



Santa Clara County  
Planning  
Collaborative  
Meeting

November 18, 2021

# Agenda



- Announcements
- Let's Talk Housing EAG Update – Vu Bang Nguyen
- SB 9 Products – Paul Peninger
  - General
  - Objective Design Standards
- AFFH Technical Assistance – Thomas Silverstein
- Local Preferences Policy Questions – Paul Peninger/All

# SB 9: The California HOME Act (Atkins)



- Ministerial approval of two-unit housing developments in single-family residential zones
- Ministerial approval of the subdivision of one lot into two lots (“Urban Lot Splits” within single-family residential zones)

# SB 9 Two-Unit Housing Developments

Ministerial approval of two-unit housing developments in single-family residential zones

- Units may not be utilized as short-term rentals (< 30 days)
- Cannot result in the demolition of > 25% of existing exterior structural walls unless it has not been occupied by a tenant in the last 3 years or as otherwise allowed by [City/County/Town]

# SB 9 Urban Lot Splits



Ministerial approval of the subdivision of one lot into two lots within single-family residential zones

- Only residential uses are allowed
- Neither new parcel shall be smaller than 40% of the original parcel, and no parcel shall be < 1,200 sf
- Requires affidavit from applicant stating intention to occupy one of the units for at least 3 years. Community land trusts and qualified nonprofits are exempt
- May NOT be utilized as a short-term rental (< 30 days)
- Parcel cannot have been previously created through an SB 9 urban lot split
- Neither the subdivider nor any person "acting in concert" with the subdivider has previously subdivided an adjacent parcel using an urban lot split

# SB 9 Qualifying Criteria



All single-family residential zoned properties within urbanized areas, EXCEPT:

- Properties designated as:
  - Farmland, wetlands, flood zones
  - Very high fire hazard severity zones, hazardous waste sites or within delineated earthquake fault zones (unless mitigated)
  - Identified for conservation, under conservation easement or habitat for protected species
- Proposals that would include demolition of affordable housing, rent-controlled housing or housing that has been occupied by a tenant in the last three years
- Properties where the Ellis Act was used to evict tenants in the last 15 years
- Properties located in a state or local historic district or historic landmarks

# What's Required and Allowed: SB 9 Urban Lot Splits only

## Jurisdictions:

- May NOT require dedications of rights-of-way or the construction of offsite improvements
- MAY require easements for the provision of public services and facilities and MAY require that parcels have access to the public right of way
- May NOT require correction of an existing non-conforming condition as a condition for ministerial approval
- May NOT impose additional owner occupancy standards beyond the affidavit required by SB 9
- Are NOT required to permit more than 2 units per new lot, inclusive of ADUs and JADUs

# Single-Family Development Capacity: Before SB 9



Under **current** state law, single-family zoned property allows 3 units:

- 1 primary dwelling unit

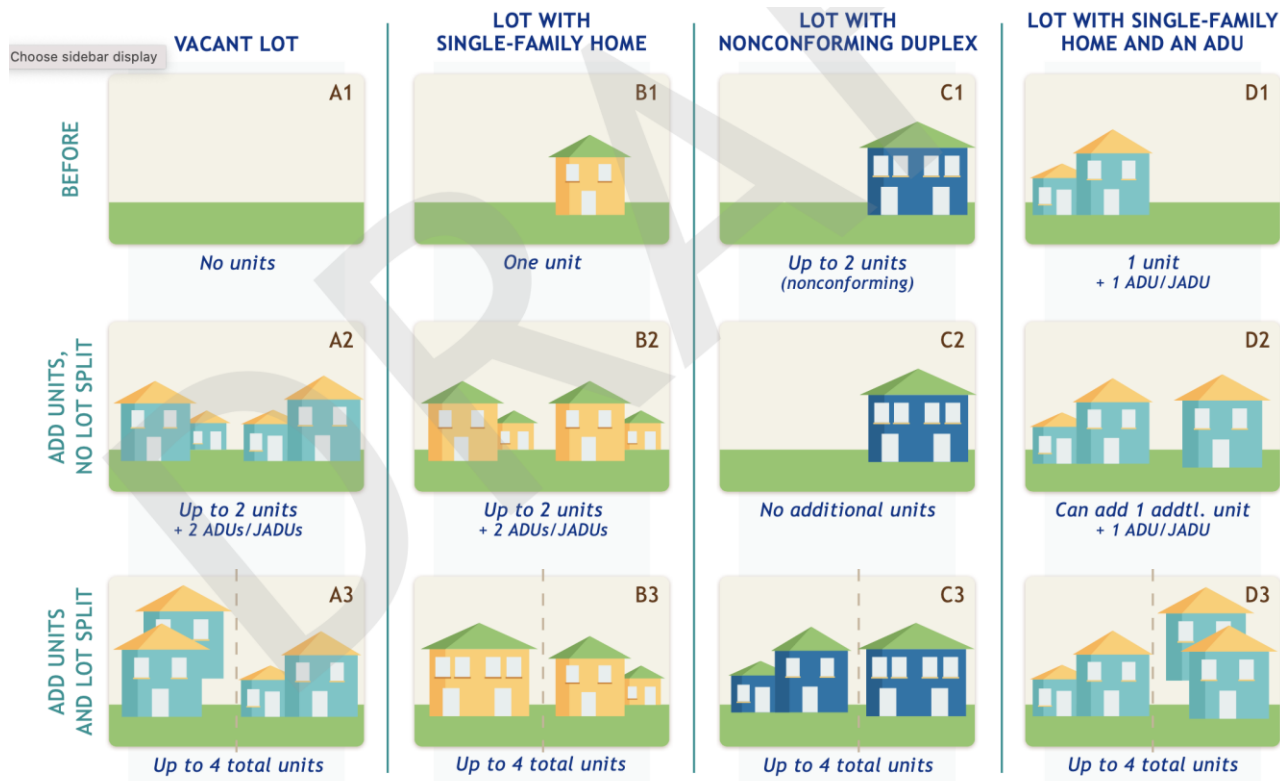
- 1 accessory dwelling unit (ADU)

- 1 junior accessory dwelling unit (JADU)

- 3 Total Housing Units



# Potential SB 9 Development Scenarios



# Potential SB 9 Development Scenarios

Scenario 1 (SB 9 Duplex Housing Development):

- 1 Existing Detached Primary Unit
- 1 Junior Accessory Dwelling Unit
- 1 New Detached Primary Unit
- 1 New Accessory Dwelling Unit (attached or detached)

**4 Total Housing Units** (Subject to verification by legal counsel / HCD)

Scenario 2 (SB 9 Urban Lot Split):

- 1 Existing Detached Primary Unit (New Lot 1)
- 1 New Detached Primary Unit (New Lot 1)
- 2 Attached Primary Units (Duplex) (New Lot 2)

**4 Total Housing Units**

*Additional scenarios are possible, depending on existing conditions*

# Potential Impacts

- Impacts likely to be modest and gradual in most communities
- According to an analysis by UC Berkeley's Turner Center:

*SB 9's primary impact will be to unlock incrementally more units on parcels that are already financially feasible under existing law, typically through the simple subdivision of an existing structure. Relatively few new single-family parcels are expected to become financially feasible for added units as a direct consequence of this bill.*



**TURNER CENTER** OF HOUSING INNOVATION  
UC BERKELEY

A TURNER CENTER REPORT - JULY 2021

## Will Allowing Duplexes and Lot Splits on Parcels Zoned for Single-Family Create New Homes?


Assessing the Viability of New Housing Supply Under California's Senate Bill 9

**AUTHORS:**

BEN METCALF, MANAGING DIRECTOR, TURNER CENTER  
DAVID GARCIA, POLICY DIRECTOR, TURNER CENTER  
IAN CARLTON, CO-FOUNDER AND CEO, MAPCRAFT LABS  
KATE MACFARLANE, PRODUCT MANAGER, MAPCRAFT LABS

# Potential Impacts: Santa Clara County

Appendix Table 1. County-Level Results (Continued)



County Name	Existing SFR Lots	SFR Lots Eligible for SB 9	Additional Lots with 1+ Unit Capacity Under SB 9	SB 9 Net Change in Market-Feasible Units*	SB 9 Net Units Per Eligible Lot
Sacramento	369,605	360,485	5,006	40,500	0.11
San Benito	12,747	9,940	740	2,500	0.25
San Bernardino	492,806	385,243	7,848	56,500	0.15
San Diego	554,502	398,386	9,015	54,500	0.14
San Francisco	94,400	93,514	486	8,500	0.09
San Joaquin	164,796	147,577	2,159	14,000	0.09
San Luis Obispo	75,016	53,068	1,229	8,500	0.16
San Mateo	151,508	134,531	3,112	17,000	0.13
Santa Barbara	91,540	75,399	1,506	10,000	0.13
<b>Santa Clara</b>	<b>331,232</b>	<b>319,319</b>	<b>8,527</b>	<b>40,000</b>	<b>0.13</b>
Santa Cruz	54,817	43,522	1,422	8,000	0.18
Shasta	55,366	25,997	402	3,500	0.13
Solano	110,592	105,962	684	8,500	0.08
Sonoma	124,610	103,452	2,688	16,500	0.16
Stanislaus	123,922	116,754	1,542	9,500	0.08
Sutter	24,707	19,357	1,111	4,000	0.21
Tehama	18,504	7,903	35	500	0.06
Tulare	104,235	86,679	1,096	6,000	0.07
Tuolumne	25,386	995	1	100	0.10
Ventura	184,033	135,836	1,604	14,500	0.11
Yolo	43,761	40,940	550	4,500	0.11
Yuba	16,743	13,064	2,016	4,500	0.34
<b>Statewide Total</b>	<b>7,470,342</b>	<b>6,182,678</b>	<b>111,746</b>	<b>714,100</b>	<b>0.12</b>

+Note: Parcels that could have feasibly built ADUs or JADUs in a pre-SB 9 scenario are not included in the "New Market-Feasible Lots Under SB 9" category in this table, even if our analysis found that under SB 9, they could now feasibly build three or four units. As a result, per lot averages of new feasible units will yield results higher than four units per lot.

\*Note: Market-feasible new units are rounded

# Potential Impacts: Santa Clara County

## Terner Center SB 9 Model Results,: Jurisdictions with greater than 5,000 single family parcels

Name	Total single-family parcels	SB 9-eligible parcels	Parcels where SB9 would increase the number of market-feasible units (rounded to nearest 100)	Parcels where SB9 changes feasible outcome from no new units to 1+ new units (rounded to nearest 100)	Total market-feasible new units if SB9 were enacted per (rounded to nearest 100)	SB9 Units Eligible Lot
Campbell	7,600	7,600	400	200	700	0.09
Cupertino	11,700	11,600	700	400	1,300	0.12
Gilroy	11,700	11,600	700	100	1,100	0.09
Los Altos	9,100	9,100	1,500	1,200	3,500	0.38
Los Gatos	7,300	5,200	500	200	900	0.18
Milpitas	12,500	12,500	700	100	900	0.08
Morgan Hill	9,800	8,300	700	300	1,400	0.17
Mountain View	9,100	9,100	700	300	1,100	0.12
Palo Alto	14,800	14,200	1,000	400	1,700	0.12
San Jose	168,600	168,100	10,300	2,500	15,900	0.09
Santa Clara	18,100	18,000	700	300	1,100	0.06
Saratoga	9,600	7,900	1,100	700	2,600	0.33
Sunnyvale	21,000	21,000	900	400	1,400	0.07
Unincorporated Santa Clara	16,400	11,500	1,300	800	3,300	0.29
<b>TOTAL</b>	<b>327,300</b>	<b>315,700</b>	<b>21,200</b>	<b>7,900</b>	<b>36,900</b>	<b>0.12</b>

Source: Terner Center, 2021.

# KEY ACTIONS & DECISIONS

## Whether to require:

- 1 parking space per unit
- **2-UNITS** Owner occupancy requirement for two-unit developments
- **2-UNITS** Septic tank percolation tests
- **SPLIT** Public services/facilities easements
- **SPLIT** Right-of-way-easements

## Whether to allow:

- Creation of lots <1,200 sf
- **SPLIT** >2 units/new lot

## Define:

- Verification of rental occupancy in prior 3 years
- “Acting in concert with owner”
- “Sufficient for separate conveyance
- **2-UNITS** # ADUs/JADUs possible with existing nonconforming multifamily use

## Create:

- Implementing Ordinance
- Objective Zoning/Subdivision/Design Standards
- Application forms and checklist
- Deed restriction for short-term rentals
- Form of owner occupancy affidavit

# Santa Clara County Planning Collaborative SB9 Activities



- Technical Assistance and Training
- Connecting jurisdictions with regional (produced by and/or for ABAG) and State (HCD) resources
- Developing scope of work template for SB-9 related Objective Design Standards

**Questions?**

