



AGENDA

Meeting of the
Scotts Valley Planning Commission
In-Person and Remote Access
Date: March 14, 2024
Time: 6:00 PM

CONTACT INFORMATION	MEETING LOCATION	POSTING
City of Scotts Valley 1 Civic Center Drive Scotts Valley, CA 95066 (831) 440-5600	City Council Chambers 1 Civic Center Drive Scotts Valley, CA 95066 OR Zoom Video Conference: https://us02web.zoom.us/j/88671741298	The agenda was posted on 3-8-2024 at City Hall, SV Parks & Rec, SV Senior Center and online at www.scottsvally.org .

COMMISSIONERS	CITY STAFF MEMBERS
Lori Gentile, Chair Chuck Maffia, Vice Chair David Hodgin, Commissioner Shawn Mosley, Commissioner Steve Simonovich, Commissioner	Taylor Bateman, Community Development Director Ben Noble, Consultant Sarah Wikle, Senior Planner Cathie Simonovich, City Clerk

MEETING NOTICE AND AGENDA PACKET MATERIALS

Notice regarding Planning Commission Meetings:

The Planning Commission meets regularly on the 2nd Thursday of each month (unless otherwise noticed) at 6pm in the City Hall Council Chambers located at 1 Civic Center Drive, Scotts Valley, CA 95066. Currently meetings are being held remotely.

Agenda and Agenda Packet Materials:

The Planning Commission agenda and the complete agenda packet are available for review by 5pm the Friday before the Thursday meeting on the Internet at the City's website: <https://www.scottsvally.gov/129/Agendas-Minutes>

Public Participation:

The meeting will be available in person and on Zoom. For those wishing to participate via Zoom, you can join from a PC, Mac, iPad, iPhone or Android device by entering or clicking on the following URL: <https://us02web.zoom.us/j/88671741298>

You will be given an opportunity to provide public comment at the appropriate times throughout the meeting via Zoom.

How to comment via Zoom:

1. At the appropriate times during the meeting for public comment on items not on the agenda and on specific agenda items, the Planning Commission Chair will announce

that public comment will be accepted. Our usual time limits of three minutes per individual, or five minutes for an individual who is representing a group of three or more, will apply. Please note that per our standard practice, this is not a question and answer time, but simply a time for you to provide comments to the Planning Commission.

2. There is an option on Zoom to raise your hand. Please click on this option when the Chair announces that public comments will be taken. If you are participating via dial-up only, use *9 to raise your hand at the requested time. Zoom places people in line automatically. When it is your turn, you will be un-muted and you will be able to make your comments based on the above time frames. Once your time is up, you will once again be muted and the next person in line will be given their opportunity to speak.

CALL TO ORDER 6:00 PM

(The Planning Commission Chair calls the meeting to order.)

PLEDGE OF ALLEGIANCE

ROLL CALL

(Planning Department staff conduct roll call of the Planning Commission.)

PUBLIC COMMENT TIME

This is the opportunity for individuals to make and/or submit written or oral comments to the Commission on any items within the purview of the Commission, which are NOT part of the Agenda. No action on the item may be taken, but the Commission may request the matter be placed on a future agenda.

ALTERATIONS TO CONSENT AGENDA

(The Commission can remove or add items to the Consent Agenda.)

CONSENT AGENDA

(The Consent Agenda is comprised of items which appear to be non-controversial. Persons wishing to speak on any items may do so raising their hand to be recognized by the Chair. These items will be acted upon in one motion unless they are removed from the consent agenda for discussion by the Commission.)

1. Approve minutes for the 01-25-2024 Planning Commission meeting

ALTERATIONS TO REGULAR AGENDA

(Commission can remove or add items to the Regular Agenda.)

REGULAR AGENDA

(Persons wishing to speak on any item may do so by raising their hand to be recognized by the Chair.)

1. Study Session to provide input on issues on a local ordinance implementing Senate Bill (SB) 9

DISCUSSION ITEMS AND FUTURE AGENDA ITEMS

(The Planning Commission or Community Development Director may request to schedule items on future agendas.)

WRITTEN COMMUNICATIONS – FOR INFORMATION ONLY DIRECTOR UPDATES

(The Community Development Director may provide any department or city updates that are available.)

ADJOURNMENT

(Adjournment shall be no later than 11pm unless extended by a four-fifths vote of all Planning Commission members or a unanimous vote of the members present per City Municipal Code Section 2.21.010.)

The City of Scotts Valley does not discriminate against persons with disabilities. The City Council Chambers is an accessible facility. If you wish to attend a Planning Commission meeting and require assistance such as sign language, a translator, or other special assistance or devices in order to attend and participate at the meeting, please call the Community Development Department at 831-440-5630 five to seven days in advance of the meeting to make arrangements for assistance. If you require the agenda of a Planning Commission meeting be available in an alternative format consistent with a specific disability, please call the Community Development Department. The California State Relay Service (TTY/VCO/HCO to Voice: English 1-800-735-2929, Spanish 1-800-855-3000; or, Voice to TTY/VCO/HCO: English 1-800-735-2922, Spanish 1-800-855-3000), provides Telecommunications Devices for the Deaf and Disabled and will provide a link between the TDD caller and users of telephone equipment.



MINUTES

Meeting of the
Scotts Valley Planning Commission
Date: January 25, 2024
Time: 6:00 PM

CONTACT INFORMATION	MEETING LOCATION	POSTING
City of Scotts Valley 1 Civic Center Drive Scotts Valley, CA 95066 (831) 440-5600	City Council Chambers 1 Civic Center Drive Scotts Valley, CA 95066 OR Zoom Video Conference: https://us02web.zoom.us/j/88671741298	The agenda was posted on 1-19-2024 at City Hall, SV Senior Center, SV Public Works Building, and on the Internet at www.scottsvally.gov .

CALL TO ORDER 6:00 PM

The Planning Commission meeting was called to order at 6:05 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL

COMMISSIONERS PRESENT:

Lori Gentile, Chair
Chuck Maffia, Vice Chair
David Hodgin, Commissioner
Shawn Mosley, Commissioner
Steve Simonovich, Commissioner

CITY STAFF MEMBERS PRESENT:

Taylor Bateman, Community Development
Director
Gabriela Cortez, Associate Planner
Susie Pineda, Consulting Planner
Cathie Simonovich, City Clerk

PUBLIC COMMENT TIME

None.

ALTERATIONS TO CONSENT AGENDA

M/S: Maffia/Hodgin

To approve the Consent Agenda with no alterations.

Carried 5/0 (AYES: Johnson, Timm, Dilles, Lind, Timms)

CONSENT AGENDA

1. Approve Planning Commission Regular Meeting Minutes of 11-16-2023 and Planning Commission Special Meeting Minutes of 12-07-2023

ALTERATIONS TO PUBLIC HEARING AGENDA

None.

PUBLIC HEARING AGENDA

1. Consideration of a Negative Declaration, General Plan Amendment, Zone Change, Planned Development Zoning application, Design Review application, Use Permit application and Cultural Resources Alteration application to allow for the construction of a 52,822 sf three story commercial development on a 1.35 acre site located at 125 Bethany Drive (APN 023-102-15). Proposed land uses would include 10,465 sf of professional and administrative office space, and 42,357 sf of storage for up to 227 users.

Contract Planner Susie Pineda presented this item virtually. Ms. Pineda and Community Development Director Bateman responded to questions and comments from the Commissioners.

Commissioner Simonovich recused himself due to the proximity of his residence to the proposed project.

Chair Gentile opened the public hearing at 6:22 PM.

Eli May, co-owner/partner of the property, gave a presentation.

Andy Snyder, owner of Nomad Audio and previous tenant of 125 Bethany Drive, spoke in favor of the project.

Todd Creamer, a resident of Scotts Valley and business owner in Scotts Valley, spoke in favor of the project.

Adrian Cavlan, co-owner of Sound in Motion, spoke in favor of the project.

Raffi Nalvarian, co-owner of Sound in Motion, spoke in favor of the project.

Nathan Grossman, a resident of Scotts Valley, spoke in opposition to the project; specifically, that it does not align with the current neighborhood.

Rhonda Reyna, a resident of Scotts Valley, asked what the impact on the aquifer will be.

David Alreck, a resident of Scotts Valley, spoke in opposition to the project; specifically, that this is not the correct location for this type of project.

Lee May, General Manager for the Press Banner, spoke in favor of the project

Caroline Poteete, co-owner/partner of the property, spoke to address some of the public's concerns. Ms. Poteete also highlighted a letter from Ms. Kannegaard who wrote in favor of the project.

Marianne Woosley, a resident of Scotts Valley, spoke in opposition to the project; specifically, the size and the storage.

Several email comments were received after publication of the agenda packet and are attached below.

Chair Gentile closed the public hearing at 7:00 PM.

M/S: Mosley/Maffia

To direct staff to prepare a resolution recommending approval for consideration at a future Planning Commission meeting, with the conditions of agreeing on set business hours and controlled access to the storage units.

Motion failed (2/2/1):

AYES: Mosley, Maffia

NOES: Hodgins, Gentile

RECUSE: Simonovich

2. Consideration of a Use Permit (U23-003) to allow a 1,168 square foot fitness studio in an existing commercial tenant space located in the Commercial - Service (C-S) Zoning District at 6006 La Madrona Drive, Suite B (APN 021-141-25).

Associate Planner Gabby Cortez presented this item. Ms. Cortez and Community Development Director Bateman responded to questions and comments from the Commissioners.

Chair Gentile opened the public hearing at 7:42 PM.

Tom Tupper, the applicant and owner of Golden Grapplers, spoke to address the concerns about the washer/dryer installation and the parking.

Chair Gentile closed the public hearing at 7:46 PM.

M/S: Hodgin/Simonovich

To approve Use Permit U23-003 by adopting a resolution, subject to the conditions listed in Exhibit A of the resolution.

Carried 5/0 (AYES: Gentile, Maffia, Hodgin, Mosley, Simonovich)

3. Consideration of an amendment to a previously approved Planned Development Permit and Design Review Permit to modify the Planned Sign Program (PD22-001.1, DR22-006.1) for the Hangar at Skypark located at 262 Mount Hermon Road (APNs 022-231-27, and -28).

Associate Planner Gabby Cortez presented this item. Ms. Cortez and Community Development Director Bateman responded to questions and comments from the Commissioners.

Chair Gentile opened the public hearing at 8:10 PM.

Rhonda Reyna, a resident of Scotts Valley, expressed that the rendering of the new Laughing Monk sign is a bit thick and overpowers the Hangar sign.

Sam Ghadiri, the owner of the Laughing Monk restaurant, gave a presentation to highlight the need for the larger sign.

Corbett Wright, the property owner, spoke in favor of the larger sign.

Chair Gentile closed the public hearing at 8:25 PM.

M/S: Mosley/Simonovich

To approve the amendment to the Planned Sign Program (PSP), with two conditions: 1) if the tenancy changes, it will revert to the original PSP, and 2) when the Town Center is built, the signage will be re-evaluated by the Planning Commission.

Carried 5/0 (AYES: Gentile, Maffia, Hodgin, Mosley, Simonovich)

DISCUSSION ITEMS AND FUTURE AGENDA ITEMS

None.

WRITTEN COMMUNICATIONS – FOR INFORMATION ONLY DIRECTOR UPDATES

Community Director Bateman noted that the February 8, 2024 Planning Commission meeting may be cancelled.

ADJOURNMENT

The meeting adjourned at 8:43 PM.

**City of Scotts Valley
PLANNING COMMISSION
STAFF REPORT**

Date: March 14, 2024

Request: Hold study session to provide input on issues for local ordinance to implement SB 9

From: Ben Noble, Consultant

Approved: Taylor Bateman, Community Development Director, (831) 440-5630, tbateman@scottsvalley.org

STAFF RECOMMENDATION

The City is preparing a local ordinance to implement SB 9. Staff requests Planning Commission feedback on an approach to address important issues in this ordinance.

BACKGROUND

Senate Bill (SB) 9 was adopted in 2021 and went into effect on January 1, 2022. This law requires local jurisdictions to allow the following in a single-family zoning district:

- **Two-Unit Housing Development:** Two primary dwelling units on one lot. “Primary dwelling units” are the main residential units on a property and are regulated differently than accessory dwelling units (ADUs).
- **Urban Lot Split:** A one-time subdivision of an existing lot into two lots. Two units are allowed on each of the newly created lots.

In Scotts Valley, an SB 9 project is allowed in the R-1, R-R, and R-MT zoning districts. SB 9 projects are not allowed on sites with specified environmental resources and hazards, including wetlands, flood hazards, and habitat for protected species. Under SB 9 local jurisdictions must approve qualifying lot splits and dwelling units ministerially without a public hearing or discretionary review.

Prior to SB 9, only one primary dwelling unit per lot was allowed in the R-1, R-R, and R-MT zoning districts. Now, up to four dwelling units are allowed on a lot in these zoning districts.

Local jurisdictions may apply objective zoning, subdivision, and design standards to SB 9 projects. Local SB 9 standards must comply with the following:

- **Minimum Floor Area:** No less than 800 square feet per unit.
- **Minimum Lot Size:** No less than 1,200 square feet for lots created through an urban lot split.
- **Minimum Setbacks:** No greater than 4 feet from side and rear property lines for 800 square-foot units.
- **Minimum On-Site Parking:** No more than one parking space per unit, with no parking required in areas served by “high-quality transit” as defined in state law. Currently there are no areas served by high-quality transit in Scotts Valley, though that may change in the future if bus service frequency increases.

Attachment 1 provides an overview of development allowed under SB 9, prepared by the Association of Bay Area Governments (ABAG). Attached 2 provides a more detailed SB 9 legal summary.

As described below, SB 9 allows for a variety of development scenarios depending on whether the project includes a lot split and/or ADUs.

Scenarios Without a Lot Split

Figure 1 on the following page shows example SB 9 development scenarios without a lot split. SB 9 allows for up to two primary dwelling units on the lot, one ADU, and on junior accessory dwelling unit (JADU). A JADU is unit that is no more than 500 square feet in size and contained entirely within a primary dwelling unit.

Scenarios With a Lot Split

Figure 2 (page 4) shows example SB 9 development scenarios with a lot split. The lot split may create two side-by-side lots, or a rear lot behind a front lot. SB 9 allows no more than two primary dwelling units or ADUs on each newly created parcels.

ADU Ordinance

The City currently is in the process of updating its ADU ordinance. The updated ADU ordinance will establish standards for ADU floor area, height, setbacks, and other issues within the parameters of state law. These ADU standards will apply to an ADU included in an SB 9 project.

Figure 1

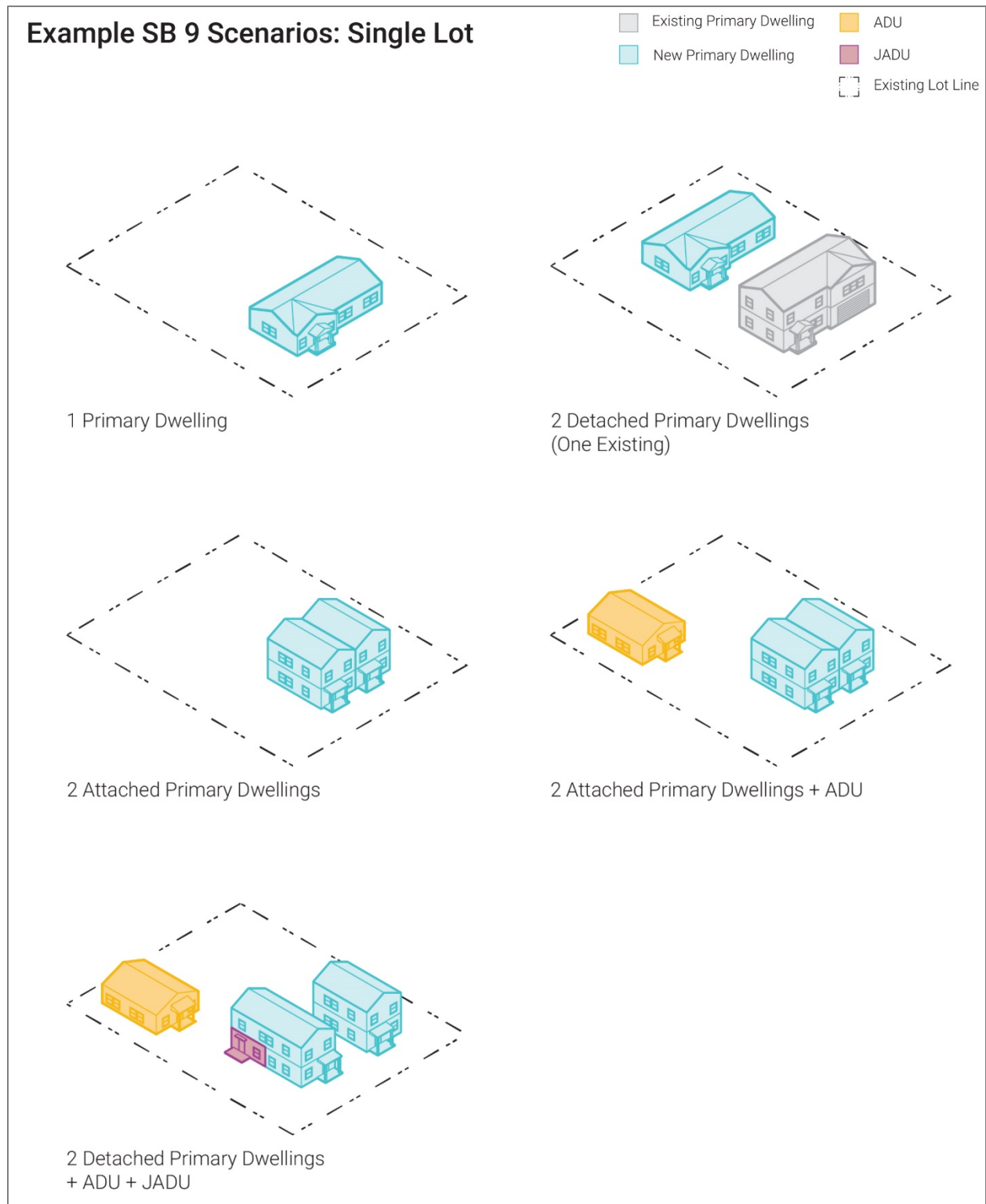
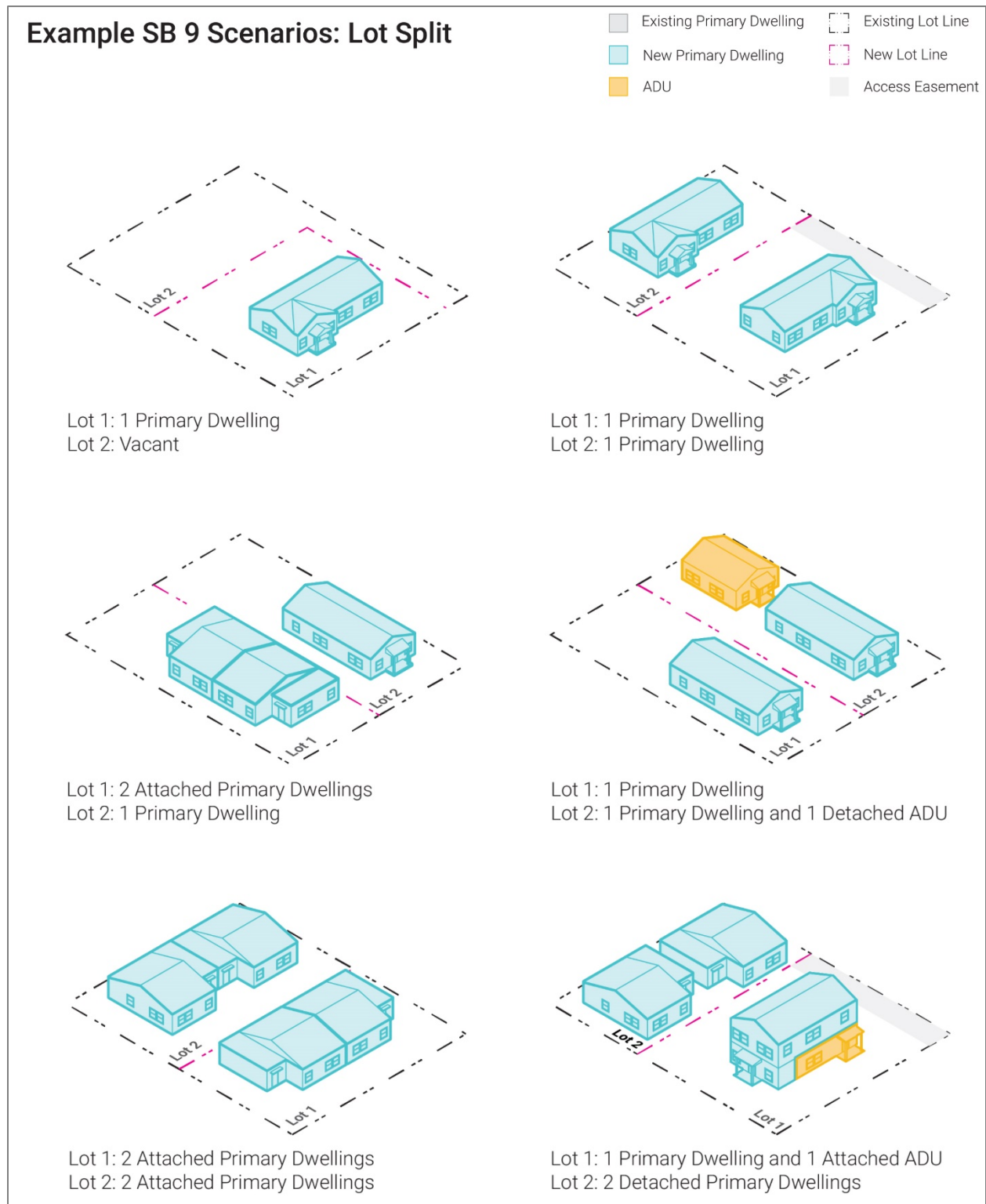


Figure 2



Design Standards

The City's recently adopted Objective Standards for Multi-Unit Development apply to SB 9 projects with two or more primary dwelling units. For projects with one primary SB 9 unit added to a lot with an existing home, the City's SB 9 ordinance will require design features consistent with the existing home. Design consistency is also required for new ADUs. Other objective standards in the City's Zoning Code and Subdivision Ordinance will continue to apply unless the standard conflicts with a standard or other requirement in SB 9.

DISCUSSION

City staff is in the process of drafting an ordinance to implement SB 9. This local SB 9 ordinance will help ensure that SB 9 projects preserve and enhance existing neighborhood character to the extent possible under state law. Staff requests Planning Commission input on the following issues that will be addressed in the City's SB 9 ordinance:

- Building Height
- Unit Size
- Garage Parking
- Vehicle Access/Shared Driveways
- Street Frontage/Flag Lots
- Privacy

The discussion below provides background information and recommends an approach for each issue. Staff and consultants request Planning Commission feedback on the recommended approach for each issue. Staff will use this input to help prepare a draft SB 9 ordinance for Planning Commission review at a future meeting.

Issue 1: Primary Building Height

SB 9 is silent on building height – the law does not mandate a minimum allowed building height or specify a maximum building height for SB 9 projects. The City can establish any building height standard for primary dwelling units provided the standard allows for two 800 square-foot units per lot.

The Zoning Code currently allows for a maximum building height of 35 feet for a detached single-family home. State law requires the City to allow an ADU with a height of at least 16 feet. City staff expects that the updated ADU ordinance will allow an ADU height greater than 16 feet in certain circumstances.

Recommendation: Limit height to 16 feet for SB 9 units 4 feet from the side property line. Allow additional height for units further set back from the property line. For SB 9 units that comply with minimum yard requirements of the zoning district, allow a

maximum building height of 25 feet (two stories). For reference, Table 1 shows minimum yards in zoning districts where SB 9 projects are allowed.

Table 1: Minimum Yard Requirements

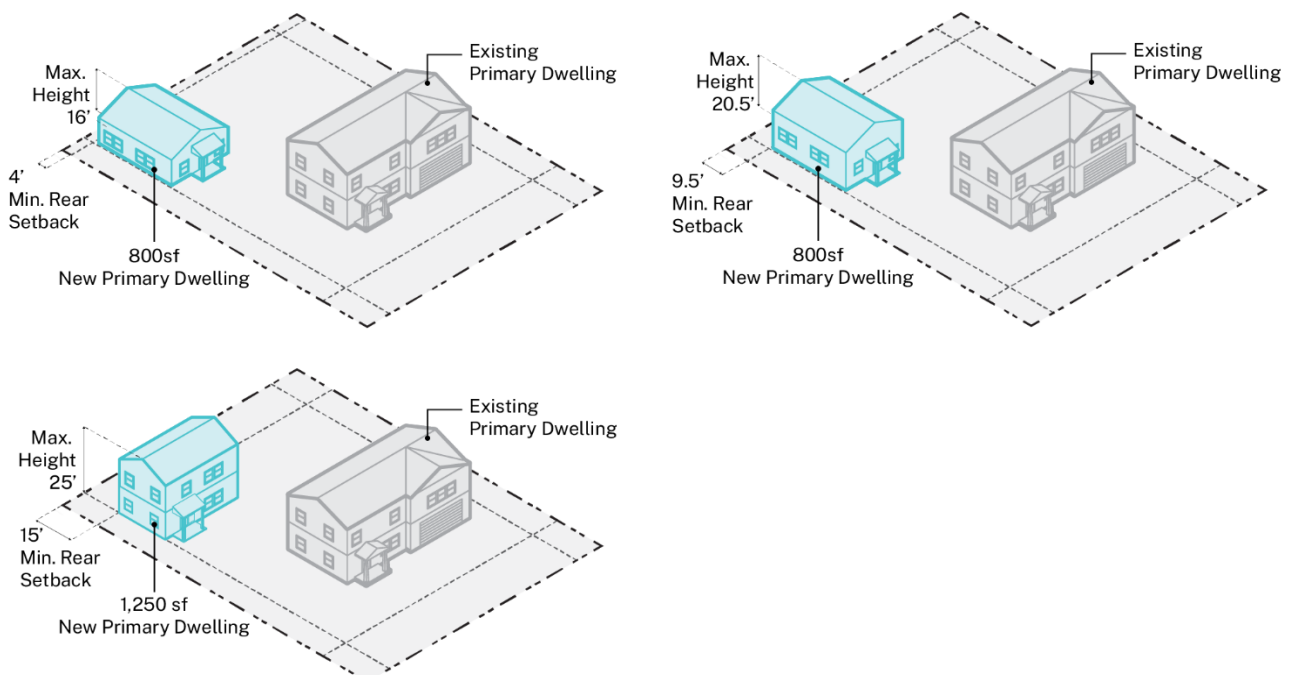
Yard	R-1-10	R-1-20	R-1-40	R-R-2.5	R-MT
Front	20 ft.	30 ft.	30 ft.	40 ft.	40 ft.
Side	10 ft.*	10 ft.*	10 ft.*	15 ft.	20 ft.
Rear	15 ft.	15 ft.	20 ft.	20 ft.	25 ft.

* Or ten percent of lot width, whichever is less.

Figure 3 illustrates the recommended SB 9 building height approach. In the R-1-10 zone, the maximum height of an SB 9 unit 4 feet from the rear property line is 16 feet. The maximum height of an SB 9 unit 9.5 feet from the rear lot line is 20.5 feet. A building 15 feet from the rear lot line would be allowed a maximum height of 25 feet (two stories).

This approach would encourage SB 9 projects to comply with property line setbacks that apply to other single-family homes, minimize impacts on adjacent properties, and reinforce existing neighborhood development patterns.

Figure 3: Building Height Approach, R-1-10 Zone



Issue 2: Unit Size

SB 9 requires a local jurisdiction to allow up to two primary dwelling units on a lot with a minimum 800 square feet of floor area or more for each unit. A jurisdiction may allow larger SB 9 units if it wishes.

The Zoning Code currently does not specify a maximum square footage for single family homes. The size of new homes are limited by maximum building height, minimum yards, and maximum site coverage standards. When the City adopts an updated ADU ordinance, State law will require a maximum floor area of at least 850 square feet for ADUs with one bedroom or less and 1,000 square feet for an ADU with more than one bedroom. The City may allow larger ADUs if it wishes.

Recommendation: Connect maximum SB 9 unit size to property line setbacks, similar to the recommended building height approach. If an SB 9 unit complies with the minimum yard requirements of the zoning district, allow a maximum floor area of 1,250 square feet for the unit. If an SB 9 unit does not comply with the minimum yard requirements, limit floor area to 800 square feet. If an ADU is included on the lot, the maximum size of the ADU will be as required under state law or specified in the City's ADU ordinance.

Figure 3 on the previous page illustrates the recommended unit size approach. SB 9 units within the zoning district rear yard are 800 square feet. The unit that complies with the zoning district yard requirements is 1,250 square feet.

Issue 3: Garage Parking

The Zoning Code currently requires a two-car garage for single-family dwellings. A garage or covered parking is not required for multi-family dwellings or ADUs.

SB 9 limits required on-site parking to one parking space per unit. The City may require garage parking for an SB 9 unit provided the requirement does not physically preclude two units of at least 800 square feet. If required, a garage space would not be included in the floor area calculation for the purpose of determining compliance with the maximum unit size standard.

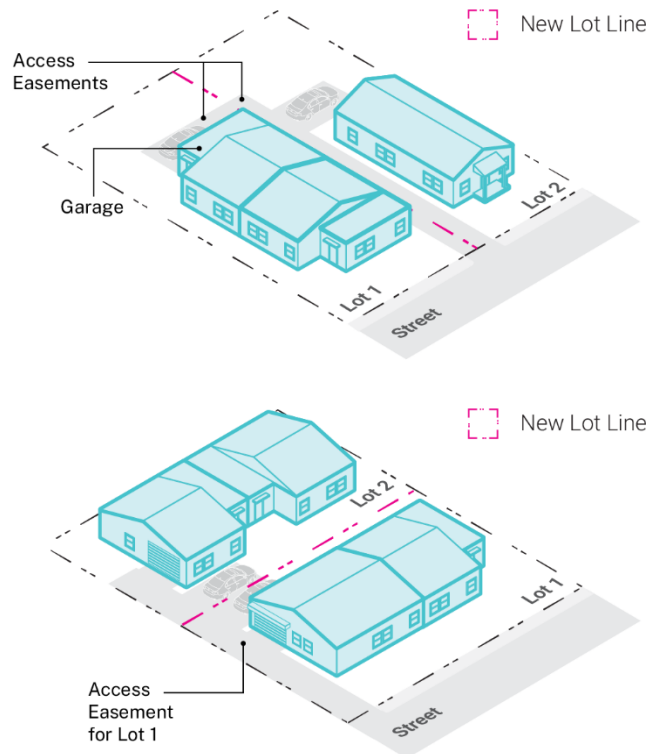
Recommendation: Allow uncovered surface parking for SB 9 projects where there are two or fewer new units (including ADUs). Require garage parking for the third or fourth new unit if proposed. Allowing surface parking for the first two units will minimize garage building mass and reduce development costs. Requiring garage parking for the third and fourth units will reduce visual clutter caused from on-site vehicle parking.

Issue 4: Vehicle Access/Shared Driveways

SB 9 allows objective standards for vehicle access to lots (e.g., number of curb cuts, dimensions of curb cuts, width of driveway). However, these standards may not physically preclude two units of at least 800 square feet.

Recommendation: On vacant lots, allow only one driveway curb cut with a maximum width of 20 feet. Two lots created through an urban lot split must share one driveway with access easements recorded as necessary. Allow exceptions when needed for emergency vehicle access or other unusual circumstances. Figure 4 shows two example configurations with a single driveway serving two lots and multiple units.

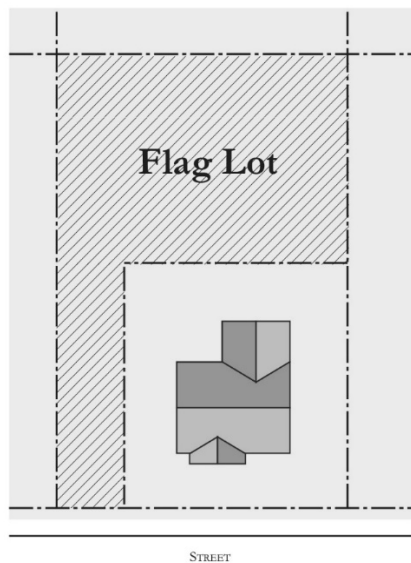
Figure 4: Example Single Driveway Configurations



For an SB 9 project on a lot with an existing home, allow two driveway curb cuts only if necessary due to the existing site layout and other physical constraints. Limit the width of the second curb cut to 12 feet.

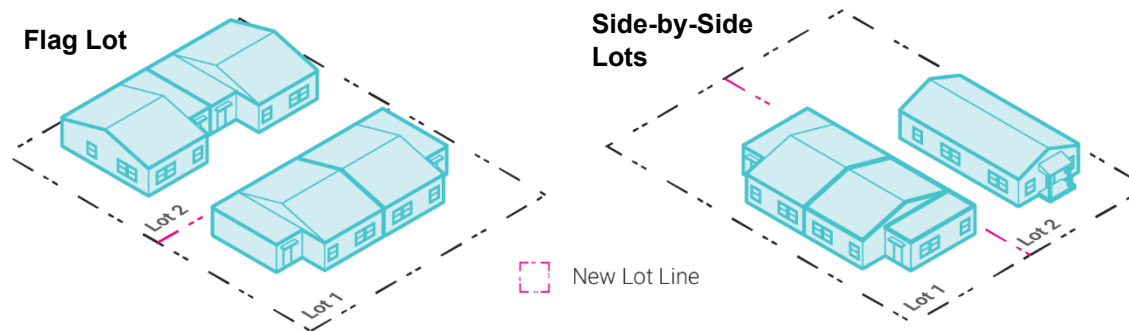
Issue 5: Street Frontage/Flag Lots

SB 9 allows for objective subdivision standards, which may address minimum street frontage for parcels created by an urban lot split. These subdivision standards could include rules for “flag lots.” A “flag lot” is a parcel where street access is provided by a narrow strip that connects to a larger area located behind a separate street-facing parcel. See Figure 5.

Figure 5: Flag Lot

The Zoning Code allows flag lots with City Council approval if the lot has at least 12 feet of street frontage, is no more than 150 feet in length, does not result in more than four adjacent driveways along 200 feet of street frontage, and meets other criteria in Section 17.46.060.F. The narrow area providing street access may be part of the flag lot itself or an access easement across a separate parcel.

Recommendation: On vacant lots with an urban lot split, allow both flag lots and side-by-side lots (see Figure 6). Identify a preference for side-by-side lots unless a flag lot 1) allows for development more consistent with the existing neighborhood character; or 2) is physically necessary to accommodate the proposed units. When allowed, require SB 9 flag lots to comply with existing objective flag lot standards in SVMC Section 17.46.060.F. Require a minimum street frontage of 30 feet for side-by-side lots.

Figure 6: Allowed Lot Configurations

Issue 6: Privacy

SB 9 requires the City to allow units 4 feet from side and rear property line. Units constructed close to property lines may impact the privacy of adjacent properties. The City must approve units ministerially without a public hearing and cannot use a discretionary design review process to address potential privacy concerns.

Recommendation: If a building wall does not comply with the minimum side and rear yard requirements of the zoning district, require windows on the wall to be 5-foot minimum sill height above the finished floor, clerestory, or opaque/frosted glass. Prohibit second-story exterior decks and balconies and rooftop decks that face an interior side or rear yard that abuts an adjacent residential use.

NEXT STEPS

Based on direction received from the Planning Commission, staff and consultants will prepare a draft SB 9 ordinance for Planning Commission review. The Planning Commission will hold a future public hearing to make a recommendation to the City Council on the ordinance. Following Planning Commission recommendation, the City Council will hold a public hearing to consider adoption of the ordinance.

ATTACHMENTS

1. SB 9 Overview
2. SB 9 Legal Summary

SENATE BILL 9 (SB 9): AN OVERVIEW

WHAT IT IS AND HOW IT IMPACTS RESIDENTIAL LAND USE

Senate Bill 9 (SB 9) is a new California State Law taking effect **January 1, 2022**.

SB 9 changes existing limits on how many homes can be built on a lot zoned as single-family. Similar to previous state legislation on Accessory Dwelling Units (ADUs), SB 9 is intended to support the availability of more modestly priced homes by encouraging building of smaller houses on small lots.



WHAT DOES SB 9 DO?

SB 9 MAKES IT EASIER TO:

BUILD UP TO 4 HOMES
ON A PARCEL IN A SINGLE-FAMILY ZONE



SUBDIVIDE A LOT INTO TWO
THAT CAN BE SMALLER THAN REQ. MIN. SIZE

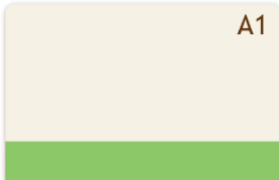
Used together, this allows **4 HOMES** where 1 was primary home was allowed before.

SB 9 makes this easier by waiving public hearings for the two actions.

WHAT CAN I DO ON MY LOT?

Add new homes to existing parcel • Divide existing house into multiple units • Divide parcel and add homes

Illustrations are based on a preliminary analysis of the law. Details are subject to change and are for informational purposes only. See the following page for qualification details and limitations.

	VACANT LOT	LOT WITH SINGLE-FAMILY HOME	LOT WITH NONCONFORMING DUPLEX ¹	LOT WITH SINGLE-FAMILY HOME AND AN ADU
BEFORE	A1  No units	B1  1 PRIMARY UNIT	C1  2 PRIMARY UNITS	D1  1 PRIMARY UNIT + 1 ADU/JADU²
ADD UNITS, NO LOT SPLIT	A2  Up to 2 PRIMARY UNITS + Up to 2 ADUs/JADUs³	B2  Up to 2 PRIMARY UNITS⁴ + Up to 2 ADUs/JADUs³	C2  (No additional units)⁵	D2  Up to 2 PRIMARY UNITS⁴ + 1 ADU/JADU³
ADD UNITS AND LOT SPLIT	A3  Up to 4 TOTAL UNITS	B3  Up to 4 TOTAL UNITS	C3  Up to 4 TOTAL UNITS	D3  Up to 4 TOTAL UNITS

If you're **NOT** splitting a lot:

- SB 9 does not limit the number of ADUs/JADUs (B2, D2) - but other laws might.

If you **ARE** splitting a lot:

- Jurisdictions **can** limit the 2 lots to 4 units total, including any ADUs/JADUs, and may choose not to permit ADUs/JADUs.



SINGLE-UNIT DEVELOPMENTS

SB 9 can be used to develop single units - but projects must comply with all SB 9 requirements.

1 Legally constructed but not currently permitted. Check your local ordinance for nonconforming use policies.
2 Junior Accessory Dwelling Units (JADUs) are small (max. 500ft²) rentable units within a single-family structure. See your jurisdiction's specifications for more details.

3 The exact number and type of ADUs/JADUs allowed should be confirmed based on project specifics.
4 Added primary unit can be new construction or a split of the existing house.
5 Check local nonconforming use rules for more information about ADUs/JADUs.

DOES MY LOT QUALIFY?

REFERENCE ANY QUALIFICATION MATERIALS FROM YOUR JURISDICTION FOR MORE SPECIFICS.

2-UNIT DEVELOPMENTS & LOT SPLITS

- Located in a **SINGLE-FAMILY RESIDENTIAL ZONE**
- Located in an **URBANIZED AREA** or **URBAN CLUSTER**, as defined by the U.S. Census Bureau (*essentially, an area with at least 2,500 people*)⁶
- Not in a state/local **HISTORIC DISTRICT** / not an **HISTORIC LANDMARK**

Lots in these areas may not be eligible or may need to meet additional qualifications:⁷

- **PRIME FARMLAND** or farmland of statewide importance
- **WETLANDS**
- Identified for **CONSERVATION** or **UNDER CONSERVATION EASEMENT**
- **HABITAT** for protected species
- Within a **VERY HIGH FIRE HAZARD SAFETY ZONE**
- A **HAZARDOUS WASTE SITE**
- Within a delineated **EARTHQUAKE FAULT ZONE**
- Within a **100-YEAR FLOODPLAIN OR FLOODWAY**

The project cannot alter or demolish:

- Deed-restricted **AFFORDABLE HOUSING**
- **RENT-CONTROLLED HOUSING**
- Housing on parcels with an **ELLIS ACT EVICTION** in the last 15 yrs.
- Housing **OCCUPIED BY A TENANT** currently or in the last 3 yrs.



ADDTL. QUALIFICATIONS 2-UNIT DEVELOPMENTS

- Project **DOES NOT REMOVE MORE THAN 25% OF EXTERIOR WALLS** on a site that has a tenant or has had a tenant in the last 3 yrs. (*even if the rental unit itself isn't altered*)

ADDTL. QUALIFICATIONS LOT SPLITS

- **LOT IS SPLIT ROUGHLY IN HALF** - smaller lot is at least 40% of the original lot⁸
- Each new lot is **AT LEAST 1,200FT²**⁹ (*This means the original lot must be at least 2,400ft² for a 50/50 split; 3,000ft² if a 60/40 split.*)
- Lot is **NOT ADJACENT TO ANOTHER LOT SUBDIVIDED** by you (or done in concert with you) using SB 9
- Lot was **NOT CREATED BY A PREVIOUS SB 9 SPLIT**

ADDITIONAL LIMITATIONS ON SB 9 PROJECTS

CONTACT YOUR LOCAL JURISDICTION FOR ADDITIONAL DETAILS ON SB 9 PROJECT LIMITATIONS.

2-UNIT DEVELOPMENTS & LOT SPLITS

- **PARKING:** Your jurisdiction cannot require more than one off-street parking space per unit, and cannot require any parking spaces if the parcel is close to transit (as defined in the law)
- **NO SHORT-TERM RENTAL:** Units created by SB 9 cannot be used for short-term rentals (less than 30 days)
- **HOAS:** SB 9 does not change rules or restrictions put in place by homeowners' associations.
- **LOCAL STANDARDS:** Jurisdictions may set zoning, subdivision, and design standards for SB 9 projects, but they must be objective and they cannot preclude two units of at least 800ft² on each lot.
- **PUBLIC HEALTH AND SAFETY:** Your project can be denied if it creates a "specific, adverse impact on public health and safety."¹⁰

ADDTL. LIMITATIONS 2-UNIT DEVELOPMENTS

- You may be required to do a **PERCOLATION TEST** if you have on-site wastewater treatment

ADDTL. LIMITATIONS LOT SPLITS

- The project is limited to **RESIDENTIAL USES ONLY**
- **OWNER-OCCUPANCY:** Applicant must sign an affidavit saying they intend to live in one of the units for 3+ years after approval
- Your jurisdiction cannot require **CORRECTION OF NONCONFORMING ZONING CONDITIONS**
- Your jurisdiction may require **EASEMENTS FOR PUBLIC SERVICES AND FACILITIES** and/or to have access to the public right-of-way

WHAT DOES THE PROCESS LOOK LIKE?



STEP 1 Applicant submits SB 9 application to local jurisdiction.



STEP 2 Local jurisdiction determines whether application is complete within 30 days of submittal.



STEP 3 Once application is complete, local staff reviews the application and determines whether to approve and conditions of approval.

⁶ Urbanized areas/urban cluster maps are on the U.S. Census Bureau website.

⁷ As defined in Government Code § 65913.4(a)(6)(B)-(K).

⁸ Each new lot can be smaller than required min. lot size per local zoning.

⁹ This number may be lowered by local ordinance.

¹⁰ Must be determined in writing by a building official, based on inconsistency with objective standards and without feasible mitigation measures.

Senate Bill 9 Summary

Senate Bill 9 adds Government Code Sections 65851.21 and 66411.7 and amends Government Code Section 66452.6 (Subdivision Map Act). The provisions of SB 9 are effective beginning January 1, 2022. Below is a summary of those provisions.

I. Government Code Section 65851.21 – Ministerial Two-Unit Developments

Under SB 9, local agencies must approve in a ministerial process, without any discretionary review or hearing, certain two-unit developments. Two-unit developments are those that propose either the construction of no more than two new units, or the addition of one new unit to an existing unit.

To qualify for this ministerial process, the two-unit development must be proposed in a single-family residential zone. Other requirements that a project must satisfy to qualify for SB 9's benefits include:

- **Location.** The project must be in an urbanized area or urban cluster, or within a city with boundaries in an urbanized area or urban cluster, as those terms are defined by the U.S. Census Bureau. The project cannot be on a site designated as a local or state historic landmark or within a local or state historic district. The project may not be on prime agricultural land, wetlands, or protected species habitat, but may be in a high or very high fire severity hazard zone, earthquake fault zone, floodplain, floodway, and site with hazardous materials so long as certain mitigation measures (as outlined in Government Code Section 65913.4(a)(6)) have been implemented on those sites.
- **Protected Units.** The two-unit development may not result in the demolition or alteration of affordable housing, rent-controlled housing, housing that was withdrawn from the rental market in the last 15 years, or housing occupied by a tenant in the past 3 years.
- **Limit on Demolition.** The project may not demolish more than 25 percent of the exterior walls of an existing unit unless either the local agency permits otherwise or the site has not been occupied by a tenant in the last 3 years.
- **Residential Uses.** Any units constructed via SB 9 must be used for residential purposes and cannot be used for short-term rentals of less than 30 days.

A project that meets these criteria and otherwise qualifies for the SB 9's ministerial process is exempt from the provisions of the California Environmental Quality Act, as is an ordinance implementing these provisions. However, the provisions of the California Coastal Act of 1976 are applicable to SB 9 two-unit developments, except that a local agency is not required to hold a public hearing for coastal development permit applications.

SB 9 provides narrow parameters for local agencies regarding the standards which they may apply to qualifying two-unit developments and the circumstances under which they may reject an otherwise qualifying two-unit development. As a general matter, a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards, so long as those standards do not conflict with the limitations imposed by SB 9 and would not physically preclude the construction of up to two units of at least 800 square feet each. Other limitations in SB 9 include:

- **Setbacks.** A local agency may not require rear and side yard setbacks of more than four feet. No setback may be required for a unit constructed (1) within an existing living area, or (2) in the same location and to the same dimensions as an existing structure.
- **Parking Requirements.** A local agency may only require one off-street parking space per unit. No parking requirements may be imposed if the parcel is located within (1) one-half mile walking

distance of either a statutorily defined high-quality transit corridor or major transit stop, or (2) one block of a car share vehicle.

- **Adjacent or Connected Structures.** A local agency may not deny an application for a two-unit development solely because it proposes adjacent or connected structures, as long as the structures meet building code safety standards and are sufficient to allow separate conveyance.
- **Percolation Test.** For residential units connected to an onsite wastewater treatment system, the local agency may require a percolation test completed within the last 5 years, or if the percolation test has been recertified, within the last ten years.

SB 9 provides that a local agency may deny an otherwise qualifying two-unit development if the local building official makes a written finding, based on a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact upon public health and safety or the physical environment, and there is no feasible method by which to satisfactorily mitigate the adverse impact.

II. Government Code Section 66411.7 – Ministerial Urban Lot Splits

Under SB 9, local agencies must also ministerially approve, without discretionary review or hearing, certain urban lot splits. To qualify for ministerial approval under SB 9, the parcel to be split must be in a single-family residential zone, and the parcel map for the urban lot split must meet the following requirements:

- **Location.** The project must be in an urbanized area or urban cluster, or within a city with boundaries in an urbanized area or urban cluster, as those terms are defined by the U.S. Census Bureau. The project cannot be on the site of a designated local or state historic landmark or within a local or state historic district. The project may not be on prime agricultural land, wetlands, or protected species habitat, but may be in a high or very high fire severity hazard zone, earthquake fault zone, floodplain, floodway, and site with hazardous materials so long as certain mitigation measures (as outlined in Government Code Section 65913.4(a)(6)) have been implemented on those sites.
- **Parcel Size.** The parcel map must subdivide an existing parcel to create no more than two new parcels of approximately equal lot area, with neither resulting parcel exceeding 60 percent of the lot area of the original parcel. Additionally, both newly created parcels must be at least 1,200 square feet (unless the local agency adopts a smaller lot size).
- **No Prior SB 9 Lot Split.** The parcel to be split may not have been established through a prior SB 9 lot split. Neither the owner nor anyone acting in concert with the owner may have previously subdivided an adjacent parcel using an SB 9 lot split.
- **Subdivision Map Requirements.** The urban lot split must conform to all applicable objective requirements of the Subdivision Map Act, except those that conflict with SB 9 requirements.
- **Protected Units.** The urban lot split may not result in the demolition or alteration of affordable housing, rent-controlled housing, housing that was withdrawn from the rental market in the last 15 years, or housing occupied by a tenant in the past 3 years.
- **Owner-Occupancy Affidavit.** The applicant must indicate, by affidavit, the applicant's intention to reside in one of the units built on either parcel for at least three years. This requirement does not apply if the applicant is a qualified non-profit or community land trust. A local agency may not impose any additional owner occupancy requirements on units built on a SB 9 lot.
- **Residential Uses.** Any units constructed on a parcel created through via SB 9 must be used for residential purposes and cannot be used for short-term rentals of less than 30 days.

A parcel map application for an urban lot split that meets these criteria and otherwise qualifies for the SB 9's ministerial process is exempt from the provisions of the California Environmental Quality Act, as is an ordinance implementing these provisions. The provisions of the California Coastal Act of 1976 are applicable to SB 9 urban lot splits, except that a local agency is not required to hold a public hearing for coastal development permit applications.

As with two-unit developments under SB 9, a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards to an SB 9 urban lot split, so long as those standards do not conflict with the limitations imposed by SB 9 and would not physically preclude the construction of up to two units of at least 800 square feet each. Other limitations in SB 9 include:

- **Setbacks.** A local agency may not require rear and side yard setbacks of more than four feet. No setback may be required for a unit constructed (1) within an existing living area, or (2) in the same location and to the same dimensions as an existing structure.
- **Parking Requirements.** A local agency may only require one off-street parking space per unit. No parking requirements may be imposed if the parcel is located within (1) one-half mile walking distance of either a statutorily defined high-quality transit corridor or major transit stop, or (2) one block of a car share vehicle.
- **Easements, Access, and Dedications.** A local agency may require an application for a parcel map for an urban lot split to include easements necessary for the provision of public services and facilities. The local agency may also require that the resulting parcels have access to, provide access to, or adjoin the public right-of-way. The local agency may not require dedications of rights-of-way or construction of offsite improvements.
- **Number of Units; ADUs and JADUs.** Notwithstanding the provisions of Government Code Sections 65852.1, 65852.21, 65852.22, and 65915, a local agency is not required to permit more than two units on any parcel created through the authority in SB 9, inclusive of any accessory dwelling units or junior accessory dwelling units.
- **Adjacent or Connected Structures.** A local agency may not deny an application for an urban lot split solely because it proposes adjacent or connected structures, as long as the structures meet building code safety standards and are sufficient to allow separate conveyance.

The standard for denying an application for a parcel map for an urban lot split is the same as for denying an SB 9 two-unit development – the local building official must make a written finding, based on a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact upon public health and safety, or the physical environment, and there is no feasible method by which to satisfactorily mitigate the adverse impact.

III. Government Code Section 66452.6 – Subdivision Map Act Amendment

Currently, an approved or conditionally approved tentative map expires either 24 months after its approval, or after any additional period permitted by local ordinance, not to exceed an additional 12 months. SB 9 extends the limit on the additional period that may be provided by local ordinance from 12 to 24 months. Where local agencies adopt this change by ordinance, an approved or conditionally approved tentative map would expire up to 48 months after its approval if it received a 24-month extension of approval.