



## DISCUSSION ITEMS

### Agenda Item # 10

## AGENDA REPORT SUMMARY

**Meeting Date:** August 22, 2017

**Subject:** 4880 El Camino Real—Elevator Tower Height Waiver

**Prepared by:** David Kornfield, Planning Services Manager—Advance Planning

**Reviewed by:** Jon Biggs, Community Development Director

**Approved by:** Chris Jordan, City Manager

**Attachments:**

1. Plans
2. Resolution No. 2017-36
3. Minutes of the July 20, 2017 Planning and Transportation Commission Meeting
4. Staff Memorandum to the Planning and Transportation Commission dated July 20, 2017
5. Resolution No. 2016-27

**Initiated by:**

Applicant, LOLA LLC.

**Fiscal Impact:**

None

**Environmental Review:**

Categorically exempt per Section 15332 of the California Environmental Quality Act Guidelines

**Policy Question for Council Consideration:**

- Should the City Council grant an expanded development waiver to allow the increase of an elevator tower from 11 feet to 16 feet eight inches above the structural roof deck?

**Summary:**

- The City Council approved the 21-unit, multiple-family residential project subject to conditions limiting the overall building height to 58 feet, the rooftop structures to 11 feet above the structural roof deck, and the area of rooftop structures to six percent of the rooftop as development waivers under the State Density Bonus law.
- The applicant subsequently requests to amend the rooftop height waiver to allow the elevator tower to a height of 16 feet eight inches above the structural roof deck (or 15.5 feet above the roof surface).

**Staff Recommendation:**

*Continue the review to a date certain pending availability of the applicant*



**Subject:** 4880 El Camino Real—Elevator Tower Height Waiver

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### **Purpose**

The purpose of this application is to consider a revision to a previously granted height waiver. The amended waiver would allow the elevator tower 16 feet eight inches above the structural roof deck, where the Municipal Code currently allows such structures 12 feet above the structural roof deck. At the time of entitlement, the Municipal Code limited such structures to eight feet above the structural roof deck. The applicant prepared an abbreviated set of plans showing the project conforming to the previously granted 58-foot building height limit but with an elevator structure at 16 feet eight inches above the structural roof deck, which is 15.5 feet above the roof surface (Attachment 1). The applicant also submitted two letters and graphics explaining the basis for the height change to the elevator (see Memorandum to the Planning and Transportation Commission, Attachment 4).

### **Background**

The project contains 21 multiple-family dwelling units including one moderate income unit and two low income units. The original proposal was for a 62-foot tall building measured to the structural roof deck with an additional 11 feet for rooftop structures including the elevator, stairways and trellises for the roof deck for an overall height of 73 feet.

At its June 28, 2016 meeting the City Council continued its initial review of the project to study the density bonus incentives and waivers, and to consider project alternatives that lowered the building's height. At its August 23, 2016 meeting, the City Council considered the applicant's revisions to the project and directed staff to prepare a resolution of approval including but not limited to lowering the building height from 62 feet to 58 feet, allowing approximately 10-foot tall ceilings and a fifth floor, and allowing the rooftop structures 11 feet above the structural roof deck for an overall height of 69 feet consistent with the drawings provided by the applicant. At its September 13, 2016 meeting the City Council approved the project subject to Resolution No. 2016-27 (see Attachment 4).

At its July 20, 2017 meeting, the Planning and Transportation Commission held a public hearing to consider the revised elevator waiver. Following public comment and discussion, the Commission voted 6-0 (Oreizy absent) to forward the project to the City Council without a formal recommendation but with Commission comments (see Attachment 3 for Minutes). Expanding on the Minutes, the Commission comments were as follows:

1. Commissioner Enander started the discussion by asking if the Commission should make a recommendation noting that administrative remedies or alternatives to what is being proposed on the part of the applicant had not been exhausted;
2. Commissioner Samek noted he has issue with the proposal and he was concerned that approving this request could set a precedent. He also felt there should have been more of an effort on the part of the applicant to work this out and try to develop a solution and that there



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should have been a more give and take approach taken by the applicant to achieve an acceptable solution;

3. Commissioner Bodner wondered if the applicant had been listening or observing what has taken place in the Community since approval of the project. She noted the request was not respectful of neighboring properties and added that the “sky is not the limit”. In addition, she felt that an independent review of the request for additional height in the elevator enclosure should be looked at by someone with expertise in these systems – noting that the applicant’s assertions were self-serving and she was not persuaded of a need for additional height in this roof top structure. She concluded by noting that other options need to be evaluated – preferably by someone independent of the project;
4. Vice-Chair Bressack noted an 8’ elevator cab could work, rather than the proposed elevator cab height. She added that this was in line with architect Frank Lloyd Wright’s concept of compression and release, which might make for a more unique experience inside the building. She advised that the applicant should admit to the mistake that they made and then come forward with more than one solution to address or correct the mistake – a cooperative effort would have been a much better approach;
5. Commissioner Mc Tighe added that he is listening to the Community and it is telling him it does not want a taller building; and
6. Chair Meadows noted this is an unfortunate set of circumstances and that there are other issues the community should be focusing on. She reflected on the changes to roof top structure heights being proposed by the Commission, but these have yet to be adopted. She expressed frustration at being put in this position and not being provided with more options to consider, which could assist the Commission in arriving at a recommendation to the City Council.

### **Discussion/Analysis**

The code limits the height of the rooftop structures as measured to the structural roof deck, which is considered the top of the framing. The roof surface, however, is laid on top of the structural roof deck. Since the applicant is providing an elevator to a rooftop deck amenity, the roof surface is designed as a walking surface that is one-foot two inches above the structural roof deck.

In developing the construction plans the applicant was unable to specify an appropriate elevator to serve the roof deck amenity within the granted 11-foot height limit above the structural roof deck. The applicant desires a nine-foot tall elevator cab, which is commensurate with the project’s approved 10-foot tall ceilings. When considering the manufacturer’s lowest required structure above the elevator cab, the elevator tower enclosure shows a height of 15.5 feet above the roof surface (or 6.5 feet above the elevator cab) is needed. The elevator tower’s height is set from the roof surface because



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that is the point where the elevator floor lands for access. The project architect states, but does not recommend, that the bare minimum would be an eight-foot-tall elevator cab, which would necessitate an enclosure height of 14.5 feet above the roof surface.

The applicant provided cross-sections of the elevator design (see Sheet A4.2 of the Plans) showing the minimal head space above the elevator cab dictating the overall elevator height of 15.5 feet above the landing point. The applicant also provided three-dimensional graphics showing the visual effect of the taller elevator tower. The graphics show that the elevator tower would be visible from the street at distant vantage points.

Staff notes that any rooftop amenity must be fully accessible to those with disabilities, which means that an elevator is necessary in addition to the stairs. The rooftop deck provides an amenity and open space for the residents. The proposed elevator enclosure structure is integrated into the overall building design.

Aside from using an unsuitably short elevator cab to minimize the elevator tower, an alternative could be to omit the rooftop deck, which removes this amenity for the development.

### Options

- 1) Grant a development waiver to allow the elevator tower enclosure at 16 feet eight inches above the structural roof deck.

**Advantages:** Allows the applicant to provide an amenity for the density bonus project and maintain the taller ceilings.

**Disadvantages:** Increases the height of the roof top structure by five feet eight inches.

- 2) Deny the development waiver for the taller elevator tower enclosure.

**Advantages:** Results in compliance with original approvals.

**Disadvantages:** May necessitate removal of the rooftop deck amenity.

- 3) Approve a development waiver for the lower elevator tower enclosure but maintain an overall height of 69 feet for the project.

**Advantages:** Results in compliance with the overall height previously approved.

**Disadvantages:** May necessitate removal of the rooftop deck amenity or lower the ceiling heights of the building.





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**Recommendation**

*The City Council should continue the item to a date certain pending availability of the applicant.*

**RESOLUTION NO. 2017-36**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS FOR AN  
AMENDED DEVELOPMENT WAIVER FOR AN ELEVATOR TOWER  
FOR A 21-UNIT, MULTIPLE-FAMILY PROJECT  
AT 4880 EL CAMINO REAL**

**WHEREAS**, the City of Los Altos received an application from LOLA, LLC to amend the development waiver previously granted by Resolution No. 2016-27 for their multiple-family residential condominium building, which includes Design, Use Permit and Subdivision applications 16-D-01, 16-UP-01 and 16-SD-01, referred herein as the “Project”; and

**WHEREAS**, the applicant LOLA, LLC seeks an amended development waiver under Government Code Section 65915 (e) to allow a rooftop elevator tower enclosure 16 feet eight inches above the structural roof deck, or 15.5 feet above the roof finish, where the Municipal Code limits such structures to a height of eight feet above the roof; and

**WHEREAS**, said Project is exempt from environmental review in accordance with Section 15332 of the California Environmental Quality Act of 1970 as amended; and

**WHEREAS**, the Planning and Transportation Commission City Council held duly noticed public meetings on the Project on July 20, 2017; and

**WHEREAS**, the Design application was processed in accordance with the applicable provisions of the California Government Code and the Los Altos Municipal Code; and

**WHEREAS**, the location and custodian of the documents or other materials which constitute the record of proceedings of the City Council’s decision are held the Office of the City Clerk.

**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of Los Altos hereby approves the revised development waiver for the Project subject to the additional findings and conditions of approval attached hereto as Exhibit “A” 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 \_\_\_\_ day of \_\_\_\_, 2017 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Mary Prochnow, MAYOR

Attest:

\_\_\_\_\_  
Jon Maginot, CMC, CITY CLERK

## **FINDINGS (REVISED)**

16-D-01—4880 El Camino Real

1. With regard to environmental review, the City Council finds in accordance with Section 15332 of the California Environmental Quality Act Guidelines, 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 applicable zoning designation and regulations, including incentives to produce affordable housing;
  - B. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; there is no record that the project site has value as habitat for endangered, rare or threatened species;
  - C. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the completed studies and staff analysis reflected in this 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. With regard to commercial design review, the City Council makes the following findings in accordance with Section 14.78.040 of the Municipal Code:
  - A. The proposal meets the goals, policies and objectives of the General Plan within the El Camino Real corridor, and ordinance design criteria adopted for the specific district such as the stepped building massing and the landscape buffer at the rear;
  - B. The proposal has architectural integrity and has an appropriate relationship with other structures in the immediate area in terms of height, bulk and design; the project has a mixture of scales relating to the larger street and vehicles and the smaller pedestrian orientation;
  - C. Building mass is articulated to relate to the human scale, both horizontally and vertically as evidenced in the design of the projecting bay windows, overhangs and balconies. Building elevations have variation and depth and avoid large blank wall surfaces. Residential projects incorporate elements that signal habitation, such as identifiable entrances, overhangs, bays and balconies;
  - D. Exterior materials and finishes convey quality, integrity, permanence and durability, and materials are used effectively to define building elements such as base, body, parapets, bays, and structural elements; and

- E. Mechanical equipment is screened from public view by the building parapet and is designed to be consistent with the building architecture in form, material and detailing.
3. With regard to the requested development waiver amendment, the City Council makes the following finding:
- A. The amended development waiver to allow the elevator tower at 16 feet eight inches above the structural roof deck, or 15.5 feet above the roof finish, is required to accommodate the rooftop deck amenity. The taller elevator cab and enclosure is commensurate with the taller ceilings in the project. Without the requested waiver, the City's rooftop development standard would "physically preclude" the development of the project amenity with the density bonus units.

**CONDITIONS (REVISED)**

16-D-01—4880 El Camino Real

**GENERAL**

**1. Approved Plans**

The project approval is based upon the plans received on April 17, 2017, except as modified by these conditions. Such plans shall provide the rooftop elevator enclosure no higher than 16 feet eight inches above the structural roof deck, or 15.5 feet above the roof finish.

**2. Prior Conditions of Approval**

All conditions of approval per Resolution No. 2016-27 shall remain in effect except as stated herein.

**MINUTES OF A REGULAR MEETING OF THE PLANNING AND  
TRANSPORTATION COMMISSION OF THE CITY OF LOS ALTOS, HELD ON  
THURSDAY, JULY 20, 2017 BEGINNING AT 7:00 P.M. AT LOS ALTOS CITY HALL,  
ONE NORTH SAN ANTONIO ROAD, LOS ALTOS,  
CALIFORNIA**

**ESTABLISH QUORUM**

PRESENT: Chair Meadows, Vice-Chair Bressack, Commissioners Bodner, Enander, McTighe, and Samek

ABSENT: Commissioner Oreizy

STAFF: Community Development Director Biggs, Advance Planning Services Manager Kornfield, and Associate Planners Davis and Gallegos

**PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA**

Bicycle and Pedestrian Advisory Commission (BPAC) representative Randy Kriegh made himself available to answer questions.

**INFORMATIONAL ITEM**

**Foothill Expressway Update**

Foothill Expressway Improvements from El Monte to San Antonio—Status Update

Public Works Director, Susanna Chan provided an update on this joint project with the County, clarified the City's support role, showed the conceptual designs for the project and reported on presentations to City residents and the Bicycle and Pedestrian Advisory Commission (BPAC).

**Public Comment**

Resident Walter Chapman stated that residents are concerned about lane expansion on El Monte Avenue and lane reductions to maintain traffic calming.

Resident Bill Lonegan stated that pedestrian and bicycle safety needs to be maintained, that the street is calmer now because of the former street improvements, and cut-through traffic should be avoided.

Resident Jaya Kemett asked that traffic not be increased on Cuesta and El Monte intersection and suggested a traffic study be conducted.

**ITEMS FOR CONSIDERATION/ACTION**

**CONSENT CALENDAR**

**1. Planning and Transportation Commission Minutes**

Approve the Revised minutes of the June 1, 2017 Regular Meeting.

**Action:** Upon motion by Vice-Chair Bressack, seconded by Commissioner Enander, the Commission approved the revised minutes of the June 15, 2017 Regular Meeting provided by staff. The motion was approved by the following vote: AYES: Bressack, Bodner, Enander Meadows, and Samek; NOES: None; ABSTAIN: McTighe; ABSENT: Oreizy. (5-0-1)

## PUBLIC HEARING

### 2. **16-Z-02 – D. Marsh – Larkellen Lane Neighborhood R1-S Overlay Zone**

Single-story overlay zoning district consideration for properties located on Larkellen Lane and portions of Fallen Leaf Lane, Ravenswood Drive and Havenhurst Drive. *Project Planner: Davis*

Associate Planner Davis presented the staff report recommending approval of the R1-S Overlay Zone for which 84 percent of the ballots cast were in favor.

Applicant David Marsh made himself available to answer questions.

#### Public Comment

None.

Action: Upon motion by Commissioner Enander, seconded by Vice-Chair Bressack, the Commission recommended approval to the City Council of Rezoning Application 16-Z-02 for consideration of a Single-story overlay zoning district for properties located on Larkellen Lane and portions of Fallen Leaf Lane, Ravenswood Drive and Havenhurst Drive. The motion was approved by the following vote: AYES: Bressack, Bodner, Enander, McTighe, Meadows, and Samek; NOES: None; ABSTAIN: None; ABSENT: Oreizy. (6-0)

### 3. **15-D-04, 15-UP-01 and 15-SD-02 – R. Haro – 962 Acacia Avenue**

Design Review, Use Permit and Tentative Subdivision Map for a mixed-use multi-family/commercial building with two multi-family residential condominiums and a 600 square-foot retail space with at-grade parking. *Project Planner: Gallegos*

Associate Planner Gallegos presented the staff report recommending denial of the project based on concerns of conformance with the Sherwood Gateway Specific Plan and General Plan.

Project architect Richard Haro summarized the challenges they faced with the small, narrow lot and that he provided multiple design proposals over a four-year period.

Property owner Barry Nelson stated that they had made numerous revisions to the project in response to staff recommendations. Now they are back to their original design.

Property owner Melita Sawyer noted her efforts to partner with adjoining or nearby property owners.

#### Public Comment

None.

Action: Upon motion by Commissioner McTighe, with a friendly amendment by Vice-Chair Bressack, and a second by Commissioner Bodner, the Commission recommended approval to the City Council of Design Review, Use Permit and Tentative Subdivision Map applications 15-D-04, 15-UP-01 and 15-SD-02 for a mixed-use multi-family/commercial building with two multi-family residential condominiums and a 600 square-foot retail space with at-grade parking with the following direction:

- Improve the front façade of the commercial space;
- Look to improve landscaping (taller and more); and
- Provide appropriate signage concepts.

The motion was approved by the following vote: AYES: Bressack, Bodner, Enander, McTighe, Meadows, and Samek; NOES: None; ABSTAIN: None; ABSENT: Oreizy. (6-0)



**4. 16-DL-01, 16-V-01 and 16-H-01 – M. Hodges – 160 W. Portola Avenue**

Consideration of a Tentative Map to subdivide the property into two lots, a Historic Review to modify the main structure and garage and relocate the water tower, which are designated Historic Resources, and a Variance to allow the existing main house to encroach into the daylight plane and the water tower to exceed the accessory structure height limit of 12 feet. The subdivision would create an approximately 10,000-square-foot lot and an approximately 33,617-square-foot lot with the historic structures located on lot No. 2. *Project Planner: Gallegos*

Associate Planner Gallegos presented the staff report recommending approval to the City Council of division of land, variance and historic review applications 16-DL-01, 16-V-01 and 16-H-01 subject to the staff report findings and conditions.

Project architect/applicant Malika Junaid gave a project overview and stated that the water tower was used as a dwelling in the past.

Property owner Mike Hodges stated he has been at the property for 14 years, but 60 years in Los Altos and that the City of Los Altos had applied the Historic Resource Inventory (HRI) status.

**Public Comment**

Resident Randy Kriegh gave his support for the subdivision, noted his concerns with the relocation of the water tower; suggested greater setbacks to the water tower; and said that any expansion of the water tower should go through a public review process.

Action: Upon motion by Commissioner McTighe, seconded by Commissioner Bodner, the Commission recommended approval to the City Council of division of land, variance and historic review applications 16-DL-01, 16-V-01 and 16-H-01 subject to the staff report findings and conditions, with the following additional condition:

- Provide a 25-foot side yard setback for the tank house.

The motion was approved by the following vote: AYES: Bressack, Bodner, Enander, McTighe, Meadows, and Samek; NOES: None; ABSTAIN: None; ABSENT: Oreizy. (6-0)

Project architect/applicant Malika Junaid said she would provide a 25-foot setback to Mr. Kriegh's property (to water tower).

**5. 16-D-01 – LOLA, LLC – 4880 El Camino Real**

Elevator Tower Height Waiver: Recommendation to adopt Resolution No. 2017-14 allowing a development waiver for 4880 El Camino Real to allow the elevator height to be 15.5 feet above the roof, but subject to keeping the overall height of the building at 69 feet. *Project Manager: Kornfield*

Advance Planning Services Manager Kornfield presented the staff report recommending to the City Council a Resolution modifying the design approval and grant a waiver to allow the elevator tower 16 feet, eight inches above the approved structural roof deck height (15.5 feet above the roof finish).

Property owner Jeff Taylor provided a summary of the exceptions he is asking for, said that the four-story plan showed a 15-foot elevator shaft, and that he cannot lower the cab to eight feet because it would be too low to accommodate furniture.

Project architect Brett Bailey explained the technical issues related to the elevator equipment and need for extra height.

### Public Comment

Los Altos Square resident Fred Haubensak stated that there is a petition circulating against the height increase, there was an error in the design made by the applicant, and that the rooftop deck is not mandatory.

Resident Roberta Phillips stated her opposition to a height increase and noted that it is not necessary, the building is already too tall now and takes advantage of the exceptions already granted.

Resident Emily Walther stated the elevator issue is a concern, it's height is an issue and the applicant is asking to go four and half feet taller than the already granted 69-foot maximum height.

Project attorney David Blackwell stated the project has already received three waivers for overall height, elevator height, and rooftop structure area and the City cannot now take away the waivers, but could amend the degree of the waiver.

The Commission discussed the project and offered the following comments:

- Commissioner Enander:
  - Project is exhausting administrative remedies; and
  - Should move project forward without a recommendation to the City Council or deny.
- Commissioner Samek:
  - Would have appreciated alternatives to minimize;
  - There should be a give and take; and
  - Approach to demand additional height without compromise is not in spirit; and
  - Not convinced density bonus regulations require that this waiver be granted, and did not want to set a precedent.
- Commissioner Bodner:
  - Applicant's request is "tone deaf" – does not recognize the concerns of neighbors and impacts the City is enduring now;
  - Height is an issue in the community; and
  - Wants an independent elevator consultant to look at other possibilities.
- Vice-Chair Bressack:
  - Project is the straw that broke the camel's back;
  - Hydraulics do not work at this height; and
  - Agreed that the elevator will not be obtrusive, but on principle should compromise on proposed height.
- Commissioner McTighe:
  - Appreciates the taller elevator desired, but it's really a City Council issue.
- Chair Meadows:
  - Waste of everyone's time to argue about elevator heights;
  - Only elevator getting taller; and
  - Attitudes aside, it is not constructive to limit elevator towers to unrealistic heights.

Action: Upon motion by Commissioner Enander, seconded by Commissioner McTighe, the Commission forwarded the project to the City Council without a formal recommendation, but to forward each Commissioner's comments to the City Council. The motion was approved by the

following vote: AYES: Bressack, Bodner, Enander, McTighe, Meadows and Samek; NOES: None; ABSTAIN: None; ABSENT: Oreizy. (6-0)

### **COMMISSIONERS' REPORTS AND COMMENTS**

Commissioner McTighe reported on the July 11, 2017 City Council meeting in which the City Council said an applicant could move forward and submit a public parking plaza redesign plan.

### **POTENTIAL FUTURE AGENDA ITEMS**

The Commission wanted to put the Sherwood Gateway Specific Plan and R1-S Single-Story Overlay voting process on a future agenda. Staff noted this would be a good topic to bring up at the Planning and Transportation Commission's joint meeting with City Council.

### **ADJOURNMENT**

Chair Meadows adjourned the meeting at 10:55 P.M.

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Jon Biggs  
Community Development Director



DATE: July 20, 2017

AGENDA ITEM # 5

**TO:** Planning and Transportation Commission

**FROM:** David Kornfield, Planning Services Manager—Advance Planning

**SUBJECT:** 16-D-01—4880 El Camino Real—Elevator Tower Height Waiver Modification

**RECOMMENDATION:**

Consider recommending to the City Council a Resolution modifying the design approval and grant a waiver to allow the elevator tower 16 feet, eight inches above the approved structural roof deck height (15.5 feet above the roof finish)

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**BACKGROUND**

Through a series of meetings last summer (June 28, 2016; August 23, 2016; and September 13, 2016), the City Council approved the subject project with conditions including: a) lowering the overall building height from 62 feet to 58 feet; and b) allowing the elevator tower 11 feet above the approved building height. The subject project is a 21-unit, multiple-family residential building with underground parking and a rooftop deck amenity located at 4880 El Camino Real.

After City Council approval, the applicant determined that it was not feasible to provide the elevator within the 11-foot height limit from the structural roof deck and proposed a revision to allow a 15.5-foot elevator tower above the architectural roof finish, or 16 feet, eight inches above the structural roof deck. Technically, on a flat roofed multiple-family or commercial building, the overall building height is measured to the structural roof deck (the top of the structural framing); and, the General Regulations and Exceptions in the zoning code allow the roof top structures a certain height above that point. The approved plans allow the structural roof deck at 58 feet; and the applicant's revised design includes an architectural roof finish that is one foot, two inches above the structural roof deck.

Last January the applicant approached staff with the elevator height concern seeking an administrative revision. After considerable deliberation, staff referred the matter to the City Council in April. Following a series of continuances requested by the applicant and the City Council, the matter was ultimately remanded to the Planning and Transportation Commission for consideration. Council determined that the revision to the waiver was essentially a design change, too, which required action by the Planning and Transportation Commission.

When the project was entitled by the City Council the Municipal Code restricted roof top structures to eight feet above the structural roof deck; this code was subsequently amended to allow such structures 12 feet above the structural roof deck.

## **DISCUSSION**

### **Elevator Design**

The applicant has specified a KONE Monospace 500 elevator system for the subject building. Per the project architect, the chosen elevator is appropriate for the scale and quality of the project. The KONE Monospace 500 elevator has a machine-roomless, traction design that minimizes the overhead shaft height by avoiding an overhead machine room. The minimum outside clearance for the specified elevator shaft structure is 16 feet, eight inches from the structural roof deck, or 15.5 feet from the architectural roof surface (see Attachment A, Elevator Section, May 19, 2017 Letter from Peggy Galeb).

The elevator cab would be nine feet tall with an opening height of eight feet, which is commensurate with the approximately 10-foot ceilings. The architect states, but does not recommend, that they can lower the elevator cab structure one foot by using a shorter elevator cab of eight feet. This could reduce the elevator tower height by one foot but not avoid exceeding the previously granted height waiver.

The building is five stories tall and 58 feet from the finished grade to the top of the structural roof deck. The elevator must travel six stops from the basement to the architectural roof surface, which is approximately 71 feet of travel. The applicant selected a traction type elevator over a hydraulic type as the most appropriate since hydraulic elevators are generally slower, limited in their service height and more difficult to maintain.

Staff discussed with the applicant different ways to lower the elevator enclosure height including ways to limit the roof surface thickness and using ramps; however, there were no practical alternatives that maintained the required accessibility and the approved height. Staff has not fully explored with the applicant the limitations of using a hydraulic elevator within the approved height limit but understands from the applicant their concerns about using the most up-to-date technology. The Commission is certainly free to explore with the applicant whether using a hydrologic elevator design is appropriate.

Per the project architect, they considered the highest quality machine-roomless traction elevators on the market including KONE, Otis and ThyssenKrupp consistent with the quality of the building. Staff agrees that the KONE Monospace 500 had the lowest overhead clearance of the reviewed manufacturers for machine-roomless traction type elevators.

The applicant prepared three-dimensional graphics showing the elevator tower. The elevator tower would be slightly visible from the right (west) side and minimized from the front due its setback. Staff finds that the taller tower fits in with the approved building design as the elevator tower is integrated into adjacent rooftop trash room and stairway elements.

### **Density Bonus and Other Incentives**

The approved project includes three affordable housing units. Under California's Density Bonus and Other Incentives law, the project received development standard waivers to allow taller ceilings for each story, an overall building height of 58 feet to allow the fifth floor and density bonus units (versus the allowed 45 feet), rooftop structures 11 feet above the roof (versus the allowed eight feet at the time), and enclosed rooftop structures totaling six percent of the roof area (versus the allowed four

percent of the roof area). The applicant's request for additional height of the elevator tower structure is an application for a modified development standard waiver under the state Density Bonus law. Per the state Density Bonus and Other Incentive law, a waiver of a development standard is required if it would otherwise physically preclude an affordable housing development.

The City Attorney provided an additional memorandum outlining the basis of the density bonus law related to granting waivers and discussing the appropriate process to amend such applications (please see Attachment D).

### **Alternatives**

Aside from using a shorter elevator cab or a different type of elevator (e.g., hydraulic) to minimize the elevator tower, the project could omit the rooftop deck, which removes the rooftop open space amenity for the development. Under the building code, any rooftop amenity, if provided, must be fully accessible to those with disabilities, which means that an elevator is necessary in addition to the stairs. Another alternative would be to reduce each floor of the building to accommodate the additional elevator height to ensure that the structural height remains at the approved total height of 69 feet (58 feet plus 11 feet for the elevator tower).

Attachments:

- A. May 19, 2017 Letter from Peggy Galeb (Applicant) and January 20, 2017 Letter from Dahlin Group (Architect)
- B. Resolution No. 2016-27 (Approval Findings and Conditions)
- C. Draft Resolution No. 2017-14
- D. July 17, 2017 Memorandum from the City Attorney

# ATTACHMENT A

May 19, 2017

Mr. Chris Jordan  
Mr. Jon Biggs  
Mr. David Kornfield  
City of Los Altos  
1 North San Antonio Road  
Los Altos, CA 94022

Sent via email: [dkornfield@losaltosca.gov](mailto:dkornfield@losaltosca.gov), [jbiggs@losaltosca.gov](mailto:jbiggs@losaltosca.gov), [cjordan@losaltosca.gov](mailto:cjordan@losaltosca.gov)

RE: 4880 El Camino Real – Elevator Tower Height Waiver

Gentlemen,

On behalf of the Applicant, and as follow-up to multiple conversations the members of the Applicant team have had with Staff, I feel I must clarify in writing some of the information presented in the most recent Agenda Report Summary and officially request that you update the Agenda Report Summary to reflect the contents of this letter and include this letter in the administrative record for this item.


The Agenda Report Summary, while directionally correct, inaccurately describes what the Applicant team is requesting in both the second bullet point under the "Summary" section of Page 8 as well as Option 2 under the "Options" section of Page 4.

While we are asking for the elevator tower structure to be 15 ½ feet tall, we are asking for this elevator tower structure to be 15 ½ feet above the *roof finish*. In our building, the final element of the roof finish is the pavers onto which a resident walks when exiting the elevator cab. The attached elevator sections should help demonstrate the following:

- Our building has been designed such that the top of the *roof deck* is 58'-0" above grade, which is totally compliant with the City's project approval.
- Above the structural *roof deck*, there is needed typical roof covering materials which include foam insulation for sloping a single-ply roofing membrane and a pedestal system which supports the pavers on which the residents will walk. The pavers are the last element of the *roof finish*. Because of these typical roof-covering materials, the top of the *roof finish* is actually 1'2" higher than the *roof deck*.
- Because a person exiting the elevator cab will walk onto the pavers (i.e., the last element of the *roof finish*), and not directly onto the *roof deck*, the elevator structure needs to be 15 ½ feet above the *roof finish*, translating to an overall building height of 74' 8", not 73' 6" as provided in the Agenda Report Summary.

Please do let us know if further clarifying documentation is required, and please confirm that you will be amending the Agenda Report Summary to address the contents of this letter.

Thank you and sincerely yours,

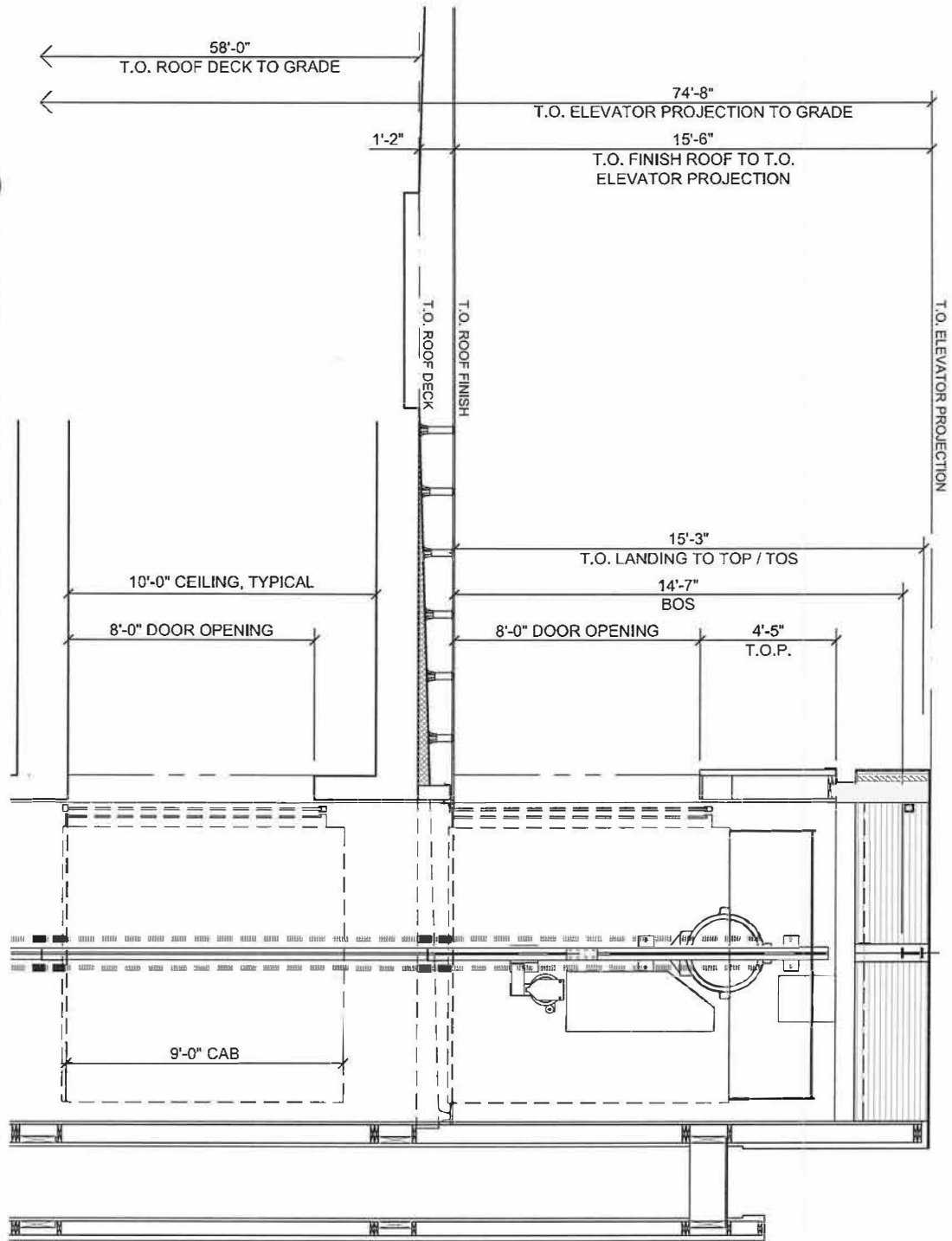
  
Peggy Galeb  
Manager, LOLA, LLC  
12340 Saratoga-Sunnyvale Road  
Saratoga, CA 95070

Attachments: Elevator Sections drawn by Dahlin Group



1/4" = 1'-0"

ELEVATOR SECTION (PARTIAL)





**DAHLIN**

January 20, 2017

David Kornfield  
Planning Services Manager – Advance Planning  
City of Los Altos  
1 North San Antonio Road  
Los Altos, CA 94022

Dear Mr. Kornfield,

Our firm recently completed work on the entitlement of a five-story, 21-unit condominium project at 4880 El Camino Real for our clients, Peggy Galeb and Jeff Taylor (LOLA, LLC). The project was approved by the City Council on September 13, 2016.

Our clients submitted construction documents to the City at the end of December 2016 for building permit. The project features approximately 10-foot ceilings in the common areas and in the residences, eight-foot interior doors, as well as a roof top terrace with an elevator providing equal access to its outdoor amenities. On January 5, 2017 we received your letter communicating the Planning Division's building permit plan check comments. The comments included a request that we "limit the elevator tower to a maximum height of 11 feet above the roof deck in accordance with the Resolution of Approval" (comment no. 10) and that we "provide specification on the type of elevator system and indicate its relative speed" (comment no. 11). This letter seeks to address these two comments.

The elevator we are proposing for this project, the Kone Monospace 500 Elevator, is being specified for its industry minimum overhead clearance requirements and its eco-efficiency. We believe that this elevator is appropriate for the scale and quality of the approved project. It will provide an eight-foot door which will match the other doors in the project and will have a nine-foot elevator cab consistent with the 9'-10" ceilings in the city-approved, five-story design. Kone is globally recognized as an industry leader in the design and provision of eco-efficient, machine room-less traction elevators. The machine room-less design does not have a dedicated machine room above the elevator, thus reducing the height of the shaft. The speed of the elevator will be a minimum 150 FPM. The specifications for the Kone Monospace 500 elevator are attached to this letter.

It is physically impossible to install the specified Kone elevator (or any other elevator of which we know) to service the rooftop deck within a rooftop structure under 11 feet. The minimum height of the rooftop structure needed is 15'-6". It is worth noting that even if we were to install an elevator cab of similar quality with a cab height of 8 feet—a cab height which we do *not* recommend for this project due to its typical door and ceiling height—the minimum height of the rooftop structure would need to be 14'-6".

We also attach for your review some perspective studies showing what, if any, portion of the 15'-6" elevator shaft would be visible from several vantage points on El Camino Real. As you will see in the studies, the elevator shaft is hardly discernable given its location beyond the building's main facades. We believe that most people on the street will not be able to discern between a structure at 11 feet or at 15'-6".

Please feel free to call me directly with any questions you may have about the specifications of the elevator cab or the requirements for its installation in our project. Thank you very much.

Yours sincerely,



**BRETT N. BAILEY** AIA  
Associate / Senior Architect

Attachments: 4880 ECR\_Elevator Height Study Views and Kone\_MonoSpace500

# ATTACHMENT B

## RESOLUTION NO. 2016-27

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS FOR DESIGN REVIEW, USE PERMIT AND SUBDIVISION APPLICATIONS FOR A 21-UNIT, MULTIPLE-FAMILY PROJECT AT 4880 EL CAMINO REAL

WHEREAS, the City of Los Altos received a development application from LOLA, LLC for a multiple-family residential condominium building, which includes Design, Use Permit and Subdivision applications 16-D-01, 16-UP-01 and 16-SD-01, referred herein as the "Project"; and

WHEREAS, the applicant LOLA, LLC, offers one Moderate-Income and two Low-Income affordable housing units; and

WHEREAS, the applicant LOLA, LLC seeks a waiver under Government Code Section 65915(e) to allow a five-story building to have a height of 58 feet, where the Code allows a height of 45; and

WHEREAS, the applicant LOLA, LLC seeks further waivers under Government Code Section 65915(e) to allow a) rooftop structures 11 feet above the roof, where the Code allows such structures to be eight feet above the roof; and b) enclosed roof top structures at six percent of the roof area, where the Code limits such structures to four percent of the roof area; and

WHEREAS, under Government Code 65915 said Project is entitled to a 21.5 percent density bonus and may request one incentive and waivers as required to allow development of the Project; and

WHEREAS, at the City Council meeting of August 23, 2016 the applicant LOLA, LLC agreed to modify its previous requests for an incentive and waivers to include requests for waivers for a building height of 58 feet, rooftop structures 11 feet above the roof, and enclosed rooftop structures at six percent of the roof area; and

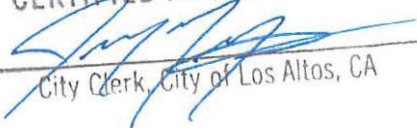
WHEREAS, said Project is exempt from environmental review as in-fill development in accordance with Section 15332 of the California Environmental Quality Act of 1970 as amended ("CEQA"); and

WHEREAS, the Design, Use Permit and Subdivision applications were processed in accordance with the applicable provisions of the California Government Code and the Los Altos Municipal Code; and

WHEREAS, the City Council held duly noticed hearings on the Project on June 28, 2016 and on August 23, 2016 at which all public comment was duly considered; and

WHEREAS, the Planning and Transportation Commission held a duly noticed public hearing on the Project on May 19, 2016, and recommended approval of the Project; and

CERTIFIED AS A TRUE COPY

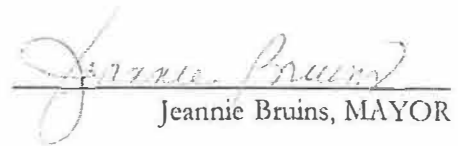
  
City Clerk, City of Los Altos, CA

WHEREAS, the location and custodian of the documents or other materials which constitute the record of proceedings upon the City Council's decision was made are located in the Office of the City Clerk.

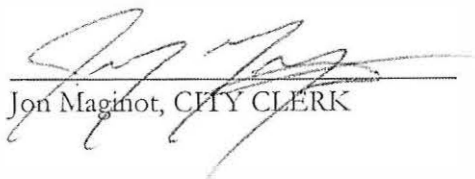
NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby approves the Project subject to the findings and conditions of approval attached hereto as Exhibit "A" and incorporated by this reference.

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 13<sup>th</sup> day of September, 2016 by the following vote:

AYES: BRUINS, MORDO, PEPPER, PROCHNOW, SATTERLEE  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

  
Jeannie Bruins, MAYOR

Attest:

  
Jon Maginot, CITY CLERK

## EXHIBIT A

### FINDINGS

16-D-01, 16-UP-02 and 16-SD-01—4880 El Camino Real

1. With regard to environmental review, the City Council finds in accordance with Section 15332 of the California Environmental Quality Act Guidelines, 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 applicable zoning designation and regulations, including incentives for the production of affordable housing;
  - b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; there is no record that the project site has value as habitat for endangered, rare or threatened species;
  - c. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the completed studies and staff analysis reflected in this 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. With regard to commercial design review, the City Council makes the following findings in accordance with Section 14.78.040 of the Municipal Code:
  - A. The proposal meets the goals, policies and objectives of the General Plan with its level of intensity and residential density within the El Camino Real corridor, and ordinance design criteria adopted for the specific district such as the stepped building massing and the landscape buffer at the rear;
  - B. The proposal has architectural integrity and has an appropriate relationship with other structures in the immediate area in terms of height, bulk and design; the project has a mixture of scales relating to the larger street and vehicles and the smaller pedestrian orientation;
  - C. Building mass is articulated to relate to the human scale, both horizontally and vertically as evidenced in the design of the projecting bay windows, overhangs and balconies. Building elevations have variation and depth and avoid large blank wall surfaces. Residential projects incorporate elements that signal habitation, such as identifiable entrances, overhangs, bays and balconies;
  - D. Exterior materials and finishes such as the stained mahogany entry, natural limestone, cementitious horizontal siding, C-channel steel and architectural glass railings, convey quality, integrity, permanence and durability, and materials are used effectively to define building elements such as base, body, parapets, bays, and structural elements;

- E. Landscaping such as the specimen palm trees, timber bamboo, hedges and groundcover is generous and inviting and landscape and hardscape features such as the limestone pavers, precast cement planters and benches are designed to complement the building and parking areas and to be integrated with the building architecture and the surrounding streetscape. Landscaping includes substantial street tree canopy including three street trees and two specimen palm trees, either in the public right-of-way or within the project frontage;
  - F. Signage such as the laser cut building numbers is designed to complement the building architecture in terms of style, materials, colors and proportions;
  - G. Mechanical equipment is screened from public view by the building 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 location in the building garage and careful placement to the side of the building consistent with the building architecture in materials and detailing.
3. With regard to use permit, the City Council finds in accordance with Section 14.80.060 of the Municipal Code:
- a. That the proposed location of the multiple-family residential use is desirable or essential to the public health, safety, comfort, convenience, prosperity, or welfare in that the zoning conditionally permits it and the project provides housing at a variety of affordability levels;
  - b. That the proposed location of the multiple-family residential use is in accordance with the objectives of the zoning plan as stated in Chapter 14.02 of this title in that the project provides for community growth along sound line; that the design is harmonious and convenient in relation to surrounding land uses; that the project does not create a significant traffic impact; that the project helps meet the City's housing goals including affordable housing; that the project protects and enhances property values; and that the project enhances the City's distinctive character with a high-quality building design in a commercial thoroughfare context;
  - c. That the proposed location of the multiple-family residential use, under the circumstances of the particular case and as conditioned, will not be detrimental to the health, safety, comfort, convenience, prosperity, or welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;
  - d. That the proposed multiple-family residential use complies with the regulations prescribed for the district in which the site is located and the general provisions of Chapter 14.02;



4. With regard to the subdivision, the City Council finds in accordance with Section 66474 of the Subdivision Map Act of the State of California:
  - a. That the proposed subdivision is consistent with the General Plan;
  - b. That the site is physically suitable for this type and density of development in that the project meets all zoning requirements except where development incentives have been granted;
  - c. That the design of the 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. That the design of the condominium subdivision is not likely to cause serious public health problems because conditions have been added to address noise, air quality and life safety concerns; and
  - e. That the design of the condominium subdivision will not conflict with public access easements as none have been found or identified on this site.
5. With regard to requested waivers, the City Council makes the following findings:

The requested waiver to allow a building height of 58 feet is required to accommodate an additional story so that the four bonus dwelling units may achieve a unit size equivalent to that which could be achieved by a conforming project, and so that all units may have reasonable ceiling heights of 10 feet. The requested waivers to allow the rooftop structures to exceed eight feet above the rooftop and to exceed the four percent area limit for rooftop structures are necessary to accommodate the elevator cab and the rooftop amenities incorporated into the project. The elevator cab is required to accommodate the ceiling heights in the dwelling units, and further enclosure of the rooftop structures is necessary to provide for and accommodate the rooftop amenities. Without the requested waivers, the City's development standards would "physically preclude" the development of the project with the density bonus units.

## CONDITIONS

16-D-01, 16-UP-02 and 16-SD-01—4880 El Camino Real

### GENERAL

#### 1. Approved Plans

The project approval is based upon the plans received on August 12, 2016, except as modified by these conditions. Such plans shall provide: a) a roof height of 58 feet; b) the rooftop photovoltaic panels at the locations indicated; c) wiring for vehicle charging stations in the mechanical lift for 25 percent of the parking spaces; and d) smooth parking deck surfaces in the Klaus parking system.

#### 2. Public Right-of-Way, General

All work within the public right-of-way shall be done in accordance with plans to be approved by the City Engineer.

#### 3. Encroachment Permit

The applicant shall obtain an encroachment permit, permit to open streets and/or excavation permit 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. *Note: Any work within El Camino Real will require applicant to obtain an encroachment permit with Caltrans prior to commencement of work.*

#### 4. Public Utilities

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

#### 5. ADA

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

#### 6. Sewer Lateral

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

#### 7. Upper Story Lighting

Any upper story lighting on the sides and rear of the building shall be shrouded or directed down to minimize glare.

#### 8. Indemnity and Hold Harmless

The property owner agrees to indemnify and hold City harmless from all costs and expenses, including attorney's fees, incurred by the City or held to be the liability of City in connection with

City's defense of its actions in any proceeding brought in any State or Federal Court, challenging the City's action with respect to the applicant's project.

#### **9. Plan Changes**

The Planning and Transportation Commission may approve minor changes to the development plans. Substantive project changes require a formal amendment of the application with review by the Planning and Transportation Commission and City Council.

### **PRIOR TO FINAL MAP RECORDATION**

#### **10. CC&Rs**

The applicant shall include provisions in the Covenants, Conditions and Restrictions (CC&Rs) that: a) restrict storage on the private patio and decks and outline rules for other objects stored on the private patio and decks with the goal of minimizing visual impacts; and b) require the continued use and regular maintenance of the Klaus Multiparking vehicle parking system and a power back up system for the parking system. Such restrictions shall be approved by and run in favor of the City of Los Altos.

#### **11. Public Utility Dedication**

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

#### **12. Fees**

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

### **PRIOR TO BUILDING PERMIT SUBMITTAL**

#### **13. Subdivision Map Recordation**

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

#### **14. Public Improvements**

The property owner or applicant shall design the project to install remove and replace with current City Standard sidewalk, vertical curb and gutter, and driveway approaches from property line to property along the frontage of El Camino Real. Such work shall restore the existing driveway approach to be ADA compliant and to the current City Standard vertical curb and gutter along the northerly corner of the property.

The applicant shall design the project to include no parking red curbs on either side of the driveway, and a loading zone to the west of the driveway as approved by the City Engineer. Such design shall include appropriate signage including but not limited to permitting vehicle parking in the loading zone during non-business hours of 6 PM to 8 AM on weekdays and anytime on weekends.

#### **15. Street Trees**

The street trees shall be installed along the project's El Camino Real frontage and include two trees in front of 4896 El Camino Real, as directed by the City Engineer.

#### **16. Sidewalk Lights**

The owner or applicant shall maintain and protect the existing light fixture in the El Camino Real sidewalk, as directed by the City Engineer.

#### **17. Performance Bond**

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

#### **18. Right of Way Construction**

The applicant shall submit detailed plans for any construction activities affecting the public right-of-way, including but not limited to excavations, pedestrian protection, material storage, earth retention, and construction vehicle parking, to the City Engineer for review and approval. The applicant shall also submit on-site and off-site grading and drainage plans that include drain swales, drain inlets, rough pad elevations, building envelopes, and grading elevations for approval by the City.

#### **19. Sewer Capacity**

The applicant shall show sewer connection to the City sewer main and submit calculations showing that the City's existing 8-inch sewer main will not exceed two-thirds full due to the additional sewage capacity from proposed project. 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 upgrade the sewer line or pay a fair share contribution for the sewer upgrade to be approved by the Director of Public Works.

#### **20. Trash Enclosure and Management**

The applicant shall contact Mission Trail Waste Systems and submit a solid waste, recyclables, organics, and a 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 approved trash staging location shall be maintained as required by the City Engineer.

The trash staging area shall only be allowed in the street adjacent to the curb to the east of the driveway on scheduled trash and recycling service days only. Any trash and recycling containers staged in the street shall not occur before 5:30 AM on the day of service and shall be returned to the on-site storage area in the parking garage by 5 PM of the same day as serviced or be subject to towing. Any trash and recycling containers staged in the street shall have appropriate reflective devices as approved by the City Engineer.

Should the City or State or Valley Transportation Authority require displacement of the on-street parking or use of the street shoulder for staging the trash and recycling containers, the property owner(s) shall create an on-site staging area as required by the City.

#### **21. Stormwater Management Plan and NPDES Permit**

The applicant shall submit a complete Stormwater Management Plan (SWMP), a hydrology and hydraulic report for review and approval showing that 100% of the site is being treated; is in compliance with the Municipal Regional Stormwater NPDES Permit (MRP). The proposed storm water media filter is not considered to be an LID treatment measure per the C.3 Technical Guidance Handbook of the Santa Clara Valley Urban Runoff Prevention Program. The implementation of Low Impact Development ("LID") per the current MRP such as using evapotranspiration, infiltration, and/or rainwater harvesting and reuse shall be used. 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. Please complete in detail the attached Provision C.3 Data Form.

#### **22. 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.

#### **23. Property Address**

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

#### **24. Landscape**

The applicant shall provide a landscape and irrigation plan in conformance to the City's Water Efficient Landscape Regulations in accordance with Chapter 12.46 of the Municipal Code.

### **PRIOR TO ISSUANCE OF DEMOLITION AND/OR BUILDING PERMIT**

#### **25. Construction Management Plan**

The applicant shall submit a construction management plan for review and approval by the Community Development Director. The construction management plan shall address any

construction activities affecting the public right-of-way, including but not limited to: prohibiting dirt hauling during peak traffic hours, excavation, traffic control, truck routing, pedestrian protection, appropriately designed fencing to limit project impacts and maintain traffic visibility as much as practical, material storage, earth retention and construction and employee vehicle parking.

**26. Sewer Lateral**

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.

**27. Solid Waste Ordinance**

The applicant shall comply with the City's adopted Solid Waste Collection, Remove, Disposal, Processing & Recycling Ordinance, which requires mandatory commercial and multi-family dwellings to provide for recycling, and organics collection programs as per Chapter 6.12 of the Municipal Code.

**28. Air Quality Mitigation**

The applicant shall implement and incorporate the air quality mitigations into the plans as required by staff in accordance with the report prepared by Illingsworth & Rodin, Inc., dated March 18, 2016.

**29. Noise Mitigation**

The applicant shall implement and incorporate the noise mitigation measures into the plans as required by staff in accordance with the report by Wilson Ihrig, dated March 2, 2016 and revised on April 20, 2016.

**30. Tree Protection**

The applicant shall implement and incorporate the tree protection measures into the plans and on-site as required by staff in accordance with the report by The Tree Specialist, dated April 21, 2016.

**31. Affordable Housing Agreement**

The applicant shall offer for a minimum 30-year period that shall reset for a subsequent 30-year period if transferred within the preceding 30-year period, one, three-bedroom unit at the moderate-income level, and two, two-bedroom units at the low-income level, in accordance with the City's Affordable Housing Agreement, in a recorded document in a form approved by the City Attorney.

## **PRIOR TO FINAL INSPECTION**

### **32. Maintenance Bond**

The applicant shall submit a one-year, 10-percent maintenance bond upon acceptance of improvements in the public right-of-way.

### **33. Stormwater Facility 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, the applicant shall record the agreement.

### **34. Stormwater Catch Basin**

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 THE BAY" logo as required by the City Engineer.

### **35. 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.

### **36. Landscaping Installation**

The applicant shall install all on- and off-site landscaping and irrigation, as approved by the Community Development Director and the City Engineer.

### **37. 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.

### **38. Acoustical Report**

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

### **39. Landscape Certification**

The applicant shall provide a Certificate of Completion conforming to the City's Water Efficient Landscape Regulations.



**40. Condominium Map**

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

**41. Public Improvements and Street Damage**

The applicant shall install all public improvements required herein, and 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 El Camino Real if determined to be damaged during construction, as directed by the City Engineer or his designee.

**42. Stormwater Management Plan Inspection**

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, the applicant shall record the agreement.

**43. Driveway Visibility and Loading Zone**

The applicant shall provide no parking areas on either side of the driveway and a timed loading zone from 8 AM to 6 PM to the west of the driveway as approved by the City Engineer.

# ATTACHMENT C

## DRAFT RESOLUTION NO. 2017-14

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS FOR AN AMENDED DEVELOPMENT WAIVER FOR AN ELEVATOR TOWER FOR A 21-UNIT, MULTIPLE-FAMILY PROJECT AT 4880 EL CAMINO REAL

**WHEREAS**, the City of Los Altos received an application from LOLA, LLC to amend the development waiver previously granted by Resolution No. 2016-27 for their multiple-family residential condominium building, which includes Design, Use Permit and Subdivision applications 16-D-01, 16-UP-01 and 16-SD-01, referred herein as the "Project"; and

**WHEREAS**, the applicant LOLA, LLC seeks an amended development waiver under Government Code Section 65915 (e) to allow a rooftop elevator tower enclosure 16 feet, eight inches above the structural roof deck, or 15.5 feet above the roof finish, where the Municipal Code limits such structures to a height of eight feet above the roof; and

**WHEREAS**, said Project is exempt from environmental review in accordance with Section 15332 of the California Environmental Quality Act of 1970 as amended; and

**WHEREAS**, the Planning and Transportation Commission City Council held an additional duly noticed public meetings on the Project on July 20, 2017 and \_\_\_\_\_; and

**WHEREAS**, the Design application was processed in accordance with the applicable provisions of the California Government Code and the Los Altos Municipal Code; and

**WHEREAS**, the location and custodian of the documents or other materials which constitute the record of proceedings of the City Council's decision are held the Office of the City Clerk.

**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of Los Altos hereby approves the revised development waiver for the Project subject to the additional findings and conditions of approval attached hereto as Exhibit "A" 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 \_\_\_\_ day of \_\_\_\_, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Mary Prochnow, MAYOR

Attest:

\_\_\_\_\_  
Jon Maginot, CMC, CITY CLERK

## FINDINGS (REVISED)

16-D-01—4880 El Camino Real

1. With regard to environmental review, the City Council finds in accordance with Section 15332 of the California Environmental Quality Act Guidelines, 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 applicable zoning designation and regulations, including incentives to produce affordable housing;
  - B. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; there is no record that the project site has value as habitat for endangered, rare or threatened species;
  - C. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the completed studies and staff analysis reflected in this 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. With regard to commercial design review, the City Council makes the following findings in accordance with Section 14.78.040 of the Municipal Code:
  - A. The proposal meets the goals, policies and objectives of the General Plan within the El Camino Real corridor, and ordinance design criteria adopted for the specific district such as the stepped building massing and the landscape buffer at the rear;
  - B. The proposal has architectural integrity and has an appropriate relationship with other structures in the immediate area in terms of height, bulk and design; the project has a mixture of scales relating to the larger street and vehicles and the smaller pedestrian orientation;
  - C. Building mass is articulated to relate to the human scale, both horizontally and vertically as evidenced in the design of the projecting bay windows, overhangs and balconies. Building elevations have variation and depth and avoid large blank wall surfaces. Residential projects incorporate elements that signal habitation, such as identifiable entrances, overhangs, bays and balconies;
  - D. Exterior materials and finishes convey quality, integrity, permanence and durability, and materials are used effectively to define building elements such as base, body, parapets, bays, and structural elements; and

- E. Mechanical equipment is screened from public view by the building parapet and is designed to be consistent with the building architecture in form, material and detailing.
3. With regard to the requested development waiver amendment, the City Council makes the following finding:
- A. The amended development waiver to allow the elevator tower at 16 feet, eight inches above the structural roof deck, or 15.5 feet above the roof finish, is required to accommodate the rooftop deck amenity. The taller elevator cab and enclosure is commensurate with the taller ceilings in the project. Without the requested waiver, the City's rooftop development standard would "physically preclude" the development of the project amenity with the density bonus units.

CONDITIONS (REVISED)

16-D-01—4880 El Camino Real

**GENERAL**

**1. Approved Plans**

The project approval is based upon the plans received on April 17, 2017, except as modified by these conditions. Such plans shall provide the rooftop elevator enclosure no higher than 16 feet, eight inches above the structural roof deck, or 15.5 feet above the roof finish.

**2. Prior Conditions of Approval**

All conditions of approval per Resolution No. 2016-27 shall remain in effect except as stated herein.



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**Memorandum**

**To:** Planning and Transportation Commission      **File No.:** 38082.00110  
**From:** City Attorney's Office  
**Date:** July 17, 2017  
**Re:** 4880 El Camino Real Project - Elevator Height Tower Amended Waiver

**BACKGROUND AND ISSUE**

As you know, LOLA LLC (the "Applicant") has requested an amendment to the City Council's previously granted waiver of the development standard limiting elevator tower heights to 8 feet. The higher elevator tower height is needed to accommodate the elevator opening up and allowing access to the rooftop deck. If the rooftop deck was not a project amenity, it is likely the elevator would stop at the top floor and any tower height would be limited to the roof and would not exceed the eight foot limit. Pursuant to the City Council's adoption of Resolution No. 2016-27, the City previously granted a waiver to the development standard to allow the Applicant to install an elevator with a height of 11 feet, in lieu of the required 8 feet<sup>1</sup>. The Applicant is now requesting that they be allowed to install an elevator with a height of 15.5 feet, an increase of almost 5 feet.

As background, Resolution No. 2016-27 approved a 21-unit multi-family project that qualified for a 21.5 percent density bonus based on the inclusion of one Moderate-Income and two Low-Income affordable housing units. The Applicant was also granted two additional waivers of development standards associated with the following:

- Height of building: Applicant was granted the right to construct a five story building at a height of 58 feet where the development standard in the Los Altos Municipal Code limits such height to 45 feet.
- Roof top structure: The Applicant was granted the right to construct an enclosed roof top structure at six percent of the roof area, where the development standard in the Los Altos Municipal Code limits such structures to four percent of the roof area.

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<sup>1</sup> The City has since updated the height for elevator rooftop structures to twelve (12) feet pursuant to City Council Resolution No. 2016-427.



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This memo will provide guidance to the Planning and Transportation Commission (PTC) on the legal standard that applies to the PTC's decision to recommend approval or denial of the Applicant's request. Further, this memo will also clarify that the City is following the correct process by having this additional request reviewed by PTC and considered for final action by the City Council. Finally, the Applicant's substantive request to modify the elevator height does require a formal amendment of the application thereby re-opening up Resolution No. 2016-27.

SUMMARY

The PTC has the following options:

- Approve the request. It is clear from case law and applicable law, that the City can grant a waiver of a development standard solely to provide for a project amenity. In this case, the higher elevator tower height is only needed to provide for the rooftop deck amenity and would not in any other way limit the development of the overall project.
- Deny the request. It is also clear from case law and applicable law that a City is not mandated to grant a waiver of a development standard solely to provide for a project amenity. Thus, the PTC should feel free to deny the request. Although the Applicant appears to suggest that the City is mandated to grant the waiver as application of the development standard would "physically preclude the project," no evidence appears to have been provided to support this position. Additionally, because City staff has explored potential design solutions with the Applicant, it is also not clear to the City that another design solution does not exist making the requested development waiver potentially no longer needed.

ANALYSIS

**I. Legal Standard Applicable to Consideration of Waivers of Development Standards**

Under state density bonus law, it specifies "[i]n no case may a city ... apply any development standard that will have the effect of physically precluding the construction of ... [an affordable housing project] ... at the densities or with the concessions or incentives [proposed]."<sup>2</sup> To put another way, the waiver of the development standard is required to be approved if the City's application of the development standard would physically preclude the development and deny the density bonus or concessions/incentives proposed or granted.

The developer obtained a density bonus of 21.5 percent but no concessions or incentives were granted. If the City was to apply the elevator height development standard to the project, it would not physically preclude the development and it would not limit the 21.5 percent density

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<sup>2</sup> See, Cal. Gov. Code Section 65915



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bonus granted. As such, the PTC is free to deny the waiver of the development standard. If the PTC was to deny the waiver, the project could still be constructed, albeit potentially without the rooftop deck amenity, and the density bonus granted of 21.5 percent would still be honored.

For additional clarity on interpreting the above provision, this memo will discuss the *Wollmer v. City of Berkeley*<sup>3</sup> case, the sole case interpreting the above provision. In *Wollmer*, a resident brought suit challenging the City's approval of a development project that had been granted concessions and development waivers. In particular, the resident challenged the City's granting of development waiver solely to allow for a courtyard amenity as well as a community plaza. The Court of Appeal upheld the City's approval of the development waivers noting:

“... nothing in the statute requires the applicant to strip the project of amenities such as an interior courtyard, that would require a waiver of development standards. Standards may be waived that physically preclude construction of a housing development meeting the requirements for a density bonus, period. The statute does not say that what must be precluded is a project with no amenities, or that amenities may not be the reason a waiver is needed.” (emphasis added)

Based on *Wollmer*, it is clear that a city may grant development waivers solely for the purpose of allowing amenities of a density bonus housing development. The court, however, did not indicate that a city must grant development waivers solely for the purpose of allowing amenities. Thus, there is nothing in density bonus law or in case law that would require the City to grant the development waiver solely to provide for the rooftop deck amenity. The City is allowed to do so, but case law and density bonus law do not include a mandate that the City do so.

**II. The City is Following the Correct Process by Requiring Planning Commission Review and City Council Action**

City staff did not have discretion to alter City Council Resolution No. 2016-27. The Applicant has asserted that City staff had discretion to grant the applicant's request to modify the previously granted height waiver because such waiver was only noted in the recitals of Resolution No. 2016-27 and not in the actual findings.

Resolutions are used to express the opinion of the legislative body, or to reflect the action taken. See, *Sausalito v. County of Marin* (1970) 12 Cal. App. 3d 550; *Central Manufacturing District, Inc. v. Board of Supervisors* (1960) 176 Cal. App. 2d 850. As such, any modification to a previously adopted resolution would need to be the opinion of the legislative body and/or formally reflect the legislative body's action and understanding of the facts when adopted. Thus,

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<sup>3</sup> (2011) 193 Cal.App.4th 1329





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further City Council action is always required in order to modify any previously adopted resolution.

Further, because this represents a design change to the project, Condition No. 9 of City Council Resolution No. 2016-27 specifies that, “[t]he Planning and Transportation Commission may approve minor changes to the development plans. Substantive project changes require a formal amendment of the application with review by the Planning and Transportation Commission and City Council.” It is staff’s interpretation that this proposal to amend a previously granted development waiver is a substantive change to the project based on the legal findings required to be made under state density bonus law, thus requiring review by the Planning and Transportation Commission with final action by the City Council.

**III. The Applicant’s New Request Requires a Formal Amendment to the Prior Approval**

In order for the City to consider the applicant’s request to modify the previously granted development waiver regarding the elevator height, the Applicant is required to formally amend its application. Because the application was considered and approved via Resolution No. 2016-27, the applicant in making its request is asking the City to re-open Resolution No. 2016-27 in its entirety to make this amendment. This is confirmed by Condition No. 9 of City Council Resolution No. 2016-27 that specifies “[t]he Planning and Transportation Commission may approve minor changes to the development plans. Substantive project changes require a formal amendment of the application with review by the Planning and Transportation Commission and City Council.” It is staff’s interpretation that this proposal to amend a previously granted development waiver is a substantive change to the project requiring a formal amendment to the application.

It is important to note that the applicant does not obtain a vested right to proceed with prior approvals until the issuance of a building permit and the applicant has performed substantial work and incurred substantial liability in good faith reliance on that permit. See, *Avco Community Developers v South Coast Reg'l Comm'n* (1976) 17 Cal.3d 785, 791, superseded by statute as stated in *Santa Margarita Area Residents Together v San Luis Obispo County Bd. of Supervisors* (2000) 84 CalA.pp.4th 221, 229.

The City has not issued any building permit for this project. As such, the applicant has no vested right or any other to rely on the approvals granted in Resolution No. 2016-27 to construct the buildings. Although the City has issued a grading permit for the site, the applicant only has the right to finish grading but no right to construct the actual buildings. See, *Spindler Realty Corp. v. Monning* (1966) 243 Cal.App.2d 255, 264-266 (holder of grading permit and vested right thereto did not have a vested right to construct a building by virtue of the former permit and expenditures under it).

Based on the above, the PTC should feel free to explore other potential design solutions for the Project even if it means addressing the scope of the prior approvals. This is because



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Condition 9 expressly acknowledges that the Applicant's request requires formal amendment of its application which was approved via Resolution No. 2016-27.

Potential solutions mentioned may include:

- As mentioned by Peggy Galeb, a representative of the Applicant, the elevator cab could be limited to 8 feet and then an elevator tower of 14.5 feet would work. This would still exceed the previously granted waiver, but could minimize any visibility from off-site based on the shorter foot height.
- Reducing the height of each floor of the building to ensure the overall structure height remains at 69 feet (58 feet for the building with 11 feet for the elevator tower).
- Using a different elevator type.
- Any other design solution that the PTC may want to fully explore with the Applicant at the PTC hearing.

CONCLUSION

As noted above, the PTC is free to approve or deny the request. In doing so, the PTC should feel free to explore whether this request is truly needed for the project or whether another design solution could be implemented by the Applicant. Finally, pursuant to Condition No. 9, the City is following the correct procedural process in having this reviewed by PTC with final action by the City Council, and the request does require formal amendment of the application and amendment of Resolution No. 2016-27.

**RESOLUTION NO. 2016-27**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS FOR  
DESIGN REVIEW, USE PERMIT AND SUBDIVISION APPLICATIONS  
FOR A 21-UNIT, MULTIPLE-FAMILY PROJECT  
AT 4880 EL CAMINO REAL**

**WHEREAS**, the City of Los Altos received a development application from LOLA, LLC for a multiple-family residential condominium building, which includes Design, Use Permit and Subdivision applications 16-D-01, 16-UP-01 and 16-SD-01, referred herein as the "Project"; and

**WHEREAS**, the applicant LOLA, LLC, offers one Moderate-Income and two Low-Income affordable housing units; and

**WHEREAS**, the applicant LOLA, LLC seeks a waiver under Government Code Section 65915(e) to allow a five-story building to have a height of 58 feet, where the Code allows a height of 45; and

**WHEREAS**, the applicant LOLA, LLC seeks further waivers under Government Code Section 65915(e) to allow a) rooftop structures 11 feet above the roof, where the Code allows such structures to be eight feet above the roof; and b) enclosed roof top structures at six percent of the roof area, where the Code limits such structures to four percent of the roof area; and

**WHEREAS**, under Government Code 65915 said Project is entitled to a 21.5 percent density bonus and may request one incentive and waivers as required to allow development of the Project; and

**WHEREAS**, at the City Council meeting of August 23, 2016 the applicant LOLA, LLC agreed to modify its previous requests for an incentive and waivers to include requests for waivers for a building height of 58 feet, rooftop structures 11 feet above the roof, and enclosed rooftop structures at six percent of the roof area; 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**, the Design, Use Permit and Subdivision applications were processed in accordance with the applicable provisions of the California Government Code and the Los Altos Municipal Code; and

**WHEREAS**, the City Council held duly noticed hearings on the Project on June 28, 2016 and on August 23, 2016 at which all public comment was duly considered; and


**WHEREAS**, the Planning and Transportation Commission held a duly noticed public hearing on the Project on May 19, 2016, and recommended approval of the Project; and

**WHEREAS**, the location and custodian of the documents or other materials which constitute the record of proceedings upon the City Council's decision was made are located in the Office of the City Clerk.

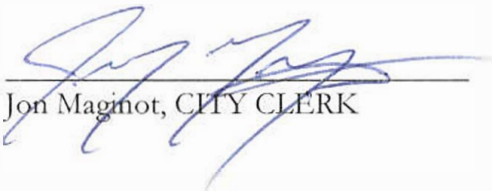
**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of Los Altos hereby approves the Project subject to the findings and conditions of approval attached hereto as Exhibit "A" and incorporated by this reference.

**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 13<sup>th</sup> day of September, 2016 by the following vote:

AYES: BRUINS, MORDO, PEPPER, PROCHNOW, SATTERLEE  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

  
\_\_\_\_\_  
Jeannie Bruins, MAYOR

Attest:

  
\_\_\_\_\_  
Jon Maginot, CITY CLERK

## EXHIBIT A

### FINDINGS

16-D-01, 16-UP-02 and 16-SD-01—4880 El Camino Real

1. With regard to environmental review, the City Council finds in accordance with Section 15332 of the California Environmental Quality Act Guidelines, 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 applicable zoning designation and regulations, including incentives for the production of affordable housing;
  - b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; there is no record that the project site has value as habitat for endangered, rare or threatened species;
  - c. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the completed studies and staff analysis reflected in this 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. With regard to commercial design review, the City Council makes the following findings in accordance with Section 14.78.040 of the Municipal Code:
  - A. The proposal meets the goals, policies and objectives of the General Plan with its level of intensity and residential density within the El Camino Real corridor, and ordinance design criteria adopted for the specific district such as the stepped building massing and the landscape buffer at the rear;
  - B. The proposal has architectural integrity and has an appropriate relationship with other structures in the immediate area in terms of height, bulk and design; the project has a mixture of scales relating to the larger street and vehicles and the smaller pedestrian orientation;
  - C. Building mass is articulated to relate to the human scale, both horizontally and vertically as evidenced in the design of the projecting bay windows, overhangs and balconies. Building elevations have variation and depth and avoid large blank wall surfaces. Residential projects incorporate elements that signal habitation, such as identifiable entrances, overhangs, bays and balconies;
  - D. Exterior materials and finishes such as the stained mahogany entry, natural limestone, cementitious horizontal siding, C-channel steel and architectural glass railings, convey quality, integrity, permanence and durability, and materials are used effectively to define building elements such as base, body, parapets, bays, and structural elements;

- E. Landscaping such as the specimen palm trees, timber bamboo, hedges and groundcover is generous and inviting and landscape and hardscape features such as the limestone pavers, precast cement planters and benches are designed to complement the building and parking areas and to be integrated with the building architecture and the surrounding streetscape. Landscaping includes substantial street tree canopy including three street trees and two specimen palm trees, either in the public right-of-way or within the project frontage;
  - F. Signage such as the laser cut building numbers is designed to complement the building architecture in terms of style, materials, colors and proportions;
  - G. Mechanical equipment is screened from public view by the building 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 location in the building garage and careful placement to the side of the building consistent with the building architecture in materials and detailing.
3. With regard to use permit, the City Council finds in accordance with Section 14.80.060 of the Municipal Code:
- a. That the proposed location of the multiple-family residential use is desirable or essential to the public health, safety, comfort, convenience, prosperity, or welfare in that the zoning conditionally permits it and the project provides housing at a variety of affordability levels;
  - b. That the proposed location of the multiple-family residential use is in accordance with the objectives of the zoning plan as stated in Chapter 14.02 of this title in that the project provides for community growth along sound line; that the design is harmonious and convenient in relation to surrounding land uses; that the project does not create a significant traffic impact; that the project helps meet the City's housing goals including affordable housing; that the project protects and enhances property values; and that the project enhances the City's distinctive character with a high-quality building design in a commercial thoroughfare context;
  - c. That the proposed location of the multiple-family residential use, under the circumstances of the particular case and as conditioned, will not be detrimental to the health, safety, comfort, convenience, prosperity, or welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;
  - d. That the proposed multiple-family residential use complies with the regulations prescribed for the district in which the site is located and the general provisions of Chapter 14.02;

4. With regard to the subdivision, the City Council finds in accordance with Section 66474 of the Subdivision Map Act of the State of California:
  - a. That the proposed subdivision is consistent with the General Plan;
  - b. That the site is physically suitable for this type and density of development in that the project meets all zoning requirements except where development incentives have been granted;
  - c. That the design of the 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. That the design of the condominium subdivision is not likely to cause serious public health problems because conditions have been added to address noise, air quality and life safety concerns; and
  - e. That the design of the condominium subdivision will not conflict with public access easements as none have been found or identified on this site.
5. With regard to requested waivers, the City Council makes the following findings:

The requested waiver to allow a building height of 58 feet is required to accommodate an additional story so that the four bonus dwelling units may achieve a unit size equivalent to that which could be achieved by a conforming project, and so that all units may have reasonable ceiling heights of 10 feet. The requested waivers to allow the rooftop structures to exceed eight feet above the rooftop and to exceed the four percent area limit for rooftop structures are necessary to accommodate the elevator cab and the rooftop amenities incorporated into the project. The elevator cab is required to accommodate the ceiling heights in the dwelling units, and further enclosure of the rooftop structures is necessary to provide for and accommodate the rooftop amenities. Without the requested waivers, the City's development standards would "physically preclude" the development of the project with the density bonus units.

## CONDITIONS

16-D-01, 16-UP-02 and 16-SD-01—4880 El Camino Real

### **GENERAL**

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

The project approval is based upon the plans received on August 12, 2016, except as modified by these conditions. Such plans shall provide: a) a roof height of 58 feet; b) the rooftop photovoltaic panels at the locations indicated; c) wiring for vehicle charging stations in the mechanical lift for 25 percent of the parking spaces; and d) smooth parking deck surfaces in the Klaus parking system.

#### **2. Public Right-of-Way, General**

All work within the public right-of-way shall be done in accordance with plans to be approved by the City Engineer.

#### **3. Encroachment Permit**

The applicant shall obtain an encroachment permit, permit to open streets and/or excavation permit 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. *Note: Any work within El Camino Real will require applicant to obtain an encroachment permit with Caltrans prior to commencement of work.*

#### **4. Public Utilities**

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

#### **5. ADA**

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

#### **6. Sewer Lateral**

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

#### **7. Upper Story Lighting**

Any upper story lighting on the sides and rear of the building shall be shrouded or directed down to minimize glare.

#### **8. Indemnity and Hold Harmless**

The property owner agrees to indemnify and hold City harmless from all costs and expenses, including attorney's fees, incurred by the City or held to be the liability of City in connection with



City's defense of its actions in any proceeding brought in any State or Federal Court, challenging the City's action with respect to the applicant's project.

#### **9. Plan Changes**

The Planning and Transportation Commission may approve minor changes to the development plans. Substantive project changes require a formal amendment of the application with review by the Planning and Transportation Commission and City Council.

### **PRIOR TO FINAL MAP RECORDATION**

#### **10. CC&Rs**

The applicant shall include provisions in the Covenants, Conditions and Restrictions (CC&Rs) that: a) restrict storage on the private patio and decks and outline rules for other objects stored on the private patio and decks with the goal of minimizing visual impacts; and b) require the continued use and regular maintenance of the Klaus Multiparking vehicle parking system and a power back up system for the parking system. Such restrictions shall be approved by and run in favor of the City of Los Altos.

#### **11. Public Utility Dedication**

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

#### **12. Fees**

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

### **PRIOR TO BUILDING PERMIT SUBMITTAL**

#### **13. Subdivision Map Recordation**

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

#### **14. Public Improvements**

The property owner or applicant shall design the project to install remove and replace with current City Standard sidewalk, vertical curb and gutter, and driveway approaches from property line to property along the frontage of El Camino Real. Such work shall restore the existing driveway approach to be ADA compliant and to the current City Standard vertical curb and gutter along the northerly corner of the property.

The applicant shall design the project to include no parking red curbs on either side of the driveway, and a loading zone to the west of the driveway as approved by the City Engineer. Such design shall include appropriate signage including but not limited to permitting vehicle parking in the loading zone during non-business hours of 6 PM to 8 AM on weekdays and anytime on weekends.

**15. Street Trees**

The street trees shall be installed along the project's El Camino Real frontage and include two trees in front of 4896 El Camino Real, as directed by the City Engineer.

**16. Sidewalk Lights**

The owner or applicant shall maintain and protect the existing light fixture in the El Camino Real sidewalk, as directed by the City Engineer.

**17. Performance Bond**

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

**18. Right of Way Construction**

The applicant shall submit detailed plans for any construction activities affecting the public right-of-way, including but not limited to excavations, pedestrian protection, material storage, earth retention, and construction vehicle parking, to the City Engineer for review and approval. The applicant shall also submit on-site and off-site grading and drainage plans that include drain swales, drain inlets, rough pad elevations, building envelopes, and grading elevations for approval by the City.

**19. Sewer Capacity**

The applicant shall show sewer connection to the City sewer main and submit calculations showing that the City's existing 8-inch sewer main will not exceed two-thirds full due to the additional sewage capacity from proposed project. 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 upgrade the sewer line or pay a fair share contribution for the sewer upgrade to be approved by the Director of Public Works.

**20. Trash Enclosure and Management**

The applicant shall contact Mission Trail Waste Systems and submit a solid waste, recyclables, organics, and a 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 approved trash staging location shall be maintained as required by the City Engineer.

The trash staging area shall only be allowed in the street adjacent to the curb to the east of the driveway on scheduled trash and recycling service days only. Any trash and recycling containers staged in the street shall not occur before 5:30 AM on the day of service and shall be returned to the on-site storage area in the parking garage by 5 PM of the same day as serviced or be subject to towing. Any trash and recycling containers staged in the street shall have appropriate reflective devices as approved by the City Engineer.

Should the City or State or Valley Transportation Authority require displacement of the on-street parking or use of the street shoulder for staging the trash and recycling containers, the property owner(s) shall create an on-site staging area as required by the City.

#### **21. Stormwater Management Plan and NPDES Permit**

The applicant shall submit a complete Stormwater Management Plan (SWMP), a hydrology and hydraulic report for review and approval showing that 100% of the site is being treated; is in compliance with the Municipal Regional Stormwater NPDES Permit (MRP). The proposed storm water media filter is not considered to be an LID treatment measure per the C.3 Technical Guidance Handbook of the Santa Clara Valley Urban Runoff Prevention Program. The implementation of Low Impact Development (“LID”) per the current MRP such as using evapotranspiration, infiltration, and/or rainwater harvesting and reuse shall be used. 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. Please complete in detail the attached Provision C.3 Data Form.

#### **22. 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.

#### **23. Property Address**

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

#### **24. Landscape**

The applicant shall provide a landscape and irrigation plan in conformance to the City’s Water Efficient Landscape Regulations in accordance with Chapter 12.46 of the Municipal Code.

### **PRIOR TO ISSUANCE OF DEMOLITION AND/OR BUILDING PERMIT**

#### **25. Construction Management Plan**

The applicant shall submit a construction management plan for review and approval by the Community Development Director. The construction management plan shall address any

construction activities affecting the public right-of-way, including but not limited to: prohibiting dirt hauling during peak traffic hours, excavation, traffic control, truck routing, pedestrian protection, appropriately designed fencing to limit project impacts and maintain traffic visibility as much as practical, material storage, earth retention and construction and employee vehicle parking.

**26. Sewer Lateral**

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.

**27. Solid Waste Ordinance**

The applicant shall comply with the City's adopted Solid Waste Collection, Remove, Disposal, Processing & Recycling Ordinance, which requires mandatory commercial and multi-family dwellings to provide for recycling, and organics collection programs as per Chapter 6.12 of the Municipal Code.

**28. Air Quality Mitigation**

The applicant shall implement and incorporate the air quality mitigations into the plans as required by staff in accordance with the report prepared by Illingsworth & Rodin, Inc., dated March 18, 2016.

**29. Noise Mitigation**

The applicant shall implement and incorporate the noise mitigation measures into the plans as required by staff in accordance with the report by Wilson Ihrig, dated March 2, 2016 and revised on April 20, 2016.

**30. Tree Protection**

The applicant shall implement and incorporate the tree protection measures into the plans and on-site as required by staff in accordance with the report by The Tree Specialist, dated April 21, 2106.

**31. Affordable Housing Agreement**

The applicant shall offer for a minimum 30-year period that shall reset for a subsequent 30-year period if transferred within the preceding 30-year period, one, three-bedroom unit at the moderate-income level, and two, two-bedroom units at the low-income level, in accordance with the City's Affordable Housing Agreement, in a recorded document in a form approved by the City Attorney.

## **PRIOR TO FINAL INSPECTION**

### **32. Maintenance Bond**

The applicant shall submit a one-year, 10-percent maintenance bond upon acceptance of improvements in the public right-of-way.

### **33. Stormwater Facility 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, the applicant shall record the agreement.

### **34. Stormwater Catch Basin**

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 THE BAY” logo as required by the City Engineer.

### **35. 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.

### **36. Landscaping Installation**

The applicant shall install all on- and off-site landscaping and irrigation, as approved by the Community Development Director and the City Engineer.

### **37. 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.

### **38. Acoustical Report**

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

### **39. Landscape Certification**

The applicant shall provide a Certificate of Completion conforming to the City’s Water Efficient Landscape Regulations.

#### **40. Condominium Map**

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

#### **41. Public Improvements and Street Damage**

The applicant shall install all public improvements required herein, and 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 El Camino Real if determined to be damaged during construction, as directed by the City Engineer or his designee.

#### **42. Stormwater Management Plan Inspection**

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, the applicant shall record the agreement.

#### **43. Driveway Visibility and Loading Zone**

The applicant shall provide no parking areas on either side of the driveway and a timed loading zone from 8 AM to 6 PM to the west of the driveway as approved by the City Engineer.