



NOTICE OF FINAL APPROVAL OF AN SB 35 PROJECT

Date: August 17, 2022
BPA No.: 2022.05.05.3630 – Form 1 / New Construction
2022.06.27.7192 – Form 6 / Demolition
Planning Record No. **2021-012100PRJ**
Project Address: **2550 Irving Street**
Zoning: NCD - Irving Street Neighborhood Commercial District
40-X Height and Bulk District
Block/Lot: 1724 / 038
Project Sponsor: Adrienne Steichen – PYATOK
1611 Telegraph Ave
Oakland, CA 94612
Staff Contact: Maggie Laush
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Project Description

The proposed project is a new 7-story building that would provide 90 units of rental housing for households earning between 30% and 80% AMI. The project includes a mix of studios (9), one- (34), two- (23) and three-bedroom (24) units, as well as common laundry facilities, associated community spaces and supportive services, a roof deck, 95 bicycle parking spaces, and 18 off-street parking spaces. The project includes the demolition of the existing 2-story structure (d.b.a. the San Francisco Police Credit Union) and surface parking lot on the property.

Background

California Senate Bill 35 (SB-35) was signed by Governor Jerry Brown on September 29, 2017 and became effective January 1, 2018. SB-35 applies in cities that are not meeting their Regional Housing Need Allocation (RHNA) goal for construction of above-moderate income housing and/or housing for households below 80% area median income (AMI). SB-35 amends Government Code Section 65913.4 to require local entities to streamline the approval of certain housing projects by providing a ministerial approval process, removing the requirement for CEQA analysis, and removing the requirement for Conditional Use Authorization or other similar discretionary entitlements granted by a Planning Commission.

Adrienne Steichen submitted an SB-35 Application for the project at 2550 Irving Street on December 3, 2021. On May 26, 2022, department staff determined that the SB-35 Application was complete, and that the proposed project was eligible for SB-35.

The Planning Director did not request a Planning Commission Hearing or Historic Preservation Commission Hearing for this project.

Project Approval

The Project Sponsor seeks to proceed pursuant to Planning Code Section 206.6, Individually Requested State Density Bonus Law, Government Code Section 65915 et seq (the “State Law”). Under subsection 65915(b)(1)(G) of the State Law, a housing development that provides 100 percent of the total units for lower income households, except that up to 20 percent of the total units in the development may be for moderate-income households and exclusive of a manager’s unit(s), is entitled to four concessions and incentives that result in identifiable and actual cost reductions to provide for affordable housing costs. Such project, when located within one-half mile of a major transit stop, shall be relieved of maximum density controls and shall also receive a height increase of up to three additional stories, or 33 feet, and unlimited waivers from development standards that might otherwise preclude the construction of the project are permitted under this subsection of the State Law.

Since the Project Sponsor is providing 90 units of housing affordable to low- and very low-income households, and the project is located within one-half mile of a major transit stop, the project is not subject to any maximum control on density, and is entitled to receive up to four concessions/incentives and an additional three stories, or 33 feet, of height and unlimited waivers. The project sponsor is requesting a concession/incentive from the development standards for active uses at the street frontage (Planning Code Section 145.1(c)(3), above-grade parking setback at the street frontage (Planning Code Section 145(c)(1)), and car sharing (Planning Code Section 166). The project is located in a 40-X Height and Bulk District and proposes a maximum building height of 73 feet, excepting those features specified as exemptions to the height limit under Planning Code Section 260(b). The project has requested waivers from the development standards for rear yard (Planning Code Section 134), usable open space (Planning Code Section 135), dwelling unit exposure (Planning Code Section 140), and off-street freight loading (Planning Code Section 152).

Concessions and Incentives

The project has requested concessions/incentives from the development standards for active uses at the street frontage (Planning Code Section 145.1(c)(3), above-grade parking setback at the street frontage (Planning Code Section 145(c)(1)), and car sharing (Planning Code Section 166). Pursuant to Planning Code Section 206.6, the Department shall grant the concession or incentive requested by the applicant unless the Department makes a written finding, based upon substantial evidence, of any of the following:

- A. The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

***Active Uses.** The requested incentives result in actual cost and identifiable cost reductions. The requested incentive from active uses at the street frontage allows the project to locate tenant services and associated offices on the ground floor instead of an upper floor, allowing for three (3) additional dwelling units. The loss of three units would result in a net cash flow loss of approximately \$1,250,000 over the course of 20 years, and a cash flow deficit starting in the seventeenth year. This leads to an infeasible project and the loss of 90 affordable homes, as the project is required to maintain positive cash flow through the seventeenth year by the Mayor's Office of Housing and Community Development.*

***Above-grade Parking Setback.** The requested incentive from above-grade parking setback at the street frontage allows the project to locate eleven (11) puzzle parking spaces in a stacker pit within the front 25 feet of the lot. If the project did not receive an incentive from this requirement, the parking layout would be significantly impacted, requiring a reduction in the number of spaces provided and/or the inclusion of a sub-grade parking garage or an enlarged podium area. The loss of the parking in the setback at the street frontage would result in a cost increase of \$30,000 to \$98,000 per parking space and one to two-months increase in construction time, which increases carrying and financing costs.*

***Car Sharing.** Finally, the requested incentive from car sharing allows the project to offer an additional parking space for use by building residents. As described above, reducing the provided number of spaces or reconfiguring the parking layout to include sub-grade parking or an enlarged podium would result in a cost increase of \$30,000 to \$98,000 per parking space.*

- B. The concession or incentive would have a specific, adverse impact, as defined in paragraph upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.

The requested concessions/incentives from the development standards for active uses and above-grade parking setback at the street frontage and car-sharing would not result in a specific, adverse impact to public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources.

- C. The concession or incentive would be contrary to state or federal law.

The requested concessions/incentives from the development standards for active uses and above-grade parking setback at the street frontage and car-sharing would not be contrary to state or federal law.

Waivers

The Planning Department may waive any development standard that will have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by the State Density Bonus Law. The Department is not required to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact upon health, safety, or the physical environment, and for which

there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. The Department is not required to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

The project has requested waivers from the development standards for rear yard (Planning Code Section 134), usable open space (Planning Code Section 135), dwelling unit exposure (Planning Code Section 140), and off-street freight loading (Planning Code Section 152).

- D. The waiver is not required to permit the construction of the project meeting the density permitted or with the Concessions and Incentives permitted under Planning Code Section 206.6.

***Rear Yard.** The requested waivers result in increased residential density. The requested waiver from rear yard setback allows the project to add an additional twelve (12) dwelling units at the West side of the property, where the shallow, irregular shape of the lot would result in a discontinuous rear yard inconsistent with the neighborhood pattern of mid-block open space.*

***Open Space.** The requested waiver from usable open space further allows the project to add dwelling units at the project site. 5,840 square feet of common usable open space is provided, approximately forty-nine percent of the square footage required, and is maximized in common areas at the ground level rear yard and a large roof deck. Providing private open in the form of podium decks and balconies is financially and operationally infeasible. Providing additional common usable open space at the ground floor would reduce the number of possible units by as many as twelve (12).*

***Exposure.** The requested waiver from dwelling unit exposure allows the project to add as many as ten (10) additional units. Seventy-two of the ninety proposed units meet the exposure standards of Section 140 as they face onto the public right-of-way. The remaining eighteen units face the non-compliant rear yard. While these units meet the square footage and glazing standards of exposure, they do not face onto a qualifying open area that steps back at upper levels as required. Setting back the exterior walls at the rear of the proposed building would result in a loss of as many as ten (10) units.*

***Off-Street Loading.** The requested waiver from off-street freight loading allows the project to add at least one (1) dwelling unit. Site constraints including the shape and street frontages of the lot make an off-street loading space that meets the dimensional and locational standards of Planning Code Sections 154 and 155 infeasible without requiring relocation of tenant services such as at least one (1) dwelling unit would be lost.*

- E. The waiver would have a specific, adverse impact, as defined in paragraph upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.

The requested waivers from the development standards for rear yard (Planning Code Section 134), usable open space (Planning Code Section 135), dwelling unit exposure (Planning Code Section 140), and off-street freight loading (Planning Code Section 152) would not result in a specific, adverse impact to public health and safety

or the physical environment, or on any real property that is listed in the California Register of Historical Resources.

F. The waiver would be contrary to state or federal law.

The requested waivers from the development standards for rear yard (Planning Code Section 134), usable open space (Planning Code Section 135), dwelling unit exposure (Planning Code Section 140), and off-street freight loading (Planning Code Section 152) would not be contrary to state or federal law.

The Department has determined that the project meets all the objective standards of the Planning Code and has completed design review of the project. The project has been approved in accordance with the provisions of SB-35, as recorded in Building Permit Application No. 2022.05.05.3630.