



**TOWN OF LOS GATOS**  
**COUNCIL AGENDA REPORT**

SPECIAL MEETING DATE: 05/27/2025

ITEM NO: 1

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DATE: May 22, 2025

TO: Mayor and Town Council

FROM: Chris Constantin, Town Manager

SUBJECT: Consider a Recommendation by the Planning Commission to Adopt a Resolution to Approve Architecture and Site, Conditional Use Permit, Subdivision, and Mitigated Negative Declaration Applications to Demolish the Existing Commercial Structures, Construct a Mixed-Use Development (30 Multi-Family Residential Units) with Commercial Space on the Ground Floor, Approve a Condominium Vesting Tentative Map, and Remove Large Protected Trees Under Senate Bill 330 (SB 330) on Property Zoned C-2. APNs 529-28-001 and -002. **Located at 143-151 E. Main Street.** An Initial Study and Mitigated Negative Declaration Have Been Prepared. Architecture and Site Application S-24-007, Conditional Use Permit Application U-24-002, Vesting Tentative Map Application M-24-004, and Mitigated Negative Declaration Application ND-24-003. Property Owner: David Blatt, CSPN LLC. Applicant: Kenneth Rodrigues and Partners, Inc. Project Planner: Ryan Safty.

RECOMMENDATION:

Staff recommends that the Town Council accept the Planning Commission's recommendation to adopt a resolution to approve Architecture and Site, Conditional Use Permit, Subdivision applications, and a Mitigated Negative Declaration, to demolish existing commercial structures, construct a mixed-use development (30 multi-family residential units) with commercial space on the ground floor, approve a condominium Vesting Tentative Map, and remove large protected trees under Senate Bill 330 (SB 330) on property zoned C-2, located at 143-151 E. Main Street.

FISCAL IMPACT:

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

STRATEGIC PRIORITIES:

The proposed project aligns with the adopted Core Goal of **Community Character** and the Strategic Priority to preserve the Town's small-town charm and provide a range of housing

opportunities and historic neighborhoods, while diligently maintaining and implementing the Housing Element.

BACKGROUND:

On June 14, 2023, the Conceptual Development Advisory Committee (CDAC) reviewed a preliminary proposal on this site for a similar four-story proposal (Attachment 3, Exhibit 5). The CDAC was generally supportive of the concept and provided the following summarized direction: preference for good architecture that continues the character of downtown; preference for small units; supportive of underground parking; importance of site landscaping and open space; preference of ownership over rentals; and supportive of mixed-use component near downtown. The applicant has included a response memorandum to the CDAC meeting minutes in Attachment 3, Exhibit 6.

On March 26, 2025, the Planning Commission reviewed the project and voted four to two to forward a recommendation to the Council to approve the project with modified conditions of approval. Additional details on the Planning Commission review and recommendation are provided below.

The application was initially scheduled for review by the Town Council at a Special Meeting on May 6, 2025. However, due to an inconsistency in the time listed on the noticing cards, that meeting was cancelled. As a result, the item has been rescheduled and noticed for the Town Council Special Meeting on May 27, 2025, at 7:00 p.m.

Senate Bill 330

The Housing Crisis Act of 2019, or SB 330, became effective on January 1, 2020, and will remain in effect until it sunsets on January 1, 2030. SB 330 provides an expedited review process for housing development projects and offers greater certainty by allowing an optional vesting opportunity through the Preliminary Application process. Submittal of a Preliminary Application allows a developer to provide a specific subset of information on the proposed housing development ahead of providing the full amount of information required by the Town for a housing development application. Once the Preliminary Application is “deemed submitted” and payment of the permit processing fee is made, a vesting date is established, freezing the applicable fees and development standards that apply to the project while the applicant assembles the rest of the materials necessary for a full application submittal. Eligible projects are exempt from discretionary review and must be consistent with objective zoning and design standards. The statute requires that a final decision be made in no more than five public hearings, including appeals. The SB 330 preliminary application for this project achieved a vesting date of May 3, 2024.

Housing Accountability Act – Builder’s Remedy

The California Legislature adopted the Housing Accountability Act (HAA) to "significantly increase the approval and construction of new housing for all economic segments of California's communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects" [Gov. Code § 65589.5 (a)(2)(K)]. It is the policy of the state that the HAA "be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing" [Gov. Code § 65589.5 (a)(2)(L)]. The "Builder's Remedy" provision of the HAA specifically prohibits a local agency from relying on inconsistency with zoning and general plan standards as a basis for denial of a qualifying housing development project unless the agency has adopted a sixth cycle housing element in substantial compliance with state law by January 31, 2023. The HAA was recently amended to provide that only the State can certify that an adopted Housing Element substantially complies with state law. The Town's sixth cycle housing element was certified by the California Department of Housing and Community Development (HCD) on July 10, 2024. The preliminary application for this project achieved a vesting date of May 3, 2024, prior to state certification of the Town's Housing Element. Therefore, the project qualifies as a Builder's Remedy project, and the applicant has invoked the provisions of Builder's Remedy for this proposed project.

Project Site

The subject property consists of two lots totaling 0.425 acres located at the intersection of E. Main Street, High School Court, and Church Street, immediately east of the Los Gatos High School (Attachment 3, Exhibit 4). The site is currently developed with a commercial structure and a parking lot. The property has a General Plan designation of Central Business District and is zoned Central Business District Commercial (C-2).

The preliminary application under SB 330 was deemed submitted on May 3, 2024, establishing the vesting date for the application. Therefore, the applicant vested to the Town's development standards that were in effect on May 3, 2024. On June 18, 2024, the applicant submitted a formal application, within 180-days of the established vesting date as required by state law.

Through the Town's technical review process, the application was deemed complete on November 27, 2024, within the timelines prescribed by state law.

On March 26, 2025, the Planning Commission received the Staff Report, received public comments, and discussed the project. The Planning Commission voted four to two to forward a recommendation to the Council to approve the project with modified conditions of approval. The Planning Commission Staff Report, Addendum, Desk Item, and verbatim meeting minutes are included as Attachments 3 through 6.

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

DISCUSSION:

A. Project Summary:

The applicant proposes demolition of the existing commercial structure and construction of a four-story mixed-use development consisting of 30 attached residential units along all four levels and a 2,416-square foot commercial space at the ground floor along the south-eastern corner of the property (Attachment 3, Exhibit 22). Of the 30 units, six of the units (20 percent) would be designated as Below Market Price (BMP) units per the requirement of Builder's Remedy. The applicant submitted a Project Description Letter (Attachment 3, Exhibit 7) and a Letter of Justification (Attachment 3, Exhibit 8) discussing the project. As noted in the letters, the applicant is proposing two different below-grade options for parking: one with a single level of below-grade parking and the other with two levels. Both options would take vehicular access off of Church Street.

Full discussion and analysis of the project is provided in the March 26, 2025, Planning Commission Staff Report (Attachment 3).

B. Planning Commission:

On March 26, 2025, the Planning Commission received the staff report, the applicant's presentation, and public comments on the proposed project (Attachments 3 through 6). The Planning Commission voted four to two to forward a recommendation to the Council to approve the project with a strong preference for Parking Option 1 and modified conditions of approval. Specifically: a new Condition 10 was added regarding recommended tree species; a new Condition 19 was added to encourage earlier hours of operation for the future commercial use, although the future use may need a separate Conditional Use Permit depending on the use proposed; language was added to (new numbering) Condition 23 for assurances related to Mitigation Measure AQ-1; new Condition 86 was added for traffic control along Church Street related to the new parking garage ramp; new Condition 106 was added to require coordination with the Los Gatos High School for creating a safety and logistics plan for construction activities; and language was added to (new numbering) Condition 111 to limit large trucks and deliveries on High School Court during school drop-off and pick-up hours (Attachment 2, Exhibit A). The Planning Commission Staff Report, Addendum, Desk Item, and verbatim meeting minutes are included as Attachments 3 through 6.

Regarding the two parking options, staff offers the following clarification: There is no existing prohibition against applicants including alternative proposals for the planning approvals that are being sought. The Council can deny one of the alternatives if it can make the required findings. If both alternatives are approved, the Council can also direct the applicant to provide notice as to which alternative it has selected at some point in the future. The Council can also direct staff to revise the Town's planning application guidelines to provide that alternative proposals will require a separate planning application.

During the Planning Commission meeting, several questions arose regarding the traffic study and the statement that the project would not result in an increase in overall peak hour trips. Staff offers the following clarification: There will be no new AM or PM peak hour trips because the existing small office building (8,258 square feet) generates more AM and PM peak hour trips than the proposed 30-unit multi-family attached housing. AM peak hours are from 7:00 AM – 9:00 AM, and PM peak hour trips are from 4:00 PM – 6:00 PM. Office buildings usually have a higher concentration of peak hour trips because many have fixed opening and closing hours. Multi-family homes reflect many different schedules, and their peak hour trips are more evenly distributed throughout the two-hour periods and therefore fewer. As noted in the Transportation Study in Attachment 1, Appendix H, the proposed project would generate approximately 17 new average daily trips, but fewer trips than the existing land use (Small Office Building) during the AM and PM peak hours. For additional details, please see Hexagon's Transportation Study in Appendix H of the Initial Study/MND in Attachment 1. The trip generation study in Table 1 shows that there would be one new "out" trip in the AM peak hours, but that the rest of the trips would be less, resulting in no increase in overall peak hour trips.

#### ENVIRONMENTAL REVIEW:

An Initial Study was prepared for the project, which included a number of project-level technical studies, including: Air Quality, Greenhouse Gas, Health Risk, and Energy Analysis; Special-Status Species Evaluation; Arborist Report; Emission Factors Model (EMFAC); Phase 1 Environmental Site Assessment; Noise Assessment; and Transportation Analysis (Attachment 1). All technical reports were peer-reviewed by the Town or prepared by the Town's consultants. The Initial Study concluded that the project will not have a significant impact on the environment with the adoption of the Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP) to mitigate potential impacts to a less than significant level. Each of the 13 mitigation measures identified in the MND (AQ-1, AQ-2, BIO-1, BIO-2, CUL-1, CUL-2, GEO-1, GEO-2, GHG-1, HAZ-1, N-1, N-2, and TRANS-1) are included in the MMRP (Attachment 3, Exhibit 19) and as Conditions of Approval in Attachment 3, Exhibit 3.

The CEQA mandated 20-day public review period began on February 28, 2025, and ended on March 20, 2025. Attachment 3, Exhibit 20 includes a response to comments received on the MND. Attachment 3, Exhibit 21 includes a revised MND in response to public comments

received during the public review period. The only change to the MND in Attachment 3, Exhibit 21, is a slight modification to the wording of mitigation measure BIO-1, at the request of the applicant. Condition of Approval 22 has been updated in Attachment 3, Exhibit 3 to reflect this revision. All of the CEQA documentation is also available in the link in Attachment 1.

PUBLIC COMMENTS:

Project identification signage was installed on the E. Main Street, High School Court, and Church Street frontages by September 4, 2024, consistent with Town policy. Visual simulations were completed by the Town's consultant and posted to the Town's website by February 25, 2025 (Attachment 3, Exhibit 14). Written notice was sent to property owners and tenants within 1,000 feet of the subject property on May 16, 2025, and notice of public hearing signage was installed on the street frontages by May 9, 2025, in anticipation of the May 27, 2025, Town Council meeting.

Staff conducted outreach through the following media and social media resources, for the availability of the visual simulations, public review of the Initial Study and MND, and notice of the public hearings:

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

Public comments received by 11:00 a.m., Thursday, May 22, 2025, are included as Attachment 9. Following Planning Commission review, the applicant provided two additional supporting documents: a letter from their legal team (Attachment 7) and an exhibit comparing the footprints of the existing and proposed buildings (Attachment 8).

CONCLUSION:

A. Summary

The applicant is requesting approval of Architecture and Site, Conditional Use Permit, and Subdivision applications to demolish the existing commercial structures, construct a four-story mixed-use development (30 multi-family residential units) with commercial space on the ground floor, a Conditional Use Permit, a condominium Vesting Tentative Map, and remove large protected trees under SB 330 on property zoned C-2, located at 143 and 151 E. Main Street. As detailed above, the application was submitted and is being processed under SB 330, and the applicant has requested a number of exceptions to Town standards pursuant to Builder's Remedy. On March 26, 2025, the Planning Commission forwarded a recommendation of approval to the Town Council with modified conditions of approval.

B. Recommendation

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

C. Alternatives

Alternatively, the Council can:

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

ATTACHMENTS:

1. Initial Study and Mitigated Negative Declaration – March 21, 2025  
(available online at <https://www.losgatosca.gov/DocumentCenter/Index/2225>)
2. Draft Resolution making the required findings and approving the applications subject to the Conditions of Approval (included as Exhibit A)
3. March 26, 2025, Planning Commission Staff Report, with Exhibits 2 through 22
4. March 26, 2025, Planning Commission Addendum, with Exhibit 23
5. March 26, 2025, Planning Commission Desk Item, with Exhibit 24
6. March 26, 2025, Planning Commission Verbatim Minutes
7. Applicant Letter from Legal Team
8. Existing and Proposed Building Footprint Comparisons
9. Public comments received by 11:00 a.m., Thursday, May 22, 2025