



April 11, 2025

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Development Services Department
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RE: 3150 Bear Street (APN 141-521-48), Density Bonus Law Application

Dear Mr. Yeager,

MLC Holdings respectfully requests to develop 122 for-sale townhomes and 20 detached condominiums (142 total units) on approximately 6.1 acres of property located 3150 Bear Street (APN: 141-521-48) for a proposed density of 23.2 dwelling units per acre. The site is currently designated in the General Plan as "General Commercial" and is zoned "Administrative and Professional (AP)." As such, the project proposes to amend the General Plan designation to "High Density Residential" and rezone the property to "Multiple-Family Residential (R-3)," which both permit a density of up to 20 du/ac. State Density Bonus Law (California Government Code Section 65915-65918) provides qualifying projects to take advantage of various tools to maximize density and offset the cost of providing affordable housing on-site. Qualifying projects include those that include at least 5% of housing units that are restricted to very low-income residents. The following provides a summary of the projects' intent to utilize Density Bonus Law (DBL).

Density Bonus

The primary benefit of DBL allows projects to increase density above what is permitted to offset the cost of providing affordable housing on-site. The project proposes to include seven (7) affordable units (5% of the base density of 20 du/ac or 122 homes), priced for households at very low-income levels. Projects that provide 5% of the base number of units as affordable to Very Low Income households are granted up to a 20% increase in density, which means the project is entitled to 146 homes; however, the project only proposes 142 homes.

Incentives/Concessions

Qualifying projects are permitted a specified number of incentives, i.e. concessions, based on the level of affordability. Incentives/Concessions are defined as a reduction in site development standards that result in identifiable and actual cost reductions. By providing 5% of the units to Very Low Income households, the project is entitled to one (1) incentive under DBL. The project applicant is seeking the following incentive:

Detached Unit Second Story Design. The City's Residential Design Guidelines require articulation and offsets on all building elevations to avoid a boxy appearance and mandate consistent architectural treatment on all sides of the structure. The requested incentive applies to detached Units Plan 1 and Plan 2. While both plans incorporate articulation on the front elevations—such as a stepped-back second story (Plan 1), a front porch and wrapping band feature (Plan 2)—the side and rear elevations do not include the same level of articulation or material treatment, as required by the guidelines. However, these elevations are largely screened by landscaping. Strict compliance with these design standards would reduce the interior square footage of the units, which are already modest in size, thereby reducing their functionality and affordability. Furthermore, requiring offsets on all elevations would increase design complexity, construction costs, and potentially result in a reduction in the number of units achievable on the site. As such, the enforcement of the standard would physically preclude the

applicant from constructing the density bonus units permitted under state law. Therefore, the requested incentive is necessary to physically accommodate the density, including the affordable units.

Waivers

If any other City or County development standard would physically prevent the project from being built at the permitted density and with the granted concessions/incentives, the developer may propose to have those standards waived or reduced. The City or County is not permitted to apply any development standard which physically precludes the construction of the project at its permitted density and with the granted concessions/incentives. The City or County is not required to waive or reduce development standards that would cause a public health or safety problem, cause an environmental problem, harm historical property, or would be contrary to law. The waiver or reduction of a development standard does not count as an incentive or concession, and there is no limit on the number of development standard waivers that may be requested or granted. Development standards which have been waived or reduced utilizing this section include setback, lot coverage, open space requirements, and building height limits.

The applicant requests the following waivers to the following development standards to physically allow the project to achieve the proposed density:

- (1) Development Standard CMMC 13-32, Table 13-32, R-3 Maximum Number of Stories & Building Height: 2 stories/27 feet for residential land uses. The maximum number of stories and building height for nonresidential land uses shall be determined in conjunction with the conditional use permit review process. Note: Lofts, as defined in Section 13-6, without exterior access and having only clerestory windows will not be regarded as a story. See also Attic discussion below. Building Height is defined in CMMC section 13-6 as the distance from the finished grade to the highest point on the roof, including roof-top mechanical equipment and screening.**

The project proposes two- and four-story buildings with a maximum height of 52-feet respectively. The two-story homes are situated adjacent to existing single-family homes to provide a buffer between existing homes and the proposed four-story buildings.

- (2) Development Standard CMMC 13-32, Table 13-32: R-3 Required Front Setback**

A reduced front setback from 20 feet to 7 feet in the northwest corner of the site – The reduced setback allows the project to achieve the proposed density and does not pose a significant design issues considering the property is separated from the Bear Street Right-of-way by a city-owned parcel that will continue to be maintained by the project's HOA via an existing maintenance agreement.

- (3) Development Standard CMMC 13-105(h): In all residential zones, except R-1, landscape parkways with a combined width of 10 feet, but not less than three feet on one side, shall be provided along the sides of interior private streets and/or common driveways. The parkway on the house side of private streets or common driveways shall be a minimum of five feet in width.**

The project includes attached sidewalk along private streets to provide walkability; however, a parkway is not provided in all cases where space of the project site is constrained. Landscaping and trees are provided in front yards and common open spaces areas adjacent to sidewalks to provide shade and pedestrian comfort. Front yards and common open space areas will be maintained by the HOA.

- (4) Development Standard 13-32 Table 13-32, R-3 Minimum Open Space: 40% of the total lot area. Open space is defined in CMMC section 13-6 as an area that is intended to provide light and air, and is designed for either environmental, scenic or recreational purposes. Open Space may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreational areas, playgrounds, fountains, swimming pools, wooded areas; first floor decks; unenclosed patios with solid or lattice roofs; water courses; and surfaces covered by not more than five feet in depth by projections which are at least eight feet above**

grade. Open space shall not include the following: driveways; parking lots; other surfaces designed or intended for vehicular travel; and upper floor decks, balconies or areas under projections which are less than eight feet above grade.

The minimum 40% open space standard requires that 2.45 acres (106,722 sf) of the 6.125-acre site be preserved as open space. It should be noted that the standard is written as a percentage of the site, which is more akin to a lot coverage requirement rather than a per unit recreational space standard. The project proposes 93,500 sf (35%) of on-site open space including common recreation area, tot lot, BBQ area, passive recreation and decorative plantings and landscaping. The project includes 13,278 sf of additional off-site passive recreation area within the public right-of-way adjacent to Bear Street. The inclusion of the off-site open space would provide 106,778 sf of open space which is six square feet more than the requirement. If 40% open space was provided on-site, it would reduce the size of the developable lot which would result in a reduction of units. The project includes a waiver of this requirement to achieve the proposed density; however, the project includes an appropriate amount common and private open space per unit.

The project includes a waiver for individual unit open space requirements for the townhome component of the project. The City's Municipal Code requires that the townhome units would be provided a patio with no dimension less than 10 feet. The proposed townhome units are stacked to allow for the project to develop the number of units allowed pursuant to the Density Bonus Law. The stacked units do not allow for adjoining patio areas and balconies have been included with each individual unit. The square footage of balconies per unit range from 55 sf to 194 sf. If the adjoining patio was provided, the buildable lot area would be reduced which would reduce the allowable units on site under the Density Bonus Law.

Individual Dwelling Unit Minimum Lot Area

Individual units on residential common interest developments are required to be located on a minimum 3,000 sf lot with an average lot area of 3,500 across the project. The project includes a range of condo lot areas from approximately 2,017 sf to 2,608 sf with an average individual lot area of approximately 2,395 sf. The project proposes to include 20 single family dwellings along the eastern and southern perimeter of the project site to buffer any impacts of the project to the neighboring single-family dwellings. The condo lot sizes are reduced to allow for the number of units allowed pursuant to the Density Bonus Law.

Maximum Parking Standards

Pursuant to California Government Code Section 65915(p)(1), "...a city, county, or city and county shall not require a vehicular parking ratio, inclusive of parking for persons with a disability and guests, of a development meeting the [qualifying project criteria], that exceeds the following ratios:

- (A) Zero to one bedroom: one onsite parking space
- (B) Two to three bedrooms: one and one-half onsite parking spaces
- (C) Four and more bedrooms: two and one-half parking spaces"

According to this requirement, the project is only required to provide 236 parking spaces. Recognizing that parking is a concern in this neighborhood, the project proposes to provide 319 spaces (2 garage spaces per unit, plus 35 guest parking spaces), in compliance with the minimum 2.25 per unit required by the Specific Plan.

We hope that staff appreciates our efforts to create a livable and desirable project that fits within the context of the neighborhood. We look forward to working with staff to further refine the project and deliver new homeownership opportunities to the City of Tustin.

Kind Regards,



Johanna Crooker, AICP

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