



PLANNING AND BUILDING DEPARTMENT

PLANNING DIVISION

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Government Code §65913.4 (SB 35/SB 423) Permit Streamlining Affordable Housing Preliminary Eligibility Determination Checklist

Overview

California Senate Bill 35 (2017 Legislative session) created a streamlined and ministerial approval process for certain housing projects under Government Code §65913.4. SB 423 (2023 Legislative session) amended and extended SB 35 to 2036. The California Housing and Community Development Department (HCD) has prepared guidelines that further explain the requirements of Government Code §65913.4. The Guidelines are available on HCD's website at <https://www.hcd.ca.gov/policy-research/docs/sb-35-guidelines-update-final.pdf>. Invocation of §65913.4 streamlining must be initiated by the project applicant and is subject to the eligibility restrictions and requirements listed in the checklist below.

To submit a complete §65913.4 application, applicants intending to invoke §65913.4 streamlining and ministerial approval process must fill out this checklist completely and provide any supporting items or documents and submit the items listed in Section C below. Incomplete applications will not be processed, and the request will be denied.

If any of the answers to the questions below are "no," then the project is not eligible for §65913.4 review and the County's standard development review process will apply, per applicable zoning regulations.

Section A. §65913.4 Preliminary Eligibility Determination Checklist

	§65913.4 Project Eligibility	Applicant Response (N/A means not applicable)	
1	Is this a multifamily project with at least two attached residential units (rental or for-sale)?	Yes ☐	No ☐
2	Is the development located on a legal parcel or parcels that are wholly within the boundaries of an urban area as defined by the US Census Bureau: https://www.census.gov/programs-surveys/geography/guidance/geo-areas/urban-rural.html	Yes ☐	No ☐
3	Does at least 75 percent of the perimeter of the site adjoin parcels that are developed with urban uses? For purposes of SB 35, "urban uses" means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses. Parcels that are only separated by a street or highway shall be considered adjoined.	Yes ☐	No ☐
4	Does the project site satisfy one of the following conditions? a. Zoned for residential use or residential mixed use. b. Has a General Plan designation that allows residential use or a mix of residential and non-residential uses. c. Meet the requirements of Gov't Code Section 65852.24.	Yes ☐ Selected Option _____	No ☐

5	For mixed-use projects, is at least 2/3 of the floor area of the proposed building or buildings dedicated for residential uses? If not a mixed-use project, check N/A. Additional density, floor area, and units, and any other concession, incentive, or waiver of development standards granted pursuant to the Density Bonus Law in Section 65915 shall be included in the square footage calculation. The square footage of the development shall not include underground space, such as basements or underground parking garages.	Yes ☐	No ☐
N/A ☐			
6	Has the applicant recorded, or is legally required to record, a land use restriction or covenant with minimum durations of 55 years for subsidized rental units in the development or 45 years for subsidized owned units in the development prior to issuance of first building permit? The county shall require the recording of covenants or restrictions for each parcel or unit of real property included in development. If recorded, submit documentation, otherwise checking yes indicates that you are willing to enter into a regulatory agreement to meet affordability requirements. Note – Requires coordination with El Dorado County Planning Division. The Affordable Housing Proposal Worksheet shall be submitted with this application.	Yes ☐	No ☐
7	Does the proposed development dedicate at least 50% of the units as affordable for households making at or below 80% of the area median income (AMI)? 80% AMI or below are those income brackets categorized as lower income, very low income, and extremely low income. Current income limits for El Dorado County are available on HCD's website at https://www.hcd.ca.gov/grants-and-funding/income-limits/state-and-federal-income-rent-and-loan-value-limits	Yes ☐ % Affordable at or below 80% AMI	No ☐
8	The project is located on a property that is outside each of the following areas (As the applicant, you are required to verify this information from Government Code §65913.4. The website addresses and government code sections serve as helpful guides. Checking Yes indicates that you have verified compliance. Please provide supporting documentation. • Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation (https://www.conservation.ca.gov/dlrp/fmmp/). • Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993). <i>Provide supporting documentation.</i> • A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within the state responsibility area, as defined in Section 4102 of the Public Resources Code. (https://www.fire.ca.gov/osfm/what-we-do/community-wildfire-preparedness-and-mitigation/fire-hazard-severity-zones/fire-hazard-severity-zones-maps-2022) • A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the site is an underground storage tank site that received a uniform closure letter issued pursuant to subdivision (g) of Section 25296.10 of the Health and Safety Code or the Department of Toxic Substances Control has cleared the site for residential use or residential mixed-uses (http://geotracker.waterboards.ca.gov/ and https://www.envirostor.dtsc.ca.gov/public/).	Yes ☐ Yes ☐ Yes ☐ Yes ☐	No ☐ No ☐ No ☐ No ☐

	- A flood plain as determined by maps promulgated by the Federal Emergency Management Agency (FEMA), unless the site has been subject to a Letter of Map Revision prepared by FEMA or the development has been issued a flood plain development permit pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations. (https://msc.fema.gov/portal/home). - A floodway as determined by maps promulgated by FEMA unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. (https://msc.fema.gov/portal/home) - Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code). <i>Provide supporting documentation.</i> - Lands under conservation easement. <i>Provide title report.</i>	Yes ☐	No ☐
		Yes ☐	No ☐
		Yes ☐	No ☐
		Yes ☐	No ☐
9	I have reviewed the Interim Objective Design Standards, and the project as proposed meets all of the development and design standards. If the project will include a density bonus as outlined below and will meet all required development standards with the exception of those deviations allowed through the County's density bonus program, check yes.	Yes ☐	No ☐
10	Does the proposed development meet all objective zoning standards and subdivision standards, which include but are not limited to Title 130 (Zoning Ordinance), Specific Plans, etc.? Note: If the proposed development is consistent with all objective subdivision standards in the local subdivision ordinance, an application for a subdivision pursuant to the Subdivision Map Act may be exempt from the requirements of the California Environmental Quality Act.	Yes ☐	No ☐
11	The development is not located on a site where any of the following apply: - Demolition of housing (1) subject to recorded rent restrictions or (2) housing occupied by tenants within the past 10 years. - Demolition of a historic structure listed on a local, state, or federal register. - Site was previously used for housing that was occupied by tenants that was demolished within 10 years of development proponent submitting this application.	Yes ☐	No ☐

12	The project proponent certifies that at least one of the following is true and has completed the Certificate of Compliance – Prevailing Wage: - The entirety of the project is a public work as defined in Labor Code section 1720 et seq. - The project is not in its entirety a public work and the developer shall comply with prevailing wage (including any reporting) requirements pursuant to Labor Code section 1720 et seq., Labor Code section 1771 et seq, and Government Code section 65913.4(8) et seq. Checking yes indicates acknowledgment and agreement to comply with all prevailing wage requirements. Check N/A if the project includes 10 or fewer units AND is not a public work AND does not require subdivision of land.	Yes ☐	No ☐
		N/A ☐	
13	The project is not located on a site governed by the Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act. (If not governed by any of these laws, check Yes)	Yes ☐	No ☐

Section B. Other Project Information

A “No” response in the following table **does not** disqualify a project from §65913.4 streamlining eligibility.

	Additional Information	Applicant Response	
1	Does this request include a Tentative Parcel Map or Tentative Subdivision Map?	Yes ☐	No ☐
2	Does this request include an Affordable Housing Density Bonus pursuant to County Zoning Code Section 130.31 and/or applicable state laws? If yes, include a statement with your application on how your request meets the density bonus criteria. Specify bonuses, concessions, waivers, and/or incentives that development proponent is requesting.	Yes ☐	No ☐

Section C. Preparing for §65913.4 Application Submittal

PREPARING FOR §65913.4 APPLICATION SUBMITTAL
In addition to the §65913.4 Preliminary Eligibility Determination Checklist and its supporting documentation, please complete and submit the following documentation for the Streamlined Ministerial Housing Review in order to continue with the §65913.4 streamlining process (entitlement process): ☐ Universal Application Form ☐ Letter of Authorization ☐ Grant Deed (if applicable) ☐ Agreement for Payment Form ☐ Streamlined Ministerial Housing Application ☐ Certificate of Compliance – Prevailing Wage ☐ Copy of approved Notice of Intent Preapplication ☐ Copy of Preliminary Housing Application ☐ §65913.4 Preliminary Eligibility Determination Checklist ☐ Affordable Housing Proposal Worksheet ☐ CTCAC / HCD Opportunity Area Board of Supervisors Public Meeting Attestation ☐ Tentative Map Application Materials ☐ Written request for Density Bonuses, Concessions, Waivers, Incentives (Refer to requirements in Zoning Ordinance Section 130.31 [Affordable Housing Density Bonus] and/or applicable state law) ☐ All required application submittal fees

Notice: Due to the reduced processing times for eligible §65913.4 development applications, submittal of an incomplete entitlement application is grounds for denial. The denial of an application for streamlined processing does not preclude the development proponent from correcting any deficiencies and resubmitting an application for streamlined review, or from applying for the project under standard processes and procedures. If the application is denied, and the development proponent elects to resubmit an application for streamlined review, the timeframes specified in Government Code §65913.4 shall commence on the date of resubmittal.