



# SAN FRANCISCO PLANNING DEPARTMENT

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## Notice of Final Approval of an SB-35 Project

*Date:* May 21, 2020  
*BPA No.:* **2019.1209.9009**  
*Planning Record No.* 2018-015768PRJ  
*Project Address:* **1351 42nd Avenue**  
*Zoning:* P (Public) District  
40-X Height and Bulk District  
*Block/Lot:* 1797/007  
*Project Sponsor:* Matthew Lewis  
MidPen Housing Corporation  
1970 Broadway, Suite 100  
Oakland, CA 94612  
*Staff Contact:* Jeff Horn – (415) 575-6925  
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### PROJECT DESCRIPTION

The project proposes the demolition of an existing school site and the new construction of a 4- to 5-story tall, 165,193 gross square foot multifamily residential building located on a 59,999 square foot through-lot fronting on 42<sup>nd</sup> Avenue and extending to 43<sup>rd</sup> Avenue. The project would consist of 135 residential units, comprised of 24 studios, 43 one-bedroom units, 59 two-bedrooms units and nine three-bedrooms units, and includes a 8,050 square foot publicly assessable open space adjacent to 43<sup>rd</sup> Avenue, 13,285 square feet of common usable open space for residents, a community room, residential lobby, mail room, manager's office, laundry room, conference room, learning center and computer lab, a workspace and lounge, 110 Class 1 bicycle spaces and 10 Class 2 bicycle spaces, 50 off-street vehicle parking spaces including two carshare spaces, and an on-street loading area on 43<sup>rd</sup> Avenue. The units are 100 percent affordable ranging from 40% - 120% AMI.

### 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 February 7, 2020, Matthew Lewis of MidPen Housing Corporation submitted an SB-35 Application for a residential project at 1351 42<sup>nd</sup> Avenue. Department staff determined that the SB-35 Application was complete, and that the proposed project was eligible for SB-35 on February 25, 2020.

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 135 units of housing affordable to moderate-, lower- 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 seeking waivers from the development standards for setbacks and yards (Planning Code Sections 132 and 134), usable open space (Planning Code Section 135), dwelling unit exposure (Planning Code Section 140), off-street loading (Planning Code Section 152), and building height (Planning Code Section 260).

### *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 setback and yards, usable open space, dwelling unit exposure, off-street loading, and height are required to accommodate the proposed project with the density permitted by the Density Bonus Law. A waiver from height allows the project to accommodate approximately 28,500 square feet of residential uses to be located on a portion of the site that is zoned for a maximum building height of 40 feet. Waivers from a reduction of setbacks, yards, off-street loading, and dwelling unit exposure would allow the project to accommodate approximately 6,000 additional square feet of residential density within the building. 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. **2019.1209.9009**.