



**PUBLIC HEARING**  
**Agenda Item # 9**

**AGENDA REPORT SUMMARY**

**Meeting Date:** August 27, 2019

**Subject:** Ordinance No. 2019-461: Zoning Code Text Amendment to the R3-4.5 Multiple-Family District

**Prepared by:** Steve Golden, Planning Services Manager

**Reviewed by:** Jon Biggs, Community Development Director

**Approved by:** Chris Jordan, City Manager

**Attachment(s):**

1. Ordinance No. 2019-461
2. Planning Commission Agenda Report, June 6, 2019
3. Planning Commission Meeting Minutes, June 6, 2019

**Initiated by:**

Lenore and Paul Lovoi, Applicant and Property Owners

**Previous Council Consideration:**

None

**Fiscal Impact:**

None

**Environmental Review:**

Amendments to the Zoning Code generally may be considered a project under the California Environmental Quality Act (CEQA); however, this Ordinance is exempt from CEQA review because it has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Moreover, to the extent the Ordinance is exempt from CEQA pursuant to the ‘common sense’ exemption (14 CCR §15061(b)(3)), as it can be seen with certainty that there is no possibility that the adoption of the Ordinance may have a significant effect on the environment. The Ordinance also is exempt pursuant to CEQA Guidelines Section 15305, because it involves minor alterations to land use limitations in areas with an average slope of not more than 20%, which do not result in any changes in land use or density. The proposed code amendment is also exempt from CEQA under Section 15061(b)(3) of the CEQA Guidelines because CEQA only applies to projects which have the potential for causing a significant effect on the environment. The proposed code amendment serves to establish development standards for existing parcels that are already developed. Each of the foregoing provides a separate and independent basis for CEQA compliance and provides an overall basis for CEQA compliance. Future alteration of structures on those parcels are still subject to permitting and, would still require individual review for compliance with CEQA.

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**Reviewed By:**

City Manager

*CJ*

City Attorney

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Finance Director

*SE*

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**Policy Question(s) for Council Consideration:**

- Are the amendments in conformance with the General Plan?
- Are the amendments in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, and welfare of the City?

**Summary:**

- The proposed ordinance is to amend the Zoning Code Chapter 14.16, R3-4.5 Multiple-Family District to adopt site development standards for the District where none currently exist; establish a design review process for additions and exterior modifications; and update other provisions of the District regulations to be consistent with other similar residential zoning districts
- The Planning Commission held a public hearing and recommended approval of the proposed Code amendments on June 6, 2019

**Recommendation:**

The Planning Commission recommends the City Council introduce and waive further reading of Ordinance No. 2019-461 to amend Chapter 14.16 of the Los Altos Municipal Code regarding the R3-4.5 Multiple-Family District



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### **Purpose**

Review and adopt an ordinance to amend the R3-4.5 Multiple-Family District (Zoning Code Chapter 14.16) to adopt site development standards for the District where none currently exist; establish a design review process for additions and exterior modifications; and update other provisions of the District regulations to be consistent with other similar residential zoning districts.

### **Background**

In the City of Los Altos, there is only one area that is zoned R3-4.5, and it is located on the north side of Homestead Road at the intersection of Fallen Leaf Lane. The District is comprised of 48 lots each containing a duplex residence, the majority of which were constructed in 1961. The area is also known as the Marshall Meadows neighborhood, after the given name of the subdivision map. While the R3-4.5 District has some provisions to guide development such as permitted uses, maximum density requirements, site area, design control, etc., it lacks specific site development standards to control building coverage and maximum floor areas, yard areas, distance between structures, off-street parking standards, maximum building heights and other similar development controls as found in other residential zoned districts. The request was submitted as a zoning code amendment application by an R3-4.5 District property owner (Applicant) and subsequently the Planning Commission expressed formal support for a code amendment process as specified in Section 14.86.020(B) of the Zoning Code.

The Planning Commission conducted two Study Sessions (September 20, 2018 and February 7, 2019) to discuss the proposed Code amendments and receive public correspondence. At the September 20, 2018 Study Session, the Planning Commission provided direction to staff with regards to the overarching goals and objectives for establishing site development standards for the District. Based on public comments and Commissioner feedback, there was a consensus to establish site development standards to allow property owners to make reasonable improvements and additions to their properties while maintaining the character of the District as a duplex style neighborhood.

At the February 7, 2019 Planning Commission Study Session, staff provided a draft ordinance containing specific site development standards that considered the overall goals of the R3-4.5 District and the Planning Commission's prior direction. Staff used the site development standards of the R1-10 Districts as an initial starting point since those lots are similar in size and dimension, have similar massing of structures, and maintain site development relationships (i.e. setbacks) with the surrounding R1-10 Districts. However, strict adherence to the R1-10 District development standards was considered not to be desirable as a model since the lots in the Marshall Meadows neighborhood are on average smaller, need to support two residences, and most are incumbered by shared driveways and/or ingress and egress easements. Also, since most of the lots were established as flag lots or other irregularly shaped lots, specifying setbacks based on the orientation of the lot (i.e. front, interior side, exterior side, and rear) did not appear to be feasible. Since the Marshall Meadows neighborhood is



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the only R3-4.5 District in the city, the site development standards could be more easily customized. Therefore, staff proposed setbacks based on the relationship of the lot line to its neighboring abutting area. As a result, the proposed setback standards seek to maintain similar setbacks to the surrounding R1-10 Districts, but are slightly decreased primarily on the first story in order to accommodate existing development and the slightly higher density typical of a multi-family district. Similar to the R1-10 District, any new structure, addition or alteration to an existing structure shall be subject to the design review requirements in Chapter 14.76 of the Zoning Code. All proposed development above 20 feet in height or two stories shall be reviewed by the Design Review Commission. Those projects under 20 feet or one-story are reviewed administratively by staff. Both processes, whether reviewed or approved administratively or by the Commission will apply the same Residential Design Review Guidelines and findings found in Chapter 14.76. The Planning Commission considered the draft ordinance and directed staff to provide more information with regards to the development potential of the parcels within the District and how the proposed setbacks related to the existing building layouts.

The Planning Commission subsequently held a public hearing on June 6, 2019 to formally consider their recommendation to the City Council. At that meeting, staff provided a sample of eight lots illustrating examples of the development potential of the lots with the proposed site development standards. The Planning Commission considered the information that staff provided as well as input from Marshall Meadow's residents and surrounding neighborhoods. Following discussion, the original motion failed on a 3-2 vote, with Commissioners Samek and Meadows dissenting and Commissioner Bressack absent. However, additional discussion pursued and minor revisions to the ordinance to modify the maximum floor areas and inclusion of basement and lightwell provisions were considered, and the Planning Commission ultimately decided to recommend approval to amend the R3-4.5 Multiple-Family District by a 4-1 vote with Commissioner Meadows dissenting. The meeting agenda report and minutes are attached (Attachments 2 and 3).

### **Discussion/Analysis**

The proposed ordinance will amend the R3-4.5 Multiple-Family District (Zoning Code Chapter 14.16) to adopt site development standards for the District where none currently exist; establish a design review process for additions and exterior modifications; and update other provisions of the District regulations to be consistent with other similar residential zoning districts. The Planning Commission expressed agreement that the absence of site development standards should be resolved by establishing site development standards to allow property owners to make reasonable improvements and additions to their properties while maintaining the character of the District as a duplex style neighborhood and limiting impacts to the surrounding neighborhood.

In order to approve the amendment to the Zoning Code, the City Council, pursuant to Section 14.86.080, needs to find that the amendments are in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, or welfare. As outlined in the ordinance



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(Attachment 1), the proposed amendments do appear to be in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, and welfare of the City because they establish assurances and protections for property owners within and around the R3-4.5 District as it relates to land uses and land development standards and a requirement for a design review process for additions and exterior modifications. The proposed amendments are in conformance with the City of Los Altos General Plan because they will establish development standards consistent with other similar residential zoning districts and will establish the design review process for the District, which are implementation objectives of the Land Use Element of the General Plan.

### Options

- 1) Introduce and waive further reading of Ordinance No. 2019-461

**Advantages:** Adoption of the ordinance will establish site development standards to allow property owners to make reasonable improvements and additions to their properties while maintaining the character of the District as a duplex style neighborhood and limiting impacts to the surrounding neighborhood

**Disadvantages:** Additions and modifications to residences may result in some minor, but reasonable impacts to residents in Marshall Meadows and surrounding properties.

- 2) Decline to introduce Ordinance No. 2019-461

**Advantages:** The R3-4.5 Multiple-Family Zoning District will be maintained in its current form.

**Disadvantages:** The lack of specific site development standards will continue to create ambiguity for current and future property owners and city staff of how to address lawful additions and/or exterior modifications within this District.

### Recommendation

Planning Commission and staff recommend Option 1.

**ORDINANCE NO. 2019-461**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
LOS ALTOS AMENDING CHAPTER 14.16 OF THE LOS ALTOS  
MUNICIPAL CODE PERTAINING TO THE R3-4.5 MULTIPLE-  
FAMILY DISTRICT AND MAKING FINDINGS OF CEQA  
EXEMPTION**

**WHEREAS**, at the request of applicant Paul Lovoi, the City of Los Altos initiated an application (18-CA-03) to amend Title 14 of the Los Altos Municipal Code in order to amend the uses, and establish site development standards and design review process of the R3-4.5 Multiple-Family District (Chapter 14.16), referred herein as the “Amendments”; and

**WHEREAS**, the amendments are in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, and welfare of the City because they establish assurances and protections for property owners within and around the R3-4.5 District as it relates to land uses and land development standards and a requirement for a design review process for additions and exterior modifications; and

**WHEREAS**, the Amendments are in conformance with the City of Los Altos General Plan because they will establish the R3-4.5 District development standards consistent with other similar residential zoning districts and will establish the design review process for the District which are implementation objectives of the Land Use Element of the General Plan; and

**WHEREAS**, required public notices and public hearings were duly given and duly held in accordance with the applicable provisions of the California Government Code and Chapter 14.86 of the Los Altos Municipal Code; and

**WHEREAS**, the Amendments were processed in accordance with the applicable provisions of the California Government Code and the Los Altos Municipal Code; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing on the Amendments on June 6, 2019, and at the conclusion of the hearing, made findings pursuant to Los Altos Municipal Code Section 14.86.060 and recommended the City Council adopt the Amendments; and

**WHEREAS**, upon receiving the recommendation of the Planning Commission for approval of the Amendments, the City Council held a duly noticed public hearing on the Amendments on August 27, 2019 and upon the conclusion of the public hearing the City Council reviewed the report of the Planning Commission and the evidence received at the hearing and, in accordance with Los Altos Municipal Code Section 14.86.080, based thereon and the entire record before the Council, hereby finds that the Amendments are in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, or welfare; and

**WHEREAS**, the location and custodian of the documents or other materials which constitute the record of proceedings upon the City Council’s decision are based in the Office of the City Clerk; and

**WHEREAS**, this Ordinance is exempt from further environmental review pursuant to each as a separate and independent basis (1) Section 15378 of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended (“CEQA Guidelines”) because the Ordinance has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment; (2) Section 15305 of the CEQA Guidelines because the Ordinance involves minor alterations in land use limitations in areas with an average slope of less than 20% which do not result in any changes in land use or density; and (3) Section 15061(b)(3) because CEQA applies to projects which have the potential for causing a significant effect on the environment. The proposed code amendment serves to establish development standards for existing parcels that are already developed. Future alteration of structures on those parcels are still subject to CEQA and would still require individual review for compliance with CEQA.

**NOW THEREFORE**, the City Council of the City of Los Altos does hereby ordain as follows:

**SECTION 1. AMENDMENT OF CODE:** Chapter 14.16 (R3-4.5 Multiple-Family District) in Title 14 of the Los Altos Municipal Code is hereby deleted and replaced in its entirety as follows:

**14.16.010 - R3-4.5 District.**

The regulations, general provisions, and exceptions set forth in this chapter and in Chapter 14.66 shall apply in the R3-4.5 District.

**14.16.020 - Specific Purpose.**

The specific purpose of the R3-4.5 District is to retain and enhance the character of the Stevens Place and Marshall Court area as a two-family dwelling unit neighborhood.

**14.16.030 - Permitted uses (R3-4.5).**

The following uses shall be permitted in the R3-4.5 District:

- A. Two-family dwelling units, with not more than one two-family dwelling unit for each nine thousand (9,000) square feet of lot area;
- B. Home occupations;
- C. Animals as provided in Chapter 5.10 of this code; and
- D. Small family day care.

**14.16.040 - Site area (R3-4.5).**

The minimum site area shall be nine thousand (9,000) square feet for each two-family dwelling unit.

**14.16.050 - Coverage (R3-4.5).**

The maximum coverage for all structures in excess of six feet in height shall be forty (40) percent of the total gross site area.

**14.16.060 - Floor area ratio (R3-4.5).**

- A. For lots with a gross site area not exceeding eleven thousand (11,000) square feet, the maximum floor area shall be thirty-five (35) percent of the gross lot area.

- B. For lots with a gross site area exceeding eleven thousand (11,000) square feet, the maximum floor area shall be three thousand eight hundred fifty (3,850) square feet plus ten (10) percent times the lot area minus eleven thousand (11,000) square feet.

**14.16.070 - Setbacks (R3-4.5).**

A. The minimum setbacks shall be as follows:

Fallen Leaf Lane frontage	30 feet
Homestead Road, Stevens Place and Marshall Court frontage	20 feet
Property lines abutting to R1-10 District	
First story	20 feet
Second story	25 feet
Abutting to Stevens Creek property line (measured from top of creek bank)	20 feet
Other Interior property line not listed above	
First story	5 feet
Second story	10 feet

- B. The second story setback shall be measured from the wall of the second story, or in the case of a sloping ceiling or roof where there is no exterior wall, from the point the second story ceiling has a height of five feet or greater from the finished floor.
- C. When a unit has an existing nonconforming setback and fifty (50) percent or more of the floor area of that unit is voluntarily being rebuilt or replaced, the entire unit shall be brought into conformance with current setback requirements.
  - 1. This threshold is applied to each unit within a two-family dwelling and does not require both units to be brought into conformance when only one unit is being modified under the threshold above. For the purposes of this section, the garage portion of the structure shall be considered a separate unit.

**14.16.080 - Height of structures (R3-4.5).**

No structure shall exceed two stories or twenty-seven (27) feet in height from the natural grade.

**14.16.090 - Design control (R3-4.5).**

Any new structure, or addition or alteration to an existing structure shall be subject to the design review requirements specified in Chapter 14.76 of this title.

**14.16.100 - Off-street parking (R3-4.5).**

As provided in Chapter 14.74 of this title.

**14.06.110 - Basements (R3-4.5).**

Basements shall be regulated as follows:

- A. Basements shall not extend beyond the floor area of the first floor of the main or accessory structure above;
- B. Light wells, ingress and egress wells, patio wells, and other similar elements shall not be permitted within a required front or exterior side yard setback. These elements may



- be permitted within an interior side or rear yard setback, but in no event closer than five feet to a property line;
- C. Light wells, ingress and egress wells, patio wells, and other similar elements shall utilize vertical retaining walls. Contour graded slopes, which expose the basement as a story, are prohibited.
  - D. Light wells, ingress and egress wells, patio wells, and other similar elements shall be at least seventy-five (75) percent open in area to light and air above.

**14.16.120 - Signs (R3-4.5).**

As provided in Chapter 14.68 of this title.

**14.16.130 - Fences (R3-4.5).**

As provided in Chapter 14.72 of this title.

**14.16.140 - Nonconforming use regulations (R3-4.5).**

As provided in Chapter 14.66 of this title.

**14.16.150 - Accessory structures.**

As provided in Chapter 14.15 of this title, and with the following parameters:

- A. Yard areas adjacent to Homestead Road or an R1 District shall be treated as the rear yards for the purposes of this section.
- B. Accessory structures will not be permitted in any other setback area.

**SECTION 2. CONSTITUTIONALITY.** If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

**SECTION 3. CEQA EXEMPTIONS.** This Ordinance is exempt from the requirements of the California Environmental Quality Act (Public Resources Code §§21000, *et seq.*, as further governed by the Guidelines for CEQA, 14 CCR §§15000, *et seq.*). The Ordinance has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, per 14 CCR §15378. The Ordinance amends Los Altos Municipal Code provisions pertaining to land uses and site development standards that are similarly regulated in other residential zoning districts, but it does not commit the City of Los Altos or any other party to any direct course of action, other than to review land entitlement applications for compliance with the amended requirements as described herein, and will not result in any physical changes in and of itself. Moreover, to the extent the Ordinance was determined to be subject to CEQA, it would be exempt from further review pursuant to the ‘common sense’ exemption (14 CCR §15061(b)(3)), as it can be seen with certainty that there is no possibility that the adoption of the Ordinance may have a significant effect on the environment. The Ordinance also is exempt from CEQA review because is not intended to apply to specifically identified projects and, as such, it is speculative to evaluate any such future project now and, moreover, such projects will be subject to appropriate environmental review at such time as approval for such projects are considered and/or it is not intended to, nor does it, provide CEQA clearance for future development-related projects by mere establishment of the requirements herein. The Ordinance also is exempt pursuant to CEQA Guidelines Section 15305, because it involves minor alterations to land use limitations in areas with an average slope of not less than 20%, which do not result

in any changes in land use or density. Each of the foregoing provides a separate and independent basis for CEQA compliance and provides an overall basis for CEQA compliance.

**SECTION 4. PUBLICATION.** This Ordinance shall be published as provided in Government Code section 36933.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing Ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on \_\_\_\_\_, 2019 and was thereafter, at a regular meeting held on \_\_\_\_\_, 2019 passed and adopted by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Lynette Lee Eng, MAYOR

Attest:

\_\_\_\_\_  
Jon Maginot, CMC, CITY CLERK



## PLANNING COMMISSION AGENDA REPORT

**Meeting Date:** June 6, 2019

**Subject:** Zoning Code Text Amendment to the R3-4.5 Multiple-Family District

**Prepared by:** Steve Golden, Senior Planner

**Initiated by:** Lenore and Paul Lovoi, Applicant and Property Owners

### **Attachments:**

- A. Draft R3-4.5 Zoning Ordinance
- B. February 7, 2019 Planning Commission Minutes
- C. February 7, 2019 Planning Commission Staff Report  
For Attachments B and C, please refer to the following webpage:  
<https://www.losaltosca.gov/communitydevelopment/page/r3-45-zoning-code-amendment>
- D. Development Potential Table of Eight-Lot Sample
- E. Site Plan of Proposed Setbacks of Eight-Lot Sample

### **Recommendation:**

Make the findings pursuant to Los Altos Municipal Code Section 14.86.060 and recommend the City Council adopt the amendments to Zoning Code Chapter 14.16 (R3-4.5 Multiple-Family District).

### **Environmental Review:**

Amendments to the Zoning Code generally are considered a project under the California Environmental Quality Act (CEQA), although, the Ordinance has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Moreover, to the extent the Ordinance was determined to be subject to CEQA, it would be exempt from further review pursuant to the 'common sense' exemption (14 CCR §15061(b)(3)), as it can be seen with certainty that there is no possibility that the adoption of the Ordinance may have a significant effect on the environment. The Ordinance also is exempt pursuant to CEQA Guidelines Section 15305, because it involves minor alterations to land use limitations in areas with an average slope of not less than 20%, which do not result in any changes in land use or density. Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance. The proposed code amendment is also exempt from CEQA under Section 15061(b)(3) of the CEQA Guidelines because CEQA only applies to projects which have the potential for causing a significant effect on the environment. The proposed code amendment serves to establish development standards for existing parcels that are already developed. Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance. Future alteration of

structures on those parcels are still subject to permitting and, would still require individual review for compliance with CEQA.

**Project Description:**

This is a request to consider an ordinance to amend the R3-4.5 Multiple-Family District (Zoning Code Chapter 14.16) to adopt site development standards for the District where none currently exist; establish a design review process for additions and exterior modifications; and update other provisions of the District regulations to be consistent with other similar residential zoning districts. The request was submitted as a zoning code amendment application by an R3-4.5 District property owner (Applicant) and for which the Planning Commission previously expressed formal support for a code amendment process as specified in Section 14.86.020(B) of the Zoning Code.

**Background**

On September 20, 2018, the Planning Commission conducted a Study Session to discuss the request by the Applicant's petition for Zoning Code text amendments to the R3-4.5 Multiple-Family District to establish specific site development standards for the District. In the City of Los Altos, there is only one area that is zoned R3-4.5, and it is located on the north side of Homestead Road at the intersection of Fallen Leaf Lane. The District is comprised of 48 lots each containing a duplex residence, the majority which were constructed in 1961. The area is also known as the Marshall Meadows neighborhood, after the given name of the subdivision map.

At the September 20<sup>th</sup> Study Session, the Planning Commission provided direction to staff with regards to the overarching goals and objectives for establishing site development standards for the District. Based on public comments and Commissioner feedback, there was a consensus to establish site development standards to allow property owners to make reasonable improvements and additions to their properties while maintaining the character of the District as a duplex style neighborhood. In establishing site development standards, the Commission's direction was to establish building setback standards that would relate to the surrounding context of R1-10 Districts, but to minimize the creation of non-conformities with the existing structures on the properties. There was discussion regarding the possibility of second stories, but there wasn't explicit direction whether to allow or prohibit second stories. Property owners and residents from within Marshall Meadows and the adjacent neighborhoods spoke both in support and also with concerns about future changes to residences which might create visual and privacy impacts to their homes including second story additions. The agenda report for the September 20, 2018 Planning Commission Study Session is included in Attachment C.

At the February 7, 2019 Planning Commission Study Session, staff provided a draft ordinance containing specific site development standards that considered the overall goals of the R3-4.5 District and the Planning Commission's prior direction. The site development standards contained in the R1-10 District were used as a baseline for the draft R3-4.5 District standards because of their similar lot sizes and land uses, however, the R1-10 differs due to the duplex style development of the R3-4.5 District and lot patterns in the Marshall Meadows neighborhood and immediate surrounding area. The proposed setback distances for first and second story development varied based upon the relationship to the abutting area, but generally sought to maintain similar rear yard setbacks as the adjacent R1-10 District and allow for narrower setbacks within the R3-4.5 District as one might expect in similar multiple-family zoning districts. A comprehensive explanation of the draft ordinance

development can be found in the February 7, 2019 Planning Commission agenda report (Attachment C). The Planning Commission considered the draft ordinance and directed staff to provide more information with regards to the development potential of the parcels within the District and how the proposed setbacks related to the existing building layouts.

### **Discussion/Analysis**

Subsequent to the Planning Commission Study Session, staff evaluated a sample set of eight of the 48 lots within the R3-4.5 District to provide illustrative examples of the development potential of the lots with the proposed site development standards. The table contained in Attachment D provides the development potential of the eight sample lots based on the existing development and proposed maximum floor area ratios. It should be noted that these are estimates based on Santa Clara County Assessor data and may not be exact to existing conditions. The Applicant added the proposed setbacks in the draft ordinance to the existing site plan of the eight sample lots in order for the Commission and community to better understand the impacts of the proposed setbacks on existing and future development (Attachment D). It should be noted that while the property lines are based on the recorded map dimensions, the building footprints and driveway locations are approximate based on aerial photos. Actual setback and building locations can only be legally established through official surveys completed by a licensed land surveyor, which was considered by the Commission to be too detailed and costly for this sample study.

With regards to the development potential of the sample lots, the attached table provides data for the proposed 40 percent Floor Area Ratio (FAR) threshold as contained in the draft ordinance. Based on the sample data, a 40 percent FAR would allow up to an additional 677 to 1,444 square feet in area to be added to the existing lots. This number varies due to the size of each lot and the existing structures. As is the case in every zoning district, it should not be assumed that the maximum floor area will be achieved on every lot due to variables such as property owner preferences and construction costs. Since the Commission and community may want to know how this development potential compares to the 35 percent FAR threshold in R1-10 Districts, that data has also been provided in the table. It should also be noted that the Allowable FAR in the table would be split between the two required units and garage area. For example, the average lot size in the district (excluding the five lots adjacent to the creek) is around 10,000 square feet. Using a lot of this size and anticipating that 450 to 660 square feet would be designated for the garage, 3,340 to 3,550 square feet would be available for the two duplex units. This means that each unit could be 1,670 to 1,775 square feet in size with a 40 percent FAR.

With regards to the proposed setbacks, Attachment E shows the proposed setbacks in relation to the approximate building footprint locations of the eight sampled lots. With these proposed setbacks, it appears that six of the eight lots could have varying degrees of nonconforming building setbacks. While the Planning Commission expressed a desire to minimize the creation of nonconforming structures, appropriate setbacks should be adopted to guide appropriate future development. This approach would best serve property owners by creating orderly and consistent development patterns within the District and surrounding areas, provide for uniform and adequate yard spaces, and separation of structures. Adopting setback standards that avoids creating nonconforming buildings will likely not achieve desired and expected yard spaces and building separations. To address the issue of non-conforming structures due to setbacks, the draft ordinance includes language that would treat them in a similar manner to non-conforming setbacks in R1 Districts. All new additions would be

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required to comply with the setback standards, and if more than 50 percent of a unit is being structurally rebuilt, then the entire unit must be brought into compliance with the setback standards.

The draft ordinance is provided as Attachment A. No changes have been made to the draft code amendments since those discussed February 7, 2019 study session except to add clarity to Section 14.16.070(C)(1) regarding the treatment of non-conforming structures and removal of Accessory Dwelling Units (ADU) as a permitted use since ADUs would only apply to properties in the District with single-family residences and none currently exist or will be allowed as a permitted use.

### **Findings**

In order to approve amendments to the Zoning Code, the Planning Commission, pursuant to Section 14.86.060, needs to find that the amendments are in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, or welfare, and are in conformance with the General Plan. As outlined in the draft ordinance (Attachment A) the proposed amendments do appear to be in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, and welfare of the City because they establish assurances and protections for property owners within and around the R3-4.5 District as it relates to land uses and land development standards and a requirement for a design review process for additions and exterior modifications. The proposed amendments are in conformance with the City of Los Altos General Plan because they will establish development standards consistent with other similar residential zoning districts and will establish the design review process for the District which are implementation objectives of the Land Use Element of the General Plan.

### **Public Notification**

A public meeting notice with a map of the R3-4.5 zoning district area and immediate surroundings was posted on two corners of Stevens Place and Marshall Court at the intersection with Fallen Leaf Lane, mailed to all property owners in the R3-4.5 District and within 500 feet of the District, and a public notice was published in the *Town Crier*. The mailed notice included 293 property owners. The mailed notice included a link to the webpage containing proposed code amendment for review.

### **Options**

The Planning Commission can recommend approval, approval with modifications, or denial of the proposed amendments. The advantages of the proposed amendments include codifying site development standards for the R3-4.5 District where none currently exist; establishment of a design review process for additions and exterior modifications; and updating the District's standards to be consistent with other similar residential zoning districts. These would provide assurances for current and future property owners in and around the District. A perceived disadvantage of recommending approval of the code amendments would be that existing duplexes could be remodeled and expanded, which might be perceived to result in privacy or visual impacts by adjacent property owners.

Once the Planning Commission makes a recommendation, the amendments will be forwarded to the City Council for consideration and adoption.

Cc: Lenore and Paul Lovoi, Applicant

## ORDINANCE NO. 2019-\_\_\_

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING CHAPTER 14.16 OF THE LOS ALTOS MUNICIPAL CODE PERTAINING TO THE R3-4.5 MULTIPLE-FAMILY DISTRICT AND MAKING FINDINGS OF CEQA EXEMPTION

**WHEREAS**, at the request of applicant Paul Lovoi, the City of Los Altos initiated an application (18-CA-03) to amend Title 14 of the Los Altos Municipal Code in order to amend the uses, and establish site development standards and design review process of the R3-4.5 Multiple-Family District (Chapter 14.16), referred herein as the “Amendments”; and

**WHEREAS**, the amendments are in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, and welfare of the City because they establish assurances and protections for property owners within and around the R3-4.5 District as it relates to land uses and land development standards and a requirement for a design review process for additions and exterior modifications; and

**WHEREAS**, the Amendments are in conformance with the City of Los Altos General Plan because they will establish the R3-4.5 District development standards consistent with other similar residential zoning districts and will establish the design review process for the District which are implementation objectives of the Land Use Element of the General Plan; and

**WHEREAS**, required public notices and public hearings were duly given and duly held in accordance with the applicable provisions of the California Government Code and Chapter 14.86 of the Los Altos Municipal Code; and

**WHEREAS**, the Amendments were processed in accordance with the applicable provisions of the California Government Code and the Los Altos Municipal Code; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing on the Amendments on June 6, 2019, and at the conclusion of the hearing, made findings pursuant to Los Altos Municipal Code Section 14.86.060 and recommended the City Council adopt the Amendments; and

**WHEREAS**, upon receiving the recommendation of the Planning Commission for approval of the Amendments, the City Council held a duly noticed public hearing on the Amendments on \_\_\_\_\_, 2019 and upon the conclusion of the public hearing the City Council reviewed the report of the Planning Commission and the evidence received at the hearing and, in accordance with Los Altos Municipal Code Section 14.86.080, based thereon and the entire record before the Council, hereby finds that the Amendments are in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, or welfare; and

**WHEREAS**, the location and custodian of the documents or other materials which constitute the record of proceedings upon the City Council’s decision are based in the Office of the City Clerk; and

**WHEREAS**, this Ordinance is exempt from further environmental review pursuant to each as a separate and independent basis (1) Section 15378 of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended (“CEQA Guidelines”) because the Ordinance has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment; (2) Section 15305 of the CEQA Guidelines because the Ordinance involves minor alterations in land use limitations in areas with an average slope of less than 20% which do not result in any changes in land use or density; and (3) Section 15061(b)(3) because CEQA applies to projects which have the potential for causing a significant effect on the environment. The proposed code amendment serves to establish development standards for existing parcels that are already developed. Future alteration of structures on those parcels are still subject to CEQA and would still require individual review for compliance with CEQA.

**NOW THEREFORE**, the City Council of the City of Los Altos does hereby ordain as follows:

**SECTION 1. AMENDMENT OF CODE:** Chapter 14.16 (R3-4.5 Multiple-Family District) in Title 14 of the Los Altos Municipal Code is hereby deleted and replaced in its entirety as follows:

**14.16.010 - R3-4.5 District.**

The regulations, general provisions, and exceptions set forth in this chapter and in Chapter 14.66 shall apply in the R3-4.5 District.

**14.16.020 - Specific Purpose**

The specific purpose of the R3-4.5 District is to retain and enhance the character of the Stevens Place and Marshall Court area as a two-family dwelling unit neighborhood.

**14.16.030 - Permitted uses (R3-4.5).**

The following uses shall be permitted in the R3-4.5 District:

- A. Two-family dwelling units, with not more than one two-family dwelling unit for each nine thousand (9,000) square feet of lot area;
- B. Home occupations
- C. Animals as provided in Chapter 5.10 of this code; and
- D. Small family day care.

**14.16.040 - Site area (R3-4.5).**

The minimum site area shall be nine thousand (9,000) square feet for each two-family dwelling unit.

**14.16.050 - Coverage (R3-4.5)**

The maximum coverage for all structures in excess of six feet in height shall be forty (40) percent of the total gross site area.

**14.16.060 - Floor area ratio (R3-4.5)**

- A. For lots with a gross site area not exceeding eleven thousand (11,000) square feet, the maximum floor area shall be forty (40) percent of the net lot area.



- B. For lots with a gross site area exceeding eleven thousand (11,000) square feet, the maximum floor area shall be four thousand four hundred (4,400) square feet plus ten (10) percent times the lot area minus eleven thousand (11,000) square feet.

**14.16.070 - Setbacks (R3-4.5)**

A. The minimum setbacks shall be as follows:

Fallen Leaf Lane frontage	30 feet
Homestead Road, Stevens Place and Marshall Court frontage	20 feet
Property lines abutting to R1-10 District	
First story	20 feet
Second story	25 feet
Abutting to Stevens Creek property line (measured from top of creek bank)	20 feet
Other Interior property line not listed above	
First story	5 feet
Second story	10 feet

- B. The second story setback shall be measured from the wall of the second story, or in the case of a sloping ceiling or roof where there is no exterior wall, from the point the second story ceiling has a height of five feet or greater from the finished floor.
- C. When a unit has an existing nonconforming setback and fifty (50) percent or more of the floor area of that unit is voluntarily being rebuilt or replaced, the entire unit shall be brought into conformance with current setback requirements.
1. This threshold is applied to each unit within a two-family dwelling and does not require both units to be brought into conformance when only one unit is being modified under the threshold above. For the purposes of this section, the garage portion of the structure shall be considered a separate unit.

**14.16.080 - Height of structures (R3-4.5)**

No structure shall exceed two stories or twenty-seven (27) feet in height from the natural grade.

**14.16.090 - Design control (R3-4.5).**

Any new structure, or addition or alteration to an existing structure shall be subject to the design review requirements specified in Chapter 14.76 of this title.

**14.16.100 - Off-street parking (R3-4.5).**

As provided in Chapter 14.74 of this title.

**14.16.110 - Signs (R3-4.5).**

As provided in Chapter 14.68 of this title.

**14.16.120 - Fences (R3-4.5).**

As provided in Chapter 14.72 of this title.

**14.16.130 - Nonconforming use regulations (R3-4.5).**

As provided in Chapter 14.66 of this title.

**14.16.140 - Accessory structures.**

As provided in Chapter 14.15 of this title, and with the following parameters:

- A. Yard areas adjacent to Homestead Road or an R1 District shall be treated as the rear yards for the purposes of this section.
- B. Accessory structures will not be permitted in any other setback area.

**SECTION 2. CONSTITUTIONALITY.** If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

**SECTION 3. CEQA EXEMPTIONS.** This Ordinance is exempt from the requirements of the California Environmental Quality Act (Public Resources Code §§21000, *et seq.*, as further governed by the Guidelines for CEQA, 14 CCR §§15000, *et seq.*). The Ordinance has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, per 14 CCR §15378. The Ordinance amends Los Altos Municipal Code provisions pertaining to land uses and site development standards that are similarly regulated in other residential zoning districts, but it does not commit the City of Los Altos or any other party to any direct course of action, other than to review land entitlement applications for compliance with the amended requirements as described herein, and will not result in any physical changes in and of itself. Moreover, to the extent the Ordinance was determined to be subject to CEQA, it would be exempt from further review pursuant to the ‘common sense’ exemption (14 CCR §15061(b)(3)), as it can be seen with certainty that there is no possibility that the adoption of the Ordinance may have a significant effect on the environment. The Ordinance also is exempt from CEQA review because is not intended to apply to specifically identified projects and, as such, it is speculative to evaluate any such future project now and, moreover, such projects will be subject to appropriate environmental review at such time as approval for such projects are considered and/or it is not intended to, nor does it, provide CEQA clearance for future development-related projects by mere establishment of the requirements herein. The Ordinance also is exempt pursuant to CEQA Guidelines Section 15305, because it involves minor alterations to land use limitations in areas with an average slope of not less than 20%, which do not result in any changes in land use or density. Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

**SECTION 4. PUBLICATION.** This Ordinance shall be published as provided in Government Code section 36933.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing Ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on \_\_\_\_\_, 2019 and was thereafter, at a regular meeting held on \_\_\_\_\_, 2019 passed and adopted by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Lynette Lee Eng, MAYOR

Attest:

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Jon Maginot, CMC, CITY CLERK

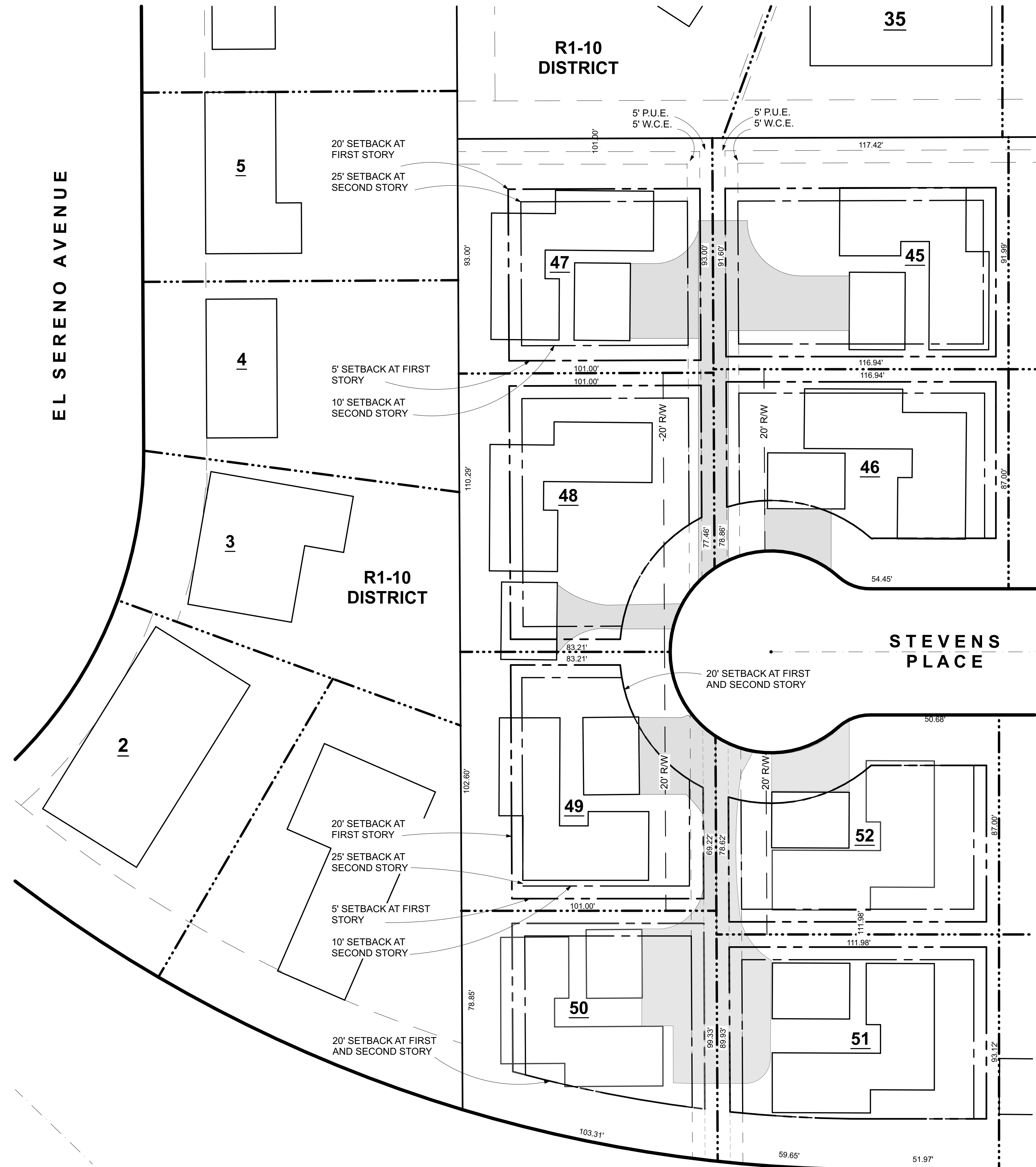
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## Development Potential of Eight Sample Lots

APN	ADDRESS	LOT AREA <sup>1</sup>	DWELLING AREA <sup>1</sup>	GARAGE AREA <sup>2</sup>	TOTAL AREA	ALLOWABLE FAR (40%)	ADDITIONAL AREA (40% FAR)	ALLOWABLE FAR (35%)	ADDITIONAL AREA (35% FAR)
31825045	1687 STEVENS PL	10,764	2,182	680	2,862	4,306	1,444	3,767	985
31825046	1685 STEVENS PL	9,164	2,182	680	2,862	3,666	804	3,207	425
31825047	1683 STEVENS PL	9,393	2,182	680	2,862	3,757	895	3,288	506
31825048	1681 STEVENS PL	10,780	2,182	460	2,642	4,312	1,670	3,773	991
31825049	1680 STEVENS PL	9,999	2,182	680	2,862	4,000	1,138	3,500	718
31825050	1682 STEVENS PL	8,989	2,182	460	2,642	3,596	954	3,146	364
31825051	1686 STEVENS PL	10,010	2,182	460	2,642	4,004	1,362	3,504	722
31825052	1684 STEVENS PL	8,848	2,182	680	2,862	3,539	677	3,097	315

Notes:

1. Per the Santa Clara County Assessor's Office and not official building records.
  2. Based on estimates (460 square feet two-car garage; 680 square feet for three-car garage).
- All data is preliminary and shall not be used for Planning approval, Building permit, or for any other official use.  
 All areas expressed in square feet.



1 SAMPLE LOT LAYOUTS



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**LOS ALTOS ZONING DISTRICT R3-4.5**  
**Stevens Place and Marshall Court**

PROJECT ID: #Project ID

**SAMPLE LOT LAYOUT**  
**STEVENS PLACE**

FULL SIZE SHT: 24" X 36"

PLOT DATE: 5/21/19  
 FILE: PL17 ASB17 PLOT LAYOUT  
 CAD: PL17 ASB17 PLANNING.pln

**1**  
 TOTAL SHEETS: 1

4. **18-CA-03 – Paul Lovoi – Amendment to R3-4.5 Multiple-Family District**

Code Amendment to Chapter 14.16, R3-4.5 Multiple-Family District. *Project Planner: Golden*

Senior Planner Golden presented the staff report, recommending that the Planning Commission review the proposed ordinance and provide a recommendation to the City Council.

Project applicant Paul Lovoi presented, requesting that the Commission approve the proposed, code amendments, noting that the neighborhood is opposed to a one-story overlay and there are many two-story structures adjacent.

Public Comment

Resident Neetu Phatnani expressed support for the code amendments, noting that two-story should be allowed.

Resident Michelle Machado expressed concerns about the code amendments, noting that it will create non-conforming setbacks and could decrease property values.

Resident Owen Halliday expressed support for the code amendments and allowing two-story structures, but noted concern about creating non-conformities.

Resident Teri Wiss expressed concern about the code amendments, noting that the zone is already dense, redevelopment will generate more traffic, and second-stories will create shade impacts.

Resident Nitin Panjwani expressed support for the code amendments and allowing second-stories.

Commission Discussion

Commissioner Bodner expressed support for the code amendments, noting that the changes will transform the neighborhood in a very positive way and that allowing two-stories and a 40 percent floor area ratio (FAR) is appropriate.

Commissioner Meadows expressed concerns with the code amendments as drafted, noting that basements should be allowed, should be more consistent with the R1-10 standards, lot coverage should be reduced for two-stories and remains concerned about allowing two-stories on flag lots.

Vice-Chair Lee expressed support for the code amendments, noting that an increased FAR is appropriate because it is a denser district.

Commissioner Ahi expressed support for the code amendments, noting that second stories need to be allowed, a 40 percent FAR is appropriate, and the setbacks are a good starting point, but should be further evaluated after a few projects have been completed.

Chair Samek expressed general support for the code amendments, but noted concerns about allowing two-stories on flag lots and that lot coverage should be reduced for two-story structures.

Commissioner Meadows noted that lot coverage should be reduced by five percent for two-story structures.

Commissioner Bodner stated that Commission needs to take action and move the code amendment to the City Council.

Action: Upon motion by Commissioner Bodner, seconded by Vice-Chair Lee, the Commission recommended approval of the code amendments to the City Council with the following changes:

- Allow basements similar to the R1-10 Zoning District; and
- Reduce the maximum lot coverage by five percent for two-story structures and one-story structures over 20 feet in height.

The motion failed (3-2) by the following vote:

AYES: Lee Ahi, and Bodner

NOES: Samek and Meadows

ABSENT: Bressack

Action: Upon motion by Chair Samek, seconded by Vice-Chair Lee, the Commission recommended approval of the code amendments to the City Council with the following conditions:

- Allow basements similar to the R1-10 Zoning District; and
- Reduce the floor area ratio (FAR) to 35 percent, but maintain lot coverage at 40 percent.

The motion was approved (4-1) by the following vote:

AYES: Samek, Lee Ahi, and Bodner

NOES: Meadows

ABSENT: Bressack

## **DISCUSSION**

### **5. Downtown Vision Presentation and FAR Review**

The Planning Commission continued this item to the July 18, 2019 meeting without discussion.

## **COMMISSIONERS' REPORTS AND COMMENTS**

None.

## **POTENTIAL FUTURE AGENDA ITEMS**

Commissioner Bodner suggested having a study session with the peer review architect.

## **ADJOURNMENT**

Chair Samek adjourned the meeting at 9:07 P.M.

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Zachary Dahl, AICP  
Planning Services Manager