

# STAFF REPORT



## COMMUNITY DEVELOPMENT

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**DATE:** February 13, 2024

**TO:** Justin Hess, City Manager

**FROM:** Patrick Prescott, Community Development Director  
VIA: Fred Ramirez, Assistant Community Development Director - Planning  
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**SUBJECT:** Introduction of an Ordinance Amending Title 10, Chapter 1, Article 6, Division 1 of the Burbank Municipal Code to Establish Development Standards for SB 9 – Second Single-Family Dwellings and Urban Lot Splits in the Single-Family Residential (R-1) zone, to Ensure Consistency with State Law

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### **RECOMMENDATION**

Introduce AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURBANK AMENDING TITLE 10, CHAPTER 1, ARTICLE 6, DIVISION 1 OF THE BURBANK MUNICIPAL CODE TO ESTABLISH DEVELOPMENT STANDARDS FOR SB 9 – SECOND SINGLE-FAMILY DWELLINGS AND URBAN LOT SPLITS IN ALL SINGLE-FAMILY RESIDENTIAL ZONES (R-1) TO ENSURE CONSISTENCY WITH STATE LAW, INCLUDING BUT NOT LIMITED TO CALIFORNIA GOVERNMENT CODE SECTIONS 66452.6, 65852.21, AND 66411.7 (PROJECT NO. 22-0001350, ZONE TEXT AMENDMENT). (Attachment 1)

### **BACKGROUND**

On April 5, 2022, the City Council (Council) adopted an Urgency Ordinance (Attachment 3) that established interim objective development and subdivision standards regulating projects proposed under Senate Bill 9 (SB 9). Consistent with state and local laws, the Urgency Ordinance was extended by Council on May 17, 2022, continuing the interim standards until April 4, 2023, to allow the City additional time to study permanent updates to the City's Zoning Regulations (Attachment 4). The Urgency Ordinance was extended one additional time on March 14, 2023 (Attachment 5) and is set to expire on April 4, 2024 (Attachment 5).

On September 16, 2021, the Governor signed SB 9, the California Housing Opportunity and More Efficiency (HOME) Act into law, codified as California Government Code Sections 66452.6, 65852.21 and 66411.7 (Attachment 6). SB 9 took effect on January 1, 2022, and specifies that when a proposed project is located in the Single-Family Residential (R-1) Zone and meets certain criteria, local jurisdictions must (1) ministerially approve up to two single-family dwellings; and (2) allow for the subdivision of one property into two properties (collectively, “SB 9 Projects”).

The adopted Urgency Ordinance temporarily reconciled inconsistencies between the City’s local development standards and state law for SB 9 Projects. The Council is considering a Zone Text Amendment (ZTA) to establish permanent standards before the Urgency Ordinance expires. This would help maintain as much local control as possible over SB 9 Projects, and it would avoid the imposition of otherwise-applicable statewide development standards that may not be appropriate to preserve the character of affected neighborhoods.

## **DISCUSSION**

The State has identified the housing shortage as an issue of statewide significance. SB 9 is an example of multiple approaches the California Legislature has taken to streamline the production of housing. The proposed ZTA would provide updated City procedures and development standards for SB 9 Projects that are consistent with state law. In addition, the proposed ZTA seeks to protect the City from legal challenges to the validity of its SB 9 Project regulations by ensuring that the City’s new development standards are consistent with current state law. Furthermore, the proposed regulations will help maintain as much local control as permitted under state law in regulating these projects. If a local agency fails to adopt an ordinance in accordance with state law, the local jurisdiction may be limited to only applying general standards in state law without local refinements.

### **Proposed Zone Text Amendment (ZTA)**

To identify local regulations for SB 9 Projects, staff secured the services of Dudek Consultants, a planning services consultant to collaborate with City staff in the research and preparation of state-compliant and city-tailored objective standards. Throughout the preparation of the proposed ZTA, the project team (1) researched best practices and lessons learned from other jurisdictions; (2) considered SB 9 Projects that have been submitted for City review; (3) consulted with the City’s Interdepartmental Review Committee (IDRC) that is made up several city departments that oversee development applications; and (4) worked closely with the City Attorney’s Office to ensure consistency with state law.

Based on the project team’s research, staff has identified recommended regulations for Council consideration. A Summary Table of Recommended Amendments to the Burbank Municipal Code (BMC), Permitted Uses in the R-1 and R-1-H Zones is attached for Council’s reference (Attachment 2). The proposed regulations focus on the establishment of two (2) new sections that would be codified in the Title 10 (Zoning Regulations), Chapter 1 (Zoning), Article 6 (Residential Uses and Standards) of the BMC. These

sections would include objective standards that regulate SB 9 Projects and help maintain as much local control as permitted under state law:

1. *Standards Regulating SB 9 – Second Single Family Dwellings*: When an R-1 zoned lot meets the applicable criteria, state law requires that cities allow for a by-right second single-family home. Objective development standards are included in this section that would apply specifically to the second single-family home allowed under state law (“SB 9 – Second Single Family Dwelling”). The first single-family home would still be subject to the existing R-1 zone standards. (Attachment 1, Page 11)
2. *Standards Regulating SB 9 – Urban Lot Splits*: When an R-1 zoned lot meets the applicable requirements, state law requires that cities allow for the by-right subdivision of one lot into two lots (“SB 9 – Urban Lot Splits”). Objective subdivision standards are included in this section that would apply to all lots subdivided through an SB 9 – Urban Lot Split. (Attachment 1, Page 22)

The ZTA includes both of the sections recommended above, which are summarized in greater detail in Attachment 2.

### **Exemption for Single-Family Residential Horsekeeping Zone (R-1-H)**

Senate Bill 684 (SB 684) (Attachment 8) was signed into law in 2023 and became effective on January 1, 2024. It establishes that SB 9 Projects do not need to be permitted on sites located within a single-family residential horsekeeping zone designated in a master plan, adopted before January 1, 1994, that regulated land zoned for single-family horsekeeping. Staff has established that properties in the R-1-H Zone are regulated through an adopted master plan that was adopted before January 1, 1994 via City Council Resolution 23,927 and City Council Ordinance 3343 (Attachment 9). Therefore, SB 9 Projects would not be permitted in the City’s Single-Family Residential Horsekeeping (R-1-H) Zone.

### Findings for Adding a Use on a List of Permitted Uses

In accordance with BMC Section 10-1-1991, the Council cannot add a use to a list of permitted uses without first making a series of findings. As identified in Attachment 1, it is staff’s assessment and the Planning Commission’s determination that the applicable findings can be made in conjunction with the addition of “SB 9 – Second Single Family Dwellings” as a permitted use in the list of permitted uses applicable to the City’s Single-Family Residential (R-1) Zone.

### Finding for Approval of a Zone Text Amendment (ZTA)

California Government Code Section 65860 requires that any ZTA be consistent with the objectives, policies, general land uses, and programs specified in the City General Plan. The paragraphs below include staff’s assessment and the Planning Commission’s determination that the ZTA would be consistent with the Burbank2035 General Plan.

### **Consistency with the Burbank2035 General Plan**

In accordance with California Government Code Section 65860, the proposed ZTA and associated Ordinance have been determined to be consistent with the Burbank2035 General Plan and are compatible with the objectives, policies, general land uses and programs specified therein, and more specifically, the Land Use Element as described below.

As noted in the attached Ordinance (Attachment 1), the proposed ZTA is consistent with the following Burbank2035 General Plan goals and policies:

#### LAND USE ELEMENT GOAL 3 - COMMUNITY DESIGN AND CHARACTER

Burbank's well-designed neighborhoods, buildings, enhanced streets, and public spaces contribute to a strong sense of place and "small town" feeling reflective of the past.

- *Policy 3.4 Avoid abrupt changes in density, intensity, scale, and height and provide gradual transitions between different development types.*
- *Policy 3.7 Ensure that lots and buildings appropriately interact with and address public streets.*
- *Policy 3.13 Limit creation of flag lots and require that every lot have direct interface with a public street.*

#### LAND USE ELEMENT GOAL 5 - HOUSING

Burbank provides housing options for people and families with diverse needs and resources.

- *Policy 5.1 Provide for a variety of residential neighborhoods with varying densities and housing types.*
- *Policy 5.3 Provide more diverse housing opportunities, increase home ownership opportunities, and support affordable housing by encouraging alternative and innovative forms of housing.*
- *Policy 5.5 Provide options for more people to live near work and public transit by allowing higher residential densities in employment centers such as Downtown Burbank and the Media District.*

The proposed ZTA furthers this goal and associated policies by establishing standards to accommodate SB 9 – Second Single-Family Dwellings and Urban Lot Splits in R-1 zones. This will facilitate for diverse housing options and increases in home ownership opportunities throughout the City. The standards included in the ZTA are intended to achieve a design and scale that is consistent with existing residential neighborhoods, with appropriate setbacks and overall size of development that produce properly scaled single-family units with objective design standards being applied. The ZTA includes modifications to height, setback, floor

area, and objective subdivision standards that ensure consistency with state law and compatibility with the character of the surrounding neighborhood to the furthest extent possible.

#### LAND USE ELEMENT GOAL 8 - LOW DENSITY RESIDENTIAL LAND USE

Low Density Residential neighborhoods define Burbank's small town feeling and provide the basis for the quality of life that Burbank residents enjoy. The following policies apply to Low Density Residential land uses in Burbank.

- Policy 8.2: *Limit building to a size and scale that is consistent with the predominant neighborhood character and avoids overbuilding. New, remodeled, and expanded homes should respect existing neighborhood character.*
- Policy 8.3: *Require that building envelopes preserve access to light and air, provide adequate open space, and maintain appropriate setbacks. Ensure that privacy is respected to the extent feasible in an urban environment.*
- Policy 8.5: *Ensure that second dwelling units, child day-care facilities, and group living facilities are allowed, as required by and consistent with state and federal laws. Regulate such uses to the extent allowed by law to prevent unintended effects on the neighborhood and to avoid a proliferation of such uses in one neighborhood.*

The proposed ZTA furthers this goal and associated policies by establishing subdivision and development standards for SB 9 – Second Single-Family Dwellings and Urban Lot Splits in R-1 zones, that are consistent with state law and impose setbacks and objective design standards to the extent allowed by state law. The standards included in the ZTA are intended to achieve a design and scale that is consistent with existing residential neighborhoods, with appropriate setbacks and overall size of development that produce properly scaled SB 9 – Second Single-Family Dwellings and Urban Lot Splits in R-1 zones.

#### Planning Commission Recommendation

The Planning Commission considered the proposed ZTA and Ordinance during a noticed regular public hearing on January 8, 2024. After a brief presentation from staff, public testimony, and deliberation, the Commission voted 4-0 in favor of recommending Council approval of the proposed Ordinance. A complete record of the meeting and the Commission's discussion are summarized in Attachment 7.

#### **COMMUNITY OUTREACH**

In conformance with BMC Section 10-1-1994, a public notice was published in a newspaper of general circulation in the City on December 20, 2023 for the proposed ZTA to be heard by the Planning Commission at their regular meeting on January 8, 2024. Notifications of the meeting were also distributed through the City's website and social media channels. In addition, to ensure members of the public had an opportunity to learn

more about the ZTA and provide feedback or suggestions to the City, staff conducted a virtual community meeting on January 29, 2024. Notifications for the community meeting were distributed through the City’s website and social media channels. Attendees provided feedback on the proposed amendments to the single-family (R-1) sections of the BMC. All information received from the public (Attachment 10) has been considered in the recommendation provided to Council.

Finally, in conformance with BMC Section 10-1-1994, staff provided public notice in a newspaper of general circulation in the City on January 25, 2024, for the proposed ZTA to be heard by Council at their regular meeting of February 13, 2024. Notifications of the Council meeting were also distributed through the City’s website and social media channels.

### **INTERDEPARTMENTAL REVIEW**

The proposed ZTA development standards were reviewed by all City Departments and other Divisions within the Community Development Department for feedback to ensure the proposed objective development standards are consistent with or compatible with other development standards. Feedback received was considered and incorporated into the proposed ZTA so as to ensure consistency with other City policies, procedures, and development standards.

### **ENVIRONMENTAL ASSESSMENT**

The proposed ZTA has been reviewed for compliance with the California Environmental Quality Act (CEQA) and is considered exempt. Pursuant to California Government Code Sections 65852.21(j) and 66411.7(n), the adoption of an ordinance by a city implementing the provisions of Government Code Sections 66411.7 and 65852.21 to regulate SB 9 – Second Single-Family Dwellings and Urban Lot Splits is not a “project” subject to the requirements of the CEQA.

### **FISCAL IMPACT**

There is no fiscal impact to the City’s General Fund by adopting the proposed ZTA. Future SB 9 – Second Single-Family Dwellings and Urban Lot Splits would be processed through the City’s existing planning or building plan check and permitting process, which includes the payment of associated processing and development fees. Newly created parcels and new SB 9 – Second Single-Family Dwellings would be reassessed by the County, which may result in a higher valuation and/or property taxes. Proponents of future development would be required to pay the associated development impact fees as well as any required infrastructure connection and maintenance fees.

### **CONCLUSION**

The proposed ZTA is intended to create development standards for SB 9 – Second Single-Family Dwellings and Urban Lot Splits (SB 9 Projects) that are consistent with the City’s local single-family development standards and state law. The proposed ZTA will facilitate ongoing responsible development of new housing units, which create new housing opportunities and building types to meet the City’s RHNA Allocation, while putting

in place development standards that help preserve local control and protect the character of existing residential neighborhoods to the greatest extent allowed under state law.

**ATTACHMENTS**

Attachment 1 – Ordinance

Attachment 2 – Summary of Recommended Draft Standards Table

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

Attachment 4 – Urgency Ordinance Extension No. 22-3,975 adopted May 17, 2022

Attachment 5 – Urgency Ordinance Extension No. 23-3,991 adopted March 14, 2023

Attachment 6 – Senate Bill No. 9

Attachment 7 – January 8, 2024, Planning Commission Resolution 3643

Attachment 8 – Senate Bill No. 684

Attachment 9 – City Council Resolution No. 23,927 and City Council Ordinance No.  
3343

Attachment 10 – Community Workshop Public Comments

Correspondences