San Francisco Planning

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NOTICE OF FINAL APPROVAL OF AN AB-2162 PROJECT

Date:	**February 9, 2023**
BPA No.:	**202209283327**
Planning Record No.	**2022-008873PRJ**
Project Address:	**160 Freelon Street (639 Bryant Street)**
Zoning:	**Central SoMa Mixed-Use Office (CMUO)** **Central SOMa Special Use District** **50-X Height and Bulk District**
Block/Lot:	**3777/052**
Project Sponsor:	**Ann Silverberg** **160 Freelon Housing Partners, L.P.** **44 Montgomery Street, Suite 1300** **San Francisco, CA 94104**
Staff Contact:	**Claire Feeney, Senior Planner, claire.feeney@sfgov.org, 628-652-7313**

Project Description

This project would construct a nine (9) story multi-family residential building with 85 affordable housing units that will each have a full kitchen and bathroom. There will be 15 studios, 24 one-bedrooms, 22 two-bedrooms, 23 three-bedrooms, and 1 manager's unit. The building will also include resident support and management areas at the ground floor including offices, a community room, children's playground, and other support areas.

Background

California Assembly Bill 2162 (AB-2162) was signed by Governor Jerry Brown on September 26, 2018 and became effective January 1, 2019. AB-2162 applies statewide and requires the supportive housing be a use that is permitted by right in zones where multifamily and mixed-use development is permitted. AB-2162 amends Government Code Section 66583 and adds Code Section 65650 to require local entities to streamline the approval of housing projects containing a minimum amount of Supportive Housing by providing a ministerial approval process, removing the requirement for CEQA analysis and removing the requirement for Conditional Use Authorization or similar discretionary entitlements granted by the Planning Commission.

Ann Silverberg of 160 Freelon Housing Partners, L.P. submitted an AB-2162 Application for the project at 160 Freelon Street on September 20, 2022 and it was deemed accepted on October 4, 2022. On October 26, 2022,

department staff determined that the AB-2162 Application was complete, and that the proposed project was eligible for AB-2162.

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 85 units of housing affordable to moderate-, lower-, and very low-income households, the project is entitled to a density bonus of 50%, up to four concessions/incentives that result in actual and identifiable cost reductions to provide for affordable housing costs, and unlimited waivers from development standards that might otherwise preclude the construction of the project. .

Since the Project Sponsor is providing 84 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 Residential Usable Open Space (Sec. 135), Required Active Use (Sec. 145.1), and Better Roofs-Living Roof Alternative (Sec. 149). The project is located in a 50-X Height and Bulk District and proposes a maximum building height of 84 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 (Sec. 134), Ground Floor Ceiling Height (Sec. 145.1), Required Off-Street Freight Loading (Sec. 152.1), Lot Coverage (Sec. 249.78), Height (Sec. 260), Narrow Street Controls (Sec. 261.1), and Apparent Mass Reduction (Sec. 270).

Concessions and Incentives

The project has requested concessions/incentives from the development standards for Residential Usable Open Space (Sec. 135), Required Active Use (Sec. 145.1), and Better Roofs-Living Roof Alternative (Sec. 149). 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).

Residential Usable Open Space. The requested incentive results in actual cost and identifiable cost reductions. The requested incentive allows the Project to increase residential density on site within bounds of the State Density Bonus Program and decrease costs so that the Project can financially move forward. Sec. 135 requires 80 square feet of open space for each of the 85 units, 6,800. The Project is providing 2,972 square feet of usable open space on the first and second floors. Per Sec. 426, the Open Space Fee in Eastern Neighborhoods Mixed-Use Districts, the Project would have to pay an $890 fee for the remaining 3,828 square foot of open space. This

$3,406,920 fee and would result in a direct identifiable and actual cost increase to the project that would impede development.

Required Active Use. The requested incentive results in actual cost and identifiable cost reductions. The requested incentive from required active uses at the street frontages allows the project to locate tenant services and associated offices on the ground floor instead of an upper floor. Per Sec. 145.1, the Project is required to provide active uses for the first 25-feet of building depth on the ground floor and they must "have access directly to the public sidewalk or street." This requirement conflicts with AB 2162 which requires social services for building occupants to be located on site, the project would not be eligible for critical financial assistance through AB 2162 if these residential service areas were not provided. In addition, the cost estimate to add the additional exterior door, stairs, ramp, hand rails, and ADA features would be approximately $78,000.00, resulting in a direct identifiable and actual cost increase to the project that would impede development.

Better Roofs-Living Roof Alternative. The requested incentive results in actual cost and identifiable cost reductions. The requested incentive from the Better Roofs-Living Roof Alternative allows for more mechanical equipment to be located on the rooftop rather than take up available occupiable square footage on the ground floor for residential and social services. Sec. 149 requires 50% of the roof to be planted green space, about 6,000 square feet. The Project is providing 3,092 square feet of living roof space. The cost estimate to add the 2,908 sf of living roof would be at least $130,860.00, resulting in a direct identifiable and actual cost increase to the project that would impede development.

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 Residential Usable Open Space, Required Active Use, and Better Roofs-Living Roof Alternative 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 Residential Usable Open Space, Required Active Use, and Better Roofs-Living Roof Alternative 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 (Sec. 134), Ground Floor Ceiling Height (Sec. 145.1), Required Off-Street Freight Loading (Sec. 152.1), Lot Coverage (Sec. 249.78), Height (Sec. 260), Narrow Street Controls (Sec. 261.1), and Apparent Mass Reduction (Sec. 270).

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 waiver results in increased residential density. The requested waiver from rear yard setback allows the project to add an additional thirty-two (32) dwelling units, half of which are three-bedroom apartments, on the Eastern side of the property. The building is U-shaped to create a courtyard where the rear yard would otherwise be required in order to better align with existing neighborhood pattern of mid-block open space.

Ground Floor Ceiling Height. The requested waiver results in increased residential density. The requested waiver from ground floor ceiling height allows the project to add an additional eleven (11) dwelling units by allowing for shorter floor-to-floor heights. This waiver effectively allows for an additional floor of residential units to be included within the building envelope proposed by the project.

Required Off-Street Freight Loading. The requested waiver from off-street freight loading allows the project to add at least one (1) dwelling unit. Site constraints including the street frontages of the lot and the open space and circulation designs for the larger 639 Bryant Street development (2012.0640ENX) 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 or mechanical spaces to one of the residential floors.

Lot Coverage. The requested waiver results in increased residential density. The requested waiver from lot coverage allows the project to add an additional thirty-two (32) dwelling units. The project would be limited to utilizing only 80% of the property, losing approximately 2,500 square feet of space per floor. Across all nine floors the project would cumulatively lose the ability to development approximately 23,500 square feet of built space.

Height. The requested waiver results in increased residential density. The requested waiver from height allows the project to add an additional forty-four (44) dwelling units by allowing four stories over the height limit.

Narrow Street Controls. The requested waiver results in increased residential density. The requested waiver from narrow street controls allows the project to add an additional fifteen (15) dwelling units along the Freelon Street frontage. The required setbacks to meet the sun access plane would result in a substantial loss of buildable are above the third floor.

Apparent Mass Reduction. The requested waivers result in increased residential density. The requested waiver from apparent mass reduction allows the project to add an additional fifteen (15) dwelling units. The project would need to decrease mass and minimize the building façade along Freelon Street, which qualifies as a narrow street, by 50% for floors five through nine.

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 (Sec. 134), Ground Floor Ceiling Height (Sec. 145.1), Required Off-Street Freight Loading (Sec. 152.1), Lot Coverage (Sec. 249.78), Height (Sec. 260), Narrow Street Controls (Sec. 261.1), and Apparent Mass Reduction (Sec. 270) 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 (Sec. 134), Ground Floor Ceiling Height (Sec. 145.1), Required Off-Street Freight Loading (Sec. 152.1), Lot Coverage (Sec. 249.78), Height (Sec. 260), Narrow Street Controls (Sec. 261.1), and Apparent Mass Reduction (Sec. 270) 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 AB-2162, as recorded in Building Permit Application No.202209283327.