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A P P E A R A N C E S:

Los Gatos Planning Commissioners:	Emily Thomas, Acting Chair Susan Burnett Adam Mayer Rob Stump
Community Development Director:	Joel Paulson
Town Attorney:	Gabrielle Whelan
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1 COMMISSIONER THOMAS: Okay, thank you. Okay, Ms.
2 Walters, do you have a Staff Report for us? Thank you.

3 ERIN WALTERS: Yes, good evening, Planning
4 Commissioner. Erin Walters, Senior Planner.

5 This Applicant is requesting approval to remove
6 an existing orchard and construct a multi-family
7 residential development on the subject site. The
8 applications are being processed under State Bill 330, and
9 this is a Builder's Remedy project.

10 The 6.7-acre site is included in the Housing
11 Element Sites Inventory. The project proposes 138
12 residential units distributed among 18 three-story townhome
13 style buildings. Twenty-eight of the units will be
14 designated as low-income, below market rate units
15 consistent with State laws and Town requirements. The units
16 will include two- to three-bedroom floor plans with private
17 garages, porches, and balconies.

18 The site would be served by two private driveways
19 located off of Oka Road, and would include internal private
20 roads, 20 guest parking spaces, and frontage improvements
21 along Oka Road, including a 5' right-of-way dedication.

22 In response to concerns raised by the residents
23 of the adjacent mobile home park, the Applicant has
24 proposed shifting the northern entrance of the road
25

1 approximately 15' farther away from the shared property
2 line. This modification is illustrated in Exhibit 18, and
3 then is also included as a Condition of Approval in Exhibit
4 3.

5 The project includes landscape open space
6 throughout the site, including pedestrian pathways, seating
7 areas, and a recreational space located at the rear of the
8 property. This can be seen in the conceptual landscape
9 plan, which includes replacement trees, in Exhibit 20.

10 Staff would like to note that the maximum
11 building height of the buildings will range from
12 approximately 42' to 44', so that is a different note than
13 what was in the Staff Report. They are not all at the same
14 height, they range in height, and that does exceed the 30'
15 permitted for the zone. The project does propose imported
16 fill, which ranges from 0-3' across the property, and
17 that's to accommodate elevating the site to address the
18 100-year floodplain.

19 The Applicant requests Builder's Remedy
20 exceptions to increased density, increased height, reduced
21 front and rear setbacks, reduced parking, reduced guest
22 parking, and reduced BMP size requirements, and then in
23 several other Objective Design Standards. The Applicant has
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1 provided this in their Letter of Justification, which is in
2 Attachment 6.

3 The project has been evaluated pursuant to the No
4 Net Loss Law and Staff has determined that the remaining
5 Housing Element sites maintain adequate capacity to
6 accommodate the Town's remaining RHNA allocation.

7 An Initial Study and Mitigated Negative
8 Declaration were prepared for this project, and then
9 technical studies were prepared and are included in the
10 attachments, including a transportation analysis. These
11 were reviewed by the Town or prepared by the Town's
12 consultants.

13 The environmental analysis concluded that all
14 potential impacts for the mitigated to less than
15 significant level through the implementation of the
16 Mitigated Monitoring and Reporting Program, which can be
17 found in Exhibit 15. There was a CEQA public review period
18 between March and April for this environmental document,
19 and responses to comment have been included in Exhibit 16,
20 and an errata sheet has been included in Exhibit 17. Again,
21 this did not identify any new significant impacts or
22 increase to the severity of the previously identified
23 impacts.
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1 Staff does recommend that Planning Commission
2 consider the request, and if merit is found, to forward
3 this recommendation to the Town Council to approve the
4 Architecture and Site Application and Vesting Tentative
5 Map, and adopt the Mitigated Negative Declaration as
6 described in the Staff Report.

7 The Commission has received an addendum and a
8 Desk Item that has public comments included, and in
9 addition to Planning Staff, the Town's environmental
10 consultant and the Public Works Staff are available for
11 questions.
12

13 Next, I'd like to hand it over to the Town
14 Attorney. She'll be providing information about the
15 regulatory framework for the project.

16 ATTORNEY WHELAN: Good evening, Commissioners.
17 Gabrielle Whelan, Town Attorney, and I've prepared a
18 PowerPoint to review the applicable State laws to this
19 project. There are four applicable State laws, only three
20 of which are being utilized.

21 The first is Senate Bill 330. The next is the
22 State Housing Accountability Act. The third is State
23 Density Bonus Law, which this project qualifies for but is
24 not utilizing, and the fourth is the California
25 Environmental Quality Act.

1 With regard to Senate Bill 330, it authorizes
2 applicants to submit a preliminary application, and once
3 the preliminary application has been submitted an applicant
4 vests to the development standards that were in place at
5 the time that the preliminary application was submitted to
6 the Town.

7 With Senate Bill 330 projects the Town is limited
8 to holding five public hearings on a project. Tonight will
9 be the first public hearing.

10 Because this project is a Senate Bill 330
11 project, it has vested to the development standards that
12 were in place when it's preliminary application was
13 submitted, and as I mentioned earlier, the project
14 Applicant is using the Builder's Remedy and not State
15 Density Bonus Law.

16 The Builder's Remedy is a colloquialism for a
17 provision of the Housing Accountability Act. The Housing
18 Accountability Act is codified in the State Government Code
19 and it precludes local agencies from denying, reducing the
20 density of, or imposing conditions that render a housing
21 project infeasible if that housing project contains units
22 that are affordable to low- or moderate-income households.
23 There are several questions that the Town asks in order to
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1 determine whether a project is eligible for the benefits of
2 the Housing Accountability Act.

3 The first question is: is it an eligible housing
4 development project? The Act defines eligible housing
5 development projects to include projects that are 100%
6 residential. This project is 100% residential, so it's an
7 eligible housing development project.

8 The next question is: is it a project that is
9 providing housing affordable to lower or moderate-income
10 households? The Act provides that a project that provides
11 at least 20% of its total units to be affordable to lower
12 income households qualifies as a project that is affordable
13 to low-income households.

14 The Act does authorize the Town to apply its
15 Objective Development Standards that will not render the
16 project infeasible, and so an important question to ask is
17 what is an Objective Development Standard? Pursuant to the
18 Act, it's any standard that's consistent with the Town
19 meeting its Regional Housing Needs Allocation, also known
20 as RHNA, and it's a standard that's applied to facilitate
21 development at the permitted density and as proposed by the
22 development.

23 In order to be objective, it has to involve no
24 personal or subjective judgment by a public official, and
25

1 it has to be uniformly verifiable by reference to an
2 external benchmark.

3 The Act does contain a section that discusses
4 what constitutes disapproval of the eligible housing
5 development project, and the definition includes a vote to
6 disapprove, but it also includes a public agency's failure
7 to comply with statutory deadlines in order to make a
8 decision. It also includes imposing a Condition of Approval
9 that would render an eligible project infeasible.
10

11 With regard to infeasibility, the Town bears the
12 burden to establish that the Condition of Approval will not
13 render the project infeasible, and when the Town makes this
14 determination the Town needs to use the Preponderance of
15 the Evidence Standard, meaning that the Town weighs all of
16 the evidence and concludes that all of the evidence on the
17 side of not rendering a project infeasible outweighs the
18 other evidence.

19 The Housing Accountability Act also includes a
20 list of permissible findings for denial of the project,
21 including imposition of a condition that would render a
22 project infeasible.

23 The first grounds would be that the Town has an
24 adopted Housing Element and has met its Regional Housing
25

1 Needs Allocation in all income categories that are proposed
2 in the project.

3 The second is that the project would have a
4 specific adverse impact on public health or safety that
5 cannot be mitigated.

6 The third grounds would be that denial is
7 required in order to comply with a specific State or
8 Federal law.

9 The fourth is that the project is located on
10 agricultural land and does not have adequate water or
11 wastewater.

12 The fifth grounds would be that the housing
13 development is inconsistent with the Town's Zoning
14 Ordinance and General Plan land use designation. However,
15 this grounds is only available if the Town or any public
16 agency has a Housing Element that had been certified by the
17 State Department of Housing and Community Development at
18 the time that the SB 330 preliminary application was
19 submitted.

20 Then the sixth grounds would be for a project
21 that does not quality as a Builder's Remedy project. This
22 particular project does qualify as a Builder's Remedy
23 project.
24
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1 Then, finally, with regard to CEQA, CEQA requires
2 that public agencies analyze the environmental impacts of
3 proposed projects. For this project, the Town's CEQA
4 consultant conducted an Initial Study. Based on that
5 Initial Study, the Town determined that a Mitigated
6 Negative Declaration was appropriate. A Mitigated Negative
7 Declaration is used when a project does have potentially
8 significant environmental impacts, but those impacts can be
9 mitigated to a level of less than significance.
10

11 I'm here if you have questions now or throughout
12 the hearing.

13 Before I end, I wanted to note for the record
14 that Commissioner Barnett is recused specifically because
15 his residence is located in proximity to tonight's project,
16 and that concludes my presentation.

17 CHAIR THOMAS: Thank you. Are there any questions
18 of Staff at this time? Commissioner Burnett.

19 COMMISSIONER BURNETT: Thank you. Yes, I had a
20 question about the below market rate homes of the
21 affordable housing. Could you relate that to the AMI,
22 because I think that question always comes up on that?
23

24 ERIN WALTERS: Yes, I'll defer that to Director
25 Paulson.

1 DIRECTOR PAULSON: Thank you. Yes, there are
2 different levels. This one is going to be all of the units
3 will be low-income, which is 80% AMI or below, so that's
4 how that's defined based on State law.

5 COMMISSIONER BURNETT: Okay, thank you.

6 CHAIR THOMAS: I have a follow-up to that one. Is
7 it at the time when the application goes in? Like that
8 version of the AMI, or years later when the project is
9 going through?

10 DIRECTOR PAULSON: We probably haven't tackled
11 that hurdle yet.

12 CHAIR THOMAS: Just curious.

13 DIRECTOR PAULSON: We would be in close
14 consultation with the Town Attorney. Because it is a Senate
15 Bill 330 preliminary application, then we'll have to weigh
16 some of those issues, because obviously the AMI does
17 change.

18 CHAIR THOMAS: Okay, thank you. Yes, follow-up.

19 COMMISSIONER BURNETT: Follow-up question. So,
20 how does the Town keep track of these deed restricted below
21 market rate units?

22 DIRECTOR PAULSON: Keep track in what way?

23 COMMISSIONER BURNETT: Inventory-wise. When
24 they're resold or... Just get an idea of how they're handled
25

1 in the future. Say it's sold, and does the deed reflect
2 what it was purchased for originally? I think questions
3 like that are asked.

4 DIRECTOR PAULSON: Ultimately, there will be an
5 Affordable Housing Agreement. There will be deed
6 restriction placed on the individual properties. Those will
7 have first right of refusal. We have an outside program
8 administrator who when someone intends to sell any of the
9 for-sale BMPs they contact the Town and/or the
10 administrator, and there is a process that that goes
11 through.
12

13 COMMISSIONER BURNETT: Okay, thank you.

14 CHAIR THOMAS: Commissioner Stump.

15 COMMISSIONER STUMP: Ms. Walters, just a quick
16 clarification. I think you said up front that the project
17 had a parcel size of 6.7 acres, and the report says 6.41,
18 so I just wanted to ask if that was an error, or which one
19 is correct.

20 ERIN WALTERS: Hold on, let me double check one
21 item.

22 COMMISSIONER STUMP: Thank you.

23 CHAIR THOMAS: Sorry, can you repeat that
24 question?
25

1 COMMISSIONER STUMP: The question was in the
2 Staff Report. Ms. Walters, if I heard it correctly,
3 reported the parcel size as 6.7 acres. The Staff Report
4 states it's 6.41 acres.

5 CHAIR THOMAS: Okay.

6 ERIN WALTERS: I'm ready to answer. I checked,
7 and it was an error in the Staff Report. So, it is 6.71
8 acres.

9 CHAIR THOMAS: Are there any additional questions
10 for Staff at this time?

11 We will now open the public portion of this
12 public hearing on Item 2 and ask the Applicant team to
13 please come forward. Are you Lisa Ring?

14 LISA RING: Yes.

15 CHAIR THOMAS: Okay, perfect. You will have five
16 minutes to speak, and then we'll take other public
17 comments. If anyone is here in the audience and wishes to
18 speak on this item, please fill out a yellow card and you
19 can give it to Staff now, and then you'll speak, and you'll
20 have another three minutes. And if you're on Zoom, now is
21 the time to raise your hand. Thank you.

22 LISA RING: Great, thank you. Good evening,
23 Commissioners. My name is Lisa Ring, and I'm a planning
24 consultant here speaking on behalf of Urban Catalyst, the
25

1 project sponsor. We're excited to be here tonight to speak
2 on the project and look forward to your review this
3 evening.

4 Our team would like to thank the Town Staff for
5 their time and efforts on review of the project,
6 specifically Erin Walters and the Public Works Staff for
7 their assistance in refining the project to address
8 community concerns as well as giving us direction on Town
9 expectations.

10 Although we are using Builder's Remedy for this
11 project, we worked diligently to meet or exceed most of the
12 Town's design standards, including the Town Objective
13 Development Standard. Our plan was to create a project that
14 provides much needed housing, but that also fits into the
15 character of the neighborhood and is appropriate for the
16 site.

17 We have worked collaboratively with the Town
18 Staff, Valley Water District, and other agencies and have
19 also made a maximum effort to work within the existing
20 process. We have also met with many of the neighbors
21 surrounding the property, and we have attempted to be good
22 neighbors. We have made concessions and changes to our
23 plan, as outlined earlier by Staff, based upon the feedback
24 of our neighbors.
25

1 The Urban Catalyst team is here tonight, which
2 includes the Applicant, architect, landscape architect,
3 civil engineer, and land use counsel, as well as a
4 hydrologist and traffic engineer who worked on the project
5 should you have any specific questions regarding these
6 topics. Thank you so much.

7 CHAIR THOMAS: Thank you. Before you go, are
8 there any questions for the Applicant team at this time?
9 We'll have another opportunity at the end, unless there is
10 something that would be helpful to be clarified now for the
11 public. Commissioner Burnett.

12 COMMISSIONER BURNETT: I did want to ask—you
13 mentioned working with the Town Architect—I noticed that
14 all of his suggestions, none of them were really accepted
15 for followed through. Is that what you said, that they did?

16 LISA RING: We worked with the Town Staff on
17 meeting the Objective Development Standards, even though it
18 is a Builder's Remedy project, and there were many that the
19 project is consistent with, and so even though that may not
20 have been a requirement, we aimed to work to make the
21 project as consistent with current Town standards.

22 COMMISSIONER BURNETT: Okay, but some of the
23 suggestions by the Town Architect, you didn't feel
24 you...because none of those were really accepted, like the
25

1 vinyl windows and a few others that sort of stood out that
2 would be an important change.

3 LISA RING: We could speak further to that. We
4 have the architect here, so there would be decisions made
5 on that. I'm happy to get into the details for the
6 reasoning for that, and we could ask our architect to
7 elaborate on that further.

8 COMMISSIONER BURNETT: Okay, thank you.

9 CHAIR THOMAS: Do you want to do that now? Is it
10 okay if the architect or someone on the Applicant team
11 would be able to respond to the communications on the
12 Residential Design Guidelines, which again, I understand
13 that you're not obliged to follow, but just some of the
14 justification or response to that, I think, is what
15 Commissioner Burnett is looking for.

16 RITU RAJ SHARMA: Ritu Raj with the Dahlin Group.
17 We did look at both the objective standards and the
18 subjective standards. The comments we received from, I
19 think, the Town Architect and Cannon Design was subjective.
20 I mean, it is a little bit difficult to (inaudible) because
21 it is subjective, right?

22 I mean, you step down at the corners. How much do
23 you step down? I was trying to find a fine balance between
24 making the project viable and also trying to work with
25

1 still trying to keep the character. It's (inaudible) you
2 understand that the three-story (inaudible) for what you
3 can do.

4 COMMISSIONER BURNETT: And I understand you are
5 under no obligation, because this is Builder's Remedy you
6 do not have to take any suggestions from our Town
7 Architect. I'm just saying some of our projects in town
8 have, and they've made the projects a little bit more
9 similar to Los Gatos in general character, so your answers
10 from the Town Architect, none of them really were responded
11 to in a positive way. They were noted, but that's about it.
12 Some of the questions that I would have would be like the
13 vinyl windows, or the air conditioner on the front steps,
14 so just small things. I was just wondering why there wasn't
15 a little bit more...

17 Because you get so many concessions, and
18 Builder's Remedy you can do anything, and so when you ask
19 for just a few little changes here and there, like the step
20 back on the third story, although you say that would reduce
21 the number of units you'd have, I was just wondering why
22 there wouldn't be a little bit more back and forth with our
23 Town Architect.

24 RITU RAJ SHARMA: The ground floor air
25 conditioning I can (inaudible) I'd have to put it on the

1 roof, (inaudible) it's a flat roof and we are trying to
2 keep the... There is (inaudible) access requirements as you
3 know for fire if you go over 20'. If you have a flat roof,
4 it will create a much higher building than even what it is
5 now, so the idea was trying to find a balance between where
6 you keep it. And it's also a row of townhomes, so I do have
7 to provide AC units in a certain location.

8
9 I think the other question was about... The step-
10 back was, I think, we are trying to find a balance between
11 you've got the ground floor...we're trying to find a balance
12 between trying to get enough bedrooms, because (inaudible)
13 not just like it's not the bedroom, it's actually the room
14 that really matters. We are starting to see two-story
15 townhomes being less prevalent and I think people
16 preferring a three-bedroom townhome, because they like that
17 extra room, so we're just trying to find a fine balance
18 between (inaudible) and reducing it on the upper level. If
19 you look at a townhome, that's where your bedrooms are
20 (inaudible) considerably reduce all your bedrooms and it
21 would make it unmarketable, to be honest.

22 COMMISSIONER BURNETT: Okay, thank you for that.
23 I have a question about the vinyl windows. Would there be
24 any...
25

1 RITU RAJ SHARMA: That I'll have to look into.
2 CEQA took a long time, so it's really been (inaudible)
3 since we've looked at the project (inaudible).

4 COMMISSIONER BURNETT: Okay, and maybe that air
5 conditioner on the front porch. I don't know if I'd want
6 that if wanted to do a unit. Anyway, thank you for that and
7 I appreciate it, and I think the plan in general is a nice
8 plan. Thank you.

9
10 CHAIR THOMAS: Commissioner Stump.

11 COMMISSIONER STUMP: Just one question. I think
12 it fits here because we're about to hear potentially some
13 comments from neighbors, and my question would be your
14 neighborhood outreach. Could you please summarize your
15 neighborhood outreach? Did it go beyond neighbors that are
16 on the property line, and if so, who was contacted on Oka
17 Road?

18 ERIK HAYDEN: I'm Erik Hayden, I'm the project
19 Applicant; I'm with Urban Catalyst. We received lots of
20 different letters from neighbors. We primarily met with
21 neighbors that own the mobile home park next door, we met
22 with the JCC, we met with the Swim and Raquet Club, and we
23 met with the property owner that owns the property across
24 the street, who is also the property owner that owns the
25 site. So, we did meet with all of our adjacent neighbors.

1 We did not have a lot of outreach with other
2 neighbors farther down the street, but overall, we did make
3 some pretty decent concessions trying to be good neighbors,
4 especially with the mobile home folks, and we plan to make
5 all of the outreach that the JCC folks have requested in
6 their long letter.

7 COMMISSIONER STUMP: Thank you for that.

8 CHAIR THOMAS: Commissioner Mayer.

9 COMMISSIONER MAYER: Going back to the consulting
10 architect comments, if the architect wants to come back. I
11 understand some of the suggestions would maybe lose some
12 units or even potentially make the project infeasible, but
13 I think there are some comments that are little tweaks that
14 perhaps could be implemented that wouldn't kill the
15 project.
16

17 One, Area G, Residential Building Design 3, the
18 consulting architect said, "There are a number of locations
19 on the façade where material and color changes are made in
20 the same plane, which would not be consistent with
21 community expectations as reflected in the Town's
22 Residential Design Guidelines." Can you speak to if there
23 are any areas of the façade where the material changes in
24 the same plane?
25

1 RITU RAJ SHARMA: I don't think so. I think it
2 would be always on the internal (inaudible) there would at
3 least be a little bit of changes (inaudible) plane. So,
4 generally we put the (inaudible) under that. You don't slap
5 one color next to the other color (inaudible).

6 COMMISSIONER MAYER: Right. Maybe we can talk
7 about this later, but I looked at some of the elevations
8 where you have windows, especially on the top floor there's
9 like a band that unites the window, but it looks like it's
10 in the same plane as the cladding.

11 RITU RAJ SHARMA: Yes, within the window frame I
12 think it would be the same plane, but the change in
13 materials, because it kind of blocks out the whole window
14 (inaudible).

15 COMMISSIONER MAYER: Yes. I'm looking at your
16 Sheet A-22, A-23. Let's just look at A-22, for instance.

17 ERIN WALTERS: Director Paulson, are you able to
18 pull the up?

19 COMMISSIONER MAYER: I can tell you which number
20 page of the package it is. It's page 374 of the package.

21 DIRECTOR PAULSON: That wouldn't help me, but
22 I'll see if I can pull it up another way.

23 COMMISSIONER MAYER: There you go. The top
24 elevation there, what I'm referring to is if you look on
25

1 the top floor you have two windows, and then you have a
2 grey band in between. Is that grey square in the same plane
3 as the brown cladding around it, or is that a different
4 plane?

5 RITU RAJ SHARMA: That would be the same plane
6 (inaudible) have a different wall face, that would kind of
7 change (inaudible) because that's kind of an accent. That
8 is on (inaudible) it's like an access panel.

9
10 COMMISSIONER MAYER: Yes. My suggestion or
11 critique would be I just feel like... I know you're following
12 the objective standard of having two different materials
13 with the stucco and then the siding, but to me the facades
14 are reading as a little bit busy. That's just my read of
15 it. So, if you could find any way to simplify that, and
16 perhaps even consider what the consulting architect said
17 about not having at least... It might be the same material,
18 but even like color changes within the same plane, I think
19 that might make the buildings read a little bit less
20 visually chaotic.

21 CHAIR THOMAS: I just have a follow-up question
22 to that, because it does seem that the grey below on the
23 second that goes down to the first floor also, that looks
24 like it's the same material, which it's labeled as the
25 cement panel siding with the smooth finish, but then it is

1 labeled on the actual diagram as D, which is the stucco,
2 but it's not the correct color, so is the labeling the
3 discrepancy, or the visual is what it's supposed to look
4 like? I guess that's what I'm asking, right? Correct, so I
5 think it's just mislabeled.

6 Any other questions? No. Thank you very much. We
7 will now open the public portion of the public hearing on
8 Item 2, and I have one speaker card. If anyone else wants
9 to speak on this item, now is the time to submit your
10 speaker cards to Staff. The first I have is Alex Haimes
11 (phonetic), and you will have three minutes to speak. Thank
12 you.
13

14 ALEX HAIMES: Good evening. My name is Alex
15 Haimes; I'm a resident of Los Gatos. I live less than three
16 quarters of a mile from the proposed development. I'm here
17 to share my enthusiastic support for this project.

18 There are many reasons which make this an ideal
19 location for more homes, including its proximity to a major
20 job center and important community resources such as two
21 religious institutions, a community center, an exercise
22 club, and the Los Gatos Creek Trail.

23 If these homes are built, imagine a family
24 walking together to worship and exercise, or a teenager
25 biking down the Creek Trail to get to school. Moreover,

1 these homes would give more families access to the
2 excellent schools in our town.

3 We've seen the serious impacts school closures
4 can have on a community, and building more homes, and
5 increasing the number of students attending our
6 neighborhood schools is one of the most important ways we
7 can help mitigate that.

8 If you don't believe that our schools have an
9 enrollment problem, just look at how the number of enrolled
10 students has changed in the last decade. In 2015-2016,
11 Blossom Hill Elementary School, where students on Oka Road
12 would go, had 668 students. This year it has 547, a decline
13 of nearly 20% in ten years. Meanwhile, Los Gatos High
14 School has dropped 14%.

15 I'm a teacher, and I've seen enrollment
16 projections from the County, and they're not encouraging.
17 We're already seen school closures in Cambrian, San Jose
18 Unified, Alam Rock, and a few years ago, Cupertino and
19 Evergreen. If we want our community schools to remain open,
20 we need more families who can afford to live here and
21 attend these schools. The decisions of this Commission do
22 not happen in a vacuum.

23 Regarding concerns about parking, which I saw
24 brought up a lot in public comment online, people who
25

1 choose to live here will understand the number of spaces
2 available to their home before moving in. In fact, these
3 homes have more parking than needed for families like mine.
4 My partner and I have one car; that is a choice that we
5 make.

6 I hope the Planning Commission sees the value in
7 approving projects like this one, not only to help Los
8 Gatos meet its housing goals, but because communities like
9 these give families like mine the opportunity to plant
10 roots here at home. Thank you.

11
12 CHAIR THOMAS: Thank you. Are there any questions
13 for the speaker? Thank you. The next speaker card I have is
14 for Gus Who.

15 GUS WHO: Hi. I guess that guy's a plant, because
16 I've seen him around.

17 A lot of these high rises, we already have
18 traffic problems. I'm not for it or against it, but as a
19 builder and as somebody that grew up in the area—my dad was
20 a civil engineer who worked for Caltrans and did bridges
21 and roads—I know that an acre was designed for five houses,
22 and this town that had small roads already wasn't even
23 considered; it was supposed to be a town, it wasn't
24 supposed to be a city, and so you have to take that into
25 consideration.

1 Another thing is the ten-day rule. I don't think
2 this is the... The public at large is not informed that
3 you're throwing up another... Anything over 50 units should
4 be out in the paper. It's unfair to the Town.

5 Again, as a builder, I like the projects. I don't
6 know, 138... I think is it Nob Hill that doesn't have
7 parking? I don't know how much parking spaces here, but all
8 the high rises don't have enough parking. You've got to
9 make sure there's enough parking, and that the community a
10 little bit farther away, if they're going shopping and
11 stuff like that, people are already complaining. You guys
12 are already in trouble; the Town is already in trouble.

14 It's traffic, traffic, traffic. You hear it all
15 the time, and you have to take that into consideration. You
16 don't, "Oh, we're going to keep in building. I like this,"
17 you know?

18 I know there would be more people here if you put
19 a ten-day rule. Again, I don't mind the three stories, it's
20 more like the high rises, but anything over 50 units,
21 please tell the public. Thanks.

22 CHAIR THOMAS: Thank you. Are there any questions
23 for the speaker? The last speaker card I have for Lee
24 Fagot.
25

1 LEE FAGOT: Good evening, and I appreciate the
2 work you're doing, Staff, the Commission, and the
3 developer, in working in the community to try to come up
4 with some good solutions on the challenge of this site.

5 Why that site was chosen, I'm just not quite
6 sure, because Oka Road is a one-way in and out, which
7 precludes a lot of emergency issues that have to be
8 remedied before any development goes further. There are
9 already a number of business units, religious units, and
10 residential units on Oka Road, including north of Highway
11 85, all in the area up there, and they all have to enter
12 and exit on Oka Road onto Lark Avenue, which itself is
13 another very busy street.
14

15 The concern that I have is that safety issue.
16 Yes, they're on a water plain, watershed. They are on a
17 faultline, and so I think being limited to only three
18 stories high is moving in the right direction, but you're
19 still building on very unstable soil.

20 The concern back to the issue of going in and out
21 on Oka Road, Santa Clara County Fire, who provides a
22 service to our town, has indicated that they are not going
23 to go onto a road if people are evacuating the road. They
24 don't want their equipment to block the people exiting, and
25 if there is some emergency, fire, earthquake, whatever,

1 those people are trying to exit, and so Santa Clara County
2 Fire is not going to try to go in. Their equipment is too
3 big, too wide, too heavy to go off of Oka Road to try to
4 get around. I understand the developer proposed a 15-foot
5 modification to part of Oka Road, but is that to make it
6 wider? That would help solve the problem. Or is it just
7 moving it over a bit, 15'? I didn't understand; I couldn't
8 figure out what was meant by that.

9
10 It's really nice to have a new development. This
11 was not in an area that was part of the Housing Element,
12 and the reason is those safety issues. Even though
13 Builder's Remedy is in place, I understand that, but let's
14 use common sense, logic, and a sense of community to try to
15 preserve the safety for our residents and the new residents
16 to come, and somehow have the developer make a new exit in
17 the development. Along the Creek Trail there could be some
18 building there, a street, a pathway, or not a pathway; it
19 has to be for motorized vehicles along there. Thank you.

20 CHAIR THOMAS: Thank you. Are there any questions
21 for the speaker? I don't have any more speaker cards from
22 the audience. Are there any hands raised on Zoom?

23 DIRECTOR PAULSON: There are no hands raised on
24 Zoom.
25

1 CHAIR THOMAS: I now invite the Applicant team to
2 come back up, and you have an additional three minutes to
3 make a closing statement, and then I'm sure that we will
4 have more questions for you also. Thank you.

5 LISA RING: Thank you, Commissioners. The only
6 thing that I would like to add is regarding the one way in,
7 one way out. That was evaluated by Staff and looked at in
8 the traffic study, as well as by Santa Clara County Fire,
9 and they determined that the development was appropriate
10 for the site and the roadway use, and so there is quite a
11 bit of information in the record about that evaluation.
12 Thank you.

13
14 CHAIR THOMAS: Commissioner Mayer.

15 COMMISSIONER MAYER: Let's just stay on the topic
16 of fire safety that was brought up by the last public
17 comment and that you just spoke to.

18 With Santa Clara County Fire, you just indicated
19 that the project met their requirements. Can you speak to
20 what other fire safety measures the project has taken
21 beside complying with road widths? Like, obviously, the
22 buildings are probably sprinklered. Is there extra water
23 capacity at the site in the case of a fire? Are there any
24 other fire safety measures that you can speak to?
25

1 LISA RING: I can also defer to the architect on
2 this, but I believe that it meets all of the required
3 codes. I don't know that there is anything additionally
4 that was needed, but it is in meeting with the siting
5 requirements, sprinklers, and the California Building Code.

6 COMMISSIONER MAYER: Yes, I mean there is the
7 code compliance, and then oftentimes the Santa Clara County
8 Fire Department will have additional comments about that.
9 Maybe Staff or someone else can speak to that later, but I
10 was just curious how those conversations went.

11 LISA RING: My understanding is that they felt
12 that it met the necessary requirements to provide safety at
13 this site.

14 COMMISSIONER MAYER: Thanks.

15 CHAIR THOMAS: Are there questions? Commissioner
16 Stump.

17 COMMISSIONER STUMP: I'm going to have some
18 questions on setback building height, and also guest
19 parking, so let me just queue that up for you if you need
20 to bring somebody else up. In fact, I'll go ahead and start
21 the question.

22 If one setback is 8'-6", obviously versus the
23 required minimum of 25' would also put front porches on the
24 street. Obviously, your project is requesting exceptions
25

1 for both front and rear setbacks where they are, again, 8'-
2 6" in the front yard and 15'-2" in the back. During your
3 design process, knowing that you would probably be
4 requesting these exceptions under Builder's Remedy, did you
5 consider any design where the front setback would be
6 increased and maybe decrease the rear setback to provide
7 greater front setback versus greater rear setback?

8 RITU RAJ SHARMA: Yes and no, because if you look
9 at the site plan, the rear of the building actually is an
10 alley, so you'd take a rear setback from the building
11 itself as to the center line of the alley, and on the top
12 (inaudible) you have the units fronting onto the creek
13 side, so it's, again, a front setback from a building
14 standpoint (inaudible) so it's like we had two fronts. If
15 it was just a single building, then you would say the Oka
16 side would be the front and the back would be the... But you
17 kind of are looking at multiple buildings just trying to
18 find a fine balance between (inaudible), because the rear
19 of every building is the alley, that's kind of regulated as
20 to where the cars are, and we were determined to put the
21 garages in the back and not have the garages front onto the
22 streets to at least create a visually...

23
24 And the way the townhomes live is they live on
25 the upper floors as you have seen, so having it as a

1 slightly urban feel of like trying to have the sidewalk,
2 the planting, and then kind of a porch, and then you live
3 on the upper floor, that does create a public space, semi-
4 private space above the public space, and then the
5 transition into a private space.

6 COMMISSIONER STUMP: Follow-up on the setback
7 question. Have you developed other projects of this size
8 and scale with a front setback comparable to the proposed
9 front setback in this project?

10 RITU RAJ SHARMA: Yes, sometimes it's even closer
11 (inaudible) in an urban setting, it just depends on how you
12 transition the space, and like I said, the ground floor,
13 it's not a living.. If there is a ground floor living space
14 where you directly look into it, that's a little bit of a
15 privacy issue. You live on the second floor and the
16 bedrooms are on the top floor, so the ground floor space is
17 most likely a secondary room or an office, so it does
18 create a nice kind of transition.

19 CHAIR THOMAS: Could we just get the visual of
20 like maybe page 355? I think it would just help.

21 DIRECTOR PAULSON: I don't have numbers. What's
22 the sheet number?

23 CHAIR THOMAS: The sheet is A-3, because I think
24 that it would just like help with the...

1 COMMISSIONER STUMP: I guess while he's getting
2 that, I think I can ask the follow-up. It sounds like
3 you've identified sometimes there are issues and concerns
4 with a front setback that is that small. Have you run into
5 any other issues or concerns on an 8'-6" setback in other
6 projects?

7 RITU RAJ SHARMA: Not that I'm aware of.

8 CHAIR THOMAS: Okay, so this is the... Commissioner
9 Stump, I'm sorry, I know that you're referring to the front
10 setback, but technically the front setback is where the
11 streets are internally. Yes, because it's where the
12 driveways are. It's like where the driveway..
13

14 COMMISSIONER STUMP: The driveways are in the
15 back.

16 CHAIR THOMAS: Oh, they're all in the back?

17 COMMISSIONER STUMP: Yes, they're all in the
18 back.

19 CHAIR THOMAS: It's like an alley, but
20 technically it's considered a street, because it has to be
21 large enough for emergency vehicles.

22 COMMISSIONER STUMP: Sure, as I understand it is
23 26' feet wide, those driveways.

24 CHAIR THOMAS: Yes.
25

1 COMMISSIONER STUMP: Is that correct? The
2 individual streets, or are they narrower than that?

3 RITU RAJ SHARMA: I think they're 20' wide
4 (inaudible).

5 COMMISSIONER STUMP: Twenty feet, the ones on
6 each side are 26' on the larger streets.

7 CHAIR THOMAS: The ones on the outside are the
8 larger, and then the inner...

9 COMMISSIONER STUMP: I was just concerned, again,
10 an 8'-6" front setback is kind of almost stepping out into
11 the street from a homeowner perspective.

12 CHAIR THOMAS: But that's like the back side of
13 the house.

14 ERIN WALTERS: Could Staff provide a
15 clarification?

16 CHAIR THOMAS: Yes.

17 ERIN WALTERS: The front setback we're talking
18 about is along Oka Road, so there are the units that are
19 facing Oka Road; the minimum dimension along there is 8'-
20 6".

21 CHAIR THOMAS: Okay, I see. I was not sure if you
22 were referring to all on the internal parts of those roads...

23 COMMISSIONER STUMP: No.

24
25

1 CHAIR THOMAS: ...because his answer is about... I
2 mean, you were responding with regard to the back side of
3 it, so we're...

4 RITU RAJ SHARMA: The front of it.

5 CHAIR THOMAS: You're specifically just talking
6 about what it's like along Oka Road.

7 COMMISSIONER STUMP: Correct.

8 CHAIR THOMAS: Okay. If you need to follow-up to
9 clarify something, yes.

10 COMMISSIONER STUMP: I'd like to just get a
11 question in on building height. Obviously, we got a
12 clarification in the Staff Report that building height is
13 going to vary from somewhere between 42'...

14 RITU RAJ SHARMA: I do want to clarify on that
15 one. The Town measures building height as from existing
16 grade, so that is not exactly how tall the building would
17 be. You would view the building from the proposed grade,
18 and I think there is (inaudible) fill on the site.

19 So, the way the Town measures height, or defines
20 height, is from existing grade, and there is actually quite
21 a lot of fill on the site, so when we say 42' to 44' as the
22 range, that's actually from the existing grade. When the
23 building is actually built you'd be experiencing the
24 building from the proposed, not what the site was before as
25

1 in construction, so I think there might be places where
2 it's around 2' of fill or something like that, depending on
3 the grading, so the building would be more closer to 29' to
4 40' as you'd experience it, not 42' to 44'.

5 COMMISSIONER STUMP: You've kind of anticipated
6 one of my questions, because I was going to ask you how
7 many feet or inches have been added to the building height
8 to address the modeled 100-year floodplain?

9 RITU RAJ SHARMA: Three-and-a-half.

10 COMMISSIONER STUMP: Three-and-a-half feet?

11 RITU RAJ SHARMA: Yes.

12 COMMISSIONER STUMP: Is that consistently across
13 the property, or does that vary?

14 ERIK HAYDEN: It varies. It's 3.5' towards the
15 back right portion (inaudible) this. It tapers down about
16 halfway through to no fill. It kind of varies throughout
17 the site.

18 COMMISSIONER STUMP: I'm sorry, from what to
19 3.5'?

20 ERIK HAYDEN: Zero. Half the site is about zero,
21 and then it kind of gradually goes up to 3.5' as the
22 maximum.

23 CHAIR THOMAS: Just to follow-up with that, the
24 Oka Road elevation is not like that...that grading area is
25

1 not changing, so when we say 40', it ranges from 40'... But
2 you said it ranges from 42' to 44', but I thought the
3 maximum was 40'.

4 ERIN WALTERS: The maximum for an R-1:8 zone is
5 30', so they're proposing over that.

6 CHAIR THOMAS: I'm sorry, I thought I saw in the
7 plans that the building heights were 40'. Maybe it's 42'
8 and I just missaw that. Okay, thank you for clarifying
9 that. Are there any other questions about grading? Now
10 would be time to ask anything about grading, the building
11 heights, or the front setback along Oka Road.

12 COMMISSIONER BURNETT: Can I ask a question about
13 the recreational space in the back? Could you give an idea
14 of what we're talking about visually when we talk about the
15 space that's going to be in the far right? What size is
16 that, about?

17 ERIK HAYDEN: It's about .44 acres. The majority
18 of the site is taken up by a retention pond for C.3 runoff.
19 There is a pathway around that and some landscaping.

20 COMMISSIONER BURNETT: Four acres?

21 ERIK HAYDEN: Point 44.

22 COMMISSIONER BURNETT: Oh, .44. I was so excited.
23 Okay, .44 acres. Okay, thank you.
24
25

1 CHAIR THOMAS: Did you want to go to your next
2 question?

3 COMMISSIONER STUMP: Again, I want to say thank
4 you for your parking for the homes, basically have the
5 equivalent, even though we don't recognize tandem parking,
6 you're providing two spaces per home; that's very, very
7 helpful. What's a bit concerning, of course, is the guest
8 parking where we would require 138 spaces and 20 spaces
9 will be provided, and it's always a concern in these
10 neighborhoods, where do all those cars go? Could you go
11 over what road improvements are going to take place right
12 in front of your development, either one side of the road
13 or both sides of the road?

15 ERIK HAYDEN: Sure. Along the street frontage on
16 Oka Road, we're doing a 5' dedication of right-of-way. We
17 will be rebuilding curb, gutter, and sidewalk, as well as
18 14 new street trees. There will a new bike lane striped,
19 and there will be parking spaces all along Oka Road where
20 currently there is no parking.

21 COMMISSIONER STUMP: Probably not your
22 responsibility, but...

23 ERIK HAYDEN: I think we also are going to be
24 repaving the other side of the road.
25

1 COMMISSIONER STUMP: So, it would be paved, but
2 no curb and gutter?

3 ERIK HAYDEN: That's correct.

4 COMMISSIONER STUMP: Do you know what the street
5 width is at that point and what the effective street width
6 will be?

7 ERIK HAYDEN: I don't know the exact number. The
8 sidewalk is going to match pretty much exactly what is in
9 front of the JCC. If you take the full finished road in
10 front of the JCC from the JCC to the apartments, it's about
11 44' from curb to curb.

12 COMMISSIONER STUMP: What amount of parking would
13 actually be available, understanding that it's a free for
14 all? Anybody in the public can park in front of those
15 units. Any idea of how many parking spaces would be out in
16 front of your development, and would parking be allowed on
17 the other side of the street?

18 ERIK HAYDEN: As far as the other side of the
19 street, that's per the Town. Our side, I don't know the
20 exact number of spaces. Staff, do you remember?

21 ERIN WALTERS: Yes, there are approximately 45
22 parking spaces that could be parked in front along Oka
23 Road.
24

25 COMMISSIONER STUMP: Thank you.

1 CHAIR THOMAS: Just right in front of the
2 property? That doesn't include like all the way up to Lark
3 Avenue from in front of the JCC or the other side, correct?

4 ERIN WALTERS: I can confirm that with Public
5 Works once (inaudible).

6 CHAIR THOMAS: They're shaking their head no.

7 MIKE VROMAN: Mike Vroman, Traffic Engineer.
8 Parks and Public Works said yes, it does include just in
9 front of the property. It's a little over 1,000' and we
10 deducted from the driveways, but approximately 45 parking
11 spaces will be available.
12

13 COMMISSIONER STUMP: I guess since we have you
14 here, then maybe I can ask Public Works the question will
15 parking be permissible on the other side of the street,
16 even though there is no curb and there is no gutter?

17 MIKE VROMAN: Actually, parking is permissible on
18 the other side of the street at this time. It's banned from
19 3am to 5am. We haven't had complaints or concerns about
20 where people park, but it is pretty tight. I was a little
21 surprised when I went out there to do an investigation and
22 found that, but currently you can. On the project side
23 there are No Parking signs along that, and there will be
24 parking, as was noted.
25

COMMISSIONER STUMP: Thank you very much.

1 MIKE VROMAN: You're welcome.

2 CHAIR THOMAS: Just as a follow-up question to
3 that, when we're talking about road improvements, if the
4 road is going to be paved and a bike lane is going to be
5 striped on your side of the road, if Parks and Public Works
6 feels it could be helpful, would you be willing to add bike
7 lane striping on the opposite side, since the residents
8 will be going down that direction also to get into their
9 units?
10

11 ERIK HAYDEN: You know, for us striping isn't
12 really that expensive, but we're also not required with
13 Builder's Remedy to even do the striping for the bike lane
14 on our side of the road. We offered that as a concession,
15 because we thought it was the right thing to do, kind of
16 figure eventually the other side of the road will be
17 developed and they can do what they need on that side.

18 CHAIR THOMAS: I know. I mean, I understand. This
19 is not my first rodeo with these types of projects, but the
20 stuff that is not that expensive, typically we have made
21 asks, and sometimes people have been like, "Yeah, sure,
22 that's something that's easy that we can do," but if you
23 aren't willing to do it, then that's totally fine. But I am
24 aware that you're not required to do any of it.
25 Commissioner Mayer, is this more about roads?

1 COMMISSIONER MAYER: Yes, on the same general
2 topics of parking and bicycles. One Objective Design
3 Standard that wasn't complied with was A-2.1, which is
4 providing short-term bicycle parking, and I understand that
5 the residents will be able to keep their bikes in their
6 garages, which is totally fine, but given the proximity to
7 the Creek Trail here, and I just thought of it when the
8 public commenter was talking about the families and future
9 residents of this development.
10

11 I could see a world where they get visitors
12 coming to visit them on the Creek Trail, so even though I
13 think maybe providing one short-term bike parking per every
14 unit is excessive, given the site constraints, has there
15 been any consideration of providing any at all, even just a
16 few, maybe?

17 ERIK HAYDEN: The Town of Los Gatos has
18 interesting design standards when it comes to this density
19 of a project, that it's almost like you have design
20 standards for single-family and you have design standards
21 for apartments, and so because we're a higher density we're
22 really fitting into that apartment design standard, and a
23 lot of the design standards that are called out, like
24 provide a bike room with lots of bike parking, it's really
25 more for an apartment type of development. Having people

1 hang their bicycles in their garages is very appropriate
2 for this type of development, so we did not consider
3 creating a separate area for bike parking.

4 CHAIR THOMAS: I think that the question was
5 really about if people had guests. So, you wouldn't think
6 that with this type of development anyone would possibly
7 have a guest that could come on a bike, that they're not
8 going to have guest bike hanging racks in their garages?
9 So, there are no plans for having like one bike rack
10 anywhere on the site?

11
12 ERIK HAYDEN: That's correct.

13 CHAIR THOMAS: Okay.

14 COMMISSIONER MAYER: A follow-up. Director
15 Paulson, can you bring the site plan back up, please? I
16 just want to get clarity here. Where is the access point to
17 the Creek Trail from your property?

18 ERIK HAYDEN: The closest access to the Creek
19 Trail is going out to Lark Avenue, turning right and going
20 to the bridge, and right at the bridge.

21 COMMISSIONER MAYER: So, striping the new bike
22 lane will help get access from the trail entry point there.
23 Okay, understood. Thanks.

24 CHAIR THOMAS: I have a question about access to
25 the Creek Trail, and I think first that it would be helpful

1 if Staff just clarify for Fremont Court, who owns and is
2 responsible for maintaining that "road" behind the
3 property.

4 ERIN WALTERS: I would defer to Public Works.

5 JAMES WATSON: James Watson, Senior Engineer,
6 Parking and Public Works. Are you asking about the trail
7 that's along the creek on the property side of the creek?
8 That's just an access trail.

9 CHAIR THOMAS: It's labeled online as "Fremont
10 Court," on maps and everything, but I understand that it's
11 not publicly accessible and I believe Valley Water... I don't
12 know, there are different owners of it and how it's
13 maintained, and so I was just curious about who is
14 responsible for what portion of it.

15 JAMES WATSON: That quasi-road is actually owned
16 by the Town of Los Gatos.

17 CHAIR THOMAS: The part that is behind the
18 property?

19 JAMES WATSON: Yes, I'm sure there is some
20 variation in ownership, but I know the Town of Los Gatos
21 owns the parcel that is directly adjacent to this project
22 site, that's just to the west of the project.

23 ERIN WALTERS: If Staff could add, there is an
24 easement that Valley Water has through all the lands behind
25

1 that property and beyond, and so that's maintenance for
2 them and access for them only.

3 CHAIR THOMAS: I guess, one, did you guys think
4 at all about trying to work with the Town and/or Valley
5 Water with adjusting the easement so that your potential
6 property and residence could get access to the Creek Trail
7 from the back side of the property?

8 JAMES WATSON: The Creek Trail along the creek
9 here is on the other side of the creek.

10 CHAIR THOMAS: I understand. I get it, but it
11 connects at the end of that Fremont Road.

12 JAMES WATSON: We did not make outreach, mainly
13 because we were under the impression that Valley Water
14 doesn't want anyone to have access to it. It is completely
15 fenced and gated on both sides.

16 CHAIR THOMAS: So, now that you know that the
17 Town of Los Gatos owns that, and although there is an
18 easement and Valley Water does have access through that, I
19 don't know what modifications could possibly be made, but
20 is there potential in the future from the perspective of
21 Staff that anything could be adjusted so that there could
22 be a pedestrian and bike connection through that back side,
23 or in conjunction with maybe even the JCC or something just
24 to provide access in that way, because of the concerns
25

1 about being able to get offsite quickly for evacuations,
2 etc.?

3 NICOLLE BURNHAM: Nicolle Burnham, Director of
4 Parks and Public Works. That was not considered as part of
5 the project. There is nothing in any Town Master Plan or
6 the General Plan that I'm aware of that proposes trail
7 connection here, and when we evaluate projects that's
8 generally what we refer back to, so it wasn't discussed or
9 considered.

10
11 CHAIR THOMAS: Does that mean that it could not
12 be considered in the future? I think that obviously when we
13 wrote... Well, the most recent part of the General Plan was
14 repealed anyway with part of, well, I guess, some of the
15 land use and everything, but I understand that it's not
16 currently in the Master Plan because this was not a site
17 that had 138 multi-gen units in it, but now that it is, is
18 that something in the future that the Town could possibly
19 be interested in doing, or not?

20 NICOLLE BURNHAM: I think if we were, we would
21 evaluate that idea against all of the other myriad ideas
22 that may come around during the development of a Parks and
23 Trails Master Plan for the Town, which we currently don't
24 have, but is on our list of things to do.
25

1 CHAIR THOMAS: You have a long list of many
2 things to do. I was just wondering, because I do think that
3 it would be a huge advantage to have access for residents
4 to be able to not have to go all the way out to Lark Avenue
5 and then turn right, get on the bridge, go off the bridge,
6 and be able to connect directly, especially because you can
7 get towards downtown Los Gatos and to Campbell really
8 easily along that trail, and so I think that it would be a
9 large advantage for residents that lived in this area.
10

11 Obviously, it's not something that is really
12 being considered at the time, but I do know that there been
13 other projects and things where we've seen that applicants
14 have planned for maybe a future connection or been willing
15 to support or pay for some improvements to the area so that
16 they could have those connections and things, even if it's
17 not, again, a requirement or in a current plan at the
18 moment, so is that something that you guys would be
19 interested in maybe considering with the design along that
20 back part of your property so that there is a connection
21 there?
22

23 ERIK HAYDEN: I can give you the short answer and
24 say we don't plan on considering it at this time, but I can
25 also say that this is a levy, it's 4'-6' above grade of
where the project site is. It is a dead end; it dead ends

1 into the neighborhood that is on the other side of the
2 Highway 85 freeway. It has a gate in that neighborhood.
3 There's a gate right at the property line.

4 CHAIR THOMAS: Sorry, I understand where... I
5 understand all of it.

6 ERIK HAYDEN: And then there's a gate at the end
7 as well.

8 CHAIR THOMAS: Yes, I know, but it also is the
9 connection to the trail is right there, so you're not...
10

11 ERIK HAYDEN: I think you'd also have some issues
12 with Los Gatos Police Department as far as access to that
13 trail and where people would go. You'd probably find that
14 people going down the Los Gatos Creek Trail would get
15 distracted and go the wrong way to a dead end and have to
16 backtrack. There are a lot of reasons why it probably
17 hasn't been considered.

18 CHAIR THOMAS: Okay. Commissioner Mayer.

19 COMMISSIONER MAYER: On that point--this is not so
20 much for the Applicant, but for the Town--I feel like it is
21 kind of a missed opportunity to not think more
22 holistically, especially when you have projects of this
23 magnitude coming to town, like once in a generation
24 projects that are going to change certain areas of the Town
25 for a long time.

1 On the one hand, I'm really glad we're getting
2 these housing units, especially the affordable housing. I
3 think we need more housing in Los Gatos, but just to think
4 of this as a self-contained island and not think more
5 holistically about the Town, I think, is a missed
6 opportunity.

7 CHAIR THOMAS: Any other questions about the road
8 situations or concerning anything like that? No.
9 Commissioner Burnett.

10 COMMISSIONER BURNETT: Yes, thank you. Just to
11 address your CC&Rs, which go with the property and of
12 course are in our Conditions of Approval. Could you just go
13 over what that covers? Does that cover all the maintenance
14 of the property in general, or trees, to just sort of get
15 an idea.

16 ERIK HAYDEN: In the Conditions of Approval, it
17 says we have to write CC&Rs to get Building Permits, so we
18 have not written the CC&Rs yet. The CC&Rs will be pretty
19 standard, and they will cover all of the usual things like
20 property maintenance and HOA issues and things like that.

21 COMMISSIONER BURNETT: The HOA issues as well?

22 ERIK HAYDEN: Yes.

23 COMMISSIONER BURNETT: And just thinking, I know
24 there are 997 trips related to this property in and out
25

1 during the day, and I didn't go over the peak hours, but
2 because you have two roads it would probably be divided up.
3 I know the mobile area on that side is especially impacted,
4 and it's nice that you made a change in the degree, you
5 changed the alignment there by 15', which was helpful.

6 I'm just saying that we also should think about
7 that there are two roads, and so probably the property, the
8 people who live there, will be divided up. One side will be
9 going out one side, and one out the other; it won't be
10 concentrated on the one north driveway, which is the hidden
11 lane. I just wanted to bring that up that there would be
12 two exits and entrances. Thank you. No, my question was
13 about the CC&Rs, what they were covering. Thank you.

14 CHAIR THOMAS: Okay, thank you. I think you had
15 another question about something. No? You Commissioner
16 Mayer, did you want to ask specifically about the change,
17 if they were willing to accept your recommendation on the
18 color that you were talking about with the architect
19 earlier?
20

21 COMMISSIONER MAYER: Yes. Is the Applicant
22 willing to accept the consulting architect's recommendation
23 to not have change of material in the same plane?
24

25 ERIK HAYDEN: Not at this time, no. Thank you.

1 COMMISSIONER MAYER: Is there a reason for that?
2 That particular standard wouldn't impact the form or the
3 floorplan at all.

4 ERIK HAYDEN: You know, I answered the question.
5 We don't plan on making changes at this time.

6 COMMISSIONER MAYER: It's just a color change;
7 it's not a material change.

8 ERIK HAYDEN: And if you want me to answer and
9 say there are a million things that we do when we design
10 these projects, and the Town has continued to ask us to
11 change, and change, and change, and change. If you keep
12 changing things, you end up with architecture that doesn't
13 look very good, as with several past Los Gatos projects
14 that the neighbors comment on quite a bit. We are very
15 happy with our design and how it has been designed. We've
16 received a lot of positive comments from the neighbors and
17 the community on it, and we like how it is and we want to
18 keep it how it is.

19 COMMISSIONER MAYER: Okay.

20 CHAIR THOMAS: Did you have a follow-up to that?
21 I do have a couple of questions about the landscaping, so
22 is your landscape architect here to answer any questions?

23 ERIK HAYDEN: Our landscape architect is on Zoom.
24 His name is Brian.

1 CHAIR THOMAS: Okay, perfect.

2 DIRECTOR PAULSON: Well, I see a Shawn with his
3 hand raised.

4 ERIK HAYDEN: Oh, it's Shawn.

5 CHAIR THOMAS: Hi, Shawn. Thank you for being
6 here to answer questions. I did want to say that when I
7 looked at your planting list and notes and the legend I was
8 happy to see a lot of native species on there, but I did
9 want to ask why basically almost every tree species is
10 native, except for the Maidenhair tree or the Ginkgos, and
11 that's the tree that you'll be planting the most.
12

13 Then a lot of the other landscaping like shrubs
14 and grasses are also almost all natives, and so I just was
15 wondering if you could explain why you chose the one non-
16 native tree to plant the most, even though most of the
17 landscaping is native species?

18 SHAWN TAYLOR: Good evening, can you guys hear me
19 okay?

20 CHAIR THOMAS: Yes, we can.

21 SHAWN TAYLOR: It's a pleasure to be here from
22 HMH, so good evening, Commissioners and guests. Happy to
23 answer any questions about the landscape.
24

25 Your particular question, what we try to do is a
balance between adaptive plants and our native species. In

1 a density like this, I think we wanted to look for a
2 balance for plant success and diversity. We like the Ginkgo
3 because of its color, it complements the palette, and it's
4 going to do very well in this little bit tighter urban type
5 setting, so it's diversified like that. Then we're
6 sprinkling in all of the other native species on our plant
7 palette, our shrubs, our ground cover, and our trees
8 dispersed through the site for that native habitat and
9 benefit, so in the event something native doesn't do so
10 great, we still have a proven winner of our adaptive trees,
11 such as the Ginkgo, that we've observed doing very well on
12 similar projects with this density.
13

14 CHAIR THOMAS: I understand that there's not
15 really a great native alternative to the Ginkgo with regard
16 to color. Well, with regard to the color, plus the size of
17 them, the Ginkgo does provide good color, like I said, but
18 it does drop... You know, it is deciduous, so was that
19 intentional to pick something that is deciduous that
20 requires cleanup and more landscaping fees and HOA fees
21 and/or provides less canopy coverage and privacy overall?
22

23 SHAWN TAYLOR: No, I think it was mostly leaf
24 color. The size of the tree works well in the paseo. It
25 does drop leaves, but not for very long; it's dormancy
period is very short. We know there will be an active HOA

1 maintaining this project, and then we're going to not spec
2 the female that drops all the fruits and makes sticky
3 walkways and all of that, so we still think it's a really
4 good paseo tree, down the garden paseos, just works well
5 with the design and the architecture.

6 ERIK HAYDEN: One other note, the Ginkgo tree was
7 changed after our original plan, mainly in response to
8 comments from both the mobile home park and the JCC, based
9 on the size of root balls along the property line off of
10 Hayden Lane where the mobile home is. Their sewer line runs
11 2' off of our property line, and having a tree species with
12 large root balls could interfere with their sewer lines, so
13 we changed out those trees intentionally to be Ginkgos,
14 because of the size of their root balls, because they're on
15 the Los Gatos list of approved trees, and because they
16 match the rest of the site, as the landscape architect has
17 mentioned.
18

19 CHAIR THOMAS: Do you know what they were before,
20 what the proposed trees were before?

21 ERIK HAYDEN: I can't remember what the proposed
22 trees were. Redwoods.

23 CHAIR THOMAS: Oh, Redwoods are not... Yes, that
24 was a definite good change from there. Did you consider
25 something like a Laurel instead, because it is green all

1 year round? It's not quite the same color green as the
2 Ginkgo, but it still provides a little bit more of a
3 contrast than some of our other natives, and it's not
4 deciduous, so it would provide more shade and privacy on
5 the JCC side and the other side?

6 ERIK HAYDEN: We considered Ginkgo, and that's
7 what we went with.

8 CHAIR THOMAS: I was asking the architect.

9 SHAWN TAYLOR: We did. We thought of several
10 different trees and settled on the Ginkgo just for
11 architectural shape, the size, and we liked the leaf color.

12 CHAIR THOMAS: Did you consider Laurels at all,
13 and if you did, why didn't you decide on them?

14 SHAWN TAYLOR: No particular reason. We just
15 looked at the list of approved trees and felt the Ginkgo
16 had the best fit. Nothing against the Laurel. I don't think
17 it's a wrong answer either.

18 CHAIR THOMAS: From your opinion, do you feel
19 like that would be a... I mean, there are 110 Ginkgos being
20 planted, which is a lot of the same tree. I mean, that's
21 like almost 55% of all the trees that will be planted will
22 be Ginkgos, which are not native, and also will all be the
23 same and all dropping leaves at the same time, so from your
24 professional opinion as a landscape architect, would you
25

1 consider mixing in some Laurels or swapping some of those
2 would be something that would be appropriate and meet
3 everyone's needs?

4 SHAWN TAYLOR: I think doing an alternate pattern
5 with a different species could work well.

6 CHAIR THOMAS: So, considering that, do you think
7 that... I guess I'm just asking the Applicant team in general
8 now, is that something that you would be willing to do?

9 ERIK HAYDEN: We don't plan on changing our
10 architecture or our landscape architecture. I know you guys
11 keep asking, but the answer is we don't plan on changing at
12 this time.

13 CHAIR THOMAS: Okay. Well, then, I guess I will
14 also just ask a question of the landscape architect about
15 the other plant species that are being planted. There were
16 not numbers, like in quantities, obviously, given of some
17 of the smaller shrubs, because you don't know specifically
18 how many need to go in wherever, and I think the variety is
19 going to be really nice. I mean, again, almost all of these
20 are natives except for the Catmint and the Jerusalem Sage,
21 I believe, so can you just elaborate on why those two were
22 included in the original plans?

23 SHAWN TAYLOR: Yes, absolutely. It just goes back
24 to success on similar projects. We really like this plant
25

1 palette. It will work in the different hydrozones and sun
2 exposure. I think it's kind of dangerous to use only all
3 natives everywhere, just based on time of year that plants
4 go dormant and their requirements. We also try to mix in a
5 little bit of Mediterranean adaptive species to complement
6 and work with the palette, so taking all those things into
7 consideration is why you'll see adaptive species mixed in
8 throughout the plant palette.

9
10 CHAIR THOMAS: Okay, thank you. Looking at the
11 list, there are a lot of different species on here that are
12 going to really highlight some of the most beautiful native
13 plants that we have in this area, and they do typically
14 grow well in some of the adjacent more wilder areas,
15 especially if some of the invasive species are kept out and
16 the landscaping is maintained, which it will be. I think
17 that it's a really cool opportunity, and I appreciate that
18 the list is pretty extensive to provide some variety, and
19 some of these species do well in sun and shade, so I think
20 that that's going to be really great for the future
21 residents of this property, if it goes forward.

22
23 My last question regarding the landscaping is
24 that Valley Water did provide a letter commenting on the
25 Mitigated Negative Declaration and everything, and I was
just wondering if... I understand that this property and the

1 development is farther away from the technical riparian
2 area, etc., but was there any consideration in... They did
3 recommend that on the back side of the property that the
4 riparian habitat and the riparian species be included
5 there, and so was that considered at all in the plans?

6 SHAWN TAYLOR: Yes, I think so with our planting
7 selection. It does offer the opportunity when we go in and
8 plant this shrub by shrub and ground cover by ground cover
9 that the back side of the property that is more organic in
10 nature, as we have the trail system back there around
11 biotreatment planters and all of that, that we will
12 definitely use that as an opportunity to transition from
13 the more rectilinear design into an organic design, and the
14 plant palette will reflect that, and we will focus the
15 native, beneficial planting toward that side of the site.

17 CHAIR THOMAS: Okay, thank you. Thank you for
18 answering those questions about that. I know that on the
19 other side of the creek there are some older native plants
20 that have done really well on that other side, other than
21 the Redwoods that are over there, but some of those other
22 native plants have done really well over there, so I would
23 just hope that the same is going to happen on this side
24 also, so thank you very much.
25

1 Are there any other questions for the Applicant
2 team? I'm going to officially close the public comment
3 period for this item, and I ask that if we have questions
4 for Staff, we can do that. We should not discuss until
5 there is a motion on the table, but if there are any
6 questions for Staff that are important for forming a
7 motion, now is the time to do that. Commissioner Stump.

8 COMMISSIONER STUMP: I want to just ask a
9 question about what we are being asked to approve here,
10 because obviously this must go to the Town Council for the
11 Vesting Tentative Map. Are we submitting a recommendation
12 for approval? I see a head nod, so we'll go with a
13 recommendation for approval.
14

15 CHAIR THOMAS: I did have a question about the
16 Conditions of Approval with regard to the construction,
17 during construction. I know that for all of these projects,
18 this one included, some of the neighbors have some concerns
19 about construction vehicles on Oka Road, and I know in the
20 past we have adjusted some of the Conditions of Approval to
21 make sure they meet the site-specific requirements, so can
22 we just make sure that everything is covered with regard to
23 idling and making sure that... Yes, thank you.
24

25 JAMES WATSON: James Watson, Parks and Public
Works. Our standard Conditions of Approval do include all

1 those construction-related no idling, dust control
2 measures, making sure that we're not seeing vehicles travel
3 through the graded area and creating a bunch of dust. We
4 have conditions about construction parking and where they
5 can park. We have conditions about haul routes and where
6 they can haul material on and off the site. Those are the
7 ones that come to mind right away. Is there any particular
8 one that is concerning?

9
10 CHAIR THOMAS: No, I think it was just confirming
11 about the idling and make sure that they have space onsite
12 for all the loading and offloading and everything.

13 JAMES WATSON: They did propose a construction
14 management plan which shows the construction entrance, and
15 they'll do most of their work onsite. They'll pull onto the
16 site, so I don't anticipate a lot of vehicles offsite
17 idling. We could revisit the conditions and make sure if
18 you see something missing that we can potentially amend.

19 CHAIR THOMAS: Commissioner Stump.

20 COMMISSIONER STUMP: Just a point of
21 clarification before we go into further questions related
22 to Staff. Since we're operating under Rosenberg's Rules, do
23 we need to have a motion on the table before we continue
24 questions of Staff?
25

1 ATTORNEY WHELAN: No, you do not for questions of
2 Staff, just prior to discussion amongst the Commissioners.

3 CHAIR THOMAS: I'll just confirm that the current
4 Conditions of Approval for the offroad (inaudible),
5 everything like that aligns specifically for this project
6 while Commissioner Stump is asking his other questions.
7 Thank you.

8 COMMISSIONER STUMP: Just to queue it up here,
9 I'm going to have a question on CEQA, the General Plan, and
10 traffic, and so I just wanted to let you know that in case
11 you want to have other people respond if we have CEQA
12 questions, etc. I'll begin with CEQA.

13 In the Mitigated Negative Declaration report, it
14 states that obviously the State legislature back in 2013
15 did away with Level of Service as the basis for
16 environmental analysis under CEQA. Can you briefly explain
17 how the change to Vehicle Miles Traveled has either
18 benefited or disadvantaged suburban areas? By the way, I
19 realize I may be asking for your professional opinion on
20 that versus something that is statutory, but again, my
21 question is can you explain how the change to Vehicle Miles
22 Traveled has either benefited or disadvantaged suburban
23 areas like Los Gatos?
24
25

1 ANGELA DaROSA: That's a big question. Angela
2 DaRosa with Raney Planning and Management. We're the CEQA
3 consultants for the Town; we prepared the Mitigated
4 Negative Declaration.

5 It's definitely been a change. The shift from
6 Level of Service, which is really focused on traffic
7 congestion and intersection control, to Vehicle Miles
8 Traveled means that under CEQA we're not looking at LOS and
9 traffic congestion, which a lot of the comment letters that
10 we got were related to. Under CEQA we are focused on
11 whether the project would increase Vehicle Miles Traveled
12 within an area.

13 Based on my professional opinion, it is difficult
14 for smaller, rural areas, particularly for single-family
15 residential developments, to meet State Vehicle Miles
16 Traveled standards.

17 DIRECTOR PAULSON: Through the Chair, I'll offer
18 something really quick that the traffic engineer, Mr.
19 Vroman, can correct me at any second on. Some jurisdictions
20 also when they went to VMT, it's my understanding that they
21 got rid of LOS. For us, we felt it was necessary for the
22 Town to keep both, so while it's not a CEQA issue, it still
23 is addressed through the Town's traffic impact analysis
24 process.
25

1 COMMISSIONER STUMP: As I recall in the report,
2 that was information in there on LOS.

3 DIRECTOR PAULSON: That's correct.

4 COMMISSIONER STUMP: And basically, indicated
5 that even on an LOS basis, we were not going to see
6 significant impacts.

7 DIRECTOR PAULSON: That's my recollection.

8 COMMISSIONER STUMP: I realize there was one
9 intersection in particular that was impacted.
10

11 DIRECTOR PAULSON: Yes, I think it remained in
12 the same Level of Service, I want to say B, but I will
13 defer to the traffic engineer if that is incorrect.

14 MIKE VROMAN: Mike Vroman, the Senior Traffic
15 Engineer of Parks and Public Works. But, yes, the
16 unsignalized intersection at Mill Road and Arroyo Grand Way
17 was currently Level of Service E, and with the project will
18 remain at Level of Service E, so it was no impact from the
19 project, but it is an unsignalized intersection; they have
20 a little different way of measuring the Level of Service at
21 those.

22 COMMISSIONER STUMP: Do we have the
23 representative from Hexagon with us tonight as well?

24 DIRECTOR PAULSON: I believe we do. Daniel Choi.
25 You can unmute yourself, Daniel, to answer the question.

1 COMMISSIONER STUMP: I'm going to fire away here.
2 A little bit of background. I went through and looked at
3 over 30 responses from the public, and your statement about
4 a lot of questions and concerns about traffic congestion
5 were obviously raised, because what people see is what they
6 feel, and Vehicle Miles Traveled is a very difficult thing
7 for people to understand. Out of those 30-plus public
8 comments, traffic congestion and emergency response access
9 were mentioned 14 times, so you can see a significant
10 concern. They believe it's bad now, and based on their day-
11 to-day experiences, intuition and logic would say it's
12 probably going to get worse, whether that's what the
13 studies really tell us or not.

15 As you know, these transportation studies are
16 very hard to understand. Pages and pages of appendix, and
17 certainly the summaries are greatly appreciated.

18 The question that I have, I guess probably for
19 our traffic consultant, the conclusion of your CEQA Vehicle
20 Miles Traveled analysis for this project, as shown on page
21 16 of your report, your conclusions, two of them were tied
22 to project impact and project effect. Project impact read,
23 "Since the VMT service population for the project TAZ is
24 22.6, which is less than 26.1, the project would not have a
25 significant impact." Can you perhaps, preferably not using

1 math, explain this conclusion? What does this mean in
2 simple terms?

3 DANIEL CHOI: Under a project impact that
4 evaluated against the Town's VMT project impact threshold,
5 so the Vehicle Miles Traveled per service population for
6 the project is less than the Town's impact threshold.

7 COMMISSIONER STUMP: Then I guess I would have
8 the same question for project effect, because it's
9 different math, it's a different look. It says, "Since the
10 increase in VMT is less than 6.5% of baseline conditions,
11 the project would not have a significant impact." Again,
12 could you explain that in simple terms? What does not
13 having a significant impact to project effect mean?
14

15 DANIEL CHOI: Similar to my last response, we
16 calculate the Vehicle Miles Traveled per the entire project
17 under project effect, and it would not exceed the Town's
18 VMT impact guidelines.

19 DIRECTOR PAULSON: Through the Chair, to broadly
20 overview, the Town has adopted thresholds.

21 COMMISSIONER STUMP: I understand.

22 DIRECTOR PAULSON: If you are above those, it's
23 an impact and you will have to do some mitigation. If it's
24 below that, from a CEQA perspective there is no impact,
25 which is what the traffic engineer was referring to.

1 COMMISSIONER STUMP: So, then you're saying we do
2 have to do the math.

3 DIRECTOR PAULSON: Well, you don't have to do the
4 math other than the numbers less than the threshold, so
5 it's not an impact.

6 COMMISSIONER STUMP: Okay, thanks. Then, a final
7 question about traffic. As you are well aware, Los Gatos
8 deals with beach traffic that on many Saturdays and Sundays
9 from June through September either snarls or cripples
10 traffic on Los Gatos surface streets, and obviously Lark
11 Avenue is a major feeder to this traffic situation with
12 cars getting off of Highway 17, heading east to Los Gatos
13 Boulevard, and heading west to University Avenue and
14 Winchester Boulevard. The eastbound traffic obviously all
15 passes by Oka Road.
16

17 Are these kinds of known challenges at all
18 factored into my response if you were to ask me the
19 question is probably not, but I've got to ask the question,
20 because this is a problem we live with for months out of
21 the year that impact all of those intersections along Lark
22 Avenue, both east and west.

23 DANIEL CHOI: We complete a Level of Service
24 analysis for the AM and PM weekday peak hours, which is
25 when residential, such as this project, would generate the

1 most peak hour trips. We did not take a look at weekend
2 traffic.

3 DIRECTOR PAULSON: Again, through the Chair, the
4 Town has a traffic impact policy that speaks to, I believe,
5 what is analyzed, so beach traffic or if there is an
6 accident on Highway 17, those are not included in that
7 policy, and therefore they're not included in those kinds
8 of worse case scenarios as you are referencing.

9 CHAIR THOMAS: I will ask a follow-up question
10 about some of the traffic issues not specifically related
11 to the project. I understand that a lot of the public
12 comment that has come is because there is currently
13 congestion in this area, in this intersection of Lark
14 Avenue and Oka Road.

15 What route would the residents of the Town need
16 to take to make some adjustments to traffic flow in that
17 area? As in right now there is currently parking on either
18 side. One of the huge concerns is also getting emergency
19 vehicles in and out, so from my very limited understanding
20 of urban planning, getting rid of parking to allow for some
21 better access along there would contradict what some of the
22 citizens... Some residents want more parking, but are there
23 ways that the traffic flow could be improved at that Lark
24 and Oka Road intersection during times that there is a lot
25

1 of congestion there, and if so, how do residents in town go
2 about getting some movement on something like that?

3 MIKE VROMAN: Mike Vroman, Senior Traffic
4 Engineer, Parks and Public Works. Some of the concerns were
5 congestion at Lark and Oka, however, the traffic studies
6 and the Level of Service analysis shows that the Level of
7 Service existing with the project, with the approved and
8 pending projects and cumulatively, were all Level of
9 Service B. There was a slight degradation, but it didn't go
10 down to Level of Service C.

11 The Town minimum acceptable standard is Level of
12 Service D, which B standard is about 10-20 seconds delay,
13 average controlled delay per vehicle, which it's more
14 weighted if there is queueing in the morning on Oka,
15 however, that intersection works in tandem with the
16 Caltrans intersection where you get onto southbound Highway
17 17, which is also timed with the next intersection to the
18 east, which is another Caltrans intersection.

19 We'll take a look and see if there are some
20 things that we can do, because I know one of the concerns
21 was queueing when you're exiting, when you're trying to get
22 on Lark Avenue from Oka Road, so the southbound movement on
23 Lark. Currently, there is red curb all along the Legacy
24 Church to provide a de facto right turn lane. It's where
25

1 parking is allowed along the rest of the street. In this
2 area there is no parking allowed, which creates a right
3 turn lane, and that was used in determining the Level of
4 Service was the assumption that it functions as a right
5 turn lane.

6 The other side there is some parking. We have
7 painted a little red curb. We can take a look at that, but
8 the main is the southbound thing, and there is red curb. We
9 can also take a look and see what the time is and work with
10 Caltrans to see if we can provide a little more southbound
11 green, especially in the morning when people are departing,
12 and coming back in the movements we favor Lark, both
13 eastbound and westbound, because that's the heaviest
14 traffic flow, but we can take a look at those other options
15 and see if there are some improvements that can be made.

17 CHAIR THOMAS: Thank you for answering that,
18 because it does seem like if perhaps the light for turning
19 left onto Lark is not long enough, or it's not coordinated
20 with those two next lights, like you said, with Caltrans,
21 so thank you for clarifying that, and hopefully, residents,
22 if that is a problem, you can feel free to follow-up with
23 the Town about that, not related to this project, but in
24 general. Thank you very much.
25

1 Well, does anyone else have any questions about
2 traffic congestion, how VMT and all of it is calculated?

3 I did have a question about clarifying the 6'
4 retaining wall/wall that is on the right side of the
5 property. Now that I understand more of the grading
6 situation, I'm assuming at the front it is 6', but then
7 towards the back of the property it will be 6' on the side
8 of the adjacent property, but then not 6' from the grade on
9 the... Or is it going to change in height because of how it's
10 calculated?

11
12 ERIN WALTERS: On the project side it will be 6',
13 and we could get clarification from the Applicant's team on
14 how that would read on the other side, but as far as I
15 understand, it's 6'.

16 CHAIR THOMAS: It's 6' on the property? On the
17 plans it says 6'...

18 ERIN WALTERS: Oh, sorry, as we go closer to Oka
19 Road it has to go down to 3' when it's in the vision
20 triangle.

21 ATTORNEY WHELAN: I'm sorry, could you invite the
22 Applicant up to mic to answer the question?

23 CHAIR THOMAS: Well, hold on. I don't know if we
24 actually need to open the public comment again if I can
25 just get clarification from Ms. Walters. Yes, the sight

1 triangle at the front of the property where it was the
2 angle of entrance or whatever, all of that was adjusted,
3 and then that area will be 3', because of safety issues,
4 and then it moves to 6'. I guess I was just asking if the
5 6' measurement is from the property side of the grade or
6 the... Which side is it measured from?

7 ERIN WALTERS: I'm going to have to look.

8 CHAIR THOMAS: Thank you. Are there any other
9 questions of Staff while... Commissioner Stump.

10 COMMISSIONER STUMP: I have one final question.
11 The Jewish Community Center submitted significant five
12 pages of feedback on the MND back on April 6th. Many of the
13 items in the feedback are more likely tied to Conditions of
14 Approval, which I think was actually cited in the response
15 by the consultant. Have any of their requests or concerns
16 been included in the Conditions of Approval?

17 ERIN WALTERS: I can jump in and answer that. One
18 of the conditions that have been changed is there will be a
19 noise and dust wall put onto the side where the JCC is,
20 similar to the residential side on the mobile home side,
21 through construction to address their concerns adjacent to
22 their preschool.

23 COMMISSIONER STUMP: Thank you.

1 NICOLLE BURNHAM: Ms. Walters, I have the grading
2 plan if you want me to help you.

3 ERIN WALTERS: Oh, yes, sure.

4 NICOLLE BURNHAM: Nicolle Burnham, Director of
5 Parks and Public Works. Looking at the grading plans, the
6 wall on the north property line closest to the mobile home
7 park is generally 3'-3.5' in height. I don't see any
8 locations. There is a series of measurements that give us
9 the elevation of the bottom of the wall and the top of the
10 wall, and if you're in the mobile home park you will be
11 looking at like a 3' high wall. I don't see anywhere that
12 it's 6'.
13

14 DIRECTOR PAULSON: Through the Chair, there are
15 two separate components. We know they're raising the site,
16 so there is going to be a retaining wall. I think you're
17 referencing a 6' masonry fence wall...

18 CHAIR THOMAS: Yes.

19 DIRECTOR PAULSON: ...that will be on top of that.
20 We measure height from the higher grade, so it will appear
21 higher on the mobile home park side is my understanding.

22 CHAIR THOMAS: So, it will appear higher than the
23 3'? There will be retaining wall plus the... Sorry, which
24 page were you...
25

1 JAMES WATSON: Let me jump in. James Watson,
2 Senior Engineer, Parks and Public Works. If you go to your
3 packet, page 338 of 428, you'll find some sections that
4 are... I'm sorry, a couple pages up. Sheet 334, you'll find
5 Section B, Section C, and that was on the north side, and
6 then if you go down one more page to 335. You'll see those
7 two sections, and you'll see the 3.5' retaining wall to the
8 mobile home side, and then the developer is proposing a 6'
9 masonry wall on top of that to provide a 6' wall on the
10 development side. So, if you're on the mobile home side,
11 you'll be looking at what appears to be a 9.5' wall.
12

13 CHAIR THOMAS: That's what I was trying to
14 confirm and understand. So, it will be that high, but
15 except for in the front where it impedes the sight
16 triangle.

17 Any other questions, or does someone want to
18 propose a motion? Commissioner Stump.

19 COMMISSIONER STUMP: I will move to submit a
20 request for approval to construct a multi-family
21 residential development, 138 units, Condominium Vesting
22 Tentative Map, remove large, protected trees, and site
23 improvement requiring a Grading Permit under Senate Bill
24 330 on vacant properties zoned R-1:8HEOZ and R-1:8, APNs
25 424-08-074 and -035. Initial Study and Mitigated Negative

1 Declaration have been prepared. Property owner Edward
2 Morimoto. Applicant Erik Hayden, Urban Catalyst. Project
3 planner Erin Walters.

4 I can make these findings. I can make the
5 required finding for CEQA. I can make the required finding
6 for consistency with the Town's General Plan. I cannot make
7 the required finding to deny a Subdivision Application,
8 because none of the findings could be made to deny the
9 application with granting of the exceptions to Town
10 standards requested pursuant to the Builder's Remedy
11 provision of the Housing Accountability Act. I can make the
12 finding for required compliance with zoning regulations. I
13 can make the finding for required compliance with the Town
14 of Los Gatos Objective Design Standards for qualifying
15 multi-family and mixed-use residential development. I
16 cannot make the required finding to deny a project under
17 State Builder's Remedy Law. None of the findings could be
18 made to deny the application. I can make the finding for
19 consistency with California Government Code 65863 regarding
20 State Regional Housing Needs Assessment requirements, the
21 Town's Housing Element sites inventory, and No Net Loss
22 Law. Under Consideration, I can make the required finding
23 in the required considerations in review of Architecture
24 and Site Applications.
25

1 CHAIR THOMAS: Do we have a second? Commissioner
2 Mayer.

3 COMMISSIONER MAYER: Second.

4 CHAIR THOMAS: Thank you. Any discussion?
5 Commissioner Burnett, do you have a question?

6 COMMISSIONER BURNETT: I don't have a question,
7 but I have comments. Since this is the first really big
8 project, aside from the North Forty, coming before the
9 Planning Commission under a Builder's Remedy provision, I
10 need to make the following comments in regard to the
11 project and the role of the Planning Commission.
12

13 Builder's Remedy has been around for a long time,
14 and developers love to use it when local governments do not
15 pass a timely Housing Element. We cannot fault the
16 developer. Our town missed a mandatory deadline by 461
17 days. We need affordable housing, but now with Builder's
18 Remedy, many of our Town's character defining parts can be
19 cast aside unless a developer works closely with the Town's
20 concerns.
21

22 On this point, the fallout from the Builder's
23 Remedy provisions allows noncompliance in the following
24 areas: height, Objective Design Standards, Town zoning,
25 density limits, setbacks, parking, lighting, our Town's own
below market rates, recreation space, Residential Design

1 Guidelines, landscape buffers, upper floor setbacks if
2 you're at the third story, and ground floor private space.

3 Given all this, the Planning Commission does not
4 have a lot of options, so I just want to make the comment
5 that there is something that has driven this, and now we're
6 in this situation, and I just wanted to highlight that, and
7 that's my comment.

8 CHAIR THOMAS: Does anyone else have any
9 comments? Commissioner Mayer?

10 COMMISSIONER MAYER: No comments.

11 CHAIR THOMAS: I would just like to say that I
12 will be supporting this motion, and I know that a lot of
13 work—from Staff, and not just the Planning Department,
14 which we normally deal with, but many other departments,
15 and the Applicant team—has gone into getting this
16 application to where it is today.

17 I think we do need more housing in town and we
18 are in this situation because we haven't been able to
19 address the housing needs in the Bay Area for decades now,
20 and so this is why we can't have nice things, and now we're
21 in situations where local residents are upset at how the
22 State has been changing housing policy. However, I know
23 that we need more housing and more dense development in
24
25

1 areas that do connect to hopefully more future transit and
2 some of the freeways in town.

3 I know that the Applicant team did not want to
4 make any changes, but hopefully maybe you'll consider a
5 couple of them moving forward, because I think that some of
6 the changes would actually improve the potential project in
7 a way that future residents would appreciate.

8 That being said, I would like to call the
9 question. All those in favor of the motion, please raise
10 your hand. The motion passes unanimously, and it is just a
11 recommendation, so obviously there are no appeal rights,
12 but it will be moving on to Town Council?

14 DIRECTOR PAULSON: That's correct.

15 CHAIR THOMAS: Thank you.

16 (END)