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CITY OF LOS ALTOS
CALIFORNIA

August 27, 2019

City Council
City of Los Altos
1 North San Antonio Road
Los Altos, CA 94022

Re: Downtown Zoning (item 10) and midrise condos on First Street

City Council:

I appeared before the Planning Commission on July 18, 2019 and spoke under "public comment" and on an agenda item for early feedback on the proposed development of a 4-story condo building at 440 First Street. As to the proposed development, I appeared representing Dr. Ramin Shahidi, a homeowner across Foothill Expressway, who also spoke. Dr. Shahidi has some ideas for mitigation for the development. He reports that in discussing a related project at 444-450 First Street, Planning Commissioners also offered some ideas for mitigation of the effects of the 4th floor and roof decks. Dr. Shahidi intends to write the Planning Commission concerning mitigation for the projects.

I contended on July 18 (and still contend) on behalf of Dr. Shahidi that the proposed 4-story condos on First Street are not CEQA exempt. The California Supreme Court explained in *Berkeley Hillside Preservation v. City of Berkeley* (2015) that a CEQA environmental evaluation can be required even to add a large house in an existing residential neighborhood despite the CEQA guideline "categorical" exemption cited by city staff for these projects.

Whether an evaluation is required depends upon possible environmental effects and whether a CEQA evaluation has already been done in the area. In the case of these proposed 4-story condos, folks on First Street will be affected by increased traffic entering and exiting and persons who live nearby, such as Dr. Shahidi, will be affected by potential noise and light pollution as well as the potential invasion of privacy stemming from the view from roof decks. I requested from the City past CEQA reviews for that portion of First Street under the California Public Records Act but have received no such record(s).

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Under "public comment" on July 18, I raised the matter of whether the zoning at 440 First Street would even permit the replacement of commercial (a pet clinic) with no housing even on the ground floor. It appears that the zoning would allow such a change on First Street - but not in other parts of the downtown - unless the City Council approves an ordinance change proposed by city staff on the Commission's July 18 agenda (and on your August 27 agenda).

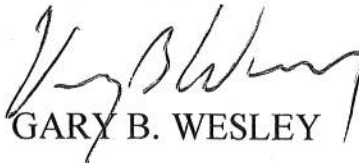
The proposed ordinance change (item 10 on tonight's agenda) would permit housing to replace commercial in the downtown even on the ground floor if allowed as a "conditional use." That would be a major change for the downtown and raises another concern I expressed at your July 18 meeting. It could lead to the end of commercial in the downtown.

The State Legislature is considering state zoning laws - including SB 592 - that could convert housing projects that are discretionary under local laws into projects that must be approved locally. In light of the prospect that such a bill at the state level could soon become law, I suggested on July 18 and reiterate that the City should consider limiting (not expanding) its local discretion.

In addition, I note that last week that California Supreme Court decided that even a change in a local zoning ordinance may constitute a "project" that must be evaluated under CEQA (*Union of Medical Marijuana Patients, Inc. v. City of San Diego*). Dr. Shahidi and I maintain that the City of Los Altos must present for consideration (before approval) an evaluation of the foreseeable environmental effects of the proposed ordinance change - including the effect upon traffic, parking and other infrastructure use and needs.

Since the City has not undertaken or presented such an evaluation, we contend that the City Council may not lawfully adopt the change proposed in item 10.

Very truly yours,



GARY B. WESLEY

cc: Los Altos Planning Commission