

Capitola Planning Commission

Agenda Report



Meeting: April 21, 2022

From: Community Development Department

Subject: SB9 Ordinance

Project #: 22-0079

APN: Applicable to all parcels in Single-Family Zone

Project description: Amendments to the Capitola Municipal Code, Adding Section 17.75 SB9 Residential Developments to Title 17, Part 3 (Zoning, Citywide Standards), Adding Section 16.78 Urban Lot Splits to Title 16 (Subdivisions), Amending Section 17.74 Accessory Dwelling Units, and Amending Section 16.08 Definitions for the implementation of Government Code Sections 66411.7 and 65852.21 Related to Urban Lot Splits and SB9 Residential Developments.

Environmental Determination: Implement of Government Code sections 65852.21 and 66411.7, are not considered a project under CEQA.

Property Owner: Ordinance applies to all properties in the R-1 Zoning District

Representative: Katie Herlihy, Community Development Director

Background: Senate Bill 9 (SB 9) was passed in September 2021, and went into effect on January 1, 2022. SB 9 enacted Government Code Sections 66411.7 and 65852.21 which allows ministerial review of two-lot subdivisions with up to two residential units on each new lot. SB9 applies solely to properties within a single-family zone. The ministerial review is limited to the review of the objective standards established within the municipal code.

On February 3, 2022, the Planning Commission reviewed the first public draft of the ordinance and provided the following feedback on the draft ordinance:

1. Add requirement for deed restriction that development be limited to the standards within Chapter 17.75: Two-Unit Development in Chapter 17.75 and Chapter 17.74 Accessory Dwelling Units and prohibit Vacation Rental.
2. Increase maximum unit size to 1,200 square feet.
3. Keep guaranteed allowance for unit size at 800 square feet.
4. Allow two stories but limit the height of the second story to 22 feet, consistent with ADU standards.
5. Do not require separation between residential units
6. Allow up to 150 square feet for a porch but do not allow the front porch to project/encroach into the front yard.
7. Remove requirement that color and materials shall match other structures on the same parcel.
8. Include stormwater and onsite infiltration/pervious surface requirements.
9. Specify if accessory uses such as home occupancy or childcare are allowed.
10. For guaranteed allowance, prioritize front yard setbacks as the last option to encroach into for site design.
11. Consider decreased side and rear setbacks for smaller lots.

12. For lots created through an Urban Lot Split, allow zero setbacks from the new central lot line.
13. Minimize curb cuts for driveways. Consider requiring shared driveways through one curb cut.
14. Create maximum driveway widths rather than minimum driveway widths.
15. Consider more design standards to preserve front yard in single-family neighborhoods.
16. Do not require covered parking.
17. Guide parking to the side and rear of homes, not in the front yard

On March 31, 2022, the Planning Commission provided feedback on policy questions related to the SB9 ordinance. Specifically, further study of the proposed SB9 development standards applied to Capitola's typical lot sizes revealed that lots under 5,500 square feet in size cannot accommodate four units which comply with the draft setbacks, height, and parking. For instance, on a 4,000 square foot lot, if the 15-foot front yard setback is maintained and parking is required on the side or to the rear of the structures, a third story must be allowed to fit four 800 square foot units within the two lots. During the meeting, the Planning Commission directed staff to allow addition height up to three stories to prioritize front yards and require parking through shared access toward the back to the property.

The draft ordinance was also sent to Coastal Commission staff for comments. In general, Coastal staff comments suggested putting in protections for areas prone to flooding, sea level rise, environmentally sensitive habitat areas (ESHA), and geologic hazards. Another suggestion of Coastal staff was to require onsite parking or limit development in areas with limited street parking availability to ensure coastal access. Lastly, they requested additional notes to ensure the requirement of a Coastal Development Permit and necessary CDP findings are required for all SB9 development projects within the coastal zone. In response to Coastal Staff's suggestions, staff updated the ordinance to prohibited SB9 Residential Developments and Urban Lot Splits within the 100-year flood area, the Geological Hazards (GH) overlay, and within the Environmentally Sensitive Habitat Areas (ESHA) overlay. The ordinance was also updated to not allow any parking exceptions to the onsite parking requirement for properties located on streets with extremely limited street parking in close proximity to the coast to ensure coastal access is not impacted. A map of impacted streets is included in the updated ordinance.

Discussion: The draft ordinance will establish two new chapters of the Capitola Municipal Code, including Chapter 16.68 for Urban Lots Splits and Chapter 17.75 for Two Unit Developments. The ordinance establishes review procedures and objective standards for review of SB-9 applications. Pursuant to state law, the code must allow the following:

Eligibility:

- All properties located in the single family (R-1) zoning district

Subdivision:

- Up to two new parcels of at least 1,200 square feet in area.
- Created lots at least 40 percent of the lot area of the original parcel
- Lots have access to the public right-of-way.

Allowed Development:

- Up to two units allowed on each lot. Maximum of 4 units total

- Guaranteed allowance of up to 800 square feet per unit, regardless of setbacks, parking, and height
- 4 feet maximum size and rear yard setback

SB9 development applications must be reviewed administratively by staff and are not subject to discretionary review by the Planning Commission. Staff is limited to applying objective development standards in the review of the project and cannot apply subjective standards, such as compatibility within the neighborhood. The ordinance can guide the design of the urban lot splits and two-unit developments through the application of objective standards for siting and design.

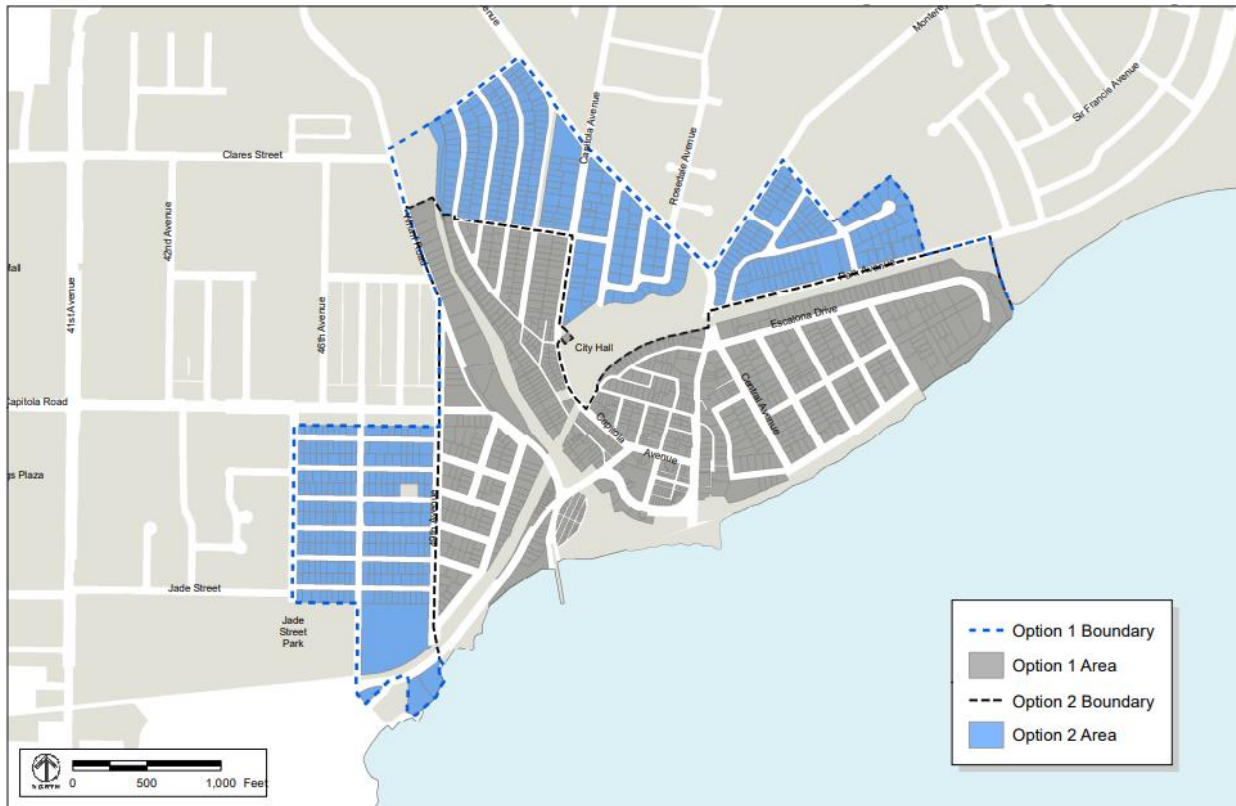
The draft ordinance has been updated to include Planning Commission and Coastal Commission staff direction. In addition to the changes listed in the background section of the report, the ordinance has also been updated to include the following:

1. Modified Title from Two Unit Developments to SB9 Residential Development
2. Within the guaranteed allowance 17.75.050.G.3, the Community Development Director shall determine which standards must be adjusted (height, setbacks, open space) to comply with the section.
3. Prohibited the use of the SB9 parking exception in areas close to the coast which have high demand for on street parking.

During the April meeting, an overview of the updated draft ordinance and major changes will be presented. There are two remaining items staff is seeking direction on.

17.75.040.D Separate Utility Connections. The draft code requires separate utility connection for each dwelling unit on a lot. This is not required by state law. Would the Planning Commission like to keep or remove this requirement?

17.75.050.D.7. Parking Exception. Under SB9, onsite parking is exempt if the parcel is located within one-half mile walking distance of either a high-quality transit corridor or a major transit stop or if there is a car share vehicle located within one block of the parcel. Staff added a map to show areas where the parking exception will not be applicable due to conflicts with coastal access. The areas shown on the map are in close proximity to the beach and heavily impacted by street parking. Staff is requesting direction on the map in Figure 1. Should the map include the boundary of option 1, or option 1 and 2?



Next Steps: If the Planning Commission has minor revisions to the ordinance, the Commission could make a positive recommendation to the City Council to adopt the ordinance with specific revisions. If the Planning Commission has major revisions to the ordinance, the ordinance should be continued to the May 5, 2022, Planning Commission meeting.

CEQA: Implement of Government Code sections 65852.21 and 66411.7, are not considered a project under CEQA.

Recommendation: Review the draft ordinance and consider forwarding a positive recommendation to the City Council to adopt the ordinance.

Attachments:

- Attachment 1. Draft Ordinance
- Attachment 2. SB9 Buildout Models
- Attachment 3. SB9 Map
- Attachment 4. Environmentally Sensitive Habitat Area Map
- Attachment 5. Geologic Hazards Map
- Attachment 6. Flood Map
- Attachment 7. Zoning Map
- Attachment 8. HCD SB9 Guidance

Attachment 9. Coastal Commission SB9 Guidance