



**TOWN OF LOS GATOS
PLANNING COMMISSION AGENDA
JUNE 12, 2024
110 EAST MAIN STREET
TOWN COUNCIL CHAMBERS
7:00 PM**

*Steven Raspe, Chair
Emily Thomas, Vice Chair
Jeffrey Barnett, Commissioner
Susan Burnett, Commissioner
Melanie Hanssen, Commissioner
Kathryn Janoff, Commissioner
Adam Mayer, Commissioner*

IMPORTANT NOTICE

This is a hybrid/in-person meeting and will be held in-person at the Town Council Chambers at 110 E. Main Street and virtually through the Zoom webinar application (log-in information provided below). Members of the public may provide public comments for agenda items in-person or virtually through the Zoom webinar by following the instructions listed below. The live stream of the meeting may be viewed on television and/or online at www.LosGatosCA.gov/TownYouTube.

PARTICIPATION

The public is welcome to provide oral comments in real-time during the meeting in three ways:

Zoom webinar (Online): Join from a PC, Mac, iPad, iPhone or Android device: Please click this URL to join: https://losgatosca.gov.zoom.us/j/83952169310?pwd=Tbdb6Mz193M9-voTz-xO_q8AaSsM3Q.PjpWLenhdMHr0sra.

Passcode: 103584. You can also type in 839 5216 9310 in the "Join a Meeting" page on the Zoom website at <https://zoom.us/join> and use passcode 103584.

When the Chair announces the item for which you wish to speak, click the "raise hand" feature in Zoom. If you are participating by phone on the Zoom app, press *9 on your telephone keypad to raise your hand.

Telephone: Please dial (877) 336-1839 US Toll-free or (636) 651-0008 US Toll. (Conference code: 686100). If you are participating by calling in, press #2 on your telephone keypad to raise your hand.

In-Person: Please complete a "speaker's card" located on the back of the Chamber benches and return it to the Vice Chair before the meeting or when the Chair announces the item for which you wish to speak.

NOTES: (1) Comments will be limited to three (3) minutes or less at the Chair's discretion.

(2) If you are unable to participate in real-time, you may email to the subject line "Public Comment Item #__" (insert the item number relevant to your comment) or "Verbal Communications – Non-Agenda Item." All comments received will become part of the record.

(3) Deadlines to submit written public comments are:

11:00 a.m. the Friday before the Planning Commission meeting for inclusion in the agenda packet.

11:00 a.m. the Tuesday before the Planning Commission meeting for inclusion in an addendum.

11:00 a.m. on the day of the Planning Commission meeting for inclusion in a desk item.

(4) Persons wishing to make an audio/visual presentation must submit the presentation electronically to planning@losgatosca.gov no later than 3:00 p.m. on the day of the Planning Commission meeting.

MEETING CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

VERBAL COMMUNICATIONS (Members of the public may address the Commission on any matter that is not listed on the agenda. Unless additional time is authorized by the Commission, remarks shall be limited to three minutes.)

CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION) *(Before the Planning Commission acts on the consent agenda, any member of the public Commission may request that any item be removed from the consent agenda. At the Chair's discretion, items removed from the consent calendar may be considered either before or after the Public Hearings portion of the agenda.)*

1. Draft Minutes of the May 22, 2024 Planning Commission Meeting

PUBLIC HEARINGS *(Applicants/Appellants and their representatives may be allotted up to a total of five minutes maximum for opening statements. Members of the public may be allotted up to three minutes to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of three minutes maximum for closing statements. Items requested/recommended for continuance are subject to the Commission's consent at the meeting.)*

2. Requesting Approval for a Private Sports Recreation Club on Property Zoned C-1. **Located at 15920 Los Gatos Boulevard.** APN 523-01-011. Conditional Use Permit Application U-24-005. Categorically Exempt Pursuant to CEQA Guidelines Section 15301: Existing Facilities. Property Owner: Carl Cilker. Applicant: Mary C. Egan. Project Planner: Jocelyn Shoopman.
3. Consider an Appeal of the Community Development Director Decision to Deny a Request to Remove a Presumptive Historic Property (Pre-1941) from the Historic Resources Inventory on Property Zoned R-1:8. **Located at 32 Euclid Avenue.** APN 529-30-064. Exempt Pursuant to CEQA Section 15061 (b)(3). Request for Review Application PHST-24-001. Property Owner/Applicant/Appellant: David Wilson. Project Planner: Sean Mullin. *Continued from the May 8, 2024 Meeting.*

OTHER BUSINESS

4. Review Proposed Development Agreement Procedures and Recommend Adoption to Town Council.

REPORT FROM THE DIRECTOR OF COMMUNITY DEVELOPMENT

SUBCOMMITTEE REPORTS / COMMISSION MATTERS

ADJOURNMENT *(Planning Commission policy is to adjourn no later than 11:30 p.m. unless a majority of the Planning Commission votes for an extension of time)*

ADA NOTICE In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Clerk's Office at (408) 354- 6834. Notification at least two (2) business days prior to the meeting date will enable the Town to make reasonable arrangements to ensure accessibility to this meeting [28 CFR §35.102-35.104].

Planning Commission meetings are broadcast Live on KCAT, Channel 15 (on Comcast) on the 2nd and 4th Wednesdays at 7:00 p.m. Live and Archived Planning Commission meetings can be viewed by going to:
www.LosGatosCA.gov/TownYouTube



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 06/12/2024

ITEM NO: 1

**DRAFT
MINUTES OF THE PLANNING COMMISSION MEETING
MAY 22, 2024**

The Planning Commission of the Town of Los Gatos conducted a Regular Meeting on Wednesday, May 22, 2024, at 7:00 p.m.

MEETING CALLED TO ORDER AT 7:00 PM

ROLL CALL

Present: Chair Steve Raspe, Vice Chair Emily Thomas, Commissioner Jeffrey Barnett, Commissioner Susan Burnett, Commissioner Melanie Hanssen, Commissioner Kathryn Janoff, and Commissioner Adam Mayer.

Absent: None.

PLEDGE OF ALLEGIANCE

VERBAL COMMUNICATIONS

None.

CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION)

1. **Approval of Minutes** – April 10, 2024
2. **Approval of Minutes** – May 8, 2024

MOTION: **Motion by Vice Chair Thomas** to approve adoption of the Consent Calendar with correction of a typographical error in the May 8, 2024 minutes. **Seconded by Commissioner Burnett.**

VOTE: **Motion passed unanimously.**

PUBLIC HEARINGS

3. **Draft Revised 2023-2031 Housing Element**
General Plan Amendment Application GP-24-001
Applicant: Town of Los Gatos
Location: Townwide
Project Planners: Erin Walters and Jocelyn Shoopman

Consider and make a recommendation to the Town Council on adoption of the Draft Revised 2023-2031 Housing Element. An environmental analysis based on the previously certified 2040 General Plan Final Environmental Impact Report has been prepared for the Los Gatos 2023-2031 Housing Element.

Erin Walters, Associate Planner, presented the staff report.

Opened and Closed Public Comment.

Commissioners discussed the matter.

MOTION: **Motion by Commissioner Hanssen** to adopt the resolution in Exhibit 8 forwarding a recommendation of Town Council to approve the Draft Revised 2023-2031 Housing Element. **Seconded by Commissioner Janoff.**

VOTE: **Motion passed unanimously.**

4. 16510 Topping Way

Architecture and Site Application S-23-016

APN 532-09-029

Property Owner: Steve Bamberger and Susan McGovern

Applicant: Eric Beckstrom

Project Planner: Sean Mullin

Requesting approval for demolition of an existing single-family residence and construction of a new single-family residence on property zoned R-1:8. Categorically exempt pursuant to the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.

Sean Mullin, Senior Planner, presented the staff report.

Opened Public Comment.

Eric Beckstrom, Applicant/Architect

- We designed a traditional/transitional style with the forms broken up. Originally, the applicants planned a house about 1,000 square feet larger and with an ADU, but after consideration decided to make it smaller to better fit the neighborhood. The consulting architect questioned the front gable, so we lowered the entire house by 15 inches. I have worked on traditional historic projects, and this house fits with Hilow Road and Marchmont Drive where houses are much larger. I think the neighborhood guidelines that compare a Los Gatos house to just five houses around it can be confusing.

Lee Quintana

- The Design Guidelines were created so that when houses are modified or enlarged there is a gentle evolution rather than going from a small house to a large house, or one that seems large. The Design Guidelines specifically define the neighborhood that is supposed to be considered, and in this case the design makes the house slightly more compatible with the neighborhood, but it is still not compatible. If the garage were taken off the house and put in the back where it currently is and where a lot of houses have their garages, it would not be as prominent. There is room to move the second story back, so it is not as impressive. This neighborhood is in transition, but transition to me means gradual small steps, not big steps.

Steve Bamberger, Co-owner

- We have tried to be conscious not to overbuild and keep the house from being too cumbersome. We originally had an additional 1,000 square feet inclusive of an ADU, but we thought it was too big for the neighborhood, and that's one of the reasons we scaled back. With respect to moving the house back, we worked to not have the front be too big and have the big gable set back a little. We ask to not have to move the entire house back, because we love the fact that our lot provides room for a back yard, and we'd like to preserve as much of that space as possible. Two of the houses in the immediate neighborhood would be larger than what we propose.

Closed Public Comment.

Commissioners discussed the matter.

Opened Public Comment.

Commissioners asked questions of the applicant.

Closed Public Comment.

Commissioners discussed the matter.

MOTION: **Motion by Commissioner Janoff** to approve an Architecture and Site Application for 16510 Topping Way. **Seconded by Commissioner Hanssen.**

VOTE: **Motion passed 6-1 with Commissioner Burnett dissenting.**

REPORT FROM THE COMMUNITY DEVELOPMENT DEPARTMENT

None.

SUBCOMMITTEE REPORTS/COMMISSION MATTERS

Historical Preservation Committee

Commissioner Burnett

- The HPC met May 22, 2024 and discussed two items.

ADJOURNMENT

The meeting adjourned at 8:04 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the May 22, 2024 meeting as approved by the Planning Commission.

/s/ Vicki Blandin



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 06/12/2024

ITEM NO: 2

DATE: June 7, 2024
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Requesting Approval for a Private Sports Recreation Club on Property Zoned C-1. **Located at 15920 Los Gatos Boulevard.** APN 523-01-011. Conditional Use Permit Application U-24-005. Categorically Exempt Pursuant to CEQA Guidelines Section 15301: Existing Facilities. Property Owner: Carl Cilker. Applicant: Mary C. Egan. Project Planner: Jocelyn Shoopman.

RECOMMENDATION:

Consider approval of a request for a private sports recreation club on property zoned C-1, located at 15920 Los Gatos Boulevard.

PROJECT DATA:

General Plan Designation: Mixed Use Commercial
Zoning Designation: C-1
Applicable Plans & Standards: General Plan; Commercial Design Guidelines
Parcel Size: 1.05 acres
Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Commercial	Mixed Use Commercial	CH
South	Commercial	Mixed Use Commercial	C-1
East	Residential	Medium Density Residential	RD
West	Office and Commercial	Mixed Use Commercial	O and CH

PREPARED BY: Jocelyn Shoopman
Senior Planner

Reviewed by: Planning Manager and Community Development Director

CEQA:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15301: Existing Facilities.

FINDINGS:

- The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15301: Existing Facilities.
- The project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations).
- As required by Section 29.20.190 of the Town Code for granting a Conditional Use Permit.

ACTION:

The decision of the Planning Commission is final unless appealed within ten days.

BACKGROUND:

The subject property is located in the Cornerstone shopping center on the east side of Los Gatos Boulevard and approximately 400 feet north of the intersection of Blossom Hill Road and Los Gatos Boulevard (Exhibit 1). The project site is 1.05 acres and is currently vacant, but was previously occupied by Rite Aid until May 2023. Access to the parcel through the Cornerstone shopping center is provided by two points of access with ingress and egress on Los Gatos Boulevard and one point of access with ingress and egress on Blossom Hill Road (Exhibit 1).

PROJECT DESCRIPTION:

A. Location and Surrounding Neighborhood

The subject property is located within the Cornerstone shopping center located on the east side of Los Gatos Boulevard and approximately 400 feet north of the intersection of Blossom Hill Road and Los Gatos Boulevard (Exhibit 1). The surrounding area contains a mix of uses with commercial to the north, two-family uses to the east, commercial uses to the south, and office and commercial uses to the west.

B. Project Summary

The applicant is requesting approval of a Conditional Use Permit (CUP) for a private sports recreation club (Exhibit 4). Due to the size of the existing building, the applicant is not proposing any outdoor recreation spaces, such as a sport court or swimming pool.

PROJECT DESCRIPTION (continued):

C. Zoning Compliance

The property is zoned C-1. The proposed use, a private sports recreation club requires a CUP in the C-1 zone.

DISCUSSION:

A. Zoning

A private sports recreation club is allowed as a conditional use in the C-1 zone, requiring approval of a CUP. The project is not proposing any exterior alterations to the design of the building and the complies with the zoning requirements related to lot coverage, building height, parking, and circulation. The applicant is not requesting any exceptions or Variances to the Town Code.

B. Conditional Use Permit

The proposed project is for a private sports recreation club. The applicant is proposing operation hours of 5:00 a.m. to 11:00 p.m. seven days a week. The proposed use will operate as a fitness center with free weights, weight machines, personal training, and ancillary fitness classes programmed throughout the day. A juice bar is proposed within the existing floor area of the building to offer food and drink options for purchase by members of the club, including, but not limited to smoothies, acai bowls, coffee, and pre-packaged foods, such as salads and protein bars (Exhibit 5). Due to the size of the existing building, the applicant is not proposing any outdoor recreation spaces, such as a sport court or swimming pool. Per Section 29.20.750 of the Zoning Code, the Planning Commission is the deciding body for a private sports recreation club use.

In order to grant approval of a CUP for the proposed use, the deciding body must make the following findings:

1. The proposed use of the property is essential or desirable to the public convenience or welfare;
2. The proposed use would not impair the integrity and character of the zone;
3. The proposed use would not be detrimental to public health, safety, or general welfare; and
4. The proposed use of the property is in harmony with the various elements or objectives of the General Plan and the purposes of the Town Code.

DISCUSSION (continued):

In regard to the first finding, the proposed use is desirable to the public convenience because it provides a private sports recreation club with exercise opportunities for visitors and residents. As required by finding two, the proposed use would not impair the integrity of the zone, in that the proposed use is a commercial use and would be located in a commercial zone. In regard to the third finding, the proposed use would not be detrimental to public health, safety, or general welfare, as the conditions placed on the permit would maintain the welfare of the community. In regard to the final finding, the proposed use is in conformance with the Town Code and General Plan as discussed within this report.

C. Parking

The project site is located in the Cornerstone shopping center which contains a total of 285 parking spaces (Exhibit 7). The proposed use requires one parking space per 350 square feet of gross floor area (52 parking spaces). The total required parking for the proposed use plus all existing uses within the shopping center is 226 parking spaces. The existing parking on site meets the Town's requirements because it exceeds the required parking by 59 parking spaces.

D. General Plan

The 2020 General Plan Land Use designation for the site is Mixed Use Commercial. This designation permits a mixture of retail, office, and residential in a mixed-use project, along with lodging, service, auto-related businesses, non-manufacturing industrial uses, recreational uses, and restaurants. Projects developed under this designation shall maintain the smalltown, residential scale and natural environments of adjacent residential neighborhoods, as well as provide prime orientation to arterial street frontages and proper transitions and buffers to adjacent residential properties. This designation should never be interpreted to allow development of independent commercial facilities with principal frontage on the side streets.

Applicable goals and policies of the 2020 General Plan Land Use and Community Design Elements include, but are not limited to the following:

- Policy LU-2.1 – Minimize vehicle miles traveled for goods and services by allowing and encouraging stores that provide these goods within walking distance of neighborhoods in Los Gatos.
- Goal LU-4 – To provide for well-planned, careful growth that reflects the Town's existing character and infrastructure.

DISCUSSION (continued):

- Policy LU-9.6 – Encourage development that maintains and expands resident-oriented services and/or creates employment opportunities for local residents consistent with overall land use policies of the Town.
- Policy LU-13.2 – Commercial activity along Los Gatos Boulevard shall complement the whole Town and shall provide a dependable source of income, employment opportunities, goods, and services.
- Policy LU-13.5 – Establish and maintain appropriate boundaries between the commercial uses along Los Gatos Boulevard and adjacent residential neighborhoods.

PUBLIC COMMENTS:

Written notice was sent to property owners and tenants within 300 feet of the subject property. At the time this report was published, no comments had been received.

CEQA DETERMINATION:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act (CEQA), Section 15301: Existing Facilities.

CONCLUSION:

A. Summary

The applicant is requesting approval of a CUP for a private sports recreation club in the C-1 zone. The project is consistent with the Zoning Code and General Plan.

B. Recommendation

Based on the analysis above, staff recommends approval of the CUP application subject to the recommended Conditions of Approval.

If the Planning Commission finds merit with the proposed project, it should:

1. Find that the project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15301: Existing Facilities (Exhibit 2);
2. Make the finding that the project complies with the objective standards of Chapter 29 of the Town Code (Zoning Regulations) (Exhibit 2);
3. Make the findings as required by Section 29.20.190 of the Town Code for granting a CUP (Exhibit 2); and

CONCLUSION (continued):

4. Approve CUP application U-24-005 with the conditions contained in Exhibit 3, and development plans included as Exhibit 7.

C. Alternatives

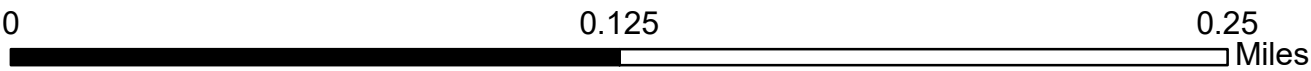
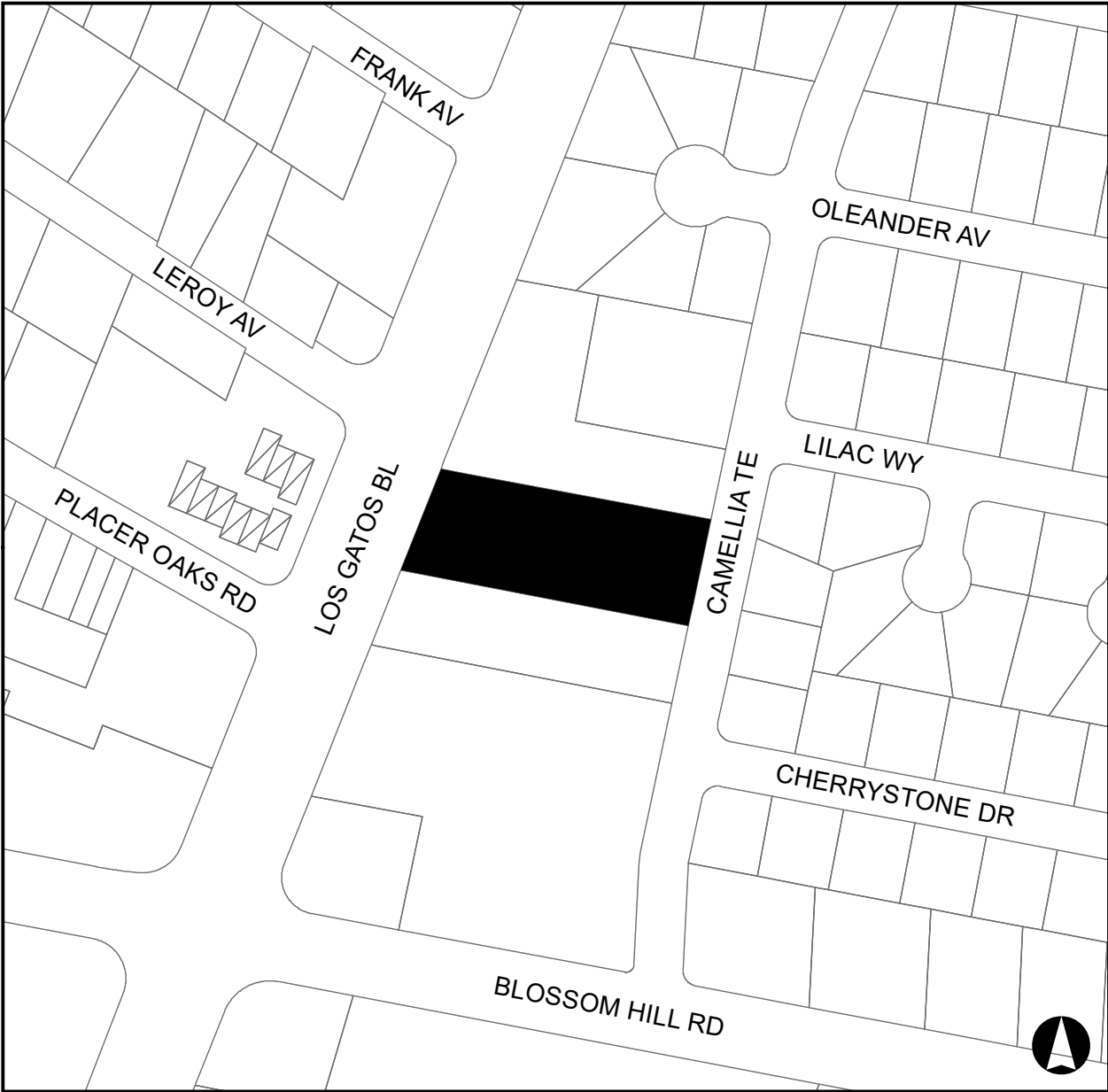
Alternatively, the Commission can:

1. Continue the matter to a date certain with specific direction; or
2. Approve the application with additional and/or modified conditions; or
3. Deny the application.

EXHIBITS:

1. Location Map
2. Required Findings
3. Recommended Conditions of Approval
4. Letter of Justification
5. Business Description
6. Existing Photos
7. Site and Parking Plan

15920 Los Gatos Boulevard



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PLANNING COMMISSION – June 12, 2024
REQUIRED FINDINGS AND CONSIDERATIONS FOR:

15920 Los Gatos Boulevard
Conditional Use Permit Application U-24-005

**Requesting Approval for a Private Sports Recreation Club on Property Zoned C-1.
Categorically Exempt Pursuant to CEQA Guidelines Section 15301: Existing Facilities.
Property Owner: Carl Cilker. Applicant: Mary C. Egan. Project Planner: Jocelyn
Shoopman.**

FINDINGS

Required findings for CEQA:

- The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15301: Existing Facilities.

Required compliance with the Zoning Regulations:

- The project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations).

Required Findings for a Conditional Use Permit:

- As required by Section 29.20.190 of the Town Code for granting a Conditional Use Permit:
 1. The proposed use of the property is essential or desirable to the public convenience or welfare in that the use would provide a private sports recreation club with exercise opportunities for visitors and residents;
 2. The proposed use will not impair the integrity and character of the zone, in that the proposed use is a commercial use and would be located in a commercial zone;
 3. The proposed use would not be detrimental to public health, safety or general welfare as the conditions placed on the permit would maintain the welfare of the community; and
 4. The proposed use of the property is in harmony with the various elements or objectives of the General Plan and the purposes of Chapter 29 of the Town Code.

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PLANNING COMMISSION – June 12, 2024
CONDITIONS OF APPROVAL

15920 Los Gatos Boulevard
Conditional Use Permit Application U-24-005

Requesting Approval for a Private Sports Recreation Club on Property Zoned C-1. Categorically Exempt Pursuant to CEQA Guidelines Section 15301: Existing Facilities. Property Owner: Carl Cilker. Applicant: Mary C. Egan. Project Planner: Jocelyn Shoopman.

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

Planning Division

1. APPROVAL: This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the plans approved by the Planning Commission on June 12, 2024. Any changes or modifications to the approved plans shall be approved by the Community Development Director or the Planning Commission, depending on the scope of the changes.
2. EXPIRATION: The Conditional Use Permit approval will expire two years from the approval date unless it is used before expiration. Section 29.20.335 defines what constitutes the use of an approval granted under the Zoning Ordinance.
3. LAPSE FOR DISCONTINUANCE: If the activity for which the Conditional Use Permit has been granted is discontinued for a period of one (1) year the approval lapses.
4. USE: The approved use is a private sports recreation club.
5. HOURS OF OPERATION: The maximum hours of operation for the private sports recreation club shall be 5:00 a.m. to 11:00 p.m., seven days a week.
6. SIGN PERMIT: A Sign Permit from the Los Gatos Community Development Department must be obtained prior to any changes to existing signs or installation of new signs.
7. CERTIFICATE OF USE AND OCCUPANCY: A Certificate of Use and Occupancy from the Los Gatos Community Development Department must be obtained prior to commencement of use.
8. BUSINESS LICENSE: A business license from the Town of Los Gatos Finance Department must be obtained prior to the commencement of any new or change of use.
9. TOWN INDEMNITY: Applicants are notified that Town Code Section 1.10.115 requires that any applicant who receives a permit or entitlement from the Town shall defend, indemnify, and hold harmless the Town and its officials in any action brought by a third party to overturn, set aside, or void the permit or entitlement. This requirement is a condition of approval of all such permits and entitlements whether or not expressly set forth in the approval and may be secured to the satisfaction of the Town Attorney.

Building Division

10. A comprehensive plan review has not been completed for this CUP modification under consideration by the Development Review Committee and compliance with applicable

EXHIBIT 3

codes have not been verified.

11. PERMITS: No work requiring Building Permits can commence without issuance of any required Building Permits. Building Permit plan review, including review by the Santa Clara County Fire Department and the Parks and Public Works Department, will be part of any required Building Permit application process. No change in the character of occupancy or change to a different group of occupancies as described by the Building Code shall be made without first obtaining a Certificate of Occupancy from the Chief Building Official.
12. ACCESSIBILITY: In addition to all new work complying with the Code for accessibility, when existing buildings are altered or remodeled, they must be made accessible to persons with physical disabilities in accordance with the CBC Section 11B-202, "Existing buildings and facilities."

TO THE SATISFACTION OF THE DIRECTOR OF PARKS & PUBLIC WORKS:

Engineering Division

13. GENERAL: The adjacent public right-of-way shall be kept clear of all job-related mud, silt, concrete, dirt and other construction debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless an encroachment permit is issued by the Engineering Division of the Parks and Public Works Department. The Owner and/or Applicant's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the issuance of correction notices, citations, or stop work orders and the Town performing the required maintenance at the Owner, Applicant and/or Developer's expense.
14. APPROVAL: This application shall be completed in accordance with all the conditions of approval listed below and in substantial compliance with the latest reviewed and approved development plans. Any changes or modifications to the approved plans or conditions of approvals shall be approved by the Town Engineer.
15. CONSTRUCTION HOURS: All construction activities, including the delivery of construction materials, labors, heavy equipment, supplies, etc., shall be limited to the hours of 8:00 a.m. to 6:00 p.m., weekdays and 9:00 a.m. to 4:00 p.m. Saturdays, holidays excluded. The Town may authorize, on a case-by-case basis, alternate construction hours. The Owner and/or Applicant shall provide written notice twenty-four (24) hours in advance of modified construction hours. Approval of this request is at discretion of the Town.
16. CONSTRUCTION NOISE: Between the hours of 8:00 a.m. to 6:00 p.m., weekdays and 9:00 a.m. to 4:00 p.m. Saturdays, construction, alteration or repair activities shall be allowed. No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet from the source. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible. The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA.

17. ADVANCE NOTIFICATION: Advance notification of all affected residents and emergency services shall be made regarding parking restriction, lane closure or road closure, with specification of dates and hours of operation.
18. COVERED TRUCKS: All trucks transporting materials to and from the site shall be covered.

TO THE SATISFACTION OF THE SANTA CLARA COUNTY FIRE DEPARTMENT:

19. Review of this Developmental proposal is limited to acceptability of site access, water supply and may include specific additional requirements as they pertain to fire department operations and shall not be construed as a substitute for formal plan review to determine compliance with adopted model codes. Prior to performing any work, the applicant shall make application to, and receive from, the Building Department all applicable construction permits.
20. Note that a plan review is required prior to any proposed tenant improvement.
21. No changes to the building's exterior and fire department access to the building.
22. This review shall not be construed to be an approval of a violation of the provisions of the California Fire Code or of other laws or regulations of the jurisdiction. A permit presuming to give authority to violate or cancel the provisions of the fire code or other such laws or regulations shall not be valid. Any addition to or alteration of approved construction documents shall be approved in advance. [CFC, Ch.1, 105.3.6].

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May 21, 2024

Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

RE: Conditional Use Permit
15920 Los Gatos Blvd., Los Gatos, CA
Written Description for Application for CUP and Letter of Justification

Dear Town of Los Gatos:

We represent the property owners of the Cornerstone of Los Gatos Shopping Center, which includes 15920 Los Gatos Blvd., the premises recently vacated by Rite Aid. We are requesting a Conditional Use Permit (CUP) for a private health club.

The 15920 building has been home to a drug store since it was built the early 1960s, first as Thrifty Drugs and then as Rite Aid. When Rite Aid declared bankruptcy in 2023, they closed over 300 stores on the same day, ours being one of them. Walgreens and CVS are now following suit, closing unprofitable drug stores and pharmacies across the country.

We have identified and are working with an upscale, boutique, private health club that is ready to open at this location. This health club emphasizes fitness and wellness, including, for example, yoga, Pilates, cycling, and personal training for those customers who prioritize a healthy lifestyle. They also offer post-workout services such as cryotherapy and guided stretching. They plan to open the doors at 5:00 AM for those who wish to workout before going to the office and therefore request permission to open before the Town's established hours of operation. Being that the parking lot and entrance faces Los Gatos Blvd., we do not believe this will have a negative impact on the residences to the rear of the property, on Camelia Terrace.

The health club may, at some time in the future, wish to open a juice bar for its members only. The juice bar would typically serve fruit and vegetable juices and smoothies with organic and superfood ingredients. They anticipate the juice bar will encompass no more than 600 square feet. We would therefore like to include this use in our application.

We strongly feel a health club such as this will be welcomed by residents in the surrounding neighborhood and throughout greater Los Gatos. It will fill the need for those residents who wish to exercise in a modern, state-of-the art facility close to home. This club will also blend well with the current tenant mix at the Cornerstone of Los Gatos Shopping Center and add to the charm and character of the shopping center and surrounding neighborhood.

We do not anticipate that the health club will negatively impact neighborhood parking. I have attached a parking analysis for your review, calculated per Section 29.10.150 of the Town Code, indicating a



surplus of 59 parking spaces after the addition of the health club. You will also find a detailed site map attached.

The land beneath the Cornerstone of Los Gatos Shopping Center has been in the Cilker family since the 1890s. It has gone through many changes since then, from family farm to commercial use. One thing that has not changed is the family's connection and commitment to the Los Gatos community. Their pride of ownership is evidenced by the property's showcase lighting and landscaping features, as well as the high-quality tenants, such as Whole Foods, Skin Spirit, and Morgan Stanley. The Cilker family would now like to continue this tradition by bringing in a high-quality health club that will benefit the residents of Los Gatos.

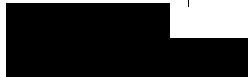
Thank you for your consideration of this application. We believe this tenant use will uphold the integrity of the shopping center, enhance the quality of the businesses along The Boulevard and create a desirable public convenience, all while keeping in harmony with various elements and objectives of the general plan.

Please feel free to contact me at the email address or phone number listed below should you have any questions or require additional information.

Sincerely,

Mary C. Egan

Mary C. Egan, CPM
Cilker Orchards Management Corp.
Vice President Real Estate
DRE#00967596





May 20, 2024

Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

RE: Reply to 4.17.24 Planning Comments, CUP Application U-24-005
15920 Los Gatos Blvd., Los Gatos, CA

Dear Town of Los Gatos:

This letter shall address the concerns raised in the Planning Division comments dated April 17, 2024, in connection with our application for a Conditional Use Permit at the referenced premises. We do not have a signed lease for this space yet, and the potential tenant has asked that we not disclose their name until the transaction is finalized. We are happy to provide the following information.

1. Hours of Operation: 5:00 AM to 11:00 PM.
Delivery Times: Minimal deliveries during normal business hours.
Number of Employees: Estimate 8 during non-peak hours and up to 15 during peak instruction times which are 6 AM to 10 AM, 12:00 PM to 1:00 PM and 4:00 PM to 7:00 PM, Mon – Fri.
Functionality: The club will operate as a fitness center with free weights, weight machines, personal training, and ancillary fitness classes throughout the day.
2. Juice Bar: The proposed juice bar, for club members only, will serve fruit smoothies and acai bowls to order, along with coffees and lattes. Prepackaged foods such as grab-n-go salads and protein bars will also be available. No alcohol will be served.
3. Floor Plan: None available at this early date.
4. Meeting/Rec Areas: This location, due to its limited size, will have no meeting areas, sport courts or pools.
5. Site Plan: Please see attached Site Plan with numbered parking spaces.
6. Parking Analysis: Please see attached revised Parking Analysis. Thank you for providing the additional information.
7. Exterior Modifications: Limited to new windows and doors as required by code and for full operation, with no change to the overall look or design of the exterior of the building.

We appreciate the opportunity to respond to your concerns. Please feel free to contact me at the email address or phone number listed below should you have any questions or require additional information.

Sincerely,

Mary C. Egan

Mary C. Egan, CPM
Cilker Orchards Management Corp.
Vice President Real Estate, DRE#00967596

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Cornerstone of Los Gatos Shopping Center



15920 Building



Main Entrance



Rear Loading Dock Area



Right of Building



Left of Building- Los Gatos Police Department



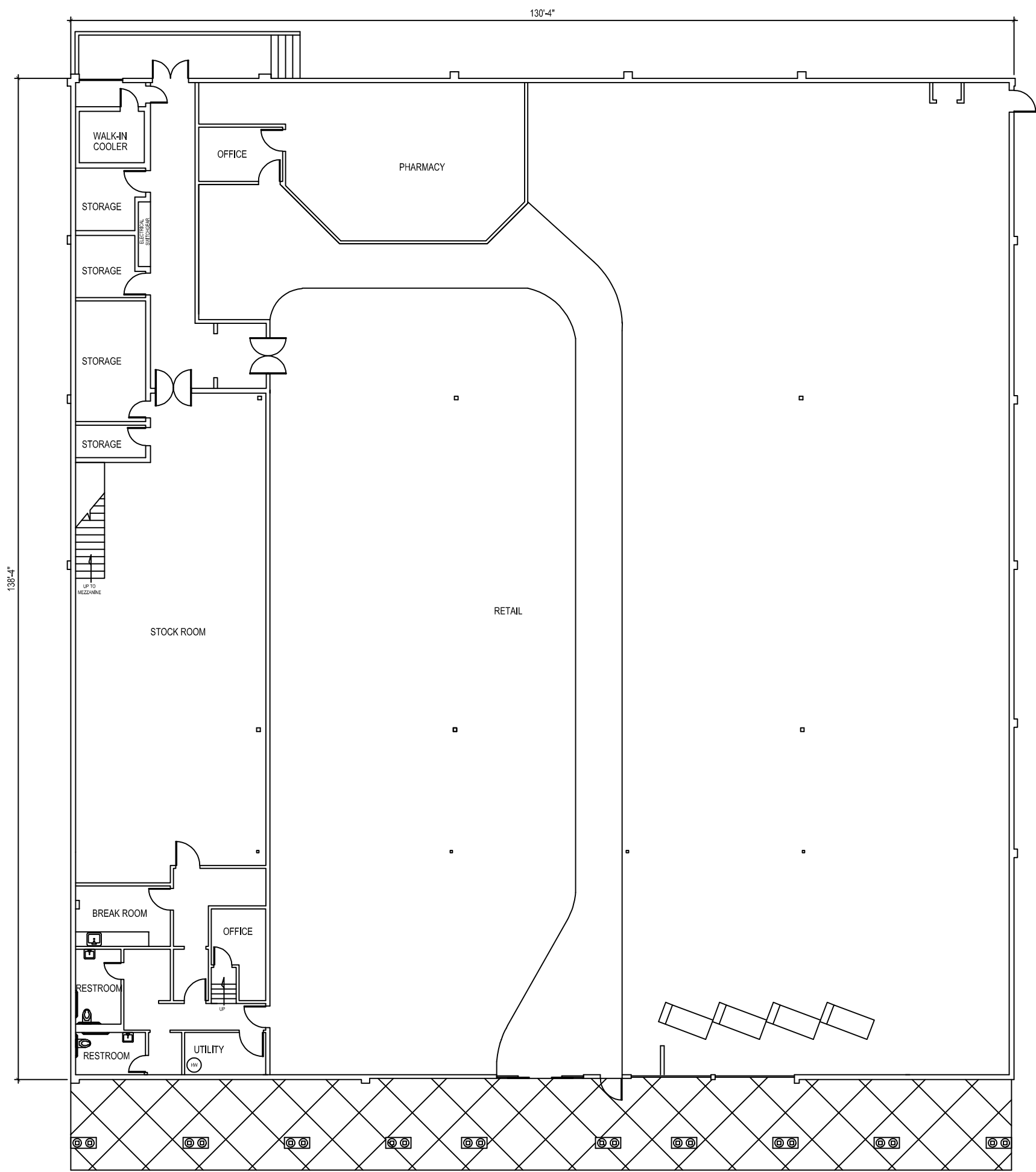
Interior Sales Area



Interior Merchandise Storage Area



FLOOR PLAN



15920 LOS GATOS BLVD
LOS GATOS, CA 95032

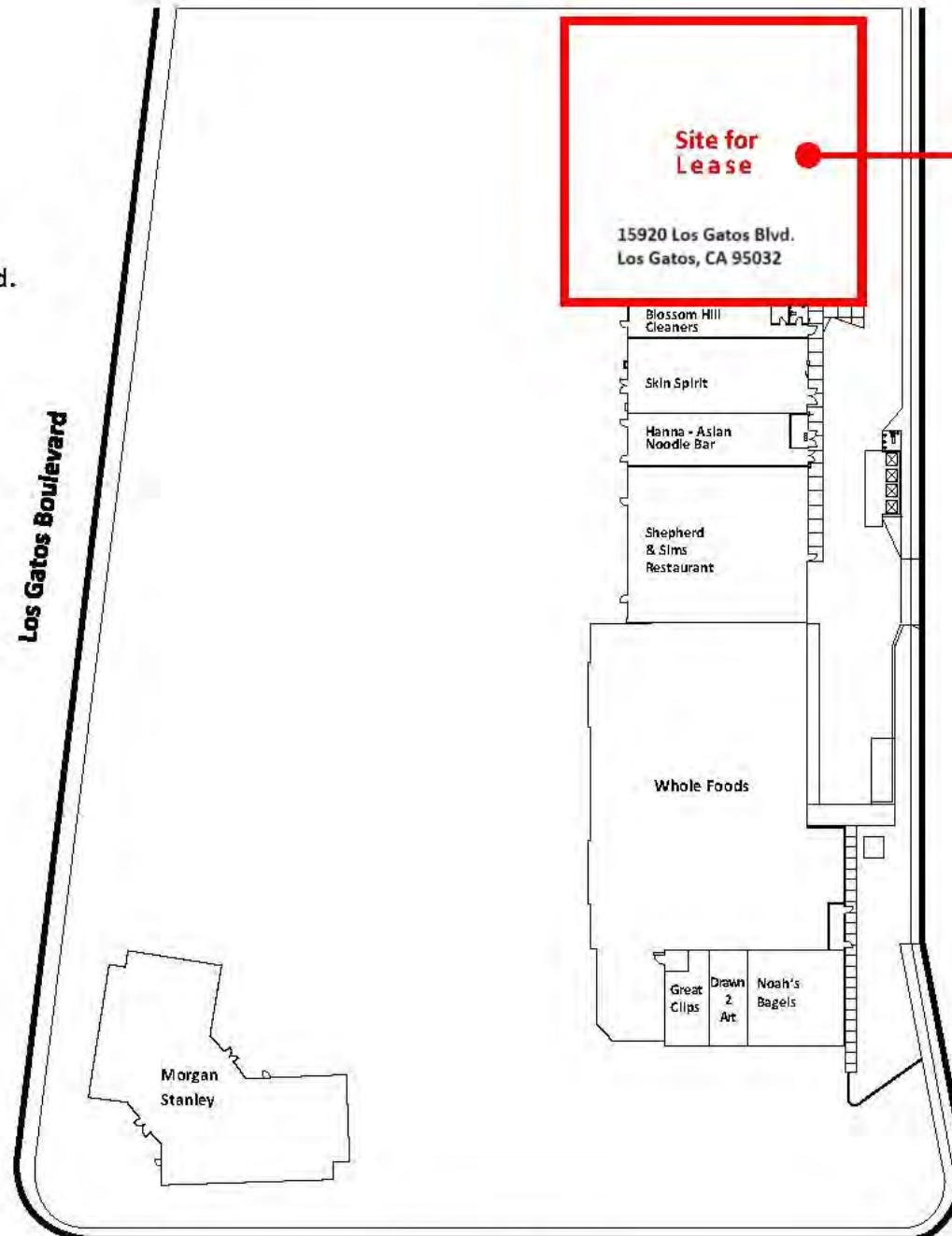
GROSS AREA = 18,029 SQ. FT.

Site Plan



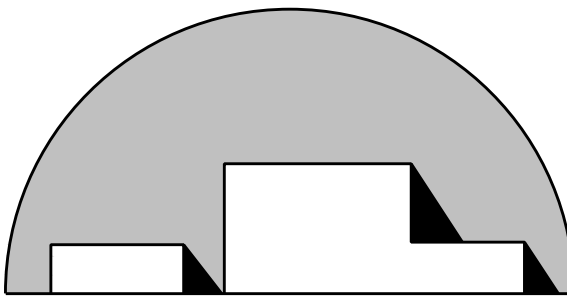
Cornerstone of Los Gatos
15920-16006 Los Gatos Blvd.
Los Gatos, CA 95032

Los Gatos Boulevard



Blossom Hill Road





ADAPTIVE ARCHITECTURE

20111 STEVENS CREEK BLVD
SUITE 280
CUPERTINO, CA 95014
(510) 684-3226

CORNERSTONE SHOPPING CENTER

15920 - 15996 LOS GATOS BLVD
LOS GATOS, CA 95032



△			
△			
△			
△			
△			
△	4/18/24	PLANNING/CUP	
NO	DATE BY	DESCRIPTION	
REVISIONS			

DRAWN:JY	CHECKED:
DATE:	SCALE:AS NOTED
PROJECT NUMBER:	

SITE PLAN

DRAWING NUMBER: A1.1



PARKING COUNT	
ACCESSIBLE STALLS:	10
REGULAR STALLS:	275
TOTAL:	285



SITE PLAN

1" = 30'

1

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**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 06/12/2024

ITEM NO: 3

DATE: June 7, 2024
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider an Appeal of the Community Development Director Decision to Deny a Request to Remove a Presumptive Historic Property (Pre-1941) from the Historic Resources Inventory on Property Zoned R-1:8. **Located at 32 Euclid Avenue.** APN 529-30-064. Exempt Pursuant to CEQA Section 15061 (b)(3). Request for Review Application PHST-24-001. Property Owner/Applicant/Appellant: David Wilson. Project Planner: Sean Mullin.

REMARKS:

On May 8, 2024, the Planning Commission opened the public hearing and received comments from the public on the appeal. The Planning Commission then continued consideration of the appeal to June 12, 2024, to accommodate the appellant's availability.

Exhibit 12 includes letters from the applicant's counsel providing additional information.

EXHIBITS:

Previously distributed with the May 8, 2024, Staff Report:

1. Location Map
2. Required Findings
3. Historic Preservation Committee Staff Report and Attachments, November 15, 2023
4. Historic Preservation Committee Meeting Minutes for November 15, 2023
5. Historic Preservation Committee Action Letter, November 15, 2023
6. Historic Preservation Committee Staff Report and Attachments, March 27, 2024
7. Historic Preservation Committee Meeting Minutes for March 27, 2024
8. Historic Preservation Committee Action Letter, March 27, 2024
9. Appeal of the Community Development Director, received April 4, 2024
10. Excerpts for "Los Gatos Observed," by Alastair Dallas, 1999
11. Technical Demolition Exhibit by Appellant

PREPARED BY: Sean Mullin, AICP
Senior Planner

Reviewed by: Planning Manager and Community Development Director, and Town Attorney

PAGE 2 OF 2

SUBJECT: 32 Euclid Avenue/Appeal of PHST-24-001

DATE: June 7, 2024

EXHIBITS (continued):

Received with this Staff Report:

12. Letters from Applicant's Counsel, dated June 3, 2024

June 3, 2024

VIA EMAIL: jpaulson@losgatosca.gov

Norman E. Matteoni
Peggy M. O'Laughlin
Bradley M. Matteoni
Baron G. Hechtman
Gerry Houljian

Mr. Joel Paulson
Community Development Director
Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

Re: Appeal of Decision not to remove 32 Euclid from Historic Inventory


Dear Joel:

Thank you for the background information on this matter.

As you informed me, this is the first hearing before the Commission on an appeal of the HPC, after the adoption of an ordinance changing its role to advisory. Second, the ECORP Architectural History Evaluation dated February 9, 2024, documented the lack of historic significance of this structure, including the fact that 45% of the façade was previously altered by an addition to the building. Unfortunately, the ordinance regarding "technical demolition" was not referenced at the hearing of March 27, 2024, although the facts supporting that ordinance's application to the structure were before HPC.

Most importantly, my letter to the Commission advises that the barn was substantially demolished under the terms of Town Ordinance Section 29.10.020. Under these circumstances, the appeal should be unnecessary, and a demolition permit administratively issued. If the Town's interpretation differs and the appeal proceeds, please be advised that applicant reserves its legal position stated herein.

Very truly yours,



Norman E. Matteoni

NEM/jlc
Cc: Gabrielle Whelan
Town Attorney: gwhelan@losgatosca.gov

R:\Clients\Wilson, Dave - Building Approval 489.06\Corresp\Ltr to Community Dev Director.docx

June 3, 2024

Norman E. Matteoni
Peggy M. O'Laughlin
Bradley M. Matteoni
Baron G. Hechtman
Gerry Houghan

VIA EMAIL

Los Gatos Town Planning Commission
110 E. Main Street
Los Gatos, CA 95030

Re: 32 Euclid Avenue; Appeal; May 11, 2024

Dear Chair and Commissioners:

I represent the applicant regarding this appeal from the Director's decision to accept the Historic Preservation Committee's 2-1 vote to deny of removal of the structure at 32 Euclide Avenue from the Historic Resource Inventory. This has the effect of denying a demolition permit to allow a new residence to be constructed on site.

First, the structure in question, originally a small barn that was auxiliary to the original residence on the property (likely removed prior to 1951 for a new residence), was itself converted to a residence in the 1970s or 1980s. That conversion significantly altered the front façade of the structure. The addition enclosed the original exterior wall with the result that 45% of the structure's elevation facing the public street was removed. Under the Town's ordinance this is termed a "technical demolition" where the demolition is 25% or greater of the wall facing the public street. See Ordinance Section 29.10.020. Architecture Historic Evaluation by ECORP Consulting, dated February 9, 2024 (included in Exhibit 6 – HPC Staff Report, attached to the Staff Report before you) provides the factual support. For your convenience, I have attached pp. 17-18 and 114 of that report to this letter as Attachment A; there are numerous photographs in the ECORP Evaluation showing that alteration and others to the structure.

Although the ECORP Evaluation detailed the alterations and the extent of the façade modification, somehow all the parties failed to apply

Section 29.10.020. This is documented in the A1.1 Front Façade Demo and Renovation Exhibit, as Attachment B to this letter.

This documented façade alteration exceeding the 25% threshold qualifies a technical demolition and removes the structure from further review.

Other Town actions also affect this application. On April 19, shortly after the appeal was filed, the Council adopted an ordinance changing the role of HPC to advisory. Thus, the decision of the Community Development Director based on the HPC decision of March 27 should no longer be applicable.

Nonetheless, there is more to show that the structure is not historic under the ordinance, as Staff Reports:

1. The property does not have an LHP Overlay.
2. It is not in an historic district.

There was a general allegation at HPC that the structure may have been the residence of Peter Johnson, a former council member. There is no documentation to substantiate that claim. In fact, research reveals the Roy Johnson family residing at 32 Euclid in the 1940s was from Bakersfield. See ECORP report, pp. 5-6. The Los Gatos Centennial Project Bellringer Award indicates that Peter Johnson, originally from Denmark, purchased 131 acres of orchard near the top of Loma Alta Avenue, later converted to the Eastfield Ming Quong Conference Center. He purchased the property in the Loma Alta area in 1874; and Johnson Avenue was named after him. That land is nearly a mile removed from Euclid Avenue. Another reference to Peter Johnson's residence in that document speaks of an historic home on Los Gatos Boulevard.

In summary:

1. There is no distinctive character to the structure.
2. It was compromised (technical demolition) when the façade was substantially removed, and an addition covered 45% of the front of the structure in the 1970s. Thus, as a matter of law, the permit for demolition should issue.
3. There have been ongoing renovations to the structure by owners since that time.
4. The structure does not yield information to Town History.

5. It is not associated with events that made a significant contribution to the Town.

Very truly yours,



Norman E. Matteoni

NEM/jlc

Enc.

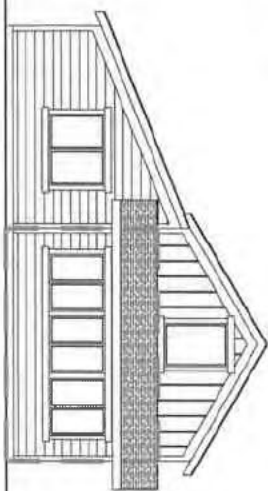
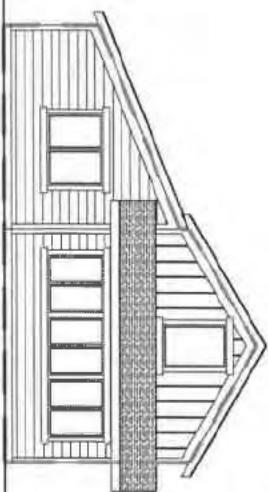
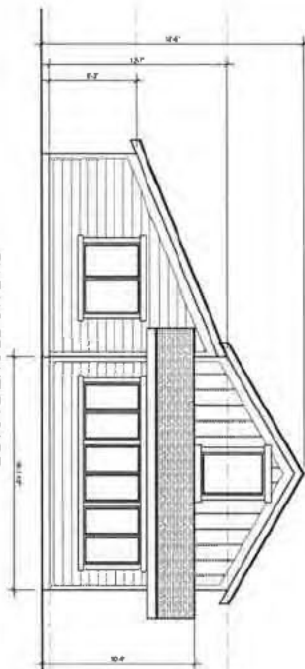
Cc: Sean Mullin
Town Attorney
Alex Anderson

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ATTACHMENT A

To the Town of Los Gatos Planning

Therefore the structure should be moved from the town's inventory because of the previous modifications made to the original structure.



AREA OF FRONT FACADE= 387 SF

AREA OF FRONT FACADE RENOVATED = 175 SF

PERCENTAGE OF FRONT FACADE DEMOLISHED AND RENOVATED: $175/387 = 45\%$

PHOTOS BEFORE THE
DEMOLITION WORK

4 HISTORIC RESOURCES

Notes of Lisa Clark

4

Downloaded from <http://ajphaphysiol.org/>

(1) Amount of more than 25% of the netting being a profit (netting for a loss being a deduction of the profit is a variable fee or a hardship) or 25% of all interest made;

[illegible][illegible]

- Myotome consists of a portion of a single lamella or two lamellae fusing with a connective tissue interlamella

[illegible]

Item	Description	Cost
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City	Provinces	Cost
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A1.1

ATTACHMENT B

5.2.3.3 NRHP Criterion C/CRHR Criterion 3

Originally constructed as a barn, and remodeled significantly as the result of its conversion into a single-family residence, the property at 32 Euclid Avenue no longer possesses a discernable architectural style. It was originally a simple utilitarian building designed for farming. Regardless, the original barn is indiscernible due to multiple renovations undertaken on the building since the second half of the 20th century. These renovations constituted no significant architectural style and resulted in a complete loss of character defining features associated with the original barn. As a converted barn with no significant architectural style, 32 Euclid Avenue does not embody the distinctive characteristics of a type, period, or method of construction or represent the work of a master, or possess high artistic values, or represent a significant and distinguishable entity whose components may lack individual distinction. In addition, the 1990s era storage shed is not the work of a master. Therefore, the property at 32 Euclid Avenue is not eligible for listing in the NRHP/CRHR under Criterion C/3.

5.2.3.4 NRHP Criterion D/CRHR Criterion 4

Originally a barn built in 1900, the property at 32 Euclid Avenue's research potential is expressed in its built form and through data obtained from the historical record as presented in the above Local, Institutional, and Architectural contexts. Therefore, the building does not have potential to yield additional information important in prehistory or history. As a result, 32 Euclid Avenue and its corresponding shed is not eligible for listing in the NRHP/CRHR under Criterion D/4.

Integrity

The property at 32 Euclid Avenue possesses integrity of location, but lacks integrity of setting, design, materials, workmanship, and association. It remains in its original location, but the surrounding area has completely changed from a rural setting to a suburban setting of single-family houses. The original character defining features of the property are no longer present due to extensive renovations that altered the style and structure of the original building which include a complete alteration of the primary façade, an addition to the north elevation, replacement siding, and replacement fenestration.

Regardless of Integrity, 32 Euclid Avenue does not meet NRHP or CRHR eligibility criteria as an individual resource or as part of any known or suspected historic district; the resource is not listed on any Certified Local Government historic property register.

5.2.3.5 Los Gatos Historic Structure**(1) *The structure is not associated with events that have made a significant contribution to the Town;***

32 Euclid Avenue was constructed in 1900 as a barn and originally served the farm that was located on the property. It was one of many barns built in c. 1900 in Santa Clara County during the period in which agriculture was a dominant practice in the area. The barn was not the first or last of its type and is not known to be associated with innovations related to agriculture. After the building's conversion into a

single-family residence in 1941, the significant renovations erased evidence of the building's historic use as a barn. As one of many barns erected in the early 20th century in agricultural period of the Santa Clara Valley and one which no longer conveys its significance of a barn, the property at 32 Euclid Avenue is not eligible for not associated with events that have made a significant contribution to Los Gatos.

(2) No Significant persons are associated with the site;

The property at 32 Euclid Avenue was home to multiple residents, including Ernest and Sarah Robinson until c. 1949, Adeline and Roy Johnson in c. 1950, Carolyn and Christ Broadwell in c. 1960, and Steve and Jerra Rowland in c. 1970. As one of many citizens of Los Gatos, these residents on their own did not shape the overall history of the region. According to archival research, all residents of 32 Euclid Avenue were ordinary citizens who have not made a significant contribution to history. There is nothing in the archival record to suggest that 32 Euclid Avenue is associated with the lives of persons significant in our past. Therefore, the property at 32 Euclid Avenue has no significant persons associated with the site.

(3) There are no distinctive characteristics of type, period or method of construction or representation of work of a master;

Originally constructed as a barn, and remodeled significantly as the result of its conversion into a single-family residence, the property at 32 Euclid Avenue no longer possesses a discernable architectural style. It was originally a simple utilitarian building designed for farming. Regardless, the original barn is indiscernible due to multiple renovations undertaken on the building since the second half of the 20th century. These renovations constituted no significant architectural style and resulted in a complete loss of character defining features associated with the original barn. As a converted barn with no significant architectural style, 32 Euclid Avenue does not embody the distinctive characteristics of a type, period, or method of construction or represent the work of a master, or possess high artistic values, or represent a significant and distinguishable entity whose components may lack individual distinction. In addition, the 1990s era storage shed is not the work of a master. Therefore, the property at 32 Euclid Avenue is not distinctive characteristics of type, period or method of construction or representation of work of a master.

(4) The structure does not yield information to Town history; or

Research on the property at 32 Euclid Avenue yielded no information on Town of Los Gatos history.

(5) The integrity has been compromised such that the structure no longer has the potential to convey significance.

The original character defining features of the property are no longer present due to extensive renovations that altered the style and structure of the original building which include a complete alteration of the primary façade, an addition to the north elevation, replacement siding, and replacement fenestration. Therefore, the integrity of the property at 32 Euclid Avenue has been compromised such that the structure no longer has the potential to convey significance.

State of California — The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary #
HRI #
Trinomial
NRHP Status Code

Other Listings
Review Code

Reviewer

Date

Page 1 of 8

*Resource Name or #: 32 Euclid Avenue

P1. Other Identifier:

*P2. Location: ☐ Not for Publication ☒ Unrestricted

*a. County: Santa Clara

and (P2b and P2c or P2d. Attach a Location Map as necessary.)

*b. USGS 7.5' Quad: Los Gatos Date: 1953 T08S; R01W; Section Land Grant M.D.B.M.

c. Address: 32 Euclid Avenue

City: Los Gatos

Zip: 95030

d. UTM:

e. Other Locational Data:

***P3a. Description:**

The property at 32 Euclid Avenue contains a 1900 converted barn dwelling and a circa 1997 storage shed. The current two-story dwelling is rectangular in plan with an asymmetrical gable roof, gable attic vents, asphalt shingles, and overhanging eaves. It sits on a concrete foundation and consists of a variety of wood siding, including varying widths of board and batten, plywood, and horizontal lapped siding on all elevations. Due to alterations, the dwelling does not exhibit a discernible architectural style. According to previous owner Jerri Rowland, an addition on the primary south elevation in the 1970s consisted of enclosing the front porch, which ECORP confirmed the presence of during the site visit (Rowland 2024). The addition has a shed roof with asphalt shingles, nonoriginal aluminum sliding windows, and a single-leaf door on the west elevation of the addition that provides the main interior access. An addition on the north (rear) elevation which Mrs. Rowland also claims was built in the 1970s served as a laundry room, which ECORP confirmed the presence of during the site visit (Rowland 2024). It has a shed roof with asphalt shingles and clapboard and plywood siding. A single-leaf door on the west elevation of the addition provides interior access. The west wing of the house also appears to be an addition that predates 1970. A fireplace and chimney are located on the southwest corner of this addition. A sliding glass door on the west elevation of this addition also provides interior access. Fenestration consists of two-panel sliding windows, single-hung windows, with a varying mixture of metal, vinyl, and wood sashes. Multiple skylights are located on the roof. The footprint of the original barn at 32 Euclid Avenue is unknown, however, extensive remodeling has altered its appearance and function into a single-family residence.

*P3b. Resource Attributes: HP2. Single family property

*P4. Resources Present: ☒ Building ☐ Structure ☐ Object ☐ Site ☐ District ☐ Element of District ☐ Other (Isolates, etc.)

P5a. Photo or Drawing



P5b. Description of Photo:

Overview of 32 Euclid Avenue
View northeast, January 10, 2023

***P6. Date Constructed/Age and Sources:**

☒ Historic ☐ Prehistoric ☐ Both
1900 (RealQuest)

***P7. Owner and Address:**



***P8. Recorded by:**

Jessica Rebollo
ECORP Consulting, Inc.
2525 Warren Drive
Rocklin, CA 95677

***P9. Date Recorded:**

January 10, 2024

***P10. Survey Type:**

Intensive

***P11. Report Citation:**

ECORP Consulting, Inc. 2023.
Architectural History Evaluation for

32 Euclid Avenue, Los Gatos, Santa Clara County, California, Santa Clara County, California. Prepared for [REDACTED]
Anderson Architects, Inc.

*Attachments: ☐ NONE ☒ Location Map ☐ Sketch Map ☒ Continuation Sheet ☒ Building, Structure, and Object Record ☒
Archaeological Record ☐ District Record ☐ Linear Feature Record ☐ Milling Station Record ☐ Rock Art Record
Artifact Record ☐ Photograph Record ☐ Other (List):

523A (1/95)

*Required information



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 6/12/2024

ITEM NO: 4

DATE: June 7, 2024
TO: Planning Commission
FROM: Gabrielle Whelan, Town Attorney
SUBJECT: Review Proposed Development Agreement Procedures and Recommend Adoption to Town Council.

RECOMMENDATION:

Review proposed development agreement procedures and recommend adoption to Town Council.

BACKGROUND:

Government Code Section 65954 provides that, upon request from an applicant for a planning entitlement that a local jurisdiction adopt development agreement procedures for the processing of development agreements. The Town has received such a request and staff has developed the proposed procedures for review by the Planning Commission. A recommendation from the Planning Commission is required before the proposed development agreement procedures are presented to the Town Council.

DISCUSSION:

A development agreement is a voluntary contract between a local jurisdiction and a person who owns or controls property within the jurisdiction, detailing the obligations of both parties and specifying the standards and conditions that will govern development of the property. Development agreements will often provide for payments or dedications of land in exchange for vesting to current development standards. Jurisdictions are never obligated to enter into development agreements; it is a voluntary agreement that must be of benefit to the jurisdiction.

Government Code Sections 65864 and following, address development agreement requirements. Section 65865 requires that the Town develop and adopt development agreement procedures upon request of an applicant for a planning entitlement. The Town has received a verbal request that the Town adopt development agreement procedures from

Reviewed by: Planning Manager and Community Development Director

DISCUSSION (continued):

counsel for an applicant for a planning entitlement. As a result, Government Code Section 65865 requires that the Town adopt procedures for the consideration and processing of development agreements.

Development agreement procedures typically include the following:

- A Statement of Purpose/Findings Concerning the Public Benefits of Development Agreements;
- Application Requirements;
- Notice and Hearing Procedures;
- Planning Commission and Governing Body Review;
- Recordation Requirements;
- Procedures for Amendment or Termination; and
- Procedures for Periodic Review.

The Town Council discussed potential development agreements in a study session on April 16, 2024, and recommended that, in order to maintain maximum flexibility, development agreements not be limited to specific land uses, projects of a certain size, or projects in which applicants will spend a minimum dollar amount on public infrastructure.

Proposed development agreement procedures are included as Exhibit 1.

CONCLUSION:

Staff recommends that the Planning Commission review the proposed development agreement procedures and make a recommendation of adoption to the Town Council.

ENVIRONMENTAL ASSESSMENT:

Discussion of potential development agreement procedures is not a project subject to CEQA and no environmental assessment is required.

EXHIBITS:

1. Draft Development Agreement Procedures

Draft Development Agreement Procedures

Section 1. Authorization for adoption.

These procedures are adopted under the authority of Government Code Sections 65864 - 65869.5.

Section 2. Authorization.

- (a) The Town may enter into a development agreement with a person having a legal or equitable interest in real property within the Town for the development of the property as provided in these Procedures.
- (b) The Town may enter into a development agreement with a person having a legal or equitable interest in real property in unincorporated territory within the Town's sphere of influence for the development of the property as provided in these Procedures. However, the agreement shall not become operative unless annexation proceedings annexing the property to the Town are completed within the period of time specified by the agreement. If the annexation is not completed within the time specified in the agreement or any extension of the agreement, the agreement is null and void.

Section 3. Application.

Application for a development agreement shall be made to the Community Development Department. An application for a development agreement may not be filed prior to an application for a development project on the same property. The application shall be accompanied by the fee prescribed by the Town fee schedule, established pursuant to the Los Gatos Town Code, and shall be accompanied by the form of development agreement proposed by the applicant. When the application is determined to be complete, the Community Development Director or designee shall, at the applicant's expense, review the application and transmit it, together with staff recommendations, to the Planning Commission.

Section 4. Contents.

A development agreement shall specify:

- (a) The land subject to the agreement;
- (b) The duration of the agreement;
- (c) The permitted uses of the property;
- (d) The density and intensity of use;
- (e) The maximum height and size of proposed buildings; and
- (f) Provisions for reservation or dedication of land for public purposes.

The development agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for subsequent discretionary actions shall not prevent development of the land for the uses and to the density or intensity of development set forth in the agreement. The agreement may provide that construction shall be commenced within a specified time and that the project or any phase thereof be completed within a specified time.

The agreement may also include terms and conditions relating to applicant financing of necessary public facilities in conjunction with the phasing of the development project.

Section 5. Rules, regulations, and official policies.

Unless otherwise provided by the development agreement, rules, regulations, and official policies governing permitted uses of the land, governing density, and governing design, improvement, and construction standards and specifications, applicable to development of the property subject to a development agreement, shall be those rules, regulations, and official policies in force at the time of execution of the agreement. A development agreement shall not prevent the Town, in subsequent actions applicable to the property, from applying new rules, regulations, and policies which do not conflict with those rules, regulations, and policies applicable to the property as set forth in the development agreement, nor shall a development agreement prevent the Town from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations, and policies.

Section 6. Public hearing and notice of intention to consider adoption.

A public hearing on an application for a development agreement shall be held by the Planning Commission and by the Town Council. Notice of intention to consider adoption of a development agreement shall be given as provided in California Government Code Sections 65090 and 65091, and Los Gatos Town Code Sections 29.20.560 and following, in addition to any other notice required by law for other actions to be considered concurrently with the development agreement.

Section 7. Legislative act.

A development agreement is a legislative act which shall be approved by ordinance and is subject to referendum. This resolution only establishes procedures for consideration of development agreements; the Town Council retains discretion to approve or disapprove any proposed development agreement. A development agreement shall not be approved unless the Town Council finds that the provisions of the agreement:

- (a) Are consistent with the Town's General Plan and any applicable Specific Plan;
- (b) Are compatible with the requirements of the Zoning Ordinance; and

- (c) Provide substantial public benefits to persons residing or owning property outside the boundaries of the development project, beyond the exactions for public benefits required in the normal development review process under Federal, State, or local law.

Section 8. Amendment or termination.

- (a) Periodic review. The Planning Commission shall, at the applicant's expense, review the development agreement at least every 12 months, at which time the applicant or successor in interest thereto, shall be required to demonstrate good faith compliance with the terms of the agreement. If, as a result of such periodic review, the Planning Commission determines that, on the basis of substantial evidence, the agreement has been complied with in good faith, such decision shall be subject to appeal in accordance with procedures set forth in Los Gatos Town Code Section 29.20.275 and following. If, as a result of such periodic review, the Planning Commission determines that, on the basis of substantial evidence, the agreement has not been complied with in good faith, or that the failure of the Town to terminate or modify the provisions of the development agreement would place the residents of the territory subject to the development agreement, or the residents of the Town, or both, in a condition dangerous to their health or safety, or both, the Town Council shall hold a public hearing to consider terminating or modifying the agreement. Notice of such hearing shall be given as set forth in Section 6 of these Procedures. If the Town Council determines, on the basis of substantial evidence, that the applicant or successor in interest thereto has not complied in good faith with the terms or conditions of the agreement, or that the failure of the Town to terminate or modify the provisions of the development agreement would place the residents of the territory subject to the development agreement, or the residents of the Town, or both, in a condition dangerous to their health or safety, or both, the Town Council may terminate or modify the agreement.
- (b) Mutual consent. A development agreement may be amended or canceled, in whole or in part, by mutual consent of the parties to the agreement or their successors in interest. Notice of a public hearing regarding an intention to amend or cancel any portion of the agreement shall be given and held in the manner provided in Section 6 of these Procedures. An amendment to a development agreement shall be subject to the provisions of Section 7 of these Procedures.
- (c) State or Federal laws and regulations. In the event that State or Federal laws or regulations, enacted after a development agreement has been entered into, prevent or preclude compliance with one or more provisions of the development agreement, such provisions of the agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws and regulations.

Section 9. Enforcement.

Unless amended or terminated pursuant to Section 8 herein, a development agreement shall be enforceable by any party thereto, notwithstanding any change in any applicable General Plan or Specific Plan, Zoning, subdivision, or building regulation adopted by the Town, which alters or amends the rules, regulations, or policies specified in Section 5 herein.

Section 10. Execution and Recordation.

- (a) No development agreement shall be executed by the Mayor until it has been executed by the applicant. If the applicant has not executed the development agreement, as approved by the Town Council, within 30 days of the Town Council approval, the application for the development agreement shall be deemed withdrawn, and the Mayor shall not execute the development agreement.
- (b) No later than 10 days after the Town enters into a development agreement, the Town shall record with the County Recorder a copy of the development agreement, which shall describe the land subject thereto. From and after the time of such recordation, the development agreement shall impart such notice thereof to all persons as is afforded by the recording laws of this State. The burdens of the development agreement shall be binding upon, and the benefits of the development agreement shall inure to, all successors in interest to the parties to the development agreement.