



Mr. Joel Paulson
Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

RE: North Forty Phase 1 ("Project")
Architecture and Site Application S-13-090
Vesting Tentative Map Application M-13-014
Response to Comments at Special Town Council Meeting August 9, 2016

August 11, 2016

Mr. Paulson:

During the August 9, 2016 Town Council Public Hearing on our Architecture & Site Plan/Tentative Map Application for the North Forty, Vice Mayor Sayoc requested that we respond to questions raised during public testimony during our allotted rebuttal time. We will be pleased to do so, but believe it be helpful to have our responses in writing as well. We would be happy to respond to any further questions to these responses during the Town Council's deliberations. To facilitate our response, we have organized our responses into groups.

Questions related to the Good Samaritan Medical Center Master Plan Project (Samaritan Project) and the North Forty Specific Plan EIR

Response: The existence of that project, currently under review by San Jose, does not change the traffic analysis in the North Forty Specific Plan Environmental Impact Report (Specific Plan EIR). There are two primary reasons.

First, the Specific Plan EIR properly incorporated into its cumulative analysis all other projects it was required to consider. The Samaritan Project does not alter the analysis in the Specific Plan EIR, nor does it create any of the conditions that could require additional analysis (under CEQA Guidelines 15162 or 15163). The Environmental Impact Report that is now in circulation for the Samaritan Project will similarly have to do its own traffic analysis, and that analysis will have to take into account traffic generated by buildout of the North 40 Specific Plan Area and will have to propose mitigations for any impacts caused by the Samaritan Project.



Second, the Staff Report properly notes (page 12) that our applications are not technically subject to CEQA analysis, since our project is a “by right” development and not a “project” under CEQA. Thus, the question of additional analysis is not applicable.

Questions Related to the Density Bonus Law, regarding the interpretation in Govt. C. 65915(c)(3)(a)

Response: In relation to the issue raised regarding the need for replacement affordable housing to qualify for a density bonus, the project replaces 16 – 18 units of market-rate rental housing with 49 units of very low income rental housing. We have always proposed to provide much more affordable housing than currently exists on the site, and the project more than meets any replacement housing requirement.

Additionally, the original project application was made in 2013. The statute specifically exempts applications made before January 1, 2015 from any replacement housing obligation. See Section 65915(c)(3)(C). Attached as **Exhibit A** are documents showing that the application was made on November 14, 2013 and that the Town commenced processing the application at that time (see letter from MacKay & Soms responding to Public Works comments).

Questions related to civil engineering issues and need for waivers under the Density Bonus Law.

Response: One speaker questioned various civil engineering issues, and particularly asked why much of the site was being filled by 1 to 5 feet, thus requiring the requested density bonus waiver.

While designing the proposal, the goal was to achieve maximize compliance with the many objective standards within the Specific Plan. We found we could maximize compliance by providing the proposed 1 to 5 feet of fill. As just one example, Section 4.1 of the Specific Plan contains policies regarding circulation and connectivity for pedestrians (Policies C1, C4, C5, and C9). The Specific Plan also identifies Neighborhood Street as the primary entrance to the Transition District (Figure 4-1). The intersection of Los Gatos Boulevard and Neighborhood Street therefore became a set grade, and providing ADA-compliant access from the senior affordable building along Neighborhood Street to connect to the VTA Bus Stop on Los Gatos Boulevard was essential to satisfy the Specific Plan’s circulation policies. Some fill was then required to meet ADA access standards. Additional fill was then required to ensure that the site would drain



properly. In general, as the plan was developed in some detail, the project team found that it could best meet the Specific Plan's requirements by filling the site as shown. While we considered many other site planning designs, they all had challenges in satisfying the many, sometimes competing, objective standards within the Specific Plan and the affordable housing program.

The project team was very successful in meeting the Specific Plan standards, even with a 35% density bonus, and was able to obviate the need for all but two waivers. The project would have been able to request *unlimited* waivers for many development standards including, but not limited to height, setback, open space, FAR, lot area coverage, and parking. As described in detail in our letters of March 10 and March 25, 2016, the team cannot achieve the density of 320 units unless waivers are granted to allow height to be measured from finish grade, rather than existing grade; and waivers necessary for the elevator and roof pitch for the senior building.

(Note that the Project is requesting waivers of development standards, **not** concessions, as a part of the Density Bonus request. "Concessions" are provided to enhance the economic feasibility of the project. The Project is entitled to three concessions but has not requested any. The Town must grant "waivers" if its development standards would physically preclude construction of the project with 320 units. If these two waivers were not granted, it would trigger a request for other waivers, such as height, open space, and parking.

Questions related to potential conflict between landscape plans and utilities:

Response: A speaker questioned whether there were conflicts between the proposed landscaping and the location of utilities and bio-retention facilities on site. While composite drawings are not an application requirement, the consulting team works together, including weekly team calls and continuous communication between the civil engineers, architects, landscape architects, and joint trench consultants (dry utilities). While utilities can cause conflicts, the intent behind this communication is to minimize any challenges during the preparation of building and improvement plans. If conflicts are found, as can be the case as a project transitions from design development to working drawings and other agencies (water and sewer districts, for example) become further involved in the improvement plans, the Town staff and applicant's design team can make minor adjustments to the landscape plan as necessary.

The landscape programming for the property was intentionally agrarian, and rather than simply propose the minimum 276 required trees to satisfy the requirements of the Town's tree ordinance, we have voluntarily proposed over 1,800 trees, including over 500 fruiting orchard



trees. We are confident that the Construction Documents will be in substantial conformance with the trees reflected in the Architecture and Site Review application.

SummerHill, Grosvenor, Eden Housing and Lexor Builders are committed to delivering design drawings that conform to the conceptual landscape drawings. If the Town would like to consider modifications to the landscape plans, including number of trees, this can be discussed during the remainder of the hearing.

Questions related to architectural preference and comparison to other local projects developed at a minimum of 20 dwelling units per acre (The Terraces in particular).

Response: The Specific Plan does not call out one style of architecture, building type, size, or elevation. For example, Section 3.3.1 of the Specific Plan cites thirteen residential design standards, of which none specify architectural types. Similarly, Section 3.2.4 Architectural Style (commercial) notes five guidelines, with the only reference to a specific architectural style under 3.2.4.b, which states “Proposals for commercial structures should be developed with the context of Los Gatos’ heritage, and the historic and agricultural heritage of the site.” (Page 3-6). We would like the opportunity to have our design team present its view of the “look and feel of Los Gatos” in response to this question.

We would also like to correct a response that was made verbally in a response to a question from Town Council following our presentation. We were asked why we had designed to 20 units per acre. We would like to clarify our response to be that the Housing Element requires development of the site at a *minimum* density of 20 units per acre. As stated in HCD’s July 28 email, the Town is responsible to ensure that the site is developed at the minimum density required by State law – 20 units per acre. We understood that this was a State requirement that was incorporated into the Town’s Housing Element and certainly did not want to propose a plan inconsistent with State law and the Housing Element.

It is our opinion that our implementation of a residential program at the required *minimum* 20 dwelling units per acre results in a less boxy and “project-like” neighborhood than others that we observe in Town. Our proposal features more variation in roof lines, shorter and more pedestrian- scale blocks that provide more view corridors and a more dynamic opens space plan. This is specifically true when compared to Aventino which has recently been suggested to us as a better model for a community at this density level.



As a question was raised specifically about The Terraces, we researched the property and provide the composition of this project below:

The Terraces (residential units, plus assisted care):

- 9-acre site - Initial Buy-In is \$186K - \$548K plus monthly
- 175 Independent living apartments, 45 Assisted Living Units, 16 Memory Loss Units, plus 59 hospital beds
- Housing units range from Studios at 623 SF to 2 BR 2 BA + Den at 1300 SF
- Monthly "Fees" (in addition to buy-in) \$3000 - \$6500 (depending on unit and number of individuals in unit)

Questions as to whether the senior units qualify the project for the Very Low Income (VLI) bonus, and related to the application of the Town's BMP program.

Response: We previously responded to this issue by letter dated July 29, 2016. Very low income housing must be occupied by very low income households. Very low income households include "persons and families" of very low income (Health & Safety Code §50105(a)). Very low income seniors who will reside in the proposed affordable housing are "persons and families" with very low incomes. "Persons" are single persons and unrelated persons who elect to live together as one household. "Families" are related persons who live together; in senior housing these are typically married couples. All of the seniors who will live in the proposed housing will be "households" with very low incomes. Consequently, the senior housing will be very low income housing, and the Project is entitled to a density bonus for providing very low income housing. The separate senior bonus is intended for market-rate senior housing, not affordable senior housing.

Questions related to the 13.5 acres identified in the Housing Element for 270 units including does the requirement for objective standards applied yield only to the 270 units that are required on 13.5 acres; and the distribution of the units across the 13.5 acres; and the reason for designing to 20 units per acre.

Response: The Housing Accountability Act (Government Code § 65589.5(i)) applies to the entire application. It provides that if the Town either denies or reduces the density of a project that complies with "applicable, objective general plan and zoning standards and criteria, including design standards", it must make very specific public health and safety findings. The Project cannot be reduced in units or land area based on the speculative possibility that some time in



the future the Town might approve another residential project somewhere else in the North 40 Plan Area.

While the 13.5 acres that are to be zoned at a minimum of 20 units per acre do not have to be contiguous and thus in theory could be spread out over the whole North 40, the combination of the Housing Accountability Act, Housing Element and Density Bonus Law require approval of this particular project at the density proposed, as explained in our earlier correspondence. The Project cannot be reduced in units or land area based on the speculative possibility that some time in the future the Town might approve another residential project somewhere else in the North 40 Plan Area.

Question of whether or not architecture and site plan review are discretionary

Response: The architecture and site review is not discretionary. This is made clear in the Town's Housing Element which states that opportunities for affordable housing are "being facilitated by the North 40 Specific Plan and associated rezoning of 13.5 acres with a *minimum* density of 20 units per acre to yield 270 units (emphasis added). The Specific Plan would provide certainty regarding objective criteria in the form of development standards and design guidelines that would be implemented through "by right development" in the consideration of Architecture and Site applications. This process involves site and architectural review and if a proposal meets the objective criteria in the Design Guidelines, then the project is approved."

Question related to landscaping feasibility in light of drought

Response: Section 3.2.9 of the Specific Plan, entitled, Project Landscape and Hardscape discusses landscape design for the Specific Plan Area. Further, we are mandated by the State to comply with specific water use limitations (maximum applied water allowance). See attached **Exhibit B**. Note: edible gardens and orchards are exempt from the low water use ordinance. See page two of attachment. The landscape plan will comply with these requirements.

We will submit to the Town of Los Gatos our planting & irrigation plans (at building permit stage) Water Efficient Landscape Ordinance (WELO) review. The review is typically done by an outside plan checker (licensed landscape architect as per Specific Plan section 3.2.9.b.) who specializes in this task.



While we meet current standards we are willing to work with the Town to replace plants shown in the planting palette with more water-efficient plants that are equally attractive.

Question on the adequacy of the Town’s economic study.

There have been 5 economic studies to date for reference:

1. BAE Urban Economics Market Study and Business Development Strategy dated August 12, 2011
2. BAE Urban Economics Urban Decay Analysis dated November 20, 2013
3. Retail Resilience in Downtown Los Gatos as attachment 41 to the Staff Report for the Town Council meeting dated December 16, 2014
4. Keyser Marston Associates North 40 Phase 1 Economic Report dated November, 2015 pursuant to Section 2.4.2 of the Specific Plan.
5. Keyser Marston Associates memorandum dated July 22, 2015 in response to Planning Commission findings on July 13th, 2016.

It was not clear which study the speaker was referring to. To address the July 13th, 2016 Planning Commission finding that the November, 2015 study was flawed, Keyser Marston Associates submitted a response memorandum dated July 22, 2015 that considers the downtown Conditional Use Permit and parking requirements. The report concludes that neither Ordinance 2107 (CUP requirements for formula retail) nor Ordinance 2021 (CUP for restaurant uses in the C-2 zone) will have a significant negative economic impact on the comparison retail space in the Downtown Core vis-à-vis the North 40. Furthermore, the memorandum addresses parking as follows, “retailers would prefer the parking challenges of the Downtown Core to a location in a newly created retail project in Phase 1.”

As stated in the BAE Market Study, “larger retail uses should be configured on the north end of the site with any other large users (e.g., hotel), with smaller mixed-use, such as buildings containing specialty food or other smaller shops with office or residences above, could act as a buffer for more residential areas.” The application is focused on the southern Lark district as well as the “buffer” transition district which the Specific Plan intended to contain “neighborhood serving stores, specialty market and mixed-use housing with residential units above retail” (Specific Plan 2.3.2). Opportunities to address the leakage category for building materials and general merchandising could be considered in the Northern District as stated above.



Furthermore, the BAE Market Study states “despite the Town’s profile, with high home ownership and income levels, the Town has limited specialty food retail, showing no sales in meat markets, fish, and seafood markets, and product markets. Given the Town’s already-strong attraction as a food shopping destination, this may represent an opportunity to broaden the food retailing mix and enhance the Town’s strong position for this retail category”. This was reinforced in the BAE Urban Decay Study from November, 2013. This need is addressed with the proposed Market Hall concept in this application.

Other issues raised by the Speaker:

The application does not provide any spaces larger than 10,000 square feet

Building A2 in the Transition District is proposed to be 10,412 square feet and Building B1 in the Transition District is proposed to be 22,700 square feet with market hall representing 16,380 square feet.

The Market Study states that the Town should consider a mix of new office space at the North 40, pursue the concept of a Los Gatos innovation center, and the Town should consider a hotel use. The application does not comply with the Market Study.

As stated in the Specific Plan:

- The Lark District is envisioned for residential and “limited retail/office uses”
- The Transition District provides a buffer between the Lark District and the active retail and entertainment emphasis of the Northern District. “The Transition District will accommodate a range of uses including neighborhood-serving stores, specialty market and mixed-use housing with residential units above commercial.” It also says a hotel or hospitality use could be a part, but is not required. Office is permitted but not required.
- The Northern District envisions hotel and office uses

The Market Study states that retail in the North 40 should establish a clear difference in the shopping experience between the Downtown and the North 40. There is nothing in the proposal to address this issue.

As stated in the BAE Urban Decay Study “despite the Town’s profile, with high home ownership and income levels, the Town has limited specialty food retail, showing no sales in meat markets, fish, and seafood markets, produce markets, and bakeries, even though the [Retail Trade Area]



appears to have strong sales in these categories. Given the Town’s already-strong attraction as a good shopping destination, this may represent an opportunity to broaden the food retailing mix and enhance the Town’s strong position for this retail category.”

The study does not address the size of the Downtown Core

The November 2015 Keyser Marston Associates (KMA) study that was required for our application specifically evaluates retail sales figures specifically from the downtown core using data from the Town of Los Gatos. See page 8, Table 1 of the KMA Report. The report concludes that there is no negative impact on downtown.

Specialty Foods competes with Whole Foods and Lunardi’s

From the Market Study: “two of the supermarkets, Whole Foods and Trader Joe’s, are niche supermarkets rather than more generic markets. Lunardi’s is part of a smaller regional chain, and broker interviews and other sources indicate extremely strong sales.” As mentioned above, the Town has limited specialty food retail, showing no sales in meat markets, fish, and seafood markets, produce markets, and bakeries.

Question Regarding Income Required to Afford Homes in the North 40:

Response: The for-sale units in our proposal are market rate units. We agree with the public testimony that incomes of at least \$125,000 to \$160,000 a year will be required to purchase the market-rate homes in the North 40. These incomes equal approximately 140% to 150% of median income in Santa Clara County and are about 25% higher than moderate income, which is set at 120% of median. Moderate income in Santa Clara County for a 2-person household is \$102,800.

The housing types that were identified in the Specific Plan and are proposed in this application result in lower prices (versus a single-family detached home in Los Gatos) that will not be a barrier to entry for employees seeking this type of housing at Netflix and Roku. Per payscale.com, a software engineer at Netflix has a salary ranging from \$118,034 to \$235,815. Overall, median salaries at Netflix are \$180,000 (thedailyemail.com – See attached **Exhibit C** from April 14, 2015). The North Forty will be an attractive alternative for local employees wishing to live close to work thereby reducing the necessity for long commutes.



Question regarding erroneous statement the Project proposes three-story buildings near Lark Avenue.

Response: The Specific Plan requires a 30' orchard setback along Lark Avenue. Further, the Perimeter Overlay Zone requires a 25' height limit within a 50' setback from Lark Avenue. Our application meets these objective standards by proposing heights from 11' to 25' in the Perimeter Overlay Zone with a setback of 50' – 65'. Three stories are not proposed on Lark Avenue or Los Gatos Boulevard.

Question regarding explanation of school mitigation

SB-50 is the required mitigation for development proposals in the State of California. Grosvenor and SummerHill Homes have entered into a Voluntary Contribution Agreement with LGUSD based on collaborative discussions that defined specific facilities challenges. Based on these determinations the value of this Voluntary Agreement was determined, and unanimously approved by the LGUSD Board of Trustees in 2015.

Question related to intensity in Lark District

Response: As stated in our August 5th, 2016 letter, the proposal complies with the Specific Plan's desire is lower intensity development in the Lark District. The Specific Plan requires that a minimum of 15% of the Lark District be two stories, and the proposal has approximately 29% of the plans at 25' or less. In contrast, the application does not propose any residential units at 25' within the Transition District. Building heights in the Lark District are 35' maximum, whereas the Transition District has the 45' affordable housing over Market Hall. The open space, particularly green open space, is also greater in the Lark District. The Lark District provides 4.79 acres of open space (42.5%) whereas the Transition district provides 3.43 acres (36.4%). The lot coverage area of the Lark District (29.4%) is both far lower than the allowable 50% lot coverage, but also lower than the Transition District (33.9%). Page 2-3 Section 2.3.1 is commonly referenced by speakers as the Lark District being "lower intensity residential..."; however, the types of residential identified as permitted in this district are proposed in this application. Further, when taken as a more holistic view, the Specific Plan states in Section 2.4 "In general, lower intensity shops, offices, and residential land uses are envisioned in the southern portion of the Specific Plan Area. Moving northward, potential land uses transition to mixed use residential and potentially hospitality uses to provide a buffer between the primarily residential uses in the southern portion of the Specific Plan Area and the entertainment, restaurant, and shopping uses envisioned in the



northern portion of the Specific Plan Area.” The goal of decreasing intensity in the Lark District and increasing intensity in the Transition District has been met.

Question Related to the amount of underground parking.

Response: There is no specific percentage of underground parking required in the Specific Plan. However, of the 1039 parking spaces in the proposal, 322 are located in the underground/podium parking structure. This is 31% of the overall parking onsite. Within the parking structure, 130 are located in the basement/underground, 64 at-grade, 69 on the 2nd floor, and 59 on the roof floor.

Question related to Transportation Demand Management.

Response: A Transportation Demand Analysis is completed during the Final Map/Improvement Plan processing of the project. Section 4.10 of the Specific Plan and Condition of Approval number 115 identifies components of a TDM program that may be included, and can be further discussed:

- *Parking cash-out.*
- *Financial incentives for taking alternative modes.*
- *Transit Fare incentives such as Eco Pass and Commuter Checks*
- *Preferentially located carpool parking.*
- *Bicycle lockers and bicycle racks.*
- *Showers and clothes lockers for bicycle commuters.*
- *On-site or walk-accessible employee services (day-care, dry-cleaning, fitness, banking, and convenience store).*
- *On-site and off-site shuttle services.*

Question Related to tandem parking.

Response: Tandem parking is proposed in the for-sale component of the application, and only within private garages that are utilized by the residents of only one home. The speaker discussed “swapping keys” with a neighbor. This is not necessary. Rather, the residents of these homes typically have key-hooks next to their garage door entry, and the first person to leave takes the last car in the garage. SummerHill Homes has built many communities with tandem garages throughout the Bay Area.



Adequacy of sustainability plan; relation to LEED.

Response: LEED Silver (Commercial/Mixed-Use) and Build-it-Green (Townhomes, Garden Clusters, Condominium Clusters, Live-Work) are standards that we utilize.

Comment that 15% of Los Gatos' population is senior (65+), therefore this application is not satisfying the unmet needs of the Town.

Response: The application proposes 49 senior units, which is the 15.3% of the residences in the North 40 application. In addition to this, there are 8 market rate apartments that are elevator served.

Town Council requested a copy of our PowerPoint presentation.

Response: A copy of our PowerPoint is attached in **Exhibit D**.

What are the hours of construction?

Response: The Conditions of Approval 123 specifies the hours of hauling of soil to be from 9 a.m. until 3 p.m. and 6 p.m. to 8 p.m. and Conditions of Approval 124 specifies the hours of construction to be 8 a.m. to 8 p.m. on weekdays and 9 a.m. to 7 p.m. on weekends and holidays.

Are we providing bike parking, interior/covered parking, and showers?

Exterior guest and bicycle parking is found throughout the proposal. Interior bicycle storage is also available. For example, the for-sale condominiums will have a beam installed behind the drywall to structurally enable a bicycle rack to be mounted.

What is the age of the trees depicted in the drawings?

The drawings and renderings in our Architecture and Site Review Application are 5-10 years in maturity.

Exhibit A



November 14, 2013

TRANSMITTAL:

Joel Paulson, Principle Planner
Town of Los Gatos
Community Development Department - Planning Division
110 E. Main Street
Los Gatos, CA 95030

Joel,

Grosvenor, SummerHill Homes, and Eden Housing are excited to submit for the North 40 Phase I Architectural and Site and Tentative Map applications. Please find the following enclosures related to this submittal:

- ✓ 1 copy of the completed application form
- ✓ 1 copy of the Letter of Justification / Written Description of the Proposed Project
- ✓ 1 copy of the Environmental Checklist
- ✓ 1 copy of the Hazardous Materials/Air Quality Checklist
- ✓ Deposit Check for Application Filing Fees
- ✓ 2 copies of current Title Reports – Verification of Property Ownership and Easements
- ✓ 1 copy of Build it Green checklists
- ✓ 1 copy of the Wells Questionnaire
- ✓ 1 copy of the C.3 Data Form
- ✓ 1 copy of existing photos of the property
- ✓ 16 copies of 24x36 of the Tentative Map package
- ✓ 6 copies of 24x36 sets of the Architecture and Site Review package
- ✓ 2 copies of 11x17 sets of the Architecture and Site Review package

Best Regards,

A. Don Capobres
Senior Vice President
Grosvenor

Linda Mandolini
President
Eden Housing

Wendi Baker
Vice President of Development
SummerHill Homes

M David Kroot

Lynn Hutchins

Karen M. Tiedemann

Thomas H. Webber

Dianne Jackson McLean

Michelle D. Brewer

Jennifer K. Bell

Robert C. Mills

Isabel L. Brown

James T. Diamond, Jr.

Margaret F. Jung

Heather J. Gould

William F. DiCamillo

Amy DeVaudreuil

Barbara E. Kautz

Erica Williams Orcharton

Luis A. Rodriguez

Rafael Yaquián

Celia W. Lee

Dolores Bastian Dalton

Joshua J. Mason

Vincent L. Brown

Hana A. Hardy

Caroline Nasella

Eric S. Phillips

Elizabeth Klueck

Daniel S. Maroon

Justin D. Bigelow

March 10, 2016

Hand-delivered

Laurel Prevetti, Town Manager
Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

Re: Revised Density Bonus Program Application – North Forty

Dear Town Manager Prevetti:

This letter is written on behalf of the application of Grosvenor Americas for a density bonus and other waivers of development standards as required by California Government Code Section 65915; Sections 29.10.405 – 440 of the Town Code; and the Town of Los Gatos Density Bonus Program Guidelines. The modifications being requested are as follows:

1. A density bonus of 35 percent, increasing the permitted density from 237 units to 320 units.
2. Waivers of the development standards listed below that would physically preclude construction of the development with the density bonus:
 - a. Measurement of building height from finished grade rather than existing grade; and
 - b. Increase in permitted height of the affordable units from 45 feet to 48'8" at the top of the roof ridge and to 53 feet at the elevator enclosure over the stair to the roof.

A description of the development's eligibility for each of these incentives is provided below and summarized in Exhibit A.

This revised application removes the request for reduced on-site parking allowed under Government Code Section 65915(p).

Additionally, a waiver of development standards is not needed to provide all of the affordable units within the proposed senior housing building because the Town's BMP Guidelines allow the BMP units to be clustered in one building where it is not feasible to disperse the housing. As described in detail in our October 14, 2015 letter, federal and state requirements applicable to senior housing do not allow housing intended for seniors

to be dispersed throughout a development or to be integrated into other buildings in the development. In a development that includes both senior and non-senior housing, as is proposed here, the senior units must be clearly separated from non-senior housing in a separate building designed for seniors with separate entrances and facilities. Clearly it is infeasible to disperse senior units throughout the development, and the BMP Guidelines allow the units to be contained in one building where they cannot be feasibly dispersed.

I. Proposed Density Bonus.

A Specific Plan-compliant development on the portion of the North Forty being developed would contain a total of 237 dwelling units. Nineteen existing units would remain on properties in the North Forty not included in this application.

Of the total 237 units permitted under the Specific Plan, 49 units (20%) contained in the senior housing development to be built by Eden Housing would be affordable to very low income households, as defined in Section 50105 of the Health & Safety Code. Affordable rent would be as defined in Section 50053 of the Health & Safety Code, and the units would remain affordable for a 55-year period.

Under Government Code Sections 65915(b) and (f)(2) and Section III.A.1 of the Town's Guidelines, any development with at least 11 percent very low income housing is entitled to a 35 percent density bonus. Because the proposed development contains 20 percent very low income housing, it is entitled to a 35 percent bonus, as follows:

Base density: 237 units

35% bonus: 83 units (82.95 units; must be rounded up¹)

Total 320 units

The plans submitted to the Town contain the 320 units permitted by state density bonus law and the Town's Guidelines.

II. Proposed Waivers of Development Standards.

Government Code Section 65915(e)(1) and Town Guidelines Section III.E provide that no Town development standard shall be applied that will have the effect of physically precluding the construction of a project at the density permitted. The following two development standards will have the effect of physically precluding the construction of the development with 320 units unless modified as requested.

¹ Gov't Code Section 65915(f)(5).

a. *Measurement of Building Height from Finished Grade Rather Than Existing Grade.*

The attached Preliminary Finish Grade Exhibit (Exhibit B) shows that the North Forty site will require both cut (red) and fill (green). While there is a ten-foot grade change from Los Gatos Boulevard to the western portion of the property, the interior grade of the site itself is relatively flat, and to achieve proper engineered surface drainage and the following objectives and requirements, the project proposes cuts along the southern portion and fill in the northern portion of Phase I:

1. ADA Accessibility. The grading minimizes steep streets and avoids the need for hand rails and landings where feasible to meet ADA requirements and to make the site more accessible.

2. Stormwater Quality. Slopes are required to be designed to drain into landscape-based improvements spread throughout the site to meet Low Impact Development requirements per the Town's stormwater permit.

3. Stormwater Hydromodification. Slopes are also required to be designed to route the drainage through a hydromodification storage vault to ensure that post-development runoff rates match pre-development conditions per the Town's stormwater permit.

4. Storm Drain Flood Control. The finish elevations must provide flood protection from a 100-year storm event by routing drainage to the existing storm drain pipe located at the northeasterly portion of the site, with emergency overland flow release toward the northerly end of the site. This requires that the southern part of the site, where fill is proposed, be higher than the northern part of the site.

5. Existing Boundary Conditions. The existing site is substantially lower than Los Gatos Blvd., and existing uses on other properties abutting the site have a variety of grades to account for this. The grading has been designed to conform to permanent existing boundary conditions while minimizing the need for retaining walls and steep slopes, to improve overall site circulation, accessibility, and appearance.

6. Construction Related Environmental Impacts. The grading has been designed to minimize the off-haul of dirt and to balance cuts and fills to the extent feasible to minimize construction-related environmental impacts associated with offsite truck trips.

The approximate depth of cut and fill is shown in the spot grades on the Finish Grade Exhibit, ranging from 0.1 foot to nearly five feet of fill, with most residences in the southern part of the site constructed over two to five feet of fill. The proposed design successfully achieves a 20 unit per acre density (required by the Housing Element) and 320 units when measured from finished grade.

However, measuring from existing grade would physically preclude the project from achieving this density. Approximately 75 percent of the proposed residential buildings include a third story. Requiring the height of these buildings to be measured above existing grade would effectively eliminate this third story in all of the fill areas. Three stories, even with lower than usual floor to ceiling heights, can barely be achieved if the Specific Plan's 35-foot height limit is measured above finished grade, as shown on the attached diagram (Exhibit C), and cannot be achieved if the building height must be reduced further. We estimate that 97 units would be lost.

Since measurement from existing grade would physically preclude development of the 320 units allowed with a density bonus, the project is entitled to a waiver of this requirement.

b. Height of the Affordable Units.

The attached Height Exhibit (Exhibit D) reflects the heights of the affordable building. While this building's parapet is lower than 45 feet from finished grade, to add variety, an overall maximum roof height of 48'8" is proposed which includes 8:12 roof pitches. One elevator/staircase enclosure in a limited area of the building is 53 feet above finished grade. Because of building code requirements related to elevator enclosures and the need for an enclosed stairway access to the roof of the building, the additional height for this equipment must be higher than the highest point of the roof. (Note that for buildings outside the Specific Plan area, the Town Code exempts these appurtenant structures from the Town's height limits.)

III. Consistency of Town Code and Density Bonus Guidelines with State Law.

Portions of the Town Code and Density Bonus Guidelines are not consistent with State law. In particular, Town Code Section 29.10.420 and Guidelines Sections III.C and IV.C state that the Town may deny a density bonus or waiver if it makes certain findings.

None of these findings are consistent with State law. Government Code Section 65915(b) states that the Town "shall" provide a density bonus for an eligible project, and Section 65915 contains no findings that may be made to deny a density bonus to an eligible project. If a development standard physically precludes the density allowed, a waiver may be denied only if the Town can make one of the findings contained in Section 65915(e)(1) related to environmental impacts and violations of state and federal law.² The Environmental Impact Report prepared for the North Forty showed no impacts that would justify denial under those standards, and none of the requested waivers violate state or federal law.

Under State law, the density bonus and reduced parking are mandatory, and waivers must be granted if the Town's development standards would physically preclude development of the project

² Guidelines Section III.E states that an applicant may be required to prove that a waiver is needed to make a development economically feasible. The statute was modified some years ago to remove the economic feasibility requirement. A waiver must be granted if it would physically preclude development of the project with the density bonus to which the project is entitled.

with the density bonus. Any provisions of the Los Gatos Town Code and Guidelines to the contrary are not valid and cannot be used to deny the bonus, reduced parking, or waivers.

The proposed Phase I development on the North Forty would provide the Town with much needed affordable housing and was identified as a site suitable for lower income housing in the Town's Housing Element. The development provides more than enough affordable housing to qualify for the density bonus and waivers requested. Therefore, on behalf of Grosvenor Americas, we respectfully request that the Town approve the above requests.

If you have any questions regarding these requests or if you would like any additional information, please feel free to contact me.

Sincerely,



Barbara E. Kautz
Partner
bkautz@goldfarbblipman.com

Exhibits:

- A. Summary – Density Bonus Program Requests.
- B. Preliminary Finish Grade Exhibit – Cut and Fill Map.
- C. Diagram Demonstrating Height of Three-Story Buildings above Finished Grade.
- D. Height Exhibit – Affordable Housing.

EXHIBIT A

| Summary North Forty Density Bonus Program Requests | | |
|---|---|---|
| Standard | Request | Eligibility |
| Density Bonus | | |
| 237 units | 35% bonus; 320 units | Development will include more than 11% very low income units, which entitles development to a 35% density bonus. |
| Waivers | | |
| Standard | Request | Explanation |
| 45-foot height limit for affordable housing | 48'8" at the top of the roof ridge and 53 feet over the elevator enclosure and stair to the roof above finish grade | <p>A sloping roof for the affordable housing necessitates a small increase in building height.</p> <p>Code requirements for the elevator enclosure and stairway to the roof require that they be higher than the rest of the roof.</p> |
| Building height measured from existing grade | Building height measured from finished grade | To achieve high quality design, minimize environmental impacts, and meet ADA and stormwater requirements, grading is needed that includes both cut and fill. If building height is measured from existing grade in fill areas, buildings will be limited to a height of two stories. Since 75 percent of the proposed units are in three-story buildings, this would physically preclude development of the 320 units with the density bonus, with an estimated loss of 95 units. |

M David Kroot

Lynn Hutchins

Karen M. Tiedemann

Thomas H. Webber

Dianne Jackson McLean

Michelle D. Brewer

Jennifer K. Bell

Robert C. Mills

Isabel L. Brown

James T. Diamond, Jr.

Margaret F. Jung

Heather J. Gould

William F. DiCamillo

Amy DeVaudreuil

Barbara E. Kautz

Erica Williams Orcharton

Luis A. Rodriguez

Rafael Yaquián

Celia W. Lee

Dolores Bastian Dalton

Joshua J. Mason

Vincent L. Brown

Hana A. Hardy

Caroline Nasella

Eric S. Phillips

Elizabeth Klueck

Daniel S. Maroon

Justin D. Bigelow

San Francisco

415 788-6336

Los Angeles

213 627-6336

San Diego

619 239-6336

Goldfarb & Lipman LLP

March 25, 2015

By e-mail

Laurel Prevetti, Town Manager
Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

Re: Density Bonus Program Application – North Forty

Dear Town Manager Prevetti:

This letter is written on behalf of the application of Grosvenor Americas for a density bonus and other waivers of development standards as required by California Government Code Section 65915; Sections 29.10.405 – 440 of the Town Code; and the Town of Los Gatos Density Bonus Program Guidelines. It responds to additional questions raised by the Town and incorporates by reference our letter of March 10, 2016.

As background, the modifications being requested for the North Forty are as follows:

1. A density bonus of 35 percent, increasing the permitted density from 237 units to 320 units.
2. Waivers of the development standards listed below that would physically preclude construction of the development with the density bonus:
 - a. Measurement of building height from finished grade rather than existing grade; and
 - b. Increase in permitted height of the affordable units from 45 feet to 48'8" at the top of the roof ridge and to 53 feet at the elevator enclosure over the stair to the roof.

The questions that have been raised relate to: 1) the calculation of the permitted density bonus; and 2) the need to measure building height from finished grade rather than existing grade.

I. Proposed Density Bonus.

A housing development application is entitled to a density bonus over the otherwise "maximum allowable residential density." (Gov't Code Section 65915(f).¹) The "maximum allowable residential density" is the density allowed under the land use element of the general plan and the zoning ordinance. (On the North Forty, the North 40 Specific Plan serves as the zoning ordinance for the site.) If a range of density is permitted, the "maximum allowable residential density" means the "**maximum** allowable density" applicable to the project under the zoning ordinance and land use element. (Gov't Code Section 65915(o)(2).²) The density bonus is calculated "as of the date of application by the applicant to the [Town]." (Section 65915(f).)

Currently, the Land Use Element of the Town's General Plan and the North 40 Specific Plan provide that the maximum residential development permitted on the North Forty is 270 units. The Housing Element states that 13.5 acres of the site is intended to accommodate 270 residences at a minimum density of 20 units per acre. It is clear from the Specific Plan that the 270 units of housing are intended to be located primarily in the Lark District and secondarily in the Transition District; the Northern District is described as a "day-to-evening entertainment area that offers shopping and restaurants for nearby residents as well as employment centers" and allows only limited residential over commercial. The current application includes most of the Lark and Transition Districts.

The only limitation on density in the North Forty provided in the Town's Land Use Element and the Specific Plan is the 270-unit total. Therefore, the "maximum allowable residential density" (without a density bonus) permitted for this application is 270 units, the maximum shown in the Land Use Element and Specific Plan, less the nineteen existing units located elsewhere in the North Forty.

The current application must be reviewed on its own terms, based on the **maximum** density allowed by the Land Use Element and Specific Plan. The "maximum allowable residential density" cannot be reduced by modifying the Land Use Element and Specific Plan after the application was submitted to reallocate some units to other sites within the North Forty not currently planned for significant amounts of housing or to add a phasing requirement that does not currently exist in the plan. Additionally, this change would conflict with numerous other Specific Plan policies, which anticipate that most of the residences will be located in the Lark and Transition Districts and that the Northern District would have limited residential uses. Any reduction in density would also not enable the development to meet the 20 units per acre requirement established in the Housing Element.

Although the project could request that its density bonus be calculated over the maximum amount (270 units less the nineteen existing units), the current application calculates the density bonus over a base density of 237 units, given **net** residential acreage of less than 13.5 acres, to be

¹ All further references are to the Government Code.

²

consistent with the Housing Element. With a 35 percent bonus, the project is entitled to 320 units, as shown in our March 10 letter.

II. Proposed Waivers of Development Standards.

The North Forty application includes requests for two waivers of development standards under the provisions of Section 65915(e). This section provides that a city may not apply a development standard "that will have the effect of physically precluding the construction of a development [with affordable housing] at the densities...permitted by this section."

We understand that the Town is primarily concerned about the request to measure building heights from finished grade rather than from existing grade. Finished grade may be 0.1 to 5 feet (in limited areas) above existing grade. As described in our March 10 letter, this limited fill is required because of the need to provide ADA accessibility, meet requirements for stormwater quality, provide adequate flood control, balance cuts and fills to the extent feasible, and conform to existing boundary conditions.

As a consequence, three-story units cannot be constructed in these areas of fill and meet the 35-foot height limit if height is measured from existing grade (effectively reducing the permitted height by 0.1 to 5 feet). A third story, even if measured from existing grade, can barely be accommodated within the 35-foot height limit and is not possible if the height is measured from existing grade. Because 75 percent of the units have three stories, we estimate that 97 units will be lost if the heights are reduced to two stories, "physically precluding" a project with the 320 units that the project is entitled to.

Conformance with the Specific Plan. Limiting most building heights to two stories would be inconsistent with the Specific Plan's design guidelines and require further requests for waivers from those provisions. The Specific Plan contemplates a mix of two and three story residences in the North Forty. Specifically:

- Policy LU10 calls for a mix of residential product types.
- Section 2.5.2(a)(ii) requires a *minimum* of 15 percent of the units to have two stories, with most located in the Perimeter Overlay zone, but this clearly contemplates that most residences will have three stories.
- Section 2.7.3 specifies that the residential units *shall* range in size and states that it should accommodate a mix of residential product types to create the character of an authentic neighborhood. The illustrative example of unit size mix included in the glossary shows units sizes ranging from 1,000 to 2,350 sq. ft. for the market-rate units.
- Sections 3.3.6(b), (c) and (d) require a variety of building forms and variations in height and roof shape. Section (h) discusses adding variety to second and third floors.

- Many of the graphic examples provided of the desired building forms show buildings of three stories or more with a height of at least 35 feet measured from finish grade.

The project that has been submitted to the Town conforms with all of the detailed design guidelines included in the Specific Plan but cannot provide the variety and types of housing contemplated if the site cannot contain three-story buildings.

In *Wollmer v. City of Berkeley* (2011) 193 Cal.App.4th 1329, the City of Berkeley granted waivers of development standards as part of a density bonus application. In particular, Berkeley approved additional building height and reduced setbacks to accommodate certain project amenities, including an interior courtyard, a community plaza, 15-foot ceilings in the commercial space, and nine-foot ceilings in the residences. Wollmer contended that Berkeley's usual development standards did not "physically preclude" construction of the project with the density bonus because no waiver would be required if the developer removed all of the project amenities.

The Court rejected this argument, stating:

[N]othing in the statute requires the applicant to strip the project of amenities, such as an interior courtyard, that would require a waiver of development standards. Standards may be waived that physically preclude construction of a housing development meeting the requirements for a density bonus, period. 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. Had the City failed to grant the waiver and variances, such action would have had "the effect of physically precluding the construction of a development" meeting the criteria of density bonus law. *Id* at 1346-47.

The development proposed on the North Forty is requesting a waiver not to provide additional amenities but merely to provide the design variety and types of housing required by the Specific Plan. Failure to grant this waiver would have the effect of "physically precluding" the development *required* by the Town's own Specific Plan.

Grounds for Denial. A request for a waiver cannot be denied because of aesthetic impacts. It may be denied only if it would be contrary to state or federal law, have an adverse impact on property listed in the California Register of Historic Resources, or have a "specific, adverse impact, as defined in [Government Code Section 65589.5(d)(2)], upon health, safety or the physical environment." (G.C. Section 65915(e)(1).) Section 65589.5(d)(2) defines a "specific, adverse impact" as "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety." An aesthetic impact is not based on "public health or safety" standards.

March 25, 2016

Page 5

The proposed Phase I development on the North Forty would provide the Town with much needed affordable housing. The development provides more than enough affordable housing to qualify for the density bonus and waivers requested and will provide a substantial portion of the Town's regional share of housing. Therefore, on behalf of Grosvenor Americas, we respectfully request that the Town approve the above requests.

If you have any questions regarding these requests or if you would like any additional information, please feel free to contact me.

Sincerely,



Barbara E. Kautz

Partner

bkautz@goldfarbblipman.com

cc: Rob Schultz, Town Attorney
Marni Moseley, Senior Planner

Exhibit B

The 2015 Updated Model Water Efficient Landscape Ordinance

Guidance for California Local Agencies

INTRODUCTION

Governor Brown's Drought Executive Order of April 1, 2015 (EO B-29-15) directed DWR to update the State's Model Water Efficient Landscape Ordinance (MWELo) through expedited regulation. The California Water Commission approved the revised MWELo Ordinance on July 15, 2015. This fact sheet provides guidance to cities and counties (local agencies) in California, who are responsible for adopting and reporting on a water efficient landscape ordinance. The focus is on major changes in the MWELo which must be addressed when local agencies are revising their own local or regional ordinances.

DEADLINES AND OPTIONS FOR LOCAL AGENCY ACTIONS (Section 490.1)

Local agencies have until **December 1, 2015** to adopt the MWELo or to adopt a Local Ordinance which must be at least as effective in conserving water as MWELo. Local agencies working together to develop a Regional Ordinance have until **February 1, 2016** to adopt, but they are still subject to the December 2015 reporting requirements (see Reporting Requirements). A local agency will either integrate MWELo into an existing ordinance or establish a new, separate program. To comply, a local agency must perform one of the following actions:

- Adopt *by reference* Sections 490-495, Chapter 2.7, Division 2, Title 23 in the California Code of Regulations
- Adopt the MWELo *in detail* - Sections 490-495, Chapter 2.7, Division 2, Title 23 in the California Code of Regulations
- Amend an existing or adopt a new Local Ordinance or Regional Ordinance to meet the requirements contained in the regulations
- Take no action and allow the MWELo to go into effect by default

A local agency may choose to allow MWELo to become effective by default and then adopt a Local or Regional Ordinance at a later time. Subsequent reporting must include the details of Local or Regional Ordinances.

Local agencies are not limited to require only the levels of water conservation stipulated by MWELo. The Local or Regional Ordinance can require higher levels of water conservation, as determined appropriate by the local agency to address one of these local conditions:

- climate
- geology
- topography
- environmental conditions.

However, in such situations where a more restrictive requirement is incorporated, the local agency must make express findings that the requirement is reasonably necessary for one or more of the above conditions. Like all ordinance adoption processes, the adoption must follow the applicable rules for a public process including a public comment period and formal public proceeding during adoption.

SIGNIFICANT REVISIONS TO MWELO

Projects Subject to the Ordinance (Section 490.1)

The size of landscapes subject to the ordinance has been lowered from 2500 sq. ft. to 500 sq. ft. The size threshold applies to residential, commercial, industrial and institutional projects that require a permit, plan check or design review.

To reduce the complexity and costs for the smaller landscapes now subject to ordinance, the revised MWELO has a prescriptive compliance approach (Appendix D) for landscapes between 500 and 2500 sq. ft. Landscapes within this size range can comply either through meeting the traditional MWELO approach or through the prescriptive approach in Appendix D. The size threshold for existing landscapes that are being rehabilitated has not changed, remaining at **2500 square feet**. Only rehabilitated landscapes that are associated with a building or landscape permit, plan check, or design review are subject to the Ordinance.

Definitions (Section 491)

The definitions section of MWELO has been expanded to include new terms and concepts. Please see the strike-out version of MWELO at <http://www.water.ca.gov/wateruseefficiency/landscapeordinance/> to review definition changes.

Water Efficient Worksheet and Water Budget (Section 492.4)

The maximum applied water allowance (MAWA) has been lowered from 70% of the reference evapotranspiration (ETo) to 55% for residential landscape projects, and to 45% of ETo for non-residential projects. This water allowance reduces the landscape area that can be planted with high water use plants such as cool season turf. For typical residential projects, the reduction in the MAWA reduces the percentage of landscape area that can be planted to high water use plants from 33% to 25%. In typical non-residential landscapes, the reduction in MAWA limits the planting of high water use plants to special landscape areas. The revised MWELO still uses a water budget approach and larger areas of high water use plants can be installed if the water use is reduced in the other areas provided the overall landscape stays within the budget. The use of special landscape areas (SLA) was not changed in the revised MWELO. ←
The SLA provides for an extra water allowance in non-residential areas for specific functional landscapes, such as recreation, areas for public assembly, and edible gardens or for areas irrigated with recycled water.

The revised MWELO allows the irrigation efficiency to be entered for each area of the landscape. The site-wide irrigation efficiency of the previous ordinance (2010) was 0.71; for the purposes of estimating total water use, the revised MWELO defines the irrigation efficiency (IE) of drip irrigation as 0.81 and overhead irrigation and other technologies must meet a minimum IE of 0.75.

The worksheets for Maximum Applied Water Allowance (MAWA) and the Estimated Total Water Use (ETWU) have been combined into one table. (See Appendix B, Water Efficient Landscape Worksheet). As explained above, rather than using a site-wide default IE, irrigation efficiency is calculated for each hydrozone.

The revised ordinance also precludes the use of high water use plants in street median strips.

Also because of the requirement to irrigate areas less than ten feet wide with subsurface irrigation or other means that produces no runoff or overspray, the use of cool season turf in parkways is limited.

Soil Management Report (Section 492.5)

For multi-lot projects, the revised MWELo added clarification that soil testing should be completed using a soil sampling rate of approximately 1 in 7 lots or 15 percent.

Landscape Design Plan (Section 492.6)

The following changes were made to Landscape Design Plan section:

Prior to planting, 4 yards of compost must be incorporated per 1000 sq. ft. of permeable area. Compacted soils must be transformed to a friable condition. The depth of mulch required was increased from 2 to 3 inches. Graywater and storm retention components must be indicated on the landscape plan.

Irrigation Design Plan (Section 492.7)

The following changes were made to the Irrigation Design section:

Dedicated landscape water meters or submeters are required for residential landscapes over 5,000 square feet and non-residential landscapes over 1000 square feet. Dedicated meters or submeters may be either a meter supplied by the local water supplier or a privately owned submeter.

Irrigation systems are required to have **pressure regulation** to ensure correct and efficient operation.

All irrigation emission devices must meet the American National Standards Institute standard, American Society of Agricultural and Biological Engineers'/International Code Council's 802-2014 "Landscape Irrigation Sprinkler and Emitter Standard". **Flow sensors** that detect and report high flow conditions due to broken pipes and/or popped sprinkler heads are required for landscape areas greater than 5,000 square feet. Master shut-off valves that prevent water waste in case of large failures of irrigation systems due to breakage or vandalism are required on all landscapes except where sprinklers can be individually controlled.

The **minimum width of areas that can be overhead irrigated was increased from 8 feet to 10 feet**; areas less than 10 feet wide must be irrigated with subsurface drip or other technology that produces no over spray or runoff.

The revised update requires **the irrigation auditor to be a local agency auditor or third party auditor** to reduce conflicts of interest. All landscape irrigation auditors must be certified by one of the U.S. EPA WaterSense labeled auditing programs. EPA WaterSense: http://www.epa.gov/watersense/outdoor/cert_programs.html

Graywater Systems (Section 492.15)

The revised MWELo added a graywater section that specifies that landscapes less than 2,500 square feet that are irrigated entirely with graywater or captured rainwater are subject only to the irrigation system requirements of Appendix D, Prescriptive Compliance Option. Graywater is allowed throughout the state under the California Plumbing Code, Ch. 16. Applicants should consult with the local building authority regarding graywater systems.

Stormwater and Rainwater Retention (Section 492.16)

A requirement was added that landscape area should have friable soil to maximize stormwater infiltration. Additional stormwater measures were recommended, but not required.

Reporting (Section 495)

Executive Order B-29-15 and the revised ordinance require that local agencies report on the implementation and enforcement of their single agency Local Ordinances to DWR by December 31, 2015. Local agencies developing a Regional Ordinance must report on adoption by March 1, 2016. Reporting for all agencies is due by January 31st of each year thereafter. The reporting requirement is a new addition to the MWELo.

In the initial reporting, a local agency states whether they are adopting a single agency ordinance or a regional agency ordinance, and specifies the date of adoption or anticipated date of adoption.

The following information is to be included in the first report by the local agency. Once stated, the information does not have to be repeated in subsequent reports unless the information changes.

- State if using a locally modified Water Efficient Landscape Ordinance (Local or Regional Ordinance) or the MWELo. If using a Local or Regional Ordinance, how is it different than MWELo; is it at least as efficient as MWELo; and are there any exemptions specified?
- State the entity responsible for implementing the ordinance.

In subsequent years, all local agency reporting will be for the calendar year. For the initial reporting period after new ordinance adoption and each year thereafter, include the following information during each reporting period:

- Number and types of projects subject to the ordinance
- Total area (in square feet or acres) subject to the ordinance
- Number of new housing starts, new commercial projects, and landscape retrofits

For the initial reporting period after new ordinance adoption and each year thereafter, describe the following:

- The procedure for review of projects subject to the ordinance
- The actions taken to verify compliance- Is a plan check performed; if so, by what entity? Is a site inspection performed; if so, by what entity? Is a post-installation audit required; if so, by whom?
- Enforcement measures
- The challenges to implementing and enforcing the ordinance
- The educational, training, and other needs to properly apply the ordinance

Contact Information:

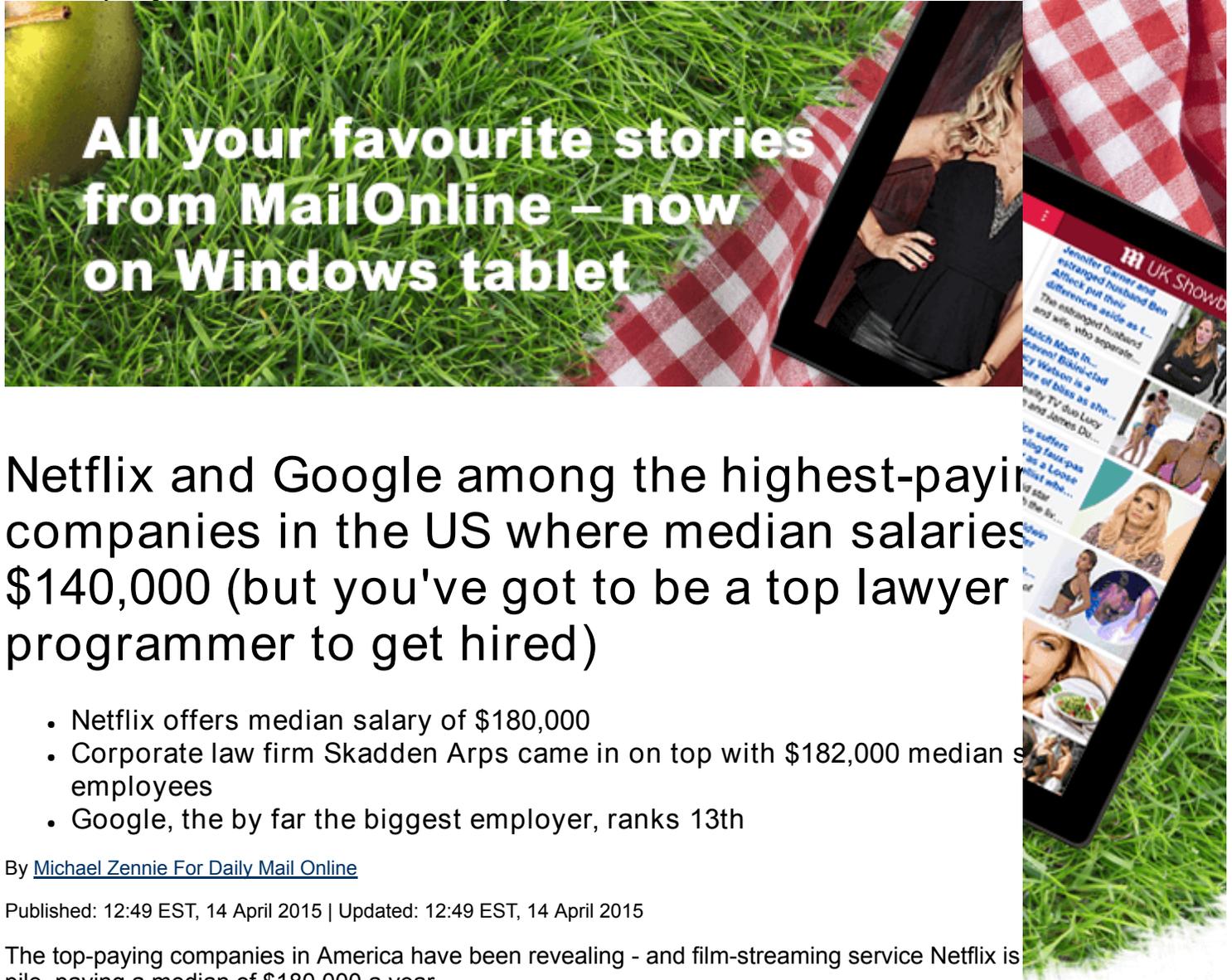
Julie Saare-Edmonds, DWR Senior Environmental Scientist at Julie.Saare-Edmonds@water.ca.gov or (916) 651-9676

Exhibit C

[Click here to print](#)

Daily Mail .com

Wednesday, Aug 10th 2016 5PM 68°F 8PM 55°F 5-Day Forecast



Netflix and Google among the highest-paying companies in the US where median salaries \$140,000 (but you've got to be a top lawyer or programmer to get hired)

- Netflix offers median salary of \$180,000
- Corporate law firm Skadden Arps came in on top with \$182,000 median salary for employees
- Google, the by far the biggest employer, ranks 13th

By [Michael Zennie For Daily Mail Online](#)

Published: 12:49 EST, 14 April 2015 | Updated: 12:49 EST, 14 April 2015

The top-paying companies in America have been revealing - and film-streaming service Netflix is on top, paying a median of \$180,000 a year.

The other boldface name in the group is Google, which comes in at no. 13 and pays an median of \$140,000 a year.

But to make it on to the payrolls of these top companies, workers needs to be highly educated, highly connected - sometimes all three.

They fall into three categories - tech companies, law firms and consulting firms.





© AFP/Getty Images

Netflix has come a long way from its days of mailing DVDs to subscribers across the country. Its 2,000 employees have a median salary of \$180,000 now



CONSULTING, TECH AND LAW LEAD TOP-PAYING COMPANIES IN AMERICA

1. Skadden Arps (law) - \$182,000
2. Netflix (tech) - \$180,000
3. Strategy& (consulting) - \$162,000
4. McKinsey & Company (consulting) - \$162,000
5. A.T. Kearney (consulting) - \$162,000
6. Sidley Austin (law) - \$160,000
7. Boston Consulting Group (consulting) - \$158,000
8. Mozilla (tech) - \$148,000
9. Good Technology (tech) - \$148,000
10. Altera (tech) - \$147,000
11. VMware - \$145,000
12. Cadence Design Systems (tech) - \$145,000
13. Google (tech) - \$144,000
14. Synopsys (tech) - \$143,000
15. TrueCar (tech) - \$142,000

Nine of the top 15 companies are in the tech sector, according to salary data compiled by the recent Glassdoor.com. These firms are competing furiously to hire and retain the relatively small number of computer programmers who make Silicon Valley such a magnet for money.

Consulting and law firms rely on relationships with clients and so once employees establish them they become more and more valuable and command higher salaries.

Wall Street law firm, Skadden, Arps, one of the largest and most prestigious law firms in the nation, is at the top of the list. The median compensation there is \$182,000.



Skadden has 4,500 employees - more than 1,800 of whom are high-grossing attorneys.

Netflix, which has 2,000 employees, comes in second.

Management consultants take the three spots - Strategy&, McKinsey & Company and A.T. Kearney with \$160,000 median salaries.

Mozilla, the company that oversees the Firefox web browser and TrueCar, which lists car sales, are also on the list.

Other than Google, Netflix, Mozilla and TrueCar, most people have likely not heard of the companies on the paid list.

The companies are also mostly small and midsize. Nearly all of them employ fewer than 5,000 people, with some having a few hundred.

Google, which has 53,000 employees, is by far the largest employer on the list.



Comments (24)

Share what you think

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 - [Oldest](#)
 - [Best rated](#)
 - [Worst rated](#)
- [View all](#)



[ok97](#), Toronto, Canada, 1 year ago

I want a better work environment over pay any day of the week. I could care less what others make in my country. I make more, but they work alot more hours. I work to live. I don't live to work.

[Click to rate](#)



[\[redacted\]](#), Los Angeles, United States, 1 year ago

It's not ht it was only the CEOs that were making lots of money, at least that's what liberals have been telling us.

[Click to rate](#)



[\[redacted\]](#), Bronx , United States, 1 year ago

Don't mess them.

[Click to rate](#)



[matternow](#), Galt, United States, 1 year ago

Don't use these companies. They hire people from other countries. They are the cause of the invasion of the United States.

[Click to rate](#)



[tsamatternow](#), Galt, United States, 1 year ago

Sigh time to give up my citizenship. The ignorance in America is disturbing and only getting worse.

[Click to rate](#)



[Gubbals](#), Dogtown, United States, 1 year ago



is good , but after tax that salary will cover rent and pocket money in the Bay Area .

Click to rate

 [erGirl](#), Santa Cruz, United States, 1 year ago

manage apartments here and a lot of those H1-b visa holders are getting about \$40k of their salaries and the companies take the rest.

Click to rate

 [arningstar](#), Hillsboro, United States, 1 year ago

is great until you realize that many of those getting that kind of pay are not Americans. But are H1-

Click to rate

2 of 3 replies | [See all replies](#)

 [eone](#), Somewhere in Lone Star, 1 year ago

Tell your child to get a practical degree in a field in science or math and stop whining. What are Google and Amazon supposed to do, higher your kid with the post-feminism degree or pottery making or whatever it is. You can like that, but it should never be your major. And, if you can't find a job, I assume no surprise.

Click to rate

 [2](#), London, United Kingdom, 1 year ago

If there were enough educated and skilled Americans to do the job then you wouldn't need the H1-B visa.

Click to rate

 [e](#), seattle, United States, 1 year ago

are some other positions in google and netflix that pay that much. Lots of IT positions that are not that much in both companies(servers, security, R&D, etc). I have many friends working for google most make that much a year(one makes 155k). What they dont tell you is that they are kind of slave drivers when it comes to "google" 60+ hrs a week.

Click to rate

 [0](#), California, United States, 1 year ago

money doesn't make you happy. You can make a lot less and be happier than people who make a lot more.

Click to rate

 [Fortune](#), Topeka, United States, 1 year ago

It doesn't necessarily make you unhappy either.

Click to rate

 [sElsa](#), Ontario, Canada, 1 year ago

that it says 'median' salary, which isn't the same as 'average'. You could have half the company earning that.

Click to rate





, betterthanyou, Belarus, 1 year ago

You're hired!

Click to rate

[View all](#)

The views expressed in the contents above are those of our users and do not necessarily reflect the views of MailOnline



Who is this week's top commenter?

Find this story at <http://www.dailymail.co.uk/news/article-3038740/Netflix-Google-highest-paying-companies-media-got-lawyer-programmer-hired.html>

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Exhibit D

August 9, 2016
Town Council Meeting

North 40 Vesting Tentative Map and Architecture and Site Applications

Don Capobres, Representing Grosvenor Americas

Wendi Baker, SummerHill Homes

Andrea Osgood, Eden Housing

Bill Hirschman, Lexor Builders



August 9, 2016
Town Council Meeting

Exhaustive and Transparent Process Spanning Several Decades



Decades of Public Meetings and Policy Documents

- 1999: Specific Plan for N40 drafted (and later abandoned)
- 2010: 2020 General Plan adopted that reflected 750 residential units and 600K SF of Commercial
- 2011 – 2014: Specific Plan Advisory Committee meets, forwards North 40 Specific Plan and related Environmental Impact Report to Planning Commission
- Dec 2014: Town Council approves EIR for Specific Plan
- May 2015: Town Council approves Housing Element that identified 270 of its 619 State Mandated Housing units to be placed on 13.5 Acres of N40 property
- July 2015: Town Council approves N40 Specific Plan permitting:
-270 residential units (365 with Density Bonus)
-501,000 SF of commercial
-



Process has led to Decisions by Town, Laws & Policies

- Oct 2015 SummerHill, Grosvernor and Eden submit revised plans
- Dec 2015 Town Consulting Architect deems N40 Architecture & Site Application *“has adopted an approach to providing high quality design with the detail and diversity necessary to give the overall development the **“look and feel”** of Los Gatos.”*
- Jan 2016 Town Historic Commission voted that *“the agrarian feel of the proposed plans and determined that the agrarian history is effectively integrated in Phase I.”*
- Feb 2016 Town Design Review Committee reviews Economic Study and Application
- March 2016 Town Staff completed an Initial Study of the proposed project and concluded that Application fully complies with the Specific Plan EIR
-

Process has led to Decisions by Town, Laws & Policies

- March 2016: Town Planning Staff recommends approval, concluding the proposed project application is consistent with the N40 Specific Plan and warrants no additional CEQA mandated mitigations
- April 2016: Town deems VTM and A&S applications complete
- May 2016: Story Poles fully certified
- July 2016: Planning Commission
- August 2016: Town Council

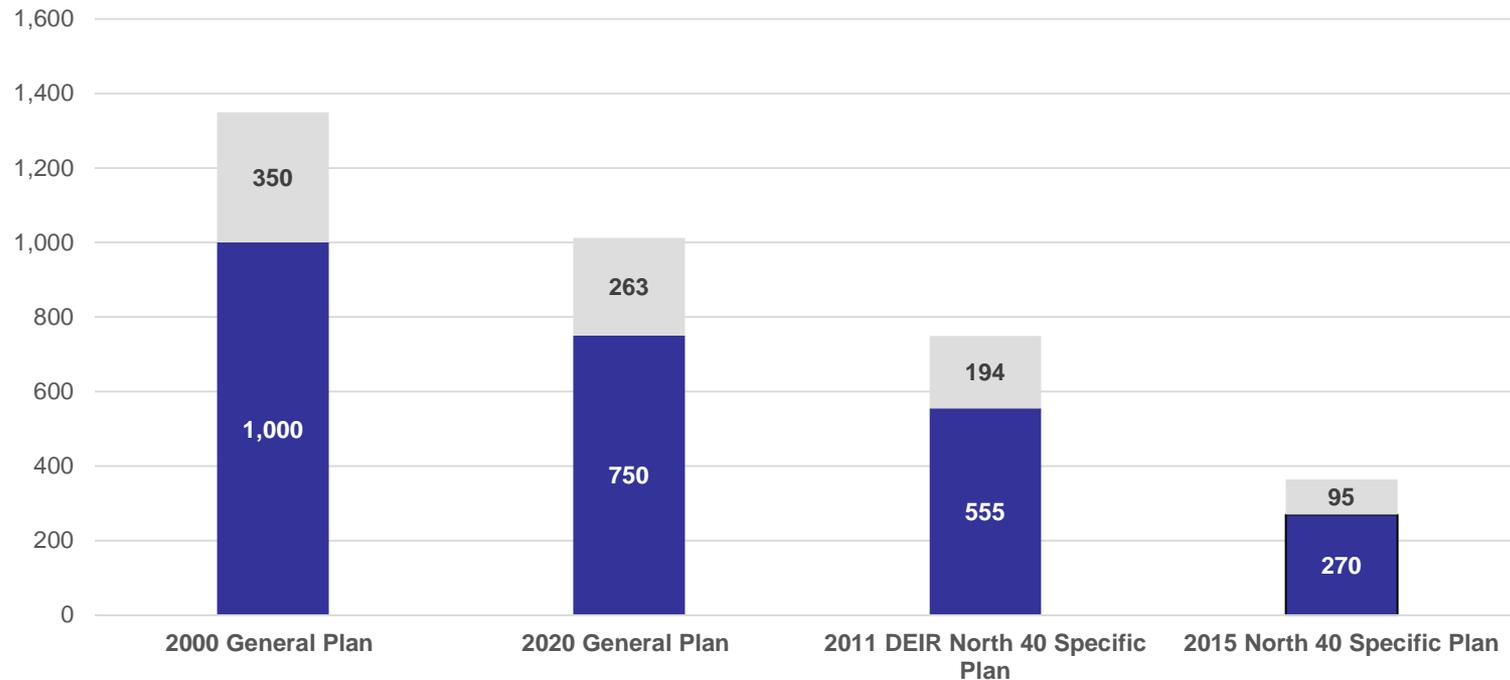
| OBJECTIVE STANDARDS MATRIX | | | |
|---|---------------------------------|------------------------------|-----------------------|
| North 40 | | | |
| | SPECIFIC PLAN | PROPOSED | SPECIFIC PLAN SECTION |
| Open Space Standards | | | |
| Open Space | 30% Minimum | 39% | Table 2-3 |
| Open Space - Publicly Accessible | 20% Minimum | 85% | 2.5.4 |
| Green space | 20% Minimum | 23% | Table 2-3 |
| Lot coverage Residential | 50% Maximum | 29% | Table 2-3 |
| Lot coverage non-resid/ Mixed-use | 50% Maximum | 38% | 2.6.3 |
| Landscaping in parking lots | 5% Minimum | 19% | |
| Common Open Space/ Condominiums | 100 SF Minimum | 962 SF - 2826 SF | 2.7.2 |
| Common Open Space/Multi-Family + other | 200 SF Minimum | 897 SF | 2.7.2 |
| 2-STORY Lark District | 15% Minimum | 29% | 2.5.2.a.ii |
| Unit Count | | | |
| Total Units | 270 Maximum | 237 | Table 2-2 |
| Total Units (with Density Bonus up to 384) | 365 Maximum | 320 | |
| Square Footage | | | |
| New Commercial Max. Capacity | 435,000 SF Maximum | 66,000 GSF | Table 2-2 |
| New Garden Cluster / Rowhome | 400,000 SF Gross Max | 286,715 GSF | 2.7.3 |
| New Condominium / Live-Work / Apt. | 300,000 SF Net Max | 150,765 NSF | 2.7.3 |
| College Cluster Unit Area | 1,200 SF Maximum | n/a | |
| Setbacks - Primary Frontage Setbacks | | | |
| 25' HL Residential Setbacks on Lark/ LGB | 50' Minimum | 65' | Table 2-5 |
| 25' HL Commercial Setbacks on LGB | 50' Minimum | 50' | |
| Freeway Setbacks | 30' Minimum | 30' - 57' | |
| Lark Avenue Setback | 30' Minimum | 30' | |
| Los Gatos Boulevard Setbacks | 30' Minimum | 30' (excludes trellis at B2) | |
| Setbacks - Residential | | | |
| Non-resid/ Mixed-Use Setbacks | 12' Minimum | 12' | Table 2-6 |
| Setback - (Residential) | varies per Tables 2-7, 2-8, 2-9 | North 40 complies | Table 2-7, 2-8, 2-9 |
| Building Heights | | | |
| Residential Bldg Height on Lark/LGB | 25' Maximum | 25' | 2.5.2 |
| Commercial Bldg Heights on LGB | 25' Maximum | 25' | limited by setbacks |
| Maximum Bldg Height (non-affordable) | 35' Maximum | 35' | 2.5.2 |
| Maximum Bldg Height (mixed-use afford.) | 45' Maximum | 45' (94.2%) | 2.5.2 |
| Maximum Bldg Height (per Density Bonus) | 45' Maximum | 48.8' - 53' (5.8%) | 2.5.2 |
| Parking | | | |
| Residential Parking | 579 spaces | 581 spaces | Table 2-4 |
| Mixed-Use (TD) Residential Parking | 69 spaces | 69 spaces | Table 2-4 |
| Commercial (TD) Parking | 285 spaces | 389 spaces | 2.5.8 |

Compliance with Objective Standards

| | <u>Specific Plan</u> | <u>Proposed</u> |
|--|----------------------|-----------------|
| Open Space (OS) | 30% min | 39% |
| OS Publicly Accessible | 20% min | 85% |
| Replacement Trees | 276 min | 1500 |
| 2-Story Lark District Units (Baseline) | 15% min | 29% |
| Units (w/Density Bonus) | 270 max | 237 |
| New Commercial | 365 max | 320 |
| 25' Res Setback on Lark/LGB | 435,000 max | 66,000 |
| Height on Lark/LGB | 50' min | 65' |
| Residential Parking | 25' max | 11'-25' |
| Mixed Use (TD) Parking | 579 min | 581 |
| Commercial (TD) Parking | 69 min | 69 |
| | 285 min | 389 |

Residential Density Reduction on the North 40 since the 2000 General Plan

Residential allocations at the North 40
(units)



Sources:

1. Draft Environmental Impact Report, 2000 Town of Los Gatos General Plan.
2. 2020 Town of Los Gatos General Plan
3. Notice of Preparation of Draft Environmental Impact Report. December 2011.
4. North 40 Specific Plan (includes available density bonus)



Architecture and Site Review Discussions

- Elevations, Materials and Colors for both the commercial and the residential, including the list in section 3.2.6 and 3.3.6.3 in the Specific Plan
- Open Space Programming and Recreational Amenities
- The Landscape palate, including the orchard trees utilized and the freeway perimeter trees
- The materials of the paved/surface areas of the projects
- Fencing types
- Onsite bicycle facilities, such as design and distribution of bicycle parking

Where We are Today

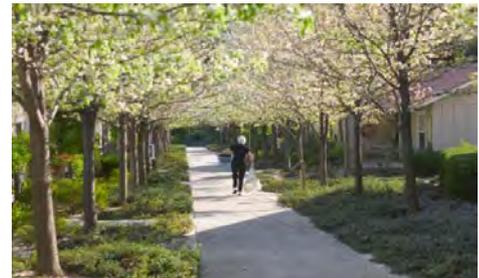
Architecture and Site Review Vesting Tentative Map Application



Multi-Modal & Pedestrian Pathways



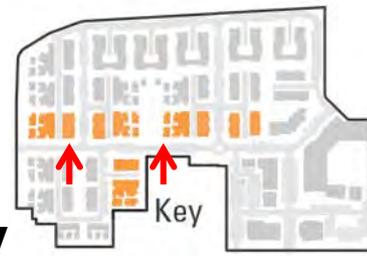
North 40 is a new agricultural neighborhood rooted in the Los Gatos agrarian past



The essence of the design is the theme of Locally Grown & Agrarian Roots: 544 proposed orchard trees, community gardens and vineyards comprising 2.7 acres of agricultural uses

North 40

Varying heights reduce the massing and intensity



Lark Avenue

Alley 'A'

'R2' 1st Street

Alley 'B'



South 'A' Street

Alley 'B'

Community Park

Alley 'F'



South 'A' Street



The look and feel of Los Gatos

Resident entrances engage streets, paseos and parks



View Along South A Street



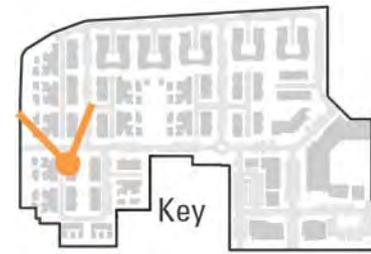
A Mix of Architectural Styles in Three Building Types Including Traditional, Farmhouse and Contemporary and 17 Unique Colors Schemes.



Church Street

North 40

Varying heights reduce the sense of massing and intensity



Alley 'A'



South 'A' Street



The look and feel of Los Gatos

Community variety of architectural and landscape scales



View Along South A Street – Residential entries, no garage doors – pedestrian and bike friendly



Landscape screened garages separated from parks, plazas and neighborhood streets and walkways.



Maggi Court

Parks and Plazas

Publicly Accessible Community Park



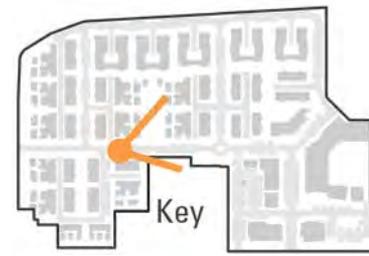
Over 22,000 sf Community Park with public amenities such as bocce court, barbeque grills, outdoor dining areas, multiple fire pits, hammocks, outdoor lounge spaces, community gardens and fruiting orchards.



The Community Park is comparable in size and scale of Town Plaza Park.

North 40

Varying heights reduce the sense of massing and intensity



South 'A' Street at Community Park

The look and feel of Los Gatos

Creative interplay of landscape and architecture



View Along South A Street



Tree lined corridors – South A Street



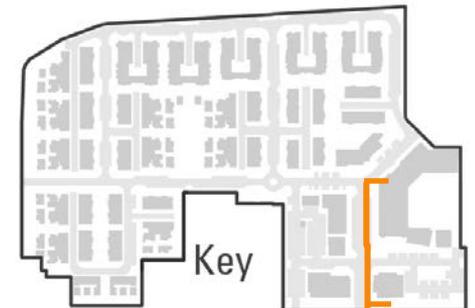
Cuesta de Los Gatos Way

North 40 design

Varying heights reduce the “sense of project”



If all the buildings were squeezed to the same height, it would imply a “sense of project” and lose the variations found around Los Gatos.



Where We are Today

Unprecedented Project Benefits



Project Benefit – Senior Affordable Housing

49 very low income senior apartments
and one moderate rate apartment



PEDESTRIAN FRIENDLY SCALE

Attracts those of all ages who want to work, live, and socialize in a highly walkable neighborhood.



NORTH 40

LOS GATOS, CA

North 40

Project Benefits

Traffic Improvements

TAKING ON THE LION'S SHARE

Since 2012, developments in Los Gatos have increased traffic by 13%. North 40 improvements will zero-out that impact.

LOS GATOS APPROVED/PENDING DEVELOPMENTS SINCE 2012

- | | |
|-------------------------------|----------------------------|
| Riviera Terrace Expansion | San Jose Medical Office |
| South Bay Honda | Sports Park |
| Swanson Ford | Highlands of Los Gatos |
| Mitchell Subdivision | Winchester Office |
| Winchester Medical Office | Netflix Office Development |
| Terraces of Los Gatos | Bentley Silicon Valley |
| Blossom Hill Road Development | Classic Community |
| 15400 Los Gatos Blvd | Hillbrook School Expansion |
| 55 Los Gatos Saratoga Rd | Twin Oaks |
| National Medical Office | 146 Gemini Court |
| Placer Oaks | Moore Buick |
| Valley Christian School | CVS Pharmacy |

| | |
|--|-----|
| TRAFFIC IMPACT congestion added since 2012 | 13% |
| TRAFFIC UPGRADES to reduce traffic congestion since 2012 | 0% |

North 

TRAFFIC IMPACT **2%**
North 40 will add
to congestion by

REDUCED DELAY **26%**
with North 40
traffic upgrades



Project Benefits

New Bicycle Lanes from the North 40 to the Los Gatos Creek Trail



Lark Av Current Looking East



Lark Av Current Looking West



VIEW 3 Lark Av Bike Lanes/ Multi-Use Path Looking East

07.08.2016 Los Gatos North 40, California digital imaging studio dls



VIEW 4 Lark Av Bike Lanes/ Multi-Use Path Looking West

07.08.2016 Los Gatos North 40, California digital imaging studio dls



Project Benefits

Satisfies Town of Los Gatos Housing Element

North 40 270 units

Southbay 148 units

Oka Road 99 units

In-law 55 units

Open 37 units



Meeting state requirements with **decades** of community input.



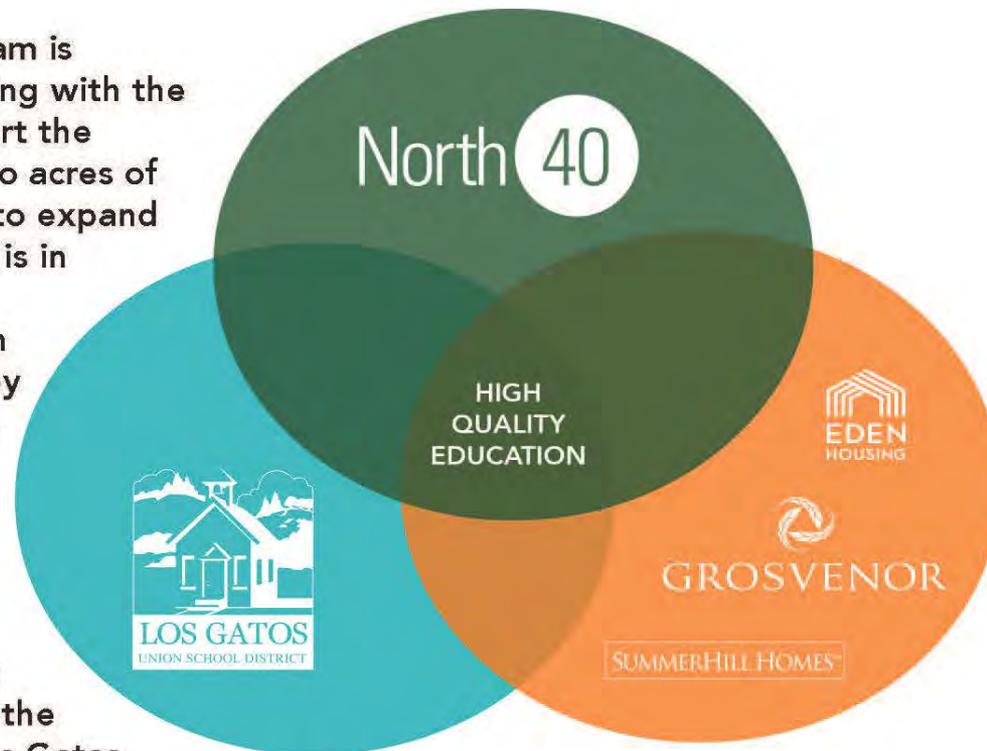
Project Benefits

Improve School Facilities through Voluntary Contribution

Beyond SB 50—Standing Up for Education

The North 40 team is voluntarily working with the District to support the acquisition of two acres of land for LGUSD to expand its facilities. This is in addition to the school mitigation fees mandated by California SB 50.

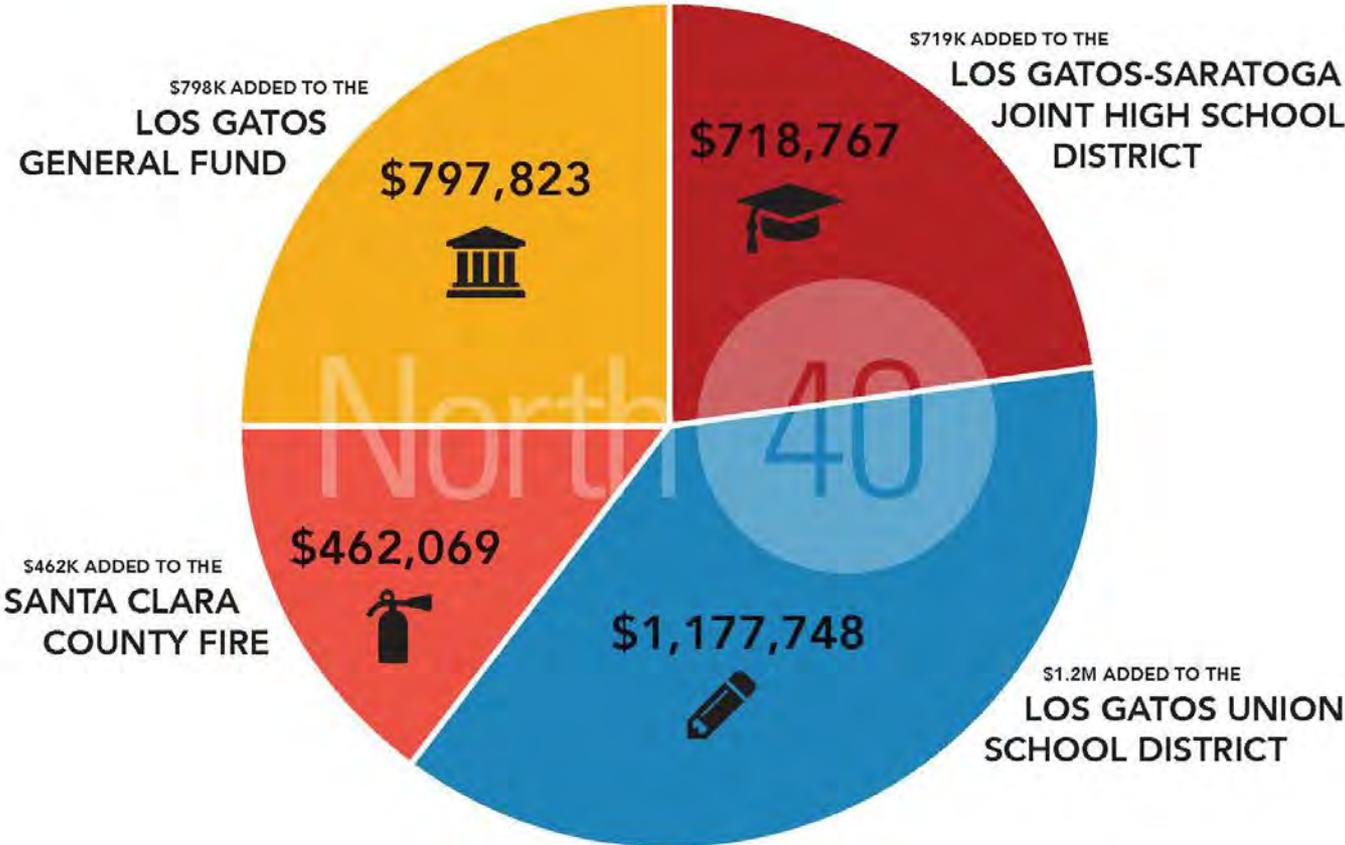
We are committed to the positive impact of The North 40 project on all aspects of the community of Los Gatos.



Project Benefits

ANNUAL FISCAL BENEFIT

Phase One North 40 will contribute more than \$3M in gross revenues annually to the Town of Los Gatos, in addition to the one-time fees.



Project Benefits

Smaller Units, Low Bedroom Count

North 40 Bedroom Count

| <u>District</u> | <u>Product Type</u> | <u>Bedrooms</u> | <u>Number of Units</u> | <u>Total Bedrooms</u> | <u>Average Bedrooms</u> |
|-----------------|---------------------|-----------------|------------------------|-----------------------|-------------------------|
| Transition | Apartment/Live Work | 1 | 8 | 8 | |
| Transition | Apartment | 2 | 2 | 4 | |
| | | | | | 1.20 |
| Lark | Garden | 1 | 41 | 41 | |
| Lark | Garden | 2 | 22 | 44 | |
| Lark | Garden | 3 | 20 | 60 | |
| | | | | | 1.75 |
| Lark | Rowtown | 2 | 73 | 146 | |
| Lark | Rowtown | 3 | 24 | 72 | |
| | | | | | 2.25 |
| Lark | Condominium Cluster | 1 | 30 | 30 | |
| Lark | Condominium Cluster | 2 | 40 | 80 | |
| Lark | Condominium Cluster | 3 | 10 | 30 | |
| | | | | | 1.75 |
| Transition | Senior Affordable | 1 | 49 | 49 | |
| Transition | Senior Affordable | 2 | 1 | 2 | |
| | | | | | 1.02 |
| Totals: | | | 320 | 566 | 1.77 |

| | | |
|-----------------------------|-----|-----|
| Total Number of 1 Bedrooms: | 128 | 39% |
| Total Number of 2 Bedrooms: | 138 | 42% |
| Total Number of 3 Bedrooms: | 54 | 16% |

Residential Square Footage Averages:

| <u>District</u> | <u>Product Type</u> | <u>Number of Units</u> | <u>Average Square Footage</u> |
|-----------------|---------------------|------------------------|-------------------------------|
| Transition | Move Down | 10 | 905 |
| Transition | Senior Affordable | 50 | 557 |
| Lark | Millennial | 260 | 1572 |
| | | 320 | 1393 |

Project Benefits

Over 14.5 Tons of Fruits and Vegetables



Fruiting orchards along
Lark Ave



Restaurant
demonstration garden
along South A Street

Project Benefits

Going Above and Beyond the Specific Plan



| | <u>Specific Plan</u> | <u>Proposed</u> |
|--|----------------------|-----------------|
| Open Space | 30% min | 39% |
| Open Space Publicly Accessible | 20% min | 85% |
| Replacement Trees | 276 min | 1500 |
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| Mixed Use (TD) Parking | 579 min | 581 |
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| | 285 min | 389 |

July 12, 2016

Town of Los Gatos Planning Commission

Applicants:

Don Capobres – Representing Grosvenor
Wendi Baker – SummerHill Home
Andrea Osgood – Eden Housing
William Hirschman – Lexor Builders

Agrarian:

Zach Lewis – Garden 2 Table

Economic:

Timothy Kelly – Keyser Marston Associates

Legal:

Barbara Kautz – Goldfarb & Lipman
Andrew Faber – Berliner Cohen

Architects:

Paula Krugmeier – BAR Architects
Debra Lehtone – BAR Architects
John Thatch – Dahlin Group

Landscape:

Ashley Langworthy – SWA
Melissa Willmann – VDA

Civil:

Chris Ragan – MacKay and Soms
Jacqueline Bays – MacKay and Soms

Traffic:

Katy Cole – Fehr & Peers



Project Benefits

- 49 very low income senior units and one moderate rate unit
- Over \$10 million of traffic related improvements (above & beyond EIR requirements)
 - Resulting in a 26% reduction in traffic delays at Lark/Los Gatos Boulevard
 - Bicycle Lanes from Project Frontage to Los Gatos Creek Trail
- Compliance with State Approved Housing Element
- Unprecedented Voluntary School Agreement
- Over \$2.7 million gross revenues annually to the Town of Los Gatos, including:
 - \$1.9 Million annually to LGUSD and LG-SJUSD
 - \$800K annually to the Los Gatos General Fund
 - Plus: \$462K annually to Santa Clara County Fire
- Satisfies unmet housing needs in the Town with affordable apartments, multifamily rental and for sale housing
 - 84% of residences are 1 or 2 bedroom units, with an overall bedroom count of 1.77 bedrooms average
 - Residences range in size from approximately 550 sf to 1,950 sf
 - Average residence size 1,393 sf
- New Neighborhood Serving Retail & Restaurants to serve new and existing residents on North Side of Town
- 14.5 Tons of Diverse Fruits and Vegetables Produced honoring the “Valley of the Hearts Delight”
- Over 6x the required replacement trees
- High Quality execution of Town’s Specific Plan with more open space and trees, less height, and greater setbacks