

Holland & Knight

560 Mission Street, Suite 1900 | San Francisco, CA 94105 | T 415.743.6900 | F 415.743.6910
Holland & Knight LLP | www.hklaw.com

Genna Yarkin
+1 415-743-6990
Genna.Yarkin@hklaw.com

August 15, 2025

Los Gatos Planning Division
110 E Main Street
Los Gatos, CA 95030

Re: Resubmission for a Housing Development Project on Oka Road in Los Gatos – S-24-052, U-24-016, and M-24-017

Dear All:

This firm represents Urban Catalyst (the “Applicant”) in connection with its application for construction of a “housing development project” pursuant to the Housing Crisis Act of 2019 (“SB 330”) and the Housing Accountability (the “HAA”)¹ including the “Builder’s Remedy” provision, on the property on Oka Road with APNs 424-08-035 and 424-08-074 (the “Property”) in the Town of Los Gatos (the “Town”), California. The project consists of 138 townhomes including 28 low income units (the “Project”). The Applicant is seeking Architecture and Site Approval and a Conditional Use Permit (“CUP”).²

The Applicant is in receipt of the Town’s June 4, 2025 comments for the Applicant’s consideration. The enclosed responses and supplemental/revised materials are submitted in response to the Town’s comments.

The letter also serves as the Applicant’s “Letter of Justification” pursuant to the Town’s “Development Review Application Package” checklist and the further scope requested in the Town’s February 26, 2025 and June 4, 2025 comments.

¹ As explained in previous communication, the Project is proposed under the “Builder’s Remedy” provision of the HAA. Gov. Code § 65589.5(d)(5). Further, the Property is a housing inventory site in the Town’s Housing Element, in the “Lark Avenue Area” (See Housing Element Appendix D, Figure D-30), for which “by right” approval is required for a development containing at least 20% lower income units, because the Property was included in the previous Housing Element cycle but was not developed during that cycle. Id., page D-43; Gov. Code Section 65583.2.

² While the Applicant has agreed to apply for a CUP at the Town’s request to allow increased density, it remains the Applicant’s position that the Applicant is not legally required to seek this approval due to the applicability of the “Builder’s Remedy.” The Town is prohibited from denying the Project for noncompliance with maximum density standards.

Justification Letter³

Evolution of the Project

We note that as explained above and in more detail in our previous communication, the Project is not required to and therefore has not been designed to comply with certain aspects of the General Plan land use designation. To the extent that the Town's General Plan contains *other* legally applicable, objective and mandatory requirements, the Project has been designed to comply. The Project's evolution is also addressed above – the Applicant submitted an SB 330 preliminary application on May 2, 2024, submitted its first formal application for the Project on September 13, 2024, consistent with the HAA and the "Builder's Remedy" specifically. The Applicant received and responded to the Town's October 8, 2024 Incompleteness Letter, and received a completeness determination on November 20, 2024. The Applicant responded to further comments provided on February 26, 2025, and is now responding to further comments received on June 4, 2025. Please also see the enclosed Project Description and Plan Set for further Project information.

Required Findings

With regard to required findings, the Applicant is seeking approval of an Architecture and Site Approval entitlement for the Project. As described in the Town's code, the purpose of Architecture and Site Approval is to regulate the height, width, shape, proportion, siting, exterior construction and design of buildings to ensure that they are architecturally compatible with their surroundings. Section 29.20.150 of the Town Code lists the matters that the Town must consider when reviewing applications for Architecture and Site Approval. Section 29.20.150 does not specify objective standards for residential projects, but the Applicant has filled out the enclosed Objective Design Standards chart to help substantiate the Town's ability to make the required findings.

We further note here that with regard to "traffic safety and traffic congestion," the Project has been designed to meet all traffic safety requirements, and will include a robust Transportation Demand Management program to address congestion. With regard to "outdoor advertising," the Project does not currently contemplate any, but may seek to in the future. With regard to "landscaping," the project has been designed to comply with all relevant requirements, except to the extent permitted by law, see above. The project's landscaping will include significant green space, around 200 new trees, and gathering spaces. With regard to "site layout" and the "exterior architectural design of buildings and structures," on the northern end of the property, a community open space will be provided for people and pets to gather. There are also areas for walking between homes that will be landscaped with trees and shrubs and offer room for our public art installation. The project design utilizes a traditional style and details, while also incorporating materials to convey

³ While the Applicant has removed the "State Density Bonus Law application section of this letter, it remains our position that the Applicant qualifies despite the Town's disagreement, but that the Town is also able to make findings to approve the Project even without the State Density Bonus Law, and without in any way abandoning the Applicant's assertions about the effect of the Builder's Remedy. The Applicant has not in any way abandoned its argument that the State Density Bonus Law applies.

an enduring design quality and provide for a building design in context with the surrounding buildings in the project area.

The project is designed to respond to the site location, by breaking down the massing of the proposed building into smaller elements that relate to the surrounding uses and varied project frontages, while incorporating pedestrian scale amenities and design elements. The project also proposes a cohesive pedestrian circulation pattern on this block further to promote connectivity and pedestrian safety in the project area. With regard to “lighting and street furniture,” the Project has been designed to comply with all applicable requirements. With regard to “access for physically disabled persons,” the Project has been designed to comply with all applicable requirements. With regard to “the location of a hazardous waste management facility,” the Property is not located within 500 feet of such facility, and the Project does not propose any such facility.

The Project is also seeking a Conditional Use Permit (“CUP”).⁴ While the Project is not required to be consistent with the Town’s CUP findings in order to be approved (the Town must approve the Project pursuant to the HAA), the Applicant does feel that the Town can make the CUP findings. Further, addressing the state’s housing crisis and providing both market rate and 20% affordable housing units to the Town, are essential functions of the Project, and therefore desirable and do further the public welfare. With regard to the Project’s impact on the integrity and character of the zoning district, we note that the Project is being approved pursuant to a time-limited provision of the HAA that only applies when a jurisdiction is out of compliance with Housing Element Law, known as the Builder’s Remedy. Accordingly, the Project’s approval at a higher density than would otherwise be allowed in the district, will have no impact on other sites in the zoning district, or the integrity of the district as a whole. Further, the property is zoned for housing, and in the Applicant’s opinion an increase in density is not a negative impact on character or integrity. Further, there is no evidence that the Project will cause negative impacts to public health, safety, or general welfare. Rather, the Project is meeting an important goal to provide housing to help address a statewide crisis, and will assist in the Town in meeting its RHNA targets. Further, the Project will be required to comply with all mandatory, objective health and safety standards per the HAA. With regard to “harmony with the various elements or objectives of the General Plan and the purposes of [the Zoning] Ordinance,” while the Project has not been designed to comply in all respects with the General Plan and the Zoning Ordinance due to the applicability of the Builder’s Remedy, it does many requirements of the Zoning Ordinance, and provides high quality housing in an appropriate location, in close proximity to a variety of other uses that further the community’s ability to shop, work, and recreate close to where they live. The General Plan and the Zoning Ordinance have long planned for housing in this location, which the Project provides.

⁴ While the Applicant has agreed to apply for a CUP at the Town’s request to allow increased density, it remains the Applicant’s position that the Applicant is not legally required to seek this approval due to the applicability of the “Builder’s Remedy.” The Town is prohibited from denying the Project for noncompliance with maximum density standards.

Deviations from City Standards

Reference	Regulation/Standard	Applicant's Justification
General Plan Land Use Element		
2020 General Plan Land Use Element General Plan Amendment	General Plan Amendment Public Low Residential	The Project is not required to comply with the density limit of the General Plan's land use designation, due to the applicability of the Builder's Remedy provision of the HAA. The Project's use (housing) is consistent with the General Plan.
Zoning	Rezone R-1:8 R-1:8/HEOZ	The Project is not required to comply with the Zoning Code, due to the applicability of the Builder's Remedy provision of the HAA.
Town Zoning Code		
29.80.510 (b)	R-1:8: HEOZ - Maximum Density/Total Units 0-5 du/acre, 33 units max.	The project proposes a density of approximately 20.35 du/acre. The Project is not required to comply with the density limit of the Zoning Code, due to the applicability of the Builder's Remedy provision of the HAA. The Project's use (housing) is consistent with the Zoning Code.
29.40.405 (a) and 29.80.510 (b)	Setbacks Front: 25 ft. Sides: 8 ft. Rear 20 ft.	The Project is not required to comply with the Zoning Code, due to the applicability of the Builder's Remedy provision of the HAA. The Project complies with side setbacks for overall existing lot. Enforcement of the front and rear setbacks require an additional 21' beyond the setbacks currently proposed, which would result in the loss of a row of buildings, or 23 units. Setbacks Front: 8.5 feet min Sides: 45.3 feet min Rear: 15.2 feet min

	29.40.410 and 29.80.510 (b)	Maximum allowable height 30 feet max.	The project proposes a maximum height of 43'- 3 1/8". The Project is not required to comply with the Zoning Code, due to the applicability of the Builder's Remedy provision of the HAA. Compliance with the required height would cause the direct loss of many units' top floors and therefore drastically change the projects' makeup and density.		
	29.10.150 (c) (1)	Total Parking Spaces 2 parking spaces per unit = 276 minimum	Total Parking Spaces 2 parking spaces per unit = 276 minimum. Trash/recycling and bike parking are not counted toward a parking space. The Project is not required to comply with the Zoning Code, due to the applicability of the Builder's Remedy provision of the HAA. Providing side-by-side parking instead of tandem parking would require each of the current tandem units to grow by additional 10' in width. This would result in a loss of approximately 36 units.		
	29.10.150 (c)	Visitor Parking Spaces 1 parking space per unit= 138 minimum	Visitor Parking Spaces = 20. The Project is not required to comply with the Zoning Code, due to the applicability of the Builder's Remedy provision of the HAA. Additionally, 138 visitor parking spaces at 8.5 x18' would take up a minimum of 21,114 SF (excluding any necessary drive aisles), which would eliminate a minimum of four buildings, or 28 units.		
Town's BMP Program					
		See body of this letter, below.			
Objective Design Standards					
A.2 Site Standards ODS					
A.2.1 ODS	Short-term bicycle parking space shall be located within 50 feet of the primary pedestrian building entrance.	We understand the Town's Objective Design Standards to be have been adopted pursuant to the Town's Zoning Ordinance, and to function as zoning in			

A.2.2 ODS	Short-term bicycle parking shall be provided at a rate of one space per dwelling unit and one space per 2,000 square feet of non-residential floor area.	that they impose specific design standards on development proposals. Accordingly, the Project is not required to comply with this requirement due to the applicability of the Builder's Remedy provision of the HAA.
A.2.3 ODS	Each short-term bicycle parking space shall be a minimum of seven feet in length and two feet in width.	The project does not provide any short-term bicycle parking spaces within 50 feet of the primary pedestrian building entrance. Providing 138 bike spaces (and meeting all of the other short-term bike related requirements associated with those spaces and identified at left) would require a minimum of 1932sf (138 x 7' x 2') of land area to be dedicated to bike parking which would decrease the developable area, thus negatively affecting the Project's density.
A.2.4 ODS	If more than 20-short term bicycle spaces are provided, at least 50 percent of the spaces shall be covered by a permanent solid-roofed weather protection structure.	
A.7 Utilities		
A.7.1 ODS	Pedestrian-oriented lighting shall be provided along all pedestrian paths in community recreation spaces. Exterior lighting fixtures shall be a minimum of three feet and a maximum of 12 feet in height. Light fixtures shall be placed along the pedestrian path at a spacing of no more than 30 linear feet.	Lights are 12' tall. Lights are placed along pedestrian path at a spacing of a maximum of 90 linear feet. Placing the lights a minimum of 30' apart would provide over 3 times the recommended light levels for pedestrian paths. We understand the Town's Objective Design Standards to be have been adopted pursuant to the Town's Zoning Ordinance, and to function as zoning in that they impose specific design standards on development proposals. Accordingly, the Project is not required to comply with this requirement due to the applicability of the Builder's Remedy provision of the HAA.
A.8 Landscape and Screening		

	A.8.2 ODS	<p>A minimum 10-foot-wide landscape buffer shall be provided along the full length of the shared property line between multi-family or Residential Mixed- Use development and abutting residential properties. The buffer shall include the following:</p> <ul style="list-style-type: none"> a. A solid masonry wall with a six-foot height, except within a street-facing setback where walls are not permitted; and b. Trees planted at a rate of at least one tree per 30 linear feet along the shared property line. Tree species shall be selected from the Town of Los Gatos Master Street Tree List and shall be a minimum 15-gallon size. 	<p>We understand the Town's Objective Design Standards to be have been adopted pursuant to the Town's Zoning Ordinance, and to function as zoning in that they impose specific design standards on development proposals. Accordingly, the Project is not required to comply with this requirement due to the applicability of the Builder's Remedy provision of the HAA. The project proposes 5' landscape buffer, with additional buffer provided by the private street, parking areas and sidewalks. Buildings are located a minimum of 45' from the shared property line. Increasing the landscape buffer to 10' would result in the loss of 4 units (one each in lot 1, 6, 9 a minimum 15-gallon size. and 12).</p> <ul style="list-style-type: none"> a. A 6 ft. solid masonry wall will be constructed along the north-east property boundary. See Sheet C3.0 and Sheet L4. b. Trees are planted at a rate of at least one tree per 30 linear feet along shared property line. Trees species was selected from Town of Los Gatos Master Street Tree List and is Ginkgo Biloba (Princeton Centry). They are a minimum of 15-gallon size. See Sheet L.5.
A.11 Landscaped, Private and Community Recreation Spaces			
	A.11.b ODS	<p>Private recreation space: The minimum horizontal dimension is six feet in any direction and a minimum area of 60 square feet. The minimum vertical clearance required is eight feet. Private recreation space shall be directly accessible from the residential unit. Landscaped sections of private recreation space shall not count towards required landscaping requirements.</p>	<p>We understand the Town's Objective Design Standards to be have been adopted pursuant to the Town's Zoning Ordinance, and to function as zoning in that they impose specific design standards on development proposals. Accordingly, the Project is not required to comply with this requirement due to the applicability of the Builder's Remedy provision of the HAA.</p> <p>The project does provide private ground floor open space ranging from 75 sf to over 200 sf. Refer to Sheet A.33. dimension of 10'. For all the units to meet this requirement, the buildings would have to be setback further away from the rear and front</p>

		property lines and also have a greater spacing when fronting each other. Increasing the setbacks and spacing would result in the loss of 30 units.
		<p>We understand the Town's Objective Design Standards to be have been adopted pursuant to the Town's Zoning Ordinance, and to function as zoning in that they impose specific design standards on development proposals. Accordingly, the Project is not required to comply with this requirement due to the applicability of the Builder's Remedy provision of the HAA.</p> <p>See below for square footage for each category. The code requires 120 sf of space with a minimum dimension of 10'. For all units to meet this requirement, the buildings would have to be set back further away from the rear and front property lines and also have greater spacing when fronting each other.</p> <p>Increasing the setbacks and spacing would result in the loss of 30 units, in violation of the HAA. The project does provide private ground floor open space range from 75 sf to over 200 sf. Refer to sheet A.33.</p>
B.1 Massing and Scale - ODS		
B.1.2	Upper floors above two stories shall be set back by a minimum of five feet from the ground-floor façade.	<p>We understand the Town's Objective Design Standards to be have been adopted pursuant to the Town's Zoning Ordinance, and to function as zoning in that they impose specific design standards on development proposals. Accordingly, the Project is not required to comply with this requirement due to the applicability of the Builder's Remedy provision of the HAA.</p> <p>The project does provide for articulation and some setbacks. The project does not comply with setting back the 3rd floor of all the buildings since this would result in the loss of 138 units and would prohibit the project to be constructed at the density and with the</p>

		concessions requested. Refer to Sheet A.30 for exhibit.
--	--	---

Compliance With the Town BMR Program

With regard to compliance with the Town's BMR Program (the "BMP"), the Project is not required to comply. The Town's BMP is "governed by Division 6 of Article VIII of Chapter 29 of the Town Code," and the Town is therefore prohibited from denying the Project notwithstanding any noncompliance with the BMP due to the Builder's Remedy provision of the HAA. The Project complies with the HAA's requirement for at least 20% of the units to be affordable. The Project includes 138 townhomes including 28 affordable units which would be limited to the maximum income level for "low income" units pursuant to the HAA. The BMR units are in the following locations marked with asterisks (*), as also shown in the Plan Set on Sheet A.3:



Affordable Percentage	20%			
	Affordability Count			
	Plan 1 (2B/2B)	Plan 2 (3B/3B)	Plan 3(3B/3B)	Plan 4 (3B/3B)
No. of Affordable Units	28	0	0	0
No of non affordable	26	48	30	6
Total	54	48	30	6

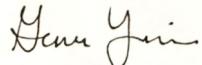
Consistent with the Builder's Remedy provision of the HAA, the Applicant has selected BMR units that ensure the feasibility of the Project, while not complying in all respects with the Town's BMR Guidelines. In particular, the Project differs from the Guidelines in the following ways:

- The Project's affordable units consist of 2 bedroom, 2 bath units, which conflicts with BMP Guidelines III.A.
- The Project proposes units that are affordable at up to the maximum for a "low income" unit as defined by state law, and proposes not to comply with any inconsistent requirements in BMP Guidelines V.B.

We appreciate your continued attention to this Project.

Sincerely,

HOLLAND & KNIGHT LLP



Genna Yarkin