FOR IMMEDIATE RELEASE

LOS ALTOS CITY COUNCIL APPEAL COURT RULING ON 40 MAIN STREET CASE

Los Altos, Calif. – July 8, 2020 – The Los Altos City Council voted unanimously to appeal the trial court's judgment regarding the consolidated petitions in 40 Main Street LLC v. City of Los Altos (Santa Clara County Superior Court Case Nos. 19CV349845 and 19CV350422.) The City Council maintains that the proposed project approved by the Court in this case does not comply with local zoning requirements. The City Council further maintains that these zoning requirements remain enforceable notwithstanding recent changes to State law under Government Code Section 65913.4 (SB 35).

While the City Council recognizes and is supportive of state-wide efforts to increase the supply of housing, this oversized, 5-story, mixed-use project with 15 residential units does not comply with downtown zoning requirements. It also is particularly inappropriate due to its narrow lot, and raises significant public safety concerns because all ingress and egress to its proposed two-level underground parking garage is provided by a single elevator lift.

The City Council recognizes the inherent risks of continued litigation. However, challenging this decision is the only prudent option to preserve and enforce the City's zoning ordinances on behalf of our residents. The City is open to working with the developer on an alternative project that is better suited for the site and preferable to both the developer and the community.

The City Council remains committed to increasing the diverse supply of housing in Los Altos while ensuring that all projects comply with the City's local zoning and safety requirements and with State law.

Background:
The subject project is a 29,566 square foot, five-story mixed use building with two levels of underground parking. The project includes 15 for rent apartment units, two of which will be affordable to low income. Access to the two levels of underground parking is provided by a lift system that accommodates a single vehicle and is accessed from public parking plaza 10. The project site is an interior lot of 6,950 square feet with a one-story office building containing 2,127 square feet of floor area. The site is bordered by Main Street at the east, commercial buildings to the north and south, and a parking plaza with its travel aisle network to the west. The site is within the City's public parking plaza system in the Downtown.

On November 8, 2018, the applicant submitted an application for streamlined ministerial review of the proposed project under the provisions of SB 35. Planning staff determined that the project was not eligible for streamlined ministerial approval pursuant to SB 35 and issued letters to the applicants and their attorneys informing them of such. In addition, the developer had a long-standing application for a discretionary project that it had not withdrawn. The developer appealed Staff's decision to the City Council, which considered the appeal on April 9, 2019. On April 23, 2019, the City Council denied the developer's appeal by adopting City Council Resolution No. 2019-13, affirming Staff's determination that the proposed project is not entitled to a ministerial streamlined permit under SB 35.

Following the City's denial of the developer's appeal, the developer, together with the California Renters Legal Advocacy & Education Fund, filed petitions for writ of mandate in the Santa Clara County Superior Court seeking to set aside the City's denial of the project. On April 24, 2020, the Santa Clara County Superior Court granted both petitions, finding that the project is entitled to ministerial approval under SB 35. On May 13, 2020, the trial court issued its judgment and writ of mandate, ordering the City to set aside its denial of the project application and to issue a ministerial permit for the project. The City's appeal, however, stays the enforcement of the judgment and writ of mandate.

#####