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August 30, 2021

Sent via email: rbustos@cityofsanmateo.org

Rendell Bustos, Senior Planner
City of San Mateo
Community Development Department – Planning Division
330 West 20th Avenue
San Mateo, CA 94403-1388

Re: State Density Bonus Law Concession and Waiver Request

Dear Mr. Bustos,

This letter is written on behalf of Windy Hill Property Ventures (“Windy Hill”) with regard to the proposed mixed-use project generally referred to as the Block 21 project which encompasses 3rd and 4th Avenues, South Claremont and South Delaware Streets in San Mateo (“Project”). The Project includes 68 rental units, which is within the allowable base density. A total of 15 percent of the units would be set aside as affordable to very-low income households. As a result, pursuant to state density bonus law, the Project is entitled to three concessions, as well as an unlimited number of waivers. Government Code Sections 65915(d)(2)(C) and 65915(e).

Windy Hill is requesting the following concessions and waivers, which are described in greater detail in the letter from architect Evan Sockalosky, ARC TEC, Inc.:

Concessions

1. Increase in maximum floor area ratio.
2. Modification to parking garage security.
3. Increase in building height and bulk.

Waivers

1. Increased number of permissible compact stalls.
2. Increase in the maximum parking ramp slope.
3. Reduction in turning radii and turnaround requirements.
4. Reduction in private open space.

This letter will focus on the legal justification for the third concession to increase the height above the 55-foot maximum identified in Municipal Code Chapter 27.40 and the City's Building Height Plan. The Applicant is requesting that the City approve a concession to increase the building height by up to two feet eight inches above the 55-foot height limitation. Construction and other additional details related to the height increase are provided in the architect's letter.

A concession is defined as a reduction in a site development standard or a modification of a zoning code requirement or architectural design requirement that results in identifiable and actual cost reductions to provide for affordable housing costs. Government Code Section 65915(k). Height is a development standard that can be modified. Government Code Section 65915(o)(1); see also *Wollmer v. City of Berkeley* (2011) 193 Cal.App.4th 1329, 1346 where the court upheld the city's waiver of the height standard. As explained in greater detail in the architect's letter, increasing the height provides for affordable housing costs. Therefore, the request for an increase in height is an appropriate and approvable concession.

City staff expressed some concern regarding a concession to modify a design standard adopted by the voters. State law identifies three bases for denial of a proposed concession, including that the concession (1) does not result in identifiable and actual cost reductions to provide for affordable housing costs, (2) would have a specific adverse impact upon public health and safety or the physical environment or historic property, or (3) would be contrary to state or federal law. Government Code Section 65915(d)(1). How the design standard was adopted is not identified as a basis for denial. Furthermore, affordable housing is an issue of statewide importance and state law occupies the field preempting any inconsistent local laws. See *DeVita v. Cty. of Napa* (1995) 9 Cal.4th 763, concluding that laws enacted by initiative are subject to preemption by state law where the state occupied the field in a matter of statewide concern. Thus, pursuant to state law, modification of a voter adopted development standard setting a height limitation may be modified as a concession.

Finally, this letter will confirm tandem parking is provided for pursuant to state law, without the use of a concession or waiver. Government Code Section 56915(p)(5) provides: "If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide onsite parking through tandem parking or uncovered parking, but not through onstreet parking." Based on the plain language of this section, tandem parking applies to the whole development and is not limited to the

Rendell Bustos, Senior Planner
Re: Block 21 – State Density Bonus Law Request
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housing portion of a mixed-use development. Because in other sections of Government Code Section 65915, the state law uses the term “housing development,” here the absence of that modifier indicates that the parking modification to allow tandem parking is intended to apply to the entire development, and no concession or waiver is required.

If you have any questions or wish to discuss this matter further, please do not hesitate to contact me.

Sincerely,

Leigh Prince

Leigh F. Prince

Enclosure

cc: Lisa Ring (via email: lisaring88@gmail.com)
Michael Field (via email: mike@windyhillpv.com)

August 27, 2021

Mr. Mike Field
Windy Hill Property Ventures
530 Emerson Street, Suite 150
Palo Alto, CA 94301

RE: PA-2021-012
Block 21 State Density Bonus Request and Letter

ARC TEC # 205207

As the architect of record for the Block 21 Project, it is our understanding that the project is requesting three incentives/concessions and several waivers in accordance with California State Density Bonus Law (Section 65915). Further, it is our understanding that the requested incentives/concessions must result in identifiable and actual cost reductions, to provide for affordable housing costs. Below is an estimate of the project savings for the three requested incentives/concessions. For the requested waivers, we also provide information as to how they are required for the project.

As context for this request, we feel the following construction information is important to understand and consider. The construction system has been designed to maximize efficiency in order to accommodate the 5-story building with the 2-levels of residential units. The 3 office levels utilize concrete construction with a flat slab to minimize the floor to floor heights. The mechanical system and distribution below the slab will require special design and coordination to maintain all necessary clearances. The 2-levels of residential uses above the office uses above will be framed construction with minimum floor to floor and ceiling heights. The incorporation of these specialized systems and the costs associated with their implementation allow the development of the 5-story project.

CONCESSIONS

1. **SMMC - 27.38.060: MAXIMUM FLOOR AREA RATIO - LOT**

COVERAGE. The maximum floor area ratio and coverage shall be as follows: (a) The floor area ratio shall not exceed 3.0.

Requested Incentive: Allow an increase of FAR to 3.6, which is an additional 36,358 square feet above 3.0.

Rationale for Incentive: Granting this waiver allows for an additional 36 units to be included in the project. This increased unit count results in a decreased cost of construction per unit.

Specifically, the soft costs of the project such as land price, design and engineering fees, and financial interest and accounting fees will be spread over 68 units, instead of 32 units. Spreading the soft costs across 68 units instead of 32 units results in 10-30% saving in construction cost per unit which makes the provision of the Below Market Rate units as included in the project feasible.

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2. **SMMC - 23.54.030: Parking - Garage Security:** Parking garages serving residential uses shall be provided with electrically operated closures to allow passage of motor vehicles, except that required visitor parking shall have unrestricted access. The closures, whether overhead, sliding or swinging shall be provided with reopening devices which will function to stop and reopen the closure in case the closure is obstructed when closing. Openings into the garage which are not for vehicular or human passage shall be provided with security grilles or screens. Digital keypads shall be provided to allow for entry by services and emergency services vehicles. Exterior doors or gates providing access to the secure areas of the parking garage shall remain locked at all times and shall only be accessible through the use of keys furnished to the building residents.

Requested Incentive: Allow two office parking stalls to be provided within the secure residential parking area.

Rationale for Incentive: Due to the configuration of the parking, the required number of residential and office parking stalls, and the required dimensions at dead end parking aisles, allowing two office parking stalls within the residential gated area allows for additional two parking stalls to be included in the parking garage. This allows for fewer parking stalls to be constructed within the project. The anticipated costs of these spaces is approximately \$250 per square foot.

3. **SMMC – 27.40: BUILDING HEIGHT AND BULK**

Request Incentive: Allow a height increase above the 55-foot height limit.

Rationale for Incentive: Granting this concession allows for an additional 36 units to be included in the project. This increased unit count equates to 34,248 square feet in construction. This increased unit count and area results in a decreased cost of construction per unit. Specifically, the soft costs of the project such as land price, design and engineering fees, and financial interest and accounting fees will be spread over 68 units, instead of 32 units. Spreading the soft costs across 68 units instead of 32 units results in 10-30% saving in construction cost per unit which makes the provision of the Below Market Rate units as included in the project feasible.

WAIVERS

The project is also requesting the following waivers , since adherence to these development standards would preclude the development with the incentives/concessions permitted.

1. **SMMC - 27.64.265: Compact Stalls Permissible** - Compact car stalls meeting all standards set forth in this chapter and in the Standard Drawings and Specifications may be permitted as follows: (2) Where the number of required spaces is more than 100, 40% of such spaces may be provided pursuant to compact car standards.

Requested Waiver: 60% compact parking stalls requested or 233 of 389 total stalls.

Rationale for Waiver: Not granting this waiver would physically preclude the construction of the development at the proposed density. A greater percentage of compact stalls allows the project to meet its on-site parking requirement. Without these compact stalls, the project would not feasibly be able to meet its parking requirement precluding the development of the project with the permitted incentive/concessions. units, instead of 32 units.

2. **SMMC- 23.40.050 - PERFORMANCE STANDARDS** (g) Street and Driveway Grades.
(1) Maximum Grades. Maximum grades for new streets and driveways shall be as follows:
(C) Private Roads, Driveways and Ramps that have no pedestrian access and are not emergency vehicle access easements: 18%

Requested Waiver: Maximum Slope on a ramp profile of 20% between the upper and lower basement levels.

Rationale for Waiver: Providing a ramp with a steeper incline allows the length of the ramp to be shortened by 3'-11". Reducing the length of the ramp allows two additional parking stalls to be provided (which provide parking for four units) which would not be possible with the longer ramp. Without this reduced dimension, the project would not feasibly be able to meet its parking requirement, precluding the development of the project with the permitted incentive/concessions.

3. **SMMC- 27.64.130 Turning Radii and Turnaround Requirements and Standard Drawings and Specifications (as attached)** - Circulation for parking facilities shall conform with the following standards: (b) For all uses except single-family and two-family dwellings and secondary units, all parcels providing three (3) or more permanently maintained garage or parking stalls shall provide an area for turnaround purposes on the site which shall conform with the requirements of the City "Standard Drawings and Specifications" and be located adjacent to the entrance of the garage or parking stall, and not on any part of the public right-of-way.

Standard drawing requires 36" required at dead end condition adjacent to last stall and wall to allow for turn around under full lot conditions.

Requested Waiver: 30" required at dead end condition adjacent to last stall and wall to allow for turn around under full lot conditions.

Rationale for Waiver: Not granting this Incentive would physically preclude the construction of the development at the proposed density. Reducing the required dimension allows for two additional spaces to be provided which provide parking for four units. Without these reduced dimensions, the project would not feasibly be able to meet its parking requirement, precluding the development of the project with the permitted incentive/concessions.

4. **SMMC 27.38.130- Residential Development Standards** (c) Open Space. Residential development shall include private usable open space equal to at least 80 square feet per dwelling unit or common usable open space equal to at least 150% of the private usable open space requirements, or a combination of both.

Private usable open space used to fulfill this requirement shall have a usable area of not less than 75 square feet and shall not be less than six (6) feet in any dimension.

Requested Waiver: Open Space. Residential development shall include private usable open space equal to at least 60 square feet per dwelling unit or common usable open space equal to at least 150% of the private usable open space requirements, or a combination of both. Private usable open space used to fulfill this requirement shall have a usable area of not less than 60 square feet and shall not be less than six (6) feet in any dimension.

Rationale for Waiver: The provision of reduced open space allows for the construction of the additional residential units since there is limited space allocation as part of the building. Without this reduced square footage, the project would not feasibly be able to provide open space for all the units there precluding the development of the project with the permitted incentive/concessions.

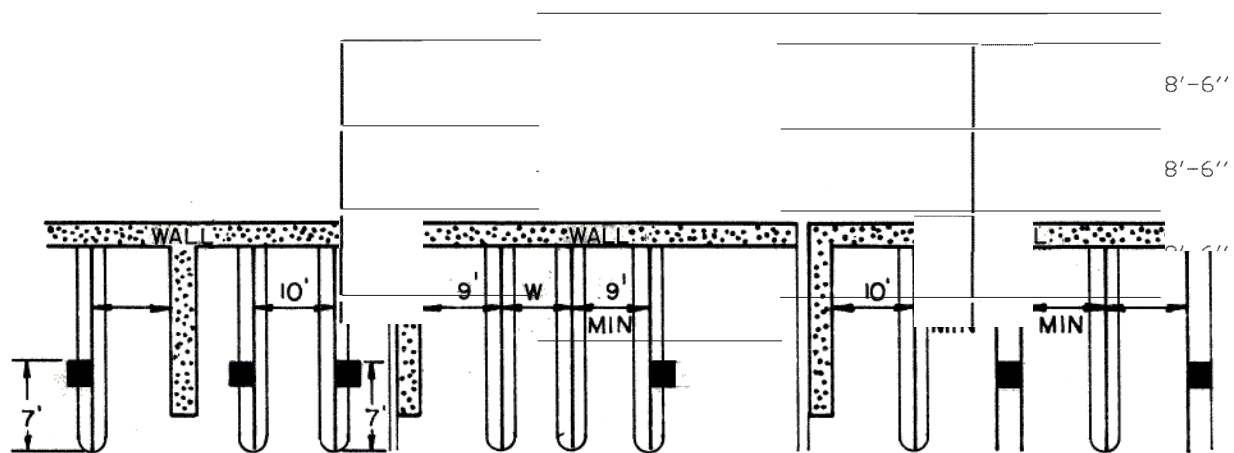
Please feel free to contact me if you have any additional questions. Thank you for your assistance.

Sincerely,

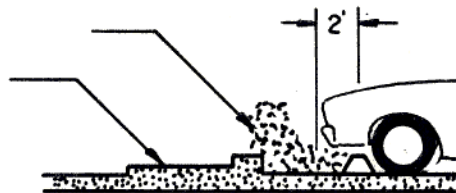
ARC TEC, Inc.

A handwritten signature in dark ink, appearing to read 'Evan Sockalosky', with a long horizontal flourish extending to the right.

Evan Sockalosky, Principal



STANDARD STALLS (FOR COMPACT STALLS, SUBTRACT ONE FOOT FROM THE ABOVE DIMENSIONS)



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ENGINEERING DEPARTMENT

CALIFORNIA 94403

DATE
2002

DRAWN BY
PC

CHECKED BY

APPROVED

Paul O'Keefe

CITY ENGINEER

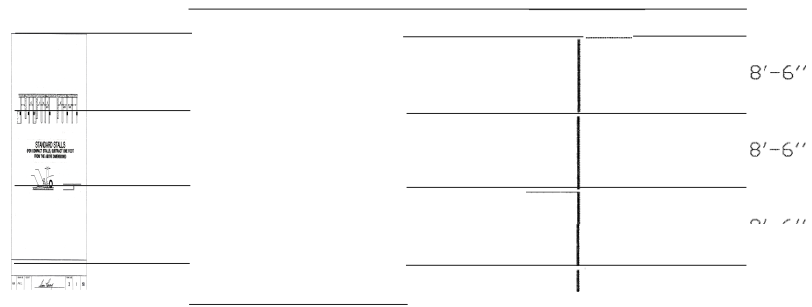
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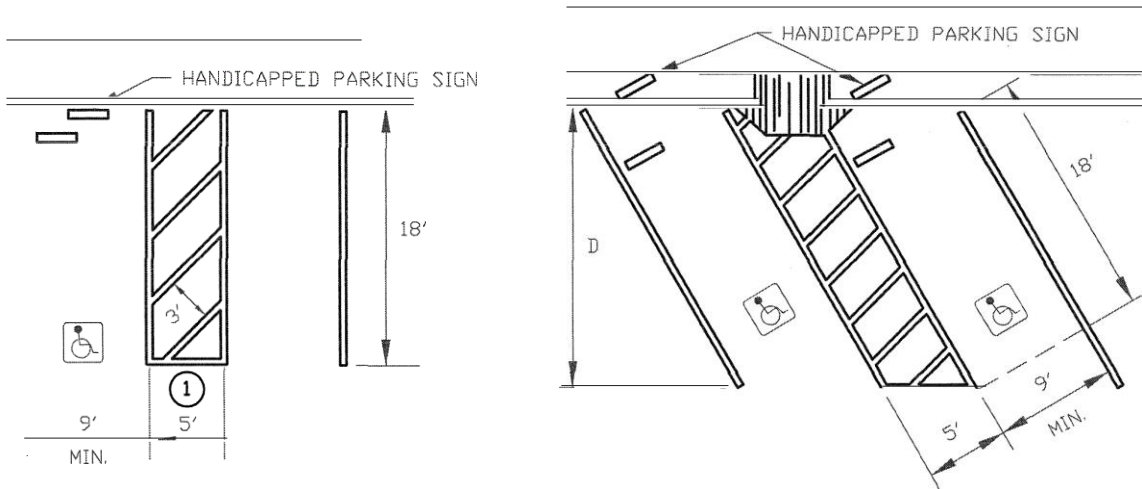
SHEET

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NOTE: SUFFICIENT AREA WILL BE PROVIDED NEAR THE END OF DEAD-END AISLES FOR TURN AROUND UNDER FULL LOT CONDITIONS.



DEAD END AISLES



HANDICAPPED PARKING



ENGINEERING DEPARTMENT

CALIFORNIA 94403

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2002	PC		<i>Mike O'Heams</i>

CITY ENGINEER