
SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2023 - 2024 Regular

Bill No: SB 450 **Hearing Date:** 4/18/2023
Author: Atkins
Version: 3/16/2023
Urgency: No **Fiscal:** Yes
Consultant: Alison Hughes

SUBJECT: Housing development: approvals

DIGEST: This bill makes several changes to the ministerial approval of a housing development of no more than two units in a single-family zone (duplex), the subdivision of a parcel zoned for residential use into two parcels (lot split), or both.

ANALYSIS:

Existing law, pursuant to SB 9 (Atkins, 2021):

- 1) Requires a city or county to ministerially approve either or both of the following, as specified:
 - a) A housing development of no more than two units (duplex) in a single-family zone.
 - b) The subdivision of a parcel zoned for residential use, into two approximately equal parcels (lot split), as specified.
- 2) Authorizes a city or county to impose objective zoning, subdivision, and design review standards that do not conflict with this bill, except:
 - a) A city or county shall not impose objective standards that would physically preclude the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area. A city or county may, however, require a setback of up to four feet from the side and rear lot lines.
 - b) A city or county shall not require a setback for an existing structure or a structure constructed in the same location and to the same dimensions as the existing structure.
- 3) Prohibits a city or county from requiring more than one parking space per unit for either a proposed duplex or a proposed lot split. Prohibits a city or county

from imposing any parking requirements 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.

- 4) Authorizes a local agency to deny a housing project otherwise authorized by this bill if the building official makes a written finding based upon the preponderance of the evidence that the housing development project would have a specific, adverse impact upon health and safety or the physical environment and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact
- 5) Requires a city or county to include the number of units constructed and the number of applications for lot splits under this bill, in its APR.
- 6) Requires a city or county to ministerially approve a parcel map for a lot split only if the local agency determines that the parcel map for the urban lot split meets specified requirements.
- 7) Authorizes a city or county to impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this bill. A city or county may, however, require easements or that the parcel have access to, provide access to, or adjoin the public right-of-way.
- 8) Provides that a local government shall not be required to permit more than two units on a parcel.
- 9) Requires the Department of Housing and Community Development (HCD) to notify a local government if it has taken an action in violation of SB 9, and authorizes HCD to notify the Attorney General (AG) if the local government is in violation of SB 9.

This bill:

- 1) Provides that an application for a duplex or a lot split shall be considered and approved or denied within 60 days from the date the local agency receives a completed application. If the local agency has not approved or denied the application, the application shall be deemed approved.
- 2) Provides that if a local agency denies an application for a duplex or lot split, the permitting agency shall return in writing a full set of comments to the

application with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

- 3) Prohibits a local agency from imposing objective zoning standards, objective subdivision standards, and objective design standards that do not apply uniformly to developments within the underlying zone.
- 4) Clarifies that a local agency may impose objective standards so long as they are related to the design or to the improvements of a parcel.
- 5) Requires HCD to notify a local government if it has taken an action in violation of SB 9, and authorizes HCD to notify the AG if the local government is in violation of SB 9.
- 6) Makes other technical, clarifying changes.

COMMENTS:

- 1) *Author's Statement.* "To address decades of under-producing housing, the state Department of Housing and Community Development estimates that California must plan for more than 2.5 million new homes over the next eight years. Over the past seven years, the Legislature has taken a number of actions to encourage housing development. Those efforts include SB 9, which was an integral part of the Senate's 2021 housing package to address California's ongoing housing crisis. Following decades of historical patterns of housing segregation and exclusion embedded in land use and finance policies, SB 9 encourages the creation of new housing – making positive changes in our communities that strengthen the fabric of our neighborhoods with equity and inclusivity. This bill maintains the goals of SB 9 by addressing explicit attempts by some local governments to either ignore the law in its entirety or impose local standards that seek to discourage the creation of new units and lot splits. SB 450 makes a number of changes to SB 9 to improve access and certainty for homeowners and enhance oversight to ensure that the law can be used."
- 2) *Zoning generally.* Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built. In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors. Some housing projects can be permitted by city or county planning staff ministerially, or without further approval from elected officials. Projects reviewed ministerially require only an administrative review designed to ensure

they are consistent with existing general plan and zoning rules, as well as meeting standards for building quality, health, and safety. Most large housing projects are not allowed ministerial review; instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to review under CEQA, while projects permitted ministerially generally are not.

- 3) *Denser Housing in Single-Family Zoning.* California's high — and rising — land costs necessitate dense housing construction for a project to be financially viable and for the housing to ultimately be affordable to lower-income households. Yet, recent trends in California show that new housing has not commensurately increased in density. In a 2016 analysis, the Legislative Analyst's Office (LAO) found that the housing density of a typical neighborhood in California's coastal metropolitan areas increased only by four percent during the 2000s. In addition, the pattern of development in California has changed in ways that limit new housing opportunities. A 2016 analysis by BuildZoom found that new development has shifted from moderate but widespread density to pockets of high-density housing near downtown cores surrounded by vast swaths of low-density single-family housing. Specifically, construction of moderately-dense housing (2 to 49 units) in California peaked in the 1960s and 1970s and has slowed in recent decades.

The University of California, Berkeley Turner Center (Turner Center) for Housing Innovation conducted a residential land use survey in California from August 2017 to October 2018.¹ The survey found that most jurisdictions devote the majority of their land to single-family zoning and in two-thirds of jurisdictions, multifamily housing is allowed on less than 25% of land. Some jurisdictions in the US have taken steps to increase density in single-family zones. Minneapolis recently became the first major U.S. city to end single-family home zoning when its City Council passed a comprehensive plan to permit three-family homes in the city's residential neighborhoods, abolish parking minimums for all new construction, and allow high-density buildings along transit corridors. The City of Sacramento may be the first city in California to end single-family zoning; in January 2021, its City Council gave preliminary approval to a proposal to allow up to four homes per lot in single-family zones.

¹ Sarah Mawhorter and Carolina Reid. *Local Housing Policies Across California: Presenting the Results of a New Statewide Survey.* (Turner Center for Housing Innovation, University of California, Berkeley, December 2018) https://californialanduse.org/download/Turner_California_Residential_Land_Use_Survey_Report.pdf

According to a 2016 McKinsey Report, California has the capacity to build between 341,000 and 793,000 new units by adding units to existing single-family homes.²

A 2019 Zillow report found that even modest densification, such as duplexes and fourplexes could result in millions more homes.³ Across 17 metro areas analyzed nationwide, allowing 10% of single-family lots to house two units instead of one could yield almost 3.3 million additional housing units to the existing housing stock. In the L.A. region, if one in five single-family lots were re-zoned to hold two homes, the local housing stock could be boosted by 775,000 homes.

- 4) *SB 9 (Atkins, 2021)*. In 2021, the Governor signed SB 9 (Atkins, Chapter 162, Statutes of 2021), which allowed up to four homes on lots where currently only one exists. It did so by allowing existing single-family homes to be converted into duplexes; it also allowed single-family parcels to be subdivided into two lots, while allowing for a new two-unit building to be constructed on the newly formed lot. According to the Turner Center, that bill had the potential to allow for the development of nearly 6 million new housing units. Assuming only five percent of the parcels impacted by this bill created new two-unit structures; this bill could result in nearly 600,000 new homes.⁴

The Turner Center evaluated the use of SB 9 through the end of 2022 (one year from its enacted date of January 1, 2022). Researchers collected data from 13 jurisdictions and, so far, SB 9 activity has been relatively limited. For example, Los Angeles had the most activity, with 211 applications for new units under SB 9 in 2022. The state's other large cities all reported very few applications for lot splits or new units. For example, the City of San Diego reported receiving just seven applications for new SB 9 units in 2022.

Despite these initial reports, it is too early to draw any conclusions about SB 9's overall impact, as homeowners and local governments are still learning about the provisions in the bill. Similarly, it took a couple years for accessory dwelling unit application and construction to increase after reforms took effect on January 1, 2017.

² Jonathan Woetzel, Jan Mischke, and Shannon Peloquiun. *Closing California's Housing Gap*. (McKinsey & Company, October 24, 2016) <https://www.mckinsey.com/featured-insights/urbanization/closing-californias-housing-gap>

³ Zillow. *A Modest Proposal: How Even Minimal Densification Could Yield Millions of New Homes*. (December 6, 2019) <https://www.zillow.com/research/modest-densification-new-homes-25881/>

⁴ David Garcia, *Single-Family Zoning Reform: An Analysis of SB 1120*. (Turner Center for Housing Innovation, University of California, Berkeley, July 30, 2020) <https://turnercenter.berkeley.edu/blog/sb-1120/>

- 5) *Clarifying changes to SB 9.* SB 9 struck a balance between respecting local control and creating the opportunity for more housing options. Several local governments, however, have utilized the authority granted to them in SB 9 to impose unworkable requirements on SB 9 units and lot splits which are clearly intended to stall or stop projects. This bill would make several clarifying changes to SB 9. First, it provides that a locality shall consider and approve or deny an application for a duplex or lot split within 60 days from the date the locality receives the application, and if it has not approved or denied it by then, the application shall be deemed approved. If the locality denies the project, the locality shall return a set of comments of all the deficiencies and how the application can be remedied. Second, it provides that a locality shall not impose objective standards that do not apply uniformly to developments within the underlying zone.

Further, objective standards applied to lot splits shall be related to the design or to the improvements of the parcel. Lastly, similar to other housing laws, this bill requires HCD to notify a local government if it is violating any provision of SB 9 and authorizes HCD to notify the AG of the violations. This change is in consistent with similar authority for a variety of other state land use policies.

- 6) *Referral.* This bill was gut-and-amended on March 16th to deal with a different subject from the introduced version. Should the bill pass from this committee, it will be referred to the Senate Rules Committee for a possible re-referral.

RELATED LEGISLATION:

SB 9 (Atkins, Chapter 162, Statutes of 2021) — required ministerial approval of a housing development of no more than two units in a single-family zone (duplex), the subdivision of a parcel zoned for residential use into two parcels (lot split), or both.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, April 12, 2023.)

SUPPORT:

American Planning Association, California Chapter
 California YIMBY
 East Bay for Everyone
 East Bay YIMBY

Grow the Richmond
How to ADU
Mountain View YIMBY
Napa-Solano for Everyone
North Bay Leadership Council
Northern Neighbors
Peninsula for Everyone
People for Housing - Orange County
Progress Noe Valley
San Francisco YIMBY
San Luis Obispo YIMBY
Santa Cruz YIMBY
Santa Rosa YIMBY
South Bay YIMBY
Southside Forward
Urban Environmentalists
Ventura County YIMBY
YIMBY Action
YIMBY Law

OPPOSITION:

None received.

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