



STAFF REPORT

AGENDA NO: 10b

MEETING DATE: October 18, 2021

To: Honorable Mayor and City Council

Date: October 18, 2021

From: Kevin Gardiner, Community Development Director – (650) 558-7253

Subject: Update on Senate Bill (SB) 9 and SB 10

RECOMMENDATION

Staff requests that the City Council receive an update and provide direction on the proposed work plan for complying with Senate Bill (SB) 9 and SB 10.

BACKGROUND

California Senate Bill (SB) 9 requires ministerial (staff-level) approval of certain housing development projects containing up to two dwelling units (i.e., duplexes) on a single-family zoned parcel. The legislation also requires ministerial approval of certain lot splits to allow property owners to construct up to two units on the newly created lots. SB 9 was passed by the California Legislature on September 1st and takes effect January 1, 2022.

California Senate Bill (SB) 10 allows (but does not require) local agencies to adopt an ordinance to allow up to 10 dwelling units on any parcel if the parcel is within a transit-rich area or urban infill site.

DISCUSSION

SB 9 Summary. SB 9 requires housing development projects containing no more than two dwelling units on a single-family zoned parcel to be permitted on a ministerial (staff-level) basis, upon satisfaction of a number of qualifying criteria that include the following:

- The project site is zoned Single Family Residential.
- The project site is not within a very high fire severity zone, a hazardous waste or hazardous list site, within a delineated earthquake fault zone, or within a 100-year flood zone.
- The project would not require demolition or alteration of any housing that has been occupied by a rental tenant in the last three years.
- The project site cannot have been withdrawn from the rental market (i.e., under the Ellis Act) within the past 15 years.

Objective zoning, subdivision, and design review standards¹ may be imposed provided:

- Such objective standards do not preclude the construction of either of the two units being less than 800 square feet in floor area.
- No setbacks are required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure. In other circumstances, four-foot side and rear yard setbacks may be required.
- Parking of no more than one space per dwelling unit is specified, except no parking is required for projects a) within a half-mile walking distance of a high-quality transit corridor or a major transit stop or b) within one block of car share. El Camino Real is considered a high-quality transit corridor, and the Burlingame Caltrain and Millbrae BART/Caltrain stations are considered major transit stops.
- The rental of any unit created must be for a term longer than 30 days (no short-term rentals allowed).
- Individual units may be either attached (duplex) or detached (cottages), provided the structures meet building code safety standards and are sufficient to allow separate conveyance.

Projects that conform to the objective zoning, subdivision, and design review standards shall be approved ministerially, and are not subject to the California Environmental Quality Act (CEQA).

Lot Splits. In addition to permitting two units on a single family lot, the legislation requires qualifying lot splits to be approved ministerially pursuant to a parcel map, upon meeting a number of criteria, including many of the same criteria for the two units described above. Additional criteria include the following:

- Each parcel must be at least 40 percent of the original parcel's size.
- Each parcel must be at least 1,200 square feet in lot size.
- There cannot be a sequential lot split on the same parcel, nor can there be a lot split if the owner of the parcel being subdivided (or someone working in concert with that owner) has subdivided an adjacent parcel pursuant to this lot split legislation.
- No right-of-way dedication or off-site improvement may be required. However, easements for public services and facilities, and/or access to the public right-of-way may be required as conditions of approval.
- The parcel must be limited to residential use.
- An affidavit that the applicant intends to use one of the housing units as a principal residence for at least three years from the date of approval is required.
- A condition that requires correction of nonconforming zoning conditions shall not be imposed.
- Accessory dwelling units (ADUs) or Junior ADUs (JADUs) may be restricted if there is a lot split.

¹ The terms "objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.

In addition to the increase in density in single-family zones and lot splits in single-family zones, SB 9 increases the extension of a map life from 12 months to 24 months and allows four years of extensions in lieu of three years for subdivision maps with off-site improvements above qualifying costs (Gov't Code Sec. 66452.6).

The Planning Division has created an informational web page with the summary above at www.burlingame.org/sb9.

SB 9 Regulations Work Plan. Staff is proposing a two-phase work plan for complying with SB 9:

- **Phase 1 (Fall 2021)** would incorporate basic objective development standards into the ongoing Zoning Ordinance Update. Standards will be based on existing R-1 standards for building size, lot coverage, setbacks, and building height (unless conflicting with standards summarized above) so that new projects would retain the “house scale” of the neighborhoods. The intent is to have basic standards adopted prior to the SB 9 legislation taking effect on January 1, 2022.
- **Phase 2 (Spring 2022)** would refine the basic standards to further reflect the building patterns particular to Burlingame's neighborhoods. This phase will focus on detailed objective design standards, and will involve community engagement.

Staff requests that the City Council consider this work plan and provide input.

SB 10. California Senate Bill (SB) 10 allows (but does not require) local agencies to adopt an ordinance to allow up to 10 dwelling units on any parcel if the parcel is within a transit-rich area or urban infill site.

The General Plan Update has already provided a range of multiunit residential and mixed use land use districts with a wide range of residential densities, and the Zoning Ordinance Update underway will provide refined development standards for the corresponding zoning districts.

Staff requests direction from the City Council on whether to pursue zoning allowed by SB 10. Whereas SB 9-compliant zoning is required, municipalities may choose to adopt (or not adopt) SB 10-compliant zoning.

FISCAL IMPACT

None.

Exhibits:

- SB 9
- SB 10