



# MEMORANDUM

<b>Date:</b> July 7, 2020	
<b>To:</b> Gian Martire, Senior Planner	<b>Organization:</b> City of Cupertino
<b>From:</b> RRM Design Group	<b>Title:</b> Architectural Review Team
<b>Project Name:</b> Cupertino Consulting Architectural Review Services	<b>Project Number:</b> 1832-00-UR19 (20-01)
<b>Topic:</b> Westport Cupertino Density Bonus Waiver Review – Enhanced Senior and Family Living Project	

Dear Gian,

The purpose of this review is to determine whether the Westport Cupertino project (“project” or “proposed project”) applicant’s requested Density Bonus waivers are needed because application of the City’s height and slope line setback standards would physically preclude the proposed project.

We have reviewed the proposed project for compliance with the applicable City of Cupertino objective standards in the General Plan Land Use, Community Design, and Housing Elements; the Heart of the City Specific Plan (HOCSP); and the Zoning Code.

In addition to City documents, we have also reviewed the applicant-provided project documentation related to the Westport project (refer to Appendix A for a complete list). Of note and relevant to the focus of this memorandum is the applicant’s waiver request justifications identified in the C2K Architecture Letters dated June 25, 2020, the Berliner Cohen LLP Letter dated April 22, 2020, as well as the Atria Senior Living Letter dated June 24, 2020.

## I. Project Character and Land Use Patterns

According to the Heart of the City Specific Plan zoning map, the project site is zoned Mixed Use Planned Development – General Commercial, Residential (P (CG, RES)). The parcel currently contains an existing 71,254 square-foot shopping center that is proposed to be demolished and the site redeveloped as part of the project. The area immediately surrounding the project site is characterized by a variety of land uses, including Multiple Family Residential (R3 (10-20)) to the north, Public Building (BA) to the south, and Open Space/Park (OS/PR) to the east, and the California State Route 85 to the west.



*Project Location*

## **II. Project Background, Density Bonus Law, and Purpose of this Review**

### *Project Background*

The proposed project is located on a 7.9-acre site directly east of Route 85 and west of the Stevens Creek Boulevard and Mary Avenue intersection. The project is proposing 267 housing units, 27 senior care rooms, and 20,000 square-feet of commercial space spread across two buildings. The maximum density allowed under the General Plan is 30 dwelling units per acre, or 237 dwelling units in total. The housing unit mix includes 18 Rowhouses, 70 Townhomes, 131 Market Rate Senior Apartments, 27 senior care rooms, and 48 Below Market Rate (“affordable”) Senior Apartments. A total of 44,945 square-feet of common open space, as well as 2,915 square-feet of common retail outdoor space is also proposed. Based on the number and affordability levels of the affordable housing units in the project, the applicant is requesting three (3) waivers of the development standards for height, slope setback, and dispersion of the affordable units throughout the project under the State Density Bonus Law, the City’s local Density Bonus Ordinance (Cupertino Municipal Code Chapter 19.56), and the City’s Below Market Rate (BMR) Housing Mitigation Program Procedural Manual.

### *Density Bonus Law*

The City of Cupertino has adopted its own local ordinance implementing Government Code Section 65915, State Density Bonus Law, as it relates to provision of affordable housing units within development projects. The City’s ordinance is Chapter 19.56 of the City’s Zoning Code. Chapter 19.56 contains the specific requirements for projects to qualify for a density bonus and for receiving incentives or concessions, waivers, and reductions of parking standards.

### *Purpose of this Review*

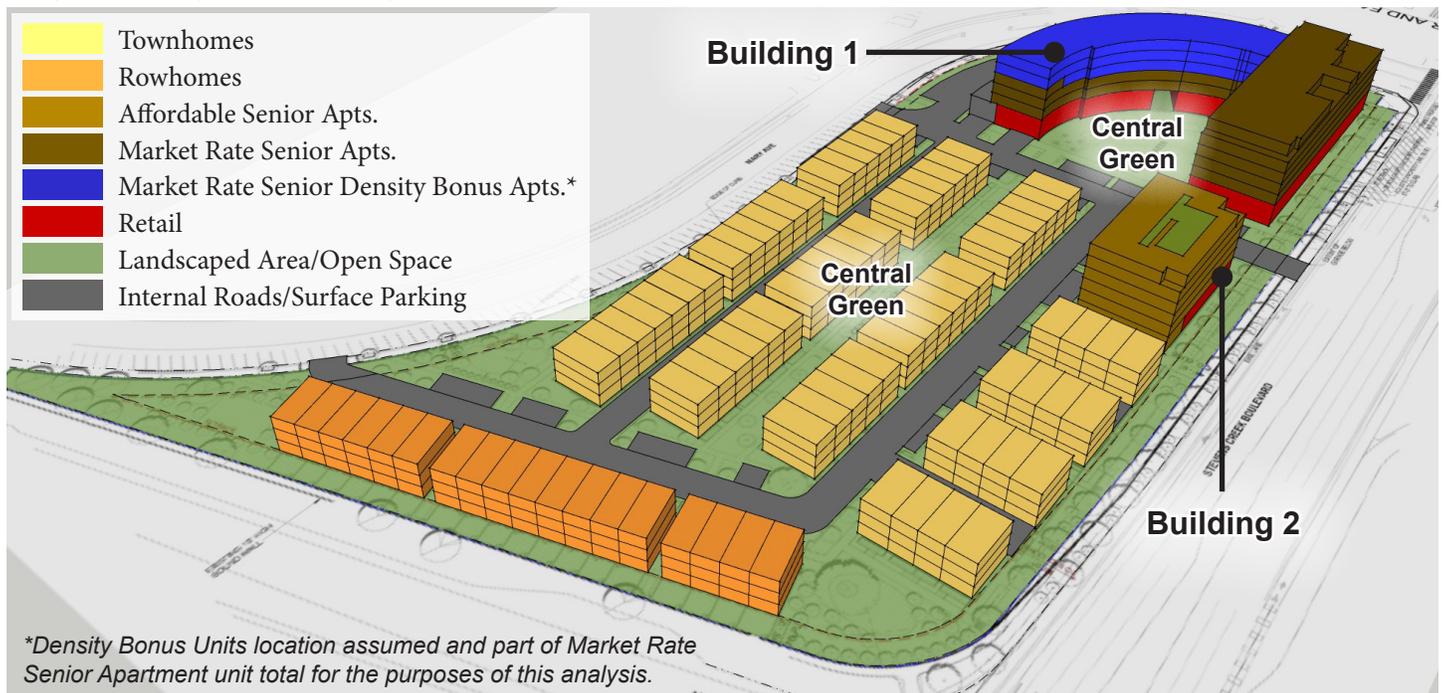
As mentioned above, the applicant is proposing to include 48 Below Market Rate Senior Apartment units within the project and, based on the number and affordability levels of these Below Market Rate units, the applicant has requested waivers of three (3) City development standards for height, slope line setback, and dispersion of affordable units. The applicant has stated in its submittals that application of these development standards would physically preclude the proposed project. This review does not address

the affordable unit dispersion waiver requested by the applicant, but provides an analysis of whether the proposed project could be accommodated on the property without the requested height and slope line setback waivers. This review also analyzes whether the base density for the site can be accommodated on the property without the requested height and slope setback waivers.

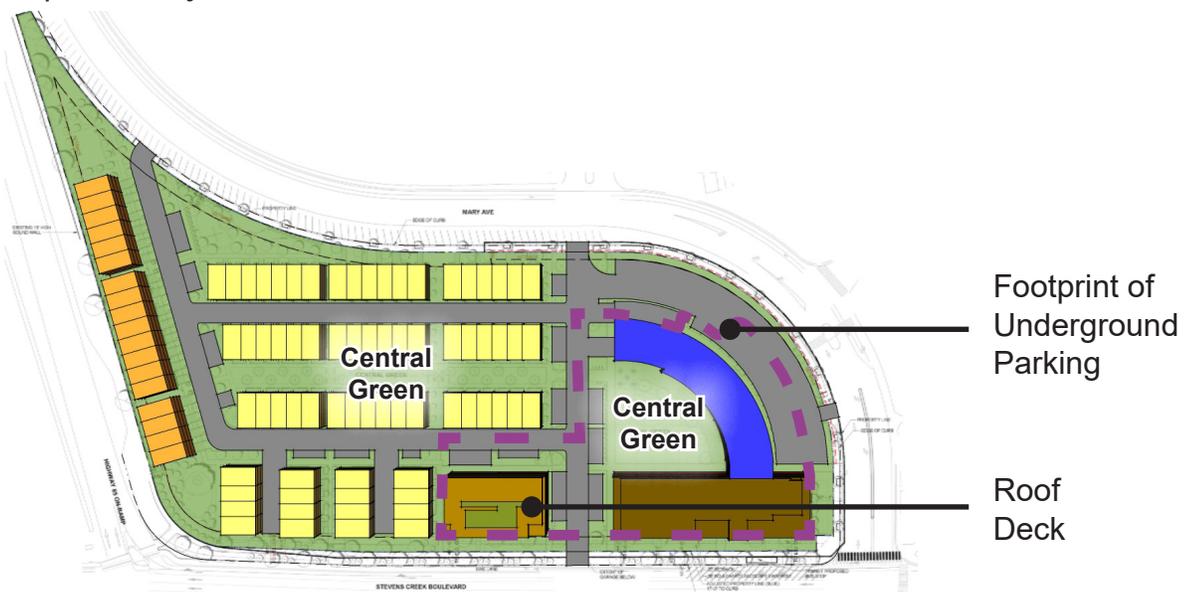
### III. Density Bonus Waiver Review

In order to provide a baseline understanding of the currently proposed project, Site Setbacks Sheet G203 was brought into Sketchup, a 3D modeling program, at scale (1 inch = 40 feet) as indicated on the plan sheet. This to-scale site plan provided the foundation for recreating the proposed project in 3D in order to allow for the more in-depth analysis requested by the City as part of this review effort. Other relevant project information, such as property boundary locations, setback locations, floor-to-floor

*Proposed Project - Bird's Eye*



*Proposed Project - Site Plan*



heights, was also captured in the model to inform the analysis portion of this effort as shown below. It should also be mentioned that the slope line setback standard was also modeled at the 45-degree angle from curblines to allow for a clear understanding of how this standard would or would not affect the project design.

Once this was completed, the following three scenarios were analyzed to assist in determining whether the proposed project would be physically precluded without the requested waivers of height and slope line setback standards.

**A. Project without Height or Slope Setback Line Waivers: Scenario One**

Under the Project without Height or Slope Setback Line Waivers, both the height and slope setback line waivers were removed from the project. This limited the building heights to 45-feet and included the 45-degree slope setback from curblines requirements.

As seen in the graphic below, removal of both waivers necessitated moving a significant portion of the Market Rate Senior Apartments from Building 1 to a new location along Stevens Creek Boulevard and a portion of Mary Avenue to accommodate the slope line setback requirement. In general, additional site area required to accommodate the expanded building footprint area, surface parking, and internal roadway layout reduced

***Project without Height or Slope Setback Line Waivers - Site Plan***



Additional internal roads, surface parking, and building footprints limit ground level open space.

Assumed footprint of underground parking.

Common residential 'Central Green' open space broken up and reduced in size.

## Project without Height or Slope Setback Line Waivers - Birdseye



\*Density Bonus Units location assumed and part of Market Rate Senior Apartment unit total for the purposes of this analysis.

Units at 4th story reduced in size to accommodate slope setback.

Retail floor-to-floor height reduced to 15-feet.

the total square footage of common residential and common landscape open space areas at ground level below the amount required by HOCSP 1.01.040.C.2.A.

This scenario maintains the overall housing unit number and product type mix identified under the Proposed Project, including retail square footage and retail support space, as well as the proximity of Below Market Rate Senior Apartment units to retail and the nearby senior center.

### *Physical Preclusion:*

- Decrease in total size of Below Market Rate Senior Apartment units at top floor due to slope line setback requirement along Stevens Creek Boulevard and portion of Mary Avenue.
- Loss of required common residential and common landscape open space areas at ground level to accommodate reconfiguration of building footprint area, surface parking, and internal roadway layout, so that the revised design would not meet the open space requirements of the HOCSP.

### *Other Effects:*

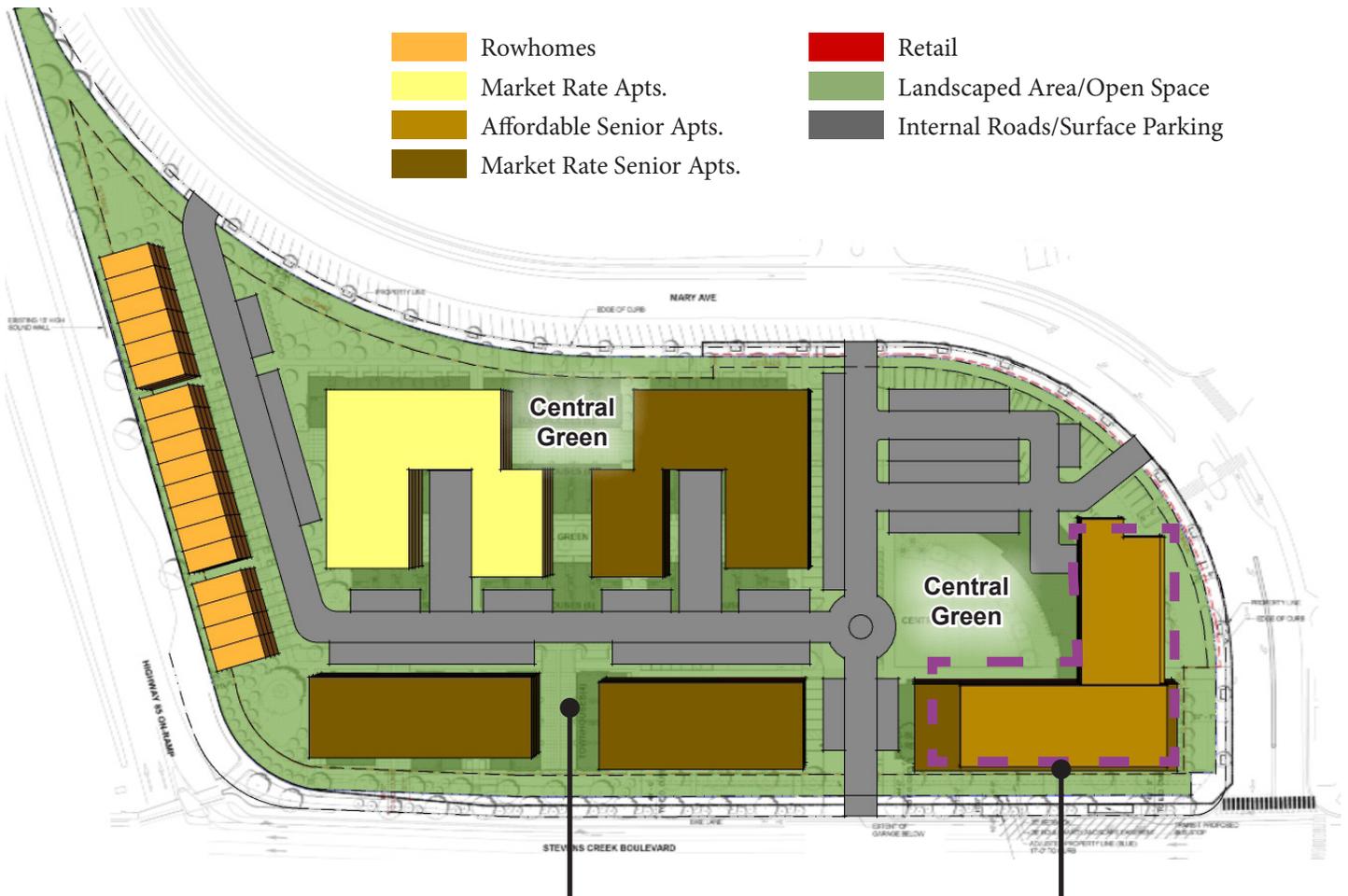
- Retail floor-to-floor plate height reduced from 20-feet to 15-feet.
- Increased street presence of project along Stevens Creek Boulevard and Mary Avenue.
- Anticipated expansion of underground parking by approximately 13 spaces, or +/- 5,200 square feet, due to the expanded multi-family building footprints and loss of surface level parking.

**B. Project at Base Density: Scenario Two**

Under the Project at Base Density, or “base project,” Scenario, the maximum allowed density for the site (237 units) was analyzed for consistency with the City’s objective standards including height and slope setback line requirements. Accordingly, under this scenario the maximum building height is 45-feet and the slope setback is 1:1 (45 degrees) measured from curbline.

As seen in the graphic below, all of the Townhome product type was converted to Market Rate Apartments to fit the “base project” density on the site while also adhering to the City’s height and slope setback line requirements. Additional site area gained from converting Townhomes to Market Rate Apartments was utilized to maintain 44,945 square feet of common residential and common landscape open space at ground level, exceeding the 150 square feet minimum requirements on a per unit basis per HOCSP 1.01.040.C.2.A by 40 square feet. The additional site area gained was also utilized to increase surface level parking, thereby decreasing the size of the underground parking area.

**Project at Base Density - Site Plan**



Required Common Open Space maintained, with refined ‘Central Green’ concept.

Assumed footprint of underground parking.

*Project at Base Density - Birdseye*



Garage/Tuck-Under parking at internal drive aisle.

Height minimized to three-stories along Steven's Creek Blvd.

Retail floor-to-floor height reduced to 15-feet.

This scenario maintains the maximum number of units allowed on the site under “base density” but replaces the Townhome product type with Market Rate Apartments. The proximity of Below Market Rate Senior Apartment units to retail and the nearby senior center is maintained. However, while Retail square footage is also maintained, the space dedicated to Retail support, such as internal loading dock and trash areas, has been reduced.

*Other Effects:*

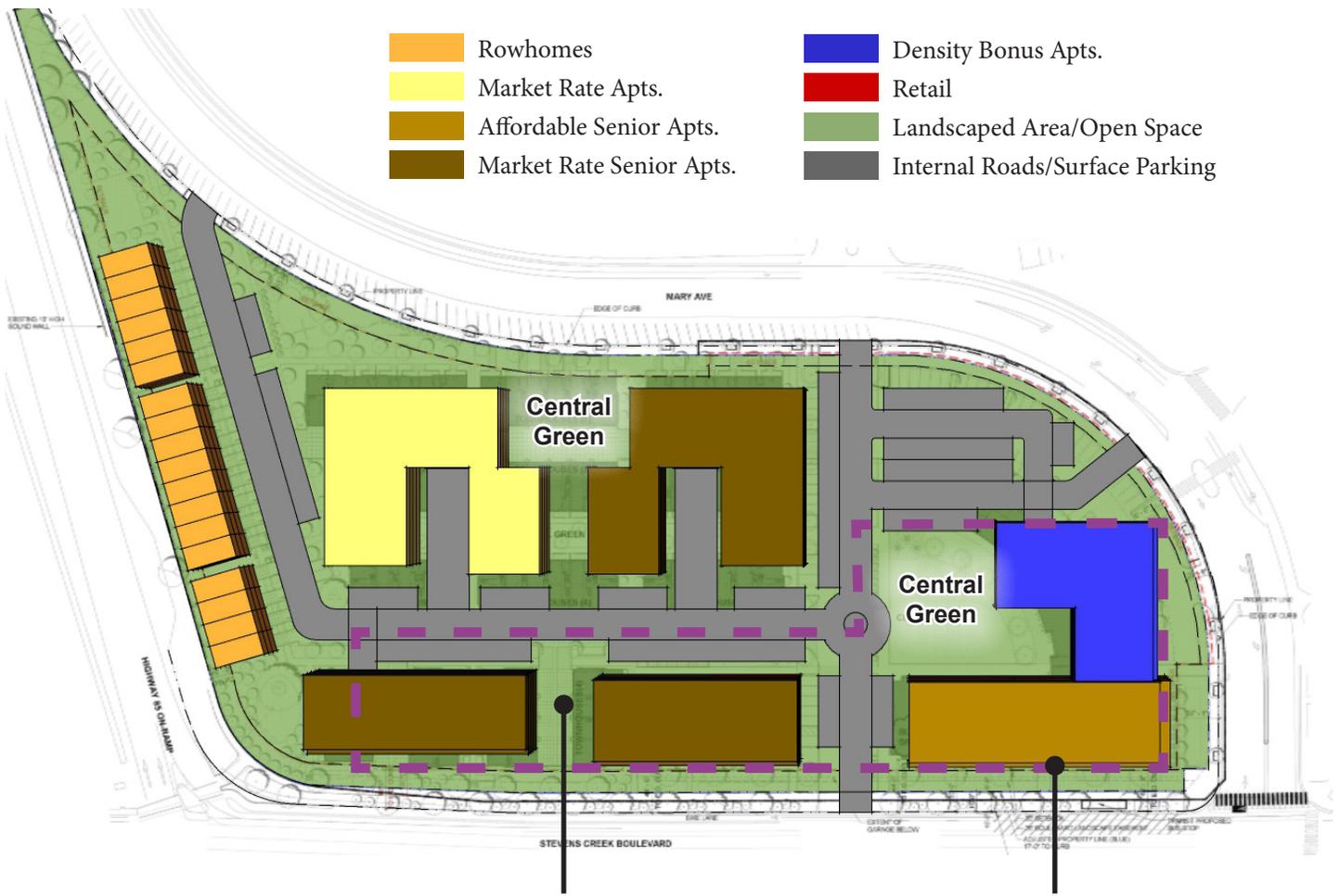
- Retail floor-to-floor plate height reduced from 20-feet to 15-feet.
- Increased street presence of project along Stevens Creek Boulevard and Mary Avenue.

**C. Project at Base Density plus Density Bonus: Scenario Three**

Under the Project with Density Bonus scenario, the project accommodated on the site consists of the proposed 267 housing units, of which 30 would be density bonus units. This scenario does not, however, include the requested height and slope setback line waivers, which limited the building heights to 45-feet and included the 45-degree slope setback from curblines requirements.

As seen in the graphic below, in this Scenario all of the Townhome product type was converted to Market Rate Apartments, while adhering to the height and slope setback line requirements, in order to maintain the overall housing unit number under the Proposed Project. The 44,945 square feet of common residential and common landscape open space at ground level, as required by HOCSP 1.01.040.C.2.A, was also maintained. Additional site area gained from converting Townhomes to Market Rate Apartments was utilized to increase the number of surface level parking spaces, but an increase in the number of underground parking spaces was also required to maintain parking ratios for the project due to loss of in-unit garages from Townhome product type.

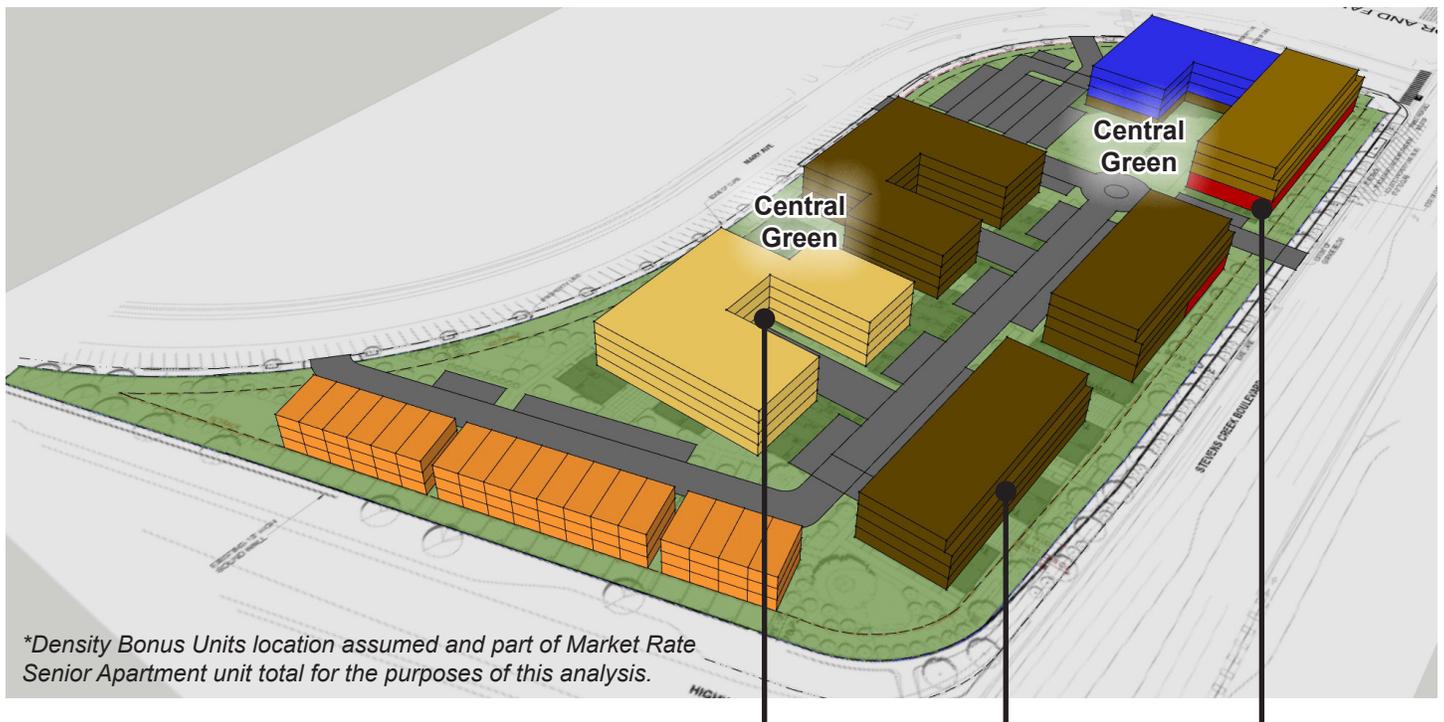
**Project with Density Bonus - Site Plan**



Required Common Open Space maintained, with refined 'Central Green' concept.

Assumed footprint of underground parking. Loss of in-unit garages at Townhomes replaced at underground parking.

## Project with Density Bonus - Birdseye



Garage/Tuck-Under parking at internal drive aisle.

Units at 4th story reduced in size to accommodate slope setback.

Retail floor-to-floor height reduced to 15-feet.

This scenario maintains the overall housing unit number identified under the Proposed Project but removes the Townhome product type. The proximity of Below Market Rate Senior Apartment units to retail and the nearby senior center is maintained. However, while Retail square footage is also maintained, the space dedicated to Retail support, such as internal loading dock and trash areas, has been reduced.

### *Physical Preclusion:*

- Decrease in total size of Below Market Rate Senior Apartment units at top floor due to slope line setback requirement along Stevens Creek Boulevard and portion of Mary Avenue.

### *Other Effects:*

- Retail floor-to-floor plate height reduced from 20-feet to 15-feet.
- Increased street presence of project along Stevens Creek Boulevard and Mary Avenue.
- Required parking ratios maintained, but increases both number of surface parking spaces and underground parking spaces due to loss of in-unit garages at Townhomes. Anticipated expansion of underground parking by approximately 35 spaces, or +/- 14,000 square feet, due to the expanded multi-family building footprints and loss of in-unit garage parking.

#### IV. Density Bonus Waiver Review – Summary

##### A. Physical Preclusion

As analyzed above, application of the City’s height and slope line setback standards has been shown to have the following effects on the physical viability of the proposed project as a whole. These effects include:

- Decrease of Below Market Rate Senior Apartment unit sizes;
- Loss of common residential and common landscape open space areas at ground level, thereby reducing the area below the amount required by HOCSP 1.01.040.C.2.A; and
- Loss of surface level parking.

Taking these effects into account, the proposed project would be physically precluded without height or slope setback line waivers (see Scenario One) because application of the City’s development standards reduces the project’s open space (a legally required part of the project); refer to *Table 1: Comparison of Scenarios* below. In order to retain the same housing product mix, unit size and retail square footage amount and conform to the City’s height and slope line setback standard requirements, the applicant would need to request a waiver of another City development standard (such as required open common space).

*Table 1: Comparison of Scenarios*

	<i>Proposed Project</i>	<i>Scenario 1: Project Without Height or Slope Setback Line Waivers<sup>1</sup></i>	<i>Scenario 2: Project at Base Density<sup>1, 3</sup></i>	<i>Scenario 3: Project at Base Density plus Density Bonus<sup>1</sup></i>
<i>Total Unit Counts</i>				
• Townhomes	• 70	• 70	• 0	• 0
• Rowhomes	• 18	• 18	• 18	• 18
• BMR Senior Apts.	• 48	• 48	• 48	• 48
• Market Rate Senior Apts.	• 131	• 131	• 101	• 131
• Market Rate Apts.	• Not Applicable	• Not Applicable	• 70	• 70
<i>Average Unit SF<sup>4</sup></i>				
• Townhomes	• 1,760 - 2,468	• Unchanged	• Not Applicable	• Not Applicable
• Rowhomes	• 1,698 - 2,028	• Unchanged	• Unchanged	• Unchanged
• BMR Senior Apts.	• 500 – 948	• Approx. 450 -900: Decrease	• Approx. 450 -900: Decrease	• Unchanged
• Market Rate Senior Apts.	• 340 - 1,200	• Unchanged	• Unchanged	• Unchanged
• Market Rate Apts.	• Not Applicable	• Not Applicable	• Approx. 2,000	• Approx. 2,000

	<i>Proposed Project</i>	<i>Scenario 1: Project Without Height or Slope Setback Line Waivers<sup>1</sup></i>	<i>Scenario 2: Project at Base Density<sup>1, 3</sup></i>	<i>Scenario 3: Project at Base Density plus Density Bonus<sup>1</sup></i>
<i>Senior Care Rooms</i>	27	Unchanged	Unchanged	Unchanged
<i>Average Senior Care Room SF<sup>4</sup></i>	282 - 306	Unchanged	Unchanged	Unchanged
<i>Retail SF<sup>4</sup> (Gross)</i>	20,000	Unchanged	Unchanged	Unchanged
<i>Landscape Area/ Open Space SF<sup>4</sup></i>				
<ul style="list-style-type: none"> <li>• <i>Common Open Space (Res.)</i></li> <li>• <i>Common Landscape (MU)</i></li> <li>• <i>Common Hardscape</i></li> <li>• <i>Private Open Space (Res.)</i> <ul style="list-style-type: none"> <li>○ <i>Market Rate Senior Apts.</i></li> <li>○ <i>BMR. Senior Apts.</i></li> <li>○ <i>Townhomes</i></li> <li>○ <i>Rowhouses</i></li> </ul> </li> <li>• <i>Common Retail</i></li> </ul>	<ul style="list-style-type: none"> <li>• 44,945</li> <li>• 34,150</li> <li>• 9,897</li> <li>• Varies <ul style="list-style-type: none"> <li>○ 60 - 132 per du</li> <li>○ 60 per du</li> <li>○ 104 - 125 per du</li> <li>○ 295 - 375 per du</li> </ul> </li> <li>• 2,400</li> </ul>	<ul style="list-style-type: none"> <li>• Approx. 21,000: Decrease</li> <li>• Unchanged</li> <li>• Unchanged</li> <li>• Varies <ul style="list-style-type: none"> <li>○ Unchanged</li> <li>○ Unchanged</li> <li>○ Unchanged</li> <li>○ Unchanged</li> </ul> </li> <li>• Unchanged</li> </ul>	<ul style="list-style-type: none"> <li>• Approx. 44,945: Increase<sup>3</sup></li> <li>• Unchanged</li> <li>• Unchanged</li> <li>• Varies <ul style="list-style-type: none"> <li>○ Unchanged</li> <li>○ Unchanged</li> <li>○ Not Applicable</li> <li>○ Unchanged</li> </ul> </li> <li>• Unchanged</li> </ul>	<ul style="list-style-type: none"> <li>• Unchanged</li> <li>• Unchanged</li> <li>• Unchanged</li> <li>• Varies <ul style="list-style-type: none"> <li>○ Unchanged</li> <li>○ Unchanged</li> <li>○ Not Applicable</li> <li>○ Unchanged</li> </ul> </li> <li>• Unchanged</li> </ul>
<i>Internal Roads/ Surface Parking SF<sup>4</sup></i>	81,000	Unchanged	Unchanged	Unchanged
<i>Parking Spaces</i>				
<ul style="list-style-type: none"> <li>• Above Ground</li> <li>• Below Ground</li> <li>• In-Unit Garage</li> </ul>	<ul style="list-style-type: none"> <li>• 96</li> <li>• 185 (1-level)</li> <li>• 176</li> </ul>	<ul style="list-style-type: none"> <li>• Approx. 83: Decrease</li> <li>• Approx. 198 (+/- 5,200 SF<sup>4</sup>): Increase<sup>2</sup></li> <li>• Unchanged</li> </ul>	<ul style="list-style-type: none"> <li>• Approx. 164: Increase<sup>2</sup></li> <li>• Approx. 62 (+/- 25,000 SF<sup>4</sup>): Decrease</li> <li>• Approx. 76: Decrease</li> </ul>	<ul style="list-style-type: none"> <li>• Approx. 158: Increase<sup>2</sup></li> <li>• Approx. 220 (+/- 14,000 SF<sup>4</sup>): Increase<sup>2</sup></li> <li>• Approx. 76: Decrease</li> </ul>
<p><i>Notes:</i></p> <p><sup>1</sup> While to scale, diagrams shown are conceptual in nature and therefore increase/decrease in scenario calculations are provided as approximations.</p> <p><sup>2</sup> Assumes additional underground area needed to maintain unit/retail space proximity to designated parking space(s) or accommodate loss of surface parking.</p> <p><sup>3</sup> Scenario shown without fifty-seven (57) density bonus units requested.</p> <p><sup>4</sup> SF = square footage</p>				

## B. Other Effects

For purposes of the Density Bonus Law, the primary focus of this review was on whether application of the development standards would physically preclude the construction of the proposed project, which includes 30 density bonus units. This

review also portrayed what a potential “base project” as well as a “base project” plus density bonus could look like. The review also identifies other factors potentially impacting the project. These effects include:

- Heightened street presence of project along Stevens Creek Boulevard and Mary Avenue;
- Change of product type mix;
- Loss of quality, common open space in project as a whole; and

### C. Adequacy of Density Bonus Waiver Justifications

This analysis of the Westport project’s density bonus waivers demonstrates that, even if the proposed project were redesigned to meet the height and slope line setback requirements, it would not satisfy the common open space requirements. As a result, at least one waiver would still be necessary to meet the City’s development standards. This analysis concerns only whether the project would be physically precluded without the requested waivers and does not discuss other project feasibility considerations.

As identified in *Table 1: Comparison of Scenarios*, requiring the project to meet the City’s height and slope line setback standards would physically preclude the development even if it were redesigned because the redesigned development would not meet the City’s open space standards required by the HOCSP. In reviewing the C2K Architecture Letters dated June 25, 2020, we concur with many of what we have noted as ‘other factor’ justifications provided by the applicant team; however the focus of this review is strictly on the physical preclusion aspects of the project. As was noted above regarding the physical preclusion of the project development, we would concur that strict adherence to the height and slope line setback standards would require reductions in required open space unless an additional waiver(s) were granted.

Very truly yours,

**RRM DESIGN GROUP**

Appendix A - List of Project Documents Reviewed

## **Appendix A – List of Project Documents Reviewed**

Westport project documentation reviewed as part of this review include the April 22, 2020 dated Berliner Cohen LLP Planning Commission Letter; June 4, 2020 dated Project Description – Attachment A and BMR Program – Attachment B; the June 24, 2020 dated Atria Senior Living Letter, and the June 25, 2020 dated C2K Architecture Density Bonus Waivers Request Letter and Summary of Revisions Letter.

Project plan set documents reviewed as part of this are dated June 4, 2020 and included Cover G200, Illustrative Site Plan G201, Project Summary G202A and G202B, Site Setbacks G203, Slope Setbacks G204, Site Area G206A, Open Space G206B, Common Open Space G206C, Neighborhood Site Plan G207, Proposed Materials G213, Truck Routes G300 and G301, Conceptual Landscape Plan L100, Planting Plan L200, Site Plan A001, Level B1 Plan A200, Level 1 Plan A201, Level 2 Plan A202, Level 3 to 5 Plan A203, Level 6 Plan A206, Roof Plan A207, Elevation Site A210, Sections Site A211, Elevations Building 1 A213 and A214, Elevations Building 2 A216, Sections Building 1 and 2 A217, and Elevation Sections A221 and A222.

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