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February 24, 2025

Ryan Safty
Town of Los Gatos
Community Development Department
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Re: **Application for 143 and 151 East Main Street
Response to November 27, 2024 Consistency Letter**

Dear Ryan:

I am writing on behalf of CSPN, LLC (“Applicant”) as part of our response to the Town’s November 27, 2024 Planning Staff Technical Review Letter (“Planning Letter”) and to provide an updated Letter of Justification in support of Applicant’s resubmitted Formal Application for the mixed-use project at 143 and 151 East Main Street that contains 30 units, 6 of which are affordable at the low-income level (“Project”).

Below, we discuss and reemphasize the Project’s Builder’s Remedy protections and General Plan/Zoning Ordinance inconsistency justifications, and address the Applicant’s proposed parking optionality request.

I. Justifications for General Plan and Zoning Ordinance Inconsistencies

Regarding Planning Letter Comment 3, and as discussed in past letters, the Town cannot deny a Builder’s Remedy project due to any inconsistency with the General Plan or Zoning Ordinance. Therefore, Project inconsistencies with the 2020 General Plan Land Use Element and the current Zoning Ordinance do not form a basis for denial under State law protections. We reiterate this as some of the consistency information requested relates to justifying “exceptions” from General Plan and Zoning Ordinance regulations/standards, which we do not believe is appropriate for a Builder’s Remedy application.

Despite this, our goal remains to work with the Town and ensure that it has full information in preparation for the upcoming Planning Commission hearing. In that spirit, Table 1 below includes the Town’s list of relevant regulations/standards and Project inconsistencies with the General Plan and Zoning Ordinance, which we have amended with the Applicant’s justifications. Please note that the Applicant’s latest comments on the Objective Design Standards Checklist were provided within Attachment 6 to the February 18, 2025 submittal and where inconsistency remains, justifications were provided.

| Table 1 | | | |
|---|--|--|--|
| 143-151 E. Main St. – General Plan and Zoning Ordinance Justifications | | | |
| Reference | Regulation/Standard | Proposed/Exception | Applicant’s Justification |
| General Plan Land Use Element | | | |
| CB District: | 0.6 FAR with a 45-foot height limit | 2.57 FAR with 52’ tall | The proposed 2.57 FAR and height of 52’ are essential to accommodate the 30 residential units and associated amenities proposed, which contribute to addressing the Town’s housing shortage. |
| CB District: | Maintains and expands landscaped open spaces and mature tree growth without increasing setbacks. | Does not maintain or expand landscaping. | The Project is a redevelopment of the site, which includes redevelopment of the existing landscaping. However, the intent of the landscaping is to enhance and enliven the open space. The Project’s proposed landscaped open spaces provide a tasteful and design-forward addition to the site and the neighborhood, which is consistent with the intent of the General Plan. |
| GP Density | Maximum allowed is 20 units/acre per 2020 GP | Max is 8.5 units | Consistent with the Builder’s Remedy law, the goal of the Project is to maximize residential development, which it does by providing 30 residential units. While this is inconsistent with the existing General Plan density controls, it carries out the goal of the Town’s Housing Element of increasing housing at all affordability levels. |

| Table 1 | | | |
|---|--|--|--|
| 143-151 E. Main St. – General Plan and Zoning Ordinance Justifications | | | |
| Town Zoning Ordinance | | | |
| 29.60.345 | The floor area ratio for all new buildings in a C-2 or central business district commercial zone, or expansion of gross floor area of an existing building, shall not exceed sixty-hundredths. | Max is 11,110 sf while 77,509 ¹ sf is proposed | The Project’s proposed 2.57 FAR is essential to accommodate the 30 residential units and associated amenities proposed, which contribute to addressing the Town’s housing shortage. |
| 29.60.340 | The maximum height of any building in a C-2 or central business district commercial zone is forty-five (45) feet. | 52’ proposed | The minor deviation in height is justified as it allows the Project to accommodate the 30 residential units and associated amenities. |
| 29.60.335 | Front setback (Main St) – 10 ft Side setback (west) – 0 ft Street side setback (High School Ct) – 15’ Rear/Front (Church St) – 15’ | Front – 4’-2” Side – COMPLIES Street side – 2’-10” Rear/Front – 3’-4” | The Project attempts to maximize residential space on the parcel while also abiding by principles of good urbanism. However, to include the proposed 30 residential units, it was necessary to encroach on the setbacks. |
| Parking | 86 spaces required (45 for tenants, 30 for visitors, and 11 for retail/restaurant) | Both Parking Options are nonconforming | It is not financially feasible to provide the 86 spaces required by the Zoning Ordinance due to the high cost of below grade parking construction. We believe that the parking provided will be sufficient for the uses proposed and better reflect the Project’s prime location in a downtown area. |

¹ The Plan Set Cover Sheet indicates that the total building square footage is 78,576 square feet (30,996 square feet of total garage area and 47,580 square feet of total housing area). The Project’s underground garage area is not considered “gross floor area” pursuant to the Town Code (Sec. 29.10.020) and is therefore excluded from the FAR calculation.

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II. Parking

As described in the updated and separately enclosed project description (Attachment 5) and Plan Set, the Applicant is proposing two options for parking. Option 1 is a 2-level parking garage with 47 individual parking stalls. (Sheets A2.5, A2.6.) Option 2 is a 1-level parking garage with 39 parking stalls. (Sheet A2.7.)

The Applicant reiterates its preference that staff present both parking options to the Planning Commission for consideration and that the Planning Commission approve both options. Given the costs and complexities inherent in below-grade construction, this parking optionality is essential for maintaining the Project's financial health, securing necessary construction financing, and ensuring adaptability to an uncertain market. This type of development flexibility is consistent with State law's Builder's Remedy framework, the purpose of which is to ensure the approval of feasible projects. We also are not aware of anything in the Town Code that prevents this type of flexibility and it is something we have seen done in other jurisdictions, as we previously shared.

III. Conclusion

The Applicant looks forward to supporting Town staff in preparing for the upcoming Planning Commission hearing. Thank you for your attention to this letter.

Very truly yours,



Miles Imwalle

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October 30, 2024

Ryan Safty
Town of Los Gatos
Community Development Department
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Re: **Application for 143 and 151 East Main Street
Response to October 2 Incomplete Letters**

Dear Ryan:

I am writing on behalf of CSPN, LLC (“Applicant”) as part of our response to the Town’s October 2, 2024 Planning Staff Technical Review Letter (“Planning Letter”) and Parks and Public Works Technical Review Letter (“Public Works Letter”) and to provide an updated Letter of Justification in support of Applicant’s resubmitted Formal Application for the mixed-use project at 143 and 151 East Main Street that contains 30 units, 6 of which are affordable at the low-income level (“Project”).

Below, we discuss and reemphasize the Project’s Builder’s Remedy protections, address State law related to application completeness and consistency, and respond to particular comments made in the Planning and Public Works Letters.

I. Builder’s Remedy

As discussed in our letter accompanying the Builder’s Remedy Preliminary and Formal Applications, the Town cannot deny a Builder’s Remedy project due to any inconsistency with the zoning ordinance or General Plan land use designation of a project site. Therefore, Project inconsistencies with the current zoning ordinance and the 2020 General Plan Land Use Element do not form a basis for denial under State law protections. We reiterate this as some of the information requested relates to consistency with zoning and/or the General Plan, which we do not believe is appropriate for a Builder’s Remedy application. Despite some of these issues, our goal remains to work with the Town and ensure that it has full information, the Applicant has provided the Town with all information requested, other than a few minor items, as noted.

II. Application Completeness and Consistency

In determining what constitutes a complete application, the Town is subject to the limitations imposed by the Permit Streamlining Act (“PSA”) and Housing Accountability Act (“HAA”). When the Town receives an application for a housing development project, it is required to process the application in compliance with the procedures and timelines stated in the PSA. In particular, the PSA specifies that the Town must provide a complete list of items that were not provided and

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“[i]n any subsequent review of the application determined to be incomplete, the local agency shall not request the applicant to provide any new information that was not stated in the initial list of items that were not complete” (Government Code, § 65943(a)). That is, a subsequent incomplete letter cannot expand on what was identified as missing in an earlier letter.

Additionally, the HAA provides that determinations of *consistency* are not done during the application *completeness* determination phase, but must instead occur after the application completeness determination (Government Code, § 65589.5(j)(2)(A), (h)(10)). We do appreciate that the Town has distinguished between completeness issues and consistency issues and that the consistency items are provided for informational purposes only and do not require a response for completeness purposes. Of course, the Project’s status as a Builder’s Remedy project means that consistency with zoning and the General Plan are not grounds for denial, so consistency in this context is less relevant to processing the application. While it is not necessary for us to respond to the consistency items at this time, the Applicant’s response is comprehensive as we seek to move this application forward expeditiously.

III. Planning Letter - Completeness Items

We provide this background on the limits in the PSA since the Town has asked for new information in the Planning Letter that it did not request previously. For example, Comment 6 in the original July 17, 2024 Planning Letter addressed the Objective Design Standards Checklist and vaguely asked for “specificity for staff to verify the project’s compliance,” but it did not specify what information was missing. Further, the original Comment 16B-3.a only requested “existing” building floor plan dimensions. In the new Planning Letter, however, Comment 6 was marked as resolved and Comment 16B-3.a was amended to identify many places where dimensioned floor plans were missing for not only existing buildings, as asked for previously, but also proposed buildings. Contrary to the PSA, Comment 16B-3.a asks for new information not previously requested. Nonetheless, the Applicant has updated the floor plans as requested in the Planning Letter and all information identified as missing has been provided. However, because this information was not requested previously, it was not proper to request in the latest Planning Letter, so if we happen to not provide some newly requested information, that is not a basis for finding incompleteness on this current resubmittal.

The Applicant also responds specifically to the following Town comments:

- Comment 16, Item I-7, subsection c, requires that where a traffic impact is determined by the Parks and Public Works Department, specific sections of the General Plan must be identified stating that the type of project will benefit the community. We do not believe that this requirement has been triggered as the Parks and Public Works Department has not, to our knowledge, determined that the Project would have a “traffic impact”. We also do not believe that this finding is relevant to a Builder’s Remedy project since consistency with the Town’s General Plan is not a relevant issue, so we do not believe it

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appropriate for the Town to request information regarding and assess whether the General Plan identifies that this type of project will be a benefit to the community.

Despite these objections, we note that a number of sections of the Town's Housing Element confirm that this type of project will benefit the community. For example, Goal HE-1 "Facilitate All Types of Housing Production" encourages the production of diverse new housing options to ensure that an adequate supply is available. The 30-unit Project aligns with Goal HE-1 by facilitating housing production and contributes to the Town's efforts to ensure an adequate supply of housing to meet the needs of all residents, both current and future. Policy HE-1.2 "Multi-Family Housing Densities" encourages builders to develop projects on multi-family designated properties at the high end of the applicable density range. The Project's density exceeds the applicable density, which it is allowed to do as a Builder's Remedy project, and this policy confirms the benefits of higher density housing, which the Project carries out. Policy HE-1.5 encourages the production of housing "that meets the needs of all economic segments of the Town, including lower and moderate households, to maintain a balanced community," which the Project does by including 6 low-income units. Similarly, Goal HE-2 "Provide New Affordable Housing" urges the production of more affordable housing. Policy HE-2.3 "Mixed-Use Development" encourages mixed-use development that provides affordable housing close to employment centers and/or transportation facilities. The Project is a mixed-use development with affordable housing that is close to the Town's downtown area, which provides employment opportunities.

- Comment 16, Item I-7, subsection g, requires that applications for conditional use permits address required findings. However, the Town's July 17, 2024 Planning Letter did not mention subsection g being incomplete and the Town is now barred from raising this issue in a subsequent incomplete letter. Further, these findings are not relevant to a Builder's Remedy application particularly to the extent they focus on the Project's consistency with the zoning and General Plan.

While we maintain these objections, we also note that the Project is consistent with the required conditional use permit findings (Town Code, § 29.20.190(a)) as it (1) addresses a critical need in the Town for additional housing units, particularly affordable units; (2) is designed to be tasteful and in harmony with the existing character of the surrounding neighborhood and zoning district; (3) is designed with public health, safety, and general welfare in mind; (4) aligns with the objectives of the General Plan's Housing Element by facilitating mixed-use development and new affordable housing production, consistent with the Housing Element Policies and Goals identified in the prior response; and (5) is not a hazardous waste facility proposal.

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IV. Planning Letter - Consistency Items

The HAA limits the Town's review of consistency items until after the application completeness determination, which has not been made. Even so, the Applicant has responded to all Town consistency comments, and responds here specifically to the following:

- Comment 94 largely repeats the information requested in Comment 16, Item I-7, and as a consistency item, is not required to be addressed as part of the Project's completeness determination pursuant to the HAA. And while we do not believe these items need to be addressed, we provide the following response.

Subsection a recommends that any requested exceptions as part of the Builder's Remedy application are identified and described, similar to a letter submitted for a prior project outlining waivers and concessions requested pursuant to State Density Bonus Law. In the Builder's Remedy context, we do not believe density bonus waivers and concessions are necessary, although to the extent the Town finds that they are necessary, we reserve our right to use any such waivers and concessions. We therefore do not believe that it is necessary to review consistency with, or exceptions to, objective standards. We nonetheless have completed the Objective Design Standards Checklist demonstrating compliance and identifying any deviations. Currently, we are not planning on providing further information on consistency, other than the completed Objective Design Standards Checklist and otherwise responding to City comments.

Subsection b asks to confirm that the affordability level is consistent with Builder's Remedy requirements. All 6 of the affordable units proposed (or 20% of the 30 total units) will be provided for low-income households, as defined in Section 50079.5 of the Health and Safety Code, meaning those whose income does not exceed 80% of the Area Median Income. By including 20 percent low-income units, the project qualifies for certain protections under Government Code section 65589.5(d)(5). This information has also been added to Sheet A0.0 (Cover Sheet) of the Plan Set.

Regarding subsection c, (a) a project description is included on the Cover Sheet for the Project's Plan Set; (b–d) to the extent that each asks how the community will benefit or otherwise what justifies the application, the Project will benefit the community (and is thus justified) by providing needed market-rate and affordable-housing units, as described above; (e) the Project meets the General Plan's Housing Element needs, as described above; and (g) the Project meets the required findings, as described above.

The Housing Element notes that Town housing prices are extremely high – the largest proportion of for-sale homes were valued at more than \$2 million – driven by a high demand which the Town's housing supply has not matched. (Housing Element, pp. 10-2, 10-27, B-2.) In addition, the Town has a higher proportion of detached single-family

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homes than other jurisdictions in the region, which exacerbates the Town's housing unaffordability as detached single-family homes are typically more expensive than multi-family units. (Housing Element, p. 10-27.) The Project directly addresses the shortcomings noted in the Housing Element by increasing the housing supply in a market characterized by extremely high home prices and a shortage of affordable housing options. By introducing 30 new housing units, including 6 designated as affordable for low-income households, the Project helps to alleviate the high demand for housing that has driven up prices. Additionally, the focus on multi-family units rather than detached single-family homes contributes to a more diverse and affordable housing stock.

V. Public Works Letter – Completeness Item

The Applicant has responded to all comments in the Public Works Letter and we respond specifically to the following comment:

- Comment 23 addresses the Project's EV stackers and states that they are "not allowed," and cites to a "code" provision regarding the removal of vehicles after charging is complete. Regarding EV stackers, as a Builder's Remedy Project, the Town cannot deny it due to any inconsistency with zoning regulations or the General Plan. This includes any inconsistency with the Town's parking space standards. Therefore, even if the Town interprets its zoning ordinance as prohibiting the use of parking stackers, the Project cannot be denied on that basis.

We are not aware of what code section requires EVs to be moved once charging is complete and are otherwise not aware of such a requirement, particularly for EV spaces designated for residential use, which presumably will be used overnight. It may be that the reference is to Vehicle Code Section 22511.1, which states that a person shall not park a vehicle in a stall or space "designated" pursuant to Section 22511 unless the vehicle is connected for electric charging purposes. To be "designated" pursuant to Section 22511, a specific sign must be posted in a private garage stating that unauthorized vehicles not connected for electric charging will be towed away. That is, Section 22511 creates a mechanism to enforce a requirement that EV spaces be used only by cars that are actively charging, but whether to require active charging is left up to the property owner. Nothing in Section 22511, however, requires EV stalls to be used for active charging. If the reference to the code is a local requirement, for the reasons explained above, it cannot be applied to a Builder's Remedy project.

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VI. Conclusion

The Applicant continues to be excited to put forth this updated proposal to revitalize an underutilized Town site and to provide much needed housing. Thank you for your attention to this letter.

Very truly yours,



Miles Imwalle

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August 30, 2024

Ryan Safty
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Re: **Application for 143 and 151 East Main Street
Response to July 17 Incomplete Letter**

Dear Ryan:

I am writing on behalf of CSPN, LLC (“Applicant”) as part of our response to the Town’s July 17, 2024 Planning Staff Technical Review (“Town Letter”) and to provide a Letter of Justification in support of Applicant’s formal application for the mixed-use project at 143 and 151 East Main Street. As you know, we previously submitted an SB 330 Preliminary Application on January 17, 2024 for a 26 unit, mixed-use project with 4 affordable units and subsequently followed up with formal applications for Architecture and Site Approval (S-24-007), Conditional Use Permit (U-24-002), and Vesting Tentative Map Application (M-24-004) on February 15, 2024.

More recently, we submitted a new SB 330 Preliminary Application on May 3, 2024, which was “deemed submitted” as of May 6, 2024, for substantially the same project with the following changes: (1) the unit count was increased to 30 units, and (2) 20 percent of these 30 units, or 6 units, will be affordable at the low-income level (“Project”). The building size, location, circulation, architecture and other details were otherwise unchanged. Reference should be made to the subsequent SB 330 Preliminary Application (PRE24-00443).

Below, we discuss the Project’s Builder’s Remedy protections, consistency with the Town’s Objective Design Standards and other Town regulations and standards, CC&R submittal timeframes, and application timing considerations.

I. Builder’s Remedy

The Applicant submitted this latest Preliminary Application before the Town had a substantially compliant Housing Element for the 6th Regional Housing Needs Assessment Cycle. By including 20 percent low-income units, the Project qualifies for protections under Government Code section 65589.5(d)(5), commonly referred to as the Builder’s Remedy. This letter is accompanied by the Applicant’s resubmission in response to the Town Letter.

As discussed in our letter accompanying the Builder’s Remedy Preliminary Application, the Town cannot deny a Builder’s Remedy project due to any inconsistency with the zoning ordinance or General Plan land use designation of a project site. Therefore, Project

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inconsistencies with the current zoning ordinance and the 2020 General Plan Land Use Element, including density¹, height², and FAR³, among other standards, do not form a basis for denial under State law protections. While we do not believe density bonus waivers and concessions are necessary for a Builder's Remedy project, to the extent the City finds that they are necessary, we reserve our right to use any such waivers and concessions.

Nonetheless, the Applicant has endeavored to respect the Town's long-term vision for the site by considering the density and development program envisioned in the now rescinded 2040 General Plan Land Use Element. Where feasible, we have also incorporated feedback received during the June 14, 2023 CDAC meeting.

II. Objective Design Standards

The Applicant aims for Project consistency with the Town's Objective Design Standards and the completed Objective Design Standards Checklist was included with our prior submission. While inconsistency with these standards is not a basis for denial of the Project, the Project is in significant compliance with them.

In response to Comment 6 of the Town Letter asking the Applicant to provide a greater "level of specificity," we do not believe that additional information is necessary. First, because the Project is subject to the protections of the Builder's Remedy, compliance with the Objective Design Standards is not necessary, so the Town does not need more information to process the application. Nonetheless, the Applicant has designed the Project with the goal of harmonizing it with the Town's Objective Design Standards to the maximum extent possible. Further, the prior submittal included a completed Objective Design Standards Checklist, including the sheet numbers where compliance with the various design standards can be identified. Therefore, while not required, if the Town desires to review the Project against those Standards, it has the necessary information.

III. Project Consistency With Town Regulations and Guidelines

In a similar vein, in response to Comment 71 of the Town Letter, the Applicant is not required to include a description of items proposed that "do not comply with Town regulations and guidelines along with an explanation for each exception request." Nonetheless, throughout this formal application the Applicant has attempted to provide as much transparency and detail as

¹ Current density limit: 20 dwelling units per acre (according to Comment 71 of the Town Letter). Project density: 71 dwelling units per acre.

² Current height limit: 45 feet. Project height: 52 feet.

³ Current FAR limit: 0.60. Project FAR: 2.52.

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possible as to ways the Project differs from objective General Plan and zoning ordinance standards.⁴

IV. CC&R Submittal

In response to Comment 16, Item G, of the Town Letter regarding providing CC&Rs and other related documents such as association by-laws, the Applicant is not prepared to provide condominium CC&Rs at this premature stage, before the Project's completeness determination and well before its first public hearing or approval. In fact, it would not be possible to provide CC&Rs for a project at this stage. The Applicant is prepared to provide CC&Rs at a more appropriate point in the development process that is prior to Project occupancy, which we anticipate will be reflected in a condition of approval.⁵

On a similar note, Comment 31 from Public Works requests a condominium plan under the Government Code. However, a condo plan is required for compliance with the Davis-Stirling Common Interest Development Act, and it is not part of the local process under the Subdivision Map Act. A condo plan will be processed with the Department of Real Estate at the appropriate time, but it is not a document that should be required as part of this application.

V. Timing Considerations

Finally, based on recent correspondence with the Town Attorney, we did want to confirm one point in response to Comment 1 of the Town Letter regarding the Applicant being afforded a single new "90-day period" for resubmittal. The Town Attorney clarified this point in an email on August 29, 2024 and stated that within 180 days of the Project's May 6, 2024 Builder's Remedy Preliminary Application, or November 2, 2024, the Applicant can submit revisions to the formal application, as needed, and that the 90-day period referred to in Comment 1 only limits the time to submit additional information after this initial 180-day period expires. This means that the Applicant is afforded one final 90-period after the City responds with any incomplete items in this formal application. Please let us know if we should discuss this timing framework.

VI. Conclusion

The Applicant continues to be excited to put forth this updated proposal to revitalize an underutilized Town site and to provide much needed housing. We very much hope that the

⁴ Applicant's response here also applies to Comments 2, 22, and 26 of the July 17, 2024 Public Works Technical Review. Regarding Comment 28, the Applicant is prepared to provide a Trash Management Plan at a more appropriate point in the development process prior to Project occupancy, which can be reflected in a condition of approval.

⁵ Applicant's response here also applies to Comment 29 of the July 17, 2024 Public Works Technical Review.

Ryan Safty
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Town will help achieve these important goals of facilitating new residential units, while also creating a new space in the Town that embraces a vision for good urbanism.

Very truly yours,



Miles Imwalle

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June 15, 2024

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**Re: Response to Town’s March 27, 2024 Staff Technical Assistance Letter – 143 and
151 East Main Street**

Dear Jennifer and Ryan:

I am writing on behalf of CSPN, LLC (“Applicant”) as part of our response to the Town’s March 27, 2024 Staff Technical Assistance Letter (“Town Letter”). As you know, we previously submitted an SB 330 Preliminary Application on January 17, 2024 for a 26 unit, mixed-use project with 4 affordable units and subsequently followed up with formal applications for Architecture and Site Approval (S-24-007), Conditional Use Permit (U-24-002), and Vesting Tentative Map Application (M-24-004) on February 15, 2024.

More recently, we submitted a new SB 330 Preliminary Application on May 3, 2024, which was “deemed submitted” as of May 6, 2024, for substantially the same project with the following changes: (1) the unit count is increased to 30 units, and (2) 20 percent of these 30 units, or 6 units, will be affordable at the low-income level (“Project”). The building size, location, circulation, architecture and other details were otherwise unchanged. Although this submittal is amending the formal applications referenced above, the submittal is based on this more recent SB 330 Preliminary Application and reference should be made to that application number PRE24-00443.

Below, we discuss the Project’s Builder’s Remedy protections, the Project’s consistency with the Town’s Objective Design Standards, relevant amendments to the original Letter of Justification, and Project application timing considerations.

I. Builder’s Remedy

The Applicant submitted this latest Preliminary Application before the Town has a substantially compliant Housing Element for the 6th Regional Housing Needs Assessment Cycle. By including 20 percent low-income units, the Project qualifies for protections under Government Code section 65589.5(d)(5), commonly referred to as the Builder’s Remedy. This letter is accompanied by amendments to Applicant’s February 15, 2024 formal application in response to both the Town Letter and the May 6, 2024 Builder’s Remedy Preliminary Application.

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As discussed in our letter accompanying Builder's Remedy Preliminary Application, the Town cannot deny a Builder's Remedy project due to any inconsistency with the zoning ordinance or General Plan land use designation of a project site. Therefore, Project inconsistencies with the current zoning ordinance and the 2020 General Plan Land Use Element, including density¹, height², and FAR³, among other standards, do not form a basis for denial under State law protections. While we do not believe density bonus waivers and concessions are necessary for a Builder's Remedy project, to the extent the City finds that they are necessary, we reserve our right to use any such waivers and concessions.

Nonetheless, the Applicant has endeavored to respect the Town's long-term vision for the site by considering the density and development program envisioned in the now rescinded 2040 General Plan Land Use Element. Where feasible, we have also incorporated feedback received during the June 14, 2023 CDAC meeting.

II. Objective Design Standards

The Applicant also aims for Project consistency with the Town's Objective Design Standards and the completed Objective Design Standards Checklist is attached. While inconsistency with these objective design standards is not a basis for denial of the Project, the Project is in significant compliance with them.

III. Amendments to the Original Letter of Justification

Town Letter Comment 16, Item I, on pages 7–8, requests specific updates to the previous "Letter of Justification" for the original Formal Application, which are provided below:

- Description of the proposed request: We understand this request to be asking for a traditional project description, which is included on the cover page of the updated Project plans and is copied below for ease of reference:

"151 East Main Street is a 4-story mixed use building with underground parking located on 0.425 acre site at the corner of Main Street and High School Court in Los Gatos, California. The ground level includes 2,416 square feet of pedestrian oriented commercial which could be leased to a retail or restaurant tenant. Residential (for sale) units are located on all four levels of the project. The proposed project includes 30 units, 24 market rate units and 6 affordable units ranging from 743 square feet to 2,188 square feet. The units are 1 bedroom up to 3 bedrooms with outdoor patios. There are two (2) options for the underground parking, Option 1 - a two level parking garage with 52

¹ Current density limit: 20 dwelling units per acre (according to Comment 71 of the Town Letter). Project density: 71 dwelling units per acre.

² Current height limit: 45 feet. Project height: 57 feet.

³ Current FAR limit: 0.60. Project FAR: 2.52.

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individual parking stalls. Option 2 - a one level parking garage with 46 parking stalls that includes 17 car stackers that provide 2 parking stalls per stacker. The proposed exterior elevations takes its cue from Los Gatos High School located next door and the many significant brick structures located on Main Street and North Santa Cruz in downtown Los Gatos. Building materials include brick walls, precast concrete facade detailing, iron balconies, metal grid windows and canvas awnings. These materials can be found in downtown Los Gatos in other key buildings. The fourth floor is stepped back to reduce the overall height of the proposed project. Materials include exterior plaster walls, precast concrete detailing, and a sloped clay tile roof to further reduce the building massing. Outdoor patios with wood trellis features and landscaping provide owners views to the foothills and surrounding buildings.”

- Traffic impact considerations: The Project has not been the subject of a traffic analysis, and any requirement to justify Project benefits to the community in the event of a traffic impact is not a standard to which Builder’s Remedy projects can be held. Even so, the Project is a benefit to the community as described further below. We have also been working with the Town on a scope of work to engage various consultants, including a traffic consultant.
- Conditional Use Permit findings: The Project is not required to meet the Town’s four Conditional Use Permit (“CUP”) findings because it is a Builder’s Remedy project. In addition, the Town’s CUP findings are not objective standards under the Housing Accountability Act. Nonetheless, we feel that the Project is consistent with CUP findings as described below:

First, the Project is “desirable to the public convenience or welfare” because it provides much-needed housing in a conveniently accessible downtown location, as well as desirable and street-activating retail/commercial uses.

Second, the Project “will not impair the integrity and character of the zone” because it is designed to complement nearby Los Gatos High School and enhance the walkability, quality of life, and urban design on Main Street and North Santa Cruz Avenue.

Third, the Project will not “be detrimental to public health, safety or general welfare” because the Project has been designed to promote general welfare, a mixed-use project of this scale is appropriate for this location and this use is not expected to have any health or safety impacts. We would also expect that the Town’s standard conditions of approval will address any potential impacts.

Finally, the Project is “in harmony with the various elements or objectives of the General Plan and the purposes of this chapter” because it provides much-needed housing, coupled with commercial space, in a desirable area of the Town, helping to further enliven and activate the walkable downtown area.

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IV. Timing Considerations

Finally, based on some recent conversations we have had with the Town, we did want to clarify one point regarding responding to the Town Letter. In particular, we understand that the Town's interpretation is that within 180 days of the Project's Builder's Remedy Preliminary Application, or November 2, 2024, the Applicant can submit revisions to the formal application, as needed, and that the 90-day period referred to in Comment 1 only limits the time to submit additional information after this initial 180-day period expires. Please let us know if we should discuss this timing framework.

Very truly yours,



Miles Imwalle

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