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

Los Gatos Planning Commissioners:
Steve Raspe, Chair
Emily Thomas, Vice Chair
Susan Burnett
Melanie Hanssen
Kathryn Janoff
Adam Mayer

Town Manager: Laurel Prevetti

Community Development Director: Joel Paulson

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

CHAIR RASPE: Let's move now to the public hearing portion of our calendar. We have two items tonight. The first is consideration and forwarding a recommendation regarding a zone change from C-1, that is Neighborhood Commercial, to RD, Residential Duplex, for properties located at 15025, 15026, 15039, 15040, 15053, 15054, 15066, 15067, 15080, and 15081 Downing Oak Court, with respective APNs as 523-41-024, -033, -025, -032, -026, -031, -030, -027, -029, and -028.

Before I ask for a staff report, have Commissioners had a chance to visit the site? Can I see by a show of hands? Thank you so much. Are there any disclosures regarding the matter from Commissioners? Seeing none, do we have a report from Staff? Mr. Mullin is not present this evening?

JENNIFER ARMER: Unfortunately Mr. Mullin is not available tonight, but I will give you a brief Staff Report.

Good evening Chair, Vice Chair, and Commissioners. The item in front of you is consideration of

LOS GATOS PLANNING COMMISSION 2/14/2024, Item #2,
15025, 15026, 15039, 15040, 15053, 15054, 15066,
15067, 15080, and 15081 Downing Oak Court

1 a Town-initiated rezoning of properties on Downing Oak
2 Court from Neighborhood Commercial zone C-1 to Residential
3 Duplex zone RD. This zone change resolves an inconsistency
4 with the General Plan designation for those properties that
5 resulted from the annexation in 1978. It would result in
6 residential zoning for properties that are already
7 developed with residential uses, and would allow for new
8 ADUs on those lots that would not be allowed under the
9 existing commercial zoning.
10

11 Staff recommends the Planning Commission consider
12 the existing and proposed zoning and forward a
13 recommendation for approval of the zone change to Town
14 Council as laid out in the draft ordinance in Exhibit 2.

15 This concludes Staff's presentation, but I'd be
16 happy to answer any questions.

17 CHAIR RASPE: Thank you so much for that
18 presentation. Commissioners, any questions for Staff on
19 this report? Commissioner Hanssen.

20 COMMISSIONER HANSSEN: I just had a conceptual
21 question, which is this is something we talk about when we
22 do the General Plan, that we're going align the zoning with
23 the General Plan designations. Is this a systematic
24 aligning of the zoning where there are inconsistencies, or
25

1 is there some specific reason that these properties are in
2 front of us?

3 JENNIFER ARMER: Thank you for that question. The
4 discussion and consideration of this one was triggered
5 because one of the property owners was looking to do a
6 renovation of the existing residential structure, which
7 included an Accessory Dwelling Unit, and the current
8 regulations from the State do not allow us to permit an ADU
9 in a commercial zone, and so this was identified. As well,
10 as stated in the Staff Report, there is actually State case
11 law that states that we are responsible for making this
12 change once we do identify it.
13

14 But to follow up on the core of your question,
15 there is a plan once we go through this, kind of as a test
16 case, to then systematically look to find those
17 inconsistencies throughout Town and batch them and bring
18 them through for consideration.

19 CHAIR RASPE: Commissioners, any other questions
20 for Staff on the report? Seeing none, and seeing no members
21 of the public in tonight's audience, Mr. Paulson, are there
22 any members on Zoom who wish to be heard on this matter?
23

24 JOEL PAULSON: Thank you, we do have one hand
25 raised.

1 CHAIR RASPE: Thank you. Participant on Zoom, if
2 you could State your name for the record please, and you
3 have three minutes.

4 LEE QUINTANA: Lee Quintana.

5 CHAIR RASPE: Thank you so much.

6 LEE QUINTANA: I need to say that I'm a past
7 member of the General Plan Committee, I'm a past member of
8 the General Plan Advisory Committee for the 2040 General
9 Plan, and I'm a current member of the Historic Preservation
10 Committee.
11

12 My comment is I think part of it was brought up
13 that this was a question of inconsistencies between the
14 General Plan and the Zoning Code brought up during the
15 General Plan Update process, and only one was recommended
16 to be included, one that was asked for by the owner of the
17 property, so I was curious. You've answered why now this
18 one thing was brought up, and you've also answered the
19 question of whether the Town is going to systematically go
20 through and update all the other inconsistencies that there
21 within the Town, and there are numerous ones.

22 That's just my comment, because I wanted to know
23 that that was going to happen, and of course I support
24 making the zoning consistent. Thank you.
25

1 CHAIR RASPE: Thank you, and before you leave,
2 any Commissioners have comments or questions for this
3 member of the public? Seeing none, thank you.

4 I will now close the public portion of the
5 comments and then invite comments, questions, discussions,
6 and/or motions by our Commissioners. Commissioner Mayer.

7 COMMISSIONER MAYER: I just want to have a
8 discussion about this zoning. On the surface it looks like
9 we're doing a downzoning. Really not, but that's what it
10 feels like. I know one property owner was asking about
11 adding an ADU and currently the zoning doesn't allow them
12 to do that, so I understand the intent of what we're trying
13 to do here.
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15 And do I understand that if one of the future
16 nonconforming properties is demolished it can be rebuilt
17 with the same number of units that currently exist, but
18 within the same footprint? To me, that seems a little bit
19 of overkill or a bit heavy handed. Maybe you can clarify.

20 JENNIFER ARMER: Thank you for that question. I
21 can clarify. One of the existing structures was burnt down,
22 it was not as if they chose to tear it down, but if it did
23 come down, say, in a fire or an earthquake, they would be
24 allowed to rebuild that nonconforming structure; whereas if
25

1 someone did choose to come and redevelop one of the sites
2 the new redevelopment would be required to comply with the
3 rules in place at that time.

4 COMMISSIONER MAYER: I guess the follow up
5 question is have any of the other property owners,
6 especially the owners of the ones with more units like the
7 four-plexes and the six-unit properties, raise any
8 objections to this? It sounds like this issue was brought
9 to light by one of the property owners. I'm just curious
10 how the conversation was with the other property owners.
11

12 JENNIFER ARMER: Thank you for that question. We
13 have not received any concerns or questions from the other
14 property owners.

15 JOEL PAULSON: Through the Chair, the current
16 situation is the same, so under the C-1 it's the same
17 rules; if it was burnt down or an earthquake, they'd be
18 allowed to rebuild, but not expand, and so that's not
19 changing.

20 COMMISSIONER MAYER: But if one of the owners of,
21 for instance, one of the six-unit properties, wanted to
22 tear down the existing structure, they wouldn't be allowed
23 to build six units new?
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1 JENNIFER ARMER: Thank you for that question. No,
2 they would not. In fact, they would not be allowed to do
3 that in the C-1 zone either. They would be required to go
4 through a rezoning or General Plan amendment, because right
5 now with it inconsistent we wouldn't be able to approve a
6 redevelopment of the lot, because you couldn't say it was
7 consistent with zoning and the General Plan when they are
8 inconsistent with each other.

9
10 In addition, under the C-1 zone residential is
11 only allowed as part of a mixed-use development, which at
12 this point based on the General Plan designation and the
13 existing development of those parcels, commercial really
14 isn't appropriate on that cul-de-sac.

15 COMMISSIONER MAYER: Thank you for that. I
16 understand the inconsistencies and we're trying to fix that
17 here, I'm just thinking about a scenario where a property
18 owner of maybe one of the four-unit buildings realizes that
19 if they tear this down they can only do a duplex. I don't
20 want there to be a situation where property owners are
21 blindsided.

22 I understand this is a situation where these
23 properties are grandfathered in from the annex portion of
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1 the County. I understand what the Town is trying to do, but
2 I'm a little bit uncomfortable with that personally.

3 JENNIFER ARMER: If I could, just one follow up
4 and clarification. The fact that this doesn't fix the
5 nonconforming for all of the parcels, at the same time it
6 doesn't make them worse. All of them are nonconforming now.
7 It now makes it so that four of them are conforming and the
8 others at least are the appropriate use, even if they are a
9 greater density.

10 CHAIR RASPE: By clarification, my understanding
11 is to do more would require a General Plan amendment, is
12 that correct?

13 JENNIFER ARMER: Correct. Yes, this is the
14 simplest way to improve the situation. There of course will
15 be opportunities; if the Town chooses to change the General
16 Plan designation at some point in the future that could be
17 considered.

18 CHAIR RASPE: Thank you. Commissioner Mayer, does
19 that answer your questions?

20 COMMISSIONER MAYER: For now, yes.

21 CHAIR RASPE: Vice Chair Thomas.

22 VICE CHAIR THOMAS: Thank you for your comments,
23 Commissioner Mayer. At our prep meeting yesterday with
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1 Staff this was also brought up, because it seems like we're
2 trying to provide opportunities at least for replacement of
3 housing; we wouldn't want any of these to be torn down and
4 a single house built.

5 But Ms. Armer did point out that we would require
6 a General Plan amendment, and so this was just the easiest
7 and quickest way to get this conforming, and then in the
8 future if redevelopment is happening, that's what we will
9 have to do, but I do think it's something that's important
10 to bring up, because we want to make sure the density
11 doesn't change.

12
13 CHAIR RASPE: All right, thank you. Commissioner
14 Janoff, I saw your hand earlier?

15 COMMISSIONER JANOFF: Thank you; my question was
16 answered. But I did want to clarify that I think I
17 understand what Commissioner Mayer is getting at, and
18 Commissioner Thomas I think clarified further, that as
19 Planning Commissioners we want to make sure that we don't
20 downsize the ability to create higher density parcels, so I
21 think apart from the motion that would provide for the
22 zoning change that is being requested tonight it would be
23 appropriate for the Planning Commission to also recommend
24 that this particular neighborhood group of parcels be
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1 considered for a General Plan amendment in order to allow
2 for an increased density.

3 I'm not sure whether there's a parking lot or a
4 bucket list or anything along those lines that Staff is
5 keeping as we come upon these properties that really, in
6 light of what we're trying to achieve in the Housing
7 Element, would take us a little bit farther if we changed
8 the density, so it would be my suggestion that we recommend
9 that that be taken another look at farther down the line.
10

11 COMMISSIONER HANSSEN: I had a follow up question
12 on that same issue. If it were General Plan High-Density
13 Residential, would those lots be conforming?

14 JENNIFER ARMER: I'd have to look back at the
15 density. We did calculate the density for each of the
16 individual lots as well as for the area as a whole, and one
17 of the things that I do want to point out is that right now
18 is if you calculated the density based on the original lot
19 size without taking out the cul-de-sac, it actually is
20 consistent with the density for the Medium-Density
21 Residential designation. If you're looking at it without
22 including the public street, which is our current policy,
23 then it becomes more dense, and so that would bump it into
24 the High-Density range, I believe.
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1 COMMISSIONER HANSSEN: But that would be enough?
2 It would be beyond High-Density Residential? I wouldn't
3 think with that few units that that would be the case.

4 JENNIFER ARMER: Yes. If you take a look at the
5 Staff Report on page 4 of 7 at the bottom there is a chart
6 that actually gives the density for each individual site.
7 The paragraph above it gives the overall density calculated
8 with and without the right-of-way included, and so you have
9 a few that are actually over the 20 dwelling units per acre
10 if you look at the sites individually, and that is above
11 the current 2020 General Plan land use High Density
12 maximum, so those two would be above. The four that have
13 four units on them, those would be within the appropriate
14 range.

15 COMMISSIONER HANSSEN: That does answer my
16 question. I would want to comment that I do concur with
17 Commissioner Janoff's comments as well as Commissioner
18 Mayer's comments that we should be prepared to take the
19 next step. I think it makes a lot of sense to improve their
20 situation and align it with the current General Plan
21 zoning, but we ought to also put in our thoughts for the
22 future that we would act on that so as to prevent any
23 downsizing of the density that's in that current
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1 neighborhood, because as we said, we would not want it to
2 become a single-family home when we have six units.

3 CHAIR RASPE: Thank you. Vice Chair Thomas.

4 VICE CHAIR THOMAS: I just want to echo those
5 comments and also add that I wasn't even aware that this
6 was... I thought these were single-family homes. I live in
7 this neighborhood. I don't drive down this cul-de-sac every
8 often because it's a cul-de-sac, but I was like, "What?
9 There are multiple units in here?" So then when I thought
10 in the General Plan, in the Housing Element, we didn't talk
11 about these sites, because I legitimately thought that they
12 were single-family homes. Even when I first turned down
13 there I was like am I on the right street? Then I was like
14 oh, these are multi-units.

15 I just thought they were big, giant homes built
16 in the 1970s, so even though they are a little dated today
17 I think they are another really good example of multi-unit
18 buildings that exist in town that blend in seamlessly with
19 the rest of the neighborhood, and so I wanted to point out
20 that I really do appreciate that.

21 I do think that we should forward a
22 recommendation to have this move in a direction to
23 eventually amend the General Plan land use designation for
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1 this area, because I do think that it is an appropriate
2 area to have the current density that is there at minimum.

3 CHAIR RASPE: Thank you so much. Commissioner
4 Janoff.

5 COMMISSIONER JANOFF: I wanted to add that when
6 we talked about this site during the drafting of the
7 Housing Element it did come up, because in certain terms
8 it's a dated site and it may be time for redevelopment. It
9 was brought to our attention, quite rightly, by Rob Moore
10 who reminded us that this is a high-density neighborhood
11 and we don't want to include it on the sites inventory;
12 we're not interested in converting these relatively low-
13 cost dwelling units into more unaffordable.
14

15 This neighborhood was specifically mentioned,
16 which also adds to the importance, I think, that we want to
17 make sure that this neighborhood remains high-density and
18 is enabled to be as high-density as possible.

19 CHAIR RASPE: Thank you so much. My sense is
20 we've arrived at a consensus. Can I ask one of my fellow
21 commissioners to try to verbalize it by way of proceeding
22 (inaudible) the Staff? Would it be in the form of a motion
23 with what is before us with an added recommendation as
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1 described by my fellow commissioners? Would that be the
2 best way to format it?

3 JENNIFER ARMER: Yes, I would say that a
4 recommendation on the ordinance, and then it sounds like in
5 addition to that just a general comment recommendation for
6 future consideration. I don't know if the Town Attorney has
7 specific thoughts?

8 ATTORNEY WHELAN: Just to add to that, you could
9 forward a recommendation for the zone change approval and
10 recommend a future General Plan amendment. Does it make
11 sense to include the potential future land use designation?
12

13 JENNIFER ARMER: General Plan land use
14 designation and zoning to allow High-Density Residential
15 would probably be the way to say it, and I can help guide
16 the language if needed.

17 CHAIR RASPE: Thank you so much. With that being
18 said, Commissioner Janoff.

19 COMMISSIONER JANOFF: Can I say, "So moved"?

20 JENNIFER ARMER: Yes.

21 CHAIR RASPE: Thank you so much. Do I have a
22 second on that motion? Vice Chair Thomas.

23 VICE CHAIR THOMAS: I second.
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CHAIR RASPE: Thank you. We have a motion and a second. Any further comments, Commissioners? Then by a show of hands can I see all those in favor of the motion before the Commission? Let the record show the motion has passed unanimously. Are there any appeal rights?

JENNIFER ARMER: This is a recommendation, so there are no appeal rights.

CHAIR RASPE: Thank you so much.

(END)