

3550 El Camino Real, Santa Clara, CA
Government Code Section 65913.4 | Project Re-Submittal
Density Bonus Statement
December 15, 2021

This Density Bonus Statement is submitted as an attachment to the application by Resources for Community Development for a proposed 100% affordable housing project at 3550 El Camino Real in the City of Santa Clara ("City"). The application is for a streamlined ministerial development permit pursuant to Government Code § 65913.4, otherwise known as SB35, and as well as Government Code § 65915 et seq ("State Density Bonus Law").

The document provides the relevant information for the application pursuant to Santa Clara Municipal Code Chapter 18.78 and is organized as follows:

1. Legislative Context
2. Density Bonus Requests
3. Information requested by SCMC § 18.78.050

1. Legislative Context

The building will be 100% below-market-rate apartments. This will be accomplished through deed restrictions and regulatory agreements with the City as required by SCMC § 18.78.060. For the purposes of the SB35 application and State Density Bonus request to the City, the project pledges 100% of the units will be affordable to households earning less than 80% AMI except for a manager's unit as allowed by State Density Bonus Law.

The project is located within the El Camino Real Focus Area of the General Plan and has a Regional Mixed-Use General Plan designation. Therefore, the project relies on the General Plan density standard per State Density Bonus Law (Gov Code § 65915 (o)(4)).

The Regional Mixed-Use designation stipulates that the site area has an allowable maximum density of 50

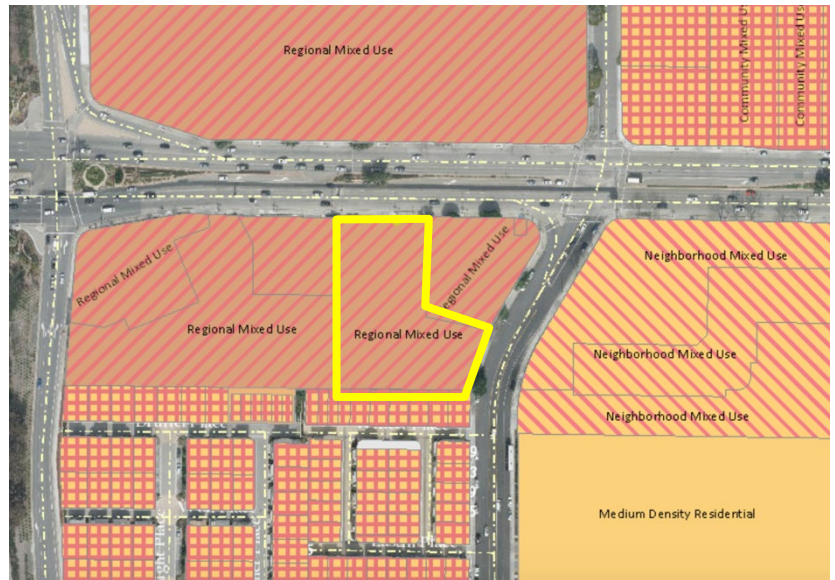


Figure 1 General Plan Land Use Map

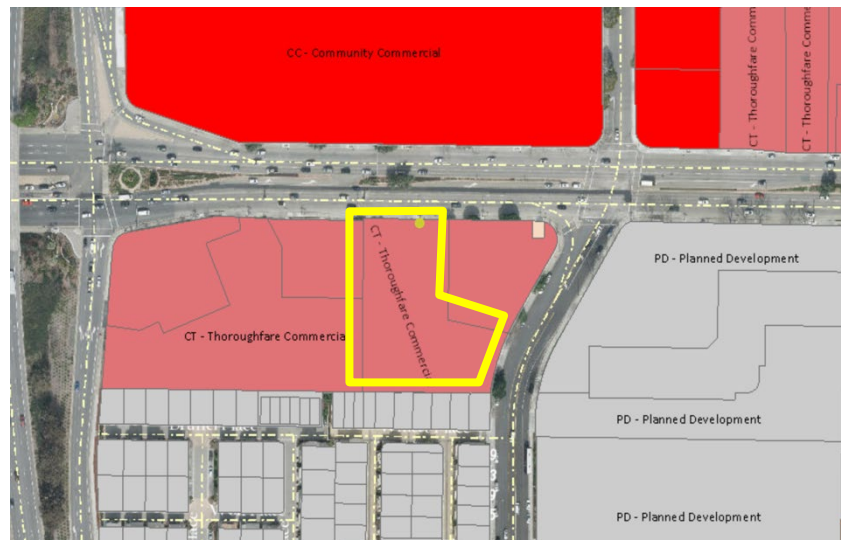


Figure 2 Zoning Map

dwelling units per acre. The site is zoned Commercial Thoroughfare which is silent on residential density standards. However, pursuant to consultation with City Staff, this zoning is not the best fit for the project because of its inconsistencies with Density, Height, and Setbacks. Pursuant to AB 3194, City Staff have determined that the Very High Density Mixed Use (VHDMU) is a better fit, so that zoning district's standards are used for this analysis (see Section 4(b) for more detail).

By pledging 100% of its units as affordable to households earning less than 80% AMI the project is eligible for unlimited residential under Gov Code § 65915(f)(3)(D)(ii) as the project is within a half-mile of a major transit stop. Please see the attached letter from the Valley Transportation Authority confirming that the nearby transit stop qualifies.

Under State Density Bonus Law, the City must also provide a height bonus of 3 stories or 33 feet and up to four (4)

concessions or incentives (Gov Code § 65915 (d)(2)(D)) that

provide actual and identifiable cost reductions for the affordable units per Gov Code § 65915 (d)(1)(A). Concessions may include any "reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission... including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs" Gov Code § 65915 (k)(1).

The State statute makes clear that when an applicant requests concessions/incentives, the local jurisdiction may request reasonable documentation, but then the local jurisdiction must approve the applicant's requests absent very specific findings. A concession/incentive must be granted unless the jurisdiction "makes a written finding, based upon substantial evidence" that the concession doesn't result in cost reductions, create a specific, adverse public health and safety impact, or cause a violation of federal or state law, see Gov Code § 65915 (d)(1) (emphasis added). To resolve any potential



Figure 3 Distance to Major Transit Stop

ambiguity, the statute also declares that the jurisdiction “shall bear the burden of proof for the denial of a requested concession or incentive.” Gov Code § 65915 (d)(4).

Similarly, the statute discusses that jurisdictions are allowed to deny waivers based on specific, adverse health and safety impacts that cannot be mitigated, adverse impacts to historic properties, or violations of state or federal law. Gov Code 65915 § (e)(1).

2. Summary of Density Bonus Requests

Density Bonus Law Waivers and Modifications related to Maximum Density

The project is eligible for waivers and modifications only related to the allowable 33’ height bonus and elimination of maximum controls on density.

Standard	Regulation	Proposed	Rationale for Unenforceability
General Plan 5.2.2 Regional. Mixed-Use	Maximum residential density of 50 units per acre.	120 units or 107 dwelling units per acre.	State Density Bonus Law prohibits the City from imposing “any maximum controls on density” Gov Code § 65915(f)(3)(D)(ii).

Concessions and Incentives

Standard	Regulation	Proposed	Rationale for Unenforceability
SCMC § 18.22.040	(h) Open Landscaped Area. Each lot shall have not less than 30% of the lot area developed into permanently maintained open landscape areas.	The project provides 1,100 SF of landscaping adjacent to the proposed surface parking area	Concession 1: The project does not provide sufficient landscaping to meet this standard and requests a Density Bonus Concession. In order to meet this standard, the project would have to relocate proposed or existing building to open up more space for landscaping. These building areas (most likely the trash rooms, utility rooms, elevator for the motel) would have to be relocated and additional landscaping would need to be installed. Both of these would be increased costs that are not included in the current project and so this concession would provide real and identifiable cost savings through the reduced amount of landscaping and additional building area on upper floors.

El Camino Real Street Frontage Design	Requires landscaping and street trees in such a way that would require moving a sewer line.	The project proposes an alternative street tree arrangement that will avoid needing to move any utility lines. See Plan Set page A1.1.	Concession 2: The project does not provide street trees in the manner specified by the El Camino Real Street Frontage Design and so requests a Density Bonus Concession. Meeting the requirement would necessitate moving an existing sewer line and other underground utility lines beyond the 10' of the sidewalk. This would create enormous costs for the project from trenching, the materials to replace the utility lines and the costs of installing and repaving the street. Not providing these street trees therefore provides real and identifiable cost savings to the project as it will avoid the very costly replacement of utilities.
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3. Parking Requirements

The project is applying under SB35 and, therefore, the City is prohibited from applying any automobile parking requirements pursuant to Gov Code § 65913.4(e)(1) because it is located within ½ mile of public transit.

(1) Notwithstanding any other law, a local government, whether or not it has adopted an ordinance governing automobile parking requirements in multifamily developments, shall not impose automobile parking standards for a streamlined development that was approved pursuant to this section in any of the following instances:

(A) The development is located within one-half mile of public transit.

The project provided a memorandum to the City previously explaining how this requirement applies both to the residential and commercial parking components.

4. Information requested by SCMC § 18.78.050

The Santa Clara Municipal Code does not provide a list of items required for requesting a density bonus. However, the code does include a list of information for a pre-application

(a) A brief description of the proposed development, including the total number of units, target units, and density bonus units proposed.

The project proposes a new seven-story mixed-use building to front El Camino Real and to renovate the existing two-story motel into long-term dwelling units. In total, the project provides 120 apartments, more than 1,500 feet of commercial space and bicycle and automobile parking spaces for residents. The project requests an unlimited density bonus to exceed the General Plan's allowable density (50 du/acre) by 57 dwelling units per acre, for a proposed density of 107 du/acre.

(b) The zoning and general plan designations and assessor's parcel number(s) of the project site.

The APN is 290-01-113. The project has a general plan designation of Regional Mixed-Use and is zoned C-T (Thoroughfare Commercial). However, per AB 3194, a "local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning which is consistent with the general plan".

In consultation with the City, the proposed project fits the objective standard requirements of VHDMU because the Height, Density, and Setbacks did not comply with the site's Thoroughfare Commercial (CT) zoning. Therefore, it is a better match, consistent with AB 3194, that the proposed project conforms to the objective standards and criteria of VHDMU zoning.

In addition, the general MU zoning development standards also apply to the project. Where the specific requirements of the VHDMU zoning conflict with the general MU requirements the Objective Standards table defers to the more specific standards of the VHDMU requirements.

(c) A vicinity map and preliminary site plan, drawn to scale, including building footprints, driveway and parking layout.

Please see the proposed Plan Set for this information.

(d) If an additional incentive(s) is requested, the application should describe why the additional incentive(s) is necessary to provide the target units, in accordance with SCCC 18.78.030.

Please see the section above for details on the requested concessions. Please note that a concession need not be 'necessary' to provide the affordable housing but rather it just needs to establish that it provides real cost savings to the project to provide for affordable housing.