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September 21, 2023

**SUBMITTED WITH PROJECT APPLICATION**

Danielle Condit, Associate Planner  
Community Development Department  
City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95014-3255  
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Re: Affordable Housing Plan and Density Bonus Report for Housing Development  
Project Proposed at 10040 & 10046 Bianchi Way, APN 359-07-021 (Leon Hu)

Dear Danielle Condit:

This letter is on behalf of Leon Hu (the “Applicant”) with respect to the above referenced project (the “Project”). Attached hereto is the Applicant’s Affordable Housing Plan and Density Bonus Report for the Project, dated August 15, 2023, which was submitted with the prior resubmittal for the Project. The attached letter is hereby resubmitted, subject to one clarification.

The first bullet-point on page 3 of the attached letter refers to a 35-foot front setback requirement. This should refer to a 20-foot setback requirement. As such, the first bullet-point is hereby revised to read as follows:

“An exception to the 35-foot and 20-foot front yard setback pursuant to the Heart of the City Specific Plan (the “Plan”) at § 1.01.030.B.1 and CMC 19.36.070. As shown on Sheet A1.0 of the plan set, the proposed front setback is approximately six feet for the length of the townhouses along Bianchi Way. If 35-feet or 20-feet were provided, these units would lose approximately half a substantial portion

NAME

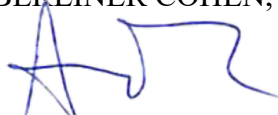
September 21, 2023

of their buildable area, requiring either a loss in density or significantly smaller units of a product type the Applicant is not proposing.”

No change is proposed to footnote 8 of the letter. Please let me know if you have any questions, comments, or concerns.

Very truly yours,

BERLINER COHEN, LLP



ANDREW L. FABER

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ALF:ER

Attachment



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August 15, 2023

SUBMITTED WITH PROJECT  
APPLICATION

Danielle Condit, Associate Planner  
Community Development Department  
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Re: Affordable Housing Plan and Density Bonus Report for Housing Development  
Project Proposed at 10040 & 10046 Bianchi Way, APN 359-07-021 (Leon Hu)

Dear Danielle Condit:

This letter is on behalf of Leon Hu (the “Applicant”) with respect to the above referenced project (the “Project”). This letter is provided pursuant to Item Nos. 11 and 17 identified in the City’s General Planning Application Checklist (the “Checklist”). Part I below provides an overview of the Project. Part II is the Project’s Affordable Housing Plan as required in Item No. 11 of the Checklist. Part III is the Project’s Density Bonus Report as required in Item No. 17 of the Checklist.

**I. Project Overview**

The Project site is 0.34 gross acres in size and is in the Crossroads area of the Heart of the City Specific Plan. The zoning designation for the site is P(CG, Res), and the site has a General Plan designation of Commercial/Office/Residential. According to Figure LU-2 of the General Plan, the maximum density for the site is 25 dwelling units per acre. Thus, for purposes of the Density

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Bonus Law (Government Code Section 65915, et seq.) (the “DBL”), the site has a base density of nine units.<sup>1</sup>

The Project proposes seven ownership units, which is less than the base density. One of these units (or 14%) is proposed as a median-income unit (the “BMR Unit”). Pursuant to the DBL, an applicant proposing to provide at least 10% of ownership units to moderate-income households is entitled to a density bonus.<sup>2</sup> Here, the allowable bonus is 9%, so that the total allowable density with a density bonus is ten units.<sup>3</sup> Although the Project does not propose this density, the Applicant is requesting waivers, one concession,<sup>4</sup> and a parking reduction under the DBL, which he is allowed to do pursuant to Government Code Section 65915(f).

In addition to qualifying the Project for waivers, one concession, and a parking reduction, providing the BMR Unit satisfies the requirements of the City’s Below Market Rate Housing Procedures Manual (the “BMR Manual”). The project proposes six market-rate units, and so should be treated as a six-unit project for purposes of any housing mitigation.<sup>5</sup> Section 4.2 of the BMR Manual states that an applicant for a housing development project with six or fewer units either can pay an affordable housing fee or provide one inclusionary unit pursuant to Section 2.3 of the BMR Manual. That unit must be a median-income unit, pursuant to Section 2.3.1, which is what the BMR Unit is proposed to be.

For reference, the proposed BMR Unit would be Unit A-2 as shown on **Sheet A3.0** of the Project’s plan set, submitted with this letter. The BMR Unit will be consistent in size with the other units in the Project, as shown from the following table:

|                          | <b>Bedroom Count</b> | <b>Size</b>       |
|--------------------------|----------------------|-------------------|
| <i>Average Unit Size</i> | 3 bedrooms           | 2,074 Square Feet |
| <i>BMR Unit</i>          | 3 bedrooms           | 2,067 Square Feet |

<sup>1</sup> For purposes of determining the “base density” under Government Code Section 65915(o)(6), general plan density prevails over zoning. Also, per Section 65915(f), gross area is used instead of net area. See also <http://www.hcd.ca.gov/community-development/housing-element/docs/sdiencinitas-nov-densitybonus-03252021.pdf>. Finally, under Section 65915(q), all density calculations must be rounded up to the nearest whole number. Applying these principles here,  $0.34 \times 25 = 8.5 \sim 9$  units.

<sup>2</sup> Gov. Code § 69515, subd. (b)(1)(D).

<sup>3</sup> Again, base density is 9 units.  $9 \times 0.09 = .81 \sim 1$ . Nine base units plus one bonus unit equals 10 total units. See Gov. Code, § 65915, subds. (f)(4), (q).

<sup>4</sup> The DBL uses the term “incentive or concession” rather than “concession,” but the term “incentive or concession” can be confusing since it suggests that “incentives” and “concessions” are separate things, even though analytically they constitute a single type of benefit available to developers of affordable housing. Therefore, this letter will use the term “concession” to refer to a “concession or incentive.”

<sup>5</sup> See Gov. Code, § 65915.1 (“For purposes of Section 65915, affordable housing impact fees, including inclusionary zoning fees and in-lieu fees, shall not be imposed on a housing development’s affordable units.”).

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The Project is eligible for one concession, pursuant to Government Code Section 65915(d)(2)(A). The Project proposes a concession from the requirements of Cupertino Municipal Code §14.18.030, which prohibits removal of protected trees without a permit or doing anything that would “cause any protected tree to be irreversibly damaged or to die.” Here, the project site contains a tree that the City has designated as protected, specifically the existing Coast Live Oak (*Quercus agrifolia*), located along the easterly side of the Project site. Preserving this tree would require expensive changes to the Project that would affect density and would not guaranty the tree’s survival. An analysis in support of granting a concession from this requirement is set forth in Part III below. As explained in Part III, if a concession is denied, then in the alternative the Applicant requests a waiver since the Project changes necessary to preserve the tree would reduce Project density.<sup>6</sup>

As explained in further detail in Part III below, the Project proposes 14 covered parking spaces, consistent with Government Code Section 65915(p).<sup>7</sup>

Finally, the Project requires eight waivers, including the following:

- An exception to the 35-foot front yard setback pursuant to the Heart of the City Specific Plan (the “Plan”) at § 1.01.030.B.1. As shown on **Sheet A1.0** of the plan set, the proposed front setback is approximately six feet for the length of the townhouses along Bianchi Way. If 35 feet were provided, these units would lose approximately half of their buildable area, requiring either a loss in density or significantly smaller units of a product type the Applicant is not proposing.<sup>8</sup>
- An exception to the minimum rear yard setback pursuant to Plan § 1.01.030.C.2 of half the building height, or 45 feet. The proposed rear yard setback is 12 feet.<sup>9</sup> As shown in Figure 1 of **Sheet A1.1** of the plan set, if this setback were enforced, portions of Units A-1, A-2, A-3, and A-4 would be lost, requiring either a loss in density or a significant project redesign.

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<sup>6</sup> The Applicant is aware that pursuant to Chapter 14.18 of the Municipal Code, as an alternative to a concession or waiver, the Planning Director has authority to grant permits to remove protected trees, including because, as relevant here, preserving the tree restricts the owner’s economic enjoyment of the property. (See Municipal Code § 14.18.180.A.2.) However, the Project is not feasible without certainty that the tree can be removed, the application process itself would be cost prohibitive, the Director’s authority is discretionary, the Director has the option under Municipal Code § 14.18.110.C to refer the decision to another approval authority, and staff has already indicated that they anticipate having a difficult time making the required findings under § 14.18.180 to grant a tree removal permit. As explained in Part III, the findings for a concession or waiver can be made under state law without the need to apply for tree removal permits.

<sup>7</sup> If the City denies the Applicant’s request for a DBL parking reduction, then the Applicant hereby asserts his right to a parking exemption pursuant to Government Code Section 65863.2. According to Metropolitan Transit Commission Maps, there is a bus stop qualifying as major transit stop located at the intersection of De Anza and Stevens Creek, which is within one-half mile of the Project site.

<sup>8</sup> In the Applicant’s original submittal, a separate waiver was requested to the special features requirement of Plan § 1.01.030.B.3, which limits the extent to which features like balconies may extend into required setbacks. The Project cannot comply with this requirement as a corollary of the fact that the Project cannot comply strictly with any of the setback requirements. In this submittal, the setback has been recharacterized from nine to six feet so that special features are not encroaching.

<sup>9</sup> In the original submittal, this setback was characterized as 15 feet and encroaching balconies were treated as special features. The setback has been adjusted to avoid this. See Footnote 8.

- An exception to the required 15-foot side yard setbacks pursuant to Plan § 1.01.030.C.1.<sup>10</sup> The proposed setbacks are 10 feet. As shown in Figure 3 of **Sheet A1.1** of the plan set, if this setback were enforced, portions of Units A-1, A-4, and B-3 would be lost, again requiring either a loss in density or a significant project redesign.
- An exception to the building form requirements of Plan § 1.01.040.E.2, which includes requirements for terracing or setbacks. As shown in Figures 4 and 5 of **Sheet A1.1** of the plan set, significant portions of most of the proposed units would be lost at the upper floors if this requirement were enforced. As shown in Figures 2 and 3 of the same sheet, only Unit B-2 would be unaffected, and nearly all of Units A-3, A-4, and B-2 would be lost.
- An exception to the common open space requirement in Plan § 1.01.040.C.2.a, which requires 150 square feet per unit of common open space outside of required setbacks. The Project does not propose any common open space because the site is constrained. To provide common open space outside of setbacks, the Project would lose either density or necessary vehicle circulation areas. See Figure 2 of **Sheet A1.2**, which illustrates these circumstances.
- An exception to the landscaped greenspace requirement in Plan § 2.01.010.G1, which the Project cannot provide without meeting the open space requirement already addressed above.
- An exception to the landscaped hardscape requirement in Plan § 2.01.010.G2, which again is contingent on providing common open space that the Project cannot provide.
- An exception to the requirements of Plan § 1.01.040.A.2.d that service accesses be avoided near existing residential areas and that service accesses should be provided from rear parking areas. Here, all access is from Bianchi Way, and to provide service access from the rear of the Project site would require a complete redesign of the Project. As explained in Part III below, if a project is entitled to waivers under the DBL, then the local agency cannot require that the project be redesigned to be consistent with standards from which waivers are sought.

## **II. Checklist Item No. 11: Affordable Housing Plan**

For Item No. 11, the Checklist requires the Applicant to explain how the Project is consistent with the various requirements of the BMR Manual. For this requirement, please note the following discussion:

- Chapter 1 (Introduction): Not applicable.

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<sup>10</sup> The requirement of § 1.01.030.C. is that the setback be half the height of the building with a ten-foot minimum. In the City's view, because the building is 30 feet in height, a 45-foot setback is required. In the Applicant's view, the requirement should be construed as applying separately for each floor to allow a step-back. This is consistent with Plan § 1.01.040.E.2. Thus, the top floor must be setback 45 feet, but with the second story at 19 feet, a 28.5-foot setback would be required at that floor, etc. See Section B-B of Sheet A1.1 for an illustration. The Applicant is entitled to the benefit of this interpretation pursuant to Government Code Section 65582.5(f)(4), but the point is moot because the Project does not meet the setback requirement under either interpretation and is entitled to a waiver for reasons articulated in Part III.

- Chapter 2 (Housing Mitigation Program):
  - o Section 2.1: The BMR Manual applies to the Project.
  - o Section 2.2: The Project proposes six market-rate units, so that pursuant to Section 4.2 of the BMR Manual and Government Code Section 65915.1 (which prohibits imposing housing fees on affordable units), the Applicant's option is to pay an affordable housing fee for the six market-rate units or to provide an affordable unit. Of these choices, the Applicant has chosen to offer the BMR Unit.
  - o Section 2.3.1: Because the Project proposes only one affordable unit, the unit must be a median-income unit. The BMR Unit is proposed as a median-income unit, so this requirement is satisfied.
  - o Section 2.3.2: Because the Project's affordable housing obligation is limited to one unit, no payment or rounding is required for fractional units.
  - o Section 2.3.3: The affordable housing plan for the Project is to offer Unit A-2 (see **Sheet A3.0**) as the BMR Unit, which will be a median-income unit.
  - o Section 2.3.4: As indicated in Part I above, the BMR Unit will have the same number of bedrooms as the other units, and its unit size is less than ten square feet less than the average unit size. As such, the size of the BMR Unit will be generally comparable with the market-rate units. With only seven units in the project, dispersal is not an issue. The BMR Unit will be indistinguishable from the market-rate units from the exterior in terms of design and quality of finishes, and the Applicant acknowledges the requirement that the interior finishes be durable, good quality, and consistent with contemporary standards.
  - o Section 2.3.5, 2.3.6, and 2.3.7: The Applicant acknowledges that the initial sale price of the BMR Unit will be determined by the City consistent with Section 2.3.5, that the term of affordability will be 99 years, and that the Applicant will be required to enter into an affordable housing agreement with the City as a condition of approval.
- Chapter 3 (Mitigation Requirements for Non-Residential Developments): Not applicable since the Project does not propose non-residential development.
- Chapter 4 (Mitigation Requirements of Ownership Residential Developments): Again, Section 4.2 applies to the Project since it proposes six ownership market-rate units, and the Project will satisfy the requirements of this section by providing the BMR Unit.
- Chapter 5 (Mitigation Requirements of Rental Residential Developments): Not applicable. The housing units in the development will be ownership units.

- Chapter 6 (Mitigation Requirements for Mixed-Use Projects): Not applicable because the Project does not propose non-residential development.
- Chapter 7 (Alternatives to BMR Requirements): Not applicable. The Project does not propose any alternative to meeting the City's BMR requirements.
- Chapter 8 (City Incentives): The Project requests a density bonus, and the Applicant welcomes any additional incentives the City may be willing to provide.

### III. Checklist Item No. 17: Density Bonus Report

As outlined in Part I above, the Project does not propose an increase in density, but it does propose one concession and eight waivers. It also proposes a parking reduction pursuant to Government Code Section 65915(p)(1)(B), which states a project qualifying for a density bonus is not required to provide more than 1.5 parking spaces per three-bedroom unit. Here, each of the seven units in the Project is a three-bedroom unit, so the Project's parking obligation is only 11 spaces. The Project exceeds this requirement by providing 14 spaces, or two spaces per unit of covered garage parking.

Insofar as the City may impose any additional requirements relating to parking, the Project is exempt pursuant to Government Code Section 65915(p)(4). Alternatively, the Project is entitled to a waiver of any such requirement because, as shown in Figure 1 of **Sheet A1.2**, the Project site is constrained and has no additional room for parking without a loss of density or significant project redesign. As explained in Footnote 5 above, if the City denies all or any part of the Applicant's request for reduction in parking standards, then the Applicant hereby claims a parking exemption pursuant to Government Code Section 65863.2.

The following discussion addresses Item Nos. 17.a to 17.d of the Checklist:

**Item No. 17.a** (location and square footage of units that qualify the project for a density bonus): Unit A-2 (see **Sheet A3.0**) is hereby identified as the BMR Unit.

**Item No. 17.b** (location and square footage of the density bonus units): Nothing in Government Code Section 65915 requires applicants to identify or distinguish between base units and those units being granted pursuant to the density bonus. Moreover, the statutory scheme does not lend itself well to making such a distinction because it is the actual Project proposed that is under review and not a hypothetical project that does not qualify for a density bonus. The issue is moot, however, because the Project proposes fewer than the maximum allowable base units.

**Item No. 17.c** (justification of requested waiver): As indicated above, the Project proposes a concession from the restrictions of Municipal Code § 14.18.030, which prohibits removal of protected trees without a permit or doing anything that would "cause any protected tree to be irreversibly damaged or to die."<sup>11</sup> As indicated in the brief arborist memo attached to this letter, the Coast Live Oak located on the property is ill suited for the site and will require expensive

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<sup>11</sup> Here, it is anticipated that if the tree is not removed, it will die as a result of the proposed construction activities.



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changes to the Project to protect, which provide no guaranty of success. As shown on Sheet A1.3, implementation would also result in a loss of project square footage and would affect Units A-2, A-3, and A-4.

It is unknown at this time what the cost of improvements required to preserve the tree would be. To determine that cost would itself be extremely expensive. What is known is that the loss of three units will cost the Applicant approximately \$6 million in project revenues. Please see the attached memorandum from the Applicant's architect.

A four-unit project is not feasible, especially if the Applicant provides the BMR Unit. It is anticipated that the BMR Unit will sell at or below the cost to construct it, so that accounting for lost profits and construction costs, the Applicant will be subsidizing its construction. The Applicant is not seeking a bonus in density for the Project. He merely seeks waivers, concessions, and parking reductions to provide a number of units he is otherwise entitled to construct on the site to make the Project feasible. These benefits will make the Project profitable despite the Applicant's subsidy in providing the BMR Unit. But a loss of three units and their anticipated \$6 million in revenue will deprive the Applicant of these benefits.

Unlike a waiver, which is an exception to a design rule, a concession may include an exception to any regulatory requirement a local agency may impose on housing development projects. See Government Code Section 65915(k), which defines a concession as a reduction in development standards, approval of a mixed-use project in a zoning district that typically does not allow for commercial uses, or any "[o]ther regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs." Thus, the touchstone of a regulatory standard that qualifies for an exception as an exemption is demonstration of a cost savings. Here, the Applicant has demonstrated that the proposed concession would have a cost savings by preserving \$6 million in revenue plus any costs necessary to build infrastructure that would protect the tree during construction.

To deny the request for a concession, the City has the burden pursuant to Government Code Section 65915(d)(1) to demonstrate that the concession would not have an identifiable cost savings, that granting the concession would have a specific adverse impact on health or safety or on a historic resource, or that granting the concession would violate state law. The Applicant has identified a cost savings from not preserving the tree, and the Applicant knows of no basis to make the other two findings in the statute, which the City has the burden to prove in any event.

Even if the City were to deny the requested concession, because preserving the tree would result in a loss of square footage so that the Project could not be built out to its allowable density, in the alternative to a concession the City must grant a waiver. The analysis for granting waivers follows in the next section below.

**Item No. 17.d** (justification of requested waivers): Government Code Section 65915(e) states that the local agency shall waive any applicable development standard that would have the effect of physically precluding the Project unless the City finds that the waiver would violate state or

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federal law or would have a significant and unmitigable impact on public health or safety, as defined in Government Code Section 65589.5(d)(2).

The standard for reviewing waiver requests is described in *Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755 (“Bankers Hill”). In *Bankers Hill*, the applicant for a housing development project that was approved by the City of San Diego sought various concessions and waivers for a project that qualified for a density bonus. Neighborhood groups challenged the approval, including on the ground that a height waiver for the project should have been denied because the project could have been redesigned with a smaller courtyard to avoid the need for the waiver.

The court rejected the idea that the city could require a project-redesign to avoid the necessity of a waiver. According to the court, the city lacked discretion to deny the waiver because once the applicant “established its eligibility for the density bonus . . . , it was entitled to a waiver of any development standards that would preclude construction” of the proposed project unless the city could make findings of a specific, adverse impact on public health or safety, or unless granting the waiver would violate state or federal law.<sup>12</sup> Citing earlier caselaw, the court explained that: “Standards may be waived that physically preclude construction of a housing development meeting the requirements for a density bonus, period. [Citation.] The statute does not say that what must be precluded is a project with no amenities, or that amenities may not be the reason a waiver is needed.”<sup>13</sup>

Stated differently, the applicant’s burden to justify a waiver is to show that under Government Code Section 65915, the project qualifies for the density proposed, and that the project cannot be constructed as proposed unless a waiver is granted. If the applicant meets this burden, the burden shifts to the local agency to identify a significant, adverse impact on public health or safety or a violation of state or federal law. The applicant is not required to consider or propose alternative projects that attempt to achieve the same density without the waivers sought.

As described above in Part I, the Project requires eight waivers from standards that would physically preclude construction of the Project as proposed. For each standard, all or some portion of one or more units or their amenities would have to be eliminated to comply with the requirement. This would require a redesign of the Project that in turn would require either a reduction of density, smaller unit sizes than are feasible for the proposed product type, and/or a loss of private open space or other amenities. In that regard, each such standard would physically preclude the Project as proposed, so that the Project is entitled to be granted waivers from those standards unless the City makes the findings for denial articulated above. The Applicant is unaware of any circumstance that would justify findings for denial.

For the foregoing reasons, the Project complies with the requirements of the City’s BMR

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<sup>12</sup> *Bankers Hill*, p. 774.

<sup>13</sup> *Id.* at p. 775.

Danielle Condit  
August 15, 2023

Manual, and it qualifies for waivers and a parking reduction pursuant to the DBL. Please let me know if I can assist you further in understanding the Project.

Very truly yours,

BERLINER COHEN, LLP



JOLIE HOUSTON

E-Mail: [jolie.houston@berliner.com](mailto:jolie.houston@berliner.com)

JH:jl  
Attachments



Mike Wilson &lt;mkibuildersinc@gmail.com&gt;

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**Leon Townhomes - Oak Tree**

2 messages

**W Jeffrey Heid** <wjheidsla@gmail.com>

Mon, Jul 24, 2023 at 8:28 AM

To: Mike Wilson &lt;mkibuildersinc@gmail.com&gt;

Cc: Larry Wang &lt;larrywang@tectoniccorp.com&gt;, Kuan Chang &lt;design1@tectoniccorp.com&gt;, hu leon &lt;leonhu2000@yahoo.com&gt;, Elizabeth Lanham &lt;Elizabeth.Lanham@davey.com&gt;, Chris Wood &lt;chris@lukassociates.com&gt;

Mike,

This memo is in reference to the existing Coast Live Oak (*Quercus agrifolia*), located along the easterly side of this property and project. Much has been discussed regarding the location, health, affect on proposed construction, etc. and below are my observations and personal comments:

- 1) Most likely a volunteer, thus it was not originally selected and planned for that location with future development in mind.
- 2) Most likely not well maintained over time. One aspect of this being that the base of the tree has been buried.
- 3) Not typically a good urban tree based on its characteristics (size, mess with flowers, pollen and acorns).
- 4) Is a sensitive tree and can be compromised by poor pruning (both root and canopy) with the potential for disease.
- 5) There are proposed grade changes to accommodate necessary drainage for the project which has the potential for damage to the root system. .
- 6) Based on the proximity of the proposed structure and exterior site improvement, I anticipate extensive and expensive efforts will be necessary to work with the tree with no guarantee of success.
- 8) The tree does provides scale, shade, wildlife habitat, and beauty.
- 9) While not immediately achieved, these same qualities can be replaced through the appropriate selection and placement of new trees.
- 10) In determining an appropriate tree replacement program for this tree, as well as other qualifying trees to be removed, care shall also be taken in determining the size of the proposed tree and container. A large tree and root ball can be challenging to locate effectively without the potential for damage to new construction as well as to the tree itself. While a larger tree may be considered desirable, planting one with a smaller root mass will not only be easier, but will also acclimate itself to its new home faster.

Let me know if you have any questions or comments to add.

Regards,  
Jeff

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**W. Jeffrey Heid**  
LANDSCAPE ARCHITECT

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**Mike Wilson** <mkibuildersinc@gmail.com>

Mon, Jul 24, 2023 at 8:30 AM

To: W Jeffrey Heid &lt;wjheidsla@gmail.com&gt;

Cc: Larry Wang &lt;larrywang@tectoniccorp.com&gt;, Kuan Chang &lt;design1@tectoniccorp.com&gt;, hu leon &lt;leonhu2000@yahoo.com&gt;, Elizabeth Lanham &lt;Elizabeth.Lanham@davey.com&gt;, Chris Wood



TECTONIC BUILDERS  
— CORPORATION —

# **Tectonic Builders Corp.**

## **Tectonic Architects and Associates**

10118 Bandley Dr. #E, Cupertino, CA 95014  
Tel: 408-216-0804

August 11, 2023

Dear Danielle,

Due to the location of the Live Oak Tree outlined on A 1.3 if it was to remain in place would have significant cost impacts to the development. A 1.3 shows there are (3) units affected by the critical root zones and the preservation of said zones. The structural infrastructure needed to complete this area of work including the backfill of 2ft of soil will cause this tree to stress and not survive. The arborists report provided states the removal is necessary.

The estimated cost implications to redesign this project losing (3) units will be 6 Million (2 Million for each unit).

In addition, the cost to redesign the infrastructure's utilities and structural components around the tree root zone would be upwards of 1 Million dollars.

Sincerely,  
Tina Chang  
Accounting Assistant