

**420 S SAN ANTONIO ROAD MIXED USE RESIDENTIAL DEVELOPMENT**

**DENSITY BONUS REPORT**

**6.15.2024**

**Amended 10.10.2024**

**420 – 428 2<sup>ND</sup> STREET – S. SAN ANTONIO RD. LOS ALTOS, CA, 94022**

The proposed project is a residential project comprised of twenty (20) residential units—17 market-rate and 3 affordable—on a 12,968 square-foot (0.3-acre) infill site located at 420-428 2<sup>nd</sup> Street in Los Altos. The site has a General Plan land use designation of Downtown Commercial and is zoned Commercial Downtown/ Mixed use (“CD/Mixed Use”). The allowed base density of the project is 53.9 units per acre or total of 16 units.

With respect to its affordable units, the project is providing one unit or six and one quarter percent (6.25%) of the residential units at the **very low-income** level, and two units or twelve-and one-half percent (12.5%) at the **moderate income** level. Choosing from one tier of affordability, the project would be entitled to a total of one (1) incentive and / or concession [*one is available from each tier of affordability* ], but it is understood the applicant must choose to work with one tier and cannot combine incentives from different tiers] pursuant to Government Code Section 65915(b)(1)(d) and California State Assembly Bill 1287. Preemptive State Bonus density exceeds that granted by Los Altos Municipal Code (“LAMC”) Section 14.28.040 Table DB 6.

Per Los Altos Municipal Code section 14.28.020, the project proposes 18.75 % of the units as affordable exceeding the 15% minimum for ownership units.

**Los Altos Municipal Code section 14.74.130 requires parking rates of 1.5 cars for the two-bedroom units and one car for one bedroom studio units. Therefore 27 parked cars would be required for the residential component. Under State bonus Density Law, the one bedroom and studio units would require one car each, and the two-bedroom units would require one- and one-half cars each. 5 additional parking spaces are provided for the commercial component. Therefore, the Bonus Density project is required to provide 32 spaces. 47 spaces are provided.**

As explained below, the proposed project requests one incentive / concession and six waivers or reductions to zoning standards.

This site has not had any dwelling units on it in the last 5 years and does not have any recorded covenant, ordinance, or law applicable to the site that restricted rents to affordable income levels.

## Project Summary Table

|                                   |  |
|-----------------------------------|--|
| APN                               | 167-41-052   |
| Address:                          | 420-428 2nd Street - S. San Antonio Rd.,<br>Los Altos, CA 94022  |
| General Plan                      | Downtown Commercial  |
| Zoning                            | CD Mixed Use   |
| Existing Use                      | Restaurant   |
| Lot Size:                         | 0.3 acre (12,968 Square Feet)  |
| Max Density:                      | No density per acre maximum in<br>Downtown Commercial General Plan<br>Designation or CD.                       |
| Proposed Affordable Units         | 1 Very Low Income Level (6.25% of base<br>density) and 2 Moderate units (12.5% of<br>base density )            |
| Proposed Density Bonus            | 22.5% (22.5% is allowed per SB 6915)<br>16 x.225= 19.6 therefore 20 units                                      |
| Total Units                       | 20 for sale condominium units  |
| Proposed Units Per Acre           | 67.3 du/acre for 20 units<br>53.9 du/acre for 16 units (base)  |
| Proposed Height                   | 52'-8" to midpoint of gable roof   |
| Construction Type                 | Type VA over Type IA   |
| Existing and Prior Dwelling Units | 0 existing units. The property has not<br>had any dwelling units on it in the last 5<br>years.                 |
| Recorded Covenants                | The property does not have any<br>recorded covenant, ordinance, or law<br>applicable to low-income households. |
| Requested Entitlements            | Vesting Tentative Tract Map for<br>Condominium Purposes: Design Review.  |

Please see the attachments for further project details.

### **BMR Calculation**

- Lot Size 0.3 acre (12,968 square feet)
- Base Density = 16 units or 53.9 du/acre. Please see below for discussion of a base project.
- Per Los Altos Municipal Code Required Affordable Housing Ownership (15%) = 16 units x 15% BMR = **3 units**.

- The one very low-income affordable unit (6.25% of base density) qualifies for one incentive / concession per LAMC Section 14.28.040 Table DB 6 and one incentive / concession per State Bonus Density Law

### **BMR Units Provided**

- Total BMR: one **very low income** and two **moderate** affordable household units are proposed: One 2-bedroom unit, one 1-bedroom unit, and one studio unit. See attached plans for unit locations (Units R207, R305, and R304).
- BMR Type: one unit or six and one quarter percent (6.25%) of the residential units at the **very low-income** level, and two units or twelve and one half percent (12.5%) of the residential units at the **moderate income** level.
- Under the Los Altos Municipal Code, one very-low-income affordable unit represents 6.25% of the base 16 units, qualifying the project for a 22.5% density bonus. This results in an additional 4 units (16 units × 22.5% = 4 units).
- Total units permitted: 16 (base units) + 4 (density bonus) = 20 units
- This is compliant with LAMC Section 14.28.020 as the majority of affordable units are in the moderate-income tier and in excess of 15% of all base density units are allocated to inclusionary requirements consistent with LAMC 14.28.020 B.2

### **Base Project**

The Downtown Commercial Land Use Designation allows a maximum floor area ratio (FAR) of 2:1 for a .30-acre site, which permits a total maximum floor area of 25,936 square feet. However, the designation does not specify a maximum number of dwelling units per acre. For the project site, the base density was determined by calculating the maximum number of units allowed under the general plan and zoning standards. Assuming an average unit size of 938 square feet, a hypothetical development consistent with all applicable standards would result in a total floor area of 23,508 square feet, corresponding to a base density of 16 units. The base development would have an FAR of 1.81:1 to 2:1, which is within the allowable limits for the DC Land Use Designation.

A density of 16 units for a .3-acre site would result in a base density of 53.9 units per acre (See Sheets BD-0 to BD-5 in the plan set). The base project complies with all development controls, including set back requirements and compliance with the 45-foot height limit [ as modified by City Council resolution – October 2023].

### **Government Code Section 65915(f) – Requested Density Bonus**

We are requesting a Density Bonus of twenty-five percent (22.5%) as the proposed single very low-income affordable unit @ 6.25% of base density is consistent with a density bonus [22.50 %] allowed by controlling state law. [ *Government Code Section 65915(b)(1)(d) and California State Assembly AB 1287*]

### **Government Code Section 65915(d)(1) Requested Incentives and Concessions**

Government Code Section 65915(d)(1) requires cities to grant the incentive or concession requested by the applicant unless the city makes a written finding, based upon substantial evidence” that (A) the incentive or concession does not result in identifiable and actual cost reductions; (B) the incentive or concession would have a specific adverse impact on public health or safety or on historical resources; or (C) the incentive or concession would be contrary to state or federal law. Government Code Section 65915(d)(4) provides that “[t]hat city, county, or city and county shall bear the burden of proof for the denial of a requested concession or incentive.” Government Code Section 65915(r) provides the Density Bonus Law “shall be interpreted liberally in favor of producing the maximum number of total housing units.”

### **Government Code Section 65915(e)(1) – Requested Waivers or Reductions of Development Standards**

Unlike incentives and concessions, which are numerically restricted, waivers and reductions of development standards are not limited in number, and they are not tied to any implied showing that they reduce affordable housing costs. Instead, a Density Bonus project is entitled to a waiver or reduction of any and all development standards that would physically preclude the construction at the density proposed and allowed. [ *Bankers Hill 150 decision* ]

#### **INCENTIVES /CONCESSIONS**

We are requesting the following **incentive / concession** or reductions of development standards:

##### **A residential building height that exceeds the 45 height limit (LAMC § 14.44.120).**

**LAMC § 14.44.120** –An incentive or concession is requested for additional height (to 52’8”) where current zoning permits the height of 45 feet. The additional height will allow the inclusion of one floor consisting of five residential units and also results in an improved architectural design that includes a sloped roof (with a midpoint height of 52’8”) and rooftop trellis. Critically, the height increase is necessary to reduce the cost burden of the affordable units on the project so that the project can attract commercially reasonable financing. The added height facilitates significant amenities that enhance market valuations, subsequent financing, and improvements to livability for all project residents. Furthermore, the concession abets compliance with LAMC § 14.44.130 A.4 (a) consistency with adjacent storefronts, and LAMC § 14.44.130 B.3 (f) for non-residential ground story clear heights. It also facilitates the necessary headroom required for the utilization of the hydraulic lift parking. Also, the Downtown Design Guidelines [ DDG4.2.5, Pg.56] stipulates that uppermost roofs shall incorporate sloped roofs to enrich the skyline and project’s silhouette.

An incentive/concession to make a project as a whole, including the affordable housing units, economically feasible is a well-established use of an incentive. (*Wollmer v. City of Berkeley* (2009) 179 Cal.App.4<sup>th</sup> 933, 945-46.) A project with thirteen market rate units and three affordable units (18.75% affordable) would not be able to obtain commercially reasonable financing. The additional market rate units and improved architectural design that would result

from the concession will also result in increased project revenue that will be used to subsidize the project's affordable units.

## **WAIVERS**

We are requesting the following 6 **waivers** or reductions of development standards:

### **WAIVER NO. 1**

**LAMC § 14.44.080(B)** – A waiver is requested to the setback and landscape standards enumerated in LAMCC 14.44.080 where a 10 foot is required. The Project requests a waiver to permit a reduced rear yard setback to 6 feet and 7-5/8 inches for the first floor and four feet for the remaining floors. Compliance with the 10 ft. setback would reduce the building envelope building square footage by 1,512 sf, affecting **unit layout, and density**.

### **SEE EXHIBIT 080**

**A setback waiver also alleviates some** pressure on the front yard setbacks that are currently greater than required to be responsive to the City's Downtown Design Guidelines and improve aesthetics on the major project frontage. The requested waiver allows the density bonus project's floors 2 through 4 floor area to accommodate a more significant and meaningful front yard setback and step backs /articulations to the primary S. San Antonio frontage. This enhances architectural interest and responsiveness to City policies, goals and ordinances.

The proposed setback waiver facilitates unit square footage enhancing the viability financial feasibility and financing commitments. Also, in a similar vein the additional market rate units or saleable square footage that would result from the concessions will also result in increased project revenue that is used to subsidize the project's affordable units and the project amenities for all residents.

*(Wollmer v. City of Berkeley (2009) 179 Cal.App.4<sup>th</sup> 933, 945-46.)* A project with thirteen market rate units and three affordable units (18.75% affordable) would not be able to obtain commercially reasonable financing. The additional market rate units and improved architectural design that would result from the concession will also result in increased project revenue that will be used to subsidize the project's affordable units.

### **WAIVER NO.2 and 3**

**LAMC § 14.74.060 and 14.74.070.C.1.b** – The City's Municipal Code provides separate dimensional standards for mechanical lift parking spaces that are not directly accessed by users. Therefore, a waiver is therefore requested from LAMC § 14.74.060 to reduce the parking stall width from 9 feet to 8.5 feet specifically for the hydraulic lift parking system. Additionally, a waiver is requested from § 14.74.070.C.1.b to modify the standard clearance height requirement, reducing it from 7 feet to 6.725 feet specifically for the hydraulic lift parking system.

*It is our position that* the City's dimensional standards do not completely account for the lack of need of a mechanical lift space for headroom and door opening width (the vehicles are delivered off the lift to an area with sufficient headroom and door opening width). The

Municipal Code's requirements for the height of a conventional standard and compact parking space is at least 7'0" (LAMC § 14.74.070.C.1.b.) and its width is 9 feet (LAMC § 14.74.060). Strictly applying the City's height and width standard for all vehicles in the mechanical lift system would result in the loss of viable parking spaces eliminating 13 spaces. The requested waiver would only be applicable to areas that will not be accessed by vehicle passengers and would therefore have no impact on vehicle accessibility. We are unaware of a related on-menu concession addressing this matter. The feasibility of the hydraulic lift parking system is critical to the project's viability at its proposed and allowed density.

#### **WAIVER NO. 4**

**LAMC §14.44.130. A.1.a** Pursuant to Zoning Ordinance Section 14.44.130.A.1.a, the upper story step-back at the front of the building should be a minimum ten (10) feet from ground floor façade for stories above thirty (30) feet in height. The proposed third story exceeds 30 feet in height and is set back only 5 feet from the first story façade. A Density Bonus Waiver is requested. Adherence to the objective step back would impinge on available building envelope, **layout**, and square footage of residential units. 2233 square feet of residential area is facilitated by this waiver.

**SEE COMPARISON EXHIBIT 130 a**

#### **WAIVER NO.5**

**LAMC § 14.44.130.A.1.c** of the zoning ordinance requires when the top story is stepped back and embedded in a sloped roof form such as a mansard roof or a hipped and/or gabled roof with dormers, the floor below must (and other floors may) be stepped back to meet the slope of the top story. The top story is not embedded in a roof form; therefore, the floor below is not stepped back. A Density Bonus Development Waiver is being requested for 14.44.130.A.1(c) (the requirement to provide an embedded roof form **and stepping back the story below**). The upper story is stepped back from the building's perimeter. A mansard roof and **step back** would further restrict the building's floor plates at **the top 2 stories** compromising useable square footage, **layout**, and **density**. 3313 square feet of residential square footage is facilitated by this waiver. Also, the mansard design is inconsistent with the design aesthetic and would impact the attractiveness of the building to the potential residential market.

**SEE COMPARISON EXHIBIT / DOCUMENTATION 130 c**

#### **WAIVER NO. 6**

**LAMC § 14.44.130.A.5.a** Pursuant to Zoning Ordinance Section 14.44.130.A.5.a, primary living spaces and balconies located along a side setback shall orient principal windows and balconies toward the front and rear of the building.

A waiver from this standard is requested. In order to achieve habitable floor area and density, on a given residential floor level, units located interior to the site required exterior walls orienting into and across courtyards towards property side yards. Any windows closer than 10 feet to side property lines are now noted on the drawings to comply with opacity standards

Note that the proposed design does not have any unit balconies or private terraces “directly adjacent” to interior side property line. There is an interior courtyard of 23 feet width from the side property line. Note that the configuration of the parcel necessitates the inclusion of units oriented towards the interior court and along the side yard to achieve the habitable square footage , unit density and layout necessary for project viability.

#### **WAIVER NO. 7**

**LAMC § 14.66.280.C.1** Zoning Ordinance Section 14.66.280.C.1, requires one or more features to direct away from exterior walls. Gutters and downspouts are provided at the sloped roofs at the upper gable roofs only (not the entire building). With regards to the flat roof portions of the building, a 12-inch wall cap/cornice is provided, but only projects outward from the face of the building six inches, not the “minimum 12-inch projection” as required per this section of the ordinance. A Density Bonus Development Waiver is requested.

Because flat roof areas are adjacent to the property lines along significant amounts of the building perimeter accommodating this objective standard would impact useable floor area and unit layout on each floor adjacent property side yards. A total of 359 square feet is facilitated with this waiver.

**SEE EXHIBIT 280 c** The building aesthetic and styling is derived to be compatible with proximal structures of merit. A consistent and logical detailing is important for marketability which infers viability.