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

Los Gatos Planning Commissioners:	Melanie Hanssen, Chair Kathryn Janoff, Vice Chair Jeffrey Barnett Reza Tavana
Town Manager:	Laurel Prevetti
Community Development Director:	Joel Paulson
Town Attorney:	Robert Schultz
Transcribed by:	Vicki L. Blandin (619) 541-3405

1 CHAIR HANSSEN: Okay. And is that okay with the
2 Town Attorney? That's not a conflict of interest, is it, or
3 is it?

4 TOWN ATTORNEY SCHULTZ: It certainly could be.
5 Unfortunately it's being brought up at this late hour, so
6 we'll move forward. Off the top of my head I don't believe
7 so, because you make your financial income off of the
8 stocks I'm assuming that you have with Schwab and not from
9 Schwab itself, so your income is derived from the stocks
10 that you earn as opposed to from Schwab, and so we'll move
11 forward with it.
12

13 CHAIR HANSSEN: Okay. Thank you for letting us
14 know.

15 TOWN ATTORNEY SCHULTZ: And I would just make
16 certain the Planning Commissioners understands to please
17 bring these up as soon as possible when you receive a
18 conflict of interest.

19 CHAIR HANSSEN: Okay, that sounds good. So,
20 Commissioner Burch is recused and we will go ahead with the
21 hearing.

22 This item is a request for a Zoning Consistency
23 Determination and approval of Conditional Use Permit U-20-
24 009 for a bank, being Charles Schwab Community Banking and
25 Investment Services, on property zoned C-2:LHP:PD located

1 at 35 University Avenue, APN 529-02-044. The property owner
2 is SRI Old Town LLC, the Applicant is Amber DeMaglio, and
3 our project planner is Sean Mullin.

4 Before we go to the Staff Report I would like to
5 ask for a show of hands from Commissioners who have been
6 able to visit the site. Okay. Probably everyone has been by
7 that part of town. Are there any disclosures beyond what we
8 already heard? Okay.

9 I understand Mr. Mullin will give us the Staff
10 Report.

11 SEAN MULLIN: Thank you and good evening. Before
12 you tonight is a request for a determination of the zoning
13 consistency for Charles Schwab Community Banking and
14 Investment Services and consideration of a Conditional Use
15 Permit for that proposed use.

16 The subject property is located in the Old Town
17 shopping center on the west side of University Avenue in
18 the C-2 zone. The Applicant proposes to occupy a vacant
19 ground floor tenant space near the corner of University and
20 Elm Street.

21 The C-2 zone is intended for predominantly
22 pedestrian-oriented uses such as retail services and
23 entertainment. Office uses are allowed in the C-2 zone but
24 may not be located on the ground floor per the Town Code.
25

1 The bank use is allowed in the C-2 zone on the ground floor
2 with the approval of the Conditional Use Permit.

3 Traditionally, businesses that provide investment
4 services have been considered office uses and may not be
5 located on the ground floor in the C-2 zone. The Applicant
6 requests that the Planning Commission determine that the
7 proposed use is a bank and seeks approval of a Conditional
8 Use Permit for the use to be located on the ground floor in
9 the tenant space at 35 University Avenue.

10 The Applicant has provided a Letter of
11 Justification, project description, and a letter describing
12 the proposed use that speaks to the consistency of the use
13 with the C-2 zone.

14 A Desk Item has been distributed to the Planning
15 Commission providing additional public comment received
16 after the publishing of the Staff Report, and Staff
17 recommends that the Planning Commission review the
18 application materials and determine whether the proposed
19 use is a bank. If the Commission determines the use is a
20 bank, Staff recommends approval of the Conditional Use
21 Permit subject to the recommended Conditions of Approval
22 included with your Staff Report.

23 This concludes my report and I'm happy to answer
24 any questions.
25

1 CHAIR HANSSEN: Before I ask any other
2 Commissioners, I did want to clarify it's my understanding
3 after speaking with Staff yesterday that it is two separate
4 decisions that are related. One is making a decision about
5 whether or not this is a bank, and then additionally we
6 would make a decision to approve or not approve the
7 Conditional Use Permit. Since we have some Commissioners
8 that haven't been with us as long and we haven't seen a
9 Conditional Use Permit for a while, I would remind the
10 Commission that Conditional Use Permits run with the land,
11 so if we approve it then whatever that use is will be the
12 one that carries over even if Schwab wasn't to continue
13 with it. That was something that I wanted to clarify and
14 make sure that we had right with Staff.

16 Then I will ask if anybody has any questions? I
17 think that Ms. Renn is also here, our Economic Vitality
18 Manager. Go ahead, Commissioner Tavana.

19 COMMISSIONER TAVANA: Just a quick question. Was
20 it mentioned that there was a Desk Item distributed on this
21 topic?

22 SEAN MULLIN: Yes, there was a Desk Item
23 distributed this morning for additional public comment
24 received after the publishing of the Staff Report.
25

1 COMMISSIONER TAVANA: I don't think I received
2 that, but okay, I'll take a look for it.

3 CHAIR HANSSEN: I'm actually not sure I received
4 it either; I checked and thought maybe I missed it, but I
5 think it would be helpful.

6 I'm just going to make a suggestion while we're
7 still on the Staff Report that if we could hear from Ms.
8 Renn about her thoughts about this application and if it
9 came to that where there was concern about the Conditional
10 Use Permit, are there other opportunities to fill this
11 vacancy left by The Gap?
12

13 MONICA RENN: Without giving any personal opinion
14 on the Staff Report or the application I can just say that
15 I've been working with the Applicants for over a year now.
16 They do have a current location in town which to date we
17 have looked at as a legal nonconforming space. As I
18 understand it, they intend to relocate their space to the
19 one that's on the application today, the former Gap
20 building.

21 It's really hard to say what could fill this
22 space other than this use at this time. Retail was already
23 changing, it was already shrinking and the format was
24 looking much different, and then we had the pandemic of
25

1 course hit in March which has really just turned our
2 economic situation upside down.

3 It's hard to predict what's going to be next. I
4 can say that we have had some new businesses looking to
5 come into town. Very few are retail; they're mostly food
6 uses or kind of hybrid uses since service isn't really
7 something that can be done in a lot of places, so it's hard
8 to predict, not knowing how long we'll be with this
9 pandemic and what that economic outcome is going to be, how
10 retail with look in a couple of months.

11
12 I can just say that to date I haven't received
13 any inquiries on this space other than from Charles Schwab
14 and I don't know that we've really had a flood of any other
15 type of retail. I would say if anything I'm seeing people
16 looking for a small footprint so that they can have maybe a
17 brick and mortar footprint as well as some space in the
18 online world.

19 If you have any other specific questions let me
20 know if I missed something.

21 CHAIR HANSSEN: Do any Commissioners have any
22 questions for Ms. Renn or Staff? Vice Chair Janoff.

23 VICE CHAIR JANOFF: Just a quick question for Ms.
24 Renn. The Desk Item. One of the statements in the Desk Item
25 indicated that we were on the precipice of an economic boom

1 and that we were going to see... I'm paraphrasing it, I don't
2 have it in front of me, but the gist of it was we're just
3 so close on the cusp of this big economic recovery and why
4 would we install a so-called bank in a retail space? Am I
5 to understand from previous comments that the likelihood—
6 well, I guess it's hard to say but I'll say it anyway—the
7 likelihood of a retail footprint being in this space seems
8 low at the moment?

9
10 MONICA RENN: It's really hard to say for this
11 specific space, mostly because Old Town works a little bit
12 differently than the rest of downtown predominantly because
13 it has one single owner. They are able to do a little bit
14 more programming and do a little bit more kind of
15 synergistic programming where they're looking at certain
16 retailers and certain businesses that follow one another
17 around, whereas downtown you may have any owner that owns
18 one or two spaces next door to each other, so there's less
19 of that opportunity to really program a larger space. To
20 me, Old Town is almost a center inside our downtown, it's a
21 little hub inside of downtown; it even looks a little bit
22 different than the rest of downtown in my opinion.

23
24 I really don't know. I did see the letter that
25 came in. I think there are some really interesting business
concepts that are going to come out of the pandemic. I

1 think people have really been forced to look at things
2 differently and get creative. I think we will see new
3 business models. I've been very impressed with how well Los
4 Gatos has weathered this storm and how so many businesses
5 have stayed relevant and have changed their business
6 models.

7 I just don't know what could come in here.
8 Federal Realty has over and over proven to do a good job
9 with their tenanting, but I just don't know, I can't speak
10 for them to know if they have somebody else or could find
11 somebody else.

12 VICE CHAIR JANOFF: Just a quick follow up, if I
13 might?

14 CHAIR HANSSEN: Go ahead, Vice Chair.

15 VICE CHAIR JANOFF: If the Old Town is owned by
16 one owner and it has so many stores and the opportunity to
17 do, as you say, programming and try to recruit stores into
18 the spaces that would kind of logically fit with the other
19 retail, and that's not happened—I mean, Gap isn't gone yet—
20 but presumably they would be looking for a retail fit if
21 they could find one. Is that a fair statement?
22

23 MONICA RENN: Well, I think there are a couple
24 things that go on. Not all the time does a business leave
25 right when they decide to or right when they stop paying

1 rent. Sometimes a property owner will keep them around. I
2 have heard this could be the case with Gap. I don't know
3 that for a fact but I've heard that they have been given
4 the opportunity to stay in order to not have a vacant space
5 sit on the corner there.

6 Again, it's hard to say. I know that the formula
7 that they work with has specifics to it, so it's not like
8 they can necessarily say we have six people who will
9 backfill this if this doesn't work out. I think on the flip
10 side of that they may be looking at if this does work out
11 this could then provide a draw for another set of retailers
12 or another set of businesses.

14 It would probably be a question that you could
15 ask more specifically of one of the representatives that I
16 see here tonight in the attendee list; they may be able to
17 give you some more insight on their formula.

18 VICE CHAIR JANOFF: Thank you.

19 CHAIR HANSSEN: Thank you for all that insight,
20 Ms. Renn. Do any other Commissioners have questions for
21 Staff at this time? There will be another chance to ask
22 Staff questions later. Then we will go ahead and open up
23 the public hearing to allow that Applicant to address the
24 Commission for up to five minutes.
25

1 DIRECTOR PAULSON: Thank you, Chair. It looks
2 like Mr. Kreshek is going to speak on behalf of the
3 property owner, and so I'm going to allow him to talk for
4 up to five minutes on the application.

5 JEFFREY KRESHEK: Thank you, Commission and Ms.
6 Renn. I appreciate the thoroughness of the report and the
7 dialogue thus far. My name is Jeff Kreshek. I'm Senior Vice
8 President for Federal Realty; I handle the west coast
9 leasing. We're a publicly traded real estate investment
10 firm, over 50 years publicly traded on the New York Stock
11 Exchange.
12

13 We've owned this property for 23 years, and I
14 think that's a very important distinction. We're not a
15 development company that comes in to develop something, own
16 something, turns it around and does something else with it.
17 We stay with our communities for a very long time. Our
18 average length of hold is well over 23 years on our
19 portfolio nationally.

20 I think Ms. Renn really hit the point that we'd
21 like to make here today: We were going through an evolution
22 in retail before COVID. So, Vice Chair Janoff, to your
23 comment in that letter about this precipice, I couldn't
24 disagree more. Are we on the precipice of the next normal?
25 Yes. This revitalization, I don't know that I can call it

1 that and I don't know that it goes directly that way, we
2 are on the precipice of the evolution of retail, and I want
3 to make sure that it's really understood.

4 When COVID ends, what's happening in retail
5 doesn't end. What's happening today in retail, and the
6 changes that are happening, and why community-serving uses
7 such as Schwab are so important to these downtowns was
8 happening long before COVID. I believe, Ms. Renn, you and I
9 met on the property maybe two years ago when we identified
10 some of these issues and some of these problems, and we
11 pointed out that retail is evolving, and community-facing,
12 Amazon-proof type of use such as a bank is a vital part of
13 any downtown of any project, and you can see it in areas
14 like Palo Alto, Walnut Creek, even in our very own Santana
15 Row in San Jose.

17 So, this is not an unusual use to find in a
18 vibrant retail community and it is customer-centric, and
19 again—I think it's an important point—it is somewhat
20 Amazon-proof as well. This is not a service that many
21 people are doing online, certainly not on the investment
22 side, but even on the banking side. People still like to
23 have that relationship, that direct connection, so I think
24 that's very important to note.

1 I'm happy to take any questions as far as what
2 the merchandizing strategy is, how we evolve the project.
3 But you'll notice Sephora is under construction. We
4 recently were able to add that.

5 And to answer the question that was asked, yes,
6 it is safe to say that if we could find a retail tenant to
7 come into this space we would do so, but keep in mind, and
8 to Ms. Renn's earlier point, retailers today are much, much
9 smaller. That Gap space is almost 9,000 square feet.
10 There's not a big universe of large-scale users. As a
11 matter of fact, if you look at what's happening on the
12 landscape, the large-scale users have been closing stores
13 and filing bankruptcies, including Sur la Table, Brooks
14 Brothers, J. Crew, Forever 21, and a list that goes on and
15 on; it's been a virtual hit parade lately of store closings
16 and bankruptcies.

18 But the real focus here is that Schwab's business
19 has evolved over 20 years. What they were when they took
20 the original space is not what they are today, and I do
21 believe we have members of the Schwab team that would like
22 to speak within the three minutes about how their business
23 has evolved and how they are a community-serving bank.

24 CHAIR HANSSEN: How much time does the Applicant
25 have left?

1 DIRECTOR PAULSON: We've got a little over a
2 minute-and-a-half and I see a couple of hands up, so I'm
3 not sure which person would like to speak. I've got a Mr.
4 Zac and a Mr. O'Marah it looks like, and so I am going to
5 let Mr. Zac speak, see if he is speaking on behalf of
6 Schwab.

7 RICHARD ZAC: Thank you, everyone, for the
8 opportunity. My name is Richard Zac; I'm the Regional
9 Manager for Charles Schwab Bank and I just want to take a
10 couple of minutes to describe a little bit about the
11 evolution, and then my colleague Pat O'Marah can talk about
12 our involvement in the community.
13

14 Schwab is a modern wealth management company.
15 We're committed to helping our clients reach their goals
16 through integrating a human, a local, a branch platform,
17 along with a very robust online and mobile platform. We
18 leverage both the power of people and technology. We find
19 in the branch network many clients like to meet with us
20 live in person, particularly when they're developing their
21 plan to manage finances, which is why we have the branch
22 footprint in the first place.

23 We're not new to Los Gatos. We've been here for
24 20 years. In that time our business has really evolved and
25 has grown dramatically. Schwab Bank was created in April of

1 2003 after we started in Los Gatos 20 years ago. In that
2 time, right now today, Charles Schwab Bank is the eleventh
3 largest bank in the country, \$348 billion dollars in
4 assets. We are a bank for investors that provides all the
5 traditional things you might think of with banking:
6 checking, bill pay, ATM, mortgage, home equity lines, trust
7 services. And lastly, before I turn it over to Pat, J.D.
8 Power ranked Schwab Bank the highest in customer
9 satisfaction in the United States two years in a row.
10

11 I think my colleague Pat has a few things to add
12 with respect to our involvement in the community. Pat.

13 DIRECTOR PAULSON: Chair, we've got about five
14 seconds, so Mr. O'Marah, you're going to need to make this
15 quick, but the Commission may have questions. Mr. O'Marah,
16 you can unmute yourself.

17 PAT O'MARAH: Yeah, I don't know that I can add
18 much in five seconds. I apologize; I had intended for these
19 to be separate comments.

20 CHAIR HANSSEN: The Applicant will have a chance
21 to speak again after we take public comments in response to
22 any public comments that we get, so why don't we go with
23 that and then let me ask if any Commissioners have a
24 questions for the Applicant at this moment? I'm not seeing
25 anyone with their hands raised. Commissioner Barnett.

1 COMMISSIONER BARNETT: Is Schwab chartered as a
2 bank in the State of California?

3 DIRECTOR PAULSON: Mr. O'Marah or Mr. Zac, either
4 one, I'm going to allow both of you to talk.

5 RICHARD ZAC: Our registration is in Nevada.

6 COMMISSIONER BARNETT: Okay, thank you.

7 CHAIR HANSSEN: Are there other questions for the
8 Applicant at this time? I'm not seeing anyone, so that
9 being said we will move on to public comments. If any
10 members of the public would like to speak on this item you
11 may do so for up to three minutes.

12 DIRECTOR PAULSON: The first speaker we have,
13 Chair, is Ms. Somers.

14 CATHERINE SOMERS: Great, can you hear me?

15 CHAIR HANSSEN: We can hear you.

16 CATHERINE SOMERS: Wonderful. Good evening,
17 Planning Commissioners. My heart is kind of pounding right
18 now, I have to say, because this is one of the hardest
19 deliveries I've given, but I have to leave you with
20 actually just three words: It's not a bank. And it will be
21 really a bummer if we allow for that space to turn over
22 into office space.

23 I'm hoping that all of you will read the Desk
24 Item, or at least before you make decisions tonight read
25

1 the Desk Item that was given to you I think by Jim Foley.
2 Perhaps his words were a little aggressive when he said
3 we're on a precipice of new era, but my board has been
4 working really hard... I don't think I mentioned that I was
5 the Executive Director of the Chamber of Commerce. My board
6 has been working really hard on bringing new businesses to
7 town and we are seeing a lot of interest, and I think
8 during this pandemic businesses are changing, they're
9 adapting to new circumstances, we're starting to see some
10 new developments in different things, we've had a lot of
11 new businesses open in town and more are coming.
12

13 We've really worked hard to reach out to Federal
14 Realty, and that Old Town space is a gem, probably one of
15 the most valuable and beautiful in our town, and I think
16 really what needs to happen is that we need to work more
17 closely possibly with Jeff and Zac and all these other guys
18 that are on the line here, and develop that as it really
19 could be developed. I mean, that in and of itself could
20 make Los Gatos a destination like no other in Northern
21 California. Better than Santana Row, and I say that
22 seriously. I think we have just allowed that space to sort
23 of become a little desolate and a little downtrodden and I
24 just think if there's something that we can do to work
25 together.

1 I mean, I agree, the GAP space is a big space,
2 but I don't think we need to put something in there where
3 if you look at the floor plans it's office space and that's
4 all it is. And we need something in there. Maybe it's
5 divided into a couple of different spaces, but we're more
6 creative than this and I think working with them we can
7 actually come up with something that's different and
8 cutting edge. Maybe it's pop-up studios, I don't know what
9 it looks like, but I just think that we are selling out if
10 we allow that to become a Charles Schwab. Thanks.

12 CHAIR HANSSEN: Thank you for your comments. It
13 looks like Vice Chair Janoff has a question for you.

14 VICE CHAIR JANOFF: Thank you, Ms. Somers. You
15 stated emphatically that Charles Schwab is not a bank.
16 That's contrary to the limited research that I've done to
17 determine that question. Can you tell us why you are
18 adamant that they are not a bank?

19 CATHERINE SOMERS: I may be a little ignorant
20 here. I look at the banking institutions that we have along
21 North Santa Cruz Avenue, which by the way are taking up
22 some really dead space on North Santa Cruz right now, and
23 very few customers are going in, the parking is left empty
24 all the time where we could use that for other uses, but
25 I've never equated... So, this is just my own personal

1 feelings. I don't know too many people that go into Charles
2 Schwab to whatever, cash checks or do the regular banking
3 that we do at a Bank of America or a Wells Fargo or even a
4 Heritage Bank; it just seems completely different to me. I
5 agree with you, I perhaps don't know all my facts on that,
6 but it just seems that...

7 VICE CHAIR JANOFF: That's fine. That's fine,
8 you've answered the question.

9 CATHERINE SOMERS: I'm sorry.

10 CHAIR HANSSEN: Do other Commissioners have
11 questions for the speaker? Okay, seeing none, are there
12 other members of the public that would like to speak in
13 Public Comments?
14

15 DIRECTOR PAULSON: I don't see any other hands
16 raised from the public, so we can go back to the Applicant
17 and their team, and they would have three minutes.

18 CHAIR HANSSEN: Okay, so the Applicant has up to
19 three minutes to respond to comments from the public or
20 comments from the Commission and then Commissioners will
21 have another chance to ask the Applicant any questions.

22 DIRECTOR PAULSON: I'm going to allow Mr. Kreshek
23 and Mr. Di Geronimo and Mr. Zac to speak and they can
24 figure out how they would like to split up their three
25 minutes.

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JEFFREY KRESHEK: I'm going to go very quickly. I'm more than happy to speak with Ms. Somers. Nobody from the Chamber has reached out to me; I don't know if you've reached out to others at Federal Realty.

As far as demising the space, we will be demising it into two spaces. Unfortunately, it does not physically demise into more spaces given the grade change in the sidewalk on I believe it's the north side, as well as the bank of gas meters and the limited frontage. This really does become the most efficient demise of the space so it doesn't break up into several other smaller spaces. But I'll let Mr. De Geronimo respond from there.

MICHAEL DI GERONIMO: Yes, I just wanted to make a couple of really quick comments and then turn it over to Charles Schwab. I'm a land use attorney, a ten-year planning commissioner of the city that I live in, although I've been off for a while, but I wanted to make two points.

One, that you have broad discretion to sort of interpret the code the way you want to interpret it, and I think there's clear evidence here that Schwab is a bank. I represent several relatively well known banks and I can tell you that when we do their leases or other deals they insist on having exclusives that preclude Charles Schwab

1 and similar because the fact is they really have merged
2 into the same... You know, Wells Fargo offers investment
3 services, so does Bank of America, and basically they've
4 all turned into the same sort of type of use.

5 In terms of a good use, if you go to downtown
6 Walnut Creek there's a Capital One that's literally right
7 in the middle of downtown that's a very vibrant use and
8 this is a very similar use that Schwab is proposing, and I
9 think with the design they have and with the team they have
10 they will certainly bring customers and people to the area
11 and that's really what you want in retail today, something
12 that will activate the area.

13 I think Federal Realty, you've got to trust them.
14 They're great operators and I think they deserve your
15 support given how long they've been there and their
16 expertise.

17 With that, I'd like to turn over the rest of the
18 time to the members of the Schwab team.

19 RICHARD ZAC: This is Richard Zac again. I would
20 love to take Ms. Somers on a tour of our branch and to show
21 our modern approach to wealth management and banking and
22 how we integrate. We are the eleventh largest bank in the
23 country, ranked the highest in customer satisfaction. Our
24 clients and those in the community voted two years in a row
25

1 the best service. We're a bank for investors. We do all of
2 the traditional banking services that a Wells Fargo or a
3 Bank of America would do.

4 The branch that we're proposing in Los Gatos, it
5 is because of our growth and our 20-year history with the
6 community; and the workshops, the community events, and the
7 hospitality events will attract a vibrancy to the downtown
8 area. Clients will come. We just don't have the space for
9 it right now in Los Gatos but in other areas across the
10 country we do, and these are fun opportunities for the
11 community to learn about investing in general and we hope
12 to provide that to the folks of Los Gatos and continue to
13 educate and provide resources to help people have better
14 outcomes.

16 CHAIR HANSEN: Is that time?

17 DIRECTOR PAULSON: That's time.

18 CHAIR HANSEN: All right, do Commissioners have
19 questions for the Applicant? Go ahead, Commissioner
20 Barnett.

21 COMMISSIONER BARNETT: I overlooked asking
22 earlier if the intention was to make any changes to the
23 exterior of the building. I thought I saw something about
24 that in the Staff package.
25

1 JEFFREY KRESHEK: The changes to the building
2 would just be to accommodate the demise and make sure we
3 have appropriate storefronts, but we haven't looked at
4 making any specific architectural changes that I'm aware of
5 at this point.

6 COMMISSIONER BARNETT: Okay, thank you.

7 CHAIR HANSSEN: I had a couple of questions. One
8 was did I hear correctly that this current space is going
9 to be split into two spaces and so there is going to be
10 another tenant to be sought for the other part?
11

12 JEFFREY KRESHEK: Correct. Charles Schwab would
13 be occupying roughly 5,000 square feet of the 8,000 square
14 feet that is the current Gap space, so there will be a
15 second storefront. I wasn't part of the project previous to
16 ten years ago, but if you look at the original plans it
17 looks as if it might have been two spaces at one point in
18 time.

19 CHAIR HANSSEN: Okay. Thank you for that. And
20 then a question for the Schwab team. If I read the comments
21 that you made that were in our Staff Report, at this new
22 facility you'd have a coffee bar and so on and so forth. It
23 reminded me of I've gone into Chase bank and they have dog
24 biscuits in the lobby, but is that correct that it's going
25 to be set up for really encouraging walk-in traffic?

1 RICHARD ZAC: Absolutely open. Everyone is
2 welcome. Coffee, the technology bar, folks available to
3 help as needed. In addition to that I mentioned community-
4 centered workshops on investing and how to manage your
5 finances and your banking better, hospitality events that
6 include things like the wine tasting and art. We want to
7 engage in the community as we've done. The idea is to be a
8 vibrant part of the downtown where we're attracting clients
9 into a vibrant location where we tear down the barriers
10 that often occur with banking and investing. Some folks
11 struggle with making great decisions and so we want to
12 provide the right resources and through these community
13 workshops and events to help them become more successful
14 over time.

16 CHAIR HANSSEN: And kind of a follow up question
17 to that. Is it typical in your evolving business model for
18 non-customers that have never done any business with you
19 before to just walk in?

20 RICHARD ZAC: Absolutely. I think that's the
21 unique thing about our brand: It does attract folks that
22 are wanting to just get started. In fact, we just recently
23 provided a mechanism for folks that have as little as five
24 dollars to invest or to put into a banking account to come
25 in and open an account with Schwab.

1 CHAIR HANSSEN: Okay. And then my last question
2 and then I'll ask if Commissioners have questions, will
3 there be an ATM at this location as mentioned as one of the
4 possible functions of one of your branches?

5 RICHARD ZAC: We don't currently have plans to
6 put an ATM there. Any Schwab client can use any bank in the
7 country. We are part of every ATM in the network, and if
8 there happens to be a charge to one of our clients to use
9 another ATM we will rebate that charge back to the client.
10

11 CHAIR HANSSEN: All right, thanks. Do other
12 Commissioners have questions for the Applicant? I'm not
13 seeing anyone with their hand raised. Okay, so then I will
14 close the public hearing and ask if Commissioners have any
15 additional questions for Staff, have comments on the
16 application, or wish to introduce a motion? And I would say
17 at this time, as I alluded to earlier, that I think it
18 would be best if the Commission made two different motions,
19 one for the determination of the zoning consistency—is
20 Schwab a bank?—and then a second motion about the CUP. So,
21 do any Commissioners have any additional questions or
22 comments? Vice Chair Janoff.

23 VICE CHAIR JANOFF: Question for Ms. Renn. You
24 mentioned that Schwab is currently in a nonconforming
25 space. Is it nonconforming because it is not considered a

1 bank and is on the ground floor storefront? What makes it
2 nonconforming?

3 MONICA RENN: Great question. When they came in-
4 as one of the speakers indicated, they've been with us for
5 over 20 years—they came in as an office use. At that time
6 office was allowed on the ground floor. Since then office
7 has not been allowed on the ground floor, so it becomes
8 essentially what we call legal nonconforming.

9
10 When they leave that space there will be a six-
11 month period where it can be backfilled with another office
12 use, and if it does not get backfilled with another office
13 use in that six months then the use would revert to never
14 allowing ground floor office there again.

15 The timeline that I wrote down, and I'm sure you
16 probably heard this as well, is that it was incorporated as
17 a bank in 2003 well after they were already established in
18 Los Gatos, so we never changed their use as the town, we
19 always just considered them an office use, but when they
20 came to us about 18 months ago they said, "We're really a
21 bank, and here's why."

22 VICE CHAIR JANOFF: Okay, thank you.

23 CHAIR HANSSEN: I'll make a comment that as far
24 as the determination of whether they're a bank, I haven't
25 banked at Schwab but we do have some accounts at Chase, and

1 when we go in the branch on Los Gatos Boulevard, as I was
2 mentioning they have water bowls and dog biscuits in the
3 lobby where the ATM is, the tellers are all the way at the
4 back of the branch, and then when you walk in there are
5 seating areas where you can wait to talk to a banker, and
6 this is the business that they're really trying to promote
7 is that kind of thing where you're interacting with bankers
8 and asking questions and everything like that.

9
10 I'll add also that we also do some banking at
11 Wells Fargo. We went to Wells Fargo recently, I had to do
12 something inside the branch, which is unusual for me, but
13 when I was there there was actually a line going around the
14 corner waiting to go in the bank. There were some people
15 that wanted to go a teller but other ones that were waiting
16 to talk to a banker and they were told that they had a 45-
17 minute wait to talk to a banker.

18 So, I'm not hearing anything about the Schwab
19 business model that would tell me that they're not a bank.
20 I think that that's kind of where things are evolving to
21 and I agree with all the comments about online banking,
22 that the kind of things that are focusing their business on
23 and their interactions are changing, so as far as that I
24 would feel comfortable saying that they were a bank.
25

1 And then I'll also comment a little bit on the
2 use. Now that I heard that the use is being split into two
3 different uses I feel somewhat less concern about putting
4 this use there, knowing that there is going to be something
5 else there as well, because it is a very important space.
6 Vice Chair Janoff, it looked like you had your hand up.

7 VICE CHAIR JANOFF: I too have no issue with
8 determining that this is in fact a bank. I did some
9 research online, I think the evidence presented before us
10 is pretty clear on that, so I don't have a problem with
11 that.
12

13 And I agree, hearing that it's only roughly half
14 of that 9,000 square foot space makes me feel a lot better
15 about what its impact would be should we approve it.

16 But the other thing that strikes me, we're
17 talking a lot in the General Plan Advisory Committee about
18 neighborhood-serving commercial districts. Now, this is the
19 downtown, it's the beloved downtown, but it still has
20 neighborhoods to serve, and so it strikes me that it would
21 not be inappropriate to locate a bank that's in proximity
22 to both employees and business owners as well as residents
23 nearby. They are already a presence in town, they're
24 already a ground floor—although nonconforming—presence in
25 town, and when you think about cities, when you travel and

1 you do business and you see banks, you see banks amid
2 retail a lot of places around the world, a lot of places
3 where we live, so I don't have an issue with making that
4 finding as well.

5 CHAIR HANSSEN: Okay. Commissioner Barnett.

6 COMMISSIONER BARNETT: I wonder if Staff could
7 help us understand the policy behind making banks available
8 on first floors only with a Conditional Use Permit? Is
9 there some logic to that or is it just historical?
10

11 DIRECTOR PAULSON: It's definitely historical,
12 definitely predates my 20-plus years here with the Town. I
13 think it probably goes along the lines of what Commissioner
14 Janoff was speaking about, that banks can be helpful to the
15 vibrancy of a downtown and to the neighboring residential
16 districts. The mechanism the Town put in place—I couldn't
17 even tell you when this went into place, it's been here
18 since I started—probably was okay, we don't want to have
19 all banks, so let's have a Conditional Use Permit process
20 so that the Planning Commission can carefully consider
21 these on a case-by-case basis and determine if it's
22 appropriate.

23 CHAIR HANSSEN: Does that answer your question,
24 Commissioner Barnett? Commissioner Tavana.
25

1 COMMISSIONER TAVANA: I'm still struggling. I
2 know you can do banking activities with certain Charles
3 Schwabs. I guess I'll ask my question for Staff, and maybe
4 this is for the folks with Charles Schwab, but can you
5 actually deposit a check or withdraw money at this
6 location? To me, that seems like a standard banking
7 activity, so I guess will any of those activities be
8 available on the corner here at this proposed location?
9

10 DIRECTOR PAULSON: I'm not sure if Mr. Mullin has
11 that information, but that would have been a great question
12 for the Applicant and maybe Ms. Renn. If Mr. Mullin doesn't
13 have that information, Ms. Renn may have some additional
14 information.

15 SEAN MULLIN: I think Ms. Renn has much more
16 background with discussing this with the Applicant, so I'll
17 default to her.

18 MONICA RENN: Unfortunately, I can't answer those
19 questions. We did talk about those questions at great
20 length with them. We talked about the ATM fees; we talked
21 about a lot of those different pieces. And it looks like
22 the attorney has his hand raised. I know that they did have
23 some input on different models that they could use if they
24 were asked to do so.
25

1 TOWN ATTORNEY SCHULTZ: It's been a while, but my
2 understanding is that you would be able to deposit checks,
3 you'd be able to have a checking account, a saving account,
4 you'd be able to deposit your work check there, but no,
5 there would be no cash onsite either through the ATM or
6 being able to come in to obtain cash.

7 DIRECTOR PAULSON: And should the Chair wish to
8 just open up the public hearing for that specific question,
9 we could also do that if that would help Mr. Tavana.
10

11 CHAIR HANSSEN: Why don't we do that? Because I
12 mean we only have four of us, so I want the Commissioners
13 to have their questions answered. So, let's go ahead and
14 open up the public hearing to answer Commissioner Tavana's
15 question.

16 DIRECTOR PAULSON: So, Mr. Zac, you can go ahead
17 and answer that question.

18 RICHARD ZAC: Thank you for the question. Yes,
19 every traditional banking service is a service that we will
20 provide: checking, bill pay, ATM, check deposits. The only
21 aspect that we will not deal with is cash, so you wouldn't
22 be able to walk into this branch and remove cash. It's our
23 view that modern wealth management is focused..

24 (Mr. Zac's audio goes silent.)
25

1 DIRECTOR PAULSON: Sorry, I just pushed the wrong
2 button for Mr. Zac, so I'm going to push the right button.
3 Mr. Zac, I cut you off there; if you can jump back on.

4 RICHARD ZAC: Mr. Paulson, like you, I think some
5 of the best things I say is when I'm on mute.

6 But thank you for the question. I was saying that
7 we provide all of the traditional banking services that
8 you'd expect: depositing a check right in the branch as
9 well as all the electronic methods to transfer and move
10 money around through a debit card, Apple Pay, Venmo; all of
11 that is available. We feel our vision for the future is
12 that cash is not a feature, not an area that we want to
13 focus our growth on, so that would be the one thing that we
14 would not transact in the branch in Los Gatos. No cash, but
15 everything else you can imagine in traditional banking
16 services.

17
18 COMMISSIONER TAVANA: Would I be able to get a
19 cashier's check if I were to walk inside?

20 RICHARD ZAC: We would be able to get you a
21 cashier's check the next day. We would order it in the
22 branch and we would have it sent to you the next day. It
23 would be processed offsite. We could give you a Schwab
24 check in a same sense; we could have that sent to you.

25 COMMISSIONER TAVANA: Thank you.

1 CHAIR HANSSEN: All right, so we will go ahead
2 and close the public hearing again and see if Commissioners
3 have any additional questions, and I'd like to encourage to
4 at least get going on the motion about whether or not
5 they're a bank, and then we can tackle the other. Vice
6 Chair Janoff.

7 VICE CHAIR JANOFF: I don't really have a
8 structure for it, but I would move that I can find that
9 Charles Schwab Bank is a bank.
10

11 CHAIR HANSSEN: And do we have a second for the
12 motion?

13 COMMISSIONER BARNETT: Second the motion.

14 CHAIR HANSSEN: Commissioner Barnett.

15 COMMISSIONER BARNETT: Seconded.

16 CHAIR HANSSEN: Second? Okay. All right, so we
17 have a motion and a second. Do Commissioners have any
18 additional comments before we take a roll call vote? And
19 there are only four of us, so it will go pretty quickly.

20 I think I made my comments earlier. I'm going to
21 be supporting the motion. I can find that they're a bank
22 given what I just talked about with some of the other
23 things I deal with, so I'm comfortable with that
24 determination.
25

1 Do any Commissioners want to make any other
2 comments? Not seeing any. All right, so I will start with
3 Commissioner Tavana.

4 COMMISSIONER TAVANA: I'm going to say no.

5 CHAIR HANSSEN: Commissioner Barnett.

6 COMMISSIONER BARNETT: Yes.

7 CHAIR HANSSEN: Vice Chair Janoff.

8 VICE CHAIR JANOFF: Yes.

9 CHAIR HANSSEN: And I vote yes as well. Okay, so
10 it passes 3-1, and are there any appeal rights on this part
11 of the decision?
12

13 DIRECTOR PAULSON: There are no appeal rights for
14 that portion of the decision. This is just an
15 interpretation of the determination that it's a bank.

16 CHAIR HANSSEN: All right, so that being the
17 case, it passes 3-1 that the Commission in general believes
18 that they are in fact a bank, so then we must turn our
19 attention to the Conditional Use Permit.

20 I would want to ask Staff a question right now
21 though. How does this work with the fact that they're
22 splitting the use into two, and what does the current
23 Conditional Use Permit say about the Gap? Is it general in
24 terms of retail, or is it a retailer that does clothing?
25

1 What are we changing the Conditional Use Permit to and
2 from?

3 SEAN MULLIN: The Gap doesn't have a Conditional
4 Use Permit because it's retail and it's allowed by right in
5 that site, so this would be a new Conditional Use Permit.
6 Your packet includes a floor plan showing the space that
7 would be applied to, and during plan check of the Building
8 Permit we would verify that that space was substantially
9 conforming to the space that was shown in your packet
10 tonight.

11
12 CHAIR HANSSEN: So, basically we're proposing a
13 Conditional Use Permit for roughly one-half of this current
14 space for them to operate a bank?

15 SEAN MULLIN: That's correct. It's shown on the
16 floor plan that they provided.

17 CHAIR HANSSEN: And then just for everyone's
18 education, so if for some reason things didn't work out for
19 Schwab and they had to vacate that space, the Conditional
20 Use Permit would be...it would be possible for another bank
21 to come in without action by the Town?

22 SEAN MULLIN: The answer is yes, and as long as
23 they agree to operate under the allowances of that use
24 permit and providing that they come in within I believe
25

1 it's six months before the uses ceases, then it would be
2 allowed.

3 CHAIR HANSSEN: And then the Federal Realty
4 people also would have the opportunity to come back and
5 propose another use, it's just they would have to get a
6 different Conditional Use Permit, correct?

7 SEAN MULLIN: If the use permit were triggered,
8 if this space were to revert to retail, another use that's
9 allowed by right, then Federal Realty could just have a
10 lease and have a Use and Occupancy Certificate and a
11 business license for that new retailer in that example.

12 CHAIR HANSSEN: Because retail is allowed by
13 right, they wouldn't have to go through any more hurdles if
14 they needed to find a retail tenant for the space if it
15 didn't work out for Schwab?

16 SEAN MULLIN: That is correct.

17 CHAIR HANSSEN: Okay, thank you for that. Do
18 other Commissioners have questions for Staff on this? Vice
19 Chair Janoff.

20 VICE CHAIR JANOFF: A question for Ms. Renn
21 again. Can you provide us roughly the vacancy percentage in
22 the downtown Commercial District, just in rough terms?

23 MONICA RENN: I don't have that off the top of my
24 head, I might have to come back with it, but I can tell you
25

1 that roughly we're actually seeing more people coming in
2 than people leaving at this point, so while we do know that
3 Gap is leaving, the other half of this space does have an
4 approved CUP and I understand that Federal Realty does have
5 a tenant lined up for that, so we are seeing in general
6 more places becoming full than we are seeing becoming
7 vacant. So, while I don't know the rate, I can say that
8 it's getting better.

9
10 VICE CHAIR JANOFF: Thank you.

11 CHAIR HANSSEN: Anyone else have questions? Okay,
12 I'm going to make a comment.

13 One of the reasons I was asking all these
14 questions was I was trying to visualize as things continue
15 to evolve, you know, where might this go? And I'm going to
16 say that number one, I feel really comfortable with the
17 real estate owner, that they have a lot of experience, and
18 I take a lot of comfort in the fact that they have had this
19 property for 23 years in Los Gatos and they're not just
20 flipping properties and turning things around, so that
21 gives me some comfort.

22 The additional issue of the fact that the space
23 is being split in two, giving an opportunity to try
24 something else as well in this prime retail space, gives me
25 comfort.

1 And then finally, I'll say that I had at one
2 point worked in financial services for seven years. I think
3 the financial services industry has made many, many
4 evolutions and is making a whole other one now in terms of
5 how they do business, and I do concur with Schwab's
6 assessment that things are way less focused on cash now and
7 they're much more focused online, and then your focus is
8 going to be on wealth management. And if it's true that
9 people that aren't their customers walk in as street
10 traffic when they're there, I think it could be a really
11 good use for the area, so I'm generally in support of the
12 CUP. So, let me see what the other Commissioners think.
13 Commissioner Barnett.
14

15 COMMISSIONER BARNETT: I had one concern, which
16 is the idea of a precedent, although maybe I'm being
17 technically correct because of the CUP requirement. But in
18 the very competitive banking industry I think it would be
19 bad if we had many, many competitive banks going into the
20 downtown area on the first floors. I don't have a good
21 answer for that though.
22

23 CHAIR HANSSEN: Okay, so that's a concern?

24 COMMISSIONER BARNETT: I'll express it as a
25 concern.

1 CHAIR HANSSEN: Okay. All right, other
2 Commissioners? Vice Chair Janoff.

3 VICE CHAIR JANOFF: I think what makes me more
4 comfortable about thinking favorably about the application
5 is the property owner's desire to fill the space, and I
6 feel pretty confident if they had a retail tenant that made
7 sense or that they could attract—we've got a lot of salons,
8 you've got a lot of restaurants reducing number of retail—I
9 think if we could fill it with retail the property owner
10 probably would have.
11

12 With all due respect to Ms. Somers, I'm
13 sympathetic that we'd like to see more retail in that area
14 but I'm also thinking that, again, as I said, a
15 neighborhood-serving business does also make sense, and if
16 they can create vitality and add to the bustle of an area
17 and draw people that's good for the retail businesses too,
18 and we want to do whatever we can to make sure that they
19 stay as vital as possible, so I'm in favor of approving
20 this application.

21 CHAIR HANSSEN: Commissioner Tavana.

22 COMMISSIONER TAVANA: I'm going to have to say
23 I'm against this application for multiple reasons.
24

25 Number one, I don't believe it is a bank. You
can't do basic banking activities at this branch. While you

1 can do wealth management and other consultation services it
2 seems like more of an office setting that it's going to be,
3 so that's number one.

4 Number two, they already have a good location on
5 Santa Cruz Avenue. I don't see why moving to Old Town will
6 make them any better. I think they can do a lot of what
7 they're doing at their current site, so I think it would be
8 a mistake to approve this.

9 I agree with Catherine Somers. I think we could
10 find something better for this location. Ms. Renn even said
11 that we're not losing tenants, we're actually increasing
12 tenants, and I think somebody will come along that will
13 better fit this space, so I will be voting no tonight.
14 Thank you.

15 CHAIR HANSSEN: Well, that's only if there's a
16 motion to approve it.

17 COMMISSIONER TAVANA: Sorry, yeah. I'm against
18 the CUP.

19 CHAIR HANSSEN: All right, thank you. I think it
20 would be helpful maybe to try a motion, and as I asked
21 earlier, if it turns out that we vote 2-2, that is
22 tantamount to a denial, is that correct?
23

24 DIRECTOR PAULSON: That's correct.
25

1 CHAIR HANSSEN: Okay. So, would someone like to
2 make a motion one way or the other? I think it's fine to
3 try and see where we go. Okay, not everyone at one time.
4 Vice Chair Janoff.

5 VICE CHAIR JANOFF: I'll make a motion. I move to
6 approve the Conditional Use Permit for a bank, Charles
7 Schwab Community Banking and Investment Services, on
8 property zoned C-2:LHP:PD located at 35 University Avenue;
9 APN 529-02-044; property owner SRI Old Town, LLC; Applicant
10 Amber DeMaglio. I can make the required findings for CEQA
11 and I can make the required findings for the Conditional
12 Use Permit.
13

14 CHAIR HANSSEN: Okay, thank you for that, and do
15 we have a second?

16 COMMISSIONER BARNETT: I'll second the motion.

17 CHAIR HANSSEN: Okay, so Commissioner Barnett
18 seconds the motion, and does anyone else want to make
19 comments before we take a vote on this matter? I think I
20 know where everyone stands. Okay, not seeing anyone. So, I
21 will start with Commissioner Barnett.

22 COMMISSIONER BARNETT: Yes.

23 CHAIR HANSSEN: Commissioner Tavana.

24 COMMISSIONER TAVANA: No.

25 CHAIR HANSSEN: Vice Chair Janoff.

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VICE CHAIR JANOFF: Yes.

CHAIR HANSSEN: And I vote yes as well, so the motion passes 3-1, and Director Paulson, do we have any appeal rights for this motion?

DIRECTOR PAULSON: Yes, thank you, Chair. Anyone who is not satisfied with the decision of the Planning Commission can file an appeal. The appeal forms are available online. There is a fee for filing the appeal and the appeal must be filed within ten days.

CHAIR HANSSEN: Thank you very much for that. And thank you to the Commissioners for all of your comments and stuff. A lot of times, especially with the downtown, these discussions on CUPs are often difficult because there are people that have really strong feelings one way or the other, so I'm glad we were able to talk about this and get a lot of comments out, and I appreciate everyone's feedback.

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