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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 now move on to Item 3, which is considering approval of a request for a modification to an 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. This is APN 424-56-017, Architecture and Site Application S-20-012. The property owner and applicant is Summerhill N40, LLC. I understand Ms. Shoopman will be giving the Staff Report for this item.

JOEL PAULSON: Before you start, Chair, I think Commissioner Burch has a comment.

CHAIR HANSSEN: Oh, I'm sorry.

COMMISSIONER BURCH: Yeah. Based on the proximity of my home to the property I have to recuse myself at this time.

CHAIR HANSSEN: Yes, of course. Thank you very much, and thank you for making me stop before I...

COMMISSIONER BURCH: Of course.

CHAIR HANSSEN: Okay. All right, thank you.

1 JOCELYN SHOOPMAN: Good evening. On August 2,
2 2017 the Town Council adopted a resolution to approve the
3 phase one Architecture and Site Application and Vesting
4 Tentative Map Application for the construction of a new
5 multi-use, multi-story, mixed-use development on 20.7 acres
6 of the North 40 Specific Plan Area. The approved
7 Architecture and Site Application included a multi-story
8 mixed-use building referred to as the Market Hall, with
9 residential units above, retail space, a community room,
10 and a four-story parking garage.

11
12 The applicant is requesting a modification to the
13 approved application to remove the below-grade level of the
14 parking garage. With the elimination of the below-grade
15 level the applicant is proposing to modify the remaining
16 three above-grade levels resulting in a total of 176
17 parking spaces being provided. This is 52 parking spaces in
18 excess of the parking requirements for the Market Hall
19 building.

20 Based on the analysis contained in the report
21 Staff recommends approval of the Architecture and Site
22 Application subject to the recommended Conditions of
23 Approval. This concludes Staff's presentation but we are
24 available to answer any questions.
25

1 CHAIR HANSSEN: Do any Commissioners have any
2 questions for Ms. Shoopman? Commissioner Hudes.

3 COMMISSIONER HUDES: I don't know if you're going
4 to ask for disclosures about site visit but I did have
5 disclosure and a comment about site visit; I don't know if
6 this is the appropriate time.

7 CHAIR HANSSEN: You know, I should have asked if
8 anyone has visited the site in question. I assumed that
9 everyone had at one point or another but if there is anyone
10 that had visited the site that needed to make a disclosure
11 about their visit. Commissioner Hudes.

12 COMMISSIONER HUDES: I had a couple of points
13 here. First of all disclosure. I've been contacted by a
14 number of residents about this issue. I told them that I
15 was not permitted to discuss it and so I did not have a
16 discussion about it.

17
18 But secondly, after reading the comments that
19 came in from residents I grew concerned about other issues
20 with the site, including whether the reconfiguration to
21 exclude the basement parking has already occurred, and I
22 attempted to visit the site but it was locked, and since
23 the correspondence came in last night and noon today I did
24 reach out to Staff and I contacted the construction manager
25 but there wasn't time to do a site visit, and I think a

1 visit to the site is in order, and that gets to my other
2 point.

3 I'm concerned about holding the hearing on this
4 important topic when residents aren't able to attend due to
5 wildfires. They either are not able to attend or not able
6 to participate in the timeframe on such an important issue.
7 There were still evacuation orders for areas adjacent to
8 our hillside neighborhoods even yesterday, and I know
9 things have gotten better but there were comments raised
10 about this by some of the residents as well and I think
11 it's about perception on this sensitive issue, that we need
12 to be cognizant to folk's concerns, not only about the
13 opportunity to give testimony but also the possibility of
14 action being taken not in full sunshine because of the
15 wildfire situation and the number of residents that are
16 concerned about this issue.

18 So, because of my inability to do a site visit
19 and the wildfire situation I believe that a continuance
20 would be in order in order have better due process for the
21 Town's residents.

22 CHAIR HANSSEN: Staff, could you comment on if we
23 were to continue this item to allow for more time for
24 public testimony as well as the opportunity for
25

1 Commissioners to visit the site since it was locked when
2 this continuance would take place?

3 JOEL PAULSON: I can start and then if the Town
4 Attorney has anything additional. Should the Commission
5 believe that Commissioner Hudes' point raises an issue that
6 folks think a continuance is in order, then that is
7 something that the Commission can do. I think we have
8 about, let me just check, not including the applicant's
9 team probably ten to twelve folks in the attendee list. I'm
10 not sure how many of those folks are interested in speaking
11 but ultimately that is the choice of the Commission.
12

13 CHAIR HANSSEN: Commissioner Hudes, go ahead.

14 COMMISSIONER HUDES: Just to follow up, if we
15 were to do a continuance what would be the appropriate time
16 to have that discussion and introduce a motion?

17 JOEL PAULSON: I would look to the Town Attorney
18 for that, whether or not we should open the hearing and let
19 the applicant speak and ultimately let those in the
20 audience speak, or whether that should or could be done
21 prior to that.

22 TOWN ATTORNEY SCHULTZ: So, to add to that, it's
23 up to the desire of the Commission to decide that. There
24 are two ways we can handle in the past. One would be to
25 take up that motion for continuance right now and continue

1 it to a date certain and take no public testimony. As you
2 know, in the past what we've done is taking the testimony
3 and then continued the hearing. The issue with that though
4 is if you take public testimony now it becomes difficult
5 for Staff as to trying to monitor people that are trying to
6 speak a second time, which wouldn't be allowed during the
7 continued hearing of the public comment. So, although you
8 can continue it after hearing it, I would recommend that if
9 you're going to continue it that it should be done now so
10 that everybody knows the date that it's going to continued
11 and you hear all the public testimony at the same time, but
12 as I said, it's up to the Commission.
13

14 CHAIR HANSSEN: I'd like to hear from other
15 members of the Commission on the suggestion—it's not a
16 motion at this point—by Commissioner Hudes. Vice Chair
17 Janoff.

18 VICE CHAIR JANOFF: Thank you. I have a question
19 for Commissioner Hudes. Would you please elaborate on your
20 interest in seeing the stage of development of the proposed
21 site?

22 COMMISSIONER HUDES: Sure. There were at least
23 one or two residents raised that that construction has
24 progressed already as though it did not include a basement,
25 and I was interested in seeing that. Also, in terms of

1 understanding a little bit better about the way the
2 building would be reconfigured. I am not certain about all
3 that. It would be helpful to actually visit the site, but
4 more important was to visit the site to see what progress
5 has been made and has it actually gotten ahead of this
6 decision.

7 CHAIR HANSSEN: Vice Chair Janoff.

8 VICE CHAIR JANOFF: Just to follow up on that.
9 Could Staff elaborate whether the progress of the build of
10 this particular building, the Market Hall, has that begun?
11

12 JOEL PAULSON: They have been doing utilities.
13 Actually, the applicant would be the best one to ask about
14 that but what I can say is they have building permits in
15 for the building, which includes the underground garage,
16 and so ultimately they would need to do that earthwork.
17 They obviously have not done that earthwork yet and they
18 wouldn't do that earthwork until a building permit was
19 issued, which hasn't happened.

20 And just to answer Commissioner Hudes' other
21 comment, there are no exterior changes to the footprint of
22 the building, and so the only difference is you would no
23 longer have that underground portion, so it doesn't
24 actually have any exterior modifications.
25

1 CHAIR HANSSEN: Any other Commissioners have any
2 comments on this? Commissioner Badame.

3 COMMISSIONER BADAME: Would it be possible to get
4 testimony from the applicant so we could make an inquiry as
5 to what has progressed so far, and then close the hearing
6 without getting public testimony from members of the
7 audience, and then decide whether we want the continuance
8 or not based upon the testimony of the applicant? Is that a
9 possibility or no? If not, I'm going to go for a
10 continuance.
11

12 TOWN ATTORNEY SCHULTZ: I'd say that's not. You
13 don't have the ability to open that issue up to just one
14 person. You can single out the issue but you're going to
15 have to let other people, because the applicant might have
16 a different testimony as to what's happening out there
17 compared to other people.

18 COMMISSIONER BADAME: Okay.

19 TOWN ATTORNEY SCHULTZ: I will say that issue is
20 somewhat irrelevant to this issue. If they've done work
21 that they weren't allowed to do then that's a code
22 compliance issue and it has nothing to do with the current
23 application in front of you. As Mr. Paulson said, I believe
24 they've even pulled their building permits to do the
25 underground garage yet but I could be incorrect.

1 COMMISSIONER BADAME: Thank you.

2 CHAIR HANSSEN: I did want to make a comment on
3 this. With all gratitude towards all the people that came
4 to this meeting on Zoom tonight that might have wanted to
5 speak, and with all the gratitude to all the residents who
6 have already made comments, we did have at least one
7 comment if not more from the public saying that they felt
8 that there were people that wouldn't have an opportunity to
9 speak on this, and since the North 40 is such an important
10 topic to so many residents in our town it would be my
11 preference to continue just simply to make sure we have
12 captured all the possible public testimony that we can
13 either via additional written comments or people coming to
14 the meeting, and as Commissioner Hudes pointed out the
15 wildfires are an issue.

17 I would also advocate doing the continuance now
18 versus trying to proceed through the hearing and then
19 trying to track who had made comments and who didn't. So,
20 that would be my preference but I wanted to see if any
21 other Commissioners wanted to comments or make a motion on
22 the idea of continuing at this point. Commissioner Tavana.

24 COMMISSIONER TAVANA: I would definitely agree
25 with you, Chair Hanssen and Commissioner Hudes. I think
giving people a little bit more time, especially

1 considering the circumstance, on the topic of the North 40
2 more time to review and/or attend the meeting if they
3 weren't able to tonight, so I would support a continuance
4 now as opposed to carrying everything out and making that
5 decision later.

6 CHAIR HANSSEN: Thank you for your comments.
7 Commissioner Barnett.

8 COMMISSIONER BARNETT: Based on the comments from
9 Town Attorney Rob Schultz I think that a continuance would
10 be appropriate, that for example we can't have testimony
11 from the applicant today and then expect people to comment
12 on it at a subsequent meeting.

14 CHAIR HANSSEN: Right, okay. So, then, if there
15 are no other comments from other Commissioners would one of
16 you like to make a motion to continue? Commissioner Hudes.

17 COMMISSIONER HUDES: If I could check with Staff
18 first on the date, would September 9th be available?

19 JOEL PAULSON: Yes, we can put it on the
20 September 9th meeting.

21 COMMISSIONER HUDES: I would move to continue
22 this item to September 9th, date certain.

23 CHAIR HANSSEN: Okay, and do I have a second?
24 Commissioner Badame.

25 COMMISSIONER BADAME: Second.

1 CHAIR HANSSEN: Any other comments by
2 Commissioners? Commissioner Barnett.

3 COMMISSIONER BARNETT: I'd like to make it clear
4 that there is an opportunity for continued public input
5 during this extended period.

6 CHAIR HANSSEN: Absolutely. Thank you. I think
7 that's really important to point out. Commissioner Hudes.

8 COMMISSIONER HUDES: And I just wanted to inquire
9 about a site visit. Do I need to have a reason that people
10 agree with to do the site visit? What's the procedure for
11 moving forward with the site visit?
12

13 JOEL PAULSON: Staff will work with the applicant
14 to gain access. Obviously this is an active construction
15 site so you probably will need a hard hat and a vest at a
16 minimum, but I will work with the applicant to see when we
17 can schedule a site visit for yourself and anyone else on
18 the Commission who is interested in a site visit. You can
19 just email me and we'll move forward from there.

20 COMMISSIONER HUDES: Great, thank you.

21 CHAIR HANSSEN: All right, thank you. All right,
22 so then if there are no other comments then we will take
23 another roll call vote on this matter, so I will start with
24 Commissioner Tavana.
25

COMMISSIONER TAVANA: Yes.

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CHAIR HANSSEN: Commissioner Badame.

COMMISSIONER BADAME: Yes.

CHAIR HANSSEN: Commissioner Hudes.

COMMISSIONER HUDES: Yes.

CHAIR HANSSEN: Commissioner Barnett.

COMMISSIONER BARNETT: Yes.

CHAIR HANSSEN: Vice Chair Janoff.

VICE CHAIR JANOFF: Yes.

CHAIR HANSSEN: And I vote yes as well, so it passes unanimously. Director Paulson, are there any appeal rights on this item?

JOEL PAULSON: Thank you, Chair. There are not appeal rights on a continuance and we will come back to this item on September 9th.

CHAIR HANSSEN: Okay. Sounds great.

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