

TOWNSEND

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MEMO

To: City of Cupertino
Legislative Review Committee

From: Townsend Public Affairs, Inc.

Date: February 26, 2021

Subject: Consider adopting a position on Senate Bill 9 (Atkins) Housing Development: Approvals

Summary

SB 9 is a reintroduction of SB 1120 from the 2019-20 legislative session. SB 1120 was approved by the Assembly on the final night of session but was not returned to the Senate in time for a concurrence vote prior to the adjournment of session.

SB 9 requires cities and counties to permit ministerially either a housing development of up to two units, or the subdivision of a parcel into two equal parcels, as long as they meet specified conditions.

To be eligible under the provisions of the measure, a development or parcel to be subdivided must be located within an urbanized area or urban cluster, and cannot be located on any of the following:

- Prime farmland or farmland of statewide importance
- Wetlands
- Land within the very high fire hazard severity zone, unless the development complies with state mitigation requirements
- A hazardous waste site
- An earthquake fault zone
- Land within the 100-year floodplain or a floodway
- Land identified for conservation under a natural community conservation plan, or lands under conservation easement
- Habitat for protected species
- A site located within a historic or landmark district, or a site that has a historic property or landmark under state or local law

A city or county may impose objective zoning and design standards that do not conflict with the provisions of the bill, but:

- Prohibits a city or county from requiring a project to comply with any standard that would physically preclude two units from being built, except that local governments can require a setback of up to four feet from the side and rear lot lines.
- Provides that no setback shall be required for an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

SB 9 prohibits demolition of more than 25% of the exterior walls of an existing structure unless the local ordinance allows greater demolition or if the site has not been occupied by a tenant in the last three years.

SB 9 requires a city or county to ministerially approve or deny a parcel map for an urban lot split that meets specified requirements, in addition to the requirements for eligible parcels that apply to both duplexes and urban lot splits. Specifically, the urban lot split must meet the following requirements:

- The parcel map subdivides an existing parcel to create two new parcels of equal size.
- Both newly created parcels are no smaller than 1,200 square feet, unless the local agency adopts a smaller minimum lot size.
- The parcel being subdivided is zoned for residential use.
- The parcel does not contain rent-restricted housing, housing where an owner has exercised their rights under the Ellis Act within the past 15 years, or housing that has been occupied by tenants in the past three years.
- The parcel being subdivided was not previously created through an urban lot split, and none of the adjoining parcels were created by an urban lot split and owned by the same owner.

SB 9 prohibits a local agency from imposing regulations that require dedications of rights-of-way or the construction of reasonable offsite and onsite improvements for parcels created through an urban lot split. However, a local agency may require easements and that the parcel have access to, provide access to, or adjoin the public right-of-way.

SB 9 prohibits the development of accessory dwelling units on parcels that use both the urban lot split and duplex provisions of the bill.

SB 9 limits the parking that local agencies may require for both urban lot splits and duplexes to no more than one space per unit, except that local agencies cannot require any parking for developments within ½ mile walking distance from a major transit stop or a stop on a high frequency bus line, or one block from a car share vehicle.

Status

SB 9 has been referred to the Senate Committee on Housing and the Senate Committee on Governance and Finance. A committee hearing date has not yet been set for the meeting.

Support

Since SB 9 has not yet been set for hearing, an official list of supporters is not yet available; however, the below list of supporters is based on the organizations that supported SB 1120 last session.

Supporters of SB 1120 include: California Apartment Assn, California Assn of Realtors, California Chamber of Commerce, Bay Area Council, American Planning Association California Chapter, Facebook, Habitat for Humanity, and California YIMBY.

Opposition

Since SB 9 has not yet been set for hearing, an official list of opponents is not yet available; however, the below list of supporters is based on the organizations that supported SB 1120 last session.

Opponents of SB 1120 include: Livable California; Cities of Agoura Hills, Beverly Hills, Campbell, Cerritos, Cupertino, El Segundo, Hidden Hills, Rancho Palos Verdes, Redondo Beach, Santa Clarita, and Saratoga; numerous neighborhood and homeowners associations from throughout the state.

The League of California Cities has adopted an Oppose Unless Amended position on SB 9 (Atkins). The Committee may wish to consider a similar position. The amendments requested by the League are:

- Clarify that a property owner using SB 9 is limited to constructing two residential units, not two residential units and additional accessory dwelling units (ADUs) on the same parcel;
- Require a housing developer to acquire a building permit within one year of a lot split, so that speculators do not sell lots and never build homes;
- Allow local governments to require adequate access for police, fire and other public safety vehicles and equipment;
- Prohibit developers from using SB 9 in very high fire hazard severity zones;
- Allow cities to determine a range of lot sizes suitable for SB 9 development projects;
- Ensure HCD provides Regional Housing Needs Allocation (RHNA) credit for production of SB 9 units;
- Allow local governments to take into account local conditions such as hillsides, lot dimensions, natural hazards, available infrastructure, etc. when approving or denying housing project applications;
- Allow local governments to continue to determine parking standards; and
- Ensure large-scale investors and builders do not exploit SB 9 provisions.

Recommended Action

A) Adopt an oppose unless amended position on SB 9 and authorize the Mayor to send letters to the state legislature, unless the City Council decides to place this bill on a future Council agenda to consider as the full Council;

Or B) Make a recommendation that the City Council take an oppose unless amended position on SB 9.