

PUBLIC HEARING

Agenda Item # 2

AGENDA REPORT SUMMARY

Meeting Date: April 14, 2020

Subject: Modification (MOD 20-001) Request for a waiver for an approved multi-

family residential project at 4846/4856 El Camino Real

Prepared by: Guido F. Persicone, Planning Services Manager, AICP

Reviewed by: Jon Biggs, Community Development Director

Approved by: Chris Jordan, City Manager

Attachment(s):

1. City Council Resolution

- 2. Letter from the applicant dated, January 3, 2020
- 3. Letter from the City of Los Altos dated February 5, 2020
- 4. Preliminary Site Plan, dated November 4, 2019

Initiated by:

Applicant

Previous Council Consideration:

November 27, 2018

Fiscal Impact:

A significant fiscal impact is not anticipated in the processing of this application.

Environmental Review:

• This is exempt from CEQA pursuant to Section 15061(b)(3) as it can be stated with certainty that accepting a reducing parking stall sizes will not have a significant effect on the environment.

Policy Question(s) for Council Consideration:

• Does the City Council want to grant a waiver and allow a reduction in the size of the parking space for this project?

Summary:

• The applicant is requesting a waiver to the City's parking space requirements for an approved 52 unit multi-family multi-story residential project that includes affordable units. This is a density bonus project, which includes density bonus units, concessions, and waivers previously granted by the City Council.

Reviewed By:



Subject: Modification (MOD 20-001) Request for a waiver for an approved multi-family residential project at 4846/4856 El Camino Real

Staff Recommendation:

• If requested by the applicant, density bonus law requires waivers for density bonus projects when an agency's site development standards physically preclude construction of a project at the densities permitted. It is staff's opinion that the record, applicants own plan submittals for the approved project, demonstrates this project can be built with compliant parking spaces and therefore recommends denial of this waiver request.



Subject: Modification (MOD 20-001) Request for a waiver for an approved multi-family

residential project at 4846/4856 El Camino Real

Background

On November 27, 2018 the City Council approved a fifty-two (52) unit condominium project at 4846/4856 El Camino Real. The maximum allowable density in this Commercial Thoroughfare (CT) zoning district is 28 units per acre. Under the previous affordable housing ordinance applicants were only required to provide 10% of the units as below market rate (BMR) units As such, the minimum number of BMRs for this project is 2.8 or 3 units. The project, as approved by the City Council has ten BMR units broken down by various income levels and between rental and for sale units:

Table 1 (List of Affordable Units)		
Ownership Units	Rental Units	
Three (3) Moderate Income Units-10%	Six (6) Very Low Income Units-21%	
One (1) Low Income Unit-3%		
Total - Four (4) Ownership Units	Total - Six (6) Very Low Income Rental Units	
Total Number of BMR Units: 10		

In total, the dedication of ten (10) BMR units represents a significant dedication of affordable housing units and equates to 21% of the base units that have been dedicated for very low-income residents. As a result, and pursuant to the Los Altos Municipal Code and the discretion afforded the City Council, a density bonus of 75% was granted for this project. Under the provisions of the Los Altos Density Bonus Ordinances applicants can have zoning standards relaxed in two ways:

1. By requesting "concessions/incentives" and

¹ November 27, 2018 City Council Staff Report:

https://www.losaltosca.gov/sites/default/files/fileattachments/city_council/meeting/43240/item_7. 4856_ecr_revis_ed_112118.pdf

² The combined lot size is approximately .75 of an acre and the maximum density in the CT zone is 38 du/acre (.75*38=28.5 units).

³ See Footnote 1 within the November 13, 2018 City Council Staff Report: https://www.losaltosca.gov/sites/default/files/fileattachments/city_council/meeting/43239/item_5._4856_el_camin o_real.pdf



Subject: Modification (MOD 20-001) Request for a waiver for an approved multi-family residential project at 4846/4856 El Camino Real

2. By requesting "waivers" Under the provisions of the Los Altos Density Bonus Ordinance the project is eligible for three concessions. The City Council granted three concessions to the project:

Table 2 (Development Concessions)		
Standard	Concession	
Maximum Height: 45 feet	Concession granted allowing a height of 58 feet	
Rear Yard Setback (near residential): 100 Feet	Concession granted allowing a rear yard setback of 60 feet	

The Los Altos Density Bonus Ordinance allows a twenty percent (20%) reduction in the rear yard setback. Since the project requested a forty (40%) percent reduction this counts as two concessions for a total of three (3) granted for this project. In addition to the concessions, the applicant requested two waivers:

- 1) To allow an elevator tower to be 17.9 feet tall when the code only allows such structures to be 12 feet tall and
- 2) To allow the roof top structure to be 4.6% of the roof area when 4% is the maximum.

These two additional waivers were granted because there are no elevators commercially available that can comply with the 12-foot height limit and the roof area requirement is directly tied to the elevator specifications for area needed. Finally, the project received a parking reduction to require a minimum of 91 spaces where ninety-six (96) would normally be required.⁴

Proposed Project Modification

On January 6, 2020 the applicant submitted a revised site plan concept and a project description requesting that the parking stalls be reduced from the standard 9-foot width to a width of 8 feet 6 inches. The justification for the request is that the site will require less excavation and reduce the

⁴ The project plans indicate 108 spaces will be provided. Since the applicant is voluntarily providing more parking than is required, this further demonstrates that granting the project modifications does not physically preclude the development of the project already approved by City Council.



Subject: Modification (MOD 20-001) Request for a waiver for an approved multi-family residential project at 4846/4856 El Camino Real

amount of earth work by 650 cubic yards. The reduction may also reduce the impact to the trees at the rear of the lot.

Under the provisions of Density Bonus law, the project is eligible for three (3) concession and three (3) were granted. In addition to requesting incentives and concessions applicants may request the waiver of an unlimited number of development standards that would physically preclude the construction of a project with the density bonus and the incentives or concessions to which the development is entitled, per Government Code Section 65915(e)(1), which reads:

Government Code Section 65915 (e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. Subject to paragraph (3), an applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit.

The request to reduce the parking stall width is cannot be considered a concession because it has received the maximum permitted by the Municipal Code. No information has been submitted into the record that by denying the waiver this would preclude the development of the project, as the applicant has already demonstrated by the current submittal that the parking width standards can be met. As such, the City Council would have to review this request as a major modification and direct staff to prepare findings in the affirmative for this project change. The applicant can always ask for a variance, but the findings of fact are difficult to make and nothing about the project site would lead City staff to believe that the topography of the site warrants issuing an exception to the Los Altos Municipal Code.

Discussion/Analysis

In conclusion, the applicant has not sufficiently demonstrated that the parking space width requirement physically precludes construction of the approved project at the densities and concessions approved. The applicant's own plans for the approved project demonstrates this project can provide parking spaces compliant with the City's parking space width requirements. The reduction in the width of parking spaces may result in a reduction in excavation and overall project costs, but these are not the standards by which waivers are evaluated; therefore, staff recommends denial of this waiver request.



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residential project at 4846/4856 El Camino Real

Options

1) Option #1 Approve the waiver.

Advantages: If constructed, the City will receive credit for the development of ten (10)

below market rate units.

Disadvantages: Would result in non-compliant parking for a high-density residential project.

2) Option #2 Deny the waiver.

Advantages: Compliant parking would be provided for a high-density residential project.

Disadvantages: May result in the project moving forward and opportunity for affordable units

in Los Altos.

Recommendation: Staff recommends Option 2.

RESOLUTION NO. 2020-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS DENYING A REQUEST FOR ADDITIONAL WAIVERS FOR A DEVELOPMENT PROJECT (MODIFICATION) MOD 20-0001 AT 4846/4856 EL CAMINO REAL

WHEREAS, on November 27, 2018 the Los Altos City Council approved a fifty-two (52) unit condominium project at 4846-4856 El Camino Real; and

WHEREAS, the project proponent dedicated ten units as affordable housing units with a mix of the units being both rental and ownership units; and

WHERAS, the applicant proposed six rental units as deed restricted at the very low-income household level as published by the State of California Housing and Community Development Department (State HCD) for households in Santa Clara County; and

WHEREAS, per Section 14.28.040 Table DB4 of the Los Altos Multi Family Affordable Housing Ordinance an applicant is eligible for three incentives/concessions if at least fifteen percent of the base units are deed restricted at the very low-income level;

WHEREAS, the six very low rental units represent twenty-one (21%) of the base density allowed in the zoning district; and

WHEREAS, under the provisions of the Los Altos Municipal Code and State Density Bonus Law, an applicant can receive concessions/incentives. This application is eligible for three (3) concessions/incentives and the following three (3) were granted: 1) the height was increased to fifty-eight (58) feet when the zoning district only allows heights of forty-five (45) feet; and the normal rear yard setback is one-hundred feet (100) and the Los Altos Density Bonus Ordinance allows a twenty (20)% reduction in the rear yard setback. Since this project was granted a setback of 60 feet or a forty percent (40%) reduction this counts as two concessions for the project; and

WHEREAS, pursuant to the Los Altos Density Bonus and Inclusionary Housing Ordinance the applicant requested two waivers from the Los Altos Municipal Code: 1) to allow an elevator tower to be 17.9 feet tall when the code only allows such structure to be 12 feet tall and 2) to allow the roof top structure to 4.6% of the roof area when 4% is the maximum; and

WHEREAS, the two waivers were granted because the applicant submitted evidence into the record that no elevator was commercially available to comply with the twelve (12) foot height limit and roof area was directly tied to the elevator specifications for area needed.

WHEREAS, pursuant to Government Code Section 65915(e)(1) applicants may request additional waivers of development standards that would physically preclude the construction of a project with a density bonus; and

WHEREAS, on January 6, 2020 the applicant submitted a revised site plan requesting that the parking stalls sizes be reduced from the standard nine (9)-foot width to a width of 8 feet 6 inches; and

WHEREAS, the justification for the request is that the site will require less excavation and reduce the amount of earth work by 650 cubic yards. The reduction may also reduce the impact to the trees at the rear of the lot; and

WHEREAS, the applicant's own plans for the approved project demonstrates this project can provide parking spaces compliant with the City's parking space width requirements; and

WHEREAS, no information has been submitted into the record that the requested waiver is financially necessary for the construction of the affordable housing units; and

WHEREAS, based upon such evidence and testimony, and the entire record of proceedings and matters of general knowledge to the City, including without limitation the Los Altos General Plan, the Los Altos Municipal Code and other laws, regulations, policies, procedures and requirements the City Council has determined that one or more of the findings specified in Government Code Section 65915 (e) (1) apply and, therefore, warrant denial of the Application; and

WHEREAS, the location and custodian of the documents or other materials which constitute the record of proceedings upon which the City Council's findings and decision are hereby made are located in the Office of the City Clerk of the City of Los Altos; and

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby denies the application. This determination is based on the recitals set forth above together with the findings and determinations, as specified in California Government Code Section 65915(e)(1), as set forth in Exhibit A, each of which is based upon the evidence presented in the record as a whole and each of which provides a separate and independent basis for this decision.

I HEREBY CERTIFY that the foregoing is a true	1 7
and adopted by the City Council of the City of Lo	s Altos at a meeting thereof on the
day of, 2020 by the following vote:	
AYES:	
NOES:	
ABSENT:	
ABSTAIN:	
	Janis C. Pepper, MAYOR
Attest:	
Jon Maginot, CMC, CITY CLERK	

EXHIBIT A FINDINGS

With regard to division of land application Modification MOD 20-0001, (the "Application") the City Council makes the following findings in accordance with the California Government Code in California Government Code Section 65915(e)(1) and Section 14.28.040(H)(3) of the Los Altos Municipal Code:

14.28.040(H)(3). Denial of requested waiver. The reviewing authority may deny a request for a waiver under this section if it finds the waiver would:

a. Waive or reduce a development standard that would not have the effect of physically precluding the construction of a development meeting the criteria of this section at the densities or with the incentives permitted under this section; or

The applicant's development plans approved by the City Council on November 27, 2018 demonstrates this project can provide parking spaces compliant with the City's parking space width requirements of nine feet (9) not the request of reducing the stall width to 8 feet 5 inches. Additionally, no information has been submitted into the record that the requested waiver is necessary for the construction of the affordable housing units. Therefore, denying this waiver does not physically preclude the construction of the project.

b. Have a specific, adverse impact upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact; or

The requested action by the applicant, namely to reduce the size of the parking stalls does not have an adverse impact upon the environment and therefore this finding is not applicable to this project.

c. Have an adverse impact on any real property that is listed in the California Register of Historical Resources; or

None of the subject properties are listed on the California Register of Historic Resources and therefore this finding is not applicable to this project.

d. Be contrary to state or federal law.

The request is not contrary to state or federal law and therefore this finding is not applicable to this project.

City Council
Attn: Jan Pepper, Mayor
Los Altos City Hall
1 North San Antonio Road
Los Altos, CA 94022

Planning Department
Attn: Jon Biggs, Community Development Director
Los Altos City Hall
1 North San Antonio Road
Los Altos, CA 94022

We are asking the City Council to consider a revision to the approved project plans which includes an additional waiver to reduce approximately 75% of the parking spaces to 8'-6" wide from 9'-0" wide. This reduction would reduce the size of the basement excavation and construction by approximately 4% with a reduction of 1,916 SF and about 650 cubic yards of earth work. The majority of the excavation reduction would be adjacent to the existing redwood trees which provides a further buffer to the roots while adding additional soft scape to the rear yard area. This reduction would reduce truck trips required for the excavation by up to 65 trips which would decrease traffic, dust, and noise during the excavation. With this reduction we are proposing a revision to the back yard landscape area as outlined below. This change would not affect the form, elevations, or design of the building above ground.

In regard to the landscape design changes in the rear open space, the revised parking garage layout provides for additional planting area and more root zone soil for the existing redwoods as well as an opportunity to theme the space for child play. In contrast to the original landscape design, the new concept pushes the closest part of the retaining wall 1 foot further away from the existing redwoods and allows for additional planting areas with parent seating and toddler play structures rather than a passive adult lounge program. The level play area is primarily surfaced with a cushioned synthetic lawn material manufactured specifically for play structure fall zone safety. A variety of themed play structures are proposed including a low climbing/play feature, toddler swing, and chalkboard panels for chalk art/drawing as well as some open space for informal play such as Frisbee, ball tossing, free-play, etc. Raised planters at each end of the play area incorporate cantilevered bench seating for parents and include upright shrub planting for additional screening and buffering to the adjacent neighboring properties.

The revised subsurface parking garage layout at the front of the building better aligns the building wall with the garage below improving constructability, while also adding 3'-4' of additional landscape along the front of the building at that side. The unit's patio space and fence alignment can remain the same, with a slight increase in the percentages of hardscape/soft scape frontage areas.

Overall the revised ground floor landscape program provides a safe dedicated outdoor space for children to play and improves the root zone area around the existing redwoods.

As a trade-off for the reduction in the parking stall width we are prepared to offer one fully install outlet that is compatible with various vehicle charging units. One NEMA 14-50R receptacle will be mounted at the parking stalls for 27 of the units so that it can serve both spaces. The branch circuit from each receptacle will be routed to the electrical panel located in the living unit. The electrical panel in each living unit is individually metered by PG&E. The electricity used by the Tesla (or other vehicle) charger will be charged to the living unit meter and billed by PG&E.

DENSITY BONUS CONCESSIONS AND WAIVERS

The project is currently receiving 3 Incentives and 2 waivers outlined below. The additional waiver is included in red. In addition the parking calculation was updated to include the approved 52 unit building configuration.

<u>Incentives (15% very low = 3 incentives)</u>

	Standard	Requested
1. Rear yard setback decrease by 20% (4th and 5th floors only)	100'	60'
2. Rear yard setback decrease by additional 20 % (4th and 5th floors only)	100'	60'
3. Height increase		
Front portion of building including increased setback area	45'	58'
Rear portion of building outside increased setback area	30'	35'
<u>Waivers</u>		
1. Elevator Tower Height Increase	12'	17'-10.75"
2. 118 SF Roof Structure increase*	(4%) 824 SF	(4.6%) 942 SF
*Includes elevators, stairs and trash enclosure		
3. Reduce 75% of parking spaces to be narrower	9'-0" x 18'-0"	8'-6" x 18'-0"

Parking Required per 65915(p) and LAMC 14.28.040 G2a

1 spaces per 1 Bed Unit: 11 Units x 1 spaces
2 spaces per 2 Bed+ Unit: 41 Units x 2 spaces
Visitor / ADA: included
0 Spaces
Total:
93 Spaces

Parking Provided

Resident 100 Spaces
Visitor / ADA: 8 Spaces
Total: 108 Spaces

Kielty Arborist Services LLC

Certified Arborist WE#0476A P.O. Box 6187 San Mateo, CA 94403 650- 515-9783

November 5, 2019

Mohr Clock LLC 4856/4846 El Camino Real Los Altos, CA

Site: 4856/4846 El Camino Real, Los Altos CA

Dear Mohr Clock LLC,

As requested on Friday, November 1, 2019, I was asked to review new plans showing a reduction of the basement. 75% of the parking spaces are to be reduced from 9' wide to 8'6" wide. The plan change has allowed for 650 cubic yards of soil to be retained. As a result, an extra 9 feet of landscaped area will be available for the redwood trees at the back of the property. The previous plan had enough room for the redwood trees to continue to grow and thrive in the proposed environment. The new plan has an even larger available space for the redwood trees to spread their roots. Redwood trees can live a very long time. In their native habitat they can live for 500-700 years. In urban conditions redwood trees lifespans are shortened. The new proposed plan will greatly increase the longevity of the trees within the urban landscape.

The information included in this report is believed to be true and based on sound arboricultural principles and practices.

Sincerely,

Kevin R. Kielty Kevin Kielty Certified Arborist WE#0476A



Community Development Department One North San Antonio Road Los Altos, California 94022

February 5, 2020

Mr. Mircea Voskerician 572 Chimalus Drive Palo Alto, CA 94306

SUBJECT: REQUEST FOR ADDITIONAL WAIVERS FOR 4846/4856 EL CAMINO REAL

Dear Mr. Voskerician:

Background

On November 27, 2018 the City Council approved a fifty-two (52) unit condominium project at 4846/4856 El Camino Real. The maximum allowable density in this Commercial Thoroughfare (CT) zoning district is 28 units. Under the previous affordable housing ordinance applicants were only required to provide 10% of the units as below market rate (BMR) units. As such, the minimum number of BMRs for this project is 2.8 or 3 units. The project, as approved by the City Council has ten BMR units broken down by various income levels and between rental and for sale units:

Table 1 (List of Affordable Units)		
For Sale Units	Rental Units	
Three (3) Moderate Income Units-10%	Six (6) Very Low Income Units-21%	
One (1) Low Income Unit-3%		
Four (4) Sale Units	6 Very Low Income Units	
Total Number of BMR Units: 10		

In total, dedication of ten (10) BMR units represents a significant dedication of units for affordable housing with 21% of the base units been dedicated for very low-income residents. As a result, and pursuant to the Los Altos Municipal Code a density bonus of 75% was granted for this project. Under the provisions of the Los Altos Density Bonus Ordinances applicants can have zoning standards relaxed in two ways: by requesting "concessions and incentives" and by asking for "waivers and reductions." Under the provisions of the Los Altos Density Bonus Ordinance the

https://www.losaltosca.gov/sites/default/files/fileattachments/city_council/meeting/43240/item_7. 4856_ecr_revised_112118.pdf

¹ November 27, 2018 City Council Staff Report:

² The combined lot size is approximately .75 of an acre and the maximum density in the CT zone is 38 du/acre (.75*38=28.5 units).

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project is eligible for three concessions. The City Council granted three concessions to the project:

Table 2 (Development Concessions)	
Standard	Concession
Maximum Height: 45 feet	Concession granted allowing a height of 58 feet
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,	of 60 feet

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- 1) allowing an elevator tower to be 17.9 feet tall when the code only allows such structures to be 12 feet tall and
- 2) to allow the roof top structure to be 4.6% of the roof area when 4% is the maximum.

These two additional waivers were granted because there are no elevators commercially available that can comply with the 12-foot height limit and the roof area requirement is directly tied to the elevator specifications. Finally, the project received a parking reduction to require a minimum of 91 spaces where ninety-six (96) would normally be required.⁴

Proposed Project Modification

On January 6, 2020 you submitted a revised site plan concept and a project description requesting that the City consider revising the project plans to reduce the parking stalls from the standard 9 foot width to 8 feet 6 inches. The justification for the request is that the site will require less excavation and reduce the amount of earth work by 650 cubic yards. The reduction will reduce the impact to the trees on the lot.

Under the provisions of Density Bonus law, the project is eligible for three (3) concession and three (3) were granted. In addition, waivers were granted because strict enforcement of development standards would have physically precluded the development of the project without said waivers for the elevator shaft and roof area. The request to reduce the parking stalls is an additional concession that the project is NOT eligible for per the municipal code. No information has been submitted into the record that by denying the waiver this would preclude the development of the project, as you have demonstrated by the current submittal that the parking width standards can be met.

In conclusion, this proposed change would constitute a major modification of the project and as such this would require City Council approval. At this time, City staff has identified a few options moving forward:

Option #1-submit for building permit for the project that was approved by the City Council on November 27, 2018.

⁴ The project plans indicate 108 spaces will be provided.

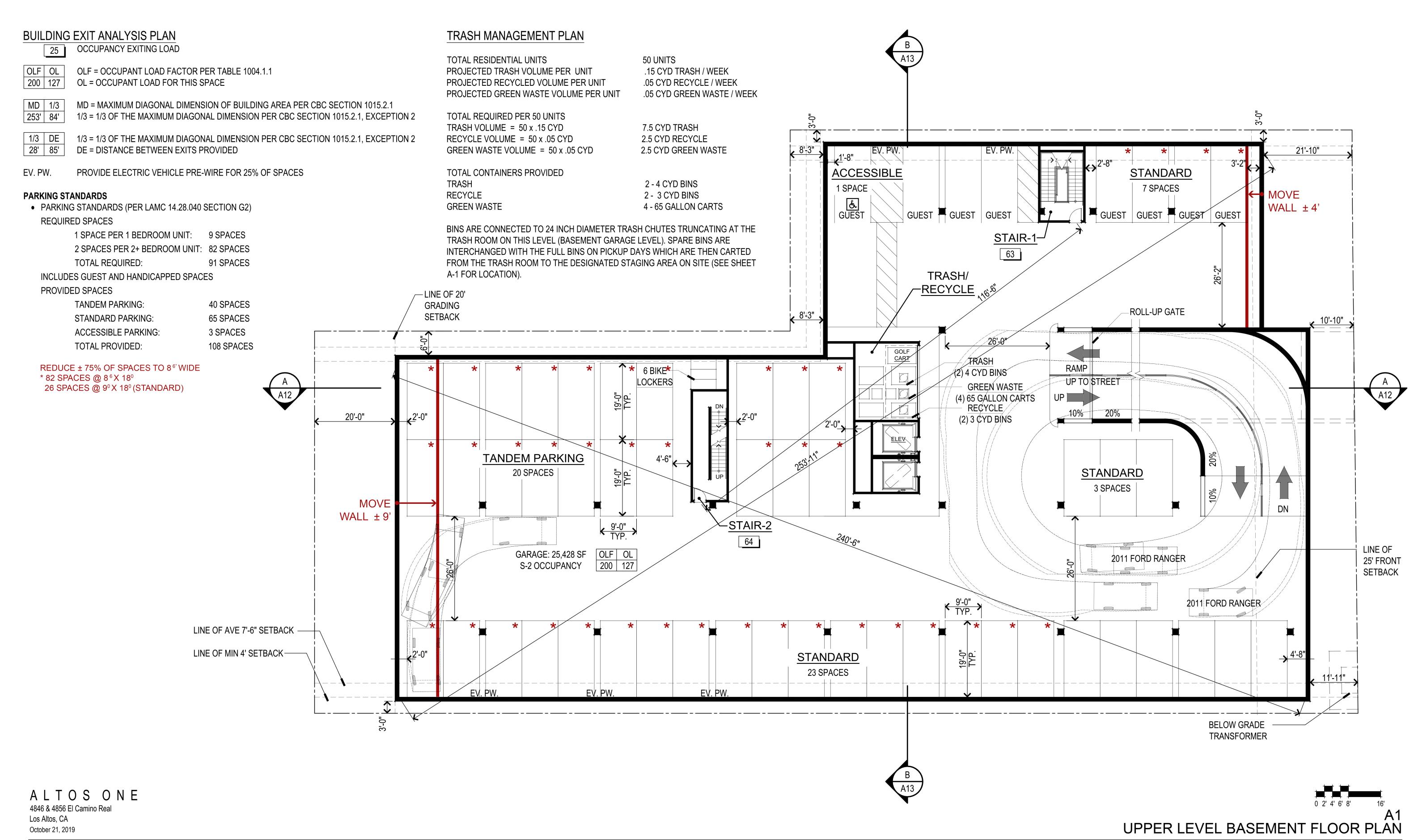
Option #2-request that City staff calendar this item with the City Council as a major modification to the project design. Please be advised that if the City Council reviews this item it will be a *de novo* public hearing meaning all aspects of the project, including concessions, conditions of approval and the merits of the development will be open for debate and discussion.

If you have any questions about this letter, please call me at 650-947-2633 or via email at spersicone@losaltosca.gov.

Sincerely,

Guido F. Persicone, AICP

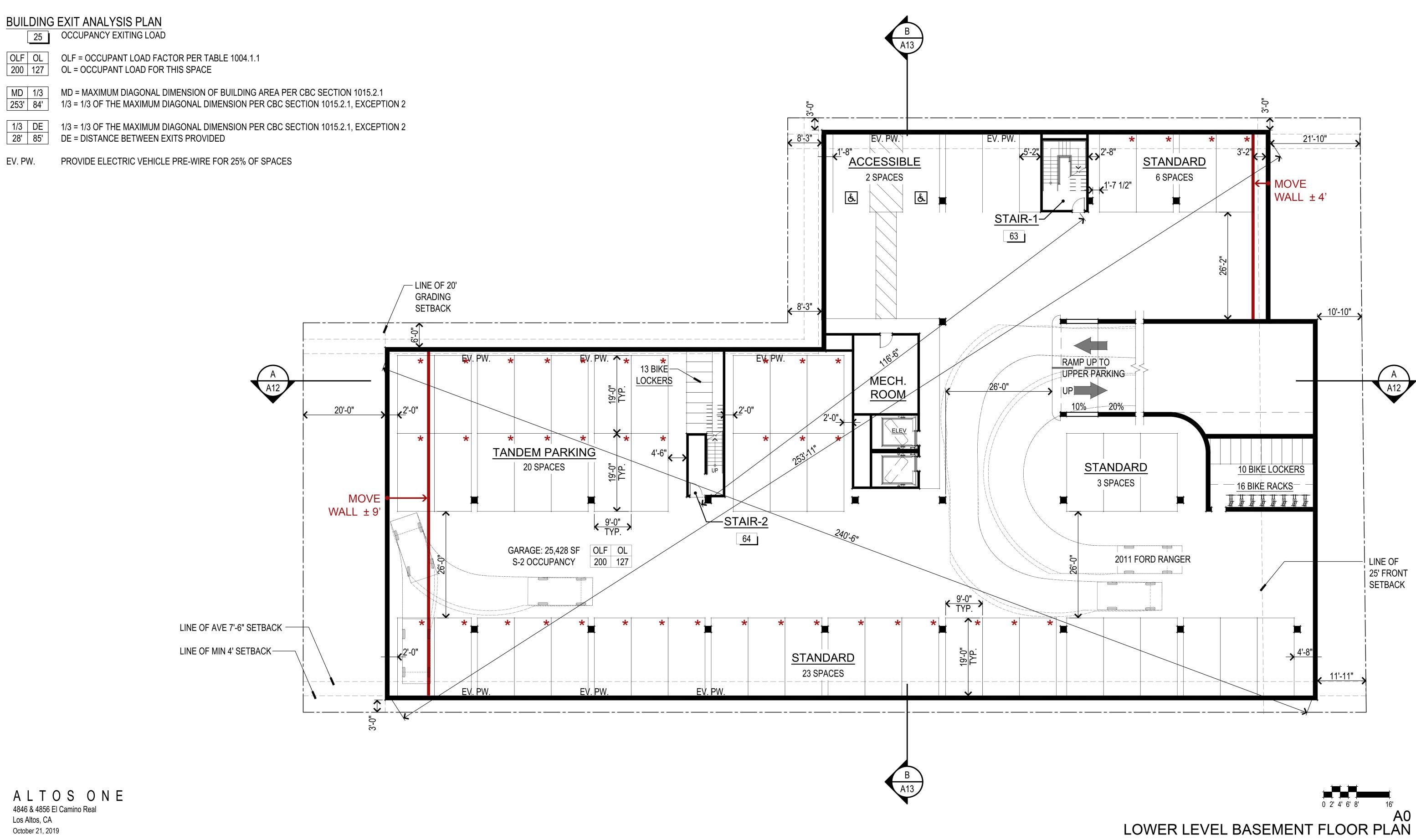
Planning Services Manager



L U X O N E L L C
572 Chimalus Dr.

Palo Alto, CA 94306

3361 Walnut Blvd. Suite 120 Brentwood, CA 94513 925.634.7000



Los Altos, CA October 21, 2019

LUXONE LLC

APPLICATION NOS. 18-D-01, 18-UP-01, and 18-SD-01)

REAR OPEN SPACE "CHILD PLAY" OPTION PRELIMINARY LANDSCAPE PLAN

ALTOS ONE 4856 & 4846 EL CAMINO REAL LOS ALTOS, CALIFORNIA 94022

RETAINING WALL

SCOOTER SPRINGER BY KOMPAN, INC. CHALK BOARD BY KOMPAN, INC.

CANTILEVERED WOOD BENCH & PLANTER

GFRC (GLASS FIBER REINFORCED) PLANTER BOX

BY TOURNESOL, INC.



LARGE FORMAT PAVERS

SMALL UNDERSTORY TREE NEAR EXISTING



TALK & TUMBER WITH NET BY KOMPAN, INC.