

February 2, 2024

**Written Statement
Deerwood & Omega Workforce Housing Community
2233 San Ramon Valley Boulevard, San Ramon
February 1, 2024**

**CITY OF SAN RAMON
PLANNING SERVICES**

PROJECT TITLE: Deerwood & Omega Workforce Housing Community

REQUESTED ENTITLEMENTS/APPROVALS: Administrative Architectural Review
State Density Bonus
CEQA Exemption
Fee Waiver

PROPERTY ADDRESS: 2233 San Ramon Valley Boulevard, San Ramon

ASSESSOR PARCEL NOs.: 208-260-036 & -052

SIZE: 2.99 acres

GENERAL PLAN/SAN RAMON VILLAGE SPECIFIC PLAN / LAND USE DESIGNATION: Village Center Mixed Use (VCMU) (30-35 DU/AC)

ZONING DISTRICT: Village Center Mixed Use (VCMU)

OWNER: JAS 2233, LLC & JSA Properties, Inc.

APPLICANT: Deerwood San Ramon LP

OVERVIEW

The Project will redevelop an underutilized 2.99-acre in-fill site, comprised of two parcels located at 2233 San Ramon Valley Boulevard (the “Project Site”), resulting in 100% affordable workforce residential housing community that will support the vibrant mixed-use district envisioned at the heavily traveled intersection of San Ramon Valley Boulevard and Deerwood Road. The Project will catalyze positive change in the community, transforming the site into 131 units of high-density affordable rental housing with associated infrastructure and amenities for extremely low-, very low- and low-income families in San Ramon.

PROJECT OBJECTIVES

The Project objectives include, and are consistent with the objectives and policies of the San Ramon Village Specific Plan (SRVSP), as follows:

- Redevelop an in-fill site located at one of the City’s key gateways into a compact and sustainable affordable workforce housing community that will contribute to the creation of a vibrant mixed-use node in the Village Center and to the City’s affordable housing goals (SRVSP Objectives 1, 3 and 6; Policy LU-1.2, LU-1.5);

- Provide for the intensification of use by maximizing the density allowed on-site by developing and constructing 131 units of new, high quality, affordable workforce rental housing that will help meet the community's unmet housing needs and meet the SRVSP vision of providing 735 new residential units near the Village Center (SRVSP Policy LU-1.1);
- Offer a diversity of housing opportunities for San Ramon residents including a mix of residential units by size and affordability for families, service workers, community workers, first responders, and senior citizens, thereby serving a cross-section of the workforce across the age and income spectrum, including extremely low-, very low-, and low-income households to help meet the City's State-mandated Regional Housing Need Assessment (RHNA) allocation (SRVSP Policy LU-4.1, 4.2, 4.4);
- Provide critical workforce housing to help meet community needs while also providing potential customers for retail businesses that will create a node concentrated in and around a key intersection to support the economic viability of existing and future neighborhood-serving shops, retail and restaurant uses in the area (SRVSP Policy LU-3.1);
- Enhance the appearance of and contribute positively to the visual character of the SRVSP area by designing a building compatible with the vision of the area that has proper vertical and horizontal articulation (SRVSP Policy LU-2.4, 2.5);
- Improve the aesthetics of one of the City's key gateways by transforming a long stretch of the prominent San Ramon Valley Boulevard and Deerwood Road intersection into a more cohesive, attractive destination and pedestrian-friendly corridor with a strong identity and intimate human scale with a heightened pedestrian experience through infrastructure improvements such as street trees, wide sidewalks, street lighting, landscaping, benches, bike lanes, signage and pedestrian amenities (SRVSP Policy LU-2.4, CIR-2.1, 2.2, 3.1);
- Maximize existing infrastructure and enhance the visual character of a prominent site located at a prominent intersection by creating a pedestrian-scale urban character compatible with adjacent uses and enhanced by landscaping, shade trees, signage and lighting (SRVSP Policy LU-2.9);
- Promote sustainability through compact development that is pedestrian and bicycle-friendly and encourages alternative modes of travel including walking, biking and efficient use of public transit while also providing adequate parking to accommodate new workforce housing (SRVSP Policy LU-2.6, CIR-4.3, 6.4, 6.6);
- Incorporate sustainable building practices into the Project design such as solar arrays, low impact development, energy efficient building design, passive heating/cooling strategies, wastewater technologies, water use reduction, water efficient fixtures, and green building materials, etc. to support the City's sustainability goals and encourage natural resource conservation (SRVSP Policy LU-2.6, UTIL-1.1, 2.1, 3.1, 3.2, 3.3, 3.4, 5.3); and
- Provide for the phased redevelopment and recycling of underutilized lands within the SRVSP by integrating new residential uses into the area while also preserving viable service commercial businesses that are established and wish to remain utilizing site design elements that minimize potential conflicts between uses including setbacks, walls and landscaping (SRVSP Objectives 1 and 5).

PROJECT DESCRIPTION

The Applicant, Deerwood San Ramon LP, requests Administrative Architectural Review, State Density Bonus Law approval, a CEQA Exemption, and a Fee Waiver in order to construct a 131-unit affordable workforce rental housing project (including one manager's units) with surface parking and associated utilities, landscaping, open space, trash enclosures and other facilities on a 2.99-acre infill site located at 2233 San Ramon Valley Boulevard. The enclosed materials include an SB 330 preliminary application.

The Project consists of three (3) buildings with approximately 164,036 square feet and a floor area ratio of 1.26. The two buildings on San Ramon Valley Boulevard and Deerwood Road/Omega Road are comprised of five (5) stories each, while the third building at the intersection of San Ramon Valley Boulevard and Deerwood Road is comprised of three (3) stories. The corner of Deerwood Road and Omega Road has been designed as a main building entrance facing onto a vibrant outdoor gathering space enhanced by trees, benches, and pedestrian amenities.

The residential buildings include a mix of one-, two-, and three-bedroom units as follows:

Total # Units	
One Bedroom	46
Two Bedroom	42
Three Bedroom	43
Total Units	131
Total Unit SF	104,866

The units will range in size from approximately 641 to 1,070 square feet. The affordable workforce housing will be designed to include ample amenities anticipated to include a multi-purpose activity common room, resident services room, laundry room, bike room, and reception areas, as well as space for Property Management and Resident Services staff to provide vital on-site resident services aimed at helping households retain housing and gain access to services needed to help maximize their ability to live and work in San Ramon.

Outdoor amenities are envisioned to include a play area, barbeque, benches, tables and pet relief area as well as ample landscaping. 200 off-street parking spaces and 21 on-street parking spaces will be provided as well as ample bicycle spaces. All of the units (excluding the one manager's units) will be offered to extremely low-, very low- and low-income households earning between 30-80% area median income.

Site Design – The site design concept embraces the policies and standards of the SRVSP by seeking to revitalize a long stretch of San Ramon Valley Boulevard, Deerwood Road and Omega Road. The Project would centrally locate much needed high quality affordable workforce housing at a prominent and heavily traveled intersection in close proximity to existing and future retail as well as public transit. Redevelopment of the Project Site will create an attractive,

pedestrian friendly streetscape by placing buildings adjacent to the public sidewalk thereby activating and reinvigorating this important mixed-use corridor. Ground floor patios and balconies will serve to further activate the streetscape. Siting housing at this prominent location will reinforce the walkability of the SRVSP and will help support the economic vitality of existing and future commercial components of the corridor. The surface parking will be wrapped by the residential buildings providing off-street parking that is screened from public view. The Project will incorporate appropriate separation and buffering from the existing repair businesses through the use of setbacks, walls and landscaping.

Access/Frontage Improvements - Primary access to the Project Site is provided by two private driveways that take access off Deerwood Road and Omega Road. The number, placement and width of curb-cuts has been minimized in order to maximize the existing on-street parking, enhance access to the new residential units and establish a buffer between pedestrians and traffic. The site frontage improvements will provide ample sidewalks, landscaping and street trees resulting in a pedestrian-friendly streetscape with pedestrian amenities that encourage pedestrian activity and support the vision of the SRVSP.

Parking - The Project provides adequate parking to accommodate the new housing units balanced with the desire to promote transit, walking and bicycling. The Project meets the City’s parking requirements set forth in SRVSP for very-low and low-income housing units as follows:

	Required Ratio/Unit¹	Required Parking	Proposed Parking
Resident	1.25	164	221
Visitor	.20	26	
Total		190	

The parking requirement will be met through the construction of a surface parking lot accessed from Deerwood Road and Omega Road, containing 200 standard, enclosed and tandem parking spaces. The parking lot will be wrapped by the residential buildings, thereby reducing any potential visual impacts. As provided for in the SRVSP (Policy CIR-6.5), the Project will utilize the 21 on-street parking spaces directly adjacent to the site on San Ramon Valley Boulevard and Omega Road for visitors.

Architectural Design – The architectural design/style builds on the prescriptive standards of the VCMU district of the SRVSP and draws from more modern Mediterranean influences with elements and features that provide a clean and crisp façade. The building placement is dictated by the frontage on San Ramon Valley Boulevard, Deerwood Road and Omega Road. The Project seeks to activate and enhance the gateway by placing the buildings along the street frontage with doors and windows that face the street to put eyes on the street and promote pedestrian activity. Movement has been incorporated into the building façade and roof lines avoiding a long

¹ SRVSP, page 56.

monolithic design and creating visual interest. The buildings will be three (3) and five (5) stories in height with a datum created by bays to reduce the perceived scale and highlight the building entries. Architectural features include porches, stoops, balconies and large windows that will provide visual interest and heighten the pedestrian experience. The building facades have been designed to relate to the public realm and create visual interest, ensuring a pedestrian orientation. The building details and articulation will create design variety and establish harmony among adjacent buildings. The design provides an articulated flow among the building façades including pedestrian cut-outs, which allow for pedestrian scale lighting, benches, shade trees and landscaping and other pedestrian-oriented amenities that create a welcoming, pedestrian friendly environment particularly at the corner of Omega Road and Deerwood Road.

Colors & Materials – The color palette and materials reflect the urban nature of the SRVSP area and draw from existing nearby improvements in order to ensure compatibility with existing elements in the neighborhood. The materials reflect the building’s urban surroundings and are predominately plaster in nature with metal accents to enhance specific elements of the building façade. Color accents emphasize specific elements of the building while also ensuring the building is not visually dominant within the corridor at build out.

Landscaping & Open Space – The building layout at the corner of Deerwood Road and Omega Road creates common outdoor landscaped areas including a central courtyard with an outdoor play space which connects to the common rooms and lobby. A pet relief area provides opportunities for pets to stretch their legs. The buildings are softened and buffered by landscaping and outdoor green space creating an inviting and welcoming outdoor experience for residents and visitors in conformance with Section D3.20.A of the City’s Zoning Ordinance which requires residential projects to provide and maintain 15% landscaped areas in mixed use districts. The provision of a full mid-block pedestrian path would result in the loss of parking spaces necessary to serve the proposed units and therefore the loss of affordable units; as such, the Project invokes the use of a waiver under the State Density Bonus Law (SDBL) of the full mid-block pedestrian path envisioned in the SRVSP (see SDBL discussion below).

Grading & Utilities – The Project Site gradually falls towards the northeast corner of the property at a 2%± slope. The proposed grading is anticipated to generally follow the existing topography of the site, with grading design to convey stormwater to various LID treatment areas located throughout the Project. Electricity, water, sewer and gas utilities are all available for the future development. Irrigation, domestic, and fire water services are anticipated to come off the existing 8” main in Omega Road. There are 12” and 15” sewer mains on Deerwood Road and San Ramon Valley Boulevard, respectively. The new buildings will connect to an onsite sewer system and routed to these mains to serve the Project sewer needs. The Project will be designed to meet the requirements of the Contra Costa County Clean Water Program for stormwater treatment and management of runoff. LID stormwater treatment areas and source control measures will be implemented onsite.

Lot Merger – The Project is comprised of two separate legal parcels. If required for financing purposes, the Project may request a lot merger prior to start of construction.

Signage – The Project is anticipated to incorporate monument signs at the driveways on Deerwood Road and Omega Road as well as building signs at the main entries; signage approval will be requested prior to start of construction.

Sustainability – The Project design promotes sustainability through compact development that encourages alternative modes of travel including walking, biking and efficient use of public transit. The Project design also incorporates sustainable building practices such as solar arrays, low impact development, energy efficient building design, passive heating/cooling strategies, wastewater technologies, water use reduction, water efficient fixtures, and green building materials, etc. to support the City’s sustainability goals and encourage conservation.

LAND USE

Per the City’s adopted SRVSP Land Use Plan, the property is designated Village Commercial Mixed Use (VCMU). Multi-family residential development is allowed in the VCMU designation with an allowed density of 30-35 units per acre. The VCMU designation allows for a maximum of 105 units; therefore, the project requests a State Density Bonus to allow for 26 additional units, for a total of 131 units with a gross density of 44 du/ac. The allowed floor area ratio is 1.25; the proposed floor area ratio is 1.26 and has included a waiver requested to address this discrepancy.

ZONING

Per Chapter D6-22 of the City’s Zoning Ordinance, all buildings and site plans are subject to architectural review. The Project Site was previously included in the City’s housing inventory for both the 4th and 5th Housing Element update cycles; therefore, it qualifies as a “recycled” housing inventory site in the current Housing Element and is subject to a by right Administrative Architectural Review in which review is limited to confirming that the Project is consistent with applicable “objective” requirements, after taking into account any modifications to those standards to which the Project may be entitled pursuant to the SDBL. Further, per Table A-2 of the SRVSP, the residential component of a mixed-use project in the VCMU is a use permitted by right. Per the VCMU, properties with a developable area of 70,000 square feet or more are required to provide a mix of uses.

As a 100% affordable project, the project qualifies for a state density bonus and is eligible for up to five concessions/incentives and, where it can be demonstrated a development standard would physically preclude development of the housing units, an unlimited number of waivers. In order to maximize the number of affordable workforce housing units provided on-site, the Project invokes the use of a waiver to eliminate the mixed-use/commercial retail requirement (see SDBL discussion below). With the exception of its other permitted waiver requests, the Project conforms to the development standards of the VCMU, as detailed on Sheet G0.1 of the plan set.

DESIGN GUIDELINES

The Project responds to the design guidelines of the SRVSP as follows:

1. The buildings have been varied in height between three (3) and five (5) stories and the building facades and rooflines have been varied to help reduce the scale and massing of the buildings (DG-1);

2. Corner buildings have been designed with distinct architectural features and defined building entrances to animate the intersections and facilitate pedestrian flow (DG-2);
3. Ground floor spaces have been designed to accommodate a variety of uses including residential units as well as common area amenities such as community rooms, gym, bike room, management and resident services, and other amenities (DG-3);
4. An outdoor seating area has been accommodated at the corner of Omega Road and Deerwood Road encouraging opportunities to gather and socialize and further activating the pedestrian realm and street frontage (DG-4);
5. The buildings have been oriented to maximize privacy while also ensuring adequate air and sunlight access (DG-6);
6. Landscaping has been designed to be drought tolerant, native species appropriately located to optimize the outdoor experience, provide insulation and cooling as well as screen less desirable elements such as mechanical equipment (DG-7, 11);
7. The proposed building materials are largely plaster with metal accents which highlight key elements of the buildings at prominent intersections (DG-8);
8. The color palette and materials reflect the urban nature of the Project Site and draw from existing nearby improvements in order to ensure compatibility with existing elements in the neighborhood. The materials reflect the building's urban surroundings and are predominately plaster in nature with metal accents that enhance specific elements of the building façade. Colors reflect the urban nature of the corridor with varying accents to emphasize key elements of the building while also ensuring the building is not visually dominant within the corridor at build out (DG-8, 9, 10);
9. Unique gateway features such as pedestrian plaza, distinct plantings, and lighting have been incorporated at the prominent intersections of San Ramon Valley Boulevard and Deerwood Road as well as Deerwood Road and Omega Road where they are visible to both motorists and pedestrians, and emblematic of the San Ramon Village district's historic identity (DG-21).

SB 330 VESTING

The project seeks vesting rights pursuant to SB 330, the Housing Crisis Act of 2019. The project consists of residential units only, meets the criteria per California Government Code Section 65589.5(h)(2)(B) and is therefore subject to the provisions of SB 330.

FEE WAIVER

As a 100% affordable housing project the Project requests full waiver of the City Traffic Impact Fee, School Age Child Care Fee, Park and Recreation Facility Impact Fee, Private Sector Art and Beautification Fee, Open Space Development Impact Fee, Specific Plan Recovery Fee, General Plan Recovery Fee, Zoning Ordinance Recovery Fee and Tri Valley Transportation Development Fee as well as partial waiver of Building Permit Plan Check Fees, Building Permit Inspection Fees, Planning Plan Check Review Fees, Engineering Plan Check Fee and Engineering Inspection Fee as well as any other waiver of fees the Project is entitled to, whether in full or in part.

STATE DENSITY BONUS

The Project qualifies as a Housing Development under Government Code Section 65915(i) which defines a project as being five (5) or more units. Consistent with Government Code Section 65915(b)(1)(G) a Housing Development that proposes 100% of all of the units in the development, exclusive of a manager's unit or units, for lower income households is eligible for an at least 80% state density bonus (and potentially unlimited density depending on location)² as well as unlimited waivers,³ and five incentives or concessions.⁴

The Project requests a density bonus to increase the density from the 35 dwelling units per acre allowed under the VCMU designation to 44 dwelling units per acre, which comes well within the permitted bonus range. The Project requests the following waivers under the SDBL, noting that each of the below requirements, if strictly applied, would “have the effect of physically precluding the construction of a development” including its density bonus units:

- Elimination of the mixed-use commercial/retail requirement;
- Elimination of the mid-block pedestrian path requirement;
- Reduction to finished floor elevation for building entries;
- Reduction to ground floor transparency for ground floor windows;
- Reduction to side, rear and upper story setbacks;
- Reduction to building frontage width;
- Reduction to pedestrian amenity cut-outs for building frontage;
- Increase to street wall height;
- Increase to lane width for vehicle facilities;
- Elimination of on-street tree wells;
- Increase to floor area ratio;
- Increase to height;
- Reduction to interior parking lot landscaping shading requirement; and,
- Elimination of motorcycle spaces.

Please also see the enclosed SRVSP consistency chart, which contains more detailed citations to the above-listed standards and indicates the Project’s proposal in comparison to each requirement.

Strict adherence to the development standards of the zoning district would physically preclude construction of the Project as proposed and would result in the construction of fewer affordable units. In the event the City disagrees with any of the above-asserted waivers, we note that each would also provide actual and measurable cost reductions that would provide for the construction of the affordable units, qualifying the Project for an incentive.

² Govt. Code Section 65915(f)(3)(D).

³ Govt. Code Section 65915(e)(1).

⁴ Govt. Code Section 65915(d)(2)(D).

EXISTING SITE CONDITIONS

The Project Site is a 2.99-acre fully disturbed in-fill site surrounded by urban development with frontage on San Ramon Valley Boulevard, Omega Road and Deerwood Road, the City's key intersections and gateway arterial corridors within the SRVSP. The Project Site benefits from proximity to Interstate 680, existing infrastructure, utilities, transit, services, and major employers including Bishop Ranch. The Project Site boasts direct access to both the regional and local transportation networks, with a freeway interchange adjacent to the southeast and San Ramon Valley Boulevard, an important north-south arterial running through the area that provides linkages to destinations in San Ramon and other valley communities from Walnut Creek to Pleasanton.

The Project Site boasts ample access to alternative modes of transportation with transit service available in close proximity. The SRVSP area is directly served by two County Connection buses. The 21 (weekday) and 321 (weekend) lines serve the northern half of the area, running along San Ramon Valley Boulevard and Fostoria Way. The 36 (weekday) line runs along Crow Canyon Road and San Ramon Valley Boulevard south of the area. In addition, there are two express lines (92X and 95x) that run along I-680, entering/exiting at Crow Canyon Road and stopping just east of the area. Riders of these express lines can access the area by crossing the Fostoria Way overpass or the Crow Canyon Road served by two County Connection buses. There are bus shelters and benches along both Crow Canyon Road and San Ramon Valley Boulevard located near main intersections. Within the area along San Ramon Valley Boulevard there are a total of five shelters located on Hooper Drive, Faria Preserve Parkway, Deerwood Road, and Crow Canyon Road. Three shelters are shaded by the surrounding trees. There are two shelters along Crow Canyon Road that are both shaded with trees. The two shelters that are on San Ramon Valley Boulevard and Hooper Drive are directly across the street from one another.

The Project Site is fully disturbed and currently developed as a landscape supply business occupied by Morgan's Masonry Supply. Located immediately adjacent to the northern boundary of the Project Site is a commercial retail shopping center with tenants including Mountain Mike's Pizza. To the east of the Project Site is an autobody shop and San Ramon Valley Boulevard; to the south is Deerwood Road, a school/church and vacant undeveloped land; to the west is Omega Road and vacant undeveloped land. No landscaping or vegetation currently exists on the Project Site except two palm trees which will be removed as part of construction of the Project.

REQUESTED ENTITLEMENTS

The Project requests the following entitlements and approvals, which are summarized in the table below.

Entitlement	Description
Administrative Architectural Review	<p>Per Chapter D6-22 of the City’s Zoning Ordinance, all buildings and site plans are subject to architectural review. The Project Site was previously included in the City’s housing inventory for both the 4th and 5th Housing Element update cycles; therefore, it qualifies as a “recycled” housing inventory site in the current Housing Element and is subject to a by right Administrative Architectural Review in which review is limited to confirming that the Project is consistent with applicable “objective” requirements, after taking into account any modifications to those standards to which the Project may be entitled pursuant to the SDBL. Further, per Table A-2 of the SRVSP, the residential component of a mixed-use project in the VCMU is a use permitted by right.</p>
State Density Bonus	<p>Per the City’s adopted SVRSP Land Use Plan, the Project Site is designated Village Center Mixed Use (VCMU) with an allowed density of 30-35 units per acre. The VCMU designation allows for a maximum of 105 units; therefore, the Project requests a State Density Bonus to allow for 26 additional units, for a total of 131 units.</p> <p>In addition to its density bonus, the Project is additionally eligible for up to five (5) incentives/concessions and unlimited waivers provided for under the SDBL. As such, the Project requests the following waivers under the SDBL:</p> <ul style="list-style-type: none"> • Elimination of the mixed-use commercial/retail requirement; • Elimination of the mid-block pedestrian path requirement;

	<ul style="list-style-type: none"> • Reduction to finished floor elevation for building entries; • Reduction to ground floor transparency for ground floor windows; • Reduction to side, rear and upper story setbacks; • Reduction to building frontage width; • Reduction to pedestrian amenity cut-outs for building frontage; • Increase to street wall height; • Increase to lane width for vehicle facilities; • Elimination of on-street tree wells; • Increase to floor area ratio; • Increase to height; • Reduction to interior parking lot landscaping shading requirement; and, • Elimination of motorcycle spaces. <p>If the above-described standards were applied to the Project, the Project would not be able to be constructed at its permitted density, including with its density bonus units. Accordingly, the above-described requirements must be waived. In the event the City disagrees with any of the above-asserted waivers, we note that each would also provide actual and measurable cost reductions, qualifying the Project for an incentive.</p>
<p>Environmental Review</p>	<p>CEQA - The approvals required for the Project are exempt from any further CEQA review for at least three independent reasons.</p> <p>1. “By Right” Approval Pursuant to the City’s Specific Plan and Housing Element Law</p> <p>State Housing Element law requires a jurisdiction to identify sites within the jurisdiction that are “suitable” to accommodate “the jurisdiction’s share of the regional</p>

	<p>housing need for all income levels.”⁵ When projects are proposed on sites that have been included in a jurisdiction’s site inventory for multiple Housing Element cycles, a city must approve a project on a site “by right,” if the project includes “at least 20 percent of the units . . . affordable to lower income households.”⁶ “[B]y right” means “that the local government’s review of the . . . multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a ‘project’ for purposes of . . . [CEQA].”⁷ The project is proposed on a site that was included in the City’s site inventory in the previous two Housing Element cycles. Because the project includes more than 20% affordable units, the project is eligible for by-right processing and approval, and the City committed to such approval process in its recently adopted Housing Element.⁸</p> <p>Furthermore, and consistent with this state law requirement, the project’s residential use is permitted under the SRVSP, which considers the residential component of a mixed-use project to be permitted with no discretionary approvals that would trigger CEQA. “CEQA applies only to “<i>discretionary</i> projects proposed to be carried out or approved by public agencies” <u>McCorkle Eastside Neighborhood Group v. City of St. Helena</u> (2018) 31 Cal.App.5th 80, 89, <u>as modified</u> (Jan. 25, 2019) (citing Pub. Res. Code § 21080) (italics in the original). Architectural Review under the SRVSP does not trigger CEQA because a review that is “limited to design issues” does not trigger CEQA. <u>Id.</u>, at 93. This is again consistent with state Housing Element, which specifically provides that any “design review” permitted of a project entitled</p>
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⁵ Gov. Code § 65583.2(a).

⁶ Gov. Code § 65583.2(c)

⁷ Gov. Code § 65583.2(i).

⁸ City of San Ramon, 2023-2031 Housing Element (HCD Review Draft), (Dec. 2022), at H.5-16.

	<p>to “by right” review “shall not constitute a ‘project’ for purposes of . . . [CEQA].”⁹ Because architectural review of the project does not trigger CEQA, and state Housing Element law requires “by-right” processing of the project, the project is exempt from CEQA.</p> <p>2. Specific Plan Exemption</p> <p>Government Code Section 65457 provides that projects “consistent with a specific plan for which an environmental impact report has been certified” are exempt from CEQA. Gov. Code § 65457(a). According to the SRVSP, “[a] programmatic Environmental Impact Report (EIR) was prepared for the 2006 Specific Plan (SCH# 2003122087) and the Final EIR certified by the City Council in April 2006.”¹⁰ “[A]n addendum to the Final EIR was prepared, demonstrating that the Plan, as amended in 2020, would not result in new or substantially more adverse environmental impacts than those identified and mitigated in the 2006 EIR.”¹¹ Following approval of the 2020 addendum, the City certified the EIR for the City’s General Plan and Housing Element update in December 2023.¹² This certified EIR covered further changes to the SRVSP. Given that the environmental impacts of the SRVP have been analyzed so recently, there is no reason to expect that there are any “new or substantially more adverse environmental impacts than those” previously “identified and</p>
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⁹ Gov. Code § 65583.2(i).

¹⁰ City of San Ramon, San Ramon Village Specific Plan (“SRVSP”) (adopted Nov. 24, 2020), at 104, https://cdns5-hosted.civiclive.com/UserFiles/Servers/Server_10826046/File/Our%20City/Departments/Community%20Development/Planning/Specific%20Plans/San%20Ramon%20Village%20Specific%20Plan/SRVSP,%20Adopted%2011.24.20.pdf

¹¹ *Id.*; City of San Ramon, San Ramon Village Specific Plan, (last visited Jan. 29, 2024), https://www.sanramon.ca.gov/our_city/departments_and_divisions/community_development/planning_services/specific_plans/san_ramon_village_specific_plan; First Carbon Solutions, Initial Study/Addendum Crow Canyon Specific Plan Update, City of San Ramon, Contra Costa County, California (Jun. 24, 2020), https://cdns5-hosted.civiclive.com/UserFiles/Servers/Server_10826046/File/Our%20City/Departments/Community%20Development/Planning/Specific%20Plans/San%20Ramon%20Village%20Specific%20Plan/Final%20SRVSP%20Addendum%2006.24.20w%20Appendices%20and%20Supplemental%20Memo.pdf.

¹² City of San Ramon, General Plan and Housing Element Update, (last visited Jan. 29, 2024), <https://www.sanramon.ca.gov/cms/One.aspx?portalId=10826130&pageId=17438187>.

mitigated,” and therefore no reason to think that further environmental review is required for a project consistent with the SRVSP.¹³ The project will be consistent with all applicable SRVSP standards, aside from those deviations from SRVSP standards to which the applicant is entitled pursuant to the State Density Bonus Law (“SDBL”). Standards that are waived or modified pursuant to the SDBL do not trigger CEQA review. Wollmer v. City of Berkeley (2011) 193 Cal.App.4th 1329, 1349 (modifications of standards permitted under the SDBL are disregarded for purposes of analysis for eligibility for a CEQA exemption, which otherwise requires consistency with applicable zoning and General Plan requirements). Accordingly, even if the project approval were a discretionary project, it would be exempt from CEQA.

3. Community Plan Exemption

Section 21083.3 of the Public Resources Code and Section 15183 of the CEQA Guidelines create an additional statutory exemption from CEQA. Lucas v. City of Pomona (2023) 92 Cal.App.5th 508, 535, 541. Under this exemption, “CEQA *mandates* that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified *shall not* require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site.”¹⁴ As discussed above, the project is consistent with the SRVSP, which is covered by the certified EIR for the City’s General Plan, as well as by the SRVSP EIR, as amended. For largely the same reasons discussed above, there is no reason to expect “effects on the environment which are peculiar to the parcel or to the project” that “were not addressed” in the very

¹³ SRVSP, at 104.

¹⁴ CEQA Guidelines, § 15183(a) (emphasis added).

	<p>recently prepared and certified environmental analysis. See <u>Lucas</u>, 92 Cal.App.5th at 538 (as long as there is any substantial evidence in the record “that a reasonable mind might accept as sufficient to support the conclusion” that a statutory exemption applies, court will affirm).</p>
<p>SB 330 Preliminary Application</p>	<p>The enclosed materials include a preliminary application pursuant to SB 330, the Housing Crisis Act of 2019. The Project consists of residential units only, meets the criteria per California Government Code Section 65589.5(h)(2)(B) and is therefore subject to the provisions of SB 330. All of the required items per Government Code Section 65941.1(a) have been included in this submittal. An affirmative response from the City to the preliminary application is not required.</p>
<p>Fee Waiver</p>	<p>As a 100% affordable housing project the Project requests full waiver of the City Traffic Impact Fee, School Age Child Care Fee, Park and Recreation Facility Impact Fee, Private Sector Art and Beautification Fee, Open Space Development Impact Fee, Specific Plan Recovery Fee, General Plan Recovery Fee, Zoning Ordinance Recovery Fee and Tri Valley Transportation Development Fee, as well as partial waiver of Building Permit Plan Check Fees, Building Permit Inspection Fees, Planning Plan Check Review Fees, Engineering Plan Check Fee and Engineering Inspection Fee as well as any other waiver of fees the Project is entitled to, whether in full or in part.</p>

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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May 12, 2022

Elise Semonian, Community Development Director
City of Larkspur
400 Magnolia Avenue
Larkspur, CA 94939

Dear Elise Semonian:

RE: Magnolia Avenue Project (1169-1133 Magnolia Ave.) – Letter of Technical Assistance

The California Department of Housing and Community Development (HCD) received a request for technical assistance regarding the Magnolia Avenue Project (Project) currently in review by the City of Larkspur (City). As HCD understands it, the Project application includes a concession request pursuant to State Density Bonus Law (SDBL) (Gov. Code, § 65915). Through our communication with the City and review of Project review documents, HCD is aware that the City is uncertain about the eligibility of the requested concession under SDBL. The purpose of this letter is to provide technical assistance regarding the application of SDBL concessions/incentives to assist the City in its review of the Project.

Background

On or around October 21, 2021, Edge Development Group, LLC (Applicant) submitted a preliminary application pursuant to Government Code section 65941.1. On December 13, 2021, within the 180-day timeframe outlined in statute (Gov. Code, § 65941.1, subd. (d).), the Applicant submitted a full application. On January 13, 2022, the City determined the application to be incomplete. Additionally, HCD understands that the Applicant submitted a revised application on May 10, 2022.

The Applicant proposes to develop a 20-unit mixed use for-sale housing development project on an approximately 1.55-acre site located at 1135-1169 Magnolia Avenue (APN 020-024-14). Four units would be deed-restricted affordable housing units, including two units for moderate-income households and two units for low-income households. A portion of one existing commercial building would remain on-site to be integrated into the new development.

The site has a general plan land use designation of Commercial and a zoning designation of C-2, Commercial. Additionally, the site is identified in the City's 5th Cycle housing element sites inventory.¹

The Applicant's Requested Concession

The Applicant has requested a concession to allow residential use on the ground floor of the proposed mixed-use project.² As HCD understands it, the City ordinarily requires residential use to be located exclusively above ground floor commercial use within the C-2, Commercial zoning district. Specifically, the C-2 zone conditionally permits "multiple dwellings and residential units above first-story commercial."³ Additionally, the Commercial general plan land use designation "encourages" second-story housing."⁴

Concessions/Incentives Under SDBL

Although waivers are restricted to physical development standards, SDBL intentionally defines incentives and concessions more broadly to encompass a broad range of possible zoning or other regulatory modifications proposed by a developer to aid in the production of affordable housing. As further described in Government Code section 65915, subdivision (k), a concession could mean any of the following types of modifications that result in identifiable and actual cost reductions to provide for affordable housing:

- A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission (see Gov. Code, § 65915, subd.(k)(1));
- Approval of mixed-use zoning in conjunction with the housing project in specified circumstances (see Gov. Code, § 65915, subd.(k)(2)); or,
- Other regulatory incentives or concessions proposed by the developer (see Gov. Code, § 65915, subd.(k)(3)).

SDBL Reasonable Documentation Standard

In reviewing any developer's requested concession/incentive, SDBL allows local agencies to require the submission of "reasonable documentation" to establish eligibility. (Gov. Code, § 65915, subd. (a)(2).) For instance, the City may require an applicant to provide a basic explanation to demonstrate that the incentive or concession meets the definition set forth in Government Code section 65915, subdivision (k), and provides an

¹ City of Larkspur Housing Element, 2015-2023, pg. 50 and Appendix A "Housing Opportunity Sites."

² Applicant's Magnolia Village Project Description, pg. 2.

³ Larkspur Municipal Code, section 18.48.022(K).

⁴ Larkspur General Plan, "Land Use Categories" pg. 7 of 28.

identifiable and actual cost reduction. However, the City cannot require any additional report or study as “reasonable documentation” under subdivision (j). (Gov. Code, § 65915, subds. (a)(2), (j), (k).)⁵

While early versions of SDBL required an applicant to prove that the incentives or concessions would result in identifiable cost reductions, AB 2501 (Bloom, Chapter 758, Statutes of 2018) reversed that burden by establishing a presumption that incentives and concessions inherently provide cost reductions, and that by providing cost reductions, they contribute to the development of affordable housing. A municipality has the burden of proof of demonstrating that a concession or incentive would *not* generate cost savings. Accordingly, SDBL, Government Code section 65915, subdivision (d)(1), requires cities to approve concessions, incentives and waivers unless specified written findings based on substantial evidence are made. The only reasons for denial are set forth in subdivisions (d)(1)(A)-(C), as follows:

- The concession/incentive does not result in identifiable and actual cost reductions.
- The concession/incentive would have a specific, adverse impact (as defined) upon public health and safety or the physical environment or on real property listed in the California Register of Historical Resources, and there is no feasible method to mitigate or avoid the impact.
- The concession/incentive would be contrary to state or federal law.

Applicability of SDBL Concession Provisions to Magnolia Village Project

In consideration of the above, HCD interprets that the Applicant’s proposed concession to allow residential use on the ground floor fits within SDBL’s broad construct – in particular, Government Code section 65915, subdivision (k)(3), that allows for *regulatory requirements proposed by the developer that result in identifiable and actual cost reductions*. In addition, HCD is aware that the Applicant has already provided reasonable documentation to establish eligibility by submitting a supplemental analysis describing the cost reductions associated with the requested concession. Here, the City must accommodate the requested concession and may only deny the request if one of the three preceding written findings can be made. HCD is not aware of any evidence demonstrating that any such findings can be made.

⁵ See also Sen. Rules Com., Analysis of Assem. Bill No. 2501 (2015 – 2016 Reg. Sess., as amended August 1, 2016, p.6)

Objective Standards and Housing Accountability Act

As the City proceeds in its review of the Project, HCD also reminds the City that pursuant to the Housing Accountability Act, or HAA (Government Code section 65589.5), if a proposed housing development project complies with applicable, *objective* general plan, zoning, and subdivision standards and criteria, the HAA prohibits a jurisdiction from disapproving the housing development project or requiring the project be developed at a lower density unless it makes specific statutory findings supported by a preponderance of the evidence in the record. (Gov. Code, § 65589.5, subd. (j)(1)). The HAA also clarifies that the receipt of a density bonus, incentive, concession, waiver, or reduction of development standards pursuant to SDBL is not a valid basis on which to find that a proposed housing development project is inconsistent, not in compliance, or not in conformity with an applicable objective standard or other similar provision. (Gov. Code, § 65589.5, subd. (j)(3)).

Lastly, for purposes of the HAA “objective” means “involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.” (Gov. Code, § 65589.5, subd. (h)(8)). As previously noted, HCD understands that the City’s general plan encourages residential above the ground floor; thereby, reserving the ground floor for commercial uses; and that the C-2 zoning seeks to implement this policy by conditionally permitting residential units above commercial. The City should continue to evaluate its general plan and zoning policies and standards as applied to individual projects to ensure consistency with these HAA provisions. Please see the Housing Accountability Act Technical Assistance Advisory for more information on the HAA: <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/hcd-memo-on-haa-final-sept2020.pdf>.

Conclusion

In sum, the City should identify the requested concession as eligible under SDBL and continue processing the application. While HCD respects the challenges inherent in interpreting ever-changing state housing law, the City and all local jurisdictions statewide have a statutory obligation to allow for exceptions to their standards for the purpose of facilitating the development of urgently needed affordable housing within SDBL-compliant projects. Finally, HCD reminds the City of the Legislature’s interpretive provisions: “This chapter shall be interpreted liberally in favor of producing the maximum number of total housing units.” (Gov. Code, § 65915, subd. (r).) Therefore, if ever in doubt regarding SDBL, the City should apply a liberal interpretation that helps to facilitate housing development.

HCD appreciates this opportunity to provide information to assist the City in its review of the Project and will continue to monitor its status. If you have any questions or need additional technical assistance, please feel free to contact Lisa Frank, of our staff, at lisa.frank@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Shannan West". The signature is written in a cursive, flowing style.

Shannan West
Housing Accountability Unit Chief

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
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April 27, 2023

Ali Pezeshkpour, Planning Manager
City of Santa Ana
Planning Division
20 Civic Center Plaza
Santa Ana, CA 92701

Dear Ali Pezeshkpour:

RE: 1212 E Fourth Street Application – Letter of Technical Assistance

The purpose of this letter is to provide technical assistance to the City of Santa Ana (City) regarding the application for a proposed housing project to be located at 1212 E Fourth Street (Project). The California Department of Housing and Community Development (HCD) received a request for technical assistance regarding the subject Project, and the determination of application completion and consistency pursuant to the Permit Streamlining Act (PSA) (Gov. Code, § 65920 et seq.), the Housing Accountability Act (HAA) (Gov. Code, § 65589.5), and the State Density Bonus Law (SDBL) (Gov. Code, § 65915 et seq.). Additionally, the request asks if the Project will be subject to the City's recently amended inclusionary zoning ordinance, named the Affordable Housing Opportunity and Creation Ordinance (AHOCO).

HCD understands that the proposed Project will create a total of 14 units, including one unit dedicated to very low-income (VLI) households. The Project site has a general plan land-use designation of Urban Neighborhood-Medium, allowing residential densities of up to 40 dwelling units per acre (du/ac). The site is zoned Transit Zoning Code (TZC) / Corridor Zone (CDR). The Project's zoning classification is "Multi-Family Dwellings."¹ Under the SDBL, the Project's base density is 12 units (0.287 acres x 40 du/ac, rounded up per Gov. Code, § 65915, subd. (q)). The applicant is providing eight percent VLI units (one unit) to earn a 27.5-percent density bonus (four units). While entitled to four units, the applicant has chosen to incorporate only two bonus units. The Project seeks concessions and development standard waivers pursuant to the SDBL.

¹ Transit Zoning Code (TZC), Section 41-2007, Table 2A – Use Standards.

Project Timeline

This letter presents the Project's permitting history in three distinct phases, punctuated by key milestones, to present the information in the clearest way possible.

Phase 1: Application Submittal to Application Completeness Determination

On November 10, 2021, the applicant submitted the full development application. Under the Permit Streamlining Act, local governments have 30 calendar days after the development application submittal to inform the applicant of whether the application is complete. If the local government does not inform the applicant of any deficiencies within that 30-day period, the application will be "deemed complete," even if it is deficient (Gov. Code, § 65943, subd. (a)).²

The City failed to inform the applicant in writing that the application was not complete by December 10, 2021 (i.e., 30 days from the date of submittal). Therefore, on December 10, 2021, the application was deemed complete by operation of law.

Phase 2: Application Completeness Determination to Project Consistency Determination

The HAA requires that for housing development projects containing 150 or fewer housing units, the local agency has 30 days from the date the development application is deemed complete to provide the applicant with written documentation of any inconsistency, incompliance, or inconformity with the applicable plan, program, policy, ordinance, standard, requirement, or other similar provision (Gov. Code, § 65589.5, subd. (j)(2)(A)(i)). If the local agency does not provide written documentation of such findings within 30 days, the development project shall be deemed consistent, compliant, and in conformity of the applicable plan, ordinance, and standards (Gov. Code, § 65589.5, subd. (j)(2)(B)).

The City failed to inform the applicant in writing of any inconsistencies by January 9, 2022 (i.e., 30 days from the date that the application was deemed complete by operation of law). Therefore, on January 9, 2022, the Project was deemed consistent and compliant with the applicable plan, ordinance, and standards by operation of law. On the same date, the Project became vested under the HAA (Gov. Code, § 65589.5, subd. (j)(1)). Note that the Project's vesting is not based on the submittal of a Preliminary Application (Gov. Code, § 65941.1) because the applicant did not submit a Preliminary Application. The Project's vesting occurred when the application was deemed consistent by operation of law (Gov. Code, § 65589.5, subd. (h)(5)).

² See also Housing Accountability Act Technical Assistance Advisory Memo, dated September 15, 2020, Page 8.

Phase 3: Project Consistency Determination to Project Consideration

Nine days after the Project was deemed consistent by operation of law, on January 18, 2022, the City sent the applicant its first letter regarding the Project. The letter confirmed the application submittal date of November 18, 2022 and provided a list of required modifications to the design of the Project. It is apparent from the length and level of detail in the letter that its purpose was related to Project consistency and not application completeness. Throughout the following year, the applicant continued to revise the Project while periodically receiving inconsistency letters from the City. The most recent letter from the City to the applicant, dated March 15, 2023, states that the project “has met the requirements and conditions of the City’s Development Review (DRC) to complete the Development Project Review process” – except for the singular issue of compliance with the AHOCO.

Santa Ana’s Affordable Housing Opportunity and Creation Ordinance (AHOCO)

HCD understands that the AHOCO was formerly known as the Housing Opportunity Ordinance (HOO), which was adopted in 2011 and later amended in 2015, 2020, and 2022. The HOO, as amended in 2020, applied to “any new residential project comprised of twenty (20) or more residential lots or residential units” (NS-2994, Sec. 41-1902). As of April 19, 2022, the newly adopted AHOCO became applicable to “any new project comprised of five or more residential lots or residential units” (Ord. No. NS-3019, Sec. 41-1902). Relative to the State Density Bonus Law, the City’s AHOCO requires more affordable units, and more deeply affordable units, than the minimums specified in the SDBL (Gov. Code, § 65915, sub. (b)).

While HCD recognizes the City’s efforts for a more robust inclusionary zoning ordinance, due to the Project being deemed consistent (under operation of law) on January 9, 2021, the Project is not subject to the AHOCO. The Project is only subject to the requirements in effect on January 9, 2021.

State Density Bonus Law

At the time the application was initially submitted on November 10, 2021, the Project design included 16 units, including four bonus units. The applicant sought to use a SDBL concession to reduce or eliminate a requirement that “Multi-Family Dwellings” be located “only on second or upper floors, or behind retail or service ground floor use.”³ The City informed the applicant in a letter dated January 18, 2022 that “[t]he Density Bonus Law’s provisions do not allow an applicant to request a waiver for land uses, such as the commercial/mixed-use requirement for a project.” This is an overly broad interpretation. The SDBL contains no language creating a distinction between

³ Transit Zoning Code (TZC), Section 41-2007, Table 2A – Use Standards, Footnote 1.

requirements associated with “land use” and development standards.⁴ A concession may be sought not only to modify or eliminate a development standard but also to modify “zoning code requirements” (Gov. Code, § 65915, sub. (k)(1)). First, the applicable zoning classification is simply “Multi-Family Dwellings” (i.e., not “Mixed-Use”). Second, the ground floor commercial requirement is subordinate in function to the primary zoning classification of “Multi-Family Dwellings,” relating primarily to the location of the commercial floor area.

If the applicant chooses to request a concession to eliminate or modify the requirement for ground floor commercial, they may. The decision-making body must consider the requested concession pursuant to the SDBL. The City must grant (i.e., “shall approve”) the specific incentives/concessions requested by the applicant unless the City makes written findings, based on substantial evidence, that the incentive/concession would (1) not result in a cost reduction, (2) have a specific adverse impact on health or safety (as defined), or (3) be contrary to state or federal law (Gov. Code, § 65915, subd. (d)). Because the City wrongfully rejected its concession request, the applicant has removed the two ground floor residential units and replaced them with commercial floor area. This has reduced the number of units in the overall project from 16 to 14, thus not achieving the full 27.5-percent density bonus to which the applicant is entitled. The cost of adding an additional story to the building to meet the ground floor commercial requirement and providing 16 units is presumably economically infeasible.

Finally, the SDBL contains the directive that it “shall be interpreted liberally in favor of producing the maximum number of total housing units” (Gov. Code, § 65915, subd. (r)).

Conclusion and Next Steps

HCD encourages the City’s efforts to prioritize housing affordability and to increase the overall supply of housing. However, the City must process development applications in accordance with the timelines established under the PSA and the HAA. Failure to do so results in project applications being deemed complete and consistent with local regulatory requirements by operation of law, as seen here. Moving forward, HCD expects the City to advance the Project to a meeting where it can be considered by the decision-making body.

HCD would also like to remind the City that HCD has enforcement authority over the SDBL, HAA, and PSA, among other state housing laws. Accordingly, HCD may review local government actions and inactions to determine consistency with these laws. If HCD finds that a city’s actions do not comply with state law, HCD may notify the California Office of the Attorney General that the local government is in violation of state law (Gov. Code, § 65585, subd. (j)).

⁴ “Development Standard” is defined in Government Code section 65915, subdivision (o)(2).

If you have any questions regarding the content of this letter or would like additional technical assistance, please contact Mehrsa Imani, of our staff, at mehrsa.imani@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannan West". The signature is written in a cursive, flowing style.

Shannan West
Housing Accountability Unit Chief