



DISCUSSION ITEM

Agenda Item # 8

AGENDA REPORT SUMMARY

Meeting Date: November 30, 2021

Subject: City Council resolution establishing objective residential site development and design standards pursuant to recent changes to state law; find project exempt from review under CEQA per CEQA Guidelines Sections 15061(b)(3) and 15308.

Prepared by: Jia Liu, Associate Planner, AICP
Erik Ramakrishnan, City Attorney's Office

Reviewed by: Gabriel Engeland, City Manager

Attachment(s):

- 1-SB 9 Special Consideration Parcels
- 2-SB 9 Implementation Resolution

Initiated by:

The City Council due to recent changes to state law.

Previous Council Consideration:

October 26, 2021, November 9, 2021

Fiscal Impact:

No fiscal impact. The initial effort will be undertaken by city staff. Additional single-family objective standards could require assistance of consultants, which will have an undetermined fiscal impact.

Environmental Review:

The adoption of the resolution is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15061(b)(3) (Common Sense Exemption) and 15308 (Actions by Regulatory Agencies for the Protection of the Environment), in that the regulations imposed by the resolution are intended to preserve scenic quality for the City of Los Altos by establishing design guidelines to protect the existing community character, and because it can be seen with certainty that the adoption of the regulations will not have a significant effect on the environment (or that any such effect is wholly speculative), and none of the circumstances in CEQA Guidelines Section 15300.2 applies.

Summary:

Recent changes to state law require immediate attention prior to January 1st, so that the City has in place appropriate site development and design standards governing the review



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of land division and certain residential development proposals to ensure these type of permits can be appropriately managed.

Staff Recommendation:

City staff are recommending the City Council adopt the single-family objective design standards (Attachment 2).

Background

On September 16, 2021, Governor Newsom signed Senate Bills 8, 9 and 10 and several other housing related pieces of legislation. SB 9 will have an immediate implication as it requires after January 1, 2021, that single family residential development projects be approved ministerially. Since more than 75% of Los Altos is zoned for single-family residential use, this will have an immediate impact on the review of design review applications by the Community Development Department. After adoption of the immediate standards by the City Council, a more detailed set of regulations can be prepared in 2022 to enhance the criteria Los Altos uses to review single family homes. The schedule to accomplish this is as follows:

Phase I Project Schedule

October 26, 2021-the City Attorney's office (Erik Ramakrishnan) gave an SB 8 and SB 9 presentation to the City Council. City staff were directed to work with a subcommittee of the Design Review Commission (DRC) as a resource to create single family objective zoning standards and to provide the City Council a project update on November 9th.

On November 3rd, the City Attorney's office gave an SB 8 and SB 9 presentation to the Design Review Commission (DRC). At this meeting city staff asked that a DRC Ad Hoc Subcommittee composed of two members be formed so input can be given on the design standards.

On November 9th, City staff also met with the DRC Ad Hoc Subcommittee to discuss the draft single-family objective standards. Additionally, on November 9th city staff gave a project update to the City Council. At this meeting, several follow up items were requested of staff:



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GIS Map-the City Council requested a GIS map identifying those parcels that require additional consideration by the city when reviewing an SB 9 project. Please see Attachment 1 for said map.

Severability Clause-a severability clause has been added to the resolution to ensure if one portion of the resolution is found to have fault that the remainder of the document will still be upheld in court. See Section 6 of the draft resolution. An administrative remedy has also been added at Section 7 of the draft resolution for any individual aggrieved by the regulations who believes that a particular regulation is invalid.

State HCD Input-City staff reached out to HCD staff for guidance and direction. Currently, the State HCD staff are still developing their SB 9 Guidance memorandum and were unable to provide direction on the draft resolution.

Impact Fees-a sample of impact fees for a standard SB 9 project will be shared with the Council at the November 30, 2021 meeting.

Cupertino and Palo Alto Ordinances-A request for the draft documents from Cupertino and Palo Alto have been placed by city staff. Some of the draft Palo Alto standards have been incorporated into the resolution. Palo Alto staff indicated they are going to their City Council on December 6th and will share the final version of their document in the near term with Los Altos staff. As of the preparation of this report, Cupertino staff have not responded to a request for information from Los Altos.

Phase II Project Schedule

January-March 2022-City staff will contract with a consultant firm to prepare detailed graphics and charts to enhance the standards adopted in December.

March 2022-June 2023-City staff will engage community members and the City Council in a more detailed and through project review similar to what occurred for the Multi-Family/Mixed-Use Objective Standards Project.

Options



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1) Adopt the Single-Family Objective Design Standards Resolution (Attachment 2).

Advantages: Allows the City to control development in single-family zoned properties after January 1, 2022, considering SB 9

Disadvantages: No disadvantage to controlling development on 75% of the land zoned for single family in Los Altos.

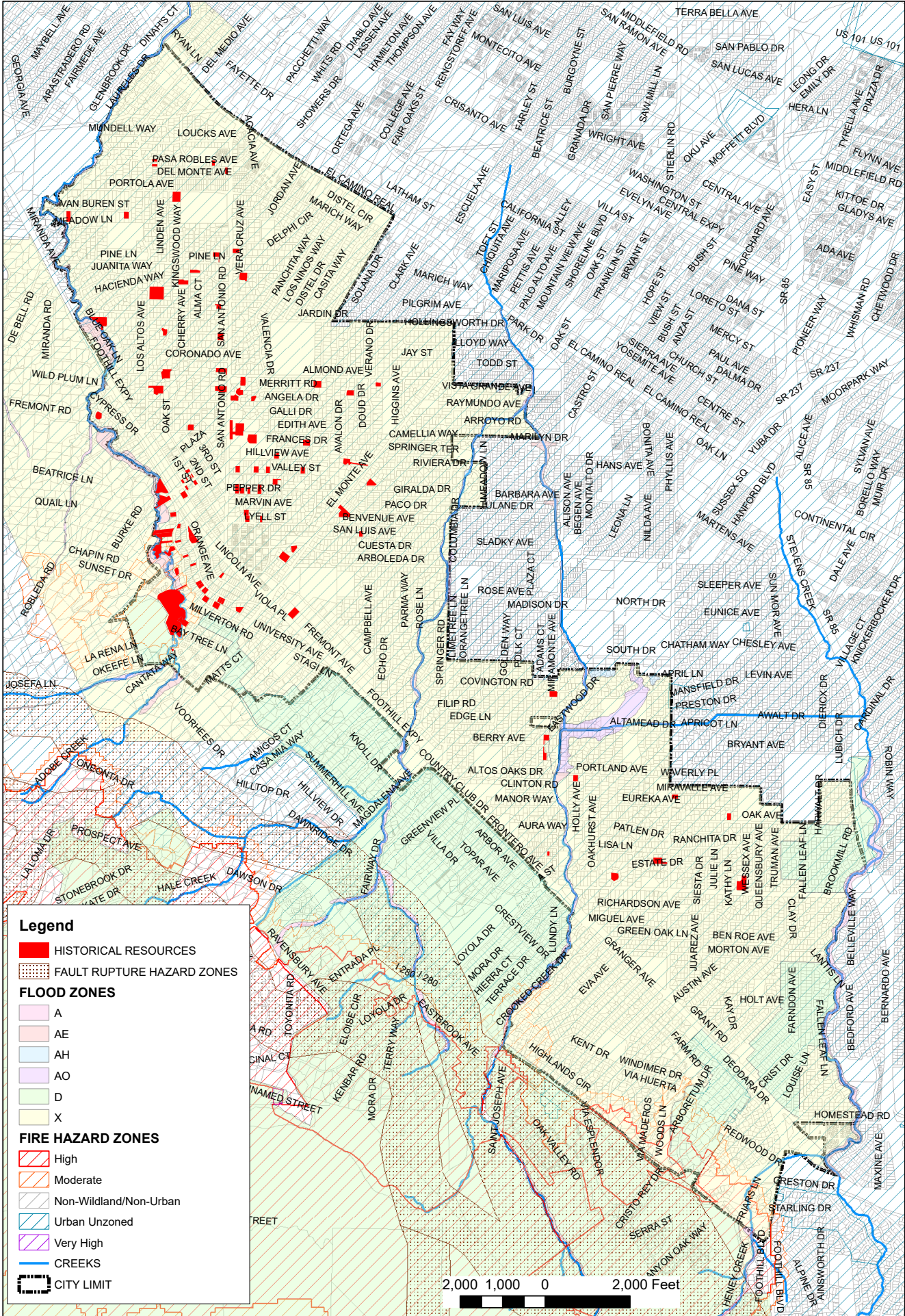
2) Remand the project back to city staff for additional edits and direct the item be brought back to the City Council by the December 14, 2021, meeting.

Advantages: Provides additional time for city staff to further refine the single-family objective zoning standards.

Disadvantages: Delays the adoption of said standards.

Recommendation

The staff recommends Option 1.



RESOLUTION NO. 2021-57**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
ESTABLISHING OBJECTIVE STANDARDS FOR SINGLE FAMILY
RESIDENCES TO IMPLEMENT SENATE BILL 9**

WHEREAS, on September 16, 2021, the Governor signed Senate Bill 9 (Stats. 2021, Ch. 162) (“SB 9”); and

WHEREAS, SB 9 allows for streamlined ministerial approval for certain residential dwelling units in single-family residential zones; and

WHEREAS, SB 9 requires the City to apply objective design standards to residential dwelling units approved pursuant to the legislation and prohibits discretionary design review for such units; and

WHEREAS, the City of Los Altos has adopted Single-Family Residential Design Guidelines (the “SFRDG”) pursuant to Section 14.76.020 of the Los Altos Municipal Code; and

WHEREAS, to implement SB 9, it is necessary or convenient that the City Council amend the SFRDG to specify objective design criteria applicable to new single-family homes; and

WHEREAS, SB 9 allows cities to impose certain standards for projects approved under that legislation, which the City Council desires to adopt; and

WHEREAS, certain ambiguities in SB 9 require resolution pending guidance from the judiciary and the Department of Housing and Community Development.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Los Altos, as follows:

1. Effective January 1, 2022, the SFRDG are hereby amended to include as APPENDIX D-1 thereof the objective single-family design guidelines (the “Objective Standards”) attached to this Resolution as **Appendix 1**. After January 1, 2022, applications to remodel existing single-family residences and applications to construct new single-family residences not subject to approval under SB 9 shall continue to be subject to the SFRDG. Applications to construct new single-family residences subject to approval under SB 9 shall comply with the Objective Standards. Applicants for projects subject to approval under SB 9 are strongly encouraged to comply with all provisions of the SFRDG to ensure high quality design and neighborhood compatibility.

2. As soon as practicable, Staff is directed to hold one or more study sessions with the Planning Commission and with the Design Review Commission to obtain feedback concerning the Objective Standards from both commissions and from the public. Relying on such feedback and the experience of Staff in implementing SB 9, Staff is hereby directed to return to the City Council no later than May 2022 to report on the implementation of SB 9 and to recommend any amendments to the Objective Standards.
3. SB 9 authorizes local agencies to impose certain standards and requirements outlined in **Appendix 2** to this Resolution. Those standards and requirements are hereby adopted, and the SFRDG is hereby amended to incorporate the standards as APPENDIX D-2 thereof.
4. SB 9 contains certain ambiguities that require interpretation. Pending further guidance from the Department of Housing and Community Development and the judiciary, Staff are hereby directed to follow the guidance included in the interpretive guidance document attached as **Appendix 3** to this Resolution.
5. The City Council hereby finds that the adoption of this Resolution is exempt from review under the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Sections 15061(b)(3) (Common Sense Exemption) and 15308 (Actions by Regulatory Agencies for the Protection of the Environment), in that the regulations hereby imposed are intended to preserve scenic quality for the City of Los Altos by establishing design guidelines to protect the existing community character, and because it can be seen with certainty that the adoption of the regulations hereby imposed will not have a significant effect on the environment (or that any such effect is wholly speculative), and none of the circumstances in CEQA Guidelines Section 15300.2 applies.
6. If any section, sentence, clause, or phrase of this Resolution (including its appendices), is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions hereof.
7. Any person wishing to challenge the validity of any provision of this Resolution (including its appendices), whether facially or as applied, may, if aggrieved by such provision, appeal to the City Council pursuant to Chapter 1.12 of the Los Altos Municipal Code. As used herein, a person is “aggrieved” if, (a) a provision of this Resolution would prevent the individual from seeking approval of a housing development project for which the individual would like to apply, and (b) in the opinion of the individual, the challenged provision is invalid or unconstitutional. If the City Council grants an appeal a facial challenge, then it shall direct staff to propose appropriate amendments to this Resolution, consistent with the City Council’s decision on the appeal. If the City Council grants an as-applied challenge, then it may allow an exception to standards to the limited extent necessary to avoid the invalidity or unconstitutionality.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the ___ day of ____, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Neysa Fligor, MAYOR

Attest:

Andrea Chelemengos, MMC, CITY CLERK

APPENDIX 1
OBJECTIVE STANDARDS ADOPTED AS
APPENDIX D-1 TO THE SFRDG

Objective Standards for Single-Family Residential Zone

It is intent that the following standards shall not be applied to prevent an applicant from constructing at least two, 800 square-foot single-family residential units with four-foot rear and side setbacks. As used here, a residential dwelling unit includes living space only and not parking or accessory structures. Nothing herein is intended to prevent an applicant from constructing ADUs per the City’s ADU Ordinance and state law.

1. Definition – any term not defined in this section has the meaning given in the City Municipal Code unless otherwise specified.

“Secondary front lot line” means a lot line abutting a street which is not a front lot line.

“Plate height” means the vertical distance measured from the top of the finished floor to the top of the plates.

“Exterior finish” refers to the exterior façade of a house, excluding the roofs, trim, windows, doors, and shutters.

“Exterior trim” refers to the finish materials on the exterior of a building, such as moldings applied around openings (window trim, door trim), siding, windows, exterior doors, attic vents, and crawl space vents.

“Earth tone” means is a color that draws from a color palette of browns, tans, warm grays, greens, oranges, whites, and some reds, and some blues. The colors in an earth tone scheme are muted and flat in an emulation of the natural colors found in dirt, moss, trees and rocks. Many earth tones originate from clay earth pigments, such as umber, ochre, and sienna. In case of doubt, the following definition shall be applied to determine whether a color is an earth tone: Earth tone means a color with a lightness (light reflective) value of 25 to 60 that is composed of a mixture of any shade of brown and any shade of any other color or colors.

“Lines of sight” means with a 60-degree angle beginning at the starting point, 30 degrees to the left and 30 degrees to the right in horizontal perspective.

“High-quality transit corridor” means corridor with fixed route bus service with service intervals no longer than fifteen minutes during peak commute hours.

“Major transit stop” means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

2. SB 9 – Development Standards

A. Lot Split and Minimum Site Area

An existing parcel shall not be subdivided into more than two parcels. One subdivided parcel shall not be less than forty percent (40%) of the original parcel provided that both newly subdivided parcels are no smaller than one thousand and two hundred (1,200) square feet.

B. All development standards under Government Code Section 66411.7 are hereby adopted.

C. Site Frontage and Site Width

- a. The minimum width of the access corridor for each flag lot shall be twenty (20) feet, and shall provide direct access to a public or private street.
- b. Easements for the provision of public services and facilities and egress and ingress are required.

D. Coverage. The following coverage standards apply unless two single-family units with 4-foot rear and side-yard setbacks and 800 square feet each in floor area are precluded.

- a. The maximum coverage for all structures in excess of six feet in height shall be thirty-five (35) percent of the total area of the site where the height of one-story development does not exceed twenty (20) feet.
- b. A minimum of fifty (50) percent of the required front yard area shall be a combination of pervious landscape material.
- c. On sites where the lot coverage exceeds thirty (30) percent, two-story structures shall not be allowed.

E. Floor Area Ratio. The following coverage standards apply unless two single-family units with 4-foot rear and side-yard setbacks and 800 square feet each in floor area are precluded.

- a. For lots with a net site area not exceeding eleven thousand (11,000) square feet, the maximum floor area shall be thirty-five (35) percent of the net lot area.
- b. For lots with a net site area exceeding eleven thousand (11,000) square feet, the maximum floor area shall be three thousand eight hundred fifty (3,850) square feet plus ten (10) percent times the net lot area minus eleven thousand (11,000) square feet.

F. Setbacks.

- a. Except as noted below, the minimum setbacks shall be as follows:

Front*	
First Story	25 feet

Second Story	30 feet
Secondary Front*	
First Story	10 feet
Second Story	13 feet
Side	
First Story	4 feet. However, to reduce the privacy impacts to abutting property owners, applicants are encouraged to voluntarily increase the setbacks to be ten (10) feet from the side property lines.
Second Story*	11.5 feet. However, to reduce the privacy impacts to abutting property owners, applicants are encouraged to voluntarily increase the second story setback to be 17.5 feet from the side property lines.
Rear	4 feet. However, to reduce the privacy impacts to abutting property owners, applicants are encouraged to voluntarily increase the rear setback to be (10) feet from the rear property line.

- b. No architectural features (i.e. cantilevers, bay windows, and/or any other architectural projections) shall be allowed within the side and rear required setback areas except for 12-inch maximum eaves with four-inch maximum gutters.
- c. When two primary single-family residential units are proposed on one parcel, the two units shall be attached and designed subject to Section 2 of this policy.
- d. Notwithstanding these rules, the applicant shall be allowed to construct within the dimensions of an existing legal building.

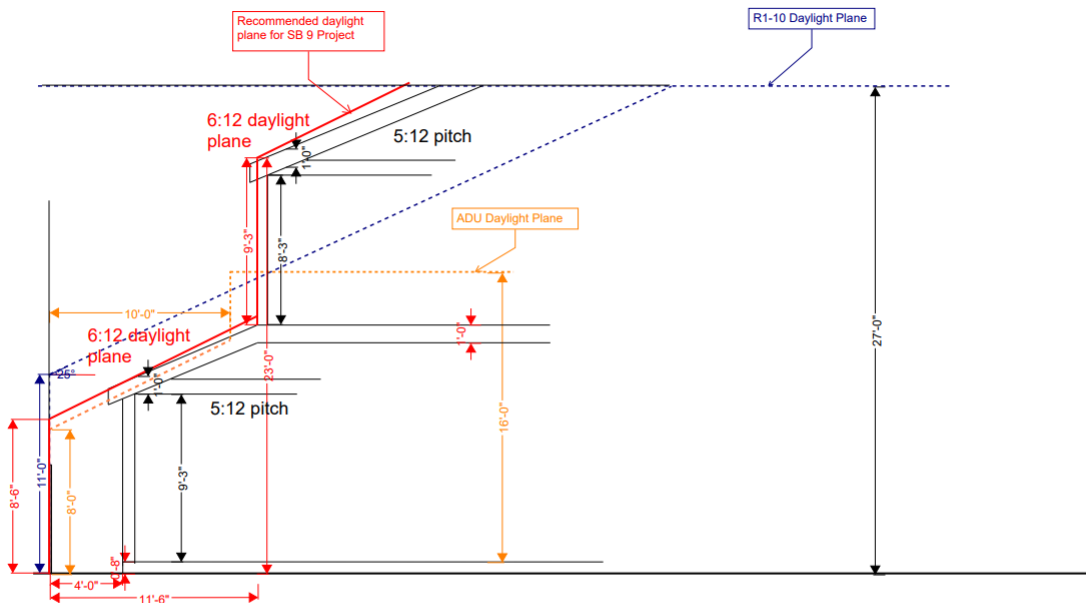
*Unless two single-family units with 4-foot rear- and side-yard setbacks and 800 square feet each in floor area are precluded.

G. Height of Structures

No structure shall exceed two stories or twenty-seven (27) feet in height from the natural grade. On flag lots the height of structures shall be limited to one story and twenty (20) feet in height. Basements shall not be considered a story. When the lot coverage exceeds or is proposed to exceed thirty (30) percent, the maximum height of structures shall be twenty (20) feet.

H. Daylight Plane

- a. No portion of any residential units shall extend above or beyond a daylight plane as follows:
- b. The daylight plane starts at a height of eight feet and six inches (8'-6") at the property line and proceeds inward at 6:12 slope. At eleven feet and six inches from the property line, the daylight plane increases to twenty three feet (23') and proceeds inward at 6:12 slope. All appurtenances, including chimneys, vents and antennas, shall be within the daylight plane. The daylight plane is not applied to a side or rear property line when it abuts a public alley or public street. However, the daylight plane shall not be enforced if it prohibits two single-family units with 4-foot rear and side-yard setbacks and 800 square feet each in floor area. Notwithstanding this requirement, the maximum required rear and side yard setback shall be four feet.



The daylight plane starts at a height of eight feet and six inches (8'-6") at the property line and proceeds inward at 6:12 slope. At eleven feet and six inches from the property line, the daylight plane increase to twenty three feet (23') and proceeds inward at 6:12 slope. All appurtenances, including chimneys, vents and antennas, shall be within the daylight plane. The daylight plane is not applied to a side or rear property line when it abuts a public alley or public street. However, the daylight plane shall not be enforced if it prohibits two single-family units with 4-foot rear and side-yard setbacks and 800 square feet each in floor area .

I. Basements.

Basements shall be regulated as follows:

- a. Basements shall not extend beyond the floor area of the first floor of the main or accessory structure above;
- b. Light wells, ingress and egress wells, patio wells, and other similar elements shall not be permitted within a required setback yards.
- c. Light wells, ingress and egress wells, patio wells, and other similar elements shall utilize vertical retaining walls. Contour graded slopes, which expose the basement as a story, are prohibited.
- d. Light wells, ingress and egress wells, patio wells, and other similar elements shall be at least seventy-five (75) percent open in area to light and air above.

J. Outdoor kitchen, barbeques, fireplaces and swimming pools.

Outdoor kitchen barbeques, fireplaces, and swimming pools shall be subject to zoning standards of the underlying zoning district.

K. Off-street parking.

- a. One covered parking for each unit with minimum dimensions of nine (9) feet in width and eighteen (18) feet in depth is required. Uncovered parking shall be allowed only to the extent necessary to facilitate the construction of two units at least 800 square feet in size.
- b. No off-street parking is required in either of the following instances:
 - 1) The subject parcel is located within one-half mile walking distance of either a high-quality transit corridor or a major transit stop.
 - 2) A car share vehicle program is located within one block of the parcel.

L. Signs.

Signs shall be subject to zoning standards of the underlying zoning district.

M. Fences.

Fences shall be subject to zoning standards of the underlying zoning district.

N. Nonconforming use regulations

Corrections on nonconforming zoning conditions shall not be required for the ministerial approval of a parcel map application for the creation of a lot split pursuant to SB 9.

O. Accessory Structures.

Accessory structures shall be subject to zoning standards of the underlying zoning district.

3. SB 9 – Objective Design Standards

A. Plate Heights.

- a. Plate height is limited to 9'-3" for the first floor except for an entry porch may have a maximum plate height of 12' and a garage may have a maximum plate height of 10'.
- b. Plate height is limited to 8'-3" for the second floor.

B. Second Floor Windows.

Second floor windows shall be regulated as follows:

- a. On elevations that are facing interior side property lines, a minimum sill height of 4'-6" is required for all second-floor windows.
- b. On elevations that are facing rear property lines adjacent to a neighboring property, a minimum sill height of the California Building Code (CBC) minimum required sill height for egress or light and ventilation shall be provided.
- c. For any windows within ten feet of rear or interior side property lines adjacent to a neighboring property, the maximum second story window size shall be no larger than the CBC minimum required size.

C. Balcony and Rooftop Deck.

Balconies and rooftop decks shall be regulated as follows:

- a. Balcones and/or roof decks are prohibited when facing interior side yards and rear yard adjacent to a neighboring property.
- b. A balcony or a roof deck is allowed only on front elevations facing public and private streets; and a minimum of twenty-five (25) feet side setback shall be provided from the side property lines to the edge of the balcony or roof deck.
- c. The maximum depth for any balconies and rooftop decks shall be four (4) feet.
- d. The maximum size for any balconies and rooftop decks shall be 25 square feet.
- e. Screening devices shall include solid railing walls instead of open railings, and latticework above the required railing height to obscure sight lines from a balcony or a roof deck.

D. Screening Vegetation.

Screening vegetation shall be regulated as follows:

- a. Screening vegetation is required in either of the following situations:
 - 1) Within lines of sight for any proposed balcony and roof deck projected to any side property line, screening vegetation shall be planted.
 - 2) Within lines of sight from each jamb of any windows with a sill height of less than 4'-6" at second floor, screening vegetations shall be planted.
- b. Any required screening vegetation shall be evergreen species reaching to fifteen feet through twenty feet in height at their mature age with permanent irrigation and shall be maintained for the life of the project.
- c. At least twenty-four-inch (24-inch) box screening vegetation shall be planted prior to occupancy of the residence.

E. Landscaping

Onsite landscaping shall be regulated as follows:

- a. Trees selected from the [Street Tree Planting List](#) are required to be planted on site following the standards below:
 - 1) For lots five thousand (5,000) square feet in size or greater, at least two, Category II trees shall be planted with at least one, Category II tree planted in the front yard. For each additional five thousand (5,000) square-foot lot size, one more Category II tree shall be planted onsite.
 - 2) For lots with less than five thousand (5,000) square feet in size, at least one, Category II tree or two Category III trees shall be planted onsite.
 - 3) If there are existing trees onsite, an arborist report, prepared by an ISA certified arborist, may be required to determine the equivalent value of existing trees compared to the Street Tree Planting List.
- b. Water Efficiency Landscape Ordinance (WELo) and its submittal requirements apply to the following projects:
 - 1) New construction projects with new or rebuilt landscape areas that exceed five hundred (500) square feet.
 - 2) Remodels and/or additions to existing single-family houses with new or rebuilt landscape areas that exceed twenty-five thousand (2,500) square feet.

F. Construction Materials and Colors.

All construction materials shall be long-term (30 years) durability and appearance, as per manufacture's specifications. Specifically, the construction materials shall be subject to the following:

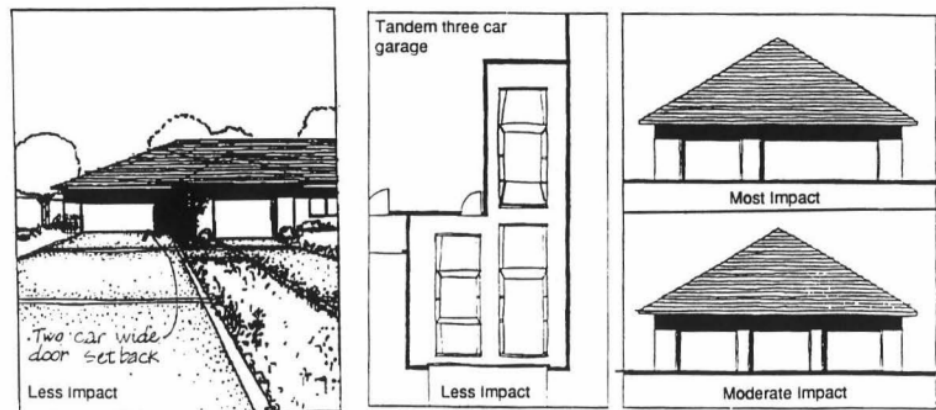
- a. Foam trim with a painted stucco finish is prohibited throughout the structure(s).
- b. Mixing roof materials and colors are not allowed except for curved dormers and shed roof structures.
- c. Exterior finish including wainscoting used for one structure shall be no greater than three different materials. Each material may be a different color, but every part of exterior finish comprised of a single material shall be a single color.
- d. Window and door trims shall be limited to one material and one color. The material and color shall be the same for both windows and door trims.
- e. Architectural detailing shall be incorporated such as window and door trim, belly bands, cornices, shutters, column accents to the entry porch, and railings in an integrated composition. No more than three distinct materials and colors shall be used.
- f. Exterior finish shall be earth tones.
- g. Exterior trim shall be in a shade of white, black, grey, brown, or an earth tone.

G. Site and Building Design.

The site and building design shall be subject to the following standards to create visual variety and avoid a large-scale appearance:

- a. Driveway shall be designed per the following standards:
 - 1) Each property is prohibited from more than one curb cut or driveway accessing a street unless the subject site is fronting a City's Arterial or Collector road.
 - 2) A curb cut or driveway width connecting to a public or private street shall be no greater than twenty-two (22) feet.
 - 3) For corner lots, driveway connections shall be at least thirty (30) feet from the intersecting corner property lines at the street intersection.
 - 4) If the project impacts a street shoulder, then it shall be improved accordingly per City's Street Shoulder Improvement Policy.
- b. Façade articulation shall be provided with at least six corners on the first floor.

- c. Building entrances shall have a roofed projection (such as a porch) or recess with a minimum depth of at least five feet and a minimum horizontal area of thirty (30) square feet. Any corners within the building entrances shall not count as part of the corners as required above.
- d. Downspout shall be painted to match or accent the exterior finish color.
- e. Attached garage shall be subject to the following standards:
 - 1) Attached garage shall be recessed at least one foot from the front elevation wall plane of the residence.
 - 2) When a three-car attached garage is proposed, visual impact shall be reduced by, (i) using a tandem parking layout inside a two-car-wide garage; (ii) using three single-car-wide garage doors instead of a double and a single garage door; or (iii) setting back one of the doors from the others.



- f. Windows and doors shall either be trimmed or recessed.
 - 1) When trimmed, the trim material shall not be less than 3.5” in width by ¾” in depth when protruding from the wall.
 - 2) When recessed, the building primary siding material shall cover the recessed edge faces and wrap toward the interior face of the window glazing or door face by not less than 2 inches in depth.
- g. The design of roof shall be regulated as follows:
 - 1) No more than two types of roof forms shall be used.
 - 2) No more than two roof pitches shall be used.
- g. First floor finished elevation shall be no more than twenty-two (22) inches above existing natural grade on a non-hillside lot. In a flood zone or flood way, the first-floor level may be set at the minimum allowed above grade to meet code requirements.

- h. For a hillside property, a stepped foundation is required where the average slope beneath the proposed structure is 10% or greater.
- i. No mechanical equipment shall be located in any required side and rear yards. The placement of the mechanical equipment must be consistent with the City's Noise Ordinance.
- j. **No** exterior staircases above grade shall be allowed.
- k. Except for pathway lighting, outdoor lighting fixtures shall be downward facing and fully shielded or recessed.

APPENDIX 2
STANDARDS ADOPTED PURSUANT TO SB 9 AS
APPENDIX D-2 TO THE SFRDG

- 1) **Objective Zoning/Subdivision/Design Standards.** SB 9 authorizes the City to impose objective zoning standards, objective subdivision standards, and objective design review standards applicable to structures and parcels created by an urban lot split that do not conflict with SB 9 or preclude the construction of two 800 square foot minimum primary dwelling units. Accordingly, all such existing objective City standards shall apply to SB 9 projects, in addition to any additional objective standards that the City may adopt.
- 2) **Maximum Units and Lots.** The City shall not approve more residential dwelling units or lots for any SB 9 project than required under state law.
- 3) **Parking.** SB 9 allows the City to choose to require parking consistent with the terms thereof. Accordingly, the City shall require off-street parking of one space per unit, unless the lot 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, or unless there is a car share vehicle located within one block of the parcel.
- 4) **Setbacks.** SB 9 allows the City to choose to require setbacks consistent with the terms thereof. Accordingly, the City shall require setbacks of four feet from the side and rear lot lines in all SB 9 projects, except as otherwise specified in SB 9.
- 5) **Applicant Residency; Short-Term Rental.** SB 9 requires every applicant for a ministerial lot split to provide an affidavit confirming that the applicant intends to reside in one of the SB 9 units for three years. The City shall enforce this requirement. No units created under SB 9 shall be used for short-term rental.
- 6) **Impact/Development Fees.** Applicants for SB 9 projects shall pay all applicable development impact fees imposed by the City.
- 7) **Historic Properties.** An SB 9 project may not be located at a property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or at a site that is designated by the City as a historic landmark or listed in the City's historic resource inventory, pursuant to Los Altos Municipal Code Chapter 12.44.
- 8) **Unavoidable Adverse Impacts.** SB 9 authorizes the Building Official to deny a project upon written findings, based on a preponderance of evidence, that the project will have a specific, adverse impact upon public health and safety or the physical environment for which there is no feasible method to mitigate or avoid. The Building Official shall assess every SB 9 application for such unavoidable adverse impacts and shall, in consultation with the City Attorney, deny a

project if an unavoidable adverse impact is identified. For greater clarity, a project would have a specific, adverse impact on the physical environment if it would have an unavoidable impact on historic resources, as defined in CEQA Guidelines Section 15064.5

APPENDIX 3

INTERPRETIVE GUIDANCE DOCUMENT

SB 9 applies in “single-family residential zones.” The term “single-family residential zone” as used in Government Code Sections 65852.21(a) and 66411.7(a)(3)(A) is not defined. Within the City of Los Altos, the term “single-family residential zone” shall be construed to mean an R1 zoning designation.

SB 9 allows for ministerial approval of certain “new” residential dwelling units. The term “new unit” as used in Government Code Section 65852.21(i)(1) is not defined, but provisions of SB 9 appear to assume that a new residential dwelling unit could include a reconstructed residential dwelling unit. Therefore, the term “new unit,” as used in SB 9, shall be construed to mean any of the following:

- (1) A new residential dwelling unit (other than an accessory dwelling unit)¹ proposed to be constructed on previously vacant ground;
- (2) A new residential dwelling unit (other than an accessory dwelling unit) constructed in place of a demolished residential dwelling unit;²
- (3) A residential dwelling unit (other than an accessory dwelling unit) reconstructed to the substantial equivalence of new.

As used above, a residential dwelling unit is reconstructed to the “substantial equivalence of new” if any of the following three sets of criteria apply:

- (1) The residential dwelling unit is stripped to the studs and/or foundation and reconstructed;
- (2) A substantial remodel is proposed in connection with a substantial addition so that the home will have the appearance of a new home and a remaining physical and economic life comparable to that of a new home. These criteria shall be deemed to be met if all the following apply:
 - a. An addition is proposed to an existing residential dwelling unit equal to or greater in size than 50% of the floor area of the existing residential dwelling unit (excluding garages, accessory dwelling units, other accessory structures, crawl spaces, unfinished attics, and basement floor areas);

¹ Reference to accessory dwelling units here is not meant to exclude construction of such units as allowed under Government Code Sections 65852.2 and 65852.22. Rather, the intent here is merely to define the term “new unit” for purposes of Section 65852.21(i)(1).

² Nothing herein is intended to exempt an applicant from the requirements of Government Code Section 65852.21(a)(3)-(5).

- b. At least 25% (or more, if necessary to bring the structure into compliance with applicable building codes) of the existing roof will be demolished, repaired, or replaced, and the entire roof covering will be replaced;
 - c. At least 25% (or more, if necessary to bring the structure into compliance with applicable building codes) of the existing façade will be demolished, repaired, or replaced, the entire façade will be repainted or otherwise resurfaced, and the entire façade for the residential dwelling unit in its completed condition is designed to match;
 - d. All existing floor coverings and plumbing fixtures will be removed and, as applicable, replaced;
 - e. Sprinklers will be installed if not already provided;
 - f. At least 25% (or more, if necessary to bring the structure into compliance with applicable building codes) of existing drywall or other wall coverings will be demolished, repaired, or replaced, and all retained wall covering will be repainted or otherwise resurfaced; and
 - g. All exterior doors and windows will be replaced.
- (3) All the major systems of the home are repaired or replaced so that the home will have the appearance of a new home and a remaining physical and economic life comparable to that of a new home. These criteria shall be deemed to be met if all the following apply:
- a. All existing plumbing, electrical, and HVAC systems will be replaced or rehabilitated consistent with modern building standards to ensure an estimated remaining physical life of at least 50 years for plumbing and electrical systems and 20 years for HVAC systems; and
 - b. The circumstances described in Item Nos. 2(b) to 2(g) apply.

For greater clarity, a lot developed under SB 9 may contain no more than four total residential dwelling units. These shall be limited to the following:

- (1) On a lot that is not split pursuant to Government Code Section 66411.7 and for which an existing primary residential dwelling unit is retained: one existing primary residential dwelling unit, one new primary residential dwelling unit, one accessory dwelling unit, and one junior accessory dwelling unit, for four units in total.
 - (2) On a lot that is not split pursuant to Government Code Section 66411.7 and for which an existing primary dwelling unit does not exist or is demolished or reconstructed: two new primary residential dwelling units, one accessory dwelling unit, and one junior accessory dwelling unit, for four units in total.
 - (3) On a lot that is split pursuant to Government Code section 66411.7: not more than two existing primary and/or accessory residential dwelling units (including junior accessory dwelling units) per newly created lot and not more than two new primary residential dwelling units per newly created lot, for an ultimate total of not more than two residential
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dwelling units per newly created lot and four residential dwelling units total. In lieu of two new primary residential dwelling units, an applicant may propose one new primary residential dwelling unit together with either a new accessory dwelling unit or a new junior accessory dwelling unit, provided that the applicant submits a written statement with the application for the housing development project indicating the applicant's understanding that providing the accessory dwelling unit or junior accessory dwelling unit will prevent the applicant from constructing a second primary residential dwelling unit. It is the intent of this provision that not more than four units may be constructed per original lot.
