

RESOLUTION NO. 2022-02

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 FOUR-UNIT MULTIPLE-FAMILY PROJECT AT 440 FIRST STREET

WHEREAS, the City of Los Altos received a development application from Abbie Bourgan, GreenTek Homes, (Applicant), for a new four-unit multiple-family residential building at 440 First Street that includes requests for Design Review (File Number D20-0004) and Subdivision (File Number TM20-0001), referred to herein as the “Project”; and

WHEREAS, said Project is located in the CD/R3 District, which allows multiple-family housing as a permitted use and does not specify a maximum allowable residential density; 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 July 18, 2019, the Planning Commission held a design review study session on the Project where it received public testimony and provided the Applicant with architectural and site design feedback; and

WHEREAS, on November 9, 2021, the Applicant installed story poles on the site consistent with the approved story pole design plan; and

WHEREAS, on November 18, 2021, 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 and business tenants within a 1,000-foot radius and a meeting notice was posted to the billboard sign; and

WHEREAS, on December 2, 2021 the Complete Streets Commission and the Planning Commission conducted a duly-noticed joint 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 Complete Streets Commission recommended Planning Commission and City Council approval of the project. The Planning Commission subsequently recommended City Council approve the Project; and

WHEREAS, on January 13, 2022, the City gave public notice of the City Council’s public hearing on the proposed Project by advertisement in a newspaper of general circulation and to all property owners and business tenants within a 1,000-foot radius and a meeting notice was posted to the billboard sign; and

WHEREAS, on January 25, 2022 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, 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 (Exhibit A) and the Conditions of Approval (Exhibit B) attached hereto 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 25th day of January 2022 by the following vote:

- AYES: Council Member Fligor, Weinberg, Vice Mayor Meadows and Mayor Enander
- NOES: Council Member Lee Eng
- ABSENT: None
- ABSTAIN: None


 Anita Enander, MAYOR

Attest:

 Andrea M. Chelemengos, MMC, 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 documents, which include: 1) a Traffic Analysis for 440 First Street by TJKM (December 22, 2020); 2) a Noise Study by Rincon Consultants, Inc (December 2020); 3) an Air Quality Study by Rincon Consultants, Inc. (December 2020); and 4) an Arborist Report by Mayne Tree Expert Company, Inc. (July 20, 2020), 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 and 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.
 - e. None of the exceptions to the applicability of the categorical exemption, as specified in section 15300.2, are present.
2. DESIGN REVIEW FINDINGS. With regard to Design Review Application D20-0004, 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 building entrances, projecting overhangs including the horizontal trellis feature and awning over the entrances and balconies on the upper stories, 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 and balconies, and high quality finishes;

- 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 including the proposed street tree, shrubs and groundcovers are generous and inviting, and landscape and hardscape features such as the water feature are designed to complement the building and to be integrated with the building architecture and the surrounding streetscape. Landscaping includes a limited street tree canopy in the public right-of-way and along the front and rear yard areas that addresses Fire Department ladder access requirements;
- f. Signage, which is limited to the building address number 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 a screen wall on the rooftop and is designed to be consistent with the building materials and detailing; and
- h. Service, trash and utility areas are screened from public view by their locations in the underground garage area and behind a water feature in the front yard.

SUBDIVISION FINDINGS. With regard to Subdivision TM20-0001, the City Council finds the following in accordance with Chapter 4, Article 1, Section 66474 of the Subdivision Map Act of the State of California:

- A. The proposed subdivision is not consistent with applicable general and specific plans as specified in 65451.

This Finding cannot be made. The proposed subdivision is consistent with the Los Altos General Plan, including the Land Use Element, which designates the parcel as Downtown Commercial and allows for higher density residential development. Specific applicable policies of the General Plan for creating one parcel to be further divided into four condominium units include Land Use Element Policies 2.2, 3.1 and 3.5, Housing Element Policy 4.3, and the Infrastructure and Waste Disposal Element Policies 1.3, 2.2 and 3.1. The subdivision is also consistent with the Downtown Special Planning Area within the Land Use Element. The subdivision is not within an area adopted as specific plan area.

- B. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

This Finding cannot be made. The proposed subdivision is consistent with the Los Altos General Plan, including the Land Use Element, which designates the parcel as Downtown Commercial and allows for higher density residential development. Specific applicable policies of the General Plan for creating one parcel to be further divided in four residential condominium units include Land Use Element Policies 2.2, 3.1 and 3.5, Housing Element Policy 4.3, and the Infrastructure and Waste Disposal Element Policies 1.3,

2.2 and 3.1. The subdivision is also consistent with the Downtown Special Planning Area within the Land Use Element. The subdivision is not within an area adopted as specific plan area.

C. That the site is not physically suitable for the type of development.

This Finding cannot be made. The site is physically suitable for this type of development because it is in conformance with the Downtown Commercial land use designations of the General Plan, and complies with all applicable CD/R3 Zoning District site development standards excluding those exceptions otherwise approved;

D. That the site is not physically suitable for the proposed density of development.

This Finding cannot be made. The site is physically suitable for the proposed density of development because it is in conformance with the Downtown Commercial land use designations of the General Plan, which does not have a density maximum but allows higher density residential development and complies with all applicable CD/R3 Zoning District site development standards excluding those exceptions otherwise approved;

E. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

This Finding cannot be made. The design of the subdivision and the proposed improvements will not cause substantial environmental damage, or substantially injure fish or wildlife because the site is located within a developed urban context and is not in or adjacent to any sensitive habitat areas;

F. That the design of the subdivision or type of improvements is likely to cause serious public health problems.

This Finding cannot be made. The design of the subdivision will not cause serious public health problems because the site is located within an urban context and has access to urban services including sewer and water.

G. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

This Finding cannot be made. The design of the subdivision will not conflict with access easements because there are no known existing access easements encumbering this property.

EXHIBIT B

CONDITIONS

GENERAL

1. **Approved Plans**

The project approval is based upon the plans dated January 4, 2022 and the support materials and technical reports, except as modified by these conditions and as specific below:

- a. If the walkway access included in the required rear yard setback area is not required for emergency access by the Santa Clara County Fire Department, then at least 60% of the area shall be softscape surfaces in conformance with Section 14.52.060 of the municipal code.
- b. The Applicant shall coordinate with Santa Clara County to integrate any feasible improvements along the rear property line (e.g. swale) to address stormwater runoff from landscaped shoulder of Foothill Expressway. The Applicant shall obtain any necessary agreements from the County prior commencing off-site work.
- c. Vent hoods shall be included on the plans above the outdoor cooktops/grills on the roof
- d. Stairwells shall not be considered or used as habitable dwelling space.
- e. Additional bike storage areas shall be incorporated into the plans in the underground parking garage as permissible by the California Building Code standards.

2. **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.

3. **Public Utilities**

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

4. **Tree Protection and Mitigation**

The building plans shall incorporate the tree protection measures included in the arborist report by Mayne Tree Expert Company, Inc. (July 20, 2020). All tree protection measures shall be carried out by the builder in coordination with the consulting arborist. Documentation by letter(s) or reports shall be submitted prior to final inspection that demonstrates the tree protection plan was implemented by the developer and consulting arborist.

5. **Americans with Disabilities Act**

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

6. **Municipal Regional Stormwater Permit**

The project shall be in compliance with the City of Los Altos Municipal Regional Stormwater (MRP)NPDES Permit No. CA S612008, Order No. R2-2015-0049 dated November 19, 2015.

7. **Sewer Lateral**

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

8. 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.

9. Diesel Generator Prohibition

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

10. Indemnity and Hold Harmless

The applicant/property 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. The City may withhold final maps and/or permits, including temporary or final occupancy permits, for failure to pay all costs and expenses, including attorney's fees, incurred by the City in connection with the City's defense of its actions.

PRIOR TO SUBMITTAL OF BUILDING PERMIT

11. 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.

12. Property Address

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

13. 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 and include signed statements from the project's landscape professional and property owner.

14. Reach Codes

Building Permit Applications submitted on or after January 26, 2021 shall comply with specific amendments to the 2019 California Green Building Standards for Electric Vehicle Infrastructure and the 2019 California Energy Code as provided in Ordinances Nos. 2020-470A, 2020-470B, 2020-470C, and 2020-471 which amended Chapter 12.22 Energy Code and Chapter 12.26 California Green Building Standards Code of the Los Altos Municipal Code. The building design plans shall comply with the standards and the applicant shall submit supplemental application materials as required by the Building Division to demonstrate compliance.

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 submitted on March 11, 2019.

16. California Water Service Upgrades

The applicant is responsible for contacting and coordinating with the California Water Service Company any water service improvements including but not limited to relocation of water meters, increasing water meter sizing or the installation of fire hydrants. The City recommends consulting with California Water Service Company as early as possible to avoid construction or inspection delays.

17. Pollution Prevention

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

18. Storm Water Management Plan

The Applicant shall submit a 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.

19. Outdoor Condensing Unit Sound Rating

Show the location of any outdoor condensing unit(s) on the site plan including the model number of the unit(s) and nominal size (i.e. tonnage) of the unit. Provide the manufacturer’s specifications showing the sound rating for each unit. The condensing unit(s) must be located to comply with the City’s Noise Control Ordinance (Chapter 6.16) and in compliance with the Planning Division setback provisions. The units shall be screened from view of the street.

20. Off-haul Excavated Soil

The grading plan shall show specific grading cut and/or fill quantities. Cross section details showing the existing and proposed grading through at least two perpendicular portions of the site or more shall be provided to fully characterize the site. A note on the grading plans should state that all excess dirt shall be off-hauled from the site and shall not be used as fill material unless approved by the Building and Planning Divisions.

21. Electric Vehicle Charging Station Infrastructure

The building’s electrical service shall be designed to support the required load necessary for installation of electric vehicle charging stations in the underground parking garage.

22. Santa Clara County Fire Department Review

The project shall comply with all Santa Clara County Fire Department standards including but not limited to the comments and conditions provided in the Fire Department Development Review Comment letter dated November 9, 2021. A formal review of the building permit plans will be completed subsequent to submittal of a complete set of building permit design plans.

PRIOR TO FINAL MAP RECORDATION

23. Underground garage driveway

The applicant shall redesign the driveway approach at the north-east corner of the property with ADA ramps on the sidewalk at each side of the driveway approach.

24. Bulb out and Crosswalk

The applicant shall design a bulb out with ADA ramps at the SE corner of the intersection at Frist Street and Lyell Street per current ADA standards. The applicant shall also design a new crosswalk that crosses First Street at the south side of the intersection at First Street and Lyell Street with an ADA ramp connects to the new crosswalk at SE corner of the property.

25. Emergency Access Easement

The property owner shall obtain an emergency access ingress/egress easement from the property owners of 396 First Street and 450 First Street to provide for emergency access at the rear of the property as shown on the approved plans.

Alternatively, an emergency pedestrian access ingress/egress easement shall be provided from the rear of property to land owned by the Santa Clara County for Foothill Expressway should this emergency access be preferred by the Fire Department and approval by Santa Clara County Roads and Airports Division be granted.

26. 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, on-site and in the public right-of-way along the site frontage, as approved by the City, shall be a duty and responsibility of the property owners.
- b. One of the underground parking spaces shall be open for guest users.
- c. Long-term maintenance and upkeep of the building's exterior materials and finishes shall be the responsibility of the Homeowner's Association.
- d. The Homeowner's Association will store trash receptacles in the underground parking garage level and will be responsible for moving trash receptacles to the temporary staging area at street level no more than 24 hours in advance of trash pickup and will relocate trash receptacles to their storage location within 24 hours of pickup.

27. Pedestrian Easement

The property owner shall dedicate a one-foot wide pedestrian easement along the front of the property abutting First Street to the City of Los Altos for use as public right-of-way as a public easement. Applicant shall submit documentation to the City for review and approval for the recordation of the public easement to the City of Los Altos.

28. Public Utility Dedication

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

29. Final Map Application and Payment of Subdivision Fees

The applicant shall pay all applicable fees, including but not limited to parkland dedication in-lieu fees and map check fee plus deposit as required by the City of Los Altos Municipal Code. Plats and legal descriptions of the final map shall be submitted for review by the City Land Surveyor.

30. Subdivision agreement

The property owner shall have the subdivision agreement approved by the City and ready to be executed and recorded after City Council approves the recordation of the Final Map.

31. Cost Estimate and Performance Bonds

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

PRIOR TO ISSUANCE OF BUILDING PERMIT

32. Payment of Impact and Development Fees

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

33. Final Map Recordation

The applicant shall record the final map.

34. Soldier beams/Shoring

The applicant shall insure the design of all soldier beams or other temporary shoring supports are outside the public right-of-way.

35. 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.

36. Air Quality Mitigation

The applicant shall incorporate into the design plans and shall implement throughout the entire construction process the Bay Area Air Quality Management District’s basic Construction Mitigation Measures to reduce emissions of fugitive dust during construction activities (California Environmental Quality Act Air Quality Guidelines. San Francisco, CA. May 2017. http://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en (accessed November 2021).

37. Acoustical Report

The applicant shall submit a report from an acoustical engineer/consultant ensuring that the rooftop mechanical equipment meets the City’s exterior noise regulations.

38. 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 Division.

39. Sewage Capacity Study

The applicant shall submit calculations showing that the City’s existing sewer line will not exceed two-thirds full due to the project’s sewer loads. 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 sewer line with a larger sewer line.

40. 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 also provide specific details with regard to how construction vehicle parking will be managed to minimize impacts on nearby commercial and residential properties; noise reduction. The Plan shall also implement and comply with all other elements contained in Construction Management Plan Submittal Requirements published by the Planning Division including staging plans material delivery, storage areas, and noise reduction.

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.

41. 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 multi-family dwellings provide for recycling and organics collection programs.

42. 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.

43. Fire Department Compliance

The Applicant shall incorporate all Santa Clara County Fire Department comments and conditions contained in the Development Review Comments letter dated November 9, 2021 (Plan Review No. 21-4737). All comments/conditions shall be addressed by the applicant/developer prior to the issuance of the Building Permit.

PRIOR TO FINAL OCCUPANCY

44. Condominium Map

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

45. Landscape and Irrigation Installation

All on- and off-site landscaping and irrigation shall be installed and approved by the Community Development Director and the City Engineer. Provide a landscape WELO 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.

46. Signage and Lighting Installation

The applicant shall install all required signage and on-site lighting per the approved plan.

47. 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.

48. 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. Sidewalk shall have minimum width of five feet or greater per the approved plans and the six-inch curb of curb and gutter shall not be part of the five-foot sidewalk.

49. New ADA Ramps and Crosswalks

The applicant shall provide two new ADA ramps at the driveway per the City standards on First Street.

50. 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.

51. Maintenance Bond

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

52. 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.