



August 25, 2016

Joel Paulson  
Community Development Director  
Town of Los Gatos  
110 E. Main St.  
Los Gatos, California 95031

**Re: Response to Discussion Raised at August 16, 2016 Council Meeting – North Forty**

This memorandum is in response to many of the comments we heard at the August 16, 2016 Council Meeting, during Council deliberations. In order to best respond to these precise comments, we had the meeting transcribed by a third-party. Attached is the certified transcription of the meeting as Exhibit A for reference.

One motion by Council Member Rennie proposed several modifications to the architecture as reflected in our application. Council Member Sayoc followed up with several concerns to this motion: *“So the difficulty I have in this particular motion is, when we have asked for these changes in the past as a planning commissioner, as a council member, I have always wanted to see what it is I’m approving. And with a project so large and so controversial and so visible as this, I have significant reluctance in just saying, Okay, and I’m going to hope for the best. I have utmost respect for our staff. I think they would do this, but I also don’t think it’s particularly fair to place the burden of all of these hearings onto their decision as this moves forward. That’s my biggest impediment.”*

To address Council Member Sayoc’s concern, we have included for the Council’s consideration illustrations “Exhibit B” through “Exhibit G”, to be considered by Council on September 1<sup>st</sup> (and/or September 6<sup>th</sup>) with opportunity for comment and more specific direction which we then believe could be approved at an administrative level by Staff and/or the Consulting Architect without further Council review:

- “Exhibit B” – Architectural elevations along Los Gatos Boulevard with a more “commercial” appearance in nature. Footprints remain the same. Exhibit B:
  - Includes both previous and potential streetscape from Los Gatos Boulevard for comparison
  - Are a simple building form with low pitched hipped metal roofs, strong horizontal lines
  - High 10ft ceilings at first level and symmetrical arrangement of storefront windows for a more commercial feel to complement the existing commercial buildings along Los Gatos Boulevard
  - Three units tied together with framed accent walls and wood slat fencing to create a more commercial “single façade” while maintaining welcoming defined entries
  - High quality materials and finishes- metal roofing, smooth plaster walls, metal siding, wood slat fencing, aluminum storefront doors and windows

- “Exhibit C” – Example of more traditional architectural elevations along Lark Blvd. Footprints to remain the same. Elevations could include:
  - California Ranch: Providing softer scale with welcoming entry-trellis features that highlights the home’s entry and richness of the landscape. High quality materials and finishes include crisp horizontal wood siding, smooth plaster walls, wood paneling and trim accents.
  - California Bungalow/Cottage: Soft low pitch roof forms, with well-articulated architecture with strong horizontal lines and connection to the ground. A generous entry, with quality materials and finishes including expansive windows that bring the outside in, horizontal and board and batten wood siding, and a 40 year composition roof.
  - Mediterranean-influenced Bungalow: Provides a gentle, pedestrian scale with a welcoming, gracious entry. A second floor porch accents the entry and creates variety in the architecture. High quality materials and finishes include smooth plaster walls, and wood paneling and trim accents.
- “Exhibit D” – Rowhome Elevation to replace or supplement existing Rowhome Elevation A. Heights remain below 35’ and footprint to remain the same. Features include:
  - Low pitched hipped roofs
  - Single story elements create a gentle/pedestrian scale
  - Welcoming entries
  - Second and third floor balconies that create variety in the architecture
  - High quality materials and finishes- smooth plaster walls, wood paneling and trim accents
- “Exhibit E” – An at-grade floorplan for Condominium cluster, resulting in 10 at-grade flats.
  - Plan 4 can become an at-grade, one-bedroom flat at 1,014 SF (Previously 1,608 SF, three-story plan)
  - Plans 5, 2, and 3 adjust accordingly to accommodate the Plan 4 at-grade flat
  - Overall building footprints remain the same
- “Exhibit F” – Market Hall architectural enhancements, including:
  - East Elevation:
    - "Market" sign removed. Smaller signage substituted
    - Clerestory glass softened with louvers
    - Removed glazed corner at SE and replaced with a "punched" display window
    - Ground story entry centralized with some sliding louvered barn doors on either side. Passage doors far right and left are kept. Central opening is >15' wide.
    - Sun shades tilted so they are visible.
    - Spandrel panels between first and 2nd floors changed to wood.
    - Added a south facing door for our possible florist spilling out near market main entry.
  - South Elevation:
    - Removed corner glass and replaced with display window.
    - Enlarged storefront glazing of first opening and softened with louvers.
    - Added smaller signs on each storefront
- “Exhibit G” – Modified trees at sound wall
  - Potential to change evergreens to Brisbane Box
  - Buckthorn trees at terminus of R2 – 1<sup>st</sup> St. and R2 – 3<sup>rd</sup> Street

Further, Section 6.4.1 discusses Specific Plan Administration. It states: “Proposed developments within the Specific Plan Area will be reviewed pursuant to the established Architecture and Site Review and approval process as defined within Division 3 of the Zoning Ordinance. In addition, proposed developments will be required to adhere to existing Zoning Ordinance regulations and processes for other

types of discretionary review, such as those for conditional use permits, variances, and subdivisions.” Architecture and Site Plan Review and Tentative Map applications are decided on by the Town’s Planning Commission. It is only because this application was for a Vesting Tentative Tract Map (VTTM), rather than a Tentative Map, that Town Council became the required final decision making body for both the Architecture and Site Review and the VTTM. (An appeal to Architecture and Site Review and Tentative Map applications also would have resulted in Town Council hearing the applications.) It is not unusual for the Town Council to make broad architectural changes during a meeting with future staff-level review, such as the Albright application where there was a broad-brushed reduction of height and resulting modified building form.

In addition to the attached, below are verbatim statements by Mayor Barbara Spector in making two motions for denial of the North Forty Phase I Applications, and our responses. Our conclusions are that her motion was not based on any objective standards or criteria contained in the North Forty Specific Plan.

The first motion for denial is based on the residential program.

MAYORSPECTOR: *“I will be making a motion now, and I will ask the Council to please listen to it because it is going to begin with provisions from the specific plan before I get to the actual motion itself. And these -- this motion is based on actual specific plan requirements.”*

1) *“The specific plan requires smaller cottage cluster -- the specific plan suggests smaller cottage cluster in the Lark area. It speaks to lower-intensity residential envisioned for the Lark district. That's Paragraph 2.3.1.”*

Analysis: Cottage clusters require a Conditional Use Permit under the Specific Plan, which is not “by right” development. They are a conditional use in the Lark District but are not required by the Specific Plan, so their absence is not an objective reason for denial; in fact, cottage clusters are the only residential types that require a Conditional Use Permit. The residential uses proposed for the Lark District are in fact lower intensity than those proposed in the Transition District. In addition, they are actually of lower intensity (for example, fewer three-story buildings, lower heights, more open space) than the Specific Plan requires for the Lark District. This has been substantiated in considerable detail in testimony and in letters from the Applicants. The Specific Plan states on page 2-3 Section 2.3.1 Lark District: In an effort to satisfy the Town’s unmet needs, development standards have been tailored to guide the development of residential product types including multi-family, townhomes, and “cottage cluster/garden cluster” housing types.” The “Permitted Land Use Table” 2.1, found on pages 2-7 through 2-9, identifies Townhomes/Garden Cluster, Rowhouses, Multi-Family, and Condominiums as permitted residential types within the Lark District. Live/Work is prohibited entirely in the Lark District, and Cottage Cluster is only permitted with a Conditional Use Permit. For additional information, see Letter from Applicants to Town, August 5, 2016.

2) *“It anticipates lower-intensity shops, offices, residential land uses envisioned in the southern portion. That's Paragraph 2.4.”*

Analysis: See above regarding lower intensity uses proposed in the Lark District. (Of note, existing offices and a gas station have already been constructed within the Lark District and are not a part of this application.)

3) *“Appendix 6C of the specific plan says that the specific plan development should address Los Gatos’ unmet needs. And those unmet needs are identified as Generation Y and baby boomers.”*

Analysis: The preamble to Appendix C states: “At the time of this Specific Plan, some of the unmet needs of the Town of Los Gatos include residential product types that respond to emerging needs of the senior, empty nester, and young adult population. The following is a summary of current trends associated with these demographics.” In the Project, the affordable senior housing certainly addresses senior needs. The development standards in the Specific Plan were developed by the Town and adopted by the Town Council to serve Los Gatos’ unmet needs, and the market rate condominiums and apartments/live work are consistent with the standards developed to serve those needs. The primary housing stock in the Town is single-family detached homes. These attached condominiums, apartments, and live work units are significantly smaller in size than typically found in Town (see previously submitted Consumer Analysis by John Burns Real Estate Consulting).

4) *“The development standards within the specific plan in Section 2 provide that we should ensure future development is comparable -- is compatible with surrounding areas, complement the downtown and contribute to the small town charm of Los Gatos. The development standards of Paragraph -- or Section 2 say that “the application project should be consistent with the land uses and vision of the” -- “as outlined in this chapter.” This is an architecture and site application. Our architecture and site ordinance states, Paragraph 4, “We must examine site layout, including its appearance and harmony of the building with adjacent development.” Paragraph 6, we must address exterior architectural design of the building and structures. The effect of the height, width, shape and exterior construction and design must be examined. Our specific plan once again states the application, the development, must seamlessly fit must complement, the existing town character and charm. Paragraph 3.4.”*

Analysis: These are subjective statements. There has been considerable testimony as to how the architecture is designed to fit into the existing Town character. Further, page 1.8, Section 1.5.1 states: “The Specific Plan contains both development regulations and design guidelines. Mandatory regulations are denoted by the use of the word “shall.” A guideline, which is denoted by the use of the word “should,” is not mandatory...” While not all of the “shalls” in the Specific Plan are objective, both an Objective Standards Matrix and a matrix of all “shalls” within the Specific Plan were submitted by the applicants with detailed responses on how these were met.

Section 2, page 2-1 also states: Land uses and development standards presented in this chapter form a comprehensive set of policies that will work in concert to steer future development and reinforce the desired North 40 vision.... Specific site development standards, such as building height, setbacks, and parking requirements will help create the appropriate scale and character of the envisioned development.”

5) *“It states in the specific plan, we must connect this part of Los Gatos to the rest of the town. Paragraph 3.4. Last time we had a meeting, I talked a little bit about the history of the vision statement. I like to think of this as its -- you know, as legislative history, but that’s because I too am a lawyer and we talk that way. And we had guiding principles. And on January 9th, 2012, that is actually considered in the Planning Department as a reset. So on January 9th, 2012, this Town Council had a reset on its development of the specific plan. It -- instead one of the council members said, It is unfair to the developer and the Town to go forward without a vision statement. We will have -- if we go forward without a vision statement, we will have discomfort and dissension. We must decide -- and this is what we were saying on January 9th. We must decide, will we have a continuation of what we -- currently exist in Los Gatos that will continue past*

*Lark to 85 or will we have a distinct district? On the meeting of March 5th, 2012, this Council unanimously answered the question with a vision statement and guiding principles that continue the Los Gatos look and feel past Lark onto 85."*

Analysis: This is a subjective issue. Although surrounded on all sides by major roads, the project is designed to fit into the surrounding parts of the Town, not to be a separate, self-contained district. For example, it is not gated, the public areas are open to the general public, and the application proposes to connect bike and multiuse trails and roadway improvements to enhance pedestrian, bicycle and automobile connectivity. The Silicon Valley Bicycle Coalition has supported this project and the connectivity that it will provide. With respect to connectivity, Section 4.1 Policy C9 (page 4-1) states: "Connect the Specific Plan Area with Downtown, commercial centers, and other employment centers via light rail transit, bicycle paths, or trails." The Application proposes a bicycle path to the Los Gatos Creek Trail, which connects the project not only to Downtown Los Gatos, but regionally. The application also satisfies Policies C1, C2, C3, C4, C5, C6, C7, C8, C9, and C10 (this is every policy in Section 4.1 regarding Circulation and Streetscape). Regarding the Specific Plan being a distinct district, while subjective, the Specific Plan does state on page 3-13 the following in Section 1.1, "The Specific Plan provides a vision for a unique new neighborhood that will incorporate the site's unique agricultural characteristics" and further in Section 3.4, Neighborhood Identity:

"The Specific Plan Area is a unique site within the Town of Los Gatos, and within the region. By utilizing quality signage, architecture, and identity elements, the Specific Plan Area can:

1. Create a gateway statement for Northern Los Gatos.
2. Incorporate architectural, landscape, and signage elements to unify the Specific Plan Area as a new neighborhood with its own identity while complementing the existing Town character and charm.
3. Connect this part of Los Gatos to the rest of town.
4. Reflect the agricultural history of the site."

It further states: "...the Specific Plan Area should be treated with a unique image, or "brand," appropriate to its history and relationship to the Los Gatos community."

*6) "That look and feel is identified -- actually, this was -- I thought this was really helpful. Because lots of people talk about look and feel. This look and feel was identified in the Applicant's Exhibit G to their Attachment 17, I believe it was. And they talk about a blend of elements, of variety. They have photographs of the look and feel. They identified the look and feel by pictures taken throughout the town of Los Gatos. And that look and feel is consistent with what I would identify as the look and feel based upon what I, throughout my history here in this Los Gatos, have seen what the town looks like. It's not a uniformity. We don't match. We don't have a uniformity. But we blend. What we have here in this application is a disconnect. Not a blending. We have a disconnect. We have a disconnect in the style and the size and the massing. It isn't that Los Gatos doesn't want modern buildings, doesn't want, you know, flat-roof buildings. That's not the point. The point is that we have -- we want an application -- a development that blends. We don't want to have a distinct district that Council, in 19-- in 2012, unanimously voted against. I actually am going to -- it's my intent to address the specific plan, as it relates to residential, separately from economics. So based on those provisions of the specific plan and the other provisions and items which I just addressed, I am now going to move that, based on that information, we deny this application for failure to comply with the specific plan, as stated. This could be a long evening. All right. That motion dies. Ms. Sayoc. "*

Analysis: Whether architecture “blends” or embodies the “look and feel” of the Town is highly subjective, as is illustrated by the numerous, conflicting statements by Planning Commissioners and Councilmembers regarding the Project architecture. The Town’s consulting architect concluded that the Project architecture did embody the look and feel of Los Gatos.

The second motion for denial is based on the proposed commercial program.

MAYOR SPECTOR: *“And, again, this motion will be based on the specific plan and express provisions of the specific plan.”*

1) *“The specific plan Paragraph 2.4.2 requires an applicant to do an economic study to assess the economic competitiveness of the application vis-à-vis the downtown. The specific plan includes Appendix A, which is a marketing study. The applicant’s Attachment 17, Exhibit 7, attempts to address the Planning Commission’s motion. The Planning Commission, as part of its motion to deny this application, referenced the fact that the economic study provided by the applicant was inadequate. So the -- when it came before the Council, a new Attachment 17, Exhibit 7, was provided. That economic study failed because, first of all, its center opinion is that the North 40 does not have a leasing advantage. That leasing advantage opinion is not the kind of information our specific plan was addressing. What we were looking for -- and also the specific plan -- the application did not address what the 26,000 square foot of commercial will be other than the market hall.”*

Analysis: The December 2015 Economic Report by Keyser Marston Associates (KMA) that was submitted in support of the application in fact addressed the 26,000 square feet of commercial space outside of Market Hall. It characterizes the 26,000 square feet as comparison retail space and states, “(a)ccording to this information, comparison retail space would consist of apparel, shoes, home furnishings, and other specialty stores (bicycle shop, book store, jeweler). A portion of comparison retail space may also be dedicated to personal and financial services (gym, bank, hair salon). In the July 21, 2016 Supplemental Economic Analysis, KMA further describes the 26,000 square feet. It states, “The remaining balance of 26,000 square feet is being targeted for neighborhood serving retail/commercial spaces that can also include neighborhood serving service businesses such as financial, medical, educational, fitness studios, personal services, and the like. In other words, the 26,000 square feet might not be exclusively traditional retail such as the traditional retail tenants in the Downtown Core and might not include any formula retail. The limited size of 26,000 square feet might be, for example, 10 shops if the average were 2,600 square feet per shop.”

2) *“The economic study did not address the Town’s identified commercial leakages, which included general merchandising.”*

Analysis: General merchandising is typically found in larger footprint stores. As stated in the BAE Urban Economics Market Study and Business Development Strategy dated August 12, 2011 (attached to Specific Plan), “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. According to the Town’s North 40 Specific Plan, the opportunities to address the leakage category for building materials and general merchandising shall be considered in the Northern District as stated above.

Furthermore, the same BAE 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.

3) *“It does not address the identified need for 10,000 square feet or above of commercial units.”*

Analysis: This need is partially addressed as follows:

- Building A2 in the Transition District is proposed to be 10,412 square feet
- Building B1 in the Transition District is proposed to be 22,700 square feet with market hall representing 16,380 square feet
- Building C1 in the Transition District is proposed to be just under 10,000 square feet at 8,162 square feet

Additional larger format retail stores shall be considered in later phases within the higher intensity Northern District as outlined in the Town’s North Forty Specific Plan.

4) *“It did not address the new office and hotel uses which were suggested.”*

Analysis: As stated in the North Forty Specific Plan:

- The Lark District is envisioned for residential and “limited retail/office uses”. Office development has already occurred in the Lark District with the three relatively new office buildings on Los Gatos Boulevard.
- 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

5) *“And it did not address the number of commercial units by square footage; i.e., X percentage at a certain square footage. So because of these deficiencies in a mandated requirement of the specific plan, I’m going to move that we deny the application.”*

Analysis: While there was extensive debate on prescribing specific percentages to square foot ranges of commercial units over the years, the North Forty Specific Plan does not contain a requirement that commercial units must fit into specific square foot ranges. A table that assigned these percentages was contained in the draft North Forty Specific Plan but was not included in the final document that was approved by Town Council.

Thank you for your time and consideration.

Sincerely,



A. Don Capobres  
Principal  
Harmonie Park Development  
Representing Grosvenor



Linda Mandolini  
President  
Eden Housing



Wendi Baker  
Vice President of Development  
SummerHill Homes

# Exhibit A

TOWN OF LOS GATOS

TOWN COUNCIL

ARCHITECTURE AND SITE  
APPLICATION S-13-090 AND  
VESTING TENTATIVE MAP  
APPLICATION M-13-014

REPORTER'S TRANSCRIPT OF VIDEO RECORDING

Date: Tuesday, August 16, 2016  
Time: 7:00 p.m.  
Location: Council Chambers  
110 East Main Street  
Los Gatos, CA  
Reported By: Noelia Espinola, CSR  
License Number #8060

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A P P E A R A N C E S

Town Council: BARBARA SPECTOR, MAYOR  
MARICO SAYOC, VICE MAYOR  
MARCIA JENSEN, COUNCIL MEMBER  
STEVEN LEONARDIS, COUNCIL MEMBER  
ROB RENNIE, COUNCIL MEMBER

Community Development Director: JOEL PAULSON

The Reporter: ADVANTAGE REPORTING SERVICES  
BY: NOELIA ESPINOLA,  
CSR #8060  
1083 Lincoln Avenue  
San Jose, CA 95125  
(408) 920-0222

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1 P-R-O-C-E-E-D-I-N-G-S

2

3 MAYOR SPECTOR: We have one public hearing  
4 this evening. This is agenda Item 4. Architecture and  
5 Site Application S-13-090 and Vesting Tentative Map  
6 Application M-13-014. Property Location: Southerly  
7 Portion of the North 40 Specific Plan Area, Lark Avenue  
8 to South of Noddin Avenue. Applicant: Grosvenor USA  
9 Limited. Property owners: Yuki Farms, ETPH LP -- LT  
10 [sic], Grosvenor USA Limited, Summerhill N40 LLC and  
11 Elizabeth K. Dodson and Bill Hirschman.

12 So before we -- this is a continuing or  
13 continued hearing. So before we go forward, I just  
14 want to give some process. The way the process will  
15 begin this evening is I will ask Staff if they have  
16 anything further they wish to provide us, any  
17 information. I will then look to Council and ask  
18 Council if they have any questions of Staff. And after  
19 we get through those two steps, I will then explain to  
20 everybody how we will be proceeding.

21 So starting with Staff.

22 STAFF: Thank you, Madam Mayor. Staff has  
23 nothing to add.

24 MAYOR SPECTOR: Do we have questions of  
25 Staff? I do have one question of Staff, but I have to

1 find it here.

2 I was reading the General Plan -- that's what  
3 I do -- the housing element. And one section of it  
4 states "If housing affordable to very low and  
5 low-income households is part of a mixed-use  
6 development, it will occupy at least 50 percent of the  
7 mixed-use development." The affordable housing will  
8 occupy at least 50 percent of the mixed-use  
9 development.

10 So, to Staff, for the purposes of the  
11 application before us this evening, did the  
12 lower-income housing occupy at least 50 percent? And,  
13 if so, how was that percentage calculated?

14 MR. PAULSON: Thank you, Mayor.

15 So Staff looked at the mixed-use building  
16 which contains the affordable housing for the very  
17 low-income seniors. And those square footages were  
18 used to determine whether or not it was 50 percent of  
19 that commercial space.

20 Additionally, there are -- there is one other  
21 building that contains mixed-use development. Does not  
22 contain any affordable units. And that is Building A1,  
23 which has the eight apartments and the two live/work  
24 units above it, across from the market hall and senior  
25 housing.

1           So the other calculation there is not giving  
2 credit for the nonaffordable residential but including  
3 the commercial for that component as well, and that  
4 also meets the 50 percent threshold.

5           Staff did not include the three standalone  
6 commercial buildings as they're not mixed-use  
7 buildings.

8           MAYOR SPECTOR: Thank you.

9           And any questions on -- for Staff on that  
10 issue?

11           Seeing none, all right. Then the way I am  
12 asking the Council to proceed on this is for the  
13 purpose -- well, first I'm going to talk to the  
14 community.

15           You may be hearing things from the Council  
16 this evening that you like; you may be hearing things  
17 from the Council that you don't like. But I would ask  
18 you to give us all the respect that we have given you.  
19 And I would ask that there be no audible expressions of  
20 your liking or disliking of what we say. So that's the  
21 first thing.

22           For the Council, I'm going to suggest that we  
23 begin with discussion, if there is any discussion,  
24 before we get to a motion.

25           And also with regard to the Council, it may

1 be that somebody on the Council will say something.  
2 And if we were in a social setting, you would just like  
3 to ask them a question. "Mr. Rennie, what do you mean  
4 by that?" But, as our rules require, everything does  
5 go through the chair or the mayor. And so I will ask  
6 that -- that we do it that way tonight.

7 So, for example, if Mr. Leonardis makes a  
8 motion, you have a question about the motion, that's  
9 fine. But just state the question and then -- not  
10 directly to him, but just state it and then we'll see  
11 if he wishes to respond or not.

12 Any questions on that? Nothing unusual.  
13 That's how we do things.

14 All right. So then let's get to the council  
15 discussion, motion, since we have no further questions.  
16 And Ms. Jensen.

17 (Inaudible)

18 And is this discussion or motion?

19 COUNCIL MEMBER JENSEN: This is discussion --  
20 it's going to be long. So maybe Ms. Lombardo can make  
21 that a little bit bigger.

22 But at our last meeting on this item -- and I  
23 stand up because I try cases, and I'm way more  
24 comfortable standing up. So that's why I'm doing it.  
25 The red outline portion is the -- what I'm going to

1 call the specific planned area.

2           When I started getting involved in planning  
3 in Los Gatos in -- I'm not going to tell you because  
4 it's too long ago -- I was on the General Planning  
5 Committee, and way back then we were discussing a  
6 specific plan for this North 40 area. We discussed it  
7 for many years.

8           In 1999 we came up with a proposal, which we  
9 put together in a nice book, nice specific plan. It  
10 was presented to the Council at that time. It had  
11 commercial uses. It had office uses. It had no  
12 residential uses. It had limitations on traffic. It  
13 was pretty straightforward. And it was never adopted.

14           So why would the Town want to do a specific  
15 plan? Because if you look at this parcel here, it's  
16 all trees. There's no infrastructure. There's no  
17 streets. If you look at the property around it, you  
18 see all the streets. You see how it's configured. It  
19 makes sense to plan for a particular area. That's what  
20 zoning is all about.

21           The specific plan is a zone. It is zoned in  
22 different districts. Just like the almond grove is  
23 zoned residential, this specific plan is zoned for  
24 particular areas for particular uses, with the idea  
25 that it will be developed over time. When the almond

1 grove was zoned residential, no one dropped all the  
2 houses in at once. No one planned for the houses at  
3 once. Those houses get evaluated per the zone, and you  
4 have a right to build your house in that zone. So  
5 every time you hear "the buy right development," it  
6 means, if I'm in a residential zone, I could build a  
7 house. So there's a specific plan area.

8 And so if you can show me the next slide.  
9 That was -- it's not the right one. Oh, no. That is  
10 the right one. Sorry. So that's why we did a specific  
11 plan as we have.

12 People -- and before we get to this, people  
13 have asked, Why aren't we seeing the rest of the plan?  
14 Just like we're not seeing the other houses in the  
15 almond grove, we're not seeing the rest of the plan  
16 because that property is not owned by everyone.

17 And I think there's another picture there,  
18 Shannon, that you might have skipped which shows  
19 pretty -- may not be there. There's a picture of the  
20 planned area, in any event, that shows the northern  
21 portion, which shows -- that's it -- if you look at the  
22 northern portion, the yellow and the red, those are all  
23 developed areas. So when you talk about, well, why  
24 don't we see it all? There's multiple property owners,  
25 multiple land uses. And so the specific plan was

1 developed with having to take those into account. So  
2 we're not starting with a blank slate and filling it  
3 in.

4 So thank you. Now we'll go to the next one.

5 So that's the general explanation of the  
6 specific plan and why we would do it. And I'm going to  
7 take the various issues that have been raised by the  
8 many meetings that we've had, the many e-mail  
9 communications we've gotten, in order.

10 These represent -- you're going to see slides  
11 that look like this. These are the minutes of the  
12 meeting where the specific plan was adopted in June of  
13 last year. And it highlighted specific areas. And  
14 then I put in pink at the bottom -- which,  
15 unfortunately, doesn't show up very well. But this one  
16 is about infrastructure, traffic. And it indicates  
17 that the developer is going to pay for infrastructure  
18 improvements, it's all going to be funded by the  
19 developer and the developer has to pay school and  
20 impact -- traffic impact fees. And that motion passed  
21 unanimously.

22 So the next one. We did a -- and this is --  
23 these are tiny, so I apologize. As part of this  
24 development, all of you know an EIR was done. And part  
25 of that EIR was a traffic study. Traffic studies are

1 tricky things because traffic studies are done by  
2 charts and data.

3 Traffic study in this particular instance was  
4 done by looking at charts that are put together in  
5 giant books by the international traffic engineers, and  
6 they take a particular use and they assign a number of  
7 trips to it. All of us that drive around say that  
8 can't possibly be right. And so we need to have more  
9 studies. So the Town did look at different things and  
10 did include different things in the studies. And I'll  
11 get back to the charts after I talk about this.

12 But the Council looked at that EIR, and it  
13 said, You know what? We haven't talked about all the  
14 traffic impacts. We need to talk about Dell Avenue,  
15 Samaritan office building, Samaritan E.R., and we need  
16 to talk about alternative ways of competing traffic  
17 because we might not trust the international traffic  
18 engineers. And also up there are other things that we  
19 want to have come back to us, a school demographic  
20 study and additional economic report. But staying with  
21 the traffic.

22 So we did get that information back. It  
23 included Dell Avenue. It included Good Sam. It  
24 included office buildings. And it also included  
25 alternative traffic calculations. The fact is that

1 when all of that came back with what people had to do  
2 to make that work, the Council accepted that because  
3 that information was valuable and it was accurate,  
4 based on the means we used to calculate traffic.

5 Many of you have said, That traffic study and  
6 that information is old. It's from 2014. Have you  
7 seen the traffic now? Of course. I drive in it.

8 But the reason we used data, to get back to  
9 that, is -- picture, if you will, something you're all  
10 familiar with. If I did a traffic study today -- or  
11 actually, let's say on Tuesday, October 1st, at 8:00  
12 o'clock in front of the high school. The conclusion  
13 would be tear down the high school, widen the street to  
14 six lanes, and then perhaps you would achieve traffic  
15 mitigation for that. If I did the same study on  
16 Tuesday, June 15th, at 8:00 a.m. in front of the high  
17 school, the conclusion would be you can build five high  
18 schools. And, in fact, you can make this a lot  
19 narrower. Just have bike traffic.

20 So traffic studies are a product of when  
21 they're done, how they're done, why they're done.  
22 That's why people end up using data. And it's  
23 uncomfortable. We don't like it because it's not -- it  
24 doesn't necessarily reflect our experience. But that's  
25 what we have to go with, and that's what the Council

1 accepted.

2           So we have the traffic study and we have  
3 requirements in the EIR and this specific plan for  
4 actual improvements to infrastructure that need to be  
5 made around any development that happens on the  
6 North 40, be it this application or any application  
7 that comes forward. So, actually, what this requires  
8 is infrastructure getting built in our town. It  
9 doesn't exist now. And I'm not here to say whether  
10 that's going to be good, bad or indifferent. But  
11 traffic engineers say it will make it better.

12           The next issue that I've heard is with  
13 respect to schools. And we can't absorb the impact on  
14 the schools. There's a motion that the Council heard  
15 on June -- in June 2015 regarding schools. Council  
16 Member Rennie asked to make sure that developers worked  
17 closely with the school district to project enrollment  
18 growth and address overcrowding. Again, you can't see  
19 it, but it passed unanimously.

20           And so the next slide is -- there's a letter  
21 from Superintendent Diana Abbati indicating that the  
22 school district and the developer reached an agreement  
23 independent of state law, which I'll discuss in a  
24 second, to contribute either two acres of land or  
25 \$23,500 per house, market-rate unit, built on the

1 application to the school, which ends up being about  
2 \$6.5 million.

3 So the school did actually engage in that  
4 agreement, and the developer actually did what the Town  
5 Council wanted them to do in working with the schools.  
6 We also had an extra demographic study, which you saw  
7 in the last slide, which indicated that there would not  
8 be particular impacts from this project. But we still  
9 have this agreement.

10 And then going back to the state law, state  
11 law severely restricts what local jurisdictions can do  
12 with respect to schools. We can't consider the  
13 impacts. All we can do is collect a fee from a  
14 developer for any development that goes on. It's a set  
15 fee. That's required by state law. We can't do  
16 anything about that unless this legislature changes the  
17 law. It hasn't. So that's schools.

18 The next issue that I hear about is housing.  
19 This one is very complicated. We had a -- I'm not even  
20 sure what that is. That's the school agreement. Okay.  
21 Never mind. We don't need to do those.

22 Let's skip to Number 7. This is the motion  
23 with respect to mixed use and housing. And affordable  
24 housing in particular. We just had a question from the  
25 mayor regarding mixed-use housing. This is an

1       indication of when it can be built, what categories it  
2       needs to be in. And again, in the pink line that you  
3       can't see, it passed unanimously.

4                 So, again, we can't see it, but the  
5       implication is, well -- that we have state requirements  
6       for regional housing needs assessments. We need to  
7       chip in. By state law, we need to do our part. Los  
8       Gatos needs to build 619 houses. We had a very  
9       dedicated Housing Element Advisory Board that was  
10      developers, business owners, citizens that worked  
11      really hard to figure out, Where could we plan for  
12      that? Not where we could build it. Where could we  
13      plan for it?

14                And one of the things that we did was plan  
15      for it to occur on thirteen and a half acres on the  
16      specific planned area. Not this application. The  
17      specific planned area.

18                What are the consequences if we don't have a  
19      certified housing element and we don't plan for it?  
20      Well, they're up there, and it's basically lawsuit. It  
21      could be a suspension of any right for any building  
22      permit in town. So if you wanted to redo your house,  
23      you couldn't if we didn't have a certified housing  
24      element. It could be challenges. It could be  
25      court-enforced housing elements or state-enforced or

1 court-enforced decisions on land use, which we don't  
2 have now. So there are real significant consequences.

3 What's another consequence if we don't do  
4 something here on this application or if we don't do  
5 something that we planned for that's in our certified  
6 housing element, we need to put it somewhere else. And  
7 what we discussed in the Housing Element Advisory Board  
8 is rezoning land on Los Gatos Boulevard, the rental  
9 place next to Classic Burgers. The Ace Hardware.  
10 There is other places that we discussed. But we'd have  
11 to put it somewhere else. We can't just bury our head  
12 and have it go away. So that's part of the housing.

13 The other thing that I hear -- and I think --  
14 I'm going to look at the slides that you have. No.  
15 Not that one. We already did that one. But that  
16 indicates why the housing is hard to move. So, you  
17 know, I've heard, It's too dense. It's too intense.

18 Well, here's one about open space. This was  
19 a motion that was made on open space. Our specific  
20 plan calls for 30 percent open space; 20 percent should  
21 be publicly accessible. And we actually opted to use  
22 communal open space rather than private. Again, that  
23 motion passed unanimously.

24 As you heard -- I know you all are following  
25 this very carefully -- at our last meeting, we have

1 limitations -- again, state law limitations on what we  
2 can do, what we can't do. We can't require a park. We  
3 can't require more open space. We can require what's  
4 in our plan. Our plan requires 30 percent.

5           And, finally, I'm going to get to the  
6 economic -- that's for -- this is one about a motion  
7 regarding drought. Many of you said, Well, we need  
8 green open space. And by that I think you mean lawns,  
9 et cetera. We made a motion that we need  
10 drought-tolerant plants and a water-efficient landscape  
11 ordinance. Lawn doesn't fit in there. And the trees  
12 do -- again, that passed unanimously.

13           And now our downtown economics. And, again,  
14 I've got pink. This is the only place where the  
15 Council disagreed. When we got to the end of the  
16 meeting, there was a motion made by now Mayor Spector  
17 to include a chart in our specific plan limiting the  
18 square footage of commercial space. And without  
19 specifying numbers, that motion failed. Another motion  
20 was tried. That motion failed.

21           But the motion that did pass included not  
22 putting a table in, keeping a maximum number of  
23 commercial space, and requiring that any person that  
24 comes in and applies for commercial open space needs to  
25 present an individual economic study about the impact

1 of that space on the downtown.

2 Vice Mayor Sayoc then added a condition that  
3 not only did it need to do that, but it needed to go  
4 back to our Conceptual Development Advisory Committee  
5 for public input on the impacts of that space. That  
6 passed 3 to 2, with Councilwoman Spector and Councilman  
7 Leonardis opposed.

8 And then the only other motion on the  
9 economics was a comparison of initial use permits to  
10 the North 40 and downtown. Again, that passed -- or  
11 the first one failed. The second one not to do that  
12 passed, again, 3 to 2, with Councilwoman Spector and  
13 Councilman Leonardis opposed.

14 With respect to the economics of downtown,  
15 we've had three independent studies. One that was done  
16 for the EIR, a second that was done pursuant to a  
17 motion before the EIR was certified in 2014 and a third  
18 that was a supplement to the Planning Commission.

19 And so where we are now is we have a specific  
20 plan, which was -- we moved to adopt it on June -- in  
21 June of 2015. Again, that -- that passed 3 to 2.

22 And, as you saw from the motions that were  
23 made, the opposition was basically for downtown  
24 economics. And the split on the Council on downtown  
25 economics has gone beyond this motion to whether to

1 retain former retail, whether to allow outdoor seating,  
2 whether to allow entertainment.

3           And what I would say to the downtown business  
4 owners is competition is good. Rather than trying to  
5 build a wall off to other people, work with your  
6 council to make the downtown the best it can be. Work  
7 with us to deregulate so that you can compete on an  
8 even level and make our downtown great -- greater than  
9 it already is.

10           The next thing I wanted to talk about was  
11 look and feel. And the only thing I wanted to say that  
12 is beauty is in the eye of the beholder. Some of us  
13 might not think of three-story Mediterranean with --  
14 white Mediterranean with red tile roofs would blend  
15 well in an orchard or look good from the freeway.

16           I was actually in Yountville this weekend,  
17 and I visited a place that was built on a winery that  
18 was owned by an Italian family who had lived there  
19 forever. And the place that was built won all kinds of  
20 architecture awards, had a plaque up to honor the  
21 family. Its architecture looked like this. It was  
22 flat-roofed, using reclaimed wood and steel. It had a  
23 meandering path with, believe it or not, community  
24 gardens on the side of it. It had artwork. And it fit  
25 that space in Yountville.

1                   We can all disagree about that, but that's a  
2 subjective standard. So this council is going to have  
3 to decide whether that matches or not.

4                   And I only have -- bear with me. I have two  
5 more things to say. Or three, actually.

6                   So litigation. Lots of you have said, Don't  
7 worry about litigation. We'll deal with that.  
8 Unfortunately, Mr. Schultz said we shouldn't worry  
9 about that. I happen to think it's irresponsible,  
10 being a lawyer myself, not to consider litigation and  
11 litigation risks and the cost of that litigation. I  
12 wouldn't do that as a steward of the town. I need to  
13 think about that. Litigation is expensive, and we need  
14 to know what the risks are.

15                   And, frankly, being a lawyer, coming from a  
16 family of lawyers, if I get a letter from a lawyer that  
17 says, We reserve our rights to do X, Y and Z, that's a  
18 lawyer doing their job. That's not a lawyer bullying.  
19 Bullying -- and I'm sorry, but I'm going to have to do  
20 this. Bullying is being called a murderer in a town  
21 council meeting. Bullying is getting an e-mail that  
22 says you're going to be run out of town if you vote a  
23 certain way. Bullying is getting cars broken into and  
24 trashed. Bullying is tagging a sign next to your  
25 freeway. That's bullying.

1                   And for me to stand up here and say what I'm  
2 saying, I recognize that there are going to be personal  
3 consequences to it, but I have to be courageous enough  
4 to stand up to that and do what I think. Some of you  
5 have said you were hired to do X, Y and Z. I think I  
6 was hired to be a responsible steward for the Town.  
7 And I think that -- where I'm going to end up on this  
8 is what I think that is.

9                   And where I'm going to end up is -- many of  
10 the communications we've gotten are pitting developer  
11 versus town. And what we're forgetting is the Yuki  
12 family. Yuki family has lived in Los Gatos since the  
13 1940s. In the 19- -- in the 1930s and '40s, Takeo Yuki  
14 bought some land in the Salinas area and started an  
15 iceberg lettuce farm. He developed that into the most  
16 successful Japanese farming operation in the area.

17                   In 1942 Takeo Yuki and his family were  
18 interned during World War II. They were fortunate  
19 enough that they had a white male business partner who  
20 was able to keep that property for them during the  
21 three years that they were in a concentration camp.  
22 Mr. Yuki could not farm anymore, so he became a cook.  
23 When they got out of that concentration camp, they had  
24 property.

25                   But Salinas was not friendly to Japanese at

1 that time. So they bought land in Los Gatos, a  
2 welcoming community, a place where they could go and  
3 start their business and put down roots for their  
4 family. That was in 1945. They've been here since  
5 1945.

6 They have given property in 1956 to  
7 Highway 17 so that it could be built. Why? To  
8 circumvent the downtown, ironically.

9 In 1960 -- we heard a suggestion a couple of  
10 nights ago that the Yukis should donate six acres of  
11 their property for a school site, and we could name it  
12 after the Yukis. In 1960 the Yukis donated the land  
13 for Ralph O. Berry School. It wasn't named after the  
14 Yukis. It was named after Ralph O. Berry. I don't  
15 know who he is, but they have donated land for a  
16 school. It's now a community asset, as a JCC.

17 In the late 1980s they donated land -- thank  
18 you, Ms. Wideman [phonetic]. I never walked out on  
19 you. That's fine.

20 MAYOR SPECTOR: Please.

21 COUNCIL MEMBER JENSEN: I'm sorry. They  
22 donated land for Highway 85.

23 So the Yukis have been a steward for this  
24 community. They have done a lot for this community.  
25 And to ask for them to give more at this time seems to

1 me to be a bit unreasonable and a bit unfair.

2 We all live in houses that probably were once  
3 an orchard. We all expect to be able to dispose of our  
4 property. We spend time in the Planning Commission and  
5 we spend time on the Town Council figuring out how  
6 property should be used, how it can be used. But we  
7 try to be fair. We don't really say, No, you can't.  
8 We figure out how to do it.

9 That's why we spent time since 1999 figuring  
10 out how to do this specific plan. And I happen to  
11 think that it's the right thing to do for the Town. We  
12 are getting an infrastructure improvement. We are  
13 getting various other -- the school is getting an  
14 agreement.

15 But some of you have said, Well, what will  
16 your legacy be? And I don't know what my legacy will  
17 be after tonight. It's probably going to not be too  
18 pleasant.

19 But for me and for my children -- by the way,  
20 my son works in Los Gatos. He cannot afford to live  
21 here. He rents a house with four other people in  
22 Almaden because he can't afford it. Many of you read  
23 the letter from the planning commissioner in Palo Alto  
24 who moved because she's a lawyer, her husband is a tech  
25 professional. Couldn't afford to live there. It was

1 poo-poo'd on social media as not reality.

2 Well, there are professionals -- my child,  
3 who works in a tech startup -- who cannot live here.  
4 And the fact is that a \$900,000 house in Los Gatos is  
5 really cheap. My son still couldn't touch it, but at  
6 least it's something.

7 And I want my legacy to be that Los Gatos is  
8 an inclusive community, it's a forward-looking  
9 community, it's a freethinking community and that it  
10 treats people fairly and goes through a process and  
11 then tries to do the right thing.

12 So my motion would be to approve the  
13 application, and I probably won't get a second. But  
14 that's -- that's my speech and that's my motion.

15 MAYOR SPECTOR: Thank you. I have a motion.  
16 Is there a second?

17 Seeing none, the motion dies for lack of a  
18 second.

19 We will have -- I will be making a motion  
20 now, and I will ask the Council to please listen to it  
21 because it is going to begin with provisions from the  
22 specific plan before I get to the actual motion itself.

23 And these -- this motion is based on actual  
24 specific plan requirements. The specific plan requires  
25 smaller cottage cluster -- the specific plan suggests

1 smaller cottage cluster in the Lark area. It speaks to  
2 lower-intensity residential envisioned for the Lark  
3 district. That's Paragraph 2.3.1.

4 It anticipates lower-intensity shops,  
5 offices, residential land uses envisioned in the  
6 southern portion. That's Paragraph 2.4.

7 Appendix 6C of the specific plan says that  
8 the specific plan development should address Los Gatos'  
9 unmet needs. And those unmet needs are identified as  
10 Generation Y and baby boomers.

11 The development standards within the specific  
12 plan in Section 2 provide that we should ensure future  
13 development is comparable -- is compatible with  
14 surrounding areas, complement the downtown and  
15 contribute to the small town charm of Los Gatos. The  
16 development standards of Paragraph -- or Section 2 say  
17 that "the application project should be consistent with  
18 the land uses and vision of the" -- "as outlined in  
19 this chapter."

20 This is an architecture and site application.  
21 Our architecture and site ordinance states,  
22 Paragraph 4, "We must examine site layout, including  
23 its appearance and harmony of the building with  
24 adjacent development."

25 Paragraph 6, we must address exterior

1 architectural design of the building and structures.  
2 The effect of the height, width, shape and exterior  
3 construction and design must be examined. Our specific  
4 plan once again states the application, the  
5 development, must seamlessly fit, must complement, the  
6 existing town character and charm.

7 Paragraph 3.4. It states in the specific  
8 plan, We must connect this part of Los Gatos to the  
9 rest of the town. Paragraph 3.4.

10 Last time we had a meeting, I talked a little  
11 bit about the history of the vision statement. I like  
12 to think of this as its -- you know, as legislative  
13 history, but that's because I too am a lawyer and we  
14 talk that way.

15 And we had guiding principles. And on  
16 January 9th, 2012, that is actually considered in the  
17 Planning Department as a reset. So on January 9th,  
18 2012, this Town Council had a reset on its development  
19 of the specific plan. It -- instead one of the council  
20 members said, It is unfair to the developer and the  
21 Town to go forward without a vision statement. We will  
22 have -- if we go forward without a vision statement, we  
23 will have discomfort and dissension. We must decide --  
24 and this is what we were saying on January 9th. We  
25 must decide, will we have a continuation of what we --

1 currently exist in Los Gatos that will continue past  
2 Lark to 85 or will we have a distinct district?

3 On the meeting of March 5th, 2012, this  
4 Council unanimously answered the question with a vision  
5 statement and guiding principles that continue the Los  
6 Gatos look and feel past Lark onto 85.

7 That look and feel is identified -- actually,  
8 this was -- I thought this was really helpful. Because  
9 lots of people talk about look and feel. This look and  
10 feel was identified in the Applicant's Exhibit G to  
11 their Attachment 17, I believe it was. And they talk  
12 about a blend of elements, of variety. They have  
13 photographs of the look and feel. They identified the  
14 look and feel by pictures taken throughout the town of  
15 Los Gatos.

16 And that look and feel is consistent with  
17 what I would identify as the look and feel based upon  
18 what I, throughout my history here in this Los Gatos,  
19 have seen what the town looks like. It's not a  
20 uniformity. We don't match. We don't have a  
21 uniformity. But we blend.

22 What we have here in this application is a  
23 disconnect. Not a blending. We have a disconnect. We  
24 have a disconnect in the style and the size and the  
25 massing. It isn't that Los Gatos doesn't want modern

1 buildings, doesn't want, you know, flat-roof buildings.  
2 That's not the point.

3 The point is that we have -- we want an  
4 application -- a development that blends. We don't  
5 want to have a distinct district that Council, in  
6 19- -- in 2012, unanimously voted against.

7 I actually am going to -- it's my intent to  
8 address the specific plan, as it relates to  
9 residential, separately from economics. So based on  
10 those provisions of the specific plan and the other  
11 provisions and items which I just addressed, I am now  
12 going to move that, based on that information, we deny  
13 this application for failure to comply with the  
14 specific plan, as stated. This could be a long  
15 evening.

16 All right. That motion dies. Ms. Sayoc.

17 VICE MAYOR SAYOC: Just a question on the  
18 motion. You mentioned that you were -- you were  
19 intending to discuss residential separate from  
20 commercial?

21 MAYOR SPECTOR: Correct.

22 VICE MAYOR SAYOC: So then this motion that  
23 is specific to this is just on the residential aspect  
24 of the application?

25 MAYOR SPECTOR: It's based on failure to

1 comply with the specific plan for the reasons stated.

2 VICE MAYOR SAYOC: All right. Thank you.

3 MAYOR SPECTOR: All right. Do we have a  
4 second?

5 Seeing none, motion dies for lack of second.  
6 Mr. Rennie.

7 COUNCIL MEMBER RENNIE: Thank you, Mayor  
8 Spector. And I want to thank Councilwoman Jensen for  
9 the courageous going first and the history of the whole  
10 thing.

11 So I'll frame my thoughts here but with a bit  
12 of a long story. But I want to start, actually, with a  
13 story. Shortly after I got elected, I met with  
14 supervisor and former state senator Simitian, and he  
15 asked me to lunch. It was kind of a give advice to a  
16 newly elected.

17 And I told him I was looking forward to  
18 getting out into the community of Los Gatos, meeting  
19 people, learning about their problems and concerns.  
20 And, you know, I looked -- and concerns that I could  
21 look for solutions and improve the quality of life.  
22 But I told him my biggest worry was how do I make a  
23 decision when there's many people on both sides of a  
24 passionate issue, and whatever decision I make will  
25 make some people unhappy?

1                   So his advice to me was to always lead with  
2 your values. So let me share some values with you.

3                   First, when I got elected I made myself a  
4 promise that I would always vote for what's good for  
5 the community and Los Gatos over what was best for my  
6 reelection. In this application there's been a lot of  
7 pressure and even bullying to just deny the application  
8 without even really looking at it carefully and doing a  
9 thorough analysis of the pros and cons in this case and  
10 also gaining a thorough understanding of the legal  
11 issues. It kind of felt like a siren song, trying to  
12 lure me into the political cover of a denial. So I'm  
13 resisting the siren song.

14                   From my analysis, it looks like a denial is  
15 actually worse -- a worse result for Los Gatos  
16 because -- several reasons, but we'll start: State law  
17 requires us to approve this housing element site if it  
18 meets all the objective criteria. I listened carefully  
19 to Councilwoman Jensen and others who tried to poke,  
20 prod and beat on the legal requirements and the  
21 objective standards, and I heard nothing that would  
22 give us any kind of chance to win a lawsuit. I think  
23 it's bad for Los Gatos to knowingly invite a lawsuit by  
24 not following state law. We heard Thursday night this  
25 could cost us a million dollars if we win or two or

1 more if we lose.

2 But beyond costs, I think it's even worse  
3 because we're going to lose -- we're going to lose the  
4 ability to ask for changes to the proposal. If we lose  
5 the lawsuit, which I think strongly that we would, we  
6 get exactly what's there. We get an approval, which --  
7 I believe there's many things we can change in the  
8 proposal to make it look and feel much more like Los  
9 Gatos. Thus, I believe a straight-out approval or a  
10 denial, which is the same as an approval, is not the  
11 best for Los Gatos.

12 I would add that there are some that think  
13 it's worth millions -- you know, it's worth the Town's  
14 millions to delay building anything. But there's laws  
15 that are coming that are going to make it even harder  
16 or impossible to play such games. I want to mention  
17 AB-2584 just passed the Assembly yesterday, is on the  
18 way to the Governor's desk, which will further  
19 strengthen the Housing Accountability Act. And two key  
20 points in that is the judicial review of lawsuits will  
21 now have to be done within 60 days. You can't draw it  
22 out for five years. And also it makes it easier for  
23 third parties, such as building associations or housing  
24 advocacy groups, to sue without the developer even  
25 being part of it. So the State is trying to tighten

1 this up even more.

2 So let me go to another value of mine, which  
3 is compromise or meeting somewhere in the middle.  
4 Especially on contentious issues. Although the --  
5 although the issue of not following state law is  
6 forcing us into a compromise in my analysis, this is --  
7 this is where we should -- a compromise is where we  
8 should start anyway and see if there's -- a reasonably  
9 acceptable proposal can be created from it.

10 What can we change in the proposal? Many do  
11 not like the density and the number of housing units,  
12 but these are both required by our state housing  
13 element. If a developer proposed less density, we'd  
14 have to reject it because it didn't meet our housing  
15 element.

16 If we could wave a magic wand and make this  
17 developer go away, we could get -- we would get another  
18 proposal that is the same density and potentially even  
19 more units since the current application doesn't ask  
20 for the maximum number of housing units. But we could  
21 be worse off on many standards we care about, because  
22 the current application does not push any of the  
23 limits. We could get in the Lark district 30 percent  
24 open space instead of the current 43 percent open  
25 space. We could get 15 percent two-story buildings

1     instead of the current 29 percent. We could -- we  
2     could get more residential square footage than the  
3     current proposal. It's only 62 percent of the maximum  
4     residential square footage allowed there. We could  
5     lose the bicycle improvements and amenities that have  
6     been added.

7             We could lose the 6 million in extra payments  
8     to the school district. Maybe we should get more units  
9     not in the Los Gatos Unified School District, but maybe  
10    we would get more units not in the Los Gatos Unified  
11    School District but be forced to take the students  
12    anyway, as almost always happens when district lines  
13    split a neighborhood. But now Los Gatos Unified School  
14    District would not get the extra payment. They would  
15    not get the SB-50 payment. They would not get property  
16    tax. And they would be much worse off. And since we  
17    cannot make land use decisions based on schools, we'd  
18    be stuck with whatever situation -- you know, worse  
19    situation for the schools without being able to deny it  
20    because it's worse for the schools.

21            Another thing to remember is that this  
22    application is required to put in traffic improvements  
23    to offset the maximum possible build or at least most  
24    of the improvements for the maximum possible build in  
25    the North 40. Thus, if we approve Phase 1, there will

1 be significant net improvement in traffic. I know  
2 people won't believe it. But at least until Phase 2 or  
3 the rest of it is built, it will actually be a net  
4 positive in traffic.

5 So, again, I think there are many things we  
6 can change to make this application much better without  
7 taking the high risk of getting no changes and paying  
8 dearly for it.

9 So I'd like to give my list, if I could, take  
10 a little more time, if that's all right with the mayor.

11 And I would add -- I would add one more value  
12 here. I -- one -- another value of mine is seniors.  
13 Service for seniors is very important, along with  
14 housing and even low-income housing. Some have  
15 belittled the low-income senior portion of the project.

16 And if I could tell another story. When I  
17 was campaigning, I was knocking on doors in a  
18 neighborhood off of Los Gatos Almaden, bounded by  
19 Carlton over there. And I -- I knocked on a door, and  
20 there was an older lady in a duplex. And she was  
21 telling me the story about how she lived in Los Gatos  
22 all of her life and, you know, she didn't have any  
23 family to help her, and she was running out of money.  
24 And she didn't know how much longer she could live  
25 there, and where she would have to move to -- I'm

1     sorry.  This always breaks me up.  So she -- she cried  
2     for ten minutes on -- while I stood in her doorstep.  
3     So I told her I was -- I would always remember her  
4     need.  Let me recover from that story.  Sorry.

5             So let me go to my list of changes that I --  
6     I would like to do.  And these are all changes to the  
7     satisfaction of the planning director.  So they're  
8     ministerial reviews that we can do without prompting a  
9     lawsuit, in my belief.

10            First, I'd say views are a -- views are an  
11     important value to Los Gatos.  So I would say that down  
12     the streets, looking to the west, that we replace -- so  
13     these are the streets that are running towards 17 -- we  
14     replace a few of the trees in that Highway 17 screen  
15     with a shorter variety of tree.  Again, this is to the  
16     satisfaction of the planning director to work this out  
17     so that there's a chance to keep some of those views.

18            Second, I would change the Highway 17 screen  
19     type of tree from the 65-foot trees to an evergreen  
20     that is something in the 40- to 45-foot maturity.  
21     Again, planning director to approve this.  I would  
22     plant the Highway 17 and Lark screen trees -- there are  
23     three here -- screen trees as soon as possible and  
24     before the first building, as is feasible, ensuring  
25     that -- the survival of the trees during the

1 construction. So, basically, get these trees growing  
2 as soon as possible so that we can get the site in  
3 its -- so all of these kind of go to -- well, view  
4 quarters but also this value we have in Los Gatos that  
5 we drive down the highway; we want to see trees and we  
6 want to see ridges. So by lowering it from 65 to 45,  
7 we won't wipe out the ridges. And by getting trees  
8 planted sooner, we can see more trees and less of this  
9 project.

10 So, Number 4, I would say that the applicant  
11 work with a consulting architect to change the  
12 architecture of market hall and the surrounding  
13 commercial buildings to choose materials that are less  
14 like this cold steel and glass and more -- the words  
15 I've heard are materials that age or that kind of blend  
16 a little more with the farm setting and probably even  
17 blend better with the materials that have been used on  
18 the housing units, the wood and the metal.

19 Number 5, I would say change the architecture  
20 and possibly materials on Buildings 24 and 25, which  
21 are the two on Los Gatos Boulevard, the two residences,  
22 to better blend between the existing commercial  
23 buildings. These are sitting between the gas station  
24 and the one building and then the Herschman building,  
25 those commercial buildings. To better blend with

1 those -- to those and then also to blend to the rest of  
2 the site that is going to be behind them.

3           Number 6, I would say change the flat-roof  
4 row house Elevation A style to the Spanish -- Spanish  
5 or Mediterranean style that the developer showed us  
6 they have available. So we're getting some Spanish  
7 into this. What they showed seemed like it would also  
8 blend together with what's there.

9           I would also change the buildings on Lark  
10 Avenue. I think Lark is important because this is  
11 where the houses blend with the neighborhoods across.  
12 And, again, they look -- they look too modern. They  
13 maybe blend with the Netflix building but not really  
14 with the neighborhood. So I would say change  
15 Buildings 1, 6, 12, 18 and 21 to either Spanish or  
16 Craftsman. And, again, the applicants showed us that  
17 they had some -- some ready-to-go architecture for  
18 those.

19           And then, Number 8, going to my senior value,  
20 they also said that they could, without changing the  
21 bones of this, integrate ten more first-floor flats in  
22 the market-rate condominium clusters to provide an  
23 additional housing opportunity for seniors. These  
24 couldn't be -- we can't require them to be  
25 age-restricted, but they would be more appealing to

1 seniors because they would be single-floor flats on the  
2 first level.

3 And I believe that is my list. So should I  
4 make that a motion or just --

5 MAYOR SPECTOR: That's -- right now we do not  
6 have a motion on the floor. So --

7 COUNCIL MEMBER RENNIE: I'll go ahead and  
8 make that a motion.

9 MAYOR SPECTOR: If we could -- if you -- so  
10 that we know what the motion is -- because, obviously,  
11 this is very important -- would you tell us what  
12 portions of that are the motion?

13 COUNCIL MEMBER RENNIE: So my motion is to  
14 approve the items that I listed. I can list them  
15 again.

16 MAYOR SPECTOR: If you would, please.

17 COUNCIL MEMBER RENNIE: These would be to  
18 satisfaction of the planning director. So they would  
19 be to remove a few trees that block -- the Highway 17  
20 screen that block the view quarters down to the west.  
21 Change the Highway 17 tree screen to a 40- to 45-foot  
22 evergreen variety. Plant the Highway 17 and large  
23 screen trees as soon as possible without increasing  
24 danger or damage from construction.

25 Work with a consulting architecture on the

1 market hall and commercial building architecture. And  
2 change the architecture on Buildings 24 and 25, which  
3 are the two on Los Gatos Boulevard, to something  
4 that -- there's still going to be housing units but  
5 something that blends a little better with the  
6 commercial buildings next to them.

7 Change that -- all of the flat-roof row house  
8 Elevation A styles to a Spanish or Mediterranean style.  
9 Change building architectures, Buildings 1, 6, 12, 18  
10 and 21, to Spanish or Craftsman.

11 And then Number 8, integrate ten more  
12 first-floor flats in the market-rate condominium  
13 clusters. Those are the big hookeys at the top up  
14 there. They had units that faced away from the  
15 highway. That would be ideal for that.

16 That's my motion.

17 MAYOR SPECTOR: We have a motion. Do we have  
18 a second? Ms. Jensen.

19 COUNCIL MEMBER JENSEN: I'd be prepared to  
20 second the motion. However, I would like to ask the  
21 maker of the motion if he would consider making some  
22 changes to his motion.

23 COUNCIL MEMBER RENNIE: I would consider.  
24 I'm all for --

25 MAYOR SPECTOR: Wait. This is what I

1 mentioned at the beginning.

2 COUNCIL MEMBER RENNIE: No questions. Sorry.

3 MAYOR SPECTOR: So, Ms. Jensen, if you could  
4 just make your suggestions.

5 COUNCIL MEMBER JENSEN: I will.

6 So, as a potential seconder, I accept the  
7 replacement trees, the tree height and the planting of  
8 the trees prior to the buildings. Accept the changes  
9 to Buildings 24 and 25. And I accept the change  
10 proposing ten more first-floor flats for seniors.

11 What I would propose be changed are those  
12 suggestions from Mr. Rennie or those things included in  
13 his motion that refer to architecture. And rather than  
14 specifying a particular style -- for example, Spanish  
15 style or no flat roof or the other specifications that  
16 are listed -- I wonder if Mr. Rennie would consider  
17 making that change to be have the applicant work with  
18 the consulting architect to develop alternative styles  
19 to the satisfaction of the planning director.

20 MAYOR SPECTOR: All right. Mr. Rennie, you  
21 have a motion. It's not seconded yet, but there are  
22 suggestions. Do you adopt those suggestions?

23 COUNCIL MEMBER RENNIE: Yes, I'll adopt those  
24 suggestions.

25 MAYOR SPECTOR: Do we have a second?

1                   COUNCIL MEMBER JENSEN:   Then I'll second the  
2    motion.

3                   MAYOR SPECTOR:   All right.   We have a motion  
4    and a second.

5                   Now, discussion?

6                   Well, I will weigh in on this a little bit.  
7    When the maker of the motion was first discussing  
8    the -- basically, the foundation for making this  
9    motion, he was talking about there are -- what we --  
10   what does one do when there are people on both sides.  
11   And it's difficult.   And, quite frankly, there is  
12   almost always people on both sides.

13                  And so what you do when you have people on  
14   both sides is you look at your ordinances and your law,  
15   and you let that be your guide.   And so, therefore,  
16   that was the reason, when I made my motion, I based it  
17   all on the provisions of the specific plan.

18                  With regard to lawsuits, the lawsuits or the  
19   threatened lawsuits have been raised several times  
20   during our hearing thus far this evening.   And, quite  
21   frankly, lawsuits and threatened lawsuits have been  
22   raised in my history here on the Town Council.   But  
23   lawsuits are not a basis for making a decision.   The  
24   law and your standards and your plans are the basis for  
25   making a decision.   Not lawsuits.

1 Further discussion?

2 Ms. Jensen.

3 COUNCIL MEMBER JENSEN: Just some further  
4 discussion and then another request for an amendment --  
5 I guess I can't request it, so I'll make it a second  
6 motion, depending on what happens with this.

7 But lawsuits are no part of my decision. I  
8 think that we have complied with our specific plan,  
9 which is the ordinance now and general plan and zoning  
10 of our Town. And so, for that reason, I think that the  
11 motion to approve is also in compliance with our town  
12 ordinances.

13 With that -- and I have previously seconded  
14 the motion.

15 MAYOR SPECTOR: Further discussion.

16 All right. Ms. Sayoc.

17 VICE MAYOR SAYOC: Okay. So this is a rather  
18 difficult decision, I think, for all of us, as you  
19 could probably guess by the many -- many questions,  
20 many comments, many hearings that this has entailed.

21 But I think what's particularly difficult  
22 is -- based on what everyone has said, I find I agree  
23 with Council Member Jensen, I agree with Councilman  
24 Rennie, I agree with Mayor Spector. The issue is how  
25 you craft whether it's a motion or a decision that

1 encompasses the direction you want for us to move  
2 forward. Overall, I'm always trying to look for the  
3 compromise.

4           So the difficulty I have in this particular  
5 motion is, when we have asked for these changes in the  
6 past as a planning commissioner, as a council member, I  
7 have always wanted to see what it is I'm approving.  
8 And with a project so large and so controversial and so  
9 visible as this, I have significant reluctance in just  
10 saying, Okay, and I'm going to hope for the best. I  
11 have utmost respect for our staff. I think they would  
12 do this, but I also don't think it's particularly fair  
13 to place the burden of all of these hearings onto their  
14 decision as this moves forward. That's my biggest  
15 impediment.

16           You know, we talk about our values. We talk  
17 about our wish list. I -- frankly, I wish I had more  
18 time to -- because I do think there are some very  
19 positive attributes of this project that we have been  
20 able to reach based on the many years that we have been  
21 working on this. Whether you like it or not, this will  
22 be developed. And there's some very positive things.  
23 I think they have been enumerated.

24           I think I need to mention it again. The  
25 traffic improvement on Lark and Los Gatos Boulevard has

1 not occurred, and this is a way for us to do that. The  
2 community gardens. I'm a big believer. And that's  
3 something that will significantly retain the agrarian  
4 history of that area.

5 There's many areas that we can look towards,  
6 but unfortunately the sheer size and complexity of this  
7 project just makes it difficult for many people to look  
8 towards the positive. We talk about our values. I  
9 mentioned in the last one, this evolution of thinking.  
10 I am a big believer in that we need to help address the  
11 housing crisis in our area. That was the biggest  
12 reason that I approved -- the housing element, one of  
13 the biggest reasons I approved the specific plan. I'm  
14 totally committed to that.

15 But, again, as I mentioned last time, I just  
16 don't think that our commitment to build 270 units has  
17 to fall on the 20 acres. That's the biggest area where  
18 I'm stumbling at, and that's the biggest reason I can't  
19 support this, moving forward.

20 Now, we talked about the -- the -- where is  
21 it in the specific plan that says that? Well, where  
22 does it say that the 20 acres have to be in the area  
23 for it?

24 And if you were looking at the intent, which  
25 I also discussed, Public Policy 101, the intent -- as

1 we are discussing housing element, as we were  
2 discussing specific plan, there was an intent, at least  
3 on my part, that this was going to be spread out in a  
4 fashion so that it would seamlessly blend with Los  
5 Gatos. Do I have the architecture and the plans to do  
6 that? No. But do I know that this is it? Also no.

7 And so, with great reluctance, I can't  
8 support this current project. Again, there are so many  
9 attributes. And it's not a "he" -- it's not an "us  
10 versus them." You know, this need to find a villain  
11 out of all these many years of working on this, it  
12 doesn't have to be there. We're trying to provide  
13 housing for people.

14 And working on controversial projects -- I  
15 remember Netflix. And I remember so many people that  
16 said our community -- our character is not -- it's  
17 not -- you know, we don't define it by the buildings.  
18 And that was a project that was looking at 85 feet. We  
19 define our character in our small town by ourselves.

20 And so the fact that it has gotten so nasty,  
21 that's -- that's an awakening that if we don't want for  
22 this project to fail from the outset, we have to do a  
23 little bit more to make sure it's something that we can  
24 stand behind.

25 And at this time, I just don't think this is

1 it.

2 MAYOR SPECTOR: Further discussion?  
3 Mr. Leonardis.

4 COUNCIL MEMBER LEONARDIS: Thank you, Mayor  
5 Spector.

6 By this time of the evening you're probably  
7 looking at me saying, Hey, that guy is the swing vote  
8 up there. And that's always a position that a council  
9 member may or may not want to be in.

10 First of all, I want to thank everybody for  
11 their extensive writings and participation in this  
12 community process. As you can see, there are four  
13 council members up here who have spoken so far, and  
14 there's a lot of emotion. There's a lot of pressure on  
15 us to make a decision on behalf of the community.

16 There has been talk about our legacy. There  
17 has been talk about what's best for the housing, the  
18 people of Los Gatos in the future, the traffic. All of  
19 these things. And this project can solve problems. It  
20 can create problems. We've heard from both sides.

21 For me, the difficulty I have moving forward  
22 at this point in time is we've received significant  
23 feedback from the community. Some of that feedback  
24 that I want to bring to light was about the existing  
25 units on the property that were occupied by renters.

1 There were 16 of those units. And they were available  
2 to low-income applicants -- or low-income residents, I  
3 should say. And those don't appear to be replaced, per  
4 se, other than in the form of senior housing. That  
5 senior housing is limited to residents that are 55 and  
6 older. So I'm not sure of the direct replacement, even  
7 though there would be 49 low-income units -- how that  
8 comes into play with other things that are tied to it,  
9 such as the density bonus.

10 There's three individuals that spoke at our  
11 public hearing -- also submitted written  
12 correspondence -- that have brought up points that give  
13 me pause, going forward this evening with any kind of a  
14 decision until I get more information on these topics.

15 One of them was a guy named Jeff Eisenbaum.  
16 He spoke about the grading. And I thought that his  
17 presentation was something very unique.

18 Before -- how can I say it? Not the kind  
19 of -- a lot of us come in with a lot of emotion.  
20 There's parents who worry about school overcrowding.  
21 There is people who worry about the traffic. Those  
22 kind of arguments. There is people that worry about  
23 the look of the property.

24 But these are points that I'm bringing  
25 forward that if there were to be any kind of

1 litigation, which I pray there isn't, moving forward --  
2 but I want to get resolved on these things in a way to  
3 avoid a potential litigation. Because litigation isn't  
4 good, whether it's brought forth by the community or  
5 the developer.

6 It just -- as Mayor Spector mentioned, she's  
7 been a part of that ever since -- you know, she's been  
8 on the Council. And I, in my career of six years, have  
9 witnessed it on a number of occasions already.

10 So, you know, looking at some kind of a  
11 compromise, going forward, I think these points have to  
12 be clarified. So one was the grading issue. Another  
13 was a letter presented by a gentleman named Peter  
14 Dominick regarding the density bonuses. He brought up  
15 a lot of good points. And those points could affect  
16 the overall amount of units throughout the -- the  
17 course of the project.

18 And last but not least was Angelia Doerner  
19 brought up the existing rental units and how the  
20 elimination of those, with the replacement of -- with  
21 the senior-only housing, might affect density bonus law  
22 and all of these things.

23 Now, I know the developer and Mr. Faber, the  
24 attorney, presented a good case last time and what  
25 their interpretation of those laws were and the density

1 bonuses and the grading and such. But I'm still not  
2 satisfied, after receiving even more correspondence  
3 from the community, that we have all the answers on  
4 these things. This could adversely affect the number  
5 of housing units in this project. And, to me, I think  
6 we really need to nail down that number before we start  
7 talking about where the housing will go, what type of  
8 housing it will be, and who -- what income levels would  
9 be in those housings and in those types of things.

10 So I, at this point, want this to be very  
11 well vetted, because this could be the basis of  
12 litigation or something moving forward. And I don't  
13 think we have all the answers. I think, if we as a  
14 council voted this through this evening, in some form,  
15 without having this information, inevitably one side or  
16 the other could bring litigation, and these points can  
17 come up again. And it would -- it would be either the  
18 basis of the litigation or it would be -- how can I say  
19 it? I can't say it. It would be probably the basis of  
20 the litigation.

21 So, for me, I need more information before  
22 I'm willing to move forward with a decision this  
23 evening. And that's where I lie on this particular  
24 motion.

25 MAYOR SPECTOR: Thank you.

1                   With regard to the pending motion, I'll speak  
2 to some of the things raised when that motion was made.

3                   There are a number of items that the motion  
4 suggests be revised on the application. And those will  
5 be done by Staff on a ministerial level. Because this  
6 project is so large, because these issues are so  
7 significant, that would not be the kind of thing that I  
8 would be comfortable having vetted on a staff level as  
9 opposed to the Planning Commission and the Council.

10                   One of the reasons we are in that  
11 situation -- i.e., the situation of having this vetted  
12 by the Staff as opposed to the Planning Commission and  
13 the Council -- is because there is law that the  
14 developer is using that puts a time frame within which  
15 this Council must make its decision. And that deadline  
16 is now September 7th. So there would be no way for any  
17 issues to go back to Staff, Planning Commission and  
18 Council. But to the extent that this motion is sending  
19 things back to the Staff, I think they are far too  
20 large and far too significant.

21                   With regard to the statements in the motion  
22 about how this project will -- will have improvements  
23 for traffic and gardening and maybe even bicycling -- I  
24 can't remember all the things that were said -- those  
25 are good things. And those are good things that will

1 happen with a future project. But for me it has to be  
2 a future project that is consistent with the specific  
3 plan. And this is not.

4 And lastly, with regard to housing, yes,  
5 there is a -- a push by government entities at various  
6 levels that the Town and other cities provide  
7 affordable housing. But the reality is, in this  
8 application, we're getting 49 below-market-rate units  
9 for seniors. That's great. But the remainder of the  
10 units -- the hundreds of the remainders of the units  
11 are going to cost, we are told today, somewhere between  
12 900,000 and the one and a half million that the person  
13 who buys it is going to have to be able to put a  
14 20 percent down payment and is going to have to have a  
15 salary of something like 130- to \$200,000.

16 So we are -- we are asked to face a burden of  
17 density and intensity and traffic. But we're willing  
18 to do it -- at least I'm willing to do it -- if we  
19 could get more below-market-rate units. But we are  
20 getting relatively few, and we are getting a lot of  
21 expensive homes.

22 Further discussion on this motion.

23 All right. We have a motion. It is  
24 seconded. All in favor?

25 (Two members responded Aye.)

1                   MAYOR SPECTOR:  Opposed?  
2                   (Three members respond No.)  
3                   MAYOR SPECTOR:  All right.  I'm going to have  
4 to have a show of hands.  All in favor.  
5                   (Two members raise hands.)  
6                   MAYOR SPECTOR:  Okay.  Mr. Rennie and  
7 Ms. Jensen, yes.  
8                   And let's raise the hands on "No."  
9                   (Three members raise hands.)  
10                  MAYOR SPECTOR:  Mr. Leonardis, Ms. Sayoc,  
11 mayor, no.  
12                  May I have another motion, please.  
13 Mr. Leonardis.  
14                  COUNCIL MEMBER LEONARDIS:  I'm prepared to  
15 make a motion at this time.  But I think what I'm  
16 hearing from the discussion is we have a council that  
17 has two different points of view or more.  And we have  
18 a council that has brought up points about compromise,  
19 moving forward, changes to the specific plan.  We have  
20 somebody who is looking for more information to make  
21 sure that we dot all our i's and cross all our t's.  
22                  Moving forward, I would like to see a  
23 third-party opinion of some of these things that could  
24 become legal issues.  Because, again, I don't want this  
25 thing to end up -- it's not beneficial to the community

1 or to the developer if this ends up in a protracted  
2 legal battle. Therefore, I think we need to get this  
3 information up front.

4 So, for me, I hear compromise. I hear more  
5 information. I hear -- that's what I hear.

6 MAYOR SPECTOR: Thank you.

7 Motion?

8 I might as well try the second component of  
9 my first motion. The first one was so successful. I  
10 figure the second component will be equally successful.  
11 And, again, this motion will be based on the specific  
12 plan and express provisions of the specific plan. The  
13 specific plan Paragraph 2.4.2 requires an applicant to  
14 do an economic study to assess the economic  
15 competitiveness of the application vis-à-vis the  
16 downtown. The specific plan includes Appendix A, which  
17 is a marketing study.

18 The applicant's Attachment 17, Exhibit 7,  
19 attempts to address the Planning Commission's motion.  
20 The Planning Commission, as part of its motion to deny  
21 this application, referenced the fact that the economic  
22 study provided by the applicant was inadequate.

23 So the -- when it came before the Council, a  
24 new Attachment 17, Exhibit 7, was provided. That  
25 economic study failed because, first of all, its center

1 opinion is that the North 40 does not have a leasing  
2 advantage. That leasing advantage opinion is not the  
3 kind of information our specific plan was addressing.  
4 What we were looking for -- and also the specific  
5 plan -- the application did not address what the 26,000  
6 square foot of commercial will be other than the market  
7 hall. The economic study did not address the Town's  
8 identified commercial leakages, which included general  
9 merchandising. It does not address the identified need  
10 for 10,000 square feet or above of commercial units.  
11 It did not address the new office and hotel uses which  
12 were suggested. And it did not address the number of  
13 commercial units by square footage; i.e., X percentage  
14 at a certain square footage.

15 So because of these deficiencies in a  
16 mandated requirement of the specific plan, I'm going to  
17 move that we deny the application.

18 Is there a second?

19 Mr. Leonardis.

20 COUNCIL MEMBER LEONARDIS: I'm not prepared  
21 to second that motion. But what I hear you saying is  
22 that we are lacking information. And I'm looking for  
23 information. I don't believe --

24 MAYOR SPECTOR: Mr. Leonardis, I'm going to  
25 cut you off there. Because, if I don't have a second,

1 we're not going to have discussion.

2 So do I have a second?

3 Seeing none, motion fails for lack of second.

4 Now we can get into discussion.

5 Mr. Leonardis.

6 COUNCIL MEMBER LEONARDIS: Thank you, Mayor  
7 Spector.

8 So I being one of the two that voted based on  
9 the economics, which was eloquently pointed out earlier  
10 in the presentation, not being exactly -- we were  
11 trying to look at things like CEPs in the North 40, we  
12 were trying to look at square footages of businesses.  
13 That was where, when we were making the motions last  
14 time, it fell short for me and I voted "No" on one of  
15 the categories.

16 So what Mayor Spector just brought forth was,  
17 in my opinion, a request for more information. And I  
18 would be in support of that request as well as the  
19 items I mentioned earlier.

20 And I want to elaborate on that a little bit.  
21 Again, we hear the developer's point of view. We here  
22 the public's point of view about things like density  
23 bonus and how many units you're entitled to and who can  
24 live in those units, whether the units are occupied by  
25 persons 55 years or older, whether those count, whether

1 the existing below -- or low-income rentals on the  
2 property should be applied towards below-market-price  
3 units and whether that meets the intent of the Town of  
4 Los Gatos's ordinance regarding the below-market-price  
5 units.

6 And, for me, I would like to get an expert  
7 opinion on this from somebody as well as perhaps an  
8 opinion from somebody at the state level, somebody who  
9 would recognize -- we've heard a lot of talk about our  
10 RINA (phonetic) numbers and how this could impact that  
11 and what would happen with our RINA numbers.  
12 Considering there might be potential -- or information  
13 in this approval that, if it were errant and we made an  
14 assumption that our RINA numbers are all fine and this  
15 application was put forth but it really wasn't, then --  
16 and it was challenged and it turns out that the  
17 citizens were correct, what would actually happen.

18 I don't want to make any more assumptions  
19 about this. I want to get all the facts up front. I  
20 mean, for me, I would rather get a little bit of  
21 information now than spend the next two years wrangling  
22 over this thing in closed session and having everybody  
23 walk away with less than what they had wanted. I mean,  
24 to me, it is really important to get all the details up  
25 front, verified by a third party. Because we have a

1 developer and we have the community -- they do not see  
2 eye to eye on this -- and we have a Council who is  
3 caught in the middle, trying to make a decision on  
4 this.

5 But, for me, it's all about the facts. I  
6 need to have the facts.

7 MAYOR SPECTOR: Ms. Jensen.

8 COUNCIL MEMBER JENSEN: I'd like to, if I  
9 can, convert Mr. Leonardis's comments into a motion and  
10 try that.

11 What I hear Mr. Leonardis saying is that we  
12 need answers on specific things. One is, have the  
13 density bonus units under the density bonus law been  
14 replaced, quote/unquote, adequately under that law.  
15 And that would be the 16-unit repla- -- 16 units  
16 replaced. I know that there is an argument that this  
17 plan and application was valid and filed in 2013, so  
18 this law doesn't apply. But we are -- I'm hearing a  
19 council person who remains unsure about that, and we  
20 need a legal opinion on that.

21 Help me out, Mr. Leonardis.

22 But also the question of how does the density  
23 bonus apply, as raised by Mr. Dominick. We have his  
24 communications on our record, both of the Planning  
25 Commission and by e-mail.

1                   We also have questions from Mr. Leonardis  
2 regarding litigation risks, as I understand it. That  
3 could either be a confidential memo from our town  
4 attorney or closed session so that we understand that  
5 depending upon which action we take, what does our town  
6 attorney believe the ramifications of that to be.

7                   The other piece of information is how does  
8 this application comport with our RINA requirements.  
9 Do we need to supply additional low income? Do we not?  
10 What gets credited? What does not get credited? How  
11 does it get credited?

12                   And finally, economics. I don't actually  
13 have a question about that, but I understand that  
14 there's a dispute about the three studies that we've  
15 had. And, to me, whether leasing is included, whether  
16 hotel is included, whether office is included, all of  
17 those were included in the original EIR.

18                   The Council just has a disagreement. That  
19 doesn't mean that there's a factual error on one side  
20 or the other. It means that there's a disagreement  
21 about how to proceed and how to best help our downtown  
22 and how to best -- to create competition. But I hear  
23 Councilman Leonardis wants more information on  
24 economics, so I'm happy to include that in the  
25 information we get.

1                   In support of the motion, we have two more  
2 scheduled meetings on this -- I know you're all  
3 thrilled to hear this, as I'm thrilled to hear it -- on  
4 September 1st and September 6th. Seems to me that we  
5 can get that information back by the September --  
6 hopefully the September 1st meeting.

7                   And so my motion is to for that information  
8 to come back and, if necessary, a closed session to be  
9 scheduled to discuss litigation.

10                  MAYOR SPECTOR: All right. We have a motion.  
11 Do we have a second? Mr. Leonardis.

12                  COUNCIL MEMBER LEONARDIS: Thank you, Mayor  
13 Spector. I will second the motion. And I would like  
14 to ask the maker of the motion if we can have the Town  
15 reach out to our representatives at the state level and  
16 find out what the ramifications are of previously  
17 submitted RINA numbers and if for some reason there is  
18 some kind of an error in the specific plan because of  
19 the information that was brought forth by the public or  
20 whatever -- if the housing units do not add up to be  
21 what we thought they would be, what would the  
22 ramifications be.

23                  I'm sure this has happened before. So I  
24 don't want anyone's decision to be based on the fact  
25 or -- a potential ideology that you have to do

1 something because a mistake was made. So you just have  
2 to accept the mistake or an error. I want the public's  
3 information to be incorporated into our decision. And  
4 if, in fact, they bring forth information that is valid  
5 and if, in fact, that were to reduce the amount of  
6 units on this property, then we need to find out what  
7 the ramifications of that are.

8 So I would like us to reach out to the State  
9 and find out that information.

10 MAYOR SPECTOR: All right. We have a motion  
11 and a second.

12 Question of Staff: Before I get into my  
13 discussion of these various elements of the motion, is  
14 Staff prepared to respond to us by September 1st?

15 STAFF: Yes.

16 COUNCIL MEMBER JENSEN: Madam Mayor, before  
17 you begin your discussion, I heard Councilman Leonardis  
18 made his comments as a request to add to my motion. So  
19 I think that I need to accept or reject that.

20 MAYOR SPECTOR: Yes.

21 COUNCIL MEMBER JENSEN: And I do accept it,  
22 and I believe it's appropriately made to the State  
23 Housing -- HCD -- I don't -- I forget what that stands  
24 for -- to request information from them and an opinion  
25 from them with respect to our -- and I would add to

1 that our housing element, should we do something  
2 different. And all of those comments that were made by  
3 Mr. Leonardis.

4 MAYOR SPECTOR: Further discussion?  
5 Mr. Rennie.

6 COUNCIL MEMBER RENNIE: Thank you, Mayor  
7 Spector.

8 I'll just add for Staff, in case they don't  
9 realize it, that Attachment 15, Page 7, there's a  
10 letter from the assistant deputy director from Housing  
11 Policy Division of HCD that addresses a lot of those  
12 questions.

13 MAYOR SPECTOR: Further discussion?

14 I'm not going to support the motion because  
15 there's one component in it with which I disagree, and  
16 that's the economics component. I don't believe we  
17 need any more information on economics. I believe that  
18 it is contained in the specific plan.

19 When I made my motion, I must not have been  
20 clear. My motion was that the application failed to  
21 comply with the requirements, the specific plan  
22 requirements regarding economic analysis, not that  
23 there was not an economic analysis attached.

24 Further discussion.

25 Seeing none, all in favor?

1 (Four members responded Aye.)  
2 MAYOR SPECTOR: Opposed?  
3 (One member responds No.)  
4 MAYOR SPECTOR: And the motion passes 4, 1.  
5 Mayor, no.  
6 I believe that is all we have. Staff,  
7 anything?  
8 No, thank you.  
9 MAYOR SPECTOR: All right. Meeting is  
10 adjourned.  
11 (End of video recording transcription.)

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I, NOELIA ESPINOLA, do hereby certify:

That the foregoing video file was taken down by me in shorthand, and thereafter reduced to computerized transcription under my direction.

And I hereby certify the foregoing transcript is a full, true and correct transcript of my shorthand notes so taken.

I further certify that I am not interested in the outcome of this hearing.

Dated: August 22, 2016

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NOELIA ESPINOLA, NO. 8060

# Exhibit B



As Proposed



Potential Alternative

FRONT ELEVATION

NORTH FORTY

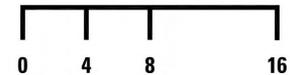
LOS GATOS, CA

Lark District  
Los Gatos Boulevard - Front Elevation



192-072

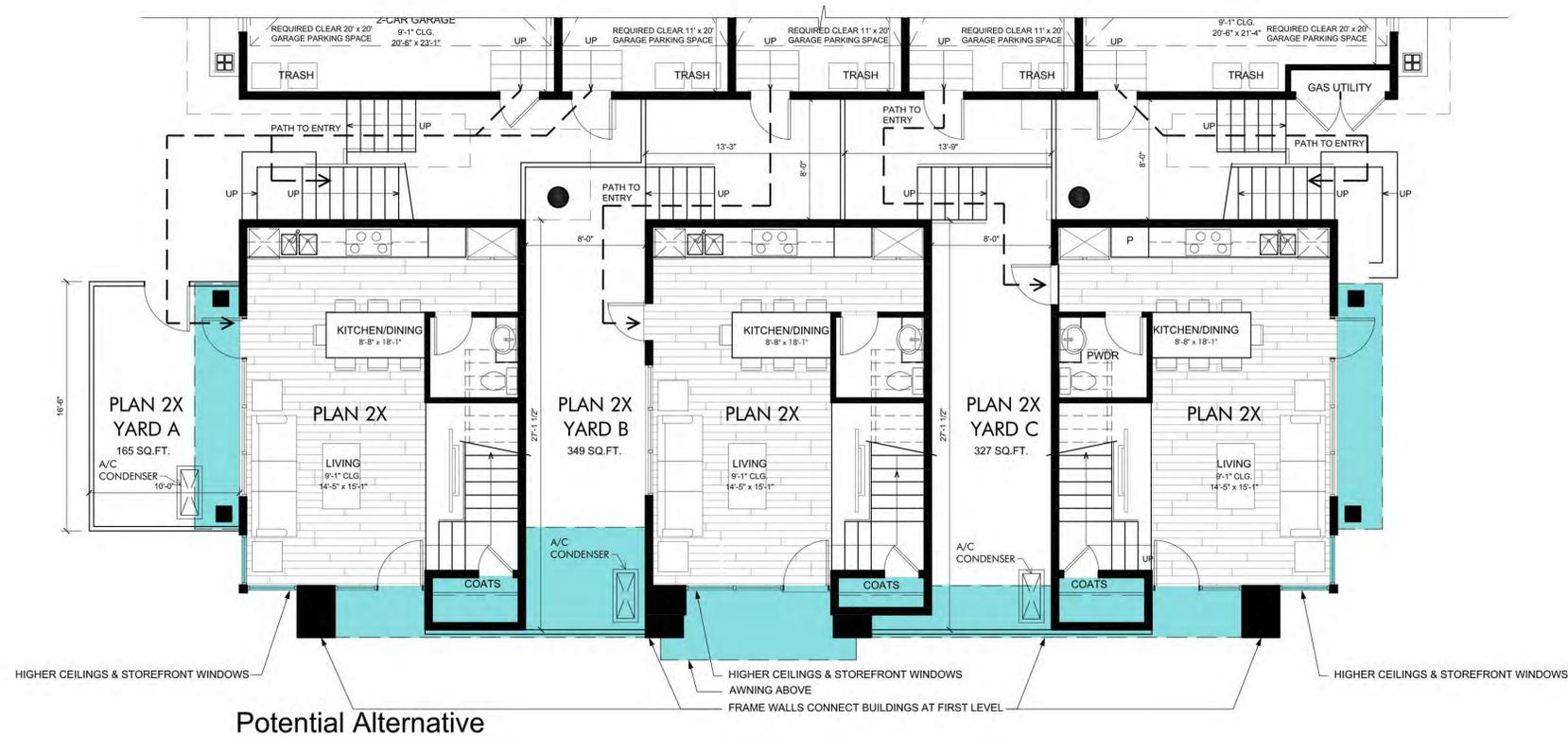
08.25.16



Scale: 3/16" = 1'-0"



As Proposed



Potential Alternative

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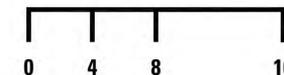
LOS GATOS, CA

Lark District  
Elevation Enhancement for  
Buildings 24 & 25 Along Los Gatos Blvd.

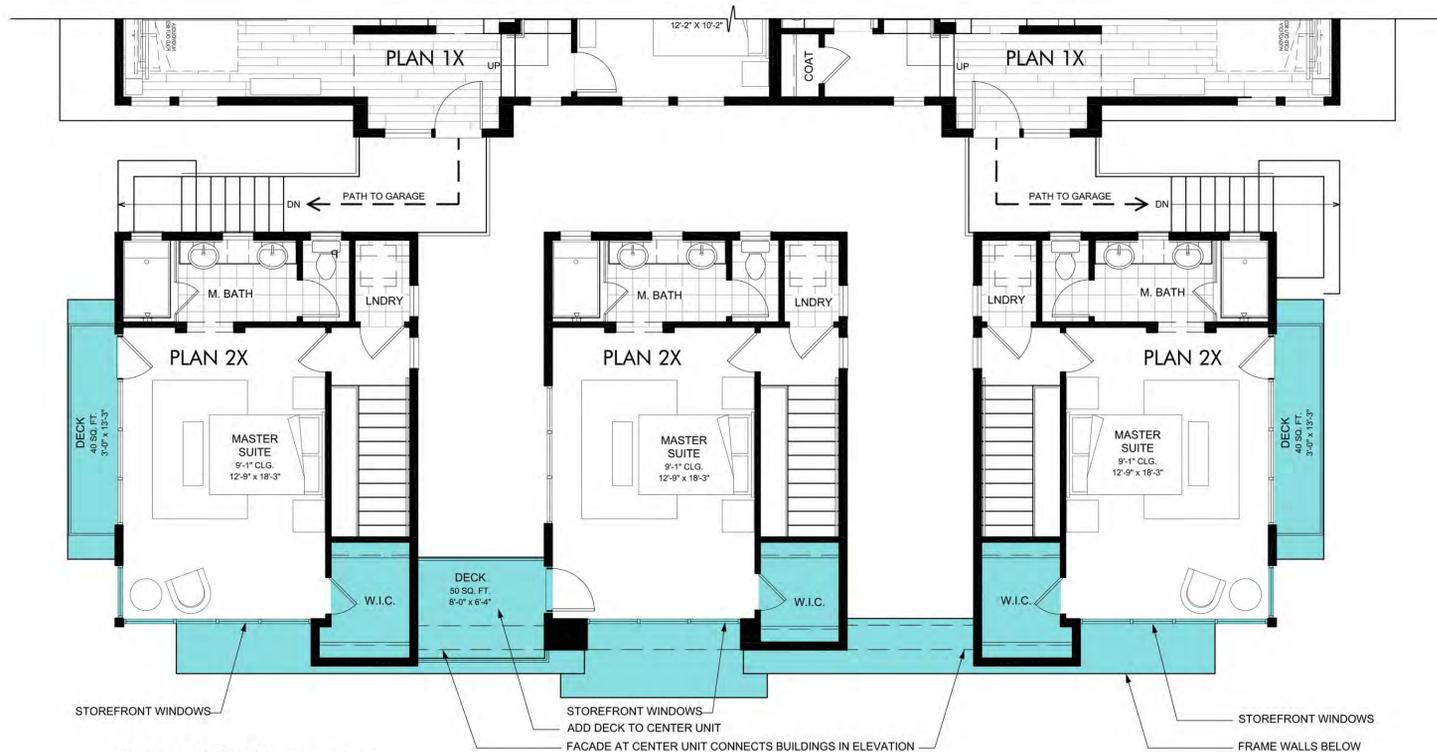


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08.25.16



Scale: 3/16" = 1'-0"



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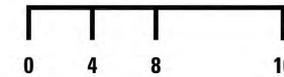
LOS GATOS, CA

Lark District  
Elevation Enhancements for  
Buildings 24 & 25 Along Los Gatos Blvd.

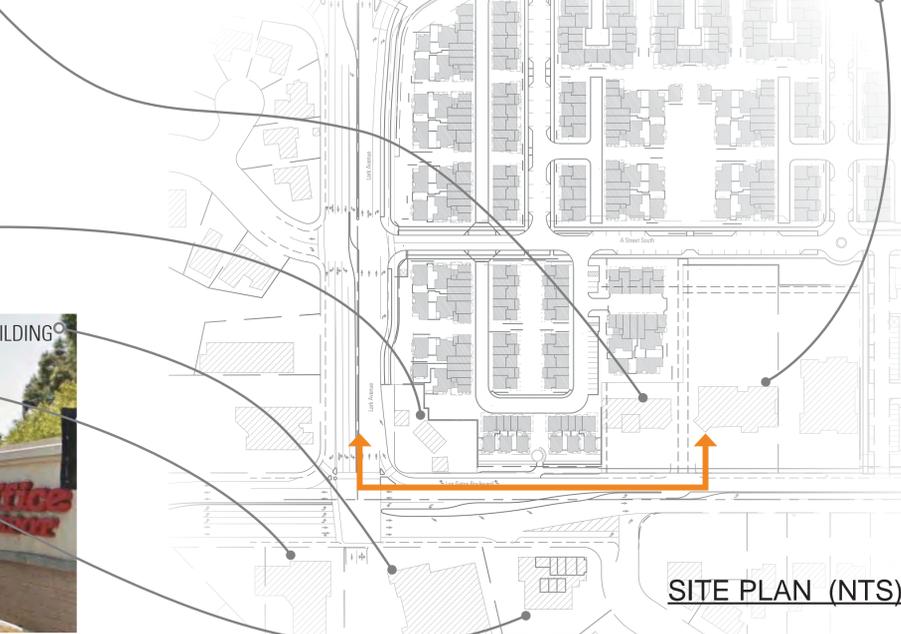


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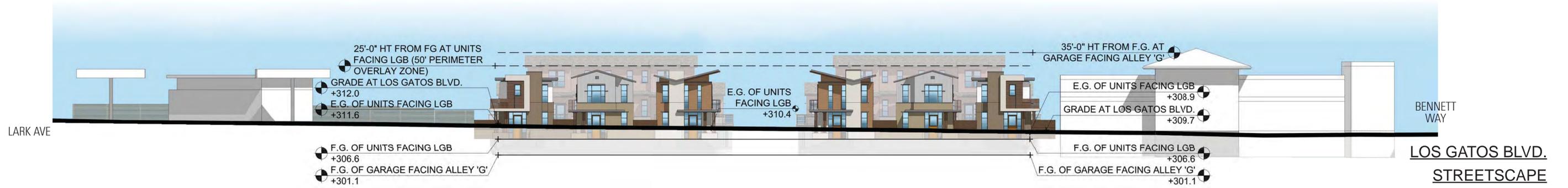
Scale: 3/16" = 1'-0"



NORTH FORTY

LOS GATOS, CA

Lark District  
Los Gatos Boulevard - Streetscape & Context Information



EXISTING COMMERCIAL BUILDING



EXISTING COMMERCIAL BUILDING



EXISTING COMMERCIAL BUILDING



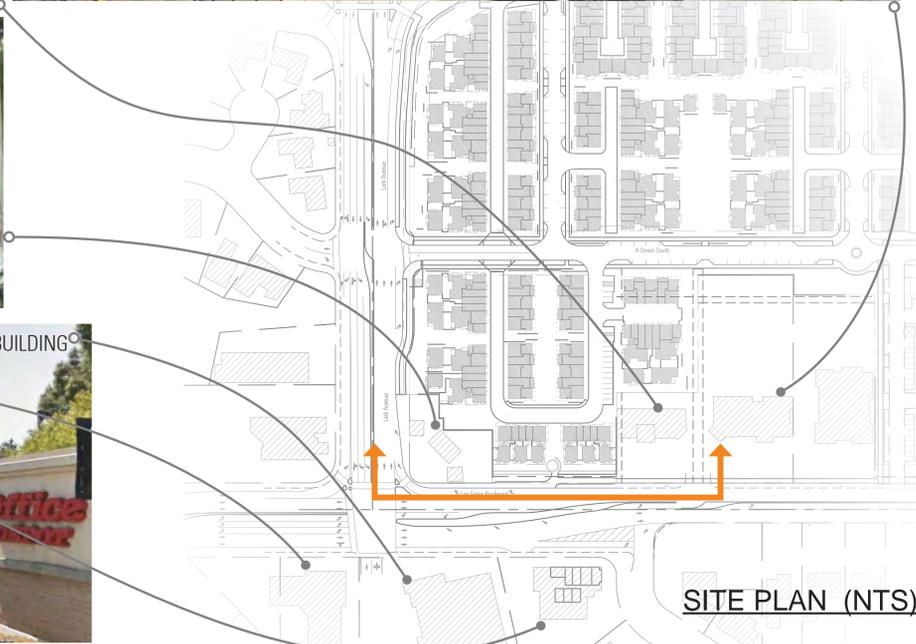
EXISTING GAS STATION



EXISTING COMMERCIAL BUILDING



EXISTING COMMERCIAL BUILDING



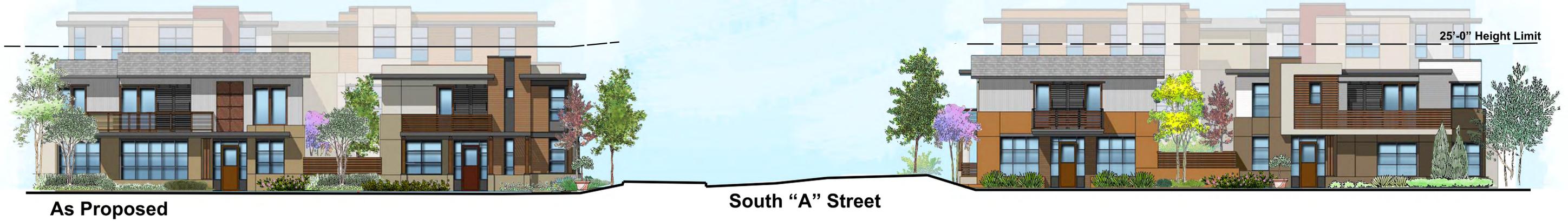
SITE PLAN (NTS)

NORTH FORTY

LOS GATOS, CA

Lark District  
Los Gatos Boulevard - Streetscape & Context Information

# Exhibit C



**As Proposed**

**South "A" Street**

**25'-0" Height Limit**



**Potential Alternative**

**South "A" Street**

**25'-0" Height Limit**

**NORTH FORTY**

**LOS GATOS, CA**

**Lark District  
Conceptual Lark Avenue Traditional Elevations**



# Exhibit D



**As Proposed**



**Potential Alternative**

**NORTH FORTY**

**LOS GATOS, CA**

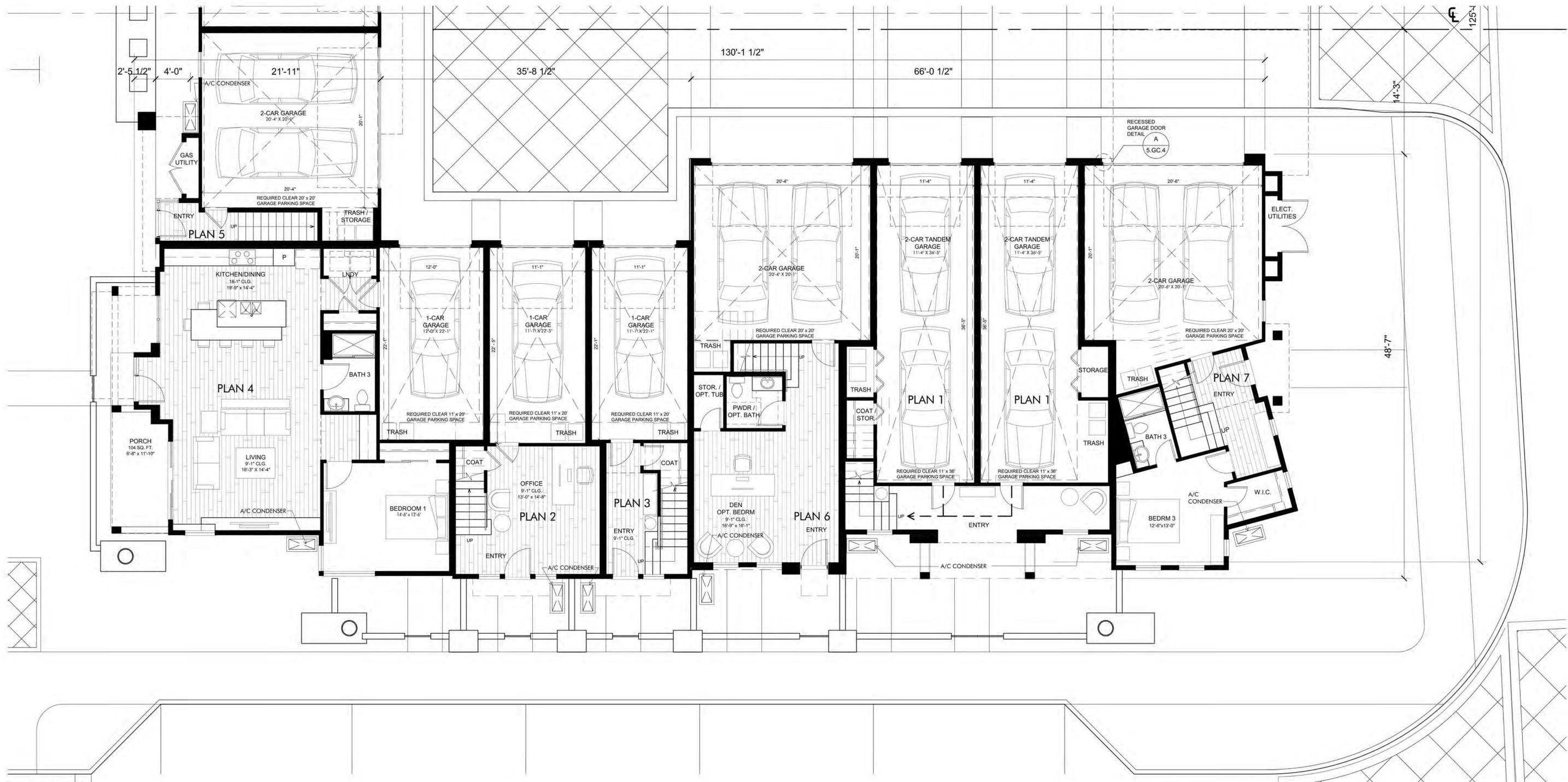
**Lark District  
Conceptual Rowhome Traditional Elevation**



192-072

08.25.16

# Exhibit E



\*\* AVERAGE BEDROOM COUNT FOR CONDOMINIUM CLUSTER = 1.75  
 AVERAGE BEDROOM COUNT FOR LARK DISTRICT & TRANSITION DISTRICT AREA D = 1.93  
 \* REFER TO SETBACK DIAGRAMS ON SHEET 5.ST.12 & 5.ST.13

| PLAN 5                | PLAN 4                  | PLAN 2                  | PLAN 3                  | PLAN 6                | PLAN 1                | PLAN 1                | PLAN 7                  | SITE TOTAL UNIT COUNT |
|-----------------------|-------------------------|-------------------------|-------------------------|-----------------------|-----------------------|-----------------------|-------------------------|-----------------------|
| 1ST FLOOR: 84 sq.ft.  | 1ST FLOOR: 1,014 sq.ft. | 1ST FLOOR: 268 sq.ft.   | 1ST FLOOR: 160 sq.ft.   | 1ST FLOOR: 443 sq.ft. | 1ST FLOOR: 0 sq.ft.   | 1ST FLOOR: 0 sq.ft.   | 1ST FLOOR: 398 sq.ft.   | PLAN 1 : 20 UNITS     |
| 2ND FLOOR: 973 sq.ft. | TOTAL: 1,014 sq.ft.     | 2ND FLOOR: 1,237 sq.ft. | 2ND FLOOR: 210 sq.ft.   | 2ND FLOOR: 752 sq.ft. | 3RD FLOOR: 996 sq.ft. | 2ND FLOOR: 996 sq.ft. | 2ND FLOOR: 1,010 sq.ft. | PLAN 2 : 10 UNITS     |
| 3RD FLOOR: 942 sq.ft. | GARAGE: 283 sq.ft.      | TOTAL: 1,505 sq.ft.     | 3RD FLOOR: 1,381 sq.ft. | 3RD FLOOR: 747 sq.ft. | TOTAL: 996 sq.ft.     | TOTAL: 996 sq.ft.     | 3RD FLOOR: 591 sq.ft.   | PLAN 3 : 10 UNITS     |
| TOTAL: 1,999 sq.ft.   |                         | GARAGE: 269 sq.ft.      | TOTAL: 1,751 sq.ft.     | TOTAL: 1,942 sq.ft.   | GARAGE: 497 sq.ft.    | GARAGE: 497 sq.ft.    | TOTAL: 1,999 sq.ft.     | PLAN 4 : 10 UNITS     |
| GARAGE: 454 sq.ft.    |                         |                         | GARAGE: 269 sq.ft.      | GARAGE: 456 sq.ft.    |                       |                       | GARAGE: 489 sq.ft.      | PLAN 5 : 10 UNITS     |
|                       |                         |                         |                         |                       |                       |                       |                         | PLAN 6 : 10 UNITS     |
|                       |                         |                         |                         |                       |                       |                       |                         | PLAN 7 : 10 UNITS     |

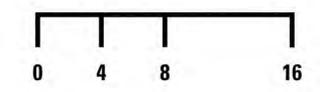
## Lark District & Transition District Area D Alt. Floor Plans Condominium Cluster - 1st Floor see Landscape Plans for more information

NORTH FORTY | LOS GATOS, CA

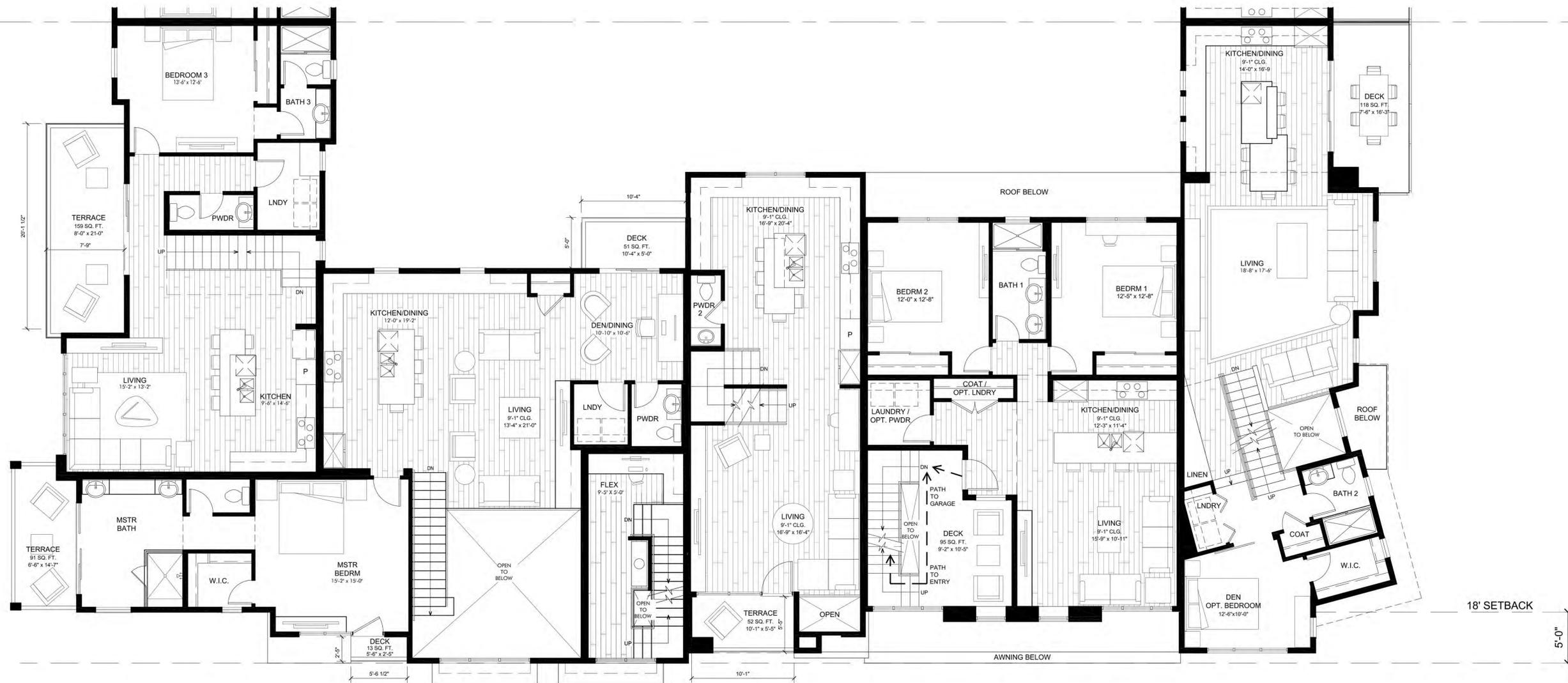


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Scale: 3/16" = 1'-0"  
**5.CC.2**



PLAN 5

PLAN 2

PLAN 3

PLAN 6

PLAN 1

PLAN 7

Lark District & Transition District Area D

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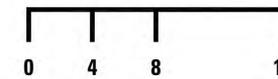
LOS GATOS, CA

Alt. Floor Plans Condominium Cluster - 2nd Floor



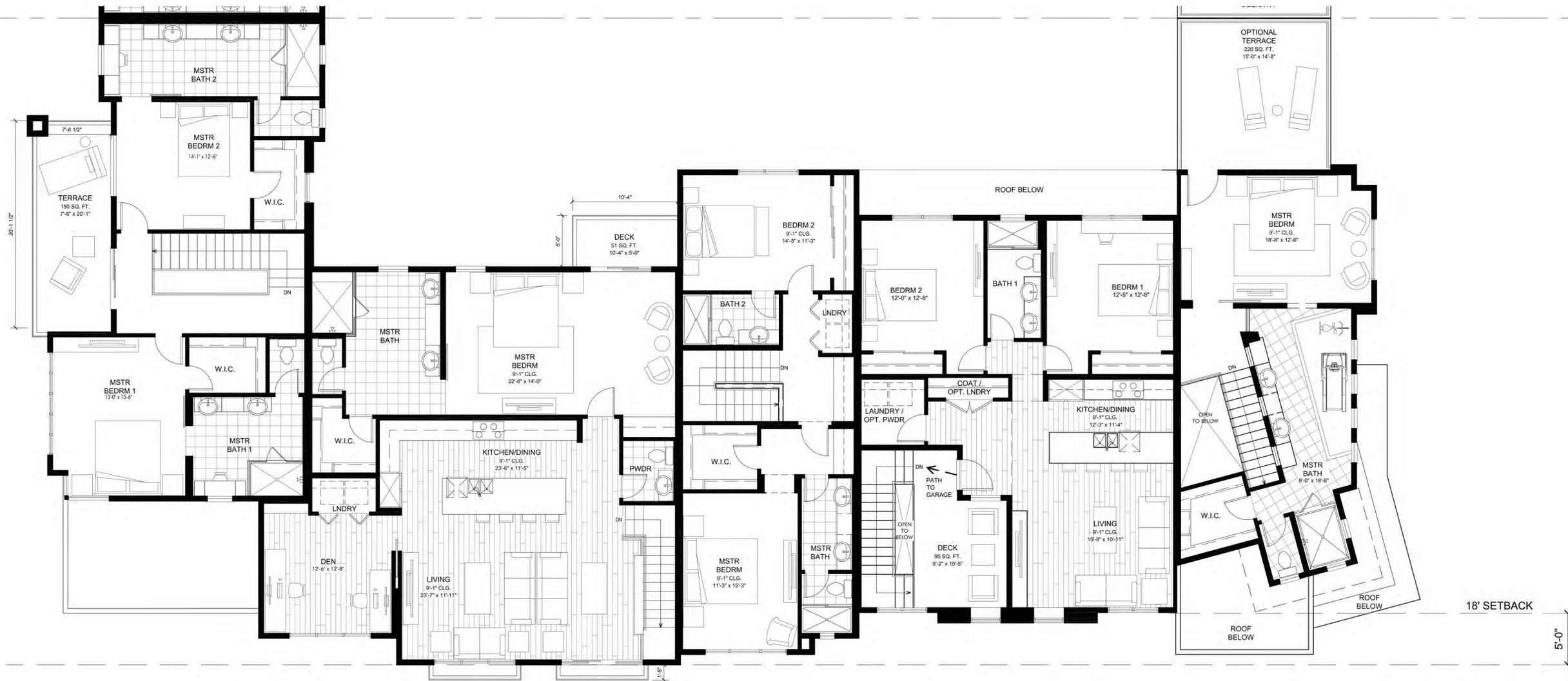
192-072

08.25.16



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PLAN 5

PLAN 3

PLAN 6

PLAN 1

PLAN 7

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LOS GATOS, CA

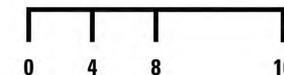
Lark District & Transition District Area D

Alt. Floor Plans Condominium Cluster - 3rd Floor



192-072

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Scale: 3/16" = 1'-0"

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# Exhibit F



DESIGN AS SUBMITTED



POTENTIAL REVISIONS

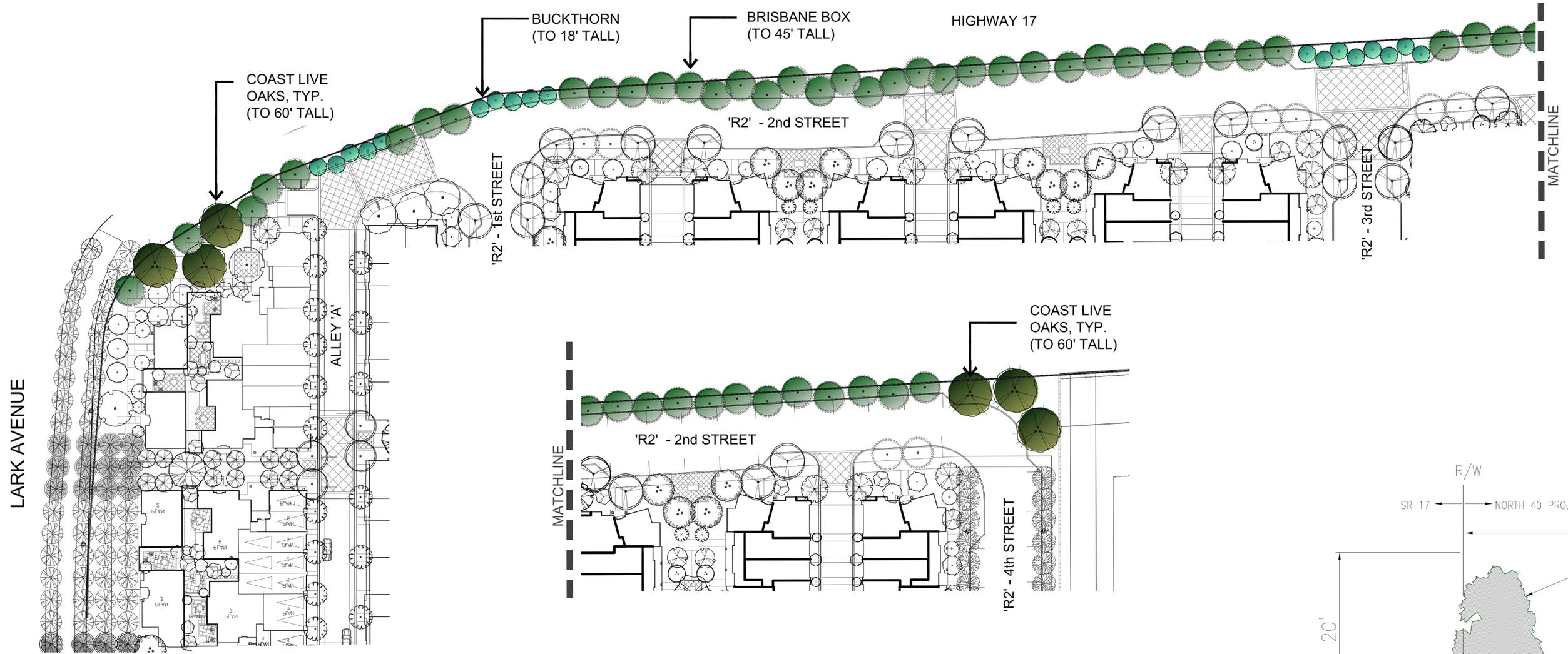


DESIGN AS SUBMITTED



POTENTIAL REVISIONS

# Exhibit G



**PLAN VIEW**

 **BRISBANE BOX (LOPHOSTEMON CONFERTUS)**  
EVERGREEN TREE, 40' TO 45' TALL x 22' WIDE



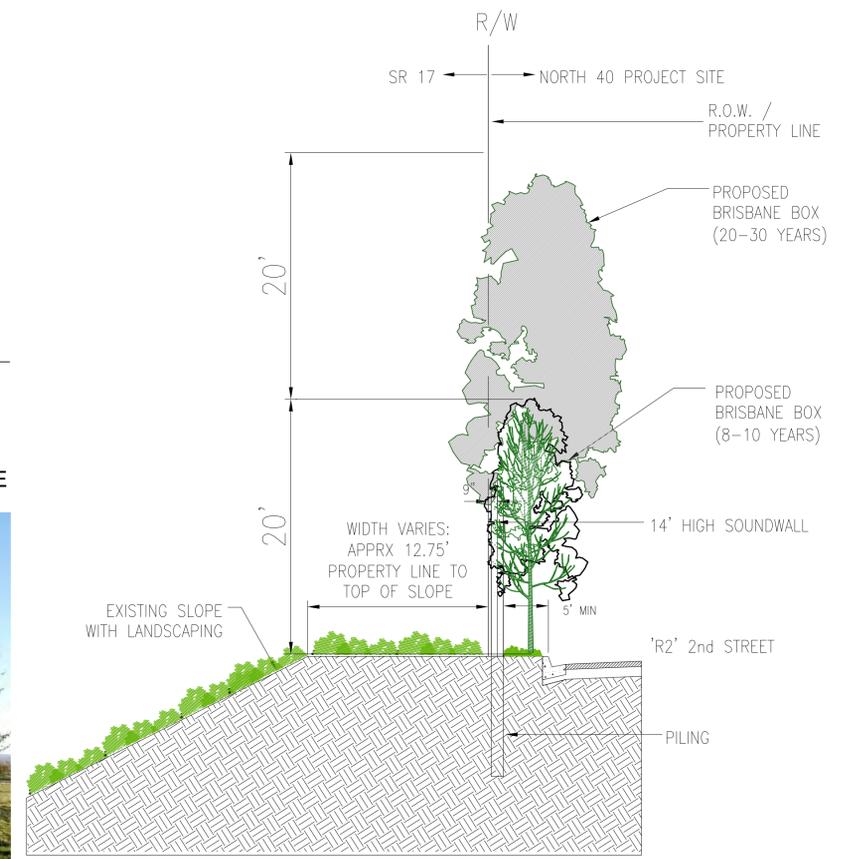
 **BUCKTHORN (RHAMNUS ALATERNUS)**  
EVERGREEN TREE, 15'-18" TALL x 10" WIDE



 **COAST LIVE OAK (QUERCUS AGRIFOLIA)**  
EVERGREEN TREE, 20'- 60' TALL x 20' - 45' WIDE



**EVERGREEN TREES AT SOUNDWALL/HIGHWAY**



**SECTION AT SOUNDWALL**