



STAFF REPORT

DATE: MARCH 14, 2023

TO: MAYOR AND CITY COUNCIL

FROM: JEANNIE NAUGHTON, COMMUNITY DEVELOPMENT DIRECTOR

**SUBJECT: PLANNING APPLICATION NO. 230087
FIRST LOOK MEETING TO CONSIDER DEVELOPMENT OF A 90-UNIT
RESIDENTIAL PROJECT ON A 2-ACRE SITE IN THE PENINSULA
SHOPPING CENTER
APPLICANT: JEFF AXTELL ON BEHALF OF VESTAR
LOCATION: 27525 NORRIS CENTER DRIVE**

OVERVIEW

The following is a request for the City Council to consider a proposal for development of a 90-unit residential development on a 2-acre portion of the Peninsula Shopping Center, near the corner of Norris Center Drive and Silver Spur Road. The project would include bonus level development consisting of fifteen (15) additional residential units, one additional story, a lot coverage increase, and open space reduction. In exchange for this bonus level development, the applicant is proposing to provide shared public/private parking on the ground floor (90 spaces), enhanced connectivity between the Peninsula Shopping Center and the Promenade on the Peninsula property, and inclusion of five (5) Moderate income (workforce housing) units (0.5% of the project total of 90 units).

BACKGROUND

Staff has been working with Vestar over the past several years, on potential development of the 2-acre subject site, beginning with the processing of the Lot Line Adjustment to create the separate property, that was recorded in 2019. Discussions with Vestar on development of the site with a residential project began as far back as 2021, and when plans began to come together more formally, staff encouraged Vestar to hold off on submitting an application until the 2040 General Plan was adopted and staff could make progress on adoption of the implementing zoning provisions. The Vestar team will be providing a presentation at the meeting to more fully describe the proposed project.

The subject site is identified as an Opportunity Area in the land use element of the 2040 General Plan, described as sites which reflect infill and redevelopment potential in five

areas in the Commercial District. The five Opportunity Areas reflect the five-minute walkable nodes concept outlined in the Commercial District vision plan, and the subject site (Opportunity Area 5) notes that the urban form and siting of buildings do not support a walkable experience, maximizing the efficiency of getting people from cars into stores, but does not give them reason to stay. The proposed development, in terms of urban form, utilizes the proposed concepts outlined in the vision plan, by enhancing pedestrian connections and adding new buildings fronting the internal street, which hide the parking lots behind the buildings and make the street feel safer and more attractive.

As part of the implementation of the new 2040 General Plan, staff is initiating the comprehensive zoning code update to address the changes outlined in the land use element, including the creation of a new Commercial District Mixed-Use Overlay, which will permit residential development to be constructed by right (without the need to obtain a Conditional Use Permit), in areas with the Commercial General (C-G) land use and zoning designation, and increase the allowable base density from 22 dwelling units per acre (du/ac) to 30 du/acre. The implementation of these measures, along with the City's density bonus program, adopted through Ordinance No. 744 on October 11, 2022, will allow developers to build up to 45 du/acre for projects that provide extraordinary community benefit.

The City Council adopted Resolution No. 2531 on October 11, 2022, which established an approved list of community amenities or benefits for bonus level development under Municipal Code Chapter 17.30. The project has proposed amenities and benefits, some of which are listed on the approved list for consideration of density bonus award.

Staff will be prioritizing the Commercial District Mixed-Use Overlay and corresponding Commercial General (C-G) district standards in its implementation schedule for the comprehensive zoning code update and anticipates that these changes, that would be necessary to process this application as proposed, will be complete by Summer 2023.

DISCUSSION

Project Description

The subject 2-acre site is currently improved with an approximately 7,000 SF, vacant, one-story building that was constructed in 1983; the balance of the site is surface parking. The applicant is proposing to demolish the existing 7,000 square foot building and construct a 90-unit residential apartment building.

The building would consist of four and five story portions, with a maximum overall height of 68 feet. The unit count would consist of 55 one bedroom/one bathroom units, averaging 775 SF, and 35 two bedroom/two bathroom units, averaging 1,135 SF, resulting in a total of 82,350 SF of livable space. The project would contain 3,600 SF of lobby space, and 3,500 SF of common amenity space. The code requires 300 SF of open space per unit for multi-family residential development, resulting in a total of 17,800 SF of open space

required for this project; however, the project is proposing 17,800 SF of open space for the project, including 5,400 SF of private deck space for each unit (60 SF), 1,175 SF of ground floor leasing plaza area, and 11,225 SF of pool deck area on the third level of the project.

The project would provide the code required parking, with one parking space provided for each of the 55 one bedroom/one bathroom units, two spaces for each of the 35 two bedroom/two bathroom units, and one space per three units for guest parking, resulting in a total of 155 parking spaces for the residential units. Additionally, the project would provide 90 additional parking spaces to be shared public/private spaces, resulting in a total of 245 parking spaces for the project.

Density Bonus Proposal

The 2040 General Plan identifies the subject site as an Opportunity Area, ripe for infill development with either mixed-use or residential development. Ordinance No. 744 adopted the following amendments to the Rolling Hills Estates Municipal Code (RHEMC): (1) an update to RHEMC Chapter 17.76 (Density Bonus and Other Incentives) by amending and restating that chapter; (2) amendments to RHEMC Chapter 17.30 (Commercial General District) to establish a process for providing bonus level development (i.e., greater density) in exchange for a project providing desirable community amenities or benefits; and (3) a new RHEMC Chapter 17.82 that establishes a framework for the processing, consideration and monitoring of development agreements between a project proponent and the City. Additionally, Resolution No. 2531 adopted a list of community amenities or benefits that may be proposed in exchange for bonus level development as permitted under the amendments to the RHEMC Chapter 17.30 (Commercial General District).

To qualify for bonus level development, a community amenity or benefit must be significant and clearly beyond what would otherwise be required for the project under applicable code provisions, conditions of approval, and environmental review mitigation measures. Additionally, all applications for bonus level development will be processed as part of an application for a development agreement pursuant to Chapter 17.82 (Development Agreements) of the code. The required community amenities or benefits are intended to address identified community needs that result from the effect of the increased development intensity on the surrounding community. To be eligible for bonus level development, an applicant must provide one or more community amenities or benefits. Construction of the applicable amenity or benefit is preferable to the payment of a fee.

All community amenities or benefits, except for affordable housing must be provided within the C-G District, which this project proposes. Once a formal application is submitted, the applicant will be responsible for providing at their expense, an appraisal performed within 90 days of the application date by a licensed appraisal firm that: (1) establishes a fair market value in cash of the gross floor area and/or additional residential units resulting from the bonus level development, and (2) establishes a fair market value

or estimated costs of constructing or providing the proposed community amenities or benefits. There are also options for providing in-lieu payment for all or a portion of the bonus development value, however, and an applicant who elects to do so would be required to provide an additional payment of at least 10% of the in-lieu payment amount to cover the city's costs associated with administering the in-lieu payment and causing the construction and implementation of the community amenity or benefit to be developed with such funds.

As part of the development agreement, an applicant may implement community amenities or benefits that are not on the list of community amenities adopted by city council resolution or due to special circumstances may not satisfy the target bonus development value calculated pursuant to the code.

The project, as presented, would include bonus level development consisting of fifteen (15) additional residential units, one additional story, a lot coverage increase, and open space reduction. In exchange for this bonus level development, the applicant is proposing to provide shared public/private parking on the ground floor (90 spaces), enhanced connectivity between the Peninsula Shopping Center and the Promenade on the Peninsula property, and inclusion of five (5) Moderate income (workforce housing) units (0.5% of the project total of 90 units).

Prior to the applicant incurring additional costs in plan preparation, necessary background studies, and soft costs associated with a complete application, this project is being presented to the City Council in a First Look meeting format to gauge support for the project and whether the proposed amenities and benefits would qualify for the requested bonus development of 15 additional units (50% density bonus).

Should the City Council wish to move this project forward and is generally supportive of the amenities and benefits proposed, in conjunction with the concessions requested, staff will direct the applicant to prepare a formal submittal for a Preliminary Review of community amenities or benefits, which will be subject to a preliminary review by the city council at a noticed public hearing prior to consideration by the planning commission or city council of the development agreement and applicable conditional development permit or approval so that such amenities or benefits may be included in the project description for purposes of environmental review under the California Environmental Quality Act (CEQA). Such preliminary determination will not create a binding commitment on the part of the city with respect to approval of the proposed project, including the bonus level development and associated development agreement.

RECOMMENDATION

Staff recommends the City Council conduct a "First Look" workshop for a proposed 90-unit residential development to be located at on a 2-acre portion of the Peninsula Center, 275205 Norris Center Drive, and direct staff accordingly.

Attachments:

- A. Project Plans & Presentation Slide Deck*
- B. Ordinance No. 744*
- C. Resolution No. 2531*

ATTACHMENT A

RESIDENCES AT PENINSULA CENTER

ROLLING HILLS ESTATES, CA



RESIDENCES AT PENINSULA CENTER
ROLLING HILLS ESTATES, CA

ADDRESS: 27570 NORRIS CENTER DRIVE
 ROLLING HILLS ESATES, CA 90274

ZONING: COMMERCIAL GENERAL (C-G)

OVERLAY: COMMERCIAL DISTRICT MIXED-USE (CDMU)

LOT SIZE: 87,139 SF (2.000 AC)

DENSITY ALLOWED

BASE:	30 DU/AC
DENSITY BONUS:	15 DU/AC (+50%)
TOTAL:	45 DU/AC

DENSITY PROPOSED 45 DU/AC (90 UNITS)

FAR ALLOWED: 217,848 SF (2.5)
 (NOTE: Development density for residential units is designated on the basis of dwelling units per acre. No-residential development intensity is defined by the floor area ratio (FAR))

FAR PROPOSED (N/A): 110,145 SF (1.3)

BUILDING HEIGHT ALLOWED:

PER C-G BASE ZONING	3-STORIES 45 FT
PER CDMU	3 TO 4 STORIES
DENSITY BONUS	(+1 STORY)
TOTAL	5 STORIES

BUILDING HEIGHT PROPOSED: 5 STORIES (68 FT)

LOT COVERAGE ALLOWED: 35% (30,498 SF)
 (NOTE: INCREASED AREA COVERAGE RATIO ALLOWED ABOVE 35% PER 17.30.090 (ORD 744))

LOT COVERAGE PROPOSED: 67% (58,800 SF)

SETBACKS:

STREET (PER C-G BASE ZONING) 15 FT MIN. AVG. (NO LESS THAN 5 FT FROM PL)

STREET (PER CDMU) 0 TO 5 FT (RECOMMENDED)

SIDE /REAR ADJACENT TO RESI 20 FT (NOT APPLICABLE)

SIDE/REAR PROPOSED: 10 FT (FOR ALLOWABLE OPENINGS)

UPPER FLOOR SETBACKS: 4 STORIES PROPOSED ALONG NORRIS CENTER DRIVE

PARKING DIMENSIONS

STALL 9'X20'

AISLE 25'

OPEN SPACE REQUIRED: 27,000 SF (300 SF/UNIT @ 90 DU)
 (TO BE PROVIDED AS PRIVATE DECKS AND/OR OUTDOOR COMMON AREAS)

OPEN SPACE PROPOSED:

5,400 SF (60 SF DECK/UNIT @ 90 DU)
1,175 SF (GROUND FLOOR LEASING PLAZA)
11,225 SF (POOL DECK)
17,800 SF TOTAL (REQUESTED CONCESSION/INCENTIVE)

SUMMARY OF PROVIDED COMMUNITY AMENITIES AND/OR BENEFITS FOR BONUS LEVEL DEVELOPMENT:

- 1) Parking - Shared Public/Private parking via 90-stalls on the ground floor
- 2) Connectivity - Adding sidewalk along private roadway to connect Peninsula Center to the neighboring Promenade mall.
- 3) Affordability - Adding leasing requirement of 5-units reserved for "Moderate" income households

SUMMARY OF DENSITY BONUS CONCESSIONS/INCENTIVES AND/OR WAIVER/REDUCTION OF DEVELOPMENT STANDARDS:

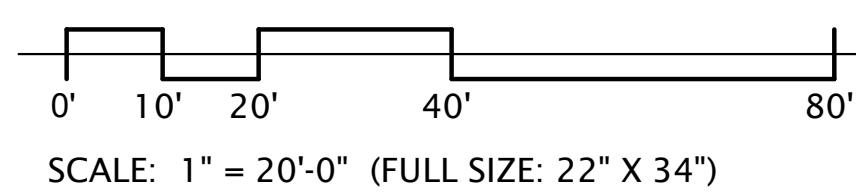
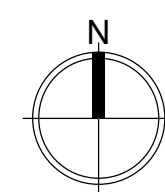
- 1) +1 STORY
- 2) LOT COVERAGE INCREASE
- 3) OPEN SPACE REDUCTION

UNIT TYPE	PROGRAM	NO. OF UNITS	MIX	AVG. NET AREA (SF)	TOTAL NET AREA	CITY PARKING RATIO*	CITY PARKING REQ.	PROGRAM PARKING RATIO	PROGRAM PARKING REQ.
S1	STUDIO	0	0%	600	0	1/UNIT	0	1.7/UNIT	153
A1	1BD/1BA	57	63%	775	44,175	1/UNIT	57		
B1	2BD/2BA	33	37%	1,135	37,455	2/UNIT	66		
C1	3BD/2BA	0	0%	1,350	0	2/UNIT	0		
GUEST						1 PER 3UNITS	30		
TOTAL		90	100%	81,630	907	1.70/UNIT	153		
		(45 DU/AC)							
* CITY PARKING RATIOS PROVIDED FOR REFERENCE ONLY. SEE BONUS LEVEL RATIOS (ORDINANCE 744 - 17.76.050) FOR ASSOCIATED REQUIREMENTS									
PARKING PROVIDED:								1.72/UNIT	155
		PROGRAM	LOCATION	PROGRAM NET AREA (SF)					
		LOBBY/LEASING	L1	3,600		NA			
		AMENITY	L3	3,500					
		TOTAL		7,100					
RETAIL		PROGRAM	LOCATION	PROGRAM NET AREA (SF)				DISPLACED PARKING REQ.	
		EXISTING RETAIL	L1	NA				90	
TOTAL PARKING PROVIDED:								245	



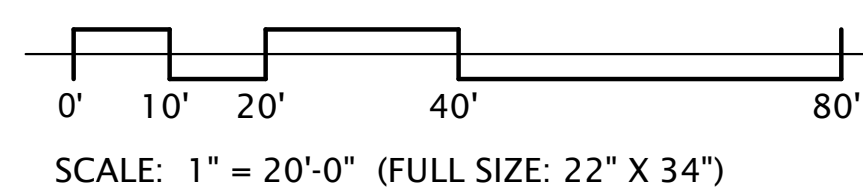
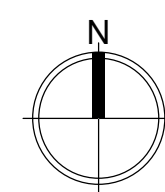
PROJECT DATA

ROLLING HILLS ESTATES, CA
RESIDENCES AT PENINSULA CENTER

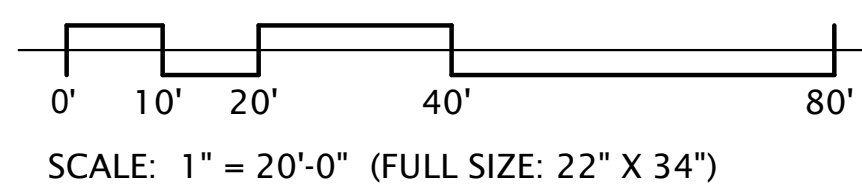
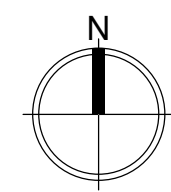


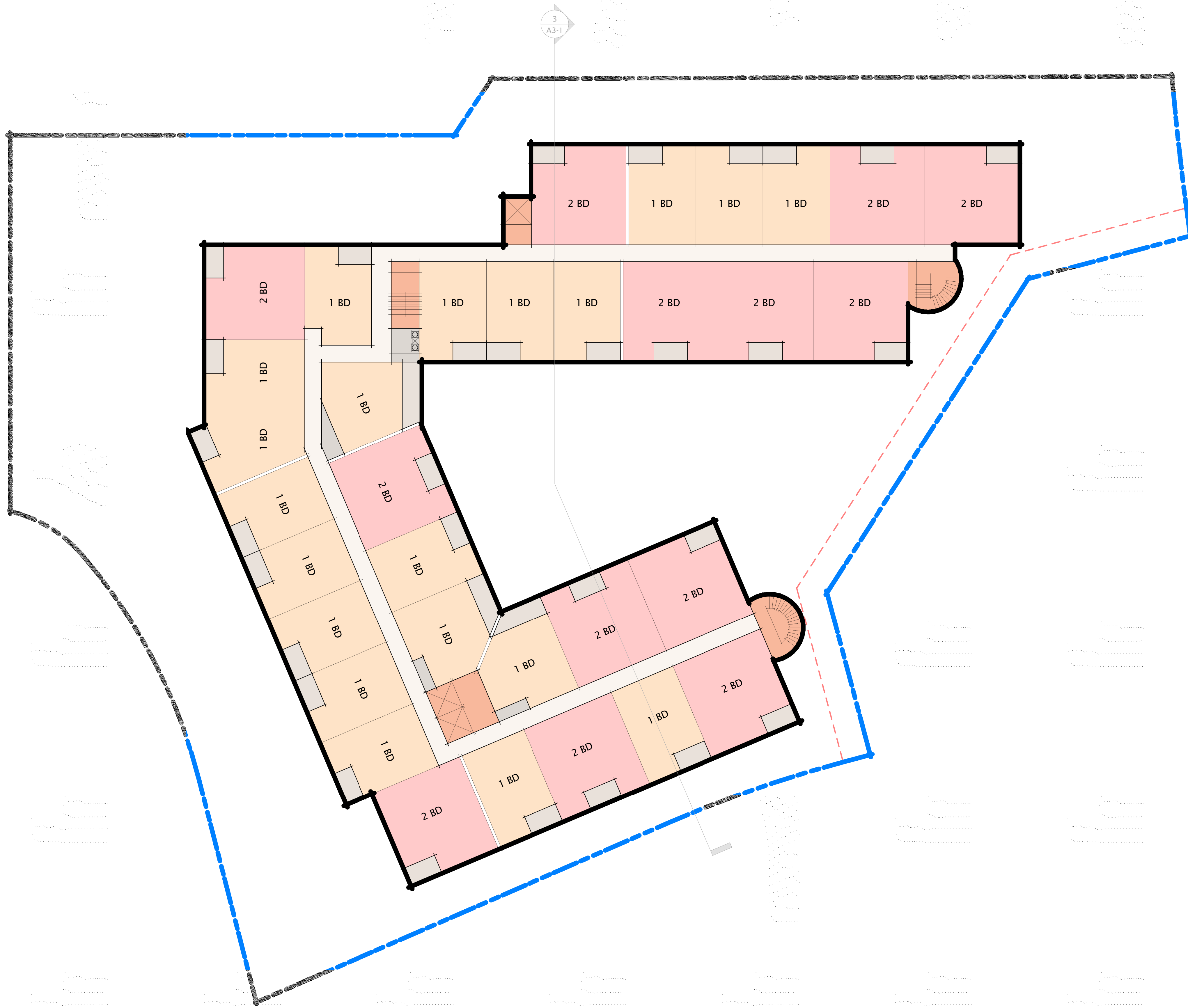


LEVEL 2 PLAN

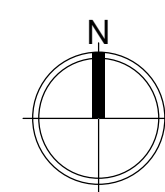


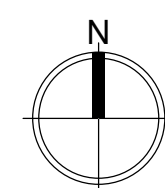
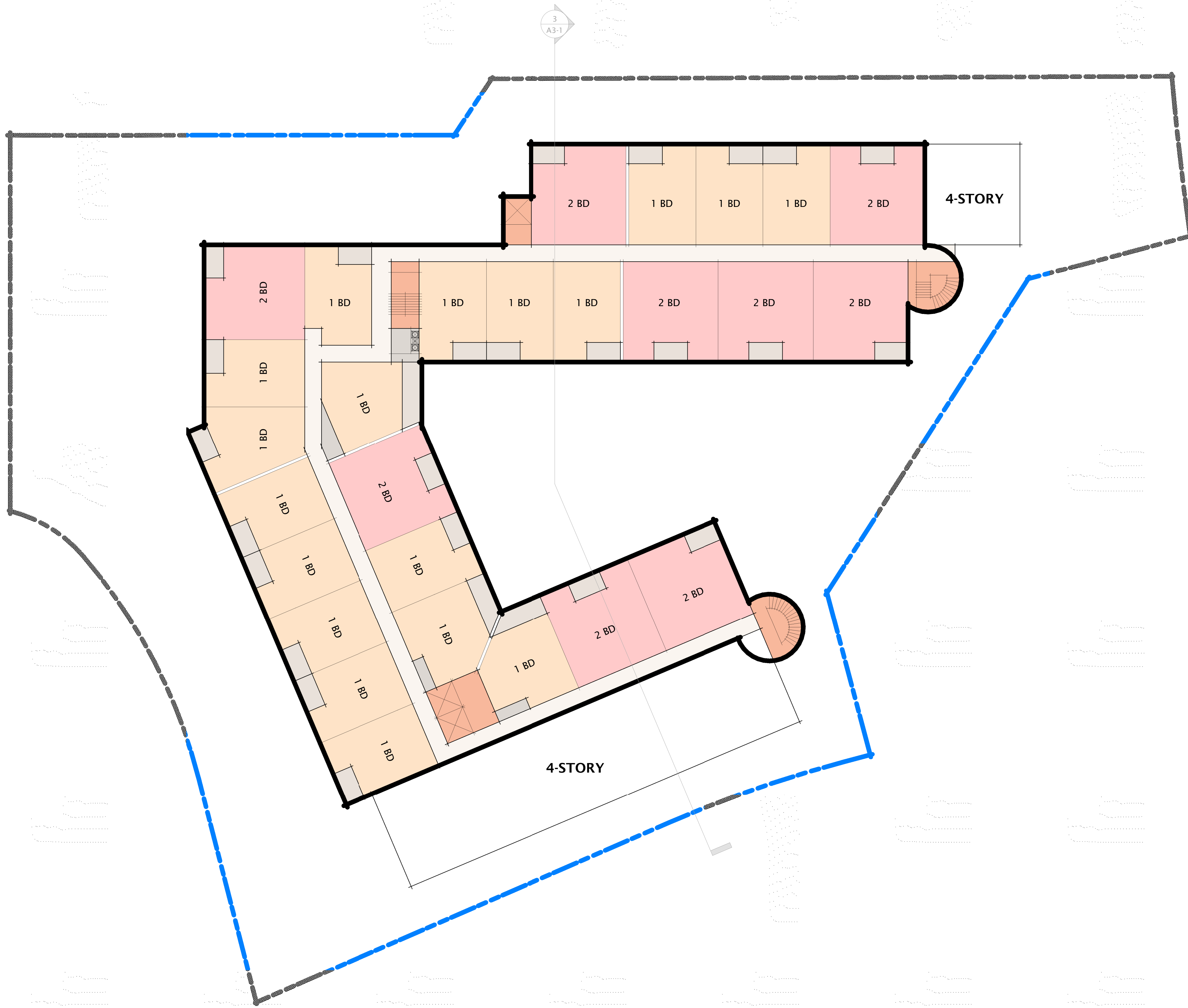
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RESIDENCES AT PENINSULA CENTER

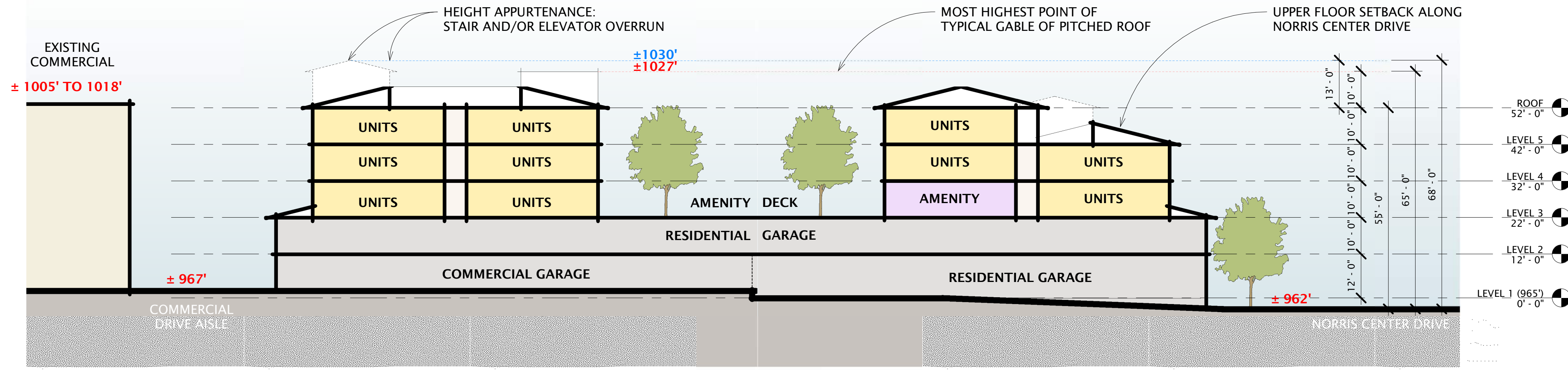


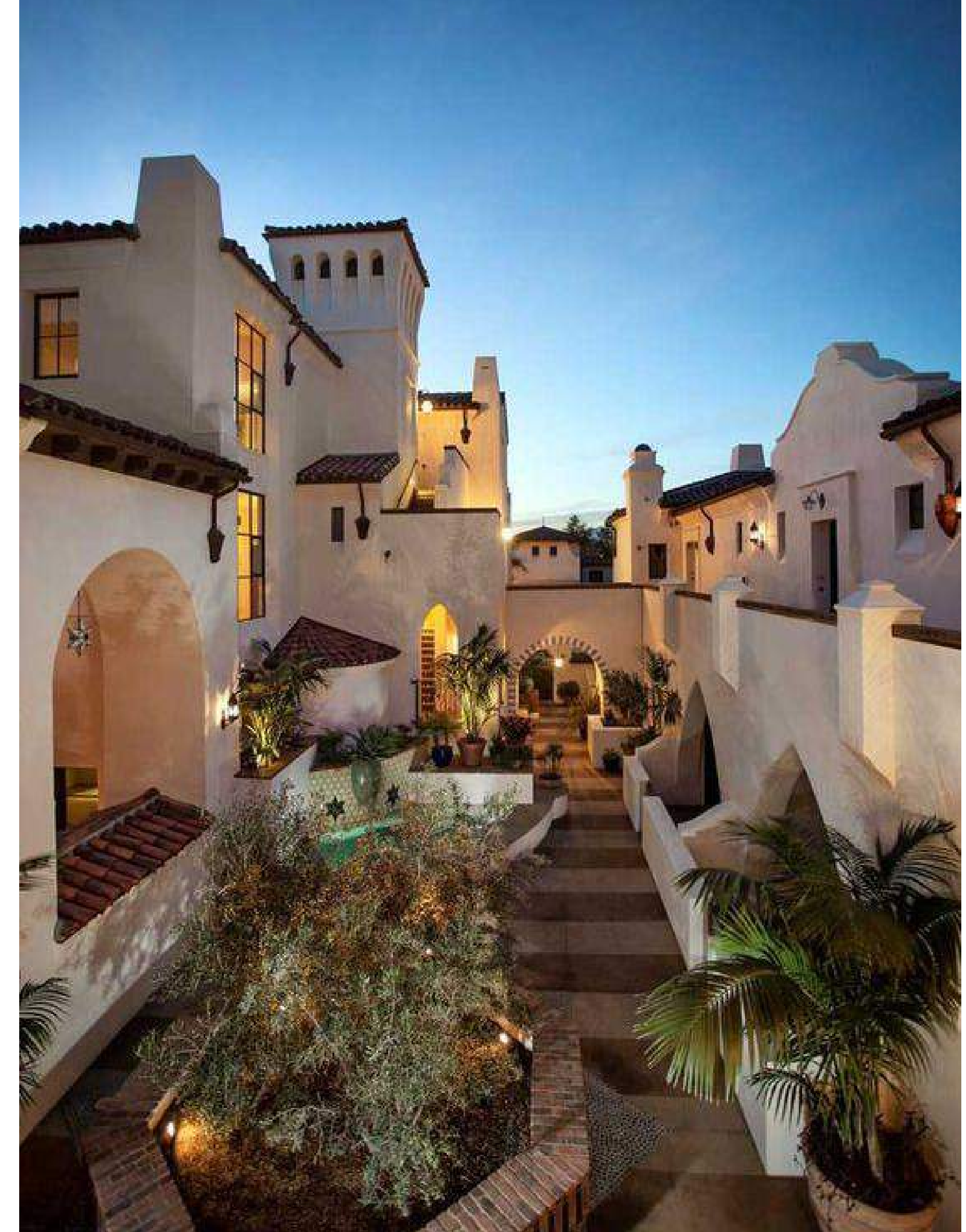


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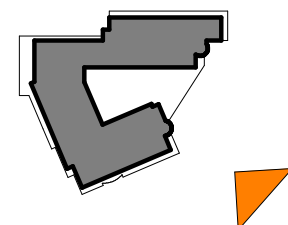


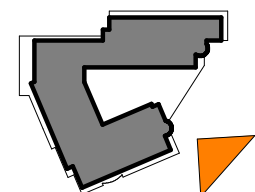


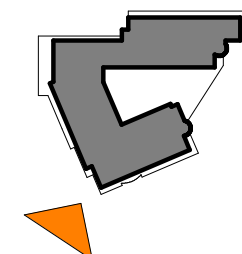


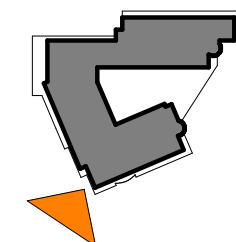












**CITY OF ROLLING HILLS ESTATES
LOS ANGELES COUNTY, CALIFORNIA**

ORDINANCE NO. 744

AN ORDINANCE OF THE CITY COUNCIL OF CITY OF ROLLING HILLS ESTATES ADOPTING AMENDMENTS TO THE ROLLING HILLS ESTATES MUNICIPAL CODE PERTAINING TO: (1) AMENDING AND RESTATING CHAPTER 17.76 (DENSITY BONUS AND OTHER INCENTIVES), (2) AMENDING CHAPTER 17.30 (COMMERCIAL-GENERAL DISTRICT) TO PROVIDE FOR BONUS LEVEL DEVELOPMENT, AND (3) ADOPTING A NEW CHAPTER 17.82 (DEVELOPMENT AGREEMENTS).

The City Council of the City of Rolling Hills Estates ordains as follows:

SECTION 1. Findings. The City Council finds as follows.

A. Title 17 of the Rolling Hills Estates Municipal Code (RHEMC) constitutes the comprehensive zoning code of the City.

B. RHEMC Chapter 17.76 (Density Bonus and Other Incentives) codifies the required provisions of the State's "Density Bonus Law," which is codified in California Government Code section 65915 and following. The Density Bonus Law requires that when a developer agrees to construct the requisite percentage of affordable housing units or childcare facilities, the City must grant a density bonus or other specified incentives or concessions to the developer to help facilitate the project.

C. Over the past decade, the State Legislature has made numerous revisions to the Density Bonus Law, and the City Attorney's Office and the Department of Community Development have recommended that such revisions be incorporated into the RHEMC since the provisions of the State Density Bonus Law control over any conflicting local code provisions, and to that end, they have prepared text amendments that would amend and restate Chapter 17.76.

D. The State Legislature has also enacted the "Development Agreement Law" (codified at California Government Code sections 65864 – 65869.5) to provide additional opportunities to vest private development rights through a contract (development agreement) between the City and a property owner or developer.

E. Development agreements allow the City and applicants to negotiate, among other things, limits on changes in general plan, zoning code and other City policies and fees in place at the time of execution of the development agreement, as an incentive for providing additional community benefits beyond standard fees and the mitigation of impacts.

F. The City Attorney's Office and Department of Community Development have prepared a proposed new Chapter 17.82 of the RHEMC that would provide a framework for the consideration of development agreements upon a request from an applicant that essentially tracks the provisions of the Development Agreement Law.

G. In anticipation of renewed interest in projects that would develop or redevelop sites in the City's Commercial-General (C-G) District, and because of various site constraints in the area and the high cost of land and construction within the City, in accordance with one of the policy goals of the 2022 update to the Land Use Element of the City's General Plan, the City Attorney's Office and Department of Community Development have prepared proposed amendments to Chapter 17.30 (Commercial-General District) that would, in addition or as an alternative to, the State-mandated density bonus provisions of the Density Bonus Law, allow applicants to seek to negotiate project-specific changes in the development standards of the C-G District to allow for additional development in exchange for the provision of specific community amenities or benefits.

H. On July 26 2022, the City Council conducted a workshop during its meeting to review the proposed amendments to RHEMC Chapters 17.76 and 17.30, as well as the proposed new Chapter 17.82, and following such review, directed staff to present the proposed zoning code amendments, including changes requested or supported by the Council, to the Planning Commission for review at a public hearing and a recommendation to the City Council.

I. On September 6, 2022, the Planning Commission conducted a duly noticed public hearing to consider the proposed amendments to Title 17 of the RHEMC. All interested parties were given full opportunity to be heard and to present evidence.

J. After reviewing the evidence presented, the Planning Commission adopted Resolution No. 744 finding that the proposed amendments to RHEMC Chapters 17.76 and 17.30, as well as the proposed new Chapter 17.82, are consistent with the City's General Plan as updated in 2022, and recommended adoption of the proposed amendments.

K. On September 27, 2022, the City Council conducted a duly noticed public hearing to consider the proposed amendments to Title 17 of the RHEMC. All interested parties were given full opportunity to be heard and to present evidence.

SECTION 2. Environmental Review. The City Council finds that the enactment of the proposed amendments to RHEMC Chapter 17.76 and 17.30, as well as the proposed new Chapter 17.82 are exempt from the California Environmental Quality Act ("CEQA") under the State CEQA Guidelines (Chapter 3 of Title 14 of the California Code of Regulations beginning at Section 15000), specifically: Section 15060(c)(2), because the proposed code amendments will not result in a direct or reasonably foreseeable indirect physical change in the environment; and Section 15061(b)(3), because the adoption of these amendments by ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Any future development or project that proposes to utilize these code amendment and that has the potential to cause a significant effect on the environment will be evaluated through a separate environmental review process in accordance with CEQA. As such, it can be seen with certainty that there is no possibility that the enactment of the proposed Municipal Code amendments may have a significant adverse effect on the environment. Therefore, the adoption of the proposed zoning code amendments to Chapters 17.76 and 17.30, as well as the proposed new Chapter 17.82, are exempt from CEQA.

SECTION 3. Adoption of Amended and Restated RHEMC Chapter 17.76 (Density Bonus and Other Incentives). The City Council hereby amends and restates RHEMC Chapter 17.76 (Density Bonus and Other Incentives) as set forth in the attached Exhibit A.

SECTION 4. Adoption of Amendments to RHEMC Chapter 17.30 (C-G District). The City Council hereby adopts the amendments to RHEMC Chapter 17.30 (C-G District) as set forth in the attached Exhibit B.

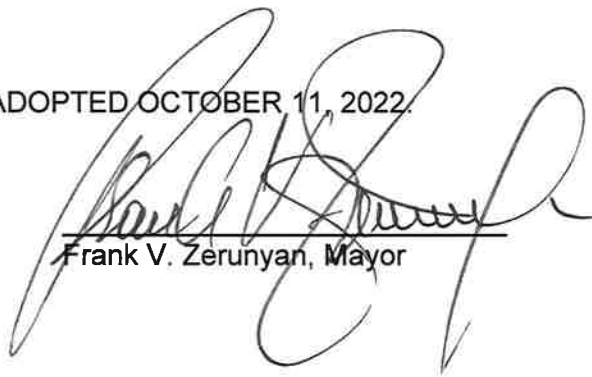
SECTION 5. Adoption of New RHEMC Chapter 17.82 (Development Agreements). The City Council hereby adopts new RHEMC Chapter 17.82 (Development Agreements) as set forth in the attached Exhibit C.

SECTION 6. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this resolution, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this resolution. The Planning Commission hereby declares that it would have recommended adoption of the proposed zoning code amendments, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 7. Summary. This ordinance may be published by title and summary. The approved summary of the zoning code amendments adopted by this ordinance is attached as Exhibit D.

SECTION 8. Publication. The City Clerk is directed to certify the adoption of this ordinance and cause it to be published in the manner required by law.

PASSED, APPROVED, AND ADOPTED OCTOBER 11, 2022.



Frank V. Zerunyan, Mayor

ATTEST:



Lauren Pettit, City Clerk

APPROVED AS TO FORM



Donald M. Davis, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF ROLLING HILLS ESTATES)

I, Lauren Pettit, City Clerk of the City of Rolling Hills Estates, do hereby certify that the foregoing Urgency Ordinance No. 744, was duly adopted and passed at a regular meeting of the City Council on October 11, 2022, by the following vote:

AYES: HUFF, SCHMITZ, STERGURA, ZERUNYAN, ZUCKERMAN

NOES: NONE

ABSENT: NONE



Lauren Pettit, City Clerk

EXHIBIT A

Chapter 17.76 - DENSITY BONUS AND OTHER INCENTIVES

17.76.005 - Definitions.

17.76.010 - General density bonus provisions.

17.76.015 - Requirements for equity-sharing agreement.

17.76.020 - Incentives and concessions.

17.76.025 - Waiver or reduction of development standards.

17.76.030 - Calculation of density bonus.

17.76.035 - Additional density bonus through donation of land.

17.76.040 - Additional density bonus or concession or incentive through provision of child care facility.

17.76.045 - City's discretion in granting density bonus.

17.76.050 - Parking requirements.

17.76.005 - Definitions.

For purposes of this chapter, the following definitions apply:

"Affordable housing cost" has the definition set forth in California Health and Safety Code section 50052.5.

"Affordable rent" has the definition set forth in California Health and Safety Code section 50053. However, for Section 17.76.010(C)(9), the affordable rent will be calculated, in accordance with California Government Code section 65915(c)(1)(B)(ii).

"Child care facility" means a facility other than a family day care home, including but not limited to, infant centers, preschools, extended day care facilities, and school age child care centers.

"Common interest development" has the definition set forth in California Civil Code section 4100.

"Concession" or "Incentive" means any of the following:

1. A 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, as provided in Part 2.5 (the State Building Code commencing with Health and Safety Code section 18901) of Division 13 of the Health and Safety Code, 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.
2. Approval of mixed use zoning in conjunction with a housing project, if commercial, office, industrial or other land uses will reduce the cost of a housing development, and if the commercial, office, industrial or other land uses are

compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

3. Other regulatory incentives or concessions proposed by the applicant or the city that result in identifiable and actual cost reductions.

This definition does not limit or require the provision of direct financial incentives for a housing development, including the provision of publicly owned land, by the city or the waiver of fees or dedication requirements.

"Disabled veteran" has the definition set forth in California Government Code section 18541.

"Density bonus" means a density increase over the otherwise maximum allowable gross residential density under the applicable zoning code provisions and the land use element of the general plan as of the date of application by the applicant to the city.

"Development standard" means the site or construction conditions that apply to a residential development pursuant to any ordinance, general plan element, specific plan, or other city condition, law, policy, resolution or regulation.

"Director" means the director of community development or the director's designee.

"Homeless person" has the definition set forth in 42 U.S.C. Section 11301 and following.

"Homeless service provider" has the definition set forth in California Health and Safety Code section 103577(e)(3).

"Housing development" means a development project for five or more residential units, including mixed-use developments. "Housing development" also includes a subdivision or common interest development, or the substantial rehabilitation of an existing multifamily dwelling where the result of the rehabilitation would be a net increase in the number of residential units.

"Lower income households" has the definition set forth in California Health and Safety Code section 50079.5.

"Lower income students" has the definition set forth in California Government Code section 65915(o)(3), and includes students who have a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in California Education Code section 69432.7(k)(1).

"Major transit stop" has the definition set forth in California Public Resources Code section 21155(b).

"Maximum allowable residential density" means the density allowed under the zoning code, or if a range of density is permitted, the maximum allowable density for the specific zoning range applicable to the project.

"Moderate income households" has the definition for "persons or families of moderate income" set forth in California Health and Safety Code section 50093(b).

"Multifamily dwelling" has the definition set forth in California Government Code section 65863.4(d).

"Property containing existing affordable housing" means any property that includes any parcel on which rental dwelling units are or have been: (1) subject to any other form of rent or price control through a public entity's valid exercise of its police power; (2) occupied by lower or very low income households; or (3) subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and households of lower or very low income. Such rental dwelling units include rental dwelling units that have been vacated or demolished in the five-year period preceding the application seeking the density bonus.

"Qualified nonprofit housing corporation" is a nonprofit housing corporation organized pursuant to section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

"Replace" has the definition set forth in California Government Code section 65915(c)(3)(B).

"Senior citizen housing development" has the definition set forth in California Civil Code section 51.3.

"Specific, adverse impact" has the definition set forth in California Government Code section 65589.5(d)(2).

"Special needs housing development" has the definition set forth in California Health and Safety Code section 51312.

"Student housing unit" has the definition set forth in California Government Code section 65915(b)(1)(F)(ii), and includes a unit that consists of one rental bed and its pro rata share of associated common area facilities, that is subject to a recorded affordability restriction of at least 55 years.

"Supportive housing development" has the definition set forth in California Health and Safety Code section 50675.14, which includes housing for the homeless or disabled with no limit on length of stay, and linked to onsite or offsite assistance services.

"Total units" or "total dwelling units" has the definition set forth in California Government Code section 65915(o)(6).

"Transitional foster youth" has the definition set forth in California Education Code section 66025.9.

"Unobstructed access" means access where a resident is able to travel without encountering natural or constructed impediments, as outlined in California Government Code section 65915(p)(2).

"Very low income households" has the definition set forth in California Health and Safety Code section 50105.

17.76.010 - General density bonus provisions.

- A. Application. Any person that desires a density bonus must make an application on a form approved by the director at the time of submitting an entitlement application for the housing development for which a density bonus is requested. The density bonus provided by this chapter only applies to housing developments consisting of five or more dwelling units.
- B. Incentives and concessions. When an applicant seeks a density bonus for a housing development or for the donation of land for housing within the city, the city must provide the applicant incentives or concessions for the production of housing units and child care facilities as provided in this chapter.
- C. Available density bonus options. The planning commission or city council will grant one density bonus, the amount of which will be as specified in Section 17.76.030, and incentives or concessions as described in Section 17.76.020, when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this chapter, that will contain at least one of the following:
 - 1. Ten percent of the total units of a housing development for rental or sale to lower income households.
 - 2. Five percent of the total units of a housing development for rental or sale to very low income households.
 - 3. A senior citizen housing development.
 - 4. Ten percent of the total dwelling units of a housing development are sold to persons and families of moderate income, provided that all units in the development are offered to the public for purchase.
 - 5. Ten percent of the total units of a housing development for transitional foster youth, to be provided at the same affordability level as very low-income units.
 - 6. Ten percent of the total units of a housing development for disabled veterans, to be provided at the same affordability level as very low-income units.
 - 7. Ten percent of the total units of a housing development for homeless persons, to be provided at the same affordability level as very low-income units.
 - 8. Twenty percent of the total student housing units for lower income students in a student housing development that meets the requirements of California Government Code section 65915(b)(1)(F).
 - 9. One hundred percent of the total units, exclusive of a manager's unit or units, are for lower income households, except that up to twenty percent of the total units in the development may be for moderate-income households, as defined in California Health and Safety Code section 50053.
- D. Applicant's election of basis for bonus. For purposes of calculating the amount of the

density bonus pursuant to Section 17.76.030, the applicant who requests a density bonus pursuant to this section must elect the bonus to be awarded on the basis of the criteria set forth in Section 17.76.010(C).

E. Continued affordability.

1. Qualified Households. An applicant must agree that the occupants of the low, very low, and moderate income units that are directly related to the receipt of the density bonus in a housing development must be low, very low, or moderate income households, as applicable.
2. Term.
 - (a) An applicant must agree to set rents at affordable rent levels and to the continued affordability of all rental units that qualified the applicant for the award of the density bonus for a period of 55 years or a longer period of time if required by any applicable construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.
 - (b) All for-sale units must initially be sold at an affordable housing cost and will remain subject to a resale affordable housing cost restriction for a period of 55 years or a longer period of time if required by any applicable construction or mortgage financing assistance program, mortgage insurance program, or other subsidy program. The applicable resale affordable housing cost restriction period will reset upon each sale of an affordable unit.
3. Equity Sharing. The city will require an equity-sharing agreement for all for-sale units, unless such an agreement would be in conflict with the requirements of another public funding source or law.

F. Housing development involving property containing existing affordable housing.

An applicant is not eligible for a density bonus, or any other incentives or concessions under this chapter, for a proposed housing development involving a property containing existing affordable housing, unless:

1. The proposed housing development replaces the existing affordable housing units; and
2. Either:
 - (a) The proposed housing development, inclusive of the units replaced, contains affordable units at the percentages set forth in Section 17.76.010(C); or
 - (b) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

G. Qualified nonprofit housing corporation.

For-sale units may be purchased by a qualified nonprofit housing corporation pursuant to a recorded contract that satisfies all of the requirements specified in section 402.1(a)(10) of the Revenue and Taxation Code and that includes all of the following:

1. A repurchase option that requires a subsequent purchaser of the property that desires to resell or convey the property to offer the qualified nonprofit corporation the right to repurchase the property prior to selling or conveying that property to any other purchaser.
2. An equity sharing agreement.
3. Affordability restrictions on the sale and conveyance of the property that ensure that the property will be preserved for lower income housing for at least 45 years for owner-occupied housing units and will be sold or resold only to persons or families of very low, low, or moderate income, as defined in section 50052.5 of the Health and Safety Code.

17.76.015 - Requirements for equity-sharing agreement.

The following provisions must be included in any equity-sharing agreement required under this chapter:

- A. Upon resale, the seller of the unit may retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation, except as provided in subsection (B) below. The city will recapture any initial subsidy and its proportionate share of appreciation, which amount must then be used within five years for any of the purposes that promote home ownership, as described in California Health and Safety Code section 33334.2(e).
- B. If the unit is purchased or developed by a qualified nonprofit housing corporation, the city may enter into a contract with the qualified nonprofit housing corporation under which the qualified nonprofit housing corporation would recapture any initial subsidy and its proportionate share of appreciation if the qualified nonprofit housing corporation is required to use 100 percent of the proceeds to promote homeownership for lower income households.
- C. For purposes of this section, the city's initial subsidy will be equal to the fair market value of the home at the time of initial sale, minus the initial sale price to the very low, low, or moderate income household, as applicable, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale will be used as the initial market value.
- D. For purposes of this section, the city's proportionate share of appreciation will be equal to the ratio of the initial subsidy to the fair market value of the unit at the time of initial sale.

17.76.020 - Incentives and concessions.

- A. An applicant for a density bonus pursuant to Section 17.76.010 may submit a proposal for the specific incentives or concessions that the applicant requests pursuant to this chapter, and may request a meeting with the director.
- B. Subject to subsection (C) below, the applicant will receive the following number of incentives or concessions:
 - 1. One incentive or concession for projects that include at least ten percent of the total units for lower income households, at least five percent for very low income households, or at least ten percent for moderate income households in a development in which the units are for sale.
 - 2. Two incentives or concessions for projects that include at least seventeen percent of the total units for lower income households, at least ten percent for very low income households, or at least twenty percent for moderate income households in a development in which the units are for sale.
 - 3. Three incentives or concessions for projects that include at least twenty-four percent of the total units for lower income households, at least fifteen percent for very low income households, or at least thirty percent for moderate income households in a development in which the units are for sale.
 - 4. Four incentives or concessions for projects under Section 17.76.010(C)(9). If this type of project is located within one-half mile of a major transit stop, the applicant may also receive a height increase of up to three additional stories, or 33 feet.
 - 5. One incentive or concession for projects that include at least twenty percent of the total units for lower income students in a student housing development.
- C. The planning commission or city council must grant the concession or incentive requested by the applicant, unless it makes a written finding, based upon substantial evidence, that:
 - 1. The concession or incentive is not required in order to provide for affordable housing costs, or for rents for the targeted units to be set as specified in Section 17.76.010(E);
 - 2. The concession or incentive would have a specific, adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate income households; or
 - 3. The concession or improvement would be contrary to state or federal law.

17.76.025 - Waiver or reduction of development standards.

- A. An applicant may submit to the city a proposal for the waiver or reduction of development standards that the applicant believes will have the effect of physically

precluding the construction of a housing development that meets the criteria of Section 17.76.010(C) at the densities or with the concessions or incentives permitted by this chapter, and may request a meeting with the director. Such proposal may not increase the number of incentives or concessions that the applicant is entitled to under Section 17.76.020.

- B. The planning commission or city council must waive or reduce the development standard requested by the applicant, unless it makes a written finding, based upon substantial evidence, that:
 - 1. The waiver or reduction would have a specific, adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact; or
 - 2. The waiver or reduction would be contrary to state or federal law.
- C. A housing development that receives a waiver from maximum controls on density pursuant to Section 17.76.30(G) is not eligible for a waiver or reduction of development standards under this section.

17.76.030 - Calculation of density bonus.

- A. The applicant may elect to accept a lesser percentage of density bonus.
- B. The amount of density bonus to which the applicant is entitled will vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in Section 17.76.010(C).
- C. For housing developments meeting the criteria of Section 17.76.010(C)(1), the density bonus will be calculated as follows:

Percentage Low Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35
21	38.75
22	42.5

23	46.25
24	50

- D. For housing developments meeting the criteria of Section 17.76.010(C)(2), the density bonus will be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

- E. For housing developments meeting the criteria of Sections 17.76.010(C)(3), 17.76.010(C)(5), 17.76.010(C)(6), and 17.76.010(C)(7), the density bonus will be 20 percent.

- F. For housing developments meeting the criteria of Section 17.76.010(C)(4), the density bonus will be calculated as follows:

Percentage Moderate Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15

21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35
41	38.75
42	42.5
43	46.25
44	50

- G. For housing developments meeting the criteria of Section 17.76.010(C)(9), the density bonus will be 80 percent of the units reserved for lower income households. If such development is located within one-half mile of a major transit stop, the city will not impose any maximum controls on density.
- H. For housing developments meeting the criteria of Section 17.76.010(C)(8), the density bonus will be 35 percent of the number of student housing units.
- I. All density calculations resulting in fractional units will be rounded up to the next whole number. The granting of a density bonus will not be interpreted, in and of itself, to require a general plan amendment, zoning change, study other than those provided under Government Code section 65915(j)(1), or other discretionary approval.
- J. Granting a density bonus will not be interpreted to require the waiver of a city ordinance

or provisions of a city ordinance unrelated to development standards, except as provided for in Sections 17.76.20 and 17.76.25.

17.76.035 - Additional density bonus through donation of land.

When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the city, as provided for in this section, the applicant will be entitled to a 15 percent increase above the otherwise maximum allowable residential density under the applicable zoning and the land use element of the general plan for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

A. This increase will be in addition to any increase in density mandated by Section 17.76.010(C), up to a maximum combined density increase of thirty-five percent, if an applicant seeks increases required pursuant to both this section and Section 17.76.010(C).

1. All density calculations resulting in fractional units will be rounded up to the next

whole number.

2. Nothing in this section will be construed to enlarge or diminish the authority of the city to require a developer to donate land as a condition of development.
- B. An applicant will be eligible for the increased density bonus described in this section if all of the following conditions are met:
1. The applicant donates and transfers the land no later than the date of approval of the final subdivision map or parcel map or residential development application.
 2. The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households, in an amount not less than ten percent of the number of residential units of the proposed development.
 3. The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure.
 - (a) The land must have appropriate zoning and development standards to make the development of the affordable units feasible.
 - (b) No later than the date of approval of the final subdivision map, parcel map, or of the residential development, the transferred land must have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, except that the local government may subject the proposed development to subsequent design review, to the extent authorized by California Government Code section 65583.2(i), if the design is not reviewed by the city prior to the time of transfer.
 4. The transferred land and the affordable units will be subject to a deed restriction ensuring continued affordability of the units consistent with Section 17.76.010(E)(1) and (2), which restriction will be recorded on the property at the time of the transfer.
 5. The land is transferred to the city or to a housing developer approved by the city. The city may require the applicant to identify and transfer the land to such housing developer.
 6. The transferred land must be within the boundary of the proposed development or, if the city agrees, within one-quarter mile of the boundary of the proposed development.

17.76.040 - Additional density bonus or concession or incentive through provision of child care facility.

- A. When an applicant proposes to construct a housing development that conforms to the requirements of Section 17.76.010(C) and includes a child care facility that will be

located on the premises of, as part of, or adjacent to, the project, the planning commission or city council must grant either of the following:

1. An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility; or
 2. An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.
- B. The planning commission or city council will require, as a condition of approving the housing development, that the following occur:
1. The child care facility must remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to Section 17.76.010(E).
 2. Of the children who attend the child care facility, the children of very low income households, lower income households, or moderate income households must equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or moderate income households pursuant to Section 17.76.010(C).
- C. Notwithstanding any requirement of this section, the planning commission or city council is not required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.
- D. For the purpose of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels. The density bonus is permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.
- E. The granting of a concession or incentive will not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval.

17.76.045 - City's discretion in granting density bonus.

Nothing in this chapter will be construed to prohibit the planning commission or city council from granting a density bonus greater than what is described in this chapter for a development that meets the requirements of this chapter, or from granting a proportionately lower density bonus than what is required by this chapter for developments that do not meet the requirements of this chapter.

17.76.050 - Parking requirements.

- A. Upon the request of the applicant, the city will not require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of Section 17.76.010(C) that exceeds the following ratios:
1. Zero to one bedrooms: one onsite parking space.

2. Two to three bedrooms: one and half onsite parking spaces.
 3. Four and more bedrooms: two and one-half parking spaces.
- B. The applicant may apply for a vehicular parking ratio, inclusive of handicapped and guest parking, that does not exceed .5 onsite parking spaces per unit, for a development which includes at least twenty percent of the units meeting the criteria of Section 17.76.010(C)(1), or which includes eleven percent of the units meeting the criteria in Section 17.76.010(C)(2), that is located within one-half mile of a major transit stop, and has unobstructed access to the major transit stop. The applicant may apply for a vehicular parking ratio, inclusive of handicapped and guest parking, that does not exceed .5 onsite parking spaces per bedroom, for a development which includes at least forty percent of the units meeting the criteria of Section 17.76.010(C)(4), that is located within one-half mile of a major transit stop, and has unobstructed access to the major transit stop.
- C. The applicant may request that no vehicular parking requirement apply for a development that consists solely of rental units exclusive of a manager's unit) with an affordable housing cost to lower income households, and is either:
1. Located within one-half mile of a major transit stop, and has unobstructed access to the major transit stop; or
 2. A for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code, and has either paratransit service, or unobstructed access to a fixed bus route service that is within .5 miles and operates at least eight times per day.
- D. The applicant may request that no vehicular parking requirement apply for a development that:
1. consists solely of rental units (exclusive of a manager's unit) with an affordable housing cost to lower income households; and
 2. is either a supportive housing development, or a special needs housing development that has either paratransit service, or unobstructed access to a fixed bus route service within one-half miles that operates at least eight times per day.
- E. If the total number of parking spaces required for a development is other than a whole number, the number will be rounded up to the next whole number. For purposes of this section, a development may provide "onsite parking" through tandem parking or uncovered parking, but not through on-street parking.
- F. This section applies to a development that meets the requirements of Section 17.76.010(C), but only at the request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this chapter, subject to Section 17.76.020.
- G. Notwithstanding Sections 17.76.050(B) and (C), if the city or an independent consultant has conducted an area-wide or jurisdiction-wide parking study in the last seven years, then the city may impose a higher vehicular parking ratio, not to exceed the ratio

described in Section 17.76.050(A), based upon substantial evidence found in the parking study that includes an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low- and very low income individuals, including seniors and special needs individuals. The city will pay the costs of any new study. The city may make findings, based on a parking study completed in conformity with this section, supporting the need for the higher parking ratio.

EXHIBIT B

Text of Amendments to Chapter 17.30 (C-G District)

“17.30.080 - Bonus level development.

- A. An applicant for a development project in the C-G district may seek (1) an increase in the maximum coverage ratio, building height, or number of residential units under Section 17.30.050, or (2) a decrease in any other applicable development standards under Section 17.30.050, by providing community amenities or benefits consistent with Section 17.30.090.
- B. To qualify for bonus level development, a community amenity or benefit must be significant and clearly beyond what would otherwise be required for the project under applicable code provisions, conditions of approval, and environmental review mitigation measures.
- C. All applications for bonus level development will be processed as part of an application for a development agreement pursuant to Chapter 17.82 (Development Agreements) of this code.

17.30.090 - Community amenities or benefits required for bonus level development.

- A. General Purpose and Intent. Bonus level development allows a project to develop at a greater level of intensity through an increased area coverage ratio, increased building height, or increased number of residential units in addition to, or as an alternative to, what may be provided under Chapter 17.76 (Density Bonus) of this code, or by a reduction in certain development standards. There is a reasonable relationship between the increased intensity of development and the increased effects on the surrounding community. The required community amenities or benefits are intended to address identified community needs that result from the effect of the increased development intensity on the surrounding community. To be eligible for bonus level development, an applicant must provide one or more community amenities or benefits. Construction of the applicable amenity or benefit is preferable to the payment of a fee.
- B. Amenities/Benefits.
 - 1. The city council has adopted by resolution the identified community amenities or benefits that may be provided in exchange for bonus level development. The identified community amenities or benefits may be updated from time to time by city council resolution and an applicant may suggest alternative amenities or benefits as provided in subsection (E)(3) of this section.
 - 2. All community amenities or benefits, except for affordable housing, must be provided within the C-G district. Affordable housing may be located anywhere housing is allowed in the city. In addition, unless otherwise agreed to by the city council, all affordable housing must meet, at minimum, the terms and conditions applicable to affordable housing provided as part of a density bonus under Chapter 17.76 of this code regardless of whether a separate density bonus is provided under that chapter.

- C. Application. An application for bonus level development is voluntary and must be made as part of an application for a development agreement pursuant to Chapter 17.82 of this code. An applicant requesting bonus level development must provide the city with a written proposal, which includes, but is not limited to, the specific amount of bonus development sought, the value of the additional gross floor area and/or additional residential units resulting from the bonus level development, and adequate information identifying the value of the proposed community amenities or benefits, each as calculated pursuant to subsection (D) of this section,
- D. Value of Bonus Level Development and Value of Amenities or Benefits. The value of the community amenities or benefits to be provided should equal at least 25% of the fair market value of the additional gross floor area and/or additional residential units resulting from the bonus level development ("bonus development value"), although the city council has discretion to agree to raise or lower this target bonus development value based on the unique circumstances of each proposed project. The value will initially be calculated as follows: The applicant must provide, at its expense, an appraisal performed within 90 days of the application date by a licensed appraisal firm that: (1) establishes a fair market value in cash of the gross floor area and/or additional residential units resulting from the bonus level development, and (2) establishes a fair market value or estimated costs of constructing or providing the proposed community amenities or benefits. The form and content of the appraisal, including any appraisal instructions, must be approved by the community development director.
- E. Form of Amenity or Benefit. A community amenity or benefit must be provided utilizing any combination of the following mechanisms:
1. Include the community amenity or benefit as part of the project. The community amenity or benefit designed and constructed as part of the project may be from the list of approved community amenities or benefits adopted by city council resolution. Once any of the single community amenities or benefits on the list adopted by city council resolution has been fully provided, with the exception of affordable housing, it will no longer be an option available to other applicants. Prior to approval of final inspection for the building permit for any portion of the project, the applicant must complete (or bond for) the construction and installation of the community amenities or benefits included in the project and must provide documentation sufficient for the community development director to certify compliance with this section.
 2. In-lieu payment.
 - (a) An applicant for bonus development may elect to pay the bonus development value determined pursuant to subsection (D) of this section as an in-lieu payment. An in-lieu payment may also be made in combination with the provision of a community amenity or benefit as a part of the project, as long as the in-lieu payment portion plus the value of the community amenity or benefit provided results in the cumulative amount of the bonus development value calculated or agreed upon by the city council pursuant to subsection (D) of this section.
 - (b) An applicant who elects to make an in-lieu payment for all or a portion of the bonus development value, must also provide an additional payment of at least 10% of the in-lieu payment amount to cover the city's costs

associated with administering the in-lieu payment and causing the construction and implementation of the community amenity or benefit to be developed with such funds.

- (c) The applicant must provide documentation sufficient for the community development director to certify compliance with this section.
 - (d) In-lieu payments must be made prior to building permit issuance for the project.
 - (e) The city will place all in-lieu payments in a restricted community amenities/benefits fund to be used to implement community amenities or benefits identified in the list adopted by city council resolution or as approved under a development agreement.
3. As part of the development agreement. An applicant may implement community amenities or benefits that are not on the list of community amenities adopted by city council resolution or due to special circumstances may not satisfy the target bonus development value calculated pursuant to subsection (D) of this section through the requisite development agreement that must be approved pursuant to Chapter 17.82 (Development Agreements) of this code.
- F. Preliminary Review of Community Amenities or Benefits. An applicant's proposal for community amenities or benefits will be subject to a preliminary review by the city council at a noticed public hearing prior to consideration by the planning commission or city council of the development agreement and applicable conditional development permit or approval so that such amenities or benefits may be included in the project description for purposes of environmental review under the California Environmental Quality Act (CEQA). Such preliminary review of the proposed community amenities or benefits is solely for the purposes of determining whether the project qualifies for bonus level development, and if so, establishing a stable project description for analysis of the entire project as required under CEQA. Such preliminary determination will not create a binding commitment on the part of the city with respect to approval of the proposed project, including the bonus level development and associated development agreement.
- G. Enhanced Notice of Bonus Level Development. To provide enhanced transparency regarding the proposed application of bonus level development, the following notice procedures will apply:
- 1. All required public notices for the project must include a notice in bold and all caps substantially similar to the following: **THE PROPOSED PROJECT INCLUDES BONUS LEVEL DEVELOPMENT CONSISTING OF: [DESCRIBE INCREASE OR REDUCTION IN APPLICABLE DEVELOPMENT STANDARDS]. IN EXCHANGE FOR THIS BONUS LEVEL DEVELOPMENT, THE APPLICANT IS PROPOSING TO PROVIDE: [DESCRIBE IMPLEMENTATION OF FORM OF AMENITY OR BENEFIT].**
 - 2. All agenda reports for the project must include a separate section summarizing the terms of the proposed bonus level development."

EXHIBIT C

“Chapter 17.82 DEVELOPMENT AGREEMENTS

- 17.82.010 - Purpose and intent.**
- 17.82.020 - Applicability.**
- 17.82.030 - Application requirements.**
- 17.82.040 - Proposed form of development agreement.**
- 17.82.050 - Review of application.**
- 17.82.060 - Recommendation by planning commission.**
- 17.82.070 - Action by city council.**
- 17.82.080 - Amendment or termination by mutual consent.**
- 17.82.090 - Recordation of development agreement.**
- 17.82.100 - Periodic review.**
- 17.82.110 - Periodic review procedures.**
- 17.82.120 - No vesting of rights.**

17.82.010 - Purpose and intent.

This chapter is enacted pursuant to Article 2.5 of Chapter 4 of Title 7 of the California Government Code (beginning at Section 65864) (“Development Agreement Law”) to provide a means for the city and property owners and other interested parties to execute agreements on proposed plans of development for specific property. This chapter is designed to achieve the following purposes:

- A. To achieve consistency with the general plan and any applicable specific plan.
- B. To contribute to strengthening the planning process.
- C. To encourage private participation in the planning process.
- D. To reduce the economic costs of development to the public.

17.82.020 - Applicability.

- A. The city may enter into a development agreement, as provided for in this chapter, with any person having a legal or equitable interest in real property within the city for the development of such property. For the purposes of this chapter, the parties to the development agreement will include their successors in interest.
- B. Development agreements, as described in this chapter, are governed by all applicable federal and state laws and regulations, including but not limited to the Development Agreement Law, as well as the provisions of this code.

17.82.030 - Application requirements.

- A. Application for a development agreement must be made by a person, or the authorized agent of a person, having a legal or equitable interest in the affected property. Applications must be filed with the department of community development on forms provided by the department. Applications must be accompanied by a filing fee, as

established by resolution of the city council, as well as a proposed form of the development agreement, if any, as specified in Section 17.82.040.

- B. The applicant will be responsible for the costs of all staff time, including legal fees, incurred in processing the application, drafting the development agreement, preparing the requisite ordinance for approval, and if approved, the costs of periodic review of the development agreement.

17.82.040 - Proposed form of development agreement.

- A. Each application must be accompanied by the form of development agreement proposed by the applicant unless the city manager, in consultation with the director of community development and city attorney, determines to provide the applicant with the form of a development agreement. The applicant may choose to use the form provided by the city and include specific proposals for changes in or additions to the language of the city's form.
- B. The proposed development agreement must contain all the elements required by Government Code section 65865.2 and may include any other provisions permitted by law, including the financing of necessary public facilities and the provision of sufficient security as approved by the city attorney to ensure provision of such public facilities.
- C. The proposed development agreement must also include the following:
 - 1. A legal description of the affected property, a listing of property owners, and if different, the proposed parties to the development agreement.
 - 2. A description of the development project, indicating the permitted uses of the property, floor-area ratio or density, building height and size, phasing of development, provisions for the reservation and dedication of land for public purposes and such additional information as may be required to allow the applicable criterion and factors to be applied to the proposal. Such information may include, but is not limited to, site and building plans, elevations, relationships to adjacent properties, and operational data. Where appropriate, the description may distinguish between elements of the project that are proposed to be fixed under the development agreement and those that may vary.
 - 3. An identification of any planned unit development permit or other special zoning approval that has already been obtained for the development project.
 - 4. The special conditions, if any, to be imposed.
 - 5. The timing of the development project.
 - 6. A statement of the relationship to any applicable specific plan and to the general plan.
 - 7. A statement of any density bonus sought under Chapter 17.76.
 - 8. A statement of any bonus level development sought in exchange for community amenities or benefits to be provided under Chapter 17.30.

9. A provision prohibiting and waiving any claim for damages against city arising from any breach of the development agreement, and providing that specific performance is the exclusive remedy for any such breach.
10. Other items specific to the project proposal, as determined by the city attorney or director of community development.

17.82.050 - Review of application.

After determining that the application is complete, the director of community development will conduct a review of the proposed development agreement. Thereafter, the director will prepare a staff report and recommendation and set the matter for public hearing by the planning commission.

17.82.060 - Recommendation by planning commission.

The planning commission will hold a public hearing on each application for a development agreement at the time and place set for such hearing. Notice of intention to consider recommendation of a development agreement will be given as provided for in Government Code sections 65090 through 65094, inclusive, in addition to any other notice required by law for other actions to be considered concurrently with the development agreement. If and when state law prescribes a different notice requirement, notice will be given in that manner. The planning commission may continue such hearing to a time, date and place certain. After the hearing, the planning commission will recommend to the city council approval, approval with modifications, or denial of the proposed development agreement.

17.82.070 - Action by city council.

- A. Upon receipt by the city council of the recommendation of the planning commission on an application for a development agreement, the city clerk will set the matter for public hearing by the city council. Notice of the public hearing will be given as provided in Government Code sections 65090 through 65094, inclusive, in addition to any other notice required by law for other actions to be considered concurrently with the development agreement.
- B. After the hearing, the city council may approve, modify or deny the development agreement. The city council may refer matters not previously considered by the planning commission during its hearing back to the planning commission for report and recommendation. The planning commission need not hold a public hearing on matters referred back to it by the city council.
- C. The city council may not approve the development agreement unless it finds that the agreement:
 1. Is consistent with the general plan, any applicable specific plan, and any applicable zoning ordinance(s);
 2. Conforms with public convenience, general welfare and good land-use practices;
 3. Will not be detrimental to the health, safety and general welfare;

4. Will not adversely affect the orderly development of property or the preservation of property values;
 5. Is consistent with the Development Agreement Law;
 6. Is consistent with all applicable provisions of Title 17 of this code; and
 7. Will result in the provision of economic, environmental, recreational, cultural or social benefits to the city that would not be attainable without approval of the development agreement.
- D. Development agreements will be approved by ordinance, which will be adopted by the city council concurrent with or subsequent to the developer's execution of the development agreement.

17.82.080 - Amendment or termination by mutual consent.

A development agreement may be amended or terminated, in whole or in part, by mutual consent of the parties to the development agreement. Notice of intention to amend or terminate a development agreement will be subject to Sections 17.82.060 and 17.82.070 of this chapter. Amendment of the development agreement will be made by ordinance adopted by the city council.

17.82.090 - Recordation of development agreement.

No later than ten days after the effective date of the ordinance approving the development agreement, or any amendment or termination of the development agreement, is approved by the city council, the city clerk will record a copy of the development agreement, amendment or termination, as applicable with the county recorder.

17.82.100 - Periodic review.

- A. The city council will review the development agreement every 12 months from the date the agreement is executed.
- B. The time for review may be shortened either by agreement between the parties or by initiation in one or more of the following ways:
 1. Recommendation of the director of community development;
 2. Resolution of intention by the planning commission;
 3. Resolution of intention by the city council.
- C. The director of community development will begin the proceeding by giving written notice that the city council intends to undertake a periodic review of the development agreement to the property owner, and if different, the party to the development agreement. The director of community development will give the notice at least ten days in advance of the date when the matter will be considered by the city council.

- D. The city council may refer the matter to the planning commission for review and recommendation in accordance with the procedures set forth in Section 17.82.110.

17.82.110 - Periodic review procedures.

- A. At the public review hearing, the party to the development agreement must demonstrate good faith compliance with the terms of the development agreement. The burden of proof on this issue is on the party to the development agreement.
- B. The city council will determine on the basis of substantial evidence whether the party to the development agreement has, for the period under review, complied in good faith with the terms and conditions of the development agreement.
- C. If the city council finds and determines on the basis of substantial evidence that the party to the development agreement has complied in good faith with the terms and conditions of the development agreement during the period under review, no other action is necessary.
- D. If the city council finds and determines on the basis of substantial evidence that the party to the development agreement has not complied in good faith with the terms and conditions of the development agreement during the period under review, the city council may initiate proceedings to modify or terminate the development agreement.
- E. If upon a finding under Section 17.82.110(D) the city council determines to modify or terminate the development agreement, the city council will give notice to the party to the development agreement, and if different, the property owner, of its intention to do so. The notice will state:
 - 1. The time and place of the hearing;
 - 2. A statement as to whether the city council proposes to terminate or to modify the development agreement;
 - 3. Other information that the city council considers necessary to inform the party to the development agreement/property owner of the nature of the proceedings.

Such notice may be given at the conclusion of the hearing held according to this section.

- F. At the time and place set for the hearing on modification or termination, the party to the development agreement, and if different, the property owner will be given an opportunity to be heard. The city council may refer the matter back to the planning commission for further proceedings or for a report and recommendation. The city council may impose conditions to the action it takes as the city council considers necessary to protect the interests of the city. The decision of the city council is final.

17.82.120 - No vesting of rights.

Approval and construction of a portion or phase of a development pursuant to the development agreement will not vest any rights to construct the remainder or any other portion of the development, or create any vested rights to the approval of the agreement if the development agreement is terminated as provided in this chapter.”

Exhibit D

Ordinance Summary for Publication

This ordinance adopts the following amendments to the Rolling Hills Estates Municipal Code (RHEMC): (1) an update to RHEMC Chapter 17.76 (Density Bonus and Other Incentives) by amending and restating that chapter to incorporate all required State law provisions; (2) amendments to RHEMC Chapter 17.30 (Commercial-General District) to establish a process for providing bonus level development (i.e., greater density) in exchange for a project providing desirable community amenities or benefits; and (3) a new RHEMC Chapter 17.82 that would establish a framework for the processing, consideration and monitoring of development agreements between a project proponent and the City.

RHEMC Chapter 17.76 (Density Bonus and Other Incentives) was last updated in 2013. The chapter contains the provisions required under California's Density Bonus Law, which is codified in Government Code sections 65915 - 65918. All of the proposed changes are mandatory changes to reflect the current text of the Density Bonus Law, which is an effort by the State to encourage the development of housing including low- and moderate-income, senior citizen, transitional foster youth, disabled veterans, or homeless housing, as well as childcare facilities by providing a mechanism for increasing allowable density under the City's zoning code without requiring City officials to approve general plan amendments and zoning code changes. Under the Density Bonus Law and Chapter 17.76, when a developer agrees to construct the requisite percentage of affordable housing units or childcare facilities, the City must grant a density bonus or other specified incentives or concessions to the developer. The amount of the density bonus (and related incentives and concessions) is set on a sliding scale, based upon the percentage of affordable units at each income level. The City is required to grant the concession or incentive proposed by the developer (which can include reduced on-site parking) unless the City can make a finding that the proposed concession or incentive: (a) does not result in identifiable and actual cost reductions, (b) would cause a public health or safety problem, (c) would cause an environmental problem; (d) would harm historical property, or (e) would be contrary to law. The City has the burden of proof in the event it declines to grant a requested incentive or concession.

The amendments to RHEMC Chapter 17.30 (Commercial-General (C-G) District) (which covers the commercial area between Hawthorne Blvd and Crenshaw and Silver Spur and Indian Peak Roads) allows for increased density of development, including additional residential units, in exchange for an applicant providing community amenities or benefits to the City beyond what would be otherwise be required for a project under applicable code provisions, conditions of approval, or environmental review mitigation measures. The amendments establish an application process for what is referred to as "bonus level development," which application would be processed as part of a development agreement. The application would identify the development standards of the C-G District the applicant seeks to either increase or reduce to allow for greater density and would also identify from

a City-approved list what community amenities or benefits it is will provide in exchange for such increased density or the applicant may propose a new amenity or benefit. To ensure that the City receives adequate consideration for granting bonus level development, an appraisal process is included that would require an applicant to provide a report from a licensed appraiser showing the fair market value of the additional gross floor area and/or residential units that would be permitted (“bonus development value”), and the value or construction costs of the proposed community amenities or benefits. The appraisal process would be subject to direction and oversight by the Community Development Department. The amendments provide that the value of amenities or benefits be set at a target of at least 25% of the bonus development value, but that number could be lower or higher depending on the specifics of the project. The rationale for the ultimate value of the benefits or amenities agreed upon would be set forth in the final development agreement. The community amenities or benefits may be provided directly as part of a project. Alternatively, an applicant may make an in-lieu payment or could provide a combination of the direct provision of amenities or benefits as part of the project, and the remainder as an in-lieu payment. Prior to the processing of an agreement regarding bonus level development, the City Council will conduct a preliminary review of the requested increase or reduction in development standards for the project as well as the proposed community amenities and benefits along with their estimated value for the purposes of establishing a project description for environmental review. Because of the increased level of development that may result from these types of projects, the amendments included enhanced public noticing requirements.

The new RHEMC Chapter 17.82 (Development Agreements) establishes a framework for the consideration, approval and post-approval monitoring of development agreements between private property owners/developers and the City. The chapter is based on the State’s “Development Agreement Law” (Government Code sections 65864 – 65869.5), which was enacted as a means of providing additional opportunities to vest private development rights through a contract (development agreement). Among other things, a development agreement allows the City and an applicant to negotiate a freeze of the City’s general plan, zoning code and other City policies and fees in place at the time of execution of the development agreement, as an incentive for providing additional community benefits beyond standard fees and the mitigation of impacts. The chapter provides the City and an applicant flexibility to negotiate the particular terms of the development agreement, subject to certain mandatory terms and conditions that are included in the chapter. As required under the Development Agreement Law, the City must approve a development agreement by ordinance, and following adoption, the agreement will be subject to periodic review by the City for compliance with the terms of the agreement.

CITY OF ROLLING HILLS ESTATES
LOS ANGELES COUNTY, CALIFORNIA
RESOLUTION NO. 2531

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROLLING HILLS ESTATES ESTABLISHING AN APPROVED LIST OF COMMUNITY AMENITIES OR BENEFITS FOR BONUS LEVEL DEVELOPMENT UNDER MUNICIPAL CODE CHAPTER 17.30

THE CITY COUNCIL OF THE CITY OF ROLLING HILLS ESTATES RESOLVES AS FOLLOWS:

SECTION 1. Findings. The City Council finds as follows:

A. The City of Rolling Hills Estates has adopted Sections 17.30.080 and 17.30.090 of the City’s Municipal Code, which establish a process for seeking bonus level development in the City’s Commercial-General District.

B. Specifically, Section 17.30.090 states in relevant part that: “The city council has adopted by resolution the identified community amenities or benefits that may be provided in exchange for bonus level development.”

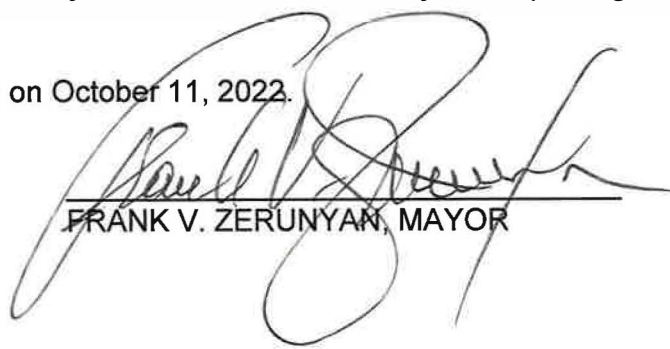
C. The purpose of this resolution is to adopt the types of community amenities or benefits that the City Council would be most likely to consider as part of an application for bonus level development under Sections 17.30.080 and 17.30.090, including such other community amenities or benefits that may be proposed by an applicant that are significant and substantially beyond normal development requirements as determined by the City Council through the development agreement process.

SECTION 2. Approved List. The list of community amenities or benefits for bonus level development under Municipal Code Chapter 17.30 is approved as set forth on Exhibit A.

SECTION 3. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Resolution is, for any reason, held to be invalid or unconstitutional by the decision of any court of the competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Resolution. The City Council hereby declares that it would have adopted this Resolution, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 4. Certification. The City Clerk is directed to certify to the passage of this RESOLUTION.

APPROVED AND ADOPTED on October 11, 2022.


FRANK V. ZERUNYAN, MAYOR

ATTEST:


LAUREN PETTIT, CITY CLERK

I HEREBY CERTIFY that the foregoing Resolution No. 2525 was duly and regularly adopted by the City Council of the City of Rolling Hills Estates at a regular meeting held on the 11th day of October, 2022, by the following vote:

- AYES: HUFF, SCHMITZ, STEGURA, ZERUNYAN, ZUCKERMAN
- NOES: NONE
- ABSENT: NONE
- ABSTAIN: NONE


LAUREN PETTIT, CITY CLERK

EXHIBIT A

CITY OF ROLLING HILLS ESTATES APPROVED LIST OF COMMUNITY AMENITIES OR BENEFITS FOR BONUS LEVEL DEVELOPMENT UNDER MUNICIPAL CODE CHAPTER 17.30

The following list of community amenities and benefits have been approved by the City Council of the City of Rolling Hills Estates for consideration as part of an application for bonus level development in the City's Commercial-General District pursuant to Municipal Code Chapter 17.30.

1. Affordable Housing.
2. Child Care Facility. Construction of a building or portion of a building suitable for a minimum of 30 children.
3. Community Open Space/Pocket Parks.
4. Land Dedication for Improved Mobility. (Example: Rededicating Deep Valley Drive as a through street.)
5. Public Art.
6. Public Infrastructure. (Examples: Includes improvements to streets, sidewalks, bicycle facilities, curbs, gutters, sanitary and storm sewers, street trees, lighting, and other public infrastructure beyond the minimum required by the City or other public agency.)
7. Public Parking. (Example: Allowing shared parking facilities and management with other properties and businesses.)
8. Public Safety and Aesthetic Improvements. (Example: Addressing the slope failure at the Brick Walk property.)
9. Public Streetscape Improvements. (Example: Creating a linear park or promenade in the right of way area between Silver Spur Road and Bart Earle Way.)
10. Sustainable Development. (Examples: Net-zero, carbon-neutral, LEED development, etc.)
11. Utility Undergrounding. (Beyond what is required by Code.)
12. Other Community Amenity or Benefit. (Other community amenities or benefits not listed above as proposed by the applicant that are significant and substantially beyond normal development requirements as determined by the City Council through the development agreement process.)