



101 N. Tryon Street  
Suite 1300  
Charlotte, NC 28246  
Tel 704.384.2600 Fax 704.384.2800  
www.foxrothschild.com

345 California Street, Suite 2200  
San Francisco, CA 94104-2670  
Tel 415.364.5540 Fax 415.391.4436  
www.foxrothschild.com

LEIGH F. PRINCE  
Direct No: 704.384.2617  
Email: LPrince@FoxRothschild.com

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**Via Email: [aki.snelling@mountainview.gov](mailto:aki.snelling@mountainview.gov)**

Ms. Aki Snelling  
Senior Planner  
Planning Division  
City of Mountain View  
500 Castro Street  
Mountain View, CA 94041

**Re: Updated Density Bonus Application 918 Rich Avenue Condominiums**

Dear Ms. Snelling:

This density bonus application is provided for the proposed 32-unit for-sale residential project located at 918 Rich Avenue in Mountain View ("Project") and is an update to the previous resubmittal. This letter is intended to document the application of State Density Bonus Law (Government Code Section 65915 et. seq.) to the Project in compliance with the City of Mountain View Density Bonus Report submittal requirements. As the Project moves through the entitlement process, the information provided in this application may change in response to staff, decision maker and community input, and therefore, this letter may be modified from time to time.

**A. Project Summary Information and Density Bonus Request**

The Project site is a vacant undeveloped 0.72-acre (31,465 square feet) site. However, there is an existing street dedication on the Project site that must be subtracted from the site area. Thus, the remaining site area for purposes of calculating density is 0.71 acres (30,956 square feet). The General Plan designation for the Project site is Medium High Density Residential, which allows 26 to 35 dwelling units/acre. Based on Mountain View Municipal Code Section 36.48.70(g), where a range of density is permitted the allowable residential density is the maximum of that range. For a 0.71-acre site, the General Plan maximum density would allow 24.85 units (35 x 0.71 acres). The City's Density Bonus Program Guidelines provide that for density bonus projects all calculations resulting in fractional units are rounded up, including base units. As a result, the maximum base density is 25 units.

A Pennsylvania Limited Liability Partnership

Of the 25 base units, the Project proposes to provide 16 percent or four units as affordable, including two very-low income units and two moderate income units. This satisfies the City's Below Market Rate Housing Program Administrative Guidelines ("Guidelines") requirement to provide affordable units at two income levels. It also satisfies the Guidelines requirement to provide 15 percent affordable units.

By providing two very-low income units, the Project is providing 8 percent very-low income units. Pursuant to State Density Bonus Law, with 8 percent very-low income the Project is entitled to a 27.5 percent density bonus. State Density Bonus Law provides that fractional density bonus calculations are rounded up. Therefore, a 27.5 percent density bonus on a base project of 25 units would allow 7 additional market rate units for a total project of 32 units. In addition to the density bonus, the Project is entitled to one concession, unlimited waivers and modified parking standards pursuant to State Density Bonus Law.

The two very-low income units would be restricted for sale to households with a gross income of 50 percent of area median income. The two moderate income units would be restricted for sale to a household with a gross income of 120 percent of area median income. Area median income is the level of gross income for Santa Clara County, as published periodically by the State Department of Housing and Community Development, generally defined as 100 percent of the area median income, adjusted for household size. The units will be distributed proportionally among and be representative of the various types of units within the overall development. The affordable units will be built and completed at the same time as the market rate units and will have the same fixtures and access to amenities as the market rate units. Because the Project includes very-low income units, a reserve will be established to cover future special assessments and increases in homeowner's association dues.

With respect to parking, the entry drive minimizes on-grade parking, maximizes greenery and creates a pedestrian path to make a welcoming site entrance. The below grade parking provides 45 parking spaces, including pairs of tandem parking spaces. There are five guest parking spaces at grade. In total, there are 50 parking spaces on-site. The Project is providing three more parking spaces than required by for compliance with Government Code Section 65915(p).

**Project Summary Table**

	Allowed	Proposed
Zoning Density <sup>1</sup>	21	
Max. General Plan Density	25	25
Percent Affordable	15%	16%
Very-Low Income		2
Moderate		2

<sup>1</sup> The Project site is located in the R3-1 Multiple Family zoning district that allows a density of five units for the first 15,000 square feet and one additional unit for each additional 1,000 square feet. The General Plan density, which allows up to 35 units per acre, prevails.

	Allowed	Proposed
Density Bonus Percentage	27.5	27.5
Bonus Units	7	7
Total Project Units	32	32
1-bedroom		3
2-bedroom		29
Resulting Density (units/acre)	45	45
Residential Gross Floor Area		34,815
Total Gross Floor Area	32,504 <sup>2</sup>	43,695
BMR Unit Bedroom Count		
1-bedroom		1
2-bedroom		3
Proposed Parking Stalls	47	50

**B. Site Plan**

Please refer to sheets A5 and A6 for the Overall Site Plan and Enlarged Site Plan and to sheets A21 through A23 for the number and location of all proposed units, designating the location of proposed affordable units.

**C. Site Description**

General Plan: Medium High Density Residential  
26-35 dwelling units/acre  
Zoning Area: R3-1 Multiple Family  
APN: 189-33-028

**D. Replacement Determination**

The site is vacant and has been vacant for more than five years. As a result, there is no replacement requirement for the Project.

**E. Land Donation, Child Care, Condominium Conversion**

Not applicable. The Project does not request a density bonus for land donation. The Project does not include a child-care facility. The Project does not involve a condominium conversion.

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<sup>2</sup> The base zoning would allow 32,504 square feet.

## **F. Waivers**

The Project proposes to utilize waivers, which state law defines as modifications to design requirements necessary to physically construct the project at the allowed density and with the allowed concessions. Government Code Section 65915(e)(1). State law allows an unlimited number of waivers. Waivers can be approached from both a quantitative and a qualitative perspective with the key issue being that the modification is necessary to physically construct the project.

Because the zoning is designed to accommodate the maximum allowable density, it is reasonable to conclude that a waiver which modifies a standard by the allowable density bonus percentage is necessary to physically construct the project. The Project is allowed a 27.5 percent density bonus. Thus, from a quantitative perspective it would be appropriate to consider any modification of a design standard of 27.5 percent or less a waiver. As shown on the enclosed waiver chart, the maximum building height, east third and fourth floor setbacks, west second floor setback, north second floor setback and south second and third floor setbacks are within the 27.5 percent bonus and are a waiver. In addition, personal bulk storage areas for each unit have been provided in the basement, in addition to bulk storage closets within each unit. Basement bulk storage areas range in size from 330 cubic feet to 577 cubic feet. Since bulk storage within the units cannot count toward the 500 cubic feet requirement, the Project is requesting a waiver for units that fall short of this amount.

Notwithstanding the foregoing, the modifications proposed, even if they do not meet a quantitative standard, qualitatively are required to physically construct the Project at the density allowed and thus qualify as waivers. From a qualitative perspective, there are a number of factors, including the size and shape of the site, which constrain physical development at the density proposed. Approximately 11,439 square feet of the site is unbuildable because of the site's flag lot configuration. The site is also constrained by a 500 square foot street dedication easement and the 2,599 square foot City of Los Altos storm drain easement. Combined these reduce the useful lot area, for anything except driveway and parking, by approximately 36 percent. The floor area ratio is increased by 34 percent and the plate height by 35 percent. Additionally, some units do not have the required personal bulk storage in the basement. Although these exceed the actual density bonus percentage of 27.5 percent, these would qualitatively be waivers. The increase in floor area ratio and reduction in personal bulk storage is necessary to physically construct the units considering site constraints such as the limited developable area in the rear and avoiding any further modification to other design requirements such as setbacks. The increase in plate height is also necessary to physically build the allowable number of units with reasonable residential ceiling heights and space between floor for ducting, plumbing, etc. The architect has designed the Project to reduce the height and plate height as much as possible.

For the west third through fifth floor setbacks, the north third through fifth floor setbacks, and the east second and third floor setbacks, the reduction is more than 27.5 percent. However, without these setback modifications, it would not be possible to locate additional units on the upper floors and achieve the allowable density. Stacking units allows for utilities to be economized, without which the total number of units would not be feasible. Therefore, the west and north third through fifth floor setbacks each constitute a waiver.

## G. Incentives/Concessions

The Project is entitled to one concession as described in Government Code Section 65915(d) and is requesting a concession to allow a reduced weighted average below the City's requirement. The City's Below Market Rate Housing Program Administrative Guidelines require that the weighted average of the affordable units equal 100 percent of area median income (AMI). The Guidelines provide the following formula:

$$\frac{(\text{AMI A})(\# \text{ of units @ AMI A})}{\text{total \# of affordable units}} + \frac{(\text{AMI B})(\# \text{ of units @ AMI B})}{\text{total \# of affordable units}} = 100 \text{ percent AMI weighted}$$

Using this formula with two very-low income units at 50 percent area median income and two moderate income units at 120 percent area median income, the weighted average is 85 percent. The calculation would be as follows: (50 percent)(2 units)/4 units + (120 percent)(2 units)/4 units = 25 percent + 60 percent = 85 percent. Using a concession to allow a weighted average below 100 would provide for affordable housing costs and is necessary to make the Project feasible.<sup>3</sup>

The current anticipated cost to construct each affordable unit is approximately \$1,254,560. In addition, the very-low income units would require an amount to be put into reserve for the homeowner's association, approximately \$69,975 per very-low income unit or \$139,950 for two units. The very-low income units would be sold for approximately \$208,831 per unit. The moderate income units would be sold for approximately \$495,362 per unit. Therefore, the cost to provide the four affordable housing units would be approximately \$3,749,804, which includes the cost of the reserve.<sup>4</sup> The cost to provide the affordable units is anticipated to increase as the Project goes through the entitlement process because construction costs and interest rates continue to rise, which would increase the cost to provide the affordable housing units.

The Guidelines would require one very low-income unit and three moderate-income units to meet the City's weighted average requirement, in addition to the one additional very-low income unit required to meet the density bonus eligibility requirements. Using the formula, with one very-low income unit at 50 percent area median income and three moderate income units at 120 percent area median income, the weighted average is 102.5 percent. The calculation would be as follows: (50 percent)(1 unit)/4 units + (120 percent)(3 units)/4 units = 12.5 percent + 90 percent = 102.5 percent. Therefore, to comply with the City's weighted average requirement the Project would need to include one additional moderate-income unit. One additional moderate-income unit would increase the cost to develop the affordable units by approximately \$759,198, which is the cost to construct of \$1,254,560 minus the sale price of \$495,362. The cost savings of \$759,198 is less than the cost of providing the proposed four affordable units at \$3,749,804. Because this reduction in cost or value of the concession is less than the cost to provide the affordable units as discussed above, this would meet the Guidelines requirement that the value of the concession must be less than or equal to the cost to provide the affordable units.

<sup>3</sup> The City recently approved a concession for the project located at 334 San Antonio Road with a weighted average of 80 percent.

<sup>4</sup> Affordable Units Cost = 2(\$1,254,560-\$208,831) + 2(\$1,254,560-\$495,362) + 2(\$69,975) = \$3,749,804



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ATTORNEYS AT LAW

These numbers illustrate that similar to the case of *Bankers Hill v. City of San Diego* (2022) 74 Cal.App.5th 755, 774, denying this concession would physically preclude construction of the Project, including the adorable housing units, and defeat the State Density Bonus Law's goal of increasing affordable housing. Thus, using a concession for the weighted average provides for the affordable housing cost by making development of affordable housing and the Project feasible.

Thank you for your time and attention to this matter. If you have any questions or wish to discuss this matter further, please do not hesitate to contact me.

Sincerely,

Leigh Prince

LFP:lmh  
Enclosure

cc: Greg Xiong  
Cynthia Munoz  
Ellis Berns