TOWN OF LOS GATOS
PLANNING COMMISSION STAFF REPORT
Meeting Date: May 31, 2011

ITEM NO: 1
DESK ITEM

PREPARED BY: Geoff I. Bradley, Consulting Planner
Joel Paulson, Senior Planner
jpaulson@losgatosca.gov

APPLICATION NO.: Planned Development PD-10-005
Negative Declaration ND-11-004

LOCATION: 90 - 160 Albright Way and 14600 Winchester Boulevard. (Located east of Winchester Boulevard and south of Highway 85)

APPLICANT: John R. Shenk

PROPERTY OWNER: Mike White, Huettig & Schromm, Inc.

APPLICATION SUMMARY: Requesting approval to modify the existing Planned Development to allow the potential for a mix of land uses. The project may consist of office alone or a mix of office and multi-family/senior residential uses, subject to defined triggers. The project could include up to a maximum of 550,000 square feet of office space or a combination of less office space with residential uses. Residential uses could include up to a maximum of 516 multi-family units and up to a maximum of 600 senior units on property zoned CM:PD. The applicant is also requesting approval of a Development Agreement. No significant environmental impacts have been identified as a result of this project and a Mitigated Negative Declaration (MND) is recommended. APN's 424-31-053, 054, 063, 424-32-038, 045, 049, 054, 059, 060, and 063.

EXHIBITS: 1-24. Previously submitted.
25. Written communications from the public (11 pages)

REMARKS:

The attached written communications (Exhibit 25) were received after the report on this matter was finalized.

Prepared by:
Geoff I. Bradley, Consulting Planner

Reviewed by:
Joel Paulson, AICP, Senior Planner

Approved by:
Wendie R. Rooney,
Director of Community Development

WRR:JP:GB:ct

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Joel Paulson

From: LLHBerry@aol.com
Sent: Tuesday, May 31, 2011 3:19 PM
To: Joel Paulson
Subject: 90 day continuance of pd 10 005

I would like to request a 90 continuance of this Meeting until more adequate notice has been given to the community and story poles or their equivalent have been erected.

Thank you for your consideration.

Sincerely,

Lori Berry
Smith Ranch Ct. Resident

EXHIBIT 25

Arlene Holmboe

From: Sarah Chaffin <sarah.chaffin@hotmail.com>
Sent: Tuesday, May 31, 2011 3:00 PM
To: Joel Paulson
Cc: Arlene Holmboe
Subject: 90 day continuance of pd 10 005

Hi Joel,

I would like to request a 90 continuance of this Meeting until more adequate notice has been given to the community and story poles or their equivalent have been erected.

Thank you for your consideration.

Sincerely,

Sarah Chaffin
smith ranch court
Sent from my iPad

May 31, 2011

The Honorable Marico Sayoc
Town of Los Gatos Planning Commission
Town of Los Gatos,
110 East Main Street
Los Gatos, CA 95030

RE: Support for Albright Way Rezoning

Dear Chairwoman Sayoc and Planning Commissioners:

We would like to express our support for the Albright Way Rezoning. We support the vision our Town's General Plan calls for in this area. The Albright Way rezoning is consistent with the Town's goals for economic development and mixed use housing including seniors. Winchester Boulevard is one of the few parts of Los Gatos that is conducive to a transit oriented development.

Approving this zoning with the requested five story height will retain Netflix as a major employer and tax generator in Town. The opportunity before you will ensure that Netflix stays and grows in Los Gatos. The economic benefits to our community are significant and will help not only the Town but the schools.

Allowing residential, as part of the zoning, gives the Town future options to meet its own housing goals. Since there are residential development triggers in the plan, no housing can even be contemplated on the property for two and a half years. I urge the Commission to look at the big picture, and approve this zoning because it is good planning based on sound planning policies.

The Planning Commission and Town Council have the fortune to approve an application that benefits our community significantly. We encourage you to vote to approve.

Sincerely,

Rex and Teri Carter
360 Bachman Avenue
Los Gatos, CA 95030
scouttlc@yahoo.com
408-354-3437

Joel Paulson

From: LLHBerry@aol.com
Sent: Tuesday, May 31, 2011 12:51 PM
To: Joel Paulson
Cc: sarah.chaffin@hotmail.com
Subject: PD 10-005 Concerns

I was sad to read John Shenk's remarks about the last minute meeting he proposed for the residents of Smith Ranch Ct. In emails to Cynthia James, I expressed my concerns about the requested meeting date. We are 20 homes all with either busy family schedules or two working individuals, Cynthia assured me that anyone that wanted to be included in another meeting could be. Over 50% of the households were in attendance all opposed to the height of 85 feet and the residential rezoning. I am sure to John Shenk that 12 people may not look like much when he travels with a consultant, a lawyer and two city officials who we were told were "un-officially" there, but only spoke to the benefits of this project.

Cynthia had requested the meeting with the developer and the town to clear up any "misconceptions" that we had. Since so many of us attended the last planning meeting, none of us had any misconceptions about the project, (except for the one neighbor that attended the previous meeting at Courtside as he was told there would be no residential).

One of the questions that we had as residents, was if this project of a corporate campus was taken out to market to see if there was any interest from other companies. We were told by Mr. Shenk that, "No it was not taken to market because no one else would want to come here." This raises several concerns and questions about dealing with Netflix. We are gambling on a technology that may or may not be here tomorrow. I am sure that 10 years ago we could not conceive of there not being a Netscape or for that matter Hollywood Video, we could be setting our Town up for a Corporate Campus Ghost Town.
We are looking for too much Town revenue from one source. It may look like a good idea, but the fact that they are already trying to bully the Town by sending a letter stating that if they do not get the rezoning they will leave town also makes me question what kind of developer would build the previous campus w/out a 10-20 year lease?! And if they could so easily threaten leaving at this point because they are not getting what they want, what is to keep them from continuing to threaten the town officials with other requests.

A corporate campus including two, three or more 85 feet buildings is not right for our town. Neither is a blank check development deal for 20 years. The rezoning of this project, (including the height maximum) should be more transparent to the residents of this town. We have been requesting story poles, balloons or even an elevation of the proposed plan, some sort of height visual since we became aware of the project, with no resolve.

Lori Berry
Smith Ranch Ct. Resident.

May 30, 2011

The Honorable Marico Sayoc
Town of Los Gatos Planning Commission
Town of Los Gatos,
110 East Main Street
Los Gatos, CA 95030

RE: Support for Albright Way Rezoning

Dear Chairwoman Sayoc and Planning Commissioners:

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Allowing residential, as part of the zoning, gives the Town future options to meet its own housing goals. Since there are residential development triggers in the plan, no housing can even be contemplated on the property for two and a half years. I urge the Commission to look at the big picture, and approve this zoning because it is good planning based on sound planning policies.

The Planning Commission and Town Council have the fortune to approve an application that benefits our community significantly. I encourage you to vote to approve.

Sincerely,

Bruce Horton
236 Old Adobe Rd
Los Gatos 95032

Joel Paulson

From: Greg Davies <greg@cps-co.com>
Sent: Monday, May 30, 2011 8:33 PM
To: Joel Paulson
Subject: Albright Way Development

Joel,

I am very concerned that Los Gatos not lose Netflix. I am aware that the developer of the project that provides Netflix with expansion has asked the Town for entitlements that are not typical for Los Gatos. But, from my perspective, they are permitted and are typical for the balance of the Valley. Having been in the commercial real estate industry for the past 40 years, I have seen the changes in the type of product produced for the tech industry. I have seen all types of developments approved. It is my opinion that the requests made by the developer of this project has been approved by many, if not most Silicon Valley Cities. Here are a few of my observations.

Office Building Height:

Office space for the tech industry has changed dramatically over the years. In the 70's space built for the industry was typically single story, large foot-print buildings. Large tenants could be found in single story buildings with floor plates of as much as 100,000 square feet. The industry preferred campus environments with multiple buildings surrounding a park like setting. It resisted multi-story office buildings, either in a suburban industrial environment or an urban setting.

In the 80's, two and three story buildings began to become popular, provided the floor plates were large enough to accommodate work groups. Floor plates were usually 25,000 to 30,000 square feet of usable space. The 90's and the 00's saw buildings of five and six stories, with floor plates of 30,000 to 40,000 square feet, as the product of choice. The major differenced over the decades was the progressive increase in the number of stories and the size of the floor plates in a tech project. Most of the buildings built in the past few years were 6 story or more. Companies prefer larger buildings as they grow in size, but the floor plates sizes remain the same. The preference is to limit the need to travel between buildings, or to put the entire operation in one building. To limit buildings to less than 5 stories would be a big mistake for the Town. It would limit interest, and cause difficulty capturing a major tenant. With the exception of the Yahoo project, which will be built as the company needs the space, below is a partial list of approved projects in the Valley that will be built as soon as a major tenant can be found.

Peery Arillaga Brokaw San Jose - 10 stories
EOP Skyport San Jose - 8 stories
Boston Properties Downtown - 12 stories
EOP Augustine Santa Clara - 14 stories
Irvine Company Santa Clara - 6 stories
Yahoo Santa Clara - 10 stories
Sobrato Skyport - 10 Stories

Residential:

Another major development in the valley has been the increase in mixed use development. Many of the new developments are being planned for mixed use developments that include residential because most employees of the major tech companies want to reduce their transportation costs by living near the workplace. Since the project is walking distance to the light rail line, the property is in an ideal location for housing as pointed out in the Town's own planning documents. The cost of housing in Los Gatos makes buying in the existing local neighborhoods nearly impossible. Providing more affordable housing in the Town would be a benefit to the Town, the company who locates here (Hopefully Netflix), and the development. It is an amenity that many companies desire. It is my feeling that the location of housing in the back of the project, close to the creek, will have a positive effect on Charter Oaks. It is certainly a compatible use.

Zoning:

Many municipalities provide for a PD zoning which gives the project parameters such as the number of square feet of office and the can build anything that is subsequently approved by the City. This may be a way of approving the project while remaining in control of the ultimate development.

Milpitas approved a flex zoning ordinance in the early 90's for the McCarthy Ranch, which allowed for the developer to either build office or residential on a portion of the park, depending on market demand. This concept proved very successful for the City. The Town would not be plowing new ground by this type of flex zoning.

It is known in the commercial real estate community that Netflix would like to remain in the Los Gatos, but providing the developer flexibility will make his ability to attract the necessary capital to his project more successful. My concern is, as a resident, to lose this project could result in losing this tenant. That would prove disastrous for all of us.

I look forward to meeting you Tuesday night.

Greg

Lic.00398713 Broker Lic. 00825241

Cassidy Turley CPS
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May 30, 2011

The Honorable Marico Sayoc
Town of Los Gatos Planning Commission
Town of Los Gatos,
110 East Main Street
Los Gatos, CA 95030

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The Planning Commission and Town Council have the fortune to approve an application that benefits our community significantly. I encourage you to vote to approve.

Sincerely,

J.B. Wood
600 Pennsylvania Ave
Los Gatos, 95030

Joel Paulson

From: Ginger Rowe <ginger@timeoutclothing.com>
Sent: Friday, May 27, 2011 2:38 PM
To: Joel Paulson
Subject: Albright Development

Dear Chair Sayoc and Planning Commissioners:

I wanted to express my support for the Albright Way application to rezone the property. As a small, downtown business owner and resident, it is important that the Town ensures that we have a strong, healthy economy. There are many segments that all need to be supported. In this instance, it is to provide an opportunity to grow our employment base by building high quality office. I support allowing the building of taller (4-5 story) buildings in this part of town as it located along a freeway and a major roadway, which is away from the historic and beautiful downtown, that would not be an appropriate location for multi-story buildings. It does not impact the character of our community instead it allows for the development of an signature building similar to the existing Netflix buildings. The Netflix buildings have proven that higher quality buildings with multi-story can be both attractive and beneficial to the tenants. This property is already developed, so intensifying it is right on this site.

I have spoken briefly with Jessica Von Bork lending my support to this development. The town needs to be business savvy in regards to this development. These opportunities do not come along regularly, and with the demise of the tax base loss of car dealerships, we need to lure in businesses and developments that can potentially be economically beneficial to the town.

I also support the residential rezoning to allow for senior housing. While I have very significant concerns and reservations about other types of housing on the site especially their impact on our schools, we need senior housing in Los Gatos. This would be the ideal site to build a senior community. Our population is aging, and there are very few places in town for people to move to in their later years. These are also residents who come downtown and shop in our stores and eat in our restaurants that support the tax base for this community.

I support senior housing and office on this property and ask the commission to approve these uses on the property.

Thank you,
Ginger Rowe
LG Business Owner and Resident
Time Out Clothing
108 N. Santa Cruz Avenue

Los Gatos, CA 95030
(408) 354-8653

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APPEARANCES:

Los Gatos Planning Commissioners:	Marico Sayoc, Chair Marcia Jensen, Vice Chair Charles Erekson Tom O'Donnell Jane Ogle Joanne Talesfore
Director of Community Development:	Wendie R. Rooney
Town Attorney:	Judith Propp
Transcribed by:	Vicki L. Blandin (510) 337-1558

PROCEEDINGS:

COMMISSIONER EREKSON: Before we move to Item #4 I'd like to call on Commissioner Bourgeois.

COMMISSIONER BOURGEOIS: Thank you. I know we're going to take a recess in a minute, but on Item #4 the firm I work for has done some environmental work for the Applicant on that project site, so I will be recusing myself from Item #4. Thank you.

COMMISSIONER EREKSON: Thank you, Commissioner Bourgeois. We are going to take about a 20-minute recess for a moment—we have two lengthy Desk Items with respect to this agenda item that we received earlier today—to give the Commission ample time to review them. They are available also on the table out front for the public. We'll also be doing a little bit of musical chairs up here because there are a number of Staff from the Town who are involved in this project that all need to be available, and the Town Attorney will actually be joining us up here. So we will recess now and reconvene in 20 minutes.

(RECESS)

COMISSIONER JENSEN: …Staff has the presentation that they make to the Planning Commission. It's generally a

ATTACHMENT 8

recap of the Staff Report, and the Staff Report should have been available to the public, and the Staff will answer any questions that the Commission has before we go into the rest of the presentations.

After that is completed the Applicant has a combined five minutes. So if they have multiple representatives they need to split their time to five minutes. And as with anyone else for the rest of the evening, if you find that you don't have something to say for the full time allotted, don't feel like you have to talk for five minutes or you have to talk for three minutes. You can simply make your comment and we will appreciate what comment you make.

We also ask as you go through the process, after the Applicant has their five minutes the Commission may ask them questions just like they can ask questions of anyone who speaks. After the Applicant speaks for five minutes, then any member of the public that is interested in speaking to us has three minutes to talk to us, and we can ask them questions as well.

If you want to speak, please fill out one of these yellow cards, which you will find on the benches out in the audience. For seeing so many of you out there, there are not that many cards, so maybe not all of you are public

speakers, but if you do want to speak you need to fill out a card at some point, so we encourage you to do that if you'd like to be heard on this matter.

After all the people that want to speak have spoken, then we'll ask the Applicant to come back up and they'll have a chance to respond to what they might have heard from members of the public. After they do that and answer any questions that the Commission may have we'll close the public hearing and the Commission can then ask questions of Staff or they can make a motion regarding this particular item, and then we'll vote on it here.

I want to remind everyone that the Planning Commission is an advisory body to the Town Council, so there are some things that the Planning Commission has final decision-making authority on and some things that they do not. If there is a zone change or a policy matter or some other items in town, the Planning Commission's only action is to make a recommendation to the Town Council. That recommendation can be that the Town Council approves the project or the recommendation can be that the Town Council not approve the project, but the action that the Planning Commission is taking tonight is a recommendation only, so there will be another hearing. No matter what happens, there will be another hearing in front of the Town

Council. That doesn't mean you should save your comment until that time; it means that you should make whatever comments you want but we aware that whatever happens with the Planning Commission tonight is not the final action taken by the Town.

I'd also like to remind everyone if you have a cell phone or other electronic device we'd appreciate it if you'd put it on silent or turn it off. Sometimes it interferes with microphones. And there is our Chair. Come on in. I'm vamping for you to come. So please turn them off, because sometimes if there is feedback it can disrupt the proceedings.

CHAIR SAYOC: Thank you. I apologize for the delay. I did have a commitment that I could not get out of. Thank you, Vice Chair Jensen, and thank you everyone for your patience.

I believe we are now about to start the Staff Report, is that correct? There is quite a number of Staff today. Who will be giving today's Staff report?

WENDIE R. ROONEY: Actually I'm going to start off.

CHAIR SAYOC: Okay, great. Thanks.

WENDIE R. ROONEY: Thank you. Good evening, Madam Chair Sayoc and Planning Commissioners. This evening you

have a very complex land use application before you, as you well know. Before beginning the Staff presentation I would like to spend a few minutes providing that higher level, 30,000' overview of this application and the value that it could potentially bring to our community.

As I just mentioned, this is a complex application and that's really the result of the complex times that we are experiencing. In the not too distant past the real estate and development industry could predict with much greater accuracy the market needs. However, as we experienced over the last couple of years, site development proposals that seem to meet both market and community needs and that the Town spent considerable time reviewing and modifying to meet Town policy are now not being built because the lenders do not believe the market demand is sufficient, and these parcels are sitting vacant and not benefiting either the property owner or the Town.

A great example is 15400 Los Gatos Boulevard that this Planning Commission approved for a mixed-use development of office, restaurant, and retail, and for now almost two years it's sat vacant.

The complexity with the Albright Planned Development, or PD zoning application, is due to the need to create a zoning that potentially will allow multiple

uses, including quality Class A campus, office R&D space, residential uses, and senior continuum care uses. The recently adopted General Plan places a high priority on each of these uses. Both the Staff Report and the Applicant's Letter of Justification reference related General Plan goals and policies that support these three predominant uses that would be allowed under this PD. It's important to remember, this is a PD, this is zoning; it's not site development at this stage.

In focusing on the office and R&D use the 21.6 acre site could result in redevelopment of the existing 250,000 square feet of Class C office space with 550,000 square feet of new Class A campus space that would serve as a corporate headquarters that will bring more higher paying jobs to the community as well as other important financial benefits. As this Commission is now aware from the letter in Desk Item #1, Los Gatos' own Netflix may be the future tenant for the site. This brings the added benefit of retaining one of the Town's top employers.

Preserving these 21.6 acres for office and R&D use, which is critically important given the Town only has 2.6% of the entire 11,500 acres in the Town are in office and R&D uses, and also creating the synergy that is needed to influence VTA, Valley Transit Authority, to fund the

Vasona Light Rail extension. It's important to note that the 21.6-acre parcel represents 13% of the entire office and R&D acreage in the Town.

The residential and senior alternatives also bring value to the community. We consistently heard, as this Commission heard, throughout the General Plan update process that our community wants to age in place and there are limited opportunities within the community. A mixed-use development of office and senior housing could serve both this desire and provide Class A office space for community needs.

As the Commission is well aware, housing that will serve a variety of income levels and family composition is another important need in the community as outlined in the General Plan Housing Element, especially residential that is in close proximity to the future light rail extension.

Finally, both senior and residential housing and new office R&D space will help the Town maintain the current and ever increasing important job, the housing balance, and thus benefit the greater Santa Clara Valley area by reducing commuting and reducing greenhouse gas emissions.

In some way this application takes both the Planning Commission and Staff out of their comfort zones. Our development debates typically focus on one, two, and three stories and the application before you tonight is proposing five stories. Five stories is a departure from our norms and we all recognize that. However, you are seeing Staff's support principally due to the site's unique location. It's at the juncture of two of the major transportation routes in the Town, it's in the heart of our controlled manufacturing zone, our industrial zone if you want to say, adjacent to other larger corporate campuses, and most importantly in ideal proximity to the future Vasona Light Rail station. As noted in the Valley Transit Authority letter in Desk Item #1, VTA supports the proposal since the site is currently served by bus transit and is ideally suited for the future Vasona Light Rail. In fact, during the General Plan update VTA was lobbying heavily for the Town to look at increasing densities in the Vasona Junction area to meet the future light rail needs.

The higher buildings will also allow better use of the site for open space to provide amenities to serve future employees and meet the organizational and cultural needs of corporate users of high-end R&D space.

As you will soon hear from our Planning Staff, there are mitigation measures proposed that reduce any potential visual impacts of five stories, and Staff would suggest the Planning Commission also consider the site's unique setting as well as the needs of the potential end users when evaluating this proposal.

In conclusion, it is important to remember that this is only the beginning and that if this is approved the Planning Commission will have purview over future Architecture and Site applications as well as the Master Design Review Standards that will dictate the design requirements for subsequent phases.

Just to close with a comment that my boss made to me. "As Apple is to Cupertino, Google is to Mountain View, and Facebook to Menlo Park, Los Gatos has been very fortunate to have Netflix as it's high-tech corporate icon and the development of this property can help ensure that its corporate facility needs are continued to be meet within our community."

With that I'd like to thank you and I'd like to introduce the Staff team that is here tonight, because we know there will be lots of questions, so our Principle Planner on the projects are Geoff Bradley, he's with the Metropolitan Planning Group, and they are a consultant to

the Town; and then also Joel Paulson, who is second string back here, and he's our Senior Planner who was assisting Geoff. Our Town Engineer, Kevin Rohani, is here, as well as our Contract Engineer, Fletcher Parsons; they will be answering all Engineering/Public Works questions. The Town's Environmental Consultants, Fritz and Valerie Geier, are here to answer any questions on the Mitigated Negative Declaration or the Mitigation Monitoring Program. Finally Planning Manager Sandy Baily, Town Attorney Judith Propp, Economic Vitality Manager Jessica von Borck, and I are here to fill in as needed. So with that I'd like to turn it over to Geoff for the Staff presentation.

GEOFF BRADLEY: Good evening, Planning Commission Chair and Planning Commissioners. My name is Geoff Bradley with Metropolitan Planning Group out of Mountain View. We do have a number of Desk Items before you; there are four separate Desk Items, each of which has several attachments. We did have one additional letter coming after those were prepared, so I am going to hand that out now.

Before you tonight is a proposal seeking a zoning approval that would expand the range of allowed uses on the property at the southeast corner of Winchester Boulevard and Highway 85. The purpose and role of the Planning Commission tonight is to review all of the available

information before you, receive public testimony, and forward a recommendation to the Town Council on the requested changes to the Planned Development zoning for the property. This includes making a recommendation on no less than four different items: the Mitigated Negative Declaration, the Mitigation Monitoring and Reporting Program that has been prepared by Staff, the proposed Planned Development Ordinance, and the Associated Development Agreement.

This map shows the subject property, which is 21.6 acres. I'm just going to quickly walk through some of the surrounding land uses and features.

Shown in blue just to the north is the future Vasona Light Rail station, which of course is just south of the existing Netflix and associated Aventino development. Just to the east is the very popular Los Gatos Creek Trail. A substantial frontage exists on Winchester Boulevard to the east, and of course Highway 85 cuts across the top of the property. Just to the south of the site is the Charter Oaks development that also has frontage on the Creek Trail, and down in this corner is the County Fire administrative building. Across the street we have Courtside Club and the Smith Creek development.

This aerial photo shows the existing development of the site. We find numerous buildings mostly constructed in the mid-seventies, predominantly single-story with some limited two-story. This portion of this building is two-story. This small building here is two-story. The remainder of the buildings is a one-story with predominantly surface parking. Access points are two points along Winchester Boulevard here, another driveway here. At the bottom edge of the screen there is an existing emergency access way off of Charter Oaks Drive. What you see there is approximately 250,000 square feet of existing space.

This is an illustrious site plan that shows one of many possible development scenarios of the site. Specifically the proposal seeks to attract a corporate headquarters type business within a high-quality Class A office environment. Class A refers to office buildings that are the most prestigious, competing for well-regarded office users with above average rents for the market area. In combination with this the zoning seeks the ability to provide the ability to respond to market demand for both multi-family and senior housing.

Four scenarios were developed to provide a basis for the environmental review and this entitlement process. It is important to note that the actual allocation of uses

could be different than the four scenarios but could not exceed any of the maximums in terms of office square footage or residential density.

The senior housing scenario would allow for all types of continuing care arrangements, everything from independent senior living to assisted living facilities.

Scenario One, which was shown in that first illustrious site plan is what we call the all office scenario and it involves removal of all of the existing buildings and construction of several new office buildings resulting in a total of 550,000 square feet. However, because of the amount of existing office space onsite we refer to 300,000 square feet as being the net new amount of office space.

Under Scenario Two several existing buildings would be removed and replaced with 200,000 square feet of new office space. This would result in a total of 341,000 square feet or 91,000 net new.

Scenario Three involves 200,000 square feet of office space and up to 516 multi-family units, and this diagram simply shows one possible way that could lay out on the site.

Scenario Four is the senior housing scenario and that involves 200,000 square feet of office space and up to 600 senior housing units.

Staff has spent a lot of time analyzing neighborhood compatibility issues given the scale of this development. There are several features of the development that Staff believes helps promote neighborhood compatibility of the proposed PD zoning. That includes lot coverage for all buildings limited to 50% consistent with the existing CM zoning; the provision of greater setbacks along Winchester and Highway 85 as building heights increase over and above what would normally be required; an 80' setback from Charter Oaks and Creek Trail; the Creek Trail property line for all buildings regardless of height to provide substantial buffer; and retention of most of the existing mature trees along the perimeter of the property to provide visual screening within the immediate term.

This diagram shows the relative heights that we're talking about. The maximum height in the CM zone is normally 35', however through the Planned Development process Applicants may request taller heights. The Applicant is requesting approval for five stories and 85', which shown on the right there. Staff finds that this is justified at this location with excellent freeway and

transit access due to high-tech corporate needs and associated community benefits. Staff is recommending approval of 70', which is shown on the left, for senior housing due to the unique type of development this represents and the different forms it takes. Forty feet would be the limit for multi-family development similar to the Aventino development behind the existing Netflix.

There are mitigation measures in the initial study to address potential issues related to heights. During the Architecture and Site stage the developer would propose architectural elements and step-backs to break up the apparent mass. Upper level foyers would also be reduced in size in accordance with Performance Standard Six, which requires that the upper floors have less square footage than the floors below them.

There are several community benefits associated with the project and memorialized in the related Development Agreement, including incentive for VTA to prioritize extension of the Vasona Light Rail to Los Gatos and providing Class A office space in a desirable campus setting. The proposal attempts to capitalize on recent trends towards more vertical orientation of office space to accommodate fast-growing Silicon Valley businesses such as Netflix, allows for the retention of a large corporate

user, and the Development Agreement allows for required significant traffic, road, and public improvements. Other benefits to the Town and the community include enhancements to the Los Gatos Creek Trail, variety and opportunity for senior living to provide a high-quality senior living environment close to amenities, and also an opportunity to meet affordable housing goals through both the multi-family scenario as well as the senior housing scenario.

This slide shows the Staff's recommendations to the Planning Commission for your consideration. It's also listed in the Staff Report. I won't read through it all. Alternatively the Planning Commission may make a recommendation to the Town Council for modifications to the proposal or forward a recommendation for denial if you find that is what the majority of the Commission believes.

I would like to conclude there, but also mention that in addition to our Staff contingent we do have a significant turnout from the Applicant's development team and they are here basically in those first two rows and are also available for questions and will be making a brief presentation as well. Thank you.

CHAIR SAYOC: Thank you, Mr. Bradley. The presentation that you're mentioning, is this separate or is this part of the Staff Report?

GEOFF BRADLEY: Separate.

CHAIR SAYOC: At this time, Commissioners, do you have any questions of our Staff? Commissioner O'Donnell.

COMMISSIONER O'DONNELL: A couple of questions I want to ask. One is although Netflix has been mentioned prominently, as I understand it there is no commitment that Netflix will go in there, is that correct?

WENDIE R. ROONEY: I'm suggesting we let the Applicant answer that question.

COMMISSIONER O'DONNELL: Well I'm suggesting that since you told us your boss thought it was very important, I'm wondering how much of Staff's input on this is premised on the fact that if we're going to have 85' buildings it's for a reason and I wonder what the reason was. If you're not prepared to say that, fine, I'll go on to the next question.

WENDIE R. ROONEY: The Staff's support for the project is to create a high-tech campus environment that would attract a Netflix type user or a similar user, or also to provide alternative residential and senior uses, so that's where the Staff's support is behind the type of uses that are being proposed.

COMMISSIONER O'DONNELL: Okay, so there is no commitment for Netflix at the moment nor does Staff recommendation depend upon such a commitment?

WENDIE R. ROONEY: Staff's recommendation does not depend upon it, and I cannot answer whether there is a commitment or not.

COMMISSIONER O'DONNELL: And the Development Agreement, which was just given to us this evening, at least the term agreement, apparently is for about a 20-year period, 15+5, is that correct?

WENDIE R. ROONEY: That's correct.

COMMISSIONER O'DONNELL: And the trigger that is involved in this, we start with 250,000 feet of office R&D and we can wind up with 200,000 feet under the trigger mechanism, is that correct?

WENDIE R. ROONEY: That's correct.

COMMISSIONER O'DONNELL: So we would have a reduction from the 2% that we were talking about instead of an increase.

WENDIE R. ROONEY: The overall goal is to increase, but you're right, the trigger was established at 200,000 square feet of new commercial use or new office R&D use. At that point then and 30 months after the effective

date of this ordinance, the PD Ordinance, then residential uses could be proposed and developed.

COMMISSIONER O'DONNELL: And we just got this term sheet this evening, so I haven't really had a chance to digest it, but I do have a couple of questions that I wanted to ask Staff.

On page one of Exhibit 12, in paragraph 28(i), it says, "In the event the Town completes the improvements described, then owners shall reimburse." What happens if the Town does not complete the improvements in advance of the time?

WENDIE R. ROONEY: This actually is a requirement of the Mitigation Monitoring Program and it's a mitigation measure and that would have to be completed by the Applicant.

COMMISSIONER O'DONNELL: And does that say that in the Development Agreement?

WENDIE R. ROONEY: It's a mitigation measure and it's required of the Applicant, however it's likely that the Town will complete the improvement first and then in that case through the Development Agreement the Applicant would reimburse the Town.

JUDITH PROPP: The Town Engineer can speak to that, but the project for the roadway improvements are

currently slated to go along with the sports park development that is before the Planning Commission and Council this year.

COMMISSIONER O'DONNELL: So that would go in in any event is what you are saying, whether or not this project went forward?

KEVIN ROHANI: That is correct. That project is currently under design with the intention that we would have the documents ready to bid and construction to begin toward the latter part of this year.

COMMISSIONER O'DONNELL: And then another question, which is in paragraph six of the term sheet, when they talk about processing subsequent approvals and the scope of review we've said this would be an approval this evening if it's a recommendation or an approval in concept only, so I'm a little confused by the scope of review for application for subsequent approvals. Perhaps the Town Attorney could tell us what degree of latitude we would have if in fact there were vested elements.

JUDITH PROPP: What's before the Planning Commission tonight is the Planned Development Ordinance, and in that it speaks to issues regarding height and density, and if those recommendations are passed to Council and if Council were to make a decision, then those would

actually be vested elements under the Development Agreement, so when this project came back those would be elements already determined when the Architecture and Site were reviewed.

COMMISSIONER O'DONNELL: So for 20 years we would have an 85' limit, we would have the 200,000 square foot trigger, we would have 600 and some units of senior development possible, we have 500 possible units, and 550,000 possible square footage. All that would remain in existence essentially as vested for 20 years.

JUDITH PROPP: So those would be alternatives that would be part of the right to develop as alternatives. There is still a maximum development area that can be, so it's not conceivable that you could do all of the office, all of the senior, and all of the multi-family residential. It would be a combination not to exceed the area that's allowed to be developed for that parcel for a period of 15 years, and in the event that the Applicant is in compliance with all the terms and conditions throughout that 14-year period in year 15 they would then request the Town to extend the Development Agreement for an additional five years if they weren't completely developed out at that point due to the economy or business decisions that they made, and that extension would return to the Town Council.

COMMISSIONER O'DONNELL: Okay, but if you build 200,000 square feet of new building, in other words tore down 250,000 square feet and did the rest in some form of residential, whether senior or normal residential, those two buildings could be as high as 85'?

WENDIE R. ROONEY: That would be correct. The office R&D portions would be up to 85', not the senior and not the residential.

COMMISSIONER O'DONNELL: At that point we assume that wouldn't be a corporate headquarters campus. We'd have two buildings of 200,000 square feet total.

WENDIE R. ROONEY: I'm sorry, the question was we would not assume that to be a corporate headquarters campus?

COMMISSIONER O'DONNELL: I wouldn't at 200,000 square feet, no. Would you?

WENDIE R. ROONEY: Well I think the existing Netflix campus is under 200,000 square feet, and that is a corporate headquarters, so I think we would consider that.

COMMISSIONER O'DONNELL: Well I read their letter and they're telling us gee whiz, they might have to move if they don't get this 550,000 square feet that they've haven't committed to yet.

WENDIE R. ROONEY: Yes.

COMMISSIONER O'DONNELL: Okay.

CHAIR SAYOC: Commissioner Jensen.

COMISSIONER JENSEN: I have two questions. One is a follow up to Commissioner O'Donnell and one is totally different.

With respect to the term sheet, my question is kind of the same as Commissioner O'Donnell, but I just want to make sure that I understand it correctly. It's paragraph three on page three where it says Vested Elements, and the vested elements include the maximum height of the proposed buildings. So I understand that there is a vested right to potentially have a maximum of 85'. What I'm trying to understand is that if and when someone comes back with an Architecture and Site that's 85' would it still be within the discretion of the Planning Commission to say well you have a maximum for that, but for a variety of reasons, whatever they might be, the Planning Commission says, you know what, we don't want 85'. Is the Planning Commission able to exercise that kind of discretion under this or is it vested at 85' no matter what?

JUDITH PROPP: Generally the way that a Development Agreement is designed is it would be a determination based on the recommendation of the Planning Commission and the final decision of Town Council were they

to accept this term in the Development Agreement that this Applicant for the office and R&D structures would be allowed and it would be within their discretion if they wanted to propose a project up to 85'.

WENDIE R. ROONEY: And if I might add, if this were to be approved subsequent to the approval and at the time of the first Architecture and Site there would be Master Design Standards that would also then give the Planning Commission discretion over how that 85' building would look. So while it's vested in the height, there is discretion as to how that looks.

COMISSIONER JENSEN: So we could have a Mission Revival 85' building, but it has to be 85'?

WENDIE R. ROONEY: Up to 85'.

COMISSIONER JENSEN: Okay, that answers my question on that, and now for something completely different, community benefit.

It's proposed in the Staff Report, and I think it's also in the Development Agreement, that one of the things that we should consider is the potential occupant of this site would contribute $650,000 I think it is as a community benefit, so I want to know where that money would go and what it would be used for, because oftentimes money

contributed to community benefit funds seem to go into a black hole.

KEVIN ROHANI: The contribution of the developers for the $650,000, the Town has a number of projects that are on our priority list. If the project is approved the top two we hope to fund would be at the proposed Los Gatos Creek sports bar off of University. And around the corner from this site it would be the construction of a pedestrian bridge to access our new sports bar to the Los Gatos Creek Trail. That would be a pedestrian bridge north of the Vasona Damn. Also we would be using the community benefit for improvements to the Los Gatos Creek Trail; that's the area north of Lark Avenue. A portion of that trail has been damaged, it gets flooded on a regular basis, and we would be improving that trail. So those are the key projects that would be funded as a (inaudible) community benefits.

JUDITH PROPP: Just for clarification, in the Development Agreement term sheet it lists five priority projects, and that is under Community Benefit, section 2B(ii), below the description of how much is going to be paid for, contribution for residential and senior housing. Those are the priorities that Staff has identified. Certainly the Planning Commission would want to weigh in on that as will Council, and while you mention that community

benefit is not usually designated in most projects, in this one the Town intends to incorporate it as part of the Development Agreement so it would be a binding contract term that those are the priorities to use the funding for.

And then additionally to the $650,000 for the office R&D contribution, in the event that this developer were to at some time construct any of the residential or senior units there would be additional community benefit based on the structure and the proposed Development Agreement terms.

COMISSIONER JENSEN: Thank you.

CHAIR SAYOC: Any other questions, Commissioners? I actually have two questions.

The first is can you walk me through why this project is utilizing a Development Agreement? This is the first time in my five years that we've seen this. I see this almost similar to specific plans that we've done on previous plots, and so can you just briefly explain the difference between specific plan process that we have utilized and this Development Agreement process that we are proposing to utilize now?

JUDITH PROPP: Let me start by talking about the specific plan. Actually the specific plan that is under process right now on the North Forty you're likely to see a

Development Agreement with that too very similar to the reason that this developer has asked for a Development Agreement. Under state law it allows certainty for a developer that before they move too far into the project they have a commitment that they're able to develop the project with certainty and not subject to changes in law, changes in Council and policies, that they do have that certainty for, in this case, the proposal is 15 years. You're likely to see that again on the North Forty Specific Plan project, that Applicant coming in and requesting a Development Agreement too for that certainty, and I'll defer to the Community Development Director to add anything to that discussion.

WENDIE R. ROONEY: I'm not sure if I can really answer why you haven't seen this before. Development Agreements have been a tool that local governments have used for probably 15 years or so. Probably because we tend to have smaller infill projects, we don't typically have larger projects, and so this is generally associated with a larger project. That would be why, as best of my judgment we'll call it.

CHAIR SAYOC: And then moving forward, there has been discussion about there are other review scenarios. One is Architecture and Site. So assuming it is approved here,

it goes to Town Council, assuming approval there, what happens after that? Then a master plan comes forward or is it individual buildings then at that point that come to us?

WENDIE R. ROONEY: That is really up to the property owner's discretion on how they want to process subsequent applications. We would anticipate it probably would be phased, and so you'd probably see a number of Architecture and Site applications. I think it's the Applicant's desire that the Master Design Standards that would be approved by the Planning Commission with the first Architecture and Site would be so specific that they would then delegate authority to approve subsequent phases to the Design Review Committee. That's again totally up to the discretion of this body in terms of a recommendation and then to the Council ultimately, but that's how this has been laid out and been proposed.

CHAIR SAYOC: Thank you. Commissioners, any other questions? Commissioner O'Donnell.

COMMISSIONER O'DONNELL: This probably is directed to Ms. Propp. On the North Forty we do use a specific plan, and that's roughly 40 acres. This is roughly 26 acres. Why is it we're using a PD on 26 acres?

JUDITH PROPP: I'll defer to the Community Development Director.

WENDIE R. ROONEY: I'm going to answer that backwards actually. The reason why the North Forty is required to have a specific plan is because the General Plan calls for that. The General Plan identified that a specific plan must be developed prior to development of the property. This property did not have that same requirement placed on it, so it's really to the Town's discretion and the property owner's discretion to decide what type of application that they want to process. If the Town felt the need to do a master planning process, then the Town could require the preparation of a specific plan, but in this case the Town doesn't feel that that level of detail is needed, that between the Planned Development Application and the Master Design Standards that that level of detail would be identified.

COMMISSIONER O'DONNELL: Let me just follow up. It's a fact however that when we did the General Plan review this project was not apparently in process or at least disclosed, so the fact that it is not in the General Plan would only indicate that nobody knew about it, and I'm assuming that includes everybody. This is later, so I think looking at the General Plan and taking comfort from that probably doesn't work, but to say that the Town doesn't want it is certainly an answer.

WENDIE R. ROONEY: Actually the Staff was first approached by the Applicant probably five month prior to the approval of the General Plan, so it was known at the time that the General Plan was winding through its approval process.

COMMISSIONER O'DONNELL: Was that disclosed to the Committee? I was on the Committee. Perhaps my senior memory isn't good.

WENDIE R. ROONEY: It was actually after the General Plan Update Advisory Committee had done most of the work. It was probably around this time, around May of 2010.

COMMISSIONER O'DONNELL: It was disclosed or it wasn't disclosed?

WENDIE R. ROONEY: No, that the Applicant approached the Town, and generally we do not, I don't want to say the word "disclosed," we do not bring up to the Commission or the Committee projects that are conceptual that we've had discussions. We have lots of those, so it's not until we have an official application that we would generally make that known.

COMMISSIONER O'DONNELL: Okay, I'm just saying that therefore its absence from the General Plan is really of no significance, right?

WENDIE R. ROONEY: Well I'd say that the General Plan is pretty specific in terms of the planning process for large parcels within the community. The General Plan calls for Planned Developments on parcels that are greater than 40,000 square feet, and then the only location in town where a specific plan thus far has been required is the North Forty. So I'm almost looking at the North Forty as more of an unusual case than the normal case, and probably it's because of the history of the property, the uses, and things like that.

COMMISSIONER O'DONNELL: Did Los Gatos Boulevard have a specific plan?

WENDIE R. ROONEY: It has Los Gatos Boulevard Plan. It's not a specific plan, it's more of an architectural and policy statement, but I would not call that a specific plan, no. Specific plans tend to have financing mechanisms, they tend to have zoning information, development standards, and the Los Gatos Boulevard Plan doesn't really contain those.

JUDITH PROPP: And if Commissioner O'Donnell would give me a chance to add to that explanation. Generally why you see specific plans is when one owner does not control the entire parcel and you don't know exactly who is going to develop and in what order they'll develop.

You see that in the North Forty at the present time, that it's not all under the same ownership at this time, and you see that in a lot of communities that do specific plans, that they'll generally designate an area for specific plans so that no matter who owns the parcel that there is some uniformity of planning, and as the Community Development Director indicated, that it not only deals with the planning uses, but certainly when there is significant infrastructure that is required. In this case this parcel is already developed out at a lower density, but has development, has infrastructure in it, whereas the North Forty is going to require a much greater commitment by the developer and other landowners for infrastructure commitment and the specific plan would provide that economic mechanism to make sure that the infrastructure is constructed in accordance with Town rules.

COMMISSIONER O'DONNELL: I would just call to your attention the Guide to California Planning, which is provided to us by the Town, and in particular page 212 of that which describes the use of specific plans. I won't bother to read that to you right now, but you might want to look at that. Thank you.

CHAIR SAYOC: I actually have a follow up to that, Commissioner Jensen. Because this was not included in

the last General Plan we did, then it was also not included in the broader Environmental Impact Report that we've done. So then does this not require an EIR because it is not part of the general EIR that was done for the 2020 General Plan?

WENDIE R. ROONEY: I think probably our environmental consultants would be the best to address that question, but I will say that our General Plan EIR assumed there would be more R&D and office than what has been identified for the North Forty as well as more residential units, and they weren't site-specific. The General Plan assumed that. So while you could say this application could possibly be absorbing that extra that has been identified, it was not site-specific, and I can't remember and I'm not sure if Joel would have those numbers. You don't have those numbers, but I want to say roughly beyond the North Forty about 900,000 square feet of office R&D was assumed in the General Plan. It was not site-specific. We would assume it would be in our CM zone districts or the appropriate zone district for that type of use, and then roughly about 1,500 housing units that would be built within the Town during that General Plan period, which would be ten years. So while this site specifically was not identified as that location, the EIR analyzed the impacts generated on a

global scale, not a site-specific scale, of that much development.

CHAIR SAYOC: I understand that it's not site-specific, but when we approved the EIR at that time we were told this was the universe, this is the maximum that we're anticipating, and we put all the projections that we knew was coming down the pipeline. So assuming that those maximums that are in our pipeline are there, and then you have this unknown coming in, that then just bumps it up and who is analyzing the environmental impacts from that?

WENDIE R. ROONEY: Our assumptions were not based on what was in the pipeline. Our assumptions were based on analysis of underutilized land, needs, ABAG projections, many different factors went into analyzing and determining what we projected our industrial or R&D and residential growth would be. It wasn't what was in the pipeline. That's factored in, but we look at that more as existing if it's in the pipeline, just like we do with traffic generation.

CHAIR SAYOC: Commissioner Jensen, and then Commissioner Erekson.

COMISSIONER JENSEN: Actually I have a General Plan question that's sort of following up on that. Then I have unrelated questions. Can I ask those? Okay.

With respect to the General Plan, Commissioner O'Donnell, Commissioner Ogle, and I we were on the General Plan Committee, and one of the things that we spent a lot of time doing was designating properties for low-income housing; we discussed a senior element in senior housing. So I don't understand why one of the potential community benefits, one of the things that we're considering, is potential residential units up to 600 senior housing unit, because I know that we talked about properties that were potentially going to be developed, the courthouse site, the whatever it was, and then we went through the whole calculation. So I'm just curious why this site wasn't called out and designated.

WENDIE R. ROONEY: I wasn't here at the Town in the early stages identifying properties for housing, but I believe that we looked at areas that were underutilized, and I don't think that Staff assumed this was necessarily underutilized. So we looked at underutilized parcels, we probably looked at parcels that were on the boulevard, because that's where we assumed redevelopment would occur predominantly. The only industrial site that I know of that we did identify was South Bay, which is north of the existing Netflix site. So it just wasn't on our list of sites to look at for affordable housing.

COMISSIONER JENSEN: So two height questions, and that's it. The first height question is what is the tallest building currently in Los Gatos?

WENDIE R. ROONEY: Let me confer with Staff. We debated it's either Penthouse or Netflix. We think it's probably Netflix at about 55'.

COMISSIONER JENSEN: And those are the two that are over 35' basically, right? Penthouse and Netflix?

WENDIE R. ROONEY: They're definitely over 35'. I don't know if those are the only two. I would guestimate they're probably the only two over 40' for sure.

COMISSIONER JENSEN: And this is kind of a related question and kind of not, but as a follow-on from the comments that were made regarding the Swanson Ford site, Los Gatos Boulevard and Blossom Hill, several Commissioners commented that there were no story poles for our second iteration, and in this instance there are no story poles, and I begged what the explanation was in the Staff Report. I'm wondering whether Staff has complete discretion to allow a developer not to put up story poles? I could see where 85' poles and netting might be complicated, it might be expensive, but certainly it would have an impact on the public driving by there to see an 85' netting and I wonder why it wasn't put up?

SANDY BAILY: We're going to verify, but the Town policy for story poles is the Community Development Director does have discretion to look at alternative means of depicting what the scale and mass of the buildings are, and especially if the story poles cause a hardship to the site or impacts the safety of the area, that is also where we don't encourage story poles to be installed.

COMISSIONER JENSEN: Okay, thanks.

CHAIR SAYOC: Commissioner Erekson.

COMMISSIONER EREKSON: I'm going to return to make sure I understood Ms. Rooney's explanation in response to Chair Sayoc's question about the EIR for the General Plan. So if I followed the stream of answers, the broad assumption is about potential future developments that were analyzed in the EIR for the General Plan were predicated on underutilized properties in the Town, and so that was how one arrived at what one needed to arrive at to do that. Subsequently, and if I understood the earlier explanation, you said the reason why this likely wouldn't have any additional potential environmental impact is because the additional development of this property that's now contemplated could be absorbed in those. But then in the answer to Commissioner Jensen you indicated that this was not a property that you considered underutilized, and so

therefore I can't get to the conclusion that the additional impact of further developing this property might not have a significant environmental impact that was not in fact anticipated in the environmental impact review for the General Plan.

WENDIE R. ROONEY: We're talking two different land uses here. We're talking office R&D and we're talking housing sites. When I mentioned underutilized I mentioned housing sites. That's how we looked at it to determine where our affordable housing overlays would be applied, to either vacant or underutilized properties.

In terms of the R&D and office, again, I said that was the assumptions that were made, and we believe it's somewhere around 900,000 square feet beyond the North Forty. Those assumptions were based upon ABAG projections of what our jobs would be. The ABAG comes out every two years with projections of jobs and housing, so our consultants took our jobs projections as well as vacant land, they looked at some vacant land, and they made projections that within the ten-year period around 900,000 square feet of office R&D would be developed within the Town. So it wasn't based on underutilized. I think they looked at vacant properties and they looked mostly at ABAG

projections to determine what would realistically be developed within the Town.

COMMISSIONER EREKSON: So if I understood what you just said, they looked at the jobs projections and vacant land to get to that. This property was not vacant.

WENDIE R. ROONEY: I understand, and if you look at the entire community you have to make assumptions, because there isn't enough vacant land to accommodate 900,000 square feet. You have to make assumptions that there is going to be redevelopment of land, that's just a given. We don't have enough vacant land within the community to meet that.

CHAIR SAYOC: Any other questions? Commissioner Talesfore.

COMMISSIONER TALESFORE: First of all a comment about the story poles. I know that with a project this size there are other ways of showing us a visual and it doesn't always have to be story poles, but it certainly could be a model, and I think because this is such a large project that that would apply here. That's just my opinion. The visuals we have in our packet really do not give you the idea of what this probably would look like, so I would just suggest that for future.

And also I was curious if you could answer, and I know that it can be a choice, but with a project this size why wasn't this taken to CDAC, the Conceptual Development Advisory Committee, before the Planning Commission? The reason is because we would have heard not only from Planning Commissioners, but also from Council.

WENDIE R. ROONEY: The reason why it wasn't taken to CDAC is it's the Applicant's discretion.

COMMISSIONER TALESFORE: I understand that. But so they were not encouraged to? They said no?

WENDIE R. ROONEY: I'm sure that in our early discussions we probably talked about that.

COMMISSIONER TALESFORE: Okay. So I just have another question regarding the detail about the community benefit on page three, under V, and it's Exhibit 12. It says, "Town shall use the community benefit contribution to fund all or a portion of the following public improvements agreed upon by owner and Town Council." And V is design and construction of very low-income housing and/or affordable senior housing within the Town. Can you tell me where that would be? It would not be on this site, but it would be somewhere else?

WENDIE R. ROONEY: It depends on the type of housing. If it's senior housing the guidelines do allow for

offsite, because depending on the type of senior housing it's difficult to do our BMP program because of the various types of care and living environment to meet that care need, so that could be offsite. This actually would be in addition to the BMP requirements, so this would be anything beyond 20%, and that would most likely be provided onsite. If it were the multi-family uses or the residential uses, the non-senior uses would most likely be provided onsite. Because it is a Development Agreement and it's beyond the existing Town requirements the Town would have discretion to have that committed offsite.

COMMISSIONER TALESFORE: And then two follow-ups to that. Senior housing is at what age?

WENDIE R. ROONEY: Fifty-five is state law.

COMMISSIONER TALESFORE: And then in the report and some follow up information about senior housing it was senior housing without assisted living in part of it, and then later on it's mentioned that it would include assisted living. So which is it?

WENDIE R. ROONEY: I'll defer that to our planning Staff.

GEOFF BRADLEY: Generally speaking the senior housing component is requesting approval for the full range of senior housing types, often referred to a continuum of

care, everything from independent living apartments or condos to assisted.

COMMISSIONER TALESFORE: Thank you for that clarification, because it was in conflict with what I read. Thank you.

CHAIR SAYOC: Commissioner Jensen.

COMISSIONER JENSEN: I just wanted to find out if you learned the answer to Staff's discretion on story poles.

WENDIE R. ROONEY: The Community Development Director does have discretion. They can grant exceptions to the policy based on a written Letter of Justification from the Applicant and if exceptional circumstances exist, and the exceptional circumstances in this case would be the fact that we do believe that 85' could create a health and safety issue; that's really tall for trying to erect a story pole. Just today Sandy and I were on the site and it's rather heavily occupied, so that would also create some potential concerns from a health and safety standpoint, because there is a lot of traffic and there is a lot of occupants presently on the site. Then lastly we did discuss floating balloons, which I think was done with the Netflix, but that's a really difficult thing to do because it's really weather-dependent, and so we instead

recommended that they post—and they did, we went out to the site and looked—very large public notices, two of them on the frontage of Winchester Boulevard and then I believe one on the frontage of the trail, to advertise that the site was under consideration.

CHAIR SAYOC: Any other questions? At this time we will open the public testimony. The first speaker will be our Applicant. That's Mr. John Shenk. You will have five minutes, after which anyone in the public who would like to speak on this project, I just ask that you submit a speaker card. I have several before me, but during that time if you would like to speak, go ahead and submit one, and you will have three minutes, and then afterwards you will have another three minutes for closing.

JOHN SHENK: Thank you very much. I will speak quickly, because I thought I may have a few more minutes, so forgive my speed. But good evening Chair Sayoc and Commissioners. My name is John Shenk. My address is 700 Emerson Street in Palo Alto.

I'm here this evening as the Applicant and owner's representative. I'm very pleased to present the application for this PD rezoning along with its associated Mitigated Negative Declaration and Development Agreement. I want to thank the Town Staff who is here tonight as well as

our team, as there has been just a lot of work over the past almost year in analyzing this application very comprehensively.

I thought I'd just almost reintroduce myself. It was about eight years ago that I stood before you in the community and laid out a vision for the Los Gatos Gateway project, which is the current Netflix and Aventino community. In those meetings and during that timeframe we talked about the benefits of transit-oriented development, a bit in the hypothetical, because it hadn't existed in town yet, and we talked about the appropriateness of the type of quality homes that were offered at the time and the critical need for the Town to have Class A office in its larger configuration as it exists now for Netflix. And as we had envisioned at that time the approval allowed Netflix to stay in town and the Town to realize many benefits in that it allowed residents in town to have a housing product type that didn't exist before, and it also allowed people to move to town closer to jobs, et cetera.

By being able to offer Class A offices the approval resulted in a lot more than the substantial sales tax revenues that the Town is enjoying because it was able to keep Netflix. It was able to attract other businesses to

town by kind of putting Los Gatos on the map in terms of being an attractive place for a corporation to reside.

The project has paid substantial property taxes, benefiting the school districts and the fire department and the Town directly, as well as many other agencies that participate in those taxes.

And the entitlement also showed the Town's commitment to intensifying ridership near the future terminus of the Vasona Light Rail line.

The application that you have before you, what we've been working on for so long, is very similar in that it presents these same kinds of opportunities to create a world class transit-oriented development, the ability to offer new Class A office to corporations that doesn't exist in Town today, and to add to the diversity of the housing stock that is within the community.

I'll skip this next part because of my time. I was just going to go over the square footages and the and/or scenarios, that it's not cumulative across all product types.

The application in front of you lays out a zoning framework within which we will work in developing specific projects to bring back to you at a future time. This is a

zoning, and we can talk about the Zoning Specific Plan later if you like.

Let me talk about the height for a minute. The reason we've asked for the height is to be responsive to what corporations are looking for today, especially in the Silicon Valley. Companies are looking for the ability to have employees in one building, for efficiencies, for greater interaction between employees and employee groups. The verticality creates more green spaces, more opportunities for us in our specific case to save more trees and have greater landscape and a lot more light within the work environment, which makes it healthier and more attractive to the employees. At the end of the day the corporations often are looking for world class headquarters, campuses, with these kinds of buildings, because they need to attract the quality employees who get to pick if they want to go to Menlo Park and work with Facebook, or Mountain View and Google, et cetera, and Netflix wants to be able to compete on that basis.

We are committed, and I think it shows up somewhere in here, but definitely committed to preserving the perimeter green veil of trees that are mentioned in the arborist's reports and in the Staff Report that exist to in a way veil this site from Winchester Boulevard as well as

the existing Charter Oaks community that's on the south side.

There are a lot of traffic improvements that we're committed to performing in conjunction with our project, and in addition to those we have a substantial community benefit offering that totals a little over $1.5 million targeted at some specific kinds of traffic improvements, or in the intersection there the community benefits relate to what the Town engineers brought up as well as… I'm out of time.

CHAIR SAYOC: Why don't you go ahead and finish that thought, and then I'm sure you'll have lots of questions.

JOHN SHENK: We believe it's a very healthy set of community benefits in recognition of what our project would allow in terms of what the zoning would allow to happen there.

CHAIR SAYOC: Thank you. As I projected, there are lots of questions. Commissioner O'Donnell, and then Commissioner Jensen.

COMMISSIONER O'DONNELL: Let me first say we appreciate that prior project and we particularly appreciate Netflix. Netflix has been very, very good for this community, and in fact if Netflix were before us

tonight saying they wanted to build or occupy 550,000 square feet it might make our job easier. But instead you are before us saying well maybe they aren't going to do it, and gee whiz, if they don't do it, then maybe I'm going to put in senior housing and maybe I'm not. Maybe I'm going to put in residential, and maybe I'm going to do some portion of all those things, and I want 85' because these corporations need that, but maybe I'm not going to put these corporations in.

So if I recall the Sobrato/Netflix situation, Sobrato hadn't been approved. Maybe I'm misremembering. Sobrato had his project approved when it became apparent that Netflix needed some help, which the Town gave Netflix. This is a reverse situation where it sounds like you need some help, and then maybe Netflix is going to go there. So I guess what I'm more interested in not Netflix, because I think Netflix is great. I'm more concerned that Netflix doesn't go there and we gave you a 20-year pass to do all these kinds of things that we really don't know what we're doing yet, and apparently with all due respect, you couldn't possibly know. You'll know better than I do, but I mean it would be asking too much of you to predict with a crystal ball; that's why you wanted a Development Agreement.

So could you kind of help guide me? If we assume what you're assuming, that you don't want to take a risk, you don't want to come in and say this is 550,000 square feet of this use, you don't want to take that risk, so you don't have enough confidence the Netflix really needs it. I've got a letter here from Netflix that says they do. I realize it's not binding. So if you're not willing to take that risk, you want us to give you a pass on two other uses that are not really very clear to us, or a combination of those two other uses, so I'm going to give you an opportunity now to have a few more minutes to try to lead us through that.

JOHN SHENK: Thank you for that. It's a very good question. I'll give you maybe a broad explanation in that I think it is interesting to see how my answer has evolved over the past six to nine months in that when we started out we began with a blank slate and wondered what are the right uses? With the ownership it became frankly poor timing that we started out at the tale end of the General Plan rather than the beginning of the General Plan.

We finally thought well, let's consider what should happen here. These buildings are a little older, arguably functionally obsolete or getting there, and what would the next 40 years look like, or what should it look

like? And we came up with the three uses: the office, the residential, and the seniors and thought those are great uses and we'd like to begin a process to begin a dialogue with the community around those uses.

Over this period of time in negotiations and discussions and dialogues and negotiations with Staff around what are those right uses and proportions of uses, et cetera, the uses have been refined. We have triggers, there is minimum amounts of office, et cetera.

The other thing that's happened is Netflix has been watching the process and saying, "Mr. Shenk, when do you think this could actually happen?" because they have their own timing needs. They're hiring and they have their own projections about space needs, and it became a reality for them that if this were to go forward that would be very interesting. So we began a separate dialogue with them just specifically on Netflix that after months and months of negotiations has culminated as of a week ago with a signed Letter of Intent. It's very robust. It's two-way deal. Still not the lease, but we're now in a way just down to documenting the agreement that we already have.

The reason these other uses are vitally important to Netflix is that even to them in the future years they don't know with certainty if they will they need all

550,000 square feet of space, just as we don't, so the pass is really from my perspective two-fold.

One is I do believe high density housing and housing against Charter Oaks that is of an appropriate size if that's where it goes, senior-serving residential, as well as the office are great uses for this site, just as the residential and the offices are great uses over the freeway there.

With the mix of uses over this period of time as markets move, things change, needs change, we want that flexibility to move onto a senior project, a residential project, if the project is not built out with office.

But that's where we're headed, and that's also why the triggers are in place to ensure that the office goes first, that there is that 200,000 square feet of minimum new space.

COMMISSIONER O'DONNELL: I'm looking at the letter of May 10th from Netflix, and on the second page, the first paragraph, I think it's saying what you're saying, but I just want to read it to you and make sure that's the case. It says, "Specifically like other high-tech corporations we need a critical amount of office space, in this case 550,000 square feet, and the ability to grow into high-quality five-story buildings." First I read that to

mean they needed 550,000 square feet. Now you're telling me—and it could be that's what it means, I'm not quarreling—it means we'd like to have up to 550,000 square feet that eventually we might move into. I mean they start with something and move into something else.

JOHN SHENK: That's correct. Other than the Facebook move in Menlo Park where they took down a million square feet at once, very rare for a company to take and lease and occupy a half million square feet at one shot. I'm not speaking for Netflix, I want to make sure that's clear, but from my perspective as a developer who has worked with a lot of these companies, the idea for them is if we're going to stay and drop our tap root and be here, we need to know we can continue to grow. If it's one more building, one more thing, and then the extreme of this example is they've leased three buildings in the area, one in this existing park, because they want to preserve the opportunity to stay, they're hopeful that this process turns out well from their perspective, but if they can't end up fulfilling their vision of a campus they need to find some other place.

COMMISSIONER O'DONNELL: Well then if I understand you correctly, in for dime, in for a dollar. If you get Netflix in, you're going to provide the ability for

them to expand into 550,000 square feet. To do that we don't have any other uses on the property.

JOHN SHENK: You sound like their broker. Yes, that is exactly correct. That would be their bargain, right? They would say we're going to come over and start in X square feet and we need the ability to control our destiny, and as the landlord we would grant them that right. In year five, ten, fourteen, if they haven't exercised all of their options and they move on, they just stop growing, whatever it is, what do we do with that remnant piece? Our vision is, and we want to have a shared vision with you, that maybe that continues to be office for somebody else or some other purpose, but if not it's a whole lot of office in one spot and we thought flexibility is needed around being able to provide housing or senior-serving residential. I like to just call it residential, by the way, because I think it's residential, and some people wonder why do you call out senior separately from housing? But from a zoning perspective I think they're very different uses. But we think those other uses ought to be approved so that we can consider them at that time.

COMMISSIONER O'DONNELL: Thank you.

CHAIR SAYOC: Actually I have a follow up to that. One of the arguments made, I can't remember if it's

verbally or in the Staff Report, is that you want to attract corporate headquarters, plural, not just Netflix, and there is an assumption that if you bring in almost like your anchor, like Netflix, then others will come, so then that's yet another argument for keeping 550,000 square feet just of office and foregoing the residential and the multi-family and the senior. I'm still having a hard time. Why would you have that 30-month trigger to turn into residential if you're telling us that by placing Class A corporate headquarters there will be more opportunities for not only the Town but for other companies that are looking for a campus, something close by Netflix?

JOHN SHENK: I think there is probably a little wordplay there. In speaking of headquarters I would refer to Netflix headquarters, not as multiple companies' headquarters instead of saying Netflix headquarters. So I think what I'm talking about and the purpose of the headquarters campus is for a tenant. It would certainly be designed in such a way that if it weren't for one tenant it could work for multiple single building users or even other uses, but the intent of it and the design and the money that will get put into designing something not exactly that, but with a large campus feel and environment, is to attract that corporate user in large part because it's such

a unique use, we feel that it's a unique use in this town and in this submarket, that we'll be successful in attracting that kind of company. It's too big a bet around just saying all we want is 550,000 square feet of office, because we think the whole thing should be that much. We think there is a great argument there and we believe in that as an option, but also think if it ends up being 300,000 square feet of corporate campus headquarters quality buildings, et cetera, that not having to find users to fill out that much more square footage would allow us to go on and do something else.

Then again, back to the beginning of what I was sharing, I believe firmly that transit-oriented development and this kind of housing opportunity and the kind of idea that maybe there is enough acreage here to do something really fantastic for seniors, I think those are great uses. Now the reality is we've agreed to triggers that are not just timing, they're also we've got to seed the park. With Netflix, they will control their destiny through their lease to option enough of the park to make sure they can achieve their goals. That's what any other large tenant that we would be talking to would do, but today it is Netflix.

So I wouldn't want to say we think there are multiple headquarters that we're going for, it's really a headquarters. But if it were not built completely, not to say that we wouldn't build it out completely, we think it would be appropriate to have an opportunity to pursue one of those other uses.

CHAIR SAYOC: Commissioner Jensen.

COMISSIONER JENSEN: Bear with me while I beat a dead horse.

JOHN SHENK: Is that me?

COMISSIONER JENSEN: No, not you. It's the issue. Different dead horse. You have gone back and forth in your Letter of Justification and standing here tonight and said generic corporate headquarters, Netflix, generic corporate headquarters, Netflix. So I just want to know, speaking of too big a bet, is Netflix conditioning its lease of this property on an approval of this zone change from the Planning Commission and the Town Council? Because I have done planning in Los Gatos for a really long time and I have been told we never consider the occupant if we're just thinking about a use. It's actually inappropriate, et cetera. We've been given a speech today about how we need to get Netflix, because it's such a great company, and I'm not saying that it's not, but I'm saying that that's highly

unusual. So if my decision tonight is supposed to be based upon Netflix, I want to know if Netflix is conditioning its decision based on what happens here? Have they committed to this property or are they waiting to see what happens?

JOHN SHENK: They're waiting to see what happens. It's very important to them to be able to fulfill their vision for what their headquarters wants to be in terms of type of building and amount of square footage. And I apologize. You may have not just called me out on being flip-flopper or something, but part of it goes to I anticipated a year ago being in front of you talking about the reasons why I believe that office complex is the right thing to zone and to allow regardless of name.

COMISSIONER JENSEN: I'm not calling you out on being a flip-flopper; I'm calling you out on very studied, ambiguous responses. So just so you know, you're response to me means that my decision is not going to be influenced by whether it's Netflix or not, because it needs to be based upon planning, because Netflix isn't committed to this until I make a decision. At least that's my perspective on it.

So now I'm going to go back to the generic corporate headquarters, and I have to say I was interested in your letter of May 5th. On page four you're talking about

the height, and I'm interested in the height, because it's extraordinary for Los Gatos. You cite I guess it's a book, a pamphlet, a planning document, *Understanding Silicon Valley*, and then you quote… I quite enjoyed this.

JOHN SHENK: The serendipitous? Yes.

COMISSIONER JENSEN: Yes. "Enhances the serendipitous contacts." Okay, so if I'm going to enhance serendipitous contacts, why do I need 85'? I've heard you say generic corporate headquarters wants them to be tall so they can have light, so they can go up and down. Aside from the fact that Facebook and Google, I presume from your answers, might have five-story buildings and Netflix wants to have five stories provided that they come in if we do what they want, is there any other reason to have five stories?

JOHN SHENK: What it really is I think from the serendipitous contact points as well as what the other companies are doing is they're designing bigger buildings, and the reason they want bigger buildings is it's more opportunity for groups to get together, to touch points in the various cafeterias or break rooms or whatever they are, within a building. People just don't go communicate between buildings as much as you may think or may a perception. The employees seem to stay within a building. One thing Netflix

has found specifically in their current two buildings there, their headquarters, is that the addition of the bridge, which came at the end of one of the last approvals through the numerous approvals we received on that project, has been one of the greatest amenities they could ever have, because it really starts to function more like a building. It's not quite a building, because it's just on one floor, et cetera, but just trying to bridge that floor together they've realized that there is more connectivity, and that's very important.

Yahoo's new campus in Santa Clara has been designed I think with eight stories and 250,000 square foot buildings and there are multiple of them, et cetera. But the idea is bigger buildings are better from that standpoint. They're also more efficient, and because they're more efficient they're more energy efficient, and the reason that a company like a Netflix wants five floors instead of maybe wider buildings and shorter is that you get more light. It's a better work environment because the glass-to-floor ratios are better in a more vertical environment than a more horizontal environment.

COMISSIONER JENSEN: Changing gears dramatically, I would like to get some more information about what your proposed enhancements to the Creek Trail would be. As a

frequent user of the Creek Trail I'm wondering how my experience would be enhanced by an 85' building. So what are the enhancements that you're planning?

JOHN SHENK: I think what we're referring to is a concept. We don't have a specific plan there yet. It's something that we would come back with and talk to the community about and talk to you all about. The idea is as I walked the Creek Trail behind our property today I find it not very enjoyable. Very minimal landscape, there are parking lots and building walls 25' away maybe, flat concrete. There is not much there. With our big setbacks, with a new landscaped perimeter, et cetera, we're not proposing to do things on the Water District's property, but along our side, we just think there's an opportunity to create real landscaping, maybe there's a little duck-out area for seating, I don't know. There are ideas that are floating around, but again without a project, I don't have specifics yet, but there is through those words and through the design criteria there is a commitment to work with the community, with the Planning Commission, on what happens where the properties come together back there, and I kind of think anything we do will be an enhancement.

COMISSIONER JENSEN: One other topic. In a different life I do a lot with transit-oriented development

and compact developments, and normally the ones that I see are residential and sometimes they have, for example, ground floor retail. You essentially develop criteria for the transit-oriented assuming that the residents or the workers are either going to be able to come on transit or leave on transit, and as you probably are aware, people have researched and figured out that it's more important to be able to arrive to your workplace on transit than to walk from your residence to transit. So I'm wondering if you put in the residential, as opposed to the office, or senior housing, how do you see this enhancing the transit opportunities if you're just going to put residents in there and you're not going to have any kind of synergy with the workplace?

And a related question is since you've been negotiating with Netflix, and I'm not assuming they're going to go here, do you have any idea how many people in the Aventino development work for Netflix?

JOHN SHENK: Just because I'm remembering it I'll start at the end and work backwards. No, I don't know how many Aventino residents work at Netflix. I don't know that. We have asked in our zoning language that would be in the plan set, I believe that's where it would be, is that we would in the office environment be permitted to also have

campus-serving retail, I'll call it, some services that would support the people who work there, maybe it's a drycleaner drop off, I don't know what there is. There may some of those kinds of thing, ancillary, not open to public but open to the employees. Employee-serving retail to maybe help serve some of that function of people who may not drive to work, they may come to work in other ways.

The residential, I am not the expert. I've heard arguments that residential is great for transit-oriented ridership and I've heard arguments that the office is great, so I kind of like both.

The senior I don't see as a great transit-oriented development. I think being near transit for the senior project is a great amenity to the senior. Probably not tons of ridership derived from the senior. The vision for seniors started frankly when we looked at the project as a blank slate and on the 20-acre basis thought something very special could happen here on the senior basis, the Hyatt Classic concept of something like Palo Alto could be here and enhanced and bigger, et cetera. That's where the vision started in our minds a while ago and with that it resonated with me that something senior-ish in this community would be great, so it has remained as a use, because I think it's a great use. I don't have a strong

connection to the transit-oriented development with the senior in my mind.

COMISSIONER JENSEN: Thank you. Thank you, Chair Sayoc.

CHAIR SAYOC: Commissioner O'Donnell.

COMMISSIONER O'DONNELL: We obviously have a number of questions. We have to listen to everybody and then we have to talk among ourselves and make a decision.

But one of the things that have concerned me here too is the Development Agreement. I understand why people want Development Agreements. I even understand why sometimes the government wants Development Agreements. But here I'm having difficulty understanding the major commitment that must be made by you to ensure that we give you the Development Agreement. In other words, as I understand it your trigger is 200,000 square feet of new office space. New office space can be brand new or it can replace existing office space, as I understand it. In other words, it says new, and I've only seen the term sheet tonight, but you've got 250,000 square feet. Assume you tear down something of that and you add 200,000 square feet. You now have a 20-year license. Everybody says 15, but I'm going to assume it's 20, because you're going to do a good job, et cetera. Twenty years to lock us into things

that we can't predict, and when the codes change, the laws change, the uses change, we have a contract with you and it basically says no, we're going to do what we told you 15 years ago, ten years ago, whatever. The price of admission for that ought to be significant, and it may be, but what is the price of admission for us to enter into the development? I've heard the $1.5 million, but all of these benefits that the $1.5 million goes to as near as I can tell will enhance your park.

In other words, you want to bridge that will help the trail behind you. That trail, I think, will help your park. I'm calling it a park, industrial park or whatever. The intersection that is being improved, absolutely essential I think for your development. We wouldn't need it. Maybe we would need it, but arguably you wouldn't need it without that.

So I'm asking you to help me think about what is it we're getting, we the Town, for giving you a 20-year commitment for things you don't understand and we don't understand, the future?

JOHN SHENK: That's a good question. I'll start at kind of a base level; that's a very important level. I believe that the zoning we've requested in and of itself provides the potential for great community benefit. If we

never exercise anything and 20 years we haven't done anything, well it's neither here nor there. But to the degree in what we're taking on is a commitment to begin with the redevelopment of the park with new Class A office, the idea that we would take on tearing down existing buildings, significant investment of new capital to build new buildings, find the new tenants, et cetera, we now know that we have Netflix working on this, it's a big deal to undertake the redevelopment of a property, especially a park, because once you start it's hard to not finish, because you get incongruous uses kind of thing. You want to know that there is a plan to go through the whole property. It's the ownership's commitment. That's our vision as well. We want to go through and redevelop the park over time. It's not going to happen day one. There are existing leases out there. We can't do it all today.

So the idea of the Development Agreement it allows us, assuming we reach agreement that we share this vision to go through and redevelop the park over time—there are some leases today that go out another five or six years, they maybe even have options, I'm not sure right now, but they go out over time—and the idea that we would start and then maybe have the rules change—we don't want you to keep going, we want to do something else there—from

our perspective we're halfway in. It is vitally important, in this case to Netflix, but to any tenant that may come into the park in the future or now, that they know they can execute on their business plan throughout the park as well and not have the rules changed on them. They build two buildings and then all of a sudden they can't build the third building or the fourth building or whatever it is because the Development Agreement didn't lock in that zoning entitlement. Does that help?

CHAIR SAYOC: Yeah, I just find it interesting though that one of your phrases is we get to look to the existing rules, but if they become more beneficial, then we can look to those rules. So it's head you win, tails we lose.

JOHN SHENK: Not necessarily. I would say that's a very standard phrase or section or paragraph in a Development Agreement, and the idea is the community today felt it's very important to have this hurdle, I'll say, I don't know what may change, but a particular hurdle, and in the future the community says not so important, we're going to get rid of that. The idea is ten years from now if that hurdle is removed unilaterally by the Town, why would we be held to an old rule that the Town has decided is no longer applicable, and that's the reason. The benefit is well what

if it goes the other way? And so that's where I wouldn't say it's a head/tails situation on the you remove something. We are the benefit in that the rules don't change as we go forward in time. I don't perceive it the same way if the Town changes something to lower a hurdle if you will.

COMMISSIONER O'DONNELL: Thank you.

CHAIR SAYOC: Mr. Shenk, your argument right now, it makes sense to me when you have one land usage on the property. What I'm grappling with is you're giving us almost a menu of options that you may do in the next 20 years, and as planners the reason why we have the General Plan, the Specific Plan, is that we need to know where our Town is going in the next 20 years. In our last General Plan, that has been widely circulated and had heavy public input, we designated this is where residential is going, this is where multi-family is going, and it's given really the community an opportunity to say hey, our schools are overcrowded, this is where the severe impacts are going to be, and I feel like I'm blindsided now because we may have 516 more units coming in and I don't know where those kids are going to go to school. So if I don't know exactly what we will be seeing over the next 20 years with your property I still don't have that confidence to sign a Development

Agreement giving you benefits, but us some uncertainty. So as a planner I still don't have anything that gives me any confidence that we as a Town can absorb whatever it is we're going to need to absorb based on how you develop your property.

JOHN SHENK: Part of me looks at this similar to the General Plan, minus a lot of the robustness of the analysis because you were looking at the entire town and everything else, in that through the General Plan you designated sites that would be good site for residential. It doesn't mean it ever happens there. It's a vision for where land uses would be preferred. It's the Town's expression of its desires, et cetera. Because this site wasn't considered I don't know that what we're proposing is adverse to the Town's goals or vision. I happen to think by reading all of the language that's in Vasona Light Rail corridor, having gone through the previous development and its application, and looking at the conformance with the General Plan, et cetera, at the time, and I know this is a new General Plan, but in terms of the Vasona Light Rail area the language didn't change dramatically in terms of the Town's goals and visions for the area, that mixed-use transit-oriented development is a good thing there. While

not mapped out and considered previously, I believe the language supports that these are good uses there.

I understand the angst around we just did the General Plan and we didn't think about this site, and five years from now the General Plan ages it becomes more frequent that new ideas come in that weren't considered by the General Plan, but today I hear the angst around wait, we just did this, and now here comes this new idea on a large parcel, but I don't see it as in conflict with anything that's in the General Plan.

CHAIR SAYOC: Commissioner Ogle.

COMMISSIONER JANE OGLE: Just as sort of a follow up to that, I guess my problem is you say it's a vision, but I'm not quite sure what it's a vision of. It's a vision of maybe 550,000 square feet, but if that doesn't quite work out it's a vision of 250,000 square feet and some senior housing, and if that doesn't quite work out it might be a vision of this. There are so many bets being hedged I'm having a hard time getting my arms around what the 20-year vision of it would be, because you just now mentioned 550,000 square feet and in the same paragraph mentioned mixed-use, and so I'm still lost. Sorry.

JOHN SHENK: And right on that last point, because I'm good on the last point and going backwards, it

would have been a misstatement other than maybe that retail ancillary use I was referring to in a campus environment. At 550,000 square feet of office there would not be mixed use, so I'm sorry for that confusion.

Maybe the way to think of this is if we could roll back two years and be thinking about the General Plan and its sites and everything else, and without a specific project in mind, as you were going through identifying residential sites or other sites for future capacity or future growth we had discussed this site with this concept in mind, that it be transit-oriented, mixed-use potential on this site, for more office of a Class A headquarters quality and type, and the preference would be that it all be that office component, but if the markets didn't prove out where all 550,000 square feet of office were built that we were also okay with a residential component and/or a senior component. But what we'd be talking about was a preference for a headquarters office, but if all 21.5 acres weren't that, that we'd also be okay if this were some housing or if this were some senior-serving residential.

And it is tough, and I've struggled frankly with the fact that some of these plans and things look like projects, and we're not in front of you with a project. It's more the vision. It's more what could we do there, and

then we go away and we've been successful in the last few months of going away with Netflix and coming up with an agreement, but to go away and see what can we bring back that is an office project and then in the future be able to explore other things if the office isn't going to take the whole site.

CHAIR SAYOC: Commissioner Ogle, did that answer your question?

COMMISSIONER JANE OGLE: Yes.

CHAIR SAYOC: Okay. Commissioner Erekson.

COMMISSIONER EREKSON: So I'm very sympathetic to the dynamic nature of development, which is really what's driving your legitimate concern about being able to explore different options as one moves through a period of time, because it's as you indicated and it's obvious, you can't predict those with any certainty as we move forward.

What I'm trying to understand is what's a reasonable horizon of time for the two parties to enter into an agreement that doesn't need to be reconsidered? Is that five years, ten years, 15 years, 20 years, 40 years, 50 years? In its own planning, the Town has chosen to do, and in general this is a standard for planning in the state, that one would revisit a General Plan every ten years, and to the extent that that's been reasonably

successful for the Town as a reasonable horizon, and for the Town to take the responsibility to revisit the issues that are critical to the Town, why is 15, or more likely 20 years, a reasonable horizon of time? Because if I look back ten years and thought about Netflix ten years ago I would think about Netflix a lot differently than I do today, so why is 20 years a more reasonable horizon of time than ten? Why is 20 years the reasonable horizon of time?

JOHN SHENK: Let me take a shot at that. I think I've seen Development Agreements shorter term and much longer term. I've seen a lot in the 20-year range. For us specifically there are two important reasons.

One is related to what I was sharing about existing uses and existing leases in the site and when might we be able to redevelop those portions of the property in the future or to get us out in that seven to ten year range, just to be able to revisit it at that time?

Secondly, specific to Netflix in that lease and the options and the abilities to extend and take down additional space over time extend out, and there are abilities to extend option periods, et cetera, to build in optionality and flexibility for them. And it would probably be very similar if it were any other tenant as well. They would want that, and so the Development Agreement needs

enough term that growing into 550,000 square feet or absorbing 550,000 square feet, has enough time to happen.

CHAIR SAYOC: Commissioner Talesfore.

COMMISSIONER TALESFORE: Thank you. I have a follow up and then I want to go to another horse.

So just as a follow up to what we've been talking about, why wouldn't you come back to us with one PD for the office, leave what's there, and use that as you could, and then come back another time for another PD when you've decided that you can't do any more offices but the housing would be what you'd want? Because the 20 years out, like Commissioner Erekson said, is beyond our General Plan, and so far that's been working pretty well for us, so I need to have some compelling reason that I haven't heard here tonight yet about why you're going to change my mind.

JOHN SHENK: Fair enough. I think we would all agree, and I'd certainly stipulate that if I were able to be here tonight with a project for a building or two buildings and had a tenant and a lease and the whole thing, it would be a very different dynamic. Not to say there wouldn't be issues that we would discuss or anything else, but we'd be able to talk in concrete terms around a project. And again, maybe it's easier to think about what

we're going here tonight in terms of General Plan envisioning rather than specific project.

My only reason for a long-term Development Agreement really goes back to what I was just sharing, which is to begin the redevelopment of this large property requires some certainly on our part that we're not going to build a building and then have the game changed, or start two buildings and they're tenant-occupied and they have options that then are not worth anything, because we can't build out the campus that was envisioned in the beginning. That's the critical item really. It's being able to fulfill the vision, and we need to wrestle with is a headquarters campus here of a half million feet or more appropriate, and if it is we need time to build it out.

COMMISSIONER TALESFORE: Okay, exactly. So why wouldn't you just attempt that, and if you have extra buildings around, rent them out to someone else while you were figuring out your vertical campus?

JOHN SHENK: A few reasons. One is for the owner. Say a scenario of 300,000 square feet of new office and the market changes or there is not a demand for the office anymore, so we peter out. What we don't want to have happen is the rules change to, say, we'd like fields, and we feel like we would have provided a great benefit, we've started

here, we provided new offices, jobs, whatever comes along with the package of benefits from the particular tenant who is in there. That's great. We don't want the game to be changed on us later in terms of other uses. It's like we're going to start the redevelopment of this parcel together with the shared vision or it doesn't really work to take it in one-off pieces as we go forward.

COMMISSIONER TALESFORE: Okay. Shared vision. I'll remember that. Thank you.

So let me switch to another horse, and this is about neighborhood outreach, because a lot of what we take as far as our decision making is any testimony we hear here tonight from assorted community members. So you said that you have met as part of your process with immediate neighbors to provide them an opportunity to hear about the proposed rezoning and express their ideas, make comments, et cetera, and as you proceed through this process you will continue to respond to your neighbors and the broader community. So what I want to know is have there been one, two, or three outstanding concerns and are you addressing them or what have been your thoughts about that?

JOHN SHENK: We have had an outreach to our neighbors. We had a notice and an invitation for a meeting to the Smith Ranch Court neighborhood. We met with the

Courtside Club management I'll say to kind of understand what are their thoughts and perspectives, and then certainly the Charter Oaks neighborhood, we've had two meetings with the Charter Oaks neighborhood.

In terms of feedback, the Smith Ranch Court meeting was lightly attended. It was a couple, but one owner attended the meeting, and there were no concerns brought up by that neighbor.

The Charter Oaks neighborhood, I think we've had a very good dialogue and continuing of the relationship that exists being neighbors. I'm trying to think of their concerns. They're concerned about visual impacts, how might buildings are sited. I don't recall a specific objection to the height per se, because they well know as they live today a one-story building that's close to the property line blocks more light than taller buildings further away. So they're interested in the A&S phase, how are these sited, how are they designed, being very important. They have brought up, and if one of them is here I beg them to correct me later, I'm not trying to forget something if there is something, it had to do with trash collection. Wanted to make sure we didn't have trash receptacles near the property line in the future, as some exist today, because they can't control the garbage company and when

they pick up they make noise. Construction noise and disruption, that kind of thing, which the Town has a robust set of standards and rules around that. But there was just inquiry around what happens during construction: the noise, the dust, et cetera. And I can't think of anything else.

Courtside was quite supportive. They liked the idea of more growth there and the traffic improvements that go along with the project.

COMMISSIONER TALESFORE: Nothing else? Because we have tons of letters here.

JOHN SHENK: No, I'm sorry, in terms of the community that we met with, that's what has come up. I have read some of these letters myself and there are obviously school concerns and others, but between Charter Oaks, the Smith Ranch neighbor who came to our meeting, and Courtside I think I've covered the world of comments.

COMMISSIONER TALESFORE: Okay.

CHAIR SAYOC: Any other questions? Okay, thank you very much, Mr. Shenk.

JOHN SHENK: Absolutely.

CHAIR SAYOC: We will let others have an opportunity to speak and then you'll have three minutes after.

JOHN SHENK: Sure. Thank you.

CHAIR SAYOC: So the reminder again for anyone who like to speak on this item, just submit a speaker card, and you'll have three minutes. When you come to the podium if you could just state your name and address, just so that we have that officially on the record. The first speaker is Jack Aiello.

JACK AIELLO: Madam Chair, Planning Commissioners, my name is Jack Aiello. I live at 135 Newell Court. I've lived there since 1962. I'm very familiar with all the development that has happened during that period of time.

Ever since 1962 I've always called Los Gatos a charming community. Now with a building going up to 85' it's not charming anymore. This zone is CM:PD. That means 35' maximum height. Now when they built the Netflix building, that was a fast track building and that went up to 55'. It was a special deal. The Town needed revenue. The people in there all shared in that because they didn't come here and give a big argument about that, because we needed the revenue.

But here's a new proposal that shoots it up to 85'. That's a massive change from 35' to 85', from 260,000 square feet of space to 550,000 square feet of space. And like you people know, we don't even know what they're going

to do here, because this is going to go on possibly for 20 years.

We haven't even talked about the changes on Winchester to the traffic. A couple things (inaudible) change because I live on Newell Avenue and I want to make a left-hand turn it's pretty hard right now. Now there are a lot of people that are going to talk about traffic, so I'll just keep away from that.

But why change that like that? These other buildings that are alongside there on Albright Way, they're all single stories, most of them, and it's nice professional buildings. You can build first class offices without having to go 85'. You can convert those buildings there in such a way here to help yourselves. There are a lot of things you can do, but why change the makeup here? Thank you.

CHAIR SAYOC: Thank you. Any questions? Okay, the next speaker is Sarah Chaffin, and after Ms. Chaffin will be Richard Erbst.

SARAH CHAFFIN: Hi. Thank you very much for having me here.

Basically I actually live on Smith Ranch Court and I think it was nice of Mr. Shenk to have the meeting,

but the problem is people really did not understand the scope of this development.

One of the big issues I have with this development is the notice. The only people that were actually notified about the development are people that live within 300'. That's basically just Smith Ranch Court. The La Rinconada area, which will be gravely affected and which is off of Wimbledon Drive, did not receive notice. So what I'm proposing is before we even move forward we need to make sure that everyone is aware of what is going on, because potentially if you add 516 multi-family units you're increasing Los Gatos' population by five-percent, so I think that notice is really important.

There were no story poles that went up, which is very important. Someone recommended you could put up a model so people get the idea of what's going on.

And then the other thing besides the story poles is there is one sign that I saw, which is on the entrance to 85 behind the railroad track. You can't read that if you're driving by, so I really don't think people are aware of what's going on.

Mr. Shenk said that he thinks that the possible senior housing and multi-family housing could be great uses for the community. Well, I think they could be great uses

too, but that's why we have a General Plan and that's why we get everyone involved. We can't do what Mr. Shenk thinks is a great idea. We have to get input from the community, so I wanted to see if you guys could possibly send out more notices and have more community meetings.

And also Mr. Shenk should come back with one plan, because I think if Netflix wants to build a campus, people may be in favor of that, but we need to find one plan and we need to move forward. I mean we're talking about giving him 20 years to do construction, and I guess someone talked about $1.5 million. If he builds 550,000 square feet and he charges $3 a foot, that's only one month's rent on 550,000 square feet. Why would we give anyone 20 years to develop with just one month's rent? So even if we were going to move forward with this process, we have to make sure that it makes sense for the community.

CHAIR SAYOC: Thank you, Ms. Chaffin. Any questions? Thank you. The next speaker is Richard Erbst.

RICHARD ERBST: Thank you. My name is Richard Erbst. I reside at 143 Newell Avenue in Los Gatos.

Mr. Shenk said that he sent notices. I don't know who sends out these notices, whether it's the Town or the developer, but Newell Avenue is a horseshoe shaped street that runs on either side of the Elks Club. We come down

Newell Avenue and it's next to the extra parking lot for Courtside Club. So I think I'm a neighbor, and as a neighbor I think I'm entitled to receive some sort of notice if we want to be neighborly.

There are so many things here. I mean I've taken copious notes. This thing is all over the block. I can understand the concern of you folks when you're up here trying to get some questions. In my working life I've heard of people tap dancing on JELL-O before, but oh my God, you talk about tap dancing on JELL-O, you're the king, Mr. Shenk. I mean I hate to be cruel, but it's what's going on.

Now let's just talk about the traffic for a second. On University, picture in your mind if you will Lark Avenue. There are two exits off of 17 into Los Gatos, three if you want to concern East Los Gatos and West Los Gatos, and Lark Avenue. So people come off there. We're going to go down to the sports park on University. From Winchester to University Avenue and to the sports park, it's maybe a quarter mile. Coming off the freeway, off of 85, there is a stoplight. There is a stoplight at Wimbledon. There is a stoplight at Lark Avenue. The young lady there in the red said that she was out visiting the site, and I hope I don't misquote her here, she said that you went out to post some signs and on the site was

considered a lot of traffic. That's without whatever this number of units is going to be.

Square footage for office building, senior units, and apartment houses. Holy guacamole, who knows what's going to go there? I mean how in the world can you make an decision with this flimflam routine we're getting about what's going to go there and what the impact is being for traffic? There needs to be some sort of traffic impact report made. If there is going to be another stoplight in the project, that's four stoplights within about 200 yards. That seems to be ridiculous. I could be wrong, but it seems to me to be ridiculous. Thank you very much for your time.

CHAIR SAYOC: Thank you, Mr. Erbst. Any questions? The next speaker is Dale Miller, and then after that is Leslie Paulides.

DALE MILLER: Dale Miller, 115 Newell Court.

I also live behind the Elks Club right next to the new Courtside parking lot, but I did not receive any notice, so I'm a little upset over that. I heard this through the grapevine.

I think there has to be an entire traffic study, as Mr. Erbst said, and that it needs to be going from Pollard, past Lark, up Winchester, from Winchester all the way to 85 and to look at the overall impact for traffic.

So here is my understanding of the project. If I were to come south on Winchester from Pollard, stoplight at Pollard. Go one block, hit 85 north, stoplight. Eighty-five south, stoplight. Albright, new light one block, right in front of the Courtside Club, which is already packed with cars pretty much from when they open to when they close. There is no way to easily get past Courtside. Come to Wimbledon at the end of Courtside, stoplight. Come to Lark, stoplight. Take a left. I understand there's a new light going at University. Stoplight. Next street, Oka, stoplight. Next street, 17 South, stoplight. Next street, 17 north, stoplight. Next street, Los Gatos Boulevard, stoplight. I mean it's going to take forever.

I live at Newell right now, which we talked about as a horseshoe. There are only two ways in: Newell Avenue and Newell Avenue surrounding Lark. Tonight coming to the meeting it took me two lights to get out of my driveway at 6:30. Then you go down to Wimbledon. Wimbledon is the main entrance into La Rinconada back there. The other side is La Rinconada, which is one more street south on Winchester, which is impossible to get out. So there are probably 200-300 families there that really have four streets to go out and this traffic is going to be very, very intense.

Any of these proposals, and I don't understand any of them, will be hugely impactful to the traffic no matter if there is a light rail station or not, because the traffic today is already difficult. From 4:30 to 6:30 at night it takes sometimes two lights for me to get on a half a block by the Elks Club to go left on Lark.

Another question is if the park is already full, why do we need another 550,000 square feet? I heard somebody say this earlier.

Then the other question is if big buildings are the biggest thing we need to do, why did the Sabrato building sit in downtown San Jose for seven years until somebody actually went in? I think Price Waterhouse Cooper is going in now, but it sat empty for seven years. So that's a question.

CHAIR SAYOC: Thank you. Any questions for Mr. Miller? The next speaker is Leslie Paulides, and then after that will be Lee Quintana.

LESLIE PAULIDES: Thank you. Is this a document camera if I was to put some numbers up? Perfect. So thanks. In three minutes I'm going to just share a little bit with you. I'm Leslie Paulides; I'm the Assistant Superintendant of Business Services for the Los Gatos Union School

District, so I own business, facilities, construction, everything that's not about curriculum.

I care a lot about our student generation rates, our developer fees, and our bonding capacity. When I was here a couple weeks ago I shared with you a few nuggets of our student generation rates and I said that I would share with you what my sort of independent team of people had gathered relative to some recent developments, because while we've had a great experience working with the Planning Department and sharing the same demographic report I think some things about our town are changing with respect to people moving in and wanting to be part of the schools here.

These generation rates on page 19 in the Staff Report are circled there. The generation rates that are actually from our student database of kids living in addresses from recent developments are below. So there is a little variance there and we're going to keep looking at it and sharing that information with you, but I do think we're seeing an increase in student generation rates when we build affordable housing in this town. People want to be here and they want to go to the schools.

We do get developer fees and the Staff Report indicated it would be about $1.5 million. We get 9/13th of

that because we have nine grades including kindergarten and the high school has four, so that works out to be about $1.82 million. We just put up a two-story, ten-classroom building. It cost about a half a million dollars a classroom, so that covers two classrooms. The student generation rate from this project could be anywhere between 77 in the planning report and a couple of hundred based on mine. So two classrooms, 50 kids. It doesn't cover the cost of the classrooms. I just thought I would share that, because we've got some challenges.

The other thing I wanted to share real quickly is bonding capacity. We have been so lucky as a town that we've had community support parcel taxes and bonds. We can't even go out for another general obligation bond to build more classrooms or schools if we want to. We are bi-statute at bonding capacity, which is based on our assessed value, so we've got 1.25% of your assessed value. When you have that much debt outstanding in bonds you can't ask your community to even help you again. Something else that's really unique about Los Gatos is that we have a highly residential property tax base, so people want to come here and they want to pay taxes to help build more schools. We can't even ask them to do that.

For years we figured out how to solve this: put up more classrooms. We really are at the rubber has kind of met the road on capacity planning for schools, so I just wanted to share that with you. Thanks.

CHAIR SAYOC: Ms. Paulides, do you mind putting your overhead back and walking us through? I'm having a hard time reading the numbers.

LESLIE PAULIDES: Sorry about that. I was going to try to talk about them, but when I had three minutes I knew I'd better point, so I'd be happy to walk you through them.

These numbers here are the numbers in the Staff Report for this development. Kindergarten through grade five, 0.86, for apartments. Grades six through eight, .041. And then below market housing, .182. Six through eight, .048. So .0-something-something, or .182, is kind of the range for those types of developments and those grade levels.

Down below, the numbers I've circled, are Vasona, Creek Side, and what I call the Vias; there are about six different streets that all start with Via. We have those kids in the district now and we know how many parcels there were and how many of their kids are in our classrooms. So based on those actual recent developments .29 is the

student generation rate for Vasona, .27 for Creek Side, .58 for the Vias.

And I know there are different cultures and styles of developments, but there still is a real incredible interest in people finding affordable housing to come here and bring their kids here, whether it's an apartment or a home.

CHAIR SAYOC: So earlier we put Mr. Shenk in the hot seat about using our general planning tools and I'm going to do the same thing for you.

LESLIE PAULIDES: Okay.

CHAIR SAYOC: Last year when we went through our General Plan and we agreed on numbers to help us forecast how many kids would come into the district when developers come in we used these numbers that are currently in the Staff Report, but I'm hearing that they may actually be incorrect in forecasting.

LESLIE PAULIDES: I don't know if I would call a number like a student generation rate or a load factor an error. That number is not an error; it's a forecast. Davis Demographics was paid $20,000. The high school and our district split the cost of that. We've shared it with the town, we've talked together, Joel does some intellectual planning, and I do some intellectual planning. I just think

the landscape in the Town has changed, and I think what Davis Demographics will do is look at historic actuals and mobility factors in kindergarten, birthrates, all very interesting things, but nothing tells you the fact pattern of what's happening with your actual enrollment like the number of kids coming in every day. And so I'm trying to just keep my finger on the pulse of that and work with the Planning Department, and I do think the numbers might be a little outdated, although they had merit when they were established I think.

CHAIR SAYOC: Okay. Thank you. Any other questions? Commissioner O'Donnell.

COMMISSIONER O'DONNELL: I think we've had this discussion before. You understand as well as anybody what the legislature has told us would be full mitigation for the school, and they come up with their silly numbers, and that apparently is what we are supposed to take as full mitigation. Do you have any suggestions on how we can get around that problem? I mean when the legislature in their infinite wisdom says you charge so many dollars a square foot and we don't care what that gets you, and that they tell us is full mitigation, we're got a problem.

LESLIE PAULIDES: Right. Senate Bill 50, right? Two dollars and ninety-seven cents a square foot is

supposed to cover the costs of building the kinds of capacity of schools that we need to support as many kids as a development of that size could support. Yup, that's how it's supposed to work.

I could talk about the legislature for a long time, so categorical programs to do the right things for kids. They're all flexible now. Do whatever you want with it. There is not a lot of sense coming out of statute right now, and this would probably not be a good time to go back and ask to change something like that. I don't think it's adequate to cover the cost of building the facility required for the students.

COMMISSIONER O'DONNELL: But I'm just wondering if for example you have had any experience or had any readings in community benefit being slanted towards helping the schools? In other words, we're always talking about community benefit, and we talk about fixing pipes and roads, which is great, but I have not heard a discussion about a community benefit that helps our schools. Have you seen anything like that?

LESLIE PAULIDES: No, I haven't. I've been in this job two years. I've lived in this town my whole life and my kids are graduates of the school district, so to my knowledge it's not a common thing to have developers help

pay for schools. That's not how it's done. We go out and we raise money through general obligation bonds and we hope that the size of the town is such that the space and the room that we have can accommodate the kids we have, and I'm just sharing as we talk about rezoning commercial to residential that we've kind of hit the perfect storm.

We're a basic aid district, so we're funded by property taxes, not by state revenue, and property taxes aren't really going anywhere right now, and every kid we get, we get no more money for them and enrollment is going through the roof. Assessed value or your property tax base is what generates your bonding capacity. We're out of bonding capacity. So even if my public wants to vote yes on another bond measure for me to build another bunch of classrooms or schools on the land I already have, I can't ask for it.

The fact is that the Town is largely built out and there is a certain number of schools here to put those kids in. When you start converting the commercial to residential it changes that landscape and hits me in the face with some of my other challenges that are partly economic and partly a good outcome of the great education we've provided in the Town, so I'm just sharing my concern

about converting more commercial to residential from the school district standpoint.

COMMISSIONER O'DONNELL: Thank you.

CHAIR SAYOC: Actually I do have one more question. In some of the documents we have for a community benefit is that increased revenue for the Town leads to increased revenue for the school district. Is there a correlation between how much a town receives in its revenue via sales tax or whatever versus what you can get?

LESLIE PAULIDES: The majority of our funding for the district comes from property taxes, and we love keeping money in the Town so that our community who gets asked to vote time and time again for parcel taxes and bond measures has more discretionary income to do that, but I don't do any planning from a school district budget perspective relative to the Town's revenue stream.

CHAIR SAYOC: Thank you. Any other questions? Okay, thank you. The next speaker is Lee Quintana, and then afterwards is Grant Sedgwick.

LEE QUINTANA: Lee Quintana, 5 Palm Avenue. Thank you for the opportunity to address you.

I'd like to start by saying that the four different Desk Items contained a lot of information that I certainly wasn't able to absorb in the short time that

we've had to listen and absorb and read at the same time, and that together with the fact that the neighbors have pointed out that they feel they haven't had an adequate opportunity to address this, and the fact that I think that this is a town wide issue, not just a local residential issue, that there should be more involvement from the whole town, I would request that before you actually make a decision on this that you continue it for further consideration.

Second to that I'd like to say that I agree with the statements that Commissioners Erekson, Talesfore, and Sayoc made regarding the General Plan and the traffic and environment, and also Commissioner O'Donnell.

I have to say that when I started to read the Negative Declaration on this I just sat there and said, "You've got to be kidding." This does not pass my laugh test. I was just sitting there laughing. It seemed like everything was being thrown in, except for the kitchen sink and maybe the Brooklyn Bridge. I think that comment by one of the speakers about it being JELL-O was really right on.

I had problems that this seems to be reacting rather than good long-term planning. I think tax needs are great and there are market trends that good planning takes into consideration more than just those two things.

I think typically a Planned Development is very specific, not so open. This has so much flexibility it really isn't a Planned Development.

I think there are several problems in the environmental, including the greenhouse gases, traffic, trees, the intensity of development and how it's calculated. Conditions 10.26 and 10.27 seem to contradict other things. They are so nebulous that it's hard to tell what they could really mean.

If this is going to be transportation-oriented pedestrian circulation the conditions say that a sidewalk will be developed on the east side of Winchester Boulevard, but have any studies been done to determine that that is actually feasible? I didn't see that in anything that I read.

I'm running out of time. I wanted to say something about Netflix and community benefits and the change in what we consider visual impacts to our hillsides seem to be changing to visual impacts to the ridgeline only.

CHAIR SAYOC: Thank you, Ms. Quintana. Any questions? Commissioner O'Donnell.

COMMISSIONER O'DONNELL: I'd like to know what you were going to say about the community benefits.

LEE QUINTANA: It seems to me that when the original Netflix project was recommended by the Planning Commission and the Council that there were a number of community benefits that were included in the Conditions of Approval, and over the years I've wondered, I don't think I remember seeing them being implemented. And also that the other Netflix was approved under the assumption that the light rail was the next project of priority and it was going to be implemented within just a few years. Now that's not the case. We're way down on the bottom of the list again.

COMMISSIONER O'DONNELL: Thank you.

CHAIR SAYOC: Any other questions? Thank you, Ms. Quintana. The next speaker is Grant Sedgwick, and then after him is Bob Shepherd.

GRANT SEDGWICK: Thank you, Madam Chair, Members of the Commission. My name is Grant Sedgwick; I live at 134 Hernandez Avenue in Los Gatos.

I'm representing a company that is a leader in the seniors housing business, so I want to speak just a moment on that subject since it's part of your consideration. Classic Residence by Hyatt, recently renamed Vi, has a very strong interest in finding a place to serve seniors in Los Gatos. Some of you know we have tried on

previous occasions to identify a site that would be suitable. Now I noticed in the Staff Report, and I agree and our company agrees, that this site is uniquely attractive for that purpose.

I'm not going to speak against Netflix or its use of this property. I'm a resident of town; I know what the good things are they've brought to our community. It is a very creative idea I believe. You may not be able to come to that conclusion to contemplate a zoning that is broader than just office use. I would encourage you to do that.

I'm pretty sure Mr. Shenk can't or won't be able to immediately get a commitment for all of that office space. I do some of the same kind of work that he does. If he does, that's great for our town. If he doesn't, I wanted you to know that the seniors housing use is a very viable opportunity for the Town and for the seniors in this town at this location, which is as the Planning Staff has said, is a uniquely suitable property for that purpose.

A couple of small details. If you set a trigger that's 200,000 square feet, as I've read the Staff recommendation, I don't think it needs ten acres. If you applied the same Floor Area Ratio that the Applicant has proposed for the whole site he would really only need about seven-and-a-half acres, and that would leave a lot more

flexibility for a seniors housing community of the type we do and perhaps some of our competitors as well.

The other point is a small point, but the parking proposed for a seniors community by the Applicant is in our experience operating 20 such communities around the country very adequate.

I think I'll leave my comments at that. I think it's a challenge what the Applicant has taken on. It's an ambitious project and I would certainly see it appropriate for you to support a Development Agreement. He won't be able to do the whole project all at once and the underpinning of having an entitlement that allows certain predictable zoning uses of property is an important underpinning to the financial viability. If you have any questions I'd be glad to answer them, but otherwise thank you for your attention.

CHAIR SAYOC: Any questions? Commissioner Erekson.

COMMISSIONER EREKSON: Thank you for you comments. It was very helpful. You said that you would agree with the Staff. From your perspective and given your experience could you expand on why this is a particularly uniquely suitable location for senior housing?

GRANT SEDGWICK: Thank you, sir. Scale in particular. Some of you are familiar with our efforts to find a plan that would be suitable for the Los Gatos Lodge property, which in the end was really too small to do the kind of community that is characterized as a continuing care retirement community. Some of you are familiar with our company's property in Palo Alto. It occupied 23 acres. It's probably bigger than it needs to be, absolutely, but it does seem that something in the range of 13-15 flat acres is required to do what we do, so I would say to you that other than the North Forty site I don't have another idea in Los Gatos, so this site is unique from that point of view.

It's also very accessible to the freeway and to the attractions of the community. We think it's exceptional and our senior management from the Chairman on down have all seen the site and agree with that conclusion.

CHAIR SAYOC: Commissioner Jensen.

COMISSIONER JENSEN: Mr. Sedgwick, I recall your proposal for Los Gatos Lodge property and I think that you were proposing buildings that were seven stories tall at least, so how do you reconcile that with the theoretical five-story limitation we'd have here?

GRANT SEDGWICK: That's a fair question. It was the size of the building altogether and the conflict potentially between having enough open space and the kinds of facilities that are appropriate and usual in these kinds of communities, so we didn't have much choice but to push the building up if we were to leave some green space, in fact a considerable amount of green space, on the site. There is no other answer.

I mean we could build a very, very fine community with a three-story building. In fact we are quite the opposite of being directed towards height. We would rather have a lower scale building. Land is important to be able to do that and preserve some green space and some daylight and some of the amenities of the open air that are not typical of an older established community like San Francisco, for example.

CHAIR SAYOC: Commissioner Talesfore.

COMMISSIONER TALESFORE: We're using your model as an example, so that could happen on this site, is what you're saying, at a lower three-story level?

GRANT SEDGWICK: It could absolutely, but it's fundamental as to how much land there is, which is why I asked even though it sounds at this stage of your consideration perhaps not that critical, but if in fact you

set a trigger for Mr. Shenk and his application that he must do 200,000 square feet of development, I would encourage the Commission to think about 200,000 square feet of development of first class office space as occupying seven-and-a-half acres, not ten acres. That would leave a residual that would make a much more comfortable design possible for a seniors community, whether it's our company or anybody else. By the way, we have no agreement with Mr. Shenk.

COMMISSIONER TALESFORE: No, I know that, and I didn't intend it that way.

GRANT SEDGWICK: Height is not critical. The scale, because of the certain amount of community facilities, is important, and we'd be happy with a lower rise building actually.

COMMISSIONER TALESFORE: Thank you.

CHAIR SAYOC: Any other questions? Okay, thank you, Mr. Sedgwick.

GRANT SEDGWICK: Thank you for your time.

CHAIR SAYOC: The next speaker is Bob Shepherd, and then after him is Rod Wilson.

BOB SHEPHERD: I'd like to thank each of the Planning Commission members and the Staff for their time and energy and effort that they're putting into this

project. I'm here tonight to ask for your support on the Albright Way project. My name is Bob Shepherd and I do leasing in Los Gatos. I've leased over a quarter of a million square feet in the Town of Los Gatos.

This project is exactly what the Town of Los Gatos needs. The existing buildings that we have out there now are tired and they're dated, and I can tell you from a leasing perspective they're not desirable. What is desirable are new buildings that are energy efficient with creative floor plans and a higher and better use than what sits out there today. This is exactly what this project is going to be, is desirable. The tenant that is going to take a project of this size, be it Netflix or a number of other companies that I've worked with will use what I like to call the "slipper theory," and the slipper theory is the closer to the decision maker's slippers is where the company is going to move, and in this case the decision makers live Los Gatos, Monte Sereno, Saratoga, and the tenants don't want to move downtown. Tenants that I work with want to be here in the West Valley, and more desirably they want to be here in Los Gatos.

So if you want to continue to create jobs, and if you want to continue to add tax revenue to the Town of Los

Gatos, this is a project that should be approved. Thank you.

CHAIR SAYOC: Any questions? Commissioner Erekson.

COMMISSIONER EREKSON: Thank you for your comments. Without for the moment worrying about the length of the leases in the existing buildings, which creates a different problem for the developer, but given what you do for a living, if you were going to speculate on the demand for Class A office space that you could sell in Los Gatos to whomever it is, don't worry about who it is for the moment, would that be 100,000 square feet, a million square feet, 550,000 square feet, 200,000 square feet, to a range of clients in a reasonable period of time? And let's make that reasonable period of time five years.

BOB SHEPHERD: One of the things you should be able to do is attract tenants from, let's say, Campbell and West San Jose. There are companies that want to move over and go into a Class A project, because there aren't any. Ebay took that corner of Hamilton and Bascom, one of the only Class A projects out there. So there is a demand. So is it half a million square feet? Very well could be. And over the timeframe? Over the next few years.

COMMISSIONER EREKSON: So few to you might mean more or less then few would mean to me. So could you give me a range of what your definition of few is if we're making a planning decision? Because we don't have a particular occupant who is proposing this obviously, so I'm trying to understand what might be the demand for the space so that we don't either under-build or over-build in a reasonable few years, make it five to seven.

BOB SHEPHERD: So is your question what is the demand for space in Los Gatos in the next two years? In the next five years?

COMMISSIONER EREKSON: The next five years.

BOB SHEPHERD: You can't build it in two years.

COMMISSIONER EREKSON: Right, so the next five years.

BOB SHEPHERD: As a guess there is probably three quarters of a million square feet that could be absorbed if it was here in Los Gatos.

CHAIR SAYOC: Any other questions? Can you speak to me about height? We heard a lot of discussion about, I don't know if it's just one particular employer, but I guess they want five stories, six stories, they want height, verticality. Based on what you have seen with your leasing, what is the most critical thing that people are

looking for? Is it just square footage regardless of if it's flat or if it's up?

BOB SHEPHERD: They want efficiency in a building so they can communicate with each other. They want a very healthy environment, so it means a lot of glass, so instead of all being in a cave in a big, wide space you have a narrower building so you have more glass. So it's really the environment and then also the communication between employees.

CHAIR SAYOC: Okay, thank you. Any other questions? Okay, thank you. Our last speaker is Rod Wilson. Just a reminder that if anyone else in the audience would like to speak, just submit a speaker card. Otherwise this is our last speaker.

ROD WILSON: Hi, Rod Wilson, 14784 La Rinconada Drive, Los Gatos. I appreciate you letting me speak on this topic anyway.

I've actually been on the other side of the fence before. I've done land development, so I appreciate what they're trying to do. Then I've also worked at 181 Albright Way, which is the one at the far most corner of Winchester and 85 and I agree that that building as well as probably the rest of them are somewhat obsolete. You're not going to get a very high-end user in that space.

I'm all for trying to keep Netflix. I mean they've been great for the Town and I think you want to keep that user at all costs. I shouldn't say at all costs. You want to keep that user if you can.

I also agree with what the last gentleman was talking about is companies want to be in Los Gatos, so I think if you lose Netflix it's not the end of the world. That beautiful building on the other side of 85 I think would lease out and I think if you had some Class A commercial space on the site in question I think it will lease out, so I don't think you do things that are kind of unnatural for Los Gatos to keep Netflix. I'm kind of split on that topic. I don't think that you have to build five stories to keep them. I don't know what their footage requirements are.

I will say that you guys have been pretty nice with Mr. Shenk, but I think from my perspective it's kind of a joke that he comes here with all these options. I mean as a developer you want to keep all your options open. Of course we all do if you're developing a piece of land, and then whatever deal he can cut he'll be able to maximize that piece of property. So I would ask that you put your fist down and have him come back with a definitive plan, and that's probably going to require him going back to

Netflix and getting an agreement or some kind of conditional deal with them. But to have all these options open, I mean we haven't even scratched the surface on the traffic impact, and the impact to the schools that was discussed I think is dramatic. There are a lot of unknowns, so I really don't even know what we're talking about. We're talking about a bunch of different options that may or may not happen and over a long period of time. That doesn't make any sense to me, so I'd ask you to have him or the development group tighten up their proposal.

I think you absolutely have to expand the 300' requirement for notices. I think this impacts way more than 300'. Like a couple of people have mentioned, it's a little bit aggravating that there is a development of this size and scope and we don't even know about it. I found out about it this morning.

Getting back to the impact studies. Is there going to be residential, and if there is, is it going to be senior? Is it going to be just typical housing? Are there going to be families? Are there going to be kids, schools, and on down the line?

Then the one question I have for the developer is how much of the extension commercial is occupied? Because I think that it's important. I think it's relatively

underutilized at this point, low occupancies on the existing commercial. But I think it's very underutilized, so I think if it was full today, the existing footprint of 200,000 square feet, that would have an impact on traffic, and so if you're talking about more than double, I think it's going to be a massive impact. Thanks a lot.

CHAIR SAYOC: Thank you, Mr. Wilson. Commissioner Ogle.

COMMISSIONER JANE OGLE: Yes, I just have one question about the occupancy of this space now in that area and on down Winchester. There is a bunch of sort of R&D space there if you're in there. Do you have a sense of how occupied it is? You mentioned it briefly and I just was (inaudible).

ROD WILSON: Yeah, I do. In fact that was the question I had that I think that it would be good to know. There needs to be traffic studies done, but I'm just saying in general if it's half or less occupied today, and then you just fully occupy 200,000 square feet, that's going to have an impact. And then you double that again and I think we're talking about some major traffic issues in that area.

COMMISSIONER JANE OGLE: Thank you.

CHAIR SAYOC: We have two more speaker cards. Andrew Crowe, and then afterwards Mitzi Anderson.

ANDREW CROWE: Hi there, I'm also a resident on La Rinconada Drive. I also found out about this last night and I think the comments here saying that it impacts more than just 300' around the area are germane to this discussion.

I also did actually take a look at the 600-page traffic study that was part of the documentation that was online. One of the pages talked about the traffic on Winchester and Lark and I'll just call out some of the figures that are that traffic study. Winchester and Lark are already called out as not being adequate for today's traffic, and as my neighbor mentioned, that's with the current properties not being fully occupied.

Under Project Conditions they are basically saying that Winchester and Lark at both AM and PM hours would not be sufficient for that intersection and at 95% queue you'd have 525' with only 275' of turn space, so what you're really talking about is something that would be seriously backed up through both intersections. If you're talking about someone that's trying to live there, that's a very difficult intersection to get through. It's going to be a nightmare to get through there.

The other point that I'd like to make is the suggested mitigation for traffic was to take the Wimbledon

intersection and make it a right-turn only intersection. That would have a very serious impact on our neighborhood, as through-traffic would come through our neighborhood to be able to make a turn onto Winchester. Today there essentially is no through-traffic in our neighborhood, but all the through-traffic would come through our neighborhood to be able to make a left-turn on La Rinconada as it comes onto Winchester.

I think there are many traffic impacts that we're going to be seeing if this is implemented as discussed today, and I think there really needs to be a traffic study to understand how this would impact it.

Let me say I concur with the statements that have been said. We do want to have a healthy tax base for this community. I am concerned that if I were a developer I'd think this was a cart blanche to do what you will and I think it would be great thing, and if I were the property owner I would love it. It basically would allow me to do anything I want on the property for 20 years. I don't think that necessarily serves our community. I think if they have a specific project they should propose it.

CHAIR SAYOC: Thank you. Any questions? And our last speaker is Mitzi Anderson.

MITZI ANDERSON: Hi, my name is Mitzi Anderson and I live at 17610 Foster Road, Los Gatos. I don't live in the vicinity of the project, but I am a resident of the Town and I feel that this impacts everyone that lives in town. I've already written a letter and submitted that this morning, but I just wanted to state that I'm against changing zoning that gives a developer cart blanche over 20 years for uses that are vague and not compatible with the Town's character, and I think that there should be a format for residents to give their input when we may be adding up to 2,000 additional residents in town, and also that we are going to be maybe having buildings that are twice the height of what we currently have.

We've had a lot of discussion on the North Forty and that's not that much larger of a project or a space than this one, so I just wanted to make sure that we give due consideration to this project too by everyone in town.

CHAIR SAYOC: Any questions? So that is the last of our speaker cards and I don't see anyone rushing forward. So Mr. Shenk, you heard a lot of things, but hopefully you'll be able to respond within three minutes and I'm sure we'll have questions for you to help supplement that.

JOHN SHENK: Yes, there was a lot said, but I appreciate when the public is engaged and there are discussions, because there were points in there.

One specific one was on the traffic concerns around Wimbledon Drive and left-turns and movements and that they push traffic elsewhere. I don't believe that's an accurate portrayal of what the report is saying and a condition that would be a result of our report. The traffic engineers are here if we want to dive into that.

But I do want to point out, and it became clear through some of the discussion that I have not been clear enough on what the Letter of Intent with Netflix means. It means they're there; they want this. They want buildings that would be allowed by this zoning. If we can perform, they would be very happy. It's not a wait and see kind of thing on what is their level of commitment, what is their desire, what is it that they want for their headquarters campus to be? It's reflected in this application. It is what they want it to be. I just want to make sure I was very clear on that.

The Development Agreement, I happen to not perceive it as a cart blanche, do anything that you want. It has design standards, there are criteria, and there are subsequent A&S processes around any particular project that

we bring forward. The zoning that we're asking for is broader than other zonings, but it's a zoning. It allows things to happen subject to coming back and working through, in our case, an A&S process around the architecture of a project.

The 20-year term is standard, so I just want to make sure we're aware of what it is on a relative basis.

I'm trying to think of what else I could hit here for you. The zoning. Again, kind of like the zoning. Our PD zoning will set the standards under which we would operate going forward. The A&S process is going to look for that quality, for us to perform all the other obligations of the ordinance as drafted by Staff. The opportunity that is here I believe is very substantial to the community, because Netflix is here and they want these buildings and they want to stay. That's great. I think our offer of what this zoning allows, building new Class A headquarters, quality buildings, is meaningful in terms of what it can attract and the benefits that accrue.

Very quickly on the school district topic, my own rough math, the immediate benefit just from the property taxes that would accrue to the school district, not to mention all the other groups that get the benefit of the taxes, would be around an incremental $175,000-180,000 a

year just from the 200,000 square foot project. It gets to be about $400,000-500,000 per year through an office development, which would be similar to others because of the increase in the tax base, would be almost agnostic to the use. Thank you.

CHAIR SAYOC: Thank you. Any questions for Mr. Shenk? Commissioner Talesfore.

COMMISSIONER TALESFORE: Would you just repeat the last figures about tax benefits to the schools?

JOHN SHENK: Sure. And again, the preface with my own math there, but my own estimate is that if we were to build Phase One as conceived here of 200,000 square feet of new office space, the increase in the tax base, because of the costs and everything else that are incurred to improve this space, would result in an increase in the school district's portion. I should caveat that I'm talking about the school district more broadly than just elementary. It's elementary and high school I think. I don't know how they share those dollars, but Phase One would be about $175,000-180,000.

If there was the build out of the office or other use, because the costs would not be too dissimilar, it's $400,000-500,000. The variable there is how many dollars and TIs would the tenant use or would the operator on a

senior project incur, et cetera. And that's a per year; it goes with the taxes. Thank you.

CHAIR SAYOC: Commissioner Jensen.

COMISSIONER JENSEN: Mr. Shenk, you came up and said Netflix is there, which prompts me to ask the question since so many people have stood up and said that's great, we like Netflix, they're an asset to the Town, why isn't Netflix here with it's project proposal? And I would venture to guess that it's because they want a guarantee in place to have a cart blanche, and correct me if I'm wrong.

JOHN SHENK: I don't think it's true. I wouldn't characterize it as they want a cart blanche. I'm going to go all the way back to why did I start a year ago with this concept that this kind of a zoning was necessary? Part of the reason is, and we're reaping the benefit of it now and it goes back to the first Netflix campus, if I hadn't been ahead of Netflix in the application process and the zoning process, when Netflix finally realized they needed space and we started then, they would have moved, because we could not have performed on time to meet their timing needs. It often happens with companies, especially high-tech companies. The growth patterns, the head count projections are on a steep curve and they need a building soon.

When we start on a zoning process and then go through the A&S process, not just here but in any community, and then the building department process, and then the construction, it's years. The high-tech companies need buildings sooner, which is why with the zoning in place as a developer, and we can market that, it becomes a more viable project rather than waiting until there's a tenant who can see that far in the future for their first building.

So for Netflix it's not trying to cat and mouse flexibility, it's where are we in the cycle? They identified a need, we've been negotiating, they've expressed to you directly their interest in how this site would fit their needs if the zoning were approved, they have signed Letter of Intent to show that on the business they're there, as are we. They're not here with a project because we haven't had time to design it yet, and we're waiting to find out if it's even worth spending all of the money to design the buildings knowing that this application is unique.

CHAIR SAYOC: So then a follow up to that is Netflix is there, we have a letter saying they need 550,000 square feet, so why not just say our project is Option One and just end it and make it simpler instead of saying but

in 30 months give us these options too? Why not just simplify everything tonight?

JOHN SHENK: Because I can't, and I won't, and the main reason is what Netflix wants the ability to grow into 550,000 additional square feet for them. That's their requirement of do we stay, because we can grow to be that big. That's what's important to them. They're not going to commit to us that they're going to take 550,000 square feet today.

They want options, and kind of in way in keeping with the options, we're also looking for options. If we build them 300,000 square feet, because we believe the other uses are good uses for the site, we want the ability to come back to you on a project basis with a senior project, with a housing project, or another office project.

CHAIR SAYOC: So let's take a reverse scenario. We say okay, we give you this cart blanche, and in 30 months you say okay, I'm going to build residential. And then in 31 months Netflix says we need more office space, but you've now used it for residential. What do we have as the Town now to have leverage and more office R&D space that the Staff Report has said is so critical since we're only at 2.6%?

JOHN SHENK: Netflix is taking care of themselves through the lease and their options and control and what they bind us with, as with any large tenant who would be looking at these kinds of buildings. They may not in the smaller buildings and existing buildings or other buildings in town, but the uniqueness of the buildings we're talking about, being bigger, attracting larger companies, they're going to make sure that they have optionality as they go forward. So Netflix is covered from that perspective, but it's not a commitment to us, and therefore not a commitment to you, that they're going to take and occupy all 550,000 square feet. It would be their vision, but not a commitment today. So under the very real scenario of today I can't go build anything else because they will be saying I have 550,000 square feet, so I couldn't do anything that would preclude that from happening. Am I on JELL-O? I don't mean to be.

CHAIR SAYOC: Well you've confused me. If we say tonight you have 550,000 square feet of only office R&D and all the other uses that you've requested, residential, multi-family, senior housing, is no longer on the table, then whether it's Netflix or any other company looking for R&D, you have up to 550,000 square feet.

JOHN SHENK: Yes. From an ownership perspective we're not willing to take the risk that it will get built out with 550,000 square feet over time. With Netflix now and their option it becomes more likely, but there are no guarantees, and override the 21.5 acres, and over the next ten years of options and tenants being out there and the subsequent ten years we're asking for in the Development Agreement, we want the ability to move onto a different use if the market is not there for more office.

Because of the flexibility we've asked for there, the optionality that we've offered to Netflix is without a cost, if you will. We're not charging them for their optionality, because on the one hand we have existing buildings, on the other hand we're not committed to a use and a product type in the future. We feel more comfortable giving them less expensive optionality or free optionality to grow into the site over time.

We don't know what the market is going to be in five years or ten years or 12 years, but whatever it is, we think transit-oriented, this location, the housing, the senior, the office I believe are great uses from a planning perspective, albeit I don't have a project for you, but I think the uses are appropriate, and in that way we feel comfortable that we can go forward and begin what is a very

ambitious redevelopment scheme with these new buildings, very expensive, but if we see out the all office option, great, there is nobody that would be happier, other than maybe Netflix.

But if that vision is not completed and we have a commitment that we have to start with the office anyway, we can't just start with something else, then in the future if the office market is not there, Netflix isn't there, any tenant is not there, we could come back to you and talk about residential or I guess senior, kind of a subset of the residential, and that's important to us to make that financial decision and go build these wonderful but somewhat unique buildings in the marketplace.

CHAIR SAYOC: Commissioner Erekson.

COMMISSIONER EREKSON: So to follow up on that line of thought, my judgment is that we should not do planning for a developer trying to speculate on a potential need from a potential client who isn't here, so when we do planning we need to look at what the true demand is across multiple users, because we don't have a single party, Netflix or Skype or anyone else, coming to us with a proposal. We had someone else testify in his professional judgment based on his experience that he would be comfortable with suggesting there is demand for 750,000

square feet of Class A office space in the next five-year horizon, so I would assume that your assessment of the market wouldn't lead you to that level of confidence.

JOHN SHENK: That's correct, especially given time. I think if we took today's market and I grew it and projected, maybe we'd get to those kinds of numbers, but I don't share that perspective that there is that much demand for this space right now, and I happen to personally believe there is a lot of economic uncertainly in the years to come.

COMMISSIONER EREKSON: Not in the next five years either, which is the time horizon that he was talking about.

JOHN SHENK: Correct. I see uncertainty in the next five years, and in terms of demand I just don't see that level of certainty, even in the next five years.

COMMISSIONER EREKSON: One follow up question. So there is some lack of definition to that, so typically people who invest in or finance or loan money for development projects generally are not inclined to put their money down, whether they're loaning it or investing it, based on the kind of lack of definition that you're talking about, so I guess I would be curious, have you been able to jump that hurdle that if the Town were to move

forward with this kind of flexibility in the Planned Development that you have real people who would loan you money or invest money in a project which has no more definition to it than this, or the positive way of saying it, with this kind of flexibility?

JOHN SHENK: Yes, I'd almost take it a step further and say with this zoning it makes getting financing for the building of new buildings. We're looking at it today. For Netflix, 200,000-plus square feet, Phase One. The idea that there is a Development Agreement, Lenders look see it, you know what? This can happen. There's a level of certainty around what the expectations are of the Town, of the site, and that we would be able to fulfill our obligations to Netflix going forward. So actually to me it works as an asset that the lenders appreciate when they look and they assess the project that you haven't seen yet, because it's being conceived, but that project is enhanced from a lender's perspective, and therefore an investor's perspective as well I guess.

COMMISSIONER EREKSON: Just a follow up comment. It would be helpful to have had someone testify to that who is actually one of those people, because I could express a different opinion than you could about that, so the people who might express different opinions about that, it might

have been helpful to have them do that, because I'm not sure that I would draw the same conclusion from my conversation with those same kinds of people that you would have just drawn.

CHAIR SAYOC: Commissioner Jensen.

COMISSIONER JENSEN: I just wanted to pose to you the question that was raised by one of our last speakers. Do you know what the occupancy rate is at the current industrial park on the property?

JOHN SHENK: I don't. I don't know percentage wise, et cetera. I know that we have not been renewing leases over this last nine months or so to preserve the ability to do something with Netflix, to do something with a new tenant, to redevelop, so that we would be able to tear buildings down, so they wouldn't be encumbered with leases. So the two buildings of the three against Winchester I believe are empty today, or almost empty. That's the real vacancy in the park. There are a few other small spaces that are empty today.

From a traffic perspective, the traffic report looked at the park being fully occupied, assignment of trips that didn't exist today, so in case anybody was thinking the traffic report may have missed some trips that should be accounted for in the background, that was all

done appropriately. But the front buildings are being emptied in hopes of being able to redevelop the front portion of the property first.

CHAIR SAYOC: Any other questions? Okay, thank you, Mr. Shenk. So this concludes the public testimony portion. I would like to take a quick break, let's say five minutes. That way we can digest everything we've heard and also just stretch our legs a little bit. So let's reconvene in five minutes.

(RECESS)

CHAIR SAYOC: That was a long five minutes. Thank you. We are now reconvening. Before we had our little recess we closed the public testimony and we are now going to ask questions of Staff. I believe there were a lot of issues that were raised and it might help us if you can respond to those that you heard, and then if there were any other questions or issues that Commissioners heard or themselves would like, we can ask you after your Staff response, okay?

GEOFF BRADLEY: Thank you. We heard from 11 public speakers and Staff has grouped the questions and/or concerns into five major categories and we're going to try to respond to those in aggregate, one by one.

I'm just going to quickly go through the five themes that we want to address. The first one is the public noticing. The second one is the traffic analysis before the proposal. The third one is school district related issues. The fourth one is just a general overview of the environmental review that was done. We'll attempt to touch on several of the questions that were expressed, and that's a total of four rather than the five I had mentioned.

The first one is public noticing. In terms of what was done for the Planning Commission hearing, the 300' mailing notice was done in accordance with standard Town procedure and policy. There was a public notice published in the Los Gatos Weekly newspaper. Additionally three signs, as we've heard about tonight, were posted on the property, two on Winchester and one along the Creek Trail. One thing we've talked about going forward, based on some of the concerns we heard tonight, for the Town Council at that stage of the process is we could look at an expanded public noticing and rather than coming up with an arbitrary number like 500' or 1000' feet, we could look at more of a natural neighborhood kind of boundary that would pick up some of these areas that we've heard about tonight that feel like they didn't receive adequate notice.

For the traffic analysis I'm going to ask the City's Engineer to discuss that. Thank you.

KEVIN ROHANI: On the traffic subject, the developer's traffic consultant did a comprehensive traffic analysis and study. That report was also peer reviewed by the Town's independent traffic consultant. A total of 19 intersections for this whole project were evaluated along Winchester all the way from Highway 9 to Hacienda in Campbell. Also on Los Gatos Boulevard and on Lark, a total of 19 intersections were evaluated. After reviewing everything analysis was done. Based on the project and the scenarios that were laid out and the mitigation that was proposed all of those intersections with their pro rata share to do the improvements would meet the Town's current traffic signal standard, which is a Level of Service D. None of them would fall below that. And that report again was extensively reviewed and worked on by the Staff and the consultants on both sides.

WENDIE R. ROONEY: Thank you. I'll cover the school district issues. As the Commission is well aware, on page 19 of our Staff Report there is information regarding the assessment of the impacts to school. It talks about the generation rates that were used in the General Plan. It actually then comes up with a projected student count that

a theoretical development of roughly 500 multi-family, of which 20% would be below market rate units, so 80% above market rate units and then 20% below, and we do see a distinction between an above market rate unit and a below market unit that is indicated in your Staff Report, and that ended up generating approximately 77 students to the elementary school district and 39 students to the high school district.

The reason we believe the generation rates are different and I think that you can look at this as a snapshot in time, and they're going to vary depending on the economy and what's happening in the community. I know in the community I came from we saw areas that had been generating no kids at all, because they were very mature neighborhoods with older adults living there, all of a sudden were generating kids, because a lot of young people were moving back home with mom and dad because they had lost their homes.

So we are seeing different nuances going on, however the two out of the three none of the Staff was aware of and I think Leslie indicated it was a number of streets I think that began with Via and we're not sure exactly where that area was, but of the two developments she mentioned, Varsona and Creek Side, we treat those both

as single-family and they have a much higher generation rate.

The Davis study that Leslie referenced that the Town also used with the General Plan actually has a generation rate of approximately .21 per unit, so .21 students per unit, and their study, which I must admit was a small sampling, it was I think 35 parcels on one and 70 parcels on another, showed .29 and .27, so higher than the Davis study, but not significantly higher, and of course when you compare it with the multi-family rates it's significantly higher, because multi-family generates less of course because of the size of the unit.

So in essence the one thing I can say is I know we have a different superintendant coming on board, but the previous school district superintendant, Richard Whitmore, agreed with the Staff's methodology. The Staff's methodology used a combination of City of Irvine generation rates because they had some similar product types to the town and they also had similar AP scores and it seemed like a very comparable sampling. And then in those areas where we didn't have the product types in Irvine that we have in Town we actually sampled our own data. So we took the school district's enrollment and we overlaid that across our housing types, and that's how we came up with our

generation rates, so it is real data and it's our data, and that was generated about a year ago.

Again, changes can occur because of the economy and what's happening in the housing market, but I think that really explains that the difference is more so based upon the fact that they were looking at a single-family type product rather than a multi-family, which is what this project would be most likely.

GEOFF BRADLEY: And we have Valerie Geier from Geier & Geier who is going to give us a brief overview of the work that her firm did on the initial study.

VALERIE GEIER: Good evening. My name is Valerie Geier; I'm with Geier & Geier Consulting. We prepared the expanded initial study, which really incorporated many technical studies that went through extensive review.

There are a lot of mitigation measures, which I hope you've read and everyone has read, that place a lot of controls on some of the impacts that we can't anticipate right now, or we cannot precisely define the impacts.

So things like greenhouse gases, which were raised in a public comment, we have a performance standard. The technical analysis was done in conformance with the Bay Area Air Quality Management District's guidelines for evaluating greenhouse gases. They have specific

significance thresholds for how much a project can generate in the way of greenhouse gases for construction as well as operation. This project and all four scenarios were evaluated with conformance with those guidelines.

The mitigation measures specify a performance standard so that whatever development does occur there has to meet those performance standards, so there is some assurance that whatever development is going to happen cannot have impacts that exceed the significance thresholds that were applied in this analysis.

With respect to trees, there was a concern about these. In Attachment One of the initial study there is a commitment from the Applicant to retain the trees along the southern and the western perimeter. The evaluation of the trees was done by the Town's consulting arborist in the initial study, so the impacts and the mitigation measures reflect the Town's policies and ordinance.

If there are any specific questions there are plenty of people here that are available to address any of the specific concerns on the environmental topics.

CHAIR SAYOC: Commissioners, any questions? Ms. Geier, I actually do have a couple.

The first, when we began this whole process was just the overall general question of we certified an EIR on

the General Plan, and this was not included in the General Plan. And so again I'm asking, when we certified the EIR we were told that we were certifying it on the maximum ceiling of build out that we anticipate over the next 20 years, and I understand it's not site-specific. So now we're including new criteria, or new scenarios, to consider in that maximum ceiling, and so how can this project not warrant another EIR if it's not included in the one that we certified last year?

VALERIE GEIER: Well, whether an EIR is required has more to do with whether there is a significant impact that can't be mitigated to a less than significant level that the Applicant won't agree to implementing. So if as in the case of this initial study, or this environmental document, the mitigation measures mitigate all the impacts to a less than significant level, so an EIR was not triggered at that point.

But in the case of the General Plan, under Mandatory Findings of Significance, which is the very last section of the initial study, we go through a very extensive discussion of the cumulative impacts and the cumulative impacts are considered to be what was anticipated as a development or growth level in the General

Plan EIR, and we compared this project to the levels that were assumed in that EIR.

For Scenario One it was within the levels that were assumed in the General Plan EIR analysis. Now it takes up a large portion of that, but it was within the levels that were evaluated in the General Plan EIR, so the cumulative impacts associated with growth from not build out, but General Plan development, because the General Plan EIR didn't look at build out, it looked at development within the next ten years. So this project's contribution to the cumulative impact and the cumulative impacts associated with that level of growth is still okay, the analysis that was done in the General Plan.

Also in the case of Scenario One, the Vasona Light Rail Element adds another set of policies on top of other General Plan policies that allow for this more intensive use.

But in the case of residential, where development level may exceed the General Plan EIR's assumed level of a development, then the initial study examined what physical impacts of more growth would be on top of that, and that's kind of all discussed in the last section of the initial study.

CHAIR SAYOC: And then two more specific questions, the first on greenhouse gas emissions. When doing your analysis are there different thresholds for residential versus commercial, and if so, were all of the different scenarios analyzed when conducting the initial study?

VALERIE GEIER: The Air District has two thresholds. Eleven hundred metric tons per year for a project that doesn't have a specific use that generates a service population. They have another threshold, which I think is 4.6 metric tons per service population. In terms of the threshold it's just a set threshold, so the different uses do generate different levels of greenhouse gases for operation, so the greenhouse gas analysis takes that into account, takes into account the types of development that are going to occur. It estimates levels.

For all four scenarios they all exceeded the Air District thresholds. There was then an application of a lot of green and sustainable development measures that must be done in order to meet that threshold, so in Architecture and Site they would have to demonstrate that whatever development scenario, specific development plan, that they have has to contain these specific measures that are

required to reduce that level down to the performance standard, which is the Air District threshold.

CHAIR SAYOC: And then my last question is regarding NPDES compliance. On the Staff Report it says that the Scenario One, all office development, reduces impervious surfaces from 15.8 to 14.8, so the hydromodification management permit is not triggered. But it then says Scenarios Two, Three, and Four have not been considered for the project site, because you don't have those impervious areas; basically they're not available. So assuming we go to Scenario Two, Three, or Four, when would that analysis take place?

VALERIE GEIER: That would be at Architecture and Site.

CHAIR SAYOC: And then I'm assuming if there are significant findings found at that point would further mitigation measures be included to ensure that whatever is found for Scenarios Two, Three, and Four are then mitigated so it's still a Mitigated Negative Declaration?

VALERIE GEIER: Well the NPDES requirements have to be met regardless of CEQA. Because they would have to meet the Town's requirements as well as the C-3 requirements, that would in general, if they can meet that, that's the threshold that is the CEQA threshold, so if they

meet that then it doesn't trigger any additional environmental review.

CHAIR SAYOC: Okay. Any other questions? Okay, thank you, Ms. Geier. Are there any other questions on the school district, traffic, or the public noticing that Staff has just given a quick synopsis to? You can ask any question.

COMMISSIONER TALESFORE: I have a question of Staff. I don't know who would like to answer it, but just to clear up the PD Ordinance for this site for the moment, there are many configurations and normally the way we've been receiving PD applications is that they're pretty much drilled down, and when we approve it, that's it. I mean it's the footprint. So can you tell me where this falls with that understanding?

SANDY BAILY: Pursuant to Town Code, Planned Developments are typically expected to be a conceptual plan, and over the past several years we have been seeing more specific plans being submitted where we have specific setbacks; even down to the architecture has been detailed. That is not a typical Planned Development. So historically you have been treated to seeing more precise plans and therefore it's easier for you to realize what the development is going to be. So this proposal, even though

there are four scenarios, is actually a true Planned Development, because it is conceptual in nature.

COMMISSIONER TALESFORE: Okay, that is what I remembered and I just wanted to clarify that for some of us who may not remember that.

WENDIE R. ROONEY: If I could add, I think you also asked, so the Commission would then review the details of that once the Architecture and Sites came before the Commission. At that point they'd see the details to them.

COMMISSIONER TALESFORE: That could be approved or not approved, or modified?

WENDIE R. ROONEY: The uses could not be denied if they're consistent with the PD, and then the development standards that are established in the PD would prevail, because they are established in the PD. The Planning Commission would have discretion over how the buildings look; colors, materials, and things like that. Setbacks are established in the PD. Anything that is not established in the PD the Planning Commission would have purview over and be able to modify.

COMMISSIONER TALESFORE: I'm not understanding that I don't think. So you just said that right now this is a conceptual PD, the four scenarios?

WENDIE R. ROONEY: True, but it does lock in the uses, it locks in development capacity, which would be square footage in this case or number of units, it locks in height, it locks in setbacks, setback predominantly for higher story buildings, it has greater setbacks for the higher story buildings.

COMMISSIONER TALESFORE: So basically what we're seeing here, of the four scenarios, this is it, even though you're telling me it's conceptual? No? I'm misunderstanding. Can somebody explain this to me?

CHAIR SAYOC: The way I understand it, and please correct me if I'm wrong, think of it almost as the PDs that we have been approving in the past. It provides the footprint and agreement. So if we say 85', it's set at 85'. Those are the details of the plan that will be coming forward.

WENDIE R. ROONEY: If I could correct on thing though. It does not dictate footprint.

COMMISSIONER TALESFORE: So the footprint can be modified?

WENDIE R. ROONEY: Yes. It establishes setbacks, so if you look at the plans you'll notice that there are various setback lines and it does establish those setback

lines from the major rights of way and trail and things like that.

COMMISSIONER TALESFORE: Okay, thank you.

CHAIR SAYOC: Commissioner Jensen.

COMISSIONER JENSEN: Do you mean to say the PD locks that in, or do you mean to say that the Development Agreement locks that in, or do you mean both together lock them in?

WENDIE R. ROONEY: The PD locks in all the development standards that are outlined in the PD Ordinance. What the Development Agreement does is vest those for a given period of time in addition to many other things, but that's in relevance to this one question.

COMISSIONER JENSEN: So basically what the Development Agreement does is it takes the burden of obtaining entitlements off the developer, is that right? By entitlements I mean going through the permit process and allowing deciding bodies the discretion to decide whether they like it or not. The reason he wants a Development Agreement is that he doesn't have to get entitlements.

WENDIE R. ROONEY: Actually they have to go through the entitlement process. It doesn't relieve them of the entitlement process. How I would review it is it gives some certainty to the property owner of what can be

developed there. It doesn't relieve them of any additional process with the Town. It may narrow the Town's discretion on it.

JUDITH PROPP: What the Development Agreement does, I mean the whole application before you is the developer has asked for an approval of the PD's standards and the PD Ordinance, and that's what's going to govern. It's reiterated in the Development Agreement, but this body as well as Town Council is making the decisions on the entitlement if that's what they decide to do at this first stage.

CHAIR SAYOC: Any other questions? Okay. Commissioners, this is how I'd like to propose we break down this discussion, and I'm certainly willing to hear some other suggestions. Mr. Bradley, do you have a slide on the major issues?

GEOFF BRADLEY: We do, and we can bring that up now.

CHAIR SAYOC: Okay. And just to break it up, it encompasses use, height, density, and then we get into the specific details of the Development Agreement and the benefit. So I think first and foremost what I'd like to hear just is discussion, see where we are in agreement, see

where maybe further discussion could get us closer to some type of consensus. Commissioner O'Donnell.

COMMISSIONER O'DONNELL: I'm not sure that I want to do that. It may be a good thing to do, I'm not quarreling with that. I've been sitting here, as you have, for a few hours. I have some general things that I want to say. I probably even know where I want to go this evening, but it doesn't have much to do with checking the boxes. So if you want to go through that and people want to do that, that's great. At some point I simply want to relate to my thoughts and comments on all the things that I've heard tonight and come up with a couple of possibilities that we might follow, if there was more than one of us that wanted to do it. So that's simply to let you know I'm not quarreling with what you're saying, but I can't be very helpful to that process.

CHAIR SAYOC: So what I'd like to do first, and this is one example of doing it, is I want to see where it is we have consensus, and then I'd like to get those areas at least put away so that if we are going to have a bulk of discussion that at least we know where to concentrate the discussion. If you have some thoughts that you'd like to go ahead and share with us, I think just hearing other

people's feedback sometimes helps us move in a general direction. Commissioner Jensen.

COMISSIONER JENSEN: May I suggest that I suspect that Commissioner O'Donnell thinks that I think that it may not be useful to go through a line item analysis if the Commission were to believe that we are not ready to take on those individual issues tonight.

COMMISSIONER O'DONNELL: That's one of the things I wanted to say, but I will be glad to throw out, as you know me, I'm not bashful about doing it, but it might be helpful to kick this thing off just to tell you kind of where I am and then if everybody else says no, we can deal with this, that's great, and I'll be benefited by that.

But I've been sitting here tonight and I have to tell you, there are a lot of good things that are being said, but I guess the first thing that disturbs me is this is a big project that I happen to believe the community has not been very involved in. It's got nothing to do with a 300' notice. We have bent over backwards on various projects like the North Forty and the Boulevard and all that stuff to involve the community. I can tell you as a Planning Commissioner this was like the sun coming up unexpectedly to me, and if that's the case then I am very empathetic to people who didn't know about it. So I don't

quite understand, although I can conjecture, why it's moved forward this way. This is a very significant project and we're treating it differently than I think we should.

Notwithstanding let me also say that when we dealt with the Netflix issue before we were very cognizant of how valuable somebody like, there's only one, Netflix is to this community. Tonight we've kind of heard back and forth on that. So I want to be careful that if somebody came in here and said look, here's what Netflix wants and they're going to do it, I'd feel fairly comfortable. It wouldn't have to be 550,000 square feet. If they want to expand into 550,000 square feet, I can understand that too. But what I can't understand, on the one hand Netflix is right there. On the other hand, we don't trust them. We're not sure they're right there. We don't know if we want senior. We don't know if we want this. We want you to give it all to us, and oh by the way, we want you to do a Negative Declaration on what we don't quite understand what we're doing.

It flies in the face of my driving habits—I go to Courtside Club four or five times a week—to tell me this project is not going to make the traffic much worse than it is today with all the mitigations suggested. So again I have to fall back on simply empirical data. You did this

before on Dittos Lane when they assured us it was going to be swell, so I have problems with that. Let me go through my little laundry list here.

So notice is a problem. That can probably be solved, because it's going to go to the Town Council, so everybody will get a chance at this, so I wouldn't stop the thing right now because of the notice.

The comments about the change of community I'm very empathetic with. I've been in this community for 40 years. In many respects I wish we were 40 years ago. We're not. This happens to be a very good piece of property where you could put something like this development; one of the few pieces of property in town where you could do it, and I think it could be a very good project.

I wish I knew what the project is. I've heard what it might be, and we don't even know, assuming we went along with the multiple stories, whether it ought to be four or five. Staff's recommendation is four. And yet I heard all this tonight about we really need five. Staff is very frankly bending over backwards on this project. The only thing I see them fighting about is four versus five, and I can't believe that's a serious fight. So I don't know, but it strikes me as odd. They say, "Forward a recommendation to the Town Council with strong approval of

the proposed Planned Development including the following," with three things: R&D office use is not residential, height at four stories, and revised trigger language. I told you the trigger language could work in a reduction of our office R&D, which I find bizarre after we hear how important this is. So that bothers me.

The late delivery of documents. If somebody did this who was not the Town and gave us all the documents they've given us this week, a continuance would have been automatic. I have been asking for the Development Agreement. I don't suppose it exists, I don't know. I got a term sheet. To me the Development Agreement is a very significant document. I got a term sheet at six o'clock tonight, and we're supposed to just get it instantly, understand it, and move on. I don't think that's a good idea.

This 20 years on this thing, I have serious questions as to what we're getting for giving somebody 20 years. It may be the bright thing to do, and again, if I knew more about the project it would make it easier to say we could do that.

I don't quite understand why we're using a PD versus a specific plan, assuming for the moment that a specific plan would give us more information. We don't seem

to have required as much as we should have from the Applicant. I can understand the Applicant. He's in a different business than we're in.

As far as CEQA goes, I've commented on that.

So the reason I have trouble with all that stuff is it assumes facts not in evidence. It assumes we're ready to get there, and for the reasons I just expressed I would either tell the Council I wouldn't approve this project as presently constituted. I might very well approve a Netflix project or one that was like a Netflix project, but to come in here and say you pick and choose and it's going to be one of these things and we don't know exactly what it is, we don't know the impact on the schools, because we don't know whether we're going to have 500 new units or whether we're going to have a bunch of seniors that aren't going to add to the school problem, I don't know how to handle that. That's why I don't think I can do that. So I'll throw that out for whatever it's worth.

CHAIR SAYOC: And in your sharing your comments you actually have covered a lot of the issues there. Actually, this is such a significant one I'm sure everyone has something to share. Why don't we just come down and just share your thoughts, and it sounds like eventually

just through our discussion we'll find those areas that we are in agreement on. Commissioner Ogle.

COMMISSIONER JANE OGLE: My thoughts really are very similar to Commissioner O'Donnell's.

I feel that I really haven't had enough time to digest any of this information and I feel very, not confused, I get what the idea is, but I'm concerned that such a sort of loose idea is coming forward to us. It might be 550,000 square feet, but if that doesn't work out it might be senior housing, and if that doesn't work out it might be residential housing, but we're not going to talk about it now and maybe in 20 years we'll know. That's a hard way to plan. Certainly as we did the General Plan we think in those terms, because we could have thought about that and every single parcel that we looked at with the General Plan, so I think I absolutely agree with Commissioner O'Donnell that at least we need to continue this for another meeting so that we can have more time to learn and digest this.

CHAIR SAYOC: Commissioner Talesfore.

COMMISSIONER TALESFORE: I'm not going to be as long. Commissioner O'Donnell pretty much covered all the notes I have around here, but I will say that for a project that really signals quite a dramatic change in our traffic

and the way that whole area will be utilized, the developer will have 20 years to do what he's going to do and we've been given 3.5 hours or whatever this has been. I really consider this a study session. I couldn't possibly… Well I could, but they probably wouldn't like what I was going to say.

I think this is quite interesting. I think it's an exciting project. I'd love to have Netflix stay. They've been great. It's a good opportunity for all the right reasons. Not like this. I don't know what I'm approving. I couldn't do this. If my children brought these choices for whatever they wanted I couldn't go along with it. I mean I could go ahead here and give you all the reasons, but I don't think I need to.

CHAIR SAYOC: Commissioner Erekson.

COMMISSIONER EREKSON: At the beginning of the Staff Report Ms. Rooney said, "This is a very complex project," and that it was asking us to be out of our comfort zone. So I would absolutely agree with both of those statements, and as my wife would tell you, I am quite comfortable out of my comfort zone normally. This particular project has put me out of my comfort zone of being comfortable out of my comfort zone.

The development that's envisioned is clearly something that at a general conceptual level is something that would serve the broad interests of the Town, so it should be developed something like this, whatever something like this turns out to be. What I'm struggling with is the balance. What is the proper balance between several things at a conceptual level? What is the proper balance between the risk to the Town and the risk to the developer? Both parties would want to lower their risk. The developer would want to lower his risk. The Town would want to lower the risk of undesirable consequences for allowing something. So what is the proper balance between the risks between the two parties? What's the proper balance between the benefits that the Town will derive from whatever it is and the benefits to the developer in this case? Those benefits are different and there are two different parties, and so in a good agreement between two parties one isn't going to extract more benefits on their side than the other party is comfortable with. It becomes a balancing act between benefits.

The Applicant has talked about a shared vision for the place. I would suggest that the Town would have a vision for the area and the developer would have a vision. They wouldn't be a shared vision, because they're two

different entities, so one would need to figure out how to balance what might be the vision of the developer in its absolute purest sense and the vision of the Town in a way. So that's another balancing act. The Town would need to balance and the developer has an interest in the length of the agreement. What is a reasonable length of time? And so to figure out what the proper balance between what the reasonable length of the agreement is is something that the two parties have to come to some agreement also.

So I'm struggling with how we figure out what the right balance is when we then talk about what are the uses of the space, because in and of themselves any of the three uses seem appropriate to the space, but it's difficult for me to fully understand what the implications are and what mitigation measures might need to be in place given I'm not completely sure what the end development is, and so it would make me uncomfortable recommending to the Town Council a Mitigated Negative Declaration and a particular Mitigation Monitoring and Recording Program that I'm not confident that mitigation measures that might be needed can be fully understood at a level that at least I'm not comfortable with right now when there is a broad range of possibility of development, because if I understand correctly, even the four scenarios are clearly represented

as examples and not even explicitly as four scenarios; they're simply example scenarios. So the actual development of the property over time may be as likely not to be any of those four scenarios as it will be to be one of those four scenarios, so one is not even declaring I'm going to choose one of the four, I'm going to choose something that's even not named at this point in time and it may or may not look like four scenarios that we've examined, so that makes me uncomfortable.

Also the community benefit is significantly defined in the term sheet of the Development Agreement. It's not an uncomplicated community benefit. I received the Development Agreement at the same time that other Commissioners did this evening. Although we were given it electronically earlier, I didn't have time to read it before I got here. So it's complicated and the significance of the project I don't feel like I've had time to really fully understand, so I couldn't take action on recommending whether this was a reasonable or appropriate community benefit.

At the same time I have opinions about height and density and mass and scale and those kind of things, the detail of that, what I might think about those I don't think is particularly relevant at the moment given that I'm

outside of my own natural uncomfortableness in my uncomfortable zone.

CHAIR SAYOC: Commissioner Jensen, how do you top that?

COMISSIONER JENSEN: I go really fast. I think the consensus is that the Planning Commission feels that they have not had enough time to digest all the information. I think the consensus is that we are uncomfortable with having open-ended scenarios that are proposed to us by the developer. I'm certainly uncomfortable with the notion of a Development Agreement that I haven't seen, and as I said earlier, I've been doing planning in Los Gatos for quite a long time and I've never seen a Development Agreement. Never. So it makes me think that this is something special that's being done for this particular developer in the hopes that Netflix will come in. So I say to Netflix that's great, we love you, come in with a project. Or Hyatt, come in with a project. But to be asked to make a zone change for a variety of scenarios that include a possibility of 500 units that we didn't consider in the General Plan as part of over overlay zone makes me very, very, very uncomfortable. I could imagine if we just independently had a 500 unit residential development there

would be riots in the street if we had as much notice of it as we had for this project tonight.

And speaking of the notice, I absolutely agree, I think it's been inadequate. The 300', yes that's our standard, but reasonable minds could have determined that that was inadequate for the scope of this project. And having gone out to the site I feel confident in saying that there is no way that anyone not knowing that this project existed would ever notice the sign on Winchester. You have to look behind the railroad tracks and across the street and away from Courtside, which everybody's always looking at. So personally I don't think that's adequate notice and I think that the people in the Town are entitled to come and be heard on this.

That all being said, transit-oriented mixed-use development on this lot is perfect. I've said other lots aren't perfect for that kind of thing. This is it. But I would very much like to have a more definitive development and I would very much not like to be giving lots of optionality, a word I've never heard until tonight, to the development and none to the Town for 20 years.

CHAIR SAYOC: I think you're right. I think we do have consensus. It feels like I say it with so many of our parcels, but because we have so many parcels, this one is

26 acres, and with the North Forty we have spent tremendous time and effort on 40 acres to get the Town involved. We spent tremendous time and effort on our General Plan to get the Town involved. And I think it would be a tremendous setback to all of us if this were to be rushed forward without the same type of input that we've been asking from our town. We pride ourselves on transparency and like I said, I feel like I was sidestepped with this, that this just came to us last week, and if we feel this way I'm certain that many of the residents that will be directly affected by this, not only with aesthetics but with traffic, will certainly feel that way.

And so certainly I agree with all the comments that my Commissioners have said today in terms of uses. I can see strong arguments for all of the uses that have been stated, the strongest argument being the research and development and the lack of that in the Town, but the possible combination of those three in amounts that we still do not understand just makes me very uncomfortable, and as a planner that's not the way I think we should be proceeding.

So with that said I think we do have consensus. I'm going to look to the Commissioners for someone to start a motion and someone to second it. Commissioner Jensen.

COMISSIONER JENSEN: My motion would be to continue this matter, and I don't know that we necessarily need a different plan unless the developer is ready to come forward with something specific, which would be very nice, with a specific tenant or a specific project or take some of the scenarios off the table, that would be very nice. But we really need to understand exactly what is being proposed and we need time not necessarily for more information or redesign, but we also need time for the public to understand that this project exists and that they can come in an be heard on it, and I for one echo Commissioner O'Donnell in that I would really like to see the Development Agreement that is going to tie the hands of the Town for 20 years, and we haven't seen it.

So my motion is to continue. My only question is what would be an appropriate amount of time to let everybody in the town know that this is going on and to get some appropriate information, and I would look to other Commissioners for a suggestion about how much time that might be.

CHAIR SAYOC: For the Applicant sitting here, I think it would benefit them to know what exactly we would like from them. I just heard you say that the uses are

appropriate, but what specificity do we want from them? I think that would be helpful.

COMISSIONER JENSEN: I would like to know to the extent possible what exactly you plan to do. I am very uncomfortable with the open-ended notion of you having an agreement with a potential leaser and the Town saying well that's great, happy to have you do that, because the Town I don't see getting anything out of that agreement. I'd like to see the agreement. I'd like to hear much more specific information about why five stories is required, what tenants are asking for that, what tenants have it, what kind of green building techniques you might put in, how you might improve the trail? I would like to know more about your concept for development here, and I would really like to hear you say, "We have a specific thing in mind." You may not come back and do that, but I sure would like to hear it.

CHAIR SAYOC: Commissioner Talesfore.

COMMISSIONER TALESFORE: I'm glad you asked about us addressing. I would second continuing this, but it has to be with direction, but I'm not quite sure where I would go with the direction. And we could talk about the uses, but I still have questions about the uses, so how will we find out that information? Do we email the Staff? Do we

maybe set up during this time of continuation that we could have another study session?

One point is on page 22 on the Housing Element. It says, "The Town can meet it's RENA at all income categories," so I would question why we need a mixed-use development here, and I haven't even analyzed. So I need more information. I need more time to talk to somebody, a fellow Commissioner. I don't know what I need. I need more time.

CHAIR SAYOC: Commissioner O'Donnell.

COMMISSIONER O'DONNELL: I think the minimum thing we need is a continuance to allow the community to have some input and to have us read the documents we just got. We still haven't gotten a Development Agreement and I think it's fair to say perhaps it doesn't exit, and I can understand that. That's a negotiated document that may in part be affected by what we do, I don't know. So I'm not criticizing anybody for not having a document that may not exist. We did get a term sheet, but we didn't get it until today, and I didn't see it until 6:00pm this evening. I don't think that's reasonable. We got a number of documents online, but very late in the game, and I'm not criticizing Staff. You folks are really busy with lots of things. But

it becomes impossible, so I'm going to stop talking about that.

So I'm saying we clearly have consensus on continuance. Where we may not have consensus is direction. My feeling is at some point the Applicant could say thank you very much, Planning Commission, I don't agree with you, let me go to the Town Council. And that's fine. And the Town Council may say thank you very much, Planning Commission, we don't agree. And that's fine. But I think we at this point would like a continuance.

Maybe I'm wrong, but I've heard a consensus saying this Planning Commission finds the open-ended nature of this project too open-ended, and without trying to give anybody directions on how you narrow it down, I've heard I think almost each one of us say it's too open-ended, so one of the directions would be could you please narrow it down. The best of all worlds is to come in and say I want to build 550,000 square feet eventually, and maybe 15-20 years works out under certain circumstances.

But if I've heard correctly, continuance was consensus and narrow it down is consensus. I don't know if there's anything else that's consensus. I'd like to know whether the maker of the motion agrees with that.

COMISSIONER JENSEN: Yes, I would like to see it as specific as possible. I'd like to see the Development Agreement if it exists. My major concern, quite honestly, is I want the public to be aware there is a project and allow them the opportunity to study and come down and tell us what they think, and I don't think they've had that, so the question in my mind is how much time is reasonable to allow that to happen, and if the developer decided that he needed to go out to communities he hasn't reached out to, like the La Rinconada area, it might allow him time to do that as well, or for Netflix to come in and give us a very specific idea, even if they don't sign an agreement, of what they're looking for.

COMMISSIONER O'DONNELL: I want to second your motion, but I take it your motion now includes… Or you didn't, because she just changed…

COMISSIONER JENSEN: No.

COMMISSIONER O'DONNELL: I asked that we add the additional thing that you've added.

CHAIR SAYOC: Okay, hold on. Hold on.

COMISSIONER JENSEN: I don't mean to require them to go out and meet with neighbors.

COMMISSIONER O'DONNELL: No, no, to narrow it down.

COMISSIONER JENSEN: Yes, I would love to see it narrowed down.

COMMISSIONER O'DONNELL: That's all I'm asking.

COMISSIONER JENSEN: Yes.

COMMISSIONER O'DONNELL: And you can second it if you want.

CHAIR SAYOC: Okay, so we have a motion for continuance by Commissioner Jensen, and it was to provide as much specificity as possible, and she listed a whole bunch of examples. Development Agreement, definitely we're in consensus. More outreach to the neighborhood. There is nothing specific as you must do this, but these were examples that were given by Commissioners Jensen, Talesfore, and O'Donnell. Commissioner Ogle, Commissioner Erekson, if you have more examples that you would like to suggest, certainly I think that would be helpful. Commissioner Erekson, you were going to say something?

COMMISSIONER EREKSON: The only thing I would say in terms of direction, I indicated that I think there is a balance that needs to be struck, so I guess I would generally agree with the motion but I would suggest to the Applicant, you've heard a lot of feedback. I can't imagine that you don't have cues from the Planning Commission in terms of the concerns. The balance that we're seeking,

we're uncomfortable with at this point in time. That's how I would understand it. So you have to decide how you want to tilt the balance in a different way that would make us more comfortable with it, but without us being prescriptive about that, because we don't need to design your development for you. That you should do, and we should react to your development, so that's what I would think.

CHAIR SAYOC: Now what I'd like to do is I'd like to reopen the public portion for a very specific question to the Applicant.

COMISSIONER JENSEN: Madam Chair, there is no second to the motion.

CHAIR SAYOC: Actually I think I did hear a second by Commissioner Talesfore. Commissioner Talesfore, are you still seconding it?

COMMISSIONER TALESFORE: Yes.

CHAIR SAYOC: Okay. So Mr. Shenk, based on what you heard in our discussion, how much time do you think you need to provide the specificity that would assure you to move forward with the project and to also engage with the public that is going to be directly affected? La Rinconada was mentioned, the school districts. But just traffic patterns on Winchester Boulevard that almost everyone in

town utilizes. So I want you to give that some thought and tell us how much time you think you're going to need.

JOHN SHENK: What an interesting place here. I don't think there's enough time to come back and give the specificity that we're not in a position to give to you. What the request is is for this zoning, almost like any other zoning that says you can have a house that fits in this box of X heights and sizes and these kinds of things, but it doesn't tell you what the house is. What we're asking for is the zoning that allows things to happen within a box, and I because I don't have where the parcel line may be in the future between the office and the residential, the senior and the residential, or where all the office parcels would be in the all office scenario, there's not.

There's not an amount of time where I'd be able to come back and share that, because we're not at the position of a project. We're at the place that we're in today and it's important that you understand from my perspective that back to Netflix and their timing, to meet their needs and expectations and timing. This is all good feedback. They're understanding a lot about their to be proposed project that would fit within the zoning from the feedback that you've been sharing tonight.

They, and we, need to also understand, because it's very different from what the current zoning would allow, from the Council as well. What do they think about this? If we were to go through a North Forty kind of process, one, because I don't have a project in mind I don't know that we'd end up in any clearer place, and two, it would fall way outside the Netflix timeline for can we pursue this? So for that reason I will beg of you and ask that all the feedback move on to Council, more noticing, et cetera, so that we can get the feedback again from Council on this land use application.

CHAIR SAYOC: Okay, I am now going to close the public hearing. I think we've heard what we needed to hear. Thank you, Mr. Shenk.

COMISSIONER JENSEN: Madam Chair, as the maker of the motion, Mr. Shenk, as you have all evening you've been very articulate and very polite and not answered the question. The question was how much time do you need and you said well I can't possibly tell you. That's nice. So my only option, given your answer from the way I feel about what's in front of us, is to send it to Council with a recommendation for no. That would be my opinion. That way I could withdraw the motion. We could vote on the motion to

continue, but given your answer I couldn't do anything except forward it with a negative recommendation.

CHAIR SAYOC: Let's be orderly. First of all there was one motion and it was a motion for continuance with a second. So are you now withdrawing the motion?

COMISSIONER JENSEN: We can vote on it. We could always vote on my motion if the Commissioners want to, but given Mr. Shenk's position I don't know how productive that would be.

CHAIR SAYOC: Okay. Commissioner O'Donnell.

COMMISSIONER O'DONNELL: I understand Mr. Shenk's position and were I in his shoes I might have the same position. But I'm not in the same shoes. We have a different position. I think it is important that the community be notified and be aware and be involved. That can be done one of two ways.

We can send it on to the Council, or we can see now that the community gets some notice. The only thing we can control is that. I'm not fixed in my mind at the moment which of those two we should do, but I have a feeling that simply saying fine, send it on to the Council may not be in the best interests in the long run. If that's the case, it's just a thought, the continuance would still be a good idea.

I would tell the maker of the motion if she doesn't really want to support that motion I would be prepared to make a motion that we simply continue the matter for the date that you all want to allow the community to be better advised. We can come back to the hearing. If he wants to stand up and say ditto, that's fine, although ditto is a bad word at the moment. If he wants to say ditto, that saves us a lot of time, and then there's plenty of time to always say we recommend no.

CHAIR SAYOC: So I want comments on the only motion on the floor, which is continuance.

COMISSIONER JENSEN: Can I ask a question of Staff since I'm the maker of the motion and I have the option to withdraw it? I assume that Staff has a date in mind for Town Council hearing. What is that date?

WENDIE R. ROONEY: June 6th. That's a tentative date pending action at the Planning Commission. We are also looking at alternative dates right now for the Planning Commission so that we'll be able to give you that information.

COMISSIONER JENSEN: Okay. I'd like to withdraw my motion.

CHAIR SAYOC: Motion has been withdrawn. Commissioner O'Donnell.

COMMISSIONER O'DONNELL: I want to make a motion to continue the matter to allow better notice to the public. The Applicant can do whatever the Applicant wants to do, but that the hearing then be set, they're checking on a date certain, and that we continue for that sole purpose: better notice to the public so that the public will be able to feel like they're part of the process and make the comments they want to. The Applicant will have the option of course to do something with the proposal to make us more comfortable, or to continue with what he presently believes, and that is the final analysis is that only what the Town Council thinks is important.

CHAIR SAYOC: So we have a new motion from Commissioner O'Donnell for a continuance to allow for more public notice. Do I have a second on this? Commissioner Erekson.

COMMISSIONER EREKSON: I'd second it, but would want to add one thing. I would want to continue the item to both provide the public the time to understand the project better, and for the Commission to understand the project better, and I would note in my second we provided the Applicant the opportunity to tell us what would be convenient for him. He chose not to answer that question, which is his prerogative and I would respect that, so

setting the date certain should be driven not by the interest of the Applicant but by the interest of the Commission and the interest of the Commission to respect the input from the public.

COMMISSIONER O'DONNELL: I would be glad to so modify my motion.

CHAIR SAYOC: So we have a modified motion and I believe we have a second by Commissioner Erekson. Commissioner Talesfore, did you have a comment?

COMMISSIONER TALESFORE: I do. I would have seconded it as well, and the reason is I think the Applicant spoke eloquently about a shared vision, and I believe this would give the community a time to express how they feel with this notice, but also for you then again to hear and bring everyone along on a shared vision. You can't do it to people, you need to bring them along, and when you say shared vision, this is sort of the process you have to go through. I don't think that we're trying to elongate this for any reason; it's just that I don't think any of us want to be accused of rushing this through without a whole hearing.

That being said, the other thing I wanted to mention I forgot. Oh dear, out of my head, damn it.

CHAIR SAYOC: Okay, so we have a motion. We have a second. Are there any other comments to the motion for continuance?

COMMISSIONER O'DONNELL: We don't have a date yet.

CHAIR SAYOC: Staff, do we have a date?

WENDIE R. ROONEY: We'll give you renoticing anyhow, so we're not going to recommend a date, because we want to go out and renotice, so we need to take a look at our schedules. Right now we only have schedules until June 22nd, so we have some options. It could be in June, it could be early July. Potentially there is a May date also, but I don't know if we would make that date, so at this point in time it wouldn't to a date certain.

COMMISSIONER O'DONNELL: Let me just make this one request of Staff and the Planning Commission. I'm leaving on a trip on Tuesday. I will be back on June 1st. I would be most disappointed if you set it in May. Others might not be, but I would be most disappointed, so I request that it be set in June or as early June.

CHAIR SAYOC: Okay. Commissioner Talesfore, did you remember what you were going to say?

COMMISSIONER TALESFORE: Let me publicly apologize. But I do remember, and what I was hoping that it

would also do is give this Commission an opportunity to digest what they've heard and come to some of their own conclusions, because we haven't been that specific either. There has been multiple uses here and I haven't heard a consensus about what this Commission thinks the uses should be, and I'm hoping that we would be able to apply some of that time to come up with that.

CHAIR SAYOC: Any other comments? Okay, so we have a motion for continuance. All those in favor say aye. Anyone opposed?

COMISSIONER JENSEN: I'm opposed, though I believe there should be more public notice as I've said. I'm opposing it only because there's a proposed June 6th meeting with the Town Council. The Town Council is the ultimate decision maker in this. I think the time between now and June 6th would give the public time to be heard in front of the ultimate decision maker and I think given what Mr. Shenk has said about this position that another public hearing with the Planning Commission would not be a productive use of our time.

CHAIR SAYOC: So the motion passes 5-1 with Commissioner Jensen dissenting and Commissioner Bourgeois recused. Ms. Rooney, if I understand you will be renoticing this with a date?

WENDIE R. ROONEY: Yes. Once we determine that date we'll be renoticing and with the expanded noticing.

CHAIR SAYOC: Okay, thank you.

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

Los Gatos Planning Commissioners:	Marico Sayoc, Chair Marcia Jensen, Vice Chair Charles Erekson Joanne Talesfore
Director of Community Development:	Wendie R. Rooney
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P R O C E E D I N G S:

CHAIR SAYOC: There is one public hearing tonight. It is 90-160 Albright Way and 14600 Winchester Boulevard, Planned Development Application PD-10-005, and Mitigated Negative Declaration ND-11-004. Who will be providing today's Staff Report?

WENDIE R. ROONEY: Thank you, Madam Chair. Geoff Bradley, our contract planner, will be presenting the majority of the items with some assistance from other Staff.

GEOFF BRADLEY: Thank you. My name is Geoff Bradley, consulting planner.

Before you tonight is a proposal seeking a rezone, the zoning approval that would expand the range of allowed uses on the property at the southeast of Winchester Boulevard and Highway 85. This item was continued from the May 11, 2011 Planning Commission meeting. There are additional copies of the Staff Report on the table in the lobby. We do have one additional Desk Item, as mentioned earlier, which includes eight items of correspondence.

The purpose and role of the Planning Commission tonight is to review all of the information before you, receive public testimony, and forward a recommendation to

ATTACHMENT 9

the Town Council on the requested changes to the Planned Development zoning for the property. The project proposals regarding the site and its proposed buildings would come before the Planning Commission at the Architecture and Site stage.

Specifically tonight Staff is asking the Planning Commission to make a recommendation on four different items: the Mitigated Negative Declaration and its corresponding errata sheet, the Mitigation Monitoring and Reporting Program, the Planned Development Ordinance proposed, and the Development Agreement.

This aerial photo shows the existing development of the site. As you can see it consists mostly of single-story office R&D buildings built in the mid-seventies with surface parking and vehicular access from Winchester Boulevard. Currently there is approximately 200,000 square feet of office space on the site.

This slide shows an illustrative site plan that shows one possible development scenario under the requested zoning. Specifically the proposal seeks to attract a corporate headquarters type business within a Class A high-quality office space campus environment, and also to provide the ability to respond to market demand for office

R&D space as well as multi-family housing and/or senior housing.

Overall Staff believes the proposal would be consistent with the Los Gatos General Plan, including its Land Use Element goals for economic stability, transit-oriented development goals from the Vasona Light Rail Element of the General Plan, as well as Housing Element goals for housing near transit.

To respond to the Planning Commission's concern from the last meeting on May 11th that more noticing was needed to notify residents of this project Staff expanded the noticing boundary for this meeting from the standard 100' radius from the project site, which is shown on this diagram with the heavy red line, to an expanded neighborhood boundary, as shown with the thin red line, that picked up the neighborhood behind Courtside as well as the neighborhood south of Lark Avenue.

As covered at your last meeting the required PD approval would allow for a variety of land uses. Four scenarios were developed to provide a basis for the environmental review and this entitlement process. It is important to note that the actual allocation of uses could be different than the four scenarios but could not exceed any of the maximums in terms of office square footage or

residential density. The senior housing scenario would allow for all types of continuing care arrangements.

In terms of considerations for mass and scale, one of the major features of the project is a required height of up to 85'. The Applicant is requesting approval for five stores and 85' for the office portion of the project. The Staff is recommending approval of 70' for senior housing and 40' for the multi-family scenario consistent with the Aventino approval behind the existing Netflix, also referred to as the Gateway project.

There are mitigation measures in the initial study to address issues related to heights, including retention of existing trees and architectural controls.

WENDIE R. ROONEY: I'll be handling the next couple of questions. At the last Planning Commission meeting we heard a couple of questions from the Commission regarding the General Plan and EIR. Why this project wasn't included. Why this is being processed as a Planned Development rather than a Specific Plan? Why the project proposed has a Development Agreement? Why is there a 15-year term with a five-year extension? As the Planning Commission is well aware, there was extensive information in the Staff Report regarding these items, but just to quickly summarize.

The General Plan and EIR process began back in 2008 and was almost completed by the time this project was presented to Staff in an informal means, and that was around April/May 2010. By that time the General Plan was already onto the Planning Commission for final review and then recommendation to the Town Council. In order to include this in the General Plan Staff would have had to have the project description a good eight months prior to that time, so probably sometime in the fall of 2009, to be included in the General Plan EIR.

However it's important to note that the General Plan has to make general, broad assumptions for development over this given period of time, which was ten years in the General Plan, and as noted in the Staff Report the assumptions included 1,600 residential units and roughly 944,000 square feet of commercial office R&D uses. A good percentage of both those types of land uses are assumed in the North Forty, however there was approximately 443,000 square feet of the office commercial uses and roughly about 600 residential uses that were not site-specific, that we realized that that development would occur because of assumptions that are made in terms of using ABAG data to do our forecasting. So the General Plan actually looks out from a very large scale and does not look out from a site-

specific scale, and that's why you have a site-specific environmental review process that commences when a project is conceived. So that's the reason why it wasn't included in the General Plan and the EIR.

So why are we doing a Planned Development rather than a Specific Plan? Again as your Staff Report indicates, Specific Plans are a fantastic tool to use when you have a lots of property owners, you have significant infrastructure that needs coordination, and you have an assemblage of land that needs to occur to be able to make a development happen. In this case we have one property owner and the basic backbone structure is in place. We need upgrades to infrastructure to accommodate any future development, but the backbone infrastructure is in place, and so a Planned Development is the idea tool to use in this case, because there doesn't have to be land assemblage and we have one property owner.

Why did we enter into a Development Agreement for this project? Development, especially in a site where it is redevelopment where a property owner is going in and potentially demolishing existing development and then redeveloping the site, has a lot of uncertainty, and the Development Agreement from the property owner's perspective gives the property owner the vested rights to be able to

develop the project as proposed. From the Town's perspective it gives the Town certainty that certain infrastructure will occur and when it will occur, that certain fees will be paid, and that with respect to community benefit we don't need a nexus in this case, that the impacts of the project do not have to equal the community benefit that the property owner is willing to pay, so it gives the Town the ability to have improvements that go beyond that project. It also gives the Town the confidence that the project that is before them—not under this application, because this is just zoning as we've talked about, but under an Architecture and Site subsequent to this—will actually be built. So that's really the basic reason why we entered into a Development Agreement. It is the Town's first Development Agreement, so understandably there are a lot of questions and concerns about it.

Why a 20-year term? A 20-year term, and in this case we actually proposed a 15-year term with a five-year extension, is very typical for a project this size and scale. Generally in the early days Development Agreements were around ten years, but now again, due to uncertainty in the markets and uncertainty in funding a 20-year plan is much more realistic.

I'd be happy to answer any questions at the end of the presentation on those items if you have any.

GEOFF BRADLEY: Thank you. The next two slides will detail additional questions we heard from the Planning Commission at the last meeting on May 11th as well as some of the Staff response contained within your Staff Report. Three additional questions were: What is the balance of benefits between the Town and the project? How will the Creek Trail be improved? And the Planning Commission requested more information on the way the environmental review was conducted.

In terms of the balance of benefits between the Town and the project we did prepare a table on page six of your Staff Report that tries to show a little more graphically how some of the community benefits are structured within the Development Agreement.

In terms of the environmental review I would like to point out we have been talking about these different scenarios and the caps associated with each land use, but it is important to point out that not all the maximums from each category could fit physically within the site. For example, if the maximum amount of residential units were constructed it simply wouldn't be possible to fit on the maximum amount of office space, and so that's why the

scenarios were developed to reflect that corresponding reality on the site.

In terms of the environmental review, because of the flexible nature of the zoning sought the mitigation measures and the analysis were really driven by the worst-case scenarios based on the analysis of the development. For example, for traffic the all office scenario has the highest traffic generation rates, so all the mitigation measures flow from that. Regardless of the actual scenario selected downstream during the Architecture and Site stage the mitigation measures are keyed off the most impactful development scenario. From that regard the environmental review is actually quite conservative in the way it analyzed the entire project.

Additional questions we heard from the Planning Commission were: Why is a five-story office building so crucial to attracting and retaining a business? Which tenants specifically are asking for such a height? Are any green building techniques proposed? What is the town-wide office R&D vacancy? Specifically what is the onsite vacancy rate within the subject parcel?

Generally taller buildings allow for more flexibility in site design and also are being found to

promote more green standards in terms of natural light and ventilation to workspaces.

The Applicant is proposing a LEED Silver certification for the office buildings as detailed in his Applicant's Letter attached to your Staff Report. The height as such would contribute towards increasing building efficiencies, promoting a collaborative workforce, and promote a healthy working environment with access to light and landscaping.

Generally Class A buildings built within the last five years in Silicon Valley have incorporated these building types and are in high demand.

In terms of the vacancy rate information, Staff's best available information is that the town-wide vacancy rate is 11% and the subject site has a 12% vacancy rate.

The last two questions on this slide, specifically the Planning Commission requested more specificity on the proposed development plans and more public noticing to a wider residential area. We have had these discussions with the Applicant and for the reason stated in his Applicant's Letter he is not proposing a more specific development plan other than what has been proposed through the zoning application before you, and as shown on the earlier map Staff did expand the noticing quite a bit

to pick up a wider residential neighborhood based on logical neighborhood boundaries.

Finally, and this should look familiar from your last meeting, this slide shows the Staff's recommendations to the Planning Commission for your consideration. This is also found in the Staff Report. I won't read all that to you. In short the Planning Commission has the option to generally recommend approval to the Town Council, recommend approval with modifications you are able to come to agreement on, or simply recommend denial of the proposal to the Town Council.

This concludes the Staff presentation and we have a full assortment of Staff here from a variety of departments to answer any questions. The consultant also has a bevy of consultants available for questions and answers, including their traffic consultant, architect, civil engineers, geotechnical consultant, economics consultant who is a new addition since last time, and legal representatives as well as the Applicant himself. Thank you.

CHAIR SAYOC: Thank you, Mr. Bradley. Commissioners, any questions of Staff at this moment? Mr. Bradley, I do have a question of you. Since our last meeting I tried to do my own research on Development

Agreements, and from the few that I've been able to gather information on what I see of Development Agreements makes sense for large parcels that work in phases, but what I found that was consistent with all of the ones that I was able to do research on was that the uses of those parcels were very specific, so that it was just phasing as you went along. In this particular case the uses are still what is nebulous, and so when the Staff was putting this together, given that it was the first one, how did you find examples of a project such as this where there are three different scenarios that may or may not occur within 20 years? Can you explain how you guys came to your Development Agreement and what the norm in your own research was?

JUDITH PROPP: Sure, we can respond to that. With respect to Development Agreements, some jurisdictions require Development Agreements every time that there is Planned Development. It could be a very, very small parcel, but some California jurisdictions just have an ordinance and a policy that a Planned Development, anything that doesn't revert back to just General Plan zoning, always requires a Development Agreement. It doesn't have to be a large parcel. It might be a specific use, it might be a variety of uses, but it's a philosophical reason why a jurisdiction believes that there is benefit to a

Development Agreement, and usually they are tied with Planned Developments.

Additionally with respect to Los Gatos, while the community hasn't done any Development Agreements in recent term, certainly in the Bay Area many, many jurisdictions do them as a routine. It wouldn't be uncommon for a jurisdiction to have tens to twenties to thirties of Development Agreements through the course of a year depending on the projects. Certainly a number of this Staff and consultants that the Town engaged have worked on Development Agreements. Certainly we used Development Agreements and provisions in Development Agreements from many jurisdictions in the immediate South Bay area that do these types of developments.

Development Agreements aren't necessarily for a specific project. Very similar to a Specific Plan or a Development Agreement it gives the developer and the community the range of options to use, so it's not that there has to be a specific project description, you have that in this case, it's going to be a maximum of a certain amount of office. If that's not entirely developed out then there may be some percentage of residential or some percentage of senior assisted type living realm that's

proposed. You do have a specific project description with maximums based on what the site will accommodate.

CHAIR SAYOC: Thank you. I believe we are now at the public input portion. The way this works is I have several speaker cards in front of us. The Applicant will have ten minutes to speak, and at that time the Commissioners will be able to ask any questions of the Applicant. Afterward those in the audience who would like to comment has three minutes to do so, and again, I'll call your names off. Then at the end of those three minutes the Applicant can come back and provide some kind of a closing based on the comments that you heard and you'll have five minutes to do that. Along the way we ask that when you do come up that you state your name and your address and speak in the microphone. All of this information is being recorded and we need all that information for our own specific records. So Mr. Shenk.

JOHN SHENK: Good evening, Chair Sayoc and Members of the Planning Commission. Thank you for hearing us this evening. My name is John Shenk; my address is 700 Emerson Street in Palo Alto.

I want to first thank you for your comments and your time on May 11th. Your comments were appreciated and I believe the Town Staff Report has been responsive to many

of those comments. We've submitted a letter that's hopefully responsive to many of those comments and issues, so I won't go through and rehash what's already been said. But I do want to highlight a few points and then I also want to let Netflix speak for themselves as well.

To reiterate, we believe the zoning application that's before you is consistent with the Town's vision that's set forth in the General Plan. It creates a transit-oriented development where one should exist. Since 1994 the Vasona Light Rail Element of the General Plan has identified transit-oriented development in that area for this property being near a future light rail line that exists and a future terminus, specifically housing and employment centers being a mix of uses that are called out for being good to be together.

On the employment center topic we have the opportunity to retain Netflix today by allowing them to grow in town. Like all corporations they have specific requirements that are not atypical of what corporations within the Valley are looking for today. I think the Staff Report again was good at highlighting what some of those points are, and I will of course let Netflix speak to their own needs on that.

As for non-office uses on the site, we believe it's an ideal location for housing for individuals, families, and seniors. Again the General Plan guided us originally in coming up with the uses that you have before you in the Zoning Application. It is a zoning, and as Staff went over again, I don't have detailed plans around a particular development, but the zoning sets forth the boxes within which we can bring back a project when we have one prepared for you.

The Development Agreement does lay out the community benefits. I think of it as the string that ties those boxes together. It puts some belts and suspenders around what it is that we can do, when we can do it, how it can happen, et cetera.

In terms of the community outreach, we have sent correspondence to each person who submitted written correspondence to you for the May 11th hearing. I have offered some meetings. We're still working to schedule some meetings, specifically with La Rinconada area representatives. We did have a meeting last Thursday night with the Smith Ranch Court neighborhood where some good ideas and questions were raised. We're still following up on some of the questions that they raised there.

We ask that you make a recommendation to the Council tonight. It's important for our own processes with Netflix to find out what land uses we'll be able to pursue on our site. At this time I will hand this over to David Hyman, who is the General Council of Netflix and has been since I believe 2002, and who has been involved in their corporate real estate I think for a long time from University Avenue. I certainly worked with David on the Gateway project and helped get those buildings squared away with him and with you so that they have been able to stay in town these past six years or so. David, come on up.

DAVID HYMAN: Good evening. Thanks for allowing me to speak tonight. As John mentioned, my name is David Hyman, 100 Winchester Circle, Los Gatos. I am the General Council of Netflix and I have been that for about ten years. I started off at University Avenue and have grown over to Winchester Circle.

Netflix is a homegrown company and we continue to grow. We're very proud of the fact that we started and have grown here in Los Gatos and we hope to be able to continue to grow in Los Gatos, and that's why I'm here tonight to speak in support of the Albright project. We hope to be able to stay in Los Gatos and the project at Albright allows us the flexibility to expand our operations.

As you may know from the press reports we are growing significantly. In fact we're in need of space as soon as possible. We're starting to lease space up towards Campbell. We're even leasing some of the buildings existing in Albright. One of the important things for us tonight is to move this forward quickly, because we are in the process of trying to figure out what our options are, and as soon as we can figure out what is available for us at Albright that will help us make the decision.

The other thing that I wanted to address tonight, which you guys have highlighted here, is the height. One of the things that we are requesting of the developer is the height. We would like to get five stories, and the reason we would that is quite frankly efficiency for collaboration among our employees. We have found that the ability for our employees to walk from floor to floor to be able to talk is extremely important for us. The desire of management would be even to have more than that, but we understand there are issues associated with the look and feel of the Town. But we think that those five stories strike a very good balance and it is going to be a very appealing building and complex when it's done.

The other thing about having the stories and density as opposed to being spread out is it allows for a

lot more green space. One of the things that we do at Netflix is people get together outside of the buildings and have collaborative meetings, lots of open space within the company and outside the company, and by being able to have more density in a particular area it allows for more green space around that.

So again, we want to stay in Los Gatos. We are very proud of being here. We hope that you guys will approve this project and push it forward quickly. I'm around to answer questions as well. Thank you very much.

CHAIR SAYOC: Thank you Mr. Hyman and Mr. Shenk. Commissioners, any questions right now? I believe you'll have several questions. Commissioner Erekson.

COMMISSIONER EREKSON: Thanks, Mr. Hyman, for being here tonight and thanks, Mr. Shenk, for your thoughtful and forthright responses to the questions that were raised earlier.

The Staff Report suggests that the maximum amount of square footage that might be developed on this spot, the 550,000 square feet, could be developed with four-story buildings rather than five-story buildings. There are some implications for that. Potentially the two of you could have a different answer to this question. Is that a deal

breaker for either or both of you, the five stories versus four stories?

DAVID HYMAN: For us it is very important to have that density, the height. It is a significant consideration for us in what's available and how we can operate. So in that sense, it's important. Characterizing something as a deal breaker or not is hard, but I will say that there are a number of things in flux, and that's one of them.

JOHN SHENK: Just to add a little bit to that. I think just as for Netflix it's very important, it's also very important to other corporations who may be interested, because it really does go to that look and feel in use and practicality of what the larger corporations are looking for in terms of what I call "headquarters quality space," that more vertical smaller floor. You can get the same square footage going lower with bigger buildings, but when you get a bigger building there are longer distances from the windows to the cores and it's not as light and airy as when you pull in the buildings and go a little taller. Anyway, just a little more color on that. Thank you.

CHAIR SAYOC: Commissioner Talesfore.

COMMISSIONER TALESFORE: To follow up on that, and either one of you could answer it or maybe your architect could. One of the levels is the top floor and

that's the roof to screen whatever is up there, and I'm sure it's in this case air conditioning units, whatever it is. But we have developed I believe, or progressed anyway, in how we design our buildings now and being you're trying to get the LEED certification is there any other option to that floor that would really put it way up there? I mean can we work with this? Is there something we can be creative about here?

JOHN SHENK: I'll say yes, because I always think it's interesting to explore things. I don't say there's not anything to be explored. I will let our esteemed architect come up and help with some clarify here. I've seen buildings where they said no roof screen, or move the mechanical off and no mansard roof. When it's just the end of a building, personally I find it more attractive to have some roof to terminate the top of the building, but it increases the overall height, so there's a tradeoff there.

But I'll let Bob Giannini, who is with Form4 speak. He is the architect on the Netflix buildings that are in today at 100 and 105 Winchester Circle, as well as I'll call him the master designer/architect of the Aventino project that's behind it.

BOB GIANNINI: Good evening. My name is Bob Giannini from Form4 Architecture. We're at 126 Post Street, San Francisco.

Actually John's point was well taken, and as you mentioned, a lot of the height is kind of our penalty for hiding roof equipment. There are other ways to do it, but if you put equipment on the ground, that takes ground space. But in a sort of sophisticated LEED building there are still air handlers and things that need to be on the roof, and as John pointed out sort of the twofer in that is on a building with this kind of architecture it's always very nice to have sort of a base, middle, and top, and so not only are we hiding equipment on the roof, which is a very efficient place to put that equipment, but it also kind of allows us architecturally to soften the building and create an interesting skyline.

When you think about height it isn't really the number of stories, it's kind of what you do with it. Stepping the building back, as we did at the current Netflix buildings, and introducing little roof elements that are lower on the building and then sort of capping off at the top of the building really are all things that help reduce the apparent mass and make the building feel much more in repose and sort of comfortable in the site.

COMMISSIONER TALESFORE: Thank you, I appreciate that. But I'm sure that there must be other things you can do with the other levels of the building as well. I think what we're trying to do here is shorten it. I mean it is something that's a standard and we've held to it for many years, and not that I don't want you to have your space, but I can't imagine that you couldn't work with us a little bit and think of some creative ways to just lower that height. And because I don't have a vision, a picture illustration in front of me, I really don't know what you're talking about. I can't even see this, so I'm imagining many buildings, designs, and styles.

BOB GIANNINI: To that point I think what you're saying is is there any place in the various floors that we could reduce it to a lower height?

COMMISSIONER TALESFORE: Yes.

BOB GIANNINI: One thing we did when we designed the original Netflix building is we did work to shrink the floor height of each floor, and when we came in with this proposal we just used that as our starting point. So we said we're already using this quite tight height on each floor and we'll do the same on this one. What that meant for us is we had to do complicated transfer beams and whatever to be able to get a decent enough ceiling height.

COMMISSIONER TALESFORE: You can do that, yes.

BOB GIANNINI: But we did it. We did it and that's what we're proposing on this building too is to go with sort of what we're considering the absolute minimum floor height in the floor-to-floor. Taking all the equipment off the roof and just having the top of the fifth floor be the roof would actually in my opinion hurt the architecture of the building, because the building would have no top it; it would just sort of abruptly stop. Yes, we could put all the equipment someplace else on the ground and use ground space, but we'd kind of like that to help soften the overall appearance of the building.

COMMISSIONER TALESFORE: Well, there are many ways around that, I'm sure. We're just starting.

BOB GIANNINI: Certainly.

COMMISSIONER TALESFORE: Thank you.

CHAIR SAYOC: Any other questions? Commissioner Talesfore, did that answer it?

COMMISSIONER TALESFORE: Yes.

CHAIR SAYOC: And Mr. Giannini, the current Netflix building at 100 Winchester Circle, the height of that is 55', correct?

BOB GIANNINI: Yes.

CHAIR SAYOC: And what is the square footage of the commercial portion?

BOB GIANNINI: There are about 80,000 square feet in each building.

CHAIR SAYOC: And does that include the bridge in between?

BOB GIANNINI: It doesn't, but the bridge is about 600 square feet.

CHAIR SAYOC: My next question is for Mr. Hyman, and thank you for attending, because if you've been briefed on the last meeting there were several questions that we had that you're most able to answer. Given that your current building is 55' you have found hurdles and that is why you would like a five-story building?

DAVID HYMAN: The efficiency of having people together and in a particular vertical configuration, we've seen in dealing with our existing buildings that that vertical integration is much more efficient and effective for collaborating among employees. In fact, originally there was no bridge to go across that and there was an idea that being able to at least connect the buildings would be very helpful, and we have found that that bridge has been extremely essential to connecting people between those floors. People going down and around, there is inefficiency

and that provides hurdles for people to actually interact with people, and so the fewer hurdles that we can have the better off we are, and a vertical configuration seems to be the most effective and efficient for us, so it is important.

CHAIR SAYOC: And that vertical configuration is vertical 550,000 square feet. So it's not just a matter of you need 550,000 square feet that we can spread out over the 20 acres, you would like your office space, whether it's one or two buildings that amass to that square footage, to be 550,000 square feet?

DAVID HYMAN: I don't think the idea is one building of 550,000 square feet. If we could have a big structure in downtown San Jose, that might be something that people would find to be most effective and efficient, but because of our desire to stay in Los Gatos we are willing to consider a less than totally optimal configuration, but the five-story aspect of those buildings, or at least the ability to have that, is important.

CHAIR SAYOC: Okay, thank you. Another question I have, do you happen to know what percentage of your employees live in Aventino behind the Netflix buildings?

DAVID HYMAN: I don't know the answer to that, but I don't think it's very many.

CHAIR SAYOC: Then my last question is do you happen to know any percentage of your employees that use VTA?

DAVID HYMAN: We recently began a shuttle service. We reached enough density in those buildings to start a private shuttle service between San Francisco and our buildings, and we also have a shuttle service that runs to the Mountain View train station.

CHAIR SAYOC: And my last question. You're here representing Netflix, and so the questions that we have of Mr. Shenk that are specific to the residential portion of his proposed application, do you have any comments or thoughts on that, or you're strictly looking at the commercial portion?

DAVID HYMAN: To the extent that it enables us to move forward with the project, then it's something that we are in support of, but you're correct, in general the residential aspects of it we don't have any comments on.

CHAIR SAYOC: Okay, thank you. Commissioners, any more questions? Commissioner Erekson.

COMMISSIONER EREKSON: I want to return to the height question, because it's a sensitive one obviously.

DAVID HYMAN: I understand.

COMMISSIONER EREKSON: I appreciated your comment about go to downtown San Jose or downtown some other place and go up 20 stories or something. That was going to be my question. So if there is both energy efficiency and employee efficiency by building vertical space, what's the magic of five versus six stories? Why didn't you come in with a six-story building or a seven-story building, and how do we understand the loss of efficiency from five stories to four stories so that we can make some judgment that goes back to, and I appreciate your not wanting to respond to the deal breaker phrase, how do we make a judgment about what the loss of efficiency really is and why we might want to consider five stories versus four stories or six stories versus four stories or some other number?

JOHN SHENK: I'll start real quick, only because we made the application for the five floors before we had a deal with Netflix. I think ideally from the office size we would have asked for eight floors. We just knew that was not going to happen and felt that five floors was probably the level that we felt could fit within the Town, so we started with that.

In terms of maybe just the math around the efficiency, I'll let David speak to it if he has an answer there. But the way I look at it is it's an extra 25% within that building. If we have a four-story building and add another floor, I'm adding 25%. I don't know how that relates to that efficiency of communication, but on Yahoo's new campus they've designed for themselves there are 250,000 square foot buildings and it helps kind of guide what a company wants their buildings to function like. That's a good example.

DAVID HYMAN: I don't have a formula by which I can tell you five stories versus four stories or five stories versus six stories. I think part of it, as John pointed out, is that's what the application was and we've been somewhat consistent in retaining that five stories throughout the process in dealing with the developer.

CHAIR SAYOC: Any other questions? Commissioner Talesfore.

COMMISSIONER TALESFORE: Let me ask this question, and maybe it's too soon, but I don't know. When the Commission worked with Netflix for the development of the Sobrato property we knew you were going to be the occupant. With this the Town has an agreement with the developer, but there is not any real guarantee that you

would be there, so my question to you is somewhat simple, but would Netflix be at all interested in signing a Letter of Intent?

DAVID HYMAN: Would we be interested in signing a Letter of Intent? With John?

COMMISSIONER TALESFORE: Yes, with this development.

DAVID HYMAN: We have a Letter of Intent with him already. It's a nonbinding Letter of Intent and it's conditioned on a number of these things here that we're talking about plus the economics of it, so there is a lot there. But yes, the desire of Netflix is to continue to stay in Los Gatos. We have two what we think are beautiful buildings there and we'd like to have some more, and I think part of your concern as the Planning Commission is the height and aesthetics of it. I think if you can look at what we've done over at the Gateway project, it's going to be a similar look and feel to that and I think ultimately Los Gatos will be very proud of that project, not only if Netflix is there but if anybody is in there, because I think those projects will be an entryway to the Town.

COMMISSIONER TALESFORE: Thank you. Then I have one other question for Mr. Shenk. You said that you had some community engagement with the Charter Oaks Townhomes

Association and also Smith Ranch Court neighbors. What were the results of those meetings? What was the outstanding glowing issues or concerns that those developments had.

JOHN SHENK: From Charter Oaks I would say there weren't any great glowing remainder items. I think I mentioned last time they had some concerns around where trash enclosures would be located in the future, as they're currently basically on the property line.

The Smith Ranch Court neighbors that we met with, and I don't want to represent we met with the whole neighborhood, there was a subset that was able to make that particular meeting, and I would say their concerns were height, the residential use, which seemed specific to potential school impacts and traffic, and specifically again their traffic movements in and out of Smith Court Ranch onto Winchester and how that may be affected. At the same time there were some concepts around what might be done that could help mitigate an impact or improve their flow of traffic.

COMMISSIONER TALESFORE: Thank you.

CHAIR SAYOC: Any other questions? Just one more. Is the current building at 100 Winchester LEED certified?

JOHN SHENK: It is not.

CHAIR SAYOC: It is not. And then is it Netflix's initiative or yours, Mr. Shenk, to have it LEED certified?

JOHN SHENK: It's really a joint initiative in that to get the certification you really need the shell, the building, and the core as well as what happens on the tenant improvements to work in concert.

CHAIR SAYOC: Okay, thank you. So please have a seat and I am going to call speakers forward, and again you'll have five minutes afterwards to respond.

As I mentioned earlier we have several speakers, so I'm going to call five at a time just so that you know where you are in the queue, and then another reminder, please speak into the microphone. You'll have three minutes, and if you could state your name and address right before you speak. The first speaker will be Howard Berry. Afterwards will be Lori Berry, Jeff Black, Sarah Chaffin, and then Lisa Chaudoin. So Mr. Berry.

HOWARD BERRY: My name is Howard Berry; I live at 186 Smith Ranch Court.

I'm glad to see that the Town does have concerns regarding the height. That's my concern as one of the closest neighbors to Albright. I have concerns that I'm going to be looking at a building right outside my front door. I do have concerns regarding five stories. I'm not

opposed to development, but I am opposed to towering buildings right next to our neighborhood. So that's my concern. Thank you.

CHAIR SAYOC: Thank you. Any questions? Okay, thank you, Mr. Berry. The next speaker is Lori Berry.

LORI BERRY: Hi, my name is Lori Berry and I live at 186 Smith Ranch Court and I just want to go on the record to state that I do think that business is good for Los Gatos and I'm glad that Netflix is here, but it feels like this meeting is less about a rezoning issue and more about what we can do to placate Netflix and the developer to stay.

By asking for a 15-year development deal we are handing over a blank check and assuming the risk that the developer should assume on this investment. I'm saddened that at the first meeting the letter that was from Netflix was that they were threatening to leave if they didn't get their rezoning, and as a family we lived with the back door to our home closed for two years as they built this superstructure they are in now I wonder how an owner could do that kind of construction and not get a commitment for a ten- to 20-year lease or make it easy for their tenant to threaten to leave.

I also wonder why the Planning Department is making so many exceptions on the height when these companies have such a lack of loyalty and what would keep Netflix here in the Town for the next 15-20 years?

At our neighborhood meeting when John Shenk and Cynthia James were asked if they had taken this idea of the corporate campus out to market to see if there was interest from any other companies John Shenk said that no, it wasn't taken out to market because no one else would want to be here; we're not in the Silicon Valley hub.

So in addition to the 15-20 year development deal, we are gambling on a technology that may or may not be relevant in ten years. There was a point when it was inconceivable for a large corporation like Netscape to disappear, and I hope we are not creating a corporate campus ghost town to live as a reminder to lack of planning or commitment to work with our town.

Finally, how can we allow a developer to come in and set new height limits without any obligation to show visual height displayed to the affected community? We've requested several times to the Town and to the developer to show what 85' is to the surrounding community.

Just so my concerns are not misunderstood, I'm not opposed to the development and I am not opposed to the

senior housing that's proposed, but I am opposed to the height and I am opposed to the fast track of this project because of corporate tenant threats.

CHAIR SAYOC: Thank you, Ms. Berry. Any questions? The next speaker is Jeff Black.

JEFF BLACK: Good evening, my name is Jeff Black and I live at 362 Bachman Avenue.

I wanted to offer my encouragement to the Planning Commission tonight to approve the Applicant's zoning request. I think it's important for Netflix to be accommodated for their future growth and ensure that they remain one of the Town's major employers and also one of the major tax contributors to the community.

The Applicant's request for designing a campus that includes five-story Class A office buildings is consistent with the needs of today's high-technology companies that want green campuses and also want to consolidate their operations into integrated developments. These types of developments provide high-technology companies the ability to retain and hire work forces and be competitive in today's economy.

I also support providing residential options for the future and providing jobs to close commercial developments. I understand that our town has housing goals

to meet and I think this site can accommodate some of these goals if the site is not fully developed as a corporate campus.

Again, I thank you for the opportunity to speak tonight and I encourage you approve the Applicant's zoning. Thank you.

CHAIR SAYOC: Thank you, Mr. Black. Any questions? The next speaker is Sarah Chaffin.

SARAH CHAFFIN: I want to put something up. How do I do that?

CHAIR SAYOC: She'll help you, and if you're going to be pointing to it you can take the microphone out so that we can hear your voice as you're speaking.

SARAH CHAFFIN: I'm not a professional but I will do my best.

The first thing that I wanted to mentioned before I even go through this is that I just received an email saying that the property was sold from Carolee White to Peter Pau on May 4, 2011. It was an email from First American Title, so I'm not sure if we can even proceed here tonight, because the application is that the owner is I think it says on my card Mike White, H&S Inc., and since I just received information that the owner is Peter Pau, I had hoped that we could confirm that somehow before we move

forward, because all of the boards that are out say that Mike White or something is the owner. I think that's really important. This is a big deal for the Town of Los Gatos to find out whom we're dealing with.

This project is going to increase the population of Los Gatos potentially with a residential park by five-percent and I feel there's been a real lack of transparency. It was not part of the General Plan. There has been no vetting by the Community Development Advisory Committee. The Planning Commission has consistently been given late documentation as of our last meeting, and there is a lot of documentation, hundreds and hundreds of pages of reports. There have been no story poles or their equivalent so that we can actually see what is 85'. The initial notice was only given within 300' of the project.

And then the other thing is when we did meet with Mr. Shenk, which it was nice of him to come, he told us that this is basically the scope of the project and it is a done deal, and so my concern is if this is a done deal, that this project has been green lighted and it's going to go through, we have to involve the entire community so we can get a good plan for the Town, because we like Netflix, they've been a good neighbor, but we also want to make sure that we get something that fits. So I'd like to recommend

that it go back to the Conceptual Development Advisory Committee and that we erect story poles or their equivalent.

I think that we really need to continue this meeting for 90 days so that we can look at this again in September. Netflix has been a good neighbor. I know that they want to move this forward, but I think that they would probably give us the time to do that.

And then in the notice it has to say that this is five-stories and 85' and also this is a 20-year development plan. People don't realize the scope of this project.

Finally, we need one plan so we can effectively talk about it, and we did ask Mr. Shenk to come up with one plan. We said that we'd help him get a campus for Netflix, and he didn't help us.

CHAIR SAYOC: Thank you, Ms. Chaffin. Commissioners, any questions? Our next speaker is Lisa Chaudoin. And then after Ms. Chaudoin it will be Eric Anderson, Zhenhuan Chi, David Clarke, Robert Colhour, and Greg Davies.

LISA CHAUDOIN: Hi, my name is Lisa Chaudoin and I live at 14284 Mulberry Drive, which is not technically the La Rinconada neighborhood, but it's off of Wedgewood along the driving range of the golf course.

My community is just as impacted as La Rinconada because we all have an exit down Wimbledon onto Winchester and that's pretty much the only way out of our neighborhood, so I'm very concerned. I heard about this on the street from Sarah less than a week ago. Nobody in my neighborhood has any idea this is going on, but it will impact us severely I feel in terms of traffic. That's my major concern right now, so I would like you to postpone making a decision on this so that you can inform other communities that are also impacted, i.e. along Wedgewood there. There's just a huge residential area there that exits along Wimbledon right in front of where this project is being proposed, so that area also needs to be told that this is happening so that they can also give you their input on any potential issues they think there might be to the project. Thank you.

CHAIR SAYOC: Thank you. Any questions? The next speaker, Eric Anderson.

ERIC ANDERSON: Thank you very much. My name is Eric Anderson; I live at 100 Cedarcrest Place. I live just behind Courtside.

My concern is you're massing 21 acres into such a high density and that traffic can only come out one way. As the speaker before me said, most people come up Wedgewood.

They actually can get out another way. There is no way out of this except for onto Winchester. You're going to have three lights that are going to create a stacking problem. It's already very busy there with all the people at Courtside and all the people coming out of our residential neighborhood. We live in an area that's nine acres and has 113 units, so I'm curious how big are the 516 units? Are they two bedrooms, three bedrooms, and four bedrooms? You could be talking about 2,000 people trying to come out of one driveway basically that are exiting that.

And then of course the massing. Companies around here have been successful in two-story, five-story, and eight-story buildings. I don't think their success is going to be dependent on five-story buildings. I think they can live within what the Town of Los Gatos is, which is a couple of stories, maybe three stories, and I would hope that the Council would take that into mind. Yeah, efficiencies are great, but they're building seven-story buildings in Sunnyvale on the freeway. This is on the freeway. It's a good location for redevelopment and for more massing, but I think with that one single exit you've got to be very careful how many people you let in and out of there. Thank you.

CHAIR SAYOC: Thank you. Any questions? The next speaker is Zhenhuan Chi.

ZHENHUAN CHI: My name is Zhenhuan Chi; I live at 178 Smith Ranch Court.

My concern is the impact to the traffic. Right now in the morning if you want to go to the northbound, to Winchester, if you want to enter Highway 85, if there is some decent traffic on 85 it will take you about ten or 15 minutes to get onto 85. That's regardless of how traffic on 85 is. So if we have another 500-plus units, single-family houses, I do not know what kind of impact it will have in the early morning when people want to go to north 85. Sometimes I make a U-turn there and I have to wait for two lights because the run on 85 is jammed. So if you have another 500-plus single-family houses I do not know how to imagine how bad traffic will be. That left lane is jammed, then the left lane going straight will be blocked, so traffic all the way will be backed up. Have you ever done any research on this so you know how long it will take to get on northbound 85? I saw your report and you said no environmental impact, so I do not know what exactly that means.

The other thing is the school capacity. I live in Smith Ranch. During last night's meeting we talked about

(inaudible) the family. Then we have 25 kids. I think most of the kids will go to a Los Gatos school. I know you have a different number, so there probably is like another 500 kids. But that's the reality. In my neighborhood we have about 20 houses. Not every house has kids. We have 25 kids. The majority of them will go to the Los Gatos School District. I do not know what kind of impact there would be to the school capacity.

The last thing is you mentioned you want interaction between employees. How long does it take for someone the first floor to go to the fifth floor and talk to someone on the fifth floor? I do not know if you have an elevator, but how long does it take just to walk from one end of the building to another end of the building? So right now you have telephones, you have instant message, you have email. I do not know how that's going to help.

CHAIR SAYOC: Mr. Chi, thank you. Any questions of Mr. Chi? Thank you. Our next speaker is David Clarke. And just a reminder to those in the audience, I think it's common nature to look at the Applicant when speaking, but we do ask just in terms of processes you talk to us, and then if there are any specific questions the Applicants will address them at the end.

DAVID CLARKE: Thank you. I've never spoken before the Planning Commission, so bear with me. I'm Dave Clarke. I'm the President of the Board of Directors of the Vasona Oaks Homeowners Association; we're the community located just across the street from Vasona Park on University. We're the first community south of Lark and we were not notified about this meeting. We just found out about it.

We definitely oppose the project. We oppose it because of the traffic impacts that people have spoken about on Winchester and on Lark. We also believe that there will be cumulative impacts on University as a result of this development as well as the sports park that's been proposed there.

The traffic on University, there's too much of it right now. They go way, way too fast. This is a small, narrow, winding road right next to a park and there are pedestrians crossing the road constantly, and there are real significant safety impacts on University that you should be aware of.

In addition to that I think the five stories, while it may not be a deal breaker for them, it should be for the Town. Many of us moved to the town because of the smaller town concept. There aren't any five-story buildings

here now. I think we should try to keep it that way. Thank you.

CHAIR SAYOC: Thank you, Mr. Clarke. The next speaker is Robert Colhour.

ROBERT COLHOUR: Hi, I'm Robert Colhour; I live at 15827 Linda Avenue.

I would like to speak in support of the project. I think you have seventies-style buildings there as was stated, and surface parking that's not an overly efficient use. I think the different scenarios that are proposed do fit within what was stated in the General Plan. I think you have a group of investors here that feel that this is a good place to invest money, and you have a 21st century company that wants to make this their home. I think we should embrace it and approve the project. Thanks.

CHAIR SAYOC: Thank you, Mr. Colhour. Any questions? The next speaker is Greg Davies. After Mr. Davies will be James Deming, Pat Erbst, Steve Erbst, Richard Erbst, and Janice Fok.

GREG DAVIES: Hi, I'm Greg Davies; 115 Glenridge Avenue is my address. I've been around about 30 years in Los Gatos.

My major concern is the fact that we've lost our car dealers, which I'm sure was a major source of revenue

for the Town, and I would really hate to lose Netflix. I've been, as have many of the people in the audience, in the real estate business in the Valley for 40 years. I watched the development of commercial real estate over those 40 years. In the seventies we had 100,000 square foot floor plates. Companies operated with very little window line, but they wanted all their people on one floor. In the eighties we started seeing two-story buildings with 25,000-30,000 square foot floor plates. In the nineties and the zero-zeros those 30,000 square foot floor plates got moved into multi-story buildings because it was proven that 30,000 square feet really worked and if a company was going to be larger than 120,000 square feet or whatever you needed to go up.

I was thinking about what could Netflix do? If Netflix needs to grow to half a million square feet more or if they need to relocate from the Sabrato project to this project and they need a total of a half a million square feet are there other projects in the Valley that could accommodate them? I just thought I'd put together a quick list for you of about six projects that I can think of off the top of my head, and I'm sure the others can think of many others.

Perry Arioga (phonetic) has project at Brokow (phonetic) that's planned for ten stories. EOP is supposed to build a project right at the airport that is eight stories. Boston Properties has a 12-story building planned and ready to go in downtown San Jose. EOP has 14-story buildings planned for Augustine. The Irvine Company has six-story buildings out in Marriott Business Park. And then Sabrato has ten-story buildings planned in Santa Clara. So there are all these options that are available for a company like Netflix. Everybody would like to have Netflix as a tenant and my fear is that the Town loses them because we refuse to give them five stories. I haven't seen a four-story building or less built in over five or six years in the Valley.

CHAIR SAYOC: Thank you, Mr. Davies. Any questions? The next speaker is James Deming.

JAMES DEMING: Thank you. My name is James Deming; I'm at 16151 Short Road.

I want to urge my recommendation of this project. I think Netflix is a great addition to our community and I'd like to see them remain here.

I do have a concern about the impact if we go with high-density residential, what it does to our schools here in the town, because they seem to be at capacity right

now, and just how we would address all the additional students that would be coming into the Town of Los Gatos. Thank you.

CHAIR SAYOC: Thank you. Any questions? Our next speaker is Pat Erbst.

PAT ERBST: My name is Pat Erbst; I reside at 143 Newell Avenue in Los Gatos.

I'm speaking as neighbor and a resident who has resided on Newell Avenue for over 30 years. Mr. Shenk's letter to the Planning Commission, page nine, regards neighborhood outreach meetings with Smith Ranch and Charter Oaks. No one has yet to meet with Newell Avenue or the residents behind Courtside, yet they went a half-mile on Winchester to meet with the business owners of Vasona Station and Courtside Club. Of course there were no negative responses due to the potential for increased patrons and memberships at Courtside. What they left out were the neighbors who will be directly affected by this development, and that's our neighborhood on Newell Avenue.

Next I'd like to address the part of trees and landscaping. In his letter Mr. Shenk states the site currently has 440 trees spread throughout the property ranging in height from 12' to 20'. Most of the trees are proposed for removal due to their locations within a

developable area of the site to the maximum impact could be evaluated for the CEQA purposes. The proposal is to mitigate the feel of the size of the development, the five-story, 85' building, two- to three-story parking garage, by replacing these trees with trees that will be in boxes, he said, 36"x36". Even with Miracle Grow it will take more than 20 years to reach the height of the trees that are going to be removed, resulting in the loss of the character and the beauty of this existing property, which is a shame.

I am one of the neighbors who will have to look at this 85' towering giant that will destroy the look and feel of this residential area. Thank you.

CHAIR SAYOC: Thank you. Any questions? The next speaker is Steve Erbst.

STEVE ERBST: My name is Steve Erbst; I live at 107 Brocastle Way in Los Gatos. If you know where Newell or Brocastle is, it's right behind Los Gatos Elks Club.

So the same as most everyone here said and the gentleman in front said, for me it's really a lack of trust. I was here at the first meeting and this thing is being ramrodded through us. Then he said he's coming back out to visit our neighborhood. It hasn't happened.

I'm the VP of sales at a public and private company and my career is currently at Cisco. Cisco builds

three-story buildings. I do telepresence, I do video, cell phone calls, and telephone calls. You don't need to have a five-story building.

The other piece is if a (inaudible) came into my office and said, "Hey, I've got an Letter of Intent," can't book it guys. Sorry, LOI doesn't mean anything. There's no commitment here, I mean while we're still talking about it.

The other piece I'm concerned about is traffic. You haven't even gone over that tonight. And I'm hearing that Wimbledon you can only turn right when you leave Wimbledon, that going left Winchester will be closed. It hasn't even come up tonight and I'd like to have it come up.

The other piece is the Creek Trail. That's great they can build flowers and trees and a bench in the back of the Creek Trail, but for 200-300 yards on the Creek Trail when you're running by, does anyone really care?

The last piece is the housing. My kids go to Daves Avenue and last year I had to get up at 5:00 in the morning and wait outside for a ticket for my kid to go to school. I went to Daves Avenue. My oldest goes to Daves, and I was #80. The cutoff was #81. So having more kids here is not going to help. We don't have room. Thank you.

CHAIR SAYOC: Thank you. Any questions? The next speaker is Richard Erbst.

RICHARD ERBST: My name is Richard Erbst; I reside at 143 Newell Avenue, Los Gatos.

I'd just like to make a comment here that most of the people who are objecting to this, and I can't say for everyone, but most of the people objecting to this don't live in our end of town. They live in this end of town, so they don't have any real understanding about what the concerns are that we residents have about the traffic.

I just want to go over the traffic real quickly. In a half a mile distance, one half mile, there will be seven stoplights. There will more red lights than some places in Denmark, if you follow my drift.

In addition to that, I don't think that the traffic concern took into consideration the fact that there is going to be the soccer field on University, which will add further impact to the traffic in that area. It says that the traffic, I think it was 1,300, and I'm reading here from page 14 of the Commission's plan, there are 3,126 daily trips in addition, in addition, when Staff didn't prepare and they're doing it now. They've got those little rubber things out you drive over, to let you know what the traffic concerns are in that area in the first place. It's

tremendous. One of the Staff members said at the last meeting that they visited the site and they had a problem getting out of the site because of the traffic. Hmmm, now, I could have had a V8. It doesn't take a brain surgeon to figure out that that is a heavy traffic concern.

I would also add that the decisions you make about this development are going to materially impact the Town of Los Gatos and the character of the Town of Los Gatos. I'm going to say it one more time. The character of the Town of Los Gatos.

I have no problem with Netflix. I don't use them, but my family does. I don't care about that, about Netflix in terms of whether or not Netflix belongs here or doesn't belong here. It's irrelevant to me, because the development hasn't decided that Netflix is going to go there. Well it starts out with three stories, now we're going to go to five, and when you get to the North Forty what are they going to say? You've approved five, let's go to ten? So what we wind up with is the City of Campbell. Not a town like Los Gatos is and the character of the Town of Los Gatos, but a city. So we're going to wind up with a Pruneyard over on North Forty. Thank you very much.

CHAIR SAYOC: Thank you. Any questions? The next speaker is Janice Fok, and then afterwards will be Michael

Johnson, Dale Miller, Barry Minkin, Patrick Mockler, and Jonathan Noble.

JANICE FOK: Hello, my name is Janice Fok and I reside at 14690 Hancock Court. It's the La Rinconada neighborhood behind Courtside.

Netflix's commitment is contingent upon the changes included in this zoning change proposal, relieving Netflix from full responsibility of the entire parcel. Netflix wants the option to build out the entire parcel, but not immediately. Nobody knows these financial risks better than Reed Hastings, and he has no interest in assuming them. This plan places those financial risks on the Town and the homeowners of Los Gatos.

Netflix is a great company that has provided nicely for the Town, but just as they displaced an existing media delivery model they could be replaced very swiftly if Apple reaches agreements with major studios to release movies on iturnes or icloud, or if Sony decides to provide direct delivery of the Columbia Pictures content via the ps3.

In order to provide this guaranteed relief the developer has promised to offload any unused portions as residential, not the open green space that Netflix has alluded to tonight. There are no commitments for any ratio

to office to residential; therefore any projections of tax revenue must be given as ranges. Promises of more jobs and more property tax revenue must be consistent. One, the other, or some lower mix is a reality, but not the best of both.

Why would A&S fees be set at a specific rate completely independent from any timetable? Leases and rents are typically set for a specific rate for a fixed period of time, then either changed at a predetermined schedule or determined by fair market rates in the future. Fixed and capped forever, or in this case for 20 years, is not fair to the public.

The report states that Class A buildings with high-density, multi-story structures are in demand. Rates have collapsed for this type of space over the past five years and show very few signs of recovery. If demand were truly that high, the alternative use of the housing option would not be necessary for this proposal.

No significant environmental impacts have been identified as a result of this project. Does that mean that the addition of 516 or 600 senior homes, which could be five-percent of the total number of homes in the town, will not have any impact? No impact on water, sewer, power, waste, schools? That makes no sense.

In the aesthetics portion of the report the initial Environmental Impact Study states a development of this size and scale does not conform to the intent of the General Plan Vision Statement. But who has the authority to determine what is significant? If you're going to ignore the spirit of the General Plan, the zoning of this parcel, the height requirements, the water quality, the air quality, and all the recommendations of the General Plan in the case of this request, then you need to remove all those restrictions for all future projects within the Town limits or simply publish that our rules and regulations are for sale.

If you choose to ignore all the existing regulations and grant this request, you've set a precedent that other parties would also be entitled to. There has not been a sufficient demonstration of due diligence and fiduciary duty by this Planning Commission to justify granting wholesale exception to the existing regulations.

CHAIR SAYOC: Thank you. Any questions? The next speaker is Michael Johnson.

MICHAEL JOHNSON: I wanted to thank the Planning Commission for allowing me to speak, number one, and for giving me the notification. I'm Michael Johnson, 14685 Oka Road, space unit #42, and also the rental on More Avenue,

so I'm pretty lucky I'm in the area there. I'm a big Netflix fan. I've been using them for years.

The construction at Winchester and 85, I do have some concerns since I am an environmental inspector; that's my background somewhat. When a developer tears down the buildings, I guess I'm looking at the construction demolition, where it going to go?

Where are they going to recycle that? Are there going to be enough police? You're going to have to ramp up the police. That would be a question on that.

Can schools handle the load? That's kind of a question. Even though my kids are older, I'm kind of hoping my grandkids will move to Los Gatos.

The creek. How will the developer protect the creek, number one, and just a suggestion to Netflix that they may want to look at having a grants person work with the creek. There's grant money out there for creeks, but they may want to have a dedicated person for that.

Also are you going to plan on building a restaurant in the area? Are you going to feed your workers, or are they going to have to drive out for lunch and stuff like that? If I was working in the area, I'd like to have something I could just eat at there as opposed to going out. Not that I'm going to be working for them.

Again, schools are big.

I see the balance between the City and Town. It's a big benefit for the Town of Los Gatos and Netflix. Wow, it's incredible. I can say that as an environmental inspector in the City of San Jose I drive around a lot and I see a lot of huge, empty commercial buildings in San Jose. I saw that Oracle bought out BEA for that Sabrato building; that's an 18-story.

Currently I work for the City of San Jose in a huge building, 18 stories. I work on the seventh floor, but I can go to the 11th or the 18th if I want to meet somebody or do something or work on a project. It's a huge benefit. I just wanted to say it's a huge benefit for you to be working and sharing ideas with your fellow co-workers.

As far as LEED certification for buildings, that's huge. I mean I see all the tough things that are required. If they're coming out to say that there's a LEED certification, they're going to try to get that. That's huge, because that's a huge commitment on their part.

CHAIR SAYOC: Mr. Johnson, your time is up.

MICHAEL JOHNSON: I just wanted to say the Letter of Intent is serious on both parts. I think that's big.

CHAIR SAYOC: Thank you. The next speaker is Dale Miller.

DALE MILLER: My name is Dale Miller; I live at 115 Newell Court. I live directly behind the Elks Club.

My neighborhood was not contacted at all, as was requested to contact other neighborhoods, and hasn't had a separate meeting either.

I'm opposed to the application to change it. There are too many options. It seems like all the options favor the developer and the Town and the local residents will have to take the consequences if things don't go as planned.

The main issue I have is traffic, as many people have spoken. Newell Avenue is a cul de sac. The only way in and out of Newell Avenue is through Winchester, and right now traffic in the morning and the evening is impossible. If you go down to Wimbledon, Wimbledon is the only way out for the La Rinconada area. You go down to La Rinconada; it's really the only way out. There are a couple of back ways out. You can sneak out through Pollard, but it's not very effective. So the main issue I have is with traffic.

If you take the North Forty plan that's going in, we need to consider that. There should not be a standalone project without thinking of the North Forty. If you go from 17 down Lark to Winchester to 85, that little triangle right there, traffic is going to be really horrendous when

the North Forty is developed, no matter what they decide to do there. So the traffic has to really be thought out carefully.

I'm not opposed to the business park concept, but there has to be a way to either limit parking and force people into commute mode or in the VTA or you have to limit how traffic goes in and out. Right now the Courtside parking is a mess, as anybody who has tried to go at 5:00 o'clock and see Courtside knows. It's parked all on the streets, it's parked in the parking lot, they're using the Elks Club right now, which I'm not sure is legal to their Ts & Cs either. But Courtside is expanding like crazy, so with the way Wimbledon is set up with just two lanes, the way Newell is set up with two lanes both in and out of Newell Avenue, two lanes, La Rinconada, two lanes, it's very, very difficult to get out.

We're not talking about the other lights that are going to be put in. There is proposed to put one in at Albright and there's one to be proposed at University, so there's no way you'll be able to go one block without having a stop-and-go light if the proposal goes through as it's proposed today without really looking at traffic and looking at traffic flow and the impact for the North Forty and this project combined. Thank you.

CHAIR SAYOC: Thank you. The next speaker is Barry Minkin.

BARRY MINKIN: I'm Barry Minkin, 101 Charter Oaks Circle. As with a lot of the comments made tonight I'm against modifying the zoning for this project. One of the reasons is the height. As somebody who worked for Stanford Research Institute in designing research parks, it's complete nonsense of efficiency on vertical buildings versus low-story buildings. I think one thing, that height can go down and you have to have a better reason to put that in.

What particularly bothers me is how it's going to impact the nature of Los Gatos, particularly walking along the trail, which to me is a sanctuary for the soul. In Charter Oaks we have the colors, we're blended in. The existing industrial park that's in there now is not obtrusive. You go to the Netflix buildings and go through that area, completely compact, a completely different feel, and when you're getting that sense off the trail it just takes something away from the trail, which is one of the great benefits from the Town. So one thing is size, screening, color, and distance away from the trail, and also limited entry to the trail from this development.

I like the idea of R&D parks. There are plenty of them. There is plenty of space. I write about economics in the future. There's not going to be a tremendous need for these things in the future. It would be good for Netflix to come in and work within the Town, but the benefits seem at this point to be for the developer and for Netflix, but certainly not for the people in the area.

And for us in Charter Oaks Circle, just trying to get out onto Lark Avenue is a complete nightmare that's being looked into now. Almost impossible. You risk your life at this point because we don't have a light on that, and it would be a very, very dangerous situation unless there's some way to mitigate traffic, or else you just have to work within the zoning that you have. You have a research park there. Upgrade it and keep the same colors that you have, not the Netflix garish colors. Thank you.

CHAIR SAYOC: Thank you. Any questions? The next speaker is Patrick Mockler.

PATRICK MOCKLER: Good evening, Commissioners and Town representatives. My name is Patrick Mockler; I live at 181 La Montagne Court in Los Gatos. I drive by the subject site two to four times a day as I only live a few hundred feet away. I grew up in Saratoga and I've lived in Los Gatos for the last decade.

I know most people are afraid of change, especially when it's an unknown. However our community has a unique opportunity to copy the success of Netflix and the Aventino project right next door. Because we have a great example next door the risk of change is greatly minimized. It doesn't matter who occupies it, just copy the designs of the buildings. Traffic, height, and quality are of the utmost importance. All of these factors can be mitigated properly if designed the right way.

For example, traffic will increase, but if the traffic engineers design the right flow and turning lanes the community will not feel the impact, just like the way the Netflix and Aventino buildings were designed. What a beautiful building to drive by every day and I have not noticed a severe impact since the completion of that project.

I urge the Town officials to ensure a quality project and add their input to keep the high standards of Los Gatos. I would also like the Town to pay close attention to the traffic circulation plan, as this will be key to making everybody happy.

Can you imagine if Netflix did not have the opportunity to make Los Gatos its headquarters? The benefit to the Town revenue, local retailers, and local homeowners

is greatly appreciated. It would not exist without the approval of such a project.

The future benefit of world-class office space, high-end apartments and/or senior housing to our community clearly outweighs any downside if the project is designed properly. I urge the Town's full support and approval of this project to be just like the current Netflix building. I also want to thank Netflix for being located in Los Gatos. Thank you.

CHAIR SAYOC: Thank you. Any questions, Commissioners? The next speaker is Jonathan Noble, and then after Mr. Nobel will be Leslie Paulides, Bill Puterbaugh, Grant Sedgwick, Tom Woodruff, and Ulrich Hansen.

JONATHAN NOBLE: Commissioners, good evening. My name is Jonathan Noble; I live at 16231 Escobar Avenue in Los Gatos and I'm here in support of the mixed-use proposal before you. I spent ten years working in public service, focused largely on land use planning as well as economic development, and have spent the past few years working both in the development arena as well as the high-tech sector.

First let me commend the Town for its forward thinking and innovative land use policies in support of mixed-use, transit-oriented development. Municipalities throughout the Bay Area are approving these policies. They

recognize that the benefits they provide to these communities far outweigh any negatives. The longstanding Vasona Area Plan and recently updated Town's General Plan reflect a smart and critical evolution in planning.

The mixed-use proposal before you not only fulfills this vision, but also in many ways surpasses it. It provides the opportunity for high-quality, higher density residential and in an area that can support it. More importantly, it provides opportunity to keep a signature Silicon Valley company in Los Gatos; something few believed could exist in Los Gatos just a few years ago. Los Gatos doesn't have much Class A office space. We've got an opportunity to change that with this proposal and keep a prime tenant here.

Many companies like this that are growing in towns get chased by other municipalities, whether it's Santa Clara, San Jose, or any number of other communities. They come with cuts in electrical rates, tenant improvement grants, tax breaks, things of this nature. Why? Because there is no debate about the benefits economic development brings to a community. Policy makers simply understand that more economic development means more and better jobs and a rising standard of living, both of which contribute to retaining or increasing the level of community services.

Los Gatos does not need to offer subsidies in this case, because they simply need to say yes, we want to increase our tax base, we want high paying jobs and high-quality housing in our community, and we want a new development that fulfills our General Plan goals. I would ask that you recommend approval of the mixed-use proposal that's put forward by the Applicant.

CHAIR SAYOC: Thank you. The next speaker is Leslie Paulides.

LESLIE PAULIDES: Hi, Madam Chair, Planning Commissioners. Thank you for giving me the opportunity to speak again. I'm the Assistant Superintendant from the Los Gatos Union School District and I live on Ann Arbor Drive in Los Gatos.

I just wanted to share with you tonight my concern about the open-ended Development Agreement. I'm certainly not opposed to development, but I'm struggling with the open-ended agreement that creates an opportunity to reduce uncertainty for infrastructure and economic issues for the developer in terms of what really happens over that time with commercial and residential opportunities for a profitable development. But it greatly creates uncertainty for me in the school district trying to

plan for our capacity and our enrollment, so I'm struggling a little bit with that.

While this development meets the tenets of the General Plan it wasn't in the Housing Element of the General Plan, which is something that I use when we go out for bonds to understand what my capacity is and what I'm going to do. We are now out of bonding capacity and I'm not sure when I went out for the last bond measure if I would have done what I'm doing with that bond money if I had known we would have this issue confront us, and it's pretty hard to forecast and predict that.

Our elementary schools are all currently unfavorable to the California Department of Education recommendations for acreage for the number of students. We're already there with the capacity we have today, and again, not knowing what was in the General Plan is making this really difficult for us.

So I'm just asking that the Planning Commission consider the possibly of including conditions that would allow for further discussion on the residential development piece in particular and offer future support by the Town to help mitigate the overcrowding of our schools. I think when people come to this town and say what's cool about Los Gatos, in the top five is usually Netflix and the education

system here. Both great ideas, but I'm just really concerned about the great idea of the quality of education for the future kids in Los Gatos with what we're confronting.

I'm usually pretty resourceful in figuring out how to solve problems, but we've got a little bit of a perfect storm dynamic here with what's happening with student generation rates, enrollment, and our bonding capacity being kind of wiped out at this point. So thank you.

CHAIR SAYOC: Any questions? Commissioner Talesfore.

COMMISSIONER TALESFORE: Can I just ask you to clarify. First of all you suggested two conditions that would help the school district, but I also wanted to know have you been in conversation with the developer?

LESLIE PAULIDES: Yes. Mr. Shenk came to visit with myself and the Assistant Superintendant several months back and shared with us what he was planning on doing. I know that of course they would be paying developer fees, but I'm also concerned that those would be fixed at the July 1st rate and by the time that perhaps we learn that commercial zoning isn't what we want, that it will cost a lot more to build facilities than those rates will allow.

As a matter of fact, the developer impact fees are already not enough under Senate Bill 50 to cover the costs of building what we have to build today. Public school construction is getting very expensive because of all the safety requirements and everything else.

So yeah, we've talked to them, they've told us what they're doing, and they've shared that they feel that they're contributing to the problem of building more schools by paying their development impact fees.

COMMISSIONER TALESFORE: So you suggested a condition. Would you please repeat that?

LESLIE PAULIDES: I was just asking that the Planning Commission consider some kind of a condition be placed on the approval of this development that gives us the opportunity to revisit the residential rezoning piece without locking us into this open-ended 15-year thing at today's developer impact fee rates for whatever might get built at some point that affects the schools that are already, quite frankly, experiencing crowding and enrollment challenges.

CHAIR SAYOC: More questions? Actually I do have one question, but before I ask you mine I want to ask a quick question to Staff.

My understanding is that the Development Agreement is only an agreement between the Town and the developer. The school district would not be affected by the lock-in of rates that we agreed to, is that correct?

WENDIE R. ROONEY: That is correct. The Town cannot negotiate for the school district.

LESLIE PAULIDES: Okay, so if we do a justification study and those rates are increased, those increased rates would not be bound by this term. Okay, great. Thank you.

CHAIR SAYOC: I just want to make that clear. But that's a good segue into my question. At the last public hearing I believe Commissioner O'Donnell had talked about community benefit. He's well aware of Senate Bill 50, and actually I'm trying to learn as much as I can in a very short period of time about it. My understanding is that we as a Town and you as a school district are limited by what you can legally charge, but there are certain aspects like community benefit that we always ask of a developer. It's almost like soft money I guess, and that was one of the questions posed to you. Have you been able to think about it in the past three weeks? You mentioned offering support from the Town. Are there specific things from the Town that

we can help you with other than what you as a district (inaudible)?

LESLIE PAULIDES: Yeah, I mean this definitely gets to be the difficult part of it, and I'm not supposed to look at my developer friends, but I do wish that we could reach out to the developers and encourage more community benefit type contributions be made. It was mentioned at the North Forty meeting, which I think we need to look at in conjunction with this, that there is 40 acres there and while some people would like to see an elementary school built there, it takes five acres to build a school. That's not the best use of the property. If you'd take the proposed student generation rates there plus this development we are looking at a school at this point in terms of those two combined, and I don't know where we would put it if we don't get some contribution of land. What in this town would need to get torn down so we could build? Where would I get the money to buy the land with the bonding capacity issue I have until property values go up? So I'm kind of trying to figure out if I can just keep sharing my challenge with you will I have your support on a going forward basis when we start to run into these obstacles that I think are clearly going to affect the

quality of education in the Town if we're not kind of staying one step ahead of it?

CHAIR SAYOC: Commissioner Talesfore.

COMMISSIONER TALESFORE: As a follow up to that, a question for you. I have no idea, but if another school could not be built, could you add or build other classrooms onto the school sites today?

LESLIE PAULIDES: So right now again we're using the $30 million bond that the public voted yes on last June to remodel Lexington up in the mountains and add some classrooms to the middle school and another school. The California Department of Education publishes guidelines. You don't have build within them, but it's the notion of what's best for a child's education is what does the footprint look like relative to the acreage, and we're already over that footprint on all of our elementary schools. So the next thing we'd have to start doing due to cast constraints is throwing up some portables and making those existing sites even more crowded from an acreage standpoint.

Fischer and Van Meter and Blossom Hill, I live off of Shannon Road and my family, we all four drive, we plan our days around not going out when school is coming and going, and those are the three schools that these

developments would be piling kids into. The traffic and the portables and the quality of education as deemed by the CDE's recommendation for how many kids you try to educate and put on one site, I think there's some concerns about that, but we could put up some portables if we had the money.

CHAIR SAYOC: Any other questions? Thank you. The next speaker is Bill Puterbaugh.

BILL PUTERBAUGH: I'm Bill Puterbaugh; I live at 183 Longmeadow Drive. I've been a resident of Los Gatos since 1974.

The reason that I came here was because of Atari, because I was around when Atari was starting it's business in Los Gatos and they had a warehouse and manufacturing building out right about where Albright Way is now. Through various things Atari was forced out or had to move out of Los Gatos and ended up over in Sunnyvale. So I'm thinking well now they're talking sort of like the same thing again with Netflix, that Netflix will be forced to go somewhere else.

So at least from what I understand the things that go on within the Towns are that you're required in your General Plan to agree to a certain amount of density. You have to increase the amount of density in Los Gatos.

All the other towns around the South Bay have got to increase their density, because the population is growing. So we're stuck. You've got to do that. Your General Plan reflects it. Everybody has endorsed the General Plan, so we have to increase density. Well where else is it going to go? Someplace we're going to have this discussion. Whatever property is going to become denser, we're going to have the discussion.

So it seems to me like this project just sort of makes sense. It's going to mean more traffic, but we're going to have more traffic with any other density. And the fact that they want to build five-stories is really inventory for Los Gatos from my point of view, because if Netflix moved out those are very leasable buildings and you'd want to have a leasable building. You'd want to have what the industry wants, because if they move out you want to have another good company move in. So I'm in favor of it and would recommend its approval. Thank you.

CHAIR SAYOC: Thank you. The next speaker is Grant Sedgwick.

GRANT SEDGWICK: Madam Chair, Members of the Commission, my name is Grant Sedgwick; I live on Hernandez Avenue in Los Gatos.

I would like to speak in support of the application. I'm not an expert in the economics of Netflix or other corporate office uses. I did think Mr. Noble expressed the notion of mixed-use on this particular property as being a very appropriate way to think about the land use.

I do wish to speak about the housing alternatives that might ultimately find their way into this development plan as the Applicant has proposed. This is actually a very fine site for a residential development. I've heard the traffic issues and I understand those, but when you weigh those against the proximity to the light rail extension; the adjacency to the Los Gatos Creek Trail; the fact that it is in primarily residential neighborhoods surrounding; it's neighboring the three major recreational facilities in Town, the JCC, the Los Gatos Swim and Racquet Club, and Courtside we've heard a lot about; has accessibility to the freeway; it's flat land, not hillsides; and it's a large assembly of land under one ownership, all of those things argue for this being actually an ideal housing site.

Now I'm a developer of and advocate for seniors housing. I'm not an expert at all in the multi-family product that might be an alternative, but as a developer of seniors housing I can assure you that almost every one of

the concerns, were there to be a residential component in the mix, would be mitigated and in fact far less significant were a seniors housing component a part of the project. Traffic impacts would not only be less than office use and multi-family housing, they would be less than the current traffic generation of the existing campus. There are no school impacts almost by definition. Frankly, I think seniors housing as a component of a mixed-use project here would better serve the existing residents of Los Gatos than a new project of multi-family apartments or townhouses as we could imagine might be described as an alternative.

So I would encourage you to approve the rezoning as it's been proposed. Mixed-use is a very enlightened way to think about land uses with all of these attributes that I've mentioned, and a seniors housing component would absolutely be a positive both in the site and in the mix of uses and for the Town generally. Thank you very much.

CHAIR SAYOC: Thank you, Mr. Sedgwick. Any questions? The next speaker is Tom Woodruff.

TOM WOODRUFF: Good evening. I'm Tom Woodruff and I reside on Shannon Road in Los Gatos. I'm here tonight representing the Los Gatos-Saratoga Union High School District. Just for your edification, Ms. Paulides represents Los Gatos Union School District. That's a school

district that serves students primarily in Los Gatos, grade kindergarten through eighth grade. The Los Gatos-Saratoga High School District serves Los Gatos students from grade 9-12 and includes the City and community of Saratoga and some of the surrounding areas as well.

We are also concerned about student impacts with regard to this development. This last year we closed intra-district transfers into Los Gatos, which is to say if you live in the community of Saratoga and would like your student to attend Los Gatos High, we're not able to permit that because Los Gatos has reached it's housing capacity. That school in particular, just being down the street from where we're sitting tonight, is landlocked. We couldn't purchase additional land very practically to expand the school and it wouldn't be practical to build a five-story school kind of a thing, so the capacity of that school is problematic at this point and additional students would create issues.

One option that the governing board of the High School District would have would be to do a boundary change, which is to carve out a portion of the Los Gatos community and have those students attend Saratoga High School. Whether that is an option the governing board would do or not would remain to be seen, but certainly we have

capacity at Saratoga High School. We currently do not have capacity at Los Gatos High School.

The other thing I wanted to mention is assuming that were to come to fruition we would be probably be bussing students to Saratoga High, so there would be some environmental impacts related to that. Thank you.

CHAIR SAYOC: Any questions? Thank you. Ulrich Hansen, and then after Mr. Hansen will be Malcolm Mosher, Tim Tonges, and then the final speaker would be Rod Wilson.

ULRICH HANSEN: My name is Ulrich Hansen, 159 Smith Ranch Court.

I also have concerns about the traffic impact of the development as it is proposed in addition to some of the aspects already raised. I believe that the addition of a residential development component will also cause traffic issues to happen over the weekend and the off days of the week as well, where right now the traffic dies down a little bit on Winchester Boulevard. If it's a larger potential development that will continue on through the weekends and I think it's severely underestimated how bad it can get.

On the process of allowing the residents to understand the impact of this proposed development, I do feel we have not quite accomplished the objective here. The

fact that there is no specific development that the residents can look at, no specific development plan, plus the fact that some of the tools are not being used like story poling that could really illustrate how significant the requested building heights are, I think we're missing an opportunity here and I would like to ask the Commission to see if there is additional time that can be given for more community involvement. Thank you.

CHAIR SAYOC: Thank you. Any questions? The next speaker is Malcolm Mosher.

MALCOLM MOSHER: Malcolm Mosher, 14651 Golf Links Drive and I represent my family tonight.

You've heard from everyone talking about traffic, air pollution, and noise pollution, which goes go hand-in-hand with automobile traffic. We heard ad nauseam about Netflix, and personally I find it objectionable that Netflix is playing hardball with us in demanding that a decision has to be made so quickly where they might move.

What I think should be done is separate the issue of housing away from this. I'm opposed to the rezoning of this to allow mixed-use, and as I said, for all the reasons stated. There's no point in me reiterating what everyone else has said.

And by the way, we've got the little rubber markers to track traffic on Lark. There's nothing to track traffic on Winchester.

CHAIR SAYOC: Any questions? The next speaker is Tim Tonges.

TIM TONGES: Tim Tonges; I live on La Rinconada. I wasn't planning on saying anything tonight, but listening to some of this, I'm a little bit disturbed.

The Letter of Intent situation, I've never been in real estate, so I don't know, and as you can tell I'm not real estate, because I'm opposed to this.

But just going into that particular area without a plan and without a plan that is committed to is ridiculous. I don't see anybody ever doing that. But that Wedgewood/Wimbledon area that they talked about, if you have to move traffic the issue you're going to have if you restrict traffic anyway is that now people are going to go to Clearview and on La Rinconada. So that's going to reroute people back through a residential neighborhood that already has too much traffic. We've already gone out to the County and looked to have speed bumps put in there because there's too much traffic cutting through today, and then you also approved more memberships for La Rinconada Country Club, which will again have more traffic.

And of course they put the traffic counters out at the same time you guys did, during a holiday weekend, so that you couldn't count a heavy load of traffic or get a real week's worth of traffic when school is in and people aren't on vacation, so that was a timely choice there on dates.

But the residential piece from the schools, the impact it's going to have on the schools is overwhelming, and if there is any doubt to that there's something else going on. So again, we can't build more schools as you heard. It's been challenging for people to get into schools. The class sizes are as big as they can be and we're out of acreage, so that seems to be a dead end there.

I use Netflix. I like Netflix. I've sold to Netflix. They're not a company like Google that's going out and hiring as many employees as they can. They're more like Facebook and being very smart about the number of people they hire. They're also outsourcing big pieces of their company—I just hired some of their employees—so they're not going to grow in employee count like you would expect them to or like they may be saying they are. They've just renewed on their current spot for ten years, so they'll be here for a while.

The last thing I guess I need to say is when you're looking at businesses you always try to decide what it is you are, and we're not Mountain View—I didn't move into Mountain View, I made the choice to move into Los Gatos—or Sunnyvale or anywhere else. If they want to play hardball, I understand the developer has a benefit, he's going to make money, and I understand the Town has a benefit, they're going to bring in taxes, but ultimately it's going to hurt when property values go down and all the residential property taxes go down, and what you're going to have to put in to sewer, police, fire, and everything else in the way of improvements I think is also going to have a negative benefit.

And this process, I've never seen anything like it, not notifying a large swath of people and not having more open hearings on this. So that's all.

CHAIR SAYOC: Thank you. Any questions? And then our last speaker card is for Rod Wilson, and again I want to remind everyone this is the last speaker card and after this we'll close the open comments and then I'll be asking the Applicant to make closing comments. Go ahead.

ROD WILSON: Thank you. Rod Wilson. I'm also on La Rinconada Drive.

Instead of rehashing everything Tim just mentioned, which I basically feel the same way, this process is kind of shocking that you're able to just throw out so many different options and what seems like not doing enough due diligence in the process. We've talked about schools and traffic, which are huge, and I think it's the reason we maintain relatively high values in Los Gatos and why people move here. So I think it's going to dramatically impact both of those areas.

And then the only other thing I'll mention is in addition to the people that have opposed it is it seems like the people that are in support of this project either live on the other side of town, have an ax to grind, or are related somehow, whether they're real estate, real estate developers, or whatever. So I hope you guys can look through that and after looking at basically anyone who has been for this project, they're not in the heart of this, they're not going to be impacted on a daily basis. School-wise I don't think they're going to be impacted, although again, we don't really know what the impact is, because we don't know what the end result is going to be.

My experience in development and real estate has been that if you're going to propose a new project and look for rezoning or approval for a development project you have

a plan, and it just seems like they want to keep all their options open, which is great for them, and that's some of the comments I made the last time. It's like if I'm in their shoes I absolutely want this, but I don't think it's in the best interest of the Town. So that's it. Thanks.

CHAIR SAYOC: Thank you. Again, that was my last speaker card and I see no one else moving forward. So what will happen now, for those new to the process, is the Applicant will have five minutes to respond to the comments that he heard tonight, and then after that I will close the public portion of this and the Commissioners up here will have the opportunity to ask questions, and based on the comments that we've heard tonight, as well as what we heard in the last meeting, as well as those that we've received in the packet in this meeting and the last, we'll begin deliberations and ultimately make a recommendation to Town Council. I want to make the distinction that this is a recommendation tonight to the Town Council and that what is recommended tonight ultimately goes to them and they will be making the final decision on this project. So Mr. Shenk, if you're ready.

JOHN SHENK: Thank you very much. I took some good notes I hope, and I'll just run through real quick here, hopefully within my time.

Just to address two misstatements, and unfortunately they were misstatements that came out of the meeting that I had with the Smith Ranch Court neighborhood. There must have been a misunderstanding. I certainly believe wholeheartedly in the concepts and the uses that we've proposed. I do not believe at all that the office buildings are single-purpose to Netflix by any stretch. They require a huge financial investment and commitment on behalf of ownership and we would not be doing that if we thought it was only for one particular company.

I was racking my brain for a done deal statement. The only thing I can think of that I would have said in that context had to do with our deal with Netflix, and that is the reason that we're not marketing the site. If I were, it would be in bad faith, as we have a commitment to Netflix and we are not marketing this site more broadly for a commercial use.

The environmental review was incredible. It was very thorough. The Town Engineer is here. The traffic consultant is here to answer and dive into any level of detail that you all would like on the traffic analysis, or as well as any other of the environmental reports that were done.

I'd like to reiterate that our application is consistent with the General Plan. We believe firmly that the height that we've requested in the office is a critical component, not only for the Netflix piece but for the same reason that Netflix is interested in the height, that we would want to be able to market and to have this kind of Class A office space in town.

In terms of neighborhood outreach, we'll continue to reach out. My assumption is the reason some people have said that we haven't reached out is they didn't submit anything in writing last time. That's how we found people's contact information. I welcome people to contact me. My name and number and email address is in our correspondence, or certainly again anybody who has submitted anything in writing, we will reach out to those people.

Just to defend and stick up for Netflix here, I don't think anything that they've done has been in a threatening manner. It's simply been a statement of fact. They are hiring, they need space, and they can't have people hired that don't have somewhere to go. I look at it on the flip side. It's a statement of opportunity, not a threat.

Just a reminder that the zoning does set forth triggers related to the non-office uses, the residential,

senior, et cetera, and that they cannot happen until a minimum amount of office square footage is built and the passage of two-and-a-half years has gone by. That would be the first opportunity where we could make an application for another use.

And that is another reminder of what I've shared in respect to the Letter of Intent we have with Netflix. They would control the whole site for 550,000 square feet.

CHAIR SAYOC: Actually what you just last said, the buzzer distracted me. The last sentence, can you repeat it?

JOHN SHENK: Regarding Netflix?

CHAIR SAYOC: Yes, the 550,000 square feet.

JOHN SHENK: The Letter of Intent with Netflix gives them control to expand into all 550,000 square feet of the site.

CHAIR SAYOC: Correct.

JOHN SHENK: So in that way, if we move forward with Netflix, which I have every belief that we will subject to the Town's approval, I couldn't bring in an application in two-and-a-half years anyway.

CHAIR SAYOC: Okay, thank you.

JOHN SHENK: Thank you.

CHAIR SAYOC: Commissioners, any questions of Mr. Shenk? Commissioner Talesfore, do you have a question?

COMMISSIONER TALESFORE: I do have a question. It was something that someone had said about the property being sold. Was that a misunderstanding as well?

JOHN SHENK: There is an entity, and it's a little confusing. It's in the Development Agreement that you see. L.G. Business Park, LLC is a new entity. There's a new capital partner, significant institutional partner, that has purchased the property. I remain as the development manager, Applicant, and entitler throughout this process as well as any redevelopment.

COMMISSIONER TALESFORE: So maybe this is to the Staff as well. Does this affect at all our Development Agreement here?

JUDITH PROPP: The Development Agreement will be with the owner of the property, who is certainly a participant in that Development. If the Town Council were to approve a Development Agreement, then it would be binding on that owner.

COMMISSIONER TALESFORE: Would you clarify that?

JUDITH PROPP: So if the Town Council approved a Development Agreement, it's an agreement between the Town and the current owner of the property, and it runs with the

land and is an obligation to subsequent owners of the property.

CHAIR SAYOC: Any other questions, Commissioner Talesfore?

COMMISSIONER TALESFORE: We heard a lot of comments about the school district plight, which in our town is not insignificant. So my question to you is as the developer of this project is would you be willing to meet and discuss with them as this goes along if in fact residential is developed on that site.

JOHN SHENK: Yes.

COMMISSIONER TALESFORE: Okay. Everybody hear that? All right. Thank you.

CHAIR SAYOC: Any other questions? Okay. So I'm going to close the pubic input portion. I'm also going to take a five-minute break so that we can all gather our thoughts. A lot of information has just been shared. I want to make sure that we have our notes in order. And then afterwards we'll go ahead and begin deliberations. We'll ask questions of Staff, and then again ultimately the goal for tonight is to develop a recommendation to Town Council. We'll be back in five minutes.

(RECESS)

CHAIR SAYOC: Okay, so Commissioners, we heard lots of information, and so we begin deliberations. I want to see if there are any questions of Staff before we get started. Commissioner Talesfore.

COMMISSIONER TALESFORE: Thank you. Just a clarification. In the agreement for the Master Plan there were a lot of sentences about if there were any substantial changes the Town would call the developer back in and they would talk about it. I just wondered could you define substantial for me, or better yet give me an example of what substantial means?

JUDITH PROPP: Certainly when we draft these agreements it's not because it's inevitable, but we're trying to cover all of the bases whether we know it could happen or not. I think the section that you're referring to talks about substantial or significant changes in law, not local, but by state, regional, and federal. Any time there is a change in law regarding health or safety of the community we always have the ability to work with the developer and impose those new rules from the significant or substantial change in law by a federal, regional, or state agency.

I think the most emerging area is in state law regarding greenhouse gas issues. If that were to change and

the state takes some significant issues, then the developer has to come back and chat with the Town about the project and how that impacts the project. Not a local law, but something else. And so that would be a substantial or significant change that might have to come back to the Town for review.

COMMISSIONER TALESFORE: Thank you. I'm new to these agreements.

WENDIE R. ROONEY: Are you also referencing those discussions about substantial conformity? Is that another part of your question?

COMMISSIONER TALESFORE: Yes, thank you.

WENDIE R. ROONEY: Substantial conformity means that as proposed this Development Agreement would vest the application to what has been defined in the plan set, and the Staff Report, and the Development Agreement, and the Conditions of Approval, or the performance standards in the PD Ordinance. So if there was a change that was not in substantial conformance, meaning that it was not generally consistent with those documents I just referenced, then the Town would have the ability to possibly condition it or change it. So if it's in substantial conformity, it is vested. If it's not in substantial conformity, then it

really opens up the door to be discussed again and renegotiated.

COMMISSIONER TALESFORE: Okay, thank you. I have one other question. May I do that?

CHAIR SAYOC: Is it related?

COMMISSIONER TALESFORE: No.

CHAIR SAYOC: I have a follow up to that. May I ask? In relation to that, the example that was given was greenhouse gas. Under AB-32 we're refining the standards that we are looking at on development, particularly residential. Is this an example where it's not a change to AB-32, but it's further defining it? So should residential get approved, do they have to follow the further refinements we get from Sacramento, any standards that would be coming out on development?

JUDITH PROPP: It will depend on whether those are mandates or guidelines. Maybe SB-32, greenhouse gases, wasn't a good idea to use as an example. A lot of those were guidelines rather than mandates, so what this would require is if there was a change in law. So if it were a mandate, yes, they'd have to come back and consider that. If it was a guideline or an option, then that would be for further discussions, but not necessarily required.

WENDIE R. ROONEY: I think that that refers to general questions such as that one you are using for the example, but just to give you a specific response to that question, this application was reviewed in conjunction with the Bay Area Air Quality Management District Revised Guidelines that were just published, and it is in conformance with that. So if subsequent things did happen, then what Judith said would apply, but in this particular case in that one area they are in compliance with those new guidelines.

CHAIR SAYOC: Commissioner Talesfore, you had more questions?

COMMISSIONER TALESFORE: Thank you. So switching gears a little bit, in the future projects that might come before the Town, how will the Town consider this approved project as far as impact to other future projects since this is going to be developed somewhere between five, ten, fifteen, twenty years?

WENDIE R. ROONEY: I'm not sure if I understand exactly.

COMMISSIONER TALESFORE: How will you apply the impacts of this project to any future projects that would be close by in development?

WENDIE R. ROONEY: Whenever we're doing any type of cumulative analysis, such as a traffic analysis, we have a standard process, which our Town Engineer, Kevin Rohani, will walk through so that the Planning Commission clearly understands the assumptions that go into traffic studies. We do an analysis that includes background, pending projects, and approved projects. So in other words, if this project were approved and subsequently the North Forty ends up with the Specific Plan approved and it becomes a project, then the impacts that have been analyzed with this project would be included in that North Forty project. So it takes into consideration what has been approved, what exists, what is proposed, and what is pending.

COMMISSIONER TALESFORE: You fill those in is what you're telling me?

WENDIE R. ROONEY: Yes, and I'll let our Town Engineer, who has intimate knowledge about that, explain that a little bit more when we get to traffic.

CHAIR SAYOC: Commissioner Erekson.

COMMISSIONER EREKSON: This I presume is a question for Ms. Rooney. Section 2.3.5 on page 11 of the Development Agreement, if I understand that wording, it would be at the option of the Applicant to present a master design for the site. If the Applicant chose to do that,

then what's contemplated is that that master design would be reviewed and approved by the Planning Commission, and then at the option of the Planning Commission they could choose to delegate or not to the Staff or to the DRC, and in this case the individual ones that would be done after the master plan review?

WENDIE R. ROONEY: That's correct.

COMMISSIONER EREKSON: I'm just trying to understand. Okay, thank you.

CHAIR SAYOC: Actually Ms. Rooney, I think it might be a good opportunity for you to walk us through the process. I understand once this recommendation goes to Town Council they make an approval or disapproval. Can you walk us through if there is an assumption of approval what happens assuming a Development Agreement comes forward and all the different pieces that take place?

WENDIE R. ROONEY: Sure. As the Planning Commission is well aware the application before you tonight is for a rezone. We have zones throughout the Town and each zone has prescribed uses and development standards: how high a building can be, how big the setback has to be, what the parking ratio is. So this would rezone this particular site to include development standards and uses that are in

the application, in the plan set, in the Development Agreement, and in the PD Ordinance.

Depending on what occurs tonight with the Planning Commission that application either would move forward to the next available Town Council meeting with a recommendation from the Planning Commission to approve, to deny, approve with additional conditions, or of course the Planning Commission has discretion to continue it if they felt that they require more information.

It would ultimately get to the Town Council. The Town Council then would be asked to approve the rezoning. At that point there are no entitlements, so you could not go demo the site and erect a building without further Town review.

So the next step would be Architecture and Site and that is where an actual development plan is proposed for one or more phases of the project. It comes to Staff, we go through a technical review, ultimately mailed notices go out, and the Planning Commission holds a public hearing on it.

At that time, as Commissioner Erekson indicated, the developer has the option of submitting a master design plan that would have all the design standards articulated, and the Planning Commission would be requested to either

approve that and then defer subsequent phases to the Development Review Committee, which is a Staff-level Committee, or retain the ability to have the Planning Commission continue hearing those items. Typically Architecture and Site Applications do not go to the Town Council; the Planning Commission is the final deciding body unless the Applicant or an aggrieved party appeals them.

There would also be tentative maps and final maps that would be processed typically at the DRC. That's a very typical process for the tentative map. The final map would go to Council for acceptance.

We would envision a number of Architecture and Site Applications. We wouldn't envision the entire site being developed in one. As was mentioned by the Applicant, there is a trigger both in the Planned Development Ordinance and in the Development Agreement that at least 200,000 square feet of office has to be constructed and 30 months time has to pass before residential could be proposed, and then again that would go through an Architecture and Site process.

So the land uses would be vested based upon the final action at the Council on this application. The land uses could be vested if the Council approves this. Development standards, height, setbacks, floor plates would

be vested, but things such as how does it look would not be vested. Colors would not be vested at this point. So there would still be that final what does the building look like, what does the landscaping look like? Those would not be vested until the Architecture and Site review process.

CHAIR SAYOC: Thank you for that. Any other questions? Commissioner Talesfore.

COMMISSIONER TALESFORE: Just to clarify, when you say site review, you don't mean that if somehow we thought that we needed to move a building that we would be able to move it? Are the footprints in place and that's it, that's final when it comes to us?

WENDIE R. ROONEY: Actually the setbacks are established because the setbacks relate to the height, so with each additional floor the setbacks increase from Winchester. The actual footprints though are not vested, so those could move depending upon what the building final form is like. So those could be moved, yes.

CHAIR SAYOC: Any other questions? Commissioner Talesfore.

COMMISSIONER TALESFORE: I do have one. It's on page four of the Development Agreement, and it's D, Subsequent Approvals. Can you just walk me through especially where it says, "…which may include without

limitation"? Could you clarify that for me? What exactly does that mean?

GEOFF BRADLEY: That's just a catchall. This is attempting to be an exhaustive list of Town permits and approvals. Without limitation would be if there were possibly one that was not included, it wouldn't be deemed not applicable.

CHAIR SAYOC: Any other questions? Actually I do have some Mr. Rohani. I still would like a better understanding of how the traffic study was completed. It ties back to the overall EIR General Plan and I'm concerned about cumulative impacts. Since this was not examined in conjunction with all of those that were in the pending box, does this traffic analysis, what we did in our initial study, look at what will happen if this were to be approved along with the North Forty and all the potential development along Los Gatos Boulevard?

KEVIN ROHANI: The short answer to your question is yes. Our traffic reports, whether it's for this project or other development projects that are done in Los Gatos, for that exact purpose we look at really the truly cumulative effect, not only the project which has been proposed but also the approved and pending projects, to make sure we really look at comprehensive impacts of any

traffic generated by the project to the surrounding area. So certainly even though this project itself, like was stated earlier, was not included in the General Plan, as a part of its development going through the environmental clearance it was very comprehensively studied, reviewed, and peer reviewed both my Town Staff and our own independent consultant to make sure we have covered all the bases that we can, and based on our process to really, truly look at the cumulative effect of it.

And if I may add something about those traffic tubes that were mentioned, the Town of Los Gatos and my department have traffic counters. We use them for our own projects from time to time to get traffic and speed surveys, so we have some of our traffic counters on University and on Lark.

But for this project as a part of their traffic study, which started toward the latter part of last year between September and November of 2010, during that period the Applicant's traffic consultant had installed traffic counters, those tubes across the roadways, in and around the project site. Also I want to make sure everybody understands by design we do not put traffic counters out when the school is out or when there is a holiday. We want to get a true effect on the traffic counts, so that was a

specific project over a two-month period when school was in session and things had stabilized and before the Thanksgiving holiday. The traffic counts for this project were taken at that time. Again, we do that randomly throughout the year by our own forces for various purposes.

CHAIR SAYOC: And a follow up to that is we've studied enough of these projects to understand that based on the uses we use standardized numbers; I believe it's the Institute of Traffic Engineers. What level of detail do we bring it to Los Gatos' specificity? For example, what may happen on a three-lane town in southern California isn't necessarily indicative of what we would want here. A stoplight every hundred yards, is that something that one determines is appropriate? Do we look at the traffic flow and patterns, where certain traffic goes in and out like at Courtside? At what level of specificity do we look at it versus just looking at these numbers that we look at nationally and say it meshes with the national average?

KEVIN ROHANI: Every municipality, whether it be Los Gatos or somewhere in southern California or out of state have certain traffic policies that dictates and those policies are adopted by their Councils or their government board that dictates how the traffic is perceived or is supposed to operate in that municipality.

In the Town of Los Gatos we have minimum standards of Level of Service D, which none of our intersections are supposed to operate below, which is our minimum acceptable standard.

The Institute of Traffic Engineers, the ITE that you mentioned, that is a pretty hefty book that has traffic volume for a whole range of applications, whether you're building an office building, a hospital, a restaurant, or what have you. So we use those, and that's a standard industry practice to have uniformity for the application to determine how much traffic that generates based on how much square footage you're building. We take that data and put it in a traffic model to see what the impact is to the intersections that we have throughout the area.

Again, it's been looked at extensively. Nineteen intersections in Los Gatos, all of the intersections from Hacienda, along Winchester from Hacienda to Highway 9, and Blossom Hill coming back on Los Gatos Boulevard to the site, were studied for the whole cumulative effect of it for all of the projects that are approved and pending, both on the boulevard and including this project. We wanted to see the impact of it before and after, and found none of those intersections would operate below Level of Service D.

Whether it's this Applicant or others, they pay the pro rata share based on the amount of traffic that generates and it's attributed to the project and to the intersections. They are paying, as you've seen in the Staff Report and in the Development Agreement, funds of plus the 550,000 square feet towards making some improvements along Winchester. I can go into details of it, but we extensively studied that to make sure that none of our intersections are going to be operating below Level of Service D.

CHAIR SAYOC: Thank you. Commissioner Talesfore.

COMMISSIONER TALESFORE: There was talk or I read somewhere in here something about improvement to the University Avenue intersection at Lark. Do you have an idea of what that's going to look like or what that means?

KEVIN ROHANI: Sure. University Avenue and Lark right now is an unsignalized intersection and has been there for many years, I think since the beginning of time. The Town of Los Gatos, as a part of our creekside sports park facility, which will be coming to you in August and hopefully going through that process and getting that project construction underway toward the latter part of this year, would be constructing a traffic signal at that intersection. At University coming to Lark, at certain times of the day you have to wait for the traffic on Lark

to clear out before you can make left turns from University. So that would basically be a signalized intersection similar to let's say Daves and Winchester, kind of a T-intersection if you will. That's the intersection that is going to be constructed by the Town of Los Gatos and paid by this developer's project, so they are going to be paying for that traffic signal. We have that project actually right now under design with our consultant as one of our capital projects and we plan to construct that project later this year.

CHAIR SAYOC: So a follow up to that, two questions, one more specific.

It's in our capital improvement plan for the year, but is there any contingency? Because the money won't come unless this is approved, is that correct?

KEVIN ROHANI: The way we have written the conditions for this Applicant and this project is that they would be paying, because their project is going to be lagging our project after it goes through let's say all of the approvals by the Planning Commission and the Council and they go through their Architecture and Site approval process. They would be months kind of lagging our project, so it would be building our projects and funding it through

the Town's overall traffic mitigation funds and they would be reimbursing us for that.

CHAIR SAYOC: Okay. And then my last question is more of a general question, but who decides that Level of Service D is appropriate? I mean if I'm looking at a grading scale, D is not satisfactory in my family, so how does one determine that D is okay and that's something that we should be accepting?

KEVIN ROHANI: I believe that whole Level of Service D policy was approved by the Town Council a number of years ago. I don't have the exact date, but it's been active for quite some time, so we can at some point come back to you regarding when it was approved, but it's a little bit different than the scoring for the grade schools. A Level of Service in traffic terminology doesn't quite equate with the A, B, C scores you get in school, and so Level of Service D is still acceptable. There are levels of services of E and F. There are agencies that have signals running at Level of Service F, which is pretty dysfunctional.

CHAIR SAYOC: But in our town D is what has been approved?

KEVIN ROHANI: Level of Service D is the minimum standard, and no matter what the projects are, large or

small, their impacts cannot bring an intersection below D. If it does they have to do mitigation improvements, whatever is going to be needed to bring that to a minimum of D.

WENDIE R. ROONEY: It's also important to note that all assumptions built into the General Plan are built on that level of service.

CHAIR SAYOC: Commissioner Talesfore.

COMMISSIONER TALESFORE: I'm going to switch you over to the Wimbledon off of Courtside area. Can you explain the design there for that intersection, or the change that might happen or occur because of this development?

KEVIN ROHANI: As I said, we have studied this whole Winchester corridor along the frontage of this. The current signals that we have right now are traffic signals at Winchester and Wimbledon, and Winchester and Lark, and even though they are relatively close to each other they are not interconnected, so they act as independent traffic signals. As part of this application, to make the corridor truly functional we're going to be interconnecting the two signals by hardwire and also the new proposed signal that is going to be at the entrance to Courtside. What this means is it would make all of the signals run in concert

with each other, so when their traffic controller box, basically their brain, works and there is a green light here, all three of them are running green to have the proper flow of traffic through the intersection.

COMMISSIONER TALESFORE: There is an intersection at Roberts Road and Los Gatos Boulevard and you can only turn right with the green light. I mean it all works in concert. Is that what you're talking about?

KEVIN ROHANI: Roberts Road?

COMMISSIONER TALESFORE: Roberts Road. You can turn left and also right, but when you turn right it has to be in concert. They're very close by.

KEVIN ROHANI: These would function better because the one at Roberts is kind of what we call a dog leg intersection, and we have one also on Blossom Hill Road at Cherry Blossom Lane in front of Blossom Hill Elementary School. Those are somewhat abnormal signals, not in operation but just the layout of the land, how the intersections configure. These would be different where their timing would be interconnected so you don't have to go green, red, green. That's been one of our emphases as we studied this project over the past months, ever since last year, to make sure the flow of traffic on Winchester is not going to be impacted certainly below Level of Service D. If

we could improve it as we did our study and evaluated and came up with measures that would help this, having this interconnecting would certainly facilitate the flow of traffic on Winchester.

COMMISSIONER TALESFORE: Interconnecting would be Wimbledon and Lark. Would it also include University?

KEVIN ROHANI: Yes, we would connect the new signal that we're going to build at University and Lark. Basically it would be Lark-University, Winchester-Lark, Winchester-Wimbledon, and Winchester-Albright/Courtside.

COMMISSIONER TALESFORE: Thank you.

CHAIR SAYOC: Any other questions. Okay, so let's switch from questions to any comments, whether initial or more detailed that you'd like to share. Commissioner Erekson, you look ready.

COMMISSIONER EREKSON: I'll take a run at this. I'll try to make this coherent from a set of notes from the last meeting and this evening.

It seems to me the project under consideration tonight is amongst the most important development proposals that have faced the Planning Commission and the Town Council easily in recent months, if not in recent years. It's a proposed mixed-use, transit-oriented development that presents an exceptional opportunity for the Town to do

three things from my perspective: enhance economic development and tax revenue in the Town, increase employment opportunities and expand the supply and variety of housing in the Town that contribute to the Town's goals to have a desirable jobs-to-housing balance in the Town, and to incentivize VTA to prioritize extension of the Vasona Light Rail to Los Gatos.

Those are all important goals for the Town. Those goals are things that we can nod to, but are really province of the Town Council. As the Planning Commission we're charged with evaluating the key land use issues associated with the proposed development and making recommendations to the Town Council that ensure that this proposed project, as with any proposed project, is consistent with the Town's 2020 General Plan, and in this case, as in many cases or projects, balances the desires of a developer, the short-term needs of the Town, and the long-term interest of the Town and its residents. The proposal that's presented to us tonight in general strives to strike a reasonable balance among those competing goods from my perspective.

I'd like to first compliment the Staff for their diligence and hard work on this project to date for their careful analysis and thoughtful recommendation and for

their counsel to me and other members of the Commission as we've considered this project. In particular I want to acknowledge Ms. Rooney, the Director of Community Development, and Ms. Propp, the Town Attorney, as they provided useful feedback and guidance through the process, Mr. Rohani, Mr. Paulson, and other members of the Staff as they've worked with the consultants, and Mr. Bradley, who as a contract planner probably regrets that he took on a project of this complexity.

I'd also like to complement Mr. Shenk for his thoughtful and forthright responses to the questions that were raised at the last Planning Commission meeting and for his answers to questions that we posed tonight. Your forthright nature and clarity about your intent and what your desires are as a developer was helpful in sharpening our focus.

It was also helpful to have Mr. Hyman here so that Netflix came out of the shadows and was present in the deliberations, so I appreciate your being here tonight and your comments.

I'd also like to compliment and thank all the members of the public who were here tonight and who provided us feedback tonight, at the last meeting, and in writing, in many instances expressing concerns about the

project and in other instances expressing support. That the public took the time to study and review the proposal is really important for the Town, because the long-term interest of the Town and its citizens is at stake.

The work of the Staff, the comments from the public, and the feedback that we have from the developer and from Mr. Hyman helped us all get a better understanding of the proposed project as Commissioners and sharpened our focus on the key issues at hand.

After careful consideration of the proposed development project, the Staff's analysis, which was very excellent, the analysis done by the consultants, which was very helpful, and the feedback from the public, I'm generally supportive of the proposal, but do have several areas of concern.

The first area of concern involved the proposed uses for the site. As everyone knows, there are three possible uses that have been proposed for the site: R&D Class A office space, senior housing, and multi-family housing.

R&D Class A office space from my perspective is the most desirable and appropriate use of this location. The property is oriented to Winchester Boulevard and R&D Class A office utilization is consistent and compatible

with the adjacent properties on the east side of Winchester and the development in the general vicinity of this site at that end of town.

A concern that I have however is the structure of the drafted Planned Development Ordinance and the draft Development Agreement require only 200,000 square feet of office space, whereas there is presently 250,000 square feet of office space, which could result in the Town having a net reduction in office space, albeit it's a difficult style and quality of office space, but it could result in the town having a net reduction in office space.

The location of this site also makes it very attractive for senior housing. It's close to needed services for seniors, including hospitals, medical offices, and restaurants. In addition, senior housing is likely to create less traffic impact than multi-family housing units would, and likely also than office space would create.

Multi-family housing is clearly from my perspective the least desirable of the three proposed uses of the site. There is a general lack of family-oriented public facilities and services in the vicinity of the site, and the site is along a major arterial with significant traffic, which makes the location less desirable for families. The most significant concern associated with

possible multi-family housing however is the impact on the school districts and their lack of capacity to accommodate the number of students that will be generated by putting multi-family housing on that site.

The second area of concern for me involves mass, scale, and visibility of the project. The proposed maximum height of the office buildings at five-stores and 85' is a significant departure from the height of commercial and residential development in the vicinity of the project. To be consistent with the height, mass, and scale of other commercial and residential developments in the area we need to be sure that the development is limited to a height that ensures a substantial portion of the building bulk will be screened by existing and future trees, will provide ample setbacks from the surrounding right-of-ways, and will have architectural features that will reduce the apparent building mass—because we all experience building mass, it's not just what the height and the size is and we experience it—so that the apparent building mass reduces as it becomes taller.

The Staff Report indicates, as everyone has read and has been discussed, that the proposed 550,000 square feet of potential office space can be accommodated with four-story buildings on the site. It would seem to me that

many of the concerns that I've outlined could be accommodated not impossibly with five-story buildings, but more easily with four-story buildings.

A third area of concern involves the traffic impacts on the Winchester-Lark-Los Gatos corridor part of town. Staff has carefully analyzed this proposed project, and Mr. Rohani alluded a few moments ago that they and the consultants use standards that guide our land use planning. I would reiterate our responsibility is land use planning and we have to use standards to evaluate traffic impacts. We can't use anecdotal experience; we have to use standards in order to be fair as we move through a planning process over time. The Staff and the consultants have analyzed that and they've used the result of the analysis and applied the applicable standards and integrated a number of mitigation measures that are proposed, and the Staff has worked with the Applicant on significant monetary contribution toward the necessary improvements that are incorporated in the mitigation measures. However, it would be naive to say that the contribution this project will make to the intensification in traffic in this already busy area isn't a significant concern to all of us.

Hopefully the future extension of Vasona Light Rail to Los Gatos will help relieve some of the traffic in

this area and the proper uses in this area, not including multi-family housing, will help relieve some of the traffic impacts in this area.

Pedestrian safety and bicycle accommodation in the vicinity of the project are also of a concern to me and they've been incorporated in the mitigation measures that are in the report.

The Development Agreement seems to me to be thoroughly done by the Staff in conjunction with the interactions with the developer and strives to balance what I talked about earlier: the desires of the developer, the short-term needs of the Town, and the long-term interest of the Town. Freezing of the fees makes me a little uncomfortable, but I trust that the Staff got us where we need to be with the terms of the agreement in those preliminary negotiations, and since they did not make a recommendation that we should not include that in the agreement I am comfortable that they have done their due diligence with that element of it.

Those are my comments, Madam Chair. At the appropriate moment I would be okay with making a motion, but I would be very interested in what the other Commissioners have to say about the project.

CHAIR SAYOC: Actually, Commissioners, would anyone be opposed to him starting a motion?

COMMISSIONER TALESFORE: No.

CHAIR SAYOC: I'd say go ahead.

COMMISSIONER EREKSON: I hope I'll do this okay. I would ask that Ms. Rooney and Ms. Propp help me along the way if I stumble. It would be a three-part motion.

I would move to recommend to the Town Council approval of Mitigated Negative Declaration ND-11-004 with the corresponding errata sheet, and the associated Mitigation Monitoring and Reporting Program supported by the finding that no significant environmental impacts have been identified as a result of the project.

A Mitigated Negative Declaration has been prepared with the necessary and appropriate mitigation measures to support this finding with the following highlights for the record: to reduce the visual quality impacts associated with the project to less than significant levels, and the mitigation measures pertaining to limiting visibility, tree screening, and landscape planning must be carefully monitored by the Staff and strictly enforced as appropriate. To reduce the traffic impacts associated with the project to the less than significant levels the mitigation measures pertaining to

improvements at the three intersections in the vicinity of the project must also be carefully monitored and completed in a timely manner. For pedestrian safety and bicycle access in the vicinity the mitigation measures pertaining to pedestrian and bicycle access must be carefully monitored and completed in a timely manner also.

Part two of the motion would be to recommend to the Town Council adoption of the Planned Development Ordinance as outlined in Exhibit 24 and the Development Agreement in Exhibit 20 with the appropriate modifications as may be necessary to incorporate the following changes: one, limit the use of the development to R&D office space and senior housing only; two, adjust the residential triggers and/or other terms of the ordinance and the Development Agreement as may be necessary such that the minimum amount of new office space at the site will be 250,000 square feet rather than 200,000 square feet; and three, limit the office buildings to a maximum of four stories and 70' in height.

With these changes I can make the finding that the proposed zone change and the terms of the development agreement are internally consistent with the Town's 2020 General Plan and specifically Goals LU-1 and LU-8 of the Land Use Element, Goals VLR-1, VLR-2, VLR-3, VLR-6, and

VLR-9 of the Vasona Light Rail Element, and Goals HOU-1, HOU-2, and HOU-5 of the Housing Element.

The third part of the motion would be to move recommendation to the Town Council of acceptance of the proposed community benefit outlined in Section 4.3 of the Development Agreement, supported by the finding that the specified community benefit outweighs the traffic impacts of the project and therefore is consistent with the Town's Traffic Policy.

CHAIR SAYOC: So Commissioner Erekson, I just want to capture that in a nutshell. On the key uses it's office and R&D with senior housing, removal of multi-family, and a height limitation of 70' and four stories. Is that for both uses?

COMMISSIONER EREKSON: For the office buildings.

CHAIR SAYOC: For the office buildings. And what would be the height that you're proposing for the senior housing?

COMMISSIONER EREKSON: I'm not recommending any change to what's in the agreement, because if I remember correctly the senior housing is four-stories and 70' and the other is three-stories and 40'.

CHAIR SAYOC: Any comments? And then ultimately I would need a second.

COMMISSIONER TALESFORE: I think you've covered it all. If I were to express my feelings concerning the development as far as height and use, I feel like inherent in all decisions that you make is an element of risk and there are known elements that can be anticipated and unknowns that you can't control, and in this proposal the payoffs and the risks involved are not absolute, they're projected.

It also occurs to me, and this is where I have issue, is the more in the future this development occurs the greater are the unknowns, especially to our town, its residents, and basically the future residents. The impacts will not be small, but they're unknown, and what will be built is also unknown at this point and unknown is the Town situation at the point of development in five, ten, fifteen, or twenty years.

The North Forty and Swanson Ford will have impacts that are anticipated, but not yet realized, and we will have to adapt to those changes. But I believe that somehow Commissioner Erekson has captured as much as he possibly can of this to make it somewhat an acceptable risk at this point, but this is only a recommendation to Town Council, is that correct?

CHAIR SAYOC: Correct, this is a recommendation.

COMMISSIONER TALESFORE: It has to have an approval or a denial, is that also correct?

CHAIR SAYOC: Would you provide clarification? Given that there are four of us, how must this move forward?

JUDITH PROPP: So there is a motion pending. We're waiting for a second, and then the Commission can vote on that. Anyone can make amendments. You folks could, as you've done on other projects that are being recommended to Town Council, just add comments. They see all of your comments and the community's comments. So if it's a consensus, that's great, you can send it up to them that way. Even if you can't reach a consensus then you should be sending up your comments to give them your thoughts and guidance based on what they've asked you to do at the most recent workshop.

CHAIR SAYOC: And I'd like for you, whether you agree or disagree, just to share as specifically as you can, because ultimately what the Council approves should take into consideration each Commissioner's comments.

COMMISSIONER TALESFORE: Well, like I said, it's been pretty much captured with Commissioner Erekson's motion.

CHAIR SAYOC: And also Commissioner, just a reminder, if it feels like there will not be a second, you're free to make changes or amendments to see if the maker of the motion would be amenable process-wise.

COMMISSIONER TALESFORE: What I would like to see is somehow to have this come back to us with the Architecture and Site that we could see the two entities on the same piece of land. I don't know how we'd put that in the motion or in the agreement with the Town, but I'm not sure that we'll have that opportunity.

CHAIR SAYOC: Well ultimately remember we're setting the parameters. The biggest ones are uses, height, and setbacks, and once that is set Architecture and Site comes back, so you need to realize those are the three things that this will dictate. So where is your comfort level? You're ultimately going to see another application, but those are the three things that will not change.

COMMISSIONER TALESFORE: My comfort level with the height would be to compliment the Netflix building across the freeway, but I don't know that that will happen. My other comfort level with the development of the senior housing, if that's the way Town Council would see this go, is at its required height at least 35', which would be in keeping with the Town Code. So that would make me more

comfortable, so I would maybe second this if I could get some feedback on that.

CHAIR SAYOC: Okay, well let me see if I can make this more efficient. I will not be seconding it, so I leave it to the maker if you would like to withdraw or if you'd like to allow for amendments.

COMMISSIONER EREKSON: The motion is out there, it's pending a second, and I guess I would entertain specific amendments but wait to judge whether I would accept them based on what they are.

CHAIR SAYOC: Commissioner Talesfore, would you like to share more comments or would you like me to jump in?

COMMISSIONER TALESFORE: No, go ahead.

CHAIR SAYOC: Let me just make it very clear. I wholeheartedly support transit-oriented development; I think I mentioned that in the last meeting. And I feel that what is contained in here are elements of that: office, multi-family, and senior. However, I don't feel that the current proposal captures that all into one application, and so therefore I don't see this as the vision of transit-oriented development that I necessarily see along the corridor.

Now certainly for land use, which is our primary responsibility, there have been strong arguments made for the need of Class A office space, not only what has been presented to us with this specific hearing, but also we just commissioned an economic study that happened to be particularly for the North Forty, but that study showed that there is a demand that can be absorbed by Los Gatos by a certain amount of Class A office space. Five hundred and fifty thousand square feet was something that could be easily absorbed by this study, as I've heard by testimony tonight and also shared with us written. So if I'm looking strictly at land use of this particular site and deciding what's the best land use, and I believe it's office use and I see that there is a strong demand, whether it's a nonbinding Letter of Intent of it's anecdotal, then I feel that the best use for that parcel is square footage of primary office space.

That being said I don't see the need to muddy the waters with potential triggers for residential use should this not happen, because in a way one argument is conflicting with the other. Either you're saying this is great for office use, but then if you start saying but I'm not so sure, let me build this, let me build that, then that dilutes the argument, and I do feel that there's a

strong need for office use, and I just want to simplify this. I want to make it very clear this is the use that I support and I will not be supporting senior housing or multi-family on this.

Now in terms of height, 35' is our standard. That's the policy we've been working with. Certainly there are exceptions. Fifty-five feet has been approved for the other Netflix site. And frankly I like it, I like the way it looks, but I feel you should provide a visual. Story poles have been our norm, but I believe that when that was built other means were done. I think balloons were done in the past; I wasn't on board then. But to me to jump from 35', which is our standard practice, to 85' without any visual for the community or for those that are living adjacent to it is just inappropriate, because that is a significant jump. I understand there are visuals that have been provided in our Staff Report, but when you're saying that these buildings are going to be taller than the trees there I just feel it would be a detriment to the surrounding neighborhood if we don't give them an opportunity to live with it for a week or two, considering they're going to be living with it for the next 20 years. So I would not be supportive of anything beyond 55'. There could have been an argument. I could have been swayed if

something had been placed and I could have seen it and it could have been softened with the setbacks. I certainly thing architecturally something could have been done, but I think it would be irresponsible on my part of approve something without actually seeing something.

And then in terms of setbacks, should this forward to Council and get approved if they decide that the increased height is appropriate, I do like the setbacks and the floor plate, as it does condense it a bit so architecturally it would soften it.

And one other thing with the Development Agreement, again, I want to make it clear I don't support multi-family or senior housing, but should this move forward and get approved I would hesitate to have the residential trigger at two-and-a-half years. I think in two-and-a-half years a lot of things could happen, and if we have one of our favorite constituents saying that they could take 550,000 square feet, and they have a ten-year lease in their current site, I think a residential trigger at two-and-a-half years would be shortsighted because either Netflix or another high-tech company may want that 550,000 square feet and I'd hate to rush into an alternative use if we haven't fully maximized what could be there, and I see great potential there.

So those are my comments. I think we can mesh something.

COMMISSIONER TALESFORE: I think we can too. I guess what I was hearing from Commissioner Erekson is that given that there is an agreement here with development up and there were options, it was like Option One for me would have been alternative development, R&D as well, but then if the developer wanted to put another type of development on there my second choice would have been then to include the Staff Report. However, if we have to rate them and put them in priorities I would only want the possibility of Netflix taking over the entire space, and you don't ever have to outgrow hopefully your areas. I don't know whether we could alter Commissioner Erekson's mind on that or not.

CHAIR SAYOC: So as the maker of the motion, Commissioner Erekson, listening to this would you be willing to entertain an amendment or would you like to withdraw?

COMMISSIONER EREKSON: It's not clear to me what the amendment would be, so it's hard to judge whether the amendment would be acceptable or not.

CHAIR SAYOC: Well I'm not seconding.

COMMISSIONER EREKSON: I guess it will die for lack of any second.

CHAIR SAYOC: Okay, so the motion dies for lack of a second. Can I have another motion? Okay, then I'll go ahead and do one similar to Commissioner Erekson's. I'll gloss over certain things that I am in agreement with. I make the findings as required by Town's Traffic Policy for community benefit, agreement in the Mitigated Negative Declaration, and the Mitigation Monitoring and Reporting Program. What I would change is that the recommendation to Town Council that I would propose moving forward is that it is for office/R&D uses, all 550,000 square feet, and that the height is limited to 55'. The setbacks that are contained within the Development Agreement certainly are amenable to me, and I would leave it as that.

COMMISSIONER TALESFORE: Okay, I'll second that.

CHAIR SAYOC: Now any comments to the motion on the floor? Okay, so I'll go ahead and call it. All those in favor say aye.

CHAIR SAYOC: Aye.

COMMISSIONER TALESFORE: Aye.

CHAIR SAYOC: Anyone opposed?

COMMISSIONER EREKSON: Nay.

CHAIR SAYOC: Okay. And then?

COMISSIONER JENSEN: I apologize, Madam Chair, but I must abstain.

CHAIR SAYOC: Okay, so we have two ayes, one nay, and one abstention. In a quorum that's we can leave it as that. And then Ms. Propp, is this a majority? Can you clarify this vote?

JUDITH PROPP: Keep in mind this is a recommendation to Town Council. You've made comments and you can move it along. I mean you can keep working on trying to get a 3-0-1. If you want to you can leave it this way. That's the discretion of the Commission.

CHAIR SAYOC: I would propose to leave it this way, but if you would like to add more comments, since this is a recommendation to Town Council, I'd welcome any of that. Seeing none, then this is moving forward. Ms. Rooney, when does this move?

WENDIE R. ROONEY: The first available Council meeting we could put this on would be June 20th, so most likely it will be on that June 20th meeting.

CHAIR SAYOC: And will there be renotification?

WENDIE R. ROONEY: We will be renoticing, yes.

CHAIR SAYOC: Okay, well that concludes this item on the agenda.