



**TOWN OF LOS GATOS
PLANNING COMMISSION AGENDA
OCTOBER 14, 2026
110 EAST MAIN STREET
TOWN COUNCIL CHAMBERS
7:00 PM**

*Kendra Burch, Chair
Jeffrey Barnett, Vice Chair
Susan Burnett, Commissioner
Adam Mayer, Commissioner
Joe Sordi, Commissioner
Rob Stump, Commissioner
Emily Thomas, Commissioner*

IMPORTANT NOTICE

This is a hybrid/in-person meeting and will be held in-person at the Town Council Chambers at 110 E. Main Street and virtually through the Zoom webinar application (login 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 at the end of this agenda. The live stream of the meeting may be viewed on television and/or online at www.LosGatosCA.gov/TownYouTube.

To watch and participate via Zoom, please go to:

<https://losgatosca-gov.zoom.us/j/88436489094?pwd=EsA5rW7LuC5mDayk1uQf1SJm1orUDw.1>

Enter Passcode: 011614

MEETING CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

VERBAL COMMUNICATIONS *(Members of the public are welcome to address the Planning Commission on any matter that is not listed on the agenda and is within the subject matter jurisdiction of the Commission. The law generally prohibits the Commission from discussing or taking action on such items. Town resources may not be used to facilitate audio or visual presentations. To ensure all agenda items are heard, this portion of the agenda is limited to 30 minutes. In the event additional speakers were not heard during the initial Verbal Communications portion of the agenda, an additional Verbal Communications will be opened prior to adjournment. Each speaker is limited to no more than three (3) minutes or such time as authorized by the Chair.)*

CONSENT ITEMS *(Consent Items are considered routine Town business and may be approved by one motion. Any member of the Commission may remove an item from the Consent Items for comment and action. Members of the public may provide input on any or multiple Consent Item(s) when the Chair asks for public comments on the Consent Items. If you wish to comment, please follow the Participation Instructions located at the end of this agenda. If an item is removed, the Chair has the sole discretion to determine when the item will be heard. Each speaker is limited to no more than three (3) minutes or such time as authorized by the Chair.)*

1. Approve the Draft Minutes of the September 23, 2026, Planning Commission Meeting

PUBLIC HEARINGS *(Presentations during the Public Hearings portion of the agenda by appellants and applicants, including any expert or consultant assisting with the presentation, shall be limited to a total of no more than five (5) minutes for all speakers. Appellants and applicants shall be provided no more than three (3) minutes to rebut at the end of the public hearing. Visual presentations that require the use of staff resources shall be limited to appellants and applicants. Members of the public testifying at public hearings shall be limited to no more than three (3) minutes, or such time as authorized by the Chair.)*

2. Forward a Recommendation to the Town Council on an Ordinance Amending Chapter 29 (Zoning Regulations) of the Town Code for Senate Bill 9 (SB 9) Regarding Urban Lot Splits and Two-Unit Housing Developments in Response to Changes in State Law. The Proposed Amendments to the Town Code are Not Considered a Project Under Section 15378 of the California Environmental Quality Act, and in Accordance with Government Code Section 66411.7 (n) and 66452.21 (g), Senate Bill 9 Ordinances are Not a Project Subject to the California Environmental Quality Act. Town Code Amendment Application A-26-004. **Project Location: Town Wide.** Applicant: Town of Los Gatos.

REPORT FROM THE DIRECTOR OF COMMUNITY DEVELOPMENT

SUBCOMMITTEE REPORTS / COMMISSION MATTERS

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

ADA NOTICE - In compliance with the Americans with Disabilities Act, if you require special assistance to participate in this meeting, please contact the Clerk's Office at (408) 354-6834. Please notify the Clerk's Office at least two (2) business days prior to the meeting so that reasonable arrangements can be made to ensure accessibility in compliance with 28 CFR §35.102-35.104 and related provisions.

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

HOW TO PARTICIPATE

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

- **Zoom webinar (Online):** Join from a PC, Mac, iPad, iPhone or Android device: Please click this URL to join: <https://losgatosca.gov.zoom.us/j/88436489094?pwd=EsA5rW7LuC5mDayk1uQf1SJm1orUDw.1>. Passcode: 011614. You can also type in 884 3648 9094 in the “Join a Meeting” page on the Zoom website at <https://zoom.us/join> and use passcode 011614.
 - When the Chair announces the item for which you wish to speak, click the “raise hand” feature in Zoom. If you are participating by phone on the Zoom app, press *9 on your telephone keypad to raise your hand.
- **Telephone:** Please dial 855-758-1310 US Toll-free or 408-961-3927 US. (Webinar ID: 884 3648 9094). If you are participating by calling in, press #2 on your telephone keypad to raise your hand.
- **In-Person:** Please complete a “speaker’s card” located on the back of the Chamber benches and return it to the Vice Chair before the meeting or when the Chair announces the item for which you wish to speak.

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

(2) If you are unable to participate in real-time, you may email planning@losgatosca.gov with the subject line “Public Comment Item #__” (insert the item number relevant to your comment).

(3) Deadlines to submit written public comments are:

- 3:00 p.m. the Friday before the Planning Commission meeting for inclusion in the agenda packet.
- 3:00 p.m. the Tuesday before the Planning Commission meeting for inclusion in an addendum.
- 11:00 a.m. on the day of the Planning Commission meeting for inclusion in a desk item.

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



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 10/14/2026

ITEM NO: 1

**DRAFT
MINUTES OF THE PLANNING COMMISSION MEETING
SEPTEMBER 23, 2026**

The Planning Commission of the Town of Los Gatos conducted a regular meeting in person and via teleconference.

MEETING CALLED TO ORDER AT 7:00 PM

ROLL CALL

Present: Vice Chair Jeffrey Barnett, Commissioner Susan Burnett, Commissioner Adam Mayer, Commissioner Joseph Sordi, Commissioner Rob Stump, and Commissioner Emily Thomas.

Absent: Chair Kendra Burch

PLEDGE OF ALLEGIANCE

Commissioner Thomas led the Pledge of Allegiance. The audience was invited to participate.

VERBAL COMMUNICATIONS

The following individuals spoke during Verbal Communications.

1. Member of the Public
2. Kim Ratcliff
3. Michele So
4. Linda Swenberg

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

1. **Approval of Minutes – September 9, 2026**

(00:22:44)

MOTION: **Motion by Commissioner Stump** to approve adoption of the Consent Calendar. **Seconded by Commissioner Burnett.**

VOTE: **Motion passed unanimously.**

PUBLIC HEARINGS

2. 226 Caldwell Avenue

Request for Review PHST-26-014

APN 529-20-031

Applicant: Amir Afifi

Property Owner: Jignesh Mehta

Project Planner: Suray Nathan

Consider an appeal of a Community Development Director decision to deny a request to remove a pre-1941 property from the Historic Resources Inventory for property zoned R-1D. Not subject to CEQA review pursuant to the CEQA Guidelines Section 15061(b)(3).

Suray Nathan, Assistant Planner, presented the staff report.

Planning Commission asked questions.

Vice Chair Barnett opened Public Comment.

The following individuals spoke on this item:

1. Jignesh Mehta (Owner)
2. Amir Afifi (Designer)

Planning Commission asked questions.

Vice Chair Barnett closed Public Comment.

Planning Commission asked questions.

(00:41:10)

MOTION:

Motion by **Commissioner Stump** to deny an appeal of a Community Development Director decision to deny a request to remove a pre-1941 property from the Historic Resources Inventory for property zoned R-1D for 226 Caldwell Avenue. **Seconded** by **Commissioner Mayer**.

Planning Commission discussed the item.

VOTE:

Motion passed unanimously.

3. 536 N. Santa Cruz Avenue

Sign Permit Application SN-26-024

APN 529-07-090

Applicant: David Ford

Property Owner: Robert Emami

Project Planner: Suray Nathan

Consider a request for approval of an exception to the Town's Commercial Design Guidelines to allow wall signs (ROEM) to exceed the maximum letter height on property zoned C-1. Categorically exempt pursuant to the California Environmental Quality Act, Section 15301: Existing Facilities.

Suray Nathan, Assistant Planner, presented the staff report.

Planning Commission asked questions.

Vice Chair Barnett opened Public Comment.

The following individuals spoke on this item:

1. Bret Granum (Applicant)
2. Steve Wood
3. Bret Granum (Applicant)

Planning Commission asked questions.

Vice Chair Barnett closed Public Comment.

Planning Commission asked questions.

(01:17:40)

MOTION:

Motion by Commissioner Sordi to deny a request for approval of an exception to the Town's Commercial Design Guidelines to allow wall signs (ROEM) to exceed the maximum letter height on property zoned C-1 for 536 N. Santa Cruz Avenue. **Seconded by Commissioner Burnett.**

Planning Commission discussed the item.

Planning Commission asked questions.

VOTE:

Motion failed 2-4.

(01:35:03)

MOTION:

Motion by Commissioner Thomas to approve a request for approval of an exception to the Town's Commercial Design Guidelines to allow wall signs (ROEM) to exceed the maximum letter height on property zoned C-1 for 536 N. Santa Cruz Avenue. **Seconded by Commissioner Mayer.**

Planning Commission discussed the item.

Commissioner Burnett requested the motion be amended to change the letter height for the front sign to 18 inches and for the rear sign to 15 inches.

Planning Commission discussed the item.

The Maker of the Motion did not accept the amendment to the motion.

Planning Commission discussed the item.

Vice Chair Barnett requested the motion be amended to add language that there be a designated shutoff time at night.

The Maker of the Motion accepted the amendment to the motion.

Planning Commission asked questions.

Vice Chair Barnett amended his amendment to the motion to specify that the shutoff time be at 7:00pm.

The Maker of the Motion accepted the amendment to the amendment to the motion.

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

Planning Commission discussed the item.

VOTE:

Motion failed 3-3.

Planning Commission discussed the item.

(01:44:36)

MOTION:

Motion by Vice Chair Barnett to approve a request for approval of an exception to the Town's Commercial Design Guidelines to allow wall signs (ROEM) to exceed the maximum letter height on property zoned C-1 for 536 N. Santa Cruz Avenue, with a letter height of the front sign at 18 inches, subject to conditions previously stated in the Staff report, and

including the previously stated condition regarding sign shutoff at 7:00pm. **Seconded by Commissioner Burnett.**

VOTE: **Motion passed unanimously.**

(INTERMISSION)

4. 233 Forrester Road

Architecture and Site Application S-26-010

APN 537-21-010

Applicant: Gary Kohlsaas

Property Owner: Valy Jalalian, Hilow Road LLC

Project Planner: Jocelyn Shoopman

Consider a request for approval to construct a new single-family residence and site improvements requiring a Grading Permit on vacant property zoned HR-2½.
Categorically exempt pursuant to CEQA Guidelines Section 15303: New Construction.

Jocelyn Shoopman, Senior Planner, presented the staff report.

Vice Chair Barnett opened Public Comment.

The following individuals spoke on this item:

1. Gary Kohlsaas (Applicant)

Planning Commission asked questions.

Vice Chair Barnett closed Public Comment.

(02:13:52)

MOTION: **Motion by Commissioner Stump** to approve an Architecture and Site Application for 233 Forrester Road. **Seconded by Commissioner Thomas.**

Planning Commission discussed the item.

VOTE: **Motion passed unanimously.**

5. North Forty Specific Plan Amendment re: Senior Living Facility

North Forty Specific Plan Amendment Application A-26-002

Applicant: Jared Gamelin

Property Owner: Tama Holdings LLC

Project Planner: Jocelyn Shoopman

Forward a recommendation to the Town Council on a request for approval to amend the North Forty Specific Plan to allow for a senior living facility to be authorized as a permitted use in the Northern District on properties zoned North Forty Specific Plan and North Forty Specific Plan:Housing Element Overlay Zone. Location: North Forty Specific Plan Area. Not subject to CEQA review pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the amendments to the Specific Plan would have a significant effect on the environment. All projects to which the Specific Plan applies will undergo separate CEQA review and approval.

Jocelyn Shoopman, Senior Planner, presented the staff report.

Planning Commission asked questions.

Vice Chair Barnett opened Public Comment.

The following individuals spoke on this item:

1. Michaelle Williams (Applicant)
2. Daniel Alvarez

Planning Commission asked questions.

Vice Chair Barnett closed Public Comment.

Planning Commission asked questions.

(02:29:18)

MOTION:

Motion by Commissioner Thomas to forward a recommendation to Town Council on a request for approval to amend the North Forty Specific Plan to allow for a senior living facility to be authorized as a permitted use in the Northern District on properties zoned North Forty Specific Plan and North Forty Specific Plan:Housing Element Overlay Zone. Location: North Forty Specific Plan Area.

Seconded by Commissioner Stump.

Staff requested that the motion be amended to accept the additional information entered into the record by Ms. Shoopman related to CEQA and General Plan conformance, which would be included in the resolution moving forward to the Town Council.

The Maker of the Motion accepted the amendment to the motion.

The Secorder of the Motion accepted the amendment to the motion.

Planning Commission discussed the item.

VOTE: Motion passed unanimously.

6. North Forty Specific Plan Amendment re: Implementation Program D

North Forty Specific Plan Amendment Application A-26-005

Applicant: Town of Los Gatos

Project Planner: Jocelyn Shoopman

Forward a recommendation to the Town Council on a resolution amending the North Forty Specific Plan pursuant to Implementation Program D of the 2023-2031 Housing Element to: allow 30 to 40 dwelling units per acre; remove the housing unit cap, and remove guest parking requirements on properties zoned North Forty Specific Plan and North Forty Specific Plan:Housing Element Overlay Zone. Project location: North Forty Specific Plan Area. Not subject to CEQA review pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the amendments to the Specific Plan would have a significant effect on the environment. All projects to which the Specific Plan applies will undergo separate CEQA review and approval.

Jocelyn Shoopman, Senior Planner, presented the staff report.

Planning Commission asked questions.

Vice Chair Barnett Opened Public Comment.

There were no public comments.

Vice Chair Barnett closed Public Comment.

(02:41:20)

MOTION: **Motion by Commissioner Stump** to forward a recommendation to Town Council on a resolution amending the North Forty Specific Plan pursuant to Implementation Program D of the 2023-2031 Housing Element to: allow 30 to 40 dwelling units per acre; remove the housing unit cap, and

remove guest parking requirements on properties zoned North Forty Specific Plan and North Forty Specific Plan:Housing Element Overlay Zone. Project location: North Forty Specific Plan Area.

Staff requested the motion be amended to include the additional language and the public interest finding Ms. Shoopman referenced.

The Maker of the Motion accepted the amendment to the motion.

Seconded by Commissioner Thomas.

VOTE: Motion passed unanimously.

REPORT FROM THE DIRECTOR OF COMMUNITY DEVELOPMENT

Joel Paulson, Director of Community Development

- None.

SUBCOMMITTEE REPORTS/COMMISSION MATTERS

Historic Preservation Committee

Commissioner Thomas

- HPC met on September 23, 2026 to consider two items: 1) Recommended approval for replacement of old windows and doors to a home on Tait Avenue; 2) Conducted a preliminary review and gave feedback on a Queen Anne Victorian on Whitney Avenue and Stacia Street.

Conceptual Development Advisory Committee

Vice Chair Barnett

- CDAC has a tentative hearing scheduled for November 12, 2026.

Commission Matters

Commissioner Burnett

- Expressed interest in adding a discussion of hiring an historical consultant familiar with the Town of Los Gatos to review HPC appeals before they come to the Planning Commission.

Commissioner Thomas

- Announced there will be an upcoming opening on the Historic Preservation Committee and encouraged the public to apply.

ADJOURNMENT

The meeting adjourned at 9:48 p.m.

This is to certify that the foregoing is a true
and correct copy of the minutes of the
September 23, 2026 meeting as approved by the
Planning Commission.

/s/ Vicki Blandin

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**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 10/14/2026

ITEM NO:2

DATE: October 9, 2026
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Forward a Recommendation to the Town Council on an Ordinance Amending Chapter 29 (Zoning Regulations) of the Town Code for Senate Bill 9 (SB 9) Regarding Urban Lot Splits and Two-Unit Housing Developments in Response to Changes in State Law. The Proposed Amendments to the Town Code are Not Considered a Project Under Section 15378 of the California Environmental Quality Act, and in Accordance with Government Code Section 66411.7 (n) and 66452.21 (g), Senate Bill 9 Ordinances are Not a Project Subject to the California Environmental Quality Act. Town Code Amendment Application A-26-004. **Project Location: Town Wide.** Applicant: Town of Los Gatos.

RECOMMENDATION:

Forward a recommendation to the Town Council on an ordinance amending Chapter 29 (Zoning Regulations) of the Town Code for Senate Bill (SB) 9 regarding urban lot splits and two-unit housing developments in response to changes in state law.

CEQA:

The proposed amendments to the Town Code are not considered a project under Section 15378 of the California Environmental Quality Act (CEQA), and in accordance with Government Code Section 66411.7 (n) and 66452.21 (g), SB 9 Ordinances are not a project subject to CEQA.

PREPARED BY: Ryan Safty
Associate Planner

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

FINDINGS:

- The proposed amendments to the Town Code are not considered a project under Section 15378 of the California Environmental Quality Act (CEQA), and in accordance with Government Code Section 66411.7 (n) and 66452.21 (g), SB 9 Ordinances are not a project subject to CEQA; and
- The amendments to Chapter 29 of the Town Code are consistent with the General Plan.

BACKGROUND:

Senate Bill 9

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

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

- **Two-unit housing development** – Two residences on an eligible single-family residential parcel.
- **Urban lot split** – A one-time subdivision of an existing single-family residential parcel into two parcels.

On December 21, 2021, the Town Council adopted an Urgency Ordinance to implement local objective standards for SB 9 applications. On November 15, 2022, the Town Council approved Ordinance 2334, which established the permanent SB 9 Ordinance within Chapter 29 (Zoning Regulations) of the Town Code. On May 21, 2024, the Town Council approved Ordinance 2359 (Exhibit 2), which included modifications to the previous ordinance to modify design review standards and make clarifying revisions. Ordinance 2359 is the Town's current SB 9 Ordinance, which is found in Division 10 of Article 1 of Chapter 29 of the Town Code.

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

Senate Bill 450

In September of 2024, Governor Newsom signed a new state law, SB 450, which went into effect on January 1, 2025 (Exhibit 3). SB 450 updates and expands the required provisions of SB 9. The SB 450 updates are summarized as follows:

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

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

On August 12, 2026, the Planning Commission reviewed a proposed Ordinance to establish new Objective Design Standards for Single-Family and Two-Family Residential Dwelling Units and Second-Story Additions. These standards stemmed from the Town’s existing SB 9 standards, as well as the more common design guidelines from the Town’s Single- and Two-Family Residential Design Guidelines (RDG) and Hillside Development Standards and Guidelines (HDS&G) documents, and were drafted to be uniformly applicable to the underlying residential zones. Specifically, the standards would be applicable to all new single-family units; two-family units; and second-story additions, whether new or an addition to an existing second-story. SB 9 projects would be required to comply with all of these new objective design standards. Town Council is tentatively scheduled to hear the Planning Commission’s recommendations on these new objective design standards in October. Reference to these draft new standards (Town Code Sections 29.40.080 – 29.40.100) are now shown in the proposed SB 9 Ordinance amendments in Exhibit 7, as discussed further in the Discussion Section of this report.

Assembly Bill 1061

In October of 2025, Governor Newsom signed a new state law, Assembly Bill (AB) 1061, which went into effect on January 1, 2026 (Exhibit 4). AB 1061 refines and further limits previous historic restrictions applicable to SB 9 applications. Specifically, AB 1061 narrows the historic exemption applicable to SB 9 applications, so that it only applies to designated (state or local) landmark properties or historic resources designated by Town ordinance. The Town’s historic districts with LHP (Landmark and Historic Preservation) overlays, as well as the individual properties adopted as historic sites, were adopted by ordinance and are excluded from SB 9

applications. Properties with lesser historic designations or presumptive historic designations (such as Pre-1941 structures) are no longer exempt from SB 9.

HCD Letter of Technical Assistance

The California Department of Housing and Community Development (HCD) provided a letter of technical assistance to the Town on May 5, 2026, regarding the status of the Town's SB 9 Ordinance (Exhibit 5). The letter identified 17 items that are not in compliance with current state law, the majority of which are related to the SB 450 changes. All 17 items would be addressed within the proposed amendments in Exhibit 7. Staff responded to the HCD letter in June, confirming the Town's plan to update its SB 9 Ordinance to comply with current state law (Exhibit 6).

DISCUSSION:

Below is a summary of the proposed amendments to each section of the Town's SB 9 Ordinance as recommended by staff and reflected in Exhibit 7.

- **Sec. 29.10.600. Purpose and applicability.**
 - Replace the term "SB 9" with the appropriate Government Code Sections as the senate bill numbers can be reused over time (i.e. SB 9 may refer to a different law in the future).
- **Sec. 29.10.610. Definitions.**
 - Add a definition for "demolition" due to the changes resulting from SB 450. One of the changes from SB 450 was clarification on the amount of demolition allowed to an existing residence that had previously been rented out. Previous law allowed 25 percent demolition, while SB 450 modified it so that no demolition or alteration is allowed. The Town's definition of demolition allows 49 percent removal of existing structural walls, which doesn't align with the intent of this change from SB 450.
 - Delete the definition of "entry feature" as this term is no longer used in the updated ordinance.
 - Delete the definition of "first residential unit" as it stated that the first unit built with a two-unit housing development was limited to 1,200 square feet. SB 450 removed this allowance, and HCD's letter reiterates this (Comment 5, Exhibit 5).
 - Add a definition for "street." This definition is also in Section 29.10.020 of Town Code, but is being copied here for clarification on the lot frontage requirements within the SB 9 Ordinance.
 - Delete the second half of the "two-unit housing development" definition, as requested by HCD (Comment 1, Exhibit 5), as it overly restricts SB 9 development.

- Sec. 29.10.620. Eligibility.
 - Move and separate out the historic property exclusions for each SB 9 application type as AB 1061 now differentiates between the allowances to historic properties on urban lot splits and two-unit housing developments when previously they were the same for both application types.
- Sec. 29.10.630. Two-unit housing development standards.
 - Rename this section for clarification purposes as it is currently titled “Requirements.”
- Sec. 29.10.630 (1). Zoning standards.
 - Modify the building height standard as the previous height restriction within required setbacks and for HR zoned properties are no longer allowed with SB 450. HCD’s letter also reiterates this (Comment 3, Exhibit 5). New height and second-story location restrictions have been added in the new Objective Design Standards for Single-Family and Two-Family Residential Dwelling Units and Second Story Additions, and compliance with these new objective design standards is required by Town Code Section 29.10.630 (2), as discussed below.
 - Modify the driveway standards as required by SB 450. The items that are more restrictive than the underlying zone are shown crossed-out.
 - Specify that attached units must be designed sufficiently to allow separate conveyance for clarification purposes as required by state law.
 - Remove the 1,200-square foot first unit maximum. SB 450 removed this allowance, which is also referenced in HCD’s letter (Comment 5, Exhibit 5).
 - Add clarification to the 10 percent floor area ratio increase, specifying that it is only allowed when two units are proposed and not when the development results in just one residential unit on the lot.
 - Add reference to Town Code allowances to below-grade square footage for clarification purposes, confirming that below-grade square footage would not count towards maximum allowed floor area.
 - Clarify that detached garages exceeding 450 square feet are not allowed with SB 9 and must obtain separate Minor Residential Development approval.
 - Delete the grading section, which limited projects to 50 cubic yards of grading, not counting building excavation and fire access. HCD’s letter states that, pursuant to SB 450, this is no longer allowed as it was exclusive to SB 9 developments (Comment 4, Exhibit 5). Site grading restrictions for the hillsides have been added in the new Objective Design Standards for Single-Family and Two-Family Residential Dwelling Units and Second Story Additions.
 - Delete the cut and fill limitations. Although not referenced in HCD’s letter, SB 450 removed the Town’s ability to enforce this for all SB 9 projects as the standard was taken from the Town’s HDS&G. Other site grading restrictions for the hillsides have been added in the new Objective Design Standards for Single-Family and Two-Family Residential Dwelling Units and Second Story Additions to limit hillside grading.

- Move the 30 percent sloped building site limitation to the new Objective Design Standards for Single-Family and Two-Family Residential Dwelling Units and Second Story Additions in order to be compliant with SB 450.
- Delete the retaining wall standard. Although not referenced in HCD's letter, SB 450 removed the Town's ability to enforce this for all SB 9 projects as the standard was taken from the Town's HDS&G. Other site grading restrictions for the hillsides have been added in the new Objective Design Standards for Single-Family and Two-Family Residential Dwelling Units and Second Story Additions to limit hillside grading.
- Move the light reflectivity maximums to the new Objective Design Standards for Single-Family and Two-Family Residential Dwelling Units and Second Story Additions in order to be compliant with SB 450.
- Add decorative lighting, sports court lighting, and glare restrictions for clarification purposes.
- Add reference to Town Code 29.10.155 (d) to specify parking space dimension requirements for clarification purposes.
- Add reference to the standards and provisions of the Santa Clara County Valley Water Resources Protection Collaborative Guidelines and Standards for Land Use Near Streams document for clarification purposes.
- Add clarification to the garage entry setback, specifying that 18 feet is required when the required garage setback is less than 18 feet. The modification is for clarification purposes, and the standard ensures that garages always maintain the required back-up space even when setbacks allow them to be closer to a street.
- Delete the increased street-side setback standards. SB 9 states that local jurisdictions cannot require more than four feet for a side yard setback, which is also referenced in HCD's letter (Comment 7, Exhibit 5).
- Add Exception 7 to the setback table for clarification purposes; when constructing on a "through lot" with two street frontages, both street frontage shall meet the front setback requirement.
- Sec. 29.10.630 (2). Design review standards.
 - Replace this entire section with a reference to the new Objective Design Standards for Single-Family and Two-Family Residential Dwelling Units and Second Story Additions in Town Code Sections 29.40.080 – 29.40.100. As discussed above, SB 450 mandates that many of these standards be made applicable to all underlying zones. The previous standards for finished floor; front entryway and porch design; garage width; and prohibited materials would be deleted, while standards for second story setback, plate height, windows, and mechanical equipment are revised and included in the new Objective Design Standards for Single-Family and Two-Family Residential Dwelling Units and Second Story Additions.

- Sec. 29.10.630 (3). General requirements and restrictions.
 - Modify the language regarding allowed number of units and ADUs. State law on ADUs has recently changed, including rules on maximum allowed ADUs on a single-family property, which is also referenced in HCD's letter (Comment 11, Exhibit 5).
 - Modify the Building and Fire Codes section to clarify that compliance with current Building and Fire Codes is only required for new two-unit developments and not in instances where existing units would remain (Comment 12, Exhibit 5).
 - Modify the restrictions on the demolition section to comply with SB 450, as noted in comment 13 of Exhibit 5. Previous law allowed 25 percent demolition, while SB 450 does not allow any demolition or alteration.
 - Add the Ellis Act restriction, pursuant to SB 450.
 - Add the new historic exclusions, pursuant to AB 1061. These exclusions would apply to the Town's historic districts with LHP overlays, as well as the individual properties adopted as historic sites. This exclusion would not apply to properties developed with a pre-1941 residence not adopted by ordinance.
 - Modify the exception language, as noted in HCD's letter (Comment 14, Exhibit 5), for clarification purposes.
- Sec. 29.10.640. Application process for two-unit housing development.
 - Add an applicability section, clarifying that two-unit housing development applications shall only include work integral to the creation of that dwelling unit. Unrelated site work (such as rear yard grading for a lawn or sports court) that would normally trigger an Architecture and Site Application for a Grading Permit would not be permitted with the ministerial two-unit housing development application. This modification also helps address the reduction of HDS&G limitations on two-unit housing development projects noted above.
 - Add a review process section, which includes the updated processing deadlines pursuant to SB 450.
 - Remove the neighbor notification provision. HCD's letter states this is not allowed as it does not apply to conventional residential development in the underlying zone (Comment 15, Exhibit 5).
 - Include a reference to the Town's expiration and permit vesting provisions for clarification purposes.
 - Revise the denial section pursuant to SB 450, which is also referenced in HCD's letter (Comment 16, Exhibit 5).
- Sec. 29.10.650. Urban lot split standards.
 - Rename this section for clarification purposes as it is currently titled "Subdivision standards."
- Sec. 29.10.650 (1). Subdivision standards.
 - Add a reference to the parking requirements in the urban lot split portion of the Ordinance for clarification purposes; in cases where an urban lot split divides a lot with

two existing residences (one on each new lot), this ensures that each existing unit has adequate parking.

- Sec. 29.10.650 (2). General requirements and restrictions.
 - Modify the restrictions on demolition section to comply with SB 450, as noted in Comment 13 of Exhibit 5. Previous law allowed 25 percent demolition, while SB 450 does not allow any demolition or alteration.
 - Add the Ellis Act restriction, pursuant to SB 450.
 - Add the new historic exclusions, pursuant to AB 1061. These exclusions would apply to the Town's historic districts with LHP overlays, as well as the individual properties adopted as historic sites. This exclusion would not apply to properties developed with a pre-1941 residence not adopted by ordinance.
 - Delete the utility providers requirement as it implies that the Town or utility provider can require offsite improvements to record the urban lot split (Comment 17, Exhibit 5).
- Sec. 29.10.660. Application process for urban lot splits.
 - Add a review process section, which includes the updated processing deadlines pursuant to SB 450.
 - Remove the neighbor notification provision. HCD's letter states this is not allowed as it does not apply to conventional residential development in the underlying zone (Comment 15, Exhibit 5).
 - Include a reference to the Town's expiration and permit vesting provisions for clarification purposes.
 - Revise the denial section pursuant to SB 450, which is also referenced in HCD's letter (Comment 16, Exhibit 5).
- Sec. 29.10.670. Sunset clause.
 - Replace the term "SB 9" with the appropriate Government Code Sections as the senate bill numbers can be reused over time (i.e. SB 9 may refer to a different law in the future).

PUBLIC COMMENTS:

Staff conducted outreach through the following media and social media resources, as well as direct communication with stakeholders as summarized below:

- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;
- The Town's Instagram account;
- The Town's NextDoor page; and
- Direct email communication to local architects and designers.

At the time this report was published, no public comments were received.

CEQA DETERMINATION:

The proposed amendments to the Town Code are not considered a project under Section 15378 of the California Environmental Quality Act (CEQA), and in accordance with Government Code Section 66411.7 (n) and 66452.21 (g), Senate Bill 9 Ordinances are not a project subject to CEQA.

CONCLUSION:

A. Summary

The draft amendments in Exhibit 7 would amend Chapter 29 (Zoning Regulations) of the Town Code for two-unit housing developments and urban lot splits in response to the provisions of SB 450 and AB 1061, as well as other clarifying revisions.

B. Recommendation

Staff recommends that the Planning Commission review the information included in the staff report and forward a recommendation to the Town Council for approval of the amendments to Chapter 29 of the Town Code in the draft Ordinance (Exhibit 7). The Planning Commission should also include any comments or recommended changes to the draft Ordinance in taking the following actions:

1. Make the required finding that the proposed amendments to the Town Code are not considered a project under Section 15378 of the California Environmental Quality Act (CEQA), and in accordance with Government Code Section 66411.7 (n) and 66452.21 (g), Senate Bill 9 Ordinances are not a project subject to CEQA (Exhibit 1);
2. Make the required finding that the amendments to Chapter 29 of the Town Code in the draft Ordinance are consistent with the General Plan (Exhibit 1); and
3. Forward a recommendation to the Town Council for approval of the proposed amendments to Chapter 29 of the Town Code in the draft Ordinance (Exhibit 7).

C. Alternatives

Alternatively, the Commission can:

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

PAGE **10** of **10**

SUBJECT: SB 9 Ordinance Amendments/A-26-004

DATE: October 9, 2026

EXHIBITS:

1. Required Findings
2. Current Senate Bill 9 Ordinance 2359
3. Senate Bill 450 State Law
4. Assembly Bill 1061 State Law
5. HCD Senate Bill 9 Ordinance Technical Assistance Letter
6. Town Response to HCD Technical Assistance Letter
7. Draft Senate Bill 9 Ordinance

PLANNING COMMISSION – October 14, 2026
REQUIRED FINDINGS FOR:

Town Code Amendment Application A-26-004

Forward a Recommendation to the Town Council on an Ordinance Amending Chapter 29 (Zoning Regulations) of the Town Code for Senate Bill 9 (SB 9) Regarding Urban Lot Splits and Two-Unit Housing Developments in Response to Changes in State Law. The Proposed Amendments to the Town Code are Not Considered a Project Under Section 15378 of the California Environmental Quality Act, and in Accordance with Government Code Section 66411.7 (n) and 66452.21 (g), Senate Bill 9 Ordinances are Not a Project Subject to the California Environmental Quality Act. Town Code Amendment Application A-26-004. Project Location: Town Wide. Applicant: Town of Los Gatos.

FINDINGS

Required Findings for CEQA:

The proposed amendments to the Town Code are not considered a project under Section 15378 of the California Environmental Quality Act (CEQA), and in accordance with Government Code Section 66411.7 (n) and 66452.21 (g), Senate Bill 9 Ordinances are not a project subject to CEQA.

Required Findings for General Plan:

- The amendments to Chapter 29 of the Town Code regarding SB 9 ordinance amendments are consistent with the General Plan.

EXHIBIT 1

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

Sec. 29.10.600. Purpose and applicability.

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

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

Sec. 29.10.610. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 29.10.620. Eligibility.

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

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

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

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

Sec. 29.10.630. Requirements.

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

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

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

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

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

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

Table 1-2 - Setback Requirements		
Setback		Requirement ⁽²⁾
Property Line Setbacks ⁽¹⁾	Front	Per the applicable zoning district. ⁽⁵⁾
	Garage Entry	18 feet
	Interior Sides	4 feet ⁽³⁾
	Rear	
	Street Side	Per the applicable zoning district.
Separation Between Detached Structures ⁽³⁾⁽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) For parcels created through an urban lot split where the parcels are under the same ownership, no		

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 29.10.650. Subdivision standards.

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

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

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

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

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

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

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

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

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

Sec. 29.10.660. Application process for urban lot splits.

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

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

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

Sec. 29.10.670. Sunset clause.

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

(Ord. No. 2334, § 2, 11-15-22)

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Senate Bill No. 450

CHAPTER 286

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

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

LEGISLATIVE COUNSEL'S DIGEST

SB 450, Atkins. Housing development: approvals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) Removing barriers to housing production.

(D) Expanding homeownership opportunities.

(E) Expanding the availability of rental housing.

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

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

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

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

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

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

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CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

ASSEMBLY BILL

NO. 1061

**Introduced by Assembly Member Quirk-Silva
(Coauthor: Senator Wiener)**

February 20, 2025

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1061, as introduced, Quirk-Silva. Housing developments: urban lot splits: historical resources.

Under the Planning and Zoning Law, the legislative body of a county or city may adopt ordinances that, among other things, regulate the use of buildings, structures, and land, as provided. 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. Existing law requires a local agency to consider ministerially a specified proposed housing development or to ministerially approve a parcel map for an urban lot split if the development or parcel meets specified requirements, including, that the development or parcel is not located within 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 historic property pursuant to city or county ordinance, as specified. The law authorizes a local agency to impose specified objective standards on the development or parcel created by an urban lot spit.

This bill would, if the other specified requirements are met, instead require a local agency to consider ministerially a proposed housing development or ministerially approve an urban lot split if the development or proposed urban lot split is not located within a historic landmark property included on the State Historical Resources Inventory or within a site that is designated or listed as a city or county landmark pursuant to a city or county ordinance. The bill would additionally require that the development or proposed urban lot split not require demolition of specified structures that are included on the State Historic Resources Inventory or designated or listed as a historic resource pursuant to city or county ordinance. The bill would additionally authorize a local agency to adopt objective standards on the development or parcel that prevents adverse impact on a property that is included on the State Historic Resources Inventory and would apply the federal Secretary of Interior's Standards for Rehabilitation in the absence of objective standards. By imposing additional duties on local agencies, this bill would impose a state-mandated local program.

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

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

Digest Key

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

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

- (1) The parcel subject to the proposed housing development is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.
- (2) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4, as that section read on September 16, 2021.
- (3) Notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:
 - (A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
 - (B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - (C) Housing that has been occupied by a tenant in the last three years.
- (4) The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
- (5) The development is not located within a ~~historic district or~~ *historical landmark* 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.

(6) The development does not require demolition of more than 25 percent of either of the following that is included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or designated or listed as a city or county historic resource pursuant to city or county ordinance:

(A) An existing exterior structural wall of a property.

(B) A contributing structure located within a historical district.

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

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

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

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

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

(4) A local agency may adopt objective standards that prevent adverse impacts on a property that is included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code. In the absence of objective standards, the federal Secretary of the Interior's Standards for Rehabilitation, as found in Part 67 of Title 36 of the Code of Federal Regulations, shall apply.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

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

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

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

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

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

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

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

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

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

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

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

(E) The parcel is not located within a ~~historic district or~~ *historical landmark* 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 proposed urban lot split does not require demolition of either of the following that is included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or designated or listed as a city or county historic resource pursuant to city or county ordinance:

(i) An existing exterior structural wall of a property.

(ii) A contributing structure located within a historical district.

~~(F)~~

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



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

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

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

(B) An application for an urban lot split shall be considered and approved or denied within 60 days from the date the local agency receives a completed application. If the local agency has not approved or denied the completed application within 60 days, the application shall be deemed approved.

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

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

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

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

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

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

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

(4) A local agency may adopt objective standards that prevent adverse impacts on a property that is included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code. In the absence of objective standards, the federal Secretary of the Interior's Standards for Rehabilitation, as found in Part 67 of Title 36 of the Code of Federal Regulations, shall apply.

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

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

- (1) Easements required for the provision of public services and facilities.
- (2) A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way.
- (3) Offstreet parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:
 - (A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code.
 - (B) There is a car share vehicle located within one block of the parcel.
- (f) A local agency shall require that the uses allowed on a lot created by this section be limited to residential uses.
- (g) (1) A local agency shall require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split.
 - (2) This subdivision shall not apply to an applicant that is a “community land trust,” as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a “qualified nonprofit corporation” as described in Section 214.15 of the Revenue and Taxation Code.
 - (3) A local agency shall not impose additional owner occupancy standards, other than provided for in this subdivision, on an urban lot split pursuant to this section.
- (h) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.
- (i) A local agency shall not require, as a condition for ministerial approval of a parcel map application for the creation of an urban lot split, the correction of nonconforming zoning conditions.
- (j) (1) Notwithstanding any provision of Section 65852.21, 65915, Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 of Division 1, or this section, a local agency shall not be required to permit more than two units on a parcel created through the exercise of the authority contained within this section.
 - (2) For the purposes of this section, “unit” means any dwelling unit, including, but not limited to, a unit or units created pursuant to Section 65852.21, a primary dwelling, an accessory dwelling unit as defined in subdivision (a) of Section 66313, or a junior accessory dwelling unit as defined in subdivision (d) of Section 66313.
- (k) Notwithstanding paragraph (3) of subdivision (c), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.
- (l) Local agencies shall include the number of applications for parcel maps for urban lot splits pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.
- (m) For purposes of this section, both of the following shall apply:

- (1) “Objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly applicable 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. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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May 5, 2026

Sean Mullin, Planning Manager
Planning Department
Town of Los Gatos
110 E. Main St
Los Gatos, CA 95030

Dear Sean Mullin:

RE: Los Gatos Senate Bill (SB) 9 Ordinance-Technical Assistance Letter

HCD has reviewed the Town's Municipal Code for SB 9 Governance and submits these written findings pursuant to Government Code section 65585, subdivision (j). HCD finds that the Municipal Code fails to comply with SB 9 in the manner noted below. Accordingly, the Town must provide a written response to these findings no later than June 5, 2026.

The Municipal Code addresses many statutory requirements; however, HCD finds that the Municipal Code is inconsistent with state law in the following ways:

1. Section 29.10.610 – *Definition of Two-Unit Development* – The Municipal Code defines a two unit housing development as "... either the construction of no more than two (2) new primary dwelling units, one (1) new primary dwelling unit and retention of one (1) existing primary dwelling unit, or retention of two (2) existing legal non-conforming primary dwelling units where one (1) or both units are subject to a proposed addition or alteration." However, this applies SB 9 law only in the case that two units are created and/or retained.

SB 9 states, "[a] proposed housing development *containing no more than two* residential units within a single-family residential zone shall be considered ministerially, if the proposed housing development meets all of the following requirements..."¹ [emphasis added]. Therefore, SB 9 is applicable in a scenario where construction results in the construction of either one or two primary dwelling units on a lot. Both the first and the second primary dwelling unit constructed on a lot are eligible for SB 9. An applicant can choose to utilize SB 9 to construct a single primary structure on a lot even if there are no existing units on the site. The Municipal Code must be modified to clarify that both first and second primary dwelling units are eligible for SB 9 processes and applicable development standards.

¹ Code § 65852.21, subd. (a).

2. Section 29.10.620 (3) – *Historic Property* – The municipal code contains outdated historic exclusion language under Section 29.10.620(3). Pursuant to Assembly Bill 1061 of 2025, the historic exclusions under SB 9 were amended as detailed in Government Code Sections 65852.21(a)(5) and 66411.7(a)(3)(E). The municipal code must be amended to reflect SB 9’s current historic exclusion language.
3. Section 29.10.630 (1)(a) – *Height in Setbacks* – The Municipal Code states, “[b]uildings located within the required side or rear setbacks of the applicable zoning district, and those located in the Hillside Residential (HR) zones, shall not exceed sixteen (16) feet in height.” However, Government Code section 65852.21, subdivision (b)(3) states, “[a] local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that do not apply uniformly to development within the underlying zone.” There is no generally applicable height limitation imposed on other structures within rear and side setbacks, and section 29.40.275 sets height maximums in the Hillside Residential at 30 feet. The limit of 16 feet for SB 9 units is more restrictive than the underlying zoning and is therefore inconsistent with state SB 9 law. The Town must amend the municipal code to remove this height limitation.
4. Section 29.10.630(1)(f)(2) – *Grading* – The Municipal Code states “Grading activity associated with a two-unit housing development shall not exceed fifty (50) cubic yards, cut plus fill...”. However, this is a restriction that is exclusive to SB 9 development, and which does not appear in the underlying zoning. Government Code section 65852.21, subdivision (b)(3) prohibits “objective zoning standards, objective subdivision standards, and objective design standards that do not apply uniformly to development within the underlying zone.” The Town must remove this limitation.
5. Section 29.10.630 (3) and (4) – *Maximum Size* – The Municipal Code states, “[t]he maximum size of the first new residential unit shall not exceed one thousand two hundred (1,200) square feet.” It later states, “[w]hen a two-unit housing development is proposed and the existing structures are at or below the maximum allowed floor area, a ten (10) percent increase in the floor area ratio standards for residential structures is allowed, excluding garages, and this increase in floor area cannot be combined with a separate increase for an accessory dwelling unit allowed by Town Code Section 29.10.320. The additional floor area allowed by this subsection shall not exceed one thousand two hundred (1,200) square feet.” In both cases, the Town is restricting SB 9-unit size below the allowances provided to conventional single-family residential development in the underlying zoning. Government Code section 65852.21, subdivision (b)(3) prohibits “objective zoning standards, objective subdivision standards, and objective design standards that do not apply uniformly to development within the underlying zone.” Therefore, the Town must remove these SB 9-specific size maximums.

6. Table 1-2 – *Setback Requirements* – The Municipal Code appears to omit reference to rear yard setbacks. Per Government Code section 65852.21, subdivision (c)(3)(B) states that, “a local agency may require a setback of up to four feet from the side and rear lot lines.” While the Town is not required to apply setback requirements, please note that new construction SB 9 units may not be subject to rear setbacks larger than four feet.
7. Table 1-2 – *Street Side Yard Setback* – The Municipal Code requires “street side” setbacks “per the applicable zoning district” for corner lots. However, state SB 9 law does not refer to “street side” setbacks, and Government Code section 65852.21, subdivision (c)(3)(B) requires side and rear setbacks of no more than four feet. The Town must remove requirements for underlying setbacks that exceed four feet for street-facing sides of corner lots.
8. Section 29.10.630 (e) – *Second Story Setback* – The Municipal Code states, “[t]he interior side and rear elevations of the second story of a two-story primary dwelling unit shall have a minimum setback of nine (9) feet.” However, this second story setback does not appear in the underlying zoning. Government Code section 65852.21, subdivision (b)(3) prohibits the application of development standards that do not appear in the underlying zoning to units subject to state SB 9 law. The Town must amend the Municipal Code to remove this second story setback requirement.
9. Section 29.10.630 (g) – *Plate Height* – The Municipal Code states “[t]he plate height of each story shall be limited to a maximum of ten (10) feet as measured from finished floor, and when above the first floor the plate height shall be limited to a maximum of eight (8) feet...” However, this height restriction does not appear in the underlying zoning. Government Code section 65852.21, subdivision (b)(3) prohibits the application of development standards that do not appear in the underlying zoning to units subject to state SB 9 law. The Town must amend the Municipal Code to remove more restrictive height requirements.
10. Section 29.10.630 (h) and (i) – *Development Standards* – The Municipal Code requires clerestory windows and prohibits vinyl siding and plywood as external materials. Neither of these requirements appear to apply to conventional residential development in the underlying zoning, which is inconsistent with Government Code section 65852.21, subdivision (b)(3). The Town must remove these requirements.
11. Section 29.10.630 (3)(a) and (3)(b) – *Duplex Unit Cap* – The Municipal Code allows “[a] maximum of four (4) units, with a maximum of two (2) primary dwelling units, on lots that have not undergone an urban lot split... In addition to the two (2) residential units allowed under this section, consistent with Chapter 29, Article 1, Division 7, Accessory Dwelling Units,” of the Municipal Code, one (1) accessory dwelling unit and one (1) junior accessory dwelling unit shall be allowed on lots that have not undergone an urban lot split.”

Government Code section 65852.21, subdivision (f) states, “[n]otwithstanding Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13, a local agency shall not be required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels that use both the authority contained within this section and the authority contained in Section 66411.7.” Thus, in instances where a property has only utilized SB 9 duplex law (Government Code 65852.21), the number of ADUs or JADUs allowed is to be consistent with what is allowed by State ADU Law. The Town must amend the code to reflect this allowance. In some instances, the creation of more than two ADUs may be possible.

12. Section 29.10.630 (3)(c) – *Building Code* – The Municipal Code states, “[T]he 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.” However, this would apply current building/fire codes to all SB 9 units, including existing dwellings on a site. For example, if an existing site contains one primary dwelling and a second, detached primary dwelling is proposed pursuant to SB 9, this Town code provision could result in the application of building/fire code requirements for the existing dwelling (such as building sprinkler systems) above and beyond what the building/fire codes would typically require for an existing detached unit. Per Government Code section 65852.21, subdivision (b)(3), “A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that do not apply uniformly to development within the underlying zone.” The Town must remove this language or clarify that existing structures are not subject to additional building/fire code requirements above and beyond what the building and fire codes would ordinarily require of residential development in single-family zones.
13. Section 29.10.630 (e) – The Municipal Code states, “[t]he two-unit housing development shall not require either demolition of more than twenty-five (25) percent of the exterior walls”. However, SB 450 removed language requiring a demolition cap of 25 percent from State SB 9 Law in 2021; therefore, the Town must remove this language.
14. Section 29.10.630 (4) – *Exceptions* – The Municipal Code exempts zoning standards that would preclude a two-unit development but omits a necessary reference to split lots. Government Code section 66411.7, subdivision (c)(2) states, “[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.” The Town must add language to include split lots in this exception clause.
15. Section 29.10.640 (3) and 29.10.660 (3) – *Neighbor Notification* – The Municipal Code states, “[i]n addition to the standard application materials, the applicant will be required to submit one (1) set of stamped, addressed envelopes to

neighboring residents and property owners” in the case of either a two-unit development or a lot split. However, this does not appear to apply to conventional residential development in the underlying zoning, which would conflict with Government Code section 65852.21, subdivision (b)(3).

Furthermore, this requirement is not related to “the design or to improvements of a parcel”, which are the only standards that may be applied to split lots. The Town must remove these sections.

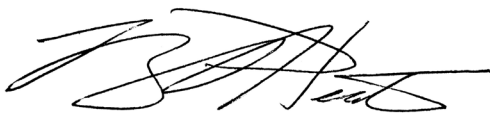
16. Section 29.10.640(5) and 29.10.660(6) – *Denial* – The Municipal Code refers to “the physical environment” in the sections describing denial conditions. However, SB 450 removed references to “the physical environment” from Government Code section 66411.7, subdivision (d) and section 65852.21, subdivision (d), which now refer to an “...adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.” The Town must remove the reference.

17. Section 29.10.640 (I) – *Utility Providers* – The Municipal Code states, “[t]he requirements of the parcel's utility providers shall be satisfied prior to recordation of a parcel map.” However, SB 9 states, “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.” Neither the Town nor utility provider may require offsite improvements to approve or record an urban lot split and the Town must modify the zoning code to clarify this.

HCD looks forward to assisting the Town in its compliance with state housing laws and reminds the Town that HCD has enforcement authority over SB 9, among other state housing laws. Accordingly, HCD may review local government actions and inactions to determine consistency with these laws. If HCD finds that a Town’s actions do not comply with state law, HCD may notify the California Office of the Attorney General that the local government is in violation of state law.’

HCD appreciates the Town’s efforts in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the Town in fully complying with state law. Please feel free to contact Mindy Wilcox at Mindy.Wilcox@hcd.ca.gov if you have any questions.

Sincerely,



Brian Heaton
Section Chief, Land Use Policy
Housing Accountability Unit

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TOWN OF LOS GATOS
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
(408) 354-6872 Fax (408) 354-7593

CIVIC CENTER
110 E. MAIN STREET
LOS GATOS, CA 95030

June 5, 2026

Brian Heaton
Section Chief, Land Use Policy
Housing Accountability Unit
Department of Housing and Community Development
651 Bannon Street, Suite 400
Sacramento, CA 95811
Via email

RE: Los Gatos Senate Bill (SB) 9 Ordinance-Technical Assistance Letter

Dear Mr. Heaton,

Thank you for your Technical Assistance Letter dated May 5, 2026. The Town is committed to enforcing current state law regarding Senate Bill 9 (SB 9), which aids in the streamlining of housing production for the Town. The Town acknowledges that its existing SB 9 ordinance is not consistent with current state law and is taking action to remedy the situation. While we work to update our ordinance, when discrepancies exist between the existing ordinance and state law, the Town defers to state law and does not enforce conflicting local regulations.

An updated SB 9 ordinance has been drafted that the Town believes aligns with current state law and is responsive to the findings outlined in the Technical Assistance Letter dated May 5, 2026. The Planning Commission is scheduled to consider the updated ordinance on August 26, 2026. Following its review, the Commission will provide a recommendation to the Town Council, which will take action at a subsequent meeting.

Below are HCD's 17 findings provided in the Technical Assistance Letter regarding the Town's SB 9 ordinance followed by the Town's response.

1. Section 29.10.610 – *Definition of Two-Unit Development* – The Municipal Code defines a two unit housing development as "... either the construction of no more than two (2) new primary dwelling units, one (1) new primary dwelling unit and retention of one (1) existing primary dwelling unit, or retention of two (2) existing legal non-conforming primary dwelling units where one (1) or both units are subject to a proposed addition or alteration." However, this applies SB 9 law only in the case that two units are created and/or retained.

SB 9 states, “[a] proposed housing development *containing no more than* two residential units within a single-family residential zone shall be considered ministerially, if the proposed housing development meets all of the following requirements...” [emphasis added]. Therefore, SB 9 is applicable in a scenario where construction results in the construction of either one or two primary dwelling units on a lot. Both the first and the second primary dwelling unit constructed on a lot are eligible for SB 9. An applicant can choose to utilize SB 9 to construct a single primary structure on a lot even if there are no existing units on the site. The Municipal Code must be modified to clarify that both first and second primary dwelling units are eligible for SB 9 processes and applicable development standards.

TOWN RESPONSE: In practice, the Town currently allows both first and second primary dwelling units to be processed ministerially through SB 9. The draft ordinance is consistent with HCD’s finding.

2. Section 29.10.620 (3) – *Historic Property* – The municipal code contains outdated historic exclusion language under Section 29.10.620(3). Pursuant to Assembly Bill 1061 of 2025, the historic exclusions under SB 9 were amended as detailed in Government Code Sections 65852.21(a)(5) and 66411.7(a)(3)(E). The municipal code must be amended to reflect SB 9’s current historic exclusion language.

TOWN RESPONSE: The Town’s draft ordinance includes exclusions for historic properties consistent with CA Government Code Sections 65852.21(a)(5) and 66411.7(a)(3)(E).

3. Section 29.10.630 (1)(a) – *Height in Setbacks* – The Municipal Code states, “[b]uildings located within the required side or rear setbacks of the applicable zoning district, and those located in the Hillside Residential (HR) zones, shall not exceed sixteen (16) feet in height.” However, Government Code section 65852.21, subdivision (b)(3) states, “[a] local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that do not apply uniformly to development within the underlying zone.” There is no generally applicable height limitation imposed on other structures within rear and side setbacks, and section 29.40.275 sets height maximums in the Hillside Residential at 30 feet. The limit of 16 feet for SB 9 units is more restrictive than the underlying zoning and is therefore inconsistent with state SB 9 law. The Town must amend the municipal code to remove this height limitation.

TOWN RESPONSE: In practice, the Town currently defers to the height limitation of the underlying zone. The draft ordinance does not include height limitations specific to SB 9 projects.

4. Section 29.10.630(1)(f)(2) – *Grading* – The Municipal Code states “Grading activity associated with a two-unit housing development shall not exceed fifty (50) cubic yards, cut plus fill...”. However, this is a restriction that is exclusive to SB 9 development, and which does not appear in the underlying zoning. Government Code section 65852.21, subdivision (b)(3) prohibits “objective zoning standards, objective subdivision standards, and objective

design standards that do not apply uniformly to development within the underlying zone.” The Town must remove this limitation.

TOWN RESPONSE: The draft ordinance removes the grading language included in Section 29.10.630 (1)(f)(2).

5. Section 29.10.630 (3) and (4) – *Maximum Size* – The Municipal Code states, “[t]he maximum size of the first new residential unit shall not exceed one thousand two hundred (1,200) square feet.” It later states, “[w]hen a two-unit housing development is proposed and the existing structures are at or below the maximum allowed floor area, a ten (10) percent increase in the floor area ratio standards for residential structures is allowed, excluding garages, and this increase in floor area cannot be combined with a separate increase for an accessory dwelling unit allowed by Town Code Section 29.10.320. The additional floor area allowed by this subsection shall not exceed one thousand two hundred (1,200) square feet.” In both cases, the Town is restricting SB 9-unit size below the allowances provided to conventional single-family residential development in the underlying zoning. Government Code section 65852.21, subdivision (b)(3) prohibits “objective zoning standards, objective subdivision standards, and objective design standards that do not apply uniformly to development within the underlying zone.” Therefore, the Town must remove these SB 9-specific size maximums.

TOWN RESPONSE: The 1,200-square foot limitation for the first unit is no longer enforced. The draft ordinance does not include this limitation.

6. Table 1-2 – *Setback Requirements* – The Municipal Code appears to omit reference to rear yard setbacks. Per Government Code section 65852.21, subdivision (c)(3)(B) states that, “a local agency may require a setback of up to four feet from the side and rear lot lines.” While the Town is not required to apply setback requirements, please note that new construction SB 9 units may not be subject to rear setbacks larger than four feet.

TOWN RESPONSE: In practice, the Town requires a four-foot rear setback for new units under SB 9. The draft ordinance clarifies the four-foot rear setback requirement in Table 1-2.

7. Table 1-2 – *Street Side Yard Setback* – The Municipal Code requires “street side” setbacks “per the applicable zoning district” for corner lots. However, state SB 9 law does not refer to “street side” setbacks, and Government Code section 65852.21, subdivision (c)(3)(B) requires side and rear setbacks of no more than four feet. The Town must remove requirements for underlying setbacks that exceed four feet for street-facing sides of corner lots.

TOWN RESPONSE: The Town enforces a setback of four feet from rear, side, and street side property lines, consistent with state law. The draft ordinance clarifies the required street-side setback.

8. Section 29.10.630 (e) – *Second Story Setback* – The Municipal Code states, “[t]he interior side and rear elevations of the second story of a two-story primary dwelling unit shall have a minimum setback of nine (9) feet.” However, this second story setback does not appear in the underlying zoning. Government Code section 65852.21, subdivision (b)(3) prohibits the application of development standards that do not appear in the underlying zoning to units subject to state SB 9 law. The Town must amend the Municipal Code to remove this second story setback requirement.

TOWN RESPONSE: The design review standards included in Section 29.10.630 (2), including the *second-story setback* requirement, are no longer enforced by the Town. The SB 9 specific design review standards are not included in the draft ordinance.

9. Section 29.10.630 (g) – *Plate Height* – The Municipal Code states “[t]he plate height of each story shall be limited to a maximum of ten (10) feet as measured from finished floor, and when above the first floor the plate height shall be limited to a maximum of eight (8) feet...” However, this height restriction does not appear in the underlying zoning. Government Code section 65852.21, subdivision (b)(3) prohibits the application of development standards that do not appear in the underlying zoning to units subject to state SB 9 law. The Town must amend the Municipal Code to remove more restrictive height requirements.

TOWN RESPONSE: The design review standards included in Section 29.10.630 (2), including the *plate height* limitation, are no longer enforced by the Town. The SB 9 specific design review standards are not included in the draft ordinance.

10. Section 29.10.630 (h) and (i) – *Development Standards* – The Municipal Code requires clerestory windows and prohibits vinyl siding and plywood as external materials. Neither of these requirements appear to apply to conventional residential development in the underlying zoning, which is inconsistent with Government Code section 65852.21, subdivision (b)(3). The Town must remove these requirements.

TOWN RESPONSE: The design review standards included in Section 29.10.630 (2), including the *windows* and *prohibited materials* standards, are no longer enforced by the Town. The SB 9 specific design review standards are not included in the draft ordinance.

11. Section 29.10.630 (3)(a) and (3)(b) – *Duplex Unit Cap* – The Municipal Code allows “[a] maximum of four (4) units, with a maximum of two (2) primary dwelling units, on lots that have not undergone an urban lot split... In addition to the two (2) residential units allowed under this section, consistent with Chapter 29, Article 1, Division 7, Accessory Dwelling Units,” of the Municipal Code, one (1) accessory dwelling unit and one (1) junior accessory dwelling unit shall be allowed on lots that have not undergone an urban lot split.”

Government Code section 65852.21, subdivision (f) states, “[n]otwithstanding Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13, a local agency shall not be required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels that use both the authority contained within this section

and the authority contained in Section 66411.7.” Thus, in instances where a property has only utilized SB 9 duplex law (Government Code 65852.21), the number of ADUs or JADUs allowed is to be consistent with what is allowed by State ADU Law. The Town must amend the code to reflect this allowance. In some instances, the creation of more than two ADUs may be possible.

TOWN RESPONSE: For a property that has only utilized SB 9 duplex law, the Town currently allows for two primary dwelling units and the maximum number of ADUs and a JADU pursuant to CA Gov. Code Sections 66310 through 66342. Section 29.10.630 (3)(b) permits ADUs and a JADU on a property that has not undergone an urban lot split consistent with Chapter 29, Article 1, Division 7, "Accessory Dwelling Units," of the Town Code. The draft SB 9 ordinance is consistent with state law.

The Town recognizes that its existing ADU ordinance is not consistent with current state law. A draft ADU ordinance has been prepared and shared with HCD that the Town believes to be consistent with state law. The Town’s draft ADU ordinance will be considered by the Planning Commission on June 10, 2026. Following its review, the Commission will provide a recommendation to the Town Council, which will take action at a subsequent meeting.

12. Section 29.10.630 (3)(c) – *Building Code* – The Municipal Code states, “[T]he 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.” However, this would apply current building/fire codes to all SB 9 units, including existing dwellings on a site. For example, if an existing site contains one primary dwelling and a second, detached primary dwelling is proposed pursuant to SB 9, this Town code provision could result in the application of building/fire code requirements for the existing dwelling (such as building sprinkler systems) above and beyond what the building/fire codes would typically require for an existing detached unit. Per Government Code section 65852.21, subdivision (b)(3), “A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that do not apply uniformly to development within the underlying zone.” The Town must remove this language or clarify that existing structures are not subject to additional building/fire code requirements above and beyond what the building and fire codes would ordinarily require of residential development in single-family zones.

TOWN RESPONSE: The draft ordinance clarifies that the requirements included in Section 29.10.630 (3)(c) do not apply to existing structures.

13. Section 29.10.630 (e) – The Municipal Code states, “[t]he two-unit housing development shall not require either demolition of more than twenty-five (25) percent of the exterior walls”. However, SB 450 removed language requiring a demolition cap of 25 percent from State SB 9 Law in 2021; therefore, the Town must remove this language.

TOWN RESPONSE: The Town does not currently enforce this limitation. The draft ordinance does not include this limitation.

14. Section 29.10.630 (4) – *Exceptions* – The Municipal Code exempts zoning standards that would preclude a two-unit development but omits a necessary reference to split lots. Government Code section 66411.7, subdivision (c)(2) states, “[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.” The Town must add language to include split lots in this exception clause.

TOWN RESPONSE: The draft ordinance includes language exempting urban lot splits from applicable zoning standards that would have the effect of precluding the construction of two units on either of the resulting parcels.

15. Section 29.10.640 (3) and 29.10.660 (3) – *Neighbor Notification* – The Municipal Code states, “[i]n addition to the standard application materials, the applicant will be required to submit one (1) set of stamped, addressed envelopes to neighboring residents and property owners” in the case of either a two-unit development or a lot split. However, this does not appear to apply to conventional residential development in the underlying zoning, which would conflict with Government Code section 65852.21, subdivision (b)(3).

Furthermore, this requirement is not related to “the design or to improvements of a parcel”, which are the only standards that may be applied to split lots. The Town must remove these sections.

TOWN RESPONSE: The Town no longer requires neighbor notification for SB 9 projects. This notification requirement is not included in the draft ordinance.

16. Section 29.10.640(5) and 29.10.660(6) – *Denial* – The Municipal Code refers to “the physical environment” in the sections describing denial conditions. However, SB 450 removed references to “the physical environment” from Government Code section 66411.7, subdivision (d) and section 65852.21, subdivision (d), which now refer to an “...adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.” The Town must remove the reference.

TOWN RESPONSE: The draft ordinance does not include “the physical environment” in Sections 29.10.640 (5) or 29.10.660 (6).

17. Section 29.10.640 (l) – *Utility Providers* – The Municipal Code states, “[t]he requirements of the parcel's utility providers shall be satisfied prior to recordation of a parcel map.” However, SB 9 states, “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.” Neither the Town nor utility provider may require offsite improvements to approve or record an urban lot split and the Town must modify the

zoning code to clarify this.

TOWN RESPONSE: The draft ordinance clarifies that neither the Town nor utility provider may require offsite improvements to approve or record an urban lot split.

If you have any questions, I can be contacted by phone at (408) 354-6823 or by email at smullin@osgatosca.gov.

Best regards,

A handwritten signature in black ink, appearing to read "Sean Mullin".

Sean Mullin, AICP
Planning Manager

Attachments: HCD TA Letter dated May 5, 2026

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

Sec. 29.10.600. Purpose and applicability.

The Town Council finds and determines that this ~~d~~Division is applicable only to voluntary applications for two-unit housing developments and urban lot splits consistent with Government Code Sections 65852.21 and 66411.7~~Senate Bill (SB) 9~~. Owners of real property or their representatives may continue to exercise rights for property development in conformance with the Zoning Code and Subdivision Code. Development applications that do not satisfy the definitions for a two-unit housing development or an urban lot split provided in Section 29.10.610 (Definitions) shall not be subject to this Ordinance. Any provision of this ~~d~~Division which is inconsistent with Government Code Sections 65852.21 and 66411.7~~SB 9~~ shall be interpreted in a manner which is the most limiting on the ability to create a two-unit housing development or urban lot split, but which is consistent with State law. The provisions of this Division shall supersede and take precedence over any inconsistent provision of the Town Code to the extent necessary to effect the provisions of this division.

Sec. 29.10.610. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 29.10.620. Eligibility.

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

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

- (34) *Excluding very high fire hazard severity zone.* A parcel that is not within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Government Code Section 51178, or within a state responsibility area, as defined in Section 4102 of the Public Resources Code. This subparagraph does not apply to sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development, including, but not limited to, standards established under all of the following or their successor provisions: (i) Section 4291 of the Public Resources Code or Section 51182, as applicable; (ii) Section 4290 of the Public Resources Code; and (iii) Section 7A of the California Building Code (Title 24 of the California Code of Regulations).
- (45) *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.
- (56) *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.
- (67) *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.
- (78) *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).
- (89) *Excluding prime farmland and wetlands.* A parcel that ~~does not~~ 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).
- (910) *Excluding conservation easements.* A parcel subject to a recorded conservation easement.

Sec. 29.10.630. RequirementsTwo-unit housing development standards.

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

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

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

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

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

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

~~f. Grading.~~

~~1. To the extent required by Chapter 12, Article II and Section 29.10.09045(b) of the Town Code, the grading activities set forth in subsection 2. below may require a grading permit, but will not require discretionary review of an architecture and site application;~~

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

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

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

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

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

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

- ~~h.~~ *Building Sites.* The footprint of the proposed residential unit(s) and garage(s) shall not be located on lands with slopes exceeding thirty (30) percent. This provision applies only to the building site, not the property as a whole;
- ~~i.~~ *Retaining walls.* Retaining walls shall not exceed five (5) feet in height and shall not run in a straight continuous direction for more than fifty (50) feet without a break, offset, or planting pocket. Retaining walls shall have a five-foot landscaped buffer when adjacent to the street;
- ~~j.~~ *Light reflectivity value.* Exterior material colors for primary dwelling units and garages in the Hillside Residential (HR) zones shall comply with requirements in Chapter V, Section I, of the Town's Hillside Development Standards and Guidelines;
- ~~fk.~~ *Landscaping requirement.* All landscaping shall comply with the California Model Water Efficient Landscape Ordinance (MWELO);
- ~~gl.~~ *Lighting.* New exterior lighting fixtures shall be downward directed and utilize shields so that no bulb is visible to ensure that the light is directed to the ground surface and does not spill light onto neighboring parcels consistent with Section 29.10.09015 of the Zoning Code. In the Hillside Area, decorative lighting, sports court lighting, and unshaded or non-recessed spotlights are prohibited;
- ~~h.~~ *Glare.* Direct or reflected glare, such as that produced by floodlight, visible from outside any boundary line of a property on which the glare is produced, is prohibited;
- ~~im.~~ *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;
- ~~ja.~~ *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;
- ~~ke.~~ *Parking:*
1. One (1) parking stall per primary dwelling unit shall be required on-site, except for two-unit housing developments located on parcels within one-half mile walking distance of public transportation; or where there is a designated parking area for one (1) or more car-share vehicles within one (1) block of the parcel.
 2. Parking stalls may either be uncovered or covered (garage or carport) in compliance with applicable developments standards of the Zoning Code, including Chapter 29, Article I, Division 4, "Parking," except that uncovered parking spaces may be provided in a front or side setback abutting a street on a driveway (provided that it is feasible based on specific site or fire and life safety conditions) or through tandem parking.
 3. Parking space dimensions, whether uncovered or covered, shall comply with the size requirements in Town Code Section 29.10.155(d).
- ~~lp.~~ *Setbacks:*
1. Two-unit housing developments and attached garages shall be subject to the setback and building separation requirements specified by Table 1-2 (Setback Requirements), below. Detached garages and detached accessory structures shall meet the setback requirements specified in Town Code Section 29.40.015 (Accessory Buildings).
 - ~~1-2.~~ Development proposed adjacent to a protected waterway shall comply with the standards and provisions of the Santa Clara County Valley Water Resources Protection Collaborative Guidelines and Standards for Land Use Near Streams document when applicable.

Table 1-2 - Setback Requirements		
Setback		Requirement ⁽²⁾
Property Line Setbacks ⁽¹⁾	Front ⁽²⁾	Per the applicable zoning district. ⁽⁵⁾
	Garage Entry	18 feet, <u>when the required garage setback is less than 18 feet</u>
	Interior Sides	4 feet ⁽³⁾
	Rear ⁽²⁾	4 feet ⁽³⁾
	Street Side	Per the applicable zoning district.
Separation Between Detached Structures ⁽³⁾⁽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) For parcels created through an urban lot split where the parcels are under the same ownership, no interior side setback shall be required for two-unit housing development units constructed as attached units on separate lots, provided that the structures meet building code safety standards and are sufficient to allow separate conveyance as a separate fee parcel. Similarly, no rear setback (for the front property) or front setback (for the rear property) shall be required for two-unit housing development units constructed as attached units in a flag-lot configuration where the parcels are under the same ownership. (4) Except for primary dwellings constructed as a duplex or attached single-family residences. (5) Flag/corridor lots shall use the interior side setback requirement <u>listed above</u> for all property lines other than the rear. <u>(7) Primary dwelling units on a through lot with frontage along two streets, and are not a corner lot, shall meet the front setback requirement along both street frontages.</u>		

mq. *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

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

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

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

a. *Objective Design Standards for New Single-Family and Two-Family Residential Dwelling Units and Second Story Additions.* Compliance with all applicable provisions of the Town's Objective Design

Standards for New Single-Family and Two-Family Residential Dwelling Units and Section Story Additions, within Town Code Sections 29.40.080 – 29.40.100, is required.

- ~~b. — Finished floor. The finished floor of the first story shall not exceed three (3) feet in height as measured from finished grade;~~
 - ~~c. — Front entryway. A front entryway framing a front door shall have a roof eave that matches or connects at the level of the adjacent eave line;~~
 - ~~d. — Front porch. If proposed, porches shall have a minimum depth of six (6) feet and a minimum width equal to twenty five (25) percent of the linear width of the front elevation;~~
 - ~~e. — Second story setback. The interior side and rear elevations of the second story of a two-story primary dwelling unit shall have a minimum setback of nine (9) feet;~~
 - ~~f. — Garages. Street-facing attached garages shall not exceed fifty (50) percent of the linear width of the front yard or street-side yard elevation;~~
 - ~~g. — Plate height. The plate height of each story shall be limited to a maximum of ten (10) feet as measured from finished floor, and when above the first floor the plate height shall be limited to a maximum of eight (8) feet; and~~
 - ~~h. — Windows. All second story windows less than ten (10) feet from rear and interior side property lines shall be clerestory with the bottom of the glass at least six (6) feet above the finished floor except as necessary for egress purposes as required by the Building Code.~~
 - ~~i. — Prohibited materials. The following exterior materials are prohibited on all building exteriors:
 - ~~1. — Vinyl siding; and~~
 - ~~2. — Plywood.~~~~
 - ~~j. — Mechanical equipment. Heating, ventilation, and air conditioning (HVAC) units, generators, energy storage systems (ESS), and other similar ground-mounted mechanical equipment shall be screened from view from any adjacent street if not already located out of view behind a building or solid fence.~~
- (3) General requirements and restrictions. The following requirements and restrictions apply to all two-unit housing developments, inclusive of existing and new primary dwelling units, except as provided by subsection (4) below, "Exceptions:"
- ~~a. — *Number of units.* A maximum of four (4) units, with a maximum of two (2) primary dwelling units, on lots that have not undergone an urban lot split.~~
 - ~~ab. *Accessory dwelling-Number of units.* In addition to the two (2) residential units allowed under this section, accessory dwelling unit(s) consistent with Chapter 29, Article 1, Division 7, "Accessory Dwelling Units," of the Town Code, one (1) accessory dwelling unit and one (1) junior accessory dwelling unit shall be allowed on lots that have not undergone an urban lot split.~~
 - ~~bc. *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 new two-unit housing developments.~~
 - ~~cd. *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.~~

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

1. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income. This shall be evidenced by an attestation from the property owner;
2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power. This shall be evidenced by an attestation from the property owner; or
3. Housing that has been occupied by a tenant in the last three (3) years. This shall be evidenced by an attestation from the property owner.

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

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

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

f. *Historic exclusions.* The development is not located in any of the following:

1. A contributing structure within a historic district included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code;
2. A parcel individually listed as a historical resource included in the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code; or
3. A historic property or district within a Landmark and Historic Preservation (LHP) Overlay Zone, adopted by ordinance, or properties containing historic structures designated by adoption of a Historic Designation (HD) ordinance, pursuant to Town Code Chapter 29, Article VII, Division 3, "Historic Preservation and LHP or Landmark and Historic Preservation Overlay Zone."

gf. *Recorded covenant.* Prior to ~~b~~Building ~~p~~Permit issuance, the applicant shall record a restrictive covenant in the form prescribed by the Town, which shall run with the land and provide for the following:

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

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

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

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

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

- (1) *Application type.* Two-unit housing developments shall be reviewed ministerially by the Community Development Director for compliance with the applicable regulations. The permitting provisions of Town Code Sections 29.20.135 through 29.20.160, "Architecture and Site Approval," shall not be applied;
- (2) *Applicability.* When an application is submitted that includes both the construction of a two-unit housing development under this section and other redevelopment work that is not integral to the creation of a new dwelling unit and would generally require discretionary review, only the portions required for construction of the new dwelling unit shall be reviewed ministerially;
- (3) *Review Process.* The Community Development Director shall consider and approve or deny an application for a proposed two-unit housing development pursuant to this section within 60 days from the date the Town receives a completed application. If the Director has not approved or denied the completed application within 60 days, the application shall be deemed approved. A completed application must include all the submittal requirements listed in the associated SB-9 two-unit housing development application packet, as well as the required processing fees;
- ~~(4)~~ *Application filing.* An application for a two-unit housing development, including the required application materials and fees, shall be filed with the Community Development Department;
- ~~(3)~~ *Neighbor notification.* ~~In addition to the standard application materials, the applicant will be required to submit one (1) set of stamped, addressed envelopes to neighboring residents and property owners. The Planning Department will assist the applicant in determining the neighboring properties to be notified (which will consist of all properties abutting the applicant's parcel, properties directly across the street and the two (2) parcels on each side of the properties directly across the street).~~
- ~~(5)~~ *Building Permits.* Approval of a two-unit housing development application shall be required prior to acceptance of an application for ~~b~~B~~u~~ilding ~~p~~P~~e~~rmit(s) for the new and/or modified primary dwelling unit(s) comprising the two-unit housing development;
- (6) *Expiration.* Approval of a two-unit housing development application shall expire two (2) years after the date of approval unless the approval is used and vested before expiration, per Town Code Sections 29.20.320 and 29.20.335;
- ~~(7)~~ *Denial.* The Community Development Director may deny a two-unit housing development project only if the Building Official makes a written finding, based upon a preponderance of the evidence, that the two-unit housing development would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Government Code Section 65589.5, upon public health and safety ~~or the physical environment~~ and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact; ~~and.~~

If the Director denies an application for a proposed two-unit housing development pursuant to this section, the Director shall, within 60 days of receipt of the completed application, return in writing a full set of comments to the application with a list of items that are defective or deficient and a description of how the applicant can remedy the application; and

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

Sec. 29.10.650. ~~Subdivision~~ Urban lot split standards.

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

- (1) *Subdivision standards.* The following objective subdivision standards supersede any other standards to the contrary that may be provided in the Zoning Code or Subdivision Code, as they pertain to creation of an urban lot split under Government Code Section 66411.7:
 - a. *Flag/corridor lots.* The access corridor of a flag/corridor lot (Town Code Section 29.10.085) shall be either in fee as part of the parcel or as an easement, and shall be a minimum width of 12 feet;
 - b. *Minimum lot size.* Each new parcel shall be approximately equal in lot area provided that one (1) parcel shall not be smaller than forty (40) percent of the lot area of the original parcel proposed for subdivision. In no event shall a new parcel be less than one thousand two hundred (1,200) square feet in lot area. If one (1) of the proposed lots is a flag/corridor lot, the area of the access corridor shall count toward the lot area as follows:
 1. When an easement is used to provide access, the access corridor is included in the gross lot size for the lot granting the easement; and
 2. When the access corridor is owned in-fee and is part of the rear lot, the access corridor is included in the gross lot size for the rear lot.
 - c. *Minimum lot width.* Each new parcel shall maintain a minimum lot width of twenty (20) feet;
 - d. *Minimum public frontage.* Each new parcel shall have frontage upon a street with a minimum frontage dimension of twenty (20) feet, except as allowed above for flag/corridor lots;
 - e. *Parking.* Each dwelling unit within an urban lot split shall contain adequate space for one on-site parking space, except for parcels within one-half mile walking distance of public transportation; or where there is a designated parking area for one or more car-share vehicles within one block of the parcel;
 - fe. *Number of lots.* The parcel map to subdivide an existing parcel shall result in no more than two (2) parcels; and
 - gf. *Lot Merger.* Lots resulting from an urban lot split shall not be merged unless that lot merger can be done without loss of housing units and without causing a non-conforming building, lot, or use.
- (2) *General requirements and restrictions.* The following requirements and restrictions apply to all proposed urban lot splits:
 - a. *Adjacent parcels.* Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously conducted an urban lot split to create an adjacent parcel as provided for in this division;
 - b. *Dedication and easements.* The Town Engineer shall not require dedications of rights-of-way nor the construction of offsite improvements but may, however, require recording of easements necessary for the provision of private services, facilities, and future public improvements or future public services, facilities, and future public improvements;

- c. *Existing structures.* Existing structures located on a parcel subject to an urban lot split shall not be subject to a setback requirement. However, any such existing structures shall not be located across the shared property line resulting from an urban lot split, unless the structure is converted to an attached unit as provided for in Table 1-2 (Setback Requirements, Exception Number ~~43~~). All other existing structures shall be modified, demolished, or relocated prior to recordation of a parcel map;
- d. *Intent to occupy.* The applicant shall submit a signed affidavit to the Community Development Director attesting that the applicant intends to occupy one (1) of the housing units on the newly created parcels as their principal residence for a minimum of three (3) years from either:
1. The date of the approval of the urban lot split when the intent is to live in an existing residence; or
 2. Certificate of occupancy when the intent is to occupy a newly constructed residential unit.
- This requirement shall not apply to an applicant that is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code;
- e. *Non-conforming conditions.* The Town shall not require, as a condition of approval, the correction of nonconforming zoning conditions. However, no new nonconforming conditions may result from the urban lot split other than setbacks as specified by Table 1-2 (Setback Requirements, Exception Number 2), maximum allowed lot coverage, and maximum allowed floor area ratio;
- f. *Number of units.* No more than two (2) dwelling units may be located on any lot created through an urban lot split, including primary dwelling units, accessory dwelling units, junior accessory dwelling units, density bonus units, and units created as two-unit developments. Any excess dwelling units that do not meet these requirements shall be relocated, demolished, or otherwise removed prior to approval of a parcel map;
- g. *Prior subdivision.* A parcel created through a prior urban lot split may not be further subdivided. The subdivider shall submit a signed deed restriction to the Community Development Director documenting this restriction. The deed restriction shall be recorded on the title of each parcel concurrent with recordation of the parcel map;
- h. *Restrictions on demolition.* The proposed urban lot split shall not require ~~either the demolition of more than twenty-five (25) percent of the exterior walls or~~ alteration of any of the following types of housing:
1. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income. This shall be evidenced by an attestation from the property owner;
 2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power. This shall be evidenced by an attestation from the property owner; ~~or~~
 3. Housing that has been occupied by a tenant in the last three (3) years. This shall be evidenced by an attestation from the property owner; or
 4. Ellis Act parcels on which an owner of residential real property has exercised the owner's rights under state law (Government Code Section 7060) to withdraw accommodations from rent or lease within fifteen (15) years preceding the development application.

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

- i. *Replacement units.* If any existing dwelling unit is proposed to be demolished, the applicant will comply with the replacement housing provisions of Government Code Section 66300(d);
- j. *Historic exclusion.* The parcel is not located within a historical landmark property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a historic site in a Landmark and Historic Preservation (LHP) Overlay Zone, adopted by ordinance, or properties containing historic structures designated by adoption of a Historic Designation (HD) ordinance, pursuant to Town Code Chapter 29, Article VII, Division 3, "Historic Preservation and LHP or Landmark and Historic Preservation Overlay Zone."
- k. *Recorded covenant.* Prior to approval and recordation of the parcel map, the applicant shall record a restrictive covenant and agreement in the form prescribed by the Town, which shall run with the land and provide for the following:
 - 1. A prohibition against further subdivision of the parcel using the urban lot split procedures as provided for in this section;
 - 2. A limitation restricting the properties to residential uses only; and
 - 3. A requirement that any dwelling units on the property may only be rented for a period longer than thirty (30) days.
- l. ~~*Utility providers.* The requirements of the parcel's utility providers shall be satisfied prior to recordation of a parcel map; and~~
- m. *Compliance with Subdivision Map Act.* The urban lot split shall conform to all applicable objective requirements of the Subdivision Map Act (commencing with Government Code Section 66410), except as otherwise expressly provided in Government Code Section 66411.7.

Sec. 29.10.660. Application process for urban lot splits.

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

- (1) *Application type.* Urban lot splits shall be reviewed ministerially by the Community Development Director for compliance with the applicable regulations. A tentative parcel map shall not be required;
- (2) *Application filing.* An urban lot split application, including the required application materials and fees, shall be filed with the Community Development Department;
- (3) *Review Process.* The Community Development Director shall consider and approve or deny an application for a proposed urban lot split pursuant to this section within 60 days from the date the Town receives a completed application. If the Director has not approved or denied the completed

application within 60 days, the application shall be deemed approved. A completed application must include all the submittal requirements listed in the associated SB 9 application packet, as well as the required processing fees;

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

(44) *Parcel map.* Approval of an urban lot split permit shall be required prior to acceptance of an application for an urban lot split parcel map ~~for an urban lot split~~. Applicants shall apply for an urban lot split parcel map and pay all fees;

(5) *Expiration.* Approval of an urban lot split permit shall expire two (2) years after the date of approval per Town Code Section 24.20.070 unless the Parcel Map is recorded;

(65) *Development.* Development on the resulting parcels is limited to a project approved by the two-unit housing development process, the Town's Accessory Dwelling Unit process, or through the Town's standard discretionary process;

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

If the Director denies an application for a proposed urban lot split pursuant to this section, the Director shall, within 60 days of receipt of the completed application, return in writing a full set of comments to the application with a list of items that are defective or deficient and a description of how the applicant can remedy the application; and

(87) *Appeals.* Urban lot split application decisions are ministerial and are not subject to an appeal.

Sec. 29.10.670. Sunset clause.

If the provisions of Government Code Sections 65852.21 and 66411.7 are~~SB 9 is~~ repealed or otherwise rescinded by the California State Legislature or by the People of the State of California, this division shall be repealed."

(Ord. No. 2334, § 2, 11-15-22)