



## MEMORANDUM

**TO:** City Council

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

**BY:** Andrew Perez, Planning Manager

**SUBJECT:** Continued Discussion and Consideration of the Introduction of an Ordinance Amending Title 16 of the Arroyo Grande Municipal Code to Implement Senate Bill 9; Development Code Amendment 21-002; Location – Citywide

**DATE:** June 14, 2022

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### **SUMMARY OF ACTION:**

Introduction of the proposed Ordinance amending Title 16 of the Arroyo Grande Municipal Code to implement Senate Bill 9 locally (Attachment 1) will allow for adoption of the Ordinance at a future City Council meeting.

### **IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:**

No financial impact is projected.

### **RECOMMENDATION:**

Introduce an Ordinance establishing regulations for projects proposed under the provisions of SB 9.

### **BACKGROUND:**

SB 9 was signed by Governor Newsom on September 16, 2021, and became effective January 1, 2022 (Attachment 2). SB 9 can be broken into two primary components: 1) provisions that allow subdivisions of a single-family zoned lot into two lots; and 2) provisions that allow construction of two units on a single-family zoned property (“two-unit development”). Lot splits proposed under the provisions of SB 9 are referred to as Urban Lot Splits (ULS). These provisions can be used in concert, so that an applicant could subdivide an existing parcel and build two units on each parcel. 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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#### City Council Study Session

A study session was held with the City Council on March 22, 2022, to provide a forum for community comments and to discuss implications of SB 9 to aid staff in refining the draft Ordinance (Attachment 3). Council expressed concerns with the effects of the unplanned density associated with potential SB 9 development and also discussed impacts to the water supply, how SB 9 affects developments with homeowner's association, and the proposed objective design standards, including height limits and parking design. These concerns and direction are noted in more detail in the corresponding sections of this report. Additionally, Council directed staff to present draft objective design standards to the Architectural Review Committee (ARC) for review and recommendation prior to the Planning Commission's consideration of the draft Ordinance.

#### Architectural Review Committee

Staff presented the draft objective design standards to the ARC on April 18, 2022, for comments and a recommendation to Planning Commission. In general, the ARC recommended revisions to the design standards that allowed for more flexibility. For example, one recommendation was that the maximum size of units should be tied to lot size rather than the one-size fits all approach of a 1,200 square foot limit. The ARC also recommended that additional flexibility should be incorporated into the standards for building materials and colors. Recommendations from the ARC were included in the draft Ordinance brought to the Planning Commission.

#### Planning Commission

On May 3, 2022, staff presented the draft Ordinance to the Planning Commission for a recommendation hearing (Attachment 4). The Planning Commission adopted a Resolution recommending adoption of the draft Ordinance with substantial revisions from the direction provided by the City Council (Attachment 5). The changes proposed by the Commission included allowances for more units and larger units, a more permissive height limit, an elimination of parking requirements, and allowance for accessory dwelling units (ADUs) on lots created through SB 9.

#### City Council

Introduction of the draft Ordinance was considered by the Council at a public hearing on May 24, 2022 (Attachment 6). While Council expressed appreciation for the Planning Commission's recommendations meant to encourage SB 9 development, Council also expressed concerns with potential impacts related to privacy, parking, and increased density in certain neighborhoods. As a result, Council requested certain changes to the proposed Ordinance to address these concerns, including revisions to the number of units allowed by the Ordinance, maximum size, height restrictions, parking requirements, and a prohibition of rooftop decks, which are discussed in more detail below.

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

##### Number of Units

SB 9 requires agencies to ministerially approve housing developments consisting of two residential units within a single-family residential zone, if developed pursuant to the provisions of the legislation. 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.

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 that proposes both an ULS and two-unit development. The draft Ordinance provided to the City Council on March 22, 2022 recommended a four unit maximum for parcels that were created through an ULS; a two-unit development and up to two ADUs or JADUs. The recommendation from the Planning Commission, on the other hand, would allow either an ADU or JADU on lots created through a ULS, in addition to a two-unit development, resulting in as many as six (6) units on the original single family lot (three units total on each ULS lot). This would increase the maximum number of units allowed between the two lots from four units, the minimum required by SB 9, to six units.

During the discussion on May 24, 2022, Council agreed that, in certain circumstances, a six unit maximum is appropriate but should be limited to parcels of a certain size. Staff recommends minimum lot sizes of 10,000 square feet, after subdivision via ULS, for development of up to six units. Using Floor-Area Ratio (FAR) as the limiting factor for size of the units, a 10,000 square foot lot could be developed with two 2,125 square foot primary dwellings and a 750 square foot ADU. A minimum lot size of 10,000 square feet means the original parcel to be subdivided would need to be at least 20,000 square feet, making all parcels in the Residential Estate, Residential Hillside, and Residential Rural zones, and select parcels in the Residential Suburban zone, eligible to develop up to six units after an ULS.

##### Objective Design Standards

The legislation allows the City to adopt objective development standards for SB 9 projects. In addition to the mandatory development standards regarding four-foot side and rear yard setbacks and allowances for construction of attached units, the draft Ordinance provided to Council on March 22, 2022, included objective design standards to regulate size, height, building separation, and aesthetics. After receiving feedback from the ARC, Planning Commission, and Council, the draft Ordinance has been revised to use established FAR maximums as the limiting factor for unit size. Relying on the established FAR limits ensures SB 9 units will be consistent with the pattern of development anticipated by the Municipal Code in regards to size. Existing FAR maximums found in AGMC 16.32.050 are summarized in Table 1.

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**Table 1: Floor-Area Ratio Maximums**

| <b>Lot Size</b>             | <b>Floor Area Ratio Maximum</b> |
|-----------------------------|---------------------------------|
| 0-4,000 sq. ft.             | 0.35                            |
| 4,001-7,199 sq. ft.         | 0.40                            |
| 7,200-11,999 sq. ft.        | 0.50                            |
| 12,000-39,999 sq. ft.       | 0.45                            |
| Greater than 40,000 sq. ft. | None                            |

SB 9 establishes that city-imposed design standards may not preclude the construction of at least two units of at least 800 square feet each. Therefore, the proposed Ordinance provided in Attachment 1 provides that the FAR limits listed in Table 1 may be exceeded if they would not allow two 800 square-foot units.

Height

At the study session held on March 22, 2022, Council was undecided about whether a 16-foot height limit would be appropriate. To provide flexibility, the ARC recommended a height standard that limited building height to 16-feet within the setbacks of the underlying zone, and buildings, or portions thereof, that comply with the setbacks of the underlying district would be subject to the height limit of that district. Planning Commission found this proposed height standard overly restrictive and, therefore, recommended a height limit of 30 feet, consistent with the height limit of all single-family zones. Council discussed the topic of height limits for these projects on May 24, 2022, and expressed concern that the combination of the reduced side and rear setbacks allowed by SB 9 and a 30-foot height limit is likely to result in development that is incompatible with existing neighborhoods. Council directed staff to revert to the flexible height limitation that was supported by the ARC. The flexible height standard limits building height to 16 feet when it is located within the setback of the underlying zoning district, and up to 30 feet in areas outside the underlying setbacks. In addition, the proposed Ordinance provided in Attachment 1 prohibits rooftop decks on SB 9 projects, as directed by Council.

Parking

SB 9 establishes a maximum parking requirement of one parking space per unit. The draft ordinance reviewed by Planning Commission required one covered parking space per unit and included standards for parking locations and configurations. Planning Commission discussed the issue of parking and was in favor of eliminating the covered parking requirement for SB 9 units because of the additional costs and land associated with a garage or carport. The Planning Commission recommendation to Council included removing parking requirements from the draft ordinance as another way to incentivize SB 9 development. Council agreed with Planning Commission that a requirement for covered parking may be a barrier to development, but determined that parking should still be required for SB 9 units. As a result, Council directed staff to revise the parking requirement

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to one uncovered parking space for each unit. The proposed Ordinance provided in Attachment 1 includes this requirement.

#### Next Steps

The proposed Ordinance has been revised consistent with the direction provided by the City Council on May 24, 2022, and is now ready for introduction. Adoption of the Ordinance is proposed to occur at the next Council meeting on June 28, 2022, unless Council directs staff to make substantial revisions to the Ordinance, in which case a revised ordinance will be prepared and presented for consideration and introduction at a future City Council meeting.

#### **ALTERNATIVES:**

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

1. Introduce the attached Ordinance approving Development Code Amendment 21-002;
2. Modify as appropriate and introduce the modified Ordinance approving Development Code Amendment 21-002;
3. Continue the introduction of the Ordinance, and provide direction to staff on specific revisions to the Ordinance; or
4. Provide other direction to staff.

#### **ADVANTAGES:**

Adoption of the Ordinance would regulate development in a manner that is appropriate for Arroyo Grande. The proposed objective design standards would allow potentially significant development under SB 9 and help achieve progress towards meeting the housing goals established in the City's Housing Element.

#### **DISADVANTAGES:**

The reduced setbacks and development allowed by SB 9 would increase density in a manner not anticipated by the Municipal Code and may change the character of residential neighborhoods.

#### **ENVIRONMENTAL REVIEW:**

In compliance with the California Environmental Quality Act (CEQA), the Community Development Department has determined that the adoption of an ordinance to implement Senate Bill 9 creates a ministerial review process and therefore is exempt from the requirements of CEQA pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

#### **PUBLIC NOTIFICATION AND COMMENTS:**

A notice of public hearing was published in the Tribune and posted at City Hall and on the City's website on May 13, 2022. Council continued the introduction hearing to June

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14, 2022, therefore a Notice of Continuance was published on May 31, 2022. The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2.

**Attachments:**

1. Proposed Ordinance
2. Senate Bill 9
3. Staff Report and Minutes from March 22, 2022 City Council Study Session
4. Staff Report and Draft Minutes from May 3, 2022 Planning Commission meeting
5. Planning Commission Resolution 22-2361
6. Staff Report and Draft Minutes from May 24, 2022 City Council meeting