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

Los Gatos Planning Commissioners:	Jeffrey Barnett Susan Burnett Steve Raspe Rob Stump
Town Manager:	Chris Constantin
Community Development Director:	Joel Paulson
Town Attorney:	Gabrielle Whelan
Transcribed by:	Vicki L. Blandin (619) 541-3405

1 Peck with respect to this building, but I certainly don't
2 think that that would affect my judgement today. Thank you.

3 COMMISSIONER RASPE: Thank you for that. Mr.
4 Paulson, I see Mr. Mullin is not here this evening. Will
5 you be delivering the report?

6 DIRECTOR PAULSON: Thank you, Chair. Yes, I will
7 deliver the Staff Report. Good evening, Commissioners.
8 First, I'm going to turn it over to the Town Attorney so
9 she can provide background on the regulatory framework
10 applicable to this project.

11 ATTORNEY WHELAN: Thank you. This is a Senate
12 Bill 330 project that is also seeking to utilize State
13 Density Bonus Law, so I've prepared a brief presentation to
14 go over what those laws provide.

15 Senate Bill 330 authorizes applicants to submit
16 what's called a preliminary application, and that
17 preliminary application, once submitted, vests an applicant
18 to all the Town's development standards that were in place
19 at the time that a complete preliminary application was
20 submitted to the Town.

21 This project vested to development standards that
22 were in place. While the project would be eligible to
23 utilize Builder's Remedy, the project has opted to rely
24 solely on the State Density Bonus Law.
25

1 As the Commission may recall, the State Density
2 Bonus Law allows for increased densities in exchange for
3 applicants providing different levels of affordability in
4 their project, and so once they've met their required
5 threshold of affordable units, applicants can request
6 Density-Bonuses, incentives, concessions, and waivers.

7 This particular applicant is not seeking
8 increased density. The Applicant is, however, seeking
9 incentives, concessions, and waivers, which is authorized
10 by the State Density Bonus Law even though an applicant is
11 not seeking a Density-Bonus.

12 Incentives and concessions basically include
13 items that will result in cost reductions, and the intent
14 of the legislation is that cost reductions enable
15 developers to provide affordable housing. Other examples of
16 incentives or concessions would be approval of Mixed-Use
17 zoning, reductions in setbacks, square footage, parking,
18 etc.

19 In addition to incentives and concessions,
20 applicants are entitled to seek unlimited waivers of
21 development standards that would have the effect of
22 physically precluding the development as proposed at the
23 allowed density.
24
25

1 That is an overview of SB 330 and Density-Bonus
2 Law, and I'm available if the Commission has any follow-up
3 questions.

4 COMMISSIONER RASPE: Commissioners, any questions
5 for the Staff Attorney? Okay, Mr. Paulson, then we'll hear
6 a Staff Report.

7 DIRECTOR PAULSON: Thank you. As proposed, they
8 are looking to demolish the existing commercial structures
9 on the site; it's approximately an acre-and-a-half site.
10 They're looking to construct 55 multi-family units, four of
11 which will be live/work units, which is somewhat unique for
12 the Town. In those 55 units there will be eight BMP units,
13 as evidenced in the Staff Report. The makeup of the units
14 is there are studio units, two-bedroom units, and three-
15 bedroom units.
16

17 The height meets the max height of the Housing
18 Element Overlay Zone, which is 45'. These range, I think,
19 somewhere between 41.5-45', so they do comply with that.

20 Access currently is taken from Los Gatos
21 Boulevard; however, this access will be taken solely from
22 Garden Lane.

23 The parking requirement, they're entitled through
24 the Density-Bonus to reduced parking standards, and so this
25 proposed project is required to have 79 pursuant to those

1 regulations. They actually have 88, and there are nine
2 guest spaces—I went back and counted them, Commissioner
3 Stump—those two on the cover page weren't added; there are
4 nine guest parking spaces.

5 Ms. Whelan spoke about concessions and
6 incentives. They're seeking a concession to the BMP Program
7 Guidelines. They don't have, for instance, any three-
8 bedroom BMPs. The BMP Guidelines ask for a mix similar to
9 what the other units are, and so they don't have three-
10 bedroom units, and then they also don't have some of the
11 larger units, which are two of those components.

12 Then a number of waivers: setbacks, driveway
13 length, garage width, and then a number of waivers for the
14 Objective Design Standards, and those are outlined in, I
15 believe, Exhibit 9 of your Staff Report.

16 The project was evaluated to make sure that we
17 could comply with No Net Loss Law. This site will not
18 render the need for the Town to rezone any sites at this
19 point, as, again, included in your Staff Report. Those
20 findings are included in the finding and we can move
21 forward from that standpoint.

22 Lastly, an Initial Study was prepared. Following
23 the completion of that Initial Study it was determined that
24
25

1 they were eligible for CEQA exemptions through Section
2 15162 and 15168.

3 There were an Addendum and a Desk Item for this
4 matter tonight, and then Staff is available. We have our
5 environmental consultant available, and then we have Parks
6 and Public Works Staff, via the Town Engineer and Traffic
7 Engineer, available as well. That concludes my report.

8 COMMISSIONER RASPE: Thank you for that report.
9 Commissioners, any questions for Staff, including our
10 consultant? Commissioner Stump.

11 COMMISSIONER STUMP: I continue to have concerns
12 about CEQA and the study that we are doing. At the
13 Commission meeting a couple of meetings ago I brought up
14 the whole issue of cumulative impact, and as we take a look
15 at what has happened to us, it's unprecedented in Los Gatos
16 history probably to have this significant number of
17 projects, 15, many of them that do not meet the Town's
18 standards.

19 By the way, I'm not pointing that out as an
20 issue, I'm just saying that's the reality that we've got
21 greater densities, and even in the Los Gatos Boulevard area
22 now we've got greater clustering that's taking place.

23 I guess my question is at what point in time do
24 we consider the substantial impacts or changed
25

1 circumstances to our situation? That probably ties back to
2 our 2040 program EIR. It does not describe the environment
3 that we are in today.

4 Again, I'm not trying to pick on any one project,
5 I'm just looking at the entire program that we're looking
6 at now, so I don't even know what kind of question I'm
7 asking you, Mr. Paulson, but I've got concerns about our
8 CEQA study.

9 ATTORNEY WHELAN: I can start, and then the
10 Town's CEQA consultant may have information to add. The
11 Director and I were both present to the study session at
12 which the concern about cumulative impacts was raised, and
13 since then we've had conversations with a few CEQA
14 consultants about the best way to analyze those cumulative
15 impacts; we're still in those discussions.

16 One alternative would be to prepare a supplement
17 to the EIR that was done for the 2040 General Plan. Another
18 alternative would be to enhance the discussion of
19 cumulative impacts that's done for each individual project.
20 We haven't landed on the ideal solution just yet, but we
21 are having those conversations.

22 COMMISSIONER STUMP: Just a follow-up question. I
23 realize this is the \$64,000 question, but how long do you
24 think those discussions will take to reach a conclusion?
25

1 ATTORNEY WHELAN: I hesitate to give a firm date,
2 but I suspect we could have a recommendation within a
3 month.

4 DIRECTOR PAULSON: Additionally, through the
5 Chair, I'll have our environmental consultant add some
6 additional information, because there's the cumulative
7 impact of if and when all of these or some of these get
8 approved, that's really the action point.

9
10 Then there is this idea of in that group what
11 subset, an individual project, and group of two or three
12 projects, ten projects out of the 15, when does it really
13 become cumulatively considerable from an impact
14 perspective? But let me allow our CEQA consultant, Mr.
15 Pappani, to speak.

16 NICK PAPPANI: Nick Pappani, Vice President with
17 Raney. We are under contract with the Town to prepare the
18 environmental analysis for the proposed project, and I just
19 wanted to add a little bit further information for your
20 consideration. That would be with respect to the analysis
21 here that we've prepared.

22 The analysis is looking at is the scope of this
23 particular project within the General Plan EIR? The way we
24 look at that is to determine whether the project would
25 create any new significant impacts not previously

1 identified in the General Plan EIR, or if the project would
2 substantially increase the severity of an impact previously
3 identified in the General Plan EIR.

4 With respect to the questions of the Builder's
5 Remedy applications, and particularly the concentration of
6 certain projects along the Los Gatos Boulevard corridor, I
7 would suggest from an environmental impact standpoint that
8 the issue there is one of increased traffic, of increased
9 congestion, and that directly relates to the Level of
10 Service and the amount of congestion within that area of
11 the Town.

12 The State has shifted, as you probably will know,
13 with respect to how to determine traffic impact
14 significance in CEQA, from Level of Service and congestion
15 to Vehicle Miles Traveled. As you're probably aware, the
16 2040 General Plan EIR determines traffic impacts
17 significant by Vehicle Miles Traveled, and so that's the
18 focus that we had in this analysis for this project.

19 So, really, the question of the concentration of
20 these other projects and that cumulative effect, while it's
21 an important consideration, it's not one for this
22 environmental document, because it's related to primarily
23 Level of Service and congestion.
24
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1 In terms of effects on Vehicle Miles Traveled,
2 the industry standard guidance, which comes from the
3 California Air Pollution Control Officers Association,
4 shows data that by increasing residential densities you
5 reduce VMT, and that has to do with the different product
6 types that come along with these denser projects; they tend
7 to have residents that travel less.

8 We're comfortable with the current analysis that
9 adequately addresses potential effects of the cumulative
10 projects, which isn't one of congestion. If there are any
11 other concerns related to other potential environmental
12 topics, I'm happy to address those, but I just wanted to
13 focus at least on traffic, which I think is a primary
14 consideration of this increase, and how it's really one of
15 congestion and Level of Service, and that's not relevant to
16 the current environmental analysis.

18 COMMISSIONER RASPE: Thank you for that response.
19 Commissioners, any further questions either for this
20 speaker, or for any other member, or Staff? No. Let's go
21 with Commissioner Burnett to begin, and I'll then go down
22 the line.

23 COMMISSIONER BURNETT: Thank you. I have a
24 question for Staff. How can we move forward with these
25 developments when we're contemplating maybe thinking about

1 the Cumulative Impact Study or a supplement to our 2040
2 General Plan, when we have to take into consideration all
3 the projects that we're going to be faced with, and that
4 would go into one grouping? How can we single out one when
5 that one may actually become included in the total picture?

6 Not only that, the 2040 General Plan, as we know,
7 did not have all the evidence that we have now with our
8 Builder's Remedy projects, our SB 330, Density-Bonus,
9 Builder's Remedy; I mean, we're talking a lot here. I know
10 when I attended the Planning Commissioner retreat there was
11 quite a subject that CEQA is actually our friend, and that
12 if we have questions and if our lead, which is our city...

13 The fair argument standard is also something that
14 comes into play here. If it's obvious that there are going
15 to be issues, it needs to be looked at.

16 My question is how can we carve out this one
17 project when it may be looming that what would happen if a
18 decision were made to do a Cumulative Impact Study, then
19 would this project be let to go ahead and not be part of
20 the solution? Thank you.

21 ATTORNEY WHELAN: My thoughts on this project are
22 that it's consistent with the density and the height that
23 was proposed in the Housing Element Overlay Zone, and the
24 effects of that have already been analyzed, and so it
25

1 doesn't seem like there is more to study if something is
2 consistent with a program that was already adopted.

3 I do think there is a difference with the
4 Builder's Remedy projects that are not consistent with
5 density or heights that were previously analyzed, but there
6 are provisions in the State Housing Accountability Act that
7 the Town will need to be conscious of that to prohibit
8 unreasonable delays, and so I think it will just have to be
9 something that's discussed project-by-project.
10

11 DIRECTOR PAULSON: Through the Chair, also Mr.
12 Pappani might be able to offer some additional comments.

13 COMMISSIONER RASPE: Please.

14 NICK PAPPANI: Yes, thank you, again. Just to add
15 to that, I would note that the CEQA Guidelines and the
16 guidance for cumulative impact analysis in Section 15130
17 does clearly allow for the recognition that not every
18 single project contributes to a combined significant
19 impact. Take, for example, aesthetics. You might have
20 several of these Builder's Remedy projects that have
21 increased height above and beyond allowable standards,
22 however, this particular project that's compliant with the
23 General Plan and the zone from a heights perspective
24 doesn't incrementally contribute towards a potential
25 significant aesthetic effect, and so it is allowable to

1 determine this project's particular incremental effect to
2 potential combined impact as less than significant, and
3 that's what I would suggest is the case here.

4 COMMISSIONER RASPE: Thank you. Commissioner
5 Barnett.

6 COMMISSIONER BARNETT: This could be for Staff or
7 Mr. Pappani. As I understand, he's making the point that
8 our current CEQA analysis for the General Plan used Vehicle
9 Miles Traveled, but the Level of Service applies, and I'm
10 wondering if you could explain how that came about?
11

12 DIRECTOR PAULSON: I'll start. Prior to State law
13 being modified, we always looked at Level of Service, which
14 is intersection congestion, as Mr. Pappani mentioned. State
15 law changed, and from a CEQA perspective they moved to the
16 Vehicle Miles Traveled. So, from a CEQA perspective, that's
17 all that gets analyzed from a traffic perspective.

18 In addition to the VMT, we also still require the
19 LOS traffic impact analysis, and so that is not a CEQA
20 issue, that's a project issue, and there is information on
21 the number of trips in the Staff Report. So, from a traffic
22 perspective, to put it more plainly, what Mr. Pappani was
23 saying is from a CEQA perspective traffic is not an issue,
24 because there is not a VMT issue. In addition, we adopted
25

1 significant overriding considerations for VMT in our 2040
2 General Plan, because we knew it couldn't be mitigated.

3 COMMISSIONER BARNETT: Very helpful. Thank you.

4 COMMISSIONER RASPE: Thank you. Commissioner
5 Stump, I think you had a follow-up question.

6 COMMISSIONER STUMP: This was again about the
7 Housing Element Overlay Zone. Could you remind us of what
8 the density was that was laid out in that zone?

9 DIRECTOR PAULSON: In the Housing Element Overlay
10 Zone for this site?

11 COMMISSIONER STUMP: Exactly.

12 DIRECTOR PAULSON: Thirty to 40 dwelling units
13 per acre.

14 COMMISSIONER STUMP: What is the density for this
15 particular project? I'm not seeing a single calculation for
16 that. I've seen it in the drawing; it was not calculated
17 the way I was expecting it to be calculated.

18 DIRECTOR PAULSON: There is a number, I think
19 it's somewhere in the low thirties is how it's calculated
20 currently, and yes, depending on whether you're looking at
21 gross, net, or are we including the roadways in that
22 calculation, because typically we exempt those. Are we
23 counting the BMPs in that calculation, because we have
24 another General Plan or Housing Element policy that says we
25

1 don't count it as density, whereas with typically for these
2 projects we are counting it as density, so there are some
3 nuances there, but they are in that range from Staff's
4 perspective.

5 COMMISSIONER RASPE: Thank you. Commissioners,
6 any further questions for Staff? Commissioner Barnett.

7 COMMISSIONER BARNETT: A follow-up. If I'm
8 reading the Staff Report correctly, the Town does not have
9 a definition for live/work units, and I'm not good at
10 reading plans, so the question I have is how are those two
11 units different from other units?

12 DIRECTOR PAULSON: I think it's four, and the
13 Applicant can probably provide you some additional
14 information, but generally in the 30,000' level there's an
15 area that would be used for a commercial operation of some
16 sort, which is directly adjacent to abutting residential
17 units, but the Applicant can probably provide you more
18 details.

19 COMMISSIONER BARNETT: Thank you.

20 COMMISSIONER RASPE: Thank you. Any more
21 questions for Staff? Seeing none, I'll open the public
22 portion of this hearing and invite the Applicant, who I
23 believe is Pamela Nieting. Please state your name for the
24 record, and you'll have five minutes to speak.
25

1 PAMELA NIETING: Thank you so much. My name is
2 Pamela Salas Nieting.

3 But first, I wanted to thank you. I was going to
4 thank the Chair and Vice Chair, but they're not here, so
5 thank you, Planning Commissioners, for being here today.
6 And also, to Staff. I know Sean Mullin couldn't be here
7 today. Hopefully he's not Zooming, because he's supposed to
8 be taking a family vacation. But also, to Staff, James and
9 Mike, and the many others that have worked with me.

10 Like I was mentioning, my name is Pamela Salas
11 Nieting, and I'm Vice President at City Ventures. I also am
12 a planning commissioner in my hometown, so I know what it's
13 like to have a love for the home that you live in, and the
14 dedication that it takes to be here.

15 For those of you that don't much about City
16 Ventures, we are a sustainable, local, Bay Area builder
17 that primarily focuses on infill developments and
18 developments that are close to transit. Our company came to
19 life as part of a core belief in creating partnerships with
20 municipalities.

21 Speaking of partnerships, and before I dive into
22 the actual project, I feel very honored that I got to work
23 in partnership with the Town of Los Gatos on a site that
24 was identified in the Housing Element. So, for me the goal
25

1 of today is to breathe life into the vision that the Town
2 had for the property long ago.

3 The one-and-a-half-acre site is located at the
4 corner of Los Gatos Boulevard and Garden Lane,
5 approximately one mile south of Highway 85 and one mile
6 north of Blossom Hill Road, and it is currently home to an
7 existing shopping center.

8 Here's a quick sneak peek. The Town did beautiful
9 renderings, so I just wanted to walk you through the
10 existing conditions of Los Gatos Boulevard west. Los Gatos
11 Boulevard north, you can see the proposed versus the
12 existing. Garden Lane on the east view, and then Garden
13 Lane on the south view.

14 The current access to the site is off Los Gatos
15 Boulevard in its existing condition. You can see that there
16 are three driveway cuts.

17 Now, for the show today, which is the project.
18 It's 55 for-sale, all-electric, townhomes that vary from
19 studios to three-bedrooms, and square footage is ranging
20 from 300 to 1,500 square feet. The project, as Mr. Paulson
21 has noted before, is providing eight below market rate
22 units, four at low AMI, and four at moderate.

23 Along Los Gatos Boulevard, I've marked them here,
24 Commissioners, those are the live/work units, and we
25

1 designed the project to have two access points plus the
2 parking lot on the north side, that Mr. Paulson had
3 discussed also. My favorite part at the center of the
4 project is the central green space, which I feel like is
5 really the heart of the project.

6 Here's a better image to show the site plan
7 against existing conditions. As you can see, the existing
8 site used to only have access to Los Gatos Boulevard. We've
9 flipped it around, so now it's off Garden Lane.

10 An important aspect of the project was access to
11 VTA, and most importantly, we provided pedestrian
12 connectivity throughout and on Garden Lane to Los Gatos.

13 As I mentioned before, the heart of the project
14 is that open space, which was really curated with this
15 development in mind. You can see that we also included a
16 bulb-out at Garden Lane, and that was to provide an
17 extended sidewalk to complement access to Oak Hill Park
18 that is kitty-corner to the site.

19 Here are a few images of our green space, and
20 last but not least, I probably won't have time, is the
21 architecture. We know the architecture in downtown Los
22 Gatos has a special place and influence, and so for our
23 proposed architecture we brought a little piece of downtown
24 to Los Gatos Boulevard, all while keeping it unique.

1 You see here the historic Austrian woodwork
2 balcony, the exposed timber framing on the eaves, and then
3 the next slide, the exterior brick cladding design.

4 Thank you so much for listening to me today.

5 COMMISSIONER RASPE: Thank you so much for those
6 comments. Before you sit down, I'm sure my fellow
7 Commissioners have one or two questions. Commissioner
8 Stump.

9 COMMISSIONER STUMP: Thank you for your
10 presentation; very helpful. And thank you also for the
11 feedback that our consulting architect did give you and
12 that I do believe was seriously considered. I realize
13 you're dealing with constraints, but it was nice to see the
14 response.

15 That said, I'd like to talk about the front
16 setback a little bit, because I know that was a subject
17 that was brought up by the consulting architect and he
18 considered it to be a concern that setbacks appear smaller
19 and more rigid. This was his quote, "and other similar and
20 existing setbacks along the street frontage," even
21 including when he was speaking at the Los Gatos Boulevard,
22 and I know that you've made some adjustments. Can you share
23 those adjustments with us?
24
25

 PAMELA NIETING: Yes.

1 COMMISSIONER STUMP: Let me stop there with that
2 question. I might have a follow-up, but can you share those
3 adjustments?

4 PAMELA NIETING: Absolutely. I will do my best. I
5 also have our lead architect here.

6 What we did for Los Gatos Boulevard from an
7 architectural perspective, since we were running out of
8 space and there was the minimum density that we had to hit
9 to bring your vision to life, is we added additional façade
10 elements along Los Gatos Boulevard to activate that, so
11 you'll see those special pops of architecture. That's me
12 being a novice. I'm a civil engineer; I apologize.
13

14 And that's why the units are facing Los Gatos
15 Boulevard, and structurally speaking, because that's what I
16 can speak to, we even stepped it, because there's quite a
17 grade change from Los Gatos Boulevard to Garden Lane, so we
18 added in those elements to make sure that you could face
19 and be present and activate Los Gatos Boulevard instead of
20 being sunken in.

21 COMMISSIONER RASPE: Sir, before you begin, if
22 you could State your name for the record.

23 DAN HALE: Good evening, Dan Hale with Hunt Hale
24 Jones Architects. I appreciate Mr. Canon's comments; he's
25

1 reviewed our work in the past, it's always very insightful
2 and very appropriate.

3 Maybe along with what Pam was talking about, one
4 of the things that he spoke about and we talked to Sean
5 Mullin about, I think he gave some examples of some other
6 townhome projects in the area, and up and down Los Gatos
7 Boulevard actually, but in our opinion they were also in
8 areas that were a little less dense and more residential
9 feeling, and we felt like this is kind of in the core of
10 the commercial area, and so we wanted to bring a little
11 more—I don't want you to take this the wrong way—of an
12 urban front to it, which typically has a little less
13 movement. So, between the constraints that Pam mentioned
14 and looking at where this was in Los Gatos Boulevard, cars
15 going by at 30-35 miles an hour, we wanted to make it a
16 little more of an urban building.

18 COMMISSIONER RASPE: Commissioner Stump.

19 COMMISSIONER STUMP: I guess the question, again,
20 would just be so the setbacks are running from 5' to what?

21 DAN HALE: About 8-10' if you look at the recess
22 in the building.

23 COMMISSIONER STUMP: Sorry, you said 5' to...

24 DAN HALE: To about 10'.

25 COMMISSIONER STUMP: To 10'. Thank you.

1 COMMISSIONER RASPE: Commissioner Barnett.

2 COMMISSIONER BARNETT: I wonder if you could
3 respond to my earlier question about the design of the work
4 units?

5 PAMELA NIETING: Yes. This is something that
6 we've done in other projects. Essentially, the unit is
7 almost encompassed within the actual housing unit, but it's
8 kind of like a shopkeeper almost, like back east where
9 people would come out their front door and then walk into
10 their own little unit. Because the commercial is going
11 away, we were trying to come up with a creative way to
12 bring some economic vitality by way of anything creative.
13 This is what I'm hoping, that in those new residents—
14 because the units are going to be sold together—there might
15 be a mom like me who wants to work out of her home but be
16 able to sell something. This is where I'm hoping that
17 creativity can come into play.

18
19 But, it's a completely separate unit that has an
20 interstitial door, Commissioner, so when you're in your
21 unit you can literally just pop right in and then pop back
22 out, and it's the four that face Los Gatos Boulevard.

23 COMMISSIONER RASPE: Thank you. Commissioner
24 Burnett.
25

1 COMMISSIONER BURNETT: Yes, thank you. To follow
2 through, I'm concerned about the frontage, the setback,
3 because we have a very large project going on Los Gatos
4 Boulevard right now, and it's a 15' setback, and it is very
5 looming and very, I think, obtrusive. I mean, it's quite
6 large, and you feel like it's right on the street.

7 I find your definition of urban area is
8 characterized by high population density and infrastructure
9 of built environment, and I don't think that describes Los
10 Gatos actually, and even though you're at the end of Los
11 Gatos Boulevard, I think we still need to keep the
12 character and feeling of the Town, and we have to be
13 reminded that there is a neighborhood behind this
14 development, so I think we should try to continue on the
15 neighborhood feeling. Our architect, Mr. Canon, who is
16 great, did mention that, and you did mention that it was
17 recessed 5-8', so when you're talking about recess, what
18 are you talking about? The doorway, or where is this
19 recess, because it would be 5-8'?

21 PAMELA NIETING: Yes. I don't know if we can go
22 back to the site plan just to have something to speak to.

23 COMMISSIONER BURNETT: It wasn't in the book.

24 PAMELA NIETING: I was slide #10, I believe. In
25 order to soften it, Commissioner, you can see... I hear you

1 about we're not in New York where you want the façade just
2 hitting you like a big brick wall, which is kind of what
3 you have with that feeling along Garden, because there are
4 giant walls all throughout Garden Lane, and so the
5 landscaping here and the little walkways and pathways that
6 walk up to the units, and the 24-inch...15-inch gallon trees,
7 I believe it was 24-inch, it was all very intentional to
8 help soften the feel. While we couldn't get the setback
9 that the architect wanted with the white picket fence—I
10 mean, everybody wants that—we did make it very, very
11 intentional to provide those individual walkways, the
12 landscape pockets, the trees, so you have all those
13 elements in a smaller size, but all still meaningful.

15 COMMISSIONER BURNETT: Okay, thank you for that.
16 I don't quite think it would satisfy my need for it to have
17 more of a setback rather than just 5'; I think that's very
18 close to the street.

19 The next concern I have, and our architect did
20 bring that up also, what we always strive for is
21 individuality of the different little homes. I compliment
22 your design, and I appreciate you working mostly with our
23 architect's design and suggestions, so I do compliment you
24 on that, but I also compliment you that you're not using
25 Builder's Remedy, but you're working with the Town and

1 helping to develop a really nice project here, which others
2 have, and it works very well.

3 But my next question would be I know you have
4 three building materials, and the Town architect suggested
5 using those building materials to differentiate between
6 each of the...like you said in the packet. Just sort of give
7 a feeling of some articulation there and some feeling. I
8 mean, it just softens the whole look of the building, I
9 think, so that would be important, and it wouldn't be a
10 hard thing to do to use each material on different units.
11

12 COMMISSIONER RASPE: I'm sorry, did you want to
13 respond to that comment?

14 PAMELA NIETING: Oh, sorry. I apologize, I
15 thought you were asking what are the materials that we're
16 using, but I hear you about making sure that we have that
17 variety, that undulation of the different architecture
18 materials.

19 COMMISSIONER BURNETT: Would you consider
20 accepting or going along with our architect's suggestion in
21 that regard?

22 DAN HALE: If it's a strong opinion of the
23 Commission, we can come back and investigate it. It was a
24 conscious decision when we were designing the facades not
25 to do the individual units.

1 One, this product type is narrower than some
2 other townhome unit examples that he provided. Our unit
3 width is typically 16'. Many times, a normal townhome we
4 think of as 20-21'.

5 The other thing, I'm going to go back to my view
6 of the context. It's in more of a commercial area, the
7 buildings are larger scale, they have larger pieces of
8 massing to them, and so we're trying to fit in a little bit
9 in the existing neighborhood where we provide larger pieces
10 of massing of the building, instead of chopping it up into
11 individual small pieces.
12

13 We had a discussion with Planning, but interested
14 to hear your comments.

15 PAMELA NIETING: May I ask, Commissioner, would
16 you want us to try to do that along Los Gatos Boulevard
17 proper to kind of show that variety up front? Is that the
18 street?

19 COMMISSIONER BURNETT: Well, I keep referring
20 back to Mr. Canon's suggestion. I think his suggestions are
21 very good. I think it would soften the building, and again,
22 this isn't an urban city, this is a small town, and I think
23 it would be more pleasing to the citizens of Los Gatos to
24 have more charm associated with it. Not that your building
25

1 isn't a nice design, but I'm just saying you could go
2 further.

3 PAMELA NIETING: Why don't we do this: I can
4 absolutely look at the finish schedule and see how we can
5 make each little unit pop a little bit more. Part of what
6 we're trying to do with Planning was just kind of have it
7 feel more uniform, but that is something that we can look
8 into. I will take that comment.

9 COMMISSIONER BURNETT: Thank you for that.

10 COMMISSIONER RASPE: Thank you so much.
11 Commissioner Stump.

12 COMMISSIONER STUMP: Parking is truly the
13 unwinnable situation for the developer, for the Town, and
14 certainly for the residents when there is going to be
15 significant development around a residential area. Our code
16 would require an additional 40 spaces, and again, I'm not
17 debating that, I'm just stating the fact that our code
18 would have said there needs to be 40 additional parking
19 spaces tied to this development.

20 I guess my big concern, and maybe you can share
21 another development you have, because it seems like
22 probably one-and-a-half or two cars per unit where, I
23 guess, it was one-and-a-half cars you had, because not
24 everyone has a two-car garage. But there are 88 parking
25

1 spaces for the private garages, and then nine guest parking
2 spaces.

3 What has been your experience with these reduced
4 parking requirements? I'm just going to call it overflow,
5 because I've got to believe there's going to be overflow.
6 So, what have you seen in your other developments, and
7 where does that overflow go? I know the answer is, "it
8 depends," but I'm just interested.

9 PAMELA NIETING: I have a better answer than, "it
10 depends." In the beginning, when I introduced who City
11 Ventures was there was a reason why City Ventures always
12 chooses sites in infill developments close to transit.
13 Because our units, as I had spoken to before, are between
14 300 and 1,500 square feet. They're intentionally made
15 small.

16 The Casita Coalition is an organization that
17 deals with ADUs, and they talk about the element that's
18 been proven, affordability by design. There is also what
19 we've seen, parking by design. So, when you have these very
20 specific infill locations, that's why I brought up the fact
21 that we have all that accessibility throughout, the bike
22 racks, that was important, short-term, long-term, and the
23 fact that the transit stop, the VTA bus stop is right in
24
25

1 front of our site, that's for a reason, why we're looking
2 out for those sites, because we're not building big sites.

3 Yours truly used to live in the city in a 700
4 square foot apartment with two babies, and we walked
5 everywhere and took transit, and so I've seen it work with
6 a certain generation, and particularly when you're offering
7 those size units, and we are offering that accessibility
8 also to transit, so it's better than "it depends."

9 COMMISSIONER STUMP: Thank you.

10 COMMISSIONER RASPE: Thank you. Yes, Commissioner
11 Burnett.

12 COMMISSIONER BURNETT: Another question. There
13 are no one-level units, correct?

14 PAMELA NIETING: These are three-story townhomes,
15 you're right.

16 COMMISSIONER BURNETT: Right. So, for someone who
17 is disabled, or the elderly even, and with no elevators.

18 PAMELA NIETING: You're right, there are no
19 elevators in a three-story townhome; it's just like a lot
20 of the homes here that are two stories. But, by code we do
21 have ten percent of the units that are ADA accessible, and
22 they make certain provisions for like larger bathrooms. My
23 brother is in a wheelchair, so like being able to move
24 around in a wheelchair, etc.

1 COMMISSIONER BURNETT: Okay, thank you.

2 COMMISSIONER RASPE: Thank you very much for your
3 presentation. You'll get an opportunity at the end for a
4 closing presentation, I think up to three minutes.

5 PAMELA NIETING: Thank you.

6 COMMISSIONER RASPE: I'll now open the public
7 portion of the matter. If you are in the audience and you
8 haven't had a chance yet and you wish to speak, please fill
9 out one of the yellow cards; I have several here before me.
10 When it's your turn to speak, please come to the podium,
11 state your name, adjust the microphone as appropriate—as
12 you can see, we've had some issue with that tonight—and
13 you'll have three minutes to speak. I will begin, then,
14 with James Paulson. Thank you, Mr. Paulson.

16 JAMES PAULSON: Thank you. Good evening, my name
17 is James Paulson; I live at 253 Oakdale Drive, which is the
18 corner directly across from the back of this proposed
19 addition. Where there's a fire hydrant on the corner,
20 that's my home.

21 My wife and I bought our home just before my son
22 was born in 1983, and he's lived there ever since, and now
23 he and his wife also live with us with our grandson, and
24 our granddaughter is there often to visit, and we go down
25

1 to the playlot all the time, and one of our concerns,
2 obviously, is the traffic.

3 We already have huge traffic problems on Garden
4 Lane; it's a back way for everyone to get through our
5 neighborhood, whether it's Highland Oaks where Commissioner
6 Burch lives, or going up through Benedict Lane, all those
7 typical routes, so obviously this is going to impact us if
8 this goes through.

9 About 30 years ago it was proposed to put a
10 gardening place there, and it was denied having access on
11 Garden Lane because of traffic. So, now here we are putting
12 in a huge unit, which is going to be way more traffic. The
13 street already has a huge amount of parking issues from the
14 problems with the people who work at the carwash; they park
15 along our street. We have street trimmers, tree people,
16 illegally parking on our street. We have RVs parking there
17 all the time.

18 So, obviously we're concerned about the traffic
19 and the impact on our neighborhood, having this big
20 increase on there, and with owner/builders being able to
21 push their projects through, I don't know why the Town
22 needs to push this one through before we satisfy the
23 owner/builders ones.
24
25

1 So, those are our big concerns for myself, my
2 neighbors, my children, our grandchildren. I'm third
3 generation here trying to enjoy this, and as we keep
4 building up and urbanizing around us. This is proposed now
5 catty-corner to the Ace and is supposed to be one
6 eventually, which as you know, is one of the 15 projects.
7 Then the big one where the George Brown workout place
8 behind McDonald's is, and Erik Swanson is.

9 We're being claustrophobed by all of this, and
10 what used to be a nice neighborhood for us—a nice
11 residential neighborhood when Leonard McGamond (phonetic)
12 lived there across the street from us, and he was 83 when
13 we moved in in 1983—and now we're just going into an urban
14 environment, which is not what we wanted.

15 We went to sell our home years ago and the
16 realtor said, "You bought on the wrong side of the
17 boulevard." Well, apparently, it's just getting worse.
18 Thank you very much.

19 COMMISSIONER RASPE: Thank you for those
20 comments. Before you sit down, Commissioners, any
21 questions? Yes, Commissioner Stump.

22 COMMISSIONER STUMP: What's your on-street
23 parking like now in your neighborhood?
24
25

1 JAMES PAULSON: It's terrible. Garden Lane is
2 completely packed all the time. Like I say, I understand
3 that the people at the carwash need a place to park, and
4 they're parking along there. The tree trimmers come in with
5 their chippers all the time, and they park there. Big Creek
6 Lumber from Santa Cruz, every time there's a big job they
7 come in, because it's right off the freeway. They'll park
8 their double-trailers there and they'll take off and unload
9 one, come back, hook up their next one, and this is at 7:00
10 in the morning waking us up.

11
12 I like to sleep in a little more than I used to.
13 I used to always be up at 6:00 and drive up to Palo Alto to
14 work, and I was part of that traffic, which changing this
15 to a Vehicle Miles Traveled versus the actual impact of the
16 insanity of the traffic there. My wife is a retired nurse,
17 we were very conscious of all the emergency vehicles coming
18 through there all the time. So, yes, it's been pretty bad.

19 COMMISSIONER STUMP: Thank you.

20 COMMISSIONER RASPE: Any other Commissioners? No.
21 Thank you so much for your comments. Next speaker, Karen
22 Yamamoto, please. If you'll come to the podium, and you'll
23 have three minutes. Thank you.

24 KAREN YAMAMOTO: Hi, I'm Karen Yamamoto. I live
25 off Benedict Lane, which is right off Garden Lane. I am

1 speaking on behalf of myself and a couple of my neighbors
2 who could not be here.

3 We're not too happy with the fact that this is an
4 SB 330 build that should not be approved right now, only
5 because the SB 330s, we want to have them all together when
6 you guys decide what to do, because our infrastructure is
7 going to be infected.

8 We've already had sewage backed up into our homes
9 from the North Forty. We've already had impact on the North
10 Forty, and all our power outages; we had seven just from
11 the first phase, in one year. Do you think that another
12 development that has waivers is going to take into
13 consideration our infrastructure needs?

14 I'm looking at the parking. With these two seven-
15 story buildings that from New Town... I know we're not
16 supposed to discuss any one building, but there are six
17 right there. They're in the middle of it. I guarantee these
18 three SB 330s are going to have an impact on us. It needs
19 to be put on hold, don't approve it right away, but take
20 into consideration CEQA and how this is going to infect our
21 lives.

22 It's not just traffic, it's our lives, it's our
23 health. All of these constructions, whether it is cheaply
24 done or not, needs to be analyzed with CEQA. It needs to be
25

1 really looked at as a whole, not as individual projects.
2 Please do not approve this today, but take into
3 consideration that...

4 I'm running out of time. I have one other
5 question. What are the height limits, because their
6 buildings are 54' high. I thought our height limitation was
7 42'.

8 COMMISSIONER RASPE: Thank you so much. Before
9 you sit down, Commissioners, any questions for this
10 speaker? Seeing none, again, thank you for your attendance
11 and your comments tonight. My final yellow card is Mr.
12 Fagot.
13

14 LEE FAGOT: Lee Fagot, speaking as an almost 30-
15 year resident of the Town of Los Gatos, and I'm not
16 representing any group, I'm speaking just as an individual
17 in town.

18 I believe that Ms. Yamamoto made some very good
19 points about considering this development in the context of
20 all the other developments that are being proposed along
21 the Boulevard, which is facing some issues of the water
22 table underneath that area, that street, all along there.

23 The fact that it lies along a series of
24 earthquake fault zones along there, that's going to also be
25 impacted by these other developments.

1 The other infrastructure concerns of the
2 utilities, including sewage, water, electricity, and so
3 forth, are all going to be impacted.

4 I believe the design that is being proposed is
5 interesting. In other areas that are zoned for 45' heights,
6 this development would be more appropriate than what we see
7 along the Boulevard. I appreciate the fact that they've
8 considered the variety in the design, so that it's not so
9 impactful as looking at this brick wall, for example, but
10 the fact that it's only about 5-8' back, that's just three
11 rows of seats away from the street to the building that
12 goes up 45'. That doesn't look like anything in the Town of
13 Los Gatos, and once we make an exception for something like
14 this, then the bar is lowered to that level.

15 The point that Ms. Yamamoto made to consider this
16 as a context of all the other submissions and *then* make a
17 judgement and a recommendation makes sense. In the
18 meantime, like I said, I think the design, in an area that
19 does already have an allowance for 45', with a proper
20 setback, not 5-8', makes more sense, but that site on the
21 Boulevard with the infrastructure challenges and the CEQA
22 considerations, it's not a good fit, so my recommendation
23 to that point is delay, refer this to another site
24
25

1 consideration, but do not approve it going forward as it
2 stands on that site. Thank you.

3 COMMISSIONER RASPE: Thank you so much. Before
4 you sit down, Mr. Fagot, any questions from our
5 Commissioners? Seeing none, thank you again for your
6 attendance this evening.

7 Those are all the yellow cards I have. Mr.
8 Paulson, anybody on Zoom?

9 DIRECTOR PAULSON: Thank you, Chair. I do not see
10 any hands raised on Zoom.

11 COMMISSIONER RASPE: Then I will give the
12 Applicant an opportunity to approach again. You'll have up
13 to three minutes to address some of the comments you heard,
14 or answer any questions of Staff. Thank you.

15 PAMELA NIETING: I'm very thankful for my
16 education as a licensed civil engineer, because I feel like
17 I can speak a little bit eloquently on this.

18 From a utility perspective, we hired some of the
19 best engineers, CBG, and all of this looked at thoroughly,
20 from capacity, sizing, etc.

21 Also, we did a lot of geotechnical studies, and
22 we also are following and abiding by the AP Act, and so we
23 had two different types of geotechnical engineers just to
24 make sure that we had the correct findings about what Mr.
25

1 Fagot had discussed about the faults that are, frankly, a
2 lot in the area that we have.

3 With regard to CEQA, and I know that Staff can
4 discuss this, the project is looked at individually and
5 within the context of the Housing Element when it's tiering
6 off; that's the beauty about CEQA law, that it looks at it.

7 I know that Mike Vroman can also speak to this.
8 We not only did the VMT and LOS, but Mike also recommended--
9 which I'm very thankful that he did--driveway counts along
10 Garden Lane, because we were concerned... I don't know, Mike,
11 if you want to talk about that. But we did that
12 specifically for the different concerns of the neighbors.

13 One quick item, for about the last two weeks I've
14 come at different hours of the day to kind of see what
15 traffic patterns are, and if I may say, there are actually
16 different traffic patterns based on the end use, meaning
17 like if it's residential versus commercial, and so I know
18 that it may feel like a lot, and I don't know, Mike, if you
19 want to talk about the driveway counter, where there wasn't
20 any impact when they looked at that. But we did care about
21 the neighbors on Garden Lane, so we did do that.

22 I think that was all the comments. Neighborhood
23 parking, traffic, utilities, and then geotechnical
24 perspective I think is what I heard.
25

1 Mike, don't feel that you need to come up. I just
2 wanted to let them know that you did do that.

3 COMMISSIONER RASPE: Thank you, and before you
4 sit down, Commissioners, any follow-up questions to the
5 Applicant? Actually, as long as I have you, two questions.

6 The currently existing site, the egress and
7 ingress are from Los Gatos Boulevard. You have essentially
8 closed that off except for Pedestrian Way, and put it onto
9 Garden Lane. Did you ever consider as part of this project
10 having the driveways come back onto Los Gatos Boulevard?

11 Was that a consideration, or does the site make that
12 impractical or impossible? What was the reason you didn't
13 do it that way?

14
15 PAMELA NIETING: It had to do with traffic and
16 congestion. We wanted to make sure there was fluid in and
17 out, and again, when we looked at it, you're looking at it
18 not from a commercial. In a commercial you have a lot of
19 in/out, in/out during the day, versus residential you have
20 different hours, and that's why yours truly today sat
21 outside of the site on Garden Lane looking at that cute
22 little park, because I also have young children, just
23 trying to see. All of the workers were gone by then, so I
24 just kind of sat there, and that was very important for us,
25 and that's why we had not just one in/out, we had two

1 in/outs plus a third for the parking. That's why you have
2 one, two, three to hopefully have a fluid movement of
3 vehicles, because we didn't want to impact the neighbors.

4 Oh, and then, Commissioner Burnett, the 5' is
5 only in one part of a pinch point of the building where the
6 edge of it is, but when the units that face the Boulevard
7 are 15' from the face of curb to the face of the building,
8 so I did want to say that; we just verified it right now.

9
10 COMMISSIONER RASPE: Thank you, and one more
11 follow-up question. You're asking for many waivers, but
12 you're only asking for one concession, and that is the BMP
13 count. You don't want to offer a three-bedroom, low- or
14 moderate-income unit. Can you discuss why that's not part
15 of the mix? I would think having a larger unit for a low-
16 income family would be desirable in that.

17 PAMELA NIETING: This is a bit of conjecture; I'm
18 not speaking all builders, but I've worked for a few. The
19 BMR units essentially for all builders comes at a loss, so
20 we have a negative, and so normally that is why density is
21 important, because you're trying to spread the cost. In
22 this case it was literally for financial reasons, to make
23 the project affordable.

24 One thing that City Ventures prides itself on is
25 to not do an in-lieu fee and to build the homes on the

1 site, versus paying for the Town or cities to have money
2 that just sits there, and then no one comes in and builds
3 affordable housing.

4 COMMISSIONER RASPE: I appreciate the response.
5 Commissioner Stump had a follow-up question.

6 COMMISSIONER STUMP: I just want to get a
7 clarification. You were speaking about setbacks once again,
8 and you said there is only one instance of a 5' setback
9 because it's kind of a pinch point, but then everything
10 else went to 15'?

11
12 PAMELA NIETING: Because I think Commissioner
13 Burnett asked about Los Gatos Boulevard, having...

14 COMMISSIONER STUMP: Exactly, Los Gatos
15 Boulevard.

16 PAMELA NIETING: And I apologize that I didn't
17 put that exhibit on my slides, but there's a pinch point
18 that's closer to the Rotton Robbie, that's the size of the
19 building that gets too close, but otherwise we just
20 measured it; it's 15' from the curb to the face of the
21 building.

22 COMMISSIONER RASPE: Thank you. Commissioners,
23 any other questions? No. Thank you, again, for your
24 presentation this evening. I'll close the public portion of
25 this matter and open up the discussion to my fellow

1 commissioners for questions or comments. Feel free to ask
2 questions of Staff, any Staff members we haven't heard of,
3 or discuss among ourselves. Commissioners, I open the floor
4 to you. Commissioner Stump.

5 COMMISSIONER STUMP: Let's start with
6 transportation. The project will need to implement a
7 Transportation Demand Management Plan. Can you illuminate
8 for us a bit what is in a Transportation Demand Management
9 Plan?
10

11 MIKE VROMAN: That would be included as part of
12 the Conditions of Approval, and it's mandated because there
13 are ten or more units. As was noted, there is not VMT
14 impact because this project is consistent with the General
15 Plan and the Housing Element, and the traffic study did
16 show a density of like 35.25 units per acre, so it was
17 within the 30-40 units per acre density of the General
18 Plan.

19 DIRECTOR PAULSON: Mr. Vroman, can you give the
20 Commission an idea of what types of items are used in a
21 TDM?
22

23 MIKE VROMAN: Yes, in a TDM plan there are
24 amenities they can have to facilitate bike use and bus use.
25 They can issue bus passes or discount passes for residents,

1 or try to work something out with VTA, especially since
2 they are so close to the bus stop.

3 They also could do things to encourage the
4 live/work units, or something that will reduce trips,
5 because theoretically people will be living and working
6 there, and therefore they won't be leaving to go to another
7 job.

8 Probably the biggest things here are the
9 proximity to the bus stops, but also bike facilities,
10 facilitating pedestrian and bike access through the
11 property.
12

13 And other things, like provide high Internet
14 speeds to encourage people to work from home.

15 COMMISSIONER STUMP: Thanks. Can I do a follow-up
16 on transportation?

17 COMMISSIONER RASPE: Please.

18 COMMISSIONER STUMP: The traffic study estimates
19 266 new daily trips over existing conditions. For those
20 people that are not professional traffic engineers, it's
21 hard to wrap your head around a number like 266 and say no
22 impact. So, how do you go about explaining to people that
23 are not traffic engineers that a number like that really is
24 not significant?
25

1 MIKE VROMEN: It would be 266 new trips, and a
2 local residential street is expected to handle about 1,000
3 vehicles per day. If you look at it over the course of the
4 day, the same people are driving 15 hours, so that's about
5 60 trips per hour for an average street.

6 The more critical thing we look at to determine
7 traffic impacts is what the peak hour traffic is going to
8 generate, and as Ms. Nieting referred to, our standard in
9 Los Gatos is 20 new trips per peak hour. So, if a project
10 generates 20 new trips in a peak hour, either AM or PM,
11 that will necessitate a traffic study. I think I've
12 explained in the past that most agencies in Silicon Valley
13 require 100 new trips to require a traffic impact, but
14 because Los Altos we have strong concerns about traffic
15 impacts, we require the threshold is 20 new peak hour
16 trips.

17
18 As Ms. Nieting referred to, this project would
19 have generated under ten new peak hour trips, however,
20 because the three existing driveways were on Los Gatos
21 Boulevard, ten new trips on Los Gatos Boulevard wouldn't be
22 very impactful, but because there are no driveways
23 currently from this property that go into Garden Lane,
24 that's what she was referencing as to why the Town required
25 them to do a traffic study.

1 Ordinarily, by just going by the rules it
2 wouldn't be required, but because there will be more than
3 20 new trips on Garden Lane, that's why we required it, and
4 that's why she said she's glad we did require it, because
5 that's an issue now.

6 The new trips on Garden Lane would be 31 PM peak
7 hour trips and 26 AM peak hour trips. Those will be going
8 out. Since there are no trips there, those will all be new
9 trips for Garden Lane. That works out to about one every
10 two minutes for each hour, so based on the existing traffic
11 now, and we did have traffic studies done to look at
12 existing conditions primarily at Garden Lane and Los Gatos
13 Boulevard where we have the signalized intersection, there
14 was very little to no change in the Level of Service, which
15 as Director Paulson mentioned, is no longer a CEQA
16 requirement, but we still look into Level of Service and we
17 still do that analysis for projects within the Town.

18
19 COMMISSIONER STUMP: Thank you.

20 COMMISSIONER RASPE: Thank you. Commissioner
21 Barnett.

22 COMMISSIONER BARNETT: This is for Ms. Whelan.
23 The setback exemption or concession is something that's
24 been included in the application, so my question is
25 understanding that members of the population feel that

1 that's not appropriate for this site, do we have the option
2 to require that there be a further setback?

3 ATTORNEY WHELAN: As a general rule, the Town
4 can't deny a waiver that would physically preclude the
5 project as proposed, but what I would like to do is go to
6 the statute, and I can read you the grounds for denial out
7 of the statute. That might take me a couple of minutes.

8 COMMISSIONER BARNETT: We talked earlier about
9 the cumulative impacts and the potential study by the Town
10 of that, but I believe you said that it would be legally
11 inadvisable to wait for that report to come out before
12 dealing with this project, is that correct?

13 ATTORNEY WHELAN: As a general rule with regard
14 to the Housing Accountability Act, if there's any reason to
15 delay a project, it should be like for a beneficial result.
16 So, if this density was already analyzed for when the
17 Housing Element Overlay Zone was adopted, and this project
18 is consistent with the Housing Element Overlay Zone, the
19 question to ask is what new information would come out of
20 that study?

21 COMMISSIONER BARNETT: Thank you, that's very
22 helpful. I think those are my questions for now. Thank you.

23 COMMISSIONER RASPE: Thank you. Any other
24 questions, Commissioners? Yes, Commissioner Stump.

1 COMMISSIONER STUMP: Switching over to the world
2 of parking. Obviously, based on State law we don't have
3 much of a say on parking requirements for this project, or
4 really any of these other like projects that are now in
5 process.

6 From the Town's perspective we're short 40
7 parking spaces in this project, based on our own code
8 requirements. This is more of a global question, so it's
9 not project-specific, but how is the Town going to start
10 dealing with inadequate parking, which we already deal with
11 in the downtown area, and now we're potentially pushing
12 inadequate parking out into our more residential areas?
13 There may not be an answer tonight, I understand that, but
14 what solutions?
15

16 Or, if we don't have solutions, I would really
17 start encouraging us to be looking at what solutions can we
18 put in place? If I lived over on Garden Lane, or if I lived
19 over in this gentleman's neighborhood, I would probably say
20 let's go to permit parking, or something along those line.
21 So, has any thought been given to how we're going to manage
22 this parking challenge that's kind of getting pushed out
23 into the neighborhoods?
24

25 DIRECTOR PAULSON: I'll start, and then I'm not
sure if Parks and Public Works might have some other ideas.

1 I know it has been discussed, I can't remember,
2 in formal or informal settings, knowing that these projects
3 were coming, not just the Boulevard, but some other
4 locations where the State requires the Town to allow them
5 to have the reduced parking requirements.

6 As to what mechanisms or options might be
7 available to help minimize that impact for surrounding
8 neighborhoods, one idea would be some kind of parking
9 limitations from a time perspective or permit perspective,
10 but I'm sure there are other ideas that the Town ultimately
11 may consider. I'm not sure if Mr. Heap, the Town Engineer
12 is aware of any other thoughts, even though they may not
13 currently be in motion.

14
15 GARY HEAP: Yes, thank you. Gary Heap with the
16 Public Parks and Public Works Department.

17 We are working on a residential parking permit
18 program policy document. Right now, we do have a number of
19 residential parking permit areas in Town, but they haven't
20 been put in really over the years and established with a
21 set of criteria within a policy document, so we are working
22 on that document and should have that ready for
23 distribution and public review in the next several months.

24 COMMISSIONER STUMP: Thank you.
25

1 COMMISSIONER RASPE: Thank you. Commissioners,
2 any further questions, thoughts?

3 ATTORNEY WHELAN: I have an answer on the waiver.

4 COMMISSIONER RASPE: Thank you, if you would.

5 ATTORNEY WHELAN: The statute, which is
6 Government Code Section 65915, provides that the public
7 entity shall grant the waiver requested by the Applicant,
8 unless the Town makes a written finding based on
9 substantial evidence that the development standard for
10 which the waiver is requested would not physically preclude
11 the construction of the development at the densities and
12 with the concessions or incentives that are permitted under
13 Density-Bonus Law.
14

15 COMMISSIONER RASPE: Thank you for the
16 information. Commissioners, any other questions for Staff?
17 No. Any other thoughts or comments generally? Commissioner
18 Burnett.

19 COMMISSIONER BURNETT: Again, referring to our
20 Town Architect, I believe he did address the idea about if
21 we did have more of a setback, and he gave a way to make up
22 units. I forgot exactly where it was in his report, but the
23 developer could make up units elsewhere to keep the
24 density, but change some of the configuration.
25

1 COMMISSIONER RASPE: Thank you for those
2 thoughts. I'll go ahead and lay out a couple of my
3 thoughts. As I've sat here, I've jotted down some notes.
4 Perhaps in no particular order.

5 I think we have to begin the analysis with the
6 understanding that this site was listed in our Housing
7 Element. It was designed to be developed for this very
8 purpose. Housing, which includes affordable housing
9 elements, is what's going to go in this spot, and frankly,
10 it's what *should* go in this spot. I think our town needs
11 more housing and more affordable housing products. We can
12 argue about what that looks like, and how many units are
13 going to be in there, but I think this is an excellent
14 location for this type of product.
15

16 They could have developed this project as an SB
17 330; they elected not to. They're using the Density-Bonus
18 Law, and I want to thank the Applicant for that. I think in
19 the end it results in a better product for them and for the
20 Town.

21 This project as currently designed complies with
22 the Housing Element Overlay Zone, so, for instance, it's
23 tall but it's not more than the Housing Element Overlay
24 Zone permits, 45'; they're within their limits.
25

1 The aesthetics, I generally find them appealing.
2 The design, I understand Architect Cannon has some
3 additional thoughts, and some of those I think were pretty
4 good, but the notion, for instance, of making each
5 individual unit appear as an individual unit, I think,
6 would be an error. If they're only 16' wide, for instance,
7 I think what you're going to get is almost New York City
8 appearance structure: very narrow units as opposed to a
9 longer, more streamlined façade.
10

11 They think the density is about right; I think
12 they're not asking for anything specific there. Per my
13 previous comment, I wish there was an additional BMP unit
14 for three bedrooms. I think a family of lower income status
15 in that facility would benefit from that, but I understand
16 why they can't do that.

17 Parking is going to be a challenge, no two ways
18 about it, but according to the Density-Bonus Law, they are
19 at their numbers. They've hit their numbers; they're not
20 asking for anything there. We are not at a no net loss
21 problem.
22

23 With every project we're going to have a traffic
24 issue; there's just no two ways about it. This site, I
25 think, has some benefits in that it's got the bus stop,
it's close to the freeway. I think it's going to benefit,

1 hopefully taking some of the traffic directly off our
2 streets into alternative means; that's my hope. Again, the
3 traffic study seems to indicate that there will be impacts,
4 but not so significant as to raise a CEQA challenge.

5 Again, I want to compliment the builder. They've
6 done, I think, as good a job as you're going to do on this
7 site. There are going to be issues. In this Town, we're not
8 going to have any perfect projects. This one checks a lot
9 of boxes. I think it's the best you're going to do at that
10 site.

11 Those are my initial thoughts, but I welcome
12 further comments from my Commissioners. Commissioner Stump.

13 COMMISSIONER STUMP: From my perspective, this is
14 a good project, but I have continuing concerns about CEQA.

15 The CEQA Guidelines Section 15162 that was
16 applied or discussed in the Staff Report, the same section
17 used to conclude that additional environmental review is
18 not necessary, also recognizes that, "Significant effects
19 previously examined may be substantially more severe than
20 shown in the previous EIR," which I would argue would be
21 the 2040 General Plan Program EIR. "In these cases, a
22 subsequent EIR *may* be required."

23 With the application of Builder's Remedy in Los
24 Gatos, the Town is facing unprecedented development beyond
25

1 what we have ever experienced, and beyond what we studied
2 certainly in the 2020 General Plan or the 2040 General Plan
3 EIR, including higher densities.

4 As an example, eight of the 15 Builder's Remedy
5 projects... And folks, I'm clumping them all as Builder's
6 Remedy, even if they're not invoking Builder's Remedy, as
7 the Applicant here is not, but until recently they were all
8 identified as Builder's Remedy projects.

9 Eight of the 15 projects have densities ranging
10 from 59 dwelling units per acre to 225 dwelling units per
11 acres. Six of the 15 projects are clustered along Los Gatos
12 Boulevard. Densities of these projects range from within
13 the Housing Element Overlay Zone, 31 dwelling units per
14 acre to 132 dwelling units per acre. Four of the six Los
15 Gatos Boulevard projects range from 62 dwelling units per
16 acre to 132 dwelling units per acre.

17 And again, I am not a CEQA expert, I'm just
18 someone who keeps asking the questions and saying a
19 cumulative impact study of some sort needs to be done. A
20 supplemental CEQA report needs to be done that's going to
21 really look at and study our current reality.

22 The volume and concentration of Los Gatos
23 development is new information of a substantial importance
24 under CEQA Guidelines; that same section we referred to,
25

1 but you go down and paragraph A, subsection 3, sub-
2 subsection B speaks to this directly and was understandably
3 not contemplated or studied in 2020 for 2040. We just had
4 no clue about what was coming, therefore it's legally
5 inappropriate to rely on (inaudible) from that document to
6 assess this or similar projects.

7 I would say that's my position. I am not an
8 attorney. I'm doing my darndest, digging into CEQA and
9 looking around, and getting good advice and counsel from
10 our own Town Attorney and torturing her with questions, and
11 I appreciate her willingness to speak with me about that.

12 I guess the way I would view this, my preference
13 is to try to get to the point where we're got a conclusion
14 and decision about a cumulative impact study and that I
15 would make a motion tonight to continue this to a date
16 certain. Why? I really hate going forward with the prospect
17 of saying I can't make Finding #1, so therefore, if we're
18 going to go forward with a vote, I'm going to vote no, and
19 I really don't like that prospect, because I do believe
20 this is a good project. It's not the project that I'm hung
21 up on so much as it is the CEQA question. I will stop now.

22 COMMISSIONER RASPE: I appreciate that comment,
23 and just in the frame of discourse, if I might,
24 Commissioner Stump. I guess my question would be, then, and
25

1 I think it's the same question the Town Counsel asked, what
2 could we learn for this project specifically that would be
3 different?

4 COMMISSIONER STUMP: But I think that's what the
5 cumulative issue is, right? And again, I fully understand
6 that some of these projects that are put forward may never
7 come to fruition, but right now we have to assume they are.

8 So, right down the street, sharing the same
9 intersection, a nine or ten story building at Ace Hardware.
10 You say well, it's only 266 vehicles here, and then what's
11 the number of vehicles there? If we don't look at the sum
12 total of what's going to go on on Los Gatos Boulevard, in
13 this case particularly, we are looking at, I think, some
14 disastrous traffic consequences.

15 That's probably dramatic, but I'll just use that
16 word. We're looking at some disastrous traffic consequences
17 if we just look at these one at a time. I agree, one at a
18 time, it looks pretty good, but now, what's the additive?
19 What's it going to look like? So, I guess that would be my
20 response, Chair Rasp.

21 COMMISSIONER RASPE: And I appreciate that. Thank
22 you so much. Commissioners, other thoughts? Commissioner
23 Barnett.

1 COMMISSIONER BARNETT: I believe that the
2 Applicant has checked all the boxes, if I can use your
3 phase, with respect to the legal requirements for the
4 project. I think the architecture is acceptable, and I'm
5 concerned that any delay for a program EIR regarding the
6 cumulative impacts would be putting the Town in a position
7 of legal risk.

8 That's not saying that I wouldn't like things to
9 be different, but at least in this case we know that the
10 Town has approved the traffic impacts for this project, and
11 frankly, I don't know what can be done to alleviate traffic
12 Town-wide when the Builder's Remedy and the Density-Bonus
13 are allowing these types of projects to occur.

14 There was one interesting comment by the
15 developer of considering architecture changes, and the
16 thought occurred to me that we could have a motion
17 approving the project with the recommendation that the
18 developer work with Staff to consider the compliance with
19 the recommendations of the consulting architect, Mr.
20 Cannon.

21 Those are my general thoughts. I think we do need
22 additional housing. I think affordable housing is very rare
23 in the Town, and is very much required for people trying to
24
25

1 get started in the Town, and some of our service staff, and
2 fire people, and the policemen as well.

3 So, overall, I would approve the project with the
4 recommendation of at least consideration of further
5 compliance with the recommendations of Mr. Cannon at a
6 Staff level.

7 COMMISSIONER RASPE: Thank you for those
8 comments. Commissioner Burnett.

9 COMMISSIONER BURNETT: Yes, thank you. I tend to
10 agree with Commissioner Stump. After attending a
11 commissioner meeting up in Santa Rosa talking about CEQA, I
12 think we're actually on solid ground. We're looking at the
13 whole picture here, not just one little slice, and I think
14 that's what I came away with from at this meeting, that I
15 think a supplemental report, a re-look, is mandated.
16 "Substantial evidence supports a low threshold fair
17 argument that a project may have a significant impact
18 effect regardless of contrary evidence."

19 So, the fair argument standard is very important,
20 and I know when we had our combined meeting with the
21 Planning Commission and Town Council, the CEQA consultant
22 that was with our Town Attorney, Ms. Kautz, mentioned the
23 fair argument standard is powerful, and it's something that
24 (inaudible) needs to look at.
25

1 I think Planning Commissioners represent the Town
2 of Los Gatos and the citizens, and this is a new project
3 coming in, and again, I think we have to look at the total
4 impact of all the projects that may come forward, and
5 that's why I feel we're on solid ground with CEQA. I think
6 CEQA actually wants us to do something like this if
7 substantial evidence comes forward, and I don't think that
8 was taken into consideration in our 2040 General Plan at
9 all. It was based on much different numbers, much different
10 densities, and so at this point I have to agree with
11 Commissioner Stump and his summary.
12

13 COMMISSIONER RASPE: Thank you for those
14 comments. Commissioner Barnett and Commissioner Stump.

15 COMMISSIONER BARNETT: The item before us
16 involves a recommendation to the Council.

17 COMMISSIONER RASPE: That's correct.

18 COMMISSIONER BARNETT: And in that context, if
19 there's a split on the Commission as to the right way to
20 go, could both of those perspectives be presented as a
21 recommendation for consideration by the Council?
22

23 DIRECTOR PAULSON: I'll say no, to start out
24 with, and Ms. Whelan can correct me. Council will get
25 verbatim minutes, so they will hear whatever conversations
happened as the motion goes, but if you end up in a 2-2

1 tie, then that would result in a recommendation of denial
2 being forwarded to the Town Council.

3 COMMISSIONER BARNETT: Thank you.

4 COMMISSIONER RASPE: Commissioner Stump.

5 COMMISSIONER STUMP: I guess I was going to
6 refer back to what Ms. Whelan shared with us a while ago
7 when I asked the question, because again, some good work
8 has been done behind the scenes to talk about how do we
9 handle CEQA in this unprecedented number of projects that
10 we've got coming at us that in a lot of cases we have very
11 little control over, and CEQA is one of the things that we
12 can use, because it's really also designed to protect the
13 public, and that's the public that's here currently, our
14 residents.
15

16 Now, I also believe it protects the public that
17 we're going to be inviting to live in our community as
18 well, because if we do this well, and we understand the
19 impacts well, and we plan for those impacts, they will be
20 the beneficiaries of less traffic issues, etc., so we're
21 just trying to avoid other severe consequences.
22

23 And if we don't do that, if we just sort of move
24 forward one at a time, then we're not exercising our duty
25 the best; we're exercising our duty, but at worst the Town
could even face a CEQA lawsuit. We talk about lawsuits. I

1 don't like talking about lawsuits, because I don't think
2 anybody really needs to sue anybody, but we're talking
3 about potentially a developer saying we're now going to go
4 to court. The public can take us to court as well. Our own
5 residents can file a class action if they don't believe
6 that we're doing the work that is needed to study, that's
7 needed to really lay out a thoughtful plan for this
8 community housing plan, and I think we all want that. We
9 all want below market rate housing. We want those things. I
10 will stop there, Chair.

11
12 COMMISSIONER RASPE: Yes, Commissioner Burnett.

13 COMMISSIONER BURNETT: In addition, this doesn't
14 mean that we will not have projects coming forward. All
15 this means is that we'll take a second look and maybe have
16 the backing of what CEQA wants us to do, take these second
17 looks when circumstances have changed, and have some new
18 concessions or waivers that are not allowed. I can't get
19 into that, because I don't know that, but what I do know is
20 that development could continue, we would just have a
21 little more control, because we would have a lot of new
22 facts that the Town could consider in the projects.

23 COMMISSIONER RASPE: Thank you. My sense is we're
24 divided. I'll just reiterate my prior comments without
25 belaboring the point.

1 Again, we're going to see a great many projects
2 in this town in the many months coming forward, and I don't
3 disagree, we have to consider them cumulatively. But even
4 given that analysis, I don't know how that would change
5 this particular project.

6 This project I find to be well designed, within
7 it the overlay zone limits asking for concessions which I
8 think are not unreasonable, and so I don't think the
9 cumulative analysis, even if performed, which I agree
10 should be performed, significantly should or would alter
11 this project, and for that reason I would support it.

12 But I believe we are at a 2-2 tie, and so my
13 question, I guess, to Staff is the way forward. Should it
14 be a motion for, and if that fails, then a motion in the
15 alternative against, and then with those two failed
16 motions, leave it at that and have it go to Town Council?
17 Or a single motion? Would that represent the 2-2?

18 ATTORNEY WHELAN: A single motion would suffice,
19 and then it would go... If the votes stay as they are, it
20 will go as a recommendation of no to the Town Council.

21 COMMISSIONER RASPE: Very good. Then
22 Commissioners, I will take it upon myself to make the
23 motion to consider a request for approval to demolish
24 existing commercial structures, construct a multi-family
25

1 live/work development of 55 unit, a Conditional Use Permit
2 for a live/work development, a Condominium Vesting
3 Tentative Map, site improvements requiring a Grading
4 Permit, and removal of large, protected trees under SB 330
5 on property zoned CH:HEOZ, located at 15349 to 15367 Los
6 Gatos Boulevard. APNs 424-19-048 and 424-19-049.
7 Architecture and Site Application S-24-015. Conditional Use
8 Permit U-24-006. Subdivision Application M-24-008.

9
10 I can make all the required findings, and as part
11 of that motion I will include a recommendation for Staff
12 and developer to work further to implement the design
13 changes recommended by the consulting architect. That is my
14 motion. Let me hear from Town Counsel.

15 ATTORNEY WHELAN: Because this is an SB 330
16 project the Town is limited to holding five public
17 hearings, and so that's something to consider.

18 DIRECTOR PAULSON: Continuing it would be to a
19 third hearing, because the first conditioned counts as a
20 hearing as well.

21 COMMISSIONER RASPE: Very good. If I may ask,
22 what is the result of running out our hearing?

23 ATTORNEY WHELAN: It is deemed approved.

24 COMMISSIONER RASPE: Yes, Commissioner Barnett.

1 COMMISSIONER BARNETT: The five applies
2 cumulatively to both the Planning Commission and to the
3 Council, correct?

4 ATTORNEY WHELAN: The total of all Town hearings
5 is limited to five.

6 COMMISSIONER BARNETT: Thank you.

7 COMMISSIONER RASPE: Commissioners, I'm going to
8 put my motion on hold for one second and open the
9 discussion to the Applicant's request. The request is, as
10 opposed to a denial, to continue the motion, which would
11 have the effect of adding at least one more hearing to the
12 mix, so it would take us from two hearings to three
13 automatically, which would only leave two in reserve, which
14 puts the Town slightly closer to peril, is the best way of
15 putting it. Commissioners, any thoughts on the Applicant's
16 request, given that footing?

17 DIRECTOR PAULSON: Through the Chair, I would
18 just offer also, the two Commissioners who aren't here this
19 evening are both recused, so the four of you are going to
20 be sitting up there again with the new person when and if
21 they start in May, then ultimately that's the landscape,
22 but there could end up being a similar scenario.

23 COMMISSIONER RASPE: Understood. Very good. One
24 argument could be, then, the quicker we get it to Town
25

1 Council, given the divided Planning Commission, the better
2 landscape for the Town of Los Gatos given legal peril. Is
3 that a fair statement?

4 DIRECTOR PAULSON: I think it's ultimately up to
5 the Planning Commission. You can continue the item; that's
6 perfectly fine. It may end up hamstringing future hearings.
7 You can act on it with a recommendation one way or the
8 other, so either way is perfectly fine.

9 COMMISSIONER RASPE: Commissioner Stump.

10 COMMISSIONER STUMP: Thank you very much. I guess
11 what I'm coming back to is really wanting to get clarity
12 around CEQA, and I know Ms. Whelan, you said that perhaps
13 that would maybe be a four-week process; you can't lay a
14 promise on that.

15 ATTORNEY WHELAN: And when I mentioned the four
16 weeks, I meant landing on a solution.

17 COMMISSIONER STUMP: No, no, I understand that.

18 ATTORNEY WHELAN: Not finished (inaudible).

19 COMMISSIONER STUMP: No, I fully understand that,
20 in that we land on a solution, and I don't know how that
21 applies here, that if we were to say let's continue this to
22 a date certain, four weeks out, six weeks out, if we have a
23 solution in four weeks, I don't know what difference it
24 makes other than we've got a way forward.

1 As I said, I like this project. This is not a
2 matter of saying I'm against the project, but my concern is
3 CEQA, and this whole discussion about yes, we should
4 consider doing cumulative impact, that I know that
5 conversation is still taking place, and if we were coming
6 back with that settled, I would more than likely at that
7 point in time be a yes vote. I'm not trying to hold anybody
8 hostage, I'm just saying I need clarification around where
9 we're going with CEQA study. That's why I was going to make
10 a motion, Chair, to do a date certain, but again, I realize
11 there are unknowns here and I can understand why we would
12 take a vote either way.

14 COMMISSIONER RASPE: Thank you. I appreciate
15 those comments. Yes, Commissioner Barnett.

16 COMMISSIONER BARNETT: I wonder if we could
17 reopen the public hearing to allow the developer to explain
18 why they would prefer to have a continuance.

19 COMMISSIONER RASPE: Commissioners, any
20 objection? I'll do it, subject to a limit of three minutes.
21 Thank you, I appreciate that.

22 PAMELA NIETING: The reason for the continuance
23 is because I strongly believe in the work that Nick Pappani
24 and Raney did. It's interesting, because when you talk
25 about a CEQA exemption, it makes it seem like there was no

1 work done, but there were a numerous amount of technical
2 studies, and so maybe what we can do is that Nick can put
3 it into more simple terminology, because you're right, we
4 are not CEQA attorneys, and I am certainly not a traffic
5 engineer, so my hope is that Nick can put it into language
6 that we can all understand, review the cumulative impact,
7 and be able to present something that everyone can stand
8 by, because I want you to be able to say to Staff, "Well
9 done. You did a good job on that CEQA," which I know they
10 did, because as an engineer I reviewed the document myself,
11 so that's literally the only reason for the continuance is
12 to be able to provide that, please. And just because it's
13 also a good project.

15 COMMISSIONER RASPE: Thank you for those
16 comments. I'll re-close the public portion of the hearing.
17 Commissioner Stump.

18 COMMISSIONER STUMP: I would agree. I read
19 through the CEQA work that was done, and I would consider
20 it to be fine work, but when I look at the underlying EIR
21 that it's resting on, that's where my concern is, that
22 program EIR, and what we were studying at that time. We
23 were studying nothing greater than 40 dwelling units per
24 acre. The Housing Element environmental assessment that
25 followed leaned totally on the General Plan EIR, and so my

1 position is not so much quality of work, because the
2 quality of work was excellent, I agree with you. It's not
3 so much that; it's we still are not looking at cumulative
4 impact.

5 COMMISSIONER RASPE: Let me ask you a question
6 again. This is for Commissioners and Staff. I'm trying to
7 incorporate Commissioner Stump's and Commissioner Burnett's
8 ideas regarding CEQA into the motion. How about if we
9 fashion the motion, and I don't want to box anybody in, but
10 a motion approving the project, again, subject to the
11 recommendations of working with Staff on the consulting
12 approval, and then further recommendation that the Town
13 Council incorporate or evaluate the use of a cumulative EIR
14 process as part of this project and all future projects?
15 Would that satisfy you?

17 COMMISSIONER STUMP: It's not so much satisfying
18 me. I think I'd have to look to the Town Attorney as well
19 as say is this something that we could do. Because
20 basically we're trying to give a project, and ultimately a
21 deadline, to the Council.

22 COMMISSIONER RASPE: What I'm trying to do maybe
23 has the cart and the horse here. I'm trying to protect the
24 project, protect the Town on the number of hearings we
25 have, but at the same time express our concerns on this

1 matter so that Town Council can decide whether to... Because
2 ultimately, it's their determination since we're only
3 making a recommendation. If part of the recommendation is
4 to consider the cumulative impacts of the project as well,
5 would that be a reasonable and appropriate recommendation
6 for us to make to Town Council?

7 ATTORNEY WHELAN: In recommending approval, one
8 of the findings that the Commission would be making is that
9 the CEQA work that has been done for the project to date is
10 adequate, and so if the Commission were to recommend
11 approval, the Commission would need to make that finding.

12 That said, the Commission could make that
13 finding, and then in addition recommend that the Town
14 proceed with a cumulative impacts analysis for all the
15 pending SB 330 projects.

16 COMMISSIONER RASPE: Commissioners? Commissioner
17 Burnett.

18 COMMISSIONER BURNETT: So, would that include
19 this project? And I commend our Chair this evening for
20 trying to come up with a decision here. So, my question
21 would be would Staff work as quickly as they can to develop
22 a supplemental report based on the cumulative impact so
23 that it would go hand-in-hand, so it wouldn't be delayed
24 longer and longer so more projects would slip in? But
25

1 again, would this project be included in the study that we
2 would recommend?

3 ATTORNEY WHELAN: No, because if the Commission
4 is recommending approval tonight, one of the findings is
5 that the CEQA that was done for this project is adequate.
6 Then with regard to timing, I'm estimating that Staff will
7 have a proposed solution to the cumulative impacts question
8 in about a month's time. Then I would say a fair estimate,
9 if the Town elects to go with a supplemental EIR, I will
10 say that preparation of a supplemental EIR is estimated to
11 take at least six months.

12 COMMISSIONER BURNETT: Thank you.

13 COMMISSIONER RASPE: Commissioners, any further
14 thoughts? I'm not sure where that leaves us. Is it a fair
15 summary, then, to say that if we outlined the motion that I
16 just summarized, essentially it would be a tacit approval
17 of the EIR for this project, but then a requirement that
18 this project be considered together with all future
19 projects as part of a cumulative analysis. Is that a fair
20 way to say it?

21 ATTORNEY WHELAN: One avenue would be, if the
22 Commission were inclined and were able to make the
23 findings, that the CEQA was adequate for this project, but
24 to independently recommend to the Council that the Council
25

1 direct Staff to develop a method for analyzing cumulative
2 impacts for all SB 330 projects.

3 COMMISSIONER STUMP: We can say it would still be
4 included in that cumulative analysis, even if we've made
5 the findings and we go forward with the recommendation to
6 approve tonight, the data from this project would still be
7 part of the cumulative findings?

8 ATTORNEY WHELAN: That's correct.

9
10 COMMISSIONER RASPE: Commissioners, given that
11 understanding of recommendations, that would be my motion.
12 Maybe just by a show of hands, not a formal vote, those
13 that would support a motion of that caliber before I
14 formalize it. Or comments, please.

15 COMMISSIONER BURNETT: My only comment is we are
16 facing another very large project coming up next week, and
17 how does that fit in the picture?

18 COMMISSIONER RASPE: I'll defer to Staff.

19 ATTORNEY WHELAN: Next week's meeting will be
20 more of a study session, because the CEQA is not yet
21 complete for that project.

22 COMMISSIONER BURNETT: Thank you.

23 COMMISSIONER RASPE: Commissioner Stump.
24
25

1 COMMISSIONER STUMP: Sorry for the follow-up
2 question. When do we expect that CEQA study to be completed
3 on that project?

4 ATTORNEY WHELAN: I don't have an answer for that
5 tonight.

6 COMMISSIONER RASPE: Commissioner Barnett.

7 COMMISSIONER BARNETT: I second the motion as
8 presented by the Chair.

9 COMMISSIONER RASPE: Thank you. We have a first
10 and a second. First, Staff, do you understand the motion
11 that's currently presented?

12 ATTORNEY WHELAN: As I understand it, the
13 Commission is considering making all the findings for
14 approval, and then having an adjunct recommendation to the
15 Town Council that the Council direct Staff to develop a
16 method to study the cumulative impacts of the SB 330
17 projects.

18 COMMISSIONER RASPE: Including the current
19 project.

20 ATTORNEY WHELAN: Yes.

21 COMMISSIONER RASPE: With the additional
22 recommendation on the consulting architect recommendations
23 for design elements. Those would be our two supplemental
24
25

1 recommendations. That's the motion, and I believe
2 Commissioner Barnett, do I have your second on that motion?

3 COMMISSIONER BARNETT: Well, it just occurred to
4 me, in addition to findings we're supposed to make the
5 consideration under 29.21.50 of the code for granting an
6 Architecture and Site Application.

7 COMMISSIONER RASPE: My motion is so amended.

8 COMMISSIONER BARNETT: The seconder agrees.

9 COMMISSIONER RASPE: All right, we have a first
10 and second. Commissioners, any additional comments or
11 thoughts? If not, I'll call the question. All those in
12 favor of the motion, please indicate by raising your hand.
13 It carries 4-0. Mr. Paulson, are there appeal rights?
14

15 DIRECTOR PAULSON: There are not appeal rights,
16 since this is a recommendation. Staff will move forward and
17 work with the Applicant on next steps.

18 COMMISSIONER RASPE: Thank you very much, and
19 thank you, all, for your attendance and for your work on
20 this matter.

21 (END)
22
23
24
25