



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 08/20/2024

ITEM NO: 18

DATE: August 15, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Discuss and Provide Direction on Modifications to Noticing for Senate Bill (SB) 330 and Builder's Remedy Projects.

RECOMMENDATION:

Discuss and provide direction on modifications to noticing for Senate Bill (SB) 330 and Builder's Remedy projects.

BACKGROUND:

On May 7, 2024, the Town Council considered outreach and noticing options for preliminary Planning applications that have been submitted for SB 330 projects, which can include projects that reference the Builder's Remedy. SB 330 amended the Government Code to give development applicants the opportunity to submit preliminary applications. SB 330 preliminary applications vest applicants to the development standards that were in place when the preliminary application was deemed submitted. After a preliminary application has been deemed submitted, applicants then have 90 days in which to submit a formal planning application. The Town already has noticing requirements in place that apply to formal applications. Those requirements require that property owners and tenants within 300 feet of a proposed project receive mailed notice prior to the public hearing on the proposal.

Some SB 330 preliminary applications, but not all, have referenced the State Builder's Remedy, which is codified in Government Code Section 65589.5. Section 65589.5 provides that, if a jurisdiction did not adopt a Housing Element that substantially complied with State law by a specified deadline (which was January 31, 2023, in Los Gatos), applicants can reference the Builder's Remedy with their Planning applications. When the Builder's Remedy applies, it limits the circumstances under which jurisdictions can modify or deny Planning applications to those set forth in the statute.

PREPARED BY: Joel Paulson, AICP
Community Development Director

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

BACKGROUND (continued):

On a unanimous vote, the Town Council provided the following direction to staff regarding noticing for SB 330 preliminary applications, which can include projects for which applicants have referenced the Builder's Remedy:

Whenever a pre-application or formal application for a development of three stories or more, including, but not limited to SB 330 and Builder's Remedy application, is received or scheduled for a hearing, that neighbors within 1,000 feet will be notified and provided access to information in the visual renderings, signs, and the application itself. Further, if a project changes significantly, there will be re-notification. Fees will be recovered wherever possible. Notice will include a brief explanation of SB 330 and current development process.

Following this direction, staff has been providing the early noticing after receipt of a SB 330 preliminary application or formal application for a proposed development of three stories or more. This includes projects that are relying solely on the State density bonus law, which authorizes waivers from development standards when a specified percentage of affordable housing is included in the proposed development. When an application is ready for its public hearing, another mailed notice will be sent.

Applicants currently fund the expanded noticing. The cost of the expanded noticing, not including staff time, ranges from \$300.00 to \$380.00.

DISCUSSION:

The recent Council direction expanded early noticing requirements for proposed developments that are three stories or more. Following this action, a Town Council member requested that this matter be considered further to determine whether the three-story limitation should be modified.

As previously stated in the staff report for the May 7, 2024 Town Council meeting, the Town may legally adopt noticing requirements that are more extensive than the 300 feet required by State law so long as there is a rational basis for doing so. Because adoption of this noticing policy is a legislative action, any distinction in noticing requirements should have a rational basis that serves a legitimate government purpose. Potential bases for imposing increased noticing requirements would be projects over a specified height, number of units, or square footage based on the added visual impact to the neighborhood or other factors.

FISCAL IMPACT:

The fiscal impact, including staff time, depends on the scope of any modifications to the increased noticing requirement determined by the Town Council.

FISCAL IMPACT (continued):

The Town has the option of assuming the cost of the increased noticing. If this is the Council's preference, a funding source would need to be identified.

CONCLUSION:

This agenda item allows Town Council to provide direction on modifications to noticing for SB 330 preliminary applications referencing the Builder's Remedy. Staff recommends consideration of the following question:

1. Does the Town Council wish to modify the noticing requirements for SB 330 preliminary applications which reference the Builder's Remedy?
2. Does the Town Council wish to modify the noticing requirements for SB 330 preliminary applications which reference State density bonus law?

Staff looks forward to the Town Council's discussion and direction.

ENVIRONMENTAL ASSESSMENT:

Because the Town Council is providing direction only at this time, this is not a project defined under CEQA.

Attachment:

1. Public Comment

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