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

Los Gatos Planning Commissioners:	Emily Thomas, Chair Kendra Burch, Vice Chair Jeffrey Barnett Susan Burnett Rob Stump
Town Manager:	Chris Constantin
Community Development Director:	Joel Paulson
Town Attorney:	Gabrielle Whelan
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P R O C E E D I N G S:

CHAIR THOMAS: We will now be moving on to Item 4, which is to 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 is Town Wide, and the Applicant is the Town.

I believe Mr. Mullin will also be giving the Staff Report on this one.

SEAN MULLIN: Yes, and thank you once again.

1 Before you this evening is consideration of
2 amendments to the General Plan and the Town Code required
3 for Housing Element Implementation Program AB regarding
4 100-percent affordable residential developments. Program AB
5 requires that the Town amend the General Plan and the Town
6 Code to allow for 100-percent affordable residential
7 developments without the requirement of a commercial use.

8 On February 12th the General Plan Committee
9 considered the proposed amendments and recommended
10 approval. The GPC also requested that additional
11 information be provided to the Planning Commission and Town
12 Council moving forward, and it has been provided in your
13 Staff Report.

14 In short, the General Plan Mixed-Use Commercial
15 land use designation and the Commercial Highway, or CH
16 zone, would be amended to allow 100-percent affordable
17 residential developments as a permitted use. The proposed
18 amendments would affect all Town parcels with a Mixed-Use
19 Commercial land use designation, or Zone CH, and is not
20 limited to the properties included in the Sites Inventory
21 of the Housing Element.

22 As we are required to do annually, on April 2,
23 2026 the Town will report completion of and progress made
24 on this and other Housing Element implementation programs

1 to HCD to demonstrate compliance with the certified Housing
2 Element.

3 This concludes my presentation, and Staff is
4 available for any questions.

5 CHAIR THOMAS: Thank you. Commissioner Burnett.

6 COMMISSIONER BURNETT: Yes, thank you. I think
7 this is a very important item that we have before us,
8 because this can be far-reaching, so I have several
9 questions.

10 First of all, how does this affect our Housing
11 Element sites that are zoned with the Housing Element
12 Overlay? How does that affect that?

13 SEAN MULLIN: Thank you for that question. The
14 changes would impact any property zoned CH or with a Mixed-
15 Use Commercial land use designation. Some of those sites
16 include a Housing Element Overlay. If it were in the HEOZ,
17 it would need to meet those requirements as well.

18 COMMISSIONER BURNETT: So, what you're saying is
19 that sites in our Housing Element that are in the Housing
20 Element Overlay Zone could actually be changed to 100-
21 percent affordable units?

22 SEAN MULLIN: Regardless of the HEOZ. If it's
23 zoned CH or has a Mixed-Use designation, that's when the
24 100-percent affordable could be a permitted use. Other HEOZ
25

1 sites that are not zoned CH or with a Mixed-Use
2 designation, it would not apply to those sites.

3 COMMISSIONER BURNETT: Okay, thank you. I have
4 follow-up questions. How many sites are we talking about
5 here? I know we have the map and it's right along Los Gatos
6 Boulevard and Alberto Way, so how many sites would we
7 really be talking about, do you think?

8 SEAN MULLIN: I don't know that number offhand.
9 The maps, as you mentioned, were provided, but I did not
10 quantify the number of actual parcels involved.

11 COMMISSIONER BURNETT: Then, since Los Gatos has
12 no major transit stops within the Town borders or within a
13 half mile of the Town boundary, are we really going to be
14 affected by this?

15 SEAN MULLIN: The discussion in the Staff Report
16 that mentions the major transit stops was spurred by a
17 discussion with the General Plan Committee about
18 specifically how State Density-Bonus Law could be used in
19 conjunction with this permitted use. What we looked at and
20 evaluated in the Staff Report was potential height
21 increases that would be allowed through State Density-Bonus
22 Law, and I'm blanking on the second one. The Staff Report
23 concludes there are no major transit stops in the Town
24 currently, so those height increases and the other
25

1 allowance would not apply, but waivers allowed under State
2 Density-Bonus Law could be requested for increased heights
3 outside of the allowable height increases if you're near a
4 major transit stop.

5 CHAIR THOMAS: As a follow-up question to that,
6 Mr. Mullin, whether or not this 100-percent affordable
7 situation exists, like State Density-Bonus Law still is the
8 case and waivers, concessions, and incentives can still be
9 used in the same way?

10 SEAN MULLIN: That's correct. There are also a
11 number of other State laws that could be used. We evaluated
12 State Density-Bonus Law, because that's the most common
13 that we're seeing through some of the bigger projects in
14 Town.

15 CHAIR THOMAS: Okay, thank you. Commissioner
16 Burnett.

17 COMMISSIONER BURNETT: Thank you. I understand
18 this was already covered under CEQA, is that correct?

19 SEAN MULLIN: I just noticed that the Staff
20 Report's project description doesn't provide the full CEQA
21 analysis. Ultimately, Staff determined this isn't a project
22 under CEQA, and that's on page 1 of your Staff Report under
23 the CEQA title, but in an effort to layer and make sure
24 that we're fully evaluating it and going the extra step,
25

1 it's not only not considered a project, but if it were
2 found to be a project, it would be covered by the Common
3 Sense Exemption that no environmental impacts.

4 What we're talking about this evening is a use.
5 We're not talking about any construction or changes to the
6 physical environment. We're talking about a use which can
7 trickle down.

8 The Staff Report goes on to talk about if any
9 construction, a project that required building, were to be
10 proposed to the Town, CEQA analysis would be provided on
11 that particular project. If there was a project that came
12 in and simply took over an existing building and made it
13 100-percent affordable without any significant physical
14 changes, that may not require any CEQA analysis; that would
15 be a ministerial action.
16

17 COMMISSIONER BURNETT: As I understand, then, it
18 is covered basically under CEQA. If it's new construction,
19 then we could require a review?

20 SEAN MULLIN: Sure. If it was new construction
21 like we're seeing with some of our other projects, and
22 frankly, any project of any scale that's going through a
23 discretionary review, CEQA analysis would be required.
24

25 COMMISSIONER BURNETT: I think I have just one
more question. Would they be required to have an

1 Architecture and Site approval? Who makes the development
2 100-percent affordable? When I was reading the Staff
3 Report—which was very good, thank you so very much—there
4 was a question as to whether it would require Architecture
5 and Site approval, and then there was also the question
6 about Objective Design Standards. How would that come into
7 this as well? I mean, this is going to really impact our
8 town, so I think it's very important we understand.

9
10 SEAN MULLIN: I think that's a great question.
11 There is a scenario on paper that someone could... I think
12 the example I discussed with a different Commissioner this
13 afternoon was, let's say, there's an apartment building
14 that exists on one of these parcels that was just a market
15 rate apartment building, and there are a lot technicalities
16 going on here, but if that were changed to be 100-percent
17 affordable and there was no construction, it was just
18 simply they deed restricted it and did everything that
19 needed to happen to make it 100-percent affordable, in
20 theory that could be handled with a Building Permit or even
21 Use and Occupancy and deed restrictions.

22
23 The other scenario on the other end of the
24 spectrum is if someone came in and redeveloped the site.
25 That redevelopment, meaning new construction and new
buildings, would certainly require an Architecture and Site

1 Application, and the Objective Design Standards would
2 certainly apply to that project.

3 COMMISSIONER BURNETT: Thank you for that.

4 CHAIR THOMAS: Commissioner Stump.

5 COMMISSIONER STUMP: Just wanted to follow-up on
6 the height. Obviously, in the report it said that if we
7 were within a half mile of a major transit stop that three
8 additional stories, or 33', could be added. To the Town
9 Attorney, in the February 12th meeting, I think it was
10 stated that you would maybe have a little bit more
11 information on height as it relates to these types of
12 projects.
13

14 ATTORNEY WHELAN: Yes. At the meeting I could not
15 remember whether it was unlimited height increases or
16 whether there was a limit on it. The Planning Manager did
17 the research after that meeting, and that's why he included
18 it in the Staff Report, and the Staff Report correctly
19 states that developers of 100-percent affordable housing
20 are entitled to three additional stories.

21 COMMISSIONER STUMP: If it's within half a mile
22 of a transit center?

23 ATTORNEY WHELAN: Right.
24
25

1 COMMISSIONER STUMP: So, if it's not within a
2 half a mile of the transit center, does it need to meet our
3 objective standard?

4 ATTORNEY WHELAN: There is a provision in the
5 Density-Bonus Law that applies to any development that has
6 a certain percentage of affordable housing that says they
7 can request a waiver of development standards. Now, I'm
8 going to have to go back and think, because there are two
9 competing provisions: there is the Housing Accountability
10 Act and then the State Density-Bonus Law. I'll check this
11 while you ask other questions, but I believe the State
12 Density-Bonus Law says you can request a waiver which shall
13 not be denied if it would preclude construction of the
14 project as proposed, and then it says, and at the permitted
15 densities.

17 COMMISSIONER STUMP: Then why is this 33' rule
18 even in here?

19 ATTORNEY WHELAN: Right.

20 COMMISSIONER STUMP: It can be sort of whatever
21 the project is going to dictate.

22 ATTORNEY WHELAN: Right. That's a good question.

23 DIRECTOR PAULSON: Mr. Mullin can answer that,
24 and I can add on, if necessary.
25

1 SEAN MULLIN: I think one distinction I would
2 make, and I'll use the parking provision of State Density
3 Bonus Law, is if you're a qualifying project there are
4 three things you are entitled to under State Density Bonus
5 Law: a number of concessions or incentives as dictated by
6 the affordability level, unlimited waivers, and reduced
7 parking.

8 A waiver or a concession in that case would not
9 need to be used for the parking; it's just by-right. The
10 provision here for the additional three stories, or the
11 33', within a half mile of a transit stop would similarly
12 not require a waiver or a concession. So, that's kind of
13 one bucket.

14 The second bucket is could they request a waiver
15 to the development standard of a height limitation, and to
16 what extent? That's the other piece that's a little bit
17 unclear, but I wanted to make the distinction between the
18 by-right piece and the waiver, which is subject to findings
19 and consideration.

20 COMMISSIONER STUMP: How is that height then
21 metered? How do we take a look at potential projects out
22 there and say, based on what we have, what Density-Bonus
23 could be requested, what sort of maximum height would we
24 potentially be looking at? Are we now working ourselves

1 back into a 12- and 13-story building, because they can
2 request a waiver for that? I guess anything is possible,
3 right?

4 ATTORNEY WHELAN: There is not a lot of case law
5 on this topic, because the statute is so new. I think it is
6 of note that the Density-Bonus Statute says you can't
7 preclude the project as proposed at the permitted
8 densities, and so there is an argument to be made that a
9 local jurisdiction doesn't have to allow height that's not
10 necessary in order to accommodate the density, but there is
11 no case law addressing this point as of yet.

13 COMMISSIONER STUMP: But still contingent upon
14 CEQA. I mean, what we're talking about in this particular
15 case, most certainly this would be some form of new
16 construction if they're going to go to a multi-story
17 building, and there would be some CEQA study related to the
18 project.

19 ATTORNEY WHELAN: Yes, it will depend on a lot of
20 factors. It will depend on whether the project is utilizing
21 the categorical or a statutory exemption, and if so, which
22 one, and how does that particular exemption lead? There is
23 just a lot of detail; it will be really case-specific.

24 COMMISSIONER STUMP: My concern is are we sending
25 something along to the Council--and I realize we get paid

1 the big bucks to work in the grey—but are we asking the
2 Council to adopt something that we fully don't understand
3 what the implications are? Then, we need to do this as a
4 part of our Housing Element compliance, so I'm just
5 concerned about suggesting something to the Council that
6 the implications are not completely understood, I guess I
7 would say.

8 ATTORNEY WHELAN: My thought on that question is
9 that the Density-Bonus Law exists independent of this
10 ordinance that is being brought to the Commission, and so
11 the vagaries of the Density-Bonus Law are separate and
12 apart from this ordinance which is stating that affordable
13 housing would be a permitted use in certain zones.

14 DIRECTOR PAULSON: I'll hopefully confuse it even
15 more. The reality is that a 100-percent affordable
16 developer can come into any site they want in town right
17 now; it just doesn't say in our General Plan and our Zoning
18 Code that it's a permitted use. It still has to go through
19 Architecture and Site, it still has to go through the
20 determination of what CEQA, if any, is necessary, so this
21 is just adding those terms to these two. As Mr. Mullin
22 mentioned before, this is really the use, and frankly, it
23 can already be done in almost every zone in town right now.
24
25

1 But I think one of the biggest keys from Ms.
2 Whelan's comments is is it consistent with the density, or
3 is it some of these other projects that we're seeing that
4 just completely exceed the density, which we think there
5 may be some more levers there from the Town's perspective?

6 CHAIR THOMAS: Commissioner Barnett.

7 COMMISSIONER BARNETT: I have a question for
8 Staff and Ms. Whelan. Are the changes that are proposed
9 recommended because of the State law?

10 ATTORNEY WHELAN: They were things that the Town
11 committed to do in order to receive certification of its
12 Housing Element, so the Town will need to demonstrate to
13 the State Department of Housing and Community Development
14 that it has implemented those implementation programs.

15 DIRECTOR PAULSON: Through the Chair, a little
16 further background. This specific one, I think Mr. Mullin
17 and other planners look back, this was actually
18 specifically added as kind of an incentive for affordable
19 housing by the General Plan Advisory Committee, and then
20 ultimately recommended by the Planning Commission and
21 adopted by the Council.

22 CHAIR THOMAS: Do we have any other questions?
23 No. We will now open the public portion of this public
24 hearing, and I don't have any speaker cards. If you want to
25

1 make a comment, can you come up to the microphone and
2 introduce yourself? Does he need to fill out a card?

3 DIRECTOR PAULSON: He can fill it out afterwards.

4 CHAIR THOMAS: Can you fill it out afterwards,
5 please? Thank you.

6 DIRECTOR PAULSON: It's just regarding this
7 topic.

8 BRAD ARMSTRONG: My name is Brad Armstrong, and I
9 live in the area by Ace Hardware. I know the meeting has
10 been...because of not having a quorum it's on the 23rd, but I
11 just have a question. When we got the green card, it showed
12 a big difference from what the initial plan was, which was
13 a high building with a bar and everything, and then the
14 last one we got was like a 55-unit complex. I guess my
15 question would be where do we stand in terms of the height,
16 and can you answer that question legally? Is it something
17 that I can ask you that question?

18 CHAIR THOMAS: Sorry, these meetings are kind of
19 frustrating sometimes for the public, which I understand,
20 but thank you for sitting here and listening to us chat.

21 We actually can't answer questions during this
22 time; however, the project planner has his card out for you
23 so that you can talk to him directly, and Mr. Mullin will
24 be very happy to explain and rectify all that.

25
LOS GATOS PLANNING COMMISSION 4/9/2025, Item #4,
General Plan Amendment & Town Code Amendment
Pursuant to Implementation Program AB

1 Are there any hands raised on Zoom?

2 DIRECTOR PAULSON: There are no attendees on
3 Zoom.

4 CHAIR THOMAS: Oh, that's so sad. We will close
5 the public portion of this public hearing, and I invite
6 Commissioners to continue to ask Staff questions, and make
7 comments, and propose a motion.

8 I am going to get the discussion kicked off as
9 someone who was on the General Plan Update Advisory
10 Committee, and the Housing Element Advisory Board, and now
11 the General Plan Committee. I have seen the iterations like
12 this from the start, and in an effort to get our Housing
13 Element certified we knew that HCD wanted us to have
14 implementation programs and specific things in our Housing
15 Element that created incentives and lowered barriers for
16 affordable housing, and so that is why this was included in
17 that, because we would not have been able to get the
18 Housing Element certified if we did not make efforts that
19 were specific to our Town to try to address some of these
20 things.
21

22 That being said, this is going to impact a very
23 small part of town. I do appreciate the map that was
24 included, and I think that this helps us to understand. At
25 our General Plan Committee discussion, that was one of the

1 concerns, like exactly how many lots, what locations? This
2 is mainly along Los Gatos Boulevard and partially another
3 site that has already just been redeveloped or is in the
4 process of being redeveloped, and is not going to be torn
5 down to build 100-percent affordable housing in the near
6 future, so I think that we would be doing the Town a
7 disservice by not forwarding this recommendation, because
8 we are going to be in a terrible place as a town if our
9 Housing Element gets decertified, because that's going to
10 give us a lot less power locally.

11
12 So, as a person who saw this from the beginning,
13 I just wanted to share that the spirit of this was that we
14 knew to get this passed we had to include specific items
15 that could really help, and this is in a very specific
16 small part of town, so I'm in support right now.

17 Commissioner Burnett first, thank you.

18 COMMISSIONER BURNETT: Thank you for that. Yes, I
19 have some real issues with this. Basically, this amendment
20 to the General Plan to allow the 100-percent affordable
21 developments in Program AB of our Housing Element, Town
22 wide, let's say... It is Town wide, it says.

23 SEAN MULLIN: Through the Chair, for
24 clarification, the project scope is Town wide, because the
25 zoned parcel, the CH zoned parcels and Mixed-Use Commercial

1 Development designations, exist throughout the Town, but
2 the amendments are specific just to the CH zone and the
3 Mixed-Use Commercial land use designation, so it does not
4 impact all parcels in the Town.

5 COMMISSIONER BURNETT: Yes, I understand it
6 impacts only the CH zones, Commercial Highway. To go on, I
7 think it's unnecessary. According to our present Town
8 numbers we are on track to meet our required RHNA numbers.
9 Based on a Town Council report on March 18th, our progress
10 report for the General Plan and the Housing Element, we
11 have already deemed many projects complete. I challenge
12 HCD that we have to go above and beyond our State law. We
13 do not have to go above and beyond our RHNA numbers that
14 are required.
15

16 Commissioner Barnett, who is on the General Plan
17 Committee, asked our Town Attorney are these consistent
18 with other jurisdictions, and the answer was this was
19 unique to Los Gatos. That's interesting. Why did the
20 Housing Element Advisory Board put this in our Housing
21 Element to begin with? I don't think it was necessary to
22 get our Housing Element certified, because this is, again,
23 above and beyond what we were required to do.
24

25 I look at my role as a planning commissioner to
look after the best interests of our residents, not to add

1 additional incentives for 100-percent affordable housing
2 builds.

3 A couple of comments from the General Plan
4 Committee. "Can we expand the program, or do overlaps with
5 other programs?" I mean, that's scary. And another comment
6 was, "Can we add additional incentives to offer for 100-
7 percent affordable housing builds?" I mean, that's
8 interesting. You want to add additional incentives?

9
10 So, because these developments would greatly... I
11 mean, you're looking at our State Density Bonus Law's huge
12 impacts. If you read what the incentive and waivers would
13 be for these 100-percent affordable buildings, it's
14 unbelievable what they could get, and do you really think
15 the citizens of Los Gatos are going to be happy with this
16 decision from our Planning Commission recommending to the
17 Town Council that this would be okay? They're already upset
18 enough about our Builder's Remedy in numbers.

19 Again, HCD cannot request us to go above and
20 beyond our State law requirements. They can't say we're not
21 going to certify you because you're not putting in more
22 than you should. I see this as an opening door Town wide of
23 zoning and other... Like C-1, C-2, wherever we have Mixed-
24 Use, I could see this just sort of going throughout our
25 Town, so I would recommend a motion to the Town Council

1 that, really, send it to the Town Council and for them to
2 decide about it.

3 I can't make a decision on this, because first of
4 all, I don't think I have enough information, although
5 there is a lot of information and I commend our Staff and
6 our Town Attorney and our Director for their work on this.
7 As a planning commissioner, I would propose that the Town
8 Council would make the final decision on this, because for
9 me, I cannot recommend it to them. That's what I have to
10 say, thank you.
11

12 CHAIR THOMAS: I would just like to clarify, as a
13 member of the GPC, that one of the reasons we recommended
14 this be combined is because we can only make four
15 amendments to our General Plan per year, so that's what we
16 were recommending, that if there are any other amendments
17 that need to be made, they be made at the same time, because
18 we can only do it four times a year, right? Only four?

19 ATTORNEY WHELAN: That's true in generalities.
20 One resolution, and you can combine a number of separate
21 amendments within that one resolution.

22 CHAIR THOMAS: Yes.

23 DIRECTOR PAULSON: And it's four per element, I
24 believe.
25

CHAIR THOMAS: Oh, four per element.

LOS GATOS PLANNING COMMISSION 4/9/2025, Item #4,
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1 DIRECTOR PAULSON: Right.

2 CHAIR THOMAS: But we're making a lot to the same
3 element. We're making amendments to the same element
4 typically, but that's what we were referring to?

5 DIRECTOR PAULSON: Yes.

6 COMMISSIONER BURNETT: Could you clarify that? I
7 don't understand.

8 CHAIR THOMAS: We can only change each chapter of
9 the General Plan four times a year. We can't make changes
10 as a town more than that; it's not allowed by law. So, if
11 we want to use one of our four chances to just change this
12 one thing, that's one of the four gone. But, you can
13 combine it with making multiple changes at the same time,
14 so if we have other implementation programs that require a
15 General Plan change, we were recommending that we see them
16 all together so that we make multiple changes in one go
17 that counts as one of our four. Does that make sense?

18 COMMISSIONER BURNETT: Then why are we having
19 this as a single one?

20 CHAIR THOMAS: That's a question for Staff, I
21 think.

22 COMMISSIONER BURNETT: Why didn't we combine
23 them, because we're going to have other big ones like A? I
24
25

1 think it's J and AY that are going to be coming up, and
2 these are really important.

3 SEAN MULLIN: I can start. When we evaluated the
4 different programs, we're working through them in an order,
5 and the order that we committed to is with the dates in the
6 Housing Element. Currently, I'm not aware of any other ones
7 that are coming up which require a General Plan amendment.

8 It sounds like the GPC's recommendation was just
9 to be mindful of that, because we are limited to four
10 changes per element per year, and if there were others that
11 were waiting in the wings, that perhaps we should group
12 them together, but at this time—and maybe Director Paulson
13 can correct me—I'm not aware of any other General Plan
14 amendments on the table that we're actively working on.

15 COMMISSIONER BURNETT: Okay, thank you.

16 CHAIR THOMAS: Vice Chair Burch.

17 VICE CHAIR BURCH: So, if there are these
18 implementation programs that we're supposed to do as part
19 of our Housing Element—and I wasn't on the Housing Element,
20 so if I butcher this question, I apologize—and then we
21 don't do them, what happens?

22 DIRECTOR PAULSON: I'm happy to start, and then
23 Ms. Whelan can chime in. So, I don't want to fine out, but
24 the ultimate potential consequence is decertification of
25

1 the Housing Element, which means Builder's Remedy can come
2 back in again up until they recertify our Housing Element,
3 but we're hopeful that we're showing good progress to HCD
4 in these annual progress reports. The reality is it's a
5 severe resource constraint from a Staff perspective to take
6 on these items, but we're committed to moving them forward
7 as quickly as possible.

8 We will be maintaining some semblance of order to
9 make sure that we don't run into the issue of four more
10 element changes per year. Should that hypothetically come
11 up, we would probably just make a comment, contact HCD, put
12 something in the APR saying we're unable to get to this one
13 due to the cap, and we're committed to following up on that
14 the following year when those options are available. But,
15 the ultimate is potential decertification.

16 VICE CHAIR BURCH: When you first were talking
17 this through, Director Paulson, basically you said however,
18 if I have a property and I want to build 100-percent
19 affordable, I can do that. I can hire an architect, I can
20 put that plan together, I can come in, show that I'm
21 helping meet our housing numbers, and I could do that.

22 DIRECTOR PAULSON: That's correct, because
23 they're going to automatically qualify for Density-Bonus
24 Law provisions.

25 LOS GATOS PLANNING COMMISSION 4/9/2025, Item #4,
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1 VICE CHAIR BURCH: Right.

2 DIRECTOR PAULSON: So, for instance, it's in a
3 Commercial zone or a Mixed-Use zone, or requires Mixed-Use,
4 they just use an incentive or concession for the Mixed-Use
5 component and they get unlimited waivers to any of our
6 design standards and objective design guidelines. So, that
7 option already exists. This was kind of a token to, hey,
8 we're going to actually put it in our Zoning Code and our
9 General Plan that we're going to allow 100-percent Mixed-
10 Use as a permitted use (inaudible).
11

12 VICE CHAIR BURCH: But it's really just
13 formalizing what already exists?

14 DIRECTOR PAULSON: Correct.

15 VICE CHAIR BURCH: I just want to make the point
16 that if you guys want to not vote for this for a stance or
17 something, that's fine, but this is already something that
18 can happen. You're not making a stance, and then it gets
19 voted down, and people can't come in and build 100-percent
20 of affordable property; they can do that. So, I want
21 everybody to hear what Mr. Paulson just said, because I
22 don't want there to be a misunderstanding that by somehow
23 or other voting against this means that this incident can't
24 happen. This incident 100-percent can happen, with or
25 without this.

1 The only risk we have is we go with or without a
2 way they can do it, but we're not going to formalize this,
3 and we're going to be at risk of decertifying our Housing
4 Element, and everybody is so upset about all the Builder's
5 Remedy; be ready for more. So, I just want to put that out
6 there as we think about what we're going to do here.

7 CHAIR THOMAS: I would like to follow-up with
8 Director Paulson's comment about the token. I think I am
9 the only one here who was on the Housing Element Advisory
10 Board. As a person who sat through the entire process and
11 had many, many meetings, this implementation program was
12 not one of the prescribed things that HCD said you have to
13 include, however, both of our consultants, all of the
14 experts, and HCD feedback was like we you need to do things
15 to encourage... If you want to get it certified, there are
16 parts, and so... This was an olive branch, essentially, and
17 it is just putting it into the final code, and because of
18 what Vice Chair Burch just said, 100-percent affordable can
19 happen anywhere, anyway. Commissioner Stump.

21 COMMISSIONER STUMP: To use a really good
22 comparison, the cake has already been baked. In other
23 words, this happened through the process. I wasn't on the
24 Housing Element Advisory Board either, or any of the
25 process leading up to this, so what I'm saying is I assume

1 that this was committed months ago, the plan had to be
2 approved by Council, so the approval was set forth going
3 this direction, and now we're just taking the action to
4 follow-up and amend our General Plan. Is that accurate?

5 DIRECTOR PAULSON: Yes, it's an implementation
6 program of the Housing Element to modify Zoning Code and
7 the General Plan.

8 COMMISSIONER STUMP: Okay, thank you. That's what
9 I thought.

10 CHAIR THOMAS: Does anyone else have anything?
11 Commissioner Burnett.

12 COMMISSIONER BURNETT: Yes, I would like Vice
13 Chair Burch to clarify. I'm not quite understanding what
14 she is saying, because I think the density, I know it's
15 100-percent affordable housing we're talking about in the
16 AB, but you're saying that that can be done other places?

17 DIRECTOR PAULSON: I'm happy to try to clarify
18 further. Yes, all of our existing General Plan designations
19 have some density associated with it; most of the zones
20 it's 20 units to the acre max. The Housing Element sites
21 are mostly 30-40 units, and then some other ones are in
22 between.

23 So, right now, even if it's not on a Housing
24 Element Overlay Zone site and it's zoned Office, we allow
25

1 Mixed-Use Commercial and Office zones, so they could use
2 Density-Bonus, go up to a maximum of 20 dwelling units per
3 acre, and also take advantage of any and all other State
4 laws that allow them even more density than that, and
5 propose a 100-percent affordable project.

6 The reality is name the last standalone 100-
7 percent affordable housing project you recall in Los Gatos.
8 Correct, and there's a specific reason for that.

9 The most recent one was a cooperation where a
10 developer basically gave up property and rights to one
11 component of their project, which allowed for the
12 development of those affordable houses.

13 The other is our inclusionary housing, which does
14 generate a whole lot of units, but the last standalone 100-
15 percent affordable housing projects are decades in the
16 past, aside from some folks might say Dittos Lane, but
17 nevertheless, that was, I think, four units.

18 COMMISSIONER BURNETT: Thank you for that. I
19 still don't understand why Los Gatos is the only
20 jurisdiction that had to put this in our Housing Element,
21 and that they got certified, and so that bothers me. I
22 don't think it's necessary. I don't think we should have to
23 go above and beyond what State law requires. We're on track
24 for our RHNA numbers, and I think we should stand up for
25

1 that, and I don't want to take responsibility for passing
2 this on to the Town Council. Let them decide, but I don't
3 feel positive towards recommending it to the Town Council.

4 CHAIR THOMAS: Just to clarify, HCD did not tell
5 us to put this one in here? Okay, so the Housing Element
6 Advisory Board put this in, then we voted to approve it,
7 and Town Council voted to approve it. Commissioner Stump.

8 COMMISSIONER STUMP: Commissioner Barnett, you
9 were getting ready to make some comments, and then we
10 stopped you because it wasn't time to do so, so I'd be
11 interested in your comments.

12 COMMISSIONER BARNETT: Thank you for that,
13 Commissioner Stump. I'm in favor of making the
14 recommendation to the Town Council as set forth in the
15 Staff Report, and can make findings regarding CEQA as set
16 forth in the Staff Report, and make the findings that are
17 also set forth in the Staff Report, and I'll make that a
18 motion.

19 VICE CHAIR BURCH: I'll second.

20 CHAIR THOMAS: Do we have any discussion? No. I
21 will call the question. All those in favor, please raise
22 your hand. Opposed? The motion passes 4-1 with Commissioner
23 Burnett in opposition.

1 There are no appeal rights, I'm assuming, because
2 this is a recommendation.

3 DIRECTOR PAULSON: That correct.

4 CHAIR THOMAS: And when will Town Council be
5 hearing this probably?

6 DIRECTOR PAULSON: When time permits.

7 CHAIR THOMAS: Cool. Thank you.

8
9
10 (END)

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