



# AGENDA REPORT

## CITY OF SAN CLEMENTE

### City Council Meeting

910 Calle Negocio  
2nd Floor  
San Clemente, California  
www.san-clemente.org

Meeting Date: 1/17/2023

Agenda Item: 9C.

**Department:** Community Development  
**Prepared By:** Sara Toma, Senior Planner

**Subject:**

INITIATION OF ZONING AMENDMENT TO CHAPTER 16.50 (STATE-MANDATED SUBDIVISIONS) AND CHAPTER 17.86 (STATE-MANDATED RESIDENTIAL PROJECTS) OF THE SAN CLEMENTE MUNICIPAL CODE TO 1) ADD LANGUAGE FOR NON-CONFORMING URBAN LOT SPLITS AND TWO-UNIT PROJECTS AND DISCRETIONARY APPROVAL, 2) REVISE LANGUAGE FOR VERY HIGH FIRE HAZARD SEVERITY ZONES, 3) REVISE ALLEY SETBACK AREA STANDARDS, IN ACCORDANCE WITH CALIFORNIA SENATE BILL 9

**Fiscal Impact:**

Indirect costs may occur if Long Range Planning work programs that are delayed to process this amendment require expedited processing and consultant costs.

**Summary:**

On December 20, 2022, the City Council introduced an Ordinance amending Chapters 16.50 and 17.86 of the San Clemente Municipal Code (SCMC) to regulate Urban Lot Splits and Two-Unit Projects in accordance with Senate Bill 9. Prior to and at the hearing, the City Council received public comment requesting modifications to the ordinance. The City Council discussed including the requested changes upon second reading of the ordinance. However, the SCMC requires Planning Commission consideration of a zoning code change prior to City Council review and action. Since the Planning Commission has not considered the proposed changes, the City Council must initiate deliberation of the proposed changes by the Planning Commission before a revised ordinance can come back to the City Council for approval. This item is an initiation of a zoning amendment to consider the modifications presented by the public and discussed at the December 20th City Council meeting.

**Background:**

At the December 20, 2022 City Council meeting, staff presented an Ordinance amending SCMC Chapters 16.50 and 17.86, to regulate Urban Lot Splits and Two-Unit Projects under SB 9. SB 9 requires cities to: (1) allow any lot in a single-family residential zone to be split, roughly into halves, with resulting lots as small as 1,200 square feet and (2) allow any lot in a single-family residential zone to be developed with up to two primary dwellings. SB 9 requires cities to approve eligible lot splits and two-unit projects ministerially (i.e., without discretionary review, conditions, or a hearing).

Prior to, and at the public hearing, the City Council heard comments requesting the following modifications to the ordinance:

- **Nonconforming Urban Lot Splits and Two-Unit Projects:** Proposed projects that do not conform to the objective standards set forth in SB 9 Ordinance may apply for a discretionary permit.
- **Fire Hazard Mitigation Measures:** Objective standards under section 16.50.010 E 12. A and 17.86.010 E 8a to be replaced with “the proposed project must comply with Orange County Fire Authority Standards for development in Very High Fire Hazard Severity Zones.”
- **Alley Setback Area:** Notwithstanding any other part of this code, dwellings constructed after Urban

Lot Splits and Two-Unit Projects must be at least 5 feet from alley right of way lines.

The City's Zoning Ordinance (SCMC Title 17) requires Planning Commission consideration and recommendation to the City Council on changes to the zoning code under section 17.16.040 (Zoning Amendments). The proposed changes discussed at the December 20 City Council hearing were not considered previously by the Planning Commission in connection with the subject ordinance. Therefore, the City Council can only initiate consideration of the proposed ideas by the Planning Commission before having them come back as a code amendment.

Staff recommends that the City Council proceed with the second reading of the subject ordinance, which will re-codify and update the City's SB 9 standards established by the Urgency Ordinance in December 2021. Adopting the subject ordinance will maintain consistency with the City's Housing Element implementation in accordance with state law. Staff would then process the code amendment addressing public comments as a stand-alone modification for Planning Commission and City Council consideration.

Alternatively, the City Council could delay the recommended action and remand the entire matter to the Planning Commission so that the unrelated matters are considered in unison. This is not recommended because it would cause a delay in our efforts to comply with SB 9 as described above.

***Recommended Actions:***

**Staff Recommendation**

Staff recommends that the City Council:

INITIATE A ZONING AMENDMENT TO CHAPTER 16.50 (STATE-MANDATED SUBDIVISIONS) AND CHAPTER 17.86 (STATE-MANDATED RESIDENTIAL PROJECTS) OF THE SAN CLEMENTE MUNICIPAL CODE TO 1) ADD LANGUAGE FOR NON-CONFORMING URBAN LOT SPLITS AND TWO-UNIT PROJECTS AND DISCRETIONARY APPROVAL, 2) REVISE LANGUAGE FOR VERY HIGH FIRE HAZARD SEVERITY ZONES, 3) REVISE ALLEY SETBACK AREA STANDARDS, IN ACCORDANCE WITH CALIFORNIA SENATE BILL 9