



**Contra
Costa
County**

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: March 29, 2022

Subject: Ordinance No. 2022-14 for Urban Housing Developments and Urban Lot Splits

RECOMMENDATION(S):

1. OPEN the public hearing on Ordinance No. 2022-14, RECEIVE testimony, and CLOSE the public hearing.
2. DETERMINE that the adoption of Ordinance No. 2022-14 is not a project under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3), Government Code Section 65852.21(j), Government Code Section 66411.7(n).
3. ADOPT Ordinance No. 2022-14, authorizing and regulating the development of up to two residential units on a parcel located in a single-family residential zone, and authorizing the ministerial approval of a parcel map for a subdivision of an existing lot in a single-family residential zone into no more than two new parcels.

FISCAL IMPACT:

The costs of preparing this ordinance have been funded by the Department of Conservation and Development's Land Development Fund. The cost of processing urban housing development and urban lot split applications will be 100% funded by application fees.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **03/29/2022** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: March 29, 2022

Contact: Stanley Muraoka,
925-655-2876

Monica Nino, County Administrator and Clerk of the Board of
Supervisors

By: , Deputy

cc:

BACKGROUND:

Senate Bill 9 was approved by the Governor on September 16, 2021, and became effective on January 1, 2022. The legislation requires local land use agencies to ministerially approve the development of up to two single-family residences on a qualifying urban parcel in a single-family residential zone (an “urban housing development”), and to ministerially approve a parcel map to subdivide a qualifying urban parcel in a single-family residential zone into no more than two new parcels (an “urban lot split”). SB 9 includes minimum standards a local agency must apply when approving urban housing developments and urban lot splits (e.g., location requirements, qualifying parcel requirements, setbacks, unit size, etc.), but does permit the local agency to impose objective zoning standards, objective subdivision standards, and objective design standards by ordinance. However, a local agency’s objective standards may not physically preclude the construction of two residential units of at least 800 square feet each on a parcel.

County Planning Commission

The County Planning Commission conducted a public hearing on the proposed Ordinance at its meeting on Wednesday, February 9, 2022. The Commission received oral testimony, closed the public hearing, and continued consideration of the Ordinance. On Wednesday, February 23, 2022, the Commission expressed concern about the State’s involvement in County land use matters relative to Senate Bill 9, then voted to recommend approval of the proposed Ordinance.

STAFF ANALYSIS:

Senate Bill 9 added Government Code Section 65852.21 to authorize and regulate urban housing developments, and Government Code Section 66411.7 to authorize and regulate urban lot splits. State law requires local agencies to process applications for urban housing developments and urban lot splits ministerially without discretionary review or public hearing applying only the minimum standards in State law. However local agencies may impose objective zoning standards, objective subdivision standards, and objective design standards by ordinance.

The Department of Conservation and Development and Public Works Department are currently processing applications for urban housing developments and urban lot splits, by applying the minimum standards found in State law to existing procedures. An urban housing development application is processed similar to an application for an Accessory Dwelling Unit Permit. An urban lot split is processed similar to a parcel map for a minor subdivision. The Department has added forms and informational documents on its permit application website, the ePermit Center, for applications for urban housing developments and urban lot splits.

Staff recommends adoption of the proposed Ordinance No. 2022-14, authorizing and

regulating the development of up to two residential units on a parcel located in a single-family residential zone, and authorizing the ministerial approval of a parcel map for a subdivision of an existing lot in a single-family residential zone into no more than two new parcels. The proposed ordinance would establish a permitting process specific to urban housing developments and urban lot splits and would impose additional objective standards beyond the minimum standards imposed by State law. Below is a summary of the proposed Ordinance 2022-14.

Summary of Proposed Ordinance 2022-14

Location

An urban lot split or an urban housing development may only be approved for a parcel that meets the following location requirements:

- The parcel is located:
 - in a single-family residential zoning district (R-6, R-7, R-10, R-12, R-15, R-20, R-40, R-65, and R-100), and
 - within the boundaries of a United States Census-designated urbanized area or urban cluster.
- The parcel is not located:
 - within a historic district or is included on the State Historic Resources Inventory or the County Historic Resources Inventory,
 - within a high or very high fire hazard severity zone,
 - within a delineated earthquake fault zone, or
 - within a 100-year flood area.

Attachment A is a layered GIS-base map that identifies parcels in unincorporated Contra Costa County that meet these location requirements and may be eligible for an urban lot split or urban housing development under Senate Bill 9 and the proposed Ordinance.

Urban Lot Split

The proposed Ordinance would add Article 94-4.10 to the County Ordinance Code to implement Government Code Section 66411.7, to provide an alternative method to subdivide a parcel located within a single-family residential zoning district for the purpose of housing development. The Ordinance would establish a procedure for the Board of Supervisors to ministerially approve a parcel map for an urban lot split, without discretionary review or public hearing, if certain objective standards are met, including:

- The location requirements are met.
- No more than two new lots of approximately equal lot area are created. Each resulting lot may not be smaller than 40 percent of the area of the original parcel proposed for subdivision, and neither resulting lot may be smaller than 1,200 square feet.
- Each resulting lot must be served by a separate water service meter and a separate

sewer connection.

- Each resulting lot must comply with County collect and convey requirements for stormwater drainage and the County's NPDES permit requirements for water pollutant discharge.
- On-site frontage improvements, rights-of-way, and development rights as required by the County Ordinance Code. No off-site frontage improvements would be required.
- Lot lines may not result in an accessory building on a lot without a primary building on the same lot.
- Lot lines may not render an existing structure as nonconforming, nor increase the nonconformity of a nonconforming structure.
- Each lot must front upon or have access to a public street, or be served by an access easement serving no more than two lots.

No tentative parcel map would be required for an urban lot split parcel map. No development may occur on a lot created by an urban lot split unless approved with an urban housing development permit. A lot created by an urban lot split may not be further subdivided.

Urban Housing Development

The proposed Ordinance would also add Chapter 88-36 to the County Ordinance Code to implement Government Code Sections 65852.21 and 66411.7, authorize and regulate the development of up to two residential units on a qualifying lot located in a single-family residential zone. The Ordinance would establish a procedure for the County Zoning Administrator to ministerially approve an urban housing development permit, without discretionary review or public hearing, if certain objective standards are met, including:

- The location requirements are met.
- Only residential uses and structures ancillary to residential uses are allowed.
- A minimum lot size of 1,200 square feet.
- Lot coverage may not exceed:
 - 67% on a lot of less than 3,000 square feet;
 - 50% on a lot of 3,000 square feet or more but less than 6,000 square feet;
 - 40% on a lot of 6,000 square feet or more but less than 12,000 square feet;
 - 30% on a lot of 12,000 square feet or more.
- The lot coverage limitations may be exceeded to allow construction of one new residential unit on a lot with an existing residential unit, if the new unit does not exceed:
 - 800 square feet on a lot of less than 6,000 square feet;
 - 1,000 square feet on a lot of 6,000 square feet or more but less than 12,000 square feet;
 - 1,200 square feet on a lot of 12,000 square feet or more.
- Yard setbacks and building heights are subject to limitations applicable to the underlying zoning district, except that:

- No setback is required for a new residential unit constructed in the same location and to the same dimensions as an existing building;
 - Setbacks of four feet from the side and rear lot lines are required;
 - A residential unit or any portion of the unit that is located within a setback area otherwise applicable in the underlying zoning district may not exceed 16 feet in height.
- The development must provide at least one off-street parking space per residential unit, except that no off-street parking is required if the development is located within:
 - ½-mile walking distance of a major transit stop,
 - ½-mile walking distance of a high-quality transit corridor, or
 - one block of a care share vehicle pick-up location.
- The development must comply with County collect and convey requirements for stormwater drainage and the County's NPDES permit requirements for water pollutant discharge.
- An urban housing development may include an ADU or Junior ADU in accordance with the County's existing ADU Ordinance, except that an urban housing development that includes two residential units on a lot created by an urban lot split may not include an ADU or Junior ADU.
- Construction of an urban housing development may not require demolition or alteration of certain below-market-rate or rental housing.
- No residential unit in an urban housing development may be rented or offered for rent for a term of less than 30 days.

General Plan Consistency

The proposed Ordinance is consistent with the General Plan, in particular, the Housing Element, which includes eight general goals for housing. The Ordinance would specifically promote the following goals:

Goal 1: Maintain and improve the quality of the existing housing stock and residential neighborhood in Contra Costa County.

Goal 2: Preserve the existing affordable housing stock in Contra Costa County.

Goal 3: Increase the supply of housing with a priority on the development of affordable housing.

Goal 6: Provide adequate sites through appropriate land use and zoning designations to accommodate the County's share of regional housing needs.

Goal 7: Mitigate potential governmental constraints to housing development and affordability.

With respect to the General Plan Land Use Element, a parcel in a single-family residential land use designation could be developed with up to two single-family residences through approval of an urban housing development and up to four single-family residences through approval of an urban lot split and subsequent approval

of urban housing developments. However, General Plan single-family residential land use designations are mapped over very large areas of unincorporated County. Accordingly, a majority of the parcels within a single-family residential-designated area would have to be developed through urban lot splits followed by urban housing developments for the residential density of the designated area to significantly increase. Under Government Code Section 66411.7, a subdivider cannot subdivide adjacent parcels through an urban lot split and further subdivision of a resultant lot of an urban lot split is not allowed. With such constraints, a significant increase in the density of an area within a single-family residential land use designation would not be expected. Development pursuant to Senate Bill 9 of scattered sites in a particular single-family residential land use designation would be expected to maintain the overall General Plan single-family residential density within the land use designation.

Further, an intent of Senate Bill 9 is to promote residential development in appropriate urbanized areas and sets forth criteria for qualifying parcels. Thus, the proposed Ordinance would remain consistent with General Plan land use goals such as Goal 3-E: *To recognize and support existing land use densities in most communities, while encouraging higher densities in appropriate areas, such as near major transportation hubs and job centers.*

Zoning Compliance

The proposed Ordinance adds Chapter 88-36 and Article 94-4.10 to the County Ordinance Code. As proposed, Chapter 88-36 allows the creation of urban housing developments of up to two residential units on qualifying parcels in single-family residential zones and includes development standards for these residential units to ensure health, safety, and general welfare of the community. Proposed Article 94-4.10 allows the subdivision of qualifying parcels in single-family residential zones into up to two residential lots, and facilitates the creation of urban housing developments on the resultant lots. The proposed Ordinance would be consistent with the Government Code and would not conflict in any manner with the County Zoning Code.

Environmental Review

For purposes of compliance with the California Environmental Quality Act (CEQA), the proposed Ordinance is not a project pursuant to CEQA Guidelines Section 15060(c)(3), Government Code Section 65852.21(j), and Government Code Section 66411.7(n).

CONCLUSION:

Proposed Ordinance No. 2022-14, authorizing and regulating the development of up to two residential units on a parcel located in a single-family residential zone, and authorizing the ministerial approval of a parcel map for a subdivision of an existing lot in a single-family residential zone into no more than two new parcels, is consistent with Government Code Sections 65852.21 and 66411.7, the County General Plan, and the County Zoning Code. Staff recommends adoption of Ordinance No. 2022-14.

CONSEQUENCE OF NEGATIVE ACTION:

If the recommended actions are not approved, the Chapter 88-36 and Article 94-4.10 will not be added to the County Ordinance Code. Pursuant to the Government Code Sections 65852.21 and 66411.7, the County will continue to process applications for urban housing developments and urban lot splits applying only those objective development standards currently contained in the existing County Ordinance Code and in the State law.

CLERK'S ADDENDUM

CLOSED the public hearing; DETERMINED that the adoption of Ordinance No. 2022-14 is not a project under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3), Government Code Section 65852.21(j), Government Code Section 66411.7(n); and ADOPTED Ordinance No. 2022-14 as modified today to include districts designated P-1.

ATTACHMENTS

SB-9 Maps

CPC Staff Report 2.9.22

CPC Staff Report 2.23.22

Ordinance No. 2022-14