



CITY OF SAN MATEO

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Agenda Report

Agenda Number: 1

Section Name: {{section.name}}

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TO: City Council
FROM: Drew Corbett, City Manager
PREPARED BY: Community Development Department
MEETING DATE: February 22, 2022
SUBJECT:
New State Housing Law Senate Bill (SB) 9

RECOMMENDATION:

Receive an update on State Senate Bill (SB) 9 and provide direction to staff on what development standards to include in the City's anticipated SB 9 ordinance.

BACKGROUND:

On September 16, 2021, Governor Newsom signed Senate Bill 9 (SB 9) into law to help address the housing crisis. Effective January 1, 2022, SB 9 requires local agencies to ministerially¹ approve certain residential subdivisions and housing development projects that allow for the development of additional units within single-family residential zones.

This report provides an overview of SB 9 and the new development standards that are now applicable to properties within the City. Staff is seeking direction from the City Council on key areas of the new development standards where local agencies can exercise discretion within the confines of State law.

SENATE BILL 9 (SB 9):

SB 9 requires local agencies to ministerially approve up to two residential dwelling units, such as duplexes, in single-family zoned areas. The legislation also amends Government Code Section 66411.7 to require the ministerial approval of certain two-lot residential subdivisions (i.e. lot splits). Projects that meet SB 9 qualifying criteria and requirements (as outlined below) must be approved ministerially and are not subject to the California Environmental Quality Act (CEQA) nor local General Plan or Municipal Code density limits. The City may not deny eligible SB 9 projects unless certain findings pertaining to adverse impacts to codified objective, public health or safety standards are made and where there is no feasible method for mitigation.

For the creation of a duplex or additional dwelling unit on a single-family zoned property, the project property must meet the following qualifying criteria:

1. Zoned single-family residential (i.e. R1-A, R1-B or R1-C);
2. Not located in a historic district or included on the State Historic Resources Inventory;
3. Not located in specified resource lands or hazard areas per Government Code Sections 65913.4(a)(6)(B-K);
4. Has not been occupied by a tenant within the last three (3) years;
5. Does not involve the demolition of any affordable or rent controlled housing; and
6. Does not involve the demolition of more than 25 percent of any existing exterior walls for any market rate or other housing unit.

¹ A ministerial permit is a permit granted at staff level with no environmental review, public hearing, or discretion, provided the project complies with established objective zoning and building code standards.

State law dictates the following standards for the addition of a second residential unit (standalone or as part of a duplex) and for lot splits.

Residential Unit (or Duplex) Requirements

1. Setbacks:
 - Maximum four-foot side and rear yard setback.
 - No setbacks are required for units constructed in the same location and dimensions of an existing legal structure or within an existing living area.
2. Parking:
 - Up to one off-street parking space per unit can be required.
 - No parking is required for sites located within a half-mile distance of a high-quality transit corridor (e.g. El Camino Real), major transit stop², or within one block of a carshare vehicle.
3. Short-Term Rentals:
 - Short Term Rentals, which are rentals of less than 30 consecutive calendar days, are prohibited for units created under SB 9.
4. Objective Standards Limitations:
 - Application of objective zoning and design standards are permitted only if they do not preclude a floor area of at least 800 square-feet for either of the two units.

Subdivision (Lot Split)

1. Parcel Size:
 - Creation of two parcels that are each at least 1,200 square-feet in size (i.e. original parcel must be at least 2,400 square-feet in size).
 - Each resulting new parcel may not be smaller than 40 percent of the original parcel size.
2. Parcel Width and Depth:
 - Existing standards under San Mateo Municipal Code Section 27.18.040 and Section 26.20.050 still apply so long as they do not preclude the proposed lot split subdivision.
3. Parcel Access:
 - Newly created parcels shall have access to, provide access to, or adjoin the public right-of-way.
4. Easements:
 - Easements necessary for the provision of public services and facilities may be required by local agencies.
5. Right-of-Way Dedications:
 - Local agencies may not require right-of-way dedications or construction of offsite improvements.
6. Correction of Nonconformities:
 - The correction of existing nonconforming zoning conditions may not be required by local agencies nor imposed as a condition of project approval.
7. Sequential Lot Splitting Prohibited:
 - Parcels may not be created from a prior lot split under SB 9.

DISCUSSION ITEMS FOR CITY COUNCIL INPUT

Staff will be preparing amendments to the Zoning Code to establish updated development standards for SB 9 projects and to ensure consistency with the mandatory requirements of this new State law. Staff is seeking direction from the Council on areas of the State law outlined below where local jurisdictions have discretion to establish their own development standards.

Demolition

Under the provisions of SB 9, no more than 25 percent of existing exterior walls may be demolished for the creation of a

² A major transit stop either an existing rail or bus rapid transit station or a bus stop that has an intersections of two or more bus routes with a 15-minute or less service interval during the morning and afternoon peak commute hours (PRC 21064.3)

new duplex or dwelling unless otherwise permitted by local ordinance. The 25% demolition limit does not apply to SB 9 projects that propose a lot split.

Currently, the substantial demolition or removal of a residence (defined as the removal of 50% or more of a structure's exterior walls and/or roof) requires the issuance of a discretionary Special Use Permit (SUP) per Municipal Code Section 27.18.035. Demolition projects not considered to contain substantial removal or demolition are approved ministerially through a building permit.

Discussion Item: Should the 25 percent demolition limit established by SB 9 remain, or should it be increased? If increased, to what extent/percentage should the demolition limit be increased?

ADUs/JADUs

Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) are currently permitted by right in single-family residential zoned areas. However, SB 9 provides that cities are not required to permit an ADU or a JADU when property owners are utilizing both Government Code Section 66452.21 to build a duplex and Government Code Section 66411.7 to create two parcels with an urban lot split.

Absent an ADU or JADU, each parcel resulting from an SB 9 lot split and duplex would be permitted to have up to two units. With an ADU and JADU, each parcel resulting from an SB 9 lot split and duplex would be permitted to have up to four units (two main units plus one ADU and one JADU).

Discussion Item: Should ADUs and/or JADUs should be permitted on lots created by an SB 9 lot split with an SB 9 duplex?

Floor Area Limits

Municipal Code Section 27.18.060 (Floor Area Ratio) sets different floor area ratio (FAR) limitations for single-family zoned parcels as outlined below:

- R1-A Zoning District
 - 0.4 FAR for parcels less than or equal to 10,000 square feet plus 0.2 for additional parcel area over 10,000 square feet up to a maximum of 6,000 square-feet.
- R1-B and R1-C Zoning Districts
 - 0.5 FAR for parcels of less than or equal to 6,000 square feet plus 0.2 for additional parcel area over 6,000 square feet up to a maximum of 6,000 square-feet.

The City has the ability to set additional or different floor area limitations for new units created as part of an SB 9 project so long as the limits allow for at least 800 square feet of floor area per unit. Different floor area limitations could potentially be used to incentivize certain SB 9 development (i.e. duplexes vs. lot splits).

Discussion Item: Should the floor area limit for duplex units or lots created by SB 9 be increased or decreased, or maintained as is currently allowed by the Zoning Code?

Map Extensions

SB 9 also authorizes cities to provide for a longer initial term for tentative maps approved pursuant to its provisions. The City's Subdivision Ordinance currently provides two years after tentative map approval to record the final map (Municipal Code Section 26.48.135). In addition, Section 26.48.135 allows applicants to apply for up to three (3) two-year extensions, which allows for a tentative map to have up to eight years before expiring.

SB 9 has amended Government Code Section 66452.6(a) to allow cities to adopt ordinances extending the initial expiration date of a tentative map up to four years. If the City were to extend the initial expiration date to four years, that would allow tentative maps to have up to ten years before expiring. If a project contains a vesting tentative map, the project would not be subject to current local standards and regulations but the standards in effect when the map was initially deemed complete.

Discussion Question: Should the initial term for an approved tentative map for an SB 9 lot split remain at two years, or be increased to three or four years?

Public Noticing

SB 9 requires ministerial approval of certain lot splits and/or up to two dwelling units (i.e. duplexes) on single-family zoned parcels. SB 9 does not require that public notice be provided for these ministerial decisions. For discretionary land use decisions, the City provides mailed notice to nearby properties, as outlined in Municipal Code Section 27.08.050. The City also has a current practice for noticing ministerial building permits of small second-story additions to existing two-story single-family residences pursuant to Municipal Code Section 27.08.032(b).

Discussion Item: Should notification be provided to nearby properties of a ministerial SB 9 decision prior to the project's decision date? Any potential notification provided for an SB 9 project would be informational in nature only as ministerial permits are not subject to discretionary review. If notification is provided, should it be similar to the existing ministerial noticing practice for small second story additions currently in effect?

NEXT STEPS:

Based on the input by the general public and the City Council, staff will begin preparing amendments to the Zoning Code to establish development standards for SB 9 projects. Staff will continue to maintain the existing resource page on the City's website to provide information on SB 9 and the development standards established by State law and engage in community outreach. Staff anticipates bringing the Zoning Code amendments to the Planning Commission in the spring of 2022 and City Council by summer of 2022.

BUDGET IMPACT:

Depending on the nature of the Council's direction, the costs associated with the research and development of the necessary code amendments and/or policies would be covered under the Community Development Department's existing operating budget. However, if the direction results in the need to retain outside consultants to complete the work, the associated costs will require further evaluation to determine the appropriate funding source.

ENVIRONMENTAL DETERMINATION:

In accordance with Public Resources Code Section 21065, this item is not subject to CEQA, because it is an informational study session item that the City Council is not taking action on at this time.

NOTICE PROVIDED:

All meeting noticing requirements were met.

ATTACHMENTS

Att 1 – Zoning Map (R1 Districts, One Family Dwellings)

Att 2 – Senate Bill 9

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