

RESOLUTION 2017-___

**RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS
RESCINDING RESOLUTION 2016-046 DENYING A REQUEST FOR THE
CONSTRUCTION OF A NEW MULTI-USE, MULTI-STORY DEVELOPMENT
CONSISTING OF 320 RESIDENTIAL UNITS, WHICH INCLUDES 50 AFFORDABLE
SENIOR UNITS; APPROXIMATELY 66,800 SQUARE FEET OF COMMERCIAL
FLOOR AREA, WHICH INCLUDES A MARKET HALL; ON-SITE AND OFF-SITE
IMPROVEMENTS; AND A VESTING TENTATIVE MAP ON PROPERTY ZONED
NORTH 40 SPECIFIC PLAN**

**APNS: 424-07-024 THROUGH 027, 031 THROUGH 037, 070,
083 THROUGH 086, 090, AND 100.
SUBDIVISION APPLICATION: M-13-014
ARCHITECTURE AND SITE APPLICATION: S-13-090**

**PROPERTY LOCATION: SOUTHERLY PORTION OF THE NORTH 40 SPECIFIC
PLAN AREA, LARK AVENUE TO SOUTH OF NODDIN AVENUE
PROPERTY OWNERS: YUKI FARMS, ETPH LP, GROSVENOR USA LIMITED,
SUMMERHILL N40 LLC, ELIZABETH K. DODSON, AND WILLIAM HIRSCHMAN
APPLICANTS: GROSVENOR USA LIMITED, SUMMERHILL HOMES,
AND EDEN HOUSING**

WHEREAS, the Town Council held a duly noticed public hearing on August 9, 2016 and continued the applications to a special August 11, 2016 meeting; and

WHEREAS, the Town Council continued consideration of the applications on August 11, 2016 and continued the applications to the August 16, 2016 meeting; and

WHEREAS, the Town Council continued consideration of the applications on August 16, 2016 and continued the applications to a special September 1, 2016 meeting; and

WHEREAS, the Town Council continued consideration of the applications on September 1, 2016 and voted to deny the proposed applications and continued the matter to the September 6, 2016 meeting for consideration of adoption of a final Resolution on its action; and

WHEREAS, on September 6, 2016, Council adopted Resolution 2016-046, attached hereto as Exhibit A, denying Vesting Tentative Map application M-13-014 and Architecture and Site application S-13-090; and

WHEREAS, On October 6, 2016, the Applicants filed a lawsuit against the Town asserting that: (1) the Town of Los Gatos violated the Town's Housing Element; (2) the Town violated the State's Housing Accountability Act; and (3) the Town violated the State Density Bonus Law; and

WHEREAS, on June 9, 2017, the Santa Clara County Superior Court issued a Decision and Judgment that states the following:

A. A Writ of mandamus shall issue directing Respondent, Town of Los Gatos, to:

1. Set aside Town of Los Gatos Resolution 2016-046 denying the applications for Vesting Tentative Map and Architecture and Site;

2. Reconsider Petitioners' applications and the Project under the additional provisions of Government Code §65589.5, and specifically subsection (j);

3. If, in the course of reconsideration, Respondent determines to again deny the applications and Project, Respondent shall determine whether the Project complies with applicable, objective general plan and zoning standards and criteria.

a. If Respondent determines that the Project does not so comply, Respondent shall specify the applicable, objective criteria which the Project failed to comply.

b. If Respondent determines that the Project does so comply, then Respondent shall make written findings, supported by substantial evidence on the record, that (1) the project would have a specific, adverse impact upon the public health or safety unless the project is disapproved, and (2) there is no feasible method to satisfactorily mitigate or avoid that specifically identified adverse impact other than the disapproval of Petitioners' applications.

B. The Town's findings in "1. a" to "c" and "1. e" to "h" of Resolution 2016-046 are supported by substantial evidence.

C. Approval of the proposed project shall require compliance with the applicable provisions of the Map Act and Housing Affordability Act.

WHEREAS, the Town Council held a duly noticed public hearing on July 24, 2017 and continued the applications to the August 1, 2017 meeting; and

WHEREAS, the Town Council held a public hearing on August 1, 2017.

NOW, THEREFORE, BE IT RESOLVED:

In accordance with the Decision and Judgment, A. 1. above, Resolution 2016-046 denying Vesting Tentative Map application M-13-014 and Architecture and Site application S-13-090 is hereby set aside and rescinded and of no further force and effect as a consequence of the judgment of the Superior Court referred to herein above.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 1st day of August, 2017, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA