

**RESOLUTION NO. 2009-31**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS FOR DESIGN REVIEW APPLICATION (07-D-01) AND USE PERMIT APPLICATION (07-UP-01) ON A PROPERTY LOCATED AT 323 & 373 PINE LANE**

**WHEREAS**, the City of Los Altos received an application for the Pilgrim Haven project (07-GPA-01, 07-Z-01, 07-D-02 AND 07-UP-01) located at 323 & 373 Pine Lane, referred herein as the "Project";

**WHEREAS**, the Project includes the Design Review and Use Permit applications ("Design Review and Use Permit") (07-D-02 and 07-UP-01) for the Project; and

**WHEREAS**, said Project was the subject of a final environmental impact report ("Final EIR"), prepared by the City as the lead agency in compliance with the requirements of the California Environmental Quality Act of 1970 as amended, ("CEQA"); and

**WHEREAS**, all required public notices and public hearings were duly given and duly held according to law; and

**WHEREAS**, the Planning Commission held duly noticed public hearings on the proposed Final EIR and the proposed Design Review and Use Permit on May 21 and 27, 2009, and recommended certification of the Final EIR; and

**WHEREAS**, duly noticed public hearings were held before the City Council on the proposed Final EIR and the proposed Design Review and Use Permit on July 9, 2009, August 3 and 11, 2009; and

**WHEREAS**, on August 3, 2009, the City Council certified the Final EIR, finding that it had reviewed and considered the information therein, that it had been completed in compliance with CEQA, and that it reflected the independent judgment of the City as lead agency for the Project; and


**WHEREAS**, the Design Review and Use Permit was processed in accordance with the applicable provisions of the California Government Code and the Los Alto Municipal Code; and

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

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

**I HEREBY CERTIFY** that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 11<sup>th</sup> day of August, 2009 by the following vote:

AYES:           PACKARD, CARPENTER, BECKER, SATTERLEE  
NOES:           CASAS  
ABSENT:        NONE

  
Megan Satterlee, MAYOR

Attest:

  
Susan Kitchens, CITY CLERK

August 25, 2009

## **EXHIBIT A**

### **FINDINGS**

07-D-02 & 07-UP-01—323 and 373 Pine Lane

- a. With regard to Design Review, the City Council finds in accordance with Chapter 14.78 of the Municipal Code that:
- A. The proposal meets the goals, policies and objectives of the general plan and any specific plan, design guidelines and ordinance design criteria adopted for the specific district or area, as specifically set out in the Draft EIR on pages 36-52;
  - B. The proposal has architectural integrity and has an appropriate relationship with other structures in the immediate area in terms of height, bulk and design, in that no structure will exceed 30 feet in height and the third story element that is 30 feet will face a school playing field and will not be visible to the neighborhood, the two story buildings are similar to other two story buildings in the area with their craftsman style architectural details such as covered porches, horizontal siding and wood trim details, the bulk of the buildings will be broken up with balconies, parapets, pitched roofs and other residential characteristics that create a feeling of smaller-scale buildings and specifically along Pine Lane the design is such that there appears to be multiple house facades;
  - C. Building mass is articulated to relate to the human scale, both horizontally and vertically, and building elevations have variation and depth and avoid large blank wall surfaces as described above. The buildings have a residential appearance;
  - D. Exterior materials and finishes convey quality, integrity, permanence and durability, and materials are used effectively to define building elements such as base, body, parapets, bays, arcades and structural elements, as described above;
  - E. Landscaping is generous and inviting and landscape and hardscape features are designed to complement the building and parking areas and to be integrated with the building architecture and the surrounding streetscape. Overall the generous landscape screening of the site will remain, and although many trees will be removed, they will be replaced and 112 net new trees will be planted for a total of 313 trees on-site. Landscaping includes substantial street tree canopy, either in the public right-of-way or within the project frontage; new street trees will be added along Los Altos Avenue, and new evergreen trees for screening will be added along both Los Altos Avenue and Pine Lane;
  - F. The existing signage that complements the building architecture in terms of style, materials, colors and proportions will remain. Any new directional signs will return to the Community Development director for review;
  - G. Mechanical equipment is screened from public view and the screening is designed to be consistent with the building architecture in form, material and detailing in that the equipment will be hidden in roof wells or behind the mansard roofs; and
  - H. Service, trash and utility areas are screened from public view, or are enclosed in structures that are consistent with the building architecture in materials and detailing; all delivery bays, utility areas and trash areas will be located at the rear of buildings and be shielded from public view.
- b. With regard to the Use Permit, the City Council finds in accordance with Chapter 14.80 of the Municipal Code that:

- A. The proposed location of the conditional use is desirable or essential to the public health, safety, comfort, convenience, prosperity, or welfare in that it increases housing opportunities for seniors. The Project will add 28 additional units to the community, thereby numerically providing more housing opportunities for Los Altos seniors. The Project will add memory support to aid those seniors living with Alzheimer's or dementia, thereby adding variety to the housing opportunities for Los Altos' seniors. The Project will also provide 16 Below Market Rate (BMR) units for low-income seniors, thereby increasing the opportunity for seniors with different income levels to have access to high-quality continuing care. Additionally, Pilgrim Haven has indicated it will give priority to filling all the units in its continuing care retirement community with Los Altos residents and secondly with those seniors who have close relatives residing in Los Altos. As a result, the Project is targeted to increase housing opportunities specifically for the Los Altos' senior population.

The Project also improves parking, aesthetics and neighborhood compatibility for the following reasons: The Project provides 172 parking spaces, which is 81 more than currently exist on-site and 55 more than the 117 required by the Los Altos Municipal Code. Parking capacity is increased from 0.59 to 0.95 spaces per unit. This reduces the likelihood that people will park on surrounding streets and, therefore, improves Pilgrim Haven's neighborhood compatibility. The underground parking garage minimizes the number of cars visibly parked on-site. As a result, aesthetics and neighborhood compatibility are improved. The Project increases building setbacks from those in the existing community and makes Pilgrim Haven's buildings less visible to persons on Pine Lane or Los Altos Avenue. The increased setbacks improve aesthetics and neighborhood compatibility. The three-story building, which is within the 30 foot height limitation, is located at the rear of the independent living building and will not noticeably intrude on Pine Lane, Los Altos Avenue or the Santa Rita School. The three-story building is similar in height to four existing buildings (one of which will remain) along the Santa Rita School property line. As the three-story building is set farther back than the existing buildings of similar height, the Project improves the aesthetics and compatibility with the neighboring school. Much of the existing landscaping will remain in place to screen the community. Evergreen trees will be added to enhance the existing landscaping screening. Two rows of the apricot orchard will be preserved and enhanced along Los Altos Avenue. Overall, there will be 112 net new trees added to the site. All of these Project elements enhance the residential feel and neighborhood compatibility of Pilgrim Haven.

- B. The proposed location of the conditional use is in accordance with the objectives of the zoning plan as stated in Chapter 14.02 of this title, as more specifically set out in the Ordinance rezoning the Spagnoli property from R1-10 to PCF;
- C. The proposed location of the conditional use, under the circumstances of the particular case, will not be detrimental to the health, safety, comfort, convenience, prosperity, or welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity, as evidenced by the conclusions in the certified Final EIR that there are no significant unmitigated impacts of the Project other than the short term construction impact that is due to the length of construction rather than the severity of any construction impacts. The Council has found that it is infeasible to mitigate this one significant unavoidable impact and has adopted findings of overriding considerations regarding the benefits of the Project; and
- D. The proposed conditional use complies with the PCF District regulations including use, height, and setbacks and the general provisions of Chapter 14.02 except where development incentives for lot coverage and a third story element in the rear of the independent living building have been granted for 16 independent living BMR units.

## CONDITIONS

07-D-02 & 07-UP-01—323 and 373 Pine Lane

### **GENERAL**

1. Project approval is based upon the plans received on April 21, 2009 and August 10, 2009 and the materials provided by the applicant except as modified by these conditions.
2. The applicant shall meet all conditions and mitigation measures, and provide all necessary reporting, as outlined in the Mitigation Monitoring and Reporting Program shown in the resolution adopting and certifying the Environmental Impact Report. The project manager, contact information and other necessary information as outlined in the Reporting Program shall be posted on the site as outlined in Condition No. 12.
3. All projects shall comply with the Urban Runoff Pollutions Prevention Program regulations in place at the time of construction. The improvement plans shall include the "Blueprint for a Clean Bay" plan sheet as page 2 in all plan submittals.
4. The applicant shall submit a copy of the Notice of Intent to the City Engineer to comply with the State Construction Storm Water General permit submitted to the State Water Resource Control Board prior to any demolition, any grading or issuance of the building permit, whichever happens first.
5. The applicant shall submit a copy of the Storm Water Pollution Prevention Plan (SWPPP) and Storm Water Management Plan (SWMP) to the City Engineer for review prior to any demolition, any grading or issuance of the building permit, whichever happens first.
6. As required in the Mitigation Monitoring and Reporting Program, a Construction Traffic Management Plan (CTMP) that includes truck routing and staging for the proposed excavation of the site, shall be submitted for review and approval by the Community Development Director and the City Engineer. The CTMP shall include a requirement that construction deliveries not be scheduled during student pick-up and drop-off at Santa Rita Elementary School. The CTMP shall also include a temporary onsite parking plan that for up to 15 construction vehicles. All other construction worker vehicles, and Pilgrim Haven employee vehicles that cannot be parked onsite, shall be parked offsite at a location to be determined and construction workers, and employees if necessary, shall be shuttled to and from the site.
7. All street tree species planted in the public right-of-way shall be approved by the City Arborist and be a minimum 24-inch box in size.
8. The project shall be allowed a maximum of two signs along the Pine Lane frontage but shall be prohibited from locating any signage along the Los Altos Avenue frontage. The total sign area shall be a maximum of 30 square feet and the location of the signs shall be reviewed and approved by the Community Development Director.
9. The applicant shall show the location of and provide a noise rating for all mechanical equipment. The mechanical equipment shall be fully screened from public view and meet the City's Noise Ordinance.
10. The use of jackhammers shall be prohibited except for very short periods of time and with written approval by the Community Development Director.
11. If the actual noise levels in the Santa Rita Elementary School classrooms exceed the measured values indicated in the Charles M. Salter and Associates Acoustical Analysis dated July 28, 2009, the applicant shall implement additional noise protection measures to reduce the noise to acceptable levels.
12. The applicant shall provide a temporary construction sign that is posted on the site in a conspicuous location for the duration of project construction. The sign shall include the project name, project manager, contact

information and information required in the Mitigation Monitoring and Reporting Program. The design and location of the temporary construction sign shall be reviewed and approved by the Community Development Director.

13. Prior to the start of construction of Phase I, the applicant shall construct an eight-foot tall noise attenuating redwood fence along the shared property lines with 300 and 304 Spagnoli Court. The applicant shall coordinate the design and construction timeframe for the new fence with the property owners of 300 and 304 Spagnoli Court. This condition shall replace the Noise Mitigation Measure "MM NOI-1.1" in the Mitigation Monitoring and Reporting Program which requires an eight-foot tall masonry wall.
14. The minimum number of on-site parking stalls, as required by Code Section 14.74.120, shall be maintained and available during all phases of the project, and shall not be used by construction personnel.
15. All exterior lighting shall have shrouds and/or be directed downward to avoid impacts to the adjoining properties.
16. The applicant shall submit revised project plans that reduce the lot coverage to a maximum of 35 percent. The reduction in lot coverage shall not be taken from the architectural details or building articulation. The Revised plans shall be reviewed and approved by the Community Development Director.
17. The applicant shall retain a licensed traffic engineer to provide traffic counts at the Guadalupe Drive-Pine Lane intersection and at the Los Altos Avenue-Hacienda Way intersection before the start of the project construction and six months after the completion of the last phase of construction. The traffic counts shall be reviewed and approved by the City Traffic Engineer. If the City Traffic Engineer determines that there is a noticeable increase in traffic pursuant to the TIRE (Traffic Infusion on Residential Environments) index, then appropriate measures, such as directional signage and raised crosswalks, shall be implemented on Guadalupe Drive and Hacienda Way. The applicant shall be responsible for installing the additional measures.
18. The applicant shall form a joint Pilgrim Haven-Neighborhood committee to make recommendations on the design of the landscaping and screening along Pine Lane and Los Altos Avenue. The makeup and membership of the committee shall be reviewed and approved by the Community Development Director.
19. The applicant shall eliminate the two proposed stop signs on Pine Lane at the intersection with Guadalupe Drive and install a stop sign at the proposed driveway opposite Guadalupe Drive.
20. The applicant is encouraged to work with the Santa Rita Elementary School and Egan Intermediate School Parent Teacher Associations (PTA) to identify safe routes to schools during project construction.
21. The applicant shall work with the Fire Department to study the feasibility of eliminating the fire access driveway in order to increase landscaping and screening on Pine Lane.
22. The applicant shall look into the feasibility of adding light wells to the underground parking garage.
23. As a condition of the Use Permit, construction activities on Saturdays shall be limited to work that does not generate noise in excess of the daytime noise limits for R1 Zoning Districts (see Table 1 in Sec. 6.16.050).
24. As a condition of the Use Permit, all Pilgrim Haven employees shall be provided with on-site parking and the applicant shall make all practical and feasible efforts to ensure that all visitors and employees park on-site. All employees who exit after dark shall park in the underground parking garage.
25. As a condition of the Use Permit, the project is approved for phased construction as outlined in the project plans. The four (4) phases of construction shall be completed within 36 months from the date of permit issuance of the first building permit. The applicant shall obtain the building permits for the remaining phases of

the project within 24 months of the date on which the phase one building permit is issued. An extension of up to three (3) months may be granted by the Community Development Director upon review and approval of a written request which includes reasons for the extension request.

26. As a condition of the Use Permit, Pilgrim Haven shall provide first priority access to Los Altos residents when accepting applications to fill vacant living units. Second tier priority access shall be given to couples or individuals who have direct family (parents, siblings and/or children) who are Los Altos residents. The priority system shall be in a form approved by the Community Development Director and the City Attorney.
27. Sixteen (16) Independent Living units shall be offered for rent or lease to individuals or couples with Low Incomes as defined below. The required terms and conditions of the below market rate (BMR) units shall be as follows and executed in an Affordable Housing Agreement in a form approved by the City Attorney:
  - a. The monthly service fee, which includes rent along with other amenities, shall be set at 50 percent of the designated income level for an individual and 60 percent of the designated income level for a couple.
  - b. The monthly service fee shall include rent, one meal per day per individual (individual shall have the choice of breakfast, lunch or dinner), housekeeping services, all utilities except telephone, property insurance, maintenance, activities, social programming and priority access to assisted living or nursing services. The owner shall include an exhibit in the affordable housing agreement that lists services that will be provided as part of the monthly service fee. The services shall not be different from those offered to individuals or couples living in the market rate units.
  - c. The income levels for Low Income households will be calculated by the California State Department of Housing and Community Development.
  - d. The units shall be designated as BMR for a period of 30 years.
  - e. Priority access to the BMR units shall be given to Los Altos residents.
  - f. A one-time entry fee, no greater than the entry fees paid by residents living in comparable market rate units, may be charged for the BMR units. The amount of the one-time entry fee shall be submitted to staff for file documentation. The amount of the one-time entry fee shall be identified to ensure it is not so high as to make the units unaffordable for the target recipients.
  - g. The applicant shall provide an annual report to the City and the City's designated affordable housing administrator outlining compliance with the affordable housing agreement. The annual report shall include documentation showing that the BMR household's income is within the Low Income limit in effect at the time of occupancy and that one-time entry fees charged for the BMR units are the same as the entry fees charged on comparable market rate units.
  - h. The BMR units do not need to be pre-assigned, but Pilgrim Haven shall provide evidence in the annual report that 16 BMR units are available and/or occupied at all times.
28. The Applicant shall indemnify, hold harmless and defend the City, its employees, agents, independent contractors and volunteers (collectively "City") from any and all costs and expenses, including but not limited to attorney's fees incurred by the City or held to be the liability of City in connection with City's defense in any proceeding brought in any State or Federal Court, any other action, or referendum, challenging the City's action with respect to this Permit(s) or contesting any action or inaction in the City's processing and/or approval of this Permit(s).

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

29. The applicant shall submit on-site grading and drainage plans that include (i.e. drain swales, drain inlets, rough pad elevations, building envelopes, drip line of major trees, elevations at property lines, all trees and screens to be saved) for approval by City staff. No grading or building pads are allowed within two-thirds of the drip line of trees unless authorized by a certified arborist and the Planning Department.
30. All works within the public right-of-way shall be done in accordance with plans to be approved by the City Engineer.
31. The applicant shall submit a cost estimate for review for work in the public right-of-way and shall submit a 100 percent performance bond (to be held until acceptance of improvements) and a 50 percent labor and material bond (to be held 6 months after acceptance of improvements) in an amount as approved by the City Engineer. A one-year, 10 percent maintenance bond shall be submitted upon acceptance of improvements in the public right-of-way.
32. The applicant shall contact the Los Altos Garbage Company and submit a solid waste disposal plan indicating the type and size of containers proposed and the frequency of pick-up service subject to the approval of the Engineering Department. The applicant shall submit evidence that LAGCo has reviewed and approved the size and location of the proposed new enclosure for recyclables. Each enclosure shall be roofed to prevent rainwater from mixing with the enclosure's contents and then draining out and into the 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. The locations of all trash enclosures shall be reviewed and approved by the Community Development Director.
33. As a condition of the use permit, the applicant shall provide a parking management and circulation plan for the on-site parking facilities. The plan shall include identifying which spaces will be used for resident, employee and guest parking. The plan shall identify a maximum number of resident vehicles that will be allowed to park onsite. The plan shall be submitted for review and approval by the Planning Commission. The final action taken by the Planning Commission is not appealable.
34. The applicant shall submit a final landscaping plan for review and approval by the Planning Commission. The final landscape plan shall include the recommendations from the joint Pilgrim Haven-Neighborhood committee. The final action taken by the Planning Commission is not appealable.
35. The applicant shall file and record a lot-line adjustment merging the parcels at 323 and 373 Pine Lane.
36. The applicant shall submit a noise assessment that demonstrates that the noise levels generated by the HVAC system and mechanical equipment are consistent with the approved plans and comply with the City's Noise Ordinance.
37. The property owner shall execute an agreement with the City to retain the below market rate units as affordable and record the applicable deed restrictions as required by the City Attorney and the Community Development Director.
38. The applicant shall pay a fee in lieu of traffic impacts in accordance with Chapter 3.48 of the Los Altos Municipal Code.
39. The applicant shall pay an additional sanitary sewer connection fee.

## **PRIOR TO THE START OF CONSTRUCTION**

40. The applicant shall remove and replace all asphalt sidewalks, curb and gutter along the Los Altos Avenue frontage with new concrete sidewalk, curb and gutter and a planter strip between the new sidewalk and new curb and gutter.
41. The applicant shall provide new crosswalks at Guadalupe Drive and Pine Lane as approved by the City's Traffic Engineer. New ADA Standard ramps shall be constructed at the corners leading into the new crosswalks at Guadalupe St. and Pine Lane.

## **PRIOR TO FINAL OCCUPANCY**

42. The applicant shall remove and replace the existing asphalt pathway along the north side of the Pine Lane frontage from Guadalupe Drive to Los Altos Avenue with new concrete sidewalk, curb and gutter to tie-in to the new concrete sidewalk, curb and gutter on the Los Altos Avenue frontage with the current ADA Standard ramp in accordance with plans to be approved by the City Engineer. The work shall be completed prior to the end of the first phase of construction.
43. The applicant shall construct new parking duck-outs along the north side of the Pine Lane frontage from Guadalupe Drive to Los Altos Avenue as approved by the Community Development Director and the City Engineer. Landscaping shall be installed between and at the ends of the duck-outs. The work shall be completed prior to the end of the first phase of construction.
44. The applicant shall record a maintenance agreement for the approved storm water treatment system as approved by the City Engineer.
45. The applicant shall provide a letter from their civil engineer certifying that the storm water treatment system was constructed per approved plans.
46. The applicant shall label all new or existing public and private catch basin inlets, which are on or directly adjacent to the site with the NO DUMPING – FLOWS TO BAY logo.
47. The applicant shall provide an acoustical analysis that evaluates the noise generated by the mechanical equipment to ensure that the project is in compliance with the City's General Plan and Noise Ordinance.
48. Prior to final inspection for each phase of construction, all new landscaping and irrigation shall be installed and approved by the Planning Division. All required landscaping and screening along Pine Lane shall be installed prior to the end of the first phase of construction.