



**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 04/23/2025

ITEM NO: 6

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DATE: April 18, 2025

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Consider a Request for Approval to Demolish Existing Commercial Structures, Construct a Multi-Family Live/Work Development (55 Units), a Conditional Use Permit for a Live/Work Development, a Condominium Vesting Tentative Map, Site Improvements Requiring a Grading Permit, and Removal of Large Protected Trees, Under Senate Bill 330 (SB 330) on Property Zoned CH:HEOZ. **Located at 15349-15367 Los Gatos Boulevard.** APNs 424-19-048 and 424-19-049. Architecture and Site Application S-24-015, Conditional Use Permit U-24-006, Subdivision Application M-24-008. No Additional Environmental Review is Necessary Pursuant to CEQA Guidelines Sections 15162: Subsequent EIRs and 15168: Program EIR, Since the Proposed Project's Environmental Impacts were Adequately Addressed in the 2020 General Plan EIR and/or 2040 General Plan EIR, as Applicable. Property Owner: Jonathan Peck. Applicant: City Ventures. Project Planner: Sean Mullin.

**RECOMMENDATION:**

Consider a request for approval to demolish existing commercial structures, construct a multi-family live/work development (55 units), a conditional use permit for a live/work development, a condominium vesting tentative map, site improvements requiring a Grading Permit, and removal of large protected trees, under SB 330 on property zoned CH:HEOZ, located at 15349-15367 Los Gatos Boulevard.

**PROJECT DATA:**

General Plan Designation: Mixed Use Commercial

Zoning Designation: CH:HEOZ, Restricted Highway Commercial,  
Housing Element Overlay Zone

Applicable Plans & Standards: General Plan; Objective Design Standards for Qualifying  
Multi-Family and Mixed-Use Residential Development

Parcel Size: 68,151 square feet (1.56 acres)

Surrounding Area:

**PREPARED BY:** Sean Mullin, AICP  
Planning Manager

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Reviewed by: Town Attorney and Community Development Director

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|       | Existing Land Use         | General Plan            | Zoning  |
|-------|---------------------------|-------------------------|---------|
| North | Commercial                | Mixed Use Commercial    | CH      |
| South | Commercial                | Mixed Use Commercial    | CH:HEOZ |
| East  | Commercial/Health Care    | Mixed Use Commercial    | CH:PD   |
| West  | Single-Family Residential | Low Density Residential | R-1:8   |

**CEQA:**

An Initial Study (Exhibit 1) was prepared for the project concluding that additional environmental review is not necessary pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15162: Subsequent EIRs and 15168: Program EIR, since the proposed project's environmental impacts were adequately addressed in the 2020 General Plan EIR and/or 2040 General Plan EIR, as applicable.

**FINDINGS:**

- As required, additional environmental review is not necessary pursuant to CEQA Guidelines Sections 15162: Subsequent EIRs and 15168: Program EIR, since the proposed project's environmental impacts were adequately addressed in the 2020 General Plan EIR and/or 2040 General Plan EIR, as applicable;
- As required that the project is consistent with the General Plan;
- As required by Section 66474 of the Subdivision Map Act;
- As required by Section 29.20.190 of the Town Code for granting a Conditional Use Permit;
- The project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations) except for the waivers requested pursuant to State Density Bonus Law;
- The project meets the Town of Los Gatos Objective Design Standards for Qualifying Multi-Family and Mixed-Use Residential Development except for the waivers requested pursuant to State Density Bonus Law;
- As required by State Density Bonus Law for granting a concession pursuant to California Government Code Section 65915 (d) and for granting waivers pursuant to California Government Code Section 65915 (a)(2); and
- As required by California Government Code Section 65863 regarding state RHNA requirements, the Town's Housing Element Sites Inventory, and No Net Loss Law.

**CONSIDERATIONS:**

- As required by Section 29.20.150 of the Town Code for granting approval of an Architecture and Site application.

ACTION:

The Planning Commission will provide a recommendation to the Town Council who will render the final decision on the proposal.

BACKGROUND:

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 April 30, 2024.

State Density Bonus Law

State Density Bonus Law (SDBL) created a mechanism to obtain more favorable development requirements for projects with affordable or senior units. To meet the affordable housing goals, developers are entitled to a density bonus that corresponds to specified percentages of units set aside for very-low, low, or moderate-income households. In addition to the density bonus, SDBL provide three provisions that must be granted to qualifying projects:

1. One or more concession that provides cost reductions for the development. Under the law, a concession includes a reduction in site development standards and/or regulations when such regulations potentially make the project economically infeasible for the developer to build. These can include a reduction in site development standards or modification of zoning or architectural design requirements that exceed minimum building standards. The number of allowed concessions is determined on a sliding scale based on the percentage of units that will be set aside as affordable units and the household income category of those affordable units.
2. Waivers are reductions or modifications of any development standards and other regulations that would physically preclude the development of a project at the density permitted. Development standards include, but are not limited to, height limitations, setback requirements, FAR, open space requirements, or parking requirement that apply to

a residential development pursuant to any ordinance, general plan element, policy, resolution, or regulation. There is no limit in the number of waivers an applicant can request through SDBL.

3. Reductions in parking requirements based on the number of bedrooms in each unit.

The proposed project qualifies for a density bonus and all associated provisions under the SDBL.

#### 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 Town's Sixth Cycle Housing Element was certified by HCD on July 10, 2024. The preliminary application for this project achieved a vesting date of April 30, 2024, prior to certification of the Town's Housing Element. Therefore, the project is eligible for the Builder's Remedy; however, the applicant has not invoked Builder's Remedy. Therefore, this is not a Builder's Remedy project and all deviations from the Town's standards included in the project are requested exclusively through SDBL.

#### Project Site

The subject property consists of two lots totaling 1.56 acres located on the west side of Los Gatos Boulevard, approximately 160 feet south of the intersection with Garden Lane (Exhibit 4). The property is a through lot, having frontage on both Los Gatos Boulevard and Garden Lane and the existing commercial developments are accessed from Los Gatos Boulevard. The property is almost completely developed having a variety of trees along the Garden Lane property line and several street trees along Los Gatos Boulevard. The property is relatively flat, with only five feet of elevation change from north to south. The southern lot is developed with the Genuine Automotive service center and the northern lot is developed with a multi-suite commercial retail building. The property has a General Plan designation of Mixed Use Commercial and is zoned CH:HEOZ, or Restricted Commercial Highway with a Housing Element Overlay Zone (HEOZ). The HEOZ overlay is applied to sites included in the Sites Inventory of the Housing Element and modifies development standards such as density, lot coverage, FAR, and height. The HEOZ became effective on December 21, 2023. The preliminary application under SB 330 was deemed submitted on April 30, 2024, establishing the vesting date for the application. Therefore, the application is subject to the provisions of the HEOZ, including minimum density.

On May 16, 2024, the applicant submitted a formal application, within 180-days of the established vesting date as required by state law.

On February 6, 2025, the applicant submitted application materials that were deemed complete through the Town's technical review process within the timelines prescribed by state law. On March 5, 2025, the application was deemed consistent with applicable Town standards and ready for consideration through the Town's public hearing process.

The application includes a Vesting Tentative Map, requiring approval by the Town Council pursuant to Town Code Section 29.10.020. The applicant seeks a recommendation on the development proposal from the Planning Commission to the Town Council, who will render the final decision on the project.

#### PROJECT DESCRIPTION:

##### A. Location and Surrounding Neighborhood

The subject property consists of two lots totaling 1.56 acres located on the west side of Los Gatos Boulevard, approximately 160 feet south of the intersection with Garden Lane (Exhibit 4). The property is a through lot, having frontage on both Los Gatos Boulevard and Garden Lane with the existing commercial developments accessed from Los Gatos Boulevard. The property is almost completely developed and includes a variety of trees in various states of health and condition along the Garden Lane frontage. The property is relatively flat, with only five feet of elevation change from north to south. The southern lot is developed with the Genuine Automotive service center and the northern lot is developed with a multi-suite commercial building. The Rotten Robbie gas station is located to the north and a multi-suite commercial building is located to the south. Single-family residences are located to the west, across Garden Lane, and Sutter Health is located to the east across Los Gatos Boulevard.

##### B. Project Summary

The applicant proposes demolition all commercial structures and construction of a multi-family live/work development consisting of 55 units distributed among five separate buildings (Exhibit 16). The applicant submitted a Project Description Letter (Exhibit 5) and Letter of Justification (Exhibit 6) discussing the project. New private alleys would provide circulation through the site, taking access from two locations on the east side of Garden Lane. Only pedestrian access from Los Gatos Boulevard will be provided. The proposed project also includes a right-of-way dedication of three feet along the Garden Lane frontage and frontage improvements along Los Gatos Boulevard and Garden Lane. Of the 55 proposed units, 8 units would be designated as Below Market Price units.

C. Zoning Compliance

The property is zoned CH:HEOZ, or Restricted Highway Commercial with a HEOZ overlay. The CH zone is intended for development of vehicular-oriented activities and sales along highway frontages, intermingled with compatible retail, service and administrative activities. Residential uses are only allowed in the CH zone within a mixed-use or live/work development with approval of a Conditional Use Permit (CUP). The applicant proposes a multi-family live/work development requiring approval of a CUP. The dedicated live/work units are two-bedroom units situated along Los Gatos Boulevard. The Town Code does not define live/work units; therefore, the applicant's proposed interpretation of live/work units appears consistent with the zoning regulations and would be permissible with approval of a CUP.

The HEOZ overlay modifies development standards such as density, lot coverage, FAR, and height. The proposed project meets the minimum required density under the HEOZ overlay and complies with FAR and height standards. Lot coverage standards do not apply to this property.

The applicant requests a number of waivers to Town standards through SDBL, as well as one concession. The requested waivers and concession are discussed below.

DISCUSSION:

A. Architecture and Site Analysis

The project includes 55 units distributed among five buildings (Exhibit 16). The unit types include studio, two, and three bedrooms floor plans. The buildings would range from six to 15 attached dwelling units in a townhouse configuration, each served by private roadways and alleys. A summary of the unit types and buildings is provided on sheet PI-1 of Exhibit 16. A Project Description Letter and Letter of Justification discussing the project are included as Exhibits 5 and 6.

B. Building Design

The project includes an architectural vernacular incorporating the traditional forms and materials found throughout the Town (Exhibit 16, Sheet MB-1). The buildings are three stories tall with maximum heights ranging from 41 feet, six inches to 45 feet, where 45 feet is the maximum allowed through the HEOZ overlay. Exterior materials include composition roof shingles; lap, shingle, and board and batten Hardieboard siding; vinyl windows; and wood railings. The well-articulated forms used on the five buildings is consistent and the distribution of the siding materials is varied to differentiate each building and emphasize the identity of the individual units.

Review by the Town's Consulting Architect is typically required for Architecture and Site applications. For this application, it should be noted that the feedback provided by the Consulting Architect is subjective in nature and should not be used as the basis for a decision since the Town's review is limited to objective standards only, pursuant to SB 330.

The Town's Consulting Architect reviewed the proposed project and provided feedback and recommendations (Exhibit 7). The Consulting Architect noted the challenge posed by the constraints of the site and the need to meet the minimum density applicable to the property with sympathy to the Town's small scale and character. The Consulting Architect discussed issues and concerns related to guest parking, internal pedestrian circulation, site edge landscaping, façade massing, setbacks along Los Gatos Boulevard, roof slopes, and façade articulation and materials. The Consulting Architect made recommendations on following topics:

1. Guest parking and internal pedestrian circulation;
2. Los Gatos Boulevard frontage;
3. Garden Lane frontage;
4. Façade roof slopes; and
5. Façade articulation and materials.

The applicant submitted a letter responding to these recommendations and summarizing design changes that were made (Exhibit 8).

#### C. Height

The buildings are three stories tall with maximum building heights ranging from 41 feet, six inches to 45 feet, where 45 feet is the maximum allowed in the CH zone with the HEOZ overlay. A summary of the proposed building heights is provided in the following table.

| <b>Building Height Summary</b> |                                |  |
|--------------------------------|--------------------------------|--|
| <b>Building</b>                | <b>Maximum Height Proposed</b> | <b>Maximum Height Allowed</b>              |
| A                              | 45' – 0"                       | 45 feet<br>pursuant to the<br>HEOZ overlay |
| B                              | 42' – 0"                       |  |
| C                              | 42' – 10"                      |  |
| D                              | 42' – 4"                       |  |
| E                              | 42' – 0"                       |  |

#### Subdivision and Site Design

The project includes a vesting tentative map for condominium purposes (Exhibit 16, Sheet C-2). The subdivision design creates a single lot that accommodates the five buildings and easements for private alleys, public service, emergency vehicle access, and sanitary sewer. Additionally, the subdivision includes a three-foot right-of-way dedication along Garden Lane as required by the Town.

The proposed development would take access at two points along Garden Lane (Exhibit 16, Sheet C-4). Vehicular access to the property would no longer be provided from Los Gatos Boulevard, where only limited pedestrian access would be accommodated. Vehicular circulation through the site would be provided via private alleys in a U-shaped configuration connecting the two access points at Garden Lane. A guest parking area would be provided on the north end of the site.

The five buildings would be sited adjacent to the alleys, while addressing both Los Gatos Boulevard and Garden Lane. Building A would parallel Los Gatos Boulevard and Alley B, providing a strong street presence along Los Gatos Boulevard. Building B would be situated along the south property line and adjacent to Alley A, at an angle to Garden Lane. Buildings C and D would be adjacent to Alleys A and C respectively and would frame the common green space between the buildings and adjacent to Garden Lane. Building D would be adjacent to Alley C and the guest parking area to the north. The private garages in the five buildings would be directly accessible from the proposed alleys.

In addition to private yards and balconies, the primary open space provided on the site is located between Buildings C and D, adjacent to Garden Lane (Exhibit 16, Sheet L1). The space provided for community recreation spaces exceeds the Town Code and ODS requirements for such spaces. The conceptual landscape plan shows that trees, shrubs, and other plantings would be distributed throughout the site.

#### D. Grading and Retaining Walls

The Preliminary Grading Plan included as Sheet C-5 of Exhibit 16 provides information regarding earth movement and the location and height of retaining walls. The grading activities would adjust the elevations of the site to accommodate the five buildings, alleyways, parking areas, and other site amenities. The maximum proposed grading depths include up to 8.3 feet of cut and 0.5 feet of fill. Preliminary cumulative grading quantities total 16,974 cubic yards, well above the 50 cubic yard threshold for requirement of a Grading Permit. The Town's Parks and Public Works Engineering staff have included a condition of approval requiring submittal and evaluation of a Grading Permit in parallel with the required Building Permits (Exhibit 3).

One retaining wall is proposed along the south property line with a maximum height of six feet. The retaining wall would be approximately 300 feet long without a break or change in direction, which does not meet the ODS that retaining walls not run in a continuous direction for more than 50 feet without a break, offset, or landscape pocket. The applicant has requested a waiver to this standard through SDBL and provided justification for the request in Exhibit 9.



E. Transportation Analysis

A Transportation Study was prepared by Hexagon Transportation Consultants, Inc. (Exhibit 1, Appendix H) for the proposed project. As noted in the study, Town Council designated the use of Vehicle Miles Traveled (VMT) as the metric for conducting transportation analyses pursuant to CEQA and establishing the thresholds of significance to comply with Senate Bill 743 (Resolution 2020-045). Consistent with State CEQA Guidelines Section 150643, the Town of Los Gatos has adopted thresholds of significance to guide in determining when a land use project will have a significant transportation impact. The Traffic Study concludes that the project is consistent with the Town's Housing Element and General Plan; therefore, a VMT analysis is not required for the project. However, the Housing Element and General Plan require all projects consistent with them to implement applicable VMT reduction measures in accordance with General Plan EIR Mitigation Measure T-1. The project would need to implement a TDM plan in accordance with the General Plan TDM policy (Policy MOB-1.1).

The project will provide two high visibility crosswalks at the Garden Lane/Oak Park Drive intersection, install a new curb ramp on the south side of Garden Lane for the new crosswalk, provide a curb extension to reduce the Garden Lane crossing distance, and provide a detached sidewalk along the Garden Lane frontage. The project will also contribute to the planned Townwide Class IV protected bike lane improvement on Los Gatos Boulevard. These improvements would help reduce area VMT.

In addition to the VMT analysis, the Traffic Study provides a trip generation analysis based on the Institute of Transportation Engineer's (ITE) Trip Generation Manual (2021). The Traffic Study estimated that the proposed project would generate 266 new daily trips over existing conditions, including 22 new trips (4 inbound and 18 outbound) during the AM peak hour, and 9 new trips (6 inbound and 3 outbound) during the PM peak hour. The intersection level of service analysis shows that with the project traffic, the study intersections would continue to operate at acceptable levels of service and experience no queuing issues.

The Traffic Study included recommended conditions of approval, which have been included in Exhibit 3.

F. Parking

Based on the vesting date of the application, the applicable Town Code requirements for parking in a multi-family residential project are one and one-half spaces for each unit, plus one space per unit for guest parking. This equates to 83 parking spaces and 55 guest parking spaces, a total of 138 parking spaces. Since the project qualifies under SDBL, the applicant has selected to utilize the reduced parking requirements from the statute, which supersede the Town's. Through SDBL, the parking requirement is 79 total spaces with no guest parking

requirement. The proposed project includes 88 spaces accommodated in the private garages and nine guest parking spaces.

G. Tree Impacts

There are approximately 59 existing trees in the vicinity of the development. The development plans show that all 59 trees would be removed, 55 of which are protected trees, and one is a large protected tree under the Town Code. Based on the canopy size of the protected trees proposed for removal, approximately 119 24-inch box trees would need to be planted onsite to offset the removal. The applicant has the option to request in-lieu payment for any required replacement trees that cannot be accommodated on site. The preliminary landscape plan shows that 50 trees are proposed on site, 19 of which would qualify as replacement plantings being 24-inch box trees (Exhibit 16, sheet L3.)

The applicant submitted an Arborist Report for peer review by the Town's Consulting Arborist. Following several rounds of review, the revised Arborist Report from the applicant was confirmed to meet the Town's requirements by the Consulting Arborist. The Arborist Report for the project is included as Exhibit 10. Since all trees are proposed for removal, tree protection measures are not required.

H. Below Market Price (BMP) Units

The proposed project includes a total of 55 units, eight of which would be designated as affordable units. The Town's BMP ordinance and guidelines requires that multi-family residential developments with 20 to 100 market rate units provide a number of BMP units as determined by the formula included in Town Code Section 29.10.3025 (b)(2). The project includes 47 market rate units, requiring a minimum of eight BMP units. The proposed eight BMP units meets the Town's BMP requirements.

Sheet PO-2 provides that four units would be dedicated as moderate-income and four would be dedicated as low-income. As required by the BMP Guidelines, the moderate-income units will be restricted to those whose income is above 80 percent, but no greater than 120 percent of the median area income, and the low-income units will be restricted to those whose income is above 50 percent, but no greater than 80 percent of the median area income. Conditions of approval are included in Exhibit 3 pertaining to the provision and sale of the BMP units.

I. Live/work units

The property is zoned CH:HEOZ, which allows residential uses within a mixed-use or live/work development with approval of a CUP. The applicant proposes a multi-family live/work development and requests approval of a CUP. The four live/work units are located in Building A with frontage along Los Gatos Boulevard. The Town Code does not provide a definition for live/work units. The applicant provides in their Letter of Justification that the

designated live/work units are desirable in that they provide opportunities for housing that can accommodate the needs, preferences, and financial capabilities of current and future residents in terms of different housing types, tenures, density, size, and costs pursuant to General Plan Policy LU-2.2 and LU-6.7 (Exhibit 6). Additionally, the applicant indicates that live/work units along Los Gatos Boulevard will contribute to the economic vitality of the area, providing opportunities for entrepreneurship and creativity.

J. State Density Bonus Law Concession and waivers

As discussed above, through SDBL, qualifying projects are entitled to a density bonus, as well as concessions, waivers, and parking reductions. The proposed project is entitled to one concession, unlimited waiver requests, and reduced parking requirements.

The property is zoned CH:HEOZ. Residential uses are only allowed in the CH zone within a mixed-use or live/work development with approval of a CUP. The applicant applied for a CUP for a live/work development.

As discussed above, the project includes eight BMP units, meeting the Town Code requirements. The applicant requests a concession to the requirements included in the Town's BMP Guidelines. The BMP Guidelines requires that the BMP units be consistent to the market rate units in bedroom count, unit size, exterior appearance, location, and provided parking. The applicant provided a Letter of Justification that details the requested concession, indicating that the BMP units have been curated with affordability in mind and are consistent with the BMP Guidelines for exterior appearance, location, and provided parking (Exhibit 6). The BMP units include studio and two-bedroom floor plans, but do not include any three-bedroom floor plans. Regarding unit size, the market rate units range in size from 282 to 1,569 square feet, while the BMP units range in size from 328 to 947 square feet.

A Letter of Justification discussing the waivers to development standards requested by the applicant and why they are needed to construct the project is included as Exhibit 9. The findings for granting concessions and waivers pursuant to SDBL are included in Exhibit 2.

K. No Net Loss Law

Pursuant to Government Code Section 65863 (No Net Loss Law), the Town must maintain adequate capacity in the Housing Element to accommodate its remaining unmet Regional Housing Needs Assessment (RHNA) by each income category at all times throughout the entire planning period. To comply with the No Net Loss Law, as the Town makes decisions regarding zoning and land use, or development occurs, the Town must assess its ability to accommodate new housing within the remaining capacity of the Housing Element. If the Town approves a development of a parcel identified in the Housing Element with fewer units than anticipated, the Town must either make findings that the remaining capacity of the Housing Element is sufficient to accommodate the remaining unmet RHNA by each

income level, or identify and make available sufficient sites to accommodate the remaining unmet RHNA for each income category. The Town may not disapprove a housing project on the basis that approval of the development would trigger the identification or zoning of additional adequate sites to accommodate the remaining RHNA.

As described in the table below, the project provides fewer Very Low, Low, and Moderate Income units than anticipated in the Sites Inventory of the Housing Element, but more Above Moderate Income units, producing a net cumulative gain of nine units for the site.

| <b>No Net Loss Evaluation</b>   |                          |     |          |                |           |
|---|--------------------------|-----|----------|----------------|-----------|
| Evaluation of the Proposed Project's Impact on the Anticipated Development Potential Assumed in the Housing Element Site Inventory for the Subject Property |                          |     |          |                |           |
|   | Units by Income Category |     |          |                |           |
|   | Very Low                 | Low | Moderate | Above Moderate | Net Total |
| Anticipated Development Potential Included in the Sites Inventory of the Housing Element  | 19                       | 9   | 9        | 9              | 46        |
| Proposed Project  | 0                        | 4   | 4        | 47             | 55        |
| Net Site-Level Impact from the Proposed Project to Housing Element Assumed Development Potential  | -19                      | -5  | -5       | +38            | +9        |

Following the Town Council's approval of the project located at 50 Los Gatos-Saratoga Road (Los Gatos Lodge) on March 4, 2025, the capacity of the Housing Element and the remaining RHNA were adjusted to reflect the approval. The table shows that the cumulative impact of the proposed project on the remaining capacity of the Housing Element allows the Town to maintain a positive surplus in each income category. The remaining capacity of the Housing Element is adequate to meet the Town's remaining RHNA requirements. The No Net Loss findings can be made (Exhibit 2), and the Town is not required to identify additional sites to accommodate the remaining RHNA as a result of this project.

| <b>No Net Loss Evaluation</b><br>Evaluation of the Proposed Project's Impact on the<br>Remaining Cumulative Housing Element Sites Inventory Surplus |                          |     |          |                |           |
|---|--------------------------|-----|----------|----------------|-----------|
|   | Units by Income Category |     |          |                |           |
|   | Very Low                 | Low | Moderate | Above Moderate | Net Total |
| Remaining Housing Element Sites Inventory Surplus   | 71                       | 41  | 39       | 122            | 273       |
| Net Site-Level Impact from the Proposed Project to Housing Element Assumed Development Potential  | -19                      | -5  | -5       | +38            | +9        |
| Remaining Housing Element Sites Inventory Surplus with Project Approval   | 52                       | 36  | 34       | 160            | 282       |

L. Neighbor Outreach

The applicant provided a summary of their neighborhood outreach efforts, which is included as Exhibit 11.

M. CEQA Determination

The Town Council adopted the 2040 General Plan and certified the 2040 General Plan EIR on June 30, 2022. On April 2, 2024, the Town Council voted to rescind the Land Use Element and Community Design Element of the 2040 General Plan. Therefore, the Town's current General Plan consists of the Land Use Element and Community Design Element of the 2020 General Plan, and the remaining elements of the 2040 General Plan.

CEQA Guidelines Section 15168 provides that a programmatic EIR, in this case the 2040 General Plan EIR, may serve as the EIR for subsequent activities or implementing actions, provided that it contemplates and adequately analyzes the potential environmental impacts of those subsequent activities. If the Town, as the CEQA Lead Agency, determines, pursuant to Section 15162 of the CEQA Guidelines, no Subsequent EIR would be required, the agency can approve the activity as being within the scope of the project covered by the programmatic EIR, and new environmental documentation would not be required. In addition, as discussed under CEQA Guidelines Section 15168(c)(2), where later activities involve site specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were within the scope of the programmatic EIR. If additional analysis is required, it can be streamlined by tiering from this programmatic EIR.

In accordance with Sections 15168(c)(2) and 15168(c)(4) of the CEQA Guidelines, a Modified Initial Study Checklist (Exhibit 1) was prepared to provide project-level consideration of potential new or more severe significant impacts associated with the proposed project to

determine whether the project: 1) is within the scope of activities evaluated in the 2040 General Plan EIR; and 2) would trigger any of the criteria in CEQA Guidelines Section 15162.

The Modified Initial Study Checklist includes a number of project-level technical studies, including: an Air Quality and Greenhouse Gas Assessment; Biological Site Assessment Report; Arborist Report; Historic Resources Evaluation; Geotechnical Investigation; Phase I and Phase II Environmental Site Assessment; Noise Assessment; and Transportation Analysis (Exhibit 1). All technical reports were peer reviewed by the Town or the Town's consultants. The Modified Initial Study Checklist determined that the project's environmental impacts have been considered in the 2040 General Plan EIR that was certified by the Town, which remains relevant, and the conditions set forth in Section 15162 are not triggered by the proposed project. In addition, the analysis determined that the proposed project is within the scope of activities evaluated in the 2040 General Plan EIR and the Environmental Analysis for the 6th Cycle Housing Element. As such, this Modified Initial Study Checklist is the appropriate environmental document for the proposed project, pursuant to CEQA Guidelines Section 15168 and no additional environmental review is necessary.

#### PUBLIC COMMENTS:

Project identification signage was installed on the Los Gatos Boulevard and Garden Lane street frontages by October 4, 2024, consistent with Town policy. Visual simulations were completed by the Town's consultant and posted to the Town's website by March 20, 2025 (Exhibit 12). Written notice was sent to property owners and tenants within 1,000 feet of the subject property and notice of public hearing signage was installed on the street frontages by March 27, 2025, in anticipation of the Planning Commission meeting.

Staff conducted outreach through the following media and social media resources, for both the availability of the visual simulations and notice of the public hearing:

- 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., Friday, April 18, 2025, are included as Exhibit 15.

#### CONCLUSION:

##### A. Summary

The applicant is requesting approval of Architecture and Site, Conditional Use Permit, and Subdivision applications to demolish existing commercial structures, construct a multi-family live/work development (55 units), a Conditional Use Permit for a live/work

development, a condominium vesting tentative map, site improvements requiring a Grading Permit, and removal of large protected trees, under SB 330 on property zoned CH:HEOZ, located at 15349-15367 Los Gatos Boulevard. As detailed above, the application was submitted and is being processed under SB 330. The project qualifies for a concession and unlimited waivers under SDBL. The project is eligible for the Builder's Remedy; however, the applicant has not invoked the Builder's Remedy. Therefore, this is not a Builder's Remedy project and all deviations from the Town's standards included in the project are requested exclusively through SDBL for which the applicant provided justification addressing the required findings for each.

B. Recommendation

Staff recommends that the Planning Commission consider the request and, if merit is found with the proposed project, forward a recommendation that the Town Council approve the Architecture and Site, Conditional Use Permit, and Subdivision applications by taking the following actions:

1. Make the finding that additional environmental review is not necessary pursuant to CEQA Guidelines Sections 15162: Subsequent EIRs and 15168: Program EIR, since the proposed project's environmental impacts were adequately addressed in the 2020 General Plan EIR and/or 2040 General Plan EIR, as applicable (Exhibit 2);
2. Make the finding that the project is consistent with the General Plan (Exhibit 2);
3. Make the finding that the proposed project complies with Section 66474 of the State Subdivision Map Act and make affirmative findings to approve the subdivision (Exhibit 2);
4. Make the findings as required by Section 29.20.190 of the Town Code for granting a CUP (Exhibit 2);
5. Make the finding that the project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations) except for the concession and waivers requested pursuant to State Density Bonus Law (Exhibit 2);
6. Make the finding that the project meets the Town of Los Gatos Objective Design Standards for Qualifying Multi-Family and Mixed-Use Residential Development except for the waivers requested pursuant to State Density Bonus Law (Exhibit 2);
7. Make the affirmative findings as required by State Density Bonus Law for granting a concession pursuant to California Government Code Section 65915 (d) and for granting waivers pursuant to California Government Code Section 65915 (a)(2) (Exhibit 2);
8. Make the findings that the proposed project complies with California Government Code Section 65863 regarding state RHNA requirements, the Town's Housing Element Sites Inventory, and No Net Loss Law (Exhibit 2); and
9. Make the considerations as required by Section 29.20.150 of the Town Code for granting approval of an Architecture and Site application (Exhibit 2);
10. Approve Architecture and Site Application S-24-015, Conditional Use Permit U-24-006, Subdivision Application M-24-008 with the recommended conditions contained in Exhibit 3 and the development plans in Exhibit 16.

C. Alternatives

Alternatively, the Planning Commission can:

1. Continue the matter to a date certain with specific direction; or
2. Recommend approval of the applications with additional and/or modified conditions; or
3. Recommend denial of the applications.

EXHIBITS:

1. Final Initial Study – March 2025  
(available online at <https://www.losgatosca.gov/DocumentCenter/Index/2223>)
2. Required Findings and Considerations
3. Recommended Conditions of Approval
4. Location Map
5. Project Description Letter
6. Letter of Justification
7. Consulting Architect's Report
8. Applicant's Response to Consulting Architect's Report
9. Letter of Justification for SDBL Concession and Waivers
10. Final Arborist's Report
11. Neighbor Outreach Summary
12. Visual Renderings
13. Objective Design Standards Checklist
14. Site Photos
15. Public comments received by 11:00 a.m., Friday, February 7, 2025
16. Development Plans