

**ITEM 6.1: **ORDINANCE AMENDMENT – CITYWIDE – ZONING AND SUBDIVISION ORDINANCE
LEGISLATIVE UPDATE – PL21-0334****

REQUEST

The project is a city-initiated update to Title 19 (Zoning Ordinance) and Title 18 (Subdivision Ordinance) of the Roseville Municipal Code (RMC) to reflect changes in state law and implement the City's General Plan Housing Element. The request includes an Ordinance amending Zoning Ordinance Chapters 19.10 (residential development standards), 19.28 (density bonus), and 19.60 (accessory dwelling units). The amendments to the Zoning Ordinance are to reflect recent changes in state law which: require the City to allow two residential units per lot in single-family zones (the City's R1 and RS zones) (Senate Bill 9), require minor changes to density bonus provisions (Senate Bill 290), and specify that accessory dwelling units may be separately sold if they were built by a non-profit and will be sold as deed-restricted affordable housing (Assembly Bill 345). Also, an Ordinance amending Subdivision Ordinance Chapters 18.04 (hearing authority), 18.06 (tentative map applications), 18.10 (lot line adjustments and voluntary mergers), and 18.24 (appeals), and also adding new Chapter 18.05 (ministerial tentative map applications). The amendments to the Subdivision Ordinance are to reflect changes in state law (Senate Bill 9) requiring the City ministerially process two-lot parcel maps in single-family zones, and implementation of Housing Element Program 16 (Prioritize Affordable Housing) which calls for the establishment of ministerial mapping processes for affordable housing projects.

Applicant – City of Roseville

SUMMARY RECOMMENDATION

The Planning Division recommends the Planning Commission take the following actions:

- 1) Recommend City Council adopt the two (2) findings of fact and approve the Ordinance Amendment to Title 19 of the Roseville Municipal Code.
- 2) Review and comment on the Ordinance Amendment to Title 18 of the Roseville Municipal Code.

SUMMARY OF OUTSTANDING ISSUES

There are no outstanding issues associated with this request.

BACKGROUND

In 2021 the State of California enacted multiple bills amending the Government Code as it relates to various planning and zoning laws. These bills included Assembly Bill (AB) 345, Senate Bill (SB) 290, and SB 9.

AB 345 modifies regulations pertaining to Accessory Dwelling Units (ADUs), and states that if either the primary dwelling or the ADU was built or developed by a nonprofit and includes an affordability restriction (among other conditions) then a local agency *shall* allow it to be sold separately. Consistency with this bill requires minor amendments to Zoning Ordinance Chapter 19.60, which currently prohibits the sale of ADUs.

SB 290 modifies density bonus regulations, including miscellaneous changes to clarify existing provisions. The enacted bill also applies a parking standard of no greater than 0.5 spaces per unit for moderate income projects meeting certain locational criteria (e.g. proximity to transit). Previously this parking reduction only applied to certain low-, very low-, or extremely low-income projects. Consistency with this bill requires minor amendments to Zoning Ordinance Chapter 19.28.

The most significant planning bill passed during the 2021 legislative session was SB 9, which established a statewide regulation that permits two units on parcels within single-family residential zone districts and ministerial two-lot parcel maps (i.e. no Parcel Map entitlement) in single-family zone districts. SB 9 was passed by the legislature as a statewide response to the issue of exclusionary zoning. Appropriately administered, land use planning serves to ensure the compatibility of land uses, rational planning for future service demands, environmental protection, and balanced land uses with adequate commercial and employment land uses to support residential land uses. Zoning is used to implement the broader land use plans, and specifies development standards and permitted uses.

In jurisdictions such as Roseville, land use and zoning combine to ensure the provision of a variety of housing types, with the City's new Specific Plans designed to provide a relatively equal amount of high density, medium density, and low density residential units. However, there are jurisdictions across California where zoning has been used as an exclusionary tool, to prevent the development of medium density or high density housing or to ensure that such housing is only developed in extremely restricted areas. Moreover, these restrictive communities often have minimum single-family lot size requirements as high as one acre, which means the parcels could be easily split into two lots. By comparison, the City's standard is 1/7th of an acre for the single-family zone district (R1), is 1/10th of an acre for the small lot residential zone district (RS), and can be even smaller with the approval of modified development standards. The City's smaller lot sizes mean there are relatively few lots which could be split as a result of the proposed SB 9 zoning ordinance amendments.

Responding to SB 9 requires amending both the City's Zoning Ordinance (Roseville Municipal Code Title 19) and Subdivision Ordinance (Roseville Municipal Code Title 18). A summary of these changes is as follows:

Chapter 19.10.030 Residential Development Standards. Amend the table to indicate 2 dwellings are permitted in the City's R1 and RS zone districts and add a new Section G establishing criteria for two residential units in single-family zones. The criteria are consistent with the standards of SB 9, and include:

- A prohibition on the demolition or alteration of affordable housing, rent-controlled housing, or housing occupied by a tenant anytime in the prior three years as part of an application to build two units.
- A prohibition on short-term rentals.
- A prohibition on construction of an ADU or Junior ADU on properties which have used both the section allowing two units and the section allowing a ministerial two-lot map.
- The units must be consistent with the City's zone district development standards, with certain exceptions. The exceptions are related to setbacks and parking, and are similar to the development standards for ADUs. This includes no setback requirements when converting an existing structure and 4-foot side and rear setbacks for new structures. The parking requirement is reduced to one space, and may be eliminated if in proximity to high-quality transit or a car share. The City must also waive any development standard that would physically prevent either of the two units from being at least 800 square feet.
- Parcels which have certain environmental conditions, such as the presence of wetlands or floodplains, may not have two units. Likewise, parcels which are designated as a city or county landmark or historic property, or which are within a historic district pursuant to a City ordinance, may not have two units.

Chapter 18.04 City Council, Commission, and Committee Powers. Amend the notice and hearing requirements to establish a ministerial process for two-lot maps consistent with SB 9. These maps will be subject to the approval authority of the City Engineer.

NEW Chapter 18.05 Parcel Map Applications – Ministerial. This is an entirely new section establishing the application requirements, application materials, and process for ministerial two-lot parcel maps. The application requirements are consistent with the standards of SB 9, and include:

- A requirement that resulting parcels be approximately equal in size (one parcel can't be smaller than 40% of the original lot area).
- A minimum lot size of 1,200 square feet.
- A prohibition on the demolition or alteration of affordable housing, rent-controlled housing, or housing occupied by a tenant anytime in the prior three years in order to make it possible to split the lot.
- Parcels which have certain environmental conditions, such as the presence of wetlands or floodplains, may not use the ministerial process. Likewise, parcels which are designated as a city or county landmark or historic property, or which are within a historic district pursuant to a City ordinance, may not use the ministerial process.

The section also states that a parcel may only be split using the ministerial process once (no serial parcel maps), and if a person owns multiple adjacent parcels, only one of the parcels may be split using the ministerial process. Also consistent with SB 9, the application requires a signed affidavit stating that the applicant intends to occupy one of the housing units on either lot as their principal residence for at least three years after the parcel map is approved.

Chapter 18.06 Tentative Map Applications – Discretionary. Minor changes have been made to this section to indicate it applies to discretionary tentative maps. In addition, a clarifying change has been made to Section 18.06.080, Environmental Review of Application. The existing language stated that the Director would determine whether a Negative Declaration or Environmental Impact Report would be prepared, which excludes multiple other possible environmental document types. The section has been modified to state that the Director will determine the appropriate environmental document.

Chapter 18.24 Appeal Authority. The section has been modified to state that ministerial applications are not subject to appeal.

In addition to the legislative updates described above, a further update is proposed consistent with Housing Element Program 16, Prioritize Affordable Housing. The City's current Housing Element was adopted in August 2021, and Program 16 calls for the establishment of a ministerial mapping process for qualifying affordable housing projects. Qualifying affordable housing projects are currently permitted to apply for ministerial Design Review through the City's Objective Design Standards process. However, these projects commonly require lot line adjustments, voluntary mergers, or parcel maps to facilitate building construction and phasing. Pursuant to Housing Element Program 16, staff have proposed modifications to the Subdivision Ordinance which will allow ministerial processing of these minor mapping applications.

NEW Chapter 18.05 Parcel Map Applications – Ministerial. In addition to changes pursuant to SB 9, this section also allows ministerial parcel maps (up to four lots) for qualifying affordable projects. These are defined as a residential multi-unit (three or more units) or mixed use housing project that provides a minimum of 20 percent of the units as affordable for low, very low, or extremely low income households. An affordable housing agreement must be entered into prior to recordation of the parcel map.

Chapter 18.10 Lot Line Adjustments and Voluntary Mergers. The Chapter has been modified to note that lot line adjustments and voluntary mergers for qualifying affordable housing projects will be approved through a ministerial engineering permit process. Minor edits to other sections have been made to reflect the ministerial process, including notices for hearing (none required) and the effective date of approval (no appeals). An affordable housing agreement must be entered into prior to recordation of the lot line adjustment or voluntary merger.as

EVALUATION

Section 19.86.050 of the City of Roseville Zoning Ordinance requires two findings be made in order to approve a zoning ordinance amendment. The two findings are listed below in ***italicized, bold*** text and are followed by an evaluation of the project in relation to the findings. There is no advisory body for Title 18, so staff is requesting Planning Commission review and comment on changes to Title 18, and will pass those comments on to City Council.

- 1. The project is consistent with the public interest, health, safety, or welfare of the City.***
- 2. The project is consistent with the General Plan and any applicable specific plan of the City of Roseville.***

The proposed changes to the Zoning Ordinance and Subdivision Ordinance are to bring the City's regulations into consistency with enacted state law and with the City's adopted General Plan Housing Element. AB 345, SB 290, and SB 9 became effective on January 1, 2022 and the City is already required to comply with the resultant changes to the Government Code. Modifying the City's ordinances for consistency with these laws establishes a clear set of regulations for both the public and for City staff. Modifying the Subdivision Ordinance pursuant to Housing Element Program 16 brings the City's ordinance into consistency with a program of the City's General Plan. For these reasons, staff finds that the project is consistent with the public interest, health, safety, or welfare of the City and that the project is consistent with the General Plan and applicable specific plans.

PUBLIC OUTREACH

A General Information Memorandum (GIM) to City Council discussing SB 9 was published on September 21, 2021 and a GIM describing planning legislation updates (including AB 345 and SB 290) was published on November 4, 2021. An informational workshop on the proposed project was held before the Planning Commission on December 16, 2021. A notice of the proposed project with a link to the Planning Commission workshop was posted to the RCONA website on February 9, 2022. To date, no comments have been received.

Text amendments of the City's Zoning Ordinance and Subdivision Ordinance are not site-specific, and therefore public hearing notices were not mailed to individual property owners. Consistent with noticing requirements for a citywide project a public hearing notice was published in the Press Tribune.

ENVIRONMENTAL DETERMINATION

Proposed amendments in response to SB 290, AB 345, and the City's adopted Housing Element are policy and procedure-making activities, and the California Environmental Quality Act (CEQA) only applies to projects which have the potential to cause a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. (CEQA Guidelines §15061(b)(3)). With respect to modifications due to Senate Bill 9 (single-family zoning), Government Code Section 65852.21(j) states:

“A local agency may adopt an ordinance to implement the provisions of [SB 9]. An ordinance adopted to implement this section shall not be considered a project” pursuant to CEQA.

RECOMMENDATION

The Planning Division recommends the Planning Commission take the following actions:

- 1) Recommend City Council adopt the two (2) findings of fact and approve the Ordinance Amendment to **Title 19 ORDINANCE AMENDMENT – CITYWIDE – ZONING AND SUBDIVISION ORDINANCE LEGISLATIVE UPDATE – PL21-0334.**
- 2) Review and comment on the **Title 18 ORDINANCE AMENDMENT – CITYWIDE – ZONING AND SUBDIVISION ORDINANCE LEGISLATIVE UPDATE – PL21-0334.**

Exhibits

A. Zoning Ordinance Redlines (RMC 19.10, 19.28, and 19.60)

Attachments

1. Subdivision Ordinance Redlines (RMC 18.04, 18.05, 18.06, 18.10, and 18.24)

Note to Applicant and/or Developer: Please contact the Planning Division staff at (916) 774-5276 prior to the Commission meeting if you have any questions on any of the recommended conditions for your project. If you challenge the decision of the Commission in court, you may be limited to raising only those issues which you or someone else raised at the public hearing held for this project, or in written correspondence delivered to the Planning Manager at, or prior to, the public hearing.