



**TOWN OF LOS GATOS  
PLANNING COMMISSION AGENDA  
MAY 14, 2025  
110 EAST MAIN STREET  
TOWN COUNCIL CHAMBERS  
7:00 PM**

*Emily Thomas, Chair*  
*Kendra Burch, Vice Chair*  
*Jeffrey Barnett, Commissioner*  
*Susan Burnett, Commissioner*  
*Joe Sordi, Commissioner*  
*Steven Raspe, Commissioner*  
*Rob Stump, 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](http://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/84581980917?pwd=HBC1JDVAnlv95RNwWbWOUU0PKq949O.1> Passcode: 943933. You can also type in 845 8198 0917 in the "Join a Meeting" page on the Zoom website at <https://zoom.us/join> and use passcode 943933.
  - 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) 402-9753 for US Toll-free or (636) 651-3141 for US Toll. (Conference code: 602463). 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 [planning@losgatosca.gov](mailto:planning@losgatosca.gov) with the subject line "Public Comment Item #\_\_" (insert the item number relevant to your comment).

(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 business day 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.

## MEETING CALL TO ORDER

## ROLL CALL

## PLEDGE OF ALLEGIANCE

**VERBAL COMMUNICATIONS** *(Members of the public may address the Commission on matters not listed on the agenda and are within the subject matter jurisdiction of the Commission. 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 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 April 23, 2025 Planning Commission Meeting
- [2.](#) Draft Minutes of the April 30, 2025, Special Planning Commission Meeting
- [3.](#) Consider an Appeal of a Community Development Director Decision to Deny a Fence Exception Request for an Existing Fence Partially Located in the Town's Right-of Way and Exceeding the Height Limitations within the Required Front Yard and Street-Side Yard Setbacks on Property Zoned R-1D. **Located at 10 Charles Street.** APN 532-36-022. Categorically Exempt Pursuant to CEQA Guidelines Section 15303: New Construction or Conversion of Small Structures. Fence Height Exception Application FHE-23-001. Property Owner/Applicant/Appellant: Firouz Pradhan. Project Planner: Sean Mullin.

**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.)*

- [4.](#) Consider Making a Recommendation to the Town Council on an Ordinance Amending Chapter 29 (Zoning Regulations) of the Town Code for Senate Bill 9 (SB 9) in Response to the Provisions of Senate Bill 450 (SB 450). The Proposed Amendments to the Town Code Are Not Considered a Project Under Section 15378 of the California Environmental Quality Act, and in Accordance with Government Code Section 66411.7(n) and 66452.21(g), Senate Bill 9 Ordinances Are Not a Project Subject to the California Environmental Quality Act. Town Code Amendment Application A-25-002. **Project Location: Town Wide.** Applicant: Town of Los Gatos.

## OTHER BUSINESS

- [5.](#) Forward a Recommendation of Approval to the Town Council for the Draft Proposed Capital Improvement Program (CIP) Budget for Fiscal Years (FY) 2025/26 – 2029/30.

## 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].

**NOTE** The ADA access ramp to the Town Council Chambers is under construction and will be inaccessible through June 2025. Persons who require the use of that ramp to attend meetings are requested to contact the Clerk's Office at least two (2) business days prior to the meeting date.

**NOTICE REGARDING SUPPLEMENTAL MATERIALS** Materials related to an item on this agenda submitted to the Planning Commission after initial distribution of the agenda packets are available for public inspection at Town Hall, 110 E. Main Street, Los Gatos and on the Town's website at [www.losgatosca.gov](http://www.losgatosca.gov). Planning Commission agendas and related materials can be viewed online at <https://losgatos-ca.municodemeetings.com/>.

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

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**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 05/14/2025

ITEM NO: 1

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**DRAFT  
MINUTES OF THE PLANNING COMMISSION MEETING  
APRIL 23, 2025**

The Planning Commission of the Town of Los Gatos conducted a Regular Meeting on Wednesday, April 23, 2025, at 7:00 p.m.

**MEETING CALLED TO ORDER AT 7:00 PM**

**ROLL CALL**

Present: Vice Chair Kendra Burch, Commissioner Jeffrey Barnett, Commissioner Susan Burnett, Commissioner Steve Raspe, Commissioner Rob Stump

Absent: Chair Emily Thomas

**PLEDGE OF ALLEGIANCE**

**VERBAL COMMUNICATIONS**

Eli Robus

- I'm a field representative for Carpenters Union Local 405 and I'm here to address the need for labor standards in upcoming Los Gatos projects. Construction is a dangerous occupation and it is concerning that health care is often not guaranteed for workers. Another essential labor standard that should be considered is requirements to hire workers from an accredited apprenticeship program.

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

- 1. Approval of Amended Minutes – April 9, 2025**
2. Consider making a recommendation to the Town Council on an ordinance amending Chapter 29 (Zoning Regulations) of the Town Code for Senate Bill 9 (SB 9) in response to the provisions of Senate Bill 450 (SB 450). The proposed amendments to the Town Code are not considered a project under section 15378 of the California Environmental Quality Act, and in accordance with Government Code Section 66411.7(n) and 66452.21(g), Senate Bill 9 ordinances are not a project subject to the California Environmental Quality Act. Town Code Amendment Application A-25-002. **Project location: Town wide.** Applicant: Town of Los Gatos.

**Director Paulson indicated there were two speaker cards for Item 3, 10 Charles Street, to be pulled.**

**Item 3 was pulled from the Consent Calendar.**

**MOTION:**                    **Motion by Commissioner Raspe to approve adoption of the Consent Calendar with the exception of Item 3. Seconded by Commissioner Stump.**

**VOTE:**                    **Motion passed unanimously.**

## **PUBLIC HEARINGS**

### **3. 10 Charles Street**

Fence Height Exception Application FHE-23-001

APN 532-36-022

Property Owner/Applicant/Appellant: Firoz Pradhan

Project Planner: Sean Mullin

Consider an appeal of a Community Development Director decision to deny a fence exception request for an existing fence partially located in the Town's right-of-way and exceeding the height limitations within the required front yard and street-side yard setbacks on property zoned R-1D. Categorically exempt pursuant to CEQA Guidelines Section 15303: New Construction or Conversion of Small Structures.

Director Paulson indicated that Item 3 was requested to be continued, but before continuing the item the Commission would hear from two public speakers.

Opened Public Comment.

Kevin Chesney

- I am the owner of 2 Charles Street. I expressed my concerns last time. Like my neighbor, Kent Anderson, I was unaware of the violation the Town raised with respect to the fence until the appeal. We tried to work with my neighbor as far back as 2022 to address my concerns, telling him I thought it was unsafe, but he built the fence. My other neighbor, Matthew Daily, who also objected, would be here if he were not traveling.

Kent Anderson

- I live across the street from the appellant and would witness an accident there almost once a month. That's one of the busiest places in Los Gatos, people go through there fast, and probably hundreds of children walk by there from 8:00am-8:30am. Vehicles cannot stop at the stop sign, as they must roll past the stop sign line, which is into the crosswalk, in order

to see around the corner. This is a serious hazard. Additionally, the appellant's lattice work does not meet code to be only 20percent obscured; his is probably double that.

Closed Public Comment.

Commissioners discussed the matter.

**MOTION:**                    **Motion by Commissioner Raspe** to continue the public hearing for Item 3, 10 Charles, to the first available date certain. **Seconded by Commissioner Barnett.**

**The Maker of the Motion amended the motion to a date certain of May 14, 2025.**

**The Seconder of the Motion accepted the amendment to the motion.**

**VOTE:**                    **Motion passed unanimously.**

**4. 16548 Ferris Avenue**

Conditional Use Permit U-25-002

APN 532-07-127

Applicant: Rekha Mundkur, Mariposa Montessori School

Property Owner: Faith Lutheran Church

Project Planner: Maria Chavarin

Consider a request for approval to modify an existing Conditional Use Permit for an increase in the hours of operation in a nursery school (Mariposa Montessori School) on property zoned R-1:8. Categorically exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15301: Existing Facilities.

Maria Chavarin, Planning Technician, presented the staff report.

Opened Public Comment.

Minal Singh

- I'm the President of the Board of Directors for the Mariposa Montessori School, and we have our Executive Director, Rekha Mundkur, here as well. We are essentially extending our aftercare hours to meet the needs of parents who have requested this.

Closed Public Comment.

Commissioners discussed the matter.

**MOTION:**                    **Motion by Commissioner Burnett** to approve a Conditional Use Permit for 16548 Ferris Avenue. **Seconded by Commissioner Stump.**

**VOTE:**                    **Motion passed unanimously.**

**5. 16511 Cypress Way**

Architecture and Site Application S-24-045

APN 532-24-004

Applicant: Michael Harris

Property Owners: Jackie and Scott Kolander

Project Planner: Suray Nathan

Consider a request for approval to demolish an existing accessory structure and construct a new accessory structure exceeding 1,000 square feet in gross floor area, and site improvements requiring a Grading Permit on property zoned HR-2½. Exempt pursuant to CEQA Section 15303(a): New Construction or Conversion of Small Structures.

Suray Nathan, Assistant Planner, presented the staff report.

Opened Public Comment.

Michael Harris, Applicant

- I am the architect for the Kolanders. We are replacing the two-car garage with a three-car garage in the same place. The materials and colors are designed to match the existing house. The garage cannot be seen from the street, and from the back there is the bulk of the roof, which meets the LRV requirements. The southeast corner of the garage is steep, and in order to maintain the same garage level without having to redo the driveway or its approach, we have to do extra grading at that corner. Being that the site is in a high fire severity zone, we have gone through the alternate means and methods with the County Fire Department and received approval.

Closed Public Comment.

Commissioners discussed the matter.

**MOTION:**                    **Motion by Commissioner Barnett** to deny an Architecture and Site Application for 16511 Cypress Way. **Seconded by Commissioner Stump.**

**VOTE:**                    **Motion passed 4-1 with Commissioner Raspe dissenting.**



**Vice Chair Burch indicated that she would recuse herself from participating in the public hearing for Item 6, 15349-15367 Los Gatos Boulevard.**

**6. 15349-15367 Los Gatos Boulevard**

Architecture and Site Application S-24-015

Conditional Use Permit U-24-006

Subdivision Application M-24-008

APNs 424-19-048 and 424-19-049

Applicant: City Ventures

Property Owner: Jonathan Peck

Project Planner: Sean Mullin

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. 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.

Joel Paulson, Community development Director, presented the staff report.

Opened Public Comment.

Pamela Nieting, Applicant

- I am Vice President at City Ventures, a Bay Area builder focused on infill developments and developments close to transit as part of our core belief in creating partnerships with municipalities. Our project is for 55 townhomes that provide eight below market rate units, four low AMI units, and four moderate units. The live/work units are along Los Gatos Boulevard, and the project would have two access points plus a parking lot. The existing site only has access to Los Gatos Boulevard, but now it would be off Garden Lane. The project would have access to VTA. Also included is a bulb-out at Garden Lane to access Oak Hill Park kitty-corner to the site.

James Paulson

- I live at 253 Oakdale Drive, the corner directly across from the back of this proposed addition. We go down to the playlot with our grandchildren all the time, and one of our concerns is obviously traffic. Garden Lane is a back way for everyone to get through our neighborhood, so this project will impact us if it goes through. The street already has a huge amount of parking issues from the many employees of local businesses parking there, so we're concerned about a big increase in traffic. There are 15 SB 330 projects in Los Gatos

coming up. What used to be a nice neighborhood is now turning into an urban environment, which we don't want.

Karen Yamamoto

- I live off Benedict Lane, which is right off Garden Lane. This SB 330 build should not be approved right now; we want the SB 330 builds all together when the Planning Commission decides what to do, because they will have a big impact on us. This project needs to be put on hold, not approved right away, and the Planning Commission should take CEQA into consideration. All these constructions need to be analyzed by CEQA and looked at as a whole, not as individual projects.

Lee Fagot

- Ms. Yamamoto made good points about considering this development in the context of all the other developments being proposed along Los Gatos Boulevard, and then make a judgement. The Boulevard is facing some issues of the water table underneath that area, and it lies along a series of earthquake fault zones. Other infrastructure concerns include sewage, water, electricity, etc. This building is only 5-8 feet back from the street, and then goes up 45', it doesn't look like anything in Los Gatos

Pamela Nieting, Applicant

- We hired some of the best engineers to thoroughly look at capacity, sizing, etc. We did a lot of geotechnical studies, and we also are following and abiding by the AP Act. We had two different types of geotechnical engineers to make sure that we had the correct findings about the earthquake faults that are in the area. With regard to CEQA, the project is looked at individually and within the context of the Housing Element. We not only did the Vehicle Miles Travels and Level of Service, but also driveway counts along Garden Lane, specifically for the different concerns of the neighbors. For the last two weeks I've come at different hours of the day to kind of see what traffic patterns are, and there is different traffic patterns based on the end use, meaning if it's residential versus commercial, but we care about the neighbors on Garden Lane, so we did that.

Closed Public Comment.

Commissioners discussed the matter.

**MOTION:**

**Motion by Commissioner Raspe** to approve an Architecture and Site application, Conditional Use Permit, and Subdivision application for 15349-15367 Los Gatos Boulevard, subject to recommendation for the applicant to work with staff on the consulting architect recommendations for design elements, and recommending the Town Council direct staff to develop a method to study the cumulative impacts of the SB 330 projects, including this project.

Commissioners discussed the matter.

Opened Public Comment

Applicant answered Planning Commission questions.

Closed Public Comment

**Seconded by Commissioner Barnett.**

**VOTE:**                      **Motion passed unanimously.**

#### **REPORT FROM THE COMMUNITY DEVELOPMENT DEPARTMENT**

Joel Paulson, Director of Community Development

- None.

#### **SUBCOMMITTEE REPORTS/COMMISSION MATTERS**

##### **Historic Preservation Committee**

Commissioner Burnett

- The HPC met on April 23, 2025:
  - o Reviewed three requests to remove a home from the historic inventory. One item was granted, and the other two items will be returning to the HPC.
  - o A review for exterior alteration and construction of a second story addition.
  - o Discussed landmark designations.

#### **ADJOURNMENT**

The meeting adjourned at 9:38 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the April 23, 2025 meeting as approved by the Planning Commission.

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/s/ Vicki Blandin

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**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 05/14/2025

ITEM NO: 2

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**DRAFT  
MINUTES OF THE PLANNING COMMISSION SPECIAL MEETING  
APRIL 30, 2025**

The Planning Commission of the Town of Los Gatos conducted a Special Meeting on Wednesday, April 30, 2025, at 7:00 p.m.

**MEETING CALLED TO ORDER AT 7:00 PM**

**ROLL CALL**

Present: Chair Emily Thomas, Vice Chair Kendra Burch, Commissioner Jeffrey Barnett, Commissioner Rob Stump

Absent: Commissioner Susan Burnett, Commissioner Steve Raspe

**PLEDGE OF ALLEGIANCE**

**VERBAL COMMUNICATIONS**

None.

**PUBLIC HEARINGS**

**1. 14859, 14917, 14925, 16392 Los Gatos Boulevard; 16250, 16260, 16270 Burton Road; and Assessor Parcel Number 424-07-116**

Architecture and Site Application S-23-031

Subdivision Application M-23-005

APNs 424-07-000, -052, -053, -081, -094, -095, -115, and -116

Applicant: Grosvenor Property Americas c/o Steve Buster

Property Owner: Yuki Farms LLC

Project Planner: Jocelyn Shoopman

Consider a request to construct a mixed-use residential development (450 units), a Vesting Tentative Map, site improvements requiring a Grading Permit, and removal of large, protected trees under Senate Bill 330 (SB 330) on property zoned North Forty Special Plan: Housing Element Overlay Zone.

Jocelyn Shoopman, Senior Planner, presented the staff report.

Opened Public Comment.

Steve Buster, Applicant

- I'm Senior Vice President of Development for Grosvenor. In 2021, we turned our attention to Phase II and began an extensive community engagement process. By January 2023, the Town's Housing Element and CEQA analysis were adopted, redesignating the site to 30 to 40 dwelling units per acre. Our application was deemed complete in April 2025, and in July 2024 HCD certified the Town's Housing Element. The Town's RHNA requirement is 1,993 units and the Town looks to the North Forty site to accommodate a significant portion of those units. We have designed a project that meets the Town's needs and is consistent with the Town's Housing Element. The project's impacts are within the scope of the 2040 General Plan EIR, which the Town relied upon when adopting the Housing Element. Grosvenor is not invoking Builder's Remedy. This application meets the Town's land use and density approved in the Housing Element. We planned the site to provide over eight acres of open space, a retail promenade, pedestrian and bike connections, a potential future extension of Burton Road, and 450 homes with 127 townhomes, and a mix of sizes and bedroom counts. The project provides 77 units of affordable housing, 67 of which will be built by our partner, Eden Housing, and Grosvenor is making a significant land donation to Eden to make that project possible. Lastly, 250 units, including 10 affordable, will be delivered in the multi-family rental building, also with a variety of sizes and unit types; the building was designed and placed along Los Gatos Boulevard to preserve hillside views from Highway 17.

Gia Pham

- I am the Communications Coordinator at Housing Choices, a non-profit that helps people with intellectual and developmental disabilities (IDD) find and retain housing. We support the North Forty Phase II project. This project includes about 16 homes for people with IDD, but it provides more than housing, it integrates these residents into the broader community. These units are all in the affordable housing building, but it is integrated into the entire plan, and without affordable options like this, many face homelessness. Without projects like North Forty Phase II, the housing crisis will keep leaving those with disabilities behind.

Blake Thomas

- I live at 16210 Escobar Avenue. I speak in strong support of this development. It provides hundreds of desperately needed homes. Our inability to build new homes is a chief cause of the housing crisis issues in Los Gatos, and denser, multi-family developments like this ease affordability and play a vital role in funding Town services. This project creates no unique traffic or safety concerns, which have been issues in this Town for years and likely will still be if this development is built, but this development will provide tax revenue to fund pedestrian, bike, and transit infrastructure.

Katherine Mancuso

- I live at 14287 Mulberry Drive and I grew up here, but my 28-year-old son, who has intellectual disabilities and lives independently, has to live in Santa Clara, where he was

able to qualify for housing. It would be fantastic if he could live in Los Gatos where he has friends, his doctors and dentist, and his grandmother. He would be able to walk to my house from this development.

Jan Olson

- I live at 15189 Lester Lane. Sadly, North Forty Phase I did not become what was promised and in most peoples' opinion does not fit the look and feel of Los Gatos. I am here today due to Housing Choices and the need to have at least 16 units, if not more, designated for adults with intellectual and development disabilities. My 36-year-old daughter was diagnosed with autism at age 17 and loves living in the community. Designating 16 units for adults with IDD will provide local housing for our kids to live independently near their families, jobs, and services; support stability and community inclusion; and help Los Gatos meet its Housing Element goals and avoid Builder's Remedy.

Michelle Capriotti

- I am a mother of four and a special education teacher of 23 years. I am here to speak of the need to include all students in our community. Our youngest son, Christopher, is a 20-year-old man with autism and an intellectual disability. The North Forty Phase II development could someday be his home. My son just attended a job fair, and wants to stay in this area where he is close to his family and friends and has access to transportation. I want to set my son up for the success he is capable of, given the opportunity, and this housing program would provide that opportunity.

Chris Capriotti

- This housing project is important to me because it has good apartments that I could maybe move into after I finish college. I'd be close to family and friends while living independently and working, and that would be a huge positive impact on my life and the lives of many others like me. Thank you for your time and I hope you build these apartments for our community.

John Capriotti

- I'm also in strong support of this. As a realtor I understand the need for affordable housing, and especially the need for housing for individuals with developmental disabilities. 16 units is a good number to start with, but obviously we need a lot more than that. As parents, we just want to give our kids a chance to become everything they can be. I'm very proud of Christopher, and he was very nervous coming up here today, but he's a kid who tackles things head on, and having the opportunity to live on his own in a community where he could work, is one of the things that makes Los Gatos special.

Noa Sklar

- My younger daughter is autistic, and she is now graduating on the Dean's List, and now is an opportunity for developmentally disabled people to be independent, so we definitely need housing units for special needs. 16 units is a joke and there should be more. When we

first started to hear about the North Forty, all you could hear was “affordable housing.” Where is the affordable housing? All I see are million-dollar apartments at the North Forty. I need my daughter to live near me, and not in Santa Clara or Cupertino. She will probably never be able to earn enough to live in Los Gatos, but she deserves to.

Sara Grignon

- I am a director at Hope Services, a service provider for people with intellectual and developmental disabilities. I support the North Forty development, particularly for the inclusion of affordable housing and designated units for adults with IDD. Hope Services provides independent living skills training, and supported living, for people who live independently in their own apartments; anywhere from drop-ins to a couple hours a week, to 24-hour support. Many of the families we support live in Los Gatos and are looking for places in the community that their adult children can call home. These people grew up here, attended school here, and now deserve the opportunity to thrive in their hometown.

Lee Quintana

- There is opposition because of the building heights, but consider that this an SB 330 application; it is not Builder's Remedy; that it is located on a Housing Element site, which requires a minimum of 30 units per acre, and this barely meets that requirement. There are only two ways to decrease building height: 1) Get rid of the podium parking and put it elsewhere on-site; or 2) Reduce the number of units, putting them elsewhere on-site. The only way to do either would be to occupy some of the open space, which is one of the strong points of this proposal, so neither of those solutions would be supported by the community. I've been involved with the North Forty since the beginning, and I hope it does not take another 10 to 15 years to get this project through. I support approving this project as quickly as possible.

Dennise Jauregui

- I am the Executive Director of Housing Choices and strongly support the North Forty project, particularly the inclusion of IDD units. The lack of access to affordable housing is the number one reason adults with developmental disabilities are unable to move out of the family home and live independently. I hope you will consider moving this project forward.

Shiva Risi (phonetic)

- One argument that has stood out was the promise of commercial prosperity with the North Forty Phase II, but if Phase I is any indication, that ground level commercial area has been vacant for over two years, and the parking lot was unfinished for a very long time. Is there any safeguard that these promises will actually materialize? I don't think 16 units would support the IDD community's needs, and is there any guarantee these will not become more multi-million-dollar units with minimal affordable housing?



Pamela Emanuel

- I am a retired person who has lived in the Phase I housing since it first opened. If it were not for the Phase I project, I would not be able to live in this community, and it is a blessing to be able to live in this community near my family in below market housing. I would like to see more affordable housing so people can live here, and not on the street or in their cars. I also have a child with a disability, and I worry about him, but affordable housing would remedy that.

Karen Yamamoto

- I'm a retired special education teacher. I have a problem with this development for several reasons. I love the IDD element, I love the affordable housing, and it has a lot of good things going for it, but my issue is that it is part of the SB 330 build and will create infrastructure issues. It should be included with the EIR as a cumulative effect with the rest of the SB 330 projects. This should not be looked at individually, but rather looked at as a whole. There are 14 SB 330 projects that are going to play havoc with the infrastructure and be extremely costly for the Town. How will the developer guarantee that they will fix the sewer and water issues and not just tap into them, like in Phase I, which caused sewage to back up into our houses off of Benedict Lane. I also have low water pressure at my house because of Phase I. I'm also concerned they would put a facility for the IDD community on a flood zone and earthquake zone. How does that pass CEQA?

Ali Sapirman

- I am here on behalf of the Housing Action Coalition, a nonprofit that supports housing at all income levels, to express our strong support of the North Forty Phase II project. The project is thoughtfully designed around The Meadow, a 3.5-acre public gathering space that connects homes, retail, and open space. The development team has prioritized bike and pedestrian connections, a balanced parking plan, and transportation demand strategies to reduce car dependency. We are also encouraged by the project's environmental leadership. This proposal reflects years of community engagement with real input shaping the design and redesign to meet the Housing Element targets. The project offers broad public benefit, and we urge the Planning Commission to support North Forty Phase II.

Jennifer Lucas

- I am the Manager of the Central Coast Office of the California State Council on Developmental Disabilities and want to express our strong support for the North Forty Phase II development, in particular the inclusion of affordable housing and the designated units for adults with intellectual developmental disabilities. Many families are grappling with the difficult decision of what will happen to their adult children with disabilities when they are no longer able to provide care? And those adult children want the opportunity, as we all do, to live in their own home. Having low-income units also provides housing for the direct care staff who support people with IDD and have difficulty living in the area due to low wages.

Lee Fagot

- I am encouraged to hear the development proposal, because in Phase II I think the more affordable housing units and the assisted living type of facilities would be very important. My concern though is the fact that we don't yet have the Environmental Impact Report for this development yet, and we also need to look at it under the CEQA guidance, which summarized the impact of not just this development, but those along and near this same development. There will be more than 1,000 housing units along Los Gatos Boulevard, many built under SB 330, and the Town has to consider the impact that will have on this development and the existing residents in that neighborhood in the form of water issues, sewage issues, and other utility service requirements that have to be remedied, and this should be done in advance of the building or as part of the development.

Rich Stephens

- I live on Benedict Lane, and I love that this is not using Builder's Remedy. I support the project, but would like to add that I don't like the five to seven story buildings at all and am terrified at the safety, infrastructure, and height of them, but at least they are similar to the other North Forty characteristics and to buildings in that area. I share Karen Yamamoto's and Lee Fagot's concern and believe we must do a full and complete EIR and consider CEQA before any of these projects are approved. Traffic on Los Gatos Boulevard towards Good Samaritan is already horrible, and I believe there is an area of that North Forty area that floods already with rain, so what will be done about those types of things?

Steve Buster, Applicant

- All our consultants are here to answer your questions. I want to reassure everyone that this project's individual and cumulative impacts are within the scope of the 2040 General Plan EIR, which the Town relied upon when they passed the Housing Element.

Closed Public Comment.

Commissioners discussed the matter.

1. **MOTION:**      **Motion by Commissioner Barnett** to continue the public hearing for 14859, 14917, 14925, 16392 Los Gatos Boulevard; 16250, 16260, 16270 Burton Road; and Assessor Parcel Number 424-07-116 to a date uncertain. **Seconded by Vice Chair Burch.**

**VOTE:**                      **Motion passed unanimously.**

**ADJOURNMENT**

The meeting adjourned at 9:27 p.m.

This is to certify that the foregoing is a true  
and correct copy of the minutes of the  
Special April 30, 2025 meeting as approved by the  
Planning Commission.

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/s/ Vicki Blandin

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**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 05/14/2025

ITEM NO: 3

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DATE: May 9, 2025  
TO: Planning Commission  
FROM: Joel Paulson, Community Development Director  
SUBJECT: Consider an Appeal of a Community Development Director Decision to Deny a Fence Exception Request for an Existing Fence Partially Located in the Town's Right-of Way and Exceeding the Height Limitations within the Required Front Yard and Street-Side Yard Setbacks on Property Zoned R-1D. **Located at 10 Charles Street.** APN 532-36-022. Categorically Exempt Pursuant to CEQA Guidelines Section 15303: New Construction or Conversion of Small Structures. Fence Height Exception Application FHE-23-001. Property Owner/Applicant/Appellant: Firouz Pradhan. Project Planner: Sean Mullin.

**RECOMMENDATION:**

On April 23, 2025, the Planning Commission continued consideration of this appeal to the May 14, 2025 meeting. The applicant has informed staff that they are not available to attend the May 14, 2025 meeting due to previously arranged travel plans and requested a continuance to the next meeting. Staff recommends that the Planning Commission continue consideration of the appeal to a date certain of May 28, 2025.

**PREPARED BY:** SEAN MULLIN, AICP  
Planning Manager

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Reviewed by: Community Development Director

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**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 05/14/2025

ITEM NO: 4

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DATE: May 9, 2025  
TO: Planning Commission  
FROM: Joel Paulson, Community Development Director  
SUBJECT: Consider Making a Recommendation to the Town Council on an Ordinance Amending Chapter 29 (Zoning Regulations) of the Town Code for Senate Bill 9 (SB 9) in Response to the Provisions of Senate Bill 450 (SB 450). The Proposed Amendments to the Town Code Are Not Considered a Project Under Section 15378 of the California Environmental Quality Act, and in Accordance with Government Code Section 66411.7(n) and 66452.21(g), Senate Bill 9 Ordinances Are Not a Project Subject to the California Environmental Quality Act. Town Code Amendment Application A-25-002. **Project Location: Town Wide.** Applicant: Town of Los Gatos.

**RECOMMENDATION:**

Forward a recommendation to the Town Council for approval of amendments to Chapter 29 (Zoning Regulations) of the Town Code for Senate Bill 9 (SB 9) in response to the provisions of Senate Bill 450 (SB 450).

**CEQA:**

In accordance with California Environmental Quality Act (CEQA) Guidelines Section 15378, these proposed ordinance amendments are not a project subject to CEQA because the proposed amendments affect processing of applications only and will not impact the physical environment. Additionally, in accordance with Government Code Section 66411.7(n) and 66452.21(g), SB 9 ordinances are not a project subject to CEQA.

**PREPARED BY:** Ryan Safty  
Associate Planner

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

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FINDINGS:

- In accordance with CEQA Guidelines Section 15378, these proposed ordinance amendments are not a project subject to CEQA because the proposed amendments affect processing of applications only and will not impact the physical environment. Additionally, in accordance with Government Code Section 66411.7(n) and 66452.21(g), Senate Bill 9 ordinances are not a project subject to CEQA; and
- The amendments to Chapter 29 of the Town Code are consistent with the General Plan.

BACKGROUND:

In September 2021, Governor Newsom signed new State law, SB 9, which went into effect on January 1, 2022. SB 9 requires ministerial approval of certain housing development projects and lot splits on a single-family zoned parcel, with the intent to increase residential densities within single-family neighborhoods across the State.

The law allowed for two new types of development activities that must be reviewed ministerially without any discretionary action or public input:

- **Two-unit housing development** – Two homes on an eligible single-family residential parcel (whether the proposal adds up to two new housing units or adds one new unit on a parcel with an existing single-family residence).
- **Urban lot split** – A one-time subdivision of an existing single-family residential parcel into two parcels. This would allow up to four units (two units on each new parcel).

On December 21, 2021, Town Council adopted an Urgency Ordinance to implement local objective standards for SB 9 applications. On November 15, 2022, Town Council approved Ordinance 2334, which established the permanent SB 9 Ordinance within Chapter 29 (Zoning Regulations) of the Town Code. On May 21, 2024, Town Council approved Ordinance 2359 (Exhibit 2), which included modifications to the previous ordinance to modify design review standards and make clarifying revisions. Ordinance 2359 is the Town's current SB 9 Ordinance.

In September of 2024, Governor Newsom signed new State law, Senate Bill 450 (SB 450), which went into effect on January 1, 2025 (Exhibit 3). SB 450 updates and expands the required provisions of SB 9. The SB 450 updates are summarized as follows, and additional details are provided in the Discussion Section of this report below.

1. Limitation on the imposition of standards on SB 9 projects unless they apply uniformly to development within the underlying zone;
2. Clarification on the amount of demolition allowed to an existing residence that had previously been rented;
3. Specification on timelines for local agency processing of SB 9 applications; and
4. Modification to the SB 9 denial finding for "specific adverse impact."



DISCUSSION:

Staff has prepared draft amendments to the Town's SB 9 regulations in Exhibit 4, which includes a track-changes version (with removed text shown in strike-through text and new text shown underlined) of the current SB 9 Ordinance. The proposed amendments are either in direct response to SB 450, or are considered clean-up amendments that staff has identified since the last time the SB 9 Ordinance was amended in May of 2024.

A. Senate Bill 450 Changes

The most impactful change from SB 450 is that local jurisdictions can no longer adopt specific zoning, subdivision, or design standards for SB 9 projects that are not uniformly applicable to development in the underlying (single-family) zoning district. SB 450 also introduced other revisions to the original SB 9 law, including: clarified standards on the amount of demolition allowed to an existing residence that had previously been rented; new processing timelines; and modified denial findings. Each of these four categories (design standards; demolition; processing timelines; denial findings) are detailed below, with an explanation on staff's proposed changes.

1. Design Standards: Previous SB 9 law allowed jurisdictions to adopt objective zoning, subdivision, and design standards for two-unit development and urban lot split applications so long as they would not preclude the construction of two, 800-square foot units with four-foot reduced side and rear setbacks. The Town's current SB 9 Ordinance includes a Design Review Standards section applicable for two-unit development applications [Exhibit 2, Town Code Section 29.10.630(2)]. Since SB 9 applications require ministerial review and allow for reduced side and rear setbacks, the standards were created with the intent of protecting neighbor privacy and enforcing some of the Town's residential guidelines to encourage orderly development.

The most significant change from SB 450 is that it now prohibits the Town from adopting specific zoning, subdivision, or design standards for SB 9 projects that are not uniformly applicable to development in the underlying (single-family) zoning district. However, the Town may adopt objective zoning, subdivision, and design standards on SB 9 applications if those standards are more permissive than applicable standards within the underlying zone.

Staff's proposed edits in Exhibit 4 would remove the majority of the design standards applicable to two-unit housing developments as they are not uniformly applicable to development in the underlying zone. For example, the Town's current SB 9 Ordinance prohibits roof top decks, but this standard is not uniformly applied to all development in the underlying residential zones (i.e. an Architecture and Site Application in the R-1:8 zone can propose a roof top deck; Town Code does not prohibit a roof top deck for all residential properties). Although the Town's Residential Design Guidelines contain

standards and guidelines related to second-story decks and balconies, these are not objective standards that are uniformly applicable in the underlying zone, and exceptions to the Town's Residential Design Guidelines can be requested. The following design standards would be removed: 16-foot building height limitation when within a required side or rear setback of the underlining zoning district; five-foot retaining wall height limitation; rooftop and second-floor terrace and deck prohibition and balcony limitation; requirement that the front entryway match the adjacent eave height; front porch depth and width limitations; nine-foot second story setbacks along the side and rear property lines; garage door size limitations; plate height restrictions; prohibited exterior materials; and screening of mechanical equipment.

Additionally, the previous requirement that the first residential unit built with an SB 9 two-unit housing development application be limited to 1,200 square feet is no longer applicable based on SB 450. Town Council had previously included this requirement in the Town's SB 9 Ordinance to encourage one of the units to be affordable by limiting the size.

Staff also reviewed Town Code and applicable policy documents and added additional objective standards in the draft Ordinance (Exhibit 4) that meet the requirements of SB 450. In order to maintain some of the hillside protection standards, staff proposes adding a "Hillside Area" definition to the draft amendments applicable to all properties within Hillside Area Map per the Town's Hillside Development Standards and Guidelines (HDS&G) and incorporate relevant objective standards from this document. The existing SB 9 standards derived from the HDS&G that were applicable to all properties would now only be applicable to properties in the Hillside Area. Standards related to driveway back-up space, size of detached garages, parking space dimensions, through lots with a "front" setback on both street frontages, setbacks when adjacent to a protected waterway, glare limitations, sidewalk requirements, etc. are also proposed, each of which was derived from existing Town Code or applicable Town policy documents.

2. Demolition: Previous SB 9 law restricted the amount of demolition allowed to an existing residential unit when proposing a new SB 9 application, whether the application was for a two-unit housing development or an urban lot split. Previously, SB 9 law had two separate provisions: one stating that no demolition or alteration to an existing residence is allowed with either an urban lot split or two-unit housing development if the housing is subject to a recorded covenant or law restricting levels of affordability, housing subject to any form of rent or price control, or housing that has been occupied by a tenant in the last three years [Government Code Sections 65852.21.(a)(3) and 66411.7.(a)(3)(D)]; and the second stating that a two-unit housing development cannot result in the demolition of more than 25 percent of the existing exterior structural walls unless either the local ordinance allows, or the site has not been occupied by a tenant in the past three years. The two provisions were previously combined in the Town's SB 9 Ordinance in Town Code Sections 29.10.630(3)(e) and 29.10.650(2)(h) (Exhibit 2).

SB 450 clarified the demolition provisions so that no form of demolition or alteration to an existing residence is allowed if it had been subject to a recorded covenant or law restricting levels of affordability, housing subject to any form of rent or price control, or housing that has been occupied by a tenant in the last three years. Additionally, there is no longer a 25 percent limitation on the amount of demolition of exterior walls of an existing residence associated with a new two-unit housing development as long as it has not been rented in the last three years.

The draft amendments in Exhibit 4 would simply remove reference to the “25 percent of exterior walls” limitation so that the Town’s Ordinance matches SB 9 law as updated by SB 450. Additionally, staff recommends adding a new, stricter definition of “demolition” for SB 9 applications as the Town Code’s demolition definition allows up to 50 percent removal of exterior framing, and the intent of SB 9 is to not allow any alteration or demolition to an existing residence subject to a recorded covenant or law restricting levels of affordability, housing subject to any form of rent or price control, or housing that has been occupied by a tenant in the last three years.

3. Processing Timelines: SB 450 creates new, strict timelines for local agency processing of SB 9 applications. The Town must now render a decision on an SB 9 project within 60 days of receiving a complete application, and if the Town fails to act within this timeframe, the application is deemed approved. Additionally, if the Town were to deny an SB 9 application, the Town must provide a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the applicant can remedy the application.

The draft amendments in Exhibit 4 would add these new processing timelines within the SB 9 Ordinance.

4. Denial Findings: Previous SB 9 law allowed denial of an SB 9 application if the Building Official made a written finding that the project would have a specific, adverse impact upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. SB 450 modified this language, removing review of a project’s impact on the physical environment for the permissible denial findings.

The draft amendments in Exhibit 4 would remove “the physical environment” from the denial findings sections within the SB 9 Ordinance.

B. Ordinance Clean-Ups

The following is a summary of the other substantive draft amendments to the SB 9 Ordinance, either for consistency with State law or items identified by staff as needing clarification. The following items are listed in the order that they appear in Exhibit 4:

- **Purpose and Applicability [Section 29.10.600].** For compliance with State law, the following line would be removed as it is no longer valid: “Any provision of this Division which is inconsistent with SB 9 shall be interpreted in a manner which is the most limiting on the ability to create a two-unit housing development or urban lot split, but which is consistent with State law.”
- **Definitions [Section 29.10.610].** In addition to the items discussed above, the definition of “entry feature” would be deleted as the relevant design standard for entry features is no longer applicable per SB 450. Staff also recommends including the Town Code definition of “street” within the SB 9 ordinance for clarity purposes.
- **Building Height [Section 29.10.630(1)(a)].** Per SB 450, the previous requirement that a building be limited to 16 feet in height if it is located in the Hillside Residential Zone or within the required side or rear setbacks of the applicable zoning district is not allowed. Instead, additional height limitations for buildings in the Hillside Area were added, which are objective standards within the HDS&G.
- **New Driveways [Section 29.10.630(1)(a)].** Per SB 450, the previous requirements regarding the number of driveways, maximum width of driveways, number of curb cuts, and maximum slope are not enforceable.
- **Dwelling Unit Type [Section 29.10.630(1)(c)].** Clarification to the two-unit development dwelling unit type was added, specifying that proposed attached units shall meet all applicable building code standards and be designed sufficient to allow separate conveyance. This amendment would not change the way SB 9 applications are currently being processed.
- **Floor Area Ratio and Lot Coverage [Section 29.10.630(1)(e)].** Clarification to the ten percent floor area ratio increase was added to specify that the ten percent increase only applies to situations where a second unit is proposed. The ten percent increase would not apply if SB 9 is used to develop a single residential unit on a vacant property.

Additionally, two new sections are proposed for clarification purposes based on how the Town currently processes SB 9 applications. First, specification that below-grade square footage is allowed in accordance with Town Code Sections 29.10.020 and 29.40.072 was added. Second, a limitation on the size of detached garages was added in accordance with Town Code Section 29.20.015.

- **Grading [Section 29.10.630(1)(f)].** Modifications to the grading limitation and process was added to help clarify how the existing process works. First, grading with an SB 9 application is limited to 50 cubic yards (cut plus fill) except for grading within the building footprint, light wells, vehicular access (driveway), and fire access (fire truck turnaround). Second, clarification was added to specify that although a ministerial Grading Permit at building permit stage is required, the associated discretionary Architecture and Site Application process will not be triggered for review of the grading work.

Additionally, a standard from the HDS&G limiting grading to just the footprint of the house, access, guest parking, and turnaround areas was added for properties within the Hillside Area.

- **Parking [Section 29.10.630(1)(o)].** Clarification to the parking section was added to specify that required parking must be met on-site, and that parking dimensions shall comply with Town Code Section 29.10.155(d).
- **Setbacks [Section 29.10.630(1)(p)].** Modification to the setback allowances is proposed to allow both an attached and detached garage to use the reduced setback provisions, instead of just attached garages included in the current SB 9 Ordinance. Detached garages under 450 square feet are allowed by Town Code to have a five-foot side and rear setback requirement; this modification would allow four-foot side and rear setbacks instead.

Clarification to the garage entry setback is also proposed within Table 1-2 – Setback Requirements, as this standard has caused confusion with the public in the past. The 18-foot garage entry setback is only applicable when the required zoning district setback is less than 18 feet (i.e. an R-1D property has a 15-foot front setback requirement, but Town Code requires garages and parking spaces have a minimum 18-foot backup distance).

Additionally, two new setback exceptions are proposed in Table 1-2 – Setback Requirements for clarification purposes based on how the Town currently processes SB 9 applications. First, in certain instances such as property slope and neighboring building locations, the required front yard setback may be reduced per Town Code. Second, through lots with frontage along two streets shall meet the front setback requirement along both street frontages so that a four-foot rear setback for a primary dwelling unit is not allowed along a street.

Lastly, as noted above, required setbacks from the Santa Clara County Valley Water Resources Protection Collaborative Guidelines and Standards for Land Use Near Streams shall be complied with when building adjacent to protected waterways.

- **Design Review Standards [Section 29.10.630(2)].** See Discussion Section A, Part 1 (Design Standards) above.

- **Eliss Act Eligibility.** For consistency with SB 9 law, the following provision is added to both the two-unit housing development and urban lot split sections of SB 9: “Parcels on which an owner of residential real property has exercised the owner’s rights under state law (Government Code Section 7060) to withdraw accommodations from rent or lease within fifteen (15) years preceding the development application are not eligible for a two-unit housing development.”
- **Applicability [Section 29.10.640].** A new applicability section is proposed, clarifying that when an application includes full site redevelopment, only the work integral to the construction of the new dwelling units and required access would be processed with the SB 9 application, and that other work (i.e. backyard grading of a sports court) would need a separate application.
- **Expiration [Section 29.10.640 and 29.10.660].** A new expiration section is proposed, referencing Town Code expiration and vesting requirements for both a two-unit housing development and urban lot split.
- **Parking [Section 29.10.650(1)].** A new parking section is proposed for urban lot splits in accordance with SB 9, requiring that each dwelling unit within an urban lot split contain adequate area to meet the parking requirements for two-unit housing developments.
- **Sidewalks [Section 29.10.650(1)].** A new sidewalk section is proposed for urban lot splits in accordance with Town Code Section 29.10.06712, specifying when new sidewalks are required with an urban lot split application.

#### PUBLIC COMMENTS:

Public comments received by 11:00 a.m., Friday, May 9, 2025, are provided in Exhibit 5.

#### CEQA DETERMINATION:

In accordance with CEQA Guidelines Section 15378, these proposed ordinance amendments are not a project subject to CEQA because the proposed amendments affect processing of applications only and will not impact the physical environment. Additionally, in accordance with Government Code Section 66411.7(n) and 66452.21(g), SB 9 ordinances are not a project subject to CEQA.

#### CONCLUSION:

##### A. Summary

The draft amendments in Exhibit 4 would amend Chapter 29 (Zoning Regulations) of the Town Code for SB 9 in response to the provisions of SB 450, as well as other clarifying revisions.

B. Recommendation

Staff recommends that the Planning Commission review the information included in the staff report and forward a recommendation to the Town Council for approval of the amendments to Chapter 29 of the Town Code in the draft ordinance (Exhibit 4). The Planning Commission should also include any comments or recommended changes to the proposed amendments in taking the following actions:

1. Make the required finding that in accordance with CEQA Guidelines Section 15378, these proposed ordinance amendments are not a project subject to CEQA because the proposed amendments affect processing of applications only and will not impact the physical environment. Additionally, in accordance with Government Code Section 66411.7(n) and 66452.21(g), SB 9 ordinances are not a project subject to CEQA (Exhibit 1);
2. Make the required finding that the amendments to Chapter 29 of the Town Code in the draft ordinance are consistent with the General Plan (Exhibit 1); and
3. Forward a recommendation to the Town Council for approval of the proposed amendments to Chapter 29 of the Town Code in the draft ordinance (Exhibit 4).

C. Alternatives

Alternatively, the Commission can:

1. Forward a recommendation to the Town Council for approval of the draft amendments with modifications; or
2. Continue the matter to a date certain with specific direction.

EXHIBITS:

1. Required Findings
2. Current Senate Bill 9 Ordinance 2359
3. Senate Bill 450 State Law
4. Draft Senate Bill 9 Ordinance
5. Public comments received by 11:00 a.m., Friday, May 9, 2025

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**PLANNING COMMISSION – May 14, 2025**  
**REQUIRED FINDINGS**

**Senate Bill 9 Ordinance Amendments**  
**Town Code Amendment Application A-25-002**

**Consider Making a Recommendation to the Town Council on an Ordinance Amending Chapter 29 (Zoning Regulations) of the Town Code for Senate Bill 9 (SB 9) in Response to the Provisions of Senate Bill 450 (SB 450). The Proposed Amendments to the Town Code Are Not Considered a Project Under Section 15378 of the California Environmental Quality Act, and in Accordance with Government Code Section 66411.7(n) and 66452.21(g), Senate Bill 9 Ordinances Are Not a Project Subject to the California Environmental Quality Act. Town Code Amendment Application A-25-002. Project Location: Town Wide. Applicant: Town of Los Gatos.**

**FINDINGS:**

**Required finding for CEQA:**

- In accordance with CEQA Guidelines Section 15378, these proposed ordinance amendments are not a project subject to CEQA because the proposed amendments affect processing of applications only and will not impact the physical environment. Additionally, in accordance with Government Code Section 66411.7(n) and 66452.21(g), Senate Bill 9 ordinances are not a project subject to CEQA.

**Required consistency with the Town’s General Plan:**

- That the proposed amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding Senate Bill 9 are consistent with the General Plan.

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## ***DIVISION 10. TWO-UNIT HOUSING DEVELOPMENTS AND URBAN LOT SPLITS***

### **Sec. 29.10.600. Purpose and applicability.**

The Town Council finds and determines that this division is applicable only to voluntary applications for two-unit housing developments and urban lot splits consistent with Senate Bill (SB) 9. Owners of real property or their representatives may continue to exercise rights for property development in conformance with the Zoning Code and Subdivision Code. Development applications that do not satisfy the definitions for a two-unit housing development or an urban lot split provided in Section 29.10.610 (Definitions) shall not be subject to this Ordinance. Any provision of this division which is inconsistent with SB 9 shall be interpreted in a manner which is the most limiting on the ability to create a two-unit housing development or urban lot split, but which is consistent with State law. The provisions of this Division shall supersede and take precedence over any inconsistent provision of the Town Code to the extent necessary to effect the provisions of this division.

(Ord. No. 2334, § 2, 11-15-22; Ord. No. 2359, § I, 5-21-24)

### **Sec. 29.10.610. Definitions.**

In addition to definitions contained in Chapter 24 (Subdivision Regulations) and Chapter 29 (Zoning Regulations), the following definitions apply for purposes of this division. Where a conflict may exist, the definitions in this division shall apply.

*Acting in concert* means persons, as defined by Government Code Section 82047, as that section existed on January 1, 2022, acting jointly to pursue development of real property whether or not pursuant to a written agreement and irrespective of individual financial interest.

*Addition* means any construction which increases the size of a building or facility in terms of site coverage, height, length, width, or gross floor area.

*Adjacent parcel* means any parcel of land that is: touching the parcel at any point; separated from the parcel at any point only by a public right-of-way, private street or way, or public or private utility, service, or access easement; or separate from another parcel only by other real property which is in common ownership or control of the applicant.

*Alteration* means any construction or physical change in the arrangement of rooms or the supporting members of a building or structure or change in the relative position of buildings or structures on a site, or substantial change in appearances of any building or structure.

*Car-share vehicle* means a motor vehicle that is operated as part of a regional fleet by a public or private car sharing company or organization and provides hourly or daily service.

*Common ownership or control* means property owned or controlled by the same person, persons, or entity, or by separate entities in which any shareholder, partner, member, or family member of an investor of the entity owns ten (10) percent or more of the interest in the property.

*Entry feature* means a structural element, which leads to an entry door.

*Existing structure* means a lawfully constructed building that has received final building permit clearance.

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*First residential unit* means one (1) of two (2) primary dwelling units developed under a two-unit housing development and can be an existing primary dwelling unit if it meets or is modified to meet the 1,200-square foot floor area limitation on first residential units.

*Flag lot* means "lot, corridor" as defined in Section 29.10.020 of Town Code.

*Nonconforming zoning condition* means a physical improvement on a property that does not conform with current zoning standards.

*Two-unit housing development* means an application proposing no more than two (2) primary dwelling units on a single parcel located within a single-family residential zone as authorized by Government Code Section 65852.21. A two-unit housing development shall consist of either the construction of no more than two (2) new primary dwelling units, one (1) new primary dwelling unit and retention of one (1) existing primary dwelling unit, or retention of two (2) existing legal non-conforming primary dwelling units where one (1) or both units are subject to a proposed addition or alteration.

*Public transportation* means a high-quality transit corridor, as defined in subdivision (b) of Public Resources Code Section 21155, or a major transit stop, as defined in Public Resources Code Section 21064.3.

*Single-family residential zone* means a "R-1 or Single-Family residential Zone", "R-1D or Single-Family Residential Downtown Zone", or "HR or Hillside Residential Zone" as specified in article IV, "Residential Zones," of the Zoning Code.

*Subdivision Code* means Chapter 24 of the Los Gatos Town Code.

*Sufficient for separate conveyance* means that each attached or adjacent dwelling unit is constructed in a manner adequate to allow for the separate sale of each unit in a common interest development as defined in Civil Code Section 1351 (including a residential condominium, planned development, stock cooperative, or community apartment project), or into any other ownership type in which the dwelling units may be sold individually.

*Urban lot split* means a ministerial application for a parcel map to subdivide an existing parcel located within a single-family residential zone into two (2) parcels, as authorized by Government Code Section 66411.7.

*Zoning Code* means Chapter 29 of the Los Gatos Town Code.

(Ord. No. 2334, § 2, 11-15-22; Ord. No. 2359, § II, 5-21-24)

## **Sec. 29.10.620. Eligibility.**

An urban lot split or a two-unit housing development may only be created on parcels satisfying all of the following general requirements:

- (1) *Zoning district.* A parcel that is located within a single-family residential zone.
- (2) *Legal parcel.* A parcel which has been legally created in compliance with the Subdivision Map Act (Government Code Section 66410 et seq.) and the Town's Subdivision Regulations in effect at the time the parcel was created. Applications for an urban lot split or two-unit housing development will only be accepted on parcels with either a recorded parcel map or certificate of compliance. When both an urban lot split and two-unit housing development application are submitted simultaneously, no construction or building permits for new construction or grading activities may be issued until the new parcel map for the urban lot split approval has been recorded.
- (3) *Excluding historic property.* A parcel that is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or a parcel that does not contain a Historic Structure, as defined in Town Code Section 29.10.020, or is not listed on the Town of Los Gatos Historic Resource Inventory, as defined by Town Code Chapter 29,

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Article VII, Division 3, "Historic Preservation and LHP or Landmark and Historic Preservation Overlay Zone."

- (4) *Excluding very high fire hazard severity zone.* A parcel that is not within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Government Code Section 51178, or within a state responsibility area, as defined in Section 4102 of the Public Resources Code. This subparagraph does not apply to sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development, including, but not limited to, standards established under all of the following or their successor provisions: (i) Section 4291 of the Public Resources Code or Section 51182, as applicable; (ii) Section 4290 of the Public Resources Code; and (iii) Section 7A of the California Building Code (Title 24 of the California Code of Regulations).
  - (5) *Excluding hazardous waste sites.* A parcel that is not identified as a hazardous waste site pursuant to Government Code Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Health and Safety Code Section 25356, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use.
  - (6) *Excluding earthquake fault zone.* A parcel that is not located within a delineated earthquake fault zone as determined by the State Geologist on any official maps published by the State Geologist, unless the two-unit housing development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Health and Safety Code Division 13), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.
  - (7) *Excluding flood zone.* A parcel that is not located within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) on the official maps published by the Federal Emergency Management Agency unless a letter of map revision prepared by the Federal Emergency Management Agency has been issued or if the proposed two-unit housing development is constructed in compliance with the provisions of Town Code Chapter 29, Article XI, "Floodplain Management," as determined by the floodplain administrator.
  - (8) *Excluding natural habitat.* A parcel that is not recognized by the Town as a habitat for protected species identified as a candidate, sensitive, or species of special status by State or Federal agencies, fully protected species, or species protected by the Federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).
  - (9) *Excluding prime farmland and wetlands.* A parcel that contains either prime farmland or farmland of statewide importance, as defined pursuant to the United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction; or wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
  - (10) *Excluding conservation easements.* A parcel subject to a recorded conservation easement.
- (Ord. No. 2334, § 2, 11-15-22; Ord. No. 2359, § III, 5-21-24)

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## Sec. 29.10.630. Requirements.

Two-unit housing developments must comply with the following objective zoning standards, design review standards, and general requirements and restrictions:

- (1) *Zoning standards.* The following objective zoning standards supersede any other standards to the contrary that may be provided elsewhere in the Zoning Code, as they pertain to a two-unit housing development under Government Code Section 65852.21. Two-unit housing developments shall be constructed only in accordance with the following objective zoning standards, except as provided by subsection (4), "Exceptions:"
  - a. *Building height.* Maximum building height shall be as specified by the applicable zoning district for the main structure. Buildings located within the required side or rear setbacks of the applicable zoning district, and those located in the Hillside Residential (HR) zones, shall not exceed sixteen (16) feet in height;
  - b. *New driveways.* Each parcel shall include no more than a single driveway unless the parcel has more than one hundred (100) feet of contiguous street frontage or more than one (1) existing driveway. Any new driveway shall satisfy the following requirements:
    1. A minimum width of ten (10) feet up to a maximum width of eighteen (18) feet. Driveways in the Hillside Residential (HR) zones shall have a minimum width of twelve (12) feet;
    2. A minimum depth of eighteen (18) feet measured from the front or street side property line;
    3. Surfacing shall comply with Town Code Section 29.10.155(e);
    4. Only a single driveway curb-cut shall be permitted per parcel unless the parcel has more than one hundred (100) feet of contiguous street frontage, designed in accordance with the Town's Standard Specifications and Plans for Parks and Public Works Construction; and
    5. A maximum slope of fifteen (15) percent.
  - c. *Dwelling unit type.* The primary dwelling units comprising a two-unit housing development may take the form of detached single-family dwellings, attached units, and/or duplexes. A duplex may consist of two (2) dwelling units in a side-by-side or front-to-back configuration within the same structure or one (1) dwelling unit located atop another dwelling unit within the same structure;
  - d. *Fencing.* All new fencing shall comply with the requirements of sections 29.40.030 through 29.40.0325 of the Zoning Code;
  - e. *Floor area ratio and lot coverage.*
    1. The maximum floor area ratio and lot coverage shall be as specified by the applicable zoning regulations.
    2. For flag/corridor lots, the gross lot size includes the access corridor for the purposes of determining maximum floor area ratio and lot coverage as follows:
      - i. When an easement is used to provide access, the access corridor is included in the gross lot size for the lot granting the easement; and
      - ii. When the access corridor is owned in-fee and is part of the rear lot, the access corridor is included in the gross lot size for the rear lot.
    3. The maximum size of the first new residential unit shall not exceed one thousand two hundred (1,200) square feet.

4. When a two-unit housing development is proposed and the existing structures are at or below the maximum allowed floor area, a ten (10) percent increase in the floor area ratio standards for residential structures is allowed, excluding garages, and this increase in floor area cannot be combined with a separate increase for an accessory dwelling unit allowed by Town Code Section 29.10.320. The additional floor area allowed by this subsection shall not exceed one thousand two hundred (1,200) square feet.
  5. Notwithstanding the floor area ratio and lot coverage standards in this subsection, a new two-unit housing development with unit sizes of 800 square feet or less shall be permitted.
- f. *Grading.*
1. To the extent required by Chapter 12, Article II and Section 29.10.09045(b) of the Town Code, the grading activities set forth in subsection 2. below may require a grading permit, but will not require discretionary review of an architecture and site application;
  2. Grading activity associated with a two-unit housing development shall not exceed fifty (50) cubic yards, cut plus fill, except:
    - i. Light wells that do not exceed the minimum required per Building Code shall not count as grading activity for the purpose of this section;
    - ii. Grading activities required to provide the minimum driveway and fire access as required by the Santa Clara County Fire Department shall not count as grading activity for the purpose of this section; and
    - iii. Excavation within the footprint of a primary dwelling unit or garage shall not count as grading activity for the purpose of this section.
  - g. Cut and Fill. Two-unit housing developments shall be subject to the cut and fill requirements specified by Table 1-1 (Cut and Fill Requirements) below:

Table 1-1 - Cut and Fill Requirements		
Site Element	Cut *	Fill *
House and attached garage	8' **	3'
Detached accessory building *	4'	3'
Driveways ***	4'	3'
Other (decks, yards) *	4'	3'
* Combined depths of cut plus fill for development other than the main residence shall be limited to 6 feet.		
** Excludes below grade square footage pursuant to Section 29.40.072 of the Town Code and light-wells that do not exceed the minimum required per Building Code.		
*** Excludes cut and fill for the minimum driveway and fire access standards as required by the Santa Clara County Fire Department.		

- h. *Building Sites.* The footprint of the proposed residential unit(s) and garage(s) shall not be located on lands with slopes exceeding thirty (30) percent. This provision applies only to the building site, not the property as a whole;
- i. *Retaining walls.* Retaining walls shall not exceed five (5) feet in height and shall not run in a straight continuous direction for more than fifty (50) feet without a break, offset, or planting pocket. Retaining walls shall have a five-foot landscaped buffer when adjacent to the street;

- j. *Light reflectivity value.* Exterior material colors for primary dwelling units and garages in the Hillside Residential (HR) zones shall comply with requirements in Chapter V, Section I, of the Town's Hillside Development Standards and Guidelines;
- k. *Landscaping requirement.* All landscaping shall comply with the California Model Water Efficient Landscape Ordinance (MWELO);
- l. *Lighting.* New exterior lighting fixtures shall be downward directed and utilize shields so that no bulb is visible to ensure that the light is directed to the ground surface and does not spill light onto neighboring parcels consistent with Section 29.10.09015 of the Zoning Code;
- m. *Trees.* Any proposed work shall comply with the protection, removal, and replacement requirements for protected trees in Chapter 29, Article 1, Division 2, "Tree Protection," of Town Code;
- n. *Minimum living area.* The minimum living area of a primary dwelling unit shall be 150 square feet, subject to the restrictions specified by Health and Safety Code Section 17958.1;
- o. *Parking.*
1. One (1) parking stall per primary dwelling unit shall be required, except for two-unit housing developments located on parcels within one-half mile walking distance of public transportation; or where there is a designated parking area for one (1) or more car-share vehicles within one (1) block of the parcel.
  2. Parking stalls may either be uncovered or covered (garage or carport) in compliance with applicable developments standards of the Zoning Code, including Chapter 29, Article I, Division 4, "Parking," except that uncovered parking spaces may be provided in a front or side setback abutting a street on a driveway (provided that it is feasible based on specific site or fire and life safety conditions) or through tandem parking.
- p. *Setbacks.* Two-unit housing developments and attached garages shall be subject to the setback and building separation requirements specified by Table 1-2 (Setback Requirements), below. Detached garages and detached accessory structures shall meet the setback requirements specified in Town Code Section 29.40.015 (Accessory Buildings).

Table 1-2 - Setback Requirements		
Setback		Requirement <sup>(2)</sup>
Property Line Setbacks <sup>(1)</sup>	Front	Per the applicable zoning district. <sup>(5)</sup>
	Garage Entry	18 feet
	Interior Sides	4 feet <sup>(3)</sup>
	Rear	
	Street Side	Per the applicable zoning district.
Separation Between Detached Structures <sup>(3)(4)</sup>		5 feet
Exceptions: (1) Cornices, eaves, belt courses, sills, canopies, bay windows, chimneys, or other similar architectural features may extend into required setbacks as specified Section 29.40.070(b) of the Zoning Code. (2) No setback shall be required for an existing structure, or a structure constructed in the same location and to the same dimensions as an existing structure. (3) For parcels created through an urban lot split where the parcels are under the same ownership, no		

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interior side setback shall be required for two-unit housing development units constructed as attached units on separate lots, provided that the structures meet building code safety standards and are sufficient to allow separate conveyance as a separate fee parcel. Similarly, no rear setback (for the front property) or front setback (for the rear property) shall be required for two-unit housing development units constructed as attached units in a flag-lot configuration where the parcels are under the same ownership.

(4) Except for primary dwellings constructed as a duplex or attached single-family residences.

(5) Flag/corridor lots shall use the interior side setback requirements for all property lines other than the rear.

- q. *Stormwater management.* The development shall comply with the requirements of the Town's National Pollution Discharge Elimination System Permit as implemented by Chapter 22 of the Town Code, and as demonstrated by a grading and drainage plan prepared by a registered civil engineer; and
  - r. *Utilities.* New units shall be designed as individual units, with separate gas, electric, and water utility connections directly between each dwelling unit and the utility.
- (2) *Design review standards.* The following objective design review standards apply to construction of new primary dwelling units and to any addition and/or alteration to existing primary dwelling units as part of a two-unit housing development, except as provided by subsection (4) below, "Exceptions:"
- a. *Balconies/decks.* Rooftop and second floor terraces and decks are prohibited. Balconies shall only be permitted on the front- and street-side elevations of a primary dwelling unit fronting a public street. Such balconies shall be without any projections beyond the building footprint;
  - b. *Finished floor.* The finished floor of the first story shall not exceed three (3) feet in height as measured from finished grade;
  - c. *Front entryway.* A front entryway framing a front door shall have a roof eave that matches or connects at the level of the adjacent eave line;
  - d. *Front porch.* If proposed, porches shall have a minimum depth of six (6) feet and a minimum width equal to twenty-five (25) percent of the linear width of the front elevation;
  - e. *Second story setback.* The interior side and rear elevations of the second story of a two-story primary dwelling unit shall have a minimum setback of nine (9) feet;
  - f. *Garages.* Street-facing attached garages shall not exceed fifty (50) percent of the linear width of the front-yard or street-side yard elevation;
  - g. *Plate height.* The plate height of each story shall be limited to a maximum of ten (10) feet as measured from finished floor, and when above the first floor the plate height shall be limited to a maximum of eight (8) feet; and
  - h. *Windows.* All second story windows less than ten (10) feet from rear and interior side property lines shall be clerestory with the bottom of the glass at least six (6) feet above the finished floor except as necessary for egress purposes as required by the Building Code.
  - i. *Prohibited materials.* The following exterior materials are prohibited on all building exteriors:
    - 1. Vinyl siding; and
    - 2. Plywood.

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- j. *Mechanical equipment.* Heating, ventilation, and air conditioning (HVAC) units, generators, energy storage systems (ESS), and other similar ground-mounted mechanical equipment shall be screened from view from any adjacent street if not already located out of view behind a building or solid fence.
- (3) *General requirements and restrictions.* The following requirements and restrictions apply to all two-unit housing developments, inclusive of existing and new primary dwelling units, except as provided by subsection (4) below, "Exceptions:"
- a. *Number of units.* A maximum of four (4) units, with a maximum of two (2) primary dwelling units, on lots that have not undergone an urban lot split.
- b. *Accessory dwelling units.* In addition to the two (2) residential units allowed under this section, consistent with Chapter 29, Article 1, Division 7, "Accessory Dwelling Units," of the Town Code, one (1) accessory dwelling unit and one (1) junior accessory dwelling unit shall be allowed on lots that have not undergone an urban lot split.
- c. *Building and Fire Codes.* The International Building Code ("Building Code"), and the California Fire Code and International Fire Code (together, "Fire Code"), as adopted by Chapter 6 of the Town Code, respectively, apply to all two-unit housing developments.
- d. *Encroachment permits.* Separate encroachment permits, issued by the Parks and Public Works Department, shall be required for the installation of utilities to serve two-unit housing developments. Applicants shall apply for and pay all necessary fees for utility permits for sanitary sewer, gas, water, electric, and all other utility work.
- e. *Restrictions on demolition.* The two-unit housing development shall not require either demolition of more than twenty-five (25) percent of the exterior walls or alteration of any of the following types of housing:
1. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income. This shall be evidenced by an attestation from the property owner;
  2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power. This shall be evidenced by an attestation from the property owner; or
  3. Housing that has been occupied by a tenant in the last three (3) years. This shall be evidenced by an attestation from the property owner.

If any existing housing is proposed to be altered or demolished, the owner of the property proposed for a two-unit housing development shall sign an affidavit, stating that none of the conditions listed above exist and shall provide a comprehensive history of the occupancy of the units to be altered or demolished for the past three (3) years on a form prescribed by the Town.

If any existing dwelling unit is proposed to be demolished, the applicant shall comply with the replacement housing provisions of Government Code Section 66300(d).

- f. *Recorded covenant.* Prior to building permit issuance, the applicant shall record a restrictive covenant in the form prescribed by the Town, which shall run with the land and provide for the following:
1. A limitation restricting the property to residential uses only; and
  2. A requirement that any dwelling units on the property may only be rented for a period longer than thirty (30) days.

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- (4) *Exceptions.* If any of the provided zoning standards or design review standards would have the effect of physically precluding construction of up to two (2) primary dwelling units or physically preclude either of the two (2) primary dwelling units from being at least eight hundred (800) square feet in floor area, the Community Development Director shall grant an exception to the applicable standard(s) to the minimum extent necessary as specified by this section. An exception request shall be explicitly made on the application for a two-unit housing development.
- a. *Determination.* In order to retain adequate open space to allow for recreational enjoyment, protection of the urban forest, preservation of the community character, reduction of the ambient air temperature, and to allow for the percolation of rainfall into the groundwater system, when considering an exception request, the Community Development Director shall first determine that a reduction in any other zoning and/or design review standard(s) will not allow the construction of the two-unit housing development as specified by this section prior to allowing an exception(s) to the landscaping requirement, front-yard setback, or street-side setbacks standards.

(Ord. No. 2334, § 2, 11-15-22; Ord. No. 2351, § III, 11-21-23; Ord. No. 2359, § IV, 5-21-24)

#### **Sec. 29.10.640. Application process for two-unit housing development.**

Applications for two-unit housing developments shall be submitted and processed in compliance with the following requirements:

- (1) *Application type.* Two-unit housing developments shall be reviewed ministerially by the Community Development Director for compliance with the applicable regulations. The permitting provisions of Town Code Sections 29.20.135 through 29.20.160, "Architecture and Site Approval," shall not be applied;
- (2) *Application filing.* An application for a two-unit housing development, including the required application materials and fees, shall be filed with the Community Development Department;
- (3) *Neighbor notification.* In addition to the standard application materials, the applicant will be required to submit one (1) set of stamped, addressed envelopes to neighboring residents and property owners. The Planning Department will assist the applicant in determining the neighboring properties to be notified (which will consist of all properties abutting the applicant's parcel, properties directly across the street and the two (2) parcels on each side of the properties directly across the street).
- (4) *Building Permits.* Approval of a two-unit housing development application shall be required prior to acceptance of an application for building permit(s) for the new and/or modified primary dwelling unit(s) comprising the two-unit housing development;
- (5) *Denial.* The Community Development Director may deny a two-unit housing development project only if the Building Official makes a written finding, based upon a preponderance of the evidence, that the two-unit housing development would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Government Code Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact; and
- (6) *Appeals.* Two-unit housing application decisions are ministerial and are not subject to an appeal.

(Ord. No. 2334, § 2, 11-15-22; Ord. No. 2359, § V, 5-21-24)

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## Sec. 29.10.650. Subdivision standards.

Urban lot splits shall comply with the following objective subdivision standards, and general requirements and restrictions:

- (1) *Subdivision standards.* The following objective subdivision standards supersede any other standards to the contrary that may be provided in the Zoning Code or Subdivision Code, as they pertain to creation of an urban lot split under Government Code Section 66411.7:
  - a. *Flag/corridor lots.* The access corridor of a flag/corridor lot (Town Code Section 29.10.085) shall be either in fee as part of the parcel or as an easement, and shall be a minimum width of 12 feet;
  - b. *Minimum lot size.* Each new parcel shall be approximately equal in lot area provided that one (1) parcel shall not be smaller than forty (40) percent of the lot area of the original parcel proposed for subdivision. In no event shall a new parcel be less than one thousand two hundred (1,200) square feet in lot area. If one (1) of the proposed lots is a flag/corridor lot, the area of the access corridor shall count toward the lot area as follows:
    1. When an easement is used to provide access, the access corridor is included in the gross lot size for the lot granting the easement; and
    2. When the access corridor is owned in-fee and is part of the rear lot, the access corridor is included in the gross lot size for the rear lot.
  - c. *Minimum lot width.* Each new parcel shall maintain a minimum lot width of twenty (20) feet;
  - d. *Minimum public frontage.* Each new parcel shall have frontage upon a street with a minimum frontage dimension of twenty (20) feet, except as allowed above for flag/corridor lots;
  - e. *Number of lots.* The parcel map to subdivide an existing parcel shall result in no more than two (2) parcels; and
  - f. *Lot Merger.* Lots resulting from an urban lot split shall not be merged unless that lot merger can be done without loss of housing units and without causing a non-conforming building, lot, or use.
- (2) *General requirements and restrictions.* The following requirements and restrictions apply to all proposed urban lot splits:
  - a. *Adjacent parcels.* Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously conducted an urban lot split to create an adjacent parcel as provided for in this division;
  - b. *Dedication and easements.* The Town Engineer shall not require dedications of rights-of-way nor the construction of offsite improvements but may, however, require recording of easements necessary for the provision of private services, facilities, and future public improvements or future public services, facilities, and future public improvements;
  - c. *Existing structures.* Existing structures located on a parcel subject to an urban lot split shall not be subject to a setback requirement. However, any such existing structures shall not be located across the shared property line resulting from an urban lot split, unless the structure is converted to an attached unit as provided for in Table 1-2 (Setback Requirements, Exception Number 3). All other existing structures shall be modified, demolished, or relocated prior to recordation of a parcel map;
  - d. *Intent to occupy.* The applicant shall submit a signed affidavit to the Community Development Director attesting that the applicant intends to occupy one (1) of the housing units on the newly created parcels as their principal residence for a minimum of three (3) years from either:

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1. The date of the approval of the urban lot split when the intent is to live in an existing residence; or
  2. Certificate of occupancy when the intent is to occupy a newly constructed residential unit.

This requirement shall not apply to an applicant that is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code;

- e. *Non-conforming conditions.* The Town shall not require, as a condition of approval, the correction of nonconforming zoning conditions. However, no new nonconforming conditions may result from the urban lot split other than setbacks as specified by Table 1-2 (Setback Requirements, Exception Number 2), maximum allowed lot coverage, and maximum allowed floor area ratio;
- f. *Number of units.* No more than two (2) dwelling units may be located on any lot created through an urban lot split, including primary dwelling units, accessory dwelling units, junior accessory dwelling units, density bonus units, and units created as two-unit developments. Any excess dwelling units that do not meet these requirements shall be relocated, demolished, or otherwise removed prior to approval of a parcel map;
- g. *Prior subdivision.* A parcel created through a prior urban lot split may not be further subdivided. The subdivider shall submit a signed deed restriction to the Community Development Director documenting this restriction. The deed restriction shall be recorded on the title of each parcel concurrent with recordation of the parcel map;
- h. *Restrictions on demolition.* The proposed urban lot split shall not require either the demolition of more than twenty-five (25) percent of the exterior walls or alteration of any of the following types of housing:
  1. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income. This shall be evidenced by an attestation from the property owner;
  2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power. This shall be evidenced by an attestation from the property owner; or
  3. Housing that has been occupied by a tenant in the last three (3) years. This shall be evidenced by an attestation from the property owner;

If any existing housing is proposed to be altered or demolished, the owner of the property proposed for an urban lot split shall sign an affidavit, stating that none of the conditions listed above exist and shall provide a comprehensive history of the occupancy of the units to be altered or demolished for the past three (3) years on a form prescribed by the Town. The owner and applicant shall also sign an affidavit stating that neither the owner nor applicant, nor any person acting in concert with the owner or applicant, has previously subdivided an adjacent parcel using an urban lot split;

- i. *Replacement units.* If any existing dwelling unit is proposed to be demolished, the applicant will comply with the replacement housing provisions of Government Code Section 66300(d);
- j. *Recorded covenant.* Prior to approval and recordation of the parcel map, the applicant shall record a restrictive covenant and agreement in the form prescribed by the Town, which shall run with the land and provide for the following:

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1. A prohibition against further subdivision of the parcel using the urban lot split procedures as provided for in this section;
  2. A limitation restricting the properties to residential uses only; and
  3. A requirement that any dwelling units on the property may only be rented for a period longer than thirty (30) days.
- k. *Stormwater management.* The subdivision shall comply with the requirements of the Town's National Pollution Discharge Elimination System Permit as implemented by Chapter 22 of the Town Code, and as demonstrated by a grading and drainage plan prepared by a registered civil engineer;
- l. *Utility providers.* The requirements of the parcel's utility providers shall be satisfied prior to recordation of a parcel map; and
- m. *Compliance with Subdivision Map Act.* The urban lot split shall conform to all applicable objective requirements of the Subdivision Map Act (commencing with Government Code Section 66410), except as otherwise expressly provided in Government Code Section 66411.7.

(Ord. No. 2334, § 2, 11-15-22; Ord. No. 2359, § VI, 5-21-24)

#### **Sec. 29.10.660. Application process for urban lot splits.**

Applications for urban lot splits shall be submitted and processed in compliance with the following requirements:

- (1) *Application type.* Urban lot splits shall be reviewed ministerially by the Community Development Director for compliance with the applicable regulations. A tentative parcel map shall not be required;
- (2) *Application filing.* An urban lot split application, including the required application materials and fees, shall be filed with the Community Development Department;
- (3) *Neighbor notification.* In addition to the standard application materials, the applicant will be required to submit one (1) set of stamped, addressed envelopes to neighboring residents and property owners. The Planning Department will assist the applicant in determining the neighboring properties to be notified (which will consist of all properties abutting the applicant's parcel, properties directly across the street and the two (2) parcels on each side of the properties directly across the street).
- (4) *Parcel map.* Approval of an urban lot split permit shall be required prior to acceptance of an application for a parcel map for an urban lot split. Applicants shall apply for an urban lot split parcel map and pay all fees;
- (5) *Development.* Development on the resulting parcels is limited to a project approved by the two-unit housing development process, the Town's Accessory Dwelling Unit process, or through the Town's standard discretionary process;
- (6) *Denial.* The Community Development Director may deny an urban lot split only if the Building Official makes a written finding, based upon a preponderance of the evidence, that an urban lot split or two-unit housing development located on the proposed new parcels would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact; and
- (7) *Appeals.* Urban lot split application decisions are ministerial and are not subject to an appeal.

(Ord. No. 2334, § 2, 11-15-22; Ord. No. 2359, § VI, 5-21-24)

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**Sec. 29.10.670. Sunset clause.**

If SB 9 is repealed or otherwise rescinded by the California State Legislature or by the People of the State of California, this division shall be repealed."

(Ord. No. 2334, § 2, 11-15-22)

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## Senate Bill No. 450

### CHAPTER 286

An act to amend Sections 65852.21 and 66411.7 of the Government Code, and to amend Section 4 of Chapter 162 of the Statutes of 2021, relating to land use.

[Approved by Governor September 19, 2024. Filed with  
Secretary of State September 19, 2024.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 450, Atkins. Housing development: approvals.

(1) The Planning and Zoning law requires a proposed housing development containing no more than 2 residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements, including that the proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls, except as provided. Existing law authorizes a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, except as specified, on the proposed housing development. Existing law authorizes a local agency to deny a proposed housing development if specified conditions are met, including that the building official makes a written finding that the proposed housing development project would have a specific, adverse impact upon public health and safety or the physical environment, as provided.

This bill would remove the requirement that a proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls to be considered ministerially. The bill would prohibit a local agency from imposing objective zoning standards, objective subdivision standards, and objective design standards that do not apply uniformly to development within the underlying zone, but would specify that these provisions do not prohibit a local agency from adopting or imposing objective zoning standards, objective subdivision standards, and objective design standards on the development if the standards are more permissive than applicable standards within the underlying zone. The bill would remove the authorization for a local agency to deny a proposed housing development if the building official makes a written finding that the proposed housing development project would have a specific, adverse impact upon the physical environment. The bill would require the local agency to consider and approve or deny the proposed housing development application within 60 days from the date the local agency receives the completed application, and would deem the application approved after that time. The bill would require a permitting agency, if it denies an application,

to provide a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

(2) The Subdivision Map Act vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency and sets forth procedures governing the local agency's processing, approval, conditional approval or disapproval, and filing of tentative, final, and parcel maps, and the modification of those maps.

Existing law requires a local agency to ministerially approve a parcel map for an urban lot split that meets certain requirements. Existing law authorizes a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, except as specified. Existing law authorizes a local agency to deny an urban lot split if specified conditions are met, including that the building official makes a written finding that the proposed housing development project would have a specific, adverse impact upon public health and safety or the physical environment, as provided.

This bill would specify that objective zoning standards, objective subdivision standards, and objective design standards imposed by a local agency must be related to the design or improvements of a parcel. This bill would remove the authorization for a local agency to deny a proposed housing development if the building official makes a written finding that the proposed housing development project would have a specific, adverse impact upon the physical environment. The bill would require the local agency to consider and approve or deny the proposed housing development application within 60 days from the date the local agency receives the completed application, and would deem the application approved after that time. The bill would require a permitting agency, if it denies an application, to provide a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

(3) This bill would make additional nonsubstantive and conforming changes to these provisions.

(4) The bill would include findings related to changes proposed by this bill and would amend certain findings in existing law to state that the provisions address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

(5) By increasing the duties of local agencies with respect to land use regulations, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 65852.21 of the Government Code is amended to read:

65852.21. (a) A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:

(1) The parcel subject to the proposed housing development is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(2) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4, as that section read on September 16, 2021.

(3) Notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:

(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing that has been occupied by a tenant in the last three years.

(4) The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(5) The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(b) (1) Notwithstanding any local law and except as provided in paragraphs (2) and (3), a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this section.

(2) (A) The local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area.

(B) (i) Notwithstanding subparagraph (A), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(ii) Notwithstanding subparagraph (A), in all other circumstances not described in clause (i), a local agency may require a setback of up to four feet from the side and rear lot lines.

(3) A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that do not apply uniformly to development within the underlying zone. This subdivision shall not prevent a local agency from adopting or imposing objective zoning standards, objective subdivision standards, and objective design standards on development authorized by this section if those standards are more permissive than applicable standards within the underlying zone.

(c) In addition to any conditions established in accordance with subdivision (b), a local agency may require any of the following conditions when considering an application for two residential units as provided for in this section:

(1) Offstreet parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(2) For residential units connected to an onsite wastewater treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.

(d) Notwithstanding subdivision (a), a local agency may deny a proposed housing development project if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(e) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(f) Notwithstanding Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13, a local agency shall not be required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels that use both the authority contained within this section and the authority contained in Section 66411.7.

(g) Notwithstanding subparagraph (B) of paragraph (2) of subdivision (b), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(h) (1) An application for a proposed housing development pursuant to this section shall be considered and approved or denied within 60 days from the date the local agency receives a completed application. If the local agency has not approved or denied the completed application within 60 days, the application shall be deemed approved.

(2) If a permitting agency denies an application for a proposed housing development pursuant to paragraph (1), the permitting agency shall, within the time period described in paragraph (1), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

(i) Local agencies shall include units constructed pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(j) For purposes of this section, all of the following apply:

(1) A housing development contains two residential units if the development proposes no more than two new units or if it proposes to add one new unit to one existing unit.

(2) The terms “objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(3) “Local agency” means a city, county, or city and county, whether general law or chartered.

(k) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for a housing development pursuant to this section.

SEC. 2. Section 66411.7 of the Government Code is amended to read:

66411.7. (a) Notwithstanding any other provision of this division and any local law, a local agency shall ministerially approve, as set forth in this section, a parcel map for an urban lot split only if the local agency determines that the parcel map for the urban lot split meets all the following requirements:

(1) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel

shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

(2) (A) Except as provided in subparagraph (B), both newly created parcels are no smaller than 1,200 square feet.

(B) A local agency may by ordinance adopt a smaller minimum lot size subject to ministerial approval under this subdivision.

(3) The parcel being subdivided meets all the following requirements:

(A) The parcel is located within a single-family residential zone.

(B) The parcel subject to the proposed urban lot split is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(C) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4, as that section read on September 16, 2021.

(D) The proposed urban lot split would not require demolition or alteration of any of the following types of housing:

(i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(iii) A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(iv) Housing that has been occupied by a tenant in the last three years.

(E) The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(F) The parcel has not been established through prior exercise of an urban lot split as provided for in this section.

(G) Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this section.

(b) An application for a parcel map for an urban lot split shall be approved in accordance with the following requirements:

(1) (A) A local agency shall approve or deny an application for a parcel map for an urban lot split ministerially without discretionary review.

(B) An application for an urban lot split shall be considered and approved or denied within 60 days from the date the local agency receives a completed

application. If the local agency has not approved or denied the completed application within 60 days, the application shall be deemed approved.

(C) If a permitting agency denies an application for an urban lot split pursuant to subparagraph (B), the permitting agency shall, within the time period described in subparagraph (B), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

(2) A local agency shall approve an urban lot split only if it conforms to all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)), except as otherwise expressly provided in this section.

(3) Notwithstanding Section 66411.1, a local agency shall not impose regulations that require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split pursuant to this section.

(c) (1) Except as provided in paragraph (2), notwithstanding any local law, a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards that are related to the design or to improvements of a parcel, consistent with paragraph (3) of subdivision (b) and with subdivision (e), and are applicable to a parcel created by an urban lot split that do not conflict with this section.

(2) A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design review standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.

(3) (A) Notwithstanding paragraph (2), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(B) Notwithstanding paragraph (2), in all other circumstances not described in subparagraph (A), a local agency may require a setback of up to four feet from the side and rear lot lines.

(d) Notwithstanding subdivision (a), a local agency may deny an urban lot split if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(e) In addition to any conditions established in accordance with this section, a local agency may require any of the following conditions when considering an application for a parcel map for an urban lot split:

(1) Easements required for the provision of public services and facilities.

(2) A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way.

(3) Offstreet parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(f) A local agency shall require that the uses allowed on a lot created by this section be limited to residential uses.

(g) (1) A local agency shall require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split.

(2) This subdivision shall not apply to an applicant that is a “community land trust,” as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a “qualified nonprofit corporation” as described in Section 214.15 of the Revenue and Taxation Code.

(3) A local agency shall not impose additional owner occupancy standards, other than provided for in this subdivision, on an urban lot split pursuant to this section.

(h) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(i) A local agency shall not require, as a condition for ministerial approval of a parcel map application for the creation of an urban lot split, the correction of nonconforming zoning conditions.

(j) (1) Notwithstanding any provision of Section 65852.21, 65915, Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 of Division 1, or this section, a local agency shall not be required to permit more than two units on a parcel created through the exercise of the authority contained within this section.

(2) For the purposes of this section, “unit” means any dwelling unit, including, but not limited to, a unit or units created pursuant to Section 65852.21, a primary dwelling, an accessory dwelling unit as defined in subdivision (a) of Section 66313, or a junior accessory dwelling unit as defined in subdivision (d) of Section 66313.

(k) Notwithstanding paragraph (3) of subdivision (c), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(l) Local agencies shall include the number of applications for parcel maps for urban lot splits pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(m) For purposes of this section, both of the following shall apply:



(1) “Objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(2) “Local agency” means a city, county, or city and county, whether general law or chartered.

(n) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(o) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for urban lot splits pursuant to this section.

SEC. 3. Section 4 of Chapter 162 of the Statutes of 2021 is amended to read:

SEC. 4. (a) The Legislature finds and declares all of the following:

(1) The state faces a housing crisis of availability and affordability, in large part due to a severe shortage of housing.

(2) Solving the housing crisis therefore requires a multifaceted, statewide approach which will include, but is not limited to, any or some of the following:

(A) Encouraging an increase in the overall supply of housing.

(B) Encouraging the development of housing that is affordable to households at all income levels.

(C) Removing barriers to housing production.

(D) Expanding homeownership opportunities.

(E) Expanding the availability of rental housing.

(b) Therefore, addressing the housing crisis and the severe shortage of housing is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 1 and 2 of this act adding Sections 65852.21 and 66411.7 to the Government Code and Section 3 of this act amending Section 66452.6 of the Government Code apply to all cities, including charter cities.

SEC. 4. (a) The Legislature finds and declares all of the following:

(1) The state faces a housing crisis of availability and affordability, in large part due to a severe shortage of housing.

(2) Solving the housing crisis therefore requires a multifaceted, statewide approach which will include, but is not limited to, any or some of the following:

- (A) Encouraging an increase in the overall supply of housing.
  - (B) Encouraging the development of housing that is affordable to households at all income levels.
  - (C) Removing barriers to housing production.
  - (D) Expanding homeownership opportunities.
  - (E) Expanding the availability of rental housing.
- (b) Therefore, addressing the housing crisis and the severe shortage of housing is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 1 and 2 of this act amending Sections 65852.21 and 66411.7 of the Government Code apply to all cities, including charter cities.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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## DIVISION 10. TWO-UNIT HOUSING DEVELOPMENTS AND URBAN LOT SPLITS

### Sec. 29.10.600. Purpose and applicability.

The Town Council finds and determines that this division is applicable only to voluntary applications for two-unit housing developments and urban lot splits consistent with Senate Bill (SB) 9. Owners of real property or their representatives may continue to exercise rights for property development in conformance with the Zoning Code and Subdivision Code. Development applications that do not satisfy the definitions for a two-unit housing development or an urban lot split provided in Section 29.10.610 (Definitions) shall not be subject to this Ordinance. ~~Any provision of this division which is inconsistent with SB 9 shall be interpreted in a manner which is the most limiting on the ability to create a two-unit housing development or urban lot split, but which is consistent with State law.~~ The provisions of this Division shall supersede and take precedence over any inconsistent provision of the Town Code to the extent necessary to effect the provisions of this division.

### Sec. 29.10.610. Definitions.

In addition to definitions contained in Chapter 24 (Subdivision Regulations) and Chapter 29 (Zoning Regulations), the following definitions apply for purposes of this division. Where a conflict may exist, the definitions in this division shall apply.

*Acting in concert* means persons, as defined by Government Code Section 82047, as that section existed on January 1, 2022, acting jointly to pursue development of real property whether or not pursuant to a written agreement and irrespective of individual financial interest.

*Addition* means any construction which increases the size of a building or facility in terms of site coverage, height, length, width, or gross floor area.

*Adjacent parcel* means any parcel of land that is: touching the parcel at any point; separated from the parcel at any point only by a public right-of-way, private street or way, or public or private utility, service, or access easement; or separate from another parcel only by other real property which is in common ownership or control of the applicant.

*Alteration* means any construction or physical change in the arrangement of rooms or the supporting members of a building or structure or change in the relative position of buildings or structures on a site, or substantial change in appearances of any building or structure.

*Car-share vehicle* means a motor vehicle that is operated as part of a regional fleet by a public or private car sharing company or organization and provides hourly or daily service.

*Common ownership or control* means property owned or controlled by the same person, persons, or entity, or by separate entities in which any shareholder, partner, member, or family member of an investor of the entity owns ten (10) percent or more of the interest in the property.

*Demolition* means any act or process that may cause partial or total razing, removal, destruction, or dismantling of a structure, whether or not permitted by the Town.

~~*Entry feature* means a structural element, which leads to an entry door.~~

*Existing structure* means a lawfully constructed building that has received final building permit clearance.

~~*First residential unit* means one (1) of two (2) primary dwelling units developed under a two-unit housing development and can be an existing primary dwelling unit if it meets or is modified to meet the 1,200 square foot floor area limitation on first residential units.~~

*Flag lot* means "lot, corridor" as defined in Section 29.10.020 of Town Code.

*Hillside Area* means all properties located within the Hillside Area Map of the Town's Hillside Development Standards and Guidelines.

*Nonconforming zoning condition* means a physical improvement on a property that does not conform with current zoning standards.

*Public transportation* means a high-quality transit corridor, as defined in subdivision (b) of Public Resources Code Section 21155, or a major transit stop, as defined in Public Resources Code Section 21064.3.

*Single-family residential zone* means a "R-1 or Single-Family residential Zone", "R-1D or Single-Family Residential Downtown Zone", or "HR or Hillside Residential Zone" as specified in article IV, "Residential Zones," of the Zoning Code.

*Street* means any thoroughfare for the motor vehicle travel which affords the principal means of access to abutting property, including public and private rights-of-way and easements.

*Subdivision Code* means Chapter 24 of the Los Gatos Town Code.

*Sufficient for separate conveyance* means that each attached or adjacent dwelling unit is constructed in a manner adequate to allow for the separate sale of each unit in a common interest development as defined in Civil Code Section 1351 (including a residential condominium, planned development, stock cooperative, or community apartment project), or into any other ownership type in which the dwelling units may be sold individually.

*Two-unit housing development* means an application proposing no more than two (2) primary dwelling units on a single parcel located within a single-family residential zone as authorized by Government Code Section 65852.21. A two-unit housing development shall consist of either the construction of no more than two (2) new primary dwelling units, one (1) new primary dwelling unit and retention of one (1) existing primary dwelling unit, or retention of two (2) existing legal non-conforming primary dwelling units where one (1) or both units are subject to a proposed addition or alteration.

*Urban lot split* means a ministerial application for a parcel map to subdivide an existing parcel located within a single-family residential zone into two (2) parcels, as authorized by Government Code Section 66411.7.

*Zoning Code* means Chapter 29 of the Los Gatos Town Code.

#### **Sec. 29.10.620. Eligibility.**

An urban lot split or a two-unit housing development may only be created on parcels satisfying all of the following general requirements:

- (1) *Zoning district.* A parcel that is located within a single-family residential zone.
- (2) *Legal parcel.* A parcel which has been legally created in compliance with the Subdivision Map Act (Government Code Section 66410 et seq.) and the Town's Subdivision Regulations in effect at the time the parcel was created. Applications for an urban lot split or two-unit housing development will only be accepted on parcels with either a recorded parcel map or certificate of compliance. When both an urban lot split and two-unit housing development application are submitted simultaneously, no construction or building permits for new construction or grading activities may be issued until the new parcel map for the urban lot split approval has been recorded.
- (3) *Excluding historic property.* A parcel that is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or a parcel that does not contain a Historic Structure, as defined in Town Code Section 29.10.020, or is not listed on the Town of Los Gatos Historic Resource Inventory, as defined by Town Code Chapter 29,

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(Supp. No. 96)

Article VII, Division 3, "Historic Preservation and LHP or Landmark and Historic Preservation Overlay Zone."

- (4) *Excluding very high fire hazard severity zone.* A parcel that is not within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Government Code Section 51178, or within a state responsibility area, as defined in Section 4102 of the Public Resources Code. This subparagraph does not apply to sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development, including, but not limited to, standards established under all of the following or their successor provisions: (i) Section 4291 of the Public Resources Code or Section 51182, as applicable; (ii) Section 4290 of the Public Resources Code; and (iii) Section 7A of the California Building Code (Title 24 of the California Code of Regulations).
- (5) *Excluding hazardous waste sites.* A parcel that is not identified as a hazardous waste site pursuant to Government Code Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Health and Safety Code Section 25356, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use.
- (6) *Excluding earthquake fault zone.* A parcel that is not located within a delineated earthquake fault zone as determined by the State Geologist on any official maps published by the State Geologist, unless the two-unit housing development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Health and Safety Code Division 13), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.
- (7) *Excluding flood zone.* A parcel that is not located within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) on the official maps published by the Federal Emergency Management Agency unless a letter of map revision prepared by the Federal Emergency Management Agency has been issued or if the proposed two-unit housing development is constructed in compliance with the provisions of Town Code Chapter 29, Article XI, "Floodplain Management," as determined by the floodplain administrator.
- (8) *Excluding natural habitat.* A parcel that is not recognized by the Town as a habitat for protected species identified as a candidate, sensitive, or species of special status by State or Federal agencies, fully protected species, or species protected by the Federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).
- (9) *Excluding prime farmland and wetlands.* A parcel that contains either prime farmland or farmland of statewide importance, as defined pursuant to the United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction; or wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
- (10) *Excluding conservation easements.* A parcel subject to a recorded conservation easement.

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## Sec. 29.10.630. Requirements.

Two-unit housing developments must comply with the following objective zoning standards, design review standards, and general requirements and restrictions:

- (1) *Zoning standards.* The following objective zoning standards supersede any other standards to the contrary that may be provided elsewhere in the Zoning Code, as they pertain to a two-unit housing development under Government Code Section 65852.21. Two-unit housing developments shall be constructed only in accordance with the following objective zoning standards, except as provided by subsection (4), "Exceptions:"
  - a. *Building height.* Maximum building height shall be as specified by the applicable zoning district for the main structure. ~~Buildings located in the Hillside Area are limited to 25 feet in height, and the building's tallest elevation shall not exceed 35 feet measured from the lowest part of the building to the highest part; Buildings located within the required side or rear setbacks of the applicable zoning district, and those located in the Hillside Residential (HR) zones, shall not exceed sixteen (16) feet in height;~~
  - b. *New driveways.* Each parcel shall ~~be connected to an adjacent street with a driveway. include no more than a single driveway unless the parcel has more than one hundred (100) feet of contiguous street frontage or more than one (1) existing driveway.~~ Any new driveway shall satisfy the following requirements:
    1. A minimum paved width of ten (10) feet ~~up to a maximum width of eighteen (18) feet. Driveways in the Hillside Residential (HR) zones shall have a minimum width of twelve (12) feet; and~~
    2. ~~A minimum depth of eighteen (18) feet measured from the front or street side property line;~~
    3. Surfacing shall comply with Town Code Section 29.10.155(e);
    4. ~~Only a single driveway curb cut shall be permitted per parcel unless the parcel has more than one hundred (100) feet of contiguous street frontage, designed in accordance with the Town's Standard Specifications and Plans for Parks and Public Works Construction; and~~
    5. ~~A maximum slope of fifteen (15) percent.~~
  - c. *Dwelling unit type.* The primary dwelling units comprising a two-unit housing development may take the form of detached single-family dwellings, attached units, and/or duplexes. A duplex may consist of two (2) dwelling units in a side-by-side or front-to-back configuration within the same structure or one (1) dwelling unit located atop another dwelling unit within the same structure. Proposed adjacent or attached dwelling units shall meet all applicable building code standards and be designed sufficient to allow separate conveyance;
  - d. *Fencing.* All new ~~fences, walls, and gates~~ shall comply with the requirements of sections 29.40.030 through 29.40.0325 of the Zoning Code;
  - e. *Floor area ratio and lot coverage.*
    1. The maximum floor area ratio and lot coverage shall be as specified by the applicable zoning regulations.
    2. For flag/corridor lots, the gross lot size includes the access corridor for the purposes of determining maximum floor area ratio and lot coverage as follows:

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(Supp. No. 96)

- i. When an easement is used to provide access, the access corridor is included in the gross lot size for the lot granting the easement; and
- ii. When the access corridor is owned in-fee and is part of the rear lot, the access corridor is included in the gross lot size for the rear lot.

~~3. The maximum size of the first new residential unit shall not exceed one thousand two hundred (1,200) square feet.~~

~~34. When two new primary dwelling units are proposed, or one new primary dwelling unit and the retention of an existing primary dwelling is proposed, as part of a two-unit housing development is proposed and the existing structures are at or below the maximum allowed floor area, a ten (10) percent increase in the floor area ratio standards for residential structures is allowed, excluding garages, and this increase in floor area cannot be combined with a separate increase for an accessory dwelling unit allowed by Town Code Section 29.10.320. The additional floor area allowed by this subsection shall not exceed one thousand two hundred (1,200) square feet.~~

~~4. Below-grade square footage, in accordance with Town Code Sections 29.10.020 and 29.40.072, is exempt from the floor area maximum.~~

~~5. Detached garages shall not exceed 450 square feet without obtaining a separate Minor Residential Planning Application in accordance with Town Code Section 29.20.480.~~

~~65. Notwithstanding the floor area ratio and lot coverage standards in this subsection, a new two-unit housing development with unit sizes of 800 square feet or less shall be permitted.~~

f. *Grading.*

1. ~~To the extent~~As required by Chapter 12, Article II and Section 29.10.09045(b) of the Town Code, the grading activities shall not exceed 50 cubic yards, cut plus fill, unless exempted per subsection 2 below or unless first receiving approval of a discretionary Architecture and Site Application set forth in subsection 2. below may require a grading permit, but will not require discretionary review of an architecture and site application;

2. Grading ~~exemption~~activity associated with a two-unit housing development shall not exceed fifty (50) cubic yards, cut plus fill, except:

- i. Light wells that do not exceed the minimum required per Building Code ~~shall not count as grading activity for the purpose of this section;~~
- ii. Grading activities required to provide the minimum driveway requirements, and fire access as required by the Santa Clara County Fire Department ~~shall not count as grading activity for the purpose of this section;~~ and
- iii. Excavation within the footprint of a primary dwelling unit or garage ~~shall not count as grading activity for the purpose of this section.~~

Note that these exemptions are only for the discretionary approval requirement listed in Town Code Section 29.10.09045(b) and not the Grading Permit requirement at building permit submittal per Town Code Chapter 12, Article II.

~~3. In the Hillside Area, graded areas shall not be larger than the area of the footprint of the house, plus that area necessary to accommodate access, guest parking, and turnaround areas.~~

- g. Cut and Fill. Two-unit housing developments in the Hillside Area shall be subject to the cut and fill requirements specified by Table 1-1 (Cut and Fill Requirements) below:

Table 1-1 - Cut and Fill Requirements		
Site Element	Cut *	Fill *
House and attached garage	8' **	3'
Detached accessory building *	4'	3'
Driveways ***	4'	3'
Other (decks, yards) *	4'	3'
* Combined depths of cut plus fill for development other than the main residence shall be limited to 6 feet.		
** Excludes below grade square footage pursuant to Section 29.40.072 of the Town Code and light-wells that do not exceed the minimum required per Building Code.		
*** Excludes cut and fill for the minimum driveway and fire access standards as required by the Santa Clara County Fire Department.		

- h. *Building Sites.* For properties in the Hillside Area, The the footprint of the proposed residential unit(s) and garage(s) shall not be located on lands with slopes exceeding thirty (30) percent. ~~This provision applies only to the building site, not the property as a whole;~~
- ~~i. *Retaining walls.* Retaining walls shall not exceed five (5) feet in height and shall not run in a straight continuous direction for more than fifty (50) feet without a break, offset, or planting pocket. Retaining walls shall have a five-foot landscaped buffer when adjacent to the street;~~
- ~~j. *Light reflectivity value.* Exterior material colors for primary dwelling units and garages in the Hillside Residential (HR) zones shall comply with requirements in Chapter V, Section I, of the Town's Hillside Development Standards and Guidelines;~~
- ~~jk. *Landscaping requirement.* All landscaping shall comply with the California Model Water Efficient Landscape Ordinance (MWEL0);~~
- ~~l. *Lighting.* New exterior lighting fixtures shall be downward directed and utilize shields so that no bulb is visible to ensure that the light is directed to the ground surface and does not spill light onto neighboring parcels consistent with Section 29.10.09015 of the Zoning Code;~~
- ~~jm. *Trees.* Any proposed work shall comply with the protection, removal, and replacement requirements for protected trees in Chapter 29, Article 1, Division 2, "Tree Protection," of Town Code;~~
- ~~kn. *Minimum living area.* The minimum living area of a primary dwelling unit shall be 150 square feet, subject to the restrictions specified by Health and Safety Code Section 17958.1;~~
- ~~le. *Parking.*~~
- One (1) parking stall per primary dwelling unit shall be required on-site, except for two-unit housing developments located on parcels within one-half mile walking distance of public transportation; or where there is a designated parking area for one (1) or more car-share vehicles within one (1) block of the parcel.
  - Parking stalls may either be uncovered or covered (garage or carport) in compliance with applicable developments standards of the Zoning Code, including Chapter 29, Article I, Division 4, "Parking," except that uncovered parking spaces may be provided in a front or



side setback abutting a street on a driveway (provided that it is feasible based on specific site or fire and life safety conditions) or through tandem parking.

3. Parking space dimensions, whether uncovered or covered, shall comply with the size requirements in Town Code Section 29.10.155(d).

**m. Setbacks.**

1. Two-unit housing developments and attached garages shall be subject to the setback and building separation requirements specified by Table 1-2 (Setback Requirements), below. Detached garages and detached accessory structures other than a detached garage shall meet the setback-development requirements and follow the processing requirements specified in Town Code Section 29.40.015 (Accessory Buildings).

2. Development proposed adjacent to a protected waterway shall comply with the standards and provisions of the Santa Clara County Valley Water Resources Protection Collaborative Guidelines and Standards for Land Use Near Streams document.

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Table 1-2 - Setback Requirements		
Setback		Requirement <sup>(32)</sup>
Property Line Setbacks <sup>(1)</sup>	Front <sup>(2)(7)</sup>	Per the applicable zoning district. <sup>(65)</sup>
	Garage Entry	18 feet, <u>when the required garage setback is less than 18 feet</u>
	Interior Sides	4 feet <sup>(43)</sup>
	Rear <sup>(2)</sup>	4 feet <sup>(43)</sup>
	Street Side	Per the applicable zoning district.
Separation Between Detached Structures <sup>(43)(54)</sup>		5 feet
Exceptions: (1) Cornices, eaves, belt courses, sills, canopies, bay windows, chimneys, or other similar architectural features may extend into required setbacks as specified Section 29.40.070(b) of the Zoning Code. <u>(2) The required front yard setback may be reduced as specified in Sections 29.40.050, 29.40.055, and 29.40.060 of the Zoning Code.</u> <del>(32)</del> No setback shall be required for an existing structure, or a structure constructed in the same location and to the same dimensions as an existing structure. <del>(43)</del> For parcels created through an urban lot split where the parcels are under the same ownership, no interior side setback shall be required for two-unit housing development units constructed as attached units on separate lots, provided that the structures meet building code safety standards and are sufficient to allow separate conveyance as a separate fee parcel. Similarly, no rear setback (for the front property) or front setback (for the rear property) shall be required for two-unit housing development units constructed as attached units in a flag-lot configuration where the parcels are under the same ownership. <del>(54)</del> Except for primary dwellings constructed as a duplex or attached single-family residences. <del>(65)</del> Flag/corridor lots shall use the interior side setback requirement <u>listed above</u> for all property lines other than the rear.		

(7) Primary dwelling units on a through lot with frontage along two streets, and are not a corner lot, shall meet the front setback requirement along both street frontages.

nf. *Stormwater management.* The development shall comply with the requirements of the Town's National Pollution Discharge Elimination System Permit as implemented by Chapter 22 of the Town Code, and as demonstrated by a grading and drainage plan prepared by a registered civil engineer; and

of. *Utilities.* New units shall be designed as individual units, with separate gas, electric, and water utility connections directly between each dwelling unit and the utility.

(2) *Design review standards.* The following objective design review standards apply to construction of new primary dwelling units and to any addition and/or alteration to existing primary dwelling units as part of a two-unit housing development, except as provided by subsection (4) below, "Exceptions:"

a. ~~*Balconies/decks.* Rooftop and second floor terraces and decks are prohibited. Balconies shall only be permitted on the front and street side elevations of a primary dwelling unit fronting a public street. Such balconies shall be without any projections beyond the building footprint;~~

a. *Glare.* Direct or reflected glare, such as that produced by floodlight, visible from outside any boundary line of a property on which the glare is produced, is prohibited;

b. *Lighting.* New exterior lighting fixtures shall be downward directed and utilize shields so that no bulb is visible to ensure that the light is directed to the ground surface and does not spill light onto neighboring parcels consistent with Section 29.10.09015 of the Zoning Code. In the Hillside Area, decorative lighting, sports court lighting, and unshaded or non-recessed spotlights are prohibited;

cb. *Finished floor.* The finished floor of the first story in the Hillside Area shall not exceed three (3) feet in height as measured from finished grade;

d. *Retaining Walls.* Retaining walls for properties in the Hillside Area that are visible from a public street shall have a veneer of natural stone, stained concrete, or textured surface; and

e. *Light Reflectivity Value.* For properties in the Hillside Area, exterior material colors for primary dwelling units and garages shall comply with requirements in Chapter V, Section I, of the Town's Hillside Development Standards and Guidelines;

c. ~~*Front entryway.* A front entryway framing a front door shall have a roof eave that matches or connects at the level of the adjacent eave line;~~

d. ~~*Front porch.* If proposed, porches shall have a minimum depth of six (6) feet and a minimum width equal to twenty five (25) percent of the linear width of the front elevation;~~

e. ~~*Second story setback.* The interior side and rear elevations of the second story of a two-story primary dwelling unit shall have a minimum setback of nine (9) feet;~~

f. ~~*Garages.* Street-facing attached garages shall not exceed fifty (50) percent of the linear width of the front yard or street-side yard elevation;~~

g. ~~*Plate height.* The plate height of each story shall be limited to a maximum of ten (10) feet as measured from finished floor, and when above the first floor the plate height shall be limited to a maximum of eight (8) feet; and~~

h. ~~*Windows.* All second story windows less than ten (10) feet from rear and interior side property lines shall be clerestory with the bottom of the glass at least six (6) feet above the finished floor except as necessary for egress purposes as required by the Building Code.~~

i. ~~*Prohibited materials.* The following exterior materials are prohibited on all building exteriors:~~

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(Supp. No. 96)

~~1. Vinyl siding; and~~

~~2. Plywood.~~

~~j. Mechanical equipment. Heating, ventilation, and air conditioning (HVAC) units, generators, energy storage systems (ESS), and other similar ground-mounted mechanical equipment shall be screened from view from any adjacent street if not already located out of view behind a building or solid fence.~~

(3) *General requirements and restrictions.* The following requirements and restrictions apply to all two-unit housing developments, inclusive of existing and new primary dwelling units, except as provided by subsection (4) below, "Exceptions:"

- a. *Number of units.* A maximum of four (4) units, with a maximum of two (2) primary dwelling units, on lots that have not undergone an urban lot split.
- b. *Accessory dwelling units.* In addition to the two (2) residential units allowed under this section, consistent with Chapter 29, Article 1, Division 7, "Accessory Dwelling Units," of the Town Code, one (1) accessory dwelling unit and one (1) junior accessory dwelling unit shall be allowed on lots that have not undergone an urban lot split.
- c. *Building and Fire Codes.* The International Building Code ("Building Code"), and the California Fire Code and International Fire Code (together, "Fire Code"), as adopted by Chapter 6 of the Town Code, respectively, apply to all two-unit housing developments.
- d. *Encroachment permits.* Separate encroachment permits, issued by the Parks and Public Works Department, shall be required for the installation of utilities to serve two-unit housing developments. Applicants shall apply for and pay all necessary fees for utility permits for sanitary sewer, gas, water, electric, and all other utility work.
- e. *Restrictions on demolition.* The two-unit housing development shall not require ~~either demolition of more than twenty-five (25) percent of the exterior walls~~ or alteration of any of the following types of housing:
  1. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income. This shall be evidenced by an attestation from the property owner;
  2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power. This shall be evidenced by an attestation from the property owner; or
  3. Housing that has been occupied by a tenant in the last three (3) years. This shall be evidenced by an attestation from the property owner.

If any existing housing is proposed to be altered or demolished, the owner of the property proposed for a two-unit housing development shall sign an affidavit, stating that none of the conditions listed above exist and shall provide a comprehensive history of the occupancy of the units to be altered or demolished for the past three (3) years on a form prescribed by the Town.

If any existing dwelling unit is proposed to be demolished, the applicant shall comply with the replacement housing provisions of Government Code Section 66300(d).

~~f. Ellis Act. Parcels on which an owner of residential real property has exercised the owner's rights under state law (Government Code Section 7060) to withdraw accommodations from rent or lease within fifteen (15) years preceding the development application are not eligible for a two-unit housing development.~~

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(Supp. No. 96)

g.f. *Recorded covenant.* Prior to building permit issuance, the applicant shall record a restrictive covenant in the form prescribed by the Town, which shall run with the land and provide for the following:

1. A limitation restricting the property to residential uses only; and
2. A requirement that any dwelling units on the property may only be rented for a period longer than thirty (30) days.

(4) *Exceptions.* If any of the provided zoning standards or design review standards would have the effect of physically precluding construction of up to two (2) primary dwelling units or physically preclude either of the two (2) primary dwelling units from being at least eight hundred (800) square feet in floor area, the Community Development Director shall grant an exception to the applicable standard(s) to the minimum extent necessary as specified by this section. An exception request shall be explicitly made on the application for a two-unit housing development.

- a. *Determination.* In order to retain adequate open space to allow for recreational enjoyment, protection of the urban forest, preservation of the community character, reduction of the ambient air temperature, and to allow for the percolation of rainfall into the groundwater system, when considering an exception request, the Community Development Director shall first determine that a reduction in any other zoning and/or design review standard(s) will not allow the construction of the two-unit housing development as specified by this section prior to allowing an exception(s) to ~~the landscaping requirement, front-yard setback, or street-side setbacks standards.~~

#### **Sec. 29.10.640. Application process for two-unit housing development.**

Applications for two-unit housing developments shall be submitted and processed in compliance with the following requirements:

- (1) *Application type.* Two-unit housing developments shall be reviewed ministerially by the Community Development Director for compliance with the applicable regulations. The permitting provisions of Town Code Sections 29.20.135 through 29.20.160, "Architecture and Site Approval," shall not be applied;
- (2) *Applicability.* When an application is submitted that includes both the construction of a two-unit development under this section and other redevelopment work that is not integral to the creation of a new dwelling unit and would generally require discretionary review, only the portions required for construction of the new dwelling unit shall be reviewed ministerially;
- (3) *Review Process.* The Community Development Director shall consider and approve or deny an application for a proposed two-unit housing development pursuant to this section within 60 days from the date the Town receives a completed application. If the Director has not approved or denied the completed application within 60 days, the application shall be deemed approved. A completed application must include all the submittal requirements listed in the associated SB 9 application packet, as well as the required processing fees;
- (4) *Application filing.* An application for a two-unit housing development, including the required application materials and fees, shall be filed with the Community Development Department;
- (5) *Neighbor notification.* In addition to the standard application materials, the applicant will be required to submit one (1) set of stamped, addressed envelopes to neighboring residents and property owners. The Planning Department will assist the applicant in determining the neighboring properties to be notified (which will consist of all properties abutting the applicant's parcel, properties directly across

the street and the two (2) parcels on each side of the properties directly across the street). This noticing is for informational purposes only and is not intended to create a discretionary review process.

- (64) *Building Permits.* Approval of a two-unit housing development application shall be required prior to acceptance of an application for building permit(s) for the new and/or modified primary dwelling unit(s) comprising the two-unit housing development;
- (7) *Expiration.* Approval of a two-unit housing development application shall expire two (2) years after the date of approval unless the approval is used and vested before expiration, per Town Code Sections 29.20.320 and 29.20.335;
- (85) *Denial.* The Community Development Director may deny a two-unit housing development project only if the Building Official makes a written finding, based upon a preponderance of the evidence, that the two-unit housing development would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Government Code Section 65589.5, upon public health and safety ~~or the physical environment~~ and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact; ~~and~~.
- If the Director denies an application for a proposed two-unit housing development pursuant to this section, the Director shall, within 60 days of receipt of the completed application, return in writing a full set of comments to the application with a list of items that are defective or deficient and a description of how the applicant can remedy the application; and
- (96) *Appeals.* Two-unit housing application decisions are ministerial and are not subject to an appeal.

#### Sec. 29.10.650. Subdivision standards.

Urban lot splits shall comply with the following objective subdivision standards, and general requirements and restrictions:

- (1) *Subdivision standards.* The following objective subdivision standards supersede any other standards to the contrary that may be provided in the Zoning Code or Subdivision Code, as they pertain to creation of an urban lot split under Government Code Section 66411.7:
- a. *Flag/corridor lots.* The access corridor of a flag/corridor lot (Town Code Section 29.10.085) shall be either in fee as part of the parcel or as an easement, and shall be a minimum width of 12 feet;
  - b. *Minimum lot size.* Each new parcel shall be approximately equal in lot area provided that one (1) parcel shall not be smaller than forty (40) percent of the lot area of the original parcel proposed for subdivision. In no event shall a new parcel be less than one thousand two hundred (1,200) square feet in lot area. If one (1) of the proposed lots is a flag/corridor lot, the area of the access corridor shall count toward the lot area as follows:
    1. When an easement is used to provide access, the access corridor is included in the gross lot size for the lot granting the easement; and
    2. When the access corridor is owned in-fee and is part of the rear lot, the access corridor is included in the gross lot size for the rear lot.
  - c. *Minimum lot width.* Each new parcel shall maintain a minimum lot width of twenty (20) feet;
  - d. *Minimum public frontage.* Each new parcel shall have frontage upon a street with a minimum frontage dimension of twenty (20) feet, except as allowed above for flag/corridor lots;
  - e. *Parking.* Each dwelling unit within an urban lot split shall contain adequate space for one on-site parking space, except for parcels within one-half mile walking distance of public transportation;

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(Supp. No. 96)

or where there is a designated parking area for one or more car-share vehicles within one block of the parcel;

f. Sidewalks. Sidewalks shall be constructed on all streets and highways within an urban lot split; except, that in land being subdivided into lots twenty thousand (20,000) square feet or more in size in accordance with Town Code Section 29.10.06712. In Hillside Area lot splits, a walkway or path shall be constructed on one side of the street or highway;

g.e. Number of lots. The parcel map to subdivide an existing parcel shall result in no more than two (2) parcels; and

h.f. Lot Merger. Lots resulting from an urban lot split shall not be merged unless that lot merger can be done without loss of housing units and without causing a non-conforming building, lot, or use.

(2) *General requirements and restrictions.* The following requirements and restrictions apply to all proposed urban lot splits:

- a. *Adjacent parcels.* Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously conducted an urban lot split to create an adjacent parcel as provided for in this division;
- b. *Dedication and easements.* The Town Engineer shall not require dedications of rights-of-way nor the construction of offsite improvements but may, however, require recording of easements necessary for the provision of private services, facilities, and future public improvements or future public services, facilities, and future public improvements;
- c. *Existing structures.* Existing structures located on a parcel subject to an urban lot split shall not be subject to a setback requirement. However, any such existing structures shall not be located across the shared property line resulting from an urban lot split, unless the structure is converted to an attached unit as provided for in Table 1-2 (Setback Requirements, Exception Number ~~43~~). All other existing structures shall be modified, demolished, or relocated prior to recordation of a parcel map;
- d. *Intent to occupy.* The applicant shall submit a signed affidavit to the Community Development Director attesting that the applicant intends to occupy one (1) of the housing units on the newly created parcels as their principal residence for a minimum of three (3) years from either:
  1. The date of the approval of the urban lot split when the intent is to live in an existing residence; or
  2. Certificate of occupancy when the intent is to occupy a newly constructed residential unit.This requirement shall not apply to an applicant that is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code;
- e. *Non-conforming conditions.* The Town shall not require, as a condition of approval, the correction of nonconforming zoning conditions. However, no new nonconforming conditions may result from the urban lot split other than setbacks as specified by Table 1-2 (Setback Requirements, Exception Number 2), maximum allowed lot coverage, and maximum allowed floor area ratio;
- f. *Number of units.* No more than two (2) dwelling units may be located on any lot created through an urban lot split, including primary dwelling units, accessory dwelling units, junior accessory dwelling units, density bonus units, and units created as two-unit developments. Any excess dwelling units that do not meet these requirements shall be relocated, demolished, or otherwise removed prior to approval of a parcel map;

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g. *Prior subdivision.* A parcel created through a prior urban lot split may not be further subdivided. The subdivider shall submit a signed deed restriction to the Community Development Director documenting this restriction. The deed restriction shall be recorded on the title of each parcel concurrent with recordation of the parcel map;

h. *Restrictions on demolition.* The proposed urban lot split shall not require ~~either the demolition of more than twenty-five (25) percent of the exterior walls~~ or alteration of any of the following types of housing:

1. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income. This shall be evidenced by an attestation from the property owner;
2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power. This shall be evidenced by an attestation from the property owner; ~~or~~

~~3. *Ellis Act.* Parcels on which an owner of residential real property has exercised the owner's rights under state law (Government Code Section 7060) to withdraw accommodations from rent or lease within fifteen (15) years preceding the development application; or~~

~~4.~~ Housing that has been occupied by a tenant in the last three (3) years. This shall be evidenced by an attestation from the property owner;

If any existing housing is proposed to be altered or demolished, the owner of the property proposed for an urban lot split shall sign an affidavit, stating that none of the conditions listed above exist and shall provide a comprehensive history of the occupancy of the units to be altered or demolished for the past three (3) years on a form prescribed by the Town. The owner and applicant shall also sign an affidavit stating that neither the owner nor applicant, nor any person acting in concert with the owner or applicant, has previously subdivided an adjacent parcel using and urban lot split;

- i. *Replacement units.* If any existing dwelling unit is proposed to be demolished, the applicant will comply with the replacement housing provisions of Government Code Section 66300(d);
- j. *Recorded covenant.* Prior to approval and recordation of the parcel map, the applicant shall record a restrictive covenant and agreement in the form prescribed by the Town, which shall run with the land and provide for the following:
  1. A prohibition against further subdivision of the parcel using the urban lot split procedures as provided for in this section;
  2. A limitation restricting the properties to residential uses only; and
  3. A requirement that any dwelling units on the property may only be rented for a period longer than thirty (30) days.
- k. *Stormwater management.* The subdivision shall comply with the requirements of the Town's National Pollution Discharge Elimination System Permit as implemented by Chapter 22 of the Town Code, and as demonstrated by a grading and drainage plan prepared by a registered civil engineer;
- l. *Utility providers.* The requirements of the parcel's utility providers shall be satisfied prior to recordation of a parcel map; and
- m. *Compliance with Subdivision Map Act.* The urban lot split shall conform to all applicable objective requirements of the Subdivision Map Act (commencing with Government Code Section 66410), except as otherwise expressly provided in Government Code Section 66411.7.

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#### Sec. 29.10.660. Application process for urban lot splits.

Applications for urban lot splits shall be submitted and processed in compliance with the following requirements:

- (1) *Application type.* Urban lot splits shall be reviewed ministerially by the Community Development Director for compliance with the applicable regulations. A tentative parcel map shall not be required;
- (2) *Application filing.* An urban lot split application, including the required application materials and fees, shall be filed with the Community Development Department;
- (3) *Review Process.* The Community Development Director shall consider and approve or deny an application for a proposed urban lot split pursuant to this section within 60 days from the date the Town receives a completed application. If the Director has not approved or denied the completed application within 60 days, the application shall be deemed approved. A completed application must include all the submittal requirements listed in the associated SB 9 application packet, as well as the required processing fees;
- (4) *Neighbor notification.* In addition to the standard application materials, the applicant will be required to submit one (1) set of stamped, addressed envelopes to neighboring residents and property owners. The Planning Department will assist the applicant in determining the neighboring properties to be notified (which will consist of all properties abutting the applicant's parcel, properties directly across the street and the two (2) parcels on each side of the properties directly across the street). This noticing is for informational purposes only and is not intended to create a discretionary review process;
- (5) *Parcel map.* Approval of an urban lot split permit shall be required prior to acceptance of an application for a parcel map for an urban lot split. Applicants shall apply for an urban lot split parcel map and pay all fees;
- (6) *Expiration.* Approval of an urban lot split permit shall expire two (2) years after the date of approval per Town Code Section 24.20.070 unless the Parcel Map is recorded;
- (7) *Development.* Development on the resulting parcels is limited to a project approved by the two-unit housing development process, the Town's Accessory Dwelling Unit process, or through the Town's standard discretionary process;
- (8) *Denial.* The Community Development Director may deny an urban lot split only if the Building Official makes a written finding, based upon a preponderance of the evidence, that an urban lot split or two-unit housing development located on the proposed new parcels would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety ~~or the physical environment~~ and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact; ~~and,~~  
If the Director denies an application for a proposed urban lot split pursuant to this section, the Director shall, within 60 days of receipt of the completed application, return in writing a full set of comments to the application with a list of items that are defective or deficient and a description of how the applicant can remedy the application; and
- (9) *Appeals.* Urban lot split application decisions are ministerial and are not subject to an appeal.

#### Sec. 29.10.670. Sunset clause.

If SB 9 is repealed or otherwise rescinded by the California State Legislature or by the People of the State of California, this division shall be repealed."

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**From:** [REDACTED]  
**Sent:** Tuesday, March 11, 2025 2:07 PM  
**To:** [REDACTED] Maria Ristow <MRistow@losgatosca.gov>  
**Cc:** Ryan Safty <RSafty@losgatosca.gov>; Sean Mullin <SMullin@losgatosca.gov>  
**Subject:** Re: SB9 APPLICATION IS UPLOADED -- 63 Highland

[EXTERNAL SENDER]

Ryan, please give me the date that the Council will make the changes I noted below and an acknowledgment that these changes will be made.

After the public hearing was closed, there seemed to be an abuse of process, as councilmembers started freelancing to create NEW LAW that went unchecked by Director Paulson and Attorney Whelan.

Those parties need to speak up, or I will consider their silence as an abuse of my civil rights.

SB9 and SB450 are corrective mandates from the CA Legislature to curb municipalities' longstanding discretionary abuse. They are not fair game for further manipulation by local fiefdoms.

I would prefer that my current SB9 project be approved before the Town Council makes a mess of the law again.

Best regards, Terry

Terence J. Szewczyk. P.E.

TS/Civil Engineering, Inc

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

EXHIBIT 5

**25/04/08 Terence J. Szewczyk's objections to invalid provisions  
of Town SB9 Ordinance and after the passage of SB450.**

**Simple summary:**

***Delete all of the following: the 1200 SF limitation, Public/Neighbor Noticing, grading and other inconsistencies, regulation of curbcuts and driveways, daylight plane 2nd story.***

***Respect the CA Law: Front setbacks must comply with zone district, otherwise side and rear are 4'.***

**ORDINANCE 2334**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
AMENDING CHAPTER 29 (ZONING REGULATIONS) REGARDING TWO-UNIT  
HOUSING  
DEVELOPMENTS AND URBAN LOT SPLITS IN  
ALL SINGLE-FAMILY RESIDENTIAL  
ZONES**

**WHEREAS**, the Town of Los Gatos (Town) has adopted a General Plan to ensure a well-planned and safe community; and

**WHEREAS**, protection of public health, safety, and welfare is fully articulated in the General Plan; and

**WHEREAS**, State law requires that the Town's Zoning Code conform with the General Plan's goals and policies; and

**WHEREAS**, in 2021, the California Legislature approved, and the Governor signed into law Senate Bill 9 (SB 9), which among other things, adds Government Code Sections 65852.21 and 66411.7 to impose new limits on local authority to regulate two-unit housing developments and urban lot splits; and

**WHEREAS**, SB 9 requires the Town to provide for the ministerial (or "by right") approval of a housing development containing no more than two residential units of at least 800 square feet in floor area (two-unit housing development) and a parcel map dividing one existing lot into two approximately equal parts (urban lot split) within a single-family residential zone for residential use; and

**WHEREAS**, SB 9 eliminates discretionary review and public oversight of proposed housing developments containing no more than two residential units by removing public notice and hearings by the Development Review Committee or Planning Commission, by authorizing only administrative review of the project, and by requiring ministerial approval of a two-unit housing development that meets objective standards; and

**WHEREAS**, SB 9 eliminates discretionary review and public oversight of the proposed subdivision of one lot into two parcels by removing public notice and hearings by the Development Review Committee or Planning Commission, by requiring only administrative review of the project, and by providing ministerial approval of an urban lot split; and

**WHEREAS**, SB 9 exempts SB 9 projects from environmental review as required by the California Environmental Quality Act (CEQA), by establishing a ministerial review process without discretionary review or a public hearing; and

**WHEREAS**, SB 9 allows the Town to adopt objective zoning and subdivision standards for two-unit housing developments and urban lot splits; and

**WHEREAS**, the Town desires to amend its local regulatory scheme to comply with and implement Government Code Sections 65852.21 and 66411.7 and to appropriately regulate projects under SB 9; and

**WHEREAS**, this matter was regularly noticed in conformance with State and Town law and came before the Planning Commission for public hearing on September 28, 2022; and

**WHEREAS**, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on November 1, 2022.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS FINDS AND ORDAINS:**

Section 1. The Town Council finds and declares that this Ordinance establishes regulations in the Zoning Code to allow two-unit housing developments and urban lot splits as specified by California Government Code Sections 66452.6, 65852.21, and 66411.7, as adopted and amended by SB 9.

Section 2. A new Division 10, "Two-Unit Housing Developments and Urban Lot Splits," is added to Article I, "In General," of Chapter 29, "Zoning Regulations," to read as follows:

"Section 29.10.600. Purpose and Applicability. The Town Council finds and determines that this Ordinance is applicable only to voluntary applications for two-unit housing developments and urban lot splits. Owners of real property or their representatives may continue to exercise rights for property development in conformance with the Zoning Code and Subdivision Code. Development applications that do not satisfy the definitions for a two-unit housing development or an urban lot split provided in Section III (Definitions) shall not be subject to this Ordinance. ~~Any provision of this Division which is inconsistent with SB 9 shall be interpreted in a manner which is the most limiting on the ability to create a two-unit housing development or urban lot split, but which is consistent with State law.~~ **DELETE, NOT ALLOWED.** The provisions of this Division shall supersede and take precedence over any inconsistent provision of the Town Code to the extent necessary to effect the provisions of this Division. **Note: Los Gatos subdivision regs never updated since 1968! Oh, sorry added Vesting TM in 1990.**

Section 29.10.610. Definitions. In addition to definitions contained in Chapter 24 (Subdivision Regulations) and Chapter 29 (Zoning Regulations), the following definitions apply for purposes of this Division. Where a conflict may exist, the definitions in this Division shall apply.

*Acting in concert* means persons, as defined by Government Code Section 82047, as that section existed on January 1, 2022, acting jointly to pursue development of real property whether or not pursuant to a written agreement and irrespective of individual financial interest.

*Addition* means any construction which increases the size of a building or facility in terms of site coverage, height, length, width, or gross floor area.

*Adjacent parcel* means any parcel of land that is: touching the parcel at any point; separated from the parcel at any point only by a public right-of-way, private street or way, or public or private utility, service, or access easement; or separate from another parcel only by other real property which is in common ownership or control of the applicant.

*Alteration* means any construction or physical change in the arrangement of rooms or the supporting members of a building or structure or change in the relative position of buildings or structures on a site, or substantial change in appearances of any building or structure.

*Car-share vehicle* means a motor vehicle that is operated as part of a regional fleet by a public or private car sharing company or organization and provides hourly or daily service.

*Common ownership or control* means property owned or controlled by the same person, persons, or entity, or by separate entities in which any shareholder, partner, member, or family member of an investor of the entity owns ten percent or more of the interest in the property.

*Entry feature* means a structural element, which leads to an entry door;

*Existing structure* means a lawfully constructed building that received final building permit clearance prior to January 1, 2022, and which has not been expanded on or after January 1, 2022.

*First residential unit* means one of two primary dwelling units developed under a two-unit housing development and can be an existing primary dwelling unit ~~if it meets or is modified to meet the 1,200-square-foot floor area limitation on first residential units.~~ **Freelance addition by maverick Town council member. Town Manager, Community Development Director, and Town Attorney sat in silence.**

*Flag lot* means "lot, corridor" as defined in Section 29.10.020 of Town Code.

*Nonconforming zoning condition* means a physical improvement on a property that does not conform with current zoning standards.

*Two-unit housing development* means an application proposing no more than two primary dwelling units on a single parcel located within a single-family residential zone as authorized by Government Code Section 65852.21. A two-unit housing development shall consist of either the construction of no more than two new primary dwelling units, one new primary dwelling unit and retention of one existing primary dwelling unit, or retention of two existing legal non-conforming primary dwelling units where one or both units are subject to a proposed addition or alteration.

*Public transportation* means a high-quality transit corridor, as defined in subdivision (b) of Public Resources Code Section 21155, or a major transit stop, as defined in Public Resources Code Section 21064.3.

*Single-family residential zone* means a "R-1 or Single-Family residential Zone", "R-1D or Single-Family Residential Downtown Zone", or "HR or Hillside Residential Zone" as specified in Article IV, "Residential Zones," of the Zoning Code.

*Subdivision Code* means Chapter 24 of the Los Gatos Town Code.

**NOT UPDATED SINCE 1968**

*Sufficient for separate conveyance* means that each attached or adjacent dwelling unit is constructed in a manner adequate to allow for the separate sale of each unit in a common interest development as defined in Civil Code Section 1351 (including a residential condominium, planned development, stock cooperative, or community apartment project), or into any other ownership type in which the dwelling units may be sold individually.

*Urban lot split* means a ministerial application for a parcel map to subdivide an existing parcel located within a single-family residential zone into two parcels, as authorized by Government Code Section 66411.7.

*Zoning Code* means Chapter 29 of the Los Gatos Town Code.

Section 29.10.620. Eligibility. An urban lot split or a two-unit housing development may only be created on parcels satisfying all of the following general requirements:

(a) Zoning District. A parcel that is located within a single-family residential zone.

(b) Legal Parcel. A parcel which has been legally created in compliance with the

Subdivision Map Act (Government Code Section 66410 et seq.) and the Town's Subdivision Regulations in effect at the time the parcel was created. Applications for an urban lot split or two-unit housing development will only be accepted on proposed parcels with either a recorded parcel map or certificate of compliance.

(c) Excluding Historic Property. A parcel that does not contain a Historic Structure, as defined Town Code Section 29.10.020, or is not listed on the Town of Los Gatos Historic Resource Inventory, as defined by Town Code Chapter 29, Article VII, Division 3, "Historic Preservation and LHP or Landmark and Historic Preservation Overlay Zone."

(d) Excluding Very High Fire Hazard Severity Zone. A parcel that is not within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Government Code Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Public Resources Code Section 4202. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Government Code Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or State fire mitigation measures applicable to the development.

(e) Excluding Hazardous Waste Sites. A parcel that is not identified as a hazardous waste site pursuant to Government Code Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Health and Safety Code Section 25356, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use.

(f) Excluding Earthquake Fault Zone. A parcel that is not located within a delineated earthquake fault zone as determined by the State Geologist on any official maps published by the State Geologist, unless the two-unit housing development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Health and Safety Code Division 13), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

(g) Excluding Flood Zone. A parcel that is not located within a special flood hazard area subject to inundation by the 1 percent annual chance flood {100-year



flood) on the official maps published by the Federal Emergency Management Agency unless a Letter of Map Revision prepared by the Federal Emergency Management Agency has been issued or if the proposed two-unit housing development is constructed in compliance with the provisions of Town Code Chapter 29, Article XI, "Floodplain Management," as determined by the floodplain administrator.

(h) Excluding Natural Habitat. A parcel that is not recognized by the Town as a habitat for protected species identified as a candidate, sensitive, or species of special status by State or Federal agencies, fully protected species, or species protected by the Federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(i) Excluding Prime Farmland and Wetlands. A parcel that contains either prime farmland or farmland of statewide importance, as defined pursuant to the United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction; or wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

Section 29.10.630. Requirements. Two-unit housing developments must comply with the following objective zoning standards, design review standards, and general requirements and restrictions:

(a) Zoning Standards. The following objective zoning standards supersede any other standards to the contrary that maybe provided elsewhere in the Zoning Code, as they pertain to a two-unit housing development under Government Code Section 65852.21. Two-unit housing developments shall be constructed only in accordance with the following objective zoning standards, except as provided by Section (d), "Exceptions:"

(1) Building Height. Maximum building height shall be as specified by the applicable zoning district for the main structure. Buildings located within the required side or rear setbacks of the applicable zoning district, ~~and those located in the Hillside Residential (HR) zones, shall not exceed 16 feet in height;~~

~~(2) Driveways. Each parcel shall include no more than a single driveway unless the parcel has more than 100 feet of contiguous street frontage, and any new driveway shall satisfy the following requirements: SB9 does not regulate driveway and curbcuts.~~

a. A minimum width of 10 feet up to a maximum width of 18 feet. Driveways in the Hillside Residential (HR) zones shall have a minimum width of 12 feet;

b. A minimum depth of 18 feet measured from the front or street side property line;

c. Surfacing shall comply with Town Code Section 29.10.155(e);

~~d. Only a single driveway curb cut shall be permitted per parcel unless the parcel has more than 100 feet of contiguous street frontage, designed in accordance with the Town's Standard Specifications and Plans for Parks and Public Works~~

**Construction; and**

e. A maximum slope of 15 percent. ***Subject to exceptions to 20% maximum.***

(3) Dwelling Unit Type. The primary dwelling units comprising a two-unit housing development may take the form of detached single-family dwellings, attached units, and/or duplexes. A duplex may consist of two dwelling units in a side-by-side or front-to-back configuration within the same structure or one dwelling unit located atop another dwelling unit within the same structure;

(4) Fencing. All new fencing shall comply with the requirements of Sections 29.40.030 through 29.40.0325 of the Zoning Code;

(5) Floor Area Ratio and Lot Coverage.

a. The maximum floor area ratio and lot coverage shall be as specified by the applicable zoning regulations.

b. For flag/corridor lots, the gross lot size includes the access corridor for the purposes of determining maximum floor area ratio and lot coverage as follows:

1. When an easement is used to provide access, the access corridor is included in the gross lot size for the lot granting the easement; and

2. When the access corridor is owned in-fee and is part of the rear lot, the access corridor is included in the gross lot size for the rear lot.

~~e.—The maximum size of the first new residential unit shall not exceed 1,200 square feet.~~

d. When a two-unit housing development is proposed, a 10 percent increase in the floor area ratio standards for residential structures is allowed, excluding garages, and this increase in floor area cannot be combined with a separate increase for an Accessory Dwelling Unit allowed by Town Code Section 29.10.320. The additional floor area allowed by this subsection shall not exceed 1,200 square feet.

e. Notwithstanding the floor area ratio standards in this subsection, a new two unit housing development with unit sizes of 800 square feet or less shall be permitted.

***(6) and (7) below are unlawful attempts to subvert the law.***

~~(6) Grading:~~

~~a.—To the extent required by Chapter 12, Article II and Section 29.10.09045(b) of the Town Code, the grading activities set forth in subsection (b.) below may require a Grading Permit, but will not require discretionary review of an Architecture and Site Application;~~

~~b.—Grading activity associated with a two-unit housing development shall not exceed 50 cubic yards, cut plus fill, except:~~

~~1.—Light wells that do not exceed the minimum required per Building Code shall not count as grading activity for the purpose of this section;~~

~~2.—Grading activities required to provide the minimum driveway and fire access as required by the Santa Clara County Fire Department shall not count as grading activity for the purpose of this section; and~~

~~3.—Excavation within the footprint of a primary dwelling unit or garage shall not count as grading activity for the purpose of this section.~~

~~(7) Cut and Fill. Two-unit housing developments shall be subject to the cut and fill requirements specified by Table 1-1 (Cut and Fill Requirements) below:~~

Table 1-1--Cut and Fill Requirements		
Site Element	Cut*	Fill*
House and attached garage	8' **	3'
Detached accessory building*	4'	3'
Driveways * * *	4'	3'
Other (decks, yards)*	4'	3'
* Combined depths of cut plus fill for development other than the main residence shall be limited to 6 feet.		
** Excludes below grade square footage pursuant to Section 29.40.072 of the Town Code and light wells that do not exceed the minimum required per Building Code.		
*** Excludes cut and fill for the minimum driveway and fire access standards as required by the Santa Clara County Fire Department.		

***Above table was never derived by the Town based on knowledge, it was plagiarized from Los Altos Hills in 2004 -- it has no basis in fact.***

(8) Building Sites. The footprint of the proposed residential unit(s) and garage(s) shall not be located on lands with an average slope exceeding 30 percent. This provision applies only to the building site, not the property as a whole ***subject to exceptions***;

(9) Retaining Walls. Retaining walls shall not exceed five feet in height and shall not run in a straight continuous direction for more than 50 feet without a break, offset, or planting pocket. Retaining walls shall have a five-foot landscaped buffer adjacent to the street;

(10) Light Reflectivity Value. Exterior material colors for primary dwelling units and garages in the Hillside Residential (HR) zones shall comply with requirements in Chapter V, Section I, of the Town's Hillside Development Standards and Guidelines;

{11) Landscaping Requirement. All landscaping shall comply with the California Model Water Efficient Landscape Ordinance (MWEL0);

(12) Lighting. New exterior lighting fixtures shall be downward directed and utilize shields so that no bulb is visible to ensure that the light is directed to the ground surface and does not spill light onto neighboring parcels consistent with Section 29.10.09015 of the Zoning Code;

(13) Trees. Any proposed work shall comply with the protection, removal, and replacement requirements for protected trees in Chapter 29, Article 1, Division 2, "Tree Protection," of Town Code;

(14) Minimum Living Area. The minimum living area of a primary dwelling unit shall be 150 square feet, subject to the restrictions specified by Health and Safety Code Section 17958.1;

(15) Parking.

a. One parking stall per primary dwelling unit shall be required, except for two unit housing developments located on parcels within one-half mile walking distance of public transportation; or where there is a designated parking area for one or more car share vehicles within one block of the parcel.

b. Parking stalls may either be uncovered or covered (garage or carport) in compliance with applicable developments standards of the Zoning Code, including Chapter 29, Article I, Division 4, "Parking," except that uncovered parking spaces may be provided in a front or side setback abutting a street on a driveway (provided that it

is feasible based on specific site or fire and life safety conditions) or through tandem parking;

(16) Setbacks. Two-unit housing developments shall be subject to the setback and building separation requirements specified by Table 1-2 (Setback Requirements), below:

Table 1-2 - Setback Requirements		
Setback		Requirement (2)
Property Line Setbacks (1)	Front	Per the applicable zoning district. (S)
	Garage Entry	18 feet
	Interior Sides	4feet(3)
	Rear	
	Street Side	<del>Per the applicable zoning district.</del> <b>4' per SB9</b>
Separation Between Detached Structures (4)		5 feet
Exceptions: (1) Cornices, eaves, belt courses, sills, canopies, bay windows, chimneys, or other similar architectural features may extend into required setbacks as specified Section 29.40.070(b) of the Zoning Code. (2) No setback shall be required for an existing structure, or a structure constructed in the same location and to the same dimensions as an existing structure. (3) No interior side setback shall be required for two-unit housing development units constructed as attached units on separate lots, provided that the structures meet building code safety standards and are sufficient to allow separate conveyance as a separate fee parcel. (4) Except for primary dwellings constructed as a duplex or attached single-family residences. (5) Flag/corridor lots shall use the interior side setback requirements for all property lines other than the rear. <b><del>Needs to be clarified - of the base zone district?</del></b>		

(17) Stormwater Management. The development shall comply with the requirements of the Town's National Pollution Discharge Elimination System Permit as implemented by Chapter 22 of the Town Code, and as demonstrated by a grading and drainage plan prepared by a registered civil engineer; and

(18) New units shall be designed as individual units, with separate gas, electric, and water utility connections directly between each dwelling unit and the utility.

(b) Design Review Standards

The following objective design review standards apply to construction of new primary dwelling units and to any addition and/or alteration to existing primary dwelling units as part of a two-unit housing development, except as provided by Subsection (d) below, "Exceptions:"

**~~(1) Balconies/Decks. Rooftop and second floor terraces and decks are~~**

~~prohibited. Balconies shall only be permitted on the front and street-side elevations of a primary dwelling unit fronting a public street. Such balconies shall be without any projections beyond the building footprint;~~

~~(2) Finished Floor. The finished floor of the first story shall not exceed three feet in height as measured from finished grade;~~

(3) Front Entryway. A front entryway framing a front door shall have a roof eave that matches or connects at the level of the adjacent eave line;

(4) Front Porch. If proposed, porches shall have a minimum depth of six feet and a minimum width equal to 25 percent of the linear width of the front elevation;

~~(5) Step-back. The interior side and rear elevations of the second story of a two-story primary dwelling unit shall be recessed by five feet from the first story, as measured wall to wall; **No daylight plane.**~~

~~(6) Garages. Street-facing attached garages shall not exceed 50 percent of the linear width of the front yard or street-side yard elevation;~~

(7) Plate Height. The plate height of each story shall be limited to a maximum of 10 feet as measured from finished floor, and when above the first floor the plate height shall be limited to a maximum of eight feet; and

~~(8) Windows. All second story windows less than 10 feet from rear and interior side property lines shall be clerestory with the bottom of the glass at least six feet above the finished floor except as necessary for egress purposes as required by the Building Code.~~

***These are punitive standards stricter than all residential zones in Town.***

(c) General Requirements and Restrictions

The following requirements and restrictions apply to all two-unit housing developments, inclusive of existing and new primary dwelling units, except as provided by Subsection (d) below, "Exceptions:"

(1) Number of Units. A maximum of four units, with a maximum of two primary dwelling units, on lots that have not undergone an urban lot split.

(2) Accessory Dwelling Units. In addition to the two residential units allowed under this section, consistent with Chapter 29, Article 1, Division 7, "Accessory Dwelling Units," of the Town Code, one accessory dwelling unit and one junior accessory dwelling unit shall be allowed on lots that have not undergone an urban lot split.

(3) Building and Fire Codes. The International Building Code ("Building Code"), and the California Fire Code and International Fire Code (together, "Fire Code"), as adopted by Chapter 6 of the Town Code, respectively, apply to all two-unit housing developments.

(4) Encroachment Permits. Separate encroachment permits, issued by the Parks and Public Works Department, shall be required for the installation of utilities to serve two-unit housing developments. Applicants shall apply for and pay all necessary fees for utility permits for sanitary sewer, gas, water, electric, and all other utility work.

~~(5) Restrictions on Demolition. The two-unit housing development shall not require either demolition of more than 25 percent of the exterior walls or alteration of any of the following types of housing: **Removed by SB450**~~

a. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income. This shall be evidenced by an attestation from the property owner;

b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power. This shall be evidenced by an attestation from the property owner; or

c. Housing that has been occupied by a tenant in the last three years. This shall be evidenced by an attestation from the property owner.

If any existing housing is proposed to be altered or demolished, the owner of the property proposed for a two-unit housing development shall sign an affidavit, stating that none of the conditions listed above exist and shall provide a comprehensive history of the occupancy of the units to be altered or demolished for the past three years on a form prescribed by the Town.

If any existing dwelling unit is proposed to be demolished, the applicant shall comply with the replacement housing provisions of Government Code Section 66300(d).

(6) Recorded Covenant. Prior to building permit issuance, the applicant shall record a restrictive covenant in the form prescribed by the Town, which shall run with the land and provide for the following:

a. A limitation restricting the property to residential uses only; and

b. A requirement that any dwelling units on the property may only be rented for a period longer than thirty (30) days.

(d) Exceptions

If any of the provided zoning standards or design review standards would have the effect of physically precluding construction of up to two primary dwelling units or physically preclude either of the two primary dwelling units from being at least 800 square feet in floor area, the Community Development Director shall grant an exception to the applicable standard(s) to the minimum extent necessary as specified by this section. An exception request shall be explicitly made on the application for a two-unit housing development.

(1) Determination. In order to retain adequate open space to allow for recreational enjoyment, protection of the urban forest, preservation of the community character, reduction of the ambient air temperature, and to allow for the percolation of rainfall into the groundwater system, when considering an exception request, the Community Development Director shall first determine that a reduction in any other zoning and/or design review standard(s) will not allow the construction of the two-unit housing development as specified by this section prior to allowing an exception(s) to the landscaping requirement, front-yard setback, or street-side setbacks standards.

Section 29.10.640. Application Process for Two-Unit Housing Development.

(a) Applications for two-unit housing developments shall be submitted and processed in compliance with the following requirements:

(1) Application Type. Two-unit housing developments shall be reviewed ministerially by the Community Development Director for compliance with the applicable regulations. The permitting provisions of Town Code Sections 29.20.135 through 29.20.160, "Architecture and Site Approval," shall not be applied;

(2) Application Filing. An application for a two-unit housing development,

including the required application materials and fees, shall be filed with the Community Development Department;

~~(3) Neighbor Notification. In addition to the standard application materials, the applicant will be required to submit one (1) set of stamped, addressed envelopes to neighboring residents and property owners. The Planning Department will assist the applicant in determining the neighboring properties to be notified (which will consist of all properties abutting the applicant's parcel, properties directly across the street and the two (2) parcels on each side of the applicant's parcel).~~ **Defeats ministerial purpose.**

(4) Building Permits. Approval of a two-unit housing development application shall be required prior to acceptance of an application for building permit(s) for the new and/or modified primary dwelling unit(s) comprising the two-unit housing development;

(5) Denial. The Community Development Director may deny a two-unit housing development project only if the Building Official makes a written finding, based upon a preponderance of the evidence, that the two-unit housing development would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Government Code Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact; and

(6) Appeals. Two-unit housing application decisions are ministerial and are not subject to an appeal. **So do we sue the director personally?**

Section 29.10.650. Subdivision Standards. Urban lot splits shall comply with the following objective subdivision standards, and general requirements and restrictions:

(a) Subdivision Standards

The following objective subdivision standards supersede any other standards to the contrary that may be provided in the Zoning Code or Subdivision Code, as they pertain to creation of an urban lot split under Government Code Section 66411.7:

(1) Flag/Corridor Lots. The access corridor of a flag/corridor lot (Town Code Section 29.10.085) shall be either in fee as part of the parcel or as an easement, and shall be a minimum width of 12 feet;

(2) Minimum Lot Size. Each new parcel shall be approximately equal in lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision. In no event shall a new parcel be less than 1,200 square feet in lot area. If one of the proposed lots is a flag/corridor lot, the area of the access corridor shall count toward the lot area as follows:

1. When an easement is used to provide access, the access corridor is included in the gross lot size for the lot granting the easement; and

2. When the access corridor is owned in-fee and is part of the rear lot, the access corridor is included in the gross lot size for the rear lot.

(3) Minimum Lot Width. Each new parcel shall maintain a minimum lot width of 20 feet;

(4) Minimum Public Frontage. Each new parcel shall have frontage upon a street with a minimum frontage dimension of 20 feet, except as allowed above for flag/corridor lots;



(5) Number of Lots. The parcel map to subdivide an existing parcel shall result in no more than two parcels; and

~~(6) Lot Merger. Lots resulting from an urban lot split shall not be merged unless that lot merger can be done without loss of housing units and without causing a non-conforming building, lot, or use.~~ **Where did this come from?**

(b) General Requirements and Restrictions

The following requirements and restrictions apply to all proposed urban lot splits:

(1) Adjacent Parcels. Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously conducted an urban lot split to create an adjacent parcel as provided for in this Division;

(2) Dedication and Easements. The Town Engineer shall not require dedications of rights-of-way nor the construction of offsite improvements but may, however, require recording of easements necessary for the provision of private services, facilities, ~~and future public improvements~~ or future public services, ~~facilities, and future public improvements;~~ **Undermines no street dedication.**

(3) Existing Structures. Existing structures located on a parcel subject to an urban lot split shall not be subject to a setback requirement. However, any such existing structures shall not be located across the shared property line resulting from an urban lot split, unless the structure is converted to an attached unit as provided for in Table 1-2 {Setback Requirements, Exception Number 3}. All other existing structures shall be modified, demolished, or relocated prior to recordation of a parcel map;

(4) Intent to Occupy. The applicant shall submit a signed affidavit to the Community Development Director attesting that the applicant intends to occupy one of the housing units on the newly created parcels as their principal residence for a minimum of three years from either:

a. The date of the approval of the urban lot split when the intent is to live in an existing residence; or

~~b. Certificate of occupancy when the intent is to occupy a newly constructed residential unit.~~ **Violates SB9.**

This requirement shall not apply to an applicant that is a "community land trust," as defined in clause {ii} of subparagraph {C} of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code;

(5) Non-Conforming Conditions. The Town shall not require, as a condition of approval, the correction of nonconforming zoning conditions. However, no new nonconforming conditions may result from the urban lot split other than interior side and rear setbacks as specified by Table 1-2 (Setback Requirements, Exception Number 2);

(6) Number of Units. No more than two dwelling units may be located on any lot created through an urban lot split, including primary dwelling units, accessory dwelling units, junior accessory dwelling units, density bonus units, and units created as two-unit developments. Any excess dwelling units that do not meet these requirements shall be relocated, demolished, or otherwise removed prior to approval of a parcel map;



(7) Prior Subdivision. A parcel created through a prior urban lot split may not be further subdivided. The subdivider shall submit a signed deed restriction to the Community Development Director documenting this restriction. The deed restriction shall be recorded on the title of each parcel concurrent with recordation of the parcel map;

~~(8) Restrictions on Demolition. The proposed urban lot split shall not require either the demolition of more than 25 percent of the exterior walls or alteration of any of the following types of housing: SB450~~

- a. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income. This shall be evidenced by an attestation from the property owner;
- b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power. This shall be evidenced by an attestation from the property owner; or
- c. Housing that has been occupied by a tenant in the last three years. This shall be evidenced by an attestation from the property owner;

If any existing housing is proposed to be altered or demolished, the owner of the property proposed for an urban lot split shall sign an affidavit, stating that none of the conditions listed above exist and shall provide a comprehensive history of the occupancy of the units to be altered or demolished for the past three years on a form prescribed by the Town. The owner and applicant shall also sign an affidavit stating that neither the owner nor applicant, nor any person acting in concert with the owner or applicant, has previously subdivided an adjacent parcel using an urban lot split;

(9) Replacement Units. If any existing dwelling unit is proposed to be demolished, the applicant will comply with the replacement housing provisions of Government Code Section 66300(d);

(10) Recorded Covenant. Prior to approval and recordation of the parcel map, the applicant shall record a restrictive covenant and agreement in the form prescribed by the Town, which shall run with the land and provide for the following:

- a. A prohibition against further subdivision of the parcel using the urban lot split procedures as provided for in this section;
- b. A limitation restricting the properties to residential uses only; and
- c. A requirement that any dwelling units on the property may only be rented for a period longer than thirty (30) days.

~~(11) Stormwater Management. The subdivision shall comply with the requirements of the Town's National Pollution Discharge Elimination System Permit as implemented by Chapter 22 of the Town Code, and as demonstrated by a grading and drainage plan prepared by a registered civil engineer; Out of place and enforced by operating law already.~~

(12) Utility Providers. **The requirements Too broad, delete.** of the parcel's utility providers shall be satisfied prior to recordation of a parcel map; and

(13) Compliance with Subdivision Map Act. The urban lot split shall conform to all applicable objective requirements of the Subdivision Map Act (commencing with Government Code Section 66410), except as otherwise expressly provided in Government Code Section 66411.7. **And not 1968 Town Code?**

Section 29.10.660. Application Process for Urban Lot Splits.

(a) Applications for urban lot splits shall be submitted and processed in compliance with the following requirements:

(1) Application Type. Urban lot splits shall be reviewed ministerially by the Community Development Director for compliance with the applicable regulations. A tentative parcel map shall not be required;

(2) Application Filing. An urban lot split application, including the required application materials and fees, shall be filed with the Community Development Department;

~~(3) Neighbor Notification. In addition to the standard application materials, the applicant will be required to submit one (1) set of stamped, addressed envelopes to neighboring residents and property owners. The Planning Department will assist the applicant in determining the neighboring properties to be notified (which will consist of all properties abutting the applicant's parcel, properties directly across the street and the two (2) parcels on each side of the applicant's parcel).~~ ***This is a fabrication.***

(4) Parcel Map. Approval of an urban lot split permit shall be required prior to acceptance of an application for a parcel map for an urban lot split. Applicants shall apply for an Urban Lot Split Parcel Map and pay all fees;

(5) Development. Development on the resulting parcels is limited to a project approved by the two-unit housing development process ~~or through the Town's standard discretionary process;~~ ***What?***

(6) Denial. The Community Development Director may deny an urban lot split only if the Building Official makes a written finding, based upon a preponderance of the evidence, that an urban lot split or two-unit housing development located on the proposed new parcels would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact; and

(7) Appeals. Urban lot split application decisions are ministerial and are not subject to an appeal. ***Not sure about the legality of this.***

Section 29.10.670. Sunset Clause. If SB 9 is repealed or otherwise rescinded by the California State Legislature or by the People of the State of California, this Division shall be repealed."

Section 3. CEQA. In accordance with Government Code Sections 66411.7(n) and 66452.21(g), adoption of this Ordinance is not a project subject to CEQA.

Section 4. Severability Clause. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be unconstitutional or otherwise invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council hereby declares that it would have adopted the remainder of this Ordinance, including each section, subsection, sentence, clause, phrase, or portion irrespective of the invalidity of any other article, section, subsection, sentence, clause, phrase, or portion.

Section 5. Publication. The Town Clerk is directed to publish this Ordinance in a newspaper of general circulation as required by State law. In lieu of publication of the full text of the ordinance within fifteen {15} days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(l).

Section 6. Effective Date. This ordinance takes effect 30 days after adoption.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 1st day of November 2022 and adopted at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 15<sup>th</sup> day of November 2022, by the following vote:

***Summary: Delete the 1200 SF limitation, Public/Neighbor Noticing, grading and other inconsistencies, regulation of curbcuts and driveways, daylight plane 2nd story. Front setbacks to be compliant with zone district, otherwise side an rear are 4'.***

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**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 05/14/2025

ITEM NO: 5

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DATE: May 9, 2025  
TO: Planning Commission  
FROM: Joel Paulson, Community Development Director  
SUBJECT: Forward a Recommendation of Approval to the Town Council for the Draft Proposed Capital Improvement Program (CIP) Budget for Fiscal Years (FY) 2025/26 – 2029/30.

**RECOMMENDATION:**

Forward a recommendation of approval to the Town Council for the draft Proposed Capital Improvement Program (CIP) Budget for Fiscal Years (FY) 2025/26 – 2029/30 (Exhibit 1).

**CEQA:**

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Any effects on the environment will be evaluated, as applicable, at each individual project level, and the recommended action does not constitute approvals of any specific project in the CIP.

**FINDINGS:**

- As required, pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, this project is Categorically Exempt per Section 15061(b)(3).
- That the projects in the draft Proposed FY 2025/26 – 2029/30 CIP Budget are consistent with the General Plan, North 40 Specific Plan, Albright Specific Plan, and Hillside Specific Plan.

**PREPARED BY:** Saurabh Nijhawan  
Senior Civil Engineer

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Reviewed by: Planning Manager and Community Development Director

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DISCUSSION:

Section 65401 of the Government Code requires that when a town or city has adopted a General Plan, and a list of the proposed public works projects recommended for planning, initiation, or construction during the ensuing fiscal year be classified into a coordinated program and submitted to the Planning Commission for review for conformity with the adopted General Plan or parts thereof. The findings for conformity would then be reported to the Town Council.

A capital improvement project includes design, construction, acquisition, rehabilitation, or non-routine maintenance that generally costs \$25,000 or more with a minimum useful life of five years. The CIP Budget is evaluated annually to ensure funding of critical priority projects related to public streets, parks, facilities, and other Town infrastructure to support the current needs of the Los Gatos community. The CIP Budget also reflects realistic revenue sources and use of funds for capital projects for upcoming fiscal years. Funding sources include General Fund Appropriated Reserve (GFAR), Gas Tax, Measure B, Traffic Mitigation Funds, Storm Basin Funds, and Grant Funds. The Town continues its efforts to secure reliable ongoing sources of revenue for the CIP.

The draft Proposed FY 2025/26 – 2029/30 CIP Budget (Exhibit 1) includes projects under the Street Program that support and implement the General Plan's goals and policies of the Mobility; Environmental and Sustainability; Hazards and Safety; and Public Facilities, Services, and Infrastructure Elements. Examples of Street Program projects include the annual Street Repair and Resurfacing; Highway 17 Bicycle and Pedestrian Bridge; Shannon Road Bicycle and Pedestrian Improvement Project and the Shannon Road Repair Project. All projects cited improve the condition and safety of the Town roadways; install safe pedestrian and bikeway facilities; and promote alternate modes of transportation, which ultimately support the goal of greenhouse gas (GHG) reduction.

The Open Space, Parks, and Recreation Element goals and policies of the General Plan are implemented through the project scopes of the Parks Playground Sport Court Resurfacing; and through other capital maintenance projects to ensure that Town parks and open spaces remain in good condition. The Oak Meadow Bandstand Area Improvements remain an active project, largely funded through the State Proposition 68 grant program administered by the State Department of Parks and Recreation.

The Town's Environment and Sustainability Element goals and policies are being implemented through a variety of CIP projects such as: the Annual Storm Drain Improvement Project; EV Chargers at 41 Miles Ave; Stormwater System – Pollution Prevention Compliance; and Battery Power Supply – Library. As mentioned earlier, many of the projects under the Street Program contribute to the reduction of GHG emissions by improving Town roadway infrastructure for multi-modal or active transportation and getting people out of their cars.

Safety is the most important factor for prioritizing CIP projects. The goals and policies of the Hazards and Safety Element are being implemented through projects, including: Vegetation Management and Roadside Fire Fuel Reduction to prevent wildfires; Vasona Oaks Drainage Failure Repair; IT Disaster Resiliency Project; various Street Program projects including Blossom Hill Road Safety Improvements from Union Avenue to Camden Avenue; and Measure B Education and Encouragement to promote safety programs to Town schools.

The Public Facilities, Services, and Infrastructure Element goals and policies promote good programs and services for the youth and seniors, including ensuring safety for children biking and walking and improving mobility and access for seniors. The ADA Compliance Project will set the course for long-term infrastructure plans to remove accessibility barriers. The Parks Playground Fibar and various other Park Program projects would continue to maintain the Town's recreational and outdoor facilities for the Town youth and seniors to safely enjoy.

The proposed FY 2025-26 – 2029/30 CIP budget aligns funding and project priorities to be consistent with the principles of the Town's General Plan. Staff closed, or merged redundant projects, and tiered projects by prioritization. Projects were split into three tiers, with Tier 1 being the highest priority, and Tier 3 being the lowest.

Tier 1 projects are those that are fully funded, include funding with a grant deadline, are ready for construction, or are legally required. Tier 2 projects are other projects that have had CIP funding in prior years, but are either not fully funded, cannot be supported with current staffing, or both. Tier 3 projects are those that do not have funding nor staffing allocations. By taking this action, this CIP presents a more realistic picture of project priorities and of projected capital expenses in the next fiscal year.

The scope of the Planning Commission's review is to determine that the draft Proposed CIP is consistent with the General Plan, North 40 Specific Plan, Albright Specific Plan, and Hillside Specific Plan.

#### PUBLIC COMMENTS:

At the time of this report's preparation, the Town has not received any public comment.

#### CONCLUSION:

##### A. Recommendation

The Town Council is tentatively scheduled to consider the draft Proposed CIP on June 3, 2025. For the reasons stated above, staff recommends that the Planning Commission take the following actions:

PAGE 4 OF 4

SUBJECT: Draft Proposed Capital Improvement Program (CIP) Budget for Fiscal Years (FY)  
2025/26 – 2029/30

DATE: May 9, 2025

1. Find that the project is Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3);
2. Find that the potential projects in the 2025/26 – 2029/30 draft Proposed CIP are consistent with the General Plan, North 40 Specific Plan, Albright Specific Plan, and Hillside Specific Plan; and
3. Forward a recommendation of approval of the 2025/26 – 2029/30 draft Proposed CIP to the Town Council.

EXHIBITS:

1. Draft Proposed CIP Budget for FY 2025/26 – 2029/30 (Available on Town's website at <https://www.losgatosca.gov/DocumentCenter/View/41898/FY-2025-2026-Proposed-CIP-Budget>)