



# SAN FRANCISCO PLANNING DEPARTMENT

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## Notice of Final Approval of an SB 35 Project

*Date:* February 21, 2020  
*BPA No.:* **2019.1114.7293**  
*Planning Record No.* 2019-021893PRJ  
*Project Address:* **78 Haight Street**  
*Zoning:* Hayes-Gough NCT (Neighborhood Commercial Transit) District  
50-X Height and Bulk District  
*Block/Lot:* 0853 / 032  
*Project Sponsor:* Paulett Taggart  
Paulett Taggart Architects  
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### PROJECT DESCRIPTION

The project proposes the demolition of an existing surface parking lot and construction of a new eight-story over basement building containing 63 affordable dwelling units (58 studio and 5 one-bedroom units), 32 of which are intended for transitional aged youth (“TAY”) who are at risk of homelessness, community rooms and accessory office for TAY program administration and tenant services, and an approximately 3,400 gross square foot child care facility at the ground floor to accommodate up to 36 children.

### 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.

On November 21, 2019, Paulett Taggart on behalf of Tenderloin Neighborhood Development Corporation (TNDC) submitted an SB 35 Application for the mixed-use project at 78 Haight Street. Department staff determined that the SB 35 Application was complete, and that the proposed project was eligible for SB 35 on December 13, 2019.

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; however, no other 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 63 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. The project sponsor is requesting a concession/incentive from the development standards for non-residential use size limits (Planning Code Section 121.2) bay window projections (Planning Code Section 136), ground floor ceiling height (Planning Code Section 145.1(c)(4)) and bicycle parking (Planning Code Section 155); the project sponsor requests to construct the project with three additional stories of height above the 55 foot height limit.

### *Concessions and Incentives*

The Project has requested concessions/incentives from the development standards for non-residential use size limits (Planning Code Section 121.2) bay window projections (Planning Code Section 136), ground floor ceiling height (Planning Code Section 145.1(c)(4)) and bicycle parking (Planning Code Section 155). 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).

*The requested incentives result in actual cost and identifiable cost reductions. The requested incentive from non-residential use size limits allows the project to proceed without requiring a Conditional Use Authorization application, which adds cost and time to the project approval. Additionally, the ground floor child care facility helps offset overall project costs, including the costs associated with providing affordable housing; a smaller child care facility would serve fewer children and not offset costs to the same degree. The requested incentive from bay window projections allows the project to construct non-standard bay windows with only a single, small window surface oriented at more than 30 degrees from the main building wall plane. This design is intended to reduce the building's southern and southwestern exposure to the sun, helping to reduce both direct construction costs and long-term operating costs related to heating and cooling.*

*The requested incentive from ground floor ceiling height allows the project to construct a ground floor that is less than 14 feet floor-to-floor. Without this incentive, the project would need to eliminate a floor of residential use in order to remain under the threshold for high-rise construction and in order to remain within the height bonus authorized by the State Law. The elimination of one residential floor, or 11 units, would jeopardize the project's funding and increase the project's operating deficit.*

*Without the requested incentive from bicycle parking, the project would require additional floor area dedicated to bicycle parking. To accommodate additional bicycle parking the project would need to do one of, or a combination of the following: relocate building utility, storage and/or trash rooms, decrease the area for the child care facility, move such accessory storage rooms or child care rooms to upper floors of the project, removing residential units. The loss of units, as discussed above, affects the project's funding availability and overall operating cost.*

(B) The concession or incentive would have a specific, adverse impact, as defined in CA Govt. Code Section 65589.5(d)(2) 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 non-residential use size limits, bay window projections, ground floor ceiling height, and bicycle parking 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 non-residential use size limits, bay window projections, ground floor ceiling height, and bicycle parking would not be contrary to state or federal law.*

#### Waivers

In no case may the Department apply 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.

*In accordance with the State Law, this housing development is not eligible for and is not seeking to receive a waiver or reduction of development standards, other than as expressly provided by Government Code Section 65915(d)(2)(D) and 65915(f)(3)(D)(ii). The project has requested four incentives and three stories of additional height, as described above and in accordance with the State 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. 2019.1114.7293.