



TOWN OF LOS GATOS
CONCEPTUAL DEVELOPMENT
ADVISORY COMMITTEE REPORT

MEETING DATE: 10/12/2022

ITEM NO: 2

DATE: October 7, 2022

TO: Conceptual Development Advisory Committee

FROM: Joel Paulson, Community Development Director

SUBJECT: Conceptual Development Advisory Committee Application CD-22-004. Project Location: **405 Alberto Way**. APN: 529-23-018. Property Owner: Randy Lamb, LPG Development. Applicant: Greg G. Bucilla III, Bucilla Group Architecture Requesting Preliminary Review of a Proposal for Construction of Two Multi-Family Buildings in a Mixed Use-Project on Property Zoned CH.

ROLE OF THE CONCEPTUAL DEVELOPMENT ADVISORY COMMITTEE:

The Conceptual Development Advisory Committee (Committee) advises a prospective applicant on the overall consistency of a project with Town policies prior to submitting a formal application and investing in the development review process. The Committee also endeavors to identify the potential issues that will need to be addressed during the development review process should the applicant wish to submit an application. The issues identified by the Committee are not intended to be all-inclusive and other additional issues may be identified during the formal development review process.

None of the Committee's comments are binding on the Town and in no way are they intended to indicate whether the project will be received favorably by the various review bodies that are charged with evaluating and deciding the application. As noted in this report, if an application is filed, technical analysis would need to be done during the evaluation of the proposal. In addition, public input is a required and essential component in the development review process. Notice has been sent to residents and property owners within 300 feet of the project site and to all properties within the Shannon Valley Ranch subdivision. In addition to the public comments received at this meeting, all applicants are strongly encouraged to hold neighborhood meetings to receive input as the design of the project evolves should they decide to proceed with the development review process.

PREPARED BY: Jennifer Armer, AICP
Planning Manager

Reviewed by: Planning Manager and Community Development Director

BACKGROUND:

A previous proposal for a two-story office project with below-grade parking was considered by the Committee in 2015, and eventually approved by Town Council in 2018. Building permit and demolition permit applications were submitted, and the existing structures were demolished, but construction has not started on the office building.

PROJECT DESCRIPTION:

The applicant has submitted a Conceptual Development Advisory Committee application (Attachment 2) and a project description letter (Attachment 3) requesting preliminary review of a proposal to construct two multi-family buildings with a small retail component. The applicant's letter indicates that they wish to construct two four-story multi-family residential structures, and that they have included a small amount of retail space to conform with the current requirements of the CH Zone.

Key elements of the proposed project, as listed in the project description and on the plans submitted (Attachment 5), are as follows:

- Construction of two four-story multi-family residential buildings, including one level of parking and three levels of residential;
- 600 square feet of retail;
- 50-foot height;
- 108 resident parking spaces at grade as first floor of buildings, with additional parking shown on site and on the street;
- 54 total residential units, including both 2- and 3-bedroom units; and
- 8 below market rate units.

In addition, the applicant has submitted a letter (Attachment 4) describing the potential applicability of the State Density Bonus Law, Housing Accountability Act, and other waivers and concessions.

EXISTING GENERAL PLAN, ZONING, AND PLANNING AREA:

1. General Plan land use designation: Mixed Use Commercial, which permits a mixture of retail, office, and residential in a mixed-use project, along with lodging, service, auto-related businesses, non-manufacturing industrial uses, recreational uses, and restaurants. Projects developed under this designation shall maintain the small town, residential scale and natural environments of adjacent residential neighborhoods, as well as provide prime orientation to arterial street frontages and proper transitions and buffers to adjacent residential properties.

EXISTING GENERAL PLAN, ZONING, AND PLANNING AREA (continued):

2. Surrounding General Plan land use designations: Mixed Use Commercial to the south, Mixed Use Commercial and Medium Density Residential to the east, Medium Density Residential to the north, and Highway 17 to the west.
3. Zoning designation: Restricted Highway Commercial (CH).
4. Surrounding zoning designations: Restricted Highway Commercial (CH) to the south; CH and Multi-Family Residential (RM:5-12) to the east; RM:5-12 to the north, and Highway 17 to the west.

While the General Plan 2040 was adopted by the Town Council on June 30, 2022, the new Land Use Element, with associated changes in land use regulations and policies, has been put on hold as a result of a referendum qualifying for the ballot. In the interim, the regulations in the 2020 General Plan Land Use Element apply.

EXISTING CONDITIONS:

1. The project site is approximately 2.15 acres.
2. The project site is located on the northwest corner of Los Gatos-Saratoga Road (Highway 9) and Alberto Way.
3. Surrounding land uses: The site is bounded by multi-family residential uses to the north, multi-family residential and commercial uses to the east, commercial uses to the south, and Highway 17 to the west (Attachment 1).

POTENTIAL CONSIDERATIONS AND ISSUES:

The following is a brief list of issues and topics for consideration by the Committee. Staff has not reached conclusions on these topics. Staff is identifying them here to help frame the discussion and to solicit input. The main question for the Committee is whether or not the applicant's concept for the project creates a high-quality plan appropriate for Los Gatos in this location. If an application is filed, staff would evaluate the technical issues.

1. General Plan
 - a. General Plan Policy LU-1.4 states, infill projects shall be designed in context with the neighborhood and surrounding zoning with respect to existing scale and character of surrounding structures, and should blend rather than compete with the established character of the area.
 - b. General Plan Policy LU-1.8 states, commercial development of any type (office, retail, research and development, etc.) shall be designed in keeping with the small-town character of Los Gatos.
 - c. Policy LU-2.1 states, minimize vehicle miles traveled for goods and services by allowing and encouraging stores that provide these goods within walking distance of neighborhoods in Los Gatos.

POTENTIAL CONSIDERATIONS AND ISSUES (continued):

- d. General Plan Policy LU-6.5 states, the type, density, and intensity of new land use shall be consistent with that of the immediate neighborhood.
 - e. Policy LU-6.7 states, continue to encourage a variety of housing types and sizes that is balanced throughout the Town and within neighborhoods, and that is also compatible with the character of the surrounding neighborhood.
 - f. Policy LU-7.3 states, infill projects shall contribute to the further development of the surrounding neighborhood (e.g. improve circulation, contribute to or provide neighborhood unity, eliminate a blighted area) and shall not detract from the existing quality of life.
 - g. Policy LU-7.4 states, infill projects shall be designed in context with the neighborhood and surrounding zoning with respect to the existing scale and character of surrounding structures, and should blend rather than compete with the established character of the area.
2. Zoning
- a. Multi-family dwelling in a mixed-use project, would be allowed with approval of a Conditional Use Permit in the CH zone.
 - b. Given recent State law, mixed-use may not be required for residential in a commercial zone, is there a preference for this location to include commercial or be exclusively residential?
 - c. Height: The current maximum allowable height of a principal building in the CH zone is 35 feet. However, the property has been added to the Site Inventory for the Draft Housing Element, and will therefore be considered for an increase in the maximum allowed height through the Housing Element update process. The maximum height of the buildings are proposed to be 50 feet, and a proposal for a waiver of the Town development standards is further discussed below and in a letter provided by the applicant (Attachment 4).
 - d. Setbacks: The current project shows a 20-foot setback from all side and rear property lines, to provide emergency fire access, but does not provide enough detail to assess compliance with the required front setback. The minimum required setbacks in the CH zone are 15 feet for front and sides abutting a street, and none required for side and rear. For the north property line, which is adjacent to a lot in a residential zone, the setback is 15 feet, plus one foot for each foot of building height over 20 feet.
 - e. The maximum allowable building coverage in the CH zone is 50 percent. The preliminary plans are in compliance with the maximum allowable building coverage and proposes a building coverage of 43 percent.
 - f. The Below Market Price (BMP) Program applies to all residential development projects that include five or more residential units. This project would be subject to the BMP Program.

POTENTIAL CONSIDERATIONS AND ISSUES (continued):

3. Density

- a. At a density of 20 dwelling units per net acre, the maximum allowable number of units for the site is 43. As proposed, the project would not be in compliance with allowable density, as 54 units are proposed. However, the property has been added to the Site Inventory for the Draft Housing Element, and will therefore be considered for an increase in the maximum allowed density through the Housing Element update process.

4. Parking

- a. Parking required for multiple-unit dwellings is 1.5 units per dwelling unit, plus one guest parking per dwelling unit. For 54 units this project would require 162 onsite parking spaces. The current proposal appears to include between 108 and 132 spaces onsite, with some listed as on street which would not count toward the required parking.

5. State Law

- a. Use of State Density Bonus Law. State density bonus law authorizes applicants who provide specified percentages of affordable housing to seek 1) waivers of development standards and 2) incentives or concessions. "Incentives or concessions" are defined to include adjustments of Town development standards, but not financial contributions to the project. The applicant proposes to use the state density bonus law to seek both 1) a waiver of Town development standards or 2) incentives and concessions. In addition, the applicant proposes to rely on the parking standards set forth in state density bonus law for qualifying projects. Based on state density bonus law, projects including 10% of the units as affordable to low income families are eligible for unlimited waivers and one incentive or concession. As prescribed by state law, an applicant is entitled to a "waiver" of a development standard if application of that standard would preclude construction of the project as proposed. With regard to the requested incentive or concession, state law provides that the Town's grounds for denying a requested incentive or concession are:
 - (A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), 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 to be set as specified in subdivision (c).
 - (B) 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 on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.
 - (C) The concession or incentive would be contrary to state or federal law.

POTENTIAL CONSIDERATIONS AND ISSUES (continued):

- b. Housing Accountability Act. The applicant proposes a multi-family development. For multi-family developments, the Town is limited to applying objective design standards.
- 6. Environmental Review
 - a. Environmental review will be required, for compliance with the California Environmental Quality Act (CEQA). While an Environmental Impact Report (EIR) was already approved for redevelopment of the site additional analysis will be required once an application is submitted and will, at a minimum, include analysis of transportation and air quality.

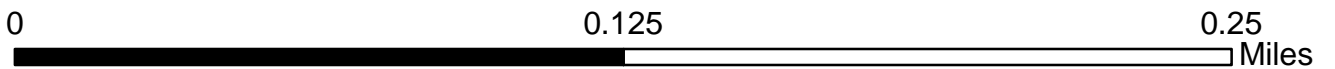
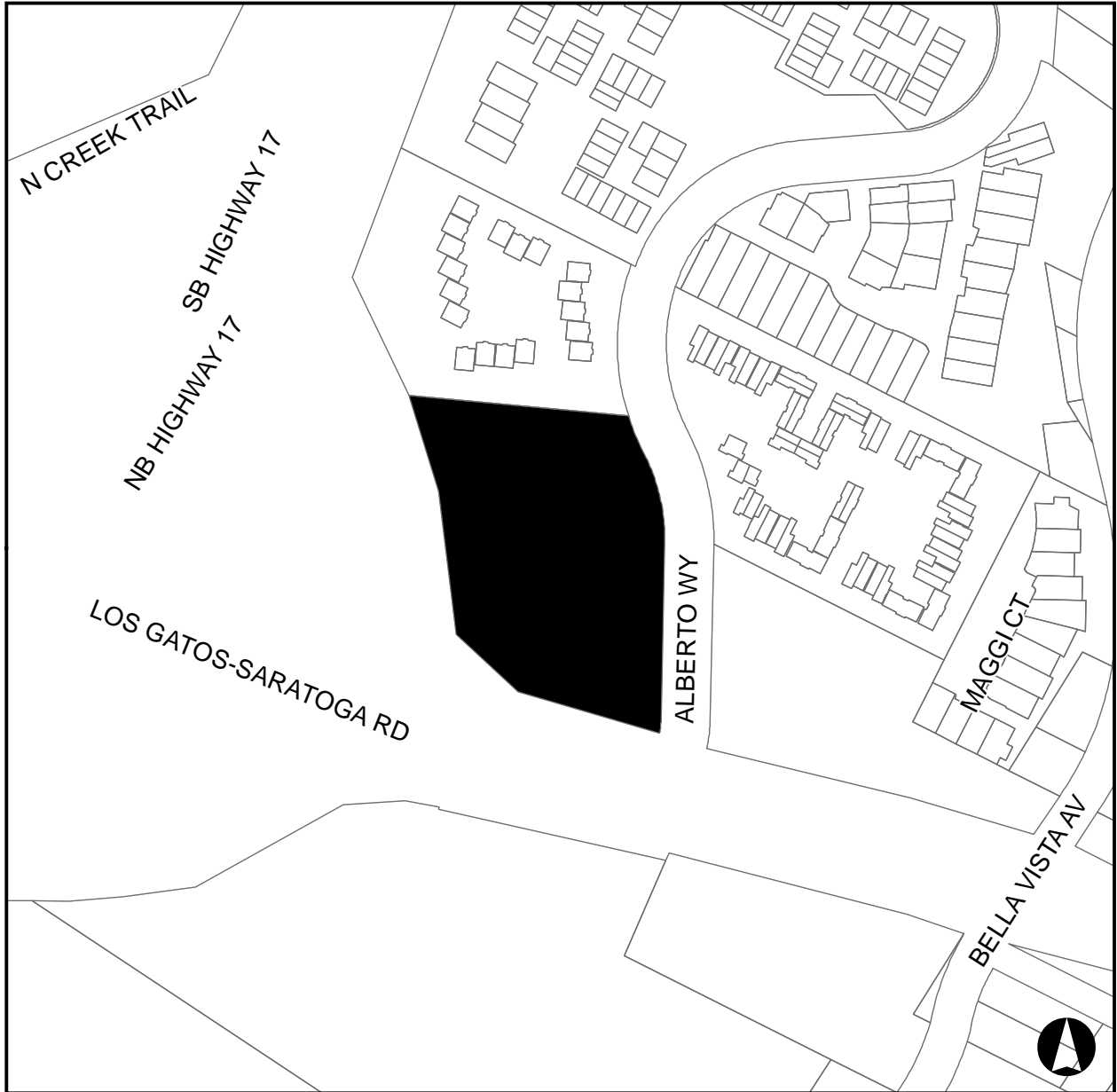
PUBLIC COMMENTS:

Public comments received by 11:00 a.m., Friday, October 7, 2022, are included as Attachment 6.

ATTACHMENTS:

- 1. Location Map
- 2. CDAC Application
- 3. Project Description Letter
- 4. Waivers and Concessions Letter
- 5. Conceptual Site Development Plans
- 6. Public comments received by 11:00 a.m., Friday, October 7, 2022

405 Alberto Way



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**APPLICATION FOR PROJECT REVIEW
CONCEPTUAL DEVELOPMENT ADVISORY COMMITTEE**

TOWN OF LOS GATOS - COMMUNITY DEVELOPMENT DEPARTMENT
110 E MAIN STREET, LOS GATOS, CA 95030
PLANNING@LOSGATOSCA.GOV
408-354-6872

PLEASE SUBMIT APPLICATION WITH ALL REQUIRED DOCUMENTS VIA THE CITIZEN'S PORTAL:
<https://permits.losgatosca.gov/Login-and-Manage-My-Records>

PLEASE TYPE OR PRINT CLEARLY

1. PROPERTY LOCATION:

Address of subject property 405 Alberto Way, Los Gatos

2. PROPERTY DETAIL:

Lot Area: 2.15 ac Zoning: MH APN: 529.23.018
Existing Use: open lot - ready for development

3. APPLICANT:

Name Greg G. Bucilla III - BUCILLA GROUP ARCHITECTURE Phone: 949.851.9080
Address 1601 Dove Street, Suite 187
City Newport Beach State CA Zip 92660
Email greg@bg-architecture.com

4. NAME OF PROPERTY OWNER: (If same as above, check here)

Name Randy Lamb - LPG DEVELOPMENT Phone: 650.208.4195
Address 535 Middlefield Road, Suite 190
City Menlo Park State CA Zip 94025
Email randy@lpgdevelopment.com

I hereby certify that I am the owner of record of the property described in Box #2 above, and that I approve of the action requested herein.

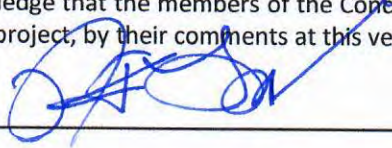
SIGNATURE OF OWNER  **DATE** 9-21-22

ACKNOWLEDGMENT FORM

I, the undersigned, fully acknowledge and understand the Conceptual Development Advisory Committee is only an advisory body and is not empowered by the Town Council or the Planning Commission to render recommendations or decisions regarding land use issues.

I further understand and acknowledge that any statement by the Committee that a potential land use appears consistent with Town Policy is not an express or implied approval of a development project. A project may be rejected by the Planning Commission and/or Town Council for inconsistency with Town policy or for other reasons in the course of the development review process, including public input.

I further understand and acknowledge that the members of the Conceptual Development Advisory Committee are in no way bound in their future review of my project, by their comments at this very preliminary state of project development.

SIGNATURE OF OWNER  **DATE** 9-21-22

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Celebrating over 20 Years

MEMO

DATE September 21, 2022
PROJECT 405 Alberto Way, Los Gatos, CA
ZONING CH – Highway Commercial Zone
REGARDING Application for Project Review
CDAC - Conceptual Development Advisory Committee

Project Description

This application proposes revisions to Approved Project with (1) multi-family Residential instead of commercial office, (2) bldg footprint modification and bldg hgt increase to 50 ft, (3) elimination of extensive excavation for parking with simple on grade parking garage, (4) inclusion of retail space consistent with City criteria for mixed-use commercial zoned property

Site Data

Acres – 2.15 54 units 25.1 DU/AC

Entry

Closer to northern property line along Alberto Way

Buildings

Bldg 1 27 units 3 levels residential flats over parking

Bldg 2 27 units 3 levels residential flats over parking

Open Space

41% thru out site with walkable paths

16% numerous amenities in central courtyard

10% at usable rooftops - Bldg 1 & Bldg 2

Architecture Character

Blend of contemporary with traditional design elements for CH zone

Stone veneer, stucco, metal sloping roof with flat parapet roofs

Dark bronze trim for windows, doors & glass railings

Faux wood corbels, rafter tails, and plank ceilings at verandas

In Summary

Project seeking.....

To retain CH zone with MU designation

To include retail space in Bldg 1 to meet MU CH criteria

To process the project with CUP and full architecture for PC approval

BMP Units

.225x46MR)-2.5 = 7.85 or 8 BMP units (reduces MR DU/AC to 21.4)



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Suite 2900
San Francisco, CA 94105
415.227.0900 Phone
415.227.0770 Fax

September 21, 2022

415.227.3508 Direct
aguerra@buchalter.com

VIA E-MAIL (JARMER@LOSGATOS.GOV)

Ms. Jennifer Armer
Town of Los Gatos
110 East Main Street
Los Gatos, California 95030

Re: 405 Alberto Way - Waivers and Concessions Letter

Dear Ms. Armer:

Buchalter, a Professional Corporation, represents LPG Development (LPG) as land use counsel for the proposed development of 405 Alberto Way, Los Gatos, California, APN 529-23-018 (“Property”). The Town of Los Gatos (“Town”) previously approved a 74,260 square foot two-story office building on the Property (“Approved Project”). LPG has submitted an application to modify the Approved Project to include 54 multi-family dwelling units instead of a commercial office building (“Revised Project”), consistent with the State’s and Town’s prioritization of housing development. The Revised Project includes 8 Below Market Price (BMP) units, as required by section 29.10.3000 *et. seq.* of the Los Gatos Town Code.

The state Density Bonus Law applies to residential projects that set aside at least 10% of units as affordable for low income households. (GOV § 65915(b)(1)(A).)¹ The affordable units included in the Revised Project comprise approximately 14.8% of the total units on the Property. Thus, the Revised Project is eligible for the benefits of the state Density Bonus Law. The purpose of this letter is to provide the Town with the necessary information regarding the Revised Project’s eligibility under the state Density Bonus Law provisions for a waiver of the height limitation and parking requirements.

¹ The Town’s BMP [Guidelines](#) define low income households consistent with state Density Bonus Law and the United States Department of Housing and Urban Development, as [summarized](#) by the State Department of Housing and Community Development. A household in Santa Clara County is considered Low Income if household income totals do not exceed 80% of the Area Median Income (AMI) for the County.

buchalter.com

Los Angeles
Napa Valley
Orange County
Portland
Sacramento
Salt Lake City
San Diego
San Francisco
Scottsdale
Seattle

Waiver or Reduction of Development Standards Pursuant to State Density Bonus Law

Projects receiving a density bonus under the state Density Bonus Law are entitled to a waiver or reduction of development standards that would otherwise “physically preclud[e] the construction of a development meeting the criteria” of the Density Bonus Law at the densities or with the concessions or incentives permitted by the law. (GOV § 65915(e)(1).)

Physical Constraints of the Property

The following limitations physically constrain the developable area on the Property:

1. A fire lane is required around the perimeter of the Property to provide adequate emergency vehicle access to each of the proposed buildings for life safety purposes. Due to the size of the site and proximity to the freeway, the fire lane must be located on a minimum of 12,250 square feet thereby constraining the area available for construction of the condominium buildings on the Property.
2. The variation in the Property’s elevations and overall site topography, as well as the existing freeway along the western boundary of the site requires that the fire lane occupy a significant portion of the otherwise developable area on the Property.

These constraints necessarily require LPG to seek a development waiver to allow for the construction of the Revised Project at the density permitted under the state Density Bonus Law. Accordingly, LPG is requesting a waiver of the Town’s height limitation to allow for the physical development of the Revised Project at the proposed density.

Height Limit Increase

The Property consists of 2.15 acres, or 93,654 square feet. Open space and public amenities would occupy 53,473 square feet of the Property. The fire lane occupies a minimum of 12,250 square feet of the Property. Accordingly, the developable area on the Property is limited to the remaining 27,931 square feet. Because of the limited developable area, the requested increase in building height would allow the Revised Project to include three floors of residential units in a podium construction over parking.

Government Code section 65915(e)(1) allows for eligible density bonus projects to receive waivers of development standards that would “have the effect of physically precluding the construction of a development . . . *at the densities or with the concessions or incentives permitted by this section*” (emphasis added).

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The maximum building height in the CH zone is 35 feet (LGTC § 29.60.440). Strict application of that development standard would reduce the building height by 15 feet, requiring the removal of an entire floor from each building. This would result in the loss of 18 dwelling units at the Project Site, including the loss of units set aside for low income households. Applicability of the maximum height limit requirement, therefore, physically precludes development of the number of proposed units that would otherwise be permitted at the density provided by the state Density Bonus Law. Accordingly, a waiver of the minimum lot size requirement applied to the lots indicated here would allow for the physical development of the Revised Project at the density allowed under the state Density Bonus Law.

Alternative: The Height Limit Increase May be Allowed as an Incentive/Concession

If the Town is unable to grant a waiver from the existing height limit, this requested reduction may be alternatively approved as a concession under state Density Bonus Law. An applicant is eligible for a specified number of incentives/concessions, tied to the number of affordable units provided, as long as those incentives/concessions result in identifiable and actual cost reductions to provide for affordable housing costs. (GOV § 65915(d)(1)(A).) The Revised Project sets aside 14.8% of the total units as affordable to low income households, qualifying it for one incentive/concession. (GOV § 65915(d)(2)(A).)

The maximum building height in the CH zone is 35 feet (LGTC § 29.60.440). Strict application of this development standard would reduce the building height by almost one third. Reducing the Revised Project building height by 15 feet would reduce the overall size of the Revised Project, economically precluding its construction and prohibiting LPG from constructing the affordable units proposed as part of the Revised Project. The increased building height reduces the costs of providing affordable units by creating construction efficiencies and an inherent reduction in cost by constructing a greater number of units on the Property. The number of units and sizes of the units proposed would not be able to be constructed without granting the concession requested. Accordingly, mandating compliance with LGTC § 29.60.440 would economically preclude construction of this affordable housing project.

Thus, in addition to considering a waiver of the building height limitation pursuant to state Density Bonus Law, we request that the Town also consider granting a concession due to the loss of construction efficiencies that would affect the feasibility of constructing both the affordable and market rate units. In lieu of the waiver, the Town may consider the concession under the statute's incentive/concession provisions as another basis for the height exception.

Application of State Density Bonus Law Parking Requirements

Projects receiving a density bonus under the state Density Bonus Law are entitled to reduced parking ratio requirements. Developments setting aside at least 10% of units as affordable

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for low income households are required to provide 1.5 parking spaces for every two or three bedroom unit. (GOV § 65915(p)(1)(B).) As all 54 units are two or three bedroom units, the minimum required parking for the Proposed Project Modifications is 81 parking spaces. As 108 parking spaces will be included, this parking standard established by state Density Bonus Law will be met for both the residential units and guest parking.

Housing Accountability Act Applicability

The Housing Accountability Act (HAA) establishes state policy that local governments “not reject or make infeasible housing development projects . . . that contribute to meeting the need determined pursuant to” the applicable housing element. (GOV § 65589.5(b).) When a housing development project complies with all applicable objective general plan, zoning, and subdivision standards in effect when an application was deemed complete, the local government can only deny the project upon finding that: (1) the project will result in a specific adverse impact to public health and safety, and (2) there is no feasible method to mitigate that impact. (GOV § 65589.5(j)(1)(A)-(B).) The HAA further explains that “receipt of a density bonus, incentive, concession, waiver, or reduction of development standards . . . shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, [or] standard.” (GOV § 65589.5(j)(3).)

The Town has not expressed any concern that the Revised Project will result in any threat to public health and safety. Notwithstanding the Town’s determination to grant the waivers LPG requests under Density Bonus Law, the Revised Project remains in conformity with the applicable General Plan and zoning policies and applicable objective development standards. The Revised Project does not require rezoning because the Revised Project is consistent with the CH zone development standards.

We appreciate the Town’s consideration of LPG’s request for the waiver of the height limitation and implementation of the state Density Bonus parking requirement for the 405 Alberto Way project. With the requested waiver and parking standard, LPG will be able to develop the 54 multi-family units, including 8 affordable units, it is proposing on the Property.

Buchalter

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We hope that this letter clarifies any questions regarding the density bonus waiver and parking standard requested. Please let Randy Lamb or I know if you have any questions or need further information regarding the density bonus request.

Sincerely,

BUCHALTER
A Professional Corporation

A handwritten signature in blue ink, appearing to be 'Alicia Guerra', with a long horizontal line extending to the right.

By

Alicia Guerra

AG:eg

cc: Randy Lamb
Greg Bucilla

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From: Jennifer E Liebthal

Sent: Wednesday, October 5, 2022 4:42 PM

To: Jennifer Armer <JARmer@losgatosca.gov>; Planning Comment <PlanningComment@losgatosca.gov>

Subject: Conceptual Development Application: CD-22:004: 405 Alberto Way

Hello Jennifer et al,

I would like to provide input on the application for 405 Alberto Way. I own a condo across the street at [REDACTED]. I object to the height and density of this development. It is not in keeping with the characteristic feel of other buildings in this neighborhood and will dwarf everything else. It will also fully block the view of the hills from my condo at [REDACTED] which will significantly decrease the value of my property.

Thank you for your time and consideration,

Jennifer

ATTACHMENT 6

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