

**ITEMS FOR DISCUSSION/
ACTION**

Agenda Item # 7

AGENDA REPORT SUMMARY

Meeting Date: December 10, 2019

Subject: Proposed 196-Unit Multiple-Family Development at 5150 El Camino Real

Prepared by: Sean K. Gallegos, Associate Planner

Reviewed by: Jon Biggs, Community Development Director

Approved by: Chris Jordan, City Manager

Attachment(s):

1. Resolution No. 2019-43
2. Applicant Cover Letter
3. City Council Agenda Report, October 22, 2019 (previous distributed to City Council)
https://los-altos.granicus.com/MetaViewer.php?view_id=7&clip_id=1531&meta_id=61080
4. Draft City Council Minutes, October 22, 2019
5. Public Correspondence
6. Updated Full Project Plans

Initiated by:

Applicant and Owner – Dutchints Development, LLC

Previous Council Consideration:

- June 25, 2019 and July 9, 2019 (story pole exemption request)
- October 22, 2019, 2019 (Regular City Council Meeting)

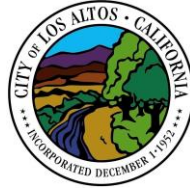
Fiscal Impact:

The project will result in the following estimated financial contributions to the City:

- Park in-Lieu Fees: \$9,564,800 (\$48,800/multiple-family dwelling unit)
- Traffic Impact Fees: \$815,164 (\$4,159/multiple-family dwelling unit)
- Los Altos Public Art Fund: (one percent of construction costs, up to \$200,000)

Environmental Review:

An Initial Study and Mitigated Negative Declaration (IS/MND) have been prepared in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 et. seq.) and the regulations and policies of the City of Los Altos. A 30-day public review and comment period for the IS/MND was held between Thursday, July 11, 2019 and Friday, August 9, 2019. A copy of the IS/MND was included as Attachment 2 in the October 22, 2019 agenda packet to the City Council.



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Policy Question(s) for Council Consideration:

- Is the proposal of 28 affordable below market rate (BMR) units in exchange for a density bonus, incentives and parking requirement alteration consistent with State Law and the City's Affordable Housing Ordinance?
- Does the proposal meet the required design review, use permit and subdivision findings specified in the Los Altos Municipal Code?
- Is development eligible for reduced on-site parking standards of one-half parking spaces per bedroom by (1) providing the maximum percentage of very-low income units (11 percent), (2) being located within one-half mile of a major transit stop and (3) allowing for unobstructed access to the major transit stop?

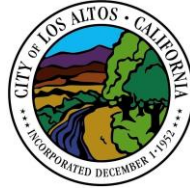
Summary:

- The project includes the demolition of a three-story 78,950 square-foot office building and construction of two five-story condominium buildings along El Camino Real with 172 units and two three-story townhouse buildings along the rear with 24 units, and one level of underground parking with 286 parking spaces.
- The 196-unit proposal is offering 28 affordable units, including 12 moderate and 16 very-low affordable units, in exchange for a 35 percent density bonus, an on-menu development incentive to allow for increased height and an off-menu incentive for reduced parking stall widths in the underground garage.
- The Complete Streets Commission and the Planning Commission have reviewed the project at public meetings and recommend approval of the 196-unit multiple-family condominium development.
- The City Council considered the Project on October 22, 2019 and voted to continue consideration of the project to the December 10, 2019 agenda.

Planning Commission Recommendation:

Move to approve Resolution 2019-43 which:

1. Adopts the Initial Study, Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; and
2. Approves Design Review application 18-D-05, Use Permit application 18-UP-07 and Subdivision application 18-SD-03 for a new 196-unit multiple-family development at 5150 El Camino Real



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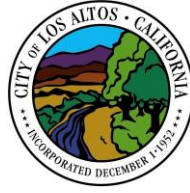
Purpose

Consider the draft resolution, modified to reflect the Comments made by the City Council at its meeting of October 22, 2019 plus the applicant's submittal. Take action on the development application, which includes adopting the Initial Study, Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, and approving the design review, use permit and tentative map application for two new five-story condominium buildings along El Camino Real with 172 units and two new three-story townhouse buildings with 24 units along the rear at 5150 El Camino Real.

Background

On October 22, 2019, the City Council held a public meeting to consider the proposed Project. Following a presentation from the applicant and comments from members of the public, the Council discussed the proposal. During the discussion the applicant verbally offered a number of amendments to the project, but after a number of motions and unsuccessful vote outcomes, the applicant withdrew the project amendments offered. In light of this, the City Council voted unanimously to continue the item to the December 10, 2019 meeting and gave direction to explore the following:

- Revising the condominium buildings (Nos. 1 and 2) along the south, east, and west elevations to increase architectural articulation and reduce the overall parapet wall height to mitigate the perceived bulk and scale of the two buildings and revise the windows to mitigate privacy impacts to properties south of the project site.
- Explore incorporating larger and fast-growing evergreen screening trees along the side property lines (east and west) and rear property lines (south) to minimize and screen views of the townhouses and condominium buildings.
- Screening trees along the rear property line shall be planted early in the development process to minimize and screen views of the townhouses and condominium buildings.
- Revise the project plans to incorporate walls along the side (east and west) property lines and south (rear) property line with a minimum height of ten feet for the purpose of attenuating noise and improving privacy.
- Installation of a gate at the entrance to the under-ground parking spaces.
- Revise the common open space area to improve on-site amenities for families by including a small playground for young children, dedicated area for dogs, and other family-oriented amenities.
- Upon completion of the first phase of the project (indicated as the townhomes), three townhouses shall not be sold for five years from the date of occupancy and shall be held by an entity controlled by Dutchints Development. If the second or third phase are not initiated within five years from completion of Phase 1, the three unsold townhouse units shall be dedicated as affordable units.
- Evaluate requirement that affordable units remain so in perpetuity.



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- Provide the resident and guest parking spaces required for the condominium and townhouse units developed during each phase of the development.
- Within 30 days of City Council approval, as an alternative to making a cash payment in-lieu of the dedication of land for a park in accordance with Chapter 13.24, Applicant/Developer may draft and propose an agreement with the City of Los Altos that includes and provides for all elements necessary to allow consideration of land dedication and improvements for park and recreational purposes. Such an agreement shall identify the location of land to be dedicated. This condition does not relieve the Applicant/Developer from paying an in-lieu fee in accordance with Chapter 13.24 if they elect not to pursue an agreement option.
- Remove / mitigate any abandoned wells discovered on the property, subject to any required permits.

Discussion/Analysis

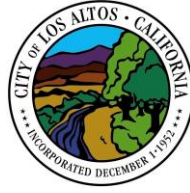
Project Revisions

The Applicant has provided revised plan sets that incorporate changes based on comments provided at the October 22 City Council meeting. The project architect has relayed that the changes include the following modifications:

- Revisions to the south, east and west elevations by introducing mansard roof forms to reduce the overall parapet wall height to mitigate the perceived bulk and scale of the two buildings;
- In response to the Casita Way neighbors' privacy concerns, the trees in the 20' landscape buffer have been selected and spaced to provide fast-growing varieties intended to provide a living screen to the neighboring residential properties fronting on Casita Way;
- The children's play area has been moved from the center of the site to the western courtyard, enlarged, and play equipment added.

The applicant's cover letter (Attachment 2) provides information regarding the applicant's response to the City Council's comments and the full set of plans (Attachment 6) illustrate how the revisions are incorporated into the project.

Although revisions to the plans have not been made to reflect a gate at some point at the entrance to the underground parking level and addition of taller walls at the rear and sides, staff has included a condition that requires or provides for these if the project is approved.



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Parking

Staff continues to evaluate the legislation and density bonus law with respect to parking requirements and a project's proximity to major transit stop. An opinion on these will be provided to the City Council under separate cover in advance of the City Council meeting.

The phasing of construction for this project is anticipated, and given this, there have been comments made that adequate parking should be available on the site to accommodate each phase of development. To provide for this parking, the following condition has been included in the resolution:

The project shall provide the resident and guest parking spaces required for the condominium and townhouse units developed during each phase of the development and shall provide such spaces, if not available in the underground garage, at a paved location on-site where the parking spaces and drive aisles are adequately delineated.

Parkland Dedication

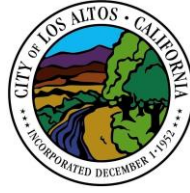
As an alternative to the payment of an in-lieu fee for parking land, at its October 22, 2019 meeting some members of the City Council expressed interest in the dedication of land with park and recreational facility improvements to the City. An improved lot with frontage on Distel Avenue is adjacent to the project site.

The dedication of land with park and recreational improvements cannot be achieved without the appropriate changes to the General Plan Land Use and Zoning Maps and an amendment to the City's Subdivision regulations. If the City Council in cooperation with the applicant/developer is interested in pursuing this, staff has drafted the following condition that provides for continued discussion and actions that may lead to the dedication of a public park on the northern side of Los Altos:

Within 30 days of City Council approval, as an alternative to making a cash payment in-lieu of the dedication of land for a park in accordance with Chapter 13.24, Applicant/Developer may draft and propose an agreement with the City of Los Altos that includes and provides for all elements necessary to allow consideration of land dedication and improvements for park and recreational purposes. Such an agreement shall identify the location of land to be dedicated. This condition does not relieve the Applicant/Developer from paying an in-lieu fee in accordance with Chapter 13.24 if they elect not to pursue an agreement option.

Affordable Housing - Density Bonus and Development Incentives

The City's Affordable Housing Ordinance (LAMC Chapter 14.28) requires a minimum of 15 percent of the units be affordable, with a majority of the units designated as affordable at the moderate-income level and the remaining units designated as affordable at the low or very-low income level. With a base density of 145 units, the project must provide 21.75 (rounded up to 22) affordable units,



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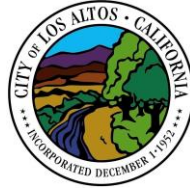
with 12 of the units affordable at the moderate-income level, and the remaining 10 units affordable at a low or very-low income level. By providing 12 moderate income units and 16 very-low income units, the project complies with the City’s Affordable Housing Ordinance. The following table breaks down the proposed unit types and sizes for both the affordable and market rate units:

Condominium Units			Townhouse Units		
Affordable	1-bedroom	12	Affordable	2-bedroom	2
	2-bedroom	13		3-bedroom	1
Market Rate	1-bedroom	68	Market Rate	2-bedroom	2
	2-bedroom	77		3-bedroom	15
	3-bedroom	2		4-bedroom	4
Total		172	Total		24

Housing Element program 4.3.2 requires that affordable housing units generally reflect the size and number of bedrooms of the market rate units. In addition, the Affordable Housing Ordinance requires that all affordable units in a project be constructed concurrently with market rate units, be dispersed throughout the project, and not be significantly distinguishable by size, design, construction or materials. The project’s Density Bonus Report provides exhibits that show where the affordable units will be throughout the project (Attachment 3). Conditions have been added (Nos. 2 and 27) that specify the breakdown of affordable units by income level, that the units shall be provided at the location on the approved plans, and that they shall not be significantly distinguishable with regard to design, construction or materials. Thus, as designed and conditioned, the proposed affordable housing units appear to meet the intent of the City’s affordable housing requirements.

Under the State’s density bonus regulations (Section 65915 of the California Government Code) and the City’s Affordable Housing Ordinance, the project qualifies for a density bonus if it provides at least five percent very-low income units. With 16 affordable units at the very-low income level and 12 affordable units at the moderate level (28 affordable units total), the project is providing 19.3 percent of its base density as affordable, with 11 percent of its base density affordable at the very-low income level. By providing 11 percent of its units as affordable at the very-low income level, the project qualifies for a 35 percent density bonus, which it is currently seeking.

As noted earlier, the phasing of construction for this project is anticipated and staff heard concerns at the October 22 City Council meeting that affordable housing should be provided during the phases of construction or if (for unforeseen circumstances) the completion of the project could not be realized then affordable housing needs to be provided. To address this, the following condition has been included in the Resolution 2019-43 of approval:



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Upon completion of Phase 1 of the project, three townhouses shall not be sold for five years from the date of occupancy and held by an entity controlled by Dutchints Development. If the second or third phase are not initiated within five years from completion of Phase 1, the three unsold townhouse units shall be dedicated as affordable units.

One other question raised regarding the affordable units was whether they could be required to remain affordable in perpetuity. To address this, staff has included the following condition:

All below market residential units subject to this approval shall remain affordable for the maximum period provided by law.

Incentives and Waivers

With regard to incentives or concessions, since the project is providing more than 10 percent of its units as affordable at the very-low income level, it qualifies for two incentives per State Law and City Ordinance. To help guide incentives requested by developers and ensure that the incentives do not result in any adverse impacts, the City adopted a list of “on-menu” incentives. However, per State Law and City Ordinance, an applicant may still request any incentive or concession that they deem appropriate in exchange for the affordable units being provided (off-menu). In this case, the project is seeking a height incentive to allow the project to exceed the maximum height limit of 45 feet by 11 feet (on-menu) and a six-inch reduction in the required parking stall width for the spaces in the underground parking garage (off-menu).

Under Government Code Section 65915(e) and Los Altos Municipal Code Section 14.28.040(F), the City must grant the requested incentive unless it can make specific negative findings. Under the Ordinance, the City has determined that “on-menu” incentives would not have a specific, adverse impact on public health and safety or the physical environment, which is one of three potential findings necessitating denial of the request, thus one of the following two findings would need to be made to deny the request:

- The concession or incentive does not result in identifiable and actual cost reductions, consistent with the definition of “concession” or “incentive,” to provide for affordable housing costs, as defined in Health & Safety Section 50052.5, or for rents for the targeted units to be set as specified in subsection (I).
- The concession or incentive would be contrary to state or federal law.

In the case of this project, there is not any evidence currently in the record to make the required findings for denial for either incentive request. Therefore, staff recommends the granting of the Applicant’s requested incentives.



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At the Planning Commission meetings on August 1, 2019 and August 15, 2019, the project sought a waiver under Government Code Section 65915(e) and Los Altos Municipal Code Section 14.28.040(H) to allow the required landscaping in the front yard setback to be reduced from 50 percent to 34 percent. The applicant has eliminated the waiver request by revising the plans to meet the requirement to landscape a minimum of fifty (50) percent of the front yard.

A Density Bonus Report that supports the requested density bonus and development incentives requests was prepared by the Applicant and is included in the September 5, 2019 Planning Commission agenda report (Attachment 4).

For reference, the moderate-income housing units would be limited in cost to be affordable to a household that makes no more than 120 percent of the County's median income and the very-low income housing units would be limited in cost to be affordable to a household that makes no more than 50 percent of the County's median income. The County's median family income for FY 2019 is \$131,400 per HCD calculations.

Subdivision

The project includes a Tentative Map for Condominium purposes. The subdivision divides the buildings into 196 residential units and associated private and common areas. As outlined in the attached Resolution, the subdivision conforms to the permitted General Plan and Zoning Code densities as modified by State law. The site is physically suitable for this type and density of development, is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, is not injurious to public health and safety, and provides proper access easements for ingress, egress, public utilities and public services.

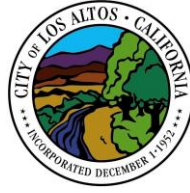
Environmental Review

A detailed and comprehensive review of environmental review related to the proposed development is contained in the October 22, 2019 Planning Commission agenda report as Attachment 3.

Abandoned Well Potential

Given the size of the subject property and the region's agricultural roots, abandoned wells are sometimes encountered during the course of construction, especially if the project includes excavation like the present proposal. To address this, the following condition has been included in the Resolution 2019-43 to address abandoned wells should they be encountered:

Prior to a final on the grading permit, any on-site well(s) encountered shall be removed or mitigated to eliminate hazards associated with abandoned wells, subject to any required permits from the Department of Environmental Resources, Santa Clara Water District and in accordance with all laws and policies (Santa Clara County and California State Model Well Standards).



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City Council Action

The necessary findings related to the project's environmental review, design review, use permit, subdivision and affordable housing/density bonus applications to approve the 196-unit project are contained in Exhibit A of the Resolution, and the appropriate conditions to ensure the project is properly implemented are contained in Exhibit B, which has been amended to include or modify conditions as noted above. Based on the recommendation from the Planning Commission, the City Council is encouraged to approve Resolution 2019-43No. 2019-43 which will adopt the Initial Study, Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, and approve Design Review application 18-D-05, Use Permit application 18-UP-07 and Subdivision application 18-SD-03 for a new 196-unit multiple-family development at 5150 El Camino Real.

Options

- 1) Approve Resolution No. 2019-43

Advantages: The project will replace an underdeveloped commercial property with a high-quality multiple-family development that helps the City meet its goals for producing new housing units, both affordable and market rate

Disadvantages: The existing office uses on the site will be displaced

- 2) Do not approve Resolution 2019-43No. 2019-43

Advantages: The existing office uses on the site will be maintained

Disadvantages: The City will not make any progress on achieving its goals to produce new housing units

Recommendation

The Planning Commission recommends Option 1.