

CITY MANAGER'S OFFICE

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June 3, 2022

Via Electronic and Regular Mail

Reed Moulds, Managing Director
Vallco Property Owner LLC
965 Page Mill Road
Palo Alto, CA 94304

SUBJECT: APPROVAL LETTER – THE RISE SB 35 DEVELOPMENT (FORMERLY VALLCO TOWN CENTER) - MODIFICATION APPLICATION

This letter serves as ministerial approval (“Approval”) of the “The Rise SB 35 Application” (“Application”), requesting modification of the Vallco Town Center project approved pursuant to Government Code Section 65913.4 under Senate Bill 35 (“SB 35”). The Application, which included four requested project entitlements, was submitted to the City by Vallco Property Owner, LLC (“Applicant”) on March 24, 2022 for the 50.82-acre Vallco Mall property located between Interstate 280 and Steven’s Creek Boulevard and on both sides of North Wolfe Road, with remaining project application materials submitted on April 5, 2022.

This Approval is based on the Application and the additional updated plans, in response to comments from the City, submitted by the Applicant on May 26 and May 27, together which is referred to as the “Project Application.”

I. Project Approval

The following entitlements are approved:

- a. Modification to Development Permit
- b. Architectural and Site Approval - Major
- c. Tentative Subdivision Map for Condominium Purposes
- d. Tree Removal Permit

Under the State’s and City’s Density Bonus Laws, the Applicant continues to request a 35% density bonus in its Application. The Applicant continues to request three

concessions under the Density Bonus Laws, due to the amount of affordable housing proposed in the Project Application. These concessions are as follows:

1. A concession to allow the Below Market Rate (BMR) units to be studios and one-bedroom units instead of a mix of units comparable to the units within the development pursuant to BMR Housing Mitigation Procedure Manual Section 2.3.4 (A);
2. A concession to allow the studio and one-bedroom BMR affordable units to be smaller in size than the studio and one bedroom market rate units pursuant to BMR Housing Mitigation Procedure Manual Section 2.3.4 (B); and
3. A concession to allow 400,000 square feet of retail, a reduction of 200,000 square feet, where 600,000 square feet is required in the General Plan pursuant to Strategy LU-19.1.4.

In 2018, the City determined that these three concessions: a) will result in identifiable and actual costs to provide for affordable housing costs; b) will not result in specific, adverse impacts upon public health or safety or the physical environment or any property that is listed in the California Register of Historical Resources; and c) will not be contrary to state or federal law. (Gov. Code, § 65915(d)(1)(A)-(C). The award of the density bonus and concessions are not affected by the request for modification of the approved project.

These Approvals, including the density bonus and the three concessions identified above, are collectively referred to as the "Project," and are reflected in the plan set included in Attachment "A."

This Approval does not cover encroachments or other improvements within the public right-of-way, including but not limited to, the proposed intersection located between Vallco Parkway and Highway 280 (right of way encroachments are subject to the City's permitting review process) or proposed tree removals within the public right of way. In addition, this Approval does not cover any signage, sign programs, construction permits, or final map(s). Subsequent applications for these permits will be reviewed prior to approval, consistent with the City's permit approval processes and the requirements of Government Code section 65913.4.

II. Basis for Approval

Government Code Section 65913.4 (SB 35, as amended) sets forth a streamlined, ministerial approval process for certain housing developments in jurisdictions that have not made sufficient progress toward meeting their affordable housing goals for above-moderate and lower income levels as mandated by the State. The California Department of Housing and Community Development ("HCD") determined that the City made sufficient progress toward its above moderate income housing goals but

made insufficient progress toward its lower (very low and low) income housing goals. Therefore, HCD determined that the City is subject to the streamlined, ministerial review and approval provisions in Government Code Section 65913.4 for very low and low income housing projects.

On September 21, 2018, the Vallco Town Center project was approved pursuant to SB 35. The Applicant submitted a request for modification of the approved project on March 24, 2022. In addition to the Project Plans, the Project Application supporting information the City reviewed in making this determination, was identified in the Modification Legal Framework and Application Methodology. This information is available on the City's website.

The Applicant's modification request is subject to a limited scope of review under Government Code section 65913.4(g) unless the modification changes the total number of residential units or total square footage of construction by 15 percent or more, not including underground space. (Gov. Code, § 65913.4(g)(3).) The scope of review of a qualified modification request under section 65913.4(g) is limited to determining whether the modified project meets the statutory criteria for SB 35 eligibility and whether the project complies with objective planning standards in effect at the time the original project application was submitted. (Gov. Code, § 65913.4(g)(1)(B).) Staff generally may not apply objective planning standards adopted after the March 2018 submittal date of the original Vallco SB 35 application if these requirements are met. In addition, the City may not reconsider "prior determinations that are not affected by the modification" (Gov. Code, § 65913.4(g)(4)) and must use "the same assumptions and analytical methodology" that it used in approving the original application. (Gov. Code, § 65913.4(g)(1)(C).)

The modification request also includes a request for modification of the approved tentative subdivision map for the project. The streamlined approval provisions of SB 35 apply to approval of a tentative subdivision map if "(A) [t]he development has received or will receive financing or funding by means of a low-income housing tax credit," or "(B) [t]he development is subject to the requirement that prevailing wages be paid, and a skilled and trained workforce used." (Gov. Code, § 65913.4(a)(9).) A finding of compliance with prevailing wage requirements was made in connection with the approval of the original Vallco project and is not affected by the requested modification. The tentative subdivision map will be reviewed and approved in compliance with the Subdivision Map Act (Gov. Code, §§ 66410 – 66499.58). Under Government Code section 65913.4(g), review must be limited to objective subdivision standards that were in place at the time of the original application.

Under Government Code section 65913.4(g)(2), the City must complete ministerial review of the proposed modification request within 60 days. The deadline for completing review of the Vallco/Rise modification request is June 3, 2022. This letter, which serves as notice of the Approval of the modification request pursuant to Government Code section 65913.4(g), is being issued within that 60-day time period.

The City has identified its basis for approval of the project in Attachment B.

III. Standard Project Requirements and Project Implementation Requirements

The Project Application is approved subject to the Standard Project Requirements and Project Implementation Requirements (collectively "Requirements") set forth in Attachment B. These Requirements identify objective General Plan, zoning, and/or objective design review standards that were applied to the project at the time the Application was submitted to the City on March 27, 2018. These Requirements are uniformly applied to similar entitlement applications and are within the City's rules and regulations, including its General Plan, General Plan Environmental Impact Report, Municipal Code (including the zoning, subdivision and density bonus provisions), BMR Housing Mitigation Procedural Manual, and other applicable permit application forms and approvals, or reflect legal requirements imposed by other agencies and/or state law.

Further, Government Code Section 65913.4 contains specific requirements and criteria for a project to be subject to the streamlined, ministerial review and approval process. In order to assure the Approval is implemented as required by Government Code Section 65913.4, the City has included those in the Requirements in Attachment C.

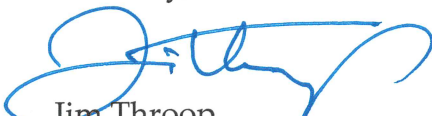
IV. California Environmental Quality Act

This Approval is exempt from the California Environmental Quality Act ("CEQA") due to its ministerial nature. (Gov. Code, § 65913.4 (a); Pub. Resources Code, § 21080(b)(1).)

V. Term of Approval

As mandated by Government Code Section 65913.4(e)(3), this Approval shall extend the time during which the September 21, 2018 approval shall remain valid for an additional 240 days.

Sincerely,


Jim Throop
City Manager

cc: Benjamin Fu, Director of Community Development
Christopher Jensen, City Attorney
Matt Morley, Director of Public Works
Chad Mosley, Assistant Director of Public Works
Piu Ghosh, Planning Manager

Enclosures:

Attachment A – Approved Plans dated September 15, 2018 (due to size, copies are available at the Community Development Department Planning Division)

Attachment B – Basis for Approval

Attachment C – Standard Project Requirements and Project Implementation Requirements

