



NOTICE OF FINAL APPROVAL OF AN SB 35 PROJECT

Date: June 3, 2021
BPA No.: **2021.0104.2034**
Planning Record No. **2020-010648PRJ**
Project Address: **240 Van Ness Avenue (aka “The Kelsey Civic Center”)**
Zoning: C-3-G (Downtown - General) District
70-X Height and Bulk District
Block/Lot: 0811/016, 018, 019 and 021
Project Sponsor: Fiona Ruddy
Mercy Housing California
1256 Market Street
San Francisco, CA 94102
Staff Contact: Claudine Asbagh – (628) 652-7329
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Project Description

This project will consolidate four current parcels into a single parcel of approximately 13,518 square feet and demolish the three existing structures. The project will construct an eight (8) story multi-family residential building with 110 affordable units and two managers units, for a total of 112 units, including 80 studio units and 32 two-bedroom units. Twenty-five percent (25%) of the units reserved for households with disabilities who receive home and community based services (HCBS). The building includes residential commons, community rooms, service spaces and management areas at the ground floor, as well as a commercial space facing City Hall (to be developed under a separate permit). A garden courtyard at the ground floor will be accessible to the wider community. The project includes 56 Class 1 bicycle parking spaces for residents.

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 December 21, 2020, Fiona Ruddy submitted an SB 35 Application for the project at 240 Van Ness Avenue. Department staff determined that the SB 35 Application was complete, and that the proposed project was eligible for SB 35 on January 22, 2021.

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 of the project. Since the Project Sponsor is providing 110 units of housing affordable to lower- and very low-income households, the project is entitled to a density bonus of 50%, unlimited waivers, and up to three concessions/incentives. The project sponsor is seeking waivers from the development standards for setbacks and streetwall height (Planning Code Section 132.1), rear yard (Planning Code Section 134), open space (Planning Code Section 135), dwelling unit exposure (Planning Code Section 140), active use and transparency (Planning Code Section 145.1), bicycle parking (Planning Code Section 155.2) Reduction of Ground-Level Wind Currents in C-3 Districts (“wind” - Planning Code Section 149) and building height (Planning Code Section 260). and. The project sponsor has requested a concession/incentive from the development standards for Height Restrictions on Structures Shadowing Property Under the Jurisdiction of the Recreation and Park Commission (“shadow” - Planning Code Section 295)

Concessions and Incentives

The Project has requested a concession/incentive from Height Restrictions on Structures Shadowing Property Under the Jurisdiction of the Recreation and Park Commission, otherwise known as “shadow” (Planning Code Section 295). 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 incentive results in actual cost and identifiable cost reductions for the project. The project is approximately one block from Civic Center Plaza. Pursuant to Planning Code Section 295, developments exceeding 40 feet in height may not cast new shadow on the park without increasing the amount of available shadow hours per year, or “shadow budget.” By seeking an incentive from this requirement, project costs are reduced in several ways: first, the project does not require an extensive analysis, prepared by a qualified consultant, to determine the potential impacts of the development on Civic Center Plaza. Should the project cast shadow on Civic Center Plaza, it would need to be reduced in size, which would result in a project that does not include enough units to be competitive for project financing.

- 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 shadow 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 shadow 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 are required to accommodate the proposed project with the density bonus and the requested concessions or incentives permitted by the Density Bonus Law. Waivers from setbacks and streetwall height, rear yard, open space, dwelling unit exposure, and height allow the project sponsor to construct an L-shaped building with an interior courtyard, which better responds to the configuration of the lot and maximizes the number of units on the site. The proposed L-shaped massing also improves the quality of the units, as it provides better access to light and air for all of the units in the building. The requested waiver from wind allows the project to proceed with the proposed massing without the need to further sculpt the building to reduce potential ground level wind currents, which would result in the loss of units. Waivers from bicycle parking, active uses and transparency allow the project to maximize the amenities and services available to residents in the project and the community at large. The project has three street frontages, and literal enforcement of these requirements would drastically reduce the area necessary to adequately support the households in the project. Denial of any of these waivers could preclude the development with the density bonus allowed by the State Density Bonus Law.

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. 2021.0104.2034.