

From: Peter Dominick <peminick@gmail.com>

Date: August 8, 2016 at 5:49:36 PM PDT

To: BSpector <bspector@losgatosca.gov>, Marcia Jensen <mjensen@losgatosca.gov>, Marico Sayoc <msayoc@losgatosca.gov>, sleonardis@losgatosca.gov, Rob Rennie <rrennie@losgatosca.gov>

Cc: Rob Schultz <rschultz@losgatosca.gov>

Subject: Request for denial of the North 40 proposal

Dear Los Gatos Town Council,

I am writing today to encourage you to deny Architecture and Site Application S-13-090 and Vesting Tentative Map Application M-13-014, which have been proposed for the North 40 property.

I believe that these applications should be denied because they do not qualify for a density bonus as defined by Gov't Code §65915(b)(1). I previously presented my arguments against this proposal in an email to the Planning Commission on July 13, 2016. Attorneys for Grosvenor and Summerhill responded to these arguments in their own letter to Robert Schultz date July 29, 2016. I would like to restate my arguments and address those responses here:

- First, the applicant believes that they are entitled to a 35% density bonus because their project of 237 units includes 49 units for very low income households. However, the applicant has further chosen to reserve these 49 units for senior citizens, which I believe disqualifies them for the density bonus. My contention is that the code states that very low income households as a category is defined by Section 50105 of the Health and Safety Code, and Section 50105 states that "'Very low income households' means persons and families whose incomes do not exceed the qualifying limits for very low income." The key words there are "persons and families"; this is a broad and open term and it in no way implies that an age restriction is acceptable. In their letter, the developer's attorneys contest my argument, stating that if more than one person inhabits one of their units—say, a senior married couple—then they have satisfied the requirement for either "persons" or "families." My point, however, is that because the units are age restricted, then they cannot be eligible to persons and families of very low income. If a 35-yr old person meeting the requirements for "very low income" attempted to live in one of these units, he or she would not be considered. Therefore, the units fail the test of Section 50105 and should not be considered towards a very low income density bonus. (I would further note that I realize that the Fair Housing Act does make it legal to limit qualifying housing developments to "senior only" status. However, that is an applicable standard for when a land owner freely decides to designate a property as senior housing. Code 65915 requires the developer to make the units available to applicants based solely on income if they want to qualify for the density bonus. To otherwise restrict them negates that qualification.)
- Second, I submit that the base number of units of 237 proposed by this project is not valid according to the code. The density bonus law states that "A city shall grant one density bonus, and incentives or concessions, when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section." The developers have not proposed a plan for 237 units that would be compliant with our Specific Plan; many of these 237 units, at the developer's admission, can only be built if they were granted waivers on our development standards, therefore the units fail the test of exclusion stated by the code. In response to this argument, the developer's attorneys have claimed that "the base density over which the bonus is calculated is effectively determined by looking at the maximum density permitted by the land use element of the general plan," and that they have willfully lowered this number to 237 when it could in fact be larger. I respectfully disagree with this line of reasoning. To wit:

- The density bonus law states that “‘density bonus’ means a density increase over the otherwise maximum allowable residential density as of the date of application” (§65915(f).) This does not say that the density bonus is calculated based on the maximum allowable density. It states that the density bonus is an increase over the maximum allowable density. Further examination of the code explains how the bonus is meant to be calculated, and it depends entirely on the developer’s proposal.
- Section §65915(f) further states, “The amount of density bonus to which an applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).” The code then presents a table with two columns, one labeled “Percentage Low-Income Units” and one labeled “Percentage Density Bonus.” Because this section refers back to subdivision (b), we know that the base factor used for each percentage calculation is the total number of units proposed by the developer (and again, this base number must pass the exclusion test).
- Further evidence that the calculation is intended to be based on the developer’s proposal and not the maximum allowable density is section §65915(f)(3), which states that “For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.” This clearly indicates a scenario where the density bonus is calculated on a number that is not the maximum allowable residential density, but rather just the number of senior units in the development. So, it must be accepted that the maximum allowable density is only a reference point which the density bonus goes over, not that it is the base number on which it is calculated. Hence, it matters how many units are proposed by the applicant, and it matters that said initial proposal is valid per existing development standards.
- Third, I believe that this density bonus application is invalid because it involves a partnership between Grosvenor, Summerhill and Eden Housing, when the law states that it is applicable to a singular applicant (“an applicant”). The developer’s attorneys argue that because the project represents one contiguous site and is therefore a single “housing development,” the number of parties on the application is irrelevant. Still, section §65915(b)(1) states, “A city shall grant one density bonus, and incentives or concessions, when an applicant for a housing development seeks and agrees to construct a housing development...” To be considered for the housing development, the applicant must construct the housing development. Summerhill is constructing one part of the North 40 and Eden Housing is constructing another, which would indicate that they are two different housing developments. I believe they therefore should be considered separately, per the code.

I believe the application fails on all three of these arguments, but even if you find that it fails on just one, I hope that you will deny these applications.

Regards,

Peter Dominick
 Blossom Hill Rd, Los Gatos

From: Jak VanNada [<mailto:jvannada@gmail.com>]
Sent: Thursday, August 11, 2016 2:33 PM
To: Council
Cc: Laurel Prevetti
Subject: RE: Follow up on data for Costs to the LGUSD

One correction: the property tax should be cut in half as one half goes to LGUSD and the other to LGSUHSD.

This reduces the Cost to \$11,563,000 for LGUSD, and \$6,535,000 for LGSUHSD

From: Jak VanNada [<mailto:jvannada@gmail.com>]
Sent: Thursday, August 11, 2016 12:55 PM
To: 'council@losgatosca.gov' <council@losgatosca.gov>
Cc: 'townmanager@losgatosca.gov' <townmanager@losgatosca.gov>
Subject: Follow up on data for Costs to the LGUSD

When I spoke at the meeting Tuesday addressing the placement of housing in the north section of the North 40, I used broad brush numbers as 3 minutes eliminates the details.

I have attached an Excel file that I think is mostly correct should the LGUSD not be able to get the Campbell/Cambrian/San Jose districts changed over to the LGUSD in time for this project to begin.

As you can see, in the school life of a pre-high school age child, the costs/lost revenue to the LGUSD is significant at \$14,620,000 should 120 units be placed in the north section.

Ideally, I would hope that the districts could move quickly to get the re-districting accomplished, but it is my understanding that old, overweight turtles move faster than the school redistricting process.

Jak Van Nada

An example of what it may "cost" the school districts if students are placed in the northern half but attend LG schools		
For LGUSD		
Construction Fee	\$2.29 per sq. ft. = LGUSD portion of a total \$3.36	\$ 3,600
Grosvenor "donation"	This donation goes to schools in the LGUSD only	\$ 23,500
Number of Kids	.6 per unit	12 kids for every 20 units
Education Cost per child per year	.6 children per unit x 9360 - no inflation is estimated	\$ 5,616
Number of years	K through 8	9
Property tax share for LGUSD	\$1,200,000 x 1% x 45% No increases/decrease estimated	\$ 5,400
First Year "Cost" to LGUSD per house	(LGUSD loses const fee, donation, education cost, and property taxes)	\$ 38,116
Subsequent costs for the next 8 years/house	Cost includes the cost of education plus the property tax	\$ 88,128
TOTAL PER UNIT COSTS FOR 9 YEARS	For one housing unit with .6 kid per unit	\$ 1,136,195
For 20 units/9 years	First year costs plus the next 8 years for 12 kids in 20 units for 9 years	\$ 2,436,750
If 120 units of the housing goes to the other school district and successfully petition to go to LG schools		\$ 14,620,498
THE ABOVE NUMBERS ARE FOR 9 YEARS, BUT THE COSTS, PLUS INFLATION, GO INTO PERPETUITY.		
For LGSUHSD		
Construction fee	\$.91/sq ft	\$ 1,431
No Grosvenor "donation Added"		0
No. of kids/unit (.6)	for lack of information, I used the same number as LGUSD	0.6
Cost per child @ \$13,000	https://k12.niche.com/d/los-gatos-saratoga-joint-union-high-school-distr	\$7,800
Period in Years		4
Property tax per year/unit (not adjusted for increases)		\$ 5,400
First Year Cost		\$ 14,631
Subsequent 3 years		\$ 39,600
Total Cost for 4 years per child	First year plus next 3 subsequent	\$ 54,231
Total Cost for 20 units		\$ 1,045,010
Total Cost for 160 units		\$ 8,360,083
THE ABOVE NUMBERS ARE FOR 4 YEARS, BUT THE COSTS, PLUS INFLATION, GO INTO PERPETUITY.		
Assumptions :		
"Cost" is defined as an actual cost to the district (eg, education cost), or a loss of revenue (eg, the \$23,500 or property taxes going to the other districts)		
Because I don't have the information on child distribution, each district has the full 20 units at .6 students at the corresponding age range		
If the housing goes to the northern district within the other schools boundaries, LGUSD loses the developer fees, property tax and yet incurs the cost of educating the child at LGUSD expense. - per Diana Abatti		
It is highly likely parents in the Campbell/Cambrian school district will petition to get into the LGUSD - and will succeed (per Diana Abatti and Jim Russell)		
Development Impact Fee	\$2.25 to LGUSD set by the state - goes to the presiding school district	\$2.29 / sq ft
Development Impact Fee	\$.91 to LGSUHSD	1.11 / sq ft
Grosvenor "donation"	Paid to LGUSD if in their district (nothing to LGSUHSD)	\$23,500
Education Cost per child per year LGUSD	per Diana Abatti	\$9,630
Education Cost per child per year LGSUHSD	https://k12.niche.com/d/los-gatos-saratoga-joint-union-high-school-distr	\$13,000
Period in years LGUSD		9
Period in years LGSUHSD		4
Property tax per year	selling price of \$1,200,000 * 1% * 45% (K-12 school's portion)	\$ 5,400
All LGUSD students figured from K - 8 (9 years)		
Assume there are .6 students generated per unit (from Abatti email to Joel Paulson 8/29/14)		
1572 sq ft was the average size of the housing unit		
\$1,200,000 average selling price per unit		
20 units per acre to keep the housing compliant with HCD		

From: Tony Alarcon [mailto:alarcon.tony@gmail.com]

Sent: Thursday, August 11, 2016 4:14 PM

To: Council

Subject: Specify Plan Violations

I will not be able to attend tonight's meetings. I have attended every meeting except one when I was out of town.

I'm currently at the library and had to comment based on the monstrosity of the model and the lack of a real park and open space. How we ended up with this after all these years behoves me. Why we did not properly address our unmet market rate senior housing or spread the 270 units per the specific plan across the 40 acres is unimaginable. Why the developer not listen or meet the objective requirements of the Specific Plan?

FIGHT FOR OUR TOWN! PLEASE DENY THIS PROJECT.

Reason for denial

1. **Original grade should be used in determining height restrictions.** 2-5" of fill should not be allowed to be brought in, nor transferred from the polluted area abutting Hwy 17 which has been identified to cause cancer. Say no to this exception!
2. **Objectively no other project has this architecture in town.** It does not have the look and feel of Los Gatos as required in the specific plan. It is simply a duplication cookie cutter which Grosvenor has done across several other countries as proven.
3. **Objectively no other market rate project of 280 units in the history of town has been allowed to group 55 BLM units in one location** versus disperses them throughout the project. These units should be dispersed across the project.
4. **Objectively the project does not deliver 55+ senior market rate housing which is a need for our community.** Per the Specific plan the North 40 will address the Town's residential and/or commercial unmet needs
5. **The project should have an additional 50+ units deed restricted for 55+ with unit sizes equalling the same percentage allocation as the project.** Current Los Gatos residents getting preference to purchase similar to the BLM formula.
6. **The Town and Yuki should confirm the existing low income units which have recently been discovered.** This voids the density bonus.
7. **Objectively the developer is not a single development group but rather a development partnership constructed to gain density bonuses.**
8. **The project in NO way embraces the hillside views. You cannot see the hills.**
9. **Objectively the model tree height abutting the Hwy17 N entrance shows a height exceeding the building heights. That is simply NOT true as confirmed by the developer.**
10. **Objectively it does not provide a large park to take advantage of hill side views or multiple larger parks.**
11. **QUALITY large open space is non existent.** They offer small strips or 10x10 area. There is no place for children to play soccer or play.

12. **Objectively the unit count in the Lark district, scale and mass, should be dramatically reduced and allocated to the remaining 14 acres.** This is a objective violation of the specific plan.
13. **NO bonus density would be awarded NOR any waivers or exceptions should be given given to the developer.**
14. **This project has not properly mitigated its impacts** of traffic, down town impacts, or unmet market rate senior only homes. **The studies are outdated and flawed in utilizing improper assumptions and comparison towns.**
15. **The majority of speakers at meetings and town citizens are against the proposed plan.**

“Fun is one of the most important and underrated ingredients in any successful venture.”

Richard Branson

Tony Alarcon
Cell 408.460.4845

Planning

From: Valerie Kelly <lgkellys@me.com>
Sent: Thursday, August 11, 2016 4:43 PM
To: BSpector; Marico Sayoc; Rob Rennie; Steven Leonardis; Marcia Jensen; Joel Paulson; Sally Zarnowitz; Planning; Marni Moseley
Subject: North 40 Development Plea

Dear All:

Please see message below, which did not arrive in time for submission prior to Tuesday's meeting.

I understand tonight is the night for the developer response.

As mentioned in my message below,

Although your decision may deny Grosvenor's Board of Directors and shareholders the profit anticipated when the property was considered for development by them, this multi-national corporation should not be able to capitalize on this development at an expense to be born by the town of Los Gatos and its residents for many, many years to come. Grosvenor took that calculated risk when it chose to try to develop a large high density development in a small town like Los Gatos. I expect your town counsel staff has advised you similarly; however, although Grosvenor has (directly or indirectly) threatened litigation over this development, please do not allow your team and this community to be bullied. Grosvenor will have to thoughtfully consider risks inherent in litigation and the associated drag on profits from this development before deciding to proceed, which is not a decision that will be taken lightly even by such a large corporate entity.

And, thank you for your time and thoughtful consideration, I know it hasn't been easy.

Best,

Val Kelly

Begin forwarded message:

From: Valerie Kelly <lgkellys@me.com>
Subject: North 40 Development Objection
Date: August 9, 2016 at 11:15:43 AM PDT
To: bspector@losgatosca.gov, msavoc@losgatosca.gov, rrenie@losgatosca.gov, sleonardis@losgatosca.gov, miensen@losgatosca.gov, jpaulson@losgatosca.gov, szarnowitz@losgatosca.gov, planning@losgatosca.gov
Cc: Marni Moseley <mmoseley@losgatosca.gov>, dsparrer@community-newspapers.com, letters@mercurynews.com

Dear Los Gatos Town Leaders:

I am forwarding this message along with the original message I sent back in March (below), which I submitted too late for consideration.

After attending the meeting and reading materials about the North 40 Development, I am sending this letter to support the Planning Commission's denial of the North 40 Development Plan (Plan) and urge the Town Council to similarly deny the Plan for the following reasons:

1) The Plan does not "look and feel like Los Gatos." As a long time resident, I am cannot reference any other development in the area of Saratoga-MonteSerenos-LosGatos (or even Campbell for that matter) that looks or feels like the current proposed plan in scale or density. And, I cannot reference any residential developments that mimic the massive industrial style. The Plan "looks and feels" like high density apartment developments in San Jose.

2) We live in a low density community which is characterized by an abundance of single story ranch style homes and larger lots. The Plan does not shadow similar existing density and building heights considering the acreage to be developed - all in the same area - and it does not have similar ranch style characteristics.

3) The tall story poles covering the (less than entirety of) property show that the development does not embrace hillside views, trees and open space. Although there may be other taller commercial building in town, they are not side-by-side and collected in low acreage area that so pervasively blocks hillside views.

4) The development does not have the open space to incorporate the site's current orchard characteristics. Tree selection and a market should not be allowed to meet the specific plan requirements.

6) The Plan cannot possibly minimize or mitigate impacts on infrastructure with its current density and scale. The reference to bike access unrealistic and, frankly, disingenuous. The area surrounding the proposed development site is already gridlocked at commute times. When thinking of this summer's beach traffic and the gridlock created by it, the result will be that vehicular traffic will be forced find a way around that area during peak commute hours, which could prove deadly for people needing emergency services. There simply is no reasonable mitigation. And, with Los Gatos High School's incoming Freshman class estimated at close to 600 students, approving a plan without carefully and throughly considering the impact on the schools is reprehensible and amounts to blatant disregard for student education and safety.

7) Phase I and Phase II story poles should be required before any development can begin - the size and scale of the entire site to be developed must be considered before any building begins.

Although your decision may deny Grosvenor's Board of Directors and shareholders the profit anticipated when the property was considered for development by them, this multi-national corporation should not be able to

capitalize on this development at an expense to be born by the town of Los Gatos and its residents for many, many years to come. Grosvenor took that calculated risk when it chose to try to develop a large high density development in a small town like Los Gatos. I expect your town counsel staff has advised you similarly; however, although Grosvenor has (directly or indirectly) threatened litigation over this development, please do not allow your team and this community to be bullied. Grosvenor will have to thoughtfully consider risks inherent in litigation and the associated drag on profits from this development before deciding to proceed, which is not a decision that will be taken lightly even by such a large corporate entity.

Again, I beg of your team to please ensure that Grosvenor does not capitalize on this development at the expense of the town's character and its' residents - to allow it to happen would be a monumental blow to our community.

I truly appreciate the time and effort and thoughtful consideration of the North 40 Development that your team has invested to date.

Thank you!
Val Kelly

Begin forwarded message:

From: Valerie Kelly <lgkellys@me.com>
Subject: North 40 Development Ridiculous!
Date: March 30, 2016 at 6:40:04 PM PDT
To: letters@mercurynews.com

Hi: I received a message that you needed full name, address and phone number and any affiliation for letter below. My name is Val Kelly, 21 Fillmer Avenue, Los Gatos, CA 95030, 408-499-5989, no affiliation. Thank you! Val

Begin forwarded message:

From: Valerie Kelly <lgkellys@me.com>
Subject: North 40 Development Ridiculous!
Date: March 30, 2016 at 3:56:51 PM PDT
To: moseley@losgatosca.gov, dsparrer@community-newspapers.com, letters@mercurynews.com

Hi Ms. Moseley:

I have been a home owner in Los Gatos for 12 years and was a resident of Saratoga previously (since 1979). I grew up here and returned after law school.

I have seen the town and area grow over many years and understand that growth is necessary and stimulated by our ever more populated valley. I understand that the North 40 will be developed.

However, the story poles of the North 40 are a visual abomination. I cannot speak to the other development features, but cannot imagine the impact on traffic and the environment.

I am not only writing this message, but attending the meeting this evening. I am a working mom and do not have time to participate in town issues, as a general rule. However, I making the time to attend tonight's meeting and send this message because I view this development as a critical issue and I feel compelled to learn more and provide input to ensure that a responsible decision is made about the development of Los Gatos.

See you there!

Best,
Val Kelly

From: Richard Payne <rkpayne1@mac.com>
Sent: Thursday, August 11, 2016 5:00 PM
To: North40 Comment
Cc: BSpector; Rob Rennie; Marico Sayoc; Marcia Jensen; Steven Leonardis
Subject: additional comment

Dear members of the Los Gatos Town Council,

The developer keeps insisting on “objective criteria.” It is objectively the case (as far as I can tell) that the Specific Plan did not specify whether any high density housing was to be contiguous or not. It is therefore objectively the case that this is not determined. Given that it is not determined, the Town Council may determine that the high density housing should be spread over the entire 44 acres, not consolidated into a single 13 acre section.

thank you for your work,
sincerely

Richard and Bonnie Payne
16216 Kennedy Road
Los Gatos, CA 95032
408.358.3332

From: Penny Herman [<mailto:nt.advisor@comcast.net>]
Sent: Thursday, August 11, 2016 5:27 PM
To: Joel Paulson
Subject: North 40

Dear Planning Director Paulson,

As a resident of Los Gatos for 41 years, I thank you for your careful consideration of the North 40 project.

We have seen many changes in our town and find the proposed plan out of keeping with the rest of the town.

Please support the denial of the current application as presented. Although a denial will cause the project to take longer to be constructed, we in town support you with this effort.

Penny and Tristan Herman
South Kennedy Road

From: Bonnie Payne [mailto:bonnieapayne@comcast.net]

Sent: Thursday, August 11, 2016 6:17 PM

To: BSpector; Marcia Jensen; Marico Sayoc; Steven Leonardis; Rob Rennie; Laurel Prevetti; Joel Paulson

Subject: North 40; please find a way to deny

Dear Council Members,

I was at the meeting on August 9, and I'm really impressed with how hard you are working on the North 40 project. Thank you so much. I understand that there are many legal difficulties in denying this project as is, but I'm hoping you can also understand that the project, as currently proposed, is not right for Los Gatos.

One thing that I do not understand is how this portion of the North 40 can be used for ALL the residences allowed. Isn't the proposal supposed to coordinate with other phases of the North 40 plan?

I encourage you to please find a way to deny this way too dense proposal that will add too many pupils to our school district and will squeeze all the housing into too small an area of the North 40.

Thank you so much,

Bonnie Payne