

Willow 68 Investments, LLC

Willow Lane Homes, a State Density Bonus Residential Project

Justification and Description

A. Introduction

Willow 68 Investments, LLC (the “Owner”) and William D. Jager (the “Agent”) propose the 14201-14205 “Willow Lane Homes” project (the “Project”) consisting of 28 for-sale residential dwelling units and nine accessory dwelling units (“ADUs”) with six detached garages on a site formerly developed with a day-care pre-school. The 1.69 net acre/1.72 gross acre site is located at 14201-14205 Willow Lane in the City of Westminster, CA (the “City”) with corresponding Assessor’s Parcel Numbers (“APNs”) 195-256-12, 195-264-01, 195-264-02, 195-264-03, and 195-264-04 (the “Property”).

The Property currently is developed with three separate buildings totaling approximately 4,670 square feet in area and constructed from 1959 to 1968. The pre-school was operated continuously from 1973 to late 2024 when the site was sold to the current owner.

The Property is irregularly shaped with a panhandle at its most westerly edge. Street frontage occurs at the Property’s easterly edge along Willow Lane and the northerly edge along Mahogany Avenue. Residential uses surround the Property along all edges except for its northwesterly edge which abuts the Interstate 405 freeway. Adjacent properties to the north, west and south are zoned R-1. Property to the east is zoned R-3.

The Property is designated in the Land Use Element of the General Plan as Residential Low Density (“RLD”) and is zoned R-1. In the RLD land use designation, the maximum density is eight dwelling units/acre (see General Plan Land Use Element Table 2-2 on page 2-24). In the R-1 zone, the maximum density is stated as seven dwelling units/acre. See Westminster Municipal Code (“WMC”) § 17.210.005(A).

The Project is proposed with the following objectives:

- To provide an economically beneficial use of the Property.
- To provide a 28-unit attached and detached single-family housing development with nine ADUs, a portion of which targets “very low income” and “moderate income” residents.
- To assist the City in meeting its Regional Housing Needs Allocation (“RHNA”) of providing for 9,759 new residential units.
- To provide the City and community with the benefits that derive from revitalizing aging, underused and deteriorated land into worthwhile long-term productive use, including the benefit of a substantially increased property tax revenue stream.
- Consolidation of small lots into bigger developable parcels to create new opportunities for a financially viable development and that supports the City’s desired land use mix.

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- To use the State and City’s density bonus objectives and law to meet local housing needs in numbers that would otherwise not be economically feasible.
- Maximize development on an identified “Underutilized Residential Site” within the City’s Housing Element.

B. The Project Will Assist the City of Westminster in Meeting its RHNA

California is experiencing an unprecedented, severe, and well-documented housing shortage, which is causing social and economic dislocation, homelessness, and significant adverse environmental impacts. The RHNA process is part of the State of California’s general planning process aimed at ensuring that every jurisdiction in California plays its part in meeting the housing needs of the State’s population. The RHNA process identifies the City’s future housing needs resulting from projected growth in population, employment, and households.

State law requires the update of General Plan Housing Elements every eight years. To this end, on May 22, 2023, the California Department of Housing and Community Development (“HCD”) certified the City’s 2021-2029 Housing Element.

Under the current 2021-2029 planning period, approximately 1,341,827 new residential units are forecast to be needed in the Southern California Association of Governments Region. From this total, the City has been allocated a total number of 9,759 new units.¹ The City has a State law obligation to plan to meet these needs. As of April 6, 2025, the City has only permitted 4.1 percent of its current RHNA obligation.²

The Project will assist the City in meeting its housing obligations by providing 28 residential units and nine ADUs in an area described in the Housing Element to meet the City’s RHNA allocation and on an “underutilized residential site,” including three dwelling units in the very low income category and two units in the moderate-income category. The City’s Housing Element anticipates that redevelopments of “underutilized residential sites” ... “are not anticipated to accommodate any portion of the City’s lower-income RHNA” and as such the development of this site with very low and moderate income units will be a gain to the City above and beyond that which was anticipated in the Housing Element.³ As such, with approval of the Project as proposed, the City would be able to accomplish its RHNA goals and not only result in “no net loss,” but instead a net gain.

C. The Project Will Assist the City of Westminster in Meeting Affordable Housing Needs and is Eligible for a Density Bonus under State Density Bonus Law

The Project is designed to provide affordability to “very low income” and “moderate income” residents by providing three and two rent-restricted new housing units to each income category respectively. These units would qualify for the City’s very low income and moderate income RHNA. The three very low income units reflect sixteen percent of the base density allowed for the 1.7163 gross acre site at eight du/acre or three dwelling units. For moderate income, fourteen percent of the base

¹ Housing Element, Page 9BR-26.

² HCD Housing Element Implementation and APR Data Dashboard accessed April 06, 2025, <https://www.hcd.ca.gov/planning-and-community-development/housing-open-data-tools/housing-element-implementation-and-apr-dashboard>.

³ See Housing Element, page 9BR-144.

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density allowed for the 1.7163 gross acre site at eight du/acre results in two moderate income dwelling units. For calculations, $1.7163 \text{ gross acres} \times \text{eight dwelling units per acre} = 13.73 \text{ du}$ $\times 16 \text{ percent} = 2.1968$ dwelling units rounded up to three very low affordable units and $1.7163 \text{ gross acres} \times \text{eight dwelling units per acre} = 13.73 \text{ du}$ $\times 14 \text{ percent} = 1.9222$ dwelling units rounded up to two moderate affordable units.

The Project's density is based on State Density Bonus Law which provides that "maximum allowable residential density" or "base density" means "the maximum number of units allowed under the zoning ordinance, specific plan, or land use element of the general plan, or, if a range of density is permitted, means the maximum number of units allowed by the specific zoning range, specific plan, or land use element of the general plan applicable to the project. *If the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan or specific plan, the greater shall prevail.*" (Gov. Code Section 65915(o)(6)).

State Density Bonus Law defines a "density bonus" as an increase over the City's "otherwise maximum allowable gross residential density" as of the date of the application. (Gov. Code Section 65915(f)). Consistent with an HCD Letter of Technical Assistance issued to the City of Agoura Hills on July 26, 2023⁴ and the State Density Bonus Law, the Project calculates the base density for the Project using gross acreage, including all area owned in fee.⁵

The Housing Element Program 12 (Affordable Housing Construction) has an objective to "Continue to administer and market the Density Bonus program that allows developers the opportunity to exceed the maximum district density when a percentage of the units are reserved for lower income households."⁶ State Density Bonus Law (Government Code Section 65915(f)(2)) states that a housing development is eligible for up to a 50 percent density bonus if fifteen percent of the base units allowed under the zoning are reserved for very low income households. Furthermore, with 15% provided to very low income households, section 65915(v)(1) & (2) states housing development is eligible for up to an additional 46.25 percent density bonus if fourteen percent of the base units allowed under the zoning are reserved for moderate income households. Such density bonus housing developments are also eligible for incentives and concessions, waivers and reduced parking standards. The Project is seeking relief from the WMC consistent with State Density Bonus Law as further described below.

The Applicant reserves the right to either modify or request additional concessions/incentives or waivers during the entitlement review process.

⁴ Available at: <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/agoura-hills-hau220-ta-07262023.pdf>. In this Letter of Technical Assistance, HCD confirms that it is appropriate to include "any portion of the property that is owned in fee," such as the area of City right-of-way, in density calculations.

⁵ This is also consistent with the April 8, 2025 HCD *Letter of Technical Assistance to the City of El Segundo* that clearly looks at gross lot area for calculation of density for State Density Bonus Law cases, such as the Project.

⁶ Housing Element, p. 9HP-19.

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D. Project Description

The Project consists of a 28-unit for sale residential housing development with 9 additional attached ADUs permitted by right in the R-1 zone in conjunction with CA State Density Bonus Law. In order to qualify for a density bonus, incentives/concessions and waivers from development standards under State Density Bonus Law, occupancy of three of the units at very-low income households and two of the units at moderate income will be restricted in accordance with California Health and Safety Code Sections 50079.5 and 50093.

Access to the Project will be provided by means of a double-loaded drive-aisle directly off Mahogany Ave at the north end of the site then running south along the westerly boundary, then turning east through to Willow Lane. The drive-aisle is engineered to allow for maximum maneuverability on-site for the residents as well as trash, delivery and fire vehicles.

The Project will consist of 24 two-story single family detached units on fee simple lots, nine of which will include an attached two-story ADU. An additional four units will be attached in two duplex two-story buildings on fee simple lots. All 3-story units will have an approximate height of 34' which is within the maximum 35' allowed (no overall height waiver is needed).

Parking would consist of a two-car attached enclosed garage for each three-bedroom unit and a single car attached enclosed garage for each two-bedroom unit. In addition to the attached garages in each unit, the Project is providing an additional six detached garages that will be for the benefit of six of the residential units that include an ADU. Two of the detached garages will have a sizeable enclosed and covered storage area located between the two driveway aprons. The detached garages shall be subdivided as condominiums that are permanently linked by deed to six of the nine properties that include an ADU. (i.e., the garages cannot be sold separately to any unit that does not have an ADU). In addition to the above, there are three guest parking spaces located just west of the easterly entrance of the drive-aisle off Willow Lane.

WMC parking requirements are superseded by State Density Bonus Law Government Code Section 65915(p). A total of 60 parking spaces are provided in the Project (51 covered attached, six covered detached and three open guest). Total parking required under State Density Bonus Law is 1.5 spaces per unit or 42 parking spaces. As such, the 60 parking spaces provided for exceeds by approximately 42.8% (18 spaces) the minimum parking requirement under the State Density Bonus Law.

The buildings will occupy approximately 38.0% of the Project site. Driveway and parking areas occupy approximately 30.0% of the site. The remaining area of the community is composed of common open space, private open space and other landscaped areas which collectively occupies approximately 32.0% of the site.

The residences in the Project will be offered in a variety of two and three bedroom configurations to meet the varied needs of differing households and will range in size from approximately 1,050 sq.ft. for the 2 bdrm/2 bath units to approximately 2,142 sq.ft. for the 3 bdrm/2.5 bath units.

Eight of the nine ADUs are attached to the primary unit via an overhead roof and wall structure providing shade and protection from the elements. One of the ADU's is immediately attached to the

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main unit. Each ADU is designed such that they are accessible via a private entrance separate from the primary unit. These entrances are provided at the rear of the lot in most cases and onto a sidewalk which accesses both the private driveway and the public street without the need of a common shared entrance. This provides for maximum privacy and separate living from that of the primary unit. Each of the six detached garage units located at the northwesterly edge of the site shall be provided to a residential dwelling unit with an ADU to allow for additional parking and storage. Only one detached garage unit can be associated with a residential property with an ADU, and cannot be sold separately except to one of the three dwelling units with an ADU that do not have a garage already associated with it (i.e., there are nine ADUs and six detached garages).

Access to each primary unit can occur via either a private walkway to the drive-aisle or the public sidewalk where a home is adjacent to the public street.

Trash, recyclables and organic waste are dealt with via individual containers for each unit and located in the garages of each primary unit and on the side yards of the ADU units. Trash pickup trucks will access the site via the drive-aisle and along Willow Lane.

The Project would comply with the development standards of the WMC for the R-1 zone with the exception of:

Minimum lot size reduction; building stories greater than two; front, rear, and side yard setback reductions, fence height increase within a setback, attached duplex units, reduction in minimum size for two-bedroom units, reduction in front and rear setbacks for the detached garage buildings and reduction in required number of enclosed garages per unit. The Applicant seeks relief from these development standards through State Density Bonus Law incentives/concessions and waivers as discussed in Section F below.

E. HOA and CC&R's

The Project consists of a combination of fee simple lot areas (lots 1-28), lot 29 which is a six unit detached garage condominium lot, lot B which is the private drive aisle and lot A which is the common park area located adjacent to Willow Lane. All areas of the Project are intended to be governed by CC&Rs and managed by a HOA. In general, the HOA is tasked with maintaining the areas that are not for the exclusive use of a fee simple lot. This would include, but not necessarily be limited to, driveway/drive-isle maintenance, maintenance of the common area open space and landscape areas in the front yards of the units and along the public streets between the curb face and the property line (the parkway). The CC&R's will govern such items as access through one lot to another allowing for a homeowner to maintain his home and ADU. The CC&R's shall also set standards under which a home is maintained, on-site parking is regulated, and restrictions on the use of garages for parking purposes only. The intent is that the HOA will allow for maintenance and stability of the Project and its environs for the long-term.

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F. Requested Entitlements

To enable the Project's development, the Applicant is requesting site plan approval as required with waivers and/or concessions to development standards under the State Density Bonus law and the Housing Accountability Act. As infill development in an urbanized area, the Project is not expected to cause any unmitigated environmental impacts.

As discussed earlier, because the Project provides sixteen percent of its base maximum units for very low income households and fourteen percent for moderate income households, the Project qualifies for a density bonus in accordance with Government Code Section 65915(b) and (v) and is eligible for four incentives per Government Code Section 65915(d)(2)(F) and an unlimited number of waivers of development standards per Government Code Section 65915(e).⁷

A concession is defined to include, among other things, "reduction in site development standards or a modification of zoning code requirements or architectural design requirements," including a reduction in setbacks and square footage requirements, and "[o]ther regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs."⁸ The City may not deny an incentive unless the incentive would have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.⁹ Government Code Section 65589.5(d)(2) states that a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. The following shall not constitute a specific, adverse impact upon the public health or safety: (A) Inconsistency with the zoning ordinance or general plan land use designation. (B) The eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code." The Applicant reserves the right to request incentives prior to the time that the Project application is deemed complete.

In addition to a limited number of concessions/incentives, State Density Bonus Law specifies that a project is entitled to a waiver from "any development standard that will have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by this section."¹⁰ Waivers are separate from and additional to concessions/incentives, are unlimited, and approval is mandatory if the standard would preclude development of the Project at its permitted density and/or with its incentives or concessions incorporated. These concessions and waivers are necessary; without them there would be a reduction in the Project's residential density, resulting in a loss of units that would "physically preclude" the Project from being built at its proposed and permitted density. Similar to an incentive, a waiver cannot be denied unless there is a specific, adverse significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards for which there is no way to mitigate.

⁷ Govt. Code Section 65915(e).

⁸ Govt. Code Section 65915(k).

⁹ Govt. Code Section 65915(d)(1).

¹⁰ Govt. Code Section 65915(e)(1)

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In *Bankers Hill 150 v. City of San Diego*, the Court concluded that the law provides a developer with broad discretion to design its project even if doing so would conflict with local development standards.¹¹ With respect to the requested incentives, “[t]he applicant is not required to prove the requested incentives will lead to cost reductions; the incentive is presumed to result in cost reductions and the city bears the burden to demonstrate otherwise if it intends to deny the incentive. (*Schreiber, supra* , 69 Cal.App.5th at p. 555, 284 Cal.Rptr.3d 587.)”¹² In *Schreiber v. City of Los Angeles*, 69 Cal. App. 5th 549 (2021), the court held that State Density Bonus Law places the burden of proof for denying requested incentives on the local government.¹³ Specifically, the law allows – but does not require – local governments to deny requested incentives "upon making a written finding, based on substantial evidence," that "[t]he concession or incentive does not result in identifiable and actual cost reductions[.]”¹⁴

In *Schreiber*, that court determined, that the City of Los Angeles Planning Commission was not required to undertake such an analysis prior to granting the requested incentive. As the court explained, "[b]y requiring the city to grant incentives unless it makes particular findings, the statute places the burden of proof on the city to overcome the presumption that incentives will result in cost reductions."¹⁵ Thus, incentives are presumed to result in cost reductions, and local governments may either accept this presumption and grant the incentives or overcome this presumption with a showing of substantial evidence to the contrary.¹⁶ A developer is not required to demonstrate on the front end that any requested incentive will result in actual cost reductions.¹⁷ A city merely stating that a requested incentive does not result in cost reductions is insufficient under *Schrieber*, as the requested incentive is presumptively valid unless a city overcomes it with a showing of substantial evidence to the contrary.

The Applicant has thus far identified requests pursuant to Government Code Section 65915(d) and (e) for concessions and waivers as follows:

1. A concession/incentive for relief from WMC § 17.210.005(A) and § 17.210.010(A) Table 2-2 which does not allow for attached units in an R-1 zone.
2. A concession/incentive to allow for relief from WMC § 17.210.010 to allow for the development of a detached condominium garages in the R-1 zone.
3. A concession/incentive for relief from the requirement of WMC § 17.210.015 Table 2-3 to provide a minimum lot size of either 6,000 sq. ft. or 6,500 sq. ft. as the case may be.
4. A waiver of WMC § 17.210.015 Table 2-3 to allow for a reduction of the required 1,225 sq. ft. minimum floor area for a two-bedroom unit to 1,050 sq. ft..

¹¹ *Bankers Hill 150 v. City of San Diego*, 74 Cal.App.5th 755, 774-75 (2022).

¹² *Bankers Hill 150 v. City of San Diego*, 74 Cal.App.5th 755, 770 (2022).

¹³ Gov. Code § 65915, subd. (d)(4) ([t]he city ... shall bear the burden of proof for the denial of a requested concession or incentive.").

¹⁴ Gov. Code § 65915, subd. (d)(1)(A).

¹⁵ *Schreiber*, 69 Cal. App. 5th at 556.

¹⁶ *Schreiber*, 69 Cal. App. 5th at 556. A local government's other options to deny an incentive are to find on the basis of substantial evidence that the incentive would be contrary to state or federal law, or would have a specific, adverse and unavoidable impact on public health, safety or on a listed historic property. Gov. Code § 65589.5(d)(1).

¹⁷ *Schreiber*, 69 Cal. App. 5th at 556.

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5. A waiver of WMC § 17.210.015 Table 2-3 to allow for a reduction of the required front yard setback for the residential lots to 1' 6".
6. A waiver of WMC § 17.210.015 Table 2-3 to allow for a reduction of the required side yard setback for the residential lots to 4' 0".
7. A waiver of WMC § 17.210.015 Table 2-3 to allow for a reduction of the required rear yard setback for the residential lots to 6'-6".
8. A waiver of WMC § 17.210.015 Table 2-3 to allow for a reduction of the required front yard setback for the detached condominium garage lot to 3'-8".
9. A waiver of WMC § 17.210.015 Table 2-3 to allow for a reduction of the required rear yard setback for the detached condominium garage lot to 0'.
10. A waiver for relief from WMC § 17.210.015 Table 2-3 which requires a maximum of two stories.
11. A waiver of WMC § 17.400.120(9) to allow for a reduction of the required two car enclosed garage in a single-family unit to a single car garage.

The above-described concessions are necessary to reduce the cost of providing for affordable housing. As emphasized by the recent enactment of SB 92 where our legislature for the first time precluded the use of an incentive for a proposed housing development project that would result in a commercial floor area greater than 2.5 times the premises' current allowed base zone commercial floor area,¹⁸ the legislature made clear that reducing the cost of affordable housing can include incentives for elements of a project having little to do with affordable housing, other than resulting in the lowering of costs or subsidizing the provision of affordable housing. For example, it could hardly be said that increasing commercial floor area, even if limited to 2.5 times that which is otherwise permitted, has any relationship with the provision of affordable housing other than the mere fact that the increase in commercial floor area helps reduce the cost of providing affordable housing. Similarly, not allowing for detached garages for the ADUs would decrease the value of the residences that include ADUs and would therefore increase the subsidy required of the developer to provide the affordable housing. Furthermore, not allowing attached residential units and detached garages would negate the ability to develop the Project at the density proposed and increase the fixed costs to the Project (by the reduction in density that is allowed under density bonus law if it were not otherwise provided). As such, a concession for relief from requiring detached units and detached garages would substantially decrease the cost of providing affordable housing. This reduction in cost is in accord with *Bankers Hill* and *Schrieber*, discussed earlier.

A concession to allow the minimum lot size to be reduced is also necessary. The Density Bonus law, after factoring in the density bonus allowed in return for providing an affordable component, allows this site to achieve over 16 du/acre. It is mathematically impossible to achieve this allowed density and conform to the minimum lot sizes in the R1 zone. If the minimum lot size were to be enforced, it would be impossible to provide the number of affordable units, thereby eliminating the ability to provide for the housing as proposed. The increase in density allows for more revenue to

¹⁸ SB 92, Government Code Section 65915(1)(1)(A) going into effect January 1, 2026.

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be derived from the additional market rate units which again decreases the subsidy required for the affordable units, of which the cost to develop is above that which can be charged under California Health and Safety Code Sections 50079.5 and 50093.

The Project also requests the aforementioned waivers of development standards, such as the front-yard setback limits and minimum unit size requirements. Without relief from these development standards, these items would have the effect of physically precluding the construction of the Project at the density permitted in the R-1 zone and proposed for the Project. Without relief from the front yard, side yard and rear yard setbacks, significant portions of the residences would need to be removed. This would result in a significant reduction of not only the number of dwelling units but dwelling unit area along the front, side and rear of each residence. Without the waivers, there would be physical preclusion of the Project as proposed. Without the waiver for minimum dwelling unit size, fewer dwelling units would fit within the Property area. Therefore, larger dwelling units would cause a reduction in the number of dwelling units. As such, a waiver is necessary since without it, there would be physical preclusion of the dwelling units. A waiver to allow for the homes to be three story rather than be limited to two stories is also necessary. Again, with the increase in density allowed, it becomes physically impossible to provide for the proposed residential unit sizes without allowing for a third floor. In order to provide for the number of units with the bedrooms and sizes proposed, if the two-story requirement were imposed, it would physically preclude one living area level of dwelling units. As such, allowing for a third story would avoid physical preclusion of those dwelling units.

The requested concessions and waivers will not have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Government Code Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nor will the requested waivers have an adverse impact on any real property that is listed in the California Register of Historical Resources or be contrary to state or federal law.

The Project and its Applicant reserve the right to modify the application and Project to include further benefits allowed under the State Density Bonus Law subsequent to City review and approval.