

# How one S.F. housing project is using state laws to circumvent neighborhood protest

J.K. Dineen, Aug. 9, 2021

Over the past decade, Potrero Hill and Dogpatch residents have become unusually adept at negotiating with developers, hammering out deals on thousands of new housing units in dozens of projects set to more than double the population in the two east side San Francisco neighborhoods.

So early last year when DM Development CEO Mark MacDonald approached residents about building a seven-story tower at 300 DeHaro St., it didn't seem like anything out of the ordinary. Residents said they would support a slightly shorter six-story project — a building consistent with zoning — and asked for more retail and tweaks to the exterior design.

“We told him we could get behind a code-compliant project,” said J.R. Eppler, of the Potrero Boosters Neighborhood Association. “That said, there is always room for negotiations.”

But instead of bending to the neighbors' wishes and dropping the height of the project, DM Development went in the opposite direction, increasing the proposed 80-foot building to 120 feet, and raising the original 290 units to 450 units.

MacDonald said he submitted the bigger plan after “it was abundantly clear to us the neighbors were not supportive of the lower scale project.”

“If we had gotten support for the original plan we would have kept going down that path,” he said.

But while conflict between neighborhood groups and developers is the bread and butter of San Francisco's land use politics, what makes the fight over 300 DeHaro St. different is this: Because of a series of recent state laws meant to make it easier to produce housing, DM Development doesn't need the support of residents.

Nor does the developer need the support of the Board of Supervisors, which frequently brokers compromises on housing projects. Even the Planning Commission won't get a vote on the proposal.

Rather than going through the city’s notoriously expensive and lengthy approval process, DM Development is taking advantage of Senate Bill 35, which was authored by San Francisco State Senator Scott Wiener and allows developers, in some cases, to bypass local planning and zoning rules if they agree to make a certain number of units affordable. In addition, the developer is taking advantage of the “state density bonus,” which enables buildings to squeeze extra units on sites.

In the case of 300 DeHaro, DM Development is proposing 450 “group housing” units of between 280 and 300 square feet, of which 181 will be below market rate. Forty of these will be affordable to individuals earning less than \$47,000 a year, 127 will target people making less than \$75,000 a year, and 14 will be for those with incomes of less than \$103,000. In addition, DM will pay \$3.8 million in affordable housing fees.



A pedestrian walks by the commercial building at 300 De Haro St. in San Francisco. Several neighbors are concerned that proponents of a new development at the site are using new state laws to circumvent the city’s planning approval process. Carlos Avila Gonzalez/The Chronicle

While nearly all 100% affordable projects in San Francisco are expediting approvals by taking advantage of SB35, 300 DeHaro is the first majority market rate project to do so, according to San Francisco Planning Director Rich Hillis.

“This is what the state intended when they passed their rules, and what I think we are looking at for future projects,” said Hillis.

Hillis said there are “trade-offs.” The community process, while cumbersome, often improves projects. On the other hand, lawsuits filed by opponents frequently slow down housing production by years and sometimes kill projects altogether.

“What we are getting is a project with an unprecedented number of affordable units,” said Hillis. “What they are getting is additional density and a truncated review process. Our commission doesn’t get to weigh in. There is no (environmental) review and it can’t be appealed to the Board of Supervisors.”

Hillis said that DM Development’s approach to 300 DeHaro is a harbinger of what’s to come — that developers will likely increasingly use state law to circumvent local codes. Under the state law, developers can use SB35 if the local city is behind on meeting their state-mandated housing production goals, known as Regional Housing Needs Allocation, or RHNA.

Because San Francisco is currently exceeding its market rate goals, but lagging on its affordable goals, it can only be used on projects with significant affordable units. That will likely change as the city scrambles to meet its next RHNA goals: 82,000 units between 2023 and 2030, Hillis said.

The single-story building currently at 300 DeHaro is triangular and includes a small surface parking lot in front. It is wrapped in metal and is home to a ramen restaurant, an Argentinian spot and a landmark breakfast and lunch diner called Sally’s, which has been popular among local politicians. MacDonald said they have offered the ramen shop space in the new building and are working to help relocate the other businesses.

While the proposed units will be under 300 square feet, each floor will have lounges and communal kitchens, and the building will have ample outdoor space and co-working areas. MacDonald called the units “an attractive option for those who can’t afford a \$3,000 studio.”

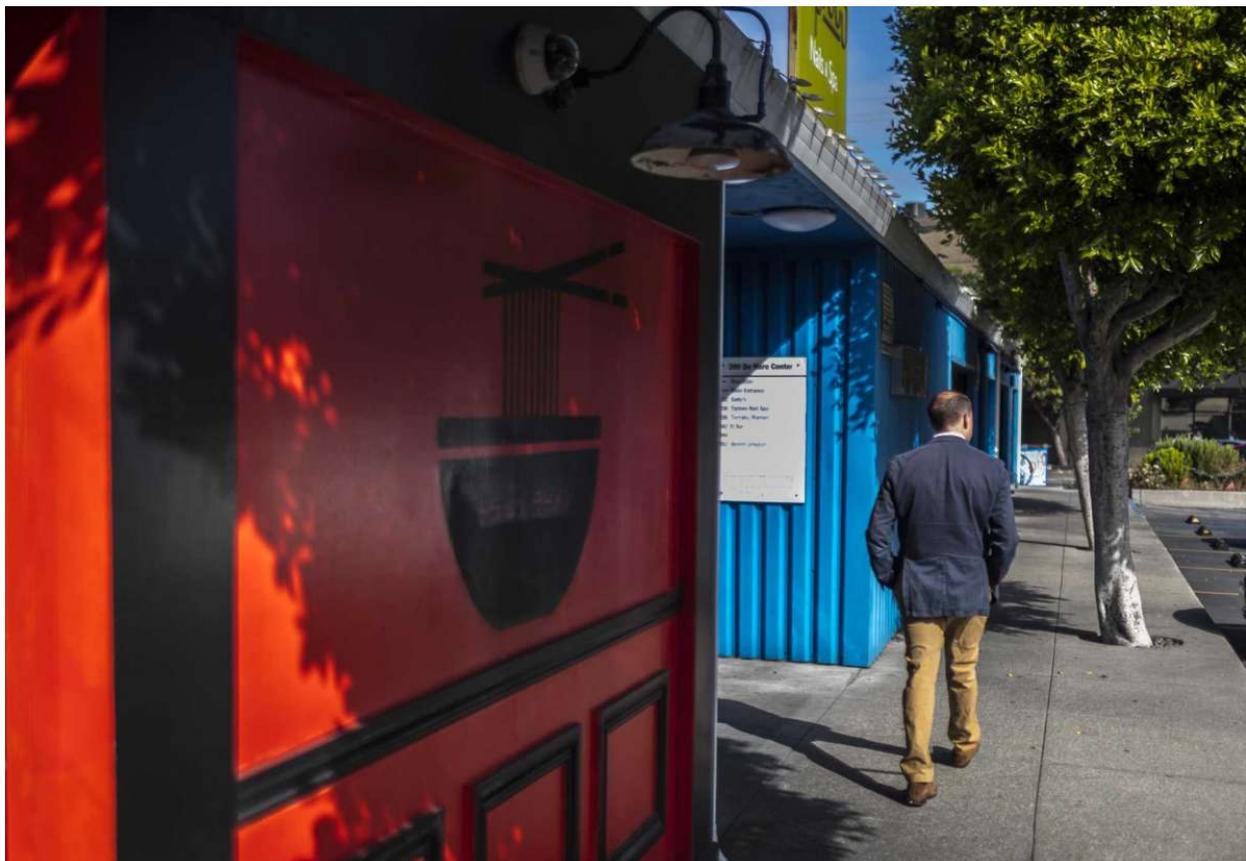
But neighbors questioned whether a co-living building of 450 micro-units would help alleviate the city’s housing crisis. Jeff Alexander, president of the homeowners

association at Showplace Lofts at 370 DeHaro, said that he supports a housing development at the site, but not 11-stories of group housing.

“The site is ripe for development — I get it. But this is so damn big and it’s going to sit there half empty,” he said. “They are trying to ramrod a building that is not going to create the kind of housing the neighborhood needs. It’s a glorified Airbnb hotel.”

Resident Alison Heath said the building would likely end up as temporary corporate housing, something the developer denied.

“What has gone terribly wrong with 300 DeHaro has been the lack of response to community input,” Heath said. “I have yet to meet a neighbor who thinks this is a good idea. The language I’m hearing is ‘monstrosity.’”



J. R. Eppler, president of Potrero Neighborhood Boosters Association, walks by the businesses at 300 De Haro St. in San Francisco. The building could be replaced by a 120 foot tall housing project with more than 180 affordable units. Carlos Avila Gonzalez/The Chronicle

MacDonald, who has built six San Francisco projects and has four more in the pipeline, said that his company has worked well with neighbors in the Mission, Hayes Valley and Marina. The 300 DeHaro project was the first time he was unable to come to terms with neighbors, he said.

“It’s difficult when groups are not willing to give anything when all we want to do is build great projects and more affordable housing,” he said.

Jessica Berg, a lobbyist for DM, said that the developer is simply following the state law.

“We understand not everyone is in alignment with the state’s new housing legislation,” said Berg. “But it was passed because there is a tremendous need for housing of all types. This project is a perfect example of how SB35 can encourage the development of more affordable housing.”

And not all Potrero residents are against the project. Cliff Bargar moved to the neighborhood in 2017, renting a small studio on Connecticut Street. While he was able to take advantage of rent decreases during the pandemic to upgrade to a one-bedroom, he said he would have gravitated toward a co-living building like the proposed one at 300 DeHaro.

“It sounds like a building I would have strongly considered living in,” he said. “There are a lot of things about it that sound appealing — I could see how having all the communal spaces would be a good way to build more community within the building.”

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