



SAN FRANCISCO PLANNING DEPARTMENT

Notice of Final Approval of an SB 35 Project

Date: December 5, 2019
BPA No.: **2019.0723.6649**
Planning Record No. 2019-014414PRJ
Project Address: **266 4th Street**
Zoning: MUR (Mixed Use-Residential)
Central SoMa Special Use District
180-CS Height and Bulk District
Block/Lot: 3733/093
Project Sponsor: Alberto Benejam
Tenderloin Neighborhood Development Corporation (TNDC)
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San Francisco, CA 94102
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PROJECT DESCRIPTION

The project proposes the demolition of an existing one- to two-story commercial building and the construction of an eight-story building with 70 dwelling units with a community room, tenant services, rooftop urban agriculture, and micro-retail at the ground floor.

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 July 23, 2019, Alberto Benejam submitted an SB 35 Application for the mixed-use project at 266 4th Street. Department staff determined that the SB 35 Application was complete, and that the proposed project was eligible for SB 35 on October 3, 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 the State Law, a housing development that includes affordable housing is entitled to additional density concessions and incentives, and waivers from development standards that might otherwise preclude the construction o the project. Since the Project Sponsor is providing 70 units of housing affordable to low- and very low-income households, the project is entitled to a density bonus of 35%, unlimited waivers, and up to three concessions/incentives. The project sponsor is requesting a concession/incentive from the development standards for lot coverage (Planning Code Section 249.78(d)(6)), active ground floor uses (Planning Code Section 145.1) and bicycle parking (Planning Code Section 155), and is seeking a waiver from the development standards for residential open space (Planning Code Section 135), and dwelling unit exposure (Planning Code Section 140).

Concessions and Incentives

The Project has requested concessions/incentives from the development standards for lot coverage (Planning Code Section 249.78(d)(6)), active ground floor uses (Planning Code Section 145.1) 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 lot coverage allows the project to stay within a mid-rise construction type instead of a high-rise construction type. Moving the massing to upper floors would increase the cost of the project by approximately \$1.5 million. In addition, the incentive allows the project to construct approximately 21 additional units (three additional units per floor), which spreads the fixed costs of construction across more units, reducing the cost-per-unit of development.

Without the requested incentives from active ground floor uses and bicycle parking, the project would be required to relocate supportive services to the second floor, which would result in the loss of four units. The loss of four units would result in the loss of approximately \$2 million in funding. In addition, the loss of units would increase the operating deficit by about \$500,000.

(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 lot coverage, active ground floor uses, 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 lot coverage, active ground floor uses, 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.

The requested waivers from usable open space and dwelling unit exposure are required to accommodate the proposed project with the requested concessions or incentives permitted by the Density Bonus Law. Without a waiver from dwelling unit exposure, the project would be precluded from seeking an incentive from lot coverage, as relief from lot coverage provisions result in 26 units that do not meet open areas which satisfy the dwelling unit exposure requirements.

The project requires a waiver from usable open space, as the roof deck is not open to the sky. The project would be unable to meet both the better roofs requirements and open space requirements of the Central SoMa SUD without additional rooftop area to accommodate these uses. Therefore, denial of the open space waiver could preclude the development with the requested incentive for lot coverage.

The project is not seeking any waivers that would have an adverse impact to real property listed on the California Register of Historical Resources, and is not seeking any waiver that is 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. 2019.0723.6649.