

CC 12-21-2021

#24

Westport Development

Presentation

**Westport Development
(M-2021-002, ASA-2021-007, EXC-
2021-003)**

21267 Stevens Creek Boulevard

December 21, 2021



CUPERTINO

Subject

Consider modifications to the approved Westport Development project which include adjusting unit mix in the assisted living facility (Building 1) to 123 assisted living units and 35 memory care rooms, reclassification of approximately 8,000 square feet of public dining area to private dining, reducing the underground parking to reflect adjustments in uses, and reduction of massing on the top floor to accommodate a sixth-floor aqua therapy pool

City Council Action December 7, 2021

Continue item to 12/21/2021

- Place dining facility at a different location in building, so the ground retail portion is not modified from the approved project.
- Explore potential for one of townhouses or rowhouses be affordable as a Below-Market-Rate (BMR) unit for-sale or for-rent; and
- Explore extending subterranean garage under Building 2.

Project Data

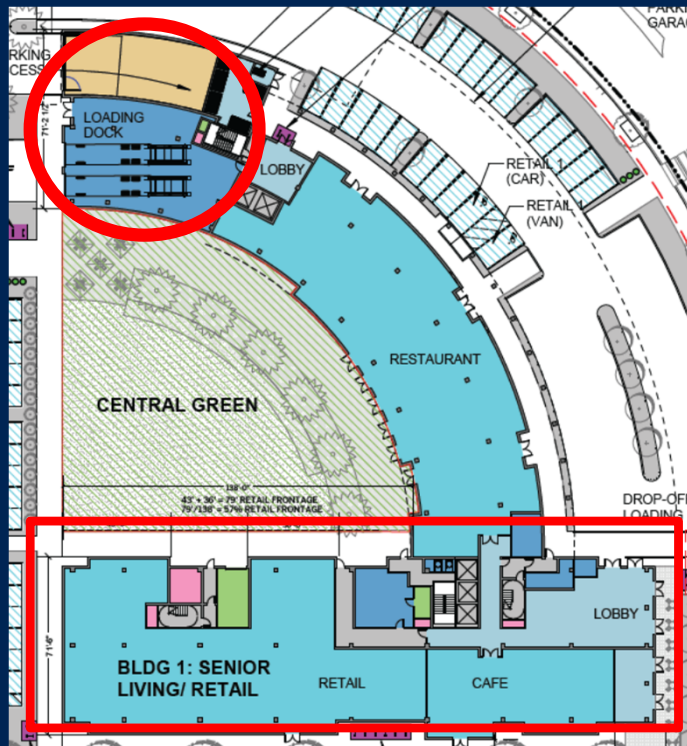
	Approved on August 18, 2020	Proposal Presented on December 7, 2021	Revised Proposal
Units within Building 1	131	123	123
Total number of units within the Westport Development	267	259	259
Residential Density	33.79 du/acre	32.78 du/acre	32.78 du/acre
Height of Structures	Building 1 – 79.5 feet	No Change	No Change
Memory Care Rooms	27	35	35
Building 1 Parking			
Residential	81	80	No Change
Residential Care	27	28	No Change
Retail	103	41	71
Total Building 1	211	149	179
Building 1 Retail			
Stevens Creek Boulevard frontage	91%	100%	100%
Rear of building	57%	57%	83%
Retail Square Footage	17,600	10,000	17,600

Addition of Retail

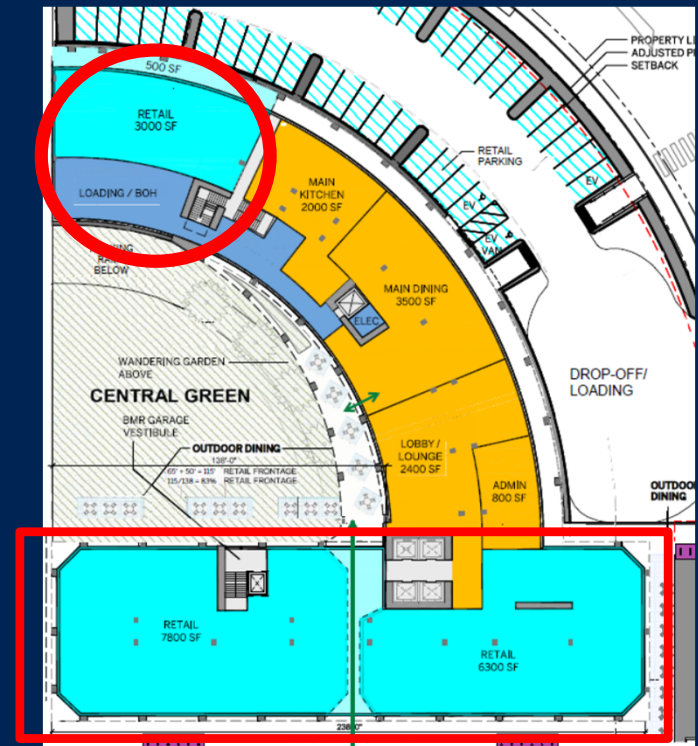
- 3,500 square foot retail unit will be added to sickle portion facing Mary Avenue
 - Parking ramp will now go under the Central Green.
- Approximately 14,100 square feet of retail along Stevens Creek Blvd.
 - Increase of 4,100 square feet of retail from originally approved project.
- Reducing parking space count by 32 spaces, instead of 62 to account for increase in retail.

Addition of Retail

Approved Building 1 Ground Floor



Proposed Building 1 Ground Floor



Unit Mix Count

Table 1 Unit Comparability Between Buildings 1 &2			
Approved Building 1 (131 Units)	Studio	One Bedroom	Two Bedroom
Average Unit Size	537.7 s.f.	691.3 s.f.	1,087 s.f.
Unit Count	26	74	31
Mix Percentage	20%	56%	24%
Proposed Building 1 (123 Units)	Studio	One Bedroom	Two Bedroom
Average Unit Size	530 s.f.	710 s.f.	1,110 s.f.
Unit Count	12	75	36
Mix Percentage	10%	61%	29%
Building 2 (48 Units)	Studio	One Bedroom	Two Bedroom
Average Unit Size	518.6 s.f.	615.7 s.f.	843 s.f.
Unit Count	9	28	11
Mix Percentage	19%	58%	23%

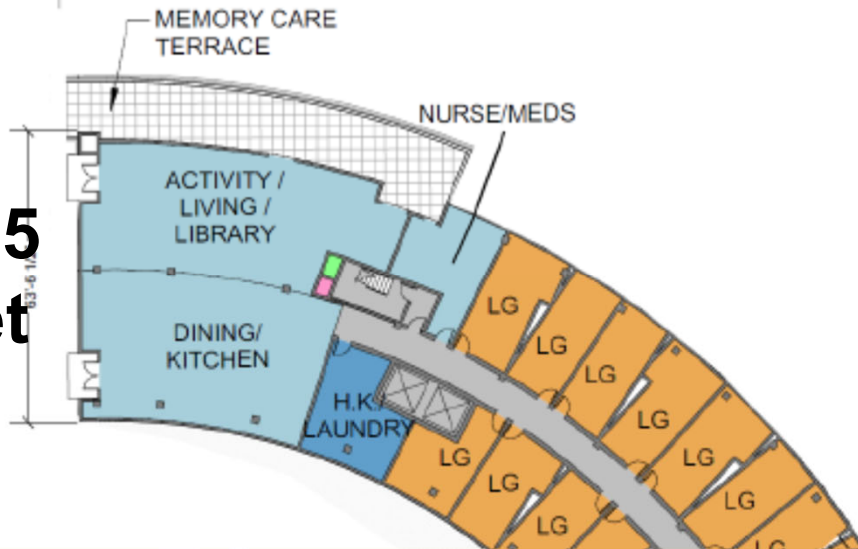
Unit Mix Count

BMR Manual's standard of "comparability."

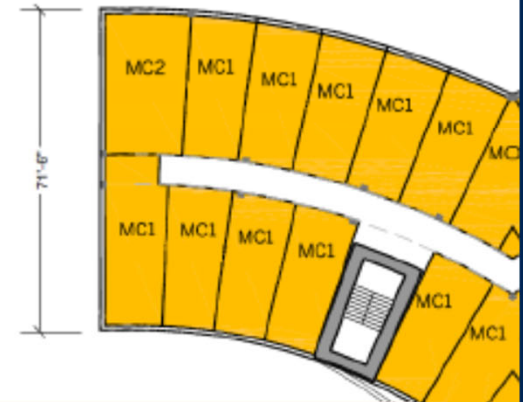
- Shall be comparable to market rate units in terms of unit type, number of bedrooms per unit, quality of exterior appearance and overall quality of construction.
- Unit size should be generally representative of the unit sizes within the market-rate portion of residential project.
- Interior features and finishes in affordable units shall be durable, of good quality and consistent with contemporary standards for new housing.

Building 1 Physical Modifications

63.5
feet



71.5
feet



Common Open Space

- Required - Heart of the City Specific Plan is 38,850 square feet (Proposed 259 units x 150 square feet)
- Entitled - 44,945 square feet
- Proposed – 44,100 square feet

Environmental Review/EIR

An Initial Study was prepared and a Final EIR (State Clearinghouse 2019070377) was certified for project. Proposed changes to project would not have any new or substantially more severe significant environmental impacts.

Denial of Proposed Modifications of Westport Project

Is inconsistent with the BMR Manual's
standard of comparability as the Below
Market rate units in Building

Approval of Proposed Modifications of Westport Project

- Is consistent with the BMR Manual's standard of comparability
- That HOC Exception for original project was approved because development frontage is adjacent to the on-ramp for Highway 85.
 - Commercial component is not required to be located along secondary streets such as Mary Avenue.



Next Step

The City Council's decision will be final unless reconsidered within 10 days of the decision.



CC 12-21-2021

#25

SB9 Interim Ordinance

Presentation

SB 9 Objective Standards and Regulations

City Council
December 7, 2021



**CITY OF
CUPERTINO**

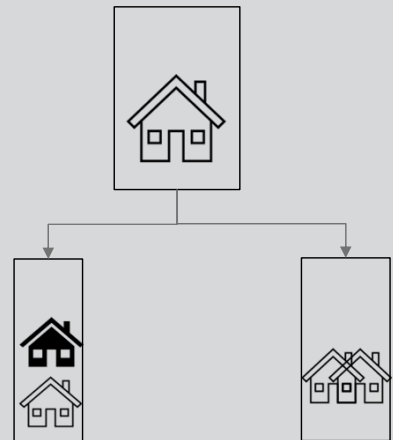
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Background

- SB 9 (Atkins, 2021) allows ministerial approval of:



Duplex – attached
or detached



Urban lot split

2



Applicable SB 35 criteria

- Not prime farmland
- Wetlands
- A state designated very high fire severity zone (subject to limitations)
- Delineated earthquake fault zone (subject to limitations)
- 100 year flood zone (subject to exceptions)
- Regulatory floodway (subject to exceptions)
- Part of a conservation or natural resource protection plan or under conservation easement
- Habitat for species protected under state and federal law

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More criteria for both types of SB 9 projects

- Does not result in demolition of BMR or rent controlled units
- Not on property occupied by tenants in past three years
- Not on property that has been withdrawn from rental market under Ellis Act for past 15 years
- Not a property located in a historic district, a State Historic Resources Inventory site, or within county or local landmark or historic property or district

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Urban lot split Additional criteria

- Not a parcel created through use of SB 9
- Neither owner of parcel being subdivided nor any person acting in concert with owner has previously subdivided an adjacent parcel using an urban lot split
- Lots created must be limited to residential use
- Applicant must sign affidavit stating that they intend to occupy one unit as principal residence for minimum of three years after lot split

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Development of up to 2 units Regulations

- Objective zoning and design review standards may be imposed provided they do not conflict with following:
 - At least 800 sq. ft. units
 - 4 foot side and rear setbacks
 - Only one parking space/unit unless within ½ mile walking distance of either high-quality transit corridor or a major transit stop, or car share vehicle within one block
 - No more than 25% of the exterior walls of an existing unit may be impacted

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Ministerial approval of lot split Regulations

- City may impose objective subdivision standards provided they do not conflict with following:
 - New lots must be 40-60% of original
 - Each new lot is at least 1,200 sq. ft.
 - Following cannot be required as conditions of approval:
 - Offsite improvements
 - Correction of existing, non-conforming conditions

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Local Regulation Lot Split – Section 18.20.170

- Parcel Map Required
- Ministerially processed
- No public hearing required
- Decision of staff final
- Must not over grade
- Must comply with objective standards of Municipal Code, Govt. Code Section 64411.7 and new standards in Zoning Code
- Section in effect until such time as GC Section 64411.7 is repealed or superseded. Else null and void

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Local Regulation

Definitions – Chapter 19.08.030

- New:
 - Bay Window
 - Gable End
 - Pie-shaped lot
 - Substantially enclosed
- Amended:
 - Duplex – attached or detached units
 - Floor Area – basements definition and included in FAR for SB9 units

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Local Regulation

Administration – Chapter 19.12.030/110/170

- Add new Miscellaneous Ministerial Permit – for ministerial single family or duplex developments
- Extensions – not allowed
- Noticing – Adjacent noticing & site noticing required 14 days prior to date of action on application
- Appeals – not allowed due to limitations of state law

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Local Regulation

Administration – Chapter 19.28.040

- *Clarify* – One-story single family project does not need a planning permit
- *Add* new Miscellaneous Ministerial Permit – for ministerial one or two-story duplex developments or new one- or two-story home or second story addition pursuant to SB 9 standards

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Local Regulation

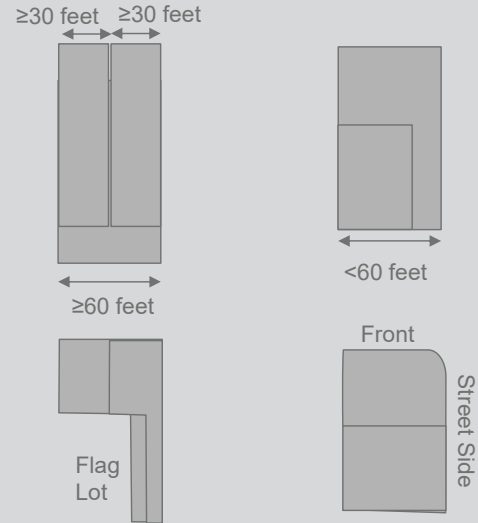
Administration – Chapter 19.28.050

- Minimum lot area – between 40-60% split of original lot. Not less than 1,200 s.f.
- No more than two property lines can be added to create new lot

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Local Regulation Administration – Chapter 19.28.050

- Subdivision standards:
 - Lots ≥ 60 feet = two lots with street frontage
 - Lots < 60 feet (cul-de-sac or interior) = one lot with street frontage; one flag lot
 - Existing flag lots = two lots
 - Corner lots = street side property line must be subdivided



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Local Regulation Chapter 19.28.040

- Landscaping: 50% of the front yard must be landscaped
- On lots with $\geq 20\%$ slope:
 - No more than 2,500 cubic yards for original lot
 - Flat yard by grading areas more than 10% limited to 2,500 s.f. (not including driveway)
- Lots with $\geq 30\%$ slope – no Hillside Exception permitted

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Local Regulation Chapter 19.28.040

- On-site improvements: 4.5 wide pathway and 4.5 wide planting strip, curb and gutter, curb cut, AC pavements and underground utilities
 - Not required in “semi-rural” designation
- Driveway curb cut standards:
 - New Lots \leq 35 feet: 12 feet (one car) curb cut. Min. 22 feet between two one-car curb cuts, else shared driveway

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Local Regulation Chapter 19.28.040

- Pie-shaped lots:
 - Existing lot $>$ 70 feet: Resulting lots 18 feet (two-car) curb cut. Must provide min. 22 feet between curb cuts, else only one car curb cut allowed.
 - Existing lot \leq 70 feet: Shared driveway over flat lot access area. No other curb cuts allowed.
- Flag lot access area: between 20-25 feet wide. Min. 16 foot drive aisle and minimum 2 feet landscape planter on either side.
- Shared driveway (not flag lot): 50% of width on each property. Max. 18 feet curb cut
- Covenants, easements, agreements required

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Local Regulation Chapter 19.28.040

- Other easements and covenants: Utility easements and covenant for maintenance of stormwater treatment facilities required

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Local Regulation Chapter 19.28.150 (new) – Two units

- Allows City to require ministerial permit and charge processing fee (**TBD in early 2022**)
- Allows 800 s.f. per unit for duplexes (**state law**)
- Duplex units must be within 200 s.f. of each other
- **Incentive:** May be up to 45% of net lot area plus 5% additional for roof overhangs, patios porches etc. (**similar to existing standards**) if it meets ALL other objective standards
- No more than 25% of existing exterior walls of existing unit may be demolished if occupied by tenant in last three years (**state law**)

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Local Regulation

Chapter 19.28.150 (new) – Two units

- If no previous dedication required, dedication for right of way and frontage improvements required
- Second story to first story ratio not to exceed 50% except if setbacks are increased or if in R1-a zone (**similar to existing standards**)
- High volume interior areas are double counted for floor area purposes (**similar to existing standards**)
- Front first and second story setbacks are **same as underlying zoning district**
- Garages setback at least two feet from face of living area (**similar to existing standards**)

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Local Regulation

Chapter 19.28.150 (new) – Two units

- Third car spaces: tandem or in detached structure at rear (**due to potential for narrow lots**)
- Flag lots or side oriented garages at rear of building: no need to setback or provide tandem spaces (**similar to existing standards**)
- First and second floor side and rear setbacks: four feet unless it is an existing or replacement structure in same location and same dimensions and cannot encroach on public or private utility easements (**state law**)

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Local Regulation

Chapter 19.28.150 (new) – Two units

- Corner Triangle: no structures unless it conflicts with state requirement for four feet max. side setback (**similar to existing standards**)
- Detached structures must be setback five feet eave to eave (**similar to existing standards**) but **ZERO** setback if along new shared prop. Line between new lots
- Maximum height: 28 feet (**similar to existing standards**) except in single story overlay zones
- Building Envelope standards:
 - First floor (similar to existing standards)
 - Second floor (allows two 9' plates)

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Local Regulation

Chapter 19.28.150 (new) – Two units

- Basement setbacks identified
- Basements – only allowed on lots > 5,000 s.f.
- Lightwells limited to minimum number and size required for light and air under building code:
 - Only windows allowed for all emergency egress
 - Only allowed for areas required to provide emergency egress. Transom windows allowed for light and air where egress not required
 - One exterior exit door allowed for separate unit
 - Single story home may have one 10 foot by 10 foot light well (**similar to existing standards**)
 - Railings shall have max. 3'6" height (**similar to ex. stds**)

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Local Regulation

Chapter 19.28.150 (new) – Two units

- Lightwells shall not encroach in required setback areas
- Lightwells visible from street shall be screened
- Landscaping(**similar to existing standards**):
 - 24" box front yard CA native tree required for two story homes
 - Existing tree can be substituted with arborist report on good health
 - Covenant required

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Local Regulation

Chapter 19.28.150 (new) – Two units

- Privacy Protection planting required for second story windows (**similar to existing standards**)
- Second story windows too close to side or rear property line shall be opaque, inoperable or high window sill.
 - Does not apply to skylights or windows with no views into adjacent side or rear yards or that face street or non-residential zoning district (**similar to existing standards**)
- Minimum planter width: 3 feet

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Local Regulation

Chapter 19.28.150 (new) – Two units

- Private open space for each unit: 15% of unit area on first floor with no dimension less than 10 feet
- Permitted yard encroachments:– front entry features and architectural features may encroach up to three feet into required setback but cannot be closer than three feet to property line. (**Similar to existing standards**)
- Architectural features cannot exceed 50% of the wall they are on, as seen from interior.

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Local Regulation

Chapter 19.28.150 (new) – Two units

- Second story decks – **Options for Council**
 - No decks
 - No decks if lot width is 50 feet or less at any cross section where deck is proposed or if building pad is five or more feet higher than adjacent properties with minimum setback of 20 feet from side and 30 feet from rear
 - Only allowed if balcony faces front yard of subject property or a public street
 - If allowed, then, limited in size and depth and cannot encroach more than three feet into front setback and if encroaches, may not be covered

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Local Regulation

Chapter 19.28.150 (new) – Two units

- Design standards related to:
 - Entry features
 - Porch features
 - Exterior or uncovered stairs
 - May not shade more than 10% of existing solar panel array
 - Existing design standards apply (R1-e Eichler)
 - Standards for sloped lots (defer to RHS standards)
 - Window trim standards
 - Garage door standards
 - Roof overhangs
 - Same arch. style and materials
 - Proportion of garage to facade
 - Front elevation requirements
 - Gable end interest
 - Accent materials
 - Mechanical & other equipment

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Local Regulation

Chapter 19.28.150 (new) – Two units

- Accessory Buildings – must meet existing standards, except ADUs not allowed if lot subdivided and unit(s) built pursuant to SB 9
- Fences and Outdoor lighting – must comply with existing standards
- Refuse, recycling and other containers – min. 3' by 8' space per unit required in interior yard behind fence
- Parking – no more than one space in enclosed space, if it can be required. If more provided, must meet City Code (**limited by state law**)

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Local Regulation

Chapter 19.28.150 (new) – Two units

- Driveways – one car driveway between 10 feet and 12 feet; two car driveway maximum of 20 feet. More spaces, in tandem.
- Short Term Rentals not allowed (**state law**)
- Condominium map – **Options for Council:**
 - Not allowed
 - Allowed

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Local Regulation

Chapter 19.40.050 RHS (amended)

- New lots between 40-60% of original
- Shall share driveway
- No more than 2 property lines may be added to create new lot and must follow contours of property
- Percolation test required if sanitary sewer connection unavailable
- Building pad on flattest portion of resulting lots closest to an existing or proposed driveway
- No Hillside exceptions allowed for substandard lots created as a result of new state law

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Local Regulation

Chapter 19.40.050 RHS (amended)

- No more than 1,250 cubic yards grading for each resultant lot (**half of existing standards**)
- Limit graded areas to within 50 feet of pad
- Limit flat yard area to 1,250 s.f. per lot (**half of existing standards**)
- Require screening of building from prominent intersections on the valley floor
- Projects pursuant to new state law not allowed to encroach into 15% site line from prominent ridge for new structures or further encroach for expansions of existing structures

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Local Regulation

Chapter 19.40.050 RHS (amended)

- Lots \geq 30% - Grading limited to 500 s.f. (**similar to existing non-discretionary limits**)
 - Allow at least two 800 s.f. units but no other development
- Protect trail linkages anticipated in General Plan
- Require privacy protection for second story windows and special window treatment if too close to side or rear property lines

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Local Regulation

Chapter 19.40.060 RHS (amended) – two units

- Floor area – 800 s.f. or if it meets all objective standards, floor area shall be proportionately allocated to new lots based on the proportion of new lots to existing lot.
 - E.g, if FAR allows 5,000 s.f. for “existing” lot; after a 50-50 lot split, each lot allowed 2,500 s.f.
- Side setbacks four feet for projects under state law
- Extension of legal non-conforming walls not allowed
- Lots split and developed with unit(s) pursuant to SB 9 not allowed ADU or JADU

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Local Regulation

Chapter 19.40.060 RHS (amended) – two units

- Design Standards added regarding:
 - Garages
 - Entry Features
- Off-street Improvements may be required for lots that previously did not need to dedicate or make off-street improvements under state law
- Short Term Rentals prohibited (**state law**)
- Other minor clarifications in this section

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Local Regulation

Chapter 19.40.090 RHS (new) – two units

- Establishes section authorizing ministerial approval of two units in RHS zoning district
- Mirrors many design standards already discussed in the context of R1 properties

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Comparison of processes

	Urban Lot Split (Parcel Map)		Two Story Permit vs. Two Units	
	Current	New	Current	New
Noticing – mailed	Yes	Yes	Yes	Yes
Noticing – site signage	Yes	Yes	Yes	Yes
Comment Period	Yes	Yes	Yes	Yes
Decision Body	Admin. Hearing Officer	Staff level. No hearing	No hearing	No change
Appeal	Yes – PC and CC	None	Yes – PC and CC	None

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Local Regulation

Chapter 19.112.060 (new) – ADUs

- ADUs or JADUs not permitted on properties that are subdivided pursuant to Government Code Section 64411.7 and developed with up to two units pursuant to Government Code Section 65852.21

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Recommended Action

- Conduct one and only reading of Ordinance no. 21-2232 by title only

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