

Agenda Report

May 9, 2022

TO: Honorable Mayor and City Council
FROM: Planning & Community Development Department
SUBJECT: **ZONING CODE AMENDMENT PERTAINING TO CONSTRUCTION OF MULTIPLE DWELLINGS ON SINGLE-FAMILY ZONED PARCELS**

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the Zoning Code Amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to Government Code Sections 65852.21 and 66411.7 and is not a project under Division 13 of the Public Resources Code;
2. Make the Findings for Approval for the Zoning Code Text Amendment;
3. Conduct first reading of an Ordinance pertaining to construction of multiple dwellings on single-family zoned parcels (replacing the interim urgency ordinance #7385), as prepared by the City Attorney.

PLANNING COMMISSION RECOMMENDATION:

On April 13, 2022, the Planning Commission considered the proposed Zoning Code Amendment at a publicly noticed hearing and recommended that the City Council approve the Zoning Code Amendment as presented by staff.

EXECUTIVE SUMMARY:

Senate Bill 9 (SB 9) became effective on January 1, 2022 and requires that a local jurisdiction allow ministerial approval of up to two units per lot in single-family zones and/or allow the subdivision of a single-family residentially zoned parcel into two approximately-equal sized parcels (an "urban lot split"), each of which may contain two dwelling units. SB 9 included a provision allowing local jurisdictions to establish development regulations limiting the development of Accessory Dwelling Units (ADUs) in conjunction with an urban lot split so that no more than two units of all types could be constructed on each lot (four units total). On December 13, 2021, the City Council adopted an urgency Ordinance (#7384) to establish development standards for such

projects, consistent with SB 9, to ensure that the two units per lot limitation would be in effect when the statute became effective on January 1, 2022. The proposed Zoning Code Text Amendment would codify the standards adopted under urgency Ordinance #7384 by adoption of a new regular ordinance.

BACKGROUND:

The Legislative Policy Committee received an overview of SB 9 on September 28, 2021. Committee members expressed concern related to the potential impacts to the City's single-family neighborhood character and support for developing local regulations that comply with SB 9 in order to minimize possible impacts to affected neighborhoods.

The Planning Commission and Urban Forestry Advisory Commission (UFAC) both held study sessions on November 10, 2021. UFAC members discussed concerns over the bill and impacts to the City's urban forest as a result. They suggested strengthening existing provisions of the Tree Protection Ordinance to ensure that preservation of existing trees remains a priority. The Planning Commission members discussed the issues at length and expressed concern over the possible impacts to single-family neighborhoods and the context/character of the development patterns that exist.

On December 13, 2021, the City Council considered and adopted urgency Ordinance #7384, which established development standards for the construction of multiple primary dwellings on single-family zoned properties, which was effective for 45 days. On January 10, 2022, the City Council adopted an extension to the urgency ordinance (Ordinance #7385) which remains in effect until December 12, 2022, or until development standards are formally codified, whichever occurs first.

Pursuant to the urgency Ordinance, the following development standards were established:

- A requirement to limit the size of new units to 800 square feet for projects that cannot comply with existing single-family development standards;
- A one-story height limitation for projects that cannot comply with existing single-family development standards;
- Requirement for one parking space per new primary dwelling unit, with exemptions as required under SB 9;
- Requirement of an owner-occupancy affidavit for Urban Lot Split applications;
- Landscaping requirements to ensure sufficient open space including the retention of existing trees on-site or planting of new trees;
- Allowing Urban Lot Splits ministerially on sites developed with a single-family dwelling;
- Specifying that sites with existing ADUs and/or JADUs are not eligible for an Urban Lot Split or development of residential projects pursuant to SB 9;
- Specifying that a project involving an Urban Lot Split and development of two primary dwellings on a lot pursuant to SB 9 may not include new ADUs and/or JADUs;

- Specifying that short-term rental of duplex units developed pursuant to SB 9 is not permitted; and
- Specifying that sites within historic districts, landmark districts, and individually designated historic landmark properties are ineligible for development pursuant to SB 9.

On April 13, 2022, staff brought forward a Zoning Code amendment to codify the development standards established under urgency Ordinance #7384 for review by the Planning Commission at a publicly noticed hearing. The Planning Commission considered the proposed Zoning Code amendment and unanimously recommended approval, as presented by staff.

ANALYSIS:

Subsequent to the Planning Commission hearing on April 13, 2022, staff identified clarifications to the existing language intended to ensure compliance with SB 9. Therefore, staff recommends codifying the above standards with modifications to language for clarity, including:

Number of Primary Residences Permitted

Clarification on the number of primary units that shall be permitted on a RS-zoned parcel as well as number of residential units (of any type) permitted on undivided lots

Current development standard:

~~(5) Two dwellings (Duplex Units) may be developed in RS zones subject to the underlying zoning district standards as well as Section 17.22.050.G and Section 17.22.050.H. Short term rentals of less than 30 days are prohibited. Accessory Dwelling Units and Junior Accessory Dwelling Units are prohibited in conjunction with an Urban Lot split as defined in Section 16.08.240.~~

Proposed development standard:

(5) Up to two primary residences (Two-Unit Developments) may be developed in RS zones subject to the underlying zoning district standards as well as Section 17.22.050.G and Section 17.22.050.H. Short-term rentals of less than 30 days are prohibited. New Accessory Dwelling Units and Junior Accessory Dwelling Units are prohibited on lots created by an Urban Lot split as defined in Section 16.08.240 that utilize the Two-Unit Development provisions, and only two units of any type, including but not limited to ADUs, JADUs, single-family houses, and duplexes, may be located on any lot created by an Urban Lot Split.

Historic and Landmark Districts

Emphasizing that the development of multiple primary residences is not permitted within historic districts, which include Landmark districts.

Current development standard:

G. Duplex Units in Single-Family Residential Zones. ~~In addition to the requirements of Section 17.22.040 (Residential Districts General Development Standards), additional development and design standards related to Duplex Units (whether attached or detached) apply to all single-family zoned properties, excluding properties in historic districts, LD (Landmark District), and individually designated historic landmark properties. Duplex Units are prohibited within the aforementioned Landmark Districts and on properties with individually designated landmarks.~~

Proposed development standard:

G. Duplex Units Two-Unit Developments in Single-Family Residential Zones. In addition to the requirements of Section 17.22.040 (Residential Districts General Development Standards), additional development and design standards related to Two-Unit Developments (whether attached or detached) apply to all single-family zoned properties. Construction of Two-Unit Developments in single-family residential zones pursuant to Government Code Section 65852.21 is prohibited on historic sites and sites that fall within historic districts, which include (1) an historic district or property listed on either the National Historic Register or State Historic Resources Inventory, (2) an individual historic landmark property designated pursuant to the City's Historic Preservation Ordinance, or (3) a Landmark District (LD overlay zone) designated pursuant to the City's Historic Preservation Ordinance. A Landmark District is a grouping of properties that represents a significant and distinguishable entity of Citywide importance that is united historically by past events or aesthetically by plan or development and represents one or more of a defined historic, cultural, development and/or architectural context(s).

Urban Lot Splits

Parcels created through an Urban Lot Split shall be limited to the development of no more than two dwelling units. This would assure that no more than four total units may be built within the original, pre-split lot area of parcels created through an Urban Lot Split:

Current development standard:

~~An Urban Lot Split is not permitted on a parcel with one or more Accessory Dwelling Units.~~

Proposed development standard:

In no circumstance may an Urban Lot Split result in more than 2 residential units on any lot, inclusive of Accessory Dwelling Units and Junior Accessory Dwelling Units.

Tree Canopy Requirement

Refining the tree canopy requirements to provide additional scenarios for retaining trees on sites developed under SB 9:

Current development standard:

~~Project must include the retention of at least two existing trees of at least 19 DBH on-site. Sites without two existing trees of 19 DBH must provide at least two 24-in box trees to satisfy this requirement, selected from the City's Native and Protected Species list.~~

Proposed development standard:

Project must include at least two trees, each of which meets one of the following:

- 1) Retention of a tree of at least 19" DBH on-site.
- 2) Retention of a tree from the City's Native and Protected Species list that meets the minimum protected size.
- 3) A new 24-in box tree selected from the City's Native and Protected Species list.

ENVIRONMENTAL ANALYSIS:

SB 9 included a provision explicitly stating that an ordinance adopted by a local agency to implement provisions of SB 9 shall not be considered a project under Division 13 of the Public Resources Code. Government Code Section 65852.21 and 66411.7 explicitly state that ordinances such as the one proposed here, adopted in order to implement state law, would not constitute a "project" under CEQA. Therefore, staff recommends that the City Council find that the proposed Zoning Code amendment does not require review under the provisions of CEQA.


CONCLUSION AND RECOMMENDATION:

Staff recommends a new regular ordinance to codify the standards adopted under the urgency Ordinance with clarifications intended to ensure alignment with State law, in advance of the December 2022 expiration date of the urgency Ordinance.

FISCAL IMPACT:

This action will not have a direct fiscal impact.

Respectfully submitted,




DAVID M. REYES
Director of Planning & Community
Development Department

Prepared by:



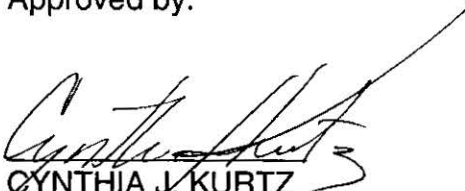
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Reviewed by:



David Sanchez
Principal Planner

Approved by:



CYNTHIA J. KURTZ
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Attachments: (2)

Attachment A – Findings for Zoning Code Amendments
Attachment B – Planning Commission Staff Report (4/13/22)