



NOTICE OF FINAL APPROVAL OF AN SB 35 PROJECT

Date: June 15, 2022
BPA No.: **2021.0331.7637**
Planning Record No. **2021-001053PRJ**
Project Address: **730 Stanyan Street**
Zoning: Haight Street NC (Neighborhood Commercial) District
50-X Height and Bulk District
Block/Lot: 1249/024
Project Sponsor: Yakuh Askew
Y.A. Studio
777 Florida St, Suite 301
San Francisco, CA 94110
Staff Contact: Christopher May – (628) 652-7359
christopher.may@sfgov.org

Project Description

This project would construct an 83-foot tall, 8-story building containing 157,124 square feet of residential uses for 160 100% affordable housing rental units above 12,181 square feet of ground floor retail and community service uses and 9,984 square feet of common space on the currently vacant lot.

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 3, 2021, Yakuh Askew submitted an SB 35 Application for the mixed-use project at 730 Stanyan Street. Department staff determined that the SB 35 Application was complete, and that the proposed project was eligible for SB 35 on February 8, 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 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 160 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, 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 bird safe glazing (Planning Code Section 139) , and is seeking a waiver from the rear yard requirements of Planning Code Section 134, usable open space (Planning Code Section 135), and dwelling unit exposure (Planning Code Section 140). The project is located in a 40-X Height and Bulk District and therefore requires an additional 33 feet of building height allowed by the Density Bonus Law.

Concessions and Incentives

The Project has requested concessions/incentives from the development standards for bird safe glazing (Planning Code Section 139. 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 incentives result in actual cost and identifiable cost reductions, as each of the incentives would allow the project to increase the number of units which may be constructed at the project site. Increasing the number of units on the site spreads the fixed costs of construction across more units, which reduces the cost-per-unit of development.

BirdSafe Glazing. Because the project site is located adjacent to an Urban Bird Refuge, Planning Code Section 139 requires bird safe glazing on the west facing side of the building up to a height of 60 feet, with no more than 10% of non-treated glazing. In addition, uninterrupted glazing units (along glass guardrails, for example) larger than 24 square feet are also required to be treated bird safe glazing. The project team has received an estimate of \$670,000 for the use of Ornlux bird safe glazing for the areas required to comply. A concession to exempt the project from this requirement would therefore result in significant cost savings.

- 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 bird safe glazing 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 bird safe glazing 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.

In accordance with the State Law, this housing development is seeking waivers or reduction of the following development standards to accommodate the Project: required rear yard area (Planning Code Section 134); required open space (Planning Code Section 135), and dwelling unit exposure (Planning Code Section 140).

Rear Yard: *On corner lots, the required rear yard may be substituted with an open area equal to 25% of the lot area which is located at the same levels as the required rear yard in an interior corner of the lot, an open area between two or more buildings on the lot, or an inner court. In this instance, the strict application of this Planning Code requirement would result in a rear yard measuring approximately 9,453 square feet. The project is seeking a waiver from this requirement by providing three open areas at grade totaling approximately 8,488 square feet, or 22% of the lot area.*

Open Space: *Planning Code Sec 135 requires that 100 square feet of common usable open space per residential unit must be provided. At 160 Units, 16,000 square feet of open space is required for the Project. The project will provide 12,355 square feet of common usable open space which is 2,045 square feet less than the required 14,400 square feet. The strict application of this Planning Code requirement would potentially result in a loss of 14 total residential units and loss of 16,360 square feet of buildable floor area if the usable open space was to be provided at grade within enlarged inner courtyards. Furthermore, the project is located directly across the street from Golden Gate Park which is a large public open space easily accessible to all residents of the project.*

ExposureThe requested incentive from dwelling unit exposure allows the project to add 34 dwelling units, as the strict application of this Planning Code requirement would require approximately 9,330 square feet of building massing to be eliminated within the two interior courtyards.

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. 2021.0331.7637.