

*Expanding the range of opportunities for all by developing, managing and promoting quality affordable housing and diverse communities.*




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## Distel Circle Apartments

### Density Bonus Report – Planning Application

#### July 74, 2022

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<b>Project:</b>	<b>90-Unit Multifamily Affordable Housing Community</b>
<b>Location:</b>	330 Distel Circle, Los Altos (APN# 170-04-051)
<b>Current Landowner:</b>	Midpen Regional Open Space District
<b>Applicant/Developer:</b>	EAH Housing

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As a permanently affordable rental community incorporating a mix of unit types and a range of rent tiers that supports a diversity of income-eligible tenants earning incomes from 30% to no more than 80% of Area Median Income (AMI), the 330 Distel Circle development is eligible for a density bonus in accordance with California Government Code Section 65915 et seq. (“Density Bonus Law”).

EAH as the applicant is requesting an increase in the density allowable at 330 Distel Circle and other incentives, waivers, concessions, and parking reductions allowed by the Density Bonus Law.

### Requested Density Bonus

Density Bonus is considered in the LAMC section 14.28.040 (C) and contemplates density bonus up to 35% depending on both the affordability and the number of restricted units. The LAMC also has a provision that can provide a for additional density bonus 14.28.040 (E)(7) which states: Nothing in this section shall be construed to prohibit the city from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

The California Government Code Section 65915 also allows for unlimited density for 100% affordable developments that are within one-half mile from a major transit stop, section 65915 (f)(3)(D)(ii). 330 Distel Circle is within one-half mile from a major transit stop (please see Memorandum on Consistency with Density Bonus Provisions - Glaser Weil).

In alignment with the MOU between the City of Los Altos and the County of Santa Clara, that acknowledges the development to contain a minimum of 90 units at 330 Distel Circle, EAH is requesting a density bonus to allow for 103.45 units per acre.

The California Government Code Section 65915(d)(2)(D) allows for a height increase of an additional 3 stories or 33 feet for 100% affordable housing developments. The current zoning district (CT) allows for structures up to 45 feet in height and considering the additional 33 feet allowed by the Density Bonus Law, a building up to 78 feet would be consistent with the height allowed under the law. The proposed building height at 330 Distel Circle is 64 feet and consistent with Density Bonus Law.

Zoning	Commercial Thoroughfare District (CT)
General Plan	Thoroughfare Commercial
Maximum Density	38 dwelling units per net acre (dua)
Site Size	38,030 sf (0.87 acres)
Units Permitted	0.87 X 38 = 33.06 units
Total Units Proposed	90 units
Proposed Affordable Units	88 units (100% exclusive of managers units)
Proposed Bonus Percentage	90 ÷ 33 = 272%
Number of Density Bonus Units	90 – 33 = 57 units
Proposed Density Per Acre	90 ÷ 0.87 = 103.45 dua
Proposed Market Rate Bedrooms	0
Proposed Affordable Unit Bedrooms	155
Proposed Manager's Unit Bedrooms	4

Unit Mix – 330 Distel	AMI					Unit Total	Unit Mix
	SQFT PU	30%	50%	60%	80%		
SRO/Efficiency	465	14	3	7	-	24	27%
1-BR	645	9	3	7	1	20	22%
2-BR	965	12	3	4	2	21	23%
3-BR	1140	10	3	7	3	23	26%
4-BR	0	-	-	-	-	-	0%
MGR	965					2	2%
<b>Unit Total</b>		45	12	25	6	<b>90</b>	100%
<b>Affordability Dist.</b>		50%	13%	28%	7%	100%	
<b>Average Affordability</b>	<b>44.66%</b>						

The existing use of 330 Distel Circle is a single-story office building that is owned and occupied by Midpeninsula Regional Open Space District. There are currently no dwelling units on the site nor has there been in five years preceding the date of submittal of this application.

There are no recorded covenants, ordinances or laws applicable to the site that restrict rents.

## Requested Incentives and Concessions

The applicant is requesting the following four (4) concessions:

- Reduced Front Yard Set Back
- Reduced Front Side Step-back
- Reduced Average-Per-Unit Open Space Provided
- Reduced EV Ready Parking Stalls

### Reduced Front Yard Set Back

Los Altos Municipal Code (LAMC) section 14.50.090 has a standard of a 25-foot minimum depth of which 50% of the area should be landscaped. We are requesting a reduction in the minimum setback from 25 feet to 10 feet. LAMC Section 14.28.040 (F)(1)(e) allows for an On-Menu incentive to reduce the setback requirement by up to 20%. However, the reduction requested is greater than 20% and therefore is considered an **off-menu** request.

*Reason for Request:* The reason for this request is because a 25-foot setback would decrease the building area and thereby decrease the unit count.

### Reduced Front Side Step-back

LAMC 14.50.170 (B)(1)(b) requires a minimum step-back of 10 feet from the ground floor façade for stories above 45 feet. EAH is requesting no step-back on the 4<sup>th</sup> and 5<sup>th</sup> levels. This is an **off-menu** request because step-back reductions are not an on-menu incentive.

*Reason for Request:* The reason for this request is because a step-back on the 4<sup>th</sup> and 5<sup>th</sup> level would decrease the building area and thereby decrease the unit count.

### Reduced Average-Per-Unit Open Space Provided

LAMC 14.50.150(A) requires that an average of fifty (50) square feet of private open space shall be provided for the total number of dwelling units within the project. EAH is requesting a reduction in the average square feet of private open space from 50 to 25 square feet. LAMC Section 14.28.040 (F)(1)(f) allows for an On-Menu incentive to reduce the open-space requirement by up to 20%. However, the reduction requested is greater than 20% and therefore is considered an **off-menu** request.

*Reason for Request:* The site has a 10' foot public utility easement (PUE) running along the front of the property along Distel Drive. The PUE has to be clear to sky and therefore we are unable to provide cantilevering balconies along the Distel frontage. Providing decks within the units along Distel would require a decrease in unit size, a decrease in unit count or an increase in cost due to customization of modular units. We have mitigated the reduction in Private Open Space by providing more Common Open Space than required.

Reduced EV Ready Parking Stalls

LAMC 4.106.4.2 (Exceptions) requires all multifamily Affordable Housing, 10% of dwelling units with parking space(s) shall be provided with at least one Level 2 EV Ready Space. Calculations for the required minimum number of Level 2 EV Ready spaces shall be rounded up to the nearest whole number. The remaining dwelling units with parking space(s) shall each be provided with at least one Level 1 EV Ready Space. The required spaces with this calculation would be the following. We are requesting to provide the state minimum required by our current code (2019) which is 10% EV Ready spaces- 9 total- instead of the 90 required by Los Altos code.

Level 2 EV Ready Space = 9 spaces  
Level 1 EV Ready Space = 81 spaces  
**Total = 90 spaces**

*Reason for Request:* The additional costs related for infrastructure, transformer(s), and cost of pedestals for charging.

1. Meeting the requirement will increase the amount of costs of utility infrastructure required such as conduit/raceways and transformers. We are estimating the costs as \$1000/stall per Energy Solutions report (dated 2019 so costs are likely higher). For the additional stalls beyond the 10% required by CalGreen we estimate \$81,000 (81 stalls x \$1,000 ).

**Table 1. Estimated Cost of Installing EV Infrastructure (price per spot)**

Code Scenario:	Market Rate 25% Level 2 75% Level 1		Affordable Housing 10% Level 2 90% Level 1	
	New Construction	Retrofit <sup>4</sup>	New Construction	Retrofit
60-Unit MUD	\$1,410	\$4,443	\$1,049	+\$3,982
150-Unit MUD	\$1,197	\$4,101	\$1,002	+\$3,854
60-Space Office Building	\$1,166	\$3,232	N/A	N/A

*Table 1: Energy Solutions article dated November 5, 2019. EV Infrastructure Cost Analysis Report for Peninsula Clean Energy and Silicon Valley Clean Energy (page 1).*

2. If/when the mechanized stalls go from EV Ready to having the capability to charge, Level 2 chargers will require ±\$2,500 per pedestal depending on the manufacturer. For Level 1 chargers, 110v receptacle can be added to the platform.
3. The project is required to have zero parking spaces as a result of being a 100% affordable housing project within ½ mile of major transit. As such, if we were to provide zero stalls, we would not be required to provide any EV Ready stalls per CA and City of Los Altos code and CA Cal Green code.

Cost Justification:

There are two areas of focus related to the cost containment of this affordable housing community and how it relates to the requested concessions: the total costs to build the units (hard costs) and the average cost per unit including all other soft costs.

Hard costs associated with the construction of the modular units include the material and labor expense it takes to create and build each unit. The modular factories are set up for standardization, not for customization, so any modification to the factory standards would lead to additional costs and additional waste. By way of a simple example, if the factory is set up to build units using wood in 20 foot lengths but we request shorter units that require 18 foot lengths, then the factory would need to customize the machinery to cut the shorter lengths. This customization would increase the labor costs and slow the process down adding more time. In addition, more waste is created because in this example, the two-foot section of wood is unlikely to be re-used and will be thrown away.

The second area of focus is the development cost per unit. This development has fixed costs including the land and other soft costs including design and environmental analysis. By way of a simple example, if the design fees are \$3 million and the design yields 90 units, the per-unit cost is \$33,333. However, if the same design fees were yielding only 60 units, the per-unit cost would be \$50,000. While this does not increase the total cost of development, a higher cost per unit makes this project less competitive when trying to leverage additional funding source at the State and Federal level. Therefore, a design or building standard that leads to a reduction of building area or total number of units is considered to increase costs and reduce competitiveness.

## Requested Waivers

The applicant is requesting the following waivers:

- Visibility of Interior Courtyard
- Exterior Materials
- Trash Staging Area

### Visibility of Interior Courtyard

LAMC 14.50.170 (C)(5)(a) requires that an interior courtyard must be partially visible from the street and linked to the street by a clear accessible path of travel. EAH is requesting that this requirement be satisfied by allowing visibility from the parking lot behind the building. In addition, EAH is requesting that the interior courtyard not be required to be linked to the street by a clear accessible path of travel. This is an **off-menu** request.

*Reason for Request:* The courtyard has been raised to the second level to provide additional parking on the ground level. A second level courtyard also provides additional privacy to the residents and neighbors. Removing a portion of the building to make the courtyard visible from the street would decrease units and parking area.

### Exterior Building Materials:

LAMC 14.66.280 (D)(4)(a) Base. For multistory buildings, the base of the building shall be defined by a distinct material selected from among the following: Stone, brick, concrete, CMU, or stucco ("base material"). EAH is requesting that wood be approved as a distinct material for the base.

*Reason for Request:* We believe that the intent of this design standard is being achieved because wood serves as a distinct material. We are proposing wood and storefront glazing at the base of the building.

### Trash Staging Area:

LAMC 14.50.060 (C) (2) states that every development will be required to provide suitable space on-site for solid waste separation, collection, storage, and pick up and shall site these in locations that facilitate access, collection, and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way. EAH is requesting a waiver from the requirement so that the solid waste collection can take place in the public right of way (Distel Circle).

*Reason for Request:* The location of trash storage is on the ground floor in the garage but is not in a location that can be serviced by the collection company, Mission Trails. Mission Trails requests that the trash staging area be within a specific distance from the street so that the trucks can access the trash bins. Redesigning the ground floor to accommodate a staging area closer to the street is not desirable because it would require relocating the bicycle parking, resulting in the loss of amenity space on the ground floor. Our proposal is to have building staff stage the trash bins on Distel Circle on trash pick-up day and return the bins to the trash room after the trash has been collected.

## Requested Parking Reductions

LAMC 14.28.040(G)(2)(b) - For low or very low income housing near major transit stop. Upon the request of the developer, the city shall not impose a parking requirement, inclusive of handicapped and guest parking, that exceeds one-half parking spaces per bedroom if the development includes the maximum percentage of low or very low income units; and the development is located within one-half mile of a major transit stop; and there is unobstructed access to the major transit stop to the development. EAH is requesting parking requirement alterations be applied to the proposed development because the development:

- Exceeds the percentage required of low or very low income units
- Is within one half-mile of a major transit stop
- Has unobstructed access to the major transit stop to the development This is an ***On-Menu*** request.

The proposed development at 330 Distel Circle will have a total of 159 bedrooms. Using the one-half parking space per bedroom outlined in the LAMC would require 80 parking spaces. As proposed, this community will have 90 parking spaces.

State Density Bonus Law does not require any parking for 100% affordable developments that are within one-half mile from a major transit stop, section 65915 (p)(3). 330 Distel Circle is within one-half mile from a major transit stop (please see Memorandum on Consistency with Density Bonus Provisions - Glaser Weil).

**330 Distel: Density Bonus, Concessions, Waivers**

Allowed by Density Bonus Law				
Density (DU/acre)	38du/acre	90 Units = 103 du/acre	Density Bonus Law	14.5.080 (LAMC)
Height	45ft + 33ft = 78ft permitted	64ft, 5 stories	Density Bonus Law	

Concession	Standard	Proposed	Reason	Code Section
Setback, Front Yard	25ft min. depth, 50% of which shall be landscaped	10ft setback	25ft setback would decrease building area and unit count	14.5.090 (LAMC)
Stepback	Street Side: Minimum 10 feet from ground floor façade above 45 feet in height	Requesting no stepback on 4th and 5th levels.	We need building area to get to 90 units.	14.50.170_1B. Obj. Standards
Open Space	50SF; An average of fifty (50) square feet of private open space shall be provided for the total number of dwelling units within a project.	Approximately 25 sf average / unit requested	10ft Public Utility Easement has to be clear to sky so we are unable to provide cantilevering balconies along the Distel frontage. Juliette balconies are provided on Distel. Providing decks within the units would require a decrease in unit area and impact unit count. Private open space provided on all decks except for those facing Distel.	14.50.150 (LAMC)
EV Ready Parking stalls	4.106.4.2 New multifamily dwellings. Exception: For all multifamily Affordable Housing, 10% of dwelling units with parking space(s) shall be provided with at least one Level 2 EV Ready Space. Calculations for the required minimum number of Level 2 EV Ready spaces shall be rounded up to the nearest whole number. The remaining dwelling units with parking space(s) shall each be provided with at least one Level 1 EV Ready Space. Calculation: (9) Level 2 EV ready spaces and (81) Level 1 EV ready spaces.	Requesting 10% (9 stalls) to be EV Ready stalls per Cal Green code.	1. Cost of utility infrastructure 2. Cost of pedestal costs if EV is installed in future 3. Parking required is zero, which means zero EV Ready stalls would be required.	4.106.4.2 (LAMC)

Waiver	Standard	Proposed	Reason	Code Section
Interior Courtyard	Partially visible from the street and linked to the street by a clear accessible path of travel.	Requesting visibility from back parking lot, no access from exterior to courtyard	Raised courtyard on level 2 not visible from Distel, may be visible from El Camino. Raised courtyard to provide additional parking. Also creates privacy for single family neighbor and residents. Removing a leg of the building to make the courtyard visible would decrease unit and parking area.	14.50.170_5A. Obj. Standards
Materials	Base. For multistory elements, the base of the building shall be defined by a distinct material selected from among the following: Stone, brick, concrete, CMU, or stucco ("base material").	Requesting approval of wood as a distinct material.	Intent achieved. Wood serves as distinct material. Wood and storefront glazing proposed at the base.	14.66.280_DA Obj. Standards
Trash	Pickup not in right of way	Waiver from requirement	PUE Easement, no other location for trash	14.50.060_C2 Required Conditions





To: Radha Hayagreev  
City of Los Altos- Senior Consulting Planner

Date: July 5, 2022  
Project Name: 330 Distel Circle  
Project No: 210042

Re: EV Capable Concession Request

From: Lily Ciammaichella, AIA, BD+C  
KTGY Architecture + Planning

Dear Radha,

We are requesting to make the Los Altos EV capable charging requirement as a State Density Bonus Law incentive/concession. From section 4.106.4.2 of the Los Altos municipal code, we are required to provide the following:

**4.106.4.2 New multifamily dwellings**

Exception: For all multifamily Affordable Housing, 10% of dwelling units with parking space(s) shall be provided with at least one Level 2 EV Ready Space. Calculations for the required minimum number of Level 2 EV Ready spaces shall be rounded up to the nearest whole number. The remaining dwelling units with parking space(s) shall each be provided with at least one Level 1 EV Ready Space.

**Required EV Ready stalls**

EV2 ready = 9 spaces

EV1 ready = 81 spaces

Total = 90 spaces

We are requesting to provide less EV capable stalls to 10% of the total number of parking spaces (9 stalls) as Level 1 spaces.

The reasons are as follows:

1. Meeting the requirement will increase the amount of costs of utility infrastructure required such as conduit/raceways and transformer needs. We are estimating the costs as \$1000/stall per Energy Solutions report. For the additional stalls beyond the 10% required by CalGreen and proposed, or 81 stalls x\$1,000 = \$81,000. Cost was from 2019 report by Energy Solutions and costs are likely more than estimated below.

**Table 1. Estimated Cost of Installing EV Infrastructure (price per spot)**

Code Scenario:	Market Rate 25% Level 2 75% Level 1		Affordable Housing 10% Level 2 90% Level 1	
	New Construction	Retrofit <sup>d</sup>	New Construction	Retrofit
60-Unit MUD	\$1,410	\$4,443	\$1,049	+\$3,982
150-Unit MUD	\$1,197	\$4,101	\$1,002	+\$3,854
60-Space Office Building	\$1,166	\$3,232	N/A	N/A

2. If/when the mechanized stalls will be ready to convert the mechanized stalls to have the capability to charge, at this time, Level 2 chargers will require ±\$2,500 per pedestal depending on the manufacturer. For Level 1 chargers, 110v receptacle cade be added to the platform.
3. The project is required to have zero parking spaces as a result of being a 100% affordable housing project within ½ mile of major transit. As such, if we were to provide zero stalls, we would not be required to provide any EV Ready stalls per CA and City of Los Altos code and CA Cal Green code.

**Definitions:**

Electric vehicle infrastructure Cost Analysis Report for Peninsula Clean Energy & Silicon Valley Clean energy. By Enegy Solutions. Page 4

EV Capable	Includes conduit / raceways
EV Ready (“Plug and play”)	Includes full circuit with a receptacle / outlet
EV Installed	Includes full charging capability with EVSE

**Los Altos Municipal code Definitions:**

“Level 1 EV Ready Space” means a parking space served by a complete electric circuit with a minimum of 110/120 volt, 20-ampere capacity including electrical panel capacity, overprotection device, a minimum 1” diameter raceway that may include multiple circuits as allowed by the California Electrical Code, wiring, and either a) a receptacle labelled “Electric Vehicle Outlet” with at least a ½” font adjacent to the parking space, or b) electric vehicle supply equipment (EVSE).

“Level 2 EV Ready Space” means a parking space served by a complete electric circuit with 208/240 volt, 40-ampere capacity including electrical panel capacity, overprotection device, a minimum 1” diameter raceway that may include multiple circuits as allowed by the California Electrical Code, wiring, and either a) a receptacle labelled “Electric Vehicle Outlet” with at least a ½” font adjacent to the parking space, or b) electric vehicle supply equipment (EVSE) with a minimum output of 30 amperes.

# Glaser Weil

## MEMORANDUM

**TO:** EAH Housing  
**FROM:** Elisa Paster and Eric Geier  
**DATE:** February 9, 2022  
**SUBJECT:** 330 Distel Circle-Project Consistency with Density Bonus Provisions

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### **I. Introduction**

EAH Housing is partnering with the City of Los Altos (“City”) to develop a 100% affordable housing project, with the exception of a manager’s unit, using a Density Bonus (the “Project”) at 330 Distel Circle, Los Altos, California 94022 (“Project Site”). The Project is a 64 foot building that consists of 90 affordable units (24 Studio, 20 one-bedroom, 23 two-bedroom, and 23 three-bedroom) and 90 parking spaces. The Project is seeking a 165% Density Bonus, existing zoning allows for 34 units (rounded up from 33.06) at the Project Site.

Based on its proximity to transit, as demonstrated below, state law permits the Project to an unlimited Density Bonus, a height increase up to 33 feet, and no minimum parking requirements. As the Project is 100% affordable, even if a determination is made that the Project is not within one-half mile of a major transit stop, the Project can still be approved as designed with the approval of concessions and waivers.

### **II. The Project Site is Within One-Half Mile of a Major Transit Stop**

For the purpose of State Density Bonus law, codified in Government Code (GOV) section 65195, a major transit stop is defined as existing or planned rail or bus rapid transit (BRT) stations, ferry terminals served by either a bus or rail transit service, and the intersection of two or more bus routes with a frequency of service interval of fifteen minutes or less during the morning and afternoon peak commute periods. (Public Resources Code (PRC) §§ 21064.3, 21155(b).)<sup>1</sup>

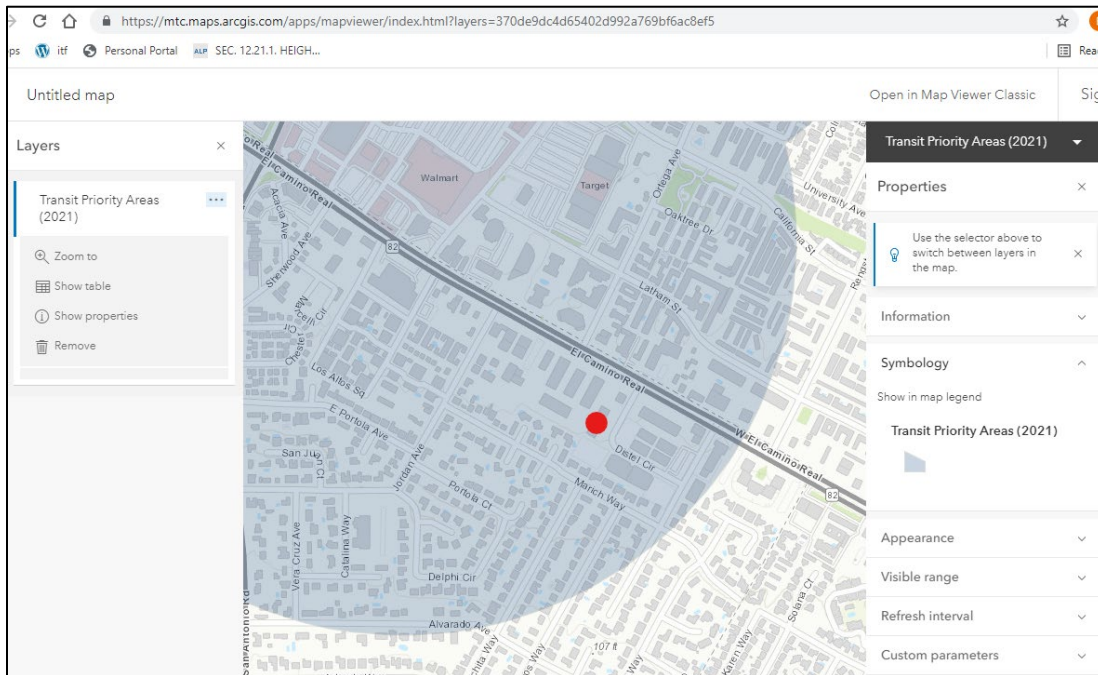
#### **A. Available Resources Identify the Project Site as Being One-Half Mile of a Major Transit Stop**

A Transit Priority Area is defined as “an area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program or applicable regional transportation plan.” (PRC § 21099(a).) Accordingly, if the Project Site is

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<sup>1</sup> State Density Bonus law treats planned major transit stops as existing major transit stops. Limited analysis was performed on whether major transit stops are planned within one-half mile of the Project Site. Our initial conclusion is that no such transit stops are planned, thus our research focused on existing major transit stops.

located in a Transit Priority Area, it is by definition within one-half mile of a major transit stop. The Metropolitan Transportation Commission (MTC), the metropolitan planning organization for the San Francisco Bay Area, identifies the Project Site as being within a Transit Priority Area. The graphic below is taken from the MTC's GIS system, which shades the TPAs in blue; the Project Site is designated by a red dot.



## B. A Major Transit Stop is Located at El Camino Real and Showers Drive

Although the MTC identifies the Project Site as being within a Transit Priority Area, it does not identify the major transit stop within one-half mile of the Project Site. Because the Project Site is not within one-half mile of a rail station, ferry terminal, or BRT station,<sup>2</sup> analysis focuses on the intersection of two or more bus routes with requisite service during the peak hour commute periods.

The statute does not define morning and afternoon peak commute hours, nor does the Los Altos Municipal Code (LAMC) or other City documentation. The Santa Clara Valley Transportation Authority (VTA), the City's transit provider, defines peak hours as "the highest morning or evening hour of travel reported on a transportation network or street." As the Congestion Management Agency for Santa Clara County, the VTA's Guidelines can be considered applicable in the absence of any other City guidance.

<sup>2</sup> Note that the Rapid 522 does not appear to have the elements of BRT service identified in the PRC, such as 1) dedicated bus lanes or a separate right-of-way, 2) transit signal priority, 3) all door boarding, 4) fare collection system promoting efficiency, and 5) defined stations. (PRC § 21060.2.) Accordingly, the Rapid 522 does not establish a major transit stop in and of itself.

Typically, peak hours are defined at between 7:00 am and 9:00 am and 4:00 pm and 6:00 pm.

The bus stop at the intersection of El Camino Real and Showers Drive, approximately 1,513 feet from the Project Site, constitutes a major transit stop, as VTA lines 22, 40, and Rapid 522 operate at less than 15 minute intervals between 7:00 am and 9:00 am and 4:00 pm and 6:00 pm, morning and afternoon peak commute periods. A chart demonstrating the bus lines frequency follows.

Northbound/Eastbound				Southbound*/Westbound			
Morning Peak Hours (7:00 AM-9:00 AM)		Afternoon Peak Hours (4:00 PM-6:00 PM)		Morning Peak Hours (7:00 AM-9:00 AM)		Afternoon Peak Hours (4:00 PM-6:00 PM)	
Time	Bus Line	Time	Bus Line	Time	Bus Line	Time	Bus Line
7:07 AM	22	4:01 PM	22	7:09 AM	522	4:01 PM	22
7:10 AM	522	4:02 PM	40	7:15 AM	22	4:07 PM	522
7:18 AM	22	4:05 PM	522	7:25 AM	40	4:14 PM	40
7:24 AM	522	4:16 PM	22	7:25 AM	522	4:16 PM	22
7:25 AM	40	4:17 PM	40	7:36 AM	22	4:23 PM	522
7:32 AM	22	4:20 PM	522	7:41 AM	522	4:31 PM	22
7:37 AM	522	4:31 PM	22	7:55 AM	40	4:38 PM	522
7:47 AM	22	4:35 PM	522	7:56 AM	22	4:44 PM	40
7:48 AM	522	4:46 PM	22	7:59 AM	522	4:46 PM	22
7:56 AM	40	4:47 PM	40	8:12 AM	22	4:53 PM	522
8:02 AM	22	4:50 PM	522	8:15 AM	40	5:01 PM	22
8:03 AM	522	5:02 PM	22	8:19 AM	40	5:09 PM	522
8:16 AM	22	5:04 PM	522	8:20 AM	522	5:14 PM	40
8:18 AM	522	5:17 PM	40	8:27 AM	22	5:16 PM	22
8:26 AM	40	5:17 PM	22	8:40 AM	522	5:24 PM	522
8:31 AM	22	5:19 PM	522	8:46 AM	22	5:31 PM	22
8:33 AM	522	5:33 PM	22	8:55 AM	40	5:39 PM	522
8:45 AM	22	5:33 PM	522	8:57 AM	522	5:46 PM	40
8:48 AM	522	5:46 PM	40			5:46 PM	22
8:50 AM	40	5:48 PM	22			5:54 PM	522
8:59 AM	22	5:49 PM	522				

\*There are two southbound stops for Line 40 at Latham Street, one is south of Latham Street, approximately a third of the distance to El Camino Real. This stop functionally serves to connect Line 40 to Line 22 and Rapid 522.

### III. Consistency with Density Bonus Provisions Based on Proximity to a Major Transit Stop

#### A. Density Bonus

The LAMC provisions contemplate up to a 35% Density Bonus. (LAMC § 14.28.040(C).) Alternatively, the Government Code allows for unlimited density for projects that are 100% affordable (at least 80% low income and up to 20% moderate income) and within one-half mile of a major transit stop. (GOV § 65915(f)(3)(D)(ii).) As the Project is a 100% affordable housing project, using Santa Clara County Measure A funding, City of Los Altos fee waivers, and Low Income Housing Tax Credits, its affordability will be subject to a covenant. Accordingly, as a 100% affordable project, the 165% Density Bonus is permitted by state law. The density increase is not considered an incentive/concession.

#### B. Height

Projects that are 100% affordable and within one-half mile of a major transit stop are entitled to a height increase of three additional stories, or 33 feet. (GOV § 65915(d)(2)(D).) The Project is designed to be 64 feet in height, 19 feet greater than the 45 feet allowed in the Commercial Thoroughfare zone. (LAMC § 14.50.140.) However, because the 64 feet would be within the additional 33 feet allowed for by GOV § 65915(d)(2)(D), the Project height is consistent with state Density Bonus provisions. Per the Government Code, this height increase is not considered an incentive/concession. (GOV § 65915(d)(2)(D).)

#### C. Parking

The City's Density Bonus provisions include a parking standard of .5 parking space per bedroom for affordable housing with unobstructed access to a major transit stop within one-half mile. (LAMC § 14.28.040(G)(2)(b).) As the Project consists of 159 bedrooms, this provision would require the Project to provide 80 parking spaces. Alternatively, state Density Bonus provisions do not require any parking for 100% affordable projects with unobstructed access to a major transit stop located within one-half mile of the project site. (GOV § 65915(p)(3).) As the Project proposes to include 90 parking spaces, it would satisfy both the state and local requirement. Use of these provisions is not considered an incentive/concession. (GOV § 65915(p)(9), LAMC § 14.28.040(G)(2)(e).)

#### D. Incentives, Concessions, and Waivers

Projects that are 100% affordable are entitled to four concessions or incentives. (GOV § 65915(d)(2)(D).) Concession or incentive is defined as "A reduction in site

development standards or a modification of zoning code requirements or architectural design requirements...that results in identifiable and actual cost reductions, to provide for affordable housing costs....” (GOV § 65915(k)(1).) Although entitled to four concessions, we understand that the EAH Housing is requesting two concessions which will result in cost reductions to allow the Project to be built: 1) a reduction in front yard setback from 25 feet to 10 feet, and 2) a reduction in private open space from a 50 square foot average to 25 square foot average.<sup>3</sup> The application for the Project should include findings or evidence demonstrating that reduction of the front yard setback and reduction of the open space would result in cost reductions to provide for the affordable housing. We can assist with those findings at your request.

EAH Housing may also request waivers, apart from an incentive/concession. (LAMC § 14.28.040(H).) The LAMC defines waiver as “the deletion or reduction of any development standards that would otherwise have the effect of physically precluding” a Density Bonus Development. (LAMC § 14.28.040(B)(27).) The Project is seeking a waiver to reduce the front step back of a minimum 10 feet from ground floor façade for stories above 45 feet in height, as maintaining that step back would preclude the Project from being constructed with the identified density. The application for the Project should include findings or evidence demonstrating that imposition of the front step back requirement would physically preclude the construction of the Project. We can assist with those findings at your request.

#### **IV. Alternative Consistency with Density Bonus Provisions**

As demonstrated above the Project Site is located within one-half mile of a major transit stop as defined by the Government Code and Public Resources Code. The subsequent analysis demonstrates that the Project Site’s proximity to a major transit stop qualifies the Project for unlimited density, increased height, and decreased parking. However, even if the Project Site is not determined to be within one-half mile of a major transit stop, it would still be consistent with state and local Density Bonus provisions based on available concessions and waivers.

Projects that are 100% affordable are entitled to four concessions or incentives. (GOV § 65915(d)(2)(D).) The LAMC does not include a limitation on the number of waivers a project can seek, but rather contemplates the use of multiple waivers by using the plural of the term, waivers, in relevant provisions.<sup>4</sup> State law specifically allows a city to grant multiple waivers. (GOV § 65915(e)(3).)

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<sup>3</sup> The staff report for the Joint City Council/Planning Commission Study Session on January 11, 2022 identified a third concession, increase in building height. As noted above, this increase is allowed by state law and not considered an incentive, consistent with GOV § 65915(d)(2)(D).

<sup>4</sup> See LAMC §§ 14.28.040(A), 14.28.040(C), 14.28.040(D)(1)(f), 14.28.040(H).

If the Project Site is not determined to be within one-half mile of a major transit stop, the Density Bonus can still be processed by including the following concessions and waivers.

A. Incentives/Concessions

An incentive or concession is defined as “A reduction in site development standards or a modification of zoning code requirements...that results in identifiable and actual cost reductions, to provide for affordable housing costs.” (GOV § 65915(k)(1).) As density is specifically identified as a zoning code requirement, an increase to the identified level, 103.45 dwelling units/acre as opposed to the 38 dwelling units/acre identified in LAMC § 14.50.080, would constitute a modification to a zoning code requirement, and therefore an incentive/concession. As it is not enumerated in LAMC § 14.28.040(F)(1), this would be considered an off-menu incentive or potentially a waiver (discussed below).

A reduction in required parking is specifically cited as an example of a concession or incentive. (GOV § 65915(k)(1).) The LAMC specifically allows for “off-menu parking requirement alterations.” (LAMC § 14.28.040(G)(3).) Further, the LAMC vests the City with broad authority to determine the parking required for a project: “This section does not preclude the city from reducing or eliminating a parking requirement for development projects of any type in any location.” (LAMC § 14.28.040(G)(4).)

The Project has previously identified the reduction in front yard setback from 25 feet to 10 feet and the reduction in private open space from a 50 square foot average to 25 square foot average as potential incentives/concessions. The staff report for the Joint City Council/Planning Commission Study Session on January 11, 2022 identified both of these as on-menu incentives/concessions.

B. Waivers

As noted above, maintaining the step back requirement would preclude the Project from being constructed with the identified density. Similarly, limiting the Project’s height to 45 feet would preclude the Project from being constructed at the identified density. The Project, as designed, includes dwelling unit square footages consistent with code requirements and ground floor amenities, as well as required parking. Reducing the Project to 45 feet would cause the removal of two stories from the Project. Maintaining the identified density while reducing the Project by two stories would likely require 1) redesign of the Project to include rooms of a substandard size, and/or 2) the removal of required parking and Project amenities on the ground floor, which would be displaced by residential units. Accordingly, the increased height would constitute a permissible waiver, as maintaining the 45 foot height limit would reduce the Project’s density.



The Project's increased density could also be considered a waiver. As the Project seeks to construct an affordable housing development with a density of 103.45 dwelling units/acre, maintaining the density required by the LAMC would have the effect of physically precluding the Project. Accordingly, the Project's increased density could be treated as a waiver rather than an incentive.