



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 04/09/2025

ITEM NO: 4

DATE: April 4, 2025

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Consider Making a Recommendation to the Town Council to Adopt a Resolution to Amend the General Plan to Allow 100 Percent Affordable Housing Residential Developments as a Permitted Use in the Mixed-Use Commercial General Plan Land Use Designation and Adopt an Ordinance to Amend Chapter 29 (Zoning Regulations) of the Town Code to Add 100 Percent Affordable Residential Developments as a Permitted Use in the Restricted Commercial Highway (CH) Zone, Pursuant to Implementation Program AB of the 2023-2031 Housing Element. Adoption of this Resolution and Ordinance are Exempt Pursuant to CEQA, Section 15061(b)(3) in that it Can be Seen with Certainty that they Will Not Impact the Environment. General Plan Amendment Application GP-24-004 and Zoning Code Amendment Application A-24-010. **Project Location: Town Wide.** Applicant: Town of Los Gatos.

RECOMMENDATION:

Forward a recommendation to the Town Council to adopt a Resolution to amend the General Plan to allow 100 percent affordable residential developments as a permitted use in the Mixed-Use Commercial General Plan Land Use Designation and adopt an Ordinance to amend Chapter 29 (Zoning Regulations) of the Town Code to add 100 percent affordable residential developments as a permitted use in the Restricted Commercial Highway (CH) zone, pursuant to Implementation Program AB of the 2023-2031 Housing Element.

CEQA:

The proposed amendments to the General Plan and Chapter 29 of the Town Code are not subject to the California Environmental Quality Act ("CEQA") because the amendment being proposed are not a project under CEQA pursuant to Section 21065 of the Public Resources Code and Section 15378 of the State CEQA Guidelines. Additionally, the proposed amendments are exempt from CEQA pursuant to 15061(b)(3) of the CEQA Guidelines because it can be seen with

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Planning Manager

Reviewed by: Community Development Director and Town Attorney

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certainty that the action will not have a significant adverse impact on the environment since the proposed amendments to allow 100 percent affordable residential development as a permitted use would occur on lands currently designated and zoned to allow a residential use in a mixed-use development. Finally, any future 100 percent affordable residential developments that include new construction under a discretionary process would be subject to project specific environmental review under CEQA.

FINDINGS:

- The proposed amendments are not a project under CEQA pursuant to Section 21065 of the Public Resources Code and Section 15378 of the State CEQA Guidelines; are exempt from CEQA pursuant to 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the action will not have a significant adverse impact on the environment; any future 100 percent affordable residential developments that include new construction under a discretionary process would be subject to project specific environmental review under CEQA; and
- The proposed amendments to the General Plan and Chapter 29 of the Town Code are consistent with the General Plan because they would allow a residential use on lands currently designated and zoned to allow a residential use in a mixed-use development of the Town Code.

BACKGROUND:

With certification of the 2023-2031 Housing Element, the Town committed to completing the Implementation Programs contained in the Housing Element. The Town is required to report the progress made on the Housing Element Implementation Programs to the California Department of Housing and Community Development (HCD) to demonstrate compliance with the Housing Element and maintain its certification. Implementation Program AB of the Housing Element requires amendments to the Mixed-Use Commercial Land Use Designation of the General Plan and the CH zone (Chapter 29 of Town Code) to allow for 100 percent affordable residential developments as a permitted use. Specifically, Implementation Program AB states the following:

- Amend the General Plan and the Municipal Code to allow for 100 percent affordable residential development without the requirement of commercial uses.

On February 12, 2025, the General Plan Committee (GPC) considered the proposed amendments and forwarded a recommendation to amend the General Plan to allow 100 percent affordable residential developments as a permitted use in the Mixed-Use Commercial General Plan Land Use Designation and amend Chapter 29 (Zoning Regulations) of the Town Code to add 100 percent affordable residential developments as a permitted use in the CH zone. Included with the GPC's recommendation was a request that maps showing where the

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proposed amendments would be applicable be provided to the Planning Commission and the Town Council, and that a discussion of height allowances under State Density Bonus Law (SDBL) also be provided. The February 12, 2025, GPC staff report and minutes are included as Exhibits 4 and 5.

DISCUSSION:

Policy HE-3.1 of the 2023-2031 Housing Element, requires the Town to facilitate the development of affordable housing through regulatory incentives and concessions, and/or financial assistance to remove barriers to the production of housing. Consistent with this policy, Implementation Program AB requires amendments to the General Plan and the Town Code to allow for 100 percent affordable residential developments as a permitted use without a commercial component within the Mixed-Use General Plan Land Use Designation and CH zone.

The following is a summary of the required amendments for consideration by the Planning Commission.

A. Mixed-Use Commercial General Plan Land Use Designation

The Mixed-Use Commercial Land Use Designation within the Town of Los Gatos 2020 General Plan Land Use Element currently permits, among other things, a mixture of retail, office, and residential uses in a mixed-use project. However, a standalone residential use is not permitted unless associated with a commercial use within a mixed-use project.

Housing Element Implementation Program AB requires amending the Mixed-Use Commercial Land Use Designation to also allow a standalone residential use when the development would be 100 percent affordable. The proposed General Plan amendment would affect all Town parcels with a Mixed-Use Commercial Land Use Designation and is not limited to the properties included in the Sites Inventory of the Housing Element. Exhibit 2 provides the draft amendments to the Mixed-Use Commercial General Plan Land Use Designation.

Exhibit 6 shows the locations of the Mixed-Use Commercial General Plan Land Use Designation in the Town. Through Implementation Program AB, these are the areas where a 100 percent affordable residential development would be allowed as a permitted use. These areas are concentrated along Los Gatos Boulevard between Blossom Hill Road and Samaritan Drive, and Los Gatos-Saratoga Road at Alberto Way.

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B. Restricted Commercial Highway (CH) Zone

Generally speaking, Town properties with a Mixed-Use Commercial General Plan Land Use Designation are zoned CH, and these properties are located along Los Gatos Boulevard, north of Shannon Road. According to Town Code Section 29.60.415, “the CH or restricted highway commercial zone is intended for development of vehicular-oriented activities and sales along highway frontages, intermingled with compatible retail, service, and administrative activities.”

Housing Element Implementation Program AB would involve amending Town Code Section 29.60.420 (CH Zone – Permitted Uses), adding “100 percent affordable residential developments” as a permitted use in the zone. The proposed Town Code amendment would affect all Town parcels that are zoned CH and is not limited to the properties included in the Sites Inventory of the Housing Element. Exhibit 3 provides the draft amendments to Town Code Section 29.60.420.

Exhibit 7 shows the location of the commercial zones (C-1, C-2, CH, and O) where mixed use developments are allowed with approval of a Conditional Use Permit (CUP).

General Plan Committee

On February 12, 2025, the GPC considered the proposed amendments and forwarded a recommendation to amend the General Plan to allow 100 percent affordable residential developments as a permitted use in the Mixed-Use Commercial General Plan Land Use Designation and amend Chapter 29 (Zoning Regulations) of the Town Code to add 100 percent affordable residential developments as a permitted use in the CH zone. Included with the GPC’s recommendation was a request that maps showing where the proposed amendments would be applicable be provided to the Planning Commission and the Town Council. These maps are included as Exhibits 6 and 7. Additionally, the GPC requested that a discussion of height allowances under SDBL also be provided to the Planning Commission and Town Council. Below is a comparison of the allowances provided for 100 percent affordable residential development submitted under SDBL against other typical projects submitted under SDBL.

State Density Bonus Law

During discussion by the GPC, questions regarding the allowances provided for 100 percent affordable residential developments under SDBL were provided to staff. The following provides a response to the various questions related to SDBL. Staff notes that there are other state laws meant to incentivize and streamline housing production such as SB 35, AB 2011, and SB 6, but SDBL has been the most commonly used in the Town and is evaluated herein.

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 provide three provisions that must be granted to qualifying projects:

1. One or more concessions/incentives that provide cost reductions for the development. Under the law, a concession 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 requirement 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.

Under SDBL, a 100 percent affordable residential development is provided the following:

- A density bonus of 80 percent and, when located within one-half mile of a *major transit stop*, no limit on density [65915 (f)(3)(D)(i)];
- Up to five concessions/incentives [65915 (d)(2)(D)];
- Unlimited waivers to development standards [65915 (e)];
- A height increase of three additional stories, or 33 feet, when located within one-half mile of a *major transit stop* [65915 (d)(2)(D)]; and
- Reductions in parking requirements based on the number of bedrooms in each unit [65915 (p)(1)] and, when located within one-half mile of a *major transit stop*, no parking requirement [65915 (p)(3)].

Staff notes that aside from the additional height allowance summarized above, applicants can request waivers from height standards under SDBL. Additionally, Public Resources Code Section 21064.3 defines a *major transit stop*. Staff has analyzed the definition and determined that there are currently no major transit stops within Town boundaries or within one-half mile of the Town boundary.

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The following table provides a comparison of projects at different levels of affordability against a 100 percent affordable residential development under SDBL.

State Density Bonus Law Comparison			
	20 Percent Low Income	20 Percent Moderate Income	100 Percent Low Income
Density Bonus	35 percent	15 percent	80 percent
Concessions/Incentives	2	2	5
Waivers	Unlimited	Unlimited	Unlimited

Objective Design Standards

The proposed amendments allow for a 100 percent affordable residential development as a permitted use. These amendments would not eliminate the need for other approvals that may be required, such as Architecture and Site or Subdivision approval. If a 100 percent affordable residential development is proposed that requires Architecture and Site approval, the Town's Objective Design Standards would apply.

CEQA DETERMINATION:

The proposed amendments are not a project under CEQA pursuant to Section 21065 of the Public Resources Code and Section 15378 of the State CEQA Guidelines; are exempt from CEQA pursuant to 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the action will not have a significant adverse impact on the environment; any future 100 percent affordable residential developments that include new construction under a discretionary process would be subject to project specific environmental review under CEQA; and

CONCLUSION:

A. Summary

The proposed amendments to the General Plan and Town Code related to 100 percent affordable housing developments respond to Implementation Program AB of the 2023-2031 Housing Element.

B. Recommendation

Staff recommends that the Planning Commission review the information included in the staff report and forward a recommendation to the Town Council for approval of the proposed amendments to General Plan and Chapter 29 of the Town Code (Exhibit 2). The

Planning Commission should also include any comments or recommended changes to the proposed amendments in taking the following actions:

1. Make the required finding that the proposed amendments to the General Plan and Chapter 29 of the Town Code included in Exhibits 2 and 3 are not a project under CEQA pursuant to Section 21065 of the Public Resources Code and Section 15378 of the State CEQA Guidelines; are exempt from CEQA pursuant to 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the action will not have a significant adverse impact on the environment; and any future 100 percent affordable residential developments that include new construction under a discretionary process would be subject to project specific environmental review under CEQA (Exhibit 1);
2. Make the required finding that the proposed amendments to the General Plan and Chapter 29 of the Town Code included in Exhibits 2 and 3 are consistent with the General Plan because they would allow a residential use on lands currently designated and zoned to allow a residential use in a mixed-use development of the Town Code. (Exhibit 1); and
3. Forward a recommendation to the Town Council for approval of the proposed amendments to the General Plan (Exhibit 2) and Chapter 29 of the Town Code (Exhibit 3).

C. Alternatives

Alternatively, the Commission can:

1. Forward a recommendation to the Town Council for approval of the proposed amendments to the General plan and Town Code with modifications; or
2. Continue the matter to a date certain with specific direction.

COORDINATION:

This report was coordinated with the Town Attorney's office.

EXHIBITS:

1. Required Findings
2. Draft Amendments to the General Plan
3. Draft Amendments to Chapter 29 of the Town Code
4. General Plan Committee Staff Report, February 12, 2025
5. General Plan Committee Draft Minutes, February 12, 2025
6. Map of Mixed-Use Commercial Land Use Designation
7. Map of Commercial Zones

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