



AGENDA

Meeting of the
Scotts Valley Planning Commission
In-Person and Remote Access
Date: April 11, 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 4-5-2024 at City Hall, SV Public Works Building, 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.

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. Meeting minutes for the 3-14-2024 Planning Commission meeting

ALTERATIONS TO PUBLIC HEARING AGENDA

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

PUBLIC HEARING AGENDA

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

1. Consideration of an amendment to Scotts Valley Municipal Code Title 16 (Subdivisions) and Title 17 (Zoning) to adopt a local ordinance implementing SB 9 (AZO24-001).

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: 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 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 6:02 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL

COMMISSIONERS PRESENT:

Lori Gentile, Chair
Chuck Maffia, Vice Chair (virtual attendance)
David Hodgin, Commissioner
Shawn Mosley, Commissioner
Steve Simonovich, Commissioner

CITY STAFF MEMBERS PRESENT:

Taylor Bateman, Community Development Director
Ben Noble, Consultant Planner
Sarah Wikle, Senior Planner
Cathie Simonovich, City Clerk

PUBLIC COMMENT TIME

None.

ALTERATIONS TO CONSENT AGENDA

Staff had one minor amendment to the consent agenda, which was a typo in the 1/25/2024 meeting minutes. The names listed on the vote will be corrected.

M/S: Hodgin/Mosley

To approve the Consent Agenda subject to the above amendment.

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

CONSENT AGENDA

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

ALTERATIONS TO REGULAR AGENDA

None.

REGULAR AGENDA

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

Consultant Planner Ben Noble presented this item. The Commissioners discussed and provided feedback on the development of an ordinance that complies with Senate Bill 9 (SB 9). The Commissioners agreed with the staff recommendations for building height, unit size, garage parking, vehicle access/shared driveways, street frontage/flag lots and privacy. The Commissioners will have the opportunity to consider the draft ordinance at a future meeting.

DISCUSSION ITEMS AND FUTURE AGENDA ITEMS

None.

WRITTEN COMMUNICATIONS – FOR INFORMATION ONLY DIRECTOR UPDATES

None.

ADJOURNMENT

The meeting adjourned at 7:47 PM.

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

Date: April 11, 2024

Location: City-wide

Environmental Status: Not a project under the California Environmental Quality Act (CEQA) pursuant to Government Code sections 65852.21(j) and 66411.7(n)

Request: Consideration of an amendment to Scotts Valley Municipal Code Title 16 (Subdivisions) and Title 17 (Zoning) to adopt a local ordinance implementing SB 9 (AZO24-001).

From: Ben Noble, Consultant

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

STAFF RECOMMENDATION

It is recommended the Planning Commission conduct a public hearing, receive public comment, and adopt the resolution recommending the City Council:

- Amend the Scotts Valley Municipal Code Title 16 (Subdivisions) and Title 17 (Zoning) to adopt a local ordinance implementing SB 9; and
- Adopt by resolution public health and safety and environmental resource protection standards for SB 9 projects.

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.

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 shows example SB 9 development scenarios without a lot split. SB 9 allows for up to two primary dwellings on the lot, one ADU, and one 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 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. On each newly created parcel, SB 9 allows either two primary dwelling units or a primary dwelling unit and an ADU.

Many cities and counties in California adopt a local ordinance to implement SB 9. A local SB 9 ordinance clarifies requirements in state law and establishes additional objective standards to address unique local issues and development preferences.

Figure 1

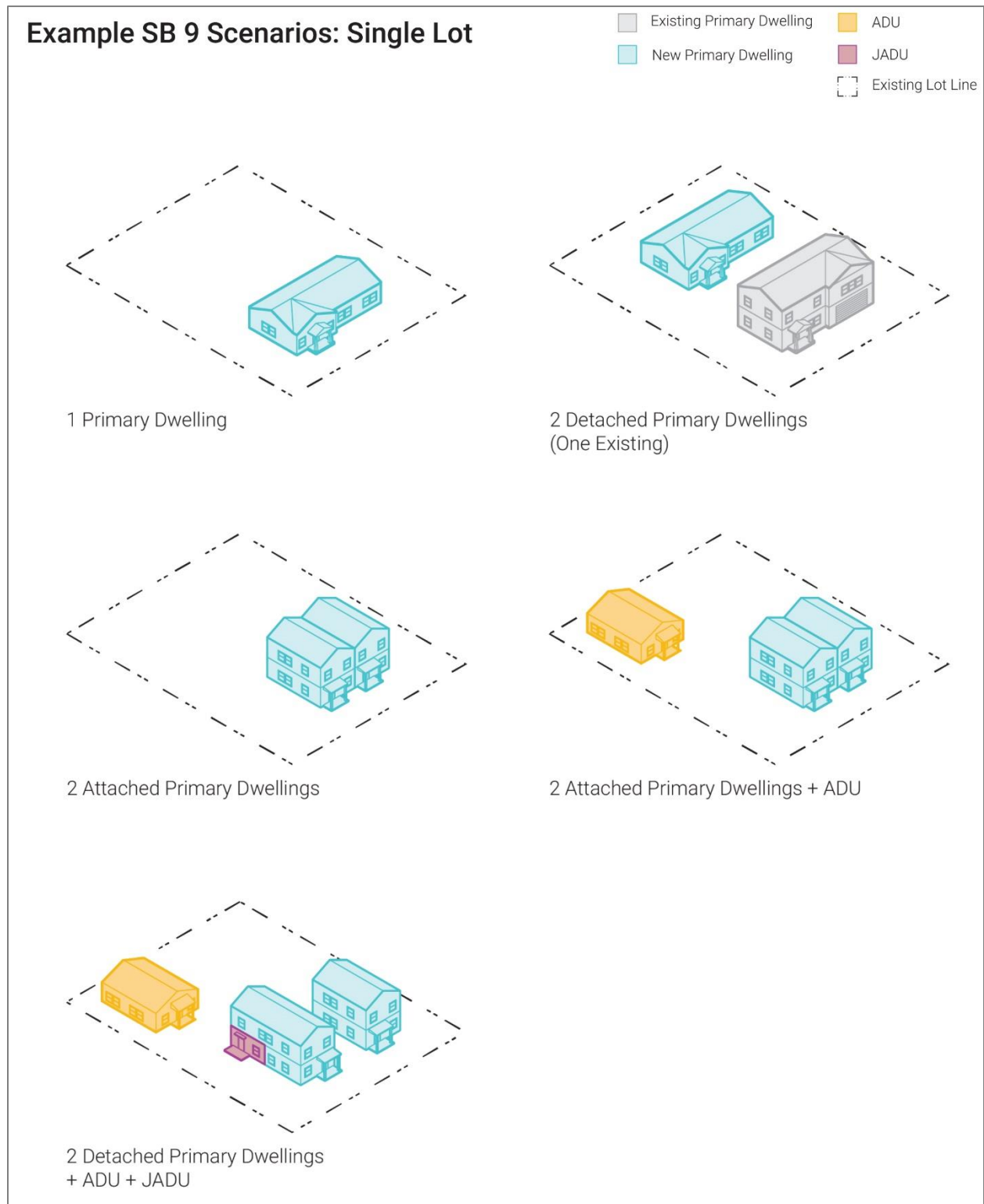
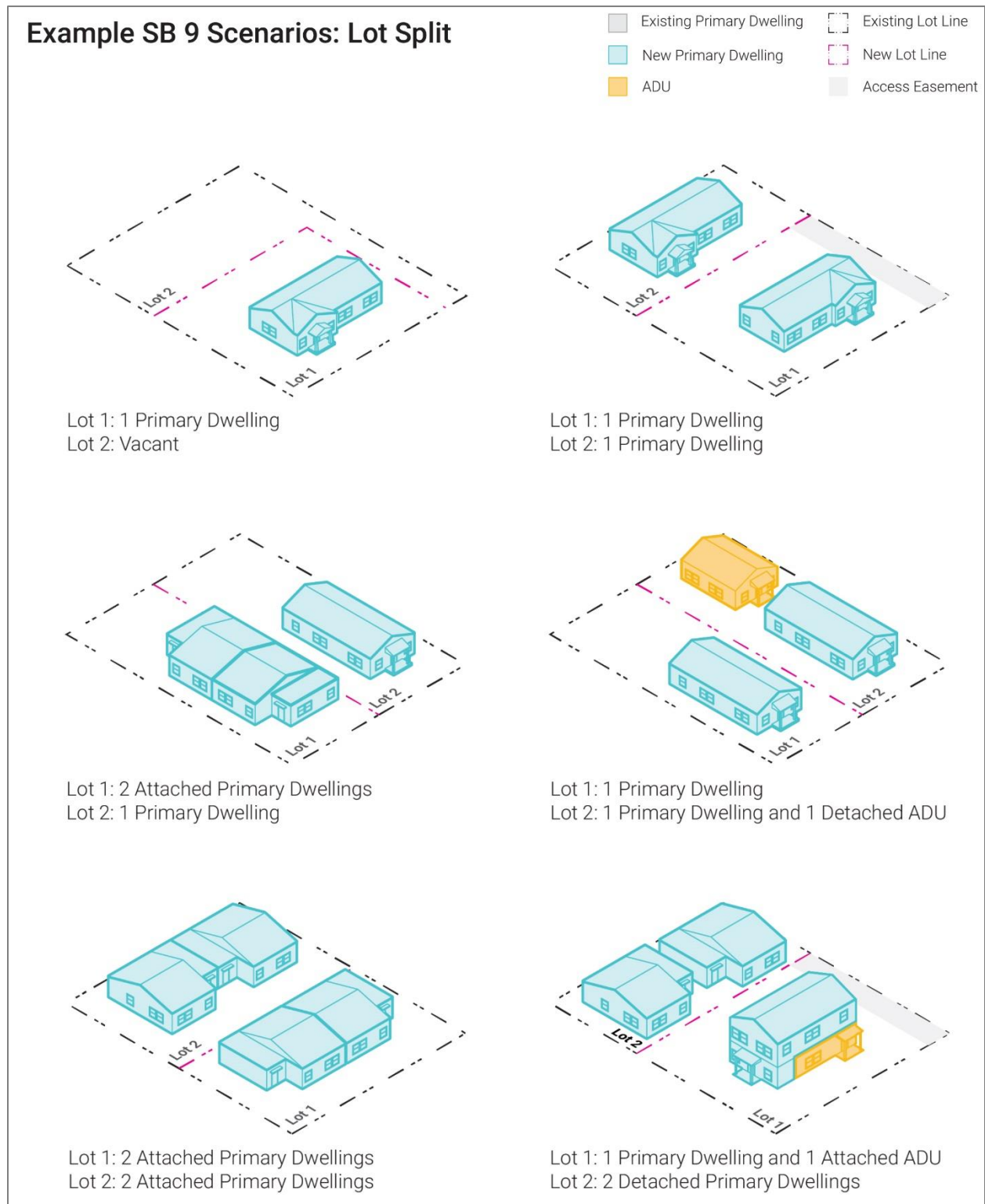


Figure 2



Planning Commission Study Session

The Planning Commission held a study session on March 14, 2024 to provide feedback on an approach to address important issues in an ordinance to implement SB 9. The Planning Commission provided feedback on issues related to building height, unit size, garage parking, vehicle access/shared driveways, street frontage/flag lots, and privacy. The staff report from the March 14, 2024 meeting is provided as Attachment 2. The proposed local SB 9 ordinance, described below, is consistent with Planning Commission feedback received at this study session.

PROPOSED LOCAL SB 9 ORDINANCE

Based on Planning Commission input at the March 14, 2024 study session, City staff and consultants prepared amendments to the Scotts Valley Municipal Code to locally implement SB 9. This proposed ordinance consists of a new Chapter 17.55 (SB 9 Residential Development) to be added to Title 17 (Zoning), and a new Chapter 16.78 (Urban Lot Splits) to be added to Title 16 (Subdivisions). Chapter 17.55 is attached to this staff report as Exhibit 1 to Attachment 1. Chapter 16.78 can be found as Exhibit 2 to Attachment 1.

Chapter 17.55 (SB 9 Residential Development)

Chapter 17.55 contains requirements for new units created using SB 9. This chapter identifies the permitting process for SB 9 units, general requirements for these units, development standards, and other objective design standards.

Permitting Process

Section 17.55.030 identifies permits required, eligible projects and approval criteria for SB 9 projects. These provisions are all required by state law, including the following:

- **Permits Required:** SB 9 residential development requires City approval of a building permit. No public hearing or discretionary review is required.
- **Allowed Zoning Districts:** SB 9 projects are allowed only in single-family zoning districts. In Scotts Valley these are the R-1 Single-Family Residential, R-R Residential-Rural, or R-MT Residential-Mountain zoning districts.
- **Environmental Resources and Hazards:** SB 9 projects are not allowed on sites with specified environmental resources and hazards, including wetlands, flood hazards, very high fire hazard areas, and habitat for protected species.
- **Affordable and Rental Housing:** SB 9 projects may not demolish or alter deed-restricted affordable housing or rental units.
- **Basis for Denial:** If an SB 9 project complies with all requirements, the City can deny the application only if the building official finds that the proposed development would have a specific adverse impact on the public health and safety or physical environment that cannot be mitigated.

General Requirements

As required by state law, Section 17.55.040 specifies the following:

- **Number of Units:** An SB 9 project may create up to four dwelling units on an existing lot. For a project without an urban lot split, two primary dwelling units are allowed plus an accessory dwelling unit (ADU) and junior accessory dwelling units (JADU). For a project with an urban lot split, two primary units or one primary dwelling and one ADU are allowed on each newly created parcel.
- **Utility Connections:** Each primary dwelling unit must be served by a separate utility connection for water, sewer, and electrical services.
- **Vacation Rentals:** An SB 9 unit may not be rented for a term of less than 31 days.
- **Public Health and Safety:** An SB 9 project must comply with public health and safety standards adopted separately by City Council resolution. See discussion on page 7 of the staff report for additional information.

Development Standards

State law requires the City to allow SB 9 projects with a minimum floor area of 800 square feet per unit, 4-foot setbacks from side and rear property lines, and one parking space per unit. The City may establish standards that are more permissive than these minimum requirements. The City may also establish additional development standards provided that these standards do not physically preclude two units of at least 800 square feet per lot. At the March 14 2024 study session, the Planning Commission provided feedback on standards for building height, unit size, parking, and vehicle access/shared driveways. Based on this feedback, Section 17.55.050 requires the following:

- **Building Height:** If an SB 9 unit complies with the minimum yard requirements of the zoning district, the maximum building height is 25 feet (two stories). If an SB 9 unit does not comply with the minimum yard requirements, the maximum building height is 16 feet.
- **Unit Size:** If an SB 9 unit complies with the minimum yard requirements of the zoning district, the maximum floor area is 1,250 square feet for the unit. If an SB 9 unit does not comply with the minimum yard requirements, the maximum floor area is 800 square feet.
- **Yards:** SB 9 units must be setback 4 feet from side and rear lot lines. Minimum front yards are as required in the applicable zoning district. An SB 9 unit that complies with minimum yard requirements of the zoning districts are allowed greater height and size than a unit that does not comply.
- **Parking:** One parking space is required per unit. Uncovered surface parking is allowed for SB 9 projects where there are two or fewer new units (including ADUs). Garage parking is required for the third or fourth new unit if proposed. A landscape buffer is required for parking areas with three or more spaces.

- **Vehicle Access/Shared Driveways:** On vacant lots, only one driveway curb cut with a maximum width of 20 feet is allowed. Two lots created through an urban lot split must share one driveway with access easements recorded as necessary. Exceptions are allowed when needed for emergency vehicle access or other unusual circumstances.

An SB 9 project also must comply with other City standards and requirements of the applicable zoning district and Scotts Valley Municipal Code (e.g., maximum site coverage) provided these standards do not physically preclude two units of at least 800 square feet per lot.

Objective Design Standards

SB 9 allows local jurisdiction to impose objective design standards on new units, provided these standards do not physically preclude two units of at least 800 square feet per lot. Section 17.55.060 establishes the following objective design standards:

- **Multi-Unit Residential Design Standards.** An SB 9 residential development that creates two or more new primary dwelling units must comply with the City's Multi-Unit Residential Design Standards.
- **Single Unit Projects.** An SB 9 residential development with one new development must comply with design standards to promote design compatibility with an existing dwelling on the lot.
- **Accessory Dwelling Units.** A new accessory dwelling unit (ADU) included in an SB 9 residential development must comply with the same design requirements as apply to an ADU that is not established as part of an SB 9 project.
- **Neighbor Privacy:** If an SB 9 unit does not comply with the minimum side and rear yard requirements of the zoning district, windows on the wall that faces an adjacent residential use must be 5-foot minimum sill height above the finished floor, clerestory, or opaque/frosted glass. Second-story exterior decks and balconies and rooftop decks may not face an interior side or rear yard that abuts an adjacent residential use.

Chapter 16.78 (Urban Lot Splits)

Chapter 16.78 establishes requirements for a one-time subdivision of an existing lot into two lots ("urban lot split"). This chapter is in Title 16 (Subdivisions) of the Scotts Valley Municipal Code together with other subdivision requirements. Chapter 16.78 contains urban lot split permit requirements, general requirements, and objective subdivision design standards.

Permitting Process

The eligibility requirements and approval criteria for SB 9 residential development in Chapter 17.55 apply to urban lot splits. In addition, Section 16.78.030 also requires the following:

- **Parcel Map.** A parcel map is required for all urban lot splits pursuant to the Subdivision Map Act.
- **Existing Parcel Size.** The area of the existing parcel must be 2,400 square feet or more.
- **No Prior Urban Lot Split.** If a parcel was established through a prior urban lot split, it cannot be further subdivided.
- **Subdivision Map Act Compliance.** The urban lot split must conform to all applicable objective requirements of the Subdivision Map.
- **Conditions of Approval.** The City may not require dedications of rights of way, off-site improvements, or correction of nonconforming zoning conditions.

General Requirements

An urban lot split must allow for SB 9 units that conform to the general requirements and development standards in Chapter 17.55, including minimum setback and parking requirements. As required by state law, Section 16.78.040 also specifies the following:

- **Number of New Parcels.** An urban lot split may create no more than two new parcels.
- **New Parcel Size.** The area of each newly created parcel must be at least 1,200 square feet. The newly created parcel must be no smaller than 40 percent of the parcel area of the original parcel. SB 9 requires the two newly created parcels be roughly proportional in size.
- **Owner Occupancy Affidavit.** The applicant must sign an affidavit stating the intent to occupy one of the housing units as their principal residence for a minimum of three years.

Given development allowed on newly created SB 9 lots, Section 16.78.040 states that Minimum lot area, width, depth and density standards in the applicable zoning district do not apply to an urban lot split.

Objective Standards

Parcels created by an urban lot split must comply with the Multi-Unit Residential Design Standards and applicable objective standards in Municipal Code Title 17 (Zoning) and Title 16 (Subdivisions). Newly created parcels must also comply with the following subdivision design standards:

- **Parcel Line Angles.** New parcel lines that abut a street must maintain right angles to streets or radial to the centerline of curved streets or be parallel to existing parcel lines.
- **Street Frontage/Flag Lots:** On vacant lots with an urban lot split, flag lots and side-by-side lots are both allowed. Flag lots are allowed only to accommodate development more consistent with the existing neighborhood character or when 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. The minimum street frontage for side-by-side lots is 30 feet.

As required by state law, the City may not impose any objective subdivision standard that would physically preclude two units of at least 800 square feet per lot.

PUBLIC HEALTH AND SAFETY AND ENVIRONMENTAL RESOURCE PROTECTION STANDARDS

As described above, an SB 9 project must comply with public health and safety and environmental resource protection standards adopted separately by City Council resolution. Proposed standards are provided in Exhibit 3 to Attachment 1. These standards address public safety issues unique to Scotts Valley related to fire, geologic, and roadway safety hazards. The proposed standards also reference criteria in SB 9 that exclude development on sites with specified environmental resources. The proposed standards would be adopted by City Council resolution rather than incorporated into the Municipal Code so that they could be amended more easily over time.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Pursuant to Government Code sections 65852.21(j) and 66411.7(n), the City may adopt an ordinance to implement the provisions of Government Code sections 65852.21 and 66411.7, and such an ordinance shall not be considered a project under the California Environmental Quality Act ("CEQA").

PUBLIC NOTICE

On March 29, 2024, public hearing notices were posted at City Hall, the Scotts Valley Public Works Building, and the Scotts Valley Senior Center, consistent with State law.

ATTACHMENTS

1. Resolution No. ____ recommending the City Council adopt amendment to Scotts Valley Municipal Code Title 16 (Subdivisions) and Title 17 (Zoning) to adopt a local ordinance implementing SB 9 and to adopt by resolution SB 9 Public Health and Safety and Environmental Resource Protection Standards.

Exhibit 1: Chapter 17.55 (SB 9 Residential Development)

Exhibit 2: Chapter 16.78 (Urban Lot Splits)

Exhibit 3: SB 9 Public Health and Safety and Environmental Resource Protection Standards

2. March 14, 2024 Planning Commission Study Session Staff Report and Attachments

RESOLUTION NO. _____

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SCOTTS VALLEY RECOMMENDING THE CITY COUNCIL AMEND THE SCOTTS VALLEY MUNICIPAL CODE TITLE 16 (SUBDIVISIONS) AND TITLE 17 (ZONING) TO ADOPT A LOCAL ORDINANCE IMPLEMENTING SB 9

WHEREAS, SB-9 (Chapter 162, Statutes of 2021) enacted amendments to Section 66452.6 and added Sections 65852.21 and 66411.7 to the Government Code, effective January 1, 2022; and

WHEREAS, Government Code Section 65852.21 requires local agencies to allow two primary dwellings on one lot in single-family zoning districts if the project meets specified requirements;

WHEREAS, Government Code Section 66411.7 requires local agencies to allow an urban lot split in single-family zoning districts with two dwelling units allowed on each newly created lot if the project meets specified requirements;

WHEREAS, Government Code Sections 65852.21(b) and 66411.7(b) authorizes local agencies to impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with the requirement of SB-9;

WHEREAS, the Planning Commission held a study session on March 14, 2023 to provide input on an approach to address important issues in a local ordinance to implement SB-9;

WHEREAS, City staff used Planning Commission direction to prepare Chapter 17.55 (SB 9 Residential Development) to be added to Title 17 (Zoning) of the City of Scotts Valley Municipal Code, and Chapter 16.78 (Urban Lot Splits) to be added to Title 16 (Subdivisions) of the City of Scotts Valley Municipal Code;

WHEREAS, pursuant to Government Code sections 65852.21(j) and 66411.7(n), the City may adopt an ordinance to implement the provisions of Government Code sections 65852.21 and 66411.7, and such an ordinance shall not be considered a project under the California Environmental Quality Act ("CEQA");

WHEREAS, the proposed new Chapter 17.55 (SB 9 Residential Development) and Chapter 16.78 (Urban Lot Splits) and the Public Health and Safety and Environmental Resource Protection SB 9 Standards to implement SB-9 were reviewed by the Planning Commission at regularly scheduled and noticed meeting on Thursday, April 11, 2024.

NOW, THEREFORE, BE IT RESOLVED by Planning Commission as follows:

1. It is hereby recommended that the City Council adopt Chapter 17.55 (SB 9 Residential Development) and Chapter 16.78 (Urban Lot Splits) to implement SB-9 set forth in Exhibits 1 and 2 attached hereto and incorporated herein.

2. It is hereby recommended that the City Council adopt the Public Health and Safety and Environmental Resource Protection SB 9 Standards set forth in Exhibit 3 attached hereto and incorporated herein.

The above and foregoing resolution was duly and regularly adopted and passed by the Planning Commission of the City of Scotts Valley at a regular meeting held on the 11th day of April, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Lori Gentile, Chair

Taylor Bateman, Community Development Director

CHAPTER 17.55 – SB 9 RESIDENTIAL DEVELOPMENT

Sections:

17.55.010	Purpose and Intent
17.55.020	Definitions
17.55.030	Permitting Process
17.55.040	General Requirements
17.55.050	Development Standards
17.55.060	Objective Design Standards
17.55.070	Deed Restrictions

17.55.010 Purpose and Intent

This chapter contains requirements for SB 9 residential developments pursuant to Government Code Section 65852.21. These requirements are necessary to preserve the public health, safety and general welfare, and to promote orderly growth and development. In cases where a requirement in this chapter directly conflicts with Government Code Section 65852.21, the Government Code governs.

17.55.020 Definitions

- A. SB 9 Residential Development.** A residential project on a parcel within a single-family residential zoning district proposed pursuant to Government Code Section 65852.21
- B. Urban Lot Split.** The subdivision of an existing parcel into two parcels within a single-family residential zoning district proposed pursuant to Government Code Section 66411.7 and Municipal Code Chapter 16.78 (Urban Lot Splits).

17.55.030 Permitting Process

- A. Building Permit.** An SB 9 residential development requires City approval of a building permit.
- B. Ministerial Approval.** The City shall ministerially approve a building permit for an SB 9 residential development if the application complies with all requirements of this chapter. No public hearing or discretionary review is required.
- C. Urban Lot Splits.** An SB 9 residential development that includes an urban lot split requires City approval of a parcel map pursuant to Municipal Code Chapter 16.78 (Urban Lot Splits).
- D. Eligibility.** The City shall accept an application for an SB 9 residential development only if the project complies with the following requirements.
 - 1. **Zoning District.** The development is located in the R-1 Single-Family Residential, R-R Residential-Rural, or R-MT Residential-Mountain zoning district.

EXHIBIT 1

2. **Compliance with Chapter.** The development complies with all applicable requirements of this chapter.
3. **Environmental Resources and Hazards.** The development satisfies the requirements of Government Code subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4, which prohibits development on sites subject to specified environmental resources and hazards.
4. **Affordable and Rental Housing.** The development will not require demolition or alteration of any of the types of housing identified in Government Code paragraph (3) of subdivision (a) of Section 65852.21.
5. **Historic Resources.** The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Public Resources Code Section 5020.1.

E. Basis for Denial.

1. The City shall deny an application for an SB 9 residential development if either of the following is found:
 - a. The development fails to comply with any requirement in this chapter. Any such requirement that is the basis for denial shall be specified by the City in writing.
 - b. The City's Building Official makes a written finding, based upon a preponderance of the evidence, that the proposed development would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Government Code Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
2. The City shall not deny an SB 9 residential development solely because it conflicts with the City's density limitations for the applicable zoning district.

17.55.040 General Requirements

A. Number of Primary Dwelling Units.

1. A maximum of two primary dwelling units are allowed on a parcel.
2. If a parcel is subdivided pursuant to Municipal Code Chapter 16.78 (Urban Lot Splits), a maximum of two primary dwelling units are allowed on each newly created parcel. Up to four units are allowed on the two parcels combined.

B. Accessory Dwelling Units.

1. **Projects with Urban Lot Split.** The following accessory dwelling unit (ADU) rules apply to a parcel created through an urban lot split as provided in Chapter 16.60 (Urban Lot Splits)
 - a. If the parcel contains one primary dwelling unit, one ADU or Junior ADU is also allowed on the parcel.

EXHIBIT 1

- b. If the parcel contains two primary dwelling units, an ADU or Junior ADU is not allowed on the parcel.

2. **Projects Without Urban Lot Split.** Where a parcel has not been subdivided as provided in Chapter 16.78 (Urban Lot Split), one ADU and/or JADU is allowed on the parcel in addition to the two primary dwelling units.

C. Utility Connections.

1. Each primary dwelling unit shall be served by a separate utility connection for water, sewer, gas, and electrical services.
2. The City shall condition approval of a dwelling unit on the dedication of any easements deemed necessary to provide public services to the unit and access to the public right-of-way.

D. Residential Uses Only.

1. The primary use of a dwelling unit must be residential.
2. Home occupations consistent with Section 17.50.040 (Home Occupations) and other accessory uses are permitted in a dwelling unit.

E. Vacation Rentals.

A dwelling unit may not be rented for a term of less than 31 days.

F. Existing Nonconformities.

Establishing a dwelling unit shall not require the correction of an existing legal nonconforming zoning condition on the property.

G. Public Health and Safety.

An SB 9 residential development shall comply with the City of Scotts Valley SB 9 Public Health and Safety and Environmental Resource Protection Standards, which are adopted by City Council resolution and may be amended from time to time.

H. Municipal Code Compliance.

1. An SB 9 development shall comply with all applicable provisions of the Municipal Code unless otherwise specified in this chapter.
2. In case of conflict between this chapter and other provisions in the Municipal Code, this chapter governs.
3. The City shall not impose any objective Municipal Code standard that would physically preclude the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet. The Community Development Director shall grant an exception to the applicable standard to the minimum extent necessary to comply with this section.

17.55.050 Development Standards

A. Building Height.

1. For an SB9 residential development that complies with the minimum yard requirements of the applicable zoning district and combining district, the maximum building height is 25 feet.

EXHIBIT 1

2. For an SB9 residential development that does not comply with the minimum yard requirements of the applicable zoning district and combining district, the maximum building height is 16 feet.

B. Unit Size.

1. For an SB9 residential development that complies with the minimum yard requirements of the applicable zoning district and combining district, the maximum unit size is 1,250 square feet per unit.
2. For an SB9 residential development that does not comply with the minimum yard requirements of the applicable zoning district and combining district, the maximum unit size is 800 square feet per unit.

C. Yards.

1. Minimum yards for an SB 9 residential development are as follows:
 - a. Front: As required in the applicable zoning district
 - b. Side: 4 feet, except that no yard is required for a new side lot line shared between two parcels created through an urban lot split.
 - c. Rear: 4 feet.
2. As provided in A and B above, an SB 9 residential development that complies with the minimum yard requirement for a single-family dwelling in the applicable zoning district is eligible for greater building height and unit size than is allowed for SB9 residential development that does not comply with the zoning district minimum yard requirement.
3. Notwithstanding Paragraph 1 above, no setback is required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

D. Separation Between Dwelling Units.

1. No minimum separation is required between dwelling units on a parcel if the structures meet building code safety standards.
2. Dwelling units may be connected if the structures meet building code safety standards and are sufficient to allow a separate conveyance.
3. For purposes of this chapter, “sufficient for separate conveyance” means that each attached or adjacent dwelling unit is constructed in a manner adequate to allow for the separate sale of each unit in a common interest development as defined in Civil Code Section 1351 (including a residential condominium, planned development, stock cooperative, or community apartment project), or into any other ownership type in which the dwelling units may be sold individually.

E. Parking.

1. **Required Parking.** A minimum of one off-street parking space is required per dwelling unit except as provided in Paragraph 2 below.

EXHIBIT 1

2. **Exceptions to Required Parking.** No off-street parking is required in the following cases:
 - a. The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.
 - b. There is a car share vehicle located within one block of the parcel. A car share vehicle means a motor vehicle that is operated as part of a regional fleet by a public or private car sharing company or organization that meet all the following criteria:
 - (1) Provides hourly or daily service;
 - (2) Vehicle reservations are processed and paid for using an on-line system;
 - (3) Vehicles can be accessed where they are parked without having to go to a different physical location to execute a contract and/or pick up the keys; and
 - (4) Fleet has more than five cars in Scotts Valley and more than 20 cars in Santa Cruz County.
3. **Location on Lot.** As required by Section 17.44.030(J), driveways and parking spaces shall not proportionately occupy more than 300 square feet for each 10 feet of required front yard setback.
4. **Garages.** Required parking spaces may be uncovered for an SB 9 project with two or fewer new units, including accessory dwelling units. Required parking shall be in a garage for the third or fourth unit in an SB 9 project.
5. **Landscape Buffer.**
 - a. Where a parking area with three or more spaces is located across a street or alley from or immediately adjacent to a residential district, a landscape strip not less than 5 feet in depth shall be planted and permanently maintained along the abutting property line of the parking area.
 - b. The landscape strip shall contain a row of landscaping with a minimum planting height of 36 inches.
 - c. Landscaping shall comply with intersection and driveway vision clearance requirements in Section 17.46.110.E.

F. Driveways.

1. **Vacant Lots.**
 - a. For an SB 9 development on a vacant lot, no more than one driveway curb cut is allowed with a maximum width of 20 feet. Units on two lots created through an urban lot split must share one driveway with access easements recorded as necessary.
 - b. The Community Development Director may grant an exception to this requirement when needed for emergency vehicle access or other unusual circumstances.
2. **Non-Vacant Lots.**

EXHIBIT 1

- a. For an SB 9 project on a lot with an existing home, two driveway curb cuts are allowed only if the existing site layout or other physical constraints physically precludes shared use of a single driveway curb cut.
- b. The maximum width of a second curb cut where allowed is 12 feet.

17.55.060 Objective Design Standards

A. Multi-Unit Residential Design Standards.

1. An SB 9 residential development that creates two or more new primary dwelling units shall comply with the Multi-Unit Residential Design Standards, which are adopted by City Council resolution and may be amended from time to time.
2. If one or more new primary dwelling units are added to a lot with an existing SB 9 residential development, the new dwelling unit(s) shall comply with the Multi-Unit Residential Design Standards.

B. “Faces” Defined. As used in this section, the term “faces” means:

1. The building feature is parallel or substantially parallel to the street or property line; and
2. There is no other building located between the building feature and the street or property line.

C. Single Unit Projects. If an SB 9 residential development creates one new primary dwelling on a lot with an existing dwelling that was not previously established through an SB 9 residential development, the following design standards apply.

1. **Garage Frontage.** Where a dwelling with an internal or attached garage is located on the front half of the lot and the garage door faces a street, the garage frontage including the door width shall not exceed 50 percent of the width of the front facade of the building.
2. **Massing.** A building wall that faces a street or an adjacent residential use shall not run in a continuous plane of more than 25 feet without one or more of the following treatments:
 - a. A change in wall plane with a minimum of 4 feet in depth for the facade.
 - b. A front porch or other covered entry feature with a minimum depth of 3 feet and width of 6 feet providing access to the dwelling’s primary entrance.
 - c. An upper story stepback of at least 6 feet in depth for at least 80 percent of the street facing building wall.
 - d. A protruding window (such as a bay window) of at least 2 feet in depth.
3. **Articulation.** A building wall that faces a street or an adjacent residential use shall not run in a continuous plane of more than 15 feet without one of the following treatments included on the facade at every building story:
 - a. Window.
 - b. Entry door.

EXHIBIT 1

- c. Two or more visibly contrasting primary materials and/or colors.
 - d. Wall mounted trellises for climbing plants.
- 4. **Entries.** Primary dwelling entrances must include one of the following:
 - a. A recess in the building wall with a minimum width of 4 feet and depth of 3 feet.
 - b. A covered porch, providing access to the entry, with a minimum dimension of 5 feet by 5 feet.
- 5. **Roof Forms.** Rooflines 25 feet or longer that face a street or an adjacent residential use shall be articulated with recessed or projecting gabled roof elements, roof dormers, changes in roof heights, changes in direction or pitch of roof slopes, and other similar methods.
- 6. **Windows.** Windows that face a street or an adjacent residential use shall comply with one of the following:
 - a. All windows shall feature built up profile trim/framing. Trim/framing must project at least 2 inches from the building wall with material that visually contrasts from the building wall.
 - b. Window glass shall be inset a minimum of 2 inches from the exterior wall or frame surface to add relief to the wall surface.
- 7. **Exterior Materials.** The primary wall finish material shall be wood, wood shingle, stone, brick, stucco, fiber cement or other cementitious material, or stone. T1-11 siding and all grooved or patterned wood panel or composite wood panel siding are prohibited.
- 8. **Private Open Space.** Each dwelling unit shall have at least 100 square feet of private open space. Required private open space shall comply with the following standards:
 - a. The open space shall be directly accessible from the dwelling unit.
 - b. Balconies shall have a minimum dimension of 6 feet in depth and width and a minimum floor area of 50 square feet.
 - c. Patios shall have a minimum dimension of 8 feet in depth and width and a minimum floor area of 64 square feet.
 - d. Open space may be covered but not fully enclosed. If covered, the minimum floor to ceiling height is 8.5 feet.
 - e. Ground level private open space shall be screened or buffered from adjacent private or common open space and dwellings by landscaping, fencing, walls, trellises, or other screening elements.
- B. Accessory Dwelling Units.** A new accessory dwelling unit (ADU) included in an SB 9 residential development shall comply with the same design requirements as apply to an ADU that is not established as part of an SB 9 project.
- C. Neighbor Privacy.**

EXHIBIT 1

1. If a building wall faces an adjacent residential use and does not comply with the minimum interior side or rear yard requirements of the applicable zoning district or combining district, windows on the wall must be:
 - a. 5-foot minimum sill height above the finished floor;
 - b. Clerestory; or
 - c. Opaque/frosted glass.
2. Second-story exterior decks and balconies may not face an interior side or rear yard that abuts an adjacent residential use.
3. No portion of a rooftop deck may be closer than 25 feet from an interior side or rear yard that abuts an adjacent residential use.

17.55.020 Deed Restrictions

- A.** Before obtaining a building permit for an SB 9 residential development, the property owner shall file with the County Recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the current owner. The deed restriction shall state that:
 1. The maximum size of the dwelling unit is limited to:
 - a. 1,250 square feet for development that complies with the minimum yard requirements of the applicable zoning district and combining district; and
 - b. 800 square feet for development that does not comply with the minimum yard requirements of the applicable zoning district and combining district.
 2. The dwelling unit may not be rented for a term of less than 31 days.
- B.** The above declarations are binding upon any successor in ownership of the property. Lack of compliance shall be cause for code enforcement.
- C.** The deed restriction shall lapse upon removal of all dwelling units established under this chapter.

CHAPTER 16.78 – URBAN LOT SPLITS

Sections:

16.78.010	Purpose and Intent
16.78.020	Definitions
16.78.030	Permitting Process
16.78.040	General Requirements
16.78.050	Objective Standards
16.78.060	Deed Restrictions

16.78.010 Purpose and Intent

This chapter contains requirements for urban lot splits pursuant to Government Code Section 66411.7. These requirements are necessary to preserve public health, safety, and general welfare, and to promote orderly growth and development. In cases where a requirement in this chapter directly conflicts with Government Code Section 66411.7, the Government Code governs.

16.78.020 Definitions

- A. SB 9 Residential Development.** A residential project on a parcel within a single-family residential zoning district proposed pursuant to Government Code Section 65852.21 and Municipal Code Chapter 17.55 (SB 9 Residential Development).
- B. Urban Lot Split.** The subdivision of an existing parcel into two parcels within a single-family residential zoning district proposed pursuant to Government Code Section 66411.7.

16.78.030 Permitting Process

- A. Parcel Map Required.** A parcel map is required for all urban lot splits pursuant to Government Code Section 66411.7.
- B. Eligibility.** The City shall accept a parcel map application for an urban lot split only if the application complies with all of the following requirements.
 - 1. **Zoning District.** The existing parcel is located in the R-1 Single-Family Residential, R-R Residential-Rural, or R-MT Residential-Mountain zoning district.
 - 2. **Existing Parcel Size.** The area of the existing parcel is 2,400 square feet or more.
 - 3. **Environmental Resources and Hazards.** The parcel satisfies the requirements of Government Code subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4, which prohibits development on sites subject to specified environmental resources and hazards.

EXHIBIT 2

4. **Affordable and Rental Housing.** The proposed urban lot split would not require demolition or alteration of any of the types of housing identified in Government Code paragraph (3) of subdivision (a) of Section 65852.21.
5. **Historic Resources.** The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code.
6. **No Prior Urban Lot Split.**
 - a. The parcel was not established through a prior urban lot split.
 - b. Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot.
- C. Application Contents.** A parcel map application for an urban lot split must be filed with the City on an official City application form. Applications shall be filed with all required fees, information, and materials as specified by the City.
- D. Ministerial Approval.** The City shall ministerially approve a parcel map for an urban lot split if the application complies with all requirements of this chapter. No public hearing or discretionary review is required.
- E. Subdivision Map Act Compliance.** The City shall approve an urban lot split only if it conforms to all applicable objective requirements of the Subdivision Map except as otherwise provided in this chapter.
- F. Basis for Denial.**
 1. The City shall deny the urban lot split if either of the following is found:
 - a. The urban lot split fails to comply with any requirement in this chapter. Any such requirement that is the basis for denial shall be specified by the City in writing.
 - b. The building official makes a written finding, based upon a preponderance of the evidence, that the proposed subdivision would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Government Code Section 65589.5 of the Government Code, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
 2. The City shall not deny an urban lot split solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.
 3. For purposes of this chapter, “sufficient for separate conveyance” means that each attached or adjacent dwelling unit is constructed in a manner adequate to allow for the separate sale of each unit in a common interest development as defined in Civil Code Section 1351 (including a residential condominium, planned development, stock cooperative, or community apartment project), or into any other ownership type in which the dwelling units may be sold individually.

EXHIBIT 2

G. Conditions of Approval.

1. **Easements.** The City shall condition parcel map approval on the dedication of any easements deemed necessary for the provision of public services to the proposed parcels and any easements deemed necessary for access to the public right-of-way.
2. **Dedications and Improvements.** The City shall not require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of parcel map approval.
3. **Nonconforming Zoning Conditions.** The City may not require the correction of nonconforming zoning conditions on the parcel a condition of parcel map approval.

16.78.040 General Requirements

- A. **Number of New Parcels.** An urban lot split may create no more than two new parcels.
- B. **New Parcel Size.** The area of each newly created parcel must be:
 1. At least 1,200 square feet; and
 2. No smaller than 40 percent of the parcel area of the original parcel.
- C. **Lot Dimensions and Density.** Minimum lot area, width, depth and density standards in the applicable zoning district do not apply to an urban lot split.
- D. **Maximum Number of Dwelling Units.** No more than two dwelling units, including any accessory dwelling units or junior accessory dwelling units, are permitted on a parcel created by an urban lot split.
- E. **Access to Public Right-of-way.** The newly created parcels shall provide access to the public right-of-way sufficient to allow development on the parcel to comply with all applicable property access requirements under the California Fire Code section 503 (Fire Apparatus Access Roads) and California Code Regulations Title 14, section 1273.00 et seq. (Intent).
- F. **Setbacks.** An SB 9 residential development on a parcel created by an urban lot split shall comply with the following setback requirements:
 1. Minimum Yards:
 - a. Front: As required in the applicable zoning district
 - b. Side: 4 feet, except that no yard is required for a new side lot line shared between two parcels created through the urban lot split.
 - c. Rear: 4 feet.
 2. As provided in 17.55.050, an SB 9 residential development that complies with the minimum yard requirement for a single-family dwelling in the applicable zoning district is eligible for greater building height and unit size than is allowed for SB9 residential development that does not comply with the zoning district minimum yard requirement.

EXHIBIT 2

3. Notwithstanding Paragraph 1 above, no setback is required for an existing structure or a structure reconstructed in the same location and to the same dimensions as an existing structure.
- G. Parking.** An SB 9 residential development on a parcel created by an urban lot split shall comply with the following parking requirements:
 1. **Required Parking.** A minimum of one off-street parking space shall be provided for each dwelling unit except as provided in Paragraph 2 below.
 2. **Exceptions to Required Parking.** No off-street parking is required in the following cases:
 - a. The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.
 - b. There is a car share vehicle located within one block of the parcel. A car share vehicle means a motor vehicle that is operated as part of a regional fleet by a public or private car sharing company or organization that meet all the following criteria:
 - (1) Provides hourly or daily service;
 - (2) Vehicle reservations are processed and paid for using an on-line system;
 - (3) Vehicles can be accessed where they are parked without having to go to a different physical location to execute a contract and/or pick up the keys; and
 - (4) Fleet has more than five cars in Scotts Valley and more than twenty cars in Santa Cruz County.
 3. **Location on Lot.** As required by Section 17.44.030(J), driveways and parking spaces shall not proportionately occupy more than 300 square feet for each 10 feet of required front yard setback.
 4. **Garages.** Required parking spaces may be uncovered for an SB 9 project with two or fewer new units, including accessory dwelling units. Required parking shall be in a garage for the third or fourth unit in an SB 9 project.
 5. **Landscape Buffer.**
 - a. Where a parking area with three or more spaces is located across a street or alley from or immediately adjacent to a residential district, a landscape strip not less than 5 feet in depth shall be planted and permanently maintained along the abutting property line of the parking area.
 - b. The landscape strip shall contain a row of landscaping with a minimum planting height of 36 inches.
 - c. Landscaping shall comply with intersection and driveway vision clearance requirements in Zoning Code Section 17.46.110.E.

EXHIBIT 2

H. Residential Land Use. The primary use of an SB 9 development on a parcel created by an urban lot split must be residential.

I. Owner Occupancy Affidavit.

1. The applicant for an urban lot split must sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split.
2. Owner-occupancy is not required if the owner is a community land trust or qualified nonprofit corporation under Sections 214.15 or 402.1 of the Revenue and Taxation Code.

J. Vacation Rentals Prohibited. An SB 9 residential development on a parcel created by an urban lot split may not be rented for a term of less than 31 days.

K. Public Health and Safety. An urban lot split shall comply with the City of Scotts Valley SB 9 Public Health and Safety and Environmental Resource Protection Standards, which are adopted by City Council resolution and may be amended from time to time.

L. Municipal Code Compliance.

1. An urban lot split shall comply with all applicable provisions of the Municipal Code unless otherwise specified in this chapter.
2. In case of conflict between this chapter and other provisions in the Municipal Code, this chapter governs.
3. The City shall not impose any objective Municipal Code standard that would physically preclude the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet. The Community Development Director shall grant an exception to the applicable standard to the minimum extent necessary to comply with this section.

16.78.050 Objective Standards

A. Multi-Unit Residential Design Standards. Parcels created by an urban lot split shall comply with the Multi-Unit Residential Design Standards, which are adopted by City Council resolution and may be amended from time to time.

B. Parcel Line Angles. New parcel lines that abut a street shall maintain right angles to streets or radial to the centerline of curved streets, or be parallel to existing parcel lines.

C. Street Frontage/Flag Lots.

1. For an urban lot split on a vacant lot that meets the zoning district minimum lot width, each newly created parcel shall have street frontage no less than 40 percent of the street frontage of the original parcel.
2. For an urban lot split on a vacant lot that does not meet the zoning district minimum lot width or on a lot with an existing home, the newly created parcels shall comply with one of the following:

EXHIBIT 2

- a. Each newly created parcel has street frontage no less than 40 percent of the street frontage of the original parcel; or
- b. The urban lot split creates a flag lot consistent with existing objective flag lot standards in SVMC Section 17.46.060.F. City Council approval of the flag lot is not required.

D. Allowed Exceptions.

1. The City shall not impose any objective standards pursuant to this section that would physically preclude the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.
2. The Community Development Director shall grant an exception to the applicable standard to the minimum extent necessary to comply with this section.

16.78.060 Deed Restrictions

- A.** Before obtaining a building permit for an SB 9 residential development on a parcel created by an urban lot split, the property owner shall file with the County Recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the current owner. The deed restriction shall state that:
 1. The parcel was created by an urban lot split and no further subdivision of the parcel is permitted.
 2. The dwelling unit(s) on the parcel may not be rented for a term of less than 31 days.
- B.** The above declarations are binding upon any successor in ownership of the property. Lack of compliance shall be cause for code enforcement.
- C.** The deed restriction shall lapse upon removal of all dwelling units established on a parcel created under this chapter.

EXHIBIT 3

SB 9 STANDARDS: PUBLIC HEALTH AND SAFETY AND ENVIRONMENTAL RESOURCE PROTECTION

The following standards apply to SB 9 residential development and urban lot split as defined in Municipal Code Sections 17.55.020 and 16.78.020. The term “SB 9 project” as used below refers to a proposed project with an SB 9 residential development, an urban lot split, or both. Other standards and City requirements may also apply to an SB 9 project based on site-specific conditions and proposed project features.

A. Government Code Exclusions

1. **Excluded Sites.** An SB 9 project shall not be located on a site with any of the following environmental resources and hazards as specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) Government Code Section 65913.4 unless required mitigation, if allowed, is incorporated into the proposed project:
 - a. Prime farmland or farmland of statewide importance
 - b. Wetlands
 - c. Very high fire hazard severity zone
 - d. Hazardous waste site
 - e. Earthquake fault zone
 - f. 100-year flood zone
 - g. Regulatory floodway
 - h. Adopted natural community conservation plan
 - i. Habitat for protected species
 - j. Conservation easement

B. Fire District Requirements

An SB 9 project must comply with 1) the California Fire Code with modifications and amendments as adopted by the Scotts Valley Fire Protection District (“Fire District”); and 2) the Santa Cruz County Fire Prevention Officers Association Fire Prevention Standards as adopted by the Fire District. Before the City approves a building permit or parcel map for an SB 9 project, the applicant must submit documentation from the Fire District that the project complies with all applicable requirements. Fire District requirements that may affect the feasibility of an SB 9 project include the following:

1. **Fire Hydrants:** The number, spacing, and distance from the property. Pursuant to Municipal Code Section 17.55.040.C (Utility Connections), an SB 9 project must be connected to and served by a municipal water service provider (i.e., the Scotts Valley Water District or San Lorenzo Valley Water District). Private wells and tanks used to provide a water supply for fire protection are not allowed.

EXHIBIT 3

2. **Fire Flow:** The flow rate and duration of a water supply that serves the project.
3. **Fire Sprinklers:** An automatic fire sprinkler system for each dwelling unit.
4. **Access Road Dimensions:** Minimum width, vertical clearance, and turning radius of roads providing fire apparatus access to the property.
5. **Dead-End Access Roads:** Maximum length of new dead-end roads/driveways serving the property.

C. City Fire Safety Standards

An SB 9 project must comply with the following City fire safety standards. These standards apply to an SB 9 project in addition to Fire District requirements. If Fire District requirements differ from City standards, the City will approve an SB 9 project only if it conforms with City requirements.

1. **Emergency Vehicle Access – Roadway Width.** An SB 9 project shall be served by roadways providing emergency vehicle access with a minimum 20-foot width. If an emergency vehicle must utilize a road less than 20 feet wide at any point to access the property, an SB 9 project is not allowed unless the applicant widens the roadway to comply with this standard.
2. **Dead-end Street Length – Urban Lot Splits.** An urban lot split is prohibited on a dead-end street where the distance from the start of the street to the lot exceeds the length specified in Municipal Code Section 16.44.020.A. For example, an urban lot split is not allowed on a lot on a dead-end street in the Low Residential General Plan Land Use Category if the lot is more than 700 feet from the start of that dead-end street. If the lot on the dead-end street is less than 700 feet from the start of the street, a proposed lot split would be allowed if it complies with all other applicable standards.
3. **Emergency Vehicle Access – Free of Obstructions.** Required emergency vehicle access shall be maintained free of structures (e.g., locked gates) obstructing emergency vehicle access to development.

D. Geologic Hazard Standards

1. **Hillside Residential Combining District.** The following requirements apply to an SB 9 project within the HR Hillside Residential Combining District (Municipal Code Chapter 17.40).
 - a. The applicant shall submit a site development plan and preliminary geologic and soils investigation report as required by Section 17.40.040.
 - b. On a building site created through an urban lot split, the following apply:
 - (1) The average slope of the lot shall not exceed 40 percent and the average slope of the proposed building envelope shall not exceed 25 percent.
 - (2) A private access roadway to or on the site shall not exceed 150 feet in length or a grade of 15 percent along the length of the pavement.
 - c. On an existing lot of record, the following apply:

EXHIBIT 3

- (1) A structure or driveway shall not be located on a building pad with an average slope of 40 percent or more.
 - (2) A driveway to or on a building site shall not exceed a grade of 15 percent along the length of the pavement.
 - d. On all sites, the following apply:
 - (1) Portions of a site exceeding 30 percent slope shall not be graded.
 - (2) Visible cut or fill slopes shall not exceed three horizontal to one vertical (3:1)
 - (3) For units greater than 16 feet in height and/or with a floor area greater than 800 square feet, 1 foot shall be added to each side yard for each 1 foot of height above which the top plate line exceeds 15 feet in height.
 - (4) The clearance between ground floor levels and finish grade shall not exceed 4 feet. Five feet is permitted if a landscape and irrigation plan which will screen the subfloor area is submitted with the application for a building permit and landscaping is installed prior to final inspection of the structure.
2. **Landslide Hazard Areas.** The following requirements apply to an SB 9 project in an area with known landslide deposits as shown in General Plan Figure SN-5 Landslide Deposits or on a site with known or suspected landslides as mapped by the United State Geological Survey.
 - a. The applicant shall retain the services of a qualified geotechnical engineer or engineering geologist to prepare a design-level geotechnical investigation. The investigation shall identify project-specific foundation and structural design features needed to mitigate risks associated with landslide hazards.
 - b. The project shall be designed and constructed in accordance with the site preparation, foundation design, structural design, drainage, ground improvement performance testing, pavement design, and other recommendations in the design-level geotechnical investigation unless modified during construction, based on field conditions, by a qualified registered geotechnical or civil engineer.
 - c. Final grading plans shall be reviewed by a qualified registered geotechnical or civil engineer, and any resulting additional recommendations shall be incorporated into the project.
 - d. All site preparation work shall be performed under the observation of the Geotechnical Engineering firm of record. All design and construction shall conform to the requirements of the latest California Building Code.
 - e. All structural design and construction shall be subject to final approval by the City of Scotts Valley Building Official.

EXHIBIT 3

E. Circulation Safety Standards

1. **Highway 17 Access Hazards.** An SB 9 project is not permitted where vehicle access to the site is provided solely from Highway 17 at the following locations as identified in the Highway 17 Access Management Plan (California Department of Transportation, 2016):
 - a. Driveway at PM 6.712 (Map ID #24)
 - b. Crescent Drive (Map ID #25)
 - c. Driveway at PM 6.485 (Map ID #26)

**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@scottsvally.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

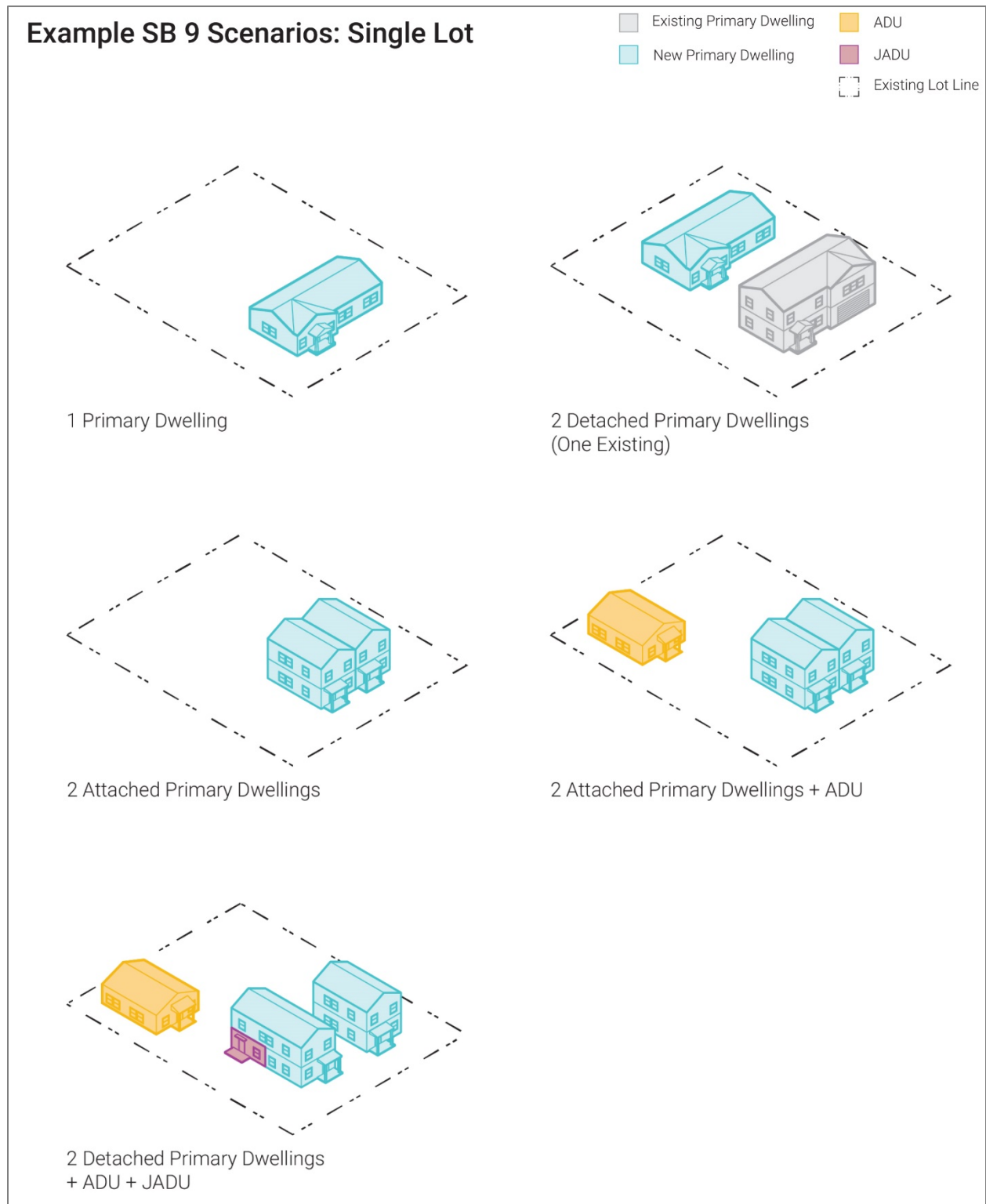
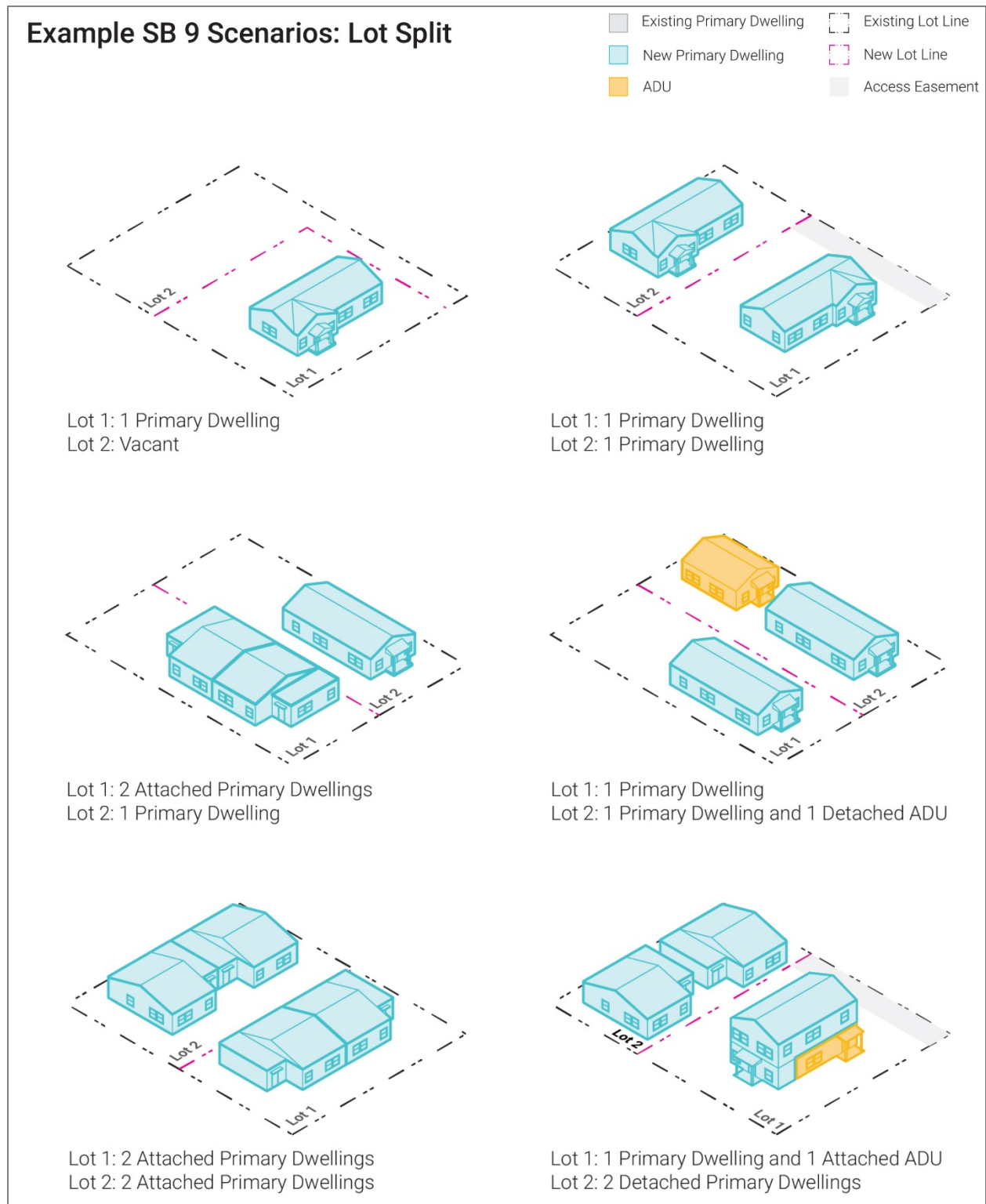


Figure 2



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

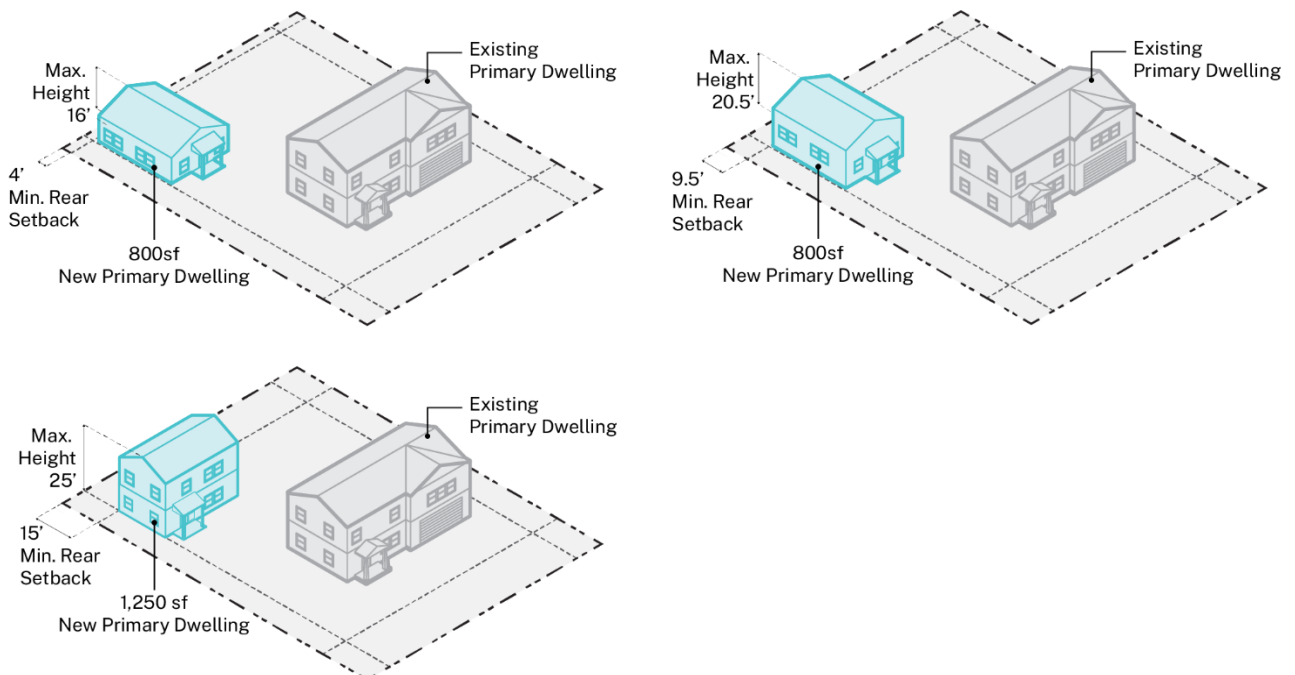
Yard	R-1-10	R-1-20	R-1-40	R-R-2.5	R-MT
Front	20 ft.	30 ft.	30 ft.	40 ft.	40 ft.
Side	10 ft.*	10 ft.*	10 ft.*	15 ft.	20 ft.
Rear	15 ft.	15 ft.	20 ft.	20 ft.	25 ft.

* 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.

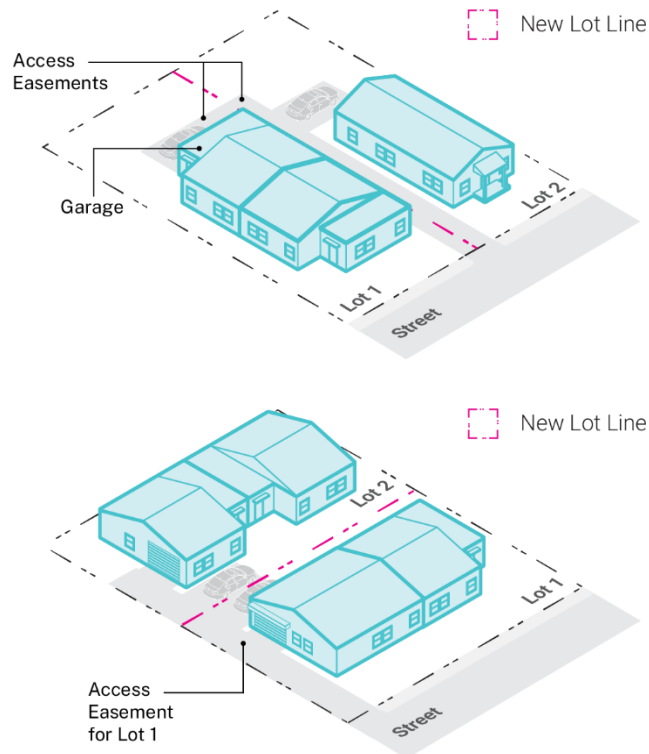
Recommendation: Allow uncovered surface parking for SB 9 projects where there are two or fewer new units (including ADUs). Require garage parking for the third or fourth new unit if proposed. Allowing surface parking for the first two units will minimize garage building mass and reduce development costs.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

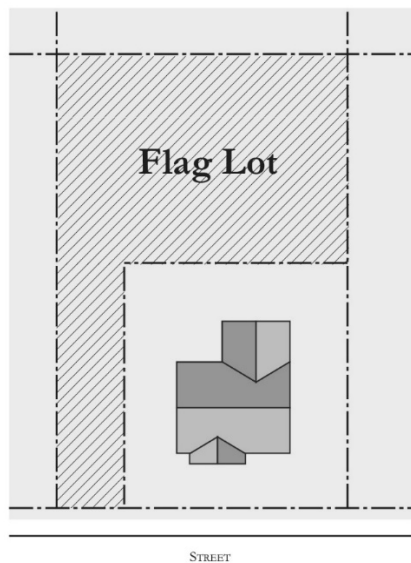
Figure 4: Example Single Driveway Configurations



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.

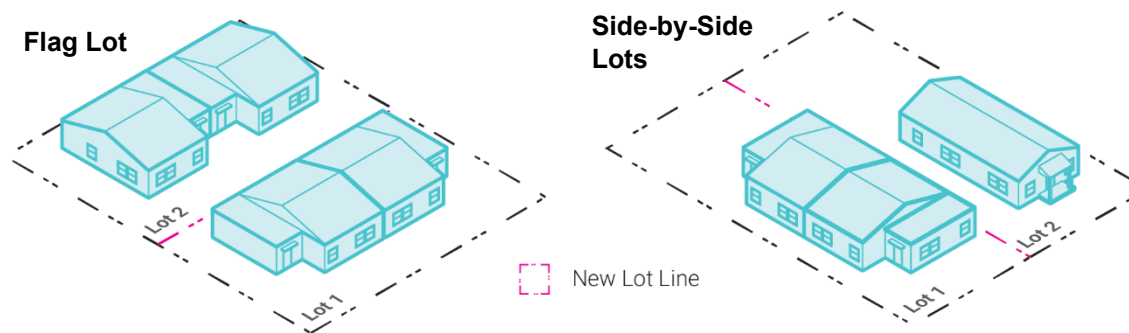
Issue 5: Street Frontage/Flag Lots

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

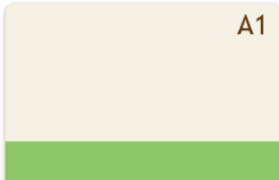
Used together, this allows **4 HOMES** where 1 was primary home was allowed before.

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.