TOWN OF LOS GATOS
COUNCIL MEETING AGENDA
NOVEMBER 01, 2022
110 EAST MAIN STREET AND TELECONFERENCE
TOWN COUNCIL CHAMBERS
LOS GATOS, CA
7:00 P.M.

Rob Rennie, Mayor
Maria Ristow, Vice Mayor
Mary Badame, Council Member
Matthew Hudes, Council Member
Marico Sayoc, Council Member

PARTICIPATION IN THE PUBLIC PROCESS

How to participate: The Town of Los Gatos strongly encourages your active participation in the public process, which is the cornerstone of democracy. If you wish to speak to an item on the agenda, please follow the participation instructions on page 2 of this agenda. If you wish to speak to an item NOT on the agenda, you may do so during the "Verbal Communications" period, by following the participation instructions on page 2 of this agenda. The time allocated to speakers may change to better facilitate the Town Council meeting.

Effective Proceedings: The purpose of the Town Council meeting is to conduct the business of the community in an effective and efficient manner. For the benefit of the community, the Town of Los Gatos asks that you follow the Town's meeting guidelines while attending Town Council meetings and treat everyone with respect and dignity. This is done by following meeting guidelines set forth in State law and in the Town Code. Disruptive conduct is not tolerated, including but not limited to: addressing the Town Council without first being recognized; interrupting speakers, Town Council or Town staff; continuing to speak after the allotted time has expired; failing to relinquish the podium when directed to do so; and repetitiously addressing the same subject.

Deadlines for Public Comment and Presentations are as follows:

- Persons wishing to make an audio/visual presentation on any agenda item must submit the presentation electronically, either in person or via email, to the Clerk's Office no later than 3:00 p.m. on the day of the Council meeting.
- Persons wishing to submit written comments to be included in the materials provided to Town Council must provide the comments as follows:
  - For inclusion in the regular packet: by 11:00 a.m. the Thursday before the Council meeting
  - For inclusion in any Addendum: by 11:00 a.m. the Monday before the Council meeting
  - For inclusion in any Desk Item: by 11:00 a.m. on the day of the Council Meeting

Town Council Meetings Broadcast Live on KCAT, Channel 15 (on Comcast) on the 1st and 3rd Tuesdays at 7:00 p.m.
Rebroadcast of Town Council Meetings on the 2nd and 4th Mondays at 7:00 p.m.
Live & Archived Council Meetings can be viewed by going to:
www.LosGatosCA.gov/TownYouTube

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE CLERK DEPARTMENT AT (408) 354-6834. NOTIFICATION 48 HOURS BEFORE THE MEETING WILL ENABLE THE TOWN TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING [28 CFR §35.102-35.104]

TOWN OF LOS GATOS
COUNCIL MEETING AGENDA
NOVEMBER 01, 2022
TOWN COUNCIL CHAMBERS 110 EAST MAIN STREET AND TELECONFERENCE
7:00 PM

IMPORTANT NOTICE

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

PARTICIPATION

To provide oral comments in real-time during the meeting:

- **Zoom webinar**: Join from a PC, Mac, iPad, iPhone or Android device: Please click this URL to join: https://losgatosca-gov.zoom.us/j/87170879578?pwd=eTIzVFVqR2JkQUFjR3B4aXIyTXlaUT09
  Passcode: 582544. You can also type in 871 7087 9578 in the "Join a Meeting" page on the Zoom website at https://zoom.us/join.
  - When the Mayor 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.
- **Join by telephone**: Join by Telephone: Dial: USA 877 336 1839 US Toll-free or 636 651 0008 US Toll. Conference code: 686100
  - If you are participating by calling in, press #2 on your telephone keypad to raise your hand.
- **In-Person**: If you wish to speak during the meeting, please complete a "speaker's card" located on the back of the chamber benches and return it to the Town Clerk. If you wish to speak to an item on the agenda, please list the item number. If you wish to speak on an item NOT on the agenda, please list the subject and you may speak during the "Verbal Communications" period. The time allocated to speakers may change to better facilitate the Town Council meeting.

When called to speak, you may be asked to provide your full name and your town/city of residence. This identifying information is optional and not a requirement for participation. Please limit your comments to three (3) minutes, or such other time as the Mayor may decide, consistent with the time limit for speakers at a Council meeting. If you wish to speak to an item or items on the Consent Calendar, please state which item number(s) you are commenting on at the beginning of your time.

If you are unable to participate in real-time, you may email to PublicComment@losgatosca.gov the subject line "Public Comment Item #__ " (insert the item number relevant to your comment) or "Verbal Communications – Non-Agenda Item." Comments received by 11:00 a.m. the day of

the meeting will be reviewed and distributed before the meeting. All comments received will become part of the record.

RULES OF DECORUM AND CIVILITY
To conduct the business of the community in an effective and efficient manner, please follow the meeting guidelines set forth in the Town Code and State law.

The Town does not tolerate disruptive conduct, which includes but is not limited to:

- addressing the town Council without first being recognized;
- interrupting speakers, Town Council, or Town staff;
- continuing to speak after the allotted time has expired;
- failing to relinquish the microphone when directed to do so;
- repetitiously addressing the same subject.

Town Policy does not allow speakers to cede their commenting time to another speaker. Disruption of the meeting may result in a violation of Penal Code 403.

MEETING CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

CLOSED SESSION REPORT

COUNCIL / MANAGER MATTERS

CONSENT ITEMS *(Items appearing on the Consent Items are considered routine Town business and may be approved by one motion. Any member of the Council may request to have an item removed from the Consent Items for comment and action. Members of the public may provide input on any or multiple Consent Item(s) when the Mayor asks for public comments on the Consent Items. If you wish to comment, please follow the Participation Instructions contained on Page 2 of this agenda. If an item is removed, the Mayor has the sole discretion to determine when the item will be heard.)*

1. Approve Draft Minutes of the October 18, 2022 Closed Session Town Council Meeting.
2. Approve Minutes of the October 18, 2022 Town Council Meeting.
3. Adopt a Resolution Reaffirming Resolution 2021-044 and Making Findings Pursuant to Government Code Section 54953, as Amended by Assembly Bill 361, and, Due to Health and Safety Concerns for the Public, Authorizing the Use of Hybrid Meetings for the Town Council and the Continued Use of Virtual Meetings for Boards and Commissions While Town Staff Makes the Necessary Arrangements to Transition to Hybrid Meetings for All Town Boards, Commissions, and Committees.
4. Authorize the Town Manager to Execute a Two-Year Agreement with Los Gatos-Saratoga Union High School District and Los Gatos Union Elementary School District for School Resource Officer Services for the Period October 1, 2022 through June 30, 2024,

and Approve a Revenue Budget Increase in the Amount of $46,738.75 to Match the Proposed Agreement Term and Agreement Amount.

5. Adopt a Resolution to Designate the Director of Parks and Public Works, Nicolle Burnham, to the Board of Directors of the Los Gatos-Monte Sereno Safe Routes to School Organization.
6. Authorize Revenue and Expenditure Budget Adjustments to the Roadside Fire Fuel Reduction Project (CIP No. 812-0130) in the Amount of $750,000 to Recognize Receipt and Expenditure of Federal Financial Assistance, and Acceptance of Match Requirements.

VERBAL COMMUNICATIONS *(Members of the public are welcome to address the Town Council on any matter that is not listed on the agenda. To ensure all agenda items are heard and unless additional time is authorized by the Mayor, this portion of the agenda is limited to 30 minutes and no more than three (3) minutes per speaker. In the event additional speakers were not able to be heard during the initial Verbal Communications portion of the agenda, an additional Verbal Communications will be opened prior to adjournment.)*

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 Council's consent at the meeting.)*

7. Introduce an Ordinance, By Title Only, to Amend Town Code Section 1.10.075, **"Official Town Holidays – Designated; Exceptions,"** to Add the Juneteenth Holiday.

OTHER BUSINESS *(Up to three minutes may be allotted to each speaker on any of the following items.)*

8. Discuss the Water Service Interruption Associated with the San Jose Water Company Villa Avenue Improvements.

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 Council's consent at the meeting.)*

9. Consider a Request for an Exception to the Story Pole Policy to Allow an Alternative to Standard Story Pole Installation to Illustrate and Provide Notice of the Proposed Project on Property Zoned O. Located at 15860-15894 Winchester Boulevard and 17484 Shelburne Way. APN 529-11-013, -038, -039, and -040. Applicant/Property Owner: Green Valley Corp. d.b.a. Swenson. Project Planner: Jennifer Armer.

OTHER BUSINESS *(Up to three minutes may be allotted to each speaker on any of the following items.)*

10. Receive the Design Update and Provide Feedback Regarding the Proposed Improvements to the Oak Meadow Park Bandstand (CIP Project No. 831-4007).

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 Council's consent at the meeting.)*

11. Introduce an Ordinance, by Title Only, Amending Chapter 29 (Zoning Regulations) of the Town Code to Regulate Urban Lot Splits and Two-Unit Housing Developments in Compliance with Senate Bill 9. Town Code Amendment Application A-22-002. Location: Town-wide. Applicant: Town of Los Gatos.
12. Introduce an Ordinance, by Title Only, Effecting Amendments Repealing and Replacing Chapter 6, Building Regulations, and Chapter 9, Fire Prevention and Protection, of the Town of Los Gatos Municipal Code with the New 2022 California Building and Fire Codes, as Amended, Including Reach Codes. Town Code Amendment Application A-22-003. Project Location: Town Wide. Applicant: Town of Los Gatos.

OTHER BUSINESS *(Up to three minutes may be allotted to each speaker on any of the following items.)*

13. Provide Direction on the Approach to the Plant-Based Diet Education Implementation Program in the 2040 General Plan *(*Environment and Sustainability Element Program CC).

ADJOURNMENT *(Council policy is to adjourn no later than midnight unless a majority of Council votes for an extension of time).*

Writings related to an item on the Town Council meeting agenda distributed to members of the Council within 72 hours of the meeting are available for public inspection at the front desk of the Los Gatos Town Library, located at 100 Villa Avenue, and are also available for review on the official Town of Los Gatos website. Copies of desk items distributed to members of the Council at the meeting are available for review in the Town Council Chambers.

Note: The Town of Los Gatos has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a decision of the Town Council must be brought within 90 days after the decision is announced unless a shorter time is required by State or Federal law.

DRAFT
Minutes of the Town Council Special Meeting – Closed Session
October 18, 2022

The Town Council of the Town of Los Gatos conducted a special meeting in-person and utilizing teleconferencing means on Tuesday, October 18, 2022 to hold a Closed Session at 5:30 p.m.

MEETING CALLED TO ORDER AT 5:32 P.M.

ROLL CALL
Present: Mayor Rob Rennie, Vice Mayor Maria Ristow, Council Member Mary Badame, Council Member Matthew Hudes, Council Member Marico Sayoc.
Absent: None.

VERBAL COMMUNICATIONS
None.

THE TOWN MOVED TO CLOSED SESSION ON THE FOLLOWING ITEM:
1. Public Employee Appointment, Employment, Evaluation of Performance, Discipline, and Dismissal [Government Code Section 54957(b)(1)]
   Titles: Town Manager and Town Attorney
   Conference with Labor Negotiator (Government Code Section 54957.6)
   Town Negotiator: Salina Flores, Human Resources Director
   Unrepresented Employees: Town Manager and Town Attorney

ADJOURNMENT
Closed Session adjourned at 6:48 p.m.

Attest:

_____
Jenna De Long, Deputy Town Clerk

Submitted by:

_____
Laurel Prevetti, Town Manager

DRAFT
Minutes of the Town Council
October 18, 2022

The Town Council of the Town of Los Gatos conducted a regular meeting in-person and utilizing teleconferencing means on Tuesday, October 18, 2022 at 7:00 p.m.

MEETING CALLED TO ORDER AT 7:01 P.M.

ROLL CALL
Present: Mayor Rob Rennie, Vice Mayor Maria Ristow, Council Member Mary Badame, Council Member Matthew Hudes, Council Member Marico Sayoc.
Absent: None

PLEDGE OF ALLEGIANCE
Pravin Balasingham led the Pledge of Allegiance. The audience was invited to participate.

CLOSED SESSION REPORT
Gabrielle Whelan, Town Attorney, stated Council met as duly noted on the October 13 and 18, 2022 Closed Session agendas and stated there is no reportable action.

COUNCIL / MANAGER MATTERS
Council Matters
- Council Member Sayoc stated she attended the West Valley Community College Roots Pantry Grand Opening and attended the Cities Association Board meeting on behalf of the Mayor.
- Council Member Badame stated she attended the Finance Commission meeting as an observer; chaired the Conceptual Development Advisory Committee meeting which was continued November 9 due to a lack of quorum; attended the West Valley Solid Waste Management Authority Board meeting and the West Valley Clean Water Authority Board meeting; met with Alan Feinberg the creator of "Discover LOST Gatos" the historical walking tours, and a KCAT Board Member to discuss various issues in Town.
- Vice Mayor Ristow stated she attended the Los Gatos-Monte Sereno Police Foundation Recognition Luncheon, the Police Academy, the First Fridays Senior Service Committee event at the Palms for community members 55 and older, the Finance Committee meeting as an observer, the Complete Streets and Transportation Committee meeting as an observer, and met with residents on various topics.
- Council Member Hudes stated he attended the Los Gatos-Monte Sereno Police Foundation Recognition Luncheon, the Los Gatos-Monte Sereno Emergency Communication Leadership meetings "HAM Cram" class and Community Emergency Response Team exercises, the Senior Service Roadmap Sub-Committee meetings, and the Finance Commission meeting.

Council Matters – continued

- Mayor Rennie stated he attended the Bay Area Air Quality Management District Technology Implementation Steering Committee meeting, the Stationary Source Committee meeting, and the Board meeting; attended the Silicon Valley Clean Energy Authority (SVCEA) Finance Committee meeting, the SVCEA Risk Oversight Committee meeting, and Board meeting; attended the Valley Transportation Authority Board and Policy Advisory Committee meetings; and the Finance Commission meeting.

Manager Matters

- Announced that Board, Commission, and Committee recruitment is underway, applications are due on December 2, at 4:00 p.m. and more information can be found on the Clerk webpage.
- Announced a Housing Element Advisory Board Committee meeting will be held on Thursday, October 20th via teleconference.
- Announced free COVID-19 testing will take place on October 27, 2022 at the Adult Recreation Center and appointments will be available beginning Thursday, October 20.
- Announced ballot boxes are now outside of Town Hall and the Library.

CONSENT ITEMS

1. Approve Draft Minutes of the October 4, 2022 Special Town Council Meeting.
2. Approve Draft Minutes of the October 4, 2022 Town Council Meeting.
3. Approve Draft Minutes of the October 13, 2022 Closed Session Town Council Meeting.
4. Adopt a Resolution Reaffirming Resolution 2021-044 and Making Findings Pursuant to Government Code Section 54953, as Amended by Assembly Bill 361, and, Due to Health and Safety Concerns for the Public, Authorizing the Use of Hybrid Meetings for the Town Council and the Continued Use of Virtual Meetings for Boards and Commissions While Town Staff Makes the Necessary Arrangements to Transition to Hybrid Meetings for All Town Boards, Commissions, and Committees. **RESOLUTION 2022-065**
5. Adopt an Extension to June 30, 2023 to the Town's Economic Recovery Resolution to Allow for the Continued Support of the Town's Economic Recovery Efforts, including the Completion of the Construction and Implementation of the Semi-Permanent Parklet Program. **RESOLUTION 2022-066**
6. Adopt a Resolution Approving and Authorizing the Town Manager to Execute the Project Specific Maintenance Agreement for Los Gatos Creek Trail with the California Department of Transportation. **RESOLUTION 2022-067**
7. Authorize the Town Manager to Enter into a Memorandum of Understanding with the Los Gatos Saratoga Union High School District and Los Gatos Union School District to Participate in a Community Norms Effort at a Cost Not to Exceed $16,800.
8. Receive Independent Accountants' Report on Agreed-Upon Procedures on Measure G Revenues and Expenditures for the Period March 1, 2019 to June 30, 2021.

Consent Items – continued

9. Storm Drainage System Repair at 62 Ellenwood Avenue (CIP No. 816-0420):
   a. Reject All Bids Received and Opened on October 10, 2022 for the Project; and
   b. Authorize the Town Manager to Re- Bid the Project with Changes that May Reduce Project Cost.

Opened public comment.

No one spoke.

Closed public comment.

MOTION: Motion by **Vice Mayor Ristow** to approve items 1-9. **Seconded** by **Council Member Badame.**

VOTE: Motion passes unanimously.

VERBAL COMMUNICATIONS

Christopher Bajorer
- Requested the Town adopt a rigorous process for validating the residency of an applicant who requests to build an Accessory Dwelling Unit or split a lot.

Tom Picraux, Senior Service Committee Chair
- Commented on the Senior Service Roadmap Sub-Committee progress.

John Shepardson
- Commented on the Albright settlement funds, and suggested the Town make better use of the Finance Commission, hire an outside consultant to review the budget, have the Santa Clara County Sheriff make a proposal to provide police services to the Town, and possibly submit a parcel tax ballot measure to help fund police services.

OTHER BUSINESS

10. Receive an Annual Report Regarding the Independent Police Auditor Function.

Gabrielle Whelan, Town Attorney, provided the staff report.

Opened public comment.

No one spoke.

Closed public comment.

Council discussed the item and received the report.

11. Discuss the Housing Element Process and the Next Steps for the Referendum of the 2040 General Plan Land Use and Community Design Elements, and Provide Direction on the Preferred Approach for the Referendum.

Gabrielle Whelan, Town Attorney, and Joel Paulson, Community Development Director, provided the staff report.

Opened public comment.

Ronald Meyer
- Inquired where the 2040 General Plan can be accessed and commented in support of Option B in the staff report to place the measure on the ballot at the November 2024 General Municipal Election.

Richard Kananen
- Commented on the Housing Element, opposed rezoning to higher density, and supports restoring the land use goal to preserve, promote and protect the existing small town character and quality of life in Los Gatos.

Diane Pleasant
- Commented on the small town character of the Town and requested the Council consider adding the word “small” back into the verbiage of the 2040 General Plan.

Rob Stump
- Commented on the referendum and spoke in support of the option to rescind and replace the Land Use and Community Design Elements of the 2040 General Plan.

Rick Van Hoesen
- Commented on the referendum and stated support for Option C to rescind and replace the Elements as listed in the staff report.

Barbara Dodson
- Commented on the General Plan, did not support placing the referendum on a ballot, and supports the option to rescind and replace.

Markene Smith
- Commented on concerns with the housing numbers and affordable housing, requested the Council consider adding transit solutions and energy efficiency, requested the phrase “preserve, promote and protect the existing small town character and quality of life” be added back into the Plan, and supported the rescind and replace option.

Other Business item #11 – continued

Kathryn Morgan
- Commented on concerns with water, housing, traffic, and parking, and requested a guaranteed percentage of affordable housing.

Sutton Roley
- Commented on concerns with housing numbers being higher that the State mandated number and would like to revisit the General Plan every eight years in line with the Reginal Housing Needs Assessment (RHNA) cycle to make any necessary amendments.

Lee Quintana
- Commented on the difference between increasing density in a General Plan designation and upzoning in the Zoning Code. She also explained that the Zoning Code may limit what might be possible within a General Plan land use designation.

Lee Fagot
- Commented on concerns with too much housing, the impacts of traffic, parking, water use, and electricity, and would like Council to commit to preserve, promote and protect the existing small town character and quality of life in Los Gatos.

Catherine Somers, Chamber of Commerce Executive Director
- Commented in support of the 2040 Community Design Element and requested Council consider implementing workforce housing and additional transportation solutions.

Ken Arendt
- Commented on concerns with the increased housing numbers, availability of affordable housing, stated he would not want to go through an expensive ballot measure and would like to preserve the small-town character.

Younggang “Jason” Xu
- Commented on the small town character.

Melanie Hanssen
- Commented in support of option C in the staff report and commented on the Design Element.

Bill Kraus
- Commented that the housing number buffer should be reduced from 15% to 3 to 5% and recommended adding the goal of preserving the small town character back into the 2040 General Plan.

Other Business item #11 – continued

Ian Land
- Commented on moderating growth, stated concerns with pressures on infrastructure, and spoke about rescinding and replacing the elements and voting on the proposed amended elements in 2024.

Kevin Ma
- Commented on the need for housing and discussed compliance issues with the Housing Element.

John Shepardson
- Commented on concerns with the possible number of units, the draw on the Town's resources, and supports keeping the small town character language and include Justice, Equity, Diversity and Inclusion (JEDI) in the 2040 General Plan.

Randi Chen
- Commented that not all parcels are eligible for upzoning due to other constraints and Town Codes; stated that the 12,000 housing unit number is unrealistic; and said that requiring different types of housing can enhance the small town character.

Joanne Rodgers
- Commented in support of Option C and opposed adding 12,000 units.

Jake Wilde
- Commented the Town has a need for additional housing given the job housing ratio.

Closed public comment.

Recess 9:16 p.m.
Reconvene 9:27 p.m.

Council discussed the item.

MOTION: **Motion** by **Council Member Hudes** to reconsider the Land use and Community Design elements after adoption of the 2040 Housing Element, no later than the time frame for the 2024 election. **Seconded** by **Council Member Badame.**

VOTE: **Motion passed unanimously.**

ADJOURNMENT
The meeting adjourned at 10:05 p.m.

Respectfully submitted:

_____

Jenna De Long, Deputy Clerk

DATE: October 21, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Adopt a Resolution Reaffirming Resolution 2021-044 and Making Findings Pursuant to Government Code Section 54953, as Amended by Assembly Bill 361, and, Due to Health and Safety Concerns for the Public, Authorizing the Use of Hybrid Meetings for the Town Council and the Continued Use of Virtual Meetings for Boards and Commissions While Town Staff Makes the Necessary Arrangements to Transition to Hybrid Meetings for All Town Boards, Commissions, and Committees

RECOMMENDATION:

Adopt a Resolution reaffirming Resolution 2021-044 and making findings pursuant to Government Code Section 54953, as amended by Assembly Bill 361, and, due to health and safety concerns for the public, authorizing the use of hybrid meetings for the Town Council and the continued use of virtual meetings for Boards and Commissions while Town staff makes the necessary arrangements to transition to hybrid meetings for all Town Boards, Commissions, and Committees.

BACKGROUND:

On March 17, 2020, Governor Newsom issued Executive Order N-29-20, which allowed for relaxed provisions of the Ralph M. Brown Act (Brown Act) that allowed legislative bodies to conduct meetings through teleconferencing without having to meet the strict compliance of the Brown Act. All provisions of Executive Order N-29-20 concerning the conduct of public meetings expired on September 30, 2021.

AB 361 was signed into law by the Governor on September 16, 2021, and went into effect immediately upon signing. It amends the Brown Act to allow local legislative bodies to continue using teleconferencing and virtual meeting technology after the September 30, 2021, expiration of the current Brown Act exemptions as long as there is a "proclaimed state of emergency" by

PREPARED BY: Wendy Wood
Town Clerk

Reviewed by: Town Manager, Assistant Town Manager, and Town Attorney

BACKGROUND (continued):

the Governor. This allowance also depends on State or local officials imposing or recommending measures that promote social distancing or a legislative body finding that meeting in person would present an imminent safety risk to attendees.

DISCUSSION:

The County Public Health Officer continues to recommend that public meetings be conducted remotely. The Town Council will continue to provide a remote participation option in addition to in-person meetings. Staff will gradually transition all Town Board, Commission, and Committee meetings to a similar hybrid format.

AB 361 requires Public agencies to make findings by majority vote within 30 days of the first teleconferenced meeting under AB 361 and every 30 days thereafter that a state of emergency still exists and continues to directly impact the ability of the members to meet safely in person, or that officials continue to impose or recommend measures to promote social distancing.

Town Council adopted Resolution 2021-044 on October 5, 2021 regarding Brown Act compliance and teleconferencing pursuant to Government Code Section 54953, as amended by AB 361, and adopted resolutions on the following dates reaffirming Resolution 2021-044:

- November 2, 2021 adopted Resolution 2021-046
- November 16, 2021 adopted Resolution 2021-048
- December 7, 2021 adopted Resolution 2021-054
- December 21, 2021 adopted Resolution 2021-059
- January 18, 2022 adopted Resolution 2022-001
- February 1, 2022 adopted Resolution 2022-003
- February 15, 2022 adopted Resolution 2022-004
- March 1, 2022 adopted Resolution 2022-006
- March 15, 2022 adopted Resolution 2022-009
- April 5, 2022 adopted Resolution 2022-013
- April 19, 2022 adopted Resolution 2022-017
- May 3, 2022 adopted Resolution 2022-021
- May 17, 2022 adopted Resolution 2022-031
- June 7, 2022 adopted Resolution 2022-032
- June 21, 2022 adopted Resolution 2022-037
- July 12, 2022 adopted Resolution 2022-048
- August 2, 2022 adopted Resolution 2022-050
- August 16, 2022 adopted Resolution 2022-055
- September 6, 2022 adopted Resolution 2022-056

DISCUSSION (continued):

- September 20, 2022 adopted Resolution 2022-059
- October 4, 2022 adopted Resolution 2022-060
- October 18, adopted Resolution 2022-065

CONCLUSION:

Adopt a Resolution reaffirming Resolution 2021-044 making findings pursuant to Government Code Section 54953, as amended by Assembly Bill 361, and authorizing the continued use of virtual meetings. The Town Council will conduct hybrid meetings and staff will work to prepare for a transition to hybrid meetings for all Town Boards, Commissions, and Committees.

COORDINATION:

This report was coordinated with the Town Attorney and Town Manager's offices.

FISCAL IMPACT:

There will be no fiscal impact to the Town at this time.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:
1. Draft Resolution

DRAFT RESOLUTION 2022-

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS REAFFIRMING RESOLUTION 2021-044 REGARDING BROWN ACT COMPLIANCE AND TELECONFERENCING PURSUANT TO GOVERNMENT CODE SECTION 54953, AS AMENDED BY ASSEMBLY BILL 361, DURING THE COVID-19 PANDEMIC

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19; and

WHEREAS, on March 12, 2020, the Town Manager of Los Gatos acting in the capacity of Town of Director of Emergency Services, issued a Proclamation of Local Emergency; and

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20, which suspended and modified the teleconferencing requirements under the Brown Act (California Government Code Section 54950 et seq.) so that local legislative bodies can hold public meetings via teleconference (with audio or video communications, without a physical meeting location), as long as the meeting agenda identifies the teleconferencing procedures to be used; and

WHEREAS, on March 17, 2020, the Town Council of the Town of Los Gatos ratified the Proclamation of Local Emergency as set forth in Resolution 2020-008 and remains in full force and effect to date; and

WHEREAS, on June 4, 2021, the Governor clarified that the "reopening" of California on June 15, 2021, did not include any change to the proclaimed state of emergency or the powers exercised thereunder; and

WHEREAS, on June 11, 2021, the Governor issued Executive Order N-08-21, which extended the provision of N-29-20 concerning the conduct of public meetings through September 30, 2021, and the Governor subsequently signed legislation revising Brown Act requirements for teleconferenced public meetings (Assembly Bill 361, referred to hereinafter as "AB 361"); and

WHEREAS, on September 16, 2021, Governor Newsom signed AB 361, which added subsection (e) to Government Code section 54953 of the Brown Act, and makes provision for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, the Town Council of the Town of Los Gatos approved Resolution No. 2021-044 on October 5, 2021, declaring the need for the Town Council, Boards, Commissions, and Committees to continue to meet remotely in order to ensure the health and safety of the

public; and

WHEREAS, the Town of Los Gatos remains in a state of emergency due to the continuing spread of COVID-19; and

WHEREAS, the Centers for Disease Control and Prevention recommends physical distancing of at least six (6) feet whenever possible, avoiding crowds, and avoiding spaces that do not offer fresh air from the outdoors, particularly for people who are not fully vaccinated, or are at a higher risk of severe illness due to COVID-19; and

WHEREAS, that the Santa Clara County Public Health Department continues to recommend that public bodies meet remotely to the extent possible; and

WHEREAS, technology exists that allows full participation from members of the public without requiring in-person attendance at a Town Council, Board, Commission, or Committee meeting.

WHEREAS, the Town Council has considered all information related to this matter, including the associated staff report and other information relating to COVID-19 provided at prior public meetings of the Town Council; and

WHEREAS, the Town Council wishes to conduct hybrid meetings, at which members of the public have the option to participate remotely, and to transition to hybrid meetings for the Town's Boards, Commissions, and Committees; and

WHEREAS, the Town Council wishes to adopt a Resolution finding that the requisite conditions continue to exist for the legislative bodies of the Town of Los Gatos, as defined in the Brown Act, to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES HEREBY RESOLVE:

1. The Town Council hereby finds that the fact set forth in the above recitals and as contained in Resolution 2021-044 are true and correct, and establish the factual basis for the adoption of this Resolution;

2. There is an ongoing proclaimed state of emergency relating to the novel coronavirus causing the disease known as COVID-19 and as a result of that emergency, meeting inperson may present risks to the health or safety of attendees of in-person meetings of this legislative body and all Town advisory bodies within the meaning of California Government Code section 54953(e)(1).

3. Under the present circumstances, including the risks mentioned in the preceding paragraph, attendees may wish to participate in Town meetings remotely.

4. As authorized by Assembly Bill 361, the Town Council wishes to conduct hybrid meetings and to transition to hybrid meetings for the Town's Boards, Commissions, and Committees.

5. Staff are directed to take all actions necessary to implement this Resolution for all Town Council meetings and Town Board, Commission, and Committee meetings on a rolling basis, in accordance with the foregoing provisions and the requirements of Government Code section 54953, as amended by Assembly Bill 361, including but not limited to returning for ratification of this Resolution every 30 days after teleconferencing for the first time pursuant to Assembly Bill 361 for so long as either of the following circumstances exists: (a) the state of emergency continues to directly impact the ability of this legislative body to meet in person; and/or (b) state or local officials, including but not limited to the County Health Officer, continue to impose or recommend measures to promote social distancing.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 1st day of November 2022, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

DATE: October 20, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Authorize the Town Manager to Execute a Two-Year Agreement with Los Gatos-Saratoga Union High School District and Los Gatos Union Elementary School District for School Resource Officer Services for the Period October 1, 2022 through June 30, 2024, and Approve a Revenue Budget Increase in the Amount of $46,738.75 to Match the Proposed Agreement Term and Agreement Amount

RECOMMENDATION:

Authorize the Town Manager to execute a two-year agreement with Los Gatos-Saratoga Union High School District and Los Gatos Union Elementary School District for school resource officer services for the period October 1, 2022 through June 30, 2024, and approve a revenue budget increase in the amount of $46,738.75 to match the proposed agreement term and agreement amount.

BACKGROUND:

Since 2008, the Town of Los Gatos, the Los Gatos-Saratoga Union High School District (LGSUHSD), and Los Gatos Union School District (LGUSD) have participated in an agreement for one School Resource Officer (SRO) that works in the local schools with the costs shared between the two school districts and the Town.

With school closures due to COVID-19 subsiding, in June 2021, LGSUHSD and Town staff collaborated in a work session of future SRO services with the consideration of incorporating a refined scope of work and a new service agreement with reduced SRO services and cost sharing to both School Districts.

PREPARED BY: Heather St. John
Senior Administrative Analyst

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

BACKGROUND (continued):

The one- year cost sharing agreement allocated 18% to Los Gatos-Saratoga Union High School, 7% to Los Gatos Union Elementary School District, and 75% to the Town of Los Gatos. This agreement expired June 30, 2022.

The one-year agreement allowed all involved parties an opportunity to evaluate the revised scope of work, adjusted cost sharing, and reduced SRO service levels. Prior to 2021, SRO agreements consisted of cost sharing for one SRO at 50% Town of Los Gatos, 36% LGSUHSD District, and 14% LGUSD.

DISCUSSION:

The Los Gatos-Monte Sereno Police Department and School Districts have maintained a strong community partnership through open communication with students, staff, and school administration. The Department continues to foster the tradition of the SRO program while being adaptable to change to ensure campus and student safety within the schools. The goals for the SRO program remain unchanged: to promote and focus on campus and student safety while building community relationships and maintaining a healthy learning environment.

In September of 2022, after further review and evaluation by all the involved parties, it was determined that a revision to the previous year agreement for SRO services was necessary to maintain efficiencies and priorities of the SRO Program. All parties agreed to return to the cost sharing agreement of 50% Town of Los Gatos, 36% LGSUHSD District, and 14% LGUSD.
On October 11, 2022, and on October 13, 2022, Los Gatos-Saratoga Union High School District Board of Trustees and Los Gatos Union School District Board of Trustees respectively unanimously approved the attached proposed two-year SRO cost sharing agreement.

CONCLUSION:

Staff recommends Town Council authorize the Town Manager to execute an agreement with Los Gatos-Saratoga Union High School District and Los Gatos Union Elementary School District for School Resource Officer Services for the period October 1, 2022, through June 30, 2024, and to approve a revenue budget increase in the amount of $46,738.75 to match the proposed agreement term and agreement amount.

FISCAL IMPACT:

The fiscal impact is summarized in the table below. Based on the SRO restructured cost sharing agreement, a budget adjustment of $46,738.75 in increased revenue is requested. The Fiscal Year 2022/23 revenue is offset by three months and prorated based on an agreement start date of October 1, 2022. The agreement is for one full-time equivalent Sworn Officer position including salary and benefits. Upon execution of this agreement and reimbursement from the Los Gatos-Saratoga Union High School District and the Los Gatos-Saratoga Union School District, the Town will be responsible for 50% of the one full-time equivalent SRO position.

FY 22/23 & 23/24 SRO COST SHARING AGREEMENT		
	FY 22/23	**FY 23/24**
HIGH SCHOOL DISTRICT 36%	$89,504.46 (9 months)	$119,339.28
LOS GATOS UNION 14%	$34,807.29 (9 months)	$46,409.72
TOWN 50%	$207,186.25 (12 months)	$165,749.00
Total	**$331,498.00**	**331,498.00**

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:
1. SRO Services Agreement for October 1, 2022 Through June 30, 2024
2. SRO Scope of Work – "Exhibit A" to SRO Services Agreement

AGREEMENT BETWEEN THE LOS GATOS-SARATOGA UNION HIGH SCHOOL DISTRICT, LOS GATOS UNION ELEMENTARY SCHOOL DISTRICT, AND THE TOWN OF LOS GATOS FOR SCHOOL RESOURCE OFFICER SERVICES

This contract is dated for identification this 1st day of October 2022 and is made by and between the LOS GATOS-SARATOGA UNION HIGH SCHOOL DISTRICT, (hereinafter "HIGH SCHOOL DISTRICT"), the LOS GATOS UNION SCHOOL DISTRICT (hereinafter "LOS GATOS UNION") and the TOWN OF LOS GATOS (hereinafter "TOWN"), a California General Law City. HIGH SCHOOL DISTRICT, LOS GATOS UNION, and TOWN may be referred to as "Party" or "Parties'' in this Agreement. This agreement shall take effect on October 1, 2022 and remain in effect until June 30, 2024.

I. RECITALS

1.1 HIGH SCHOOL DISTRICT, LOS GATOS UNION, and TOWN desire to continue the formalized relationship and joint cooperative effort for a shared funding strategy between the participating entities for school resource officer services. The School Resource Officer Program (SRO) aims to foster an efficient and cohesive program building positive relationships between law enforcement and the youth of our community.

NOW, THEREFORE in consideration of the recitals and mutual promises contained herein, the Parties agree as follows:

II. AGREEMENTS

2.1 The Los Gatos-Monte Sereno Police Department shall assign one (1) sworn law enforcement officer to serve as SRO based on the “SRO Scope of Work” (contained in “Exhibit A”) and specified hours of service agreed upon within this agreement. The Los Gatos-Monte Sereno Police Department shall retain the exclusive right to exercise the customary functions of management. The Los Gatos-Monte Sereno Police Department reserves the right to remove the SRO at any time if Police Department staffing levels fall below acceptable norms.

2.2 The day-to-day operation and administrative control of the SRO Program will be the responsibility of the Police Department. Responsibility for the conduct of the SRO, both personally, and professionally, shall remain solely with the Los Gatos-Monte Sereno Police Department. The SRO is employed and retained by the Los Gatos-Monte Sereno Police Department, and in no event will be considered an employee of the respective entities.

2.3 The Police Department and the School District shall each name a contact person who will monitor the program. Each principal will designate a contact person for the school to facilitate communication.

2.4 Under this framework, the SRO is first and foremost a law enforcement officer for the providing law enforcement agency. The SRO shall be responsible for carrying out all duties and responsibilities of a law enforcement officer and shall always remain under the control, through the chain of command, of the law enforcement agency. All acts of commission or omission shall conform to the guidelines of the providing law enforcement agency directives.

School officials should ensure that non-criminal student disciplinary matters remain the responsibility of school staff and not the SRO. Enforcement of the code of student conduct is the responsibility of teachers and administrators. The SRO shall refrain from being involved in the enforcement of disciplinary rules that do not constitute violations of law, except to support staff in maintaining a safe school environment.

2.5 The "SRO Scope of Work" is attached in "Exhibit A" of this agreement which covers specified SRO services provided, SRO hours of service, and SRO other duties and responsibilities while not serving under this agreement.

2.6 All Parties agree to provide funding for the school resource officer on an annual basis, to cover expenses including salary and benefits. Fiscal year 2022/2023 is prorated three months based on LOS GATOS UNION and HIGH SCHOOL DISTRICT payments beginning October 1, 2022. All Parties shall contribute toward the total overall cost of the School Resource Officer as follows:

FY 22/23 & 23/24 SRO COST SHARING AGREEMENT		
	FY 22/23	**FY 23/24**
HIGH SCHOOL DISTRICT 36%	$89,504.46 (9 months)	$119,339.28
LOS GATOS UNION 14%	$34,807.29 (9 months)	$46,409.72
TOWN 50%	$207,186.25 (12 months)	$165,749.00
Total	**$331,498.00**	**331,498.00**

2.7 The TOWN will present an annual report to the Boards of Trustees of LOS GATOS UNION and the HIGH SCHOOL DISTRICT by the end of the school year, or as soon as possible following the school year. This report will inform the Boards about services provided to the LOS GATOS UNION and HIGH SCHOOL DISTRICT throughout the year, both on site at the elementary, middle school, High School and in the neighboring community. This report will be presented by the Chief of Police or Designee and the School Resource Officer.

III. INSURANCE AND INDEMNIFICATION

3.1 Mutual indemnification. Each Party agrees to indemnify, hold harmless, and defend the other Parties, their elected and appointed officials, employees, and agents, from any and all liabilities, claims, or losses of any nature, including attorney fees, to the extent caused by, arising out of, or in connection with, the indemnifying Party's acts or omissions pursuant to this Agreement..

3.2 Each party to the agreement will hold all other parties harmless.

IV. TERM AND TERMINATION OF AGREEMENT

4.1 This Agreement shall take effect October 1, 2022 and remain in effect through June 30, 2024, unless terminated as set forth in this Agreement.

4.2 All parties have the right to terminate this agreement, with or without cause. The terminating party must give all other parties 60 days prior written notice thereof.

4.3 Notice of termination, in writing, may be issued by the Police Chief or Superintendents of the respective entities. If one or more schools terminate, each terminating school shall remain liable for any unpaid monthly obligation incurred prior to or after the termination through the end of that fiscal year for services rendered by the Town, pursuant to this Agreement.

4.4 This Agreement represents the entire agreement between High School District, Los Gatos Union, and Town. All prior or contemporaneous oral or written agreements by and between the parties and their agents and representatives with respect to the matters in this Agreement are revoked and extinguished by this Agreement.

4.5 No modification, waiver, mutual termination, or amendment of this Agreement is effective unless made in writing and signed by the Town and the Consultant.

4.6 In any dispute over any aspect of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, including costs of appeal.

4.7 Any notices required pursuant to this Agreement shall be deemed to be properly given and mailed postage prepaid and addressed to:

TOWN OF LOS GATOS
Attn: Town Clerk
110 E. Main Street
Los Gatos, CA 95030

With a copy to:
Jamie Field, Police Chief
110 E. Main Street
Los Gatos, CA 95030

LOS GATOS-SARATOGA UNION SCHOOL DISTRICT
17421 Farley Road West
Los Gatos, CA 95032

LOS GATOS UNION SCHOOL DISTRICT
17010 Roberts Road
Los Gatos, CA 95032

IN WITNESS WHEREOF, this Agreement is executed by LOS GATOS-SARATOGA HIGH SCHOOL DISTRICT, LOS GATOS UNION, and LOS GATOS.

APPROVED AS TO CONTENT:

_____

Paul Johnson
Los Gatos Union School District
Superintendent

_____

Bill Sanderson
Los Gatos-Saratoga Union High School District
Superintendent

FOR THE TOWN OF LOS GATOS:

_____

Laurel Prevetti, Town Manger

Recommended by:

_____

Jamie Field, Chief of Police

Approved as to Form:

_____

Gabrielle Whelan, Town Attorney

Attest:

_____

Wendy Wood, CMC, Town Clerk

"EXHIBIT A"

SCOPE OF WORK SCHOOL RESOURCE OFFICER (SRO)

MISSION:

The Los Gatos-Monte Sereno Police Department as part of the Town of Los Gatos (TOWN), HIGH SCHOOL DISTRICT, and LOS GATOS UNION, seeks to ensure an efficient and cohesive SRO program, building positive relationships between law enforcement, students, and school employees. The goal of the program is to create and maintain a safe school environment, while reducing crime and providing a law enforcement resource to school administrators, faculty, and students.

SRO ROLE AND RESPONSIBILITIES:

The SRO acts in accordance with the recommended National Association of School Resource Officers (NASRO) three roles of law enforcement officer, teacher, and informal counselor/mentor; however, they do not enforce academic school rules or policies or become involved with matters that are strictly related to school discipline issues. Los Gatos-Monte Sereno Police Department as part of the TOWN, HIGH SCHOOL DISTRICT, and LOS GATOS UNION have identified specific responsibilities of the SRO while serving at the schools to include:

- Build collaborative working relationships with students, campus administrative staff and school faculty through positive interaction.
- Provide formalized education to students and faculty on approved topics related to campus safety and preventative education related to illegal/criminal activity.
- Assist school administrators with the development and deployment of campus safety and emergency response plans.
- Act as a law enforcement liaison and member of the HIGH SCHOOL DISTRICT Behavioral Intervention Team (BIT) program.
- When requested, attend special activities, assemblies, or programs during school hours.
- Maintain law enforcement safety presence in and around school campuses related to crime deterrence and prevention, Safe Routes to School traffic safety, and promoting positive student, staff, and community interaction.

SERVICE HOURS:

SRO schedule will be defined in accordance with TOWN personnel rules and Police Officer's Association Memorandum of Understanding.

- SRO will work four days/week, 10 hour/days from 0700-1700 hours.
- SRO work week will be Tuesday to Friday, unless otherwise directed.

- SRO will be assigned to dedicated SRO duties and presence at the schools. The remainder of the SRO shift hours will be allocated to the Investigations Division, where the SRO will be assigned to the investigation of Juvenile Crimes or as directed by his/her immediate supervisor.
- Any additional work outside the allotted hours per week or special event presence needed by the SRO, will require HIGH SCHOOL DISTRICT and LOS GATOS UNION to reimburse TOWN at the special events officer rate per hour.
- Calls for service at the campuses of HIGH SCHOOL DISTRICT or LOS GATOS UNION requiring a police response when the SRO is not on campus or on duty, shall be referred to Police Dispatch for a patrol officer response.

SUPERVISION, EVALUATION, SELECTION:

- The SRO position will be supervised by the Investigations Sergeant and will be assigned to the Investigations Division when not assigned to the schools as the SRO.
- The SRO performance evaluations will be completed by the TOWN, SRO's immediate supervisor, with input and feedback from HIGH SCHOOL DISTRICT and LOS GATOS UNION school representatives/liaisons.
- The SRO position will be filled according to the Police Department selection process. The TOWN will make the final selection of any SRO, in consultation with the HIGH SCHOOL and LOS GATOS UNION.

TRAINING:

- The SRO position is considered a specialized assignment within the Police Department, requiring specialized training.
- The SRO is employed by the TOWN and is entitled to approved leaves of absence, required training, and other time off in accordance with TOWN personnel rules and POA MOU. Should there be an extended break in service by the SRO for any unforeseen circumstance, TOWN will identify a temporary or permanent replacement to fulfill SRO duties.

INFORMATION SHARING:

- It is the understanding of the HIGH SCHOOL DISTRICT, LOS GATOS UNION, and TOWN that confidentiality and a student's right to privacy are of the utmost importance in the administration of these services. Therefore, student records shall be kept confidential in accordance with all applicable laws and professional standards.

DATE: October 17, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Adopt a Resolution to Designate the Director of Parks and Public Works, Nicolle Burnham, to the Board of Directors of the Los Gatos-Monte Sereno Safe Routes to School Organization

RECOMMENDATION:

Adopt a Resolution to designate the Director of Parks and Public Works, Nicolle Burnham, to the Board of Directors of the Los Gatos-Monte Sereno Safe Routes to School organization.

BACKGROUND:

In 2016 the Los Gatos-Monte Sereno Safe Routes to School (SR2S) organization was established as a registered 501 (c)(3) nonprofit organization. The purpose of the organization is to provide advocacy and education around bicycle and pedestrian safety particularly as it relates to areas near schools.

As a registered nonprofit, SR2S has a Board of Directors that includes representatives from the member organizations and the community. The Board provides the leadership behind the SR2S program and consists of a representative from the Town of Los Gatos, City of Monte Sereno, Hillbrook School, Los Gatos Union School District, Los Gatos High School and two community members.

DISCUSSION:

The Parks and Public Works Director has historically filled the Town of Los Gatos' position on the SR2S Board. For this reason, staff recommends that the new Director, Nicolle Burnham, be appointed to this position.

PREPARED BY: Nicolle Burnham
Director of Parks and Public Works

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

COORDINATION:

This report has been coordinated with the Town Attorney.

FISCAL IMPACT:

There is no fiscal impact from this action.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:
1. Draft Resolution

DRAFT RESOLUTION 2022-

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS APPOINTING NICOLLE BURNHAM TO THE LOS GATOS- MONTE SERENO SAFE ROUTES TO SCHOOL BOARD OF DIRECTORS

WHEREAS, the Los Gatos-Monte Sereno Safe Routes to School Program is overseen by a seven-member Board of Directors;

WHEREAS, one of the Board of Directors seats is allocated to the Town of Los Gatos;

WHEREAS, Los Gatos has historically appointed its Director of Parks and Public Works to the Board of Directors; and

WHEREAS, Nicolle Burnham is the current Director of Parks and Public Works.

NOW, THEREFORE, BE IT RESOLVED, that Nicolle Burnham be named as the Los Gatos representative to the Los Gatos-Monte Sereno Safe Routes to School Board.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 1st day of November 2022, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTACHMENT 1

DATE: October 24, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Authorize Revenue and Expenditure Budget Adjustments to the Roadside Fire Fuel Reduction Project (CIP No. 812-0130) in the Amount of $750,000 to Recognize Receipt and Expenditure of Federal Financial Assistance, and Acceptance of Match Requirements

RECOMMENDATION:

Authorize revenue and expenditure budget adjustments to the Roadside Fire Fuel Reduction Project (CIP No. 812-0130) in the amount of $750,000 to recognize receipt and expenditure of Federal financial assistance, and acceptance of match requirements.

BACKGROUND:

On September 20, 2022, the Town Council received an update on the roadside fuel reduction federal grant of $750,000 and recognized a future match commitment of $750,000 (Attachment 1). The staff report informed Council that once the Town receives confirmation that the grant is being released, the Council will be asked to accept the grant to ensure the continuation of the roadside vegetation management plan and make the appropriate budgetary adjustments of $750,000 for Fiscal Year 2022/23.

DISCUSSION:

On September 26, 2022, staff received final confirmation from the US Forest Service of the executed award (Attachment 2). Included in the award packet was notification that both advance and reimbursable payments are approved under the award. With receipt of the award staff can now start programing roadside fuel reduction along the remaining 7.71 miles of Priority 1 and Priority 2 roadside vegetation outlined in Attachment 1.

PREPARED BY: Arn Andrews
Assistant Town Manager

Reviewed by: Town Manager, Town Attorney, Director of Parks and Public Works, and Finance Director

DISCUSSION (continued):

As discussed in September, acceptance of the grant commits the Town to a one-to-one match. Staff will bring budget recommendations in the proposed Capital Improvement Program Budgets for FY 2023/24 and FY 2024/25 as part of the balanced budget process.

CONCLUSION:

Acceptance of the grant ensures the continuation of the roadside vegetation management plan and reduces the total project cost to the Town by $750,000.

COORDINATION:

This staff report was coordinated with the Town Manager, Town Attorney, Director of Parks and Public Works, and Interim Finance Director.

FISCAL IMPACT:

Roadside Fire Fuel Reduction Project CIP No. 812-0130		
	Budget	
GFAR	$ 75,191	
Budget Requested with the Staff Report	$ 750,000	
Total Budget*	**$ 825,191**	
Available Balance		**$ 825,191**

* Acceptance of the grant commits the Town to a one-to-one match. Staff will bring budget recommendations in the proposed Capital Improvement Program Budgets for FY 2023/24 and FY 2024/25 as part of the balanced budget process.

ENVIRONMENTAL ASSESSMENT:

This roadway vegetation management project is categorically exempt from CEQA Guidelines section 15301, because it involves minor alterations to existing right of way, and section 15304, because it involves minor alterations to land.

Attachments:
1. September 20, 2022 Staff Report
2. US Forest Service Grant Award

DATE: September 6, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Receive an Update on a Roadside Fuel Reduction Federal Grant of $750,000 and Recognize a Future Match Commitment of $750,000

RECOMMENDATION:

Receive an update on a roadside fuel reduction federal grant of $750,000 and recognize a future match commitment of $750,000.

BACKGROUND:

In 2019, the Town commissioned SWCA consultants to develop a roadway vegetation management plan (Plan) for the Wildland Urban Interface (WUI) in Los Gatos. The report examined 31.09 miles of Town-owned WUI roadways that provide critical ingress/egress routes for residents and emergency responders in the event of wildfire.

These Town-owned roadways identified in the Plan include evacuation routes and other collector, neighborhood, and hillside collector roads that currently provide narrow access for emergency response during a wildfire. Of note, the report identified approximately 19 miles of Priority 1 and 2 roadways of very high concern for safe evacuation of the hillsides. The remaining 12 miles of roadways were identified as Priority 3 and prioritized last for clearing roadside vegetation.

Under the Plan, roadside vegetation management seeks to achieve a clearance of 20 feet horizontally and 13 feet, 6 inches vertically above roadways, as well as clearance of non-fire-resistant vegetation within 10 feet of the roads.

PREPARED BY: Arn Andrews
Assistant Town Manager

Reviewed by: Town Manager, Town Attorney, Parks and Public Works Director, and Interim Finance Director

BACKGROUND (continued):

To date, the Town has completed two years of progress on the Plan. In Fiscal Year (FY) 2020/21, the Town Council allocated $500,000 toward the project which achieved approximately 6.5 miles of fuel mitigation along Priority 1 and 2 roadways. In FY 2021/22, the Town Council allocated an additional $500,000 toward the project which achieved an additional 4.5 miles of fuel mitigation along Priority 1 and 2 roadways.

Road Name	Priority Level	Mileage	Year Completed
Foster Road	1	1.03	2021
Kennedy Road	1	1.17	2022
Kennedy Road	1	1.00	2021
Shannon Road	1	2.61	2021
Arnerich Road	1	0.96	2022
Blackberry Hill Road	1	1.19	2021
Cleland Ave	1	0.21	
Fairview Ave	1	0.11	
Francis Oaks Way	1	0.68	
Hicks Road	1	0.97	2022
Kimble Ave	1	0.49	
Larga Vista Drive	1	0.44	
Manzanita Ave	1	0.27	
Oak Hill Way	1	0.49	
Paseo Carmelo	1	0.07	
Ravinia Way	1	0.09	
South Kennedy Road	1	0.50	2022
Santa Rosa Drive	1	0.45	2022
Twelve Oaks Road	1	0.68	
Wood Road	1	0.61	
Suview Drive	2	0.67	
Top of the Hill Court	2	0.49	
Top of the Hill Road	2	0.26	
Aztec Ridge Drive	2	0.15	
College Ave	2	0.42	
Cross Road	2	0.07	
Cypress Way	2	0.54	2021
Eugenia Way	2	0.20	2021
Johnson Ave	2	0.12	
Mireval Road	2	0.15	
Shady Lane	2	0.29	
Sky Lane	2	0.17	
Teresita Way	2	0.19	
Tourney Road	2	0.25	2021
Wooded View Drive	2	0.59	
Dittos Lane	2	0.25	2021

Status	Miles
Completed 2021	7.07
Completed 2022	4.05
Pending Work	7.71

DISCUSSION:

In March 2021, staff submitted a $1.0 million Federal Budget Earmark Grant request to implement the Roadside Vegetation Management Plan at the behest of Congresswoman Eshoo. In March 2022, the House passed a bipartisan Omnibus bill which included $750,000 for the

DISCUSSION (continued):

Town's grant request as one of 10 community projects funded in the Congressional District. Knowing that the grant had been accepted, Town Council did not allocate any Town funding toward the Plan for FY 2022/23. This third phase for FY 2022/23 funded by the federal grant would conclude the remaining 7.71 miles of Priority 1 and Priority 2 roadside vegetation management. Later phases would address the next level of priority.

When staff submitted the grant request, it was understood that the prior years' investments would constitute the required one-to-one match for the grant. Subsequently, staff learned that the match must come from funds allocated during the grant performance period which started March 15, 2022. This means that the Town has two years to provide the match funding toward the federal grant of $750,000 which could be allocated $375,000 in FY 2023/24 and $375,000 in FY 2024/25 to complete Priority 3 roadways.

CONCLUSION AND NEXT STEPS:

Staff is nearing completion of the required federal documentation. When staff receives confirmation that the Town's grant is being released, the Council will be asked to accept the grant to ensure the continuation of the roadside vegetation management plan and reduce the total project cost to the Town by $750,000.

COORDINATION:

This staff report was coordinated with the Town Manager, Town Attorney, Director of Parks and Public Works, and Interim Finance Director.

FISCAL IMPACT:

Future acceptance of the grant necessitates future budget allocations totaling $750,000. Staff will bring budget recommendations in the proposed Capital Improvement Program Budgets for FY 2023/24 and FY 2024/25 as part of the balanced budget process.

ENVIRONMENTAL ASSESSMENT:

This roadway vegetation management project is categorically exempt from CEQA Guidelines section 15301, because it involves minor alterations to existing right of way, and section 15304, because it involves minor alterations to land.

FEDERAL FINANCIAL ASSISTANCE
AWARD OF DOMESTIC GRANT 22-DG-11052012-134
Between The
LOS GATOS, TOWN OF
And The
USDA, FOREST SERVICE
PACIFIC SOUTHWEST REGION, FIRE AND AVIATION MANAGEMENT

Project Title: Fuels Reduction Project

Upon execution of this document, an award to the Los Gatos, Town of, hereinafter referred to as "TLG," in the amount of **$750,000.00**, is made under the authority of the Consolidated Appropriations Act of 2022, P.L. 117-103. The Federal Assistance Listing (formerly Catalog of Federal Domestic Assistance - CFDA) number and name are 10.723, Community Project Funding - Congressionally Designated Funding. TLG accepts this award for the purpose described in the application narrative. Your application for Federal financial assistance, dated August 22, 2022, and the attached Forest Service provisions, 'Forest Service Award Provisions,' are incorporated into this letter and made a part of this award.

This authority requires a match of 1:1, which your organization has agreed to provide as shown in the attached application, financial plan and narrative.

This is an award of Federal financial assistance. Prime and sub-recipients to this award are subject to the OMB guidance in subparts A through F of 2 CFR Part 200 as adopted and supplemented by the USDA in 2 CFR Part 400. Adoption by USDA of the OMB guidance in 2 CFR 400 gives regulatory effect to the OMB guidance in 2 CFR 200 where full text may be found.

Electronic copies of the CFRs can be obtained at the following internet site: www.ecfr.gov. If you are unable to retrieve these regulations electronically, please contact your Grants and Agreements Office at 505-382-9982.

The following administrative provisions apply to this award:

A. LEGAL AUTHORITY. TLG shall have the legal authority to enter into this award, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the non-Federal share of project costs, when applicable.

B. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this award.

Principal Cooperator Contacts:

Cooperator Program Contact	Cooperator Administrative Contact
Arn Andrews 110 East Main Street Los Gatos CA 95030 Telephone: 408.354.6836 Email: aandrews@losgatosca.gov	Arn Andrews 110 East Main Street Los Gatos CA 95030 Telephone: 408.354.6836 Email: aandrews@losgatosca.gov

Principal Forest Service Contacts:

Forest Service Program Manager Contact	Forest Service Administrative Contact
Barb Geringer 1323 Club Drive Vallejo, CA 94592 Telephone: 202-577-4827 E: barbara.geringer-frazier@usda.gov	Wendy Yun 1323 Club Drive Vallejo, CA 94592 Telephone: 707-562-8928 Email: wendy.yun@usda.gov

C. SYSTEM FOR AWARD MANAGEMENT REGISTRATION REQUIREMENT (SAM). TLG shall maintain current information in the System for Award Management (SAM) until receipt of final payment. This requires review and update to the information at least annually after the initial registration, and more frequently if required by changes in information or award term(s). Additional information about registration procedures may be found at the SAM Internet site at www.sam.gov.

D. ADVANCE & REIMBURSABLE PAYMENTS – FINANCIAL ASSISTANCE. Advance and reimbursable payments are approved under this award. Only costs for those project activities approved in (1) the initial award, or (2) modifications thereto, are allowable. Requests for payment must be submitted on Standard Form 270 (SF-270), Request for Advance or Reimbursement, and must be submitted no more than monthly. In order to approve a Request for Advance Payment or Reimbursement, the Forest Service shall review such requests to ensure advances or payments for reimbursement are in compliance and otherwise consistent with OMB, USDA, and Forest Service regulations.

Advance payments must not exceed the minimum amount needed or no more than is needed for a 30-day period, whichever is less. If the Recipient receives an advance payment and subsequently requests an advance or reimbursement payment, then the request must clearly demonstrate that the previously advanced funds have been fully expended before the Forest Service can approve the request for payment. Any funds advanced, but not spent, upon expiration of this award must be returned to the Forest Service.

The Program Manager reserves the right to request additional information prior to approving a payment.

The invoice must be sent by one of three methods:	Send a copy to:
EMAIL (preferred): SM.FS.asc_ga@usda.gov FAX: 877-687-4894 POSTAL: Albuquerque Service Center Payments – Grants & Agreements 101B Sun Ave NE Albuquerque, NM 87109	Barb Geringer: barbara.geringer-frazier@usda.gov

E. INDIRECT COST RATES. TLG has elected to not assess indirect against this award.

F. PRIOR WRITTEN APPROVAL. TLG shall obtain prior written approval pursuant to conditions set forth in 2 CFR 200.407.

G. MODIFICATIONS. Modifications within the scope of this award must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change. The Forest Service is not obligated to fund any changes not properly approved in advance.

H. PERIOD OF PERFORMANCE. This agreement is executed as of the date of the Forest Service signatory official signature. Pre-award costs are authorized as of 03/15/2022 pursuant to 2 CFR 200.458.

The end date, or expiration date is **03/14/2025**. This instrument may be extended by a properly executed modification. *See Modification Provision above*.

I. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this award. In witness whereof the parties hereto have executed this award.

for: LAUREL PREVETTI, Town Manager — Date
Los Gatos, Town of

YOLANDA SALDANA — Digitally signed by YOLANDA SALDANA Date: 2022.09.23 11:27:40 -07'00'

YOLANDA SALDANA, Deputy Director for
JAMIE GAMBOA, Director Fire & Aviation Management — Date
U.S. Forest Service, Pacific Southwest Region

The authority and the format of this award have been reviewed and approved for signature.

Sara J. Comas — 9/21/2022

SARA COMAS — Date
Forest Service Grants Management Specialist

DATE: October 19, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Introduce an Ordinance, By Title Only, to Amend Town Code Section 1.10.075, "Official Town Holidays – Designated; Exceptions," to Add the Juneteenth Holiday

RECOMMENDATION:

Introduce an ordinance, by title only, to amend Town Code section 1.10.075, "Official Town Holidays – Designated; Exceptions," to add the Juneteenth Holiday.

BACKGROUND:

On June 16, 2021, President Joe Biden signed a bill passed by the Senate and House to officially recognize Juneteenth as a federal holiday.

This additional holiday was agreed to in the Town's 2022 labor negotiations with its bargaining units and the July 1, 2022 – June 30, 2024 Memoranda of Understanding (MOUs) contain this holiday.

President Abraham Lincoln signed the Emancipation Proclamation on January 1, 1863, declaring the slaves in Confederate territory free, paving the way for the passing of the 13th Amendment which formally ended slavery in the United States. The communication of the signing of the Emancipation Proclamation was delayed by two and a half years, to June 19, 1865, in reaching authorities and Black/African American people in the South and Southwestern United States. June 19th is called "Juneteenth" combining the words June and nineteenth and has been celebrated by the Black/African American community for over 150 years.

PREPARED BY: Bridgette Falconio
Administrative Technician

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

CONCLUSION:

In recognition of Juneteenth, staff is recommending that the Town Council introduce a proposed amendment to Section 1.10.075, "Official Town Holidays – Designated; Exceptions," of the Town Code to add Juneteenth to the list of the Town's observed holidays. If introduced by the Town Council, this proposed ordinance will return to the Town Council for adoption at a subsequent meeting and will take effect 30 days after adoption.

COORDINATION:

The Town Attorney's Office and Town Manager's Office coordinated this report.

FISCAL IMPACT:

This agenda item will add one new paid holiday to the Town's official holiday calendar.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:
1. Draft Ordinance

DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING TOWN CODE SECTION 1.10.075, "OFFICIAL TOWN HOLIDAYS – DESIGNATED; EXCEPTIONS" TO ADD JUNETEENTH AS A TOWN HOLIDAY

WHEREAS, Section 1.10.075, "Official Town Holidays – Designated; Exceptions," lists the Town holidays;

WHEREAS, Juneteenth has been included as a holiday in the Town's recently-amended memorandums of understanding with the Town's labor organizations; and

WHEREAS, the Town Council deems it necessary to amend Section 1.10.075, "Official Town Holidays – Designated; Exceptions," of the Town Code to add Juneteenth, to the list of recognized Town holidays in the Town Code;

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS ORDAINS as follows:

SECTION I. Section 1.10.075, "Official Town Holidays – Designated; Exceptions," of the Town Code is hereby amended to add the following underlined language and re-number the holidays:

Sec. 1.10.075. Official Town holidays—Designated; exceptions.

(a) The following days shall be holidays for the Town:

(1) January first.

(2) The third Monday in January.

(3) The third Monday in February.

(4) The last Monday in May.

(5) Juneteenth

(6)~~(5)~~ July fourth.

(7)~~(6)~~ The first Monday in September.

(8)~~(7)~~ Thanksgiving Day.

(9)~~(8)~~ The Friday following Thanksgiving Day.

(10)~~(9)~~ December twenty-fifth.

(11)~~(10)~~ Every day appointed by the President or Governor for a public fast, thanksgiving or holiday, which is also designated as a Town holiday by the Mayor through written directive.

ATTACHMENT 1

(b) If any of the holidays designated above fall upon a Saturday, the preceding Friday, instead of Saturday, shall be the holiday. If any of the holidays designated above fall upon a Sunday, the succeeding Monday, instead of Sunday, shall be the holiday.

(c) If provisions of this section are in conflict with provisions of a memorandum of understanding, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, then the provisions shall not become effective unless approved by the Town Council in the annual budget.

(Code 1968, § 1-13)

SECTION 2. SEVERABILITY CLAUSE. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstance is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons and circumstances. The Town Council of the Town of Los Gatos declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof despite the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable

SECTION 3. CEQA FINDINGS. This Ordinance is not a project within the meaning of Section 15378 of the California Environmental Quality Act (CEQA) Guidelines because it has no potential to result in physical change in the environment, directly or indirectly. This Ordinance is also exempt under CEQA Guideline 15061{b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

SECTION 4. PUBLICATION. The Town Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the Town of Los Gatos and to cause publication once in the Los Gatos Weekly, the official publication of legal notices of the Town of Los Gatos, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance. 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)(1).

SECTION 5. EFFECTIVE DATE. This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the ___ day of _____ 20 , and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the ____ day of _____ 20 . This ordinance takes effect 30 days after it is adopted.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

DATE: October 24, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Discuss the Water Service Interruption Associated with the San Jose Water Company Villa Avenue Improvements

RECOMMENDATION:

Discuss the water service interruption associated with the San Jose Water Company Villa Avenue improvements.

BACKGROUND:

In June 2022, the Department of Parks and Public Works (PPW) issued an Encroachment Permit to the San Jose Water Company (SJW) and its contractor(s) to replace aging water main lines on Villa Avenue, Jackson Street, Highland Avenue, Los Gatos Blvd., and Alpine Avenue. Construction started in late June and is expected to be completed in Spring 2023. SJW and its contractors agreed to a traffic management plan and public outreach to affected residences and businesses that was also approved by PPW.

SJW is the water utility for all of Los Gatos. It is an independent company, overseen by the California Public Utilities Commission.

The Town has a long, collaborative relationship with SJW. This agenda item is intended to give all parties affected by a recent water service outage an opportunity to debrief and identify lessons learned. John Tang, SJW Vice President of Regulatory Affairs and Government Relations, will attend the Council meeting to provide additional information, answer questions, and listen to the discussion.

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Parks and Public Works Director

DISCUSSION:

On the afternoon of October 20, the contractors ruptured an unmarked water service connected to a water main in Villa Avenue, shutting down water service to the Town Library and residents in the vicinity. At the time, the contractors informed the Town that the repair was expected to be complete in two to four hours. Library patrons and staff were advised to use the restrooms at Town Hall for the remainder of the day. Town staff was unaware that residents were affected.

Early Friday morning, Town staff learned that the repair work was not complete and that the water service outage extended beyond the Library to 300 households, all of whom had been without water overnight. Residents began calling the Town and seeking outage information.

Town staff reached SJW engineers mid-morning and learned that when the incident first occurred SJW assumed it would be a relatively quick and simple repair. This is why they did not move to emergency measures earlier. The repair proved more challenging due to the age of the water main and its condition requiring SJW crews to work through the night.

Town staff requested that SJW contact all affected customers, make potable water available, and offered the use of Town property as a potential distribution point.

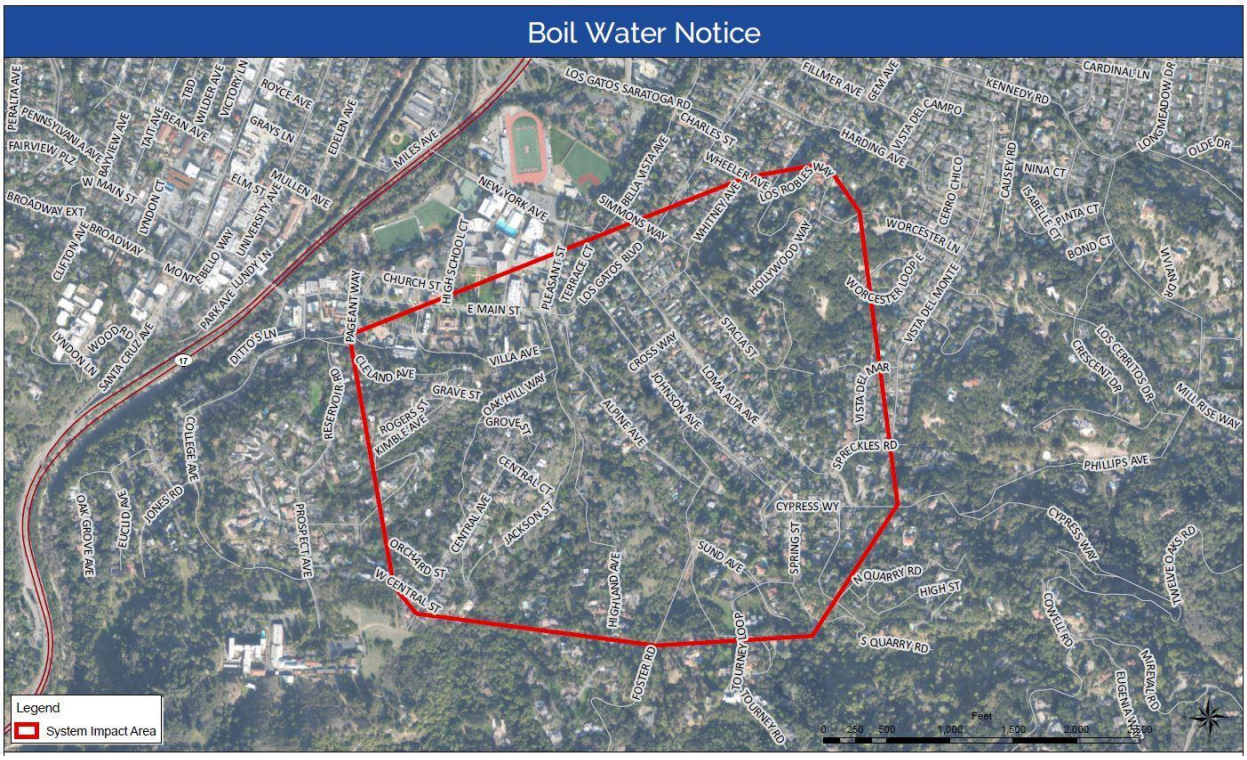
Around 10:15 a.m., a pallet of bottled water was available on Villa Avenue and SJW was distributing to residents that expressed need. Town Hall and PPW Offices were continuing to get calls and residents were informed about the available water. For those residents who requested a delivery, a specific SJW phone number was provided in addition to the SJW customer service line. SJW was also updating its website to notify customers that bottled water was available and to provide an estimated time for service restoration.

As Town staff answered questions by phone, residents posted that information on Nextdoor. Residents were also informing the Town that the outage was larger than 300 households and on streets not identified by SJW in their updates. By mid-day, two pallets of bottled water were delivered and stored in parking places near Villa in the main Town Hall/Library parking lot. SJW informed the Town that they had gone door to door to notify residents of the situation. SJW began staffing the area 24 hours a day.

By 6:00 p.m. on Friday afternoon, water service was restored with a boil water notice, advising to boil the water before drinking it or using it for food preparation. The water was safe to use for washing, cleaning, and showering. SJW staff continued to distribute water and answer resident questions all weekend at the Town Hall/Library parking lot.

DISCUSSION (continued):

Despite these efforts, residents were continuing to reach out to the Town. When Town staff saw the map posted on the SJW website of the geographic extent of the boil water notice (see map on the next page), SJW informed the Town that 600 customers were affected. Town staff recognized that it needed to supplement SJW communications with its own updates to the Town website and prepare social media messages, including the Friday What's New email blast.



Town staff retweeted and posted the SJW boil water notice tweets/posts throughout the weekend on Town social media channels. Subsequently, we learned that we should have provided the geographical area so as not to unduly alarm the entire Los Gatos jurisdiction.

SJW Water Quality staff collected water quality samples from 10 locations each on Friday night and again on Saturday night to ensure water in the affected services area meets state and federal drinking water requirements. Sample results were submitted to the State Water Resources Control Board's Division of Drinking Water, which evaluated the water quality samples before lifting the boil water notice. The boil water notice was lifted on Monday, October 24 around 4:30 p.m.

CONCLUSION:

Emergency communications is a critical function for government and all utilities providing critical infrastructure to the public. Town staff is updating its communication protocols in light of this recent experience.

We look forward to hearing from Town residents, SJW, and the Town Council regarding lessons learned from this experience. This discussion will help the Town further refine its communications protocols to better inform residents of incidents in Los Gatos and provide useful information as an incident is unfolding.

COORDINATION:

This agenda item was coordinated with the Department of Parks and Public Works, the Town Manager's Office, and the San Jose Water Company.

FISCAL IMPACT:

The discussion of the water service interruption and lessons learned has no fiscal impact.

ENVIRONMENTAL ASSESSMENT:

The discussion is not a project defined under the California Environmental Quality Act, and no further action is required.

From: WRATES
Sent: Tuesday, November 1, 2022 1:34 PM
To: Council <Council@losgatosca.gov>; Town Manager <Manager@losgatosca.gov>
Cc: Rob Rennie <RRennie@losgatosca.gov>; Maria Ristow <MRistow@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>; Marico Sayoc <MSayoc@losgatosca.gov>
Subject: WRATES response to the Staff report on the Villa Water main rupture

EXTERNAL SENDER

RE Staff Report on Villa Water Leak main/service pipe ruptures

I am a resident of Los Gatos living on W Central Ave.
More than 300 residents went through an ordeal sharing the crisis of being without water for 31 hours.
Los Gatos staff have prepared a report chronicling the events of Oct 20 to Oct 23-24 when we got water back. SJWC is going to present their version of what happened. I am suggesting that as many of us who were affected join the Town Meeting tonight to give the council their constituents' version of what it was like to live like those in Jackson, Miss for the long weekend.
What is most important now is for us to tell SJWC, with the Council's backing, that we are not going to absorb the cost of the wasted water, the inconvenience of SJW egregious error in rupturing the main water pipe on Villa, and being so slow in responding and repairing the break and making accommodations.
SJW told me they own this. That means they cover the cost of all the lost water, both what leaked out of there pipes and what we wasted in clearing our pipes.
Please join the Town Hall meeting to hear SJWC presentation and to let the council, standing for reelection next Tuesday, what we expect if they want our vote.
I am a member of Water Rate Advocates for Transparency, Equity and Sustainability fighting SJWC pending water rate increase. Let's let them know if they want to serve us, they cannot repeat this as they continue to tear up the streets on Oak Hill Way, Jackson, Highland, Central, Central Court, Grove, W Central etc. They have 5-6 more months of tearing up our streets to rupture pipes they fail to locate.
We need to keep Los Gatos involved.
Pat Kearns
[redacted]
on the "Hill"

Patrick Kearns, MD
Reperesenting WRATES in recent proceedings before the CPUC

Los Gatos, CA 95030

DATE: October 27, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Consider a Request for an Exception to the Story Pole Policy to Allow an Alternative to Standard Story Pole Installation to Illustrate and Provide Notice of the Proposed Project on Property Zoned O. Located at 15860-15894 Winchester Boulevard and 17484 Shelburne Way. APN 529-11-013, -038, -039, and -040. Applicant/Property Owner: Green Valley Corp. d.b.a. Swenson. Project Planner: Jennifer Armer.

RECOMMENDATION:

Consider a request for an exception to the Story Pole Policy to allow an alternative to standard story pole installation to illustrate and provide notice of the proposed project on property zoned O located at 15860-15894 Winchester Boulevard and 17484 Shelburne Way.

BACKGROUND:

Historically, story poles have been used for two purposes. The primary purpose is to help illustrate proposed building locations and heights for pending development applications. Additionally, the story poles help alert the community of development applications that are scheduled for consideration at a public hearing.

The existing Story Pole Policy was approved by the Town Council on August 5, 2013 (Attachment 1). The existing Policy specifies the conditions and process for a possible story pole exception. Specifically, the Policy identifies that the applicant must clearly demonstrate to the Town that the installation of story poles would: (a) cause a threat to public health and safety; or (b) impair the use of existing structures or the site to the extent it would not be able to be occupied and the business or residential use would be infeasible.

PREPARED BY: Jennifer Armer, AICP
Planning Manager

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

BACKGROUND (continued):

The Policy requires story pole locations adequately demonstrate the height, mass, and bulk of the project requiring review. At a minimum, story poles shall be placed at all outside building corners of the building wall (excluding eaves) and along the rooflines of the proposed structure.

The Policy requires that at least two (2) foot wide orange woven plastic snow fencing (netting) be erected to represent the rooflines of the proposed structure. Netting must be supported by height poles that are strong enough to accurately maintain the outlines and height of the structure(s).

The Policy requires the Town Manager to determine if at least one of two criteria is met before the Council can consider requests for exceptions to the story pole installation requirements. The Council is the deciding body for story pole exceptions.

DISCUSSION:

The subject site is the combination of four parcels forming an approximately 1.31-acre site at the intersection of Winchester Boulevard and Shelburne Way. The site is currently developed with three single-family residences; a single-family residential structure which is currently occupied by a commercial construction business; and multiple detached accessory structures for a total of nine structures on the site. The existing zoning is Office (O), and the General Plan land use designation is Office Professional.

An application has been filed by Jessie Bristow of Swenson Builders requesting approval for demolition of four residential buildings and associated detached structures, construction of an assisted living and memory care facility, variance from the maximum height and lot coverage for the zone, and removal of large protected trees. This application includes Architecture and Site Application S-21-008, Conditional Use Permit U-21-101, and Variance Application V-21-003. Full project plans are available online on the Town's Pending Planning Projects page (https://www.losgatosca.gov/2393/W).

Staff review of the application, including preparation of an Initial Study and Mitigated Negative Declaration, have been completed and the project applicant has installed the story poles. As soon as staff found that the story poles were installed without the standard orange netting the applicant was advised that an exception reviewed by Town Council would be required.

The applicant has submitted a request for an exception from the Story Pole Policy requirements to avoid unsafe conditions created by heavy netting on tall story poles by utilizing rope flags connecting the story poles, in lieu of netting, as described in Attachment 2 and shown in Attachment 3. The story poles with the rope flags have already been installed on the site; however, the Town Council has the discretion to determine the appropriate flagging.

PUBLIC COMMENTS:

Pursuant to the Policy, notice of the Town Council hearing was sent to property owners and tenants within 300 feet of the subject property. Notice was also published in the Los Gatos Weekly, posted under "What's New" on the Town's website, and posted on the Town's social media platforms. Public comments received by 11:00 a.m., October 27, 2022, are included in Attachment 4.

CONCLUSION:

Staff recommends approval of the proposed exception to allow the installed story poles with rope flags in lieu of netting to avoid unsafe conditions created by heavy netting on tall story poles.

If the Town Council determines that the story pole exception request is appropriate, staff recommends that the Town Council limit the approval to the proposed story pole exception request and plan in Attachments 2 and 3. A request to modify the proposed story pole plan would be required to return to the Town Council for consideration of a new story pole exception.

ALTERNATIVES:

1. Continue the request to a date certain with specific direction; or
2. Approve the request with modified requirements; or
3. Deny the request.

COORDINATION:

The Community Development Department coordinated with the Town Manager's Office in the review of the requested story pole exception.

ENVIRONMENTAL REVIEW:

Action on the requested story pole exception does not constitute a "project" as defined by section 15378 of the CEQA Guidelines because it is not an action which has a potential for resulting in either a direct or reasonably foreseeable indirect physical change in the environment.

Attachments:

1. Story Pole Policy
2. Exception Request from the Applicant
3. Proposed Story Pole Plan

Height Pole and Netting Policy
For Additions and New Construction

I. Purpose:

It is a policy of the Town of Los Gatos Town Council to have story poles and project identification signs installed on the sites of an active development application. The placement of story poles is extremely helpful and important during the course of Town's review of applications for new development. Proper and accurate placement of story poles demonstrates the planned rooflines and heights and provides some indication of the potential massing of the proposed structure. Story poles enhance understanding of the project for Town residents, staff, advisory bodies, and decision making bodies. Story poles also provide a visual notice to the community of a forthcoming land use public hearing.

Project identification signs present both written and graphical information that will further communicate the proposed project to the community as well as provide the public hearing dates for the development application.

This policy is for the benefit of the Town and community and is not intended to create a requirement under the California Environmental Quality Act (CEQA).

II. Height Poles and Netting:

Height story poles and netting shall be used for the following types of Community Development Department, Planning Division, land use applications:

- New residential (excluding single-story accessory structures) and non-residential buildings.
- Residential second story additions.
- Nonresidential additions exceeding 100 square feet.

The terms height poles and story poles are used interchangeably.

A. Procedure:

When it is determined that story poles are required, the applicant's engineer, architect or building designer may be required to prepare a "Story Pole Plan" to indicate the locations where the poles will be installed. The Story Pole Plan shall be approved by the project planner prior to the placement of the poles on the site. Once approved, the applicant shall inform the project planner when the placement of the story poles is complete and submit photographs showing installation. The story poles shall be installed consistent with the following requirements:

Residential: The height poles and netting shall be installed prior to the neighborhood notification process and shall remain in place until the project has been acted upon and the appeal period has ended. If the project is appealed, the height poles and netting shall remain until final action is taken. If final consideration of the project is substantially delayed or the project is substantially modified, staff may direct removal or modification of the story poles.

Projects that Require Planning Commission or Town Council Action: The height poles and netting shall be installed prior to the public noticing of the matter and shall be kept in place until the project has been acted upon and the appeal period has ended. If the project is appealed, the height poles and netting shall remain until final action is taken. If final consideration of the project is substantially delayed or the project is substantially modified, staff may direct removal or modification of the story poles.

B. Timing

Public notices will not be mailed and/or application(s) shall not be advertised until a Story Pole Plan has been approved by the project planner, the height poles and netting have been installed, and photographs have been submitted to the project planner, as required in Section II.A.

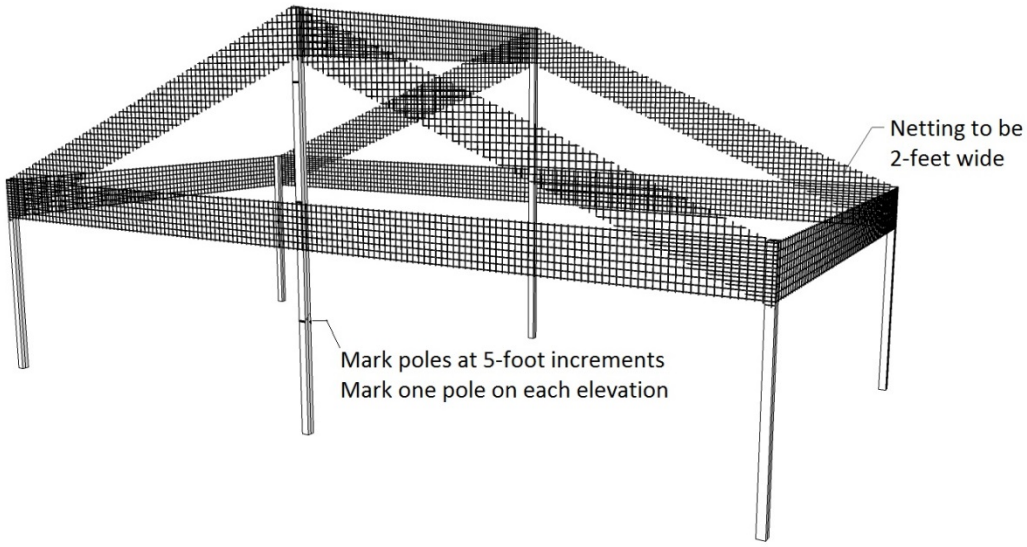
C. Location and Number:

The number of story poles may vary with each specific project. At the discretion of the project planner, story pole locations shall adequately demonstrate the height, mass, and bulk of the project requiring review. At a minimum, story poles shall be placed at all outside building corners of the building wall (excluding eaves) and along the rooflines of the proposed structure(s) or addition. Architectural elements such as towers, spires, elevator and mechanical penthouses, cupolas, mechanical equipment screening and similar elements not used for human activity or storage which are visible from the streetscape shall be represented by the story poles. Pursuant to Section 29.10.1005 of the Tree Protection Ordinance, the attachment of wires, signs, or ropes to any protected tree is prohibited. Trees may not be "flagged" or used as a substitute for the erection of story poles. After the placement of the story poles on-site, the applicant shall provide the project planner with photographs of the story poles taken from a variety of vantage points. The vantage point from where the photograph was taken shall be indicated on each photograph.

A licensed surveyor or civil engineer shall submit written verification that the height and position of the poles and netting accurately represents the height and location of the proposed structure(s) or addition.

D. Materials:

The material of the story poles shall be indicated on the Story Pole Plan. Story poles shall be constructed of 2"x4" lumber, metal poles, or other sturdy building material acceptable to the project planner. Telephone poles; mechanical equipment, such as cranes; or other materials may be acceptable for higher structures if the Community Development Director determines that the material will adequately portray the height, bulk, and mass of the proposed structure(s) or addition and withstand the wind and weather. At least two foot (2') wide orange woven plastic snow fencing (netting) must be erected to represent the rooflines of the proposed structure(s) or addition. Netting must be supported by height poles that are strong enough to accurately maintain the outlines and height of the structure(s). One of the height poles on each elevation must be clearly marked and labeled in five foot (5') increments measured from existing or finished grade, whichever creates a higher profile, and consistent with the approved Story Pole Plan on file at the Community Development Department.



E. Story Pole Plan and Public Safety:

All story poles shall be placed, braced and supported to ensure the health, safety and general welfare of the public. The Story Pole Plan shall include the methods used to secure the poles. Applicants shall sign an agreement that holds the Town harmless for any liability associated with the construction of, or damage caused by the story poles. If at any time, the Town determines the story poles to be unsafe, they shall be repaired and reset immediately by the project applicant or, at the Town's discretion, removed. Depending on the scope of the poles, the applicant may be requested to

verify with the Building Division of the Community Development Department that no permits and/or inspections are required for the poles.

F. Exceptions:

In the event there are justifiable reasons why story poles cannot be accommodated for all structures proposed to be constructed on the project site, the applicant shall submit a letter to the Community Development Director no later than 45 days prior to the required installation date, clearly articulating the reasons why an exception to the Story Pole requirement is warranted. Requests for an exception and alternative plan will only be considered if the applicant can clearly demonstrate to the Town, and the Town agrees, that the installation of the story poles would: (1) cause a threat to public health and safety or (2) would impair the use of existing structure(s) or the site to the extent it would not be able to be occupied and the business or residential use would be infeasible. Some form of poles and netting and/or on-site physical representation of the project will be required, even if an exception is granted.

Planned Development applications with multiple detached commercial structures and/or residential units may request to erect story poles on the locations where the key structures will be placed. The deciding body will take into account the density of the development when considering an exception request. The story poles shall be installed on all corner structures and the structures with the greatest height and mass. An exception to providing story poles for all structures in a Planned Development application with multiple commercial structures and/or residential units shall follow the same procedures as outlined below.

The Town Manager will review all justifiable requests for an exception to the Story Pole requirement within 14 days of receipt of the request and shall place the matter on the next available Town Council agenda for consideration by the Council. Written notice of the exception request shall be mailed to property owners and residents of properties within 300 feet of the project site. All requested and approved exceptions shall be posted on the Town's Web site under “What’s New,” in agenda posting locations at Town Hall and the Library, and in the online development activity report when established.

If an exception is approved, the applicant will be required to demonstrate the proposed structure height and mass using alternative means as outlined in Section II.H.

G. Alternatives: If an exception is granted to the Story Pole requirements, the applicant shall provide digital imagery simulations, computer modeling, built to-scale models or other visual techniques in-lieu of the Story Pole requirements. Simulations may either be prepared by the applicant for technical review by the Town's consultant or the applicant may elect to have the Town's consultant prepare the materials. In either case, the applicant shall be responsible for all technical review(s), materials and cost of the Town's evaluation and/or preparation process. To ensure accuracy, visual simulations shall comply with the following standards:

- Establishing accuracy of the visual simulation: The applicant shall demonstrate that the dimension and scale of the visual simulation and project setting are equivalent. This is accomplished by examining screen views of the model in plan and elevation views for accurate scaling. The visual simulation must also include reference objects corresponding to known objects in the simulated scene, such as buildings, curbs, utility poles, trees, or any other reference points visible in the simulated scene, whose location is known from surveys or, at a minimum aerial imagery. There shall be a minimum of two reference objects outside of the project in different parts of the photo frame.

- Establishing the equivalence of the virtual and actual camera focal setting: The camera lens focal setting or angle of view for each simulation base photo shall be stated. The camera model shall be provided since the angle of the focal view varies with different cameras. The preparer of the photo simulations shall provide the manufacturer specifications indicating the 35 mm film SLF lens correspondence, or other means to calculate the angle of view.

- Depict the accurate location of the photo and establish the correspondence of the virtual camera with the visual simulation: The photo location shall be indicated accurately on a map or aerial photo, and the correspondence within the visual simulation should be demonstrated. Simulated views should not employ cropping, or if they must, the original, uncropped rendered image shall be provided. Once the images are cropped, it is impossible to validate their accuracy.

- Other Information: The Town's consultant may require other information to assess the accuracy of the visual simulation.

H. Removal:

Once a final action has been taken and the appeal period is over, the height poles and netting shall be removed at the applicant's expense within 30 days. If not removed, the height poles and netting will be considered rubbish and will be in violation of Section 11.10.020 of the Town Code and the matter will be forwarded to Code Compliance for enforcement action.

III. Project Identification Signs:

All development applications that must comply with the story pole and netting requirements shall also provide project identification signs on the development site consistent with the following requirements.

A. Timing:

Public notices will not be mailed and/or application(s) shall not be advertised until project identification sign(s) have been installed. The location of the project identification sign(s) shall be shown on the Story Pole Plan. The applicant shall submit a signed declaration confirming that the project identification sign(s) were installed. The applicant shall also submit a photo showing the on-site sign(s) installed on the subject property prior to the distribution of the public notices.

B. Size:

- New Residential Structures: One, 2'x2' sign placed on the street frontage. The top of the sign shall be five feet (5') from existing grade and visible from the main street frontage. The sign shall indicate the scheduled public hearing date and the availability of plans for review at the Community Development Department.

- Commercial/Industrial Remodels or New Construction: One 4'x8' sign on each of the property frontages that are visible to surrounding public right of ways, including pedestrian trails such as the Los Gatos Creek Trail. The top of the signs shall be six feet (6') from existing grade. The Community Development Director may require additional signs for development sites that have large frontages.

- Downtown (C-2 Zone) Remodels or New Commercial Development: One 2' by 3' vertical sign constructed of metal frame with water resistant plastic or laminated face. In cases where it is infeasible to install a free-standing sign, the posting of a durable, all weather sign on or inside the window of a building is permitted, provided the sign is visible from public locations outside the building. Requests for an exception to the free-standing sign requirements shall be made to the Community Development Department in writing no less than 30 days prior to the public hearing for the project.

C. Number and Placement of Signs:

With one exception, on-site signs shall be placed on each street frontage of the site. The exception is for permits related to an individual new single family dwelling. In this case, only one sign on the street frontage is required. The signs shall be oriented towards the street, within one foot (1') of the front property line or two feet (2') of the back of the sidewalk.

D. Materials:

Signs shall be constructed of durable materials, such as foam core or plywood, and shall be laminated during the rainy season (October through April). The sign colors shall be a white background with black printing, and color graphics (excluding single family, which may have black and white graphics). As noted under Section III.B., signs in the Downtown C-2 Zone shall be constructed of higher grade materials, including a metal frame and a plastic or laminated poster board face.

E. Sign Content:

Up to 75% of the overall sign area must be used to provide a general description of the project; including number of residential units or commercial buildings and square footage; a color perspective drawing, three-dimensional image or photographic simulation and the name and contact information of the project applicant. Single family remodel projects are not required to provide a rendering on the sign. The public notice portion of the sign message must constitute 25 percent of the overall sign area and notify the community of the public hearing date and time and contain the following message "For more information about this project, please contact the Town of Los Gatos Planning Division at 110 E. Main Street, Los Gatos, (408) 354-6872. The project address and application number shall be included on the notice.

F. Duration of Sign Posting:

Project identification signs shall be placed on site consistent with the timing of installation of the story poles (See Section II.B.) and shall be removed within 30 days of the final actions (See Section II.H.).

G. Maintenance:

The applicant is responsible for replacement of any missing, damaged or vandalized signs within five days of request by the Town. The Town may cease processing of the application if the signs are not replaced and/or maintained.

IV. Definitions:

Height: As defined by the Zoning Ordinance, height is determined by the plumb vertical distance from the natural or finished grade, whichever is lower and creates a lower profile, to the uppermost point of the roof edge, wall, parapet, mansard, or other point directly above that grade. For portions of a structure located directly above a cellar (refer to Section 29.10.020 of the Zoning Ordinance for definition of cellar), the height measurement for that portion of the structure shall be measured as the plumb vertical distance from the existing natural grade to the uppermost point of the structure directly over that point in the existing natural grade.

Roofline or edge: The contour or shape of a roof.

This policy was adopted by Town Council on August 5, 2013 (Resolution 2013-032)

N:\DEV\Web Documents\Policies\Story Pole Policy Resolution.7-13-17.docx

SWENSON

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

RE: Story Pole Material Exemption Request
Winchester Assisted Living
15860 Winchester Blvd

Dear Mayor and Town Council,

Please accept this written request of Green Valley Corporation for an exemption to the Town's Height Pole and Netting Policy regarding its proposed project located at 15860 Winchester Boulevard (the "Property").

On September 23, 2022, California Story Poles installed story poles and string line flags on the Property. California Story Poles used flags and string line and not the required two-foot-wide orange netting because the height of the story poles. According to California Story Poles, the netting is very heavy and at that height can catch in the wind, creating unsafe conditions at the site, and is potentially unsafe to the surrounding public (Please see attached emails from California Story Poles). According to California Story Poles, in all of their other tall projects in Los Gatos, they have used flag rope to demonstrate the shape and massing of the proposed structures, without issue.

Under the "exceptions" section of the Town's Height Pole and Netting Policy, if the story poles or materials cause a threat to public health or safety, other alternative representations may be utilized. As such, Green Valley Corporation hereby requests the Town to approve its use of story poles with string line flags in lieu of the orange netting. We thank you for your time and consideration.

Sincerely,

Jessie Bristow
Swenson Builders

777 N. 1st Street, 5 t h Floor, San Jose, CA 95112 | 408. 287.0246 | A Division of Green Valley Corporation | License # 342751

SWENSON

Jessie Bristow [redacted]

15860 Winchester / Story Pole Install: Flagging vs. Netting

Ashley Snodgrass [redacted] Wed, Oct 5, 2022 at 1:02 PM
To: Jessie Bristow [redacted]
Cc: Mike Black [redacted]

Hi Je ie,
Flag rope was used, as noted on the story pole plan. Due the height of the poles, flag rope is used for safety issues - this has been the case on all TALL installations in Los Gatos.

Thank you

A S H L E Y S N O D G R A S S

[Quoted text hidden]

WINCHESTER story pole plan REVISED.pdf
3655K

SWENSON

Jessie Bristow [redacted]

15860 Winchester / Story Pole Install: Flagging vs. Netting

Ashley Snodgrass [redacted] Thu, Oct 6, 2022 at 11:08 AM
To: Jessie Bristow [redacted]
Cc: Mike Black [redacted], California Story Poles [redacted]

It ha nothing to do with OSHA due to the height of the pole , the me h i very heavy and will catch in the wind and bring the poles down - it is for the safety of the site.

ASHLEY SNODGRASS

[Quoted text hidden]

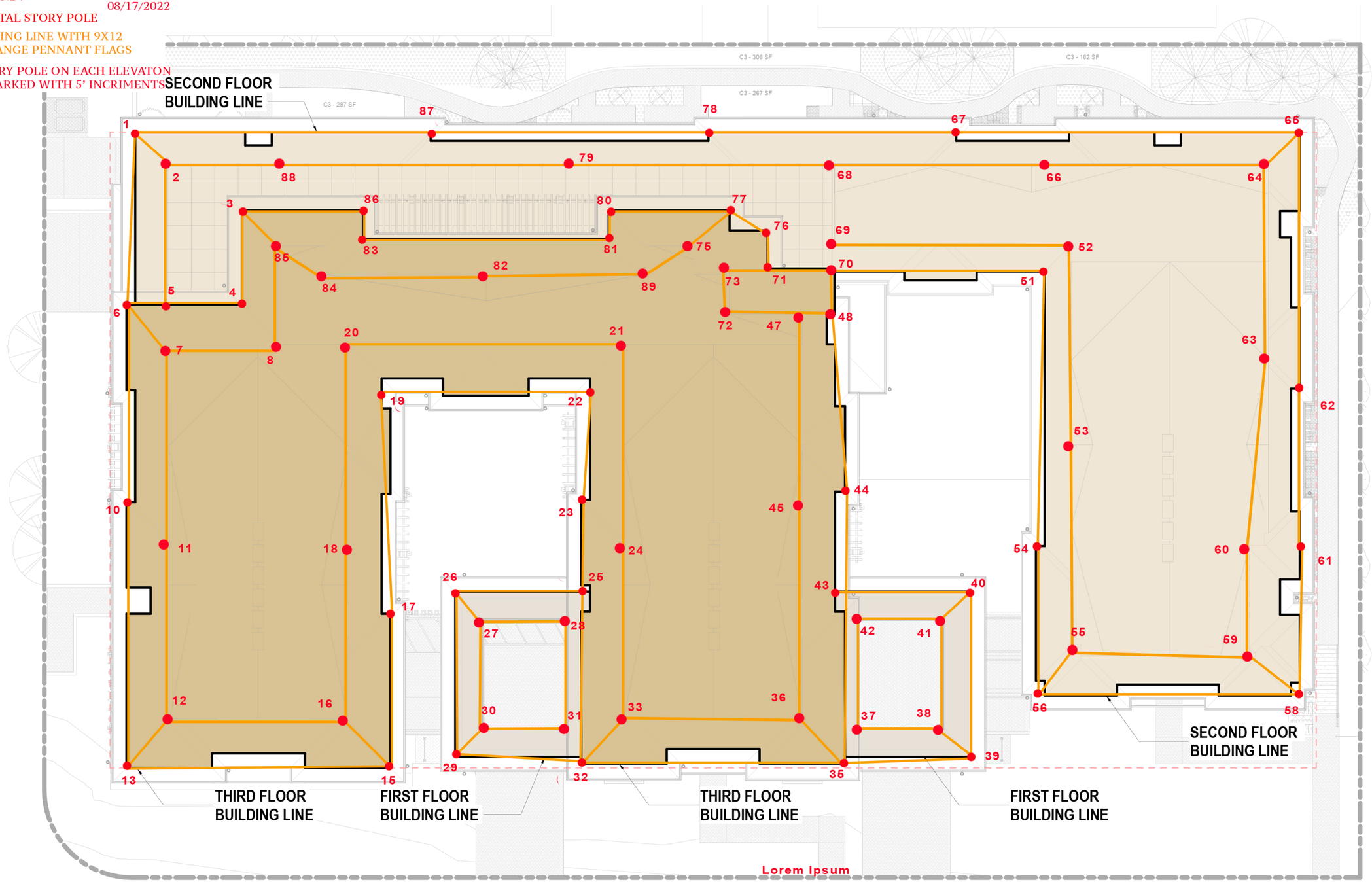
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LEGEND:

- METAL STORY POLE
- STRING LINE WITH 9X12 ORANGE PENNANT FLAGS

ONE STORY POLE ON EACH ELEVATON TO BE MARKED WITH 5' INCRIMENTS

STORY POLE PLAN
08/17/2022



1 ROOF PLAN - BUILDING FOOTPRINT
3/32" = 1'-0"

SWENSON ARCHITECTURE
7774 Ivy Street, Sky Noor Bldg, Unit CA 95118 (408) 887-0948 Robert Hightower, Architect - C25043

Consultant:

Revisions:

Revision Schedule

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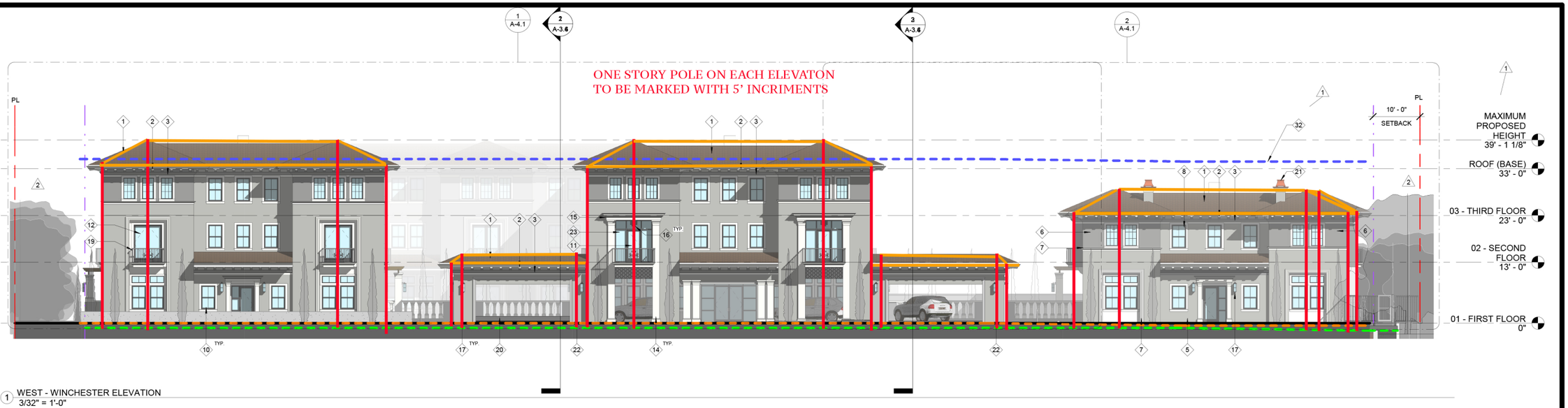
WINCHESTER MEMORY CARE / ASSISTED LIVING
PLANNING REVIEW NO. 21 1724
15860 - 15894 WINCHESTER BLVD., LOS GATOS, CA

ROOF PLAN - BUILDING FOOTPRINT

Date: 8/16/2022
Scale: AS NOTED
Drawn by: BN
Job #: 20-9215
Sheet: A-2.6

ATTACHMENT 3

ONE STORY POLE ON EACH ELEVATON
TO BE MARKED WITH 5' INCRIMENTS



1 WEST - WINCHESTER ELEVATION
3/32" = 1'-0"



2 EAST - FACING RESIDENTIAL ELEVATION
3/32" = 1'-0"

ELEVATION KEYNOTE :

1. SPANISH TILE ROOF
2. RAFTER TAIL
3. CORNICE
4. ROOF GUTTER
5. CEMENT PLASTER WITH PAINT FINISH - SHERMAN WILLIAMS 7066 GRAY MATTERS
6. CEMENT PLASTER WITH PAINT FINISH- SHERMAN WILLIAMS 7067 CITYSCAPE
7. EXTERIOR WALL TRIM
8. FIXED WINDOW
9. SINGLE HUNG WINDOW
10. CASEMENT WINDOW
11. SINGLE DOOR
12. DOUBLE DOOR
13. BRACED WOOD TRELLIS
14. ARCHITECTURAL COLUMN
15. CORNICE CROWN
16. EXTERIOR CHANDELIER
17. LINEAR CARRIAGE LIGHT
18. BELLY BAND
19. PATIO METAL RAILING
20. COURTYARD WALL
21. CHIMNEY - CEMENT PLASTER FINISH, EXTERIOR TRIM, COPPER CROWN
22. SPLIT FACE CMU WALL ADJACENT TO NEIGBOR'S WALL, 6'-0" TYP.
23. CURTAIN WALL
24. NOT USED
25. ROLL UP GATE
26. GEOMETRIC SCREEN
27. CORBEL - SPANISH
28. ROLL UP DOOR WITH FROSTED GLASS PANELS
29. LOCATION OF TRASH / RECYCLE PAD FOR ON SITE BIN STAGING FOR COLLECTION DAY USE ONLY. BINS TO BE STORED IN TRASH ROOM BEHIND LOADING ROOM ON NON COLLECTION DAYS.
30. EXISTING GRADE
31. PROPOSED GRADE
32. MAXIMUM ALLOWED HEIGHT (35' ABOVE NATURAL GRADE)

LEGEND:

- MAXIMUM ALLOWED HEIGHT (35' ABOVE NATURAL GRADE)
- NATURAL GRADE
- FINISH GRADE
- VARIANCE AREA

SWENSON ARCHITECTURE
77774 1st Street, Ste 100 Ben Lomond, CA 95018 (408) 887-0848 Robert Hightower, Architect, C26348

Consultant:

Revisions:

Revision Schedule		
1	Planning Response #1	07/20/21
2	Planning Response #2	11/01/21

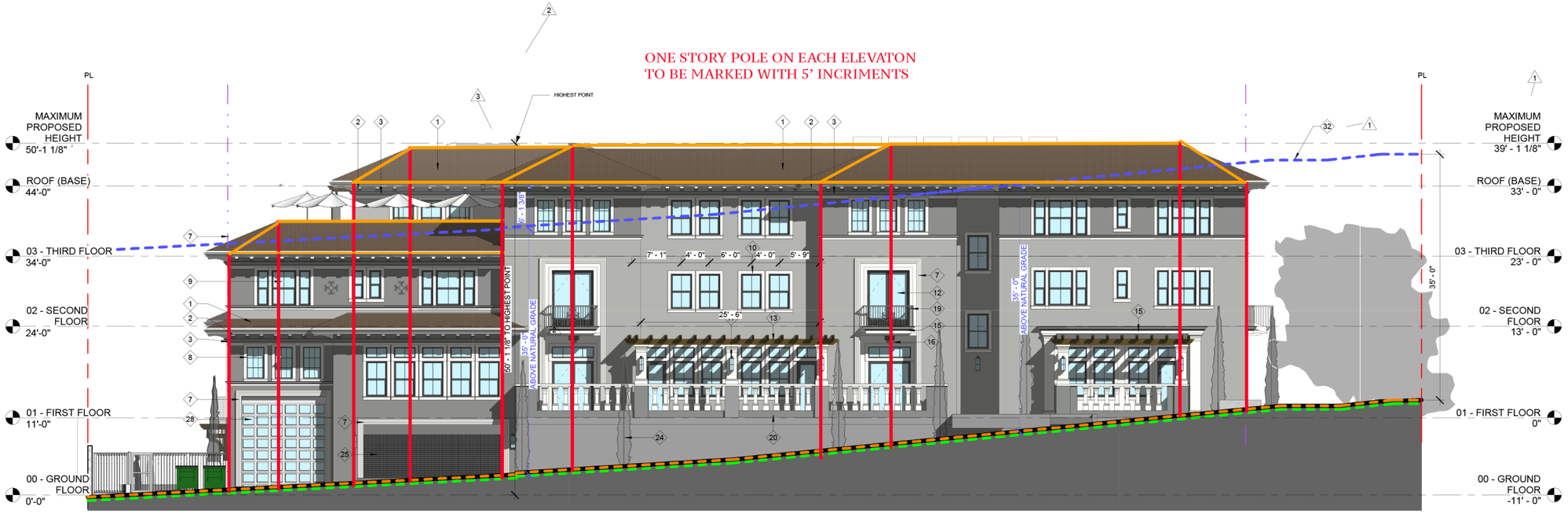
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WINCHESTER MEMORY CARE / ASSISTED LIVING
PLANNING REVIEW NO. 21 1724
15860 - 15894 WINCHESTER BLVD., LOS GATOS, CA
OVERALL BUILDING ELEVATIONS

Date: APRIL 01, 2021
Scale: AS NOTED
Drawn by: DM, EY, IL
Job #: 20-9215
Sheet: A-4.0

DEVELOPMENT REVIEW RESUBMITTAL #4 : APRIL 4, 2022

ONE STORY POLE ON EACH ELEVATON
TO BE MARKED WITH 5' INCRIMENTS



1 NORTH - SHELBURN ELEVATION
1/8" = 1'-0"

GENERAL NOTES :

A. ROOF RAINWATER LEADERS ARE TO BE DISCHARGED ONTO ENERGY DISSIPATERS (SPLASH BLOCKS) AT ALL LOCATIONS. NO IMPROVEMENTS SHALL OBSTRUCT OR DIVERT RUNOFF TO THE DETRIMENT OF AN ADJACENT DOWNSTREAM OR DOWN SLOPE PROPERTY. INSTEAD, STORMWATER TO BE TREATED ONSITE BY MEANS OF BIOTREATMENT. PLEASE SEE CIVIL STORMWATER MANAGEMENT PLAN FOR MORE INFORMATION.

ELEVATION KEYNOTE :

1. SPANISH TILE ROOF
2. RAFTER TAIL
3. CORNICE
4. ROOF GUTTER
5. CEMENT PLASTER WITH PAINT FINISH - SHERMAN WILLIAMS 7066 GRAY MATTERS
6. CEMENT PLASTER WITH PAINT FINISH- SHERMAN WILLIAMS 7067 CITYSCAPE
7. EXTERIOR WALL TRIM
8. FIXED WINDOW
9. SINGLE HUNG WINDOW
10. CASEMENT WINDOW
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12. DOUBLE DOOR
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30. EXISTING GRADE
31. PROPOSED GRADE
32. MAXIMUM ALLOWED HEIGHT (35' ABOVE NATURAL GRADE)

LEGEND:

- MAXIMUM ALLOWED HEIGHT (35' ABOVE NATURAL GRADE)
- NATURAL GRADE
- FINISH GRADE
- VARIANCE AREA

SWENSON ARCHITECTURE
7774 1st Street, Rio Nido, Sonoma County, CA 95492 (408) 887-0848 Robert Nightower, Architect - C26348

Consultant:

Revisions:

	Revision Schedule	
1	Planning Response #1	07/20/21
2	Planning Response #2	11/01/21
3	Planning Response #3	12/10/21

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WINCHESTER MEMORY CARE / ASSISTED LIVING
PLANNING REVIEW NO. 21 1724
15860 - 15894 WINCHESTER BLVD., LOS GATOS, CA

BUILDING ELEVATIONS - NORTH

Date: APRIL 01, 2021
Scale: AS NOTED
Drawn by: DM, EY, IL
Job #: 20-9215
Sheet: A-4.2

DEVELOPMENT REVIEW RESUBMITTAL #4 : APRIL 4, 2022



1 SOUTH - FACING RESIDENTIAL (NEIGHBOR VIEW)
1/8" = 1'-0"

ONE STORY POLE ON EACH ELEVATON
TO BE MARKED WITH 5' INCRIMENTS



2 SOUTH - FACING RESIDENTIAL
1/8" = 1'-0"

GENERAL NOTES :

A. ROOF RAINWATER LEADERS ARE TO BE DISCHARGED ONTO ENERGY DISSIPATERS (SPLASH BLOCKS) AT ALL LOCATIONS. NO IMPROVEMENTS SHALL OBSTRUCT OR DIVERT RUNOFF TO THE DETRIMENT OF AN ADJACENT DOWNSTREAM OR DOWN SLOPE PROPERTY. INSTEAD, STORMWATER TO BE TREATED ONSITE BY MEANS OF BIOTREATMENT. PLEASE SEE CIVIL STORMWATER MANAGEMENT PLAN FOR MORE INFORMATION.

ELEVATION KEYNOTE :

1. SPANISH TILE ROOF
2. RAFTER TAIL
3. CORNICE
4. ROOF GUTTER
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32. MAXIMUM ALLOWED HEIGHT (35' ABOVE NATURAL GRADE)

LEGEND:

- MAXIMUM ALLOWED HEIGHT (35' ABOVE NATURAL GRADE)
- NATURAL GRADE
- FINISH GRADE
- VARIANCE AREA

SWENSON ARCHITECTURE
7774 1st Street, San Jose, Ben Jones CA 95119 (408) 887-0848 Robert Nguyen Architect - C25348

Consultant:

Revisions:

Revision Schedule		
1	Planning Response #1	07/20/21
2	Planning Response #2	11/01/21
3	Planning Response #3	12/10/21

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WINCHESTER MEMORY CARE / ASSISTED LIVING
PLANNING REVIEW NO. 21 1724
15860 - 15894 WINCHESTER BLVD., LOS GATOS, CA
BUILDING ELEVATIONS - SOUTH

Date: APRIL 01, 2021
Scale: AS NOTED
Drawn by: DM, EY, IL
Job #: 20-9215
Sheet: A-4.3

DEVELOPMENT REVIEW RESUBMITTAL #4 : APRIL 4, 2022

TOWN OF LOS GATOS

COUNCIL AGENDA REPORT

MEETING DATE: 11/01/2022

ITEM NO: 9

ADDENDUM

DATE: October 31, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Consider a Request for an Exception to the Story Pole Policy to Allow an Alternative to Standard Story Pole Installation to Illustrate and Provide Notice of the Proposed Project on Property Zoned O. Located at 15860-15894 Winchester Boulevard and 17484 Shelburne Way. APN 529-11-013, -038, -039, and -040. Applicant/Property Owner: Green Valley Corp. d.b.a. Swenson. Project Planner: Jennifer Armer.

REMARKS:

Attachment 4 includes additional public comments received between 11:01 a.m., Thursday, October 27, 2022, and 11:00 a.m., Monday, October 31, 2022.

ATTACHMENTS:

Attachments previously with November 1, 2022 Staff Report:

1. Story Pole Policy
2. Exception Request from the Applicant
3. Proposed Story Pole Plan

Attachments with this Addendum:

4. Public Comment received between 11:01 a.m., Thursday, October 27, 2022, and 11:00 a.m., Monday, October 31, 2022

PREPARED BY: Jennifer Armer, AICP
Planning Manager

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

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Bryan J. Mekechuk/Jo-Anne Sinclair

[redacted]

October 30, 2022

Town Council
Town of Los Gatos
110 East Main Street
Los Gatos, CA 95030

Dear Town Council:

Re: Story Pole Exemption – 15860 Winchester Boulevard

Based on filings by the applicant, Town Council should deny the application for a story pole exemption.

Story poles indicate that an application has been submitted and is under consideration by the Town. Only after the applicant has filed accurate information reflecting existing and planned conditions at the site should Town Council consider, and accept, a request for a story pole exemption.

The applicant (1) omitted any reference, depiction or reference to the Class IV bike lanes from the drawings, renderings and photographs of the existing site and plans; (2) the traffic studies included in the application on the Town's website do not acknowledge or consider the effect of the existing Class IV bike lanes; and (3) the traffic study in Appendix F shows a traffic signal, which does not exist, controlling the Winchester/Shelbourne intersection. A brief, cursory review of the materials of the Town's website identified these deficiencies.

While one may advocate that having plans that omit existing conditions and traffic studies that do not consider Class IV bike lanes and have wrong traffic signals will not have a material effect on a request for a story pole exemption, Town Council should consider the precedent they are setting and the message they are sending to applicants, Town Staff, the Planning Commission, citizens and neighboring jurisdictions regarding the duty of care and accuracy required by the Town in filings on proposed developments.

Of material importance is that the staff report refers to "… variance from the maximum height and lot coverage for the zone ..." yet sheets A-4.2 and A-4.3 do not show any "Variance Area" in yellow while sheets A-3.2 and A-3.3 of identical elevations in the application highlight variance areas in yellow. This is misleading.

The application that was denied by the Planning Commission in 2017 and subsequently approved on appeal to Town Council had a two-story 30,070 sq ft office building with 128 parking spaces (87 below grade and 41 at grade). The front setback was 35 to 44 feet along Winchester. The proposed three-story building is 81,633 sq ft with 54 parking spaces (49 below grade and 5 at grade). The front setback is the minimum allowed, 25 feet, along Winchester.

The change in the project is staggering.

We ask that the Town Council deny the request for exemption until the applicant has prepared and filed documents that reflect existing conditions and include the variance locations on the plans.

Sincerely,

Bryan J. Mekechuk Jo-Anne Sinclair

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DATE: November 1, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Consider a Request for an Exception to the Story Pole Policy to Allow an Alternative to Standard Story Pole Installation to Illustrate and Provide Notice of the Proposed Project on Property Zoned O. Located at 15860-15894 Winchester Boulevard and 17484 Shelburne Way. APN 529-11-013, -038, -039, and -040. Applicant/Property Owner: Green Valley Corp. d.b.a. Swenson. Project Planner: Jennifer Armer.

REMARKS:

Attachment 5 includes additional public comments received between 11:01 a.m., Monday, October 31, 2022, and 11:00 a.m., Tuesday, November 1, 2022.

Attachments previously with November 1, 2022 Staff Report:
1. Story Pole Policy
2. Exception Request from the Applicant
3. Proposed Story Pole Plan

Attachment with this Addendum:
4. Public Comment received between 11:01 a.m., Thursday, October 27, 2022, and 11:00 a.m., Monday, October 31, 2022

Attachment with this Desk Item:
5. Public Comment received between 11:01 a.m., Monday, October 31, 2022, and 11:00 a.m., Tuesday, November 1, 2022

PREPARED BY: Jennifer Armer, AICP
Planning Manager

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

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From: A KUMAR [redacted]
Sent: Monday, October 31, 2022 4:55 PM
To: Planning <Planning@losgatosca.gov>
Cc: cityclerk@cityofmontesereno.org
Subject: 15860-15894 17484 Winchester Blvd proposed Porject

EXTERNAL SENDER

Greetings,
On The said properties , Professional Office construction plans were previously approved with 150 plus parking spaces presumably compliant with the permissible Building Codes and height ordinances . . .
With a lapse of inactivity over 5 years hence , now a new now Developer is seeking dramatic changes into a Nursing care Facility 24X7 365 days with reduced parking from 150 previous plans down to 50 some odd parking spots, overriding the allowable height ordinance and parking spaces .. The nature of this project is very disruptive to the immediate neighboring residents

Some of us have lived on Via Sereno for almost 40 plus plus years and of recent we are constantly battling for our service providers to park on our current limited street parking space .Communication on this matter has been ongoing with The City of Monte Sereno to bring a resolve to this matter . the proposed project will only be adding fuel to the matter.

In recent years there are numerous times that we cannot exit and merge on to Winchester to drive to a Pharmacy or Grocery store ,with traffic backed up on Winchester thanks to Circuses Los Gatos has created downtown , grudgingly we have to U turn back home while Vehicles are driving on the center turn lanes that pose head on collisions and there is no traffic control oversight .

The magnitude of this project and its occupancy along the hours of operation is not compatible to adjoining residential neighborhood .

If the Town moves ahead with this project for more Crime , Collisions and fatalities that are bound to happen as a consequence, That Blood is on your hands !

These lots can be better utilized for housing our Teachers than a medical facility .

Adesh Kumar
Via sereno
Monte Sereno

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DATE: October 18, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Receive the Design Update and Provide Feedback Regarding the Proposed Improvements to the Oak Meadow Park Bandstand (CIP Project No. 831-4007)

RECOMMENDATION:

Receive the design update and provide feedback regarding the proposed improvements to the Oak Meadow Park Bandstand. (CIP Project No. 831-4007)

BACKGROUND:

Parks and Public Works staff are working on design plans for improvements to the Oak Meadow Bandstand. The project was proposed by the Los Gatos Community Foundation (LGCF) and is funded from State park grant funds as first documented in the adopted Fiscal Year (FY) 2021/22 Capital Improvement Program.

The bandstand was placed in the park in 1993 following a fundraising effort by the LGCF. Since that time, it has been used for concerts and community events. The area around the bandstand cannot support growth of grass or other vegetation due to the foot traffic generated in the area. The proposed project would result in the placement of concrete around the bandstand and extending into the lawn space. This would stabilize the area and provide for a small event area. The scope of work would include modifications to the irrigation system and planting additional trees adjacent to the proposed concrete.

With nine reservable picnic areas, bocce courts, a playground, the Billy Jones Railroad and a carousel, Oak Meadow Park is the most heavily used park in the Los Gatos Park system. Between January 1, 2021 and August 1, 2022, a total of 846 paid reservations were made for

PREPARED BY: Nicolle Burnham
Director of Parks and Public Works

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

BACKGROUND (continued):

the picnic areas serving an estimated 30,900 park users. While users can come from anywhere, data suggest most of the reservations are for Los Gatos residents.

DISCUSSION:

Staff presented this project to the Parks Commission in August 2022. As a result of their feedback, the size of the concrete area was reduced with the new proposed footprint being less than 5,000 square feet which reduces the need for extensive stormwater management measures. In October 2022, the Parks Commission reviewed the updated project and voted in support of the project moving into the next phase of design. At the meeting, the Commission also recommended that staff increase the number of trees proposed as part of this project and that attention be paid to the interface between the grass and concrete to prevent the development of tripping hazards. The Commission voted unanimously in support of the proposed project with a request that staff provide one more opportunity for their review. The concept plan is shown in Attachment 1.

Staff conducted a community survey to collect information about the current use of the park and the improvements to the bandstand (see Attachment 2). The survey was available from September 1, 2022 to September 19, 2022. A link was posted via Town social media, the Town website, flyers in the park and along the Los Gatos Creek Trail near the park, and was directly emailed to 7,680 addresses on file with the Parks Reservation System and local event organizers.

A total of 623 responses were received, 63% of which were from residents of Los Gatos. Overall, respondents were supportive of the improvements and expressed interest in seeing more events at this space. Many respondents had attended events at the bandstand like the Fourth of July, Screen on the Green, and Music Concerts and expressed interest in attending more events like these if they were offered in Oak Meadow Park.

CONCLUSION AND NEXT STEPS:

Based on work completed to date, staff looks forward to the Town Council's feedback on the proposed project. The next step is to prepare construction documents.

COORDINATION:

This memo has been coordinated with the Town Attorney, Finance Department, and Town Manager's Office. The proposed project has been discussed with the Parks Commission during

COORDINATION (continued):

its August and October 2022 meetings. Staff continues to coordinate with the Los Gatos Community Foundation on this effort.

FISCAL IMPACT:

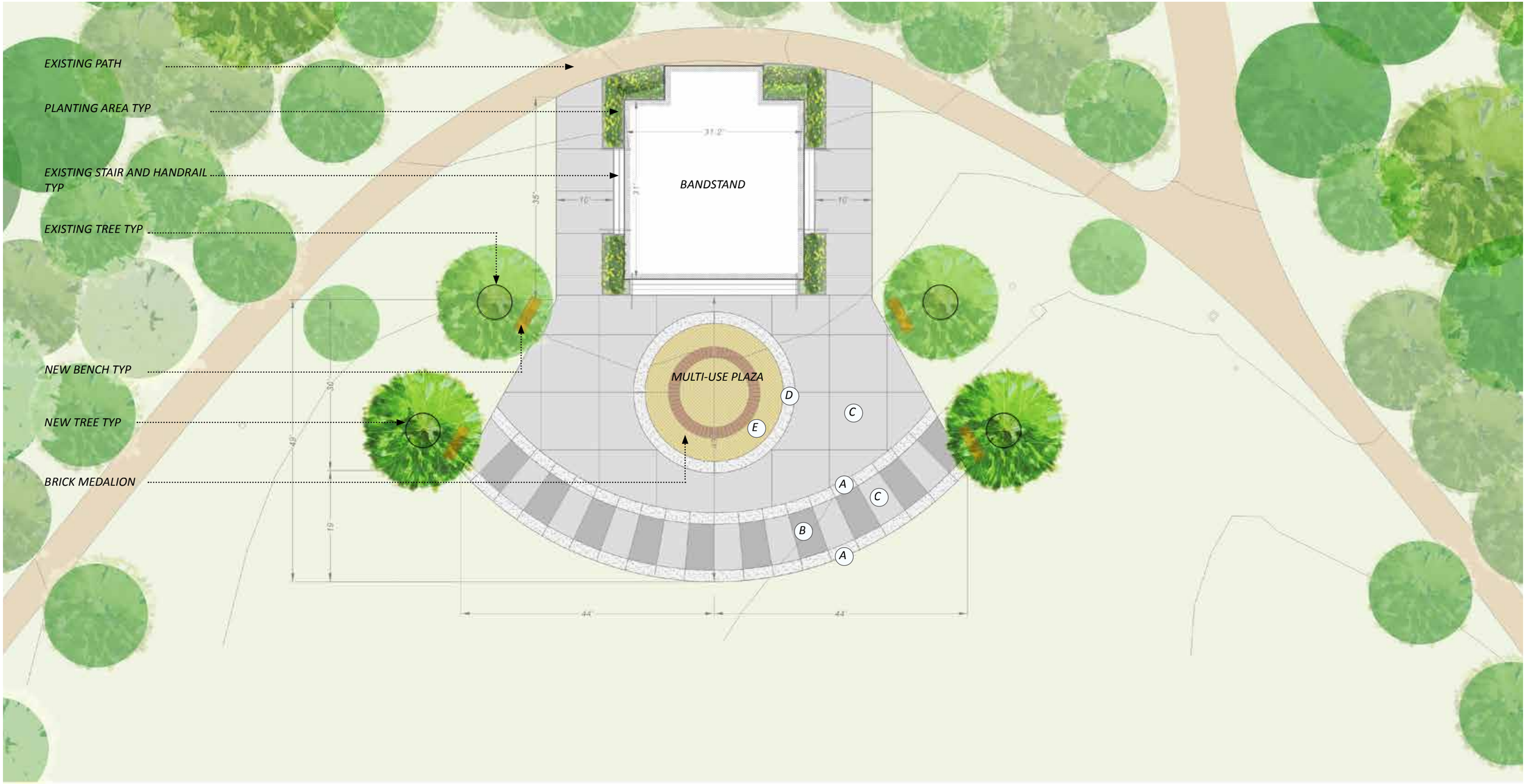
There is sufficient funding in the FY 2022/23 CIP Budget for the Oak Meadow Bandstand Area Improvements Project as displayed in the fiscal table.

Oak Meadow Bandstand Area Improvements Project 831-4007		
	Budget	**Costs**
GFAR	$ 90,000	
Proposition 68 Per Capita Program Grants	$ 196,730	
Total Budget	**$ 286,730**	
Design Consultant		$ 36,577
Construction (including contingency)		$ 239,639
Total Expenditures		**$ 276,216**
Remaining Budget		**$10,514**

ENVIRONMENTAL ASSESSMENT:

This is a project as defined under CEQA but is Categorically Exempt (Section15301c). A Notice of Exemption has been filed.

Attachments:
1. Concept Plan – Oak Meadow Park Bandstand
2. Survey Questions



(A) CONCRETE TYPE 1 - NATURAL COLOR, SAND BLAST FINISH
(B) CONCRETE TYPE 2 - COLORED CONCRETE
(C) CONCRETE TYPE 3 - NATURAL COLOR, BROOM FINISH
(D) BRICK TYPE 1
(E) BRICK TYPE 2

N 0 5 15 30

Oak Meadow Bandstand Area Improvenent Project | Preferred Concept Plan

Town of Los Gatos

FIELDSCAPE LANDSCAPE ARCHITECTURE

Aug, 2022

Survey Questions

1. How frequently do you use Oak Meadow Park?
    a. Daily
    b. Weekly
    c. Monthly
    d. Yearly
    e. Less than Yearly

2. What aspects of Oak Meadow Park do you use? (select all that apply)
    a. Carousel
    b. Train
    c. Lawn Area
    d. Playground
    e. Walking Paths
    f. Bocce Courts
    g. Picnic Areas

3. What types of activities do you participate in on the lawn area? If none, please say none.
    a. Open-Ended Question

4. Have you attended events at the park in the past? (select all the apply)
    a. Screen on the Green
    b. Fourth of July
    c. Fun Runs or Races
    d. Other (please specify the event)
    e. Other (please specify)

5. Would you attend large scale events such as a summer concert or dance series at the bandstand?
    a. Yes
    b. No

6. If the space around the bandstand was more well defined by pavers, concrete or other hardscape, with associated landscaping would you be more inclined to use the space for a private function such as a wedding or party?
    a. More Inclined
    b. Less Inclined
    c. The amount of hardscape would not change my use of the area

7. What is your zip code?
    a. Open-Ended Question

DATE: October 31, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Receive the Design Update and Provide Feedback Regarding the Proposed Improvements to the Oak Meadow Park Bandstand (CIP Project No. 831-4007)

REMARKS:

Attachment 3 includes the results of the survey as downloaded from the survey software. These results will be summarized in the staff presentation.

Attachments Previously Received with the Staff Report:

1. Concept Plan – Oak Meadow Bandstand
2. Survey Questions

Attachment Received with this Addendum:

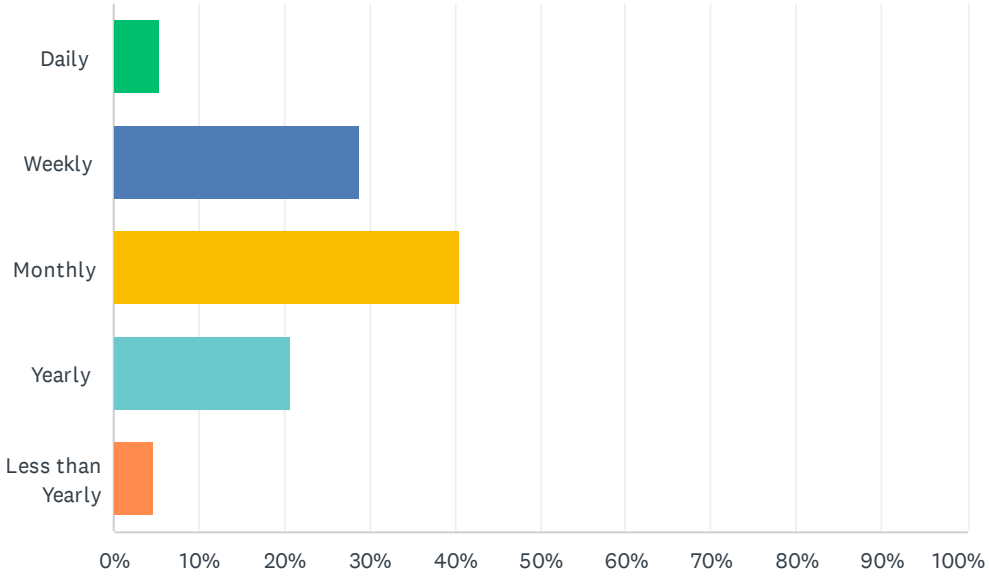
3. Survey Results

PREPARED BY: Nicolle Burnham
Director of Parks and Public Works

Reviewed by: Town Manager, Assistant Town Manager, and Town Attorney

Q1 How frequently do you use Oak Meadow Park?

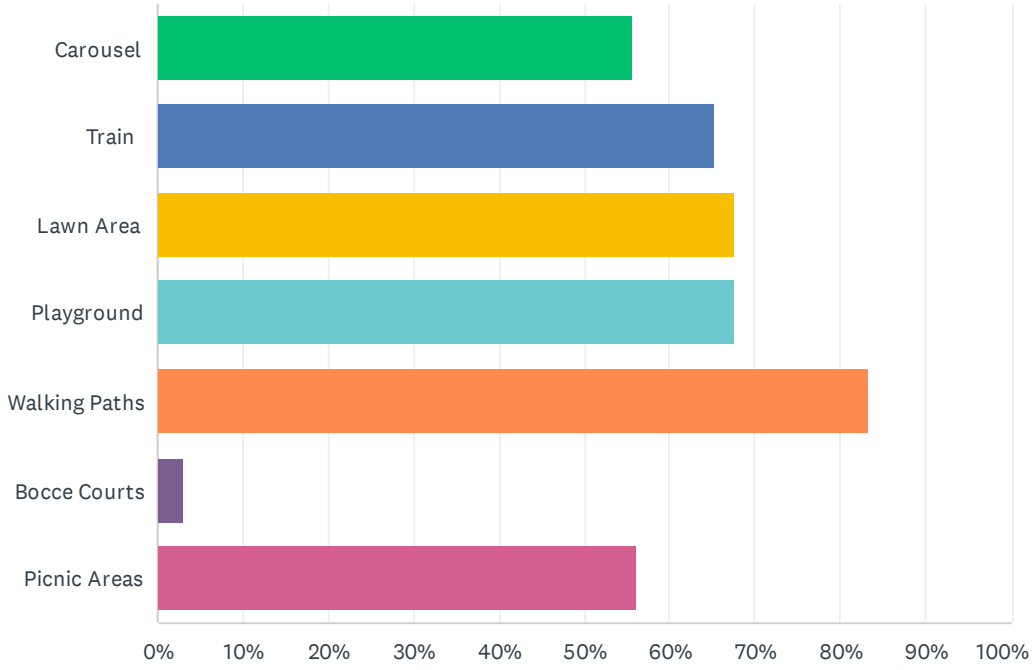
Answered: 623 Skipped: 0



ANSWER CHOICES	RESPONSES	
Daily	5.30%	33
Weekly	28.73%	179
Monthly	40.61%	253
Yearly	20.71%	129
Less than Yearly	4.65%	29
TOTAL		623

Q2 What aspects of Oak Meadow Park do you use? (select all that apply)

Answered: 623 Skipped: 0



ANSWER CHOICES	RESPONSES	
Carousel	55.70%	347
Train	65.33%	407
Lawn Area	67.58%	421
Playground	67.58%	421
Walking Paths	83.31%	519
Bocce Courts	3.05%	19
Picnic Areas	56.02%	349
Total Respondents: 623		

Q3 What types of activities do you participate in on the lawn area? If none, please say none.

Answered: 623 Skipped: 0

#	RESPONSES	DATE
1	Lawn games	9/19/2022 9:31 PM
2	none	9/19/2022 7:13 PM
3	4th of July celebration	9/19/2022 4:08 PM
4	Birthday parties, casual eating	9/19/2022 2:44 PM
5	our kids run around and play with friends.. Just in case there is not a second page to this survey, I wanted to make note that reducing green space is not what we want and not what our community needs. If hardscape it added, it should be permeable and environmentally friendly.	9/19/2022 12:32 PM
6	Meeting friends, family time, picnicking and playing games	9/19/2022 10:17 AM
7	Child participates in Los Gatos Recreation soccer camps	9/19/2022 9:53 AM
8	Occasionally attend music events, private get-togethers	9/18/2022 9:02 AM
9	Concerts, walking	9/17/2022 9:42 PM
10	Picnic	9/17/2022 1:09 PM
11	Games, frisbee, soccer	9/17/2022 12:26 PM
12	Play with Dog	9/17/2022 11:50 AM
13	screen on the green, recreation, exercise	9/16/2022 5:16 PM
14	Events picnic soccer	9/16/2022 1:42 PM
15	Walking	9/16/2022 9:45 AM
16	Picnics. Homework. Relaxing	9/15/2022 8:55 PM
17	Picnics. Homework. Relaxing	9/15/2022 3:27 PM
18	Hanging out and relaxing	9/15/2022 3:05 PM
19	Play, walk, picnic	9/15/2022 2:53 PM
20	Walking	9/15/2022 2:46 PM
21	none	9/15/2022 12:17 PM
22	Sit	9/15/2022 9:28 AM
23	Performances and celebrations	9/14/2022 5:55 PM
24	Play with kids / rest / read	9/14/2022 4:26 PM
25	Relaxing	9/14/2022 2:20 PM
26	None	9/13/2022 10:17 PM
27	Playing with kids, frisbee, picnic,	9/13/2022 8:42 PM
28	None	9/13/2022 7:02 PM
29	None	9/13/2022 5:55 PM
30	Fresher, soccer, bubbles, tag	9/13/2022 4:54 PM

31	None	9/13/2022 1:08 PM
32	Picnic and relaxation	9/13/2022 12:45 PM
33	Walking, birdwatching	9/13/2022 11:43 AM
34	None	9/13/2022 8:39 AM
35	Frisbee, ball games, etc	9/13/2022 5:58 AM
36	None	9/12/2022 11:34 PM
37	Walk dog	9/12/2022 7:45 PM
38	We hold our annual egg hunt there and also have key club meetings/team building workshops (LG high school)	9/12/2022 7:10 PM
39	Frisbees, soccer and jogging	9/12/2022 5:46 PM
40	Picnic in lawn, play with ball	9/12/2022 5:36 PM
41	None	9/12/2022 4:21 PM
42	Walking	9/12/2022 3:50 PM
43	Picnic, volleyball, biking,	9/12/2022 3:27 PM
44	Pic-nic, playing with my children	9/12/2022 3:01 PM
45	None	9/12/2022 2:38 PM
46	none	9/12/2022 1:57 PM
47	None	9/12/2022 1:41 PM
48	none	9/12/2022 1:25 PM
49	Sports	9/12/2022 1:05 PM
50	None	9/12/2022 12:26 PM
51	None	9/12/2022 12:24 PM
52	None	9/12/2022 11:20 AM
53	Sitting and picnicking, small ball games like catch, frisbee, croquet	9/12/2022 11:20 AM
54	Play ball	9/12/2022 11:15 AM
55	Sports, hanging out with friends	9/12/2022 11:06 AM
56	None	9/12/2022 11:04 AM
57	Picnic, play with kids	9/12/2022 10:59 AM
58	none	9/12/2022 10:54 AM
59	picnicking	9/12/2022 10:53 AM
60	Picnic on lawn.	9/12/2022 8:44 AM
61	Sports	9/12/2022 8:28 AM
62	Summer camp	9/12/2022 8:11 AM
63	Running around; picnic	9/11/2022 8:32 PM
64	Walk	9/11/2022 7:54 PM
65	None	9/11/2022 7:54 PM
66	not much too much goose poop	9/11/2022 6:08 PM
67	None	9/11/2022 5:13 PM
68	None	9/11/2022 3:22 PM

69	My siblings are playing there.	9/11/2022 3:00 PM
70	Soccer, volleyball, catch (baseball, football), birthday parties, bounce houses, water gun fights	9/11/2022 2:22 PM
71	Concerts	9/11/2022 2:15 PM
72	None - too much goose poop	9/11/2022 2:02 PM
73	Frisbee	9/11/2022 12:42 PM
74	Pic-nic	9/11/2022 11:48 AM
75	Picnic, play	9/11/2022 10:40 AM
76	None.	9/11/2022 10:34 AM
77	Soccer	9/11/2022 10:18 AM
78	Post run stretches	9/11/2022 9:54 AM
79	Frisbee, dog walking picnics	9/11/2022 9:32 AM
80	Playing with my kid	9/10/2022 7:14 PM
81	None	9/10/2022 6:41 PM
82	Picnic and hang out	9/10/2022 6:15 PM
83	None	9/10/2022 3:30 PM
84	none	9/10/2022 2:47 PM
85	quiet time	9/10/2022 2:07 PM
86	Run around, kick ball, and picnic	9/10/2022 11:30 AM
87	None	9/10/2022 9:45 AM
88	Dog walking	9/10/2022 6:42 AM
89	Picnic and lawn-nature bathing	9/10/2022 4:02 AM
90	none	9/9/2022 10:51 PM
91	Soccer	9/9/2022 10:38 PM
92	picnic, playing on playground with kids	9/9/2022 10:36 PM
93	Concerts and picnics and walking	9/9/2022 8:41 PM
94	None	9/9/2022 6:22 PM
95	None	9/9/2022 6:04 PM
96	Soccer	9/9/2022 5:47 PM
97	None	9/9/2022 5:34 PM
98	Picnic	9/9/2022 4:53 PM
99	Frisbee, running around	9/9/2022 4:35 PM
100	Theater	9/9/2022 4:23 PM
101	frisbee	9/9/2022 1:16 PM
102	Events, listening to music when available, picnic, games	9/9/2022 1:01 PM
103	N/A	9/9/2022 11:55 AM
104	We play soccer	9/9/2022 9:51 AM
105	None	9/9/2022 9:42 AM
106	Soccer and frisbee	9/8/2022 6:29 PM

107	family meetings	9/8/2022 3:38 PM
108	playing soccer or other sports with the kids	9/8/2022 1:55 PM
109	None	9/8/2022 1:37 PM
110	Picnic soccer	9/8/2022 12:26 PM
111	none	9/8/2022 12:12 PM
112	None	9/8/2022 11:21 AM
113	picnic, sports, meetups	9/8/2022 10:28 AM
114	relaxing, city event	9/7/2022 11:53 PM
115	Relaxing, listening to the music. Have a bathroom conveniently located to the event area.	9/7/2022 5:43 PM
116	used to play soccer with son	9/7/2022 5:37 PM
117	None	9/7/2022 5:03 PM
118	Kite flying and organized sport activities (through rec center)	9/7/2022 3:52 PM
119	None	9/7/2022 2:53 PM
120	None0	9/7/2022 12:22 PM
121	Frisbee	9/7/2022 10:01 AM
122	None	9/7/2022 8:46 AM
123	Children playing	9/7/2022 3:40 AM
124	Dog playing, play with kids.	9/7/2022 12:11 AM
125	running around with the kids big open spaces	9/6/2022 10:56 PM
126	play soccer	9/6/2022 10:15 PM
127	Picnicking dancing hanging out	9/6/2022 9:53 PM
128	None	9/6/2022 9:23 PM
129	bounce house, movie night	9/6/2022 9:15 PM
130	Playing with my kids	9/6/2022 5:31 PM
131	lounging play picnics queit	9/6/2022 4:42 PM
132	Park Dance	9/6/2022 3:20 PM
133	none	9/6/2022 2:00 PM
134	Walking in the green areas	9/6/2022 1:55 PM
135	playing catch, soccer	9/6/2022 1:15 PM
136	Soccer	9/6/2022 12:42 PM
137	frisbe. cornhole	9/6/2022 12:41 PM
138	exercise	9/6/2022 12:34 PM
139	Picnic, sports	9/6/2022 12:34 PM
140	Soccer + Drinking at Sponsored Events	9/6/2022 12:31 PM
141	None	9/6/2022 11:45 AM
142	lunch	9/6/2022 11:12 AM
143	soccer, badminton etc	9/6/2022 11:11 AM
144	Picnics and playing with dog	9/6/2022 10:39 AM

145	Ive mostly used this park for birthdays or baby showers	9/6/2022 10:28 AM
146	none	9/6/2022 10:17 AM
147	sports games, picnics	9/6/2022 9:31 AM
148	picnic, soccer, etc	9/6/2022 9:28 AM
149	Family time	9/6/2022 9:11 AM
150	Running, play area	9/6/2022 9:05 AM
151	none, special events	9/6/2022 8:53 AM
152	None	9/6/2022 8:52 AM
153	Kick balls	9/6/2022 8:46 AM
154	Picnics/reading/lounging/walking dog	9/6/2022 8:07 AM
155	None	9/6/2022 7:15 AM
156	Throwing balls, jumpy house. We would use the lawn area more if there were less goose poop.	9/6/2022 7:07 AM
157	Picnicking	9/6/2022 6:47 AM
158	kids running and sports	9/5/2022 11:51 PM
159	none	9/5/2022 11:51 PM
160	Catch	9/5/2022 11:31 PM
161	Family gatherings, sports activities, celebrations	9/5/2022 9:40 PM
162	None	9/5/2022 9:16 PM
163	Picnics	9/5/2022 8:55 PM
164	Girls on the run (one season). My kids did a camp once with marvegos “art moki” and they used that big grass space, also. When my kids were younger we used to play more often by the trees and little hill area. Also just walking across.	9/5/2022 8:51 PM
165	Football	9/5/2022 8:09 PM
166	LOVED Shakespeare in the Park, Haunted House	9/5/2022 7:22 PM
167	none	9/5/2022 6:05 PM
168	Many	9/5/2022 3:52 PM
169	play with kids, kick soccer ball, picnic on a blanket	9/5/2022 3:30 PM
170	Bbq	9/5/2022 2:46 PM
171	Kids running around	9/5/2022 1:32 PM
172	None	9/5/2022 10:40 AM
173	None	9/5/2022 10:38 AM
174	Picnic	9/5/2022 10:22 AM
175	July 4th event	9/5/2022 10:15 AM
176	Lounging	9/5/2022 9:53 AM
177	Picnic	9/5/2022 9:23 AM
178	None	9/5/2022 9:20 AM
179	Just sitting and enjoying the lawn	9/5/2022 9:15 AM
180	Throwing ball	9/5/2022 7:01 AM
181	Workout	9/5/2022 6:54 AM

182	kids play	9/4/2022 11:27 PM
183	Walking , running , biking , train	9/4/2022 10:47 PM
184	None	9/4/2022 10:35 PM
185	Sports and open-play with dog/kids	9/4/2022 10:29 PM
186	Picnic	9/4/2022 9:33 PM
187	frisbee, picnic, soccer	9/4/2022 6:59 PM
188	Sitting	9/4/2022 5:48 PM
189	Picnics, walks, get togethers	9/4/2022 5:32 PM
190	None	9/4/2022 5:14 PM
191	Sit and talk with friends	9/4/2022 5:03 PM
192	outdoor games, running and play with kids	9/4/2022 4:42 PM
193	Listen to or dance to music	9/4/2022 4:36 PM
194	none	9/4/2022 4:29 PM
195	various, playing catch, frisbee, just lying on the grass	9/4/2022 3:48 PM
196	Picnic	9/4/2022 3:06 PM
197	Soccer and baseball	9/4/2022 3:03 PM
198	none	9/4/2022 2:39 PM
199	My kids love to play in the grass but because the goose poop problem I don't let them play no more	9/4/2022 2:39 PM
200	Picnic	9/4/2022 1:25 PM
201	Soccer	9/4/2022 12:48 PM
202	running and playing catch with my grandson	9/4/2022 12:46 PM
203	Picnics	9/4/2022 12:42 PM
204	Football	9/4/2022 12:24 PM
205	concert on July 4	9/4/2022 12:12 PM
206	lawn games (frisbee, etc)	9/4/2022 11:15 AM
207	None	9/4/2022 10:51 AM
208	none	9/4/2022 10:45 AM
209	None	9/4/2022 10:28 AM
210	Playing, picnics	9/4/2022 10:14 AM
211	ball games	9/4/2022 9:56 AM
212	Bring kids to play	9/4/2022 9:31 AM
213	Kids play	9/4/2022 9:31 AM
214	picnic	9/4/2022 9:28 AM
215	None. Would like to see Add a dog park at unused areas of park	9/4/2022 8:59 AM
216	Dog walking, running and playing	9/4/2022 8:56 AM
217	Dog walking/ playing. Would not like it to be all paved.	9/4/2022 8:49 AM
218	Dog play	9/4/2022 7:55 AM
219	None	9/4/2022 7:46 AM

220	Sports, picnics, family events	9/4/2022 7:41 AM
221	None	9/4/2022 7:38 AM
222	Walking on the lawn.	9/4/2022 6:14 AM
223	Picnic, kids play, dog play	9/4/2022 6:09 AM
224	None	9/4/2022 12:21 AM
225	My daughter enjoys running.	9/3/2022 11:31 PM
226	None	9/3/2022 11:13 PM
227	reading	9/3/2022 11:11 PM
228	None	9/3/2022 11:03 PM
229	pic nic, soccer	9/3/2022 10:06 PM
230	none	9/3/2022 10:04 PM
231	Picnic and running around while avoiding the goose poop 🙃	9/3/2022 9:46 PM
232	Kids running, picnics	9/3/2022 8:49 PM
233	none	9/3/2022 8:41 PM
234	Soccer, listening to music, avoid goose poop	9/3/2022 8:10 PM
235	Play with kids	9/3/2022 7:40 PM
236	Games, lounging, reading	9/3/2022 7:20 PM
237	Meetings	9/3/2022 6:06 PM
238	Kicking around a soccer ball	9/3/2022 5:55 PM
239	Sitting, eating	9/3/2022 5:54 PM
240	Dogs	9/3/2022 5:51 PM
241	Soccer, catch, frisbee	9/3/2022 5:13 PM
242	Play	9/3/2022 5:11 PM
243	Jogging	9/3/2022 5:11 PM
244	None	9/3/2022 4:26 PM
245	None	9/3/2022 4:26 PM
246	picnic	9/3/2022 4:24 PM
247	Kids run around a bit but very little use for us	9/3/2022 4:03 PM
248	none	9/3/2022 3:24 PM
249	Games / frisbee/ cornhole	9/3/2022 3:20 PM
250	Picnicking and relaxing	9/3/2022 3:12 PM
251	Watch others play	9/3/2022 2:52 PM
252	Monte Sereno Picnic	9/3/2022 2:28 PM
253	walking	9/3/2022 2:26 PM
254	Picnic, frisbee chilling	9/3/2022 1:28 PM
255	Sports	9/3/2022 1:17 PM
256	soccer	9/3/2022 1:15 PM
257	Soccer	9/3/2022 12:58 PM

258	None	9/3/2022 12:54 PM
259	Frisbee, picnic	9/3/2022 12:39 PM
260	frisbee, picnic, drone flying	9/3/2022 12:31 PM
261	Picnic, reading, kids rolling in the grass	9/3/2022 12:06 PM
262	None	9/3/2022 11:53 AM
263	Stretching	9/3/2022 11:52 AM
264	Working out	9/3/2022 11:26 AM
265	Bday party	9/3/2022 11:02 AM
266	Chasing balls with the kids, soccer, kite flying, catch	9/3/2022 10:40 AM
267	Picnic and do running drills	9/3/2022 10:38 AM
268	Stretching and yoga	9/3/2022 10:24 AM
269	Wlk the dog	9/3/2022 10:17 AM
270	none	9/3/2022 10:09 AM
271	kids play, soccer play	9/3/2022 9:53 AM
272	Playing with my kids	9/3/2022 9:48 AM
273	None	9/3/2022 9:46 AM
274	None	9/3/2022 9:40 AM
275	None	9/3/2022 9:17 AM
276	Music in the park	9/3/2022 8:51 AM
277	Walking	9/3/2022 8:47 AM
278	None	9/3/2022 8:39 AM
279	The kids run and play in it	9/3/2022 8:15 AM
280	picnic dog walking	9/3/2022 8:09 AM
281	Football	9/3/2022 8:09 AM
282	Softball	9/3/2022 8:01 AM
283	Parties	9/3/2022 7:59 AM
284	None	9/3/2022 7:57 AM
285	picnic, soccer, throwing a football	9/3/2022 7:43 AM
286	Frisbee, soccer, picnic, sunbathe	9/3/2022 7:42 AM
287	None	9/3/2022 7:34 AM
288	Ball games	9/3/2022 7:08 AM
289	Kids play all sorts of imaginative games	9/3/2022 6:39 AM
290	Camps, baby meetups	9/3/2022 6:28 AM
291	Picnic, soccer, frisbee	9/3/2022 6:04 AM
292	Rarely anything because the geese poop is so bad. If the poop weren't there, I would love doing more on the lawn with my kids!	9/3/2022 5:31 AM
293	concerts	9/3/2022 5:30 AM
294	Sit on blanket for picnic	9/3/2022 4:42 AM
295	Kids play	9/3/2022 1:59 AM

296	None	9/3/2022 1:25 AM
297	None. The lawn is always full of goose droppings.	9/3/2022 1:04 AM
298	Picnic on the grass; photography	9/3/2022 1:04 AM
299	None	9/3/2022 12:17 AM
300	None	9/2/2022 11:26 PM
301	Playing and running around with kids	9/2/2022 10:45 PM
302	None	9/2/2022 9:57 PM
303	Catch/bat/soccer ball with kids; eat picnic lunch	9/2/2022 9:57 PM
304	Picnics, sports	9/2/2022 9:28 PM
305	None	9/2/2022 9:19 PM
306	play catch with the kids, kick a soccer ball, kite, frisbee	9/2/2022 9:04 PM
307	Playing ball with kids	9/2/2022 8:58 PM
308	Run with kids	9/2/2022 8:47 PM
309	Picnic	9/2/2022 8:44 PM
310	picnics parties	9/2/2022 8:20 PM
311	None	9/2/2022 8:18 PM
312	None	9/2/2022 8:15 PM
313	Kids stuff (kites, playing, train rides, picnics)	9/2/2022 8:13 PM
314	Picnic, chasing children in the grass	9/2/2022 8:06 PM
315	Birthday parties, jump houses	9/2/2022 8:00 PM
316	Flying a kite, walking	9/2/2022 7:40 PM
317	Picnic, kids games	9/2/2022 7:36 PM
318	Frisbee, tag, soccer	9/2/2022 7:29 PM
319	Playing games	9/2/2022 7:19 PM
320	Kids playing games & sports	9/2/2022 7:09 PM
321	Soccer, freezbee	9/2/2022 6:59 PM
322	Playing games, picnic	9/2/2022 6:58 PM
323	None	9/2/2022 6:52 PM
324	Relaxing, picknick, soccer	9/2/2022 6:51 PM
325	we picnic and play Frisbee on the lawn	9/2/2022 6:35 PM
326	None	9/2/2022 6:35 PM
327	Picnics	9/2/2022 6:31 PM
328	catch, frisbee, picnicking	9/2/2022 6:26 PM
329	Hang out with my kids	9/2/2022 6:17 PM
330	Relaxing, playing catch	9/2/2022 6:16 PM
331	Soccer, Easter egg hunt, running around	9/2/2022 6:15 PM
332	None. Just walking through.	9/2/2022 6:15 PM
333	Running, playing	9/2/2022 6:05 PM

334	Freezeby	9/2/2022 6:02 PM
335	Our kids run around on it	9/2/2022 5:57 PM
336	Ball games	9/2/2022 5:57 PM
337	Resting, playing games	9/2/2022 5:55 PM
338	Picnic	9/2/2022 5:51 PM
339	None	9/2/2022 5:50 PM
340	Rotary function. 4th of July	9/2/2022 5:45 PM
341	None	9/2/2022 5:44 PM
342	Tossing a ball, blowing bubbles.	9/2/2022 5:39 PM
343	Community events and the below listed events!	9/2/2022 5:33 PM
344	Soccer, picnicking	9/2/2022 5:31 PM
345	Many	9/2/2022 5:28 PM
346	Walking	9/2/2022 5:26 PM
347	N/a	9/2/2022 5:20 PM
348	None	9/2/2022 5:14 PM
349	Relaxing	9/2/2022 5:13 PM
350	Soccer, bouncy houses, games of tag, sitting on lawn chairs picnicking	9/2/2022 5:11 PM
351	None	9/2/2022 5:08 PM
352	None	9/2/2022 5:04 PM
353	Just hanging out	9/2/2022 5:02 PM
354	pickleball courts please	9/2/2022 4:59 PM
355	Picnic and sports	9/2/2022 4:58 PM
356	None	9/2/2022 4:58 PM
357	Seating and enjoying	9/2/2022 4:58 PM
358	Kids running around, cycling their bikes, playing soccer etc.	9/2/2022 4:56 PM
359	Picnics, play with kids and pets	9/2/2022 4:47 PM
360	none	9/2/2022 4:46 PM
361	Soccer, wiffle ball, sac races, relays	9/2/2022 4:39 PM
362	kicking soccer ball with kids	9/2/2022 4:39 PM
363	Children’s activities	9/2/2022 4:38 PM
364	Picnic, kids walking and running	9/2/2022 4:36 PM
365	Volleyball, soccer, tag, bouncy house, set-up picnic	9/2/2022 4:33 PM
366	Running	9/2/2022 4:32 PM
367	running around	9/2/2022 4:30 PM
368	soccer, frisbee, catch	9/2/2022 4:28 PM
369	none	9/2/2022 4:27 PM
370	None	9/2/2022 4:27 PM
371	None	9/2/2022 4:23 PM

372	None	9/2/2022 4:20 PM
373	I would like the Bocce Courts renovated	9/2/2022 4:15 PM
374	family picnic and play	9/2/2022 4:15 PM
375	Concerts, events	9/2/2022 4:14 PM
376	kid play	9/2/2022 4:14 PM
377	None	9/2/2022 4:10 PM
378	Picnic, running around with kids	9/2/2022 4:05 PM
379	picnicking, catch, lawn games	9/2/2022 4:05 PM
380	casual sports - catch, frisbee, etc	9/2/2022 3:47 PM
381	Kids activities, frisbee, volleyball	9/2/2022 3:47 PM
382	None	9/2/2022 3:45 PM
383	Letting kids run around	9/2/2022 3:42 PM
384	Picnics, frisbee	9/2/2022 3:38 PM
385	Picnics, kid play	9/2/2022 3:36 PM
386	None	9/2/2022 3:36 PM
387	Try to avoid the lawn area. I feel this is a health hazard with all the goose droppings	9/2/2022 3:33 PM
388	Dogwalking	9/2/2022 3:32 PM
389	Sports and relaxation	9/2/2022 3:32 PM
390	Family games, picnics, playing and running around with my kids	9/2/2022 3:27 PM
391	Soccer	9/2/2022 3:27 PM
392	Playing baseball or soccer with my kids	9/2/2022 3:26 PM
393	Kicking a ball, learning to ride a bike	9/2/2022 3:26 PM
394	bike riding, running	9/2/2022 3:25 PM
395	None	9/2/2022 3:25 PM
396	Picnic	9/2/2022 3:22 PM
397	Game playing	9/2/2022 3:19 PM
398	Throwing the football, baseball, Running, picnicing	9/2/2022 3:14 PM
399	sitting	9/2/2022 3:12 PM
400	Walk, play, picnic	9/2/2022 3:11 PM
401	Kids running around, picnic-ing	9/2/2022 3:11 PM
402	Baseball	9/2/2022 3:11 PM
403	dogs	9/2/2022 3:09 PM
404	None	9/2/2022 3:07 PM
405	Relaxing	9/2/2022 3:07 PM
406	Picnic and play	9/2/2022 3:06 PM
407	Picnic or games	9/2/2022 3:05 PM
408	N/a	9/2/2022 3:05 PM
409	Picnics, casual ball play, Easter egg hunt, music	9/2/2022 3:02 PM

410	Picnics, kite flying, ball kicking/throwing	9/2/2022 3:01 PM
411	Picnicking	9/2/2022 2:58 PM
412	Soccer, football, kites	9/2/2022 2:58 PM
413	Walking, sports	9/2/2022 2:57 PM
414	Vollyball	9/2/2022 2:54 PM
415	None	9/2/2022 2:49 PM
416	picnic	9/2/2022 2:47 PM
417	Picnics and relaxation time	9/2/2022 2:47 PM
418	none	9/2/2022 2:46 PM
419	Town activities , concerts. Picnics, frisbee	9/2/2022 2:46 PM
420	Reading	9/2/2022 2:46 PM
421	None	9/2/2022 2:45 PM
422	Frisbee	9/2/2022 2:44 PM
423	Family and community events, soccer, football	9/2/2022 2:43 PM
424	Walking/excersise	9/2/2022 2:40 PM
425	Playing with family, concerts	9/2/2022 2:38 PM
426	frisbee, soccer	9/2/2022 2:38 PM
427	Kids playing	9/2/2022 2:38 PM
428	Playing with my daughter	9/2/2022 2:36 PM
429	None	9/2/2022 2:35 PM
430	walking	9/2/2022 2:33 PM
431	None	9/2/2022 2:33 PM
432	We take elementary school children there for our end of the year field trip. We use 4 picnic areas, the whole grass area, and the playground, plus the carousel and train. Last year it was not so great because a lot of the grass area was taken up by a soccer league, which we did not know had reserved a big chunk of grass area. I like the park as it is right now.	9/2/2022 2:31 PM
433	None	9/2/2022 2:31 PM
434	Play with soccer ball with my kid.	9/2/2022 2:28 PM
435	Picnic, soccer	9/2/2022 2:26 PM
436	Playing with kids and dog.	9/2/2022 2:25 PM
437	Soccer, frisbee, kites etc with kids	9/2/2022 2:23 PM
438	We had a rented jumping house there for my son’s birthday	9/2/2022 2:19 PM
439	Play with kids, sports	9/2/2022 2:18 PM
440	Picnicking, kids running	9/2/2022 2:18 PM
441	None	9/2/2022 2:18 PM
442	none	9/2/2022 2:14 PM
443	Soccer, throwing balls, tag	9/2/2022 2:12 PM
444	Soccer	9/2/2022 2:12 PM
445	Informal soccer, sometimes picnics	9/2/2022 2:09 PM
446	Kids flying airplanes, drones and play balls.	9/2/2022 2:09 PM

447	Picnic, kids running around	9/2/2022 2:08 PM
448	Frisbee, soccer	9/2/2022 2:07 PM
449	Family and event groupings	9/2/2022 2:07 PM
450	Soccer, picnics, frisbee	9/2/2022 2:07 PM
451	none; i would love to use it but it is filled with goose droppings	9/2/2022 2:07 PM
452	none	9/2/2022 2:06 PM
453	None	9/2/2022 2:05 PM
454	playing games	9/2/2022 2:05 PM
455	Kids activities (soccer, frisbee)	9/2/2022 2:04 PM
456	Frisbee, soccer	9/2/2022 2:04 PM
457	Letting the dog sniff around, watching kids play, laying in the shade	9/2/2022 2:04 PM
458	None	9/2/2022 2:02 PM
459	Kids run and play, soccer, frisbee, football	9/2/2022 2:02 PM
460	Picnic, playdates, games, birthdays	9/2/2022 2:01 PM
461	Lawn games, hanging out, letting dog run around	9/2/2022 2:00 PM
462	Picnics, my kids play ball on the lawn, etc	9/2/2022 2:00 PM
463	Play ball	9/2/2022 1:59 PM
464	Having picnics, The kids have played rec volleyball on the lawn. We go to town festivals and celebrations on the lawn.	9/2/2022 1:59 PM
465	None	9/2/2022 1:59 PM
466	None	9/2/2022 1:58 PM
467	Picnic or running	9/2/2022 1:58 PM
468	none	9/2/2022 1:58 PM
469	None	9/2/2022 1:57 PM
470	Frisbee, spikeball	9/2/2022 1:51 PM
471	Kids bike riding, picnics	9/2/2022 1:51 PM
472	None	9/2/2022 1:51 PM
473	Kids playing	9/2/2022 1:50 PM
474	picnic	9/2/2022 1:49 PM
475	Kids playing, running etc. Picnicing	9/2/2022 1:48 PM
476	We play soccer and football as a family	9/2/2022 1:45 PM
477	Picnic	9/2/2022 1:44 PM
478	none	9/2/2022 1:43 PM
479	Kid / Family games of soccer, football, baseball, tag. Bounce houses for birthday parties adjacent to picnic areas.	9/2/2022 1:42 PM
480	soccer, frisbee	9/2/2022 1:40 PM
481	tag,soccer,frisbee	9/2/2022 1:35 PM
482	birthdays	9/2/2022 1:34 PM
483	Picnics	9/2/2022 1:33 PM

484	Kids soccer, playing, birthday parties	9/2/2022 1:33 PM
485	None	9/2/2022 1:32 PM
486	None	9/2/2022 1:30 PM
487	picnics, running around with kids, etc.	9/2/2022 1:30 PM
488	Play games	9/2/2022 1:29 PM
489	Running around with my children	9/2/2022 1:28 PM
490	None. Too much goose poop.	9/2/2022 1:26 PM
491	play with ball, picnics	9/2/2022 1:25 PM
492	frisbee, soccer, running	9/2/2022 1:24 PM
493	Walking, kicking soccer ball, etc.	9/2/2022 1:22 PM
494	N/A	9/2/2022 1:20 PM
495	Soccer, frisbee	9/2/2022 1:19 PM
496	Picnic, playing games with the kids	9/2/2022 1:18 PM
497	games, sports	9/2/2022 1:18 PM
498	Reading, playing games	9/2/2022 1:16 PM
499	Running. Events.	9/2/2022 1:14 PM
500	Playing catch, frisbee	9/2/2022 1:13 PM
501	Soccer, football	9/2/2022 1:12 PM
502	Frisbee, throw ball	9/2/2022 1:11 PM
503	None	9/2/2022 1:10 PM
504	Picnic, games	9/2/2022 1:09 PM
505	Past: productions like Shakespeare in the Park	9/2/2022 1:08 PM
506	Just kids and animals playing!	9/2/2022 1:08 PM
507	Walk across	9/2/2022 1:08 PM
508	Sit down to eat or let my kids run around	9/2/2022 1:07 PM
509	Kick around a ball.	9/2/2022 1:05 PM
510	Open play for my kids	9/2/2022 1:05 PM
511	Playing with a ball, picnicking, toddlers running around	9/2/2022 1:05 PM
512	None	9/2/2022 1:05 PM
513	Playing soccer, kickball, throwing football	9/2/2022 1:04 PM
514	My child loves to run around!	9/2/2022 1:03 PM
515	None	9/2/2022 1:03 PM
516	relaxing	9/2/2022 1:02 PM
517	soccer	9/2/2022 1:00 PM
518	playing ball games	9/2/2022 12:58 PM
519	Picnic under trees near carousel	9/2/2022 12:58 PM
520	None	9/2/2022 12:56 PM
521	Running, biking, playing	9/2/2022 12:56 PM

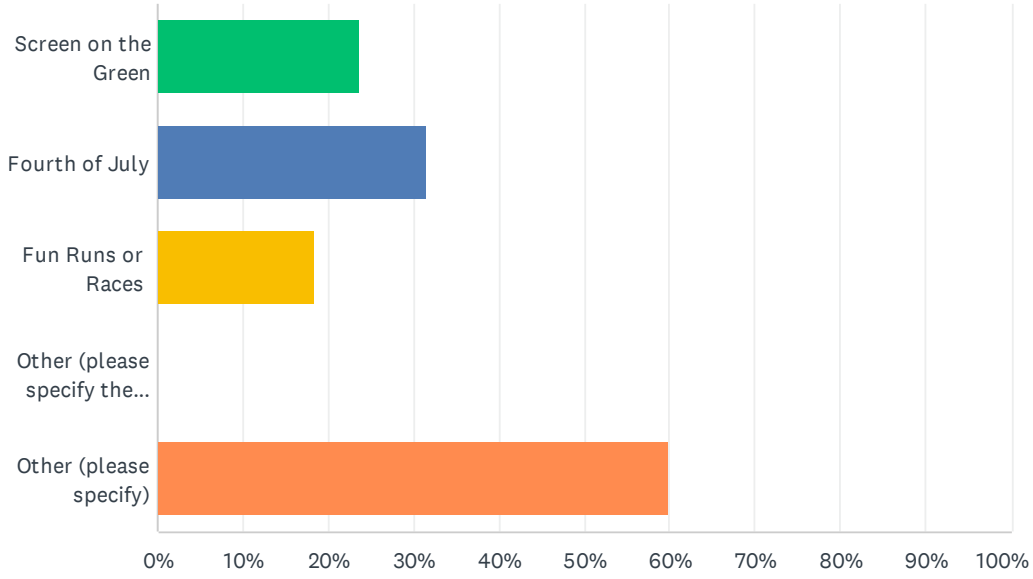
522	Kicking, throwing ball. Volleyball	9/2/2022 12:55 PM
523	soccer, badminton, throwing the a baseball or football around.	9/2/2022 12:54 PM
524	Picnic	9/2/2022 12:46 PM
525	Kids run through - but absolutely full of geese poop. You'd get more use of the park if this was remedied vs pavers	9/2/2022 12:42 PM
526	None	9/2/2022 12:41 PM
527	None	9/2/2022 12:37 PM
528	picnic, sports, playing with children, pets, kids activities/classes	9/2/2022 12:35 PM
529	Hanging out	9/2/2022 12:33 PM
530	Children playings	9/2/2022 12:32 PM
531	Walking/playing with kids	9/2/2022 12:31 PM
532	Playing ball, picnics.	9/2/2022 12:30 PM
533	Bounce house, soccer, running	9/2/2022 12:28 PM
534	Space for kids to run, play tag	9/2/2022 12:28 PM
535	Picnics, games with kids, running around	9/2/2022 12:27 PM
536	Group activities	9/2/2022 12:24 PM
537	None	9/2/2022 12:20 PM
538	Picnic	9/2/2022 12:20 PM
539	Picnicking, lawn games	9/2/2022 12:18 PM
540	Playing futbol	9/2/2022 12:18 PM
541	Different games with kids	9/2/2022 12:16 PM
542	Playing, jump house for picnic area reservation	9/2/2022 12:16 PM
543	None	9/2/2022 12:14 PM
544	None	9/2/2022 12:13 PM
545	Soccer; frisbee; kites.	9/2/2022 12:09 PM
546	Picnics	9/2/2022 12:09 PM
547	lawn games	9/2/2022 12:06 PM
548	Picnics	9/2/2022 12:03 PM
549	Picnic	9/2/2022 12:00 PM
550	Soccer, frisbee, catching balls	9/2/2022 11:54 AM
551	None	9/2/2022 11:52 AM
552	Picnic, throw balls, etc.	9/2/2022 11:49 AM
553	none	9/2/2022 11:49 AM
554	None	9/2/2022 11:48 AM
555	My kids play games on the lawn and we picnic	9/2/2022 11:45 AM
556	None	9/2/2022 11:43 AM
557	We have a yearly picnic there and I hike there every quarter. The lawn area is great for the kids to play while the adults grill.	9/2/2022 11:41 AM
558	Kids used to play there when younger.	9/2/2022 11:41 AM

559	picnicing	9/2/2022 11:40 AM
560	Frisbee, picnics	9/2/2022 11:40 AM
561	Kids run around out there.	9/2/2022 11:40 AM
562	Acro yoga, running around, picnicing, frisbee	9/2/2022 11:38 AM
563	Picnics	9/2/2022 11:38 AM
564	We play soccer and the kids chase geese. Sorry geese!	9/2/2022 11:35 AM
565	Birthday parties, playground	9/2/2022 11:35 AM
566	Sports, open play	9/2/2022 11:32 AM
567	frisbee	9/2/2022 11:31 AM
568	Soccer, tag, picnics	9/2/2022 11:30 AM
569	playing ball, running around, picnic	9/2/2022 11:30 AM
570	Frisbee and picnics mostly	9/2/2022 11:28 AM
571	Play with my kids and dog	9/2/2022 11:26 AM
572	Soccer	9/2/2022 11:26 AM
573	Perform concert in bandstand	9/2/2022 11:25 AM
574	Frisbee and kick ball	9/2/2022 11:23 AM
575	Resting	9/2/2022 11:23 AM
576	None because it has goose poop	9/2/2022 11:22 AM
577	Football, soccer, tag…	9/2/2022 11:18 AM
578	n/a	9/2/2022 11:13 AM
579	running around	9/2/2022 11:12 AM
580	picnic and games with children	9/2/2022 11:11 AM
581	Lunch	9/2/2022 11:10 AM
582	Running around, walking, picnic blanket lounging	9/2/2022 11:09 AM
583	None	9/2/2022 11:09 AM
584	Relaxing, playing catch / frisbee, kid’s running around, etc.	9/2/2022 11:06 AM
585	picnic, flying kites, playing ball, tag	9/2/2022 11:06 AM
586	walking da doggies	9/2/2022 11:05 AM
587	soccer, frisbee, football toss	9/2/2022 11:04 AM
588	Frisbee, soccer, lounging	9/2/2022 11:04 AM
589	none	9/2/2022 11:03 AM
590	Casual play and sports. Pic ic	9/2/2022 11:03 AM
591	Parties and play	9/2/2022 11:03 AM
592	Kite flying, ball games	9/2/2022 11:02 AM
593	Birthday party bounce house, music in the park events, kicking soccer ball	9/2/2022 11:02 AM
594	Relax with the kids, have a small picnic	9/2/2022 11:00 AM
595	Sports and games.	9/2/2022 10:59 AM
596	none	9/2/2022 10:58 AM

597	Picnic	9/2/2022 10:58 AM
598	None	9/2/2022 10:57 AM
599	Concert, picnics	9/2/2022 10:56 AM
600	none unless there's a holiday event like for 4th of July	9/2/2022 10:52 AM
601	Kids running around and playing... just nice to have such an open space.	9/2/2022 10:51 AM
602	Light kids games	9/2/2022 10:49 AM
603	none	9/2/2022 10:48 AM
604	kids love to run in grass	9/2/2022 10:48 AM
605	Kids like to run and play Frisbee	9/2/2022 10:41 AM
606	Birthday party	9/2/2022 10:40 AM
607	Soccer	9/2/2022 10:37 AM
608	Letting the kids run around	9/2/2022 10:37 AM
609	Ball playing	9/2/2022 10:35 AM
610	Running around and picnics on blanket	9/2/2022 10:34 AM
611	None, it's too covered in goose droppings.	9/2/2022 10:29 AM
612	None	9/2/2022 10:29 AM
613	sitting with friends as kids play	9/2/2022 10:29 AM
614	picnic	9/2/2022 10:28 AM
615	Soccer	9/2/2022 10:27 AM
616	Baseball and grandchildren play on the lawn	9/2/2022 10:24 AM
617	Walking, sitting	9/2/2022 10:15 AM
618	Soccer	9/2/2022 10:13 AM
619	Playing	9/2/2022 9:27 AM
620	none	9/2/2022 9:21 AM
621	Biking around, skating	9/2/2022 9:20 AM
622	None	9/2/2022 9:11 AM
623	frisbee	8/29/2022 12:54 PM

Q4 Have you attended events at the park in the past (select all the apply)

Answered: 623 Skipped: 0



ANSWER CHOICES	RESPONSES	
Screen on the Green	23.76%	148
Fourth of July	31.46%	196
Fun Runs or Races	18.30%	114
Other (please specify the event)	0.00%	0
Other (please specify)	59.87%	373
Total Respondents: 623		

#	OTHER (PLEASE SPECIFY)	DATE
1	None	9/19/2022 9:31 PM
2	Company picnick	9/19/2022 2:44 PM
3	Music program (Music in the park?)	9/19/2022 12:32 PM
4	Xmas lights	9/19/2022 10:17 AM
5	Music in the Park	9/19/2022 9:53 AM
6	Community foundation Labor Day dance	9/18/2022 9:02 AM
7	Concerts, Shakespeare	9/17/2022 9:42 PM
8	No	9/17/2022 12:26 PM
9	bring groups for frisbee	9/16/2022 5:16 PM
10	Some jazz performance in the last	9/16/2022 9:45 AM
11	No	9/15/2022 3:05 PM

12	Group picnics, park dance	9/15/2022 9:28 AM
13	No	9/14/2022 4:26 PM
14	None	9/14/2022 2:20 PM
15	None	9/13/2022 10:17 PM
16	I wanted to go to screen on the green but was too late. Would love to come to these events in the future	9/13/2022 8:42 PM
17	Summer concert	9/13/2022 7:02 PM
18	Movie night, reading area on the walking path,	9/13/2022 4:54 PM
19	Music events	9/13/2022 12:45 PM
20	None	9/13/2022 11:43 AM
21	Church in the park	9/13/2022 5:58 AM
22	None	9/12/2022 11:34 PM
23	No	9/12/2022 7:45 PM
24	Hippity Hop Egg Hunt	9/12/2022 7:10 PM
25	Graduation	9/12/2022 4:21 PM
26	Birthday parties	9/12/2022 1:41 PM
27	none	9/12/2022 1:25 PM
28	Family & company events	9/12/2022 1:05 PM
29	No	9/12/2022 12:26 PM
30	No	9/12/2022 12:24 PM
31	Picnic Tables on occasion	9/12/2022 11:20 AM
32	Several. Among others our church used to have a service once a year.	9/12/2022 11:20 AM
33	The world needs less hardscape. Not more! With the heatwave we just had, shouldn’t you be considering adding trees and shade rather than pavers?	9/12/2022 11:15 AM
34	Concert	9/12/2022 11:04 AM
35	None	9/12/2022 10:59 AM
36	Lions Club BBQ	9/12/2022 10:53 AM
37	None	9/12/2022 8:11 AM
38	Birthday parties	9/11/2022 7:54 PM
39	bday parties when my child was young	9/11/2022 6:08 PM
40	None	9/11/2022 5:13 PM
41	No	9/11/2022 3:22 PM
42	None	9/11/2022 3:00 PM
43	Bands, orchestras at the bandstand	9/11/2022 2:22 PM
44	Xmas Light Show	9/11/2022 11:48 AM
45	None	9/10/2022 7:14 PM
46	Los Gatos Rotary events	9/10/2022 3:30 PM
47	no	9/9/2022 10:51 PM
48	Just a nice day in the park without any event to make you guys money	9/9/2022 10:38 PM

49	none	9/9/2022 10:36 PM
50	BBQ and picnic	9/9/2022 8:41 PM
51	BJWRR events	9/9/2022 6:22 PM
52	Labor Day concerts	9/9/2022 6:04 PM
53	None	9/9/2022 5:47 PM
54	Birthday parties	9/9/2022 4:35 PM
55	Shakespeare theater	9/9/2022 4:23 PM
56	none	9/9/2022 1:16 PM
57	Trek for Treatments events by the Eric Drew Foundation	9/9/2022 1:01 PM
58	No	9/9/2022 11:55 AM
59	School celebrations (preschool graduation, 8th grade class parties, with DJs, etc)	9/9/2022 9:42 AM
60	None	9/8/2022 6:29 PM
61	Labor Day music festival	9/8/2022 3:38 PM
62	None	9/8/2022 11:21 AM
63	holiday events	9/8/2022 10:28 AM
64	music	9/7/2022 11:53 PM
65	no	9/7/2022 5:37 PM
66	No	9/7/2022 5:03 PM
67	Valley Sport Camp classes	9/7/2022 3:52 PM
68	Rotary BBQ	9/7/2022 2:53 PM
69	Train fund raisers Spaghetti dinners	9/7/2022 12:22 PM
70	No	9/7/2022 3:40 AM
71	none	9/6/2022 10:56 PM
72	concerts	9/6/2022 10:15 PM
73	Listening to music watching the Bands play and Dancing	9/6/2022 9:53 PM
74	No	9/6/2022 9:23 PM
75	Picnics, Train	9/6/2022 9:15 PM
76	birthday party for young children	9/6/2022 4:42 PM
77	Park Dance	9/6/2022 3:20 PM
78	There was no room below to comment, but less hardscape, more greenscape is better.	9/6/2022 1:55 PM
79	Shakespeare in the park	9/6/2022 1:15 PM
80	None	9/6/2022 12:42 PM
81	n/a	9/6/2022 12:41 PM
82	Years ago, but Earth, Wind, and Fire was an amazing event	9/6/2022 12:34 PM
83	None	9/6/2022 12:34 PM
84	Music in the Park, Lion's, LGHS Reunion	9/6/2022 12:31 PM
85	NA	9/6/2022 11:45 AM
86	no	9/6/2022 11:12 AM

87	none	9/6/2022 11:11 AM
88	none	9/6/2022 10:39 AM
89	events	9/6/2022 10:17 AM
90	Lions Club Events	9/6/2022 9:11 AM
91	Shakespeare festival	9/6/2022 9:05 AM
92	None	9/6/2022 8:52 AM
93	Birthday Parties	9/6/2022 8:46 AM
94	No	9/6/2022 8:07 AM
95	Shakespeare and Concerts in past years	9/6/2022 7:15 AM
96	Easter egg hunt	9/6/2022 7:07 AM
97	BJWRR events and volunteer work	9/5/2022 11:51 PM
98	group meetings or events	9/5/2022 9:40 PM
99	Shade is the most valuable asset imo for deciding if people will enjoy a new space, fwiw. They used to have the haunted house or even Shakespeare maybe? If they brought back classy plays or the arts we'd love it!!!!	9/5/2022 8:51 PM
100	Shakespeare in the Park, Haunted House	9/5/2022 7:22 PM
101	private parties	9/5/2022 6:05 PM
102	none	9/5/2022 3:30 PM
103	No	9/5/2022 2:46 PM
104	have not attended events	9/5/2022 1:32 PM
105	None	9/5/2022 10:40 AM
106	None	9/5/2022 10:38 AM
107	Bocce	9/5/2022 10:15 AM
108	No	9/5/2022 9:23 AM
109	None	9/5/2022 9:20 AM
110	None	9/5/2022 7:01 AM
111	None, nature walks only.	9/4/2022 10:35 PM
112	Train	9/4/2022 9:33 PM
113	easter	9/4/2022 6:59 PM
114	Easter egg hunt	9/4/2022 5:48 PM
115	Concerts	9/4/2022 5:14 PM
116	No	9/4/2022 4:42 PM
117	Fundraisers	9/4/2022 4:36 PM
118	Parties	9/4/2022 2:39 PM
119	No	9/4/2022 1:25 PM
120	The huge keg party of 1995	9/4/2022 12:48 PM
121	can't recall	9/4/2022 12:46 PM
122	Rented area for bday	9/4/2022 12:42 PM
123	haunted house	9/4/2022 10:28 AM

124	music	9/4/2022 9:56 AM
125	None	9/4/2022 9:31 AM
126	Birthday parties	9/4/2022 8:59 AM
127	No	9/4/2022 8:56 AM
128	None	9/4/2022 8:49 AM
129	Concert	9/4/2022 7:55 AM
130	Rotary events	9/4/2022 7:46 AM
131	N/a	9/4/2022 7:41 AM
132	No	9/4/2022 7:38 AM
133	Billy Jones Railroad fund raising events.	9/4/2022 6:14 AM
134	Xmas lights	9/4/2022 12:21 AM
135	None	9/3/2022 11:31 PM
136	none	9/3/2022 11:11 PM
137	None	9/3/2022 11:03 PM
138	No	9/3/2022 10:06 PM
139	none	9/3/2022 10:04 PM
140	Theatre	9/3/2022 9:46 PM
141	Random private events…walk thru	9/3/2022 5:55 PM
142	N/A	9/3/2022 5:54 PM
143	This park does not offer any of your selections	9/3/2022 5:51 PM
144	Concerts & dances	9/3/2022 5:11 PM
145	No	9/3/2022 4:26 PM
146	Personal, private events	9/3/2022 4:26 PM
147	None	9/3/2022 4:03 PM
148	Family reunions	9/3/2022 3:20 PM
149	BBQs	9/3/2022 3:12 PM
150	None	9/3/2022 2:52 PM
151	Monte Sereno Picnic	9/3/2022 2:28 PM
152	None	9/3/2022 1:28 PM
153	Graduation	9/3/2022 1:17 PM
154	Shakespeare in the Park	9/3/2022 12:54 PM
155	Easter Egg Hunt	9/3/2022 12:39 PM
156	NOTE: Please have weekly events during summer/Bring back Halloween train event	9/3/2022 12:31 PM
157	None	9/3/2022 12:06 PM
158	No e	9/3/2022 11:02 AM
159	None	9/3/2022 10:40 AM
160	No	9/3/2022 10:24 AM
161	shakespeare in the park	9/3/2022 10:09 AM

162	None	9/3/2022 9:48 AM
163	None	9/3/2022 9:46 AM
164	NA	9/3/2022 9:40 AM
165	None	9/3/2022 9:17 AM
166	Music	9/3/2022 8:51 AM
167	None	9/3/2022 8:39 AM
168	None	9/3/2022 8:15 AM
169	no	9/3/2022 8:09 AM
170	Birthday parties	9/3/2022 8:09 AM
171	none	9/3/2022 7:43 AM
172	I have not	9/3/2022 7:42 AM
173	Light the Night/lls event	9/3/2022 7:34 AM
174	Bday / family parties	9/3/2022 7:08 AM
175	Birthday parties	9/3/2022 6:39 AM
176	None	9/3/2022 6:04 AM
177	None, usually attend events at Vasona Park	9/3/2022 5:31 AM
178	NA	9/3/2022 4:42 AM
179	Fisher graduation; concert; dedication; earth day tree planting; breast cancer	9/3/2022 1:04 AM
180	Los Gatos Park Dance	9/2/2022 11:26 PM
181	Just the Christmas train rude	9/2/2022 10:45 PM
182	None	9/2/2022 9:57 PM
183	No just Festival of Lights at Vasona	9/2/2022 9:57 PM
184	None	9/2/2022 9:19 PM
185	Birthdays	9/2/2022 8:58 PM
186	parties	9/2/2022 8:20 PM
187	No	9/2/2022 8:18 PM
188	None	9/2/2022 8:15 PM
189	Birthday parties	9/2/2022 8:13 PM
190	None	9/2/2022 8:00 PM
191	Easter hunt	9/2/2022 7:36 PM
192	N/A	9/2/2022 7:29 PM
193	Birthday party	9/2/2022 7:19 PM
194	N/A	9/2/2022 6:59 PM
195	No	9/2/2022 6:58 PM
196	None	9/2/2022 6:51 PM
197	none	9/2/2022 6:35 PM
198	Never	9/2/2022 6:35 PM
199	None	9/2/2022 6:31 PM

200	Music, Easter,	9/2/2022 6:17 PM
201	none	9/2/2022 6:16 PM
202	Kiwanis Easter egg hunt	9/2/2022 6:15 PM
203	Christmas Lights	9/2/2022 5:57 PM
204	Some events	9/2/2022 5:55 PM
205	None	9/2/2022 5:51 PM
206	None	9/2/2022 5:50 PM
207	Shakespear	9/2/2022 5:44 PM
208	None	9/2/2022 5:28 PM
209	Birthdays	9/2/2022 5:26 PM
210	Birthday parties	9/2/2022 5:20 PM
211	Shakespeare	9/2/2022 5:13 PM
212	None	9/2/2022 5:04 PM
213	Shakespeare in the park	9/2/2022 5:02 PM
214	none	9/2/2022 4:59 PM
215	None	9/2/2022 4:58 PM
216	LG house party	9/2/2022 4:58 PM
217	gathering with friends	9/2/2022 4:46 PM
218	Halloween and Easter	9/2/2022 4:39 PM
219	none	9/2/2022 4:39 PM
220	Birthday parties	9/2/2022 4:38 PM
221	Comment to response for #5. There is a limited number of parking, so going to an event at Oak Meadow or Vasona Park is not something I would consider	9/2/2022 4:33 PM
222	Easter egg hunt	9/2/2022 4:32 PM
223	earth, wind and fire concert	9/2/2022 4:30 PM
224	Birthday parties	9/2/2022 4:28 PM
225	YSI Camp	9/2/2022 4:27 PM
226	None	9/2/2022 4:20 PM
227	Rotary BBQ's	9/2/2022 4:15 PM
228	none	9/2/2022 4:14 PM
229	None	9/2/2022 4:10 PM
230	None	9/2/2022 4:05 PM
231	Halloween events	9/2/2022 4:05 PM
232	reserved a group area for a family gathering.	9/2/2022 3:47 PM
233	No	9/2/2022 3:47 PM
234	None. It’s always crowded with out of town people	9/2/2022 3:45 PM
235	Birthday parties	9/2/2022 3:42 PM
236	N/a	9/2/2022 3:38 PM
237	Graduation	9/2/2022 3:36 PM

238	class reunions	9/2/2022 3:33 PM
239	The pumpkin patch, the spaghetti dinner	9/2/2022 3:27 PM
240	None	9/2/2022 3:27 PM
241	None	9/2/2022 3:26 PM
242	none	9/2/2022 3:25 PM
243	Company picnic	9/2/2022 3:25 PM
244	No	9/2/2022 3:22 PM
245	Halloween Events, Christmas Train,	9/2/2022 3:14 PM
246	none	9/2/2022 3:12 PM
247	Private events	9/2/2022 3:07 PM
248	Pancake Breakfast	9/2/2022 3:06 PM
249	Birthday Parties	9/2/2022 3:05 PM
250	N/a	9/2/2022 3:05 PM
251	Easter eggs	9/2/2022 3:02 PM
252	None	9/2/2022 2:58 PM
253	None	9/2/2022 2:49 PM
254	none	9/2/2022 2:47 PM
255	Family events	9/2/2022 2:47 PM
256	Concerts	9/2/2022 2:46 PM
257	No events above	9/2/2022 2:46 PM
258	None	9/2/2022 2:44 PM
259	Relay for Life	9/2/2022 2:43 PM
260	All Train events	9/2/2022 2:40 PM
261	private parties	9/2/2022 2:38 PM
262	Easter run	9/2/2022 2:35 PM
263	No	9/2/2022 2:33 PM
264	No, I have never attended one of the park events above.	9/2/2022 2:31 PM
265	Easter Egg Hunt	9/2/2022 2:26 PM
266	None	9/2/2022 2:23 PM
267	None	9/2/2022 2:19 PM
268	Music	9/2/2022 2:18 PM
269	Vasona vibrations	9/2/2022 2:18 PM
270	Don’t waste our money by killing geese and building hot concrete! The geese were something our family enjoyed seeing at the park!	9/2/2022 2:18 PM
271	christmas in the park	9/2/2022 2:14 PM
272	None	9/2/2022 2:12 PM
273	Easter events	9/2/2022 2:12 PM
274	None	9/2/2022 2:09 PM
275	No	9/2/2022 2:08 PM

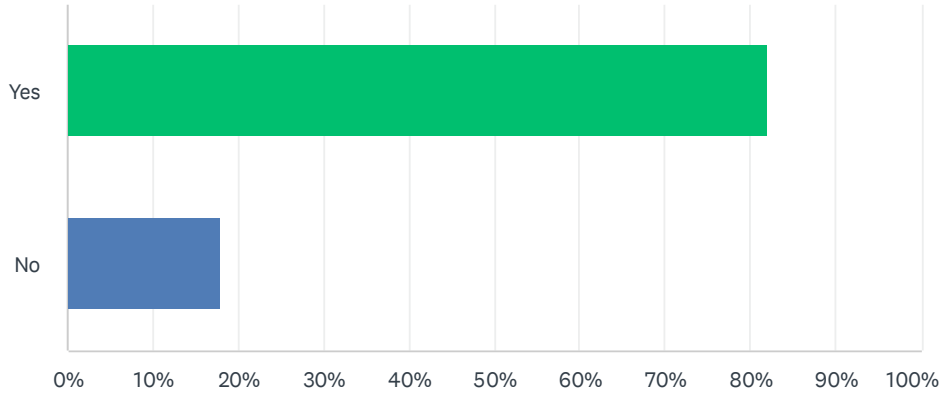
276	get togethers	9/2/2022 2:07 PM
277	No	9/2/2022 2:07 PM
278	easter egg hunt	9/2/2022 2:07 PM
279	none	9/2/2022 2:06 PM
280	None	9/2/2022 2:04 PM
281	None	9/2/2022 2:02 PM
282	None	9/2/2022 2:02 PM
283	Holiday/Christina’s lights	9/2/2022 2:00 PM
284	there was a music event we attended but it was very windy that day. Also Easter egg hunds	9/2/2022 1:58 PM
285	No	9/2/2022 1:57 PM
286	Hosted my own gathering for friends & family	9/2/2022 1:51 PM
287	Cultural festival, Vasona lights	9/2/2022 1:51 PM
288	None	9/2/2022 1:51 PM
289	None	9/2/2022 1:50 PM
290	n/a	9/2/2022 1:48 PM
291	No. Parking would be an issue for events there	9/2/2022 1:45 PM
292	Private Birthday Parties	9/2/2022 1:42 PM
293	none in the meadow - only xmas lights	9/2/2022 1:34 PM
294	None	9/2/2022 1:33 PM
295	Not yet	9/2/2022 1:33 PM
296	None	9/2/2022 1:32 PM
297	Easter	9/2/2022 1:30 PM
298	none	9/2/2022 1:30 PM
299	No	9/2/2022 1:29 PM
300	none	9/2/2022 1:25 PM
301	None	9/2/2022 1:22 PM
302	N/A	9/2/2022 1:20 PM
303	Easter	9/2/2022 1:19 PM
304	No	9/2/2022 1:18 PM
305	Picnic area for parties	9/2/2022 1:12 PM
306	No	9/2/2022 1:11 PM
307	None	9/2/2022 1:10 PM
308	None	9/2/2022 1:08 PM
309	Train events (Holiday train)	9/2/2022 1:07 PM
310	None	9/2/2022 1:05 PM
311	Billy Jones railroad events	9/2/2022 1:05 PM
312	None	9/2/2022 1:05 PM
313	Easter, Shakespeare	9/2/2022 1:04 PM

314	None	9/2/2022 1:03 PM
315	Music in the Park	9/2/2022 1:02 PM
316	none	9/2/2022 1:00 PM
317	would love the hardscape since the geese poop makes sitting unpleasant	9/2/2022 12:58 PM
318	None	9/2/2022 12:58 PM
319	Lights show during xmas	9/2/2022 12:56 PM
320	none	9/2/2022 12:54 PM
321	Halloween haunted house. Would love to have that back! Outdoor plays or Shakespeare would be great	9/2/2022 12:46 PM
322	None	9/2/2022 12:42 PM
323	kids activities/classes	9/2/2022 12:35 PM
324	No	9/2/2022 12:31 PM
325	No	9/2/2022 12:28 PM
326	No	9/2/2022 12:24 PM
327	None	9/2/2022 12:20 PM
328	No	9/2/2022 12:20 PM
329	Shakespeare, concert	9/2/2022 12:18 PM
330	Private events and Vasona Lights. Parking situation prevents us from attending other large scale events.	9/2/2022 12:16 PM
331	None	9/2/2022 12:14 PM
332	field trip	9/2/2022 12:06 PM
333	Labor Day Concerts	9/2/2022 12:03 PM
334	None	9/2/2022 11:52 AM
335	none	9/2/2022 11:49 AM
336	I have not attended an event	9/2/2022 11:43 AM
337	Playing walking	9/2/2022 11:41 AM
338	None	9/2/2022 11:40 AM
339	Birthday parties	9/2/2022 11:40 AM
340	NA	9/2/2022 11:38 AM
341	Birthday parties	9/2/2022 11:35 AM
342	N/A	9/2/2022 11:35 AM
343	Dance in the park	9/2/2022 11:26 AM
344	San Francisco Brass Band concert	9/2/2022 11:25 AM
345	None	9/2/2022 11:18 AM
346	n/a	9/2/2022 11:13 AM
347	we have not attended events but plan to attend the Christmas Train events	9/2/2022 11:12 AM
348	N/a	9/2/2022 11:10 AM
349	Just private event rental	9/2/2022 11:09 AM
350	None	9/2/2022 11:09 AM

351	Have not attended events.	9/2/2022 11:06 AM
352	none	9/2/2022 11:06 AM
353	none	9/2/2022 11:05 AM
354	music and dance	9/2/2022 11:04 AM
355	Vasona Lights	9/2/2022 11:03 AM
356	No large events	9/2/2022 11:02 AM
357	Music in the park	9/2/2022 11:02 AM
358	Walk for a Cure, American Cancer Society	9/2/2022 10:59 AM
359	Lights show	9/2/2022 10:58 AM
360	Easter	9/2/2022 10:52 AM
361	No	9/2/2022 10:51 AM
362	none	9/2/2022 10:48 AM
363	Easter bunny	9/2/2022 10:48 AM
364	none	9/2/2022 10:41 AM
365	none	9/2/2022 10:40 AM
366	Egg hunt	9/2/2022 10:34 AM
367	n/a	9/2/2022 10:29 AM
368	none yet	9/2/2022 10:29 AM
369	None	9/2/2022 10:27 AM
370	None	9/2/2022 10:15 AM
371	Halloween/Christmas train	9/2/2022 10:13 AM
372	none	9/2/2022 9:21 AM
373	None	9/2/2022 9:11 AM

Q5 Would you attend large scale events such as a summer concert or dance series at the bandstand?

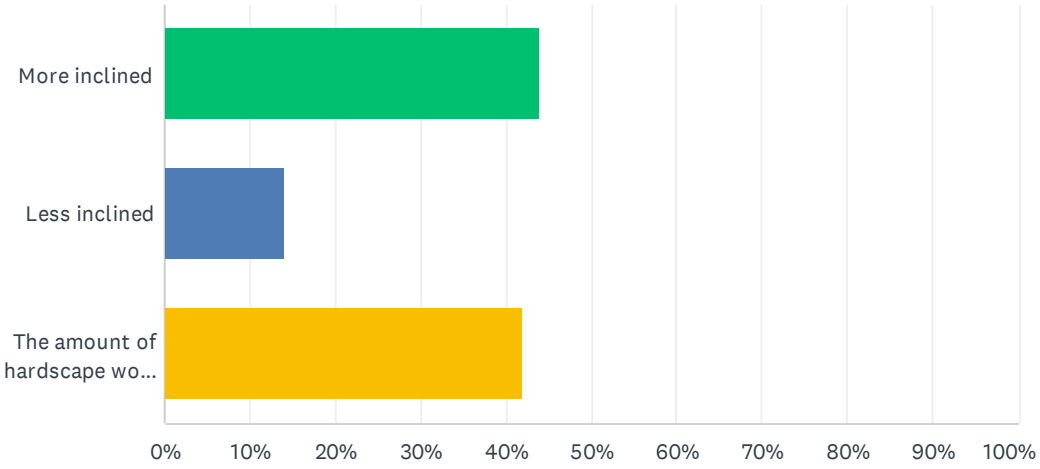
Answered: 623 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	82.02%	511
No	17.98%	112
TOTAL		623

Q6 If the space around the bandstand was more well defined by pavers, concrete or other hardscape, with associated landscaping would you be more inclined to use the space for a private function such as a wedding or party?

Answered: 623 Skipped: 0



ANSWER CHOICES	RESPONSES	
More inclined	43.82%	273
Less inclined	14.13%	88
The amount of hardscape would not change my use of the area	42.05%	262
TOTAL		623

Q7 What is your zip code?

Answered: 623 Skipped: 0

#	RESPONSES	DATE
1	95123	9/19/2022 9:31 PM
2	95033	9/19/2022 7:13 PM
3	95030	9/19/2022 4:08 PM
4	95032	9/19/2022 2:44 PM
5	95030	9/19/2022 12:32 PM
6	95030	9/19/2022 10:17 AM
7	95032	9/19/2022 9:53 AM
8	95032	9/18/2022 9:02 AM
9	95032	9/17/2022 9:42 PM
10	95032	9/17/2022 1:09 PM
11	95136	9/17/2022 12:26 PM
12	95032	9/17/2022 11:50 AM
13	95032	9/16/2022 5:16 PM
14	95033	9/16/2022 1:42 PM
15	95032	9/16/2022 9:45 AM
16	95032	9/15/2022 8:55 PM
17	95032	9/15/2022 3:27 PM
18	95032	9/15/2022 3:05 PM
19	95032	9/15/2022 2:53 PM
20	95032	9/15/2022 2:46 PM
21	95030	9/15/2022 12:17 PM
22	95030	9/15/2022 9:28 AM
23	95030	9/14/2022 5:55 PM
24	95130	9/14/2022 4:26 PM
25	95032	9/14/2022 2:20 PM
26	95126	9/13/2022 10:17 PM
27	95032	9/13/2022 8:42 PM
28	95030	9/13/2022 7:02 PM
29	95129	9/13/2022 5:55 PM
30	95032	9/13/2022 4:54 PM
31	95032	9/13/2022 1:08 PM
32	95123	9/13/2022 12:45 PM
33	95030	9/13/2022 11:43 AM

34	95030	9/13/2022 8:39 AM
35	95030	9/13/2022 5:58 AM
36	95032	9/12/2022 11:34 PM
37	95032	9/12/2022 7:45 PM
38	95030	9/12/2022 7:10 PM
39	95032	9/12/2022 5:46 PM
40	95008	9/12/2022 5:36 PM
41	95030	9/12/2022 4:21 PM
42	95030	9/12/2022 3:50 PM
43	95032	9/12/2022 3:27 PM
44	95032	9/12/2022 3:01 PM
45	95032	9/12/2022 2:38 PM
46	95032	9/12/2022 1:57 PM
47	95070	9/12/2022 1:41 PM
48	95030	9/12/2022 1:25 PM
49	95032	9/12/2022 1:05 PM
50	95030	9/12/2022 12:26 PM
51	95129	9/12/2022 12:24 PM
52	95032	9/12/2022 11:20 AM
53	95030	9/12/2022 11:20 AM
54	95030	9/12/2022 11:15 AM
55	95030	9/12/2022 11:06 AM
56	95030	9/12/2022 11:04 AM
57	95050	9/12/2022 10:59 AM
58	95062	9/12/2022 10:54 AM
59	95032	9/12/2022 10:53 AM
60	95111	9/12/2022 8:44 AM
61	95030	9/12/2022 8:28 AM
62	95033	9/12/2022 8:11 AM
63	95030	9/11/2022 8:32 PM
64	95032	9/11/2022 7:54 PM
65	95030	9/11/2022 7:54 PM
66	95032	9/11/2022 6:08 PM
67	95032	9/11/2022 5:13 PM
68	95030	9/11/2022 3:22 PM
69	95032	9/11/2022 3:00 PM
70	95148	9/11/2022 2:22 PM
71	95030	9/11/2022 2:15 PM

72	95030	9/11/2022 2:02 PM
73	95030	9/11/2022 12:42 PM
74	95124	9/11/2022 11:48 AM
75	95030	9/11/2022 10:40 AM
76	95037	9/11/2022 10:34 AM
77	95032	9/11/2022 10:18 AM
78	95032	9/11/2022 9:54 AM
79	95223	9/11/2022 9:32 AM
80	95124	9/10/2022 7:14 PM
81	95033	9/10/2022 6:41 PM
82	95030	9/10/2022 6:15 PM
83	95032	9/10/2022 3:30 PM
84	95030	9/10/2022 2:47 PM
85	95032	9/10/2022 2:07 PM
86	95008	9/10/2022 11:30 AM
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566	95032	9/2/2022 11:32 AM
567	95124	9/2/2022 11:31 AM
568	95032	9/2/2022 11:30 AM
569	95032	9/2/2022 11:30 AM
570	95070	9/2/2022 11:28 AM
571	95032	9/2/2022 11:26 AM
572	95032	9/2/2022 11:26 AM
573	95242	9/2/2022 11:25 AM
574	95032	9/2/2022 11:23 AM
575	94127	9/2/2022 11:23 AM
576	95124	9/2/2022 11:22 AM
577	95032	9/2/2022 11:18 AM
578	95117	9/2/2022 11:13 AM
579	95119	9/2/2022 11:12 AM
580	95032	9/2/2022 11:11 AM
581	95008	9/2/2022 11:10 AM
582	95126	9/2/2022 11:09 AM
583	93955	9/2/2022 11:09 AM
584	95033	9/2/2022 11:06 AM
585	95032	9/2/2022 11:06 AM
586	95032	9/2/2022 11:05 AM
587	95032	9/2/2022 11:04 AM
588	95120	9/2/2022 11:04 AM
589	95030	9/2/2022 11:03 AM
590	95030	9/2/2022 11:03 AM
591	95118	9/2/2022 11:03 AM
592	95008	9/2/2022 11:02 AM
593	95032	9/2/2022 11:02 AM
594	95032	9/2/2022 11:00 AM
595	95125	9/2/2022 10:59 AM
596	95032	9/2/2022 10:58 AM
597	95136	9/2/2022 10:58 AM
598	95125	9/2/2022 10:57 AM
599	95030	9/2/2022 10:56 AM
600	95124	9/2/2022 10:52 AM
601	95130	9/2/2022 10:51 AM
602	95125	9/2/2022 10:49 AM
603	95124	9/2/2022 10:48 AM

604	95032	9/2/2022 10:48 AM
605	95014	9/2/2022 10:41 AM
606	95008	9/2/2022 10:40 AM
607	95030	9/2/2022 10:37 AM
608	95008	9/2/2022 10:37 AM
609	95032	9/2/2022 10:35 AM
610	95124	9/2/2022 10:34 AM
611	95117	9/2/2022 10:29 AM
612	95123	9/2/2022 10:29 AM
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619	95030	9/2/2022 9:27 AM
620	95032	9/2/2022 9:21 AM
621	95030	9/2/2022 9:20 AM
622	95030	9/2/2022 9:11 AM
623	95110	8/29/2022 12:54 PM

DATE: October 27, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Introduce an Ordinance, by Title Only, Amending Chapter 29 (Zoning Regulations) of the Town Code to Regulate Urban Lot Splits and Two-Unit Housing Developments in Compliance with Senate Bill 9. Town Code Amendment Application A-22-002. Location: Town-wide. Applicant: Town of Los Gatos.

RECOMMENDATION:

Introduce an ordinance, by tittle only, amending Chapter 29 (Zoning Regulations) of the Town Code to regulate urban lot splits and two-unit housing developments in compliance with Senate Bill 9.

BACKGROUND:

In September 2021, Governor Newsom signed new State law, Senate Bill 9 (SB 9), which went into effect on January 1, 2022 (Exhibit 2 of Attachment 3). 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 allows 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).

PREPARED BY: Ryan Safty
Associate Planner

Reviewed by: Assistant Town Manager, Town Attorney, and Public Works Director

BACKGROUND (continued):

In most circumstances, SB 9 will result in the potential creation of four dwelling units on an existing single-family zoned parcel. Single-family zoned parcels are currently permitted three units throughout the State: a primary single-family dwelling; an Accessory Dwelling Unit (ADU); and a Junior ADU (JADU).

SB 9 also outlines how jurisdictions may regulate SB 9 projects. Jurisdictions may only apply objective zoning, subdivision, and design standards to these projects, and these standards may not preclude the construction of up to two units of at least 800 square feet each. Jurisdictions can conduct objective design review, but may not have hearings for units that meet the State rules (with limited exceptions).

On December 21, 2021, Town Council adopted an Urgency Ordinance (Exhibit 3 of Attachment 3) to implement local objective standards for SB 9 applications. This Urgency Ordinance was valid for a period of 45 days. On February 1, 2022, Town Council adopted an extension of the Urgency Ordinance (Exhibit 4 of Attachment 3), making it valid to the end of the calendar year. The current Urgency Ordinance 2327 is set to expire on December 31, 2022.

On September 21, 2022, the Town hosted a Community Meeting to discuss the development of a permanent SB 9 Ordinance and engage the public in the preparation of the Ordinance.

On September 28, 2022, the Planning Commission met to discuss the draft permanent SB 9 Ordinance and made a recommendation to the Town Council. The Planning Commission received and considered public comments on the draft permanent Ordinance, reviewed the proposed changes, and suggested edits in their recommendation of approval to Town Council (Attachment 5).

DISCUSSION:

The Draft Ordinance presented to Planning Commission (Exhibit 1 of Attachment 3) was based on the Urgency Ordinance adopted by Town Council in February 2022 and modified based on: State and Regional Agency direction; clarification of initial standards; and reformatted to integrate it within Chapter 29 of the Town Code (Zoning Regulations). On September 28, 2022, the Planning Commission conducted a public hearing, listened to testimony, and reviewed and discussed each of these proposed edits, as well as potential changes based on public input received in the previous year. The Planning Commission discussion points are organized below in three sections: modifications that Planning Commission did not recommend; items that Planning Commission supported, but that do not require modifications; and modifications that the Planning Commission recommended.

DISCUSSION (continued):

A. No Modifications Recommended

The Planning Commission reviewed and discussed the following items and recommended that no modifications be made to the Draft Ordinance. Each of these items were based on comments received from the public, either in writing or made verbally during the hearing.

- **Applicable Zoning Designations.** In addition to the requested inclusion of Hillside Residential Zones, which has been included based on State direction, members of the public requested that SB 9 applications be allowed on additional zoning designations, such as multi-family zones where single-family development is a principally permitted use, and any zone where the existing use is single-family. Planning Commission did not recommend expanding the allowed zones at this time, but felt it may be worth discussion during future iterations and amendments to this Ordinance.
- **Window Size Limitations.** Comments were received regarding the second-story window design standards, requesting that the clerestory and egress minimums be removed for two-story SB 9 units that meet the underlining zoning setback. Because of a desire to ensure privacy impacts are minimized, the Planning Commission did not recommend increasing allowed window sizes.
- **Second-Story Step-Back.** Similar to the topic above, comments were received regarding the second-story step-back requirement, requesting that this be removed for two-story SB 9 units that meet the underlining zoning setbacks. Planning Commission did not recommend this change as the step-back requirement helps to both ensure privacy impacts are minimized, and decrease the mass of a two-story building in accordance with the Residential Design Guidelines.
- **First Unit Size Limitation.** Comments were received in opposition to the 1,200-square foot size limitation for the first new SB 9 unit. During the Planning Commission hearing, staff described for the Commission that the size limitation was a specific recommendation of Town Council when adopting the Urgency Ordinance as one method to make one of the units affordable by design. Planning Commission did not recommend changes.
- **Hillside Zoning Height Limitation.** Comments were received regarding the 16-foot height limitations of SB 9 units in the HR zones. This standard was included in the Draft Ordinance following State direction to include HR zones. The Town's Hillside Development Standards and Guidelines (HDS&G) allows buildings to be a maximum of 18 feet tall when "visible" from the established viewing areas or when located along a significant ridgeline. To ensure that this standard is objective, and to avoid confusion with the existing 16-foot height limitation when a non-hillside zoned SB 9

DISCUSSION (continued):

building footprint is located within the required side or rear setbacks of the applicable zoning district, the Draft Ordinance includes a 16-foot height limit for all HR zoned properties. Planning Commission did not recommend changes.

- **Three-Foot Finished Floor.** Comments were received regarding the maximum height that a finished floor can project above finished grade, with a request to increase beyond what was already proposed in the Draft Ordinance. The current Urgency Ordinance limits this area to 18-inches. As SB 9 must now include HR zones, the Draft Ordinance was amended to limit this area to three feet instead of 18-inches for consistency with the HDS&G. The Planning Commission did not recommend any increase beyond what was already proposed in the Draft Ordinance to ensure that buildings are designed to follow grades.
- **50 Cubic Yards Grading Restriction.** Comments were received regarding the 50 cubic yard grading restriction. The Urgency Ordinance states that a SB 9 application shall not exceed the summation of 50 cubic yards, cut plus fill, or require a Grading Permit per Town Code Chapter 12, Article II. This was included for consistency with the Town Code where grading in excess of 50 cubic yards that is not used for building excavation requires a Grading Permit, and Grading Permits require an Architecture and Site application, which is a discretionary permit with a public hearing. As SB 9 requires ministerial review and approval of qualifying projects, the grading restriction was included to ensure SB 9 projects are processed ministerially. Although the Planning Commission did not remove this restriction, they did recommend that certain grading exemptions be added, which are discussed below.
- **Frontage Requirement.** During Planning Commission's discussion on flag/corridor lot access requirements, there were questions on how projects can comply with the Minimum Public Frontage requirement in Section 29.10.050(a)(4) of the Draft Ordinance when easements are used for access instead of public streets. Planning Commission requested clarification of this requirement. Per the definition of "street" in Town Code Section 29.10.020 (Definitions), "Street means any thoroughfare for the motor vehicle which affords the principal means of access to abutting property, including public and private rights-of-way and easements." Therefore, no amendments to the Draft Ordinance were made.

B. Planning Commission Support for Certain Suggestions Without Incorporation into the Draft Ordinance

The Planning Commission reviewed and discussed the following items and expressed support and did not recommend modifications to the Draft Ordinance to incorporate them.

- **Fire Department Review.** Comments were received requesting that Santa Clara County Fire Department be included in the review of SB 9 ministerial applications.

DISCUSSION (continued):

Although this would not be included in the Ordinance, Planning Commission recommended that this be implemented in the project review process, if possible.

- **Affordability Incentives.** During Planning Commission discussion on size limitations and affordability, the Commission requested that consideration be given for incentives and benefits if a unit is deed restricted for affordability. Similar to what is included in Town Code Section 29.10.320 for Accessory Dwelling Units (provided below), certain incentives such as reduced permit fees or no-interest construction loans could be provided for SB 9 units that are made affordable via a deed restriction.
    - *Town Code Section 29.10.320(a): "Incentive program. Any accessory dwelling unit developed under an Incentive Program which may be established by Resolution of the Town Council shall be made affordable to eligible applicants pursuant to the requirements of the Incentive Program. A deed restriction shall be recorded specifying that the accessory dwelling unit shall be offered at a reduced rent that is affordable to a lower income renter (less than eighty (80) percent AMI) provided that the unit is occupied by someone other than a member of the household occupying the primary dwelling."*

C. Recommended Modifications

The Planning Commission reviewed and discussed the following items and recommended modifications on the Draft Ordinance to Town Council. Each of these recommendations have been included in the Draft Ordinance provided as Attachment 2.

- **Flag-Lot Access Easement.** Several comments were received from the public regarding the access corridor requirement for flag/corridor lots. The Urgency Ordinance requires that the access corridor for flag/corridor lots be "in fee" as part of the parcel and not as an easement, for consistency with existing Town Code. Planning Commission recommended that the access corridor be allowed as either "in fee" or as an easement to allow maximum flexibility. This modification was incorporated in Section 29.10.050(a)(1) of the Draft Ordinance.
- **Flag-Lot Width Requirement.** Similar to above, several comments were received from the public regarding the access corridor width requirement for flag/corridor lots. The Urgency Ordinance requires a minimum of 20 feet for the access corridor width, which matches the minimum lot width and minimum street frontage requirements. This standard is consistent with the minimum width required for the "corridor" of corridor lots per Town Code Section 29.10.085. Planning Commission recommended reducing this standard to the minimum required by the Santa Clara County Fire Department, which is 12 feet. This modification was incorporated in Sections 29.10.050(a)(1) and (4) of the Draft Ordinance

DISCUSSION (continued):

- **Minimum Lot Size.** Comments were received from the public regarding the minimum lot size calculation in relation to the access corridor for flag/corridor lots. The Urgency Ordinance states that the minimum lot area for a flag/corridor lot shall be exclusive of the access corridor. This standard was originally included for consistency with Town Code Section 29.10.085, which states that the area of the corridor may not be applied toward satisfying the minimum lot area requirement. Planning Commission recommended that this standard be removed. If this standard were removed, whichever property owner owned a "fee interest" (as opposed to the "easement interest") in the access corridor would count the access corridor toward its lot area. This modification was incorporated in Section 29.10.050(a)(2) of the Draft Ordinance. Staff recommends that the Town Council consider the previous language in Exhibit 1 of Attachment 3, excluding the access corridor from the lot area calculation when implemented "in fee," for consistency with Town Code.
- **Floor Area Ratio and Lot Coverage.** Similar to the comment above, comments were received from the public regarding floor area ratio and lot coverage calculations based on lot size. The Urgency Ordinance does not specify, and the Town has not included access corridor owned either "in fee" or as an easement toward the lot area of the owner of the fee interest when calculating maximum allowed floor area ratio and lot coverage. As stated above, Planning Commission expanded the access corridor allowance for flag/corridor lots to include both "in fee" and easements when calculating minimum lot size. In order to provide additional flexibility, the Planning Commission recommended that access corridors owned in fee be counted towards the lot size of the fee owner when measuring floor area and lot coverage. This modification was incorporated in Section 29.10.630(a)(5) of the Draft Ordinance. Staff recommends that the Town Council consider the previous language in Exhibit 1 of Attachment 3, excluding the access corridor from the net lot area calculation of the flag/corridor lot (whether owned in fee or as an easement) for consistency with Town Code.
- **New Side Property Lines.** Comments were received from the public regarding the new lot line requirement. The Urgency Ordinance requires that the new side lines of all lots shall be at right-angles to streets or radial to the centerline of curved streets. The Planning Commission recommended removing this requirement as not all neighborhoods in the Town consist of standard rectangular lots. This modification was implemented by removing this standard from Section 29.10.050(a) of the Draft Ordinance reviewed by Planning Commission.
- **Average Slope Restriction.** Comments were received from the public regarding the average slope restriction. In response to the State's direction to include HR zones, the Draft Ordinance was amended to capture relevant hillside requirements from the HDS&G, including the building restriction on site slopes exceeding 30 percent.

DISCUSSION (continued):

The Planning Commission supported this restriction, and asked that clarification be included to specify that this restriction only applies to portions of the site where a building is proposed, and not the entire site if other portions of the site have slopes that exceed 30 percent. This clarification is provided in Section 29.10.630(a)(8) of the Draft Ordinance.

- **Grading Exemptions.** As discussed in Section A (50 Cubic Yards Grading Restriction) above, several comments were received from the public regarding the 50 cubic yard grading restriction. With the inclusion of HR zones, and increased driveway and fire truck access requirements from the Santa Clara County Fire Department, the 50 cubic yard limitation may be too restrictive. The Planning Commission recommended that grading associated with minimum driveway and fire access requirements be exempted from the 50 cubic yard limitation. Additionally, Planning Commission recommended that clarification be added that excavation within the footprint of the primary dwelling unit or garage, including light wells that do not exceed the minimum required per Building Code, also be exempt. These modifications were incorporated in Section 29.10.630(a)(5) and Table 1-1 of the Draft Ordinance.
- **Single Driveway Limitation.** Comments were received from the public regarding the single driveway requirement. The Urgency Ordinance requires that, "each parcel shall include a single driveway […]." There was concern about the total number of driveways and curb-cuts that could be built on a single parcel. Based on Planning Commission discussion and direction, Section 29.10.630(a)(2) of the Draft Ordinance was amended to state that each parcel shall include no more than a single driveway and curb-cut unless the parcel has more than 100 feet of contiguous street frontage. The 100-foot rule was derived from the 100-foot minimum frontage requirement in the HR zones and is consistent with what Los Altos Hills uses in their SB 9 Urgency Ordinance.
- **Primary Structure Definition.** During Planning Commission discussion, direction was provided to clarify the "first residential unit" definition in terms of how it relates to "primary dwelling units." Per the definition of "primary dwelling unit" in Town Code Section 29.10.020 (Definitions), "Primary dwelling unit means a single-family or two-family dwelling unit located on a lot with no other dwellings on the lot except for accessory dwelling units, whether attached or detached. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation located on the same parcel as the primary dwelling unit." The definition of "first residential unit" in the Definitions Section (29.10.610) of the Draft Ordinance was modified to replace the term "housing unit" with "primary dwelling unit" for consistency throughout the Draft Ordinance.

DISCUSSION (continued):

D. Additional Topics

- **"Intent to Occupy."** At its last meeting, the Town Council received public comment regarding a SB 9 subdivided lot that may no longer be occupied by the subdivider. SB 9 requires that SB 9 subdividers sign affidavits stating that they, "intend to occupy" one of the subdivided lots for three years. SB 9 prohibits local agencies from altering this requirement. As a result, the Town does not have the ability to impose a stricter requirement. In this instance, the Town obtained an affidavit from the subdivider stating that they "intended to occupy" one of the lots for three years. SB 9's legislative history provides that the remedy for falsely filling out an affidavit is prosecution for perjury. If the Town were to pursue prosecution for perjury, the Town would need to demonstrate that the property owner never intended to occupy the lot for three years. The Town would also need to contact the District Attorney to discuss prosecution or ask the County to delegate prosecutorial authority to the Town.
- **Application of Objective Standards.** At its last meeting, the Town Council received public comment questioning the applicability of the Town's discretionary approvals to parcels that have undergone a SB 9 urban lot split. Property owners have the right to invoke SB 9 and seek application of the Town's objective standards for SB 9 projects. Some property owners have expressed interest in having the ability to undergo the Town's discretionary approval process (Architecture and Site application) for development of a new residence after the parcel has undergone a SB 9 urban lot split. The proposed ordinance states that applicants invoking SB 9 are eligible for application of the Town's objective standards. Staff recommends also allowing applicants the ability to seek discretionary review if desired, instead of using the SB 9 two-unit residential development process.
- **Public Notice.** At its last meeting, the Town Council discussed the topic of public notice for SB 9 projects. SB 9 projects are "ministerial," and therefore there is no discretionary review (unless opted into) for applicants who invoke SB 9. Because there is no opportunity for public comment or changes to SB 9 projects, staff does not recommend sending public notices because doing so implies that changes can be made to the project. This is consistent with the Town's practice for building permits and ADU's. The Town does list pending SB 9 applications as "Pending Planning Projects" on the Town's website.

PUBLIC OUTREACH:

Public input has been requested through the following media and social media resources:

- An eighth-page public notice in the newspaper;
- A poster at the Planning counter at Town Hall and the Los Gatos Library;
- Email to interested parties;
- Community Meeting;
- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;
- The Town's Instagram account; and
- The Town's NextDoor page.

Issues raised by the public are identified in the Discussion section of this report.

PUBLIC COMMENT:

Attachment 6 includes additional public comment received between 11:01 a.m., Wednesday, September 23, 2022, and 11:00 a.m., Thursday, October 27, 2022.

CONCLUSION:

Staff recommends that the Town Council introduce an Ordinance of the Town of Los Gatos, by title only, effecting the amendments to Chapter 29 of the Town Code (Attachment 2) to regulate SB 9 urban lot splits and two-unit housing developments, by title only, with any specific changes identified and agreed upon by the majority of the Town Council and make the findings set forth in Attachment 1.

ALTERNATIVES:

Alternatively, the Council may:

1. Continue this item to a date certain with specific direction to staff;
2. Refer the item back to the Planning Commission with specific direction; or
3. Take no action, allowing the Urgency Ordinance to expire without adopting permanent regulations in Town Code.

ENVIRONMENTAL ASSESSMENT:
In accordance with Government Code Section 66411.7(n) and 66452.21(g), SB 9 ordinances are not a project subject to CEQA.

Attachments:

1. Required Findings
2. Draft Ordinance
3. September 28, 2022 Planning Commission Staff Report with Exhibits 1-7
4. September 28, 2022 Planning Commission Desk Item Report with Exhibit 8
5. September 28, 2022 Planning Commission Verbatim Minutes
6. Public Comment received between 11:01 a.m., Wednesday, September 23, 2022, and 11:00 a.m., Thursday, October 27, 2022

TOWN COUNCIL – *November 1, 2022*
REQUIRED FINDINGS FOR:

Town Code Amendment Application A-22-002
Consider Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding Permanent Regulations to Comply with the Requirements of Senate Bill 9.

FINDINGS

Required Findings for CEQA:

- In accordance with Government Code Section 66411.7(n) and 66452.21(g), SB 9 ordinances are not a project subject to CEQA.

Required Findings for General Plan:

- The amendments to Chapter 29 of the Town Code are consistent with the General Plan.

ATTACHMENT 1

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 also authorizes local agencies to adopt an ordinance allowing for up to a 24-month additional map extension, for the use of an approved or conditionally approved Tentative Parcel Map; 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~~, thereby undermining community participation and appropriate environmental impact vetting by local decision-making bodies~~; and

ATTACHMENT 2

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~~; and~~.

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. 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.

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 ~~housing~~primary dwelling units developed under a two-unit housing development, and can be an existing ~~housing~~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 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.

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

~~B.~~(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.~~(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.~~(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.~~(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.~~(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.~~(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.~~(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. 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).

~~I.~~(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.~~(a) 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 Section ~~D.~~(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:

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 25 feet measured from the front 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.

~~(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 ~~Section~~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.

c. 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.)~~ 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 ~~the summation of~~ 50 cubic yards, cut plus fill, ~~or require a grading permit~~except:

1. Light wells that do not exceed the minimum required per ~~Town Code Chapter 12, Article II;~~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.		

(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;

(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 ~~buildings~~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 (MWELO);

(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.
	Garage Entry	18 feet
	Interior Sides	4 feet (3)
	Rear	
	Street Side	Per the applicable zoning district.
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.		

{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.~~{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~~{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 ~~firststory~~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. All elevations of the ~~secondstory~~second story of a two-story primary dwelling unit shall be recessed by five feet from the first-_story, as measured wall to wall;

(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.

~~C.~~

(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~~(d) below, "Exceptions:"

(1) ~~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:

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 ~~(five years if an existing unit is to be demolished)~~ 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.~~

(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.) 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 ~~units~~unit(s) comprising the two-unit housing development;

(4.) 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

(5.) Appeals. Two-unit housing application decisions are ministerial and are not subject to an appeal.

Section 29.10.050. Subdivision Standards. Urban lot splits shall comply with the following objective subdivision standards, and general requirements and restrictions:

~~A.~~(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 ~~and not~~or as an easement, and shall be a minimum width of ~~20~~12 feet;

~~2. Lot Lines. The new side lines of all lots shall be at right angles to streets or radial to the centerline of curved streets;~~

~~3.~~(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. ~~The minimum lot area for~~If one of the proposed lots is a flag/corridor lot ~~shall be exclusive~~, the area of the access corridor~~;~~ shall count toward the lot area as follows:

~~4.~~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;

~~5.~~(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;

~~6.~~(5) Number of Lots. The parcel map to subdivide an existing parcel shall result in no more than two parcels; and

~~7.~~(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.

~~B.~~(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;

(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 ~~No.~~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.

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 ~~No.~~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:

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 ~~(five years if an existing unit is to be demolished)~~ 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;

(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 ~~not~~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;

(12.) Utility Providers. The requirements 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.

Section 29.10.060. 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.} 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;

{4.} 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;

{5.} 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

{6.} Appeals. Urban lot split application decisions are ministerial and are not subject to an appeal.".

Section 29.10.070. 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. ~~The Council finds and declares that this Ordinance is not subject to environmental review under the California Environmental Quality Act ("CEQA"). SB 9 (Atkins) states that an ordinance adopted to implement the rules of SB 9 is not considered a project under Public Resources Code Division 13 (commencing with Section 21000) (See Government Code Sections 65858.210 and 66411.7(n)).~~ 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 ~~lest~~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)(1).

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

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 3rd day of May 2022, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

DRAFT

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DRAFT

DATE: September 23, 2022

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Consider Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding Permanent Regulations to Comply with the Requirements of Senate Bill 9. Town Code Amendment Application A-22-002. Location: Townwide. Applicant: Town of Los Gatos.

RECOMMENDATION:

Consider amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding permanent regulations to comply with the requirements of Senate Bill 9 (Exhibit 1) and forward a recommendation to the Town Council.

BACKGROUND:

In September 2021, Governor Newsom signed new State law, Senate Bill 9 (SB 9), which went into effect on January 1, 2022 (Exhibit 2). 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 allows 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).

PREPARED BY: RYAN SAFTY
Associate Planner

Reviewed by: Planning Manager and Community Development Director

BACKGROUND (continued):

In most circumstances, SB 9 will result in the potential creation of four dwelling units on an existing single-family zoned parcel. Single-family zoned parcels are currently permitted three units throughout the State: a primary single-family dwelling, an Accessory Dwelling Unit (ADU), and a Junior ADU (JADU).

SB 9 also outlines how jurisdictions may regulate SB 9 projects. Jurisdictions may only apply objective zoning, subdivision, and design standards to these projects, and these standards may not preclude the construction of up to two units of at least 800 square feet each. Jurisdictions can conduct objective design review, but may not have hearings for units that meet the State rules (with limited exceptions).

On December 21, 2021, Town Council adopted an Urgency Ordinance (Exhibit 3) to implement local objective standards for SB 9 applications. This Urgency Ordinance was valid for a period of 45 days. On February 1, 2022, Town Council adopted an extension of the Urgency Ordinance (Exhibit 4), making it valid to the end of the calendar year. The current Urgency Ordinance 2327 is set to expire on December 31, 2022.

On September 21, 2022, the Town hosted a Community Meeting to discuss developing a permanent SB 9 Ordinance and foster public participation. A summary of topics discussed is available below.

DISCUSSION:

The Draft Ordinance (Exhibit 1) is based on the Urgency Ordinance adopted by Town Council in February 2022, and modified based on: State and Regional Agency direction; clarification of initial standards; and reformatted to integrate it within Chapter 29 of the Town Code (Zoning Regulations).

A. Amendments per State and Regional Agency Direction

The following is a summary of draft amendments in response to State direction and the Association of Bay Area Governments (ABAG) SB 9 model ordinance:

- **Amended Definitions.** The definition of *single-family residential zone* in the Draft Ordinance was amended to include Hillside Residential (HR) zones per the California Department of Housing and Community Development SB 9 Fact Sheet (Exhibit 5).

DISCUSSION (continued):

- **New Definitions.** The following definitions were added to the Draft Ordinance to comply with State law and per the direction of the of the ABAG SB 9 model ordinance (Exhibit 6):
    - Adjacent parcel;
    - Car-share vehicle;
    - Common ownership or control;
    - First residential unit; and
    - Sufficient for separate conveyance.
- **Hillside Standards.** Based on the amended definition (above) to include HR zoned properties, the following additional standards were added to ensure consistency with the Hillside Development Standards and Guidelines (HDS&G). No hillside standards were included in the Urgency Ordinance as the Town was not anticipating SB 9 projects in these zones.
    - Building height: A separate building height limitation of 16 feet has been included for HR zoned properties. The HDS&G allows buildings to be a maximum of 18 feet tall when "visible" from the viewing areas or located along a significant ridgeline. To ensure that this standard is objective, and to avoid confusion with the existing 16-foot height limitation when a non-hillside zoned building footprint is located within the required side or rear setbacks of the applicable zoning district, the Draft Ordinance includes a 16-foot height limit for all HR zoned properties.
    - Driveway width: Consistent with the HDS&G requirements, driveway width must be a minimum of 12 feet. This standard would also help ensure that the Santa Clara County Fire Department can approve of the driveway plans when reviewed at building permit stage.
    - Driveway slope: Consistent with the HDS&G requirements, driveways cannot exceed 15 percent in slope. This standard would also help ensure that the Santa Clara County Fire Department can approve of the driveway plans when reviewed at building permit stage.
    - Cut and fill depths: The maximum cut and fill table from Chapter III of the HDS&G was added for applicable SB 9 site elements to ensure that new construction retains the existing landform of the site and follows the natural contours.
    - Least Restrictive Development Area (LRDA): To ensure construction occurs in the most appropriate areas on a hillside parcel, the 30 percent slope restriction for LRDA was added from Chapter II of the HDS&G.
    - Retaining walls: Consistent with HDS&G requirements, retaining wall restrictions were added to ensure the use of retaining walls are limited and appropriate.

DISCUSSION (continued):

  - Light Reflectivity Value (LRV): Consistent with the HDS&G requirements, the LRV of materials used on HR zoned parcels would be limited to 30 to ensure the building colors blend with the natural vegetation of the hillsides.
  - Finished floor height: The maximum height that a finished floor can project above grade has been increased from 18-inches to three feet in all zones for better consistency with Chapter V of the HDS&G.

- **Exclusion Areas.** Prime Farmland and Wetlands are included as an area that is excluded from the SB 9 Ordinance per the ABAG SB 9 model ordinance.
- **Utility Connections.** Utility connection requirements were added per the ABAG SB 9 model ordinance.
- **Replacement Housing.** A reference to the replacement housing provisions of Government Code Section 66300(d) was added, per the ABAG SB 9 model ordinance, to ensure that existing housing units proposed to be demolished as a part of an SB 9 application will be replaced.
- **ADUs**. The existing Urgency Ordinance states that new ADUs are not allowed on parcels that have used either SB 9 application type. Based on State direction, ADUs must be allowed on parcels that have not undergone an urban lot split. The ADU references were amended to update this section.
- **Owner Attestation**. Per the direction of the of the ABAG SB 9 model ordinance, the owner attestation and recorded covenant requirements have been updated.

B. Draft Amendments to Clarify Existing Standards

The following is a summary of amendments recommended by staff to help clarify existing standards. These amendments are included in the Draft Ordinance. The majority of these changes are a result of questions asked by members of the public on the existing Urgency Ordinance.

- **Legal Parcel.** The legal parcel requirement was amended to specify that applications for any SB 9 application type will only be accepted on proposed parcels with either a recorded parcel map or certificate of compliance. Applicants would no longer be able to submit both a two-unit housing development and urban lot split application concurrently, as the two-unit housing development cannot be approved until the urban lot split is approved and the map is recorded.

DISCUSSION (continued):

- **Floor Area Ratio (FAR)**. The existing Urgency Ordinance does not specify a cap on the use of the 10 percent FAR increase and is not clear as to how the 10 percent FAR increases are allowed for both two-unit housing developments and ADUs. Clarification was added to specify that the maximum additional floor area allowed from the 10 percent increase must be used for the first dwelling unit, and is therefore no more than 1,200 square feet. This language is consistent with the use of an FAR bonus for ADUs in current Town Code, and also states that the FAR increase cannot be combined with the increase for an ADU in Town Code Section 29.10.320.
- **Trees**. Reference to Town Code Chapter 29, Article 1, Division 2 (Tree Protection) was added to ensure that any proposed work complies with the Town's existing protection, removal, and replacement requirements.
- **Windows**. The existing Urgency Ordinance states that all second-story windows less than eight feet from rear and interior side property lines shall be clerestory, and that all other second-story windows shall be limited to the minimum size and number required for egress. This effectively restricted all second-story windows to be no more than the minimum needed for egress. The revision increases the distance requirement from eight feet to 10 feet, and removes the "all other" statement so that all second-stories within 10 feet from the side property line can have clerestory windows and larger windows as needed for egress. The intent of this regulation is to reduce potential privacy impacts from new second story windows, while increasing flexibility when those windows have at least a 10-foot setback from the property line.
- **Number of Units**. A sentence was added to both the two-unit housing development and urban lot split sections of the Draft Ordinance to specify the maximum number of units allowed to be built under these regulations as required by State law. Up to four units (including two primary dwelling units, an ADU, and a JADU) can be built on parcels that have not undergone an urban lot split; and two units (regardless of the unit type) can be built on each of the parcels that result from an urban lot split.
- **Intent to Occupy**. Clarification to the Intent to Occupy requirement for urban lot splits has been added to specify when the three-year occupancy requirement begins, depending on whether an existing residence is retained.
- **Lot Merger**. A sentence was added to clarify that when an owner or applicant splits their parcel and builds additional units with the allowed 10 percent FAR increase, they will then be prohibited from merging the parcels back into a single parcel unless existing Town Code requirements can be met and no new non-conformities are created.

DISCUSSION (continued):

C. Potential Changes from Public Comment

In the public comment and feedback received by staff since the approval of the Urgency Ordinance (Exhibit 7), there were seven comments that were repeated by several members of the public, which are discussed below:

- **Applicable Zones**. Comments received requested that HR zones be included in the permanent SB 9 Ordinance. As detailed above, per State direction, the Draft Ordinance has been updated to include HR zones in the *single-family residential zone* definition. In addition to inclusion of the HR zone, the Planning Commission could consider allowing SB 9 permits within other zoning designations, possibilities could include multi-family zones or in any zone where the existing use is a single-family use.
- **Grading Limitation**. Comments were received related to the grading limitation. Both the existing Urgency Ordinance and drafted updates for the Draft Ordinance include the grading restriction: grading activity shall not exceed the summation of 50 cubic yards, cut plus fill, or require a Grading Permit per Town Code Chapter 12, Article II. The reason for this limitation is for consistency with the Town Code where grading in excess of 50 cubic yards that is not used for building excavation requires a Grading Permit, and Grading Permits require an Architecture and Site application, which is a discretionary permit with a public hearing. As SB 9 requires ministerial review and approval of qualifying applications, the grading restriction was included to ensure SB 9 projects are processed ministerially. Per the Urgency Ordinance and Draft Ordinance, if over 50 cubic yards of grading is needed to develop the site, excluding building excavation, the applicant would need approval of a separate, discretionary Grading Permit. The majority of comments received regarding the grading limitation requested that the excavation exception be expanded to include any grading necessary for driveway and Fire access and turnarounds. Additional clarification could be added to state that lightwells that do not exceed the size required by building code would also be considered excavation to ensure this requirement is implemented objectively.
- **Fire Review**. Comments were received requesting that Santa Clara County Fire Department be included in the review SB 9 ministerial applications. This would not need to be included in this Ordinance, but could be recommended as part of implementation of the project review process.
- **Windows**. Comments were received regarding the second-story window design standards, requesting that the clerestory and egress minimums be removed for two-story SB 9 units that meet the underlining zoning setbacks. The standards were originally included to minimize privacy impacts as State law limits setbacks to four feet on internal side and rear property lines. As stated above, the Draft Ordinance amends the window standards to decrease restrictions so that all second stories within 10 feet from the side and rear property lines can have clerestory windows and larger windows as needed for egress.

DISCUSSION (continued):

- **Second-Story Step-Back**. Similar to the comment above, comments were received regarding the second-story step-back requirement, requesting that this be removed for two-story SB 9 units that meet the underlining zoning setbacks. This standard provides both a reduction in potential privacy impacts, as well as preventing construction of walls that extend the full height of the new two-story residence. Modification of this standard or replacement with alternative objective standards could be included in Planning Commission's recommendation to Town Council.
- **Size Limit**. Comments have been received in opposition to the 1,200-square foot size limitation for the first new SB 9 unit. The original Urgency Ordinance included the 1,200-square foot size limitation for any SB 9 unit. When the Urgency Ordinance was extended, the Town Council modified this section to only apply to the first new unit. The 1,200-square foot size limitation is consistent with the maximum sizes of ADUs, and the second unit is allowed to use the remainder of the floor area allocated based on the lot's FAR.
- **Frontage Requirement**. Comments were received regarding the minimum width required for the access corridor of a flag/corridor lot, as well as the method of recordation of this access area. The Urgency Ordinance and Draft Ordinance require a minimum of 20 feet for the access corridor width, which matches the minimum lot width requirement. This standard is consistent with the minimum width required for the "corridor" of corridor lots per Town Code Section 29.10.085. The comments also raise concerns with the requirement that the access corridor be "in fee" as a part of the parcel and not as an easement; specifically, the feedback urges that the access corridor should count towards the proposed lot sizes. The original Urgency Ordinance and Draft Ordinance both state under the Minimum Lot Size requirement that the minimum lot area for a flag/corridor lot shall be exclusive of the access corridor. This standard is also consistent with Town Code Section 29.10.085, which states that the area of the corridor may not be applied toward satisfying the minimum lot area requirement. The Planning Commission could choose to modify these requirements in their recommendation to Town Council.

D. Public Outreach

Public input has been requested through the following media and social media resources:

- A poster at the Planning counter at Town Hall and the Town Library;
- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;
- The Town's Instagram account; and
- The Town's Next Door page.

DISCUSSION (continued):

In addition to the outreach listed above, the Town held a Community Meeting on September 21, 2022 to foster public participation. Comments received during the meeting included: concerns regarding the grading limitation; the frontage requirement of corridor/flag lots; the 16-foot height limitation for HR zones; the 30 percent slope restriction for building footprints in the HR zones; the three-foot finished floor height limitation; and the right-angle requirement for new side property lines in the HR zones. Additionally, Town staff received questions regarding: what applicable zones are allowed to use SB 9; how the 40/60 lot split requirement is applied; what the minimum and maximum unit sizes are; whether SB 9 applications are ministerial or discretionary; why the Town was adopting a SB 9 Ordinance; and how many units could be built on residentially zoned parcels prior to SB 9.

PUBLIC COMMENTS:

Multiple public comments (Exhibit 7) have been received since Urgency Ordinance 2327 was adopted at the beginning of 2022. These comments were discussed in the previous section.

ENVIRONMENTAL REVIEW:

This Ordinance is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to SB 9.

CONCLUSION:

A. Recommendation

Staff recommends that the Planning Commission receive and consider public comments, review the information included in the staff report, provide input on any additional recommended modifications to the Draft Ordinance (Exhibit 1), and forward a recommendation to the Town Council for approval of the amendments to Chapter 29 of the Town Code in the Draft Ordinance.

B. Alternatives

Alternatively, the Commission can continue the matter to a date certain with specific direction.

EXHIBITS:

1. Draft Permanent SB 9 Ordinance
2. SB 9 Legislation
3. SB 9 Urgency Ordinance 2326
4. SB 9 Urgency Ordinance Extension 2327
5. California Department of Housing and Community Development SB 9 Fact Sheet
6. Association of Bay Area Governments SB 9 Model Ordinance
7. Public Comment received prior to 11:00 a.m., Friday, September 23, 2022

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DRAFT ORDINANCE XXXX

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 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 also authorizes local agencies to adopt an ordinance allowing for up to a 24-month additional map extension, for the use of an approved or conditionally approved Tentative Parcel Map; 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, thereby undermining community participation and appropriate environmental impact vetting by local decision making bodies; 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 _____, 2022; and

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. 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.

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 housing units developed under a two-unit housing development, and can be an existing housing unit if it meets or is modified to meet the 1,200-square foot floor area limitation on first residential units.

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.

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. 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).

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 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 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 a single driveway, and any new driveway shall satisfy the following requirements:

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 25 feet measured from the front 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 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.

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 Section 29.40.030 of the Zoning Code;

5. Floor Area Ratio and Lot Coverage. The maximum floor area ratio and lot coverage shall be as specified by the applicable zoning regulations. The maximum size of the first new residential unit shall not exceed 1,200 square feet. 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. 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. Grading. Grading activity shall not exceed the summation of 50 cubic yards, cut plus fill, or require a grading permit per Town Code Chapter 12, Article II;

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.		

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;

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 buildings 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 (MWELO);

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. 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. 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.
	Garage Entry	18 feet
	Interior Sides	4 feet (3)
	Rear	
	Street Side	Per the applicable zoning district.
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.

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 firststory 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. All elevations of the secondstory of a two-story primary dwelling unit shall be recessed by five feet from the first-story, as measured wall to wall;

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.

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:

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 (five years if an existing unit is to be demolished) 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.

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. 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 units comprising the two-unit housing development;

4. 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

5. Appeals. Two-unit housing application decisions are ministerial and are not subject to an appeal.

Section 29.10.050. 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 in fee as part of the parcel and not as an easement and shall be a minimum width of 20 feet;

2. Lot Lines. The new side lines of all lots shall be at right angles to streets or radial to the centerline of curved streets;

3. 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. The minimum lot area for a flag/corridor lot shall be exclusive of the access corridor;

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

5. Minimum Public Frontage. Each new parcel shall have frontage upon a street with a minimum frontage dimension of 20 feet;

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

7. 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.

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;

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 No. 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.

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 No. 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:

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 (five years if an existing unit is to be demolished) 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;

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 not 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;

12. Utility Providers. The requirements 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.

Section 29.10.060. 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. 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;

4. 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;

5. 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

6. Appeals. Urban lot split application decisions are ministerial and are not subject to an appeal."

Section 29.10.070. 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. The Council finds and declares that this Ordinance is not subject to environmental review under the California Environmental Quality Act ("CEQA"). SB 9 (Atkins) states that an ordinance adopted to implement the rules of SB 9 is not considered a project under Public Resources Code Division 13 (commencing with Section 21000) (See Government Code Sections 65858.210 and 66411.7(n)).

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 lest 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)(1).

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

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

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STATE OF CALIFORNIA
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

Senate Bill No. 9

CHAPTER 162

An act to amend Section 66452.6 of, and to add Sections 65852.21 and 66411.7 to, the Government Code, relating to land use.

[Approved by Governor September 16, 2021. Filed with Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 9, Atkins. Housing development: approvals.

The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions.

This bill, among other things, would require 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, but not limited to, that the proposed housing development would not require demolition or alteration of 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, that the proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls, except as provided, and that the development is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving the construction of 2 residential units, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of up to 2 units or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances.

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. Under the Subdivision Map Act, an approved or conditionally approved tentative map expires 24

EXHIBIT 2

months after its approval or conditional approval or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months, except as provided.

This bill, among other things, would require a local agency to ministerially approve a parcel map for an urban lot split that meets certain requirements, including, but not limited to, that the urban lot split would not require the demolition or alteration of 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, that the parcel is located within a single-family residential zone, and that the parcel is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving an urban lot split, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of 2 units, as defined, on either of the resulting parcels or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances. The bill would require an applicant to sign an affidavit stating that they intend to occupy one of the housing units as their principal residence for a minimum of 3 years from the date of the approval of the urban lot split, unless the applicant is a community land trust or a qualified nonprofit corporation, as specified. The bill would prohibit a local agency from imposing any additional owner occupancy standards on applicants. By requiring applicants to sign affidavits, thereby expanding the crime of perjury, the bill would impose a state-mandated local program.

The bill would also extend the limit on the additional period that may be provided by ordinance, as described above, from 12 months to 24 months and would make other conforming or nonsubstantive changes.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

This bill, by establishing the ministerial review processes described above, would thereby exempt the approval of projects subject to those processes from CEQA.

The California Coastal Act of 1976 provides for the planning and regulation of development, under a coastal development permit process, within the coastal zone, as defined, that shall be based on various coastal resources planning and management policies set forth in the act.

This bill would exempt a local agency from being required to hold public hearings for coastal development permit applications for housing developments and urban lot splits pursuant to the above provisions.

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

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

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 specified reasons.

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

SECTION 1. Section 65852.21 is added to the Government Code, 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.

(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 proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets at least one of the following conditions:

(A) If a local ordinance so allows.

(B) The site has not been occupied by a tenant in the last three years.

(6) 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 paragraph (2), 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.

(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) Off-street 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 or the physical environment and 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 Section 65852.2 or 65852.22, 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) 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.

(i) 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.

(j) 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.

(k) 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 is added to the Government Code, 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.

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

(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 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 or the physical environment and 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) Off-street 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 65852.2, 65852.21, 65852.22, 65915, 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 Section 65852.2, or a junior accessory dwelling unit as defined in Section 65852.22.

(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 66452.6 of the Government Code is amended to read:

66452.6. (a) (1) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 24 months. However, if the subdivider is required to expend two hundred thirty-six thousand seven hundred ninety dollars ($236,790) or more to construct, improve, or finance the construction or improvement of public improvements outside the property boundaries of the tentative map, excluding improvements of public rights-of-way that abut the boundary of the property to be subdivided and that are reasonably related to the development of that property, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 48 months from the date of its expiration, as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps that may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

(2) Commencing January 1, 2012, and each calendar year thereafter, the amount of two hundred thirty-six thousand seven hundred ninety dollars ($236,790) shall be annually increased by operation of law according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting. The effective date of each annual adjustment shall be March 1. The adjusted amount shall apply to tentative and vesting tentative maps whose applications were received after the effective date of the adjustment.

(3) "Public improvements," as used in this subdivision, include traffic controls, streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.

(b) (1) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) The length of time specified in paragraph (1) shall be extended for up to three years, but in no event beyond January 1, 1992, during the pendency of any lawsuit in which the subdivider asserts, and the local agency that approved or conditionally approved the tentative map denies, the existence or application of a development moratorium to the tentative map.

(3) Once a development moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(e) Upon application of the subdivider filed before the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of six years. The period of extension specified in this subdivision shall be in addition to the period of time provided by subdivision (a). Before the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium includes a water or sewer moratorium, or a water and sewer moratorium, as well as other actions of public agencies that regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium shall also be deemed to exist for purposes of this section for any period of time during which a condition imposed by the city or county could not be satisfied because of either of the following:

(1) The condition was one that, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action before expiration of the tentative map.

(2) The condition necessitates acquisition of real property or any interest in real property from a public agency, other than the city or county that approved or conditionally approved the tentative map, and that other public agency fails or refuses to convey the property interest necessary to satisfy the condition. However, nothing in this subdivision shall be construed to require any public agency to convey any interest in real property owned by it. A development moratorium specified in this paragraph shall be deemed to have been imposed either on the date of approval or conditional approval of the tentative map, if evidence was included in the public record that the public agency that owns or controls the real property or any interest therein may refuse to convey that property or interest, or on the date that the public agency that owns or controls the real property or any interest therein receives an offer by the subdivider to purchase that property or interest for fair market value, whichever is later. A development moratorium specified in this paragraph shall extend the tentative map up to the maximum period as set forth in subdivision (b), but not later than January 1, 1992, so long as the public agency that owns or controls the real property or any interest therein fails or refuses to convey the necessary property interest, regardless of the reason for the failure or refusal, except that the development moratorium shall be deemed to terminate 60 days after the public agency has officially made, and communicated to the subdivider, a written offer or commitment binding on the agency to convey the necessary property interest for a fair market value, paid in a reasonable time and manner.

SEC. 4. The Legislature finds and declares that ensuring access to affordable 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. 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 or

because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

O

ORDINANCE 2326

AN URGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS IMPLEMENTING SENATE BILL 9 TO ALLOW FOR TWO-UNIT HOUSING DEVELOPMENTS AND URBAN LOT SPILTS IN ALL SINGLE-FAMILY RESIDENTIAL ZONES

WHEREAS, on September 16, 2021, the Governor of the State California signed into law Senate Bill 9 (Atkins), "An act to amend Section 66452.6 of, and to add Sections 65852.21 and 66411.7 to, the California Government Code, relating to land use," which requires ministerial approval of a housing development of no more than two units in a single-family zone (two-unit housing development), the subdivision of a parcel zoned for residential use into two parcels (urban lot split), or both; and

WHEREAS, certain zoning and subdivision standards of the Town of Los Gatos Municipal Code and their permitting procedures are inconsistent with the two-unit housing developments and urban lot splits authorized by Senate Bill 9 (SB 9); and

WHEREAS, the provisions of SB 9 shall be in effect on January 1, 2022, and without locally codified objective design standards and implementation procedures, the law presents a current and immediate threat to the public peace, health, safety, and welfare, in that certain existing zoning and subdivision standards are in conflict with SB 9 and could create confusion and hinder the development of the additional residential units enabled under SB 9; and

WHEREAS, pursuant to Section 65858 of the Government Code and Section 29.20.545 of the Town of Los Gatos Municipal Code, the Town Council may take appropriate action to adopt urgency measures as an Urgency Ordinance; and

WHEREAS, pursuant to Section 65852.21(j) and Section 66411.7(n) of the Government Code, a local agency may adopt an Ordinance to implement SB 9; and

WHEREAS, this Urgency Ordinance adopts interim urgency objective zoning standards, objective subdivision standards, and objective residential design standards to allow for orderly housing development and subdivision of land as authorized by SB 9 while protecting the public peace, health, safety, or welfare in the Town of Los Gatos; and

WHEREAS, it is not the intent of this Urgency Ordinance to adopt permanent standards to govern the development of single-family zoned properties. The Town Council reserves the right to adopt permanent standards consistent with SB 9 that will supersede those contained in this Urgency Ordinance; and

WHEREAS, in light of the foregoing findings, the Town Council further finds that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, building permits, or any other applicable entitlement for use which is in conflict with this Ordinance would result in that threat to public health, safety, or welfare; and

WHEREAS, adoption of this Urgency Ordinance is not a project under the California Environmental Quality Act (CEQA) pursuant to California Government Code Section 65852.21(j) and Section 66411.7(n) relating to implementation of SB 9.

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

SECTION I

The Town Council finds and declares that this Urgency Ordinance establishes interim exceptions to 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. The provisions of this Urgency Ordinance shall supersede any other provision to the contrary in the Zoning Code or Subdivision Code. Zoning standards and design review standards provided for in the Zoning Code that are not affected by this Urgency Ordinance shall remain in effect. It is not the intent of this Urgency Ordinance to override any lawful use restrictions as may be set forth in Conditions, Covenants, and Restrictions (CC&Rs) of a common interest development.

SECTION II

The Town Council finds and determines that this Urgency 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 Urgency Ordinance.

SECTION III

In addition to the terms defined by Chapter 24 (Subdivision Regulations) and Chapter 29 (Zoning Regulations), the following terms shall have the following meanings as used in this Urgency Ordinance. Where a conflict may exist, this Section shall prevail over any definition provided in the Zoning Code:

Acting in concert means persons, as defined by Section 82047 of the Government Code as that section existed on the date of the adoption of this Urgency Ordinance, 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;

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;

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;

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 Section 65852.21 of the California Government Code. A two-unit housing development shall consist of either the construction of 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 Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code;

Single-family residential zone means a "R-1 OR SINGLE-FAMILY RESIDENTIAL ZONE" and "R-1D OR SINGLE-FAMILY RESIDENTIAL DOWNTOWN ZONE" Zoning districts as specified by Article IV (RESIDENTIAL ZONES) of the Zoning Code;

Subdivision code means Title 24 of the Los Gatos Municipal Code;

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 Section 66411.7 of the Government Code; and

Zoning code means Title 29 of the Los Gatos Municipal Code.

SECTION IV

The Council finds and declares that 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 Subdivision Regulations, as applicable at the time the parcel was created. The Town Engineer may require a certificate of compliance to verify conformance with this requirement;

C. Excluding Historic Property. A parcel that does not contain a Historic Structure, as defined Town Code Section 29.10.020, or is 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 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 Section 4202 of the Public Resources Code, or if the site has been excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or has 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 Section 25356 of the Health and Safety Code, 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 Division 13 of the Health and Safety Code), 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 primary dwelling unit(s) 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. 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).

SECTION V

The Council finds and declares that two-unit housing developments shall 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 may be provided in the Zoning Code, as they pertain to a two-unit housing development under Section 65852.21 of the Government Code. Two-unit housing developments shall be constructed only in accordance with the following objective zoning standards, except as provided by Section E (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 shall not exceed 16 feet in height.

2. Driveways. Each parcel shall include a single driveway satisfying the following requirements:

a. A minimum width of 10 feet up to a maximum width of 18 feet;

b. A minimum depth of 25 feet measured from the front property line;

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

d. Only a single driveway curb-cut shall be permitted per parcel designed in accordance with the Town's Standard Specifications and Plans for Parks and Public Works Construction.

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 of another dwelling unit within the same structure;

4. Fencing. All new fencing shall comply with the requirements of Section 29.40.030 of the Zoning Code;

5. Floor Area Ratio and Lot Coverage. The maximum floor area ratio and lot coverage shall be as specified by the applicable zoning regulations, but no new residential unit shall have a floor area greater than 1,200 square feet;

6. Grading. Grading activity shall not exceed the summation of 50 cubic yards, cut plus fill, or require a grading permit per Town Code Chapter 12, Article II;

7. Landscaping Requirement. All landscaping shall comply with the California Model Water Efficient Landscape Ordinance (MWELO);

8. Lighting. New exterior lighting fixtures shall be down-shielded and oriented away from adjacent properties consistent with Section 29.10.09015 of the Zoning Code;

9. 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;

10. Parking. 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 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.

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;

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

Table 1-1 – Setback Requirements		
Setback		Requirement (2)
Property Line Setbacks (1)	Front	Per the applicable zoning district.
	Garage Entry	18 feet
	Interior Sides	4 feet (3)
	Rear	
	Street Side	Per the applicable zoning district.
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, provided that the structures meet building code safety standards and are sufficient to allow conveyance as a separate fee parcel. (4) Except for primary dwellings constructed as a duplex or attached single-family residences constructed as units.		

15. Stormwater Management. The development shall comply with the requirements of the Town's National Pollution Discharge Elimination System (NPDES) Permit as implemented by Chapter 22 of the Los Gatos Municipal Code, and as demonstrated by a grading and drainage

plan prepared by a registered civil engineer.

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 an existing primary dwelling units as part of a two-unit housing development, except as provided by Section E (Exceptions):

1. Balconies/Decks. Rooftop and second floor terraces and decks are prohibited. Balconies shall only be permitted on the front elevation of a primary dwelling unit fronting a public street. Such balconies shall be without any projections beyond the building.

2. Finished Floor. The finished floor of the first-story shall not exceed 18 inches 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 6 feet and a minimum width equal to 25 percent of the linear width of the front elevation. Porch columns shall not overhang the porch floor;

5. Step-back. All 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;

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 10 feet as measured from finished floor; and

8. Windows. All second-story windows less than eight 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. All other second-story windows shall be limited to the minimum number and minimum size as necessary for egress purposes as required by the Building Code.

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, as applicable:

1. Accessory Dwelling Units. New accessory dwelling units are not allowed on parcels that either include a two-unit housing development or that are created by an urban lot split;

2. Building and Fire Codes. The International Building Code (Building Code), and the 2019 California Fire Code and 2018 International Fire Code (together, Fire Code), as adopted by Chapter 6 of the Los Gatos Municipal Code, respectively, apply to all two-unit housing developments;

3. Encroachment Permits. Separate encroachment permits, issued by the Parks and Public Works Department, shall be required for the installation of utilities to serve a 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;

4. Restrictions on Demolition. The two-unit housing development shall 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. This shall be evidenced by claiming of the Homeowners' Exemption on the Santa Clara County assessment

roll;

5. Short-Term Rentals. Leases for durations of less than 30 days, including short term rentals are prohibited. The Community Development Director shall require recordation of a deed restriction documenting this requirement prior to issuance of a building permit; and

6. Subdivision and Sales. Except for the allowance for an urban lot split provided in Section VI (Urban Lot Splits), no subdivision of land or air rights shall be allowed in association with a two-unit housing development, including creation of a stock cooperative or similar common interest ownership arrangement. In no instance shall a single primary dwelling unit be sold or otherwise conveyed separate from the other primary dwelling unit.

D. Approval Process

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

4. 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 Section 65589.5 of the Government Code, 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

5. Appeals. Two-unit housing applications are ministerial and are not subject to an appeal.

E. 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) landscaping requirement, front-yard setback, or street-side setbacks standards.

SECTION VI

The Council finds and declares that urban lot splits shall comply with the following 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, Subdivision Code, as they pertain to creation of an urban lot split under Section 66411.7 of the Government Code:

1. Flag/Corridor Lots. The access corridor of a flag/corridor lot (Town Code Section 29.10.085) parcel shall be in fee as part of the parcel and not as an easement and shall be a minimum width of 20 feet;

2. Lot Lines. The side lines of all lots shall be at right angles to streets or radial to the centerline of curved streets;

3. 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. The minimum lot area for a flag/corridor lot shall be exclusive of the access corridor;

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

5. Minimum Public Frontage. Each new parcel shall have frontage upon a street with a minimum frontage dimension of 20 feet; and

6. Number of Lots. The parcel map to subdivide an existing parcel shall create no more than two new parcels.

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 section;

2. Dedication and Easements. The Town Engineer shall not require dedications of rights-of-way nor the construction of offsite improvements, however, may require recording of easements necessary for the provision of future public services, facilities, and future public improvements;

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 1-1 (Setback Requirements, Exception No. 3). All other existing structures shall be modified, demolished, or relocated prior to recordation of a parcel map;

4. Grading. Grading activity shall not result in the summation of 50 cubic yards, cut plus fill, of grading or require a grading permit per Town Code Chapter 12, Article II;

5. 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 newly created parcels as their principal residence for a minimum of three years from the date of the approval of the urban lot split or certificate of occupancy, whichever is later.

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;

6. 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 1-1 (Setback Requirements, Exception No. 2);

7. Number of Remaining Units. No parcel created through an urban lot split shall be allowed to include more than two existing dwelling units as defined by Government Code section 66411.7(j)(2). Any excess dwelling units that do not meet these requirements shall be relocated, demolished, or otherwise removed prior to approval of a parcel map;

8. Prior Subdivision. A parcel created through a prior urban lot split may not be further subdivided under the provisions of this Urgency Ordinance. The subdivider shall submit a signed covenant to the Community Development Director documenting this restriction. The convent shall be recorded on the title of each parcel concurrent with recordation of the parcel map;

9. Restrictions on Demolition. The proposed urban lot split shall not require the 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;

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

11. Utility Providers. The requirements of the parcel's utility providers shall be satisfied prior to recordation of a parcel map.

12. Maximum Floor Area. The maximum floor area for any new residential unit shall be 1,200 square feet;

C. Approval Process

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. 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 Lost Split Parcel Map and pay all fees;

4. Development. Development on the resulting parcels is limited to the project approved by the two-unit housing development process.

5. 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

6. Appeals. Urban lot split applications are ministerial and are not subject to an appeal.

SECTION VII

The Council finds and declares that any provision of this Urgency Ordinance 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 Urgency Ordinance shall supersede and take precedence over any inconsistent provision of the Los Gatos Municipal Code to that extent necessary to effect the provisions of this Urgency Ordinance for the duration of its effectiveness.

SECTION VIII

The Council finds and declares that if SB 9 is repealed or otherwise rescinded by the California State Legislature or by the People of the State of California, this Urgency Ordinance shall cease to be in effect.

SECTION IX

If any section, subsection, sentence, clause, phrase, or portion of this Urgency 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 Urgency Ordinance. The Council of the Town of Los Gatos hereby declares that it would have adopted the remainder of this Urgency 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 X

The Council hereby declares that the foregoing is an Urgency Ordinance necessary for the immediate preservation of the public peace, health, and safety of the Town of Los Gatos and its residents and shall take effect on January 1, 2022, upon passage by a four-fifths majority of the Town Council.

This Urgency Ordinance was passed an adopted at a regular meeting of the Town Council of the Town of Los Gatos on December 21, 2021.

COUNCIL MEMBERS:

AYES: Matthew Hudes, Maria Ristow, Marico Sayoc, Mayor Rob Rennie

NAYS: None

ABSENT: Mary Badame

ABSTAIN: None

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA
DATE: 12/23/21

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA
DATE: 1/3/2022

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ORDINANCE 2327

AN INTERIM URGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS EXTENDING FOR A PERIOD OF TEN MONTHS AND FIFTEEN DAYS IMPLEMENTING SENATE BILL 9 TO ALLOW FOR TWO-UNIT HOUSING DEVELOPMENTS AND URBAN LOT SPILTS 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 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 also offers several opportunities to extend the time, up to 10 years, for the use of an approved or conditionally approved Tentative Parcel Map; 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, thereby undermining community participation and appropriate environmental impact vetting by local decision making bodies; and

WHEREAS, SB 9 allows the Town to adopt objective design, development, 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, there is a current and immediate threat to the public health, safety, or welfare based on the passage of SB 9 because if the Town does not adopt appropriate objective standards for two-unit housing developments and urban lot splits under SB 9, the Town would thereafter be limited to applying only the objective standards that are already in its code, which did not anticipate and were not enacted with ministerial two-unit housing developments and urban lot splits in mind; and

WHEREAS, the approval of two-unit housing developments and urban lot splits based solely on the Town's default standards, without appropriate regulations governing lot configuration, unit size, height, setback, landscape, architectural form, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety. These threats to public safety, health, and welfare justify adoption of this Ordinance as an Urgency Ordinance in accordance with Government Code Sections 36934, 36937, and 65858 and to be effective immediately upon adoption by a four-fifths vote of the Town Council; and

WHEREAS, to protect the public safety, health, and welfare, the Town Council may adopt this ordinance as an urgency measure in accordance with Government Code Sections 36934, 36937, and 65858 in order to regulate any uses that may be in conflict with a contemplated General Plan or zoning proposal that the Town intends to study within a reasonable time; and

WHEREAS, on December 21, 2021, in accordance with Government Code Sections 36934, 36937, and 65858, the Town Council at a duly noticed public meeting took testimony and adopted Urgency Ordinance 2326, (a copy of which is attached hereto as Exhibit "A" and incorporated herein) an Urgency Ordinance implementing SB 9, for a period of 45 days; and

WHEREAS, Urgency Ordinance 2326 was necessary to address the danger to public health, safety, and general welfare articulated by the State related to the housing crisis and immediately provide the provisions to implement SB 9 related development in a manner that protects the Town's interest in orderly planning and aesthetics; and

WHEREAS, on February 1, 2022, in accordance with Government Code Section 36934 and 36937 and 65858, the Town Council held a duly noticed public hearing and took testimony regarding this urgency ordinance to extend Urgency Ordinance 2326 ("Extension Ordinance"); and

WHEREAS, the Town Council has considered, and by adopting this Extension Ordinance ratifies and adopts, the report, which is incorporated in the Staff Report dated February 1, 2022, describing the continued need for regulations to implement SB 9 which led to the adoption of Ordinance 2326; and

WHEREAS, because the conditions justifying the adoption of Urgency Ordinance 2326 have not been alleviated, and the Town Council desires to extend the regulations established by Urgency Ordinance 2326 for an additional ten (10) months and fifteen (15) days, as permitted by Government Code Sections 36934, 36937, and 65858, to allow for the development of regulations for incorporation into the Town Code.

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

SECTION I

The Town Council finds and declares that this Urgency Ordinance establishes interim exceptions to 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. The provisions of this Urgency Ordinance shall supersede any other provision to the contrary in the Zoning Code or Subdivision Code. Zoning standards and design review standards provided for in the Zoning Code that are not affected by this Urgency Ordinance shall remain in effect. It is not the intent of this Urgency Ordinance to override any lawful use restrictions as may be set forth in Conditions, Covenants, and Restrictions (CC&Rs) of a common interest development.

SECTION II

The Town Council finds and determines that this Urgency 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 Urgency Ordinance.

SECTION III

In addition to the terms defined by Chapter 24 (Subdivision Regulations) and Chapter 29 (Zoning Regulations), the following terms shall have the following meanings as used in this Urgency Ordinance. Where a conflict may exist, this Section shall prevail over any definition provided in the Zoning Code:

Acting in concert means persons, as defined by Government Code Section 82047, as that section existed on the date of the adoption of this Urgency Ordinance, 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;

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;

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;

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" and "R-1D OR SINGLE-FAMILY RESIDENTIAL DOWNTOWN ZONE" Zoning districts as specified by Article IV (RESIDENTIAL ZONES) of the Zoning Code;

Subdivision code means Title 24 of the Los Gatos Municipal Code;

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; and

Zoning code means Title 29 of the Los Gatos Municipal Code.

SECTION IV

The Council finds and declares that 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 Subdivision Regulations, as applicable at the time the parcel was created. The Town Engineer may require a certificate of compliance to verify conformance with this requirement;

C. Excluding Historic Property. A parcel that does not contain a Historic Structure, as defined Town Code Section 29.10.020, or is 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, or if the site has been excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Government Code Section 51179, or has 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 primary dwelling unit(s) 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. 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).

SECTION V

The Council finds and declares that two-unit housing developments shall 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 may be provided 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 E (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 shall not exceed 16 feet in height.

2. Driveways. Each parcel shall include a single driveway satisfying the following requirements:

a. A minimum width of 10 feet up to a maximum width of 18 feet;

b. A minimum depth of 25 feet measured from the front property line;

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

d. Only a single driveway curb-cut shall be permitted per parcel designed in accordance with the Town's Standard Specifications and Plans for Parks and Public Works Construction.

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 Section 29.40.030 of the Zoning Code;

5. Floor Area Ratio and Lot Coverage. The maximum floor area ratio and lot coverage shall be as specified by the applicable zoning regulations. When a two-unit housing development is proposed, a ten (10) percent increase in the floor area ratio standards for residential structures is allowed, excluding garages, except that the first residential unit shall not have a floor area greater than 1,200 square feet;

6. Grading. Grading activity shall not exceed the summation of 50 cubic yards, cut plus fill, or require a grading permit per Town Code Chapter 12, Article II;

7. Landscaping Requirement. All landscaping shall comply with the California Model Water Efficient Landscape Ordinance (MWELO);

8. Lighting. New exterior lighting fixtures shall be down-shielded and oriented away from adjacent properties consistent with Section 29.10.09015 of the Zoning

Code;

9. 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;

10. Parking. 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 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.

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;

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

Table 1-1 – Setback Requirements		
Setback		Requirement (2)
Property Line Setbacks (1)	Front	Per the applicable zoning district.
	Garage Entry	18 feet
	Interior Sides	4 feet (3)
	Rear	
	Street Side	Per the applicable zoning district.
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, provided that the structures meet building code safety standards and are sufficient to allow conveyance as a separate fee parcel. (4) Except for primary dwellings constructed as a duplex or attached single-family residences.		

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

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 an existing primary dwelling units as part of a two-unit housing development, except as provided by Section E (Exceptions):

1. Balconies/Decks. Rooftop and second floor terraces and decks are prohibited. Balconies shall only be permitted on the front elevation 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 18 inches 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 6 feet and a minimum width equal to 25 percent of the linear width of the front elevation. Porch columns shall not overhang the porch floor;

5. Step-back. All 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;

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 10 feet as measured from finished floor and when above the first floor the plate height shall be limited to 8 feet; and

8. Windows. All second-story windows less than eight 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. All other second-story windows shall be limited to the minimum number and minimum size as necessary for egress purposes as required by the Building Code.

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 Section E (Exceptions):

1. Accessory Dwelling Units. New accessory dwelling units are not allowed on parcels that either include a two-unit housing development or that are created by an urban lot split;

2. 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 Los Gatos Municipal Code, respectively, apply to all two-unit housing developments;

3. Encroachment Permits. Separate encroachment permits, issued by the Parks and Public Works Department, shall be required for the installation of utilities to serve a 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;

4. Restrictions on Demolition. The two-unit housing development shall not require demolition of more than 25 percent of the exterior walls 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. This shall be evidenced by claiming of the Homeowners' Exemption on the Santa Clara County assessment roll;

5. Short-Term Rentals. Leases for durations of less than 30 days, including short term rentals are prohibited. The Community Development Director shall require recordation of a deed restriction documenting this requirement prior to issuance of a building permit; and

6. Subdivision and Sales. Except for the allowance for an urban lot split provided in Section VI (Urban Lot Splits), no subdivision of land or air rights shall be allowed in association with a two-unit housing development, including creation of a stock cooperative or similar common interest ownership arrangement. In no instance shall a single primary dwelling unit be sold or otherwise conveyed separate from the other primary dwelling unit.

D. Approval Process

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

4. 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

5. Appeals. Two-unit housing applications are ministerial and are not subject to an appeal.

E. 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 VI

The Council finds and declares that urban lot splits shall comply with the following 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 in fee as part of the parcel and not as an easement and shall be a minimum width of 20 feet;

2. Lot Lines. The side lines of all lots shall be at right angles to streets or radial to the centerline of curved streets;

3. 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. The minimum lot area for a flag/corridor lot shall be exclusive of the access corridor;

4. Minimum Lot Width. Each new parcel shall maintain a minimum lot width of

20 feet;

5. Minimum Public Frontage. Each new parcel shall have frontage upon a street with a minimum frontage dimension of 20 feet; and

6. Number of Lots. The parcel map to subdivide an existing parcel shall result in no more than two parcels.

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 section;

2. Dedication and Easements. The Town Engineer shall not require dedications of rights-of-way nor the construction of offsite improvements, however, may 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;

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 1-1 (Setback Requirements, Exception No. 3). All other existing structures shall be modified, demolished, or relocated prior to recordation of a parcel map;

4. Grading. Grading activity shall not result in the summation of 50 cubic yards, cut plus fill, of grading or require a grading permit per Town Code Chapter 12, Article II;

5. 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 newly created parcels as their principal residence for a minimum of three years from the date of the approval of the urban lot split or certificate of occupancy, whichever is later.

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;

6. 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 1-1 (Setback Requirements, Exception No. 2);

7. Number of Remaining Units. No parcel created through an urban lot split shall be allowed to include more than two existing dwelling units as defined by Government Code Section 66411.7(j)(2). Any excess dwelling units that do not meet these requirements shall be relocated, demolished, or otherwise removed prior to approval of a parcel map;

8. 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;

9. Restrictions on Demolition. The proposed urban lot split shall not require the demolition of more than 25 percent of the exterior walls of 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;

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

11. Utility Providers. The requirements of the parcel's utility providers shall be satisfied prior to recordation of a parcel map; and

C. Approval Process

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. 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 Lost Split Parcel Map and pay all fees;

4. Development. Development on the resulting parcels is limited to the project approved by the two-unit housing development process;

5. 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

6. Appeals. Urban lot split applications are ministerial and are not subject to an appeal.

SECTION VII

The Council finds and declares that any provision of this Urgency Ordinance 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 Urgency Ordinance shall supersede and take precedence over any inconsistent provision of the Los Gatos Municipal Code to that extent necessary to effect the provisions of this Urgency Ordinance for the duration of its effectiveness.

SECTION VIII

The Council finds and declares that if SB 9 is repealed or otherwise rescinded by the California State Legislature or by the People of the State of California, this Urgency Ordinance shall cease to be in effect.

SECTION IX

The Council finds and declares that this Ordinance is not subject to environmental review under the California Environmental Quality Act ("CEQA"). SB 9 (Atkins) states that an ordinance adopted to implement the rules of SB 9 is not considered a project under Public Resources Code Division 13 (commencing with Section 21000) (See Government Code Sections 65858.210 and 66411.7(n)).

SECTION X

If any section, subsection, sentence, clause, phrase, or portion of this Urgency 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 Urgency Ordinance. The Council of the Town of Los Gatos hereby declares that it would have adopted the remainder of this Urgency 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 XI

The Council finds and declares that the foregoing is an Urgency Ordinance necessary for the immediate preservation of the public peace, health, and safety of the Town of Los Gatos and its residents as articulated above and at the hearing and to immediately provide provisions to implement SB 9, which takes effect on January 1, 2022. The Town Council therefore finds and determines that this Ordinance be enacted as an Urgency Ordinance pursuant to Government Code Sections 36934,

36937, and 65858 and takes effect immediately upon adoption by four-fifths of the Town Council.

SECTION XII

This ordinance shall take effect upon adoption and shall remain in effect for a period of 10 months and 15 days from the date of adoption, in accordance with California Government Code Section 65858.

SECTION XIII

The Town Clerk is directed to certify this Ordinance and cause it to be published in the manner required by law.

SECTION XIV

This Urgency Ordinance was passed an adopted at a regular meeting of the Town Council of the Town of Los Gatos on the 1st day of February 2022.

COUNCIL MEMBERS:

AYES: Mary Badame, Maria Ristow, Marico Sayoc, Mayor Rob Rennie

NAYS: Matthew Hudes

ABSENT: None

ABSTAIN: None

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: 2/9/22

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: 2/9/2022

ORDINANCE 2326

AN URGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS IMPLEMENTING SENATE BILL 9 TO ALLOW FOR TWO-UNIT HOUSING DEVELOPMENTS AND URBAN LOT SPLITS IN ALL SINGLE-FAMILY RESIDENTIAL ZONES

WHEREAS, on September 16, 2021, the Governor of the State California signed into law Senate Bill 9 (Atkins), "An act to amend Section 66452.6 of, and to add Sections 65852.21 and 66411.7 to, the California Government Code, relating to land use," which requires ministerial approval of a housing development of no more than two units in a single-family zone (two-unit housing development), the subdivision of a parcel zoned for residential use into two parcels (urban lot split), or both; and

WHEREAS, certain zoning and subdivision standards of the Town of Los Gatos Municipal Code and their permitting procedures are inconsistent with the two-unit housing developments and urban lot splits authorized by Senate Bill 9 (SB 9); and

WHEREAS, the provisions of SB 9 shall be in effect on January 1, 2022, and without locally codified objective design standards and implementation procedures, the law presents a current and immediate threat to the public peace, health, safety, and welfare, in that certain existing zoning and subdivision standards are in conflict with SB 9 and could create confusion and hinder the development of the additional residential units enabled under SB 9; and

WHEREAS, pursuant to Section 65858 of the Government Code and Section 29.20.545 of the Town of Los Gatos Municipal Code, the Town Council may take appropriate action to adopt urgency measures as an Urgency Ordinance; and

WHEREAS, pursuant to Section 65852.21(j) and Section 66411.7(n) of the Government Code, a local agency may adopt an Ordinance to implement SB 9; and

WHEREAS, this Urgency Ordinance adopts interim urgency objective zoning standards, objective subdivision standards, and objective residential design standards to allow for orderly housing development and subdivision of land as authorized by SB 9 while protecting the public peace, health, safety, or welfare in the Town of Los Gatos; and

WHEREAS, it is not the intent of this Urgency Ordinance to adopt permanent standards to govern the development of single-family zoned properties. The Town Council reserves the right to adopt permanent standards consistent with SB 9 that will supersede those contained in this Urgency Ordinance; and

WHEREAS, in light of the foregoing findings, the Town Council further finds that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, building permits, or any other applicable entitlement for use which is in conflict with this Ordinance would result in that threat to public health, safety, or welfare; and

WHEREAS, adoption of this Urgency Ordinance is not a project under the California Environmental Quality Act (CEQA) pursuant to California Government Code Section 65852.21(j) and Section 66411.7(n) relating to implementation of SB 9.

EXHIBIT A

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

SECTION I

The Town Council finds and declares that this Urgency Ordinance establishes interim exceptions to 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. The provisions of this Urgency Ordinance shall supersede any other provision to the contrary in the Zoning Code or Subdivision Code. Zoning standards and design review standards provided for in the Zoning Code that are not affected by this Urgency Ordinance shall remain in effect. It is not the intent of this Urgency Ordinance to override any lawful use restrictions as may be set forth in Conditions, Covenants, and Restrictions (CC&Rs) of a common interest development.

SECTION II

The Town Council finds and determines that this Urgency 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 Urgency Ordinance.

SECTION III

In addition to the terms defined by Chapter 24 (Subdivision Regulations) and Chapter 29 (Zoning Regulations), the following terms shall have the following meanings as used in this Urgency Ordinance. Where a conflict may exist, this Section shall prevail over any definition provided in the Zoning Code:

Acting in concert means persons, as defined by Section 82047 of the Government Code as that section existed on the date of the adoption of this Urgency Ordinance, 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;

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;

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;

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 Section 65852.21 of the California Government Code. A two-unit housing development shall consist of either the construction of 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 Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code;

Single-family residential zone means a "R-1 OR SINGLE-FAMILY RESIDENTIAL ZONE" and "R-1D OR SINGLE-FAMILY RESIDENTIAL DOWNTOWN ZONE" Zoning districts as specified by Article IV (RESIDENTIAL ZONES) of the Zoning Code;

Subdivision code means Title 24 of the Los Gatos Municipal Code;

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 Section 66411.7 of the Government Code; and

Zoning code means Title 29 of the Los Gatos Municipal Code.

SECTION IV

The Council finds and declares that 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 Subdivision Regulations, as applicable at the time the parcel was created. The Town Engineer may require a certificate of compliance to verify conformance with this requirement;

C. Excluding Historic Property. A parcel that does not contain a Historic Structure, as defined Town Code Section 29.10.020, or is 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 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 Section 4202 of the Public Resources Code, or if the site has been excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or has 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 Section 25356 of the Health and Safety Code, 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 Division 13 of the Health and Safety Code), 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 primary dwelling unit(s) 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. 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).

SECTION V

The Council finds and declares that two-unit housing developments shall 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 may be provided in the Zoning Code, as they pertain to a two-unit housing development under Section 65852.21 of the Government Code. Two-unit housing developments shall be constructed only in accordance with the following objective zoning standards, except as provided by Section E (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 shall not exceed 16 feet in height.

2. Driveways. Each parcel shall include a single driveway satisfying the following requirements:

a. A minimum width of 10 feet up to a maximum width of 18 feet;

b. A minimum depth of 25 feet measured from the front property line;

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

d. Only a single driveway curb-cut shall be permitted per parcel designed in accordance with the Town's Standard Specifications and Plans for Parks and Public Works Construction.

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 of another dwelling unit within the same structure;

4. Fencing. All new fencing shall comply with the requirements of Section 29.40.030 of the Zoning Code;

5. Floor Area Ratio and Lot Coverage. The maximum floor area ratio and lot coverage shall be as specified by the applicable zoning regulations, but no new residential unit shall have a floor area greater than 1,200 square feet;

6. Grading. Grading activity shall not exceed the summation of 50 cubic yards, cut plus fill, or require a grading permit per Town Code Chapter 12, Article II;

7. Landscaping Requirement. All landscaping shall comply with the California Model Water Efficient Landscape Ordinance (MWELO);

8. Lighting. New exterior lighting fixtures shall be down-shielded and oriented away from adjacent properties consistent with Section 29.10.09015 of the Zoning Code;

9. 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;

10. Parking. 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 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.

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;

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

Table 1-1 – Setback Requirements		
Setback		Requirement (2)
Property Line Setbacks (1)	Front	Per the applicable zoning district.
	Garage Entry	18 feet
	Interior Sides	4 feet (3)
	Rear	
	Street Side	Per the applicable zoning district.
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, provided that the structures meet building code safety standards and are sufficient to allow conveyance as a separate fee parcel. (4) Except for primary dwellings constructed as a duplex or attached single-family residences constructed as units.		

15. Stormwater Management. The development shall comply with the requirements of the Town's National Pollution Discharge Elimination System (NPDES) Permit as implemented by Chapter 22 of the Los Gatos Municipal Code, and as demonstrated by a grading and drainage

plan prepared by a registered civil engineer.

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 an existing primary dwelling units as part of a two-unit housing development, except as provided by Section E (Exceptions):

1. Balconies/Decks. Rooftop and second floor terraces and decks are prohibited. Balconies shall only be permitted on the front elevation of a primary dwelling unit fronting a public street. Such balconies shall be without any projections beyond the building.

2. Finished Floor. The finished floor of the first-story shall not exceed 18 inches 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 6 feet and a minimum width equal to 25 percent of the linear width of the front elevation. Porch columns shall not overhang the porch floor;

5. Step-back. All 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;

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 10 feet as measured from finished floor; and

8. Windows. All second-story windows less than eight 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. All other second-story windows shall be limited to the minimum number and minimum size as necessary for egress purposes as required by the Building Code.

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, as applicable:

1. Accessory Dwelling Units. New accessory dwelling units are not allowed on parcels that either include a two-unit housing development or that are created by an urban lot split;

2. Building and Fire Codes. The International Building Code (Building Code), and the 2019 California Fire Code and 2018 International Fire Code (together, Fire Code), as adopted by Chapter 6 of the Los Gatos Municipal Code, respectively, apply to all two-unit housing developments;

3. Encroachment Permits. Separate encroachment permits, issued by the Parks and Public Works Department, shall be required for the installation of utilities to serve a 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;

4. Restrictions on Demolition. The two-unit housing development shall 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. This shall be evidenced by claiming of the Homeowners' Exemption on the Santa Clara County assessment

roll;

5. Short-Term Rentals. Leases for durations of less than 30 days, including short term rentals are prohibited. The Community Development Director shall require recordation of a deed restriction documenting this requirement prior to issuance of a building permit; and

6. Subdivision and Sales. Except for the allowance for an urban lot split provided in Section VI (Urban Lot Splits), no subdivision of land or air rights shall be allowed in association with a two-unit housing development, including creation of a stock cooperative or similar common interest ownership arrangement. In no instance shall a single primary dwelling unit be sold or otherwise conveyed separate from the other primary dwelling unit.

D. Approval Process

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

4. 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 Section 65589.5 of the Government Code, 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

5. Appeals. Two-unit housing applications are ministerial and are not subject to an appeal.

E. 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) landscaping requirement, front-yard setback, or street-side setbacks standards.

SECTION VI

The Council finds and declares that urban lot splits shall comply with the following 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, Subdivision Code, as they pertain to creation of an urban lot split under Section 66411.7 of the Government Code:

1. Flag/Corridor Lots. The access corridor of a flag/corridor lot (Town Code Section 29.10.085) parcel shall be in fee as part of the parcel and not as an easement and shall be a minimum width of 20 feet;

2. Lot Lines. The side lines of all lots shall be at right angles to streets or radial to the centerline of curved streets;

3. 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. The minimum lot area for a flag/corridor lot shall be exclusive of the access corridor;

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

5. Minimum Public Frontage. Each new parcel shall have frontage upon a street with a minimum frontage dimension of 20 feet; and

6. Number of Lots. The parcel map to subdivide an existing parcel shall create no more than two new parcels.

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 section;

2. Dedication and Easements. The Town Engineer shall not require dedications of rights-of-way nor the construction of offsite improvements, however, may require recording of easements necessary for the provision of future public services, facilities, and future public improvements;

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 1-1 (Setback Requirements, Exception No. 3). All other existing structures shall be modified, demolished, or relocated prior to recordation of a parcel map;

4. Grading. Grading activity shall not result in the summation of 50 cubic yards, cut plus fill, of grading or require a grading permit per Town Code Chapter 12, Article II;

5. 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 newly created parcels as their principal residence for a minimum of three years from the date of the approval of the urban lot split or certificate of occupancy, whichever is later.

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;

6. 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 1-1 (Setback Requirements, Exception No. 2);

7. Number of Remaining Units. No parcel created through an urban lot split shall be allowed to include more than two existing dwelling units as defined by Government Code section 66411.7(j)(2). Any excess dwelling units that do not meet these requirements shall be relocated, demolished, or otherwise removed prior to approval of a parcel map;

8. Prior Subdivision. A parcel created through a prior urban lot split may not be further subdivided under the provisions of this Urgency Ordinance. The subdivider shall submit a signed covenant to the Community Development Director documenting this restriction. The convent shall be recorded on the title of each parcel concurrent with recordation of the parcel map;

9. Restrictions on Demolition. The proposed urban lot split shall not require the 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;

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

11. Utility Providers. The requirements of the parcel's utility providers shall be satisfied prior to recordation of a parcel map.

12. Maximum Floor Area. The maximum floor area for any new residential unit shall be 1,200 square feet;

C. Approval Process

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. 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 Lost Split Parcel Map and pay all fees;

4. Development. Development on the resulting parcels is limited to the project approved by the two-unit housing development process.

5. 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

6. Appeals. Urban lot split applications are ministerial and are not subject to an appeal.

SECTION VII

The Council finds and declares that any provision of this Urgency Ordinance 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 Urgency Ordinance shall supersede and take precedence over any inconsistent provision of the Los Gatos Municipal Code to that extent necessary to effect the provisions of this Urgency Ordinance for the duration of its effectiveness.

SECTION VIII

The Council finds and declares that if SB 9 is repealed or otherwise rescinded by the California State Legislature or by the People of the State of California, this Urgency Ordinance shall cease to be in effect.

SECTION IX

If any section, subsection, sentence, clause, phrase, or portion of this Urgency 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 Urgency Ordinance. The Council of the Town of Los Gatos hereby declares that it would have adopted the remainder of this Urgency 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 X

The Council hereby declares that the foregoing is an Urgency Ordinance necessary for the immediate preservation of the public peace, health, and safety of the Town of Los Gatos and its residents and shall take effect on January 1, 2022, upon passage by a four-fifths majority of the Town Council.

This Urgency Ordinance was passed an adopted at a regular meeting of the Town Council of the Town of Los Gatos on December 21, 2021.

COUNCIL MEMBERS:

AYES: Matthew Hudes, Maria Ristow, Marico Sayoc, Mayor Rob Rennie

NAYS: None

ABSENT: Mary Badame

ABSTAIN: None

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA
DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA
DATE: _____

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California Department of Housing and Community Development

SB 9 Fact Sheet

On the Implementation of Senate Bill 9 (Chapter 162, Statutes of 2021)

Housing Policy Development Division
March 2022

EXHIBIT 5

This Fact Sheet is for informational purposes only and is not intended to implement or interpret SB 9. HCD does not have authority to enforce SB 9, although violations of SB 9 may concurrently violate other housing laws where HCD does have enforcement authority, including but not limited to the laws addressed in this document. As local jurisdictions implement SB 9, including adopting local ordinances, it is important to keep these and other housing laws in mind. The Attorney General may also take independent action to enforce SB 9. For a full list of statutes over which HCD has enforcement authority, visit HCD's ***Accountability and Enforcement webpage****.*

Executive Summary of SB 9

Senate Bill (SB) 9 (Chapter 162, Statutes of 2021) requires ministerial approval of a housing development with no more than two primary units in a single-family zone, the subdivision of a parcel in a single-family zone into two parcels, or both. SB 9 facilitates the creation of up to four housing units in the lot area typically used for one single-family home. SB 9 contains eligibility criteria addressing environmental site constraints (e.g., wetlands, wildfire risk, etc.), anti-displacement measures for renters and low-income households, and the protection of historic structures and districts. Key provisions of the law require a local agency to modify or eliminate objective development standards on a project-by-project basis if they would prevent an otherwise eligible lot from being split or prevent the construction of up to two units at least 800 square feet in size. For the purposes of this document, the terms "unit," "housing unit," "residential unit," and "housing development" mean primary unit(s) unless specifically identified as an accessory dwelling unit (ADU) or junior ADU or otherwise defined.

Single-Family Residential Zones Only

(Reference: Gov. Code, §§ 65852.21, subd. (a); 66411.7 subd. (a)(3)(A))

The parcel that will contain the proposed housing development or that will be subject to the lot split must be located in a single-family residential zone. Parcels located in multi-family residential, commercial, agricultural, mixed-use zones, etc., are not subject to SB 9 mandates even if they allow single-family residential uses as a permitted use. While some zones are readily identifiable as single-family residential zones (e.g., R-1 "Single-Family Residential"), others may not be so obvious. Some local agencies have multiple single-family zones with subtle distinctions between them relating to minimum lot sizes or allowable uses. In communities where there may be more than one single-family residential zone, the local agency should carefully review the zone district descriptions in the zoning code and the land use designation descriptions in the Land Use Element of the General Plan. This review will enable the local agency to identify zones whose primary purpose is single-family residential uses and which are therefore subject to SB 9. Considerations such as minimum lot sizes, natural features such as hillsides, or the permissibility of keeping horses should not factor into the determination.

Residential Uses Only

(Reference: Gov. Code, §§ 65852.21, subd. (a))

SB 9 concerns only proposed housing developments containing no more than two residential units (i.e., one or two). The law does not otherwise change the allowable land uses in the local agency's single-family residential zone(s). For example, if the local agency's single-family zone(s) does not currently allow commercial uses such as hotels or restaurants, SB 9 would not allow such uses.

Ministerial Review

(Reference: Gov. Code, §§ 65852.21, subd. (a); 66411.7, subds. (a), (b)(1))

An application made under SB 9 must be considered ministerially, without discretionary review or a hearing. Ministerial review means a process for development approval involving no personal judgment by the public official as to the wisdom of carrying out the project. The public official merely ensures that the proposed development meets all the applicable objective standards for the proposed action but uses no special discretion or judgment in reaching a decision. A ministerial review is nearly always a "staff-level review." This means that a staff person at the local agency reviews the application, often using a checklist, and compares the application materials (e.g., site plan, project description, etc.) with the objective development standards, objective subdivision standards, and objective design standards.

Objective Standards

(Reference: Gov. Code, §§ 65852.21, subd. (b); 66411.7, subd. (c))

The local agency may apply objective development standards (e.g., front setbacks and heights), objective subdivision standards (e.g., minimum lot depths), and objective design standards (e.g., roof pitch, eave projections, façade materials, etc.) as long as they would not physically preclude either of the following:

> **Up to Two Primary Units.** The local agency must allow up to two primary units (i.e., one or two) on the subject parcel or, in the case of a lot split, up to two primary units on each of the resulting parcels.
>
> **Units at least 800 square feet in size.** The local agency must allow each primary unit to be at least 800 square feet in size.

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. Any objective standard that would physically preclude either or both of the two objectives noted above must be modified or

waived by the local agency in order to facilitate the development of the project, with the following two exceptions:

Setbacks for Existing Structures. The local agency may not require a setback for an existing structure or for a structure constructed in the same location and to the same dimensions as an existing structure (i.e., a building reconstructed on the same footprint).

Four-Foot Side and Rear Setbacks. SB 9 establishes an across-the-board maximum four-foot side and rear setbacks. The local agency may choose to apply a lesser setback (e.g., 0-4 feet), but it cannot apply a setback greater than four feet. The local agency cannot apply existing side and rear setbacks applicable in the single-family residential zone(s). Additionally, the four-foot side and rear setback standards are not subject to modification. (Gov. Code, §§ 65852.21, subd. (b)(2)(B); 66411.7, subdivision (c)(3).)

One-Unit Development

(Reference: Gov. Code, §§ 65852.21, subd. (a); 65852.21, subd. (b)(2)(A))

SB 9 requires the ministerial approval of either one or two residential units. Government Code section 65852.21 indicates that the development of just one single-family home was indeed contemplated and expected. For example, the terms “no more than two residential units” and “up to two units” appear in the first line of the housing development-related portion of SB 9 (Gov. Code, § 65852.21, subd. (a)) and in the line obligating local agencies to modify development standards to facilitate a housing development. (Gov. Code, § 65852.21, subd. (b)(2)(A).)

Findings of Denial

(Reference: Gov. Code, §§ 65852.21, subd. (d); 66411.7, subd. (d))

SB 9 establishes a high threshold for the denial of a proposed housing development or lot split. Specifically, a local agency’s building official must make a written finding, based upon a preponderance of the evidence, that the proposed housing development would have a specific, adverse impact, as defined in Government Code section 65589.5, subdivision (d)(2), 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. “Specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. (Gov. Code, § 65589.5, subd. (d)(2).)

Environmental Site Constraints

(Reference: Gov. Code, §§ 65852.21, subd. (a)(2) and (a)(6); 66411.7, subd. (a)(3)(C) and (a)(3)(E))

A proposed housing development or lot split is not eligible under SB 9 if the parcel contains any of the site conditions listed in Government Code section 65913.4, subdivision (a)(6)(B-K). Examples of conditions that may disqualify a project from using SB 9 include the presence of farmland, wetlands, fire hazard areas, earthquake hazard areas, flood risk areas, conservation areas, wildlife habitat areas, or conservation easements. SB 9 incorporates by reference these environmental site constraint categories that were established with the passing of the Streamlined Ministerial Approval Process (SB 35, Chapter 366, Statutes of 2017). Local agencies may consult HCD's **Streamlined Ministerial Approval Process Guidelines** for additional detail on how to interpret these environmental site constraints.

Additionally, a project is not eligible under SB 9 if it is located in a historic district or property included on the State Historic Resources Inventory or within a site that is designated or listed as a city or county landmark or as a historic property or district pursuant to a city or county ordinance.

California Environmental Quality Act (CEQA)

Reference: Gov. Code, §§ 65852.21, subd. (j); 66411.7, subd. (n))

Because the approval of a qualifying project under SB 9 is deemed a ministerial action, CEQA does not apply to the decision to grant an application for a housing development or a lot split, or both. (Pub. Resources Code, § 21080, subd. (b)(1) [CEQA does not apply to ministerial actions]; CEQA Guidelines, § 15268.) For this reason, a local agency must not require an applicant to perform environmental impact analysis under CEQA for applications made under SB 9. Additionally, if a local agency chooses to adopt a local ordinance to implement SB 9 (instead of implementing the law directly from statute), the preparation and adoption of the ordinance is not considered a project under CEQA. In other words, the preparation and adoption of the ordinance is statutorily exempt from CEQA.

Anti-Displacement Measures

(Reference: Gov. Code, §§ 65852.21, subd. (a)(3); 66411.7, subd. (a)(3)(D))

A site is not eligible for a proposed housing development or lot split if the project would require demolition 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; (2) housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power; or (3) housing that has been occupied by a tenant in the last three years.

Lot Split Requirements

(Reference: Gov. Code, § 66411.7)

SB 9 does not require a local agency to approve a parcel map that would result in the creation of more than two lots and more than two units on a lot resulting from a lot split under Government Code section 66411.7. A local agency may choose to allow more than two units, but it is not required to under the law. A parcel may only be subdivided once under Government Code section 66411.7. This provision prevents an applicant from pursuing multiple lot splits over time for the purpose of creating more than two lots. SB 9 also does not require a local agency to approve a lot split if an adjacent lot has been subject to a lot split in the past by the same property owner or a person working in concert with that same property owner.

Accessory Dwelling Units

(Reference: Gov. Code, §§ 65852.21, subd. (j); 66411.7, subd. (f))

SB 9 and ADU Law (Gov. Code, §§ 65852.2 and 65858.22) are complementary. The requirements of each can be implemented in ways that result in developments with both "SB 9 Units" and ADUs. However, specific provisions of SB 9 typically overlap with State ADU Law only to a limited extent on a relatively small number of topics. Treating the provisions of these two laws as identical or substantially similar may lead a local agency to implement the laws in an overly restrictive or otherwise inaccurate way.

"Units" Defined. The three types of housing units that are described in SB 9 and related ADU Law are presented below to clarify which development scenarios are (and are not) made possible by SB 9. The definitions provided are intended to be read within the context of this document and for the narrow purpose of implementing SB 9.

> *Primary Unit*. A primary unit (also called a residential dwelling unit or residential unit) is typically a single-family residence or a residential unit within a multi-family residential development. A primary unit is distinct from an ADU or a Junior ADU. Examples of primary units include a single-family residence (i.e., one primary unit), a duplex (i.e., two primary units), a four-plex (i.e., four primary units), etc.
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> *Accessory Dwelling Unit*. An ADU is an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel on which the single-family or multifamily dwelling is or will be situated.
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> *Junior Accessory Dwelling Unit*. A Junior ADU is a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A Junior ADU may include separate sanitation facilities or may share sanitation facilities with the existing structure.

The terms “unit,” “housing unit,” “residential unit,” and “housing development” mean primary unit(s) unless specifically identified as an ADU or Junior ADU or otherwise defined. This distinction is critical to successfully implementing SB 9 because state law applies different requirements (and provides certain benefits) to ADUs and Junior ADUs that do not apply to primary units.

Number of ADUs Allowed. ADUs can be combined with primary units in a variety of ways to achieve the maximum unit counts provided for under SB 9. SB 9 allows for up to four units to be built in the same lot area typically used for a single-family home. The calculation varies slightly depending on whether a lot split is involved, but the outcomes regarding total maximum unit counts are identical.

> *Lot Split*. When a lot split occurs, the local agency must allow up to two units on each lot resulting from the lot split. In this situation, all three unit types (i.e., primary unit, ADU, and Junior ADU) count toward this two-unit limit. For example, the limit could be reached on each lot by creating two primary units, or a primary unit and an ADU, or a primary unit and a Junior ADU. By building two units on each lot, the overall maximum of four units required under SB 9 is achieved. (Gov. Code, § 66411.7, subd. (j).) Note that the local agency may choose to allow more than two units per lot if desired.
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> *No Lot Split*. When a lot split has not occurred, the lot is eligible to receive ADUs and/or Junior ADUs as it ordinarily would under ADU law. Unlike when a project is proposed following a lot split, the local agency must allow, in addition to one or two primary units under SB 9, ADUs and/or JADUs under ADU Law. It is beyond the scope of this document to identify every combination of primary units, ADUs, and Junior ADUs possible under SB 9 and ADU Law. However, in no case does SB 9 require a local agency to allow more than four units on a single lot, in any combination of primary units, ADUs, and Junior ADUs.

See HCD’s **ADU and JADU webpage** for more information and resources.

Relationship to Other State Housing Laws

SB 9 is one housing law among many that have been adopted to encourage the production of homes across California. The following represent some, but not necessarily all, of the housing laws that intersect with SB 9 and that may be impacted as SB 9 is implemented locally.

Housing Element Law. To utilize projections based on SB 9 toward a jurisdiction’s regional housing need allocation, the housing element must: 1) include a site-specific inventory of sites where SB 9 projections are being applied, 2) include a nonvacant sites analysis demonstrating the likelihood of redevelopment and that the existing use will not constitute an impediment for additional residential use, 3) identify any governmental constraints to the use of SB 9 in the creation of units (including land use controls, fees,

and other exactions, as well as locally adopted ordinances that impact the cost and supply of residential development), and 4) include programs and policies that establish zoning and development standards early in the planning period and implement incentives to encourage and facilitate development. The element should support this analysis with local information such as local developer or owner interest to utilize zoning and incentives established through SB 9. Learn more on HCD's **Housing Elements webpage**.

Housing Crisis Act of 2019. An affected city or county is limited in its ability to amend its general plan, specific plans, or zoning code in a way that would improperly reduce the intensity of residential uses. (Gov. Code, § 66300, subd. (b)(1)(A).) This limitation applies to residential uses in all zones, including single-family residential zones. "Reducing the intensity of land use" includes, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or any other action that would individually or cumulatively reduce the site's residential development capacity. (Gov. Code, § 66300, subd. (b)(1)(A).)

A local agency should proceed with caution when adopting a local ordinance that would impose unique development standards on units proposed under SB 9 (but that would not apply to other developments). Any proposed modification to an existing development standard applicable in the single-family residential zone must demonstrate that it would not result in a reduction in the intensity of the use. HCD recommends that local agencies rely on the existing objective development, subdivision, and design standards of its single-family residential zone(s) to the extent possible. Learn more about **Designated Jurisdictions Prohibited from Certain Zoning-Related Actions** on HCD's website.

Housing Accountability Act. Protections contained in the Housing Accountability Act (HAA) and the Permit Streaming Act (PSA) apply to housing developments pursued under SB 9. (Gov. Code, §§ 65589.5; 65905.5; 65913.10; 65940 et seq.) The definition of "housing development project" includes projects that involve no discretionary approvals and projects that include a proposal to construct a single dwelling unit. (Gov. Code, § 65905.5, subd. (b)(3).) For additional information about the HAA and PSA, see HCD's **Housing Accountability Act Technical Assistance Advisory**.

Rental Inclusionary Housing. Government Code section 65850, subdivision (g), authorizes local agencies to adopt an inclusionary housing ordinance that includes residential rental units affordable to lower- and moderate-income households. In certain circumstances, HCD may request the submittal of an economic feasibility study to ensure the ordinance does not unduly constrain housing production. For additional information, see HCD's **Rental Inclusionary Housing Memorandum**.

SB 9 Model Ordinance

Note: Unless otherwise noted, provisions in this document reflect the provisions in SB 9. "Recommended" Provisions are recommended to clarify ambiguities in the statute or assist in enforcement. "Policy" Provisions are optional provisions for local agencies to consider.

ORDINANCE NO. XXXX[1]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF _____ AMENDING SECTIONS ___ AND ADDING SECTIONS ___ TO THE CITY OF _____ MUNICIPAL CODE TO COMPLY WITH SENATE BILL 9

WHEREAS, on September 16, 2021, Senate Bill 9 (Chapter 162, Statutes of 2021) was approved by the Governor of the State of California and filed with the Secretary of State, amending Section 66452.6 of the California Government Code and adding to the Government Code Sections 65852.21 and 66411.7, allowing additional housing units on properties within single-family zones and providing for parcel map approval of an Urban Lot Split; and

WHEREAS, the changes made to the Government Code by Senate Bill 9 go into effect on January 1, 2022; and

WHEREAS, state law allows a local agency to adopt an ordinance to implement the provisions in Senate Bill 9; and

WHEREAS, the [City/County of _____ (the "City"/the "County")] has implemented land use policies based on the [City's/County's General Plan], which provide an overall vision for the community and balance important community needs, and the [City/County] seeks to ensure that Senate Bill 9 projects are consistent with those policies; and

WHEREAS, the proposed amendments to the [City of _____ Municipal Code/County of _____ County Code] implement requirements of state law and add local policies that are consistent with the state law and implement the [City's/County's General Plan]; and

[1] Local agencies should consult with their legal counsel prior to the use or implementation of this model ordinance, conformance with standard ordinance formats, and any provisions outlined herein. This ordinance is drafted as a regular ordinance, not an urgency ordinance, includes only substantive provisions to be considered, and does not include standard provisions such as a severability clause, publication, dates of introduction and adoption, and votes, which vary from agency to agency,

WHEREAS, the [City Council/Board of Supervisors] has found that the provisions of this ordinance are consistent with the goals and policies of the [City's/County's General Plan]; and

WHEREAS, the proposed code amendments are intended to implement Senate Bill 9 and are not considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code, as provided in Government Code Sections 65852.21(j) and 66511.7(n).[2]

NOW, THEREFORE, THE [CITY COUNCIL OF THE CITY OF _____ /the BOARD OF SUPERVISORS OF THE COUNTY OF _____] DOES ORDAIN AS FOLLOWS:

Section 1. Purpose.

The purpose of this chapter is to provide objective zoning standards for Two-Unit Developments and Urban Lot Splits within single-family residential zones, to implement the provisions of state law as reflected in Government Code Section 65852.21 et seq. and Section 66411.7 et seq., and to facilitate the development of new residential housing units consistent with the [City's/County's General Plan] and ensure sound standards of public health and safety.

Section 2. Authority.

The City Council enacts this ordinance under the authority granted to cities by Article XI, Section 7 of the California Constitution and Government Code Sections 65852.21 et seq. and 66411.7 et seq. [If a city.]

Section 3. Definitions.

A. [Recommended provision] A person "acting in concert with the owner," as used in Section 4(B)(8) below, means a person that has common ownership or control of the subject parcel with the owner of the adjacent parcel, a person acting on behalf of, acting for the predominant benefit of, acting on the instructions of, or actively cooperating with, the owner of the parcel being subdivided.

B. [Recommended provision] "Adjacent parcel" means any parcel of land that is (1) touching the parcel at any point; (2) separated from the parcel at any point only by a

[2] Note that these Government Code Sections are not effective until January 1, 2022. Cities and counties adopting ordinances before that date should include additional exemptions. For instance, in urbanized areas, the proposed code amendments may be found to be categorically exempt from CEQA under Guidelines Section 15303, New Construction or Conversion of Small Structures, which provides an exemption for up to three single-family homes and to duplexes and apartments containing no more than six units.

public right-of-way, private street or way, or public or private utility, service, or access easement; or (3) separated from another parcel only by other real property which is in common ownership or control of the applicant.

C. [Recommended provision] "Car share vehicle" means a motor vehicle that is operated as part of a regional fleet by a public or private care sharing company or organization and provides hourly or daily service.

D. [Recommended provision] "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.

E. [Recommended provision] "Lower income household" has the meaning set forth in Health & Safety Code Section 50079.5.

F. [Recommended provision] "Moderate income household" has the meaning set forth in Health & Safety Code Section 50093.

G. [Recommended provision] "Sufficient for separate conveyance," as used in Sections 4(B)(11) and 5(B)(8) below, 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.

H. "Two-Unit Development" means a development that proposes no more than two new units or proposes to add one new unit to one existing unit.

I. "Urban Lot Split" means a subdivision of an existing parcel into no more than two separate parcels that meets all the criteria and standards set forth in this chapter.

J. [Recommended provision] "Very low income household" has the meaning set forth in Health & Safety Code Section 50105.

Section 4. Urban Lot Split.[3]

A. The [--] Official[4] shall ministerially review an application for a parcel map that subdivides an existing parcel to create no more than two new parcels in an Urban Lot Split, and shall approve the application if the criteria in Government Code Section 66411.7 and this section are satisfied.

B. Qualifying Criteria. Within the time required by the Subdivision Map Act, the [] shall determine if the parcel map for the Urban Lot Split meets all the following requirements:

1. The parcel is located within one of the following single-family residential zones: _____.

2. The parcel being subdivided is not located on a site that is any of the following:

   i. Either prime farmland or farmland of statewide importance, as defined pursuant to 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.

   ii. Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

   iii. Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178 of the Government Code, 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 Section 4202 of the Public Resources Code. This subparagraph does not

[3] Local agencies may wish to change their use provisions in addition to, or as an alternative to, listing the zoning districts in the text.

[4] Counties may also wish to designate the specific areas that are designated as urbanized areas or urban clusters, in addition to designating the applicable zoning districts.

apply to sites excluded from the specified hazard zones by the [city/county], pursuant to subdivision (b) of Section 51179 of the Government Code, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.[5]

iv. A hazardous waste site that is listed pursuant to Section 65962.5 of the Government Code or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, 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 or residential mixed uses.

v. Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the 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 Division 13 of the Health and Safety Code), and by the building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2 of the Government Code.

vi. Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph, the [city/county] shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by the [city/county] that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met (1) the site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the [city/county]; or (2) the site meets Federal

[5] The local agency may wish to specify the relevant standards for very high fire hazard areas, hazardous waste sites, earthquake fault zones, flood hazard areas and floodways.

Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

vii. Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the [city/county] shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by the [city/county] that is applicable to that site.

viii. Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

ix. Habitat for protected species identified as 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).

x. Lands under conservation easement.

3. Both resulting parcels are no smaller than 1,200 square feet.[6]

4. Neither resulting parcel shall be smaller than 40 percent of the lot area of the parcel proposed for the subdivision.

5. The proposed 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 of the Government Code 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.

6. The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Public Resources Code Section 5020.1, or within a site that is designated or listed as a [city/county] landmark or historic property or historic district pursuant to a [city/county] ordinance.[7]

7. The parcel being subdivided was not created by an Urban Lot Split as provided in this section.

8. 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 in this section.

9. The development proposed on the parcels complies with all objective zoning standards, objective subdivision standards, and objective design review

[6] Agencies may allow smaller lots if desired.
[7] Local agencies may wish to specify which ordinance or code section designates historic properties.

standards applicable to the parcel as provided in the zoning district in which the parcel is located[8]; provided, however, that:

i. The [--] Official, or their designee, shall waive or modify any standard if the standard would have the effect of physically precluding the construction of two units on either of the resulting parcels created pursuant to this chapter or would result in a unit size of less than 800 square feet. Any modifications of development standards shall be the minimum modification necessary to avoid physically precluding two units of 800 square feet each on each parcel.

ii. Notwithstanding subsection (9)(i) above, required rear and side yard setbacks shall equal four feet,[9] except that no setback shall be required for an existing legally created structure or a structure constructed in the same location and to the same dimensions as an existing legally created structure.

10. Each resulting parcel shall have access to, provide access to, or adjoin the public right-of-way.[10]

11. Proposed adjacent or connected dwelling units shall be permitted if they meet building code safety standards and are designed sufficient to allow separate conveyance. [Recommended provision] The proposed dwelling units shall provide a separate gas, electric and water utility connection directly between each dwelling unit and the utility.

12. **Parking.** One parking space[11] shall be required per unit constructed on a parcel created pursuant to the procedures in this section, except that no parking may be required where:

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

ii. There is a designated parking area for one or more car-share vehicles within one block of the parcel.

[8] Local agencies may wish to specify which ordinance(s) or code section(s) designate these objective standards.
[9] Localities may allow a smaller setback if desired.
[10] Local agencies may wish to impose frontage requirements or requirements for access to the public right of way, such as the required width of a driveway.
[11] Agencies may reduce parking standards if desired.

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. Notwithstanding Government Code Section 66411.1, no dedications of rights-of-way or the construction of offsite improvements may be required as a condition of approval for an Urban Lot Split, although easements may be required for the provision of public services and facilities.

14. The correction of nonconforming zoning conditions may not be required as a condition of approval.

15. Parcels created by an Urban Lot Split may be used for residential uses only and may not be used for rentals of less than 30 days.

16. [Recommended provision] 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).

C. Owner-Occupancy Affidavit. The applicant for an Urban Lot Split shall sign an affidavit, in the form approved by the [city attorney/county counsel], stating that the applicant intends to occupy one of the housing units on the newly created lots as its principal residence for a minimum of three years from the date of the approval of the Urban Lot Split. This subsection 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.

D. [Recommended provision] **Additional Affidavit[12].** 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, in the form approved by the [city attorney/county counsel], stating that none of the conditions listed in Section (4)(B)(5) above exist and shall provide a comprehensive history of the occupancy of the units to be altered or demolished for the past three years (five years if an existing unit is to be demolished) on a form prescribed by [ ]. 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.

[12] Local agencies may want to include a provision that indicates enforcement/legal remedies where there is evidence of fraudulent intent. misrepresentation, etc.

E. [Recommended provision] **Recorded Covenant.** Prior to the approval and recordation of the parcel map, the applicant shall record a restrictive covenant and agreement in the form prescribed by the [city attorney/county counsel], 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 property to residential uses only; and

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

The City Manager/County Administrator or designee is authorized to enter into the covenant and agreement on behalf of the City/County and to deliver any approvals or consents required by the covenant.

F. **Specific Adverse Impacts.** In addition to the criteria listed in this section, a proposed Urban Lot Split may be denied if the building official makes a written finding, based on a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact upon public health and safety or the physical environment, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. A "specific adverse impact" is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation and eligibility to claim a welfare exemption are not specific health or safety impacts.

G. **Enforcement.** The City Attorney/County Counsel shall be authorized to abate violations of this chapter and to enforce the provisions of this chapter and all implementing agreements and affidavits by civil action, injunctive relief, and any other proceeding or method permitted by law. Remedies provided for in this chapter shall not preclude the City/County from any other remedy or relief to which it otherwise would be entitled under law or equity.

[POLICY CONSIDERATIONS]

1. **Number of units to be allowed on each parcel.** If a parcel uses the Urban Lot Split provision, a local agency does not need to allow more than two units on each lot, including ADUs, JADUs, density bonus units, and two-unit developments. If an agency desires to take advantage of this provision, it should adopt the following:

> 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 a two-unit development.

Jurisdictions do have the option of allowing additional units, likely ADUs or JADUs, on these lots. Agencies may wish to consider this for large lots, or in exchange for the applicant's agreement to record a covenant restricting sale or rental of the ADU to moderate- or lower-income households.

Another alternative is to consider allowing an ADU and JADU with a primary dwelling unit on one lot, rather than two primary dwelling units.

2. **Design standards, such as standards for building size, height, materials, roof forms, etc.** Standards considered by some agencies include limits on dwelling unit size and height, distance between structures, and design requirements such as roof slope and materials matching existing structures.

   These standards cannot be imposed, however, if they would prevent the construction of units totaling 800 sf each. In addition, the Housing Crisis Act of 2019 (Government Code Section 66300) does not permit reductions in height, floor area ratio, lot coverage, or any other change that would reduce a site's residential development capacity below that existing on January 1, 2018. Consequently, height, size, and similar restrictions on units created through Urban Lot Splits should be limited to units that do not meet existing zoning standards.

   Affordable units. There is nothing in SB 9 that expressly prohibits the imposition of affordability requirements. One consideration prior to the imposition of such requirements would be whether the Urban Lot Splits would still be economically feasible if affordability were required. Ultimately, local agencies should consult with their legal counsel prior to imposing such requirements.

Section 5. Two-Unit Development.

A. The [--] Official[13] shall ministerially review without a hearing an application for an application for a Two-Unit Development, and shall approve the application if all the criteria in Government Code Section 65852.21 and this section are satisfied.

B. Qualifying Criteria. The [] shall determine if the Two-Unit Development meets all the following requirements:

1. The Two-Unit Development is located within one of the following single-family residential zones: _____.[for counties: also must be located within the boundaries of an urbanized area or urban cluster].

2. The Two-Unit Development is not located on a site that is any of the following

i. Either prime farmland or farmland of statewide importance, as defined pursuant to 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.[14]

ii. Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

iii. Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178 of the Government Code, 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 Section 4202 of the Public Resources Code. This subparagraph does not

[13] Local agencies may wish to change their use provisions in addition to, or as an alternative to, listing the zoning districts in the text. Counties may also wish to designate the specific areas that are designated as urbanized areas or urban clusters, or reference a website showing those areas, in addition to designating the applicable zoning districts.
[14] Would be best to specify the local ballot measure.

apply to sites excluded from the specified hazard zones by the[city/county], pursuant to subdivision (b) of Section 51179 of the Government Code, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.[15]

iv. A hazardous waste site that is listed pursuant to Section 65962.5 of the Government Code or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, 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 or residential mixed uses.

v. Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the 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 Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2 of the Government Code.

vi. Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph, the [city/county] shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by the [city/county] that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met (1) the site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the [city/county]; or (2) the site meets Federal

[15] The local agency may wish to specify the relevant standards for very high fire hazard areas, hazardous waste sites, earthquake fault zones, flood hazard areas and floodways.

Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

vii. Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the [city/county] shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by the [city/county] that is applicable to that site.

viii. Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

ix. Habitat for protected species identified as 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).

x. Lands under conservation easement.

3. Notwithstanding any provision of this section or any local law, the proposed Two-Unit Development would not require the demolition or alteration of any of the following types of housing:

i. Housing that is subject to 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. Housing that has been occupied by a tenant in the last three years.

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

5. The proposed Two-Unit Development does not include the demolition of more than 25 percent of the existing exterior structural walls unless the site has not been occupied by a tenant in the last three years.

6. The proposed Two-Unit 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/county] landmark or historic property or historic district pursuant to a [city/county] ordinance.[16]

7. The proposed Two-Unit Development complies with all objective zoning standards, objective subdivision standards, and objective design review standards applicable to the parcel as provided in the zoning district in which the parcel is located[17]; provided, however, that:

i. The [--] Official, or their designee, shall modify or waive any standard if the standard would have the effect of physically precluding the construction of two units on either of the resulting parcels created pursuant to this chapter or would result in a unit size of less than 800 square feet. Any modifications of

[16] Local agencies may wish to specify which ordinance or code section designates historic properties.
[17] Local agencies may wish to specify which ordinance(s) or code section(s) designate these objective standards.

development standards shall be the minimum modification necessary to avoid physically precluding two units of 800 square feet each on each parcel.

ii. Notwithstanding subsection (7)(i) above, required rear and side yard setbacks shall equal four feet, except that no setback shall be required for an existing legally created structure or a structure constructed in the same location and to the same dimensions as an existing legally created structure.

iii. For a Two-Unit Development connected to an onsite wastewater treatment system, the applicant must provide a percolation test completed within the last 5 years, or if the percolation test has been recertified, within the last 10 years.[18]

8. Proposed adjacent or connected dwelling units shall be permitted if they meet building code safety standards and are designed sufficient to allow separate conveyance. [Recommended provision] The proposed Two-Unit Development shall provide a separate gas, electric and water utility connection directly between each dwelling unit and the utility.

9. **Parking.** One parking space shall be required[19] per unit constructed via the procedures set forth in this section, except that the City shall not require any parking where:

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

ii. There is a designated parking area for one or more car-share vehicles within one block of the parcel.

10. Dwelling units created by a Two-Unit Development may be used for residential uses only and may not be used for rentals of less than 30 days.

[18] A local agency may waive this requirement if desired.
[19] Agencies may elect to require fewer parking spaces.

11. [Recommended provision] 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).

C. [Recommended provision] **Declaration of Prior Tenancies.** 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, in the form approved by the [city attorney/county counsel], stating that none of the conditions listed in Section (5)(B)(3) and (B)(4) above exist and shall provide a comprehensive history of the occupancy of the units to be altered or demolished for the past three years (five years if an existing unit is to be demolished) on a form approved by [].

D. [Recommended provision] **Recorded Covenant.** Prior to the issuance of a building permit, the applicant shall record a restrictive covenant and agreement in the form prescribed by the [city attorney/county counsel], 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 be rented or leased only for a period of longer than thirty (30) days.

The City Manager/County Administrator or designee is authorized to enter into the covenant and agreement on behalf of the City/County and to deliver any approvals or consents required by the covenant.

E. **Specific Adverse Impacts.** In addition to the criteria listed in this section, a proposed Urban Lot Split may be denied if the building official makes a written finding, based on a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact upon public health and safety or the physical environment, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. A "specific adverse impact" is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation and eligibility to claim a welfare exemption are not specific health or safety impacts.

F. **Enforcement.** The City Attorney/County Counsel shall be authorized to abate violations of this chapter and to enforce the provisions of this chapter and all implementing agreements and affidavits by civil action, injunctive relief, and any other proceeding or method

permitted by law. Remedies provided for in this chapter shall not preclude the City/County from any other remedy or relief to which it otherwise would be entitled under law or equity.

[POLICY CONSIDERATIONS]

1. **Number of units to be allowed on each parcel.** Local agencies are not required to allow ADUs or JADUs on parcels that utilize both the Urban Lot Split provision and the Two-Unit Development provision. If agencies desire to utilize this provision, they should adopt the following:

   > Two primary dwelling units only may be located on any lot created through an Urban Lot Split that utilized the Two-Unit Development provision. Accessory dwelling units and junior accessory dwelling units are not permitted on these lots.

   Jurisdictions do have the option of allowing additional units, likely ADUs or JADUs, on these lots. Agencies may wish to consider this for large lots, or in exchange for the applicant's agreement to record a covenant restricting sale or rental of the ADU to moderate- or lower-income households.

   Where a lot was not created through an Urban Lot Split, there is no limitation on the construction of ADUs and JADUs except that provided by existing ADU law.

2. **Owner-occupancy requirement.** Where there is no Urban Lot Split, the jurisdiction may adopt a provision requiring that one unit in a Two-Unit Development be owner-occupied, including a requirement to record a covenant notifying future owners of the owner-occupancy requirements.

3. **Design standards, such as standards for building size, height, materials, roof forms, etc.** Standards considered by some agencies include limits on dwelling unit size and height, distance between structures, and design requirements such as roof slope and materials matching existing structures.

   These standards cannot be imposed, however, if they would prevent the construction of units totaling 800 sf each. In addition, the Housing Crisis Act of 2019 (Government Code Section 66300) does not permit reductions in height, floor area ratio, lot coverage, or any other change that would reduce a site's residential development capacity below that existing on January 1, 2018.

Consequently, height, size, and similar restrictions on units created as Two-Unit Developments should be limited to units that do not meet existing zoning standards.

4. **Affordable units.** There is nothing in SB 9 that expressly prohibits the imposition of affordability requirements. One consideration prior to the imposition of such requirements would be whether the Urban Lot Splits would still be economically feasible if affordability were required. Ultimately, local agencies should consult with their legal counsel prior to imposing such requirements.

5. **Fire sprinklers.** If not already required, agencies may wish to consider requiring that units created through Two-Unit Developments be fire-sprinklered.

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Joel/Jennifer:

Please find attached for your review and discussion:

1. A marked-up version of HCD's recent SB-9 FactSheet with a couple of points noted. The key one in it that I would like to bring to your attention is: **HR. It Is Single Family.** You have to fix that one.

2. Please also remove the **20 ft Street Frontage requirement**. SB-9 specifically allows easements and a 20 ft width is ridiculous. I have attached San Jose's way of dealing with it - although it could be simplified. Monte Sereno, and Saratoga also allow easements. Los Gatos got this one wrong.

3. Please also remove the **50 yd grading limitation**. Grading (> 50 yds) for an Urban Lot Split can be reviewed by engineering simply from a safety/zoning regs standpoint. If you want to maintain it, then simply allow the exemption for the building pad to also include the driveway. Then you can stop gratuitous grading while still allowing a house to be built.

4. A marked-up version of Your **Urban Lot Split Application checklist** crossing out most of the items that are not needed for an initial CDD review. I am preparing an application for an Urban Lot Split in the R1:10 zoning district and when I reviewed what the "Simplified Planning Application" is asking for it is Way Overkill and requires a homeowner to spend tens of thousands of dollars up front, before getting a yes/no from CDD. Please look seriously at this. I do not want to instruct the Civil Engineer to do all this unnecessary work.

If you approve an Urban Lot Split. And the Parcel Map is recorded. And a residential development unit is proposed. Then you will need some of this for house construction. But don't hit the homeowner up front with all this. It is busy work and not useful in any decision being made.

For the Site Plan I will try to give you as much information as possible to let you know what we might intend to do [eventually], but more often than not, this information is not known at such an early stage.

As to the project that I am preparing to submit, I only plan to have the Survey crew complete what is needed for a realistic CDD evaluation. If I am missing something that is fundamental in the decision process, then we will add it. I plan to put **"N/A"** on the line items that are not needed.

For example:

I do not plan to ask a Title company for the Record Info for the names of all the neighbors.
I do not plan to do a arborist report, but will identify all large trees.
I do not think that you need lot area coverage details at this stage in the application. It is not part of the decision process.

Hope this helps let you know how I really feel.

Thanks

Tony

EXHIBIT 7

California Department of Housing and Community Development

SB 9 Fact Sheet

On the Implementation of Senate Bill 9 (Chapter 162, Statutes of 2021)

Housing Policy Development Division
March 2022

This Fact Sheet is for informational purposes only and is not intended to implement or interpret SB 9. HCD does not have authority to enforce SB 9, although violations of SB 9 may concurrently violate other housing laws where HCD does have enforcement authority, including but not limited to the laws addressed in this document. As local jurisdictions implement SB 9, including adopting local ordinances, it is important to keep these and other housing laws in mind. The Attorney General may also take independent action to enforce SB 9. For a full list of statutes over which HCD has enforcement authority, visit HCD's ***Accountability and Enforcement webpage****.*

Executive Summary of SB 9

Senate Bill (SB) 9 (Chapter 162, Statutes of 2021) requires ministerial approval of a housing development with no more than two primary units in a single-family zone, the subdivision of a parcel in a single-family zone into two parcels, or both. SB 9 facilitates the creation of up to four housing units in the lot area typically used for one single-family home. SB 9 contains eligibility criteria addressing environmental site constraints (e.g., wetlands, wildfire risk, etc.), anti-displacement measures for renters and low-income households, and the protection of historic structures and districts. Key provisions of the law require a local agency to modify or eliminate objective development standards on a project-by-project basis if they would prevent an otherwise eligible lot from being split or prevent the construction of up to two units at least 800 square feet in size. For the purposes of this document, the terms "unit," "housing unit," "residential unit," and "housing development" mean primary unit(s) unless specifically identified as an accessory dwelling unit (ADU) or junior ADU or otherwise defined.

Single-Family Residential Zones Only

(Reference: Gov. Code, §§ 65852.21, subd. (a); 66411.7 subd. (a)(3)(A))

The parcel that will contain the proposed housing development or that will be subject to the lot split must be located in a single-family residential zone. Parcels located in multi-family residential, commercial, agricultural, mixed-use zones, etc., are not subject to SB 9 mandates even if they allow single-family residential uses as a permitted use. While some zones are readily identifiable as single-family residential zones (e.g., R-1 "Single-Family Residential"), others may not be so obvious. Some local agencies have multiple single-family zones with subtle distinctions between them relating to minimum lot sizes or allowable uses. In communities where there may be more than one single-family residential zone, the local agency should carefully review the zone district descriptions in the zoning code and the land use designation descriptions in the Land Use Element of the General Plan. This review will enable the local agency to identify zones whose primary purpose is single-family residential uses and which are therefore subject to SB 9. Considerations such as minimum lot sizes, natural features **such as hillsides**, or the permissibility of keeping horses should not factor into the determination.

Residential Uses Only

(Reference: Gov. Code, §§ 65852.21, subd. (a))

SB 9 concerns only proposed housing developments containing no more than two residential units (i.e., one or two). The law does not otherwise change the allowable land uses in the local agency's single-family residential zone(s). For example, if the local agency's single-family zone(s) does not currently allow commercial uses such as hotels or restaurants, SB 9 would not allow such uses.

Ministerial Review

(Reference: Gov. Code, §§ 65852.21, subd. (a); 66411.7, subds. (a), (b)(1))

An application made under SB 9 must be considered ministerially, without discretionary review or a hearing. Ministerial review means a process for development approval involving no personal judgment by the public official as to the wisdom of carrying out the project. The public official merely ensures that the proposed development meets all the applicable objective standards for the proposed action but uses no special discretion or judgment in reaching a decision. A ministerial review is nearly always a "staff-level review." This means that a staff person at the local agency reviews the application, often using a checklist, and compares the application materials (e.g., site plan, project description, etc.) with the objective development standards, objective subdivision standards, and objective design standards.

Objective Standards

(Reference: Gov. Code, §§ 65852.21, subd. (b); 66411.7, subd. (c))

The local agency may apply objective development standards (e.g., front setbacks and heights), objective subdivision standards (e.g., minimum lot depths), and objective design standards (e.g., roof pitch, eave projections, façade materials, etc.) as long as they would not physically preclude either of the following:

> **Up to Two Primary Units.** The local agency must allow up to two primary units (i.e., one or two) on the subject parcel or, in the case of a lot split, up to two primary units on each of the resulting parcels.
>
> **Units at least 800 square feet in size.** The local agency must allow each primary unit to be at least 800 square feet in size.

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. Any objective standard that would physically preclude either or both of the two objectives noted above must be modified or

waived by the local agency in order to facilitate the development of the project, with the following two exceptions:

Setbacks for Existing Structures. The local agency may not require a setback for an existing structure or for a structure constructed in the same location and to the same dimensions as an existing structure (i.e., a building reconstructed on the same footprint).

Four-Foot Side and Rear Setbacks. SB 9 establishes an across-the-board maximum four-foot side and rear setbacks. The local agency may choose to apply a lesser setback (e.g., 0-4 feet), but it cannot apply a setback greater than four feet. The local agency cannot apply existing side and rear setbacks applicable in the single-family residential zone(s). Additionally, the four-foot side and rear setback standards are not subject to modification. (Gov. Code, §§ 65852.21, subd. (b)(2)(B); 66411.7, subdivision (c)(3).)

One-Unit Development

(Reference: Gov. Code, §§ 65852.21, subd. (a); 65852.21, subd. (b)(2)(A))

SB 9 requires the ministerial approval of either one or two residential units. Government Code section 65852.21 indicates that the development of just one single-family home was indeed contemplated and expected. For example, the terms “no more than two residential units” and “up to two units” appear in the first line of the housing development-related portion of SB 9 (Gov. Code, § 65852.21, subd. (a)) and in the line obligating local agencies to modify development standards to facilitate a housing development. (Gov. Code, § 65852.21, subd. (b)(2)(A).)

Findings of Denial

(Reference: Gov. Code, §§ 65852.21, subd. (d); 66411.7, subd. (d))

SB 9 establishes a high threshold for the denial of a proposed housing development or lot split. Specifically, a local agency’s building official must make a written finding, based upon a preponderance of the evidence, that the proposed housing development would have a specific, adverse impact, as defined in Government Code section 65589.5, subdivision (d)(2), 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. “Specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. (Gov. Code, § 65589.5, subd. (d)(2).)

Environmental Site Constraints

(Reference: Gov. Code, §§ 65852.21, subd. (a)(2) and (a)(6); 66411.7, subd. (a)(3)(C) and (a)(3)(E))

A proposed housing development or lot split is not eligible under SB 9 if the parcel contains any of the site conditions listed in Government Code section 65913.4, subdivision (a)(6)(B-K). Examples of conditions that may disqualify a project from using SB 9 include the presence of farmland, wetlands, fire hazard areas, earthquake hazard areas, flood risk areas, conservation areas, wildlife habitat areas, or conservation easements. SB 9 incorporates by reference these environmental site constraint categories that were established with the passing of the Streamlined Ministerial Approval Process (SB 35, Chapter 366, Statutes of 2017). Local agencies may consult HCD's **Streamlined Ministerial Approval Process Guidelines** for additional detail on how to interpret these environmental site constraints.

Additionally, a project is not eligible under SB 9 if it is located in a historic district or property included on the State Historic Resources Inventory or within a site that is designated or listed as a city or county landmark or as a historic property or district pursuant to a city or county ordinance.

California Environmental Quality Act (CEQA)

Reference: Gov. Code, §§ 65852.21, subd. (j); 66411.7, subd. (n))

Because the approval of a qualifying project under SB 9 is deemed a ministerial action, CEQA does not apply to the decision to grant an application for a housing development or a lot split, or both. (Pub. Resources Code, § 21080, subd. (b)(1) [CEQA does not apply to ministerial actions]; CEQA Guidelines, § 15268.) For this reason, a local agency must not require an applicant to perform environmental impact analysis under CEQA for applications made under SB 9. Additionally, if a local agency chooses to adopt a local ordinance to implement SB 9 (instead of implementing the law directly from statute), the preparation and adoption of the ordinance is not considered a project under CEQA. In other words, the preparation and adoption of the ordinance is statutorily exempt from CEQA.

Anti-Displacement Measures

(Reference: Gov. Code, §§ 65852.21, subd. (a)(3); 66411.7, subd. (a)(3)(D))

A site is not eligible for a proposed housing development or lot split if the project would require demolition 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; (2) housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power; or (3) housing that has been occupied by a tenant in the last three years.

Lot Split Requirements

(Reference: Gov. Code, §66411.7)

SB 9 does not require a local agency to approve a parcel map that would result in the creation of more than two lots and more than two units on a lot resulting from a lot split under Government Code section 66411.7. A local agency may choose to allow more than two units, but it is not required to under the law. A parcel may only be subdivided once under Government Code section 66411.7. This provision prevents an applicant from pursuing multiple lot splits over time for the purpose of creating more than two lots. SB 9 also does not require a local agency to approve a lot split if an adjacent lot has been subject to a lot split in the past by the same property owner or a person working in concert with that same property owner.

Accessory Dwelling Units

(Reference: Gov. Code, §§ 65852.21, subd. (j); 66411.7, subd. (f))

SB 9 and ADU Law (Gov. Code, §§ 65852.2 and 65858.22) are complementary. The requirements of each can be implemented in ways that result in developments with both "SB 9 Units" and ADUs. However, specific provisions of SB 9 typically overlap with State ADU Law only to a limited extent on a relatively small number of topics. Treating the provisions of these two laws as identical or substantially similar may lead a local agency to implement the laws in an overly restrictive or otherwise inaccurate way.

"Units" Defined. The three types of housing units that are described in SB 9 and related ADU Law are presented below to clarify which development scenarios are (and are not) made possible by SB 9. The definitions provided are intended to be read within the context of this document and for the narrow purpose of implementing SB 9.

Primary Unit. A primary unit (also called a residential dwelling unit or residential unit) is typically a single-family residence or a residential unit within a multi-family residential development. A primary unit is distinct from an ADU or a Junior ADU. Examples of primary units include a single-family residence (i.e., one primary unit), a duplex (i.e., two primary units), a four-plex (i.e., four primary units), etc.

Accessory Dwelling Unit. An ADU is an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel on which the single-family or multifamily dwelling is or will be situated.

Junior Accessory Dwelling Unit. A Junior ADU is a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A Junior ADU may include separate sanitation facilities or may share sanitation facilities with the existing structure.

The terms “unit,” “housing unit,” “residential unit,” and “housing development” mean primary unit(s) unless specifically identified as an ADU or Junior ADU or otherwise defined. This distinction is critical to successfully implementing SB 9 because state law applies different requirements (and provides certain benefits) to ADUs and Junior ADUs that do not apply to primary units.

Number of ADUs Allowed. ADUs can be combined with primary units in a variety of ways to achieve the maximum unit counts provided for under SB 9. SB 9 allows for up to four units to be built in the same lot area typically used for a single-family home. The calculation varies slightly depending on whether a lot split is involved, but the outcomes regarding total maximum unit counts are identical.

> *Lot Split*. When a lot split occurs, the local agency must allow up to two units on each lot resulting from the lot split. In this situation, all three unit types (i.e., primary unit, ADU, and Junior ADU) count toward this two-unit limit. For example, the limit could be reached on each lot by creating two primary units, or a primary unit and an ADU, or a primary unit and a Junior ADU. By building two units on each lot, the overall maximum of four units required under SB 9 is achieved. (Gov. Code, § 66411.7, subd. (j).) Note that the local agency may choose to allow more than two units per lot if desired.
>
> *No Lot Split*. When a lot split has not occurred, the lot is eligible to receive ADUs and/or Junior ADUs as it ordinarily would under ADU law. Unlike when a project is proposed following a lot split, the local agency must allow, in addition to one or two primary units under SB 9, ADUs and/or JADUs under ADU Law. It is beyond the scope of this document to identify every combination of primary units, ADUs, and Junior ADUs possible under SB 9 and ADU Law. However, in no case does SB 9 require a local agency to allow more than four units on a single lot, in any combination of primary units, ADUs, and Junior ADUs.

See HCD’s **ADU and JADU webpage** for more information and resources.

Relationship to Other State Housing Laws

SB 9 is one housing law among many that have been adopted to encourage the production of homes across California. The following represent some, but not necessarily all, of the housing laws that intersect with SB 9 and that may be impacted as SB 9 is implemented locally.

Housing Element Law. To utilize projections based on SB 9 toward a jurisdiction’s regional housing need allocation, the housing element must: 1) include a site-specific inventory of sites where SB 9 projections are being applied, 2) include a nonvacant sites analysis demonstrating the likelihood of redevelopment and that the existing use will not constitute an impediment for additional residential use, 3) identify any governmental constraints to the use of SB 9 in the creation of units (including land use controls, fees,

and other exactions, as well as locally adopted ordinances that impact the cost and supply of residential development), and 4) include programs and policies that establish zoning and development standards early in the planning period and implement incentives to encourage and facilitate development. The element should support this analysis with local information such as local developer or owner interest to utilize zoning and incentives established through SB 9. Learn more on HCD's **Housing Elements webpage**.

Housing Crisis Act of 2019. An affected city or county is limited in its ability to amend its general plan, specific plans, or zoning code in a way that would improperly reduce the intensity of residential uses. (Gov. Code, § 66300, subd. (b)(1)(A).) This limitation applies to residential uses in all zones, including single-family residential zones. "Reducing the intensity of land use" includes, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or any other action that would individually or cumulatively reduce the site's residential development capacity. (Gov. Code, § 66300, subd. (b)(1)(A).)

A local agency should proceed with caution when adopting a local ordinance that would impose unique development standards on units proposed under SB 9 (but that would not apply to other developments). Any proposed modification to an existing development standard applicable in the single-family residential zone must demonstrate that it would not result in a reduction in the intensity of the use. HCD recommends that local agencies rely on the existing objective development, subdivision, and design standards of its single-family residential zone(s) to the extent possible. Learn more about **Designated Jurisdictions Prohibited from Certain Zoning-Related Actions**noHCD's website.

Housing Accountability Act. Protections contained in the Housing Accountability Act (HAA) and the Permit Streaming Act (PSA) apply to housing developments pursued under SB 9. (Gov. Code, §§ 65589.5; 65905.5; 65913.10; 65940 et seq.) The definition of "housing development project" includes projects that involve no discretionary approvals and projects that include a proposal to construct a single dwelling unit. (Gov. Code, § 65905.5, subd. (b)(3).) For additional information about the HAA and PSA, see HCD's **Housing Accountability Act Technical Assistance Advisory**.

Rental Inclusionary Housing. Government Code section 65850, subdivision (g), authorizes local agencies to adopt an inclusionary housing ordinance that includes residential rental units affordable to lower- and moderate-income households. In certain circumstances, HCD may request the submittal of an economic feasibility study to ensure the ordinance does not unduly constrain housing production. For additional information, see HCD's **Rental Inclusionary Housing Memorandum**.

20.30.810 Urban Lot Split Standards

A. Lot design requirements:

1. Lot frontage:

a. Where 55 feet of frontage on a public right-of-way is not proposed for both lots created by an Urban Lot Split, pursuant to Government Code Section 66411.7, each lot shall have a minimum of 30 feet of frontage on a public right-of-way and an average width of 30 feet, or

b. Where 30 feet of frontage on a public right-of-way is not proposed for both lots created by an Urban Lot Split, one of the lots shall be provided with access by a corridor with at least 12 feet but no more than 15 feet of frontage on a public street.

i. Said access corridor shall maintain a width of at least 12 feet but no more than 15 feet for the entire length of the corridor.

ii. The length of said access corridor shall be at minimum the required front setback of the zoning district in which the lot is situated.

iii. The access corridor shall be kept free and clear of building or structures of any kind except for lawful fences and underground or overhead utilities.

c. Where one of the lots created by an Urban Lot Split does not propose frontage on a public right-of-way, direct access to the public right of way must be provided through an easement for ingress and egress and emergency access.

i. Said easement shall be a minimum 12 feet but no more than 15 feet in width for the entire length of the easement.

ii. The length of said easement shall be at minimum the length of the required front setback of the zoning district in which the lot is situated.

iii. Said easement shall be recorded as a Covenant of Easement on the Parcel Map for the Urban Lot Split.

2. Maximum lot depth, as required by Section 19.36.230 of this Code, shall be waived for lots created by an Urban Lot Split.

B. Property line and setbacks:

1. For lots accessed by a corridor of 12 feet to 15 feet in width:

a. Front property line is the property line that abuts the public street.

b. The front setback area is the is the entire length of the 12 foot to 15 foot wide access corridor.

c. The rear property line is any property line that is generally parallel to the public right of way from which the lot gains access, and that abuts properties that are not a part of the Urban Lot Split.

d. The remaining property lines shall be considered side property lines.

2. For lots that do not abut a public street that are accessed by an easement:

a. There shall be no front property line.

b. The rear property line is any property line that is generally parallel to the public right of way from which the lot gains access, and that abuts properties that are not a part of the Urban Lot Split.

THIS SHOWS ONLY WHAT IS REALLY NEEDED

A. GENERAL REQUIREMENTS:

- □ 1. Scale on each sheet.
- □ 2. North arrow on each sheet as applicable.
- □ 3. Sheet size not to exceed 24" x 36" size.
- □ 4. Plans fully dimensioned.
- □ 5. Address on each sheet.
- □ 6. Zoning Designation on cover sheet.

B. PLAT OR SITE PLAN WITH THE FOLLOWING MINIMUM INFORMATION:

- □ 1. All property lines (existing and proposed).
- □ 2. All building setbacks (existing) ~~and proposed).~~
- □ 3. Use of all existing buildings.
- □ 4. Table including the following:
  - a. Lot area (existing and proposed);
  - b. Gross floor area of existing buildings;
  - ~~c. Lot area coverage (existing and proposed);~~
  - ~~d. Lot width (existing and proposed);~~
  - ~~e. Lot depth (existing and proposed); and~~
  - ~~f. Lot frontage (existing and proposed).~~
- □ 5. Conceptual Grading and drainage plan with grading quantities.
  The 50 yard Limit is Bogus and should not stop a project. See HCA for Grounds for Denial.

C. TENTATIVE MAP REQUIREMENTS:

- □ 1. ~~Tract name or designation and~~ property address.
- □ 2. Name and address of owner~~, subdivider~~, and registered civil engineer or licensed surveyor.
- □ 3. Locations, names, ~~and widths~~ of all adjoining highways, streets or ways, ~~the names of adjacent subdivisions, and the names of all owners of properties adjacent to proposed tract.~~
- □ 4. Widths and locations of all existing or proposed easements, whether public or private.
- □ 5. ~~Radius of all street curves.~~
- ~~□~~ 6. ~~Total size of property before and after street and right-of-way dedication (gross and net land area calculation).~~ No Dedication – See 4a.
- ~~□~~ 7. Lot layout, including the dimension of each lot line~~, and exact square footage of each lot.~~ Repeat of 4a.
- □ 8. Location of all water courses and natural drainage channels, locations of all areas covered by water or subject to inundation, and existing ~~and~~

~~proposed~~ storm drain facilities.

- ☐ 9. ~~Source of water supply, including conceptual design.~~
- ☐ 10. ~~Method of sewage disposal, including conceptual design.~~
- ☐ 11. ~~Location of all buildings in close proximity to the proposed tract.~~
- ☐ 12. Contour lines (existing ~~and proposed~~) ~~showing one (1) foot contours for ground slopes of less than five (5) percent, and five (5) feet horizontal distance, and five foot contours for ground slopes in excess thereof.~~
  (This information can typically be obtained from PPW in PDF form – and the level of detail is sufficient for CDD to approve/deny based on this.)
- ☐ 13. Location or vicinity map, date~~, north arrow, and scale~~. Requested A1,A2
- ☐ 14. Number or letter identification for each lot.
- ☐ 15. Location and outline of each existing building and an accompanying note as to whether or not it is to be removed.
- ☐ 16. ~~Each street shown by its actual street name or by a temporary name or symbol for the purpose of identification.~~
- ☐ 17. Location of all trees shall be accurately ~~identified and~~ plotted ~~with base grade data, dripline, and finished grades within the dripline.~~
- ☐ 18. All fire hydrant locations.
- ☐ 19. ~~Required yards.~~
- ☐ 20. Name of utility providers and location of closest existing services shown, including water, gas, electricity, telephone, cable television, sewage disposal and storm drain.

  Roadways will not be required for SB-*9*
- ☐ 21. ~~If in the Hillside Area, show grading required for **roadway** construction, including location of all cuts and fills, volumes, retaining walls or reinforced earth slopes (with top and base elevations), and existing and proposed contours.~~
  You will be required to add HR to the allowable zones so this can stay.
- ☐ 22. If hillside, show conceptual driveways, building sites, drainage, and sanitary sewers.
- ☐ 23. ~~Interim erosion control measures.~~
- ☐ 24. If it is impossible or impracticable to place upon the tentative map any of the information required above, such information shall be furnished on a separate document, which shall be submitted with the map.

Jennifer [Joel]:

I understand that you are working on a revision to the SB-9 Ordinance to be debated on September 21st. On the whole - with the February revision to the Ordinance I think you got it pretty much right. I do, however, have a couple of questions/comments.

Question 1: The 20 ft Fee Title Corridor.

SB-9 does not really allow you to restrict a flag lot access corridor to being 'Fee Title'. No other Jurisdiction does so - all allow easements to a rear parcel. Additionally it should be in the 12-15 ft width range so as to allow IEE for fire requirements to be met - but no more.

Please look carefully at the attached example. From the existing Ordinance [Section VI.3] the corridor does not count in the 60/40 rule, but it diminishes the rear parcel in net lot size. So you can get some really stupid lots [not intended by SB-9]. This is your chance to fix it.

Question 2: HR Zoning

I assume that this has been fixed - and that you now are accepting HR applications [subject to Fire Access]. Can you confirm this?

Question 3: 50 Yards of Grading

Please tell me you have a better solution for this! Either up the quantities OR Allow the driveway and turnaround area to be 'exempted' in the same way that the area under the house is now.

Question 4: Objective Deign Standards

These should be pared back so that Front Elevation and Side-abutting-street elevations are not encumbered by the 'Privacy' window/deck/balcony restrictions. Additionally you should consider eliminating/easing these restrictions where the house placement is compliant with the setbacks for the zoning district. I do not want to design by 'paint by numbers' for Single Family Homes - in the same way there was concern for Multi-Family developments.

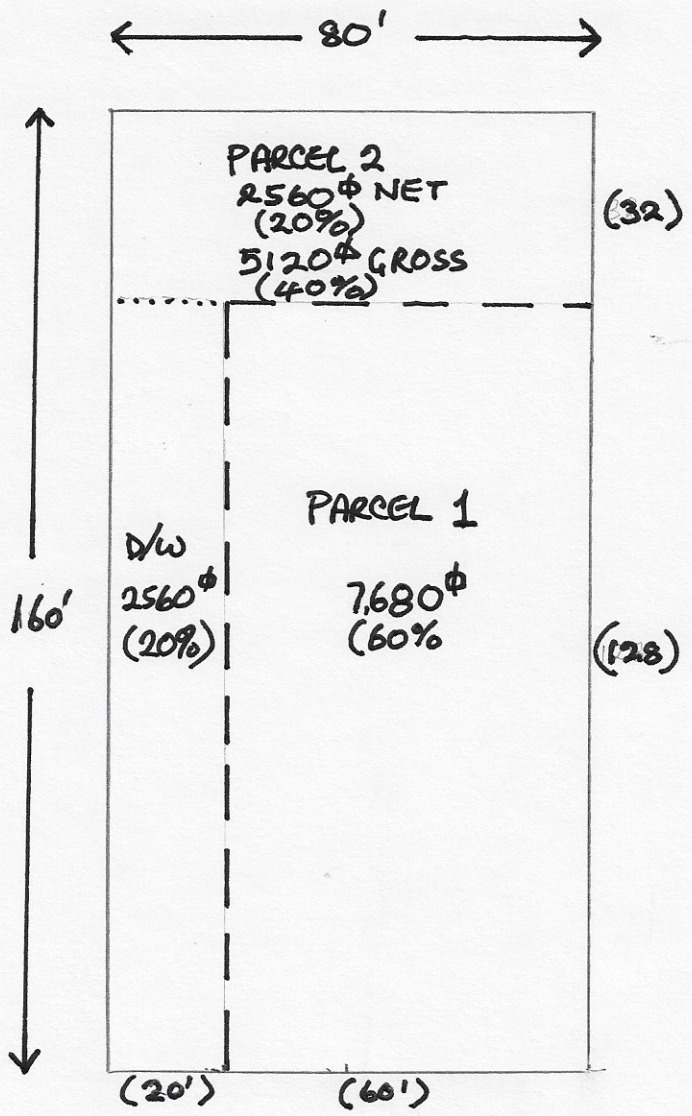
Question 5: The Discretionary Process

Please make it much more clear that this can be used as an alternative to the administrative review process for a lot that has been created by an ULS. I will use it to design a better home, because I do not like the Objective Design Standards in the Ordinance. Please consider eliminating the 'Tech Review' step in the discretionary process to allow me to 'sell' the discretionary process to my clients. This will shave weeks, if not months, off the process. Ray Davis is not with us any more. Also - please clarify whether the discretionary process can be used to bypass the '1,200 max sq ft first unit regulation'. This regulation does not concern me personally, but clarification would be useful.

I will have other comments, I am sure, when I see the Proposed new ordinance.

Thanks
Tony

THE 20' FEE TITLE CORRIDOR RULE.



DOES THIS REALLY MAKE SENSE?

TOTAL LOT SIZE = 12,800¢

60% LOT SIZE = 7,680¢ PARCEL 1

40% LOT SIZE = 5120¢ PARCEL 2

BUT ½ IS CORRIDOR

20% ACCESS CORRIDOR - 2,560

20% NET LOT SIZE - 2,560.

IF YOU INSIST ON THE 20' WIDE "FEE TITLE" THEN IT SHOULD BE DEDUCTED FROM THE 60/40 % CALCULATION OR YOU COULD HAVE STUPID LOTS.

BUT REALLY YOU SHOULD ALLOW/REQUIRE AN EASEMENT TO THE BACK LOT TO SOLVE THIS & MAKE THE EASEMENT WIDTH 12'-15'.

Gm Ryan,

Thanks for your time yesterday.
As discussed, please help to clarify with city attorney on the SB9 guideline - "Intent to Occupy' requirement for a SB9 lot split".

After the SB9 urban lot split, we will end up with an existing home on one lot and the second is a vacant lot.

Can we sell the original residence and keep the newly split vacant lot for three years to meet the SB9 requirement?
or do we have to build a new home on the vacant lot and keep it for three years?

Please help us clarify the 'Intent to Occupy' requirement for a SB9 lot split.

Thank you,
Satya

All:

Now that I have remained unscathed from my first SB-9/HPC dichotomy [16405 Kennedy - a pre-1941 house with no redeeming architectural or historic values], I would wonder whether there might be a way to allow HPC to consider the impact of the reduction in property size of an older/historic home. Not that it mattered here.

I guess it just depends on whether you need/want SB-9 projects to contribute to the housing element - because you do have a 2 for 1 rule?

If they feel that the yard and landscaping are not instrumental to the historic nature of a property then perhaps there might be a path to allowing a lot split while still retaining a home on the historic register?

When do you expect to go back for another bite at the SB-9 apple? [Hillside/50 yards/Easement access/anything else]?

Tony

Jocelyn [Joel/Jennifer added]:

Fire will not talk with applicants other than through a routed application from the Town. [Per Rob Campbell - see below]

Can we either route to fire or require them to talk to applicants once you feel an application is reasonably complete? I sent them exactly the plans you have but below is the response I received.

I specifically do not want to go too far [on any project] and spend client's money only to be turned down later.

Saratoga - for example - has routed a similar submission of mine to various entities [including fire]. They go too far - including routing to Caltrans and WVSD, plus requiring a geotechnical report - which should come later, because - why waste everyone's time before a project is realistic. San Jose also routes to Fire for comments - but they want the entire application complete [including the Parcel Map]. Planning just checks it for the obvious [a pre-screen] and then it is a PPW project. But most of their lots are simpler [and they allow 12-15 ft easements to a back lot, like most other jurisdictions so they screen for that too]

Los Gatos' staff has the knowledge and expertise to look at this and make a reasonable decision as to the best sequencing. I understand Rob's desire not to be inundated with scraps of paper with scribbles on them, so he might be right from that standpoint - but if you can talk with him again to resolve this disconnect, it would be helpful.

Tony

Tony,
I am not available today. I recommend discussing the SB-9 requirements with the city/town planning departments before coming to us. As you know SB-9 is primarily zoning focused legislation. My discussion with Los Gatos planning is that they will be the lead in any such decisions. Where fire concerns arise (e.g. VHFHSZ parcels) they will coordinate with us for requirements. If you have specific questions, please put those in writing so we can be clear on the information you seek.

Thank you,

Rob.

Robert L. Campbell, PE
Sr. Fire Protection Engineer
Santa Clara County Fire Department
[redacted]

Ryan,

I had previously provided public comment / input toward the next draft of Ord 2327. I have two further comments:

1)

a) Ord 2327 says that if SB9-reduced setbacks are used then windows must be clerestory. I think this is fine as in usual suburban neighborhoods you don't want them looking into a neighbor's yard, however clerestory window requirements *should only apply to exterior walls that are closer to the property line than the usual (non-SB9, base zoning) setbacks*. For the rest of the 2nd story walls, they are no closer to the property line as is already allowed today with the base zoning rules, so these walls should be allowed to have whatever window size and arrangement the base zoning district allows today.

b) Where an applicant is ***not*** using reduced SB9 setbacks but just respecting the base zoning's setbacks, Ord 2327 says that second story windows must be of the minimum number and size necessary for egress. That means one small window per room. This does not make sense to apply since it is more restrictive than most (or all?) base zoning districts. At least here in the hillside, without SB9 I could build a second story and put larger windows than that, but if I attempt to use SB9 then my window size and number are restricted -- *even if I still respect the base zoning's setbacks*. This doesn't make sense to me and I would request we just remove this entirely from Ord 2327 and rely on the base zoning's window requirements if the base zoning's setbacks are respected.

2) Ord 2327 says that if there's a roof over the entryway that its roofline must meet the adjacent roofline. This doesn't make sense to me, since today in most (or all?) base zoning districts as far as I know there is no restriction on how a roof over the entryway is supposed to look. Indeed, many high-value homes have a beautiful entryway with a high arch and roof. This can take many forms but here are two examples:




This tall entryway can be a beautiful architectural feature designed to bring value to the home and neighborhood, and as far as I know this entryway is not restricted other than in Ord 2327 (assuming other requirements like overall height are respected). Therefore I would request that we remove this from Ord 2327 and just rely on the base zoning's rules regarding roofs over entryways.

David

Ryan,

Thanks for our discussion today. For two of my questions you said the first step at providing input into a permanent ordinance was to email you.

1)

Ord. 2327 has two restrictions on architectural design: (a) No balconies/terraces on top of 1st floor. (b) 2nd stories must be stepped back 5' from 1st stories.

The restrictions are presumably intended to protect neighbor's privacy when SB9's reduced (4-foot) setbacks are used. Nobody wants a neighbor's 2nd story window or terrace/balcony looking over their fence.

However it is my feeling that the restriction should be waived if the regular zoning setbacks on that side of the house are respected.

To not do so violates state law and strongly limits architectural options. According to HCD's fact sheet on the implementation of SB9, "HCD recommends that local agencies rely on the existing objective development, subdivision, and design standards of its single-family residential zone(s) to the extent possible." Accordingly, it is reasonable for the Town to require a 5' step-back from 1st story elevations if the proposed house is utilizing reduced SB9 setbacks, but no such architectural design restriction should be required if the proposed house utilizes the original zone's setbacks. This to me seems to resolve the concern in a way that leans on existing zoning guidelines.

Leaning on existing zoning guidelines wherever possible is more desirable, since these zoning guidelines are developed over decades of time and well-understood by everyone in the community.

2)

In Ord. 2327 Sec. V B 2, "The finished floor of the first-story shall not exceed 18 inches in height as measured from the finished grade."

Inasmuch as SB9 is (or will) apply to hillside zones, and inasmuch as basements in the hillsides are to be encouraged and incentivized (since they reduce massing), this restriction is overly restrictive and does not incentivize basements in the hillside zone. (For comparison, non-inclusion of basement floor area in FAR does correctly incentivize them.)

On flat land this restriction makes sense -- you don't want your first floor to be 4' out of the ground. On sloping land, very quickly your 18" protruding basement becomes 0" and then your 1st floor becomes below grade, and your original basement ends up buried very deep in the earth, which is expensive and not incentivizing, and the basement becomes very small or very expensive or both.

I think it makes sense to modify this to 4' at least in the hillsides, consistent with the existing definition of basement.

Ryan,

I understand Fire Dept doesn't review my ULS/TUD application until Building Permit phase.

I also understand that Fire will very likely reject my application based on 4290 since I'm in VHFSZ. Talking to friends who are working through this right now, a rejection letter is expected and an important step, as a starting point to petition for exemption from 4290 or discuss alternative methods and means.

So, if fire is going to reject my application I'd like to get to that phase before the Parcel is even split (since at that point there is a permanent change and I can no longer back-pedal on my plans).

I asked SCCFD, and they said they won't review my plans until they come across their desk through the regular procedure.

Can we (a) have Fire do a full review at the Planning stage, or (b) have Fire review at the Building Permit stage as usual, but I start the Building permit phase (submit my Building plans to Town of Los Gatos) even before the Parcel Map is fully recorded, with an at-risk letter saying the Building Permit won't be considered final until the parcels are fully created?

I'd prefer to do (b).
If we did (a) then I lose the advantages of SB9 ministerial review (it turns into a non-ministerial review, which I don't think is allowed).
If we do (b) then it follows the regular procedure, and allows us to finalize all other Planning details and get Planning approval before taking the plan to Fire. But the down-side is that my plans will be further along in time and money before getting the rejection letter -- but that's ok with me.

Thanks,
David

Hi Ryan,
Thanks for your time this afternoon. I'm summarizing below what we discussed along with a follow up question:
What are we looking for?

- To build a 2000-2400 sq feet dwelling at the back of our property.
- We do not want to go with public hearing given the experience in the recent past with our neighbors. Given this we have to go through SB9.

Options:

1. With Split (Not desired but solved our problem wrt building what we want)
    a. In the new lot above we can build a new Primary unit up to 5000 sq feet and an ADU on top (up to 1200 sq feet)
    b. Lot once split cannot be merged back later as there cannot be two Primary units in a Single-family Lot (@Ryan but with SB9 it is supported so that argument may not be valid)
2. Without Split, the Emergency Ordinance on SB9 from the Town of Los Gatos only supports the scenario of building up to 1200 sq feet ADU/Primary Unit. This is too restrictive IMO.

While our ideal and preferred scenario is to go with Option 2 (without split) and build a 2000-2400 sq feet dwelling, it is currently not supported by the Town of Los Gatos. Ryan can you please confirm this again. Based on the FAR ratio that we looked at this afternoon, my property (62000 sq feet with 17% grade) is allowed to have 6200 sq feet without a garage included (and not including 10% increase when you have 2 units). Just based on this I should be allowed to build up to 2700 sq feet for the 2nd unit (6200x1.1 = 6820, subtract existing unit 4120 which leaves 2700 sq feet). Ideally if Planning department can support this scenario as part of SB9 then our problem would be solved ☺

Thanks
Ani

Ryan, Our feedback is pretty simple:
1) Please remove the silly grading disqualification, and
2) The California Legislature did not intend the first unit size restriction to be under 1200 SF as adopted by the Town.

Otherwise, Town Staff has done a good job implementing SB9.
Best regards, Terry
Terence J. Szewczyk. P.E.

Hi Ryan - For the single family residences, I am opposed to the 2nd story setback as written as well as the window regs for the second story.

The regs as written will lead dreadful cookie cutter houses and dismal living spaces upstairs.

-Jay

Ryan,

Thanks for the email. I have to say that I agree with Terry, the grading requirement is in clear violation of the State's intent on these projects, it is an arbitrary restriction. That is a clear no-no. And the Town knows darn well that in even the mildest of sloped sites there will be more than 50 CY of dirt moved. If this is brought to the state it will surely be slapped down. It is a rather clumsy attempt to knock down the number of lots that would be eligible for a split.

It is a mystery to me why the town does not simply adopt the State standards and call it a day. Any number of developers in the town and in the surrounding area are much better funded than the town is and will surely bring provisions like this grading restriction to court or to the office of the State architect. They are not going to be able to just sneak this in.

I get that this is simply another case of 'the Town being the Town' and at some point, it just gets ridiculous. Anyway, thanks for the email and I will try to make the meeting. If nothing else it will be entertaining...

Regards,
David

Ryan,
Our request is the following three aspects of the Ordinance that violate state law:

(1) The Ordinance's exclusion of the Hillside Residential (HR) zoning district from the definition of a "single-family residential zone";
(2) Limitations on grading in connection with the development of residential units under SB 9; and (3) A 1,200 square foot size limitation on the first residential unit constructed on a lot pursuant to SB 9.

Thanks,
Arvin Khosravi

Subject: SB 9 comment from a long-time Los Gatos renter.

EXTERNAL SENDER

As someone who has been renting in Los Gatos for the last 7 years, I hope that SB9 will increase the acceptable amount of "family" housing available to families like mine (a single parent household with two children attending Los Gatos schools). We would love the option to live in a duplex or ADU and have some access to a backyard, instead of being restricted to apartments and townhouses.

To that end, the 1200 sqft MAXIMUM on the size of the ADU is too small for small families. I can understand not wanting to have a large ADU/Duplex on a lot that is too small, but there are many large homes/lots in this area that can indeed accomodate a larger 1600 sqft unit. So the max size of a detached ADU should be based on a percentage of the main house/lot size's area with a minimum of 1200sqft.

I hope that Los Gatos makes special outreach to the tenant/renter community with regard to this proposal, as well as to the land owners who seem to dominate town government meetings (probably because they have more time and are not working second jobs or caring for children during town meeting hours).

Sue Raisty
[redacted], Los Gatos, CA 95032

EXTERNAL SENDER

I have been a resident of Los Gatos for many years. I have watched the changes to the housing landscape change & not for the better. Take The North 40 development as

an example. If that isn't the ugliest over developed housing you ever seen, then I'm sorry for you. The only reason The Town is pushing this is because it needs more funds to handle the mismanaged Town budget that is in dire need of funds. Funds that would be gained from building permits, inspection fees and additional taxes on the land & buildings involved.

I vote no on the SB9 Ordinance.

Melanie Allen

Los Gatos Resident

EXTERNAL SENDER

Hi Los Gatos planning
I'd Like to have the issue of VHFHSZ addressed tonight

I am the first house of the hillside zone at 15 Highland at Jackson at the base of the hill.
I have a fire hydrant in front of my house and I'm about a block up from Main Street.
Is there any way to ask for a variance regarding being removed from the hillside one and high fire zone in order to do a sub division of my property?
If you could address the VHSHSZ tonight that would be very helpful.

Is it be possible to ask for a variance to be moved to a different zone and move out of the hillside high fire zone?

Thank you so much,

Teresa Spalding

Sent from my iPhone

To whom it may concern:

In general most of my concerns with the draft revolve around rules that are more restrictive than the base zone's rules.

- *Page 4, V, A, 1, Building height … in HR zone <16'.* This practically prohibits 2-story buildings in HR. Two-story buildings are often required in hillside, to keep the house footprint small so as not to spread across steep or difficult slopes. This is severely and unnecessarily limiting; there is no reason to effectively prohibit 2-story buildings in HR zones, and this is not consistent with State Law. (Limiting a building to 16' if it's located inside the setbacks of the base zone, however, is reasonable.)
- *Page 5, 5, Max size of first new res unit <1200 sf.* This is unnecessarily limiting and not consistent with State Law.
- *Page 5, 5, Grading 50 c.y.* Many members of the public are not happy with this since it is extremely limiting in HR zones. It's my understanding that grading > 50 c.y. will not only trigger a grading permit but also a full Architectural and Site Review and hearings. I understand that it's meant to avoid someone skipping comprehensive grading review via TUD process. Surely there can be a compromise wherein grading >50 c.y. **only triggers a standalone grading permit and not a full ASA**.
- *Page 5, 8, Building sites, not on lands with avg slope exceeding 30 percent.* It is not clear whether this applies to lots with average slope (over the whole lot) of 30%, or whether it means that a particular house that has some portion of its footprint on a 30% slope, is prohibited. In any case, this restriction is unnecessarily limiting and not consistent with State Law. If a geologist has done the investigation and engineered plans have been prepared, then a site can be buildable even if it is >30% slope in places or on average.
- *Page 7, B, 2, Finished floor: 1st story FF can't exceed 3' in height.* This is unnecessarily limiting in HR zones. On sloping ground you need to bury one side and have the other side of the house protrude, often by more than 3'. This also limits basement options since the basement will be super deep on the former side, in order to have the latter side <3' out of the ground. May I suggest to just remove this; this has already been given consideration in other Town Code, for example in Town Code a story and a basement are adequately defined. As written, Page 7, B, 2, Finished Floor, is unnecessarily limiting and not consistent with State Law or with the realities of building a reasonably-sized house on even slightly sloped ground.
- *Page 7, B, 3, Front Entryway…shall have a roof eave that matches or connects at the level of the adjacent eave line.* This unnecessarily limits architectural options. Often a raised roof over the entryway can be an elegant detail, and raise the value of the neighborhood.
- *Page 7, B, 4, Front Porch >=6' and width >=25% of linear width of front elevation.* This is unnecessarily limiting. Please just apply the porch restrictions (if any) of the base zone.
- *Page 7, B, 5, Step-back. ALL elevations of 2nd story must be stepped back 5'.* In my opinion this is the most architecturally limiting of any of the new TUD ordinance draft. This makes houses look like wedding cakes -- larger on 1st floor, smaller on 2nd floor. Please modify this to make a step-back only necessary on *walls that are closer to the property line than the base zoning district will allow*. I believe this will resolve concerns of people building tall 2-story buildings right up near a neighbor's fence. And it would not limit architectural options more than the base zone, if the applicant did not attempt to use reduced SB9 setbacks.
- *Page 7, B, 6, Garages. Street-facing attached garages not exceed 50% of linear width of front-/side-yard elevation.* This doesn't work well on all lots; I'm particularly thinking of irregular lots

such as in HR zone. Please do not limit the architectural options more than the base zone, unless the applicant is proposing to take advantage of reduced SB9 setbacks.

- *Page 10, A, 2, Lot Lines. New side lines of all lots shall be at right angles to streets.* This doesn't work on all lots; I'm particularly thinking of irregular lots such as in HR zone. Please do not institute a rule that cannot be followed by everyone.
- *Page 10, A, 5, Min Public Frontage, each new parcel shall have min frontage on street of 20'.* Again, this doesn't work on all lots, not only irregular lots, but lots that are on private streets. Putting into effect new rules that not every lot can follow will just lead to more work for Planning, as you will have to consider a number of exceptions, slowing down the permitting process.

To repeat the most important two points:
1) Please, do not limit Los Gatans' options more than the base zone, unless that Los Gatan is taking advantage of the reduced SB9 setbacks. Otherwise please just let us use the base zone's rules.
2) Please, do not institute laws that not every lot can follow (such as Page 10, A, 2)

David Hutchison

Ryan/Jennifer/Joel:

I am not exactly sure who is running 'point' on this, nor whether this meeting is a 'planning fact-finding' meeting or something more significant - such as a 'recommendation to the Council'. Can you you please enlighten me?

I read the new proposed 'draft SB-9 Ordinance' and you have made some good improvements which make sense - as well as a few that don't. But if I ignore those, I do have a couple of questions on items which are unclear. Could you please respond prior to the webinar so that I do not need to wast my time on these.

1A. Section V.A.6. - Grading: This is ambiguous.
"Grading activity shall not exceed the summation of 50 cubic yards, cut plus fill, or [shall/shall not] require a grading permit. . . ." Does this mean if you need more than 50 yds that you have to get a grading permit OR that the project is not allowed a grading permit to exceed 50 yds?

This could be clarified by re-phrasing: Any Grading activity in excess of 50 yds, cut plus fill, shall require a grading permit. Would this grading permit be administrative if you follow paragraphs 7,8,9?

1B. Section V.A.7/8/9 - Cut and Fill, etc
Now that you have added these paragraphs do clarify allowable grading activities, Section V.A.6 is not longer needed.

2. Section VI.1/5. [and 3] - 20 ft frontage and 20 ft corridor.
I see that you have not modified this section. It is clearly in violation of the text of SB-9 which allows an ULS parcel to either "adjoin" or "have access to" the public right of way.

The problem I have with the way it is written is that moderately long and narrow lots [where a flag-lot would make sense] are pretty much eliminated [because so much of the rear lot is contained in the 20 ft wide flag-pole]. Just do the math on a 60 ft wide lot!

An IEE easement [as required by SCCFD of 12-15 ft would make more sense, in addition to being legal [SB-9], and would make the 40/60 split more reasonable in terms of lot configurations. An easement is probably going to be required by SCCFD anyway for EV access to the rear lot.

Why are you not addressing this issue?

3. Will it be possible to share a screen, or show a slide in some way at the webinar?

Thanks
Tony

T.H.I.S. DESIGN & DEVELOPMENT P.O.Box 1518, Los Gatos, CA 95031

Tel: 408.354.1863 Fax: 408.350.1823

Town of Los Gatos
110 E Main St
Los Gatos, CA 95030
Attn: Planning Commission

September 23rd, 2022

SB-9 DRAFT ORDINANCE

Commissioners:

I understand that you are reviewing the Draft [Permanent] SB-9 Ordinance which will subsequently be recommended to the Town Council for Adoption. I have been working with this Ordinance over the last year and have encountered several issues.

Luckily, staff has already proposed changes to the original Emergency Ordinance and, for the most part, these changes would appear to be going in the right direction. There are a few items that could be improved, but because the discretionary process [DRC/Planning Commission, etc] is retained as an option for the design of any house(s) on a resulting ULS parcel, I am less concerned about the objective design standards for a 'two residential housing unit' development of SB-9.

I do, however, want to draw your attention to the one aspect of the Urban Lot Split portion of SB-9, which I fear will result in very bad neighborhood design and which can easily be avoided if it is considered seriously.

The 20 ft Fee Title Corridor for a Flag Lot.

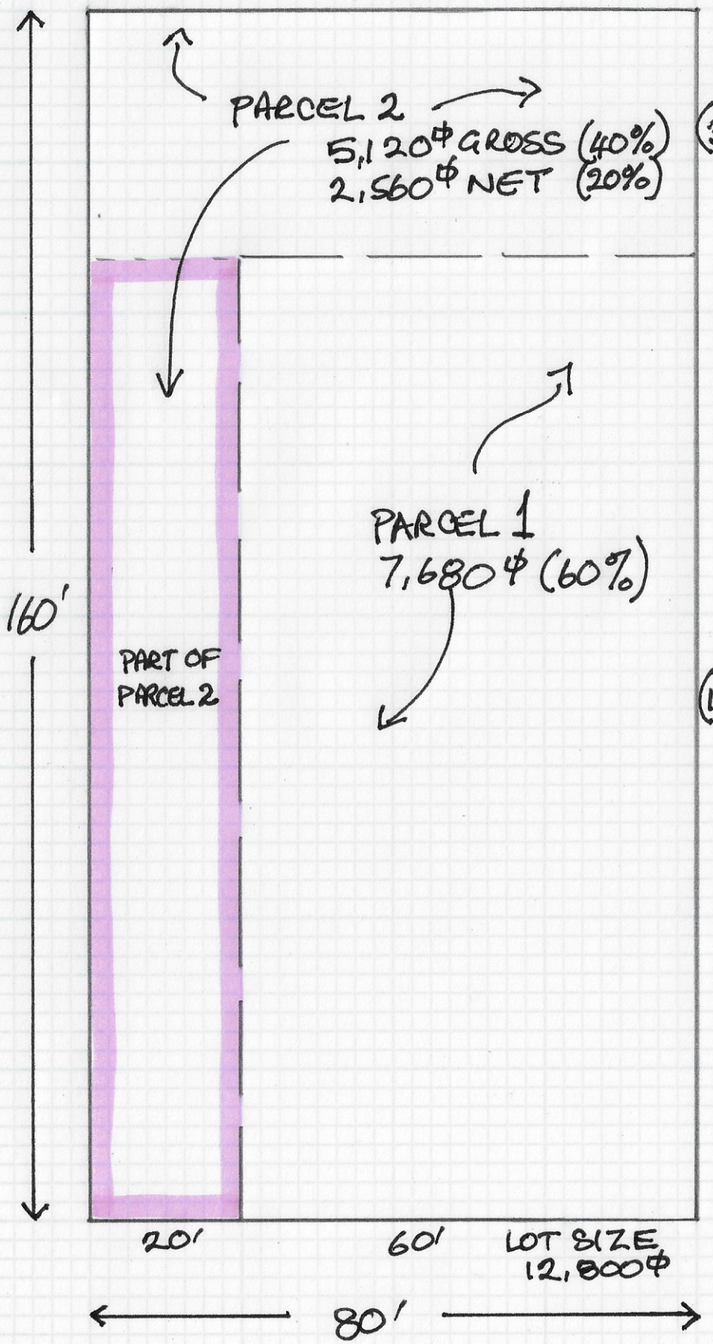
SB-9 does not really allow a jurisdiction to restrict a flag lot access corridor to being 'Fee Title', which the current ordinance does, so there will always be a risk of a legal challenge. All other local jurisdictions make provisions for an ingress/egress easement alternate access the rear parcel. Just because there is a "20 FT Street Frontage Rule" in the code now does not mean that is must stay for SB-9.

With the existing Ordinance you can get some really stupid lot configurations, not intended by SB-9 and not desirable in the Town. This is your chance to correct it. **THE EXAMPLE** shows what a homeowner could ask for "AS IS" and how you could "FIX IT" – 2 vastly different approaches to the same lot.

Thanks

Tony Jeans

CURRENT (DRAFT ORDINANCE)



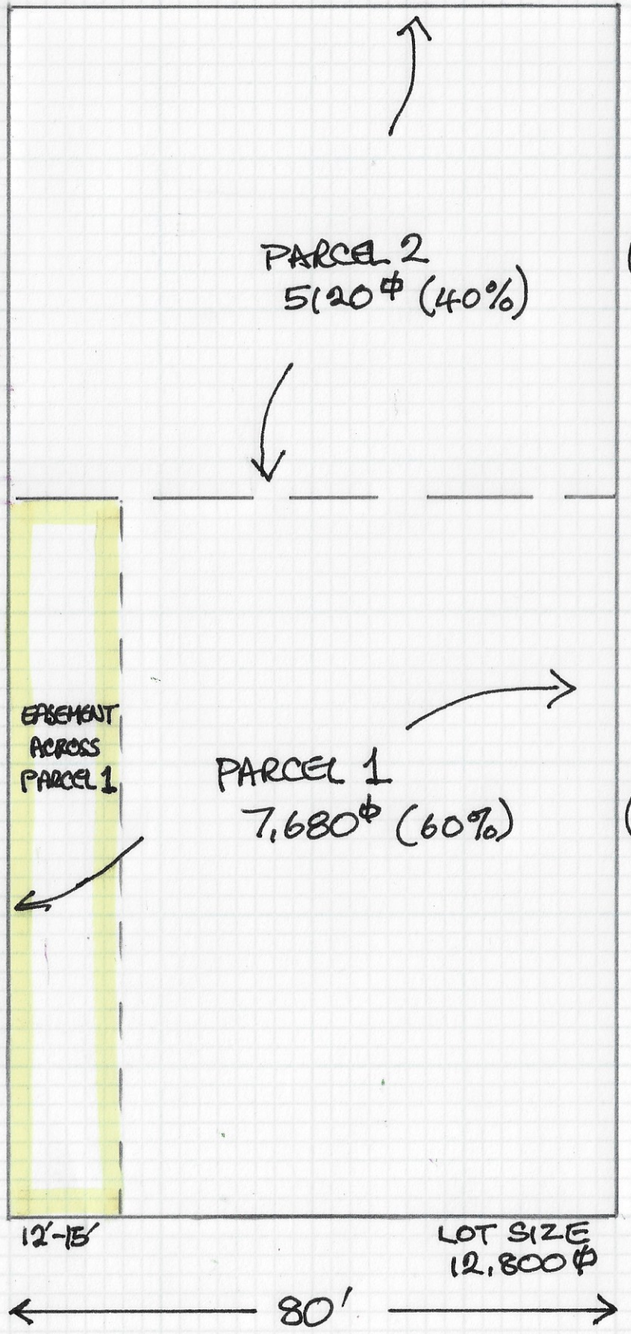
WHICH IS THE BEST WAY TO SPLIT A PROPERTY AND CREATE A FLAG LOT?

PANHANDLE IS PART OF PARCEL 2 AND MUST BE 20' WIDE (+ FRONTAGE)

PROBLEM 1: THIS CAUSES SOME VERY BAD LOT DESIGNS

PROBLEM 2: THIS IS IN VIOLATION OF SB-9 WHICH SAYS A (FLAG) PARCEL MAY ADJOIN OR HAVE ACCESS TO A PUBLIC RIGHT OF WAY

A BETTER SOLUTION



SECTION VI.A §§

1. THE ACCESS CORRIDOR TO A FLAG LOT MAY BE IN FEE OR AN EASEMENT & SHALL HAVE A MINIMUM WIDTH OF 12' OR AS REQUIRED BY SANTA CLARA COUNTY FIRE DISTRICT
5. ELIMINATE FRONTAGE REQUIREMENT OF 20' UPON A STREET.

PANHANDLE IS AN EASEMENT TO REAR LOT & COULD BE 12-15 WIDE FOR FIRE ACCESS + DRIVEWAY

ALL OTHER JURISDICTIONS ALLOW THIS:

MONTE SERENO
SARATOGA
COUNTY OF SANTA CLARA
CITY OF SAN JOSE
•
•
•

DATE: September 28, 2022

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Consider Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding Permanent Regulations to Comply with the Requirements of Senate Bill 9. Town Code Amendment Application A-22-002. Location: Townwide. Applicant: Town of Los Gatos.

REMARKS:

Exhibit 8 includes public comment received between 11:01 a.m., September 23, 2022, and 11:00 a.m., September 28, 2022.

EXHIBITS:

Previously received with the September 28, 2022 Staff Report:

1. Draft Permanent SB 9 Ordinance
2. SB 9 Legislation
3. SB 9 Urgency Ordinance 2326
4. SB 9 Urgency Ordinance Extension 2327
5. California Department of Housing and Community Development SB 9 Fact Sheet
6. Association of Bay Area Governments SB 9 Model Ordinance
7. Public Comment received prior to 11:00 a.m., Friday, September 23, 2022

Received with this Desk Item Report:

8. Public Comment received between 11:01 a.m., September 23, 2022, and 11:00 a.m., September 28, 2022

PREPARED BY: RYAN SAFTY
Associate Planner

Reviewed by: Planning Manager and Community Development Director

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From: Adam Mayer
Sent: Wednesday, September 28, 2022 12:15 AM
To: Planning <Planning@losgatosca.gov>
Subject: Comments on Draft SB9 Ordinance (Driveways & Street Frontage)

EXTERNAL SENDER

Hello Planning Staff,

I just have a few comments on the SB9 Draft Ordinance.

The first comment is in regard to **SECTION V - A (Zoning Standards) - 2 (Driveways)** on page 4:

"Driveways. Each parcel shall include a single driveway, and any new driveway shall satisfy the following requirements"

Can you please clarify if "each parcel" means each parcel after the lot split? In this case having two separate, 10 foot wide driveways (1 that serves each parcel) would take up and waste a lot of space (especially if the lot split is done in a way where one lot is at the rear of the site). I would strongly advise against this. Part 2d goes onto to say that :

"Only a single driveway curb-cut shall be permitted per parcel designed in accordance with the Town's Standard Specifications and Plans for Parks and Public Works Construction"

It would make more sense if only a single curb-cut were permitted for BOTH parcels. I understand having a driveway shared by four units might not be an ideal arrangement for some, but limiting it to one single curb cut total for both parcels after the split would go a long way in preserving the character and walkability of single-family zoned neighborhoods.

To demonstrate both points, please see attached a conceptual proposal I designed for the City of Los Angeles. In this case, a fourplex is proposed on a 7,500 ft² (50' x 150') single-family lot. The "Courtyard Fourplex" consists of two buildings, each with one unit stacked upon another.

As you can see, the setbacks are respected but the four units share a single driveway to the parking carport in the rear of the lot. If two driveways were required it would eat up more of the lot, require another curb cut and probably make the project infeasible.

My second comment is in regard to **SECTION V1 - A (Subdivision Standards) - 5 (Minimum Public Frontage)** on page 10:

"Each new parcel shall have frontage upon a street with a minimum frontage dimension of 20 feet"

Why do both lots after the lot split require public frontage? I understand the intent probably has to do with access from the street, but what if one lot is in the rear of the site (as in my "Courtyard Fourplex" example)?

EXHIBIT 8

I suppose you could consider the shared driveway as part of the "rear" lot in this case, giving it frontage and access to the street. But then would this driveway be only able to be exclusively used by the rear lot? Again this goes back to the question about sharing a driveway for both lots after a split.

These are both open-ended questions that I think require some discussion. Making accommodations for split lots to share a driveway and street frontage is an important consideration. It is also going to lead to less visual disruption on the front (public facing) part of properties that opt to use SB9 and do a better job of preserving the aesthetic character of our single-family neighborhoods.

Regards,
Adam Mayer, Architect
Housing Element Board Member

--
STUDIO—AMA

Adam N. Mayer AIA, LEED AP BD+C, WELL AP

No other city in the world matches the rich diversity of Los Angeles.

Both in terms of its stunning geographic setting and the multitude of communities that call the city home, L.A. is not defined by a singular cultural marker. Instead, what unites Angelenos are often unfortunate shared experiences, such as sitting in traffic on the freeway together or, more recently, being unable to find an affordable place to live close to job centers.

Traffic & unaffordable housing are inextricably linked to the fundamental lack of variety in housing options.

While there are some beautiful apartment buildings and 'Missing Middle' housing built before WWII, from the 1950s on Los Angeles came to be defined by the relentless sprawl of single-family home development. This development pattern proliferated due to misguided (and often racist) zoning regulations, government policy, and economic/cultural attitudes that placed the nuclear family above multi-generational households.

Today, although single-family homes still dominate the Los Angeles cityscape, they are not the nuclear family containers as initially intended.

Generations of immigrants who moved to L.A. from Latin America, Asia, Africa, and the Middle East have not had the luxury of each extended family member living in their own separate household. Notwithstanding, there are advantages of having extended families living under one roof together such as childcare, elder care, shared living costs, etc .

But if one challenge is associated with multiple extended family members in a single household, it is the potential for problems related to overcrowding.

Los Angeles has had to confront this reality over the past year with the COVID-19 pandemic, which has disproportionally impacted working-class Black and Latino communities. According to a recent Los Angeles Times article:

"Poor Latino neighborhoods are highly susceptible to COVID-19 spread because of dense housing, crowded living conditions and the fact that many who live there are essential workers unable to work from home. Officials believe people get sick on the job and then spread the virus among family members at home."

There are no words to describe how devastating COVID-19 has been for so many Angelenos.

The City of Los Angeles must invest in alternative housing models to preserve the advantages of multi-generational households while avoiding the drawbacks of overcrowding. The 'Multi-Generational Courtyard Fourplex' housing concept looks to address this problem by proposing a four-unit development on a typical single-family lot.

The Multi-Generational Courtyard Fourplex consists of two buildings, united by a central courtyard that provides ample access to light and air.

The street-facing building consists of two 2 bed / 2 bath units, stacked upon one another, while the rear building consists of a 3 bed / 2 bath unit stacked on top of a 1 bed / 1 bath 'granny' unit as well as a carport with parking spaces for 3 vehicles (plus 2 additional vehicles if parked in tandem).

The courtyard, which opens toward the south to take advantage of the Southern California sun, is the project's main social gathering space.

With a shared outdoor electric grill, it is imagined that this space also functions as an outdoor dining room for family members or other residents to share a meal. The more 'public' functions of each unit (living/kitchen/dining) face inward toward the courtyard while the more 'private' bedrooms face outward. Aside from the bottom unit in the street-facing building, which is entered from the street side, the other three units are accessed from the courtyard, further activating the space.

The architecture is inspired by the spirit of several of the great Southern California architects.

The communal living arrangements of Rudolph Schindler, the clean lines and health considerations of Richard Neutra and the hints of Spanish Colonial architecture with the modern sensibilities of Irving Gill all influence the design. Building upon this Southern California vernacular are the latest in sustainable and energy efficiency strategies including all-electric appliances, EV charging stations at the carport, bicycle storage, permeable pavers in the driveway, continuous insulation in all exterior walls and roofs, smart metering, a drinking water bottle fill station in the courtyard, rooftop solar panels and a 'solar garden' green roof on top of the rear building.

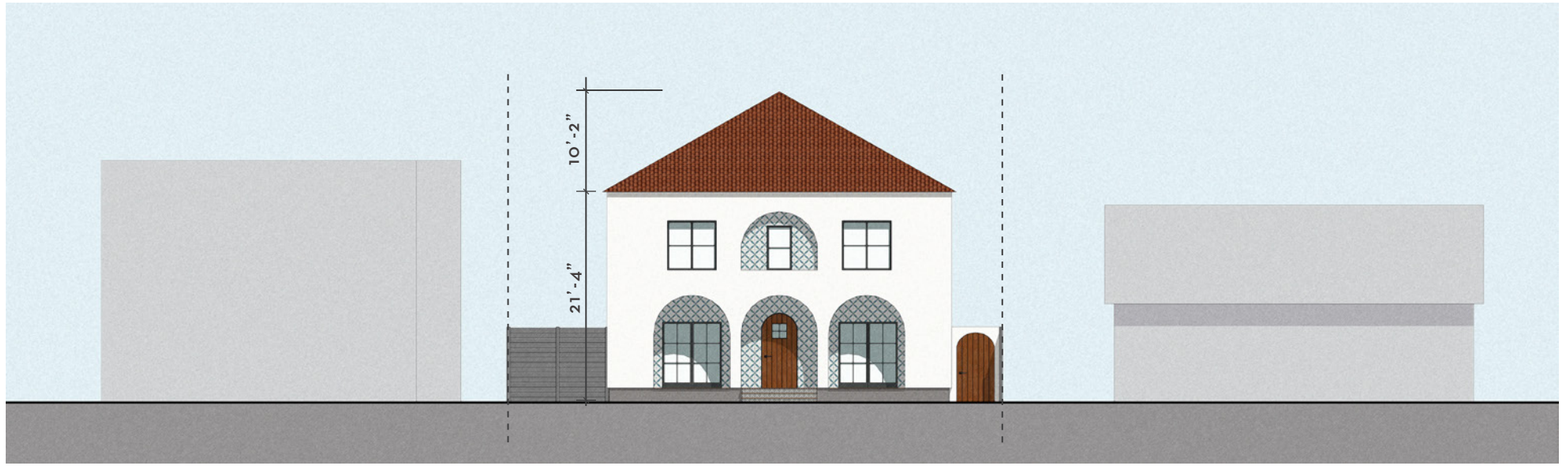
The front street-facing façade, set back 15 feet from the property line, is designed at 'house-scale', belying the fact that this property has four dwelling units.

This is a deliberate attempt to make the proposal more amenable to neighbors in historically single-family neighborhoods who might be averse to the thought of higher density nearby. Drought-tolerant plantings in the front yard complement the front façade and add beauty to the transition between the public sidewalk and the building entry.

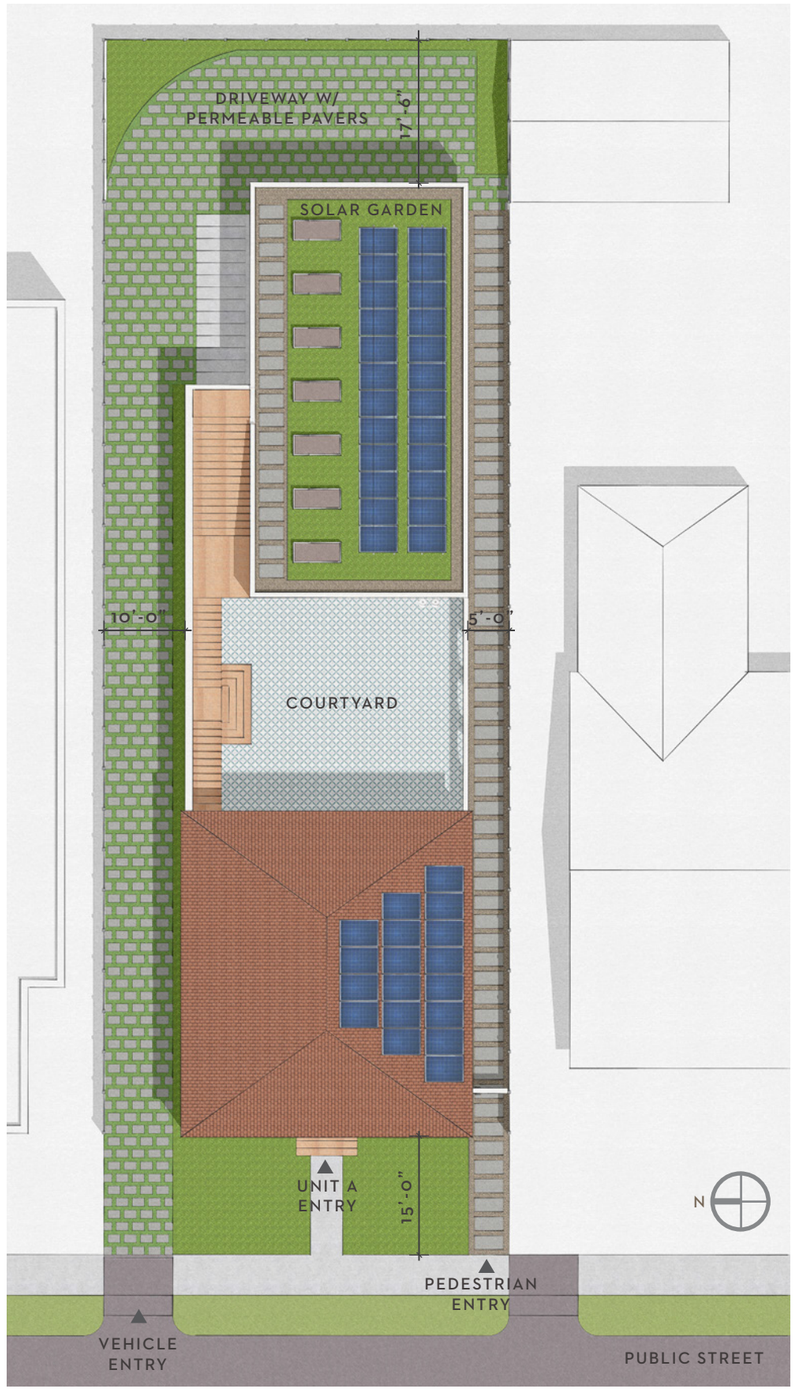
The simple material palette of smooth white stucco with clay tile accents over a typical wood-framed structure makes this an attractive yet affordable architectural language that can be replicated with slight modifications throughout Los Angeles.

Furthermore, the design is intended to be a flexible approach that can be applied to a variety of ownership or rental models. The Multi-Generational Courtyard Fourplex offers a thoughtful yet straightforward development and management opportunity for both small non-profit affordable housing developers and local neighborhood-based community land trusts.





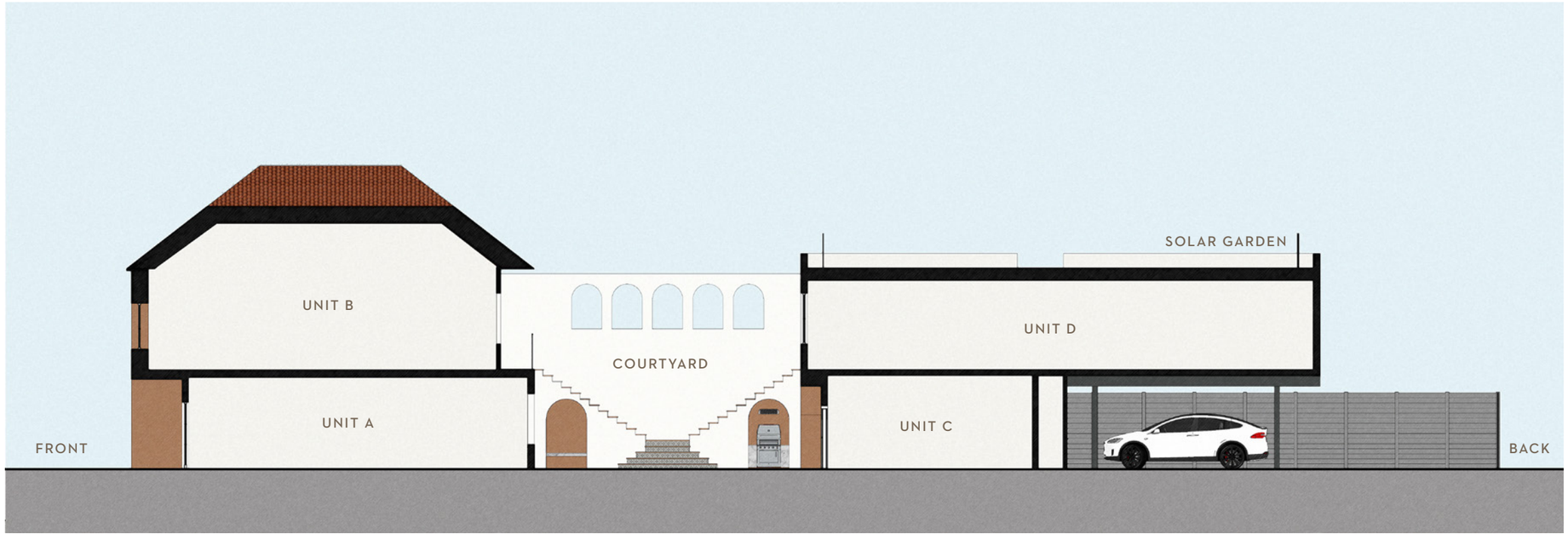
STREET ELEVATION

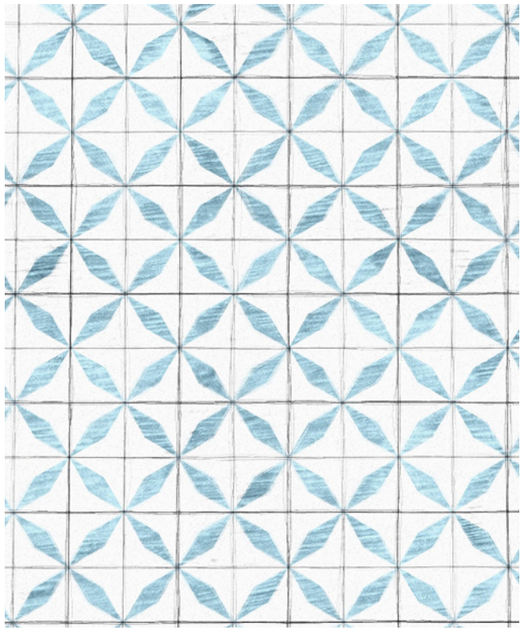


SITE PLAN

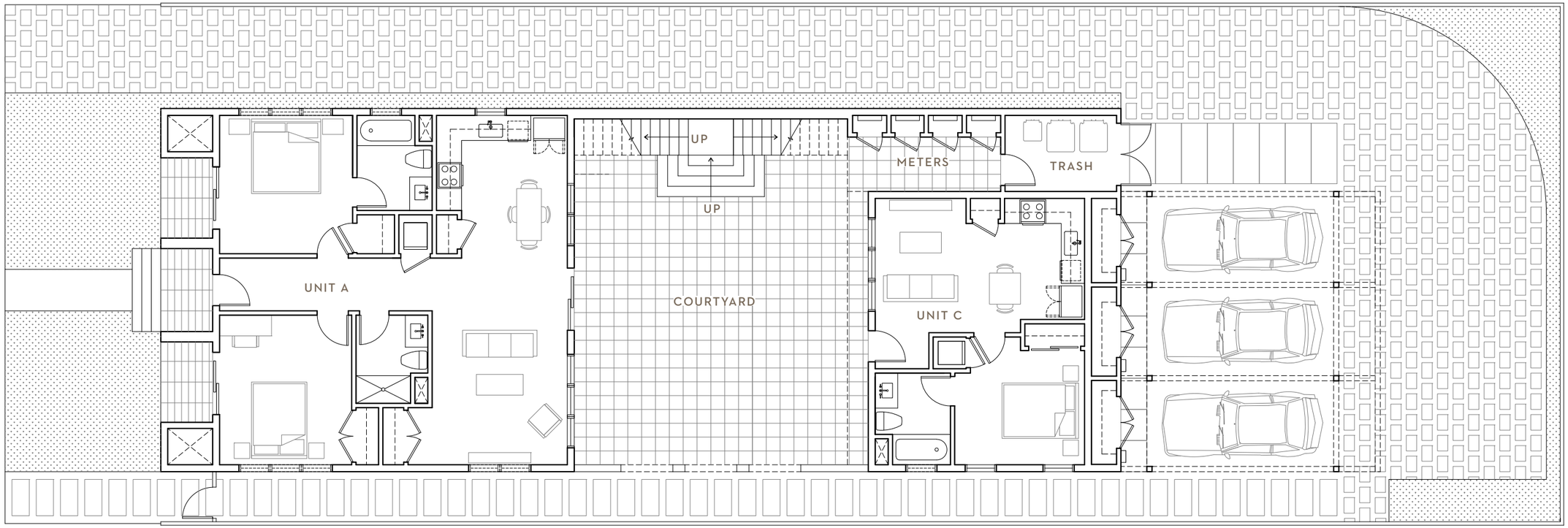




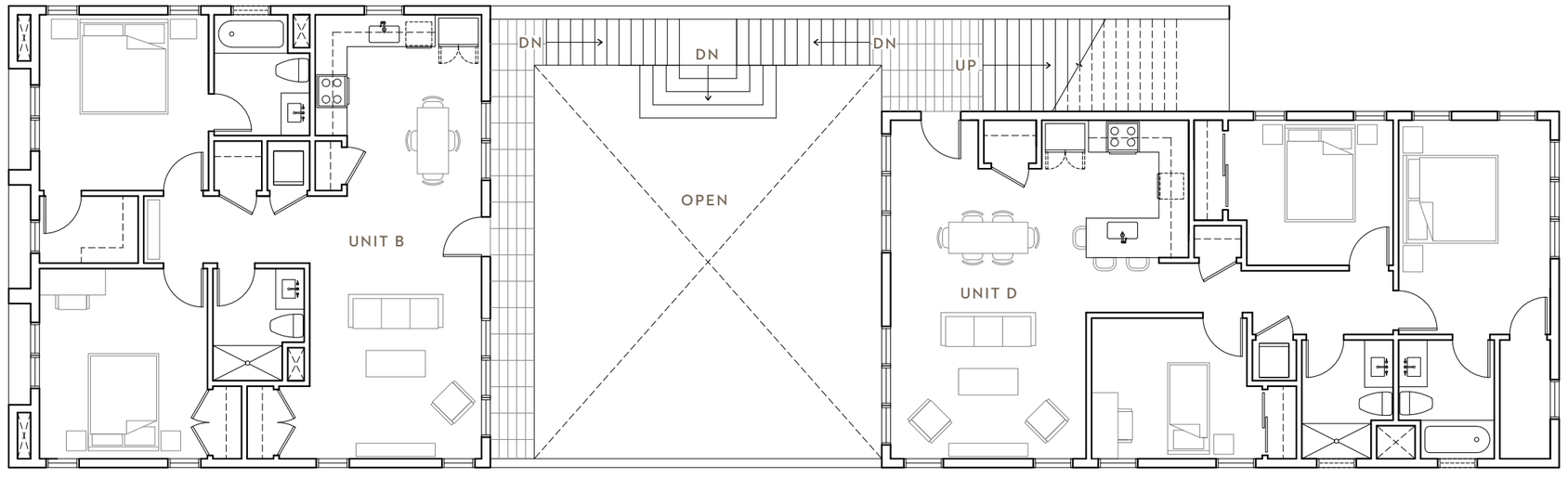




LONGITUDINAL SECTION THROUGH COURTYARD



GROUND FLOOR PLAN
SCALE: 3/32" = 1'-0"



N

SECOND FLOOR PLAN
SCALE: 3/32" = 1'-0"

UNIT TABULATION

UNIT A: 2 BED/2 BA, 1125 SF

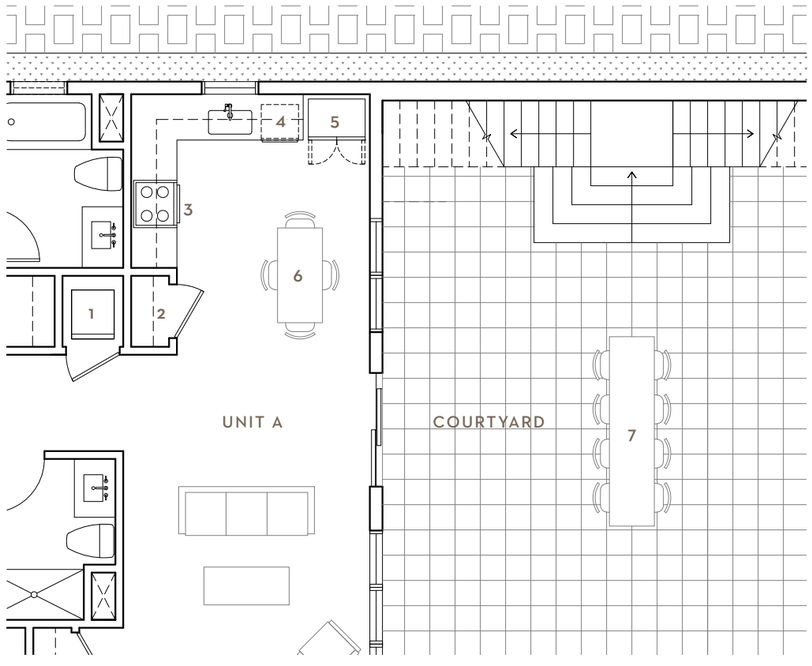
UNIT B: 2 BED/2 BA, 1125 SF

UNIT C: 1 BED/1 BA, 500 SF

UNIT D: 3 BED/2 BA, 1250 SF

TOTAL RESIDENTIAL AREA: 4000 SF





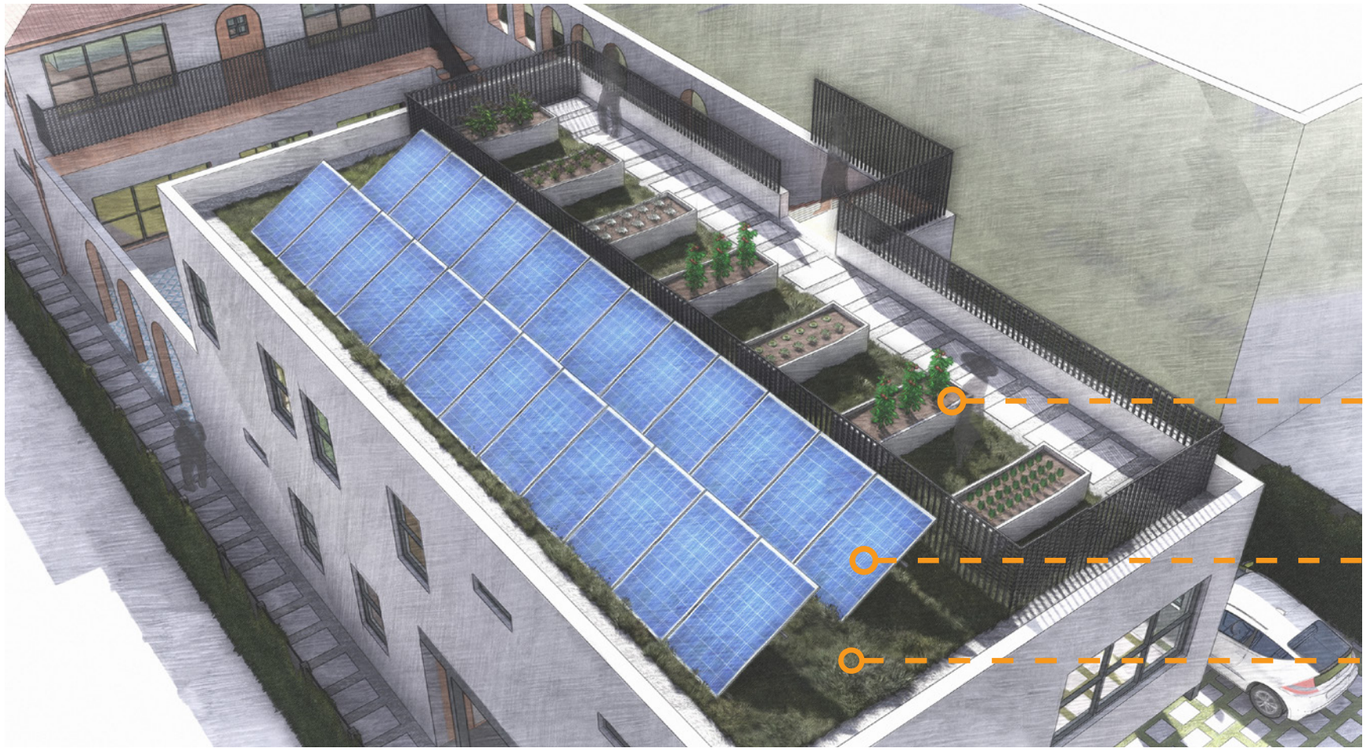
1. SAMSUNG HIGH-EFFICIENCY STACKED WASHER & ELECTRIC DRYER
2. PANTRY
3. BOSCH BENCHMARK INDUCTION RANGE
4. BOSCH 300 SERIES DISHWASHER W/ LEAK PROTECTION
5. BOSCH 300 SERIES ENERGY STAR RATED REFRIGERATOR
6. DINING
7. OUTDOOR DINING



UNIT A/B KITCHEN & DINING



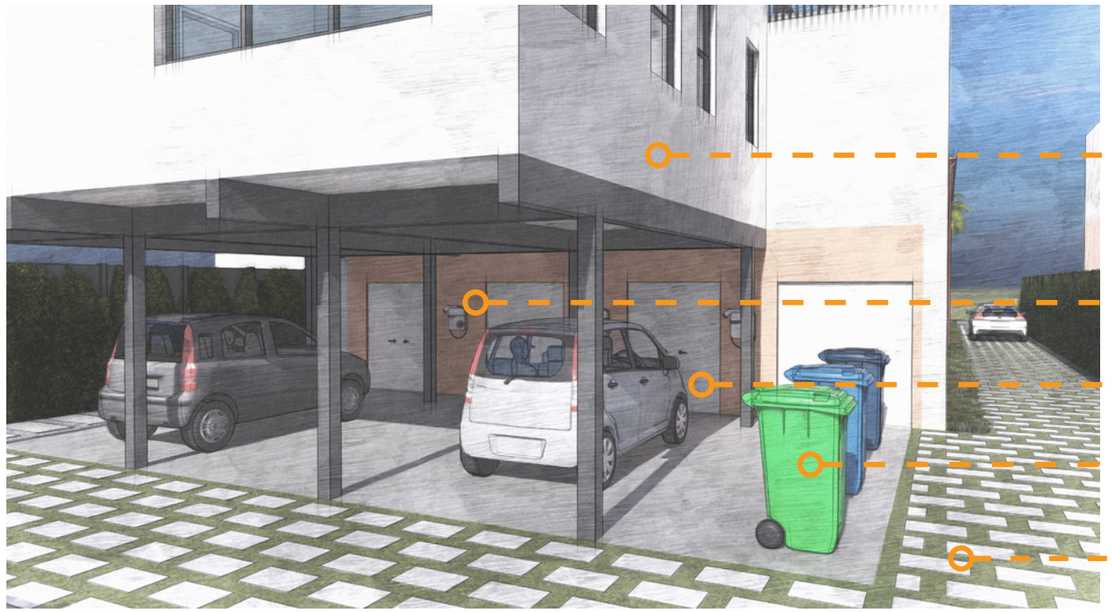
OUTDOOR COURTYARD DINING



SOLAR GARDEN W/RAISED PLANTERS FOR HERB & VEGETABLE CULTIVATION

ROOFTOP PHOTOVOLTAIC ARRAY

GREEN ROOF FOR STORMWATER MANAGEMENT



CONTINUOUS INSULATION INSIDE RESIDENTIAL UNIT WALL & LIGHT-COLORED EXTERIOR FINISH

ELECTRIC VEHICLE CHARGERS (3)

SECURE BICYCLE STORAGE

GREEN WASTE & RECYCLING PROGRAM

PERMEABLE PAVING FOR STORMWATER MANAGEMENT











SUSTAINABILITY STRATEGIES



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

Los Gatos Planning Commissioners:	Melanie Hanssen, Chair Jeffrey Barnett, Vice Chair Kathryn Janoff Steve Raspe Reza Tavana Emily Thomas
Town Manager:	Laurel Prevetti
Community Development Director:	Joel Paulson
Town Attorney:	Gabrielle Whelan
Transcribed by:	Vicki L. Blandin (619) 541-3405

P R O C E E D I N G S:

CHAIR HANSSEN: We will move on to the third item on the agenda, and that is we are going to be reviewing the proposed draft ordinance for SB 9, and the action requested from the Commission is to make a recommendation to Town Council who will ultimately make the deciding action on this.

Item 3 is considering amendments to Chapter 29, Zoning Regulations of the Town Code regarding regulations to comply with the requirements of Senate Bill 9. Town Code Amendment Application A-22-002. Location: Townwide, and our Applicant is the Town of Los Gatos.

I will turn to Staff to give us a Staff Report on behalf of the Town.

RYAN SAFTY: Thank you and good evening. Before you tonight is the draft permanent ordinance to implement the requirements of Senate Bill 9.

SB 9 went into effect on January 1, 2022 and 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 allows for two new types of development activities that must be reviewed ministerially without any discretionary action or public input.

First is a two-unit housing development, which includes two homes on an eligible Single-Family Residential parcel; and two, an urban lot split, which is a one-time subdivision of an existing Single-Family Residential parcel into two lots.

When used, SB 9 will result in the potential creation of four dwelling units on an existing Single-Family zoned parcel. In contrast, Single-Family zoned parcels are currently permitted three units throughout the State, including a primary Single-Family dwelling, an Accessory Dwelling Unit, and a Junior Accessory Dwelling Unit.

SB 9 also outlines how jurisdictions may regulate SB 9 projects. Jurisdictions may only apply objective zoning, subdivision, and design standards to these projects, and these standards may not preclude the construction of up to two units of at least 800 square feet each. Jurisdictions can conduct objective design review, but may not have hearings for units that meet the State rules.

On December 21st of last year Town Council adopted an Urgency Ordinance to implement local Objective Standards for SB 9 applications. This Urgency Ordinance was extended and is valid until the end of the calendar year. The draft ordinance, provided as Exhibit 1 with the Staff Report, includes amendments to the Urgency Ordinance in response to State feedback, such as inclusion of HR zones, additional definitions and exclusion areas, new Hillside Standards, utility connection requirements, replacement housing, relationship with ADUs, and owner attestation statements. Details on each of these are provided in Section A of the Staff Report.

Staff has also made edits to the draft ordinance in order to help clarify existing standards based on questions from the public that arose in this past year, which are described in detail in Section B of the report.

Last week the Town hosted a community meeting to discuss developing a permitted SB 9 Ordinance and foster public participation. The public comments gathered during this meeting, as well as all other written public comments that were submitted this year, are included in the packet and discussed in the Staff Report. Of the public comments received there are seven comments that were repeated, which

are described in Section C of the report. Additional public comments were forwarded with today's Desk Item report.

Staff looks for direction from the Planning Commission on the topic included in Sections C and D of the Staff Report, as well as any questions or comments on the drafted ordinance. This concludes Staff's presentation and we are happy to answer any questions.

CHAIR HANSSEN: Thank you for your presentation, and thank you for the thorough Staff Report. I'd like to find out if any Commissioners have questions for Staff before we go to public comments. And you will have another opportunity to ask questions after we take public comments.

I don't see any Commissioners raising their hands right now, so I will turn to Verbal Communications and offer this as an opportunity for any members of the public to speak on this item.

I would like to preface that by saying we're very thankful to all those who participated in the community meeting last week as well as sent in comments that were included in our Staff Report, and in addition we got additional comments from the public in the Desk Item today, and now would be an opportunity to speak in Verbal Communications on this item, and you will have up to three

minutes. Please raise your hand if you would like to speak on this item.

JENNIFER ARMER: If anyone would like to speak on this item, Senate Bill 9 permanent ordinance, please raise your hand now. We'll give them just a moment in case anyone wishes to speak. All right, we've got a couple of people who are interested in speaking. The first will be Lee Quintana. You should be able to unmute and speak now.

LEE QUINTANA: My most important question has to do with the fact that the ordinance contains a provision that once the lot split has occurred that the construction on the lots can be processed as a discretionary project. I don't understand that since I believe the bill says that you need to use Objective Standards when implementing SB 9, and SB 9 covers both the lot split and two-unit developments by only requiring the lot split to be objective or building up to four units on a parcel that is not a lot split, but allowing once the lot split has taken place. To allow the resulting projects to be discretionary doesn't seem consistent with my understanding of the law.

I have other questions, but I'm going to reserve them until I see the report that comes out for the Council.

CHAIR HANSSEN: Thank you for your comments. I wanted to find out if any Commissioners have questions for Ms. Quintana? I don't see any hands raised.

Staff, in terms of responding to the comments, we're just going to proceed as we normally do in a hearing and not directly address them, but I do have a question on her comment for Staff.

JENNIFER ARMER: That is correct, though if the comments and questions from the public bring up questions for the Commissioners, Staff is happy to provide clarification.

CHAIR HANSSEN: I will hold off on that for now, and we will ask if there's anyone else that would like to speak on this item?

JENNIFER ARMER: Yes, Tony Jeans. You may go ahead.

TONY JEANS: Yes, would it be possible to show the very last page on the public comments?

JENNIFER ARMER: Just a moment. Let me see if we can pull that up.

TONY JEANS: While that's being pulled up, I'd like to say that what I'd like to do is show you the dilemma that I have when I am asked by clients to consider a lot split on their property, and I would like you to

consider one change to the existing draft ordinance. Okay, if you could make that a little larger.

What you're seeing there is a lot on the left-hand side, and the same lot is on the right, and it's a 12,800 square foot lot. I just picked a lot that was 80'x160', a typical lot that you might find in an R-110 neighborhood.

The way I have to split that lot, if a client comes to me and says, "Could you split this lot for me and give me 60% for my main house on the front, and split a lot at the rear of 40% that I could sell?" what I have to do at the moment is first of all I do a calculation of 40% of the lot size, and 40% of 12,800 is 5,120. That is what I have to create at 40%.

The existing ordinance requires me to have a 20' wide right-of-way to the back lot on the left hand side that is shown in the purple color, and it is counted as part of the 5,120 square feet. So when you take the 5,120 square feet you can see what a small piece of property you end up with at the back, because the flagpole, the panhandle, whatever you want to call it, is 20' wide and it has to be part of the 40%.

I don't believe that that is a property that you want to create and subsequently have houses designed for. I

think it's a disaster waiting to happen, and I would ask you to change it to the way every other jurisdiction has it—go to the picture on the right hand side—which is you split it 60%/40%, that is the line through the middle, you are allowed an easement to the back lot, and SB 9 specifically requires the Town to give you either street frontage for the property or provide a means of access to the street, which every other jurisdiction—Monte Sereno, Saratoga, Santa Clara, San Jose—have all interpreted to mean an easement.

Furthermore, the width of that easement only needs to be wide enough for a fire truck ingress/egress easement to access the rear lot for safety. Twenty feet just happens to be what the current Town Code is and they haven't changed it. So what you have is a really, really difficult situation.

Also, the 20' width requirement means that it is incredibly difficult on most lots, unless they're very large, to not demolish the house, because it tends to go closer to the side property lines than 20'.

I would like you to look at changing that to the way every other jurisdiction does it, which is allow an easement to the back parcel and treat it that way. Thank you.

CHAIR HANSSEN: Thank you for your comments, and I would note that you made multiple comments through the process and we really appreciate that, including the drawings as well.

It looks like Commissioner Janoff has a question for you.

COMMISSIONER JANOFF: Thank you. Just briefly, Mr. Jeans, you indicate that every other jurisdiction has used the 12'-15' width. Is that something that they have done in conjunction with their SB 9 ordinance or with a different ordinance? Is their response to SB 9? And could you be specific, when you say every other, are they using 12', or are they using 15', or is it a mix?

TONY JEANS: In every case, as I see it, it is a specific response to SB 9 to implement it according to the literal terms of the law, which I believe requires the town to allow it. The choice of width varies from jurisdiction to jurisdiction. Some it is not defined, some it just says sufficient for fire access ingress/egress. The City of San Jose says anywhere between 12'-15' either as a fee title ownership to the rear lot, or as an easement. The City of Saratoga does not define the width, but it allows an easement.

So you have a wide range of options, but I think that if you were to put footage on it, 12'-15' is good, because the fire access requirement to a property is 12' wide, so if you provide a minimum of 12', you're okay.

CHAIR HANSSEN: I think that answered the question. I just wanted to clarify, because you had sent in multiple documents, and I have a couple of questions.

First of all, on this particular issue you're asking for multiple things and I just wanted to make sure that I'm clear about this. One is that you feel that the 20' is too wide, and it sounds like you're neutral to whether it's 12' or 15'; it just should be in that range. Then secondly, you are opposed to counting the driveway at the access as part of the square footage of either parcel, and by doing an easement that would solve that problem. Is that the right way to look at it, what you are asking for?

TONY JEANS: I think my primary concern is that an easement should be allowed. If you allow an easement you could choose to—I don't think you should, but you could choose to—take that square footage off the front lot. I don't think you should. I think an easement is an easement. I think it gives the simplest way to do a 60%/40% split and end up with reasonable lots so that you're not cramping a design of either house on the front or the back. I think if

you go away from 20' fee frontage, which is what the Town has in its code now, I think there's no rational basis for taking away that corridor from either lot. We're dealing with relatively small lots, I don't think that it's beneficial, so I think the main thing is allow an easement as an option instead of requiring it to be a 20' wide fee frontage.

CHAIR HANSSEN: Thank you. That clears up my question. Are there any other Commissioners that have questions for Mr. Jeans? I don't see any other hands raised, so I'd like to ask if any other members of the public would like to speak on this item?

JENNIFER ARMER: If anyone else would like to speak on this item, please raise your hand now. I'll give them just a moment in case there is anyone else who would like to share their thoughts on this. David, you should be able to unmute, and you have three minutes.

DAVID: Thank you. I'd like to just comment on two things.

The first is of course we all know the point of this is not to make everyone happy, the point of this is to provide an orderly rollout of the State law, so that makes a lot of sense to me.

Some of the provisions that don't make sense, for instance, Tony brought up a good example. Even if the ordinance goes through like this and it is required that you eat into the front lot and it's not an easement, then surely nobody would divide their lot that way. Well, this is attractive enough for some homeowners that they will divide the lot that way and you will get these non-optimal solutions and non-optimal results just for people trying to follow the letter of the law so that they can get what they see as a perceived benefit from this ministerial process in terms of their time and money.

I think with that in mind, and a couple of points I'm about to comment on, it makes sense actually to provide the fewest restrictions possible within reason for this orderly rollout of State law, because the more restrictions there are, the more sort of non-optimal results you'll get when people are attracted toward trying to follow this ordinance but they find a funny way around it that really no one is happy with, they're not happy with, the planners are not happy with, and perhaps the neighbors are not happy with.

If a proposed projects fails on any one point in this local ordinance it becomes ineligible, so some of the ways we might want it to fail is if they're trying to

create a very large house, so that fails because there's a square footage slide and we don't necessarily want anyone to build anything with this law, or if they're trying to build closer than 4'property line, of course that is not eligible. But it can also fail in other ways that are not intended, like the one that Tony Jeans has pointed out.

Another way I'd just point out is, for instance, with an urban lot split. Lot lines need to be right angles to the street. That's not practical. Not every lot in Los Gatos can be divided with lot lines that are at right angles to the street or radial to a curve. Consider the irregularly shaped lots, or if what Tony is saying is implemented by the Planning Commission, meaning that this becomes an easement and not actually part of the rear parcel, then that lot line, which Tony draw horizontal, would not be parallel to the street.

I would worry that implementing any rule in this that cannot be followed, is simply impossible for every lot in Los Gatos to follow, is a violation of State law, that requiring lot lines to be at right angles to the street is not always possible.

Another example is a minimum public frontage of, I think, 20' on public roads. There are many houses and lots that are not on a public road, they're on a private

road, so it's not clear how they comply without further clarification, or perhaps just reduced restriction. For instance, if this minimum public frontage requirement was deleted from the text, I wonder if that would solve this particular problem? That's all I have to say. Thank you.

CHAIR HANSSEN: Thank you very much for your comments, and also for the written comments that you sent in as well as part of our packet. I'd like to ask if any Commissioners have any questions for David? Vice Chair Barnett.

VICE CHAIR BARNETT: I'd also like to thank you for your written submission to the Commission in the attachment to the Staff Report that we received as a Desk Item, I believe.

Would it satisfy your concerns if an easement was used for access rather than a fee simple grant, and also if the requirement of right angles or radial was deleted?

DAVID: That would satisfy that aspect. I only had three minutes, so I didn't talk to some of the architectural points and concerns, but that certainly satisfies the particular point that I raised tonight, yes.

CHAIR HANSSEN: All right, thank you for that. Do any other Commissioners have questions for David? I don't see any additional hands up, so I will open it up to anyone

else from the public that would like to speak on this item, and this is the only opportunity to speak on this item, because I will be closing the public hearing and we will be having the discussion of our recommendations amongst the Commissioners.

JENNIFER ARMER: So one more opportunity if anyone wishes to speak on this item, share thoughts, or questions that have come up on Senate Bill 9 implementation. I'm not seeing any additional hands raised.

CHAIR HANSSEN: Very good. I will remind everyone that is watching from the public that there will be other opportunities to comment on this item. You can send your written comments into Staff following this meeting. When the Town Council hears this item you'll have an opportunity to send written comments as well, as well as speak at their meeting when they're actually making the deciding vote on going forward with this SB 9 Ordinance, so there will be multiple opportunities to speak going forward.

That being said, I will close public comments and we will go back to the Commission and to Commissioner Rasp.

COMMISSIONER RASPE: Thanks, Chair. Actually, I'm curious to hear from Staff as to their thoughts on the easement issue and then the perpendicular right angle issue for our streets, and why we're currently apparently the

outlier on it and if there's a rationale for using a different approach.

CHAIR HANSSEN: It looks like our Town Attorney has a comment for you.

ATTORNEY WHELAN: I'll address the easement question first. The proposed ordinance referenced the fee interest because the thought was that we would be consistent with what is required for other flag lots in town, but I do think that the speakers have raised a good issue with regard to the language of SB 9. They are correct that SB 9 simply requires that both parcels have access to right-of-way, and they are correct that access could be provided via either the fee or the easement interest, so that is a valid comment.

With regard to the line being parallel to the right-of-way, SB 9 does require that agencies ministerially approve lots that meet a set of criteria and none of those enumerated criteria include that the lot line is parallel to the right-of-way, however, there is a subsequent section of SB 9 that says, "A local agency may impose objective subdivision standards that do not conflict with this section."

It's kind of interesting, because the legislation is setting forth the criteria under which the lot split is

to be approved, yet it's also giving agencies the ability to impose objective subdivision standards, and there's really a question as to whether an extra requirement conflicts with the enumerated requirements in the statute, so if I don't have a definitive answer on that second issue regarding the parallel line, perhaps Jennifer has a thought on that.

JENNIFER ARMER: Yes, thank you, Town Attorney. I would just add the idea behind including that provision. The goal there really was just to keep things relatively orderly, trying to find an Objective Standard, something that could be put in place to try to make sure any subdivision is done in a relatively simple, straightforward, orderly way, but as with many of the Objective Standards that have been included in here, if that is something that the Planning Commission recommends modifying, that's definitely one that could be removed or modified.

COMMISSIONER RASPE: Thanks, that answers my question. Chair, one follow up question as long as I've got the lawyer close by.

Assuming that there would be use of easements, would we envision that we'd leave the terms of the easement up to the developer, for instance, who is responsible for

maintenance and payment, or would that be something we'd have to dictate as part of our SB 9 Town Code regulations?

ATTORNEY WHELAN: What I would recommend is that maintenance, and one Commissioner asked about requiring that the parties agree that attorney's fees will be paid in the event of a dispute, my recommendation would be that terms like that be negotiated between the two property owners, but I do think that it would make sense for the Town to impose as a condition of approval that access always has to be maintained so that the access can't be blocked.

JENNIFER ARMER: I would add to that that Staff does review the map and we do send it over to Parks and Public Works for a preliminary review as well, and generally they would be looking to make sure that there is an easement shown both for access and for any utilities to get to the rear walk.

COMMISSIONER RASPE: Thanks to you both for answering those questions.

CHAIR HANSSEN: Before I go to Commissioner Janoff or anyone else, I did want to say that what we decided for this meeting is to go through the issues that are outlined in the Staff Report starting on page 6 for this item, which is page 124 in the packet. They mention C

and D relative to public comments. I was going to bring up each and every one of those issues and get some resolution on that, but since we are on the subject of the easement, and it's fresh on our minds, as well as with the access, maybe we should take that issue first and see if we can get a recommendation that gels with the Commission that we can make to Town Council. So why don't we continue this particular discussion and see what other comments and suggestions we have from the Commission?

Commissioner Janoff.

COMMISSIONER JANOFF: Thank you. I did have a question about the minimum frontage comments, but if we're going to get to those as we proceed, then I'll hold off on that.

CHAIR HANSSEN: If you're talking about the 20', but there's also the minimum frontage for any portion to the street, right?

COMMISSIONER JANOFF: Right, and I was just curious what the Town Attorney might interpret along that particular issue.

ATTORNEY WHELAN: Is this a good time, Chair Hanssen?

CHAIR HANSSEN: Go ahead, since it was brought up.

ATTORNEY WHELAN: The only requirements that I see in SB 9 are the 40%/60% difference and that one lot can't be smaller than 1,200. I'm not recalling a portion of SB 9 that addresses minimum street frontage.

COMMISSIONER JANOFF: And I think minimum street frontage is in our code elsewhere, so SB 9 does not drive it.

I would be in favor of the developer having the choice of a fee, whatever that's called, or an easement. Different properties are shaped differently. The example that Mr. Jeans provided is a long lot. You could have a wide lot, you could have an oddly shaped lot, you just don't always have the same structure, so I would allow that to be a choice that the developer would make in the determination of the lot split. At least, I would be in favor of that.

Same issue with regard to right angles, and Ms. Armer, you talked about an organized split, and that probably means something to you. I can imagine what that means. I think what you're saying is you don't want something jury-rigged with a lot of angles and strange shapes in order to get to some percentage that isn't really useable. There's probably a better way to say that than the right angles. I know, for instance, in my neighborhood we

don't have any right angles. None of the plots have right angles, but they have angles, so I think moving away from the right angle terminology is a good thing, but talking about simplified shapes or something would maybe make more sense in trying to convey the idea that we want something organized.

CHAIR HANSSEN: Commissioner Janoff, since you have the floor, could you also comment on your thoughts about the width of the access.

COMMISSIONER JANOFF: As I said, as I recall from previous Planning Commission meetings when we talked about flag lots, I think the 20' access is related to the Flag Lot Ordinance that we have. I could be mistaken. But I would be in favor of reducing that for sure. I think the argument that it creates a potentially unworkable remaining shape for the structures is a good argument. If you're talking about between 5'-8', that makes a big difference, and so I would say if the Fire Department says 12' minimum, I think 12' minimum is fine.

The only comment I would say to that is elsewhere we say 12'-18' I can't remember what it is, a driveway or something, and then the hillsides it says 12' but no maximum, so whatever we use, if we're using a number or a range, we should be consistent with that in SB 9 and also

in the other guidelines, even if that means making some change to our code.

CHAIR HANSSEN: Okay, fair enough. Commissioner Tavana.

COMMISSIONER TAVANA: Thank you, Chair. I guess I'm a little bit confused in terms of the square footage requirements in parcels with respect to nonconforming conditions. On page 12 of the draft ordinance, I guess #5, it says, "Nonconforming conditions. The Town now requires as a condition of approval the correction of nonconforming zone conditions, however, no new nonconforming conditions may result from the urban lot split other than interior side or rear setbacks as specified in Table 1.2." So my question is are we creating many nonconforming lots by splitting these lots into smaller pieces? Because across town, at least in my neighborhood, every lot is nonconforming, so what controls do we have in place to prevent nonconforming lots or small flag lots? Just a general question, maybe surface level.

CHAIR HANSSEN: Staff, could you respond relative to what we have in the ordinance right now?

RYAN SAFTY: Yes, thank you for the question, and Ms. Armer, if there's anything else to add afterwards, please feel free.

Via SB 9 we are required to allow a 1,200 square foot minimum lot size. The terms nonconforming, we're no longer looking at the zoning requirements for minimum lot size, so generally an R-18 zone, 8,000 square foot is the minimum lot size. SB 9 does come in and say the minimum lot size we can require is 1,200, so it is a lot smaller than what we're used to.

JENNIFER ARMER: What I can add to that is that language about the Town shall not require a correction of nonconforming zoning conditions, that's actually directly from the State law that as part of an application if there's a nonconforming situation, we can't make them fix that as a condition of an SB 9 subdivision. There clearly are a number of components here where it is allowed under these regulations where it otherwise would not be allowed. Minimum lot size is an obvious example where a subdivision wouldn't be allowed through the standard process, because the lot isn't double the minimum lot size, but SB 9 would allow it.

CHAIR HANSSEN: Commissioner Tavana, does that help answer your question?

COMMISSIONER TAVANA: Yes, it does, thank you.

CHAIR HANSSEN: Just to keep things on track for the same subject that we're on, there will be an

opportunity to bring up whatever you want, but I do want to make sure we answer all the questions, so I would like to find out from any other Commissioners if you have comments on any of the things that have come up so far, which is the fee or easement discussion, the width of the access for the flag lots, whether or not it could be less than what's in the code, or should we revise the underlying code as well, and the issue about the right angles?

I just want to clarify with Staff, the issue of counting the access in the square footage is a separate issue, or does that get resolved if we use an easement?

JENNIFER ARMER: Thank you for that question. We would use the current standard practice, which is the area that is in the easement as he showed it. What was shown in that image was that the new rear parcel would gain access to the street through an easement over the front parcel, and so the area that easement goes over is still part of the front property and would still count as part of the area of the front property.

For example, the size of the house that would be allowed on that front property would be based on the full lot size, it would not be reduced based on that flagpole area, because it's an easement, whereas the standard practice right now for flag lots, if there is a flagpole

that is dedicated, that's part of the land for the rear lot, that area is actually removed from the lot size before you calculate the floor area, that's a net lot size, and so that, I think, is part of the component of what they were talking about with the benefits of having an easement being used.

I also did want to provide a little more clarification to the question of the perpendicular property lines. Since we have had to expand the application of this ordinance to include the hillside lots, it is correct, we've dealt with more irregularly shaped lots. The perpendicular, I think, was primarily focused on rectangular parcels, which is a lot of what we have in the flatlands. It does have a provision that if you have a curved front lot line, like at the end of a cul-de-sac, that it would be a radial, so it's kind of perpendicular to the curve, and we have successfully used that.

For example, on a hillside lot that came in recently, they have kind of, if you think of a pie slice, it's a quarter of a pizza, and they wanted to divide that in half. They basically cut that into two slices, and if the road is on the curved crust side of that pizza, then the line is cutting it into two similar sized pieces, and so the line was perpendicular to the curve of that lot, and

so it is possible even with irregular lots to find a way to use that requirement and make it function for that site. That is just additional context for your discussion.

CHAIR HANSSEN: Can I ask a question to respond to that to make sure I understand? Since it's not in the State's SB 9 ordinance, why are we including this in there? What are we worried would happen if we don't have it in there?

JENNIFER ARMER: As I said, it really was intended to not have oddly shaped, complex, kind of jury rigged shapes, to have something in there to provide guidance as to how to do a standard layout for the sites. That really was the goal. If it feels to the Planning Commission that it's overly restrictive, then it's not something that we have to have in there.

CHAIR HANSSEN: I was just asking the question, but thank you for that, and we'll see what the Commissioners think about that.

Just another question for Staff in terms of process that I should have asked yesterday, when we've done the General Plan and some other things we've voted on sections of things, but we have a lot of individual issues that are on the list to go through, what would be the best thing? Do you want us to try to vote on everything, or to

see if we have consensus and then hopefully we can put together a motion at the end?

JENNIFER ARMER: I think it would be fine if you wanted to do it either way. If somebody wants to keep track of the consensus items and make a final motion at the end of what additional changes should be made, that would work. But it also would be equally fine if you wanted to make interim motions of changes that are agreed upon. I will also defer to the Town Attorney if she has anything to add.

ATTORNEY WHELAN: I agree with those suggestions.

CHAIR HANSSEN: All right, so we're flexible. We are only making a recommendation; it's not a deciding vote that will go into law.

Vice Chair Barnett.

VICE CHAIR BARNETT: I have a question for the Town Attorney, which is whether you can articulate any benefits to using a simple access road versus having an easement. We talked about both, and I don't know if there would be a situation where the fee would be preferred.

ATTORNEY WHELAN: The only benefit that came to mind for me was consistency with what the Town requires for other flag lots, but other than that I can't think of a benefit of one versus the other.

CHAIR HANSSEN: I'm going to ask a follow up on the Vice Chair's question, which is since this is for specific kinds of projects is it problematic that we have things in the ordinance that are different than what's in our Zoning Code?

ATTORNEY WHELAN: No.

JENNIFER ARMER: And I would say that it's not a problem. If you think of the regulations that were adopted for Accessory Dwelling Units, there are situations there, for example, the setbacks that are allowed for those Accessory Dwelling Units, the floor area that is allowed for those additional Accessory Dwelling Units, and the fact that they can be a second story on a detached structure, those are all things that otherwise wouldn't be allowed, but are allowed for that specific type of use or process.

CHAIR HANSSEN: All right, that's helpful. So the issues that we're talking about right now, and I would like to hear more from the other Commissioners, is this issue about the fee simple or easement, or both, which is certainly an option, for how to provide access. The issue of the access and how it's counted, and then the issue of the right angles.

Commissioner Raspe.

COMMISSIONER RASPE: Thank you, Chair. My thoughts on the easement issue, I think we should make available to the developer either/or and give them the most amount of flexibility, because as we know in this town, every lot is different and I think any more flexibility also adds to supporting the general purpose of SB 9.

The only caveat to that is, as Town Council notes, if we are going to do an easement, at a minimum the user of the easement should be responsible for the maintenance of the easement so that at least there's always access, and no property can block another from use of that easement at any given time.

On the radial versus perpendicular line issue, again, I would counsel flexibility, because it seems to me that probably more than half of this town is nonconforming in its shapes and sizes, and so again, whatever allows us the greatest benefit and of use, let's use that standard, so I don't think we should have a hard and fast rule that it be 90% or any other. In my view, more flexibility in that regard is better.

Back to the easement issue, who owns and holds that, I think it's whoever owns the land, that portion of the land should be allotted to their interests. That's my thinking.

CHAIR HANSSEN: Very good. Oh, and the width of the access?

COMMISSIONER RASPE: It seems to me that 20' is entirely too large, so I would be happy with any number between 12'-15'. It should probably be a standard number, and I would defer to experts on that one if there were a standard in the industry that's more.

And again, I think the only issue is in the hillsides. They've recommended, I think, 18' because of fire reasons. Let's maintain that one, because I think the Fire Department has already opined that they need a wider access on the hillsides.

CHAIR HANSSEN: Can Staff clarify about the access in the hillsides? Is it 18'?

RYAN SAFTY: Thank you. The guideline says 12' for driveways in the hillsides.

COMMISSIONER RASPE: Okay, I stand corrected. Thanks.

CHAIR HANSSEN: All right, good. Vice Chair Barnett.

VICE CHAIR BARNETT: I agree with Commissioner Raspe in terms of giving a developer the option to use a fee interest or an easement, but I think we need to keep in the requirement that in the case of the fees means that the

lot size has to be considered without that fee interest. That's the way (inaudible) read.

CHAIR HANSSEN: Is that possible if they use the fee simple structure to not count that as a reduction of the square footage that they have available?

JENNIFER ARMER: Just to ask for some clarification, what you're saying is if the rear lot included the flagpole, so they own that area rather than having that as an access easement, that you are interested in having the rear lot being able to use the flagpole area in terms of calculating their maximum house size, is that what you want?

VICE CHAIR BARNETT: I read the current draft of the ordinance. In the case of the fee interest grant to establish the right-of-way to both parcels that there would be a reduction in the minimum parcel size. Maybe I had that wrong.

JENNIFER ARMER: My understanding of the way that it's written so far—and Mr. Safty, you can correct me if I'm wrong—is that when we are looking at the lot size for the rear parcel in terms of what maximum allowed floor area, we just calculate that rectangle in the rear; we do not include the purple area. I believe that's what we're talking about, or are you talking about the lot area in

terms of the 40%/60% split? I guess there are a couple of different components here.

VICE CHAIR BARNETT: My understanding from reading the ordinance, and perhaps I'm wrong, is that the fee grant as opposed to the easement would reduce the available square footage for the improvements with Parcel 1 or Parcel 2.

JENNIFER ARMER: That is correct, because when it's fee that is part of the lot area for the rear, but it doesn't count towards when they're calculating the maximum floor area, so that is correct, whereas if it was an easement, then the entire parcel size is divided between the two and can be used towards that calculation. My understanding then is what you're suggesting, that when the flagpole is fee rather than easement, that that would not be excluded from the net lot size of the rear parcel.

VICE CHAIR BARNETT: Correct. I think we've got it now.

JENNIFER ARMER: I think I understand what you're suggesting, hopefully.

CHAIR HANSSEN: Just to add on to this discussion, so the chart that you just had up from Mr. Jeans where he was showing that the back lot would only have half of what they thought they had because you're

including the flag, that's not what our ordinance says, is that what you're saying? Because counting it as part of the overall lot and then deciding that you could build less on account of it because of FAR, those are dramatically different things that we would be worried about, because you wouldn't be able to get the desired result?

JENNIFER ARMER: I think part of what is causing some confusion in this situation, if you look at the first example that he provided you can see that for Parcel 2 there is the gross lot area, which includes the purple, and then there's the net lot area, which does not include the purple area, and the reason that there is a net lot area in this case is that the Town's current regulations for flag lots say that when you calculate your floor area it needs to be based on that net lot area excluding the flagpole. So you still have the gross floor area that's the equal between these two examples, but because so much of that is for the 20' flagpole it ends up very uneven in terms of net lot size that can be used for the purposes of calculating the house size.

CHAIR HANSSEN: So I'm going to say, at least from my perspective, that that's an undesirable result, because they're sharing that for access and you shouldn't penalize them in terms of the square footage of the house

they should build, so is there a way we can make it so that that's to the case?

JENNIFER ARMER: I'll actually defer to Community Development Director Paulson to see if he has thoughts to add.

JOEL PAULSON: Thanks. Not to add more confusion to what's already seemingly confusing to folks here. The current code actually doesn't include the flag portion as part of the lot, so for meeting the minimum requirement, and as Ms. Armer mentioned, it also reduces the potential FAR. Obviously, the simplest way to deal with that is if someone chooses not to do a flag lot because the lot is small, as in Mr. Jeans' instance, but you could have much larger lots in the R-120 or the HR, for instance, where that's not going to be as much of an issue, but I think the easement really cleans that up.

Having the option, I think, is probably the best way to go, and that way if they do run into an issue where it is significantly restricting the FAR, for instance, or impacting the lot at the rear because it reduces the net lot area by so much, then that easement really is going to be the provision that allows them to have the most flexibility.

CHAIR HANSSEN: Okay. Commissioner Tavana.

COMMISSIONER TAVANA: Thank you. Just a quick question for Staff, and I would be remiss if I didn't ask this out loud actually tonight. Is there a minimum square foot size for the urban lot split in terms of the applicability in terms of how large a lot should be that's applicable?

ATTORNEY WHELAN: I can answer that one. There are two requirements. Neither of the two lots can be smaller than 1,200 square feet, and the ratio of the lots to one another needs to be 40%/60%, so you can't have one tiny lot and one huge lot.

COMMISSIONER TAVANA: So what you're saying is we can start with a 2,400 square foot lot, and divide it by two to have two 1,200 square foot lots?

ATTORNEY WHELAN: Yes.

COMMISSIONER TAVANA: And that's the requirement that's coming down from the State? We can't circumvent that anyway?

ATTORNEY WHELAN: Yes.

COMMISSIONER TAVANA: Okay. I just wanted to make sure. Thank you.

CHAIR HANSSEN: And the 40%/60% as well, so if the 40%/60% made it that the lot was bigger than you

described and their minimum lot size would go up for the 40% if the lot was big enough.

COMMISSIONER TAVANA: Got it.

CHAIR HANSSEN: Unless I misunderstood the Town Attorney. I think it would be (inaudible) the 1,200 square feet if it violated the 40%/60%.

ATTORNEY WHELAN: That's correct.

CHAIR HANSSEN: All right. I was just going to weigh in on the issues that we've been discussing so far. I would advocate for as much flexibility as possible to encourage production as long as we're not going to create unintended consequences.

On the issue of the fee simple or the easement, I think we should offer both, and if the fee simple does result in a reduced square footage I would want to make that go away if we can do that, because I think that should be on a level playing field based on whether or not they choose one access form or another, and I also agree that we should have something very specific in there that there's no way that access can be denied to that second lot, so I would say that.

Then on the issue of the width of the access, I think we should go with 12'. That's minimum required for Fire, and that's what we do in our hillsides. Whether or

not we adjust the Zoning Code as a follow up to this to reduce it from 20' is a subject that could be considered, but I think we want to make flexibility while still holding to our standards.

Then on the issue of the right angles, I would vote for more flexibility. I can't imagine what could go wrong, and there might be something that could go wrong, but since it's not in the SB 9 Ordinance from the State, or law from the State, we should probably just not discuss it here, because I think we would find that there are issues where it wouldn't apply and we wouldn't want to throw them in a discretionary review.

Do any others have comments on these issues so far before we move on? All right, I'm going to back to page 6 of 9 in the Staff Report and the issues that is titled, "Proposed Changes that Resulted from the Public Comment." We've been discussing some of that already, but there are some other items in here that we haven't discussed, and the first one that they have is applicable zones, and the issue is that it has to be a Single-Family Residential zone, but it might not be called that per se, so what Staff was asking is could we consider allowing SB 9 permits with other zoning designations? Possibilities could include Multi-Family zones, or in any zone where the existing use

is a Single-Family use. I was curious from Staff's perspective what other zones would that be specifically? Or are there too many to discuss?

JOEL PAULSON: I'm happy to jump in, and then if Mr. Safty or Ms. Armer has any other comments. This is a comment we received from a property that's in the RM:5-12, and so they were built as detached condos, so they're detached Single-Family homes in the Multi-Family zone but they're under condo ownership. There's an interest from at least one party who I have spoken to to be allowed to subdivide using SB 9, and we have those instances in the RM:5-12, probably not so much in the RM:12-20, although I could think of at least one. Those are the two that really came to mind.

We also have nonconforming uses where there are Single-Family homes in Commercial zones. I think that might be a bridge too far, but ultimately we wanted to at least get some input from the Planning Commission to see if there was any interest. Again, we're not obligated to allow that, but as with some of the other discussions this evening it's kind of that balance of do you want to be to the letter of the law or do you want to allow a little more flexibility? So that's really the question, whether they should be

allowed in any other zones, or none other than what we have currently proposed?

CHAIR HANSSEN: Let me just ask one clarifying question before I go to Mr. Safty. The law from the State basically excludes the Historic District, and I understand that some people have asked to get off the historic inventory on account of SB 9 so that they can do this kind of stuff, but since the State has said historic properties are not part of SB 9, if we wanted to go there, and I don't know that we do, are we allowed to be more lenient than the State on that issue of historic?

ATTORNEY WHELAN: Yes, SB 9 says that cities can be more expansive than SB 9 if they choose to.

CHAIR HANSSEN: So other zones, and it could include Historic, even though we're protected by the State to not include Historic if we want to go there?

ATTORNEY WHELAN: Yes.

JOEL PAULSON: Yes. Staff wasn't intending including Historic districts. The comment that you reference about other properties, as you all know we have (inaudible) levels of Historic, so it may be a pre-1941 home but it's not in the districts. Those are some of the ones that we will probably see asking to be removed so that they may be able to take advantage of these new

regulations. We don't envision opening up the Historic Districts, but of course that's something the Planning Commission could discuss if they feel that that's something.

CHAIR HANSSEN: I'm only asking the question. I wanted to ask about the condo example that you gave. If they have condo ownership and they did a lot split, what would happen with the land? Because the land is owned by the condo association, right? They would have their buildings, so would they just divide it amongst the individual condo owners? How would they handle the land and the access if they did a lot split on a condo?

JOEL PAULSON: Thank you. Vice Chair Barnett or Commissioner Raspe might have some additional comments, but technically the condos are just air space, so they would have to undo the condo map and simultaneously record an urban lot split, which would give them the land. Currently, as you mentioned, there is a one lot and then there are two air space condos that encompass their Single-Family homes, so now they would each have a portion of the existing underlying lot rather than just air space rights.

CHAIR HANSSEN: So Commissioner Raspe.

COMMISSIONER RASPE: Thank you, Chair. I think Director Paulson is essentially right. It's actually tough to envision how it's going to work mechanically.

Chair, you raised the question with respect to applicable zones and how it's currently applicable to HR zones and do we want to push that into other Multi-Family. My thought as we're talking tonight, I'm all for as much flexibility as we can, but we're kind of venturing into the unknown a little bit, and so my thinking is perhaps at our first cut at the SB 9 implementation we leave it to its current confines and not expand it into Multi-Family or condos, or certainly not Commercial. Then let's get our feet under us a little bit, and if we have to come back and revisit that issue, we can always do that, but I think as a first cut I would feel more comfortable limiting its scope to what it's currently drafted to be.

CHAIR HANSSEN: Thank you for that, Commissioner Raspe. By the way, that was my initial reaction as well reading through this, but we were asked by Staff to consider this, but I think it's still pretty new and I agree. I think a lot of studies should be done, or understanding of where this could go to add a bunch of other zones, because we're taking on the hillsides as it is.

Vice Chair Barnett.

VICE CHAIR BARNETT: I think in the case of a condo association where every owner has an undivided share or percentage in the project as a whole, the buildings, the land, it would probably take 100% of the owners and the lenders to approve a lot split under SB 9, so I would agree with Commissioner Raspe that we hold off on that as not being practical or certainly deserving of further investigation.

In the case of Planned Development forms of common interest developments where everyone owns their own home and the land under it but the association owns the common area, in that case there's usually very little common area space and building our buildings on that would certainly impair that open space, so I'm generally against it, but I think the Council could look at it and see if they would come to the same conclusion. Thank you.

CHAIR HANSSEN: Thank you for that. Any other thoughts on increasing or adding other applicable zones at this point with our first permanent ordinance? Commissioner Tavana.

COMMISSIONER TAVANA: I would just say I would highly advise against it. That's all. Thank you.

CHAIR HANSSEN: And as was said, this is a recommendation to Council, so I think what we're asked to do is discuss it and consider the issues around it, and what I'm hearing is don't go there on adding more applicable zones since we're adding on the hillsides and having to digest that, and let's see how it goes, because we can always do more later.

Let's move onto the grading limitation. We have the grading limitations from the hillsides. A lot of people have expressed objections to the 50 cubic yards grading limit, and there is also the cut and fill that was included from the Hillside Design Guidelines. The issue that was brought up is there are people that want to get rid of it entirely, and then there are some that would want a carve out for the driveway, or Staff also suggested the light well, so thoughts on that. Keep it in there? Modify it?

Commissioner Thomas.

COMMISSIONER THOMAS: I have a question for Staff about grading and I guess grading limitations and SB 9, if people take this route and how CEQA comes into this whole picture.

JENNIFER ARMER: I'll start with the CEQA question. SB 9 applications are explicitly exempt from CEQA, so there wouldn't be any CEQA review under this. If

somebody came in for a new two-unit development, they were building two units and they complied with the regulations that we had, then it would go through an exempt project under CEQA.

If you could clarify what other questions you had, I could describe what the current regulations are for grading and how it would work with SB 9 if that would be helpful, or if there's something else you wanted clarified.

COMMISSIONER THOMAS: Thank you. I think that sometimes we can pass ordinances and come up with some regulations surrounding them knowing that if projects are going to have to abide by CEQA then we have some safety with regard to environmental issues. Grading is not necessarily an area that I am an expert on, and I see Commissioner Janoff raise her hand, but I don't want grading to be limiting, because we want people to be able to use SB 9 in a productive way to create more housing that we need in town, but I also don't want us to be creating any major environmental consequences associated with it incidentally.

CHAIR HANSSEN: Thank you. Commissioner Janoff.

COMMISSIONER JANOFF: I had a couple questions on this section, but before I ask, we sort of left the question of Historic Districts unanswered, and I would be

an advocate of exempting Historic Districts from SB 9, just in case that was something that we needed to cover.

But back to the grading, my understanding is that if the grading is in excess of a 50 cubic yard net, then there's a grading permit required. There was an implication from the public that that would cause the whole thing to be taken out of the SB 9 queue and move it into the discretionary queue. That's not my understanding, but if Staff could comment about whether that is in fact what would happen. Is this one of those gotchas that if you're over the 50 cubic yards you're no longer eligible for SB 9?

RYAN SAFTY: Thank you for the question. As currently drafted, and this is also the same with the Urgency Ordinance, if you were triggering more than 50 cubic yards—again, we're not talking about excavation for the main house, but grading associated with the driveway or the yards—you would not be able to use an SB 9 two-unit development. That doesn't mean you can't use any of the provisions of SB 9. You could still go through the urban lot split, you could still theoretically get a discretionary permit for the grading permit and then proceed with the administrative two-unit development process. It's not saying that you can't use anything with SB 9, but if grading or 50 cubic yards is triggered you

would need that separate discretionary application as one part of the process.

COMMISSIONER JANOFF: So if they had that, then they could still continue with the SB 9 two-unit. Okay. I'm generally in favor of keeping the grading pretty low, because we've seen a lot of pretty crazy examples of people digging a whole ton of dirt out, not to be literal, so I'd be inclined to keep it low and let that grading permit be triggered, and then it can still go back into the SB 9 lane if they get that grading permit.

I had a question too about the light wells. As written in the Staff Report it seems to be the opposite of what we would want. It says, "Additional clarification could be added to state light wells that *do not* exceed the size required by the Building Code would also be considered excavation," and it seems to me that we would do just the opposite, light wells that *do* exceed the size required by Building Codes would be considered excavation if it's within the envelope of the Building Code it seems to me that that shouldn't be counted as excavation.

JENNIFER ARMER: And that is correct. Currently we don't count light wells as excavation, but we have seen situations where a light well becomes a below-grade patio, or it becomes a cut-out around the entire back perimeter of

an existing building, and so one thought was to try to have this be an Objective Standard that we could tie the limitation that it's exempt from the grading calculation, but only when it is just the minimum required for light and access by the Building Code.

COMMISSIONER JANOFF: So what you're stating is opposite of what this sentence reads, and it's what I would advocate, but if the light well is within the envelope required by the Building Code it does not count as excavation. Anything beyond that, and yes, we've seen all kinds of excessive grading to create patios and other things in various requests, and I think I would even be inclined to say once you go outside the Building Code it all counts. You can't say up to the Building Code doesn't count and anything beyond that does count. I'd say if it's within, it doesn't count, and if it's over, it all counts. I don't know if that's excessive, but it just seems to me that it flirts with a lot of it's within this but it's not there kind of arguments, and so that's my thinking.

RYAN SAFTY: Just to clarify, the reason it was written that way, excavation is actually exempt from a grading permit, so the light well we were saying would count as excavation for the house and therefore not trigger the 50 cubic yards.

COMMISSIONER JANOFF: That's a nuance. I would maybe write that differently. Thank you.

CHAIR HANSSEN: I'm going to weigh in and agree with Commissioner Janoff. In the years I've been on the Planning Commission people buy properties in the hillside and then they have big slopes and all that stuff and they wish it wasn't that way. They want it to be flat, and so they want to go put in a 20' retaining wall and excavate thousands of yards of soil. We've seen some of these things, and sometimes they've even come to us for code compliance issues, so the temptation is way too high for people to try to make the hillsides not be hillsides so that they can be fully usable by them for their property, which is understandable in terms of idea, but we should be trying to guard our hillsides and keep them the way they are.

I would be personally in favor of allowing the driveway and the minimum required for light wells and the house, but not the rest to make it completely flat for the purpose of (inaudible). I would definitely not take it out.

Vice Chair Barnett.

VICE CHAIR BARNETT: The comment from the public was that additional grading should be allowed for driveways, fire access, and turnarounds, and I wonder if

Staff could give some idea of how often permits are pulled for that kind of additional grading.

RYAN SAFTY: Thank you for the question. Ms. Armer, if you have a specific number, chime in as well. Fairly often in the hillsides, especially with the new fire requirements for driveway widths and turnarounds, a grading permit is triggered just solely based on the Fire Department requirements.

JENNIFER ARMER: I would agree.

CHAIR HANSSEN: We've seen a few in the last year where the grading for the driveway was the thing that threw it over the 50 cubic yards or the maximum cut and fill.

VICE CHAIR BARNETT: So my input would be that we perhaps submit a recommendation to the Council to at least consider adding additional grading for those specific purposes without getting a permit.

CHAIR HANSSEN: Any other comments? So what I heard is the support is there for keeping the grading limitation in there, but having exemptions for the building is already in there maybe to add the driveway, and then to make sure that the light well is limited to a light well. I think I captured that correctly, so does anyone see it differently than that?

All right, so then we can move on. The next is Fire review, and it was about requesting Santa Clara County Fire Department be included in the review. This would not need to be included in the ordinance but could be recommended as part of the implementation of the project review process.

Staff, if you could clarify, I saw one comment from one of the architects or developers that when they started going through the process Fire came in later, and then that might have been the thing that threw it out of the ministerial process, so they wanted them to be included earlier in the process, like at the beginning. Is that where this came from?

JENNIFER ARMER: Yes, I believe that is correct. We actually have a number of Accessory Dwelling Unit examples in the hillsides where they submitted an application for an Accessory Dwelling Unit, they received that permit, and then they came in for their building permit and during the building permit review there is review by Santa Clara County Fire Department, and at that time they were told they needed to have a fire truck turnaround, for example, on the site because of the new dwelling unit, and that was either infeasible or caused additional problems.

I believe we have an application in right now where they're going through the Architecture and Site review process because of site grading that's associated with an Accessory Dwelling Unit, so there is a desire by some applicants to get early pre-review or review by Fire during the SB 9 application process, and what we tried to convey in our Staff Report is that if you had review by Clara County Fire as part of an SB 9 application that that causes some real problems in terms of timelines and cost, and so that is not something that we would recommend, but that we are happy to work with Santa Clara County Fire to see if there's a possibility of setting up some sort of pre-review.

I believe at least one other agency in the area has as a requirement of the application's submittal for one of these SB 9 applications that they already have gone to Santa Clara County Fire, or whatever the applicable fire district is, for approval and have a letter saying that they can do this before the submittal is received. We would need to work further with the Fire District before establishing the details of that review. Hopefully that helps.

CHAIR HANSSEN: That helps. So what you're looking for is for the Planning Commission to say whether that is a good idea or not?

JENNIFER ARMER: We're bringing this up because this is an issue that has been brought up by the public and we want to make sure that the Planning Commission has an opportunity to weigh in on it, but we would not recommend that it include any modification to the ordinance.

CHAIR HANSSEN: Got it. But it could be as part of the process in our recommendation to Council that you ought to, or not, involve Fire early to make it more streamlined and to increase the ministerial part of this process.

Commissioner Janoff.

COMMISSIONER JANOFF: As I understand it that makes a lot of sense to have that step earlier in the process than later. It's a whole lot less redo, and if we're trying to make this as streamlined as possible I would be in favor of adding that as part of the implementation.

CHAIR HANSSEN: I think that makes a lot of sense as well. Any other thoughts on that? Okay, so consider that a recommendation from the Planning Commission, not to be in the ordinance, but to be part of the process.

The next one is windows. This was about the standards were originally included to minimize privacy impacts as State law limits setbacks to 4’ on the internal and rear property lines. The draft ordinance amends the windows standards to decrease restrictions so that all second stories within 10’ from the side and rear property lines can have clerestory windows and larger windows as needed for access. Some of the people were commenting that they wanted to just utilize the underlying zoning standards, so as it stands right now though it’s based on the 10’, is that right?

RYAN SAFTY: If you don’t mind clarifying 10’ in terms of what exactly?

CHAIR HANSSEN: Because there is some movement in this area. Maybe you could recap what’s in the draft ordinance right now, because people were complaining about that being too restrictive.

RYAN SAFTY: Currently in the draft ordinance you need a 4’ side and rear yard setback. If you build a second story, that then needs to step in an additional 5’, so we’re saying if you are a little bit beyond that… I’m sorry, all second stories within 10’ from the side and rear property lines can have both the clerestory and the larger windows. What a lot of the members of the public were

hoping to see is that if they meet the underlying zoning for setbacks, for example, there's one specific gentleman who lives in the Hillside zone, so if he incorporated a 20' side yard setback would they still need to meet those clerestory and minimum egress/egress size requirements?

CHAIR HANSSEN: And what is Staff's recommendation on this? What problem would it cause to use the underlying zoning versus what we have in there now?

RYAN SAFTY: I can start off, and Ms. Armer, if you see any other additional issues, let me know.

This was included originally just solely to protect privacy, because again, the setbacks are reduced so substantially, so we don't see any initial concerns with something like that. We would just be looking for recommendation from the Planning Commission to make that change.

JOEL PAULSON: I would just add that, for instance, in the R-1 rezone the minimum side setback is 5', so if you used just the underlying zoning that some people are requesting you could have a second story that's 5' from the property line with picture windows in it, but again, our recommendation currently carrying forward is in a similar vein to the Urgency Ordinance's, if it's 10' or

more, then you can have a little more freedom from a window size perspective.

CHAIR HANSSEN: Because the setback is only 4', so we're saying you have to get up to 10' to do that. Okay.

Commissioner Janoff.

COMMISSIONER JANOFF: I think that's a good change. Thinking about what this is going to do to add in terms of density, changing it from the underlying zone to have that 10', say if it's 5' underlying zone, makes good sense to me, so I think this is a good change and I'm in favor of it.

CHAIR HANSSEN: I wanted to ask the question as far as the Hillside since we do have bigger setbacks in the hillsides. Does this make it harder for them, because most of the lots are already more than 10' anyway, or are the setbacks going to be reduced to 4' for the Hillside?

RYAN SAFTY: The setbacks would be reduced for 4' in the Hillside. That is a standard requirement across all SB 9 applicable zones.

CHAIR HANSSEN: All right, so then that makes sense. Any other thoughts on this? Basically what the draft ordinance says now is that if you want more flexibility with the windows you have to have 10', and then automatically the setbacks for everybody under SB 9

applications will be 4', even including the hillsides. So this would be to help ensure privacy, and do we want to make it less restrictive is the thing that we were asked by some of the architects.

Vice Chair Barnett.

VICE CHAIR BARNETT: I don't see making it least restrictive, but I'm kind of concerned, and maybe Staff can help me on this. I think the proposal was that if the underlying zoning requirements in terms of setbacks were met that they could have the standard windows that are allowed by the code now, and they didn't want that changed by SB 9, so maybe I could get some clarification on that.

CHAIR HANSSEN: Did I hear this wrong, that if it's 20' in the hillsides it's not for SB 9, it's going to be 4'?

JENNIFER ARMER: That is correct. If you did a two-unit development, or an Accessory Dwelling Unit for that matter, in the hillsides, then the side and rear setbacks are only a 4' requirement. In a case where maybe there's a standard zoning setback of 5' we would still have it as requirement that the second story must be set back at least 10' from the property line before you could do a window that is greater than either clerestory or the minimum that's required for egress. We need to have that

minimum for egress allowance, but all other windows would have to be clerestory unless you move the second story wall back so that it's more than 10' from that side or rear property line. If it's more than 10', then whether it's complying with the underlying zone setback or not is not restricted.

CHAIR HANSSEN: So if the issue is that, let's just take the hillsides for example was an issue, we can't revert to the underlying zoning for the hillsides because it's now 4' instead of 20', so I would say what you guys put in there makes a lot of sense for anything that's part of SB 9, since we can't use the underlying zoning for the hillsides, unless I'm not hearing something right.

Any other thoughts on this? So what I'm hearing by lack of disagreement is that we should stay with the language that's in the ordinance right now, that we shouldn't change it.

Let's see, second story stepback was the next issue. Comments received regarding the stepback requirement requesting that this be removed for two-story SB 9 units that meet underlying zoning setbacks. This standard provides both the reduction in potential privacy impacts as well as providing construction (inaudible) that extend the full height of the new two-story residence. Some of the

architects were saying it's going to limit their design flexibility and whatnot.

Commissioner Raspe.

COMMISSIONER RASPE: Thank you, Chair. I just wanted to make sure I was reading it correctly. It's Section B-5 of the (inaudible) ordinance, which says, "All elevations of the second story of a two-story primary dwelling shall be recessed by 5' from the first story." If I read that correctly, if the building has four walls, or four sides, every side has to be recessed on the second floor, is that correct?

RYAN SAFTY: That is correct as currently drafted.

COMMISSIONER RASPE: I could just envision that. I understand that has certain privacy benefits to the neighbors and everybody, but I can see it resulting in some kind of odd architectural choices if every wall has to be recessed, and so I'm curious if maybe there's a way to limit it to those that are exposed or create privacy concerns?

JENNIFER ARMER: I would add that as we stated in the Staff Report, it's both for the privacy as well as we often see comments from the consulting architect about big, blank, tall, two-story walls, or the tall front of a

building in terms of compatibility with the surrounding neighborhood.

COMMISSIONER RASPE: Absolutely. I agree that breaking up a façade with stepbacks is in many cases desirable. It just seems to me difficult to make it a requirement for all four sides of a building. I can't envision it correctly in my mind perhaps.

JENNIFER ARMER: It is similar to the discussion we had about Objective Standards previously. It's hard to have Objective Standards and envision how to include those without going too far and causing odd architecture.

COMMISSIONER RASPE: Agreed.

CHAIR HANSSEN: Can you remind us—because we spent hours on the Objective Standards—where did we finally come out on the recommendation for the Objective Standards on the stepback?

JENNIFER ARMER: I don't know if Mr. Safty has specific memory on that, but I do believe we had stepback requirements above the second story, so if you had a three-story building that that was going to be required. But I think in some cases it also was part of modify the façade so it might not have been for the entire length of that third story. We are still in the process of taking the

comments from the Planning Commission and putting it together in a revised document for Town Council.

CHAIR HANSSEN: Fair enough. I'm going to agree with Commissioner Raspe. I'm having trouble envisioning a scenario where they would stepback, because most of the projects that we've seen here where they stepback the second story, it's not all four sides necessarily, it could be parts that are facing other things or where they really need to break up the wall. I could see it as problematic to require it of all four sides, but then I wouldn't want it to not be there, because we don't want the big, blank walls, and we've seen those in proposals as well.

That's why I was asking what we ultimately decided, but the Objective Standards are for Multi-Family and this is for Single-Family, and it sounds like there might not be a way to make this an Objective Standard if it had to have a discretionary review just to decide what else is it facing and everything; I'm not sure about that.

Commissioner Janoff.

COMMISSIONER JANOFF: You kind of get the image of a small block on top of a bigger block, and that kind of gets your design ethic stuck, and I'm not sure that that necessarily would drive this.

My recommendation would be to see if other jurisdictions have a stepback requirement. What's Monte Sereno doing? What's Saratoga doing? And if they have one that seems reasonable, great. And I think it's a good idea to have a stepback, I think it makes for more interesting design, but if we make it a requirement for two sides where you have the closest proximity to a neighboring structure or something, I don't know, maybe not all four sides so that there's some discretion about where you put that and taking into consideration the specific context, but I'd certainly want to see what other jurisdictions have tried.

CHAIR HANSSEN: Ms. Armer, and then Commissioner Tavana.

JENNIFER ARMER: Thank you, Chair. I just wanted to quickly answer the question that this was actually included based on the City of Campbell's interim ordinance, so this was something that was taken directly from what they were putting in place. We were definitely looking at other agencies and what they have and what they included in their ordinance.

CHAIR HANSSEN: So we've already gone through this process, and so what we're doing wouldn't be different than what others are doing is what you're saying?

JENNIFER ARMER: That it was drawn from another example in the area. The other caution that I would share is that we are hoping to keep these regulations simple so that it is a straightforward thing for applicants to come in with a proposal, and so getting too complex about proximity to other buildings or property lines can cause unintended consequences in that direction as well.

CHAIR HANSSEN: I had a thought on this, but I'm going to go to Commissioner Tavana and Commissioner Janoff first.

COMMISSIONER TAVANA: Thank you, Chair. I'll just quickly add that I agree with this second story stepback. I do think this is opportunity for us to shape how SB 9 projects are going to be seen in our town and I think a second story stepback, however that may look or may be feasible or not, will ultimately look better for these projects, so I would like to see this kept as is in the ordinance.

CHAIR HANSSEN: Thank you for that, Commissioner Tavana. Commissioner Janoff.

COMMISSIONER JANOFF: Given that Campbell is establishing something similar, I feel more confident that we could keep this. If we did any other benchmarking to verify that more than just Campbell is including something

along these lines, then that would be great if you've got time, but I'm comfortable leaving it as is.

CHAIR HANSSEN: I think now that I heard that, I am as well. Vice Chair Barnett.

VICE CHAIR BARNETT: I agree. I think having an Objective Standard on this particular subject would be the least worst solution. The double box structures are really unattractive in my personal opinion and I think we don't want to encourage that type of construction.

CHAIR HANSSEN: So you're saying to leave it as is, or to change it?

VICE CHAIR BARNETT: As is, yes, with (inaudible).

CHAIR HANSSEN: I just wanted to make sure I heard it correctly. I started thinking about what we talked about was Objective Standards, but the second story stepback here is not about breaking up the façade, it's about privacy, so if it's about breaking up the façade, then there are a lot of other things you can do besides the stepback like we were talking about in the earlier hearing. So if it's really about protecting privacy and we're going into uncharted territory with having a lot of properties closer together because they're splitting their lot or

adding additional buildings on their lot, I'm okay with leaving it as is. Any other comments on this one?

We only have a couple more to go through, but there might be other things that you want to bring up, in which case I'll do a check and see if we need to continue for the next meeting.

Size limit. Comments have been received in opposition to the 1,200 square foot size limitation for the first new SB 9 unit. The original Urgency Ordinance included the 1,200 square foot size limitation for any SB 9 unit versus the new one. When the Urgency Ordinance was extended the Council modified this to only apply to the first new unit. The 1,200 square foot size limitation is consistent with the maximum size of ADUs, and the second unit is allowed to use the remainder of the floor area allocated based on the lot's FAR.

There was an example from a potential applicant, or an actual applicant, about the way they saw it is they wanted to build a 2,400 square foot second building and they had around 4,000 and they wouldn't be allowed to do this because the limit would be 1,200 square feet for the additional building.

Commissioner Janoff.

COMMISSIONER JANOFF: This is really confusing to me, and I'll explain why. Throughout the ordinance we were talking about primary units and then the second unit, and so I was really confused about what's primary, and if you can demo the existing, then what's the primary, and what's the first new unit? It doesn't make any sense to me, so I think we should be clearer in our terms.

And I suggested that we might add a definition for primary, because if primary is intended to be the larger of the two, then that's one thing, but I'm under the understanding that you can have two primary units on a two-unit lot split, so that's unclear to me.

I understand the 1,200 square foot limit, because that's consistent with the ADU policy, but I'm wondering if we should just leave it at FAR and let the developer figure out whether they want a 3,000 square foot and a 1,200 square foot, or a 2,000 and a… I'm not sure that it makes sense to limit the… And I'm assuming that the first new unit means the existing stays and there's one new unit, and that's 1,200 square feet, but that whole terminology is very unclear to me, and I think I understand this pretty well. Anyway, I would think that we could do something different for the SB 9s and could make slightly larger units but stay within the FAR and FAR plus… I'm not sure if

the plus 10% applies to this or not, so there's just a lot of confusion around these things for me.

CHAIR HANSSEN: Thank you for that. I had the same reaction. I was listening to the example that was in our written comments about if you are in the hillsides and if you can go up to 6,000 square feet and you're not there with your current house, why couldn't you use the rest of your FAR for that? And I also am not 100% sure about how the 10% bonus applies to this, but to me they ought to be able to build whatever is within the FAR for the property. I'm not sure why to limit it, and I understand that we did it for ADUs, but if you're talking about a second dwelling unit, the comment that was made, a lot of people couldn't live in a 1,200 square foot unit.

Ms. Armer.

JENNIFER ARMER: Thank you, Chair. I wanted to offer some of the context based on the discussion with Town Council, which is where this requirement originated, and for exactly the reason that Commissioner Janoff was mentioning.

We did actually add a new definition in the ordinance that lays out that a first residential unit means one of two housing units developed under a two-unit housing development that can be an existing housing unit if it

meets or is modified to meet the 1,200 square foot floor area limitation on first residential units.

The way that I think of this requirement to try to envision how it works is that the idea is there's a goal that we heard from the Town Council to try to have one of the two units be affordable, and so affordable by design by not letting it be too large.

In addition to that then they said because with a two-unit housing development application under SB 9 you could submit an application on a vacant lot for a two-unit housing development going through this ministerial process but only propose a single housing unit, and so they wanted to make sure that if they're proposing only a single housing unit that it be one that is affordable by design. If they chose to do two, then they can actually make use of their full floor area, but by requiring it to be the first of the two, then it ensures that one of them is the smaller unit and therefore affordable by design.

In addition to that they then did decide that because they are putting this limitation they wanted to include the 10% additional floor area that is allowed for Accessory Dwelling Units. One of the things that we have discovered over these last few months is that it is important for us to have additional language like we have

for Accessory Dwelling Units, that that 10% is intended just for the use of that small unit. If you've got a large property, for example, say it's an acre sized lot in the hillsides, the intent was not to allow a 10% of that full lot size, it really was meant to allow this smaller unit to be built even if the existing house used the full floor area that was currently allowed. Hopefully that is helpful in understanding what was behind this regulation when Council put it in place.

CHAIR HANSSEN: That helped a lot, because honestly, if people are going to build a 2,500 square foot house as a second unit, it's going to be worth several million dollars, so it's not going to be affordable based on the way things are currently going here.

Commissioner Janoff.

COMMISSIONER JANOFF: Wow, that was a great explanation and completely changes my mind. Okay, yes, let's try to keep these as affordable as possible; so keep that 1,200 square foot.

I don't know whether there's any opportunity for any preamble around the SB 9 Ordinance introduction, but I think that explanation about why the 1,200 is a really important one, at least for me, and maybe it's not important once we put it in place or Town Council approves

it, then it will be what it is, but I think it's important for people to understand what we're trying to achieve in the way of more affordable housing, so yes, I'm in favor of leaving it at 1,200. Thank you.

CHAIR HANSSEN: I also wanted to ask a clarifying question, and then I'll go Vice Chair Barnett.

This was on another issue. It was about the occupancy, but I see that as applicable to this situation where they were talking about I go do a lot split, I sell the one lot, and then I want to build on the other, so then is it open territory or does that have to be 1,200 square feet?

JENNIFER ARMER: The way that we look at something like that is we're dealing with separate applications, so if they come in for an urban lot split, then we're just looking at the sizes of those two lots, making sure that it's meeting the 40%/60% split, all of those requirements for the urban lot split. Once that urban lot split is complete and recorded, then you have two legal lots and this actually does get to one of the questions that were asked by the member of the public.

On those lots you have a choice. Do you want to go through a discretionary process so that you can do a Single-Family home that uses the full floor area that is

allowed on that new lot size, or do you choose to use the two-unit housing development application, which is more limited. The first unit on that parcel would have to be 1,200 or less, but you could do two units at the same time and therefore use the full floor area.

CHAIR HANSSEN: So they could not go through this process, an urban lot split, and then build a Single-Family home and take advantage of a ministerial review?

JENNIFER ARMER: Not if they want it to be more than 1,200 square feet. However, if you think of a house with an attached Accessory Dwelling Unit, as long as those were designed as two separate units, we don't say that one has to be in front of the other, and because of this 1,200 square foot limit what we're considering the first Single-Family unit is actually effectively the same as an Accessory Dwelling Unit, so there are ways around it a little bit, but they would need to meet some of these Objective Standards included in the SB 9 if they want the more limited process.

CHAIR HANSSEN: Thanks for that clarification. Vice Chair Barnett.

VICE CHAIR BARNETT: Thank you. In the context that we're talking about I'm confused by paragraph 9 on 7 of 14 where it says, "The minimum living area of a primary

dwelling unit shall be 150 square feet subject to the Health and Safety Code."

JENNIFER ARMER: So that's the minimum size for any dwelling unit. It can be larger than that, but we're not going to count it as a dwelling unit if it's only 100 square feet. Does that help?

VICE CHAIR BARNETT: Yes, I'm trying to reconcile that with the 1,200 square feet limit.

JENNIFER ARMER: I was going to say that the 1,200 is a maximum. The 150 is a minimum.

VICE CHAIR BARNETT: Thank you. That's very helpful.

CHAIR HANSSEN: Other thoughts on this? Right now the current thinking, based on the Commissioners who have spoken, is to leave the additional unit at 1,200 square feet for all the reasons that went into the original ordinance to make more affordable housing. So are there any thoughts to change it from that? Okay, I'm going to say that's a leave it as is.

The last one that's in Section C is the frontage requirement. Comments received regarding the minimum width required for the… Oh no, we did this already, the 20'. We didn't have an additional comment about lot frontage if it's not a flag lot, or did we? I'm trying to remember.

JENNIFER ARMER: I believe we may have had a request that the lot frontage requirement be removed completely. It was often connected with the discussion of flag lots. Mr. Paulson, I don't know if you have additional thoughts on that.

JOEL PAULSON: I would just say with the discussion previously tonight that really was tied to the 20’ for a flag lot, which has already been decided. So now the new minimum width, I would say would be if you’re doing a flag lot it’s 12’, but you also could have no frontage and do an easement, so I think that we can clarify that component and/or remove it. We’ll look at that prior to going to Council.

CHAIR HANSSEN: All right, that sounds good. And was there anything else that we needed to consider, let’s see, you said in Section D?

JOEL PAULSON: I think, Chair, in Section D you’ve talked about most of it except for the 16’ height limitation in HR zones, the 30% slope, and then the 40’ (inaudible).

CHAIR HANSSEN: Thank you. I just wasn’t pulling up the right page. I have highlighted it here. So there are a couple of more things we need to talk about.

The 16' height limitation for HR zones. Some people have complained about it, because the way it goes in the Hillside Design Guidelines is it's 25' unless you're visible, in which case it's 18', but now for the sake of simplicity it's 16', period. Some people are saying that's not enough, so thoughts on that?

Commissioner Janoff.

COMMISSIONER JANOFF: We've struggled so much in the Planning Commission with these excessive heights or what's visible and what isn't visible. I'm thinking that the 16' is perfectly reasonable, especially since in theory it's a second unit on a property, so I think that's reasonable.

CHAIR HANSSEN: Commissioner Raspe.

COMMISSIONER RASPE: I would agree. It seems to me that 16' allows a two-story if you wanted to with 8' plates, so I think it probably gives you all the height you're going to need if you use it wisely, so I think 16' seems like the right number to me.

CHAIR HANSSEN: And going back to the discussion we just had on the 1,200 square feet, I'm sure there are some enterprising people that are thinking SB 9 is for building mega-houses, two on a lot, so we have to remember

the intent of SB 9 was not to do that, it was to make more housing, but affordable in smaller units.

The next one is we adopted, as you've read in the Staff Report, quite a number of things from the Hillside Design Guidelines. Well, we actually adjust the square footage available, but the 30% slope restriction for buildings in the HR zones. So what it's saying is if there's a 30% slope that you cannot do SB 9? Let me make sure I understand that ordinance. Staff, could you clarify?

RYAN SAFTY: That is correct. Specifically the building sites, it would prohibit a new two-unit development from being located in the area of the property where the slope is over 30%, and as you mentioned, that is to line it up with the Hillside Design Guidelines where that generally is a major exception or something that does Planning Commission approval whenever they are going beyond that 30%.

JENNIFER ARMER: A lot could have areas that are greater than 30% slope as long as the proposed housing units are not located in those areas.

CHAIR HANSSEN: So if there's an LRDA and it's not 30% on that property, let's just say that the average slope of the property is 30% but there are some parts of it that are reasonably flat, they can still do SB 9?

JENNIFER ARMER: Correct. The 30% is just the building site, not the whole property.

CHAIR HANSSEN: And we've had some submissions to the Planning Commission where they wanted to build on a huge thing, and I think what you guys are trying to avoid is having to do all these calculations to figure out the usable square feet, so just keep it simple and have it be if it's 30% you can build there, is that right?

JENNIFER ARMER: (Nods head yes.)

CHAIR HANSSEN: I just am trying to make sure I understand the intent.

JENNIFER ARMER: And reducing the grading involved. Right now the regulations say that the building should not be located in areas where there is a 30% slope or greater, and so we're working just to be consistent with that. I see that Director Paulson has his camera on. He may have something to add.

JOEL PAULSON: I'll wait for Vice Chair Barnett and then see if there's any additional. I think Ms. Armer covered it.

CHAIR HANSSEN: Vice Chair Barnett.

VICE CHAIR BARNETT: It was a comment from the public on this subject that the calculation of the 30% was

ambiguous as to what would be an average, for example, and maybe we could tighten that up in the proposed ordinance.

JOEL PAULSON: We can definitely add that clarification.

CHAIR HANSSEN: I definitely saw in a couple of the comments about if they have to do all kinds of different calculations before they even start on the SB 9 calculation, is it really a ministerial thing? But the idea of this for simplicity seems to make a lot of sense. Any other thoughts on the 30% slope?

Then we already talked about the right angle requirement. Oh, there was the 3' finished floor height limitation. It was increased from 18", is that correct?

RYAN SAFTY: That is correct.

CHAIR HANSSEN: So now it's 3', and some of the architects have said it's not enough for the hillsides, because you're building on a sloped lot and you would be varying part of the home more than you'd want to. How did we come up with the 3'?

RYAN SAFTY: Similar to the 30% that's also from the Hillside Design Guidelines, it's one of the guidelines that encourages you to step the building with the slope as opposed to building a flat pad.

CHAIR HANSSEN: Thoughts on whether or not to change this. I don't think they were asking to eliminate it, or were they?

RYAN SAFTY: The question was is 3' too limiting, so I'm not sure there is one specific recommendation with a recommended number or removing it, but it was just to revisit it.

CHAIR HANSSEN: Commissioner Janoff.

COMMISSIONER JANOFF: If we've got a 3' requirement for the Hillside Design Guidelines and this is the area that this is going to be problematic or not, it strikes me that we should be consistent. We've had the 3' requirement for some time, yes? Or is it new?

RYAN SAFTY: Correct, it's been in the document, I believe, since its adoption.

COMMISSIONER JANOFF: So if it's been working well enough in that sense that we haven't talked about needing to change it, then I would say that we could probably let the 3' stand.

CHAIR HANSSEN: My general thinking was the Hillside Design Guidelines have served us very well since they were created in 2004, and kudos to all the people that put those together, because they've been very, very helpful in so many hearings that we've had, and so if the 3' has

worked for us, I'd say (inaudible) that over a long list of the other requirements will serve us well as we go into this SB 9 territory without making it too onerous. I'm sure there will be exceptions, but you have to put a stake in the ground. Any other thoughts on this 3'?

I think we did the right angles. Then the rest of this says you've got questions and you can answer the questions. Town Attorney.

ATTORNEY WHELAN: Thank you. In my notes I unfortunately didn't write down where the Commission landed on the right angle issue.

CHAIR HANSSEN: My sense of where we were is that we should not put the right angle limitation in there to give people more flexibility, and any Commissioners speak up if I didn't get that right. I didn't miss anything that was in your notes, I don't think, because the other ones here were questions.

It is 10:00 o'clock, but I do want to see if there are more things that people are worried about that we should continue this to our next meeting, and if there's a lot of stuff that we haven't covered, then we should continue, but if not we can see if we feel like we've gone through enough to make a recommendation.

Vice Chair Barnett.

VICE CHAIR BARNETT: One of the commentators suggested that we might want to have affordability requirements for the SB 9 units, and I'm not sure where I stand on that, but since we're trying to mix low- and medium- and high-income residences throughout the town I think it might be worth discussion.

CHAIR HANSSEN: Our Town Attorney has her hand up.

ATTORNEY WHELAN: I think there was a discussion on that previously, and it's my opinion that SB 9 would preempt imposing an affordability requirement. I don't think SB 9 authorizes towns or cities to do that.

CHAIR HANSSEN: Director Paulson.

JOEL PAULSON: Yes, thank you, and to add onto that, because this obviously was an item of conversation throughout the Urgency Ordinance discussion through the Town Council, because our BMP requirements start at five units or more if we wanted to do something, as Town Attorney Whelan mentioned, I think it was mentioned previously that we would probably likely have to do a nexus study to bring that number down, since we're only talking about a maximum of four units here, but appreciate that input.

CHAIR HANSSEN: Question for Staff. Could we do the same thing that we do with AUDs and we give them some kind of benefit if they sign a deed restriction on the additional property?

ATTORNEY WHELAN: I do think that would be defensible.

CHAIR HANSSEN: And I would also add, since I worked on the last Housing Element and we're currently working on the current Housing Element, we tried to put affordability restrictions on the last Housing Element and it came back from HCD as no, because what they want is for stuff to get built and then the secondary goal is the affordability thing, and my sense is they would view that as trying to preempt SB 9 from being built by adding too many restrictions on it. Even though it's counterintuitive to what you really actually want to have happen, it comes out that way in terms of their thinking. Are there other thoughts on affordability restrictions? It sounds like we can't do it unless we offer a deed restriction. What would be the benefit to the applicants that were willing to sign a deed restriction?

ATTORNEY WHELAN: I'm just going to throw out some ideas. Maybe the permit is processed faster. Maybe there are different, more lenient FAR rules, or more

lenient height rules. Those are the thoughts that spring to mind for me.

JENNIFER ARMER: Or reduced fees.

CHAIR HANSSEN: That's what I recollect from the ADUs. I don't know the current state of it, but the fees seem to be an issue, because they do have to pay fees for SB 9, right? Even though that's ministerial the fees aren't any less than we have for other things, or are they?

JENNIFER ARMER: The fees currently align approximately with an Accessory Dwelling Unit application, but then they do still need to pay the fees for a building permit. If it's an urban lot split they still need to pay the fees to do the recordation of the map.

CHAIR HANSSEN: In terms of a recommendation from us, I don't know if the other Commissioners think that it might be worth exploring whether or not to offer a deed restriction and what benefits we could throw in with it, but I think it would require some more thought than the time that we have right now. Any other thoughts on this?

Are there other things that Commissioners saw in the comments from the public, including all the architects, that we need to discuss that we haven't? I think Staff did a great job of pulling these out and putting them in the Staff Report, and then they had the benefit of the

community meeting a week ago, so we have all that input as well. I feel like we're probably in pretty good shape, but I just want to make sure we haven't missed something.

Vice Chair Barnett.

VICE CHAIR BARNETT: I missed something when we were talking about driveways, which is the Desk Item from Adam Mayer that we received today, and he had thoughts about configurations of buildings that would require one driveway, for example, and then having two would preclude a viable architectural approach to Multi-Family use, so I would just suggest that we commend to the Town Council that they consider that.

CHAIR HANSSEN: Thank you for bringing that up. I have a question for Staff. I was thinking that was kind of related to this whole access corridor discussion, but maybe there's more to it, but he's doing a four-unit thing on the property and it doesn't sound like it was under SB 9. Should we consider this differently than the discussion we already had with the width of the access corridor and how to count the square footage and everything? I'm asking Staff.

JENNIFER ARMER: I believe there was some confusion in terms of the driveway requirements when you're talking about a two-unit development that's on a single

parcel versus the requirements if you do a subdivision and so then you have two separate lots. I don't know if Mr. Safty or Director Paulson has more to add to that.

JOEL PAULSON: I would just add that ultimately the example he has, as you mentioned, is a four-plex with one driveway, which would be on one lot. If we're going to have a flag lot or an easement to a second lot we have to have at least a minimum of one driveway to each of those lots. I think otherwise it would be too challenging on most configurations. The only thing that comes to mind if there's a big concern about that would be, from his comments, to limit the number of driveways to a maximum of one per lot. Again, that would be potentially restrictive for a large lot that maybe did a two-unit housing development where it might make sense to have different driveways, but that's something the Planning Commission and ultimately Council could consider.

CHAIR HANSSEN: So basically, thinking it through now that we've gone through this thing, Mr. Mayer's suggestion was related to a four-plex, which is not permitted under the current SB 9, because you would have to have done a lot split to have four units.

RYAN SAFTY: Unless of course there was an Accessory Dwelling Unit.

CHAIR HANSSEN: No, no, unless it was a Junior Accessory Dwelling Unit, yes. But what he showed us pictures of is not currently possible under SB 9 as written, is that right?

JENNIFER ARMER: Unless all of the units were similar in size. Three of those units would have to be 1,200 square feet or less, so there is potential, I guess, that it could be something like that, but they probably wouldn't be as large as was shown in his illustration.

CHAIR HANSSEN: But if we wanted to make it so to encourage people to have multiple units on a property and we wanted them to have only one driveway, what would we have to do differently?

JOEL PAULSON: As I mentioned earlier, you could impose a maximum of one driveway per lot and that would cover the scenario he has, which would be confined by our FAR ultimately, and then would also allow for access to a newly created lot if an urban lot split developed, so that would create a maximum of two with an urban lot split and a maximum of one if you decided to do a two-unit development and two Accessory Dwelling Units on one existing lot.

CHAIR HANSSEN: Good. It took me a couple tries to get it. I actually think that sounds pretty good. Vice Chair Barnett, what do you think, since you brought up the

thing? I thought Mr. Mayer's letter was great and I think that is the kind of thing that we'd like to see.

VICE CHAIR BARNETT: I guess the challenge would be making that an Objective Standard when we want to have other situations with two driveways. I'm not sure how we could carve that out, but maybe it could be.

CHAIR HANSSEN: Other thoughts on this? So maybe we could leave it at we think it's good idea but maybe it needs more research to see if it would be problematic to limit the number of driveways.

Are there other things that we missed in the comments or that are on peoples' minds relative to SB 9 before we make a recommendation to Town Council? I'm not seeing anyone. All right, does anyone feel brave enough to make a recommendation that we could vote on, a motion?

JENNIFER ARMER: If it would helpful for Staff to list out the modifications that have been discussed this evening, we could give that a try.

CHAIR HANSSEN: If you could do that, that would be helpful. I made notes, but yes.

JENNIFER ARMER: I'll put a list out there and we'll see if anyone has modifications or changes or additions to that. I heard nine items. Some were

modifications to the ordinance; some were just discussion items or recommendations.

Number 1 was support for access easement for flag lots in addition to the way that it's written right now.

Number 2 would be to remove the 20' requirement, reducing that to a 12' width for that access to the rear lot.

Number 3 was removal of the requirement of right angles for new lot lines.

Number 4 was about grading. It was to keep the limits on grading but to allow light wells as minimally required by the Building Code, and allow driveways per fire requirements to be exempt from grading, so not trigger a grading permit.

Number 5 was just a recommendation that Fire review early in the process would be good, but no modification to the ordinance.

Number 6 was to provide some clarification on the frontage requirement.

Number 7 was in regard to the 30% slope, again clarifying the language there that it just applies to where the homes would be located.

Number 8 would be to explore an optional affordability requirement, that there might be some

benefits, and provide some information on that for Town Council.

And number 9 was an additional discussion item about driveways, about whether restriction to one driveway per lot maximum or in some cases two, but no change to the ordinance.

Mr. Safty, did you have anything different?

RYAN SAFTY: Thank you. I did hear just one additional one, to be clearer in the definitions in terms of primary structure in relation to the Accessory Dwelling Units and Junior Accessory Dwelling Units.

CHAIR HANSSEN: These weren't actual changes, but things we decided not to change. Do we need to go over that as well? For example, we decided not to add any other zones. We didn't want to change anything with the windows.

JENNIFER ARMER: No, the motion can just be the changes that you want to recommend to the draft ordinance.

CHAIR HANSSEN: Good. Did we miss anything else? Commissioner Thomas, and then Commissioner Janoff.

COMMISSIONER THOMAS: Thank you, Chair. I just want to make sure, I think that we want to keep how the second story stepback is, but in looking at my notes I'm still a little bit confused about that one, so I just want

to confirm what we all agreed to was we didn't want to change that.

JENNIFER ARMER: That is what I heard.

CHAIR HANSSEN: That's what I heard too.

COMMISSIONER THOMAS: Okay, I just wanted to confirm.

CHAIR HANSSEN: Commissioner Janoff.

COMMISSIONER JANOFF: Back to the Historic Districts are exempted from SB 9 currently, or do we want to specifically say that?

JENNIFER ARMER: Historic Districts and properties that are built pre-1941 are designated by our ordinance to be considered historic, and therefore SB 9 would not apply to those properties.

COMMISSIONER JANOFF: That's clear now.

CHAIR HANSSEN: If you had a chance to read the actual SB 9, it clearly spells out that they intended to exclude Historic properties from this SB 9 law, as well as anything in an earthquake zone, although exceptions that were wetlands and stuff that were listed in our ordinance and listed in the SB 9 law.

COMMISSIONER JANOFF: Right, but we could be more lenient and include those if we wanted to, so I just wanted to be sure where we stand.

And to that point, I had a question. I think in the ordinance it talks about a limitation on excluding very high fire severity zones. I was under the impression that all of Los Gatos is in a high- or extremely-high zone, like even more extreme than Paradise, which burned, so can Staff just clarify, is this a relatively small area for Los Gatos, or is this a pretty large area?

JENNIFER ARMER: Thank you for that question. No, this is actually something that there was extensive discussion both for the Town of Los Gatos and other agencies when SB 9 first was put into place, and there is that section that says that it doesn't apply in those higher fire areas, but it basically says if you meet the Building Code and the Fire requirements for construction, then you can build. So in the end, because we've adopted the Fire regulations that they list there, and any new buildings have to comply with that, then they are allowed in those areas.

COMMISSIONER JANOFF: Right. Okay, thank you for that.

CHAIR HANSSEN: That was a great question to ask though, because that was such a big issue when we were working on our General Plan, and it's an ongoing issue for everybody, not just in Los Gatos but all through

California, but it sounds like it's not going to prevent SB 9.

So is anybody ready to make a motion to recommend this to Council with the changes that we have recommended so far? Vice Chair Barnett.

VICE CHAIR BARNETT: I move to recommend approval of Ordinance 2327 to the City Council together with the proposed amendments, changes, and recommendations that we have processed today.

JENNIFER ARMER: If I may, Chair? We don't actually have an ordinance number. What we would be recommending is that you are looking at Exhibit 1 to the Staff Report, which is the Draft Permanent Ordinance. It is based on the previous ordinance, but Exhibit 1 is what we would ask you include in your recommendation.

CHAIR HANSSEN: Is the maker of the motion okay with that?

VICE CHAIR BARNETT: I'd be happy to revise my motion to refer to Exhibit 4 instead of Ordinance 2327.

CHAIR HANSSEN: Okay, thank you. Is Commissioner Janoff making a second?

COMMISSIONER JANOFF: I'm making a second, but I think it's Exhibit 1, not Exhibit 4.

CHAIR HANSSEN: Maker of the motion, is Exhibit 1 okay?

VICE CHAIR BARNETT: Yes, that was my intention, Exhibit 1.

CHAIR HANSSEN: All right, and then your second is good for Exhibit 1, yes?

COMMISSIONER JANOFF: Yes, I second that.

CHAIR HANSSEN: Any further discussion? We'll do a roll call vote. Start with Commissioner Thomas.

COMMISSIONER THOMAS: Yes.

CHAIR HANSSEN: Commissioner Tavana.

COMMISSIONER TAVANA: Yes.

CHAIR HANSSEN: Commissioner Raspe.

COMMISSIONER RASPE: Yes.

CHAIR HANSSEN: Commissioner Janoff.

COMMISSIONER JANOFF: Yes.

CHAIR HANSSEN: Vice Chair Barnett.

VICE CHAIR BARNETT: Yes.

CHAIR HANSSEN: And I vote yes as well. I know the answer to this, but just for the sake of clarity, there are no appeal rights on this action by the Commission, correct?

JENNIFER ARMER: That is correct, because it is a recommendation to Town Council.

CHAIR HANSSEN: Good. Well, that was a great discussion.

(END)

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Mr. Ryan, Town Councils and Town Attorney,

Here is my recommendation regarding the draft SB9 ordinance, from a hillside resident.

- **Page 4, 1. Building Height:**

PROBLEM: 16' height limitation prohibits 2 story building at hillside.
SOLUTION: Apply the most restrictive town code at 18' height limitation at hillside.

- **Page 5, 5. Floor Area Ratio and Lot Coverage:**

PROBLEM: I understand the 1,200 sqft limitation is for affordable house; this is very nice consideration. However, it does not consider the options of marketable and affordable house beyond the current 1,200 sqft ADU.

SOLUTION: Please change to 1,400 sqft as maximum size of first SB9 unit. It can still be an affordable house, as well as differentiate from 1,200 sqft ADU. You can help to provide more options from 1,200 sqft ADU to 1,400 sqft SB9 in the affordable rental market. The additional 100 - 200 sqft matters for the people who live in the small house.

- **Page 5, 8. Building Sites:**

PROBLEM: Town Code does not have a 30% slope restriction for Hillside development. Adding 30% slope restriction in the Town's SB9 ordinance results in a reduction in intensity of the use, violate state law. Housing Crisis Act (Gov. Code 66300, subd. (b)(1)(A).

I have checked 4 jurisdictions regarding the slope restriction of SB9 ordinances:
Saratoga and Palo Alto simply applied the same standard development restriction to SB9.
Monte Serena does not apply density formula restriction to SB9.
Los Altos Hills has a loosened slope restriction in their SB9 ordinance.

None of them tighten the slope restriction on SB9 developments, because they follow state law to ensure it does not cause a reduction in the intensity of the use.

SOLUTION: **REMOVE "30% slope restriction"** in SB9 Ordinance, because page 5 Cut and Fill table already controls hillside development as defined by Town Code. **I expect the Town will not violate the state law, under the watch of the current Town Council and Town Attorney Gabrielle Whelan.**

- **Page 7, B. Design Review Standards**

PROBLEM: These standards are a nice consideration for privacy concern because SB9 setbacks are smaller than standard development. However, it does not motivate residents to meet standard zoning setback for SB9 developments.

SOLUTION: We should encourage residents to meet standard zoning setbacks. These additional SB9 design standards should only be required for development within the smaller SB9 setbacks. Please exempt these SB9 privacy related restrictions, if standard zoning setbacks are met on all 4 sides. See detailed comments below:

- **1 Balconies/Decks and 8 Windows.**

PROBLEM: This restriction is for privacy concern because SB9 setback is smaller. However, if there is no house around, and we meet all standard zoning setback, why can't we have a normal balconies/deck, normal windows?

SOLUTION: Please exempt 1 and 8 restrictions, if meet standard zoning setback on 4 sides.

- **5 Step-back:**

PROBLEM: At many the hillside locations, the 2nd floor can only be seen from the public road. The first floor is actually semi-buried, like a basement. In this case, why is the step-back required?

SOLUTION: Please exempt the step-back if (1) the building can only be seen one story from public road and (2) meet standard zoning setback on 4 sides.

- **7 Plate Height:**

PROBLEM: The plate height restriction is to ensure that a single-story building is not 25 feet tall, which is not applied to Hillside.

SOLUTION: Please exempt the plate height restriction from Hillside.

Best Regards,
Ivy

Mr. Ryan, Town Councils and Town Attorney,

Town Code does not have a 30% slope restriction for Hillside development. However, the Town of Los Gatos includes a 30% slope restriction in the draft SB9 ordinance, which makes SB9 development more restrictive than standard development. This will violate the state law Housing Crisis Act (Gov. Code 66300, subd. (b)(1)(A).). The Code states that any proposed modification to an existing development standard applicable in a single-family residential zone MUST demonstrate that it would NOT result in a reduction in the intensity of the use. (see SB9 factsheet, page 7)

The draft SB9 ordinance already contains the Cut and Fill table in page 5, item 7, which matches existing Town Code for standard developments. The 8-foot cut restriction limits house width in the uphill / downhill direction. For example, on a 30% slope, the 8-foot cut restriction limits the house width to only 27 feet. Lessor slopes allow a wider house, but steeper slopes result in much smaller widths, naturally limiting development. Therefore, the 8-foot cut restriction is sufficient to limit the developments on the Hillside. Please see the attached diagram which illustrates this.

Further, geotechnical, and geological reports are required for building permit. If the investigation and engineered confirmed the site is buildable, even it is 31% slope on average house pad, it is still buildable. I believe it is the reason there is no 30% slope restriction language in Town Code.

I respectfully request that the Town of Los Gatos remove the 30% slope restriction language in the SB9 ordinance, to eliminate the conflict with HCA state law. Please keep the Cut and Fill table in page 5, item 7 in ordinance. The 8-foot cut restriction can well control the hillside development, as defined in Town Code.

Best Regards,
Scott

Draft SB9 Ordinance - Section V

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.		

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;

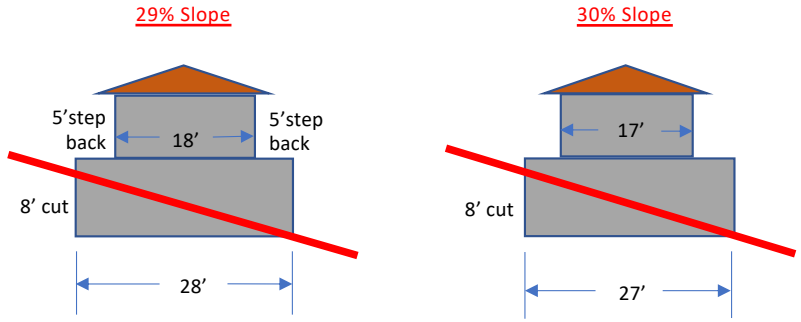
SB9 Recommendation

KEEP - 7. Cut and Fill: Sufficient to restrict the hillside development, matching Town Code.

REMOVE - ~~8. Building Site: 30% restriction~~. It is NOT in Town Code, and causes a reduction in the intensity of use, violating HCA state law.

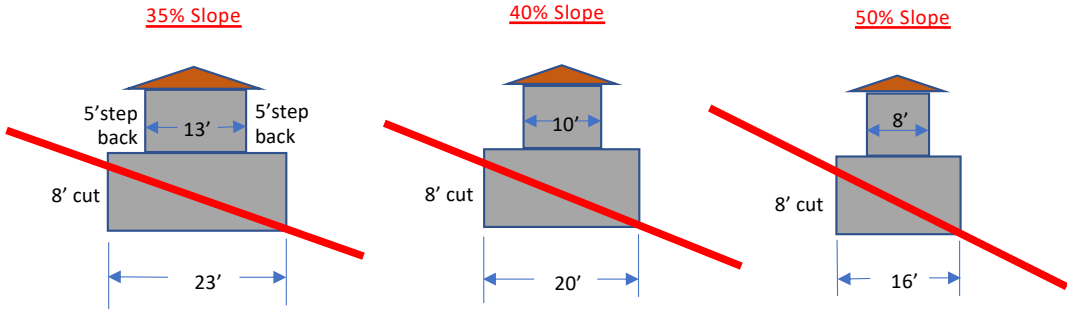
A **Housing Crisis Act of 2019.** (Gov. Code, § 66300, subd. (b)(1)(A).) Any proposed modification to an existing development standard applicable in the single-family residential zone **must** demonstrate that it would **not** result in a reduction in the intensity of the use. (SB9 factsheet p7)

Why 29% slope is allowed, but 30% slope is not?



Town Code 8' cut restriction is sufficient.

As slope increases, the house width decreases, limiting development.



California Department of Housing and Community Development

SB 9 Fact Sheet

On the Implementation of Senate Bill 9 (Chapter 162, Statutes of 2021)

Housing Policy Development Division
March 2022

This Fact Sheet is for informational purposes only and is not intended to implement or interpret SB 9. HCD does not have authority to enforce SB 9, although violations of SB 9 may concurrently violate other housing laws where HCD does have enforcement authority, including but not limited to the laws addressed in this document. As local jurisdictions implement SB 9, including adopting local ordinances, it is important to keep these and other housing laws in mind. The Attorney General may also take independent action to enforce SB 9. For a full list of statutes over which HCD has enforcement authority, visit HCD's ***Accountability and Enforcement webpage****.*

Executive Summary of SB 9

Senate Bill (SB) 9 (Chapter 162, Statutes of 2021) requires ministerial approval of a housing development with no more than two primary units in a single-family zone, the subdivision of a parcel in a single-family zone into two parcels, or both. SB 9 facilitates the creation of up to four housing units in the lot area typically used for one single-family home. SB 9 contains eligibility criteria addressing environmental site constraints (e.g., wetlands, wildfire risk, etc.), anti-displacement measures for renters and low-income households, and the protection of historic structures and districts. Key provisions of the law require a local agency to modify or eliminate objective development standards on a project-by-project basis if they would prevent an otherwise eligible lot from being split or prevent the construction of up to two units at least 800 square feet in size. For the purposes of this document, the terms "unit," "housing unit," "residential unit," and "housing development" mean primary unit(s) unless specifically identified as an accessory dwelling unit (ADU) or junior ADU or otherwise defined.

Single-Family Residential Zones Only

(Reference: Gov. Code, §§ 65852.21, subd. (a); 66411.7 subd. (a)(3)(A))

The parcel that will contain the proposed housing development or that will be subject to the lot split must be located in a single-family residential zone. Parcels located in multi-family residential, commercial, agricultural, mixed-use zones, etc., are not subject to SB 9 mandates even if they allow single-family residential uses as a permitted use. While some zones are readily identifiable as single-family residential zones (e.g., R-1 "Single-Family Residential"), others may not be so obvious. Some local agencies have multiple single-family zones with subtle distinctions between them relating to minimum lot sizes or allowable uses. In communities where there may be more than one single-family residential zone, the local agency should carefully review the zone district descriptions in the zoning code and the land use designation descriptions in the Land Use Element of the General Plan. This review will enable the local agency to identify zones whose primary purpose is single-family residential uses and which are therefore subject to SB 9. Considerations such as minimum lot sizes, natural features such as hillsides, or the permissibility of keeping horses should not factor into the determination.

Residential Uses Only

(Reference: Gov. Code, §§ 65852.21, subd. (a))

SB 9 concerns only proposed housing developments containing no more than two residential units (i.e., one or two). The law does not otherwise change the allowable land uses in the local agency's single-family residential zone(s). For example, if the local agency's single-family zone(s) does not currently allow commercial uses such as hotels or restaurants, SB 9 would not allow such uses.

Ministerial Review

(Reference: Gov. Code, §§ 65852.21, subd. (a); 66411.7, subds. (a), (b)(1))

An application made under SB 9 must be considered ministerially, without discretionary review or a hearing. Ministerial review means a process for development approval involving no personal judgment by the public official as to the wisdom of carrying out the project. The public official merely ensures that the proposed development meets all the applicable objective standards for the proposed action but uses no special discretion or judgment in reaching a decision. A ministerial review is nearly always a "staff-level review." This means that a staff person at the local agency reviews the application, often using a checklist, and compares the application materials (e.g., site plan, project description, etc.) with the objective development standards, objective subdivision standards, and objective design standards.

Objective Standards

(Reference: Gov. Code, §§ 65852.21, subd. (b); 66411.7, subd. (c))

The local agency may apply objective development standards (e.g., front setbacks and heights), objective subdivision standards (e.g., minimum lot depths), and objective design standards (e.g., roof pitch, eave projections, façade materials, etc.) as long as they would not physically preclude either of the following:

> **Up to Two Primary Units.** The local agency must allow up to two primary units (i.e., one or two) on the subject parcel or, in the case of a lot split, up to two primary units on each of the resulting parcels.
>
> **Units at least 800 square feet in size.** The local agency must allow each primary unit to be at least 800 square feet in size.

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. Any objective standard that would physically preclude either or both of the two objectives noted above must be modified or

waived by the local agency in order to facilitate the development of the project, with the following two exceptions:

Setbacks for Existing Structures. The local agency may not require a setback for an existing structure or for a structure constructed in the same location and to the same dimensions as an existing structure (i.e., a building reconstructed on the same footprint).

Four-Foot Side and Rear Setbacks. SB 9 establishes an across-the-board maximum four-foot side and rear setbacks. The local agency may choose to apply a lesser setback (e.g., 0-4 feet), but it cannot apply a setback greater than four feet. The local agency cannot apply existing side and rear setbacks applicable in the single-family residential zone(s). Additionally, the four-foot side and rear setback standards are not subject to modification. (Gov. Code, §§ 65852.21, subd. (b)(2)(B); 66411.7, subdivision (c)(3).)

One-Unit Development

(Reference: Gov. Code, §§ 65852.21, subd. (a); 65852.21, subd. (b)(2)(A))

SB 9 requires the ministerial approval of either one or two residential units. Government Code section 65852.21 indicates that the development of just one single-family home was indeed contemplated and expected. For example, the terms “no more than two residential units” and “up to two units” appear in the first line of the housing development-related portion of SB 9 (Gov. Code, § 65852.21, subd. (a)) and in the line obligating local agencies to modify development standards to facilitate a housing development. (Gov. Code, § 65852.21, subd. (b)(2)(A).)

Findings of Denial

(Reference: Gov. Code, §§ 65852.21, subd. (d); 66411.7, subd. (d))

SB 9 establishes a high threshold for the denial of a proposed housing development or lot split. Specifically, a local agency’s building official must make a written finding, based upon a preponderance of the evidence, that the proposed housing development would have a specific, adverse impact, as defined in Government Code section 65589.5, subdivision (d)(2), 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. “Specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. (Gov. Code, § 65589.5, subd. (d)(2).)

Environmental Site Constraints

(Reference: Gov. Code, §§ 65852.21, subd. (a)(2) and (a)(6); 66411.7, subd. (a)(3)(C) and (a)(3)(E))

A proposed housing development or lot split is not eligible under SB 9 if the parcel contains any of the site conditions listed in Government Code section 65913.4, subdivision (a)(6)(B-K). Examples of conditions that may disqualify a project from using SB 9 include the presence of farmland, wetlands, fire hazard areas, earthquake hazard areas, flood risk areas, conservation areas, wildlife habitat areas, or conservation easements. SB 9 incorporates by reference these environmental site constraint categories that were established with the passing of the Streamlined Ministerial Approval Process (SB 35, Chapter 366, Statutes of 2017). Local agencies may consult HCD's **Streamlined Ministerial Approval Process Guidelines** for additional detail on how to interpret these environmental site constraints.

Additionally, a project is not eligible under SB 9 if it is located in a historic district or property included on the State Historic Resources Inventory or within a site that is designated or listed as a city or county landmark or as a historic property or district pursuant to a city or county ordinance.

California Environmental Quality Act (CEQA)

Reference: Gov. Code, §§ 65852.21, subd. (j); 66411.7, subd. (n))

Because the approval of a qualifying project under SB 9 is deemed a ministerial action, CEQA does not apply to the decision to grant an application for a housing development or a lot split, or both. (Pub. Resources Code, § 21080, subd. (b)(1) [CEQA does not apply to ministerial actions]; CEQA Guidelines, § 15268.) For this reason, a local agency must not require an applicant to perform environmental impact analysis under CEQA for applications made under SB 9. Additionally, if a local agency chooses to adopt a local ordinance to implement SB 9 (instead of implementing the law directly from statute), the preparation and adoption of the ordinance is not considered a project under CEQA. In other words, the preparation and adoption of the ordinance is statutorily exempt from CEQA.

Anti-Displacement Measures

(Reference: Gov. Code, §§ 65852.21, subd. (a)(3); 66411.7, subd. (a)(3)(D))

A site is not eligible for a proposed housing development or lot split if the project would require demolition 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; (2) housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power; or (3) housing that has been occupied by a tenant in the last three years.

Lot Split Requirements

(Reference: Gov. Code, § 66411.7)

SB 9 does not require a local agency to approve a parcel map that would result in the creation of more than two lots and more than two units on a lot resulting from a lot split under Government Code section 66411.7. A local agency may choose to allow more than two units, but it is not required to under the law. A parcel may only be subdivided once under Government Code section 66411.7. This provision prevents an applicant from pursuing multiple lot splits over time for the purpose of creating more than two lots. SB 9 also does not require a local agency to approve a lot split if an adjacent lot has been subject to a lot split in the past by the same property owner or a person working in concert with that same property owner.

Accessory Dwelling Units

(Reference: Gov. Code, §§ 65852.21, subd. (j); 66411.7, subd. (f))

SB 9 and ADU Law (Gov. Code, §§ 65852.2 and 65858.22) are complementary. The requirements of each can be implemented in ways that result in developments with both "SB 9 Units" and ADUs. However, specific provisions of SB 9 typically overlap with State ADU Law only to a limited extent on a relatively small number of topics. Treating the provisions of these two laws as identical or substantially similar may lead a local agency to implement the laws in an overly restrictive or otherwise inaccurate way.

"Units" Defined. The three types of housing units that are described in SB 9 and related ADU Law are presented below to clarify which development scenarios are (and are not) made possible by SB 9. The definitions provided are intended to be read within the context of this document and for the narrow purpose of implementing SB 9.

> *Primary Unit*. A primary unit (also called a residential dwelling unit or residential unit) is typically a single-family residence or a residential unit within a multi-family residential development. A primary unit is distinct from an ADU or a Junior ADU. Examples of primary units include a single-family residence (i.e., one primary unit), a duplex (i.e., two primary units), a four-plex (i.e., four primary units), etc.
>
> *Accessory Dwelling Unit*. An ADU is an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel on which the single-family or multifamily dwelling is or will be situated.
>
> *Junior Accessory Dwelling Unit*. A Junior ADU is a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A Junior ADU may include separate sanitation facilities or may share sanitation facilities with the existing structure.

The terms “unit,” “housing unit,” “residential unit,” and “housing development” mean primary unit(s) unless specifically identified as an ADU or Junior ADU or otherwise defined. This distinction is critical to successfully implementing SB 9 because state law applies different requirements (and provides certain benefits) to ADUs and Junior ADUs that do not apply to primary units.

Number of ADUs Allowed. ADUs can be combined with primary units in a variety of ways to achieve the maximum unit counts provided for under SB 9. SB 9 allows for up to four units to be built in the same lot area typically used for a single-family home. The calculation varies slightly depending on whether a lot split is involved, but the outcomes regarding total maximum unit counts are identical.

> *Lot Split*. When a lot split occurs, the local agency must allow up to two units on each lot resulting from the lot split. In this situation, all three unit types (i.e., primary unit, ADU, and Junior ADU) count toward this two-unit limit. For example, the limit could be reached on each lot by creating two primary units, or a primary unit and an ADU, or a primary unit and a Junior ADU. By building two units on each lot, the overall maximum of four units required under SB 9 is achieved. (Gov. Code, § 66411.7, subd. (j).) Note that the local agency may choose to allow more than two units per lot if desired.
>
> *No Lot Split*. When a lot split has not occurred, the lot is eligible to receive ADUs and/or Junior ADUs as it ordinarily would under ADU law. Unlike when a project is proposed following a lot split, the local agency must allow, in addition to one or two primary units under SB 9, ADUs and/or JADUs under ADU Law. It is beyond the scope of this document to identify every combination of primary units, ADUs, and Junior ADUs possible under SB 9 and ADU Law. However, in no case does SB 9 require a local agency to allow more than four units on a single lot, in any combination of primary units, ADUs, and Junior ADUs.

See HCD’s **ADU and JADU webpage** for more information and resources.

Relationship to Other State Housing Laws

SB 9 is one housing law among many that have been adopted to encourage the production of homes across California. The following represent some, but not necessarily all, of the housing laws that intersect with SB 9 and that may be impacted as SB 9 is implemented locally.

Housing Element Law. To utilize projections based on SB 9 toward a jurisdiction’s regional housing need allocation, the housing element must: 1) include a site-specific inventory of sites where SB 9 projections are being applied, 2) include a nonvacant sites analysis demonstrating the likelihood of redevelopment and that the existing use will not constitute an impediment for additional residential use, 3) identify any governmental constraints to the use of SB 9 in the creation of units (including land use controls, fees,

and other exactions, as well as locally adopted ordinances that impact the cost and supply of residential development), and 4) include programs and policies that establish zoning and development standards early in the planning period and implement incentives to encourage and facilitate development. The element should support this analysis with local information such as local developer or owner interest to utilize zoning and incentives established through SB 9. Learn more on HCD's **Housing Elements webpage**.

Housing Crisis Act of 2019. An affected city or county is limited in its ability to amend its general plan, specific plans, or zoning code in a way that would improperly reduce the intensity of residential uses. (Gov. Code, § 66300, subd. (b)(1)(A).) This limitation applies to residential uses in all zones, including single-family residential zones. "Reducing the intensity of land use" includes, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or any other action that would individually or cumulatively reduce the site's residential development capacity. (Gov. Code, § 66300, subd. (b)(1)(A).)

A local agency should proceed with caution when adopting a local ordinance that would impose unique development standards on units proposed under SB 9 (but that would not apply to other developments). Any proposed modification to an existing development standard applicable in the single-family residential zone must demonstrate that it would not result in a reduction in the intensity of the use. HCD recommends that local agencies rely on the existing objective development, subdivision, and design standards of its single-family residential zone(s) to the extent possible. Learn more about **Designated Jurisdictions Prohibited from Certain Zoning-Related Actions** on HCD's website.

Housing Accountability Act. Protections contained in the Housing Accountability Act (HAA) and the Permit Streaming Act (PSA) apply to housing developments pursued under SB 9. (Gov. Code, §§ 65589.5; 65905.5; 65913.10; 65940 et seq.) The definition of "housing development project" includes projects that involve no discretionary approvals and projects that include a proposal to construct a single dwelling unit. (Gov. Code, § 65905.5, subd. (b)(3).) For additional information about the HAA and PSA, see HCD's **Housing Accountability Act Technical Assistance Advisory**.

Rental Inclusionary Housing. Government Code section 65850, subdivision (g), authorizes local agencies to adopt an inclusionary housing ordinance that includes residential rental units affordable to lower- and moderate-income households. In certain circumstances, HCD may request the submittal of an economic feasibility study to ensure the ordinance does not unduly constrain housing production. For additional information, see HCD's **Rental Inclusionary Housing Memorandum**.

DATE: October 31, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Introduce an Ordinance, by Title Only, Amending Chapter 29 (Zoning Regulations) of the Town Code to Regulate Urban Lot Splits and Two-Unit Housing Developments in Compliance with Senate Bill 9. Town Code Amendment Application A-22-002. Location: Town-wide. Applicant: Town of Los Gatos.

REMARKS:

Attachment 7 includes public comment received between 11:01 a.m., October 27, 2022, and 11:00 a.m., October 31, 2022.

Attachment previously received with the November 1, 2022 Staff Report:

1. Required Findings
2. Draft Ordinance
3. September 28, 2022 Planning Commission Staff Report with Exhibits 1-7
4. September 28, 2022 Planning Commission Desk Item Report with Exhibit 8
5. September 28, 2022 Planning Commission Verbatim Minutes
6. Public Comment received between 11:01 a.m., Wednesday, September 23, 2022, and 11:00 a.m., Thursday, October 27, 2022

Received with this Addendum Report:

7. Public Comment received between 11:01 a.m., October 27, 2022, and 11:00 a.m., October 31, 2022.

PREPARED BY: Ryan Safty
Associate Planner

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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Sent: Saturday, October 29, 2022 10:45 AM
To: planning@losgatosca.gov
Subject: Intent to Occupy Clause of the SB 9 Ordinance

The purpose of this note is to express concern about enforcement of the Intent to Occupy (page 12) clause, clause (4) of the proposed ordinance. Without a meaningful enforcement process the goal of benefitting homeowners instead of institutional investors could be easily violated.

My concern is founded on a live case in my neighborhood where an absentee owner has rented out the principal residence but is claiming via a simple email to the Town to reside in it while dividing the property into two parcels. Occupancy or intent to occupy an SB 9 property should require more rigorous documentation than an email. This specific application should be frozen until the Town is able to independently verify owner occupancy of the property.

For purposes of this ordinance, absentee owners should be considered institutional investors and disqualified from dividing a property. I strongly believe the Town should require stronger evidence of occupancy or intent of occupancy than a simple email. Moreover, the Town should also spell out explicitly in this ordinance the penalty that would be imposed if a homeowner were to violate the aforementioned clause.

I raised this matter with the planner for this project as well as at the most recent Town Council meeting. The matter was referred to the Town Attorney for action. I see no evidence of such action in the latest draft of the ordinance.

I recommend the ordinance be strengthened to prevent its abuse by institutional investors.

Christopher Bajorek
Los Gatos

Sent from my iPad

EXTERNAL SENDER

Council Members and Planning:

I have just completed a review of the new Proposed Draft Ordinance, which on the whole looks good and is now substantially in compliance with the SB-9 State Law. I have only a few comments to make [see attached].

2 comments are of significance and the rest are minor - but should be fixed/clarified.

The 2 that I would ask you all to give serious consideration to are:

1. Front Setbacks on a Flag Lot.
   The standard concept of a Front Setback on a Flag Lot does not make sense.

2. Objective Design Standards.
   Designing a house by 'regulation' is inherently dangerous and way too restrictive.
   Please consider eliminating all 'Design Standards' that are not 'Privacy' related.

In my 3 minutes I will only have time to talk to one of these items, so please consider this email/memo in its entirety so that these issues can be addressed at your Council Meeting.

Thank you

Tony Jeans

T.H.I.S. DESIGN & DEVELOPMENT P.O.Box 1518, Los Gatos, CA 95031

Tel: 408.354.1863 Fax: 408.350.1823

Memo: Minor SB-9 Ordinance Corrections
From: Tony Jeans
To: Town Council and Planning Dept
Date: October 29th, 2022

The Proposed Draft Ordinance proposed by staff, incorporating Planning Commission recommendations is good and has come a long way from its [Emergency] inception.

I have only a few small suggestions:

1. Objective Zoning Standards: 29.10.630 (a) (1).
   The 16 ft height limit proposed in regular zoning districts works, but in HR zones will be too difficult [and unnecessary] to comply with. HS&DG has 2 max height limits for such homes: (1) 25 ft [down from 30 ft] and (2) 18 ft when visible from key vantage points.
   I think that the 18 ft height limit should be applied here.

2. Objective Zoning Standards: 29.10.630 (a) (2) b.
   The minimum driveway length of 25 ft from the Property Line is inconsistent with Table 1-2 – Setback Requirements for a Garage Entry of 18 ft.
   These should be reconciled.

3. Flag Lots will become more common as SB-9 properties are developed. The "Front Setback" for a Flag Lot should not be "Per the Applicable Zoning District" as is called out in Table 1-2. A front setback is trying to regulate how far a home is from the street to give some sense of uniformity to a neighborhood.
   A separate "Front – Flag Lot" should be added to Table 1-2 and be the same as "Interior Sides". Otherwise some Flag Lots will be unbuildable. [SEE ATTACHMENT]
   Other jurisdictions have addressed this and Los Gatos should too.

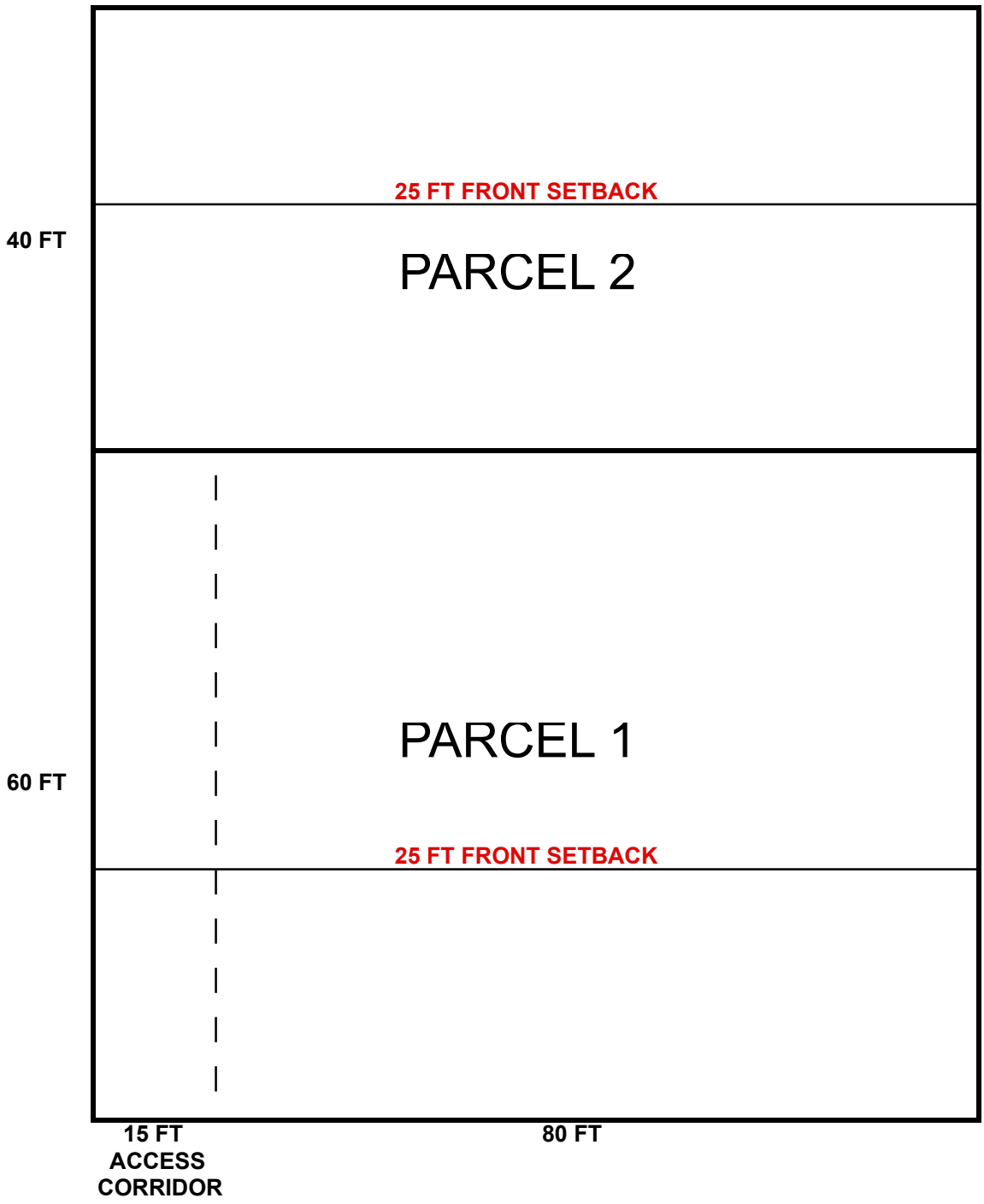
4. Design Review Standards that are not impacting privacy are over-reach and will 'dull' Architectural Creativity. Houses will become boring. A house designed by a committee is not the way Los Gatos should be moving towards.
   Specifically (2), (3), (4), **(5)**, (6), (7) should be eliminated.
   Assuming you disagree, then at least modify (5) to require the '5 ft 2nd floor step-back' to only be at the interior sides & rear and in any event not when the Zoning District setbacks are complied with.

5. Section 29.10.050 (a)(3).
   . . . . Minimum lot width of 20 ft **except access corridors to Flag Lots**.

The rest looks pretty good.

FRONT SETBACKS ON FLAG LOTS

[EXAMPLE R1:8 - 8,000 SF LOT]



A STANDARD FRONT SETBACK MAKES SENSE ON THE FRONT PARCEL 1 - BUT NOT ON A FLAG LOT.

An additional point:

As alternative to some of the above, remove the restriction on 2nd floor step-back, windows if the underlying/regular R-1/HR zoning setback standards are followed on that specific side(for eg: 8ft side setback)

Thanks
Sandeep

On Sun, Oct 30, 2022 at 8:31 PM sandeep venishetti wrote:
Dear Planning commission, respected officials,

I am Sandeep, a resident of Los Gatos Town.

Thanks for allowing public comments on SB-9 Draft ordinance:

Here are my comments, Please consider.

(1) **1st unit maximum 1200 sqft issue:** I request you to remove the Maximum of "1200 Sq Ft" restriction on the 1st unit built. I believe this is **not in compliance with the SB9 State law** that does not have any maximum number of square footage on any of the units as long as the FAR ratio is maintained. I believe the "Objective Standards" that SB9 law is a objective standards for entire single family Residential zones and does not allow City to define "SB9 specific Objective standards"

(2) **Building Height:** Will it be 30 ft for R-1 8? Regarding "Maximum building height shall be as specified by the applicable zoning district for the main structure." In a two-unit/duplex construction, please clarify the height of the **"main structure"**

(3) FAR Ratio: please clarify that the FAR ratio is based on **gross area of the lot size**.

(4) **FAR bonus ratio:** Please clarify that the 10% bonus is 10% of the lot size which is the same as ADU law.
"When a two-unit housing development is proposed, a 10 percent increase in the floor area ratio standards for residential structures is allowed,"

(5) **Front Set back for - Flag Lot:** Please clarify. 25 Sq Ft front setback for a Flag lot may be within the corridor area, which does not make sense. If it is in the lot excluding the access corridor, the 25 Sqft set back is too limiting and it should be similar to those of Side setbacks.

(6) **Design Review Standards: Step-Back:** Please remove the step back requirement. The second story 5 feet recession from the first floor is too limiting and the home looks super weird with box over the box looks, something that I have never seen in Los Gatos or elsewhere.

(7) **Design Review Standards: Plate Height: Please remove.** There is already a total **building height restriction.** This plate height is too restrictive in modern open space architectures which could typically have a 12 foot floor to room designs.

(8) **2nd story Clerestory Windows:** Please make the Clerestory window requirement for 8ft or 9ft from side/rear setbacks. The 10ft is inconsistent with side/rear(setback + step back) which is 9 ft. This essentially forces it to a 10 ft side setback for 2nd floor.

(9) **Application process and Appeals:** Please allow staff level appeal. If not, please allow the homeowner for corrective action for any noncompliance before denial of the application.

(10) **Flag lot access corridor minimum width:** Thanks for making it 12 ft. Other towns(Mountainview, San Jose e.t.c) have similar width.

(11) **Flag lot minimum width:** Please clarify exclusion of access corridor width in this 20ft minimum width

"Each new parcel shall maintain a minimum lot width of 20 feet;"

(12) Please provide an example application guidelines and example lot split and design suggestions.

Thanks
Sandeep

DATE: October 27, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Introduce an Ordinance, by Title Only, Effecting Amendments Repealing and Replacing Chapter 6, Building Regulations, and Chapter 9, Fire Prevention and Protection, of the Town of Los Gatos Municipal Code with the New 2022 California Building and Fire Codes, as Amended, Including Reach Codes. Town Code Amendment Application A-22-003. Project Location: Town Wide. Applicant: Town of Los Gatos.

RECOMMENDATION:

Introduce an Ordinance (Attachment 1), by title only, effecting amendments repealing and replacing Chapter 6, Building Regulations, and Chapter 9, Fire Prevention and Protection, of the Town of Los Gatos Municipal Code with the new 2022 California Building and Fire Codes, as amended, including reach codes.

BACKGROUND:

Historically, the State of California adopts a set of International Model Codes including the International Building Code (IBC) with California specific amendments which form the basis of the regulatory environment for building construction. The California Code of Regulations (CCR), Title 24, is published in its entirety every three years by order of the California legislature, with supplements published in intervening years.

The California legislature delegated authority to various State agencies, boards, commissions, and departments to create building regulations to implement the State's statutes. These building regulations and standards have the force of law. California's current adopted version of the 2018 IBC is the 2019 California Building Code (CBC).

PREPARED BY: Robert Gray
Building Official

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

BACKGROUND (continued):

For 2022, the State of California Building Standards Commission adopted 12 new parts for the CCR, Title 24. Local jurisdictions are required to enforce these new Codes as written by January 1, 2023 or adopt a local ordinance that enacts these Codes with local or regional amendments based on climatic, geological, and topographical conditions, with findings that support the local amendments.

The Town must take action to incorporate this new set of Codes with any recommended amendments into the Town Code. In cooperation with Code Officials around the region, Town staff has developed local amendments to the California Codes that are uniform across multiple jurisdictions throughout the Santa Clara Valley, Peninsula, East Bay, and Monterey Bay areas to enhance regional consistency.

On June 2, 2022, Town Staff and representatives from Silicon Valley Clean Energy presented Council with recommendations on proposed Electrification Reach Codes for the 2022 Code cycle. The recommendations consisted of:

1. Increased electric vehicle requirements in both residential and non-residential;
2. All electric construction requirements in both residential and non-residential with exceptions for commercial cooking; and
3. Definition for substantial renovations/alterations to clarify new construction and qualifying projects.

Council unanimously approved staff's recommendations and the necessary Code references and language have been incorporated into the relevant sections of this Ordinance.

DISCUSSION:

The new 2022 CCR, Title 24 will go into effect on January 1, 2023. The Town of Los Gatos must adopt these new State Codes by repealing and replacing Chapter 6, Building Regulations, and Chapter 9, Fire Prevention and Protection, of the Town Code. The new 2022 CBC and 2022 California Fire Code (CFC) are somewhat different from the current 2019 CBC and CFC so repealing and replacing the Town Code Chapters in their entirety and incorporating our local amendments is the cleanest process for adoption.

14 State agencies review and propose amendments to the International Model Codes to reflect California fire and building requirements. California amendments to the International Model Codes enhance the public health and safety standards for all occupancies throughout

DISCUSSION (continued):

the State. Energy efficiency standards, Wildland-Urban Interface standards, seismic standards, and accessibility standards are among the amendments which increase the building and fire standards for buildings within the State. The State has significantly amended the IBC and International Fire Code (IFC) to meet State building requirements. The Town will be adopting these new Codes with amendments that will create clarity and increased safety due to our seismically sensitive area and other unique conditions.

The 2022 CCR, Title 24 has 12 Parts which the Town needs to adopt:

Part 1 California Administrative Code
Part 2 California Building Code, Volumes 1 & 2
Part 2.5 California Residential Code
Part 3 California Electrical Code
Part 4 California Mechanical Code
Part 5 California Plumbing Code
Part 6 California Energy Code
Part 8 California Historical Building Code
Part 9 California Fire Code
Part 10 California Existing Building Code
Part 11 California Green Building Standards Code – CALGreen
Part 12 California Referenced Standards Code

In addition to adoption of 12 Parts of the CCR, Title 24, the Town is proposing to adopt the 2021 International Property Maintenance Code as published by the International Code Council. This Code provides procedures for the maintenance, repair, and demolition of existing buildings.

California Health and Safety Code Sections 17958 and 17958.5 allow the Town to make modifications or changes to the State Building Standards Codes based on findings that the changes are reasonably necessary because of local climatic, geological, geographical, or topographical conditions. The findings are in the legislative section of the draft ordinance.

PUBLIC OUTREACH:

Public input has been requested through the following media and social media resources:

- An eighth-page public notice in the newspaper;
- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;

PUBLIC OUTREACH (continued):

- The Town's Instagram account;
- The Town's NextDoor page; and
- An email to approximately 160 interested parties, including architects, engineers, and contractors inviting comments on the Draft Ordinance.

PUBLIC COMMENT:

At the time this staff report was prepared, no public comments have been received.

CONCLUSION:

Staff recommends that the Town Council:

1. Make the findings for modifying the 2022 California Building and Fire Codes (Attachment 1); and
2. Introduce the Ordinance by Title Only, Effecting Amendments Repealing and Replacing Chapter 6, Building Regulations, and Chapter 9, Fire Prevention and Protection, of the Town of Los Gatos Municipal Code with the New 2022 California Building and Fire Codes, as Amended, Including Reach Codes. (Attachment 1).

ALTERNATIVES:

Alternatively, the Town Council may:

1. Introduce the Ordinance by Title Only, Effecting Amendments Repealing and Replacing Chapter 6, Building Regulations, and Chapter 9, Fire Prevention and Protection, of the Town of Los Gatos Municipal Code with the New 2022 California Building and Fire Codes, as Amended, Including Reach Codes with modifications; or
2. Continue consideration of the Ordinance to a date certain with specific direction.

COORDINATION:

The Community Development Department coordinated with the Town Attorney's Office and Santa Clara County Fire Department in the preparation of this Ordinance.

FISCAL IMPACT:

None.

ENVIRONMENTAL ASSESSMENT:

Adoption of this ordinance is not a project subject to CEQA, because it can be seen with certainty that it will not impact the physical environment. (CEQA Guidelines Section 15378.) If adoption of this ordinance were a project, it would be categorically exempt from CEQA as an action by a regulatory agency for the protection of natural resources (CEQA Guidelines Section 15307) and the environment (CEQA Guidelines Section 15308).

Attachment:
1. Draft Ordinance

DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS REPEALING AND REPLACING CHAPTER 6, BUILDING REGULATIONS, AND CHAPTER 9, FIRE PREVENTION AND PROTECTION, AND ADOPTING NEW 2022 CALIFORNIA BUILDING AND FIRE CODES, AS AMENDED, INCLUDING REACH CODES

WHEREAS, every three years, 14 State of California agencies review, amend, and propose model codes to be adopted by the Building Standards Commission; and

WHEREAS, the California Building Standards Commission completed the adoption and approval of 12 new building codes, and local jurisdictions are required to adopt these codes by January 1, 2023; and

WHEREAS, the Town of Los Gatos is proposing to adopt and amend Part 1, the California Administrative Code to address administrative provisions; and

WHEREAS, the Town of Los Gatos is proposing to adopt the California Code of Regulations (CCR), Title 24 as Chapter 6 and the California Fire Code as Chapter 9 of the Town Code and to make amendments to address climatic, topographic, and geological conditions; and

WHEREAS, the Town of Los Gatos is proposing to adopt the 2021 International Property Maintenance Code to provide procedures for the maintenance, repair, and demolition of existing buildings; and

WHEREAS, the Town of Los Gatos, in adopting these codes will be consistent with the State of California and other local municipalities; and

WHEREAS, Section 17958 of the Health and Safety Code requires that cities and towns choose between adopting ordinances and regulations imposing locally amended uniform codes setting rules and regulations for building, fire, mechanical, plumbing, electrical, and housing, or adopting the regulations adopted by the State Building Standards Commission; and

WHEREAS, the Town of Los Gatos, in Chapter 6 and Chapter 9 of the Town Code, had previously adopted the locally amended uniform codes; and

WHEREAS, the State of California Building Standards Commission adopted 12 new Parts for the CCR Title 24, which the Town will be required to enforce as written or as adopted with local amendments; and

WHEREAS, Sections 17958.5 and 17958.7 of the Health and Safety Code permit cities and towns to modify the California Code requirements if it makes express findings that such modifications are reasonably necessary because of local climatic, geological, geographical, or topographical conditions.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES HEREBY ORDAIN AS FOLLOWS:

Section 1.

LEGISLATIVE FINDINGS

In accordance with Health and Safety Code Sections 17958 and following, the Town Council finds that local amendments are reasonably necessary because of the following local climatic, geological, or topographical conditions:

1. The Town of Los Gatos experiences low humidity, high wind, and warm temperatures during the summer months creating conditions which are particularly conducive to the ignition and spread of grass, brush, and structure fires.

2. The Town of Los Gatos is situated adjacent to active earthquake faults capable of producing substantial seismic events.

3. The Town of Los Gatos is partially located in rugged, steep, and heavily vegetated hillsides accessible over limited roadways that are steep, narrow, and circuitous.

4. The Town of Los Gatos is divided by a creek, freeways and other traffic corridors, and is partially located in hillside areas with limited access, the occurrence of a major earthquake would significantly impact the ability of fire crews to respond to emergencies should one or more bridges collapse or be substantially damaged. Additionally, fire suppression capabilities will be severely limited should the water system be extensively damaged during a seismic event.

5. Climate change exacerbates fire risk in the Town. Greenhouse gas emissions contribute to climate change. The State of California has outlined specific steps to reduce greenhouse gas emissions to prevent these negative impacts of changing climate, including moving the State to 100 percent clean energy by 2045. This gives local governments the opportunity to achieve greenhouse gas emission reductions with a climate positive impact by powering buildings from clean electricity. The proposed Reach Code would ensure that new buildings use cleaner sources of energy that are greenhouse gas free, in line with Mitigation Measure GHG-1 of the General Plan Environmental Impact Report. The proposed Electric Vehicle Reach Code ensures that new buildings can charge a greater number of electric vehicles beyond State code requirements and reduce greenhouse gas emissions. These climatic conditions along with the greenhouse emissions generated from structures in both the

residential and non-residential sectors requires exceeding the energy standards for building construction established in the 2022 California Buildings Standards Code.

6. Due to the Town's local climatic, geological, geographical, and topographical conditions, mitigation measures are necessary such as automatic fire suppression systems, communications systems, access to buildings, seismic protection, safety controls for hazardous materials, and other safeguards in order to minimize the risks to citizens, firefighters, and property resulting from the severity of a fire threat and potential delays in responding to such threats.

Section 2.

CHAPTER 6, Buildings and Building Regulations of the Los Gatos Town Code IS DELETED IN ITS ENTIRETY AND REPLACED WITH THE FOLLOWING:

Chapter 6 BUILDINGS AND BUILDING REGULATIONS
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ARTICLE I. (reserved)

ARTICLE II. ADMINISTRATION OF CODES

Sec. 6.20.010. Conflicting provisions.

ARTICLE III. CALIFORNIA BUILDING CODE

Sec. 6.30.010. Adopted.
Sec. 6.30.020. Fire protection systems.
Sec. 6.30.025. Smoke Control Systems.
Sec. 6.30.030. Roof drainage.
Sec. 6.30.040. Roof covering requirements in a wildland-urban interface fire area and other areas.
Sec. 6.30.060. Concrete strength.
Sec. 6.30.070. Modification to ACI 318.
Sec. 6.30.085. Swimming pools, spas, and hot tubs.
Sec. 6.30.090. IBC oversight.
Sec. 6.30.170. Fees.
Sec. 6.30.180. Refunds.

ARTICLE IV. PLUMBING CODE

Sec. 6.40.010. Adopted.
Sec. 6.40.020. Backflow protection.

ARTICLE V. MECHANICAL CODE

Sec. 6.50.010. Adopted.

ARTICLE VI. ELECTRICAL CODE

Sec. 6.60.010. Adopted.

ARTICLE VII. ENERGY CODE

Sec. 6.70.010. Adopted.

ARTICLE VIII. REFERENCE STANDARDS CODE

Sec. 6.80.010. Adopted.

ARTICLE IX. HISTORICAL BUILDING CODE

Sec. 6.90.010. Adopted.

ARTICLE X. EXISTING BUILDING CODE

Sec. 6.100.010. Adopted.

ARTICLE XI. INTERNATIONAL PROPERTY MAINTENANCE CODE

Sec. 6.110.010. Adopted.
Sec. 6.110.020. Application of other codes.

ARTICLE XII. CALIFORNIA GREEN BUILDING STANDARDS CODE

Sec. 6.120.010. Adopted.
Sec. 6.120.020. Additions and alterations.
Sec. 6.120.030. EV Charging Definitions.
Sec. 6.120.040. Residential EV Charging.
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Sec. 6.120.060. All Electric Construction Definitions.
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ARTICLE XIII. (reserved)

ARTICLE XIV. BUILDING RELOCATION CODE OF THE TOWN

DIVISION 1. GENERALLY

Sec. 6.140.010. Title.

Sec. 6.140.020. Interference with demolition or removal of building.

DIVISION 2. PERMIT

Sec. 6.140.030. Required, exceptions.
Sec. 6.140.040. Application.
Sec. 6.140.050. Review of application, duty of applicant.
Sec. 6.140.060. Issuance, fees.
Sec. 6.140.070. When issuance prohibited.
Sec. 6.140.080. Conditions of issuance.
Sec. 6.140.090. Bond required.
Sec. 6.140.100. Conditions of bond.
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Sec. 6.140.120. Bond other than surety bond—Default.
Sec. 6.140.130. Same—Release.

ARTICLE XV. CALIFORNIA RESIDENTIAL BUILDING CODE

Sec. 6.150.010. Adopted.
Sec. 6.150.020. Fire protection amendments.
Sec. 6.150.040. Limits on methods using gypsum board and cement plaster.

ARTICLE I. (reserved)

ARTICLE II. ADMINISTRATION OF CODES

Sec. 6.20.010. Conflicting Provisions.

When any provisions of the administrative sections of the codes adopted in this Chapter 6 are in conflict with the administrative provisions found in the California Administrative or Building Codes, the California Administrative and Building Codes shall apply. If any code adopted in this Chapter does not include administrative provisions, the administrative provisions of the California Administrative and Building Codes shall apply.

ARTICLE III. CALIFORNIA BUILDING CODE

Sec. 6.30.010. Adopted.

The 2021 International Building Code (IBC) as amended by the State of California Building Standards Commission and known as the 2022 California Building Code (CBC), California Code of Regulations Title 24, Part 2, Volumes 1 and 2, with Appendices I, and J, are adopted by reference and amended as follows.

The 2022 California Administrative Code, California Code of Regulations, Title 24, Part 1, is also adopted by reference.

Sec. 6.30.020. Fire Protection Systems.

Section 903.2 of the California Building Code adopted by this article is amended to read as follows:

903.2 Where required. Approved automatic sprinkler systems in new ~~and structures shall be provided in the locations described in Sections 903.2.1 through 903.2.12 and Sections 903.2.14 through 903.2.21.~~

~~Exception: Spaces or areas in telecommunications buildings used exclusively for telecommunications equipment, associated electrical power distribution equipment, batteries and standby engines, provided that those spaces or areas are equipped throughout with an automatic smoke detection system in accordance with Section 907.2 and are separated from the remainder of the building by not less than 1-hour fire barriers constructed in accordance with Section 707 or not less than 2-hour horizontal assemblies constructed in accordance with Section 711, or both.~~ and existing buildings and structures shall be provided in the locations described in this Section or in Sections 903.2.1 through 903.2.12 whichever is the more restrictive and Sections 903.2.14 through 903.2.21.

For the purposes of this section, firewalls and fire barriers used to separate building areas shall be constructed in accordance with the California Building Code and shall be without openings or penetrations.

1. An automatic sprinkler system shall be provided throughout all new buildings and structures, other than Group R occupancies, except as follows:
    a. Buildings and structures not located in any Wildland-Urban Interface and not exceeding 1,200 square feet of fire area.
    b. Buildings and structures located in any Wildland-Urban Interface Fire Area and not exceeding 500 square feet of fire area.
    c. Group S-2 or U occupancies, including photovoltaic support structures, used exclusively for vehicle parking which meet all of the following:
        i. Noncombustible construction.
        ii. Maximum 5,000 square feet in building area.
        iii. Structure is open on not less than three (3) sides nor 75% of structure perimeter.
        iv. Minimum of 10 feet separation from existing buildings, or similar structures, unless area is separated by fire walls complying with California Building Code 706.
    d. Canopies, constructed in accordance with CBC 406.7.2, used exclusively for weather protection of vehicle fueling pads per CBC 406.7.1 and not exceeding 5,000 square feet of fire area.

2. An automatic sprinkler system shall be installed throughout all new buildings with a Group R fire area.

   Exception: Accessory Dwelling Unit, provided that all of the following are met:

   a. The unit meets the definition of an Accessory Dwelling Unit as defined in the Government Code Section 65852.2.

   b. The existing primary residence does not have automatic fire sprinklers.

   c. The accessory dwelling unit does not exceed 1,200 square feet in size.

   d. The unit is on the same lot as the primary residence.

   e. The unit meets all apparatus access and water supply requirements of Chapter 5 and Appendix B of the 2022 California Fire Code.

3. An approved automatic fire sprinkler system shall be installed in new manufactured homes (as defined in California Health and Safety Code Sections 18007 and 18009) and multifamily manufactured homes with two dwelling units (as defined in California Health and Safety Code Section 18008.7) in accordance with Title 25 of the California Code of Regulations.

4. An automatic sprinkler system shall be installed throughout existing buildings with a Group R fire area when additions are made causing the fire area to exceed 3,600 square feet.

   Exception: Additions where all of the following are met:

   a. Building addition does not exceed 500 square feet.
   b. The resultant structure meets all water supply requirements of Chapter 5 and Appendix B of the 2022 California Fire Code.

5. An automatic sprinkler system shall be provided throughout existing Group A, B, E, F, L, M, S and U buildings and structures, when additions are made that increase the fire area to more than 3,600 square feet or that create conditions described in Sections 903.2.1 through 903.2.18.

6. Any change in the character of occupancy or in use of any building with a fire area equal to or greater than 3,600 square feet which, in the opinion of the fire code official or building official, would place the building into a more hazardous division of the same occupancy group or into a different group of occupancies and constitutes a greater degree of life safety[1] or increased fire risk[2], shall require the installation of an approved fire automatic fire sprinkler system.

   [1] Life Safety – Shall include, but not limited to: Increased occupant load, public assembly areas, public meeting areas, churches, indoor amusement attractions, buildings with complex exiting systems due to increased occupant loads, large schools/day-care facilities, large residential care facilities housing non-ambulatory clients.

   [2] Fire Risks – Shall include, but not limited to: High-piled combustible storage, woodworking operations, hazardous operations using hazardous materials, increased fuel loads (storage of moderate to highly combustible materials), increased sources of ignition (welding, automotive repair with the use of flammable liquids and open flames).

Add Section 903.2.11.7 as follows:

903.2.11.7 Chemical Fume Hood Fire Protection.
Approved automatic fire extinguishing systems shall be provided in chemical fume hoods in the following cases:

1. Existing hoods having interiors with a flame spread index greater than 25 in which flammable liquids are handled
2. If a hazard assessment determines that an automatic extinguishing system is required for the chemical fume hood, then the applicable automatic fire protection system standard shall be followed.

Amend Section 907.8 as follows:

907.8 Inspection, testing and maintenance.
The maintenance and testing schedules and procedures for fire alarm and fire detection systems shall be in accordance with California Fire Code Section 907.8.1 through 907.8.4 and NFPA 72. ~~of the *California Fire Code*~~. Records of inspection, testing and maintenance shall be documented using NFPA 72 record of inspection and testing forms.

Sec. 6.30.025 Smoke Control Systems

Section 909.22.1 is added as follows:

909.22.1 Schedule. A routine maintenance and operational testing program shall be initiated immediately after the smoke control system has passed the acceptance tests. A written schedule for routine maintenance and operational testing shall be established and operational testing must occur at least annually.

Sec. 6.30.030. Roof Drainage.

Section 1502 is amended to add Section 1502.5 as follows:

Section 1502.5 Over Public Property.
Roof drainage water from a building shall not be permitted to flow over public property.

Exception(s): 1) Group R3, and Group U Occupancies
2) Other occupancies where the drainage plan and method of drainage have been approved by the “Building Official."

Sec. 6.30.040. **Roof Covering Requirements in a Wildland-Urban Interface Fire Area and other areas.**

Section 1505.1.2 is amended as follows:

1505.1.2 Roof coverings within all other areas.

The entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair or replacement of the roof of every existing structure, shall be fire-retardant roof covering that is at least ~~Class C~~ Class A.
707A.10 is amended as follows:

707A.10 Underside of appendages. ~~When required by the enforcing agency~~ The underside of overhanging appendages shall be enclosed to grade in accordance with the requirements of this chapter or the underside of the exposed under-floor shall be protected by one or more of the following:

1. Noncombustible material.
2. Ignition-resistant material. The ignition-resistant material shall be labeled for exterior use and shall meet the requirements of Section 704A.2.
3. Fire-retardant-treated wood. The fire-retardant-treated wood shall be labeled for exterior use and shall meet the requirements of Section 2303.2.
4. Materials approved for not less than 1-hour fire-resistance-rated construction on the exterior side, as tested in accordance with ASTM E119 or UL 263.
5. One layer of 5/8-inch (15.9 mm) Type X gypsum sheathing applied behind the exterior covering on the underside of the appendage projection.
6. The exterior portion of a 1-hour fire-resistance-rated exterior assembly, as tested in accordance with ASTM E119 or UL 263, applied to the underside of the appendage, including assemblies using the gypsum panel and sheathing products listed in the Gypsum Association Fire Resistance Design Manual.
7. The underside of an appendage assembly that meets the performance criteria in Section 707A.11 when tested in accordance with the test procedures set forth in ASTM E2957.
8. The underside of an appendage assembly that meets the performance criteria in accordance with the test procedures set forth in SFM Standard 12-7A-3.

   Exception to Section 707A.10: Structural columns and beams do not require protection when constructed with sawn lumber or glue laminated wood with the smallest minimum nominal dimension of 4 inches (102 mm). Sawn or glue-laminated planks shall be splined, tongue-and-groove, or set close together and well spiked.

Sec. 6.30.060. Concrete Strength.

Section 1705.3, Exception 1 is amended as follows:

Exception: Special inspections and tests shall not be required for:

1. Isolated spread concrete footings of buildings three stories or less above grade plane that are fully supported on earth or rock where the structural design of the footing is based on a specified compressive strength, f'c, not more than 2,500 pounds per square inch (psi) (17.2 Mpa) regardless of the compressive strength specified in the construction documents or used in the footing construction.

Sec. 6.30.070 Limits on methods using Gypsum Board and Cement Plaster

Table 2308.6.1 Wall Bracing Requirements is amended as follows:

The title of Table 2308.6.1 is amended to read:

TABLE 2308.6.1[a, f, g]

Footnotes "f" and "g" are added to Table 2308.6.1, to read:

f. Methods PBS, HPS, and SFB are not permitted in Seismic Design Categories D or E.
g. Methods GB, DWB and PCP are not permitted in Seismic Design Category E.

Sec. 6.30.085. Swimming Pools, Spas, and Hot Tubs:

Section 3109 Swimming Pools Spas and Hot Tubs is adopted in its entirety.

Sec. 6.30.090. IBC Oversight. The California adoption of the new 2021 International Building Code may have inadvertently eliminated some construction requirements by oversight or erroneous reference to another code. In cases where the code adoption has inadvertently deleted or missed referenced necessary construction requirements, the Town of Los Gatos Building Official may authorize use of construction requirements from the last previously adopted International Codes.

Sec. 6.30.170 Schedule of Permit Fees:

Section 109.2 is amended as follows:

Section 109.2 Schedule of permit fees. Administration Chapter 1, Division II, Section 109.2 of the 2022 California Building Code adopted by this article states that "… a fee for each permit shall be paid as required, in accordance with the schedule as established by the applicable governing authority (Town of Los Gatos).

109.7. Plan Review Fees.

Section 109.7 is added as follows:

When submittal documents are required by Section 109, a plan review fee shall be paid at the time of submitting the submittal documents for plan review. Said plan review fee shall be 65 percent of the building permit fee. The plan review fees specified in this section are separate fees from the permit fees and are in addition to the permit fees.

When submittal documents are incomplete or changed so as to require additional plan review or when the project involves deferred submittal items as defined in Section 107.3.4.1, an additional plan review fee shall be charged at the per hour plan review rate as adopted by the Town of Los Gatos.

Sec. 6.30.180. Refunds:

Administrative Chapter 1, Section 109.6 of the 2022 California Building Code adopted by this Article is amended to add Section 109.6.1.

Section 109.6.1 is added as follows:

109.6.1. Refunds. The building official may authorize refunds of Building Division fees which were erroneously paid or collected.

The building official may authorize refunding of not more than 80 percent of the permit fee paid when no work or inspections has been done under an issued permit.

The building official may authorize refunding of not more than 80 percent of the collected plan review fee when the plan check application is withdrawn or cancelled prior to any plan review work being done.

The building official shall not authorize refunding of any collected fee until a written request for a refund by the original permittee or applicant is received. Requests must be received no later than 180 days after the date of fee payment.

ARTICLE IV. PLUMBING CODE

Sec. 6.40.010. Adopted.

The Uniform Plumbing Code, 2021 Edition, as amended by the State of California Building Standards Commission, California Code of Regulations, Title 24, Part 5, as the 2022 California Plumbing Code is adopted with Appendix Chapters A, B, D, G, I, K, and L only.

Sec. 6.40.020. Backflow protection.

Section 710.1 is amended as follows:

710.1. Backflow Protection. ~~Fixtures installed on a floor level that is lower than the next upstream manhole cover of the public, or private sewer shall be protected from backflow of sewage by installing an approved type of backwater valve. Fixtures on such floor level that are not below the next upstream manhole cover shall not be required to be protected by a backwater valve. Fixtures on floor levels above such elevation shall not discharge through the backwater valve.~~ Drainage piping serving fixtures which have flood level rims less than twelve (12) inches (304.8 mm) above the elevation of the next upstream manhole and/or flushing inlet cover at the public or private sewer system serving such drainage piping shall be protected from backflow of sewage by installing an approved backwater valve. Fixtures above such elevation shall not discharge through the backwater valve, unless first approved by the Administrative Authority. Cleanouts for drains that pass through a backwater valve shall be clearly identified with a permanent label stating, “backwater valve downstream.”

ARTICLE V. MECHANICAL CODE

Sec. 6.50.010. Adopted.

The Uniform Mechanical Code (UMC), 2021 Edition, amended by the State of California Building Standards Commission, California Code of Regulations, Title 24, Part 4, as the 2022 California Mechanical Code is adopted by reference.

ARTICLE VI. ELECTRICAL CODE

Sec. 6.60.010. Adopted.

The National Electrical Code, 2020 Edition, as amended by the State of California Building Standards Commission, California Code of Regulations, Title 24, Part 3, as the 2022 California Electrical Code is adopted by reference.

ARTICLE VII. ENERGY CODE

Sec. 6.70.010. Adopted.

The 2022 California Energy Code, California Code of Regulations, Title 24, Part 6 is adopted by reference.

ARTICLE VIII. REFERENCE STANDARDS CODE

Sec. 6.80.010. Adopted.

The 2022 California Referenced Standards Code, California Code of Regulations, Title 24, Part 12, is adopted by reference.

ARTICLE IX. HISTORICAL BUILDING CODE

Sec. 6.90.010. Adopted.

The 2022 California Historical Building Code, California Code of Regulations, Title 24, Part 8 including Appendix A is adopted by reference.

ARTICLE X. EXISTING BUILDING CODE

Sec. 6.100.010. Adopted.

The 2021 International Existing Building Code (IEBC) as amended by the State of California Building Standards Commission and known as the 2022 California Existing Building Code, California Code of Regulations, Title 24, Part 10, including Chapter 14, Appendices A2, A3, A4, and A5, is adopted by reference.

ARTICLE XI. INTERNATIONAL PROPERTY MAINTENANCE CODE

Sec. 6.110.010. Adopted.

The 2022 International Property Maintenance Code, as published by International Code Council (ICC), is adopted by reference and amended as follows.

Sec. 6.110.020. Application of other codes.

Section 102.3 is amended as follows:

Sec. 102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the ~~IBC, IEBC, IECC, IFC, IFGC, IMC, IRC, IPC and NFPA 70. Nothing in this code shall be construed to cancel, modify or set aside any provision of the International Zoning Code.~~ California Building Code, California Plumbing Code, California Electrical Code, and California Mechanical Code. Nothing in this code shall be construed to cancel, modify or set aside any provisions of the Town of Los Gatos Zoning Code.

ARTICLE XII. CALIFORNIA GREEN BUILDING STANDARDS CODE

Sec. 6.120.010. Adopted.

The 2022 California Green Building Standards Code, California Code of Regulations, Title 24, Part 11, Chapters 1 through 8 only, are adopted by reference and amended as follows.

Sec. 6.120.020 Additions and alterations.

301.1.1 is amended as follows:

301.1.1 Additions and alterations. [HCD] The mandatory provisions of Chapter 4 shall be applied to additions or alterations of existing residential buildings where the addition or alteration increases the building's conditioned area, volume, or size. The requirements shall apply only to and/or within the specific area of the addition or alteration.

The mandatory provisions of Section 4.106.4.2 may apply to additions or alterations of existing parking facilities or the addition of new parking facilities serving existing multifamily buildings. ~~See Section 4.106.4.3 for application~~.

The mandatory provisions of Section 5.106.5.3 may apply to additions or alterations of existing parking facilities or the addition of new parking facilities serving existing nonresidential buildings.

NOTE: Repairs including, but not limited to, resurfacing, restriping, and repairing or maintaining existing lighting fixtures are not considered alterations for the purpose of this section.

Sec. 6.120.030 EV Charging Definitions

Section 202 Definitions are amended as follows:

AFFORDABLE HOUSING. Residential buildings that entirely consist of units below market rate and whose rents or sales prices are governed by local agencies to be affordable based on area median income.

AUTOMATIC LOAD MANAGEMENT SYSTEM (ALMS). A control system designed to manage load across one or more electric vehicle supply equipment (EVSE), circuits, panels and to share electrical capacity and/or automatically manage power at each connection point. ALMS systems shall be designed to deliver no less than 3.3 kVa (208/240 volt, 16-ampere) to each EV Capable, EV Ready or EVCS space served by the ALMS, and meet the requirements of California Electrical Code Article 625. The connected amperage to the building site for the EV charging infrastructure shall not be lower than the required connected amperage per California Green Building Standards Code, Title 24 Part 11.

DIRECT CURRENT FAST CHARGING (DCFC). A parking space provided with electrical infrastructure that meets the following conditions:

i. A minimum of 48 kVa (480 volt, 100-ampere) capacity wiring.
ii. Electric vehicle supply equipment (EVSE) located within three (3) feet of the parking space providing a minimum capacity of 80-ampere.

ELECTRIC VEHICLE CHARGING STATION (EVCS). One or more electric vehicle charging spaces served by electric vehicle charger(s) or other charging equipment allowing charging of electric vehicles. Electric vehicle charging stations are not considered parking spaces. A parking space that includes installation of electric vehicle supply equipment (EVSE) at an EV Ready space. An EVCS space may be used to satisfy EV Ready space requirements. EVSE shall be installed in accordance with the California Electrical Code, Article 625.

ELECTRIC VEHICLE (EV) READY SPACE. A vehicle space which is provided with a branch circuit; any necessary raceways, both underground and/or surface mounted; to accommodate EV charging, terminating in a receptacle or a charger.

ELECTRIC VEHICLE (EV) CAPABLE SPACE. A vehicle space with electrical panel space and load capacity to support a branch circuit and necessary raceways, both underground and/or surface mounted, to support EV charging.

ELECTRIC VEHICLE SUPPLY EQUIPMENT (EVSE). The conductors, including the ungrounded, grounded and equipment grounding conductors and the electric vehicle connectors, attachment plugs, and all other fittings, devices, power outlets, or apparatus installed specifically for the purpose of transferring energy between the premises wiring and the electric vehicle.

LEVEL 2 ELECTRIC VEHICLE SUPPLY EQUIPMENT (EVSE). [HCD] The 208/240 Volt 40-ampere branch circuit, and the electric vehicle charging connectors, attachment plugs, and all other fittings, devices,

power outlets, or apparatus installed specifically for the purpose of transferring energy between the premises wiring and the electric vehicle.

LEVEL 2 EV CAPABLE. A parking space provided with electrical infrastructure that meets the following requirements:

i. Conduit that links a listed electrical panel with sufficient capacity to a junction box or receptacle located within three (3) feet of the parking space.
ii. The conduit shall be designed to accommodate at least 8.3 kVa (208/240 volt, 40-ampere) per parking space. Conduit shall have a minimum nominal trade size of 1 inch inside diameter and may be sized for multiple circuits as allowed by the California Electrical Code. Conduit shall be installed at a minimum in spaces that will be inaccessible after construction, either trenched underground or where penetrations to walls, floors, or other partitions would otherwise be required for future installation of branch circuits, and such additional elements deemed necessary by the Building Official. Construction documents shall indicate future completion of conduit from the panel to the parking space, via the installed inaccessible conduit.
iii. The electrical panel shall reserve a space for a 40-ampere overcurrent protective device space(s) for EV charging, labeled in the panel directory as "EV CAPABLE."
iv. Electrical load calculations shall demonstrate that the electrical panel service capacity and electrical system, including any on-site distribution transformer(s), have sufficient capacity to simultaneously charge all EVs at all required EV spaces at a minimum of 40 amperes.
v. The parking space shall contain signage with at least a 12" font adjacent to the parking space indicating the space is EV Capable.

LEVEL 1 EV READY. A parking space that is served by a complete electric circuit with the following requirements:

i. A minimum of 2.2 kVa (110/120 volt, 20-ampere) capacity wiring.
ii. A receptacle labeled "Electric Vehicle Outlet" or electric vehicle supply equipment located within three (3) feet of the parking space. If EVSE is provided the minimum capacity of the EVSE shall be 16-ampere.
iii. Conduit oversized to accommodate future Level 2 EV Ready (208/240 volt, 40-ampere) at each parking space**.**

LEVEL 2 EV READY. A parking space that is served by a complete electric circuit with the following requirements:

i. A minimum of 8.3 kVa (208/240 volt, 40-ampere) capacity wiring.
ii. A receptacle labeled "Electric Vehicle Outlet" or electric vehicle supply equipment located within three (3) feet of the parking space. If EVSE is provided the minimum capacity of the EVSE shall be 30-ampere.

LOW POWER LEVEL 2 EV READY. A parking space that is served by a complete electric circuit with the following requirements:

i. A minimum of 4.1 kVA (208/240 Volt, 20-ampere) capacity wiring.
ii. A receptacle labeled "Electric Vehicle Outlet" or electric vehicle supply equipment located within three (3) feet of the parking space. If EVSE is provided the minimum capacity of the EVSE shall be 16-ampere.

iii. Conduit oversized to accommodate future Level 2 EV Ready (208/240 volt, 40-ampere) at each parking space.

LOW POWER LEVEL 2 ELECTRIC VEHICLE (EV) CHARGING RECEPTACLE. [HCD] A 208/240 Volt 20-ampere minimum branch circuit and a receptacle for use by an EV driver to charge their electric vehicle or hybrid electric vehicle.

OFF-STREET LOADING SPACES. [BSC-CG, DSA-SS] An area, other than a public street, public way, or other property (and exclusive of off-street parking spaces), permanently reserved or set aside for the loading or unloading of motor vehicles, including ways of ingress and egress and maneuvering areas. Whenever the term "loading space" is used, it shall, unless the context clearly requires otherwise, be construed as meaning off-street loading space. This excludes designated passenger loading/unloading.

Sec. 6.120.040 Residential EV Charging

DIVISION 4.1, PLANNING AND DESIGN is amended as follows:

SECTION 4.106 SITE DEVELOPMENT

4.106.4 Electric vehicle (EV) charging ~~for new construction~~. Residential construction shall comply with Section 4.106.4.1 or 4.106.4.2, and 4.106.4.3, to facilitate future installation and use of EV chargers. Electric vehicle supply equipment (EVSE) shall be installed in accordance with the *California Electrical Code*, Article 625. Calculation for spaces shall be rounded up to the nearest whole number.

Exceptions:

1. On a case-by-case basis, where the local enforcing agency has determined EV charging and infrastructure are not feasible based upon one or more of the following conditions:
    1.1. Where there is no local utility power supply, or the local utility is unable to supply adequate power.
    1.2. Where there is evidence suitable to the local enforcing agency substantiating that additional local utility infrastructure design requirements, directly related to the implementation of Section 4.106.4, may increase construction cost by an average of $4,500 per parking space for market rate housing or $400 per parking space for affordable housing. EV infrastructure shall be provided up to the level that would not exceed this cost for utility service.~~.adversely impact the construction cost of the project.~~
2. Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) without additional parking facilities and without electrical panel upgrade or new panel installation. Detached ADUs, attached ADUs, and JADUs without additional parking but with electrical panel upgrades or new panels must have reserved breakers and electrical capacity according to the requirements of 4.106.4.1.
3. Multifamily residential R-2 building projects that have approved entitlements before the code effective date. shall provide, based on the total number of parking spaces, at least five percent (5%) with EVCS Level 2 EV Ready, twenty-five percent (25%) with Low Power

Level 2 EV Ready, and ten percent (10%) with Level 2 EV Capable according to 2022 California Green Building Standards Code requirements.

4.106.4.1 ~~New o~~One- and two-family dwellings and town-houses with private garages.

4.106.4.1.1 New Construction. One parking space provided shall be a *Level 2 EV Ready* space. If a second parking space is provided, it shall be provided with a *Level 1 EV Ready space.* ~~For each dwelling unit, install a listed raceway to accommodate a dedicated 208-240-volt branch circuit. The raceway shall not be less than trade size 1 (nominal 1-inch inside diameter). The raceway shall originate at the main service or subpanel and shall terminate into a listed cabinet, box or other enclosure in close proximity to the proposed location of an EV charger. Raceways are required to be continuous at enclosed, inaccessible or concealed areas and spaces. The service panel and/or subpanel shall provide capacity to install a 40-ampere 208/240-volt minimum dedicated branch circuit and space(s) reserved to permit installation of a branch circuit overcurrent protective device.~~

~~**Exception**: A raceway is not required if a minimum 40-ampere 208/240-volt dedicated EV branch circuit is installed in close proximity to the proposed location of an EV charger at the time of original construction in accordance with the *California Electrical Code.*~~

~~**4.106.4.1.1 Identification**. The service panel or subpanel circuit directory shall identify the overcurrent protective device space(s) reserved for future EV charging as "EV CAPABLE". The raceway termination location shall be permanently and visibly marked as "EV CAPABLE".~~

4.106.4.1.2. Existing Building. Parking additions or electrical panel upgrades must have reserved breaker spaces and electrical capacity according to the requirements of 4.106.4.1.1.

4.106.4.2 ~~New m~~Multifamily dwellings~~, hotels and motels and~~ with ~~new~~ residential parking facilities. Requirements apply to parking spaces that are assigned or leased to individual dwelling units, as well as unassigned residential parking. Visitor or common area parking is not included.

4.106.4.2.1 New Construction. Forty percent (40%) of dwelling units with parking spaces shall be EVCS with Level 2 EV Ready. ALMS shall be permitted to reduce load when multiple vehicles are charging. Sixty percent (60%) of dwelling units with parking spaces shall be provided with at minimum a Level 1 EV Ready space. EV ready spaces and EVCS in multifamily developments shall comply with California Building Code, Chapter 11A, Section 1109A. EVCS shall comply with the accessibility provisions for EV chargers in the California Building Code, Chapter 11B.

Note: The total number of EV spaces should be one-hundred percent (100%) of dwelling units or one-hundred percent (100%) of parking spaces, whichever is less.

~~When parking is provided, parking spaces for new multifamily dwellings, hotels and motels shall meet the requirements of Sections 4.106.4.2.1 and 4.106.4.2.2. Calculations for spaces shall be rounded up to the nearest whole number. A parking space served by electric vehicle supply equipment or designed as a future EV charging space shall count as at least one standard automobile parking space only for the purpose of complying with any applicable minimum parking~~

space requirements established by a local jurisdiction. See Vehicle Code Section 22511.2 for further details.

4.106.4.2.1 Multifamily development projects with less than 20 dwelling units; and hotels and motels with less than 20 sleeping units or guest rooms.

The number of dwelling units, sleeping units or guest rooms shall be based on all buildings on a project site subject to this section.

1. **EV Capable.** Ten (10) percent of the total number of parking spaces on a building site, provided for all types of parking facilities, shall be electric vehicle charging spaces (EV spaces) capable of supporting future Level 2 EVSE. Electrical load calculations shall demonstrate that the electrical panel service capacity and electrical system, including any on-site distribution transformer(s), have sufficient capacity to simultaneously charge all EVs at all required EV spaces at a minimum of 40 amperes.

   The service panel or subpanel circuit directory shall identify the overcurrent protective device space(s) reserved for future EV charging purposes as "EV CAPABLE" in accordance with the *California Electrical Code*.

   Exceptions:

   1. When EV chargers (Level 2 EVSE) are installed in a number equal to or greater than the required number of EV capable spaces.
   2. When EV chargers (Level 2 EVSE) are installed in a number less than the required number of EV capable spaces, the number of EV capable spaces required may be reduced by a number equal to the number of EV chargers installed.

   Notes:

   a. Construction documents are intended to demonstrate the project's capability and capacity for facilitating future EV charging.

   b. There is no requirement for EV spaces to be constructed or available until receptacles for EV charging or EV chargers are installed for use.

2. **EV Ready.** Twenty-five (25) percent of the total number of parking spaces shall be equipped with low power Level 2 EV charging receptacles. For multifamily parking facilities, no more than one receptacle is required per dwelling unit when more than one parking space is provided for use by a single dwelling unit.

   Exception: Areas of parking facilities served by parking lifts.

4.106.4.2.2 Multifamily development projects with 20 or more dwelling units, hotels and motels with 20 or more sleeping units or guest rooms.

The number of dwelling units, sleeping units or guest rooms shall be based on all buildings on a project site subject to this section.

1. **EV Capable**. Ten (10) percent of the total number of parking spaces on a building site, provided for all types of parking facilities, shall be electric vehicle charging spaces (EV spaces) capable of supporting future Level 2 EVSE. Electrical load calculations shall demonstrate that the electrical panel service capacity and electrical system, including any

~~on-site distribution transformer(s), have sufficient capacity to simultaneously charge all EVs at all required EV spaces at a minimum of 40 amperes.~~

~~The service panel or subpanel circuit directory shall identify the overcurrent protective device space(s) reserved for future EV charging purposes as "EV CAPABLE" in accordance with the *California Electrical Code*.~~

~~**Exception:** When EV chargers (Level 2 EVSE) are installed in a number greater than five (5) percent of parking spaces required by Section 4.106.4.2.2, Item 3, the number of EV capable spaces required may be reduced by a number equal to the number of EV chargers installed over the five (5) percent required.~~

~~**Notes:**~~

~~a. Construction documents shall show locations of future EV spaces.~~

~~b. There is no requirement for EV spaces to be constructed or available until receptacles for EV charging or EV chargers are installed for use.~~

~~2. **EV Ready.** Twenty-five (25) percent of the total number of parking spaces shall be equipped with low power Level 2 EV charging receptacles. For multifamily parking facilities, no more than one receptacle is required per dwelling unit when more than one parking space is provided for use by a single dwelling unit.~~

~~**Exception:** Areas of parking facilities served by parking lifts.~~

~~3. **EV Chargers.** Five (5) percent of the total number of parking spaces shall be equipped with Level 2 EVSE. Where common use parking is provided, at least one EV charger shall be located in the common use parking area and shall be available for use by all residents or guests.~~

~~When low power Level 2 EV charging receptacles or Level 2 EVSE are installed beyond the minimum required, an automatic load management system (ALMS) may be used to reduce the maximum required electrical capacity to each space served by the ALMS. The electrical system and any on-site distribution transformers shall have sufficient capacity to deliver at least 3.3 kW simultaneously to each EV charging station (EVCS) served by the ALMS. The branch circuit shall have a minimum capacity of 40 amperes and installed EVSE shall have a capacity of not less than 30 amperes. ALMS shall not be used to reduce the minimum required electrical capacity to the required EV capable spaces.~~

4.106.4.2.2 Existing Buildings.

1. When new parking facilities are added, or electrical systems or lighting of existing parking facilities are added or altered and the work requires a building permit, ten percent (10%) of the total number of parking spaces added or altered shall be EVCS. Any existing EV Capable spaces on the building property required by the locally adopted codes at the time of building permit shall be upgraded to a minimum of Level 1 EV Ready. Upgrades shall be required at currently designated vehicle parking spaces. Upgrades shall be required for remaining parking spaces after meeting the accessibility requirements of California Building Code Chapters 11A and 11B.

2. When new parking facilities are added and ALMS is installed, the ALMS system must be designed to deliver no less than 2.2 kVa (110/120 volt, 20-ampere).

4.106.4.3~~2.2.1~~ Electric vehicle charging stations (EVCS).

Electric vehicle charging stations required by Section 4.106.4.2~~.2, Item 3,~~ shall comply with Section 4.106.4.3~~2.2.1~~.

Exception: Electric vehicle charging stations serving public accommodations, public housing, motels, and hotels shall not be required to comply with this section. See *California Building Code*, Chapter 11B, for applicable requirements.

4.106.4.3.1~~2.2.1.1~~ Location.

EVCS shall comply with at least one of the following options:

1. The charging space shall be located adjacent to an accessible parking space meeting the requirements of the *California Building Code*, Chapter 11A, to allow use of the EV charger from the accessible parking space.
2. The charging space shall be located on an accessible route, as defined in the *California Building Code*, Chapter 2, to the building.

   Exception: Electric vehicle charging stations designed and constructed in compliance with the *California Building Code*, Chapter 11B, are not required to comply with Section 4.106.4.3.1~~2.2.1.1~~ and Section 4.106.4.3.2~~2.2.1.2~~, Item 3.

4.106.4.3.2~~2.2.1.2 Electric vehicle charging stations (EVCS) d~~Dimensions.

The charging spaces shall be designed to comply with the following:

1. The minimum length of each EV space shall be 18 feet (5486 mm).
2. The minimum width of each EV space shall be 9 feet (2743 mm).
3. One in every 25 charging spaces, but not less than one, shall also have an 8- foot (2438 mm) wide minimum aisle. A 5-foot (1524 mm) wide minimum aisle shall be permitted provided the minimum width of the EV space is 12 feet (3658 mm).
   a. Surface slope for this EV space and the aisle shall not exceed 1 unit vertical in 48 units horizontal (2.083 percent slope) in any direction.

Exception: Where the City's Municipal or Zoning Code permits parking space dimensions that are less than the minimum requirements stated in this section 4.106.4.3.2, and the compliance with which would be infeasible due to particular circumstances of a project, an exception may be granted while remaining in compliance with California Building Code Section Table 11B-228.3.2.1 and 11B-812, as applicable.

~~**4.106.4.2.2.1.3 Accessible EV spaces.** In addition to the requirements in Sections 4.106.4.2.2.1.1 and 4.106.4.2.2.1.2, all EVSE, when installed, shall comply with the accessibility provisions for EV chargers in the *California Building Code*, Chapter 11B. EV ready spaces and EVCS in multifamily developments shall comply with *California Building Code*, Chapter 11A, Section 1109A.~~

4.106.4.4 Direct current fast charging stations. One DCFC may be substituted for up to five (5) EVCS to meet the requirements of 4.106.4.1 and 4.106.4.2. Where ALMS serve DCFC stations, the power demand from the DCFC shall be prioritized above Level 1 and Level 2 spaces.

~~**4.106.4.2.3 EV space requirements.**~~

~~1. **Single EV space required.** Install a listed raceway capable of accommodating a 208/240-volt dedicated branch circuit. The raceway shall not be less than trade size 1 (nominal 1-inch inside diameter). The raceway shall originate at the main service or subpanel and shall terminate into a listed cabinet, box or enclosure in close proximity to the location or the proposed location of the EV space. Construction documents shall identify the raceway termination point, receptacle or charger location, as applicable. The service panel and/or subpanel shall have a 40-ampere minimum dedicated branch circuit, including branch circuit overcurrent protective device installed, or space(s) reserved to permit installation of a branch circuit overcurrent protective device.~~

~~**Exception:** A raceway is not required if a minimum 40-ampere 208/240-volt dedicated EV branch circuit is installed in close proximity to the location or the proposed location of the EV space, at the time of original construction in accordance with the *California Electrical Code*.~~

~~2. **Multiple EV spaces required.** Construction documents shall indicate the raceway termination point and the location of installed or future EV spaces, receptacles, or EV chargers. Construction documents shall also provide information on amperage of installed or future receptacles or EVSE, raceway method(s), wiring schematics and electrical load calculations. Plan design shall be based upon a 40-ampere minimum branch circuit. Required raceways and related components that are planned to be installed underground, enclosed, inaccessible or in concealed areas and spaces shall be installed at the time of original construction.~~

~~**Exception:** A raceway is not required if a minimum 40-ampere 208/240-volt dedicated EV branch circuit is installed in close proximity to the location or the proposed location of the EV space at the time of original construction in accordance with the *California Electrical Code*.~~

~~**4.106.4.2.4 Identification.**~~

~~The service panel or subpanel circuit directory shall identify the overcurrent protective device space(s) reserved for future EV charging purposes as "EV CAPABLE" in accordance with the *California Electrical Code.*~~

~~**4.106.4.2.5 Electric Vehicle Ready Space Signage.**~~

~~Electric vehicle ready spaces shall be identified by signage or pavement markings, in compliance with Caltrans Traffic Operations Policy Directive 13-01 (Zero Emission Vehicle Signs and Pavement Markings) or its successor(s).~~

~~**4.106.4.3 Electric vehicle charging for additions and alterations of parking facilities serving existing multifamily buildings.**~~

~~When new parking facilities are added, or electrical systems or lighting of existing parking facilities are added or altered and the work requires a building permit, ten (10) percent of the total number of parking spaces added or altered, shall be electric vehicle charging spaces (EV spaces) capable of supporting future Level 2 EVSE.~~

~~**Notes:**~~

1. ~~Construction documents are intended to demonstrate the project's capability and capacity for facilitating future EV charging.~~
2. ~~There is no requirement for EV spaces to be constructed or available until EV chargers are installed for use.~~

Sec. 6.120.050 Non-Residential EV Charging

DIVISION 5.1, PLANNING AND DESIGN is amended as follows:

SECTION 5.106 SITE DEVELOPMENT

5.106.5.3 Electric vehicle (EV) charging. ~~**[N]**~~ Construction to provide electric vehicle infrastructure and facilitate electric vehicle charging shall comply with Section 5.106.5.3.1 and shall be provided in accordance with regulations in the *California Building Code* and the *California Electrical Code*. Accessible EVCS shall be provided in accordance with the *California Building Code Chapter 11B Section 11B-228.3.* Calculation for spaces shall be rounded up to the nearest whole number.

Exceptions:

1**.** On a case-by-case basis where the local enforcing agency has determined compliance with this section is not feasible based upon one of the following conditions:

a. Where there is no local utility power supply.

b. Where the local utility is unable to supply adequate power.

c. Where there is evidence suitable to the local enforcement agency substantiating that additional local utility infrastructure design requirements, directly related to the implementation of Section 5.106.5.3, may increase construction cost by an average of $4,500 per parking space. EV infrastructure shall be provided up to the level that would not exceed this cost for utility service. ~~adversely impact the construction cost of the project.~~

2. Parking spaces accessible only by automated mechanical car parking systems are not required to comply with this code section.

5.106.5.3.1 Nonresidential Occupancy Class B Offices – Shared Parking Space.

5.106.5.3.1.1 New Construction. Twenty percent (20%) of parking spaces shall be EVCS with Level 2 EV Ready. ALMS shall be permitted to reduce load when multiple vehicles are charging. Thirty percent (30%) of parking spaces provided shall be Level 2 EV Capable.

5.106.5.3.1.2 Existing Buildings. When new parking facilities are added, or electrical systems or lighting of existing parking facilities are added or altered and the work requires a building permit, ten percent

(10%) of the total number of parking spaces added or altered shall be EVCS with Level 2 EV Ready. Any existing EV Capable spaces on the building property required by the locally adopted codes at the time of building permit shall be upgraded to a minimum of Level 1 EV Ready. Upgrades shall be required at currently designated vehicle parking spaces. Upgrades shall be required for remaining parking spaces after meeting the accessibility requirements of California Building Code Chapters 11A and 11B.

~~**5.106.5.3.1 EV capable spaces.**~~

~~**[N]** EV capable spaces shall be provided in accordance with Table 5.106.5.3.1 and the following requirements:~~

~~1. Raceways complying with the *California Electrical Code* and no less than 1-inch (25 mm) diameter shall be provided and shall originate at a service panel or a subpanel(s) serving the area, and shall terminate in close proximity to the proposed location of the EV capable space and into a suitable listed cabinet, box, enclosure or equivalent. A common raceway may be used to serve multiple EV capable spaces.~~

~~2. A service panel or subpanel(s) shall be provided with panel space and electrical load capacity for a dedicated 208/240 volts, 40-ampere minimum branch circuits for each EV capable space, with delivery of 30-ampere minimum to an installed EVSE at each EVCS.~~

~~3 The electrical system and any on-site distribution transformers shall have sufficient capacity to supply full rated amperage at each EV capable space.~~

~~4.The service panel or subpanel circuit directory shall identify the reserved overcurrent protective device space(s) as "EV CAPABLE". The raceway termination location shall be permanently and visibly marked as "EV CAPABLE".~~

~~Note: A parking space served by electric vehicle supply equipment or designed as a future EV charging space shall count as at least one standard automobile parking space only for the purpose of complying with any applicable minimum parking space requirements established by an enforcement agency. See Vehicle Code Section 22511.2 for further details.~~

~~**TABLE 5.106.5.3.1**~~

~~**TOTAL NUMBER OF ACTUAL PARKING SPACES**~~	~~**NUMBER OF REQUIRED EV CAPABLE SPACES**~~	~~**NUMBER OF EVCS (EV CAPABLE SPACES PROVIDED WITH EVSE)**~~ ~~[2]~~
~~0-9~~	~~0~~	~~0~~
~~10-25~~	~~4~~	~~0~~
~~26-50~~	~~8~~	~~2~~
~~51-75~~	~~13~~	~~3~~
~~76-100~~	~~17~~	~~4~~
~~101-150~~	~~25~~	~~6~~

151-200	35	9
201 and over	20 percent of total[1]	25 percent of EV capable spaces [1]

1. Calculation for spaces shall be rounded up to the nearest whole number.
2. The number of required EVCS (EV capable spaces provided with EVSE) in column 3 count toward the total number of required EV capable spaces shown in column 2.

5.106.5.3.2 Electric vehicle charging stations (EVCS).
EV capable spaces shall be provided with EVSE to create EVCS in the number indicated in Table 5.106.5.3.1. The EVCS required by Table 5.106.5.3.1 may be provided with EVSE in any combination of Level 2 and Direct Current Fast Charging (DCFC), except that at least one Level 2 EVSE shall be provided.

One EV charger with multiple connectors capable of charging multiple EVs simultaneously shall be permitted if the electrical load capacity required by Section 5.106.5.3.1 for each EV capable space is accumulatively supplied to the EV charger.

The installation of each DCFC EVSE shall be permitted to reduce the minimum number of required EV capable spaces without EVSE by five and reduce proportionally the required electrical load capacity to the service panel or subpanel.

5.106.5.3.2 Hotel and Motel Occupancies – Shared Parking Facilities.

5.106.5.3.2.1 New Construction. Five percent (5%) of parking spaces provided shall be EVCS with Level 2 EV Ready. ALMS shall be permitted to reduce load when multiple vehicles are charging. Twenty-five percent (25%) of parking spaces provided shall be Low Power Level 2 EV Ready space. Ten percent (10%) of parking spaces provided shall be Level 2 EV Capable.

5.106.5.3.2.2 Existing Buildings. When new parking facilities are added, or electrical systems or lighting of existing parking facilities are added or altered and the work requires a building permit, ten percent (10%) of the total number of parking spaces added or altered shall be EVCS with Level 2 EV Ready. Any existing EV Capable spaces on the building property required by the locally adopted codes at the time of building permit shall be upgraded to a minimum of Level 1 EV Ready. Upgrades shall be required at currently designated vehicle parking spaces. Upgrades shall be required for remaining parking spaces after meeting the accessibility requirements of California Building Code Chapters 11A and 11B.

5.106.5.3.3 All Other Nonresidential Occupancies – Shared Parking Facilities.

5.106.5.3.3.1 New Construction. Ten percent (10%) of parking spaces provided shall be EVCS with Level 2 EV Ready. ALMS shall be permitted to reduce load when multiple vehicles are charging. Ten percent (10%) of parking spaces provided shall be Level 2 EV Capable.

5.106.5.3.3.2 Existing Buildings. When new parking facilities are added, or electrical systems or lighting of existing parking facilities are added or altered and the work requires a building permit, ten percent (10%) of the total number of parking spaces added or altered shall be EVCS with Level 2 EV Ready. Any existing EV Capable spaces on the building property required by the locally adopted codes at the time

of building permit shall be upgraded to a minimum of Level 1 EV Ready. Upgrades shall be required at currently designated vehicle parking spaces. Upgrades shall be required for remaining parking spaces after meeting the accessibility requirements of California Building Code Chapters 11A and 11B.

~~**5.106.5.3.3 Use of automatic load management systems (ALMS).**~~

~~ALMS shall be permitted for EVCS. When ALMS is installed, the required electrical load capacity specified in Section 5.106.5.3.1 for each EVCS may be reduced when serviced by an EVSE controlled by an ALMS. Each EVSE controlled by an ALMS shall deliver a minimum 30 amperes to an EV when charging one vehicle and shall deliver a minimum 3.3 kW while simultaneously charging multiple EVs.~~

5.106.5.3.4 Direct current fast charging stations. One DCFC may be substituted for up to five (5) EVCS to meet the requirements of 5.106.5.3.1, 5.106.5.3.2, and 5.106.5.3.3. Where ALMS serve DCFC stations, the power demand from the DCFC shall be prioritized above Level 1 and Level 2 spaces.

~~**5.106.5.3.4 Accessible EVCS.**~~

~~When EVSE is installed, accessible EVCS shall be provided in accordance with the *California Building Code Chapter 11B Section 11B-228.3.*~~

~~**Note:** For EVCS signs, refer to Caltrans Traffic Operations Policy Directive 13-01 (Zero Emission Vehicle Signs and Pavement Markings) or its successor(*s*).~~

5.106.5.4 Electric vehicle ~~(EV)~~ charging readiness: medium-duty and heavy-duty. [N] Construction shall comply with Section 5.106.5.4.1 to facilitate future installation of electric vehicle supply equipment (EVSE). Construction for warehouses, grocery stores and retail stores with planned off-street loading spaces shall also comply with Section 5.106.5.4.1 for future installation of medium- and heavy-duty EVSE. Accessible EVCS shall be provided in accordance with the *California Building Code Chapter 11B Section 11B-228.3.*

Exceptions:

1. On a case-by-case basis where the local enforcing agency has determined compliance with this section is not feasible based upon one of the following conditions:
    a. Where there is no local utility power supply.
    b. Where the local utility is unable to supply adequate power.
    c. Where there is evidence suitable to the local enforcing agency substantiating that additional local utility infrastructure design requirements, directly related to the implementation of Section 5.106.5.3, may increase construction cost by an average of $4,500 per parking space. EV infrastructure shall be provided up to the level that would not exceed this cost for utility service. ~~adversely impact the construction cost of the project.~~

~~When EVCS(s) are installed, it shall be in accordance with the *California Building Code*, the *California Electrical Code* as follows:~~

5.106.5.4.1 ~~Electric vehicle charging readiness requirements for w~~Warehouses, grocery stores and retail stores with planned off-street loading spaces. [N] In order to avoid future demolition when adding EV supply and distribution equipment, spare raceway(s) or busway(s) and adequate capacity for transformer(s), service panel(s) or subpanel(s) shall be installed at the time of construction in accordance with the *California Electrical Code*. Construction plans and specifications shall include, but are not limited to, the following:

1. The transformer, main service equipment and subpanels shall meet the minimum power requirement in Table 5.106.5.4.1 to accommodate the dedicated branch circuits for the future installation of EVSE.
2. The construction documents shall indicate one or more location(s) convenient to the planned off-street loading space(s) reserved for medium- and heavy-duty ~~Z~~EV charging cabinets and charging dispensers, and a pathway reserved for routing of conduit from the termination of the raceway(s) or busway(s) to the charging cabinet(s) and dispenser(s), as shown in Table 5.106.5.4.1.
3. Raceway(s) or busway(s) originating at a main service panel or a subpanel(s) serving the area where potential future medium- and heavy-duty EVSE will be located and shall terminate in close proximity to the potential future location of the charging equipment for medium- and heavy-duty vehicles.
4. The raceway(s) or busway(s) shall be of sufficient size to carry the minimum additional system load to the future location of the charging for medium- and heavy-duty EVs as shown in Table 5.106.5.4.1.

TABLE 5.106.5.4.1, Raceway Conduit and Panel power Requirements for Medium-and-Heavy-Duty EVSE [N]

Building type	Building Size (sq. ft.)	Number of Off-street loading spaces	Additional capacity Required (kVa) for Raceway & Busway and Transformer & Panel
Grocery	10,000 to 90,000	1 or 2	200
		3 or Greater	400
	Greater than 90,000	1 or Greater	400
Retail	10,000 to 135,000	1 or 2	200
		3 or Greater	400
	Greater than 135,000	1 or Greater	400
Warehouse	20,000 to 256,000	1 or 2	200
		3 or Greater	400
	Greater than 256,000	1 or Greater	400

Sec. 6.120.060 All Electric Construction Definitions

Section 202 Definitions are amended as follows:

ADDITION. An extension or increase in floor area of an existing building or structure.

ALL-ELECTRIC BUILDING. A building that contains no *combustion equipment* or plumbing for combustion equipment serving space heating (including fireplaces), water heating (including pools and spas), cooking appliances (including barbeques), and clothes drying, within the building or building property lines, and instead uses electric heating appliances for service.

ALTERATION OR ALTER. Any construction or renovation to an existing structure other than repair for the purpose of maintenance or addition.

COMBUSTION EQUIPMENT. Any equipment or appliance used for space heating, water heating, cooking, clothes drying and/or lighting that uses *fuel gas*.

COMMERCIAL FOOD HEAT-PROCESSING EQUIPMENT. Equipment used in a food establishment for heat-processing food or utensils and that produces grease vapors, steam, fumes, smoke, or odors that are required to be removed through a local exhaust ventilation system, as defined in the California Mechanical Code.

ELECTRIC HEATING APPLIANCE. A device that produces heat energy to create a warm environment by the application of electric power to resistance elements, refrigerant compressors, or dissimilar material junctions, as defined in the California Mechanical Code.

FUEL GAS. A gas that is natural, manufactured, liquefied petroleum, or a mixture of these.

NEWLY CONSTRUCTED (or NEW CONSTRUCTION). A newly constructed building (or new construction) does not include additions, alterations or repairs.

Sec. 6.120.070 Residential All Electric Construction

SECTION 4.106 SITE DEVELOPMENT

Section 4.106.5, 4.106.5.1, and 4.106.5.2 are added as follows:

4.106.5 All-electric buildings. New construction buildings and qualifying alteration projects shall comply with Section 4.106.5.1 or 4.106.5.2 so that they do not use combustion equipment or are ready to accommodate installation of electric heating appliances.

4.106.5.1. New construction and qualifying alteration projects. All newly constructed buildings shall be all-electric buildings. Substantial renovations/alterations that include replacement of over 50 percent of the existing foundation for purposes other than a repair or reinforcement as defined in California Existing Building Code Section 202; or where over 50 percent of the existing framing above

the sill plate is removed or replaced for purposes other than repair, shall be all-electric buildings, and shall meet the new construction requirements of California Code of Regulations, Title 24, as modified by the Town of Los Gatos, including Reach Codes. If either of these criteria are met within a three-year period, measured from the date of the most recent previously obtained permit final date, the project shall be subject to the all-electric building and all new construction requirements.

Tenant improvements shall not be considered new construction. The final determination whether a project meets the definition of substantial reconstruction/alteration shall be made by the local enforcing agency.

Exceptions:

1. If the applicant establishes that there is not an all-electric prescriptive compliance pathway for the building system under the California Building Energy Efficiency Standards, and that the building is not able to achieve the performance compliance standard applicable to the building under the Energy Efficiency Standards using commercially available technology and an approved calculation method, then the local enforcing agency may grant a modification. The applicant shall comply with Section 4.106.5.2.

Inactive Fuel Gas Infrastructure may be extended to spaces that are anticipated to qualify for the exceptions contained in this chapter. The inactive Fuel Gas Infrastructure shall not be activated, have a meter installed, or otherwise used unless the exemptions specified in this chapter have been confirmed as part of the issuance of a building permit. If the Fuel Gas Infrastructure is no longer serving one of the exceptions contained in this chapter, it shall either be capped, otherwise terminated, or removed by the entity previously entitled to the exemption, in a manner pursuant to all applicable Codes.

The local enforcing authority shall have the authority to approve alternative materials, design and methods of construction or equipment per California Building Code Section 104.

4.106.5.2 Requirements for combustion equipment.

Where combustion equipment is allowed per Exceptions under 4.106.5.1, the construction drawings shall indicate electrical infrastructure and physical space accommodating the future installation of an electrical heating appliance in the following ways, as certified by a registered design professional or licensed electrical contractor:

1. Branch circuit wiring, electrically isolated and designed to serve all electrical heating appliances in accordance with manufacturer requirements and the California Electrical Code, including the appropriate voltage, phase, minimum amperage, and an electrical receptacle or junction box within five feet of the appliance that is accessible with no obstructions. Appropriately sized conduit may be installed in lieu of conductors; and

2. Labeling of both ends of the unused conductors or conduit shall be with “For Future Electrical Appliance”; and

3. Reserved circuit breakers in the electrical panel for each branch circuit, appropriately labeled (e.g. “Reserved for Future Electric Range”), and positioned on the opposite end of the panel supply conductor connection; and

4. Connected subpanels, panelboards, switchboards, busbars, and transformers shall be sized to serve the future electrical heating appliances. The electrical capacity requirements shall be adjusted for demand factors in accordance with the California Electric Code; and

5. Physical space for future electrical heating appliances, including equipment footprint, and if needed a pathway reserved for routing of ductwork to heat pump evaporator(s), shall be depicted on the construction drawings. The footprint necessary for future electrical heating appliances may overlap with non-structural partitions and with the location of currently designed combustion equipment.

Sec. 6.120.080 Nonresidential All Electric Construction

SECTION 5.106 SITE DEVELOPMENT

Section 5.106.13, 5.106.13.1, and 5.106.13.2 are added as follows:

5.106.13 All-electric buildings. New construction buildings and qualifying alteration projects shall comply with Section 5.106.13.1 or 5.106.13.2 so that they do not use *combustion equipment* or are ready to facilitate future electrification.

5.106.13.1. New construction and qualifying alteration projects. All newly constructed buildings shall be all-electric buildings. Substantial renovations/alterations that include replacement of over 50 percent of the existing foundation for purposes other than a repair or reinforcement as defined in California Existing Building Code Section 202; or where over 50 percent of the existing framing above the sill plate is removed or replaced for purposes other than repair, shall be all-electric buildings, and shall meet the new construction requirements of California Code of Regulations, Title 24, as modified by the Town of Los Gatos, including Reach Codes. If either of these criteria are met within a three-year period, measured from the date of the most recent previously obtained permit final date, the project shall be subject to the all-electric building and all new construction requirements.

Tenant improvements shall not be considered new construction. The final determination whether a project meets the definition of substantial reconstruction/alteration shall be made by the local enforcing agency.

Exceptions:

1. Nonresidential buildings containing kitchens located in a place of public accommodation, as defined in the California Building Code Chapter 2, may apply to the local enforcing agency for a modification to install commercial food heat-processing equipment served by fuel gas. The local enforcing agency may grant the modification if they find:
    a. A business-related need to cook with combustion equipment; and
    b. The need cannot be achieved equivalently with an electric heating appliance; and
    c. The applicant has installed energy efficient equipment based on Energy Star or California Energy Wise qualifications, as available.

d. The applicant shall comply with Section 5.106.13.2.

2. If the applicant establishes that there is not an all-electric prescriptive compliance pathway for the building system under the California Building Energy Efficiency Standards, and that the building is not able to achieve the performance compliance standard applicable to the building under the Energy Efficiency Standards using commercially available technology and an approved calculation method, then the local enforcing agency may grant a modification. The applicant shall comply with Section 5.106.13.2.

3. Non-residential buildings that will be constructed to Office of Statewide Health Planning and Development (OSHPD) Hospital standards ("OHSPD 1" as described in California Building Code Vol. 1, section 1224) may contain non-electric space-conditioning, water-heating, and process load systems.

Inactive Fuel Gas Infrastructure may be extended to spaces that are anticipated to qualify for the exceptions contained in this chapter. The inactive Fuel Gas Infrastructure shall not be activated, shall not have a meter installed, and/or shall not otherwise be used unless the exemptions specified in this chapter have been confirmed as part of the issuance of a building permit. If the Fuel Gas Infrastructure is no longer serving one of the exceptions contained in this chapter, it shall either be capped, otherwise terminated, or removed by the entity previously entitled to the exemption, in a manner pursuant to all applicable Codes.

The local enforcing agency shall have the authority to approve alternative materials, design and methods of construction or equipment per California Building Code Section 104.

5.106.13.2. Requirements for combustion equipment.
Where combustion equipment is allowed per exceptions under Section 5.106.13.1, the construction drawings shall indicate electrical infrastructure and physical space accommodating the future installation of an electrical heating appliance in the following ways, as certified by a registered design professional or licensed electrical contractor:

1. Branch circuit wiring, electrically isolated and designed to serve all electrical heating appliances in accordance with manufacturer requirements and the California Electrical Code, including the appropriate voltage, phase, minimum amperage, and an electrical receptacle or junction box within five feet of the appliance that is accessible with no obstructions. Appropriately sized conduit may be installed in lieu of conductors; and

2. Labeling of both ends of the unused conductors or conduit shall be with "For Future Electrical Appliance"; and

3. Reserved circuit breakers in the electrical panel for each branch circuit, appropriately labeled (e.g. "Reserved for Future Electric Range"), and positioned on the opposite end of the panel supply conductor connection; and

4. Connected subpanels, panelboards, switchboards, busbars, and transformers shall be sized to serve the future electrical heating appliances. The electrical capacity requirements shall be adjusted for demand factors in accordance with the California Electric Code; and

5. Physical space for future electrical heating appliances, including equipment footprint, and if needed a pathway reserved for routing of ductwork to heat pump evaporator(s), shall be depicted on the construction drawings. The footprint necessary for future electrical heating appliances may overlap with non-structural partitions and with the location of currently designed combustion equipment.

ARTICLE XIII.

Sec. 6.130.010. Reserved. ARTICLE XIV. BUILDING RELOCATION CODE OF THE TOWN

DIVISION 1. GENERALLY

Sec. 6.140.010. Title.

This article is the Building Relocation Code of the Town of Los Gatos.

Sec. 6.140.020. Interference with demolition or removal of building.

It shall be unlawful for any person to interfere with or obstruct the Building Official, any person engaged by the Town, or any representative of any surety, engaged in inspection or in the work of completing, demolishing, or removing any building or structure for which a building relocation permit has been issued under Division 2 of this article, after a default has occurred in timely completion of the work or in the performance of the other terms or conditions of the permit.

DIVISION 2. PERMIT

Sec. 6.140.030. Required, exceptions.

It shall be unlawful for any person to move any building or structure on any parcel of land in the Town (except a contractor's tool house, construction building or similar structure which is moved as construction work requires) without first obtaining a permit and posting a bond as provided in this article.

Sec. 6.140.040. Application.

An application for a permit required by the provisions of this division shall be made in writing on the form provided by the Town. The application shall:

(1) Be signed by the permittee or the permittee's authorized agent (who may be required to submit evidence proving authority);
(2) Be accompanied by plans, photographs or other substantiating data as reasonably may be required by the Building Official; and

(3) Contain such information as reasonably may be required by the Building Official in order to carry out the purposes of this chapter.

Sec. 6.140.050. Review of application, duty of applicant.

The application for a permit required by the provisions of this division, including the plans and other data filed with it, shall be checked by the Building Official, who is authorized to conduct any investigation in connection therewith may be deemed reasonably necessary. If, when the Building Official has completed such investigation and has notified the applicant that a permit will issue, the applicant fails for a period of sixty (60) days to post the bond and any other instrument required by this division, the application shall become void.

Sec. 6.140.060. Issuance, fees.

(a) Subject to the requirements contained in this article, if in the judgment of the Building Official the conditions of the building or structure can be effectively and practically repaired or restored to comply with this Code, the Building Official shall issue a permit to the owner of the property where the building or structure is to be located.
(b) A permit fee shall be paid at the time of issuance of the permit. The amount of the fee shall be fixed by resolution of the Town Council.

Sec. 6.140.070. When issuance prohibited.

The Building Official shall not issue a permit under this division for any building or structure:

(1) Which does not or cannot be repaired or modified to comply with this code, as it presently exists or hereafter may be amended;
(2) Which is so constructed or in such condition as to be a substandard building;
(3) Which is infested with pests or is unsanitary;
(4) Which is so dilapidated, defective, unsightly, or in such a condition of deterioration or disrepair that its relocation at the proposed site would cause appreciable harm to or be materially detrimental to the existing improvements on nearby property;
(5) If the proposed use is prohibited by the zoning ordinance;
(6) If the structure is of a type prohibited at the site of the proposed relocation by this code, or any other statute or ordinance; or
(7) If the structure or site has not received approval as prescribed in sections 29.20.140 through 29.20.155 of the Town Code. The body granting such approval shall first consider and determine that the proposed site and building are compatible in use, size and architecture with other buildings and structures in the area of the proposed relocation.

Sec. 6.140.080. Conditions of issuance.

In connection with the issuance of any permit under this division, the Building Official or the body granting architecture and site approval or both may attach to the permit such conditions which are necessary to assure compliance with the purposes of this article and the zoning ordinance, and to assure that the building or structure when relocated will be compatible with and not detrimental or

injurious to the buildings or structures in the area of the proposed relocation. Such conditions may include, but are not limited to:
(1) A limitation of the period of time required to complete the work of relocation;
(2) Requirements for changes, alterations, additions or repairs;
(3) The providing of all utility services by the time the building relocation is finished;
(4) Provision for any improvement work or dedication provided for by the zoning ordinance;
(5) The applicant's written agreement to indemnify the Town for any and all damages or injury to Town property incurred in the course of the moving, including but not limited to damage or injury to streets, thoroughfares, pavements, curbs, gutters, sidewalks, sewers, public lighting equipment and plants.

Sec. 6.140.090. Bond required.

(a) As a condition precedent to the issuance of any building relocation permit, the applicant shall post a surety bond, the form of which is subject to approval by the Town Attorney, issued by a surety company conducting business in the State. The penal sum of the bond shall be an amount equal to the estimated cost, plus ten (10) percent, of all the work required to perform the relocation to comply with all of the conditions of the permit. The cost estimate is made by the Building Official.
(b) The applicant, in lieu of posting a surety bond, may deposit with the town an amount equal to the required bond amount, in cash.

Sec. 6.140.100. Conditions of bond.

A surety bond shall contain, and any deposit shall be subject to, the following conditions:

(1) All work, including performance of conditions of the permit (except for performance of conditions such as street improvements when provision is made in a contract with the Town to do the work at a later time) shall be performed and completed within one hundred twenty (120) days after the date of issuance of the permit. After that time, the permit expires.
(2) The time limit and expiration date of the permit may be extended for good cause after written request of both the principal and the surety. The request may be made either during or after the one-hundred-twenty-day period. If the Building Official decides to grant the request the Building Official shall notify the principal and surety in writing stating the new deadline. The Building Official need not grant the request if the work is not being done continuously and diligently, or if reasonable progress has not been made.
(3) The term of each bond shall begin on the date the bond instrument is delivered to the town and shall end upon the acceptance by the Building Official of performance of all the terms and conditions of the permit as satisfactory and complete.
(4) The Building Official, the surety and their representatives shall have access to the premises to inspect the progress of the work.
(5) Upon default by the principal, the surety shall be required to complete the work and to perform all conditions of the permit. The principal shall give the surety right-of-entry onto the site for those purposes.
(6) In the event of any default in the performance of any term or condition of the permit, or failure to complete the work before the permit expires, the surety or any person employed or engaged on its behalf, or the building official, or any person employed or engaged on behalf of the Town may go on

the premises to complete the required work or to remove or demolish the building or structure, and clear, clean and restore the site.

Sec. 6.140.110. Default on bond.

(a) If the permittee as principal on the bond defaults in the performance of the conditions required by the permit, or fails to complete the work before the permit expires, the Building Official shall give notice in writing to the principal and the surety, stating the conditions which have not been complied with and the period of time deemed by the Building Official to be reasonably necessary for the completion of the work.
(b) After receipt of the notice, the surety, within the time therein specified, shall finish the work. When the principal has defaulted in any way, the surety, at its option, in lieu of completing the work required, may remove or demolish the building or structure and clear, clean and restore the site.

Sec. 6.140.120. Bond other than surety bond--Default.

If a deposit has been made as provided in Section 6.140.090, the Building Official shall give notice of default, as provided in section 6.140.110, to the permittee. If the permittee does not perform within the time specified in the notice, the Building Official shall proceed without delay and without further notice or proceeding whatever to use the deposit, or any portion of the deposit necessary to cause the required work to be done by contract or otherwise at the Building Official's discretion, upon the completion of the work. The balance, if any, of the deposit, shall be returned to the depositor or to the depositor's successors or assigns after deducting the cost of the work plus ten (10) percent of the cost, which is an amount to defray the Town's cost in enforcement and administration.

Sec. 6.140.130. Same--Release. When a deposit has been made as provided in Section 6.140.090 and all requirements of the permit have been completed, the Building Official shall return the deposit to the depositor or to the depositor's successors or assigns, except any portion thereof that may have been used or deducted as provided in this section.

ARTICLE XV. CALIFORNIA RESIDENTIAL BUILDING CODE

Sec. 6.150.010. Adopted.

The 2021 International Residential Code (IRC) as amended by the State of California Building Standards Commission and known as the 2022 California Residential Code, California Code of Regulations, Title 24, Part 2.5 including Appendices AH, AK, AO, AQ, AX, and AZ is adopted by reference and amended as follows.

Sec. 6.150.020. Fire Protection Amendments.

R313.2 One- and two-family dwellings automatic fire sprinkler systems is amended as follows:

R313.2 One- and two-family dwellings automatic sprinkler systems.
An automatic sprinkler system shall be installed in ~~one- and two-family dwellings~~ all new one- and two-family dwellings and existing one- and two-family dwellings when additions are made that increase the fire area to more than 3,600 square feet.

Exceptions:

1. Accessory Dwelling Unit, provided that all of the following are met:
   1.1. The unit meets the definition of an Accessory Dwelling Unit as defined in the Government Code Section 65852.2.
   1.2. The existing primary residence does not have automatic fire sprinklers.
   1.3. The accessory dwelling unit does not exceed 1,200 square feet in size.
   1.4. The unit is on the same lot as the primary residence.
   1.5. The unit meets all apparatus access and water supply requirements of Chapter 5 and Appendix B of the 2022 California Fire Code.

2. When additions are made to existing structures, causing the fire area to exceed 3,600 square feet, and all of the following are met:
   2.1. Building addition does not exceed 500 square feet.
   2.2. The resultant structure meets all water supply requirements of Chapter 5 and Appendix B of the 2022 California Fire Code.

Section R328.7 is amended as follows:

R328.7 Fire detection. Rooms and areas within dwelling units, basements and attached garages in which ESS are installed shall be protected by smoke alarms in accordance with Section R314. A heat detector, listed and interconnected to the smoke alarms, shall be installed in locations within dwelling units and attached garages where smoke alarms cannot be installed based on their listing.
ESS installed in Group R-3 and townhomes shall comply with the following:

1. Rooms and areas within dwellings units, sleeping units, basements and attached garages in which ESS are installed shall be protected by smoke alarms in accordance with Section R314.

2. A listed heat alarm interconnected to the smoke alarms shall be installed in locations within dwelling units, sleeping units, and attached garages where smoke alarms cannot be installed based on their listing.

   Exceptions:
   1. A listed heat detector may be used in place of a heat alarm, so long as it is interconnected with devices that provide an audible alarm at all sleeping areas.

   2. A fire sprinkler associated with an approved automatic sprinkler system that triggers an audible alarm upon activation of the waterflow switch, may be used in place of a heat alarm.

R337.7.10 is amended as follows:

R337.7.10 Underside of appendages. ~~When required by the enforcing agency~~ The underside of overhanging appendages shall be enclosed to grade in accordance with the requirements of this chapter or the underside of the exposed under-floor shall consist of one of the following:

1. Noncombustible material
2. Ignition-resistant material
3. One layer of 5/8-inch Type X gypsum sheathing applied behind an exterior covering on the underside of the floor projection
4. The exterior portion of a 1-hour fire resistive exterior wall assembly applied to the underside of the floor including assemblies using the gypsum panel and sheathing products listed in the Gypsum Association Fire Resistance Design Manual
5. The underside of a floor assembly that meets the performance criteria in accordance with test procedures set forth in either of the following:
   5.1 SFM Standard 12-7A3; or
   5.2 ASTM E2957

   Exception: Structural column and beams do not require protection when constructed with sawn lumber or glue laminated wood with the smallest minimum nominal dimension of 4 inches (102 mm). Sawn of glue-laminated planks splined, tongue-and-groove, or set close together and well spiked.

R902.1.2 is amended as follows:

R902.1.2 Roof coverings in all other areas. The entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair or replacement of the roof of every existing structure, shall be fire-retardant roof covering that is at least ~~Class C~~ Class A.

R902.1.3 is amended as follows:

R902.1.3 Roofing requirements in a wildland urban interface fire area. The entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair or replacement of the roof of every existing structure, shall be a fire-retardant roof covering that is at least Class A. Roofing requirements for structures located in a Wildland-Urban Interface Fire Area shall also comply with Section R337.5.

Sec. 6.150.040. Limits on methods using Gypsum Board and Cement Plaster.

Table R602.10.3(3) Bracing Requirements Based On Seismic Design Category is amended as follows:

The title of Table R602.10.3(3) is amended to read:

TABLE R602.10.3(3)[i, j]

Footnotes "i" and "j" are added to Table R602.10.3(3), to read:

i. Methods PBS, HPS, SFB and CS-SFB are not permitted in Seismic Design Categories D_0, D_1, and D_2.
j. Methods GB, DWB and PCP are not permitted in Seismic Design Categories D_0, D_1, and D_2 where S_1 is greater than or equal to 0.75.

Section 3.

CHAPTER 9, Fire Prevention and Protection of the Los Gatos Town Code IS DELETED IN ITS ENTIRETY AND REPLACED WITH THE FOLLOWING:

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Flammable and Combustible Liquids.

CHAPTER 58

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Highly Toxic, and Toxic Materials.

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APPENDIX B FIRE FLOW REQUIREMENTS FOR BUILDINGS

APPENDIX C FIRE HYDRANT LOCATIONS AND DISTRIBUTION

APPENDIX D FIRE APPARATUS ACCESS ROADS

ARTICLE I. IN GENERAL

Sec. 9.10.010. Inclusion in Central Fire District; Definitions.

(a) The Town is included in the Santa Clara County Central Fire Protection District. The Town's inclusion is provided for in Ordinance No. 997 of the Town.

(b) As used in this Code, the following definitions shall apply:

(i) *"Fire Department"* means the Santa Clara County Central Fire Protection District.

(ii) *"Fire Chief"* means the Chief of the Fire Department.

ARTICLE II. ADMISTRATION AND ENFORCEMENT

Sec. 9.20.010. Delegation of duties.

Whenever a provision appears that requires or allows the Fire Chief to do some act or make certain inspections, it is to be construed to authorize the Fire Chief to designate, delegate, and authorize subordinates to perform the act or make the inspection unless the terms of the provision or section provide otherwise.

Sec. 9.20.015. Plan review.

The Fire Department will review all plans submitted to the Town for the construction of all buildings except the interior of dwellings for the purpose of ascertaining and causing to be corrected any condition liable to cause fire, to endanger life from fire, or to create or perpetuate any violation of the provisions or intent of this Code or State law affecting fire safety.

Sec. 9.20.020. Citations.

Fire Department officers authorized by the Fire Chief and State law may issue citations for violations of this chapter pursuant to the Code.

Sec. 9.20.025. Abatement of hazards by Fire Chief.

(a) If any person fails to comply with the orders of the Fire Chief, or in the event the Fire Chief is unable to locate the responsible person within a reasonable time, the Fire Chief may take such steps to abate the fire hazard as are necessary for the protection of the public health and safety. In no event is notice necessary before abatement when the fire hazard constitutes a clear and present danger to the public welfare.

(b) The cost of any such abatement is a debt to the Town of the owner of the premises or of any person who, by act or inaction, caused or permitted the fire hazard to exist. The cost of the

abatement shall become a lien on the premises when the need for the abatement and the amount of the cost have been established in the manner provided in Article 8 of Chapter 6 of this Code.

Sec. 9.20.030. Fees for checking, inspection services and permits.

The Town Council may, by resolution, establish a schedule of fees to be charged and collected for checking and inspection services performed and for the issuance and enforcement of permits and requirements under this chapter.

Sec. 9.20.035. Building Official to forward plans.

The Building Official will provide the Fire Chief with one (1) copy of any plans and specifications required to be reviewed by the Fire Department.

ARTICLE III. CALIFORNIA FIRE CODE

Sec. 9.30.005. California Fire Code

The 2021 International Fire Code (IFC) as amended by the State of California Building Standards Commission and known as the 2022 California Fire Code (CFC), California Code of Regulations Title 24, Part 9, with Appendices B, C, and D, is adopted by reference and amended as follows.

CHAPTER 1, DIVISION II Administration

Amend Chapter 1, Division II of the 2022 California Fire Code as follows:

Sec. 9.30.745 Construction permit fees.

107.2.1 is added as follows:

106.2.1 Construction permit fees. Construction permit fees and plan review fees for fire hydrant systems, fire extinguishing systems, and fire alarm systems shall be paid to the Santa Clara County Fire Department in accordance with the following table based on valuation. The valuation shall be limited to the value of the system installation for which the permit is being issued. Plan review fees are 65 percent of the Permit Fee amount. For the purposes of determining the total fee amount for each permit, the plan review fee shall be added to the Permit Fee.

TOTAL VALUATIONS	PERMIT FEE
$1.00 TO $500.00	$23.50
$501.00 TO $2,000.00	$23.50 for the first $500.00 plus $3.05 for each additional $100.00, or fraction thereof, to and including $2,000.00
$2001.00 TO $25,000.00	$69.25 for the first $2,000.00 plus $14.00 for each additional $1,000.00 or fraction thereof, to and including $25,000.00

$25,001.00 TO $50,000.00	$391.25 for the first $25,000.00 plus $4.00 for each additional $1,000.00, or fraction thereof, to and including $50,000.00
$50,001.00 TO $100,000.00	$630.15 for the first $50,000.00 plus $13.60for each additional $1,000.00, or fraction thereof, to and including $100,000.00
$100,001.00 to $500,000.00	$986.75 for the first $100,000.00 plus $7.00 for each additional $1,000.00, or fraction thereof, to and including $500,000.00
$500,001 to $1,000,000.00	$3,228.15 for the first $500,000.00 plus $5.35 for each additional $1,000.00, or fraction thereof, to and including $1,000,000.00
$1,000,001 and up	$5,604.00 for the first $1,000,000.00 plus $4.75 for each additional $1,000.00, or fraction thereof
Additional re-inspections, in connection with the permits above, are to be paid at $120.00 for each occurrence at the discretion of the fire code official.	
Cancelled inspections without advance notice are to be paid at $120.00 for each occurrence.	

Sec. 9.30.750. Operational permit fees.

107.2.2 is added as follows:

107.2.2 Operational permit fees. Operational permit fees shall be paid to the Santa Clara County Fire Department as follows:

	FACILITY TYPE	**PERMIT FEE**
1.	Institutional	
	A. More than 6 persons	$75.00 - Annually
	B. Over 50 persons	$100.00 - Annually
2.	Day Care Facilities	
	More than 6 clients	$35.00 - Annually
3.	Places of Assembly	
	A. 50-300 persons	$50.00 - Annually
	B. Over 300 persons	$85.00 - Annually
4.	Temporary Membrane Structures, Tents, and Canopies (Only those requiring permits in accordance with Section 105.6.47).	$85.00 – Each occurrence

Sec. 9.30.780. Final inspection.

108.5 is added as follows:

108.5 Final inspection. No final inspection as to all or any portion of a development shall be deemed completed until the installation of the required fire protection facilities and access ways have been completed and approved. No final certificate of occupancy may be granted until the Fire Department issues notice of final clearance of such fire protection facilities and access ways to the Building Department.

Sec. 9.30.785. Violations.

110.4 is deleted.

~~**[A] 110.4 Violation penalties.** Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a [SPECIFY OFFENSE], punishable by a fine of not more than [AMOUNT] dollars or by imprisonment not exceeding [NUM-BER OF DAYS], or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.~~

CHAPTER 2 DEFINITIONS

202 GENERAL DEFINITIONS

202 is amended to amend and add the following definitions:

CORROSIVE LIQUID. Corrosive liquid is:

1) any liquid which, when in contact with living tissue, will cause destruction or irreversible alteration of such tissue by chemical action; or
2) any liquid having a pH of 2 or less or 12.5 or more; or
3) any liquid classified as corrosive by the U.S. Department of Transportation; or
4) any material exhibiting the characteristics of corrosivity in accordance with Title 22, California Code of Regulations §66261.22.

HEALTH HAZARD – OTHER. A hazardous material which affects target organs of the body, including but not limited to, those materials which produce liver damage, kidney damage, damage to the nervous system, act on the blood to decrease hemoglobin function, deprive the body tissue of oxygen or affect reproductive capabilities, including mutations (chromosomal damage), sensitizers or teratogens (effect on fetuses).

LARGE-SCALE FIRE TESTING. Testing a representative energy storage system that induces a significant fire into the device under test and evaluates whether the fire will spread to adjacent energy storage system units, surrounding equipment, or through an adjacent fire-resistance-rated barrier.

MODERATELY TOXIC GAS. A chemical or substance that has a median lethal concentration (LC50) in air more than 2000 parts per million but not more than 5000 parts per million by volume of gas or vapor,

when administered by continuous inhalation for an hour, or less if death occurs within one hour, to albino rats weighing between 200 and 300 grams each.

SECONDARY CONTAINMENT. Secondary containment is that level of containment that is external to and separate from primary containment and is capable of safely and securely containing the material, without discharge, for a period of time reasonably necessary to ensure detection and remedy of the primary containment failure.

SPILL CONTROL. That level of containment that is external to and separate from the primary containment and is capable of safely and securely containing the contents of the largest container and prevents the materials from spreading to other parts of the room.

WORKSTATION. A defined space or an independent principal piece of equipment using ~~HPM within a fabrication area~~ flammable or unstable (Class 3 or 4 as ranked by NFPA 704) hazardous materials where a specific function, laboratory procedure or research activity occurs. Approved or listed hazardous materials storage cabinets, flammable liquid storage cabinets or gas cabinets serving a workstation are included as part of the workstation. A workstation is allowed to contain ventilation equipment, fire protection devices, detection devices, electrical devices and other processing and scientific equipment.

CHAPTER 5 FIRE SERVICE FEATURES

Amend Chapter 5 of the 2022 California Fire Code as follows:

SECTION 503 FIRE APPARATUS ACCESS ROADS

Section 503.1 is amended as follows:

503.1 Where required. Fire apparatus access roads shall be provided and maintained in accordance with Sections 503.1.1 through 503.1.3 and in accordance with the fire department's access standards**.**

Section 503.1.1 is amended as follows:

503.1.1 Buildings and facilities. Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements for this section and shall extend to within 150 feet (45 720 mm) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.

Exceptions:

~~1.The fire code official is authorized to increase the dimension of 150 feet (45 720 mm) where any of the following conditions occur:~~

~~1.1. The building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3.~~

~~1.2. Fire apparatus access roads cannot be installed because of location on property, topography, waterways, nonnegotiable grades or other similar conditions, and an approved alternative means of fire protection is provided.~~

~~1.3. There are not more than two Group R-3 or Group U occupancies.~~

~~2.Where approved by the fire code official, fire apparatus access roads shall be permitted to be exempted or modified for solar photovoltaic power generation facilities.~~

1. In other than R-3 or U occupancies, when the building is equipped throughout with an approved automatic sprinkler system, installed in accordance with Section 903.3.1.1 the dimension may be increased to a maximum of 300 feet when approved by the fire code official.

2. When there are not more than two Group R-3 or accessory Group U occupancies, the dimension may be increased to a maximum of 200 feet.

3. When apparatus roads cannot be installed because of topography, waterways, nonnegotiable grades or other similar conditions, an approved alternative means of fire protection shall be provided.

Section 503.2.1 is amended as follows:

503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm) for engines, and 26 feet (7925 mm) for aerial fire apparatus exclusive of shoulders, except for approved gates or barricades in accordance with Sections 503.5.1 and 503.6. ~~and an~~ The unobstructed vertical clearance shall be a minimum of 13 feet 6 inches (4115 mm), or as determined by the fire code official.

Exception: When there are not more than two residential parcels, having only Group R, Division 3, or Group U occupancy structures, the access road width may be modified by the fire code official.

Section 503.2.4 is amended as follows:

503.2.4 Turning radius. The required turning radius of a fire apparatus access road shall be ~~determined by the fire code official~~ a minimum of 30 feet (9144 mm) inside, and a minimum of 50 feet (15240 mm) outside.

Section 503.2.7 is amended as follows:

503.2.7 Grade. ~~The grade of the fire apparatus access road shall be within the limits established by the fire code official based on the fire department's apparatus.~~ The maximum grade of a fire department apparatus access road shall not exceed 15-percent, unless approved by the fire code official**.**

Section 503.5 is amended as follows:

503.5 Required gates or barricades. The fire code official is authorized to require the installation and maintenance of gates or other approved barricades across fire apparatus access roads, trails, or other accessways, not including the public streets, alleys, or highways. The minimum width for commercial applications is 20 feet (6096 mm), and 12 feet (4268 mm) for single-family dwellings. Electric gate operators, where provided shall be listed in accordance with UL 325. Gates intended for automatic operation shall be designed, constructed, and installed to comply with the requirements of ASTM F2200.

Section 503.6 is amended as follows:

503.6 Security gates. The installation of security gates across a fire apparatus access road shall be approved by the fire code official. Where security gates are installed, they shall have an approved means of emergency operation. The security gates and the emergency operation shall be maintained operational at all times. Electric gate operators, where provided, shall be listed in accordance with UL 325. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F2200. The minimum width for commercial applications is 20 feet (6096 mm), and 12 feet (4268 mm) for single-family dwellings.

SECTION 504 ACCESS TO BUILDING OPENINGS AND ROOFS

Section 504.5 is added to read:

504.5 Access Control Devices. When access control devices including bars, grates, gates, electric or magnetic locks or similar devices, which would inhibit rapid fire department emergency access to within and throughout the building, are installed, such devices shall be approved by the fire code official. All electrically powered access control devices shall be provided with an approved means for deactivation or unlocking from a single location or otherwise approved by the fire code official ~~or his/her designee~~. Access control devices must also comply with Chapter 10.

SECTION 505 PREMISES IDENTIFICATION

Section 505.1 is amended as follows:

505.1 Address identification. New and existing buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than ~~4~~ 6 inches (153 mm) high with a minimum stroke width of 1/2 inch (12.7 mm). Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address identification shall be maintained.

The following is a guideline for adequate address number dimensions:

- The number posted up to 49 feet from the public street shall be of one solid color which is contrasting to the background and be at least six (6) inches high with a half (½) inch stroke.

- The number posted from 50 to 100 feet from the public street shall be of one solid color which is contrasting to the background and be at least six (6) inches high with a one (1) inch stroke.

- The number posted over 100 to 199 feet from the public street shall be of one solid color which is contrasting to the background and be at least ten (10) inches high with a one and a half (1½) inch stroke.

- The number posted over 200 to 299 feet from the public street shall be of one solid color which is contrasting to the background and be at least ten (18) inches high with a one and a half (2) inch stroke.

- The number posted over 300 to 400 feet from the public street shall be of one solid color which is contrasting to the background and be at least ten (24) inches high with a one and a half (2½) inch stroke.

SECTION 510 EMERGENCY RESPONDER COMMUNICATION COVERAGE

Section 510.1 is amended as follows:

510.1 Emergency responder communication coverage in new buildings. ~~Approved in-building, two-way emergency responder communication coverage for emergency responders shall be provided in all new buildings. In-building, two-way emergency responder communication coverage within the building shall be based on the existing coverage levels of the public safety communication systems utilized by the jurisdiction, measured at the exterior of the building. This section shall not require improvement of the existing public safety communication systems.~~

Approved radio coverage for emergency responders shall be provided within all buildings meeting any one of the following conditions:

1. There are more than 3 stories above grade plane (as defined by the Building Code Section 202);

2. The total building area is 30,000 square feet or more;

3. The total basement area is 5,000 square feet or more;

4. Where required by the fire code official and radio coverage signal strength levels are not consistent with the minimum levels set forth in Section 510.4.1

Exceptions:

1. Where approved by the fire code official, a wired communication system in accordance with Section 907.2.13.2 shall be permitted to be installed or maintained in lieu of an approved radio

coverage system.

2. Where it is determined by the fire code official that the radio coverage system is not needed.

3. In facilities where emergency responder radio coverage is required and such systems, components or equipment required could have a negative impact on the normal operations of that facility, the fire code official shall have the authority to accept an automatically activated emergency responder radio coverage system.

4. Buildings and areas of buildings that have minimum radio coverage signal strength levels of the Silicon Valley Regional Interoperability Authority (SVRIA) P25 Phase 2 700 MHz Digital Trunked Radio System within the building in accordance with Section 510.4.1 without the use of an indoor radio coverage system.

The radio coverage system shall be installed and maintained in accordance with Sections 510.4 through 510.6.4 of this code and with the applicable provisions of NFPA 1221, Standard for the Installation, Maintenance and Use of Emergency Services Communications Systems.

The coverage shall be based upon the existing coverage levels of the public safety communication systems of the jurisdiction at the exterior of the building. This section shall not require improvement of the existing public safety communication systems.

Section 510.1.1 is added as follows:

510.1.1 Obstruction by new buildings. No obstruction of the public safety system backhaul shall be allowed without an approved mitigating plan.

Section 510.3 is amended as follows:

510.3 Permit required. A construction permit, for the installation of, or modification of, emergency responder radio coverage systems and related equipment is required as specified in Section 105.6.4. Maintenance performed in accordance with this code is not considered a modification and does not require a permit. A frequency change made to an existing system is considered to be new construction and will require a construction permit.

Section 510.4 is amended as follows:

510.4 Technical requirements. Equipment required to provide in-building, two-way emergency responder communication coverage shall be listed in accordance with UL 2524. Systems, components and equipment required to provide the emergency responder radio coverage system shall comply with Sections 510.4.1 through 510.4.2.8 and the current Emergency Responders Radio Coverage Systems Standard Details & Specification enforced by the Santa Clara County Fire Department.

Section 510.4.1.1 is amended as follows:

510.4.1.1 Minimum signal strength into the building. The minimum inbound signal strength shall be sufficient to provide usable voice communications throughout the coverage area as specified by the fire code official. The inbound signal level shall be ~~a minimum of -95dBm throughout the coverage area and~~ sufficient to provide not less than a Delivered Audio Quality (DAQ) of 3.0 for analog communications and DAQ of 3.4 for digital communications systems or an equivalent Signal-to-Interference-Plus-Noise Ratio (SINR) applicable to the technology.

Section 510.4.1.2 is amended as follows:

510.4.1.2 Minimum signal strength out of the building. The minimum outbound signal strength shall be sufficient to provide usable voice communications throughout the coverage area as specified by the fire code official. The outbound signal level shall be sufficient to provide not less than a DAQ of 3.0 for analog communications and DAQ of 3.4 for digital communications systems or an equivalent SINR applicable to the technology.

Section 510.5 is amended as follows:

510.5 Installation requirement. The installation of the emergency responder radio coverage system shall be in accordance with NFPA 1221 and the current Emergency Responder Radio Coverage Systems Standard Details & Specification enforced by the Santa Clara County Fire Department.

Section 510.5.2 is amended as follows:

510.5.2 Approval prior to installation. Amplification systems capable of operating on frequencies licensed to any public safety agency by the FCC or other radio licensing authority shall not be installed without prior coordination and approval of the fire code official and the agency FCC license holder or systems administrator.

Section 510.5.4 is amended as follows:

510.5.4 Acceptance test procedure. Where an emergency responder radio coverage system is required, and upon completion of installation, the building owner shall have the radio system tested to verify that two-way coverage on each floor of the building is not less than 95 percent. Final system acceptance will require ERRCS power level and DAQ testing with agency FCC license holder, systems administrators, or designee.

~~1.Each floor of the building shall be divided into a grid of 20 approximately equal test areas.~~
~~2.The test shall be conducted using a calibrated portable radio of the latest brand and model used by the agency talking through the agency's radio communications system or equipment approved by the fire code official.~~
~~3.Failure of more than one test area shall result in failure of the test.~~
~~4.In the event that two of the test areas fail the test, in order to be more statistically accurate, the floor shall be permitted to be divided into 40 equal test areas. Failure of not more than two nonadjacent test areas shall not result in failure of the test. If the system fails the 40-area test, the system shall be altered to meet the 95-percent coverage requirement.~~

~~5.A test location approximately in the center of each test area shall be selected for the test, with the radio enabled to verify two-way communications to and from the outside of the building through the public agency's radio communications system. Once the test location has been selected, that location shall represent the entire test area. Failure in the selected test location shall be considered to be a failure of that test area. Additional test locations shall not be permitted.~~
~~6.The gain values of all amplifiers shall be measured and the test measurement results shall be kept on file with the building owner so that the measurements can be verified during annual tests. In the event that the measurement results become lost, the building owner shall be required to rerun the acceptance test to reestablish the gain values.~~
~~7.As part of the installation, a spectrum analyzer or other suitable test equipment shall be utilized to ensure spurious oscillations are not being generated by the subject signal booster. This test shall be conducted at the time of installation and at subsequent annual inspections.~~
~~8.Systems shall be tested using two portable radios simultaneously conducting subjective voice quality checks. One portable radio shall be positioned not greater than 10 feet (3048 mm) from the indoor antenna. The second portable radio shall be positioned at a distance that represents the farthest distance from any indoor antenna. With both portable radios simultaneously keyed up on different frequencies within the same band, subjective audio testing shall be conducted and comply with DAQ levels as specified in Sections 510.4.1.1 and 510.4.1.2.~~

CHAPTER 6 BUILDING SERVICES AND SYSTEMS

Amend Chapter 6 of the 2022 California Fire Code as follows:

SECTION 603 ELECTRICAL EQUIPMENT, WIRING AND HAZARDS

Section 603.11 is added to read:

603.11 Immersion Heaters. All electrical immersion heaters used in dip tanks, sinks, vats and similar operations shall be provided with approved over-temperature controls and low liquid level electrical disconnects. Manual reset of required protection devices shall be provided.

SECTION 605 FUEL-FIRED APPLIANCES

Section 605.5 is amended as follows:

605.5 Portable unvented heaters. Portable unvented fuel-fired heating equipment shall be prohibited in occupancies in Groups A, B, E, I, R-1, R-2, R2.1, R2.2, R-3, R3.1 and R-4 and ambulatory care facilities.

Exceptions:

1. Portable unvented fuel-fired heaters listed in accordance with UL 647 are permitted to be used in one and two-family dwellings, where operated and maintained in accordance with the manufacturer's instructions.

2. Portable outdoor gas-fired heating appliances in accordance with Section 605.5.2.

Section 605.5.2.1.1 is amended as follows:

605.5.2.1.1 Prohibited locations. The storage or use of portable outdoor gas-fired heating appliances is prohibited in any of the following locations:

1. Inside of any occupancy where connected to the fuel gas container.
2. Inside of tents, canopies and membrane structures.
3. On exterior balconies, and rooftops.

~~Exception: As permitted in Chapter 61.~~

CHAPTER 7 FIRE AND SMOKE PROTECTION FEATURES

Amend Chapter 7 of the 2022 California Fire Code as follows:

SECTION 703 PENETRATIONS

Section 703.3 is added to read:

703.3 Fire-resistant penetrations and joints. In high-rise buildings, in buildings assigned to Risk Category III or IV, or in fire areas containing Group R occupancies with an occupant load greater than 100, and other occupancies as determined necessary special inspections for through-penetrations, membrane penetration firestops, fire resistant joint systems and perimeter fire containment systems that are tested and listed in accordance with CBC Sections 714.4.1.2, 714.5.1.2, 715.3.1 and 715.4 shall be in accordance with Section 1705.18.1 or 1705.18.2.

CHAPTER 9 FIRE PROTECTON AND LIFE SAFETY SYSTEMS

Amend Chapter 9 of the 2022 California Fire Code as follows:

SECTION 901 GENERAL

Section 901.6.2 is amended to read:

901.6.2 Integrated testing. Where two or more fire protection or life safety systems are interconnected, the intended response of subordinate fire protection and life safety systems shall be verified when required testing of the initiating system is conducted. In addition, integrated testing shall be performed in accordance with Sections 901.6.2.1 and 901.6.2.2.

901.6.2.1 High-rise buildings. For high-rise buildings, integrated testing shall comply with NFPA 4, with an integrated test performed prior to issuance of the certificate of occupancy and at intervals not exceeding 10 years, unless otherwise specified by an integrated system test plan prepared in accordance with NFPA 4. If an equipment failure is detected during integrated

testing, a repeat of the integrated test shall not be required, except as necessary to verify operation of fire protection or life safety functions that are initiated by equipment that was repaired or replaced. For existing buildings, the testing timeframe shall be specified by the integrated systems test plan prepared in accordance with NFPA 4 as approved by the fire code official.

901.6.2.2 Smoke control systems. Where a fire alarm system is integrated with a smoke control system as outlined in Section 909, integrated testing shall comply with NFPA 4, with an integrated test performed prior to issuance of the certificate of occupancy and at intervals not exceeding 10 years, unless otherwise specified by an integrated system test plan prepared in accordance with NFPA 4. If an equipment failure is detected during integrated testing, a repeat of the integrated test shall not be required, except as necessary to verify operation of fire protection or life safety functions that are initiated by equipment that was repaired or replaced. For existing buildings, the testing timeframe shall be specified by the integrated systems test plan prepared in accordance with NFPA 4 as approved by the fire code official.

Section 901.6.3 is amended to read:

901.6.3 Records Information. Records of all system inspections, tests and maintenance required by the referenced standard shall be maintained on the premises for a minimum of five years. ~~Inspections and tests performed on fire alarm systems shall be documented on NFPA 72 forms.~~ See 907.7 & 907.8 for fire alarm system inspection, testing and maintenance documentation requirements.

SECTION 903 AUTOMATIC SPRINKLER SYSTEMS

Section 903.2 is amended to read:

903.2 Where required. Approved automatic sprinkler systems in new and existing buildings and structures shall be provided in the locations described in this Section or in Sections 903.2.1 through 903.2.12 whichever is the more restrictive and Sections 903.2.14 through 903.2.21.

For the purposes of this section, firewalls and fire barriers used to separate building areas shall be constructed in accordance with the California Building Code and shall be without openings or penetrations.

1. An automatic sprinkler system shall be provided throughout all new buildings and structures, other than Group R occupancies, except as follows:
    a. Buildings and structures not located in any Wildland-Urban Interface and not exceeding 1,200 square feet of fire area.
    b. Buildings and structures located in any Wildland-Urban Interface Fire Area and not exceeding 500 square feet of fire area.
    c. Group S-2 or U occupancies, including photovoltaic support structures, used exclusively for vehicle parking which meet all of the following:
        i. Noncombustible construction.

ii. Maximum 5,000 square feet in building area.

iii. Structure is open on not less than three (3) sides nor 75% of structure perimeter.

iv. Minimum of 10 feet separation from existing buildings, or similar structures, unless area is separated by fire walls complying with California Building Code 706.

d. Canopies, constructed in accordance with CBC 406.7.2, used exclusively for weather protection of vehicle fueling pads per CBC 406.7.1 and not exceeding 5,000 square feet of fire area.

2. An automatic sprinkler system shall be installed throughout all new buildings with a Group R fire area.

Exception: Accessory Dwelling Unit, provided that all of the following are met:

a. The unit meets the definition of an Accessory Dwelling Unit as defined in the Government Code Section 65852.2.

b. The existing primary residence does not have automatic fire sprinklers.

c. The accessory dwelling unit does not exceed 1,200 square feet in size.

d. The unit is on the same lot as the primary residence.

e. The unit meets all apparatus access and water supply requirements of Chapter 5 and Appendix B of the 2022 California Fire Code.

3. An approved automatic fire sprinkler system shall be installed in new manufactured homes (as defined in California Health and Safety Code Sections 18007 and 18009) and multifamily manufactured homes with two dwelling units (as defined in California Health and Safety Code Section 18008.7) in accordance with Title 25 of the California Code of Regulations.

4. An automatic sprinkler system shall be installed throughout existing buildings with a Group R fire area when additions are made causing the fire area to exceed 3,600 square feet.

Exception: Additions where all of the following are met:

a. Building addition does not exceed 500 square feet.
b. The resultant structure meets all water supply requirements of Chapter 5 and Appendix B of the 2022 California Fire Code.

5. An automatic sprinkler system shall be provided throughout existing Group A, B, E, F, L, M, S and U buildings and structures, when additions are made that increase the fire area to more than 3,600 square feet or that create conditions described in Sections 903.2.1 through 903.2.18.

6. Any change in the character of occupancy or in use of any building with a fire area equal to or greater than 3,600 square feet which, in the opinion of the fire code official or building official, would place the building into a more hazardous division of the same occupancy group or into a different group of occupancies and constitutes a greater degree of life safety[1] or increased fire risk[2], shall require the installation of an approved fire automatic fire sprinkler system.

[1] Life Safety – Shall include, but not limited to: Increased occupant load, public assembly areas, public meeting areas, churches, indoor amusement attractions, buildings with complex exiting

systems due to increased occupant loads, large schools/day-care facilities, large residential care facilities housing non-ambulatory clients.

[2] Fire Risks – Shall include, but not limited to: High-piled combustible storage, woodworking operations, hazardous operations using hazardous materials, increased fuel loads (storage of moderate to highly combustible materials), increased sources of ignition (welding, automotive repair with the use of flammable liquids and open flames).

Section 903.2.11.7 is added to read:

903.2.11.7 Chemical Fume Hood Fire Protection.
Approved automatic fire extinguishing systems shall be provided in chemical fume hoods in the following cases:

1. Existing hoods having interiors with a flame spread index greater than 25 in which flammable liquids are handled.
2. If a hazard assessment determines that an automatic extinguishing system is required for the chemical fume hood, then the applicable automatic fire protection system standard shall be followed.

SECTION 907 FIRE ALARM AND DETECTION SYSTEMS

Section 907.8 is amended to read:

907.8 Inspection, testing and maintenance. The maintenance and testing schedules and procedures for fire alarm and fire detection systems shall be in accordance with Sections 907.8.1 through 907.8.4 and NFPA 72. *Records of inspection, testing and maintenance shall be* documented using NFPA 72 record of inspection and testing forms.

SECTION 909 SMOKE CONTROL SYSTEMS

Section 909.22.1 is amended to read:

909.22.1 Schedule. A routine maintenance and operational testing program shall be initiated immediately after the smoke control system has passed the acceptance tests. A written schedule for routine maintenance and operational testing shall be established and operational testing must occur at least annually.

CHAPTER 12 ENERGY SYSTEMS

Amend Chapter 12 of the 2022 California Fire Code as follows:

SECTION 1202 DEFINITIONS

Section 1202.1.1 is amended to read:

1202.1 Definitions. The following terms are defined in Chapter 2:

BATTERY SYSTEM, STATIONARY STORAGE.
BATTERY TYPES.
CAPACITOR ENERGY STORAGE SYSTEM.
CRITICAL CIRCUIT.
EMERGENCY POWER SYSTEM.
ENERGY STORAGE MANAGEMENT SYSTEMS.
ENERGY STORAGE SYSTEM (ESS).
ENERGY STORAGE SYSTEM, ELECTROCHEMICAL.
ENERGY STORAGE SYSTEM, MOBILE.
ENERGY STORAGE SYSTEM, WALK-IN UNIT.
ENERGY STORAGE SYSTEM CABINET.
ENERGY STORAGE SYSTEM COMMISSIONING.
ENERGY STORAGE SYSTEM DECOMMISSIONING.
FUEL CELL POWER SYSTEM, STATIONARY.
LARGE-SCALE FIRE TESTING
PORTABLE GENERATOR.
STANDBY POWER SYSTEM.

SECTION 1207 ELECTRICAL ENERGY STORAGE SYSTEMS (ESS)

ELECTRICAL ENERGY STORAGE SYSTEMS (ESS)

Section 1207.1.5 is amended to read:

1207.1.5 Large-scale fire test. Where required elsewhere in Section 1207, large-scale fire testing shall be conducted in accordance with NFPA 855, and UL 9540A. The testing shall be conducted or witnessed and reported by an approved testing laboratory and show that a fire involving one ESS will not propagate to an adjacent ESS, and where installed within buildings, enclosed areas and walk-in units will be contained within the room, enclosed area or walk-in unit for a duration equal to the fire-resistance rating of the room separation specified in Section 1207.7.4. The test report shall be provided to the fire code official for review and approval in accordance with Section 104.8.2.

Section 1207.2.2.1 is amended to read:

1207.2.2.1 Ongoing inspection and testing. Systems that monitor and protect the ESS installation shall be inspected and tested in accordance with the manufacturer's instructions and the operation and maintenance manual. Inspection and testing records shall be maintained in the operation and maintenance manual and made available to the fire code official upon request.

Section 1207.5.2 is amended to read:

1207.5.2 Maximum allowable quantities. Fire areas within rooms, areas and walk-in units containing electrochemical ESS shall not exceed the maximum allowable quantities in Table 1207.5. The allowable number of fire areas, maximum allowable quantity, and fire-resistance rating of fire-barriers shall comply with Table 1207.5.1.

Exceptions:
Where approved by the fire code official, rooms, areas and walk-in units containing electrochemical ESS that exceed the amounts in Table 1207.5 shall be permitted based on a hazardous mitigation analysis in accordance with Section 1207.1.4 and large-scale fire testing complying with Section 1207.1.5.

1. Lead-acid and nickel-cadmium battery systems installed in facilities under the exclusive control of communications utilities and operating at less than 50 VAC and 60 VDC in accordance with NFPA 76.

2. Dedicated-use buildings in compliance with Section 1207.7.1.

TABLE 1207.5.1
DESIGN AND NUMBER OF ESS FIRE AREAS

STORY		PERCENTAGE OF MAXIMUM ALLOWABLE QUANTITY PER FIRE AREA	NUMBER OF FIRE AREAS PER STORY	FIRE-RESISTANCE RATING FOR FIRE BARRIERS IN HOURS
Above grade plan	Higher than 9	25	1	3
	7-9	50	2	2
	6	50	2	2
	5	50	2	2
	4	75	4	2
	3	100	6	2
	2	100	6	2
	1	100	6	2
Below grade plan	1	100	4	3
	2	50	2	3
	Lower than 2	Not Allowed	Not Allowed	Not Allowed

Section 1207.5.5 is amended to read:

1207.5.5 Fire suppression systems. Rooms and areas within buildings and walk-in units containing electrochemical ESS shall be protected by an automatic fire suppression system designed and installed in accordance with one of the following:

1. An automatic sprinkler system designed and installed in accordance with Section 903.3.1.1 with a minimum density of 0.3 gpm/ft2 (1.14 L/min) based on the fire area or 2,500 square-foot (232 m2) design area, whichever is larger.

2. Where approved, an automatic sprinkler system designed and installed in accordance with Section 903.3.1.1 with a sprinkler hazard classification based on large-scale fire testing complying with Section 1207.1.5.

3. The following alternative automatic fire-extinguishing systems designed and installed in accordance with Section 904, provided that the installation is approved by the fire code official based on large-scale fire testing complying with Section 1207.1.5:

   3.1. NFPA 12, *Standard on Carbon Dioxide Extinguishing Systems*.

   3.2. NFPA 15, *Standard for Water Spray Fixed Systems for Fire Protection*.

   3.3. NFPA 750, *Standard on Water Mist Fire Protection Systems*.

   3.4. NFPA 2001, *Standard on Clean Agent Fire-Extinguishing Systems*.

   3.5. NFPA 2010, *Standard for Fixed Aerosol Fire-Extinguishing Systems*.

   Exception: Fire suppression systems for lead-acid and nickel-cadmium battery systems at facilities under the exclusive control of communications utilities that operate at less than 50 VAC and 60 VDC shall be provided where required by NFPA 76.

Section 1207.11.3 is amended to read:

1207.11.3 Location. ESS shall be installed only in the following locations:

1. Detached garages and detached accessory structures.

2. Attached garages separated from the dwelling unit living space and sleeping units in accordance with Section R302.6.

3. Outdoors or on the exterior side of the exterior walls not less than 3 feet (914 mm) from doors and windows directly entering the dwelling unit and not below or above any emergency escape and rescue openings.

4. Enclosed utility closets, basements, storage or utility spaces within dwelling units with finished or noncombustible walls and ceilings. Walls and ceilings of unfinished wood-framed construction shall be provided with not less than 5/8-inch (15.9 mm) Type X gypsum wallboard.

5. ESS shall not be installed in sleeping rooms, closets, spaces opening directly into sleeping rooms or in habitable spaces of dwelling units.

Section 1207.11.6 is amended to read:

1207.11.6 Fire detection. ESS installed in Group R-3 and R-4 occupancies shall comply with the following:

1. Rooms and areas within dwellings units, sleeping units, basements and attached garages in which ESS are installed shall be protected by smoke alarms in accordance with Section 907.2.11.

2. A listed heat alarm interconnected to the smoke alarms shall be installed in locations within dwelling units, sleeping units and attached garages where smoke alarms cannot be installed based on their listing.

   Exceptions:
   1. A listed heat detector may be used in place of a heat alarm, so long as it is interconnected with devices that provide an audible alarm at all sleeping areas.

   2. A fire sprinkler associated with an approved automatic sprinkler system that triggers an audible alarm upon activation of the waterflow switch, may be used in place of a heat alarm.

CHAPTER 33 FIRE SAFETY DURING CONSTRUCTION AND DEMOLITION

Amend Chapter 33 of the 2022 California Fire Code as follows:

SECTION 3305 PRECAUTIONS AGAINST FIRE

Section 3305.5 is amended as follows:

3305.5 Fire watch. Where required by the fire code official or the site safety plan established in accordance with Section 3303.1, a fire watch shall be provided for building demolition and for building construction. Fire watch is not intended to facilitate occupancy during ongoing construction in a new building.

Section 3305.10 is added to read:

3305.10 Fire Walls. When firewalls are required in combustible construction, the wall construction shall be completed (with all openings protected) immediately after the building is sufficiently weather-protected at the location of the wall(s).

SECTION 3311 ACCESS FOR FIRE FIGHTING

Section 3311.1 is added to read:

3311.1 Required access. Approved vehicle access for firefighting shall be provided to all construction or demolition sites. Vehicle access shall be provided to within 100 feet (30 480 mm) of temporary or permanent fire department connections. Vehicle access shall be provided by either temporary or permanent roads, capable of supporting vehicle loading under all weather conditions. Vehicle access shall be maintained until permanent fire apparatus access roads are available.

Section 3311.1.1 is added to read:

3311.1.1 Fire Department Access Roadways: All construction sites shall be accessible by fire department apparatus by means of roadways having an all-weather driving service of not less than 20ft. of unobstructed width. The roads shall have the ability to withstand the live loads of fire apparatus, and have a minimum 13ft. 6 in. of vertical clearance. Dead end fire access roads in excess of 150 ft. in length shall be provided with approved turnarounds.

When approved by the Fire Code Official, temporary access roadways may be utilized until such time that the permanent roadways are installed. As a minimum, the roadway shall consist of a compacted sub base and six (6) inches of road base material (Class 2 aggregate base rock) both compacted to a minimum 95% and sealed. The perimeter edges of the roadway shall be contained and delineated by curb and gutter or other approved method. The use of geotextile reinforcing fabric underlayment or soils lime-treatment may be required if so determined by the project civil engineer. Provisions for surface drainage shall also be provided where necessary. The integrity of the roadway shall be maintained at all times.

SECTION 3312 MEANS OF EGRESS

Section 3312.1 is amended as follows:

3312.1 Stairways Required. Each level above the first story in multi-story buildings that require two exit stairways shall be provided with at least two usable exit stairways after the floor decking is installed. The stairways shall be continuous and discharge to grade level. Stairways serving more than two floor levels shall be enclosed (with openings adequately protected) after exterior walls/windows are in place. Exit stairs in new and in existing, occupied buildings shall be lighted and maintained clear of debris and construction materials at all times.

> **Exception:** For multi-story buildings, one of the required exit stairs may be obstructed on not more than two contiguous floor levels for the purposes of stairway construction (i.e., installation of gypsum board, painting, flooring, etc.).

Section 3312.4 is added to read:

Section 3312.4 Required Means of Egress. All buildings under construction shall have at least one unobstructed means of egress. All means of egress shall be identified in the written fire safety plan as required by Section 3303.1.

SECTION 3315 AUTOMATIC FIRE SPRINKLER SYSTEM

Section 3315.1 is amended to read:

3315.1 Completion before occupancy. In buildings where an automatic sprinkler system is required by this code or the California Building Code, it shall be unlawful to occupy any portion of a building or structure until the automatic sprinkler system installation has been tested and approved~~, except as provided in Section 105.3.4~~.

In new buildings of combustible construction where, automatic fire sprinkler systems are required to be installed, the system shall be placed in service as soon as possible. Immediately upon the completion of sprinkler pipe installation on each floor level, the piping shall be hydrostatically tested and inspected. After inspection approval from the Fire department, each floor level of sprinkler piping shall be connected to the system supply riser and placed into service with all sprinkler heads uncovered. Protective caps may be installed on the active sprinklers during the installation of drywall, texturing and painting, but shall be removed immediately after this work is completed. For system activation notification, an exterior audible waterflow alarm shall be installed and connected to the sprinkler waterflow device prior to installation of the monitoring system.

For buildings equipped with fire sprinkler systems that are undergoing alterations, the sprinkler system(s) shall remain in service at all times except when system modifications are necessary. Fire sprinkler systems undergoing modifications shall be returned to service at the end of each workday unless otherwise approved by the fire department. The General contractor or his/her designee shall check the sprinkler control valve(s) at the end of each workday to confirm that the system has been restored to service.

CHAPTER 49 REQUIREMENTS FOR WILDLAND-URBAN INTERFACE FIRE AREAS

Amend Chapter 49 of the 2022 California Fire Code as follows:

SECTION 4901 GENERAL

Section 4901.3 is added to read:

4901.3 Where applicable.
These requirements shall apply to all areas within the Town of Los Gatos as set forth and delineated on the map entitled "Wildland-Urban Interface Fire Area" which map and all notations, references, data and other information shown thereon are hereby adopted and made a part of this Chapter. The map properly attested, shall be on file in the Office of the Town Clerk of the Town Los Gatos.

Section 4901.4 is added to read:

4901.4 Exemptions.
These requirements shall not apply to any land or water area acquired or managed for one or more of the following purposes or uses:

1. Habitat for endangered or threatened species, or any species that is a candidate for listing as an endangered or threatened species by the state or federal government.
2. Lands kept in a predominantly natural state as habitat for wildlife, plant, or animal communities.
3. Open space lands that are environmentally sensitive parklands.
4. Other lands having scenic values, as declared by the local agency, or by state or federal law.

SECTION 4902 DEFINITIONS

Section 4902 Definitions are hereby added/amended to read as follows:

Defensible Space. An area around the perimeter of a structure in which vegetation, debris, and other types of combustible fuels are treated, cleared, or reduced to slow the rate and intensity of potentially approaching wildfire or fire escaping from structure(s).

Reduced Fuel Zone. In this area of the defensible space, efforts are placed on ensuring fuels/vegetation are separated vertically and horizontally depending on the vegetation type.

Wildland-Urban Interface. A geographical area identified by the state as a " Fire Hazard Severity Zone" in accordance with the Public Resources Code Sections 4201 through 4204 and Government Code Sections 51175 through 51189, or other areas designated by the enforcing agency to be at a significant risk from wildfires. The Wildland-Urban Interface Fire Area shall be defined as all areas within the Town of Los Gats as set forth and delineated on the map entitled "Wildland-Urban Interface Fire Area" which map and all notations, references, data and other information shown thereon are hereby adopted and made a part of this chapter. The map properly attested, shall be on file in the Office of the Town Clerk of the Town of Los Gatos.

SECTION 4906 VEGETATION MANAGEMENT

Section 4906.1.1 is added to read:

4906.1.1 Hazardous vegetation and fuels shall be managed to reduce the severity of potential exterior wildfire exposure to buildings, to reduce the risk of fire spreading to buildings, and provide for safe access for emergency wildland fire equipment and civilian evacuation concurrently, as required by applicable laws and standards.

Section 4906.1.2 is added to read:

4906.1.2 Maintenance required.
Maintenance is required to ensure conformance with these standards and measures, and to assure continued availability, access, and utilization, of the defensible space during a wildfire.

Section 4906.1.3 is added to read:

4906.1.3 Additional measures.
No person subject to these regulations shall permit any fire hazard, as defined in this chapter, to exist on premises under their control, or fail to take immediate action to abate a fire hazard when requested to do so by the enforcing agency.

Section 4906.1.4 is added to read:

4906.1.4 Exemption.
For the purposes of this chapter, vegetation removal or management, undertaken in whole or in part, for fire prevention or suppression purposes shall not be deemed to alter the natural condition of public property.

Section 4906.2 is amended to read:

4906.2 Application. All new planting of vegetation in State Responsibility Areas (SRA) and Local Responsibility Areas (LRA) designated as a Very High Fire Hazard Severity Zone or as a Wildland Urban Interface Fire Area by the Town of Los Gatos shall comply with Section 4906.3 through 4906.5.3.

SECTION 4907 DEFENSIBLE SPACE

Section 4907.1 is amended to read:

4907.1 General. Hazardous vegetation and fuels shall be managed to reduce the severity of potential exterior wildfire exposure to buildings and to reduce the risk of fire spreading to buildings as required by applicable laws and regulations.

Defensible space will be managed around all buildings and structures in State Responsibility Areas (SRA) as required in Public Resources Code 4291.

Persons owning, leasing, controlling, operating, or maintaining buildings or structures, and/or lands in, upon, or adjoining the locally adopted Wildland-Urban Interface Fire Area, shall at all times comply with the following:

1. Maintain defensible space of 100 feet from each side and from the front and rear of any building or structure, but not beyond the property line except as provided by law. The 100 feet of defensible space should be segregated into the following zones:
    a. Maintain an effective defensible space by removing and clearing away flammable vegetation and other combustible materials from areas within 30 feet of such buildings or structures.

        Exception: When approved by the Fire Chief or his/her designee, single specimens of trees, ornamental shrubbery or similar plants used as ground

covers, provided that they do not form a means of rapidly transmitting fire from the native growth to any structure.

b. Maintain an additional reduced fuel zone of 70 feet from all buildings and structures with an emphasis on vertical and horizontal separation of fuels/vegetation. Distances beyond an additional 70 feet may be required when the Fire Chief or his/her designee, determines that due to steepness of terrain or other conditions, 70 additional feet is insufficient.

Exception: When approved by the Fire Chief or his/her designee grass and other vegetation located more than 30 feet from buildings or structures and less than 18 inches in height above the ground need not be removed where necessary to stabilize the soil and prevent erosion.

c. New construction must create a noncombustible area a minimum of 5 feet from structures.

2. Remove portions of trees, which extend within 10 feet of the outlet of any chimney or stovepipe.
3. Maintain any tree, shrub, or other plant adjacent to or overhanging any building or structure free of dead limbs, branches or other combustible material.
4. Maintain the roof of any structure and roof gutters free of leaves, needles, or other combustible materials.
5. Maintain defensible space as determined by the Fire Chief or his/her designee around water tank structures, water supply pumps, and pump houses.
6. Remove flammable vegetation a minimum of 10 feet around liquefied petroleum gas tanks/containers.
7. Firewood and combustible materials shall not be stored in unenclosed spaces beneath buildings or structures, or on decks or under eaves, canopies or other projections or overhangs. The storage of firewood and combustible material within the defensible space shall be located a minimum of 30 feet from structures and separated from the crown of trees by a minimum horizontal distance of 15 feet.

   Exception: Firewood and combustible materials not for consumption on the premises shall be stored as approved by the Fire Chief or his/her designee.
8. Clear areas within 10 feet of fire apparatus access roads and driveways of non- fire-resistive vegetation growth.

   Exception: Single specimens of trees, ornamental vegetative fuels or cultivated ground cover, such as green grass, ivy, succulents, or similar plants used as ground cover, provided they do not form a means of readily transmitting fire.

Section 4901.1.1 is added to read:

4907.1.1 Defensible space along property lines. Pursuant to Government Code Section 51182 and Public Resources Code Section 4291(a)(2):

1. When an occupied building is less than 100 feet from a property line and combustible vegetation on an adjacent parcel presents a fire hazard for the occupied building as determined by the Fire Chief or his/her designee then the owner of the adjacent parcel where the hazard exists shall be responsible for fuel management, including removal to the satisfaction of the Fire Chief or his/her designee.

Section 4907.3 is amended to read:

4907.3 Requirements. Hazardous vegetation and fuels around all buildings, roads, driveways, and structures shall be maintained in accordance with the following laws and regulations:

1. Public Resources Code, Sections 4291 through 4296.

2. California Code of Regulations, Title 14, Division 1.5, Chapter 7, Subchapter 3, Article 3, Section 1299.03.

3. California Government Code, Sections 51175 - 51189.

4. California Code of Regulations, Title 19, Division 1, Chapter 7, Subchapter 1, Section 3.07.

5. Any local ordinance of the Town of Los Gatos.

Section 4907.4 is added to read:

4907.4 Corrective actions. When the Fire Chief or his/her designee determines defensible space to be inadequate the Town Council is authorized to instruct the Fire Chief or his/her designee to give notice to the owner of the property upon which conditions regulated by this Section exist to correct such conditions. If the owner fails to correct such conditions, the Town Council is authorized to cause the same to be done and make the expense of such correction a lien upon the property where such conditions exist.

Section 4911 is added to read:

SECTION 4911 WATER SUPPLY

4911.1 General. Buildings and structures, or portions thereof, hereafter constructed or relocated into or within the Wildland-Urban Interface Fire Area shall be provided with fire protection water supplies in accordance with Chapter 5 and Appendix B, as adopted.

Exception:

Buildings containing only private garages, carports, sheds and agricultural buildings with a building area of not more than 500 square feet (56 m2).

4911.2 Standby power. Standby power shall be provided to pumps, controllers and related electrical equipment so that stationary water supply facilities within the wildland-urban interface area that are dependent on electrical power can provide the required water supply. The standby power system shall be in accordance with the Electrical Code. The standby power source shall be capable of providing power for a minimum of two hours.

Exceptions:

1. When approved by the code official, a standby power supply is not required where the primary power service to the stationary water supply facility is

underground.

2. A standby power supply is not required where the stationary water supply facility serves no more than one single-family dwelling.

Section 4912 is added to read:

SECTION 4912 IGNITION SOURCE CONTROL

4912.1 Fireworks. Fireworks shall not be used or possessed in the Wildland-Urban Interface Fire Area.

Chapter 50 HAZARDOUS MATERIALS-GENERAL PROVISIONS

Amend Chapter 50 of the 2022 California Fire Code as follows:

SECTION 5001 GENERAL

Section 5001.2.2.2 is amended to read:

5001.2.2.2 Health Hazards The material categories listed in this section are classified as health hazards. A material with a primary classification as a health hazard can also pose a physical hazard.

1. Highly toxic and toxic materials.
2. Corrosive materials.
3. Moderately toxic gas.
4. Health hazards - Other.

SECTION 5002 DEFINITIONS

Section 5002.1 is amended to read:

5002.1 Definitions. The following terms are defined in Chapter 2:

BOILING POINT.
CEILING LIMIT.
CHEMICAL.
CHEMICAL NAME.
CLOSED CONTAINER.
CONTAINER.
CONTROL AREA.
CYLINDER.
DAY BOX.
DEFLAGRATION.
DESIGN PRESSURE.
DETACHED BUILDING.

DISPENSING.
EXCESS FLOW CONTROL.
EXHAUSTED ENCLOSURE.
EXPLOSION.
FLAMMABLE VAPORS OR FUMES.
GAS CABINET.
GAS ROOM.
HANDLING.
HAZARDOUS MATERIALS.
HEALTH HAZARD.
HEALTH HAZARD – OTHER.
IMMEDIATELY DANGEROUS TO LIFE AND HEALTH (IDLH).
INCOMPATIBLE MATERIALS.
LIQUID.
LOWER EXPLOSIVE LIMIT (LEL).
LOWER FLAMMABLE LIMIT (LFL).
MAXIMUM ALLOWABLE QUANTITY PER CONTROL AREA.
MODERATELY TOXIC GAS.
NORMAL TEMPERATURE AND PRESSURE (NTP).
OUTDOOR CONTROL AREA.
PERMISSIBLE EXPOSURE LIMIT (PEL).
PESTICIDE.
PHYSICAL HAZARD.
PRESSURE VESSEL.
SAFETY CAN.
SAFETY DATA SHEET (SDS).
SECONDARY CONTAINMENT.
SEGREGATED.
SOLID.
SPILL CONTROL.
STORAGE, HAZARDOUS MATERIALS.
SYSTEM.
TANK, ATMOSPHERIC.
TANK, PORTABLE.
TANK, STATIONARY.
TANK VEHICLE.
UNAUTHORIZED DISCHARGE.
USE (MATERIAL).
VAPOR PRESSURE.

SECTION 5003 GENERAL REQUIREMENTS

Section 5003.1.3.1 is added to read:

5003.1.3.1 Toxic, Highly Toxic, Moderately Toxic Gases and Similarly Used or Handled Materials. The storage, use and handling of toxic, highly toxic and moderately toxic gases in amounts exceeding Table 6004.2.1.4 shall be in accordance with this chapter and Chapter 60. Any toxic, highly toxic or moderately toxic material that is used or handled as a gas or vapor shall be in accordance with the requirements for toxic, highly toxic or moderately toxic gases.

Section 5003.1.5 is added to read:

5003.1.5 Health Hazards - Other. The storage, use and handling of materials classified as other health hazards including carcinogens, irritants and sensitizers in amounts exceeding 810 cubic feet for gases, 55 gallons for liquids and 5,000 pounds for solids shall be in accordance with Section 5003.

Section 5003.1.6 is added to read:

5003.1.6 Additional Spill Control and Secondary Containment Requirements. In addition to the requirements set forth in Section 5004.2. An approved containment system is required for any quantity of hazardous materials that are liquids or solids at normal temperature, and pressure (NTP) where a spill is determined to be a plausible event and where such an event would endanger people, property or the environment. The approved containment system may be required to include a combination of spill control and secondary containment meeting the design and construction requirements set forth in Section 5004.2.

Section 5003.2.2.1 is amended to read:

5003.2.2.1 Design and Construction. Piping, tubing, valves, fittings and related components used for hazardous materials shall be in accordance with the following:

1. Piping, tubing, valves, fittings and related components shall be designed and fabricated from materials that are compatible with the material to be contained and shall be of adequate strength and durability to withstand the pressure, structural and seismic stress, and exposure to which they are subject.

2. Piping and tubing shall be identified in accordance with ASME A13.1 and the Santa Clara County Fire Chiefs Marking Requirements and Guidelines for Hazardous Materials and Hazardous Waste to indicate the material conveyed.

3. Manual valves or automatic remotely activated fail-safe emergency shutoff valves shall be installed on supply piping and tubing and provided with ready access at the following locations:
    3.1. The point of use.
    3.2. The tank, cylinder or bulk source.

4. Manual emergency shutoff valves and controls for remotely activated emergency shutoff valves shall be clearly visible, provided with ready access and identified in an approved manner.

5. Backflow prevention or check valves shall be provided where the backflow of hazardous materials could create a hazardous condition or cause the unauthorized discharge of hazardous materials.

6. Where gases or liquids having a hazard ranking of:
   Health hazard Class 3 or 4
   Flammability Class 4
   Reactivity Class 4

   in accordance with NFPA 704 are carried in pressurized piping above 15 pounds per square inch gauge (psig)(103 Kpa), an approved means of leak detection, emergency shutoff or excess flow control shall be provided. Where the piping originates from within a hazardous material storage room or area, the excess flow control shall be located within the storage room or area. Where the piping originates from a bulk source, the excess flow control shall be located as close to the bulk source as practical.

   Exceptions:
   1. Piping for inlet connections designed to prevent backflow.
   2. Piping for pressure relief devices.

7. Secondary containment or equivalent protection from spills or leaks shall be provided for piping for liquid hazardous materials and for highly toxic and toxic corrosive gases above threshold quantities listed in Table 6004.2.1.4. Secondary containment includes, but is not limited to double-walled piping.
   Exceptions:
   1. Secondary containment is not required for toxic corrosive gases if the piping is constructed of inert materials.
   2. Piping under sub-atmospheric conditions if the piping is equipped with an alarm and fail-safe-to-close valve activated by a loss of vacuum.

8. Expansion chambers shall be provided between valves whenever the regulated gas may be subjected to thermal expansion. Chambers shall be sized to provide protection for piping and instrumentation and to accommodate the expansion of regulated materials.

Section 5003.2.2.2 is amended to read:

5003.2.2.2 Additional Regulation for Supply Piping for Health Hazard Materials. Supply piping and tubing for gases and liquids having a health hazard ranking of 3 or 4 in accordance with NFPA 704 shall be in accordance with ASME B31.3 and the following:

1. Piping and tubing utilized for the transmission of highly toxic, toxic, or highly volatile corrosive liquids and gases shall have welded or brazed connections ~~threaded or flanged connections~~ throughout except for connections within an exhausted ~~ventilated~~ enclosure if the material is a gas, or an approved method of drainage or containment is provided for connections if the material is a liquid.
2. Piping and tubing shall not be located within corridors, within any portion of a means of egress required to be enclosed in fire-resistance-rated construction or in concealed spaces in areas not classified as Group H Occupancies.

3. All primary piping for toxic, highly toxic and moderately toxic gases shall pass a helium leak test of 1x10-9 cubic centimeters/second where practical, or shall pass testing in accordance with an approved, nationally recognized standard. Tests shall be conducted by a qualified "third party" not involved with the construction of the piping and control systems.

EXCEPTION:
Piping and tubing within the space defined by the walls of corridors and the floor or roof above or in concealed spaces above other occupancies where installed in accordance with Section 415.11.7.4 of the *California Building Code* for Group H-5 occupancies.

Section 5003.5.2 is added to read:

5003.5.2 Ventilation Ducting. Ducts venting hazardous materials operations shall be labeled with the hazard class of the material being vented and the direction of flow.

Section 5003.5.3 is added to read:

5003.5.3 "H" Occupancies. In "H" occupancies, all piping and tubing may be required to be identified when there is any possibility of confusion with hazardous materials transport tubing or piping. Flow direction indicators are required.

Section 5003.10.4 is amended to read**:**

5003.10.4 Elevators utilized to transport hazardous materials.

5003.10.4.1 When transporting hazardous materials, elevators shall have no other passengers other than the individual(s) handling the chemical transport cart.

5003.10.4.1.1 When transporting cryogenic or liquefied compressed gases, there shall be no occupants in the elevator.

5003.10.4.2 Hazardous materials liquid containers shall have a maximum capacity of 20 liters (5.28 gal).

5003.10.4.3 Toxic, moderately toxic, and highly-toxic gases shall be limited to a container of a maximum water capacity of 1 pound.

5003.10.4.4 When transporting cryogenic or liquefied compressed gases, means shall be provided to prevent the elevator from being summoned to other floors.

SECTION 5004 STORAGE

Section 5004.2.1 is amended as follows:

5004.2.1 Spill Control for Hazardous Material Liquids. Rooms, buildings or areas used for storage of hazardous material liquids ~~in individual vessels having a capacity of more than 55 gallons (208 L),~~ shall be provided with spill control to prevent the flow of liquids to adjoining areas. Floors in indoor locations and similar surfaces in outdoor locations shall be constructed to contain a spill from the largest single vessel by one of the following methods:

1. Liquid-tight sloped or recessed floors in indoor locations or similar areas in outdoor locations.
2. Liquid-tight floors in indoor and outdoor locations or similar areas provided with liquid-tight raised or recessed sills or dikes.
3. Sumps and collection systems
4. Other approved engineered systems.

Except for surfacing, the floors, sills, dikes, sumps and collection systems shall be constructed of noncombustible material, and the liquid-tight seal shall be compatible with the material stored. When liquid-tight sills or dikes are provided, they are not required at perimeter openings having an open-grate trench across the opening that connects to an approved collection system.

Section 5004.2.2.2 is amended as follows:

5004.2.2.2 Incompatible Materials. Incompatible materials ~~used in open systems~~ shall be separated from each other in ~~the secondary containment system~~ <u>independent secondary containment systems.</u>

CHAPTER 54 CORROSIVE MATERIALS

Amend Chapter 54 of the 2022 California Fire Code as follows:

SECTION 5402 DEFINITION

Section 5402.1 is amended to read:

5402.1 Definition. The following term is defined in Chapter 2:

CORROSIVE.
<u>CORROSIVE LIQUIDS.</u>

CHAPTER 56 EXPLOSIVES AND FIREWORKS

Amend Chapter 56 of the 2022 California Fire Code as follows:

Section 5601.1.3 is amended to read:

5601.1. 3 Fireworks. The possession, manufacture, storage, sale, handling, and use of fireworks, including those fireworks classified as Safe and Sane by the California State Fire Marshal, are prohibited.

~~1. Storage and handling of fireworks as allowed in Section 5604.~~
~~2. Manufacture, assembly and testing of fireworks as allowed in and Health and Safety Code Division 11.~~

The use of fireworks for fireworks displays pyrotechnics before a proximate audience and pyrotechnic special effects in motion pictures, television, theatrical or group entertainment productions as allowed in Title 19, Division 1, Chapter 6 Fireworks reprinted in Section 5608 and Health and Safety Code Division 11.

~~3. The possession, storage, sale, handling and use of specific types of Division 1.4G fireworks where allowed by applicable laws, ordinances and regulations, provided that such fireworks and facilities comply with the 2006 edition of NFPA 1124, CPSC 16 CFR Parts 1500 and 1507, and DOTn 49 CFR Parts 100–185, as applicable for consumer fireworks and Health and Safety Code Division 11.~~

CHAPTER 57 FLAMMABLE AND COMBUSTIBLE LIQUIDS

Amend Chapter 57 of the 2022 California Fire Code as follows:

SECTION 5704 STORAGE

Section 5704.2.7.5.8 is amended to read:

5704.2.7.5.8 Overfill Prevention.
An approved means or method in accordance with Section 5704.2.9.7.5 shall be provided to prevent the overfill of all Class I, II and IIIA liquid storage tanks. Storage tanks in refineries, bulk plants or terminals regulated by Section 5706.4 or 5706.7 shall have overfill protection in accordance with API 2350.

Exception: Outside aboveground tanks with a capacity of 1320 gallons (5000 L) or less need only comply with Section 5704.2.9.7.5 (Item 1, Sub-item 1.1).

An approved means or method in accordance with Section 5704.2.9.7.5 shall be provided to prevent the overfilling of Class IIIB liquid storage tanks connected to fuel-burning equipment inside buildings.

Exception: Outside aboveground tanks with a capacity of 1320 gallons (5000 L) or less need only comply with Section 5704.2.9.7.5 (Item 1, Sub-item 1.1).

Section 5704.2.7.5.9 is added to read:

5704.2.7.5.9 Automatic Filling of Tanks. Systems that automatically fill flammable or combustible liquid tanks shall be equipped with overfill protection, approved by the fire code official that sends an alarm signal to a constantly attended location and immediately stops the filling of the tank. The alarm signal and automatic shutoff shall be tested on an annual basis and records of such testing shall be maintained on-site for a period of five (5) years.

SECTION 5707 ON-DEMAND MOBILE FUELING OPERATIONS

Section 5707 is amended to read:

5707.3.3 Site plan.
~~Where required by the fire code official,~~ A site plan shall be developed for each location or area at which mobile fueling occurs. The site plan shall be in sufficient detail to indicate the following:

1. All buildings and structures.
2. Lot lines or property lines.
3. Electric car chargers.
4. Solar photovoltaic parking lot canopies.
5. Appurtenances on-site and their use or function.
6. All uses adjacent to the lot lines of the site.
7. Fueling locations.
8. Locations of all storm drain openings and adjacent waterways or wetlands.
9. Information regarding slope, natural drainage, curbing and impounding.
10. How a spill will be kept on the site property.
11. Scale of the site plan.

CHAPTER 58 FLAMMABLE GASES AND FLAMMABLE CRYOGENIC FLUIDS

Amend Chapter 58 of the 2022 California Fire Code as follows:

SECTION 5809 MOBILE GASEOUS FUELING OF HYDROGEN-FUELED VEHICLES

Section 5809.3.4 is amended as follows:

5809.3.4 Site plan.
~~Where required by the fire code official~~ For other than emergency roadside service, a site plan shall be developed for each location at which mobile gaseous hydrogen fueling occurs. The site plan shall be in sufficient detail to indicate: all buildings, structures, lot lines, property lines and appurtenances on site and their use and function, and the scale of the site plan.

CHAPTER 60 HIGHLY TOXIC AND TOXIC MATERIALS

Amend Chapter 60 of the 2022 California Fire Code as follows:

SECTION 6001 GENERAL

Section 6001.1 is amended to read:

6001.1 Scope.
The storage and use of highly toxic, toxic and moderately toxic materials shall comply with this chapter. Compressed gases shall also comply with Chapter 53.

Exceptions:
1. Display and storage in Group M and storage in Group S occupancies complying with Section 5003.11.

2. Conditions involving pesticides or agricultural products as follows:

    2.1 Application and release of pesticide, agricultural products and materials intended for use in weed abatement, erosion control, soil amendment or similar applications when applied in accordance with the manufacturer's instruction and label directions.

    2.2 Transportation of pesticides in compliance with the Federal Hazardous Materials Transportation Act and regulations thereunder.

    2.3 Storage in dwellings or private garages of pesticides registered by the US Environmental Protection Agency to be utilized in and around the home, garden, pool, spa and patio.

SECTION 6004 HIGHLY TOXIC AND TOXIC COMPRESSED GASES

Section 6004.1 is amended to read:

6004.1 General.
The storage and use of highly toxic, toxic, and moderately toxic compressed gases shall comply with this section.

6004.1.1 Special limitations for indoor storage and use by occupancy. The indoor storage and use of highly toxic, toxic, and moderately toxic compressed gases in certain occupancies shall be subject to the limitations contained in Sections 6004.1.1.1 through 6004.1.1.3.

6004.1.1.1 Group A, E, I or U occupancies. Moderately toxic, toxic and highly toxic compressed gases shall not be stored or used within Group A, E, I or U occupancies.

Exception: Cylinders not exceeding 20 cubic feet (0.566 m^3) at normal temperature and pressure (NTP) are allowed within gas cabinets or fume hoods.

6004.1.1.2 Group R occupancies. Moderately toxic, toxic, and highly toxic compressed gases shall not be stored or used in Group R occupancies.

6004.1.1.3 Offices, retail sales and classrooms. Moderately toxic, toxic and highly toxic compressed gases shall not be stored or used in offices, retail sales or classroom portions of Group B, F, M or S occupancies.

Exception: In classrooms of Group B occupancies, cylinders with a capacity not exceeding 20 cubic feet (0.566 m3) at NTP are allowed in gas cabinets or fume hoods.

Section 6004.2 is amended to read:

6004.2 Indoor storage and use.
The indoor storage and use of highly toxic, toxic, and moderately toxic compressed gases shall be in accordance with Sections 6004.2.1 through 6004.2.2.10.3.

Section 6004.2.1 is amended to read:

6004.2.1 Applicability. The applicability of regulations governing the indoor storage and use of highly toxic, toxic, and moderately toxic compressed gases shall be as set forth in Sections 6004.2.1.1 through 6004.2.1.4.

Section 6004.2.1.4 is added to read:

6004.2.1.4 Quantities exceeding the minimum threshold quantities but not exceeding the maximum allowable quantities per control area. The indoor storage or use of highly toxic, toxic, and moderately toxic gases in amounts exceeding the minimum threshold quantities per control area set forth in Table 6004.2.1.4 but not exceeding maximum allowable quantity per control area set forth in Table 5003.1.1(2) shall be in accordance with Sections 5001, 5003, 6001, 6004.1, and 6004.4

Table 6004.2.1.4 is added to read:

Minimum Threshold Quantities for Highly Toxic, Toxic and Moderately Toxic Gases for Indoor Storage and Use	
Highly Toxic	20
Toxic	405 cubic feet
Moderately Toxic	405 cubic feet

Section 6004.4 is added to read:

6004.4. General indoor requirements. The general requirements applicable to the indoor storage and use of highly toxic, toxic, and moderately toxic compressed gases shall be in accordance with Sections 6004.4 through 6004.4.8.2

6004.4.1 Cylinder and tank location. Cylinders shall be located within gas cabinets, exhausted enclosures or gas rooms. Portable and stationary tanks shall be located within gas rooms or exhausted enclosures.

Exceptions:
1. Where a gas detection system is provided in accordance with 6004.4.8

6004.4.2. Ventilated areas. The room or area in which gas cabinets or exhausted enclosures are located shall be provided with exhaust ventilation. Gas cabinets or exhausted enclosures shall not be used as the sole means of exhaust for any room or area.

6004.4.3. Piping and controls. In addition to the requirements of Section 5003.2.2, piping and controls on stationary tanks, portable tanks, and cylinders shall comply with the following requirements:

1. Stationary tanks, portable tanks, and cylinders in use shall be provided with a means of excess flow control on all tank and cylinder inlet or outlet connections.

Exceptions:
1. Inlet connections designed to prevent backflow.
2. Pressure relief devices.

6004.4.4 Gas rooms. Gas rooms shall comply with Section 5003.8.4 and both of the following requirements:

1. The exhaust ventilation from gas rooms shall be directed to an exhaust system.

2. Gas rooms shall be equipped with an approved automatic sprinkler system. Alternative fire- extinguishing systems shall not be used.

6004.4.5 Treatment systems. The exhaust ventilation from gas cabinets, exhausted enclosures and gas rooms, required in Section 6004.4.1 shall be directed to a treatment system. The treatment system shall be utilized to handle the accidental release of gas and to process exhaust ventilation. The treatment system shall be designed in accordance with Sections 6004.2.2.7.1 through 6004.2.2.7.5 and Chapter 5 of the California Mechanical Code.

Exceptions:

1. Highly toxic, toxic, and moderately toxic gases—storage. A treatment system is not required for cylinders, containers and tanks in storage where all of the following controls are provided:

    1.1 Valve outlets are equipped with gas- tight outlet plugs or caps.
    1.2 Hand wheel-operated valves have handles secured to prevent movement.
    1.3 Approved containment vessels or containment systems are provided in accordance with Section 6004.2.2.3.

2. Highly toxic, toxic, and moderately toxic gases —use. Treatment systems are not required for highly toxic, toxic, and moderately toxic gases supplied by stationary tanks, portable tanks, or cylinders where a gas detection system complying with Section 6004.4.8 and listed or approved automatic-closing fail- safe valves are provided. The gas detection system shall have a sensing interval not exceeding 5 minutes. Automatic-closing fail- safe valves shall be located immediately adjacent to cylinder valves and shall close when gas is detected at the permissible exposure limit (PEL) by a gas sensor monitoring the exhaust system at the point of discharge from the gas cabinet, exhausted enclosure, ventilated enclosure or gas room.

6004.4.5.1. Design. Treatment systems shall be capable of diluting, adsorbing, absorbing, containing, neutralizing, burning or otherwise processing the contents of the largest single vessel of compressed gas. Where a total containment system is used, the system shall be designed to handle the maximum anticipated pressure of release to the system when it reaches equilibrium.

6004.4.5.2. Performance. Treatment systems shall be designed to reduce the maximum allowable dis- charge concentrations of the gas to one-half immediate by dangerous to life and health (IDLH) at the point of discharge to the atmosphere. Where more than one gas is emitted to the treatment system, the treatment system shall be designed to handle the worst-case release based on the release rate, the quantity and the IDLH for all compressed gases stored or used.

6004.4.5.3. Sizing. Treatment systems shall be sized to process the maximum worst-case release of gas based on the maximum flow rate of release from the largest vessel utilized. The entire contents of the largest compressed gas vessel shall be considered.

6004.4.5.4 Stationary tanks. Stationary tanks shall be labeled with the maximum rate of release for the compressed gas contained based on valves or fittings that are inserted directly into the tank. Where multiple valves or fittings are provided, the maximum flow rate of release for valves or fittings with the highest flow rate shall be indicated. Where liquefied compressed gases are in contact with valves or fittings, the liquid flow rate shall be utilized for computation purposes. Flow rates indicated on the label shall be converted to cubic feet per minute (cfm/min) (m3/s) of gas at normal temperature and pressure (NTP).

6004.4.5.5 Portable tanks and cylinders. The maximum flow rate of release for portable tanks and cylinders shall be calculated based on the total release from the cylinder or tank within the time specified in Table 6004.2.2.7.5. Where portable tanks or cylinders are equipped with approved excess flow or reduced flow valves, the worst-case release shall be determined by the maximum achievable flow from the valve as determined by the valve manufacturer or compressed gas supplier. Reduced flow and excess flow valves shall be permanently marked by the valve manufacturer to indicate the maximum design flow rate. Such markings shall indicate the flow rate for air under normal temperature and pressure.

6004.4.6. Emergency power. Emergency power shall be provided for the following systems in accordance with Section 604:

1. Exhaust ventilation system.
2. Treatment system.
3. Gas detection system.
4. Smoke detection system.

6004.4.6.1. Fail-safe systems. Emergency power shall not be required for mechanical exhaust ventilation and treatment systems where approved fail-safe systems are installed and designed to stop gas flow.

6004.4.7. Automatic fire detection system. An approved automatic fire detection system shall be installed in rooms or areas where highly toxic, toxic, and moderately toxic compressed gases are stored or used. Activation of the detection system shall sound a local alarm. The fire detection system shall comply with Section 907.

6004.4.8. Gas detection system. A gas detection system complying with Section 916 shall be provided to detect the presence of gas at or below the PEL or ceiling limit of the gas for which detection is provided.

Exceptions:

1. A gas detection system is not required for toxic and moderately toxic gases when the physiological warning threshold level for the gas is at a level below the accepted PEL for the gas.

2. A gas detection system is not required for highly toxic, toxic, and moderately toxic gases where cylinders, portable tanks, and all non-continuously welded connects are within a gas cabinet or exhausted enclosures.

6004.4.8.1. Alarms. The gas detection system shall initiate a local alarm and transmit a signal to an approved location.

6004.4.8.2. Shut off of gas supply. The gas detection system shall automatically close the shut off valve at the source on gas supply piping and tubing related to the system being monitored for whichever gas is detected.

Exception: Automatic shutdown is not required for highly toxic, toxic, and moderately toxic compressed gas systems where all of the following controls are provided:

1. Constantly attended / supervised.
2. Provided with emergency shutoff valves that have ready access.

Chapter 64 PYROPHORIC MATERIALS

Amend Chapter 64 of the 2022 California Fire Code as follows:

SECTION 6405 USE

Section 6405.3.1 is added to read:

6405.3.1 Silane distribution systems automatic shutdown.
Silane distribution systems shall automatically shut down at the source upon activation of the gas detection system at levels above the alarm level and/or failure of the ventilation system for the silane distribution system.

CHAPTER 80 REFERENCE STANDARD

Amend Chapter 80 of the 2022 California Fire Code as follows:

Add the following reference standard to read:

855 – 20: Standard for the Installation of Stationary Energy Storage Systems

APPENDIX B FIRE FLOW REQUIREMENTS FOR BUILDINGS

SECTION B105 FIRE FLOW REQUIREMENTS FOR BUILDINGS

Section B105.2 is amended to read:

B105.2 Buildings other than one- and two-family dwellings, Group R-3 and R-4 buildings and townhouses. The minimum fire-flow and flow duration for buildings other than one- and two-family dwellings, Group R-3 and R-4 buildings and townhouses shall be as specified in Tables B105.1(2) and B105.2.

> **Exceptions:** *[SFM] Group B, S-2 and U occupancies having a floor area not exceeding 1,000 square feet, primarily constructed of noncombustible exterior walls with wood or steel roof framing, having a Class A roof assembly, with uses limited to the following or similar uses:*
>
> 1. California State Parks buildings of an accessory nature (restrooms).
> 2. Safety roadside rest areas (SRRA), public restrooms.
> 3. Truck inspection facilities (TIF), CHP office space and vehicle inspection bays.
> 4. Sand/salt storage buildings, storage of sand and salt.

The maximum fire flow reduction for all commercial buildings greater than 30,000 square feet and residential podium buildings shall not exceed 25 percent of the fire flow specified in Table B105.1(2). The maximum fire flow reduction for all other buildings shall not exceed 50 percent of the fire flow specified in Table B105.1(2).

APPENDIX C FIRE HYDRANT LOCATIONS AND DISTRIBUTION

SECTION C102 NUMBER OF FIRE HYDRANTS

Section C102.1 is amended to read:

C102.1 Minimum number of fire hydrants for a building. The number of fire hydrants available to a building shall be not less than the minimum specified in Table C102.1, utilizing the base fire flow without fire sprinkler reduction.

APPENDIX D FIRE APPARATUS ACCESS ROADS

SECTION D103 MINIMUM SPECIFICATION

Section D103.1 is deleted as follows:

~~**D103.1 Access road width with a hydrant.** Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet (7925 mm), exclusive of shoulders (see Figure D103.1).~~

Section D103.2 is amended as follows:

D103.2 Grade. The maximum grade of a fire department apparatus access road shall not exceed 15-percent, unless approved by the fire code official**.**

Section D103.3 is amended as follows:

D103.3 Turning radius. The required turning radius of a fire apparatus access roads shall be a minimum of 30 feet inside, and a minimum of 50 feet outside.

Section D103.4 is amended to read:

D103.4 Dead ends. Dead-end fire apparatus access roads and/or driveways in excess of 150 feet (45 720 mm) shall be provided with width and turnaround provisions in accordance with Santa Clara County Fire Department apparatus access and turnaround standards. ~~Table D103.4~~

Section D103.6 is amended to read:

D103.6 Signs. ~~Where required by the fire code official, fire apparatus access roads shall be marked with permanent "NO PARKING—FIRE LANE" signs complying with Figure D103.6.~~ Where required by the Fire Code Official, fire apparatus access roads shall be designated and marked as a fire lane as set forth in Section 22500.1 of the California Vehicle Code and the Santa Clara County Fire Department A-6 Standard. Signs shall have a minimum dimension of 12 inches (305 mm) wide by 18 inches (457 mm) high and have red letters on a white reflective background. Signs shall be posted on one or both sides of the fire apparatus road as required by Section D103.6.1 or D103.6.2.

Section 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidly shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This Town Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed, and the balance of the ordinance be enforced.

Section 5. Effect of Ordinance. Except as expressly modified in this Ordinance, all other sections set forth in the Los Gatos Town Code shall remain unchanged and shall be in full force and effect.

Section 6. Effective Date. This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on November 1, 2022 and adopted by the following vote as an ordinance of the Town of Los Gatos at a meeting of the Town Council of the Town of Los Gatos on November 15, 2022 and becomes effective January 1, 2023.

Section 7. Publication. The Town Clerk will publish this ordinance in a newspaper of general circulation within 15 days of its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its adoption, 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)(1).

Section 8. CEQA. Adoption of this ordinance is not a project subject to CEQA, because it can be seen with certainty that it will not impact the physical environment. (CEQA Guidelines Section 15378.) If adoption of this ordinance were a project, it would be categorically exempt from CEQA as an action by a regulatory agency for the protection of natural resources (CEQA Guidelines Section 15307) and the environment (CEQA Guidelines Section 15308).

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

_____
ROB RENNIE
MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

_____
WENDY WOOD
TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

DATE: October 31, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Introduce an Ordinance, by Title Only, Effecting Amendments Repealing and Replacing Chapter 6, Building Regulations, and Chapter 9, Fire Prevention and Protection, of the Town of Los Gatos Municipal Code with the New 2022 California Building and Fire Codes, as Amended, Including Reach Codes. Town Code Amendment Application A-22-003. Project Location: Town Wide. Applicant: Town of Los Gatos.

REMARKS:

Attachment 2 includes public comment received between 11:01 a.m., October 28, 2022, and 11:00 a.m., October 31, 2022.

Attachment Received with the Staff Report:
1. Draft Ordinance

Attachment with this Addendum:
2. Public Comment received between 11:01 a.m., October 28, 2022, and 11:00 a.m., October 31, 2022.

PREPARED BY: Robert Gray
Building Official

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

Pacific Gas and Electric Company

Chris Benjamin
Director
Corporate Sustainability

[redacted]

October 28, 2022

VIA EMAIL TO: PublicComment@losgatosca.gov

Office of the Town Clerk
110 East Main Street
Los Gatos, CA 95030

Dear Los Gatos Town Council Members:

Pacific Gas and Electric Company (PG&E) is proud to provide electric and natural gas service to the Town of Los Gatos. As the state's largest energy provider, PG&E embraces our foundational role in transitioning California to a decarbonized and more climate-resilient economy. PG&E's *Climate Strategy Report* (available at www.pge.com/climate) shares our goals to achieve significant emissions reductions by 2030, reach net zero greenhouse gas emissions by 2040, and become "climate positive" by 2050, or actively removing more carbon from the environment than we emit as a company.

PG&E recognizes the value of building decarbonization as an important tool in meeting both PG&E's and the state's climate goals, and we welcome the opportunity to support the Town of Los Gatos' efforts to promote efficient, all-electric new construction. PG&E also appreciates the opportunity to avoid investments in new natural gas assets that might later prove underutilized as local governments and the state work together to realize long-term decarbonization objectives.

Beyond new construction, PG&E believes a multi-faceted approach is needed to cost-effectively achieve California's economy-wide greenhouse gas reduction objectives, including both strategic electrification and an orderly transition for the natural gas delivery system. In support of the transition, our climate goals include pursuing zonal electrification strategies and providing our hard-to-electrify customers with "greener" gas supplies, including renewable natural gas and potentially hydrogen over the longer-term. As California's decarbonization policies evolve, PG&E will continue to prioritize the safe and reliable operation of our electric and natural gas systems to continue supporting the customers that depend on us.

PG&E appreciates the partnership with the Town of Los Gatos during its policy development process, which allows us to prepare for the future and continue providing the best service possible to our customers. PG&E regularly forecasts electric load growth in our service area to assess the needs on the electric system and create plans and projects to address them and plan for the needs that all-electric buildings will require.

PG&E looks forward to continuing to work with the Town of Los Gatos to accomplish its policy goals and remains ready to engage with our customers, local governments, businesses, and community members to meet their needs safely, reliably, affordably, and with clean energy.

Thank you for your engagement with PG&E.

Sincerely,

Chris Benjamin

Chris Benjamin
Director

cc:

- Robert Gray, Building Official [RGray@losgatosca.gov]
- Anna Brooks, Director, Local Government Affairs, PG&E [redacted]
- Kelly Cunningham, Codes, Standards & Cross-Cutting, PG&E [redacted]

DATE: October 19, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Provide Direction on the Approach to the Plant-Based Diet Education Implementation Program in the 2040 General Plan (Environment and Sustainability Element Program CC).

RECOMMENDATION:

Provide direction on the approach to the Plant-Based Diet Education Implementation Program in the 2040 General Plan (Environment and Sustainability Element Program CC).

BACKGROUND:

In 2019, the Town Council adopted Resolution 2019-062 to establish Green Mondays and Expand Plant-Based Offerings (see Attachment 1). This Resolution affects Town employee activities and events organized by the Town for the public (e.g., Spring into Green) to ensure that there are plant-based food options. In addition, in 2021, the Town updated its Purchasing Policy to include Healthy Food and Beverage Guidelines that incorporated requirements to offer plant based options when Town funds are being used.

The Los Gatos Plant-Based Advocates (Advocates) actively participated in the 2040 General Plan update process, encouraging the Town Council to include an Implementation Program regarding plant-based diet education. The Council agreed and this item was added to the Environment and Sustainability Element as Program CC with the Town Manager's Office and Library Department as the leads.

In August 2022, the Town Manager met remotely with members of the Advocates to discuss Implementation Program CC. Some ideas for educational events that could occur at the Town Library included guest speakers, cooking demonstrations, or other programs. The Town Manager encouraged the Advocates to work directly with Library Director Baker. The Advocates were also interested in hosting an event at the Los Gatos Theatre and they were asked to speak directly with the operator of the facility.

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Community Development Director, Library Director, and Finance Director

BACKGROUND (continued):

The Mayor requested that this item be placed on the agenda for discussion and direction by the Town Council.

DISCUSSION:

Some examples of cities enacting legislation and plans to promote plant-based eating that were provided to the Mayor by the Advocates can be found in Attachments 2 through 7. While the 2040 General Plan Implementation Program focuses solely on education, there may be ideas within the actions of other jurisdictions that the Town Council may want to include in an education program.

Staff intends to bring the short term 2040 Implementation Programs (except for those in the Land Use and Community Design Elements) to Town Council as part of its annual Strategic Priority setting discussion in January 2023. With so many Implementation Programs, it is critical for the Town Council to identify the Programs that should be built into staff and Town Commission workplans for 2023 and 2024.

At the 2023 Strategic Priority session, the Council will also review its priorities for new ordinances and policies. It is possible that the Town Council could add an Ordinance or policy to further enhance its policy interest in plant-based diets.

Public comments regarding this item are in Attachment 8.

CONCLUSION:

For the Plant-Based Diet General Plan Implementation Program, staff recommends that the Town take a facilitation role by making the Library available for potential plant-based education programs put on by the Advocates.

Staff looks forward to Council direction as to how to move forward with the plant-based diet education Implementation Program.

COORDINATION:

The preparation of this report was coordinated with the Community Development Director, Library Director, and Town Attorney.

FISCAL IMPACT:

Discussion of this item has no fiscal impact.

ENVIRONMENTAL ASSESSMENT:

Council's discussion of this item is not a project defined under the California Environmental Quality Act, and no further action is required. If the Council directs the preparation of future ordinances, environmental review will be evaluated for those specific actions.

Attachments:
1. Town of Los Gatos Resolution 2019-062: Green Mondays and Expand Plant-Based Offerings
2. Mountain View
3. New York City Public Schools
4. Meatless Procurement Policies
5. California State Facilities
6. New York State Hospital Meals
7. San Francisco Jails
8. Public Comment

RESOLUTION 2019-062

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS TO ESTABLISH GREEN MONDAY AND EXPAND PLANT-BASED FOOD OFFERINGS

WHEREAS, climate change is a serious and significant issue with potentially catastrophic global impacts; and

WHEREAS, the Town of Los Gatos adopted an objective in the General Plan 2040 Guiding Principles to identify and provide opportunities to enhance the Town's sustainability policies and practices; and

WHEREAS, scientific analyses have shown that one of the most effective ways for a person to reduce their greenhouse gas emissions is to reduce or eliminate their consumption of meat and dairy; and

WHEREAS, the United Nations Food and Agriculture Organization estimates that the livestock sector contributes 14.5% of anthropogenic greenhouse gas emissions, more than the entire transportation sector (cars, planes, train and ships) combined; and

WHEREAS, Green Monday is a simple platform that equips organizations and individuals to introduce and institutionalize environmentally-friendly, plant-based food options at least one day per week.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Town of Los Gatos establishes Green Monday, wherein all Town-managed meetings and events occurring on Mondays (or another day of the week) will provide either a fully plant-based offering or an attractive plant-based alternative.

BE IT FURTHER RESOLVED that the Council of the Town of Los Gatos encourages restaurants to include vegan items on their menus by providing "Green Monday approved" certificates to be displayed.

BE IT FURTHER RESOLVED that the Council of the Town of Los Gatos encourages the Library and Town Hall to display Green Monday posters and literature and host a Green Monday program at the Library as appropriate.

ATTACHMENT 1

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 17th day of December 2019 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT: Steve Leonardis

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: 12/20/19

ATTEST:

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City of Mountain View



Plant-Based Eating

Want to learn more about the many benefits of plant-based eating? Want to support Mountain View's amazing restaurants? The City's sustainability team launched a plant-based eating program that will focus on promoting healthy and ethical food choices, supporting equitable access to healthy food, and spreading awareness of the positive health and environmental impacts of a plant-based diet.

We will be hosting quarterly public events, featuring cooking demonstrations, film screenings, and community speakers. Local restaurants will also be invited to promote plant-based eating

opportunities here in Mountain View. Finally, the City Council is expected to consider a resolution in support of plant-based eating by the end of the year.

Looking for ways to get started?

Recipes:

- Vegan baking recipes from Minimalist Baker
- Meatless Alphabet from Acterra
- Zero Waste Chef recipe index
- Veggie burger recipe from Love and Lemons
- 10 African inspired vegan recipes from Afro Eats

Resources:

- Meatless Monday
- Green Monday
- Forks Over Knives beginner's guide
- Acterra's plant-forward eating resources
- Acterra's Healthy Plate, Healthy Planet fact sheet
- What science says about the benefits of a plant-based diet (Discover, June 2020)
- Emissions from the livestock sector (FFAC)
- 10 weeks to vegan challenge & resources
- 10 million black vegan women movement

Plant-Based Eating Fall Challenge

Past Event: Community Garden Workshop - Sunday March 6th

15 Dec 2021



As part of our plant-based eating series, the City of Mountain View was proud to host our first community gardening event. This in-person workshop instructed participants on how to start their own garden, no matter their gardening experience or the size of their space. Home gardens allow you to take full advantage of Mountain View's unique climate, where you can grow your own fruits, vegetables, and herbs year-round! The workshop covered planting seasons, water-conscious gardening, how to make the most of your space from container pots to garden beds, and a hands-on planting activity. The event took place at the Soil & Water Garden, a learning-focused community garden at Heritage Park.

Learn more about the Soil & Water Garden.

Past Event: The Positive Environmental Impacts of a Plant-Based Diet

24 Sep 2021



For the third event in our plant-based eating series, Monica Chen, Executive Director of the Factory Farming Awareness Coalition, shared about the environmental impacts of our food choices. Through an engaging and informative presentation, Monica shared how to make a big difference for the environment and your own health by including more plant-based foods in your diet.

The Factory Farming Awareness Coalition is an educational nonprofit that contributes to the eradication of factory farming through a range of educational programs. Every year they educate and empower thousands of people about the social justice, health, and environmental impacts of our food system.

You can watch a recording of the event here.

Past Event: Plant-Based Eating Cooking Demonstration

24 Sep 2021



As part of our Plant-Based Eating program, the City of Mountain View hosted our first plant-based eating cooking demonstration on September 7th. You can find recipes from the event **here.**

We were grateful to be joined by chef Alex Bury. Alex was trained as a classical (non-vegetarian) chef at the world-renowned Culinary Institute of America. In 2001, she opened a restaurant in California called Sparks with an entirely plant-based menu. Sparks quickly became well-known for its outstanding food, even among non-vegans. Alex is now a professional fundraiser and serves as Vice President of Development for the international organization Vegan Outreach. When she's not raising money to change how animals are treated she jumps back into the kitchen: She has taught healthy cooking techniques and recipes at Whole Foods Market, for the McDougall Program (a nationally renowned preventative health program), and for local groups and companies since 2000. Alex

is now based in Anchorage, Alaska, where she enjoys pancakes with wild Alaska blueberries and searching for the best soy cappuccino in the 49th state!

Past Event: City of Mountain View x Food Empowerment Project

04 Nov 2021



The City of Mountain View kicked off our new Plant-Based Eating initiative with the founder of the Food Empowerment Project, Lauren Ornelas. The Food Empowerment Project seeks to create a more just and sustainable world by recognizing the power of one's food choices. They encourage healthy food choices that reflect a more compassionate society by spotlighting the abuse of animals on farms, the depletion of natural resources, unfair working conditions for produce workers, and the unavailability of healthy foods in low-income areas.

By making informed choices, we can prevent injustices against animals, people, and the environment. Food Empowerment Project also works to discourage negligent corporations from pushing unhealthy foods into low-income areas and empower people to make healthier choices by growing their own fruits and vegetables. In all of their work, Food Empowerment Project seeks specifically to empower those with the fewest resources.

You can watch a recording of the event here.

Page last updated: 13 Apr 2022, 01:37 PM



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NYC’s Plant-Based Mayor Initiates Vegan Fridays At All City’s Public Schools



By **Amy Buxton** Published on **Feb 7, 2022** Last updated **Feb 9, 2022** **VEGAN** **KIDS** **VEGAN DINING**

Photo by Eric Adams' campaign.

3 Mins Read

History was made last week in New York. For the first time, all public schools will be required to serve only vegan food in their cafeterias once a week. The move follows the successful implementation of Meatless Mondays and Fridays throughout the district. Vegan Fridays will be a permanent change to school menus designed to expose the 930,000 public school children to healthy meals.

The plant-based protocol was brought in by Mayor Eric Adams, fresh after being sworn in last month. A vegan himself, the official has pledged to work with the Department for Education (DOE) to make schools healthier. Menus will be available to view on the DOE website a month in advance. Adams credits his own veganism with reversing his diabetes diagnosis.



Photo by Katerina Holmes from Pexels.

Building on a good foundation

Vegan meals have already been available to New York students. Milk is still required by law to be served with all meals. Children can choose to not drink it, but the USDA has made its availability compulsory. The same applies to Vegan Fridays.

“DOE is committed to the health and well-being of all children, and it is imperative to have a consistent nutrition and full diet every day to enable students to succeed both in and out of the classroom,” Associated Press secretary-general, Jenna Lyle, said in a statement. “We are pleased that New York students will be able to expand their healthy and nutritious dietary options by gradually introducing a vegan-focused menu on Friday following the success of Meatless Monday and Friday.” Lyle added that “Menu items other than vegan are available upon request.”

NY schools’ Meatless Mondays were initiated in 2019. They provided a good infrastructure base for adding Vegan Fridays into the mix and removing all animal products. “Plant-based options at school mean a healthy diet and a healthy life, and improve the quality of life for thousands of students in New York City,” Adams said in a statement. “All students have access to healthy foods that prevent debilitating health. I’m excited to see that I can do it. “



Photo by Anastasia Shuraeva from Pexels.

Teaching the younger generations

As parents become less wary about plant-based nutrition and increasingly health orientated, eating meat-free at home is becoming more widespread. However, when implementing change in schools, there can be backlash.

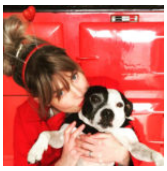
When the Mayor of Lyon, France, decided to take meat off the menu of all the schools under his purview, both the French government and public described the move as an outrage. It was cited as an insult to French farmers and butchers and parents joined the outcry as well. The public anger did not sway Mayor Doucet, who stuck to his initiative, which he cited as being entirely driven by health concerns.

France has a contentious relationship with meat alternatives. Last year it was reported that the government made its feelings known about cultivated meat, with declarations that it was not natural and would never be served in schools.

The U.K. appears to be fairing a little better. It has just seen the first launch of the first Plant Based School Kitchen partnership. It came about after the headteacher of the school in question decided to switch up the menu to reflect planetary health, as well as solid nutrition for all students.

Lead Photo by the Eric Adams Campaign.

kids food | school lunches | vegan food



Amy Buxton - 443 Posts

A long-term committed ethical vegan and Green Queen's resident plant-based reporter, Amy juggles raising a family and maintaining her editorial career, while also campaigning for increased mental health awareness in the professional world. Known for her love of searing honesty, in addition to recipe developing, animal welfare and (often lacklustre) attempts at handicrafts, she's hands-on and guided by her veganism in all aspects of life. She's also extremely proud to be raising a next-generation vegan baby.

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POLICY OPTIONS

Numerous cities have adopted policies to reduce the amount of meat products that they purchase, as well as pushed for facilities to explore and provide alternative, plant-based offerings.

Good Food Purchasing Program (GFPP). The GFPP is aimed at changing the way public institutions purchase food, including by incorporating animal welfare and environmental sustainability standards into their procurement policies. A number of cities have pledged to adhere to the GFPP, including Berkeley (CA), Los Angeles (CA), Oakland (CA), San Francisco (CA), Washington, DC, Chicago (IL), Boston (MA), Cincinnati (OH), and Austin (TX), in addition to numerous institutions within these cities. Though the program is voluntary, participating cities have collectively shifted millions of dollars towards suppliers aligned with the program's values.

Procurement Commitments. Various cities have adopted commitments to reduce the amount of animal-based food products they purchase. For example:

- Berkeley (CA) was the first city to adopt a progressive new food purchasing policy committing to replace 50% of the city's animal-based food purchasing with plant-based alternatives (Vision 2025 for Sustainable Food Policies).
- New York (NY) has committed to reducing the city's beef purchases by 50% and phasing out all purchase of processed meat by 2030 (NYC Green New Deal).
- San Francisco (CA) passed a resolution committing to reduce purchases of animal products in jails by 50% in 2024 and in hospitals by 15% in 2023.

Meatless Mondays. School districts in several cities have adopted Meatless Mondays, including Baltimore City Public Schools (MD), Buffalo Public School District (NY), and New York City Public Schools (NY).

Vegetarian & Vegan Food Options. Various cities have pushed for greater availability of plant-based food options. For example:

- The school districts in Berkeley (CA) and New York (NY) now offer plant-based option at every meal, and four schools in New York (NY) are fully vegetarian.
- Berkeley (CA) also requires vegan-only food to be served at city events and meetings on Mondays.
- Looking beyond city facilities, Los Angeles has introduced legislation that would require entertainment and travel venues to put at least one vegan dish on their menus.

Notably, states appear to be responding positively to these local procurement initiatives with plant-forward policies of their own. In 2018, California passed a law requiring hospitals, prisons, nursing homes, and other state facilities to provide at least one vegan meal option. In 2019, New York State passed similar legislation requiring hospitals to make plant-based meals and snacks available to patients and to list the vegan options on all written materials and menus.

POTENTIAL CHALLENGES

Despite potential political opposition, none of the above-mentioned examples of procurement policies enacted by cities appear to have been challenged in the courts as unlawful.

However, the source of procurement funding could pose legal challenges. Food purchased by local agencies using federal dollars must follow federal procurement guidelines, and food purchased using state funds must follow state procurement guidelines. To the extent that cities are relying on state or federal funding to purchase food, these guidelines could potentially limit their ability to reduce their procurement of animal-based food products.

Moreover, geographically preferential laws have been challenged under the Dormant Commerce Clause on the basis that they discriminate against commerce from other states. If procurement policies favoring plant-based products over meat products were implemented, parties in states that rely heavily on the meat industry might bring these challenges.

QUESTION FOR DISCUSSION

1. How effective are procurement policies in helping cities reduce their consumption of meat? Can they be effective in influencing consumer behavior?

2. How might procurement policies be designed to overcome or otherwise minimize the risk of potential legal challenges?

3. City policies aimed at reducing the procurement of animal-based food appear to have been largely focused on city facilities. To what extent can cities require non-public institutions and businesses to reduce their procurement of meat and other animal-based foods or otherwise require them to offer plant-based options? What challenges would cities face?

4. What are the political challenges to changes in procurement policies? How might political opposition to procurement policies be overcome?



Animal Law Update

California Enacts Law Requiring Plant-Based Options in State Facilities

By Nicole Pallotta, Academic Outreach Manager

December 10, 2018

In September 2018, California Governor Jerry Brown signed **SB 1138**, a law that makes California the first state in the nation to require prisons, hospitals, nursing homes, and other state-operated facilities to offer plant-based meals. The law defines plant-based meals as "entire meals that contain no animal products or byproducts, including meat, poultry, fish, dairy, or eggs."

According to **Senator Nancy Brown**, the bill's author, "Americans have shown a growing interest in low-meat and no-meat diets... But people who are confined to prisons, hospitals or other healthcare facilities aren't always given the opportunity to choose non-meat options."

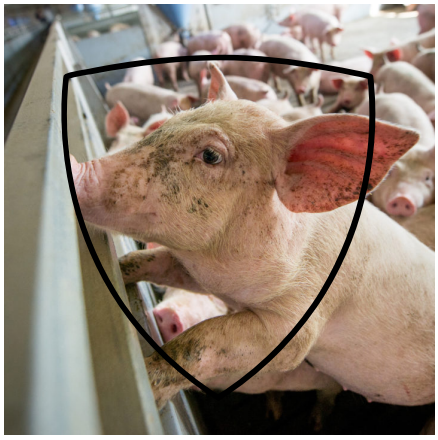
In addition to the importance of access to plant-based meals for individuals in these facilities, "offering plant-based options in these institutions gives California a chance to further its climate protection and water conservation goals."

The Los Angeles City Council is also **considering legislation** that, if approved, would require all movie theaters and large-scale entertainment venues that sell food to provide at least one vegan protein entrée option on their menus. This law would include concessions at city-operated venues, parks, the Los Angeles Zoo, Meals on Wheels programs, and Los Angeles International Airport restaurants.

Councilman Paul Koretz, who introduced this proposal on December 5, 2018, said combating climate change is his chief motivation, and cited several studies linking the meat and dairy industries and the environment.

Further Reading:

● Rosengard, David B. " **Three Hots and a Cot and a Lot of Talk': Discussing Federal Rights-Based Avenues for Prisoner Access to Vegan Meals**." (23 Animal L. [i] (2016-2017)



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NEWS RELEASE Dec 4, 2020

Plant-Based Hospitals Meals Are Law in New York State Starting Dec. 6



ALBANY, N.Y.—New York State hospitals must make a healthful plant-based option available at every meal starting Dec. 6, following a landmark bill that was signed into law last year. The Physicians Committee for Responsible Medicine, which supported the bill, is a member of a

nonprofit coalition that offers support, resources, and hands-on trainings to help hospital culinary teams provide more plant-based meals.

Bill S1471A/A4072, introduced by Senator Brad Hoylman and Assembly Member Richard Gottfried, requires hospitals in New York to make available upon request plant-based meals and snacks containing no animal products or by-products that are nutritionally equivalent to other menu items. The bill also requires hospitals to list the plant-based options on all written materials and menus.

“This law gives physicians a teachable moment to discuss with patients the power of a plant-based meal to help prevent and reverse conditions like heart disease, diabetes, and obesity,” says Susan Levin, M.S., R.D., director of nutrition education for the Physicians Committee.

Nearly 1.7 million New Yorkers have diabetes and heart disease accounts for 40 percent of all deaths in New York State, according to the New York State Department of Health. In New York State, the leading COVID-19 comorbidities are high blood pressure, diabetes, and high cholesterol. Research shows that a diet rich in fruits, vegetables, grains, and beans can help fight heart disease, hypertension, diabetes, and cancer.

The American Medical Association has passed a Healthy Food Options in Hospitals resolution that calls on U.S. hospitals to improve the health of patients, staff, and visitors by providing plant-based meals. The American College of Cardiology made the same recommendation in Planting a Seed: Heart-Healthy Food Recommendations for Hospitals.

Last year, the D.C. Council introduced the Healthy Hospitals Amendment Act of 2019, a bill that would require hospitals in Washington, D.C., to improve the nutritional quality of their menus by eliminating processed meat such as bacon and hot dogs and making plant-based options available. California passed similar legislation in 2018, which the Physicians Committee co-sponsored.

The Physicians Committee’s Healthy Hospital Food web page provides quantity plant-based recipes, tips for implementing plant-based meals, and case studies of hospitals championing healthy food.

To speak with Susan Levin, please contact Donna Steele at dsteele@pcrm.org or 202-527-7342.

Media Contact

DONNA STEELE

202-527-7342
dsteele@pcrm.org

Founded in 1985, the Physicians Committee for Responsible Medicine is a nonprofit organization that promotes preventive medicine, conducts clinical research, and encourages higher standards for ethics and effectiveness in education and research.

More on Healthy Hospitals



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San Francisco Jails to Cut 50% of Meat Purchase by 2024

In a push to reduce the consumption of meat products, as well as dairy and eggs, city jails within San Francisco are required to slash their intake of these items by 50% over the next three years. In a vote passed by the Board of Supervisors, the statute was subsequently passed into law by Mayor London Breed. Further stipulations include that consumption of meat must be reduced from its current rate in public hospitals – such as Laguna Honda and Zuckerberg General – by 15% within two years, by the year 2023.

The desire for a more substantial plant-based diet within San Francisco's penal institutions is driven by the adverse ecological effects of rearing animals for human consumption, and its consequent impact on climate change. According to the United Nations' Food and Agriculture Organization, animal livestock is responsible for almost 15% of global greenhouse emissions.

The initiative stems from pressure placed against the city of San Francisco from environmentalists who feel the city's wealth – indeed, as one of the richest metropolitan areas on the planet, thanks to its being the headquarters of Microsoft, Google, Gap clothing (and Buffalo Market!) – could surely be utilized in supporting such a cause.

This new law, heralded as the first of its kind, is one part of a wider push toward meat-free meals in federal institutions across the US. In Arizona, for instance, the announcement was made that prisons in the state would implement vegan meal options as replacements for halal and Kosher cuisine.

In an announcement issued by David Shinn, the state's Department of Corrections director, the vegan meals would satisfy dietary requirements of all religions practiced by prison inmates. The Common Fare Meal plan, under which these meals will be provided, aims to cater for every religious need when it comes to the nutritional content of its inmates' food. This scheme is available to all other prisoners as well, provided they make it known with 30 days' notice that they wish to move to a more substantially plant-based diet.

Benefits of a plant-based diet



The leading impetus behind the move away from animal livestock and dairy products in San Francisco is saving on land usage, as well as reducing permanent soil damage and desertification. With a reported quarter of all global emissions being the result of food production, it is strongly believed that reduced consumption of animal livestock could have significant effects in lowering the risks of climate change.

Principally through the land clearance required to rear the animals eaten by humans, the impacts on our climate are also produced by the methane gas expelled by cows and other livestock. Declining forest acreage, combined with an uptick in organically-produced noxious gases, limits the natural absorption of carbon dioxide enacted by trees via photosynthesis. In this process, the soil also absorbs CO_2 and locks that carbon in, but when the land is repurposed for livestock that carbon is the released back into the atmosphere.

Thus, it is the side effects of food production specific to animal rearing which causes the accelerated rate of global warming, meaning that the major benefit of plant-based diet would be the heightened sustainability it brings with it.

The result of the higher temperatures brought on by climate change help decompose the soil at a faster rate than usual, in turn releasing a greater volume of greenhouse emissions into the atmosphere. It is only by reducing the output of methane gases, as well as removing the risk of soil disturbance caused by deforestation, that these lasting impacts can be mitigated – and even reversed.

Solutions to this problem include a program of controlled grazing, reducing the consumption of grass and root damage integral to the structure of the soil, as well as increased planting to stimulate soil fertility.

While in the UK there have been movements led by vegans and vegetarians to remove lamb and beef products from school dinner menus – primarily under the #NoBeef hashtag – there have been noteworthy culinary innovations made in the US, in the form of vegan burger patties not unlike their meat-based counterparts. It is on account of their iron-rich component heme that affords the vegan patties a taste similar to that of a genuine beef burger.

Mayor Breed's Styrofoam ban



The reduction of dairy and eggs consumed within San Francisco's jails is something of a follow-up to earlier legislative action passed by Mayor Breed, when she was then President of the city's Board of Supervisors. In 2016, a ban on Styrofoam packaging was imposed to reduce usage of non-recyclable materials, with Breed as its campaign spearhead. Fittingly, Styrofoam is commonly used in the manufacture of egg cartons, among other things like packing peanuts and disposable coffee cups.

Such was her devotion to cutting back on the distribution of animal products in this environmentally unfriendly material that Breed took part in a 75-second campaign video, featuring a spirited assault on the "Styrofoam monster". Really just a guy dressed as a food container, the monster is nevertheless defeated by Breed's gutsy disdain for the sentient piece of packaging and the low-key chaos it causes.

It's fair to say the campaign served its purpose, as it was not only awarded the distinction of "most creative ad campaign" by the *San Francisco Chronicle*, but may have had something to do with Breed's unanimous re-election as Board of Supervisors President in 2017.

How to lower your carbon footprint

With the shift toward a more sustainable diet being made on a federal level, it's fair to say you don't need to be a prison inmate to cut out meat from your diet. There are plenty of ways to implement more vegetables into your meal plan without losing any of the protein and nutritional value of consuming red meat. From the simplest fiber supplements to be found in **cannellini beans**, you can get a whole load more of your daily minerals and vitamins in **fennel**, **strawberries**, and **bananas**.

Moving away from a meat-based diet will not only save the planet but also encourage a more adventurous approach to cooking, as you begin to utilize more colorful ingredients in your recipes. To get the ball rolling, then, why not try our **brussels sprouts *Nasi Goreng*** recipe for a delicious vegetarian dish that's loaded with flavor?

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From: Sue Ann Lorig
Sent: Wednesday, October 26, 2022 7:25 PM
To: Council <Council@losgatosca.gov>
Subject: Thank you and Please Develop and Fund a Plant-Based Education Program

Dear Town Council Members,

I am a resident of Los Gatos and I thank you for including plant-based education in the General Plan.

Reducing consumption of animal products and eating more plants is crucial if we are to meaningfully address the climate crisis. Although reducing consumption of fossil fuels is extremely important, reducing or eliminating the production and consumption of animal products is critical if we are to meet climate goals. Additionally, studies show that eating more plants and minimal or no animal products is best for overall health and longevity. Also of importance, reducing consumption of animal products reduces the pervasive cruelty and misery found in industrial animal agriculture.

Please make it a priority to develop and fund a meaningful plant-based education program.

I'm keeping this email brief, but please let me know if you would like more information, including articles, studies, and other resources.

Sincerely,
Sue Ann Lorig
Los Gatos, CA

From: Sue Shoff
Sent: Wednesday, October 19, 2022 3:09 PM
To: Council <Council@losgatosca.gov>
Subject: Plant-Based Education

Dear Town Council members,
My name is Susan Shoff and I am a resident of Los Gatos. I have lived here for 39 years.
I want to thank you so much for including a Plant-Based Education Program in the 2040 General Plan. I understand that you'll be discussing this topic at the Nov. 1st town council meeting.
I'd like to express my support for the development of a program to educate residents on the hows and whys of plant-based eating. I'd like to see items like plant-based cooking classes, speaker series, cooking contests, a Vegfest, and a community council to address climate change.

Sincerely,
Susan Shoff

DATE: November 1, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Provide Direction on the Approach to the Plant-Based Diet Education Implementation Program in the 2040 General Plan (Environment and Sustainability Element Program CC).

REMARKS:

Attachment 9 contains public comment received between 11:01 a.m. Thursday, October 27, and 11:00 a.m. Tuesday, November 1, 2022.

Attachments Previously Received with the Staff Report:

1. Town of Los Gatos Resolution 2019-062: Green Mondays and Expand Plant-Based Offerings
2. Mountain View
3. New York City Public Schools
4. Meatless Procurement Policies
5. California State Facilities
6. New York State Hospital Meals
7. San Francisco Jails
8. Public Comment

Attachments Received with this Desk Item:

9. Public comment received between 11:01 a.m. Thursday, October 27, and 11:01 a.m. Tuesday, November 1, 2022

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Community Development Director, Library Director, and Finance Director

From: [redacted]
To: Council
Subject: Comment for Nov 1 mtg - plant-based education
Date: Sunday, October 30, 2022 9:20:09 PM
Attachments: 11.1.22 - speech LG town council - Karen.docx

EXTERNAL SENDER

Hello Council, attached please find my comment for the Nov 1 meeting, item plant-based education. Thank you for all the work you do for our community.

Thank you,
Karen Rubio
[redacted]

My name is Karen Rubio. I am a member of nonprofit Plant-Based Advocates.
We are excited that Plant-Based Diet Education has been included in the General Plan, and thank you to the council for taking a leadership position on this issue. We now ask that the council prioritize plant-based education, and provide funding and support for meaningful programs.
The **Los Gatos Plant-Forward Diets Program** does exactly that with concrete solutions and education to support people who want to eat more plant-based meals.
We have had a few people mention that "You can't tell people what to eat." That is not our goal. What we want to do is ***educate*** people about the environmental and health impacts of the food they eat, so they themselves can make informed choices.
Global warming and water scarcity are the biggest challenges of our time. But most people aren't aware that eating a plant-based diet, or even reducing their meat and dairy purchases, is literally a "magic bullet" for these problems.
That's because we are bombarded every day with conflicting messages about food – in large part because of the powerful meat and dairy industries that hold sway over our government. Our government spends 38 billion a year in subsidies and support to these powerful industries. Heavy advertising by these industries makes it very difficult for the average consumer to sort fact from fiction.
Peer-reviewed scientific literature uniformly points to plant-based diets as the best solution for increasing our health, abating global warming, reducing pollution, reducing ocean acidification and dead zones, and halting biodiversity loss.
World Wildlife Fund's Living Planet Report 2022 finds that **wildlife populations have declined by an average 69% in the past 50 years**. That number should be shocking to all of us. The main driver of this loss is **habitat loss due to animal agriculture**.
Eating a plant-based diet requires **75% less land**, and **reduces associated greenhouse gas emissions by up to 73%**!
In addition, people who eat plant-based use only ***half*** the amount of water as people eating meat and dairy. Because food takes 80% of our water usage, that is a huge savings in our drought-stricken state.
In taking a leadership position on this issue, Los Gatos will not be alone. Berkeley has committed to divert half of the city's food purchases to plant-based foods by 2024. By 2024, San Francisco's food purchases for jails will be 50% plant-based, and hospital food purchases will be 15% plant-based. Mountain View is moving ahead with plant-based education. NYC is

serving vegan meals once a week in their public schools – the largest school system in the US. It is incumbent upon on of us to ensure a habitable planet for our children. Please help us by supporting education about plant-based diets and programs to help people incorporate more plants, and less animal products, into their diets.
Thank you very much.

From: Mallika Ramamurthy
To: Council
Subject: Plant based Education program
Date: Sunday, October 30, 2022 8:55:05 PM

EXTERNAL SENDER

I am a resident of Los Gatos. I have lived here for ___7__years. I want to thank you so much for including a Plant-Based Education Program in the 2040 General Plan. I'd like to request that you please develop and fund a program to educate residents on the hows and whys of plant-based eating. I'd like to see items like plant-based cooking classes, speaker series, cooking contests, a Vegfest, and a community council to address climate change.

Mallika Ramamurthy

From: Kathleen Willey
To: Council
Subject: Please suppprt plant based education in Los Gatos
Date: Sunday, October 30, 2022 4:44:17 PM

EXTERNAL SENDER

Hello Council Members, I would like ask you to kindly provide proper funding for plant based education in Los Gatos.
We have lived in Los Gatos for 12 years now and became a plant based family around 6 years ago. The options in restaurants are limited so we often go outside our town to eat.
My boys are in middle school and it saddens me how little awareness there is on the destructive impact of animal agriculture on our environment. Our children need to understand everything they can do to help create a healthier planet for their future.

Thank you!
Kathleen Willey
[redacted]
Los Gatos, CA [redacted]
[redacted]

From: Debbie Parsons
To: Council
Subject: Please fund a plant-based education program
Date: Sunday, October 30, 2022 1:06:16 PM

EXTERNAL SENDER

Dear Town council members,

We are residents of the town of Los Gatos and I have lived here for over 30 years. We would like the council to provide funding for programs to educate the public about the many benefits of plant-based eating.

"Phasing out animal agriculture represents “our best and most immediate chance to reverse the trajectory of climate change,” according to a new model developed by scientists from Stanford and the University of California, Berkeley.

According to this model published in February 2022 "Rapid global phaseout of animal agriculture has the potential to stabilize greenhouse gas levels for 30 years and offset 68 percent of CO2 emissions this century."
https://journals.plos.org/climate/article?id=10.1371/journal.pclm.0000010

Even just cutting down on the consumption of animal products can make a huge difference for the planet. Also, many residents would like to learn how to eat more healthy plant-based. meals Such programs would provide be well worth the funds invested.

Thank you for the work you do for our wonderful town.

Sincerely,
Debbie and Jim Parsons

From: Laura Sneddon
To: Council
Subject: Plant-Based Education Program in the General Plan
Date: Sunday, October 30, 2022 12:58:53 PM

EXTERNAL SENDER

Dear Town Council members,

I am a resident of Los Gatos and have lived here for 14 years.

I want to thank you so much for including a Plant-Based Education Program in the General Plan. I believe plant-based education is very important for the health of our planet and residents. Please provide the funding to develop a plant-based education program for the residents of Los Gatos.

thank you,

Laura Sneddon

From: Sue Barden
To: Council
Subject: SUPPORT FUNDING OF PLANT-BASED EDUCATION
Date: Sunday, October 30, 2022 11:42:16 AM

EXTERNAL SENDER

My name is Sue Barden and I am a resident of the Town of Los Gatos residing at [redacted] Los Gatos CA.

I STRONGLY support the funding of a plant-based education program.

As an Registered Nurse and health care professional I believe that this is education is critical.

Thank you
Sue Barden

From: [redacted]
To: Council
Subject: Plant Advocates
Date: Sunday, October 30, 2022 11:14:16 AM

EXTERNAL SENDER

Dear Los Gatos Town Council,

My name is Hilary White, and I am a resident of the town of Los Gatos. I have lived here for 35 years.

I would like to express my enthusiastic support for plant-based community education. Many people are becoming aware of the problems with raising animals for food, and they are eager to make changes. However, they don't always know how to even begin. Programs that teach people how to incorporate more plants into their diets and encourage them to take steps in this direction would go a long way in helping them eat more sustainable diets.

I enthusiastically support the funding of a dedicated plant-based education program.

Meat and dairy reduction is an easy, cost-effective, and very powerful way to help the environment.

Thank you for your efforts!

Sincerely,
Hilary B. White

From: [redacted]
To: Council
Subject: Plant-based eating
Date: Sunday, October 30, 2022 11:11:14 AM

EXTERNAL SENDER

Dear Town council,

My wife and I are long-term residents of the town of Los Gatos. We have lived here for 35 years. I am involved in a conservation program to save rhinos from poaching and extinction using technology. My involvement in this project has opened my eyes to the dire situation facing so many species. A very important step we can take to protect wildlife is to protect their habitat. Raising animals for food uses huge amounts of land and cuts into the habitat of wild animals. Meat and dairy reduction is a powerful way to conserve land and therefore endangered species as well.

According to the Proceedings of the National Academy of Sciences, humans account for about 36 percent of the biomass of all mammals. Domesticated livestock, mostly cows and pigs, account for 60 percent, and wild mammals for only 4
percent. www.pnas.org/content/115/25/6506
Essentially, we are replacing wild animals with livestock. I would like to believe that future generations will be able to enjoy the wildlife I have so appreciated throughout my life.

I am in full support of a program to educate residents about plant-based eating. Reducing meat and dairy consumption is an important step in protecting our planet and its amazing wildlife. I support the development and funding of a plant-based education program for Los Gatos.

Thank you for the steps you have already taken in this regard. I look forward to seeing more programs to encourage healthy, environmentally friendly eating in Los Gatos.

Sincerely,

From: Lara Willing
To: Council
Subject: Plant based education
Date: Sunday, October 30, 2022 10:09:07 AM

EXTERNAL SENDER

Dear Town Council members,

I am a resident of Los Gatos. I have lived here for 52 years, since 1970. I want to thank you so much for including a Plant-Based Education Program in the 2040 General Plan.

Plant based eating has so many benefits, and I believe that a lack of proper education and support is a hurdle for many people. Plant based eating is good for our bodies and our planet. I feel proud that my town is considering offering that education and support.

I'd like to request that you please develop and fund a program to educate residents on the hows and whys of plant-based eating. I'd like to see items like plant-based cooking classes, speaker series, cooking contests, a Vegfest, and a community council to address climate change.

With care,

Lara Willing

Lara Willing, Psychotherapist
[redacted]
Pronouns: She, [redacted]

From: Sandeep Madduri
To: Council
Subject: Plant-based education program
Date: Sunday, October 30, 2022 9:53:11 AM

EXTERNAL SENDER

Dear Town Council members,

I am a resident of Los Gatos. I have lived here for three (3) years.

I want to thank you so much for including a Plant-Based Education Program to the General Plan.

I'd like to request that you please fund a program to educate residents on the hows and whys of plant-based eating. I'd like to see items like plant-based cooking classes, speaker series, cooking contests, a Vegfest, and a community council to address climate change.

Thank you for your consideration,

Sandeep Madduri

[redacted]

Los Gatos, CA 95032

Sent from my iPhone

From: shailaja venkatsubramanayan
To: Council
Subject: plant-based education program.
Date: Saturday, October 29, 2022 2:38:45 PM

EXTERNAL SENDER

Hello, I am a resident of the Town of Los Gatos.

I would like the town to fund a plant-based education program. This would involve the promotion of plant-based diets in Los Gatos through talks, classes, cooking demos, flyers, banners, etc. Climate change is here, and we have to take all the steps to reverse its effects.

Thank you so much for taking my input into consideration. I am sincerely grateful.

Shai

From: Michelle Waters Art
To: Council
Subject: Please develop and fund a Plant-Based Education Program for Los Gatos
Date: Saturday, October 29, 2022 12:01:12 PM

EXTERNAL SENDER

Dear Los Gatos Town Council,

I am a 26 year resident of Los Gatos.

I want to thank you so much for including a Plant-Based Education Program in the 2040 General Plan.

Please develop and fund a program to educate residents on the hows and whys of plant-based eating. I'd like to see items like plant-based cooking classes, speaker series, cooking contests, a Vegfest, and a community council to address climate change.

The high consumption of animal products in the American diet is a leading contributor to climate change and many serious forms of environmental destruction, including deforestation, wildlife extinction, ocean dead zones, water scarcity, methane emissions, etc. According to a comprehensive 2018 study published in the journal Science, avoiding meat and dairy is the 'single biggest way' to reduce our impact on the planet. According to that same report, in order to keep climate change under 2 degrees, US citizens need to eat 90% less beef, 90% less pork, 60% less milk, and 50% fewer eggs, while eating 4-6 times more beans and pulses. The UN has repeatedly urged world governments to advocate for meat reduction in order to save the environment. However, this message is completely ignored in many sustainability and carbon-footprint reduction programs. Why? Sometimes food emissions are considered "consumption" based, meaning that they are generated outside the geographic area of interest. But to ignore "consumption-based" emissions makes little sense, since climate change is a global problem that knows no borders. Emissions generated anywhere will eventually cause our planet's overall climate to warm. Ignoring consumption-based emissions is analogous to being on a sinking ship, and bailing the water in your compartment to your neighbor's compartment. It makes little difference when the entire ship is sinking.

Sincerely,
Michelle Waters

October 30, 2022

Dear Town Council of Los Gatos,

My name is Suzanne Meinhardt. I have been a resident of Los Gatos for the last 52 years. I LOVE and TREASURE our town.

I am so grateful for your thoughtful consideration of Plant Based Education and for including a Plant-Based Education Program in the 2040 General Plan.

To have done that it is clear that you are serious about and understand how important it is to look to the future. The science is overwhelming that one of the biggest changes, as we look forward to saving the planet, can come from each of us, personally, as we make our food choices. In fact dietary change is THE most important approach to meeting climate change targets. The global food system is a direct driver of three inter-related global crises: nutrition, climate and ecological, our diet choice has an enormous impact on planetary health. (1)

In the introduction to his book, "The Future of Nutrition", T. Colin Campbell PhD, as one of the pillars of the whole Food Plant based movement and renowned author of "The China Study", and many other inspiring books muses...."When it comes to human health, the status quo is an UGLY thing: every day, human lives are impoverished, disabled, and ended by avoidable diseases. Is that status quo worth preserving? And so I return to the controversy to make sense of it, so that we might begin to make sense of ourselves".(2)

Another powerful comment from a pillar of Whole Food Plant based eating Dr. Caldwell Esselstyn, author of "Prevent and Reverse Heart Disease",I believe that coronary artery disease is preventable and that even after it is underway, its progress can be stopped, its insidious effects reversed. The key lies in NUTRITION ——-specifically abandoning the toxic American diet.

I am sure you will agree all of the above is powerful BUT how do folks learn how to help themselves.....EDUCATION. I can speak from experience that my journey from vegetarian to plant based eating has been long and "sketchy" as I tried to figure it all out on my own. I am now

completely Whole Food Plant Based and at age 80 I have significantly lowered my cholesterol, have no signs of arthritis, I am prescription drug free, I do weight training twice a week, walk 3-5 miles a day, I am engaged, productive and I am thriving. I would like to make it easier for others to find their way to a plant based lifestyle.

I am requesting that you go another step further in your planning and asking that you develop and fund a program to educate residents on plant based eating. For example guest speakers, information classes, a mentor program, cooking classes, book groups, special showings of documentaries like, "Forks over Knives', 'Game Changers', "What The Health", at our beautiful Los Gatos Theater. What a fabulous way to educate and lift community spirits for the good of all.

Finally I would be willing to be part of any group or committee that forms to address the issue. I have started a neighborhood outreach in the Almond Grove named "Raise Your Plate and Elevate", I began this in July, 2022, I also help Moderate a global community through the T Colin Campbell Center for Nutrition studies. I have earned a Plant Based Certificate through eCornell's Center for Nutrition Studies and I am a member of Plant-Based Advocates, Los Gatos. My passion is helping people to become aware of the many benefits to their well being, by eating PLANTS.

Respectfully,
Suzanne Meinhardt



[redacted]
Los Gatos, 95030
[redacted]

1. "Eating Plant Based", Dr Shireen Kassam, PhD, MD, London and Dr. Zahara Kassam,MD, Professor Ontario, Chapter 13
2.
2. "The Future Of Nutrition", T. Colin Campbell, PhD, Professor and Researcher, Cornell University, Introduction

3. "Prevent and Reverse Heart Disease, Dr Caldwell Esselstyn, Cleveland Clinic, Medical Doctor and Researcher, Chapter1.

From: Lisa Wade
Sent: Tuesday, November 1, 2022 10:17 AM
To: Council <Council@losgatosca.gov>; Janette Judd <jjudd@losgatosca.gov>
Subject: My verbal comments for Plant-Based Program Discussion on Nov. 1

EXTERNAL SENDER

My name is Lisa Wade and I've lived in the town of Los Gatos for over 30 years. I want to thank the council for their hard work and dedication to our beautiful town. Thank you also for including a plant-based education program in the General plan

We understand completely that budgets are tight and that not all implementation programs are guaranteed funding, but **not all implementation programs came with the support of 300 names including residents, dignitaries from neighboring towns, and numerous environmental groups.**

The town council has received an impressive number of emails in support of a meaningful Plant-Based education program. **In fact, we understand that the two issues on the General Plan that received the most emails from Los Gatos residents are housing and Plant-Based education.** We also submitted a petition with over 300 names including mostly residents of the town, but also, dignitaries from other cities and 10 environmental NGOs (including Sierra Club, Actera, and Center for Biological Diversity to name a few) I have attached the petition below.

The council has been receiving emails on this issue since 2018. Residents have been speaking on this issue for that same period of time. **It is clear that there is widespread community support for this issue.** The town implemented a Green Monday Resolution and added a Plant-Based education program to the General Plan 2040. We would like to see the town bring these programs to life by proving funds. The public has asked for a program and now would be a great time to honor that request.

According to a new model developed this year by scientists from Stanford and UC Berkeley "Phasing out animal agriculture represents "our best and most immediate chance to reverse the trajectory of climate change,"

Rapid global phaseout of animal agriculture has the potential to stabilize greenhouse gas levels for 30 years and offset 68 percent of CO2 emissions this century | PLOS Climate

Even just cutting down on the consumption of animal products can make a huge difference for the planet. Also, many residents would like to learn how to eat more healthy plant-based meals but they don't know where to start. Residents would like to see plant-based cooking classes, information on how to shop for plant-based foods, etc

Education on the environmental benefits of plant-based eating would also be very valuable as many people don't realize the powerful effects a plant-based diet can have.

Such programs would be well worth the funds invested. There are many free or low-cost speakers and materials. However, the program would need to receive some funding to be worthwhile

Plant-Based programs can have a huge impact with even modest funding

We understand the library has been proposed as a way to fulfill the program. But we struggle to see how suggesting a location is helpful. This falls very short as anyone can approach the library as a venue for programming. Many residents have spoken and what they want is a dedicated, meaningful, adequately funded program.

In addition to receiving funding, the program will also need to be publicized in order to be effective.
There are many creative ways events could be advertised. Here are some ideas:
Events could be listed in the town newsletter.
Flyers, signs, or banners could be used to advertise.
Educational information on plant-based diets could be included in each edition of the Growing Greener Together Newsletter.

Funding is necessary but the money would go a long way and there are many free and low-cost ways the Town could get out the word.

We would also encourage the town to conduct a consumption-based greenhouse gas emissions inventory. Such analysis has been conducted in other cities, and it clearly shows how a shift to plant-based eating is the most cost-effective way for cities to reduce GHG emissions - not to mention all the other environmental benefits.

A consumption-based emissions inventory for the San Francisco Bay Area has been developed by scientists at UC Berkeley in partnership with government agencies, businesses, and NGOs (non-governmental organizations) and can be found at : https://coolclimate.berkeley.edu/inventory.

Thank you for considering my comments.

Supporters of Adding Plant-Based Education to Los Gatos General Plan 2040				
Name, Last	**Name, First**	**Position / Affiliation**	**Address / Town Area**	**Comments**
Community and Business Leaders of Los Gatos				
Albright	Karla	Together We Will/Indivisible Los Gatos	Los Gatos, CA	
Arroyo	Kevin	Pinehurst Community Garden organizer	Los Gatos, CA	Great idea and I support this plan!
Brown	Elisabeth	Educator	Los Gatos, CA	I am a teacher in town. I'd love to incorporate any lessons into my curriculum. I also lead student council and would be willing to organize an assembly.
Chan	Wendy	Business owner: Tai Zhan Plant-Based Microbakery	Los Gatos, CA	
Goetz	Alicia	Owner, Los Gatos Theatre	Los Gatos, CA	
Hertan	Peter	Vice President, Los Gatos-Saratoga Union High School District Board	Los Gatos, CA	
Iyar	Rupar	Owner, Pura Wellness; philanthropist	Los Gatos, CA	
Montonye Reese	Laura	Agriculture Fairness Alliance; Vegan Justice League	Los Gatos, CA	
Moore	Rob	LG Anti-Racism Coalition; Plant-Based Advocates	Los Gatos, CA	
Owens	Heidi	Community leader	Los Gatos, CA	
Preville	Bruce	CERT Leader, Los Gatos	Los Gatos, CA	
Romano	Andrea	Owner, Centonove Restaurant	Los Gatos, CA	
Spargo	Alicia	Outreach Coordinator, Los Gatos Anti-Racism Coalition	Los Gatos, CA	
Residents of Los Gatos				
Aidi	Karen		Los Gatos, CA	
Anji	Roberto		Los Gatos, CA	
Arienzo	Wendy		Los Gatos, CA	
Arroyo	Frank		Los Gatos, CA	
Arroyo	Susie		Los Gatos, CA	
Bagatelos	Mary Ann		Los Gatos, CA	
Balijepalli	Priya		Los Gatos, CA	
Balakrishnan	Jeyendran		Los Gatos, CA	
Barden	Ben		Los Gatos, CA	
Barden	Sue		Los Gatos, CA	
Barnett	Kaitlyn		Los Gatos, CA	
Bay	Juliana		Los Gatos, CA	
Bayne	Daphne		Los Gatos, CA	
Bernholz	Malte		Los Gatos, CA	
Biller	Jason	Physician	Los Gatos, CA	
Bolen	JP		Los Gatos, CA	
Bolen	Rachel		Los Gatos, CA	
Booth	Sandra		Los Gatos, CA	
Bora	Anita		Los Gatos, CA	
Bosworth	Mary Ann		Los Gatos, CA	

Boyd	Sandy		Los Gatos, CA	
Brzak	Lukas		Los Gatos, CA	
Burkhart	Chris		Los Gatos, CA	
Bz	Linda		Los Gatos, CA	
Cao	Xuong		Los Gatos, CA	
Cappon-Javey	Maureen		Los Gatos, CA	
Carol	Amy		Los Gatos, CA	
Carpio	Virginia		Los Gatos, CA	I support putting into the General Plan a plant based education program. There are several benefits from such a program, including potentially better general health and a healthier air quality in our community from consuming less meat, i.e., raising fewer animals that contribute to the increase of methane gas. I think this program would be very good for our community and far beyond it.
Chavez	Vana		Los Gatos, CA	
Christensen	Beverly		Los Gatos, CA	
Christensen	John		Los Gatos, CA	
Cisneroz	Diane Larson		Los Gatos, CA	
Corini	Tamara		Los Gatos, CA	
Dai Biller	Jenny	Physician	Los Gatos, CA	
Davies	Tiffany	Physician	Los Gatos, CA	
Davies	Mark	Physician	Los Gatos, CA	
De Cesare	Anne Marie		Los Gatos, CA	
De Louraille	Karen		Los Gatos, CA	
Czinski	Laura		Los Gatos, CA	
Deak	David		Los Gatos, CA	
Dempsey	Caroline		Los Gatos, CA	
DeMaria	Dawn		Los Gatos, CA	
Dickinson	Ilene		Los Gatos, CA	
Dickinson	Roger		Los Gatos, CA	
Dillehay	Kristine		Los Gatos, CA	
Dreiger	Jeannie		Los Gatos, CA	
Dreher	Diane		Los Gatos, CA	
Erdengiz	Sevgi		Los Gatos, CA	
Evjenth	Gail		Los Gatos, CA	
Evjenth	Tim		Los Gatos, CA	
Fletcher	Lisa		Los Gatos, CA	
Fox	Audrey		Los Gatos, CA	
Fox	Larry	Owner, Valet Custom Cabients	Los Gatos, CA	
Frager	Bernadette		Los Gatos, CA	
Freedom	Rea		Los Gatos, CA	Pollution and waste in Factory Farms;, use of land for meat production, killing of wildlife and use acres of land to support livestock; nets in the ocean killing millions of sea creatures; all contribute to climate change. Reducing meat consumption is something we all can do. Please place plant based education in the general plan. It is the right thing to so.
Garland	Lynette		Los Gatos, CA	
Gibbons	Maria Eugenia		Los Gatos, CA	

Goldberg	Kristine		Los Gatos, CA	
Goldberg	Michael		Los Gatos, CA	
Griffin	Julie		Los Gatos, CA	
Gupta	Reeta		Los Gatos, CA	
Gummow	Todd		Los Gatos, CA	I support plant based diet education programs
Hamilton	Georgia		Los Gatos, CA	
Hamilton	Scott		Los Gatos, CA	
Harrison	Julia		Los Gatos, CA	
Hassoun	Joe		Los Gatos, CA	
Haylock	Archna		Los Gatos, CA	Yes we need more options at school and at local restaurants.
Hemmis	Matt		Los Gatos, CA	
Hendry	Dan		Los Gatos, CA	
Hendry	Wendy		Los Gatos, CA	
Hinsche	Danielle		Los Gatos, CA	I am a resident of Los Gatos and I support the addition of a plant-based education program in the Town's 2040 General Plan.
Hiroshima	Kevin		Los Gatos, CA	
Hojjat	Sara	District Leader Volunteer- California Congressional District 18. Member of Plant-Based Advocates	Los Gatos, CA	
Honorio	Mia		Los Gatos, CA	
Houghton	John		Los Gatos, CA	
Howe	Chelsea		Los Gatos, CA	
Hsieh	Cynthia		Los Gatos, CA	I would love to see a vegan, zero waste restaraunt in Los Gatos.
Huang	Jenny		Los Gatos, CA	
Hussey	Jacklyn		Los Gatos, CA	Anything that will help save our planet I will definitely support!
Ingle	Lori		Los Gatos, CA	
Isaacs	Varily		Los Gatos, CA	
Iyer	Harish		Los Gatos, CA	
Javey	Shahram		Los Gatos, CA	
Jog	Chetan		Los Gatos, CA	
Johnson	Karen		Los Gatos, CA	
Johnston	Jan		Los Gatos, CA	
Juhl	Linda		Los Gatos, CA	Thank you
Kamali	Kristine		Los Gatos, CA	
Karavelioglu	Sevil		Los Gatos, CA	
Keating	Kathleen		Los Gatos, CA	I believe it is to the best interest of Los Gatos to establish a plant based education program at the high school and for the general public. I believe many of our children and others need to know that plant based eating is good for their bodies if done right. Please provide funding for an education for plant based eating. Please sponsor cooking classes as well.
Keller	Lisa		Los Gatos, CA	Love it. Yes!!
Koch	Charlene Foster		Los Gatos, CA	I would LOVE to see this happen!! So very needed.
Koke	Cynthia		Los Gatos, CA	
Kollu	Badrinath		Los Gatos, CA	
Kurlin	Carolyn		Los Gatos, CA	
Kurlin	Gregg		Los Gatos, CA	
Kurtz	Karen		Los Gatos, CA	
Lasso	Alberto		Los Gatos, CA	

Lawton	Ann		Los Gatos, CA	YES!
Lazzarino	Dominic		Los Gatos, CA	
Le	Denise		Los Gatos, CA	I'm not a vegan or vegetarian but I'd love to incorporate more plant based and less meat protein to my diet.
Leeds	Felice		Los Gatos, CA	
Lesko	Camille		Los Gatos, CA	Cooking classes are a great idea!
Levine	Joshua		Los Gatos, CA	
Levine	Marni		Los Gatos, CA	
Lewis	Jessica		Los Gatos, CA	Education is key for this important information. Thanks to all involved in making this happen!
Lammers	Victoria		Los Gatos, CA	Need more vegetarian places/options
Li	Van		Los Gatos, CA	
Liu	Andre		Los Gatos, CA	
Liu	Calista		Los Gatos, CA	
Liu	Gabriela		Los Gatos, CA	
Lockman	Juliana		Los Gatos, CA	
Lorig	Glenn		Los Gatos, CA	
Lorig	Sue Ann		Los Gatos, CA	
Lowe	Debbie		Los Gatos, CA	
McKinnon	Skyler		Los Gatos, CA	
Madduri	Sandeep		Los Gatos, CA	
Malhotra	Priti		Los Gatos, CA	
Malhotra	Neeraj		Los Gatos, CA	
Mandurrago	Gloria		Los Gatos, CA	A fantastic idea!
Margolis	Sonya		Los Gatos, CA	
McGill	Alex		Los Gatos, CA	
McInerny	Celeste		Los Gatos, CA	
Menhardt	Trixi		Los Gatos, CA	
Mordaunt	Joshua		Los Gatos, CA	
Murphy	Sara		Los Gatos, CA	
Newlin	Kerry		Los Gatos, CA	
Mager	Nan		Los Gatos, CA	
Mano	Robin		Los Gatos, CA	
Martins	Rosilene		Los Gatos, CA	
Meinhardt	Suzanne		Los Gatos, CA	
Miramontes	Emily		Los Gatos, CA	
Morley	Eric		Los Gatos, CA	
Nguyen	Kim		Los Gatos, CA	
Niederauer	Tricia		Los Gatos, CA	
North	Pamela		Los Gatos, CA	
O'Connor	Rebecca		Los Gatos, CA	
O'Toole	June		Los Gatos, CA	
Park	Monica		Los Gatos, CA	
Parker	Dana		Los Gatos, CA	
Parsons	Daniel		Los Gatos, CA	

Parsons	Debbie		Los Gatos, CA	
Parsons	Jackie		Los Gatos, CA	
Parsons	James		Los Gatos, CA	
Parsons	John		Los Gatos, CA	
Patel	Minal		Los Gatos, CA	
Rai	Vivek		Los Gatos, CA	Yes, I am in for plant based projects.
Raad	Mona		Los Gatos, CA	
Raad	Ellie		Los Gatos, CA	
Ramamurthy	Mallika		Los Gatos, CA	
Ramaswamy	Vinay		Los Gatos, CA	
Ram	Amrith		Los Gatos, CA	
Ramesh	Mythri		Los Gatos, CA	Made verbal comments at GPAC
Reese	Dirk		Los Gatos, CA	
Rennie	Isabella		Los Gatos, CA	
Reyna	Melody		Los Gatos, CA	
Reyna	Orlando		Los Gatos, CA	
Rhine	Molly		Los Gatos, CA	
Richter	Jessica		Los Gatos, CA	
Riley	Kate		Los Gatos, CA	
Rittenhouse	Simone		Los Gatos, CA	
Robinson	Kari		Los Gatos, CA	
Rovin	Lynne		Los Gatos, CA	
Rovin	Stuart		Los Gatos, CA	
Rubio	Karen	CERT volunteer	Los Gatos, CA	Made verbal comments at Town council meeting for 2040 General plan
Rubio	Fred		Los Gatos, CA	
Rubio	Erik		Los Gatos, CA	
Rude	Christina		Los Gatos, CA	
Ry	Regina		Los Gatos, CA	
Sand	Gretchen		Los Gatos, CA	
Sardana	Manan		Los Gatos, CA	
Sarkar	Prasenjit		Los Gatos, CA	
Sathyamurthy	Shreelatha		Los Gatos, CA	I strongly support this initiative.
Schirmer	Lisa		Los Gatos, CA	
Schwartz	Jan		Los Gatos, CA	
Shah	Bhanik		Los Gatos, CA	
Shah	Swati		Los Gatos, CA	I support the local effort!
Shoff	Sue		Los Gatos, CA	
Seshadri	Sruba		Los Gatos, CA	
Smith	Angie		Los Gatos, CA	
Smith	Rucy	Climate Reality presenter and activist	Los Gatos, CA	
Sneddon	Laura		Los Gatos, CA	
Snyder	Stephen		Los Gatos, CA	
Srinivasan	Kiran		Los Gatos, CA	
Starov	Vladimir		Los Gatos, CA	I fully support this worthy cause!

Stillinger	Kelsey		Los Gatos, CA	Would love to see more emphasis on plant-based diet - through restaurants, education, community garden, etc.
Stone	Helen		Los Gatos, CA	
Stone	Paul		Los Gatos, CA	
Streicker	Robin		Los Gatos, CA	
Tompkins	Liz		Los Gatos, CA	
Venkatesan	Arun		Los Gatos, CA	
Venkatsubramanyan	Shailaja		Los Gatos, CA	Made verbal comments at GPAC
Von Luehrte	Missy		Los Gatos, CA	
Vuckovich	Melissa		Los Gatos, CA	
Waters	Michelle		Los Gatos, CA	
Wade	Christopher		Los Gatos, CA	
Wade	Lisa		Los Gatos, CA	Gave verbal comments at GPAC
Wade	Lucas		Los Gatos, CA	
Wade	Stephen		Los Gatos, CA	
Wade	Charles	Audobon Society Lifetime Achievement Award	Los Gatos, CA	
Wales	Pamela	CERT; Animal search and rescue disaster response team; animal sanctuary volunteer	Los Gatos, CA	
Walker	Kelsey		Los Gatos, CA	
Waters	Michelle		Los Gatos, CA	
Wentzien	Erin		Los Gatos, CA	
White	Tony		Los Gatos, CA	
White	Hillary		Los Gatos, CA	
Willey	Kathleen		Los Gatos, CA	Gave verbal comments at GPAC
Willey	Mark		Los Gatos, CA	
Willing	Lara		Los Gatos, CA	Plant based eating is part of a long term solution.
Wilson	Beth		Los Gatos, CA	
Yannoni	Mike		Los Gatos, CA	
Yosfee	Hanley		Los Gatos, CA	
Zilka	Stephanie		Los Gatos, CA	Let's join the scientific community and educate people about the importance of plant based living!!! It's vital to the survival of our planet and species!!!
Organizations Endorsing our Proposal				
Plant-Based Advocates of Los Gatos http://www.plantbasedadvocates.com/				
TWW/Indivisible-Los Gatos https://www.twwlg.org/				
Sierrra Club Loma-Prieta		https://www.sierraclub.org/loma-prieta		
Center for Biological Diversity https://www.biologicaldiversity.org/				Provided Written testomony on behalf of our proposal
Acterra: Action for a Healthy Planet https://www.acterra.org/				
Eat for the Earth	(Based in Santa Cruz)			

https://www.eatfortheearth.org/				
SAFE Worldwide https://www.safeworldwide.org/ (Based in Monte Sereno)				
Green Monday USA https://greenmondayus.org/				
Factory Farm Awareness Coalition https://www.ffacoalition.org/				
A Well-Fed World https://awellfedworld.org/				
Physicians Against Red Meat		**https://pharm.org/**		
Other Community and Business Leaders				
Hicks	Alison	City Council Member of Mountain View		
Ramirez	Lucas	Vice Mayor of Mountain View and Council Member		
Brook	Dan	Professor at SJSU; author; environmentalist	San Jose State University	
Gurunathan	Mohan	Environmentalist; designed Mountain View plant-based outreach program	Mountain View, CA	
Love	Beth	Environmentalist; Founder of Eat for the Earth, a Santa Cruz-based group promoting plant-based diets for sustainability	Santa Cruz, CA	
Mackey	Mary	Actress; Model; SAG BookPals program (reading to children in homeless shelters) and LIFE (Living in Freedom Everyday) Program, teaching life skills to inmates	San Jose, CA	
Middlesworth	Linda	Owner, V-Dog; health coach	Sacramento, CA	
Sehgal	Tony	Documentary Filmmaker	Saratoga, CA	
Support from Neighboring Residents				
Adalja	Anish		San Jose, CA	
Anand	Monico		San Jose, CA	
Balachandran	Jackie		San Jose, CA	As a vegetarian of 17 yrs and a registered nurse, I strongly support this plant-based education program because I believe it will help improve the health of members in our community.
Berlinberg	Jacqueline		Monte Sereno, CA	
Bengt	Amanda		San Jose, CA	
Bevard	Mariah		Monte Sereno, CA	
Castro	Jennifer		San Jose, CA	I support adding an education component to the Los Gatos 2040 plan which would educate citizens about plant-based foods.
Chaykin	Lori		Monte Sereno, CA	
Chugh	Rahul		San Jose, CA	
Duguma	Jemanesh		Campbell, CA	
East	Rowena		San Jose, CA	
Emerson	Ziba		San Jose, CA	Good job.
Giacomini-McDonald	Cathy		Monte Sereno, CA	

Guh	Teresa		Monte Sereno, CA	
Harrold	Kat		Campbell, CA	Thank you for this, I frequent Los Gatos so this would be great to see. Also I believe in the power of empowering our local farmers, and the more money we can get them, the better for everybody locally. Back to our roots! Better for the planet and better for everyone
Isis	Dawn		Campbell, CA	Though I don't live IN Los Gatos, I hope my support will indicate interest in this important issue in the wider area, & that Los Gatos may become a model for addressing it.
Jain	Beena		San Jose, CA	I support the educational program.
Kinger	Amit		San Jose, CA	
Lambert	Jennifer		Monte Sereno, CA	
Lanzl	Linda		Monte Sereno, CA	
Matar	Elizabeth		Monte Sereno, CA	Thank you! Yes!!!
Matar	Lisa		Monte Sereno, CA	Thank you! I'm completely in for this!!
Mesler	Michelle		San Jose, CA	
Mulchandani	Mukesh		Campbell, CA	Moving to Los Gatos soon!
Petroff	Patrice		Monte Sereno, CA	
Ramirez	Gustavo		San Jose, CA	We need more plant based food options! The meat industry is cruel and unsustainable.
Renson	Kellee		Monte Sereno, CA	Yes need more veggie places to eat
Shearer	David		San Jose, CA	I support this effort
Stolberg	Robb	Environmental Education: Veggielution, Walden West	San Jose, CA	
Streicker	Robin		Monte Sereno, CA	
Thakur	Smita		Saratoga, CA	I have been plant based for the last two years. It has made me healthier and it's the best thing for the planet. Would love to have more people join plant based way of life.
Woodhouse	Dori		San Jose, CA	