. The existing motel building is being retained in its two-story configuration, which provides a buffer and transition to the adjacent properties. The design of the motel renovation and rear elevation of the existing building has responded to neighbor's request to not have visual (bedroom or living room) windows on the upper level of the rear elevation, thus respecting their privacy.
- The roof is being replaced with a sloped roof which will be a more pleasing appearance than the built-up roof in its current condition. The orientation of living spaces to the center of the development and location of the open space assures compatibility and the least amount of noise and activity impacting the adjacent neighbors and reflects an appropriate transition to the adjacent properties and their uses, which is a General Plan Policy.
- The main entrance to the community is on Flora Vista, extending the residential pattern along this residential street. The Flora Vista facing building is designed as a flatiron wing and steps down, as do other portions of the rear façade maintaining the building character and quality on all elevations of the building.
- There will be a new courtyard for the residents with a children's play area and climbing wall. There is also a second raised landscape gathering area above the entrance gateway for residents to gather. This is a unique and dramatic gathering place along Flora Vista for the residents.
- The design includes a variety of quality materials used to define and reinforce the buildings articulations and break down the scale of the building. They have been selected to reflect high quality design and construction for appearance and long-term durability.

- The overall design of Clara Gardens presents a quality mixed use affordable housing development, bringing life and activity to the El Camino Real corridor and being an asset to the Santa Clara community.

#### **Breakdown of Non-Residential Space Provided Consistent with the Commercial FAR Requirement**

The minimum commercial FAR required for this development is 0.135. The project therefore requires 6,608 SF of Community space. The 6,608+ SF of nonresidential/commercial space is made up of the following office and service commercial uses that meet local needs:

- Unprogrammed leasable commercial space on El Camino. (Likely retail or office)
- Laundry Room services provided by third party commercial laundry vendors and resident will pay for use (same as a laundromat).
- Offices for the 3rd party Property Management staff.
- Offices for the 3rd party Services Provider.
- Large multi-purpose/nonresidential rooms that will be used by the Services Provider team and property managers to provide services

*Examples of the types of services that the nonresidential spaces will be used for:*

- *Health and wellness*
  - *Covid vaccines, blood pressure management and fall prevention workshops.*
- *Adult enrichment*
  - *Financial literacy workshops, ESL classes, resume building, yoga, healthy cooking workshops, citizenship classes, workshop on incubating a small business.*
- *Youth enrichment*
  - *After school programs, tutoring, story time, coding classes*
- *Community building activities*
  - *Movie nights, game nights, community, and cultural celebration*