

Draft Resolution to be modified by Town Council deliberations and direction.

RESOLUTION 2020-

**RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS**

**GRANTING AN APPEAL OF THE DECISION OF THE PLANNING COMMISSION
APPROVING 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 (MARKET HALL) IN THE NORTH 40
SPECIFIC PLAN AREA (S-20-012) ON A PROPERTY ZONED NORTH 40 SPECIFIC PLAN.**

APN 424-07-114

ARCHITECTURE AND SITE APPLICATION: S-20-012

PROPERTY LOCATION: 14225 WALKER STREET

APPELLANT/APPLICANT/PROPERTY OWNER: SUMMERHILL N40, LLC

WHEREAS, on August 26, 2020, September 9, 2020, September 23, 2020, and September 28, 2020, the Planning Commission held public hearings and considered 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 (Market Hall) in the North 40 Specific Plan Area (S-20-012) on a property zoned North 40 Specific Plan. The Planning Commission denied the Architecture and Site application on September 28, 2020; and

WHEREAS, on October 1, 2020, the appellant filed an appeal of the decision of the Planning Commission denying the request for a modification to an existing Architecture and Site application (S-13-090) to remove underground parking for construction of a commercial building (Market Hall) in the North 40 Specific Plan Area (S-20-012) on a property zoned North 40 Specific Plan; and

WHEREAS, this matter came before the Town Council for public hearing on October 20, 2020, and was regularly noticed in conformance with State and Town law; and

WHEREAS, the Town Council received testimony and documentary evidence from the appellant and all interested persons who wished to testify or submit documents. Town Council considered all testimony and materials submitted, including the record of the Planning Commission proceedings and the packet of material contained in the Council Agenda Report for their meeting on October 20, 2020, along with any and all subsequent reports and materials prepared concerning this application; and

WHEREAS, the Town Council finds as follows:

A. In accordance with Town Code section 29.20.275:

1. There was error or abuse of discretion on the part of the Planning Commission;
or
2. The Planning Commission's decision is not supported by substantial evidence in the record.

NOW, THEREFORE, BE IT RESOLVED:

1. The appeal of the decision of the Planning Commission denying 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 (Market Hall) in the North 40 Specific Plan Area on a property zoned North 40 Specific Plan is granted and Architecture and Site application S-20-012 is approved; and

2. The Town Council hereby adopts all findings, considerations, and conditions of approval set forth in the documents attached as Exhibits A and B; and

3. The decision constitutes a final administrative decision pursuant to Code of Civil Procedure section 1094.6 as adopted by section 1.10.085 of the Town Code of the Town of Los Gatos. Any application for judicial relief from this decision must be sought within the time limits and pursuant to the procedures established by Code of Civil Procedure section 1094.6, or such shorter time as required by state and federal Law.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 20th day of October 2020, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

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

DATE: _____

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TOWN COUNCIL – October 20, 2020
REQUIRED FINDINGS & CONSIDERATIONS FOR:

14225 Walker Street
Architecture and Site Application S-20-012

Consider Approval of a Request for Modification to an Existing Architecture and Site Application (S-13-090) to Remove Underground Parking for Construction of a Commercial Building (Market Hall) in the North 40 Specific Plan Area. APN 424-07-114.

PROPERTY OWNER/APPLICANT: Summerhill N40, LLC

FINDINGS

Required findings for CEQA:

- An Environmental Impact Report (EIR) was prepared and certified for the North 40 Specific Plan on January 5, 2015. No further environmental analysis is required.

Compliance with the North 40 Specific Plan:

- The project is in compliance with the North 40 Specific Plan.

CONSIDERATIONS:

Considerations in review of Architecture & Site applications:

- As required by Section 29.20.150 of the Town Code, the considerations in review of an Architecture and Site application were all made in reviewing this project.

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TOWN COUNCIL – October 20, 2020
CONDITIONS OF APPROVAL

14225 Walker Street
Architecture and Site Application S-20-012

Consider Approval of a Request for Modification to an Existing Architecture and Site Application (S-13-090) to Remove Underground Parking for Construction of a Commercial Building (Market Hall) in the North 40 Specific Plan Area.

APN 424-07-114.

PROPERTY OWNER/APPLICANT: Summerhill N40, LLC

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

Planning Division

1. APPROVAL: This application shall be completed in accordance with all of the conditions of approval and in substantial compliance with the approved plans. Any changes or modifications to the approved plans and/or business operation shall be approved by the Community Development Director, DRC or the Planning Commission depending on the scope of the changes.
2. EXPIRATION: The approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval has been vested.
3. OUTDOOR LIGHTING: Outdoor lighting shall comply with Town Code and Building Code regulations.
4. OPEN SPACE: The required open space shall be maintained in accordance with the requirements of the North 40 Specific Plan.
5. TANDEM GARAGES: Tandem garages are permitted for the required parking within the residential units. Tandem garages shall maintain a minimum interior clearance of 11 feet by 38 feet.
6. NOISE: The applicant shall comply with all recommendations provided by Charles M. Salter within the report dated January 20, 2016. The letter and/or recommendations shall be printed on the building permit plan set for all affected buildings.
7. PARKING GARAGE GATE(S): Prior to issuance of a building permit for the multi-story parking garage, the applicant shall retain a parking consultant and coordinate with the Los Gatos Monte Sereno Police Department regarding number and location of gated access points to the parking garage.
8. MITIGATION MONITORING AND REPORTING PLAN: The applicant shall comply with all relevant mitigation measures included in the adopted mitigation monitoring and reporting plan prepared with the certified EIR.
9. GENERAL: All existing trees shown on the plan and trees required to remain or to be planted are specific subjects of approval of this plan, and must remain on the site.
10. TOWN INDEMNITY: Applicants are notified that Town Code Section 1.10.115 requires that any applicant who receives a permit or entitlement from the Town shall defend, indemnify,

EXHIBIT B

and hold harmless the Town and its officials in any action brought by a third party to overturn, set aside, or void the permit or entitlement. This requirement is a condition of approval of all such permits and entitlements whether or not expressly set forth in the approval and may be secured to the satisfaction of the Town Attorney.

11. COMPLIANCE MEMORANDUM: A memorandum shall be prepared and submitted with the building plans detailing how the Conditions of Approval will be addressed.

Building Division

12. PERMITS REQUIRED: A separate Building Permit shall be required for each new commercial building and a separate Building Permit will be required for the residential portion.
13. APPLICABLE CODES: The current codes, as amended and adopted by the Town of Los Gatos as of January 1, 2017, are the 2016 California Building Standards Code, California Code of Regulations Title 24, Parts 1-12.
14. CONDITIONS OF APPROVAL: The Conditions of Approval must be blue-lined in full on the cover sheet of the construction plans. A Compliance Memorandum shall be prepared and submitted with the building permit application detailing how the Conditions of Approval will be addressed.
15. BUILDING AND SUITE NUMBERS: Submit requests for new building addresses to the Building Division prior to submitting for the building permit application process.
16. SIZE OF PLANS: Submit four sets of construction plans, minimum size 24" x 36", maximum size 30" x 42".
17. AIR QUALITY: To limit the project's construction-related dust and criteria pollutant emissions, the following the Bay Area Air Quality Management District (BAAQMD)-recommended basic construction measures shall be included in the project's grading plan, building plans, and contract specifications:
 - a. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 2 minutes. Clear signage shall be provided for construction workers at all access points.
 - b. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator. All non-road diesel construction equipment shall at a minimum meet Tier 3 emission standards listed in the Code of Federal Regulations Title 40, Part 89, Subpart B, §89.112.
 - c. Developer shall designate an on-site field supervisor to provide written notification of construction schedule to adjacent residential property owners and tenants at least one week prior to commencement of demolition and one week prior to commencement of grading with a request that all windows remain closed during demolition, site grading, excavation, and building construction activities in order to minimize exposure to NOx and PM10. The on-site field supervisor shall monitor construction emission levels within five feet of the property line of the adjacent residences for NOx and PM10 using the appropriate air quality and/or particulate monitor.
18. SOILS REPORT: A Soils Report, prepared to the satisfaction of the Building Official, containing foundation and retaining wall design recommendations, shall be submitted with

the Building Permit Application. This report shall be prepared by a licensed Civil Engineer specializing in soils mechanics.

19. SHORING: Shoring plans and calculations will be required for all excavations which exceed five (5) feet in depth or which remove lateral support from any existing building, adjacent property, or the public right-of-way. Shoring plans and calculations shall be prepared by a California licensed engineer and shall conform to the Cal/OSHA regulations.
20. FOUNDATION INSPECTIONS: A pad certificate prepared by a licensed civil engineer or land surveyor shall be submitted to the project Building Inspector at foundation inspection. This certificate shall certify compliance with the recommendations as specified in the Soils Report, and that the building pad elevations and on-site retaining wall locations and elevations have been prepared according to the approved plans. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered Civil Engineer for the following items:
 - a. Building pad elevation
 - b. Finish floor elevation
 - c. Foundation corner locations
 - d. Retaining wall(s) locations and elevations
21. TITLE 24 ENERGY COMPLIANCE: All required California Title 24 Energy Compliance Forms must be blue-lined (sticky-backed), i.e. directly printed, onto a plan sheet.
22. SITE ACCESSIBILITY: At least one accessible route within the boundary of the site shall be provided from public transportation stops, accessible parking and accessible passenger loading zones and public streets or sidewalks to the accessible building entrance that they serve. The accessible route shall, to the maximum extent feasible, coincide with the route for the general public. At least one accessible route shall connect all accessible buildings, facilities, elements and spaces that are on the same site.
23. ACCESSIBLE PARKING: The parking lots, as well as the parking structure, where parking is provided for the public as clients, guests or employees, shall provide handicap accessible parking. Accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances.
24. BACKWATER VALVE: The scope of this project may require the installation of a sanitary sewer backwater valve per Town Ordinance 6.50.025. Please provide information on the plans if a backwater valve is required and the location of the installation. The Town of Los Gatos Ordinance and West Valley Sanitation District (WVSD) requires backwater valves on drainage piping serving fixtures that have flood level rims less than 12 inches above the elevation of the next upstream manhole.
25. HAZARDOUS FIRE ZONE: All projects in the Town of Los Gatos require Class A roof assemblies.
26. SPECIAL INSPECTIONS: When a special inspection is required by CBC Section 1704, the Architect or Engineer of Record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the Building Permit. The Town Special Inspection form must be completely filled-out and signed by all requested parties

prior to permit issuance. Special Inspection forms are available from the Building Division Service Counter or online at www.losgatosca.gov/building.

27. BLUE PRINT FOR A CLEAN BAY SHEET: The Town standard Santa Clara Valley Nonpoint Source Pollution Control Program Sheet (page size same as submitted drawings) shall be part of the plan submittal as the second page. The specification sheet is available at the Building Division Service Counter for a fee of \$2 or at ARC Blue Print for a fee or online at www.losgatosca.gov/building.
28. APPROVALS REQUIRED: The project requires the following departments and agencies approval before issuing a building permit:
 - a. Community Development – Planning Division: (408) 354-6874
 - b. Engineering/Parks & Public Works Department: (408) 399-5771
 - c. Santa Clara County Fire Department: (408) 378-4010
 - d. West Valley Sanitation District: (408) 378-2407
 - e. Santa Clara County Environmental Health Department: (408) 918-3479
 - f. Bay Area Air Quality Management District
 - g. Local School District: The Town will forward the paperwork to the appropriate school district(s) for processing. A copy of the paid receipt is required prior to permit issuance.

TO THE SATISFACTION OF THE DIRECTOR OF PARKS & PUBLIC WORKS:

Engineering Division

29. APPROVAL: This application shall be completed in accordance with all the conditions of approval listed below and in substantial compliance with the latest reviewed and approved development plans. Any changes or modifications to the approved plans or conditions of approvals shall be approved by the Town Engineer.
30. PRIOR APPROVALS: All conditions per prior approvals (including Resolution 2017-045, etc.) shall be deemed in full force and affect for this approval.
31. DESIGN CHANGES: Any proposed changes to the approved plans shall be subject to the approval of the Town prior to the commencement of any and all altered work. The Owner, Applicant and/or Developer's project engineer shall notify, in writing, the Town Engineer at least seventy-two (72) hours in advance of all the proposed changes. Any approved changes shall be incorporated into the final "as-built" plans.
32. PLANS AND STUDIES: All required plans and studies shall be prepared by a Registered Professional Engineer in the State of California and submitted to the Town Engineer for review and approval. Additionally, any studies imposed by the Planning Commission or Town Council shall be funded by the Owner, Applicant and/or Developer.

TO THE SATISFACTION OF THE SANTA CLARA COUNTY FIRE DEPARTMENT:

33. REQUIRED FIRE DEPARTMENT ACCESS: Compliance with the following is required; CFC Sec. 503, 504, 506, 509 and Santa Clara County Fire Department Standard Detail and Specification A-1. Minimum required roadway width is 20 feet. Note specifically the requirements for a minimum 26-foot wide roadway serving buildings more than 30 feet in height from the lowest level of Fire Department Access. No parking is allowed within these

minimum required widths. Minimum vertical clearance is 13'6". REVISION 11/18/2015 Plans provided to this office show access as required.

34. FIRE SPRINKLERS REQUIRED: System requirements will vary depending upon the occupancy classification and projected use of each structure. It appears that the largest single structure will be a commercial multistory structure of 18,000 square feet. Applicants are advised to consult with the San Jose Water Company to determine what existing and proposed infrastructure will be required to meet the anticipated demand. CFC Chapter 9 and CRC Section 313 as adopted and amended by LGTC.
35. WATER SUPPLY REQUIREMENTS: Potable water supplies shall be protected from contamination caused by fire protection water supplies. It is the responsibility of the applicant and any contractors and subcontractors to contact the water purveyor supplying the site of such project, and to comply with the requirements of that purveyor. Such requirements shall be incorporated into the design of any water-based fire protection systems, and/or fire suppression water supply systems or storage containers that may be physically connected in any manner to an appliance capable of causing contamination of the potable water supply of the purveyor of record. Final approval of the system(s) under consideration will not be granted by this office until compliance with the requirements of the water purveyor of record are documented by that purveyor as having been met by the applicant(s). 2016 CFC Sec. 903.3.5 and Health and Safety Code 13114.7
36. PUBLIC FIRE HYDRANT(S) REQUIRED: Provide public fire hydrant(s) at location(s) to be determined jointly by the Fire Department and San Jose Water Company. Maximum hydrant spacing shall be determined by the currently adopted edition of the California Fire Code, with a minimum single hydrant flow of 1,500 GPM at 20 psi, residual. Fire hydrants shall be provided along required fire apparatus access roads and adjacent public streets. CFC Section 507, and Appendix B, Table B 105.1 and Appendix C.
37. HOSE VALVES/STANDPIPES REQUIRED: Hose valves/standpipes shall be installed as per the 2010 CFC Section 905, or where emergency access has been deemed minimal, shall be equipped with standpipes designed per NFPA Standard #14 and be equipped with 2-1/2" inch hose valves, located within the stair enclosure(s). Note specifically, within parking structure(s) at stairwells and on any proposed podium within certain courtyard areas.
38. FIRE APPARATUS (LADDER TRUCK) ACCESS ROADS REQUIRED: Provide access roadways with a paved all weather surface and a minimum unobstructed width of a minimum 26 feet, vertical clearance of 13 feet, 6 inches, minimum circulating turning radius of 60 feet outside and 31 feet inside, a maximum slope of 10 percent and vehicle loading of 75,000 pounds. CFC Section 503 and SCCFC SD&S A-1.
39. PARKING ALONG ROADWAYS: The required width of fire access roadways shall not be obstructed in any manner and, parking shall not be allowed along roadways less than 28 feet in width. Parking may be permitted along one side of roadways 28-35 feet in width. For roadways equal to or greater than 36 feet, parking will be allowed on both sides of the roadway. Roadway widths shall be measured curb face to curb face, with parking space based on an 8-foot width. CFC Section 503.
40. GROUND LADDER ACCESS: Ground-ladder rescue from second and third floor sleeping rooms shall be made possible for fire department operations. With the climbing angle of seventy-five degrees maintained, an approximate walkway width along either side of the

building shall be no less than seven feet clear. Landscaping shall not be allowed to interfere with the required access. CFC Section 503 and 1029 NFPA 1932 Section 5.1.8. through 5.1.9.2.

41. **REQUIRED BUILDING ACCESS:** Exterior doors and openings required by this code or the International Building Code shall be maintained readily accessible for emergency access by the fire department. An approved access walkway leading from fire apparatus access roads to exterior openings shall be provided when required by the fire code official. CFC Section 504.
42. **KEY BOXES WHERE REQUIRED:** Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for lifesaving or firefighting purposes, the fire code official is authorized to require a key box to be installed in an approved location. The key box shall be of an approved type and shall contain keys to gain necessary access as required by the fire code official. Locks. An approved lock shall be installed on gates or similar barriers when required by the fire code official. Key box maintenance. The operator of the building shall immediately notify the fire code official and provide the new key when a lock is changed or rekeyed. The key to such lock shall be secured in the key box CFC Section 506.
43. **TIMING OF INSTALLATION:** When fire apparatus roads or a water supply for fire protection is required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction except when approved alternating methods of protection are provided. Temporary street signs shall be installed at each intersection when construction of new roadways allows passage by vehicles in accordance with Section 505.2 CFC Section 501.
44. **EMERGENCY GATE/ACCESS GATE REQUIREMENTS:** Gate installations shall conform with Fire Department Standard Details and Specification G-1 and when open shall not obstruct any portion of the required width for emergency access roadways or driveways. Locks, if provided, shall be fire department approved prior to installation. Gates across the emergency access roadways shall be equipped with an approved access device. If the gates are operated electronically, an approved Knox key switch shall be installed, if they are operated manually, then an approved Knox padlock shall be installed. Gates providing access from a road to a driveway or other roadway shall be at least 30 feet from the road being exited. CFC Section 503 and 506.
45. **CONSTRUCTION SITE FIRE SAFETY:** All construction sites must comply with applicable provisions of the CFC Chapter 14 and our Standard Detail and Specification SI-7. Provide appropriate notations on subsequent plan submittals, as appropriate to the project. Plan pages specifically dedicated to safety plans, including proposed temporary access and water supply for each phase will be required CFC Chapter 14.
46. **PREMISES IDENTIFICATION:** Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Numbers shall contrast with their background CFC Section 505.