

5. ATTACHMENT 5

November 5, 2019

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

Re: Thursday, 11/7/19 at 7:00PM. City Council Chambers. Four Story Development at 444-450 S. 1st.

Dear Commissioners,

My name is Ramin Shahidi, and I am residing at [REDACTED]. I am writing this letter to object to the elevation exemption for the 4th story penthouses on the residential development at the 444-450 South 1st Street (The 444-450 Project). I am writing this letter as a neighbor to the 444-450 Project and to express the concerns of some of other impacted neighbors (The Neighbors*), who are residing across the Foothill Expressway in the residential zone called Old-Alley Los Altos (Figure 1).

In short, our objections are as follows, and focus specifically on the impact of light pollution and the privacy of neighboring single family residential zone due to the:

- 1- 4th story balcony/decks facing residential zone across the Foothill Expressway.
- 2- 4th story large glass patio doors and large clear glazing facing the residential zone across Foothill Expway.
- 3- Light pollution emitting from the 4th story penthouses facing the residential zone across Foothill Expway.

What we are NOT objecting to:

- 1- To any portions of the design (including covered balconies) on the first three floors.
- 2- To the total living space of any of the units, including those penthouses on the 4th floor.
- 3- To the number of units being built in the project, including on those penthouses on the 4th floor.
- 4- **To any recent State mandates or provisions that the town might feel obliged to follow**

I attended the preliminary planning commissioners' hearing on January 7, 2019, and spoke in support of the 444-450 Project. Our endorsement at the time was based on the developers promise to work with us in good faith in order to address the light pollution and privacy concerns by: 1) conducting a 3D line-of-site study between the 4th floor of the 444-450 Project and two of the closest Neighbors, and 2) utilizing the 3D line of site results to create mitigation measures to address our privacy and light pollution concerns. While the developers conducted a somewhat obsequious line-of-site study, they failed to live up to the latter part of their promise to work with us in a meaningful way to effectively mitigate the impact of their 4th story penthouses on our homes.

We are asking for commissioners to impose light pollution and privacy mitigation measures toward *only* the 4th story units and *only* to those parts of which facing the Foothill Expressway. *This surmounts to less than one handful of units, among hundreds units that are being developed on the South First Street.* Our requested measures are echoing the commissioner's own recommendations on the subject matter during the 1/7/19 hearing, which the developers seem to have opted to also ignore.

We quote from the January 7, 2019 Planning Commission Hearing:

*Commissioner Mehruss Ahi (Min 45:26) "In terms of elevation facing foothill expressway, the open balcony and glass railing to me it seems like a mistake. Based on the two other projects on the Foothill Expressway I see pretty much no one on those balconies and pretty much never used" ... "so overall tough, I think the project is well articulated in terms of height, **expect for what I mentioned on the Foothill Expressway elevation.** I think the proportions and scale are fine and I think that the materials specified, **with except of the glass, I think are good.**"*

*Commissioner Sally Meadows (Min 53:27) "I won't repeat the great points about Foothill Expressway (by Comm. Ahi), and the decks and all that; **that's certainly true**"*

*Please refer to the Attachment A for the list of the names, addresses and signatures of the mostly impacted Neighbors.

We quote from the January 7, 2019 Planning Commission Hearing:

*Acting Chair Pheeby Bressack (Min 58:31) “It’s interesting that we have had these two speakers from across the Foothill, because we think of it as a completely separate area; but when Safeway developed – **Safeway has a blanked wall – because the neighbors across the freeway were very concerned about the light pollution coming across the very big building; and so I agree with Mehruss’s (Comm. Ahi) analysis that - and actually concurrence along here - that maybe all glass is elegant but not necessarily is the best choice here, and in fact because the design so carefully defined between glass material and solid material, maybe you want to consider Spandrel glass so that you can cut down on the light going out without necessarily compromising the design. You should consider Spandrel glass- that is glass that is opaque and not clear – so you look of the shine and you have the structure and rhythm that you have broken it up... “***

We are truly impacted:

Madam Commissioner Bressack’s comments reminding the board on “*blanked walling the Safeway due to neighbor’s across the Foothill light pollution concerns*” is correctly highlighting the fact that the 444-450 Project invades the privacy of neighbors across the Foothill by view, light intrusion at night and reflection during day. In fact for us, the negative impact of the 444-450 Project is highly exasperated considering that the proposed 444-450 Project is 13 foot (25%) taller than the Safeway, and it is 85 foot closer to our houses (@ 140’ away) than Safeway is to its neighbors (@ 225’ away) (Figure 1).

Figure-2 illustrates (using true-to-scale geometrical diagram) that *the impact of 444-450 Project on its neighbors is at least an order magnitude larger (at 25% extra height, and 38% less distance) than what the Safeway imposed on its neighbors.* Despite of this, our requested mitigation measures remains far more reasonable than what was imposed on Safeway (i.e., 35’ height or “blanket walling the Foothill side”). Despite of all, the planning staff who sadly are oblivious to the serious impact of these 4th story penthouses on our homes, have decided to ignore our genuine concerns (as well as the commissioners’ reservations on the subject matter), and continue on encouraging these roof-top decks. As such, we are baffled by such inconsistent (at best), and discriminatory (at worst) set of measures and practices by the Planning staff, and beg the questions on why our neighbors up the street got the light pollution and privacy considerations that they legitimately deserved by the same commissioning body, and not us!

Story-poles are showing that tree alone cannot filter the 4th floor Penthouses

Figures 3 and 4 shows the true visual of the Story-poles (no Photoshop or lens manipulations) towering over the tallest of the Foothill Expressway trees. Please note that these trees have quite effectively filtered the 3-story building (396 1st St.) adjacent to the 444-450 (and 440) Project. However, as the story poles clearly show, none of these trees could effectively filter the 4th story decks and glazing that are being proposed. Moreover, we object to the line-of-site studies conducted by the developers (and recently presented to the Neighbors) where the developers resort to nothing short of trickery - to veil their breach of our privacy- by tactically positioning their lens behind the conic tip of few scattered redwoods along the Foothill side. The developer’s illustrations (Figure 5) showing 50’ tall redwoods (that can’t be found at that height) planted at 6’ on-center (which cannot be planted that close) along the narrow edge of the Foothill (where there is no room to plant them), is nothing short of a deceitful illustration.

While we encourage planting trees and placing green screening to minimize the impact of the large developments alongside Foothill Expressway, light pollution or privacy mitigation measure shall extend beyond such trees (especially when they are imaginary!); as the relative age of these building (extending over 100 years) are considerably higher that of the age of the trees, that for all we know, might not even survive the construction; and would take *generations* to grow back to be an effective filter again.

*Please refer to the Attachment A for the list of the names, addresses and signatures of the mostly impacted Neighbors.

Requested mitigation measures:

If the town feels they have to permit four story buildings, then the town at least must subject the 4th floor of these units - when facing residential zones - to privacy and light pollution mitigation measures, as following:

- 1- Eliminate all the 4th floor public deck or balconies facing the Foothill and residential zones.
- 2- All 4th floor private balconies facing the Foothill shall observe a setback of at least 10' and use Planters of at least 30" wide on the edges of those balconies, or alternatively rise an opaque balcony railing to 5.5' in order to create a private deck. While plants and green screening are encouraged, the height of any proposed plants or green screenings, shall not be added or considered in above measurements.
- 3- Eliminate all clear glazing that are below 5' height from finished floor (or make opaque, per commissioners Bressack's suggestion); only on the Foothill side of the 4th floor units.
- 4- Recessing the interior ceilings on the 4th story units facing residential zones - by at least 18" - to eliminate direct breach of interior LED Ceiling light to residential areas.
- 5- Eliminating all wall-mount or ceiling-mount lights fixtures (only floor mount) on the 4th floor balconies and decks.

The measures taken to pack up the mid-rise buildings at the far end of the town facing Foothill Expressway, and treating the Foothill side as the towns neglected backend/backyard, has an airy resemblance to how Palo Alto had treated their part of their city that is exposed from HW101, where there were absolutely no environmental impact considerations for their HW101 side. We beg the commissioner's serious consideration on this issue and that Foothill - at only 100' wide - is not HW101, and our historical Old Los Altos residential neighborhood is not a landfill, and it deserves its due Environmental Impact Study, or at least deserves the protection measures that have already been articulated by this commissioning body. As it was stated in our August 26, 2019 letter to the City Council (Attachment B), we adamantly disagree that this project is CEQA exempt, "as a mere in-fill"! Even if it is exempt, that exemption shall not be interpreted as an automatic rubber-stamp or a fast-track pass through this commissioning body, especially on matters that concerns the neighbors.

The Planning staff, having flattered and hailed the developers for introducing "affordable housing" units on one of the most expensive locations in the Bay Area (and thus the irony!), have propelled them to such moral high grounds, that not only now they feel entitled to an exemption for the 4th floor developments, but also to a 360 degree panoramic views of the Bay area, at the expense of the privacy and well-being of its Neighbors. This was not the intent of our state legislators when they introduced the Affordable Housing Act. Regardless, the highly modest mitigation measures requested herein, in no way would interfere with any state or locally mandated legislations on affordable housing, or the size, or the number of the units, or otherwise. All we are asking is for this commissioning body, who are elected to enforce the law, while advocating the interest of the neighbors and the integrity of our neighborhoods, to stand up for the impacted residents, and step up on their own rightful directions; to reject these plans, and send the developers back to the drawing board with tangible and clarified mitigations measures with respect to the Foothill Expressway elevations and glazing for these projects.

Sincerely,



Ramin Shahidi

cc: neighbors, file ./ Rachel

FIGURES:

*Please refer to the Attachment A for the list of the names, addresses and signatures of the mostly impacted Neighbors.

Figure 1

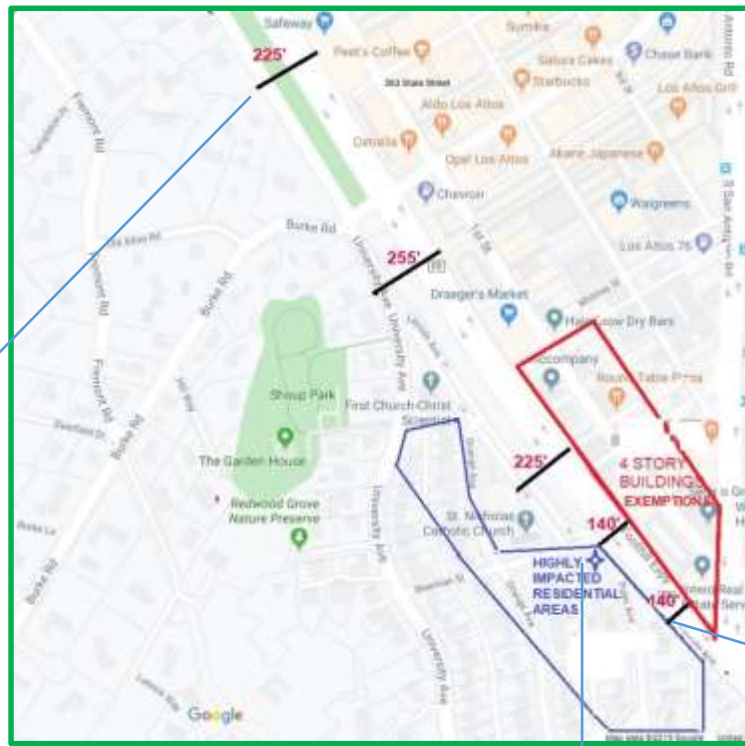


Figure 2

444-450 Project is **13' taller**
and
85' closer to the residential zone than our infamous Safeway

10' wall @10' away.
Any higher would be
subject to daylight in
this zone

Foothill wall
@ 40' away

2x the Bulk

444-450 1st
Project

48' high
@140' away

Safeway

35' high
@225' away

Observer

140'

225'

48'

35'

Figure 3



View from the backyard of 502 Palm Ave



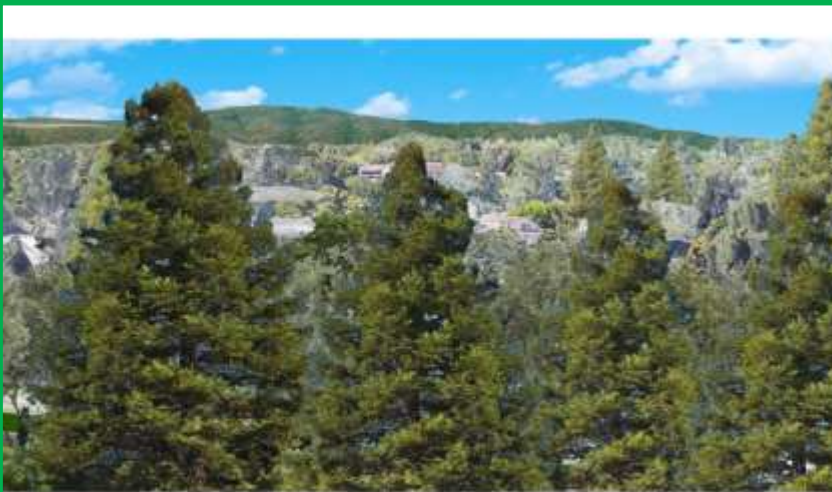
View from the Master Bed/bath Suite window @ 2nd floor of 502 Palm Ave

Figure 4

Front door of 500 Sherman St.



Figure 5



Active View from Penthouse Master Bedroom rooftop looking west towards 502 Palm Ave.



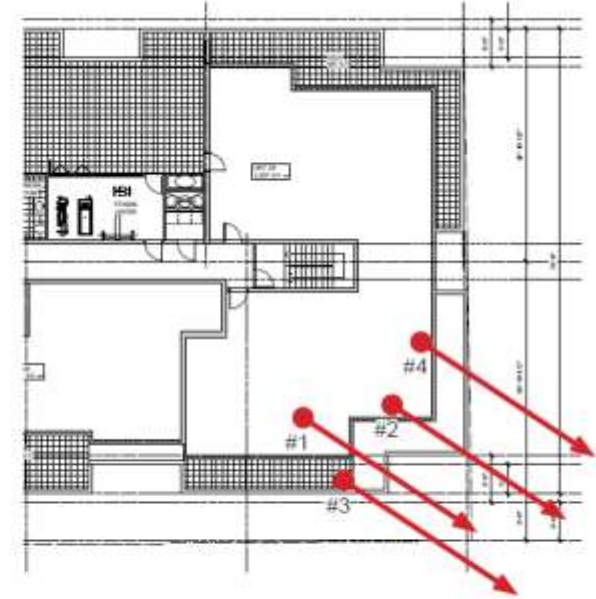
#2 Perspective View from Bedroom looking west towards 502 Palm Ave.



Active View from Penthouse Master Bedroom rooftop looking west towards 502 Palm Ave. Existing Trees Removed



#2 Perspective View from Bedroom looking west towards 502 Palm Ave. Existing Trees Removed



PLATFORM
architectural - planning - research



450 FIRST STREET, LOS ALTOS, CALIFORNIA
The design and construction of this project is subject to the approval of the Board of Supervisors of the City of Los Altos.

450 FIRST ST
Los Altos, California

Proposed 'Line of Sight' Study - View #2

June 18, 2025

Attachment: A

Name: _____ **Address** _____ **Signature** _____

Attachment: B

November 5, 2019

Mr. Biggs: I present this email for consideration by the Planning Commission in connection with the project on its November 7 agenda at 444-450 First Street. I wrote a letter to the City Council in part about the project on August 27. The objections there presented are hereby reiterated. As the letter notes, I had addressed the project at an earlier meeting of the Planning Commission as well. All points made at that earlier meeting about the legality of the project are also hereby reiterated. Gary Wesley

GARY B. WESLEY

Attorney at Law
707 Continental Circle #424
Mountain View, CA 94040
(408) 882-5070

August 26, 2019

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

Re: Four-story condos on First Street - Re-zoning Downtown

Planning Commission:

I appeared before you on July 18, 2019 and spoke under “public comment” and then your agenda item concerning the proposed development of a 4-story condo building at 440 First Street. As to the proposed development, I appeared representing Ramin Shadihi, a homeowner across Foothill Expressway, who also spoke. Mr. Shahidi prepared some ideas concerning environmental mitigation for the development (copy enclosed).

I contended on July 28 (and still contend) on behalf of Mr. Shahidi that the proposed 4-story condos with roof decks on First Street (including 440 as well as 444-450) 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 444 First Street.

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 existing and persons who live nearby, such as Mr. Shahidi, will be affected by potential noise and light pollution as well as the potential invasion of privacy stemming from the view from roof desks. I requested CEQA past reviews for that portion of First Street under the California Public Records Act but have received no such record(s).

Under “public comment” on July 18, I raised the matter of whether the zoning at 444 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 your July 18 agenda (and on the City Council’s agenda tomorrow).

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The proposed ordinance change 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. The State Legislature is considering state zoning laws - then including SB 592 - that could convert 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 that the City 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*).

In the matter of staff’s proposed amendment to your downtown zoning ordinance, Mr. Shahidi and I maintain that the City of Los Altos must present for consideration (before approval) an evaluation of the environmental effects of changing the downtown to housing - including the effect upon traffic, parking and other infrastructure use and needs.

Very truly yours,

GARY B. WESLEY

Enclosure
cc: Los Altos City Council

California Renters Legal Advocacy and Education Fund

2044 Franklin St
Oakland, CA 94612
hi@carlaef.org



November 5, 2019

City of Los Altos
One North San Antonio Rd.
Los Altos, CA

Re: Proposal to construct 26 homes at 450 First St.

Dear Los Altos Planning Commission, and City Attorney,

The California Renters Legal Advocacy and Education Fund (CaRLA) submits this letter to inform the Los Altos Planning Commission that they have an obligation to abide by all relevant state housing laws when evaluating the proposal to construct 26 homes at 450 First St., including the Housing Accountability Act, as amended by SB-167 (GC 65589.5). The Housing Accountability Act states, in part:

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

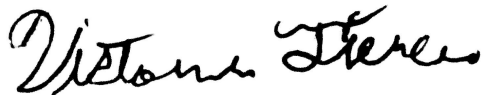
(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards,

policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

CaRLA is a 501(c)3 non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. The proposed Project will provide badly needed housing and opportunity for low income families. While no one project will solve the regional housing crisis, the proposed 450 First St. development is the kind of housing Los Altos needs to mitigate displacement, provide shelter for its growing population, and arrest unsustainable housing price appreciation. You may learn more about CaRLA at www.carlaef.org.

Sincerely,

A handwritten signature in black ink that reads "Victoria Fierce". The signature is written in a cursive, flowing style.

Victoria Fierce

Director of Operations

California Renters Legal Advocacy and Education Fund