TOWN OF LOOMIS
PLANNING DEPARTMENT
3665 Taylor Road | Loomis, CA, CA 95650
Phone: (916) 652-1840 | Fax: (916)652-1840

SB 9 QUESTIONNAIRE

Address: _____ APN:_____
Zoning: _____Property Owner:_____
Property Owner Address: _____
Phone: _____ Email: _____

1. Was the lot previously created under SB 9? ☐ Yes (If yes, when?_____) ☐ No
   (If yes, SB 9 cannot apply)
2. If you own an adjacent parcel, has it been previously split under SB 9?
   ☐ Yes (If yes, when? _____) ☐ No (If yes, SB 9 cannot apply)
3. What is the size of each created parcel? (One parcel can be no smaller than 40% of the lot area of the original parcel and must be no smaller than 1,200 SF) Please describe:
   Existing Parcel Size: _____ Proposed Parcel Sizes: _____ / _____
   (Existing Parcel must be at least 2,400 SF)
4. Is the original parcel within a single-family residential zone? ☐ Yes ☐No (must answer Yes)
5. Is the original parcel located within a city or unincorporated area that contain an urbanized area or urban cluster? ☐ Yes ☐No (must answer Yes)
6. Is the original parcel served by:
   Public Water: ☐ Yes ☐No Name of Provider: _____
   Public Sewer: ☐ Yes ☐No Name of Provider: _____
   - You will need to demonstrate you have both water and sewer available to your resulting parcels.
   - There are two methods to demonstrate this:
     - Obtain letters from the water and sewer providers proving that your current parcel is served by them.
     - Demonstrate through studies and tests that **each** resulting parcel will have capacity for a well and septic system. You can find out more by reaching out to Placer County Environmental Health at (530)745-2300.
7. Is the original parcel located in a historic district or considered historic property?
   ☐ Yes ☐No (must answer No)
8. Is the property in an HOA or are there CC&Rs associated with it? ☐ Yes ☐ No
   Name of HOA/CCR's?: _____
9. Will this create a flag lot? ☐Yes ☐ No (If yes, the extension must be 20' in width (min) and no more than 200' in length.)
10. How many dwellings are proposed on each lot? (please include any existing dwellings, including ADUs and JADUs, that would remain on the property)
    _____
    _____
11. Is there an existing dwelling on the site? ☐ Yes ☐ No

12. Will it be demolished? ☐ Yes ☐ No
13. What percent of the dwelling would be demolished? (no more than 25% if occupied by tenant in last 3 years or owner occupied) _____%
14. Is the existing unit an affordable housing unit? ☐ Yes ☐ No
    The lot split must not require demolition or alteration of any of the following types of housing:
    - ☐ Affordable housing for persons or families of moderate, low, or very low incomes
    - ☐ Rent controlled housing
    - ☐ Housing which has been occupied by a tenant in the last three years
15. What is the proposed coverage on each lot? _____
    _____
16. What is the height of the dwellings to be constructed?
    _____
17. Identify the front setbacks in relation to the proposed dwelling.
    _____
    _____
18. Will any dwelling be within 4 feet of a side or rear yard lot line? ☐Yes ☐ No
19. How many parking spaces will be provided? _____
20. Are there non-residential uses on the parcel such as a church or institution? ☐ Yes ☐ No
    (If yes, SB 9 cannot apply)
21. Do you plan to use any of the units for short-term rentals? ☐ Yes ☐ No
    (SB9 requires rental of any unit created for a term longer than thirty days)
22. Identify the location of Utility and Access easements.
    _____
    _____
    _____
23. Is the parcel in a high fire hazard severity zone? (Refer to map in Safety and Noise Chapter Volume III of the General Plan) ☐ Yes (If yes, SB 9 cannot apply) ☐ No
24. Is the parcel within a flood zone? (Refer to FEMA map or Vol III of General Plan)
    ☐ Yes (If yes, SB 9 cannot apply) ☐ No
25. Does this parcel contain slopes greater than 30%? ☐ Yes ☐ No
26. Would new units be located within an area of noise concern? ☐ Yes ☐ No
27. Are there wetlands, waterways, or riparian habitat on the parcel? ☐Yes ☐No
28. For the above – how will these factors be addressed? (site design, mitigation, engineering, building enhancements per CBC for units in hazard areas, etc.)
    _____
    _____
    _____
29. I, _____ , Property Owner/Applicant, intend to occupy one of the housing units as my principal residence for a minimum of three years from the date of approval of the lot-split. Signed: _____ Date: _____

What Does SB 9 Do?

Firstly, SB 9 requires the automatic approval, without discretionary review or hearing, of urban lot-splits of parcels zoned for single-family residential use, provided the enumerated criteria in SB 9 are satisfied.

Secondly, SB 9 requires the automatic approval, without discretionary review or hearing, of the construction of up to two residential units on a parcel zoned for single-family residential use, provided such construction meets the qualifying criteria under SB 9.

SB 9 allows local agencies to impose objective zoning, subdivision, and design standards, but otherwise does not allow for a local agency's subjective judgment in determining whether a proposed, qualifying lot-split or development should be approved or denied. Although they can impose objective standards, local agencies cannot impose standards that would have the effect of physically precluding the construction of up to two units on a parcel or would physically preclude either of the two units from being at least 800 square feet in floor area.

In plain language, the passage of SB 9 creates the possibility that a single-family residential lot can now be divided and developed with up to four residential units where only one single-family home previously existed.

SB 9 enumerates certain criteria that must be met in order for a lot-split or housing development project to be automatically approved under the statute. A few of the most important qualifying criteria are listed below:

Selected Qualifying Criteria for a Lot-Split

1. The parcel map must subdivide an existing parcel to create no more than two new parcels of approximately equal lot area. One parcel can be no smaller than 40 percent of the lot area of the original parcel.
2. Newly created parcels must be no smaller than 1,200 square feet. However, a local agency may adopt a smaller minimum lot size by ordinance. If such an ordinance is adopted, the ordinance must specify a minimum lot size of at least 800 square feet.
3. The original parcel being subdivided must meet the following criteria:
    - The parcel must be within a single-family residential zone
    - The parcel must be located within a city or unincorporated area that contains an urbanized area or urban cluster
    - The parcel must not be located within a historic district or be a historic property
    - The parcel must not have been previously split under SB 9
    - The parcel must not be adjacent to a parcel previously split under SB 9
4. The lot split must not require demolition or alteration of any of the following types of housing:
    - Affordable housing for persons or families of moderate, low, or very low incomes
    - Rent-controlled housing
    - Housing which has been occupied by a tenant in the last three years

Selected Qualifying Criteria for a Proposed Housing Development

1. The parcel subject to development must be located within a city or unincorporated area that contains an urbanized area or urban cluster.
2. The development must not require demolition or alteration of any of the following types of housing:
    - Affordable housing for persons or families of moderate, low, or very low incomes
    - Rent-controlled housing
    - Housing which has been occupied by a tenant in the last three years
3. The development must not be located within a historic district or on a historic property site.
4. The development must not allow for the demolition of more than 25 percent of the existing exterior structural walls, unless:
    - A local ordinance so allows
    - The development site has not been occupied by a tenant in the last three years

Exceptions and Limitations of SB 9

Local agencies are allowed to deny or limit development projects and lot-splits pursuant to SB 9 in limited circumstances. A few of the most relevant exceptions and limitations are described below:

A local agency may deny a proposed development project or lot-split if the municipality's building official makes a written finding based on a preponderance of evidence that the proposed development project or lot-split would have a specific, adverse impact upon the health and safety of the physical environment and there is not a feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

SB 9 directs local agencies to require that lots created by SB 9 be limited to residential uses. Moreover, applicants are required to sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of approval of the lot-split.

SB 9 also specifies that local agencies must require that the rental of any unit created pursuant to SB 9 be for a term longer than thirty days.

Impact on Community Associations

SB 9 has the practical effect of removing obstacles to property owners splitting their lots and constructing additional dwelling units on those lots *at the local government level*. As described above, local agencies (defined as counties and cities) would be required to automatically approve qualifying projects, without hearing or public review. Importantly, however, homeowners' associations can still enforce their CC&Rs and other governing documents containing prohibitions and restrictions on lot-splitting and the construction of additional dwelling units.

Without the local government impediments described above, an association's CC&Rs may operate as a last line of defense against lot-splitting and construction of additional dwelling units on lots within a community. In this regard, it is important that an association's CC&Rs and other governing documents prohibit lot-splitting and the construction of more than one dwelling unit on a single lot.

Association managers and boards of directors should act quickly to ensure the proper prohibitions and restrictions are in place.

Although changes to state law effective in 2020 render void any CC&R provision which prohibits construction of an Accessory Dwelling Unit ("ADU") or Junior Accessory Dwelling Unit ("JADU") on a single lot, there is nothing in SB 9 which prohibits associations from enforcing CC&R restrictions that prohibit lot-splitting or prohibit the construction of additional dwellings on a lot which do not meet the definition of an ADU or JADU.

SB 9's impact could be far-reaching and could significantly affect the operation, financing, and management of planned developments. If an association for a planned development does not have the proper prohibitions and restrictions included in its CC&Rs and other governing documents, routine issues may materialize into more significant and ongoing problems. A few of these potential concerns are identified below:

- **Association Assessments**. Although SB 9 allows for lot-splitting and construction of additional dwelling units, the law does not provide for increases to assessments based upon these actions. With as many as four times the amount of housing units on the same lot as before a lot-split and subsequent construction, associations may see an increase in residents and common area usage without a corresponding increase in assessments.
- **Parking Congestion**. In the same vein, with an increase in the number of residents, many of whom are likely to have or need their own vehicle, associations may have to deal with increased parking congestion. Many associations were developed to provide resident and visitor parking based upon the number of lots within the community, as originally built. With an increase to the number of lots and dwelling units within the community, providing additional parking may be a necessity to alleviate an increase in congestion.
- **Aesthetics**. Many homeowners purchase into planned developments for the benefits of the community – including the uniform appearance and aesthetic of the properties. Without the proper prohibitions and restrictions in place, homeowners may more easily add structures to their properties, thereby altering the overall exterior aesthetic of the community.

Boards of directors and association managers should be advised that SB 9 is silent as to its impact on recorded covenants, including CC&Rs, in planned developments. This means that it is possible that courts could, in the future, interpret SB 9 as prohibiting HOAs in the same manner in which it prohibits local agencies, or use SB 9 as justification to declare provisions of the governing documents void as against public policy. For the time being, however, and until the courts or state legislators tells us otherwise, SB 9 does not prohibit homeowners associations from enforcing their CC&Rs or provisions within other governing documents.

Therefore, associations for planned developments should review their CC&Rs and governing documents to ensure these documents are properly drafted in light of SB 9. To the extent an association's CC&Rs and governing documents do not contain the prohibitions and restrictions described above, the association may consider retaining the services of a law firm to properly amend the governing documents. In so doing, the association may properly prepare itself to act in the best interest of the association, its members, and its residents when SB 9 takes effect on January 1, 2022.

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