



City of Huntington Beach

File #: 22-437

MEETING DATE: 5/24/2022

PLANNING COMMISSION STAFF REPORT

TO: Planning Commission
FROM: Ursula Luna-Reynosa, Director of Community Development
BY: Jennifer Villasenor, Deputy Director of Community Development

SUBJECT:
ZONING TEXT AMENDMENT NO. 22-002 (SB 9 DEVELOPMENT PROJECTS)

REQUEST: To amend the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) to establish permanent objective development and design standards for SB 9 development projects. On March 1, 2022, the City Council adopted an interim urgency ordinance establishing Chapter 237 of the HBZSO to establish development regulations and processing procedures for SB 9 development projects. The City Council extended the interim urgency ordinance on April 5, 2022.

LOCATION: Citywide - Residential Low Density (RL) designated properties

APPLICANT: City of Huntington Beach

PROPERTY OWNER: N/A

BUSINESS OWNER: N/A

STATEMENT OF ISSUE:

Zoning Text Amendment (ZTA) No. 22-002 is a City-initiated request to amend the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) by adding Chapter 237 - *Objective Standards for SB 9 Development Projects*, which establishes development standards and review procedures for projects proposed pursuant to Senate Bill 9 (SB 9). SB 9 became effective on January 1, 2022, and requires cities to ministerially approve two unit developments and/or parcel maps to subdivide an existing lot in single-family residential zones.

RECOMMENDATION:

That the Planning Commission take the following actions:

A) Find that Zoning Text Amendment No. 22-002 is exempt from the California Environmental Quality Act (CEQA) pursuant to Government Code Sections 65852.21(j) and 66411.7(n), which state

that the adoption of an ordinance by a city or county implementing the provisions of Government Code Sections 65852.21 and 66411.7 and regulating urban lot splits and two unit projects is not a project under CEQA.

B) Recommend approval of Zoning Text Amendment No. 22-002 with findings (Attachment No. 1) by approving the draft City Council ordinance (Attachment No. 2) and forward to the City Council for consideration.

ALTERNATIVE ACTION(S):

Continue Zoning Text Amendment No. 22-002 and direct staff accordingly.

PROJECT PROPOSAL:

ZTA No. 22-002 proposes to amend the HBZSO by adding Chapter 237 - *Objective Standards for SB 9 Development Projects*, establishing development standards and review procedures for projects proposed pursuant to Senate Bill 9.

Effective January 1, 2022, SB 9 adds Sections 65852.21 and 66411.7 to the Government Code. Section 65852.21 requires cities to consider a proposed housing development containing no more than two residential units within a single-family residential zone ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements. Section 66411.7 requires local agencies to ministerially approve a parcel map for an “urban lot split” meeting certain requirements. Both statutes permit the City to impose objective zoning, subdivision, and design standards on such projects as long as those standards would not have the effect of physically precluding the construction of up to two units on a lot or physically preclude either of the two units from being at least 800 square feet in floor area.

Background:

SB 9 was signed into law by Governor Newsom on September 16, 2021, and became effective on January 1, 2022. SB 9 was part of the California Senate’s 2021 Housing Production Package, a group of housing laws aimed at increasing housing supply throughout the state.

On March 1, 2022, the City Council adopted an interim urgency ordinance establishing Chapter 237 of the HBZSO, which provides development regulations and processing procedures for SB 9 development projects. The City Council extended the interim urgency ordinance on April 5, 2022. The proposed ZTA would establish permanent SB 9 regulations.

To date, the City received several inquiries and one SB 9 submittal, but the submittal was subsequently withdrawn.

ISSUES AND ANALYSIS:

Summary of SB 9

To qualify for ministerial approval under SB 9, a two-unit development or urban lot split must satisfy specified criteria. These qualifying criteria include, but are not limited to the following:

- The property must be located within a single-family residential zone.
- The proposed development cannot be located within a historic district or on property included

on the State Historic Resources Inventory, or within a site designated or listed as a city landmark or historic property pursuant to a city ordinance.

- The development site cannot be prime farmland, wetlands, a site identified for conservation or habitat preservation, or a regulatory floodway and the development must meet specified standards if it is located in high or very high fire hazard severity zone, the flood zone, or within an earthquake fault zone.
- The proposed development cannot require the demolition or alteration of housing occupied by a tenant within the last three years.
- The proposed development cannot require the demolition or alteration of housing subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very-low income.
- The proposed development cannot require the demolition or alteration of housing subject to any form of rent or price control.
- An owner of the property cannot have removed residential units on the property from the rental market under the Ellis Act within the last 15 years.
- If the site has been occupied by a tenant within the last three years, the proposed development cannot allow for the demolition of more than 25% of the existing exterior structural walls (unless allowed by local ordinance).

In addition, in the case of an urban lot split:

- The parcel map must subdivide an existing lot to create no more than two new lots of approximately equal lot area, provided that one lot shall not be smaller than 40% of the lot area of the original lot;
- Unless the city otherwise allows, both newly created lots must be no smaller than 1,200 square feet;
- The lot proposed to be subdivided must not have been established through a prior urban lot split;
- The subject lot cannot be adjacent to any lot established through an urban lot split by the owner of the subject lot or by any person acting in concert with the owner of the subject lot; and
- Except as otherwise provided in SB 9, the proposed subdivision must comply with all objective requirements of the Subdivision Map Act.

In limited circumstances, a city may deny an application for an SB 9 two-unit development or urban lot split where the proposed project would have a specific, adverse impact upon health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

SB 9 also outlines what types of regulations a local jurisdiction can and cannot impose on an SB 9 project:

Regulation	Permitted	Not Permitted
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Subdivision Requirements	- Easements for provision of public services - Easements to ensure subdivided lots have access to the public right-of-way	- Dedication of right-of-way - Construction of off-site improvements - Correction of nonconforming zoning conditions
Objective Standards	- Objective zoning, subdivision, and design standards	- No setback can be required if unit is built within the footprint of existing structure - Otherwise maximum 4' setback from side and rear yards - Standards cannot physically prevent the development of an 800 s.f. unit on each lot
Parking	- Can require one space per unit	- Cannot require parking if site is within ½ mile of a high quality transit corridor or major transit stop or if there is a car share vehicle within a block of the project
Rental Restrictions	- Can prohibit short term rental of any units created through SB 9 - For lot splits, applicants must submit an affidavit that they intend to occupy one of the unit as a principal residence for at least 3 years	- No additional owner occupancy requirements are allowed

General Plan Conformance:

ZTA No. 22-002 would add Chapter 237 to the HBZSO and establish development regulations and processing procedures for SB 9 development projects consistent with state law. SB 9 projects would be permitted within the Residential Low (RL) Density designated areas and allow duplexes and/or subdivisions (i.e. - lot splits) in single-family residential neighborhoods. The proposed regulations of ZTA No. 22-002 provide for duplexes and lot splits in accordance with state law, create ministerial review procedures, and establish objective development and design standards that conform to the goals and policies of the General Plan. ZTA No. 22-002 is consistent with the General Plan goals and policies identified below.

Land Use Element

Policy LU-1(D): Ensure that new development projects are of compatible proportion, scale, and character to complement adjoining uses.

Policy LU-2(D): Maintain and protect residential neighborhoods by avoiding encroachment of incompatible land uses.

Goal LU-4: A range of housing types is available to meet the diverse economic, physical, and social needs of future and existing residents, while neighborhood character and residences are well maintained and protected.

Housing Element

Policy 1.1: Preserve the character, scale and quality of established residential neighborhoods.

Goal 2: Provide adequate housing sites through appropriate land use, zoning and specific plan designations to accommodate Huntington Beach's share of regional housing needs.

Policy 4.3: Explore continued improvements to the entitlement process to streamline and coordinate the processing of permits, design review and environmental clearance.

ZTA No. 22-002 would establish regulations to implement SB 9, a state law that allows for duplexes and lot splits in single-family residential zones. The proposed regulations provide a ministerial process for SB 9 projects in accordance with state law while ensuring objective standards are in place to protect the City's single-family residential neighborhoods from adverse impacts. The proposed ZTA introduces a new residential product type in the RL zoning districts. Consistent with state law, the proposed ZTA could result in development projects with a total of four units where there was previously one unit. As such, objective standards are proposed to ensure site design and architecture is context-sensitive and compatible with the existing single-family residential neighborhood. Because SB 9 units and lots, if a lot split occurs, would generally be smaller than a typical single-family property, SB 9 units may be more affordable to a larger segment of the community. In addition, the proposed ZTA includes an incentive that would allow greater square footage for property owners that voluntarily provide affordable units to low income households. The proposed processing procedures allow for ministerial approval if an applicant complies with the objective standards of the proposed ZTA. The proposed ministerial review procedures and objective standards provide a streamlined process with high level of certainty for property owners seeking to construct SB 9 projects in compliance with the objective standards.

Zoning Compliance:

The proposed amendments to the HBZSO have been developed pursuant to the regulations contained in SB 9 and reflect the minimum objective standards to protect the public health, safety and welfare and ensure SB 9 projects do not have a detrimental impact on single-family neighborhoods within the City. Below is a summary of the proposed SB 9 provisions.

Applicability and General Requirements

- Permitted in the Residential Low Density (RL) zoning district and specific plans with RL districts
- SB 9 project shall comply with all other applicable requirements, including the HBZSO and Municipal Code
- Applicant must affirm the SB 9 project meets the eligibility requirements of the state law
- Application must include written approval from Homeowners' Association (HOA), if any
- Applicant is required to record a covenant on the property with the following provisions:
 - Non-residential uses and short-term rentals shall be prohibited
 - Property owner intends to occupy one of the housing units as their principal residence for three years
 - A subsequent urban lot split on land previously subdivided via an urban lot split shall be prohibited
 - Parking for any existing units shall be maintained
 - Access to the public right-of-way shall be maintained in perpetuity

- Residential units on a single lot cannot be sold separately
- For projects with a lot split, accessory dwelling units shall be prohibited

Review procedures

- Applications for SB 9 projects shall be approved ministerially
- During the City's review, if the City identifies a potential issue with respect to adequate water, sewer, traffic flow, or public safety, the City may require the applicant to submit an Administrative Permit application
- A SB 9 project may be denied if the project, based on a preponderance of the evidence, would have a specific, adverse impact with no feasible method to mitigate or avoid the impact
- SB 9 projects requiring a coastal development permit (CDP) or tentative parcel map (TPM) shall be required to go through the normal approval process for those applications except no public hearing would be required

Objective Standards

- All development standards not specified in the ordinance shall apply the standards of the base zoning district
- Maximum size: 800 square feet and one bedroom (lots less than 10,000 square feet); 1,600 square feet and two bedrooms (lots 10,000 square feet or greater)
- Maximum height: 16 feet/one story
- Side and rear setback: four feet (no encroachments would be permitted)
- Parking: one enclosed or partially enclosed space (i.e. - carport) per new unit; no parking is required for new units within one-half mile of a high quality transit corridor or a major transit stop or if there is a car share vehicle within one block of the project
- Design: all new units shall have the same architectural style, roof pitch, and color
- All new units shall have solar panels
- No rooftop decks shall be permitted
- Additional Lot Split Standards: minimum lot width: 20 feet; access to public right-of-way must be maintained; flag lots are not permitted for corner lots, through lots, and lots with alley access.

Environmental Status:

ZTA No. 22-002 is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Government Code Sections 65852.21(j) and 66411.7(n), which state that the adoption of an ordinance by a city or county implementing the provisions of Government Code Sections 65852.21 and 66411.7 and regulating urban lot splits and two unit projects is not a project under CEQA.

Coastal Status:

ZTA No. 22-002 will require certification of a Local Coastal Program Amendment by the California Coastal Commission.

Other Departments Concerns and Requirements:

ZTA No. 22-002 was developed with assistance from the City Attorney's Office.

Public Notification:

Legal notice was published in the Huntington Beach Wave on May 12, 2022 and notices were sent to individuals and organizations requesting notification (Planning Division's Notification Matrix). As of May 17, 2022, no communications regarding the request have been received.

Application Processing Dates:

DATE OF COMPLETE APPLICATION:	MANDATORY PROCESSING DATE(S):
Not Applicable	Not Applicable

SUMMARY:

Staff is recommending approval of ZTA No. 22-002 for the following reasons:

- The proposed provisions are consistent with state law
- It is consistent with the goals and policies of the General Plan.
- The proposed ZTA provides clear standards and a ministerial approval process for single-family residential property owners that want to improve their properties while maintaining sensitivity to the existing single-family residential neighborhoods.

ATTACHMENTS:

- ~~1. Suggested Findings for Approval - Zoning Text Amendment No. 22-002~~
- ~~2. Draft City Council Ordinance~~