

July 28, 2025

VIA E-MAIL [PriyaA@mastonarchitect.com]

Priya Arora
William Maston Architect and Associates
372 Castro Street
Mountain View, CA 94041

Re: Tyrella Homes—266 & 272 Tyrella Avenue, Mountain View; Documentation
Supporting Waivers From Development Standards Pursuant to State Density Bonus
Law (PL-2022-150)

Dear Ms. Arora:

We understand that CCC Associates (“Applicant”) is proposing a 47-unit residential development project (the “Project”) on an approximately 1.01 acre site at 266 & 272 Tyrella Avenue (the “Property”) in the City of Mountain View (the “City”). Because the Project will provide the requisite percentage of affordable housing units under the State Density Bonus Law (“DBL”), the Project is subject to the DBL and, accordingly, entitled to multiple incentives or concessions, and waivers from development standards that would otherwise physically preclude the construction of the proposed density bonus Project.

1. Background and Overview

The Property has a General Plan land use designation of Medium-High Density Residential. This designation is intended for “multi-family housing such as apartments and condominiums, with shared open space provided for common use.” (General Plan, p. 82.) This designation permits a range of 26-35 dwelling units per acre. (General Plan, p 82.) The Property is likewise zoned R-3 (Multiple-Family).

The DBL applies to, among others, housing projects with at least 5 percent of the units rented or sold to very low income households. (Gov. Code § 65915(b)(1)(B).) We understand that the for-sale Project proposes to set aside approximately 13 percent of the 36 base units, i.e., 5 units, for very low income households.¹ As such, the Project is eligible for the DBL and is entitled to a density bonus, incentives/concessions, and waivers. (Gov. Code § 65915.)

¹ The existing 5 units on the Property are each 2-bedroom units. The 5 affordable units provided by the Project will likewise be 2-bedroom units.

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2. Incentives/Concessions

Due to the percentage of affordable units proposed, the Project qualifies for at least two incentives or concessions. (Gov. Code § 65915(d)(2)(B).) An incentive or concession means “[a] reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission . . .” (Gov. Code § 65915(k).) Such incentives or concessions include, but are not limited to, a reduction in setback and square footage requirements, a reduction in the ratio of vehicular parking spaces that would otherwise be required, and other regulatory incentives or concessions that result in identifiable and actual cost reductions to provide for affordable housing costs. (*Id.*) We understand that the Applicant is not at this time requesting any incentives/concessions.

3. Waivers

In addition to incentives or concessions, the proponent of a density bonus project may submit a proposal for the waiver or reduction of any development standard that has “the effect of physically precluding the construction of [a density bonus project] at the densities or with the concessions or incentives permitted under [the DBL] . . .” (Gov. Code § 65915(e)(1).) A “development standard” includes “a site or construction condition including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, a minimum lot area per unit requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation . . .” (Gov. Code § 65915(o)(2); *accord*, Mountain View Zoning Code [“MVZC”] § 36.48.70(d).)

Here, Applicant is requesting waivers from the following City development standards: (1) height, (2) setbacks, (3) floor area ratio, and (4) site coverage. (MVZC § 36.10.70.) As explained below, the Project, with the density bonus units, cannot be developed without waivers from these development standards, and the waivers are no greater than necessary to reasonably accommodate the construction of the density bonus Project. (Gov. Code § 65915(e)(1); MVZC § 36.48.90(h).)

a. Waiver 1: Height

The MVZC allows a maximum height of 45 feet. (MVZC § 36.10.70.) The Project will be 55 feet, 3 inches. The Project requests a height waiver to accommodate the development above 45 feet. The requested height—55 feet, 3 inches at 4 stories—is proportional to the 45 foot height limit at 3 stories (45 feet/3 stories=15 feet x 4 stories = 60 feet). The Project requires a minimum

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of 4 stories to accommodate the additional 22,074 square feet of floor area provided by the density bonus units. (See Attachment 1.)

The additional story provides 13,450 square feet of living space. (See Attachment 2.) Without the waiver of the building height requirement, the density bonus Project could not be constructed. The Project is eligible for a 42.5 percent density bonus under the DBL. Due to this increase in allowed density pursuant to State law, modifications to City's development standards, such as height, are needed to make construction of the increased number of units physically possible.

Further, this height waiver is similar to those granted for several other recently approved projects. (See, e.g., 730 Central Avenue (PL-2021-007), 1057-1061 El Monte Avenue (PL-2021-031), 1920 Gamel Way (PL-2019-211), 2645-2655 Fayette Drive (PL-2018-024), 334 San Antonio Road (PL-2021-130), 870 E. El Camino Real (PL-2019-087), and 918 Rich Avenue (PL-2021-154)).

The height standard has the effect of physically precluding the construction of the Project at the densities permitted by the DBL, and the waiver sought from the height standard is no greater than necessary to reasonably accommodate the construction of such a development.

b. Waiver 2: Setbacks

The minimum front/rear/side setbacks in the R-3 zones are 15 feet, "but not less than the height of the adjacent building wall of the subject parcel, as measured to the top of the wall plate." (MVZC § 36.10.70.) The proposed First Floor setback is 15 feet, which is in compliance with the required setback. Applied to the Second through Fourth Floors of the Project, the City Code would require setbacks of 19 feet, 9 inches (Second Floor), 30 feet, 0 inches (Third Floor) and 44 feet, 1 inch (Fourth Floor). The Project requests a waiver to provide 15 foot setbacks for the Second through Fourth Floors.

Portions of the Project's Second through Fourth Floors encroach into the required setbacks on each side. The reduced setbacks provide 16,405 square feet of additional living space to the Project. (See Attachment 4, Attachment 5, and Attachment 6.) City Staff's request to preserve certain Heritage Trees restricts the area where the Project can be built. In order to accommodate 47 one-, two-, and three-bedroom units on the Property, while also complying with fire access requirements, the Project requires encroachment into these setback areas. Therefore, application of the setback standards physically preclude development of the Project. Without the waiver of the setback requirements, the density bonus Project could not be constructed.

Further, this setback waiver is similar to those granted for several other recently approved projects. (See, e.g., 730 Central Avenue (PL-2021-007), 1057-1061 El Monte Avenue

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(PL-2021-031), 1920 Gamel Way (PL-2019-211), 334 San Antonio Road (PL-2021-130), 870 E. El Camino Real (PL-2019-087), and 918 Rich Avenue (PL-2021-154)).

The setback standard has the effect of physically precluding the construction of the Project at the densities permitted by the DBL, and the waiver sought from the setback standard is no greater than necessary to reasonably accommodate the construction of such a development.

c. Waiver 3: Floor Area Ratio

The MVZC allows a maximum floor area ratio (“FAR”) of 1.05. (MVZC § 36.10.70.) The Project requests a waiver to accommodate the Project’s 1.5 FAR. At 1.05 FAR, a maximum of 46,503 square feet of development would be allowed on the Property. The Project requires a minimum of 1.5 FAR to accommodate the additional 22,074 square feet provided by the density bonus units. (See Attachment 3, Attachment 4, Attachment 5, and Attachment 6.)

In accordance with the DBL, the Project proposes to construct 11 additional density bonus units. The percentage increase in units with density bonus is 31 percent. The additional FAR requested would provide approximately 16,405 square feet of living space. (See Attachment 4, Attachment 5, and Attachment 6.) The percentage increase in the floor area is 47.5 percent which is proportional to the increase in the number of units. Without this increase in floor area, the density bonus Project could not be constructed.

Further, this FAR waiver is similar to that granted for several other recently approved projects. (See, e.g., 730 Central Avenue (PL-2021-007), 1057-1061 El Monte Avenue (PL-2021-031), 1920 Gamel Way (PL-2019-211), 2645-2655 Fayette Drive (PL-2018-024), and 918 Rich Avenue (PL-2021-154)).

The FAR standard has the effect of physically precluding the construction of the Project at the densities permitted by the DBL, and the waiver sought from the FAR standard is no greater than necessary to reasonably accommodate the construction of such a development.

d. Waiver 4: Site Coverage

The MVZC allows a maximum site coverage (maximum area covered by structures) of 35 percent. (MVZC § 36.10.70.) As to the Project site, this allows for approximately 13,401 square feet of site coverage. The Project requires site coverage of 18,008 square feet (47 percent), which is a 12 percent increase over the otherwise allowed site coverage. (See Attachment 1.)

In accordance with the DBL, the Project proposes to construct 11 additional density bonus units. The percentage increase in units with density bonus is 31 percent. The increase in site coverage of 4,607 square feet will account for the area required to provide these additional units.

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The percentage increase in site coverage (34.3 percent) is proportional to the increase in the number of units. An application of this development standard would thus physically preclude the Project design. This waiver is needed to fit the Project as designed at the density proposed. The additional site coverage enables approximately 16,405 square feet of living space. Without this increase in site coverage, the density bonus Project could not be constructed.

Additionally, the Applicant has worked diligently with City Staff to preserve Heritage Trees and to create an entry plaza and central and rear courtyards with landscaping, amenities, outdoor seating, and patios.

Further, this site coverage waiver is similar to that granted for other recently approved projects. (*See, e.g.,* 1057-1061 El Monte Avenue (PL-2021-031) and 1920 Gamel Way (PL-2019-211)).

The site coverage standard has the effect of physically precluding the construction of the Project at the densities permitted by the DBL, and the waiver sought from the site coverage standard is no greater than necessary to reasonably accommodate the construction of such a development.

4. Conclusion

The waivers requested are necessary to construct the Project with the density bonus units as well as the affordable units. In addition, the requested waivers are proportional to the amount of the density bonus the Applicant is requesting. The waivers provide additional livable square footage of approximately 16,405 square feet.

None of the requested waivers will have a specific, adverse impact upon health or safety, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. Additionally, the proposed modifications are similar to those granted for projects recently approved by the City, and will be compatible with the buildings and uses in the area.

In addition, Applicant hereby requests application of the reduced parking standards set forth in Government Code Section 65915(p). Because the Project includes 13 percent very low income units and appears to be located within one-half mile of a major transit stop, the Project qualifies for a parking ratio of 0.5 spaces per unit. (Gov. Code § 65915(p)(2).)

In short, the Project is eligible for the State DBL, including the requested incentives/concessions and waivers from development standards sought.

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The Project would provide much needed housing in Mountain View, including affordable housing for very low income households. We look forward to working with you as you process the Project application with the City. In the meantime, please do not hesitate to contact me if have any questions regarding this correspondence or need any additional information.

Sincerely,

RUTAN & TUCKER, LLP



Matthew D. Francois

MDF:mtr

cc: Eric Chiu, *via email*
Bill Matson, *via email*