

Chelsea Maclean  
+1 415-743-6979  
Chelsea.Maclean@hklaw.com

Genna Yarkin  
+1 415-743-6990  
Genna.Yarkin@hklaw.com

December 22, 2023

Planning Services - City of San Ramon  
7000 Bollinger Canyon Road  
San Ramon, CA 94583

RECEIVED

January 11, 2024

CITY OF SAN RAMON  
PLANNING SERVICES

Re: **Transmittal of SB 330 Preliminary Application, State Density Bonus Law Letter of Intent – Bishop Ranch Block 3A**

Dear All,

We represent AvalonBay Communities (the “Applicant”) in connection with its enclosed SB 330 preliminary application to develop the approximately 5.74-acre site at Bishop Ranch Block 3A, a portion of the Bishop Ranch Master Plan area (the “Project Site”), with 457 multifamily residential units and approximately 224,600 square feet of nonresidential use in a 7-story building (the “Project”) in San Ramon, California (the “City”). This application presents an opportunity to bring the Bishop Ranch Master Plan one step closer to fruition and would add valuable housing amenities to the surrounding community.

Development of the Project Site is governed by a Development Agreement executed on December 30, 2020 and recorded on February 11, 2021,<sup>1</sup> and the Project has been designed to comply with the provisions of the Development Agreement as well as the City’s General Plan, Zoning and other applicable objective standards.

Pursuant to the City’s inclusionary housing requirements and the State Density Bonus Law, the Project will provide 15% of its units (69 units) at the lower income level, including 7.5% very low income (34 units) and 7.5% low income (35 units). The purposes of this letter are to:

1. Note the eligibility of the Project as a qualifying “housing development project”<sup>2</sup> under the Housing Accountability Act, including (by virtue of submitting the enclosed qualifying Preliminary Application) as amended by SB 330; and
2. Serve as a State Density Bonus Law letter of intent for the Project

<sup>1</sup> Recorded as Document No. 2021-0043204.

<sup>2</sup> “Housing development project” includes either “(A) Residential units only, or (B) Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.” Gov. Code § 65589.5(h)(2). )

## **Housing Accountability Act**

The Project is subject to the the Housing Accountability Act because the Project consists of more than two-thirds residential uses and complies with the City’s objective standards and criteria (except to the extent permissibly modified by the State Density Bonus Law).

The City is only permitted to reject a project under these circumstances if there is a preponderance of evidence that the Project would have a significant, unavoidable, and quantifiable impact on “objective, identified written public health or safety standards, policies, or conditions.”<sup>3</sup> The Legislature has affirmed its expectation that these types of conditions “arise infrequently.”<sup>4</sup> There is no evidence, that the Project would have any impact on public health and safety that cannot be feasibly mitigated.

## **SB 330 and the Project’s Qualifying Preliminary Application**

As noted above, the Project is a qualifying “housing development” subject to the Housing Accountability Act and is therefore subject to the provisions of SB 330. The applicability of several key protections that relate to the Project are discussed below. Specifically and most immediately relevant to this Project, SB 330 amended the HAA to specify that effective January 1, 2020, an application is “deemed complete” as defined in the HAA (and fees and other requirements are frozen as of the date of such completeness) if a qualifying “preliminary application” has been submitted.<sup>5</sup> Accordingly, the Project will have been deemed complete upon submitting the enclosed qualifying preliminary application containing the information specified in Gov. Code § 65941.1(a).

## **State Density Bonus Law Letter of Intent**

By virtue of providing 15% lower income units, the Project is entitled to four separate categories of benefits: (1) an up to 27.5% density bonus;<sup>6</sup> (2) one incentive/concession;<sup>7</sup> (3) potentially unlimited waivers;<sup>8</sup> and (4) an automatic parking maximum.<sup>9</sup> The Applicant intends to include a State Density Bonus Law application with its formal application for the Project. Details on each of the following categories is provided below; the Applicant reserves the rights to modify requests as the Project planning progresses:

### **1. Density Bonus**

As noted above, the Project is entitled to an up to 27.5% density bonus by virtue of providing 15% lower income units. The Project does not currently need a density bonus (its 457 units are consistent with the Master Plan).

---

<sup>3</sup> Gov. Code § 65589.5(j).

<sup>4</sup> Ch. 243, Stats. 2018 (adding subdivision (a)(3) to Gov. Code § 65589.5).

<sup>5</sup> Gov. Code Section 65589.5(h)(5).

<sup>6</sup> Gov. Code Section 65915(f)(1).

<sup>7</sup> Gov. Code Section 65915(d)(2)(A).

<sup>8</sup> Gov. Code Section 65915(e)(1).

<sup>9</sup> Gov. Code Section 65915(p).

## 2. Concession/Incentive – Parking Reduction

As noted above, the Project is eligible for one (1) mandatory concession or incentive. A concession is defined to include, among other things, “reduction in site development standards or a modification of zoning code requirements or architectural design requirements,” including a reduction in setbacks and square footage requirements as well as “the ratio of vehicular parking spaces,” and “[o]ther regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs.”<sup>10</sup>

While the Project is automatically entitled to the typical State Density Bonus Law parking maximum described further below, the Project is requesting a further parking reduction as an incentive, to further reduce the parking from 668 spaces to 640 spaces. This will reduce in cost reductions since allocating additional land to parking would necessitate costs.

## 3. Waivers

In addition to a limited number of concessions/incentives, the State Density Bonus Law specifies that a project is entitled to a waiver from “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 this section.”<sup>11</sup> Waivers are separate from and additional to concessions/incentives, are unlimited, and approval is mandatory if the standard would preclude development of the Project at its permitted density.

The Applicant has not yet identified the specific need for a waiver, but reserves the right to identify waivers in its formal application.

## 4. Parking Maximum – Applied (and further reduction requested through incentive)

Pursuant to the State Density Bonus Law as a density bonus-eligible project, and as further described in the enclosed submittal package, the Project has the right to meet mandatory maximum residential parking standards which are currently no more than:

- Zero to one bedroom: one onsite parking space
- Two to three bedrooms: two onsite parking spaces
- Four and more bedrooms: two and one-half parking spaces.<sup>12</sup>

These ratios were utilized in the calculations included in the plans (excerpted below), which arrive at a requirement for 668 parking spaces:

---

<sup>10</sup> Gov. Code Section 65915(k).

<sup>11</sup> Gov. Code Section 65915(e)(1).

<sup>12</sup> Gov. Code Section 65915(p)(1).

<b>TABLE C - PARKING COUNT*</b>						
	STUDIO+1BR	2BR+3BR	RESIDENT CAR TOTAL	GUEST	BICYCLES	MOTOCYLCES
COUNT	246	211		457	668	668
RATIO	1	2		0.25	1:10	1:50
<b>TOTAL REQ</b>	246	422	<b>668</b>	<b>115</b>	<b>67</b>	<b>14</b>
<b>TOTAL PROVIDED</b>			<b>640</b>	<b>22</b>	<b>75</b>	<b>24</b>

In addition to utilizing these State Density Bonus Law parking ratios, the Applicant is requesting an incentive to reduce the parking requirement slightly below this automatic maximum from 668 to 640 parking spaces, as discussed in Section (2) above.

We look forward to working collaboratively with the City on bringing this Project to fruition.

Sincerely,

HOLLAND & KNIGHT LLP



Chelsea Maclean  
Genna Yarkin