



MEETING DATE: 8/06/07
ITEM NO. 19

COUNCIL AGENDA REPORT

DATE: August 1, 2007

TO: MAYOR AND TOWN COUNCIL

FROM: PAMELA JACOBS, INTERIM TOWN MANAGER *P. Jacobs*

SUBJECT: CONSIDER A REQUEST FOR APPROVAL OF A PLANNED DEVELOPMENT TO CONSTRUCT A NEW COMMERCIAL BUILDING ON PROPERTY ZONED CH. NO SIGNIFICANT ENVIRONMENTAL IMPACTS HAVE BEEN IDENTIFIED AS A RESULT OF THIS PROJECT AND A MITIGATED NEGATIVE DECLARATION HAS BEEN RECOMMENDED. APNS 537-29-007 & 008. PROPERTY LOCATION: **15200 LOS GATOS BOULEVARD**. PROPERTY OWNER: WESTWOOD COMPANY-HAMLIN, LLC. APPLICANT: KENNETH RODRIGUEZ & PARTNERS. FILE #PD-06-05 & ND-07-09.

RECOMMENDATION:

1. Open and hold the public hearing and receive public testimony.
2. Close the public hearing.
3. Uphold the Planning Commission's recommendation and approve Planned Development Application PD-06-05:
 1. Make the Negative Declaration (Attachment 4) (**motion required**);
 2. Adopt the Mitigation Monitoring Program (Attachment 2) (**motion required**);
 3. Make the required findings (Attachment 1) and approve subject to the conditions included in the Planned Development Ordinance (Attachment 3) (**motion required**);
 4. Direct the Clerk Administrator to read the title of the ordinance (no motion required);
 5. Move to waive the reading of the ordinance (**motion required**);
 6. Introduce the ordinance to effectuate Planned Development PD-06-05 (**motion required**).

PREPARED BY: Bud N. Lortz, Director of Community Development *B. Lortz*

Reviewed by: Assistant Town Manager *dl* Town Attorney Clerk Finance
 ✓ Community Development

Revised: 8/1/07 11:11 AM

Reformatted: 5/30/02

PAGE 2

MAYOR AND TOWN COUNCIL

SUBJECT: 15200 LOS GATOS BOULEVARD; FILE #PD-06-05, ND-07-05.

August 6, 2007

BACKGROUND

The subject property is located on the southeast corner of Lark Avenue and Los Gatos Boulevard. The site is 40,167 square feet and is comprised of two parcels that will be merged into a single lot. The most recent use of the site was the Los Gatos Auto Mall. The previous building on the site was demolished in 2005 following an explosion and fire. The property was subsequently sold. Prior to the auto dealership operating on the site, the building was the location of the Flames restaurant.

Surrounding land uses include commercial developments to the north (Office Depot) and south (Ace Hardware), and single family residential to the east. A three-story office building is located directly across the street from the site on the southwest corner of Lark & Los Gatos Blvd.

On March 28, 2007 the Planning Commission considered the subject Planned Development (PD) application. After accepting public testimony and discussion the Commission continued the application to April 25, 2007 and directed the applicant to address the following items:

- Meet the setbacks for the CH zone.
- Save all trees recommended for preservation by the Consulting Arborist.
- Use finger landscape islands in the parking area.
- Make the Los Gatos Blvd. driveway a one-way entrance.
- Bring the tree removals into compliance with the Mitigated Negative Declaration.

The Commission also requested that staff evaluate traffic visibility at Lark & Los Gatos Blvd. and that the Architecture & Site application be reviewed by the Commission.

On April 25, 2007 the Commission considered revised plans and accepted further public testimony. Following discussion, the Commission continued the application to June 13, 2007 and directed the applicant to address the following items:

- Reduce the size and height of the building.
- Enhance the landscape buffer between the building and abutting residents.
- Evaluate ways of maintaining a view of the hillsides.
- Provide an on-site loading space.
- Evaluate the safety of the Los Gatos Blvd. entrance.

On June 13, 2007 the Commission considered revised plans and voted 4-1 to forward the application to the Town Council with a recommendation for approval.

Minutes from the three Planning Commission meetings are Attachments 5, 9 and 13.

PAGE 3

MAYOR AND TOWN COUNCIL

SUBJECT: 15200 LOS GATOS BOULEVARD; FILE #PD-06-05, ND-07-05.

August 6, 2007

PROJECT SUMMARY:

The applicant is proposing to construct a 9,207 square foot commercial building. Proposed uses are a 4,000 square foot, 99-seat restaurant and 5,207 square feet of retail space. The building includes a taller architectural element at each end of the structure and an outdoor patio adjoining the Los Gatos Boulevard frontage of the building. The L-shaped commercial building fronts along Los Gatos Boulevard. Parking will be provided on the eastern portion of the site, behind the building. A total of 55 parking spaces are proposed in addition to a loading space. Approval of the PD will allow a restaurant with up to 99 seats. Because the tenant is unknown, operational details such as hours and service of alcohol cannot be provided at this time. A condition of approval has been included in the PD Ordinance requiring a Conditional Use Permit (CUP) application to be approved for the restaurant prior to issuance of any permits for tenant improvements for the restaurant space.

DISCUSSION:

Planned Development

The Town Council indicated that a change of land use from an auto dealer to other uses should go through the PD process so that the land use changes can be evaluated. The purpose of a PD overlay zone is to provide for alternative uses and developments more consistent with site characteristics than are allowed in other zones, to create optimum quantity and use of open space, and to encourage good design. Pursuant to the Zoning Ordinance a PD application is required to include only conceptual development plans. In this instance the applicant has presented well developed architectural plans to demonstrate the quality of the project being proposed. If the PD is approved, an Architecture & Site application will be required for the project, and the two lots will be merged into a single parcel. The applicant is not requesting any exceptions to zoning requirements.

Architecture & Site

The applicant originally proposed a one-story building with a maximum height of 32 feet for the main roof ridge. The design included a 35-foot high tower with a stone façade located at the northwest corner of the project site adjacent to the Los Gatos Boulevard/Lark Avenue intersection.

In response to concerns from neighbors regarding the height of the building, the applicant provided two alternate plans that would lower the building by five feet or eight feet. Based on feedback from a majority of the neighbors, the applicant modified the elevations to reduce the height by eight feet. The building height was lowered to 25 feet high for the main roof ridge and 27 feet high for the corner tower element. Under this scenario the proposed building height was similar to the retail commercial buildings to the north and south of the project site along Los Gatos Boulevard and the building immediately to the south (Ace Hardware). The Office Depot building to the north is approximately 30 feet high. The three-story office building across Los Gatos Boulevard to the west is approximately 40 feet high.

PAGE 4

MAYOR AND TOWN COUNCIL

SUBJECT: 15200 LOS GATOS BOULEVARD; FILE #PD-06-05, ND-07-05.

August 6, 2007

Due to concerns from neighbors living behind the Office Depot and project site, the Planning Commission requested that the applicant further reduce the building height. The project that has been forwarded for approval has a maximum height of 22 feet with the northwest portion at 20 feet. The northeast end of the building is the closest to the abutting residences. The northwest corner tower is 24 feet high.

The Town's Consulting Architect, Larry Cannon, reviewed the plans and visited the site in addition to evaluating the project using the Town's Commercial Design Guidelines and the Los Gatos Boulevard Plan (LGBP). The LGBP provides guidelines for development and improvements along Los Gatos Boulevard with emphasis on the following:

- Location of buildings adjacent to the street (so that buildings, not parking lots, are seen along Los Gatos Boulevard) and location of parking in the rear.
- Staggering of buildings along the Los Gatos Boulevard frontage to avoid a tunnel effect.
- Articulation of facades to minimize building mass.
- Framing rather than blocking scenic views.
- Designing a development to fit a site's natural conditions.
- Provision of landscape elements in parking areas.
- Location of loading and service areas away from the street.
- Provision of defined pedestrian paths through large parking areas and pedestrian entries from the front as well as the rear sides which face the parking lot.

The recommendations of the Consulting Architect have been incorporated into the plans. Final building colors and materials will be reviewed during the Architecture and Site (A&S) process.

Building Height

The applicant originally proposed building with a maximum height of 32 feet for the main roof ridge. The design included a 35-foot high tower with a stone façade located at the northwest corner of the project site adjacent to the Los Gatos Boulevard/Lark Avenue intersection. This height was similar to that of the retail commercial buildings to the north and south of the project site along Los Gatos Boulevard and the building immediately to the south (Ace Hardware). The Office Depot building to the north is approximately 30 feet high. The three-story office building across Los Gatos Boulevard to the west is approximately 40 feet high.

A number of residents expressed concerns about the height and scale of the proposed building. Through the two revisions to the project, the Commission reduced the building height to 20 to 22 feet at the ridges with a 24 foot high corner element. The Consulting Architect believes that the original proposal was most appropriate given the location of the building. The architect commented that the smaller the building becomes the weaker its presence will be on Los Gatos Boulevard.

Staff believed that some reduction of the building was necessary to achieve a balance between architectural considerations and neighborhood concerns. Staff was comfortable with the second

PAGE 5

MAYOR AND TOWN COUNCIL

SUBJECT: 15200 LOS GATOS BOULEVARD; FILE #PD-06-05, ND-07-05.

August 6, 2007

rendition of the plans that have the overall height at 21 feet to 22 feet 6 inches with the corner element at 24 feet six inches. The Commission required a further reduction in the building height to minimize visibility from the abutting residences.

Landscape Buffer

The project abuts single story residences to the east. The two closest homes are 44 and 82 feet from the closest corner of the proposed building. The visibility of the building is minimized by an existing masonry wall and mature landscaping on the perimeter of the site that screen views from these homes. A gap in the vegetation will be filled in by planting 12 trees on an adjacent neighbor's property (Scott) as shown on the landscape plan (see sheet L1 of the development plans). In addition to the finger islands in the parking lot, diamond shaped planters were added to the row of parking spaces closest to the rear property line. The applicant will plant five 36-inch box trees in these planters. The tiered landscaping approach will provide an adequate buffer between the parking area and the abutting homes and will effectively screen views of the new building.

Arborist Review

The existing landscaping along the rear of the site will remain. The Town's Consulting Arborist, Arbor Resources, completed an arboricultural survey for the proposed project in June 2006. The survey identified a total of 35 trees that could be affected by the proposed project. Of these, 29 are on the subject property and six are sufficiently close on properties adjoining the site as to be vulnerable to potential damage during development. The tree inventory includes 28 protected trees (trees with a trunk diameter of four inches or greater) and seven non-protected trees.

Three trees (#33 through 35) need to be removed and nine (#10, 12 - 16, 25, 26 and 29) could be adversely impacted due to the project design and implementation. The Consulting Arborist indicated that proposed removal of the three Flaxleaf Paperbark trees is in accordance with Section 29.10.0990 (Standards of Review) of the Tree Protection Ordinance based on their species, less than ideal condition and only low or moderate suitability for preservation. Replacement trees will be required to mitigate the loss of these trees.

The Consulting Arborist recommended that the plans be revised to avoid destabilizing or promoting the decline of the nine trees that could be adversely impacted by construction. The applicant has already complied with recommended setbacks from the trees located near the northwest corner of the building. Sections of future curb, gutter, drainage improvements and parking lot under the canopies of these trees will be required to preclude soil cuts or trenching in the existing soil grade. Conditions of approval have been included requiring the Consulting Arborist's recommendations to be implemented.

Parking & Circulation

The project site currently has three driveways on Los Gatos Boulevard. The northern access

PAGE 6

MAYOR AND TOWN COUNCIL

SUBJECT: 15200 LOS GATOS BOULEVARD; FILE #PD-06-05, ND-07-05.

August 6, 2007

driveway is located on the adjoining Office Depot site and forms the northern boundary of the site. This driveway serves both the project site and the Office Depot store. The proposed project design will retain the southernmost existing driveway while eliminating the middle driveway on Los Gatos Boulevard.

The Zoning Ordinance requires a total of 39 parking spaces for 9,207 square feet of retail space (one space/235 square feet). A total of 55 parking spaces are required for a 99-seat restaurant (one space/three seats) and 5,207 square feet of retail. The plans include 55 parking spaces which meets the parking requirement for the proposed restaurant and retail uses. While not required by the Zoning Ordinance, a separate loading space was added at the direction of the Planning Commission.

Easement Agreement

The applicant has secured an agreement with the adjacent property owner to the north (Office Depot) for a reciprocal access agreement. This will facilitate access through both sites, and will allow vehicles to enter Los Gatos Boulevard at the signalized intersection with Lark Avenue. The easement agreement is valid for a 15 year period with a possibility, but no guarantee, of renewal. Given the possibility that access through the Office Depot property may be lost in 15 years, the applicant developed an alternate parking and circulation plan (see sheet A8 of the development plans). Under this scenario the parking lot will be restriped to provide a turnaround and the restaurant will be required to reduce the seating to 75 seats due to the reduction in the number of parking spaces. Condition #4 requires recordation of a deed restriction that documents the restriping and seating reduction requirements should the reciprocal access agreement not be renewed.

Traffic

The Town's Traffic Impact Policy (Resolution 1991-174) requires preparation of a detailed traffic study for any project with the potential to generate 20 or more additional AM or PM peak hour trips. The Town Traffic Engineer completed a preliminary assessment of potential traffic impacts resulting from the proposed project relative to previously existing restaurant uses on the site. When evaluating traffic impact, credit is given for the previous use(s) on the site.

Based on the estimated trip generation for the proposed uses (including a high turnover restaurant for purposes of worst-case analysis), the project would generate 55 AM peak hour trips, 58 PM peak hour trips, and 744 average daily trips. The project would generate 12 fewer AM peak hour trips and two less PM peak hour trips than the previous commercial uses on the site. Average daily trips would increase by 58. Traffic generated by the proposed project represents a minor impact and no additional traffic studies are required based on the Traffic Policy.

Bus Stop

The project was reviewed by the Santa Clara Valley Transportation Authority (VTA). In order to provide convenient access to transit service, VTA has requested that a bus stop be provided on Los

PAGE 7

MAYOR AND TOWN COUNCIL

SUBJECT: 15200 LOS GATOS BOULEVARD; FILE #PD-06-05, ND-07-05.

August 6, 2007

Gatos Boulevard in front of the project site. A condition of approval has been included requiring installation of a bus stop pavement pad that meets VTA design standards.

General Plan Compliance

The General Plan includes the following goals for Los Gatos Boulevard:

- *To provide a transition from higher intensity uses at the north end of Los Gatos Boulevard at Lark Avenue to existing residential uses at the south end of Los Gatos Boulevard.*
- *To promote commercial activity that complements the whole Town.*
- *To provide a dependable source of income, employment opportunities, goods and services.*
- *To encourage a mixture of uses along Los Gatos Boulevard, including where appropriate, mixed-use parcels that are compatible with surrounding uses.*
- *To provide for uses with a family and resident orientation.*
- *To encourage pedestrian amenities, scale, and design.*

The project is consistent with the following General Plan policies and implementing strategies:

- | | |
|-----------|--|
| CD.P.1.2 | Promote, enhance and protect the functionality and appearance of the Town's commercial areas. |
| CD.P.1.8 | Building elements shall be in proportion with those traditionally in the neighborhood. |
| CD.P.1.9 | Building, landscape and hardscape materials shall be used that will reinforce the sense of unity of a neighborhood and blend with the natural setting. |
| CD.P.1.14 | Minimize the visual impacts of lighting. |
| CD.P.1.15 | Utility connections and meters shall be located as to be visually unobtrusive from the street. |
| CD.P.4.2 | Establish and maintain strong boundaries between the commercial area and adjacent residential neighborhoods. |
| CD.P.4.8 | Parking structures and facilities shall have a low profile and be screened from view, and be aesthetically pleasing. |
| L.P.1.1 | Development shall be of high quality design and construction, a positive addition to |

PAGE 8

MAYOR AND TOWN COUNCIL

SUBJECT: 15200 LOS GATOS BOULEVARD; FILE #PD-06-05, ND-07-05.

August 6, 2007

and compatible with the Town's ambiance. Development shall enhance the character and unique identity of existing commercial and/or residential neighborhoods.

- L.P.1.3 Encourage economic and social activity consistent with a small-scale, small town atmosphere and image.
- L.P.1.8 In-fill projects shall be designed in context with the neighborhood and surrounding zoning with respect to the existing scale and character of surrounding structures, and should blend rather than compete with the established character of the area. (note: the proposed commercial building is a redevelopment rather than an in-fill project).
- L.I.1.1 Architectural Standards/Design Criteria: Use adopted architectural standards and design criteria to review development proposals.
- L.P.4.2 Ensure that new development is a positive addition to the Town's environment and does not detract from the nature and character of appropriate nearby established development.
- L.P.5.1 Maintain a variety of commercial uses (a strong downtown commercial area combined with Los Gatos Boulevard and strong neighborhood commercial centers) to meet the shopping needs of residents and to preserve the small-town atmosphere.
- L.P.5.6 Encourage development that maintains and expands resident-oriented services and/or creates employment opportunities for local residents consistent with overall land use policies of the Town.

PLANNING COMMISSION REVIEW:

The Planning Commission considered this project on March 28, April 25 and June 13, 2007. The applicant revised the plans to address Commission concerns including the size and height of the building, providing a better landscape buffer between the project site and abutting residences and the safety of the Los Gatos Blvd. driveway. The Commission voted 4-1 to forward the PD to the Council with a recommendation for approval (Commissioner Talesfore dissented, Commissioner Kane was absent and Commissioner Sayoc recused herself).

Architecture & Site Application

As part of the Planning Commission recommendation, Condition #1 was modified to require the A&S application to be considered by the Commission. Over the past few years projects being presented as a PD have provided more and more detailed plans. In an effort to streamline the process for applicants following approval of a PD, the A&S applications have typically been reviewed by the Development Review Committee (DRC) as opposed to the Planning Commission. When an applicant has evolved a project to a detailed level and has presented highly evolved architectural

PAGE 9

MAYOR AND TOWN COUNCIL

SUBJECT: 15200 LOS GATOS BOULEVARD; FILE #PD-06-05, ND-07-05.

August 6, 2007

drawings as is the case with this application, review by the DRC has been considered appropriate. The process has worked well on a number of significant projects including Sobrato (Netflix/Aventino Apartments), Villa Felice, Monroe Court, the Ohloff medical building and Roberts Road. DRC meetings are noticed public hearings and neighbors or other interested members of the public have the opportunity to participate in the process. The Council should discuss whether it is appropriate for the A&S application to be reviewed by the DRC or if it should be considered by the Planning Commission.

ENVIRONMENTAL ASSESSMENT:

As required by the California Environmental Quality Act (CEQA), an Initial Study and Mitigated Negative Declaration have been prepared for the project (see Attachment 4). These documents were previously forwarded to the Council under separate cover. The environmental review was completed by the Town's Environmental Consultant, Geier & Geier. Two potentially significant impacts resulted in the inclusion of mitigation measures, one requiring implementation of geotechnical recommendations and one requiring implementation of all tree preservation measures. These mitigation measures have been included in the Planned Development Ordinance (Attachment 3) as conditions of approval. In addition, a Mitigation Monitoring Program has been prepared (Attachment 2) to designate the responsible department and timing of each mitigation measure.

CONCLUSION:

The Council should discuss the building height and the appropriate review process for the Architecture & Site application. If the Council is satisfied with the project in its present form, it may be approved as submitted. If any changes are desired, conditions of approval within the PD Ordinance may be modified or added.

FISCAL IMPACT: None

Attachments:

1. Required Findings (one page)
2. Mitigation Monitoring Plan (one page)
3. Planned Development Ordinance (18 pages), Rezoning Exhibit (one page)
note: Conceptual Development Plans, Exhibit B to the PD Ordinance, were previously distributed under separate cover
5. June 13, 2007 Planning Commission Minutes (16 pages)

PAGE 10

MAYOR AND TOWN COUNCIL

SUBJECT: 15200 LOS GATOS BOULEVARD; FILE #PD-06-05, ND-07-05.

August 6, 2007

The following attachments were previously distributed under separate cover:

4. Mitigated Negative Declaration
6. June 13, 2007 Planning Commission Desk Item 2 with Exhibits EE & FF
7. June 13, 2007 Planning Commission Desk Item with Exhibits CC & DD
8. June 13, 2007 Planning Commission Report with Exhibits X through BB
9. April 25, 2007 Planning Commission Minutes (39 pages)
10. April 25, 2007 Planning Commission Desk Item with Exhibits X through Z
11. April 25, 2007 Planning Commission Report with Exhibits T through W
12. March 28, 2007 Planning Commission Minutes (43 pages)
13. March 28, 2007 Planning Commission Report with Exhibits A through S

Distribution:

John Aiassa, Westwood Company, Hamlin, 1855 Park Avenue, San Jose, CA 95126

Ken Rodrigues & Hwai Chen, Kenneth Rodrigues & Partners, 445 N. Whisman Road, Suite 200,
Mountain View, CA 94043

BNL:SD

N:\DEV\SUZANNE\COUNCIL\REPORTS\FWD. TO TC\LGB15200\LGB15200-TC.DOC

TOWN COUNCIL – AUGUST 6, 2007
REQUIRED FINDINGS FOR:

15200 Los Gatos Boulevard
Planned Development Application PD-06-05
Negative Declaration ND-07-09

Requesting approval to change zoning from CH to CH:PD, merge lots, and construct a new commercial building on properties zoned CH. No significant environmental impacts have been identified as a result of this project and a Mitigated Negative Declaration is recommended APNS: 424-17-038 and 041

PROPERTY OWNER: John Aiassa/Westwood Company-Hamlin, LLC

APPLICANT: Hwai Chen & Kenneth Rodrigues/Kenneth Rodrigues & Partners

Required consistency with the Town's General Plan:

- That the proposed Zone Change is internally consistent with the General Plan and its Elements.

Required compliance with the Commercial Design Guidelines:

- That the exterior architecture is consistent with the Town's Commercial Design Guidelines.

Required compliance with the Los Gatos Boulevard Plan:

- That the project is consistent with the Los Gatos Boulevard Plan.

N:\DEV\FINDINGS\LGB15200.doc

MITIGATION MONITORING PLAN

DATE: March 14, 2006

PROJECT: 15200 Los Gatos Boulevard,/PD-06-05, ND-07-09

<u>Mitigation</u>	<u>Monitoring Action</u>	<u>Responsibility</u>	<u>Timing</u>
<i>BIOLOGICAL RESOURCES</i>			
The recommendations made by Arbor Resources (June 23, 2006) shall be implemented to eliminate or minimize the construction-related impacts on the trees to be retained. Recommendations are listed under Section 5.0, Recommendations, of the arborist's report.	Required as a condition of approval.	Directors of Parks & Public Works & Community Development	A&S review, Building plan check & during construction
<i>CULTURAL RESOURCES</i>			
In the event that archaeological traces are encountered, all construction within a 50-meter radius of the find shall be halted, the Community Development Director shall be notified, and an archaeologist shall be retained to examine the find and make appropriate recommendations.	Required as a condition of approval.	Director of Community Development	During construction
If human remains are discovered, the Santa Clara County Coroner shall be notified. The Coroner shall determine whether or not the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission, who will attempt to identify descendants of the deceased Native Americans.	Required as a condition of approval.	Director of Community Development	During construction

MITIGATION MONITORING PLAN

DATE: March 14, 2006

PROJECT: 15200 Los Gatos Boulevard,/PD-06-05, ND-07-09

<u>Mitigation</u>	<u>Monitoring Action</u>	<u>Responsibility</u>	<u>Timing</u>
<i>CULTURAL RESOURCES</i>			
If the Community Development Director finds that the archaeological find is not a significant resource, work will resume only after the submittal of a preliminary archaeological report and after provisions for reburial and ongoing monitoring are accepted. Provisions for identifying descendants of a deceased Native American and for reburial shall follow the protocol set forth in CEQA Guidelines Section 15064.5(e). If the site is found to be a significant archaeological site, a mitigation program shall be prepared and submitted to the Community Development Director for consideration and approval, in conformance with the protocol set forth in Public Resources Code Section 21083.2.	Required as a condition of approval.	Director of Community Development	During construction
A final report shall be prepared when a find is determined to be a significant archaeological site, and/or when Native American remains are found on the site. The final report shall include background information on the completed work, a description and list of identified resources, the disposition and curation of these resources, any testing, other recovered information, and conclusions.	Required as a condition of approval	Director of Community Development	During construction

MITIGATION MONITORING PLAN

DATE: March 14, 2006

PROJECT: 15200 Los Gatos Boulevard, PD-06-05, ND-07-09

Mitigation

Monitoring
Action

Responsibility

Timing

GEOLOGIC HAZARDS

A geotechnical investigation shall be conducted for the proposed building to determine the potential for fault rupture at the site and provide recommendations for site grading as well as the design of foundations, retaining walls, concrete slab-on-grade construction, excavation, drainage, on-site utility trenching and pavement sections. The project shall incorporate all recommendations of the investigation in order to minimize the potential impacts resulting from regional seismic activity and subsurface soil conditions on the site.

Required as a
condition of
approval

Director of Parks &
Public Works

Prior to issuance
of permit and
during
construction

**ORDINANCE OF THE TOWN OF LOS GATOS
AMENDING THE TOWN CODE EFFECTING A ZONE CHANGE
FROM CH TO CH:PD FOR PROPERTY LOCATED AT
15200 LOS GATOS BOULEVARD**

THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN AS
FOLLOWS:

SECTION I

The Town Code of the Town of Los Gatos is hereby amended to change the zoning on property at 15200 Los Gatos Boulevard (Santa Clara County Assessor Parcel Numbers 424-17-038. & 041) as shown on the map attached hereto as Exhibit A, and is part of this Ordinance, from CH (Restricted Highway Commercial) to CH:PD (Restricted Highway Commercial, Planned Development).

SECTION II

The PD (Planned Development Overlay) zone established by this Ordinance authorizes the following construction and use of improvements:

1. Construction of a 9,207 square foot commercial building, inclusive of a 4,000 square foot, 99 seat restaurant and 5,207 square feet of retail.
2. Landscaping and other improvements shown and required on the Official Development Plan.
3. Uses permitted are those specified in the CH (Restricted Highway Commercial) zone by Sections 29.60.420 (Permitted Uses) and 29.20.185 (Conditional Uses) of the Zoning Ordinance, as those sections exist at the time of the adoption of this Ordinance, or as they may be amended in the future. However, no use listed in Section 29.20.185 is allowed unless specifically authorized by this Ordinance, or by a Conditional Use Permit.

SECTION III
COMPLIANCE WITH OTHER DEVELOPMENT STANDARDS

All provisions of the Town Code apply, except when the Official Development Plan specifically shows otherwise.

SECTION IV

A certificate of lot merger and Architecture and Site Approval are required before construction work for the dwelling units is performed, whether or not a permit is required for the work and before any permit for construction is issued. Construction permits shall only be in a manner complying with Section 29.80.130 of the Town Code.

SECTION V

The attached Exhibit A (Map), and Exhibit B (Official Development Plans), are part of the Official Development Plan. The following conditions must be complied with before issuance of any grading, or construction permits:

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

Planning Division

1. ARCHITECTURE AND SITE APPROVAL REQUIRED. A separate Architecture and Site application and approval is required for the commercial building. The Planning Commission shall be the deciding body for the Architecture and Site application.
2. CONDITIONAL USE PERMIT. A Conditional Use Permit (CUP) application and approval is required for the restaurant prior to issuance of a building permit for tenant improvements for the restaurant space. The maximum number of seats shall be 99.
3. OFFICIAL DEVELOPMENT PLANS. The Official Development Plans provided are conceptual in nature. Final building footprints and building designs shall be determined during the Architecture and Site approval process. The colors and building materials shown on the Official Development Plan are not approved and shall be reviewed through the Architectural and Site approval process.

4. NORTHERLY ACCESS/RESTAURANT SEATING REDUCTION. Should access to the northerly driveway on the adjoining Office Depot site be terminated, the property owner shall immediately implement the Alternate Master Plan shown on sheet A9 of the development plans and reduce the number of restaurant seats to 69. A deed restriction documenting this requirement shall be recorded prior to issuance of a building permit.
5. FENCING. The final design of the wall along the rear property line shall be reviewed and approved during the Architecture and Site process.
6. FINAL LANDSCAPE PLAN. A final landscape plan shall be reviewed by the Town's Consulting Arborist and approved as part of the Architecture and Site process. All trees recommended for preservation by the Town's Consulting Arborist shall be saved. Additional trees shall be incorporated into the planter area on the west side of the building, north of the trellis.
7. SETBACKS. The minimum setbacks are those specified by the CH zoning district or as otherwise shown on the Conceptual Development Plans.
8. PEDESTRIAN ACCESS. A minimum of five feet shall be provided between the building and the parking lot to facilitate pedestrian safety and access.
9. HEIGHT. The maximum height of the building shall be 22 feet for the main ridge and 24 feet for the corner elements.
10. OUTDOOR LIGHTING. All exterior building and outdoor lighting shall be shielded and directed away from neighboring properties to shine on the project site only. Lighting shall be the minimum needed for pedestrian safety and security. Photometrics and lighting specifications shall be reviewed as part of the Architecture and Site process.
11. **BIOLOGICAL RESOURCES MITIGATION MEASURE. The recommendations made by Arbor Resources shall be implemented to eliminate or minimize the construction-related impacts on the trees to be retained. Recommendations are listed under Section 5.0 of the June 23, 2006 arborist report.
12. TREE REMOVAL PERMIT. A Tree Removal Permit shall be obtained for trees approved for removal prior to the issuance of any permits.

13. REPLACEMENT TREES. New trees shall be planted to mitigate the loss of trees being removed. The number and size shall be determined using the canopy replacement table in the Tree Protection Ordinance.
14. TREE FENCING. Protective tree fencing shall be placed at the drip line of existing trees and shall remain through all phases of construction. Fencing shall be six foot high cyclone attached to two-inch diameter steel posts drive 18 inches into the ground and spaced no further than 10 feet apart. Include a tree protection fencing plan with the construction plans.
15. ****CULTURAL RESOURCES MITGATION MEASURE-1.** In the event that archaeological traces are encountered, all construction within a 50-meter radius of the find shall be halted, the Community Development Director shall be notified, and an archaeologist shall be retained to examine the find and make appropriate recommendations.
16. ****CULTURAL RESOURCES MITGATION MEASURE-2.** If human remains are discovered, the Santa Clara County Coroner shall be notified. The Coroner shall determine whether or not the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission, who will attempt to identify descendants of the deceased Native Americans.
17. ****CULTURAL RESOURCES MITGATION MEASURE-3.** If the Community Development Director finds that the archaeological find is not a significant resource, work will resume only after the submittal of a preliminary archaeological report and after provisions for reburial and ongoing monitoring are accepted. Provisions for identifying descendants of a deceased Native American and for reburial shall follow the protocol set forth in CEQA Guidelines Section 15064.5(e). If the site is found to be a significant archaeological site, a mitigation program shall be prepared and submitted to the Community Development Director for consideration and approval, in conformance with the protocol set forth in Public Resources Code Section 21083.2.
18. ****CULTURAL RESOURCES MITGATION MEASURE-4.** A final report shall be prepared when a find is determined to be a significant archaeological site, and/or when Native American remains are found on the site. The final report shall include background information on the completed work, a description and list of identified resources, the

disposition and curation of these resources, any testing, other recovered information, and conclusions.

19. FINAL UTILITY LOCATIONS. The applicant shall submit plans showing the final locations and screening of all exterior utilities, including but not limited to, backflow preventers, Fire Department connections, transformers, utility boxes and utility meters. Utility devices shall be screened to the satisfaction of the Director of Community Development. The plans shall be submitted for review and approval of the Director of Community Development prior to issuance of building permits for the office building shell.
20. SIGNS. The monument sign and any building signs shall be approved through a sign program. The sign program details shall be proposed by the applicant and approved by the Director of Community Development prior to issuance of any sign permits.

Building Division

21. PERMITS REQUIRED: A building permit shall be required for the construction of the new commercial building. Separate permits are required for electrical, mechanical, and plumbing work as necessary.
22. 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.
23. SIZE OF PLANS. The maximum size of construction plans (four sets) submitted for building permits shall be 24 inches by 36 inches.
24. BUILDING NUMBERS. Submit requests for suite numbers to the Building Division prior to submitting for the building permit application process.
25. SOILS REPORT: A soils report, prepared to the satisfaction of the Building Official, containing retaining wall and pad foundation design recommendations, shall be submitted with the building permit application. This report shall be prepared by a licensed civil engineer specializing in soils mechanics. ALTERNATE: Design the foundation for an allowable soils 1,000 psf design pressure (Uniform Building Code Volume 2-Section 1805).

26. 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, the on-site retaining wall locations and elevations are prepared according to 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 pas elevation
 - b. Finish floor elevation
 - c. Foundation corner locations
27. TITLE 24 ENERGY COMPLIANCE. California Title 24 Energy Compliance forms shall be printed on the construction plans.
28. TITLE 24 – COMMERCIAL. The building shall be constructed to comply with the latest California Title 24 Accessibility Standards.
29. SPECIAL INSPECTIONS: When a special inspection is required by UBC Section 1701, 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, signed by all requested parties and be blue-lined on the construction plans. Special Inspection forms are available from the Building Division Service Counter or online at www.losgatosca.gov.
30. NONPOINT SOURCE POLLUTION STANDARDS: The Town standard Santa Clara Valley Nonpoint Source Pollution Control Program 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 San Jose Blue Print.
31. RESTAURANT USE: Proper size grease trap shall be required for any proposed restaurant use. The following agencies will review the grease trap requirements before issuance of the building permit:
- a. West Valley Sanitation District: (408) 378-2407
 - b. Environmental Health Department: (408) 885-4200
 - c. Town Public Works Department: (408) 399-7530

32. PLANS: The construction plans shall be prepared under the direct supervision of a licensed architect or engineer. (Business and Professionals Code Section 5538).
33. APPROVALS REQUIRED: The project requires the following agencies approval before issuing a building permit:
 - a. Community Development: Suzanne Davis at 354-6875
 - b. Engineering Department: Fletcher Parsons at 395-3460
 - c. Santa Clara County Fire Department: (408) 378-4010
 - d. West Valley Sanitation District: (408) 378-2407
 - e. Local School District: contact the Town Building Service Counter for the appropriate school district and to obtain the school form)

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

Engineering Division

34. *GEOLOGY AND SOILS MITIGATION MEASURE. A geotechnical investigation shall be conducted for the proposed building to determine the potential for fault rupture at the site and provide recommendations for site grading as well as the design of foundations, retaining walls, concrete slab-on-grade construction, excavation, drainage, on-site utility trenching and pavement sections. The project shall incorporate all recommendations of the investigation in order to minimize the potential impacts resulting from regional seismic activity and subsurface soil conditions on the site.
35. NORTHERLY ACCESS. The ingress/egress easement agreement with the owner of parcel 424-17-042 expires in 2022. An alternate point of ingress and egress shall be approved by the Town prior to expiration of the agreement.
36. GRADING PERMIT. A grading permit is required for site grading and drainage. The grading permit application (with grading plans) shall be made to the Engineering Division of the Parks & Public Works Department located at 41 Miles Avenue. The grading plans shall include final grading, drainage, retaining wall location, driveway, utilities and interim erosion control. Grading plans shall list earthwork quantities and a table of existing and proposed impervious areas. Unless specifically allowed by the Director of Parks and Public

Works, the grading permit will be issued concurrently with the building permit. The grading permit is for work outside the building footprint(s). A separate building permit, issued by the Building Department at 110 E. Main Street is needed for grading within the building footprint.

37. PAD CERTIFICATION. A letter from a licensed land surveyor shall be provided stating that the building foundation was constructed in accordance with the approved plans shall be provided subsequent to foundation construction and prior to construction on the structure. The pad certification shall address both vertical and horizontal foundation placement.
38. PRECONSTRUCTION MEETING. Prior to issuance of any permit or the commencement of any site work, the general contractor shall:
 - a. Along with the project applicant, attend a pre-construction meeting with the Town Engineer to discuss the project conditions of approval, working hours, site maintenance and other construction matters.
 - b. Acknowledge in writing that they have read and understand the project conditions of approval, and will make certain that all project sub-contractors have read and understand them prior to commencing work and that a copy of the project conditions of approval will be posted on site at all times during construction.
39. RETAINING WALLS. A building permit, issued by the Building Department at 110 E. Main Street, may be required for site retaining walls. Walls are not reviewed or approved by the Engineering Division of Parks and Public Works during the grading permit plan review process.
40. SOILS REPORT. One copy of the soils report shall be submitted with the grading permit application. The soils report shall include specific criteria and standards governing site grading, drainage, pavement design, retaining wall design and erosion control. The reports shall be signed and "wet stamped" by the engineer or geologist, in conformance with Section 6735 of the California Business and Professions Code.
41. SOILS REVIEW. Prior to issuance of any permit, the applicant's soils engineer shall review the final grading and drainage plans to ensure that designs for foundations, retaining walls, site grading, and site drainage are in accordance with their recommendations and the peer

review comments. The applicant's soils engineer's approval shall then be conveyed to the Town either by letter or by signing the plans.

42. SOILS ENGINEER CONSTRUCTION OBSERVATION. During construction, all excavations and grading shall be inspected by the applicant's soils engineer prior to placement of concrete and/or backfill so they can verify that the actual conditions are as anticipated in the design-level geotechnical report, and recommend appropriate changes in the recommendations contained in the report, if necessary. The results of the construction observation and testing should be documented in an "as-built" letter/report prepared by the applicant's soils engineer and submitted to the Town before final release of any occupancy permit is granted.
43. CERTIFICATE OF LOT MERGER. A Certificate of Lot Merger shall be recorded. Two copies of the legal description for exterior boundary of the merged parcel and a plat map (8-½ inches X 11 inches) shall be submitted to the Engineering Division of the Parks & Public Works Department for review and approval. The submittal shall include closure calculations, title reports less than 90 days old and the appropriate fee. The certificate shall be recorded before any permits may be issued.
44. PUBLIC IMPROVEMENTS. The following improvements shall be installed by the developer. Plans for those improvements shall be prepared by a California registered civil engineer, reviewed and approved by the Town, and guaranteed by contract, Faithful Performance Security and Labor & Materials Security before the issuance of a building permit or the recordation of a map. The improvements must be completed and accepted by the Town before a Certificate of Occupancy for any new building can be issued.
 - a. Repair cracked and broken curb, gutter, and sidewalk along the Los Gatos Blvd. frontage as directed by the Town Engineer. Replace the tree well grate. Reset raised utility boxes as directed by the Town Engineer.
 - b. Provide standard curb, gutter and sidewalk at existing driveways that are not proposed for re-use.
 - c. Relocate the existing bus stop sign and bench as directed by the Town Engineer.
 - d. Paint curb red as directed by the Town Traffic Engineer and Santa Clara County Fire

Department. Install a double yellow centerline at the east leg (Office Depot) driveway approach.

- e. Provide video detection equipment to replace existing traffic detection loops on the east (Office Depot) leg of the intersection, and provide ADA compliant pedestrian push buttons at all legs of the intersection.
- 45. ENCROACHMENT PERMIT. All work in the public right-of-way will require a Construction Encroachment Permit. All work over \$5,000 will require construction security.
 - 46. PUBLIC WORKS INSPECTIONS. The developer or his representative shall notify the Engineering Inspector at least twenty-four (24) hours before starting any work pertaining to on-site drainage facilities, grading or paving, and all work in the Town's right-of-way. Failure to do so will result in rejection of work that went on without inspection.
 - 47. GENERAL. All public improvements shall be made according to the latest adopted Town Standard Drawings and the Town Standard Specifications. All work shall conform to the applicable Town ordinances. The adjacent public right-of-way shall be kept clear of all job related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the Town performing the required maintenance at the developer's expense.
 - 48. EROSION CONTROL. Interim and final erosion control plans shall be prepared and submitted to the Engineering Division of the Parks & Public Works Department. A Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the San Francisco Bay Regional Water Quality Control Board for projects disturbing more than one acre. A maximum of two weeks is allowed between clearing of an area and stabilizing/building on an area if grading is allowed during the rainy season. Interim erosion control measures, to be carried out during construction and before installation of the final landscaping shall be included. Interim erosion control method shall include, but are not limited to: silt fences, fiber rolls (with locations and details), erosion control blankets, Town

- standard seeding specification, filter berms, check dams, retention basins, etc. Provide erosion control measures as needed to protect downstream water quality during winter months. The grading, drainage, erosion control plans and SWPPP shall be in compliance with applicable measures contained in the amended provisions C.3 and C.14 of Order 01-024 of the amended Santa Clara County NPDES Permit.
49. DUST CONTROL. Blowing dust shall be reduced by timing construction activities so that paving and building construction begin as soon as possible after completion of grading, and by landscaping disturbed soils as soon as possible. Further, water trucks shall be present and in use at the construction site. All portions of the site subject to blowing dust shall be watered as often as deemed necessary by the Town, or a minimum of three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites in order to insure proper control of blowing dust for the duration of the project. Watering on public streets shall not occur. Streets will be cleaned by street sweepers or by hand as often as deemed necessary by the Town Engineer, or at least once a day. Watering associated with on-site construction activity shall take place between the hours of 8 a.m. and 5 p.m. and shall include at least one late-afternoon watering to minimize the effects of blowing dust. All public streets soiled or littered due to this construction activity shall be cleaned and swept on a daily basis during the workweek to the satisfaction of the Town. Demolition or earthwork activities shall be halted when wind speeds (instantaneous gusts) exceed 25 MPH. All trucks hauling soil, sand, or other loose debris shall be covered.
50. CONSTRUCTION MANAGEMENT PLAN. The Applicant shall submit a construction management plan that shall incorporate at a minimum a Traffic Control Plan, Project Schedule, site security fencing, employee parking, construction staging area, construction trailer, and proposed outhouse locations.
51. CONSTRUCTION STREET PARKING. No vehicle having a manufacturer's rated gross vehicle weight exceeding ten thousand (10,000) pounds shall be allowed to park on the portion of a street which abuts property in a residential zone without prior approval from the Town Engineer (§ 15.40.070).

52. SITE DRAINAGE. Rainwater leaders shall be discharged to splash blocks. No through curb drains will be allowed.
53. NPDES. On-site drainage systems shall include a filtration device such as a bio-swale or permeable pavement.
54. STORM WATER MANAGEMENT PLAN. A storm water management plan shall be included with the grading permit application for all Group 1 and Group 2 projects as defined in the amended provisions C.3 of Order No. R2-2005-0035 of the amended Santa Clara County NPDES Permit. This project removes and replaces more than 10,000 square feet of impervious area and is a Group 2B project. The plan shall delineate source control measures and BMP's together with the sizing calculations. The plan shall be certified by a professional pre-qualified by the Town. In the event that storm water measures proposed on the Planning approval differ significantly from those certified on the Building/Grading Permit, the Town may require a modification of the Planning approval prior to release of the Building Permit. The applicant may elect to have the Planning submittal certified to avoid this possibility.
55. SILT AND MUD IN PUBLIC RIGHT-OF-WAY. It is the responsibility of contractor and home owner to make sure that all dirt tracked into the public right-of-way is cleaned up on a daily basis. Mud, silt, concrete and other construction debris SHALL NOT be washed into the Town's storm drains.
56. UTILITIES. The developer shall install all utility services, including telephone, electric power and all other communications lines underground, as required by Town Code §27.50.015(b). All new utility services shall be placed underground. Underground conduit shall be provided for cable television service.
57. RESTORATION OF PUBLIC IMPROVEMENTS. The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the

Engineering Construction Inspector, and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.

58. SIDEWALK REPAIR. The developer shall repair and replace to existing Town standards any sidewalk damaged now or during construction of this project. Sidewalk repair shall match existing color, texture and design, and shall be constructed per Town Standard Details. The limits of sidewalk repair will be determined by the Engineering Construction Inspector during the construction phase of the project.
59. CURB AND GUTTER. The developer shall repair and replace to existing Town standards any curb and gutter damaged now or during construction of this project. New curb and gutter shall be constructed per Town Standard Details. The limits of curb and gutter repair will be determined by the Engineering Construction Inspector during the construction phase of the project.
60. DRIVEWAY APPROACH. The developer shall install one (1) Town standard commercial driveway approach. The new driveway approach shall be constructed per Town Standard Details. Existing approaches not to be used shall be removed and replaced with Town standard curb, gutter and sidewalk.
61. AS-BUILT PLANS. An AutoCAD disk of the approved "as-built" plans shall be provided to the Town prior to issuance of a Certificate of Occupancy. The AutoCAD file shall include only the following information and shall conform to the layer naming convention: (a) Building Outline, Layer: BLDG-OUTLINE; (b) Driveway, Layer: DRIVEWAY; (c) Retaining Wall, Layer: RETAINING WALL; (d) Swimming Pool, Layer: SWIMMING-POOL; (e) Tennis Court, Layer: TENNIS-COURT; (f) Property Line, Layer: PROPERTY-LINE; (g) Contours; Layer: NEWCONTOUR. All as-built digital files must be on the same coordinate basis as the Town's survey control network and shall be submitted in AutoCAD version 2000 or higher.
62. SANITARY SEWER LATERAL. Sanitary sewer laterals are televised by West Valley Sanitation District and approved by the Town of Los Gatos before they are used or reused. Install a sanitary sewer lateral clean-out at the property line.

63. **SANITARY SEWER BACKWATER VALVE.** Drainage piping serving fixtures which have flood level rims less than twelve (12) inches (304.8 mm) above the elevation of the next upstream manhole and/or flushing inlet cover at the public or private sewer system serving such drainage piping shall be protected from backflow of sewage by installing an approved type backwater valve. Fixtures above such elevation shall not discharge through the backwater valve, unless first approved by the Administrative (Sec. 6.50.025). The Town shall not incur any liability or responsibility for damage resulting from a sewer overflow where the property owner or other person has failed to install a backwater valve, as defined section 103(e) of the Uniform Plumbing Code adopted by section 6.50.010 of the Town Code and maintain such device in a functional operating condition. Evidence of West Valley Sanitation District's decision on whether a backwater device is needed shall be provided prior to issuance of a building permit.
64. **OUTDOOR TRASH ENCLOSURES.** Outdoor trash enclosures shall be covered and area drains connected to the sanitary sewer system shall be provided.
65. **CONSTRUCTION NOISE.** Between the hours of 8:00 a.m. to 8:00 p.m., weekdays and 9:00 a.m. to 7:00 p.m. weekends and holidays, construction, alteration or repair activities shall be allowed. No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible. The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA.
66. **GREASE TRAPS.** Meet all requirements of the Santa Clara County Health Department and West Valley Sanitation District for the interception, separation or pretreatment of effluent.

TO THE SATISFACTION OF THE SANTA CLARA COUNTY FIRE DEPARTMENT:

67. **FIRE LANE MARKINGS REQUIRED.** Provide marking in conformance with Fire Department requirements for all roadways within the project. Installations shall conform to Local Government Standards and Fire Department Standard Details and Specifications A-6.

68. REQUIRED FIRE FLOW. The required fire flow for the project is 2,750 gpm at 20 psi residual pressure.
69. FIRE HYDRANTS REQUIRED. Provide fire hydrants at locations to be determined jointly by the Fire Department and San Jose Water Company. Hydrants shall have a minimum single flow of 1,000 GPM at 20 psi residual, with spacing not to exceed 500 feet. Prior to applying for building permits, the applicant shall provide civil drawings reflecting all fire hydrants serving the site. The final determination of placement and number of hydrants shall be to the satisfaction of the Fire Department.
70. NEW COMMERCIAL BUILDING. The building shall comply with standard specification SI-7 for construction site fire safety.
71. AUTOMATIC FIRE SPRINKLER SYSTEM. An approved automatic fire sprinkler system is required for the commercial building, hydraulically designed per National Fire Protection Association (NFPA) Standard #13. A State of California (C-16) licensed fire protection contractor shall submit plans, calculations a completed permit application and appropriate fees to the Fire Department for review and approval, prior to beginning work.
72. FIRE APPARATUS(ENGINE) ACCESS ROADS. Provide access roadways with a paved all weather surface and a minimum unobstructed width of 20 feet, vertical clearance of 13 feet 6 inches, minimum circulating turning radius of 36 feet outside and 23 feet inside, and a maximum slope of 15%. Installations shall conform with Fire Department Standard Details and Specifications A-1.
73. PREMISE IDENTIFICATION. Approved numbers or addresses shall be placed on all new and 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.
74. PARKING ALONG ROADWAYS. The required fire access road shall not be obstructed in any manner and parking shall not be allowed along roadways less than 28 feet wide. Parking is permitted along one side of roadways 28-35 feet in width. For roadways equal to or greater than 26 feet, parking will be allowed on both sides. Roadways widths shall be measured curb to curb face with parking space based on an eight foot width.

75. ON-SITE PRIVATE FIRE SERVICE MAINS AND/OR HYDRANTS. Installation of private fire service mains and/or hydrants shall conform to National Fire Protection Association (NFPA) Standard #24, and Fire Department Standard Details and Specification W-2. If the supply piping is "combined" (sprinkler system and hydrants). A UL listed four-way FDC shall be provided. A separate installation permit is required from the Fire Department.
76. FIRE DEPARTMENT KEY BOX. The building shall be equipped with a permanently installed emergency access key lock box (knox), conforming to Fire Department Standard Detail and Specification sheet K-1. Access keys shall be provided to the Fire Department at the time of final inspection.

SECTION VI

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on August 6, 2007, and adopted by the following vote as an ordinance of the Town of Los Gatos at a meeting of the Town Council of the Town of Los Gatos on August 20, 2007 and becomes effective 30 days after it is adopted.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

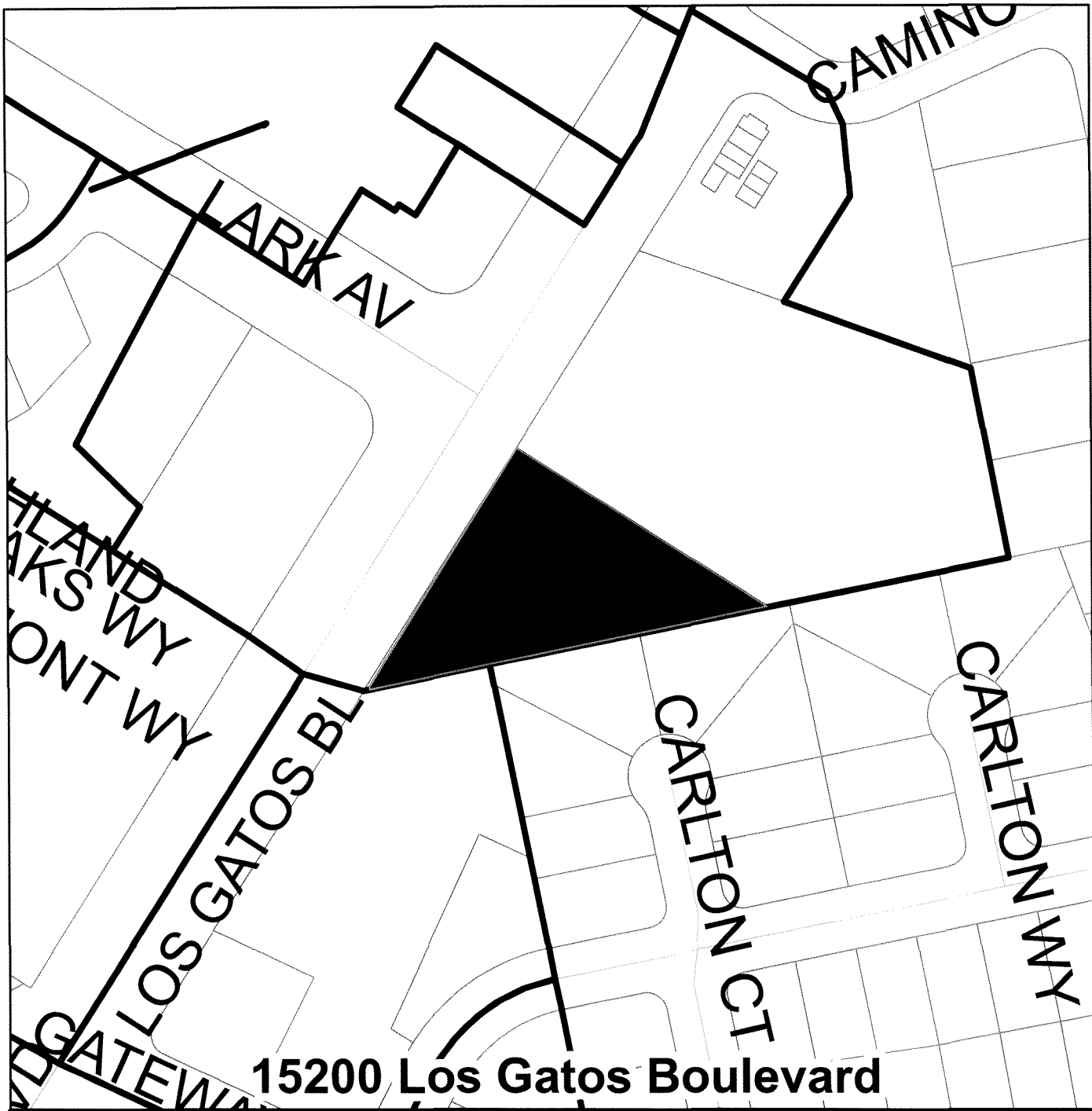
SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

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

N:\DEV\ORDS\LGB15200-TC.DOC



15200 Los Gatos Boulevard

TOWN OF LOS GATOS

Application No. PD-06-05.

A.P.N. # 424-17-038 & 041

Change of zoning map amending the Town Zoning Ordinance.

☒ Zone Change

From: CH To: CH:PD

☐ Prezoning

Recommended by Planning Commission

Date: June 13, 2007

Approved by Town Council

Date:

Ord:

Clerk Administrator

Mayor

EXHIBIT A

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

Los Gatos Planning
Commissioners: Joanne Talesfore, Chair
John Bourgeois
Michael Kane
Phil Micciche
Tom O'Donnell
Steve Rice

Assistant Director of
Community Development: Randy Tsuda

Town Attorney: Orry Korb

Transcribed by: Vicki L. Blandin
(510) 337-1558

LOS GATOS PLANNING COMMISSION 6/13/2007
Item #1, 15200 Los Gatos Blvd.

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

CHAIR TALESFORE: We do have a continued public hearing, and we'll entertain that now, and that is for 15200 Los Gatos Boulevard. It's Planned Development Application PD-06-05, Negative Declaration ND-07-09, requesting approval to change zoning from CH to CH-PD, to merge lots and construct a new commercial building on property zoned CH, which is commercial highway. No significant environmental impacts have been identified as a result of this project and a Mitigated Negative Declaration is recommended. APN-S-424-17038 and 041. I think that Suzanne Davis is going to give us an overview on this tonight, is that correct?

RANDY TSUDA: That's correct. Just also note that you have two desk items on this item.

CHAIR TALESFORE: Yes, I was going to say that. We have two desk items that I'm going to give you about three minutes to look it over.

(Pause while commissioners read desk items.)

LOS GATOS PLANNING COMMISSION 6/13/2007
Item #1, 15200 Los Gatos Blvd.

1 CHAIR TALESFORE: Do you need anymore time,
2 Commissioners? With that, Ms. Davis, and then this will be
3 followed by a report from Mr. Parsons as well. Thank you.

4 SUZANNE DAVIS: This project was reviewed by the
5 Planning Commission twice previously, the first time on
6 March 28th and then the last time was April 25th. At the
7 previous meeting the Commission asked the applicant to
8 address a number of issues, including reduction of the size
9 and height of the building; enhancement of the landscape
10 buffer between the building and the adjacent residences; a
11 provision of an onsite loading space; evaluation of the
12 safety of the Los Gatos Boulevard entry; and evaluation of
13 maintaining a view of the hillsides.

14 A report was submitted by the applicant's traffic
15 consultant. That has been reviewed by the Town traffic
16 engineer, and that's the item that Fletcher Parsons will be
17 providing some more information on when I am finished.

18 In the two desk items in front of you this
19 evening there is a letter from a neighbor, Karen
20 Leskashman. She expresses some concern about noise and
21 traffic impact from the project and also the size of the
22 building. She also asked about the easement, the reciprocal
23 access agreement between Office Depot and this site, and we
24
25

LOS GATOS PLANNING COMMISSION 6/13/2007
Item #1, 15200 Los Gatos Blvd.

1 believe that has been addressed with the conditions we've
2 proposed.

3 We do have a desk item that we've revised the
4 wording on, the condition relative to the reciprocal
5 access. The applicant has provided an alternate site plan,
6 which is hanging up on the wall here, which would be put
7 into place in the event that the reciprocal easement is
8 lost. It is good for 15 years at this point.

9 The other item that's attached to one of the desk
10 items is the correct Mitigation Monitoring Plan. We
11 inadvertently put the wrong plan on the Staff Report. I
12 don't know if anyone noticed that, but it was the incorrect
13 plan. We've given you the correct Mitigation Monitoring
14 Plan for the environmental review.

15 I believe that is it for my comments. If you have
16 any questions, we're available.

17 Oh, one other item that's attached to a desk
18 item, we do have two items from an abutting neighbor,
19 Jeffrey Scott. One of them is an agreement between him and
20 the applicant regarding landscaping that's going to be
21 planted on the Scott property to help provide a buffer and
22 help obscure the view of the building from their rear yard.
23 Another is just a letter from him acknowledging the
24
25

LOS GATOS PLANNING COMMISSION 6/13/2007
Item #1, 15200 Los Gatos Blvd.

1 landscape plan and his approval of it, and he has a concern
2 about hours of operation for the building and wanted to
3 make sure that that was taken into consideration.

4 CHAIR TALESFORE: Thank you very much, and then
5 Mr. Parsons, you're going to give an updated report on the
6 traffic on this project, is that correct?

7 FLETCHER PARSONS: Correct. I'll be brief. It's
8 basically covered in the Desk Item #2, but to summarize
9 that, the applicant's traffic engineer, Hexagon
10 Consultants, prepared a traffic study to address the
11 capacity of the driveway and the safety of the driveway on
12 Los Gatos Boulevard in the event that the northern access
13 through Office Depot would be closed.

14 Without going into the details of the study, they
15 basically found that the driveway had capacity to act as a
16 single access and it would be safe. I can go into the
17 details of this if you guys want to whenever you want, but
18 basically they found the project would operate fine. There
19 is more than double capacity for Los Gatos Boulevard to
20 handle the amount of traffic coming out, and based on a
21 comparison of this intersection, this driveway, to other
22 similar driveways down Los Gatos Boulevard, they find that
23 it will operate in a safe manner.
24
25

LOS GATOS PLANNING COMMISSION 6/13/2007
Item #1, 15200 Los Gatos Blvd.

1 Based on that recommendation Staff is
2 recommending that we remove a condition that was added by
3 the Planning Commission requesting that the driveway be
4 made in-only so there would be no exiting from the Los
5 Gatos Boulevard driveway, and that's based on the finding
6 that the driveway would operate in a safe manner, has
7 capacity, and that the overall circulation inside the
8 project will be better if it operates in a two-way manner.
9 I can go into a whole lot of detail about why that is and
10 the ins and outs of it, but I'll leave the summary there.
11

12 CHAIR TALESFORE: Commissioners, any questions?
13 Seeing none, thank you very much for that. Before I call up
14 the applicant I have a question of Mr. Tsuda, and to just
15 give some context to the decision we're going to make, this
16 project will come back to the Planning Commission for A&S..
17 Can you tell us what we will be looking at when it does
18 come back to us for Architecture and Site? And then I have
19 another question.

20 RANDY TSUDA: The Architecture and Site approval
21 for this application will come back before the Planning
22 Commission; that was specifically directed by the Planning
23 Commission several meetings ago, and that is incorporated
24 into the draft ordinance. At that time you will be looking
25

LOS GATOS PLANNING COMMISSION 6/13/2007
Item #1, 15200 Los Gatos Blvd.

1 at the details of the architecture, reviewing the final
2 materials and colors of the building, and any refinements
3 that are made to the plans as the design continues to
4 evolve. At that point you will again simply be looking at
5 Architecture and Site details. The overall concept will
6 have been approved through this planned development action.

7 CHAIR TALESFORE: That means square footage,
8 height, landscaping? Will landscaping come back?

9 RANDY TSUDA: Landscaping will also come back as
10 part of A&S, yes.

11 CHAIR TALESFORE: All right. Commissioner Rice.

12 COMMISSIONER RICE: I just want to confirm, all
13 the plans show a restaurant use, but any applicant for a
14 restaurant would still come back for a CUP, is that correct?

15 RANDY TSUDA: Right, any restaurant requires a
16 Conditional Use Permit, and that's a matter of Town Code.
17 It's also been incorporated into this Planned Development
18 Ordinance.

19 COMMISSIONER RICE: Because when we deal with
20 hours and that type of thing, for the neighbors I want to
21 make sure that we're not saying yes you can put a restaurant
22 here. That takes care of it. Thank you.

23 CHAIR TALESFORE: Would that include retail as
24 well, as far as hours?

1 RANDY TSUDA: Retail is a permitted use, so there
2 is no CUP that is required. It's a use that's permitted as a
3 right.

4 CHAIR TALESFORE: So we wouldn't have any input
5 into hours of that operation?

6 RANDY TSUDA: You could specify hours through the
7 Planned Development Ordinance. Other than that, there is no
8 discretionary review process, no further public hearing
9 process, for most retail uses.

10 CHAIR TALESFORE: Thank you. Commissioners? Seeing
11 no questions I'd like to call up the applicant. Would you
12 state your name, and when you finish fill out a card?

13 KEN RODRIGUEZ: Yes. My name is Ken Rodriguez. I
14 am the project architect for the project, and we are
15 bringing back before you this project that I believe
16 addressed all of the Planning Commission's issues at our
17 last meeting, and Suzanne did a good job kind of going
18 through those. I do want to speak to them just in general if
19 I could, because I think there was a real spirit of
20 cooperation between the developer and Staff and also the
21 residents.

22 As mentioned, the building was reduced to 9,207
23 square feet from what was previously proposed. For your
24 information, it is the lowest coverage of any new project
25 built on the boulevard. As an example, the Cilker project,
which I did a cornerstone, has an FAR of 28.5%. This project

1 has an FAR of just a little over 22%, so you can really see
2 that the mass and the bulk of the building are significantly
3 smaller than what was previously proposed and also what is
4 built along the boulevard, and I have tabulations for a lot
5 of the projects if you'd like to see those. I have a little
6 PowerPoint presentation, but I won't show that unless you
7 ask the question.

8 We also provided the landscape buffer. As you can
9 see, both the residents and the developer have worked out a
10 good solution. At the same point we added the diamond island
11 and have the fingertip islands, so I think if you go out
12 there today you see a pretty good landscape buffer. When
13 this project is built you will see a really good landscape
14 buffer. It's really three tiers of planting now that will be
15 there: one in the fingertip islands; an enhancement in the
16 diamonds, and the landscaping up against the property; and
17 then new landscaping in the residents' rear yards.

18 You asked to provide a loading area, which we did
19 I think in a key spot furthest away from the residences and
20 closest to Office Depot; I think that's the appropriate spot
21 to put it, up against another retail project.

22 We took a look at the driveway and Mr. Parsons'
23 comments summarized the report. I think that was good to
24 have so that you have that information; Staff feels
25 comfortable with it and we do too.

1 Then we also reduced the height of the building,
2 as you noted, but I want to point out that I have roughly
3 about eight or nine other projects along the boulevard and
4 this will be one of the lowest, if not the lowest, project
5 on the boulevard. I think that's a little bit in conflict
6 with the Boulevard Design Guidelines, which talk about
7 actually increasing a little bit of the bulk and mass and
8 making an architectural statement; I think we've done that
9 with the architecture. I think it is a great building still,
10 I think it will be a real good addition to Los Gatos
11 Boulevard and the Town, but I also want to tell you that
12 it's as low as it could possibly get and get all the
13 functions inside the building to really work.

14 So with that I'm hopeful that you will move to
15 approve the project tonight and send it on to Council. I
16 would be happy to answer any questions that you have. Both
17 of the owners are here and would be happy to answer any
18 questions, so with that, that concludes my presentation.

19 CHAIR TALESFORE: Thank you. I'm sure we have some
20 questions, Mr. Rodriguez. I have one quick question and
21 since you ended on this, and that's the height of the
22 building; it's at 22'. It is 22' because there's no second
23 story, correct?

24 KEN RODRIGUEZ: That's correct.

25 CHAIR TALESFORE: Is there storage up there, or
what is the purpose of the 22'?

1 KEN RODRIGUEZ: Well most retail buildings along
2 the boulevard are 24' to 26' that are similar retail
3 projects, so what you have is a 10' to 12' high ceiling,
4 then you have anywhere from 4' to 5' feet of mechanical,
5 another 3' of structure, and then the roof slope itself to
6 conceal the equipment, which is another 4', and that usually
7 gets you to 24'. That's sort of a magic number of these size
8 buildings. This one is at 22', so as you can see, it's even
9 smaller.

10 CHAIR TALESFORE: The idea though that this is set
11 closer to the boulevard than a lot of the other buildings I
12 think you're referring to.

13 KEN RODRIGUEZ: No. As an example, the Cilker
14 project right at the corner of Blossom Hill and Los Gatos
15 Boulevard, which we did the pad building in front, it's
16 26.5' to the height of the roof slope, so I just want to
17 give you in proportion and scale.

18 CHAIR TALESFORE: The cornerstone?

19 KEN RODRIGUEZ: Yes.

20 CHAIR TALESFORE: Right, but that's sitting way
21 back.

22 KEN RODRIGUEZ: No, I'm talking about the corner
23 building right on the corner of the boulevard.

24 CHAIR TALESFORE: Oh, okay. Thank you.

25 KEN RODRIGUEZ: Now the one across the street is
taller, regrettably so. That's at 36' to the top of a tower

1 element there. But generally the building itself is roughly
2 24' at the parapet lines around the Starbucks, Pier One, not
3 the slopped roof, but the flat portion. I'd be happy to show
4 you those slides; we photographed everything along the
5 boulevard in case you asked.

6 CHAIR TALESFORE: Does anyone want to see those
7 slides? No. That's the question I had. Anyone else have a
8 question? Commissioner Bourgeois.

9 COMMISSIONER BOURGEOIS: Mr. Rodriguez, thank you
10 for all the changes and hard work from our last meeting. It
11 looks like you've addressed, or at least made an attempt to
12 address, all of our concerns with the exception of one as I
13 see it.

14 We talked a lot about the intensity of the use on
15 that site, and as I heard the neighbors' concerns, they were
16 particularly concerned about the restaurant use, and we
17 specifically asked not to increase the seating in the
18 restaurant back, and yet it went back up. So I was just
19 wondering if you could address the intensity of use on that
20 site as it pertains to the restaurant seating, and why that
21 went back up.

22 KEN RODRIGUEZ: That's a really good question. We
23 actually increased the seating that would be located out on
24 the patio area, which is on Los Gatos Boulevard. I believe
25 it would be a very, very attractive outdoor dining area with
its trellis, landscape vines, the outdoor fireplace that

1 we've created there. I really think it's a great project,
2 but the specific tenant will come back to you, and at that
3 point if you feel that those additional four seats are not
4 appropriate, the applicant would certainly look at that, and
5 I would like to be able to save that time for the user
6 itself, that tenant, to keep that flexibility. Basically we
7 just showed you the numbers; that's not necessarily asking
8 for approval, just what the numbers would work out to. But I
9 really think there will be very little impact with the
10 seating because it's on the boulevard side; nothing opens
11 out to the residential side.

12 CHAIR TALESFORE: I have a question about that
13 outdoor patio seating as well, and that is I'm concerned
14 about the environment that's out there, because it's very
15 close to the boulevard and there's brake dust, and there's
16 noise, and all of that, and at some point it may be that
17 this restaurant owner comes back to us and says, "Can we
18 glass in this area?" Did you ever consider placing that
19 restaurant perhaps in an interior courtyard?

20 KEN RODRIGUEZ: We did. The Boulevard Guidelines
21 actually call for this very use to energize and activate the
22 boulevard from a pedestrian standpoint, and I really believe
23 it's going to. One of my objections to Blossom Hill and Los
24 Gatos Boulevard, the Hollywood Video building, is those
25 entrances got closed up. Here you have a developer that saw
that and said, "We want to activate the boulevard. We want

1 this pedestrian traffic," and now that you've asked the
2 building to be set back 15' and we've created a landscape
3 buffer there, we also have a low 3' high stone wall with
4 wrought iron that goes up to about 6' or so, I think it will
5 be a good protection. It will not help from a noise or brake
6 dust standpoint, but it will be a nice buffer and it will be
7 a little bit of a safety net there for people sitting
8 outdoors. I think it's going to be a great space and I
9 really hope you allow us to build it and test it, because I
10 think it will work. You can't glass it in, or you can't
11 cover it in, because that would be square footage, but we
12 had tried to address it with the low wall and the iron and
13 the trellis.

14 CHAIR TALESFORE: Thank you. Anyone else? I don't
15 have any questions right now from the commissioners, but I
16 do have a speaker card, so we'll call you back up in a few
17 minutes.

18 KEN RODRIGUEZ: Thank you very much.

19 CHAIR TALESFORE: You're welcome. My first speaker
20 card is from Rick Bowden.

21 RICK BOWDEN: Hi, I'm Rick Bowden and I live at
22 253 Carlton Court; I'm the next-door neighbor to Jeff Scott,
23 and my property backs up to this proposed location.

24 Some of my issues have been addressed here. I
25 think we're making some progress; the building is getting

1 smaller, the building is getting lower. Is it really small
2 enough yet? I don't know.

3 One of my issues was if we lose the easement is it
4 going to support the size of the building with the traffic,
5 and it sounds like there's a traffic study that addresses
6 that.

7 What my two biggest issues are right now today are
8 noise and lighting. We've talked about building size. I know
9 I've been here once in front of you folks and I sent a
10 letter when I couldn't make it, and have discussed noise,
11 though we never have mentioned noise. I don't remember any
12 discussion relative to what's going to happen with the
13 noise.

14 We've got the hours of operation if we've got a
15 restaurant in there. The parking as designed literally is
16 two car lanes away from my bedroom window on the other side
17 of the wall, so the hours of operation are a major concern
18 for me and how much noise would be involved with that.

19 Also we've talked about, and I've also talked with
20 the owner about this, is the location of the dumpsters. When
21 Flames Restaurant was there those dumpsters were horrendous,
22 and they're in basically the same location, the same side of
23 the building except now closer to my house than it was with
24 Flames. So at 3:00 or 4:00 o'clock in the morning at least
25 once a week I'm getting awakened by the garbage company. I'd
like to see those dumpsters moved around to the other side,

1 maybe to where the loading location is, just to buffer some
2 of that noise with the building itself.

3 Lighting I'm concerned about. That ties in with
4 hours of operation as well. As an example, the Office Depot
5 closes at 9:00 and the lights are on until 9:30, which is
6 fine. Other considerations for lighting is one of the things
7 we did when we went through the process with Office Depot,
8 because I've been there for 13 years, is they have no lights
9 on the front of their building; it's all indirectly lit,
10 painted name, so I have no lights glaring into my yard. One
11 of the problems with Flames is they had a huge light right
12 there shining into my window all the time. So I'm concerned
13 about what the lighting looks like and it hasn't been
14 discussed yet, so I don't know what the forum is that we're
15 going to have the discussion on that, but I'd like to see
16 where we go with that, because those are two things that
17 would seriously impact my lifestyle.

18 CHAIR TALESFORE: Thank you very much, Mr. Bowden.
19 Does anyone have questions for Mr. Bowden? Commissioner
20 Micciche.

21 COMMISSIONER MICCICHE: Just one of Staff. The
22 questions that are being asked, wouldn't they be addressed
23 during the A&S?

24 RANDY TSUDA: Details of the lighting are
25 addressed during the A&S process. The applicant has
submitted a photometric plan, a preliminary lighting plan,

1 that shows the lighting pattern for that rear parking lot,
2 and they are calling for cutoff fixtures; those are fixtures
3 that do not extend the light past the property line.

4 COMMISSIONER MICCICHE: So they're taking care of
5 that now?

6 RANDY TSUDA: They've addressed that. It will be
7 reviewed in more detail at the A&S stage.

8 COMMISSIONER MICCICHE: Thank you.

9 CHAIR TALESFORE: Anyone else have a question?
10 Commissioner Bourgeois followed by Commissioner O'Donnell.

11 COMMISSIONER BOURGEOIS: I was just curious, in an
12 ideal world what would be reasonable hours of operation for
13 you?

14 RICK BOWDEN: Because I've got young children, I
15 think what would be reasonable is by 10:00 o'clock I don't
16 have a bunch of noise out there, because my youngest is ten
17 years old, so there's a 9:00 to 9:30 bedtime kind of thing,
18 so I think a realistic number would be 10:00 o'clock.

19 CHAIR TALESFORE: Commissioner O'Donnell.

20 COMMISSIONER O'DONNELL: I just wanted to ask a
21 question of Mr. Tsuda. The setting of the hours for the
22 restaurant operation, would that come under the Conditional
23 Use Permit as opposed to this evening?

24 RANDY TSUDA: Details of the restaurant operation
25 would come during the CUP phase, yes.

1 COMMISSIONER O'DONNELL: So I just wanted to make
2 it clear that that would come up at a later time. Thank you.

3 CHAIR TALESFORE: Do we have any other questions?
4 Thank you very much. I have another card from Citizen Ray.

5 RAY DAVIS: Yes, indeed. You know, I've sat here
6 through all the meetings and we have brought up the issue of
7 compatibility, how will any commercial use on the adjacent
8 property be compatible with the existing neighborhood?
9 Before we had Flames Restaurant at 3,000 square feet. Didn't
10 make a buck. The site was worthless. They pulled out. Then
11 on the same site we had the Hummer store using the 3,000
12 square foot office. Didn't make a buck. Worthless. They
13 pulled out.

14 Now there's an indication and a parameter of the
15 intensification of use. We have a 9,000 square foot, 300%
16 bigger than has ever been there before, 99-seat restaurant,
17 everything facing to the bedrooms of the abutting
18 properties. The lights are right on the boundary now; they
19 never were on the boundary before, they were 15'-20' back.

20 You're looking at, in my opinion, a rape, plunder,
21 and pillaging of the adjoining neighborhood, all for the
22 dollar bill. Is this the Chamber of Commerce or is it the
23 Planning Commission? Does anybody care about the people
24 right next door, or is all you care about is the dollar
25 bill? The retail impact, how wonderful that is for the
community, so we throw the neighborhood to the wolves for

1 the greater good of the community, because we have money,
2 money, money. Oh, it's so ugly. Is this a community of
3 people or just another community whorehouse where the dollar
4 bill rules? That's your charge.

5 CHAIR TALESFORE: Thank you.

6 RAY DAVIS: Did I make myself clear?

7 CHAIR TALESFORE: Yes. Thank you. Lee Quintana.

8 LEE QUINTANA: Lee Quintana, 5 Palm Avenue.
9 Previous speakers have covered several of the things that I
10 was going to mention, so I will concentrate on a few others.
11 One of the things about this site that is the most important
12 to me is the residential interface with the commercial
13 property, and while the height of the building has been
14 reduced and some additional landscaping has been proposed
15 along the property itself, I think there are still problems
16 with that interface with respect to the buffers. As an
17 example I'm going to compare the commercial interface along
18 Carlton Avenue, which also abuts Los Gatos Boulevard, and
19 another parking lot that was built.

20 Most of the commercial properties along Los Gatos
21 Boulevard have deep landscaping buffers in their back, no
22 parking in the back, and no doors or access from the back.
23 In addition they have a street between them and the adjacent
24 residential, often with the setback again another 20' or so.
25 Behind the shopping center where Trader Joe's is there is
20' or 30' of landscaping, only a very small area that has

1 parked cars, a street, 20-plus feet of open space
2 landscaping, and two-story residences. This project has 8'
3 of landscaping, parking right in front of that, it's 22'
4 high or almost a two-story building, and adjacent to
5 residential which is one-story and lower. That's one
6 comparison.

7 The second comparison is with the parking lot that
8 was built for courtside. That parking lot has minimum
9 setback from the property line of the parking, a 15' and it
10 goes up to 30 plus feet, there are two houses adjacent to
11 it, on the backyard it is much deeper so there is like maybe
12 75' to 100' between the cars and the residents. The other
13 one is about 15' to 20' along part of it, no windows on that
14 side, and the rest of it, which is set back another 25', is
15 garage. There's no building on that site, and the reason I
16 mention that is that residential compatibility was a big
17 component in designing that parking lot, and yet we're
18 proposing here buildings that are obviously going to have
19 much more impact on the residential neighbors in terms of
20 noise, lighting, visual, et cetera.

21 I did want to comment on Mr. Rodriguez's comment
22 about the pad at the cornerstone. Yes, it's as close to the
23 street, but there are no residential buildings around it;
24 that's all commercial.

25 My comment on pedestrian-friendly is that while
there is patio out front on the restaurant, it's not clear

1 to me from the plans that there is actual egress from the
2 boulevard to the restaurant, and none of the retail shops
3 have any access directly from the boulevard. It seems like
4 it's repeating in many senses the problems that were created
5 by the Hollywood Video complex where the retail doesn't
6 really have a face to the street; it's not pedestrian-
7 friendly, and also the height of the building is so close to
8 the street.

9 I also had a question about the patio. It seems to
10 encroach into the required setback.

11 CHAIR TALESFORE: Thank you. Questions of the
12 speakers, Commissioners? None. Thank you. Seeing that, I
13 will call up the applicant again. Mr. Rodriguez.

14 KEN RODRIGUEZ: Thank you. Let me just try to
15 comment on a few things that were brought up today.

16 In reference to lighting, we do have a lighting
17 plan in this packet and we are proposing zero cutoff
18 fixtures, so it actually shows how the light will be thrown
19 out into the parking area and there will not be any light
20 spillover in your properties. That was a very important part
21 of the original design, so you could take a look at that
22 prior to it coming back for A&S approval.

23 In terms of the dumpster area, we did relocate it
24 from where it currently is. You may be reading that as the
25 transformer pad, so that doesn't make any noise or won't be
serviced, but the dumpster has been moved over adjacent to

1 the building and you could see that on the plans right by
2 the loading space. So again, we've pulled it away from the
3 residences for that very reason that was mentioned.

4 Hours of operation would come back before you
5 again, and that would be a part of the application for the
6 restaurant, and at that point the developer and that tenant
7 would be happy to talk through that with the neighborhood,
8 and will inform them well ahead of time of the application
9 for the CUP and review it with them prior to the hearing.

10 In terms of egress from the boulevard that ex-
11 commissioner Quintana mentioned, there is egress from the
12 boulevard; you can actually see it on the plans from the
13 patio. We've energized the boulevard from lessons that have
14 been learned on other projects, one she mentioned, but
15 certainly others that we've done. I see people walking up
16 and down the boulevard and coming in the patio and right
17 into the restaurant use, and there are opportunities for
18 doors all along that entire frontage there.

19 The existing building before it was burned down,
20 you probably note in your Staff Report, was 5,000 square
21 feet; that would be the Hummer store and the restaurant. We
22 believe that the interface issues have been dealt with very
23 nicely on this project. There is increased landscaping,
24 we've lowered the building height; I would be happy to show
25 you slides of other buildings which it's lower than. It also

1 is less coverage than any of the new projects that have been
2 built along the boulevard.

3 I think it really meets or is below the standards
4 of what we have to design to as architects. So I hope I
5 answered everything and I'd be happy to answer any questions
6 that you have.

7 CHAIR TALESFORE: Commissioners, any questions?
8 Commissioner Bourgeois.

9 COMMISSIONER BOURGEOIS: I was a little confused
10 too about the setback and that patio area. Could you maybe
11 address that issue as well that was brought up by one of the
12 speakers?

13 KEN RODRIGUEZ: Yes, sure. Let me just open up the
14 drawings if I could. Right now the building is set back 15'
15 and the patio does encroach in that area, which we're
16 allowed to do per code, and so it will be a combination of
17 lawn, groundcover, patio, the stone wall, and our iron
18 pieces with the trellis overhanging, so we meet the code and
19 I think will be very nicely broken up along the boulevard.
20 As you recall before, I had an objection to lining the world
21 up at 15'. I think this goes a long way to break that
22 objection. Thank you.

23 CHAIR TALESFORE: I have a question, Mr.
24 Rodriguez. On page A-8 of the plans it looks like two
25 parking spaces were added at the entry off of the boulevard,
is that correct?

1 KEN RODRIGUEZ: No.

2 CHAIR TALESFORE: They were there from the
3 beginning?

4 KEN RODRIGUEZ: Yes.

5 CHAIR TALESFORE: Since in the Boulevard Design
6 Guidelines and Commercial Design Guidelines actually we are
7 looking for lush landscaping into entries, would there be
8 any way that we could get more landscaping in there if there
9 was somehow some way to put those parking places anywhere
10 else? I don't mean for you to design on the fly here, but
11 that looks pretty close. I think the intent of the
12 guidelines were very specific in that area.

13 KEN RODRIGUEZ: Yes, and we do meet the
14 guidelines. But if you're looking for more landscaping, we
15 do have a lot more landscaping than exists today or any
16 other project on the boulevard, at the bottom parking stalls
17 you'll see at the southern end. What we did on the northern
18 end is we added this low screen wall out of stone, which
19 also hides the cars. You asked for us to think about that
20 and we did, and I think that will also act as a landscape
21 element. So we could look at that between now and the time
22 we bring the landscape plans back to you.

23 CHAIR TALESFORE: Yes, that would be great. I'd
24 appreciate that. And have you done your signage plans yet?
25

1 KEN RODRIGUEZ: No, we haven't. We would be
2 bringing back a signage program once the tenants were
3 secured.

4 CHAIR TALESFORE: Okay, because we'd want it all
5 looking together and not piecemeal.

6 KEN RODRIGUEZ: I want it to look together too.

7 CHAIR TALESFORE: All right. Thank you. Do we have
8 any other questions? Seeing none, I will close the public
9 hearing.

10 KEN RODRIGUEZ: Thank you.

11 CHAIR TALESFORE: Commissioners, I'll look for
12 comments, a motion, or questions. I have a question of
13 Staff, and I think it was addressed, but I wanted to just
14 make sure about the patio. There is a 15' setback for some
15 of the project, and then the patio encroaches into the
16 setback. Is that legally adhering to code?

17 RANDY TSUDA: Yes. And just for the record, the
18 minimum setback is 15' and the proposed setback here varies
19 between 15' and 19', I think it is, so it's 15' at the
20 minimum and extends about 4' beyond that at some points.

21 CHAIR TALESFORE: So it's legal for them to go
22 into that 15'?

23 RANDY TSUDA: With the patio, yes.

24 CHAIR TALESFORE: All right, Commissioners,
25 comments? Commissioner Rice.

1 COMMISSIONER RICE: I'll make a comment and
2 depending on what I hear afterwards I'm prepared to make a
3 motion.

4 I think this has been to us a couple of times now
5 and each time we've sent the applicant back with specific
6 direction. I think they've listened to the direction. As one
7 of the members of the public testified, it's a very
8 difficult piece of property because it's right up against
9 residential. I'm not sure that you're ever going to get a
10 perfect solution, but when you ask somebody to do something
11 and they do it and they bring it back to us, I'm not sure
12 where we would go from here unless you're going to change
13 your mind on what you've asked them to do in the past.

14 I'm comfortable with the project. I think the
15 height is fine, I think the setbacks are fine, I think the
16 design is a good compromise, and I'm prepared to make a
17 motion. I'll listen to comments first if somebody wants to
18 make other comments. I don't want to cut off discussion that
19 way.

20 CHAIR TALESFORE: Commissioner O'Donnell.

21 COMMISSIONER O'DONNELL: I'll just make this
22 comment: I agree with what you've said. We have sent them
23 back twice; they've been very responsive. I also agree that
24 in a perfect world we wouldn't have this proximity, but it's
25 not a perfect world. You're entitled to that commercial
development there; it's totally consistent with what we're

1 doing there. I think you've done everything we've asked you,
2 so if we don't like what you've done, I guess we don't like
3 what we've asked of you and we would have to change that
4 now, and that's not something that I'm prepared to do.

5 CHAIR TALESFORE: Commissioner Bourgeois.

6 COMMISSIONER BOURGEOIS: When I came into this
7 meeting after I reviewed the project and had been out to the
8 site again, you did. I mean you've listened to all of our
9 direction, and the question I kept asking myself is is it
10 enough? I mean that's the question. It's a very difficult
11 residential interface. I think the design is great, I think
12 the setbacks are great, I think it looks great, it's going
13 to be a great addition to that intersection, but it's the
14 intensity of the use, it's the number of car trips, it's the
15 number of headlights in these people's backyards.

16 At all the previous meetings we had neighbors
17 voicing very strong opinions against the project, and I
18 don't hear that tonight. From the letters I have and the
19 testimony I've heard, we're never going to get to a perfect
20 solution, so although I still have some concerns about the
21 intensity, from what I'm hearing tonight I would probably
22 support your motion.

23 CHAIR TALESFORE: Where do I sit with this? You've
24 done most of what we've asked you to do, although I still
25 heard tonight from a neighbor and it does send chills down
me when he says, "It's 8' from my bedroom window," and we

1 don't know what kind of a restaurant is going to be there,
2 and there is the parking, that still does bother me, and I
3 wondered then have we been strong enough in guiding them to
4 meet our Boulevard Design Guidelines.

5 COMMISSIONER RICE: Would it make you more
6 comfortable is we put hours of operation for a restaurant
7 use into the PD?

8 CHAIR TALESFORE: I think we can do that.

9 COMMISSIONER RICE: I know we can. I'm asking if
10 it would make you feel more comfortable. I'm not sure it's
11 necessary. I think it's going to come back to us for a CUP
12 anyway.

13 CHAIR TALESFORE: It's going to come back to us.

14 COMMISSIONER RICE: I think it's not necessary.

15 CHAIR TALESFORE: Right, that's not the issue.

16 COMMISSIONER RICE: But it's going to alleviate
17 the issue one way or another.

18 CHAIR TALESFORE: And perhaps there just isn't a
19 way. I'm just maybe wondering if retail should be there with
20 everything else, and it's just the noise issue. Although I
21 will say that neighbors have not objected to the development
22 as far as this land being developed, so I have to sit here
23 and think about this.

24 COMMISSIONER BOURGEOIS: Call the motion then.

25 CHAIR TALESFORE: Okay, I will, but I have to say
that this is a recommendation, and it's also requiring

1 consistency with the Town's General Plan, which I could
2 find, but also required compliance with the Commercial
3 Design Guidelines, and what's going in my head is that I
4 don't know that I can find all of that.

5 COMMISSIONER RICE: Well, I'll make the motion
6 that we can find all that. How's that?

7 CHAIR TALESFORE: All right.

8 COMMISSIONER RICE: I'm going to move for a
9 recommendation for approval. I think the PD is in
10 consistency with the Town's General Plan. The zone changes
11 and the exterior architecture as presented thus far is
12 consistent with the Town's Commercial Design Guidelines, and
13 the project is consistent with the Boulevard Plan.

14 COMMISSIONER O'DONNELL: It's an approval.

15 CHAIR TALESFORE: Is this an approval or a
16 recommendation?

17 ORRY KORB: This is a PD. It does require final
18 action by Council, so it's a recommendation to Council.

19 CHAIR TALESFORE: Yes, it's a recommendation.

20 COMMISSIONER RICE: Okay, then it's mistyped.

21 CHAIR TALESFORE: I know.

22 COMMISSIONER RICE: And restaurant use, I agree
23 with the concern, but the restaurant use has got to come
24 back for a CUP anyway, and I think whatever issues we may
25 have over times and that type of thing are going to come

1 back to us anyway, so I think we can handle that at that
2 time.

3 CHAIR TALESFORE: Maybe I would feel more
4 comfortable is we could have at least those four additional...
5 I mean they did add additional seats to the restaurant.

6 COMMISSIONER RICE: That's going to come back to
7 us anyway.

8 CHAIR TALESFORE: Right, so we can look at it
9 again.

10 COMMISSIONER RICE: Absolutely.

11 CHAIR TALESFORE: All right, we don't have to put
12 that.

13 COMMISSIONER RICE: They've done what we asked. I
14 think we owe it to them to give them a decision tonight and
15 I move that we recommend to the Council that they approve
16 the PD.

17 COMMISSIONER MICCICHE: I'll second.

18 CHAIR TALESFORE: Okay, I have a motion from
19 Commissioner Rice to approve, and a second from Commissioner
20 Micciche. Do we have any further comments on this? Seeing
21 none, I'll call for the motion.

22 ORRY KORB: There was a desk item, which
23 recommended a modification to a condition to remove the
24 restriction on that driveway from the boulevard.

25 COMMISSIONER RICE: Yes, and I will incorporate
that into my motion.

1 COMMISSIONER MICCICHE: And the seconder will as
2 well.

3 CHAIR TALESFORE: Thank you, so we have approval
4 on both of those. All in favor say aye. Opposed? One, me,
5 just because I don't think it meets totally what I'd like to
6 see supporting the Boulevard Design Guidelines. It's almost
7 there; I think we could have done better. Thank you. Good
8 luck.

9 ORRY KORB: And for anybody interested in the
10 application, the Planning Commission's decision is a
11 recommendation to the Town Council. The Town Council will
12 schedule a hearing, which will be noticed in the manner that
13 this hearing was noticed at a future date.
14
15
16
17
18
19
20
21
22
23
24
25