

Capitola City Council

Agenda Report

Meeting: May 12, 2022

From: Community Development Department

Subject: Senate Bill 9 Residential Developments and Urban Lot Splits Ordinance



Recommended Action: 1) Introduce, by title only, waiving further reading of the text, an ordinance of the City of Capitola adding Municipal Code Chapters 16.78 and 17.75, adding Municipal Code section 16.08.020, and amending section 17.74.040 for the implementation of government code sections 66411.7 and 65852.21 related to Urban Lot Splits and Senate Bill 9 Residential Developments; and 2) Adopt proposed resolution Authorizing Submittal to the California Coastal Commission for the Certification of an Amendment to the Local Coastal Program Adding Municipal Code Chapters 16.78 and 17.75, adding Municipal Code Section 16.08020, and Amending Section 17.74.040 for the Implementation of Government Code Sections 66411.7 and 65852.21 Related to Urban Lot Splits and Senate Bill 9 Residential Developments.

Background: The State legislature passed Senate Bill 9 (SB 9) in 2021; the bill went into effect on January 1, 2022. SB 9 enacted Government Code Sections 66411.7 and 65852.21, which apply solely to properties within a single-family (R-1) zone. The bill allows the subdivision on R-1 lots into two lots with up to two residential units on each new lot.

In February, 2022, the Planning Commission reviewed the draft SB9 ordinance and provided feedback. The feedback is outlined in the discussion portion of this report. During a special meeting in March the Commission reviewed SB9 buildout models designed to fit on typical Capitola lots and provided policy direction regarding height, setbacks, and parking options for smaller lots that cannot accommodate SB9 development without adding additional height or allowing parking within the entire front yard. On April 15, 2022, the City republished the draft ordinance, including all Planning Commission guidance. On April 21, 2022, the Planning Commission recommended City Council adopt the ordinance.

During the last Council meeting, staff provided an overview of SB9 and the draft ordinance.

Discussion: The proposed ordinance establishes two new chapters of the Capitola Municipal Code: Chapter 16.78 for Urban Lots Splits and Chapter 17.75 for Two Unit Developments. The ordinance establishes eligibility requirements, review procedures, and objective standards for review of urban lot splits and SB-9 residential development applications.

Consistent with State law requirements, the ordinance includes 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 with access to the public right-of-way

Allowed Development:

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

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

Ministerial Review:

- Ministerial review by staff. Not subject to discretionary review by the Planning Commission.
- Review limited to applying objective development standards
- Review cannot apply subjective standards, such as compatibility within the neighborhood.

When Planning Commission reviewed the first draft of the ordinance on February 3, it provided the following feedback:

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. Keep guaranteed allowance for unit size at 800 square feet
3. Increase maximum unit size to 1,200 square feet for consistency with ADU regulations
4. Do not require separation between residential units
5. Limit front porch development to maintain front yards
6. Remove requirement that color and materials must match other structures on the same parcel
7. Include stormwater and onsite infiltration/pervious surface requirements
8. Specify if accessory uses, such as home occupancy or childcare, are allowed
9. For guaranteed allowance, protect front yards as the last option to expand into
10. Consider decreased side and rear setbacks for smaller lots
11. For lots created through SB9 Urban Lot Split, allow zero setbacks from the new central lot line
12. Minimize curb cuts for driveways. Require shared driveways with a maximum of one curb cut
13. Create maximum driveway widths rather than minimum driveway widths
14. Add standards to preserve front yards in single-family neighborhoods
15. Do not require covered parking
16. Guide parking to the side and rear of homes, not in the front yard

On March 31, 2022, the Planning Commission reviewed SB9 buildout models on typical Capitola lots and provided feedback. 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 800-square-foot units which comply with the SB9 ordinance setbacks, height, and parking requirements. For instance, on a 3,200 square foot lot, if parking is required onsite but not in the front yard, a third story and decreased front yard setbacks must be allowed to fit four 800 square foot units within the two lots. During the meeting, three of the five Commissioners directed staff to allow additional height up to three stories and require parking through shared access toward the back to the property to preserve front yards in the R-1 zone. Commissioners Routh and Wilk preferred parking in the front yard rather than additional height. Ultimately, the standards for additional height and no parking in the front yard were included in the draft ordinance recommended by Planning Commission, pursuant to the majority direction.

The draft ordinance was also sent to Coastal Commission staff for comments. In general, Coastal Commission 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 (CDP) and necessary CDP findings are required for all SB9 development projects within the coastal zone. In response to Coastal Staff's suggestions, City staff updated the draft ordinance to prohibited SB9 Residential Developments and Urban Lot Splits within the 100-year and 500-year flood areas, 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 onsite parking requirement for properties located on streets with extremely limited street parking near the coast to ensure coastal access is not impacted. A map of impacted streets is included in the ordinance.

At the April 28, 2022, City Council meeting, Mayor Story asked if the language regarding the Ellis Act in Section 16.78.020.B.6.c should be modified to state something other than "evict tenants". The specific language from the Ellis Act is "withdraw accommodations from rent or lease". The draft ordinance has been updated with this change.

CEQA: This action is statutorily exempt from the provisions of the California Environmental Quality Act ("CEQA"), pursuant to Government Code sections 65852.21(j) and 66411.7(n), as this action is to adopt an ordinance to implement the requirements of sections 65852.21 and 66411.7 of the Government Code.

Fiscal Impact: None.

Attachments:

1. SB9 Ordinance
2. Resolution Authorizing Submittal to California Coastal Commission for Certification
3. SB9 Buildout Models
4. SB9 Map
5. Environmentally Sensitive Habitat Area Map
6. Geologic Hazards Map
7. Flood Map
8. Zoning Map
9. HCD SB9 Guidance
10. Coastal Commission SB9 Guidance

Report Prepared By: Katie Herlihy, Community Development Director

Reviewed By: Chloé Woodmansee, City Clerk; Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager