

Attachment 1 to Notice of Intent

Use of Concessions

This Notice of Intent relies on CA Gov 65915: the Density Bonus Law.

CA Gov 65915(f) *“density bonus’ means a density increase over the otherwise ‘maximum allowable gross residential density’or if elected by the applicant, a lesser percentage increase, including, but not limited to, **no increase in density.**”*

CA Gov 65915(o) defines “maximum allowable residential density” as “the density allowed under the zoning ordinance....”

LUC 17.24.020, Table 2-4, makes the SPD the determinant of residential density for the Site. There is no maximum allowable residential density in the SPD. Accordingly, Applicant is applying for a density bonus of no increase.

Applying for a density bonus – even at no increase -- entitles Applicant to the Density Bonus Law’s concessions and incentives as well as its waivers.

CA Gov 65915(d)(2)(D) gives Applicant four incentives or concessions if the project meets the criteria of subparagraph (G) of paragraph (1) of subdivision (b). That subparagraph reads as follows:

(b)(1)(G) One hundred percent of the total units, exclusive of a manager’s unit or units, are for lower income households, [80% of AMI] as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the total units in the development may be for moderate-income households, [110% of AMI] as defined in Section 50053 of the Health and Safety Code.

The Project will comply with (b)(1)(G) so it qualifies for four concessions.

Concessions

The Project exemplifies the current trend in multi-family housing design that can be constructed at costs that can be financed with the income derived from affordable rents.

We estimate that adding the traditional design features of craftsman style homes, as required by LUC 17.39(B)(1), to a commercial block building will increase the cost of construction by as much as \$1.5 million (including the cost of a construction elevator which would be required because a pitched roof atop a five-story building will bring the building height to over 60 feet). Moreover, the cost of on-going maintenance would be significantly increased.

1. Applicant therefore proposes the use of one of its concessions to eliminate the requirement for traditional design features of craftsman style homes imposed by LUC 17.39(B)(1).
2. Reserved.
3. Reserved.
4. Reserved.

Use of Waivers

The Project is inconsistent with some of the SPD's Urban Standards and Architectural Standards, as noted above. These standards would physically preclude the construction of the Project.

CA Gov 65915(e)(1) prohibits the City from "applying any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) [see (b)(1)(G), at the densities or with the concessions or incentives permitted by this section. Applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that would have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section."

Waivers

1. SPD 3.2.020(C) requires 2 parking spaces per unit. CA Gov65913.4(e)(2) restricts the City from imposing automobile parking requirements that exceed one space per unit. *A waiver is requested to allow on-site parking of 63 spaces for 70 units.*
2. SPD 3.2.020(D) requires a height limit of three stories. *A waiver is requested to allow five stories.*
3. SPD 3.3.010(B)(1) limits lot width/frontage for a commercial block style building to 250 feet. The Site frontage on E. Cotati Avenue is 339 feet. *A waiver of the lot width/frontage is requested.*
4. SPD 3.3.010(B)(8) limits maximum floor areas above the ground floor to less than 100% of the ground floor area. *A waiver is requested to allow up to 100% of the ground floor area on each floor.*

Precedence of the General Plan Over the Land Use Code

65913.4(5)(B) provides that, "in the event that objective zoning, general plan, subdivision, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective zoning and subdivision standards pursuant to this subdivision if the development is consistent with the standards set forth in the general plan."

The General Plan, Chapter 7, Land Use, Policy LU 3.7 (see Tab 2, page 5) specifically exempts affordable housing from the requirement that it be included in mixed-use projects. Thus, the Project can be 100% residential.

In accordance with 65913.4(5)(B), therefore, Applicant submits that the "Zoning Overlay" (the dotted line) on the SPD Land Use Map (see page 8) and the requirements of LUC 17.22.020, Table 4 (and its imposition of 17.42.100.B), both of which explicitly require that residential units be built only on the upper floors of mixed-use projects in the SPD, are superseded by General Plan Policy LU 3.7.

LUC 17.39.030(D)(7) precludes the removal of several of the oak trees growing on the Site. As Project landscape plans include the planting of numerous replacement trees around the Site, this regulation is

superseded by General Plan Policy Con 1.6 which allows removal of these trees, provided replacement trees are planted.

Other Relief

LUC 17.39.030(D)(1)(a) requires that ground-level units shall include a private porch and/or private patio/garden and that each private porch or private patio/yard shall include a minimum clear dimension of six feet by eight feet. 17.39(D)(1) relieves the requirement for a private porch because a private porch is listed in 17.39.D.1 as qualifying as private open space and the project already has more private open space than is required given that it is across the street from a public park.