

Westport Development

21267 Stevens Creek Boulevard

July 14, 2020



CUPERTINO

Subject

Development proposal to demolish a 71,250 square foot retail center (The Oaks), remove and replace 74 protected trees, and construct a mixed-used development consisting of 267 housing units (88 Rowhouse/Townhomes, 179 senior apartments, which include 48 senior affordable apartments), 27 memory care licensed assisted living residences, and 20,000 square feet of commercial space. The applicant is requesting a Heart of the City Exception for retail frontage along Stevens Creek Boulevard.

Applications

- Certifying the Final Environmental Impact Report (FEIR) (EA-2018-04);
- Development Permit (DP-2018-05);
- Architectural and Site Approval Permit (ASA-2018-05);
- Use Permit (U-2019-03);
- Vesting Tentative Map (TM-2018-03);
- Heart of the City Exception (EXC-2019-03); and
- Tree Removal Permit (TR-2018-03).

Planning Commission Hearing on May 12, 2020

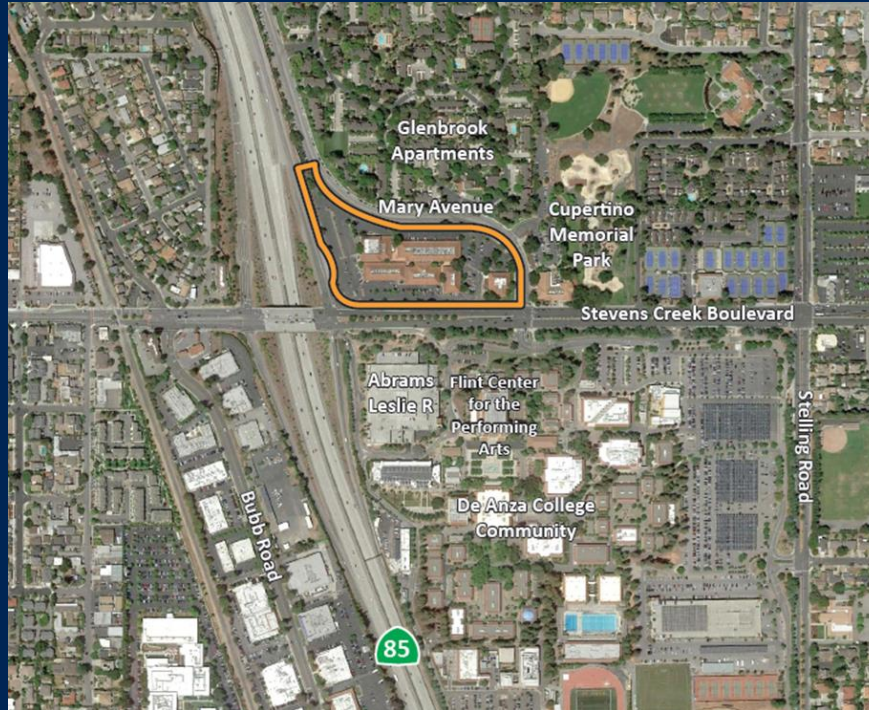
Planning Commission recommended (5-0) to certify the Final Environmental Impact Report, and adopt resolutions approving the project.

Project Revisions

June 4, 2020, the applicant submitted an amended project:

- **Relocation of BMR units to Building 2 / Additional story added:**
Consolidation of BMR units by moving nine BMR units formerly in Building 1 into Building 2 on an additional top floor of Building 2. Building 2 will now be six stories and will increase in height 0.75 feet from 73.75 ft. to 74.5 feet.
- **Unit mix:** Altered unit mix to provide additional space for terraces on top floor of Buildings 1 and 2. In Building 2, unit mix is adjusted to include two-bedroom units in addition to studios and one-bedroom units.

Project Location



- Mix of uses
- Heart of the City Specific Plan Special Area
- Oaks Gateway

Priority Housing Site

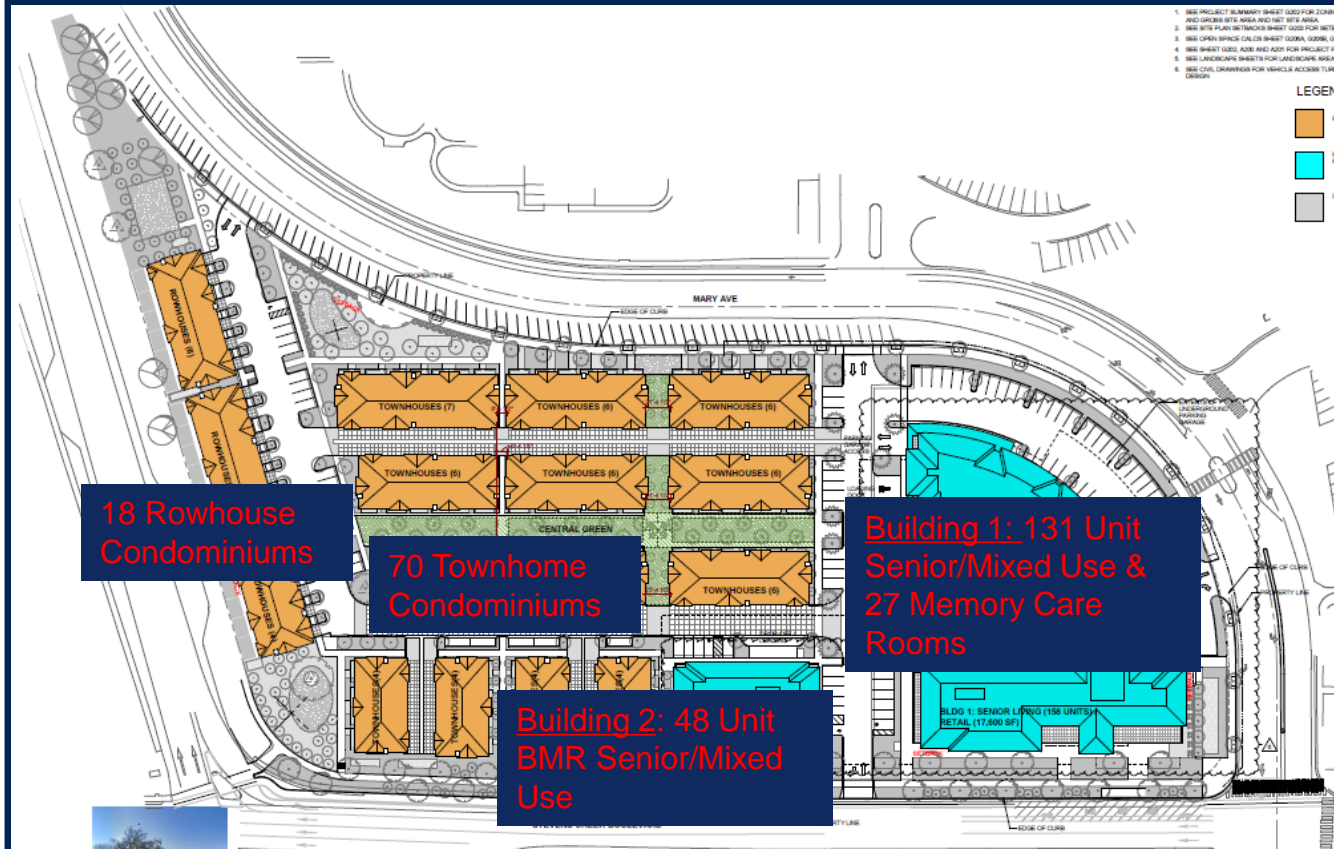
- Priority Housing Site in General Plan/Housing Element
 - Allocated 200 units based on 'Realistic Capacity', 85% of maximum capacity (which for this site is 30 DU/acre).
- Proposed base density (237 units) is consistent with what is allowed in General Plan.

Project Data

- Two residential/commercial buildings:
 - **Building 1**: six-story building with 167 senior residential units, 27 memory care licensed assisted living residences, and 17,600 square-feet of ground-floor retail/commercial space.
 - **Building 2**: six-story building with 48 below market rate (BMR) senior residential units and 2,400 square feet of ground-floor retail/commercial.
- 70 single-family residential townhouses and 18 single-family residential rowhouse condominiums.

Project Data

- One-level, below-ground garage with 187 parking spaces.
- 44,945 square feet of Residential Common Open Space
- 2,915 square feet of Commercial Common Open Space
- 386 onsite and offsite tree replacements, for 73 protected development trees proposed to be removed and/or relocated.
- A vesting tentative map that would divide the property into two separate parcels.



Density Bonus and Waiver Requests (CMC 19.56)

	Number of Below Market Rate Units	Percentage of Development Units
Very Low Income	60% or 29 units	12.2%
Low Income	40% or 19 units	8%

- Density bonus for very-low income units selected.
- Applicant entitled to maximum Density Bonus (35%) allowed by State Law (83 units) in addition to the base density of 237 units.
- Requested 24% bonus, or 30 units above the base density of 237, for 267 units.

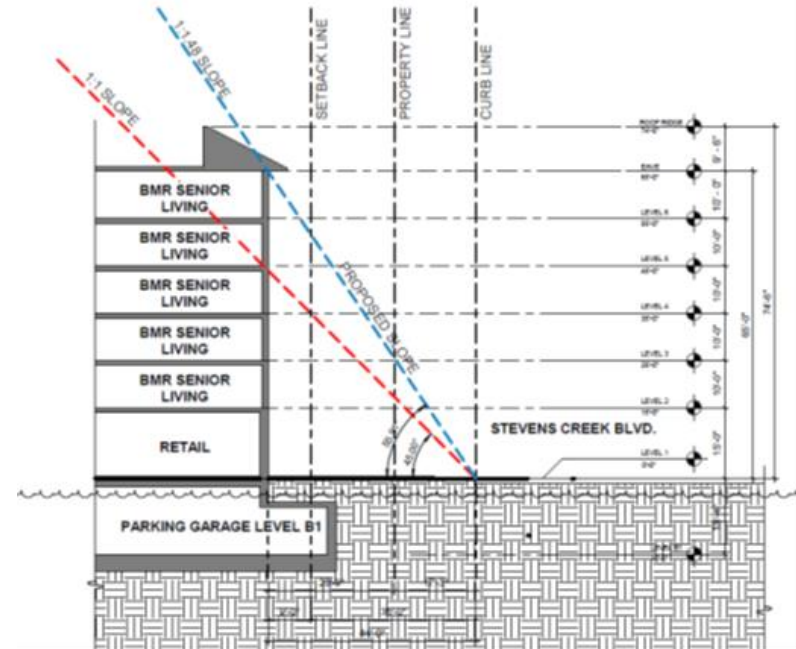
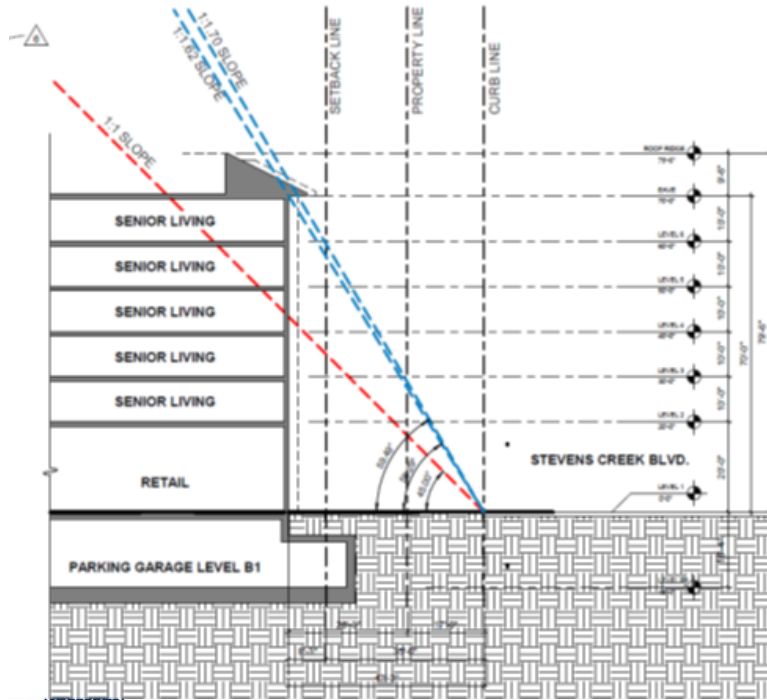
Density Bonus and Waiver Requests (CMC 19.56)

Applicant may request waivers or reduction of development standards that will have effect of physically precluding construction of a density bonus development.

- Height waivers of 45 ft. height limit in the General Plan:
 - Building 1 would be 70' 0" to the eave line, and 79' 6" to the roof ridge.
 - Building 2 would be 65' to the eave line, and 74' 6" to the roof ridge.
- Slope setback waivers of 1:1 slope setback from curb line in General Plan to slope setback of 1:1.70 for Building 1 and a slope setback of 1:1.48 for Building 2.
- Waiver from requirement in Section 19.56.050.G.1 that affordable units be dispersed throughout the project.

<i>Allowed/Required</i>		As Presented on May 12, 2020	Revised Senior Enhanced Project
Height of Structures	Up to 45 feet	Building 1 – 91.75 feet	79.5 feet
		Building 2 – 73.75 feet	74.5 feet
		Townhomes – 30 feet	No Change
		Rowhouses – 30 feet	No Change
Slope Line Setback	1:1	Building 1- 1:2.08	1:1.70
		Building 2 – 1:1.47	1:1.48

DENSITY BONUS AND WAIVER REQUESTS (CMC 19.56)



Density Bonus and Waiver Requests (CMC 19.56)

Waiver Justification - Applicant

- Taller structures with higher density housing and retail are concentrated on eastern end of site, allowing a greater product mix of housing
- Better transition to single family and lower-elevated apartments along Mary Avenue.
- Strict enforcement standards would:
 - Require the units to be further relocated to parts around site.
 - Lose required open space.
 - Limiting the height of Building 1 to 45 feet would directly eliminate 102 senior units, plus eliminate another 15 units in order to relocate the amenity terrace to a lower floor.
 - Limiting the height of Building 2 to 45 feet would directly eliminate 18 BMR senior units from the project.

Density Bonus and Waiver Requests (CMC 19.56)

- Consolidation of the senior housing components adheres to certain design requirements and code regulations that are particular to senior population.
- Dispersion of the Senior Housing within a mixed housing development is precluded by State Law.
- Regulated Senior Assisted Living facility, the service offering, operating costs and logistics, additional facility requirements and financing aspects create physical and financial obstacles.
- Low Income Housing Tax Credit program can be used to subsidize all of the affordable units if BMR Units consolidated

Density Bonus and Waiver Requests (CMC 19.56)

The City's third-party architectural firm found that applying the height and slope line requirements would:

- Decrease the amount of open space and landscaped areas
- Reduce average size of senior units
- Reduce the retail support space including areas identified for trash, loading, and lobby space.
- Reduce commercial ceiling heights
- Decrease above ground parking and increase underground parking

Density Bonus and Waiver Requests (CMC 19.56)

Dispersion Waiver

- The explanation provided by the applicant for why this is no longer feasible is a financial one
 - Applicant could not get tax credit funding for the BMR units in Building 1 if they were mixed with market rate units.
 - Sufficient to support a request for a concession, it does not justify a waiver.
 - Applicant has not submitted any request for a concession.

Unit Comparability

Building 1 (131 Units)	Studio	One Bedroom	Two Bedroom
Average Unit Size	537.7 s.f.	691.3 s.f.	1,087 s.f.
Unit Count	26	74	31
Mix Percentage	20%	56%	24%
Building 2 (48 Units)	Studio	One Bedroom	Two Bedroom
Average Unit Size	518.6 s.f.	615.7 s.f.	843 s.f.
Unit Count	9	28	11
Mix Percentage	19%	58%	23%

Use Permit

- Required for development of residential units on a mixed-use Housing Element site that proposes units above the realistic capacity in the Housing Element.
 - This site (the Oaks) is allocated 200 units based on a 'Realistic Capacity', which is generally 85% of the maximum capacity allowed (30 DU/acre) for the site.
 - Proposes project at maximum allowable density, which is 30 units per acre or 237 units.
- The applicant has submitted this application under protest because maximum density for site as shown in the General Plan is 30 units per acre.

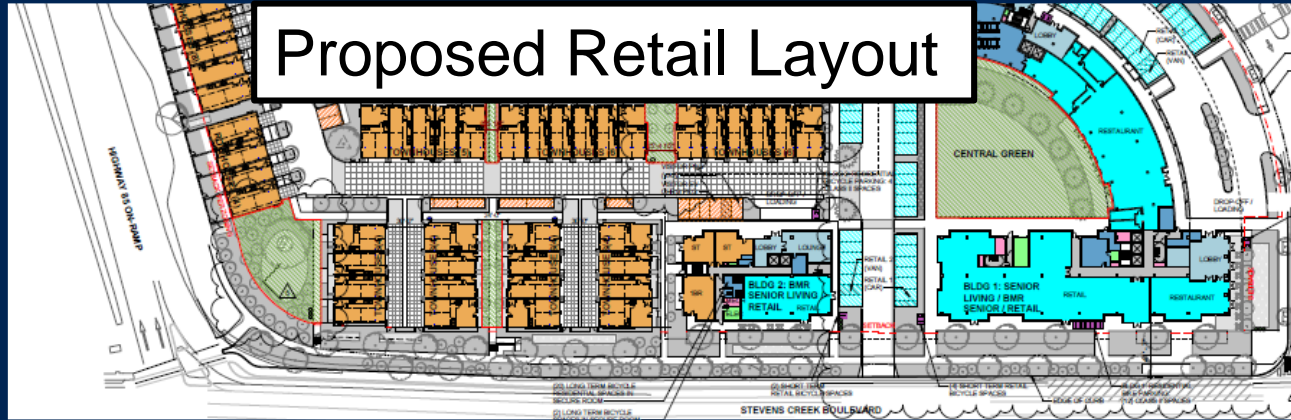
Use Permit

- Allow a residential care facility, with seven or greater residents in a residential zone.
 - Memory care facility, will also include a separate kitchen, activity room/library, and terrace. The residents will be supervised 24 hours a day, although they will live independently within their one-bedroom units.
 - Pursuant to CMC Section 19.20.020, 500 feet from the property boundary of another residential care facility.
 - If required, must obtain any license issued by appropriate State and/or County agencies and/or departments.

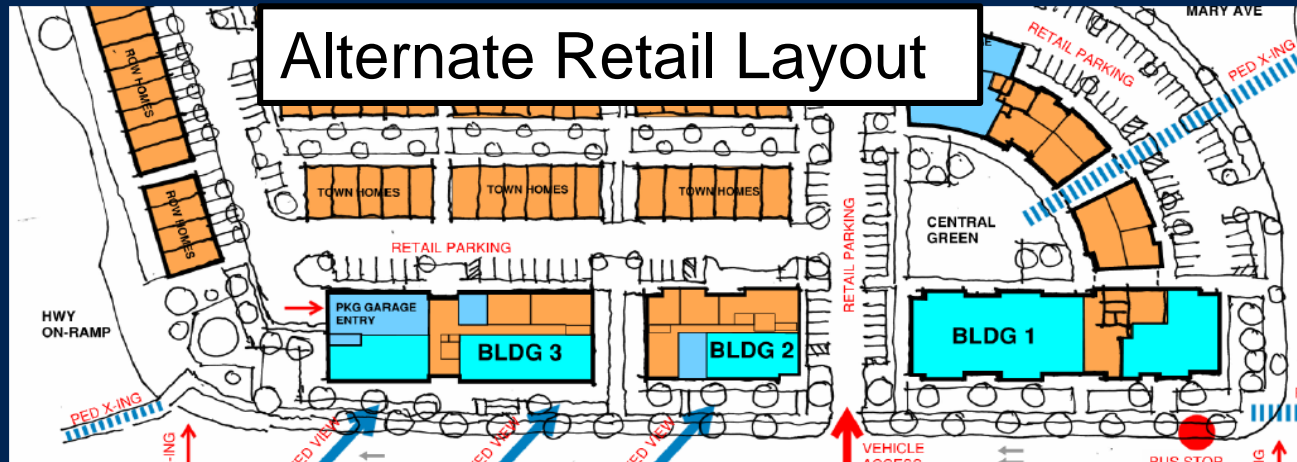
Heart of the City Exception

- Heart of the City Specific Plan limits uses that do not involve the direct retailing of goods or services to the general public to no more than 25% of a building frontage along Stevens Creek Boulevard, and no more than 50% of the rear of a building. The project provides approximately 40% of the frontage along Stevens Creek and approximately 75% of the rear of the buildings along Stevens Creek as non-direct retail

Proposed Retail Layout



Alternate Retail Layout



Architectural Design



Architectural Design

View from Mary Avenue

Building 1

Building 2

Townhomes

Rowhouses



View from Stevens Creek Boulevard

Rowhouses

Townhomes

Building 2

Building 1



Tree Removal and Replacement

- The development proposes to remove and replace 74 protected development trees.
 - 14 are Coast Live Oaks with trunk diameters ranging between 11-51 inches. Of the 14 Coast Live Oaks, four (4) will be relocated on-site.
- The applicant is proposing to replace the removed trees with 386 trees (314 on-site and 74 off site).

Tree Removal and Replacement

Protected Trees Removed	Sizes	Required Replacements			Replacements	
			24-inch box	36-inch box	24-inch box	36-inch box
36	Up to 12 inches*	One 24" box tree	36			
11	Over 12 inches and up to 18 inches	Two 24" box trees or One 36" box tree	68			
23	Over 18 inches and up to 36 inches					
3	Over 36 inches	One 36" box tree		3		
Totals			104	3	287	17

Traffic, Circulation and Parking Analysis

Type	Existing Conditions	Senior Enhanced	Difference
Trips			
Total Daily Trips	2,209	1,462	-747
Total AM Peak Trips	57	39	-18
Total PM Peak Trips	152	112	-40

Traffic, Circulation and Parking Analysis

- The City's Density Bonus Ordinance, in compliance with State Law, allows density bonus projects option to use alternate parking standards for all residential units (market-rate and affordable) based on bedroom count (0.5 per bedroom).
 - Required to provide only 383 spaces.
 - Proposes 463 parking spaces.

Vesting Tentative Map

- A Vesting Tentative Map is proposed to divide property into two parcels [one 4.7 acre and one 3.1 acre parcel].
- Bike route (similar to Class III) on west side and access to cross development route from Mary to Stevens Creek Boulevard.
- Stevens Creek Boulevard upgrades to include detached Class IV bike lanes and other improvements.

Project History

- On May 17, 2018 the applicant submitted an application that was deemed complete on July 23, 2019 and evaluated in Draft Environmental Impact Report (DEIR).
- In February of 2020, the applicant submitted a Senior Enhanced Alternative that was evaluated as a feasible alternative in Final Environmental Impact Report (Final EIR) (Increased Senior Housing Alternative).
- On April 22, 2020, applicant requested that Senior Enhanced Alternative Plan be considered as proposed project.
 - Although massing of buildings, square footage, and overall exterior appearance are virtually identical to previous proposed project, unit count has been increased.

Environmental Review/EIR

- Air Quality (construction)
- Biological Resources (nesting birds, tree removal)
- Cultural & Tribal Cultural Resources (unknown resources)
- Geology and Soils (unknown paleontological resources)
- Noise (construction)
- Tribal Cultural Resources (unknown resources)
- Utilities and Service Systems (wastewater)

Environmental Review/EIR

- At its April 16, 2020 meeting, the Environmental Review Committee (ERC) determined on a 5-0 vote that the project may have significant impacts to the environment requiring the preparation of an EIR for the City Council to consider certifying

THE EIR PROCESS

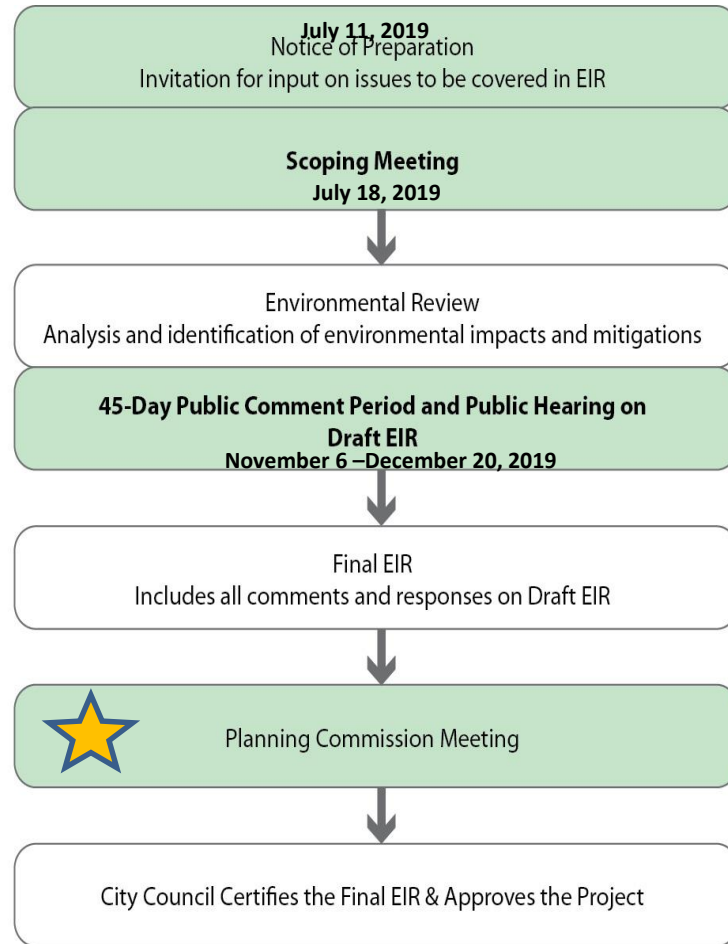
This chart shows the opportunities for public input during the EIR process.



= Current phase



= Opportunities
for public input



Housing Accountability Act

- Limits ability of a city to deny or impose certain conditions on a housing development project when project complies with applicable, objective general plan, zoning, and subdivision standards and criteria.
- This project is a “housing development project” under HAA because it is a mixed-use development consisting of residential and nonresidential uses with at least two-thirds of square footage designated for residential use.
- Project is either consistent with City’s objective standards or has applied for waivers under Density Bonus Law.
- As project is not consistent with BMR unit dispersion requirement, the City need not make these HAA findings if it denies or applies certain conditions to project.

Conclusion - Denial

Recommend Denial of the Project

- Project as proposed is inconsistent with BMR Manual's requirement that BMR units be dispersed throughout residential project.
- The applicant's reason for not dispersing BMR units in Building 1 is that such units would not qualify for funding from Low Income Housing Tax Credit.
 - Because this reason is financial, it does not demonstrate physical preclusion.
 - Dispersion requirement as a concession/incentive as defined in the Density Bonus Ordinance.
- Because the project is inconsistent with this development standard and does not qualify for a waiver, the project could be denied.

Conclusion - Approval

Recommend Certification of the EIR and Conditional Approval of the Project

Planning Commission could adopt a condition of approval requiring the BMR units to be dispersed between Buildings 1 and 2

BMR UNIT DESIGN REQUIREMENTS

The Applicant shall detail how the following requirements shall be met prior to building permit issuance:

- a) *Senior BMR units shall be comparable to senior market-rate units in terms of unit type, number of bedrooms per unit, quality of exterior appearance and overall quality of construction.*
- b) *Senior BMR unit size should be generally representative of the unit sizes within the senior market-rate portion of the residential project.*
- c) *Interior features and finishes in the affordable units shall be durable, of good quality and consistent with the contemporary standards of new housing.*
- d) *Senior BMR units shall be dispersed between Building 1 and Building 2. This condition shall be deemed satisfied if Building 1 contains 9 of the proposed BMR units.*

Conclusion - Approval

- Planning Commission could determine Project would be better with all BMR units in Building 2, and that there is sufficient information in the record to support a concession for the BMR unit dispersion requirement.
- Planning Commission could find that the BMR unit dispersion requirement physically precludes the project, the Planning Commission could recommend that the City approve the Project as proposed.

Added Condition of Approval – Development Permit

CONSTRUCTION PROJECT PHASING

Prior to issuance of the first grading and/or building permits, the applicant shall prepare a construction schedule, and shall demonstrate the ability to complete the project on or before the project expiration date. The construction phasing schedule shall detail critical milestones of the construction. Critical milestones of the construction shall include but not be limited to the following:

- A. Prior to granting a certificate of occupancy for Buildings 1 and 2, the street and sidewalk improvements along Stevens Creek Boulevard and the street and sidewalk improvements along the interior roadway for Parcels 1 and 2 shall be completed to the satisfaction of the City, and approval of the foundations shall be obtained for at least 50% of the townhomes and rowhouses approved for Parcel 2.
- B. Timing of the completion of Building 2 to be concurrent with or prior to occupancy of Building 1.

Outreach

Notice of Public Hearing and Intent, Site Notice & Legal Ad	Agenda
<ul style="list-style-type: none">▪ Site Signage (10 days prior to the hearing)▪ Citywide postcard mailed to each resident (10 days prior to the hearing)▪ Legal ad placed in newspaper (at least 10 days prior to the hearing)▪ Public hearing notices were mailed to property owners citywide (10 days prior to the hearing)	<ul style="list-style-type: none">▪ Posted on the City's official notice bulletin board (one week prior to the hearing)▪ Posted on the City of Cupertino's website (one week prior to the hearing)

Next Step

- City Council August 18, 2020





STEVENS CREEK BOULEVARD: ORIGINAL ELEVATION



STEVENS CREEK BOULEVARD: PROPOSED ELEVATION

Why Are We Here?



Minor Modification to Approved Plans

- PC recommended approval unanimously 5-12-20
- Only change is to move 9 BMR units from Building 1 to Building 2
- Some related architectural changes
 - Reducing height of tower elements
 - Stepping back Building 1
 - Adding a floor to Building 2, but reducing Tower Element



The Dispersal Concept

- CMC says BMR units “shall be dispersed throughout the project”
- All originally in Building 2 due to State and Federal requirements
- Obvious intent is to prevent stigmatization
- Purpose is to disperse BMRs into market-rate projects



Dispersal into Building 1 is not Required

- Here Building 2 is senior apartment building
- Building 1 is not a market-rate apartment building
 - State-licensed RCFE
 - Services must be required and provided to all residents
 - 3 Meals a day, Housekeeping, Transportation
 - Assistance with life activities
 - Night supervision
 - Residents pay bundled fee for rent + services
- So Dispersal concept does not apply to Building 1



State Housing Laws Mandate Approval

- Housing Accountability Act (Govt. C. 65589.5)
- Density Bonus Law (Govt. C. 65915)

Both are to be interpreted to maximize housing

- “This chapter shall be interpreted liberally in favor of producing the maximum number of total housing units.” (Govt. Code Sec. 65915(r).



Housing Accountability Act (HAA)

- Objective Standards must be applied
 - Denial requires finding of “specific, adverse impact on the public health or safety.”
- Dispersal is not an “objective” standard
 - Not a defined term
 - No standards for dispersal



HAA Reasonable Person Standard

- In case of disagreement of interpretation, a Project is in compliance if a reasonable person, based on substantial evidence in the record, could conclude that it is in compliance.
- Here a reasonable person could conclude project is in compliance.



Density Bonus Law (DBL) - Waivers

- Development Standards that would physically preclude development as designed must be waived
- City can't redesign the Project
- Waivers requested for Senior Buildings Only
 - 1:1 Slope Setback
 - 45 ft. Height
 - Locate affordable senior units in Building 2, not rowhouses or townhomes





STEVENS CREEK BOULEVARD: ORIGINAL ELEVATION



STEVENS CREEK BOULEVARD: PROPOSED ELEVATION

Request Recommendation of Approval



Atria Senior Living | Related Companies



Highest quality, large platform senior housing operator in North America

Home to more than **22,000 residents and 14,400 employees** in more than 200 communities across 27 states and 7 Canadian provinces

First **“Purpose-Built”** third party management services company in senior housing

Leading market position, East and West coast markets
Management team with **20+ years of experience** working together **across multiple brands**

In 2018, formed partnership with Related Companies to develop **best-in-class assisted living communities** in urban markets



Licensed Housing – Assisted Living and Memory Care

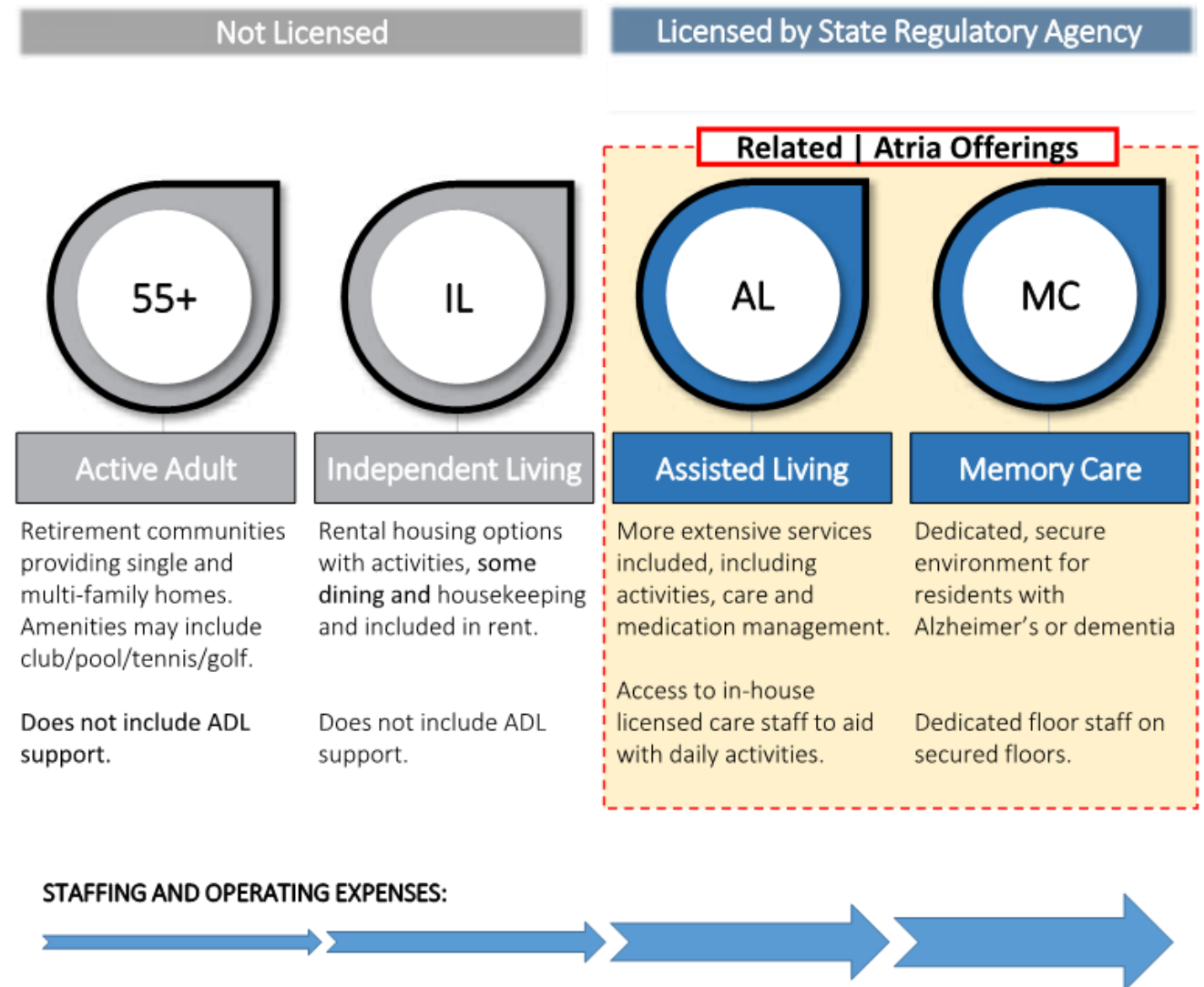
- **Facility will be licensed** by the California Department of Social Services as a Residential Care Facility for the Elderly for the **provision of Assisted Living and Memory Care Services**
- RCFE license **requires the provision of certain basic services**, including three meals a day, housekeeping, transportation, among others

Assisted Living (“AL”)

- **Personal care** for seniors needing assistance with **activities of daily living** (e.g. bathing, grooming, dressing, medication, management, etc.)
- **Care, services** for residents in a way that **enhances their independence**, dignity, privacy, and individuality

Memory Care (“MC”)

- **Specialized service** specifically for individuals facing the challenges memory impairment (e.g. Alzheimer’s disease, dementia)
- **Assistance** with medication management and activities of daily living in a secure environment with **24-hour care** from specially trained caregivers



Westport Plaza: Enhanced Senior and Family Living



Comments from Prior Meeting

- Reduce Height / Remove Towers
- Plan for Covid 19/ quarantine impact on operations
- Electively Create Similar Unit Types / Mix between Buildings 1 and 2



Responses to Comments

- Reduce Height / Remove Towers
 - Removal of Towers for Building 1 and 2
 - 9 BMR units relocated to Building 2 / Added Floor to Building 2
 - Re-Plan of Amenities to create setbacks at Building 1 at Floor 06.
- Additional area created in Back-of-House zones for quarantine operations:
 - Space for staff staging and sanitation
 - Space for storage of PPE materials
 - Space for staging of meal distribution during quarantine.
- Create Similar Unit Types / Mix between Buildings 1 and 2
 - Electively added 2 BR units to Building 2.
 - Electively adjusted unit mix with operator input for unit sizing / mix.



Building Mix and Unit Size Comparison

Building 1:

	LG (MEMORY CARE)	STUDIO	1BR	2BR
AVERAGE UNIT AREA (SF)	n/a	537.7	691.3	1087.0
UNIT COUNT	n/a	26	74	31
MIX PERCENTAGE	n/a	20%	56%	24%

131 TOTAL UNITS

Unit Range:

2BR: 855 SF – 1288 SF

1BR: 516 SF – 835 SF

Studio: 514 SF – 608 SF

Building 2:

	LG (MEMORY CARE)	STUDIO	1BR	2BR
AVERAGE UNIT AREA (SF)	n/a	518.6	615.7	843.0
UNIT COUNT	n/a	9	28	11
MIX PERCENTAGE	n/a	19%	58%	23%

48 TOTAL UNITS

Unit Range:

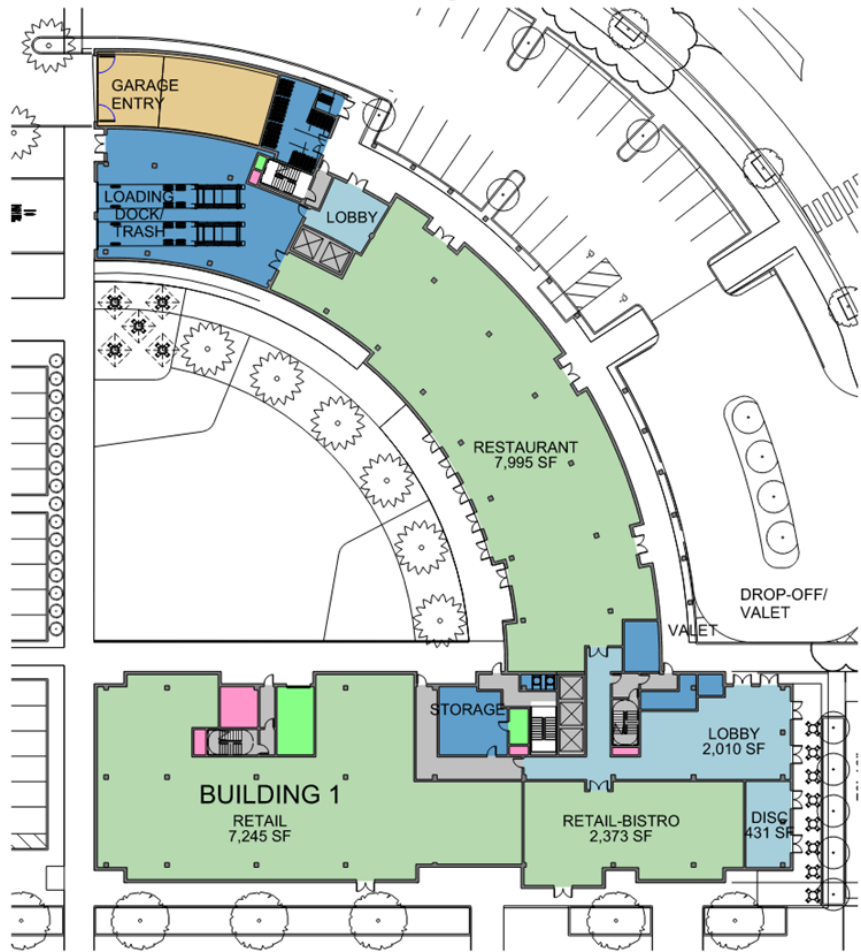
2BR: 702 SF – 959 SF

1BR: 541 SF – 689 SF

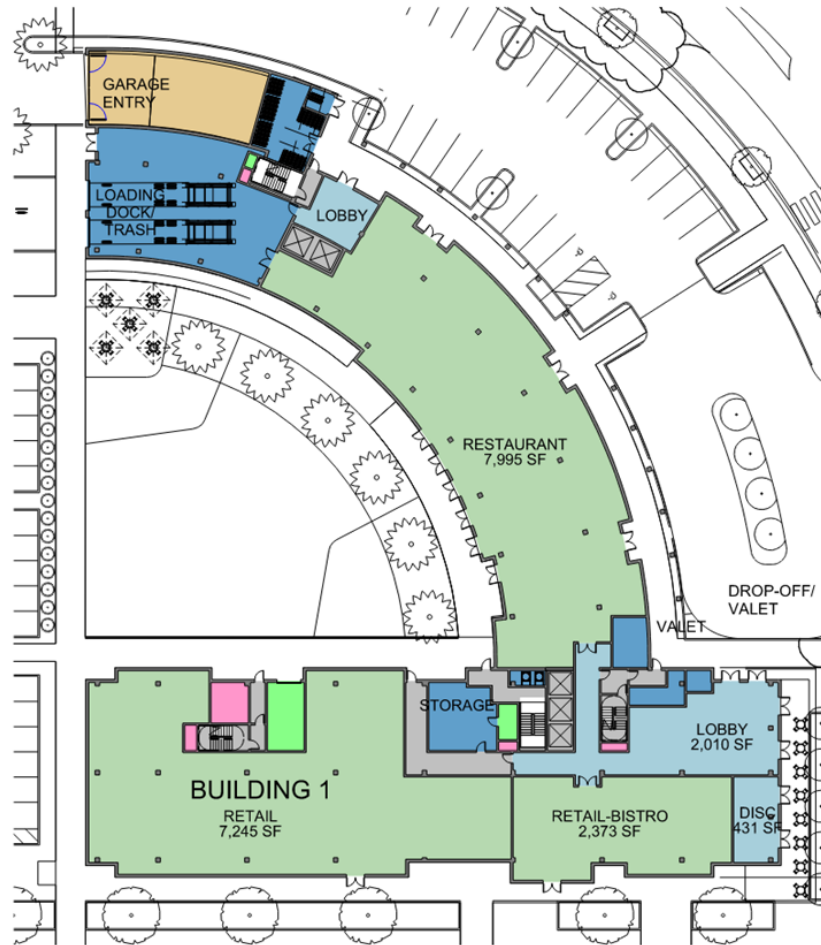
Studio: 515 SF – 523 SF



Building 1: Revisions



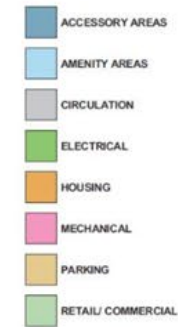
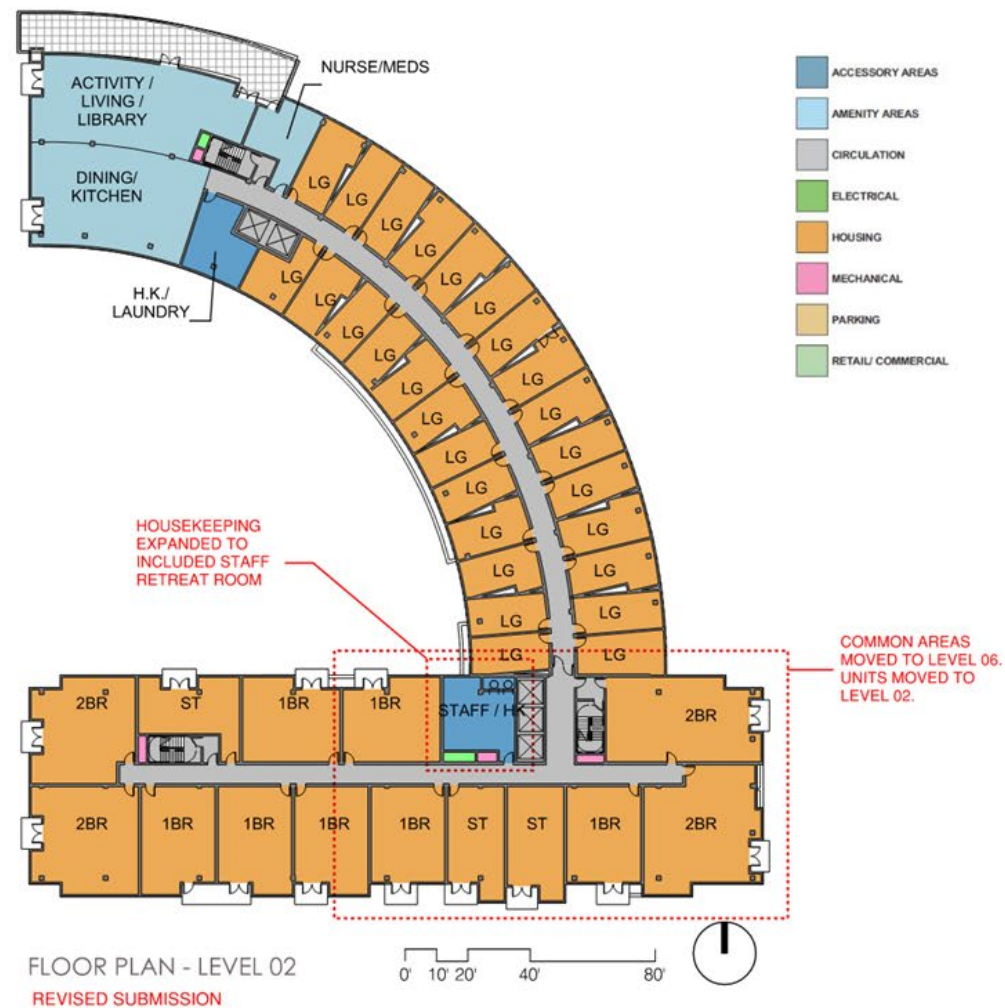
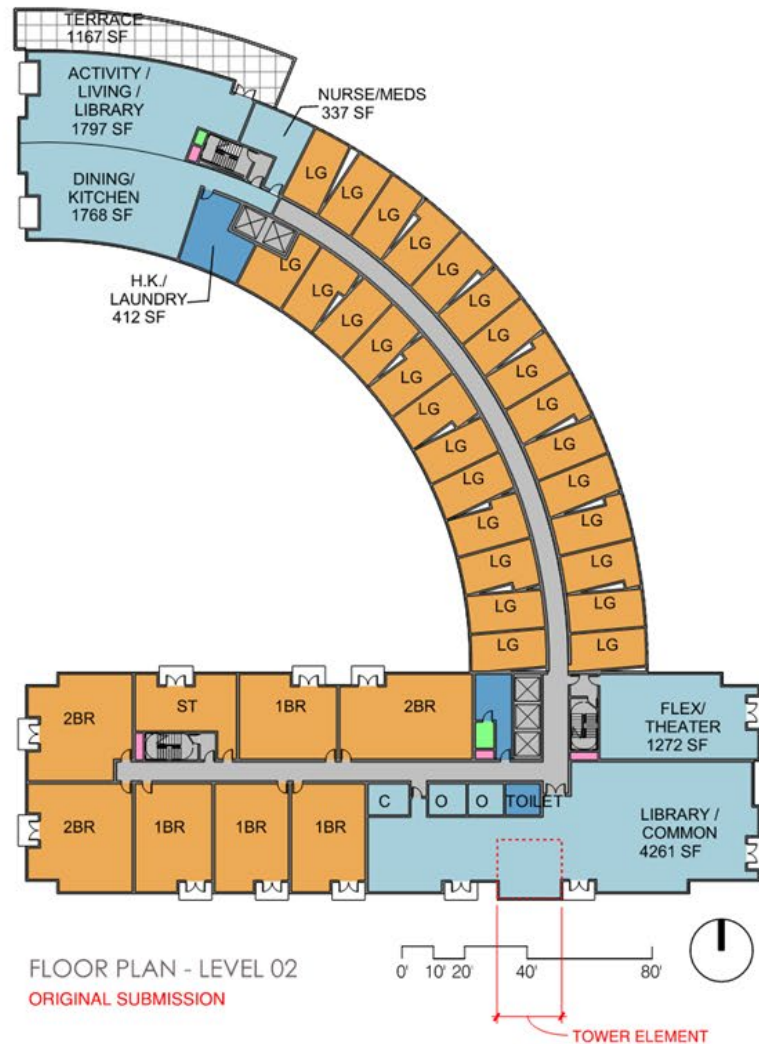
FLOOR PLAN - LEVEL 01
ORIGINAL SUBMISSION



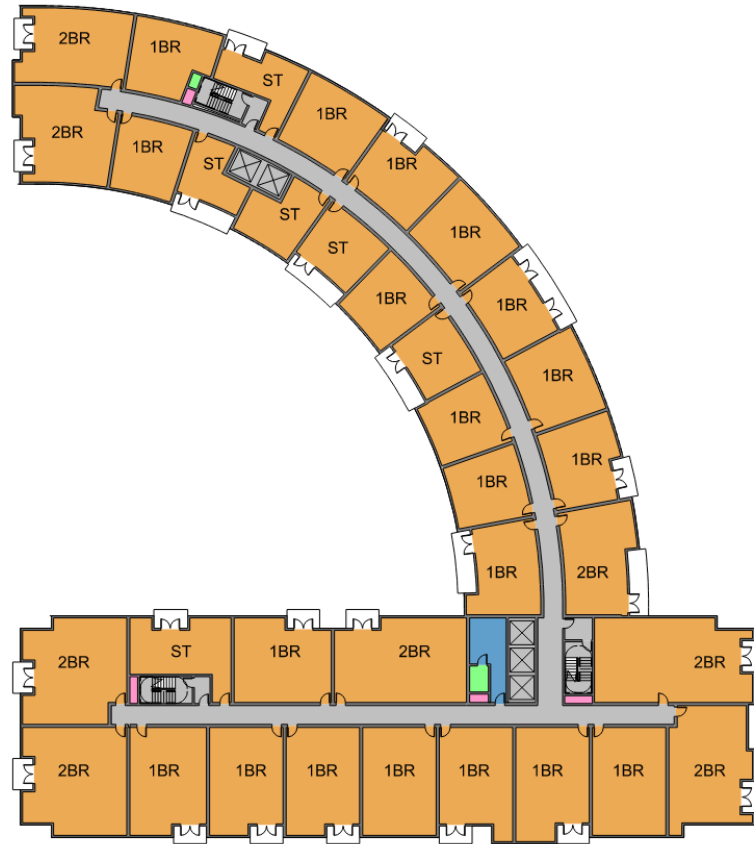
FLOOR PLAN - LEVEL 02
REVISED SUBMISSION - NO CHANGE



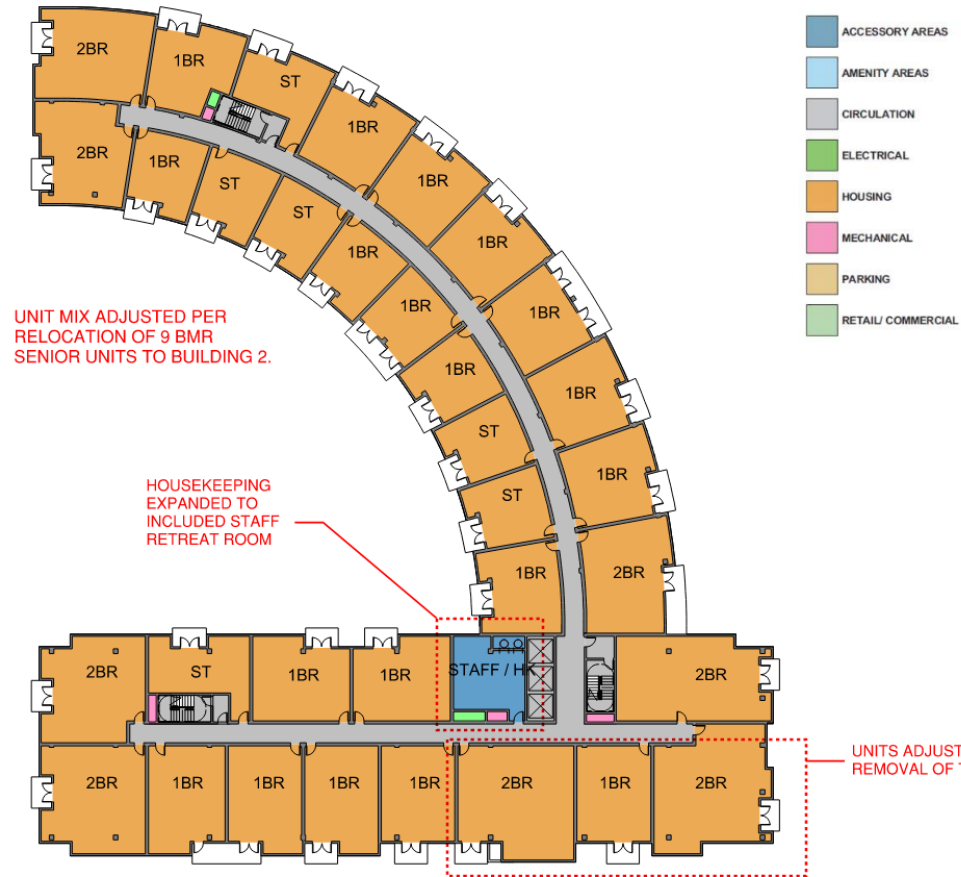
Building 1: Revisions



Building 1: Revisions



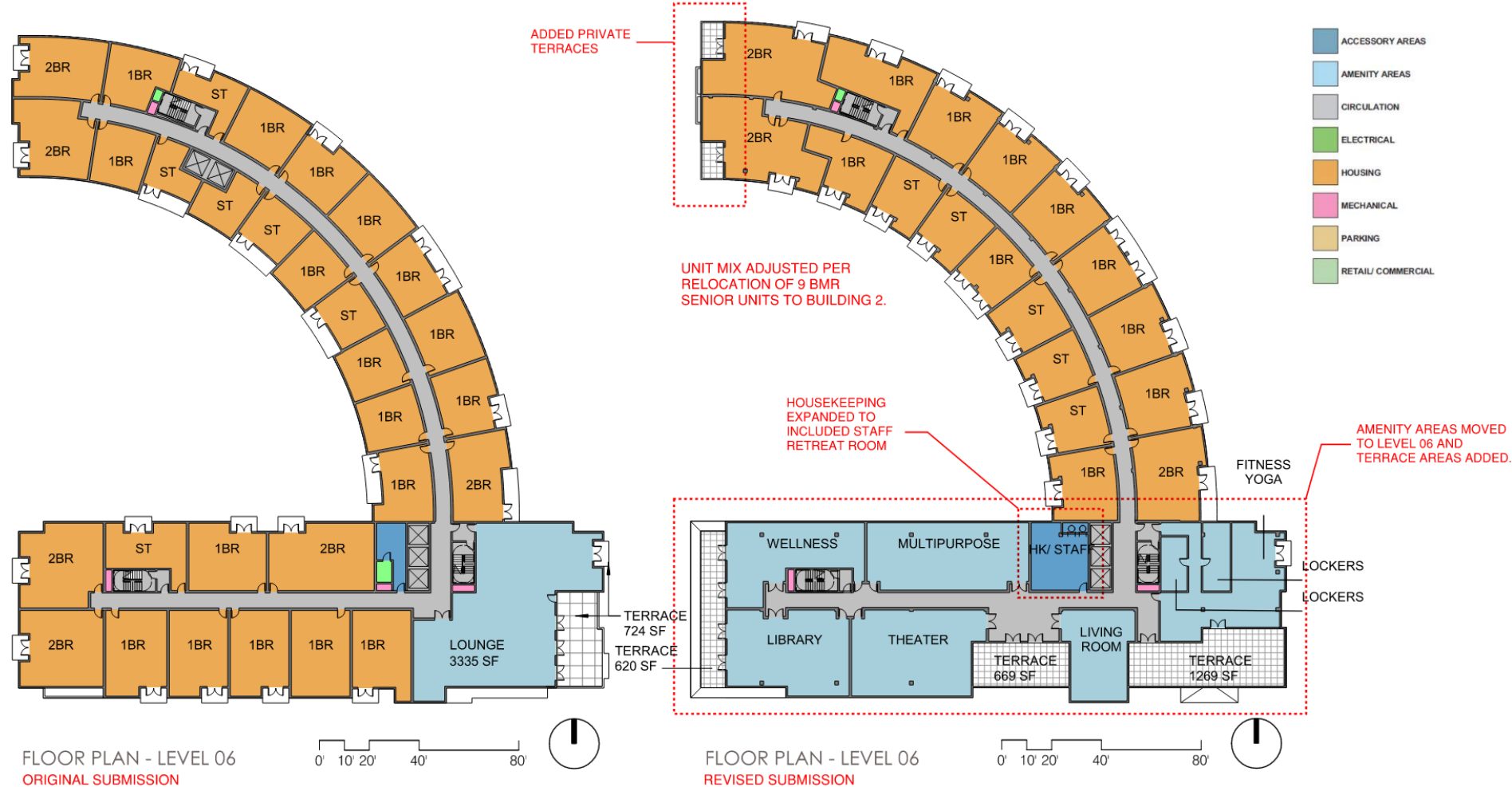
FLOOR PLAN - LEVEL 03-05
ORIGINAL SUBMISSION



FLOOR PLAN - LEVEL 03-05
REVISED SUBMISSION



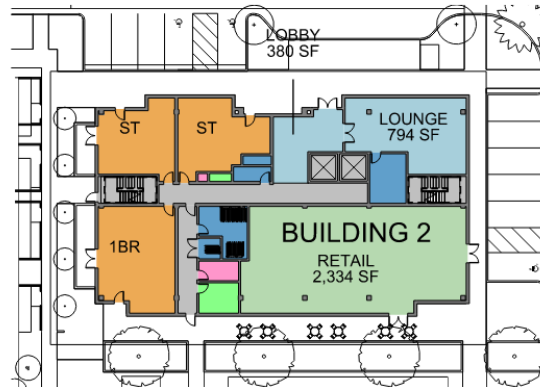
Building 1: Revisions



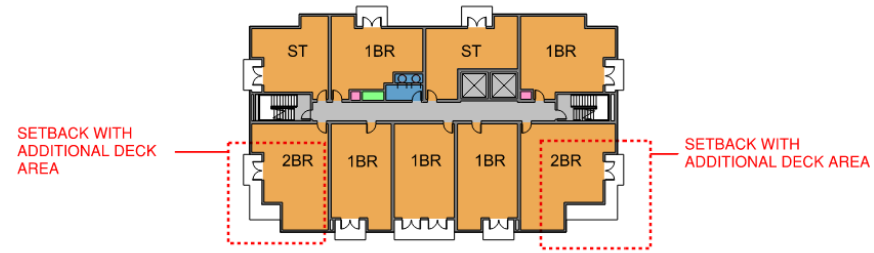
Building 2:



FLOOR PLAN - LEVEL 02-05



FLOOR PLAN - LEVEL 01
ORIGINAL SUBMISSION

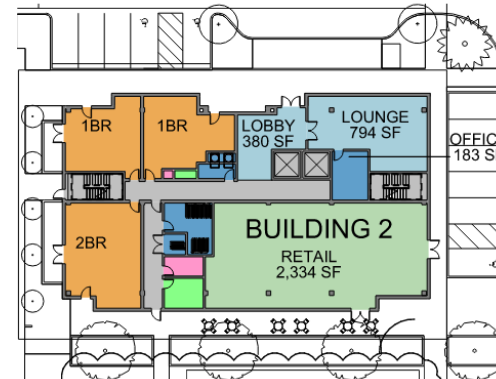


FLOOR PLAN - LEVEL 06
ADDED FLOOR FOR RELOCATED BMR UNITS

MIX UPDATED
PER
OPERATOR
SIZING OF
UNITS /
PARITY WITH
BLDG 1



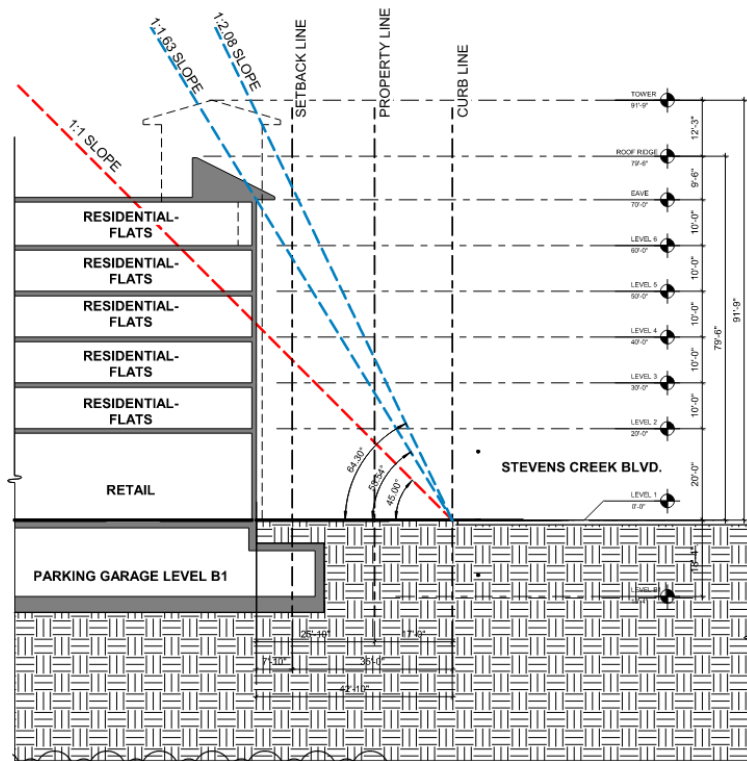
FLOOR PLAN - LEVEL 02-05



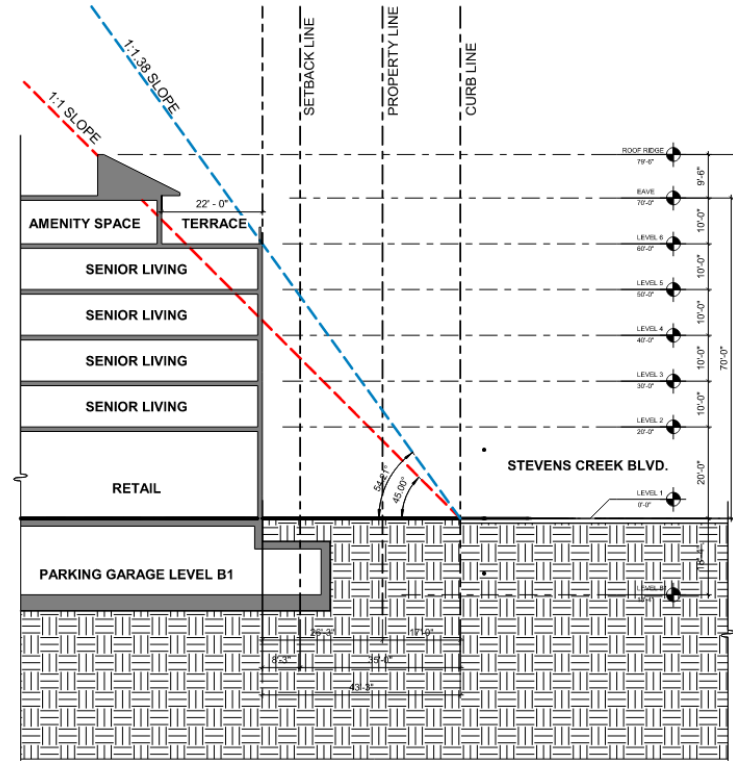
FLOOR PLAN - LEVEL 01
REVISED SUBMISSION



Building 1: Slope Section



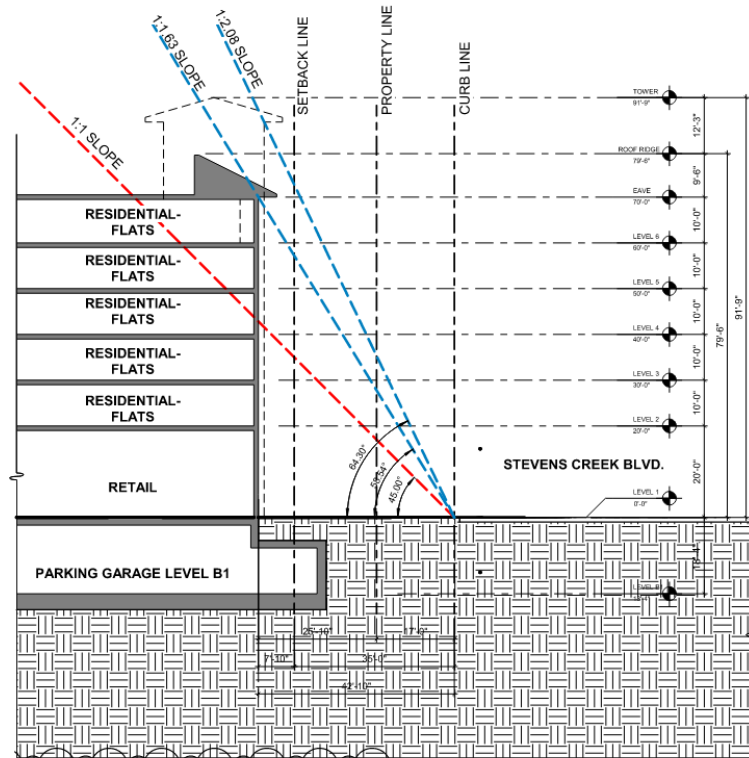
STEVENS CREEK BOULEVARD: PREVIOUS SECTION



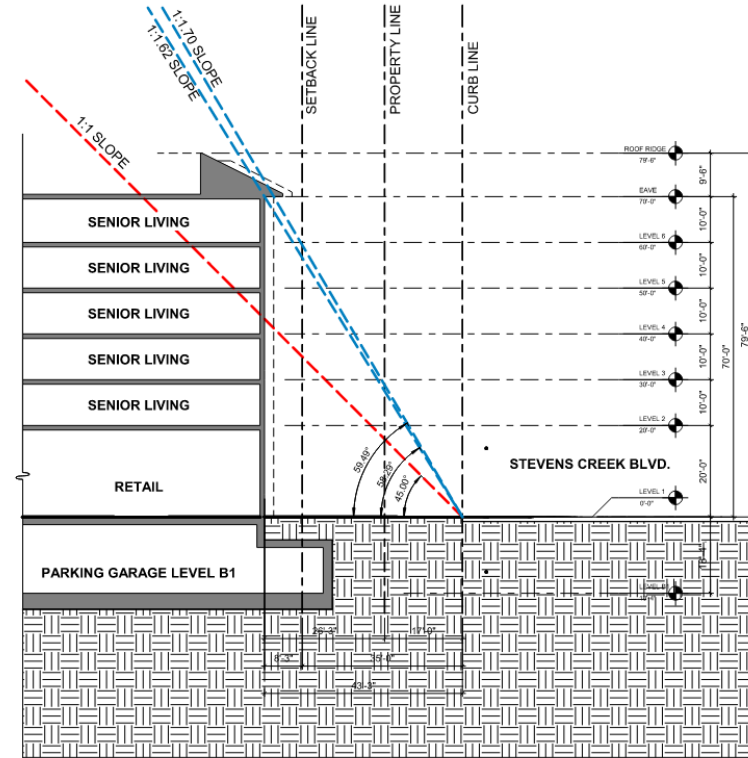
STEVENS CREEK BOULEVARD: PROPOSED SECTION
AT TERRACES



Building 1: Slope Section



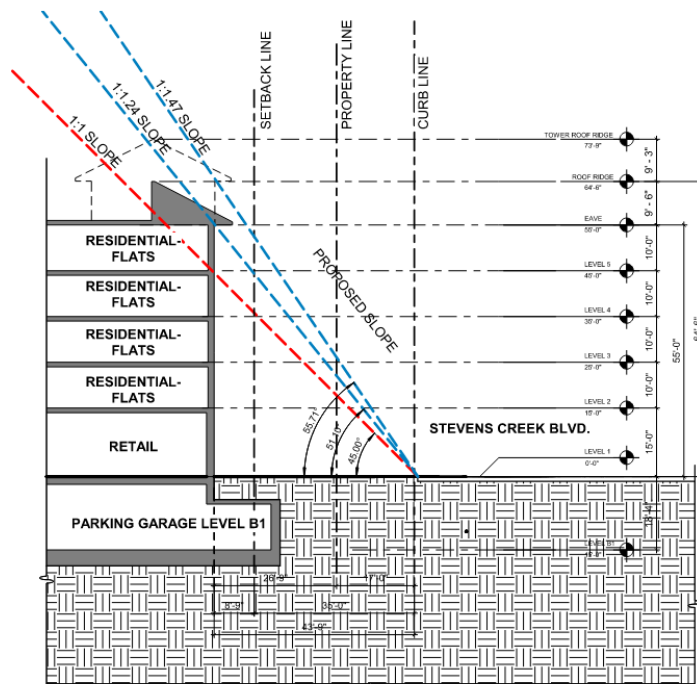
STEVENS CREEK BOULEVARD: PREVIOUS SECTION



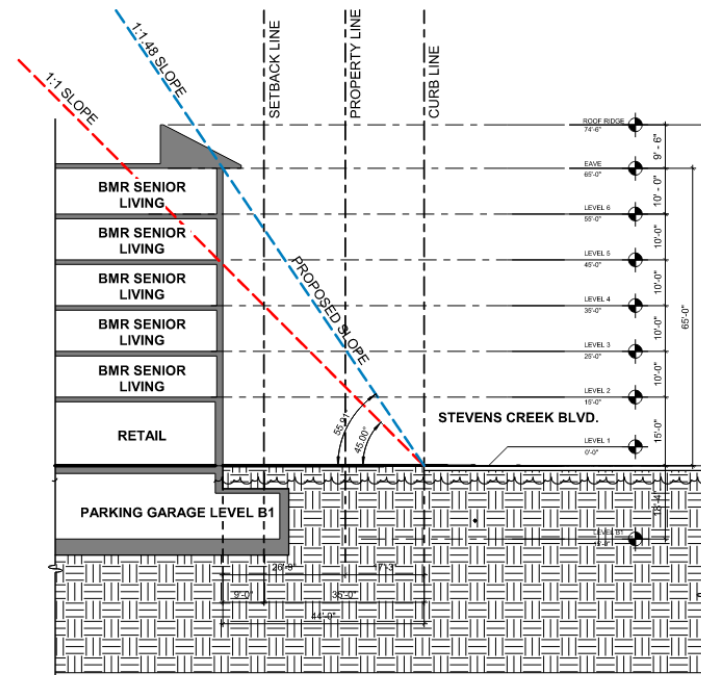
STEVENS CREEK BOULEVARD: PROPOSED SECTION



Building 2: Slope Section



STEVENS CREEK BOULEVARD: PREVIOUS SECTION



STEVENS CREEK BOULEVARD: PROPOSED SECTION



Building Revisions



STEVENS CREEK BOULEVARD: ORIGINAL ELEVATION



STEVENS CREEK BOULEVARD: PROPOSED ELEVATION



Building 1: Original Tower Design



WESTPORT
ARCHITECTS

Building 1: Revised Design



Building 2: Original Tower Design



Building 2: Revised Design



Thank you
City of Cupertino and the
Planning Commission

