San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

Executive Summary
Informational Item

HEARING DATE: October 21, 2021

Project Name:	Informational Hearing on Senate Bill 9 and Senate Bill 10
Case Number:	2018-016522CWP
Staff Contact:	Sheila Nickolopoulos, Citywide Planning Sheila.Nickolopoulos@sfgov.org, 628-652-7442 Kate Conner, Current Planning Kate.Conner@sfgov.org, (628) 652-7535
Recommendation:	None. Informational Item.

Introduction

In response to California's housing crisis, in recent years the State Legislature has introduced numerous bills to fund, incentivize, and legalize new housing. On September 16, 2021, Governor Newsom signed into law two notable State housing bills. SB 9 allows duplexes and lot splits for certain parcels in single family (RH-1) zoning and SB 10 allows local jurisdictions to adopt rezoning ordinances that increase density up to 10 units per parcel without CEQA review. Both bills go into effect January 1, 2022.

The following provides a summary of SB 9 and SB 10 and a preliminary analysis of what implementation may look like for San Francisco, and highlights factors that may influence the actual development of projects using SB 9, and addresses questions of financial and physical feasibility.

SB 9 Summary

Senate Bill 9 (Atkins)[1] requires ministerial approval of a housing development of two units in a single-family zone (in San Francisco, RH-1), the subdivision of an RH-1 parcel into two parcels, or both.

Definitions

A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out. Notably, ministerial approvals do not require review under CEQA, or require conditional use approvals that are based on subjective factors under the Planning Code.

[1] The legislative history and full text of the bill is available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB9

An SB 9 project is a project that proposes no more than two new units, or if it that proposes to add one new unit to one existing unit.

Eligible Parcels

To be eligible for SB 9 ministerial approval, a housing development project (with or without the lot split option) must be on a parcel that meets the following requirements:

- The parcel must be located in RH-1 zoning.
- The parcel must be owner-occupied or vacant for the three years prior to the application.
- The housing development project does not require the demolition or alteration of housing subject to rent or price control. Almost all single family homes, condominiums, ADUs permitted under the State program, and units built after 1979 are not subject to rent or price controls.
- The parcel must be in urbanized areas, which is all of San Francisco.
- Only parcels 2,400 square feet and larger are eligible for the lot split option, unless a smaller size is authorized by the local agency.

Housing development projects located on parcels that meet any of the following may not be ministerially approved under SB 9:

- Parcels with housing units subject to rent control. ADUs created under San Francisco's local program and any building with 2 or more units built prior to 1979 are generally subject to rent restrictions.
- Parcel with housing units occupied by tenants in the three years prior to an application.
- Parcels that include a unit where an owner has exercised their rights under the Ellis Act in the 15 years prior to application.
- The parcel has been established through prior exercise of an urban lot split under SB 9.
- Parcels where either the owner of the parcel, or any person acting in concert with the owner, has previously subdivided an adjacent parcel using an urban lot split under SB 9.
- Any parcel located within a historic or landmark district under State law or that has been designated or listed as a landmark or historic property or district under local law.

A local agency may deny an application for a housing development under SB 9 if, based on a preponderance of the evidence, the agency finds that the housing development project would have a specific, adverse impact upon health and safety or the physical environment and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact

Regulations Applicable to Lot Splits

A city or county is required to ministerially approve a parcel map for a lot split only if the local agency determines that the parcel map meets the following requirements, in addition to the requirements for eligible parcels that apply to both the duplex and lot split provisions of SB 9:

- The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal size, provided that one parcel shall not be smaller than 40% of the lot area of the original parcel.

- The parcel does not contain rent-restricted housing, housing where an owner has exercised their rights under the Ellis Act within the past 15 years, or has been occupied by tenants in the past three years.
- Both newly created parcels are at least 1,200 square feet, unless the city or county adopts a smaller minimum lot size by ordinance.
- The parcel has not been established through prior exercise of an urban lot split under SB 9.
- Neither the owner of the parcel, or any person acting in concert with the owner, has previously subdivided an adjacent parcel using an urban lot split under SB 9.

Development and Design

SB 9 contains a number of development standards and restrictions.

- For duplex construction, prohibits demolition of more than 25% of the exterior walls of an existing structure unless the local ordinance allows greater demolition or if the site has not been occupied by a tenant in the last three years
- Authorizes objective zoning, subdivision, and design review standards that do not conflict with SB 9, except:
    - A local agency cannot impose objective standards that would physically preclude the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area. An agency may, however, require a setback of up to four feet from the side and rear lot lines.
    - A city or county cannot require a setback for an existing structure or a structure constructed in the same location and to the same dimensions as the existing structure.
- Prohibits requiring more than one parking space per unit for either a proposed duplex or a proposed lot split. Prohibits a city or county from imposing any parking requirements if the parcel is located within one half mile walking distance of either a high-quality transit corridor or a major transit stop, or if there is a car share vehicle located within one block of the parcel.
- Prohibits a city or county from rejecting an application solely because it proposes adjacent or connected structures, provided the structures meet building code safety standards and are sufficient to allow separate conveyance.
- Provides that a city or county shall not be required to permit an ADU or JADU in addition to units approved under SB 9, if using both the duplex provisions and the lot split provisions within SB 9.
- Authorizes objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with SB 9. A local agency may, however, require easements for the provision of public services and facilities, or that the parcel have access to, provide access to, or adjoin the public right-of way.
- Prohibits the correction of nonconforming zoning conditions as a condition for ministerial approval of a lot split.

Development Regulations

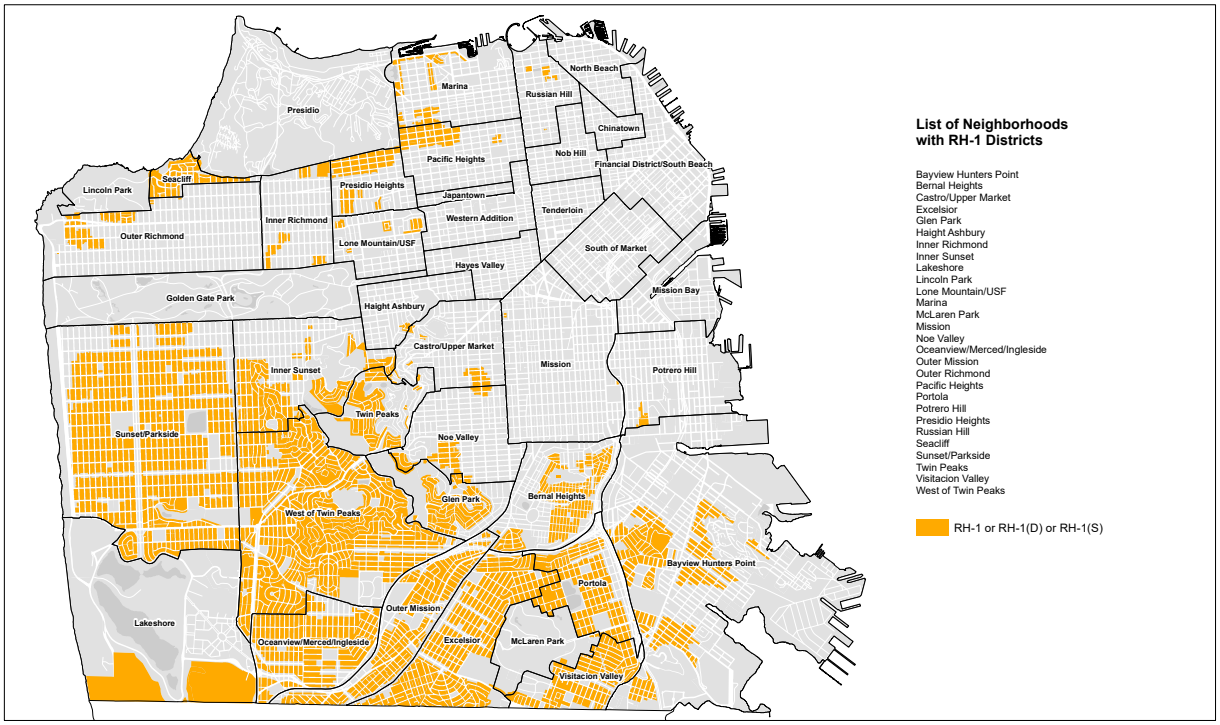
- Requires that the rental of any unit created under SB 9 be for a term longer than 30 days.
- Requires a local government to require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence

for a minimum of three years from the date of the approved lot split, unless the applicant is a community land trust, as defined, or a qualified nonprofit corporation, as defined. No additional owner occupancy standards may be imposed.

- Requires approval of a lot split if it conforms to all applicable objective requirements of the Subdivision Map Act except as otherwise expressly provided in SB 9. Prohibits local agencies from requiring dedicated rights-of-way or the construction of offsite improvements for the parcels being created, as a condition of approval.
- Provides that a local government shall not be required to permit more than two units on each parcel under the lot split provision.
- Allows a local agency to adopt an ordinance to implement the urban lot split requirements and duplex provisions, and provides that those ordinances are not a project under CEQA.
- Allows a city or county to extend the life of subdivision maps by one year, up to a total of four years.

Eligible Parcels in San Francisco

SB 9 applies to single family zoning districts. In San Francisco, these districts are RH-1, RH-1D, and RH-1S. As shown on the map below, this zoning is most prevalent in Sunset/Parkside, Twin Peaks, West of Twin Peaks, Outer Mission, Ocean View, Crocker Amazon, Excelsior, Portola, Bernal Heights, Glen Park, and Sea Cliff. There are additional pockets of RH-1 in Bayview Hunters Point, Pacific Heights, Presidio Heights, Noe Valley, Castro, and Inner Sunset. A larger version of this map is included at the end of this memo.



RH-1 (including RH-1, RH-1(D), and RH-1(S)) Neighborhoods
SAN FRANCISCO

There are 75,258 parcels in RH-1 zoning in San Francisco. The Department estimates that approximately 50,600 parcels may be eligible for SB 9 after removing properties assumed to be ineligible for SB 9: parcels

with two or more existing units (likely renter occupied), parcels with single family homes occupied by tenants (based on ACS data), and parcels with historic resources. Of those 50,600 parcels eligible for SB 9, the Department estimates that approximately 32,600 may be eligible for the SB 9 lot split option based on a minimum lot size of 2,400 square feet.

Note: There may be double counting of either tenant-occupied homes, historic resources, or lots smaller than 2,400 square feet. These calculations are intended to provide a rough approximation of magnitude of the number of parcels that may be eligible for SB 9 development, not a precise count.

Total parcels in RH-1, RH-1D, and RH-1S	75,258
Less parcels with two or more units	-3,565
Total parcels with single family homes in RH-1, RH-1D, and RH-1S	71,693
Less tenant occupied single family homes	-15,179
Less identified Historic Resources	-5,835
Approximate total SB 9 eligible parcels	50,679
Total RH-1 parcels ineligible for lot split	18,107
Approximate total eligible for SB 9 lot split	32,694

SB 9 Development Scenarios

As a statewide bill, SB 9 is likely more useful in typical single family zoning districts in jurisdictions with larger lots, and generous rear and side setbacks. In these communities, lot splits and adding new structures may be more practical than in an urban environment. In San Francisco, SB 9 implementation presents unique challenges.

There are two primary paths for site development under SB 9. The first is development without a lot split. Parcels must meet all the eligibility criteria above. Development of the parcel without a lot split may retain the existing home and convert it to a duplex or may demolish the existing home and construct a new duplex. Parcels of any size are eligible for SB 9 development without a lot split, and a local agency must allow each unit to be at least 800 square feet. The second path is development with a lot split. Only parcels 2,400 square feet and larger are eligible for the lot split, unless the local agency adopts a lower threshold. In either path, both demolition and construction permits for eligible development projects will be ministerial.

SB 9 and Accessory Dwelling Units: While current law generally provides for the creation of accessory dwelling units (ADUs) by ministerial approval, SB 9 creates two exceptions to this requirement. A local agency is not required to allow more than two units of any kind on a parcel created through a lot split, including ADUs, and is not required to permit ADUs on parcels that use both the lot split and the two-unit per lot provision. Local policymakers have the discretion to allow or prohibit ADUs as part of SB 9 lot split projects.

If an ADU is included in an SB 9 project, it could be an attached or detached (rear yard) ADU. A duplex would produce a net gain of one unit, and a duplex with an ADU would be a net gain of two units.

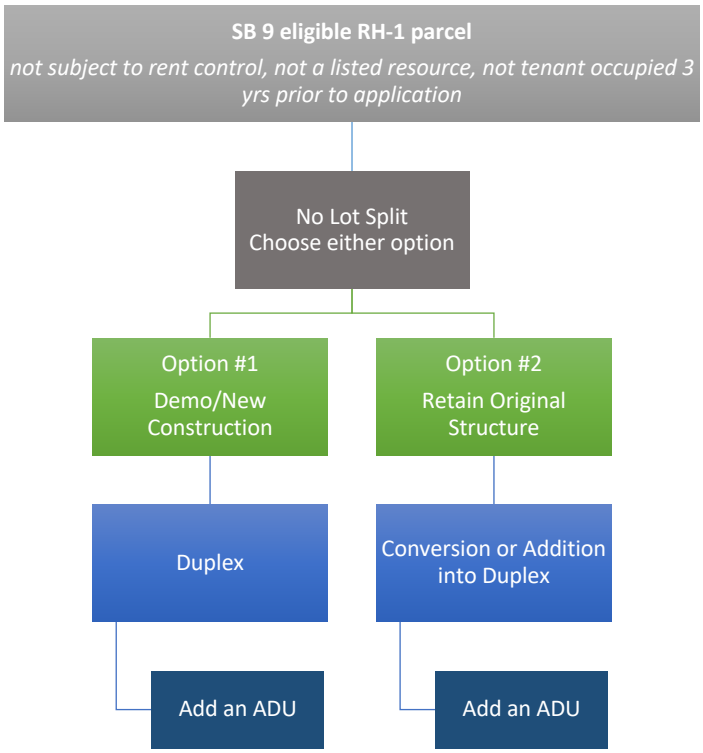
Although junior ADUs can be incorporated in SB 9 projects, San Francisco can require local code-compliance for some state-mandated ADUs: any scenario involving junior ADUs would require that all

units have code-compliant exposure, open space, etc. without an ability for a waiver. Due to the code compliance requirement, it is incredibly unlikely that a junior ADU would be possible in addition to either a detached or attached ADU.

A new unit classified as an ADU must be deeded to a primary unit and could not be sold as a stand-alone unit (i.e. as a condominium). Duplex units approved under SB 9 could be sold independently (i.e. as condominiums).

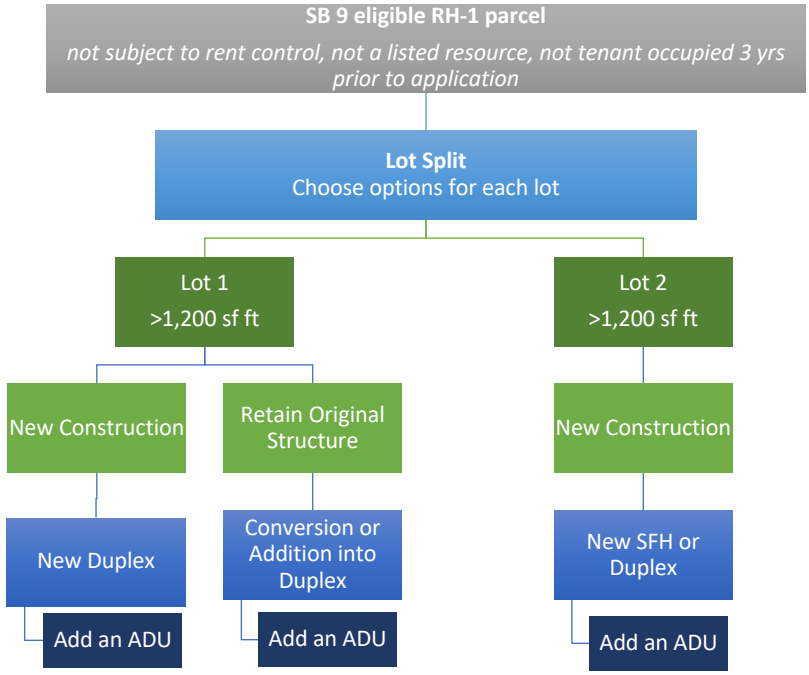
Scenario 1: SB 9 Parcel Development Scenarios for projects that do not use the lot split provision

Without the lot split provision, an SB 9 project could either demolish an existing single family house and construct a new duplex, or convert the existing single family structure into a duplex. This type of project does not require owner occupancy (unlike those also pursuing a lot split). Neither unit would be subject to rent control, and the units could be sold as condominiums at project completion.



Scenario 2: SB 9 Parcel Development Scenarios for projects that also use the lot split provision

The second path for SB 9 development is to split a single-family lot into two lots. Both lots must be at least 1,200 square feet, unless smaller lots are allowed by a local ordinance. Neither lot can be more than 60% of the size of the original lot. This type of project requires owner occupancy of one of the units for three years after approval of the lot split. None of the units created on a parcel that was split would be subject to rent control, and the units could be sold as condominiums at project completion.



SB 9 and Planning Code Regulations

Generally, Planning Code requirements will apply to SB 9 projects with three key exceptions: (1) the City cannot impose objective zoning standards, objective subdivision standards, and objective design standards that would physically preclude the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area; (2) the City cannot require, as a condition for ministerial approval of a parcel map application for a lot split, the correction of nonconforming zoning conditions; and (3) the permitting process must be ministerial.

These exceptions have the following implications:

- Since SB 9 projects will be processed ministerially, conditional use authorization for demolition under Planning Code Section 317 will not be required, and may not receive notice under Section 311. Since these projects must be approved ministerially, they would not be reviewed under the California Environmental Quality Act (CEQA).
- SB 9 prohibits local objective standards that preclude two units of at least 800 square feet. In most cases, the allowable building envelope for a new structure should be able to accommodate two units of 800 square feet and meet objective Planning Code requirements including rear yard, open space, and exposure.
- The Planning Code requires that the rear yard be located adjacent to the rear lot line. In the case of a lot split, this creates a scenario in which the rear yards of each property cannot be adjacent to each other, when a middle yard may provide better light and usability.
- SB 9 does not require minimum or maximum unit sizes, nor does it require unit size parity (e.g., that units be similar in size). It is possible that without local legislation, a duplex could be constructed within the allowable building envelope with one unit considerably larger than the

other unit. This could provide a ministerial path to produce very large single family homes with nominally small second units unlikely to be rented or sold separately from the larger home.

- SB-9 permits ADUs in conjunction with duplex development, but allows local jurisdictions the discretion to approve ADUs in conjunction with a lot split. Although it is possible to allow two ADUs under SB 9 requirements for both lot splits and two unit per lot, one of those ADUs would be a junior ADU. Junior ADUs are unlikely to be developed in an SB 9 project in San Francisco because they must be Code compliant. Given prevalent lot sizes and development patterns in San Francisco, it is realistic to assume that one ADU may be constructed in addition to a duplex.

Considerations for Implementation

Eligibility for SB 9 and financial and physical feasibility may look radically different. The number of eligible parcels that become SB 9 projects in coming years will depend on a host of factors, including if SB 9 development of a parcel can comply with Building and Fire Code regulations, how to design for a lot split, and if SB 9 development would be financially feasible. For lot split projects, there are practical considerations for the owner as well, because owner occupancy is a requirement of lot splits. These considerations are discussed below.

1. Building and Fire Code Considerations

Any SB 9 development would be subject to existing Building and Fire Codes. Important safety considerations include the following.

- In the case of an SB 9 lot split that results in a rear lot, physical access to a rear lot can be granted with an easement through the front lot. (An easement is the right for someone to use property that belongs to someone else and is recorded on the property title.) This can be an open-air easement, such as a walkway next to a detached building. It could also be an easement through a front building, but this type of interior passageway must meet fire safety ratings. A physical access easement must be a minimum of three feet wide but is generally five feet wide.
- Utility connections to a rear lot, such as sewer and water, must connect to the street; they cannot connect to the utilities of the front lot. In the case of a rear lot, a utility easement may be necessary.
- Sprinkler systems may be required for new buildings, or for enclosed passageways through a front lot to the rear lot. Sprinkler systems have specific water pressure requirements and some domestic water lines may not be adequate.
- ADA design requirements may apply, depending on the number of units.
- For existing structures, PG&E meters must be located facing the street and each lot would need separate meters. As gas is not necessary for new construction (per the All Electric Buildings for New Construction Ordinance) only electrical meters would be needed.

2. Design Considerations

The standard residential lot in western San Francisco is 25 feet wide and 120 feet deep, with the home sited at the front of the lot with a front setback ranging from zero to 15 feet. Detached single family home neighborhoods generally have larger lots and larger homes, such as St. Francis Woods, with homes commonly situated in the center of the parcel.

RH-1 Current Regulations

San Francisco has three types of single-family zoning: RH-1 is the most common, RH-1(D) includes larger lots with detached homes, and RH-1(S) applies to approximately 60 parcels that are zoned for single family homes with a minor second unit. The height limit for all RH-1 zoning is 35 feet. Front setbacks may be required, and rear yards must be 30% of the lot depth, or no less than 15 feet. All RH zoning is subject to the Residential Design Guidelines.

RH-1 Changes for SB 9 Projects

Local jurisdictions can impose objective design standards that don't conflict with the law, and they cannot impose standards that would either physically preclude building two units or that would create a minimum unit size of less than 800 square feet in either the full lot or lot split options.

Because SB 9 projects must be processed ministerially, they will not be required to meet subjective design standards, which include the subjective standards in the Residential Design Guidelines. Zoning standards, such as setbacks and rear yard requirements, cannot be imposed if they would have the effect of physically precluding the construction of up to two units, or prevent either of the two units from being at least 800 square feet in floor area. SB 9 mandates that no setback shall be required for an existing structure or a replacement structure in the same location and to the same dimensions as an existing structure. SB 9 does grant a local agency the ability to require a setback of up to four feet from the side and rear lot lines in the case of a lot split.

The implementation of SB 9 in San Francisco could produce dozens of development scenarios that mix and match original and/or new structures with vertical and/or horizontal expansions and/or construction of a new independent structure, depending on the practical considerations discussed in the next section. The Planning Department is in the process of drafting example development scenarios to illustrate possible SB 9 project design.

3. Practical Considerations

What actually spurs a private property owner or a real estate developer to develop a housing project using SB 9 will depend on personal considerations, site feasibility, and return on investment. The design, permitting, and construction process requires considerable investments of time and money, which may not be available or of interest to many owners. The potential challenges of rear lot construction when retaining a front building, will be relatively new to San Francisco and may necessitate new construction management strategies. Permanent easements, especially through the interior of existing building, may deter many owners from pursuing a lot split, as the easement would remove the physical autonomy of a single family home and could easily require significant changes to the ground floor of the property. Notably, many single family home owners bought their homes so that they would not have to share their building and lot with others; they will have no interest in relinquishing control of a major part of their property, being part of an home owners association, having tenants, or in permanently diminishing their yard, personal open space, privacy, or separation from other buildings.

For a property owner considering a lot split, they will be required to reside on the property for three years following the approval of the lot split. Owners could complete the lot split and sell the undeveloped lot, or

they could develop the rear lot and sell or rent the completed units. The latter would take considerable capital investment. For some owners, the opportunity to liquidate some equity by selling half their parcel may be appealing. Splitting the lot and selling the newly created lot offers a sizable one-time payment without having to leave their home, but the owner would have to first fund and complete the lot-split process (~12 months), then may need to consider relocating during rear lot construction (12-24 months), and then fulfill three years residency obligation. Start to finish, this is potentially a four-year commitment. Pursuing this option will likely only appeal to owners with deep attachment and roots to their current home and the financial motivation to generate revenue from their property.

The SB 9 path without lot split may be the more common choice. An owner could pursue duplex conversion, although this kind of project is costly—the Department estimates that duplex conversion would cost a minimum several hundred thousand dollars and could require relocation during construction, which could take up to 24 months. An owner could also sell their single family home to a small-scale developer with the experience and capital to produce a duplex that could then be sold as condominiums. For a developer, the ability to have a project approved ministerially under SB 9 may be enough incentive to add a second (non-ADU) unit to a single family home rehabilitation. A forthcoming financial analysis will look at the financial incentives of producing an SB 9 duplex compared to producing a renovated single family home.

4. Financial Considerations

Local market prices and development costs play a large role in determining where there is financial viability for the addition of new homes. An analysis by the Terner Center for Housing Innovation at UC Berkeley[2] concluded that 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 SB 9.

To assess the financial viability of SB 9 development scenarios, the Planning Department is in the process of conducting a financial analysis, which will consider land value, existing home value, construction costs, property tax implications for existing owners, and potential sale price. This analysis should be available in late October 2021.

Racial and Social Equity Analysis

Understanding the benefits, burdens, and opportunities to advance racial and social equity of land use policies is part of the Department's Racial and Social Equity Action Plan. This is also consistent with the Commissions' 2020 Equity Resolutions, the Mayor's Citywide Strategic Initiatives for equity and accountability, and the Office of Racial Equity's mandates, which require all Departments to address racial equity internally and externally through our programs and services.

SB 9 applies to large swaths of San Francisco, impacting neighborhoods and individual owners. The State's mandate to decrease the constraints of single family zoning are motivated by an ongoing housing deficit, the need for a diversity of housing types, and desire to provide housing in existing communities

[2] https://ternercenter.berkeley.edu/wp-content/uploads/2021/07/SB-9-Brief-July-2021-Final.pdf

close to jobs, schools, and community amenities. In San Francisco, single family zoning applies to neighborhoods that include the full range of high, middle, moderate, and low-income households and the market value of homes in RH-1 vary dramatically, although the median price for a single family home is an expensive $1.85 million. To better understand the complex dynamics of how SB 9 may impact low-income households, vulnerable populations, and communities of color, it is critical to understand the racialized history of San Francisco, apparent in the existing geographic disparities; the requirements in the bill that seek to protect existing residents, primarily tenants; and local opportunities for wealth-building, especially for Black and American Indian households. Note that a forthcoming financial analysis will look at the development costs of likely SB 9 housing types and provide additional data on impacts to different types of potential applicants and residents.

The Racialized History of Single Family Zoning in Context

Single family zoning is one of a number of policies and practices that have limited access to housing for low- and moderate-income people and people of color. San Francisco adopted its first zoning ordinance in 1921 and established Residential Zone 1 to cover existing neighborhoods that had been built as single family homes. In 1944, the Board of Supervisors, on recommendation from the Planning Commission, voted to rezone the Sunset District to Residential Zone 1 from Residential Zone 2, which allowed multifamily housing. The rezoning report focused on the concern that "rental structures and certain other types of property uses may enter and, like an infection, destroy the pleasant, home-like quality of the neighborhood."[3] This language illustrates the intent to exclude renters and other lower income people with the zoning change.

Single family zoning combined with discriminatory home lending, redlining, racial covenants, other forms of institutional racism in the real estate industry, and housing policies that limited housing access for non-white households and lower income people. In many single family housing developments built from the early 20th Century onward, racial covenants and lending discrimination precluded people of color from owning homes. Even in areas where people of color were able to buy property, lending discrimination made purchase and maintenance much more difficult than for white people. For example, the in southeast San Francisco, neighborhoods zoned RH-1 were redlined through federal and local policy more than 80 years ago based on the racial and ethnic diversity of the population as well as proximity to industrial and multifamily uses. Today, these neighborhoods remain mostly people of color and disproportionately low-income despite being zoned for single family homes. As racial covenants became illegal, more people of color, particularly Asian Americans, have purchased homes in RH-1 neighborhoods around the city, including the previously racially restricted West Side.

While RH-1 areas of San Francisco have become racially diverse, they continue to offer limited housing options for a range of incomes and household types. The City's policy to protect single family zoning remained in place until very recently. Until 2014, San Francisco's policy was to remove illegal secondary units that exceeded zoned density. Then, in 2016, ADUs were permitted citywide, marking a significant reversal in longstanding policy.

[3] "San Francisco City Planning Commission – 1944 – Rezoning the Sunset District. Master Plan Report No.3", April 20, 1944.

Single family zoning was designed to exclude lower income populations, who have been and continue to be Black, American Indian, and other communities of color. It was designed to offer wealth building opportunities to middle class, predominantly white, populations. SB 9, like ADUs, is one additional tool to help open these neighborhoods, in San Francisco and throughout the State, to new residents. SB 9 can help diversify the housing types available in neighborhoods that have been exclusively single family homes, which are financially out of reach for many. SB 9 includes some protections for current equity populations, however additional programs, measures, and investments are still needed to ensure people explicitly harmed by exclusionary zoning can benefit from these changes.

SB 9 by Neighborhoods

The following table describes the income and racial and ethnic diversity of the neighborhoods with the largest concentrations of parcels eligible for SB 9, as well as the percentages of eligible parcels that are owner occupied, and the percent of total eligible parcels that are in each neighborhood. Neighborhoods with smaller pockets of RH-1 (which account for 9% of parcels eligible for SB 9) are omitted. Of neighborhoods that are predominantly RH-1, those where a majority of residents are white account for less than 30% of parcels eligible for SB 9.

RH-1 Neighborhood Demographics

	Median Household Income	Percent SFH Owner Occupied	% Asian	% AA	% Latinx	% White	% of eligible SB 9 parcels in this neighborhood
Bayview Hunters Point	$64,265	73%	39%	26%	23%	12%	6%
Bernal Heights	$139,519	83%	18%	4%	26%	57%	5%
Excelsior	$90,221	76%	50%	2%	32%	24%	11%
Glen Park	$169,600	79%	17%	7%	12%	64%	2%
Ocean View/ Ingleside/ Merced	$88,698	74%	58%	11%	15%	18%	8%
Outer Mission	$98,169	75%	55%	2%	29%	23%	7%
Portola	$90,370	78%	55%	5%	24%	20%	5%
Sea Cliff	$173,093	88%	18%	0%	4%	72%	1%
Sunset/Parkside	$113,378	80%	54%	2%	7%	35%	27%
Visitation Valley	$71,387	70%	54%	12%	24%	12%	4%
West of Twin Peaks	$164,651	86%	34%	2%	10%	54%	15%

Data Source: 2015-2019 ACS

Of the estimated 50,801 parcels eligible for SB 9, 54% (27,270) are in High Opportunity Areas[4] (State of California Tax Credit Allocation Committee) while 41% (20,251) are in Areas of Vulnerability[5] (San Francisco Department of Public Health). While geographies give the Department some information about

[4] High Opportunity Areas are defined as "High Resource/Highest Resource" by the California Fair Housing Task Force. The Task Force identified every region of the state whose characteristics have been shown by research to support positive economic, educational, and health outcomes for low-income families—particularly long-term outcomes for children.

[5] Areas of Vulnerability have a higher density of vulnerable populations as defined by the San Francisco Department of Health (Areas of Vulnerability map), including but not limited to people of color, seniors, youth, people with disabilities, linguistically isolated households, and people living in poverty or unemployed.

vulnerable or segregated populations,[6] even within these areas there are households that do not fit the larger arc of such designations and 5% of the city fits within neither zone.

	Total	High Opportunity Areas	Areas of Vulnerability
Total parcels with single family homes in RH-1, RH-1D, and RH-1S	71,693	40,306	28,188
Less tenant occupied single family homes in RH-1, RH-1D, and RH-1S	-15,179	-7,411	-7,222
Less Identified Historic Resources	-6,104	-5,625	-445
Approximate Total SB 9 Eligible Parcels:	**50,801**	**27,270**	**20,521**
Total RH-1 parcels ineligible for lot split	18,107	6,520	7,336
Approximate Total eligible for SB 9 lot split	**32,694**	**20,750**	**13,185**

SB 9 Protections for Tenants at Risk of Displacement

The bill includes several measures to protect current residents against displacement and development speculation:

- Any parcel with a rent-controlled unit is ineligible for SB 9
- Any parcel with a tenant three years prior to application is ineligible for SB 9
- Any parcel that has been subject to the Ellis Act in the 15 years prior to application is ineligible

In the coming months, the Planning Department will work closely with other agencies, such as the Rent Board, to develop the protocols to ensure that these protections are enforced in the application and review of SB 9 proposed projects. This will include requiring documentation to verify owner occupancy and confirming lack of tenancy with the Rent Board, via voter rolls ,and other available information.

Increasing Opportunities for Housing Choices for Low-income and Households of Color

SB 9 has the potential to increase housing choice and opportunity in neighborhoods in the city that have good resources. Duplex units will likely cost less than single family homes and may be affordable to middle-class families (120%-200% Area Median Income (AMI)), a segment of the market that can typically access rental units but have significant barriers to home ownership that meets their needs. Units in small multi-family buildings will almost always be more affordable for renters and homebuyers than renting or purchasing a single family home of similar square footage in the same neighborhood *anywhere* in the city. For middle-income households, a unit in a two- or three-unit building could be financially and practically preferable to leaving San Francisco for a single-family home outside of the city. And increasing stock, although reliant on a market process, could make it more feasible for wealth building for and inclusion of households of color in areas previously out of financial reach and with histories of exclusionary practices. Few housing products, including affordable housing, currently meet the needs of this income level. Since

[6] The Urban Displacement Project map of San Francisco shows a more nuanced picture of where residents are at risk of displacement. https://www.urbandisplacement.org/map/sf

SB 9 does not produce below-market-rate (BMR) units, without a substantial increase in supply, it will not realistically assist moderate, low, or extremely low income households (below 120% AMI) obtain housing.

Many areas of the city with lower land values, high percentages of households of color, and/or with lower outcomes in health, wealth, and life expectancy also have high rates of owner-occupied single family housing, for example, the Bayview (73%), Visitation Valley (70%), and Outer Mission (75%). SB 9 may offer these homeowners the opportunity to add units for extended families or to generate rental income, or gain wealth through lot splits. However, there are significant hurdles to realize these gains. Acquiring financing for project development, navigating a complex permitting process, and having the resiliency to manage the significant disruption and take financial risks of construction are major barriers facing existing homeowners in communities of color and low-income communities. Without City investment in programs that support owner-occupied development, such as construction loans or funding prioritized for owners of color or low-income owners, the more straightforward option would be for existing owners to sell their property, or "cash out," and leave San Francisco for areas with lower home costs. While the bill includes a provision that the applicant of an SB 9 lot split is required to occupy one of the housing units as their principal residence for a minimum of three years from the date of the lot split approval, it does not apply to SB 9 project without the lot split. And while selling may financially benefit an individual household, this practice has been incrementally devastating to communities of color, Cultural Districts, and areas of the city where residents have a common sense of cultural identity, and a historic and major loss to San Francisco as a whole.

Additional Considerations

Beyond the issues addressed above, there are unintended consequences for any legislation and these conditions can be difficult to study and anticipate. Some property owners or developers may use SB 9 to streamline the redevelopment of smaller, existing homes into larger, more expensive single family homes with a small additional unit that may never be rented, undermining the intent of creating more housing stock. Renters are protected by SB 9, but may be vulnerable to unscrupulous landlords due to a variety of circumstances, like being undocumented, in a dire financial state, or otherwise exploited. While the city must implement projects that meet the requirements of SB 9, and other state requirements such as SB 330, the Housing Accountability Act, and others, it may also consider allowable measures to tailor SB 9 through local implementation such as creating owner-occupied development programs that prioritize households of color and low income households, unit parity requirements that balance housing unit size, or others new programs.

SB 10 Summary

Senate Bill 10 (Wiener)[7] authorizes a local government to adopt an ordinance to zone any parcel for up to 10 units of residential density per parcel, at a height specified in the ordinance if the parcel is located in a transit-rich area or an urban infill site. Specifically, this bill:

[7] The legislative history and full text of the bill is available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB10

- Authorizes the passage of a local ordinance to zone any parcel for up to 10 units of residential density, at a height specified by the ordinance, if the parcel is located in a transit-rich area or an urban infill site. All of San Francisco qualifies as urban infill.
- Ordinances adopted under SB 10 are not considered a project for purposes of CEQA.
- Requires a local ordinance to include the following:
    - A declaration that the zoning is adopted pursuant to SB 10.
    - A clear demarcation of the areas that are zoned.
    - A finding that the increased density is consistent with the city's obligation to affirmatively further fair housing
    - If the ordinance supersedes any zoning restriction established by a local initiative, the ordinance shall only take effect if adopted by a 2/3 vote of the members of the legislative body.
- Prohibits, notwithstanding any other law permitting ministerial or by right approval of a development project, or any other CEQA exemption, a project of more than 10 units from receiving ministerial or by right approval if it uses the provisions of this bill.
    - The creation of up to two ADUs or JADUs shall not count towards the total number of units when determining whether the project may be approved ministerially or by right.
    - A project may not be divided into smaller projects in order to exclude the project from this prohibition.
- Excludes parcels located in designated publicly owned parks and open space.
- Prohibits a local government from subsequently reducing the density of any parcels subject to an ordinance adopted pursuant to SB 10.
- Provides that SB 10 shall not apply to a project located on a parcel or parcels that are zoned pursuant to an ordinance adopted under SB 10, then subsequently rezoned without regard to SB 10.
- Prohibits an ordinance adopted pursuant to SB 10 from reducing the density of any parcel subject to the ordinance.
- Includes a sunset of January 1, 2029, and authorizes an ordinance adopted pursuant to SB 10 to extend beyond January 1, 2029.

What SB 10 means for San Francisco

Housing Element EIR: SB 10 does not exempt Housing Element Updates from CEQA review. The adoption of the Housing Element Update would not, in and of itself, authorize any changes to zoning or other land use regulations or approve any development projects. The EIR will identify the reasonably foreseeable impacts of future actions that would implement the goals, policies, and actions of the proposed housing element update. The EIR will evaluate the potential physical environmental impacts that could result from future actions that would implement the goals, policies, and actions proposed under the housing element update at a programmatic level. If adopted, the Planning Department intends to use the Housing Element Update EIR to streamline the CEQA environmental review process for future activities that are consistent with and that would implement the policies of the updated housing element following its adoption. Such activities could include legislation to enact changes in zoning and other land use regulations as well as approval actions for individual development projects.

Future Density Increases: SB 10 may be used by the Board of Supervisors for any future changes to zoning maps to increase density to up to 10 units per parcel. Any individual project proposed under the new zoning would need CEQA.

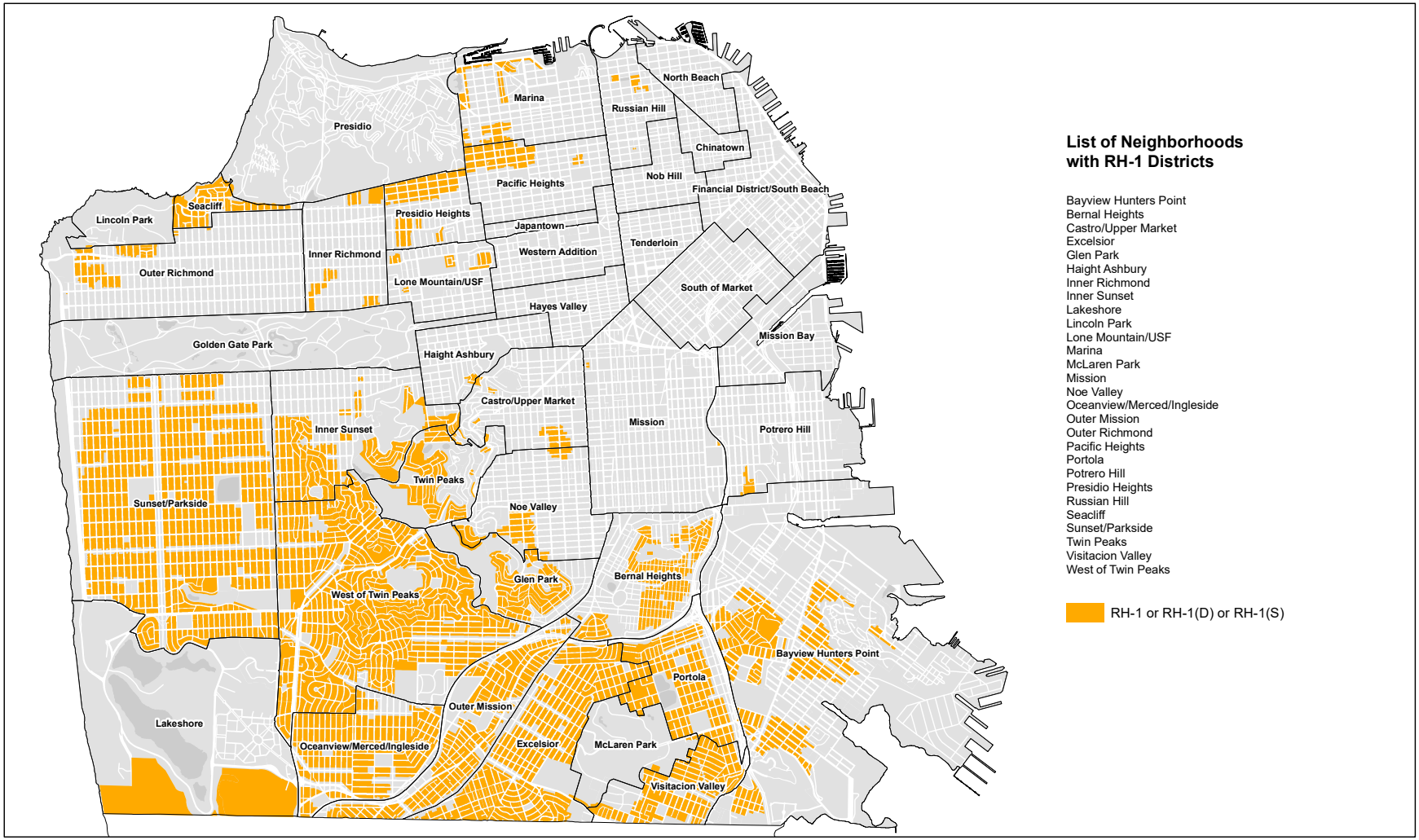
Future Actions

Designing the Implementation Process: In the coming months, the Planning Department will convene City agencies to develop a process for implementation of SB 9. Public Works' Mapping Division, DBI, the Fire Department, and the SFPUC will all be involved in developing a review and permitting process that is clear and predictable for applicants and is consistent with existing processes. The Planning Department will produce FAQs, intake forms, and a website for prospective project applicants.

This implementation process will include establishing a protocol to verify owner occupancy and review any tenant history, which would include Rent Board records, voter rolls, and identifying any other resources that can ensure that proposed SB 9 projects comply with all requirements.

Local Discretion: The framework of SB 9 leaves some local discretion to tailor implementation in several areas. The following are considerations for policymakers.

- Under the two-units per parcel provisions of SB 9, a local agency cannot impose objective standards that would physically preclude the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area. But if that minimum size threshold is met, there is latitude for a local jurisdiction to implement standards to control larger units that exceed this threshold. This may include rules regarding the siting and massing of any additional structure(s) on a parcel, requirements for unit size parity to limit use of SB9 to create "monster" homes with small secondary units, open space minimums, an/or design standards.
- While current law generally provides for the creation of certain accessory dwelling units (ADUs) by ministerial approval, SB 9 creates two exceptions to this requirement. A local agency is not required to allow more than two units of any kind on a parcel created through an lot split, including ADUs, and is not required to permit ADUs on parcels that use both the lot split and the two-unit provision. Local policymakers have the discretion to allow or prohibit ADUs as part of SB 9 lot-split projects.
- SB 9 grants local jurisdictions the authority to mandate rear and side setbacks of up to four feet. Without this requirement in place, a project could build to the lot line in certain districts.
- SB 9 also grants local jurisdictions the authority to allow lot splits that would result in lots smaller than 1,200 square feet. This would expand the number of parcels in San Francisco that could use SB 9.



RH-1 (including RH-1, RH-1(D), and RH-1(S)) Neighborhoods

SAN FRANCISCO

September 24, 2021