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August 12, 2016

Hon. Barbara Spector and  
Members of the Town Council  
Town of Los Gatos  
110 E. Main Street  
Los Gatos, CA 95030

VIA E-MAIL AND U.S. MAIL

RE: North Forty Phase 1  
Architecture and Site Application S-13-090  
Vesting Tentative Map Application M-13-014  
Town Council Meeting August 16, 2016

Dear Mayor Spector and Members of the Council:

Below is a summary of our legal position regarding exactly what the Council can and cannot do in deciding how to approve the Project. The legal basis for all of these statements is already in the record.

1) The Council **must** legally do the following:

- a. Approve the requested number of units and the neighborhood-serving commercial square footage proposed.
- b. Approve the VTM without removing any lots.
- c. Grant the requested density bonus.
- d. Approve the requested waivers of development standards.

2) The Council **cannot** legally do the following:

- a. Reduce unit count in the expectation of allowing the units later in another part of the North 40 Plan area or for any other reason.
- b. Require a reduction in unit size.
- c. Require more open space.

Mayor Barbara Spector & Members of the Town Council  
August 12, 2016

- d. Modify the grading plan.
- e. Apply any standard that physically precludes development of the Project at the density and in the manner and with the design and amenities proposed by the Applicants.
- f. Require additional CEQA analysis of the Project.

3) The Council has legal **discretion** to do the following:

- a. Request changes to architecture that can be handled ministerially by staff and do not change the basic massing, heights, locations of buildings.
- b. Request changes to landscaping that that can be handled ministerially by staff.

We would be pleased to provide any backup information or legal research that would be helpful.

VERY TRULY YOURS,  
BERLINER COHEN, LLP



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