



NOTICE OF FINAL APPROVAL OF AN MODIFIED SB 35 PROJECT

Date: July 7, 2021
BPA No.: **202010196871**
Planning Record No.: **2020-009570PRJ**
Project Address: **600 07th Street**
Zoning: UMU (Urban Mixed Use) Zoning District
68-X Height and Bulk District
Block/Lot: 3783/010
Project Sponsor: Kion Sawney
Mercy Housing
1256 Market Street
San Francisco, CA 94102
Staff Contact: Xinyu Liang – (628) 652-7316
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Project Description

The Modified proposed project (Modified Project) is an 8-story, approximately 185,757-square-foot, mixed-use building with 221 dwelling units, an increase of approximately 4,881 square feet of floor area with an addition of 13 units from the previous proposal approved on January 26, 2021. This family and supportive affordable housing project also includes community and management services. The Modified Project consists of 100 studios, 23 one-bedroom, 83 two-bedroom, and 15 three-bedroom dwelling units, and one manager's unit. The Modified Project will include 100 dwelling units for family households with incomes ranging between 50-80% area median income (AMI), averaging to no more than 60% AMI; all 100 studios and 20 family-sized units will be set aside for formerly homeless adults and families.

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 November 24, 2020, Mercy Housing submitted an SB 35 Application for the mixed-use project at 600 07th Street. Department staff determined that the SB 35 Application was complete and that the Project was eligible for SB 35 on December 3, 2020.

On May 24, 2021, Mercy Housing submitted a Modification to the previous SB-35 Application. The Modified Project was found to be in compliance with the modification criteria set forth in CA Government Code Section 69513.4.

The Planning Director did not request a Planning Commission Hearing or Historic Preservation Commission Hearing for the project. On January 26, 2021, the Planning Department issued the Notice of Final Approval and approved the initial site permit dated January 4, 2021.

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 100 percent of the total units of housing affordable to moderate-, lower- and very low-income households, the Modified Project is entitled to a density bonus of 50%, unlimited waivers, and up to three concessions/incentives that result in identifiable and actual cost reductions to provide for affordable housing costs. The Project Sponsor is requesting two concessions/incentives from the development standards for residential open space (Planning Code Section 135), and ground floor ceiling height (Planning Code Section 145.1). The Modified Project is also seeking five waivers from the development standards for rear yard (Planning Code Section 134), dwelling unit exposure (Planning Code Section 140), dimensions for off-street loading (Planning Code Section 154), height (Planning Code Section 270), and horizontal mass reductions (Planning Code Section 270.1).

Concessions and Incentives

The Modified Project has requested concessions/incentives from the development standards for residential open space (Planning Code Section 135) and ground floor ceiling height (Planning Code Section 145.1). 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 Open Space. Planning Code Section 135 requires that the Modified Project provide 80 square feet of usable open space for each residential unit. The Modified Project is required to provide 17,680 square feet of usable open space, but only 11,922 square feet of open spaces are proposed in the courtyards, which cannot be considered as qualified open space per Planning Code Section 135(g)(2). Therefore, the Modified Project would

trigger in-lieu fees of \$535.51 per square foot for the open space not provided, further increasing the overall project costs.

***Ground Floor Ceiling Height.** The Modified Project proposes a ground floor ceiling height of approximately 14 feet instead of the required 17 feet. The requested incentive from ground floor ceiling height allows the Modified Project to stay within a mid-rise construction type instead of a high-rise construction type, which would raise the construction cost significantly. This incentive would reduce the costs of the Modified Project with the increased density provided by Government Code Section 65915(f)(2).*

- 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 open space and ground floor ceiling height 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 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 rear yard, dwelling unit exposure, dimensions for off-street loading, height, and horizontal mass reductions are required to accommodate the Modified Project with the requested concessions or incentives permitted by the Density Bonus Law.

***Rear Yard.** Planning Code Section 134 requires that the Modified Project provide a rear yard equal to 25 percent of the total lot depth. The Modified Project proposes equivalent spaces divided into two courtyards in order to allow light and air for each residential unit and better accommodate the circulation necessary for additional units.*

Dwelling Unit Exposure. *Planning Code Section 140 requires that at least one room facing directly onto a public street or a qualified open area. The Modified Project proposes units facing the inner courtyard or south property line along the adjacent property's alley instead, which does not qualify as one of the open spaces that can be used to satisfy the exposure requirements. Without a waiver from the exposure requirements, the Modified Project and accompanying density bonus would not be feasible.*

Dimensions for Off-Street Loading. *The required off-street freight loading space shall have a minimum length of 35 feet, a minimum width of 12 feet, and a minimum vertical clearance including entry and exit of 14 feet per Planning Code Section 154. The proposed loading room is smaller and is not intended to accommodate vehicles. It is only for staging the trash dumpsters. Building maintenance staff will move the bins in and out during waste collection. The proposed waiver for a reduced size loading space would allow more efficient building operation and accommodate an additional buildable area for residential use.*

Height. *Per Planning Code Section 260, the maximum height limit for the subject property is 68 feet. The Modified Project proposes a height of 90 feet to accommodate an additional 2 stories.*

Horizontal Mass Reduction. *Planning Code Section 270.1 requires that buildings with 200 feet or great street frontage incorporate one or more mass reduction breaks. Along 7th Street, the Modified Project has a total of 225 feet street frontage, which requires 30 feet in width and 60 feet in depth break. The Modified Project is seeking a waiver as the building is only 56 feet wide. A break of this scale would separate the building in two and require additional circulation or a bridge, both of which would not only reduce the amount of residential floor area and increase construction cost. Instead, the Modified Project will provide a recessed entry along the facade of the building with a corresponding break in the roofline to relieve the mass of the Modified Project.*

The Modified Project is not seeking any waivers that would have an adverse impact to the 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 Modified Project meets all the objective standards of the Planning Code and has completed design review of the project. The Modified Project has been approved in accordance with the provisions of SB 35, as recorded in Building Permit Application No. 202010196871.