



Community Update on the Mills Park Center Development

October 25, 2019

In keeping with our commitment to inform the community of significant events related to the proposed Mills Park Center Development, this Community Update provides information on two items: 1) a conceptual plan for an alternative project proposed by the Developer and 2) a tolling agreement between the City and various parties that temporarily limits the City's exposure to lawsuits challenging the City Council's actions on July 9, 2019 regarding the project.

Brief Background on the Project

The original proposed project would remove existing commercial buildings and surface parking lots on a 5.38 acre site at the south-west corner of San Bruno Avenue and El Camino Real (bordered by Linden Avenue and White Way to the west, and Angus Avenue to the south). The project was proposed to include 425 residential units (including 64 affordable units), a high-end grocery store, ground floor commercial rental space as well as 879 on-site parking for residents, grocery customers, employees and commercial tenants.

On July 9, 2019, the project went before the City Council for action, with a recommendation for approval from City staff and the Planning Commission. Due to the unique circumstances of the recusal of two Councilmembers, only three Councilmembers were eligible to vote on the project. State law (Government Code §36936) requires that a minimum of three Councilmembers approve all City resolutions and ordinances. As such, approval of the project required support from each of the three Councilmembers who are eligible to vote on the project. After a lengthy hearing, Mayor Rico Medina and Councilmember Laura Davis voted in favor of the project, and Councilmember Marty Medina voted against the project. Thus, the project could not proceed forward.

Alternative Development Concept (SB 35 Project)

The property owner, the G. W. Williams Company, has owned the site for more than 70 years and remains committed to redeveloping the site. Through the Developer, the property owner has informed the City that, while they remain committed to the project as originally proposed, they are considering other development options for the site, including a revised project that is designed to comply with California Senate Bill 35 (SB 35).

Enacted in 2017 with the goal of expediting the construction of housing to address the state's housing shortage and high housing costs, SB 35 allows for a streamlined approval process for housing projects in municipalities that fail to approve enough housing to meet state mandated housing construction requirements. SB 35 eligible projects must meet or exceed affordable housing requirements, be on an infill site, and comply with "objective" development standards.

If a development on the site qualifies as an SB 35 project, the City of San Bruno cannot require any residential parking because the project is within half a mile of the Caltrain station.

On October 22, the Developer submitted a [letter](#) to the City that outlines an alternative development concept, which they refer to as a “SB 35 Project”. The alternative project calls for four separate 6 and 7 story buildings with a total of approximately 600 residential units, elimination of the grocery store, and a lower on-site parking ratio per unit. In addition to utilizing SB 35, the Developer has stated their intent to utilize State Density Bonus Law to seek a waiver of the City’s height limits. The alternative concept also includes retaining the existing street grid and eliminates a traffic signal that was proposed at the intersection of Kains Avenue and El Camino Real in the original project. According to the letter, “due to the smaller developable lots as compared with the original project, the SB 35 Project buildings would be set back from the property boundaries at the minimum distance required by the City’s zoning code and the Transit Corridors Plan.” This means that the greater setbacks and tiering of the upper stories away from neighboring single family homes that was included in the original project would be eliminated.

As noted above, the alternative SB 35 Project that the Developer outlined differs significantly from the original project. While all details are not discernable from the Developer’s October 22 letter, the following table attempts to outline key differences.

	Original Project Proposal	Alternative SB 35 Project Concept
Residential Units	425 units	Approximately 600 units
Retail Space	Grocery store of approx. 42,000 sq. ft. grocery store, plus 4,000 sq. ft. of ground floor commercial space	No grocery store. Includes approx. 1,500 sq. ft. ground floor commercial space
Number of Buildings	2 buildings	4 buildings
Height Maximum	5 stories / 70 ft.	7 stories / 85 ft.
Residential Parking Spaces	641 spaces (approx. 1.51 spaces per unit)	Approximately 475 or fewer spaces* (approx. 0.8 spaces per unit)
Retail Parking Spaces	238 spaces	Approximately 5 spaces
Community Benefit Payment / Development Impact Fees	Up to \$10 million in Community Benefits Payments to the City	Uncertain, but approx. \$13.1 million in Development Impact Fees required for 600 residential units

**The Developer’s October 22 letter notes that because the site is within one-half mile from public transit, SB 35 prevents cities from requiring parking for residential housing. Further, the letter states that “the SB 35 project...would provide parking closer to the anticipated market demand at a ratio of 0.8 spaces per unit, with the ability to further reduce this to zero.”*

Below are renderings of the original project and rough massing diagrams of the alternative SB 35 Project that were submitted by the Developer.

Original Proposed Project

West View from El Camino Real



North View from Linden Avenue



Alternative Development Concept (SB 35 Project)



West View from El Camino Real



South View from San Bruno Avenue

It is important to note that no detailed plans that demonstrate full compliance with SB 35 and State Density Bonus Law requirements have been submitted to the City, and it is not known whether or not the developer will in fact be able to construct a compliant SB 35 project on the site. Should such a project be submitted utilizing the SB 35 process, the City must follow State law, which requires a 90-day staff-level compliance review of the project to determine only whether the project meets the SB 35 eligibility criteria and does not allow review under the California Environmental Quality Act (CEQA). A decision on an SB 35 project of this size must be made within 180 days of submittal.

While providing more housing units, the alternative SB 35 Project appears to create a greater impact on the existing Mills Park neighborhood than the original project proposal. Should the developer formally submit a SB 35 Project for review, City staff will take all legally allowable steps to limit the project's impact on the existing community.

Tolling Agreement

After the City Council's July 9, 2019 hearing, various parties, including the property owner and housing advocacy groups, informed the City that they believed the City's failure to approve the project violated state and local laws. The regional and statewide housing advocacy groups are:

- California Renters Legal Advocacy & Education Fund
- Yes in My Back Yard
- Peninsula for Everyone
- San Francisco Bay Area Renters Federation
- Urban Environmentalists

These groups and individuals associated with them, such as potential tenants, have a record of suing cities to compel them to approve housing developments. The deadline for filing a lawsuit challenging the City Council's action would have been October 7, 2019, and would have embroiled the City in costly litigation to defend against the claims.

On October 4, 2019, the City of San Bruno entered into a tolling agreement with thirteen (13) parties to temporarily limit the City's potential liability and exposure to these potential lawsuits. The tolling agreement delayed the deadline for filing lawsuits until January 6, 2020 and requires parties to provide 60-days' notice before they sue.

Next Steps

At present, there remains to be no clear path for the original proposed project to move forward. Further, the City staff has taken no position on the viability of a SB 35 Project, should one be formally submitted.

City staff will continue working to protect the interests of the City and taxpayer dollars, as we continue to implement the policies and directives of the City Council.