PLANNING AND ENVIRONMENTAL QUALITY COMMISSION

Regular PEQC Meeting Notice and Agenda

Website: www.cityofgardena.org

Tuesday, December 7, 2021 – 7:00 PM

1700 W. 162nd Street, Gardena, California

In order to minimize the spread of the COVID 19 virus Governor Newsom has signed Assembly Bill 361 that temporarily suspend requirements of the Brown Act. Gardena Board/Commission/Committee Members may attend this meeting telephonically.

The City of Gardena, in complying with the Americans with Disabilities Act (ADA), requests individuals who require special accommodations to access, attend and/or participate in the City meeting due to disability, to please contact the City Clerk's Office by phone (310) 217-9565 or email publiccomment@cityofgardena.org at least 24 hours prior to the scheduled general meeting to ensure assistance is provided. Assistive listening devices are available.

The City of Gardena thanks you in advance for taking all precautions to prevent spreading the COVID 19 virus.

STANDARDS OF BEHAVIOR THAT PROMOTE CIVILITY AT ALL PUBLIC MEETINGS

- Treat everyone **courteously**;
- Listen to others **respectfully**;
- Exercise **self-control**;
- Give **open-minded** consideration to all viewpoints;
- Focus on the issues and **avoid personalizing debate**; and
- **Embrace respectful disagreement** and dissent as democratic rights, inherent components of an inclusive public process, and tools for forging sound decisions.

Thank you for your attendance and cooperation.

PARTICIPATE DURING THE MEETING VIA ZOOM

- Join Zoom Meeting Via the Internet or Via Phone Conference: https://us02web.zoom.us/j/89825345902
- Via Phone Conference Phone number: US +1 669 900 9128, Meeting ID : 898 2534 5902
  Press *9 to Raise Hand and *6 to unmute when prompted.
- If you wish to speak on a specific agenda item during the meeting you, may use the "Raise your Hand" feature during the item you wish to speak on. For Non-Agenda Items you will be allowed to speak during Oral Communications. Members of the public wishing to address the Commission/Committee/Board will be given three (3) minutes to speak.

1. **CALL MEETING TO ORDER**

2. **ROLL CALL**
   1. Steve Sherman
   2. Deryl Henderson
   3. Stephen Langley
   4. Dale Pierce
   5. Jules Kanhan

3. **APPROVAL OF MINUTES**
   NONE

4. **ORAL COMMUNICATIONS**
   This is the time where the public may address the Planning Commission on items that are not on the agenda, but within the Planning Commission's jurisdiction. Comments should be limited to three minutes.

5. **PUBLIC HEARING ITEMS**

   5.A **URGENCY ORDINANCE NO. 1838 AND ORDINANCE NO. 1839**

   Consideration of an Ordinance adopting changes to Title 17 (Subdivisions) and Title 18 (Zoning) of the Gardena Municipal Code relating to the implementation of Senate Bill 9 allowing the subdivision of single-family residential lots into two and the creation of two residential units per lot as mandated by State law. The changes are proposed to be adopted as an Urgency Ordinance as well as a regular Ordinance. The adoption of these Ordinances are not a project under the California Environmental Quality Act pursuant to California Senate Bill 9. The Planning Commission will make a recommendation to the City Council.

   Staff Report (SB 9).pdf
   Attachment A: Resolution No. PC 14-21.pdf
   Exhibit A: Draft Ordinance No. 1839.pdf
   Exhibit B: Draft Ordinance No. 1838.pdf
   Attachment B: SB 9 Text.pdf
   Public Comment.pdf

6. **COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

7. **PLANNING & ENVIORNMENTAL QUALITY COMISSIONERS' REPORTS**

8. **ADJOURNMENT**
   The Planning and Environmental Quality Commission will adjourn to the next meeting at 7:00pm on December 21, 2021.
   I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted in the City Hall lobby not less than 72 hours prior to the meeting. A copy of said Agenda is available on our website at www.CityofGardena.org.
   Dated this 2nd day of December 2021.

   /s/ GREG TSUJIUCHI
   Greg Tsujiuchi, Secretary
   Planning and Environmental Quality Commission

CITY OF GARDENA
PLANNING AND ENVIRONMENTAL QUALITY COMMISSION

STAFF REPORT
RESOLUTION NO. PC 14-21

AGENDA ITEM # 5.A

DATE:	December 7, 2021
TO:	Chair Langley and Members of the Planning and Environmental Quality Commission
FROM:	Greg Tsujiuchi, Community Development Director
CASE PLANNER:	Greg McClain, Special Project Planner
APPLICANT:	City of Gardena
LOCATION:	Citywide
REQUEST:	Recommend approval of Ordinance Amending Gardena Municipal Code Titles 17 and 18 relating to Urban Lot Splits and Two-Unit Housing Developments in accordance with SB 9 (Ch. 162)

BACKGROUND

On September 16, 2021, Governor Newsom signed SB 9 into law which adds two new sections to the Government Code relating to the development of multiple units on a single-family residential lot and lot splits. Section 65852.21 requires a local agency to ministerially approve a housing development of no more than 2 residential units (either 2 new or 1 new in addition to an existing unit) within a single-family residential zone without discretionary review or a hearing when the proposed development meets all of the listed requirements. Similarly, § 66411.7 requires a local agency to ministerially approve a parcel map for a lot split in the single-family zone when the map meets all of the listed requirements. The effect of SB 9 is to allow up to four units on a lot where there once was one in single-family residential zones.

Despite these provisions, it has been predicted that SB 9 will not have as much impact as feared. Because of how houses are situated on existing lots, it would be difficult to place four units on a developed lot without demolition of the existing structure. Many people be hesitant to destroy their existing single-family home and SB 9 prohibits demolition or alteration of a structure if it has been rented out within the last three years and allows the city to limit demolition of more than 25 percent of existing exterior structural walls in other circumstances. SB 9 also prohibits owners from repeatedly subdividing property and prohibits developers or owners from acting in concert with others to successively develop adjacent properties.

While the Planning Commission does not normally review and make recommendations on subdivision ordinances, the changes mandated to Titles 17 and 18 are identical in certain respects and therefore combined into the one Ordinance.

The draft Ordinance includes the provisions set forth in the statute. The following areas are where flexibility is allowed and what staff has recommended in the draft ordinance:

ISSUE	**STAFF RESPONSE/COMMENT**
City can allow property owner to demolish more than 25% of existing exterior walls for owner occupied property.	Maintain the 25% limit on demolition of exterior walls.
Parking – standards. Can only require one space if not near public transit.	Just require one space without requiring it be enclosed. Enclosed spaces often turn into illegal rental units.
Can allow ADUs and JADUs in addition to the 2 dwelling units per lot.	Do not allow ADUs and JADUs in addition to the 2 units as allowed by statute.
Can adopt a smaller minimum lot size than 1,200 square feet.	Do not reduce the minimum lot size any further than 1,200 square feet.
Can impose objective development and subdivision standards.	See discussion below.

If an application for a two-unit development or a two-lot subdivision meets the listed requirements, the only way that the application can be denied is if the building official finds by a preponderance of the evidence (more than 50%) that the project would have a specific, adverse impact on the public health or safety or the physical environment and there is no feasible method to satisfactorily mitigate or avoid the impact. A “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

OBJECTIVE STANDARDS

Flag lots are not permitted.

A flag lot is a lot behind another lot with a long segment extending along one side of the front lot to connect the rear lot to the street. Typically, the extension is only as wide as a driveway, which gives the resulting lot the appearance of a flag on a flagpole when it is mapped. Since the purpose of the extension is to connect the rear lot to the street for vehicular access, the base of the “pole” will have a curb cut and apron built in the public right-of-way. In situations where land allows, an urban lot split including in a flag lot will likely result in two driveways with curb cuts where previously there was only one. Each new curb cut removes at least one street parking space available to the neighborhood, so Staff recommends prohibiting flag lots in favor of requiring subdividers to create an access easement over the front property’s driveway for the rear property to access the street.

Landlocked parcels created by an urban lot split shall have an access easement over the other parcel on the same map. The easement shall be not less than 10 feet in width and must connect to the same curb cut and apron as the other parcel on the same map.

As stated above, this is preferred to flag lots as a means to preserve as many existing street parking spaces as possible.

The front setback shall be 20 feet on a lot that fronts on a street, except on lots where the street-facing side (width) is longer than the depth, in such case the setback from the street-facing lot line shall be 10 feet.

This rule is intended for lot splits of what are formerly corner lots. In those cases, prior to the lot split the front yard is defined as the shorter side of the two facing streets. If the lot is split roughly in half so that the rear half has a property line along the side street, it ends up with its front lot line often wider than its side lot lines. In that case if a 20-foot setback is applied there will be almost no room left to build on. Therefore, this rule allows 10-foot front setback in those circumstances.

For landlocked parcels side yard setbacks shall apply to all property lines.

For lots that have no direct access to a street except by easement over another lot (landlocked), this rule states that all property lines are treated as side property lines. This is more practical than trying to make rules to declare which way is front or rear.

On landlocked lots, a residential structure shall maintain a separation of 8 feet to all other habitable structures from its front-facing facade. Front-facing facade shall be defined for this purpose as the building side most closely parallel to the plane of the main entrance doorway.

This standard is designed to provide some semblance of open space like a front yard without declaring exactly where that is on the lot, but instead aligning it to the residential main entrances.

Lot coverage shall not exceed 75 percent.

This is more generous than the lot coverage of the R-1 zone generally, which is 50 percent. It was thought that 50 percent would inevitably be identified as an impediment to achieving the minimum allowed units required by SB 9. Since the front setbacks for lots facing the street will remain 20 feet, this additional lot coverage should have little or no visual impact to the neighborhood.

NOTICING

The public hearing notice was published in the Gardena Valley News on November 25, 2021. A copy of Proof of Publication and Affidavit of Mailing are on file in the office of the Community Development Department Room 101, City Hall and are considered part of the record.

RECOMMENDATION

Staff recommends the Planning and Environmental Quality Commission to:

1) Open the public hearing;
2) Receive testimony from the public; and
3) Adopt Resolution PC 14-21 recommending that the City Council adopt Ordinance No. 1839 Amending Titles 17 and 18 of the Gardena Municipal Code relating to urban lot splits and two-unit housing developments and also adopt the Ordinance as an Urgency Ordinance No. 1838 to put standards into place immediately.

ATTACHMENTS

A – Planning Commission Resolution No. PC 14-21

Exhibit A – Draft Ordinance No. 1839

Exhibit B – Draft Urgency Ordinance No. 1838

B – Senate Bill 9 Text

ATTACHMENT - A

RESOLUTION NO. PC 14-21

A RESOLUTION OF THE PLANNING AND ENVIRONMENTAL QUALITY COMMISSION OF THE CITY OF GARDENA, CALIFORNIA, RECOMMENDING THAT THE GARDENA CITY COUNCIL APPROVE AN ORDINANCE AMENDING GARDENA MUNICIPAL CODE TITLES 17 AND 18 RELATING TO URBAN LOT SPLITS AND TWO-UNIT HOUSING DEVELOPMENTS IN ACCORDANCE WITH SB 9 AND ALSO ADOPT THE ORDINANCE AS AN URGENCY ORDINANCE TO PUT STANDARDS INTO PLACE IMMEDIATELY

WHEREAS, on September 16, 2021, the Governor approved Senate Bill 9 (SB 9, Chapter 162) relating to the creation of two residential units per lot which requires local agencies to ministerially approve housing development containing no more than two residential units per lot and ministerially approve an urban lot split; and

WHEREAS, SB 9 will take effect on January 1, 2022; and

WHEREAS, SB 9 allows local agencies to impose objective zoning, subdivision, and design standards; and

WHEREAS, given that SB 9 was not signed until mid-September, there was insufficient time to process this ordinance through noticed hearings before the Planning Commission and City Council and have the ordinance in place by January 1, 2022; and

WHEREAS, the public is already beginning to express interest in developing under this new law and it is necessary to have standards in place to protect the public health and safety; and

WHEREAS, on December 7, 2021, the Planning Commission of the City of Gardena held a duly noticed public hearing on the draft Ordinance at which time it considered all evidence, both written and oral; and

NOW, THEREFORE, THE PLANNING AND ENVIRONMENTAL QUALITY COMMISSION OF THE CITY OF GARDENA, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

The Planning Commission hereby recommends that the City Council adopt the Ordinance and Urgency Ordinance attached hereto as Exhibit A and Exhibit B, amending Titles 17 and 18 of the Gardena Municipal Code relating to urban lot splits and two-unit housing developments and also adopt the Ordinance as an Urgency Ordinance to put standards into place immediately. For all of the reasons set forth in the staff report and as set forth in the Ordinances, the Planning Commission believes that these changes represent good land use practices which are required by public necessity, convenience, and the general welfare.

PASSED, APPROVED, AND ADOPTED this 7th day of December 2021.

STEVE LANGLEY, CHAIRMAN
PLANNING AND ENVIRONMENTAL
QUALITY COMMISSION

ATTEST:

GREG TSUJIUCHI, SECRETARY
PLANNING AND ENVIRONMENTAL QUALITY COMMISSION

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF GARDENA

I, Greg Tsujiuchi, Planning and Environmental Quality Commission Secretary of the City of Gardena, do hereby certify that the foregoing Resolution was duly adopted by the Planning and Environmental Quality Commission of the City of Gardena at a regular meeting thereof, held the 7th day of December 2021, by the following vote:

AYES:
NOES:
ABSENT:

Attachments:

Exhibit A – Draft Ordinance No. 1839

Exhibit B – Draft Urgency Ordinance No. 1838

ORDINANCE NO. 1839

AN ORDINANCE OF THE CITY OF GARDENA, CALIFORNIA, ADOPTING CHANGES TO TITLE 17 (SUBDIVISIONS) AND TITLE 18 (ZONING) IMPLEMENTING SENATE BILL 9 RELATING TO THE CREATION OF URBAN LOT SPLITS AND TWO RESIDENTIAL UNITS PER LOT

WHEREAS, on September 16, 2021, the Governor approved Senate Bill 9 (SB 9, Chapter 162) relating to the creation of two residential units per lot which requires local agencies to ministerially approve housing development containing no more than two residential units per lot and ministerially approve an urban lot split; and

WHEREAS, SB 9 took effect on January 1, 2022; and

WHEREAS, SB 9 allows local agencies to impose objective zoning, subdivision, and design standards; and

WHEREAS, given that SB 9 was not signed until mid-September, there was insufficient time to process this ordinance through noticed hearings before the Planning Commission and City Council and have the ordinance in place by January 1, 2022; and

WHEREAS, the public is already beginning to express interest in developing under this new law and it is necessary to have standards in place to protect the public health and safety; and

WHEREAS, the Planning Commission held a duly noticed public hearing on this Ordinance on December 7, 2021 at which time it considered all evidence presented, both written and oral; and

WHEREAS, after the close of the public hearing the Planning Commission adopted Resolution No. XX recommending that the City Council adopt this Ordinance; and

WHEREAS, the City Council held a duly noticed public hearing on this Ordinance on January 11, 2022 at which time it considered all evidence presented, both written and oral; and

WHEREAS, on January 11, 2022 the City Council also adopted this Ordinance as an Urgency Ordinance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 17.08.270 is hereby added to the Gardena Municipal Code to read as follows:

Section 17.08.270 Parcel Maps for Urban Lot Splits.

A. Definitions. For purposes of this Section, the following definition shall apply:

1. "Urban lot split" means a lot split of a single-family residential lot into two parcels that meets the requirements of this section.

B. The city shall ministerially approve a parcel map for a lot split that meets the following requirements:

1. The parcel is located within a single-family residential zone.

2. The parcel map divides an existing parcel to create no more than two new parcels of approximately equal lot area, provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel.

3. Both newly created parcels are no smaller than 1,200 square feet.

4. The parcel is not located in any of the following areas and does not fall within any of the following categories:

a. A historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city landmark or historic property or district pursuant to a city ordinance.

b. A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Health and Safety Code section 25356, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

c. A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law and by the city's building department.

d. A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency

Management Agency (FEMA) in any official maps published by FEMA. If an applicant is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the city shall not deny the application on the basis that the applicant did not comply with any additional permit requirement, standard, or action adopted by the city that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:

i. The site has been subject to a Letter of Map Revision prepared by FEMA and issued to the city; or

ii. The site meets FEMA requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program as further spelled out in Government Code section 65913.4(a)(6)(G)(ii);

e. A regulatory floodway as determined by FEMA in any of its official maps, published by FEMA unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If an applicant is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the city shall not deny the application on the basis that the applicant did not comply with any additional permit requirement, standard, or action adopted by the city that is applicable to that site.

f. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

5. The proposed lot split would not require demolition or alteration of any of the following types of housing:

a. Housing that is subject to a recorded covenant, ordinance or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income;

b. Housing on a parcel or parcels on which an owner of residential real property exercised rights under Government Code section 7060 et seq. to withdraw accommodations from rent or lease within 15 years before the date of the application; or

c. Housing that has been occupied by a tenant in the last three years.

6. The lot split does not result in more than two units on a parcel, including any accessory dwelling units or junior accessory dwelling units.

7. Flag lots are not permitted.

C. Standards and Requirements. Notwithstanding any other provisions of this Municipal Code to the contrary, the following requirements shall apply:

1. The lot split conforms to all applicable objective requirements of the Subdivision Map Act and Title 17 of the Municipal Code, except as the same are modified by this section.

2. No setback shall be required for an existing structure, or a structure constructed in the same location and to the same dimensions as an existing structure.

3. Except for those circumstances described in section C.2 above, the setback for side and rear lot lines shall be four feet.

4. The applicant shall provide easements for the provision of public services and facilities as required.

5. Landlocked parcels created by an urban lot split shall have an access easement over the other parcel on the same map. The easement shall be not less than 10 feet in width and must connect to the same curb cut and apron as the other parcel on the same map.

6. Residential units developed on a lot created pursuant to this section shall be subject to the provisions of Section 18.12.060.

D. The city shall not require or deny an application based on any of the following:

1. 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 issuing a parcel map.

2. The city shall not impose any subdivision standards that would have the effect of physically precluding 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.

3. The city shall not require the correction of nonconforming zoning provisions as a condition for the lot split.

4. The city shall not deny an application solely because it proposes adjacent or connected structures provided that that all building code safety standards are met, and they are sufficient to allow a separate conveyance.

E. An applicant for an urban lot split shall be required to sign an affidavit in a form approved by the City Attorney to be recorded against the property stating the following:

1. That applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of approval. This requirement does not apply when the applicant is a “community land trust” or a “qualified nonprofit corporation” as the same are defined in the Revenue and Taxation Code.

2. That the uses shall be limited to residential uses.

3. That any rental of any unit created by the lot split shall be for a minimum of 31 days.

4. That the maximum number of units to be allowed on each parcel is two, including units otherwise allowed pursuant to density bonus provisions, accessory dwelling units, junior accessory dwelling units, or units allowed pursuant to Section 18.12.060.

F. The city may deny the lot split if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in Government Code section 65589.5(d)(2), upon the 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.

G. This section shall not apply to:

1. Any parcel which has been established pursuant to a lot split in accordance with this section; or

2. Any parcel where the owner of the parcel being subdivided or any person acting in concert with the owner has previously subdivided an adjacent parcel in accordance with this section. For purposes of this section, “acting

in concert" shall include, but not be limited to, where the owner of a property proposed for an urban lot split is the same, related to, or connected by partnership to the owner, buyer or seller (if transferred within the previous three years) of an adjacent lot.

SECTION 2. Section 18.12.060 is hereby added to the Gardena Municipal Code to read as follows:

Section 18.12.060 Two-unit Housing Development

A. For purposes of this section, the following definitions shall apply:

1. "Housing development" shall mean no more than two residential units within a single-family zone that meets the requirements of this section. The two units may consist of two new units or one new unit and one existing unit.

2. "Unit" shall mean any dwelling unit, including but not limited to a primary dwelling unit, an accessory dwelling unit, a junior accessory dwelling unit, or any unit created pursuant to this section.

3. "Urban lot split" shall have the same meaning as set forth in Section 17.08.270.

B. The city shall ministerially approve a housing development containing no more than two residential units if it meets the following requirements:

1. The parcel is not located in any of the following areas and does not fall within any of the following categories:

a. A historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city landmark or historic property or district pursuant to a city ordinance.

b. A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Health and Safety Code Section 25356, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

c. A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission

under the California Building Standards Law and by the city's building department.

d. A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency (FEMA) in any official maps published by FEMA. If an applicant is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the city shall not deny the application on the basis that the applicant did not comply with any additional permit requirement, standard, or action adopted by the city that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:

   i. The site has been subject to a Letter of Map Revision prepared by FEMA and issued to the city; or

   ii. The site meets FEMA requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program as further spelled out in Government Code section 65913.4(a)(6)(G)(ii);

e. A regulatory floodway as determined by FEMA in any of its official maps, published by FEMA unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If an applicant is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the city shall not deny the application on the basis that the applicant did not comply with any additional permit requirement, standard, or action adopted by the city that is applicable to that site.

f. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

2. The proposed housing development would not require demolition or alteration of any of the following types of housing:

a. Housing that is subject to a recorded covenant, ordinance or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income;

b. Housing on a parcel or parcels on which an owner of residential real property exercised rights under Government Code section 7060 et seq. to withdraw accommodations from rent or lease within 15 years before the date of the application; or

c. Housing that has been occupied by a tenant in the last three years.

3. Unless demolition or alteration is prohibited pursuant to subsection B.2 above, up to 25 percent of the existing exterior structural walls may be demolished.

C. Standards and Requirements. Notwithstanding any other provisions of the Municipal Code to the contrary, the following requirements shall apply in addition to all other objective standards applicable to this zone:

1. Setbacks.

a. No setback shall be required for an existing structure, or a structure constructed in the same location and within the same dimensions as an existing structure.

b. Except for those circumstances described in section C.1 above, the setback for side and rear lot lines shall be four feet.

c. The front setback shall be 20 feet on a lot that fronts on a street, except on lots where the street-facing side (width) is longer than the depth, in such case the setback from the street-facing lot line shall be 10 feet.

d. For landlocked parcels side yard setbacks shall apply to all property lines.

2. The applicant shall provide easements for the provision of public services and facilities as required.

3. One parking space per unit shall be required on the lot unless the parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined by Public Resources Code section 21155(b) or a major transit stop as defined in Public Resources Code section 21064.3. The parking space need not be covered, but tandem parking between units shall not be allowed.

4. On landlocked lots, a detached residential structure shall maintain a separation of 8 feet to all other habitable structures from its front-facing facade.

   Front-facing facade shall be defined for this purpose as the building side most closely parallel to the plane of the main entrance doorway.

5. Lot coverage shall not exceed 75 percent.

D. Limitations on city actions.

1. The city shall not impose any zoning or design standards that would have the effect of physically precluding the construction of two units on a lot or that would result in a unit size of less than 800 square feet.

2. The city shall not deny an application solely because it proposes adjacent or connected structures provided that that all building code safety standards are met, and they are sufficient to allow a separate conveyance.

E. An applicant for a second house on a lot shall be required to sign an affidavit in a form approved by the City Attorney to be recorded against the property stating the following:

1. That the uses shall be limited to residential uses.

2. That the rental of any unit created pursuant to this section shall be for a minimum of 31 days.

3. That the maximum number of units to be allowed on the parcels is two, including but not limited to units otherwise allowed pursuant to density bonus provisions, accessory dwelling units, junior accessory dwelling units, or units allowed pursuant to Section 17.08.270.

F. The city may deny the housing development if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in Government Code section 65589.5(d)(2), upon the 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.

SECTION 3. Adoption of this ordinance is not a project under CEQA pursuant to SB 9.

SECTION 4. This Ordinance shall take effect on the thirty-first day after passage and at such time Ordinance No. 1838 shall be of no further force or effect.

SECTION 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 6. Certification. The City Clerk shall certify the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a publication of general circulation.

Passed, approved, and adopted this _____ day of _____, 2022.

_____
TASHA CERDA, Mayor

ATTEST:

_____
MINA SEMENZA, City Clerk

APPROVED AS TO FORM:

_____
Lisa Kranitz, Assistant City Attorney

URGENCY ORDINANCE NO. 1838

AN URGENCY ORDINANCE OF THE CITY OF GARDENA, CALIFORNIA, ADOPTING CHANGES TO TITLE 17 (SUBDIVISIONS) AND TITLE 18 (ZONING) IMPLEMENTING SENATE BILL 9 RELATING TO THE CREATION OF URBAN LOT SPLITS AND TWO RESIDENTIAL UNITS PER LOT

WHEREAS, on September 16, 2021, the Governor approved Senate Bill 9 (SB 9, Chapter 162) relating to the creation of two residential units per lot which requires local agencies to ministerially approve housing development containing no more than two residential units per lot and ministerially approve an urban lot split; and

WHEREAS, SB 9 took effect on January 1, 2022; and

WHEREAS, SB 9 allows local agencies to impose objective zoning, subdivision, and design standards; and

WHEREAS, given that SB 9 was not signed until mid-September, there was insufficient time to process this ordinance through noticed hearings before the Planning Commission and City Council and have the ordinance in place by January 1, 2022; and

WHEREAS, the public is already beginning to express interest in developing under this new law and it is necessary to have standards in place to protect the public health and safety; and

WHEREAS, the Planning Commission held a duly noticed public hearing on this Ordinance on December 7, 2021 at which time it considered all evidence presented, both written and oral; and

WHEREAS, after the close of the public hearing the Planning Commission adopted Resolution No. XX recommending that the City Council adopt this Ordinance; and

WHEREAS, the City Council held a duly noticed public hearing on this Ordinance on January 11, 2022 at which time it considered all evidence presented, both written and oral;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 17.08.270 is hereby added to the Gardena Municipal Code to read as follows:

Section 17.08.270 Parcel Maps for Urban Lot Splits.

A. Definitions. For purposes of this Section, the following definition shall apply:

1. "Urban lot split" means a lot split of a single-family residential lot into two parcels that meets the requirements of this section.

B. The city shall ministerially approve a parcel map for a lot split that meets the following requirements:

1. The parcel is located within a single-family residential zone.

2. The parcel map divides an existing parcel to create no more than two new parcels of approximately equal lot area, provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel.

3. Both newly created parcels are no smaller than 1,200 square feet.

4. The parcel is not located in any of the following areas and does not fall within any of the following categories:

a. A historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city landmark or historic property or district pursuant to a city ordinance.

b. A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Health and Safety Code section 25356, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

c. A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law and by the city's building department.

d. A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency (FEMA) in any official maps published by FEMA. If an applicant is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise

eligible for streamlined approval under this section, the city shall not deny the application on the basis that the applicant did not comply with any additional permit requirement, standard, or action adopted by the city that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:

i. The site has been subject to a Letter of Map Revision prepared by FEMA and issued to the city; or

ii. The site meets FEMA requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program as further spelled out in Government Code section 65913.4(a)(6)(G)(ii);

e. A regulatory floodway as determined by FEMA in any of its official maps, published by FEMA unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If an applicant is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the city shall not deny the application on the basis that the applicant did not comply with any additional permit requirement, standard, or action adopted by the city that is applicable to that site.

f. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

5. The proposed lot split would not require demolition or alteration of any of the following types of housing:

a. Housing that is subject to a recorded covenant, ordinance or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income;

b. Housing on a parcel or parcels on which an owner of residential real property exercised rights under Government Code section 7060 et seq. to withdraw accommodations from rent or lease within 15 years before the date of the application; or

c. Housing that has been occupied by a tenant in the last three years.

6. The lot split does not result in more than two units on a parcel, including any accessory dwelling units or junior accessory dwelling units.

7. Flag lots are not permitted.

C. Standards and Requirements. Notwithstanding any other provisions of this Municipal Code to the contrary, the following requirements shall apply:

1. The lot split conforms to all applicable objective requirements of the Subdivision Map Act and Title 17 of the Municipal Code, except as the same are modified by this section.

2. No setback shall be required for an existing structure, or a structure constructed in the same location and to the same dimensions as an existing structure.

3. Except for circumstances described in Section C.2 above, the setback for side and rear lot lines shall be four feet.

4. The applicant shall provide easements for the provision of public services and facilities as required.

5. Landlocked parcels created by an urban lot split shall have an access easement over the other parcel on the same map. The easement shall be not less than 10 feet in width and must connect to the same curb cut and apron as the other parcel on the same map.

6. Residential units developed on a lot created pursuant to this section shall be subject to the provisions of Section 18.12.060.

D. The city shall not require or deny an application based on any of the following:

1. 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 issuing a parcel map.

2. The city shall not impose any subdivision standards that would have the effect of physically precluding 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.

3. The city shall not require the correction of nonconforming zoning provisions as a condition for the lot split.

4. The city shall not deny an application solely because it proposes adjacent or connected structures provided that that all building code safety standards are met, and they are sufficient to allow a separate conveyance.

E. An applicant for an urban lot split shall be required to sign an affidavit in a form approved by the City Attorney to be recorded against the property stating the following:

1. That applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of approval. This requirement does not apply when the applicant is a “community land trust” or a “qualified nonprofit corporation” as the same are defined in the Revenue and Taxation Code.

2. That the uses shall be limited to residential uses.

3. That any rental of any unit created by the lot split shall be for a minimum of 31 days.

4. That the maximum number of units to be allowed on each parcel is two, including units otherwise allowed pursuant to density bonus provisions, accessory dwelling units, junior accessory dwelling units, or units allowed pursuant to Section 18.12.060.

F. The city may deny the lot split if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in Government Code section 65589.5(d)(2), upon the 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.

G. This section shall not apply to:

1. Any parcel which has been established pursuant to a lot split in accordance with this section; or

2. Any parcel where the owner of the parcel being subdivided or any person acting in concert with the owner has previously subdivided an adjacent parcel in accordance with this section. For purposes of this section, “acting in concert” shall include, but not be limited to, where the owner of a property proposed for an urban lot split is the same, related to, or connected by partnership to the owner, buyer or seller (if transferred within the previous three years) of an adjacent lot.

SECTION 2. Section 18.12.060 is hereby added to the Gardena Municipal Code to read as follows:

Section 18.12.060 Two-unit Housing Development

A. For purposes of this section, the following definitions shall apply:

1. "Housing development" shall mean no more than two residential units within a single-family zone that meets the requirements of this section. The two units may consist of two new units or one new unit and one existing unit.

2. "Unit" shall mean any dwelling unit, including but not limited to a primary dwelling unit, an accessory dwelling unit, a junior accessory dwelling unit, or any unit created pursuant to this section.

3. "Urban lot split" shall have the same meaning as set forth in Section 17.08.270.

B. The city shall ministerially approve a housing development containing no more than two residential units if it meets the following requirements:

1. The parcel is not located in any of the following areas and does not fall within any of the following categories:

a. A historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city landmark or historic property or district pursuant to a city ordinance.

b. A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Health and Safety Code Section 25356, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

c. A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law and by the city's building department.

d. A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency

Management Agency (FEMA) in any official maps published by FEMA. If an applicant is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the city shall not deny the application on the basis that the applicant did not comply with any additional permit requirement, standard, or action adopted by the city that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:

i. The site has been subject to a Letter of Map Revision prepared by FEMA and issued to the city; or

ii. The site meets FEMA requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program as further spelled out in Government Code section 65913.4(a)(6)(G)(ii);

e. A regulatory floodway as determined by FEMA in any of its official maps, published by FEMA unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If an applicant is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the city shall not deny the application on the basis that the applicant did not comply with any additional permit requirement, standard, or action adopted by the city that is applicable to that site.

f. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

2. The proposed housing development would not require demolition or alteration of any of the following types of housing:

a. Housing that is subject to a recorded covenant, ordinance or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income;

b. Housing on a parcel or parcels on which an owner of residential real property exercised rights under Government Code section 7060 et seq. to withdraw accommodations from rent or lease within 15 years before the date of the application; or

c. Housing that has been occupied by a tenant in the last three years.

3. Unless demolition or alteration is prohibited pursuant to subsection B.2 above, up to 25 percent of the existing exterior structural walls may be demolished.

C. Standards and Requirements. Notwithstanding any other provisions of the Municipal Code to the contrary, the following requirements shall apply in addition to all other objective standards applicable to this zone:

1. Setbacks.

a. No setback shall be required for an existing structure, or a structure constructed in the same location and within the same dimensions as an existing structure.

b. Except for those circumstances described in section C.1 above, the setback for side and rear lot lines shall be four feet.

c. The front setback shall be 20 feet on a lot that fronts on a street, except on lots where the street-facing side (width) is longer than the depth, in such case the setback from the street-facing lot line shall be 10 feet.

d. For landlocked parcels side yard setbacks shall apply to all property lines.

2. The applicant shall provide easements for the provision of public services and facilities as required.

3. One parking space per unit shall be required on the lot unless the parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined by Public Resources Code section 21155(b) or a major transit stop as defined in Public Resources Code section 21064.3. The parking space need not be covered, but tandem parking between units shall not be allowed.

4. On landlocked lots, a residential structure shall maintain a separation of 8 feet to all other habitable structures from its front-facing facade.

Front-facing facade shall be defined for this purpose as the building side most closely parallel to the plane of the main entrance doorway.

5. Lot coverage shall not exceed 75 percent.

D. Limitations on city actions.

1. The city shall not impose any zoning or design standards that would have the effect of physically precluding the construction of two units on a lot or that would result in a unit size of less than 800 square feet.

2. The city shall not deny an application solely because it proposes adjacent or connected structures provided that that all building code safety standards are met, and they are sufficient to allow a separate conveyance.

E. An applicant for a second house on a lot shall be required to sign an affidavit in a form approved by the City Attorney to be recorded against the property stating the following:

1. That the uses shall be limited to residential uses.

2. That the rental of any unit created pursuant to this section shall be for a minimum of 31 days.

3. That the maximum number of units to be allowed on the parcels is two, including but not limited to units otherwise allowed pursuant to density bonus provisions, accessory dwelling units, junior accessory dwelling units, or units allowed pursuant to Section 17.08.270.

F. The city may deny the housing development if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in Government Code section 65589.5(d)(2), upon the 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.

SECTION 3. Adoption of this ordinance is not a project under CEQA pursuant to SB 9.

SECTION 4. In accordance with Government Code section 36937, this Ordinance shall take effect immediately because of the need for the preservation of the public peace, health and safety as set forth in the Whereas clauses in the beginning of this Ordinance.

SECTION 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 6. Certification. The City Clerk shall certify the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a publication of general circulation.

Passed, approved, and adopted this 11th day of January, 2022 by a 4/5 vote.

TASHA CERDA, Mayor

ATTEST:

MINA SEMENZA, City Clerk

APPROVED AS TO FORM:

LISA KRANITZ, Assistant City Attorney

SB-9 Housing development: approvals. (2021-2022)

Date Published: 09/17/2021 09:00 PM

Senate Bill No. 9

CHAPTER 162

An act to amend Section 66452.6 of, and to add Sections 65852.21 and 66411.7 to, the Government Code, relating to land use.

[Approved by Governor September 16, 2021. Filed with Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 9, Atkins. Housing development: approvals.

The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions.

This bill, among other things, would require a proposed housing development containing no more than 2 residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements, including, but not limited to, that the proposed housing development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls, except as provided, and that the development is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving the construction of 2 residential units, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of up to 2 units or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances.

The Subdivision Map Act vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency and sets forth procedures governing the local agency’s processing, approval, conditional approval or disapproval, and filing of tentative, final, and parcel maps, and the modification of those maps. Under the Subdivision Map Act, an approved or conditionally approved tentative map expires 24 months after its approval or conditional approval or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months, except as provided.

This bill, among other things, would require a local agency to ministerially approve a parcel map for an urban lot split that meets certain requirements, including, but not limited to, that the urban lot split would not require the demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the parcel is located within a single-family residential zone, and that the parcel is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving an urban lot split, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of 2 units, as defined, on either of the resulting parcels or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances. The bill would require an applicant to sign an affidavit stating that they intend to occupy one of the housing units as their principal residence for a minimum of 3 years from the date of the approval of the urban lot split, unless the applicant is a community land trust or a qualified nonprofit corporation, as specified. The bill would prohibit a local agency from imposing any additional owner occupancy standards on applicants. By requiring applicants to sign affidavits, thereby expanding the crime of perjury, the bill would impose a state-mandated local program.

The bill would also extend the limit on the additional period that may be provided by ordinance, as described above, from 12 months to 24 months and would make other conforming or nonsubstantive changes.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

This bill, by establishing the ministerial review processes described above, would thereby exempt the approval of projects subject to those processes from CEQA.

The California Coastal Act of 1976 provides for the planning and regulation of development, under a coastal development permit process, within the coastal zone, as defined, that shall be based on various coastal resources planning and management policies set forth in the act.

This bill would exempt a local agency from being required to hold public hearings for coastal development permit applications for housing developments and urban lot splits pursuant to the above provisions.

By increasing the duties of local agencies with respect to land use regulations, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65852.21 is added to the Government Code, to read:

65852.21. (a) A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:

(1) The parcel subject to the proposed housing development is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(2) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(3) Notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:

(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing that has been occupied by a tenant in the last three years.

(4) The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(5) The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets at least one of the following conditions:

(A) If a local ordinance so allows.

(B) The site has not been occupied by a tenant in the last three years.

(6) The development 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, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(b) (1) Notwithstanding any local law and except as provided in paragraph (2), a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this section.

(2) (A) The local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area.

(B) (i) Notwithstanding subparagraph (A), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(ii) Notwithstanding subparagraph (A), in all other circumstances not described in clause (i), a local agency may require a setback of up to four feet from the side and rear lot lines.

(c) In addition to any conditions established in accordance with subdivision (b), a local agency may require any of the following conditions when considering an application for two residential units as provided for in this section:

(1) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(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.

(2) For residential units connected to an onsite wastewater treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.

(d) Notwithstanding subdivision (a), a local agency may deny a proposed housing development project if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of 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.

(e) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(f) Notwithstanding Section 65852.2 or 65852.22, a local agency shall not be required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels that use both the authority contained within this section and the authority contained in Section 66411.7.

(g) Notwithstanding subparagraph (B) of paragraph (2) of subdivision (b), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(h) Local agencies shall include units constructed pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(i) For purposes of this section, all of the following apply:

(1) A housing development contains two residential units if the development proposes no more than two new units or if it proposes to add one new unit to one existing unit.

(2) 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. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(3) "Local agency" means a city, county, or city and county, whether general law or chartered.

(j) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(k) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for a housing development pursuant to this section.

SEC. 2. Section 66411.7 is added to the Government Code, to read:

66411.7. (a) Notwithstanding any other provision of this division and any local law, a local agency shall ministerially approve, as set forth in this section, a parcel map for an urban lot split only if the local agency determines that the parcel map for the urban lot split meets all the following requirements:

(1) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

(2) (A) Except as provided in subparagraph (B), both newly created parcels are no smaller than 1,200 square feet.

(B) A local agency may by ordinance adopt a smaller minimum lot size subject to ministerial approval under this subdivision.

(3) The parcel being subdivided meets all the following requirements:

(A) The parcel is located within a single-family residential zone.

(B) The parcel subject to the proposed urban lot split is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(C) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(D) The proposed urban lot split would not require demolition or alteration of any of the following types of housing:

(i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(iii) A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(iv) Housing that has been occupied by a tenant in the last three years.

(E) 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, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(F) The parcel has not been established through prior exercise of an urban lot split as provided for in this section.

(G) 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 split as provided for in this section.

(b) An application for a parcel map for an urban lot split shall be approved in accordance with the following requirements:

(1) A local agency shall approve or deny an application for a parcel map for an urban lot split ministerially without discretionary review.

(2) A local agency shall approve an urban lot split only if it conforms to all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)), except as otherwise expressly provided in this section.

(3) Notwithstanding Section 66411.1, a local agency shall not impose regulations that require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split pursuant to this section.

(c) (1) Except as provided in paragraph (2), notwithstanding any local law, a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards applicable to a parcel created by an urban lot split that do not conflict with this section.

(2) A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design review standards that would have the effect of physically precluding 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.

(3) (A) Notwithstanding paragraph (2), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(B) Notwithstanding paragraph (2), in all other circumstances not described in subparagraph (A), a local agency may require a setback of up to four feet from the side and rear lot lines.

(d) Notwithstanding subdivision (a), a local agency may deny an urban lot split if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of 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.

(e) In addition to any conditions established in accordance with this section, a local agency may require any of the following conditions when considering an application for a parcel map for an urban lot split:

(1) Easements required for the provision of public services and facilities.

(2) A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way.

(3) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(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.

(f) A local agency shall require that the uses allowed on a lot created by this section be limited to residential uses.

(g) (1) A local agency shall require an applicant for an urban lot split to 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) This subdivision shall not apply to an applicant that is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code.

(3) A local agency shall not impose additional owner occupancy standards, other than provided for in this subdivision, on an urban lot split pursuant to this section.

(h) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(i) A local agency shall not require, as a condition for ministerial approval of a parcel map application for the creation of an urban lot split, the correction of nonconforming zoning conditions.

(j) (1) Notwithstanding any provision of Section 65852.2, 65852.21, 65852.22, 65915, or this section, a local agency shall not be required to permit more than two units on a parcel created through the exercise of the authority contained within this section.

(2) For the purposes of this section, "unit" means any dwelling unit, including, but not limited to, a unit or units created pursuant to Section 65852.21, a primary dwelling, an accessory dwelling unit as defined in Section 65852.2, or a junior accessory dwelling unit as defined in Section 65852.22.

(k) Notwithstanding paragraph (3) of subdivision (c), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(l) Local agencies shall include the number of applications for parcel maps for urban lot splits pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(m) For purposes of this section, both of the following shall apply:

(1) "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. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(n) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(o) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for urban lot splits pursuant to this section.

SEC. 3. Section 66452.6 of the Government Code is amended to read:

66452.6. (a) (1) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 24 months. However, if the subdivider is required to expend two hundred thirty-six thousand seven hundred ninety dollars ($236,790) or more to construct, improve, or finance the construction or improvement of public improvements outside the property boundaries of the tentative map, excluding improvements of public rights-of-way that abut the boundary of the property to be subdivided and that are reasonably related to the development of that property, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 48 months from the date of its expiration, as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps that may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

(2) Commencing January 1, 2012, and each calendar year thereafter, the amount of two hundred thirty-six thousand seven hundred ninety dollars ($236,790) shall be annually increased by operation of law according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting. The effective date of each annual adjustment shall be March 1. The adjusted amount shall apply to tentative and vesting tentative maps whose applications were received after the effective date of the adjustment.

(3) "Public improvements," as used in this subdivision, include traffic controls, streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.

(b) (1) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) The length of time specified in paragraph (1) shall be extended for up to three years, but in no event beyond January 1, 1992, during the pendency of any lawsuit in which the subdivider asserts, and the local agency that approved or conditionally approved the tentative map denies, the existence or application of a development moratorium to the tentative map.

(3) Once a development moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(e) Upon application of the subdivider filed before the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or

periods not exceeding a total of six years. The period of extension specified in this subdivision shall be in addition to the period of time provided by subdivision (a). Before the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium includes a water or sewer moratorium, or a water and sewer moratorium, as well as other actions of public agencies that regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium shall also be deemed to exist for purposes of this section for any period of time during which a condition imposed by the city or county could not be satisfied because of either of the following:

(1) The condition was one that, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action before expiration of the tentative map.

(2) The condition necessitates acquisition of real property or any interest in real property from a public agency, other than the city or county that approved or conditionally approved the tentative map, and that other public agency fails or refuses to convey the property interest necessary to satisfy the condition. However, nothing in this subdivision shall be construed to require any public agency to convey any interest in real property owned by it. A development moratorium specified in this paragraph shall be deemed to have been imposed either on the date of approval or conditional approval of the tentative map, if evidence was included in the public record that the public agency that owns or controls the real property or any interest therein may refuse to convey that property or interest, or on the date that the public agency that owns or controls the real property or any interest therein receives an offer by the subdivider to purchase that property or interest for fair market value, whichever is later. A development moratorium specified in this paragraph shall extend the tentative map up to the maximum period as set forth in subdivision (b), but not later than January 1, 1992, so long as the public agency that owns or controls the real property or any interest therein fails or refuses to convey the necessary property interest, regardless of the reason for the failure or refusal, except that the development moratorium shall be deemed to terminate 60 days after the public agency has officially made, and communicated to the subdivider, a written offer or commitment binding on the agency to convey the necessary property interest for a fair market value, paid in a reasonable time and manner.

SEC. 4. The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 1 and 2 of this act adding Sections 65852.21 and 66411.7 to the Government Code and Section 3 of this act amending Section 66452.6 of the Government Code apply to all cities, including charter cities.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Amanda Acuna

From: Dolores Doll <dolores.doll6758@gmail.com>
Sent: Thursday, December 2, 2021 3:32 PM
To: Public Comment
Subject: Urgency Ordinance No. 1838 & 1839 - NO, I OPPOSE ORDINANCES

I OPPOSE ordinance no. 1838 & 1839, relating to Senate Bill 9.
Do Not allow the subdivision of a single-family lot into two lots.
Do Not allow two residential units on the lot that was subdivided.

Why, the streets can't handle more cars and all people need space to live peaceably.

Dolores Sales
Efren Sales
Angelica Medeiros

2407 W. 156th Street
Gardena

Dolores.doll6758@gmail.com