

Glaser, Heather

From: Shrivastava, Aarti
Sent: Tuesday, October 24, 2023 4:47 PM
Subject: Update - Public Hearing Item 6.2 - 918 Rich Ave
Attachments: 918 Rich - Revised BMR Conditions .docx

Dear Mayor and Councilmembers:

The purpose of this email is to provide you an update regarding the 918 Rich Avenue condominium project, which is scheduled for discussion at tonight's Council public hearing Item 6.2.

Last week, the developer requested permission to rent out its units with the right to convert the units to for-sale units at a later time. Consequently, staff will recommend two modifications and one clarification to the Conditions of Approval (COA), summarized below that are part of Attachment 2 – Project Resolution in your packet (see attached for the revised conditions). Staff will also reference these revisions in our presentation tonight.

Modifications

1. **COA 71:** The first modification concerns the Below Market Rate (BMR) condition. It will require that if the units are rented, the weighted average Area Median Income (AMI) must align with the City's stipulated requirement of 65%. This means that two BMR rental units will be Very Low Income units at 50% AMI, and two units will be designated Low Income at 80% AMI. *The applicant had initially sought to maintain this at 85% AMI (similar to the for-sale units mentioned in the staff report) even when renting. However, they have now agreed to adhere to the City's 65% AMI requirement exclusively when renting out the units.*

If and when the developer converts the rental units to for-sale units, the condo project will be at the 85% AMI weighted average, with two BMR for-sale units at 50% AMI and two units at 120% AMI (as is currently stipulated in the COA).

2. **Will be added as COA 71A:** The second adjustment involves adding a Tenant Relocation Assistance Ordinance (TRAO) condition, which will provide a process and timeline for the developer to comply with consistent with TRAO provisions and intent. This condition will apply when the project switches from being rental units to units available for sale.

Clarification

1. **COA 74:** The COA already includes a provision regarding the applicant's requirement to fund an HOA reserve. Staff recommends the COA clarify that the HOA reserve be funded prior to issuance of the first building permit, regardless of whether the units will initially be rented or sold. This will provide certainty that the HOA reserve will be funded.

These modifications/clarifications were discussed with the developer today, and the developer agrees with the revisions.

Staff will be available for questions during the item tonight should Council have any questions related to the above.

Aarti Shrivastava, Asst. City Mgr/Comm. Devpt. Dir. & Wayne Chen, Housing Director



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<p>Affordable Housing Division—650-903-6190 or housingneighborhoods@mountainview.gov</p> <p>71.</p>	<p>BMR OWNERSHIP, PROVIDING UNITS: Prior to issuance of the first building permit for the project, the applicant shall enter into a recorded agreement with the City that will require the applicant to provide at least 15% of the total 25 base density of dwelling units within the development as Below-Market-Rate (BMR) units consistent with Chapter 36, Article XIII, Divisions 1 and 2, of the City Code and the Below-Market-Rate Housing Program Administrative Guidelines and Directives (<u>collectively, the “BMR Regulations”</u>). The agreement shall be in a form approved by the City Attorney. Prior to issuance of the first building permit, the applicant will provide project plans with the BMR units clearly marked for review and approval by Housing staff and shall submit a plan indicating the location, size, and phasing of BMR units. The project will include a total of four (4) BMR units made available to income-qualified households designated as follows: two at 50% AMI and two at 120% AMI. This is in accordance with the units outlined in the Affordable Housing Compliance Plan dated June 16, 2023. The Community Development <u>City's Housing</u> Department reserves the right to review, approve, or deny any modifications to the Affordable Housing Compliance Plan or unit delivery.</p> <p><u>Although the applicant proposed the project as a for-sale condominium development, the applicant has reserved the option to initially operate the development as rental housing and later transition the rental units to for-sale condominiums. If the applicant elects to initially rent the BMR units, during the rental period the BMR units shall be provided and administered in compliance with the BMR Regulations applicable to rental units, including, but not limited to, the household income levels that apply to BMR rental units; the project will include two units at 50% AMI and two units at 80% AMI. The recorded agreement referenced above in this condition of approval shall include restrictions, covenants and conditions to ensure compliance with the BMR Regulations and other applicable law during and after the rental period. If required by the Housing Department, the applicant shall submit a revised Affordable Housing Compliance Plan to reflect the initial rental period, prior to issuance of the first building permit.</u></p>
<p><u>71A.</u></p>	<p><u>BMR, CONVERSION TO FOR-SALE CONDOMINIUMS, AND TENANT RELOCATION ASSISTANCE:</u> If the applicant/property owner initially rents the BMR units, at the time of conversion of the BMR rental units to for-sale condominium units pursuant to a previously</p>

	<p><u>approved subdivision (condominium) map, the applicant/property owner or their successors in interest (collectively referred to as the “applicant” or “property owner”) shall provide tenant relocation assistance, including relocation payments, to tenant households eligible for such benefits under the Tenant Relocation Assistance Ordinance (TRAO) and the BMR Regulations. The property owner shall provide a written notice of termination to all tenants subject to displacement at least 120 days or one year for senior or disabled tenants prior to the date a tenant must vacate the rental unit. At least 90 days prior to the provision of any notice of termination to a tenant or tenants, the property owner shall provide written notice to the City’s Housing Department of the property owner’s intent to issue the notice of termination. After such notice is provided to the Housing Department and prior to the issuance of any notice of termination to a tenant, the property owner shall enter into an agreement with the City to fund and provide sufficient funding for a tenant relocation services consultant, establish and fund an escrow account with the estimated tenant relocation assistance payments for eligible tenant households, and satisfy other applicable TRAO requirements. No notice of termination shall be effective unless the property owner has complied with the foregoing requirements. These provisions shall be included in the recorded BMR agreement.</u></p>
72.	<p>BMR, PROCESS: Prior to the first building permit submittal, the applicant shall contact the Housing and Neighborhood Affordable Housing <u>Housing and Neighborhood Affordable Housing</u> Division at 650-903-6190<u>379</u> to begin preparation of a BMR agreement for the project. The applicant shall submit the following information: (a) a copy of the Findings Report or Conditions of Approval; (b) a legal description of the property; (c) a plan indicating the location, size, and phasing of BMR units; and (d) additional information as requested by the Housing and Neighborhood Services Division. The BMR agreement must be recorded prior to building permit issuance.</p>
73.	<p>DENSITY BONUS, OWNERSHIP UNITS SALES PRICE: Under State Density Bonus Law, for-sale affordable units must be sold at costs as defined in the Health and Safety Code (HSC) Section 50052.5, based on “housing costs” defined in the California Code of Regulations, Title 25, Section 6920. Prior to issuance of the first building permit for the project, the applicant shall enter into a recorded agreement with the City that will require the affordable units provided to qualify for a density bonus to be maintained in compliance with State Density Bonus Law. The agreement shall be in a form approved by the City Attorney and may be combined with</p>

	the regulatory agreement for units provided in compliance with the local BMR program.
74.	<p>HOA RESERVE FUND: The applicant will establish a homeowners association (HOA) reserve fund for the BMR units set for sale to households with income levels below 80% AMI, consistent with Chapter 36, Article XIV, Divisions 1 and 2, and Article XVI, Division 8, of the City Code and the Below-Market-Rate Housing Program Administrative Guidelines and Directives. This fund is a designated set aside to help low-income owners to fully pay for special assessments and future HOA fee increases to ensure housing costs do not exceed 30% of the household's income over the life of the mortgage for each unit. The City currently estimates \$69,975 will need to be deposited in the reserve fund for each low-income affordable unit for a total of \$139,950 for the two (2) affordable units designated 80% AMI and below. The reserve fund shall be identified and its purpose described in the CC&Rs for the project, <u>which CC&Rs shall be recorded and the reserve fund established in a form approved by the City prior to issuance of the first building permit.</u> A copy of the CC&Rs with this provision shall be submitted to the Community Development Department for review and approval by the Housing Department <u>prior to recordation.</u></p>

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