



TO Tony Rozzi
 City of South San Francisco Planning Division
 315 Maple Ave,
 South San Francisco, CA 94080
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DATE: SEPTEMBER 21, 2021

645 BADEN AVE – REQUEST FOR CONCESSIONS AND WAIVERS UNDER STATE DENSITY BONUS LAW

Dear Mr. Rozzi,

Thank you for your work on Baden Townhomes Project over the years. On behalf of the project ownership, please accept this letter documenting a request for Concessions and Waivers for the project at 645 Baden Ave (the “Project”). The Project was approved on July 10, 2019 and since that time, there have been drastic changes in global economic conditions. The Project development team hereby requests these waivers of development standards and concessions under the state density bonus law to ensure project financial feasibility.

From project inception, the Project team saw this small infill site as a great opportunity to provide units tailored towards a buyer category that was severely lacking in supply – the so-called “missing middle” (e.g. dwelling units ideal first time homebuyers, young families, & workforce housing). All units in the project will have at least 3 bedrooms, which makes them suitable for families with young children. As of January of 2020, the City of South San Francisco (the “City”) has currently met only 12% of the Moderate Income category of their RHNA allocation¹. Furthermore, economists fear that the lack of starter homes for young professional families will be an impediment to future economic growth in the region, and continue to exacerbate local traffic issues as families are forced to commute from further and further away².

It is the hope of the Project team that this Project becomes a successful model that can be replicated to meet the needs of this buyer category, and be another tool to address the growing affordability crisis.

¹ https://shapessf.com/wp-content/uploads/2019/09/SSF-GP-CAC_Forum_01.14.20_FINAL_PPTs.pdf

² Kakar, Venoo and Grossman, Aditi, Jobs and Housing (Im)balance in the San Francisco Bay Area (November 1, 2018). Center for Applied Housing Research, Working Paper 2018-3, Available at SRN: <https://ssrn.com/abstract=3277166> or <http://dx.doi.org/10.2139/ssrn.3277166>

Application of State Density Bonus:

The Project is providing two (2) moderate income units out of an allowable total number of six (6) units, which is defined as a 33% affordable unit percentage under the State Density Bonus Law (under California Government Code Sections 65915 – 65918)³. As a result, the Project is entitled to:

- A 28% density bonus, resulting in an additional two (2) units, for a total project size of eight (8) attached condominium units;
- A waiver or reduction of development standards
- Three (3) concessions or incentives;

State Criteria for a Waiver or Reduction of Development Standards:

A project permitted under the State Density bonus is entitled to a waiver or reduction of development standards that would otherwise “physically preclude the construction of a development meeting the criteria”. Under California Government Code Sections 65915:

(e) (1) In no case may a city, county, or city and county apply any development standard that will 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 by this section. Subject to paragraph (3), an applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will 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, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney’s fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

Existing Waivers or Reduction of Development Standards:

As currently approved, the Project incorporates a number of waivers of the City’s Development Standards, and it has been reviewed through public hearings by the Architecture Review Board, Housing Sub-Committee of the City Council, the City Planning Commission, and achieved final approval by the City Council on 7/10/2019. These waivers include:

- Parking Standards Modification
 - Whereas the City standard parking stall width is 20’ for new construction, the Project features a reduction of the overall width to no less than 16’ clear width for private garages, and 19’ for shared garages.

³ https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65915

- Given the parcel's narrow $\pm 75'$ width and significant site constraints, this reduction is necessary to physically allow construction of the Project, enabling the Project to preserve side-yard setbacks, maintain a usable drive-aisle, and achieve the allowed project density.
- Third Floor Setback Reduction
 - Whereas the City regulations require a third floor setback of 10' from the nearest property line, the Project proposes a reduction to a 5' third floor setback for the $\pm 23'$ third floor length of each building.
 - This reduction is necessary given the narrow $\pm 75'$ width to ensure that the third floor of the end unit is physically capable of including the bedrooms and bathrooms as proposed.
- Side Entry Configuration
 - Whereas the City regulations prohibit the use of side-entry units, the Project features a side-entry unit on the ground floor affordable unit.
 - This waiver is deemed to be necessary since a side-entry configuration is the only way to provide pedestrian access to the unit. Furthermore, this ground floor unit is required to be fully adaptable under Chapter 11A of the California Building Code, and a side-entry access is the only feasible way to provide barrier-free and wheelchair access. Both front- and rear-facing entrances are physically impossible to include in the Project at the proposed unit count and density and in compliance with the Building Code's accessibility requirements.

Proposed New Project Concessions and Incentives

The Project is financed entirely with private funding (in contrast with typical affordable housing projects which are heavily subsidized by public funding and tax credits). As a result, the Project is underwritten with slim margins, and is overall more susceptible to severe fluctuations in construction costs. In March of 2020, the COVID-19 pandemic has brought about a surge of unexpected changes to all of these variables, which included material price increases, higher general conditions costs due to distancing protocols, and labor shortages just to name a few⁴.

Over the 2020 calendar year, we have seen the average cost of construction increase about \$52.40 / SF which equates to an approximately \$678,038 increase in costs project-wide. The State Density Bonus Law "does not limit . . . the provision of direct financial incentives," including fee waivers, as concessions or incentives to development.⁵ While the project is entitled to three (3) concessions, the Project team is requesting only the following one (1) concession to render the Project financially feasible:

⁴ <https://www.ebmag.com/building-construction-prices-rise-across-all-sectors-in-q3-2020/>

⁵ Government Code, section 65915(l).

1) Waiver of Minimum Parking Requirements

- a. A waiver of minimum parking requirements to allow a Project-wide reduction of two (2) parking stalls, and the conversion of the corresponding garage space into approximately 578 SF into livable square footage over two units. The parking stalls proposed to be eliminated are tandem parking stalls.
- b. As a result of this parking reduction, each unit within the Project will still retain a minimum of one (1) dedicated parking space, while the Project-wide parking ratio will reduce from 1.5 to 1.25 / unit.
- c. This parking ratio is appropriate for a project located within a half-mile of a bus stop, and where a one-way commute to either major transit station (BART & Caltrain) is less than 15 minutes on public transport. Furthermore, with the rapid adoption of tele-working, the demand for individual automobiles is also expected to decline in coming years.⁶

Table 1: Proposed vs As-approved Project Statics

	Proposed	As-approved			Proposed	As-approved
UNIT 2 & 6:	4 BR / 3.5 BA	3 BR / 2.5 BA		UNIT 3 & 7:	4 BR / 3.5 BA	(No Change)
GARAGE:	211 SF	240 SF		GARAGE:	211 SF	460 SF
GROUND:	341 SF	105 SF		GROUND:	155 SF	105 SF
2ND FLOOR:	435 SF	(No Change)		2ND FLOOR:	813 SF	(No Change)
3RD FLOOR:	607 SF	(No Change)		3RD FLOOR:	662 SF	(No Change)
TOTAL GROSS SF:	1,594 SF	1,396 SF		TOTAL GROSS SF:	1,841 SF	2,040 SF
TOTAL NET SF:	1,383 SF	1,147 SF		TOTAL NET SF:	1,630 SF /	1,580 SF
TOTAL PARKING:	1	(No Change)		TOTAL PARKING:	1	2

No other changes in overall footprint, setbacks, height, or additional square footage is requested with this proposal. Project plans showing the extent of changes is included as “Exhibit D” of this proposal.

Reasonable Documentation for Concessions Requests

The State Density Bonus Law allows for a City to offer direct financial incentives as a concession or incentive (Gov. Code, § 65915(l).), and to present reasonable documentation illustrating why the request would result in identifiable and actual cost reductions.

The dramatic increase in project costs caused by the Coronavirus Pandemic (including labor and supply shortages, increases to the project’s timeline, increased financing and holding costs), has resulted in the Project incurring a projected shortfall of **\$-506,926.00**, and thus rendering the project infeasible in the current market environment. The latest project pro forma is shown as “Exhibit D”.

⁶ <https://www.scientificamerican.com/article/covid-19-pandemic-shows-telecommuting-can-help-fight-climate-change/>

1. *Parking Reduction Concession* - A concession to the City's parking standards is necessary to reduce the overall project costs associated with building additional parking garages. Providing additional parking is more costly to the overall project than providing habitable space, given that the construction of parking garages is considered a sunken cost. Therefore, eliminating the additional parking garages constitutes an identifiable and actual cost reduction.

Concessions under the Density Bonus Law are appropriate if they "result in an identifiable and actual cost reduction[] . . . to provide for affordable housing costs, as defined in Section 50052.2 of the Health and Safety Code" (Gov. Code, § 65915(d)(1)(A).) Section 50052.2 of the Health and Safety Code ("HSC") provides that "affordable housing cost shall not be less than 28 percent of the gross income of the household, nor exceed the product of 35 percent times 110 percent of area median income adjusted for family size appropriate for the unit."

Absent the concession proposed, the Project overall would not be financially feasible to allow for the provision of the proposed units marketable at levels affordable to moderate-income households required by HSC section 50052.2. As the Project stands currently with affordable units incorporated, the pro forma demonstrates that this Project would suffer a loss in excess of half a million dollars. The only method of ensuring financial feasibility for a Project that includes the affordable units is to reduce costs, including removing the additional parking spaces, maximizing habitable space, and maximizing the sale potential of market-rate units.

As you are aware, the market-rate units subsidize the affordable units. Reducing overall costs to encourage this subsidy is exactly the intent of the Density Bonus Law's provisions allowing for incentives and concessions. (Gov. Code, § 65917 ("In enacting this chapter it is the intent of the Legislature that the density bonus or other incentives offered by the city . . . pursuant to this chapter shall contribute significantly to the economic feasibility of lower income housing in proposed housing developments.)) Accordingly, this parking concession is necessary for reducing costs that will provide for the availability of these two affordable units.

In summary, the concession is necessary to feasibly construct the affordable units. The Parking Reduction Concession will eliminate the cost associated with building the parking garages, while providing additional living space to render two of the market-rate units more marketable.

Attachments:

EXHIBIT A - Comparative Contractor Bids

EXHIBIT B - City Fee Estimate

EXHIBIT C - Proposed Project Plans

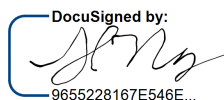
EXHIBIT D - Project Pro Forma

Thank you very much for this consideration. We look forward to building many more projects that bring much needed affordable housing to the City of South San Francisco and the wider Bay Area region.

Best wishes,

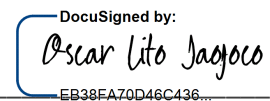


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