

831 Water Street: Critical issues and concerns

Updated August 8, 2021 to reflect developer's revised proposal, dated July 27, 2021.

We write to request your help in transforming the proposed development project at 831 Water St. into something that our town can celebrate, rather than forever regret. Using State guidelines to usurp City code and silence its residents, the developer, Iman Novin of Novin Development, has chosen to maximize the mass, scale, and scope of his proposed development and to streamline its approval. Without your guidance, support, and intervention, we fear that City staff will take the path of least resistance and allow this monstrosity to be built as proposed. This would devastate the Branciforte neighborhood, lead to numerous health and safety problems, create massive problems at a key city intersection, and pave the way for more of the same type of mass-scale development throughout our City.

To be clear at the start, the neighborhood supports new housing in Santa Cruz, in particular at this 831 Water St. site, and we especially support affordable and attainable housing for families. We would fully embrace a reasonably sized, sensitively designed, and appropriately set back development. However, as proposed, the massive scale of this project, with 145 units on less than an acre, in two 60-foot-tall buildings within 20 feet of one-story homes, including rooftop “open space” [see Note 16] would redefine and overwhelm this entire area of our City.

The developer has submitted a sloppy and incomplete plan. The July 27 version continues to leave unanswered the question of what he really intends to build. Just because the revised application contains a project plan that differs in some respects from the original application doesn't make it close to adequate. For example, the revised application omits external elevations; shadow studies; signage plans; exterior architectural elements; grading, drainage, or utility plans; stormwater control plans; landscape or planting plans; or details regarding the rooftop open spaces – all of these items were part of his July 1 version, but are now out of date.

Further, the Base Project in the revised project plan does not comply with the City's land-use designation for that site, and differs from the Base Project in the July 1 application [see Note 21]. There are numerous inaccuracies and inconsistencies within the revised project plan and between the plan and its cover letter. The revised project plan does not even contain an evaluation of the project in the context of the City's Objective Standards! Given the woefully incomplete, inaccurate, and inconsistent application, the City should demand that the developer go back to the drawing board and submit a complete, accurate, and internally consistent application.

Specifically, we ask you to:

- Direct staff to immediately develop and publish for public review, discussion, and improvement, the City's guidelines and procedures for evaluating applications under SB35 (streamlined, ministerial review).
 - This must include a definition of what constitutes a complete SB35 application (which should of course include the general building design, floor plan, and site

placement). The start date for the 60- or 90-day review of the SB35 application should align with the submittal of the deemed "complete application."

- Require that staff take a critical eye to this particular SB35 application, and to consider not only the project's individual elements, but also its completeness and accuracy, and the cumulative impacts of the project, its eligibility for density bonuses, and the developer's many proposed waivers and concessions.
- Insist that the developer work sincerely and collaboratively with the community to moderate the mass, scale, design, and density of this proposed project, in a public process, in order to make it comport with the neighborhoods it would impact and with the City's land-use objectives.

Time is of the essence! Mr. Novin submitted his revised SB35 application on July 27. The City is obligated to respond to that application within 60 days (by September 27). You must act now if you are to change the course of this project.

The remainder of this letter details many of our citizen group's concerns. While we don't claim to speak for all of them, we will note that the "e-petition" on our group's website (www.831responsibledevelopment.org) has collected over 500 signatures in opposition to the project *as proposed*. We have received hundreds of contributions from our fellow citizens. We hope you find this information not only useful but compelling, and we look forward to working with you to make this project something we can all be proud of for decades to come.

Overreach in Mass, Scale, and Density

As noted above, we support new housing in Santa Cruz and at the Water Street site. However, the developer's proposal is a massive overreach that is incompatible with the less-than-one-acre site, its location at the top of a steep hill, and the nearby neighborhoods. The developer proposes to build 145 units in two buildings, each over 60 feet tall [see Note 18], within 20 feet of neighboring single-story homes, and within 5 feet of adjacent affordable housing developed by Habitat for Humanity [see Note 17].

The top of the cherry-picker bucket in the image below is 60 feet above the ground. This gives you an idea of what will confront us if this project is built as proposed.



The project should be reduced in mass and scale to fit well within the City's 3-story, 40' envelope for this site, with substantial articulation and appropriate setbacks on all sides that adjoin residences. Further, the developer must be required to erect "story poles" to help our City's citizens understand the mass and scale of any proposed project.

These buildings, as proposed, would shade entire yards of homes on the south side of Belvedere Terrace for many months of the year. At times, this shading will extend across to the north side of Belvedere Terrace, and, we believe, based on our shadow studies, into yards on Berkeley Way (it's difficult to tell this from the developer's Shadow Study, since those images are cut off and do not reflect the revised project plan) [see Note 3]. *An accurate and more-complete Shadow Study is required, depicting the entire area shaded by the revised project, and demonstrating the shading effects throughout the year, not just at the solstices.*

It's unconscionable that, during a global pandemic when we are encouraged to shelter at home and socialize outdoors, a developer would consider relegating families to live in shadow for half of the year. As shown in the revised project plans (and in contradiction to the application's cover letter), residential balconies will overlook the yards on Belvedere Terrace [see Note 16]. In addition, given the persistent high water-table in this neighborhood, this shading will result in mold and other threats to the health of residents on Belvedere Terrace in violation of City Code [see Note 23]. Further, this shading undermines the viability of PV solar for the entire south side of Belvedere Terrace, conflicting with the California Solar Mandate (which requires rooftop solar on homes built after January 1, 2020), and adversely affects the existing PV installations in the neighborhood. *This shading constitutes a clear threat to mental and physical public health and personal privacy, and must disqualify this project from density bonus consideration.*

Finally, as noted, the proposed development includes 145 units on less than an acre, in an area zoned for 55 units per acre. While the City code doesn't count studios and one-bedroom units when reckoning unit densities, as an inducement to include affordable units in developments, it's a perversion of the intent of that policy to propose a development where 127 of the 145 units are studios or one-bedroom units, and therefore not counted as "dwelling units." *The City must acknowledge that this violates the spirit, if not the letter, of the City's zoning ordinance, and refuse to allow the developer to over-build this parcel in this manner.*

Traffic, pedestrian and cyclist safety

The location of this project at the corner of North Branciforte Avenue and Water Street creates substantial impacts on traffic and pedestrian and cyclist safety. This intersection is already famously congested at many hours of the day, and is listed among the highest collision locations in the City [see Note 14]. Adding over 200 new residents while retaining several thousand square feet of commercial space and attendant activity can only exacerbate those conditions.

Alarmingly, the developer has proposed to put the primary residential and commercial access to the development's underground parking on Water Street, at the far west end of the property, on a steep downslope. This means that essentially all traffic in to and out of the property will have

to cross a recently upgraded high-speed, separated bike lane [see Note 4]. In addition, any access from the west will require a U-turn at the Branciforte / Water intersection; heading east out of the project will require a U-turn at the bottom of the hill, leading to increased congestion, degraded air quality, increased noise, and increased risk of collisions. Intersection congestion will also affect the ability of City Fire Station #2 (located nearby) to respond timely to the many service calls they receive each day. In order to at least partially address these issues, the City requested that the developer evaluate putting the main entrance on Branciforte Avenue and to allow for a dedicated right-turn lane on southbound Branciforte [see Note 5]; the developer has ignored those requests. Frankly, at the proposed scale, it's difficult for us to imagine any traffic pattern that will be workable. But specifically, the traffic pattern resulting from this proposal is a clear threat to public health and safety and must be changed; if the design is not changed, then this must disqualify the project from density bonus consideration.

All commercial traffic will access the site within the north-side setback area (designated as a Fire Lane – see Note 17). There is no provision for larger or emergency vehicles to be able to turn around, necessitating that they exit the property by backing out onto Branciforte Avenue, across an existing sidewalk and bike lane, and into traffic. Even with turn-around provisions, any delivery or service vehicles using this access would be operating and idling immediately adjacent to existing residences, at all hours. The accompanying traffic pattern, noise, and degraded air quality represent clear threats to public health and safety; this design as proposed must disqualify the project from density bonus consideration.

Economic segregation should disqualify project from density bonus

The developer has proposed two buildings on the site: one all affordable, the other all market-rate. Per City code, in order to qualify for consideration of a density bonus, inclusionary units must be dispersed throughout the development [see Note 6]. This segregation by economic status is counter to good public policy, equitable development standards, and to City code. Because this is a qualifying requirement for a density bonus under City code, failure to comply with this provision must disqualify this project from density bonus consideration.

Geology and hydrogeology

For good reason, the City has requested that the developer conduct detailed geotechnical work on the site, in order to address concerns related to proximity to a > 30% slope and related to subsurface groundwater conditions [see Note 7]. As regards groundwater conditions, this area of Santa Cruz already experiences significant pooling of surface waters during rain events, even in drought years. This pooling is partially stimulated by the high subsurface groundwater levels and flows (see the image below from this past drought-year winter in a yard adjacent to the proposed development). The developer has proposed 2-level underground parking, requiring excavation to a depth of at least 15 feet, with accompanying foundation work. This foundation will impede the natural sub-surface groundwater flows that move through the neighborhood, which will lead to further surface pooling in neighboring parcels. Shockingly, the developer demands to waive this geotechnical work. Failure to account for impacts on groundwater flows represents a clear threat to public health and safety and must disqualify this project from density bonus consideration.



Cultural heritage: [State historical site #469](#)

As recently recounted by Ross Gibson [see Note 8], and as communicated to Council and Staff by archaeologist Rob Edwards [see Note 22], this neighborhood, Villa de Branciforte, has deep historical significance. Mr. Gibson refers to it as the birthplace of democracy in Spanish California. The State recognizes this; the marker for State historical site 469 is at the corner of North Branciforte Avenue and Water Street, commemorating the importance of the entire area. The City recognizes this, too, having designated this parcel as archaeologically highly sensitive.

In 2007, Bill Brooks, the developer of the immediately adjacent parcel (known as the Belvedere Cottages, which includes two affordable Habitat for Humanity units), encountered adobe foundations while excavating, despite a pre-development archaeological report that did not identify any such concerns. This find required that work stop, and that the developer re-route utilities in order to preserve these historically significant structures.

Because the proposed design involves excavating nearly the entire parcel to accommodate the underground parking, and because of its adjacency to known historically significant structures, the developer must affirmatively demonstrate (using ground-penetrating radar, or similarly-effective techniques) that there are no further historically significant archaeological remains before this project can even be considered for approval.

Further, the high likelihood that this parcel does contain such significant structures must disqualify it for consideration for streamlining under SB35.

Parking

The developer seeks a number of waivers from providing adequate parking for the 145 dwellings and commercial space he proposes to build. In its pre-application review, the City calculated that the project would require 297 parking spaces to account for residents, commercial customers, and visitors to the rooftop open space [see Note 10]. The current project plan provides 141 spaces [see Note 19]. This parking is going to be built almost completely underground, and provided in large part in tandem stacked parking machines [see Note 12].

This parking approach raises many issues of equity and public safety, including:

- Availability of parking for worker vehicles, since the mechanized spaces are sized to accommodate small passenger cars
- Lack of ability to accommodate EV charging in the “racked and stacked” parking
- Risks to residents’ ability to evacuate during a public-safety power shutoff (PSPS) event
- Reasonable accommodations for ADA-compliant parking in the “stackers”

The developer proposes to waive that parking requirement due to proximity to a major transit stop. However, there is no transit stop within a half mile of this project that qualifies as a major stop. (A major transit stop requires 15-minute headway on at least two separate routes throughout commute hours.) While there is some talk of plans to develop a qualifying major transit stop in the future, the City cannot guarantee that Metro will indeed develop that stop, or when that will happen. The lack of existing adequate transit service within the prescribed walking distance must disqualify the project from this density-bonus waiver.

Further, the developer seeks a waiver of BEV charging facility requirements, citing cost. The revised project plan is inconsistent in its depiction of the number of spaces the developer will provide. In the Parking Calculations, the developer claims 12 EV spaces [see Note 19], but in the drawings there are only 6 EV stations shown [see Note 20]. Even if there were 12 spaces, that would still be less than the minimum 17 required. More importantly, in the near future it will not be possible to buy new internal-combustion engine (ICE) vehicles in California. Consigning the residents of this project to unhealthy, carbon-producing ICE vehicles represents bad public policy, degrades air quality in our City, and discriminates against the residents of this development.

Finally, the developer proposes to charge for use of residential parking spaces (unbundled parking). The developer has stated publicly that the monthly fee may be as much as \$300. This policy makes sense in areas where there is adequate existing transit, or available surface or street parking, within reasonable walking distance. Downtown Santa Cruz certainly qualifies in this regard. However, this location does not. Water Street near the project does not allow parking, North Branciforte Avenue is already heavily parked and is a cycling and safe route to school throughway, and there is no under-utilized commercial parking near the development. The result: residents, particularly those with low incomes, will likely not pay to park, and can be expected to seek surface parking on adjacent streets. This will result in increased traffic and congestion, threats to the safety of pedestrians and cyclists, degraded air quality, and, ultimately, permit parking in the nearby neighborhoods. These threats to public health and safety must disqualify this project from density bonus consideration, and the project should be re-sized so that it provides adequate parking on site.

Inappropriate rooftop amenities

The developer’s revised application still includes references to rooftop “open space” [see Note 16]. While there is continuing confusion whether this means that alcoholic beverages will be served, tolerated, or prohibited, it remains the case that a rooftop space for potentially loud socializing late into the night is simply inappropriate next to a quiet residential neighborhood.

Patrons and users of the space will be looking out over the adjacent Small Schools campus as well as into neighboring yards and homes. There's no telling what objects might fall off of (or be thrown from) that roof. And, if there is going to be any alcohol consumed on site, that is clearly inappropriate near a school campus (and could violate the California Alcoholic Beverage Control Act, which prohibits on-sale liquor sales within 600 feet of a school [see Note 13]). Rooftop open space is simply inappropriate adjacent to schools and residences, and must be removed from the project. Further, this "activated" rooftop effectively makes Building A six, rather than five, stories tall, and functionally much taller than 60 feet. The concomitant threats to public health and safety must disqualify this project from density bonus consideration.

Cumulative impacts

The preceding topics have discussed many of the legitimate concerns that citizens in this area of our City have about this project. Any one of them, taken alone, should be enough to cause one to question the project's viability. But even if one or more of these concerns is dismissed by the City, the cumulative impacts of these various concerns lead to the inescapable conclusion that this project is simply inappropriate for this location.

The City Council has the sacred responsibility to protect the health and safety of its citizens. The project design and many of the waivers and concessions being demanded by the developer inescapably threaten public health and safety, degrade air quality, put historically significant archaeological assets at risk, and/or generate increased noise pollution. These threats must disqualify the project from density bonus and SB35 consideration.

Finally, this project's impacts must not be looked at in isolation, but in concert with the expected impacts from other developments underway or approved elsewhere in the City [see Note 15]. In particular, we note that the builders of the projects at 350 Ocean St. and at 130 Center St., each consisting of hundreds of units, are not pursuing SB35 ministerial streamlining, and that the builder at 350 Ocean St. has voluntarily engaged in the CEQA process, in stark contrast to the direction taken by Novin Development at 831 Water St.

Seeking collaboration and accommodation

Since we learned about this project in late 2020, residents of this area of our City have worked tirelessly to reach out to and collaborate with the developer. We have met (via phone and Zoom) a few times. There has also been one Community Zoom Meeting. However, the developer has declined to engage in meaningful dialogue with city residents, and he has made no material changes to the design. In fact, the developer even ignored the City's Pre-application Review comments in his Formal Application of July 1, 2021 and in his revised application of July 27. Most recently, both Matt Huerta of MBEP and the developer's father separately offered to host face-to-face meetings between the developer and the neighbors. The neighbors enthusiastically accepted those offers. The developer rejected them.

So, here we are, looking to you, as the City's leaders and as its citizens' advocates, to help us. We urge you to use every tool available to both you, our elected Officials, and to City staff to impel, if not compel, the developer to work collaboratively with the City and the community to

moderate and mitigate this design, and come up with an alternative that is reasonable, responsible, respectful, and that we can all not only live with, but embrace, for decades to come.

Thank you, as always, for your tireless service to our community.

Sincerely,

"831 Responsible Development" citizens group (and more than 500 petition signatories)

Notes:

- [1] See Site Plan, sheet A0.1 (page 63 of 105) (<https://www.cityofsantacruz.com/home/showpublisheddocument/85181>)
- [2] See West Elevations, sheet A2.4 (page 74 of 105) *ibid.*
- [3] See Shadow Study, sheet A5.1 (page 84 of 105) *ibid.*
- [4] City Active Transportation Plan, Project 241
(<https://www.cityofsantacruz.com/home/showpublisheddocument/60966/636353003776970000>)
- [5] See City's Pre-application Review, dated 3 Feb 2021, (page 13 of 71)
(<https://www.cityofsantacruz.com/home/showpublisheddocument/83559/637527121155870000>); also, this was noted as a recommended improvement in the City's 2011 traffic report (<https://www.cityofsantacruz.com/home/showdocument?id=22462>)
- [6] Affordable units must be dispersed throughout development, per City's Zoning and Density Bonus Ordinances ([24.16.260, 24.16.025.2](#))
- [7] See Pre-application Review (*op.cit.*), page 5 of 71.
- [8] <https://www.santacruzsentinel.com/2021/07/11/birthplace-of-democracy-in-spanish-california-ross-eric-gibson-local-history/> and <https://www.santacruzsentinel.com/2021/07/18/bolcoff-hill-the-heart-of-branciforte-ross-eric-gibson-local-history/>
- [9] See Pre-application Review (*op.cit.*), page 6 of 71.
- [10] See Pre-application Review (*op.cit.*), page 3 of 71.
- [11] See Parking & Bike Calculations, sheet A0.2 (*op.cit.*), page 64 of 105.
- [12] To see a promotional video of the parking mechanism: <https://youtu.be/UzAarYWXJHE>
- [13] Alcoholic Beverage Control Act: https://www.abc.ca.gov/wp-content/uploads/2020_CA_ABC_Act.pdf
- [14] 2019 Annual Traffic Safety Report, page 6
(<https://www.cityofsantacruz.com/home/showpublisheddocument/83547/637520256393970000>)
- [15] <https://www.cityofsantacruz.com/government/city-departments/planning-and-community-development/development-projects>
- [16] See July 27 revised Site Plan, Level 5 Plan and Roof Plan, sheets B1.5, B1.6
(<https://www.cityofsantacruz.com/home/showpublisheddocument/85516/637630634615800000>)
- [17] See revised Site Plan, Ground Floor Plan, sheet B1.1 *ibid.*
- [18] See revised Site Plan, Building A and B Sections, sheets B3.1, B3.3 *ibid.*
- [19] See revised Site Plan, Parking & Bike Calculations, sheet B0.2 *ibid.*
- [20] See revised Site Plan, Basement Floor Plan, Sheet B1.0 *ibid.*
- [21] Compare July 1 Base Plan, sheet G2.0 (*op. cit.*), page 61 of 105, and July 27 Base Plan, sheet BG2.0 *ibid.*
- [22] Email from Rob Edwards to members of Council and City Staff, dated July 31, 2021, subject "Development project at Water and Branciforte"
- [23] Santa Cruz Municipal Code, section 24.14.220: "No land or building in any district shall be used or occupied in any manner so as to constitute any dangerous, injurious, noxious, or otherwise objectionable public nuisance; or fire, explosive, or other hazard; or to create noise or vibration; smoke, dust, odor, or any other form of air pollution; glare, heat, **cold, dampness**; electrical or other disturbance; radioactivity; liquid or solid refuse and wastes, or any form of water or soil pollution; or other substance, condition, or element in such a manner or in an amount as to **adversely affect the surrounding area or adjoining premises.**" (Emphasis added)