

9/20/21

Cindy Hom
City of Sunnyvale
456 W. Olive Ave.
Sunnyvale, CA 94086

**Re: Orchard Gardens Redevelopment
A Development for First Community Housing**

Concessions Letter

AB 1763:

AB 1763 allows 100% affordable housing projects to take advantage of 80% Density Bonus, which allows for an additional 50 units and up to four concessions/incentives from the City's development standards. If there is a major transit stop within one-half mile of the project, there is no maximum controls on density. In addition, the applicant can request up to 4 incentives or concessions and a height increase of up to 3 additional stories or 33 feet.

In addition to the unlimited density bonus, height/story bonus and parking incentives, the project will utilize the following four allowable incentives or concessions:

1. Front Yard Setback:
 - a. The required setback is 20 feet with additional setbacks at upper levels.
 - b. The project is proposing a 10'-0" -17'-0" setback along the street frontage to maximize usable, active program space along the street frontage. This is aligned with the Planning Departments requirements to create an active street frontage at ground level. This concession allows for office, meeting rooms and breakrooms to line the street frontage.
 - c. The additional space at the upper levels will allow the project to maximize density and affordable housing units.
 - d. It is our interpretation and understanding that this concession covers the first-floor setback as well as the upper level setbacks.
2. Lot Coverage:
 - a. The existing Parkview Apartment footprint and the new Orchard Gardens footprint total 45% lot coverage, which is 5% over the allowable lot coverage for the site.
 - b. The additional footprint for the Orchard Gardens building allows the project to meet parking requirements and provide adequate building and support services offices for the new residential units.
3. Solar Shading (Max: 10% Shading on Adjacent Roofs, Proposed: 30+%)
 - a. Under the provisions of the State Density Bonus Law, the building is allowed to be 7-Stories and/or 88' High. With this allowable height

and story bonus, the new Orchard Gardens building is 3 to 4 stories taller than the adjacent Parkview buildings to the west and the adjacent apartment complex to the east. The new building exceeds the allowable 10% shading requirement on adjacent roofs due to the added height and density allowable under the State Density Bonus Law.

4. Usable Open Space:

- a. The required usable open space per unit is 380 SF/Unit.
- b. Our project provides 172 SF/Unit of intentional, communal open space:
 - i. a roof deck with community garden
 - ii. protected courtyard with gathering areas, seating, and planting areas
 - iii. clear and safe pedestrian connections and beautiful landscape areas
 - iv. a fire apparatus access road landscaped to allow for active use and enjoyment
- c. Every existing and new unit, with a few exceptions, will have 80 SF private balcony open space.
- d. The total usable open space per unit is 228 SF/Unit.

Waivers from Development Standards:

1. Landscape Buffer: Required: 15' wide buffer along street frontage on property, Proposed: 15' wide for approx. 25% of street frontage (excluding driveways), 13' wide for approx.. 50% of street frontage (excluding driveways), and less than 10' wide for approx. 25% of street frontage (excluding driveways).
 - a. The front yard setback is included as a concession under state density bonus legislation to allow the project to meet the proposed unit density and wrap the parking garage on the first floor with active office workspace areas to meet the development standards for an active street frontage. The reduced front yard setback concession is directly related to it not fully complying with the landscape buffer requirement between the building and the property line.
2. Parking Lot Shading: Required: 50% Shading in Parking Lot and Vehicular Drives, Proposed: 54% Shading of the existing parking lot; Shading compliance for the fire department access road is not physically feasible due to the width and clearance requirements for a fire department access road
 - a. Please refer to L-6 for the existing parking lot shading of 54%.
 - b. Reasons shading compliance for the fire department access road is not physically feasible:
 - i. Fire department access road requires 26' wide clearance up to 13'-6" high. No overhanging tree canopies.
 - ii. Use of driveway is shared with neighboring parcel to the east, therefore trees along the property line is not feasible. In addition to being a vehicular driveway, the driveway is also the primary waste collection access and fire department access road.

- iii. It is not feasible to plan large trees along the face of the building due to constrained planting areas and conflicts with structural foundations. Planting areas cannot be expanded without impacting the proposed unit density.
 - c. Please refer to L-6 for the existing + eastern access driveway total shading of 34%.
3. Building Separation: Required: 35' Separation; Provided: 32'-9" Separation at Exit Stair that is full 6 stories
- a. The proposed project meets the required separation with buildings on all adjacent parcels.
 - b. The required 35' Separation is provided between the existing eastern Parkview Apartments building (3-stories) and Western façade of the Northern Wing of the new Orchard Gardens building (6-stories) at all but the exit stair. The building separation at the pinch point between the exit stair and Parkview building is 32'-9". Shifting the exit stair to fully comply with the 35' building separation would impact the unit count and proposed density of the site.
 - c. This issue is interrelated with the unlimited Density Bonus and Lot Coverage Concession under state density bonus legislation.
4. Underground Utilities: Transformers. Required to be located underground or in the building per SMC 19.38.090(b)(3); Provided: Above Ground Transformers with Screening Fence and Gate Enclosure. For the following reasons, it is cost prohibitive and spatially not feasible to locate the transformers inside the building or underground:
- a. Please refer to excerpt below from PG&E's recent update regarding underground commercial distribution transformers. As it is technically feasible to install the transformers above ground and the project is not in a flood plain, we do not believe an exception will be allowable.
 - i. *PG&E Update: The revisions to Rules 2, 15, and 16 note that the CPUC and PG&E will no longer accept requests for underground distribution systems that call for equipment to be installed in below-grade structures (i.e. underground commercial distribution (UCD) transformer) where it is "technically feasible" to install the equipment above ground. "Technically feasible" is defined as "enough space is, or can be made, available above ground for the electrical distribution equipment needed for PG&E to serve customers and that other requirements, such as obtaining permits, are met." This essentially means that all new construction shall provide at grade transformer installations, pad-mounted at the exterior of the building, or within the building complying with PG&E requirements.*
 - b. If PG&E were to allow the transformers to be located underground per SMC 19.38.090(b)(3), the space requirements and cost impacts

to the project would be prohibitive. Instead of two above ground transformers, the project would require 3 underground transformers. The costs associated with three large underground transformers would impact the financing strategy for this affordable housing project where funding applications are extremely competitive based on cost per unit metrics. The transformers could not be located in the sidewalk as there are existing gas and sewer mains running under the sidewalk. The transformers could not be located underground in the access driveway as PG&E could not accept this condition. The three underground transformers could potentially fit underground in the landscape area between the sidewalk and new building but would impact existing street trees and limit the area for landscape.

- c. Locating the two transformers inside of the building is cost and space prohibitive. Each transformer room would need to be 2-hr rated and approximately 21' x 15' in size. This would impact the parking and office space layouts to the point of being infeasible for the project.

5. Landscaping: The R-4 zone requires 375 s. f. of other landscaped area to be provided per unit.

- a. Please refer to the existing conditions landscape area calculations on sheet A2.3 and the updated proposed landscape area calculations on sheets A3.3 and A3.4. In terms of area (approx. 31,500 SF) and percentage of site (42%), the proposed landscape area is much higher than the 20% required minimum and the existing landscape area on the site today. The existing landscape area/unit calculation does not meet the City's 375 SF/unit minimum. While significantly increasing the amount of landscape area on the site, the proposed site does not meet the area/unit minimum due to the increased density of the site.

Should you have any questions regarding this letter, please don't hesitate to reach out to at JoseL@firsthousing.org or (408) 291-8650 x30

Sincerely,

A handwritten signature in black ink, appearing to read 'Jose Lujano', with a stylized flourish at the end.

José J. Lujano
Project Manager
First Community Housing