



STAFF REPORT

CITY of YORBA LINDA

COMMUNITY DEVELOPMENT DEPARTMENT

DATE: DECEMBER 21, 2021

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: DAVID BRANTLEY, AICP
DIRECTOR OF COMMUNITY DEVELOPMENT
PREPARED BY: NATE FARNSWORTH, PLANNING MANAGER

SUBJECT: ADOPTION OF URGENCY ORDINANCE NO. 2021-1088 APPROVING ZONING CODE AMENDMENT ZCA 2021-01 – AN AMENDMENT TO CHAPTER 18.20 OF THE YORBA LINDA ZONING CODE TO ADD REGULATIONS PERTAINING TO SENATE BILL 9 HOUSING DEVELOPMENTS AND URBAN LOT SPLITS

RECOMMENDATION

It is recommended that the City Council adopt Urgency Ordinance No. 2021-1088 approving Zoning Code Amendment ZCA 2021-01 to add regulations to Chapter 18.20 of the Yorba Linda Zoning Code related to Senate Bill 9 housing developments and urban lot splits.

BACKGROUND

On September 16, 2021, Governor Gavin Newsom signed Senate Bill 9 (SB 9), which significantly alters local authority related to uses permitted in single-family residential zones. This bill will essentially allow a property owner by right to split a single-family zoned lot into two lots and/or place up to two housing units on a single-family zoned lot. However, the law does grant local jurisdictions with the ability to draft their own local ordinance to establish written, objective development standards to regulate these proposals.

On September 29, 2021, the Planning Commission directed staff to initiate a Zoning Code Amendment to create said local ordinance. On December 15, 2021, staff brought the draft ordinance forward through the public hearing process for consideration by the Planning Commission, which unanimously recommended by a 3-0 vote that the City Council adopt the proposed Zoning Code Amendment.

This ordinance is being brought forward to the City Council as an urgency ordinance because SB 9 becomes effective on January 1, 2022. Without local control measures in place prior to January 1, 2022, the approval of urban lot splits and two-unit projects based solely on the default standards currently in the City's Code, without appropriate regulations governing lot

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configuration, unit size, height, setback, landscape, architectural review, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety. These threats to public safety, health, and welfare justify adoption of this ordinance as an urgency ordinance to be effective as of January 1, 2022.

DISCUSSION

Applicability Standards

Pursuant to Senate Bill 9, many single-family zoned lots are eligible for SB 9 housing developments and urban lot splits; however, there are several types of properties that are ineligible for SB 9 housing developments and urban lot splits, including, but not limited to the following:

- 1) Parcels located in an environmentally unsafe or sensitive area, such as wetlands, high or very high hazard severity zones (unless the site has adopted fire hazard mitigation measures required by existing building standards), a hazardous waste site, an earthquake fault zone, a flood plan or floodway, lands identified for conservation in an adopted natural community conservation plan, and lands under a conservation easement;
- 2) A parcel that requires the demolition or alteration of any affordable housing, rent-controlled housing, housing that was withdrawn from rent within the last 15 years, or housing occupied by a tenant in the last three years;
- 3) A parcel designated as a historic landmark or within a designated historic district;
- 4) A parcel that has already been subject to a lot split through this lot split procedure;
- 5) A parcel that is adjacent to a parcel created through a lot split, if the owner or any person acting in concert with the owner subdivided the adjacent parcel; and
- 6) Any proposed lot split where the building official makes a written finding, based on a preponderance of the evidence, that the proposed project would have a specific, adverse impact upon the public health and safety or the physical environment and for which there is not feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

Regulations on SB 9 Housing Developments

There are certain development standards SB 9 imposes on all applicable housing developments such as requiring that all residential lots zoned for single-family use shall be permitted to construct up to two dwelling units which are at least 800 square feet in floor area. A local agency **may** impose objective zoning standards, objective subdivision standards, and objective design review standards to the housing development, provided that they do not result in a unit size of less than 800 square feet. No setback can be required for an existing structure

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or structure constructed in the same location and to the same dimensions as an existing structure, but side and rear setbacks of up to four feet are allowed for SB 9 housing developments. Local agencies may not require dedications of right-of-way or construction of off-site improvements nor may they require the correction of nonconforming zoning conditions.

The draft ordinance includes specific written, objective development standards related to SB 9 housing developments, including, but not limited to the following:

- 1) A minimum of one parking space shall be required for each unit with some exceptions required by state law;
- 2) Building separation, landscaping and lot coverage standards of the applicable zoning district in which the lot is located shall be maintained;
- 3) Short term rentals are prohibited;
- 4) Mobile homes and recreational vehicles cannot be used as SB 9 housing developments;
- 5) The exterior design shall be compatible with the primary dwelling (if applicable) and with the surrounding neighborhood to the greatest extent feasible;
- 6) There shall not be more than one exterior entrance per unit on the street-facing side of the unit;
- 7) The units shall not exceed 16 feet in height and shall be single story;
- 8) No ADU or JADU shall be permitted on a lot which contains two SB 9 housing development units;
- 9) No SB 9 housing development shall be permitted on a lot which has non-conforming uses;
- 10) Housing units may be denied or may require Design Review if there is an issue with respect to adequate water/sewer, traffic flow, or public safety; and
- 11) Solar panels shall be required for any SB 9 housing development to an extent sufficient to meet the electrical load demand of each unit.

Since SB 9 allows these actions by right, they are exempt from environmental review under CEQA. Cities are also required to report on these housing developments in their annual housing element reports.

Regulations on SB 9 Urban Lot Splits

SB 9 also requires that jurisdictions allow for by right approval of urban lot splits, or the subdividing of residential parcels into two lots. SB 9 requires that these urban lot splits must meet certain development standards; however, SB 9 also allows jurisdictions to adopt additional written, objective development standards. Staff is proposing the following regulations for urban lot splits:

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- 1) The parcel must be located in a single-family residential zone;
- 2) The two new parcels must be relatively equal in size (60%/40% maximum split);
- 3) The two new parcels must be no smaller than 1,200 square feet;
- 4) The property owner must occupy one of the housing units created by the lot split for a minimum of three years;
- 5) Easements may be required for public services/facilities and to ensure that parcels have access to the public right-of-way; and
- 6) Parcels subdivided using an urban lot split may not be further subdivided.

Since SB 9 allows these actions by right, they are exempt from environmental review under CEQA. Cities are also required to report on these urban lot splits in their annual housing element reports.

FISCAL IMPACT

Although no specific fee has been established for processing SB 9 housing developments or urban lot splits, the Council’s latest fee resolution (Resolution No. 2021-5745) states, “For services requested of City staff which have no fee listed in this fee schedule, the City Manager shall determine the appropriate fee based on the established hourly rates for the Planning Division.” Staff has determined that the fee for an accessory dwelling unit (flat fee of \$1,507) is most similar to that of the SB 9 housing development and that the fee for a lot line adjustment (deposit of \$2,462) is most similar to that of the SB 9 urban lot split. Staff will be bringing back a fee resolution at a future date to memorialize the fees for processing SB 9 housing developments and urban lot splits. Therefore, the cost of processing SB 9 housing developments and urban lot splits will be fully funded by the applicant.

ALTERNATIVES

- 1) The City Council could modify any of the proposed objective development standards to the extent that those changes still comply with the requirements of SB 9. As an urgency ordinance, those changes would not be required to travel back to the Planning Commission for reconsideration.
- 2) The City Council could also determine that there is no urgency with the adoption of the ordinance and approve the ordinance through the regular public hearing process. This would require a second reading of the ordinance and the ordinance would go into effect 30 days following the second reading. This alternative is not recommended as it would leave SB 9 and the City’s current Zoning Code standards as the development standards for SB 9 housing developments and urban lot splits until the new ordinance regulations go into effect.

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ATTACHMENTS

1) Urgency Ordinance No. 2021-1088 (including Exhibit A)
