RESOLUTION 2016-046

**RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS
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, on November 14, 2013, the applicants, Grosvenor USA Limited, Summerhill Homes, and Eden Housing, submitted Architectural and Site (A&S) and Vesting Tentative Map (VTM) applications for the portion of the Specific Plan area south of Noddin Avenue.

WHEREAS, an Environmental Impact Report (EIR) was prepared for the North 40 Specific Plan and on January 20, 2015, the Town Council certified that document in compliance with the California Environmental Quality Act (CEQA).

WHEREAS, on June 17, 2015, the Town Council adopted the North 40 Specific Plan, providing detailed land use and development guidance for the area bounded by Highway 17 to the west, Los Gatos Boulevard to the east, Lark Avenue to the south and Highway 85 to the north.

WHEREAS, the proposed development identified in the A&S application included 260 residential condominiums/rowhomes, 10 rental apartments (including two live-work units), 50

affordable senior rental units, and 66,791 square feet of commercial floor area.

WHEREAS, the VTM proposed to subdivide the 20.7-acre project area into 113 lots, with up to 320 residential condominiums.

WHEREAS, on March 18, 2016, the applicants, Grosvenor USA Limited, Summerhill Homes, and Eden Housing, submitted revised Architectural and Site (A&S) and Vesting Tentative Map (VTM) applications for the portion of the Specific Plan area south of Noddin Avenue.

WHEREAS, the Planning Commission held a duly noticed public hearing on March 30, 2016, at which time the Commission considered public testimony, the staff report prepared for that meeting, and all other documentation related to the applications, and continued consideration of the applications to April 27, 2016.

WHEREAS, on April 27, 2016, the Planning Commission continued consideration of the applications to a date uncertain.

WHEREAS, on May 2, 2016, the Community Development Department Director determined that the applications were complete.

WHEREAS, the Planning Commission held a duly noticed public hearing on July 12, 2016, at which time the Commission considered public testimony, the staff report prepared for that meeting, and all other documentation related to the applications, closed the verbal public comment portion of the public hearing, and began to ask questions of the applicant team, and continued the applications to its July 13, 2016 meeting.

WHEREAS, the Planning Commission continued consideration of the applications on July 13, 2016, at which time the Commission concluded its questions of the applicant and staff and deliberated on the applications. Following its deliberations and consideration of all the documentary evidence from the applicant and all interested persons who wished to testify or

submit documents, the Planning Commission voted to recommend (4-2-1, Erekson and O'Donnell opposed, Burch recused) that the Town Council deny the proposed applications based upon the following findings:

1. The project is not consistent with the General Plan and the North 40 Specific Plan.
2. Specifically, the project does not address the unmet needs for senior housing as noted in Section 2.4 and Appendix C of the Specific Plan.
3. The project does not incorporate views adequately in the layouts as called out in Section 2.5.3 Open Space Goals and Policies, Open Space Policy O1 View Preservation and does not comply with Design Guideline 3.2.1.d. Site Planning and Design, and Section 3.2.6.e.i. Building Elements and Articulation which states "Special care shall be taken to avoid obstructing views to the surrounding hills."
4. The project's economic study as required in Section 2.4.2 was flawed because it did not consider the downtown Conditional Use Permit and parking requirements.
5. The units should be smaller, typical of the examples cited on page 6 of the Planning Commission Report for its July 12, 2016 meeting.
6. The project does not comply with Section 3.1 Architectural and Site Character Goals and Policies, Policy DG6 Architecture to "produce high quality authentic design" particularly for buildings 24 and 25.
7. The Specific Plan envisions lower intensity residential uses in the Lark District.

WHEREAS, the Town Council held a duly noticed public hearing on August 9, 2016 at which time the Council considered public testimony, the staff report prepared for that meeting, and all other documentary evidence related to the applications from the applicant and all interested persons who wished to testify or submit documents, closed the verbal public comment portion of the public hearing, and continued the applications to a special August 11, 2016

meeting.

WHEREAS, the Town Council continued consideration of the applications on August 11, 2016, at which time the Council concluded its questions of the applicant and staff, considered all other documentary evidence related to the applications from the applicant and all interested persons who wished to submit documents, and continued the applications to the August 16, 2016 meeting.

WHEREAS, the Town Council continued consideration of the applications on August 16, 2016, at which time the Council deliberated on the applications, considered all other documentary evidence related to the applications from the applicant and all interested persons who wished to submit documents, requested further information, and continued the applications to a special September 1, 2016 meeting.

WHEREAS, the Town Council continued consideration of the applications on September 1, 2016, at which time the Council continued deliberation on the applications, considered all other documentary evidence related to the applications from the applicant and all interested persons who wished to submit documents. Following its deliberations and consideration of all the documentary evidence from the applicant and all interested persons who wished to testify or submit documents, the Town Council voted (3-2, Jensen and Rennie opposed) to deny the proposed applications based upon the following motion and findings:

1. Uphold the residential components of the Planning Commission's recommendation to the Town Council to deny the application.
2. Determine that the project has significant issues with the layout of the residential units and if there was an opportunity to spread the units throughout the North 40 area, the project would have a better comprehensive site plan. For example; residential buildings 18 through 27 on Building Key Plan Sheet 1.0, surrounded by South A Street, Los Gatos

Boulevard, and Lark Avenue, are an anomaly due to the existing commercial property on Los Gatos Boulevard.

3. The project is not consistent with site access on North 40 Specific Plan page 4-2 and Commercial Design Guidelines on page 3-2 guide the site plan development.
4. The ability to spread residential units throughout the North 40 would provide a better design. 270 units were allocated in the Housing Element for all 40 acres of the North 40. 13.5 acres were not designated to the southern Lark District, Transition District, or Northern District. This provides discretion to the deciding body and is how land use decisions work in Los Gatos. When there is ambiguity, the deciding body makes the determinations based on look and feel, site layout, scale, mass, and neighborhood harmony. The Council should not be looking at this project any differently.
5. With the intention of applying the Specific Plan uniformly on all projects in the future, this application disproportionately hurts the chances of a better site design in the future.
6. The project is not consistent with the Housing Element which planned for an income distribution of 156 very low, 84 low, and 30 moderate income households for the North 40 site.
7. Reducing the size of the proposed units and locating the proposed units outside of the Los Gatos School District boundaries are strategies for reducing the cost of the proposed units thereby making the units more affordable and consistent with the Specific Plan and Housing Element.

WHEREAS, the Town Council on September 6, 2016, considered the final resolution and findings for denial Vesting Tentative Map application M-13-014 and Architecture and Site application S-13-090.

NOW, THEREFORE, BE IT RESOLVED:

1. Vesting Tentative Map application M-13-014 and Architecture and Site application S-13-090 are denied based on the following findings:

The Vesting Tentative Map and Architecture and Site application (hereinafter "proposed project") is inconsistent with numerous North 40 Specific Plan and General Plan policies. Section 66473.5 of the California Subdivision Map Act states that, "[n]o local agency shall approve a tentative map…unless [it] finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the general plan...or specific plan." The proposed Vesting Tentative Map and Architecture and Site applications are not consistent with the following General Plan and North 40 Specific Plan Policies:

a. The proposed project overly concentrates all of the residential units that can be built pursuant to the North 40 Specific Plan and the General Plan Housing Element on the southern portion of the North 40 Specific Plan area and is therefore inconsistent with Specific Plan Section 2.5; Standard 2.7.3; Policy 5.8.2; and the Residential Unit Size Mix and Table set forth on page 6-14. This negatively affects the site layout and disproportionately hurts the chances of better site design in the future.

b. The proposed project is inconsistent with North 40 Specific Plan Section 2.3.1 and its requirements for lower intensity residential uses in the Lark District.

c. The proposed project buildings 18 through 27 are inconsistent with North 40 Specific Plan policy requirement that the Lark District consist of lower intensity residential development with office, retail, personal services, and restaurants along Los Gatos Boulevard.

d. The proposed project buildings 24 and 25 are inconsistent with North 40 Specific Plan Section 4-2 as it eliminates "a fourth access point off of Los Gatos Boulevard

closer to the Lark Avenue intersection;" are inconsistent with North 40 Specific Plan page 3-1, Section 3.1 Architectural and Site Character Goals and Policies, Policy DG5 Residential Siting that requires residential development to be located to minimize traffic, noise, and air quality impacts; and are inconsistent with the Commercial Design Guidelines beginning on page 3-2 which guide site plan development.

e. The proposed project is inconsistent with North 40 Specific Plan Policy Section 2.4 and Appendix C of the Specific Plan as it does not address the unmet housing needs for seniors and "Gen Y."

f. The proposed project is inconsistent the Residential Unit Size Mix and Table set forth on page 6-14 of the Specific Plan and the Residential Unit Size Mix should have smaller units to come closer to the income distribution of affordable housing identified in the Town's certified General Plan Housing Element for 156 very low, 84 low, and 30 moderate income units.

g. The proposed project, specifically buildings 18 through 27, would result in an anomaly of residential uses within an existing commercial land use context.

h. The only promised Below Market Rate housing is the 49 units above Market Hall and the remainder would have home values estimated at $900,000 to $1,500,000 requiring a 20 percent down payment and income of approximately $130,000 to $200,000 per year.

2. In addition to the above findings, the Town Council denies the Vesting Tentative Map and Architecture and Site applications based on the entire administrative record.

3. The decision constitutes a final administrative decision pursuant to Code of Civil Procedure section 1094.6 as adopted by section 1.10.085 of the Town Code of the Town of Los

Gatos. Any application for judicial relief from this decision must be sought within the time limits and pursuant to the procedures established by Code of Civil Procedure section 1094.6, or such shorter time as required by state and federal Law.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 6th day of September, 2016, by the following vote:

COUNCIL MEMBERS:

AYES: Marcia Jensen, Steve Leonardis, Rob Rennie, Marico Sayoc, Mayor Barbara Spector

NAYS: None

ABSENT: None

ABSTAIN: None

SIGNED:

Barbara Spector

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: 9/13/16

ATTEST:

Shelley Neis

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

DATE: 9/13/16