

TECHNICAL CORRECTIONS

AB 2501 was effective on January 1, 2017, which amends State Density Bonus Laws contained in Government Code Section 65915 to amend density calculations that result in a fractional number to be rounded up to the next whole number. As such, the base density calculations for the subject site is 58 base units, and the maximum allowed including the 35 percent density bonus is 79 total units allowed. Although AB 2501 allows a maximum of 79 total dwelling units on the subject site, the proposed project density remains unchanged at 77 dwelling units provided. The project density of 77 dwelling units was analyzed in the Mitigated Negative Declaration (ENV-2016-2229-MND).

On January 5, 2017, the applicant requested a technical correction to the Determination Letter to show a total floor area of 62,652 square foot and FAR of 3:1, reflecting the 60,552 square feet of residential uses and 2,100 square feet of commercial uses. The prior approvals show only the gross residential area of 60,552 square feet and an FAR of 2.62:1, and did not include the 2,100 square feet of commercial uses in the total floor area as provided in Exhibit A project plans. Therefore, as shown in the Exhibit A plans, the total floor area shall be 62,652 square feet and FAR shall be 3:1.

MODIFIED CONDITIONS OF APPROVAL

Therefore, the following conditions of approval are **modified** to read:

Density Bonus Conditions

3. **Affordable Units.** A minimum of 7 units, that is 11 percent of the base ~~58~~ ⁵⁷ dwelling units, shall be reserved as affordable units, as defined by the State Density Bonus Law 65915 (C)(2). No additional affordable units are required per Assembly Bill (AB) 2222 as replacement units as HCIDLA has determined there are currently no affordable units on-site.
6. **Floor Area.** The project shall be approximately 62,652 ~~60,552~~ square feet of floor area, as shown in Exhibit "A".
7. **Automobile Parking for Residential Uses.** The project qualifies for reduced parking requirements in accordance with AB 744 as a mixed income project within one half mile of a major transit stop to which the project has unobstructed access. Pursuant to AB 744, based upon the number and/or type of dwelling units proposed, a minimum of 46 automobile parking spaces is required for the residential uses of the project. The project proposes 62 one bedroom units, which require 31 parking spaces, and 15 two-bedroom units, which require 15 parking spaces, at a ratio of 0.5 parking spaces per bedroom. The project is proposing 25 additional vehicular parking spaces, including the 6 commercial parking spaces as stated below, for a total of 77 vehicular parking spaces provided. At least five percent of the total automobile parking spaces shall be installed with EV Charging Stations and a minimum of twenty percent of the total automobile parking spaces shall be capable of supporting future electric vehicle supply equipment (EVSE). EVSE, infrastructure, and all devices related to EV charging shall be installed in accordance with California Electrical Code and to the satisfaction of the Department of Building and Safety.

Administrative Conditions

37. Indemnification and Reimbursement of Litigation Costs.

Applicant shall do all of the following:

- (i) Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
- (ii) Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
- (iii) Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than ~~\$50,000~~ \$25,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (iv) Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (v) If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the applicant of any claim, action, or proceeding in a reasonable time, or if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the Applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

“City” shall be defined to include the City, its agents, officers, boards, commissions, committees, employees, and volunteers.

“Action” shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims, or lawsuits. Actions includes actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the Applicant otherwise created by this condition.