

Holland & Knight

400 South Hope Street, 8th Floor | Los Angeles, CA 90071 | T 213.896.2400 | F 213.896.2450
Holland & Knight LLP | www.hklaw.com

Ryan M. Leaderman
+1 213-896-2405
Ryan.Leaderman@hklaw.com

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Via E-mail (mstaar@cityofchino.org)

Maria Staar
Senior Planner
City of Chino
13220 Central Avenue
Chino, California 91710

Fred Galante
Partner
Aleshire & Wynder, LLP
1 Park Plaza, Suite 1000
Irvine, California 92614

Re: 5/7/26 Updated List of Waivers and Incentive for 6210 Riverside Drive/APN 1015-511-27/PL25-0022

Maria and Fred,

As you know, this firm represents BCT Dev Acquisition Co, LLC (the "Applicant") in relation to its application for a housing development project consisting of 210 townhouses, in which 21 units (at least ten percent) would be affordable to low income households (the "Project") on the approximately 8.0-acre site located at 6210 Riverside Drive (the "Property") in Chino (the "City"), California. The Applicant looks forward to developing much needed high-quality housing in the City that the Project would provide. Due to the provision of ten percent low-income housing, under State Density Bonus Law ("SDBL"), the Project is entitled to receive one incentive that reduces the cost of providing affordable housing, and unlimited waivers of development standards that physically preclude the Project as proposed. To this end, the Project hereby updates its SDBL list of waivers and incentive as identified below. In specific, this May 7th, 2026 updated request includes an additional waiver for setback relief facing the westerly property line, as listed below.

Courts have confirmed that State Density Bonus Law is not ambiguous as to the applicability of waivers: In *Bankers Hill 150 v. City of San Diego*, the Court concluded that the law provides a

“developer with broad discretion to design projects with additional amenities even if doing so would conflict with local development standards.”¹ This is in accord with *Wollmer v. City of Berkeley* where the court held that there is nothing in SDBL that “requires the applicant to strip the project of amenities, such as an interior courtyard, that would require a waiver of development standards. Standards may be waived that physically preclude construction of a housing development meeting the requirements for a density bonus, period.”² With respect to incentives, *Schreiber v. City of Los Angeles* is very clear that “[t]he applicant, however, is not required to establish that cost reductions will result. Instead, “[t]he city . . . shall bear the burden of proof for the denial of a requested concession or incentive.” ([Government Code] § 65915, subd. (d)(4).)³

WAIVERS

1. The Applicant requests a waiver of Chino Municipal Code Section 20.09.090.F.6 to permit parking in the front half of the Property.

Chino Municipal Code Section 20.09.090.F.6 requires parking to be provided on the rear half of the building or within a structure. Given the location of the dwelling units, required driveways, access aisles, sidewalks, fire lanes, and open space, it is not physically possible to place all of the Project’s surface parking along the back half of the Property closest to the existing dwelling units to the north. If the surface parking in the front half of the Project were relocated to the rear half of the Property, this would result in a substantial loss of dwelling units and/or open space to accommodate the relocation of parking. Given the large Property, placement of the parking in the rear half of the Property or within a structure would physically preclude the Project as proposed. The Applicant seeks a waiver to allow flexibility in parking placement in order to better support site functionality and accessibility to the main amenity and leasing office. In addition to parking within garages, parking has also been distributed to the rear of the site to conveniently serve residents and maintain compliance with the intent of the City’s requirement.

As such, the development standard would not only physically preclude the Project as proposed, but it is also critical to achieve the livability, operations, and rents to make the Project financially feasible.

2. The Applicant requests a waiver of Chino Municipal Code Section 20.09.090.H.2.a. and b. to provide Plan 4 patios with a minimum six-foot horizontal dimension and 90 square feet in lieu of the development standard that requires one hundred fifty square feet patio with a minimum horizontal dimension of ten feet or seventy-two square foot deck with a minimum horizontal dimension of six feet.

¹ *Bankers Hill 150 v. City of San Diego*, (2022) 74 Cal.App.5th 755, 774-75.

² *Wollmer v. City of Berkeley*, (2011) 193 Cal.App.4th 1329, 1346-1347.

³ (2021) 69 Cal.App.5th 549, 555.

The Plan 4 units provide a minimum 6-foot by 15-foot patio, resulting in approximately 90 square feet of private open space. This meets the intent of the deck requirement except that the private open space would be located within a patio and not a deck. Therefore, the Applicant requests a waiver to reduce the private open space requirement for the Plan 4 patios to align with the 72-square-foot deck standard, with a minimum horizontal dimension of six feet. This occurs in only 60 of the 210 units proposed. If 150 square feet of patio space were provided in Plan 4 units, there would be a loss of living area within those dwelling units, physically precluding the Project as proposed. Important living area would be lost to create larger patios. As such, there would be physical preclusion if this standard were met.

3. The Applicant requests a waiver of Chino Municipal Code Section 20.09.090.H.1 to provide 59,079 sf of open space, i.e., 18.7 percent of net lot area as open space, in lieu of 63,297 sf of open space, i.e., 20 percent of the lot area as open space. The Project includes well-designed open space that enhances usability, accessibility, and overall resident experience. Providing an additional amount of open space would physically preclude the Project as proposed since there would need to be a substantial reduction in building footprint area to accommodate additional open space; there would be a loss of living area that would result in a loss of density. The reduction in open space is offset by the inclusion of high-quality, landscaped communal areas with seating, gathering spaces, and pedestrian connectivity, promoting social interaction and outdoor enjoyment consistent with the purpose of the open space requirement.

4. The Applicant requests a waiver of Chino Municipal Code Section 20.09.090.H.1 to provide a minimum of 375 square feet of outdoor living area in lieu of 400 square feet per dwelling unit.

The City requires a minimum of 400 square feet of outdoor living area (private or common open space) per unit. The Project provides a combination of private patios and shared open space areas that collectively fulfill the intent of this requirement. Each dwelling unit provides a minimum of 375 square feet of outdoor living area, supplemented by well-designed common open space that enhances usability, accessibility, and overall resident experience. If an additional 25 square feet of open space were provided for each dwelling unit, this would result in the loss of building area necessary for each dwelling unit; this would likely necessitate a reduction of dwelling units in order to accommodate the increase in open space for the dwelling units.

The reduction from 400 to 375 square feet per unit is offset by the inclusion of high-quality, landscaped communal areas with seating, gathering spaces, play structure, dog park, and pedestrian connectivity, promoting social interaction and outdoor enjoyment consistent with the purpose of the open space requirement.

5. The Applicant requests a waiver of Chino Municipal Code Section 20.09.090F.4a and b to provide floorplates that exceed 80 percent of the ground floor plate in lieu of no more than eighty percent of the ground floor plate, and to provide no additional vertical variation in height for buildings that are more than 150 feet in length for at least 50 feet.

The third floor of the dwelling units exceeds 80 percent of the ground floor floorplate. The applicable development standard prohibits the third floor and above from exceeding 80 percent of the ground floor floorplate, but this may be waived by the Director of Development Services upon a finding that the architectural articulation of exterior walls and a sloped roof modulate the visual mass of the top of the building and avoids the appearance of a box-like structure. As noted on the site plans and elevations, the architectural articulation of exterior walls and a sloped roof modulate the visual mass of the top of the buildings. The buildings include low profile sloped concrete “S” roof tiles, with eaves, faux gable vents, bay windows, recesses/reveals at windows/doors, scalloped sill trim, decorative shutters, metal railings, corbels, trim, faux wood header/posts, faux wood solid railings, decorative exterior lights, and they avoid the appearance of a box-like structure. The Project strategically includes nine two-story units located along the site edge adjacent to properties containing existing one-story residential uses. These two-story buildings are intentionally designed to step down in height to provide a compatible transition in scale between the proposed development and surrounding neighborhoods.

Should the Director of Development Services not make the finding to waive this development standard, the Applicant requests a waiver of the development standard since application of the 80 percent floorplate would result in the loss of bedrooms within the dwelling units. Without the upper level bedrooms, there would be a loss of density. As such, the development standard would physically preclude the Project as proposed.

For the various buildings more than 150 feet in length, the Project meets the development standard of Chino Municipal Code Section 20.09.090F.4b which requires that “[b]uildings that are more than one hundred fifty feet in length shall include a minimum two-foot vertical variation in height for at least fifty feet.” As noted on the Project’s architectural plans/elevation sheets, there already is a variation of heights exceeding two feet for the buildings with more than 150 feet in length for at least 50 feet. For example, the top height of the pitched roof is 38’-0”, with the sloped roof descending to below the 30’-0” eave height. There is variation in roof height over the entirety of the building, therefore complying with the “at least 50 feet” standard. As such, the existing roof design, through the use of pitched/sloped roof with the use of gables and eaves, demonstrates the variability in height over the length of the buildings that exceeds two feet. If the buildings proposed a flat roof that did not vary in height more than two feet like the proposed buildings already include, or if the City, based on a reasonable person standard, disagrees, the Applicant proposes a waiver to deviate from the Chino Municipal Code Section 20.09.090F.4b requirement.

If the subject buildings needed a reduction in height of two feet, this would make the top level floor to ceiling height 6’-1” which is insufficient height to accommodate a third level and would violate the habitable space requirement in the California Building Code. As such, compliance with this standard by reducing the height of the third floor would result in a reduction of bedrooms and important living space, causing a reduction in density. Therefore, approval of a waiver is requested to allow the proposed massing configuration, which will allow the Project to be financially feasible and maintain critical net rentable square footage.

The proposed two-story configuration reduces visual bulk at sensitive edges, avoids box-like building forms, and better integrates the project with the surrounding neighborhood, thereby meeting the objectives of Sections 4a and 4b. Strict application of upper-story floorplate reduction and vertical modulation standards to these two-story buildings would not further mitigate visual mass and is unnecessary to achieve the purpose of the ordinance.

6. The Applicant requests a waiver of Chino Municipal Code Section 20.09.090F.1 to provide a westerly side yard setback of ten feet in lieu of 15 feet. The Project includes six dwelling units within 15 feet of the westerly property line; each of these dwelling units contains windows facing the westerly property line. If these units were required to be setback by five additional feet, there would be loss of important living area necessary to make these dwelling units viable. To this end, there would be a loss of area for bedrooms, bathrooms, and other living area. As such, compliance with this development standard would physically preclude the Project as proposed and result in a loss of density.

INCENTIVE

By providing ten percent low-income housing, the Project is entitled to receive one incentive to lower the cost of providing affordable housing. In order to reduce the cost of providing affordable housing, the Applicant requests an incentive from Chino Municipal Code Chapter 13.32 to allow relief from the standard that requires undergrounding of utilities. As demonstrated in the attached Utility Exhibit, the Applicant would underground the utilities along the vast majority of the Riverside Drive frontage. However, the Applicant would not underground the utility pole along the easterly portion of Riverside Drive nearest Mountain Avenue. The pole depicted on the Utility Exhibit would be protected in place or relocated within the public right-of-way in the parkway along the Project frontage, with guy lines for support. This pole would not be undergrounded due to high costs. By seeking relief in this manner, the cost savings would reduce the cost of providing affordable housing.

Sincerely yours,

HOLLAND & KNIGHT LLP



Ryan M. Leaderman

Exhibit

Maria Staar
Fred Galante
June 11, 2026
Page 6

cc: Tim Stanley
Karen Alves
Clarke Champion