

December 23, 2025

[Via Accela/Email to Applicant's Designated Representative]

Re: Vela; PRJ-1121764

Dear Applicant Team,

This communication is to supplement the comments provided by staff as part of its most recent review. Staff has completed review of the most recent submittal package, which was provided to the City on October 22, 2025. The project cannot be approved at this time.

The permitting process is iterative. The reviewers have issued sign-offs where the materials demonstrate compliance with applicable code and regulations. Where the plans lack necessary information or contain errors that need to be corrected in order to conform with the code, however, staff has provided comments regarding the corrections that are needed. Various issues remain unresolved due to noncompliance with building and land use law and regulations, including those that safeguard health and safety, as well as due to insufficient or conflicting information.

The matter of insufficient and conflicting information has also frustrated the City's ability to make a determination as to the applicant's requests for incentives and waivers under State Density Bonus Law (DBL). The project relies on an interpretation of DBL that, coupled with its proposed utilization of a previous version of a local land use regulation, is both expansive and novel. Whether this project is eligible to use DBL and to do so in the manner suggested requires the City to undertake a fact-specific analysis and an application of the facts to the law.

To date, staff has not had sufficient factual information to determine whether the request to use DBL as proposed is appropriate. For example, the height presented throughout the first several cycles was not stated in accordance with the applicable rules for calculation and measurement. Statements regarding floor area ratio (FAR) have been and remain inaccurate. In its third version of submittal materials, the applicant presented a new proposal for FAR bonus based on providing a childcare facility. Most problematic is that the plans still contain inconsistent information about which units will be used for residential versus commercial purposes. This is a critical issue to resolve because it does not only affect the incentives and waivers analysis. It is critical for basic project review.

For any project, staff needs to know the intended use of the proposed structure for at least two main purposes (1) to match the use with one of the State's established *occupancy* types and thus determine which California Building Standards Code (CBSC) regulations apply and (2) to match the use with one of the City's established *land use* classifications and thus determine which local land use and zoning regulations apply.

The plans have been and remain unclear and inconsistent as to intended use, which impedes staff's ability to perform the necessary analyses. City staff had tried, over several cycles of review, to obtain the necessary information. At this point, staff has to make determinations based on the best information it has available, which is as follows. The plans internally conflict as to occupancy.¹ As to land use, the plans assign the land use label "visitor accommodation" (a type of commercial use) to refer to 139 of the project's 214 units and use the label "dwelling unit" (a type of residential use) to refer to other 75 units. But the label the applicant uses does not establish the use as a matter of fact. It is the City's role to determine which of its code-designated uses match best with the use a project proposes. The City's definitions for each are as follows:

- A "visitor accommodations" use is one that "provide[s] lodging, or a combination of lodging, food, and entertainment, primarily to visitors and tourists." It is a subcategory of the "Commercial Services" use category, and
- A "dwelling unit" is a room or rooms "used, intended or designed to be used or occupied for living purposes...." It is a subcategory of the "Residential" use category.

The applicant has provided information that includes the following:

- The VA-designated units are of a size and configuration consistent with dwelling units generally and the dwelling units within the building;
- The applicant replied to a staff inquiry stating the physical and functional features that distinguish the VA-designated units from the dwelling units in this structure are (1) that the VA-designated units would have only shower stalls and no bathtubs, (2) they would have smaller appliances, and (3) the occupants would not be granted access to the roof deck amenity;
- The applicant expects the City to apply the development impact fee that applies to dwelling units to the VA-designated units; and
- The applicant has indicated the VA-designated units would be for long-term stays and that it would record a restriction on the property such that the operator would be prohibited from renting the VA-designated units for short-term stays.

Based on the information available, the units in the building are indistinguishable as to land use: they are all designed to function as residential dwelling units. This means that the project proposes 214 dwelling units. This number far exceeds the number that could be achievable through even the most lenient density calculations allowed by the law. While the City welcomes applications for new housing and offers substantial incentives to encourage housing development, the number of units must observe the generous maximums allowed by law. The applicant's own calculations show that

¹ The sections of the plans that designate occupancy for purposes of the CBSC contain inconsistencies, *e.g.*, (1) in one location stating that some of the units would be designed to R-1 standards (residential short-term occupancy) and others to R-2 standards (residential long-term occupancy), (2) elsewhere stating they would all be built to a non-existent joint "R-1/R-2" standard, (3) yet another section stating some would be residential and some non-residential, and (4) in responses to staff's comments, the applicant indicating all would be built to the R-1 standard.

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the base density would allow 32 dwelling units and the maximum number of units is 75 after applying various bonuses. Therefore, the application presents a project that contains significantly more units than are allowed under local and state law. The applicant may revise its project, either to show an allowable number of units or demonstrate how the non-residential units would in fact be used for visitors.

The requested incentives and waivers are for a project the applicant has characterized as containing 75 residential units and 139 commercial units. For the reasons described above, it is clear that the project instead contains 214 residential units. The current requests for incentives and waivers do not align with the actual project. Upon submitting a revised project, if the applicant would like to request incentives or waivers to support that project, the City will consider them.

The City's determination is reasonable under the circumstances. The applicant's strategy is to call the units commercial for some purposes and residential for other purposes, but the City needs clarity in order to perform its duties. The applicant has stated that these units in question will provide housing, and is quoted as having stated the project would provide an opportunity for "San Diegans...to live [in Pacific Beach]" and specifically that, "this is not a hotel." But for purposes of using DBL, including to increase the height of the structure from 30 to approximately 269 feet, it states the units are for visitors. In its next resubmittal, the applicant needs to choose which is accurate and reflect that decision on the plans, so that staff can proceed with the review accordingly.

Please note another outstanding item. Several of the project issues have not been resolved because the applicant has not prepared the project to comply with applicable building code methods and materials, and the applicant instead relies on assumptions that the Chief Building Official (CBO) will grant exceptions to the CBSC for this project. The applicant has submitted several such requests for the CBO to approve methods and materials that do not comply with the building code, known as AMMRs. Another reason the City needs the next resubmittal to be clear as to the intended occupancy for each portion of the building is so that the CBO can make determinations on the AMMRs. The applicant also has the option to draft the plans to comply with the CBSC and not seek AMMRs.

Please refer to the most recent cycle issues reports from the various reviewing disciplines (which were provided under separate cover by each discipline, on a rolling basis as they were completed, between October 28, 2025, and this week). Those documents contain comments on other issues that are outstanding and need correction or additional information.

Regards,



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