



County of San Mateo

Inter-Departmental Correspondence

Department: PLANNING AND BUILDING

File #: 22-049

Board Meeting Date: 1/25/2022

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Steve Monowitz, Community Development Director

Subject: Information Item: A briefing on Senate Bill 9 (SB 9), a new state law effective January 1, 2022, which imposes new requirements and limitations on the County's consideration and approval of subdivisions and residential development on parcels zoned for single-family residential use.

RECOMMENDATION:

Informational briefing on Senate Bill 9 (SB 9), a new state law effective January 1, 2022, which imposes new requirements and limitations on the County's consideration and approval of subdivisions and residential development on parcels zoned for single-family residential use.

BACKGROUND AND DISCUSSION:

In the 2021 legislative session, the California legislature adopted SB 9, which amends the Government Code to establish new requirements for, and limitations on, local jurisdictions' processing, review, and approval of development and/or subdivision of parcels zoned for single-family residential use. In general, the law requires jurisdictions to ministerially approve development of up to two units on an eligible parcel, and to ministerially approve a subdivision of an eligible parcel, subject to the standards established in the law. The provisions of the law are as follows:

Eligible Parcels. The law applies to all single-family zoned parcels within a designated *urbanized area* or *urban cluster*, as defined by the United States Census Bureau; the entire unincorporated County east of Highway 280 is within an urbanized area, and the urban Midcoast is within an urban cluster (although applicability in the Coastal Zone is limited, as described below). The relevant districts in the unincorporated County are R-1, RH, RE, and R-1/CCP, regardless of applicable overlay (S) districts.

Residential Development on Single-Family Parcels. Proposed development of up to two units on eligible parcels must be reviewed and approved ministerially, relying on objective development standards only, without public hearings. All objective local zoning and other standards may be

applied, but standards may not preclude the development of at least two 800 square foot units, with no greater than four foot-setbacks. Only one parking space per unit may be required, and there are additional parking exceptions for projects near transit or meeting certain other conditions.

Subdivision of Residential Parcels. Proposed subdivision of a single-family zoned parcel must also be considered ministerially, based on objective standards, without public hearings. Because such subdivisions are considered ministerial, they are also exempt from environmental review. The subdivided parcel must result in no more than two parcels of at least 1,200 sq. ft. each, and neither parcel may be smaller than 40 percent of the original parcel size. Parcels created by subdivision per SB 9 may not be subsequently subdivided again pursuant to SB 9. The law also extends the expiration period of tentative subdivision maps from 12 to 24 months. Parcels created through SB 9 may only be developed with residential uses.

Development of Lots Subdivided Per SB 9. Lots created through SB 9 may each be subsequently developed with two units, potentially resulting in four new units from an initial single parcel.

Applicability in the Coastal Zone. SB 9's application within the coastal zone is very limited. All coastal zone land use regulations continue to apply, except that the law specifies that a local agency shall not be required to hold public hearings for coastal development permits for SB 9 projects. However, the County is free to continue to hold public hearings.

Other Provisions.

- SB 9 lot splits and two-unit housing development projects must 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.
- The subject property cannot be a designated local or state historic landmark, or located within a local or state historic district.
- Units created through SB 9 may not be used for short-term rentals of less than 30 days.
- Parcels may not contain prime agricultural land, wetlands, protected species habitat, or land subject to a conservation easement. Parcels may be located in a very high fire hazard severity zone, earthquake fault zone, floodplain, floodway, or contain hazardous materials if they meet certain conditions.
- An SB 9 lot split applicant must sign an affidavit stating that they intend to live in one of the units for three years, unless the applicant is a community land trust or qualified nonprofit corporation.
- In all cases, a local agency can deny an otherwise qualified urban lot split or two-unit housing development project if the building official determines that the project would have a specific, adverse impact on public health and safety or the physical environment that cannot be mitigated.

County SB 9 Resources. The Planning and Building Department has created an SB 9 guidance page, which is available here: <https://planning.smcgov.org/press-release/senate-bill-9-summary>. The Department has also created a mapping application to help potential applicants determine the possible eligibility of their parcel for development pursuant to SB 9, available here:

<https://smcmaps.maps.arcgis.com/apps/webappviewer/index.html?id=55d03b795c264025aa5b2bf51601cdcb>

Local Implementing Ordinance. SB 9 allows jurisdictions to adopt a local ordinance establishing implementing standards and procedures, or to directly implement state law. The Planning and Building Department will monitor the impacts of SB 9 and issues in implementation as applications are received and will update the Board on the advisability of a County-specific ordinance.

ATTACHMENTS:

A. Text of Senate Bill 9