

From: James Lloyd [REDACTED] >
Sent: Wednesday, February 12, 2025 2:23 PM
To: Planning <Planning@losgatosca.gov>
Cc: Wendy Wood <WWood@losgatosca.gov>; Clerk <Clerk@losgatosca.gov>; Chris Constantin <CConstantin@losgatosca.gov>; Gabrielle Whelan <GWhelan@losgatosca.gov>
Subject: CalHDF comment re 50 Los Gatos-Saratoga Rd for 2/12/25 Planning Commission meeting

[EXTERNAL SENDER]

Dear Los Gatos Planning Commission,

The California Housing Defense Fund (“CalHDF”) submits the attached public comment regarding the proposed 155-unit housing development project at 50 Los Gatos-Saratoga Road, which includes 10 moderate-income units and and 17 low-income units, calendared as agenda item 3 for tonight's Planning Commission meeting.

Sincerely,

James M. Lloyd

Director of Planning and Investigations

California Housing Defense Fund
[REDACTED]



Feb 12, 2025

City of Los Gatos
110 E. Main St.
Los Gatos, CA 95030

Re: Proposed Housing Development Project at 50 Los Gatos-Saratoga Road

To: planning@losgatosca.gov

**Cc: wwood@losgatosca.gov; Clerk@losgatosca.gov; CConstantin@losgatosca.gov;
gwhelan@losgatosca.gov**

Dear Los Gatos Planning Commission,

The California Housing Defense Fund (“CalHDF”) submits this letter to remind the Commission of its obligation to abide by all relevant state laws when evaluating the proposed 155-unit housing development project at 50 Los Gatos-Saratoga Road, which includes 10 moderate-income units and 17 low-income units. These laws include the Housing Accountability Act (“HAA”), the Density Bonus Law (“DBL”), and California Environmental Quality Act (“CEQA”) regulations.

The HAA provides the project legal protections. It requires approval of zoning and general plan compliant housing development projects unless findings can be made regarding specific, objective, written health and safety hazards. (Gov. Code, § 65589.5, subd. (d).) The HAA also bars cities from imposing conditions on the approval of such projects that would render the project infeasible, again, such written findings are made. (*Ibid.*) As a development with at least two-thirds of its area devoted to residential uses, the project falls within the HAA’s ambit, and it complies with local zoning code and the City’s general plan. Increased density, concessions, and waivers that a project is entitled to under the DBL (Gov. Code, § 65915) do not render the project noncompliant with the zoning code or general plan, for purposes of the HAA. (Gov. Code, § 65589.5, subd. (j)(3).) The HAA’s protections therefore apply, and the City may not reject the project except based on health and safety standards, as outlined above.

CalHDF also writes to emphasize that the DBL offers the proposed development certain protections. The City must respect these protections. In addition to granting the increase in



residential units allowed by the DBL, the City must not deny the project the proposed waivers and concessions with respect to height, private open space, bicycle parking, setbacks, alley widths, setbacks above second floor, retaining wall lengths, fence/wall in setback along street, utility box screening, variation in building mass, tandem parking, and standalone multi-family residential use without a commercial or office component unless it makes written findings as required by Government Code, section 65915, subdivision (e)(1) that the waivers would have a specific, adverse impact upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, or as required by Government Code, section 65915, subdivision (d)(1) that the concessions would not result in identifiable and actual cost reductions, that the concessions would have a specific, adverse impact on public health or safety, or that the concessions are contrary to state or federal law. Of note, the DBL specifically allows for a reduction in required accessory parking in addition to the allowable waivers and concessions. (Gov. Code, § 65915, subd. (p).) Additionally, the California Court of Appeal has ruled that when an applicant has requested one or more waivers and/or concessions pursuant to the DBL, the City “may not apply any development standard that would physically preclude construction of that project as designed, even if the building includes ‘amenities’ beyond the bare minimum of building components.” (*Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 775.)

Additionally, the project is eligible for a streamlined environmental review process pursuant to § 15183 of the CEQA Guidelines, as the project is consistent with the densities and use characteristics considered by the General Plan environmental impact reviews. And recent caselaw from the California Court of Appeal affirms that local governments err, and may be sued, when they improperly refuse to grant a project a CEQA exemption or streamlined CEQA review to which it is entitled. (*Hilltop Group, Inc. v. County of San Diego* (2024) 99 Cal.App.5th 890, 911.)

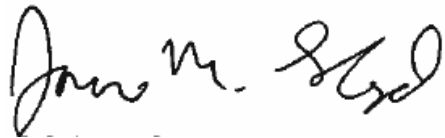
As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New housing such as this is a public benefit: by providing affordable housing, it will mitigate the state’s homelessness crisis; it will bring new customers to local businesses; it will grow the City’s tax base; and it will reduce displacement of existing residents by reducing competition for existing housing. It will also help cut down on transportation-related greenhouse gas emissions by providing housing in denser, more urban areas, as opposed to farther-flung regions in the state (and out of state). While no one project will solve the statewide housing crisis, the proposed development is a step in the right direction. CalHDF urges the Commission to approve it, consistent with its obligations under state law.

CalHDF is a 501(c)3 non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Dylan Casey', with a long horizontal stroke extending to the right.

Dylan Casey
CalHDF Executive Director

A handwritten signature in black ink, appearing to read 'James M. Lloyd', with a long horizontal stroke extending to the right.

James M. Lloyd
CalHDF Director of Planning and Investigations