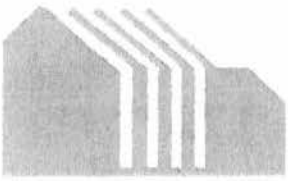


Exhibit C



William Maston
Architect & Associates

384 Castro St.
Mountain View, CA 94041
T: 650.968.7900 F: 650.968.4913
www.williammastonarchitect.com

January 7, 2019

Community Development Department
City of Los Altos
One North San Antonio Road
Los Altos, California 94022
Attention: Jon Biggs

Re: 40 Main Street, Applications 18-D-07 and 18-UP-10; SB 35 Determination
Additional Specific Project Comments

Dear Jon Biggs,

40 Main St.

1. Parking requirements – contrary to staff comments the project meets parking requirements set forth in SB 35 – All of the information was provided in the initial set of drawings.
 - a. Los Altos parking code 14.74.100 exempts the first 100% of FAR for projects which participated in the public parking district (40 Main is a participant in the public parking district), therefore the 5,724 square feet of first floor office space is exempt from providing any parking, additionally 1,226 square feet of second floor residential (equivalent to one unit) is also exempt from any parking requirements.
 - b. Upper level residential units – SB 35 is very specific about the required parking for residential units. Minimum for SB 35 is 1 car per unit with no guest parking required. However, van accessible parking is required to be on-site. Our project includes 2 levels of underground parking providing 18 parking spaces where only 14 (15 minus 1 per 14.74.100) parking spaces are required. Of the 18-parking spaces provided 2 are van accessible. Each floor is accessed by a car elevator platform.
2. Fire access – required fire access and dimensional requirements for the same are being met on both Main Street at the front of the building and the Plaza Ten parking lot driveway at the rear of the building.
3. All other fire department comments are noted and will be specified at plan check.
4. Onsite handicap accessible parking (ADA) – on site ADA parking requirements are met by providing 2 van accessible parking spaces on site including required clear head height of any obstruction at 8'2".

Sincerely,

Bill Maston
Project Architect

EXHIBIT 4



Community Development Department

One North San Antonio Road
Los Altos, California 94022-3087

February 6, 2019

Daniel R. Golub, Esq.
Holland & Knight
50 California Street, Suite 2500
San Francisco, CA 94111

Daniel.Golub@hklaw.com

Subject: 40 MAIN STREET, APPLICATIONS 18-D-07 AND 18-UP-10

Dear Mr. Golub:

This letter responds to your letter, dated January 10, 2019 and received by the City on January 17, 2019 (the "January Letter") regarding the above-referenced project (the "Project") and application (the "Application") for a streamlined ministerial permit pursuant to Government Code 65913.4, *et seq.*, "(SB 35") and a density bonus request to increase the maximum number of dwelling units on the Project site and concessions/waivers to the City's zoning requirements (site development standards found in Title 14, Zoning of the Los Altos Municipal Code.) at 40 Main Street, Los Altos, California.

As you know, Mr. Ted Sorenson and Mr. William Maston (the "Applicant") submitted the Application on November 7, 2018. On December 7, 2018, the City timely provided a thorough and detailed letter (the "Determination Letter") describing where the application was incomplete and the information needed to enable the City to process the application. As part of the Determination Letter, the City determined that the Project did not qualify for streamlined permitting project under SB 35.

In summary, the City believes its Determination Letter appropriately, and in good faith fully, responded to the Application and determined that the Project did not qualify to be processed under SB 35. The Determination Letter provided, to the fullest extent feasible in light of the information contained in the Application, an explanation of, and detailed documentation to demonstrate, inconsistencies between the Application and applicable City standards for the Project. In accordance with and, as contemplated by, SB 35 and the State's Streamlined Ministerial Approval Process Guidelines (the "Guidelines"), dated November 29, 2018, the City reviewed the Application to determine whether or not it contained all materials required by the City. The City found that the Application **did not contain all materials required by the City and specified in detail the additional materials necessary for the City to evaluate the Application.** (*See* Guidelines Sec. 301(b), p. 11).

The City is fully aware of its responsibilities to timely and fully evaluate project applications under SB 35. However, SB 35 does not obviate the need for the City to evaluate project applications based upon full and accurate information. If it were to authorize and pursue streamlined approval of the Project without the necessary information, the City would risk violating a host of its other legal obligations, including those found in the Density Bonus law, the California Environmental Quality Act, and State planning and zoning laws and other laws and regulations.

As demonstrated by the Determination Letter, the Application did not contain sufficient information to enable the City to make a meaningful and lawful determination that the Project is eligible for streamlined review under SB 35. As a result, **based upon the information provided to date, the City finds and determines that the Project is not eligible for issuance of a streamlined ministerial permit. The City will consider any request the Applicant may choose to submit to enable a determination of the Project's SB 35 eligibility or otherwise process the Application if and when Applicant provides the additional necessary information.**

Below please find the City's response to specific points raised in your January Letter:

1. **IN ACCORDANCE WITH SB 35, THE DETERMINATION LETTER SPECIFIED OBJECTIVE STANDARDS IN EXISTING CITY CODE TO IDENTIFY LACK OF COMPLIANCE WITH SB 35 REQUIREMENTS**

Among the extensive criteria a project must meet to qualify for streamlined review under SB 35 are the requirements that the project meet specific affordability requirements and be "consistent with objective zoning standards and objective design review standards in effect at the time the [application] is submitted to the local government" for consideration (Gov. Code Section 65913.4(a)(5)). With respect to the affordability requirements, the State has continued to develop and evolve its standards in this area over the past year since SB 35 became effective. As a result, the City's initial review relied on outdated information that a fifty percent (50%) affordability requirement would apply. However, at this juncture, the City acknowledges that, at the time of the Application submittal, a ten percent (10%) affordability requirement was required to be met; therefore, the Application was subject to a ten percent (10%) standard. Notably, even though a ten (10%) standard applies to the Application, under current State standards all new applications in Los Altos are again required to meet a fifty percent (50%) affordability standard to qualify for SB 35 streamlining.

With respect to a project's consistency with objective standards, logic dictates, and the Guidelines suggest, that a city can only make a meaningful determination if a submittal contains reasonably sufficient information to enable the city to measure a project's consistency with such standards. Here, consistent with the Guidelines, upon receipt of the application, the City reviewed the Application to determine if the Application contained sufficient information for a reasonable person to determine whether the proposed development is consistent, compliant, or in conformity with objective standards." (See Guidelines 301(b)(1)(A)). Recognizing that the Application did not contain sufficient information, the Determination Letter attached a request for additional information listed in the "Notice of Incomplete Application," generated by the City's Engineering and Planning Divisions.

The Notice of Incomplete Application clearly listed the deficiencies of the Application in accordance with requirements of the Permit Streamlining Act and all other applicable legal requirements. The Determination Letter, together with the Notice of Incomplete Application, provided express, detailed and extensive notice of the Application's shortcomings and invited submittal of additional information to enable the City to review and process the Application. However, none was forthcoming. Instead of providing the requested information and working with the City to develop information necessary for the City to evaluate the Application and to determine the Project's eligibility for SB 35 streamlining, the Applicant chose to wait for over a month without any substantive interaction. Instead, the Applicant opted to submit the January Letter asserting legal arguments and demanding streamlined approval.

As described in the Determination Letter and the Notice of Incomplete Application, a host of information was and still is needed to complete the Application and enable a meaningful review of the Application to determine **whether** it complies with City's objective development standards. This includes, among other things, information addressing the following issues:

- a. The driveway entrance along the parking plaza will affect up to 2 parking spaces, which is not consistent with objective City standards (See Note 18)

- b. Parking circulation is not sufficiently presented to determine whether it is consistent with objective City standards, i.e. How/where will the vehicles queue while waiting for the mechanical lift system to go into the underground parking area? (See Note 19)

With respect to parking access and egress standards, your January Letter asserts that the Project complies with all of the City's objective standards with respect to off-street parking. However, without the information cited in the Determination Letter and the Notice of Incomplete Application, the City simply lacks the information necessary to determine consistency with these and other applicable City standards

2. THE APPLICATION FAILED TO PROVIDE REQUIRED INFORMATION FOR COMPLIANCE WITH CITY DENSITY BONUS ORDINANCE:

As noted above, the Application seeks more than a streamlined ministerial approval; it also seeks density bonus units and concessions/waivers to site development standards.

The City recognizes that the SB 35 evaluation of a Project's consistency with objective standards is exclusive of additional density or concessions, incentives or waivers of development standards granted under the State Density Bonus law, Gov. Code Sec. 65915, *et seq.*, and the City's density bonus ordinance, Los Altos Municipal Code section 14.28.040. However, SB 35 does not obviate the need for the City to evaluate and apply the requirements of State Density Bonus law and the City's density bonus ordinance. Under those provisions, the City must evaluate requests for concessions, incentives or waivers to determine if the standards specified in State law and City ordinances require denial of the request. These standards include critical considerations regarding public health and safety, which the City must have sufficient information to seriously evaluate. For example, both the State Density Bonus law and the City's density bonus ordinance require an evaluation of whether requested concessions or incentives will result in identifiable and actual cost reductions to provide for affordable housing. The City may deny the request if it makes findings that the concession or incentive does not provide this benefit or if it would have an unmitigable specific, adverse impact upon public health and safety or the physical environment, (see Gov. Code Sec. 65915). Absent the information necessary to make this crucial evaluation, the City cannot reasonably evaluate, let alone grant streamlined ministerial approval of, either the Applicant's request for density bonus incentives and concessions or approval of the Project.

Here, there is insufficient information provided to demonstrate or support the need for the requested concessions and waivers. The Determination Letter requested additional information necessary for this critical evaluation, and, to date, such information has not been provided. If the Applicant intends to proceed in good faith with the Application, the City again refers the Applicant to the Notice of Incomplete Application and urges the submittal of the additional information necessary to appropriately evaluate the Project and reach a determination on whether the project meets the criteria for density bonus waivers and concessions. As noted in the Notice of Incomplete Application, this includes, but is not limited to, the following:

- a. Provide circled items from the Submittal requirements for Commercial or Multi-Family Design Review list.
- b. Provide circled items from the Density Bonus Report Submittal Requirements list.

3. CONCURRENT APPLICATIONS

As staff noted in the Determination Letter, there are no legal paths to allow for the concurrent processing of two development applications for the same site. As a result, the City reiterates its request that one or the other application be withdrawn so that there is only one application in process.

4. **HOUSING ACCOUNTABILITY ACT**

The January Letter asserts that the Housing Accountability Act (Gov. Code Section 65589.5) (the "HAA") also "requires the City to approve the Project." Although the City fully supports the development of housing and, affordable housing in particular, the HAA does not apply. The HAA establishes requirements for local governments' consideration and approval of housing development based upon objective development standards in place at the time a project application is determined or deemed complete. As noted above, however, the Application is not yet complete. The City timely identified extensive and substantial information necessary for the Application to be deemed complete, but to date the Applicant has failed to provide sufficient additional information that was requested. As a result, the HAA does not apply and does not dictate anything with respect to Project approval at this time.

5. **CONCLUSION**

In conclusion, the City believes the Determination Letter appropriately responded to the Application submittal. The City provided detailed documentation to demonstrate conflicts between the applicant's submittal and applicable City zoning standards required for compliance with SB 35, and requested additional information concerning the City's adopted density bonus regulations.

The City is happy to continue its review of the project once the additional application information and studies are submitted. Further, the City is also happy to evaluate the Project's eligibility for streamlined review in accordance with SB 35 at that time.

Please feel free to contact me if you would like to set up a meeting with staff to discuss the submittal requirements. We look forward to working with you to move forward with a complete application for the Project.



Jon Biggs, City of Los Altos
Community Development Director

cc: City Attorney

EXHIBIT 5

Golub, Daniel R (SFO - X56976)

From: Maine, Michelle L (SFO - X56907)
Sent: Thursday, January 10, 2019 1:07 PM
To: Golub, Daniel R (SFO - X56976)
Subject: FW: Delivery Confirmation for Control # 3325464

Michelle Maine | Holland & Knight
Sr Legal Secretary
Holland & Knight LLP
50 California Street, Suite 2800 | San Francisco CA 94111 Phone 415.743.6907 | Fax 415.743.6910
michelle.maine@hklaw.com | www.hklaw.com

-----Original Message-----

From: csr@westernmessenger.com <csr@westernmessenger.com>
Sent: Thursday, January 10, 2019 12:37 PM
To: Maine, Michelle L (SFO - X56907) <michelle.maine@hklaw.com>
Subject: Delivery Confirmation for Control # 3325464

WESTERN MESSENGER

ATTN: MICHELLE

CTRL: 3325464 ORDER DATE: 1/10/19 SERVICE TYPE: REG V
CUST: 33220 HOLLAND & KNIGHT REF: 160614.1

PU: HOLLAND & KNIGHT DL: LOS ALTOS COMMUNITY DEVT DEPT
50 CALIFORNIA STREET 1 NORTH SAN ANTONIO ROAD
SAN FRANCISCO CA 94114-4624 LOS ALTOS CA
RM:2800 USA USA
TO SEE: MICHELLE TO SEE: BIGGS, JOHN

DEL DATE: 1/10/19 TIME: 12:37 SIGN: MS TANQUAY

EXHIBIT 6



**Community Development Department
One North San Antonio Road
Los Altos, California 94022**

October 25, 2013

40 Main Street Offices LLC
Attn: Ted Sorensen and Jerry Sorensen
40 Main Street
Los Altos, CA 94022

Subject: 40 MAIN STREET (Application No. 13-D-14 and 13-UP-03)

Dear Mr. Sorensen and Mr. Sorensen:

This letter is in response to the Commercial Design Review and Use Permit application that was submitted on September 25, 2013 for a new office building at 40 Main Street. Based on our staff review, the application has been deemed **incomplete** for processing. While the City supports the general nature of downtown redevelopment and developing a new office building on the site, staff remains concerned that the project includes too many exceptions/variances from the zoning code. This letter is a summary of the issues that will need to be addressed.

Since this is a new development application, all required project plans and reports will need to be submitted. All plans, reports and materials that were included in your previous development application have been filed in the City's archive and must remain with that file.

THE PLANNING DIVISION

Parking Plaza Restriping

The application includes a conceptual plan to re-strip Public Parking Plaza 10 to add as many as 20 additional parking spaces. Chapter 14.74.170 in the Zoning Ordinance is not a policy that allows for private developers to reconfigure or redevelop public parking plazas in order to use that parking for their development. That is a public use of land that needs to be decided by Council policy, with the participation of the other parking district beneficiaries. This code section outlines that it is permissible for a developer to meet their parking requirements on adjacent properties that are within 300 feet of a proposed project, provided that the parking is not already being used by an existing development and that it is actually owned by the subject property owner or can be permanently allocated by deed to that project.

While the City Council has expressed some interest in allowing private parties to reconfigure public parking plazas, the City does not currently have any policies in place for how to handle a proposal or who would benefit from the increased parking that is created. In order to properly review and consider this proposal as part of the development application, a City policy will need to first be approved by the City Council.

Staff will facilitate this discussion with the City Council in order to develop a policy for how to review and approve private proposals to reconfigure public parking plazas. In order to move forward with this

policy discussion, the proposed reconfiguration of Public Parking Plaza 10 will need to be revised to include the following information:

1. Show all existing property lines and easements.
2. Show all parking stalls consistent with the City's parking stall dimension requirements (nine feet wide by 18 feet deep).
3. Show all existing utilities and provide details for undergrounding all overhead utilities.
4. Show how the parking lot would treat storm water runoff per Best Management Practices and in compliance with the City's Municipal Regional Stormwater NPDES Permit (MRP).
5. The reconfiguration should only include parking spaces within Public Parking Plaza 10. On-street parking within a public street right-of-way is a separate topic.
6. A conceptual landscape plan which shows existing trees to remain, existing trees to be removed and new trees to be planted.

Once the revised plan has been submitted, staff will have a qualified third-party traffic expert review the plan and evaluate the proposed circulation and functionality. Once that has been completed, it will be scheduled for a discussion before the City Council to develop a public parking plaza reconfiguration policy and to consider your proposal. This policy discussion will need to be separate from your development application and should occur first in order to resolve the question before the development application goes through the public review process.

It should also be noted that any new policy that is approved by the City Council would be subject to the California Environmental Quality Act (CEQA).

Parking Exception and Public Paseo

As outlined in your cover letter, the project is seeking an exception from providing any new parking to serve the office building in exchange for a public paseo between Main Street and Public Parking Plaza 10. Staff cannot support this exception request. A parking solution is necessary as part of this project since the parking impact from this development would be detrimental to the surrounding properties, the public benefit would not be equivalent and it would not be consistent with the General Plan.

If the Public Parking Plaza 10 reconfiguration plan is accepted by the City Council, then staff can evaluate the remaining parking shortfall and work with you on options for how best to mitigate it. As outlined in the Zoning Ordinance, for properties within the Downtown's public parking district, no parking is required for the net square footage which does not exceed 100 percent of the lot area. However, all square footage above 100 percent of the lot area does need to provide parking. The project plans do not clearly provide the necessary information to understand the parking that would be required per the Zoning Ordinance. Therefore, please revise the plans to include the following information:

1. Provide a floor area diagram for each floor that calculates gross and net floor area for the project. This floor area diagram should be prepared and stamped by the project architect. As outlined in 14.74.200(Q) of the Parking Ordinance, net square footage means the total horizontal area in square feet on each floor, including basements, but not including the area of inner courts or shaft enclosures.
2. Provide a parking analysis based on the building's net floor area, which includes restrooms, lobbies, trash enclosures, mechanical rooms and common corridors. The plans identify mechanical shafts on each floor; what is the proposed use of these spaces? They do not appear to be shaft enclosures

(such as concrete enclosed shafts used to house stairs and elevations) and should be counted toward the building's net square footage.

Height Exception and Public Paseo

As outlined in Section 14.66.230 of the Municipal Code (Height Measurement), "the vertical dimension [height] shall be measured from the average elevation of the finished lot grade at the front, rear, or side of the building, whichever has the greater height, to the highest point of the roof deck of the top story in the case of a flat roof." The plans need to be revised to show the height of the building as measured to the highest point of the roof deck. The correctly measured building height appears to be approximately 37 feet.

The project is also seeking an exception from the District's 30-foot height requirement in exchange for this public paseo. While staff supports the development of public paseos as outlined in the Downtown Design Plan and Downtown Design Guidelines, a paseo in this location is of limited public benefit since Public Parking Plaza 10 is used primarily by the existing office uses that are adjacent to it and this section of Main Street is a short block with nearby existing pedestrian access points/pathways to the parking plaza within 50 feet to the south and 150 feet to the north. The public benefit of the proposed paseo does not appear to be equal to the magnitude of the requested height exception, which would allow the building to exceed the District's height requirement by approximately seven feet. Staff cannot support this request as proposed.

As outlined in the City's Downtown Design Guidelines, the proposed paseo should be a minimum of 10 feet in width. As proposed, the paseo appears to vary between six and nine feet in width. Staff is also concerned about the second and third floor projections over the paseo, which reduces the pathways openness to the sky and could discourage pedestrians that are not accessing the building from using the paseo. In addition, the paseo rendering (Sheet A0.02) appears to show retail uses in the ground floor of the building; however, the parking analysis and project description identifies the ground floor as being for office uses only. Please clarify the intended uses of the ground floor space and update the rendering, project description and/or parking analysis accordingly.

Zoning Compliance

1. The CRS/OAD District requires a two-foot rear yard setback that is landscaped when abutting a public parking plaza (Sec. 14.54.080). The proposed second and third floors encroach into this setback. These rear yard setback encroachments will need to be included in the application's "exception for public benefit" request.
2. Provide a preliminary drainage and improvement plan prepared by a licensed architect or civil engineer. As outlined in the City's submittal requirements, the plan should include the following:
 - a. Elevations at street and neighboring property lines, the pad elevation and finished floor elevation. These elevation points should be used as the base for measuring the building height.
 - b. All existing and proposed easements; show the proposed pedestrian access easement for the paseo.
 - c. The lot drainage pattern and proposed storm drain infrastructure.
 - d. Stormwater management measures to retain stormwater on site in accordance with Best Management Practices.
 - e. Underground utilities – existing and proposed. Specifically, the locations of the electrical transformer, the fire sprinkler service and the water main backflow preventer.

3. The faux balconies on the rear elevation of the third floor encroach into the public right-of-way/parking plaza. While staff can support awning and overhang encroachments, permanent architectural elements such as these balconies should be contained within the property boundaries.
4. The landscape plan (Sheet A0.2) needs to provide more detail about the proposed landscaping (proposed trees and landscape species and sizes, planter box details, rear landscaping, etc.).
5. The roof slope on the roof plan (Sheet A4.0) does not match the roof slope shown on the cross section (Sheet A8.0).
6. Revise the project elevations (Sheets A5.0 and A6.0) as follows:
 - a. On the east elevation, the third floor should extend to the right side property line in order to be consistent with the floor plan.
 - b. The south elevation should show the balconies and awnings that face the parking plaza.
 - c. The west elevation should show the left side of the building at the side property line in order to be consistent with the site plan and floor plans.
7. The paseo plan (Sheet A7.0) should be bundled with the landscape plan. In addition, the plan should include a scale, north arrow, dimensions to identify pathway width at various points, existing pedestrian improvements within the public right-of-way on either side of the building and indicate proposed pedestrian circulation patterns.
8. Revise the building sections (Sheet A8.0) as follows:
 - a. Provide specifications (specifically height) for all rooftop mechanical equipment. As outlined in CRS/OAD District Section 14.54.130(G), all rooftop mechanical, venting, and/or exhausting equipment must be within the height limit and screened architecturally from public view, including views from adjacent buildings located at the same level. The acoustical analysis that was submitted with the previous application included air conditioning units that were 5.25 feet in height, which is significantly taller than the units shown on the building section.
 - b. Show the profiles of the proposed roof mounted photovoltaic panels.
 - c. Show the rear facing balcony and awnings.
 - d. The parapet walls do not appear tall enough to screen the rooftop mechanical equipment and photovoltaic as required by Section 14.54.130(G).
 - e. Provide the correct building height measurement as outlined above.
9. Provide a preliminary construction management plan that identifies anticipated truck routing and staging, construction worker parking plan (on-site and off-site) and pedestrian routing (sidewalk closures, detours, etc.).
10. Provide an address list, in label format, for all commercial tenants within 500 feet of the project.
11. Provide two sets of blank, postage paid postcards to cover all commercial business tenants within 500 feet of the project.
12. The City does not have a bicycle parking ordinance, but does use the VTA Bicycle Technical Guidelines as a recommended bicycle parking guideline. For office uses, VTA recommends one space per 6,000 square feet (75% Class I and 25% Class II). Based on these guidelines, staff will be recommending that the project provide a minimum of two Class I and two Class II bicycle parking spaces.

Technical Studies and Reports

Please submit two (2) copies of each of the following technical reports:

1. A current traffic impact analysis that evaluates the traffic and circulation impacts from the proposed project.
2. An acoustical analysis for all proposed rooftop mechanical equipment.

BUILDING DIVISION

No comments at this time.

ENGINEERING DIVISION

1. Provide civil plans that show all new and existing utilities, including the project's storm drain system and calculations showing that it is in compliance with the Municipal Regional Stormwater NPDES Permit (MRP). Also, show and justify the pipe size for the new sewer lateral from the proposed building to the existing sewer connection point to the main sewer line.
2. Provide a parking analysis and show that all parking stalls shall be designed per City standards.
3. Provide and show a public access easement on the plans for the public paseo.

SANTA CLARA COUNTY FIRE DEPARTMENT

See attached letter for Fire Department comments.

As the project planner assigned to this project, you can contact me directly at (650) 947-2633 or zdahl@losaltosclay.gov if you have any questions. To continue the development review process, submit five (5) full sized sets of plans, five (5) half sized sets of plans and two (2) copies of all technical reports and support information.

Once the revised application materials have been submitted, please contact me to discuss a schedule for the required public meetings before the Bicycle and Pedestrian Advisory Commission, Planning and Transportation Commission and the City Council, and the environmental review process as required by CEQA.

Sincerely,

Zachary Dahl, AICP
Senior Planner

c: Erin Uesugi, Project Architect
Marcia Somers, City Manager
James Walgren, Assistant City Manager
Jolie Houston, City Attorney

Attachment:

Santa Clara County Fire Department Letter



City of Los Altos

Planning Division

(650) 947-2750

Planning@losaltosca.gov

CITY OF LOS ALTOS STORY POLES POLICY

Purpose

In accordance with City Council direction on March 24, 2015, all commercial, multiple-family and mixed-use development projects receiving subject to greater Planning and Transportation Commission and City Council review must have story poles erected as part of the application process. The purpose of this policy is to help show the development's height, massing and profile in the context of the actual environment and to help provide a visual notice of a project.

Procedure

1. For projects that require story poles, the applicant's architect or engineer must prepare a Story Pole Plan to indicate the locations where the poles will be installed.
2. A Story Pole Plan shall be approved by the Community Development Director prior to the placement of the poles on the site. Once approved, the applicant shall inform the Community Development Director when the placement of the story poles is complete and submit photographs showing the installation in context.
3. The story poles shall be installed prior to the public noticing of the project and shall be kept in place until the project has been acted upon and the appeal period has ended. If the project is appealed, the story poles shall remain until final action is taken. If final consideration of the project is substantially delayed, or the project is substantially modified, the Community Development Director may require the removal or the modification of the story poles.

Plan Requirements

1. The Story Pole Plan must be at an appropriate scale and include: a) a site plan showing the location of any existing structure, the outline of any proposed structures and the location of the story poles; b) elevation views of the story poles; and c) any materials, means of installation and structural requirements.
2. The story poles shall be of sufficient number and location to adequately demonstrate the height, mass, and bulk of the project. At a minimum, story poles shall be placed at all outside building corners of the building wall (excluding eaves) and along the main rooflines (ridges, hips and valleys) of the proposed structure(s) or addition. Architectural elements such as towers, spires, elevator and mechanical penthouses, cupolas, mechanical equipment screening and similar elements that are visible from the streetscape must be represented by the story poles.

3. A licensed surveyor or civil engineer shall submit written verification that the location and height the poles and netting accurately represents the height, profile and location of the proposed structure(s) or addition.
4. The Community Development Director may waive or amend the requirements of the Story Pole Plan at the Director's discretion.

Materials and Methods

1. Story poles shall be constructed of lumber, metal poles, or other sturdy building material acceptable to the Community Development Director. Such materials shall be designed to withstand the wind and weather. At least two-foot wide orange woven plastic fencing (or netting) must be used to represent the rooflines of the proposed structure(s) or addition. One of the story poles on each elevation must be clearly marked and labeled in five-foot increments measured from the proposed finished grade and consistent with the approved Story Pole Plan.
2. All story poles shall be placed, braced and supported to ensure the health, safety and general welfare of the public. Applicants shall sign an agreement that holds the City harmless for any liability associated with the construction of, or damage caused by the story poles. If at any time, the City determines the story poles to be unsafe, they shall be repaired and reset immediately by the applicant or, at the City's discretion, removed. Depending on the scope of the poles, building permits and inspections may be required at the discretion of the Community Development Director.

Exceptions

1. The Community Development Director may grant exceptions to the Story Pole Policy due to: a) a public health and/or safety concern, or b) that such an installation would impair the use of existing structure(s) or the site to the extent it would not be able to be occupied and the existing business and/or residential use would be infeasible. Some form of poles and netting and/or on-site physical representation of the project may be required, even if an exception is granted.
2. The Story Pole Plan may be limited in scope at the discretion of the Community Development Director. In such cases such as where there are multiple detached structures proposed and where identifying the locations of key structures would suffice, the story poles may be limited to the outline(s) of key structures and/or showing a structure(s) greatest height and mass.
3. In granting an exception, the Community Development Director may require additional digital imagery simulations, computer modeling, built to-scale models or other visual techniques in-lieu of the story pole requirements.



**Community Development Department
One North San Antonio Road
Los Altos, California 94022**

December 18, 2015

40 Main Street Offices LLC
Attn: Ted Sorensen and Jerry Sorensen
40 Main Street
Los Altos, CA 94022

Subject: 40 MAIN STREET (Application Nos. 13-D-14 and 13-UP-03)

Dear Mr. Sorensen and Mr. Sorensen:

This letter is in response to the updated plans and materials submitted on November 24, 2015 related to the Commercial Design Review and Use Permit application for a new office building at 40 Main Street. Based on staff review, the application has been deemed **incomplete** for processing. While the City supports the general nature of downtown redevelopment and developing a new office building on the site, staff remains concerned that the project includes too many exceptions from the Zoning Code. This letter is a summary of the issues that will need to be addressed.

It should also be noted that many of the comments in the October 25, 2013 incomplete letter were not addressed by the plans and materials that were recently submitted to the City. In addition, since over two years have elapsed from the date of the original application submittal, the City has adopted several new requirements for commercial design review applications. These policies include the requirement for a Climate Action Plan checklist, story poles, a 3D model of the project within the surrounding context and a public notification billboard with color renderings of the project. A copy of the current commercial design review application submittal requirements is attached with this letter.

The next submittal should address **all** issues identified in this letter and meet current commercial design review requirements. Partial resubmittals will not be accepted.

THE PLANNING DIVISION

Exceptions for Public Benefit

In exchange for implementing provisions of the Downtown Design Plan, the Zoning Code allows for exceptions to be granted, provided the following findings can be made:

- The granting of the exception will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the area;
- The benefit to the City derived from granting the exception is an appropriate mitigation when considered against the cost to the developer;
- The project and mitigation will result in a public benefit to the downtown; and

- The resultant project and mitigation are consistent with the General Plan and promote or accomplish objectives of the Downtown Design Plan.

The project is seeking three exceptions from the Zoning Code in exchange for providing a public paseo from Main Street to Public Parking Plaza 10:

- Parking: For office uses, the parking requirement is one space per 300 square feet of net floor area. For properties that are within a public parking district, parking is required for any net square footage that exceeds 100 percent of the lot area. Based on these requirements, the project is required to provide 25 onsite parking spaces for 7,608 square feet of net floor area on a lot that is 7,841 square feet in size (see comment no. 3 under Zoning Compliance on page 3). The project is not providing any onsite parking.
- Building Height: The height limit for the CRS/OAD District is 30 feet. The project is seeking a building with a roof deck height of up to 37 feet.
- Rear Yard Setback: The CRS/OAD District requires a two-foot rear yard setback that is landscaped when abutting a public parking plaza. The proposed second and third floors do not meet this setback and extend to the property line.

As outlined in the Downtown Design Guidelines, a paseo should be a minimum of 10 feet in width. As proposed, the paseo appears to vary between six and nine feet in width. Staff is also concerned about the second and third floor projections over the paseo, which reduces the pathway's openness to the sky and could discourage pedestrians that are not accessing the building from using it.

While staff supports the development of public paseos to improve pedestrian circulation in Downtown, a paseo in this location is of limited public benefit since Public Parking Plaza 10 is used primarily by the existing office uses that are adjacent to it and this section of Main Street is a short block with nearby existing pedestrian access points/pathways to the parking plaza within 50 feet to the south and 150 feet to the north. The public benefit of the proposed paseo does not appear to be equal to the magnitude of the requested parking, height and setback exceptions. A parking solution is necessary as part of this project since the increase in parking demand from this development would be detrimental to the surrounding properties. Since the public benefit is not equivalent to the exceptions requested, granting the exceptions would not be consistent with the General Plan and the Zoning Code and staff cannot support the request.

Zoning Compliance

1. As outlined in Section 14.66.230 of the Municipal Code (Height Measurement), "the vertical dimension [height] shall be measured from the average elevation of the finished lot grade at the front, rear, or side of the building, whichever has the greater height, to the highest point of the roof deck of the top story in the case of a flat roof." The plans need to be revised to show the height of the building as measured to the highest point of the roof deck. The building height, when measured correctly, appears to be approximately 37 feet.
2. Provide a floor area diagram for each floor that calculates gross and net floor area for the project. This floor area diagram should be prepared and stamped by the project architect.
 - a. As outlined in 14.74.200(Q) of the Parking Ordinance, net square footage means the total horizontal area in square feet on each floor, including basements, but not including the area of inner courts or shaft enclosures.

- b. The plans identify mechanical shafts on each floor. What is the proposed use of these spaces? They do not appear to be shaft enclosures (such as concrete enclosed shafts used to house stairs or elevations) and should be counted toward the building's net square footage.
3. The lot size is identified as being 7,841 square feet in size, but the preliminary grading and drainage plan appears to identify the site as being 6,950 square feet in size. To ensure that the lot size is accurately accounted for, provide a site survey that verifies the lot size from a licensed land surveyor or civil engineer.
4. The landscape plan (Sheet A0.2) needs to provide more detail about the proposed landscaping (proposed trees and landscape species and sizes, planter box details, rear landscaping, etc.). In addition, it should show all utility and drainage infrastructure identified on the grading and drainage plan (backflow preventers, drainage inlets, etc.).
5. The paseo plan (Sheet A7.0) should be bundled with the landscape plan. In addition, the plan should include a scale, north arrow, dimensions to identify pathway width at various points, existing pedestrian improvements within the public right-of-way on either side of the building and indicate proposed pedestrian circulation patterns.
6. The roof slope on the roof plan (Sheet A4.0) does not match the roof slope shown on the cross section (Sheet A8.0).
7. Revise the project elevations (Sheets A5.0 and A6.0) as follows:
 - a. On the east elevation, the third floor should extend to the right side property line in order to be consistent with the floor plan.
 - b. The south elevation should show the balconies and awnings that face the parking plaza.
8. Revise the building sections (Sheet A8.0) as follows:
 - a. Provide specifications (specifically height) for all rooftop mechanical equipment. As outlined in CRS/OAD District Section 14.54.130(G), all rooftop mechanical, venting, and/or exhausting equipment must be within the height limit and screened architecturally from public view, including views from adjacent buildings located at the same level. The acoustical analysis indicates that the air conditioning units will be 5.25 feet in height, which is significantly taller than the units shown on the building section.
 - b. Show the profiles of the proposed roof mounted photovoltaic panels.
 - c. Show the rear facing balcony and awnings.
 - d. The parapet walls do not appear tall enough to screen the rooftop mechanical equipment and photovoltaic panels.
 - e. Provide the correct building height measurement as outlined above.
9. Revise the preliminary grading and drainage plan (Sheet CE1.0) to show the proposed pedestrian access easement for the paseo and the gas main connection. Regarding the existing transformer in the public right-of-way, is it large enough to serve this project? If not, show location of the new transformer.

10. Provide a preliminary construction management plan that identifies anticipated truck routing and staging, construction worker parking plan (on-site and off-site) and pedestrian routing (sidewalk closures, detours, etc.).
11. Provide a letter from Mission Trail Waste Systems that verifies the size of the proposed trash room is large enough to accommodate all trash, recycling and green waste bins that are necessary to serve an office building of this size.
12. Provide an address list, in label format, for all commercial tenants within 500 feet of the project.
13. Provide two sets of blank, postage paid postcards to cover all commercial business tenants within 500 feet of the project.

Design Review

14. Tower elements are not appropriate for buildings that are located mid-block. Design alternatives that remove the tower element and create a building scale that better relates to the adjacent structures should be considered.
15. The faux balconies on the rear elevation of the third floor encroach into the public right-of-way/parking plaza. While staff can support awning and overhang encroachments, permanent architectural elements such as these balconies should be contained within the property boundaries.
16. As recommended in the Downtown Design Guidelines (3.2.4.c), update the building design to show that all windows are recessed at least three inches from the face of the exterior wall.
17. Provide additional photo-simulated color renderings that show the building as viewed from the parking plaza and as viewed from Main Street south of the project.
18. Provide a 3D digital model of the proposed development and adjacent buildings within the broader streetscape area.
19. The updated plans show two bicycle racks (four Class II spaces), which exceeds the minimum recommendation of two Class II spaces per VTA standards. However, to comply with the VTA standards, the project should also provide at least two Class I bicycle parking spaces for employees working in the building.

Study Session

20. As previously discussed, the project is going to be scheduled for a design review study session before the Planning and Transportation Commission. The study session date is tentatively scheduled for January 21, 2016. In order to move forward with the study session, 14 half size sets of plans will need to be submitted to the City. The meeting date and deadline to submit the half size sets of plans will be confirmed in early January.

Technical Studies and Reports

21. Traffic Impact Analysis

- a. The use of traffic counts from January 2011 does not meet City standards for a traffic impact analysis since traffic volumes have increased and changed since that time.
- b. There are new buildings and uses in downtown that need to be adequately reflected in the "Existing Conditions" analysis and subsequent project conditions analyses.
- c. The report should clearly identify total daily trips as well as net new trips generated by the project.

22. Parking Demand Analysis

- a. The report should provide an analysis of the existing office building and where that parking is currently accommodated.
- b. The report should account for the onsite parking that will be lost as part of the project (four tandem spaces located in the existing driveway).
- c. The report should analyze the total parking demand for the project, not just the net increase, and provide an analysis of where in Downtown the available spaces to serve the project are located (using acceptable walking radius, etc).
- d. The use of the local observed data for parking does not reflect newer uses and buildings in Downtown. Since Downtown parking demand has significantly changed in the past few years, all data should be updated and survey data from 2009-2011 should not be used.

23. Acoustical Analysis

- a. The report should identify how many condensing units will be required to serve an office building of this size and analyze the cumulative noise that will be generated by these units.

BUILDING DIVISION

24. No comments at this time.

ENGINEERING DIVISION

25. The project is required to comply with the City of Los Altos Municipal Regional Stormwater (MRP) National Pollutant Discharge Elimination System (NPDES) Permit No. CA S612008, Order R2-20154-0049, Provision C.3 dated November 19, 2015.

26. The proposed stormwater detention does not appear to satisfy Low Impact Development (LID) requirements and direct discharge into the storm drain system is not permitted. Please revise drainage design to show how the project will satisfy stormwater LID requirements per the current Stormwater MRP.

27. The stormwater discharge point shall be connected to the catch basin at Main Street.

28. Contact Mission Trail Waste Systems and submit a solid waste and recyclables disposal plan indicating the type, size and number of containers proposed, and the frequency of pick-up

service subject to the approval of the Engineering Division, and provide documentation that Mission Trail Waste Systems has reviewed and approved the size and location of the proposed trash enclosure. The enclosure shall be designed to prevent rainwater from mixing with the enclosure's contents and shall be drained into the City's sanitary sewer system. The enclosure's pad shall be designed to not drain outward, and the grade surrounding the enclosure designed to not drain into the enclosure.

29. The applicant shall dedicate the pedestrian paseo to the City of Los Altos for use as public right-of-way as a public easement.
30. Provide adequate bike parking along Main Street per Chapter 10 of the VTA Bicycle Technical Guidelines 2012.
31. The existing street light shall remain.
32. The quantity and type of street trees to be installed along Main Street shall be consistent with the Downtown Design Plan and Design Guidelines.
33. The irrigation system for the trees and vegetation in the public right-of-way shall be connected to the private water service within the property. A landscape maintenance agreement between the City of Los Altos and the property owner will be required.
34. All existing outdoor fixtures along the property frontage, such as the United States Postal Service mailbox and the City of Los Altos refuge container, shall be retained.
35. The project shall use the existing sewer lateral and upgrade appropriately. The applicant will be required to submit calculations showing that the upgrade will not exceed two-thirds full due to the project's sewer loads. Calculations shall include the six-inch main from the property to the point where it connects to the twenty-seven inch sewer line on El Camino Real. For any segment that is calculated to exceed two-thirds full for average daily flow or for any segment that the flow is surcharged in the main due to peak flow, the applicant shall replace the four-inch sewer line with a six-inch sewer line.

SANTA CLARA COUNTY FIRE DEPARTMENT

36. See attached letter for Fire Department comments.

If you have any questions, contact me directly at (650) 947-2633 or zdahl@losaltosca.gov. To continue the development review process, submit five (5) full sized sets of plans, five (5) half sized sets of plans and two (2) copies of all technical reports and support information that address **all** issues identified in this letter and meet current commercial design review requirements.

Once the revised application materials have been submitted, please contact me to discuss a schedule for the required public meetings before the Bicycle and Pedestrian Advisory Commission, Planning and Transportation Commission and the City Council, and the environmental review process as required by CEQA.

December 18, 2015

Page 7

Sincerely,

Zachary Dahl, AICP
Planning Services Manager

Cc: Erin Uesugi, Project Architect
Steve Piasecki, Community Development Director (Interim)
Marcia Somers, City Manager
Jolie Houston, City Attorney

Attachments:

Submittal Requirements for Commercial or Multi-Family Design Review
Climate Action Plan Checklist for New Development
Santa Clara County Fire Department Letter

Check list of outstanding items called out by Zack Dahl incomplete letters

October 25, 2013 letter
 The Planning Division
 Parking Plaza Restriping
 Dup=Duplicate request
 New=New Item
 MR=Misread of plans
 C=Completed
 CR=Completed with resubmittal
 O=Outstanding
 NR=Not Required

Requested/Outstanding

Item #	REQ Y/N	Resp	Item Request identifier/Item Description/ Comments	Status
			Items 1-29 were pulled from the staff letter dated 10/25/2013	
1	Y	Uesugi	10/25/13 Letter Page 2 "Parking Exception and Public Paseo" paragraph 11, (item 1)/ "Provide a floor area diagram for each floor that calculates gross and net floor area for the project. This floor area diagram should be prepared and stamped by the project architect." <i>A net building area for each floor and parking table is included on the front page of the submitted plans. This is a unique request for 40 Main Street.</i> ** We agreed that we would incorporate a table similar to the one contained in the September plan set and if possible we would identify on the plans through shading the square footage removed for purposes of parking.	O
3	Y	Uesugi	10/25/13 Letter Page 3 "Height Exception and Public Paseo" paragraph 13, / "The plans need to be revised to show the height of the building as measured to the highest point of the roof deck." <i>The plans are being revised to identify this height.</i> **This has been agreed to all along.	O
4	Y	Uesugi	10/25/13 Letter Page 4 "Zoning Compliance" paragraph 20, (item 5)/ "The roof slope on the roof plan (sheet A0.2) does not match the roof slope shown on the cross section (Sheet A8.0)."	O

			<p><i>There is no actual outstanding item request being made in this statement, but we will address the issue and have the architect correct the inconsistency.</i></p> <p>** This has been agreed to all along.</p>	
12 D DUP see 3	Y	Uesugi	<p>10/25/13 Letter Page 4 “Zoning Compliance” paragraph 23, (item 8.e.)/ “Revise the building sections (Sheet A8.0) as follows: - Provide the correct building height measurement as outlined above.”</p> <p><i>This is a duplicate request; it is the same as number 3.</i></p> <p>** Duplicate – agreed to.</p>	O
13 E	Y	Sorensen	<p>10/25/13 Letter Page 4 “Zoning Compliance” paragraph 24./ “Provide a preliminary construction management plan that identifies anticipated truck routing and staging, construction worker parking plan (on-site and off-site) and pedestrian routing (sidewalk closures, detours, etc.).”/</p> <p><i>We have requested the staff provide us with a recent sample of a construction management plan which they have so far refused to do.</i></p> <p>** It was agreed to produce a limited plan that would include a proposed truck route to the site, employee parking along Edith, blocked parking spots behind and in front of the site, location of the construction trailer.</p>	O
14 F	Y	Sorensen	<p>10/25/13 Letter Page 4 “Zoning Compliance” paragraph 25/ “Provide an address list, in label format, for all commercial tenants within 500 feet of the project.”/</p> <p><i>We understand this needs to be completed and intended to complete this task once staff indicated the application was complete.</i></p> <p>** It was agreed that this could be completed once Staff indicates that package is complete.</p>	O
15 G	Y	Sorensen	<p>10/25/13 Letter Page 4 “Zoning Compliance” paragraph 26/ “Provide two sets of blank, postage paid postcards to cover all commercial business tenants with 500 feet of the project.”/</p> <p><i>We understand this needs to be completed and intended to complete this task once staff indicated the application was complete. The city is required to provide applicant the number of post cards required – it has not done so.</i></p> <p>** City needs to provide a list and number of cards required.</p>	O
			Items 31- are pulled from the staff letter dated 12/18/2015	

17	Y	Maston	12/18/15 Letter Page 4 "Design Review" (Item 18)/ "Provide a 3D digital model of the proposed development and adjacent buildings within the broader streetscape area." <i>This is a new request. It is also a new requirement added to the code after our initial submittal. In process.</i> ** It was agreed that we would produce this as part of the package.	O
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CR=14
 CR=35
 CR=18

CR=10
 O=7

Required/Completed

Item	REQ Y/N	Resp	Item Request identifier/Item Description/ Comments	Status
			Items 1-29 were pulled from the staff letter dated 10/25/2013	
18	Y	McCloud	10/25/13 Letter Page 3 "Zoning Compliance" paragraph 17, (item 2)/ "Provide a preliminary drainage and improvement plan prepared by a licensed architect or civil engineer." <i>This was provided as sheet CE1.0 in the resubmittal package</i> ** Included in sheet CE1.0	CR
19	Y	McCloud	10/25/13 Letter Page 3 "Zoning Compliance" paragraph 17, (item 2.a.)/ "Elevations at street and neighboring property lines, the pad elevation and finished floor elevation."/ <i>These are all included in sheet CE1.0.</i> ** Included in sheet CE1.0	CR
20	Y	McCloud	10/25/13 Letter Page 2 "Zoning Compliance" paragraph 17, (item 2.c.)/ "The lot drainage pattern and proposed storm drain infrastructure."/ <i>These are all included in sheet CE1.0.</i> ** Included in sheet CE1.0	CR
21	Y	McCloud	10/25/13 Letter Page 3 "Zoning Compliance" paragraph 17, (item 2.d.)/ "Stormwater management measures to retain stormwater on site in accordance with Best Management Practices."/	CR

			<i>This is included in sheet CE1.0</i> ** Included in sheet CE1.0	
1	Y	McCloud	10/25/13 Letter Page 3 “Zoning Compliance” paragraph 17, (item 2.e.)/ “Underground utilities – existing and proposed. Specifically, the locations of the electrical transformer, the fire sprinkler service and the water main backflow preventer.”/ <i>These are all included in sheet CE1.0</i> ** Included in sheet CE1.0	CR
6	Y	Sorensen	10/25/13 Letter Page 5 “Technical Studies and Reports” paragraph 28, (Item 1.)/ “Please submit two (2) copies of the following – A current traffic impact analysis that evaluates the traffic and circulation impacts from the proposed project.”/ <i>Two copies of a traffic and circulation report were submitted with the updated submittal. The study met the VTA standard that is the current city of Los Altos requirement.</i> ** These were submitted.	CR
7	Y	Sorensen	10/25/13 Letter Page 5 “Technical Studies and Reports” paragraph 28, (Item 2.)/ “Please submit two (2) copies of the following – acoustical analyses for all proposed rooftop mechanical equipment.”/ <i>Two copies of the acoustical specifications were submitted with the updated submittal.</i> ** These were submitted	CR
8 DUP	Y	McCloud	10/25/13 Letter Page 5 “Engineering Division” paragraph 30, (Item 1.)/ “Provide civil plans that show all new and existing utilities, including the project’s storm drain system and calculations showing that it is in compliance with the Municipal Regional Stormwater NPDES Permit (MRP). Also, show and justify the pipe size for the new sewer lateral from the proposed building to the existing sewer connection point to the main sewer line.”/ <i>This is the same request as items, 6-11, above and are all contained in Sheet CE1.0.</i> ** Included in sheet CE1.0	CR
			Items 31- are pulled from the staff letter dated 12/18/2015	

✓=14
 ✓=35
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CR=10
 O=7

Not Required

Item #	REQ Y/N	Resp	Item Request identifier/Item Description/ <i>Comments</i>	Status
			Items 1-29 were pulled from the staff letter dated 10/25/2013	
1	N	Uesugi	10/25/13 Letter Page 2 “Parking Exception and Public Paseo” paragraph 12, (item 2)/ “Provide a parking analysis based on the building’s net floor area,”/ <i>Parking requirement based on net square footage is included in the parking table on the front page of the submitted plans.</i> **We agreed to include a table similar to the table in the September submittal.	NR CR
4	N	Sorensen	10/25/13 Letter Page 3 “Height Exception and Public Paseo” paragraph 15, / “In addition, the paseo rendering (sheet A0.02) <i>appears</i> to show retail uses in the ground floor of the building; however, <i>the parking analysis</i> and project description identifies the ground floor as being for office uses only. Please clarify the intended uses of the ground floor space <i>and update the rendering</i> , project description and/or parking analysis accordingly.”/ <i>Inappropriate request, applicant is not a required to submit renderings that meet the personal judgments of the staff. The rendering does not represent retail, but rather an active daily scene. Given staff’s comments above regarding a lack of parking analysis – how is it possible that they can now reference a parking analysis?</i> **Agreed this is not a requirement, existing renderings and 3D model meet the requirement.	NR
5	N	Sorensen	10/25/13 Letter Page 3 “Zoning Compliance” paragraph 16/ “The proposed second and third floors encroach into this setback... These rear yard setback encroachments will need to be included in the application’s “exception for public benefit” request.”/ <i>In the prior application the Planning Commission and the City Council made clear that the rear yard setback was a grade level requirement only and that staff was misinterpreting the code. We agree with the conclusion of the Planning Commission and the City Council. If staff wants to make this an issue they can do it in the staff report. There is no action for us to take on this statement, applicants are not required to list the exceptions for public benefit in the application.</i> ** Jon agreed he would review further and that we will incorporate a letter making the case that this is not an exception to the code.	NR

	N	McCloud	<p>10/25/13 Letter Page 3 “Zoning Compliance” paragraph 17, (item 2.b.)/ “All existing and proposed easements; show the proposed pedestrian access easement for the paseo.”/ <i>Existing public easements are shown on the CE1.0 page, and we are not proposing a pedestrian access easement, therefore all existing and proposed easements (none) are contained in sheet CE1.0.</i> <u>** We agreed this is not an item for completeness. Jon agreed to provide us with the existing easements for the hotel property, and for 400 Main Street and any other paseo easements with downtown properties. Further it was agreed that our property should be treated consistently with the agreements made for these other properties.</u></p>	NR
2	N MR	Uesugi	<p>10/25/13 Letter Page 4 “Zoning Compliance” paragraph 18, (item 3)/ “Faux balconies on the rear elevation of the third floor encroach into the public right-of-way...permanent architectural elements such as these balconies should be contained with the property boundaries.” <i>There is not a request made to be addressed in this statement – further there are no faux balconies proposed. What is seen is an architectural element, purely decorative, and does not protrude into the right-of-way.</i> <u>** It was agreed this is not a completeness item. Further it was acknowledged by Jon there are no faux balconies to be shown.</u></p>	NR
3	N	Uesugi- Bavia	<p>10/25/13 Letter Page 4 “Zoning Compliance” paragraph 19, (item 4)/ “Provide more detail about the proposed landscaping (proposed trees and landscape species and sizes, planter box details, rear landscaping, etc.).” <i>This is the same landscape plan that was accepted by staff, the A & S Committee, the Planning Commission, and City Council in the previous application. Chinese Pistache trees are called out as is ground cover per Los Altos Landscape guidelines. We will add additional detail related to the sizes of the trees, planter box details, and the small rear yard landscaping strip.</i> <u>** It was agreed this is not a completeness item. We did agree to possibly create a legend on the sheet, and include sizes and possibly notes on irrigation.</u></p>	NR
5	N MR	Uesugi	<p>10/25/13 Letter Page 4 “Zoning Compliance” paragraph 21, (item 6.a.)/ “Revise the project elevations – On the east elevation, the third floor should extend to the right side property line in order to be consistent with the floor plan.”/ <i>The third floor elevation is drawn consistent with the third floor, floor plan. The wall is off of the property line and extends back at an angle. This gap is represented in the elevation.</i> <u>**It was agreed this is not an item for completeness, further it was agreed that the elevation accurately reflects the floor plans.</u></p>	NR MR

6	N MR	Uesugi	<p>10/25/13 Letter Page 4 “Zoning Compliance” paragraph 21, (item 6.b.)/ “Revise the project elevations – The south elevation should show the balconies and awnings that face the parking plaza.”/ <i>Because of the angle of the lot the awnings do not appear in a true elevation, therefore there is nothing to actually show as requested. There are NO balconies on this side of the building.</i> ** It was agreed this is not an item of completeness, further it was agreed that the awnings would not appear. We will request that the architect add a note.</p>	NR MR
7	N MR	Uesugi	<p>10/25/13 Letter Page 4 “Zoning Compliance” paragraph 21, (item 6.c.)/ “Revise the project elevations – The west elevation should show the left side of the building at the side property line in order to be consistent with the site plan and floor plans.”/ <i>The west elevation does show the building at the property line. The left side of the building is shaded to show the 8-feet of wall section recessed 5-feet. The elevation properly depicts the building.</i> ** It was agreed this is not an item for completeness, further it was agreed that the elevation accurately reflects the floor plans.</p>	NR MR
8	N	Uesugi	<p>10/25/13 Letter Page 4 “Zoning Compliance” paragraph 22, (item 7)/ “The paseo plan (Sheet A7.0) should be bundled with the landscape plan. In addition, the plan should include a scale, north arrow, dimensions to identify pathway width at various points, existing pedestrian improvements within the public right-of-way on either side of the building and indicate proposed pedestrian circulation patterns.”/ <i>It is not a requirement that the paseo and landscape plans are bundled, but we will re-order the sheets. There is no requirement that individual sheets have a north arrow and a scale, both of which are contained in the plan set on sheet (A0.1) site plan. The ground floor plan (Sheet A1.0) contains multiple width measurements of the paseo. Beyond sidewalks there are no pedestrian improvements to show in the public right-of-way. Pedestrian circulation patterns?</i> <i>While none of the items listed are actual requirements we will request that the architect add a north arrow, scale, and paseo width measurements, as well as note pedestrian circulation.</i> ** It was agreed that this was not an item for completeness. We did agree to request the architect incorporate the suggestions by re-bundling the sheets, inserting a north arrow and scale.</p>	NR
9 *?*	N	Uesugi	<p>10/25/13 Letter Page 4 “Zoning Compliance” paragraph 23, (item 8.a.)/ “Revise the building sections (Sheet A8.0) as follows: - Provide specifications (specifically height) for all roof top mechanical equipment.” <i>HVAC specifications were submitted. How is it possible that staff was aware of the acoustical analysis that was submitted with the previous application when it was instructed to not look at the previous application and stated that all materials from that application are unavailable?</i> ** Spec sheets were submitted. We will ask the architect to estimate the height.</p>	NR

0	N	Uesugi	<p>10/25/13 Letter Page 4 “Zoning Compliance” paragraph 23, (item 8.b.)/ “Revise the building sections (Sheet A8.0) as follows: - Show the profiles of the proposed roof mounted photovoltaic panels”/ <i>The roof will be photovoltaic ready but we are not proposing photovoltaic at this time, so this request does not apply.</i> ** It was agreed that this is not a completeness item. Further we have removed photovoltaic from the plans. If the city would like them we will add them at their request.</p>	NR
1	N MR	Uesugi	<p>10/25/13 Letter Page 4 “Zoning Compliance” paragraph 23, (item 8.c.)/ “Revise the building sections (Sheet A8.0) as follows: - Show the rear facing balcony and awnings.”/ <i>There are no rear facing balconies! The architect will add a representation of the rear facing awnings.</i> **It was agreed this is not a completeness item, further there are no balcony’s to show.</p>	NR
9	N	Sorensen	<p>10/25/13 Letter Page 5 “Engineering Division” paragraph 30, (Item 2.)/ “Provide a parking analysis and show that all parking stalls shall be designed per City standards.”/ <i>Parking analysis was provided. No parking stalls are being proposed.</i> **We are not providing in on-site stalls, therefore this is not a completeness item.</p>	NR CR
0	N	McCloud	<p>10/25/13 Letter Page 5 “Engineering Division” paragraph 30, (Item 3.)/ “Provide and show a public access easement on the plans for the public paseo.”/ <i>There is no public access easement being provided therefore it cannot be shown on the plans.</i> **It was agreed this is not a completeness item. Jon Biggs agreed to provide us with the easements provided by 400 Main Street and the hotel and any other downtown properties. Further it was agreed that 40 Main Street should be treated consistently with other projects.</p>	NR
			Items 31- are pulled from the staff letter dated 12/18/2015	
1 New	N	McCloud	<p>12/18/15 Letter Page 3 “Zoning Compliance” (Item 3)/ “Provide a site survey that verifies the lot size from a licensed land surveyor or civil engineer.”/ <i>We have requested that or engineer complete this work and will include it in the next submittal. This is a new request – moving the goal posts. No other application has been requested to complete this work.</i> **It was agreed this is not a completeness item.</p>	NR

12	N	Uesugi	<p>12/18/15 Letter Page 3 “Zoning Compliance” (Item 4)/</p> <p>“Landscape plan (Sheet A0.2)... should show all utility and drainage infrastructure identified on the grading and drainage plan (backflow preventers, drainage inlets, etc.)”</p> <p><i>All of these items are shown on the civil plan CE1.0 and are not required to be shown on the landscape plan. This is a new request – moving the goal posts.</i></p> <p><u>**It was agreed this is not a completeness item. All items requested in the civil plan are included in the plan.</u></p>	NR
13 New	N	McCloud	<p>12/18/15 Letter Page 3 “Zoning Compliance” (Item 9)/</p> <p>“ Revise the preliminary grading and drainage plan (Sheet CE1.0) to show the proposed pedestrian access easement for the paseo and the gas main connection. Regarding the existing transformer in the public right-of-way, is it large enough to serve this project? If not, show location of the new transformer.”/</p> <p><i>Gas Main Connection? Yes the existing Transformer is large enough to service the project. No new transformer location is required.</i></p> <p><u>**It was agreed this is not a completeness item. We will look to identify the gas main. We will provide comment from the PGE consultant.</u></p>	NR
14 New	N	Sorensen	<p>12/18/15 Letter Page 4 “Zoning Compliance” (Item 10)/</p> <p>“Provide a letter from Mission Trail Waste Systems that verifies the size of the proposed trash room is large enough to accommodate all trash, recycling and green waste bins that are necessary to serve an office building of this size.”/</p> <p><i>We will get a letter.</i></p> <p><u>**It was agreed this is not a completeness item.</u></p>	NR
15 New	N	Uesugi	<p>12/18/15 Letter Page 4 “Design Review” (Item 16)/</p> <p>“As recommended in the Downtown Design Guidelines (3.2.4.c), update the building design to show that all windows are recessed at least three inches from the face of the exterior wall.”</p> <p><i>This is a guideline not a code requirement. This is a new request – moving the goal posts.</i></p> <p><u>**It was agreed this is not a completeness item. We will request that the architect make the reference on the window sheet.</u></p>	NR

16 New	N	Maston	<p>12/18/15 Letter Page 4 “Design Review” (Item 17)/ “Provide additional photo-simulated color renderings that show the building as viewed from the parking plaza and as viewed from Main Street south of the project.”/ <i>This is a new request and is not a requirement – moving the goal posts.</i> ** 3D photo rendering will be provided.</p>	NR
18	N	Sorensen	<p>12/18/15 Letter Page 4 “Design Review” (Item 19)/ “However, to comply with the VTA standards, the project should also provide at least two Class I bicycle parking spaces for employees working in the building.”/ <i>This is not the Los Altos requirement. We will work with the Bpac to best meet the bicycle storage requirements.</i> **It was agreed that this is not a requirement. Further Jon Biggs was not a fan of the Class I bike racks.</p>	NR
19 New **?	N	Nelson/N ygaard	<p>12/18/15 Letter Page 5 “Technical Studies and Reports” Traffic Impact Analysis (Item 21.c.)/ “The report should clearly identify total daily trips as well as net new trips generated by the project.”/ <i>The traffic report submitted meets the requirements of the city of Los Altos as prescribed in the City of Los Altos General Plan.</i> **It was agreed this is not an item for completeness as the traffic study per VTA standards has been submitted.</p>	NR
10 New	N	Sorensen – Nelson/N ygaard	<p>12/18/15 Letter Page 5 “Technical Studies and Reports” Parking Demand Analysis (Item 22.a.)/ “The report should provide an analysis of the existing office building and where that parking is currently accommodated.”/ <i>Parking reports are not required, further parking reports submitted are not required to include an analysis of the existing building and where its parking is accommodated. New request – moving the goal posts.</i> **It was agreed this is not an item for completeness.</p>	NR
11 New	N	Sorensen – Nelson/N ygaard	<p>12/18/15 Letter Page 5 “Technical Studies and Reports” Parking Demand Analysis (Item 22.b.)/ “The report should account for the onsite parking that will be lost as part of the project (four tandem spaces located in the existing driveway).”/ <i>Parking reports are not required, further parking reports submitted are not required to include an analysis of the existing building and where its parking is accommodated. New request – moving the goal posts.</i> **It was agreed this is not an item for completeness.</p>	NR

12 New	N	Sorensen – Nelson/N ygaard	12/18/15 Letter Page 5 “Technical Studies and Reports” Parking Demand Analysis (Item 22.c)/ “The report should analyze the total parking demand for the project, not just the net increase, and provide an analysis of where in Downtown the available spaces to serve the project are located (using acceptable walking radius, etc.)”/ <i>Parking reports are not required, further the parking report submitted did analyze the total parking demand for the proposed project, is not required to provide an analysis of where in Downtown the available are located to serve the project (it is part of the plaza system – the spaces are located in the ten plaza system). What is the definition of an acceptable walking radius, and whose definition is it?</i> **It was agreed this is not an item for completeness.	NR
13 New	N	Sorensen – Nelson/N ygaard	12/18/15 Letter Page 5 “Technical Studies and Reports” Parking Demand Analysis (Item 22.d)/ “The use of the local observed data for parking does not reflect newer uses and buildings in Downtown. Since Downtown parking demand has significantly changed in the past few years, all data should be updated and survey data from 2009-2011 should not be used.”/ <i>There is only one new building and use in the parking plaza system since the 2009-2011 data was collected – the hotel, which we are told by staff has zero impact on the plaza system as a whole at peak hours. Parking plaza data has not significantly changed in the downtown for over forty years according to the data collected in the five parking studies that the city has completed since 1978. All but two parking studies supported by staff over the past decade has no survey data included in the study and only one of those two studies used data more current than the data used in our parking report.</i> **It was agreed this is not an item for completeness.	NR
14 New	N	Uesugi	12/18/15 Letter Page 5 “Technical Studies and Reports” Acoustical Analysis (Item 23)/ “The report should identify how many condensing units will be required to serve an office building of this size and analyze the cumulative noise that will be generated by these units.”/ <i>This is not a requirement. This demonstrates a lack of understanding of acoustics.</i> **It was agreed this is not an item for completeness. Cut sheets have been provided.	NR
15 New	N	McCloud	12/18/15 Letter Page 5 “Engineering Division” (Item 26)/ “The proposed stormwater detention does not appear to satisfy Low Impact Development (LID) requirements and direct discharge into the storm drain system is not permitted. Please revise drainage design to show how the project will satisfy stormwater LID requirements per the current Stormwater MRP.”/ **It was agreed this is not an item for completeness. The project engineer has submitted the civil plan and believes it meets LID requirements.	NR

16 New	N	McCloud	12/18/15 Letter Page 5 “Engineering Division” (Item 27)/ “The stormwater discharge point shall be connected to the catch basin at Main Street.” **This is not an item for completeness. We do not believe the catch basin is in Main Street.	NR
17 New Dup See 14	N	Sorensen	12/18/15 Letter Page 5 “Engineering Division” (Item 28)/ “Contact Mission Trail Waste Systems and submit a solid waste and recyclables disposal plan indicating the type, size and number of containers proposed, and the frequency of pick-up service subject to the approval of the Engineering Division, and provide documentation that Mission Trail Waste Systems has reviewed and approved the size and location of the proposed trash enclosure. The enclosure shall be designed to prevent rainwater from mixing with the enclosure’s contents and shall be drained into the City’s sanitary sewer system. The enclosure’s pad shall be designed to not drain outward, and the grade surrounding the enclosure designed to not drain into the enclosure.” **This is not an item for completeness.	NR
18 New	N	Sorensen	12/18/15 Letter Page 6 “Engineering Division” (Item 29)/ “The applicant shall dedicate the pedestrian paseo to the City of Los Altos for use as public right-of-way as a public easement.” <i>We were not proposing that – no other paseo has dedicated a public right-of-way.</i> **It was agreed this is not an item for completeness. Further it was agreed that 40 Main would be treated like other applications, and that Jon Biggs would provide easements provided by 400 Main Street and the Hotel.	NR
19 New	N	Sorensen	12/18/15 Letter Page 6 “Engineering Division” (Item 30)/ “Provide adequate bike parking along Main Street per Chapter 10 of the VTA Bicycle Technical Guidelines 2012”/ <i>This is a duplicate request see item 38 above. This is not a Los Altos code requirement and the building is providing bike parking.</i> **This is not an item for completeness.	NR
20 New	N	Uesugi – Bavia	12/18/15 Letter Page 6 “Engineering Division” (Item 32)/ “The quantity and type of street trees to be installed along Main Street shall be consistent with the Downtown Design Plan and Design Guidelines.” <i>This is not a request to be addressed in pre-planning, therefore not an outstanding item. It also points out that the Landscaping request above are not items that must be addressed in pre-Planning as size and type of landscaping is recommended in the Design Guidelines and the Urban Design Plan.</i> **This is not an item for completeness.	NR

i1 sew	N	McCloud ?	12/18/15 Letter Page 6 "Engineering Division" (Item 35)/ "The project shall use the existing sewer lateral and upgrade appropriately. The applicant will be required to submit calculations showing that the upgrade will not exceed two-thirds full due to the project's sewer loads. Calculations shall include the six-inch main from the property to the point where it connects to the twenty-seven inch sewer line on El Camino Real. For any segment that is calculated to exceed two-thirds full for average daily flow or for any segment that the flow is surcharged in the main due to peak flow, the applicant shall replace the four-inch sewer line with a six-inch sewer line." <u>**This is not an item for completeness. Further this is not an item for approval.</u>	NR
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i=14
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RE: follow up to completion letter

From: Jon Biggs (jbiggs@losaltosca.gov)

To: gjsorensen_1999@yahoo.com

Date: Thursday, July 7, 2016, 4:25 PM PDT

Hello Jerry –

Thank you for the email. It reflects our discussions earlier today and is an accurate reflection of the information that is still necessary to complete the application and those items that would be addressed further, even though they are not items of completeness.

I look forward to receiving the information your architect is working on and bringing a consulting planner on board to manage this project.

Jon Biggs, City of Los Altos

Community Development Department

From: Sorensen Gerald [mailto:gjsorensen_1999@yahoo.com]

Sent: Thursday, July 07, 2016 12:06 PM

To: Jon Biggs

Subject: follow up to completion letter

Good Afternoon Jon,

Again thank you for taking the time to meet with us earlier today. We are certainly aware we are taking a lot of your time and appreciate your support in the process.

In our mutual review of the past two letters staff sent to us, the February 1, 2016 letter does not mention completeness items. Our mutual review today of the December 18, 2015 letter has 48 items and subitems to be completed. It is our understanding that we mutually agreed today that only seven of those 48 items, (1, 3, 6, 10, 12, 13, 17/18), are actual requirements for completeness of the application, and that we agreed to try and further address items, (2, 4, 5, 11, 16,), to meet the request as stated although they are not items required for completeness.

We would appreciate confirmation that this is your understanding of our meeting today as well.

Our architect is working hard to make these minor changes to the plans and we hope to have everything we agreed to complete soon.

As always we greatly appreciate your time, and fully understand the time and management challenges that you currently have and would simply like to use our time to make our time together as productive as possible.

Thank you.

Jerry

650-906-0491



Community Development Department
One North San Antonio Road
Los Altos, California 94022-3087

September 28, 2016

Mr. Jerry Sorensen & Mr. Ted Sorensen
40 Main Street
Los Altos, CA 94022

Re: 40 Main Street

Dear Jerry and Ted:

I have completed my review of the information you have provided to date and this letter serves as notice that we have sufficient information to proceed with preparations for the public hearings at which your applications for development at 40 Main Street will be reviewed for recommendation and action.

We may have requests for clarifying information in the future as we complete our analysis of the project, including the necessary environmental analysis required by the California Environmental Quality Act, and develop appropriate conditions and staff recommendations. Further direction will be provided so that the appropriate public hearing notification and community notices are in place prior to the respective dates of those hearings.

Please feel free to contact me if you have additional questions.

Sincerely:

Jon Biggs, City of Los Altos
Community Development Director

RE: NEXT MEETING

From: Jon Biggs (jbiggs@losaltosca.gov)
To: gjsorensen_1999@yahoo.com
Date: Thursday, October 20, 2016, 3:08 PM PDT

Thank you Jerry – I have reached out to Erin.

Jon

From: Sorensen Gerald [mailto:gjsorensen_1999@yahoo.com]
Sent: Thursday, October 20, 2016 11:05 AM
To: Jon Biggs <jbiggs@losaltosca.gov>; Erin Uesugi <erin@uesugi-architects.com>
Subject: Re: next meeting

Good Morning Jon,

Good Morning Erin,

Jon, I am copying Erin (our architect) on this response. My thoughts are that it is far more efficient if you and Erin coordinate the earliest mutually convenient time for a call. Once the two of you have landed on a time that works for the two of you, I will make myself available to be on the call. We can use our office for the call.

Erin's phone number is 415-781-4141, and her email is erin@uesugi-architects.com

Jon's phone number is 650-947-2635, and his email is jbiggs@losaltosca.gov

I shared with Erin that you wanted to better understand the following design issues.

1. The evolution and purpose of the tower element. Specifically on a property that was not a corner property.
2. The height of the tower. Specifically how the top windows worked as a design element.
3. The Gable roof elements. Specifically your concern that the Gable on the Main Street elevation

4. THE FIRST FLOOR LOWER WINDOW HEIGHTS AND HOW THEY RELATE TO THE OTHER FIRST FLOOR WINDOWS.
5. The combination of forms on the first floor elevations.

As we discussed last Erin is far better at explaining the design form, function, and evolution of all of these issues than I could ever hope to do. If there are any other issues I think it would make the call more efficient if Erin was aware of them in advance of the call.

Erin, as I mentioned to you I think it is best if you are able to respond to Jon's architecture and design questions rather than me. Given that both of you have very busy schedules I think it is best if you coordinate a time and then include me. We are working to a November PTC hearing date so the sooner the two of you can talk the better.

Thanks

Jerry

650-906-0491

From: Jon Biggs <jbiggs@losaltosca.gov>
To: Sorensen Gerald <gjsorensen_1999@yahoo.com>
Sent: Thursday, October 20, 2016 7:54 AM
Subject: RE: next meeting

How does next Wednesday afternoon work for a phone call with Erin work?

Jon

From: Sorensen Gerald [mailto:gjsorensen_1999@yahoo.com]
Sent: Wednesday, October 19, 2016 10:23 AM
To: Jon Biggs <jbiggs@losaltosca.gov>
Subject: Re: next meeting

Jon,

KNOW IF THAT IS THE WEEK OF 10/21 (THE HOL AVAILABLE), OR 11/1. I KNOW WE ARE WORKING TO A NOVEMBER PTC date, so her availability is problematic.

Are there other issues other than the few design issues that we need to complete - and could complete without her?

Jerry

From: Jon Biggs <jbiggs@losaltosca.gov>
To: Sorensen Gerald <gjsorensen_1999@yahoo.com>
Sent: Wednesday, October 19, 2016 9:42 AM
Subject: RE: next meeting

Hello Jerry –

I believe it will be best if she is present at the meeting – a phone conference is not usually conducive to these types of discussions – do you have an idea of her availability?

Jon

From: Sorensen Gerald [mailto:gjsorensen_1999@yahoo.com]
Sent: Tuesday, October 18, 2016 2:29 PM
To: Jon Biggs <jbiggs@losaltosca.gov>
Subject: next meeting

Jon,

Can we set the next meeting date. I have reached out to Erin but her schedule is quite backed up right now. I was hoping that we could schedule a time and that possibly Erin could call in so that we can talk through those issues that you mentioned to me.

Let me know what might work for you.

Jerry

RE: Follow up

From: Jon Biggs (jbiggs@losaltosca.gov)
To: gjsorensen_1999@yahoo.com
Date: Tuesday, November 29, 2016, 4:42 PM PST

Hello Jerry –

I did have a good Thanksgiving and hope you did as well.

I don't have an opportunity to meet this week, what is your schedule like for next week. I have run into a bit of an issue concerning parking and the CEQA review – although your latest parking analysis makes a case for reduced parking ratios it does not indicate what the project's impacts to the existing parking supply would be. I'm exploring past studies to determine occupancy rates for parking spaces in the plazas.

I have also enlisted the assistance of an architectural firm to provide a design analysis of the building and I await their findings.

As to the parking review – the consultant is finalizing the work on that now and may have some questions for me – he is slated to give me some feedback this week or early part of next week. I will keep you posted, as others are interested in the results as well.

Jon

From: Sorensen Gerald [mailto:gjsorensen_1999@yahoo.com]
Sent: Monday, November 28, 2016 10:40 AM
To: Jon Biggs <jbiggs@losaltosca.gov>
Subject: follow up

Good Morning Jon,

I would like to follow up with you about moving our application forward to the PTC. Would you have time to meet this week? I am also curious of the status of the parking committee report review. Last we spoke you had indicated that you thought the consultant would have a review/report back to you by the middle of November. Given that we are at November 28, I was wondering if that had happened or if there was an update as to when you would expect a report from the consultant.

I hope you had a great Thanksgiving and look forward to meeting with you soon.

Jerry

Jon Biggs · jon.biggs@cityoflosaltos.com
Sorensen Gerald
City of Los Altos, CA

Hi Jerry –

I have been communicating with the consultants and we are meeting later this week to address questions. It has taken some time, but I want to be sure I get things right and as importantly they get things right as well. Los Altos has a unique history when it comes to parking and it seems that every file drawer I open or bit of information I pursue – a new piece of information comes up.

As to the design – I believe our phone meeting with Erin was somewhat helpful, but there remain design elements of the building's design that I am concerned with and felt that an independent opinion would be beneficial for me and the PTC plus the City Council. The height of the building is a concern and given the recent change to the height limits in other areas of the Downtown, the height of your building will need to be very carefully evaluated – I think a skilled architect can help with that.

I do not agree that parking is not an element of CEQA review – the purpose of CEQA is to evaluate a project's potential for impacts on the environment. Parking, or lack thereof, has the potential for a significant impact on the environment and needs to be evaluated – refer to "Taxpayers for Accountable School Bond Spending v. San Diego Unified School District", March 2013 for information on the need to analyze parking. Again the parking analysis you have submitted provides information concerning parking ratios for the use, but does not address whether the parking demand that is generated will have a significant impact on the parking supply. As you note – your project can be modified to provide for less square footage, but the analysis of this is still missing and we would need an amended project under the current CEQA review. The City's parking study of 2013 indicates that parking occupancies of plaza 10 are at capacity during the peak occupancy hour. I've been making an effort to go through plaza 10 a little while after the lunch hour of late – and although this is an unscientific method – I see that this plaza is often full with only 2 or 3 available spaces available. What the impacts of your project would have on the current supply – not only plaza 10, but other plazas and on-street parking spaces have not been fully evaluated.

I hope this information is helpful in explaining the hurdles that have come up in the review of the project. I will contact you as soon as I hear back from the architect so we can go over his review together.

Jon

From: Sorensen Gerald [mailto:gjsorensen_1999@yahoo.com]
Sent: Friday, December 09, 2016 5:10 PM
To: Jon Biggs <jbiggs@losaltosca.gov>
Subject: Re: follow up

Good Evening Jon,

Per the email thread below, you had indicated that you would have the information from the parking consultants and design consultant early this week. It is now Friday end of day and I am disappointed that I have not heard from you regarding scheduling a meeting.

As a reminder you had initially indicated that the parking review would be completed during the summer, then by the middle of November and now we are in the middle of December. Being quite familiar with the work of the committee I am confused by the delays.

Regarding a design review of our building by an architectural firm, I am similarly confused. This is a project that better meets the city's Design Guideline criteria and the City's Urban Design Plan than any project submitted in the past ten years. Further it has been through five public hearings and received unanimous support for the architecture and design. Lastly we met in October with our architect Erin Uesugi on the phone to discuss the design issues that you wanted to understand further. I am curious as to the purpose of now hiring a firm to complete a design review, as the issue of architecture and design is truly an issue for the Planning and Transportation Committee. Could you share your thoughts?

Regarding parking and CEQA. We have discussed with you in the past that parking is not an element of CEQA review. In addition we have shared with you many times that we are prepared at this time to reduce the square footage of the building to what ever square footage will be supported by the city. Therefore what additional analysis could be required?

Could you share with me any other projects in the City of Los Altos that have been required to provide an analysis of the parking impacts to the existing supply? I am not aware of any project that has done so.

We received your letter of September 28th indicating that our project application was complete. We are now at the middle of December and we have yet to be scheduled for a Planning and Transportation Committee meeting. We would like to be scheduled for the first available Planning and Transportation Committee meeting.

Please let me know of your earliest time to meet to move the project forward.

Jerry

Jon Biggs
Sorensen Gerald

Hello Jerry –

Good to hear from you. My apologies for not getting this you sooner, but other projects have been time consuming. I am sending the latest information for your project – including the review by the architectural consultant. Although information your architect shared during the conference call was helpful, it did not fully alleviate the concerns I had for the design of your building and I thought it best to seek an independent evaluation, which as noted above is attached. Seeking the advice of consulting professionals was one of the recommendations by the Downtown Building Committee and albeit theirs was recommendation to get this input in the early stages of the project, your project application had been submitted earlier but I felt the decision making bodies would benefit from this review in light of the Downtown focus of late.

As to the parking – each project is unique and is evaluated on a case by case basis. As you can see from the attached environmental review the parking analysis provided with your project application does not evaluate the potential impacts that your project, having no on-site parking, will have on the existing public parking supply, and this has the potential for being significant; thus, the need for further review through an environmental impact report. Try as I may – I just could not develop an analysis, based on recent independent studies, that indicates the project would have a less than significant impact on the public parking supply, both on-street and in the public parking plazas. I am open to discussing further and evaluating other information you might have that documents no significant impact would occur; however, the information at present does not support such a conclusion. I have been awaiting one further evaluation of this environmental analysis, but that has not been yet provided.

After you have an opportunity to review the attached please contact me so that we can schedule a meeting to discuss and determine the next steps for the project.

From: Sorensen Gerald [mailto:gjsorensen_1999@yahoo.com]
Sent: Monday, February 13, 2017 11:24 AM
To: Jon Biggs <jbiggs@losaltosca.gov>
Subject: Re: follow up

Good Morning Jon,

I am writing to follow up on our application.

We received from you a letter of completion on September 28th, 2016. It is my understanding that the city is responsible for providing applicants with any feedback within 30 days. That would be October 28, 2016. It has now been 4 and a half months well past the 30 day time frame. Further below is your last communication to us. Dated December 12, 2016, and states that you have asked for an "Independent Opinion" that would be beneficial for you, the PTC and the council. It has been two months since you sent this email. We could and should have already come before the Council by this time.

Also, I am confused as to why you think an "independent opinion" is necessary given that it is the purpose of the PTC to evaluate the architecture. Given that you acknowledge that the phone meeting with Erin was helpful, "but there remain design elements of the building's design that I am concerned with" why did you not raise those during our meeting with Erin? After all the agenda of items discussed were your issues, you indicated satisfaction at the time, why were any other issues you had not included in that meeting? Further as you acknowledge it was helpful to talk through issues with Erin, why wouldn't you have the consultant also meet with Erin to best understand the design in the full context?

So far as we know, no other application has been subjected to an "independent" review. No other project has been required to do a CEQA analysis for parking. If we are mistaken, could you please share with us any projects that you have requested an independent review, or CEQA analysis for? Also, why would this review take over two months to be completed? It seems that such a review should include a discussion with the architect and should not require more than one week to complete.

I would like to see any and all correspondence between the city and the independent architectural consultant. I would also request that we schedule a meeting to discuss our application with you, and City Manager Chris Jordan as soon as possible.

Jerry

From: Jon Biggs <jbiggs@losaltosca.gov>

To: Sorensen Gerald <gjsorensen_1999@yahoo.com>

Sent: Thursday, February 23, 2017, 5:07:10 PM PST

Subject: Parking Analysis Guidance 40 Main

Hello Jerry –

Here's the parking analysis information.

Jon

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PARKING ANALYSIS – 40 MAIN

PARKING ANALYSIS

- The report shall provide the parking demand of the existing office building and where that parking is currently accommodated (on-site, on-street, parking plazas, etc.).
- The report shall calculate and provide the total number of on-site parking spaces required by the Los Altos Municipal Code – based on the proposed use of the building and its net square footage as net square footage is defined in Chapter 14.74 of the Los Altos Municipal Code.
- Since no on-site parking is proposed, the report shall identify and provide those locations where parking will be utilized – on-street, public parking, plazas, private lots, or other locations and identify the standards used to determine these locations, such as acceptable walking radius.
- If private parking areas are identified, the report needs to identify the appropriate legal document that will be executed to insure permanent use of the parking.
- The report shall provide key information regarding each identified parking location, such as the total number of parking spaces, number of accessible spaces, employee permit spaces (if present), time limits on parking, or other information necessary to evaluate parking utilization.
- The report shall provide the current hourly occupancy rates of each identified parking location from 8 am to 7 pm for a Weekday and Saturday (represented as a percentage of the total number of parking spaces at each identified location).
- The report shall identify the current peak hour occupancies.
- The report shall project the distribution of the required parking for the project amongst each identified parking location from 8 am to 7 pm for a Weekday and Saturday (represented as a percentage of the total number of parking spaces at each identified location).
- The report shall identify the projected peak hour occupancies.
- The report needs to account for any timed limits at identified parking locations and how these time limits may impact parking occupancy levels.
- The report may include an analysis of the City's parking permit system and how it will be used as part of the overall parking strategy for the project.
- The data collection and report preparation shall be completed by a qualified parking engineering or consulting firm with experience in conducting these types of studies and analysis.
- Other information may be requested or provided to evaluate the project's parking impacts.

From: Jon Biggs <jbiggs@losaltosca.gov>

To: Sorensen Gerald <gjsorensen_1999@yahoo.com>

Sent: Friday, February 24, 2017, 8:02:04 AM PST

Subject: Parking Study Guidance

Hello Jerry –

I updated item four of the parking study information I sent you yesterday and attach the update with this email.

Jon

=== Subscribe to [City Manager Weekly Updates](#), and more! ===

PARKING ANALYSIS – 40 MAIN

PARKING ANALYSIS

- The report shall provide the parking demand of the existing office building and where that parking is currently accommodated (on-site, on-street, parking plazas, etc.).
- The report shall calculate and provide the total number of on-site parking spaces required by the Los Altos Municipal Code – based on the proposed use of the building and its net square footage as net square footage is defined in Chapter 14.74 of the Los Altos Municipal Code.
- Since no on-site parking is proposed, the report shall identify and provide those locations where parking will be utilized – on-street, public parking, plazas, private lots, or other locations and identify the standards used to determine these locations, such as acceptable walking radius.
- If private parking areas are identified, the report needs to identify the appropriate legal document that will be executed to insure permanent use of the parking. Per Section 14.74.170, any off-site parking used to serve the proposed office building shall be within 300 feet of the project site.
- The report shall provide key information regarding each identified parking location, such as the total number of parking spaces, number of accessible spaces, employee permit spaces (if present), time limits on parking, or other information necessary to evaluate parking utilization.
- The report shall provide the current hourly occupancy rates of each identified parking location from 8 am to 7 pm for a Weekday and Saturday (represented as a percentage of the total number of parking spaces at each identified location).
- The report shall identify the current peak hour occupancies.
- The report shall project the distribution of the required parking for the project amongst each identified parking location from 8 am to 7 pm for a Weekday and Saturday (represented as a percentage of the total number of parking spaces at each identified location).
- The report shall identify the projected peak hour occupancies.
- The report needs to account for any timed limits at identified parking locations and how these time limits may impact parking occupancy levels.
- The report may include an analysis of the City's parking permit system and how it will be used as part of the overall parking strategy for the project.
- The data collection and report preparation shall be completed by a qualified parking engineering or consulting firm with experience in conducting these types of studies and analysis.
- Other information may be requested or provided to evaluate the project's parking impacts.

Submittal Timelines

- **Jon Biggs** - 12/20/16 10:41 AM

Sorensen Gerald

Chris Jordan

12/20/2016 10:41 AM

Hello Jerry –

This email is to provide you with some time lines for the submittal of pending information for the 40 Main project. Given the public review period for the environmental analysis, the requested parking study must be submitted at least 20 working days in advance of the Planning and Transportation Commission (PTC) meeting. This provides time to review the analysis, update the initial study as appropriate and make the analysis available for the required 20 day public review period. For example – if April 20th is the PTC meeting date, the parking analysis must be submitted to the City no later than Friday March 24, 2017.

In addition, story poles are required for the project and I want to be sure you incorporate what is needed for these into your scheduling. I have attached the City's story pole policy that provides the information your architect or engineer can use in the preparation of the Story Pole Plan. I need to approve the plan before the installation of the story poles, which need to be installed prior to the public noticing. The information in the attached policy includes additional information and guidance for the installation of the story poles.

Please let me know if you have any questions.

Jon Biggs, City of Los Altos

Community Development Department

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Los Altos City Hall

RE: 40 Main Street PTC hearing June 1

- **Jon Biggs** <jbiggs@losaltosca.gov>

Sorensen Gerald,Chris Jordan

William Maston,christopher.diaz@bbklaw.com

Mon, 22 May 2017 at 3:04 PM

Hi Jerry,

As I said to Bill – the item will be agendaized for a workshop meeting with the PTC at their June 1 meeting. The public hearing on the project will be on June 15, this provides the time needed to post, mail, and publish the public hearing notice and the notice for the environmental review, which I am in the process of wrapping up given the information you have provided.

As a reminder the story poles for the project need to be in place by June 1 so that the Commission and public have adequate time to review them in advance of the hearing.

Jon

From: Sorensen Gerald [mailto:gjsorensen_1999@yahoo.com]

Sent: Monday, May 22, 2017 3:03 PM

To: Chris Jordan <cjordan@losaltosca.gov>; Jon Biggs <jbiggs@losaltosca.gov>

Cc: William Maston <bill@mastonarchitect.com>; christopher.diaz@bbklaw.com

Subject: 40 Main Street PTC hearing June 1

Dear Chris & Jon (Chris Diaz by CC)

I am writing again to share my frustration that we have not yet been placed on the June 1, PTC agenda.

Jon wrote to our architect Bill Maston on May 12th, and stated; "If you want to move forward for a hearing on June 1, I will make that happen;..."Please let me know." - I am letting you know again today - we want to be on the June 1, PTC agenda.

Jon met with Bill Maston on May 16th. At that meeting it is our understanding that the following points were agreed to:

1) The existing parking study submitted on April 13, responded to every aspect of the scope presented to us by Jon in his February 24th email,

2) At Jon's request we would try to work with the parking consultant to reorganize/reformat the report so as to emphasize one part of the report. Jon requested no substantive changes, just a reformatting of the report. We reformatted the report as Jon requested and submitted it to Jon on the May 18,

3) Jon acknowledged that there is no 20-day CEQA notice required prior to a PTC hearing - therefore there is no additional notice requirements for a June 1, PTC hearing, beyond the standard mailing of post cards and issuance of the agenda and staff report. There is no requirement of a newspaper notice. Further newspaper notice could be made in the Daily Post as well as the Town Crier.

Chris, in our three meetings, (May 12 2016, August 18 2016, and February 28 2017) you have assured me each time that you were committed to our project receiving a quick hearing date with the PTC and Council. It has now been more than 12 months since our initial meeting, and eight months since we received our letter of completion. I am requesting that this project move forward June 1, at the PTC, as was promised in Jon's email of May 12th. There is still plenty of time to accomplish this. If we can do this now, we will be in a position for a June 20 Council meeting.

We appreciate your consideration and hope you can help Jon find a way to make this happen.

Thank you,

Jerry

650-906-0491

MINUTES OF A REGULAR MEETING OF THE PLANNING AND
TRANSPORTATION COMMISSION OF THE CITY OF LOS ALTOS, HELD ON
THURSDAY, JUNE 15, 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, Oreizy,
and Samek
ABSENT: Commissioner McTighe
STAFF: Community Development Director Biggs and Assistant City Attorney Wisinski

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

ITEMS FOR CONSIDERATION/ACTION

CONSENT CALENDAR

1. **Planning and Transportation Commission Minutes**
Approve the minutes of the June 1, 2017 Regular Meeting.

Action: Upon motion by Vice-Chair Bressack, seconded by Commissioner Oreizy, the Commission approved the minutes of the June 1, 2017 Regular Meeting as modified by Commissioner Enander. The motion was approved by the following vote: AYES: Bressack, Bodner, Enander Meadows, Oreizy and Samek; NOES: None; ABSTAIN: None; ABSENT: McTighe. (6-0)

PUBLIC HEARING

In response to written comments, Commissioner Bodner noted that there was no reason for her to recuse herself and that she has not formed an opinion on the project before the Planning and Transportation Commission meeting.

1. **13-D-14 and 13-UP-03 – 40 Main Street Offices, LLC – 40 Main Street**

Proposed three-story office building having 17,428 square feet of gross floor area that replaces the existing one-story office building containing 2,127 square feet. The project includes the removal of existing structures, site improvements, plants, and landscaping. The proposed structure is approximately 38 feet in height measured to the highest point of the building and approximately 45 feet to the top of a tower element. The project proposes a pedestrian paseo connecting parking plaza 10 to Main Street as a public benefit. For this proposed public benefit, the applicant is seeking development incentives in the form of increases in the maximum building height, reduction in the number of on-site parking spaces, and a reduction in the rear yard setback requirement for the upper floors. The project requires use permit, and design review approval in addition to acceptance of the pedestrian paseo as a public benefit that supports the requested exceptions to the height, parking, and rear yard setback requirements. A Mitigated Negative Declaration is being proposed. The PTC will consider the project, along with the environmental review, and develop a recommendation to the City Council. *Public*

Community Development Director Biggs presented the staff report recommending denial of the project and its permit applications to the City Council.

Project representative Bill Maston gave a presentation of the project, showed 3D renderings of the project, and talked about the benefit of providing a paseo.

Public Comment

Los Altos Hills Resident Robert Sandor gave his support and said he was pleased with the look and style of the building, that the design fits well with the village character, and that it will be positive for downtown.

Downtown business tenant Brendan Pratt of the Pratt Center stated his concerns about parking and the impact the project will have on Plaza 10, that he has been in business for 17 years and chose the building because of its close proximity to other downtown businesses, that finding parking is already difficult for his clients, and noted that two restaurants will re-open again.

Downtown business owner and tenant Von Packard of 4 Main Street gave his opposition stating that the changes that need to be made to the project have not been made and if the project is brought into compliance with Code, he could look at supporting it.

Resident Mike Abrams noted his support for the following reasons: it's clear that our downtown restaurants and merchants would benefit from additional Class A office space and more feet on the street; and the project proposal has gone on long enough and the City needs to work with the developer to work out the issues to get the project approved.

Resident Anabel Pelham gave her support for the paseo, said to fix up Plaza 10, that the project will add vibrancy, and gives the opportunity to get out and about with safe lighting for seniors.

Resident Steven Yarbrough said that project will affect him, but he is in favor, that the builder's recommendation to revise Plaza 10 is a brilliant idea, disagreed with staff's conclusion of stucco not being an appropriate material for downtown, and the criticism of bulk because the building would complement the hotel across the street.

Resident William Milks gave his support for the project and changes to Plaza 10 and stated that he was unaware of a parking issue because he has no problem finding parking when he frequents downtown.

Resident Nancy Walsh stated that Plaza 10 needs to be upgraded and the City should consider it since the developer is willing to pay for it.

Resident Pat Marriott stated that she was part of the Downtown Buildings Committee that created a checklist so all projects would be treated equitably, gave her support for the 3D modeling and story poles, that almost all other projects downtown have received parking exceptions from the City, and that the design fits the village character.

Resident Mike Conner gave his support for the project stating that Los Altos has improved and should continue to improve with projects, such as this one that fits the village character and it would add to the gateway to downtown.

Resident Francis Murray gave his support, said that this is an important project and an example of why exceptions are needed, and agreed with the revisions to Plaza 10 that are proposed.

Resident Jim Wing said his CEQA concerns were in the Initial Study in the transportation section of the report because the data used is too old and the report should be revised. He stated that the PTC reviewed this data on June 16, 2011 and could not explain the discrepancies (see letter submitted). He stated that we need a good set of current data, that the paseo will not be used by residents, and that Wells Fargo has an access easement across the driveway to Plaza 10.

Resident Michael Hudrall stated he was very concerned with the parking waiver being requested by the project, any parking overflow into his neighborhood, and cut through traffic. He said he was worried about the cumulative impacts of new downtown projects and the Downtown Vision and stated that a comprehensive analysis is needed. He was not in favor of the paseo as a public benefit.

Resident Bart Nelson stated that the three issues that need action are the rear yard setback, the height of the building and parking. He was in favor of reworking the plazas to provide the needed additional parking.

Resident Andrea Eaton stated that staff needs to help development projects through the process and find the positives of the project, not just the negatives in the staff report. She gave her support for the project and said the application of parking waivers on projects feels inconsistent and restriping the plaza is an excellent idea and the City should find a way to make that possible.

Downtown business tenant and dentist, Thanh Chan of Main Dental, stated that he's been at this location for 10 years and has seen many changes for the good of downtown and supports this project. He said that because there is no access to good foot traffic, there is a turnover of five to eight businesses a year. He also noted that employees are occupying the parking spaces for customers in the plazas.

Resident Alex Glew stated his support for the project, that the scale is appropriate, makes a nice entrance to the City, that the interpretation of rules has become absurd and makes development unfair, the restriping of the plaza is a great idea, and Los Altos needs more Class A office space.

Resident David Duperrault gave his support for the project and stated that Jerry Sorenson has given a lot to this community. He further stated the need to talk about the public benefit of the paseo as a public plaza/space because vehicles, pedestrians and bicycles conflict at the Wells Fargo driveway.

Mountain View Resident Wyatt Allen gave his support for the project, stated that the parking issue is very minor, the project was designed to be attractive and has the village ambience, the use of stucco is reasonable, the Wells Fargo access is problematic, and the office use is appropriate because retail really struggles downtown.

Resident David Rock gave his support for the project stating that the building fits in with the village character on Main Street, was in favor of the restriping of the plaza to get more parking spaces at the applicant's expense, the project meets 23 of the 24 Downtown Design Guidelines, the City should not be obsessed over stories when the focus should be related to height, the obsession with interior heights of buildings is baffling, and we need Class A office downtown because there are lots of requests for it.

Unincorporated Los Altos resident Mark Rogge gave his support for the project, stated the need for more office downtown, that office workers will avail themselves of services and restaurants downtown, that the property is already part of the original parking district and has already paid into and provided parking, and that the public benefit of the paseo is important.

Realtor, resident and Enchanté Hotel owner Abigail Ahrens stated she was happy that the project didn't use a sloped roof.

Downtown business tenant for the Christian Science Reading Room, Katherine O'Toole, stated her support for the paseo and the width of it to provide a public benefit.

Resident Jon Baer stated he wants Class A office, but does not want this project approved. He was concerned with the use of cheap materials, the height, and setbacks that are too narrow and too low. He further stated that the restriping of the plazas need to go with the growth of the downtown.

Downtown business tenant Scott Atkinson stated his opposition to the project noting that the community standards and costs were known by the applicant at the time submittal, that the community should not foot the bill for the parking, taking away does not justify this, and horizontal parking is difficult.

The Commission discussed the project and voiced concerns regarding the story poles not accurately representing the project proposal. The parking proposal for Plaza 10 needs to be included with the application and studied. All the commissioners were in support of the office use with a conditional use permit.

Some of the design concerns mentioned included: this is not a coherent architectural design; there are problems with the design materials as well as bulk and mass; a third story works here, but may need to be set back further in the roof/dormers; not an appropriate location of the tower because it is too cramped; needs more open space in the front of the building; the paseo is too narrow; stucco is acceptable if done right where the pilasters will accentuate vertical elements and there needs to be more horizontal lines; the paseo is not enough of a public benefit to offset what the developer is getting; but a redo of the parking plaza 10 would be an adequate benefit; need clarity of the parapet and how it relates to the building height; use more natural and higher quality materials; lack of on-site parking is unacceptable; the fly over presentation was not realistic and does not match the rendering provided to the Commission; and the tower creates an artificial corner that does not need to be there.

Action: Upon motion by Commissioner Enander, seconded by Vice-Chair Bressack, the Commission continued design and use permit applications 13-D-14 and 13-UP-03 to a date uncertain and wanted to see all changes made to address the project issues. The motion was approved by the following vote: AYES: Bressack, Bodner, Enander Meadows, Oreizy and Samek; NOES: None; ABSTAIN: None; ABSENT: McTighe. (6-0)

COMMISSIONERS' REPORTS AND COMMENTS

Commissioner Samek said that the Commission should review Public Benefits to better identify those that would be appropriate for the Downtown.

POTENTIAL FUTURE AGENDA ITEMS

Commissioner Samek requested that Public Benefits downtown, parking on Edith and cross streets, and landscape screening enforcement be put on a future agenda for discussion.

ADJOURNMENT

Chair Meadows adjourned the meeting at 10:25 P.M.

**MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF
THE CITY OF LOS ALTOS, HELD ON TUESDAY, JULY 11, 2017,
BEGINNING AT 7:00 P.M. AT LOS ALTOS CITY HALL, 1 NORTH SAN
ANTONIO ROAD, LOS ALTOS, CALIFORNIA**

ESTABLISH QUORUM

PRESENT: Mayor Prochnow, Vice Mayor Mordo, Councilmembers Bruins (via teleconference; left meeting at 8:25 p.m.), Lee Eng and Pepper

ABSENT: None

PLEDGE OF ALLEGIANCE

Mayor Prochnow led the Pledge of Allegiance to the flag.

CHANGES TO THE ORDER OF THE AGENDA

Item number 8 was moved to the beginning of the meeting.

DISCUSSION ITEM

8. Use of Public Parking Plaza to Facilitate Private Development: Consider a re-configuration of a public parking plaza for private development, provided that any new design comply with the City's standards for parking lots, and provide direction as appropriate

Mayor Prochnow recused herself due to a potential financial conflict of interest (owns property within the 500 feet of the proposed parking plaza), stepped down from the dais and left the chamber. Vice Mayor Mordo conducted the meeting.

City Manager Jordan presented the report.

Public Comments

The following individuals provided public comments: Bill Maston, representing the property owners of 40 Main Street), Los Altos residents Bart Nelson, Andrea Eaton, Jon Baer, David Duperrault, Nancy Bremeau, Teresa Morris, Nancy Phillips and Jim Wing, Robert Sandor, Jerry Wittenauer and Kim Cranston.

Action: Motion made by Councilmember Bruins, seconded by Vice Mayor Mordo, to consider the re-configuration of a public parking plaza for private development, provided that any new design: 1) comply with the City's standards for parking lots in 14.74.200 of the Municipal Code; 2) provide additional public amenities, such as bicycle parking, electric vehicle charging stations, etc.; 3) provide additional parking stalls; and 4) provide adequate landscaping, including tree canopy.

Councilmember Bruins amended the motion to be that the Council will consider the re-configuration of a public parking plaza for private development, provided that any new design comply with the

City's standards for parking lots in 17.74.200 of the Municipal Code. The motion, as amended, passed by the following roll call vote: AYES: Bruins, Lee Eng, Mordo and Pepper; NOES: None; ABSTAIN: Prochnow; ABSENT: None.

Action: Upon a motion by Vice Mayor Mordo, seconded by Councilmember Pepper, the Council directed that this action is solely for Parking Plaza 10 and the application of the owners of 40 Main Street, by the following roll call vote: AYES: Bruins, Lee Eng, Mordo and Pepper; NOES: None; ABSTAIN: Prochnow; ABSENT: None.

Mayor Prochnow returned to the dais and resumed conducting the meeting.

SPECIAL PRESENTATION

Mayor Prochnow presented a proclamation for National Parks and Recreation Month to Neysa Fligor, Chair of the Parks and Recreation Commission.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Catherine Anne Stansbury spoke regarding a dog park in Los Altos.

Laura Teksler, representing the Environmental Commission, spoke regarding the Green Infrastructure Plan Framework.

Claudia Coleman, Chair of the Hillview Community Center Project Task Force, spoke regarding the Task Force.

CONSENT CALENDAR

Councilmember Lee Eng pulled items number 2 and 4.

Action: Upon a motion by Councilmember Pepper, seconded by Vice Mayor Mordo, the Council approved the Consent Calendar, with the exception of items number 2 and 4, by the following vote: AYES: Lee Eng, Mordo, Pepper and Prochnow; NOES: None; ABSTAIN: None; ABSENT: Bruins, as follows:

1. Council Minutes: Approved the minutes of the June 27, 2017 study session and regular meeting.
2. Installation of sculptures: Approve the installation of *Mutha Hen* at the corner of State Street and Third Street, *Alegria* at Village Park, and *Reverse Prometheus* on the Civic Center campus between the Library and City Hall – *pulled for discussion (see page 4)*.
3. Ordinance No. 2017-432: Smoke Free Civic Center: Introduced and waived further reading of Ordinance No. 2017-432 amending Chapter 6.28 of the City of Los Altos Municipal Code to regulate smoking on the Civic Center Campus.

4. Resolution No. 2017-30: Volunteer Service Standards repeal: Adopt Resolution No. 2017-30 repealing Resolution No. 2009-33 setting volunteer service standards – *pulled for discussion (see page 4).*
5. Construction Contract Award: 2017 City-wide Street Pavement Maintenance Projects, TS-01001, TS-01003 and TS-01004: Awarded the Base Bid and Add Alternates No. 1 and 3 for the 2017 City-wide Street Pavement Maintenance Projects, TS-01001, TS-01003 and TS-01004 to Intermountain Slurry Seal, Inc. in the amount of \$1,159,764 and authorized the City Manager to execute a contract on behalf of the City.
6. Resolution No. 2017-31: Cycle 2 One Bay Area Grant – Fremont Avenue Asphalt Concrete Overlay: Adopted Resolution No. 2017-31 to demonstrate compliance with the Surplus Land Act as amended by Assembly Bill 2135 per MITC requirement for the \$336,000 OBAG funds and allocate \$199,000 for a new CIP project with a total budget of \$455,000 to resurface Fremont Avenue, between Grant Road and the City limit.

PUBLIC HEARING

7. Resolution No. 2017-32: 2017/18 Community Development Fee Schedule: Adopt Resolution No. 2017-32, setting the FY 2017/18 Fee Schedule for the Community Development Department

Planning Services Manager Kornfield and Building Official Ballard presented the report.

Mayor Prochnow opened the public hearing. There were no public comments. Mayor Prochnow closed the public hearing.

Action: Upon a motion by Councilmember Pepper, seconded by Vice Mayor Mordo, the Council adopted Resolution No. 2017-32 setting the FY 2017/18 Fee Schedule for the Community Development Department, by the following vote: AYES: Lee Eng, Mordo, Pepper and Prochnow; NOES: None; ABSTAIN: None; ABSENT: Bruins.

DISCUSSION ITEMS

9. Potential City Projects and Potential Fundraising Efforts: Discuss potential City projects and potential fundraising efforts and determine next steps, if any

City Manager Jordan presented the report.

Public Comments

The following individuals provided public comments: David Smith, representing Our Next Library Committee, and Los Altos residents Nancy Bremeau and Teresa Morris.

Direction: Mayor Prochnow and Vice Mayor Mordo were appointed to a subcommittee to develop a policy for fundraising for City projects.

Mayor Prochnow recused herself due to a potential financial conflict of interest (owns property within the Downtown), stepped down from the dais and left the chamber. Vice Mayor Mordo conducted the meeting.

Direction: Councilmembers directed staff to look at the cost of potentially expanding underground parking in Parking Plaza 7 as part of the current exploration of building underground parking.

Mayor Prochnow returned to the dais and resumed conducting the meeting.

Direction: Councilmembers supported considering the placement of a theater, affordable senior housing and/or affordable housing on City property Downtown.

10. Delegate to League of California Cities Annual Conference and Business Meeting: Designate Councilmembers as Delegate and Alternate for the purpose of attending and voting at the League of California Cities Annual Conference and Business Meeting September 13-15, 2017 in Sacramento

Action: Upon a motion by Councilmember Pepper, seconded by Vice Mayor Mordo, the Council designated Mayor Prochnow as Delegate for the purpose of attending and voting at the League of California Cities Annual Conference and Business Meeting September 13-15, 2017 in Sacramento, by the following vote: AYES: Lee Eng, Mordo, Pepper and Prochnow; NOES: None; ABSTAIN: None; ABSENT: Bruins.

ITEMS PULLED FROM CONSENT CALENDAR

2. Installation of sculptures: Approve the installation of *Mutha Hen* at the corner of State Street and Third Street, *Alegria* at Village Park, and *Reverse Prometheus* on the Civic Center campus between the Library and City Hall

Councilmember Lee Eng expressed concerns with installing artwork before the adoption of the Public Arts Master Plan.

Public Comments

Maddy McBirney, representing the Public Arts Commission, provided public comments.

Action: Upon a motion by Vice Mayor Mordo, seconded by Councilmember Pepper, the Council approved the installation of *Mutha Hen* at the corner of State Street and Third Street and *Alegria* at Village Park, by the following vote: AYES: Lee Eng, Mordo, Pepper and Prochnow; NOES: None; ABSTAIN: None; ABSENT: Bruins.

Action: Upon a motion by Vice Mayor Mordo, seconded by Councilmember Lee Eng, the Council denied the installation of *Reverse Prometheus*, by the following vote: AYES: Lee Eng, Mordo and Pepper; NOES: Prochnow; ABSTAIN: None; ABSENT: Bruins.

4. Resolution No. 2017-30: Volunteer Service Standards repeal: Adopt Resolution No. 2017-40 repealing Resolution No. 2009-33 setting volunteer service standards

Councilmember Lee Eng expressed concerns that there was no need to repeal Resolution No. 2009-33.

Public Comments

The following provided public comments: Julie Rose, representing the Los Altos Chamber of Commerce, and Los Altos resident Roy Lave.

Action: Upon a motion by Vice Mayor Mordo, seconded by Councilmember Pepper, the Council adopted Resolution No. 2017-30 repealing Resolution No. 2009-33 setting volunteer service standards, by the following vote: AYES: Mordo, Pepper and Prochnow; NOES: Lee Eng; ABSTAIN: None; ABSENT: Bruins.

INFORMATION ONLY ITEMS

- A. City Manager-approved purchases between \$50,000 and \$75,000 for the period April 1 – June 30, 2017
- B. 2017 Council Priorities status update
- C. Green Infrastructure Plan Framework

COUNCIL/STAFF REPORTS AND DIRECTIONS ON FUTURE AGENDA ITEMS

Future agenda item

The Council requested a future agenda item to receive an update and to provide input on the Foothill Expressway project between El Monte Avenue and San Antonio Road.

Council reports

Vice Mayor Mordo reported he attended a meeting of the Silicon Valley Clean Energy Board on July 10, 2017.

Councilmember Pepper reported she attended the Boy Scout Troop 37 100th Anniversary celebration on July 1, 2017 and the Environmental Commission meeting on July 10, 2017. She further reported she volunteered at the Art and Wine Festival the weekend of July 8 and 9, 2017.

Councilmember Lee Eng reported that she and Mayor Prochnow and Vice Mayor Mordo attended the staff barbeque on July 6, 2017 and that she attended a Fourth of July event at the Los Altos Presbyterian Church.

Mayor Prochnow reported she attended the Senior Commission meeting on July 10, 2017

ADJOURNMENT

Mayor Prochnow adjourned the meeting at 9:36 p.m.

Mary Prochnow, MAYOR

Jon Maginot, CMC, CITY CLERK

Subject: Exclusive Negotiating Agreement

Date: Tuesday, October 3, 2017 at 12:42:42 PM Pacific Daylight Time

From: Ted Sorensen

To: cjordan@losaltosca.gov

CC: Jon Biggs, William Maston, Sorensen Gerald

Chris,

We noticed that our proposed exclusive negotiating agreement is still not on the October 10 consent calendar. Is there any chance that this could still be added to the consent calendar? If not, can we be sure that it is on the October 24 calendar?

Thanks,

Ted Sorensen
(650) 924-0418 (cell)

Subject: RE: Exclusive Negotiating Agreement

Date: Tuesday, October 3, 2017 at 3:54:33 PM Pacific Daylight Time

From: Chris Jordan

To: Ted Sorensen

CC: Jon Biggs, Bill Maston, Sorensen Gerald

Ted -

The ENA has been provided to the City Attorney for review. When the review is finished, we will either get back to you with requested changes, or it will be placed on an agenda.

Chris

From: Ted Sorensen [mailto:ted@gunmanagement.com]

Sent: Tuesday, October 03, 2017 12:43 PM

To: Chris Jordan <cjordan@losaltosca.gov>

Cc: Jon Biggs <jbiggs@losaltosca.gov>; Bill Maston <billm@mastonarchitect.com>; Sorensen Gerald <gjsorensen_1999@yahoo.com>

Subject: Exclusive Negotiating Agreement

Chris,

We noticed that our proposed exclusive negotiating agreement is still not on the October 10 consent calendar. Is there any chance that this could still be added to the consent calendar? If not, can we be sure that it is on the October 24 calendar?

Thanks,

Ted Sorensen
(650) 924-0418 (cell)

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From: Jon Biggs <jbiggs@losaltosca.gov>
Date: Wednesday, February 14, 2018 at 3:12 PM
To: Ted Sorensen <ted@gunnmanagement.com>, Ted Sorensen <ted@tgslawoffices.com>, Gerald Sorensen <gjsorensen@sbcglobal.net>
Subject: City Attorney Contact Info

Hello Jerry and Ted –

Here is the contact information for the City Attorney – I told him he can expect a call or email in a day or two if you do not hear from him.

Christopher Diaz
Partner
christopher.diaz@bbklaw.com
P: (925) 977-3309 C: (310) 422-3523
www.bbklaw.com

See you next Wednesday, February 21, here at my office at 2:00.

Jon

=== Subscribe to [City Manager Weekly Updates](#), and more! ===

From: Jon Biggs <jbiggs@losaltosca.gov>
Date: Wednesday, February 14, 2018 at 4:04 PM
To: Ted Sorensen <ted@gunnmanagement.com>, Ted Sorensen <ted@tgslawoffices.com>, Gerald Sorensen <gjsorensen@sbcglobal.net>
Subject: RE: City Attorney Contact Info

Sounds good.

I have attached scanned copies of the plaza 10 layout options for you to review as it sounded like you didn't have printed copies.

Jon

From: Ted Sorensen [<mailto:ted@gunnmanagement.com>]
Sent: Wednesday, February 14, 2018 3:39 PM
To: Jon Biggs <jbiggs@losaltosca.gov>; Ted Sorensen <ted@tgslawoffices.com>; Gerald Sorensen <gjsorensen@sbcglobal.net>
Subject: Re: City Attorney Contact Info

Jon,

Thanks for the very productive meeting this afternoon. I will give Chris Diaz a call tomorrow morning.

See you Wednesday.

Best regards,

Ted

From: Jon Biggs <jbiggs@losaltosca.gov>
Date: Tuesday, March 6, 2018 at 8:38 AM
To: Ted Sorensen <ted@tgslawoffices.com>
Subject: RE: Next Step

Hi Ted – I will check his availability and set up a meeting.

Also – I am working with our Public Works Department on some guidance regarding parking plaza 10 and placement of bollards at the driveway aprons to Edith – I expect to have that wrapped up this week as well.

Will get back to you with some date and time options.

Jon

From: Ted Sorensen [<mailto:ted@tgslawoffices.com>]
Sent: Monday, March 05, 2018 4:15 PM
To: Jon Biggs <jbiggs@losaltosca.gov>
Subject: Next Step

Jon,

I spoke with Chris Diaz last week and I think we made good progress.

We decided that the next time he is in town, we should all get together to nail down the type of agreement that is appropriate and the CEQA process for Plaza 10.

Can you set something up with Chris Diaz for later this week?

Thanks,

Ted Sorensen
(650) 924-0418 (cell)

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From: Jon Biggs <jbiggs@losaltosca.gov>
Date: Tuesday, March 20, 2018 at 10:00 AM
To: Ted Sorensen <ted@gunmanagement.com>
Subject: RE: 40 Main Street

OK

From: Ted Sorensen [<mailto:ted@gunmanagement.com>]
Sent: Tuesday, March 20, 2018 9:22 AM
To: Jon Biggs <jbiggs@losaltosca.gov>
Subject: Re: 40 Main Street

Jon,

The meeting with Chris Diaz could be in your office with you and us with Chris on the phone. No need for him to actually be present.

I am anticipating a relatively short meeting 20-30 minutes tops. We just want to get a contractual arrangement for doing the work (without surprises) and an environmental process worked out with you and Chris together. If we can do this, we should be able to make things happen relatively quickly.

Thanks,

Ted

From: Jon Biggs <jbiggs@losaltosca.gov>
Date: Tuesday, March 20, 2018 at 7:28 AM
To: Ted Sorensen <ted@gunmanagement.com>
Subject: RE: 40 Main Street

Will try.

Jon

From: Ted Sorensen [<mailto:ted@gunmanagement.com>]
Sent: Monday, March 19, 2018 4:03 PM
To: Jon Biggs <jbiggs@losaltosca.gov>
Subject: Re: 40 Main Street

Great. Can we also set up a meeting with Chris Diaz?

Thanks,

Ted

From: Jon Biggs <jbiggs@losaltosca.gov>
Date: Monday, March 19, 2018 at 3:54 PM

To: Ted Sorensen <ted@gunmanagement.com>
Subject: RE: 40 Main Street

Hi Ted – I have a meeting with our engineering staff tomorrow morning and will provide some feedback from that discussion as soon as it ends.

Jon

From: Ted Sorensen [<mailto:ted@gunmanagement.com>]
Sent: Monday, March 19, 2018 10:35 AM
To: Jon Biggs <jbiggs@losaltosca.gov>
Subject: 40 Main Street

Jon,

We have redesigned our building and we are ready to prepare a new layout on the Plaza 10 parking. When we last met, you were going to speak with the City Engineer that same day. In our last e-mail exchange you indicated that you would speak with the engineering department on the access issues to Edith. I'm not sure if you have completed that interaction yet.

I was going to speak with Chris Diaz about contractual and environmental issues with respect to Plaza 10. After many weeks, I was able to speak with Chris Diaz and he indicated he needed to speak with you and have another meeting with us to finalize the approach.

At this point, however, we have not had those meetings and we still lack a suitable contractual basis and plan for environmental review of Plaza 10 plans. In my telephone conversation with Chris about these issues he suggested that he needed input from you to finalize an approach. In order to move forward with our application,

We need to:

1. Hear from the City Engineer (and maybe the fire department) on the proposed access to Edith.
2. Meet with Chris Diaz and you to finalize the contractual and environmental arrangements for moving forward on a design and approval schedule for plaza 10;

Can we schedule these meetings soon? I will be out of town on Thursday and Friday this week. Except for that Jerry and I (and Bill) are available.

Best regards,

Ted Sorensen

(650) 924-0418 (cell)

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From: Ted Sorensen <ted@gunnmanagement.com>

Date: Wednesday, March 21, 2018 at 8:01 AM

To: Jon Biggs <jbiggs@losaltosca.gov>

Subject: Re: Plaza 10 re-striping

Okay. Let me know.

Sent from my iPhone

On Mar 21, 2018, at 7:59 AM, Jon Biggs <jbiggs@losaltosca.gov> wrote:

Hi Ted –

I met with engineering staff yesterday to review the plaza 10 striping proposals – they had some concerns and were going to take some more time to study them. They are slated to get back to me next week to go over their review.

Jon

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From: Jon Biggs <jbiggs@losaltosca.gov>
Date: Thursday, March 22, 2018 at 7:08 AM
To: Ted Sorensen <ted@gunnmanagement.com>
Subject: RE: Plaza 10 re-striping

OK – will let you know if engineering here would like to meet.

Jon

From: Ted Sorensen [<mailto:ted@gunnmanagement.com>]
Sent: Wednesday, March 21, 2018 3:24 PM
To: Jon Biggs <jbiggs@losaltosca.gov>
Subject: Re: Plaza 10 re-striping

Jon,

If it would be helpful, our Civil Engineer could meet with your engineering staff to address any concerns they may have relating to the restriping layout and SWPPP or other issues. Also, Bill Maston will be available as needed.

Best regards,

Ted

From: Jon Biggs <jbiggs@losaltosca.gov>
Date: Wednesday, March 21, 2018 at 7:59 AM
To: Ted Sorensen <ted@gunnmanagement.com>
Subject: Plaza 10 re-striping

Hi Ted –

I met with engineering staff yesterday to review the plaza 10 striping proposals – they had some concerns and were going to take some more time to study them. They are slated to get back to me next week to go over their review.

Jon

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From: Jon Biggs <jbiggs@losaltosca.gov>
Date: Wednesday, March 28, 2018 at 7:46 AM
To: Ted Sorensen <ted@tgslawoffices.com>
Subject: RE: Short call

Hi Ted – I have not heard back, although engineering folks have been occupied the last few days in preparation for the Council meeting. I will let you know as soon as I hear something back.

Jon

From: Ted Sorensen [<mailto:ted@tgslawoffices.com>]
Sent: Tuesday, March 27, 2018 3:06 PM
To: Jon Biggs <jbiggs@losaltosca.gov>
Subject: Short call

Jon,

Any word about when we can have a short telephone call with Chris Diaz?

Also, any word from the engineering department on the designs for Plaza 10?

Best regards,

Ted Sorensen

(650) 924-0418 (cell)

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From: Jon Biggs <jbiggs@losaltosca.gov>
Date: Monday, April 9, 2018 at 7:46 AM
To: Ted Sorensen <ted@tgslawoffices.com>
Subject: RE: Short call

Hi Ted –

I was out of the office at the end of last week so I wasn't here to check in with engineering on their status –

I do have this on my list of things to get done today however and will get back to you.

Jon

From: Ted Sorensen [<mailto:ted@tgslawoffices.com>]
Sent: Wednesday, April 04, 2018 3:57 PM
To: Jon Biggs <jbiggs@losaltosca.gov>
Subject: FW: Short call

Jon,

Any response from my e-mail below?

Thanks,

Ted

P.S. Do you expect that the parking committee work will be finalized at next week's meeting?

From: Ted Sorensen <ted@tgslawoffices.com>
Date: Tuesday, March 27, 2018 at 3:06 PM
To: Jon Biggs <jbiggs@losaltosca.gov>
Subject: Short call

Jon,

Any word about when we can have a short telephone call with Chris Diaz?

Also, any word from the engineering department on the designs for Plaza 10?

Best regards,

Ted Sorensen

(650) 924-0418 (cell)

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From: Jon Biggs <jbiggs@losaltosca.gov>
Date: Thursday, May 3, 2018 at 8:21 AM
To: Ted Sorensen <ted@gunmanagement.com>
Subject: RE: 40 Main application?

Ok – I have it on my calendar for an hour. Will see you here.

Jon

From: Ted Sorensen [<mailto:ted@gunmanagement.com>]
Sent: Wednesday, May 02, 2018 10:06 AM
To: Jon Biggs <jbiggs@losaltosca.gov>
Subject: Re: 40 Main application?

Jon,

Ok. We will see you then.

Ted

From: Jon Biggs <jbiggs@losaltosca.gov>
Date: Wednesday, May 2, 2018 at 8:15 AM
To: Ted Sorensen <ted@gunmanagement.com>
Subject: RE: 40 Main application?

Hello Ted –

Apologies for the delayed response, but there have been other things consuming my time the past few weeks.

I did review the changes to the parking lot layout with our engineering department and they have indicated the following are needed to continue their analysis of the proposal –

- Given the change to the ingress and egress from Plaza 10 - demonstrate that 4th Street and its adjacent intersections have the capacity to handle the additional trip volumes for the am and pm peak hours. These should be based on current conditions and trip counts at these locations (circulation studies on file do not provide the current traffic volumes, which are needed for this analysis)
- Provide an engineer's analysis that demonstrates that emergency and delivery vehicles can enter and leave Plaza 10 and that the internal circulation of the reconfigured parking plaza can accommodate the turning movements for this range of vehicles.

There may also be a need to put funds on deposit for a peer review of the above data – engineering staff has a full workload and given these improvements would be taking place on City property, they would benefit from the additional review of the studies you provide.

The remainder of this week is booked up, but there is some time to meet next Wednesday, say 2:00 pm?

Jon

From: Ted Sorensen [<mailto:ted@gunnmanagement.com>]
Sent: Tuesday, May 01, 2018 3:56 PM
To: Jon Biggs <jbiggs@losaltosca.gov>
Subject: FW: 40 Main application?

Jon,

Jerry and I would like to meet with you to discuss our application.

I realize things are busy at the Planning Department but it has now been 10 months since the July 11, 2017 Council Meeting directing us to work with you to bring our application back, with an approach to the redevelopment of plaza 10. We immediately prepared an Exclusive Negotiating Agreement for the City to consider. We were finally able to discuss a contractual strategy with Chris Diaz in early April. It was agreed at that time you would coordinate a meeting when Chris was next in Los Altos, so that we could finalize an approach. We have yet to hear back from you.

At the same time, you were going to get back to us on the response from the engineering department regarding the proposed layout of plaza 10. We haven't heard from you on this matter either.

Given that the Planning Commission is about to make parking recommendations that will be sent to council which will impact our development, we think it would be appropriate for us to meet to discuss an appropriate strategy to addressing parking at 40 Main Street.

Would you be able to schedule time later this week?

Thanks,

Ted Sorensen (650) 924-0418 (cell)

From: Ted Sorensen <ted@gunnmanagement.com>
Date: Thursday, April 26, 2018 at 4:38 PM
To: Jon Biggs <jbiggs@losaltosca.gov>
Subject: 40 Main application?

Jon,

We are pleased that the Planning Commission is moving forward with the Parking Committee recommendations at this point. But we are concerned that the Council will not take up the issue until (at least) late June. Can Jerry and I meet with you briefly to discuss how we advance our application at this point?

Thanks,

Ted Sorensen

(650) 924-0418 (cell)

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From: Jon Biggs <jbiggs@losaltosca.gov>
Date: Thursday, May 24, 2018 at 11:54 AM
To: Ted Sorensen <ted@tgslawoffices.com>
Subject: RE: June 7 date

Hi Ted –

We have published the notice, and I believe Yvonne has sent out the mailing – we'll need to bill you for that.

I'll have to double check with her on other things that might be needed for now.

Jon

From: Ted Sorensen [<mailto:ted@tgslawoffices.com>]
Sent: Thursday, May 24, 2018 11:13 AM
To: Jon Biggs <jbiggs@losaltosca.gov>
Subject: June 7 date

Jon,

Have you sent out notice for the June 7 Planning Commission meeting?

Bill will call later today to make sure that you have everything you need.

Best regards,

Ted Sorensen (650) 924-0418

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From: Jon Biggs <jbiggs@losaltosca.gov>
Date: Thursday, May 24, 2018 at 4:44 PM
To: Ted Sorensen <ted@tgslawoffices.com>
Subject: RE: 40 Main Project

Great – thanks Ted. I'll see you on Tuesday.

You have a great Memorial Day weekend as well.

Jon

From: Ted Sorensen [<mailto:ted@tgslawoffices.com>]
Sent: Thursday, May 24, 2018 2:11 PM
To: Jon Biggs <jbiggs@losaltosca.gov>
Cc: Bill Maston <billm@mastonarchitect.com>
Subject: Re: 40 Main Project

Jon,

Thanks for getting back to me today.

1. We will see you Tuesday at 3:30 to make sure everything is ready to go.
2. We will bring a check for \$438 to that meeting.
3. We will come by this afternoon to pick up the notice and post it on site.
4. We will update the large notice at the property ASAP.
5. Story poles and netting are due to be updated on May 31.
6. We will prepare a new letter describing our current application and bring it on Tuesday as well.

We wish you a great Memorial Day weekend and see you Tuesday.

Ted

From: Jon Biggs <jbiggs@losaltosca.gov>
Date: Thursday, May 24, 2018 at 1:44 PM
To: Ted Sorensen <ted@tgslawoffices.com>
Cc: Bill Maston <billm@mastonarchitect.com>
Subject: 40 Main Project

Hello Ted –

I've just gotten the update on the needs for the June 7 PC meeting for the project – here they are:

- The notice to post on the site is ready to pick up here at the office – it is available at the front counter. It needs to be posted by end of day tomorrow, Friday, May 25.
- We have mailed the notices for the Planning Commission – total for the mailing is \$219.00. We can also mail the notices when this goes on to the City Council, which will be another \$219.00.
- The large posting at the site needs to be updated to reflect the revised project as do the story poles and netting.

We should probably meet next Tuesday to discuss a bit – for continuity you should provide us with something in writing indicating you would like to move forward and have the revised project considered, without a reworking of plaza 10. I think the Commission would appreciate something in writing from you that notes this. I have time to meet on Tuesday in the morning between 9 and 10 and then again in the afternoon between 3:30 and 4:30.

Thanks and please let me know if you have any questions.

Jon

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From: Jon Biggs <jbiggs@losaltosca.gov>
Date: Thursday, May 31, 2018 at 1:00 PM
To: Alexander Huang <AlexanderH@mastonarchitect.com>
Cc: Bill Maston <billm@mastonarchitect.com>, Ted Sorensen <ted@gunmanagement.com>
Subject: RE: Electronic Copy of Plans

Got it – thanks everyone.

Jon

From: Alexander Huang [<mailto:AlexanderH@mastonarchitect.com>]
Sent: Thursday, May 31, 2018 12:04 PM
To: Jon Biggs <jbiggs@losaltosca.gov>
Cc: Bill Maston <billm@mastonarchitect.com>; ted@gunmanagement.com
Subject: RE: Electronic Copy of Plans

Hi Jon,

Please find the attached plans for 40 Main as an electronic copy (pdf) and at the following link for the full sized:

https://www.dropbox.com/s/2zj3phqamojfk5j/20170829_40MAIN_DRC1_SUBMITTAL.pdf?dl=0

. A s

Regards,



Alexander Huang
Architectural Draftsman

William Maston Architect & Associates
384 Castro Street
Mountain View, CA 94041
t. 650 968.7900 f. 650 968.4913
e. alexanderh@mastonarchitect.com
www.mastonarchitect.com

From: Ted Sorensen <ted@tgslawoffices.com>
Sent: Thursday, May 31, 2018 10:36 AM
To: Jon Biggs <jbiggs@losaltosca.gov>; William Maston <billm@mastonarchitect.com>
Subject: Re: Electronic Copy of Plans

Bill,

Please take care of this.

Thanks,

Ted

(650) 924-0418 (cell)

From: Jon Biggs <jbiggs@losaltosca.gov>

Date: Thursday, May 31, 2018 at 10:34 AM

To: Ted Sorensen <ted@tgslawoffices.com>, Bill Maston <billm@mastonarchitect.com>

Subject: Electronic Copy of Plans

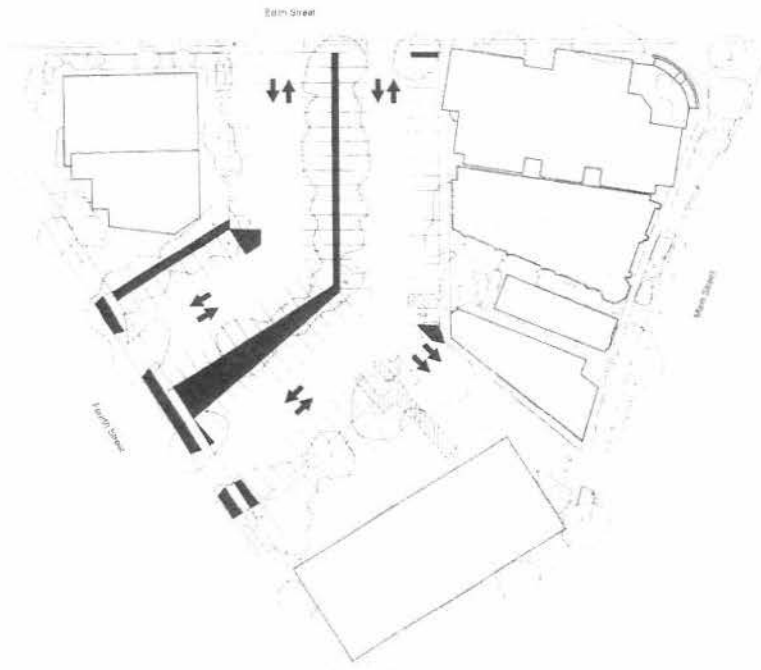
Hello Ted and Bill –

Can you send me an electronic copy (pdf) of the revised plans for 40 Main as we need to post them to our planning commission agenda page.

Thanks.

Jon

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Option A: Parking Layout at 8'-6"

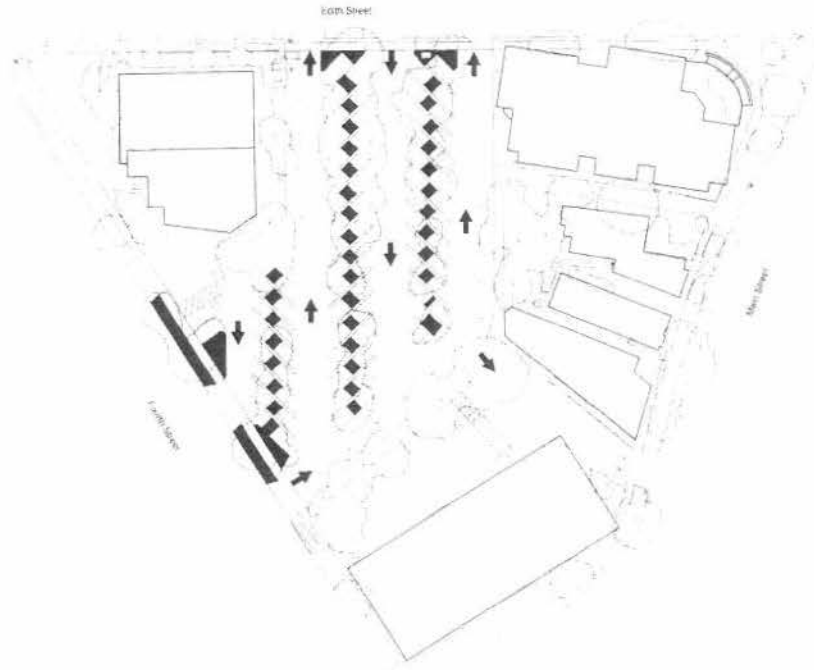
Plaza Ten	
"Standard" Stalls	100
Disabled Access Stalls	4
Accessible Stalls	1
Total (+18)	105
Street Stalls	
Existing Lot Nine	3
Fourth Street	14
Main Street	6
Edith Street	12

*Efficiency ratio is increased by 9.66, from 49.94 to 59.60

Level of Service Ratio	59.60
Tree Count (+12%o)	28
Total Landscapable Area (+12%o)	3372 SF

*Up to 18 additional on site parking stalls using 8' - 6" dimensions

*Up to 20 additional stalls depending on



Existing Parking Layout at 45°

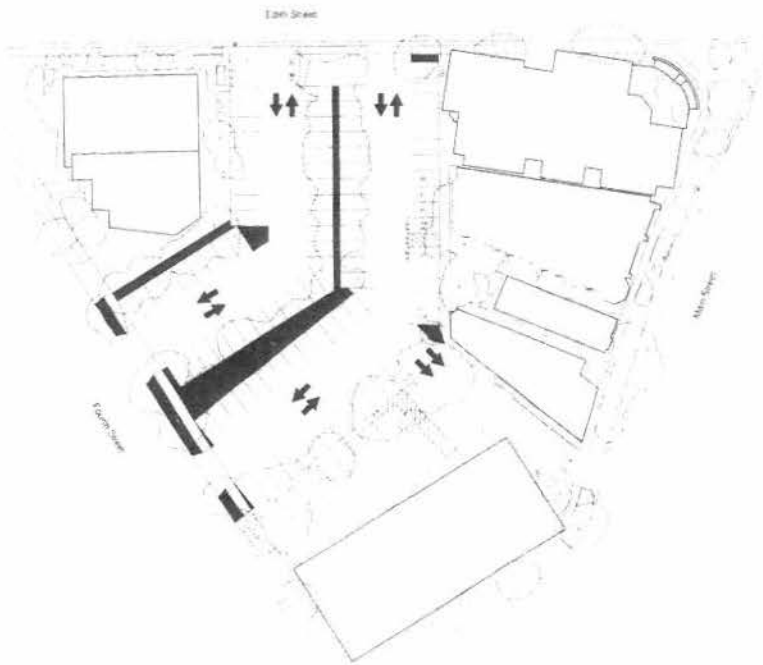
Plaza Ten	
"Standard" Stalls	85
Disabled Access Stalls	1
Van Accessible Stalls	1
Total:	87
Street Stalls	
Fourth Street	5
Main Street	5
Edith Street	9
Total:	19

Existing parking lot configuration sizes vary from 7' wide to 9'-6" wide. Average is 8'-6"

Level of Service Ratio	49.94
Tree Count	25
Total Landscapable Area	3000 SF

Level of Service (LOS) is measured by the width and angle of parking stalls in a lot to

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	AUG 16 2017	
	WJMA	

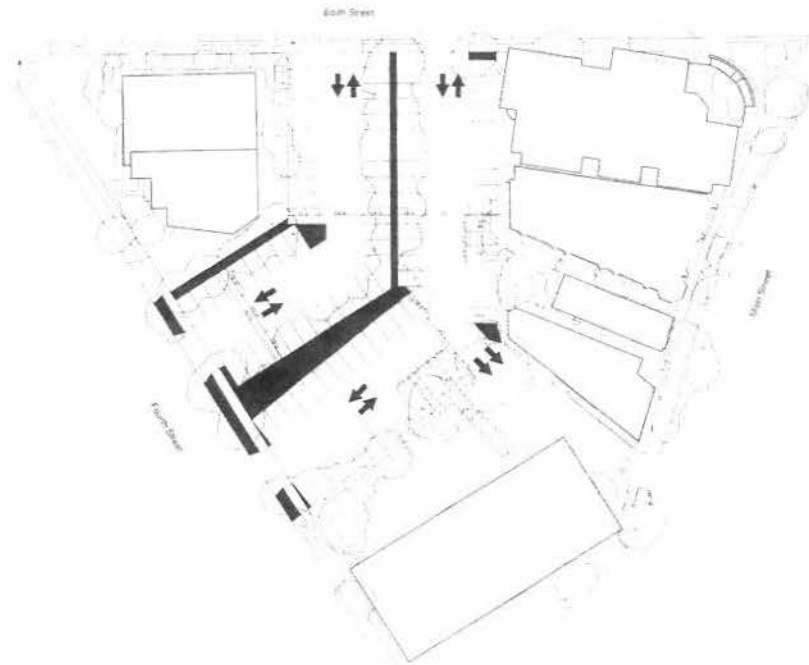


Option C: Parking Layout at 9' - 0"

Ten:	
Standard Stalls	92
Disabled Access Stalls	4
Van Accessible Stalls	1
Total (+10)	97
Street Stalls:	
Parking Lot Nine	3
Fourth Street	14
Main Street	6
Edith Street	14
Total	37

This option is similar to Option B however internal circulation has been added to allow access to both isles of parking without existing to Edith Street. This option reduces the amount of proposed parking by two but increases safety along Edith Street.

Level of Service Ratio	61.50
Tree Count (+4%)	27
Total Landscapable	3412 SF



Option B: Parking Layout at 9' - 0"

* EXISTING CODE IS (9'-0") WIDE

Plaza Ten:	
Standard Stalls	95
Disabled Access Stalls	4
Van Accessible Stalls	1
Total (+13)	100
Street Stalls:	
Parking Lot Nine	3
Fourth Street	14
Main Street	6
Edith Street	12
Total	35

Level of Service Ratio	61.50
Tree Count (+8%)	27
Total Landscapable	3484 SF

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PARKING LAYOUT OPTIONS		
DATE	BY	APP. BY
10/11/2017	KJG	KJG
10/11/2017	KJG	KJG
10/11/2017	KJG	KJG

**MINUTES OF A REGULAR MEETING OF THE PLANNING COMMISSION OF THE
CITY OF LOS ALTOS, HELD ON THURSDAY, JUNE 7, 2018 BEGINNING AT 7:00
P.M. AT LOS ALTOS CITY HALL, ONE NORTH SAN ANTONIO ROAD,
LOS ALTOS, CALIFORNIA**

ESTABLISH QUORUM

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

ABSENT: Commissioner Meadows

STAFF: Community Development Director Biggs

PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

None.

ITEMS FOR CONSIDERATION/ACTION

CONSENT CALENDAR

1. Planning Commission Minutes

Approve the minutes of the April 19, 2018 Study Session and Regular Meeting, the May 3, 2018
Regular Meeting, and the May 17, 2018 Study Session.

Action: Upon motion by Commissioner McTighe, seconded by Commissioner Bodner, the
Commission approved the Consent Calendar. The motion for the April 19, 2018 Study Session was
approved (3-0-3) by the following vote:

AYES: Bressack, Enander, McTighe

NOES: None

ABSTAIN: Bodner, Lee and Samek

ABSENT: Meadows

The motion for the April 19, 2018 Regular Meeting was approved (4-0-2) by the following vote:

AYES: Bodner, Bressack, Enander, McTighe

NOES: None

ABSTAIN: Lee and Samek

ABSENT: Meadows

The motion for the May 3, 2018 Regular Meeting was approved (4-0-2) by the following vote:

AYES: Bodner, Bressack, Enander, McTighe

NOES: None

ABSTAIN: Lee and Samek

ABSENT: Meadows

The motion for the May 17, 2018 Study Session was approved (3-0-3) by the following vote:

AYES: Bressack, Enander, McTighe

NOES: None

ABSTAIN: Bodner, Lee and Samek

PUBLIC HEARING

2. **13-D-14, 13-UP-03, An Exception for Public Benefit Request, and A Proposed Mitigated Negative Declaration – 40 Main Street Offices, LLC – 40 Main Street**

Commercial Design Review, Use Permit, an Exception for Public Benefit Request, and A Proposed Mitigated Negative Declaration for a revised three-story office building having 16,619 square feet of gross floor area that replaces the existing one-story office building containing 2,127 square feet. The project includes the removal of existing structures, site improvements, plants, and landscaping. The proposed structure is approximately 38 feet in height measured to the highest point of the building and approximately 45 feet to the top of a tower element. The project proposes a pedestrian paseo connecting parking plaza 10 to Main Street as a public benefit. For this proposed public benefit, the applicant is seeking development incentives in the form of increases in the maximum building height, reduction in the number of on-site parking spaces, and a reduction in the rear yard setback requirement for the upper floors. The project requires use permit, and design review approval in addition to acceptance of the pedestrian paseo as a public benefit that supports the requested exceptions to the height, parking, and rear yard setback requirements. This project has been revised following its consideration by the Planning Commission on June 15, 2017. A Mitigated Negative Declaration is being proposed. The Planning Commission will consider the project, along with the environmental review, and develop a recommendation to the City Council. *Project Planner: Biggs*

Community Development Director Biggs presented the staff report recommending that the Commission hold a public hearing and develop a recommendation to the City Council.

Project architect Bill Maston presented the revised plans of the proposed building and noted he was available to answer questions and adjust address issues identified by the Commissioners.

Public Comment

Los Altos Hills resident Robert Sandor gave his support for the project, said he comes to downtown Los Altos every day, that it is a beautiful building to look at, and the City is too slow to make changes.

Los Altos resident Michael Hudnall stated his concern with spill over parking from the project into his neighborhood, concern with the 20-25 parking space shortage for the project, added the use permit doesn't account for the parking deficit, noted the Downtown Vision proposed to adjust the white dot parking program, which may impact adjoining residential districts, and recommended that the parking exception be rejected.

Los Altos resident Jane Tansuwan stated her concern with spill over parking into her neighborhood.

Los Altos business owner, Brendon Pratt of The Pratt Center, stated that he rents next door and selected this location for the parking and convenience to services that are offered in the Downtown and added he sees clients eight hours a day who all seek to find a parking space. He feels as a tenant of a neighboring building that he is a small business owner who is caught in the middle or a larger set of issues.

Los Altos resident Mike Abrams gave his support for the project, the Downtown Vision effort, and said there is a mandate that encourages more office development.

Los Altos Hills resident Jerry Wittenauer gave his support for the project, said it was a fine addition and gateway building for the downtown, that the changes are positive, and agrees with fostering vitality in downtown.

Los Altos resident and business owner of a tech company, Jim Hill, gave his support for the project and agreed with the last two speakers. He added that he is looking for a place to raise a business, was able to find a parking space in the plaza even during Farmer's Market, and finished by noting he likes the architecture of the proposed building.

Los Altos business owner Sara Saatchi spoke with concern about the impact the proposed project will have on her business, noted that she currently has to parking some distance from her office, which is in the building next door and parking is a concern – more parking, not less, is needed.

Los Altos resident and owner of Enchanté Hotel, Abby Ahrens, noted that the hotel brings in \$250,000 in Transient Occupancy Tax revenue to the City of Los Altos every year. She said the project developers have ignored the planning code and brought back the same plan time after time and that she changed the third story on the hotel to meet zoning code.

Los Altos business owner Kathleen Hugino stated that the project would make parking even more difficult and impacted in an already full parking plaza and can't imagine where people will have to park.

Los Altos resident Robert Gluss stated that the size of the building is still quite massive and it will dwarf the surrounding buildings, clashes with the downtown area, and is concerned that the project would result in more parking along Edith Avenue, which will cause a safety issue.

Commission discussion about the project then followed public comment.

ENVIRONMENTAL REVIEW – PROPOSED MITIGATED NEGATIVE DECLARATION

Action: A motion by Commissioner McTighe, seconded by Commissioner Enander, to recommend to the City Council that adoption of the Mitigated Negative Declaration be denied failed on a 3-3 vote.

AYES: Enander, Lee, and McTighe

NOES: Bressack, Bodner, and Samek

ABSENT: Meadows

Action: A motion by Commissioner Bodner, seconded by Vice Chair Samek, to recommend to the City Council that the Mitigated Negative Declaration be adopted failed 3-3 on a 3-3 vote.

AYES: Bressack, Bodner, and Samek

NOES: Enander, Lee, and McTighe

ABSENT: Meadows

The Planning Commission could not achieve consensus on a recommendation to the City Council on the Mitigated Negative Declaration that is proposed for this project. For the record Commissioner Enander noted she could not recommend adoption of the Mitigated Negative Declaration because she had concerns with the adequacy of the circulation study that had been done for the project. There was consensus from the two other dissenting Commissioners on this point.

Commissioners McTighe and Enander withdrew their motion to recommend denial of the use permit and design review applications after the project architect, Bill Maston requested that the Commission

Project architect Bill Maston asked the Commission for specific feedback on the project so that he could review development of a revised proposal to bring back at a later meeting.

Action: Upon motion by Commissioner McTighe, seconded by Commissioner Enander, the Commission voted 4-2 to continue the project to a future meeting, with no specific date, and provided the following feedback:

- Minimize vertical walls;
- Explore making the building more horizontal in nature to compliment the horizontal nature of the built environment in the Downtown;
- Carefully evaluate the mass, scale, and height of the building;
- Carefully evaluate the Downtown design guidelines and recognize that compliance with these are not a public benefit;
- Pull back the front of the building, as its height along Main Street is incongruous with other buildings in the Downtown;
- Adjust the mix and interplay of exterior materials is as the amount of stucco and hard surfaces displayed in the proposed plan result in a very monolithic structure;
- Reduce the mass of the building;
- Eliminate or significantly reduce the third story;
- Develop a project with appropriate interior ceiling heights – more in line with class A office space;
- Eliminate the tower element;
- Set back the upper floors of the building from the wall plains on the first level;
- Develop an appropriate transition between the proposed building and its neighboring buildings;
- Recognize this is not a gateway site into the Downtown;
- Develop an appropriate transition into the Downtown;
- Reconsider placement of pedestrian paseo and recognize it is a benefit to the proposed building and not much of a public benefit;

The motion was approved (4-2) by the following vote:

AYES: Bodner, Lee, McTighe, and Samek

NOES: Bressack and Enander

ABSENT: Meadows

COMMISSIONERS' REPORTS AND COMMENTS

Commissioners' Reports was continued to the next meeting since Commissioner Meadows was the representative at the last City Council meeting.

Commissioners noted the Joint Study Session on the parking regulations with the City Council for June 12, 2018 and the 8:00 p.m. start time.

POTENTIAL FUTURE AGENDA ITEMS

None noted.

ADJOURNMENT

Chair Bressack adjourned the meeting at 9:02 P.M.

Jon Biggs
Community Development Director

EXHIBIT 7



Streamlined Housing Development Applications Under Senate Bill 35

What is Senate Bill 35?

Senate Bill 35 (SB 35) became effective on January 1, 2018. It enacted Government Code section 65913.4 to require cities and counties to use a streamlined ministerial review process for qualifying multifamily housing developments that comply with the jurisdiction's objective planning standards, provide specified levels of affordable housing, and meet other specific requirements.

What is a streamlined review process?

Under SB 35, the City is required to review qualifying projects using a ministerial review process, which means that no discretionary approvals can be required, and the City is required to process applications within the timeframes specified in Government Code section 65913.4(c). The review process would also be streamlined because, as a ministerial project, the project would not be subject to environmental review under the California Environmental Quality Act (CEQA).

Does my project qualify to apply for streamlining?

The California Department of Housing and Community Development (HCD) determined that Concord is subject to SB 35¹. To be eligible for a streamlined review process, an application must meet **ALL** of the following criteria:

- The project must propose at least two multifamily residential units.
- The project site must be on a legal parcel with 75 percent of its perimeter adjoining parcels that are developed with urban uses and be zoned for, or designated in the General Plan to allow, residential or residential mixed-uses.
- At least 2/3 of the proposed development's square footage must be designated for residential use.
- The project must provide affordable housing as specified under Government Code section 65913.4(a)(4)(B), which specifies that:
 - Projects in Concord that contain more than 10 units of housing must reserve at least 10% of their total units as affordable to households making below 80 percent of the area median income in Contra Costa County.
- The project applicant must certify that it will comply with the following wage requirements defined in Government Code section 65913.4(a)(8):
 - If the development is not in its entirety a public work (as defined in Labor Code section 1720 *et seq.*), all construction workers employed in the

¹ As of February 1, 2018, HCD determined that Concord is subject to SB 35 streamlining for eligible projects.



execution of the development must be paid at least prevailing wages, unless the project includes 10 or fewer units and does not require a subdivision.

- For projects that require a subdivision or that propose 75 or more units that are not 100 percent subsidized affordable housing, prevailing wages must be paid and a skilled and trained workforce, as defined in Government Code section 65913.4(a)(8)(B)(ii), must be used to complete the development.
- None of the exclusions specified in Government Code section 65913.4(a)(6), (7), or (9) apply. (Refer to Concord's *Streamlined Housing Development — Senate Bill 35 Standard Application*, page 2 and 3.)

If it qualifies for SB 35, what planning standards are applicable to my project?

Qualifying projects must be consistent with all of the City's objective zoning and design review standards, including the City's General Plan, Development Code, and any applicable master plans and specific plans. Modifications to otherwise-applicable standards under density bonus law do not affect a project's ability to qualify for SB 35.

What are the parking requirements?

If your project qualifies, no more than one parking space per residential unit is required. For projects that meet the requirements specified in Government Code section 65913.4(d)(1), and the project is located within the Transit Station Overlay District, no residential parking is required. Mixed-use projects must provide parking for the commercial component of the development as required by the City's Development Code.

How do I apply for streamlined review?

To apply for a project that qualifies under SB 35, an applicant must follow the procedure specified in Concord Municipal Code (CMC) Chapter 15.405, as summarized below:

1. First, schedule a pre-application meeting with Community and Economic Development Department staff to review the submittal requirements in the application checklist.
2. Next, submit an SB 35 development application to the Planning Division. The application must be submitted along with all of the material identified in the application checklist to confirm that the project qualifies for SB 35. Applications are subject to all of the requirements of CMC 18.405.030.



What is the process for streamlined approval?

The Planning Division will determine if the project is eligible for streamlined approval within 60 days after application submittal for projects of 150 or fewer units, or within 90 days for larger projects. If the Planning Division denies the application as incomplete or ineligible for SB 35, the applicant may revise the project to comply with SB 35 and resubmit the application, subject to the same timeline for review. Once the application is accepted for review under SB 35, the Community and Economic Development Department will approve or deny the project within 90 days after application submittal for projects of 150 or fewer units, or within 180 days for larger projects.



Streamlined Housing Development Senate Bill 35 Eligibility Checklist

Government Code section 65913.4, also known as Senate Bill 35 (SB 35), requires the City to review qualifying multifamily housing development projects using a ministerial review process. Eligible projects must comply with objective planning standards, provide specified levels of affordable housing, and meet other specific requirements, as detailed below.

The following information and checklist is intended as a guide to help applicants and the City's Planning Division determine **if** a project is eligible for streamlined processing under SB 35. To be eligible for SB 35, a project must meet **ALL** of the following criteria, from 1 through 10:

1. **NUMBER AND TYPE OF UNITS.** The project must be a multifamily housing development that contains at least two residential units and comply with the minimum and maximum residential density range permitted for the site, plus any applicable density bonus.
2. **AFFORDABILITY.** If more than 10 residential units are proposed, at least 10 percent of the project's total units must be dedicated as affordable to households making below 80 percent of the area median income.²
 - If the project will contain subsidized units, the applicant has recorded or is required by law to record, a land use restriction for the following minimum durations, as applicable:
 - 55 years for rental units.
 - 45 years for homeownership units.
3. **URBAN INFILL.** The project must be located on a legal parcel or parcels within the incorporated City limits. At least 75 percent of the perimeter of the site must adjoin parcels that are developed with urban uses. For purposes of SB 35, "urban uses" means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses. Parcels that are only separated by a street or highway shall be considered adjoined.
4. **ZONED OR PLANNED RESIDENTIAL USES.** The project must be located on a site that is either zoned or has a General Plan designation for residential or residential mixed-use development, including sites where residential uses are

² As of February 1, 2018, the California Department of Housing and Community Development (HCD) determined that Concord is subject to SB 35 for projects with 10 percent affordable units. Projects seeking to use SB 35 may also be subject to the City's Inclusionary Housing Ordinance, which may have additional requirements. Prior to submitting an application for streamlined review, applicants should confirm the current affordability requirements with the Planning Division.



permitted as a conditional use. If the multifamily housing development is a mixed-use development, at least two-thirds of the project's square footage must be designated for residential use.

5. **CONSISTENT WITH OBJECTIVE STANDARDS.** The project must meet all objective zoning and design review standards in effect at the time the application is submitted.
- If the project is consistent with the minimum and maximum density range allowed within the General Plan land use designation, it is deemed consistent with housing density standards.
 - Any density bonus or any concessions, incentives, or waivers of development standards or reduction of parking standards requested under the Density Bonus Law in Government Code section 65915 are deemed consistent with objective standards.
 - Objective standards are those that require no personal or subjective judgment and must be verifiable by reference to an external and uniform source available prior to submittal. Sources of objective standards include, without limitation:
 - General Plan.
 - Concord Municipal Code.
 - Downtown Specific Plan.
 - Todos Santos Design Guidelines.
 - Downtown Corridors Plan.
6. **PARKING.** The project must provide at least one parking space per unit; however, no parking is required if the project meets any of the following criteria:
- The project is located within the Transit Station Overlay District.
 - The project is located within an architecturally and historically significant historic district.
 - On-street parking permits are required but not offered to the occupants of the project.
 - The project is located within one block of a car share vehicle station.
7. **LOCATION.** The project must be located on a property that is outside each of the following areas:
- Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the



Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by Concord's voters.³

- Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
- A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This does not apply to sites excluded from the specified hazard zones by the City, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.³
- A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed-uses.
- A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.
- A flood plain as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has been issued a flood plain development permit pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.
- A floodway as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.
- Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of

³ As of February 1, 2018, no properties in Concord fall within this category. Prior to submitting an application for streamlined review, applicants should confirm with the Planning Division if the listed exclusion is applicable.



the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.³

- Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).
 - Lands under conservation easement.³
 - A site that would require demolition of housing that is:
 - Subject to recorded restrictions or law that limits rent to levels affordable to moderate, low, or very-low income households.
 - Subject to rent control.³
 - Currently occupied by tenants or that was occupied by tenants within the past 10 years.
 - A site that previously contained housing occupied by tenants that was demolished within the past 10 years.
 - A site that would require demolition of an historic structure that is on a local, state, or federal register.
 - A parcel of land or site governed by the Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act.
8. **SUBDIVISIONS.** The project does not involve an application to create separately transferable parcels under the Subdivision Map Act. However, a subdivision is permitted if either of the following apply:
- The project is financed with low-income housing tax credits (LIHTC) and satisfies the prevailing wage requirements identified in item 9 of this Eligibility Checklist.
 - The project satisfies the prevailing wage and skilled and trained workforce requirements identified in items 9 and 10 of this Eligibility Checklist.



9. **PREVAILING WAGE.** The project proponent must certify that at least one of the following is true:
- The entirety of the project is a public work as defined in Government Code section 65913.4(8)(A)(i).
 - The project is not in its entirety a public work and all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area.
 - The project includes 10 or fewer units AND is not a public work AND does not require subdivision.
10. **SKILLED AND TRAINED WORKFORCE.** If the project consists of 75 or more units that are not 100 percent subsidized affordable housing, the project proponent must certify that it will use a skilled and trained workforce, as defined in Government Code section 65913.4(8)(B)(ii).⁴

⁴ Beginning January 1, 2022, the skilled and trained workforce requirement is reduced to apply to projects of 50 units or more that are not 100 percent subsidized affordable housing.



Streamlined Housing Development Senate Bill 35 Standard Application

SUBMITTAL REQUIREMENTS. If an applicant qualifies under the Senate Bill 35 Eligibility Checklist, the following information and materials listed on the attached SB 35 Application Checklist are required for a complete application. Please review this checklist with City’s Planning Division staff to confirm specific requirements and to determine if other applications are required.

SB 35 Standard Applications are reviewed to determine if the application qualifies as a Streamlined Housing Development within 60 days after application submittal for projects of 150 or fewer units, or within 90 days for larger projects. Applications that are not eligible for Streamlined Housing Development processing or that do not provide a complete application, including this Standard Application and listed items on the SB 35 Application Checklist, will be denied and must be re-submitted, subject to review within 60 days after re-submittal for projects of 150 or fewer units, or within 90 days for larger projects.

Eligible Streamlined Housing Development applications are ministerially reviewed within 90 days after application submittal for projects of 150 or fewer units, or within 180 days for larger projects.

Project Information to be filled in by Applicant and/or Property Owner:

<p>Applicant's Contact Information:</p> <p>Name: _____</p> <p>Address: _____</p> <p>City, State: _____ ZIP: _____</p> <p>Email: _____</p> <p>Phone: _____</p>	<p>Property Owner's Contact Information:</p> <p>Name: _____</p> <p>Address: _____</p> <p>City, State: _____ ZIP: _____</p> <p>Email: _____</p> <p>Phone: _____</p>
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Project Site / Address:	Assessor's Parcel Number:
General Plan and Zoning Designations:	Proposed Unit Count:
Proposed Residential Square Footage:	Proposed Non-Residential Square Footage:



Is the project seeking a density bonus or any concession, waiver, or reduction of parking standards under state Density Bonus Law?

Yes No

Type of Multifamily Housing Development Proposed:

- Multifamily rental; residential only with no proposed subdivision.
- Multifamily residential with proposed subdivision (must qualify for exception to subdivision exclusion)
- Mixed-use (at least 2/3 of square footage must be designated for residential. If a subdivision is included, must qualify for exception to subdivision exclusion.)

Number of Parking Spaces Proposed:

- Is the site within the Transit Station Overlay District? Yes No
- Is the site within an architecturally and historically significant historic district?
Yes No
- Are on-street parking permits required but not offered to the occupants of the project?
Yes No
- Is the site within one block of a car share vehicle station? Yes No

Does the project propose more than 10 units? Yes No

- Has the applicant certified compliance with affordability requirements?
Yes No n/a
- Has the applicant certified compliance with prevailing wage requirements?
Yes No n/a

Does the project propose 75 units or more? Yes No

- Has the applicant certified compliance with skilled and trained workforce requirements?
Yes No n/a

Does the project involve a subdivision of land? Yes No

- Is the project financed with low-income housing tax credits? Yes No
- Has the applicant certified compliance with prevailing wage requirements?
Yes No n/a
- Has the applicant certified compliance with skilled and trained workforce requirements?
Yes No n/a

Has the applicant certified that the project site has not contained any housing occupied by tenants within the past 10 years? Yes No



<p>Is the project site within a very high fire hazard severity zone? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Are there adopted fire hazard mitigation measures applicable to the development? Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>Is the project site a hazardous waste site? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Has the applicant provided evidence that the Department of Toxic Substances Control has cleared the site for residential use or residential mixed-uses? Yes <input type="checkbox"/> No <input type="checkbox"/> n/a <input type="checkbox"/></p>
<p>Is the project site within a delineated earthquake fault zone? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Does the development comply with applicable seismic protection building code standards? Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>Is the project site habitat for protected species, identified in an adopted natural community conservation plan, or under a conservation easement? Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>Does the project funding source include public funds? Yes <input type="checkbox"/> No <input type="checkbox"/></p>

Project Description and Other Details

Please attach a narrative project description that summarizes the proposed project and its purpose. Please include a discussion of the project site context, including what existing uses, if any, adjoin the project site and whether the location is eligible for Streamlined Housing Development processing. You must also include a discussion of how the proposed project is consistent with all objective zoning and design review standards applicable to the project site.

Property Owner Signature(s):	Date
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FOR PLANNING DIVISION USE ONLY

FILE NUMBER:	DATE APPROVED OR DENIED:
PLANNER:	STATUS:
PROJECT ADDRESS:	ZONING:
APN:	PROJECT NAME:



Streamlined Housing Development Certificate for Compliance with Eligibility Requirements

Date

I, _____, do hereby certify and declare as follows:

(a) The subject property is located at (address and assessor's parcel number):

Address

Assessor's Parcel Number

- (b) I am a duly authorized officer or owner of the subject property.
- (c) The property owner agrees to comply with the applicable affordable housing dedication requirements established under Government Code section 65913.4(a)(4).
- (d) The property owner agrees to comply with the applicable prevailing wage requirements established under Government Code section 65913.4(a)(8)(A).
- (e) The property owner agrees to comply with the applicable skilled and trained workforce requirements established under Government Code section 65913.4(a)(8)(B).
- (f) The property owner certifies that the project site has not contained any housing occupied by tenants within 10 years prior to the date written above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this day in:

Location

Date

Signature

Name (Print), Title



Streamlined Housing Development Senate Bill 35 Application Checklist

SUBMITTAL REQUIREMENTS. The following information is required for a complete application. Please review this checklist with City of Concord Planning and Engineering Divisions.

- APPLICATION FORM.** Include signature and contact information for the legal property owner, applicant or authorized agent and contact information for the Civil Engineer, Architect, Landscape Architect, and all other consultants involved with the application.
- FILING FEE**¹. (See Master Fees and Charges Schedule for current year).
- CERTIFICATE FOR COMPLIANCE WITH ELIGIBILITY REQUIREMENTS.** The property owner or the owner's authorized agent must certify under penalty of perjury that certain threshold eligibility criteria are satisfied.
- TITLE REPORT.** Prepared within the past three months. (three copies)
- ARBORIST REPORT.** Prepared by an ISA Certified Arborist for the removal or disturbance of any Protected Tree on the site or on an adjacent property which could be impacted by the proposed development. Describe the condition of all Protected trees to be removed/disturbed and provide a statement of specific reasons for the proposed removal. (three copies) (City of Concord 2012 Development Code, Article VI, Division 3 Tree Preservation and Protection)
- STATEMENT OF DESIGN INTENT.** Describe the design program, the designer's approach, and how the architectural, landscape and other elements have been integrated in compliance with the City's objective standards. The relationship of the project to adjacent properties and to the adjacent streets should be expressed in design terms. Define the site, building design, and landscape concepts in terms of site design goals and objectives, pedestrian circulation, outdoor-use areas, visual screening and enhancements, conservation of natural resources, mitigation of negative site characteristics, and off-site influences.

¹ The City adjusts all fees and charges on an annual basis in accordance with the San Francisco-San Jose-Oakland Area Consumer Price Index, actual hourly rates for work performed by City employees, and the Construction Cost Index for the San Francisco Bay Area published in the most current edition of the Engineering News Record. The new fees are adopted following a public hearing and incorporated in the Master Fees and Charges Resolution July 1 of every year. Persons interested in how a particular fee is adjusted should contact the City department that administers the fee or the Finance Department.



- STATEMENT OF CONSISTENCY WITH OBJECTIVE STANDARDS.** Describe how the proposed project is consistent with all objective zoning and design review standards applicable to the project site, including those standards included in the General Plan, Concord Municipal Code, the Downtown Specific Plan, the Todos Santos Design Guidelines, the Downtown Corridors Plan, and other applicable City documents. At a minimum, define how the project complies with use requirements, floor area standards, density, setbacks, height standards, lot coverage ratios, landscaping standards, creek setbacks, tree preservation and protection standards, water efficient landscaping requirements, stormwater requirements, and common open space, private useable open space, and public open space requirements.

REQUIREMENTS FOR ALL DEVELOPMENT PLANS. If the application is filed in conjunction with other applications, submittal requirements from all applicable checklists shall be incorporated into one set of plans. All plans shall:

- ___ Be prepared, signed and stamped by licensed professionals.
- ___ Include the date of preparation and dates of each revision.
- ___ Be fully dimensioned and drawn to scale on the same size sheets, with a consistent scale (as noted) throughout all plan sheets.
- ___ Be submitted in collated sets and folded to 8-1/2" x 11".
- ___ Be numbered in proper sequence.

A set of plans shall be submitted on a CD in pdf format for all projects that require Planning Commission or Zoning Administrator approval and the following numbers of plan sets are required:

- ___ 15 sets full size 24" x 36"
- ___ 21 sets reduced to 11" x 17"
- ___ 1 set 8 1/2" x 11"
- ___ 1 each, full-sized colored Site Plan, Elevations, and Landscape Plans. Colored plans shall be rolled, not folded.

- DEVELOPMENT PLAN SETS.** The following plans shall comprise the development plan set:
- TITLE SHEET** Including project name, location, assessor's parcel numbers, prior development approvals, and table of contents listing all the plan sheets with content, page numbers, and date prepared.
 - SITE PLAN.** Prepared by a licensed Civil Engineer, drawn at 1"= 20' scale, with scale noted, a graphic bar scale, and north arrow. The plan shall include the following:



- Vicinity map showing north arrow, the location and boundary of the project, major cross streets and the existing street pattern in the vicinity.
- Table with the following information:
 - General Plan and Zoning designations.
 - Size of property including gross & net lot area (square feet and acres).
 - For residential development, include the floor area for each unit type, the number of bedrooms, the number of units by type, the number of units per building, the total number of units, and net density.
 - For commercial development, total floor area in each building (including basements, mezzanines, interior balconies, and upper stories or levels in a multistory building) and total building area and FAR (Floor Area Ratio = total floor area divided by total net land area).
 - Percent lot coverage, percent of net lot area covered by buildings (total ground floor area of all buildings divided by net lot area).
 - Percentage of net lot area devoted landscaping, common open space and private useable open space.
 - Parking requirements under Government Code section 65913.4(d) and tabulation of the number of parking spaces proposed by type (standard, universal, compact and handicapped) and proposed parking ratios.
 - Bicycle and motorcycle parking (required and proposed) under City of Concord Development Code Chapter 18.160.
- Existing and proposed property lines with dimensions, bearings, radii and arc lengths, easements, and net & gross lot area for existing and proposed parcels. Benchmark based on U.S.C. & G.S. datum, 1929 (City of Concord is on the same datum as U.S.C. & G.S., 1929).
- Location and dimensions of all existing and proposed structures extending 50 feet beyond the property. If adjacent to a street, show the entire width of street to the next property line, including driveways. Clearly identify all existing and proposed structures such as fencing, walls, all building features including decks and porches, all accessory structures including garages and sheds, mailboxes, and trash enclosures. Label all structures and indicate the structures to remain and the structures to be removed.
- Dimensions of setbacks from property lines and between structures.
- Location, dimension and purpose (i.e. water, sewer, access, etc.) of all easements including sufficient recording data to identify the conveyance (book and page of official records).
- Location and dimensions for all adjacent streets (public and private) and proposed streets showing both sides of streets, street names, street width, striping, centerlines, centerline radii of all curves, median and landscape strips, bike lanes, pedestrian ways, trails, bridges, curb, gutters, sidewalks,



driveways, and edge of right-of-way including any proposed or required right-of-way dedication. Show all existing and proposed improvements including traffic signal poles and traffic signs. Show line of sight for all intersections and driveways based on current City of Concord standards, and corner setback lines based on City of Concord Standard Plan S-36.

- Existing topography and proposed grading extending 50 feet beyond the property at 2 foot contour intervals for slopes up to 5% and less than 5 feet in height; and contour intervals of 5 feet for slopes over 5% or greater than 5 feet in height. Include spot elevations, pad elevations, percent slope and show all retaining walls with TOW/BOW elevations.
- Drainage information showing spot elevations, pad elevations, existing catch basins, and direction of proposed drainage, including approximate street grade and existing and proposed storm drain locations.
- Location and dimensions of existing and proposed utilities including water supply system, sanitary sewers and laterals, drainage facilities, wells, septic tanks, underground and overhead electrical lines, utility poles, aboveground utility vaults and meters, transformers, electroliers, street lights, lighting fixtures, underground irrigation and drainage lines, backflow prevention and reduced pressure devices, traffic signal poles, underground conduit for signals and interconnect, and traffic signal pull boxes, signal cabinets, service cabinets, and other related facilities.
- Location and dimensions of parking spaces, back-up, loading areas, and circulation patterns.
- Survey of all existing trees on the site and adjacent to the site with a trunk diameter of 6" or greater, at 1"=20' scale, indicating species, size (circumference or diameter noted) measured at 4-1/2' above grade, and base elevation. Trunk locations and the drip line shall be accurately plotted. Identify all protected trees (trees over 72 in. in circumference measured 4-1/2 feet above natural grade, multi-stemmed trees with one stem of at least 24 inches in circumference).
- Location of all natural features such as creeks, ponds, drainage swales, wetlands (as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993)), etc., extending 50 feet beyond the property line to show the relationship with the proposed development.
- Location on the site of any prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for



agricultural protection or preservation by a local ballot measure that was approved by Concord's voters.

- If any parcel is within a FEMA defined 100-year floodplain or floodway:
 - Identify the floodplain or floodway on all plan sheets depicting the existing and proposed site, with the base flood elevation (BFE) and flood zone type clearly labeled. In addition, show the existing site topography and finish floor elevations for all existing and proposed structures. If FEMA has not defined a BFE, a site specific hydraulic analysis will be required to determine the BFE prior to deeming the application complete (CMC Sec. 34-32.b2).
 - Flood zone boundaries and floodwater surface elevation. If the property proposed to be developed is within or adjacent to the 100 year flood zone (Zone A) or the National Flood Insurance Program, Flood Insurance Rate Map, the extent of Zone A shall be clearly drawn on the tentative map and the 100 year flood water surface elevation shall be shown. The map shall show the approximate location of the Floodway Boundary as shown on the latest edition of the "Flood Boundary and Floodway Map" published by the Federal Emergency Management Agency.
- CONTEXTUAL PLAN.** Use topographic or aerial map as base. Show the relationship of the project to the building and site features within 50 feet. The plan shall include:
 - Building footprints, pad elevations and building height.
 - Land use and zoning designation on all lots.
 - Property lines and dimensions of the subject site and adjacent properties showing all easements.
 - Location of streets, medians, curb cuts, sidewalks, driveways, and parking areas.
 - Location of all creeks, waterways and trees.
 - Vicinity map indicating site in relation to major streets.
- BUILDING ELEVATIONS.** Plans shall be drawn by a licensed Architect at 1/8" = 1' minimum scale; dimensioned vertically and horizontally with sample representations at 1/4" = 1' scale for detail areas. Elevations should not include superimposed landscaping and trees that hide the buildings. The plans shall include:
 - Fully dimensioned elevations for buildings identifying materials, details and features include visible rooftop equipment, plumbing, electrical meters and method of concealment.
 - All four sides of buildings.
 - Vertical dimensions from all points above existing and finished grade on all elevations.



- Topography with existing and proposed grades accurately represented to show building height to show the relationship of the building to the site and adjacent properties.
 - Location, height and design of rooftop mechanical equipment and proposed screening. Provide a section detail showing height of equipment in relation to the height of the proposed screen structure.
 - Elevations and dimensions for existing structures to remain.
 - Location and type of building mounted exterior lighting.
 - Detailed building sections showing depth of reveals, projections, recesses, etc.
 - Details of vents, gutters, downspouts, scuppers, external air conditioning equipment, etc.
 - Details including materials and dimensions of door and window treatments, railings, stairways, handicap ramps, trim, fascia, soffits, columns, fences, and other elements which affect the building. Provide wall sections at $\frac{1}{2}''=1'$ scale to clarify detailing as appropriate.
- FLOOR PLANS.** Plan shall be drawn by a licensed Architect at $1/8''=1'$ or larger scale.
- ROOF PLAN.** Plan shall be drawn by a licensed Architect at $1/8''=1'$ or larger scale. The plan shall include property lines, outline of building footprint, ridgelines, valleys, flat roof areas, roof pitch and rooftop mechanical equipment, and screening. Plans shall show existing roof forms and roof forms to be added or changed.
- TRUE CROSS-SECTIONS.** A minimum of two cross-sections (more as needed to showing varying site conditions) drawn at 1:1 scale (same scale used for both vertical and horizontal axis), $1''=20'$ minimum scale, with scale noted, and a graphic bar scale, through critical portions of the site extending 50 feet beyond the property line onto adjacent properties or to the property lines on the opposite side of adjacent streets. Sections shall include existing topography, final grades, location and height of existing and proposed structures, fences, walls, roadways, parking areas, landscaping, trees, and property lines. Section locations shall be identified on the Site Plan.
- COLOR AND MATERIALS BOARD.** Samples of materials and color palette representative of actual materials/colors for all buildings and structures. Identify the name of manufacturer, product, style, identification numbers and other pertinent information on the display. Displays should be no larger than $8-1/2'' \times 14''$, except where actual material samples are presented.
- LANDSCAPE PLANS.** Plan shall be drawn at $1'' = 20'$ or larger scale by a licensed Landscape Architect. The plan shall incorporate the proposed Grading and Utility Plan, showing the location of existing and proposed utility lines and utility structures screened back, but legible, and shall include the following:



- Final planting plan showing proposed trees, shrubs and shrub groupings, lawn, and groundcover areas, existing trees to be saved, stormwater treatment areas, special paving, hardscape, and site furnishings. Include a landscape legend with a list of proposed plant materials (indicate both Latin and common name), including size, spacing, total quantities, ultimate height, and spread of materials. Trees shall be a minimum of 24 gallon size and shrubs a minimum of 5 gallon size. Accent or sub-shrubs may be 1-gallon in size. Larger trees may be required depending on project location, size, or other conditions.
 - Size, species, trunk location, and canopy of all existing trees (6" in diameter or larger) on-site and on abutting property that could be affected by the project. Identify which trees will remain and trees to be removed. Any tree proposed as mitigation for the removal of a protected tree shall be identified as a replacement tree.
 - Show accurate representation of plant materials within three years.
 - Identify the location and screening of all above ground utilities and bio-swales or other stormwater treatment areas with 1:10 scale cross sections showing the planting within the bio-swales and screening of the utilities.
 - Provide enlarged details (minimum of 1:10 scale) for focal points and accent areas.
 - Location and details and/or manufacturers catalogue cuts of ground signs, walls, fences, paving, decorative planters, trellises, arbors, and other related site improvements.
 - Landscape plans with more than two sheets shall show the plant legend with symbols for each species on every sheet.
 - Statement indicating that a fully automatic irrigation system will be provided.
 - Color and materials submittal for all special paving, hardscape treatment, walls, landscape lighting, and site furnishings.
 - The Landscape plan shall be coordinated and consistent with the Stormwater Plan.
 - Note signed and dated by project by Landscape Architect that plans are in compliance with all City standards.
-
- TREE SURVEY.** Prepared by an ISA Certified Arborist, drawn at 1"=20' scale, showing accurate trunk location and drip line for all existing trees on the site and adjacent to the site with a trunk diameter of 6" or greater (measured at 4-1/2' above grade). For each tree, specify the species, size (circumference or diameter noted), and base elevation and clearly indicate if it is to be preserved or to be removed. Identify all protected trees (trees over 72 in. in circumference measured 4-1/2 feet above natural grade, multi-stemmed trees with one stem of at least 24 inches in circumference). Identify existing trees or plant materials on abutting properties that could influence site design or be impacted by the project.



- FENCE PLAN.** Drawn at 1"=20' scale showing the location, height and type of all fences and walls.
- LIGHTING PLAN.** Location and type of exterior lighting, both fixed to the building and freestanding, any and all lights for circulation, security, landscaping, building accent or other purpose.
- UTILITY PLAN.** Prepared by a licensed Civil Engineer and drawn at 1"= 20' scale, with scale noted, showing the location and dimensions of existing and proposed utilities including water supply system, sanitary sewers and laterals, drainage facilities/storm drainage system, wells, septic tanks, underground and overhead electrical lines, utility poles, aboveground utility vaults and meters, transformers, underground irrigation and drainage lines, backflow prevention and reduced pressure devices, electroliers, lighting fixtures, street lights, traffic signal poles, traffic signal pull boxes, signal cabinets.
- PHOTOMETRIC PLAN.** For plan requirements see: [www.cityofconcord.org/livingin concord/transportation downloads/streetlights](http://www.cityofconcord.org/livingin%20concord/transportation%20downloads/streetlights).
- STORMWATER CONTROL PLAN.** See Stormwater Control Plan Application Checklist. All Stormwater Plans shall be coordinated and consistent with all Site, Grading, Utility, and Landscape Plans. If the project creates or replaces more than 10,000 sq. ft. of impervious area, a Stormwater Control Plan is required. Provide the following information to determine if the project meets this threshold:
 - Site size in sq. ft.
 - Existing impervious surface area (all land covered by buildings, sheds, patios, parking lots, streets, paved walkways, driveways, etc.) in sq. ft.
 - Impervious surface area created, added or replaced in sq. ft.
 - Total impervious surface area in sq. ft.
 - Percent increase/replacement of impervious surface area (new impervious surface area in sq. ft./existing impervious surface area in sq. ft. multiplied by 100).
 - Estimated area in sq. ft. of land disturbance during construction (including clearing, grading or excavating)
- SIGN PLANS.** Plans shall be drawn to scale, at 1" = 20' minimum scale with dimensions, total sign area, colors, materials, sign copy, font styles, sign returns, illumination method, and any other details for all signs. Show dimensioned location and mounting details of signs on building elevations and include a site plan referencing all sign locations and location of ground signs. A colored rendering of all signs shall be provided.
- PHOTO-SIMULATIONS** (if applicable). Digital photo-simulations of the site with and without the project, taken from various points off-site with the best visibility of the project. Include a key map showing the location where each photo was taken.



PHOTOS. Several photos of the project site and adjacent development.

FOR STAFF USE ONLY

FILE NUMBER _____ ASSOCIATED FILES _____

PLANNER _____ DATE _____

PROJECT NAME _____

PROJECT ADDRESS _____

GENERAL PLAN _____ ZONING _____



San Francisco

1650 MISSION STREET, #400
SAN FRANCISCO, CA 94103
WWW.SFPLANNING.ORG

AFFORDABLE HOUSING STREAMLINED APPROVAL PURSUANT TO SENATE BILL 35 AND PLANNING DIRECTOR BULLETIN #5

ATTENTION: A Project Application must be completed and/or attached prior to submitting this Supplemental Application. See the [Project Application](#) for instructions.

California Senate Bill 35 (SB-35) was signed by Governor Jerry Brown on September 29, 2017 and became effective January 1, 2018. SB-35 applies in cities that are not meeting their Regional Housing Need Allocation (RHNA) goal for construction of above-moderate income housing and/or housing for households below 80% area median income (AMI). SB-35 amends Government Code Section 65913.4 to require local entities to streamline the approval of certain housing projects by providing a ministerial approval process. Currently, San Francisco meets its RHNA goal for construction of above-moderate income housing. However, the City is not meeting the RHNA goal for affordable housing below 80% AMI. Therefore, at this time, projects providing on-site affordable housing at 80% AMI are eligible for streamlining in San Francisco provided they meet all of the eligibility criteria.

For questions, call 415.558.6377, email pic@sfgov.org, or visit the Planning Information Center (PIC) at 1660 Mission Street, First Floor, San Francisco, where planners are available to assist you.

Español: Si desea ayuda sobre cómo llenar esta solicitud en español, por favor llame al 415.575.9010. Tenga en cuenta que el Departamento de Planificación requerirá al menos un día hábil para responder

中文: 如果您希望獲得使用中文填寫這份申請表的幫助，請致電415.575.9010。請注意，規劃部門需要至少一個工作日來回應。

Tagalog: Kung gusto mo ng tulong sa pagkumpleto ng application na ito sa Filipino, paki tawagan ang 415.575.9120. Paki tandaan na mangangailangan ang Planning Department ng hindi kukulangin sa isang araw na pantrabaho para makasagot.

WHAT IS AFFORDABLE HOUSING STREAMLINED APPROVAL?

SB-35 amends Government Code Section 65913.4 to require local entities to streamline the approval of certain housing projects by providing a ministerial approval process, removing the requirement for CEQA analysis, and removing the requirement for Conditional Use Authorization or other similar discretionary entitlements granted by the Planning Commission or Historic Preservation Commission. This is a voluntary program that a project sponsor may elect to pursue, provided that certain eligibility criteria are met.

IS MY PROJECT ELIGIBLE FOR AFFORDABLE HOUSING STREAMLINED APPROVAL?

In order to be eligible for streamlining, the project must meet **all** of the following criteria:

- **Affordability:** At least 50% of the proposed residential units must be dedicated as affordable to households at 80% AMI for either rental or ownership projects. In order to assure that the affordable units remain so dedicated, they must comply with the San Francisco Inclusionary Affordable Housing Program Procedures Manual with regard to monitoring, enforcement, and procedures for eligibility, including the lottery.
- **Number of Units:** The development must contain at least two or more net new residential units.
- **Zoning and Residential Uses:** The development must be located on a legal parcel or parcels that are zoned for residential uses. At least 2/3 of the floor area of the proposed development must be dedicated to residential uses.
- **Location:** The development must be located on a property that is not within a coastal zone, prime farmland, wetlands, a high fire hazard severity zone, hazardous waste site, a delineated earthquake fault zone, a flood plain, a floodway, a community conservation plan area, a habitat for protected species, or under a conservation easement.
- **Demolition of Residential Units:** The project does not demolish any housing units that have been occupied by tenants in the last 10 years; are subject to any form of rent or price control, or are subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low incomes.
- **Historic Buildings:** The project does not demolish a historic structure that has been placed on a national, state, or local historic register. A local historic register includes those properties listed within Article 10 or 11 of the San Francisco Planning Code.
- **Consistent with Objective Standards:** The project must meet all objective standards of the Planning Code at the time of SB-35 application submittal. Such objective standards are those that require no personal or subjective (discretionary) judgment, such as objective dimensional requirements, and as otherwise set forth below.
- **Prevailing Wages:** If the development is not in its entirety a public work, as defined in Government Code Section 65913.4 (a)(8)(A), all construction workers employed in the execution of the development must be paid at least the general prevailing rate of per diem wages for the type of work and geographic area.
- **Skilled and Trained Workforce provisions:** A skilled and trained workforce, as defined in Government Code Section 65913.4 (a)(8)(B)iii, must complete the development if the project consists of 75 or more units that are not 100 percent subsidized affordable housing.
- **Subdivisions:** The development did not or does not involve a subdivision of a parcel that is subject to the California Subdivision Map Act, unless the development either (i) receives a low-income housing tax credit and is subject to the requirement that prevailing wages be paid, or (ii) is subject to the requirements to pay prevailing wages and to use a skilled and trained workforce.

WHAT IS THE PROCESS FOR STREAMLINED APPROVAL?

Projects that elect to take advantage of streamlining stipulated in SB-35 must submit a site or building permit application and an SB-35 Streamlined Development application demonstrating the project's eligibility. These can be submitted at the Department of Building Inspection (DBI), under the same procedure as site and building permit submittals. When speaking with a planner at the Public Information Center (PIC), please indicate that this is an SB-35 submittal to ensure that it is routed to the appropriate planner.

CEQA review is not required for SB-35 eligible projects because they are subject to a ministerial approval process. The site or building permit will not be subject to any applicable neighborhood notice requirements in the Planning Code, and the Department will not accept Discretionary Review applications for these projects because they are subject to a ministerial approval process.

SB-35 includes timelines for streamlined review. Planning staff must determine if a project is eligible for streamlining within 60 days of application submittal for projects of 150 or fewer units, and 90 days for projects containing more than 150 units. If the Department provides written comments to a Project Sponsor detailing how a project is not SB-35 eligible as proposed, or requests additional information to make such a determination, then the 60 or 90 day timeline will restart upon submittal of a revised development application in response to that written notice.

Any design review or public oversight must be completed in 90 days for 150 or fewer units and 180 days for projects with more than 150 units, measured from the date of the AB-35 application submittal. The Planning Director may decide, on a case by case basis, to schedule a design review hearing for an SB-35 project at the Planning Commission and/or Historic Preservation Commission.

HOW DOES THIS PROCESS INTERSECT WITH 100% AFFORDABLE PROJECTS THAT REQUIRE ADMINISTRATIVE APPROVAL AND THE 100% AFFORDABLE HOUSING BONUS PROGRAM?

There are various programs and entitlement paths in the Planning Code for projects providing 50-100% of the residential units as affordable. The following section provides information about these specific project types.

100% Affordable Housing Projects under Planning Code Section 315

Currently, 100% Affordable Housing Projects are considered a principally permitted use and must comply with administrative review procedures provided in Planning Code Section 315. Under Planning Code Section 315, an Affordable Housing Project may seek exceptions to Planning Code requirements that may otherwise be available through the Planning Code, including but not limited to Sections 253, 303, 304, 309, and 329, without a Planning Commission hearing. These have been considered discretionary exceptions from the objective controls of the Planning Code.

When SB 35 becomes effective as of January 1, 2018, the Planning Department will ministerially grant an SB-35 eligible project that is also 100% affordable any exception that is equal to or less than the Zoning Modifications automatically granted to a 100% Affordable Housing Bonus Project pursuant to Planning Code Section 206.4. Any 100% Affordable Housing Project granted such an exception, pursuant to Planning Code Section 315 and this Bulletin, will be considered to be consistent with the objective controls of the Planning Code.

Under Planning Code Section 206.4, qualifying projects are entitled to receive certain Zoning Modifications, as well as a density bonus and height increase. These modifications are provided in detail as follows:

- **Rear Yard:** The required rear yard per Section 134 or any applicable special use district may be reduced to no less than 20% of the lot depth or 15 feet, whichever is greater. Corner properties may provide 20% of the lot area at the interior corner of the property to meet the minimum rear yard requirement, provided that each horizontal dimension of the open area is a minimum of 15 feet; and that the open area is wholly or partially contiguous to the existing midblock open space, if any, formed by the rear yards of adjacent properties.
- **Dwelling Unit Exposure:** The dwelling unit exposure requirements of Section 140(a)(2) may be satisfied through qualifying windows facing an unobstructed open area that is no less than 15 feet in every horizontal dimension, and such open area is not required to expand in every horizontal dimension at each subsequent floor.
- **Off Street Loading:** No off-street loading spaces under Section 152.
- **Automobile Parking:** Up to a 100% reduction in the minimum off-street residential and commercial automobile parking requirement under Article 1.5 of the Planning Code.

- **Open Space:** Up to a 10% reduction in common open space requirements if required by Section 135, but no less than 36 square feet of open space per unit.
- **Inner Courts as Open Space:** In order for an inner court to qualify as useable common open space, Section 135(g)(2) requires it to be at least 20 feet in every horizontal dimension, and for the height of the walls and projections above the court on at least three sides (or 75% of the perimeter, whichever is greater) to be no higher than one foot for each foot that such point is horizontally distant from the opposite side of the clear space in the court. 100 Percent Affordable Housing Bonus Projects may instead provide an inner court that is at least 25 feet in every horizontal dimension, with no restriction on the heights of adjacent walls. All area within such an inner court shall qualify as common open space under Section 135.

100% Affordable Housing Bonus Projects under Planning Code Section 206.4

The 100% Affordable Housing Bonus Program allows for objective Zoning Modifications in association with a Development Bonuses, including a density bonus and height increase. Projects that are eligible for the 100% Affordable Housing Bonus Program pursuant to Section 206.4 qualify for streamlining pursuant to SB-35, provided they meet all eligibility requirements above, and require no additional Planning Code exceptions from the Planning Commission.

State Density Bonus Projects under Planning Code Section 206.5 or 206.6

Projects that use the State Density Bonus Program and meet all other eligibility requirements above qualify for streamlining under SB-35. Any waivers, concessions, or incentives, conferred through the State Density Bonus Law are considered code-complying, and therefore are consistent with the objective standards of the Planning Code.

Mixed-Income Affordable Projects (50-99% Affordable)

Mixed-income projects that provide at least 50% of units that are affordable to qualifying households and meet all other eligibility requirements above are eligible for streamlining pursuant to SB-35. If Planning Code exceptions are required as part of a project approval including, but not limited to, a Variance (Sec. 305), a Downtown Authorization Project (Sec. 309), a HOME-SF Project Conditional Use authorization (Sec. 303), or a Large Project Authorization (Sec. 329), the project is not eligible for streamlining because it does not comply with objective standards of the Planning Code.

HOW WILL OTHER ENTITLEMENTS BE AFFECTED?

SB-35 states that a project must be consistent with objective zoning and design standards, which are standards that involve no personal or subjective judgment by a public official. They must be uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant and the public official prior to submittal. Therefore, projects that elect to take advantage of streamlining stipulated in SB-35 are only subject to objective standards and will not be required to follow subjective or discretionary processes.

Shadow Analysis Applications

Planning Code Section 295 mandates Planning Commission approval of new structures above 40 feet in height that would cast shadow on properties under the jurisdiction of, or designated to be acquired by the Recreation and Parks Department, provided that the Planning Commission determines the shadow to be insignificant or not adverse to the use of the park. This determination is either objective or subjective depending on the type of criteria that has been adopted to govern shadow limits on the particular park.

There are two types of parks: those with quantitative limits on the amount of new shadow that may be cast on the park ("budgets"), and those that have not been assigned quantitative shadow budgets. Projects would be eligible for streamlining pursuant to SB-35 if they cast a shadow on a park that **does not** have a quantitative shadow budget because the review standards for the new shadow on these parks are subjective. A Shadow Analysis application will not be required in this scenario.

When receiving an application, the assigned planner will complete a shadow fan to determine if there is any potential shadow on a park with a budget. If the shadow fan shows a potential shadow, the Department will provide written comments detailing how the project is not SB-35 eligible as proposed and the sponsor will be required to provide a shadow study. The 60 or 90 day timeline will restart upon submittal of a revised development application in response to the written notice. Projects will not be eligible for SB-35 streamlining if they cast a shadow on a park with a shadow budget that causes the shadow budget to be exceeded. If the shadow cast is within the park's budget, the project is eligible for streamlining.

Certificate of Appropriateness and Permits to Alter

SB-35 prohibits demolition of historic buildings placed on local registers, such as Article 10 and Article 11 of the Planning Code, but does not limit development on landmark properties or lots within districts or demolition of noncontributory buildings. The Certificate of Appropriateness and the Permit to Alter are associated with Articles 10 and 11 of the Planning Code, respectively, and are discretionary approvals that rely upon subjective judgement. As such, they are not required for projects eligible for SB-35. However, there are occasional site-specific factors and characteristics for historic districts and city landmarks identified within Article 10 or 11 that are objective standards. Examples of objective standards may include specifications about which materials may be used or legislative setbacks. Projects that do not demolish Article 10 or 11 buildings may be eligible for SB-35 streamlining as long as the objective standards of Article 10 or 11 are met. Even though a building may have been considered a historic resource under the broad provisions of CEQA, it may not be considered a historic building under the narrower definition contained in SB-35.

With regard to process, after a SB-35 Streamlining application is submitted, preservation staff will review the project for compliance with Article 10 or 11 objective standards. If the project does not meet the objective standards, the Department will provide written comments detailing how the project is not SB-35 eligible as proposed and the sponsor could revise the project to maintain eligibility. The 60 or 90 day timeline will restart upon submittal of a revised development application in response to the written notice. Neither a Certificate of Appropriateness application nor a Permit to Alter application will be required for SB-35 eligible projects. The Planning Director may decide, on a case by case basis, to schedule a design review hearing for an SB-35 project at the Planning Commission and/or Historic Preservation Commission.



San Francisco

AFFORDABLE HOUSING STREAMLINED APPROVAL PURSUANT TO SENATE BILL 35 AND PLANNING DIRECTOR BULLETIN #5

Property Information

Project Address:

Block/Lot(s):

Project Description:

Is this a 100% Affordable Housing Project?: Yes No

Will the Project use SB-35 in conjunction with the State Density Bonus?: Yes No

If yes, please submit a completed Individually Requested State Density Bonus Program Supplemental Application with your submittal.

Will the Project use SB-35 in conjunction with the Affordable Housing Density Bonus Program?: Yes No

If yes, please submit a completed Individually Requested State Density Bonus Program Supplemental Application with your submittal.

Project Description:

Please provide a narrative project description that summarizes the project and its purpose. Please include the AMI levels of the populations to be served in the development and describe the project's intended program.

PROJECT AND LAND USE TABLES

If the proposed size of the project is not finalized, provide the maximum estimates.

General Land Use Category		
	Existing (square footage area)	Proposed (square footage area)
Parking GSF		
Residential		
Retail/Commercial		
Office		
Industrial-PDR		
Medical		
Visitor		
CIE (Cultural, Institutional, Educational)		
Useable Open Space		
Public Open Space		

Project Features		
	Existing Unit(s) (Count)	Proposed Unit(s) (Count)
Dwelling Units - Affordable		
Hotel Rooms		
Dwelling Units - Market Rate		
Building Number		
Stories Number		
Parking Spaces		
Loading Spaces		
Bicycle Spaces		
Car Share Spaces		
Public Art		
Other		

Land Use - Residential

	Existing (square footage area)	Proposed (square footage area)
Studios		
One Bedroom		
Two Bedroom		
Three Bedroom (and +)		
Group Housing - Rooms		
Group Housing - Beds		
SRO		
Micro		
Accessory Dwelling Unit*		
<p>*For ADUs, individually list all ADUs and include unit type (e.g. studio, 1 bedroom, 2 bedroom, etc.) and the square footage area for each unit.</p>		

Zoning Modifications

100% Affordable Housing Projects are eligible for any or all of the following zoning modifications. Select the modifications that the project seeks below.

Rear yard:

The required rear yard per Section 134 or any applicable special use district may be reduced to no less than 20% of the lot depth, or 15 feet, whichever is greater. Corner properties may provide 20% of the lot area at the interior corner of the property to meet the minimum rear yard requirement, provided that each horizontal dimension of the open area is a minimum of 15 feet and that the open area is wholly or partially contiguous to the existing mid-block open space, if any, formed by the rear yards of adjacent properties.

Inner Courts as Open Space:

100 Percent Affordable Housing Projects may instead provide an inner court that is at least 25 feet in every horizontal dimension, with no restriction on the heights of adjacent walls. All area within such an inner court shall qualify as common open space under Section 135.

Dwelling Unit Exposure:

The dwelling unit exposure requirements of Section 140(a) (2) may be satisfied through qualifying windows facing an unobstructed open area that is no less than 15 feet in every horizontal dimension, and such open area is not required to expand in every horizontal dimension at each subsequent floor.

Open Space:

Common open space provided per Section 135 or any applicable special use district may be reduced up to 10%.

Off-Street Loading:

Off-street loading spaces per Section 152 shall not be required.

Automobile Parking:

Residential and commercial parking requirements per Section 151 or any applicable special use district may be reduced by up to 100%.

Under penalty of perjury the following declarations are made:

- a) The undersigned is the owner or authorized agent of the owner of this property.
- b) The information presented is true and correct to the best of my knowledge.
- c) Other information or applications may be required.

Signature

Name (Printed)

Relationship to Project
(i.e. Owner, Architect, etc.)

Phone

Email

I hereby authorize City and County of San Francisco Planning staff to conduct a site visit of this property, making all portions of the interior and exterior accessible.

Signature

Name (Printed)

Date

For Department Use Only

Application received by Planning Department:

By: _____

Date: _____

Table 1: BMC Sub-Title 23E Provisions Applicable in All Non-Residential Districts

Chapter 23E.68 C-DMU Downtown Mixed-Use District Provisions

Provision	Applicability	Compliance
Section 23E.68.030 Uses Permitted		
<p>A. The 'Use and Required Permits' table identifies permitted, permissible, and prohibited uses and sets forth the Permit required for each allowed use. Each use and structure shall be subject to either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a Public Hearing (UP/PH) or is prohibited. Uses within the Downtown Arts District Overlay area (ADO) are also subject to Section 23E.68.040.</p>	<p>The list of permitted uses establishes objective standards governing which uses are allowed in the Zoning District. However, the requirement to seek a discretionary use permit does not apply pursuant to SB 35. Projects that comply with objective standards cannot be required to obtain a discretionary use permit. <i>See</i> Gov. Code § 65913.4(a).</p> <p>Under SB 35, the only applicable standards are those "that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal." Gov. Code § 65913.4 (a)(5). As set forth below, the standards for issuance of a Use Permit involve personal or subjective judgment and are not uniformly verifiable to any uniform benchmark or criterion.</p>	<p>The Project will only contain uses on the list of "Uses Permitted" on Table 23E.68.030: "Dwelling Units, including multifamily developments" and "Group Living Accommodations subject to R-3 Standards", and a residential/commercial cafeteria.</p> <p>However, these uses shall not require a Use Permit/Public Hearing. Rather, pursuant to SB 35, this submittal is subject to ministerial review, but it includes application forms as available from the City's standard forms.</p> <p>COMPLIANT. Uses proposed are permissible in the district, but because of SB35, no discretionary use permits are required.</p>

Table 1: BMC Sub-Title 23E Provisions Applicable in All Non-Residential Districts		
Chapter 23E.68 C-DMU Downtown Mixed-Use District Provisions		
Provision	Applicability	Compliance
B. The Zoning Officer may approve an Administrative Use Permit for any use that he or she determines is compatible with the purposes of the C-DMU District. Any use that is not listed that is not compatible with the purposes of the C-DMU District shall be prohibited.	Not applicable to the Project. The Project will only contain uses listed on Table 23E.68.030.	Not applicable. NOT APPLICABLE.
Section 23E.68.040 Downtown Arts District Overlay		
Subsections A through C.	Not applicable to the project. The Project is not located within the Downtown Arts District Overlay.	Not applicable. NOT APPLICABLE.
Section 23E.68.050 Construction of New Floor Area: Use Permits		
Gross floor area of 10,000 square feet or more shall not be created unless a Use Permit is obtained subject to the findings in Section <u>23E.68.090.D</u> . Creation of new floor area includes construction of new buildings or accessory buildings; additions to existing buildings; or the installation of new floor area or mezzanine levels within or onto existing buildings.	The proposed project would create more than 10,000 square feet of new floor area. However, as noted in the applicability response to Section 23E.68.030.A, above, pursuant to SB 35, the project cannot be required to obtain a discretionary use permit.	Not applicable. NOT APPLICABLE.
Section 23E.68.060 Use Limitations		
A. No commercial use shall operate except between the hours of 6:00 a.m. and 2:00 a.m. except as authorized by an Administrative Use Permit, and in accordance with Section <u>23E.16.010</u> .	The project does not propose any commercial uses.	Not applicable. NOT APPLICABLE. BFHP support services are a non-profit organization, and are considered a commercial, office use. BFHP has 24-hr staffing, and the shelter operates from 5 p.m. to 8 a.m, outside the specified hours. However no use permits are required to authorize operation outside those hours.
B. Any use that is incidental to the primary use of a building or property shall be subject to the permit requirements identified in the Uses Incidental to a Permitted Use heading in Table 23E.68.030.	The project does not propose any incidental uses listed in Table 23E.68.030.	Not applicable. NOT APPLICABLE.

Table 1: BMC Sub-Title 23E Provisions Applicable in All Non-Residential Districts		
Chapter 23E.68 C-DMU Downtown Mixed-Use District Provisions		
Provision	Applicability	Compliance
C. Any activity or use that occurs outside of a building shall be subject to the permit requirements identified in the Parking, Outdoor, and Exterior Window Uses heading in Table <u>23E.68.030</u> .	The project does not propose any outdoor uses listed in Table 23E.68.030.	Not applicable. NOT APPLICABLE. No outdoor activities proposed.
D. Adult-oriented Businesses, Alcoholic Beverage Sales or Service Uses, Amusement Arcades shall be subject to the requirements of Chapter <u>23E.16</u> in addition to the requirements of this Chapter.	The project does not propose any Adult-oriented Businesses, Alcoholic Beverage Sales or Service Uses, or Amusement Arcades.	Not applicable. NOT APPLICABLE.
E. For new uses identified in Table <u>23E.68.030</u> that are located on the ground floor adjacent to a street frontage, storefront windows are required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area.	The project proposes new uses identified in the referenced table that are adjacent to a street frontage. The numeric standard of pedestrian viewing is a minimum of 10 feet into the storefront area is therefore applicable.	The first-floor plan on Sheet A2.01B and the north elevation on Sheet A3.01 demonstrate the project does not propose to locate permanent fixtures within 10 feet of the storefront windows that would obstruct pedestrian viewing. COMPLIANT. Applicable to office uses on ground floor in building. Window glazing is transparent, per design criterion, Storefronts & Entrances #8 (page 56), and fixtures within 10 feet of windows are below eye-level.
F. In new buildings constructed on Public Serving Frontages, as illustrated in Sub-title 23F and the Downtown Area Plan, entrances to individual dwelling units and to living quarters in Group Living Accommodations are prohibited on the street-facing side of the street-level floor.	According to definition in Sub-title 23F, and the accompanying figure, the project site is not located on a Public Serving Frontage.	Not applicable. NOT APPLICABLE.
G. Non-Chartered Financial Institutions are not permitted in this District.	The project does not propose any Non-Chartered Financial Institution uses.	Not applicable. NOT APPLICABLE.
Section 23E.68.065 Performance Standards		
Projects that may create potentially significant environmental impacts as described in the Downtown Area Plan Final EIR shall be subject to the adopted Mitigation Monitoring Program adopted concurrently	This is not an objective standard. Moreover, projects proposed under SB35 streamlining provisions are ministerial and are not subject to CEQA.	Not applicable. Project is subject to applicable Mitigation Measures, per Streamlined Ministerial Approval Process Guidelines, Section

Table 1: BMC Sub-Title 23E Provisions Applicable in All Non-Residential Districts															
Chapter 23E.68 C-DMU Downtown Mixed-Use District Provisions															
Provision		Applicability	Compliance												
Section 23E.68.070 Development Standards															
<p>A. The height for main buildings shall not exceed the following limits and shall satisfy the following requirements:</p> <table border="1" data-bbox="218 553 884 773"> <thead> <tr> <th colspan="4">Table 23E.68.070 Height Limits (as per Downtown Area Plan) *</th> </tr> <tr> <th>C-DMU Sub-Area</th> <th>Minimum</th> <th>Maximum</th> <th>Maximum With Use Permit</th> </tr> </thead> <tbody> <tr> <td>Buffer</td> <td>None</td> <td>50 feet</td> <td>60 feet</td> </tr> </tbody> </table> <p>*Notwithstanding Sub-title 23F, in the case of a roof with parapet walls, building height shall be measured to the top of the roof and parapets may exceed the height limits above by up to five (5) feet as of right.</p>		Table 23E.68.070 Height Limits (as per Downtown Area Plan) *				C-DMU Sub-Area	Minimum	Maximum	Maximum With Use Permit	Buffer	None	50 feet	60 feet	<p>This maximum height is waived by operation of the State Density Bonus Law, Gov. Code § 65915, as permitted by SB 35. See Gov. Code § 65913.4(a)(5) (consistency with objective standards is determined after “excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in Section 65915”).</p>	<p>As shown on Sheet A0.DB1, the base project has a building height of 45’-1” and is therefore compliant with the 50-foot height limit for CMU Buffer sites.</p> <p>Pursuant to the State Density Bonus Law, the applicant is entitled to a waiver of the height restriction because the height limit, if applied, would physically preclude the density bonus project. The proposed project would have a maximum height of 65’-4”.</p> <p>COMPLIANT. Via waivers and concessions under Density Bonus law.</p>
Table 23E.68.070 Height Limits (as per Downtown Area Plan) *															
C-DMU Sub-Area	Minimum	Maximum	Maximum With Use Permit												
Buffer	None	50 feet	60 feet												
<p>B. The Board may issue Use Permits for up to five buildings that exceed the limits set forth in Table 23E.68.070 if it makes the finding in Section 23E.68.090.E, and as follows:</p> <ol style="list-style-type: none"> 1. In the combined Core and Outer Core areas, up to two buildings of over 75 feet but not more than 120 feet. 2. In the Core area, up to three buildings over 120 feet but not more than 180 feet. Allowed uses in such buildings include: <ol style="list-style-type: none"> a. Two residential buildings with ground-level commercial uses. b. One hotel building with conference facilities and accessory commercial uses. 		<p>As described under the response to Subsection 23E.68.070.A above, the base project before the application of the state density bonus, complies with the height requirements of the Zoning Ordinance. The maximum height requirement of the Zoning Ordinance is waived by operation of State Law.</p>	<p>Not applicable. See response above.</p> <p>NOT APPLICABLE.</p>												

Table 1: BMC Sub-Title 23E Provisions Applicable in All Non-Residential Districts		
Chapter 23E.68 C-DMU Downtown Mixed-Use District Provisions		
Provision	Applicability	Compliance
<p>3. Application process for buildings over 75 feet in height:</p> <p>a. Applications for any of the five buildings over 75 feet in height may be submitted on July 1, 2012. If no applications that satisfy the submittal requirements as determined by the Zoning Officer are submitted on that date, then the next deadline to submit applications will be no later than six months from that date, with application opportunity dates at six month intervals until the first application has been submitted. Once the first application has been submitted, then the application opportunity date will occur once yearly on the anniversary of the date of the first submittal.</p> <p>b. A project shall secure a position as one of the five allowed buildings over 75 feet in height following final Use Permit approval. Such Use Permits shall include a condition of approval that establishes a schedule for: submittal of a building permit application, timely response to plan check comments, payment of building permit fees such that a building permit can be issued, and commencement of construction. The process for allowing extension of the timeline requirements, if any, shall be specified in the condition.</p> <p>c. Failure of a permittee to strictly comply with the schedule established by the Use Permit shall be grounds for revocation of the Use Permit pursuant to Chapter 23B.60.</p>		

C. No yards for main buildings, accessory buildings, or accessory structures shall be required, except as required in Section 23E.04.050 for commercial lots abutting or confronting residential zoning. In addition buildings shall be set back from property lines as set forth in the table and provisions below, unless modified by a Use Permit subject to the findings in Section 23E.68.090.F.

Portion of Building at Height of:	Front Lot Line	Interior Side Lot Line		Rear Lot Line
		65' and less from lot frontage	Over 65' from lot frontage	
Zero to 20 feet	0' minimum, 5' maximum;	0' minimum	0' minimum	0' minimum
21 feet to 75 feet	0' minimum	0' minimum	5' minimum	5' minimum
76 feet to 120 feet	15' minimum	5' minimum	15' minimum	15' minimum
Over 120 feet	15' minimum	15' minimum	15' minimum	15' minimum

1. For buildings over 120 feet in height, that portion of the building over 120 feet must be less than 120 feet in width when measured at the widest point on the diagonal in plan view.
2. For a lot that abuts the interior side or rear lot line of a residentially-zoned lot, a new building shall be set back from the shared property line by 20 feet where the building exceeds 45 feet in height.
3. For a lot that confronts a residentially-zoned lot, a new building shall be set back 10 feet from the street-facing property line where the building exceeds 45 feet in height, except that this provision shall not apply to lots confronting public uses with a residential zoning

The setback requirements are waived by operation of the State Density Bonus Law, Gov. Code § 65915, as permitted by SB 35. See Gov. Code § 65913.4(a)(5) (consistency with objective standards is determined after “excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in Section 65915”).

As shown on Sheet A0.DB2b, the base project has a front yard setback of 15 feet in compliance with the 15-foot front yard setback required for a lot confronting an R-2A zone and 5-foot setbacks for the side and rear yards, as required for buildings between 21 and 75 feet.

Pursuant to the State Density Bonus Law, the applicant is entitled to a waiver of the setback requirements because the setbacks, if applied, would physically preclude the density bonus project. The proposed project would have a minimum setback of 0 feet in the front and side yards and 15 feet in the rear yard.

COMPLIANT. Via waivers under Density Bonus law.

Table 1: BMC Sub-Title 23E Provisions Applicable in All Non-Residential Districts		
Chapter 23E.68 C-DMU Downtown Mixed-Use District Provisions		
Provision	Applicability	Compliance
<p>designation, such as Berkeley High School, Civic Center Park, and Fire Station 2. However, this provision will apply for all lots with frontage on the Martin Luther King Jr. Way right-of-way.</p> <p>4. For lots with frontage on the Shattuck Avenue right-of-way south of Durant Avenue, a new building shall be set back 15 feet from the Shattuck Avenue property line where the building exceeds 65 feet in height.</p> <p>5. Architectural features such as eaves, cornices, canopies, awnings, bay windows, uncovered porches, balconies, fire escapes, stairs and landings may project up to five feet into required setbacks of this section so long as the surface area of such projections does not exceed 50% of the surface area of the side of the building on which the projections are located.</p>		

Table 1: BMC Sub-Title 23E Provisions Applicable in All Non-Residential Districts		
Chapter 23E.68 C-DMU Downtown Mixed-Use District Provisions		
Provision	Applicability	Compliance
<p>D. New buildings shall provide on-site open space as follows:</p> <p>1. For residential uses, 80 square feet of usable open space per unit.</p> <p>a. Each square foot of such open space that is provided as Privately-Owned Public Open Space shall be counted as two square feet of required on-site open space for residential uses.</p> <p>2. For non-residential uses, one (1) square foot of privately-owned public open space per 50 square feet of commercial floor area.</p> <p>3. In lieu of providing the open space required by this Section on site, an applicant may pay an in-lieu fee to help fund the Streets and Open Space Improvement Plan (SOSIP) and/or construct public improvement consistent with the SOSIP, as specified in the Use Permit, provided the Board makes the findings in Section 23E.68.090.G.</p>	<p>The open space requirements are waived by operation of the State Density Bonus Law, Gov. Code § 65915, as permitted by SB 35. See Gov. Code § 65913.4(a)(5) (consistency with objective standards is determined after “excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in Section 65915”).</p>	<p>As shown on Sheet A0.DB2a, the base project proposes 9,240 square feet of open space, including 2,050 square feet of privately-owned public open space (which is counted at 2:1), and is therefore compliant with the required open space area.</p> <p>The proposed project includes 10,400 square feet of open space where 11,640 is required. Pursuant to State Density Bonus Law, the applicant is entitled to a concession of the open space requirement because a reduction results in identifiable and actual cost reductions to provide for affordable housing costs and does not result in any adverse public health or safety impacts.</p> <p>COMPLIANT. Via concession under Density Bonus law.</p>
Section 23E.68.075 Fee to Implement Streets and Open Space Improvement Plan (SOSIP)		
<p>In addition to any other requirement of this Chapter, projects shall be subject to payment of an impact fee to implement the Streets and Open Space Improvement Plan (SOSIP), as may be adopted by the City.</p>	<p>The proposed project appears to be subject to the fee.</p>	<p>If the City determines that the fee applies to the project, the project sponsor will provide for the fee as required by the City.</p> <p>APPLICABLE. Project will be reviewed for compliance by the Public Works Dept. during Building Permit plan check.</p>
Section 23E.68.080 Parking – Number of Spaces		

Table 1: BMC Sub-Title 23E Provisions Applicable in All Non-Residential Districts								
Chapter 23E.68 C-DMU Downtown Mixed-Use District Provisions								
Provision	Applicability	Compliance						
<p>A. All parking shall be provided in accordance with the requirements of this Section and Chapter <u>23E.28</u>, except as set forth in this Section. No change of commercial use within the existing floor area of a building shall be required to meet the off-street parking requirements of this Section or Chapter <u>23E.28</u>, unless the structure has been expanded to include new floor area.</p>	<p>This standard does not apply pursuant to SB 35. The City may “not impose parking standards for a streamlined development” if “[t]he development is located within one-half mile of public transit.” Gov. Code §65913.4(d).</p>	<p>Not applicable. The Project is within a half mile of the Downtown Berkeley BART station and several AC Transit bus lines with headways that exceed 15 minutes.</p> <p>NOT APPLICABLE.</p>						
<p>B. The District minimum standard vehicle parking space requirement for all floor area is one and a half spaces per each 1,000 square feet of gross floor area or as required for the uses listed in the following table.</p> <table border="1" data-bbox="218 824 873 1027"> <thead> <tr> <th>Use</th> <th>Number of Parking Spaces Required</th> </tr> </thead> <tbody> <tr> <td>Dwelling Units, Single and Multi-Family Buildings</td> <td>One per three dwelling units</td> </tr> <tr> <td>Group Living Accommodations (Including Single Room Occupancy Residential Hotels) and Nursing Homes</td> <td>One per eight sleeping rooms</td> </tr> </tbody> </table> <p>1. Additions up to 1,000 square feet of gross floor area, or up to twenty-five percent (25%) of existing gross floor area, whichever is less, are exempt from the parking requirements for new floor area.</p> <p>2. Parking spaces shall be provided on site, or off site within 800 feet subject to securing an AUP and in compliance with Section <u>23E.28.030</u>.</p>	Use	Number of Parking Spaces Required	Dwelling Units, Single and Multi-Family Buildings	One per three dwelling units	Group Living Accommodations (Including Single Room Occupancy Residential Hotels) and Nursing Homes	One per eight sleeping rooms	<p>See response to Section 23E.68.080.A above.</p>	<p>Not applicable. See response above.</p> <p>NOT APPLICABLE.</p>
Use	Number of Parking Spaces Required							
Dwelling Units, Single and Multi-Family Buildings	One per three dwelling units							
Group Living Accommodations (Including Single Room Occupancy Residential Hotels) and Nursing Homes	One per eight sleeping rooms							

Table 1: BMC Sub-Title 23E Provisions Applicable in All Non-Residential Districts		
Chapter 23E.68 C-DMU Downtown Mixed-Use District Provisions		
Provision	Applicability	Compliance
C. Bicycle parking spaces shall be provided for new construction at the ratio of one space per 2,000 square feet of gross floor area of commercial space, and in accordance with the requirements of Section 23E.28.070 .	No commercial floor area is proposed.	Not applicable. However, the project proposes more than 50 interior bicycle parking spaces in a 1,234 square foot room on the ground floor to accommodate tenants' and employees' needs. NOT APPLICABLE. Project is exempt, per SB35 provisions (see page 30). However, bicycle room is provided and the bike parking requirement for a non-SB35 exempt project is exceeded.
D. The vehicle parking space requirements of this Section may be reduced or waived through payment of an in-lieu fee to be used to provide enhanced transit services, subject to securing a Use Permit subject to the finding in section 23E.68.099.H or modified with an AUP subject to the findings in 23E.28.140 .	See response to Section 23E.68.080.A above.	Not applicable. NOT APPLICABLE.
E. New construction that results in an on-site total of more than 25 publicly available parking spaces shall install dynamic signage to Transportation Division specifications, including, but not limited to, real-time garage occupancy signs at the entries and exits to the parking facility with vehicle detection capabilities and enabled for future connection to the regional 511 Travel Information System or equivalent, as determined by the Zoning Officer in consultation with the Transportation Division Manager.	No publicly available parking spaces are proposed.	Not applicable. NOT APPLICABLE.

Table 1: BMC Sub-Title 23E Provisions Applicable in All Non-Residential Districts		
Chapter 23E.68 C-DMU Downtown Mixed-Use District Provisions		
Provision	Applicability	Compliance
F. Occupants of residential units or GLA units constructed, newly constructed or converted from a non-residential use shall not be eligible for Residential Parking Permit (RPP) permits under Chapter <u>14.72</u> of the BMC.	See response to Section 23E.68.080.A above. Additionally, draft SB35 guidelines developed by the Department of Housing and Community Development and released September 28, 2018 specify that parking requirements shall not be imposed "When on-street parking permits are required, but not offered to the occupants of the development."	Not applicable. NOT APPLICABLE.
G. For any new building with residential units or structures converted to a residential use, required parking spaces shall be leased or sold separate from the rental or purchase of dwelling units for the life of the dwelling unit, unless the Board grants a Use Permit to waive this requirement for projects which include financing for affordable housing subject to the finding in section <u>23E.68.090.I</u> .	See response to Section 23E.68.080.A above.	Not applicable. NOT APPLICABLE.

Table 1: BMC Sub-Title 23E Provisions Applicable in All Non-Residential Districts		
Chapter 23E.68 C-DMU Downtown Mixed-Use District Provisions		
Provision	Applicability	Compliance
<p>H. For new structures or additions over 20,000 square feet, the property owner shall provide at least one of the following transportation benefits at no cost to every employee, residential unit, and/or GLA resident. A notice describing these transportation benefits shall be posted in a location or locations visible to employees and residents.</p> <ol style="list-style-type: none"> 1. A pass for unlimited local bus transit service; or 2. A functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted unlimited monthly local bus pass. Any benefit proposed as a functionally equivalent transportation benefit shall be approved by the Zoning Officer in consultation with the Transportation Division Manager. 	<p>The project proposes to provide a new structure and is, therefore, subject to the requirements of Section 23E.68.080.H.</p>	<p>The applicant shall provide (i) a pass for unlimited local bus transit service to every employee, residential unit, and/or GLA resident, OR (ii) a functionally equivalent transit benefit, subject to approval by the Zoning Officer.</p> <p>Applicant has agreed to provide unlimited transit passes or equivalent transit benefit. Project will be reviewed for compliance by the Land Use Planner during Building Permit plan check.</p>

Table 1: BMC Sub-Title 23E Provisions Applicable in All Non-Residential Districts										
Chapter 23E.68 C-DMU Downtown Mixed-Use District Provisions										
Provision	Applicability	Compliance								
<p>I. For residential structures constructed or converted from a non-residential use that require vehicle parking under Section 23E.68.080.B, required parking spaces shall be designated as vehicle sharing spaces in the amounts specified in the following table. If no parking spaces are provided pursuant to Section 23E.68.080.D, no vehicle sharing spaces shall be required.</p> <table border="1"> <thead> <tr> <th>Number of Parking Spaces Required</th> <th>Minimum Number of Vehicle Sharing Spaces</th> </tr> </thead> <tbody> <tr> <td>0 – 10</td> <td>0</td> </tr> <tr> <td>11 – 30</td> <td>1</td> </tr> <tr> <td>30 – 60</td> <td>2</td> </tr> </tbody> </table> <p>1. The required vehicle sharing spaces shall be offered to vehicle sharing service providers at no cost.</p> <p>2. The vehicle sharing spaces required by this Section shall remain available to a vehicle sharing service provider as long as providers request the spaces. If no vehicle sharing service provider requests a space, the space may be leased for use by other vehicles. When a vehicle sharing service provider requests such space, the property owner shall make the space available within 90 days.</p>	Number of Parking Spaces Required	Minimum Number of Vehicle Sharing Spaces	0 – 10	0	11 – 30	1	30 – 60	2	<p>See response to Section 23E.68.080.A above.</p>	<p>Subsection B does not apply to the proposed project so no vehicle sharing spaces are required. Not applicable.</p> <p>NOT APPLICABLE.</p>
Number of Parking Spaces Required	Minimum Number of Vehicle Sharing Spaces									
0 – 10	0									
11 – 30	1									
30 – 60	2									

Table 1: BMC Sub-Title 23E Provisions Applicable in All Non-Residential Districts		
Chapter 23E.68 C-DMU Downtown Mixed-Use District Provisions		
Provision	Applicability	Compliance
J. For residential structures constructed or converted from a non-residential use subject to Sections 23E.68.080.G , 23E.68.080.H , and 23E.68.080.I , prior to issuance of a Certificate of Occupancy, the property owner shall submit to the Department of Transportation a completed Parking and Transportation Demand Management (PTDM) compliance report on a form acceptable to the City, which demonstrates that the project is in compliance with the applicable requirements of 23E.68.080.G , 23E.68.080.H , and 23E.68.080.I . Thereafter, the property owner shall submit to the Department of Transportation an updated PTDM compliance report on an annual basis.	The ongoing compliance reporting requirement set forth in Section 23E.68.080.J is not an objective standard for purposes of determining SB 35 eligibility. Notwithstanding the above, because subsection H applies to the project, the applicant acknowledges that the project is also subject to this subsection J.	The project will provide an annual report as required for compliance with subsection H, as requested by the City. Project will be reviewed for compliance by the the Transportation Division during Building Permit plan check
K. Any construction which results in the creation of more than 10,000 square feet of new or additional commercial gross floor space shall satisfy the loading space requirements of Chapter 23E.62 .	No commercial floor area is proposed.	Not applicable. NOT APPLICABLE. New commercial area = 4,688 SF. However, a loading space is provided in the project.
Section 23E.68.085 Green Building Provisions		
A. Construction of new buildings and additions of more than 20,000 square feet shall attain a LEED Gold rating or higher as defined by the U.S. Green Building Council (USGBC), or shall attain building performance equivalent to this rating, as determined by the Zoning Officer.	Applicable objective standard.	The project will utilize the GreenPoint Rating System as authored by Build-It Green and achieve the GreenPoint equivalent of LEED Gold. COMPLIANT.

Table 1: BMC Sub-Title 23E Provisions Applicable in All Non-Residential Districts		
Chapter 23E.68 C-DMU Downtown Mixed-Use District Provisions		
Provision	Applicability	Compliance
B. Additions of 20,000 square feet or less shall be required to meet all applicable standards of the Stopwaste Small Commercial Checklist, or equivalent, as determined by the Zoning Officer. The rating shall be appropriate to the use type of the proposed construction.	The project does not represent an addition of 20,000 square feet or less.	Not applicable. NOT APPLICABLE.
Section 23E.68.090: Findings		
A. In order to approve any Use Permit under this Chapter, the Zoning Officer or Board must make the findings required by Section 23B.32.040 , as well as the findings required by the following paragraphs of this Section to the extent applicable.	Does not apply pursuant to SB 35. Under SB 35, projects that comply with objective standards cannot be required to obtain a discretionary use permit. See Gov. Code § 65913.4(a). As set forth in Section 23E.64.090.B through I below, the applicable findings under this section of the Zoning Ordinance are not objective standards.	Not applicable. NOT APPLICABLE. No Use Permits required.
B. A proposed use or structure must: 1. Be compatible with the purposes of the District; and 2. Be compatible with the surrounding uses and buildings.	See response to subsection Section 23E.68.090.A above.	Not applicable. NOT APPLICABLE. No Use Permits required.

Table 1: BMC Sub-Title 23E Provisions Applicable in All Non-Residential Districts		
Chapter 23E.68 C-DMU Downtown Mixed-Use District Provisions		
Provision	Applicability	Compliance
<p>C. For each Administrative Use Permit obtained under Section <u>23E.68.040.C</u> to allow a new carry out food service store or ground floor office use within the Downtown Arts District Overlay, the Zoning Officer must find that:</p> <ol style="list-style-type: none"> 1. The project meets the purposes of the Arts Overlay District as set forth in Section <u>23E.68.040</u>; and 2. The location, size, type, appearance, and signage of the proposed use will: <ol style="list-style-type: none"> a. Animate and enhance the pedestrian experience on the street; and b. Be generally open to the public evenings and on weekends, whenever practicable. 	<p>See response to subsection Section 23E.68.090.A above.</p>	<p>Not applicable. NOT APPLICABLE. No Use Permits required.</p>
<p>D. In order for any Use Permit to be granted under Section <u>23E.68.050</u> for new floor area, the Board must find that:</p> <ol style="list-style-type: none"> 1. The addition or new building is compatible with the visual character and form of the District; and 2. No designated landmark structure, structure of merit, or historic district in the vicinity would be adversely affected by the appearance or design of the proposed addition. 	<p>See response to subsection Section 23E.68.090.A above.</p>	<p>Not applicable. NOT APPLICABLE. No Use Permits required.</p>

Table 1: BMC Sub-Title 23E Provisions Applicable in All Non-Residential Districts		
Chapter 23E.68 C-DMU Downtown Mixed-Use District Provisions		
Provision	Applicability	Compliance
E. In order to approve a Use Permit for buildings over 75 feet in height under Section <u>23E.68.070.B</u> , the Board must find that the project will provide significant community benefits, either directly or by providing funding for such benefits to the satisfaction of the City, beyond what would otherwise be required by the City. These may include, but are not limited to: affordable housing, supportive social services, green features, open space, transportation demand management features, job training, and/or employment opportunities. The applicable public benefit requirements of this Chapter shall be included as conditions of approval and the owner shall enter into a written agreement that shall be binding on all successors in interest.	See response to subsection Section 23E.68.090.A above.	Not applicable. NOT APPLICABLE. No Use Permits required.
F. In order to approve a Use Permit for modification of the setback requirements of <u>23E.68.070.C</u> , the Board must find that the modified setbacks will not unreasonably limit solar access or create significant increases in wind experienced on the public sidewalk.	See response to subsection Section 23E.68.090.A above.	Not applicable. NOT APPLICABLE. No Use Permits required.

Table 1: BMC Sub-Title 23E Provisions Applicable In All Non-Residential Districts		
Chapter 23E.68 C-DMU Downtown Mixed-Use District Provisions		
Provision	Applicability	Compliance
<p>G. In-Lieu Open Space.</p> <p>1. In order to approve a Use Permit under Section <u>23E.68.070.D</u> for payment of an in-lieu fee, the Board must find that the in-lieu payment will support timely development of open space improvements that will serve the needs of both project residents and other people living in and using the downtown.</p> <p>2. In order to approve a Use Permit under Section <u>23E.68.070.D</u> for construction of public improvements consistent with the Downtown Streets and Open Space Improvement Plan (SOSIP), the Board must find that the public improvements:</p> <p>a. Will be located within the vicinity of the project and are consistent with the SOSIP; and</p> <p>b. The improvements will be coordinated with other ongoing or approved SOSIP or other right-of-way improvements in the vicinity, and will not create a hazardous situation or an unusual appearance in the downtown; and</p> <p>c. The improvements will be completed prior to issuance of a certificate of occupancy for the project, unless otherwise allowed by the Conditions of Approval.</p>	<p>See response to subsection Section 23E.68.090.A above.</p>	<p>Not applicable. NOT APPLICABLE. Meets Usable Open Space requirements with Density Bonus concession.</p>

Table 1: BMC Sub-Title 23E Provisions Applicable in All Non-Residential Districts		
Chapter 23E.68 C-DMU Downtown Mixed-Use District Provisions		
Provision	Applicability	Compliance
H. In order to approve a Use Permit to allow a reduction of required vehicle parking spaces under Section <u>23E.68.080.D</u> , which may be reduced to zero, the Board must find that the applicant will pay an in-lieu fee to a fund established by the City that provides enhanced transit services.	See response to subsection Section 23E.68.090.A above.	Not applicable. NOT APPLICABLE. No Use Permits required.
I. In order to approve a Use Permit to allow parking spaces to be leased or sold in combination with the proposed affordable housing units under Section <u>23E.68.080.G</u> , the Board must find that applicant has demonstrated that the combined parking is necessary for the purpose of obtaining financing or meeting other obligations. (Ord. 7229-NS § 1 (part), 2012)	See response to subsection Section 23E.68.090.A above.	Not applicable. NOT APPLICABLE. No Use Permits required.

Table 2 includes zoning standards applicable zoning standards for all districts.

Table 2: Other Applicable Zoning Standards from BMC Sub-Title 23B Ordinance Administration, 23C General Provisions Applicable in All Districts, and 23E Provisions Applicable in All Non-Residential Districts		
Provision	Applicability	Compliance
Chapter 23B.32.040 Use Permits		
Section 23B.32.040 Findings for Issuance and Denial and Conditions		
<p>A. The Board may approve an application for a Use Permit, either as submitted or as modified, only upon finding that the establishment, maintenance or operation of the use, or the construction of a building, structure or addition thereto, under the circumstances of the particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.</p>	<p>The requirement to seek a discretionary use permit does not apply pursuant to SB 35. Projects that comply with objective standards cannot be required to obtain a discretionary use permit. <i>See</i> Gov. Code § 65913.4(a).</p> <p>Under SB 35, the only applicable standards are those “that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.” Gov. Code § 65913.4 (a)(5). The standards listed in this provision involve personal or subjective judgment and are not uniformly verifiable to any uniform benchmark or criterion.</p>	<p>Although this standard does not apply, the proposed project will neither be a detriment to the neighborhood nor to the City of Berkeley in general. The proposed project represents an improvement on an underutilized lot by providing much needed affordable housing and social services for low-income households and homeless individuals. The project, therefore, aligns with Berkeley’s General Plan, Downtown Area Plan and Climate Action Plan goals which seek to increase housing opportunities, particularly in locations such as this, located along major transportation corridors and proximate to commercial amenities.</p> <p>NOT APPLICABLE. No Use Permits required.</p>

Table 2: Other Applicable Zoning Standards from BMC Sub-Title 23B Ordinance Administration, 23C General Provisions Applicable in All Districts, and 23E Provisions Applicable in All Non-Residential Districts		
<p>B. Prior to approving any Use Permit the Board must also make any other findings required by either the general or District regulations applicable to that particular Use Permit.</p>	<p>The requirement to seek a discretionary use permit does not apply pursuant to SB 35. Projects that comply with objective standards cannot be required to obtain a discretionary use permit. See Gov. Code § 65913.4(a).</p> <p>The findings required by the applicable District regulation are addressed above in the Table relevant to Section 23E.68.090 of the Zoning Ordinance.</p>	<p>Not applicable. NOT APPLICABLE. No Use Permits required.</p>
<p>C. The Board shall deny an application for a Use Permit if it determines that it is unable to make any of the required findings, in which case it shall state the reasons for that determination.</p>	<p>The requirement to seek a discretionary use permit does not apply pursuant to SB 35. Projects that comply with objective standards cannot be required to obtain a discretionary use permit. See Gov. Code § 65913.4(a).</p> <p>Under SB 35, the only applicable standards are those “that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.” Gov. Code § 65913.4 (a)(5). As set forth below, the standards for issuance of a Use Permit involve personal or subjective judgment and are not uniformly verifiable to any uniform benchmark or criterion.</p>	<p>Not applicable. NOT APPLICABLE. No Use Permits required.</p>

Table 2: Other Applicable Zoning Standards from BMC Sub-Title 23B Ordinance Administration, 23C General Provisions Applicable in All Districts, and 23E Provisions Applicable in All Non-Residential Districts		
<p>D. The Board may attach such conditions to any Use Permit as it deems reasonable or necessary to achieve the purposes of this Ordinance, and which otherwise promote the municipal health, safety and welfare. (Ord. 6478-NS § 4 (part), 1999)</p>	<p>The requirement to attached conditions to a discretionary use permit does not apply pursuant to SB 35. Projects that comply with objective standards cannot be required to obtain a discretionary use permit. See Gov. Code § 65913.4(a).</p>	<p>Not applicable. NOT APPLICABLE. No Use Permits required. However, project is subject to standard COAs, per Streamlined Ministerial Approval Process Guidelines, Section 301(a)(5). See Attachment C.</p>
Chapter 23C.23 Percentage for Public Art on Private Projects		
23C.23.030 Exceptions		
<p>This Chapter does not apply to the following project types:</p> <p>A. Multifamily housing that has a regulatory agreement with a government agency restricting the rent and limiting tenancy to qualifying households not exceeding specified incomes for at least 60% of the units.</p> <p>B. Buildings with Religious Assembly Uses as defined in Section <u>23F.04.010</u> and Buildings with Arts and Cultural Uses. For purposes of this section, "Arts and Cultural Use" means buildings that have as their primary purpose the presentation of one or more cultural resources, and that are operated by public entities or nonprofit organizations dedicated to cultural activities available to a broad public.</p> <p>C. Transitional Housing.</p>	<p>The project proposes both transitional housing and below market rate multifamily housing with a regulatory agreement that restricts the rent and limits tenancy to qualifying households not exceeding specified incomes for more than 60% of the units.</p>	<p>Not applicable. NOT APPLICABLE.</p>
Chapter 23E.04 Lot and Development Standards		
Section 23E.04.020 Heights		

Table 2: Other Applicable Zoning Standards from BMC Sub-Title 23B Ordinance Administration, 23C General Provisions Applicable in All Districts, and 23E Provisions Applicable in All Non-Residential Districts		
<p>A. In any commercial, mixed use or manufacturing District, the height limits for Schools, buildings for Religious Assembly Use, hospitals and other public buildings permitted in such District shall not exceed the height limit permitted for that District.</p>	<p>The project is not proposing a school, building for Religious Assembly Use, hospital, or other public building.</p>	<p>Not applicable. NOT APPLICABLE.</p>
<p>B. Towers, antennas and poles used for the transmission of electricity, telephone, telegraph, cable television, or other messages; except for electromagnetic signals for cellular radiotelephone service and wireless telecommunications; and flag poles, chimneys, water tanks, heating and air conditioning equipment, skylights, solar energy equipment, vents, pipes and similar structures and necessary mechanical appurtenances may be built and used to a greater height than the limit established for the District in which the building is located. Wireless telecommunication antennas, other than those located within the public right-of-way, shall be subject to the height restrictions in Section 23C.17.060 and shall require a Use Permit or Administrative Use Permit.</p>	<p>Applicable objective standard.</p>	<p>Roof top appurtenances are shown in the roof top plan in the attached plan set. They include solar hot water tanks, solar hot water panels, and photovoltaic panels. No wireless antennas are proposed. NOT APPLICABLE.</p>

Table 2: Other Applicable Zoning Standards from BMC Sub-Title 23B Ordinance Administration, 23C General Provisions Applicable in All Districts, and 23E Provisions Applicable in All Non-Residential Districts

<p>C. Any projection not listed in the foregoing paragraph is prohibited except upon issuance of an AUP, including, but not limited to, mechanical penthouses, elevator equipment rooms, and cupolas, domes, turrets, and other architectural elements which exceed a District's height limit. No such structure shall represent more than fifteen percent (15%) of the average floor area of all of the building's floors; and no tower or similar structure shall be used as habitable space or for any commercial purpose, other than that which may accommodate the mechanical needs of the building. (Ord. 6671-NS § 5 2001: Ord. 6478-NS § 4 (part), 1999)</p>	<p>Applicable objective standard.</p>	<p>The building's roof includes mechanical penthouse and elevator equipment rooms that exceed the CMU Buffer district height limit. A waiver of the applicable Administrative Use Permit for height standards for rooftop equipment is a part of the project's proposed density bonus program. The average floor area of all the buildings floors is 22,997 sq. ft. The rooftop equipment rooms cover 680 sq. ft. of roof area or 3% of the average floor area of the proposed project. Therefore, the project complies with the standard.</p>
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NOT APPLICABLE. Planning policy is to exempt the base project in density bonus proposals from this standard.

<p>Section 23E.04.050 Special Yard Requirements for C- Lots Abutting Residential Zones</p>		
<p>A. Any structure that is located in a commercial District that abuts or confronts a lot or lots in a residential District shall conform to the following yard setback requirements unless otherwise specified by the provisions of an individual District:</p>	<p>The applicable individual district, the CMU Buffer zone, identifies yard standards for commercial lots confronting residentially-zoned lots. See response to Subsection 23E.68.070 in Table 1.</p>	<p>Not applicable. COMPLIANT. Via waivers under Density Bonus law.</p>
<p>B. The minimum width of any side yard shall be five (5) feet;</p>	<p>See response to Section 23E.04.050.A above.</p>	<p>NOT APPLICABLE. No residential district in this direction.</p>
<p>C. The minimum depth of any rear yard shall be ten (10) feet, or ten percent (10%) of the depth of the lot, whichever is greater;</p>	<p>See response to Section 23E.04.050.A above.</p>	<p>NOT APPLICABLE. No residential district in this direction.</p>

Table 2: Other Applicable Zoning Standards from BMC Sub-Title 23B Ordinance Administration, 23C General Provisions Applicable in All Districts, and 23E Provisions Applicable in All Non-Residential Districts		
D. The minimum depth of any front yard, or the minimum width of any side yard on the street side, shall be the same required yard as specified for the adjacent residential District.	See response to Section 23E.04.050.A above.	Not applicable. COMPLIANT. Via waivers under Density Bonus law.
E. The Board may approve a Use Permit authorizing yards smaller than those required above if it finds that such smaller yard would provide greater privacy or improved amenity to a lot in the residential District.	See response to Section 23E.04.050.A above.	Not applicable. NOT APPLICABLE. No Use Permits required.
Section 23E.04.060 Special Building Feature Requirements for C- Lots Abutting Residential Zones		
A. For lots that are located in a commercial District that abuts or confronts a lot or lots in a residential District the following building features shall conform to the specified requirements, unless otherwise specified by the provisions of an individual District:	Applicable objective standard.	Introductory statement. No further response required.
B. Display windows and customer entrances, other than required exits, shall be oriented in a manner so they do not face abutting lots in a residential District;	Applicable objective standard.	Since the proposed project is a residential development, no customers or customer entrances are proposed to face abutting residential lots. Although storefront type windows are proposed as architectural features along the north elevation—which abuts a residential district—no commercial displays are proposed. COMPLIANT.
C. Exterior lighting shall be shielded in a manner which avoids direct glare onto abutting lots in a residential District;	Applicable objective standard.	The exterior lighting proposed for the project is shown in the attached plan set. All exterior

Table 2: Other Applicable Zoning Standards from BMC Sub-Title 23B Ordinance Administration, 23C General Provisions Applicable in All Districts, and 23E Provisions Applicable in All Non-Residential Districts		
		<p>lighting will be shielded and/or directed on site.</p> <p>APPLICABLE. Project will be reviewed for compliance by the Land Use Planner during Building Permit plan check.</p>
D. A solid wall or fence, measuring six (6) feet in height from existing grade, shall be erected at the lot line of an abutting lot in a residential District in order to provide screening;	This is an applicable standard.	<p>A minimum six-foot-high fence is proposed along the west property line. See site plan in attached plan set.</p> <p>COMPLIANT.</p>
E. Exhaust air ducts shall be located or oriented in a manner which directs vented air flows away from any residential District, and equipment which mitigates odors shall be installed;	Applicable objective standard.	<p>Not applicable.</p> <p>However, exhaust vents are proposed to be located more than 35' away from the nearest residential use. They are also down wind of the prevailing wind direction for the Downtown Berkeley area. Specific equipment specifications will be provided during building plan check review for compliance with this standard. See the roof plan in the attached plan set for location detail.</p> <p>COMPLIANT.</p>
F. The Board may approve an Use Permit reducing or waiving the requirements of this Section if it finds that any such requirement is unnecessary to minimize the effects of commercial uses on a lot in the residential District.	The requirement to seek a discretionary use permit does not apply pursuant to SB 35. Projects that comply with objective standards cannot be required to obtain a discretionary use permit. See Gov. Code § 65913.4(a).	<p>Not applicable.</p> <p>NOT APPLICABLE. No Use Permits required.</p>
Chapter 23E.08 Design Review		
Section 23E.08.020 Applicability		

Table 2: Other Applicable Zoning Standards from BMC Sub-Title 23B Ordinance Administration, 23C General Provisions Applicable in All Districts, and 23E Provisions Applicable in All Non-Residential Districts		
<p>A. The design review process and the design guidelines apply to the following:</p> <ol style="list-style-type: none"> 1. Development within all commercial, manufacturing, mixed use and all other non-residential Districts; 2. All commercial and mixed-use projects in the R-4 District; 3. All commercial, mixed use and community and institutional projects in the R-SMU and R-S Districts; and 4. All mixed use and community and institutional projects in the R-3 District within the boundaries of the Southside Plan (see Section 23D.36.050 for area description). 	<p>This provision describes the types of development that are subject to design review but does not impose any standards. Pursuant to SB 35, the only applicable “design review standards” are those that “involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.” Gov. Code § 65913.4(a)(5).</p>	<p>Since the Project is located in a commercial district, it is subject to the design review process and the design guidelines in the Zoning Ordinance, to the extent those guidelines impose objective standards. Project has been reviewed for compliance with objective design standards in the Downtown Area Plan, see pages 55-58.</p>
<p>B. All projects for which a building or sign permit is required, involving exterior construction or alteration, the removal of public facades or any portion of those facades, or the erection or replacement of signs, are subject to design review.</p>	<p>This provision describes a procedural requirement but does not impose any standards.</p>	<p>The Project is subject to the design review process and the design guidelines in the Zoning Ordinance, to the extent those guidelines impose objective standards. See pages 55-58.</p>
<p>C. Permits for projects that are subject to design review may not be issued without design review approval, except that they may be issued conditional upon such approval occurring before the issuance of a building permit or for a permit for a sign as set forth in BMC 20.12.010 (the Sign Ordinance).</p>	<p>This provision describes a procedural requirement but does not impose any standards.</p>	<p>The Project is subject to the design review process and the design guidelines in the Zoning Ordinance, to the extent those guidelines impose objective standards. See pages 55-58.</p>
<p>D. No Zoning Certificate may be approved before approval of design review for such a pending Zoning Certificate application.</p>	<p>This provision describes a procedural requirement but does not impose any standards.</p>	<p>The Project is subject to the design review process and the design guidelines in the Zoning Ordinance, to the extent those guidelines impose objective standards. See pages 55-58.</p>

Table 2: Other Applicable Zoning Standards from BMC Sub-Title 23B Ordinance Administration, 23C General Provisions Applicable in All Districts, and 23E Provisions Applicable in All Non-Residential Districts		
<p>E. No building or sign permit may be issued, except in conformance with this Chapter.</p>	<p>This provision describes a procedural requirement but does not impose any standards.</p>	<p>The Project is subject to the design review process and the design guidelines in the Zoning Ordinance, to the extent those guidelines impose objective standards. See pages 55-58.</p>
<p>Section 23E.08.030 Applicability of Design Review: Criteria</p>		
<p>A. For projects determined to be subject to Design Review under Section 23E.08.020, the design review standards under Section 23E.08.040 shall apply. For projects requiring a public hearing by the Zoning Adjustments Board, staff shall recommend to the Board whether Design Review should be conducted by staff or by the Design Review Committee. The responsibility for conducting Design Review shall be as set forth in Section 23E.12.020, as to whether the DRC, the LPC, or staff conducts Design Review.</p>	<p>The provision describes the entity responsible for design review but does not impose a standard. Pursuant to SB 35, the only applicable design review standards are those “that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.” Gov. Code § 65913.4(a)(5).</p>	<p>The Design Review Committee or design review staff is responsible for design review. Project has been reviewed for compliance with objective design standards in the Downtown Area Plan, see pages 55-58.</p>
<p>B. In making this determination, the Board or staff shall consider the following criteria:</p> <ol style="list-style-type: none"> 1. Project size; 2. Visibility; 3. Degree of sensitivity of the community. 	<p>Does not apply pursuant to SB 35 – non-objective standards.</p>	<p>Not applicable. Project has been reviewed for compliance with objective design standards in the Downtown Area Plan, see pages 55-58.</p>
<p>Section 23E.08.040 Design Review Standards</p>		
<p>A. Design review shall consider the design of a project in relation to its urban context and shall focus on the application of the design guidelines referred to in this Ordinance and other guidelines written in conformance</p>	<p>Does not apply pursuant to SB 35 – non-objective standards.</p>	<p>Not applicable. Project has been reviewed for compliance with objective design standards in the Downtown Area Plan, see pages 55-58.</p>

Table 2: Other Applicable Zoning Standards from BMC Sub-Title 23B Ordinance Administration, 23C General Provisions Applicable in All Districts, and 23E Provisions Applicable in All Non-Residential Districts		
with the guidelines which are formally adopted by the Planning Commission.		
B. When conducting design review the Design Review Committee, the LPC, or staff shall use the design guidelines adopted by the Planning Commission as its official policy.	This provision describes a procedural requirement but does not impose any standards.	The Project is subject to the design review process and the design guidelines in the Zoning Ordinance, to the extent those guidelines impose objective standards. See pages 55-58.
C. The Design Review Guidelines, or any portion thereof, may be amended by the Commission. The Board may comment to the Commission on such amendments.	This provision describes a procedural requirement but does not impose any standards.	The Project is subject to the design review process and the design guidelines in the Zoning Ordinance, to the extent those guidelines impose objective standards. See pages 55-58.
D. The entity responsible for design review shall consider the conformance of the application to the standards set forth in and promulgated under this Ordinance, and may either approve, deny or modify an application for design review. However, no modification may be made that is not consistent with any other requirement of this Ordinance. (Ord. 6478-NS § 4 (part), 1999)	This provision describes a procedural requirement but does not impose any standards.	The Project is subject to the design review process and the design guidelines in the Zoning Ordinance, to the extent those guidelines impose objective standards. See pages 55-58.
Chapter 23E.28 Off-Street Parking and Transportation Services Fee		
Section 23E.28.040 Traffic Engineering Requirements		

Table 2: Other Applicable Zoning Standards from BMC Sub-Title 23B Ordinance Administration, 23C General Provisions Applicable in All Districts, and 23E Provisions Applicable in All Non-Residential Districts		
<p>A. In addition to the requirements of this Ordinance, all off-street parking spaces, access driveways, circulation patterns, and ingress and egress connections to the public right-of-way must conform to the City's Traffic Engineering requirements.</p> <p>B. The Traffic Engineer shall determine whether the size, arrangement, and design of off-street parking spaces, access driveways, circulation patterns, and ingress and egress connections to the public right-of-way are adequate to create usable, functional, accessible and safe parking areas, and are adequately integrated with the City's overall street pattern and traffic flows.</p> <p>C. Dimensional requirements and standards for off-street parking spaces, driveway and other access improvements, and maneuvering aisles shall be incorporated in administrative regulations, subject to the review and approval by the City Manager and the Zoning Adjustments Board.</p> <p>D. Notwithstanding any reduction in off-street parking spaces that may be granted for mixed use projects in non-residential districts listed in Sub-title 23E, the requirement for off-street parking spaces for disabled persons in the project shall be calculated as if there had been no reduction in total parking spaces. (Ord. 6848-NS § 6 (part), 2005; Ord. 6478-NS § 4 (part), 1999)</p>	<p>Not applicable pursuant to SB 35 – inapplicable parking standard.</p>	<p>The City may “not impose parking standards” if “[t]he development is located within one-half mile of public transit.” Gov. Code §65913.4(d). The Project is within a half mile of the Downtown Berkeley BART station and several AC Transit bus lines with headways that exceed 15 minutes.</p> <p>NOT APPLICABLE. Project is exempt, per SB35 provisions [65913.4(d)] because it is 1/2-mile or less from transit and because RPP is not offered to project residents.</p>
<p>Section 23E.28.050 Number of Parking Spaces Required</p>		
<p>A. Off-street parking spaces provided in conjunction with a use or structure existing on October 1, 1959, on</p>	<p>See response to Section 23E.28.040.D above.</p>	<p>Not applicable. The parking that exists on the property supports a</p>

Table 2: Other Applicable Zoning Standards from BMC Sub-Title 23B Ordinance Administration, 23C General Provisions Applicable in All Districts, and 23E Provisions Applicable in All Non-Residential Districts		
the same property or on property under the same ownership, may not be reduced below, or if already less than, may not be further reduced below, the requirements of this chapter for similar use or structure. However, required parking spaces may be removed to meet ADA compliance or traffic engineering standards.		commercial parking lot use. The commercial parking lot use is being extinguished pursuant to this application and the parking is no longer required for the use. NOT APPLICABLE. Project exempt.
B. In the case of an AUP, a Use Permit, or a variance the Zoning Officer and Board may require more off-street parking spaces than the minimum required by the applicable District, if he/she or it finds that the demand for parking spaces will exceed the minimum requirement.	See response to Section 23E.28.040.D above. Additionally, the requirement to seek a discretionary use permit does not apply pursuant to SB 35. Projects that comply with objective standards cannot be required to obtain a discretionary use permit. See Gov. Code § 65913.4(a).	Not applicable. NOT APPLICABLE. Project exempt.
C. When the formula for determining the number of required off-street parking spaces results in a requirement of a fractional space, any fraction below one-half shall be disregarded, and fractions including and over one-half shall be counted as requiring one parking space.	See response to Section 23E.28.040.D above.	Not applicable. NOT APPLICABLE. Project exempt.
D. No off-street parking space requirement under this Ordinance may be satisfied by a tandem off-street parking space, unless approved by both the City Traffic Engineer and the Board.	See response to Section 23E.28.040.D above.	Not applicable. NOT APPLICABLE. Project exempt.
E. An applicant may count existing off-street parking spaces towards meeting the parking requirements of this Ordinance when both the existing use, or portions of the use that is to remain, and the proposed use and/or structure are used in computing the required number of off-street parking spaces.	See response to Section 23E.28.040.D above.	Not applicable. NOT APPLICABLE. Project exempt.

Table 2: Other Applicable Zoning Standards from BMC Sub-Title 23B Ordinance Administration, 23C General Provisions Applicable in All Districts, and 23E Provisions Applicable in All Non-Residential Districts

<p>F. When the number of off-street parking spaces required for a structure or use is based on the number of employees, it shall be based upon the shift or employment period during which the greatest number of employees are present at the structure or use.</p>	<p>See response to Section 23E.28.040.D above.</p>	<p>Not applicable. NOT APPLICABLE. Project exempt.</p>
<p>G. When the number of off-street parking spaces required is based on the floor area for a specified use, the definition of Floor Area, Gross as set forth in Subtitle <u>23F</u> shall apply. In addition, unenclosed areas of a lot, including, but not limited to, outdoor dining areas, garden/building supply yards and other customer-serving outdoor areas for retail sales, shall also be counted toward the floor area for those commercial uses with specified off-street parking requirements. (Ord. 6856-NS § 4 (part), 2005; Ord. 6478-NS § 4 (part), 1999)</p>	<p>See response to Section 23E.28.040.D above.</p>	<p>Not applicable. NOT APPLICABLE. Project exempt.</p>
<p>Section 23E.28.070 Bicycle Parking</p>		

Table 2: Other Applicable Zoning Standards from BMC Sub-Title 23B Ordinance Administration, 23C General Provisions Applicable in All Districts, and 23E Provisions Applicable in All Non-Residential Districts		
<p>A. Bicycle parking spaces required by each District's bicycle parking requirements shall be located in either a locker, or in a rack suitable for secure locks, and shall require location approval by the City Traffic Engineer and Zoning Officer. Bicycle parking shall be located in accordance to the design review guidelines.</p>	<p>The City may "not impose parking standards" if "[t]he development is located within one-half mile of public transit." Gov. Code §65913.4(d). The Project is within a half mile of the Downtown Berkeley BART station and several AC Transit bus lines with headways that exceed 15 minutes.</p> <p>Design review guidelines for bicycle parking are only applicable to the extent those guidelines are (1) "published and adopted by ordinance or resolution" and (2) "involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal." Gov. Code § 65913.4 (a)(5), (c). The requirement to seek location approval by the City Traffic Engineer or Zoning Officer is applicable only to the extent the Engineer or Zoning Officer will grant or deny approval based on the Project's compliance with published, objective criteria.</p>	<p>Not applicable. The C-DMU district requirements only require bicycle parking for commercial floor area, of which none is proposed. The "non-residential" floor areas of the project are uses incidental to, and support of, the primary residential use. However, the project provides more than 40 interior and secure bike spaces in a 1,234 square foot ground floor room for tenants and staff. In the event the City determines that bike parking is a project requirement, the plan set notes that as a precautionary measure and show required bicycle parking, which is more than the City's requirement.</p> <p>NOT APPLICABLE. Project exempt. However, bicycle room is provided and the bike parking requirement for a non-SB35 exempt project is exceeded.</p>
<p>B. Except in C-E and C-T Districts, Bicycle Parking shall be provided for new floor area or for expansions of existing industrial, commercial, and other non-residential buildings at a ratio of one space per 2,000 square feet of gross floor area.</p>	<p>See Response to Section 23E.28.070.A above.</p>	<p>Not applicable. NOT APPLICABLE. Project exempt.</p>

Table 2: Other Applicable Zoning Standards from BMC Sub-Title 23B Ordinance Administration, 23C General Provisions Applicable in All Districts, and 23E Provisions Applicable in All Non-Residential Districts		
<p>C. The Zoning Officer in consultation with the City Traffic Engineer may modify the requirement with an Administrative Use Permit for Tourist Hotels in the C-DMU District.</p>	<p>The requirement to seek a discretionary use permit does not apply pursuant to SB 35. Moreover, a tourist hotel is not proposed as part of the project.</p>	<p>Not applicable. NOT APPLICABLE.</p>
<p>Section 23E.28.090 In-lieu Parking Fee</p>		
<p>A. In those commercial and manufacturing Districts in which a public parking fund exists for the purpose of developing public parking, applicants may make an in-lieu payment for construct, maintenance and operation of public off-street parking instead of providing off-street parking spaces as required by this chapter. The fee shall be pursuant to resolution of the Council. In-lieu payments under this section shall be used for the purposes set forth in each Ordinance establishing such public parking funds.</p>	<p>Not applicable pursuant to SB 35 – inapplicable parking standard.</p> <p>The City may “not impose parking standards” if “[t]he development is located within one-half mile of public transit.” Gov. Code §65913.4(d). The Project is within a half mile of the Downtown Berkeley BART station and several AC Transit bus lines with headways that exceed 15 minutes.</p>	<p>Not applicable. NOT APPLICABLE. Project exempt.</p>
<p>B. In-lieu fees may, at the applicant’s option, be paid in a lump sum or in annual installments as specified in each ordinance establishing a parking fund, and may be adjusted annually for inflation. If paid annually, the first annual payment of an in-lieu fee shall be due as a condition of occupancy, and subsequent payments shall be due on January 31 of succeeding years. (Ord. 6478-NS § 4 (part), 1999)</p>	<p>Not applicable pursuant to SB 35 – inapplicable parking standard.</p> <p>The City may “not impose parking standards” if “[t]he development is located within one-half mile of public transit.” Gov. Code §65913.4(d). The Project is within a half mile of the Downtown Berkeley BART station and several AC Transit bus lines with headways that exceed 15 minutes.</p>	<p>Not applicable. NOT APPLICABLE. Project exempt.</p>
<p>Section 23E.28.100 Transportation Services Fee</p>		

Table 2: Other Applicable Zoning Standards from BMC Sub-Title 23B Ordinance Administration, 23C General Provisions Applicable in All Districts, and 23E Provisions Applicable in All Non-Residential Districts		
<p>A Transportation Services Fee (TSF) may be required for all new construction of gross floor area in commercial and manufacturing Districts, pursuant to resolution of the Council.</p>	<p>TBD</p>	<p>To the extent TSF has been adopted and is applicable to the project, the applicant acknowledges that it will comply with any such requirement. NOT APPLICABLE. No fee required.</p>
<p>Section 23E.28.140 Required Findings for Parking Reductions Under Section 23E.28.130 for C Districts</p>		
<p>A. In order to approve any Permit under this chapter, the Zoning Officer or Board must make the findings required by Section 23B.28.050 and/or 23B.32.040 as applicable, in addition to any findings required in this section to the extent applicable</p>	<p>Does not apply pursuant to SB 35. Under SB 35, projects that comply with objective standards cannot be required to obtain a discretionary use permit. <i>See</i> Gov. Code § 65913.4(a).</p> <p>The applicable findings under this section of the Zoning Ordinance are not objective standards.</p>	<p>Not applicable. NOT APPLICABLE. Project exempt.</p>
<p>B. To approve any reduction of the off-street parking spaces under Section 23E.28.130, or under other sections that refer to this section, the Zoning Officer or Zoning Adjustments Board must find that the reduction will not substantially reduce the availability of on-street parking in the vicinity of the use. The Zoning Officer or Board must also find that at least one of each of the two groups of conditions below apply:</p> <p>1. a. The use is located one-third of a mile or less from a Bay Area Rapid Transit (BART) station, intercity rail station or rapid bus transit stops; or</p> <p>b. The use is located one-quarter of a mile or less from a publicly accessible parking facility, the use of which is not limited to a specific business or activity during the use's peak parking demand; or</p>	<p>Does not apply pursuant to SB 35. Under SB 35, projects that comply with objective standards cannot be required to obtain a discretionary use permit. <i>See</i> Gov. Code § 65913.4(a).</p>	<p>Not applicable. NOT APPLICABLE. Project exempt.</p>

Table 2: Other Applicable Zoning Standards from BMC Sub-Title 23B Ordinance Administration, 23C General Provisions Applicable in All Districts, and 23E Provisions Applicable in All Non-Residential Districts

<p>c. A parking survey conducted under procedures set forth by the Planning Department finds that within 500 feet or less of the use, on non-residential streets, at least two times the number of spaces requested for reduction are available through on-street parking spaces for at least two of the four hours of the use’s peak parking demand; or</p> <p>d. The use includes one of the following neighborhood-serving uses: Retail Products Store(s), Food Service Establishments, and/or Personal/Household Service(s). These uses include, but are not limited to: Dry Cleaning and Laundry Agents, Drug Stores, Food Products Stores, Household Items Repair Shops, and/or Laundromats; and</p> <p>2. a. The parking requirement modification will meet the purposes of the district related to improvement and support for alternative transportation, pedestrian improvements and activity, or similar policies; or</p> <p>b. There are other factors, such as alternative transportation demand management strategies or policies in place, that will reduce the parking demand generated by the use.</p> <p>C. To approve any modification of the parking requirements, unrelated to the number of spaces, under Section <u>23E.28.130</u> or under other sections that refer to that section, the Zoning Officer or Zoning Adjustments Board must find that the parking requirement modification allows the continued use of an existing parking supply and that meeting the parking requirements is not financially feasible or practical.</p>		<p>NOT APPLICABLE. Project exempt.</p>
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Table 3: Chapter 23C.12 Inclusionary Housing Requirements		
Provision	Applicability	Compliance
Section 23C.12.030 General Inclusionary Requirement: 20% of Units		
<p>A. Any project subject to this chapter is required to include at least 20% of the total number of Dwelling Units within the project as Inclusionary Units, except that Limited Equity Cooperatives are required to include at least 51% of their units as Inclusionary Units.</p> <p>B. In applying the percentages above, any decimal fraction above a whole number of Dwelling Units shall be paid as an in-lieu fee.</p> <p>C. For the purpose of determining the median income levels for Households under this chapter, the City shall use the Oakland Primary Metropolitan Statistical Area (PMSA) statistical figures that are available to the City from the most recent U.S. Census.</p>	Applicable objective standard.	<p>The project will provide 99% of units at below-market rates, based on income levels for the Oakland PMSA. See Applicant Statement.</p> <p>NOT APPLICABLE. The project is an affordable housing project with units for rent, and no market rate units. This Inclusionary Housing ordinance does not apply to the project.</p>
Section 23C.12.035: Payment of In-Lieu Fees as an Alternative to Providing Inclusionary Units within a Project		
Subsection A through F	By providing more than 10% of its units for Low and more than 10% of its units for Very Low-Income households, the Project is exempt from the City's affordable housing mitigation fee.	Not applicable. NOT APPLICABLE.
Section 23C.12.040: Requirements Applicable to all Inclusionary Units		
<p>A. All Inclusionary Units other than those in Limited Equity Cooperatives shall be sold to the City or its designee or to Low Income, Lower Income or Very Low Income Households or shall be rented to Households of similar incomes. Units in Limited Equity Cooperatives shall be sold or rented to Households whose gross incomes do not exceed 120% of the Oakland PMSA median.</p>	Applicable objective standard.	<p>The project will rent all inclusionary housing units to households with incomes below 60% of AMI, thereby exceeding the 120% threshold.</p> <p>NOT APPLICABLE.</p>

Table 3: Chapter 23C.12 Inclusionary Housing Requirements		
<p>B. The applicant shall execute a written agreement with the City indicating the number, type, location, approximate size and construction schedule of all Dwelling Units and other information as required for determining compliance with this chapter.</p>	<p>Applicable objective standard.</p>	<p>The project will enter into a regulatory agreement with the City indicating the number, type, location, approximate size and construction schedule of all dwelling units.</p> <p>NOT APPLICABLE.</p>
<p>C. All Inclusionary Units in a project and phases of a project shall be constructed concurrently with, or prior to, the construction of non-inclusionary units.</p>	<p>Applicable objective standard.</p>	<p>All dwelling units (except for the Manager's Unit) are below-market rate and therefore qualify as "inclusionary" units and will be constructed as part of one phase of development. The Manager's Unit will not come on line before the BMR units.</p> <p>NOT APPLICABLE.</p>
<p>D. All Inclusionary Units shall be reasonably dispersed throughout the project, be of the same size and contain, on average, the same number of bedrooms as the non-Inclusionary Units in the project; and be comparable with the design or use of non-inclusionary units in terms of appearance, materials and finish quality.</p>	<p>Applicable objective standard.</p>	<p>All dwelling units are below-market rate and therefore qualify as "inclusionary" units with the exception of the single manager's unit.</p> <p>NOT APPLICABLE.</p>
<p>E. In projects where the calculation of the inclusionary requirement results in a fraction of a unit, such a fraction shall be paid in the form of an in-lieu fee to the City.</p> <p>1. The in-lieu fee shall be the fractional value of the difference between development cost (excluding marketing costs and profit) and actual sales price for the average comparable unit in projects, where Government Code Section 65915 does not apply, and the difference between affordable cost for an appropriately-sized household and the fractional value of the average</p>	<p>All inclusionary units will be provided on site, as part of the project. Therefore this code section does not apply.</p>	<p>Not applicable.</p> <p>NOT APPLICABLE.</p>

Table 3: Chapter 23C.12 Inclusionary Housing Requirements		
<p>comparable actual sales price for the fraction of the unit in projects where Government Code Section <u>65915</u> does apply to require a Density Bonus or equivalent incentive.;</p> <p>2. The in-lieu fee shall be used by the City or its designee (such as a non-profit housing development corporation), to provide, construct or promote the creation or retention of low income housing in the City. The use of in-lieu fees for specific housing programs shall be brought before the Housing Advisory and Appeals Board for review and approval.</p>		
<p>F. Where the applicant demonstrates, and Staff concurs, that the direct construction and financing costs of the Inclusionary Units, excluding marketing cost and profit (and also excluding land costs if a Density Bonus or equivalent incentive is provided), exceed the selling prices allowed for Inclusionary Units by this chapter, the Board may approve one or more of the following measures to reduce costs or increase profitability:</p> <p>1. Reduction of the floor area or in the interior amenities of the Inclusionary Units, provided that such units conform to applicable building and housing codes;</p> <p>2. An increase in the number of bedrooms in the Inclusionary Units;</p> <p>3. In a home ownership project, construction of rental units in a number required to meet the inclusionary provisions of this chapter applicable to rental housing projects;</p> <p>4. Waiving of the in-lieu participation fees for fractions of units.</p>	<p>Not an objective standard and the project does not seek such relief.</p>	<p>Not applicable. NOT APPLICABLE.</p>
<p>Section 23C.12.050: State of California Density Bonus Requirements</p>		

Table 3: Chapter 23C.12 Inclusionary Housing Requirements		
<p>A. The City shall grant a density increase of at least 25% over the otherwise allowable maximum residential density permitted by this Ordinance and the General Plan in effect when the application for the development was determined to be complete, and at least one of the concessions or incentives set forth in Government Code Section <u>65915(h)</u>; unless the decision maker makes a written finding that the additional concession or incentive is not required in order to provide for affordable housing costs as defined in Health and Safety Code Section <u>50052.5</u>, or for rents for the targeted units to be set as specified in Government Code Section <u>65915(c)</u>; or the City shall provide other incentives of equivalent financial value based on the land cost per Dwelling Unit; if an applicant agrees, or proposes, to construct at least one of the following three alternatives to comply with Density Bonus requirements:</p> <ol style="list-style-type: none"> 1. Twenty percent of the total units of a housing development for lower income Households, as defined in Health and Safety Code Section <u>50079.5</u>; or 2. Ten percent of the total units of a housing development for very low-income Households, as defined in Health and Safety Code Section <u>50105</u>; or 3. Fifty percent of the total Dwelling Units of a housing development for qualifying residents, as defined in Civil Code Section 51.3. 	<p>Applicable objective standard.</p>	<p>The proposed project provides more than 99% of its units affordable at 60% AMI or less. The proposed project is subject to three different affordable unit criteria. SB 35 requires 50% of units to be dedicated affordable units, and the project's compliance with that criterion insures that it meets the requirements of State Density Bonus Law, which require 20% of units to be affordable to lower income households and the City's inclusionary housing requirements which require a mix of units affordable to low (10%) and very-low (20%) income households.</p> <p>NOT APPLICABLE.</p>
<p>B. For purposes of this chapter, the Density Bonus shall not be included when determining the number of housing units which is equal to 10% or 20% of the total.</p>	<p>Applicable objective standard.</p>	<p>The Density Bonus units are not included in the calculation of additional floor area. See Sheet AO.DB3 for details.</p> <p>NOT APPLICABLE.</p>

Table 3: Chapter 23C.12 Inclusionary Housing Requirements		
The Density Bonus shall apply to housing developments consisting of five or more Dwelling Units.		
C. The use of a Density Bonus is preferred over other types of concessions or incentives. Incentives may include, but are not limited to, fee deferments and waivers, granting of Variances, relaxation of otherwise applicable Permit conditions and provision of government benefits.	Does not apply pursuant to SB 35 – non-objective standards.	Not applicable. NOT APPLICABLE.
D. If the Density Bonus or equivalent incentive granted is above 25%, the applicant shall agree to a cost certification process.	Does not apply pursuant to SB 35 – non-objective standards.	Not applicable. The City may not require more information for a density bonus entitlement than is allowed by GC Sec. 65915. GC Sec. 65915 does not provide for any requirement to “cost certify” any density bonus allowance, which permits up to 35% bonus. NOT APPLICABLE.

Section 23C.12.060: Inclusionary Unit Requirements for Rental Housing Projects		
A. All Inclusionary Units shall be occupied by Low, Lower or Very Low Income Households.	Applicable objective standard.	The project will rent all inclusionary housing units to households with incomes below 60% of AMI. Therefore, all Inclusionary Units will be occupied by Low, Lower or Very Low-Income Households. NOT APPLICABLE.
B. The maximum rental price for Inclusionary Units shall be affordable, as set forth in Section E below, to an appropriate-sized Household whose income is 81% of the Oakland PMSA median.	Applicable objective standard.	The maximum rental price for inclusionary units will be as set forth in Section E below, to an appropriate-sized Household whose income is 80% of the Oakland PMSA median, or less. NOT APPLICABLE.

Table 3: Chapter 23C.12 Inclusionary Housing Requirements		
<p>C. In projects requiring more than one Inclusionary Unit, at least 50% of those units shall be rented at a price that is affordable to Low- or Lower-Income Households, provided that the City can make available rental subsidies through the federal Section 8 Existing Housing Program or an equivalent program. When there is an uneven number of Inclusionary Units, the majority of units shall be priced to be affordable to a Household at 50% of median income if subsidies are available. If no rental subsidies are available, all Inclusionary Unit prices shall be affordable to Households at 81% income of the Oakland PMSA median.</p>	<p>Applicable objective standard.</p>	<p>Approximately 75% of inclusionary housing units will be rented to very low-income households and 24% to low income households. NOT APPLICABLE.</p>
<p>D. If an applicant agrees to provide 10% Lower Income Inclusionary Units, the rental price for such units shall be affordable to a Household with income that is 60% of the Oakland PMSA median.</p>	<p>Applicable objective standard.</p>	<p>The maximum rental price for lower income units shall be affordable to a household with income that is 60% of the Oakland PMSA median. The project proposes more than 99% of units affordable at 60% AMI or less. NOT APPLICABLE.</p>
<p>E. A unit shall be considered affordable if the rent (including utilities) does not exceed 30% of a Household's Gross Income.</p> <ol style="list-style-type: none"> 1. Gross Household Income and utility allowance shall be calculated according to the guidelines used by the Berkeley Housing Authority for the federal Section 8 Existing Housing Program; 2. For purposes of calculating rent, appropriate Household size shall be determined by using the schedule contained in the administrative regulations developed for this chapter. 	<p>Applicable objective standard.</p>	<p>Noted. Project will comply subject to a regulatory agreement with the City. NOT APPLICABLE.</p>

Table 3: Chapter 23C.12 Inclusionary Housing Requirements		
F. Dwelling Units designated as Inclusionary Units shall remain in conformance with the regulations of this section for the life of the building.	Applicable objective standard.	Noted. Project will comply subject to a regulatory agreement with the City NOT APPLICABLE.
G. The City or its designee shall screen applicants for the Inclusionary Units and refer eligible Households of the appropriate Household size for the unit. For purposes of occupancy, the appropriate Household size standards used by the Housing Authority for the federal Section 8 Existing Housing Program or any future equivalent program shall be used. The applicant or owner shall retain final discretion in the selection of the eligible Households referred by the City.	The federal Section 8 Existing Housing Program standards for housing size represents an applicable objective standard.	Noted. Project will comply subject to a regulatory agreement with the City. NOT APPLICABLE. .
H. The owner shall provide the City with data on vacancies and other information required to insure the long-term affordability of the Inclusionary Units by eligible Households.	Applicable objective standard.	Noted. Project will comply subject to a regulatory agreement with the City NOT APPLICABLE. .
23C.12.070 Inclusionary Unit Requirements for Ownership Projects		
Subsection A through F	All inclusionary units that meet the requirements of Section 23C.12 will be rental units. No ownership units are proposed. Therefore, this code section does not apply.	Not applicable NOT APPLICABLE.

Table 4: Miscellaneous BMC Subsections		
Provision	Applicability	Compliance
Chapter 14.48 Miscellaneous Use of Streets and Sidewalks		
<p>14.48.180 Decorative noncommercial installations. Decorative noncommercial installations subject to the following regulations and requirements:</p> <p>A. At least six feet of improved sidewalk area measured at right angles to the curb shall be kept open and unobstructed.</p> <p>B. Such decorative noncommercial installations shall be placed and maintained in the portion of the sidewalk area farthest from the curb; provided, however, that subject to all other conditions herein specified, such installations may be placed and maintained in the portion of the sidewalk area adjacent to the curb if such installations will not interfere with access to or from any parked vehicle and are:</p> <ol style="list-style-type: none"> 1. Not closer than twenty-five feet to any curb return or fire hydrant; 2. Not located adjacent to any commercial or passenger loading zone; 3. Not closer to the curb than eighteen inches; 4. Not affixed to any City or utility company-owned poles or appurtenances; 5. Not mounted in or affixed to the sidewalk; 6. Not inconsistent with safety, development in the area, or other decorative noncommercial installations. <p>C. No decorative noncommercial installation shall be placed or maintained in the sidewalk area without a permit therefor. Application for such permit shall be made to the office of the City Manager, who may require as part of the application such information as may be deemed necessary to determine compliance with this Section and other applicable laws and regulations, including but not limited to a scaled site plan, signature of the fronting property owner and permittee, and agreement to indemnify</p>	<p>Applicable objective standard.</p>	<p>See attached plan set. The project will comply with Engineering and Building Code regulations for site development as required at the time of the Building Permit.</p> <p>Project will be reviewed by the Building and Safety Division during Building Permit plan check.</p>

Table 4: Miscellaneous BMC Subsections		
<p>the City as specified in Subsection D. The application shall be referred to the Public Works Department and the Civic Art Commission for review to determine that it is in the public interest to grant the permit, and that the granting thereof will not be detrimental to the public health, safety or general welfare. The permit shall not be granted without the approval of both the Public Works Department and the Civic Art Commission. If such approval is given and the City Manager concurs, the permit shall be granted subject to the conditions hereinabove set forth, and such additional conditions as may reasonably be imposed. Such permit shall be subject to revocation by the City Manager without cause and revocation; the decorative noncommercial installation for which the permit has been given shall be removed within ten days after notice.</p> <p>D. Anyone granted a permit for a decorative noncommercial installation shall agree to indemnify and hold harmless the City, its officers and employees of and from any and all claims, damages or suits that may arise or in any way be occasioned by the granting of the permit or the maintenance of the decorative noncommercial installation permitted thereby.</p> <p>1. The permittee shall carry liability insurance in the amount of \$500,000.</p> <p>E. For purposes of this Chapter, "Decorative Noncommercial Installations" shall include but are not limited to artwork, planters, and other objects that are placed within the public right-of-way by a private party for the purpose of decoration in a residential, commercial, or industrial district, not for the purpose of advertising, commerce or other economic benefit.</p>		<p>Project will be reviewed by the Building and Safety Division during Building Permit plan check.</p>
<p>Chapter 16.04.070 Construction materials and specifications--Sidewalks and parking strips and parking steps.</p>		
<p>A. Definitions. As used herein, "parking strip" means the area between the back of the curb and front of the sidewalk, and</p>	<p>Applicable objective standard.</p>	<p>The project will comply with Engineering and Building Code</p>

Table 4: Miscellaneous BMC Subsections		
<p>"parking step" means the pedestrian walkway within the parking strip.</p> <p>B. Materials. Sidewalks and parking steps shall be wood-float-finished concrete, heavy-broom-finished concrete or paving bricks imbedded in concrete of a suitable abrasive surface to provide pedestrian safety and convenience. Other material may be used only with the special written permission of the Director of Public Works.</p> <p>C. Color.</p> <p>1. Concrete. Concrete color will be that obtained by adding three-quarters of a pound of lampblack per cubic yard of Portland cement concrete, except in those cases where other color is authorized by the Director of Public Works in the reasonable exercise of his discretion.</p> <p>2. Paving Brick. Paving-brick color will be that authorized by the Director of Public Works in the reasonable exercise of his discretion.</p> <p>D. Concrete Finish. Concrete finish shall be wood-float-finished or heavy-broom-finished, as indicated on the permit.</p> <p>E. Tree Wells. The director of public works may prescribe or authorize tree wells in parking strips after due consultation with the Director of Recreation and Parks. Prescribed or authorized tree wells shall be indicated on the permit.</p>		<p>regulations for site development at the time of the Building Permit.</p> <p>Project will be reviewed by the Building and Safety Division during Building Permit plan check.</p>
<p>Chapter 16.04.080 Construction materials and specifications--Driveway approaches, curbs and curbs and gutters.</p>		
<p>A. Materials. Driveway approaches, curbs or curbs and gutters shall be portland cement concrete.</p> <p>B. Concrete Color. Concrete color will be that obtained by adding three-quarters of a pound of lampblack per cubic yard of portland cement concrete, except in those cases where other color is authorized by the Director of Public Works in the reasonable exercise of his discretion.</p> <p>C. Concrete Finish. Concrete finish shall be wood-float-finished or heavy-broom-finished, as indicated on the permit.</p>	<p>Applicable objective standard.</p>	<p>The project will comply with Engineering and Building Code regulations for site development at the time of the Building Permit.</p> <p>Project will be reviewed by the Building and Safety Division during Building Permit plan check.</p>

Table 4: Miscellaneous BMC Subsections		
Chapter 16.06.020 Improvements required when		
<p>New curb, combined curb and gutter, and sidewalks shall be installed in the public right-of-way contiguous to any property where new structures are erected, or where additions, alterations and rehabilitations exceeding fifty percent of the replacement value of the building as it exists prior to alteration are made, and either of the following conditions exist:</p> <p>A. Curb, combined curb and gutter, or sidewalk are constructed in front of properties constituting more than fifty percent of the front footage of the block in which they are located;</p> <p>B. The nature or the effect of the new construction would cause a hazard to an abutting property or to the adjacent public right-of-way if curb, combined curb and gutter or sidewalk were not installed.</p>	<p>Applicable objective standard.</p>	<p>The project will comply with Engineering and Building Code regulations for site development at the time of the Building Permit.</p> <p>Project will be reviewed by the Building and Safety Division during Building Permit plan check.</p>
Chapter 16.28.040 Size and placement of numbers.		
<p>All numbers shall be at least two inches in height and placed upon or immediately above the entrance or entrances to the building; provided, however, where such location is impractical numbers may be placed in other locations but must be visible. All numbers must be placed so as to be readily seen from the street by persons approximately in front of the building or house to which the numbers apply.</p>	<p>Applicable objective standard.</p>	<p>The project will comply with Engineering and Building Code regulations for site development at the time of the Building Permit.</p> <p>Project will be reviewed by the Building and Safety Division during Building Permit plan check.</p>
Chapter 19.28 Berkeley Building Code		
<p>Various subsections</p>	<p>Potentially applicably standards.</p>	<p>Compliance with this section of the Code will be reviewed as part of the building permit process.</p> <p>Project will be reviewed by the Building and Safety Division during Building Permit plan check.</p>
Chapter 20.24.030 Number of on-premises signs permitted on premises		

Table 4: Miscellaneous BMC Subsections		
<p>In addition to temporary signs, the number of on-premises signs on premises in commercial districts is limited to:</p> <p>A. On premises with one street frontage, any combination of two of the following: one wall sign, one projecting sign, one ground sign, one roof sign, one marquee sign, one moving sign.</p> <p>B. On premises with more than one street frontage, for each additional street frontage any combination of two of the following: one wall sign, one projecting sign, one marquee sign, one moving sign.</p> <p>C. An unlimited number of on-premises signs with a sign area of eight square feet or less within the business premises, to direct customers of the business within the business premises.</p>	<p>Applicable objective standard.</p>	<p>The project will seek approval for signage under separate permit at a later date.</p> <p>Project will undergo Sign Review when SR application is submitted at later date.</p>
<p>Chapter 20.24.040 On-premises signs—Allowable sign area limitations.</p>		
<p>Except as otherwise provided in Section 20.24.050 and Chapter 20.36, the allowable sign area of on-premises signs in commercial districts shall be subject to the provisions of Chapter 20.16 and the following limitations:</p> <p>A. The sign area of ground signs shall be limited to one square foot for each linear foot of street frontage of the premises or two hundred (200) square feet, whichever is less;</p> <p>B. The sign area of projecting signs shall not exceed ten (10) percent of the building face of the premises or one hundred fifty (150) square feet, whichever is less;</p> <p>C. The sign area of wall signs shall not exceed fifteen (15) percent of the building face of the premises or one hundred fifty (150) square feet, whichever is less;</p> <p>D. The sign area of roof signs shall not exceed ten (10) percent of the building face of the premises or one hundred (100) square feet, whichever is less;</p>	<p>Applicable objective standard.</p>	<p>The project will seek approval for signage under separate permit at a later date.</p> <p>Project will undergo Sign Review when SR application is submitted at later date.</p>

Table 4: Miscellaneous BMC Subsections		
<p>E. The area of on-premises signs permitted under Section 20.24.030.C shall not be counted against the allowable sign area of on premises signs;</p> <p>F. As used in this section, "building face" means the product in square feet of the frontage of the building premises and the exterior height of the building premises. (Ord. 7120-NS § 10 (part), 2009: Ord. 6474-NS § 21, 1999: Ord. 6424-NS § 1 (part), 1998)</p>		<p>Project will undergo Sign Review when SR application is submitted at later date.</p>
<p>Chapter 20.60.020 Incombustible material required.</p>		
<p>Every electric sign shall be constructed of incombustible material.</p>	<p>Applicable objective standard.</p>	<p>The project will seek approval for signage under separate permit at a later date.</p> <p>Project will undergo Sign Review when SR application is submitted at later date.</p>

Table 5: Downtown Area Plan	
<i>SB 35 only permits jurisdictions to apply "objective zoning standards and objective design review standards" that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal." Gov. Code § 65913.4(a)(5).</i>	
Provision	Downtown Area Plan Conformance
<p>Downtown Area Plan Policies: The General Plan also calls for implementation of the Downtown Area Plan. The Plan identifies the project sites as a Buffer area to provide a transition between the more intense development Downtown and the residential neighborhood to the north of the site. The Plan also identifies the site as a Potential Opportunity Site.</p>	
<p>Policy ES- 4.1: Energy and Environmental Performance. Require environmentally sustainable "green" building with public benefits in all cases, except when "green standards" would discourage historic rehabilitations or adaptive reuse of existing buildings. Promote highly energy-efficient buildings and on-site energy generation through design and construction techniques. Buildings should have exceptional environmental performance across the full spectrum of concerns (as described in Policies ES-4.2 to S-4.9). Coordinate Downtown initiatives with citywide provisions.</p> <p>a) Require energy performance of LEED Gold or equivalent in all new non-UC buildings and substantial additions, except for historic rehabilitations and adaptive re-use of existing buildings. (LEED is the US Green Building Council's "Leadership in Energy and Environmental Design" program.) Provide incentives and programs for even greater energy and environmental performance, with LEED Platinum as a goal. Allow projects that are LEED Platinum, and "net-zero" projects that generate as much energy as they use, to defer building permit fees.</p> <p>b) Meet Title-24 energy requirements and any local green standards adopted by Council. Require commercial properties to use management</p>	<p>The project will utilize the GreenPoint Rating System as authored by Build-It Green to achieve the GreenPoint equivalent of LEED Gold. The project will meet all Title 24 energy requirements, as mandated by law.</p> <p>COMPLIANT.</p>

Table 5: Downtown Area Plan	
<p>tools that track building energy use and benchmark performance. Energy efficiency provisions should vary by building type, in recognition of the unique opportunities and constraints associated with each.</p> <p>Describe preferred development practices through amendments to the Downtown Design Guidelines. Factors to consider include but are not limited to:</p> <ul style="list-style-type: none"> - reuse of buildings or portions of buildings; - super insulated walls, windows, and doors; - daylighting interiors; - passive solar heating; - efficient appliances and equipment; - making the use of stairways a more inviting alternative to the use of elevators; - “smart-metering” to capture detailed energy usage information about a building or unit, and communicate it to occupants; and - credit for energy performance features not recognized by Title 24 - such as the use of natural ventilation and providing on-site renewable energy generation.... 	
<p>Policy ES-6.1: Recycling & Reuse. Maximize recycling and reuse opportunities for residents, workers, visitors, businesses, and institutions.</p> <p>a) Require on-site recycling services with sufficient space for receptacles, in all new construction, substantial additions, and substantial renovations, except for historic rehabilitation and adaptive re-use...</p>	<p>The project’s trash and recycling needs have been sized as directed by meetings with Solid Waste Division staff and are shown in the attached plans. Any additional needs will be addressed at the Building Permit stage.</p> <p>Project will be reviewed for compliance by the Zero Waste Division during Building Permit plan check.</p>
<p>Policy LU-2.1: Contributions Required of All Development. New buildings and substantial additions, regardless of height, shall provide the following public benefits, except as noted for historic rehabilitations and adaptive re-use of existing buildings.</p> <p>a) Green Buildings (see policies under Goal ES-4).</p> <ul style="list-style-type: none"> - Meet LEED Gold or equivalent. 	<p>a) Green Buildings</p> <ul style="list-style-type: none"> • The project will utilize the GreenPoint Rating System as authored by Build-It Green to achieve the equivalent of LEED Gold. • The project will meet Title 24 requirements, this standard will be addressed at Building Permit stage. <p>Project will be reviewed for compliance by the Land Use Planner during Building Permit plan check.</p>

Table 5: Downtown Area Plan

- Meet Title-24 energy requirements and any local green standards adopted by Council.
- Provide on-site recycling services.

b) Open Space and Green Infrastructure (see also Streets and Open Space chapter).

- Pay an impact fee to fund the Streets and Open Space Improvement Plan (SOSIP).
- Provide on-site open space. On-site open space requirements may be reduced by paying an in lieu fee to be applied toward Downtown SOSIP improvements.
- Ensure no new net water runoff on-site or through in lieu payment for Downtown improvements (see policies under Goal ES-5).

c) Alternative Transportation (see policies in Access chapter).

- Provide car sharing opportunities.
- Provide on-site bike parking.
- Provide transit passes for project's residents and/or employees.
- Make pretax transit commuter benefits available to residents and/or employees.
- Parking spaces shall be rented separate from dwelling units.
- Residents in new downtown buildings shall be ineligible for Residential Preferential Parking permits.
- Pay a fee for Downtown SOSIP improvements.
- Provide on-site parking. Required parking may be reduced by paying into a fund to provide enhanced transit services, which may be contained within the Streets and Open Space Improvement Plan. (See Policy AC-1.3.)

d) Housing and Community Services (see policies in Housing and Community Health & Services chapter).

- Pay an affordable housing mitigation fee and/or provide affordable housing per City policy.
- Pay child care mitigation fee.

- The project will provide on-site recycling services as shown in that attached plans.

Project will be reviewed for compliance by the Zero Waste Division during Building Permit plan check.

b) Open Space and Green Infrastructure

- The proposed project has a requested a waiver pursuant to State Density Bonus Law for its remainder open space, therefore no additional open space is required, and no fee may be assessed

NOT APPLICABLE. Meets UOS requirements with Density Bonus concession. No fee required.

c) Alternative Transportation

- Parking is not proposed for the project nor is it required pursuant to SB 35 because of the project's proximity to BART and transit. The project has demonstrated compliance, with the balance of the transportation standards listed in the zoning conformance items in the above table.

Parking is NOT APPLICABLE. Bike parking is provided. Residents will be ineligible for RPP. Applicant has agreed to provide unlimited transit passes or equivalent transit benefit. Project will be reviewed for compliance by the Land Use Planner during Building Permit plan check.

d) Housing and Community Services

- The project is more than 99% below market rate housing and is exempt from the City's housing mitigation fee as described above and in the Applicant Statement. The project does not propose new commercial floor area so it is exempt from the Childcare mitigation fee.

Affordable housing mitigation fee is NOT APPLICABLE. See page 4, Objective Standards Table Addendum. Child care mitigation fee is NOT APPLICABLE - commercial area is 4,688 SF, less than the 7,500 SF threshold.

Table 5: Downtown Area Plan	
<p>e) Before new zoning provisions for new building heights are adopted, specific requirements will be defined in the context of citywide provisions and returned to City Council for approval.</p> <p>f) At the recommendation of the Landmarks Preservation Commission and at the discretion of the Zoning Adjustments Board, requirements may be waived to encourage the adaptive reuse of older buildings. Also consider zoning provisions to define thresholds where substantial renovations and substantial additions to existing buildings may be exempt (see Policies ES-4.1, LU-4.3, HD-4.2 and HD-4.3).</p> <p>g) The applicable public benefit requirements shall be included as conditions of approval and the owner shall enter into a written agreement that shall be binding on all successors in interest.</p>	<p>NOT APPLICABLE.</p>
<p>Policy LU-2.4: Developer Contributions for Open Space. New development shall help pay for streetscape and public open space improvements and maintenance.</p> <p>a) Adopt a Streets and Open Space Improvements Fee for recreation and open space and dedicate it to improvements in the Streets and Open Space Improvement Plan (SOSIP) and consistent with California law.</p> <p>b) Developers shall provide adequate on-site open space for public use at street-level and for capturing run-off or pay an in-lieu fee for public open space improvements. Street-level open space requirements are in addition to private open space requirements for occupants of residential projects (see policies in Goals ES-5 and OS-1 to 3).</p> <p>c) Require developers to make improvements to abutting streets as a condition for approval. Required improvements should conform to the SOSIP.</p> <p>d) Contributions from institutional and nonprofit uses should be pursued in a manner consistent with requirements on all projects developed by “nonprofit” institutions.</p> <p>e) See Policy ED-12.1 – Revenues for Downtown, regarding revenue for Downtown streetscape and open space improvements.</p>	<p>As described above the project provides on-site open space and publicly accessible open space. It is subject to a concession pursuant to state density law for the balance of the open space required but not provided on site. Pursuant to state law the project is not subject to in lieu fees for open space reductions because the concession that is requested eliminates the requirement.</p> <p>NOT APPLICABLE. Meets Usable Open Space requirements with Density Bonus concession. No fee required.</p>

Table 5: Downtown Area Plan	
<p>f) Coordinate developer contributions with other funding opportunities and priorities.</p>	
<p>Policy LU-7.2: Transitions. Avoid abrupt transitions between residential-only neighborhoods and development projects built in Corridor and Buffer areas.</p> <p>a) Zoning provisions should be developed so that projects that are across the street from residentially-designated parcels respect the predominant scale of existing buildings on the confronting block. For projects that abut or confront residentially designated property, the new building should not exceed 45 feet at the sidewalk or 60 feet where a 10-foot “stepback” is provided (see Table LU-1).</p> <p>b) No project should exceed 60 feet within 40 feet of any residentially designated property (see Figure LU-1). The required depth of this “stepback” shall be evaluated and determined as Zoning provisions are revised, and be sufficient for mitigating significant shadow and privacy impacts on abutting residentially zoned parcels.</p>	<p>The project provides multifamily residential uses in a transition zone between commercial development fronting University and Shattuck Avenues, and abutting multifamily residential development across Berkeley Way.</p> <p>Consistent with State Density Bonus Law regulations, the project is entitled to a waiver for increased building height, above the height limit established by the CMU zoning district.</p> <p>NOT APPLICABLE. Project is exempt due to waivers and concessions granted under Density Bonus law.</p>
<p>Policy AC-4.1: Transit Priority. Promote transit as the primary mode for commuting to and from Downtown, and give transit priority over personal vehicles. Encourage use of transit by area businesses, institutions, and residents. The City strongly supports improved local and regional transit service to and from Downtown.</p> <p>a) Require that new development provides bus passes and promotes use of alternative modes (see Policies LU-2.1 and AC-1.3)...</p>	<p>Applicant has agreed to provide unlimited transit passes or equivalent transit benefit. Project will be reviewed for compliance by the Land Use Planner during Building Permit plan check.</p>
<p>Downtown Berkeley Design Guidelines: The design guidelines implement the objectives and policies of the Historic Preservation and Urban Design chapter of the Berkeley Downtown Area Plan. First adopted in 1993, the guidelines were updated in 2012 following adoption of the Downtown Area Plan.</p>	

Table 5: Downtown Area Plan

<p>Facades #7: The facades of Downtown's historic buildings are comprised of load-bearing walls and frames, the limits of which give similar scale and expression. Maintain the typical rhythm of structural bays and enframed storefronts of 15-30 feet spacing at ground level, in order to enhance visual continuity with existing buildings and pedestrian scale. Curtain walls, if used, should be designed with rhythm, patterns and modulation to be visually interesting.</p>	<p>The ground-floor elevation along Berkeley Way is characterized by a combination of recesses, continuous storefront bays, and window systems separated by structured bays. The storefront systems extend 28-30 feet, depending on location. COMPLIANT.</p>
<p>Facades #13: Window should comprise 25-50% of upper facades visible from public areas, and should reflect the rhythm, scale, proportion, and detailing of upper windows of Landmark and Significant buildings.</p>	<p>Not applicable. This is not an objective standard. However, as shown in the attached plans the upper floor windows comprise 28% of the façade. The first part of this guideline is objective, and the project is COMPLIANT.</p>
<p>Facades #15: Place storm windows or screens on the interior so window exteriors are not visibly altered.</p>	<p>No screens or storm windows are proposed. NOT APPLICABLE. None proposed.</p>
<p>Storefronts & Entrances #6: Continue the rhythm of 15-30 feet enframed storefront openings at ground level, in order to reinforce visual continuity and pedestrian scale. Large, single tenant spaces must continue this appearance of individual storefronts.</p>	<p>The storefront systems extend 28-30 feet, depending on location. COMPLIANT.</p>
<p>Storefronts & Entrances #7: Except for recessed entries, a majority of the storefront should be at the property line, and other recessed portions should not detract from streetwall continuity.</p>	<p>Not applicable. This is not an objective standard. However, the majority of the ground-floor elevation is built to the property line. The 16-foot setback provides for the publicly-accessible ground floor open space. It also creates a recess that provides visual relief for the 323-foot length of the property and distinction between the two components of the building (i.e., BRIDGE vs. BHFP entrances), while maintaining the continuity of the streetwall. The first part of this guideline is objective, and the project is COMPLIANT.</p>
<p>Storefronts & Entrances #8: Design storefront entrances and windows to maximize the visibility for the interior. At least 75% of storefronts should be transparent, and all doors used by the public should be clear glazed.</p>	<p>Not applicable. This is not an objective standard. The last part of this guideline is objective, and the project is COMPLIANT.</p>

Table 5: Downtown Area Plan	
Materials #8: All glass on ground floors should be clear and nonreflective. Upper floor windows may have lightly tinted, but non-reflective glass. Stained, translucent, or decorative glass may be used for transom windows, and should be used where equipment or ventilation ducts would otherwise be visible. Apply only transparent sun screens or window film to glazing.	Not applicable. This is not an objective standard. The first part of this guideline is objective, and the is COMPLIANT.
Lighting, Security, & Equipment #5: Permanently attached interior or exterior security bars are not allowed.	No exterior security bars are proposed. NOT APPLICABLE. None proposed.
Awnings & Canopies #5: The height of awnings should provide pedestrian scale to the building and meet code requirements. Locate the structural components of awnings at least 8 feet above the sidewalk. Unrestricted valances or returns should be at least 7 feet above the sidewalk, and may project no more than 2/3 of the width of the sidewalk.	Not applicable. This is not an objective standard. However, as shown on Sheet A3.04, proposed entry canopies extend 10 feet above the sidewalk. No valances or awnings are proposed. The last part of this guideline is objective, and the project is COMPLIANT.
Awnings #7: Use matte canvas fabric for awnings; not vinyl, fiberglass, plastic, wood or other unsuitable materials. Glass and metal awnings may be appropriate for some buildings, but must be consistent with the architectural style of the building and the historic character of Downtown.	Entry canopies are aluminum, as appropriate for this multi-family residential development, which does not contain ground-floor retail uses. COMPLIANT.
Canopies #3: Locate canopies at least 8 feet above the sidewalk, and at least 1.5 feet from the curb line.	As shown on Sheet A3.04, proposed entry canopies extend 10 feet above the sidewalk. COMPLIANT.
Frontages, Setbacks, and Height #3: Continue the rhythm of 15-30 foot spacing of structural bays and/or enframed storefronts at ground level, in order to establish visual continuity with existing buildings and create pedestrian scale.	The storefront systems extend 28-30 feet, depending on location, creating visual continuity and interest at the pedestrian level. COMPLIANT.

Table 5: Downtown Area Plan	
<p>Frontages, Setbacks, and Height #4: Design recessed storefront entrances so they do not exceed 50% of the width of the storefront, nor ten feet in depth.</p>	<p>Storefront entrances are not proposed.</p> <p>NOT APPLICABLE. None proposed.</p>
<p>Downtown Streets & Open Space Improvement Plan: The SOSIP establishes a framework for Downtown Berkeley’s public realm, including public parks, plazas, and street rights-of-way.</p>	
<p>Policy 5.2, Tree Palette & Community Character. New trees should be selected in the context of community character and environmental objectives, along with existing conditions such as existing tree species on each street. Street trees make an enormous positive contribution to the character and quality of urban places, especially when they are selected to promote visual congruity, livability and maximize aesthetic benefits.</p> <p>a. Limit trees to those that are appropriate to the Downtown as described in Appendix A, Palette of Appropriate Downtown Street Trees, except where indigenous or other drought resistant alternative would be equivalent. Explore whether indigenous or other drought-resistant alternatives may be available. The Parks/Urban Forestry Division should determine the species for new trees, in consultation with abutting property owners. Recommendations for specific streets appear in Tables h.1 and h.2, Recommended Trees by Street Segment – except for trees selected in conjunction with Major Projects. Tree species have been recommended based on their form, size at maturity, color, texture, seasonal blossoms, and persistence of leaves (evergreen vs. deciduous). Staff may make revisions to these recommendations to address technical concerns, such as tree litter and maintenance costs.</p> <p>Excerpt of Table H.1</p> <hr/> <p>BERKELEY WAY</p>	<p>Not applicable. This is not an objective standard. However the project proposes to conform with these standards based on the design shown in the attached plan set. The Purple Leaf Plum has been selected for the street trees consistent with the City standard.</p> <p>Project will be reviewed for compliance by the City Arborist and Public Works during Building Permit plan check.</p>

Table 5: Downtown Area Plan

Segment	Context	Existing Tree Species	Proposed	
Shattuck to Milvia	Residential	Plum & Black Acacia	Purple Leaf Plum	
<p>Policy 5.3, Tree Location. Use trees to shade and provide a canopy over sidewalks, and over bicycle and vehicle lanes to the extent possible, and to provide a sense of separation between pedestrians and vehicles. New trees should be positioned for public safety and a healthy urban forest. e. While a full and continuous canopy of street trees is desirable, trees should not create unsafe conditions or put utilities at risk. Care should be taken to avoid conflicts between street trees and the use of passenger loading zones, parking for persons with disabilities, and/or bus stops, on a case-by-case basis. A minimum clearance should be provided between street trees and the following elements:</p> <ul style="list-style-type: none"> Intersection: 20 feet Stop sign/signal: 20 feet Streetlight: half of width of mature canopy for species selected Utility box: 5 feet Utility pole: 10 feet Water meter: 5 feet Gas line: 5 feet Sewer: 5 feet Fire hydrant: 5 feet Parking Meter: 5 feet Driveway: 5 feet (commercial driveways may need greater distance) Building drain line: 5 feet Storm drain: 5 feet 				<p>Not applicable. This is not an objective standard. At building permit stage, the project will be designed to comply as closely as possible.</p> <p>Project will be reviewed for compliance by the City Arborist and Public Works during Building Permit plan check.</p>

Table 5: Downtown Area Plan

Policy 5.4, Preparation & Installation.
Trees and associated features should be installed in ways that promote the sustained health of the trees...

c. Installation should follow Parks/Urban Forestry Division standards and guidelines. For residential frontages, planting and maintenance should be provided for using citywide programs and procedures, which are described in Berkeley's "Illustrated Guide to the Street Tree Planting Program" (available at the reference desk of each branch of the Berkeley Public Library).

Where appropriate, trees would be planted in public right of way locations at the properties of residents who request them, to the extent that funding permits. Under this citywide program, abutting residents, agree to follow City procedures including watering the tree for at least three years; keeping the tree well clear of weeds and filled with soil or mulch; and to clean-up all leaf debris...

e. Tree basins (the hole that they are planted in) may have various shapes but should be at least 16 square feet to maintain adequate oxygen and water, and should ideally be 32 square feet. Continuous trenching between tree basins should be used wherever possible, particularly where minimum sized tree basins must be employed....

o. Minimum tree size at planting is a 15-gallon container, and 24-inch box is required when associated with development. The caliper (trunk diameter) of trees to be planted should be a minimum of 3/4 to 1.5 inches for a 15-gallon container, and 1.5 to 2.5 inches for a boxed tree.

Not applicable. This is not an objective standard. At building permit stage, the project will be designed to comply as closely as possible. However, proposed street tree wells are minimum 18 square feet and tree will be 24" box.

Project will be reviewed for compliance by the City Arborist during Building Permit plan check.

Table 5: Downtown Area Plan	
<p>Policy 5.5, Establishment & Maintenance. Trees should be maintained to protect public safety and the health of the tree...</p> <p>d. For higher street-tree survival rates, a responsible party – such as an abutting property owner, community organization, or landscape contractor -- should weed, water and mulch a new tree for the first three years after planting. Newly planted trees must be given approximately 20 gallons of water once a week, especially during warm weather seasons (approximately from March 15 to October 15). The responsible party should also keep grass and weeds out of mulching areas, without damaging the base of the tree.</p> <p>e. Pruning must be coordinated and authorized by the Forestry Section, and should be conducted under the supervision of a Certified Arborist. No branches should extend beyond the tree basin perimeter below 8 feet in height. Tree branches that extend over pedestrian paths of travel should be maintained to provide 8 feet of vertical clearance. Over vehicle lanes, branches should be pruned to provide a 14-foot minimum clearance.</p>	<p>Not applicable. This is not an objective standard. At building permit stage, the project will be designed to comply as closely as possible. Trees will be maintained as required by the City.</p> <p>Project will be reviewed for compliance by the City Arborist during Building Permit plan check.</p>
<p>Policy 9.1, Light Intensities & Distribution. The form and placement of lighting and the quality of light should promote attractive, distinctive and safe environments Downtown. At the same time, lighting should not create a nuisance for residents nor should it needlessly contribute to light pollution (also known as “sky glow”).</p> <p>a. City Standards. Lighting shall meet City standards described in the Municipal Code, including standards for travel lanes. Pedestrian areas should be well lighted, and the light intensity of pedestrian areas should generally exceed City standards. All lighting proposals shall be subject to review and approval by Berkeley’s Department of Public Works...</p> <p>e. Fixture Heights. The height of fixtures and poles should emphasize pedestrian activity to the extent possible, while also providing sufficient illumination for the safety of bicycles and vehicles. Generally, new</p>	<p>Not applicable. This is not an objective standard. At building permit stage, the project will be designed to comply as closely as possible. The project will conform to City light standards for exterior illumination on buildings.</p> <p>Project will be reviewed for compliance by the Public Works during Building Permit plan check.</p>

Table 5: Downtown Area Plan

fixtures should not exceed a height of 16 feet to optimize pedestrian-level lighting and placemaking. To provide sufficient illumination for motorists and bicyclists, taller fixtures should be used at intersections and in select midblock locations, as is determined through technical analysis. At intersections, taller poles should also be used for mounting traffic signals to the extent possible, so that the number of poles is minimized...

h. Glare and Light Pollution. Each light fixture should direct its light toward the areas that it serves. Light fixtures should use “cut-offs” and other devices to shield the light source when seen from upper-story residential units in mixed-use areas. In residential areas, ground floor units should be shielded. Directing light downward also mitigates “sky glow,” the cumulative aesthetic impact from urban light sources. (See also “Placement, Height & Spacing.”)

i. Trees. Nearby trees’ lowest branches should be pruned to a 14-foot minimum over vehicle lanes and an 8-foot minimum over pedestrian paths of travel (see Street Trees & Landscaping chapter). Where frequent light fixtures are called for, a higher minimum may be needed to adequately illuminate streets and sidewalks.

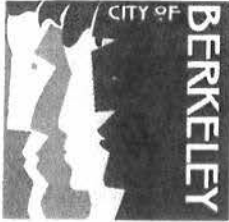
Project will be reviewed for compliance by the Public Works during Building Permit plan check.

BMC/ZO Chapter Section 23C.10 Emergency Shelter Zoning		
23C.10.040 Standards for Emergency Shelters Located in Commercial Districts		
A. No individual or household may be denied emergency shelter because of an inability to pay.	Not applicable. Not an objective standard.	However, no individual or household will be denied emergency shelter because of an inability to pay. NOT APPLICABLE.
B. No emergency shelter shall be located within 300 feet of another emergency shelter, provided that a Use Permit may be obtained to allow a buffer distance less than stated above.	Applicable.	No other emergency shelter is located within 300 feet of the proposed shelter. Therefore, the project complies. COMPLIANT.
C. When abutting a residentially-zoned property all areas for shelter activities and uses, including but not limited to waiting and intake, personal storage, facility storage, and recreation, shall be located indoors.	Applicable.	All areas for shelter activities and uses, including but not limited to waiting and intake, personal storage, facility storage, and recreation, will be located indoors. The outdoor space to be built as part of the overall development will be owned and managed by BRIDGE's 89-unit property and the HOPE Center 53-unit permanent supportive housing property and is not part of the shelter's property nor area for activities and use. Therefore, the project complies. COMPLIANT.
D. The maximum number of beds shall be as set forth in Table <u>23C.10.060</u> ; provided, that a Use Permit may be obtained to allow exceeding the maximum bed count.	Applicable.	The project will not exceed the maximum number of shelter beds set for in Table 23C.10.060; 44 temporary beds are proposed, where up to 60 are permitted in the C-DMU zoning district. Therefore, the project complies. COMPLIANT. The shelter contains 32 beds.
E. Required emergency shelter facilities: 1. An area for onsite client intake equal to 1/4 of the area provided for client beds. This may be a multi-use area. 2. Showers and restroom facilities.	Applicable.	The project includes showers and restroom facilities and an intake area in excess of ¼ of the area provided for client beds. The shelter support facilities and program area account for 76% of the total area dedicated to the shelter, for a ratio of ¾ provided for client beds. Please see plan sheets A2.01A and A2.02A for floor area detail. Therefore, the project complies. COMPLIANT.

<p>F. Optional facility services may include:</p> <ol style="list-style-type: none"> 1. Secure personal storage. 2. Daytime services. 3. Meal services. 4. Communal kitchen. 5. Laundry equipment for clients. 6. Child care. 7. Vehicle and/or bicycle parking. 	<p>Not applicable. Not an objective standard.</p>	<p>However, the project will include a variety of services, consistent with the recommendations of this subsection. See applicant statement (addendum, dated 12/5/18) for details. NOT APPLICABLE.</p>
<p>G. Lighting shall be provided in all exterior areas, including pathways, parking areas, courtyards, rear yard areas, and spaces between structures, and shall be directed in a manner that does not cast light onto neighboring properties.</p>	<p>Not applicable. Not an objective standard.</p>	<p>However, no exterior lighting is proposed that will cast light onto neighboring properties. No exterior lighting currently proposed. Project will be reviewed for compliance by the Land Use Planner during Building Permit plan check.</p>
<p>H. On-site management shall be provided at all times the facility is in operation and at least one hour prior to and after facility operation hours.</p>	<p>Applicable.</p>	<p>On-site management will be provided, consistent with this subsection. There will be two staff per overnight shift between 4 pm and 8 am. There will also be case managers who staggered to provide services seven days a week during afternoon and evening hours. Therefore, the project complies. COMPLIANT.</p>

<p>I. Prior to issuance of a Zoning Certificate the shelter operator shall submit a Shelter Safety and Management Plan. The Plan shall be available to the public upon request and shall address:</p> <ol style="list-style-type: none"> 1. Client congregation outside of the shelter facility in order to prevent queuing within the public right-of-way. 2. Eligibility criteria, enforcement rules, and procedures for disruptive clients. 3. Number and responsibilities of on-site support staff, training standards, other management procedures, and a primary and secondary contact person. 4. Bed bug prevention. 5. Refuse collection. 6. Security procedures. 7. Separation of sleeping areas and restrooms by gender and for families. 8. Consistency with the Alameda County-Wide Homeless Continuum of Care: Health, Safety and Accessibility Standards for Shelter Facilities in Alameda County. 	<p>Applicable.</p>	<p>A Shelter Safety and Management Plan, which addresses subsections 1 through 8, is attached. Therefore, the project complies. COMPLIANT. Plan was reviewed and deemed adequate by Health Housing and Community Services.</p>
<p>J. Prior to issuance of a Zoning Certificate the shelter provider shall provide evidence that a community meeting was held and that all owners and occupants on record with the Alameda County Assessor within a 100 foot radius of the proposed shelter location were notified. A community meeting shall not be required when the target population of the proposed shelter requires privacy due to safety concerns as determined by the Zoning Officer.</p>	<p>Applicable.</p>	<p>The project sponsor will host a community meeting addressing the shelter on December 12, 2018 and noticed to owners and occupants within a 100-foot radius of the shelter site. A flyer for this meeting is attached. Following the meeting a copy of the agenda, minutes, and sign-in sheet will be provided. Therefore, the project complies. COMPLIANT.</p>

BMC/ZO Chapter 23D.04 Lot and Development Standards		
Section 23E.04.020 Useable Open Space		
<p>F. At least 40% of the total area required as usable open space, exclusive of balconies above the first floor, shall be a landscaped area. For multiple dwelling uses, such landscaped areas shall incorporate automatic irrigation and drainage facilities adequate to assure healthy growing conditions for plants.</p>	<p>Applicable objective standard.</p>	<p>The project complies. As shown in the attached plan set, 49% of the Project’s usable open space is landscaped and has automatic irrigation and is drained for healthy growth. COMPLIANT.</p>
BMC Section 22.20.065 Affordable housing mitigation fee		
<p>Subsections A - I</p>	<p>Applicable. By providing more than 10% of its units for Low and more than 10% of its units for Very Low-Income households, the Project is exempt from the City’s affordable housing mitigation fee.</p>	<p>The proposed project affordability satisfies the requirements of this section. NOT APPLICABLE. The project is an affordable housing project with units for rent, and no market rate units. No fee required.</p>
BMC/ZO Chapter 12.34 CURBSIDE REFUSE, ORGANICS, AND RECYCLING COLLECTION		
Section 12.34.020 Garbage, Recycling, and Organics Carts--Location		
<p>B. In instances in which the City determines that curbside collection is impossible due to insufficient room in the gutter or at the curb (an area at least 2 feet by 3 feet square), absence of a parking strip adjacent to the curb, a slope not suitable for carts as determined by the City, or other conditions that compromise collection operations and safety, the City may authorize an exception to curbside participation and provide backyard/on-property service.</p>		<p>COMPLIANT. The Applicant has acknowledged that they will agree to on-site trash cart service.</p>



Planning and Development Department
Land Use Planning Division

SENT VIA US MAIL AND E-MAIL

December 21, 2018

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**RE: 2012 Berkeley Way, Letter of Compliance
SB35 (Government Code 65913.4) Application for a Mixed-Use Development (142 units of
affordable housing; transitional dorms; temporary housing; and supportive services)**

Dear Mr. Saxby, Ms. Hollywood, and Ms. Light:

You have applied for approval of a development project pursuant to Government Code Section 65913.4 (Senate Bill [SB] 35). City staff has completed its review of the application and has found it to be: 1) eligible for SB 35, ministerial review, and 2) consistent with all applicable objective zoning standards.

Summary of Project's Consistency with SB 35 and the City's Objective Criteria

Under Government Code Section 65913.4(a), a development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process provided by subdivision (b) and not subject to a conditional use permit if the development satisfies all of the following objective planning standards:

(1) The development is a multifamily housing development that contains two or more residential units.

City analysis: The application includes more than two dwelling units.

(2) The development is located on a site that satisfies all of the following:

(A) A site that is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States

Census Bureau, or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

City analysis: The City of Berkeley is within the boundaries of an Urbanized Area and Urban Cluster, according to 2010 US Census from the Census Bureau.

(B) A site in which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

City analysis: The site is surrounded by urban uses.

(C) A site that is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.

City analysis: The site is in the Downtown Mixed-Use Zoning District (C-DMU, Buffer sub-area). Permitted uses include mixed-use developments (e.g. residential/commercial; hotel/other commercial; office/other commercial), multi-family developments, hotels and offices, and medical practitioners (Berkeley Municipal Code Chapter 23E.68). In addition, the General Plan land use designation for the site is "Medium Density Residential", which is characterized by a "mix of single-family homes and small to medium sized multi-family structures."

The applicant has stated that the gross building area is approximately 138,860 square feet. By staff's calculation, the residential use area for BRIDGE housing is 89,120 square feet, and the residential use area for Berkeley Food and Housing Project (subtracting out service/office areas for the shelter and community meals) is 45,675 square feet. Thus, the residential areas constitute approximately 97% of the development, well over the required 66.6%.

(3) If the development contains units that are subsidized, the development proponent already has recorded, or is required by law to record, a land use restriction for the following applicable minimum durations:

(A) Fifty-five years for units that are rented.

City analysis: The project contains 142 units – 141 below market rate and 1 non-below market rate, manager's unit. Per State Density Bonus Law (Government Code Section 65915), the project must designate either 8 Very Low Income or 16 Low Income units as "qualifying units" to be eligible for the Density Bonus. The applicant will be required to record a regulatory agreement with the City for the qualifying units for a duration of 55 years. The remainder of the affordable units (the non-qualifying units) are subject to a separate terms and affordability agreement with the City and other providers of funding.

(B) Forty-five years for units that are owned.

City analysis: If the units are subdivided for sale, they will be subject to income qualifications and resale restrictions.

(4) The development satisfies both of the following:

(A) Is located in a locality that the department has determined is subject to this subparagraph on the basis that the number of units that have been issued building permits is less than the locality's share of the regional housing needs, by income category, for that reporting period. A locality shall remain

eligible under this subparagraph until the department's determination for the next reporting period. A locality shall be subject to this subparagraph if it has not submitted an annual housing element report to the department pursuant to paragraph (2) of subdivision (a) of Section 65400 for at least two consecutive years before the development submitted an application for approval under this section.

City analysis: While the City of Berkeley has made sufficient progress toward its Above Moderate income Regional Housing Needs Allocation (RHNA), it has made insufficient progress towards its Lower income RHNA (Very Low and Low income). Therefore, the development satisfies this criterion.

(B) The development is subject to a requirement mandating a minimum percentage of below market rate housing based on one of the following:

(i) The locality did not submit its latest production report to the department by the time period required by Section 65400, or that production report reflects that there were fewer units of above moderate-income housing approved than were required for the regional housing needs assessment cycle for that reporting period. In addition, if the project contains more than 10 units of housing, the project seeking approval dedicates a minimum of 10 percent of the total number of units to housing affordable to households making below 80 percent of the area median income. If the locality has adopted a local ordinance that requires that greater than 10 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, that zoning ordinance applies.

(ii) The locality did not submit its latest production report to the department by the time period required by Section 65400, or that production report reflects that there were fewer units of housing affordable to households making below 80 percent of the area median income that were issued building permits than were required for the regional housing needs assessment cycle for that reporting period, and the project seeking approval dedicates 50 percent of the total number of units to housing affordable to households making below 80 percent of the area median income, unless the locality has adopted a local ordinance that requires that greater than 50 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, in which case that ordinance applies.

(iii) The locality did not submit its latest production report to the department by the time period required by Section 65400, or if the production report reflects that there were fewer units of housing affordable to any income level described in clause (i) or (ii) that were issued building permits than were required for the regional housing needs assessment cycle for that reporting period, the project seeking approval may choose between utilizing clause (i) or (ii).

City analysis: The City of Berkeley has made insufficient progress towards its Lower income RHNA (Very Low and Low income). Therefore, the development satisfies this criterion.

(5) The development, excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in Section 65915, is consistent with objective zoning standards and objective design review standards in effect at the time that the development is submitted to the local government pursuant to this section. For purposes of this paragraph, "objective zoning standards" and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a city or county, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances, subject to the following:

(A) A development shall be deemed consistent with the objective zoning standards related to housing density, as applicable, if the density proposed is compliant with the maximum density allowed within that land use designation, notwithstanding any specified maximum unit allocation that may result in fewer units of housing being permitted.

(B) In the event that objective zoning, general plan, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective zoning standards pursuant to this subdivision if the development is consistent with the standards set forth in the general plan.

City analysis: The project is consistent with all relevant objective zoning standards. See Attachment A: Objective Standards Table, for staff comments and/or clarifications of objective zoning standards. The project is also subject to the City's Density Bonus Procedures, an objective standard which uses a formula to calculate the maximum allowable density for a site with no district-specified density standard, and to determine the density bonus according to State Density Bonus Law. Staff finds that the project is consistent with this objective standard as well.

(6) The development is not located on a site that is any of the following:

(A) A coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.

City analysis: In this area, the coastal zone is west of the San Francisco peninsula; the site is not within a coastal zone.

(B) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

City analysis: All Berkeley land is designated "Urban and Built-Up Land" by the California Department of Conservation.

(C) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

City analysis: There are no wetlands, as defined in the United States Fish and Wildlife Service Manual Part 660 FW 2, located within the Project site.

(D) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

City analysis: The site is not within a very high fire hazard severity zone.

(E) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

City analysis: The Project site is not listed as a hazardous materials release site pursuant to Government Code Section 65962.5, or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code.

(F) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

City analysis: The Project site is not within a delineated earthquake fault zone as determined by the State Geologist.

(G) Within a flood plain as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has been issued a flood plain development permit pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

City analysis: The Project site is not within a mapped flood plain (it is within Zone X, the lowest flood risk zone) as determined by maps promulgated by the Federal Emergency Management Agency.

(H) Within a floodway as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.

City analysis: The Project site is within an area of minimal flood hazard (Zone X) as determined by maps promulgated by the Federal Emergency Management Agency.

(I) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

City analysis: The Project site is not located within the boundaries of an adopted conservation plan.

(J) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

City analysis: The Project site does not contain habitat for protected species identified as candidate, sensitive, or species of special status.

(K) Lands under conservation easement.

City analysis: The Project site is not located within a conservation easement.

(7) The development is not located on a site where any of the following apply:

- (A) The development would require the demolition of the following types of housing:
- (i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
 - (ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - (iii) Housing that has been occupied by tenants within the past 10 years.

City analysis: The site is currently developed with a commercial surface parking lot; it would not require the demolition of housing.

(B) The site was previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent submits an application under this section.

City analysis: The site has been operated as a commercial surface parking lot for more than 10 years.

(C) The development would require the demolition of a historic structure that was placed on a national, state, or local historic register.

City analysis: The site is not on a historic register and would not require the demolition of a historic structure.

(D) The property contains housing units that are occupied by tenants, and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.

City analysis: The site is currently developed with a commercial surface parking lot, and would not require the demolition of housing.

(8) The development proponent has done both of the following, as applicable:

(A) Certified to the locality that either of the following is true, as applicable:

- (i) The entirety of the development is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.
- (ii) If the development is not in its entirety a public work, that all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the development is subject to this subparagraph, then for those portions of the development that are not a public work all of the following shall apply:
 - (I) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.
 - (II) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(III) Except as provided in subclause (V), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided in therein.

(IV) Except as provided in subclause (V), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the development, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(V) Subclauses (III) and (IV) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure. For purposes of this clause, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(B) (i) For developments for which any of the following conditions apply, certified that a skilled and trained workforce shall be used to complete the development if the application is approved:

(I) On and after January 1, 2018, until December 31, 2021, the development consists of 75 or more units that are not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(II) On and after January 1, 2022, until December 31, 2025, the development consists of 50 or more units that are not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(III) On and after January 1, 2018, until December 31, 2019, the development consists of 75 or more units that are not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(IV) On and after January 1, 2020, until December 31, 2021, the development consists of more than 50 units and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(V) On and after January 1, 2022, until December 31, 2025, the development consists of more than 25 units and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal bay county.

(ii) For purposes of this section, "skilled and trained workforce" has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(iii) If the development proponent has certified that a skilled and trained workforce will be used to complete the development and the application is approved, the following shall apply:

(I) The applicant shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the development.

(II) Every contractor and subcontractor shall use a skilled and trained workforce to complete the development.

(III) Except as provided in subclause (IV), the applicant shall provide to the locality, on a monthly basis while the development or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the locality pursuant to this subclause shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) and shall be open to public inspection. An applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars (\$10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars (\$200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(IV) Subclause (III) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(C) Notwithstanding subparagraphs (A) and (B), a development that is subject to approval pursuant to this section is exempt from any requirement to pay prevailing wages or use a skilled and trained workforce if it meets both of the following:

- (i) The project includes 10 or fewer units.
- (ii) The project is not a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

City analysis: The applicant has submitted a letter committing to providing prevailing wages as required for a project that is not a public work. The application is not required to use a skilled and trained workforce to complete the development because the application was submitted in October, 2018, and the development consists of more than 75 units and the units are 100 percent subsidized.

(9) The development did not or does not involve a subdivision of a parcel that is, or, notwithstanding this section, would otherwise be, subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land, unless either of the following apply:

(A) The development has received or will receive financing or funding by means of a low-income housing tax credit and is subject to the requirement that prevailing wages be paid pursuant to subparagraph (A) of paragraph (8).

(B) The development is subject to the requirement that prevailing wages be paid, and a skilled and trained workforce used, pursuant to paragraph (8).

City analysis: The project does not involve the subdivision of a parcel.

(10) The development shall not be upon an existing parcel of land or site that is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

City analysis: The project is not on a site governed by these laws.

Additional Requirements and Next Steps

Per the Streamlined Ministerial Approval Process Guidelines, Section 301(a)(5), "Approval of ministerial processing does not preclude imposed standard conditions of approval as long as those conditions are objective and broadly applicable to development within the locality regardless of streamlined approval. This includes any objective process requirements related to the issuance of a building permit. However, any further approvals, such as demolition, grading and building period or, if required, final map, on a ministerial basis is subject to the objective standards". (California Department of Housing and Community Development, 2018, p.11) Therefore, the project is subject to the attached Downtown Area Plan Mitigation Monitoring and Reporting Program (Attachment B) and the City's Standard Conditions of Approval (Attachment C).

Please be sure to read these documents thoroughly to better understand project requirements moving forward into the building permit phase, which is the next step.

If you have any questions, please contact me at (510) 981-7400 or via email at tburroughs@cityofberkeley.info.

Sincerely,



Timothy Burroughs
Director, Department of Planning & Development

Attachments:

- Attachment A: Objective Standards Table
- Attachment B: Mitigation Monitoring and Reporting Program, Downtown Area Plan EIR
- Attachment C: Standard Conditions of Approval
- Attachment D: Project Plans

EXHIBIT 8

From the 12/7/18 NOIA and 2/6/19 Letter:

“17. Provide circled items from the Density Bonus Report Submittal Requirements list”

Referenced Deficiency	Applicable Section from Density Bonus Report of Original Application	Notes
2. Requested Incentive(s) and Concessions		
<p>The City’s usual development standard and the requested development standard or regulatory incentive/concession. <u>Applicant shall identify whether each of the requested incentive(s)/concession(s) is an on-menu or off-menu request.</u> (Emphasis added by City)</p>	<p>A separate and stand-alone Density Bonus Report Was provided as Attachment D of the original SB 35 application submittal. Page 2 of the Density Bonus Report states, “The project proposes to use one 11’ height increase, which is an “on-menu” incentive.”</p>	<p>The originally submitted SB 35 application (Density Bonus Report, Attachment D) provided this information and clearly indicates the requested incentive as on-menu.</p>
<p>Include reasonable <u>documentation</u> in a form subject to approval by the City, and supporting materials <u>that demonstrate how any concessions and/or incentives requested by applicant result in identifiable and actual cost reductions to provide the affordable housing.</u> Applicant may also be required to <u>provide funds to cover city expenses incurred for a peer review of applicant’s documentation.</u> (Emphasis added by City)</p>	<p>Page 6 of the originally submitted Density Bonus Report, explains the rationale for how the concession leads to direct cost savings from podium construction and underground parking.</p> <p>The last paragraph of Page 5 of the originally submitted Density Bonus Report explains how under State law the burden is on the City to demonstrate that the incentive or concession does not result in identifiable and actual cost reductions.</p>	<p>The originally submitted SB 35 application (Density Bonus Report, Attachment D) provided this information.</p> <p>The City of Los Altos’ Municipal Code Section 14.28.040(F)(3) mirrors state law that “Denial of requested incentive” lays out the three findings that must be made based on substantial evidence: a) does not request in cost reductions b) specific, adverse impact on public health and safety c) contrary to state or federal law.</p> <p>The City has not made any of those three findings in writing.</p> <p>Further, in several Staff reports regarding a proposed development at 4880 El Camino Real, Staff stated that “the City must give deference to the applicant on granting the requested development incentives unless it can make either of the finding...”</p>

3. Requested Waiver(s)		
The City's usual development standard and the requested development standard	Page 3 includes a table that lists the City's usual development standard in first column, the proposed standard as well as rationale for why the waiver is required.	The original Density Bonus report satisfies this requirement.
Include reasonable <u>documentation and supporting materials</u> that <u>demonstrate</u> how a requested modification to or waiver of an applicable development standard <u>is needed in order to avoid physically precluding the construction of the proposed project at the allowed densities or with the concessions and/or incentives requested.</u> (emphasis added by City)	Page 3 includes a table that lists the City's usual development standard in first column, the proposed standard as well as rationale for why the waiver is required. The submitted plan set shows both the base project (required development standards and building envelope) and the proposed building configuration that incorporates the waivers and modifications.	Los Altos staff report for 4880 El Camino Real development only provided the following justification to allow a rooftop structure to exceed height and area limit development standards: "In this case, a fifth floor is needed to accommodate the additional four units. The waiver for the height and area of the rooftop structures is necessary since the project relies on taller ceiling heights and rooftop amenities to make up for the development cost of affordable housing units, where a taller elevator cab and further enclosure of the rooftop structures is necessary to provide for the rooftop amenities." (Page 4, 8/23/16 Agenda Item 9: 4880 El Camino Real Development Application)
4. Requested Parking Reduction		
Table showing parking requested by the zoning ordinance and parking proposed under Section 65915(p). if an additional parking reduction is proposed under the provisions of Section 65915(p)(2) or (p)(3), evidence that the project qualifies for the additional parking reduction.	Page 5/6 of the original SB 35 Applicant Statement shows the required City parking standard, as well as the reference to the statutory parking exemption. The originally submitted SB 35 application (Density Bonus Report, Attachment D) includes SB 35's parking exemption language.	The Applicant Statement and Density Bonus Report (Attachment D) provide the required data and information.
8. Fees		
Payment of any fee in an amount set by resolution of the City Council for staff or consultant time necessary to determine compliance of the Density Bonus Plan with	Page 3: "The fees for the project will be provided as determined by the City of Los Altos' adopted legal requirements"	The adopted City of Los Altos 2018-19 fee schedule does not include any basis for charging this fee. Regardless, a statement that a fee amount is "to be

State Density Bonus Law. “TO BE DETERMINED” (bolded phrase added by City staff)		determined” does not describe a submittal requirement.
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EXHIBIT 9