

February 14, 2020

Helen Tong-Ishikawa
MidPen Housing Corp.
Foster City, CA 94404

SITE ADDRESS: 1710 Moorpark Avenue

RE: File No. H19-054: SB 35 Streamlined Ministerial Permit to demolish an existing structure and a portion of a structure, and construct a 5-story permanent supportive housing development (residential service facility) with 108 units and approximately 2,000-sf of private community gathering space, and the removal of 10 ordinance-size trees and 13 non-ordinance size trees, on a 1.01-gross acre site.

Dear Helen,

Your application referenced above has undergone review pursuant to *SB 35 Affordable Housing Streamlined Approval*. The purpose of this letter is to provide you with comments so you can appropriately respond to the issues identified below. Please let me know if you have any questions regarding these comments.

Project Issues

Based on our review, the project is not eligible for a streamlined approval process, as proposed, as it does not fully meet the City's objective standards. We are unable to confirm that it meets the City's Lighting Policy and whether it meets all of the requirements of SB 35 (subdivision of land). Staff can work with you to address these areas and help the project meet the objective of providing affordable housing. Should you choose to continue with the process and correct the inconsistencies, then the 60-day timeline will restart upon resubmittal in response to this letter.

SB-35 Planning and zoning: affordable housing: streamlined approval process

[SB 35](#) (Government Code section 65913.4), is aimed at addressing the state's housing shortage and high housing costs. Specifically, it requires the availability of a *Streamlined Ministerial Approval Process* for developments in localities that have not yet made sufficient progress towards their allocation of the regional housing need.

Eligible developments must comply with the following provisions of the law:

1. The project is a multifamily housing development (2 or more units) (subd. (a)(1)).
2. The applicant has dedicated a minimum of 50% of units as affordable at or below 80 percent of the area median income (AMI) (subd. (a)(4)(B)).
3. The site is in an "urbanized area" or "urban cluster" as designated by the Census (subd. (a)(2)(A)).
4. At least 75% of the perimeter of the site adjoins parcels currently or formerly developed with "urban uses" (subds. (a)(2)(B), (h)(8)).

5. The site has either zoning or a general plan designation that allows for residential use or residential mixed-use development (subd. (a)(2)(C)).
 - a. *Note: For property designed for mixed-use, the designation must require at least “two-thirds of the square footage of the development” to be residential.*
6. The project does not include a subdivision of land (subd. (a)(9)).
7. The project meets the design requirements, “objective zoning standards,” and “objective design review standards” (subd. (a)(5)).
8. The project is outside each of the following areas (subd. (a)(6)-(a)(7)).
 - Coastal zone
 - Prime farmland or farmland of statewide importance
 - Wetlands as defined under federal law
 - Earthquake fault zones
 - High or very high fire hazard severity zones
 - Hazardous waste site
 - FEMA designated flood plain or floodway
 - Protected species habitat
 - Lands under a conservation easement
 - Lands designated for conservation in a habitat conservation plan
 - A site that would require demolition of: housing subject to recorded rent restrictions, housing subject to rent control, housing occupied by tenants within past 10 years, or historic structure(s) placed on a local, state, or federal register
 - A site that previously contained housing occupied by tenants within past 10 years
 - A parcel of land governed by the Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act.
9. The project proponent certified that the entire development is a “public work” for purposes of prevailing wage law or that the construction workers will be paid at least the prevailing wage (subd. (a)(8)(A)).
10. The project proponent certified that “a skilled and trained workforce” will be used to complete the development, if the requirement is applicable (subd. (a)(8)(B)).

Based on the information provided, staff is unable to determine conformance with **Item 6 (subdivision) and Item 7 (objective zoning standards)**. Item 12 of the SB35 Justification letter you submitted states the project is subject to the requirement that a skilled and trained workforce be used. Pursuant to the [Streamlined Ministerial Approval Process 35 Guidelines Section 403. Labor Provisions \(b\)\(3\)](#) the skilled and trained workforce requirement is not applicable to developments with a residential component that is 100 percent subsidized affordable housing. It is our understanding that the project is 100% subsidized affordable housing. If that is not the case, please clarify with your resubmittal. Section 3 – Zoning Consistency describes the project’s inconsistency with zoning standards.

Project Review

1. General Plan Consistency

The Envision San José 2040 General Plan land use designation for this property is **Public/Quasi-Public**. This category is used to designate public land uses, including schools, colleges, corporation yards, homeless shelters, libraries, fire stations, water treatment facilities, convention centers and auditoriums, museums, governmental offices, and airports. Private community gathering facilities, including those used for religious assembly or other comparable

assembly activity, are also appropriate on lands with this designation. The appropriate intensity of development can vary considerably depending on potential impacts on surrounding uses and the particular Public/Quasi- Public use developed on the site. The project proposes a density of 153 DU/AC and an FAR of 2.63.

The proposed project is **consistent** with the following goals and policies of the Envision San José 2040 General Plan:

Goal H-1 Housing – Social Equity and Diversity

Provide housing throughout our City in a range of residential densities, especially at higher densities, and product types, including rental and for-sale housing, to address the needs of an economically, demographically, and culturally diverse population.

VN-1.1: Maintain existing and develop new community services and gathering spaces that allow for increased social interaction of neighbors (i.e. parks, community centers and gardens, libraries, schools, commercial areas, churches, and other gathering spaces).

AH-2.7: Support strategies in collaboration with other jurisdictions and agencies to end homelessness by creating permanent housing solutions combined with services such as medical, education, and job placement.

The project is **consistent** with this designation as it would provide permanent supportive housing to chronically homeless individuals coupled with services. The project would also maintain space for the adjacent church to use and will further support the preservation of Public/Quasi-Public lands.

2. Applicable City Council Policies

Please note the following [City Council policies](#) are applicable to your project:

- [Green Building Policy](#)
- [Lighting: Outdoor Lighting on Private Developments](#)
- [Post Construction Urban Runoff Management](#)
- [Public Noticing \(On-Site Posting\)](#)
- [Public Outreach Policy for Pending Land Use and Development Proposals](#)
- [Transportation Analysis Policy](#)

3. Zoning Consistency

The subject site is in the **PQP Public/Quasi-Public Zoning District**. This district provides for public serving uses, and can accommodate private schools, daycare centers, and residential service facilities. Please note that while the use is enumerated as a *Residential Service Facility*, it is defined in the Zoning Ordinance as *Supportive Housing*:

20.200.1265 - Supportive housing. “Supportive housing” means housing with no limit on length of stay and that is occupied by a target population as defined in subdivision (f) of Section 65582 of the California Government Code, as the same may be renumbered or amended from time to time, and that is linked to onsite or offsite services that assist supportive housing residents in retaining housing, improving their health status, and maximizing their ability to live and, when possible, work in the residents' community. Supportive housing shall be treated under this title as a residential use and shall be allowed in residential, commercial, public/quasi-public, and the downtown zoning districts in

the same fashion as a residential care facility or a residential service facility.

The project is **generally consistent** with the Zoning designation for the subject site based on [§20.30.100](#) and the project description. The following is a discussion of the project’s conformance with those standards.

a. Use: A Residential Service Facility is a Conditional Use in the PQP Zoning District. Pursuant to SB 35, project that meet the criteria must be processed through a ministerial review.

b. Height: The maximum height allowed is 65-feet. The proposed height of 59-feet, 11 inches is consistent with this requirement, however it is unclear from the elevations whether that maximum height includes the top of the elevator shaft. Please ensure the total height is included in your resubmittal.

c. Setbacks: The following PQP Zoning District standards can be found in [§20.40.200](#).

	Setback Requirements	Proposed Setbacks
Front (Moorpark Avenue)	10-feet minimum, or less if established in approved development permit	<i>5-feet</i>
Front (Richmond Avenue)	10-feet minimum, or less if established in approved development permit	<i>5-feet, 10 inches</i>
Front (Leigh Avenue)	10-feet minimum, or less if established in approved development permit	<i>8-feet</i>
Rear (adjacent to church)	10-feet minimum, or less if established in approved development permit	<i>10-feet, 4 inches</i>

While the project could be approved with the proposed setbacks, the plan set does not clearly show them (as identified in the Title Sheet and the table above). For example, based on our review of Sheet 9.1, the Moorpark Avenue setback is 15-feet, Leigh Ave. 6-feet, Richmond Ave. 6-feet and the rear setback 6-feet. Setbacks should be measured from the future property line to the closest point of the building. Please revise the plan set accordingly.

d. Parking: Pursuant to [§20.90.060](#), the following table describes the required and proposed parking.

Use	Vehicle Parking Ratio	Required	Proposed
Community Center	1 per 4 fixed seats, or 1 per 6 linear feet of seating, plus 1 per 200 square feet of area without seating but designed for meeting or assembly by guests, plus 1 per 500 sq. ft. of outdoor area developed for recreational purposes.	2	0
Residential Service Facility	1 per first 6 client beds, plus 1 additional space for up to 4 client beds (or portion thereof) above the first six, plus 1 additional space for each additional four client beds (or portion thereof), plus 1 space for each employee or staff member	26 for client beds (studios) and 8 for staff/employees	34

The project proposes 34 parking spaces. Pursuant to SB 35, automobile parking standards shall not be imposed on a development that is located within one-half mile of public transit. The project site is approximately 2,400-ft from the VTA Fruitdale Light Rail Station. While the project appears to provide sufficient parking for the Residential Service Facility with a maximum 8 staff/employees, it seems parking for the community center use is deficient. Please provide the two required parking spaces for the community center use. Also, please clarify the total number of staff; the two manager’s units will also count as “staff” for the facility.

Displaced church parking: The project proposes to remove 15 parking spaces that currently serve the adjacent church use. The parking agreement between the church and the senior affordable housing complex denotes 48 parking spaces for the church’s use. These spaces would suffice a church use with a maximum of 288 linear feet of seating. It is our understanding that the church currently exceeds this seating, however, will reduce the seating in the near future. The project will be conditioned to show that the church has removed a sufficient amount of linear seating to satisfy the parking requirements.

Bicycle Parking: The following table, pursuant to [Table 20-190](#), shows the required bicycle parking spaces. The project proposes 54 long term bicycle parking spaces. Please include two short-term parking spaces.

Use	Bicycle Parking Ratio	Required
Residential Service Facility	1 per 10 full-time employees	1 (assuming 8 employees)
Community Center (private gathering facility)	1 per 3,000 sq. ft. of area without seating but designed for meeting or assembly by guests	2 short term and 1 long term space, pursuant to §20.90.060(B)(3)

- e. **Tree Removal:** Based on the application attachment the project proposes the removal of 11 ordinance size trees and 13 non ordinance size trees. However, this is inconsistent with the information shown on the Tree Inventory Table on Sheet L5.0. The table shows a total 10 ordinance sized trees to be removed. Please clarify this with your resubmittal. Staff could support the removal of the trees so long as the tree replacement ratio is as follows:

Tree Replacement Ratios				
Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon

Tree Replacement Ratios				
Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
x:x = tree replacement to tree loss ratio Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size. A 38-inch tree equals 12.1 inches in diameter. A 24-inch box tree = two 15-gallon trees Single Family and Two-dwelling properties may be mitigated at a 1:1 ratio.				

It appears only 5 trees are proposed to be replanted on site. If all trees cannot be planted on-site, please note that on the plan set. There is an option to pay an off-site replacement fee ([\\$755/tree](#)). Attached is a list of trees native to San José to assist with the tree replacement calculation.

4. Plan Clarifications and Required Additional Information

- a. Attached please find a redlined plan set with the corrections required.
- b. Please provide a Lighting Plan that shows conformance to the City’s Outdoor Lighting Policy.
- c. Decorative ventilation screen—we encourage you to consider incorporating a green wall on the screen to further screen the parking areas from pedestrian view. The plan set does not provide a detail of the screen, so it is not clear whether it will truly screen the parking area.

5. Environmental Review - California Environmental Quality Act (CEQA)

Should the project continue to be processed as an SB 35 Project, it would be considered ministerial and not subject to CEQA.

6. On-Site Sign Posting

Pursuant to the City’s Public Outreach Policy, a sign describing the proposed project should be placed on each project site street frontage so it is legible from the street. Attached is a PDF of the on-site poster. Once the sign is posted, please take pictures of the on-site sign, and fill out the [Declaration of Posting](#) (page 3) and send both of those to me.

7. Community Outreach

Projects subject to SB 35 are not required to hold a community meeting. However, if you do choose to host a meeting, please let us know.

8. Comments from Other Departments/Divisions and Agencies

Attached is a memorandum from other departments/divisions as indicated below. Please carefully review the memos, as they contain essential information needed to move your project through the Planning entitlement process successfully and efficiently. As required, comments contained in the attached memos must be incorporated into the revised plan sets. Concerns about any of these issues should be brought to my attention so that I can coordinate with appropriate City staff on your behalf.

- a. Building – See attached
- b. Fire – See attached
- c. Housing – See attached
- d. PRNS -- See attached
- e. ESD-IWM—*forthcoming*
- f. Public Works – *emailed on 1/27/20*
- g. Valley Transportation Authority (referral per PW Memo)— *forthcoming*

9. Next Steps

Should you choose to continue with the SB 35 process, staff can work with you to address areas of inconsistencies and help the project meet the objective of providing affordable housing. The 60-day timeline will restart upon submittal of a revised plan set in response to this letter. To facilitate the development review process, please include a detailed response letter with your resubmittal that addresses all items contained in this letter and attached memos. Additionally, please submit four (4) 24" x 36" size revised plans and two (2) 11"x17" size plans along with pdf copies.

Should you have any questions, you may contact me at ruth.cueto@sanjoseca.gov or (408) 535-7886.

We look forward to continuing to work with you and your team on your project in San José.

Sincerely,



Ruth Cueto
Project Manager

Attachments:

- a. Redlined Plan Set
- b. On-site notice
- c. Native Trees List
- d. Building Memo
- e. Fire Memo
- f. Housing
- g. PRNS