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December 2, 2025

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VIA E-MAIL

David Blumenthal
Contract Planner
City of Laguna Hills
24035 El Toro Road
Laguna Hills, CA 92653

Re: 23161 Mill Creek Drive Density Bonus Law Request Letter

Dear Mr. Blumenthal:

Buchalter, a Professional Corporation, represents Toll Bros. Inc. (“Toll Brothers”) with respect to its entitlement process for the proposed development of 36 townhomes or duplex units, roadways, and associated infrastructure (the “Mill Creek Project” or “Project”) on the property located at 23161 Mill Creek Drive in the City of Laguna Hills (the “City”). The Property is approximately 2.43 gross acres in size and is identified as APN 588-142-07.

On December 18, 2024, Toll Brothers filed a preliminary application for the Project in accordance with Senate Bill 330 (“SB 330”), otherwise known as the Housing Crisis Act. On April 2, 2025, Toll Brothers filed its formal development project application. The City reviewed Toll Brothers formal development project and provided comments on May 1, 2025. Toll Brothers filed a revised application on May 9, 2025. Although the City deemed the formal application complete on June 27, 2025, the City provided additional comments regarding the application. In response to those comments, Toll Brothers further revised the Project, which necessarily required revisions to the requested Density Bonus Law (“DBL”) waivers. The purpose of this letter is to outline the Project’s eligibility for the benefits of the DBL, as well as to summarize the requested revised waivers and concession from development standards that would otherwise physically preclude development of the Project.

The Project

The Project consists of the demolition of the existing three-story office building and surface parking lot on the Property and the redevelopment of the Property with 36 duplexes (i.e., 36 two-story single-family townhome units), six driveway parking stalls, and 18 guest parking spaces at a density of approximately 14.8 units per acre. Two units will be deed-restricted as

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affordable for very low-income households which amounts to 5.5% of the total Project units. Because more than 5% of the units will be set aside for very low-income households, the Project will qualify for the State Density Bonus Law. (Gov. Code, § 65915(b)(1)(B).) To that end, Toll Brothers will seek waivers of the development standards identified below, in addition to a concession granted pursuant to the Density Bonus Law.

Density Bonus Law

The State Density Bonus Law (Government Code section 65915 *et seq.*) allows projects that provide a specified number of units as affordable for lower-income households to obtain a density bonus, if elected, and to request waivers of development standards and other incentives or concessions. The Density Bonus Law requires a local agency to waive development standards that would physically preclude development of the project at the density provided under the law, if requested by an applicant. (Gov. Code, § 65915(e)(1).) With respect to very low-income units, the Density Bonus Law requires a project to provide at least 5% of the total units as affordable to very low-income households to qualify for the benefits of the Density Bonus Law. (Gov. Code, § 65915(b)(1)(B).) Consequently, by providing the two units as affordable for very low-income households, the Project qualifies for the benefits of the Density Bonus Law.

At 14.8 units per acre, the Project is consistent with the applicable density limit of 20 units per acre. Although Toll Brothers is not seeking a density bonus to increase the density, it is seeking the following waivers of development and design standards¹ that would otherwise physically preclude development of the Project at the proposed density:

- **Setbacks.** The Project requires reductions in the rear setback requirement. Without this reduction, Toll Brothers cannot physically fit the 36 townhome units on the Property. Additional acreage is necessary to maximize the number of residential units and to be able to compensate for the loss of acreage associated with the setbacks in order to provide the affordable housing units. Therefore, unless otherwise reduced, the rear 15-foot setback would physically preclude development of the Project. Consequently, Toll Brothers requests a rear setback reduction to 8.5 feet.
- **Building Separation.** The Project requires a reduction in the minimum building separation standard from 10 feet to 6.5 feet. Compliance with this standard will reduce the buildable area on the Property, thereby reducing the overall Project density and the ability to provide the affordable units. Thus, compliance with this standard physically precludes development of the Project at 14.8 units per acre. Consequently, Toll Brothers requests a reduction in the 10-foot building

¹ Unless otherwise indicated, the following development standards are required under Table 9-30.040 of the Laguna Hills Municipal Code (“L.H.M.C.”).

separation requirement to 6.5 feet.

- **Private Open Space.** The L.H.M.C. requires development in the *MXU* to preserve at least 10% of the project site as private open space. The small parcel is constrained by steep slopes along its northern and southern boundaries, as well as along Mill Creek Drive, limiting the buildable area on the Property. Compliance with this standard would require dedicating land for open space where either housing, infrastructure, or parking is planned. Consequently, compliance with this standard would reduce the overall density of the Project and would physically preclude development of the Project. Therefore, Toll Brothers requests a waiver to allow a 9% private open space requirement that meets this 8-foot-by-8-foot requirement.
- **Pedestrian Connections.** Section 2.2.2 of the ODS requires primary entrances in buildings to be connected to a public sideway or pathway at least 4 feet wide (for entrances serving one-to-two units). Toll Brothers intends to comply with this standard, where feasible. However, where compliance is infeasible, it requests a waiver of this standard to allow three-foot wide pathways for entrances serving units where compliance is infeasible. Compliance with this standard will reduce the developable area for the townhome units. Thus, this standard physically precludes development of the Project at the proposed density. Toll Brothers requests a waiver of this standard.
- **Pedestrian Pathway Amenities.** Section 2.8 requires the inclusion of two amenities that include trellises and/or benches on pedestrian paths longer than 200 feet. The only pedestrian pathways in the Project are located along the building frontages and directly adjacent to the private streets. Inclusion of these amenities would require encroaching into the dwelling unit footprint and each unit's driveway, which would require a redesign of the Project and the elimination of numerous units. Therefore, compliance with this measure would reduce the Project's overall density and Toll Brothers requests a waiver of this pathway amenity requirement.
- **Pedestrian Pathways.** Section 2.8.1 of the ODS requires all buildings, entries, facilities to be internally connected with a minimum four-foot wide pedestrian pathway or pathway network. Additional requirements include that pedestrian pathways be separated by vehicular circulation by a physical barrier and that pathways are adjacent to a four-foot minimum width planted area. Pedestrian pathways longer than 200 feet must provide amenities that include trellises and/or benches. As detailed above, Toll Brothers will comply with the four-foot wide pathways to entrances, where feasible. Where compliance is infeasible, the Project will provide three-foot wide entrances. Compliance with this standard will

reduce the developable area for the townhome units. Thus, this standard physically precludes development of the Project at the proposed density and Toll Brothers requests a modification of this standard as described above.

- **Street Width.** We understand that the City relies on the Orange County Facilities and Resources Department Standard Plans for Public Works. Public Works Standard 1107 requires local streets to provide 40-foot minimum widths curb to curb with 8-foot sidewalks and parkways on both sides. Adherence to this standard would significantly reduce the amount of Property area on which Toll Brothers may develop the townhomes. Therefore, this standard physically precludes development of the Project. Instead, Toll Brothers requests a waiver that allows a reduction in street width to 26 feet, curb to curb, with a sidewalk on one side.
- **Guard Gate Stacking Distance.** Orange County Public Works Standard 1107 requires guard gates to provide one foot of stacking distance per dwelling unit with a minimum of 100 feet. Compliance with this minimum stacking distance would require extending the guard gate into the community, pushing internal roadways further back and resulting in the elimination of some townhome units, physically precluding Project development at the proposed density. Toll Brothers requests a waiver of the standard to reduce the stacking distance to 91 feet and to place the call box before the turnaround.
- **Short-Term Bicycle Parking.** Section 2.7.1.1 of the ODS requires residential developments to provide one short-term bicycle parking space for every 10 dwelling units within 50-feet of the primary pedestrian building entrance. Compliance with these standards would require a total of four short-term bicycle racks, which would reduce the amount of buildable space that may be dedicated to the townhomes, therefore reducing the proposed residential density. Toll Brothers therefore requests a waiver of this standard.
- **Long-Term Bicycle Parking.** Section 2.7.1.2 requires one long-term bike parking space for each unit. Compliance with these standards would require a total of 36 long-term bicycle parking spaces, which would reduce the amount of buildable space that may be dedicated to the townhomes, therefore reducing the proposed residential density. Toll Brothers therefore requests a waiver of this standard.
- **Fence, Wall, and Hedge Development Standard.** Section 9-40.100 of the L.H.M.C. requires perimeter walls to be set by an 18-inch by eight-foot long landscaped recession. This standard additionally requires pilasters along walls at

defined intervals. Compliance with this measure would require encroaching the wall setback into the buildable area, therefore reducing the number of townhomes and physically precluding development of the Project at the proposed density. Toll Brothers requests a waiver of this development standard, and instead proposes to construct a 20-foot high mechanically stabilized earth retaining wall along the street frontage, with no proposed recessions and a five-foot fence atop the stabilized earth retaining wall. This will preclude the installation of pilasters.

- **Wall and Fencing Visual Interests.** Section 5.3.1.3 requires perimeter walls to incorporate multiple textures, staggered setbacks, and variations in height. Perimeter walls must incorporate columns or pilasters with a maximum of 50 feet of unbroken wall length. The perimeter walls are already set back 29 feet from the right-of-way and offer visual interest by use of mechanically stabilized earth, fencing, and landscape buffering. Implementation of this standard, especially with varying setbacks, would encroach upon the unique Project site, resulting in a reduction in the overall density of the Project. Toll Brothers requests a modification of this standard to allow for the proposed perimeter wall feature.
- **Active Uses Floor to Floor Height.** Section 2.3.1.2 of the ODS requires the ground floor of residential units to have minimum floor-to-floor heights of 12 feet. Toll Brothers proposes reducing this height to nine-foot one-inch to better fit within the scale and massing of the townhomes and offset the replacement of market rate units with the affordable units.
- **Massing.** Section 3.1 of the ODS requires residential projects to implement physical strategies that use building modulation, roof forms, and projections as detailed in the design standards. However, these measures are physically impossible to implement in these two-unit duplex buildings. Each building face is comprised primarily of the two garages for each unit. Complying with these massing requirements is physically impossible with the garage faces. Compliance would otherwise require elimination of at least one garage, if not an entire unit in each two-unit building. Toll Brothers requests a waiver of this design standard because it physically precludes development of the Project and this standard would otherwise reduce the total number of proposed units if implemented. Please refer to the massing designs in the architectural plans for additional details.
- **Stepbacks.** Section 3.2.1 of the ODS requires floors above the lesser of two stories or 35 feet to provide a minimum 10-foot stepback from the minimum setback line across at least 30% of the building frontage. Because these units sit on narrow footprints, each unit's primary living spaces can only be located on the second and third floors. Compliance with this standard would reduce the overall

square footage of each unit, resulting in an elimination of third-floor bedrooms. Thus, implementation of this standard physically precludes development of the Project and Toll Brothers requests its waiver.

- **Window Alignment.** Section 3.5.1 of the ODS requires windows in opposing units facing each other within 40 feet to be offset by at least 20 feet. Because the proposed medium-density Project would be located on a physically constrained site, compliance with this standard is not feasible. Buildings with windows facing each other cannot be offset by 20 feet because the narrow footprint of each building limits the degree to which windows can be relocated. Otherwise, compliance with this standard may result in the elimination of windows or bedroom space entirely. Toll Brothers requests a waiver of this standard because compliance physically precludes development of the Project.
- **Entrance Types.** Section 3.9.1 of the ODS requires primary entrances for all residential buildings to face either a public sidewalk or pathway and that each entrance frontage adhere to one of several identified frontages. The ODS additionally requires porches to be eight feet wide and 18 inches above the sidewalk. The proposed density on the physically constrained site precludes implementation of this standard. The only feasible method of placing these duplex units is to design them such that the garage and primary entrance front the Project's private drives. Compliance with the width requirement would require elimination of an adjacent unit, reducing the Project's overall density and compliance with the density requirement would require modifications to Project grading that would additionally result in the elimination of units. Because these standards physically preclude development of the Project, Toll Brothers requests a modification of this standard to reduce porch width to four feet and to allow porches to be level to the adjacent sidewalk.
- **Parking & Access.** Section 3.9.3 of the ODS requires that the garage door of each unit to be located at least one foot behind each building's primary façade. The narrow footprint of each building limits the amount that each building's garage may be set back. Compliance with this measure would require additional square footage where the adjacent unit is otherwise proposed. Therefore, compliance with this measure would reduce the Project's overall density and Toll Brothers requests a waiver of this requirement.
- **Height.** Section 9-30.040 of the L.H.M.C. imposes a 35-foot height limit on residential development. Due to the unique nature of these dwelling units and the density of this Project, meeting other objective development standards and complying with the 35-foot height requirement would physically preclude

development of the Project by limiting the size of interior livable space, which could compromise the overall number of units. Therefore, compliance with this measure would reduce the Project's overall density and Toll Brothers requests a waiver of this requirement to allow for a 38-foot height limit.

- **End Units.** Section 3.4.2 of the ODS requires all end units to have at least 10% fenestration area and that those end units that face the street also have architectural projection that projects a minimum of 18 inches from the street facing façade. Implementing this standard would require placing windows in such a manner that affects interior layout, which reduces the interior living area. Applying this requirement across all end units could require eliminating units to make up for the impact to interior living area. Therefore, compliance with this measure would reduce the Project's overall density and Toll Brothers requests a waiver of this requirement to allow application of this standard only to units 1, 14, and 36.
- **Required Design Elements for Roofs.** Section 4.3.2 of the ODS provides standards for the design of roofs, requiring overhanging eaves (minimum 24 inches on elevations that face a public street) with exposed rafter tails or beams are required elements. Compliance with this design requirement, together with the required setbacks, will reduce the overall require square footage on the site by pushing the occupiable space further into the building site. This will reduce overall buildable space on the site, resulting in a reduction in the overall number of units on the project site. Because this standard physically precludes development of the Project at the proposed density, Toll Brothers requests a waiver of this standard. Instead, Toll Brothers will incorporate 12-inch overhangs with no exposed rafter tails or beams.

These waivers would not have a specific, adverse impact to public health and safety. We appreciate the City's consideration of Toll Brothers' request for waivers from the applicable development standards for the Project. With the requested waivers, Toll Brothers will be able to develop the 36 townhomes, including two units affordable for very low-income households consistent with the City of Laguna Hills Housing Element.

Design Standards Concession. The DBL allows, for projects providing at least 5% of base units as affordable for very low-income households, to request an incentive or concession that would result in identifiable and actual cost reductions to provide for the affordable housing costs or rents for the affordable units. (Gov. Code, § 65915(d)(1)(A), (d)(2)(A).) The DBL defines concession or incentive to include a modification or reduction in "architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission . . ." that would

result in identifiable and actual cost reductions that provide for affordable housing costs. (Gov. Code, § 65915(k)(1).)

Courts have construed the DBL to broadly apply, allowing incentives/concessions in almost any situation that results in cost reductions. (*Schreiber v. City of Los Angeles* (2021) 69, Cal.App.5th 549, 555.) A local agency can only deny an incentive/concession if it makes one of three findings: that the concession will not result in a cost reduction, the concession would have a specific health and safety impact, or the concession would be contrary to state or federal law. (*Id.* at pp. 555-56.) Thus, the burden is on a city to justify denial of an incentive/concession; approval of a concession is the default. (*Id.* at p. 556.)

To that end, Toll Brothers requests a concession for the following design standard (contained in the City's Objective Development Standards guidebook):

- **ODS section 4.3.3**, applicable to walls and windows, requires a casement or double-hung sash with flat or arched lintels and windows recessed 2 to 12 inches from outer wall are required elements. Additionally, development must incorporate one of: pedimented or framed windows, paired decorative wood shutters, stepped windows at internal staircases, or balconettes. Instead of complying with this requirement, Toll Brothers will incorporate single-hung windows framed and recessed by surrounding wood trim.

This concession related to the ODS' design provisions is necessary because adding these details to building designs will increase costs that would render the Project (and thus the affordable units) infeasible. Removing these requirements is necessary to maximize the building design to accommodate construction of affordable housing.

With respect to **ODS section 4.3.5**, applicable to decorative accents, the City confirmed that the Project will meet this standard by incorporating rafter extensions, balconies, wrought iron light fixtures, wood finish doors, recessed doorways, and wrought iron railing. The Project, therefore, meets this design requirement.

Additionally, in its consistency review letter, dated June 27, 2025, the City claimed that the Project must comply with ODS section 2.3.1 for active frontages. However, this requirement only applies to a building "facing a local or collector public street or publicly accessible pathway." This Project is a private gated community where no buildings face a public street. Accordingly, this standard does not apply to this Project. Nonetheless, some building frontages will include porches to activate building façades. To the extent that the City determines that this standard still applies to the Project despite no public street fronting the dwelling units, Toll Brothers requests a waiver of this requirement because including commercial space in these units will require eliminating space dedicated for housing. This would eliminate numerous residential

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units, if not the entire development, physically precluding development of the Project. Therefore, a waiver of this standard is warranted.

Toll Brothers reserves the right to propose additional waivers of development standards or concessions in the future, should they come to Toll Brothers' attention. These waivers and concession are not only necessary to accommodate the two units affordable to very low-income households, but to also limit costs for the market-rate units. The market-rate units bring diversity to the City's housing stock by providing units that are ideal starter homes for young families.

We appreciate your consideration of our density bonus request and look forward to the expeditious processing of Toll Brothers' applications.

Sincerely,

BUCHALTER
A Professional Corporation

A handwritten signature in blue ink, appearing to read 'Alicia Guerra', with a long horizontal line extending to the right.

Alicia Guerra

AG:nj

Attachment

cc: Jason Certilman
Peter Kim
Aylene Chu
Salvador Avila