

RESOLUTION NO. 2020-37

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
APPROVING A REQUEST FOR AN AFFORDABLE HOUSING
DEVELOPMENT INCENTIVE FOR A DEVELOPMENT PROJECT
MODIFICATION (MOD20-0005) AT 425 FIRST STREET**

WHEREAS, on April 15, 2019 the Los Altos City Council approved a twenty (20) unit residential project (“Project”) at 425 First Street; and

WHEREAS, the Developer offered three units as affordable ownership housing units. Two units restricted at the moderate-income household level and one unit restricted to a low-income household as published by the State of California Housing and Community Development Department (State HCD) for households in Santa Clara County; and

WHEREAS, the Developer’s proposed unit mix would consist of 15 percent of its total units as affordable units, with 10 percent of the units affordable at the moderate income level, thereby entitling the project to qualify for one incentive, and additional concessions and waivers pursuant to Los Altos Municipal Code Section 14.28.040 and Government Code Section 65915, et seq.; and

WHEREAS, the Developer did not pursue any incentives or waivers under Government Code Section 65915(e) and Los Altos Municipal Code Sections 14.28.040(F) for the Project; and

WHEREAS, on July 16, 2020 the Developer submitted a revised design plan for the Project to modify the underground parking garage design from a two-level underground parking garage to one-level with a mechanical parking lift system; and

WHEREAS, the proposed mechanical parking lift system does not comply with the vertical and horizontal clearances specified under Section 14.74.200.A.4 of the Los Altos Municipal Code; and

WHEREAS, the Developer has provided written justification that the proposed revised design will reduce the construction costs of the underground parking; and

WHEREAS, the City Council determined the Project was exempt from environmental review as in-fill development in accordance with Section 15332 of the California Environmental Quality Act of 1970 as amended (“CEQA”). The modification of the project is exempt from CEQA pursuant to Section 15061(b)(3) as it can be stated with certainty that accepting a reduced volume of underground garage space and installing a mechanical parking lift system will not have a significant effect on the environment; and

WHEREAS, said Project has been processed in accordance with the applicable provisions of the California Government Code and the Los Altos Municipal Code; 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 none of the findings specified in Government Code Section 65915 (d) or Los Altos Municipal Code Sections 14.28.040(F) apply; and

WHEREAS, on October 13, 2020, the City Council held a duly noticed public meeting as prescribed by law and considered public testimony and evidence and recommendations presented by staff related to the Project; 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 approves the Design Approval Modification of the Project subject to the findings and the conditions of approval attached hereto as “Exhibit A” and “Exhibit B,” and incorporated by this reference.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 13th day of October, 2020 by the following vote:

AYES: Council Members Bruins, Enander, Lee Eng, Vice Mayor Fligor and Mayor Pepper
NOES: None
ABSENT: None
ABSTAIN: None

Janis C. Pepper, MAYOR

Attest:

Andrea Chelemengos, MMC, CITY CLERK

EXHIBIT A

FINDINGS

AFFORDABLE HOUSING AND DENSITY BONUS FINDINGS. With regard to the offered affordable housing units, the City Council finds, in accordance with Los Altos Municipal Code Section 14.28.040, as follows:

- a. The applicant is offering two moderate income units and one low income unit for sale, which qualifies the project for an incentive, additional waivers and a parking requirement alteration;
- a. Per Table DB 6 in Los Altos Municipal Code Section 14.28.040(C)(1)(d), a project that includes ten percent or more of its total units as moderate income restricted affordable units shall be granted one (1) incentive. Since the project is including ten (10) percent of its total units as affordable at the moderate-income level, the City shall grant one (1) incentive unless specified findings for denial are made;
- b. For its one (1) incentive, the Applicant is requesting the City allow the use of a mechanical parking lift system, where the Zoning Code requires a vertical clearance of a least seven feet over the entire parking area as well as horizontal clearance. This incentive is considered an “off-menu” incentive per Section 14.28.040(F) Incentive Standards. The City Council has determined that the incentive does not satisfy any of the following denial findings:
 - i. 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
 - ii. The concession or incentive would have a specific, adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.; or
 - iii. The concession or incentive would be contrary to state or federal law.

EXHIBIT B

CONDITIONS

GENERAL

1. **Prior Approval and Conditions**

All of the Project's Conditions subject to Council Resolution 2019-28 incorporated by this reference are still in effect except as modified by these conditions.

2. **Approved Plans**

The Design Modification is based solely upon the plans submitted on July 16, 2020.

3. **Back-Up Power Supply**

If required or proposed, a back-up power supply for the approved project shall be provided by a battery system that shall only be charged or energized by the electric feed from the domestic electric utility company providing electrical service to the project site, subject to the battery system's compliance with all other applicable codes and regulations that apply.

4. **Diesel Generator Prohibition**

Diesel powered electric generators are prohibited for any purpose in this project.

5. **Indemnity and Hold Harmless**

The applicant/owner agrees to indemnify, defend, protect, and hold the City harmless from all costs and expenses, including attorney's fees, incurred by the City or held to be the liability of the City in connection with the City's defense of its actions in any proceedings brought in any State or Federal Court, challenging any of the City's action with respect to the applicant's project.