



## MEMORANDUM

**DATE:** February 10, 2014

**TO:** Planning Commission

**FROM:** Deanna Chow, Senior Planner  
Community Development Department

**RE:** **Agenda Item G1: Information Item Providing Update on the R-4-S Zoning District Compliance Review and Application of State Density Bonus Law for the Anton Menlo Development at 3639 Haven Avenue**

This item is an information item only. No action or discussion is required by the Planning Commission. The proposed changes discussed in this memo are intended to be approved by the Community Development Director as part of a revised R-4-S compliance review and State Density Bonus determination for a project at 3639 Haven Avenue.

### **BACKGROUND**

On October 7, 2013, the Planning commission conducted a study session as part of the R-4-S (High Density Residential, Special) compliance review process for a 393-unit, multi-family residential development located at 3605-3639 Haven Avenue (herein referenced as 3639 Haven Avenue). The full staff report and minutes are included as links at the bottom of this report. The purpose of the study session was to review the architectural design of the proposed residential development relative to the development regulations and design standards of the R-4-S zoning district, and provide an opportunity for the Commission and members of the public to provide feedback on the proposal's compliance with the R-4-S regulations and the application of State Density Bonus Law. In addition to the affordable units resulting from the application of State Density Bonus Law, the project also accommodates Facebook's Below Market Rate (BMR) obligation to provide 15 affordable residential units established as part of the City's approval of the Facebook West Campus. These units did not count towards any calculation for applying State Density Bonus Law. The Planning Commission's review was advisory only, but was taken into consideration as part of the Community Development Director's determination of compliance with the R-4-S development regulations and design standards.

On November 20, 2013, the Community Development Director issued a letter regarding the State Density Bonus determination and R-4-S compliance review for 3639 Haven Avenue. The City determined that the proposed residential development was in compliance with the R-4-S district requirements, subject to conditions of approval. In addition, the City deemed that the requested incentives and waivers meet the thresholds of State Density Bonus Law and were necessary to make the 38 affordable units (low income) economically feasible and to make the construction of the project physically possible. The building permits for the project are currently under review.

## PROPOSED REVISIONS

After further consideration of the financial feasibility of the project, St. Anton has reevaluated the number of affordable units and the affordability level that the project could bear. On January 15, 2014, St. Anton requested a modification to the application of State Density Bonus Law for the proposed project. The purpose of State Density Bonus is to encourage the development of affordable residential units in exchange for a density beyond what would be allowed under applicable zoning as well as to provide incentives and/or waivers of development standards to make the housing development feasible. The following table compares the approved and proposed development.

	<b>Approved Project</b>		<b>Revised Proposal</b>	
Total Number of Dwelling Units	393 units		394 units	
Total Number of Market Rate Units	340 units		357	
Total Number of Affordable Units	Application of State Density Bonus Law	38	Application of State Density Bonus Law	22
	City BMR Obligation	15	City BMR Obligation	15
Affordability Level	Application of State Density Bonus Law	Low Income	Application of State Density Bonus Law	Very Low Income
	City BMR Obligation	Low Income	City BMR Obligation	Low Income
Incentives and Waivers	Incentives	1	Incentives	1
	Waivers	5	Waivers	5

The proposed request includes a reduction in the number of affordable units from 38 to 22, and also a change in the targeted income category from low-income to very low-income. Given the selected affordability level and the percentage of very low income units in the proposal, the applicant is entitled to a 25 percent density bonus per State Density Bonus Law (Government Code Section 65915). This proposal results in a greater density bonus than what was previously permitted (23 percent), and would now allow a maximum of 399 units. The applicant proposes to utilize the increased density bonus and construct 394 dwelling units instead of 393 per the maximum previously permitted.

Although the proposal includes changes to the affordability component of the project and the total number of units, the proposed physical development would substantially remain the same as what the Planning Commission reviewed on October 7 because the plans, at that time, included a development of 394 units (a condition of approval would have reduced the total number to 393 units). Staff would note that minor adjustments may be required to account for engineering or building code requirements, but the overall look and feel of the project would remain. The approved and proposed project includes the use of one incentive and five waivers per State Density Bonus. Because the proposed density bonus is greater than what was previously permitted and the project remains essentially the same, staff believes that the proposed project would continue to meet the thresholds of the density bonus equivalent and other basis used to support the incentives and waivers. Although the total number of affordable units would be reduced, the City would benefit by fulfilling a portion of its requirement to provide very low-income housing units. These units are difficult to achieve, particularly in combination with market rate units. A revised Affordable Housing Agreement is being prepared to reflect the proposed modifications.

## **ATTACHMENTS**

- A. Staff Report from the October 7, 2013 Planning Commission Meeting.
- B. Excerpt Minutes from the October 7, 2013 Planning Commission Meeting.
- C. Compliance Review and State Density Bonus Determination Letter, dated November 20, 2013



---

*Community Development Department*

November 20, 2013

Rachel Green  
St. Anton Partners  
1801 I Street, Ste. 200  
Sacramento, CA 95811

Dear Ms. Green:

**SUBJECT: STATE DENSITY BONUS DETERMINATION AND R-4-S COMPLIANCE REVIEW  
FOR 3639 HAVEN AVENUE (ANTON MENLO RESIDENTIAL)**

The City has conducted its compliance review of the proposed 393-unit residential development and associated on-site amenities located at 3639 Haven Avenue. The proposal includes the application of the City's State Density Bonus Ordinance, which provides a density bonus for developing on-site affordable units and allows modifications to development standards and/or architectural requirements. Concurrent with the compliance review process for the R-4-S zoning district, the City reviewed the request for application of the State Density Bonus Ordinance.

On October 7, 2013, the Planning Commission completed its study session on the proposal, which is a required step in the R-4-S compliance review process. The City has taken the Commission's comments into consideration, and has determined that the proposed residential development is in compliance, subject to conditions outlined below, with the R-4-S zoning district requirements and deems that the requested incentive and waivers meet the thresholds of the State Density Bonus Law and are necessary to make the proposed 38 affordable units (low income) economically feasible and to make the construction of the project physically possible. The conditions of approval are as follows:

1. Removal of extra residential unit: The proposed design contains 394 residential units where the maximum number of dwelling units is 393. Per previous communication on this topic, the extra unit must be reconfigured and repurposed in a manner that would make the conversion of the space into habitable space practically infeasible (e.g. remove windows or reduce the size of the space such that living in the area would be difficult). While the extra unit can be combined with an existing unit, it cannot be used separately as a model unit.

If this issue has not been addressed as part of the initial building permit submittal, a conceptual plan showing how the issue is proposed to be resolved shall be submitted within **two weeks** from issuance of this compliance letter. The conceptual plans shall include, at a minimum, the affected floor plans and elevations, along with a detailed description of how the proposed change affects other elements of the project. Additional plans or information may be needed following the initial review. The conceptual plans

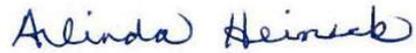
are subject to review and approval by the Community Development Director or his/her designee and the City Attorney before the Planning Division will begin its plan check of any building permit associated with the residential buildings, parking or amenity spaces. All comments from the applicable reviewing bodies and any modifications to the plans needed for the redesign to eliminate the 394<sup>th</sup> unit shall be addressed and incorporated into the building permit resubmittal package before the plans will be accepted for review.

2. Plan Set Consistency: Per the October 7, 2013 Planning Commission staff report, minor clean up items for internal consistency (e.g., consistency between elevations and cross-sections) within the plan set are needed. As part of the initial building permit submittal, please address how the inconsistencies have been resolved. The consistency review will occur concurrently with the building permit plan review, and any discrepancies will need to be reconciled.
3. Verification of R-4-S Zoning District Requirements: All elements of the project will need to comply with the R-4-S development regulations and design requirements, with the exception of the front setback, floor area ratio, building coverage, building height, building profile, and façade modulation which were requested as an incentive and waivers as described in the Planning Commission staff report of October 7, 2013. Concurrent with the building permit plan review, staff will verify that all components of the proposal are in compliance with the R-4-S zoning requirements.
4. Substantial Conformance: Staff recognizes that changes to the plans will need to occur to reflect modifications to address item #1 above, and may need to be refined to address building code requirements and/or market trends. The plans submitted for building permits should generally be in substantial conformance with the plans submitted to the City and presented to the Planning Commission on October 7, 2013. All changes from the October 7, 2013 plans shall be documented in a separate letter, and shall indicate the reason for the proposed modification (e.g., to comply with building code, product unavailability, etc.) Non-compliance with either a R-4-S development regulation or design standard that was not previously noted, or a substantial change in the architectural design and/or materials, site layout, unit mix, and/or on-site improvements and amenities may warrant a new compliance review process.
5. Affordable Housing Agreement: A draft Affordable Housing Agreement is currently under review. The Agreement, subject to approval by the St. Anton Partners and satisfaction of the City Attorney, shall be executed and recorded at the San Mateo County's Recorder's Office within **60 days** of issuance of this compliance letter. In no instance shall a building permit for the construction of any residential building be issued prior to execution of the agreement and documentation of recordation is submitted to the City.
6. Mitigation Monitoring: The proposed project is subject to the Transportation Impact Fee (TIF) and continued compliance with the Mitigation Monitoring and Report Program (MMRP) established through Resolution No. 6149. Mitigation measures AQ-1, AQ-2, GHG-1, HAZ-1, TR1-g, TR2-W outlined in the enclosed MMRP must continue to be met to proceed with issuance of a building permit.

A comprehensive building plan set, including at a minimum, all architectural, structural, mechanical, electrical, and plumbing details, shall be submitted for each of the proposed buildings for staff's review and approval. Revisions to drawings for clarity and/or supplemental drawings may be requested to verify the consistency, accuracy and compliance of the proposed plans with the R-4-S zoning requirements and previous submittals.

Should you have any questions regarding this letter or requirements of the R-4-S zoning district, please do not hesitate to contact Deanna Chow at (650) 330-6733 or [dmchow@menlopark.org](mailto:dmchow@menlopark.org). We look forward to working with you through the building permit review process and construction phase.

Sincerely,

A handwritten signature in blue ink that reads "Arlinda Heineck". The signature is written in a cursive style.

Arlinda Heineck  
Community Development Director

Enclosure: Mitigation and Monitor Reporting Program