



STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of June 10, 2025

TO: Mayor and Members of the City Council

VIA: Dante Hall, City Manager

SUBMITTED BY: Tim Rood, Community Development Director

SUBJECT: Informational public meeting for Bayline Apartments, a proposed 100% affordable housing development project on Bayfront Blocks F & H (APNs 404-490-102-5 and 404-490-101-7) consistent with State law requirements (SB 35/SB 423) for a streamlined, ministerial review process

RECOMMENDED ACTION:

Hold an informational public meeting to provide an opportunity for the public and the City Council to comment on the development prior to the applicant submitting an application consistent with State law requirements under SB 35/SB 423. No formal action on the project will be taken at the meeting.

BACKGROUND:

On May 6, 2025, the City received a pre-application for a 100% affordable housing development project at Bayfront Blocks F & H (APNs 404-490-102-5 and 404-490-101-7) and a Notice of Intent to utilize the State streamlined development approval process pursuant to SB 35 and SB 423 (the State “streamlining laws”) for the project. These laws require ministerial approval of a development project if certain conditions are met.

Ministerial approval means a process for development approval involving little or no subjective judgement by the public official as to the wisdom or manner of carrying out the project. The public official merely ensures the proposed development meets all of the required objective zoning standards, objective subdivision standards, and objective

design review standards in effect at the time that the application is submitted to the local government, but uses no special discretion or special judgement in reaching a decision.

SB 35 was initially enacted in 2017 and applies to local jurisdictions that have not met certain planning goals established through the Regional Housing Needs Allocation (RHNA) process. Currently, Hercules has made sufficient progress in meeting the City's above-moderate income RHNA goals, so to qualify for streamlined development review, a developer would need to provide at least 50% of the project's units as affordable to lower-income households (80% of Area Mean Income [AMI]). The proposed project will provide 100% of the units to low-income and extremely/very low-income households and therefore qualifies for streamlined development review. One manager unit would be market-rate, as is typical for affordable housing developments and allowed by SB 35.

SB 423 updated SB 35 and went into effect on January 1, 2024. SB 423 requires these streamlined housing projects to undergo an informational public meeting with the City Council prior to submittal of a streamlined ministerial application, if the site is located in a low or moderate resource area as defined by California Tax Credit Allocation Committee (CTCAC). Like most of Hercules, the project site is in a defined moderate resource area.

The purpose of the streamlining laws is to encourage housing development by fast tracking the permitting process for housing developments that meet specific qualifications. A qualifying housing project that conforms to objective development standards, agrees to pay prevailing wages, meets minimum affordable housing requirements, and meets a long list of state-mandated eligibility criteria qualifies for streamlined ministerial approval, which is further described below.

The City has not received or evaluated a full application to verify that the required conditions are met. If agreement is reached with consulting Native American tribes to allow the SB 35 process to go forward, the applicant has up to 180 calendar days from the preliminary application submittal date, or until November 2, 2025, to submit a full application.

One threshold criterion for SB 35 projects is that they must qualify as "infill". State guidelines for the Streamlined Ministerial Approval process include the following definition: "Infill" means at least 75 percent of the linear measurement of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this definition, parcels that are only separated by a street or highway shall be considered to be adjoined.

The public meeting is meant to provide an opportunity for the public and the local government to comment on the development prior to submitting a streamlined ministerial application. No formal action on the project will be taken at this meeting.

Figure 1 – SB 35 Process

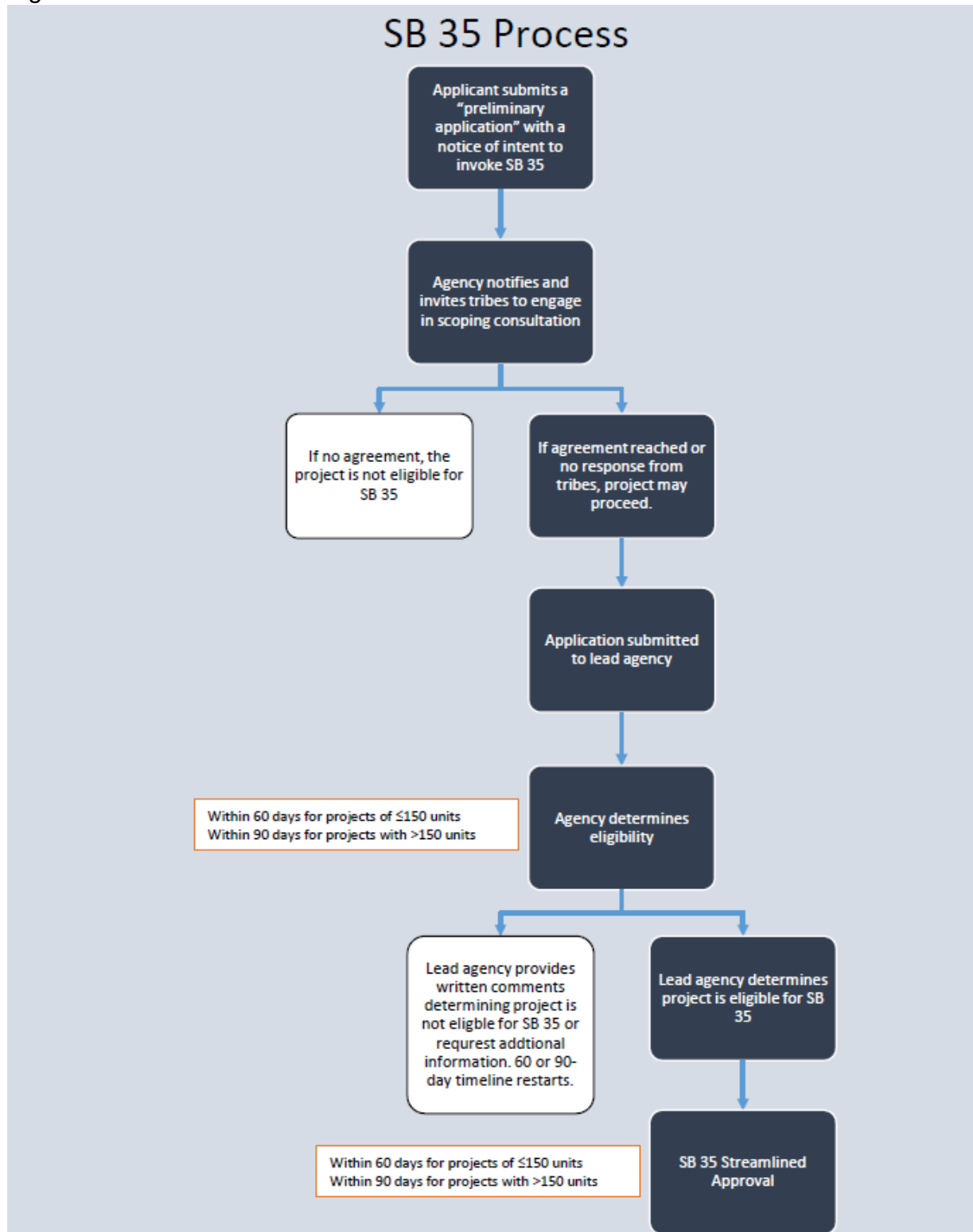
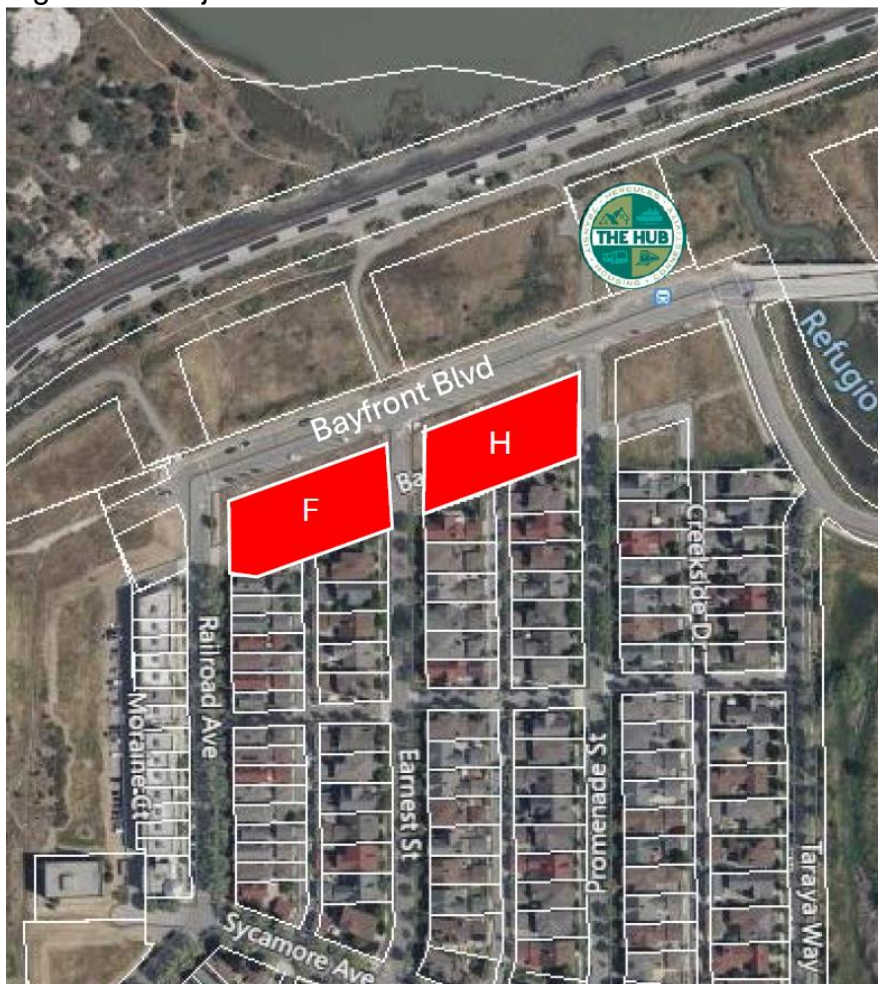


Figure 2 – Exterior Rendering



Figure 3 - Project Location



Project Description

The project sites are vacant. Surrounding uses include vacant land (Bayfront Blocks D, E, G, and J) and a combination of detached and attached single-family residential, with multifamily residential north of Refugio Creek. The site is located in the Waterfront District Master Plan (WDMP) area but is under separate ownership from Ledcor's Bayfront project and is not subject to the Bayfront agreements.

The project sites' base zoning is Residential Single Family Low Density; however, the WDMP takes precedence over the base zoning and designates both sites as T5-MS Bayfront Boulevard Main Street in its Building Form Regulating Map. The T5-MS designation allows buildings of 2 to 4 stories and is intended to enhance the vibrant, pedestrian-oriented character of Bayfront Boulevard with vertical mixed use, with retail or commercial on the ground floor and residential or commercial above.

The proposed project would include a new development of 107 multifamily housing units, including 11 extremely low income, 11 very low income, 84 low income units, and one unrestricted income manager's unit. The housing would include 42 one-bedroom units, 54 two-bedroom units, and 11 three-bedroom units. The application notes that the affordability levels and affordable unit counts are subject to change, although staff notes that the project would need to be consistent with SB 35 requirements to be processed as such. The proposed multifamily buildings would be 5 stories and approximately 60 feet tall measured to the parapet.

Although affordable housing does not require any off-street parking under the WDMP, the project proposes to provide 87 parking spaces accessed from the existing alley. The project would be required to install sidewalks and street trees along its frontages. Utility connections will be required for the project.

ANALYSIS

Streamlined Ministerial Approval Process (SB 35/SB 423)

This required public meeting will function similar to a study session and is intended to allow the public and the City Council an opportunity to comment on the proposed project. However, no formal decision will be made on the project at the meeting. The meeting will include presentations by staff and the applicant and will have an open public comment period. City Council members would be able to ask clarifying questions of the applicant and comment on the project. State law requires the applicant to attend the meeting and review the public testimony and written comments from the meeting prior to submitting a formal SB 35 / SB 423 application, but there is no requirement that the applicant make changes to the project to address comments.

Development Standards & Parking

The project will be reviewed against the objective design standards of the WDMP and other objective city standards. However, as discussed in the State Density Bonus section

below, the state density bonus law allows certain exceptions (known as waivers and concessions) from development standards for affordable housing, and the applicant has requested waivers for WDMP standards for height, retail/commercial requirements, ground floor ceiling clearance, building placement, façade composition, and building form.

The WDMP does not require any parking spaces for affordable or senior housing. Additionally, State law prohibits the City from requiring parking within a half mile of a major transit stop (including planned stops that are in the regional transportation plan, including the Hub) when a project dedicates a minimum of 20 percent of the total number of housing units to very low-, low-, or moderate-income households, students, the elderly, or persons with disabilities (AB 2097 [Government Code Section 65863.2]). The site is located within 0.2 miles of the Hercules Hub site and would provide 100% of the housing units at low- or very low- affordability levels and, therefore, is not required to provide off-street parking. The applicant is voluntarily proposing 87 off-street parking spaces accessible from the alley.

State Density Bonus

Independent of SB 35, projects that propose affordable housing may be eligible for a density bonus under State Density Bonus Law, which allows developers to exceed the maximum allowable density in the General Plan and Zoning Ordinance if the project includes a certain number and type of affordable units. The size of the density bonus is determined by the percentage of affordable units included in the project. Because the site is located in the WDMP, there is no density limit, and the project would not need to utilize the density bonus for additional units.

In addition to a density bonus, affordable housing projects may also be eligible for concessions and waivers under the State Density Bonus Law. A concession refers to the City granting a modification in certain development standards that result in identifiable cost reductions to provide affordable housing. The percentage of affordable units provided determines the number of concessions to which an eligible project is entitled. A waiver refers to the City granting a modification to a development standard that would physically preclude the construction of a project at the density permitted under the density bonus with the concessions permitted. State Density Bonus Law requires the City to grant the appropriate number of concessions and multiple waivers to an eligible project.

Because the project would include 100% affordable housing and is located within one-half mile of the planned Hercules Hub, which is included in the regional transportation plan, under State Density Bonus Law the project may qualify for five incentives or concessions, plus an automatic bonus of 3-stories or 33 feet of height beyond what the zoning height limit of 4 stories would allow. (Gov. Code 65915 (d) (2) (D))

At this time, the project proponent anticipates seeking Density Bonus incentives/concessions or waivers for the following development standards and requirements:

- (1) Relief from current height restriction under the Waterfront District Master Plan for properties located within the Bayfront Boulevard Main Street (T5-MS) Zone to allow for the construction of a five-story structure.
- (2) Relief from retail and commercial requirements under the Waterfront District Master Plan for properties located with the Bayfront Boulevard Main Street (T5-MS) Zone to eliminate these requirements.
- (3) Relief from T5-MS Bayfront Boulevard Main Street Standards, Ground Floor Ceiling minimum clearance requirements of 14' to allow for 12' ground floor clearance, or less, depending on the specific space.
- (4) Relief from T5-MS Bayfront Boulevard Main Street Standards, Miscellaneous to allow for transformer room doors located on Bayfront Boulevard.
- (5) Relief from T5-MS Bayfront Boulevard Main Street Standards, Building Placement to allow for an outdoor amenity area at the ground level.
- (6) Relief from Victorian Style, Typical Characteristics, Façade Composition to allow for portions of the façade are proposed to be plaster.
- (7) Relief from Building Form Standards, Allowed Building Height of 2 stories minimum, 4 stories maximum to allow for the construction of two five-story structures.
- (8) Relief from Building Form Standards, Building Form Zone Descriptions that require a vertical mixed-use building with retail or commercial on the ground floor and residential or commercial above, relief is proposed to allow no retail. Instead, shared amenities and community rooms for residents and events are proposed on the ground floor.

Staff will not evaluate whether the project is eligible for any of the above incentives/concessions unless and until the application is received.

HOUSING ELEMENT CONSIDERATIONS

By including 106 affordable units, the Bayline project would help the City to make up a portion of affordable housing capacity that may occur due to the Loop Site Builder's Remedy Project. Under state law, the City is required at all times to maintain sufficient capacity by income level for its assigned Regional Housing Needs Allocation of 995 housing units, including 344 very low, 187 low, 127 moderate and 327 above-moderate income units.

The City's Housing Plan assumed 402 very low-income units on the Loop Site, but the mixed-income Builder's Remedy project application for the site includes only 18 low-income units. The City will be required to identify and rezone replacement sites with capacity for at least 344 very low-income units within 120 days of approval of the Loop Site project. The Bayline project's proposed 22 very low-income units would also reduce the City's very low-income RHNA deficit from 344 to 322 units.

Bayline's 84 low-income units would also partially replace the 188 affordable units projected for the Caltrans site. The Housing Element requires the City to identify and rezone alternative sites to make up the deficit if the City and Caltrans do not both determine by 2028 that the Caltrans site can be developed as affordable housing.

The City's adopted 6th Cycle Housing Element includes several programs that may be applicable to the Bayline project:

Program 1.b Affordable Housing Development Incentives and Outreach

Utilize State and Federal assistance programs, such as HOME, LIHTC, and CHFA funds, on an ongoing basis to the fullest extent possible to develop affordable lower income housing for seniors, families, and persons with disabilities, including persons with developmental disabilities. Support funding applications by developers if the proposed projects are consistent with the goals and policies of the City's General Plan. Annually, the City will pursue funding opportunities.

Program 1.c. Density Bonus Program

Continue program with a focus on included specific units with special needs populations.

Policy H4.5 Encourage housing construction or alteration to meet the needs of residents with special needs, such as the elderly and disabled.

Program H4-1: Housing for Persons with Special Needs:

Provide opportunities and encourage the development of housing for residents with special needs by supporting affordable housing development for special needs groups with the goal of creating 35 units of special needs housing within the planning period.

By 2026, develop a program to prioritize City funding proposals, should funding become available or identified, to affordable housing developments that are committed to

supporting special needs residents (e.g., farmworkers, elderly, homeless and persons with disabilities, including those with developmental disabilities).

Policy 1.5 Encourage development of new special needs housing for seniors, single parents, families, large families, the disabled, including those with developmental disabilities, and extremely low-income households.

Policy 1.6 Use density bonuses and other incentives to facilitate the development of new housing for extremely low, very low- and low-income households in conformity with State law.

NEXT STEPS

The City has received a request for tribal consultation from the Confederated Villages of Lisjan. Pending conclusion of the required tribal consultation process and after completion of the informational public meeting, the applicant would be able to submit an application for streamlined ministerial approval. Upon receipt of the application, the City will have 90 days to review the project and determine if the project is inconsistent with City standards, including objective design standards, and request corrections, as necessary. If the project meets City standards, and all the objective design standards (allowing for any concessions or waivers under State Density Bonus Law), then the Community Development Director must approve the project through a ministerial process within 180 days of the formal application submittal to the City.

FISCAL IMPACT

Review of this project is funded through the development review fees paid by the project applicant. No General Fund budget allocation is required. If approved in the future, the project would pay all required fees including permit fees, development impact fees, and water, and sewer capacity fees.

ENVIRONMENTAL REVIEW

Final environmental review will be completed when a formal decision on the project is made at a future date. If this project proceeds as a ministerial project under the State streamlining laws as currently proposed, it would not be subject to California Environmental Quality Act (CEQA) review. In accordance with California Code of Regulations (CCR) Title 14, Section 15268, ministerial approvals are exempt from CEQA review.

PUBLIC NOTICE

A description of the project, the preliminary plans, and notice of this meeting were posted on the City website on May 13, 2025. At least ten days before the public meeting date, notice of the City Council public meeting was mailed to neighbors within 500 feet of the project site, as well as neighbors on Railroad Ave., Earnest St., Promenade St. and Taraya Terrace, all between Bayfront Blvd and Sycamore Ave. In addition, Public Notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

ATTACHMENTS

Attachment A – Preliminary Project Plans (03.03.2025)
Presentation