



MARINA COAST WATER DISTRICT

11 RESERVATION ROAD, MARINA, CA 93933-2099

Home Page: www.mcwd.org

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January 16, 2013

Mr. Andy Leif
South County Housing
7455 Carmel Street
Gilroy, CA 95020

Subject: University Village Apartments Project - Variance Request Regarding Payment
Timing of Connection Costs

Dear Mr. Leif,

Marina Coast Water District (MCWD, District) received your Variance Request Form on January 11, 2013. The Variance Request is for the University Villages Apartments project that proposes a 108-unit affordable housing apartment development located between the currently undeveloped 9th and 10th Streets immediately west of 2nd Avenue in Marina, CA.

The Variance Request asks for relief from the requirements of several MCWD Water Code sections related to the payment of fees and costs, specifically sections:

- 1) 3.08.060 Extension of service. Subsections *A. General.* and *B. Capacity charge*
- 2) 5.16.010 Permit required.
- 3) 6.08.090 Capacity charge for new or modified potable and recycled water service connections. Subsection *D.*
- 4) 6.12.040 Capacity charge for new or modified sewer service connection. Subsection *C.*

Rather than following the standard procedure of paying all costs-to-connect prior to service being rendered, you are proposing that a variance be granted that allows the project to pay for the cost-to-connect to MCWD's publicly-owned potable water and sanitary sewer systems with two payments. The Variance Request specifically proposes to pay 20-percent of the cost-to-connect at the time the majority of the potable water meters are installed (the normal time point during a project that the cost-to-connect would be paid), which you project will be in November 2013, and pay the remaining 80-percent by the date-certain of January 15, 2015. Additional details associated with this Variance Request are found within your Request Form (attached for reference) and may be included in the District Board's final decisions on the disposition of this Request.

Based on the information within the Request Form, the District staffs' determination is that there is enough clear and convincing evidence that the findings required by the Water Code to grant a variance can be made in the affirmative. Specifically, it can be shown that:

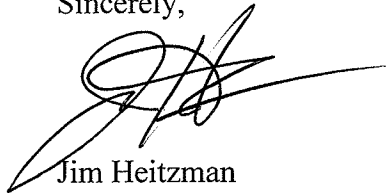
- the strict application of the code would result in financial hardship to South County Housing, due to the need to borrow the funds to pay the costs-to-connect under the typical schedule, incurring about \$48,000 in interest; and,
- granting the variance will not cause a significant adverse effect on the water supply or on service to other persons served by the District; and,
- the variance is in the best interest of the District.

Because of your Variance Request's ability to make the three findings affirmatively, District staff will be recommending to the MCWD Board that this Variance Request be granted.

The next regularly scheduled MCWD Board of Directors meeting is on February 12, 2013. District staff proposes that this Variance Request be brought to the Board at that time so that they can make a final determination regarding your request.

Please do not hesitate to contact Mr. Brian True (831-883-5937) of the Engineering Department staff or me (831-883-5925) to let us know if you will be attending the Board Meeting on February 12 and if you have any questions regarding this matter.

Sincerely,



Jim Heitzman
General Manager

Enc: Variance Request Form

Cc: Andy Sterbenz, Brian True – MCWD



Variance Request Form for Marina Coast Water District

Assigned _____
Reviewed _____
Granted / Denied _____
Account No. _____

PART A – APPLICANT INFORMATION

Requested Variance (include District Code Section) 3.08.060(A)(8); 5.16.010; 6.08.090; 6.12.040

Date of Submittal of Variance Request 1/11/2013

Has applicant applied for the same or similar variance previously? ☐ YES ☒ NO ☐ UNKNOWN

If YES, to above, please provide details _____

Request:

Name of Applicant (Contact) Andy Lief, Southcoast Housing

Applicant Relationship to Owner Managing general partner

Billing Name (if different from above) University Village Associates (owner)

Street/Mailing Address for Variance 7455 Carmel St City Gilroy State CA Zip 95020

Street/Mailing Address for Billing (if different) same City _____ State _____ Zip _____

Daytime Phone Number 408-843-9275 Fax Number 408-842-0277

PART B – BASIS OF VARIANCE REQUEST

1. The strict application of the code would result in unfair or unequal treatment, undue hardship, or an emergency condition exists which requires that the variance be granted; and,
2. Granting the variance will not cause a significant adverse effect on the water supply or on service to other persons served by the district; and,
3. The variance is in the best interests of the district.

This variance request may only be based on the above conditions. Please briefly describe the basis of your request and provide documentation of need in Part C. If further space is required in the completion of this form, provide a note of such and attach supporting documentation with application.

See attached sheet

MCWD Variance Request, 1/11/13

University Village Apartments South County Housing

South County Housing (SCH), as managing general partner of University Village Associates (owner), requests a deferral on payment of fees owed to the Marina Coast Water District related to costs to connect the 108 new apartments and common meters (landscape, etc). Specifically, SCH proposes to pay 20% of all connection/capacity charges by the time SCH requests meters with the balance of fees to be paid by January 15, 2015. The basis of this request is as follows:

(1) SCH must borrow all funds to pay MCWD fees from the construction lender, JP Morgan Chase. Based on a 4% interest rate, paying the fee "up front" will cost the project approximately \$48,000 over the 18 month period that would cover the time between the meter request (and normal time for payment of the bulk of the fees) and repayment of the construction loan by the project equity investor/limited partner (January 2015).

The University Village Apartments are providing 1 – 3 bedroom apartment units restricted by the State to be affordable to individuals and/or families with incomes between 30% - 50% of the area median income. We have recently bid out the construction trades and costs are much higher than anticipated. Construction costs, and therefore the overall project budget, are now fixed at these higher than expected levels but there is no way to generate additional revenue (or increase the mortgage) by raising rents. Therefore, saving construction loan interest by deferring fees is one of the very few methods to reduce costs. The City of Marina Council approved a deferral of impact fees at their 12/18/12 council meeting. Because of the nature of FORA's establishment as a Community Facilities District, they are unable to defer fees without holding a voter referendum so this does not appear feasible.

(2) Granting this variance should not affect the MCWD water supply or service to existing residents.

(3) The financial viability of the University Village Apartments is currently in jeopardy. Based on the current development budget (construction costs, loan interest, architecture, permits, etc) SCH currently needs to contribute \$375,000 of its own cash resources in order for the project to proceed. It is critical for SCH to somehow reduce costs. If the project does not move forward, MCWD will lose 108 new rate payers as well as receipt of the capacity charges. Therefore, it is in the best interests of MCWD to help South County Housing move the project forward.

PART C – EVIDENCE TO SUPPORT VARIANCE

Provide documentation to support you request. Documentation should concisely prove the need for a variance. Please list documents below and attach copies with your application. Original records will not be returned.

N/A

PART D – REQUESTED ACTION

What specific action are you requesting that the Board take?

SCH requests a variance to MCHD code sections 3.08.060(A) & (B); 3.16.010; 6.08.090; and 6.12.040. SCH proposes to pay 20% of costs to connect water and sewer at time of meter sets with the balance due at January 15, 2015 which is point in time by which tax credit equity is available to repay

☒ I understand that the application for a variance does not guarantee a variance will be granted. ^{the} construction lender.

☒ I have contacted the owner and he has given his permission to process this application, or I am the property owner.

Applicant: South County Housing Corp

Applicant's Name: Andy Lief, Director of Housing Development

Applicant's Signature: Andy Lief Date: 1/1/13