

Attachment B: Applicant's Justification for Waivers and Concessions

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d.) WAIVERS

The proposal requests a density bonus based on State Assembly Bill AB 2345. Based on Oakland Planning Code 17.107.095A Waiver of Development Standards: "Per California Government Code 65915 (e) (1), in no case may a city apply any development standard that will have the effect of physically precluding the construction of a development meeting the category criteria in Section 17.107.040(A) at the densities or with the concessions or incentives permitted. An applicant may submit a proposal for the waiver or reduction of any development standard that will have the effect of physically precluding the construction of a development meeting the category criteria in Section 17.107.040(A) at the densities, or with the concessions or incentives permitted under this Chapter."

Proposed Waivers: (1) Parking; (2) Open Space; (3) 1' to 1' Stepping

Setback at the 30' height adjacent to the RM zone.

1. Parking: The parking requirement for the RU-4 and RU-5 zone is one space per dwelling unit and the project proposes zero off-street parking spaces. Parking the site with for which a waiver is proposed would have the effect of physically precluding the construction of the project, because 92 parking spaces would account for a minimum of 14,076 square feet (based on 8.5'x18' sized parking spaces), not even including a minimum of 21' of backing distance, driveways and maneuvering aisles, thus eliminating the entire first floor of residential units (16 residential units and lobby and amenity space). The project is designed at the maximum allowable height. Additionally, as an effective design solution the project provides 28 bicycle parking spaces (23-long term and 5-short term) and is located on one of the City's major corridors (W. MacArthur) with public transit and within .35 miles of the MacArthur BART station.

2. Open Space: The open space requirement for the subject site would be 13,800 sqft (150 sqft per unit) and the project proposes approximately 2,400 square feet of group open space. Meeting the minimum open space requirement at the subject site with for which a waiver is proposed would have the effect of physically precluding the construction of the project, because the building footprint and volume would be reduced so small that only 38% of the lot would be buildable not including accounting for setbacks, height and other development regulations. The project is designed at the maximum allowable height. Additionally, the project proposes a usable central courtyard and ample landscaping around the perimeter of the proposed building.

3. 1' to 1' Stepping Setback at the 30' height adjacent to the RM zone: The project makes the assumption that W. MacArthur is considered the Front property line of the corner parcel. Buildings in the RU Zones shall have a thirty (30) foot maximum height at the setback line associated with any rear or interior side lot line that abut a lot in an RH, RD, or RM Zone; this maximum height may increase one (1) foot for every foot of distance from this setback line. The project is designed at the maximum allowable height. Without the waiver for the allowance of the height-setback encroachment, the height-setback would physically preclude the construction of the project, because approximately 8 units would be eliminated. Additionally, as an effective design solution the project jogs the building with the property line to maintain an equal distance of setback and steps down in height to 3 stories adjacent to the lower density zone to the rear.

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