April 20, 2022

VIA E-Mail (SDivatia@sunnyvale.ca.gov)

Shétal Divatia
Senior Planner
City of Sunnyvale
456 W. Olive Ave
Sunnyvale, CA 94086

Re: 102 E Fremont Ave., Sunnyvale (1310 Sunnyvale-Saratoga Rd. APN 309-01-002) Formal Application Pursuant to Government Code section 65941.1(d)(1); Planning File #2021-7161 (FCII) Compliance Comments #2 – Response to Letter dated March 24, 2022

Dear Shétal,

I am writing in response to your second inconsistency letter dated March 24, 2022, for the FCII housing development project in Fremont Corners. In that letter you requested, among other things, a complete accounting of the Concessions and Waivers being requested per the Density Bonus Law as it pertains to the proposed Project (FCII) project. The 35-unit mixed use town home project is complying with the City's 12.5% affordable housing requirement by building 4 of the 35 homes on site to be deed restricted as moderate income units and thus is eligible for a 7% density bonus, one incentive and concession, and unlimited waivers or reductions of development standards under Density Bonus Law. The following is an accounting of the concession/incentives and waivers as they apply to the project considering the City's Inconsistency Comments chart. Please note that this accounting is virtually identical in logic and substance to the accounting we provided in connection with the approved FCI housing development project.

PL-1 Commercial Square footage less than 10% FAR of site (Waiver)

The General Plan states the commercial FAR "should" be minimum a 10% FAR to a typical maximum of 25% FAR. It also states specific densities and intensities are determined by Specific Plan or Area Plan, which do not exist. The commercial FAR is a subjective standard within the meaning of the HAA because it requires interpretation by the City and is not uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official. The LUTE additionally describes Village Mixed Use as having a minimum of 10% of the lot area as commercial. According to this statement the project has proposed 10% of the lot area as dedicated to leasable indoor and outdoor commercial uses, or 3,384 SF. Thus, the project is entitled to a waiver to the 10% FAR requirement.

PL-2 Housing Density (Density Bonus)

Project density is 19.34 D.U./AC. NET. This was re-calculated due to increased right-of-way width along Sunnyvale Saratoga Avenue and E. Fremont Avenue frontages. The project is eligible for 2.45 density bonus units and will be using its bonus to provide an additional 1.34 market-rate units.

PL-3 Frontage Landscaping (Waiver)

This project is seeking a Density Bonus waiver of development standards to the 15' landscape strip along the E. Fremont and Sunnyvale Saratoga frontages. Compliance with these setbacks would physically preclude the construction of the project at its proposed density by reducing the available depth for the residential units and cause loss of dwelling units in the project. Refer to previously submitted diagram.

PL-4 Buffer Landscaping (Waiver)

The property is subject to an existing private Reciprocal Easement Agreement (REA) that requires the property to respect the existing ingress and egress points to E. Fremont and Sunnyvale-Saratoga Road, rear, and internal cross access points for vehicular and pedestrian access to the neighboring (centrally located) commercial property. The project is seeking a waiver of development standards to the 10' Buffer strip to accommodate the proposed density in light of the REA. Refer to previously submitted diagram.

PL-5 Parking Lot/Circulation Shading (Waiver)

Based on the objective density set forth in the General Plan, this project proposes 35 townhomes that are served by rear drive aisles to the garages. The shading requirement would physically preclude the construction of the project at its proposed density because there is physically not enough surface area on the property to add more shade trees to the drive aisles or the parking areas. TTLC will nevertheless endeavor to add as many of the triangular tree planters as possible per our landscape architect's professional ability.

PL-6 Parking Spaces (Waiver)

The Density Bonus Law is being applied to this project and to the parking reductions needed to provide the maximum parking practicable based on available land area. A waiver is requested to allow for 100% tandem covered parking for the townhomes (70 spaces) and a reduction in the total commercial spaces from 31 to 18 commercial spaces. Total required on-site parking is119 spaces where the project is proposing 100.

PL-7 Compact Parking Spaces (Waiver)

The Density Bonus Law is being applied to this project for the use of compact parking stalls as standard parking stalls would physically preclude development of the project at its proposed and allowed density.

PL- 9 Underground the existing overhead lines (Incentive)

The existing overhead line runs the full length of the southern property line behind three separate parcels. This overhead line serves these three parcels and single family residential units adjacent to the southern property lines. Undergrounding this line would be cost prohibitive to the project and involve the tearing up and replacement of single family residential back yards and is estimated to cost over $1M to do so. Granting an incentive to avoid undergrounding would produce actual and identifiable cost reductions to the project.

PL-10 Front Setback (Waiver)

This project is seeking a waiver of development standards to the 70' front setback requirement along the E. Fremont and Sunnyvale Saratoga frontages. Compliance with these setbacks would physically preclude the construction of the project at its proposed density by infringing on the available site area to construct the residential units and cause loss of the majority of the dwelling units on the project. Refer to previously submitted diagram.

Please let me know if you need to have any further clarification of the concession/incentive and waivers.

Sincerely,

Leah Beniston

Leah Beniston
Senior Vice President
The True Life Companies

Cc: Bryan Wenter, Miller Starr Regalia