

Revised February 6, 2025

REQUEST FOR STATE DENSITY BONUS LAW WAIVERS AND CONCESSION

Provide a letter addressing the concession/incentive and all waivers. For the concession/incentive, provide justification demonstrating that it will result in identifiable and actual cost reductions to provide for affordable housing costs. For each waiver, provide justification demonstrating how enforcement of the subject regulation or standard would physically prevent the project from being built at the permitted density and with the granted concession/incentive. This letter can either be separate letter or added to an expanded Letter of Justification. ns/incentives and waivers into a single comprehensive source for the public record.

Revised February 6, 2025

Sean Mullin, AICP
Senior Planner

110 E. Main Street
Los Gatos, CA 95030

Dear Mr. Sean Mullin,

I am writing to you to present our proposal for the development of a premier townhome-style community at 15349 & 15367 Los Gatos Blvd in the town of Los Gatos. Our vision for this project is to create a vibrant and engaging community that harmonizes both the built and natural environments of Los Gatos. The proposed development is designed to be a unique addition to the town, meeting the elements of the Town's adopted Housing Element, complementing the existing neighborhood, and incorporating elements that foster community engagement and connection. The architectural design of the community draws inspiration from the rich history of Los Gatos. With three-story townhome-style units and meandering paseos that encourage connectivity, the development will provide a welcoming environment for residents and visitors alike.

Property Description

The properties, as noted above, are located at 15349 and 15357 Los Gatos Boulevard (APN 424-19-048, 424-19-049) and consist of 1.56 acres (gross) and a resulting 1.54 acres(net) with the incorporation of the Garden Lane dedication per Town Engineering Division Comment #1. The property has a General Plan use designation of mixed use commercial and underlying zoning CH-HEOZ. The site is also designated as Site Inventory Site C-2 in the Town of Los Gatos 2023-2031 Housing Element¹ and meets the Town's goals.

The General Plan and Housing Element contain policies and implementation programs aimed at addressing the existing and future housing needs of Los Gatos. The proposed project harmonizes the various goals and policies of both the 2040 General Plan (GP), the 2020 General Plan Land Use Element, Housing Element (HE), and Town Code. The proposed housing, and its substantial conformance with the goals and policies of the aforementioned documents and will not be detrimental to public health, or general welfare, are essential and will not impair the integrity and character of its location.

Our development team had the opportunity to discuss the project early on with the Town and continues to have discussions with Staff regarding the nature and scope of the project pursuant to Policy LU-1.1. The proposed location of our property not only has been identified as a Housing Element site but more importantly, is considered infill development pursuant to Goal LU-7 and Policy LU-1.4. The proposed property with its mix of town homes and work/live units is desirable in that it provides opportunities for housing that can accommodate the needs, preferences and financial capabilities of current and future residents in terms of different housing types, tenures, density, size and costs pursuant to Policy LU-2.2 and Policy LU-6.7. With its proximity to transit (at its Los Gatos Boulevard frontage), Oak Hill Playground, Live Oak Manor Park, Good Samaritan Hospital and Trader Joes; it contributes to the community fabric that supports a robust housing mix and convenient

¹ Housing Element serves at Chapter 10 in Town's 2040 General Plan.

access to goods and services that meet daily needs pursuant to Policy LU-2.1. The project's thoughtful design and orientation of homes, outdoor community gathering areas and interior walkability promote policy LU-13.4 to incorporate a balanced development that minimizes impacts on adjacent residential areas and meets the changing needs of a population.

Project Proposal

The project proposes to subdivide two existing legal parcels which contain existing commercial into 55 for-sale solar all-electric townhome-style homes. These homes will feature dedicated front yard areas, decks, and private two-car garages, ensuring a comfortable and convenient living experience. Four units facing Los Gatos Boulevard have been designated as live/work. The project is proposing a total of eight below market rate units. Four Plan Type-5x units would be restricted for-sale to low-income households, Two Plan Type-6x units would be restricted for-sale to moderate-income, and two Plan Type-8x units would be restricted for-sale to moderate income.

Access to the project site will be a "loop" private shared alley off Garden Lane. On-site guest parking is accommodated off Garden Lane. The site is incorporating low impact storm water bioretention treatment and pervious pavers that will also add to the character of the shared street. Central to our design is the inclusion of a green space that will serve as a community gathering amenity, all aimed at creating a sense of place and welcoming. Our pedestrian-oriented approach along Los Gatos Blvd will contribute to the vitality of the area. Additionally, our live-work units along Los Gatos Blvd will contribute to the economic vitality of the area, providing opportunities for entrepreneurship and creativity.

Pursuant to the Common Interest Development Act, a homeowners association (HOA) would be created to own and maintain the private alleys.

Senate Bill 330 and Density Bonus

The project submitted a preliminary application under Senate Bill 330, which has been deemed submitted, establishing a vesting date of April 30, 2024. A formal application was submitted to the Town on May 16, 2024.

The property has a General Plan use designation of mixed use commercial and underlying zoning of CH-HEOZ. Town MC Section 29.20.195 requires an application of a conditional use permit (CUP) to allow housing. The live/work and the multi-family residential are both a permitted activity. Furthermore, the proposed uses of the property are essential or desirable to the public conveniences or welfare; the proposed uses will not impair the integrity and character of the zoning district; the proposed uses would not be detrimental to public health, safety, or general welfare; the proposed uses of the property are in harmony with the various elements or objectives of the General Plan and the purposes of this Ordinance. (I.7.g)

As a result of the inclusion of at least 10% of the units in the for-sale development restricted to moderate income residents, the project is eligible for waivers and reductions to development standards that have the effect of physically precluding the construction of a development (GC Section 65915(b)(1)) and incentives or concessions (GC Section 65915(d)(1) under State Density Bonus Law. The project additionally is eligible for a vehicular parking ratio pursuant to GC Section 65915(p)1.

A list of waivers is detailed on sheet PO-1 of the plans and listed in Table A. The waivers are necessary to avoid any physical preclusion of the proposed density. Furthermore, the modifications of the development standards as proposed by the waivers, if implemented, ensures the projects financial feasibility² to include the proposed affordable housing. Justification of waivers/concession is included in Attachment A.

Table A. Density Bonus Waivers	
LGTC 29.80.505	Front Setback
LGTC 29.10.065	Rear Setback
LGTC 29.10.155(d)(3)	Width of Single Car Garage
ODS A.2.2	Short Term Bicycle Parking
ODS A.3.3	Long Term Bicycle Parking
ODS A.7.3	Utilities (Screening)
ODS A.8.2	Landscaping and Screening
ODS A.9.1	Fencing
ODS A.10.1 & .2	Retaining Wall
ODS A.11.1A	Landscaped Private, and Community Recreation Spaces
ODS A.11.B.(i)(ii)	Landscape, Private & Community Recreation Spaces
ODS A.12.1	Building Placement
ODS B.1.1.a & c	Massing and Scale
ODS B.1.2	Massing and Scale
ODS B.4.1a & b	Façade Design and Articulation
ODS B.4.3	Façade Design and Articulation
ODS B.4.7.a	Façade Design and Articulation
ODS B.4.11	Façade Design and Articulation
ODS B.4.12.a	Façade Design and Articulation
ODS B.4.13	Façade Design and Articulation
LGTC 29.10.155(c)(7)	Driveway Depth Requirement

We are requesting a concession for Below Market Guideline Price Housing Program Guidelines Section III, “Characteristics of the BMP Unit”. The plan type units identified to be restricted for-sale to low-income and moderate-income were curated with affordability in mind. The units have premium corner lot locations whose external experience would not be indiscernible to that of the market rate units. The units are well sized with affordability in mind and will share equally in the amenities this development has to offer.

Closing

² 1 A Court of Appeal held that the state's density bonus law (Gov't Code § 65915) does not require applicants to submit financial information to support requests for incentives or waivers and preempted a city ordinance that required such financial documentation to show that a project would not be "economically feasible" without the requested incentives. *Schreiber vs. City of Los Angeles*, 69 Cal. App. 5th 549 (2021)

In conclusion, we are excited about the opportunity to collaborate with the town of Los Gatos on this transformative project. We believe that our development will not only address the critical need for new housing but also enrich the fabric of the community. We look forward to working closely with you to bring this vision to fruition.

Thank you for your consideration.

Pamela (Salas) Nieting, PE, LEED AP
Vice President
City Ventures

Waiver No.	City Standard/Code	Waiver Needed	Supporting Information
1	LGTC 29.80.505 Front Setback	Front Setback : Minimum 15-foot Front Setback waiver.	<p>The project proposes a minimum 5 foot Setback from the common property boundary. To provide a minimum 15-foot setback would necessitate a substantial shift in the placement of Building B.</p> <p>This adjustment would significantly impact the project's viability by eliminating a minimum of four residential units. Given the project's emphasis on providing much-needed housing, including affordable units as part of the State Density Bonus, the requested waiver is essential to maintain the intended unit count and support the project's overarching objectives.</p>
2	LGTC 29.10.065 Rear Setback	Rear Setback: Minimum 20-foot Rear Setback waiver.	<p>The project proposes a 0-foot Rear Setback along Garden Lane to optimize site utilization and unit yield. The requirement for a minimum 20-foot Rear Setback would necessitate a substantial inward shift of Buildings B, C, D, and E.</p> <p>This adjustment would result in the elimination of at least nine residential units, significantly compromising the project's ability to deliver much-needed housing, including affordable units under the State Density Bonus provisions.</p>
3	LGTC 29.10.155 c.7 Driveway Depth Requirements	25-foot driveway depth requirement	<p>The project proposes a 2.5 foot driveway as it plans on utilizes the alleys to meet the requirement however there are 3 units that face an alleyway that has a decreased width of 18 feet in-lieu of 26 feet. In order to achieve an 25 foot driveway width the drive aisle would need to increase by approximately 4.5 feet which would physically preclude 1-2 units in building A.</p>
4	LGTC 29.10.155 d.3 Width of Single Car Garage	Provide a minimum Width of Single Car Garage of 11-foot.	<p>The project proposes to provide standard Non-ADA parking stalls with dimensions of 9-feet by 20 feet.</p> <p>Compliance with the Town of Los Gatos requirement for a minimum 11-foot-wide single-car garage would necessitate a substantial redesign by requiring an additional 2 feet in width for all one car garages. The one car garage units are included in every single building. This adjustment would physically preclude at a minimum 1 residential units per building, significantly reducing the project's overall density, livable gross square footage, and ability to deliver much-needed housing.</p>
4	ODS A.2.2 Short Term Bicycle Parking	Short-term bicycle parking shall be provided at a rate of one space per dwelling unit and one space per 2,000 square feet of non-residential floor area. For each dwelling unit in this project 55 short term bicycle parking is required.	<p>The project proposes to provide 20 short-term bicycle parking spaces, which is fewer than the required 55 spaces (one space per dwelling unit). This request seeks a waiver for the additional 35 short-term bicycle parking spaces.</p> <p>Meeting the full requirement would necessitate an additional area of approximately 490 square feet which on this already constrained site would require elimination of 4 stacked units such as the P5X or P6x.</p>
5	ODS A.3.3 Long Term Bicycle Parking	Bicycle locker minimum requirements: a. Dimensions of 42 inches wide, 75 inches deep, and 54 inches high. b. Must withstand a load of 200 pounds per square foot. c. Opened door must withstand 500-pound vertical load.	<p>The project requests a waiver from the bicycle locker minimum requirements, specifically the dimensions and clearance space required for each locker.</p> <p>Due to the limited space available on the site and the need to optimize the number of units, fitting the required bicycle lockers in compliance with these standards would physically preclude the construction of several units. The space required for these lockers, including the necessary clearances for operation, would significantly reduce the available area for livable space, impacting both the density and feasibility of the project.</p>

6	ODS A.7.3 Utilities (Screening)	Street-level views of ground level utility cabinets, mechanical equipment, trash, and service areas shall be screened from sight with landscape planting, fencing, or a wall, as allowed by the Town Code. The screening shall be at least the same height as the item being screened and screening that is not landscape material shall be constructed with one or more of the materials used on the primary building.	<p>The project proposes to screen ground-level utility cabinets, mechanical equipment, trash, and service areas to the extent possible with a 3-foot screening height. Full compliance would require additional clearance around the utility itself in consideration with landscape root system and utility access.</p> <p>The major utilities are located along the boundary to remain clear of the homes. To push the utilities inward in the developable area would physically preclude at a minimum 6 homes within Buildings D, C, and B</p>
7	ODS A.8.2 Landscaping and Screening	<p>A minimum 10-foot-wide landscape buffer shall be provided along the full length of the shared property line between multi-family or Residential Mixed-Use development and abutting residential properties. The buffer shall include the following:</p> <ul style="list-style-type: none"> a. A solid masonry wall with a six-foot height, except within a street-facing setback where walls are not permitted; and b. Trees planted at a rate of at least one tree per 30 linear feet along the shared property line. Tree species shall be selected from the Town of Los Gatos Master Street Tree List and shall be a minimum 15-gallon size." 	<p>The project provides a landscaped area with a minimum width of 6 feet, 6 inches, designed with narrow, upright tree species appropriate for the limited space available. A waiver is requested to allow fencing for private recreation spaces, as meeting the 10-foot-wide landscape buffer requirement would encroach upon the unit floor plans on the ground floor and physically preclude multiple units.</p> <p>Additionally, the inclusion of a six-foot-tall solid masonry wall as a landscape buffer is not feasible due to the presence of a utility line running between the property boundary line and the units. Constructing such a wall would interfere with utility access and impact the design and functionality of all 55 units in the project.</p>
8	ODS A.9.1 Fencing	Fences, walls, and gates within required setbacks along all street frontages are prohibited unless used to screen on-site parking spaces from view from the street.	<p>The project requests a waiver to allow fences, walls, or gates within the required setbacks along street frontages. Complying with the prohibition on such elements within setbacks would necessitate shifting all buildings further into the site, directly encroaching upon the ground-floor units.</p> <p>This adjustment would reduce the livable square footage of these units, further constraining an already space-limited site. Preserving livable space is critical to maintaining the functionality and marketability of the residential units, particularly in a project designed to optimize housing density.</p>
9	ODS A.10.1 & .2 Retaining Wall	<p>Retaining walls shall not exceed five feet in height. Where an additional retained portion is necessary, multiple-terraced walls shall be used. Terraced walls shall set back at least three feet from the lower segment. Retaining walls shall not run in a straight continuous direction for more than 50 feet without including the following:</p> <ul style="list-style-type: none"> a. A break, offset, or landscape pocket in the wall plane of at least three feet in length and two feet in depth; and b. Landscaping at a minimum height of three feet at the time of installation along a minimum of 60 percent of the total length of the retaining wall. 	<p>The project requests a waiver to allow a south retaining wall design that exceeds the five-foot height requirement and does not incorporate terraced or landscaped segments as specified. This waiver is necessary to address the significant grading challenges on the site while preserving the proposed density.</p> <p>Compliance with the requirements for terraced walls, offsets, and landscaping would require additional space and substantial redesign, directly impacting the footprints of Building B and Building E. These adjustments would eliminate critical portions of the livable square footage, precluding multiple units and undermining the housing objectives of the project.</p>
10	ODS A.11.1A Landscaped Private, and Community Recreation Spaces	a. Landscaped space: A minimum of 20 percent of the site area shall be landscaped.	<p>The project provides 10,127 square feet of landscaped space, equivalent to 15% of the site area, which is less than the required 20%. A waiver is requested to accommodate this deviation due to site constraints and the need to prioritize housing density.</p> <p>Meeting the 20% landscaping requirement would necessitate reallocating significant site area, which would physically preclude the construction of two market-rate units of Plan 2x size and four Below Market Rate (BMR) units of Plan 6x. This reduction in units would significantly impact the project's ability to deliver both affordable and market-rate housing, which is critical to meeting community needs and addressing the regional housing shortage.</p>

11	ODS A.11.B.(i)(ii) Landscape, Private & Community Recreation Spaces	i. Each ground floor dwelling unit shall have a minimum of 120 square feet of usable private recreation space. ii. Each dwelling unit above the ground floor shall have a minimum of 60 square feet of usable private recreation space. Where multiple balconies are provided for a single unit, the 60-square-foot minimum can be an aggregate of all balconies, provide each balcony meets the requirements for minimum horizontal dimensions.	<p>The project proposes private recreation spaces for each unit, but requests a waiver for the required minimum sizes for ground-floor and upper-floor private recreation spaces due to site constraints.</p> <p>Increasing the size of the ground-floor private recreation space (120 square feet) and upper-floor balconies (60 square feet) would necessitate a reduction in the livable square footage of the units. This would directly reduce the diversity of unit types offered, impacting the variety of housing options available to future residents. The reduction in unit sizes would not only limit the flexibility of the project's design but would also negatively affect the project's ability to meet both market and affordable housing needs.</p>
12	ODS A.12.1 Building Placement	To ensure buildings provide a continuous frontage along sidewalks, development in commercial zones shall place at least 75 percent of any ground floor street-facing façade on or within five feet of the setback line designated in the Town Code.	<p>The project requests a waiver to allow Building E and A facades to be placed more than 5 feet beyond the designated setback line along Los Gatos Blvd. This request is necessary due to design constraints and site conditions that would otherwise compromise both safety and unit density.</p> <p>Adhering to the requirement to place 75% of the ground floor street-facing façade within five feet of the setback line would require an additional 21.5 linear feet of units along Los Gatos Blvd. This extension would eliminate critical fire egress access, preventing firefighters from positioning their ladders in emergency situations. Ensuring adequate egress is essential for occupant safety and emergency response, and eliminating this access would present significant safety hazards.</p> <p>The loss of fire egress access would also physically impact approximately 12 units, reducing the overall housing capacity of the project.</p>
13	ODS B.1.1.a & c Massing and Scale	<p>a. A minimum of 40 percent of the upper floor façade length shall step back from the plane of the ground-floor façade by at least five feet;</p> <p>c. Recessed façade plane to accommodate a building entry with a minimum ground plane area of 24 square feet. Where an awning or entry covering is provided, it can extend beyond the wall plane;</p>	<p>The project requests a waiver to not fully comply with the requirement for the upper floor façade to step back by at least five feet for 40% of the façade length and the requirement to provide a minimum ground plane area of 24 square feet for recessed building entries.</p> <p>Incorporating a 5-foot stepback for 40% of the upper floor façade would result in a substantial loss of livable square footage. This change would physically preclude the development of all 55 units in the project, as it would require a reduction in the livable area of each unit. Specifically, the inclusion of the 5-foot stepback would decrease the livable area by approximately 85 square feet per unit.</p>
14	ODS B.1.2 Massing and Scale	Upper floors above two stories shall be set back by a minimum of five feet from the ground-floor façade.	<p>The project requests a waiver to not fully comply with the requirement for the upper floors above two stories to be set back by a minimum of five feet from the ground-floor façade.</p> <p>Incorporating a 5-foot setback for the upper floors would physically preclude the development of all 55 units, as it would result in a substantial reduction in livable square footage across all unit types. Specifically, each unit would lose approximately 85 square feet of livable area, significantly impacting the overall project density.</p>

15	ODS B.4.1a & b Façade Design and Articulation	a. Variation in building mass for a minimum of 60 percent of the length of the street-facing façade through changes in the façade plane that protrude or recess with a minimum dimension of two feet; b. Balconies or habitable projections with a minimum depth of two feet for a minimum of 20 percent length of the street-facing façade;	<p>The project requests a waiver to not fully comply with the façade design requirements for variation in building mass and the incorporation of balconies or habitable projections along the street-facing façade.</p> <p>For efficiency in density, the townhomes range in width from 16 to 21 feet at the ground floor. Incorporating a two-foot plane change or habitable projection would significantly encroach into the livable area and building width, which is already constrained. This would require widening the homes, which is not feasible within the existing site plan and would have a cumulative impact on all 55 homes in the development. The proposed design prioritizes maximizing unit density while maintaining architectural integrity within the given constraints.</p>
16	ODS B.4.7.a Façade Design and Articulation	a. Individual residential entries: five feet in width	<p>The project requests a waiver for the requirement of 5'-0" wide residential entries. Of the 55 units, 13 comply with the 5'-0" width, while the remaining units feature a typical entry width of 4'-6". Meeting the full 5'-0" requirement for all entries would require an additional 2 linear feet per unit, resulting in a total of 110 linear feet of increased building width across the project. This adjustment would encroach upon the constrained site area, physically preclude units, and reduce overall project density. While slightly narrower than the requirement, the 4'-6" width provides a functional and accessible entry design while balancing the need for efficient unit layouts and optimal site utilization. This waiver is essential to maintaining the project's density and architectural integrity without compromising unit functionality.</p>
17	ODS B.4.11 Façade Design and Articulation	Balconies are allowed on facades facing the street and those facades facing existing non-residential uses on abutting parcels. Such balconies shall be without any projections beyond the building footprint.	<p>The project requests a waiver to allow balconies to project beyond the building footprint, contrary to the requirement that balconies shall be without projections beyond the footprint on facades facing the street or existing non-residential uses.</p> <p>For efficiency in density, projecting balconies are incorporated into the design. Aligning the balconies to be flush with the building footprint would encroach into the livable area and building width, which is already constrained due to the site layout. To accommodate the required alignment, the homes would need to be widened, reducing available floor space. This widening would have a cumulative impact on all the homes, leading to a reduction in unit count. Specifically, it would physically preclude up to 4 homes from being constructed within the available space.</p>
18	ODS B.4.12.a Façade Design and Articulation	Requirement is a minimum five-foot offset from the façade plane for a length of at least 10 feet.	<p>The project requests a waiver to not fully comply with the requirement for a minimum five-foot offset from the façade plane for a length of at least 10 feet.</p> <p>Incorporating the required offset would result in encroaching into the livable area of each unit, reducing 85 square feet per unit, totaling 4,675 square feet of living space across the entire development of 55 units. This significant loss of livable area would directly impact the overall density and design efficiency of the project, leading to the physical preclusion of the current unit layout and potentially reducing the number of units that can be built.</p>

19	ODS B.4.13 Façade Design and Articulation	Continuous blank façades on any floor level shall not exceed 25 percent of the entire façade length along any street.	<p>The project has maximized the inclusion of windows along all blank façades to the greatest feasible extent. Adding additional windows and associated framing would necessitate an increase in the square footage of the affected units, thereby increasing the overall footprint of each unit. This adjustment would have a cascading effect on the site, requiring modifications to all units within the project.</p> <p>The resultant increase in square footage for every unit would compromise the ability to physically accommodate the proposed number of units on the site. This would fundamentally alter the project's density and feasibility, making it impossible to achieve the intended design and development goals.</p>
Concession No.	City Standard/Code	Concession Needed	Supporting Information
1		BMP Housing Program Guidelines Section III.	<p>The requested concession for Below Market Guideline Price (BMP) Housing Program Guidelines Section III, "Characteristics of the BMP Unit," is essential to achieving the project's affordability goals. The proposed BMP units were deliberately designed with affordability and accessibility in mind, ensuring they align with the high-quality standards and amenities available to market-rate units.</p> <p>These units, strategically located on premium corner lots, offer an external experience indistinguishable from market-rate homes, fostering equity and inclusivity within the development. However, compliance with the guideline as currently interpreted imposes an undue financial burden. The added costs to meet these requirements amount to approximately \$31,024 per unit, resulting in a cumulative financial impact of \$1,458,000 across the development.</p> <p>Granting this concession will significantly mitigate these costs, enabling the project to maintain its commitment to affordability while delivering high-quality housing. Furthermore, this request aligns with local and state housing policies, does not pose a specific or adverse impact to public health or safety, and remains fully compliant with applicable laws.</p>