



PLANNING COMMISSION STAFF REPORT

Meeting Date: May 21, 2024

To: Town of Truckee Planning Commission

From: Chantal Birnberg, Associate Planner

RE: Application 2021-00000060/DP (Silver Creek Estates); No Address Assigned (APN 019-820-001-000); Applicant/Owner: Neptune Investment LLC – Reza Shera; Agents: FormGrey Studio/SCO Planning

Approved by: Denyelle Nishimori, Community Development Director

Recommended Action: That the Planning Commission adopt Resolution No. 2024-08, approving the following actions based on the recommended findings and subject to the recommended conditions of approval:

1. Determine the project to be exempt from the provisions of CEQA per the Class 32 exemption for In-Fill Development Projects (Section 15332 of the CEQA Guidelines); and
2. Approve the Development Permit

Project Summary: The applicant is requesting Development Permit approval to construct a 40-unit multifamily housing project located on Winter Creek Loop - No Address Assigned (APN 019-820-001-000). Ten two-story apartment buildings with a mix of studio, one- and two-bedroom units are proposed. The project includes 72 parking spaces with 26 fully enclosed spaces (garages). Five units will be deed-restricted to lower income households at rental rates of 30% of 60% Average Median Income (AMI), qualifying the project to request additional density, incentives and waivers and reductions in development standards as required by State Density Bonus Law (SDBL). All 40 units are proposed to be rental units.

The project site designated for development is located in the RM-15 (Residential Multifamily – 15 units/acre) zoning district and “Multifamily Dwellings, 2-10 units” are a permitted use in this zoning district. No development is proposed for the 0.063-acre CG (General Commercial) portion of the site.

The following land use permit is required: **Development Permit** for permitted uses with 7,500 sf or more floor area and more than 26,000 sf of site disturbance.

Major Discussion Topics: Staff has identified specific discussion topics for consideration in the Discussion/Analysis section of this staff report. Topics include waivers and reductions of Development Code standards as allowed by SDBL. The following questions are provided to help guide the Planning Commission’s discussion:

- Does the incentive/concession requested result in identifiable and actual cost reductions?
- Would the standard application of the development standards requested to be waived or reduced physically prevent the project from being built at the permitted density?
- Would the incentive/concession or waiver/reduction requested cause a public health or safety problem, an environmental problem, harm historical property, or be contrary to law?

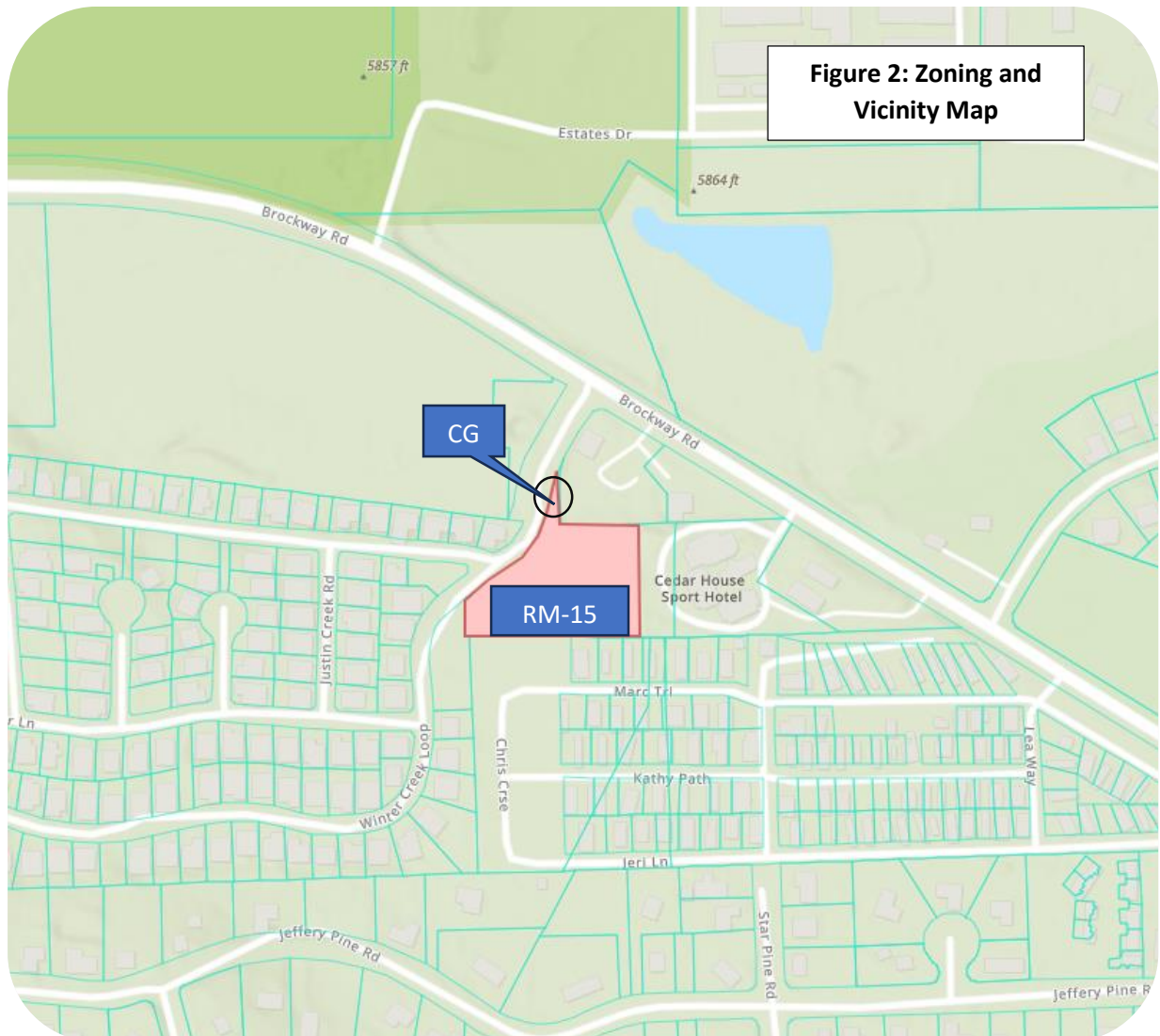
Planning Commission’s Role: The Planning Commission’s role is to review the site layout and design of the buildings to ensure the project is consistent with the 2025 General Plan and the Development Code. The Commission should also review whether the incentive/concession and waivers/reductions of development standards meet the requirements of SDBL.

Location/Setting: The project site is located in the Winter Creek Subdivision on Winter Creek Loop (APN 019-820-001-000). Much of the site is compacted soil and gently upslopes to the south (Figure 1). The site disturbance is likely contributed to prior use as a construction staging/storage area for the construction of the Winter Creek single-family residences. Adjacent uses include a dermatology office (General Commercial) to the north, mobile home park (Residential Multi-Family) to the south, single-family homes in a planned development to the west (Residential Multi-Family) and a hotel (General Commercial) to the east. The site is located in the RM (Residential Multi-Family) zoning district and the 2025 General Plan High Density Residential land use designation.



Project Site Information:

General Plan: High Density Residential
Zoning District: RM-15 (Residential Multifamily – 15 du/acre) and General Commercial (0.063 acres)
Project Area: 1.71 acres (74,488 sq. ft.)
Utilities: Public sewer and water

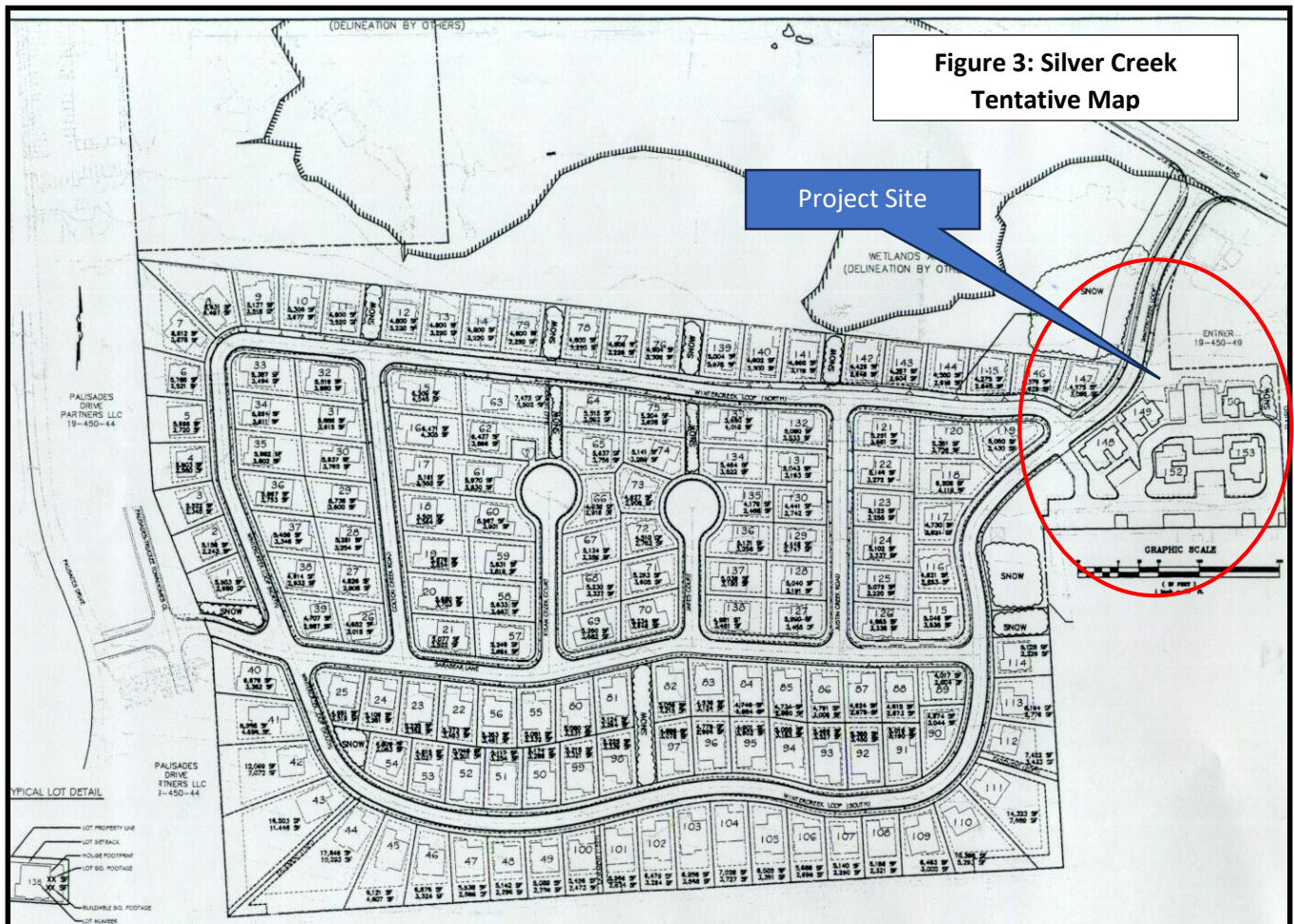


Discussion/Analysis:

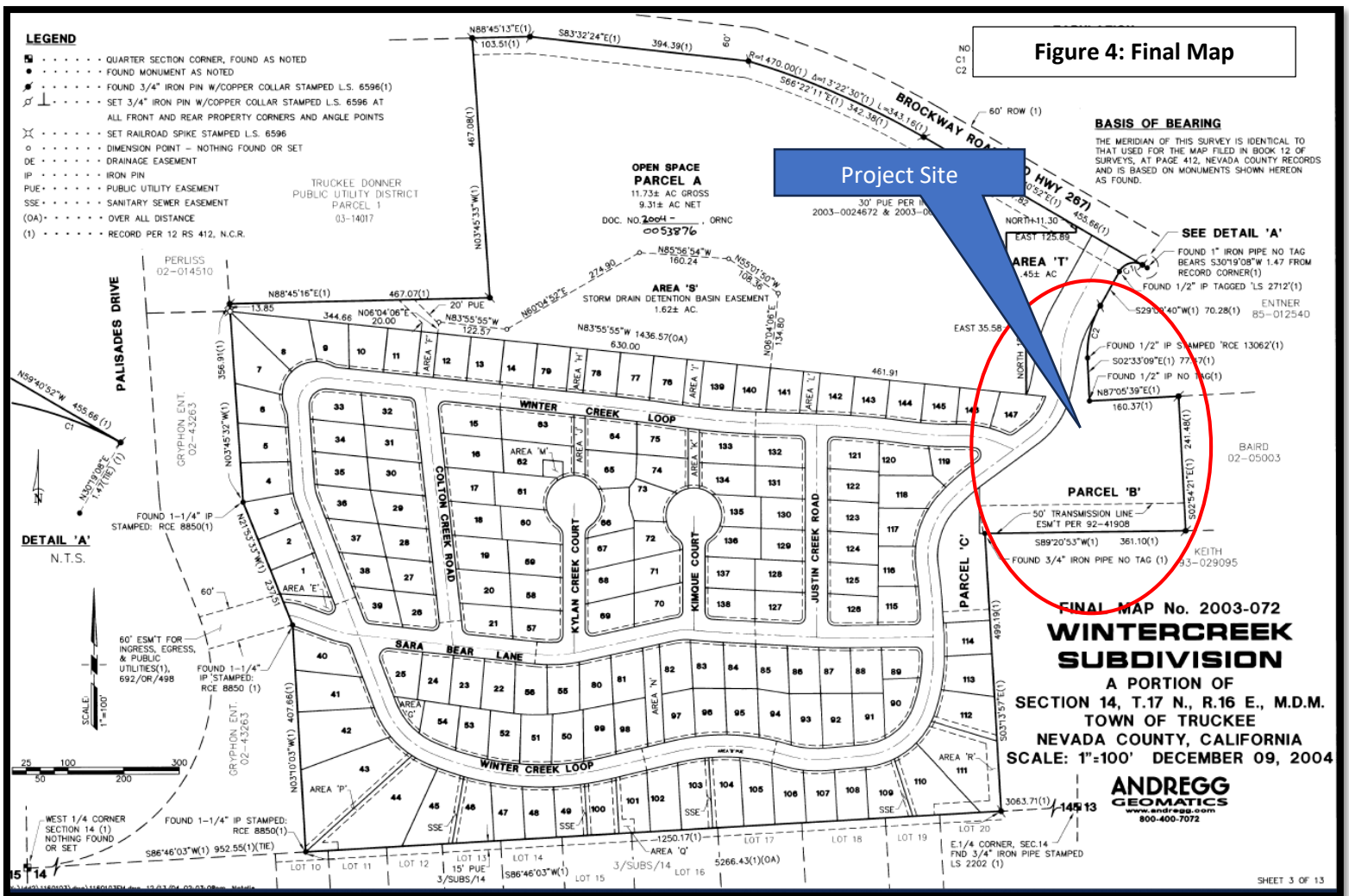
Background

Winter Creek Subdivision

On December 10, 2003, the Town of Truckee Planning Commission approved a Development Permit, Planned Development, Use Permit, and Tentative Map for a 167-unit residential subdivision on APN 19-450-61 (Application 03-072/Winter Creek Subdivision). This approval created the subject parcel, along with 147 single family home sites and associated subdivision improvements (open space, roadways, etc.) The Planning Commission also adopted a Mitigated Negative Declaration, which included review of the project site.



The Winter Creek application originally contemplated 20 townhome units on the project site, however the townhomes were removed from the project when the final map was approved in 2004 and replaced by Parcel B (Figure 4). The Final Map notes designate the site as "Large Lot Parcel 'B' For Future Development". The parcel is encumbered by a 50-foot Transmission Line Easement (see Site Plan, Figure 6). Through the Planned Development process, the Winter Creek subdivision was approved with many deviations from the Development Code including reduced lot sizes and setbacks and increased site coverage. The roadways proposed for the Winter Creek subdivision also deviate from Town standards, and as such were not accepted by the Town for maintenance purposes. The Winter Creek HOA maintains the public roadways within the subdivision.



State Density Bonus Law (SDBL)

California's Density Bonus Law (Gov. Code §§65915 – 65918 – Attachment 1) allows a developer to increase density over the otherwise maximum allowable gross residential density attributed to the site at the date of application. In exchange for the increased density, a certain number of the new dwelling units must be deed-restricted to affordable rents (Figure 5). Besides granting an increase in density, the SDBL requires local jurisdictions to grant incentives/concessions that provide cost reductions, waivers/reductions in development standards that would physically preclude the development of a project at the density permitted with the incentives granted, and a reduction of onsite parking requirements.

In reviewing a density bonus concession request, the review authority is required to grant a concession under Development Code Section 18.212.030 (Concessions and Incentives for Cost Reduction) unless the review authority makes one or more of the following findings based on substantial evidence:

1. The concession or incentive is not consistent with the applicable provisions of Section 65915 of the Government Code (Density Bonuses and Other Incentives);
2. The concession or incentive does not result in identifiable, financially sufficient, and/or actual cost reductions;
3. The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units;
4. The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment for

which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households;

5. The concession or incentive would have an adverse impact on any real property that is listed in the California Register of Historical Resources;
6. The concession or incentive would be contrary to state or federal law.

The SDBL also restricts the information a jurisdiction can request to “prove” the incentive/concession meets the SDBL requirements. For example, a 2021 appellate court case, *Schreiber v. City of Los Angeles*, determined that a jurisdiction cannot require an applicant to submit a pro forma or other documentation to prove that a requested incentive/concession is required to reduce costs to make the housing development economically feasible. If a jurisdiction wants to deny an incentive/concession, the burden of proof lies with the jurisdiction, not the developer.

In reviewing a density bonus waiver or reduction request, the review authority is required to grant the waiver or reduction under Development Code Section 18.212.040 (Concessions and Incentives for Physical Development) unless the review authority makes one or more of the following findings based on substantial evidence:

1. The waiver or modification is not consistent with the applicable provisions of Section 65915 of the Government Code (Density Bonuses and Other Incentives);
2. The application of the development standard will not have the effect of physically precluding the construction of the proposed residential project at the densities or with the concessions or incentives permitted by this Chapter;
3. The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units;
4. The waiver or modification would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households;
5. The waiver or modification would have an adverse impact on any real property that is listed in the California Register of Historical Resources;
6. The waiver or modification would be contrary to state or federal law.

Maximum parking requirements are also restricted by the SDBL. The local jurisdiction may not require more than the following parking ratios for a density bonus project. Parking can be provided as uncovered or tandem parking.

| | |
|-----------|------------|
| Studio | 1 space |
| 1 Bedroom | 1 space |
| 2 Bedroom | 1.5 spaces |
| 3 Bedroom | 1.5 spaces |
| 4 Bedroom | 2.5 spaces |

A discussion on how the SDBL is applied to this project application can be found in the Development Code Consistency section below.

Figure 5

DENSITY BONUS CHART

| AFFORDABLE UNIT PERCENTAGE** | VERY LOW INCOME DENSITY BONUS | LOW INCOME DENSITY BONUS | MODERATE INCOME DENSITY BONUS*** | LAND DONATION DENSITY BONUS | SENIOR**** | FOSTER YOUTH/ DISABLED VETS/ HOMELESS | COLLEGE STUDENTS |
|------------------------------|-------------------------------|--------------------------|----------------------------------|-----------------------------|------------|---------------------------------------|------------------|
| 5% | 20% | - | - | - | 20% | - | - |
| 6% | 22.5% | - | - | - | 20% | - | - |
| 7% | 25% | - | - | - | 20% | - | - |
| 8% | 27.5% | - | - | - | 20% | - | - |
| 9% | 30% | - | - | - | 20% | - | - |
| 10% | 32.5% | 20% | 5% | 15% | 20% | 20% | - |
| 11% | 35% | 21.5% | 6% | 16% | 20% | 20% | - |
| 12% | 38.75% | 23% | 7% | 17% | 20% | 20% | - |
| 13% | 42.5% | 24.5% | 8% | 18% | 20% | 20% | - |
| 14% | 46.25% | 26% | 9% | 19% | 20% | 20% | - |
| 15% | 50% | 27.5% | 10% | 20% | 20% | 20% | - |
| 16% | 50% | 29% | 11% | 21% | 20% | 20% | - |
| 17% | 50% | 30.5% | 12% | 22% | 20% | 20% | - |
| 18% | 50% | 32% | 13% | 23% | 20% | 20% | - |
| 19% | 50% | 33.5% | 14% | 24% | 20% | 20% | - |
| 20% | 50% | 35% | 15% | 25% | 20% | 20% | 35% |
| 21% | 50% | 38.75% | 16% | 26% | 20% | 20% | 35% |
| 22% | 50% | 42.5% | 17% | 27% | 20% | 20% | 35% |
| 23% | 50% | 46.25% | 18% | 28% | 20% | 20% | 35% |
| 24% | 50% | 50% | 19% | 29% | 20% | 20% | 35% |
| 25% | 50% | 50% | 20% | 30% | 20% | 20% | 35% |
| 26% | 50% | 50% | 21% | 31% | 20% | 20% | 35% |
| 27% | 50% | 50% | 22% | 32% | 20% | 20% | 35% |
| 28% | 50% | 50% | 23% | 33% | 20% | 20% | 35% |
| 29% | 50% | 50% | 24% | 34% | 20% | 20% | 35% |
| 30% | 50% | 50% | 25% | 35% | 20% | 20% | 35% |
| 31% | 50% | 50% | 26% | 35% | 20% | 20% | 35% |
| 32% | 50% | 50% | 27% | 35% | 20% | 20% | 35% |
| 33% | 50% | 50% | 28% | 35% | 20% | 20% | 35% |
| 34% | 50% | 50% | 29% | 35% | 20% | 20% | 35% |
| 35% | 50% | 50% | 30% | 35% | 20% | 20% | 35% |
| 36% | 50% | 50% | 31% | 35% | 20% | 20% | 35% |
| 37% | 50% | 50% | 32% | 35% | 20% | 20% | 35% |
| 38% | 50% | 50% | 33% | 35% | 20% | 20% | 35% |
| 39% | 50% | 50% | 34% | 35% | 20% | 20% | 35% |
| 40% | 50% | 50% | 35% | 35% | 20% | 20% | 35% |
| 41% | 50% | 50% | 38.75% | 35% | 20% | 20% | 35% |
| 42% | 50% | 50% | 42.5% | 35% | 20% | 20% | 35% |
| 43% | 50% | 50% | 46.25% | 35% | 20% | 20% | 35% |
| 44% | 50% | 50% | 50% | 35% | 20% | 20% | 35% |
| 100%***** | 80% | 80% | 80% | 35% | 20% | 20% | 35% |

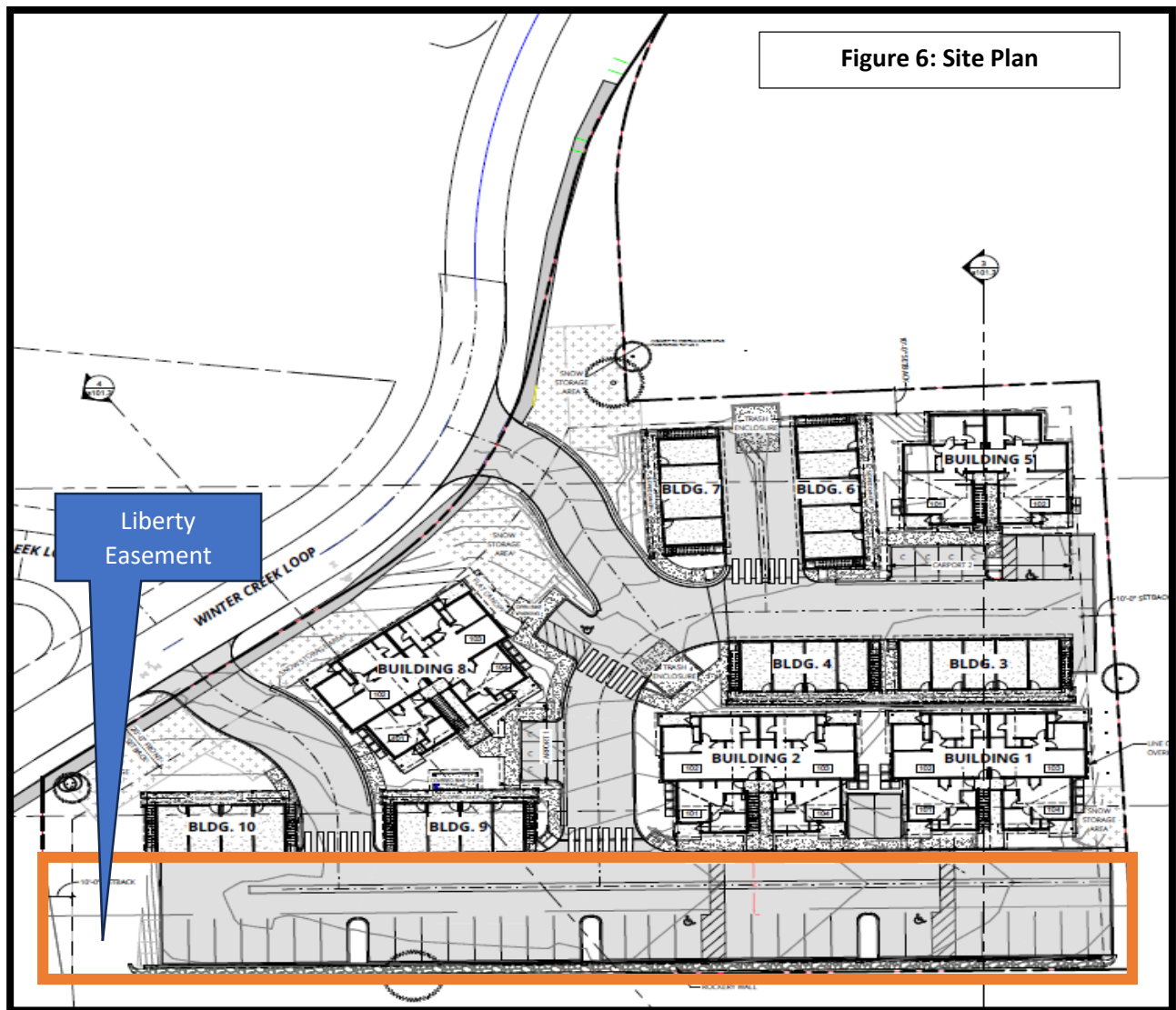
Project Description

The applicant is proposing to construct 40 multifamily residential units (36 units plus four additional density bonus units) in 10 two-story buildings. The project consists of a mix of studios, one-bedroom and two-bedroom rental units (Table 1). Five units will be deed-restricted to lower income households at rental rates of 30% of 60% AMI, and the applicant is requesting additional density, an incentive/concession and waivers/reduction of development standards as allowed under the SDBL. Six of the ten buildings are “carriage units”, as they include garages on the first floor and two residential units on the second floor. In total, the project provides 72 parking spaces (uncovered and covered). This is a rental apartment project.

Table 1: Unit types and Location

| Building # | # of units (per bldg.) | Type of Unit | # of Garage Spaces (per bldg.) |
|-------------|------------------------|--------------|--------------------------------|
| 1,8 | 4 | 1 Bd | |
| | 4 | 2 Bd | |
| 2 | 3 | 1 Bd | |
| | 4 | 2 Bd | |
| | 1 | Studio | |
| 3,6 | 2 | 1 BD | 5 |
| 5 | 4 | 2 BD | |
| 4, 7, 9, 10 | 2 | Studio | 4 |

Access to the project site is provided off Winter Creek Loop, a privately maintained roadway. The developer will be required to participate in the maintenance of the roadway (COA #27). Many of the uncovered parking spaces are located within the Liberty Transmission Easement (See Site Plan – Figure 6). Liberty provided a letter outlining steps towards written permission for the parking area (Attachment 2) and COA #58 will require final approval prior to building permit issuance.



Building materials include:

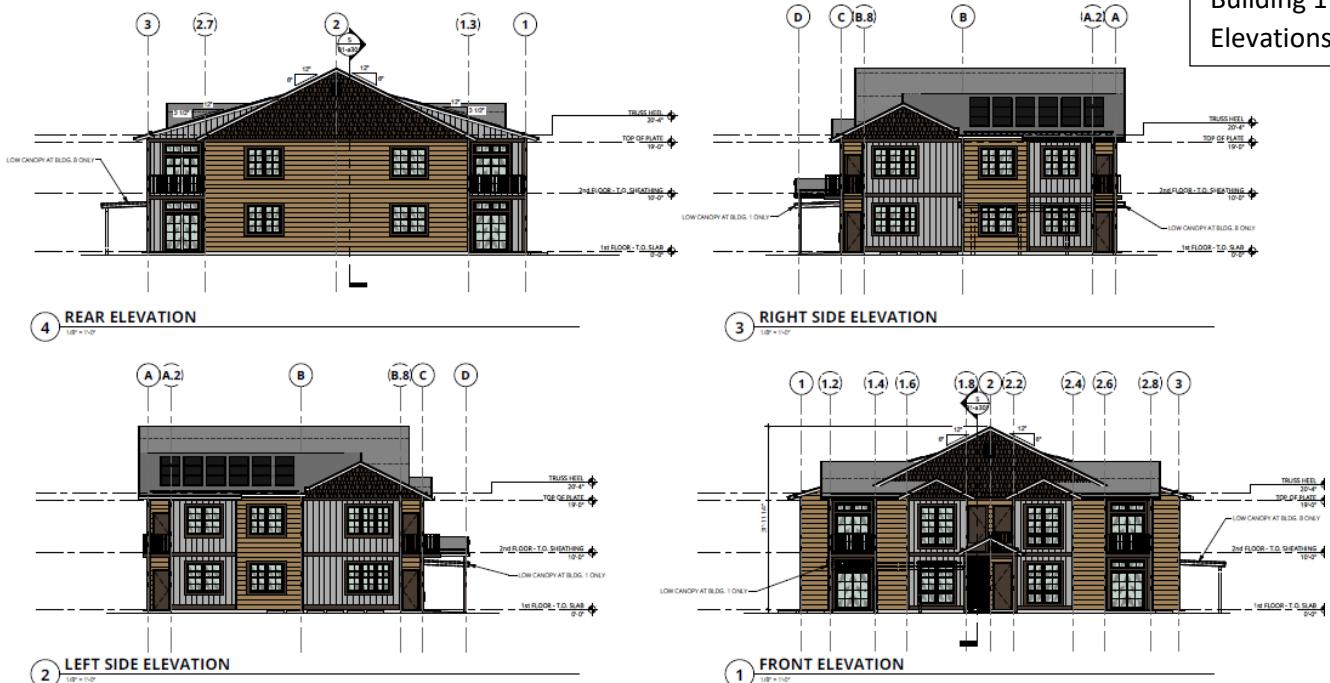
- Fiber Cement lap siding, smooth, horizontal orientation, 10" lap, painted: Hardie® Plank "Khaki Brown"
- Fiber Cement board & batten siding, vertical orientation, 12" spacing, painted: Hardie® Panel "Light Mist"
- Fiber Cement shingle siding at gables, painted: Hardie® Shingle or equal; Sherwin Williams 3001 "Shagbark" or equal
- Timber columns, painted: Sherwin Williams 3001
- Fascia and eaves/soffits: Fiber Cement panels, painted: White
- Metal stair railing and balcony railing; color Black or Charcoal
- Windows: white vinyl, low E, clear
- Window and Door trim, Fiber Cement, painted: Sherwin Williams 3001 "Shagbark" or equal
- Roofing: Asphalt Composition Shingles, fire rated: color "Charcoal Black"

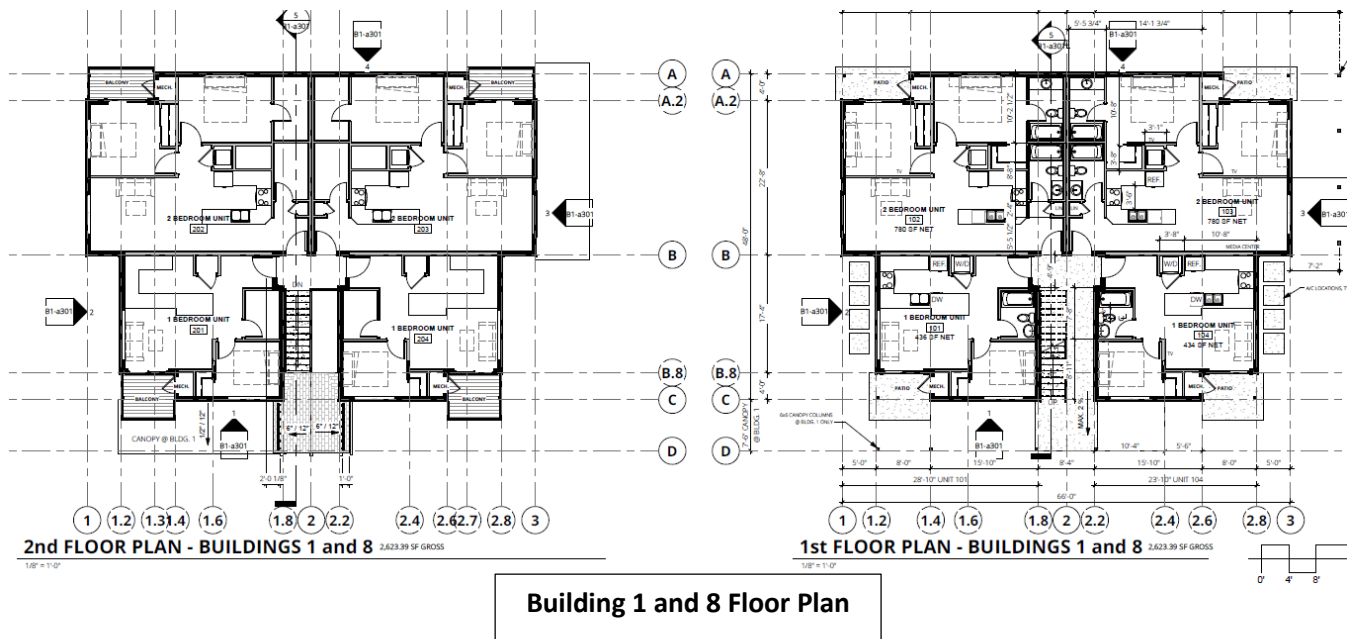
With the exception of the carriage units, units have either a patio or balcony. All units have washers and dryers. Long term bicycle parking is provided in garages, under stairs of non-carriage unit buildings and in a secured covered bike storage enclosure located between Buildings 8 and 9.

Building 1 and 8

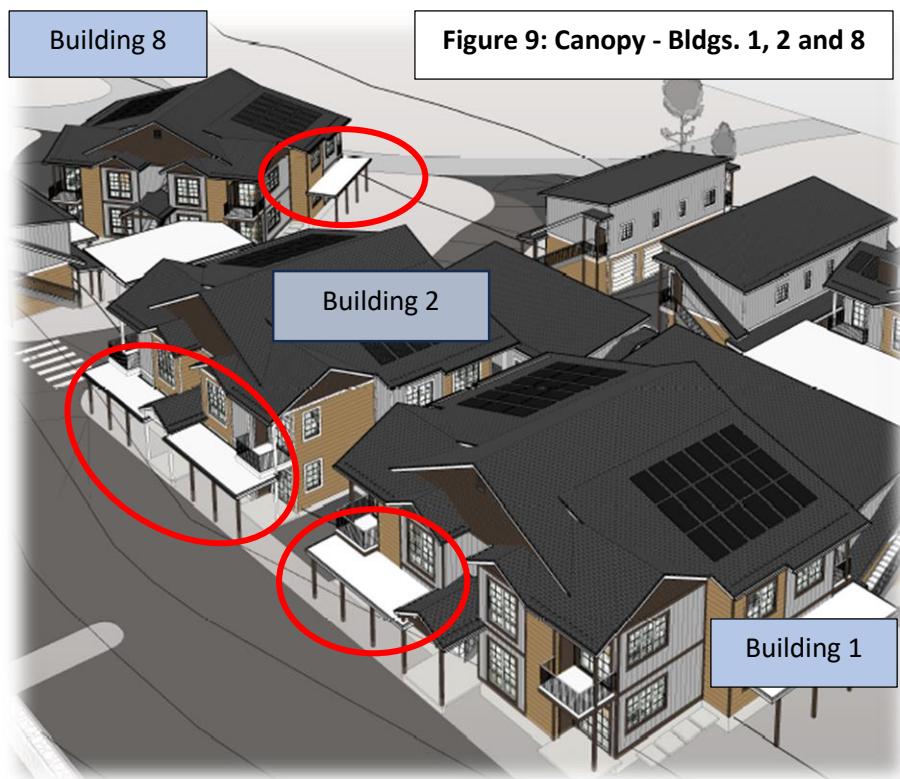
Buildings 1 and 8 are 5,287 sf two-story buildings comprised of eight units each, with each floor containing two one-bedroom units and two two-bedroom units.

Building 1 and 8 Elevations





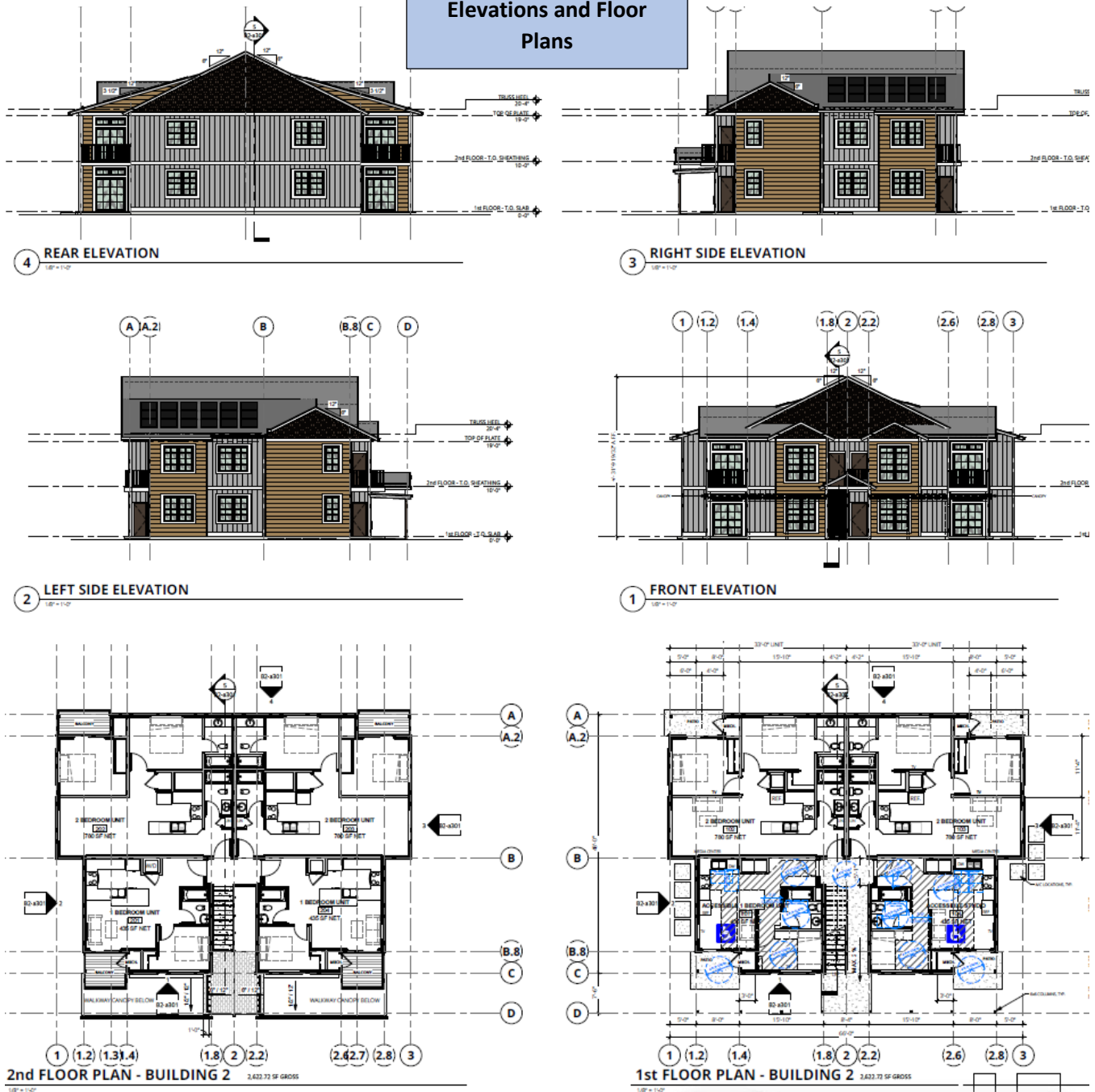
As the proposed roof design sheds snow onto pedestrian walkways and parking areas (COA #23), the developer has chosen to add canopies rather than redesign.



Building 2

Building 2 is a 5,247-sf two-story building, similar in style to Buildings 1 and 8, but with a different floor plan. The first floor includes two two-bedroom units, one one-bedroom unit and one studio. The one bedroom and studio units are accessible units. The second floor is comprised of two two-bedroom units and two one-bedroom units. Canopies are also shown along the entirety of the front elevation to deflect roof snow shed off the pedestrian path of travel (Figure 9).

Figure 10: Building 2 Elevations and Floor Plans



Building 5

Building 5 is a two-story 4,108 sf structure with four two-bedroom units, two on each floor. An accessible unit is located on the first floor. The roof design sheds snow onto the uncovered parking areas and the developer has designed carport structures in order to prevent snow shedding directly onto vehicles.

Figure 11: Carport

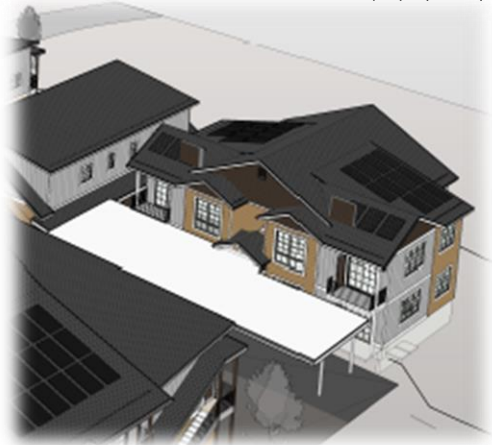
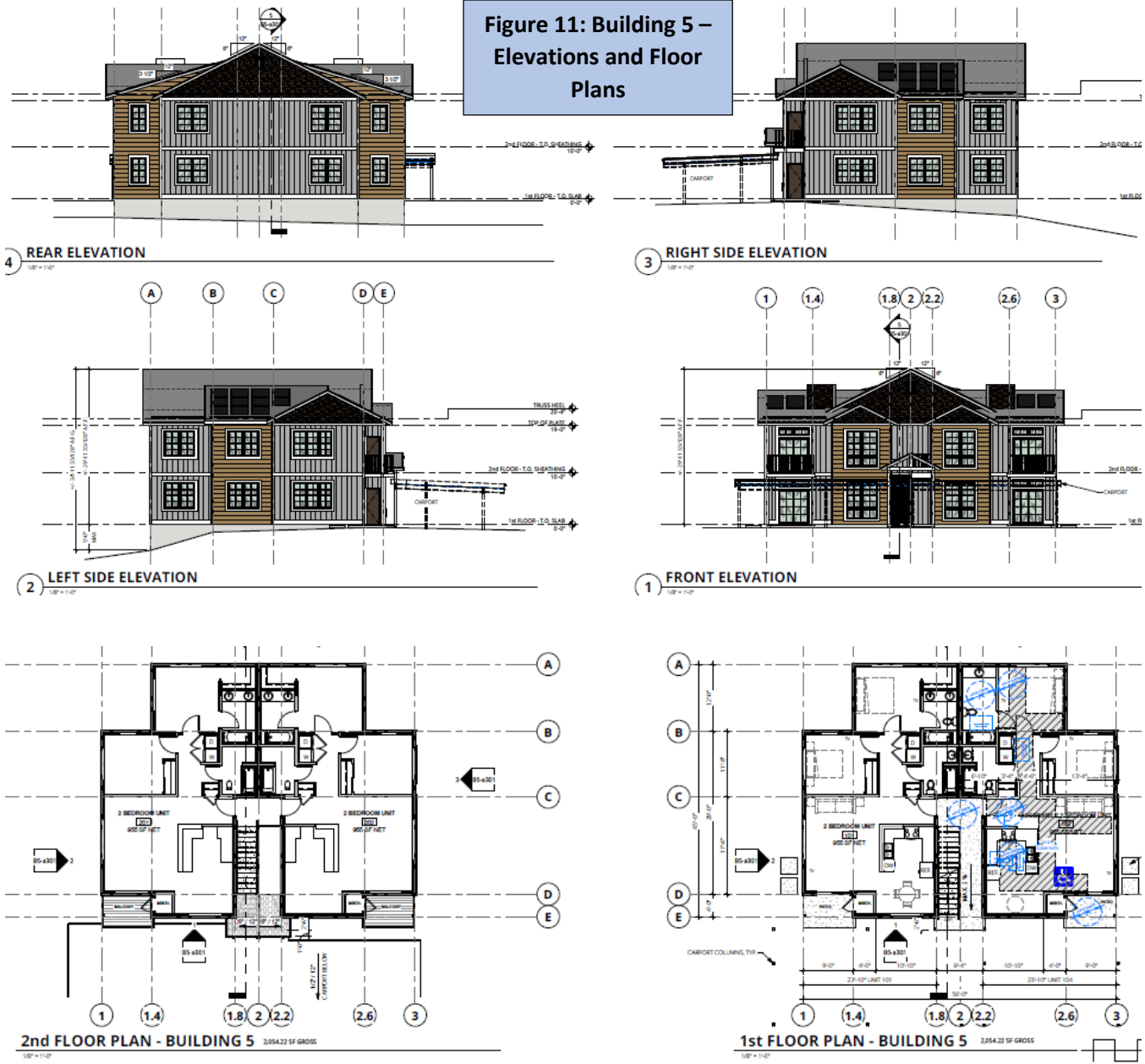


Figure 11: Building 5 – Elevations and Floor Plans



Carriage Units: Buildings 3, 4, 6, 7, 9 and 10

The Carriage Unit structures consist of individual ground floor garage spaces with residential units above. Buildings 3 and 6 contain five garages on the first floor and two one-bedroom units on the second floor. One of the units in Building 6 will be a deed restricted affordable unit. Buildings 4, 7, 9, and 10 have four garage spaces on the first floor and two studio units on the second floor. The units in Buildings 4 and 9 are also deed restricted to low-income affordability. All the buildings have a sloped roofline that shed snow directly onto pedestrian walkways, with the developer proposing sloped canopies attached on each building to protect pedestrians. Elevations for the four garage/two studio units are below, Buildings 3 and 6 have similar elevations and floor plans. These plans can be found in Attachment 1.

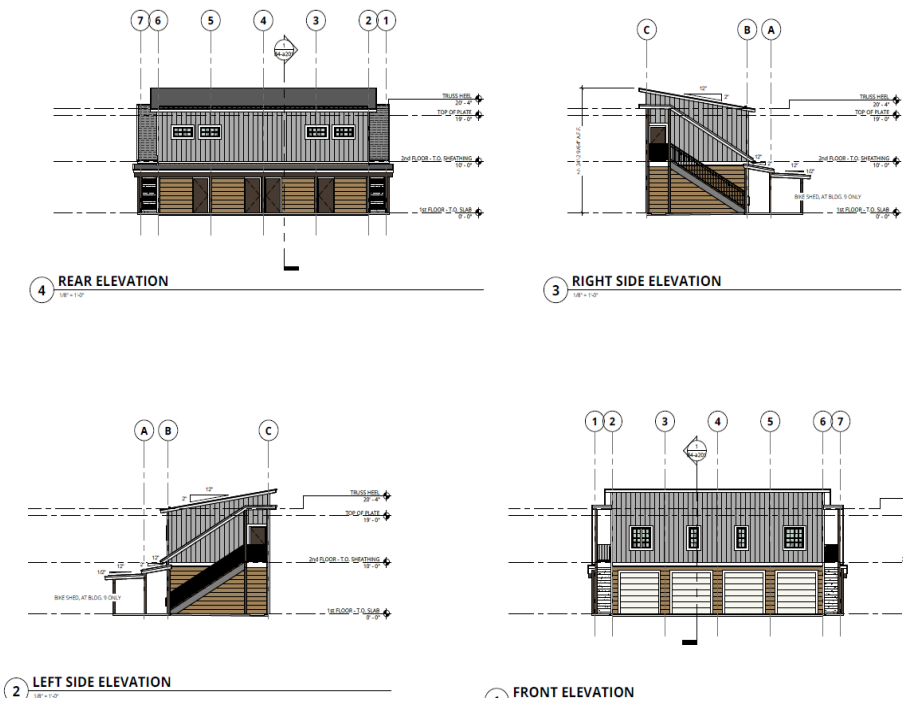
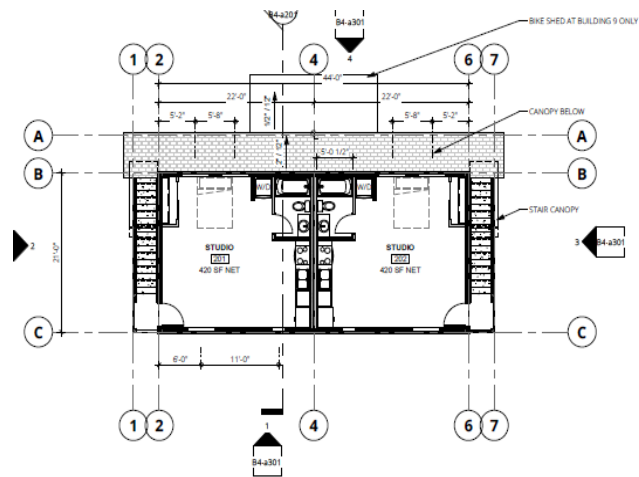
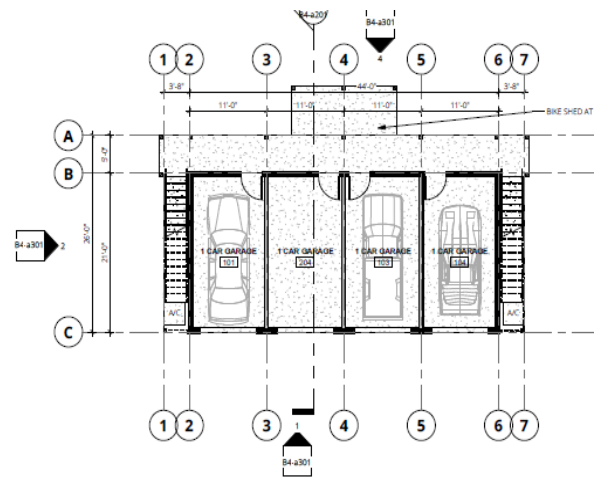


Figure 12: Buildings 4, 7, 9, and 10 Elevations and Floor Plan



2nd FLOOR PLAN - BUILDINGS 4, 7, 9, and 10 924.00 SF GROSS

1/8" = 1'-0"



1st FLOOR PLAN - BUILDINGS 4, 7, 9, and 10 924.00 SF GROSS

1/8" = 1'-0"

As allowed by SBDL, the applicant is requesting the following incentive/concession:

- Reduction in private exterior space requirement

And the following waivers/reductions:

- Waiver-Maximum Site Coverage
- Waiver-Common Recreational Amenity
- Waiver-Required Open Space of 30%
- Reduction-Parking Lot Interior Landscaping
- Reduction-Setback Landscaping
- Reduction-Parking Lot Perimeter Landscaping
- Waiver-Common useable open space of 250 sq ft per unit

These requests will be discussed further in the Development Code Consistency section of this staff report.

Land Use Approvals

The RM zoning district is applied to parcels appropriate for multifamily residential uses. Appropriate densities range from four to 24 housing units per acre. The RM zoning district is consistent with the Residential (RES), High Density Residential (RH) and Tahoe Donner Plan Area land use classifications of the General Plan.

“Multi-family dwellings, 11 and more units” are allowed within the RM zoning district with approval of a Development Permit, as identified in Development Code Table 2-2 (Allowed Uses and Permit Requirements for Residential Zoning Districts). Development Permit approval is required for projects with more than 7,500 square feet of floor area and greater than 26,000 square feet of site disturbance.

Development Permits

A Development Permit is a discretionary land use permit, as identified in Development Code Chapter 18.74 (Development Permits). In evaluating a Development Permit request, the review process begins with the recognition that the proposed use/construction is allowed in the zoning district and focuses on issues related to site layout and design in order to arrive at the best utilization of the site and compatibility of the design with surrounding properties. The Planning Commission is the review authority for Development Permits. The Planning Commission may approve a Development Permit, with or without conditions, only if all the required findings can be made (Findings – Attachment 1).

2025 General Plan Consistency

As this project was deemed complete on August 18, 2021, prior to the May 9, 2023 adoption of the 2040 General Plan, this project application is required to be reviewed under the 2025 General Plan. The project site is located within the High Density Residential (RH) land use designation of the 2025 General Plan. This designation applies to areas located near existing developed areas and to infill development areas with access to community services and existing infrastructure. This land use designation allows higher density single- and multi-family residential uses.

Several 2025 General Plan goals and policies are relevant to this project, including, but not limited to the following:

Land Use Element

- P2.1: Create efficient land use patterns to provide adequate land designated for residential, commercial, industrial, and open space/ recreational uses while reducing environmental impacts, minimizing residential and commercial sprawl, increasing access to opportunity, and mitigating threats to public safety.
- Goal LU-3: Create efficient land use patterns which reduce environmental impacts and minimize the potential for residential and commercial sprawl.
- P3.3: To provide for projected population growth in an efficient manner, accommodate development at the highest densities in infill areas, consistent with goals for environmental protection and land use compatibility.

Community Character Element

- Goal CC-4: Protect views of the night sky and minimize the effects of light pollution.
- P4.2: Require light fixtures to be designed and sited so as to minimize light pollution, glare, and light trespass into adjoining properties.

Housing Element

- Goal H-1: Ensure an adequate supply of housing sites to meet the housing needs of all segments of the community.
- Policy H-1.1: Provide an adequate supply of sites zoned at sufficient densities to accommodate the production of new residential units to meet the needs of existing and future residents.

- Policy H-1.4: Continue to require units in residential developments constructed within high-density residential zones (RM, DRM, and DRH zoning districts with a density of six or more dwelling units per acre) to not exceed a maximum average living area of 1,500 square feet per unit (Development Code Section 18.214.050).
- Goal H-2: Provide housing affordable to all segments of the community.
- Policy H-2.8: Encourage projects that support mixed-income housing developments to promote economically diverse neighborhoods and strong communities.

Staff believes that the project, with incorporation of the proposed Conditions of Approval, is consistent with the goals and policies of the 2025 General Plan. The proposed project is providing multifamily rental housing units to ensure that the housing needs of all economic segments of the community can adequately be met. The project site is an infill site located adjacent to an existing residential neighborhood and residents are within biking or walking distance to the Regional Park and commercial amenities. This site was previously designated for high density multifamily housing in the 2025 General Plan. The project proposes night sky compliant exterior lighting, helping to combat light pollution and further the Town's goal of protecting views of the night sky.

Development Code Consistency

The project is located within the RM-15 (Residential Multifamily, 15 dwelling units per acre) zoning district which is applied to parcels appropriate for multifamily residential uses. The proposed use is consistent with the allowed uses of the zoning district. However, the applicant is requesting incentives/concessions and waivers/reductions of development standards as allowed under SDBL. Staff has identified these requests as discussion items for the Planning Commission's consideration.

Project components consistent with the Development Code

Base Density

The project site is zoned RM-15 (Multi-family 15 dwelling units/acre). The RM portion of the site is 1.646 acres, allowing 24.693 dwelling units ($1.676 * 15$). Development Code Section 18.08.050 (Minimum and Maximum Density) allows for the density to be calculated based on the number of bedrooms in each unit (Section 18.08.050 Dwelling Unit Equivalents – Table 2.5). One-bedroom units are considered 0.67 dwelling units (du), two-bedroom units are 0.80 du and studio units are 0.50 dwelling units. The project proposes the following unit count:

| Proposed Units | # of Bedrooms | Equivalent Unit Factor | Equivalent DU |
|-----------------|---------------|------------------------|-----------------|
| 8 | Studio | 0.50 | 4 |
| 14 | 1 | 0.67 | 9.38 |
| 14 | 2 | 0.8 | 11.2 |
| 36 units | | | 24.58 DU |

With 36 units in the proposed configuration of studio, one- and two-bedroom units, the dwelling unit equivalent calculation results in 24.58 du, slightly less than the 24.693 du allowed under the RM-15 zoning. The base density is consistent with the Development Code. In the interest of brevity, staff is not discussing the small additional density allowed for the 0.063 portion of the site located in the CG zoning district as the project meets the density without the CG portion of the site.

Snow Storage

Development Code Section 18.30.130 (Snow Storage) states that "in areas with a snow load less than 200 pounds per square foot, the required snow storage area shall equal at least 50 percent of the total parking and driveway area. At least half of the required snow storage area must be provided onsite. Up to half of the required onsite snow storage may be located within a snow storage easement intended for

the purpose of storing storage from a street.” The snow load for the subject parcel is 179 pounds per square foot, therefore the project is required to provide snow storage in the amount 50% of the total parking and driveway area, or 12,385 sf ($24,770 \text{ sf} \times 0.50 = 12,385 \text{ sf}$ of snow storage required). Of that amount, 7,673 sf of snow storage is provided onsite, and 4,712 sf will be moved off site with an approved off-haul plan (COAs #24 and #38). This is consistent with the requirements of the Development Code.

RM and Multifamily Development Standards

| Development Standard | Required | Proposed | Consistent? |
|----------------------|--|--|-------------|
| Setbacks | Front: 20 feet Side: 10 feet Rear: 20 feet | Front: 20 feet Side: 10 feet Rear: 20 feet | Yes |
| Height Limit | 35' or 3.5 stories, whichever is less | 35', two-story buildings | Yes |
| Laundry Facilities | In each unit, or common laundry facilities | In each unit | Yes |

Easements

The rear of the parcel is encumbered with a 50-foot transmission line easement held by Liberty. Development Code Section 18.30.056 prohibits required parking, required landscaping, and required site improvements within easements unless express written approval is provided from all utilities, agencies and entities with an interest in the easement. In 2021, Liberty provided a letter outlining the steps for written permission to install parking and landscaping located in the easement (Attachment 2). Staff re-routed the project in January 2024, reached out to Liberty multiple times and did not receive additional comments. Condition of Approval #58 will require proof of Liberty’s approval for the site improvements in their easement. The easement language is provided as Attachment 3. With Liberty approval, the parking, rockery wall, lighting and landscaping would be consistent with the Development Code.

Access off Winter Creek Loop

The Silver Creek development is located on Winter Creek Loop, a privately maintained public street. Condition of Approval #27 requires the applicant to enter into a Roadway Maintenance agreement with the Winter Creek Owners’ Association for both short-term (i.e. snow removal, sweeping, and drainage facility maintenance) and long-term maintenance/replacement of Winter Creek Loop from Brockway Road through the Winter Creek Loop/Winter Creek Loop intersection where the project driveway is proposed to connect. If an agreement cannot be reached with the Winter Creek Owners’ Association for maintenance of the roadway section, the project proponent may choose to identify itself as the sole responsible member of the agreement for maintenance of the roadway as described above. The Roadway Maintenance agreement will be reviewed and approved by the Town Engineer and will be recorded against the property.

Inclusionary Housing Requirement

The purpose of the Inclusionary Housing Ordinance is to provide a permanent supply of affordable housing to meet the needs of very low, low-, and moderate-income residents, particularly those who live or work in Truckee, while maintaining the Town’s character and improving the social and economic quality of life for Truckee residents. Fifteen percent of all new dwelling units in a residential development project are required to be affordable units, which shall be constructed and completed not later than the related market-rate units.

A 36-unit multifamily project is required to provide 5.4 inclusionary housing units ($36 * 0.15$). For fractions of affordable units, the developer may elect, at his or her option, to construct the next higher whole number of affordable units, perform an equivalent alternative which has received the approval of the review authority, or pay an in-lieu fee. Currently, under Town Council Resolution 2022-77, the affordable housing in-lieu fee is \$134,413 per affordable unit. The applicant has elected to deed-restrict five units and pay the in-lieu fee required for the fractional unit, which is currently \$53,765.20 (40% of 134,413). Since the in-lieu fee is updated annually, Condition of Approval #56 requires payment of the affordable housing in-lieu fee, consistent with the resolution in effect at the time of building permit issuance.

Project Components not consistent with the Development Code

The proposed project is not consistent with many standards of the Town's Development Code. Through SDBL, the applicant has requested to waive or reduce multiple Development Code standards and to have a standard reduced as an incentive/concession (Affordable Housing Plan - Attachment 4). As previously mentioned, the Town is required to grant the concession or incentive proposed unless it can be shown that the concession/incentive does not result in identifiable and actual cost reductions to provide for affordable housing rents, would cause a public health or safety problem, or would be contrary to law. The State also requires the Town to reduce or waive any development standard that could physically preclude the construction of the project at its permitted density.

Concession/Incentive: Reduction of Private Exterior Space Requirement

Development Code Section 15.58.180 (Multifamily Residential Projects) provides development and operational standards for multifamily residential projects. One such requirement is the provision of private exterior space as either a balcony, deck or patio. A private balcony shall have an area of at least 60 sf and a patio shall have an area of at least 90 sf. Both of these amenities shall not have a dimension less than six feet.

The Silver Creek project provides balconies or patios to units located in Buildings 1, 2, 5, and 8. The patios and balconies are smaller than requirements listed above. Furthermore, the "Carriage Unit" buildings do not have any private exterior space. This is not consistent with the Development Code standards for multifamily development. The applicant has requested a reduction or outright deletion in this standard as an incentive/concession per SDBL.

The applicant asserts that the reduction in the provision of private exterior space results in an identifiable and actual cost reduction to provide for affordable housing rents.

Waiver: Maximum Site Coverage

Maximum site coverage for RM parcels over 10,000 sf is 40 percent. For the project area this equates to 29,794.8 sf of site coverage allowed. The project is proposing 50,161 sf of site coverage, or 67.3% of the project site. This is not consistent with the Development Code standards for multifamily development. The applicant has requested to waive the maximum site coverage requirement, stating that requiring the project to meet the 40% site coverage requirement would physically preclude the construction of the project at its permitted density.

Waiver: Common Recreational Amenity

Development Code Section 15.58.180 (Multifamily Residential Projects) requires all multifamily residential developments with 10 or more units to provide a minimum of one indoor/outdoor recreational amenity for every 25 units or fraction thereof within the common open space areas. These amenities may include:

- Barbecue/picnic area;
- Recreation building;
- Swimming pool; and/or
- Tot lot with play equipment.

The proposed project does not provide any recreational amenities which is not consistent with the Development Code standards for multifamily development. The applicant has requested to waive this requirement, stating that requiring the project to provide a common recreation amenity would physically preclude the construction of the project at its permitted density.

Waiver: Common Useable Open Space of 250 sq ft Per Unit

Development Code Section 15.58.180 (Multifamily Residential Projects) requires all multifamily residential developments with five or more units to incorporate common open space consisting of active recreation and natural preservation areas. The project shall be designed to provide the equivalent of a minimum of 250 square feet of common open space for each dwelling unit. To meet Development Code standards, Silver Creek would need to provide 9,000 square feet of common open space (36 units * 250 sf).

The project does not provide any common open space, which is not consistent with the Development Code standards for multifamily development. The applicant has requested to waive this requirement, stating that requiring the project to provide common open space would physically preclude the construction of the project at its permitted density.

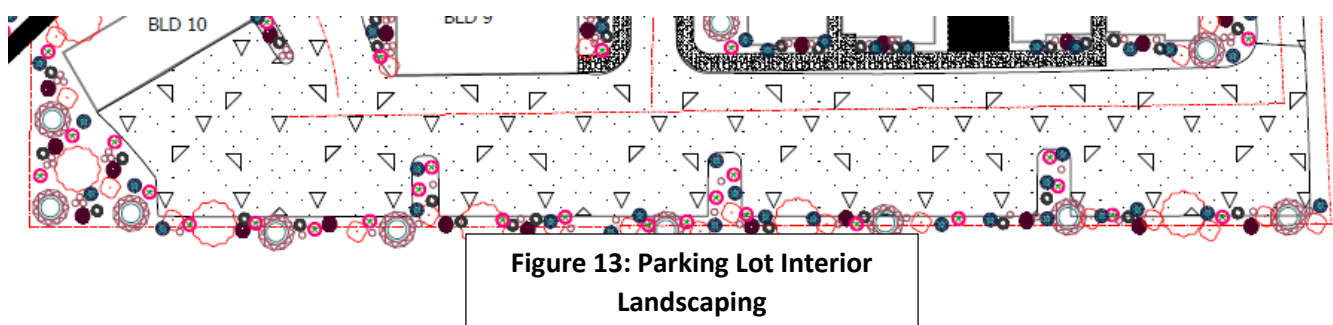
Waiver: Required Open Space of 30%

RM zoned parcels are required to reserve 30% of the gross site area (22,346.4, sf) as open space. Open space areas are generally intended to be large, undeveloped areas, remaining primarily in their natural state (Development Code Section 18.46.050.G - Open Space Standards).

The project does not provide open space which is not consistent with the Development Code standards for multifamily development. The applicant has requested to waive this requirement, stating that requiring the project to provide open space would physically preclude the construction of the project as its permitted density.

Reduction: Parking Lot Interior Landscaping

Development Code Section 18.40.040 (Site Landscaping Requirements) requires that the interior of the parking areas be landscaped as follows: Landscaping shall be evenly dispersed throughout the parking lot at a ratio of 200 square feet of landscaped area for every five parking stalls or fraction thereof. Two trees and four shrubs shall be provided for every five parking stalls or fraction thereof.



The project is providing parking lot interior landscaping (Figure 13 – example, see full sized plan in Attachment 1), however, not the full amount as described above which is not consistent with the Development Code standards for multifamily development. Condition of Approval #60 will require a final landscaping plan that reflects the approved site plan. The applicant has requested to reduce this landscaping requirement, stating that requiring the project to fully meet the parking lot interior landscaping standard would physically preclude the construction of the project at its permitted density.

Reduction: Parking Lot Perimeter Landscaping

Parking lots are required to be landscaped both adjacent to streets and side or rear property lines. Development Code Section 18.40.040.B.3 requires at least a six-foot-wide landscaping buffer for parking areas. While the project does provide some perimeter landscaping, the landscaping buffer is not six feet wide which is not consistent with the Development Code standards for multifamily development.. The applicant has requested to reduce this landscaping requirement, stating that if the project was to fully meet the landscaping standard it would physically preclude the construction of the project as its permitted density.

Reduction: Setback Landscaping

All front yard setback areas and side yard setback areas shall be landscaped, except where a required setback is occupied by a drainage facility, structure, parking space, sidewalk or driveway, or where a required setback is screened from public view (Development Code Section 18.40.040.A.1).

The project provides front yard setback landscaping, and some side setback landscaping, but not the full amount which is not consistent with the Development Code standards for multifamily development. The applicant has requested to reduce this landscaping requirement, stating that requiring the project to fully meet the setback landscaping standard would physically preclude the construction of the project at its permitted density.

Density Bonus Law Maximum Parking Requirements

As previously discussed, SDBL limits the amount of parking the Town can require for a density bonus housing project. The Town cannot require more than 48 parking spaces, none of which must be covered.

State Density Bonus: 16 two-bedrooms ($16 * 1.5 = 24$) + 15 one-bedroom + 9 studios = $24+15+9 = 48$ parking spaces

The developer has agreed to provide 72 parking spaces with 26 spaces located in individual garages. As this is less than Development Code required parking for multifamily development, provided below, and as there are not off-street parking spaces available, staff is proposing Condition of Approval #36 to require assigned parking and to notify residents of the lack of off-street parking.

Chapter 18.48 (Parking and Loading Standards) parking requirements result in 85 parking spaces, with 35 of the spaces located in a garage ($24 * 1.5 = 36$, $16 * 2 = 32$, $36 + 32 = 68$, $68 * 0.25 = 17$, $68 + 17 = 85$)

Special Districts and Utilities: All applicable special districts, utility companies, and Town departments with an interest in this application have been notified. All conditions of approval received have been incorporated. The project will be required to be in compliance with all utility and special agency requirements. A notable area of concern is the Liberty easement. Copies of all agency comment letters are included as Attachment #6.

Environmental Review: Staff is proposing to determine the project exempt from the provisions of CEQA per the Class 32 exemption for In-Fill Development Projects (Section 15332 of the CEQA Guidelines). The Class 32 exemption can be applied to projects that meet the following criteria:

- Consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations
 - *With the exception of the allowances required by SDBL, the project is consistent with the General Plan and Development Code. A 2011 case, Wollmer v. City of Berkeley, clarified the use of the CEQA infill exemption for density bonus projects. In this case, an opponent challenged the use of the urban infill exemption on the grounds that the modifications and*

waivers of development standards, as required to be granted under SDBL, meant that the project was not consistent with existing zoning. The court rejected that argument, finding that the modifications required by the Density Bonus Law did not disqualify the project from claiming the exemption.

- Located within town limits on a project site of no more than five acres and is substantially surrounded by urban uses
 - *The project site is under two acres and is substantially surrounded by urban uses.*
- Project site has no value as habitat for endangered, rare or threatened species
 - *The project site was previously reviewed under the Winter Creek MND. The MND found no habitat on the project site that would have value for endangered, rare or threatened species.*
- Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality
 - *The project is located in the Residential CEQA VMT (Vehicle Miles Traveled) Exemption Zone and is presumed to have a less-than-signification transportation impact. In order to analyze potential LOS (Level of Service) impacts, the Town required a traffic analysis (Attachment 7). The traffic analysis determined that the study intersection LOS is adequate and there are no queuing concerns or need for an additional turn lane.*

The project will be subject to all standard requirements in regard to air quality, noise and water quality. The project does not include wood burning appliances and will be required to have a dust suppression plan (COA #48). The project meets all stormwater requirements as determined by the Engineering Division (COA #16). The project is required to meet construction noise standards (COA #14) and AB1307 clarifies that the effects of noise generated by the occupants of a development are not a significant effect on the environment per CEQA standards.

- The project can be adequately served by all required utilities and public services.
 - *The project has been reviewed by all utilities and public service agencies and final “will-serve” letter are required prior to building permit issuance.*

Public Communication: The public hearing notice was published in the Sierra Sun on May 10, 2024, and mailed on May 7, 2024 to all property owners within 500 feet of the project site, as shown on the latest current tax roll of Nevada County. However, the project was routed earlier in the application process to the Winter Creek HOA. The HOA forwarded the routing to the HOA members and staff received comments on the project which are included as Attachment 9. The comments list similar concerns including:

- Multi-family housing next to the Winter Creek subdivision
- Concerns about traffic, safety and density
- Concerns with granting incentive/concessions and waivers
- Concerns about snow storage

After receiving the comments, staff held a neighborhood meeting in April 2024 to discuss the project, review process, concerns and SDBL.

Staff Summary and Recommendation: The project is proposing multifamily development in a multifamily zone district identified as an appropriate location for high density housing. This project provides rental housing units in an infill location, helping implement the Housing Element’s goal to provide housing for all segments of the community. Staff believes this is a suitable location for a multifamily housing development.

The Development Code standards for multifamily housing are intended to produce high-quality residential communities. Private exterior space, community amenities and open space all increase the enjoyment and livability for residents of high-density housing. Staff believes these standards are important to both the residents of the development and the surrounding community. However, the State does not hold these standards in the same regard and prioritizes the creation of additional housing above these aspects of project design. While staff would typically not support the aggregation of waivers or reductions to these standards, it is clear that the SDBL views many types of development standards as barriers to housing construction and has thereby limited the Town's ability to require them in housing projects.

As previously discussed, the onus is on the jurisdiction to prove that an incentive/concession or waiver/reduction does not meet the SDBL requirements. If the Planning Commission does not agree with granting an incentive/concession or waiver/reduction, the decision must be based on the findings discussed earlier in the SDBL section of this staff report (Development Code Sections 18.212.030 and 18.212.040)

Staff has declined to waive or reduce standards that are clearly contrary to law and/or public health and safety issues (stormwater treatment, solid waste requirements, fire apparatus access, etc.)

Staff does not believe the findings can be made to deny the incentive/concession and waivers/reductions, and, with incorporation of the recommended Conditions of Approval, staff finds that the project is consistent with the SDBL, Development Code (where allowed by the SDBL) and the Town's General Plan. Therefore, staff recommends that the Planning Commission adopt Resolution 2024-08.

Alternative Actions: Actions that the Planning Commission may take as an alternative to the recommended action include:

1. Continue the public hearing to a date and time certain.
 - a. The Planning Commission may request additional information from the applicant and/or staff (if new information is presented at the next meeting, the public portion of the hearing must be reopened on the new information submitted).
2. Land Use Permits
 - a. Add, delete or modify the proposed conditions of approval
 - b. Deny the project on the basis that all of the required findings cannot be made.
3. Require additional environmental review.

Attachments:

Attachment 1: Draft Resolution 2024-08

Exhibit A: Project Plans

Exhibit B: State Density Bonus Law Modifications

Exhibit B: Draft Conditions of Approval

Exhibit C: Findings

Attachment 2: Letter from Liberty dated 1-16-22

Attachment 3: Transmission Easement

Attachment 4: Affordable Housing Plan

Attachment 5: Exterior Materials and Colors

Attachment 6: Routing Comments 2024 and 2021

Attachment 7: Silver Creek Traffic Analysis

Attachment 8: Winter Creek HOA Letter

Attachment 9: Public Comment (prior to staff report)

Attachment 10: [California's Density Bonus Law \(Gov. Code §§65915 – 65918\)](#)