



KASAPARTNERS

~~November 14~~ November 13, 2019

[Sent via email]

Tony Rozzi
Principal Planner
City of South San Francisco
Planning Division
315 Maple Ave
South San Francisco, CA

**Re: South San Francisco Public Utilities Commission
Opportunity Site – State Density Bonus Law Request Letter**

Dear Tony:

The following letter constitutes SSF PUC Housing Partners LLC's (Applicant) formal request letter pursuant to the State Density Bonus Law (SDBL) (Government (Govt.) Code Sections 65915 et. seq.) and South San Francisco (SSF) Zoning Code Sections 20.390.001 et. seq. for the Public Utilities Commission Opportunity Site project (Project). The Applicant reserves the right to identify, modify, and supplement its density bonus law requests as the application is refined.

Density Bonus Request

Overall density for this project will be consistent with the standards set forth in Zoning Code for the applicable El Camino Real/Chestnut High Density Residential (ECR/C-RH) zoning district. Specifically, the proposed density across the entire site, Parcels B and C (or alternatively the proposed new Parcels 1, 2 and 3), combined, is 121 du/ac (800 units/ 6.60 acres). The proposed density by parcel is as follows:

Proposed Parcel 1 (Building C2) is 107 du/ac (158 units/1.48 ac)
Proposed Parcel 2 (Building C1) is 119 du/ac (408 units/3.43 ac)
Proposed Parcel 3 (Building B) is 138 du/ac (234 units/1.7 ac)

The ECR/C- RH zoning for both Parcels C and B (proposed parcels 1, 2 and 3) indicate the parcels allow a base maximum density of 120 du/ac and a maximum density of 180 du/ac (Table 20.270.004-1). The proposed project, with its 121 du/ac density is consistent with and well below the allowable bonus maximum density of 180 du/ac¹ in the Zoning Code. The proposed

¹ Per Section 20.270.004(A) an additional 30 units per acre can be granted for the incorporation of Transportation Demand Management (TDM) measures or as deemed appropriate by the Chief Planner. A TDM plan has been submitted and currently meets the requirements set forth in Section 20.400. Another 30 units per acre of density may be granted per Section 20.270.004(A)(2) bonus program for projects exhibiting (a) "high quality, innovative design.

parcels therefore conform with the more detailed implementing Zoning Code.

The General Plan and El Camino Real/Chestnut Area Plan (Area Plan) indicate Parcel B is designated as El Camino Real Mixed Use North, High Intensity and has an allowed base density of 80 du/ac with up to 110 du/ac with a TDM or quality design bonus. In addition to requesting bonus density based on TDM and quality design bonuses for the reasons stated above, the Applicant requests application of the SDBL to Parcel B to bring its allowed density under the General and Area Plans up to ~~149-138~~ du/ac (110 x 1.~~35-25~~ (assuming a ~~3525~~% bonus)). The project will make 20% (or 158) of the 787² residential units affordable to low income households of which 55 units (7%) will be restricted to very low income households (50% of AMI or below), thereby qualifying for a ~~3525~~% density bonus. (Government Code §65915(f)(~~12~~))

With the above noted density of 138 du/ac for the proposed project on Parcel B, it is consistent with the allowable maximum density. ~~Applicant is requesting to build less (i.e. with a 25% bonus) than the 35% maximum allowable density under the SDBL.~~ As noted above, all proposed parcels, including Parcel B, conform with the more detailed, implementing Zoning Code density.

Moreover, although it is not relevant to the SDBL, it is noted that Table D in the CEQA Environmental Consistency Analysis shows that there is remaining overall capacity under the ECR/C Area Plan, taking into consideration the projects approved in the ECR/C Area Plan area since the certification of the ECR/C EIR. In addition to not exceeding the overall capacity in the ECR/C Area Plan, there are also no other residential units going forward in the Plan Area aside from the Project and the SummerHill project at 988 El Camino Real. As such, in considering the remaining capacity under the Area Plan, the proposed project would have no new or more significant impacts than disclosed in the ECR/C EIRs. Again, this is not relevant under the SDBL, but it is noted for the purpose of context.

Development Standard Waivers

Separate from requests for concessions/incentives, the SDBL allows a qualifying applicant to request a waiver or reduction of development standards. Government Code Section 65915(e) provides that no city shall “apply any development standard that will have the effect of physically precluding the construction of a development meeting the [affordable housing] criteria at the densities or with the concessions or incentives permitted by [the SDBL].”³

.. and maximum provisions for pedestrian and bicycle use; (b) “provision of off-site improvements,” or (c) provision of green building measures over and above” code. The Project includes over 3 acres of open space improvements for the public including construction of a new road and sidewalks, new bike and pedestrian paths between Mission Road and El Camino, upgrades to existing bike and pedestrian trails, parks, a subsidized child care center, public art, playgrounds, fitness stations, and a Market Hall and connected plazas. Furthermore, the project will be an all-electric development that reduces the carbon footprint of the building lower than current code requires.

² This total does not include the 13 flex commercial/residential units.

³ It is further noted that in the leading published SDBL case, *Wollmer v. City of Berkeley*, the court upheld the city of Berkeley’s waiver of standards for height, number of stories and setbacks in order to accommodate certain project amenities, namely an interior courtyard, a community plaza and 15-foot ceilings in the commercial space and nine-foot ceilings in the residential units. (2011) 193 Cal.App.4th 1329. The court upheld the waivers based on the fact

The Applicant requests a development standard waiver from the floor area ratio (FAR) standard in the General Plan and Area Plan, consistent with the density bonus requested above. The General Plan and Area Plan set a maximum FAR of 3.0 for Parcel B (based on the El Camino Real Mixed Use North, High Intensity designation). The proposed FAR for Parcel B is approximately 3.3⁴ or a 10% increase for the permitted FAR. If the Applicant were required to comply with the FAR of 3.0, it would physically preclude construction of the project at the density permitted by the SDBL. Further, adherence with this standard would result in the loss of units in the proposed project.

The Applicant also requests a development standard waiver from rear yard setback requirements set forth in SSF Code Section 20.270.004(D)(1-4) for Buildings Parcels B, C1 and C2 fronting BART and Colma Creek. If the Applicant were required to comply with this rear yard setback requirement, it would physically preclude the construction of the project at the density permitted by the SDBL. Further, adherence with this standard would result in the loss of units in the proposed project. Although it is not relevant to the SDBL, it is noted that the intent of the Code section is to provide light and air and that intent is still achieved with the proposed design. The rear yards face BART property with its tunnel directly below this property. Elsewhere, side and rear yards of Buildings B and C1 face Colma Creek. There will not be a building built above the BART tunnel nor atop the Colma Creek in the future given it would be infeasible, thereby preserving the light and air for all of our residential units.

Concessions/Incentives

Density bonus law grants ~~two~~one concessions/incentives for the provision of ~~207%~~ VLI low income units. (Govt. Code § 65915(d)(2)(~~BA~~)) No concessions are requested at this time. The Applicant reserves the right to identify, modify, and supplement its density bonus law requests as the application is refined.

Parking Reduction

The SDBL states that upon the request of the developer, no city shall require a vehicular parking ratio that exceeds the parking ratios set forth in Government Code Section 65915(p). No parking reductions under the SDBL are requested at this time.

that “[h]ad the City failed to grant the waiver and variances, such action would have had ‘the effect of physically precluding the construction of a development’ meeting the criteria of the density bonus law.” (*Id.* at 1347)

⁴ This assumes a floor area of 246,308 sq.ft. (not including basement or parking garage)/ 73,985 sq.ft. site area.