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From: Jennifer Liebthal <[REDACTED]>

Sent: Sunday, January 29, 2023 6:11 AM

To: Housing Element <HEUpdate@losgatosca.gov>

Subject: Re: 1/30 public hearing on 405 Alberto Way - feedback

[EXTERNAL SENDER]

On more important concern, I just found the proposed height of 50ft. This not only block our views of the mountains but is also not in character with the neighborhood.

I implore the town to require them to stay at the 35 ft height limit !

Thank you,
Jennifer

> On Jan 28, 2023, at 8:56 AM, Jennifer Liebthal <[REDACTED]> wrote:

>

> Hello,

>

> I would like to provide some feedback on the public hearing for 405 Alberto Way on January 30th as I can not attend in person due to being out of town.

>

> I own a home/condo at 420 Alberto Way. My home face is this development. The first comment I have is regarding parking. I noticed that there was between 108 and 132 on site parking spaces some of which are actually street parking for this development of 54 units. I believe the requirement is 1.5 parking spots plus one guest parking spot per dwelling which would be 162. Parking on our street is very limited, and we can't afford to lose any more of that parking. I would encourage the towns require more parking or less dwellings on the property.

>

> I was looking through all the links, and for some reason could not find any pictures of how the units would sit on the property. Is this something that is available? Will there be open space as part of this development?

>

> Thanks,

> Jennifer

From: Rick Van Hoesen [REDACTED]

Sent: Monday, January 30, 2023 10:53 AM

To: Clerk <Clerk@losgatosca.gov>

Cc: Maria Ristow <MRistow@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>; Rob Rennie <RRennie@losgatosca.gov>; Rob Moore <RMoore@losgatosca.gov>

Subject: Public Comment Item #1

[EXTERNAL SENDER]

To the Town Clerk: please include the attached letter with the materials for the Town Council meeting scheduled for tomorrow - January 31 2023.

Thank you.



January 30, 2023

To the Town Council:

We are writing out of deep concern regarding the legality and appropriateness of the actions being proposed by the Planning Commission (PC) and Town Staff (Staff) for the Town Council meeting on January 31, 2023 with respect to the Town's Housing Element.

On January 11, 2023, the Planning Commission forwarded to the Town Council a recommendation to adopt the Draft 2023-2031 Housing Element that it previously submitted to the California Housing and Community Development Department (HCD) on October 14, 2022. The PC made its recommendation on January 11 in full knowledge that it would receive HCD's written comments no later than the very next day - January 12.

It was no surprise that HCD's written comments included the finding that, "revisions will be necessary to comply with State Housing Element Law." Virtually every other city had received such a finding in response to first submissions, and the Planning Commission was aware of other submissions and HCD comment letters.

This finding triggers the provisions of California Code Sections 65585 (e) and (f). Those paragraphs read as follows (**emphasis** and **comments** added):

(e) Prior to the adoption of its draft element or draft amendment, the legislative body **[Town Council]** **shall** consider the findings made by the department **[HCD]**. If the department's findings are not available within the time limits set by this section, the legislative body may act without them.

(f) If the department finds that the draft element or draft amendment **does not substantially comply** with the requirements of this article, the legislative body **shall** take one of the following actions:

(1) Change the draft element or draft amendment to substantially comply with the requirements of this article.

(2) Adopt the draft element or draft amendment without changes. The legislative body shall include in its resolution of adoption written findings which explain the reasons the legislative body believes that the draft element or draft amendment substantially complies with the requirements of this article despite the findings of the department.

So to be clear:

- HCD made a finding that the draft Housing Element submitted to the TC by the Planning Commission and Town Staff does not comply with the requirements of the law.
- The Town Council is therefore legally required to either:

- change the draft housing element to comply with the law before adopting it, or alternatively to
 - set forth a detailed explanation explaining the reasons it believes the housing element complies with the law despite HCD's finding to the contrary.
- The Planning Commission and Town Staff are recommending to the Town Council that it take neither of these legally required actions, and instead has proposed a resolution to adopt the draft housing element essentially unchanged from when it was submitted to HCD in October (with some changes to the site inventory.) The resolution being proposed by the Town Staff contains the completely misleading and untrue assertion that the draft Housing Element substantially complies with Housing element law. How do we know this assertion is untrue?
 - Because – as mentioned above – the HCD letter says, “revisions will be necessary to comply with State Housing Element Law.” And because the same HCD letter sets forth multiple reasons why the draft Housing Element fails to comply with Housing Element law. None of these reasons are rebutted in the draft resolution before the Town Council.
 - Furthermore, the Town Staff and Planning Commission have already said they plan to continue working on the Housing Element in response to the HCD letter, in order to bring the Housing Element into compliance with the HCD comments and Housing Element law. If the Housing Element is already in compliance, then why is there a need to continue working on it?

There are several potential legal consequences for taking this non-legal action, but setting those aside, it is mind-boggling to consider that the Town Staff and Planning Commission have placed before the Town Council a recommendation to take an action that is clearly not legally permissible.

Please do the right thing and reject the flawed recommendation to adopt a legally deficient Housing Element. It would not only place the Town in legal jeopardy, it would subject the Town to potentially severe financial sanctions.

Rick Van Hoesen
For the Los Gatos Community Alliance