



January 16, 2024

Ms. Rebecca Markwick
Director
Belvedere Planning & Building
450 San Rafael Avenue
Belvedere, CA 94920

RE: Mallard Pointe – SB 330 Preliminary Application Subject To Builder’s Remedy

Dear Ms. Markwick:

This letter accompanies our SB 330 preliminary application for a 70-unit project at Mallard Pointe. Of the 70 units, 20% are proposed to be low income, which is 14 units. This level of affordability implicates both the Builder’s Remedy and the State Density Bonus Laws.

Belvedere does not currently have an adopted Housing Element that has been found to be in substantial compliance with Gov. Code, § 65588.5 by the California Department of Housing and Community Development. Accordingly, Belvedere is subject to Gov. Code, § 65589.5(d), which requires approval of *any* 20% low-income housing project, regardless of its consistency with the general plan or zoning. This provision of housing element law is the so-called “Builders’ Remedy” in the Housing Accountability Act.

This site has a 50-unit base density, and by providing 14 low-income units, that means 28% of the base project is low income. A 28% low-income project triggers an automatic density bonus of 50%, thereby allowing up to 75 units in the project not accounting for the further bonus permitted by AB 1287. After design and site considerations, we have decided to seek a project with 70 units, despite being allowed 75 as a matter of law. Also, per state law, the project is entitled to an unlimited number of necessary waivers, as well as at least two concessions. Under the Housing Accountability and Act and State Density Bonus Law, this project must be approved by the City.

The act of submitting this application automatically renders the project “deemed complete” for the purposes of SB 330. The statute does not authorize a city to affirmatively determine whether an SB 330 preliminary application is complete or incomplete. If a preliminary application contains the information prescribed in the statute, then the date of the submittal automatically triggers the early statutory vesting, and locks in the City’s housing element noncompliance and other laws and fees in effect at the moment of submittal.

A formal application for the project can be submitted within the next 180-days, and we look forward to working with the City when that occurs.

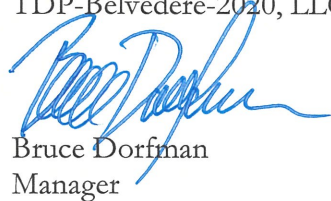
Mallard Pointe 1951, LLC

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MallardPointe1951.com

We would ask that the City please confirm receipt of this preliminary application. Thank you.

Very Truly Yours,

Mallard Pointe 1951, LLC
Manager:
TDP-Belvedere-2020, LLC



Bruce Dorfman
Manager

cc: Will Thompson
Eric Hohmann
Riley Hurd, Esq.

Attachments