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Title: CONSIDER ADOPTING AN URGENCY ORDINANCE NO. 22-2204U ESTABLISHING REGULATIONS FOR SECOND PRIMARY UNITS, TWO-UNIT DEVELOPMENTS, AND URBAN LOT SPLITS UNDER SENATE BILL 9; CONSIDER DIRECTING STAFF TO PREPARE A REGULAR ORDINANCE AMENDMENT TO ADOPT REGULATIONS FOR SECOND PRIMARY UNITS, TWO-UNIT DEVELOPMENTS, AND URBAN LOT SPLITS UNDER SENATE BILL 9, AND TO UPDATE CITY ORDINANCES REGULATING ACCESSORY DWELLING UNITS (CITY COUNCIL)
Attachments: 1. [Carson SB 9 Urgency Ordinance Updated 3.8.22 FINAL SAIED](#)
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Report to Mayor and City Council

Tuesday, March 15, 2022
Discussion

SUBJECT:

Title

CONSIDER ADOPTING AN URGENCY ORDINANCE NO. 22-2204U ESTABLISHING REGULATIONS FOR SECOND PRIMARY UNITS, TWO-UNIT DEVELOPMENTS, AND URBAN LOT SPLITS UNDER SENATE BILL 9; CONSIDER DIRECTING STAFF TO PREPARE A REGULAR ORDINANCE AMENDMENT TO ADOPT REGULATIONS FOR SECOND PRIMARY UNITS, TWO-UNIT DEVELOPMENTS, AND URBAN LOT SPLITS UNDER SENATE BILL 9, AND TO UPDATE CITY ORDINANCES REGULATING ACCESSORY DWELLING UNITS (CITY COUNCIL)

Body

I. SUMMARY

Senate Bill No. 9 (SB 9) became effective on January 1, 2022. This bill requires the approval of up to two primary dwelling units per parcel in single-family residential zones, where previously only one primary dwelling unit would have been permitted. This is in addition to permitting accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs), in some cases. Additionally, SB 9 requires the approval of lot splits in single-family residential zones and allows up to two units to be built on each resulting parcel. SB 9 allows cities to establish objective standards governing new units and lots splits permitted under SB 9 as long as these standards do not conflict with state law.

Given the January 1, 2022, implementation date of SB 9, staff recommend adopting an urgency ordinance in order to establish objective standards to govern SB 9 units and lot splits as soon as possible. If adopted, an urgency ordinance would go into effect immediately. Staff has prepared a draft urgency ordinance, which requires a four-fifths vote of the entire City Council.

As a procedural safeguard, it is also recommended the City Council direct staff to prepare a regular code amendment establishing SB 9 regulations, which would first be reviewed by the Planning Commission and would then be considered by the City Council through the normal process with a first and second reading. Staff also recommend that the regular code amendment, mentioned above, include amendments to the City's accessory dwelling unit regulations to make these regulations consistent with recent changes to state law and to clarify how these units relate to units developed under SB 9.

II. RECOMMENDATION

Recommendation

- ADOPT, by a four-fifths vote of the entire City Council, Urgency Ordinance No. 22-2204U, "An Urgency Ordinance of the City Council of the City of Carson Establishing Regulations for Urban Lot Splits and Two-Unit Developments in Accordance with Senate Bill 9"; and
- DIRECT staff to initiate regular code amendment proceedings to establish regulations for urban lot splits and two-unit developments under SB 9, and to revise the City's regulations regarding accessory dwelling units.

Body

III. ALTERNATIVES

TAKE another action deemed appropriate by the City Council consistent with applicable laws.

IV. BACKGROUND

SB 9 Ordinance

SB 9 has two primary effects on City land use regulations. First, it requires cities to permit up to two primary residences on each parcel in single-family residential zones, where previously only one primary residence would be allowed. When combined with ADUs, this means that a parcel in a single-family residential zone could have up to 4 dwelling units, if it was not created through an SB 9 lot split.

Second, SB 9 requires cities to permit owners of single-family residential lots to split their lots in half and create two separate smaller parcels, even if the resulting lots are smaller than the minimum lot size otherwise allowed. New lots resulting from an SB 9 lot split may only have up to two units on them, inclusive of ADUs and JADUs, resulting in up to four total units for the original lot.

EXHIBIT NO. 1

State law establishes many requirements, but also allows cities to impose additional objective standards that do not conflict with state law. The following tables show the mandated state requirements and additional objective standards proposed by staff:

State requirements for SB 9 Lot Splits include:

1. Only allowed in single-family residential zones (RS zones in Carson);
2. Not allowed on parcels that are located in or on certain kinds of protected farmland; wetlands; high fire severity zones (subject to some exceptions); hazardous waste sites; earthquake fault zones; flood hazard areas; habitat for protected species; or land under a conservation easement;
3. Not allowed in historic districts (not applicable in Carson);
4. City may deny a proposed SB 9 lot split if the building official makes a written finding based upon a preponderance of the evidence, that the proposed project would have a specific adverse impact (as defined) upon public health and safety or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact;
5. Resulting lots must be at least 40% of the size of the original lot and must be at least 1,200 square feet;
6. An urban lot split cannot be used to split a lot that was previously split by an urban lot split;
7. An urban lot split cannot require or allow the demolition or alteration of any of the following types of housing:
 - a. Housing that is 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;
 - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power; and
 - c. Housing that has been occupied by a tenant in the last three years.
8. Vacant lots are not eligible for urban lot split;
9. Lots resulting from urban lot splits can only be used for residential uses;
10. Owner of the property must sign an affidavit stating intent to occupy a unit on one of the resulting parcels as their primary residence for three years after approval of lot split;
11. Resulting lots must have access to right-of-way and must dedicate easements for utilities and public facilities;
12. Units built on resulting parcels cannot be rented for terms of less than 31 days (no short-term rentals);
13. Resulting parcels may only have up to two units on them (including ADUs);
14. Lot splits must comply with all requirements of the Subdivision Map Act and all other City standards for lot splits; and
15. Urban lot splits will be ministerially approved without a public hearing.

Additional City Standards for SB 9 Lot Splits include:

1. City will mail a courtesy notice to the owner(s) of each property immediately adjacent to the property where the proposed lot split will be located informing the owner(s) of the submitted application;
2. If an urban lot split results in the creation of a vacant parcel, the only permitted use of such parcel shall be a two-unit development - namely, development of two SB 9 units subject to all requirements applicable to such units; and
3. The owner of the parcel to be divided must execute a deed restriction, which will be recorded on each of the resulting parcels, at the property owner's cost, and will limit the use of each parcel in accordance with the standards in the City's ordinance.
4. Parcels resulting from a lot split under SB 9 must be at least 20 feet wide and have at least 20 feet of street frontage.

State requirements for SB 9 units include:

1. Only allowed in single-family residential zones - (RS zones in Carson);
2. Not allowed on parcels that are located in or on certain kinds of protected farmland; wetlands; high fire severity zones (subject to some exceptions); hazardous waste sites; earthquake fault zones; flood hazard areas; habitat for protected species; or land under a conservation easement;
3. Not allowed in historic districts (not applicable in Carson);
4. City may deny a proposed SB 9 development if the building official makes a written finding based upon a preponderance of the evidence, that the proposed project would have a specific adverse impact (as defined) upon public health and safety or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact;
5. An SB 9 development cannot require or allow the demolition or alteration of any of the following types of housing:
 - a. Housing that is 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;
 - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power; and
 - c. Housing that has been occupied by a tenant in the last three years.
6. SB 9 developments will be ministerially approved without a public hearing;
7. City can only impose up to a 4-foot rear and side setback for SB 9 units;

8. City can only require one parking spot per SB 9 units, with some exceptions;
9. City cannot enforce standards that would prevent up to two primary units that are at least 800 square feet each;
10. Maximum of two primary units are allowed on property, plus ADUs; and
11. SB 9 units cannot be rented for terms of less than 31 days (no short-term rentals).

Additional City Standards for SB 9 units include:

1. City will mail a courtesy notice to the owner(s) of each property immediately adjacent to the property where the proposed SB 9 development will be located informing the owner(s) of the submitted application;
2. SB 9 units can only be up to 800 square feet and 16 feet in height; units can only be built on a second story if required to allow two primary units on a lot or to allow both primary units to be at least 800 square feet
3. New units must each have their own direct utility connection to the utility service provider for water, electric, and gas service;
4. City will require sewer capacity study for all new units;
5. If development of SB 9 results in removal of mature tree, owner must replace removed tree with a new 24-inch box tree on site;
6. Design of second units must match primary unit;
7. SB 9 units may not be turned into condos or sold separately from other units on the property;
8. Owner must execute deed restriction limiting use of units as required by state law and City ordinance; and
9. Owner must execute deed restriction requiring that SB 9 units may only be rented to very-low-income households at an affordable rent for 55 years.

Regular Ordinance and ADU Regulations

In addition to adopting the proposed urgency ordinance, staff recommend that the City Council direct staff to prepare a regular ordinance that readopts the proposed SB 9 regulations and updates the City's regulations of accessory dwelling units, which have not been updated since 2003. State law regarding accessory dwelling units has changed significantly since that time. Updating the City regulations would allow the City to impose additional requirements on these units and clarify how such regulations relate to regulations of SB 9 units. The recently adopted City Housing Element states that following adoption of the 2040 General Plan, the City will amend the Planning and Zoning Code to ensure compliance with recent State law for ADUs and remove development constraints, including but not limited to parking standards.

Environmental Review

The adoption of SB 9 regulations is not a "project" for purposes of the California Environmental Quality Act (CEQA) pursuant to Government Code Sections 65852.21(j) and 66411.7(n). Therefore, the proposed ordinance does not require any environmental review under CEQA.

V. FISCAL IMPACT

There will be no expenditure on the part of the City to adopt this ordinance. The cost to administer this ordinance is currently unknown, but such costs will be recovered, at least in part, through application fees.

VI. EXHIBITS

1. Urgency Ordinance No. 22-2204 (pgs.7-26)

Prepared by: Saied Naaseh, Community Development Director