



## MEMORANDUM

**TO:** City Council

**FROM:** Brian Pedrotti, Community Development Director

**BY:** Andrew Perez, Acting Planning Manager

**SUBJECT:** Study Session for City Council to Provide Direction on a New Ordinance to Implement Senate Bill 9

**DATE:** March 22, 2022

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### SUMMARY OF ACTION:

The purpose of this item is to give the City Council an opportunity to obtain public comment, discuss the implications of Senate Bill 9 (SB 9), and provide direction regarding an ordinance addressing SB 9.

### IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

No financial impact is projected with the study session. Staff time from both the Community Development Department and City Attorney will be required to draft the ordinance.

### RECOMMENDATION:

Receive public comment, discuss the implications of SB 9, and provide direction to staff.

### BACKGROUND:

SB 9 was signed by Governor Newsom on September 16, 2021, and became effective January 1, 2022 (Attachment 1). This bill is intended to streamline housing development by requiring a proposed housing development containing no more than two 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. SB 9 also requires a local agency to ministerially approve a parcel map for an urban lot split in a single-family residential zone if it meets certain requirements, including minimum lot size requirements and certain objective standards. Cities may deny an SB 9 project or subdivision that otherwise meets the requirements of SB 9 only if the Building Official determines it will result in a specific, adverse impact on health and safety and there is no feasible way to mitigate the impact.

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#### **ANALYSIS OF ISSUES:**

SB 9 can be broken into two primary components: 1) provisions that allow subdivisions of a single-family zoned lot into two lots (“subdivisions”); and 2) provisions that allow construction of two units on a single-family zoned property (“two-unit projects”). These provisions can be used in concert, so that an applicant could subdivide an existing parcel and build two units on each parcel.

#### *Qualifying Properties*

As proposed in the draft ordinance, SB 9 applies to parcels located in the Single-Family zoning district. The Residential Estate, Residential Hillside, Residential Rural, Residential Suburban, Village Residential zones, and the Planned Development districts all allow single-family residences as an allowed use, however, based on staff’s interpretation and guidance from the City Attorney, the City is only required to allow the provisions of SB 9 on Single Family zoned parcels. Limiting subdivisions and two-unit projects proposed pursuant to SB 9 to only the Single Family zoning district may alleviate impacts associated with unplanned density, including traffic generation, water use, and parking. This interpretation is also being followed by the County of San Luis Obispo.

Regardless of zoning, properties are excluded from using SB 9 for two-unit projects and/or subdivisions if they are located in any of the following areas:

- Prime farmlands or farmlands of statewide importance, or farmlands protected by a local ordinance
- Wetlands, as defined in the United States Fish and Wildlife Service Manual
- Within a very high fire hazard severity zone
- A hazardous waste site
- Within a delineated earthquake fault zone, unless the project is designed to meet building code requirements for building within such zone
- Within a special flood hazard area or regulatory floodway, unless certain requirements are met
- Lands identified for conservation in an adopted conservation plan or under a conservation easement
- Habitat for protected species
- Within a historic district or on a site that is designated as historic

As indicated, SB 9 does not apply to parcels 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.” Under Public Resources Code Section 5020.1, “Historic district” means “a definable unified geographic entity that possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.” Studies were conducted by the City that confirms the HCO district (D-2.4) possesses a high concentration of historically relevant

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sites and structures which supported creation of the Historic Character Overlay (HCO). Therefore, parcels in the overlay district would be ineligible for purposes of SB 9.

Prime farmland and farmlands of statewide importance are present within the City, most of which is found near Fair Oaks Avenue between Woodland Drive and Highway 101 and in the areas near Branch Mill Road. None of these sites have a single family zoning designation, so they would be ineligible for SB 9 projects regardless of their status as prime farmland. There are several parcels adjacent to Arroyo Grande and Corbett Canyon Creeks that are within a special flood hazard area and/or a regulatory floodway. A no-rise certification, prepared in accordance with Federal Emergency Management Agency guidelines, allows for development on a site within the floodway, and therefore would make these parcels eligible for SB 9 projects. No very high fire severity zones or hazardous waste sites located within City limits.

A property can only be subdivided pursuant to SB 9 once. SB 9 also precludes the same applicant, or someone working in concert with the applicant, from subdividing adjacent properties. SB 9 does not override covenants, conditions, and restrictions (CC&Rs) or other private governing documents for homeowner's associations (HOA) or common-interest developments, meaning these developments may impose further restrictions on subdivision of parcels and two-unit developments. The City would process an SB 9 application, but because the City is not a party to private governing documents, enforcement of such documents is left to the HOA.

#### *Urban Lot Splits*

Lot splits proposed under the provisions of SB 9 are referred to as Urban Lot Splits (ULS). A parcel map for an ULS shall be approved ministerially, without discretionary review. Parcels developed with affordable housing, or residential units that have been occupied by a tenant within three (3) years of the ULS application may not be split if the application proposes to alter or demolish the residential units.

Under the subdivision provisions of SB 9, the City must also allow a single-family zoned property to be subdivided into two roughly proportional lots. To ensure rough proportionality, SB 9 specifies that one lot cannot be less than 40 percent the size of the other. The bill also establishes a minimum lot size of 1,200 square feet for lots created through an urban lot split. Provisions of SB 9 include the following allowances and restrictions on subdivisions:

- Cannot require dedication of right-of-way or construction of off-site improvements (such as installation of a sidewalk where there is none);
- May require that parcels have access to a public right-of-way;
- May require easements for the provision of public services and facilities; and
- Must require the applicant to sign an affidavit stating that the applicant intends to live on one of the properties as their primary residence for at least three years after

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the date of the subdivision. This requirement does not apply to an urban land trust or qualified non-profit.

Units built on lots created through an ULS are reserved for residential uses, may not be permitted for short term rentals, and requires owner occupancy for at least three years from the date of the approval of the ULS. The owner affidavit will be required to include a clause prohibiting short term rentals in these units. Jurisdictions may not require correction of non-conforming zoning conditions, dedication of rights-of-way, or construction of public improvements as a condition of approving an ULS.

*Two-unit Development*

A housing development consisting of two residential units within a single-family residential zone shall also be considered ministerially, without discretionary review or hearing if the developed pursuant to the provisions in SB 9. A two-unit development may include the construction of two new units, or the addition of a new unit to a property already developed with a single-family dwelling. A two-unit development would be subject to the following requirements, among others:

- 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;
- The proposed housing development would not require demolition or alteration of housing that has been occupied by a tenant in the last three years;
- The proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls of an existing residential unit on the property unless the site has not been occupied by a tenant in the last three years; and
- 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.

When an application for a two-unit development is submitted that proposes the demolition of an existing unit, staff will confirm the subject parcel complies with the State mandated requirements listed above. Staff maintains a database of deed-restricted affordable housing units that will be referenced to verify an affordable unit is not proposed for demolition. Furthermore, staff can obtain water billing information to verify whether a unit has been rented in the previous three years.

The City may apply objective development standards, but those standards cannot preclude construction of at least two units of 800 square feet in size each. Objective standards are standards that involve no exercise in judgment to apply, such as numeric setback requirements.

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SB 9 includes the following mandatory development standards:

- Cannot require more than four-foot side and rear setbacks for SB 9 developments;
- Cannot require more than one parking space per unit. Cannot require any parking for projects within a half-mile walking distance of high-quality transit or major transit stops, as defined by state law, or if there is a car share vehicle located within one block;
- Must allow construction of attached units; however, attached units must be designed to meet all requirements for selling each unit individually;
- No setback can be required for existing structures, and
- The City shall not require the correction of non-conforming zoning conditions on a property as a condition of approval of a project or deny a project due to existing non-conformities.

A high-quality transit stop is defined as a stop on a fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. The bus routes serving Arroyo Grande all have service intervals exceeding 15 minutes, therefore the parking exemption described above is not applicable to future SB 9 projects in the City unless bus service changes to meet the state definitions. Beyond the mandatory development standards, the City may incorporate standards for floor-area ratios, height, lot coverage, and building separation, among others. Just as with units that are constructed on parcels created through a ULS, two-unit developments may not be rented for terms of less than 30 days and so cannot be used as vacation rentals.

#### *Accessory Dwelling Units*

ADUs are allowed with SB 9 projects; however, SB 9 states that an agency shall not be required to permit more than two units on a parcel created by an ULS. In addition, SB 9 states that the City is not required to permit an ADU on parcels that propose both a two-unit residential development and an ULS. Staff recommends that ADUs not be allowed on parcels created through an ULS. Staff also recommends restricting ADUs and JADUs to two-unit developments as allowed under SB 9. As a result of this recommendation, for each primary unit allowed, an ADU or JADU would be allowed, but no ADUs would be allowed on new parcels created through a ULS. Objective design standards may apply to ADUs as well as two-unit developments.

#### Actions to Implement SB 9

Adoption of an ordinance is recommended because it allows the City to implement objective design standards that would maintain the character of single-family neighborhoods despite the added density. As previously mentioned, objective development standards can address a numerous aspects of a development. These standards can regulate specific standards such as height and lot coverage, aesthetics through architectural design, and function, such as street access. Staff has developed the following conceptual standards as a starting point for this discussion:

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- Massing and Articulation
  - Maximum unit size of 1,200 square feet
  - Building Separation: detached dwelling units shall have a minimum of 10 feet of separation whether the units are on one lot or adjacent lots.
  - Height: 16-foot maximum
- Colors and Materials
  - The primary cladding shall be stone, brick, fiber cement, composite wood or stone, or other cementitious material. Plywood, such as T1-11 siding, is prohibited.
  - Color schemes shall consist of one primary color and one secondary color, at a minimum. The roof color shall not be considered a color for purposes of this standard.
- Parking and Circulation
  - Parking shall not be located between a structure and a public sidewalk
  - All parking areas shall be internally connected and shall use shared driveways
- Utility and Service Areas
  - All new dwelling units must connect to City utilities.
  - Areas for the storage of trash, recycling, and green waste receptacles shall not be visible from the public right of way.
  - All mechanical equipment shall be either screened or hidden from view from the public street.

Beyond adopting an ordinance, other issues must be addressed to successfully implement the provisions of SB 9. Those issues include development of a new application and review process for SB 9 projects, establishing a fee for the review of these projects, development of the objective design standards, and monitoring and enforcement of the owner-occupancy requirement.

Prior to January 1, 2022, a property owner pursuing a lot split would submit an application for a Tentative Parcel Map at a fee of \$9,537. An application for a parcel map may create of up to four lots, and the fee accounts for staff time to process the permit, including public hearings at Planning Commission and City Council. Due to the mandatory ministerial approval of an ULS, staff anticipates the amount of work to process a ULS will be similar to the amount of staff time required to process an application for a Lot Line Adjustment (LLA). Staff work associated with a lot line adjustment is limited to confirming the proposal is consistent with the Subdivision Map Act, confirming the lot size requirements of the underlying zoning district, and making the findings of Arroyo Grande Municipal Code Section 16.20.140. The amount of staff time required to process a LLA is considerably less than what is required for a parcel map and that is reflected in a lesser fee of \$3,326. Currently, the Community Development Department does not have an application

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specifically for ULS or two-unit development projects. A SB 9 specific application, and associated fee, will need to be created for these projects.

SB 9 does not allow the City to require dedication of rights-of-way or the construction of off-site improvements as a condition of approval for an ULS. The City may impose Arroyo Grande Municipal Code Chapter 16.68 requiring the undergrounding of utilities at the time of building permit issuance. Development impact fees, such as those for fire protection, police facilities, park improvements, and traffic signalization, and connection fees for water and wastewater may be collected with building permit fees for new residential units proposed with the provisions of SB 9.

#### **Next Steps**

Feedback obtained during the study session will be used to refine the draft ordinance. Staff recommends that the Architectural Review Committee review the proposed objective design standards applicable to SB 9 projects. The ARC recommended objective design standards would be included in the draft ordinance to be reviewed by the Planning Commission. A recommendation for adoption from the Planning Commission will allow the ordinance to return to Council for introduction and adoption.

#### **Environmental Review**

Both two-unit projects and subdivisions authorized under SB 9 must be processed ministerially, meaning no public hearing and no review under the California Environmental Quality Act (CEQA). The adoption of an ordinance addressing SB 9 is likewise not subject to CEQA.

#### **ALTERNATIVES:**

The following alternatives are provided for the Council's consideration:

1. Discuss the draft ordinance, received public comment, and provide direction to staff
2. Provide other direction to staff.

#### **ADVANTAGES:**

A study session providing direction to staff will result in an efficient development of the ordinance to implement SB 9.

#### **DISADVANTAGES:**

None identified.

#### **ENVIRONMENTAL REVIEW:**

The State law includes a provision that explicitly states that an ordinance to implement SB 9 (California Government Code Section 65852.21) shall not be considered a project under CEQA and, therefore, is not subject to environmental review.

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**PUBLIC NOTIFICATION AND COMMENTS:**

The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2.

Attachments:

1. Draft Ordinance Implementing SB 9

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**Sample Draft Ordinance – For Discussion Purposes**

**Section 16.32.060 Two-Unit Residential Development**

**A. Purpose and Intent.**

1. It is the intent of these regulations to provide opportunities for two units on one legal parcel, consistent with state law and local regulations. In the event of an inconsistency between this Section and Government Code Section 65852.21, Government Code Section 65852.21 shall prevail. Provided that Government Code Sections 65852.21 or 66411.7 are not repealed, qualifying two-unit residential development in the Single Family zoning district shall be located, developed, and used in compliance with this Section.
2. In accordance with Government Code Section 65852.21(a)(2), two-unit residential development shall not be permitted under this Section in any of the following circumstances:
  - a. Parcels located in:
    - i. Wetlands;
    - ii. Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation;
    - iii. Very high fire severity zones, except if the site has adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development;
    - iv. A hazardous waste site, unless the site has been cleared by the State for residential use;
    - v. Delineated earthquake fault zones, unless the development complies with applicable seismic protection building code standards;
    - vi. Special flood hazard areas (100-year flood zones), unless the site has been subject to a FEMA Letter of Map Revision issued to the City or the site meets FEMA requirement necessary to meet minimum flood plain management criteria of the National Flood Insurance Program;
    - vii. A regulatory flood way identified in a FEMA map, unless the development has received a no-rise certification;
    - viii. Lands identified for conservation in an adopted natural resource protection plan, habitat for protected species, or under a conservation easement; and
    - ix. A historic district or property designated pursuant to a local ordinance or included on the State Historic Resources Inventory.

- b. The proposed development would 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 moderate, low, or very low incomes;
  - ii. A unit that has been occupied by a tenant within the past three years; and
  - iii. A rent controlled unit.
- c. The proposed development would result in the demolition of more than 25 percent of the existing exterior structural walls, unless the site has not been occupied by a tenant in the last three years.
- d. The building official finds that the proposed development would have a specific, adverse impact on public health and safety or the physical environment that cannot be feasibly mitigated or avoided, as defined and determined in paragraph (2) of subdivision (d) of Government Code Section 65589.5.

#### B. Restrictions.

A qualifying two-unit residential project shall be subject to the following restrictions:

1. The development and use of the dwelling units shall only be valid and permitted based on the terms established in the Section.
2. The dwelling unit(s) shall not be rented for a period of less than thirty-one (31) consecutive days, nor shall rental terms allow termination of the tenancy prior to the expiration of at least one thirty-one (31) day period of occupancy by the same tenants.

**Item #1 – SB 9 mandates that the ordinance allow at least two units on all eligible parcels.**

**Some discretion is permitted as to how those two units can be achieved. At a minimum, the ordinance must allow either a duplex, or one new unit constructed in addition to an existing unit.**

#### C. Unit Configurations

The new unit in a two-residential unit development may be permitted in the following configurations, provided that no more than two attached residential units are in any one building on a lot. For the purpose of this section, “unit” means any dwelling unit, including, but not limited to, two-unit residential development, additional residential unit, primary residential unit, accessory dwelling unit, or junior accessory dwelling unit.

1. One new unit incorporated entirely within an existing residential unit.
2. One new unit incorporated entirely within an existing accessory building, including garages.
3. One new unit attached to and increasing the size of an existing residential unit or an existing accessory building.

4. One new unit detached from and located on the same lot as an existing unit. A unit that is attached to another detached accessory building, but not another residential unit, or is attached by a breezeway or porch, is considered detached.
5. Two newly constructed attached units (duplex) or two detached residential units on a vacant lot.
6. A two-unit residential development in any of the configurations described above may be added to a newly created lot concurrently with an approval for a parcel map for an urban lot split, pursuant to AGMC Section 16.20.180, Parcel Maps for Urban Lot Splits; however, the provisions of that Chapter shall not be used to permit more than two units on a lot.
7. Up to two accessory dwelling units pursuant to AGMC Section 16.52.150, Accessory Dwelling Units, may be proposed in addition to the two units constructed pursuant to this Section on a lot that is not the result of an urban lot split.

D. Parking.

1. Pursuant to Government Code Section 65852.21(c), one off-street parking space is required per dwelling unit, unless the parcel is located within one-half mile of 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 or there is a car share vehicle located within one block of the parcel.
2. The location of the required parking space(s) shall not obstruct the required parking of each Dwelling Unit.
3. The parking facilities shall comply with Section 16.56.070.
4. Required parking spaces for separate dwelling units shall not be provided in a tandem configuration.
5. The required parking spaces must be covered.

E. Rear and Side Setbacks.

1. No setback shall be applied to existing structures or structures constructed in the same location and to the same dimensions as an existing structure.
2. For projects not meeting the requirements of subsection 1 above, a minimum four-foot setback shall be provided from side and rear lot lines.

**Item #2 – A city may impose objective design standards.**

**Design Standards must allow at least two units of 800 square feet each. Objective design standards can regulate development aspects such as height, lot coverage, floor-area ratio, etc.**

F. Objective Zoning and Design Standards for Two-Unit Residential Developments.

Government Code Section 65852.21 permits the imposition of objective zoning standards and objective design standards, provided the standards do not physically preclude the construction

of up to two units of at least 800 square feet. Accordingly, the follow objective standards shall apply to two-unit residential development projects

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## 1. Massing and Articulation

- a. Maximum size of a unit is 1,200 square feet.
- b. Building Separation: detached dwelling units shall have a minimum of 10 feet of separation whether the units are on one lot or adjacent lots.
- c. Height: Units are subject to a 16-foot height limit

## 2. Colors and Materials

- a. The primary cladding shall be stone, brick, fiber cement, composite wood or stone, or other cementitious material. Plywood, such as T1-11 siding, is prohibited.
- b. Color schemes shall consist of one primary color and one secondary color, at a minimum. The roof color shall not be considered a color for purposes of this standard

## 3. Parking and Circulation

- a. Parking shall not be located between a structure and a public sidewalk
- b. All parking areas shall be internally connected and shall use shared driveways

## 4. Utility and Service Areas

- a. All new dwelling units must connect to City utilities.
- b. Areas for the storage of trash, recycling, and green waste receptacles shall not be visible from the public right of way.
- c. All mechanical equipment shall be either screened or hidden from view from the public street

## Ministerial Approval of Two-Unit Residential Development Projects.

- 1. The Community Development Director or his/her designee shall ministerially review and approve a two-unit residential development application and shall not require a public hearing, provided that the submitted application is complete and demonstrates that the two-unit residential development project complies with the requirements contained in this Title 16 and qualifies under Government Code Section 65852.21(a).
- 2. In addition to obtaining planning approval for the two-unit residential development project, the applicant shall be required to obtain a building permit, and other applicable construction permit requirements prior to the construction of the dwelling units.

## **Sample Draft Ordinance – For Discussion Purposes**

### **Section 16.20.180 Parcel Maps for Urban Lot Spits**

#### **A. Purpose and Scope**

1. This Section implements Government Code section 66411.7 to provide an owner of property in the Single Family zoning district an additional method to subdivide the parcel for the purpose of housing development.

**Item #1 – SB 9 applies to parcels zoned for “single-family residential.”**

**Determination about whether the proposed ordinances for two-unit developments should apply to all single family zones, or specifically the Single Family zoning district.**

2. Urban lot split means the subdivision of an existing legal parcel in the Single Family zoning district to create no more than two new parcels.

#### **B. Application and Approval**

1. A parcel map for an urban lot split may not be approved except in conjunction with a concurrently submitted application for building permits for two-unit residential development pursuant to Section 16.32.060. Development on the resulting parcels is limited to the residential development approved in the concurrently submitted building permit applications.
2. A parcel map for an urban lot split must be prepared by a registered civil engineer or licensed land surveyor in accordance with Government Code sections 66444 – 66450 and this Section, and submitted for approval to the City Engineer. A fee in an amount established by City Council resolution must be paid concurrently with the submission of the parcel map.
3. The City Engineer is the approval authority for parcel maps under this Section. The City Engineer shall approve a parcel map for an urban lot split if the Engineer determines that it meets all of the requirements of this Section.

C. The following supplemental information is required to be submitted with a parcel map to establish compliance with the construction plans and all provisions of this Code and applicable State law:

1. A map of appropriate size and to scale showing all of the following:
  - a. Total area (in acreage and square feet) of each proposed lot.
  - b. Location and dimensions of existing and proposed property lines;
  - c. Zoning District;
  - d. The location and use of all existing and proposed structures;
  - e. All required zoning setbacks for the existing and proposed lots;
  - f. The location of all existing water, sewer, electricity, storm drain, or gas service lines, pipes, systems, or easements;

- g. The location of all proposed new water, sewer, storm drain, lines, pipes, or systems;
  - h. The location of any proposed easements for access or public utilities to serve a lot created by the subdivision;
  - i. The location of any existing trees larger than four inches in diameter measured four feet six inches above the base and any such trees proposed for removal;
  - j. Any area of the parcel that has a slope of 25% or greater by way of contours at 5-foot intervals;
  - l. Name and dimensions, including right-of-way and improved area, of public and private streets or public alleys adjoining the parcel;
  - m. Curb, gutter, sidewalk, parkway, and street trees: type, location, and dimensions;
  - n. Location of existing or proposed driveway dimensions, materials, and slope (including cross slope); and
  - o. Location of existing or proposed pedestrian pathway access to the public right of way.
2. A statement of the owner, signed under penalty of perjury under the laws of California, that:
- a. The proposed urban lot split would not require or authorize 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 Section 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code 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.
  - b. The parcel has not been established through prior exercise of an urban lot split under this Section;
  - c. Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel under the provisions of this Section.
  - d. The owner intends to occupy one of the housing units located on a lot created by the parcel map as their principal residence for a minimum of three years from the date of the recording of the parcel map.

- e. Rental terms of any unit created by the subdivision shall not be less than 31 consecutive days, nor shall rental terms allow termination of the tenancy prior to the expiration of at least one thirty-one (31) day period of occupancy by the same tenant.
- f. The uses allowed on a lot created by the parcel map shall be limited to residential uses.

#### D. Design and Improvement Requirements

**Item #2 – A city may impose objective design standards for lots created by this ordinance.**

**Design Standards must allow at least two units of 800 square feet each. Objective design standards can regulate development aspects such as lot access, size, easements, etc.**

1. A parcel map may subdivide an existing legal parcel to create no more than two parcels of approximately equal lot area. One parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision and neither parcel shall be smaller than 1,200 square feet. The following areas are excluded from the calculation of lot area for the purposes of this subdivision:
  - a. A dwelling that has been occupied by a tenant at any time during the three years before the date of the parcel map;
  - b. A structure designated as a historic structure or a candidate structure under any City ordinance or included on the State Historic Resources Inventory;
  - c. A dwelling 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.
  - d. Existing easements if the resulting lot would create a developable area that would interfere with the use of the easement for its intended purpose.
2. Each parcel must be served by a separate water service meter and a separate sewer connection.
3. Each parcel shall either drain a developed drainage easement or in accordance with the City's Standard Specification and Engineering Standards.
4. Rights-of-way as required for access along all natural watercourses as necessary for flood control, maintenance, and improvement shall be dedicated.
5. The parcel must satisfy the requirements of Government Code section 66411.7(a).
6. A lot line shall not bisect or be located within 4 feet of any of the following:
  - a. A dwelling that has been occupied by a tenant at any time during the three years before the date of the parcel map;
  - b. A structure designated as a historic structure or a candidate structure under any City ordinance or included on the State Historic Resources Inventory;
  - c. A dwelling 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.
  - d. Existing easements if the resulting lot would create a developable area that would interfere with the use of the easement for its intended purpose.
7. The location and orientation of new lot lines shall meet the following standards:
  - a. Front lot lines shall conform to the minimum public street frontage requirements of the Development Code; a flag lot, or a lot with a narrow projecting strip of land extending along a street, is not permitted.
  - b. Each parcel shall have approximately equal lot width and lot depth, consistent with the minimum lot sizes described in subsection D, above. Lot depth shall be



measured at the midpoint of the front lot line. Lot width shall be measured by a line connecting two points on opposite interior lot lines that will result in a line parallel to the front lot line.

- c. New lot lines must be straight lines, unless there is a conflict with existing improvements or the natural environment in which case the line may be not be straight but shall follow the appropriate course.
- d. Lot lines facing a street shall generally be parallel to the street. Unless the minimum public street frontage is provided, the lot line dividing the two parcels must be parallel to and not less than 50 feet from an existing front lot line, or outside the front half of the existing lot, whichever is greater.
- e. Interior lot lines not facing the street shall be at right angles perpendicular to the street on straight streets, or radial to the street on curved streets.
- f. Lot lines shall be located within appropriate physical locations such as the top of creek banks, at appropriate topographical changes (top or bottom of slopes etc.) or at locations which clearly separate existing and proposed land uses.
- g. Lot lines shall be contiguous with existing zoning boundaries.
- h. The placement of lot lines shall not result in an accessory building or accessory use on a lot without a main building or primary use on the same lot, as defined in the Development Code.
- i. Lot lines shall not render an existing structure as nonconforming in any respect (e.g., setbacks, Floor Area Ratio, parking), nor increase the nonconformity of an existing nonconforming structure.

#### E. Access Standards

1. Each lot shall front upon or have access to a public street, or be served by an access easement serving no more than two lots. Access shall be provided in compliance with these standards:
  - a. Vehicle access easements serving a maximum of two units shall meet the following standards:
    - i. Easement width shall be a minimum of 10 feet and a maximum of 16 feet, unless a wider driveway is required by the California Fire Code due to distance of the structure from the easement, or as needed to meet the driveway and parking standards in the City's standards.
    - ii. The minimum length for a vehicle access easement is 20 feet. No maximum easement length shall be set. If easement length is more than 75 feet, a vehicle turnaround shall be provided.
    - iii. No residential structure shall be closer than 3 feet to the easement.
  - b. Vehicle access easements serving three to four units shall meet the following standards:
    - i. Easement width shall be a minimum of 20 feet.

- ii. The minimum length for a vehicle access easement is 20 feet. No maximum easement length shall be set. If easement length is more than 75 feet, a vehicle turnaround shall be provided.
  - iii. No residential structure shall be closer than 5 feet to the easement.
- c. Where a lot does not abut a public street, and where no automobile parking spaces are required or proposed for the residential development, a vehicle access easement is not required. An easement providing pedestrian access to a street from each lot shall be provided meeting the following standards:
  - i. Easement width shall be a minimum of five feet;
  - ii. Pedestrian access easements shall not exceed 200 feet in length.
- 2. Vehicle access easements shall not be located closer than 25 feet to an intersection.
- 3. Access and provisions for fire protection consistent with the California Fire Code shall be provided for all structures served by an access easement.
- 4. Surfacing of easements, pedestrian walkways required within easements, and turnaround dimensions shall meet the requirements of the California Fire Code, the City's Design Standards, and the parking design standards in the Development Code.

#### F. Map Requirements

- 1. The content and form of a parcel map shall meet all the requirements of Government Code sections 66444 – 66450.
- 2. The parcel map shall show all easements for public utilities necessary to serve each lot created by the subdivision.
- 3. The parcel map shall show all easements necessary to provide each lot with access to the public or private street or alley abutting the original parcel.
- 4. The parcel map shall contain a declaration that:
  - a. Each lot created by the parcel map shall be used solely for residential dwellings;
  - b. That no more than two residential dwelling units may be permitted on each lot. As used in this subsection residential dwelling unit includes a unit created pursuant to Government Code section 65852.21, a primary dwelling unit, an accessory dwelling unit as defined in Government Code section 65852.2, or a junior accessory dwelling unit as defined in Government Code section 65852.22.
  - c. That rental of any dwelling unit on a lot created by the parcel map shall not be less than 31 consecutive days, nor shall rental terms allow termination of the tenancy prior to the expiration of at least one 31-day period occupancy by the same tenant.

#### G. Concurrent Processing With Other Ministerial Permits for Housing Development

- 1. No development, including grading or vegetation removal, shall commence on either lot, concurrent or subsequent to an urban lot split, unless it is approved with a valid building permit for the construction of a housing development and complies with all the objective development and design standards outlined for two-unit residential development or

accessory dwelling units in this Code, or any other adopted objective design standards in effect at the time a complete application is submitted.

2. A building permit for development on an urban lot split cannot be issued until the parcel map is recorded.
3. The City Engineer shall deny an urban lot split if the building official has made 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 of the Government Code, 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.

#### H. Prohibition of Further Subdivision

A lot created by a parcel map under this Section shall not be further subdivided.

None.

## **11. NEW BUSINESS**

The Council heard Item 11.b. next.

*Mayor Ray Russom called for a brief break at 8:55 p.m. The Council reconvened at 9:03 p.m. and returned to Item 11.a.*

### **11.a Study Session Regarding Short Term Rentals (Vacation Rentals and Homestays) and Potential Revisions to the City's Short Term Rental Ordinance**

City Attorney Carmel commented on the Fair Political Practices Commission's (FPPC) advice regarding the conflicts of interest for Mayor Ray Russom, Mayor Pro Tem George, Council Member Storton, and Council Member Barneich.

City Clerk Matson explained the process for randomly drawing straws to determine which two of the conflicted Council members may hear the item. Mayor Ray Russom, Mayor Pro Tem George, and Council Members Barneich and Storton drew straws. Mayor Ray Russom and Council Member Storton drew the short straws and remained in the meeting to hear the item.

Mayor Pro Tem George and Council Member Barneich left the meeting.

Community Development Director Pedrotti introduced the item and Assistant Planner Holub provided a presentation and responded to questions from Council.

Mayor Ray Russom invited public comment. Speaking from the public were John Keen, and Jim Guthrie. City Clerk Matson read into the record written comments received from Krista Jeffries. No further public comments were received.

Council discussion ensued regarding staff recommendations.

At 10:52 p.m., Mayor Ray Russom stated that pursuant to Council policy, the Council must vote unanimously to continue the meeting past 11:00 p.m.

Mayor Ray Russom moved to continue the meeting to 11:10 p.m. Council Member Paulding seconded the motion, and the motion passed unanimously by voice vote.

Council directed staff to include a Short Term Rental buffer for homestays and vacation rentals; apply a cap of 120 vacation rentals; send the performance standards and parking standards sections of the Ordinance to Planning Commission for review; do not place approvals on a cancelled Planning Commission agenda; charge for mailing labels to notice neighbors; revoke permits if no Transient Occupancy Tax (TOT) is generated within a 12 month period; research a full service company to administer host compliance; add a section to the permit application where applicants can state they will provide contact information to neighbors each year; and create a process to notify the public regarding the number of current permits. Council also requested that staff bring back a discussion regarding administrative fines for violation of the Ordinance.

No action was taken on this item.

### **11.b Study Session for City Council to Provide Direction on a New Ordinance to Implement Senate Bill 9**

Acting Planning Manager Perez presented the staff report. Acting Planning Manager Perez, Community Development Director Pedrotti and City Manager McDonald responded to questions from Council.

Mayor Ray Russom invited public comment. Speaking from the public was Rachel Mann, John Keen, and Jim Guthrie. City Clerk Matson read into the record written comments from Krista Jeffries. No further public comments were received. City Attorney Carmel and City Manager McDonald responded to questions from the public.

Council expressed support for the proposed draft Ordinance and staff recommendations including the prohibition of short term rentals and requiring undergrounding of utilities. Council directed staff to provide clarification in Section D of the draft Ordinance regarding parking, to leave the height restriction for further discussion, and requested the addition of a disclaimer regarding abiding by individual CCRs.

No action was taken on this item.

*Mayor Ray Russom called for a brief break at 8:55 p.m. The Council reconvened at 9:03 p.m. and returned to Item 11.a.*

## **12. CITY COUNCIL REPORTS**

The City Council provided brief reports from the following committee, commission, board, or other subcommittee meetings that they attended as the City's appointed representative.

### **12.a MAYOR RAY RUSSOM:**

1. California Joint Powers Insurance Authority (CJPIA)
2. South San Luis Obispo County Sanitation District (SSLOCSD)
3. Tourism Business Improvement District Advisory Board
4. Other

### **12.b MAYOR PRO TEM GEORGE:**

1. County Water Resources Advisory Committee (WRAC)
2. Visit SLO CAL Advisory Board
3. Other

### **12.c COUNCIL MEMBER BARNEICH:**

1. Audit Committee
2. Homeless Services Oversight Council (HSOC)
3. Zone 3 Water Advisory Board
4. Other

### **12.d COUNCIL MEMBER STORTON:**

1. Brisco/Halcyon Interchange Subcommittee