

STAFF REPORT



COMMUNITY DEVELOPMENT

DATE: May 17, 2022

TO: Justin Hess, City Manager

FROM: Patrick Prescott, Community Development Director
By: Fred Ramirez, Assistant Community Development Director – Planning
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SUBJECT: Approval of an Extension of an Adopted Urgency Ordinance (Project No. 22-0001350) for Two-Unit Residential Developments and Urban Lot Splits in All Single-Family Residential Zones In Response to Senate Bill 9.

RECOMMENDATION

Adopt AN EXTENSION OF AN ADOPTED URGENCY ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK ESTABLISHING INTERIM DEVELOPMENT CONTROLS FOR TWO-UNIT RESIDENTIAL DEVELOPMENTS AND URBAN LOT SPLITS IN ALL SINGLE-FAMILY RESIDENTIAL ZONES, TO ALLOW THE CITY COUNCIL TIME TO STUDY AND CONSIDER ENACTMENT OF ZONING MEASURES IN RESPONSE TO SENATE BILL (SB) 9, AS AMENDED (Attachment 1). (Requires 4/5th vote for adoption)

BACKGROUND

On September 16, 2021, Governor Newsom signed Senate Bill 9 (SB 9) California Housing Opportunity and More Efficiency (HOME) Act into law, codified as California Government Code Sections 66452.6, 6852.21 and 66411.7 (Attachment 5). SB 9 took effect on January 1, 2022 and specifies that local jurisdictions must ministerially approve two-unit residential housing developments and subdivisions (urban lot splits) on a single family residential zoned lot when the proposed development and/or subdivision meets requirements listed in California Government Code Sections 65852.21 and 66411.7, and a local jurisdiction's objective development, design, and subdivision standards.

On April 5, 2022, the City Council adopted an Urgency Ordinance (Attachment 3) and application fees (Attachment 4) that established interim objective design and development standards regulating SB 9 projects that may be submitted for City review,

while the City undertakes a comprehensive Zone Text Amendment (ZTA). The purpose of the Urgency Ordinance was to mitigate the potential outcome of implementing SB 9 development regulations that could have potentially adverse impacts to both the City's utility infrastructure and the character of the City's single family residential zoned neighborhoods. In addition, the adopted Urgency Ordinance established more tailored objective design and development standards that address concerns related to the potential maximum buildout of primary units and accessory dwelling units in combination with lot splits that would be possible under SB 9 without any local refinement.

On May 3, 2022, pursuant to California Government Code Section 65858 (d), City Staff provided the City Council a report of the status of the work that has been undertaken since the adoption of the urgency ordinance (Attachment 6). The necessary work to address the issues of concern outlined in the urgency ordinance could not be completed within 45 days. Taking into consideration the continued implementing of procedures for SB 9 projects, the need to gather and consider public input, and the request by City Council to provide additional regulations in the form of objective development standards, staff is requesting an extension of the urgency ordinance.

DISCUSSION

Pursuant to State law, the adopted urgency ordinance is valid for 45 days and will expire on May 20, 2022, unless extended by the City Council. After holding a public hearing, the City Council can extend the urgency ordinance for up to an additional 10 months and 15 days, for a total effective period of one year (CA Government Code Section 65858(a)). As with the initial adoption of the urgency ordinance, a four-fifths (4/5) vote is required to extend the urgency ordinance. The City Council has the option of extending the urgency ordinance using the same interim development standards adopted on April 5th, extending the urgency ordinance using amended interim standards, or allowing the urgency ordinance to expire.

Staff recommends extending the urgency ordinance 10 months and 15 days, until April 4, 2023, with the following amendments to add clarification to the interim standards:

1. Second stories for Primary and Second Primary Dwelling Units shall be stepped back a minimum of 15-feet from the rear property line.
2. Two-unit residential developments in the R-1-H Zone are subject to the development standards in Section 10-1-605 of the Burbank Municipal Code applicable to Single-Family Residential Horsekeeping properties.

Necessity for Amended Urgency Ordinance

As previously discussed, State law allows local jurisdictions to adopt objective development, design, and subdivision standards ("objective standards") that can be

applied to SB 9 projects. This creates an opportunity for the City to adopt objective standards that are tailored to meet local concerns, subject to the limits established under State law. The adopted urgency ordinance provided the City with the opportunity to establish objective standards that could immediately be applied to SB 9 projects. To address some of the items that City Council wanted Staff to add to the objective development standards for SB 9 projects and to further clarify the existing development standards from the adopted interim urgency ordinance, Staff is bringing forward an amended interim urgency ordinance for City Council's consideration. The proposed amendments to the ordinance provide clarification to the adopted interim standards and further allow the City to limit the development impacts of residential units and urban lot splits (SB 9 projects) on single-family zoned neighborhoods and properties. Furthermore, while the urgency ordinance is in effect, the City would have additional time to study the potential impacts of SB 9 projects to: (1) further tailor the objective standards and application procedures to create controls and standards that fit the character of the existing single-family neighborhoods; and (2) better understand the impacts on the existing utility infrastructure (e.g., electrical, wastewater, and landfill capacity impacts) in order to protect the public health, safety and general welfare of the community by providing safe and reliable utility infrastructure for the use of existing and future residents.

FISCAL IMPACT

Adoption of the urgency ordinance does not have a significant impact to the City's General Fund. Future units constructed pursuant to Senate Bill 9, Government Code Sections 65852.21 and 66411.7, would be processed through the City's planning and building plan check and permitting process, which includes the payment of associated City building and development fees. Newly created parcels and new primary units would be reassessed by the County, which may result in a higher valuation and/or property taxes. Future development would be required to pay the associated development impact fees as well as any required infrastructure connection and maintenance fees.

CONCLUSION

The requested extension to the adopted urgency ordinance will provide City Staff adequate time to study additional development controls and standards that could be applied to SB 9 projects. Additionally, the extension will give City Staff the necessary time to further specify permanent submittal and procedural requirements for Applicants that submit SB 9 projects.

Adoption of the amended urgency ordinance and later consideration of a Zone Text Amendment will facilitate ongoing responsible development of new housing units, which create new housing opportunities and building types, while putting in place development standards as allowed by State law that help preserve and protect the character of existing residential neighborhoods.

ATTACHMENTS

Attachment 1 – Draft Amended Urgency Ordinance

Attachment 2 – Draft Amended Urgency Ordinance (Redlined)

Attachment 3 – Interim Urgency Ordinance No. 22-3,972 adopted April 5, 2022

Attachment 4 – SB 9 Fee Resolution No. 22-29,307 adopted April 5, 2022

Attachment 5 – Senate Bill No. 9

Attachment 6 – May 3, 2022, Staff Report on Urgency Ordinance

Correspondence