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July 15, 2022

Via E-Mail Only

Irene Borba
Director of Planning & Building
City of Belvedere
450 San Rafael Ave
Belvedere, CA 94920

Re: Mallard Pointe 1951 LLC - Completeness Response

Dear Ms. Borba:

Our office continues to represent Mallard Pointe 1951 LLC in connection with this project ("Project"). This letter is in response to your letter of June 23, 2022, in which you deemed the application complete. Specifically, we wish to address some of the merits comments contained in your letter.

Density Bonus Application/Number of Affordable Units

You letter asserts that the Project is not eligible for waivers and concessions because it does not contain the requisite number of BMR units. This assertion is based on an assumption that ADUs count as units for the purpose of calculating a density bonus. We do not agree with this position. State law and the Belvedere Code are both clear that ADUs do not count when calculating the density of a property. (See Gov. Code, § 65852.2, subd. (a)(1)(C); and BMC 19.79.050(G).) However, in order to remove any ambiguity about this issue, the applicant will eliminate two of the proposed ADUs, specifically, on Lots 3 and 7. Accordingly, under any calculation, the Project is now undoubtedly entitled to waivers and concessions, as the 4 low-income units are objectively 10% of the now 40 "units."

Please note that the removal of the 2 ADUs involves nothing more than a labeling change. The remainder of the Project, including the building forms, remains the same.



Construction Time Limit

Your letter suggests that the applicant not seek a waiver for the construction time limit (“CTL”) because an alternate exception process exists for the CTL. However, the applicant will continue to request a CTL waiver in parallel with the exception request, as the Project could not be built within the CTL parameters, which is a law tailored to constructing one single family house. A corrected density bonus application is attached for your records.

Parking

Your letter states that the project description and application should clearly state that the Project is requesting an exception to City parking standards by using the parking standards under State Density Bonus Law. Please note that the applicant is not seeking an “exception” to the City standards. In the case of an eligible project, such as this one, the state standards apply, and no local exception is required.

Signage

Appropriate signage for a development of this type should be a mutual goal. In light of the Project’s now-certain eligibility for waivers, a corrected density bonus application is attached for your records with a reference to the necessary signage.

We look forward to receiving the City’s conformance letter and would request that the Project be scheduled for a merits hearing as soon as possible.

Thank you.

Very Truly Yours,

A handwritten signature in blue ink that reads "Riley F. Hurd III". The signature is written in a cursive style.

Riley F. Hurd III

CC: Client