



REISSUED- NOTICE OF FINAL APPROVAL OF AN SB 35 PROJECT

Date: August 9, 2023
BPA No.: 202212158402
Planning Record No. **2022-012441PRJ**
Project Address: **1633 VALENCIA ST**
Zoning: NCD - MISSION BERNAL NEIGHBORHOOD COMMERCIAL DISTRICT
50-X Height and Bulk District
Mission Alcohol Restrict Special Use Subdistrict
Mission Street Formula Retail Restaurant Subdistrict
Fringe Financial Services Restricted Use District
Block/Lot: 6574 / 068
Project Sponsor: Mercy Housing California
1256 Market Street
San Francisco, CA 94102
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Project Description

This two-stage project would subdivide one 43,883 square foot parcel into two parcels and construct two new 100% affordable residential buildings. Phase one of the proposed project is located at 1633 Valencia Street. It consists of a six (6) story residential building that would provide 145 units of rental housing for households earning below 80% AMI (and one non-restricted/exempt two-bedroom managers unit). The project will also include resident support and management areas at the ground floor including offices, community room, 44 Class 1 bicycle parking spaces, and other support areas. Phase two of the project, located at 3485 Cesar Chavez Street, is currently under review. The project includes the demolition of two one-story commercial buildings and surface parking lot on the property and construction of a seven (7) story residential building with 126 affordable units and ground floor common spaces.

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.

Clare E Murphy submitted an SB-35 Application for the two stage project at 2022-012441PRJ 1633 VALENCIA ST / 3485 CESAR CHAVEZ ST on January 11, 2023. A request for scoping consultation was received on February 9, 2023, and was finalized on May 12, 2023. On July 28, 2023, department staff determined that the SB-35 Application was complete, and that the proposed project was eligible for SB-35.

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, and unlimited 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 145 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 no concessions/incentives from the development standards. The project is located in a 50-XHeight and Bulk District and proposes a maximum building height of 64 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 (Planning Code Section 134), usable open space (Planning Code Section 135), dwelling unit exposure (Planning Code Section 140), and bicycle parking (Planning Code Section 155.2).

Concessions and Incentives

The project has not requested any concessions/incentives. 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).

- 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.
- C. The concession or incentive would be contrary to state or federal law.

The Project Sponsor did not request any incentives/concessions for the Project.

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 (Planning Code Section 134), dwelling unit exposure (Planning Code Section 140), active uses at the street frontage (Planning Code Section 145.1(c)(3), and bicycle parking (Planning Code Section 155.2).

- 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. *Planning Code Section 134 requires the Project to provide a Rear Yard equal to 25% of the depth of the lot, to be provided at the lowest story containing a dwelling unit and at each succeeding level or story of the building. The subject lot is an irregular shape, with an unusually jagged rear property line and uneven depth (66.75 feet on the northern property line, 117 feet deep on the southern property line). The requested waiver from rear yard setback allows the project to add 25 additional dwelling units at the north side of the property (five units per floor level) and efficiently maximizes the use of the interior space, allowing the building to contain the number of dwelling housing units and ground floor services currently proposed, and thus is eligible for a waiver.*

Exposure. *The requested waiver from dwelling unit exposure allows the project to add 25 additional units on the north side of the property. One hundred and one of the 126 proposed units meet the exposure standards of Section 140 as they face onto the public right-of-way or conforming rear yard. The remaining 25 units face the non-compliant rear yard. While these units meet the square footage and glazing standards of exposure, they do not face onto a qualifying open area that steps back at upper levels as required. Setting back the exterior walls at the rear of the proposed building would result in a loss of as many as 25 units.*

Active Uses. Planning Code Section 145.1(c)(3) requires that space for active uses be provided within the first 25 feet of building depth at the ground floor and the first 15 feet on floors above from any façade facing a street at least 30 feet wide. Active uses includes any principal, conditional, or accessory use that by its nature does not require non-transparent walls facing a public street or involves the storage of goods or vehicles, and in residential buildings, spaces accessory to residential uses, such as fitness or community rooms, are considered active uses only if they meet the intent of this section and have access directly to the public sidewalk or street, and building lobbies are considered active uses, so long as they do not exceed 40 feet or 25 percent of building frontage, whichever is larger. The project's frontage along Valencia Street will contain a residential entry and lounge, offices for building management and resident services that comprise a total of approximately 115 linear feet (62%) of building service uses with complying active uses with transparent walls. The inactive uses (trash, mechanical and bicycle storage) make up the remainder of the frontage with non-transparent walls. Strict compliance with this section of the Planning Code would require the developer to either make alterations to the ground floor levels to be consistent with Ground Floor Residential Design Guidelines, or create a basement level to relocate building services, or relocate resident service uses to face the rear yard, which would reduce the residential area for and decrease the overall number of residential units.

Bicycle Parking. Planning Code Section 155.2 requires one Class 1 space for every dwelling unit. For buildings containing more than 100 units, 100 Class 1 spaces plus one space for every four dwelling units over 100. While the project proposes 44 Class 1 bicycle spaces and 7 Class 2 bicycle spaces, this falls short of the requirement of 112 Class 1 bicycle spaces. The approximate 800 square foot size of a conforming bicycle storage room needed to store 112 bicycles and meet the dimensional and locational standards of Planning Code Section 155 are infeasible without requiring the relocation or the elimination of ground floor level tenant services or the managers unit.

- 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 (Planning Code Section 134), usable open space (Planning Code Section 135), dwelling unit exposure (Planning Code Section 140), and bicycle parking (Planning Code Section 155.2) 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 (Planning Code Section 134), usable open space (Planning Code Section 135), dwelling unit exposure (Planning Code Section 140), and bicycle parking (Planning Code Section 155.2) 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 SB-35, as recorded in Building Permit Application No. 202212158402.