



VIA Electronic Submittal

August 20, 2025

Ela Kerachian  
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City of Mountain View  
500 Castro Street  
Mountain View, CA 94041

**RE: 400 Moffett Blvd—Updated State Density Bonus Application (APN 153-24-016)**  
**Planning Application Number: PL2024-001**

Dear Ela,

Prometheus Real Estate Group (Prometheus) is pleased to provide this updated State Density Bonus application letter for the 400 Moffett Blvd (Project) in Mountain View, CA (City). The following sets forth our request pursuant to the State Density Bonus Law (SDBL) (Gov't Code section 65915 et. seq.). Prometheus reserves the right to identify, modify and supplement our SDBL requests as the application is refined and in response to feedback from City Staff.

The Project includes a Development Review Permit, Conditional Use Permit and Heritage Tree Removal Permit to allow for the demolition of an existing 13,800 square foot retail building to allow for the construction of a six-story, 175 unit multifamily residential building including 18 units affordable to very low income households, approximately 2,075 square feet of commercial/retail, 190 parking spaces on an approximately 1.67 acre site.

The proposed Project intends to make 15% of the base allowable residential units (117 base density units, calculation below) available to Very Low (VL) Income households (18 VLI units).

Base units = 117 units; formula per Density Bonus Guidelines:  $A \cdot (B - C) / (D - C)$

- (A) Project units equal 175 units
- (B) Max allowable gross floor area per zoning = 134,545 square feet (72,727SF x 1.85 FAR)
- (C) Project non-residential gross floor area equals 2,077 square feet
- (D) Project gross floor area equals 201,650 square feet

By providing 15% of the base units at VLI, the Project is seeking a 50% density bonus under the SDBL and seeking the following waivers pursuant to SDBL.

### **Waivers**

SDBL provides that a project is entitled to an unlimited number of waivers or reductions in development standards (Gov't Code 65915(o)(2))., The City is not permitted to apply any development standard that physically precludes the construction of the Project as proposed at its permitted density and with the granted concession and incentives. (Gov. Code, § 65915 (e)(1); *Wollmer v. City of Berkeley* (2011) 193 Cal.App.4th 1329, 1346.)

Once a project qualifies for a density bonus, “the law provides a developer with broad discretion to design projects with additional amenities even if doing so would conflict with local development standards.” (*Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 774-75.) The City may refuse the waiver or reduction only if it makes a written finding supported by substantial evidence that the waiver or reduction (1) “would have a specific, adverse impact . . . upon health, safety, or the physical environment,” (2) would have “an adverse impact” on an historic resource, or (3) “would be contrary to state or federal law.” (Gov. Code § 65915(e)(1).) In this context, specific adverse impact “means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.” (*Id.*; Gov. Code § 65589.5(d)(2).)

Therefore, the City is not authorized to deny the proposed project based on the theory that another project, with a similar number of units, might conceivably be designed differently and accommodated without waivers. (*Wollmer, supra*, 193 Cal.App.4th at pp. 1346–1347 [project amenities, such as a pool or other recreational facilities, are a reasonable ground under section 65915 for seeking a waiver]; *Schreiber v. City of Los Angeles* (2021) 69 Cal.App.5th 549, 558 [“A local ordinance is preempted if it conflicts with the density bonus law by increasing the requirements to obtain its benefits.”].) A project that meets the requirements of SDBL is entitled to waivers if they are needed, “period.” (*Wollmer, supra*, at pp. 1346–1347.)

In its May 10, 2024 letter, the City instructs Prometheus in item #7 to “include reasonable documentation for all the waivers requested.” We have provided sufficient waiver information as required by SDBL and the caselaw referenced above.

As such, we repeat our waiver request for the following developments standards:

#### **1. NEIGHBORHOOD COMMERCIAL FLOOR AREA**

This development standard requires a minimum of .25 FAR of commercial space. We request a decrease in the minimum commercial space to approximately 2,075 square feet of commercial space. The .25 FAR requirement would encompass the entire project frontage eliminating all frontage for the apartment-serving facilities and amenities (i.e. leasing office, fitness center, etc.).

Not only would the shifting of these apartment-serving facilities from the building frontage be detrimental to the overall success of the Project, but this shift would physically preclude the construction of 16,105 square feet of residential FAR or 12 residential units; therefore, we request that this development standard be waived (See Neighborhood Commercial Floor Area DBL Waiver Request Exhibit).

Item #8 in the City's May 10, 2024 letter suggests that our neighborhood commercial floor area waiver justification is "not sufficient" because the lobby and/or fitness room can be smaller or relocated to accommodate more retail space. However, as noted above, pursuant to *Wollmer*, the City may not deny a waiver request because it believes that the Project could conceivably be designed differently. The Project meets the requirements of the SDBL and, therefore, is entitled to this waiver as requested.

#### 1A. COMMERCIAL FRONTAGE 75% MINIMUM

This development standard requires that the neighborhood commercial storefront covers a minimum of 75% of the building frontage. We request a decrease from 75% to 27% of the building frontage, because with the aforementioned reduction of commercial FAR, there remains no opportunity to satisfy the 75% building frontage coverage. In addition, similar to the commercial FAR waiver, application of the 75% building frontage coverage standard would physically preclude the construction of 16,105 square feet of residential FAR or 12 units; therefore, we request that this development standard be waived (See Neighborhood Commercial Floor Area DBL Waiver Request Exhibit).

#### 2. HEIGHT LIMITS

The General Plan mixed-use village center zoning code section 36.30.115 allows for a 65 foot height maximum where the General Plan allows greater than 1.6 FAR. The General Plan designation for this site is Mixed-Use Corridor which allows up to 1.85 FAR. We request an increase in height to 83'-0" to the center line of the gable roof (+15'). The 65' height limit would physically preclude the construction of the top floor of residential units resulting in a loss of 31,272 square feet of residential FAR or 33 units, therefore, we request that this development standard be waived (See Building Height Diagrams DBL Waiver Request Exhibit).

#### 3. UPPER STORY SETBACKS

This development standard requires that wall plates at each floor of a building shall not be higher than the distance to an adjacent residential zoned property. This setback standard would reduce buildable area at the upper stories of the building, which would physically preclude the construction of 39,457 square feet of residential FAR or 72 units; therefore, we request that this development standard be waived (See Wall Plat Setback Diagram DBL Waiver Request Exhibit).

#### 4. PERSONAL STORAGE

This development standard requires 164 Cubic Feet of personal storage space per residential unit, resulting in 175 storage units needed for the Project. We are requesting a reduction to provide storage for 60 units, because the application of this standard would physically preclude the construction of 3,795 square feet of residential FAR or 10 residential units. Therefore, we request that this development standard be waived (See Storage DBL Waiver Request Exhibit).

Item #9 in the City's May 10, 2024 letter also suggests that our personal storage waiver justification is "not sufficient" because the extra storage could be constructed on the parking level. However, as noted above, pursuant to *Wollmer*, the City may not deny a waiver request because it believes that the Project could conceivably be designed differently. The Project meets the requirements of the SDBL and, therefore, is entitled to this waiver as requested.

#### 5. PUBLICLY ACCESSIBLE OPEN SPACE

This development standard requires that 5% of lot area (3,636SF of open space) be provided for publicly accessible open space. The development standard also requires that the publicly accessible open space be located adjacent to a public street and include 25 ft in each direction. Instead, we are proposing approximately 5,395 SF of publicly accessible open space, which exceeds the 5% standard, but we are seeking a reduction in the 25 ft standard for a portion of the publicly accessible open space area, because the application of the 25 ft standard would require the building to be significantly re-designed at the ground floor **and** upper levels, physically precluding the construction of 3,575 square feet of residential FAR or 20 units at the Project's permitted density. Therefore, we request that this development standard be waived (See Publicly Accessible Open Space DBL Waiver Request Exhibit).

#### **Incentives/Concessions**

By providing at least 15% of the units for VLI households, the Project is entitled to three incentives or concessions under SDBL. (Gov. Code § 65915(d)(2)I.) The City must grant the specific incentives/concessions requested by the applicant unless the City makes written findings, based on substantial evidence, that the incentive/concession would (1) not result in a cost reduction, (2) have a specific adverse impact on health or safety, or (3) be contrary to state or federal law. (Gov. Code § 65915(d).) The City bears the burden of proof for the denial of a requested concession. (Gov. Code § 65915(d)(4).) To make the finding that the concession creates a specific adverse impact on health and safety, it must be shown that there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households. (Gov. Code § 65915(d)(1)(B).)

At this time, the Project does not seek any incentives/concessions; however, Prometheus reserves the right to identify and pursue incentives during the entitlement process.

## **Parking**

Lastly, parking ratio reductions are separate from the incentives and waivers identified above. The Project is providing 1 parking space per unit (which exceeds the minimum residential parking requirements provided in AB 2097 of 0.5 space per unit for projects that provide at least 11% very-low income units and are located within ½ mile from an accessible major transit stop).

## **Conclusion**

We are very excited about this Project because it will bring much-needed, well-designed housing to the City. Importantly, the Project will more than double the 6<sup>th</sup> Cycle Housing Element's estimated development capacity for the site (i.e. 82 units) and will provide deeper affordability than the Housing Element projected, which will move the City closer to meeting its Regional Housing Needs Allocation ("RHNA") and other housing goals.

We appreciate your consideration of this request and look forward to working with you and the City on this exciting Project. Please contact me or Marilyn Ponte at [mponte@prometheusreg.com](mailto:mponte@prometheusreg.com) or (650) 931-3499, should you have any questions regarding our formal planning application and SDBL request.

Respectfully submitted,

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