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

Los Gatos Planning Commissioners:
Matthew Hudes, Chair
Melanie Hanssen, Vice Chair
Mary Badame
Jeffrey Barnett
Kendra Burch
Kathryn Janoff
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P R O C E E D I N G S:

CHAIR HUDES: The next item is actually a number of changes to Town Code Amendments, Application A-19-010. Of course this is Town Wide and the Applicant is the Town of Los Gatos.

This is to consider amendments to Chapter 29, Zoning Regulations of the Town Code regarding land use and economic vitality streamlining. I was going to suggest a process for this, that we take the Staff Report from Mr. Mullin and we take any comments from the public, but then as we consider this there seem to be possibly four distinct items, and so I'm going to go through them in sequence and get a vote on each of those as we go through. I think it will be clearer that way rather than mixing things up. We'll do the whole thing and the Staff Report and then the public comments. So, Mr. Mullin.

SEAN MULLIN: Thank you. The Town Council has an adopted strategic priority that promotes community vitality and encourages land use streamlining efforts. Staff has been working with the Council and Council Policy Committee to identify and streamline many of the business-related processes to reduce the associated time and costs. Five

1 temporary resolutions were adopted by the Council and were
2 set to sunset in December of 2019. On October 1st the
3 Council voted to memorialize the streamlining efforts and
4 adopted a resolution on November 5th extending the temporary
5 streamlining efforts until such time that the Town Code
6 amendments may be adopted.

7
8 Before you tonight is consideration of the Town
9 Code Amendments necessary to memorialize these streamlining
10 efforts. The code amendments are related to allowing new
11 formula retail businesses in the downtown C-2 zone without
12 approval of the CUP, Conditional Use Permit; allowing the
13 DRC to approve certain CUP modifications for existing
14 restaurants in the downtown C-2 zone; to approve CUPs for
15 new restaurants town wide; approving minor exterior
16 modifications to commercial buildings at the Building
17 Permit level; and allowing the DRC to approve CUPs for new
18 group classes in the downtown C-2 zone. A thorough
19 discussion of each topic is included in your Staff Report.

20 In conclusion, the Staff recommends that Planning
21 Commission review the proposed amendments and forward a
22 recommendation to the Town Council by taking the actions
23 outlined on pages 7 and 8 of the Staff Report. I'd like to
24 note that Monica Renn, the Town's Economic Vitality Manager
25 who ushered the temporary streamlining efforts through the

1 process, is here tonight and is available to answer any
2 questions.

3 This concludes Staff's presentation and we are
4 available to answer any questions.

5 CHAIR HUDES: Okay. Questions? I had one kind of
6 big question and that is that actually I was a little
7 baffled at the original paragraph that explains what's
8 going on here. So, to be clear, memorializing these
9 streamlining efforts means making them permanent, is that
10 correct?
11

12 SEAN MULLIN: That's correct. Permanent by
13 changing the Town Code.

14 CHAIR HUDES: And so why is there also the
15 language that says, "Until such time that Town Code
16 Amendments may be adopted."?

17 SEAN MULLIN: There were two separate actions by
18 the Council.

19 Because these resolutions were sunseting, or
20 expiring, in December of 2019 the first action was to vote
21 to see if they wanted to memorialize these, how they wanted
22 to act on each of these. They voted to memorialize them.

23 The second component on November 5th was to come
24 back with a resolution which hadn't been prepared for the
25 first meeting, and that resolution then extended those

1 temporary resolutions until such time that the Town Code
2 could be updated.

3 CHAIR HUDES: Okay, thank you. I'm going to move
4 to public input at this point and then we'll come back for
5 more Staff questions, then we'll go kind of one-by-one. So,
6 I don't have any cards. Oh, I do. Bob Caya, McCarthy Ranch.

7 BOB CAYA: Good evening, my name is Bob Caya and
8 I represent McCarthy Ranch. As most know, we have a vested
9 interest in Los Gatos from a personal, business, and
10 property perspective. By way of the Planning Commission,
11 Town Council, and Staff's leadership we have seen
12 noticeable progress toward the revitalization of downtown
13 Los Gatos and are here tonight to full-heartedly encourage
14 the Planning Commission to recommend to Council that the
15 Town permanently adopt all of the currently temporary
16 resolutions before you this evening.

17 To boot, I'd like to provide three specific
18 personal examples of these resolutions working toward the
19 Town's strategic initiative of being open for business.

20 One, the minor exterior modifications to
21 commercial buildings resolution allowed us to renovate our
22 existing Highway 9 properties, and upon completion of
23 construction we will be able to re-tenant them with first
24 class tenants who will collectively add to the strong
25

1 fabric that is our community as well as provide a warm and
2 welcome entrance to the downtown. This was something that
3 was proving to be economically non-feasible prior to the
4 passage of this temporary resolution.

5 Two, the new restaurant CUPs to be heard at the
6 DRC resolution has directly benefited one of our
7 perspective tenants at that same property, a first-rate Bay
8 Area local business who has wanted to come to Los Gatos for
9 some time but been gun shy given what they perceived as
10 overly restrictive regulations. Based on this and other
11 resolutions we were able to convince them that Los Gatos is
12 heading in a positive policy direction and they should make
13 the move. They obliged and pending all necessary approvals
14 will be calling Los Gatos home soon.

16 Three, the restaurant CUP modifications at the
17 DRC resolution allowed Rootstock to modify its existing CUP
18 so we may offer live music twice weekly, which has been
19 widely well received. We would not have been able to do
20 that economically as it would have otherwise cost us about
21 \$15,000.

22 As we feel these examples show, these resolutions
23 are bringing real results and will continue to encourage
24 positive developments for the betterment of our town should
25 they be permanently enacted.

1 We appreciate the Planning Commission's
2 consideration of this item and encourage a resounding yes
3 recommendation to the Town Council. Thank you for your
4 time.

5 CHAIR HUDES: Thank you. Any questions? I had
6 one. You were referring to exterior modifications of
7 commercial business on Highway 9. Which ones were those?

8 BOB CAYA: We own the corner old Postal Mate, the
9 old liquor store there, the large office building, and then
10 the old insurance building there, which are now under
11 construction.

12 CHAIR HUDES: Okay, so they are now under
13 construction but they haven't been completed yet?

14 BOB CAYA: Yes.

15 CHAIR HUDES: Thank you. Would anyone else like
16 to comment on this? Okay, so I'll now close the public
17 portion of the public hearing and we'll consider each of
18 the four individually.

19 Let's first talk about formula retail business in
20 the downtown C-2 zone. This is specifically talking about
21 formula retail in downtown C-2. Are there questions of
22 Staff or comments on this? Vice Chair Hanssen.

23 VICE CHAIR HANSSEN: I just want to make sure I
24 understand it. The temporary measure passed by Council was
25

1 to allow over an 18-month period up to five formula retail,
2 but what we're being asked to consider now is to allow
3 unlimited formula retail as long as it's not greater than
4 6,000 square feet, is that correct?

5 SEAN MULLIN: The first part of your question was
6 that Council was allowing up to five to come in before
7 Staff had to bring the item back for review with the
8 Council, not necessarily stop the resolution but give them
9 an opportunity to review the impact. The second part of
10 your question is the code change that's before you tonight
11 would make that permanent. There would not be a cap on the
12 number of formula retail in downtown under 6,000 square
13 feet.
14

15 VICE CHAIR HANSSEN: Right, so not that it would
16 happen, but if 20 formula retailers wanted to come into the
17 C-2 zone and they were under 6,000 square feet, no one
18 would be looking at it?

19 SEAN MULLIN: In theory, yes, that is possible.

20 VICE CHAIR HANSSEN: Okay.

21 CHAIR HUDES: As a follow up to that, I am having
22 a little hard time with the term memorializing because what
23 was approved was five in 18 months, so we're not
24 memorializing five every 18 months, correct? What we're
25

1 making permanent is unlimited number every month in
2 perpetuity, is that right?

3 SEAN MULLIN: Correct, until... If there becomes a
4 concern Council could direct Staff to look into a future
5 code change, but yes, the answer to your question is yes.

6 CHAIR HUDES: But that's what the law would be is
7 that we could take any number of them?

8 ROBERT SCHULTZ: That is correct, and if at any
9 time Council felt that there would too many they could
10 always put a moratorium on them and make changes to it, but
11 this change would not have any cap or any review of formula
12 retail.
13

14 CHAIR HUDES: If I could maybe just follow up to
15 that since it seems to be a pretty dramatic change, what
16 has been the outreach, what's been the reaction? We heard
17 from someone who's a developer. Probably there are
18 landlords that have opinions but there are also key
19 independent retailers in this town, some of whom have been
20 here a very long time and are struggling. What's been the
21 outreach and what's been the reaction from them?

22 SEAN MULLIN: With this portion, and I'm going to
23 defer to Monica in one moment, with this portion the
24 application where planning has taken the lead the outreach
25 has been through social media blasts and posting our normal

1 methods. Monica has done additional outreach that I'd like
2 to let her summarize.

3 CHAIR HUDES: Okay, thank you.

4 MONICA RENN: Monica Renn, Economic Vitality
5 Manager. Really at a high level what we've seen is a big
6 change in how people shop. We've seen a big change in how
7 tenants will tenant a space: the size, the merchandise, the
8 location. We did extensive work with the brokerage
9 community, with the property owners, with the businesses
10 themselves, and all of them are actually very much in favor
11 of this. What we see now is something like 12 vacancies on
12 North Santa Cruz, so if there were really a line of formula
13 retailers that were looking to infiltrate or to take over
14 downtown, I don't think we would see that vacancy.

16 There is a formula to almost every formula
17 retail, for lack of a better word, as to where they want to
18 locate, so just dropping into a center of a main street
19 doesn't necessarily fit almost ever. We're seeing Williams-
20 Sonoma close, we all know that. We have potentially one to
21 two, maybe three, of our formula retailers that we have now
22 that will be closing in the next four months. Those have
23 not been made public but we do know that. We know that
24 based on market trends, we know that based on our
25 information coming forward.

1 So, having all that information and working with
2 the Council and working with all the stakeholders what
3 we've found is hey, let's be a little more dynamic, let's
4 try to open up the ability to see what can happen. We do
5 know Sephora is coming in, that's a new formula retail in a
6 new location, and we know that's going to bring a lot of
7 action, that's going to bring a lot of people who are... We
8 call it retail synergy, so a lot of other people who want
9 to be located around that are now going to look to Old
10 Town.

11
12 So, I would say the outreach has been extensive
13 and the support of it has also been very favorable.

14 CHAIR HUDES: Could you maybe comment on the... I
15 know the developers and the landlords, yes, but we do have
16 some independent retailers that have been here a long time
17 that are struggling. Have they participated? Have you heard
18 from them that they're in support of formula retail coming
19 into the downtown?

20 MONICA RENN: In conjunction with the Chamber
21 I've sent emails out, probably three to four emails,
22 regarding every single one of these issues before the Staff
23 Report is written to go to Council to invite them to the
24 Council meeting and to follow up with what the action was,
25

1 understanding that independent business owners are very
2 busy and they don't necessarily have the time.

3 The ones who have come to our meetings at the
4 Chamber have all been in support of this. Independent
5 retailers know that their business alone does not bring the
6 masses, so they can appreciate that when there is a draw,
7 be it a formula retail, be it a restaurant, be it some sort
8 of service business, when there is a draw they are going to
9 do better, so all of those that I have talked to, they have
10 all been in support of this.

11 CHAIR HUDES: Okay, thank you. Other questions?
12 Yes, Commissioner Badame.

13 COMMISSIONER BADAME: I don't have a question but
14 just a couple of comments.

15 In regard to, for example, Sephora coming into
16 the Old Town, I have to wonder about the impact that it's
17 going to have on a similar existing business that's been
18 there for at least five years, and that would be
19 Bluemercury, so I'm kind of worried about some of these
20 formula stores. In fact, to me the CUP process allows
21 community participation as to the needs and types of
22 businesses that would shape and serve the Town and I kind
23 of worry about a saturation of formula businesses in that
24 it would take away from the uniqueness of our town, and to
25

1 that respect, even though some of this is to streamline
2 costs and time, typically formula can absorb the cost of
3 the CUP, so those are some comments I have in regard to
4 formula.

5 CHAIR HUDES: Thank you. Commissioner Tavana.

6 COMMISSIONER TAVANA: I was going to echo some of
7 those opinions as well but I guess I would say over an 18-
8 month period only three new formula retailers have taken
9 action so far. Can you comment on who those three are?

10 MONICA RENN: Correct. Actually, what we saw was
11 an interesting dynamic of where kind of formula replaced
12 where formula was because there is a place that they want
13 to be. Really the new one is Sephora, and then the other
14 one would be AT&T, because at one point the Walking Company
15 was considered one of our new ones, but then they moved
16 into where the Gymboree left and closed, so in turn they
17 replaced like for like, and I would just say a couple of
18 things.
19

20 One is both businesses that were mentioned by the
21 commissioner are both formula retail. There's another
22 makeup store two doors down from the other. Oftentimes you
23 will find that they purposely cluster together because
24 something you can't get at one you get at the other. It's
25 no shock that Athleta joined our community shortly after

1 lululemon did; in another community they actually share a
2 common wall because they know that the market is the same,
3 and so a lot of times that competition is healthy and it
4 actually creates a stronger shopping base for all of the
5 stores involved.

6 Maybe that's not the case all the time of course.
7 If there's a business model that's not strong and a
8 stronger competitor comes in we can see that one closes,
9 but if it is a formula they have that kind of greater role
10 above them making those decisions and making the choices
11 based on their market area and based on their shopping
12 area.

14 CHAIR HUDES: Okay. Yes, Commissioner Tavana.

15 COMMISSIONER TAVANA: I guess as a follow up, is
16 there a procedure in place to determine what formula
17 retailers are acceptable or not acceptable, or who's
18 allowed in and who's not allowed in? What does that process
19 look like?

20 MONICA RENN: Sure. There is not something in
21 place for that and the CUP process that's in place for
22 formula retail is actually not there for us to choose or to
23 allow a specific business, it's really about the use. So,
24 the discussion is is this allowed, is this use appropriate?
25 It's not about a specific company, and so we can't make

1 those decisions based on the company, and that's why we
2 find when we create the CUPs they have to be broad enough
3 that another company can replace them because they do run
4 with the land.

5 CHAIR HUDES: Thank you. Commissioner Janoff.

6 COMMISSIONER JANOFF: Are we in discussion?

7 CHAIR HUDES: Yeah.

8 COMMISSIONER JANOFF: Okay. It strikes me that
9 vacancy is worse for the Town than bringing in a retail
10 that may be a large formula retail. I'm excited about
11 Sephora coming in, but it seems to be that it's an
12 experiment worth trying because the Town is going to
13 benefit from a more active and vibrant shopping experience.
14 I think one of the terms used in the report had to do with
15 restaurants are limited in some ways because if you're a
16 town of only restaurants you'd have a busy town at lunch
17 and dinner and then the rest of the time it's sort of quiet
18 possibly, so you need to have that balance and purpose for
19 people to be in town longer. I think the dwell time or the
20 amount of time people are staying and shopping and enjoying
21 and taking advantage of what the Town provides is important
22 and I would support this change for that reason. I think an
23 occupied town is a healthier town and some of those big
24 draw companies are really going to help.
25

1 CHAIR HUDES: Vice Chair Hanssen.

2 VICE CHAIR HANSEN: I was going to say I really
3 appreciated Ms. Renn's comments; it gave me a lot of
4 confidence. We had previously a couple of years ago been
5 asked to view a presentation on the future of retail and it
6 was really dark and dismal in terms of what's going to
7 happen, and for many, many, many years we've had our
8 businesses complaining about how hard it is to change their
9 business or do things in town, so that being the case I
10 think there is one thing that is sort of a checkpoint and
11 it's this 6,000 square feet thing, so for that reason
12 you're not going to see Walmart wanting to be in town, or
13 if they do there's going to be a checkpoint to evaluate it.
14 Under 6,000 square feet, I think that's going to help. I'm
15 kind of asking Ms. Renn, I think the kinds of retail, the
16 size thing, will be a good indicator?

18 MONICA RENN: You're correct, and there was kind
19 of a caveat in that original resolution that you of course
20 could recommend to the Council that continued and that was
21 that if a company came in and asked to join several spaces
22 that it would need a Conditional Use Permit and it would
23 need review, so for example like you're saying, if a large
24 company came in a said hey, we want to take over this
25 entire building and make all of these suites a Walmart or

1 whatever it is, they're probably going to hit above that
2 6,000 square foot, but there are some things if you're
3 feeling some discomfort there that you could certainly
4 bring to the Council's attention.

5 VICE CHAIR HANSSEN: I don't know if it's fair to
6 say that that's the collective will of the Town to not have
7 Walmart here, but it is a whole different kind of place
8 than a lot of the places we've had in Los Gatos, so I am
9 comfortable with the 6,000 square feet and what I heard you
10 say is we could add in if some really very large retailer
11 was trying to come into town without having any review of
12 it, that we could ask to put in if they tried to put
13 multiple spaces together, is that right?

15 MONICA RENN: That's correct, and I think it's
16 important to note that we often do that internally. If
17 there is something that we really feel like this is out of
18 the norm, we have a company asking to all of a sudden take
19 over an entire block, Staff would not be comfortable
20 approving that; I think that is something we would
21 definitely bring to the bodies.

22 VICE CHAIR HANSSEN: Okay, thank you.

23 CHAIR HUDES: Maybe I had one comment. I don't
24 know very much about retail; I'm not even a very good
25 shopper, but I have been around the town a while and I do

1 remember there was a lot of controversy about this subject
2 when the CUP for formula retail was enacted and so I'm kind
3 of shocked that we haven't had any reaction here to it,
4 that we haven't even had a single item. I also am thinking
5 that, myself, I didn't really even understand the language
6 very well in what went out, so the memorializing, what does
7 that mean? The fact that we're talking about not
8 memorializing the five every 18 months but we're
9 memorializing something different or we're enacting
10 something different I felt was a little bit unclear, so I
11 actually think that my opinion is it would be hasty to pass
12 this on at this point without making sure that people have
13 had the opportunity to weigh in on this as it was such a
14 hot topic a while ago.

16 So, my feeling is that I'd like to leave this one
17 open on a continuance with maybe better wording of what
18 we're doing in the outreach and make sure that we have the
19 opportunity to hear from people on this one. That's just my
20 opinion on this. I think anything to do with the business
21 and the vitality of the downtown is something that I'm very
22 passionate about, but I also am kind of very surprised that
23 we haven't had that reaction and I wonder if it may have
24 had something to do with the language and the clarity of
25 what we're doing to do.

1 Commissioner Burch.

2 COMMISSIONER BURCH: I in the last year, based on
3 some job type related issues, have done a lot of work
4 researching retail and where retail is going, how other
5 jurisdictions are now adapting to that, and I'm probably
6 going to be the first one to tell you here I am
7 enthusiastically behind what we're doing.

8 Retail is changing drastically. It's no longer
9 necessarily completely about going into a store even to
10 buy. Oftentimes if you go, you look, you like it, you may
11 go somewhere else and then buy that item online. So, what's
12 happening is as we all know our land prices are not going
13 down. Smaller companies are having a very hard time meeting
14 lease costs or other such issues, and I realize that
15 financially that's not our purview to worry about, but what
16 it does lead to is you see vacancies, and the more
17 vacancies you have the less people come into town and it
18 becomes a cycle that is actually building on itself.

19
20 By lessening this restriction—and just so
21 everyone knows, Los Gatos is known for being notoriously
22 difficult for retail—so by backing off a bit on this.. And
23 6,000 square feet is not very big, so we're not inviting in
24 a West Elm or a Home Depot. These are smaller businesses
25 anyway, but they're businesses that have the financial

1 backing to be able to be slow for the first few months that
2 they're here, but their names are recognizable enough that
3 when people come to go shop at that place they will then
4 continue walking. They'll see something else, a store that
5 they've never heard of down the street, and again that
6 becomes a cycle, that builds on itself. If this was just
7 open-ended and anybody could come in at any size I would
8 not be for this, but when you really look at what it takes
9 to build a store and just basic code requirements, what has
10 to be in that store to support it, we are not talking about
11 large stores, but what we are talking about is not going up
12 and down Santa Cruz and having 12 vacancies. That's
13 terrible.
14

15 So, I think that this is well overdue. I think
16 that other developers are going to start seeing this and
17 begin speaking to their clients who are looking in our
18 neighboring jurisdictions, which we're seeing very alive
19 and vibrant—like you said, not just at dinner or lunch but
20 are vibrant—and they're going to start suggesting to their
21 clients, you know what? Los Gatos has got some programs
22 going. You should come talk to them, see what you think,
23 and I think we're going to see a vast difference in this
24 town.
25

1 I understand what you're saying about some of the
2 wording, but I don't know that that... I feel like we could
3 hammer that out right here and still send that on with
4 confidence.

5 CHAIR HUDES: I don't have the expertise to
6 really know, but I do know that we have some folks who have
7 been very loyal to the downtown and have operated
8 businesses for 20 years and I would hate to see this go in
9 and them be surprised by this, because these are some of
10 the same people who were opposed to the formula retail
11 coming in previously and maybe they're enlightened now and
12 maybe they're going to perfectly fine with all of that, but
13 I feel like we owe something to them in terms of
14 communication, and I'm not saying for months, I'm talking
15 about to do a clear description of what we're proposing
16 here, because I think the language has been confusing so I
17 don't think we have anyone here who understood it and I am
18 suggesting that we reword and we elicit whatever comments
19 that we can get from some of our folks who we know have
20 devoted their lives to operating retail businesses
21 downtown.

22
23 COMMISSIONER BURCH: In this dialogue do you guys
24 mind if I just ask one quick question of Ms. Renn? Did you
25 meet with Catherine at the Chamber? I know that she has a

1 couple people who work for her that oftentimes when things
2 are in front of us that deal with the downtown they go
3 door-to-door and talk to people. Are you aware if this took
4 place for this issue?

5 MONICA RENN: I have gone door-to-door and talked
6 about all of these issues. I have gone to Chamber meetings.
7 I have summarized this in very short bullet points, knowing
8 that independent businesses don't have a ton of time to
9 read these Staff Reports, so it hasn't just been hey, check
10 out this attachment and let me know what you think, it's
11 been tonight is this, this is what it means for us. I think
12 this is why the Council did the 18-months or five, because
13 if there was that reluctance we have gone almost two years
14 and have not seen that flood, and that was really what the
15 conversation was at the Council is that was the test
16 period, that was the period, you know, do the neighbors
17 know, do they not know? During that time I have been in
18 various arenas sharing this information and have tailored
19 that language to match my audience, so it hasn't just been
20 passing out resolutions, because I do understand that those
21 can be difficult and they don't make sense when you're
22 trying to do 18 things at once; I've tried to really be
23 tailoring that information.
24
25

COMMISSIONER BURCH: Thank you.

1 CHAIR HUDES: Thanks. Yes, Commissioner Janoff.

2 COMMISSIONER JANOFF: I think both points are
3 really important, but I wonder whether we can accomplish
4 the same objective of making the language that goes to the
5 community from these bodies clearer by recommending that
6 that happen when this goes to the Town Council, so before
7 it's agendized on the next Town Council meeting recommend
8 that there be communication from these bodies that is
9 adopting the clear language as is suggested.
10

11 I wouldn't like to see it held up but I would
12 like to see as many persons who are interested in
13 participating in the public process, we don't have many
14 tonight, and if it is that important to the residents of
15 the Town then give them the opportunity, and they have that
16 opportunity before the Town Council. I believe it
17 accomplishes the same objective without holding things up.

18 CHAIR HUDES: Okay, thank you. Yes, Vice Chair
19 Hanssen.

20 VICE CHAIR HANSSEN: I was going to say I'm very
21 much with Commissioner Burch on this and I don't think we
22 should hold this up, especially since we had the 18-month
23 trial period, but I also agree with Commissioner Janoff. I
24 think just like we're doing with the General Plan Advisory
25 Committee, we're looking at the possibility of growing

1 2,000 units and they're putting communications out there
2 saying come and voice your opinions on how we do this. I
3 think as long as there's some communication that goes out,
4 because I think it got a little bit lost with the up to
5 five and all this stuff, just be clear in the
6 communications—and I'm not saying hold it up—that we are
7 proposing to allow any formula retailer up to 6,000 square
8 feet to operate in our town if they have the will, then I
9 think it's fine. But I also feel like Ms. Renn has done a
10 fabulous job of reaching out to everyone as well so that
11 the only thing it would just need is a little clarity of
12 language.
13

14 CHAIR HUDES: Okay. Other comments?

15 COMMISSIONER BARNETT: I'll just briefly chime
16 in, if I may. I've been in Los Gatos since 1974 and it was
17 a charming village with uniqueness at that time, but I
18 think given the economic pressure now with land values that
19 it's difficult to fight the market and in some form or
20 fashion that we're going to have to accept more formula
21 retail in the Town.
22

23 CHAIR HUDES: Okay. It's suggested that we take
24 each of these and do a vote on them and then we can bundle
25 that into a final recommendation, is that okay?

1 So, on this item we would need a motion. Yes,
2 Commissioner Burch.

3 COMMISSIONER BURCH: Are we just going to make a
4 motion to adopt the revision to the formula retail
5 businesses in downtown C-2 zone?

6 ROBERT SCHULTZ: It's a recommendation to
7 (inaudible).

8 COMMISSIONER BURCH: Recommendation, I'm sorry. A
9 recommendation of approval to Council to adopt the formula
10 retail business in the downtown C-2 zone changes. Do I need
11 to add any more to that? Okay.

12 CHAIR HUDES: Okay. Do we have a second? Yes,
13 Commissioner Janoff.

14 COMMISSIONER JANOFF: Second.

15 CHAIR HUDES: Okay, thank you. Any comments
16 before we vote? I unfortunately will not be able to support
17 the motion because I have to kind of vote on what's before
18 me, and what's before me is something that I don't think
19 informed the public enough about the issue for what I'm
20 dealing with right now. I do support the idea of getting
21 more input. I am not opposed to formula retail in the
22 downtown even as it's been proposed, I just feel like
23 what's before me hasn't had enough clear notice for people
24
25

1 who I believe reacted in a different way in a different
2 time, so for that reason I won't be supporting the motion.

3 Anyone else want to make comments? Okay, I'll
4 call the question. All in favor? Okay. Opposed. So, it
5 passes 5-2 and I think you've got the commissioners voting,
6 so thank you.

7 Yes, Commissioner Burch.

8 COMMISSIONER BURCH: Can we take like a five-
9 minute break?
10

11 CHAIR HUDES: Yes, we may. Thank you.

12 (INTERMISSION)

13 CHAIR HUDES: Let's get started again. The next
14 item in the Town wide code amendment application is
15 restaurants and CUP modifications at the DRC level, which
16 was a temporary 18-month resolution to allow current
17 restaurants to modify their CUP at the DRC. Many of them
18 chose to modify their use permit to allow them to
19 participate in the pilot parklet program and now new CUPS
20 to be heard at the DRC and suspension of Ordinance 2021, so
21 this would I guess suspend or eliminate 2021, is that
22 correct?

23 SEAN MULLIN: This change would eliminate 2021.
24

25

1 CHAIR HUDES: Right, okay. Any comments or
2 observations about how that's worked for restaurants?
3 Commissioner Badame.

4 COMMISSIONER BADAME: Well, I work downtown and I
5 can definitely say that the outdoor dining has been a big
6 plus. Live music has also enhanced the ambiance, so I think
7 the CUP modification at a DRC level for existing
8 restaurants has been phenomenal, so I'm a big supporter of
9 that.

10 CHAIR HUDES: Great, other comments?

11 VICE CHAIR HANSSEN: I had a question.

12 CHAIR HUDES: Yeah.

13 VICE CHAIR HANSSEN: I just want to make sure I
14 know what we would be recommending. Basically what we're
15 saying is that there is no need for any more 18-month
16 period, that basically all new restaurant CUPs as well as
17 modifications to existing CUPs could go through the DRC?
18

19 SEAN MULLIN: Correct, they are eligible to go
20 through the DRC.

21 VICE CHAIR HANSSEN: Okay.

22 CHAIR HUDES: Commissioner Burch.

23 COMMISSIONER BURCH: Is there anything that would
24 make them need to come to the Planning Commission,
25

1 something that you feel that DRC would not cover in this
2 scope?

3 JOEL PAULSON: Joel Paulson, Community
4 Development Director. Under the current regulations there
5 is nothing that comes to mind, however, with any
6 application we always have the ability to forward that to
7 the Planning Commission should there be an issue or
8 concern. As Ms. Renn mentioned before, if someone came in
9 and wanted to merge a block of suites and turn it into a
10 big disco/nightclub/restaurant, that's probably going to be
11 problematic, so we would look at those things on a case-by-
12 case basis, but there are no specific restrictions in the
13 ordinance.
14

15 COMMISSIONER BURCH: Okay, thank you.

16 CHAIR HUDES: Okay, other questions on
17 restaurants? I would add my comment that it seems as though
18 we've stimulated some innovation in the restaurants so
19 there's a wider variety I would say, and not just of
20 cuisines but also of styles of dining, and saved some
21 locations that looked like they had been struggling for
22 some time and now they seem to be pretty vibrant and I
23 think we even have some ones that are sought out over a
24 pretty wide regional basis, so I think that things seem to
25

1 be working pretty well there and I think we're getting the
2 kind of vibrancy and vitality that we need to have.

3 There will always be a question of do you go too
4 far with restaurants, and that's probably the bigger
5 concern, so if there were a situation where we are becoming
6 a Saratoga, which is only restaurants, what would the
7 mechanism be for moving that back and dealing with that
8 situation?

9
10 SEAN MULLIN: As previously discussed with the
11 formula retail, the Council could put a moratorium on it,
12 they could pass a resolution to change the process
13 temporarily so that it could be studied, so if there was a
14 concern coming up the Council could address it.

15 CHAIR HUDES: Great. Vice Chair Hanssen.

16 VICE CHAIR HANSSSEN: I think you already asked
17 the question but so a business wants to come in and change
18 the retail to restaurant, they don't have to get a CUP for
19 that or they can do it through the DRC, because it's a
20 change from one kind of CUP to another, so it could be done
21 at the DRC?

22 SEAN MULLIN: It would still require a CUP but
23 instead of the hearing body typically being the Planning
24 Commission and Council it could go to the DRC. The scenario
25 you're discussing, a concern was raised with that in

1 Resolution 2021, which all this gets alleviated by making
2 these changes.

3 VICE CHAIR HANSSEN: Okay, that's fine, and as
4 long as I'm speaking I wanted to say I generally don't see
5 a problem with this at all. I mean, the only concern
6 possibly would be the one where we end up having more
7 restaurants than retail, but it seems like that can be
8 checked by the DRC.

9
10 SEAN MULLIN: Ultimately that would be Council if
11 there was an issue. At the Staff level and the DRC level
12 CUPs would continue to be processed and if they met the
13 requirements they would be moved forward. If the Council
14 noted a concern of an oversaturation of that particular
15 use, they could put a moratorium in and then study what
16 changes are necessary.

17 VICE CHAIR HANSSEN: Good. Thank you.

18 JOEL PAULSON: I would just add for the Planning
19 Commission that the Staff will continue to maintain a list
20 of these various changes and the number of businesses that
21 come in under the new provisions and should they start
22 spiking we would take that question back to Council even if
23 they had not called that out before. There is no hard and
24 fast number but that's something that Staff would have to
25 look at and will continue to monitor.

1 CHAIR HUDES: Okay. Other comments on this? Since
2 I'm not carrying my weight here on motions I'll move to
3 recommend to the Council the we memorialize the item on
4 restaurants. Commissioner Badame.

5 COMMISSIONER BADAME: Second.

6 CHAIR HUDES: Discussion? Okay, I'll call the
7 question. All in favor? It passes unanimously.

8 So, let's move on to exterior modifications, and
9 these are minor exterior modifications to commercial
10 buildings, to allow this to be processed as building
11 permits rather than Architecture and Site applications at
12 the DRC. Any questions of Staff on this? Yes, Commissioner
13 Janoff.
14

15 COMMISSIONER JANOFF: The question that comes to
16 mind is, this is broadly commercial but how are historic
17 commercial buildings handled with these proposed
18 modifications?

19 SEAN MULLIN: Any exterior change to a historic
20 commercial building would continue to require the Historic
21 Preservation Committee's review. It could be done at the
22 building permit level or preliminarily prior to the
23 building permit submittal.
24

25 COMMISSIONER JANOFF: But there's sort of a full
stop, check with the...

1 SEAN MULLIN: That's correct.

2 COMMISSIONER JANOFF: Great, thank you.

3 CHAIR HUDES: Question for Staff. Has there been
4 anything close on this where you were thinking maybe we
5 should take this to Planning Commission, or did these go
6 through pretty much as you expected?

7 JOEL PAULSON: We haven't had any that have risen
8 to that level yet. Not to say that that won't happen
9 because everyone always likes to push the envelope, but the
10 current ones that we have, they meet the requirements. It's
11 façade changes, material changes, window and door changes,
12 things like that, so some of them will have different
13 architectural look and feel but it has not risen to a level
14 where we thought Planning Commission needed to weigh in on
15 it.
16

17 CHAIR HUDES: So, it sounds like the most
18 extensive one of those might have been McCarthy Ranch on
19 the corner of North Santa Cruz in the testimony that we
20 had.

21 JOEL PAULSON: That's probably the one that has
22 the most changes because it's also multiple buildings.

23 CHAIR HUDES: Right, okay. Any further discussion
24 on this one? Okay, a motion on this? Commissioner Badame.
25

1 COMMISSIONER BADAME: I move to forward
2 recommendation on minor exterior modifications to
3 commercial building to Town Council.

4 CHAIR HUDES: Okay. Commissioner Burch.

5 COMMISSIONER BURCH: I'll second that.

6 CHAIR HUDES: Further discussion? Okay, all in
7 favor? Opposed? Passes unanimously.

8 Then finally group classes. This is a resolution
9 allowing a CUP for group classes within the downtown C-2
10 zone to be heard by DRC and those in other commercial zones
11 to be allowed by right with a certificate of use and
12 occupancy in business license. So, this is a CUP at the DRC
13 level in downtown and it's by right elsewhere, is that
14 correct?

15 SEAN MULLIN: That's correct.

16 CHAIR HUDES: On this one I had a question and
17 that is in the Staff Report it says that the term group
18 classes is not defined in the Town Code, and so my question
19 is do we need to tighten that up? The term group class is
20 defined really only as "not one-on-one" instruction, and so
21 something like a music school, a religious school, a riding
22 academy, a tutoring business, that's doing it on a group
23 basis, those would all be considered group classes, is that
24 correct, or do some of those fall outside of group class?
25

1 SEAN MULLIN: All those examples are already
2 considered group classes. What Staff recognized here with
3 this change of introducing a group, the term group classes,
4 is that it was absent from our code and we were using over
5 time the art, craft, music, and dancing school which fits
6 the model of single instructor with a group class, so
7 adding group classes, which is the term that we use most
8 often, will just clarify it. But your examples are already
9 considered group classes.
10

11 CHAIR HUDES: Okay, well, my comment on that
12 would be that where I've seen some downtowns decaying,
13 where the vibrancy and value had degraded, are some
14 downtowns that have become more and more occupied by not
15 the cycle type of group class but things like tutoring or
16 religious schools or things like that, and that tends to go
17 hand-in-hand with sort of the degradation of downtowns, and
18 so I was wondering if things like an actual school should
19 be differentiated from some of the group classes, the
20 fitness and things, that were envisioned in this. I don't
21 know if other people have thoughts about that or whether we
22 need a better definition of group class or that we feel
23 like things will work themselves out, I don't know. Yes,
24 Commissioner Badame.
25

1 COMMISSIONER BADAME: Well, I have some concerns
2 with that. I equate group classes in the downtown to dead
3 weight not really adding to the vitality of the downtown,
4 and what little group classes I've seen I don't see them
5 patronizing the businesses. They go to their class and then
6 they leave, so it seems to me that something like that
7 needs more scrutiny or a better definition because I would
8 also be concerned about the degradation of downtown.

9 CHAIR HUDES: Vice Chair Hanssen.

10 VICE CHAIR HANSSEN: I wanted to ask a question.
11 I was thinking of the example of SoulCycle. It was my
12 recollection that there was a whole bunch of juice bars and
13 places that kind of crept up. The synergy thing that you
14 were talking about, is that correct?

15 MONICA RENN: That's correct, and actually
16 lululemon, we were trying to get them to come here for
17 several years after their pop-up store and they hemmed and
18 hawed, and then once SoulCycle opened they jumped on the
19 next opportunity to come, so that's an example. I can say
20 as a customer of that same workout studio, there are
21 examples where an instructor will actually announce in
22 class, "Let's go X place for coffee together after," and
23 there will be a core group of people who will leave and go
24 somewhere together, so I think it just depends on the type.
25

1 I think another thing to note is that this too
2 has been available for several months now and so it's less
3 about us looking at the crystal ball. I think it's more
4 about us kind of seeing what has happened and then
5 understanding that we can do a moratorium of do some sort
6 of stop if there becomes a level that's discomfort.

7
8 The group classes that we've seen that have been
9 coming forward to us are really ones that are experiential,
10 and in fact we were asked to do a presentation. I was asked
11 to represent Los Gatos and do a presentation recently at an
12 economic development summit that was about our downtown and
13 it was about how we create experience, because with our
14 one-way pilot we actually got a lot of people looking at
15 us, and the entire conference was actually on experience,
16 how to create experience, how do you get somebody to your
17 location, because then they will shop and they will stay,
18 and it's by providing things that can't be done online like
19 the classes, the socialization, exercise, those type of
20 things.

21 VICE CHAIR HANSSEN: So, relative to Chair Hudes'
22 thoughts, SoulCycle makes perfect sense to me. Orangetheory
23 Fitness, another one. I mean, they have it in downtown
24 Oakland and I'm sure it's helped the other businesses
25 there, but if you think about like a Chinese school or

1 something that's only catering to a very small percent of
2 the population, doesn't really have synergies with anything
3 else, where do you draw the line on that? I mean, I guess
4 it gets approved at the DRC level so you would presumably
5 talk about those issues from downtown anyway.

6 MONICA RENN: I have two thoughts on that versus
7 of course it's the use, it a use of group classes, but for
8 me people equals synergy, so if people are coming
9 regardless, especially if they're dropping their kids off
10 and they have an hour to kill or two hours or kill, or
11 maybe they're dropping off a spouse or going to dinner,
12 maybe it is a language class and then they're waiting
13 somewhere they're going to meet the person after. I just
14 think anything you can do to get people here, to get people
15 understanding that this is a town that offers something for
16 everybody the more successful we'll be across the globe.

18 I mean, every store downtown is not for every
19 person and we know that and I think that's why it is
20 important to encourage a mix, but that happens naturally
21 and so for me I think heck, if we can get people down here
22 somebody is going to buy something else or discover
23 something else or stay a little longer, so for me it's
24 people equals synergy.
25

VICE CHAIR HANSEN: Okay, thank you.

1 CHAIR HUDES: Commissioner Burch.

2 COMMISSIONER BURCH: I completely agree with you
3 on that. I'm just curious, in your expertise are you
4 completely comfortable with us not having a definition of
5 group classes? If we all stop thinking about what the
6 market needs right now—we all know right now it's yoga,
7 Pilates, or cycling or something—and we go 15 years down
8 the road when trends have turned another way, are we
9 comfortable not having at least any parameters? And I am
10 going to defer to your expertise; you've talked to other
11 jurisdictions.
12

13 MONICA RENN: You know, I think if we wanted to
14 craft a definition of group classes it could be helpful.
15 It's interesting because a lot of times when people do come
16 to tenant a property they will look at our code, they will
17 search out group classes, and we know internally that we
18 use that school definition but it's not something that
19 somebody can search from our Town Code, so I think if we
20 were open to create a definition and it was a definition
21 that was anything beyond kind of that one-to-one, and
22 that's what we tell folks. When they come and they say oh
23 no, I'm not having group classes, I'm just going to work
24 with three people at once, we say it is our practice that
25 one-on-one is personal service and once you go beyond that

1 it's group class, so we do have kind of an unwritten
2 definition and I think putting that down—kind of for lack
3 of a better word, my apologies—memorializing that
4 definition, putting it somewhere could provide us with the
5 ability to serve more clearly.

6 COMMISSIONER BURCH: Yeah, I would think so too.
7 Without slowing down process I just would recommend that we
8 do something just knowing we don't know where the service
9 or class market is going to go in 15 years and this gives
10 us some kind of parameter to fall back on.

11 CHAIR HUDES: Vice Chair Hanssen.

12 VICE CHAIR HANSSEN: I was under the
13 understanding that we also have a process for schools, and
14 so I wondered if it would be clearer if we just said..
15 Because there is actually a definition proposed in the
16 ordinance for group classes being not one-on-one
17 instruction, but you could also say it's not a school as
18 defined in our code because we have a specific definition
19 of what a school is, you know, like a public school.
20

21 SEAN MULLIN: To address that question, there
22 already is for traditional schools, the term I'll use, so
23 public school, high school, private school, those kinds of
24 things, that's a separate use from group classes and is
25 administered differently. The group class is how we've used

1 that term internally but applied it to the art, craft,
2 music, dancing schools, really looking at these specialty
3 type classes, so dancing, music, or in this case the
4 exercise.

5 VICE CHAIR HANSSSEN: Not a broad based, multi-
6 disciplinary education?

7 SEAN MULLIN: Correct.

8 VICE CHAIR HANSSSEN: Okay.

9
10 JOEL PAULSON: And I would just offer that if the
11 Commission thinks that's clearer, then language to the
12 effect of, "and does not include schools as defined in the
13 Town Code," which Vice Chair Hanssen mentioned, that could
14 be part of the recommendation to the Council.

15 CHAIR HUDES: Okay. Comments about that? I agree,
16 I think that would be helpful. I absolutely appreciate the
17 dynamics that are coming with businesses like SoulCycle and
18 the other fitness related ones, however, I also am very
19 aware of some downtowns that have become homes to tutoring
20 classes and karate studios and other things where the value
21 of the downtown has significantly degraded for the very
22 reason that Commissioner Badame pointed out in that those
23 people are there for a very specific purpose and they're
24 not availing themselves, and those are often associated
25 with decreasing rents and a decline of a downtown.

1 When you go into a downtown and you see one
2 that's been in decline you see some personal service
3 businesses and you see those kinds of things and that's
4 about it, and so I would be supportive of this with the
5 addition of saying not a school, but I also would suggest
6 that we monitor this one really closely and if we are
7 starting to see some degradation, we start to see too many
8 uses that are really not synergistic and not additive that
9 we then come back on this one and watch this one closely,
10 because it is associated with declining downtowns, it can
11 be, so maybe we will need a different definition at that
12 point, so I would be supportive of this language as it is
13 with that addition. Yes, Commissioner Burch.

15 COMMISSIONER BURCH: Do you want me to..

16 CHAIR HUDES: Sure.

17 COMMISSIONER BURCH: Okay. I'm going to venture a
18 motion that we recommend approval of the modification for I
19 guess the addition of group classes as written, but we
20 would like to see a definition of group classes as
21 discussed in this meeting added to that wording.

22 CHAIR HUDES: And I wonder if the maker of the
23 motion would be open to including the term "not a school,"
24 because school is covered elsewhere?

25 COMMISSIONER BURCH: Yes, absolutely.

1 CHAIR HUDES: I would second that motion then.

2 COMMISSIONER BURCH: Thank you.

3 CHAIR HUDES: Further discussion? Okay, all in
4 favor? Okay, opposed? Passes unanimously, and this is a
5 recommendation so I assume there's not appeal rights on
6 this, is that correct?

7 SALLY ZARNOWITZ: That is correct.

8 CHAIR HUDES: Okay, very good. We got through it.
9 Thank you for indulging in the step-by-step approach here,
10 but I think we were dealing with kind of a basket of things
11 that had some differences.
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