



Office of the City Manager

June 5, 2018

To: Honorable Mayor and Members of the City Council

From: *DWR* Dee Williams-Ridley, City Manager

Subject: The 1900 Fourth Street Development Application and Senate Bill 35

On April 26, 2018, I provided you with a memo¹ with information about a development application that the City received for 1900 Fourth Street, the current site of a surface parking lot and a vacant 1,600 square foot commercial building. The site and all subsurface portions are part of a multi-block area designated as a Berkeley City Landmark, the West Berkeley Shellmound. The site and subsurface area are also included on the California Register of Historical Resources. Staff reviewed the project in a thorough manner based on all applicable laws.

The applicant requested streamlining pursuant to SB 35, which is a state law that went into effect in 2018 that requires a ministerial approval process for development projects that provide 50% of the proposed residential units at rents affordable to households making 80% of Area Median Income, and that meet several other criteria. Pursuant to SB 35, the City has 90 days from the date of project application submittal (i.e., until today – June 5, 2018) to determine if the project is eligible for ministerial approval.

Consistent with the 90-day requirement, staff sent a letter to the applicant today notifying them that their application does not qualify for ministerial approval under SB 35. You can find the letter in the “City Communications” section of [the project page for 1900 Fourth Street](#), which is footnoted below.² As an initial matter, SB 35 does not apply to the project to the extent that SB 35 impinges on legitimate municipal affairs – preservation of a designated City landmark. Further, even if one assumes that SB 35 does apply, staff determined that the application would still not qualify for ministerial approval because components of the application conflict with SB 35 streamlining

¹ The April 26, 2018 memo regarding the 1900 Fourth St. development application and SB 35 is available here: https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/Council%20Memo_SB%2035%201900%20Fourth%20St._April%2026%20with%20attachments.pdf

² Letter to applicant is available here: https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/1900_Fourth_Street_Part_2.aspx

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criteria. The letter and associated attachments identify unmet SB 35 criteria. The letter also informs the applicant that the initial 90-day timeline would restart if a revised application is submitted.

I want to thank staff for their professionalism in conducting the required analysis.

cc: Jovan Grogan, Deputy City Manager
Timothy Burroughs, Director, Planning Department
Farimah Brown, City Attorney
Ann-Marie Hogan, City Auditor
Mark Numainville, City Clerk
Matthai Chakko, Assistant to the City Manager