



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 5/07/2024

ITEM NO: 20

DESK ITEM

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**DATE:** May 7, 2024  
**TO:** Mayor and Town Council  
**FROM:** Laurel Prevetti, Town Manager  
**SUBJECT:** Introduce an Ordinance Titled “An Ordinance of the Town Council of the Town of Los Gatos Amending Chapter 29, ‘Zoning Regulations,’ of the Town Code Regarding Senate Bill (SB) 9 For Modified Design Review Standards and Other Clarifying Revisions.” 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), SB 9 Ordinances are Not a Project Subject to the California Environmental Quality Act. Town Code Amendment Application A-24-003. Project Location: Town Wide.  
Applicant: Town of Los Gatos.

**REMARKS:**

Attachment 7 includes public comment received prior to 11:00 a.m., May 7, 2024.

**ATTACHMENTS:**

**Previously received with the May 7, 2024 Staff Report:**

1. Draft Ordinance for Adoption
2. Draft Ordinance Redline
3. April 10, 2024 Planning Commission Staff Report (with Exhibits 1-4)
4. April 10, 2024 Planning Commission Desk Item
5. April 10, 2024 Planning Commission Verbatim Minutes
6. Public Comment Received Prior to 11:00 a.m., Thursday, May 2, 2024

**Received with this Desk Item Report:**

7. Public Comment Received Prior to 11:00 a.m., Tuesday, May 7, 2024

**PREPARED BY:** Ryan Safty  
Associate Planner

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

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**From:** [REDACTED]  
**To:** [Ryan Safty](#)  
**Cc:** [REDACTED]  
**Subject:** Objective Standards - SB-9 code changes  
**Date:** Monday, May 6, 2024 5:02:57 PM

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[EXTERNAL SENDER]

Hi Ryan,

We are so glad to hear that you have undertaken the task of updating the objective standards. Thank you so much for supporting the community efforts to fine tune them.

We are a little late in the game here, as we didn't realize changes were up for discussion at the next Council meeting. We apologize for the last minute questions. All of the changes you're proposing are much needed and very welcome! I have a few questions for you for clarification.

While reviewing the updated code language I came across a couple things:

1 Sec 29.10.630 (1) e.4. - Does this change mean that the 10% increase in floor area ratio is only granted when there are existing structures to remain that are at the max. allowed floor area?

2. Sec 29.10.630 (2) e. - I see the language here to allow covered porches to create the 5' setback from the second floor. We applaud this change as it's been a struggle for us as well. What I don't see included is the other concern shown in the exhibit from Jay Plett. (page 450 of the agenda packet) In his drawing on the left side, he shows another concern that we also share about second story setbacks where regardless of where the first floor wall is located, there must still be a 5' offset to the second floor.

We're under the impression that the point of the rule is to provide privacy to neighbors, by creating a 9 foot second floor setback (by adding the 4' lower floor setback and 5' wall to wall). We do not disagree that privacy at the second floor is a concern, but it creates an undue architectural restriction at the same time. If privacy from the upper floor windows is the primary concern, then what does it matter where the first floor wall is in relation to the second floor if the same desired affect of a 9 foot second floor setback is still achieved? The rule could easily be changed to state that second floor walls must be a minimum of 9 feet from the property line. Architecturally speaking, this 5' offset from the lower floor creates a "layer cake" sort of shape to the house that is not attractive and homogenous. There's very little room for variation on any facade. By detaching the setback rule from the first floor footprint, there is way more opportunity to create variation and interest.

It also makes designing the location of a stairwell particularly troublesome, since the walls for the stairwell need to run two stories high. Meaning the stairwell can only be placed at the front or middle of the house. On narrow lots, that are often created by these lot splits, this is really challenging.

The last point I will make is this. If the zoning code in an R-1-8, stipulates an 8 foot side setback, but these standards require more than that, wouldn't that be problematic? Why not

create a daylight plane instead of the 5' wall offset? This is seen in many standard zoning codes in the area.

3. Sec 29.10.630 (2) i. - We are a little confused by the proposed exclusions on materials, two in particular.

Exterior foam trim can be executed well and not so well, so we understand the need for quality control. But this may be a case of throwing out the good with the bad. We often use a styrofoam like backing material underneath a smooth stucco finish to create coves, shaped openings, stepped parapets, and stepped sill shapes. It's something you can see all over Town in commercial and residential. It would be more challenging in some cases to use wood or another material behind the stucco, but this ordinance change would mean we'd have to use wood or plastic. And the outside shape would look no different, since it's still the same quality stucco on the outside. We're just completing a gorgeous 8,000 SF, Montecito home with foam molding everywhere to create steps in the facade. It's much lighter, less expensive and versatile.

We're also unsure why EIFS is proposed to be excluded. Again, there are not great looking examples and there are better ones as well. What we are finding is that the energy code is becoming more and more stringent with energy savings. Exterior walls need more and more insulation in order to meet compliance. In fact, energy consultants and the energy commission, in general would prefer us put the insulation on the outside instead of, or in addition to between studs, because it eliminates the issue of thermal conduction at the wood frame. Seeing how EIFS is a ready made, cost effective solution, we would think this particular regulation would be in direct conflict with that.

I'm sure you've been going round and round on many of these topics with your colleagues and community design professionals, so again I apologize for rehashing if so.

Lastly, I just wanted to add that we are very happy to see that you're proposing that the processing time for review could now overlap instead of being sequential. This cuts down the over all process time by many many months!

Thanks so much,

Jaclyn Greenmyer

**KOHLSAAT & ASSOCIATES**

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**From:** [REDACTED]  
**To:** [Jennifer Armer](#); [Ryan Safty](#); [Planning](#)  
**Subject:** Public Comments: SB9 ordinance The Town Council on 05/07/2024  
**Date:** Monday, May 6, 2024 5:29:49 PM

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[EXTERNAL SENDER]

Dear Planning commission, Ms.Jennifer/Mr.Ryan,

I am Sandeep, a resident of the Town of Los Gatos. Thanks for allowing public comments on SB-9 ordinance, Item 20 in the Town Council's agenda this Tuesday May 7th.

Here are my comments, please consider.

1. I support the updated step back guidance from the Planning commission that considers the structural post of a covered porch as an alternative to the 1st floor wall for step back considerations. This will allow additional architectural/design flexibility without impacting the privacy of the neighbor
  1. *"Step-back. The interior side and rear elevations of the second story of a two-story primary dwelling unit shall be recessed by five feet from the first story, as measured wall to wall. In the case of a covered porch on the first floor below, the step-back is measured from the structural post of the covered porch to the wall above;"*
2. Consistency of TUD fees and the objective of the town council:
  1. In Dec 2022, when the Town approved permanent SB9 ordinance, the Town restricted one of the primary units in a TUD to a maximum area of 1200 SQ FT and several other design choices based on the town's ADU code. However the fee schedule does not reflect the TUD fees consistent with the intent of the council to limit one primary unit to be ADU size. Eg: Transportation Impact fee. **My petition to the council, to ensure the consistency, is to either remove the 1200SqFt restriction for TUD application OR update the comprehensive fee schedule to apply ADU exemptions for the size restricted TUD primary home.**

Thanks  
Sandeep