



American Planning Association
California Chapter

Creating Great Communities for All

August 4, 2020

SUBJECT: Comments on SB 35 Draft Streamlined Ministerial Approval Process Updated Guidelines – Filed online: CAHP@hcd.ca.gov
From the American Planning Association, California Chapter

The American Planning Association, California Chapter appreciates this opportunity to provide comments to HCD on the SB 35 Draft Streamlined Ministerial Approval Process Updated Guidelines.

APA has the following comments:

1. HOUSING FUNDS:

DRAFT GUIDELINE: A local government cannot deny a project access to local housing funds or state housing funds solely on basis that the project is eligible to receive streamlined processing. **(Section 300(e)(1)**

APA COMMENT: This is unrelated to streamlined permit approval and does not have a basis in the statute. Therefore, this provision should be removed.

2. DEVELOPMENT REVIEW AND PROCESSING:

DRAFT GUIDELINE: If a project is in conflict with objective planning standards, the city or county shall provide written documentation of conflicts and shall allow the developer to correct the deficiencies if the corrections are submitted at least 2 weeks before the final approval timeline. **(Section 301(3)**

APA COMMENT: This leaves very little time for the city or county to review re-submitted documentation. A resubmittal could include material changes in the project to redesign it in compliance with objective standards, and agencies should have more time to meaningfully review and comment.

DRAFT GUIDELINE: The local agency must show substantial evidence to support the finding that “no reasonable person could conclude the development is consistent”. **(Section 301(3)(A)**

APA COMMENT: This is a standard not required in the statute – the statute requires written documentation of which standard the development conflicts with and an explanation. Ultimately, an SB 35 project would not be denied without findings that comply with the evidentiary standard included in the Housing Accountability Act, so this additional limitation is unnecessary.

DRAFT GUIDELINE: If an application is denied, the project proponent can resubmit: if the project proponent resubmits, then the proponent must notify the local agency of their intent to do so within 5 days from the receipt of the project denial and not less than 2 weeks before final approval timeline. Resubmittal does not start a new consistency review timeframe and does not extend the final approval timeline. The clock is tolled during the period between notification of intent to resubmit and resubmission. Resubmittal must be submitted within 30 days of notification of intent to resubmit. **(Section 301(4)(A))**

APA COMMENT: This reduces time for local agency review and is not in the statute. If the project is properly denied, a new project application appropriately should be subject to the statutory review periods.

DRAFT GUIDELINE: If consistency documentation or design review is not provided or conducted within the timeline by the local agency, then the project is deemed approved. **(Sections 301(b)(2)(C); 301(b)(3)(C))**

APA COMMENT: This remedy could lead to projects that do not meet affordability or labor standards being “deemed approved” in violation of SB 35’s requirements. Any failure to act by a local agency should not relieve a project of its obligation to comply with these aspects of the statute.

DRAFT GUIDELINE: Requires that new approval timelines for an application for a Streamlined Ministerial Approval pursuant to the Guidelines are: For a project that does not require design review or public oversight, timeframes pursuant to Section 301(b)(2). For a project that requires design review or public oversight, timeframes pursuant to Section 301(b)(3). **(Section 301(b)(4))**

APA COMMENT: These new timelines are not in the statute: the approval periods are the same as the design review period defined in SB 35.

APA appreciates your consideration of these comments.

Sincerely,



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APA California