

RESOLUTION NO. 2022-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS MAKING FINDINGS AND DENYING THE DESIGN REVIEW, CONDITIONAL USE PERMIT AND SUBDIVISION APPLICATIONS FOR A FORTY-SEVEN UNIT MULTIPLE FAMILY DEVELOPMENT PROPOSAL ON 4350 EL CAMINO REAL**

**WHEREAS**, the City of Los Altos received a development application from Angie and Greg Galatolo, (Applicant), for a new forty-seven unit multiple-family residential building at 4350 El Camino Real that includes requests for Design Review (File Number D19-0001) Conditional Use Permit (UP19-0001) and Subdivision application (SD19-0001) referred to herein as the “Project”; and

**WHEREAS**, said Project is in the Commercial Thoroughfare (CT) district, which allows multiple-family housing as a conditional use and for a maximum of 38 dwelling units per acre allowable residential density, and the Proposal proposes a density of 72 dwelling units per acre; and

**WHEREAS**, the Applicant is offering seven (7) units with four (4) moderate income affordable housing units and three (3) Very-Low-income units for-sale as part of the Project which is above the required fifteen percent required inclusionary housing units; and

**WHEREAS**, the Applicant’s proposed unit mix would consist of 28 percent of a theoretical “base” project of 25 units as affordable units, with 16 percent of the units affordable at the moderate-income level and 12 percent of the affordable units at the very-low-income level; and

**WHEREAS**, by providing 12 percent of the affordable units at the very-low income level, the Project is entitled to a 38.75% density bonus, two incentives or concessions (“concessions”), and waivers of development standards, pursuant to Los Altos Municipal Code Section 14.28.040 and Government Code Section 65915, *et seq.*; and

**WHEREAS**, the Project is inconsistent with Chapter 14.28.030 of the Los Altos Municipal Code in that the proposed mix of affordable units is “significantly distinguishable by size” from the proposed mix of market rate units; and

**WHEREAS**, the Applicant has requested two concessions under Government Code Section 65915(d) and Los Altos Municipal Code Section 14.28.040. F.2 to allow for: 1) a building height of 53.84 feet where Section 14.52.100 the Municipal Code allows for a maximum of 45 feet and is an on-menu concession; and 2) reduction of parking aisle width from required 26ft aisle to 24 ft per Section 14.74.200 A 1. Parking Standards Exhibit-A which is an off-menu concession; and

**WHEREAS**, said Project has been processed in accordance with the applicable provisions of the California Government Code and the Los Altos Municipal Code; and

**WHEREAS**, on October 18, 2018, the Planning Commission held a design review study session on the Project where it received public testimony and provided the Applicant with architectural and site design feedback; and

**WHEREAS**, on August 28, 2019, the Complete Streets Commission conducted a duly noticed public hearing at which members of the public were afforded an opportunity to comment upon the Project,

## ATTACHMENT A

and at the conclusion of the hearing, the Complete Streets Commission provided direction for proposed changes to the Project; and

**WHEREAS**, on October 23, 2019, the Complete Streets Commission conducted a duly noticed public hearing at which members of the public were afforded an opportunity to comment upon the Project, and at the conclusion of the hearing, the Complete Streets Commission voted 4-0 to forward to Planning Commission and City Council to recommend approval of the Project; and

**WHEREAS**, on September 24, 2020, the City Council was to provide feedback on the story pole policy exception request by the applicant to install story poles on the site for the proposed Project, which was continues to November 12<sup>th</sup> hearing; and

**WHEREAS**, on January 26, 2021, the City Council reviewed and approved a modified story pole design to comply with the city's Story Pole policy in addition to requesting modification to billboards, 30 days prior to the Planning Commission hearing to a day after the City Council hearing; and

**WHEREAS**, on October 22, 2021, staff provided the applicant with a letter of inconsistency for the proposed project detailing project non-conformance to Chapter 14.28 of the Los Altos Municipal Code; and

**WHEREAS**, on January 12, 2022, a duly noticed distribution of the Draft Initial Study and Mitigated Negative Declaration document was circulated by providing notice that the document was available for review to owners of property within a 1,000ft radius of the Project, delivering notice to the Office of Planning and Research, filing notice with the County Clerk's Office, and publishing notice in the *Town Crier* and on the City's website; and

**WHEREAS**, the public comment period following circulation of the Draft Initial Study and Mitigated Negative Declaration continued until February 12, 2022; and

**WHEREAS**, on February 21, 2022, staff conducted a site visit and confirmed that only three of the story poles were installed on site and, there was an inconsistency with the approved billboard signs on the site. The billboard signs did not have the requested QR code updates as approved by the City Council and there was no link to webpages hosting the 3D walkthroughs; and

**WHEREAS**, on February 13, 2022, the Applicant installed and provided certification for the modified story poles on the site consistent with the approved story pole design plan, but did not update the billboards with the QR codes; and

**WHEREAS**, on February 23, 2022, the City gave public notice of the Planning Commission's public hearing on the proposed Project by advertisement in a newspaper of general circulation and to all property owners and business tenants within a 1,000-foot radius and a meeting notice was posted to the billboard sign; and

**WHEREAS**, on March 16, 2022, the applicant provided revised operational letter and density bonus report to be inserted into the staff report packet; and

**ATTACHMENT A**

**WHEREAS**, on March 17, 2022, the Planning Commission voted 6-0 to continue the hearing of the proposed project to April 7, 2022, Planning commission hearing; and

**WHEREAS**, the Planning commission conducted a duly noticed public hearing at which members of the public were afforded an opportunity to comment upon the Project, and at the conclusion of the hearing, the Planning Commission recommended City Council denial of the Project; and

**WHEREAS**, on \_\_\_\_\_, 2022, the City gave public notice of the City Council’s public hearing on the proposed Project by advertisement in a newspaper of general circulation and to all property owners and business tenants within a 1,000-foot radius and a meeting notice was posted to the billboard sign; and

**WHEREAS**, on \_\_\_\_\_, 2022 the City Council held a duly noticed public meeting as prescribed by law and considered public testimony and evidence and recommendations presented by staff related to the Project; and

**WHEREAS**, all the requirements of the Public Resources Code, the State CEQA Guidelines, and the regulations and policies of the City of Los Altos have been satisfied or complied with by the City in connection with the Project; and

**WHEREAS** the findings and conclusions made by the City Council in this Resolution are based upon the oral and written evidence presented as well as the entirety of the administrative record for the proposed Project, which is incorporated herein by this reference. The findings are not based solely on the information provided in this Resolution; and

**WHEREAS** all other legal prerequisites to the adoption of this Resolution have occurred.

**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of Los Altos hereby \_\_\_\_\_ the Project subject to the Findings (Exhibit A) attached hereto and incorporated by this reference.

**I HEREBY CERTIFY** that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the \_\_\_\_ day of \_\_\_\_\_ 2022 by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

\_\_\_\_\_  
Anita Enander, MAYOR

Attest:

\_\_\_\_\_  
Andrea M. Chelemengos, MMC, CITY CLERK

EXHIBIT A

FINDINGS

1. **Design Review Permit** Per Chapter 14.76.060 – Design Review Findings, the City Council must make the following findings to grant the Design Review Permit:
  - A. The proposal meets the goals, policies and objectives of the general plan and any specific plan, design guidelines and ordinance design criteria adopted for the specific district or area.

*This finding cannot be made because:* The project does not meet all the objectives standards of the zoning ordinance in the CT zoning district as detailed in Table-1 of the agenda report.

- B. The proposal has architectural integrity and has an appropriate relationship with other structures in the immediate area in terms of height, bulk and design.

*This finding cannot be made because:* The proposal is taller by an entire floor in relationship with the neighboring structures. Its bulk can be reduced further by articulating the vertical façade more, providing appropriate step back using design as detailed in the design control chapter of the CT district.

- C. Building mass is articulated to relate to the human scale, both horizontally and vertically. Building elevations have variation and depth and avoid large blank wall surfaces. Residential or mixed-use residential projects incorporate elements that signal habitation, such as identifiable entrances, stairs, porches, bays, and balconies.

*The findings cannot be made because:* Vertical and horizontal articulation of the building mass can be further detailed and broken down, as addressed in Design Control section of the CT zone. The pedestrian entrances and vehicular entrances are not detailed with elements that distinguish the spaces other than stairs and a door. The use of architectural elements can help break up the massing further in these areas and make it more inviting. There are large surfaces that go all five floors high, increasing bulky nature of the structure.

- D. Exterior materials and finishes convey high quality, integrity, permanence and durability, and materials are used effectively to define building elements such as base, body, parapets, bays, arcades, and structural elements. Materials, finishes, and colors have been used in a manner that serves to reduce the perceived appearance of height, bulk, and mass, and are harmonious with other structures in the immediate area.

*The findings cannot be made because:* The proposed materials and the use of these on the facades are not entirely serving to reduce the height, mass, and bulk because of the lack of articulation and consistent visual elements to read base, body, parapets, and other structural elements. The design can be articulated further to provide some relief between upper floors, body of the project and base level details.

E. Landscaping is generous and inviting, and landscape and hardscape features are designed to complement the building and parking areas, and to be integrated with the building architecture and the surrounding streetscape. Landscaping includes substantial street tree canopy, either in the public right-of-way or within the project frontage.

*The findings can be partially made because:* Although landscaping is generous and inviting, it can incorporate more hardscape features at lobbies and entrances to signify entry elements. The tree canopy is substantial along the street sides. The courtyard landscaping can include a play/gathering space for children and families, considering there are some larger units in the proposal which caters to families.

F. Signage is designed to complement the building architecture in terms of style, materials, colors, and proportions.

*The findings cannot be made because:* Staff have not received a signage package for review. If the project is approved, this would be a condition of project approval.

G. Mechanical equipment is screened from public view and the screening is designed to be consistent with the building architecture in form, material, and detailing.

*The findings cannot be made because:* The rooftop mechanical and other mechanical equipment are not shown in the drawings. If the project is approved, this would be a condition of project approval.

H. Service, trash and utility areas are screened from public view, or are enclosed in structures that are consistent with the building architecture in materials and detailing.

*The finding can be made:* The garbage staging area on the first floor is screened and is consistent with the building architecture.

## 2. **Conditional Use Permit**

To grant Conditional Use Permit UP19-001, to approve the permit the City Council must find the following in accordance with Chapter 14.80.060 of the LAMC:

A. That the proposed location of the conditional use is desirable or essential to the public health, safety, comfort, convenience, prosperity, or welfare.

*This finding can be made:* Based upon the Initial Study/Negative Declaration (IS/MND) for the project, there is no evidence that the project will have an undesirable impact on the physical environment of the surrounding community.

B. That the proposed location of the conditional use is in accordance with the objectives of the zoning plan as stated in [Chapter 14.02](#) of this title;

*This finding cannot be made:* The project will not have a significant environmental impact and it will meet many of the goals and objectives of the General Plan. However, it does not comply with the City's inclusionary housing requirements, exceeds the allowed density, and as proposed does not meet all the City's design policies and objectives, as set forth above with respect to the Design

Review Permit findings. Therefore, the project does not fully comply with all the objectives set forth in Section 14.02.020 of the Los Altos Municipal Code.

C. That the proposed location of the conditional use, under the circumstances of the particular case, will not be detrimental to the health, safety, comfort, convenience, prosperity, or welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.

*This finding can be made because:* The project will not cause a significant environmental impact, as indicated in the IS/MND, the development of a housing project in the corner location of El Camino and Los Altos Ave. will not be detrimental to the health and safety. The project will not be injurious to property or improvements in the vicinity because of the mitigation measures that are adopted as part of the environmental assessment report.

D. That the proposed conditional use will comply with the regulations prescribed for the district in which the site is located and the general provisions of [Chapter 14.02](#);

*This finding cannot be made:* The specific use of a multi-family residential project does not fully comply with the regulations prescribed for the CT district as detailed in the staff report analysis and development standards table 1.

### **3. SUBDIVISION FINDINGS.**

With regard to Subdivision TM19-0001, to approve the map, the City Council must find that none of the following findings can be made, in accordance with Chapter 4, Article 1, Section 66474 of the Subdivision Map Act of the State of California:

A. The proposed subdivision is not consistent with applicable general and specific plans as specified in 65451.

*This Finding can be made.* The proposal remains inconsistent with Housing Element Goal 2, Policy 2.1.1 and Goal 4, Policy 4.3.2. in that the proposal does meet required diversity in the size of units and that the affordable housing units are seventy one percent one-bedroom units and are smaller than the market rate units in the project.

B. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

*This Finding can be made.* The proposal remains inconsistent with Housing Element Goal 2, Policy 2.1.1 and Goal 4, Policy 4.3.2 because the proposal does not meet the required distribution of unit type, size and diversity of units in the affordable housing mix.

C. That the site is not physically suitable for the type of development.

*This Finding cannot be made.* The site is physically suitable for this type of development because it is in conformance with the Thoroughfare Commercial land use designations of the General Plan and complies with all applicable CT Zoning District site development standards excluding those exceptions otherwise approved.

D. That the site is not physically suitable for the proposed density of development.

*This Finding can be made.* The site is not physically suitable for the proposed density of development because it exceeds the maximum allowable density of 45 du/acre by eighty eight percent which it is not entitled by right.

E. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

*This Finding cannot be made.* The design of the subdivision and the proposed improvements would not cause substantial environmental damage, or substantially injure fish or wildlife if mitigation measures recommended in the Initial Study/Mitigated Negative Declaration (“IS/MND”) prepared for the project are implemented, as indicated in the IS/MND.

F. That the design of the subdivision or type of improvement is likely to cause serious public health problems.

*This Finding cannot be made.* The design of the subdivision will not cause serious public health problems because the site is located within an urban context and has access to urban services including sewer and water.

G. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

*This Finding cannot be made.* The design of the subdivision will not conflict with access easements because there are no known existing access easements encumbering this property.