



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 03/04/2025

ITEM NO: 10

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DATE: February 27, 2025  
TO: Mayor and Town Council  
FROM: Chris Constantin, Town Manager  
SUBJECT: Consider a Recommendation by the Planning Commission to Approve Architecture and Site, Conditional Use Permit, and Subdivision Applications to Demolish Existing Hotel Structures (Los Gatos Lodge), Construct a Multi-Family Residential Development (155 Units), Approve a Condominium Vesting Tentative Map, Site Improvements Requiring a Grading Permit, and Remove Large Protected Trees Under Senate Bill 330 (SB 330) on Property Zoned CH:PD:HEOZ. **Located at 50 Los Gatos-Saratoga Road.** APNs 529-24-032, 529-24-001, and 529-24-003. No Additional Environmental Review is Necessary Pursuant to CEQA Guidelines Section 15183: Streamlining Process, Since the Proposed Project's Environmental Impacts were Adequately Addressed in the 2020 General Plan EIR and/or 2040 General Plan EIR, as Applicable. Architecture and Site Application S-23-042, Conditional Use Permit Applications U-23-017, and Subdivision Application M-23-009. Property Owner: Keet S. Nerhan. Applicant: SummerHill Homes, LLC. Project Planner: Sean Mullin.

**RECOMMENDATION:**

Staff recommends that the Town Council accept the Planning Commission's recommendation to adopt a resolution to approve Architecture and Site, Conditional Use Permit, and Subdivision applications to demolish existing hotel structures (Los Gatos Lodge), construct a multi-family residential development (155 Units), approve a condominium vesting tentative map, site improvements requiring a Grading Permit, and remove large protected trees under Senate Bill 330 (SB 330) on property zoned CH:PD:HEOZ, located at 50 Los Gatos-Saratoga Road.

**PREPARED BY:** Sean Mullin, AICP  
Planning Manager

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Community Development Director

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BACKGROUND:

Senate Bill 330

The Housing Crisis Act of 2019, or SB 330, became effective on January 1, 2020, and will remain in effect until it sunsets on January 1, 2030. SB 330 provides an expedited review process for housing development projects and offers greater certainty by allowing an optional vesting opportunity through the Preliminary Application process. Submittal of a Preliminary Application allows a developer to provide a specific subset of information on the proposed housing development ahead of providing the full amount of information required by the Town for a housing development application. Once the preliminary application is “deemed submitted” and payment of the permit processing fee is made, a vesting date is established, freezing the applicable fees and development standards that apply to the project while the applicant assembles the rest of the materials necessary for a full application submittal. Eligible projects are exempt from discretionary review and must be consistent with objective zoning and design standards. The statute requires that a final decision be made in no more than five public hearings, including appeals. The SB 330 preliminary application for this project achieved a vesting date of June 30, 2023.

State Density Bonus Law

State Density Bonus Law (SDBL) created a mechanism to obtain more favorable development requirements for projects with affordable or senior units. To meet the affordable housing goals, developers are entitled to a density bonus that corresponds to specified percentages of units set aside for very-low, low, or moderate-income households. In addition to the density bonus, SDBL provides three provisions that must be granted to qualifying projects:

1. One or more concession or incentive that provide cost reductions for the development. Under the law, a concession or incentive includes a reduction in site development standards and/or regulations when such regulations potentially make the project economically infeasible for the developer to build. These can include a reduction in site development standards or modification of zoning or architectural design requirements that exceed minimum building standards. The number of allowed concessions is determined on a sliding scale based on the percentage of units that will be set aside as affordable units and the household income category of those affordable units.
2. Waivers are reductions or modifications of any development standards and other regulations that would physically preclude the development of a project at the density permitted. Development standards include, but are not limited to, height limitations, setback requirements, FAR, open space requirements, or parking requirements that apply to a residential development pursuant to any ordinance, general plan element, policy, resolution, or regulation. There is no limit in the number of waivers an applicant can request through SDBL.

3. Reductions in parking requirements provided based on the number of bedrooms in each unit.

The proposed project qualifies for a density bonus and all associated provisions under the SDBL.

#### Housing Accountability Act - Builder's Remedy

The California Legislature adopted the Housing Accountability Act (HAA) to "significantly increase the approval and construction of new housing for all economic segments of California's communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects" [Gov. Code § 65589.5(a)(2)(K)]. It is the policy of the state that the HAA "be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing." [Gov. Code § 65589.5(a)(2)(L)]. The "Builder's Remedy" provision of the HAA specifically prohibits a local agency from relying on inconsistency with zoning and general plan standards as a basis for denial of a qualifying housing development project unless the agency has adopted a sixth cycle housing element in substantial compliance with State law by January 31, 2023. The Town's sixth cycle housing element was certified by HCD on July 10, 2024. The preliminary application for this project achieved a vesting date of June 30, 2023, prior to certification of the Town's Housing Element. Therefore, the project qualifies as a Builder's Remedy project. In the project documents, the applicant has invoked their right to Builder's Remedy, but it has not been implemented. The deviations from the Town's standards included in the project are requested exclusively through SDBL.

#### Project Site

The subject property consists of three lots totaling 8.82 acres located on the south side of Los Gatos-Saratoga Road at the intersection with Alberto Way (Exhibit 4). The majority of the property is relatively flat. A steep, densely wooded hillside rises approximately 55 feet to Bella Vista Avenue along the east edge. The property is developed with the Los Gatos Lodge, a hotel that began operation in 1958 and is currently operating, and a two-family residence located on the east side of the property accessed from Bella Vista Avenue. The property has a General Plan designation of Mixed Use Commercial and is zoned CH:PD:HCOZ, or Restricted Commercial Highway with a Planned Development (PD) overlay and a Housing Element Overlay Zone (HCOZ). The PD overlay was approved for the construction and operation of the Los Gatos Lodge. The HCOZ overlay was applied to sites included in the Sites Inventory of the Housing Element and modifies development standards such as density, lot coverage, FAR, and height. The HCOZ became effective on December 21, 2023. The preliminary application under SB 330 was deemed submitted on June 30, 2023, establishing the vesting date for the application. Therefore, the application is not subject to the provisions of the HCOZ, including minimum density.

On December 20, 2023, the applicant submitted a formal application, within 180-days of the established vesting date as required by state law.

Through the Town's technical review process, the application was deemed complete on May 7, 2024, within the timelines prescribed by state law. On January 14, 2024, the application was deemed consistent with applicable Town standards, except where waivers were requested, and ready for consideration through the Town's public hearing process.

On February 12, 2025, the Planning Commission received the Staff Report, received public comments, and discussed the project. The Planning Commission voted unanimously to forward a recommendation to the Council to approve the project with modified conditions of approval. The Planning Commission Staff Report, Addendum, Desk Item, and verbatim meeting minutes are included as Attachments 3 through 6.

The application includes a Vesting Tentative Map, requiring approval by the Town Council pursuant to Town Code Section 24.10.020. The applicant seeks approval from the Town Council, who will render the final decision on the project.

DISCUSSION:

A. Project Summary:

The applicant proposes demolition of the Los Gatos Lodge and construction of a multi-family residential development consisting of 155 attached units distributed among 28 separate buildings (Attachment 3, Exhibit 17). The applicant submitted a Project Description Letter (Attachment 3, Exhibit 5) and Letter of Justification (Attachment 3, Exhibit 6) discussing the project. New private roadways and alleys would provide circulation throughout the site, taking access from the existing location on Los Gatos-Saratoga Road. The proposed project also includes a pedestrian pathway from Los Gatos-Saratoga Road to the High School, an emergency vehicle access easement connecting to the High School property, and frontage improvements along Los Gatos-Saratoga Road. A Condition of Approval provides the applicant an opportunity to request in-lieu payment rather than constructing the frontage improvements subject to approval of the Town Engineer (Attachment 2, Exhibit A). Of the 155 proposed units, 26 units would be designated as Below Market Price units.

Full discussion and analysis of the project is provided in the November 13, 2024, Planning Commission Staff Report (Attachment 3).

B. Planning Commission:

On February 12, 2025, the Planning Commission received the staff report, applicant's presentation, and public comments on the proposed project (Attachments 3 through 6).

The Planning Commission voted unanimously to forward a recommendation to the Council to approve the project with a modified condition of approval. Specifically, language was added to Conditions 26 and 40 limiting idling time to two minutes for construction equipment located both on-site and off-site when queuing along roads within Town limits (Attachment 2, Exhibit A). The Planning Commission Staff Report, Addendum, Desk Item, and verbatim meeting minutes are included as Attachments 3 through 6.

Following the February 12, 2025, Planning Commission meeting, the applicant provided an updated construction phasing exhibit, which is included as Attachment 7.

FISCAL IMPACT:

Approving the Architecture and Site, Conditional Use Permit, and Subdivision applications does not impact the Town's budget.

ENVIRONMENTAL REVIEW:

CEQA Guidelines Section 15183 allows a streamlined environmental review process for projects that are consistent with the densities established by existing zoning, community plan, or general plan policies for which an Environmental Impact Report (EIR) was certified. The Town Council adopted the 2040 General Plan and certified the 2040 General Plan EIR on June 30, 2022. On April 2, 2024, the Town Council voted to rescind the Land Use Element and Community Design Elements of the 2040 General Plan. Therefore, the Town's current General Plan consists of the Land Use Element and Community Design Element of the 2020 General Plan, and the remaining Elements of the 2040 General Plan. The 2020 General Plan EIR is the effective EIR for the Land Use Element and The Community Design Element. Projects that are consistent with the densities and use characteristics considered by the General Plan EIRs may qualify for the 15183 exemption process.

The 15183 exemption process requires a more detailed environmental analysis than other CEQA statutory and categorical exemptions. Unlike other exemptions, mitigation may also be required under the 15183 process. A project-specific environmental analysis must be completed as part of the 15183 process. Technical studies, such as a biological technical report or a traffic impact analysis, may be required if a project would result in a potential environmental impact.

An Initial Study was prepared for the project, which included a number of project-level technical studies, including: an Air Quality, Greenhouse Gas, Health Risk, and Energy Analysis; Biological Resources Evaluation; Arborist Report; Historic Resources Evaluation; Geotechnical Report; Noise Assessment; and Transportation Analysis (Attachment 1). All technical reports were peer reviewed by the Town or the Town's consultants. The Initial Study concluded that additional environmental review is not necessary pursuant to CEQA Guidelines Section 15183: Streamlining Process, since the proposed project's environmental impacts were adequately

addressed in the EIRs prepared for the 2020 General Plan and/or 2040 General Plan, as applicable, and through implementation of applicable General Plan polices identified in the Initial Study for inclusion in the conditions of approval.

PUBLIC COMMENTS:

Project identification signage was installed on the Los Gatos-Saratoga Road and Bella vista Avenue street frontages by June 26, 2024, consistent with Town policy. Visual simulations were completed by the Town's consultant and posted to the Town's website by January 28, 2025 (Attachment 3, Exhibit 12). Written notice was sent to property owners and tenants within 1,000 feet of the subject property and notice of public hearing signage was installed on the street frontages by February 21, 2025, in anticipation of the March 4, 2025, Town Council meeting.

Staff conducted outreach through the following media and social media resources, for both the availability of the visual simulations and notice of the public hearing:

- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;
- The Town's Instagram account; and
- The Town's NextDoor page.

Public comments received by 11:00 a.m., Thursday, February 27, 2025, are included as Attachment 8.

CONCLUSION:

A. Summary

The applicant is requesting approval to demolish existing hotel structures (Los Gatos Lodge), construct a multi-family residential development (155 units), a Conditional Use Permit, a condominium vesting tentative map, site improvements requiring a grading permit, and removal of large protected trees under SB 330 on property zoned CH:PD:HEOZ, located at 50 Los Gatos-Saratoga Road. As detailed above and in the February 12, 2025, Planning Commission Staff Report, the application was submitted and is being processed under SB 330. The project qualifies for a concession and unlimited waivers under SDBL. The applicant has invoked the Builder's Remedy, but it has not yet been implemented. The deviations from the Town's standards included in the project are requested exclusively through SDBL for which the applicant provided justification addressing the required findings for each. On February 12, 2025, the Planning Commission forwarded a recommendation of approval to the Council with modified conditions of approval.

B. Recommendation

Staff recommends the Town Council adopt the draft Resolution (Attachment 2) to make the required findings and approve the Architecture and Site, Conditional Use Permit, and Subdivision applications subject to the Conditions of Approval.

C. Alternatives

Alternatively, the Council can:

1. Approve the applications with additional and/or modified conditions; or
2. Continue the matter with specific direction; or
3. Deny the applications and make the required findings for denial.

ATTACHMENTS:

1. Final Initial Study – December 24, 2024  
(available online at <https://www.losgatosca.gov/50LGS>)
2. Draft Resolution making the required findings and approving the applications subject to the Conditions of Approval (included as Exhibit A)
3. February 12, 2025, Planning Commission Staff Report, with Exhibits 2 through 17
4. February 12, 2025, Planning Commission Addendum, with Exhibits 18 through 19
5. February 12, 2025, Planning Commission Desk Item, with Exhibit 20
6. February 12, 2025, Planning Commission Verbatim Minutes
7. Updated Construction Phasing Exhibit
8. Public comments received by 11:00 a.m., Thursday, February 27, 2025

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