

From: **Diane Siemens** siemedian@icloud.com
Subject: **Item 12 on August 7 Agenda - North 40 Specific Plan Amendments**
Date: August 2, 2018 at 11:02 PM
To: Council@LosGatosCA.gov



Dear Council Members,

I attended the June 5 meeting at which this item was continued with the intent to advocate for a park close to the first part of the project. We were blindsided by a Grosvenor proposal that massively increased the number of residential units and the height of the project. Now we are faced with a proposal to amend the Specific Plan to fit Grosvenor's plans. I also attended the August 2 meeting held by Democracy Tent for the developer. The same alternatives were presented. Please do not amend tonight to fit these plans. The town needs to complete the process of developing objective standards. We do not need to again write the Specific Plan to maximize developer profits. You heard us the first time but state law stuck us with an overly dense project. This time, we can say no. Lets do it. We can extend the moratorium.

I do not necessarily disagree with the idea that more housing instead of retail would have less traffic impact. But the 294 units proposed with an accompanying request to lower guest parking requirements is excessive. If this is the price to be paid for a hotel, we don't need a hotel. I don't object to trading some additional height near the highways for a real park that will better the quality of life in the whole development. An athletic field at the far end of the property between two highways is not healthy for children. That isn't a good trade.

Again, please don't approve the Specific Plan changes requested by Grosvenor. They are excessive. Look at other uses that have low traffic impact. Extend the moratorium to look at traffic impact of alternatives.

Thank you.

Diane Siemens

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July 31, 2018

RECEIVED

AUG 03 2018

TOWN OF LOS GATOS
PLANNING DIVISION

Rob Rennie, Mayor, and
Honorable Councilmembers
Town of Los Gatos
110 E. Main St.
Los Gatos, CA 95030

Re: Moratorium on North Forty Specific Plan Study Area

Via Email and U.S. Mail

Dear Mayor Rennie and Honorable Councilmembers,

Please be advised that this office represents the owners in Trust of the real property located at 14849 Los Gatos Boulevard, Los Gatos, California, a site consisting of approximately Thirty Nine Thousand square feet (39,000 sq. ft.), located in Phase 2 of the North Forty Specific Plan Study Area.

My clients wish to note that over the preceding six years, (since the Specific Plan study began in late 2011 or early 2012), the owners of all Phase 2 Specific Plan realties have been prevented from any viable opportunities to sell or develop their property due to the original Specific Plan Study and adoption and now the Moratorium. If recalled correctly, during the Specific Plan Study, the Town was not accepting applications for new development, nor issuing any building permits for any build outs for any properties within the Study area.

Thereafter, the Town Council did adopt a Specific Plan for the study area, consisting of approximately Forty Two (42) areas, in late 2015. That Specific Plan set specific heights limits, residential build-out limits, commercial and office build-out limits, and traffic generation limits for the entire Study area. That Plan remained in effect until the first application for Site and Architecture came before the Town and a dispute developed between the Council's interpretation of the Plan and the Applicant's. This resulted in the rejection of the first Site and Architecture application by the Town Council. That denial caused the Applicant to seek a Writ with the Superior Court. That Court reversed and sent the matter back to the Town Council for reconsideration. Thereafter, as we all know, the original application was largely approved with minor modifications, and the Town immediately thereafter imposed a Moratorium to Re-study the area and modify the Plan in an attempt to avoid other incidents which might result in applicants and the Town combating their interpretations of the numerous policies and restrictions recited in the Plan before judicial tribunals.

All along, my clients have abided by the Town policies, and more than patiently waited throughout the Specific Plan Study process, and through the Moratorium which is now been in place for

nearly a year, all the while hoping to avail themselves of the opportunity to seek prospective buyers for their property and complete a transaction that would allow for the sale to a new owner at fair market value to pursue a new uses for the property. Such uses would necessarily be consistent with the the prior, and/or new North Forty Specific Plan.

Unfortunately, this process, since commencement, has now taken about six and a half (6 ½)years. and during that lengthy time, my clients have no realistic opportunity to try to capitalize on the booming real estate market and try to engage in a transaction that would allow them to recognize the fair market value of the property. These same rights have been fully available to **all** other other land owners in the Town of Los Gatos; all owners except for the ones in Phase2 of the North 40 Specific Plan Study area where perpetual Studies and re-Studies occur, along with intermittent Moratoriums, which have imposed huge burdens on the Phase 2 landowners.

I would like to note that this property was not acquired by the Trustor or beneficiaries as part of any real estate speculation or for development purposes. Rather, the current beneficiaries came to receive this property via an inheritance from a former Town fixture, a business man, who operated a retail drug store in the Town of Los Gatos for thirty five (35) years. He acquired the subject realty for the sole purpose of using the barn and other out buildings on site solely for inventory storage necessary to keep pace with the rapid changes and market forces impacting small, independently-owned retail pharmacies in the 1960s. The revocation of the Fair Trade laws during that time initiated a retail revolution, providing buyers with price competition which required local small business owners to nimbly adjust the customary operations and adopt practices such as “loss leaders” and “targeted giveaways “to drive traffic through their stores and make them competitive against businesses operating on far larger scales of volume and margins. The drug store has long since closed, like most other small pharmacies from that time period and the subject property is now largely un-used. The only income derived from the land is from the rental of one small residential unit which yields a very poor return on investment for the Trust.

My clients believe now is the most opportune time to attempt to realize the fair market value of the property, but due to the Moratorium, they have been unsuccessful in finding willing buyers who, quite rationally, don't want to buy realty the Town has frozen out of any new improvements.

Additionally, **and very critically**, the owners of the the small lots located at the corner of Burton Rd. and Los Gatos Boulevard, need a **Guaranteed Equitable Development Allocations**. The Council must insure that there are development allocations reserved for the small landowners in Phase 2 such that there remains economically viable residential and commercial/office development opportunities after the controlling landowner in Phase 2 receives approval for their proposed development..

As part of the Specific Plan, the Town has focused on specifying the maximum buildout for residential units, total allowable office and commercial square footage, as well as maximum number of traffic trips generated from the combined development of the 40+ acre Study area..

There is nothing wrong with this approach, but in practice, these policies can result in the largest landowners gaining significant, inherent advantages of being the sole applicant who can literally capture all or nearly the entire amount of total development permitted of by the Current or Revised North 40 Specific Plan.

For example, the controlling landowner in their Phase 1 application, was able to receive approval to build **All but 33 of the entire amount of all residential units permitted for the entire 40+ acre Specific Plan Study** area. That basically eliminates residential for and the remaining 20 acres in Phase 2. It should be noted that representatives for the Applicant during those public hearings before the vote to adopt the Specific Plan, made statements that there would still remain 66 residential units for Phase 2. This incorrect information provided false assurances that the owners of the small lots certainly relied upon.. Based on the reliance of this incorrect information, my clients did not go on record as opposing the Specific Plan or the Phase 1 Site and Architecture application, mistakenly believing that there remained economically viable opportunities to build a residential development on their land, when in fact, no such opportunity remained. The Phase 1 application approvals depleted the housing allocation permitted in the North 40 Specific Plan

Now the Moratorium and the New Study are apparently focused solely on insuring that the controlling landowner devises a project that meet a Town need, while insuring that landowner receives a healthy return on their investment. My clients have not observed any such concerns being expressed by the Council on behalf of the small parcel owners in Phase 2, though they remain unwilling participants in this one sided planning review.

I submit that Equal Protection under the law does not allow you as Decision maker s to ensure one owner is virtually guaranteed approval and a more than healthy return on investment, while depriving similarly situated owners of small lots of any similar considerations. Incoherently, while Phase 1 approvals have “used up” virtually all the residential units permitted under existing Specific Plan, now the Council is considering allowing the controlling landowner to develop 294 new residential units, none of which would apparently be available for the small parcel owners.

To protect the rights of the small lot owners in Phase 2 the Council needs to proactively take measures to guarantee that there will be sufficient remaining residential and commercial/office capacity for the small lot owners, after any approvals granted to the principle landowner, to permit them to attain viable economic development of their parcels. The Council should specifically recite a policy into the revised Specific Plan that requires that 12-15% of all of the development capacity available under Phase 2 of the North 40 Specific Plan shall be allocated exclusively for development by the small parcels located at the corner of Burton and :Los Gatos Blvd. This will guarantee equal protection and equal rights to all interested parties, while allowing equitable development of the Phase 2 Study area in a manner that serves the Town’s needs. A policy such as this also promotes smart growth, allowing development to occur based on what’s best for the Town, and not motivated by greed and speed. If all the property owners have their allocations preserved, that negates development based on being the first one “through

the door” and locking up as much of the development capacity as possible to protect solely that one landowner’s interests, to the detriment of the Town and other parcel owners.

On behalf of the owners, we respectfully and urgently ask the Council to terminate the Moratorium and implement policies in the Revised Specific Plan guaranteeing that all parcels will be allocated their equitable share of the total development capacity in the percentages suggested hereinabove.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Brent N. Ventura".

BRENT N. VENTURA

BNV/bt

From: THOMAS J. FERRITO [<mailto:ferritolaw@mindspring.com>]
Sent: Monday, August 06, 2018 10:54 AM
To: Council; Rob Rennie; Steven Leonardis; Marcia Jensen; Marico Sayoc; BSpector;
agroecology@aol.com
Subject: Re: Community Garden at North 40 (PhaseTwo)

Honorable Town Council Members:

Please consider including a larger community garden in Phase Two of the North 40 development.

I have been a community gardener at the LGHS for more than ten years and find it very valuable not only for me but also for the numerous high school students I have helped mentor there. Young people should be exposed to gardening. In gardening they learn about the source of our food, ecology, nutrition and responsibility.

Tom

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