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

Los Gatos Planning Commissioners:
Melanie Hanssen, Chair
Kathryn Janoff, Vice Chair
Mary Badame
Jeffrey Barnett
Kendra Burch
Matthew Hudes
Reza Tavana

Town Manager: Laurel Prevetti

Community Development Director: Joel Paulson

Town Attorney: Robert Schultz

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P R O C E E D I N G S:

CHAIR HANSSEN: We will move on to Item 2 on the agenda, which is considering an approval of a request for modification to existing Architecture and Site Application S-13-090 to remove underground parking for construction of a commercial building otherwise known as the Market Hall in the North 40 Specific Plan Area. This is APN 424-56-017, Architecture and Site Application is S-20-012, the property owner/applicant is Summerhill N40, LLC, and for the members of the audience this item was continued from the last meeting on August 26, 2020 to allow Commissioners an opportunity for a site visit and to also allow more time for public comments.

May I have a show of hands from Commissioners that have been able to visit the site? Okay, and are there any disclosures? Commissioner Burch.

COMMISSIONER BURCH: Due to the proximity of my home to the property I do have to recuse myself from this item.

CHAIR HANSSEN: Thank you for letting us know, Commissioner Burch, and then we will see you back for Item

1 3. All right, great. Thank you. And then there were no
2 other disclosures by Commissioners. Okay.

3 I understand that Ms. Shoopman will be giving the
4 Staff Report for this item.

5 JOCELYN SHOOPMAN: Good evening. On August 26th
6 the Planning Commission continued the proposal to modify
7 the approved Architecture and Site Application to remove a
8 below-grade level of the parking garage to its September 9th
9 meeting. A Desk Item report has been provided to the
10 Commission this evening that contains additional public
11 comments that were provided after the publication of the
12 Staff Report.
13

14 This concludes Staff's presentation but we are
15 available to answer any questions.

16 CHAIR HANSSEN: This would be a good time to ask
17 questions because we did end up continuing the hearing from
18 last time, and Commissioner Hudes has his hand up.

19 COMMISSIONER HUDES: Yes, this is concerning
20 guidance that we got from the Town Attorney within the last
21 few hours. Is that guidance confidential or is that
22 information that the public can know about?
23

24 TOWN ATTORNEY SCHULTZ: The public can certainly
25 know about that and I will try to articulate that to you
and to the public.

1 As we all know this project was part of
2 litigation. The Town Council originally denied this project
3 and then litigation occurred and the court made the Town go
4 back and rescind its denial and look at the project under
5 what's known as the Housing Accountability Act, and what
6 the court said, and it applies to this modification and it
7 actually applies to any housing development or mixed-use
8 project of more than one unit, is that you have to base
9 your decision under that Housing Accountability Act and you
10 must base your decision on specific objective General Plan,
11 Specific Plan, or Zoning Code. You've got to find those
12 objective standards; that's the only way you can deny a
13 housing project under state law.
14

15 There have been many subjective reasons in the
16 correspondence that you've received, such as that if they
17 don't have the garage there will be a parking problem,
18 we'll be under-parked, it might be needed for future
19 development, or the applicant promised it therefore they
20 should have to do it. All of those are subjective reasons
21 why you would want to deny it and we just don't have the
22 discretion under state law anymore to deny a project based
23 on discretion.
24

25 The big issue is whether they meet our parking
standards. There is some correspondence that talks about

1 the math that they've used and whether they have adequately
2 described the parking standards and whether they meet our
3 parking standards. If you determine that there is
4 insufficient evidence to reach the conclusion that without
5 the underground parking structures they do not meet our
6 parking standards, then that's something that you could
7 deny this project on, but you can't deny it on all of the
8 other subjective reasons that I mentioned and plus many
9 others; that simply is not a reasonable basis to deny this
10 project.
11

12 CHAIR HANSSEN: Commissioner Hudes, and then I
13 also saw Commissioner Badame had her hand up as well.

14 COMMISSIONER HUDES: That's really helpful. We
15 get into areas where it isn't always apparent to those of
16 us who are not attorneys about whether we are looking at
17 something that is a standard or an objective standard or a
18 subjective standard. Is it okay with Staff if we ask that
19 question when we are deliberating or if there's a follow up
20 question during testimony to find out whether we are
21 dealing with an objective or not?

22 TOWN ATTORNEY SCHULTZ: Yes, if you can point to
23 sections in, like I said, our Zoning Code and Specific Plan
24 that are objective standards and you don't believe they've
25 met those objective standards with regard to the

1 underground parking, absolutely, you can ask Staff that
2 question and that's what we're looking for, your guidance.
3 Although Staff analyzes a project we don't have all the
4 answers, and if you can come up with objective standards to
5 either deny or approve this project then certainly we're
6 going to help you.

7 COMMISSIONER HUDES: Thank you.

8 CHAIR HANSSEN: Commissioner Badame.

9 COMMISSIONER BADAME: I'm concerned that I
10 literally got this information ten minutes ago.
11 Commissioner Barnett and I have been tied up in a
12 Conceptual Development Advisory Committee hearing for
13 almost a couple of hours, so just receiving this
14 information, which I think is very important in making that
15 decision. I need time to digest it and research it further.
16 Is that possible where we could maybe continue this
17 conversation or the hearing if other Commissioners agree to
18 it, or we just get a Desk Item and we just deal with it
19 with the legal advice we get?
20

21 CHAIR HANSSEN: It's certainly an option to
22 continue the... I'll look to Staff for guidance on this but
23 we've already continued this item one time, so Director
24 Paulson, do you have a comment on this?
25

1 JOEL PAULSON: As you've mentioned, we've
2 continued this already one time for some previous concerns
3 raised by Commissioners. I get a little bit worried that we
4 are just delaying. There's also the possibility you could
5 take a 15-20 minute recess. I'm not sure how much research
6 Commissioner Badame is interested in doing, but maybe she
7 just hasn't had a chance to read through the email, so
8 that's another option that we could just take a short
9 recess so that Planning Commissioner can look through that
10 item—maybe some other folks haven't had a chance to look at
11 it either—and then reconvene the meeting, unless the Town
12 Attorney has other options. Obviously, ultimately decisions
13 are the Planning Commission's but that's just my input on
14 that and if the Town Attorney has an additional input.

16 TOWN ATTORNEY SCHULTZ: I apologize in giving it
17 to the Planning Commission at the late hour. I assume that
18 the Planning Commissioners were aware of the Housing
19 Accountability Act. Like I said, it doesn't apply to this
20 project, it applies to all housing projects that you must
21 base your denial on objective standards not subjective
22 standards; that goes forward for any project.

24 But certainly what I would suggest is you open up
25 the testimony and you hear all the testimony. If there is
something that you need further clarification from Staff

1 because of the math, parking calculations that you're not
2 satisfied with the determination that was made by the
3 applicant or by Staff, that certainly would be a reason to
4 continue it. It's a single issue in my mind unless you can
5 come up with other objective standards that are a Specific
6 Plan or parking regulations. It's really dealing with
7 whether they meet our parking regulations without the
8 underground parking structure.

9
10 COMMISSIONER BADAME: Okay, thank you. I'll read
11 through the email as we further our discussion.

12 CHAIR HANSSEN: So, Commissioner Badame and the
13 rest of the Commission, I think we should go ahead with the
14 public portion of the hearing, hear from the applicant, and
15 then if it turns out that any of you feel that you need
16 more time to have all the facts we can take a recess or if
17 absolutely necessary, we'll continue it. And Commissioner
18 Hudes has his hand up.

19 COMMISSIONER HUDES: Yeah, I'm sorry, I do have
20 some questions of Staff that would be helpful to know
21 before hearing from the applicant because it's difficult to
22 be able to ask intelligent follow up questions if I'm not
23 sure about how we're evaluating this, and actually why
24 we're evaluating this as well, so I did have a few
25 contextual questions for Staff, not about the specifics of

1 the proposal but the purview of the Commission and how we
2 are to evaluate this.

3 CHAIR HANSSEN: I think that's perfectly
4 appropriate at this time and this is the best time to do
5 that before we proceed into the applicant testimony. That
6 way we can avoid duplicate questioning and so on and so
7 forth. So, go ahead, and I have some questions as well.

8 COMMISSIONER HUDES: Great. I'm just trying to
9 understand when I'm relating this back to the Specific Plan
10 and there are some things that are not clear about what
11 type of project this is. In the Specific Plan there is a
12 discussion about mixed-use projects 2.5.10, but there is
13 also a reference to a residential use for affordable
14 housing that has a different entry in one of the tables for
15 the parking requirements. So, are we to evaluate this as a
16 mixed-use?
17

18 JOEL PAULSON: Commissioner Hudes, you said
19 2.5.1?

20 COMMISSIONER HUDES: .10.

21 JOEL PAULSON: Right, so that's maximum
22 development capacity.

23 COMMISSIONER HUDES: No, I'm sorry, this is in
24 the Land Use and Development Standards, page 2-22.

25 JOEL PAULSON: So, 2.5.10?

1 COMMISSIONER HUDES: Yes.

2 JOEL PAULSON: And where do you see parking
3 requirements in there?

4 COMMISSIONER HUDES: The last paragraph on the
5 left-hand column D says, "Dedicated parking spaces shall be
6 provided for residents and shall be clearly distinguished
7 from spaces provided for commercial and/or office use." So,
8 that falls under 2.5.10. Is this considered a mixed-use
9 project?
10

11 JOEL PAULSON: Yes, this is a mixed-use project
12 and the parking for the senior affordable housing will be
13 demarcated and the Applicant can probably provide
14 additional information on that.

15 COMMISSIONER HUDES: Okay. The other question I
16 have is on page 3-21 of the Design Guidelines; there's an
17 item M. Does that not apply because that's a different type
18 of housing, or does that apply?

19 JOEL PAULSON: What page was that on?

20 COMMISSIONER HUDES: 3-21.

21 JOEL PAULSON: Okay, 21. Thank you. Twenty-
22 second. And so you're looking at 3.3.1, Site Planning and
23 Design? You said letter D?
24
25

1 COMMISSIONER HUDES: No, I'm on letter M, 3-21 of
2 the Residential Design Guidelines. Does that not apply to
3 this project?

4 JOEL PAULSON: That is more strictly for the
5 residential specific projects, so that would be most of the
6 rest of the phase one project.

7 COMMISSIONER HUDES: Okay. And on page 3-22,
8 3.3.2 D, it says, "Below grade parking is encouraged with
9 entries placed at the rear or sides of the structure
10 whenever possible." Does that not apply because of the word
11 "encourage"?

12
13 JOEL PAULSON: That is not an objective standard
14 because it says encourage.

15 COMMISSIONER HUDES: Okay. Those are all the
16 questions I have now. I have quite a few relating to the
17 math but I'll hold that until we hear.

18 CHAIR HANSEN: Okay. I do have a question for
19 Staff, and if any other Commissioners do as well I'm happy
20 to have you raise your hand.

21 So, Director Paulson, for the benefit of the
22 Commission as well as the audience, there were tables in
23 the Staff Report that talked about the parking requirements
24 and it basically says that even with removing the
25 underground parking that based on the information in this

1 Specific Plan there will be above the parking that's
2 required that was agreed to in the Specific Plan.
3 Specifically, I wanted to ask about the two different parts
4 of it. So, the origin of the decision that got into the
5 Specific Plan where the senior housing needs basically one
6 parking space per resident, a half for the resident and a
7 half for a guest, the origin of that was it's spelled out
8 in the Specific Plan or some other document?
9

10 JOEL PAULSON: Yes, that is in Table 2-4 on page
11 2-15 of the Specific Plan.

12 CHAIR HANSSEN: Okay. According to the plan that
13 was approved and that they are building to, that decision
14 was already made that that's the amount of parking that was
15 needed, and I guess when the applicant speaks too we can
16 find out, but Eden Housing is managing the project and I
17 don't know if they're going to be available tonight or not,
18 but they contributed to this thing to determine the amount
19 of parking that was needed.

20 JOEL PAULSON: As I recall, yes, they thought
21 that this would be adequate parking for this type of use.

22 CHAIR HANSSEN: Okay. And then as far as the
23 spaces for the commercial application, could you just
24 explain how that's calculated and how it got into the plan?
25

1 JOEL PAULSON: Sure. Again, page 2-15, 2.5.8
2 spells out the parking requirements and it in summary says
3 that the non-residential uses in the Specific Plan Area
4 shall utilize the downtown requirements for those non-
5 residential uses, and so generally restaurant, commercial,
6 retail, personal service, those are one parking space for
7 every 300 square feet.

8 CHAIR HANSSEN: And that's what came into the
9 Staff Report was those numbers that were agreed to in the
10 Specific Plan that are... And then in the case of commercial
11 it's similar but maybe not exactly the same. The
12 methodology for calculating the amount of parking is
13 similar to what we use elsewhere in town?

14 JOEL PAULSON: What we use in a downtown
15 specifically, yes.

16 CHAIR HANSSEN: Okay. Commissioner Hudes, you had
17 your hand up.

18 COMMISSIONER HUDES: Yeah, coming back to that,
19 that's in the same section as the mixed-use parking
20 requirement, and so when we're looking at the number of
21 off-street spaces required for a mixed-use there's non-
22 residential and residential. How does that relate to mixed-
23 use?
24
25

JOEL PAULSON: If you look at Table 2-4.

1 COMMISSIONER HUDES: Yes, I'm looking at it.

2 JOEL PAULSON: So, A is the non-residential use
3 in a mixed-use building, which we have here, which is the
4 downtown parking requirements, and then B is residential
5 uses and the parking requirements are split up between
6 senior affordable housing units, those have the same
7 parking requirements, one bedroom units, and units that
8 have two bedrooms or more; those are the parking
9 requirements for a mixed-use building.
10

11 COMMISSIONER HUDES: I did have one more question
12 about whether this is the purview of the Planning
13 Commission. There's a table that basically defines who
14 makes decisions; it's part of the Implementation Plan, and
15 so my question is why is this before the Planning
16 Commission? The discretionary approval summary table on E-
17 3.

18 JOEL PAULSON: Right. That's what lays out the
19 requirements. Because the modification was a modification
20 to the architecture and site, Planning Commission is the
21 deciding body on that.

22 COMMISSIONER HUDES: But "Reduced parking
23 requirement for senior/affordable housing," that says
24 that's approved by the Director of Community Development,
25 the findings can be made, or I guess the DRC.

1 JOEL PAULSON: They're not asking for a reduction
2 in senior parking.

3 COMMISSIONER HUDES: Okay, so this is why it's
4 under the purview of the Planning Commission, because it's
5 a mixed-use parking reduction?

6 JOEL PAULSON: They're changing aspects, removing
7 the one level of underground parking. I felt that that type
8 of modification you needed to go through the architecture
9 and site process, and the Planning Commission is the
10 deciding body for all architecture and site processes.

11 COMMISSIONER HUDES: Okay, thank you.

12 CHAIR HANSSEN: And I just had two more quick
13 questions and then we'll hear from the applicant.

14 A number of the public comments came in and
15 talked holistically about parking for the entire North 40
16 complex. What I wanted to ask Staff was supposing that the
17 plan numbers were wrong in the Specific Plan and it turns
18 out we really don't have enough parking, which many people
19 are convinced of that, are we able to use the holistic
20 parking requirements of the North 40 phase one project
21 relative to making this decision on this particular
22 building?
23

24 JOEL PAULSON: I think I follow what you're
25 saying, but ultimately every project has to provide the

1 required parking at a minimum level as required by the
2 Specific Plan. The phase one project exceeded that number.
3 Any future project that comes in and goes before the
4 Planning Commission will have to show that they are
5 providing adequate parking pursuant to the Specific Plan
6 for their specific project.

7 CHAIR HANSSEN: So you're saying as proposed all
8 of the rest of the phase one plan is meeting the parking
9 requirements that are set on the Specific Plan as well?
10

11 JOEL PAULSON: That's correct.

12 CHAIR HANSSEN: That's one thing. The final
13 question I had was supposing that it is the will of the
14 Town and the Commission on a going forward basis to revisit
15 the parking standards that are in the phase one, you know,
16 the current North 40 Specific Plan approved, before we get
17 a phase two. Is that possible?

18 JOEL PAULSON: That is possible. It would require
19 a Specific Plan modification but it would not be applicable
20 retroactive to the phase one project.

21 CHAIR HANSSEN: All right, that answers my
22 question. Do any other Commissioners have questions for
23 Staff before we go to hear from the applicant? Seeing none,
24 we will now open the public hearing and first give the
25 applicant an opportunity to address the Commission for up

1 to five minutes, and I thought I saw in the attendees list
2 we do have someone from Summerhill Homes that will be
3 speaking.

4 JOEL PAULSON: I would ask that whoever is going
5 to represent Summerhill Homes please raise your hands, and
6 it looks like Mr. Keeney, so I will allow him to talk.

7 CHAIR HANSSEN: Okay, Mr. Keeney.

8 MICHAEL KEENEY: Thank you. Can you hear me?

9 CHAIR HANSSEN: We can hear you.
10

11 MICHAEL KEENEY: Good evening, Chair Hanssen,
12 members of the Planning Commission and Staff. My name is
13 Michael Keeney and I'm the Development Manager for
14 Summerhill Homes on the North 40 project.

15 As you've probably observed we are well underway
16 with the construction of the project. We've started home
17 construction and we are progressing on off-site
18 transportation improvements of well over \$10 million to
19 support the project and expand traffic capacity in the area
20 for the benefit of the Town and future residents.

21 As currently designed the Market Hall garage has
22 an excess of 179 parking spaces as determined by the Town's
23 parking regulations. The excess parking spaces were
24 included in the original design based upon the previous
25 developer's strategies related to the potential development

1 of phase two. That developer is no longer involved in the
2 Market Hall development and Summerhill Homes has no
3 involvement in the potential development of phase two.
4 There is no obligation in the conditions or Specific Plan
5 for Market Hall to provide parking for future phases.
6 Accordingly, we are requesting the elimination of the
7 basement portion of the garage structure, reducing the
8 parking spaces in the garage by 127. This would leave a
9 total of 176, which is 52 in excess of what's required by
10 the Town parking regulations.
11

12 With this modification there will be
13 significantly more parking than is required and the
14 proposed modification has several benefits to the project
15 and the Town of Los Gatos.

16 The elimination of the basement will result in
17 reduced construction activity, noise, and dust from a
18 shorter construction duration. It will result in the
19 reduction of approximately 1,700 truck trips that would be
20 required to off-haul the soil for the basement excavation
21 and approximately 400 concrete trips to build the basement.
22

23 The elimination of the basement removes a
24 potential public safety problem, particularly if it is
25 rarely used, and the modification is supported by the
Silicon Valley Bicycle Coalition and our affordable housing

1 partner, Eden Housing, who will own and manage the senior
2 affordable housing units that will be a part of the
3 building.

4 It will also result in reduced operating expenses
5 for the affordable housing and the commercial uses in
6 addition to reduced construction costs.

7 You have received several comments regarding how
8 the parking was calculated and what the correct
9 calculations should be, and I can understand that they're a
10 little tricky, but we have based our calculations on what
11 the Town is requiring based on the current code. The
12 parking tables that are included in the A&S Application are
13 based on what was included in the code at the time and
14 based on assumptions about the land use.

15 To date the only building that has submitted for
16 a building permit is the Market Hall, and we've refined the
17 design and worked with Staff to determine what the parking
18 requirement based on the current Zoning Code. These numbers
19 are reflected in the Market Hall Parking Requirements Table
20 that we included in our Letter of Justification and are
21 consistent with what's before you in this proposal.

22 Jennifer, do you have that Exhibit 2 that I was
23 going to use later? It might be good to use it now.

1 In response to the comments about the parking
2 tables, we did put together a table that's based on the
3 Market Hall building permit as proposed and the assumptions
4 on what the Commercial District would have remaining. So,
5 this table reflects what's in the square footage
6 assumptions of the A&S for the remaining commercial pads at
7 the current code requirements and as you can see, there is
8 a surplus of parking. The surplus of parking in aggregate
9 is 45 spaces because the Market Hall has a surplus of 52
10 but the commercial pads are a little short; that's noted in
11 the footnote. In total you have a surplus of parking
12 district-wide of 22-percent with Market Hall having a
13 surplus of 61-percent.

15 We would like to thank Staff for moving this
16 application forward in a timely manner and for your
17 accurate summary of the project's compliance and exceedance
18 of the parking required for the building, and we're
19 available to answer any questions you may have.

20 I should also add Eden Housing is available, and
21 some of our other consultants as well, if something comes
22 up that's more appropriate for them.

23 CHAIR HANSSEN: Okay, good. So, if Commissioners
24 have questions for Eden Housing, they're available as well
25 tonight. At this point do any Commissioners have questions

1 for the applicant? I see Commissioner Hudes has his hand
2 up.

3 COMMISSIONER HUDES: Thank you. I have many
4 questions but I'm going to wait until after public
5 testimony because almost all of them were raised by the
6 public.

7 I had one question before then though and that is
8 regarding the progress of the project. Has the project
9 proceeded with the assumption that the underground parking
10 will be eliminated?
11

12 MICHAEL KEENEY: No, there's nothing that we've
13 done with construction to date that would be changed by the
14 decision of the Planning Commission. All of the
15 infrastructure to serve the building has been under
16 construction to the extent that it can be and nothing has
17 been installed that would prevent the structure from being
18 built in either design.

19 COMMISSIONER HUDES: Thank you.

20 CHAIR HANSSEN: Do other Commissioners have
21 questions? Vice Chair Janoff.

22 VICE CHAIR JANOFF: Yes, thank you. Mr. Kenney,
23 could you please to the best of your knowledge summarize
24 the commercial or residential non-designated parking that
25 is outside of the Market Hall or the commercial parking

1 requirements within those vicinities? There are a number of
2 spaces beyond the Market Hall and the commercial buildings.
3 Do you have any idea what those would be just so that we
4 have a general understanding of what parking there might be
5 in excess of what is being discussed tonight?

6 MICHAEL KEENEY: The surface parking sort of in
7 the transition district is approximately 130 stalls. The
8 individual commercial pads haven't been fully designed and
9 we're not the applicant for those, but the preliminary
10 estimates are for 130 stalls both on the private streets
11 throughout the Commercial District and on surface parking
12 lots on the commercial pads.

14 VICE CHAIR JANOFF: So those include the
15 commercial parking pads that are not associated with Market
16 Hall?

17 MICHAEL KEENEY: Correct, and that's shown on the
18 table that was up there.

19 VICE CHAIR JANOFF: Thank you.

20 CHAIR HANSSEN: Before we go to public comments I
21 did have a question and it's about the senior housing
22 parking. I would say the standard is defined in the North
23 40 Specific Plan but we did get many, many, many questions
24 from the public about how could it be possible that only
25 one half space for each resident, and one's a half space

1 for their guests, would be needed? And then in addition how
2 would it be placed? So, I was hoping that either Summer
3 Hill, or if Eden Housing is available, could answer that
4 question, because the public can make their comments but we
5 can't respond to them during the meeting, so I was hoping
6 we could hear from Eden Housing about why they're
7 comfortable with that number, because people are thinking
8 they might have teenage kids, they might have multiple
9 cars, they might have caregivers. Like how would they end
10 up not using the other parking, or how did that work? So,
11 is there somebody that could speak to that?
12

13 MICHAEL KEENEY: Well, maybe let me give you just
14 a couple answers and then I'll pass it off, and if there's
15 need for follow up Eden is available.

16 There are a total of 50 spaces allocated for the
17 affordable housing. They're on the third floor of the
18 parking structure, so 47 of the 50 spaces are on the third
19 floor of the parking structure and there is a security gate
20 between the second and third floor, so effectively the
21 senior affordable project has its own floor of parking
22 that's in a secure environment, and Eden would have an
23 onsite apartment manager and onsite coordination with their
24 tenants to help manage the parking along with everything
25 else and make sure that there weren't problems with that.

1 That's sort of the simple big picture explanation. If you
2 would like more information and details Dixie from Eden
3 Housing can probably raise her hand and Joel can allow her
4 to respond as well?

5 CHAIR HANSSSEN: If that's possible, it would be
6 great if we could hear from Dixie.

7 DIXIE LIRA-BAUS: Hi. Good evening,
8 Commissioners. Can you hear me all very well?

9 CHAIR HANSSSEN: Yes.
10

11 DIXIE LIRA-BAUS: Fantastic. Thank you for
12 allowing the opportunity to just provide comment on this.

13 Eden Housing is proud to be a partner with Summer
14 Hill on this project. We own and operate 36 senior
15 properties amongst our entire portfolio totaling about
16 2,700 units. Of that, four of those properties are located
17 in Santa Clara County with over 300 units of senior
18 housing.

19 Throughout the history we've parked each of our
20 senior buildings at a .5 ratio in suburban locations, and
21 in urban locations we sometimes park those to a lesser
22 degree, especially if they're adjacent to a transit
23 oriented stop. We find that in looking at this development
24 and looking at the needs across our portfolio that parking
25 at a .5 ratio for the units themselves are more than

1 adequate and having visitor parking at a .5 is also
2 adequate.

3 What we tend to do when we are looking at all of
4 our developments is in managing spots when residents come
5 into the development if they do not have a vehicle they
6 aren't issued a parking pass to park in there and that has
7 been able to help us manage parking demands in terms of our
8 senior facilities. In our history that's just how we've
9 operated our developments. I'm available to answer any
10 additional questions you may have.
11

12 CHAIR HANSSEN: Commissioner Hudes has a question
13 for you.

14 COMMISSIONER HUDES: Thank you. It's a little
15 difficult to understand, but I wanted to ask simply one of
16 our residents, Dr. Drayer (phonetic), raised the question:
17 What is that assumption of the transportation needs of the
18 50-percent of seniors who will have no place to park? In
19 the assumption that some of the households have more than
20 one vehicle, will they be taking public transit? Will they
21 be riding a bicycle? How will they get to the healthcare?
22 What's the assumption for that group that has no place to
23 park?
24

25 DIXIE LIRA-BAUS: Thank you, Commissioner.
Actually, we don't make those assumptions. We just look

1 across our portfolio needs and the historical needs within
2 our facilities and find that it's been an adequate level of
3 parking for our senior developments. Of course additional
4 public transportation mitigates that, and yes, some
5 families will indeed have more than one vehicle, some will
6 not have any vehicle. We found that to be quite common,
7 especially when our seniors are aging in place, meaning
8 they tend to stay there for very long periods of time. Yes,
9 sir, did you have a follow up?

10
11 COMMISSIONER HUDES: Yes. I appreciate the
12 averages but we're dealing with a specific here. Is there
13 specific public transit that you're relying on for this
14 development to satisfy that requirement?

15 MICHAEL KEENEY: Dixie, maybe I can help out a
16 little bit with this one. This is Mike.

17 DIXIE LIRA-BAUS: Thank you, Mike.

18 MICHAEL KEENEY: The project has a traffic demand
19 management plan, which has now been approved, which
20 includes funding for a Town-wide shuttle bus program or
21 other transportation measures as the Town deems appropriate
22 to help reduce traffic, and the TDM plan has an obligation
23 to provide a transportation coordinator.

24 So, in addition to the administrative support
25 that Eden's team provides to their residents, the Market

1 Hall structure as a condominium entity in coordination with
2 the for sale residential side of the project will have a
3 transportation coordinator who is responsible for providing
4 outreach to all of the residents in the community to help
5 assist them with things like carpool coordination,
6 different kinds of transportation benefits, bicycle,
7 different ways to reduce trips and provide assistance to
8 everyone.

9
10 The obligation is to achieve a 15-percent
11 reduction in trips from the project site and it's completed
12 with annual reporting to the Town, and if compliance isn't
13 achieved then it's the obligation of the associations and
14 the transportation coordinator to identify alternate
15 solutions to achieve that objective.

16 CHAIR HANSSEN: Okay, thank you. Commissioner
17 Hudes, you have a follow up question?

18 COMMISSIONER HUDES: I'm not sure that answered
19 by question. I was really asking about what specific public
20 transit is being relied on for this project.

21 MICHAEL KEENEY: The public transit in the area
22 is a VTA bus line on Los Gatos Boulevard. It basically
23 loops up Los Gatos Boulevard and I believe it comes down
24 Santa Cruz to the VTA station in Campbell.
25

1 COMMISSIONER HUDES: Okay. I'm well aware of what
2 this is. It's extremely limited but thank you.

3 CHAIR HANSSEN: Thank you for your comments and
4 there will be an opportunity for Commissioners to ask
5 additional questions after we take public testimony. If
6 there are no more questions from Commissioners we will go
7 ahead and move on to public testimony. Mr. Paulson, it
8 looks like we have some hands up I can see in the attendees
9 list.

10
11 JOEL PAULSON: We do. Again, for those in the
12 audience who wish to speak on this item, please use the
13 raised hand feature. The person at the top of the list
14 currently is Maria Ristow.

15 CHAIR HANSSEN: Before I hand over the floor to
16 Ms. Ristow I do want to remind anyone that's speaking
17 during the public portion of the meeting that you may
18 choose to state your name and address for the record or you
19 may choose to speak anonymously, and honestly it's your
20 choice, but we do ask that you limit your comments to three
21 minutes. So, thank you, and go ahead, Ms. Ristow.

22 MARIA RISTOW: Okay, thank you. Maria Ristow, and
23 I'm scrambling to try and catch up with this because I had
24 submitted a letter actually stating that we should retain
25 the underground parking with the concern that the entire

1 North 40, regardless of how it's developed, has been
2 envisioned as one project under the Specific Plan and
3 there's no way we're going to go back and dig out under a
4 parking structure if we don't put the underground parking
5 in right now.

6 What's thrown me for a loop is this discussion of
7 the Housing Accountability Act, and I was trying to rush
8 through the data from the previous meeting and I really
9 think there needs to be another look taken at this, because
10 I've been through this with the North 40 before and the
11 Housing Accountability Act requires that the residential be
12 two-thirds to qualify, I believe, which is like 67-percent
13 or more than 66-percent.

14 If I go back quickly to Exhibit 6 from the prior
15 meeting, the total gross residential is listed at 47,811
16 square feet. The total gross commercial is 28,966, and so
17 if you do the math, if this parcel by itself is being
18 looked at, that comes out to 62.27-percent residential. I
19 don't know, maybe I'm wrong, maybe this is the whole thing
20 taken, but if we're talking about just this parcel I don't
21 see how the Housing Accountability Act applies here.

22 I'm thinking that there are grounds to take
23 another look at this or take more time looking at it. But I
24 apologize, I'm like rapidly trying to go back and pour
25

1 through documents while I'm trying to listen to this Zoom
2 meeting, but anyway, I don't know if that's helpful. I know
3 you can't answer my questions, but I want to throw those
4 numbers out there. Thank you.

5 CHAIR HANSSEN: Thank you, Ms. Ristow, and we do
6 have the opportunity for any Commissioners to ask questions
7 of anyone that speaks from the public. Do any Commissioners
8 wish to ask questions? Vice Chair Janoff.

9 VICE CHAIR JANOFF: Yes, this is a question for
10 the Town Attorney. You mentioned in your notes to us that
11 the Housing Accountability Act does apply, and it sounded
12 like what you were saying is that it applied as a result of
13 the court order. That's how I read your guidance. Could you
14 please comment whether the Housing Accountability Act
15 actually does or does not apply to this question that we
16 have before us tonight?

17 TOWN ATTORNEY SCHULTZ: The 66-percent
18 requirement actually came in after the project was
19 approved, so there could very well be an issue raised by
20 Maria whether this actual project that's in front of you...
21 If you'll give me a few minutes, I can look at those
22 changes that were made. There were a couple of changes that
23 were made after our project at court, one being that
24 attorney's fees are now mandatory because the developer in
25

1 this case didn't get attorney's fees, so they went to
2 Sacramento and got that changed. And there were some
3 changes in regard to the percentage, so I can look at those
4 as you continue on with public comment and come back to me.

5 JOEL PAULSON: And through the Chair, I would
6 just offer that this is one component of the entire phase
7 one, but they have vested the other portions, which it's
8 still part of the entire phase one that was originally
9 approved, so as the Town Attorney is looking through that
10 information the parking is specific to this portion because
11 this portion hasn't been vested yet from that perspective,
12 but I just offer those comments as well.

14 CHAIR HANSEN: Thank you very much. All right,
15 so who's up next, Director Paulson?

16 JOEL PAULSON: One second. Leanna will be up
17 next, and so I will allow her to talk.

18 CHAIR HANSEN: Okay.

19 JOEL PAULSON: So Leanna, if you unmute yourself
20 you'll be able to speak.

21 LEANNA PALMER: Hello, my name is Leanna Palmer,
22 and do you need my address?

23 CHAIR HANSEN: Only if you choose to submit it.

24 LEANNA PALMER: Oh, okay. Well, in Los Gatos. I
25 am calling just to kind of speak informally briefly that

1 I'm opposed to eliminating the underground parking, maybe
2 for the reasons that the Town Attorney says are not good
3 reasons.

4 Grosvenor spent a lot of time planning the entire
5 40 acres and some of those meetings I attended, and the
6 underground parking was to accommodate some of the parking
7 that would be required on the other phase two portion, and
8 by Summer Hill taking this over from Grosvenor I think that
9 they need to follow through with the plan they took over. I
10 don't have the numbers to say it's not going to be enough
11 parking if they eliminate the underground, but I'm just
12 saying I think it's really needed so that parking doesn't
13 overflow into the residential neighborhood around it, or
14 out on the street, and then the Town would have to change
15 the street construction.

17 And the other thing is would Summer Hill need to
18 pay Grosvenor more money or whatever for what they've done
19 since they're eliminating a whole expensive part of what
20 they've bought into and now they will, I don't know,
21 presumably have a greater profit by just ticking off this
22 thing they don't need to build?

24 Okay, so that's my not very coherent comment but
25 I'm just very opposed to letting them off the hook on this

1 bait and switch operation. So, thank you for letting me
2 speak.

3 CHAIR HANSSEN: Thank you so much for your
4 comments. It's very much appreciated by everyone on the
5 Commission. Do any Commissioners have any questions for the
6 speaker? Commissioner Hudes.

7 COMMISSIONER HUDES: Actually, this is a question
8 for the Chair or Town Attorney. This is a virtual public
9 meeting. In a normal public meeting you'd know who is
10 there, how many people are there. Of course, we don't know
11 how many will speak but can we get some sense about how
12 many participants or observers there are tonight?
13

14 CHAIR HANSSEN: There are 26 attendees in the
15 list. I don't know if you can click on Participants at the
16 bottom but you can see there are panelists and there are
17 attendees, but there are 26. We don't always know who's
18 here to speak about which item; we also have two other
19 items after this. I presume that most people are here to
20 speak about Item 2.

21 COMMISSIONER HUDES: Okay, thank you, and I am
22 able to see it but I want to make sure the public has the
23 experience of a public hearing.

24 CHAIR HANSSEN: Okay, yes. And I will also note I
25 didn't completely carry it out but I believe we got

1 approximately 50 letters from members of the public. All
2 right, so who would be next, Director Paulson?

3 JOEL PAULSON: Next will be Kendra Burch.

4 KENDRA BURCH: Hello. I want to thank everybody
5 for taking the time tonight to look again at this item and
6 to allow us to speak.

7 I had a prepared statement to make concerning our
8 neighborhood, our proximity to the property, then presented
9 to us as more of an overall project. However, in light of
10 some of the changes I am going to try off the cuff to make
11 a few comments.

12 Unfortunately, knowing that we need to look at
13 this in a little bit of a different way, not so much as
14 maintaining the existing approved application, instead
15 we're taking a look at this through the lens of compliance
16 with Housing Accountability Act and with court orders. I
17 think that's left a number of us in the lurch of being able
18 to create comments.

19 I was at my kid's Zoom open house for school and
20 unfortunately I didn't have an opportunity to take a look
21 at those items to create some probably better statements to
22 make around that, and because of that I would ask that the
23 Planning Commission consider continuing this, not only to
24 allow all of you time to take a look at those documents but
25

1 to allow residents to spend some time looking at them too
2 and educating ourselves around what that means. I think
3 that it would be very valuable in allowing us to do that,
4 simply because then you're going to hear a lot of us that
5 originally had the same thing to say over and over again,
6 which was please maintain the existing application. I think
7 if we had time to review those we could probably have a
8 more substantial conversation with you. That's all. Thank
9 you.

10
11 CHAIR HANSSEN: Thank you so much for your
12 comments. Do any Commissioners have any questions for I
13 guess it's Ms. Burch in this context. All right. Okay,
14 who's next?

15 JOEL PAULSON: Thank you, Chair. Next will be Ms.
16 Dodson.

17 BARBARA DODSON: Hello. Hi, this is Barbara
18 Dodson. I do oppose eliminating the underground garage. I
19 know that Summer Hill's proposal focused on parking just
20 for the Market Hall, however, the Market Hall parking is
21 just one element of the parking for the entire Transition
22 District A, B, and C.

23 According to sheet A.11 in Summer Hill's proposal
24 the Town's requirement for parking stalls in this area in
25 District A, B, and C is 354 stalls. Without the underground

1 garage Summer Hill will provide only 330 parking spots for
2 District A, B, and C. This becomes clear just by looking at
3 sheet A.11. Under Required Commercial Stalls for the Area
4 we see 285. Under Provided Commercial Stalls for the Area
5 we see 261. The bottom line for me is that we can't approve
6 the Summer Hill proposal because it provides 24 fewer
7 parking spaces than required by the Town.

8 I guess I need everyone to look carefully at
9 sheet A.11 because it shows that they're not providing the
10 number of spots that are required by the Town, and I would
11 like to get some explanation for why they think they are.

12 I'll also point out that one of the senior units
13 has two bedrooms, so why are there not two parking spots
14 provided for a two-bedroom unit?

15 Finally, I do think developers should stick to
16 their commitments. The original developer committed to
17 building the underground garage. There was a lot of
18 discussion about this during the original hearings. The
19 original developer didn't want to build the garage, the new
20 developer doesn't want to do it now, but the garage was a
21 condition of the approval of the project.

22 I don't see why it is legal for someone to buy
23 out a project and then say, "Well, there are certain parts
24
25

1 that I just don't feel like doing," and I would really like
2 to hear the legal argument for how that can happen.

3 I also think it's really ridiculous that Mr.
4 Schultz did not make this information available to the
5 public. I would have certainly changed my remarks if I had
6 known that this was information that was necessary, so I
7 would like you to provide this information in a public-
8 friendly forum so that we can all take a look at it and
9 proceed from there. Thank you.
10

11 CHAIR HANSSEN: Thank you very much for your
12 comments, Ms. Dodson. Commissioner Hudes has a question for
13 you.

14 COMMISSIONER HUDES: Thank you, and thank you for
15 doing all of the work on the important calculations and
16 requirements. You pointed out in your letter that there was
17 a discrepancy between 330 and 331 parking places. Has that
18 discrepancy been resolved?

19 BARBARA DODSON: No. I mean that's a discrepancy
20 in the proposal that Summer Hill has given. I mean, it's in
21 the material that we're all reading. Sometimes it says 330,
22 sometimes it says 331. The original number of parking
23 spaces for A, B, and C was 485, so then when they deducted
24 176 in one of their tabulations, that's where they came up
25

1 with 331 I think is what happened. So, just in different
2 places they did different math.

3 COMMISSIONER HUDES: Okay, thank you. We don't
4 have the opportunity really to interact with Staff at this
5 point, but I have your notes. Thank you.

6 CHAIR HANSSEN: Do any other Commissioners have
7 questions for the speaker? Again, thank you very much for
8 all your research and for providing them in writing as
9 well. Are there other attendees that wish to speak on this
10 item.

11
12 JOEL PAULSON: I see one hand raised but it's
13 Leanna who has already spoke and is not able to speak
14 again. I will open it up in case there is a second person
15 using that computer, but if it's Leanna she will not be
16 able to speak again, so I will open it up just for that.
17 Leanna, is there another member of your household that
18 wishes to speak?

19 LEANNA PALMER: No.

20 JOEL PAULSON: Okay, thank you. And with that I
21 would just again note anyone who wishes to speak on this
22 item, please use the raised hand feature. I am not seeing
23 anyone using the raised hand feature, Chair.

24 CHAIR HANSSEN: All right, so then if there are
25 no other speakers at this point for this item we will now

1 close the public portion of the public hearing and ask if
2 any Commissioners have questions of Staff. Oh wait, I
3 apologize. This is the time when we would ask the Applicant
4 to come back and respond for up to three minutes. I
5 apologize. So, Summer Hill, if you would like an additional
6 opportunity to respond to things that were raised during
7 public comments, this would be the time to do so.

8 JOEL PAULSON: Thank you, Chair. I've allowed Mr.
9 Keeney to speak.

10 MICHAEL KEENEY: Thank you, Commissioners. This
11 is Mike Keeney with Summer Hill Homes. We appreciate the
12 comments and participation of the public in this hearing.
13 We are pleased to be developing this project in the Town of
14 Los Gatos and believe it will be an asset to the community
15 for many years to come.

16 The application is an amendment to an approved
17 project that we have a building permit for for the Market
18 Hall structure and we would like to start construction as
19 soon as possible. We believe strongly that this
20 modification will result in a more pedestrian- and bike-
21 friendly development that is consistent with the goals and
22 spirit of the Specific Plan.

23 As discussed, this parking was originally to
24 serve phase two of the North 40. It's inclusion in the
25

1 project is unnecessary and counterproductive. Construction
2 of the basement would be a waste of financial resources and
3 would materially increase the operating costs of Market
4 Hall, thus further jeopardizing the success of this retail
5 project, and the operating costs of the additional parking
6 spaces will also have a negative financial impact on the
7 affordable senior housing project.

8
9 You heard from the community that if the basement
10 is eliminated it will result in a parking overflowing into
11 the existing neighborhood. Jennifer, do you have the
12 walking exhibit that we set up that you could put up? We
13 put together an exhibit to look at some of the surrounding
14 neighborhoods and the walking distances that someone would
15 have to travel if they parked there to get to Market Hall,
16 which will probably pop up here on the screen in a second.
17 As you can see, it's a 9-15 minute walk from these
18 neighborhoods to the Market Hall building, and as we
19 discussed, the Market Hall will have 45 more parking spaces
20 than it is required to have, so it's just unrealistic to
21 conclude that customers of Market Hall will be parking ten
22 minutes away when the parking structure has a surplus of
23 parking as is.

24
25 Good planning, fairness, and common sense support
this request before you. If there was fact-based evidence

1 that the elimination of the parking would negatively impact
2 the surrounding neighborhoods we would not be pursuing this
3 design amendment.

4 Summer Hill has built multiple projects in the
5 Town of Los Gatos over the last 20 years, most recently the
6 Sorellas project on Prospect Avenue. We are proud of these
7 projects and our partnership with the Town and community
8 that has developed with the past project in the North 40.
9 Our focus has been to create communities that are well
10 thought out and become positive experiences for the Town
11 and our future homeowners. This design revision is
12 consistent with that philosophy and we ask for your
13 approval to this modification.
14

15 We are available to answer any questions you may
16 have, and in particular I know there are some questions
17 about the parking calculations in the A&S approval versus
18 the new code requirements that we've shown, so we're happy
19 to talk more about that and answer any questions you might
20 have. Thank you.

21 CHAIR HANSSEN: And this would be a great time
22 for any Commissioners to ask Mr. Keeney any additional
23 questions, including anything that came up during the
24 public comments. Commissioner Hudes.
25

1 COMMISSIONER HUDES: Thank you. I have a number
2 of questions about the math and the requirements for
3 parking. I also have questions about the agreement, the
4 phase one/phase two, the bike aspects of it, the safety
5 aspects, the neighborhood, and community benefit, but I
6 don't want to totally monopolize this so I'd maybe like to
7 start with an explanation about the comments and a reaction
8 to the comments that we got from Ms. Dodson on sheet A.11.
9 Could you maybe just simply tell me why there is not a
10 deficit of 24 spaces.
11

12 MICHAEL KEENEY: The parking table in A.11 is a
13 duplication of the Architecture and Site approval parking
14 table, and Staff could probably help characterize how that
15 was prepared, but it was prepared at the time of the A&S
16 approval with assumptions about the land uses that would
17 likely be there and it was based on the parking
18 requirements in the code at the time, which was more
19 specific to specific land uses.
20

21 The application that we've submitted is exclusive
22 to the Market Hall Parcel 27 of the final map, and Parcel
23 27, the Market Hall, is obligated to meet its parking ratio
24 per the Specific Plan of one per 300, and that's the number
25 that's in our Letter of Justification, which is the square
footage that we estimate if the garage was eliminated.

1 The commercial space within the garage doesn't
2 really change with the elimination of the basement. There
3 are some tweaks to the mechanical rooms and stuff but it
4 doesn't really affect the leasable square footage, which is
5 what the parking calculations are based on, so it's a
6 pretty accurate number for what the building would be if we
7 completed the redesign to eliminate the basement.

8 The estimates that I provided in the table that I
9 put up during my presentation are based on the gross square
10 footages in the remaining commercial parcels from the
11 Specific Plan, so that's at one per 300 based on the table
12 on A.11, and those numbers will change. When an Applicant
13 comes forward on each of those buildings they'll submit a
14 Building Permit and they'll have square footage
15 calculations that have to meet the one per 300 requirement
16 of the Specific Plan. So it could change a little bit, but
17 if anything it would likely go down and it would be their
18 obligation to comply with the obligation to provide their
19 parking.

21 COMMISSIONER HUDES: If I could go back maybe to
22 the beginning of your answer. The requirements, are you
23 saying that they are based on current code requirements,
24 not the requirements that were done in the original
25 application?

1 MICHAEL KEENEY: That's correct. We're complying
2 with the zoning requirement for the parking for the use
3 we've proposed at one per 300 square feet. The previous
4 calculation was more complicated.

5 COMMISSIONER HUDES: And why does the previous
6 calculation not apply now?

7 MICHAEL KEENEY: That might be a better question
8 for Staff, but I believe the Specific Plan references the
9 Downtown Parking Guidelines and therefore we're following
10 the Downtown Parking Guidelines.
11

12 COMMISSIONER HUDES: But it's your justification
13 letter; it doesn't rely on Staff.

14 MICHAEL KEENEY: It relies on the code.

15 COMMISSIONER HUDES: And it's your obligation to
16 make the argument about why that code doesn't apply and why
17 a different code applies?

18 MICHAEL KEENEY: Well, it's the code that the
19 building is being permitted under. It's the Zoning Code for
20 the Specific Plan as it stands when the permit is being
21 issued.

22 COMMISSIONER HUDES: Okay. I had another question
23 on the math. There is reference to 330 or 331 parking
24 places. What's the correct number?
25

1 MICHAEL KEENEY: The correct number that I would
2 suggest you concentrate on is the numbers for Market Hall
3 and the parking requirements in the Letter of
4 Justification. The parking estimates for the remainder of
5 the Commercial District are estimates based on the
6 Architecture and Site approval. I don't know exactly why
7 there's one spot off. It could be as Ms. Dodson also
8 pointed out, that the community room in Market Hall has a
9 slightly different parking requirement and that's because
10 the square footages are slightly different, so that parking
11 requirement actually increased by one space because the
12 community room increased by one space or by a couple of
13 hundred square feet from the Architecture and Site approval
14 table.

16 COMMISSIONER HUDES: Again, are you able to
17 clarify that at this time or do you need to do some
18 research before clarifying that?

19 MICHAEL KEENEY: The table that we prepared and
20 submitted, which was up earlier, is our estimate of the
21 commercial square footage based on the one per 300 and the
22 square footage estimates for Buildings A-1, A-2, D-2, and
23 C. But what those buildings ultimately are permitted at and
24 what their parking requirement is is to be determined. When
25 they submit a permit they would comply with the one per 300

1 requirement. So the table that is being referenced is a
2 combination of the revision to Market Hall and the previous
3 parking requirements based on the land uses intended at the
4 time the Specific Plan was approved, so there are quite a
5 few variables that have changed during that time.

6 (Inaudible) provides one parking space off, no.

7 COMMISSIONER HUDES: Okay. I had some other
8 questions, but I don't want to dominate this, so if other
9 folks would like I'll just hold mine for a few minutes.

10 CHAIR HANSSEN: Would other Commissioners like to
11 ask any questions of the Applicant at this point?

12 Commissioner Barnett.

13 COMMISSIONER BARNETT: Is it Summer Hill's
14 position that the only reason for the underground parking
15 was to accommodate the parking in phase two? If so, what
16 evidence is there of that?

17 MICHAEL KEENEY: Well, I think in addition to us
18 saying it, it's been said by members of the public during
19 this hearing. I think we've heard that from Staff. I think
20 that was a known publicly discussed component. I think at
21 the time it was also a consideration that there might be
22 more commercial at the site and as the project evolved that
23 was reduced. But I apologize, I wasn't the project manager
24
25

1 at that time, so I don't have all the history from the
2 actual approval.

3 COMMISSIONER BARNETT: So, is it fair to say that
4 you may or may not know whether... Summer Hill's position is
5 that there is an excess parking in the underground garage
6 because it's... Let me start over. Is it Summer Hill's
7 position then that the underground parking is not necessary
8 to accommodate the retail and senior housing and the
9 community room?
10

11 MICHAEL KEENEY: Yeah, our position is that the
12 Market Hall building is over-parked with this revision by
13 approximately 60-percent and that that's more than adequate
14 for the uses that are proposed, and that it provides a
15 surplus for the adjacent commercial uses as they develop,
16 and that when and if phase two develops they would
17 obviously have to meet all the Specific Plan requirements
18 to move forward with their project and provide the parking
19 that's required for the Specific Plan just like we do.

20 CHAIR HANSSEN: Does that answer your question,
21 Commissioner Barnett?

22 COMMISSIONER BARNETT: Yes, it did. Thank you.

23 CHAIR HANSSEN: Before I go back to Commissioner
24 Hudes I wanted to follow up on where the conversation was
25 going with Commissioner Barnett. If I heard you correctly,

1 the way this process works is when you submit the
2 Architecture and Site Application, or when you did submit
3 the original Architecture and Site for the entire phase one
4 project, you had an estimate on how much commercial space
5 there would be and you said that has evolved over time, and
6 then you said it went down. So, how much less commercial
7 space than was proposed with the A&S are we going to have
8 now than we thought we were having?
9

10 MICHAEL KEENEY: For the Market Hall?

11 CHAIR HANSSEN: No, for the entire phase one,
12 because we were talking about the difference of what Ms.
13 Dodson was presenting, which was all the commercial parking
14 requirements for the phase one application versus... And this
15 hearing is only about the Market Hall, but you talked about
16 the process overall when you submitted an Architecture and
17 Site that it's based on estimated, and I thought you said
18 when you were talking to Commissioner Barnett that there
19 actually is less commercial space overall than was
20 originally intended and that we won't really know the
21 answer for sure about how much parking is needed until
22 those commercial developers come in and build out those
23 pads and so on and so forth. So, did I get that right?
24
25

1 MICHAEL KEENEY: No, I didn't mean to say that
2 the total square footage of the commercial would be
3 reduced. What I wanted to represent was that then...

4 The table that I put up during my presentation
5 that had the parking estimate that we put together for the
6 entire Commercial District—which is Exhibit 2 if Jennifer
7 wants to put it up—and that square footage number which is
8 shown in the table is approximately the gross square
9 footage number from the Architecture and Site approval.
10

11 So, the distinction is that when the commercial
12 sites are actually worked out for Building Permits, that
13 square footage, some of it gets netted out for corridors
14 and backup house space that isn't leasable square footage,
15 so what I was trying to say was that the commercial
16 estimate that I'm including here is a conservative estimate
17 and that likely the square footage would be slightly lower.
18 Not the leasable square footage but the square footage the
19 parking calculation was based on.

20 CHAIR HANSSEN: Because of stuff that's not
21 needed for the actual commercial use?

22 MICHAEL KEENEY: Correct.

23 CHAIR HANSSEN: It's sort of support stuff.

24 MICHAEL KEENEY: And that's definitely shown in
25 the A&S table, it's just that it's a really complicated

1 table and I didn't think we'd want to go through that level
2 of detail.

3 CHAIR HANSSEN: But to close this out, so I think
4 I understand. I didn't hear you correctly that there's
5 actually less space but what you did say, and I'm asking a
6 question, is that we are honestly going to know what the...
7 Other than the Market Hall there's this 39,025 additional
8 square footage of which there are pads right now and we
9 aren't really going to know what parking is required for
10 those commercial pad applications until there is a
11 developer, is that correct?
12

13 MICHAEL KEENEY: That's generally correct, but
14 the table that we put together is based on sort of a
15 combination of the A&S site plans and everything else, and
16 currently there is sufficient... What's programmed there has
17 the space to be parked there but it may evolve a little as
18 people work out the details of the design, but they would
19 have to meet that same requirement, so they would have to
20 provide... At that square footage the obligation for those
21 parcels in total would be a 130 parking spaces, and as
22 currently laid out that appears to be something that can be
23 accommodated on their current plans.
24

25 CHAIR HANSSEN: And it's your belief that you
stated already that that's going to be more than adequate

1 for any commercial uses that are in addition to the Market
2 Hall in this phase one?

3 MICHAEL KEENEY: That's our expectation based on
4 the development partners that we've talked to for the
5 Market Hall and the commercial use as a whole.

6 CHAIR HANSSEN: Okay, I think I'm clear. Are
7 there any other Commissioners that would like to ask
8 questions of the Applicant at this point? Commissioner
9 Hudes, you had your hand up.

10 COMMISSIONER HUDES: Sure. I did have a number of
11 questions that essentially came from the public and so I'd
12 like to maybe see if I could get them correct.

13 Mr. Lord and a number of residents have commented
14 on the need to hold the developer responsible to what was
15 agreed following the lawsuit. Was the outcome of the
16 lawsuit satisfactory to the Applicant, and if changes are
17 requested now over three years later why didn't the
18 Applicant make the case for flexibility at the time during
19 the legal process?
20

21 MICHAEL KEENEY: I think that we are pleased with
22 the results of the project. I think we're very happy to be
23 building this project in the Town of Los Gatos. We would
24 have preferred that there wasn't a lawsuit. As I mentioned
25

1 before, we've worked on a number of projects in the Town
2 and think it's a great place to do business.

3 As far as why we wouldn't have asked for parking
4 changes earlier in the process, it takes a while to get a
5 building of this type designed. It involved us working with
6 a retail partner. We're mostly a for sale developer and not
7 a retail developer, but the project was obligated to
8 provide the affordable housing and we wanted to provide the
9 affordable housing, and that component of it is essential
10 to the success of the residential portion of the project.
11 So, as we worked through the retail design and discussed it
12 with potential partners we felt that there was an
13 opportunity to improve the project by reducing the parking
14 in the basement.

16 CHAIR HANSSEN: And Commissioner Hudes, I think
17 it's fine to ask a few more questions.

18 COMMISSIONER HUDES: Thank you. These are
19 questions that have pretty much come from the public, and I
20 know it's difficult for the public to speak on these Zoom
21 sessions, but they're questions that I think are important.

22 In the justification letter there's a statement
23 that Grosvenor is no longer involved. How is that relevant
24 to the parking requirement? How is that fact relevant?
25

1 MICHAEL KEENEY: Well, the original partnership
2 between Summer Hill and Grosvenor involved Grosvenor
3 developing the Market Hall and the commercial pads, so when
4 they chose not to move forward with that we took that on,
5 but as a part of doing that we also are going to maybe do
6 it in a slightly different way, and so our change is based
7 on what we think is the right thing to do for the project
8 as a whole as opposed to what Grosvenor might have been
9 trying to accomplish.
10

11 COMMISSIONER HUDES: As a follow up, was Summer
12 Hill compensated for that by Grosvenor already?

13 MICHAEL KEENEY: We don't usually talk about how
14 our land transactions are structured. Grosvenor was the
15 initial applicant and when they chose not to move forward
16 we had the opportunity to take their position.

17 COMMISSIONER HUDES: The reason I'm asking is in
18 the justification letter you are talking about how much
19 money will be saved by not doing this, and so I think it's
20 legitimate to ask that question since you're using that for
21 justification.
22

23 MICHAEL KEENEY: I'm not sure I understand.
24 You're saying that if Grosvenor chose not to move forward
25 with the project that they should be compensated for it?

1 COMMISSIONER HUDES: No, in your letter you
2 raised a justification point, which is that expenditure
3 will be saved, is that correct?

4 MICHAEL KEENEY: Yeah, I think we've mentioned
5 that in our presentation and in the Letter of Justification
6 along with a number of other benefits.

7 COMMISSIONER HUDES: So as a follow-on to that,
8 has Summer Hill already been compensated for those spaces
9 that are now going to be removed?

10 MICHAEL KEENEY: We haven't been paid anything by
11 anybody because we haven't actually built any component of
12 the project yet. We have not received any revenue from the
13 project that I'm aware of.

14 COMMISSIONER HUDES: Okay, thank you.

15 CHAIR HANSSEN: Now, do any other Commissioners
16 have questions for the Applicant?

17 JOEL PAULSON: And Chair, I just wanted to note
18 for the record—this is Joel Paulson, Community Development
19 Director—that Commissioner Burch had to step away.
20 Obviously she was recused from this, so if she comes back
21 in before or after we get to the next item I will be adding
22 her to the group.

23 CHAIR HANSSEN: Absolutely. Thank you very much.
24 All right, I think we've asked quite a few questions and we
25

1 did hear public comment and we have quite a few letters, so
2 I'm going to suggest that we close the public portion of
3 the public hearing and take time for the Commissioners to
4 ask additional questions for Staff, comment on the
5 application, and consider what kind of motion the
6 Commission would like to make on this matter. So,
7 Commissioner Hudes has his hand up.

8 COMMISSIONER HUDES: I did have some other
9 questions that were raised. I just was sort of taking a
10 break, but I did have a few more questions of the
11 Applicant.
12

13 CHAIR HANSSEN: Okay, I apologize. I
14 misunderstood you. All right, so I will reopen the public
15 portion of the hearing just to allow Commissioner Hudes to
16 ask a few additional questions.

17 COMMISSIONER HUDES: This has to do with the
18 configuration of the parking for the seniors. Ms. Peterson
19 and Yon Lee Jeow (phonetic) pointed out that there could be
20 safety implications of the reconfiguration. Could you
21 discuss that? Is there anything to do with the way that
22 this parking area will be configured and accessible that's
23 different than the original underground parking for the
24 seniors?
25

1 MICHAEL KEENEY: Is this a question for Summer
2 Hill?

3 COMMISSIONER HUDES: Yes.

4 MICHAEL KEENEY: This is Michael Keeney. The Eden
5 portion of the building is unchanged. Their parking was
6 programmed for the top floor adjacent to their units and
7 they never were programmed for any parking in the basement.
8 The third floor of the parking structure will be part of a
9 commercial condominium that they will own and it contains
10 47 of the 50 stalls, and the ramp from the second floor
11 where the commercial parking is will have a security gate
12 so that only residents or guests can get access to their
13 spaces.
14

15 COMMISSIONER HUDES: So, the elimination of the
16 basement parking will have no effect on the security
17 measure or access that are being provided for the seniors,
18 is that correct?

19 MICHAEL KEENEY: No change, that's correct.

20 COMMISSIONER HUDES: Another question. This
21 relates to the use of the parking in phase two. My
22 understanding is that the additional parking was meant for
23 phase 2 which is largely retail, is that correct?
24

25 MICHAEL KEENEY: I'm not an expert on the second
phase of the Specific Plan. Staff could maybe comment, but

1 I believe it has a higher concentration in retail and
2 office, yes.

3 COMMISSIONER HUDES: I believe there are only 16
4 residential units in phase two, is that correct?

5 MICHAEL KEENEY: I'm not sure of the answer to
6 that. I'm sure Staff knows.

7 COMMISSIONER HUDES: Is this change by
8 eliminating the parking that would be used by phase two
9 significantly changing the uses in that phase two?
10

11 MICHAEL KEENEY: Like I said, I'm not extremely
12 close to the phase two portion of the program, but the
13 parking in the garage was... Had Grosvenor developed phase
14 two in conjunction with phase one, which I think at some
15 point they intended, then there would have been an
16 opportunity for the positive, which would both have been
17 Grosvenor, to negotiate easements with themselves to allow
18 for shared uses of that parking.

19 But the Market Hall building is a standalone
20 structure that does not have any easement or legal
21 obligation to provide parking to other components of the
22 project, so I don't think it would change how phase two
23 would be developed; it would be developed in compliance
24 with the Specific Plan and it would have the parking that's
25

1 required based on the uses that were proposed consistent
2 with what's allowed by the Specific Plan.

3 COMMISSIONER HUDES: Okay, thank you. That raises
4 questions for Staff that I'll ask later. Thanks.

5 CHAIR HANSEN: And Vice Chair Janoff had her
6 hand up.

7 VICE CHAIR JANOFF: Thank you. I just want to be
8 perfectly clear, we're talking about phase one and phase
9 two as though they are now still connected in concept, and
10 Mr. Keeney, if you could please restate, which I think
11 you've done several times, that although Grosvenor had a
12 plan for developing phase one and phase two, the current
13 situation is that Grosvenor is no longer a developer for
14 the North 40 in any capacity and Summer Hill's interest is
15 only in phase one?
16

17 MICHAEL KEENEY: That's correct, but there are
18 some things that as the developer of phase one we have done
19 to help provide future infrastructure for phase two, so
20 there are connections for storm lines, water lines, future
21 road connections are all consistent with the Specific Plan
22 to allow phase two to develop per the Specific Plan, but it
23 would be for the phase two developer to connect to those
24 facilities and their project would have to meet the
25 requirement of the Specific Plan just like phase one did.

1 We're trying to provide as much infrastructure for them to
2 build on top of ours as possible, but not necessarily
3 something for their benefit and not for ours.

4 VICE CHAIR JANOFF: Okay, so just to further
5 clarify, when we're talking about requirements for parking,
6 residential or commercial, the current scope is only for
7 phase one. You may have developed infrastructure that
8 supports whatever happens in phase two, but currently the
9 Summer Hill interest in terms of above-ground square
10 footage that would have a parking requirement, we're only
11 talking about phase one, is that correct?
12

13 MICHAEL KEENEY: Yes, in regard to the structure.
14 When it comes to something like the size of the storm
15 drains so it can handle the runoff from their property,
16 we've accommodated that.

17 VICE CHAIR JANOFF: Okay, so I'm not talking
18 about storm drains.

19 MICHAEL KEENEY: (Inaudible).

20 VICE CHAIR JANOFF: Excuse me. Storm drains don't
21 require parking. I'm only talking about what does require
22 parking and I think I'm clear that any connection to phase
23 two above-ground buildout that would have an interest in
24 borrowing parking or counting parking from phase two,
25 that's no longer what we have before us. We are only

1 working on phase one above-ground parking requirements,
2 which is the Summer Hill scope, is that correct?

3 MICHAEL KEENEY: Yes.

4 VICE CHAIR JANOFF: Okay, thank you.

5 CHAIR HANSSEN: I think that's clear. Thank you
6 for your question. All right, so Commissioner Hudes, did
7 you want to ask any more questions of the Applicant or do
8 you want to save your questions for Staff, or what?

9 COMMISSIONER HUDES: I'm just looking at them. I
10 think the rest of the questions are for Staff at this
11 point. Maybe I'll just ask one last one and that is that a
12 number of residents raised the question about neighborhood
13 impact and community benefit. Not much has been said about
14 this. There's an aspect of this, the removal of the parking
15 may cause a problem for the residents in nearby
16 neighborhoods, it may cause the zoning of other areas to
17 become an issue. Do you have any statement that you'd like
18 to make about community benefit? You're asking for this
19 reduction. Are you offering any additional open space or
20 reduced density or reduced height? I know that it's not a
21 requirement, but I'm asking this because you're asking for
22 something that does affect the community.

23 MICHAEL KEENEY: I think there were a number of
24 community benefits identified at the time the project was
25

1 approved and we are of the opinion that this is a further
2 community benefit that will improve the quality of the
3 project and to encourage the goals of the Specific Plan.

4 COMMISSIONER HUDES: Thank you.

5 CHAIR HANSSEN: Commissioner Badame.

6 COMMISSIONER BADAME: To the Applicant, can you
7 just elaborate on how it would improve the quality of the
8 project, be a little bit more specific on that?

9
10 MICHAEL KEENEY: One of the things that came up
11 and led us to look into this was the preparation of the
12 Transportation Demand Management Program, and one of the
13 programs that was looked at was the fact that providing
14 additional parking and building has the opportunity to
15 create more vehicle trips to the structure and discourage
16 pedestrian and bicycle trips, so reducing unnecessary
17 parking I think is considered a benefit for transportation-
18 oriented...a reduction in traffic and a pedestrian- and bike-
19 friendly project, and that's part of the reason the Silicon
20 Valley Bicycle Coalition provided a letter of support.

21 COMMISSIONER BADAME: Thank you.

22 CHAIR HANSSEN: All right, Commissioner Hudes.

23 COMMISSIONER HUDES: Now that that's been raised
24 I would be interested to know how much community benefit
25

1 are we going have by reducing the amount of parking? This
2 induced demand that was stated, how much is that?

3 MICHAEL KEENEY: I don't have an answer for that.
4 I'd have to consult with the transportation engineer to try
5 to identify a percentage. From the consultants I've worked
6 with there's a general consensus that if there's less
7 parking available people are more likely to find another
8 way to get there.

9 COMMISSIONER HUDES: Okay.

10 MICHAEL KEENEY: And I guess more importantly, if
11 there's enough parking to begin with there's not really a
12 benefit to providing that much more. The project does have
13 a number of bike corridors through it and around it with
14 improvements on Los Gatos Boulevard and Lark extending to
15 the Los Gatos Creek Trail to improve the bicycle
16 transportation network throughout the region and connects
17 to regional facilities, and all that was done partly I
18 believe at the direction of some of the members of the
19 Planning Commission that were on the Commission at the time
20 the project was approved. I believe that was something that
21 was added towards the end and expanded and enhanced because
22 it was something that the community and the Commission and
23 the Council identified as a benefit to the community.

24 COMMISSIONER HUDES: Thank you.

1 CHAIR HANSSEN: Commissioner Badame.

2 COMMISSIONER BADAME: I would just like to expand
3 on your comment that if there's less parking available that
4 people are going to find another way to get there, but did
5 you consider that people might give up and not go there
6 because they can't find parking? Would that not affect the
7 viability of the project?

8 MICHAEL KEENEY: I think that would be the case
9 if you were going below what's required. When you talk to
10 the Transportation Demand Management people, that's what
11 they would like. They would like to see even greater
12 reductions. We're providing 60-percent more parking than is
13 required. It just seems unnecessary to go above and beyond
14 that.
15

16 CHAIR HANSSEN: Anything else before we close the
17 public hearing? Commissioner Barnett.

18 COMMISSIONER BARNETT: Some of the members of the
19 public were concerned about increased circulation in the
20 development because of the lack of parking and possibly
21 raising safety issues. I was wondering if you had any
22 comment on that?

23 MICHAEL KEENEY: We are completing over \$10
24 million in improvements in and around the project site on
25 Los Gatos Boulevard and Lark, which includes improved bike

1 corridors, crosswalks, signal improvements, a number of
2 improvements to help improve pedestrian safety at all of
3 those significant intersections and bring them up to a
4 current enhanced standard, so I think the project as a
5 whole is going to greatly improve the pedestrian safety in
6 the neighborhood.

7 COMMISSIONER BARNETT: My question is whether
8 circulation by cars who are looking for parking might
9 create itself a problem and even a safety issue?

10 MICHAEL KEENEY: If we were parked at below the
11 ratios that are required then that would be a concern of
12 ours, but since we're 60-percent in excess of what the
13 Town's code requires we're very comfortable that there is
14 adequate parking for the uses that we're proposing.

15 COMMISSIONER BARNETT: Okay, thank you.

16 CHAIR HANSSEN: All right, so last call for
17 questions of the Applicant before I close the public
18 hearing. Going once. All right, so we're going to close the
19 public portion of the public hearing and now I will ask if
20 any Commissioners have additional questions to ask of
21 Staff, wish to make comments on the application, or
22 introduce a motion for consideration by the Commission?
23 Right, I will go with Vice Chair Janoff, and then
24 Commissioner Hudes had his hand up.
25

1 VICE CHAIR JANOFF: This is a question for the
2 Town Attorney. Did you have an opportunity to check the
3 applicability of the Housing Accountability Act on what we
4 have before us?

5 TOWN ATTORNEY SCHULTZ: I did. The Housing
6 Accountability Act states, as Ms. Ristow stated, "Mixed-use
7 developments consisting of residential and non-residential
8 uses with at least two-thirds of the square footage
9 designated for residential use." Since this is amendment to
10 the approved Architecture and Site approval for phase one
11 Staff and I used the entire phase project to reach the
12 conclusion that it meets the requirements of the mixed-use
13 and that the Housing Accountability Act apply. We didn't
14 look at it from just a market senior housing space project.
15 If the Planning Commission does not agree with that
16 conclusion, then it should make the specific findings that
17 the Housing Accountability Act does not apply.

18 VICE CHAIR JANOFF: Thank you.

19 CHAIR HANSSEN: Commissioner Hudes, do you still
20 have a question?

21 COMMISSIONER HUDES: Yes, thank you. Coming back
22 to that, this information that was provided during the
23 hearing by Council and was provided in a note to us several
24 hours before was not provided to the public, and so the
25

1 public has struggled with their questions and with framing
2 that in the context of the Housing Accountability Act, not
3 that they're all expected to be experts in the Housing
4 Accountability Act. Wouldn't we normally give the public
5 some time to react to those criteria that are then being
6 used in the hearing?

7
8 TOWN ATTORNEY SCHULTZ: Since 2015 I've issued
9 many memos and opinions regarding the Housing
10 Accountability Act as applied to Town projects. It was not
11 in this Staff Report; I apologize for that. I can
12 regurgitate all those Staff Reports and white papers again
13 if the Planning Commission wants to continue it for that
14 basis.

15 CHAIR HANSSEN: I'm going to say something now. A
16 concern I had in listening to the public hearing—so I'm
17 making a comment—is that as Commissioner Hudes stated, some
18 members of the public were struggling with this new
19 information to them because if I'm going to net out what I
20 thought I heard from the public was accommodation of two
21 general areas.

22 One is that there were some grounds for the fact
23 that the developments plans that were submitted said they
24 were going to do this underground parking garage should
25 mean that they are held to that, but instead that's not

1 really an objective standard like the parking requirements
2 are.

3 And then there's a whole other category of
4 comments from the public where there is disbelief about the
5 parking requirements being adequate for what they perceive
6 will happen when all those people move in and so on and so
7 forth.

8 That being the case, I feel uncomfortable with
9 there being any possibility whatsoever that the Housing
10 Accountability Act might possibly not apply, that people
11 would have more chance to at least consider it and get
12 comfortable with it and maybe make the comments that they
13 would have made having that information. That was just a
14 thought I had going through this thing that made me
15 uncomfortable, and some of the people that spoke are some
16 of our most involved community members. I don't know what
17 other Commissioners think.

18
19 TOWN ATTORNEY SCHULTZ: Just as one other
20 comment, because I've heard a couple of times about an
21 agreement for the project. There was no agreement for this
22 project. This went through a normal approval process even
23 though it was in litigation; we rescinded our denial and
24 granted approval of the project. That gives the Applicant
25 on any project to come in and ask for modifications. The

1 only way you can prevent that is by actually entering into
2 an agreement, what's called a development agreement, and we
3 did not do that in phase one. We're considering that and
4 hopefully that can happen in phase two, so that if you get
5 public benefits or you get agreements on stuff that's not
6 required by Town Code, then you can hold them to that
7 commitment. But the idea that there was an agreement to do
8 an underground structure is not a correct statement,
9 because we do not have any agreement.

10
11 The analogy I've used is that they had said they
12 were going to build a 30' sound wall. Even though the CEQA
13 documents or the requirements was a 20' sound wall they
14 could come in and ask for that modification and so long as
15 they met the CEQA requirements and met the Zoning Code,
16 then it would be allowed, and that's kind of here is at
17 least—and I'm not a math expert—but at least if they've met
18 the requirements of the parking then under the Housing
19 Accountability Act, and really under any other findings,
20 the project should be approved.

21 CHAIR HANSSEN: Okay, so you answered the
22 question that I wanted to ask earlier, which was because
23 not everyone in the public understands this process, so
24 when Summer Hill/Grosvenor submitted the original
25 Architecture and Site for this project they submitted a

1 series of development plans. That's what happens with every
2 approval we do for Architecture and Site. So when we
3 approve it we usually say within accordance with the
4 development plans attached as exhibit blah, blah, blah. So,
5 I think what you're saying is that even though they submit
6 those plans it's not a legally binding agreement that
7 everything in their plan is going to be exactly the way it
8 was unless we create a development agreement. Did I get
9 that right?

10
11 TOWN ATTORNEY SCHULTZ: Well, it had to go by the
12 Conditions of Approval unless they come in for a
13 modification, and that's what they've done.

14 CHAIR HANSSEN: Right.

15 TOWN ATTORNEY SCHULTZ: But the comments that
16 there was an agreement that was reached between the Town
17 and the developer and they're not upholding that agreement
18 is not a correct statement. There is no agreement signed by
19 both parties that this is exactly what's going to be done.
20 It allows for modifications; even our Specific Plan allows
21 for modifications to the approvals.

22 CHAIR HANSSEN: Okay. Thank you very much. All
23 right, so I'd like hear from other Commissioners about
24 where we think we are. We know what feedback we've gotten
25 from the public so far. We have some people from the public

1 that asked for more time. I think we're clear on what the
2 parking requirements are, and so what do my fellow
3 commissioners think about what we should do as our next
4 step in terms of a motion? And it's fine to make comments
5 without making a motion. Vice Chair Janoff.

6 VICE CHAIR JANOFF: This is not a motion, just a
7 couple of questions. Question for the Town Attorney. Mr.
8 Schultz, if we were to agree that the Housing
9 Accountability Act is not applicable to the matter before
10 us would it be your opinion—and I'll ask Staff separately—
11 that there is still no objective criteria that the proposed
12 change doesn't meet? In other words, would you say that the
13 project still meets the technical and objective
14 requirements of the Specific Plan, the General Plan, the
15 Zoning Code, and the Housing Element? My question is
16 assuming the Housing Accountability Act isn't applicable
17 here, are we at the same place in terms of your opinion in
18 regard to objective standards?

19 TOWN ATTORNEY SCHULTZ: I got a little bit
20 confused with your question. If the Housing Accountability
21 Act does apply...

22 VICE CHAIR JANOFF: Does not apply.

23 TOWN ATTORNEY SCHULTZ: If it does not apply,
24 then you still should be using your standards and criteria
25

1 and it meets its parking regulations. You're still going to
2 have to come up with findings as to what it does not comply
3 with. You just can use subjective reasons also, but you're
4 going to have to have specific reasons and findings.

5 VICE CHAIR JANOFF: So, my question, I'll ask
6 Staff. If we didn't take the Housing Accountability Act
7 into consideration would it be Staff's opinion the project
8 as proposed still meets all Town criteria?
9

10 JOCELYN SHOOPMAN: Staff's opinion would be that
11 it meets the parking requirements for Town Code and per the
12 Specific Plan.

13 JOEL PAULSON: Yes, I concur with that as well.

14 VICE CHAIR JANOFF: Okay. Back to the question of
15 the Chair. I think given the late receipt of the statement
16 from the Town Attorney and the way that it describes the
17 criteria to be met and what the obligations of the Planning
18 Commission are, I think it's fair to say that the public
19 requires the opportunity to look at those words carefully
20 and follow up on the documents referenced so that we're all
21 on board. Those of us who have had a little bit more time
22 to think about where we are and the criteria required for
23 us to deny the application before us, we may be in a
24 different position, but I think until everyone is at the
25 same place with the same knowledge it would be inadvisable

1 for us to proceed with a vote tonight to approve or deny
2 the application, so I would be in favor of a continuance. I
3 don't like the idea of dragging this out continually but I
4 think there's just too much of a curveball that came too
5 late for the public to really understand.

6 CHAIR HANSSEN: Commissioner Tavana.

7 COMMISSIONER TAVANA: You know, after hearing
8 everything tonight I would definitely have to say I am
9 opposed and I would deny this tonight based on what I've
10 heard. I feel the burden of responsibility comes on Summer
11 Hill Homes to present subjective proof as to why they want
12 to make this change, so I would definitely say I would be
13 comfortable denying it tonight or continuing based on what
14 everybody else on the Commission wants to do.

15 CHAIR HANSSEN: Commissioner Tavana, I'd like to
16 ask you a question back. What grounds... Because we have to
17 have... Supposing we'd have findings, what are your thoughts
18 and your thinking and where your position stood? You know,
19 what grounds we have for...

20 COMMISSIONER TAVANA: I guess we don't know
21 necessarily whether the Housing Accountability Act applies
22 currently tonight. I haven't got a clear understanding of
23 whether or not it is applicable and I just feel there's a
24 sincere lack of good faith in this project. If it was
25

1 approved at 303 original parking spots, why is it okay to
2 go down to 179? Where is that justification? I haven't seen
3 that tonight. You know, it could be 124, that's all that is
4 required by the Town, but I don't necessarily see how we
5 can go from 303 to 179 with no justification here other
6 than that Grosvenor is no longer part of the project.

7 That's kind of where I'm at right now with this.

8 CHAIR HANSSEN: All right, well, it's in the
9 Specific Plan, but thank you for sharing that. Okay, so
10 thank you for your comments. Commissioner Hudes.

11 TOWN ATTORNEY SCHULTZ: And just to be clear
12 before, I'm fine with doing a memorandum to the public and
13 to the Planning Commission if they want to continue it, but
14 my opinion will be that it has to comply with the Housing
15 Accountability Act because this is an amendment to phase
16 one, which is the entire phase one project. That's the way
17 it has come in and that's the way my analysis will be in
18 that, so there isn't any... As far as my conclusion, it
19 applies. Whether you can find objective standards based on
20 the evidence and the math of doing it, or whether you
21 haven't been convinced that they've shown how the
22 calculations project out is an issue for the Planning
23 Commission to decide.

24 CHAIR HANSSEN: Okay. Commissioner Hudes.

1 COMMISSIONER HUDES: Adding to comments, I would
2 be in favor of continuing the item if only for the reason
3 that we owe it to the public because this information that
4 was provided to us just a few hours before the hearing is
5 also I think valuable information for the public,
6 particularly since there's a difference of opinion between
7 some members of the public and with the very late breaking
8 information that it would be wise to allow this enough time
9 for the public to understand that basis and the
10 implications of making a decision under the Housing
11 Accountability Act versus not.
12

13 I did have three other questions, and if there
14 were to be a continuance I would wonder whether it would be
15 appropriate to ask them now or to do that at another time,
16 so I'm just sort of putting that out there.

17 CHAIR HANSSEN: It sounds like there's some
18 momentum for a continuance, although we don't have a motion
19 at this point, then I would say defer any questions till
20 then, although I want to ask Staff a question before we
21 make a motion on continuing or not.
22

23 Supposing that it is the will of the Commission
24 to continue, since I've already closed the public hearing,
25 one of the reasons we'd be continuing is to allow the
public time to respond and comment on the possibility of

1 additional objective standards that we haven't thought of
2 or applicability of the Housing Accountability Act, and we
3 do have people in Town that are very thorough and will do
4 their homework as well. Will we be able to reopen public
5 comment if we continue?

6 JOEL PAULSON: I'd look to the Town Attorney. You
7 always have that option to reopen for additional public
8 comment at the next hearing even if it's continued. That's
9 generally something that hasn't happened often unless there
10 was significant change in the project, but I believe—and
11 the Town Attorney can confirm—that's up to you and you can
12 make that determination.

13 TOWN ATTORNEY SCHULTZ: In this case I would
14 state that you would want to reopen the public comment
15 because the reason why you're continuing it is because of
16 the issue with the Housing Accountability Act and therefore
17 you'll want to hear from the public as to reasoning behind
18 that.

19 CHAIR HANSEN: Good. That helps a lot.
20 Commissioner Badame.

21 COMMISSIONER BADAME: I would just like to
22 provide my comments. I did recommend a continuance at the
23 start of the public hearing two hours ago. My position has
24
25

1 not changed, so I would be in support of a motion to
2 continue.

3 CHAIR HANSSEN: Would you like to make that
4 motion?

5 COMMISSIONER BADAME: Certainly. I move to
6 continue Architecture and Site Application S-20-012,
7 consideration of an approval of a request for modification
8 to an existing Architecture and Site Application to remove
9 underground parking for construction of a commercial
10 building, the Market Hall, in the North 40 Specific Plan
11 Area. I would look to Staff to determine a date certain.
12

13 JOEL PAULSON: September 23rd.

14 COMMISSIONER BADAME: All right, I'd like to
15 include that in my motion, the date of September 23rd.

16 CHAIR HANSSEN: Commissioner Hudes.

17 COMMISSIONER HUDES: I would second the motion,
18 and also ask the Town Attorney, Mr. Schultz, if it's
19 appropriate to make available to the public the information
20 that you provided to the Planning Commission since they're
21 going to be provided an opportunity for another public
22 hearing.

23 TOWN ATTORNEY SCHULTZ: The analysis will be part
24 of the Staff Report; it comes out before the next meeting.
25

COMMISSIONER HUDES: Okay, thank you.

1 CHAIR HANSSEN: All right, so we have a motion
2 and a second. Are there any further comments or discussion
3 that Commissioners would like to make at this point?
4 Commissioner Barnett.

5 COMMISSIONER BARNETT: I suggest that the motion
6 include the continuance with public hearing as well.

7 COMMISSIONER BADAME: I would agree to add that
8 to my motion.

9 CHAIR HANSSEN: And Commissioner Hudes?
10

11 COMMISSIONER HUDES: Yes, I agree.

12 CHAIR HANSSEN: So the motion as amended. Are
13 there any other comments or questions that Commissioners
14 have before we take a roll call vote? Seeing none, I will
15 do the roll call vote, and please answer yes, no, or
16 abstain. I'll start with Commissioner Badame.

17 COMMISSIONER BADAME: Yes.

18 CHAIR HANSSEN: Commissioner Tavana.

19 COMMISSIONER TAVANA: Yes.

20 CHAIR HANSSEN: Commissioner Hudes.

21 COMMISSIONER HUDES: Yes.

22 CHAIR HANSSEN: Commissioner Barnett.

23 COMMISSIONER BARNETT: Yes.

24 CHAIR HANSSEN: Vice Chair Janoff.

25 VICE CHAIR JANOFF: Yes.

1 CHAIR HANSSEN: And I vote yes as well, so it
2 passes unanimously. Mr. Paulson, are there appeal rights
3 for this action by the Commission?

4 JOEL PAULSON: Chair Hanssen, no, there are not
5 appeal rights because an action has not been taken other
6 than continuing it to a future public hearing.

7 CHAIR HANSSEN: Okay. Thank you very much.
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