

### Item 11. 355 1st St LLC:

#### **Question:** Traffic Study:

- Has the cumulative number of developments been calculated in this traffic safety?
- Is the information from this study pre-COVID data?

#### **Answer:**

No, the cumulative number of developments were not incorporated into the traffic study. This study includes only an existing + project scenario. This was determined based on the small number of trips that would be generated. In the summer of 2021, the Citywide LOS model was implemented to include “Near-Term Cumulative” traffic counts from both approved and pending projects with traffic estimates from projects in Los Altos, Mountain View, Cupertino, Palo Alto, Sunnyvale, and Los Altos Hills. [Hexagon reached out to other cities for their data and added their developments to the model in the spring of 2022. So, the model with near-term cumulative traffic actually took effect in spring of 2022.](#) The proposed scope of work for the traffic analysis was completed in February 2021 prior to the implementation of the updated Citywide LOS model with “near term cumulative” traffic counts, and the traffic analysis was initiated on April 9, 2021.

Yes, pre-Covid counts were factored to 2021 by 1% per year. Intersections with no counts were counted in 2021 and then adjusted to pre-Covid levels using a control intersection and factors. The AM and PM factors were around 40%, i.e., the 2021 counts were increased by around 40%.

**Question:** In the Resolution the 7th Whereas states that the code allows for 45 feet and that the applicant is requesting 56 feet. Doesn't our code allow for 35 feet and not 45 feet? Please explain.

#### **Answer:**

According to 14.52.100 (Height of Structure, the maximum permitted height is 35 feet, not 45 feet. The 7<sup>th</sup> Whereas has a typographical error, and it should state the following:

WHEREAS, the Applicant is seeking one incentives under Government Code Section 65915(e) and Los Altos Municipal Code Section 14.28.040 to allow: the building to have a primary height of 46 feet, where the Code allows for 35 feet; and 4

**Question:** In accordance to the California Density Bonus Law, does the developer need to provide BMRs that are 2 and 3 bedroom units. Or is he allowed to only provide smaller units of his choice?

#### **Answer:**

**Question:** Is it possible to have a larger setback on the 4th floor?

#### **Answer:**

The CC can condition the project on reasonable design changes, but it cannot reduce the height or impose additional setbacks. Furthermore, the CC condition cannot deny the project or reduce the density.

**Question:** Is the material board available for viewing at City Hall?

**Answer:**

Yes, the material board is available at City Hall.

**Question:** What type of material is the window frames made of?

**Answer:**

The windows are metal clad windows, Anderson 100 or equal.

**Question:** It is unclear by the diagram if the planters have been replaced by continuous walls. Please clarify.

**Answer:**

No, the planters have remained the same in design as they have been in the previous submittals with a combination of low and high planters.

**Question:** What is the current percentage of green space?

**Answer:**

The area in the setback is 2002 SF total and 1382 SF of that is planter which totals 69%

**Question:** Are there any breaks on the rooftop wall? The rendering on page 7 does not appear to demonstrate that there is a continuous protective enclosure.

**Answer:**

There is a continuous wall around the roof deck made up of planters and parapet walls.

**Question:** item 11. “questions” not “question” : “Council Members Lee Eng, Fligor and Mayor Enander asked clarifying question to Mr. Zola.”

**Answer:**

**Question:** The applicant originally proposed 6 below-market-rate, and feedback resulted in increasing that to 7. Unfortunately, the staff report is inconsistent and confusing with respect to the number of affordable units, probably as a result of the change. The Summary says there are 7 below market rate, but the text then says 3 at moderate and 3 at very-low income. Elsewhere (p. 10) it states the required 15% of base density of 39 units, with at least half at moderate, results in a requirement for 4 moderate units. P. 11 then says the project has “... proposed 44 market rate...” whereas the table clearly shows 50 units (a difference of 6 units, where there is confusion as above as to whether there are 6 or 7 below market rate units). For the record, the staff report should be corrected.

**Answer:**

Staff acknowledges a typographical error in bullet 3 on page 2 of the staff report. It shall state the following:

- The Project proposes seven (7) dedicated below market rate units with four (4) at the moderate-income level and three (3) at the very low-income level. Since the project is providing 8% of the units at the very low-income level, it qualifies for one (1) density bonus concession / incentive.

Staff did not find any further typographic errors in the report related to the number of affordable units or the number of moderate-income or very-low-income units. As it reads in the staff report and resolution, there are a total of seven (7) affordable units proposed for the project, with four (4) moderate income and three (3) very low income.

In regards to page 10 of the report, the paragraph is correct.

In regards to page 11 of the report, the paragraph has a typographical error by not reducing the number of market rate units from 44 to 43 units due to the increase in affordable units to 7 units. The sum of units for the development is 43 market-rate units and 7 affordable units. The corrected paragraph shall state the following:

Housing Element program 4.3.2 requires that affordable housing units generally reflect the size and number of bedrooms of the market rate units, Chapter 14.28.030.C requires that affordable units be dispersed throughout the project, and shall not be significantly distinguishable by size, design, construction or materials. In this case, the overall project is proposing four three-bedroom units. The project includes one one-bedroom and two two-bedroom units at the moderate-income level and one studio unit and two one-bedroom units at the very-low-income level. The project proposes 43 market rate units, with one studio unit, four one-bedroom units, 27 two-bedroom units, and 11 three-bedroom units. Due to the percentage of overall affordable units proposed, it appears that the proposed unit type of affordable housing units meets the intent of the program in regard to size, construction and material. However, the applicant has not equitably distributed affordable units by placing two units (29 percent of affordable units) immediately adjacent to the trash room, while market-rate units are not placed at similar locations. Therefore, the applicant has not met the intent of the program.

**Question:** p. 12 of staff report has a typo: in the first paragraph re: Concessions, which says the maximum height under code is 45 feet. This is incorrect; the maximum height for this zone is 35 feet, not 45 feet. Therefore, if the applicant is seeking height (excluding the elevator) to 56 feet, they are seeking an OFF menu height increase of 22 feet. It is unfortunate that the actual height exceptions sought, which are one incentive/concession and one waiver, are not described together to make better sense of this.

**Answer:**

Yes, there is a typographical error on page 12. According to 14.52.100 (Height of Structure, the maximum permitted height is 35 feet, not 45 feet.

**Question:** Resolution

-- Third "Whereas" should indicate Planning Commission recommended approval **with additional conditions**.

**Answer:**

**Question:** Resolution

-- Seventh "Whereas" is incorrect: the maximum height in this zone is 35 feet (14.52.100). Therefore, the requested incentive is NOT on menu and is NOT 11 feet. It is, apparently 22 feet. However, it seems there are two requests for height (one of 11 feet as on menu and a separate waiver for additional height dealing with the elevator). See the Resolution, page 6 of 24, paragraph 5 b. which CORRECTLY shows the incentive sought would be 11 feet (to 46 feet). This confusion should be remedied.

**Answer:**

According to 14.52.100 (Height of Structure, the maximum permitted height is 35 feet, not 45 feet. The 7<sup>th</sup> Whereas has a typographical error, and it should state the following:

WHEREAS, the Applicant is seeking one incentives under Government Code Section 65915(e) and Los Altos Municipal Code Section 14.28.040 to allow: the building to have a primary height of 46 feet, where the Code allows for 35 feet; and 4

**Question:** Resolution

-- Eighth "Whereas" is incorrect: 35% of 39 base units would be 13.65 (round to 14).  $39 + 14 = 53$ , but the project is for 50 units. However, the table in our muni code indicates the percentage density bonus for 8% very low income is 27.5%. Please clarify. In the event that the muni code is incorrect and if the right percentage is 35%, then the applicant may be eligible for 53 units, although applicant is choosing to ask for less than the 35% density bonus. If applicant is eligible for 35% but is actually asking for 28.21% density bonus, the resolution should be amended to reflect that.

**Answer:**

**Question:** Resolution

Page 22 of 24 of the Resolution references "5150 El Camino Real" instead of the correct project address.

**Answer:**

**Question:** Resolution

It seems the resolution needs to be re-paginated. Right now we end up with page "37 of 24" at the end. This is apparently the result of adding the mitigation plan without re-paginating.

**Answer:**

**Question:** Resolution

Table (attachment 4) – item 36 – is there a materials board available at City Hall? How can we arrange to see it?

**Answer:**

Yes, the material board is available at City Hall.

**Question:** Finding 3.b reads: “*The proposal has architectural integrity and an appropriate relationship with other structures in the immediate area in terms of height, bulk and design; Building mass is articulated to relate to the human scale, both horizontally and vertically.*” Are these standards objective, or subjective? How should we determine whether the proposed building has “an appropriate relationship,” or “mass is articulated to relate to the human scale?”

**Answer:**

The finding are from Section 14.78.060 of the Zoning Ordinance, the finding is subjective. The final set of plans were accepted prior to Ordinance 2021-478 (Design Controls that effectively adopted objective design standards) went into effect and therefore it is not subject to multi-family objective standards. The CC can condition the design of the project in a manner that does not deny the project or reduce the density. The CC also cannot require amenities to be eliminated to deny waiver requests.

**Question:** The staff report page 1 (pg 135 of the PDF) seems to be incorrect when it says that the city’s special revenue funds will get:

- o "Park in-Lieu Fees: **\$195,200** (\$48,800/multiple-family dwelling unit)", but calculating based on 50 units should result in \$2.44M.
- o Similarly, "Traffic Impact Fees: **\$16,636** (\$4,159/multiple-family dwelling unit)", for 50 units should yield \$207,950.

**Answer:**

The park in-liu fee for the development would be the following:

$$50 \times \$48,800 = \underline{\underline{\$2,440,000}}$$

The traffic impact fee would be the following:

$$50 \times \$4,159 = \underline{\underline{\$207,950}}$$

**Question:** On page 2, the report states "The Project proposes seven (7) dedicated below market rate units **with three (3) at the moderate-income level** and three (3) at the very low-income level." This totals six BMR units, and it’s supposed to be four units at the moderate income level for seven units total.

**Answer:**

Staff acknowledges a typographical error in bullet 3 on page 2 of the staff report. It shall state the following:

- The Project proposes seven (7) dedicated below market rate units with four (4) at the moderate-income level and three (3) at the very low-income level. Since the project is providing 8% of the units at the very low-income level, it qualifies for one (1) density bonus concession / incentive.

As it reads in the staff report and resolution, there are a total of seven (7) affordable units proposed for the project, with four (4) moderate income and three (3) very low income.

**Question:** Although more explicitly explained in Attachment 4, items 1-33 on Page 3-5 of the staff report list a number of discussion topics but most were not "... direction to explore the following" by the majority of Council and in some cases the items were not direction by even a single Council member. This is a list of Council discussion items which are covered in depth in Attachment 4.

- o For example, #1 says that Council "Recommends the creation of a subcommittee of the Planning Commission to work through the Commission's recommendation. After subcommittee work is done, it will be returned to Council." Although Council discussed this, our ultimate decision was to recommend that applicant work with staff per the City Attorney's recommendation.

**Answer:**

Although Council discussed this, our ultimate decision was to recommend that applicant work with staff per the City Attorney's recommendation. The majority of Council did not agree on specific direction on the application for the multiple-family development. In order to guide staff, we reviewed the City Council video and listed all comments from the Council members. Staff working with the City Attorney's Office and the applicant provided responses to each of the items listed in Attachment 4.

**Question:** On page 10 of the staff report, it has a different interpretation of how many BMRs are required (the report says that 5.85, rounded up to six, are required). In February we said that seven were required because a majority of units provided need to be moderate BMR units but the applicant only wanted to provide six BMRs. The report should be consistent about how it describes the number of BMR that must be provided, especially since the applicants' plans still seem to indicate six BMRs, at least on the top of page T3 (pg 581 of the packet).

**Answer:**

The Project proposes seven (7) dedicated below market rate units with four (4) at the moderate-income level and three (3) at the very low-income level.

At the February 8, 2022 City Council meeting, a majority of the City Council did not request increasing the number of units to seven. During Council discussion, Council Member Fligor supported increasing the number of below market rate units. In reviewing the video for February

8, 2022, we did not find that other councilmembers supported Councilmember Fligor's comment. In the final motion, there was no direction to increase the number of affordable units.

The affordable housing ordinance mandates that projects with ten (10) or more units shall provide fifteen (15) percent of the total units as designated affordable housing units. Section 14.28.020.B requires a majority of the affordable housing units shall be designated as affordable at the moderate-income level.

As it reads in the staff report, the required number of affordable units is 15 percent of the base density. The project has a base density of 39 units, and 15 percent of the base density equals 5.85 units. According to Section 14.28.030 of the Zoning Ordinance, the calculations for the required affordable housing resulting in fractional units shall be rounded up to the next whole number. Therefore, the required number of affordable units is 6 (rounded from 5.85).

Based on the number of required six (6) affordable units, the applicant is only required to provide four moderate income units and two very-low-income units, or a total of six affordable units. However, the applicant has requested to exceed the number of required affordable units by providing seven affordable units, with four (4) units at moderate-income and three (3) very-low income. Consistent with the affordable housing ordinance, the applicant is providing a majority of units as moderate income.

If the City council wishes to require the applicant to increase the number of affordable units, the CC cannot impose a requirement on this project in excess of its generally applicable inclusionary requirements.

**Question:** I believe that this is an SB330 application, what meeting number out of five allowed is this meeting, the 3rd or the 4th?

**Answer:**

The June 28, 2022 Council meeting will be the third meeting.