

CAMPUS

PROPERTY GROUP

Chairman of the Planning Commission

City of San Rafael

1400 Fifth Avenue,

San Rafael, CA 94901

August 11, 2020

RE: Planning Commission Meeting August 11, 2020.

Dear Chairman Mercado and Members of the Planning Commission

I would like to take the opportunity of commenting on the Informational Report on Changes to Housing Regulations and Processes. I am the project proponent of the 45-unit project at 350 Merrydale approved by the City Council in February. I have not participated in the discussion on this topic in the past to avoid any perception of bias but with the approval of 350 Merrydale, feel I can do so now.

First, thank you for bringing this matter forward. The need is urgent. As I pointed out to staff long ago, the City of San Rafael ordinances are out of date and inconsistent with State law. When State law is changing so rapidly, this is not surprising. What is surprising is that when there are differences between the Ordinance and State law staff feel compelled to use their own standards which often erroneously “comingle” State standards in violation of State law.

Second, State Density Bonus law has now been around for some considerable time, long enough for all of us to have at least a basic understanding. It is no longer acceptable to plead that the language is difficult to follow: there are now a plethora of plain English articles authored by the best legal minds freely available on the internet. One particular aspect of the current San Rafael code that is particularly disturbing is that it frequently places on the applicant the “burden of proof”. State law is very clear on this point: the “burden of the proof” is on the City to show that a Concession or Waiver should not be granted not on the applicant to prove why a Concession or Incentive should be granted.

While any reduction in the affordable requirements would encourage residential development, developers, builders, investors and lenders need to have the confidence to know there are no late surprises. Campus Properties has entitled over 250 units in four different jurisdictions in Marin over the past 15 years. Jurisdictions routinely condition projects based on a range of AMI’s (e.g. Moderate Income 80 – 120% AMI), yet when it finally comes to the Regulatory Agreement, Target Prices are set no higher than the mid-point of the range. And the trend is heading towards the lower end of that range. In Corte Madera for example less than 3 years ago the Target Price was 100% of AMI, in San Rafael today evidently it is 90% AMI. And now Targets are being lower still if the project is awarded a Density Bonus. How counter intuitive to the intent of the State law is that?

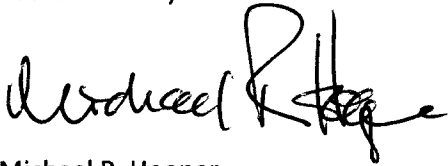
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At a minimum I would suggest that all inconsistencies with State Density Bonus law be eliminated from the City of San Rafael Ordinances and that there be included an express statement to the effect that (i) State Density law prevails, and that (ii) the "burden of proof" is on the City. That would make San Rafael current at all times so there is no catch up in Ordinances to do. Additionally, I suggest that the City of San Rafael adopt policy setting BMR Target pricing for MHA to follow. Finally, I suggest that the City and MHA discontinue penalizing State Density Bonus law projects by using reduced Target Incomes.

These measures alone will add certainty and encourage developers to pursue residential projects in San Rafael. A reduction or additional flexibility in meeting the affordable requirement would too. Thank you again for bringing this matter forward.

Yours Sincerely



Michael R. Hooper

Campus Properties, LLC.

c.c. Paul Jensen

Raffi Boloyan