

**RESOLUTION NO. 2019-17**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS MAKING FINDINGS, ADOPTING AN EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING THE DESIGN REVIEW, AND SUBDIVISION APPLICATIONS FOR A NEW MIXED-USE PROJECT WITH 10 RESIDENTIAL UNITS AND 2,100 SQUARE FEET OF OFFICE SPACE AT 385, 387 AND 389 FIRST STREET**

**WHEREAS**, the City of Los Altos received a development application from Steve Johnson (Applicant), on April 25, 2017 for a new mixed-use building with 10 residential units and 2,100 square feet of office space at 385, 387, and 389 First Street that includes Design Review 17-D-02 and Subdivision 18-SID-02, referred to herein as the “Project”; and

**WHEREAS**, said Project is located in the CD/R3 District, which allows for office-administrative services and housing as permitted uses, and does not specify a maximum allowable residential density; and

**WHEREAS**, the Applicant is offering one moderate income affordable housing unit for sale as part of the Project; and

**WHEREAS**, the Applicant’s proposed unit mix would consist of 10 percent of its total units as affordable units (one unit), with that unit 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 Applicant is seeking one incentive under Government Code Section 65915(e) and Los Altos Municipal Code Section 14.28.040(F) to allow for a building height of 38 feet where the Code allows for a maximum of 30 feet; and

**WHEREAS**, the Applicant is seeking one waiver under Government Code Section 65915(e) and Los Altos Municipal Code Section 14.28.040(H) to allow the installation of the mechanical parking lift which encroaches into the minimum parking space clearance area required by Code; and

**WHEREAS**, the Applicant is seeking a parking requirement alteration under Government Code Section 65915(e) and Los Altos Municipal Code Section 14.28.040(G) to allow for a reduction in the minimum onsite parking requirement; and

**WHEREAS**, said Project was deemed complete on October 17, 2018, which vested the applicable Code requirements in place at that time, specifically, the affordable housing requirements contained in Chapter 14.28, and the subsequent amendments to Chapter 14.28, per Ordinance No. 2018-449, that went into effect on October 26, 2018 that increased the City’s affordable housing requirement to 15 percent of the base density are not applicable to the Project; and

**WHEREAS**, said Project is exempt from environmental review as in-fill development in accordance with Section 15332 of the California Environmental Quality Act of 1970 as amended (“CEQA”); 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**, on November 2, 2017, the Planning Commission held a preliminary project review study session on the Project where it received public testimony and provided the Applicant with architectural and site design feedback; and

**WHEREAS**, on August 22, 2018, the Complete Streets Commission held a public meeting on the Project and at the conclusion of the meeting voted to recommend approval to the Planning Commission and City Council; and

**WHEREAS**, on March 11, 2019, the Applicant installed story poles on the site per the modified story pole plan that was approved by the City Council on February 26, 2019; and

**WHEREAS**, on March 20, 2019, the City gave public notice of the Planning Commission's public hearing on the proposed Project by advertisement in a newspaper of general circulation and to all property owners within a 500-foot radius; and

**WHEREAS**, on April 4, 2019 and on May 2, 2019, the Planning Commission conducted a duly-noticed public hearing at which members of the public were afforded an opportunity to comment upon the Project, and at the conclusion of the hearing, the Planning Commission recommended that the City Council approve the Project; and

**WHEREAS**, on June 11, 2019 and July 9, 2019, the City Council held duly noticed public meetings as prescribed by law and considered public testimony and evidence and recommendations presented by staff related to the Project; and

**WHEREAS**, all the requirements of the Public Resources Code, the State CEQA Guidelines, and the regulations and policies of the City of Los Altos have been satisfied or complied with by the City in connection with the Project; and

**WHEREAS**, the findings and conclusions made by the City Council in this Resolution are based upon the oral and written evidence presented as well as the entirety of the administrative record for the proposed Project, which is incorporated herein by this reference. The findings are not based solely on the information provided in this Resolution; and

**WHEREAS**, all other legal prerequisites to the adoption of this Resolution have occurred.

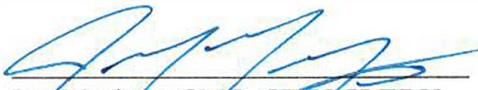
**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of Los Altos hereby approves the Project subject to the findings and the conditions attached hereto as "Exhibit A" and "Exhibit B," and incorporated by this reference.

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 9<sup>th</sup> day of July 2019 by the following vote:

AYES: BRUINS, ENANDER, LEE ENG, PEPPER  
NOES: NONE  
ABSENT: FLIGOR  
ABSTAIN: NONE

  
LYNETTE LEE ENG, MAYOR

Attest:

  
Jon Maginot, CMC, CITY CLERK

## EXHIBIT A

### FINDINGS

1. ENVIRONMENTAL REVIEW FINDINGS. With regard to environmental review, in accordance with Section 15332 of the California Environmental Quality Act Guidelines, based on the whole record before it, including, without limitation, the analysis and conclusions set forth in the staff reports, testimony provided at the proposed Project's public hearings, and the supporting technical studies, which include: 1) a Traffic Analysis by Kimley Horn Consultants (August 2018); and 2) an Environmental Noise Assessment by Illingworth & Rodkin, Inc (November 2017), the City Council finds and determines that the following Categorical Exemption findings can be made:
  - a. The Project is consistent with the applicable General Plan designation and all applicable General Plan policies as well as with the applicable zoning designation (Commercial Downtown/Multiple-Family);
  - b. The Project occurs within City limits on a site of no more than five acres that is substantially surrounded by urban uses and there is no record that the site has value as habitat for endangered, rare or threatened species;
  - c. Approval of the Project will not result in any significant effects relating to traffic, noise, air quality, or water quality and the completed technical studies and staff analysis contained in the agenda report support this conclusion; and
  - d. The Project has been reviewed and it is found that the site can be adequately served by all required utilities and public services.
2. DESIGN REVIEW FINDINGS. With regard to Design Review Application 17-D-02, the City Council finds, in accordance with Section 14.76.060 of the Los Altos Municipal Code, as follows:
  - a. The Project meets the goals, policies and objectives of the General Plan with its level of intensity and residential density within the First Street corridor in Downtown Los Altos, and all Zoning Code site standards and design criteria applicable for a project in the CD/R3 District;
  - b. The Project has architectural integrity and has an appropriate relationship with other structures in the immediate area in terms of height, bulk and design because the project utilizes high quality materials that support its architectural style and is appropriately articulated and scaled to relate to the size and scale of the surrounding buildings on the First Street corridor;
  - c. Building mass is articulated to relate to the human scale, both horizontally and vertically as evidenced in the design of the raised planter boxes, projecting overhangs and balconies, the building elevations have variation and depth and avoid large blank wall surfaces, and the project has incorporated elements that signal habitation, such as identifiable entrances, overhangs, high quality wood trim finishes and natural stone tile and usable balconies;
  - d. The Project's exterior materials and finishes convey high quality, integrity, permanence and durability, and materials are used effectively to define building elements. Materials, finishes,

and colors have been used in a manner that serves to reduce the perceived appearance of height, bulk and mass, and are harmonious with other structures in the immediate area;

- e. Landscaping, such as the Chinese Pistache, Japanese Maple and planter boxes are generous and inviting, and the landscape and hardscape features such as the decorative pavers, natural stone tile planters and facade, and cedar wood siding are designed to complement the building and to be integrated with the building architecture and the surrounding streetscape. Landscaping includes substantial street tree canopy including in the public right-of-way or within the project frontage;
  - f. Signage, which is limited to the building address number, commercial tenant identification, and other required directional signage, will be designed to complement the building architecture in terms of style, materials, colors and proportions;
  - g. Mechanical equipment is screened from public view by the roof parapet and is designed to be consistent with the building architecture in form, material and detailing; and
  - h. Service, trash and utility areas are screened from public view by their locations within the building and consistent with the building architecture in materials and detailing.
3. SUBDIVISION FINDINGS. With regard to Subdivision 17-SD-02, the City Council finds, in accordance with Section 66474 of the Subdivision Map Act of the State of California, as follows:
- a. The tentative map and the Project's design and improvements are consistent with the General Plan;
  - b. The Project site is physically suitable for this type and density of development in that the project meets all applicable Zoning requirements;
  - c. The design of the condominium subdivision and the proposed improvements are not likely to cause substantial environmental damage, or substantially injure fish or wildlife; and no evidence of such has been presented;
  - d. The design of the condominium subdivision is not likely to cause any serious public health problems because conditions have been added to address noise, air quality and life safety concerns; and
  - e. The design of the condominium subdivision will not conflict with any public access easements as none have been found or identified on this site.
4. AFFORDABLE HOUSING AND DENSITY BONUS FINDINGS. With regard to the offered below market rate units and requested parking requirement alteration, the City Council finds, in accordance with Los Altos Municipal Code Section 14.28.040, as follows:
- a. The Applicant is offering one moderate income unit for sale, which qualifies the project for incentives, waivers and a parking requirement alteration;

- b. Per Table DB 6 in 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 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’;
- c. For its incentive, the Applicant is requesting the City allow a building with a roof deck height of 37.5 feet, where the Code has a 30-foot height limitation. The height incentive, which is seeking an increase of less than 11 feet above the height limit, is considered an “on-menu” incentive per Section 14.28.040(F) Incentive Standards and, therefore, the City has determined that the incentive would not have a specific adverse impact upon public health and safety or the physical environment or upon a listed historical resource. Evidence has not been presented which supports other findings for denial of the requested incentive;
- d. Per Section 14.28.040(G)(2)(a), the City shall allow a minimum parking requirement, inclusive of handicapped and guest parking, of two (2) onsite parking spaces for each two- to three-bedroom unit if requested by the Applicant. The project includes 10 two- and three-bedroom units and 2,100 square feet of office space and is providing 29 onsite parking spaces, where a minimum of 27 onsite parking spaces is required by Code when applying the parking requirement alteration; and
- e. Per Section 14.28.040(H)(1), a project can request a waiver or reduction of development standards that have the effect of physically precluding the construction of a development in addition to the development incentive permitted by the Code. Consistent with these requirements, the Applicant requested one waiver to allow the installation of a mechanical parking lift system as an alternative means for parking, where the Code requires parking spaces to provide horizontal and vertical clearance within the minimum parking space area. The Council determined the waiver is supported by the fact that the implementation of the standards physically precludes the construction of the development and the facilities are required in order to provide the necessary parking for the building. Evidence has not been presented that the waivers will have a specific, adverse impact upon health, safety, or the physical environment, or an adverse impact on any listed historic resource or will be contrary to state or federal law.

## **EXHIBIT B**

### **CONDITIONS**

#### **GENERAL**

##### **1. Approved Plans**

The project approval is based upon the plans dated November 9, 2018 and as modified in the abbreviated plans dated July 3, 2019 and the support materials and technical reports, except as modified by these conditions and as specified below.

- a. The improvements along First Street including but not limited to planters and benches at the front of the building shall provide for a minimum one-foot setback to the back of the public sidewalk for the entire frontage to accommodate the pedestrian access easement.
- b. The Applicant shall provide window and fenestration details on the final building plans for review and approval. The windows and doors shall be high quality aluminum clad that is similar to what is conveyed on the approved plans. The windows shall have a minimum inset of three inches. Opaque, reflective, or dark tinted glass should not be used on the ground floor elevation. Sixty (60) percent of the ground floor elevation shall be installed and maintained as transparent window surfaces.
- c. The stone tile applied to the exterior on the first story should be resolved at the corners.
- d. The final shoring and excavation plan shall be reviewed and approved by the Public Works Director or their designee.
- e. The height of the elevator and stair tower shall be no more than 12 feet above the roof deck height (Section 14.66.240(F) of the Municipal Code) so long as it is compliant with the Americans with Disabilities Act (ADA). If access to the roof deck cannot be made compliant with the ADA, the applicant shall revise the plans to eliminate the roof deck and those revised plans shall be the approved plans.
- f. The Applicant shall work with staff to revise the plans to stagger the tower, implement glass wall for rooftop deck and to develop side elevations with expansion joints or possibly a paint treatment to diminish the overall massing of the right elevation.

##### **2. Commercial Space Limitation**

The 2,100 square feet of commercial space on the ground floor shall be used only for administrative office uses.

##### **3. Affordable Housing**

The Applicant shall offer the City one (1) two-bedroom unit at the moderate income level for sale. The unit shall be designated as any unit except for the first floor unit.

##### **4. Upper Story Lighting**

Any exterior lighting above the ground floor on the sides and rear of the building and on the rooftop deck shall be shrouded and/or directed down to minimize glare.

##### **5. Encroachment Permit**

An encroachment permit and/or an excavation permit shall be obtained prior to any work done within the public right-of-way and it shall be in accordance with plans to be approved by the City Engineer.

**6. Public Utilities**

The Applicant shall contact electric, gas, communication and water utility companies regarding the installation of new utility services to the site.

**7. Americans with Disabilities Act**

All improvements shall comply with Americans with Disabilities Act (ADA).

**8. Stormwater Management Plan**

The Applicant shall submit a complete Stormwater Management Plan (SWMP) and a hydrology calculation showing that 100% of the site is being treated; is in compliance with the Municipal Regional Stormwater NPDES Permit (MRP) NPDES Permit No. CAS612008, Order R2-2015-0049 dated November 15, 2015. Applicant shall provide a hydrology and hydraulic study, and an infeasible/feasible comparison analysis to the City for review and approval for the purpose to verify that MRP requirements are met.

**9. Sewer Lateral**

Any proposed sewer lateral connection shall be approved by the City Engineer.

**10. Transportation Permit**

A Transportation Permit, per the requirements specified in California Vehicle Code Division 15, is required before any large equipment, materials or soil is transported or hauled to or from the construction site.

**11. 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.

**PRIOR TO SUBMITTAL OF BUILDING PERMIT**

**12. Green Building Standards**

The Applicant shall provide verification that the project will comply with the City's Green Building Standards (Section 12.26 of the Municipal Code) from a qualified green building professional.

**13. Property Address**

The Applicant shall provide an address signage plan as required by the Building Official.

**14. Water Efficient Landscape Plan**

Provide a landscape documentation package prepared by a licensed landscape professional showing how the project complies with the City's Water Efficient Landscape Regulations.

**15. Climate Action Plan Checklist**

The Applicant shall implement and incorporate the best management practices (BMPs) into the plans as specified in the Climate Action Compliance Memo prepared by Illingsworth & Rodin, Inc., dated September 21, 2018. The Applicant shall obtain third-party HVAC commissioning per Section 2.2 since the project includes non-residential construction.

**16. Pollution Prevention**

The improvement plans shall include the “Blueprint for a Clean Bay” plan sheet in all plan submittals.

**17. Storm Water Management Plan**

The Applicant shall submit the Storm Water Management Plan (SWMP) in compliance with the MRP. The SWMP shall be reviewed and approved by a City approved third party consultant at the Applicant’s expense. The recommendations from the Storm Water Management Plan (SWMP) shall be shown on the building plans.

**18. Noise Mitigation**

The Applicant shall implement and incorporate the noise mitigation measures into the plans as required by the report by Illingsworth & Rodin, Inc., dated November 30, 2017.

**PRIOR TO FINAL MAP RECORDATION**

**19. Covenants, Conditions and Restrictions**

The Applicant shall include the following provisions in the Covenants, Conditions and Restrictions (CC&Rs):

- a. Long-term maintenance and upkeep of the landscaping and street trees, as approved by the City, shall be a duty and responsibility of the property owners.
- b. The 2,100 square feet of commercial space shall be used only for administrative office uses.
- c. The three surface parking spaces accessed via the public alley shall be considered unrestricted guest parking and the owners shall not put up any restrictive signage to limit the use of these spaces except permitted by state or federal law.
- d. The 22 parking spaces in the mechanical parking lift system shall be assigned and reserved for use by the owners or tenants and shall include provisions for long-term maintenance and upkeep of the mechanical parking lift system;

**20. Public Access Easement Dedication**

The Applicant shall dedicate public access easements as follows:

- a. An easement of two feet along the rear alley for use as a public right-of-way; and
- b. An easement of one-foot along the First Street frontage to allow for pedestrian access.

**21. Public Utility Dedication**

The Applicant shall dedicate public utility easements as required by the utility companies to serve the site.

**22. Payment of Fees**

The Applicant shall pay all applicable fees, including but not limited to sanitary sewer connection and impact fees, parkland dedication in lieu fees, traffic impact fees, affordable housing impact fee, public art impact fee and a map check fee plus deposit as required by the City of Los Altos Municipal Code.

**23. Performance Bond**

The Applicant shall submit a cost estimate for the improvements in the public right-of-way and shall submit a 100-percent performance bond and 50-percent labor and material bond (to be held 6 months until acceptance of improvements) for the public right-of-way work.

## **PRIOR TO ISSUANCE OF BUILDING PERMIT**

### **24. Final Map Recordation**

The Applicant shall record the final map. Plats and legal descriptions of the final map shall be submitted for review by the City Land Surveyor. Applicant shall provide a sufficient fee retainer to cover the cost of the map review by the City.

### **25. Sidewalk Lights**

The Applicant shall install new light fixture(s) along First Street as directed by the City Engineer.

### **26. Storm Water Filtration Systems**

The Applicant shall insure the design of all storm water filtration systems and devices are without standing water to avoid mosquito/insect infestation.

### **27. Grading and Drainage Plan**

The Applicant shall submit on-site grading and drainage plans that include (i.e. drain swale, drain inlets, rough pad elevations, building envelopes, drip lines of major trees, elevations at property lines, all trees and screening to be saved) for approval by City Engineer. No grading or building pads are allowed within two-thirds of the drip line of trees unless authorized by a certified arborist and the Planning Department.

### **28. Sewage Capacity Study**

The Applicant shall submit calculations showing that the City's existing 6" sewer line will not exceed two-thirds full due to the project's sewer loads. Calculations shall include the 6" main from the front of the property to the point where it connects to the 8" sewer line on San Antonio Rd. For any segment that is calculated to exceed two-thirds full for average daily flow or for any segment that the flow is surcharged in the main due to peak flow, the Applicant shall replace the 6" sewer line with an 8" sewer line.

### **29. Construction Management Plan**

The Applicant shall submit a construction management plan for review and approval by the Community Development Director and the City Engineer. The construction management plan shall address any construction activities affecting the public right-of-way, including but not limited to excavation, traffic control, truck routing, pedestrian protection, material storage, earth retention and construction vehicle parking. The plan shall provide specific details with regard to how construction vehicle parking will be managed to minimize impacts on nearby single-family neighborhoods. A Transportation Permit, per the requirements in California Vehicle Code Division 15, is required before any large equipment, materials or soil is transported or hauled to or from the site. Applicant shall pay the applicable fees before the transportation permit can be issued by the Traffic Engineer.

### **30. Sewer Lateral Abandonment**

The Applicant shall abandon additional sewer laterals and cap at the main if they are not being used. A property line sewer cleanout shall be installed within 5-feet of the property line within private property.

**31. Solid Waste Ordinance Compliance**

The Applicant shall be in compliance with the City's adopted Solid Waste Collection, Remove, Disposal, Processing & Recycling Ordinance (LAMC Chapter 6.12) which includes a mandatory requirement that all commercial and multi-family dwellings provide for recycling and organics collection programs.

**32. Solid Waste and Recyclables Disposal Plan**

The Applicant shall contact Mission Trail Waste Systems and submit a solid waste and recyclables disposal plan indicating the type, size and number of containers proposed, and the frequency of pick-up service subject to the approval of the Engineering Division. The Applicant shall also submit evidence that Mission Trail Waste Systems has reviewed and approved the size and location of the proposed trash enclosure. The enclosure shall be designed to prevent rainwater from mixing with the enclosure's contents and shall be drained into the City's sanitary sewer system. The enclosure's pad shall be designed to not drain outward, and the grade surrounding the enclosure designed to not drain into the enclosure. In addition, Applicant shall show on plans the proposed location of how the solid waste will be collected by the refusal company. Include the relevant garage clearance dimension and/or staging location with appropriate dimensioning on to plans.

**33. Affordable Housing Agreement**

The Applicant shall execute and record an Affordable Housing Agreement, in a form approved and signed by the Community Development Director and the City Attorney, that offers one below market rate unit, for a period of at least 55-years, as defined in Condition No. 2. The below market rate unit shall be constructed concurrently with the market rate units, shall be provided at the location on the approved plans, and shall not be significantly distinguishable with regards to design, construction or materials.

**PRIOR TO FINAL OCCUPANCY**

**34. Green Building Verification**

The Applicant shall submit verification that the structure was built in compliance with the California Green Building Standards pursuant to Section 12.26 of the Municipal Code.

**35. Signage and Lighting Installation**

The Applicant shall install all required signage and on-site lighting per the approved plan. Such signage shall include the disposition of guest parking, the turn-around/loading space in the front yard and accessible parking spaces.

**36. Acoustical Report**

The Applicant shall submit a report from an acoustical engineer ensuring that the rooftop mechanical equipment meets the City's noise regulations.

**37. Landscape Installation and Verification**

Provide a landscape Certificate of Completion, signed by the project's landscape professional and property owner, verifying that the trees, landscaping and irrigation were installed per the approved landscape documentation package.

**38. Condominium Map**

The Applicant shall record the condominium map as required by the City Engineer.

**39. Public Alleyway**

The Applicant shall improve the entire width of the alleyway along the rear of the project with the treatment approved by the City Engineer.

**40. Sidewalk in Public Right-of-Way**

The Applicant shall remove and replace entire sidewalk and curb and gutter along the frontage of First Street as directed by the City Engineer.

**41. Public Infrastructure Repairs**

The Applicant shall repair any damaged right-of-way infrastructures and otherwise displaced curb, gutter and/or sidewalks and City's storm drain inlet shall be removed and replaced as directed by the City Engineer or his designee. The Applicant is responsible to resurface (grind and overlay) half of the street along the frontage of First Street if determined to be damaged during construction, as directed by the City Engineer or his designee.

**42. Maintenance Bond**

A one-year, ten-percent maintenance bond shall be submitted upon acceptance of improvements in the public right-of-way.

**43. SWMP Certification**

The Applicant shall have a final inspection and certification done and submitted by the Engineer who designed the SWMP to ensure that the treatments were installed per design. The Applicant shall submit a maintenance agreement to City for review and approval for the stormwater treatment methods installed in accordance with the SWMP. Once approved, City shall record the agreement.

**44. Label Catch Basin Inlets**

The Applicant shall label all new or existing public and private catch basin inlets which are on or directly adjacent to the site with the "NO DUMPING - FLOWS TO ADOBE CREEK" logo as required by the City.

**45. Master Sign Program**

The Applicant shall submit and have an approved master sign program for the building that is in compliance with Section 14.68.130 of the Code.