

On Sep 6, 2022, at 17:58, Dennis Schmidt [REDACTED] wrote:

Mayor Moreno...

Please review the attachments on SB9. Thankx for your consideration...

Dennis Schmidt, JD, LS 8408  
[REDACTED]

Atascadero, CA 93422

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## SENATE BILL 9 IS THE PRODUCT OF A MULTI-YEAR EFFORT TO DEVELOP SOLUTIONS TO ADDRESS CALIFORNIA'S HOUSING CRISIS.

# THE CALIFORNIA HOME ACT

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*Senate Bill 9 is the product of a multi-year effort to develop solutions to address our state's housing crisis. The Senate Housing Package of bills, 'Building Opportunities for All,' establishes opportunities to make real progressive and positive changes in our communities to strengthen the fabric of our neighborhoods with equity, inclusivity, and affordability.*

- **Provides options for homeowners to build intergenerational wealth.** SB 9 provides more options for families to maintain and build intergenerational wealth a currency we know is crucial to combatting inequity and creating social mobility. The families who own these properties could provide affordable rental opportunities for other working families who may be struggling to find a rental home in their price range, or who may be looking for their own path to home ownership.
- **Benefits homeowners NOT institutional investors.** Recent amendments require a local agency to impose an owner occupancy requirement as a condition of a homeowner receiving a ministerial lot split. This bill also prohibits the development of small subdivisions and prohibits ministerial lot splits on adjacent parcels by the same individual to prevent investor speculation. In fact,

allowing for more neighborhood scale housing in California's communities actually curbs the market power of institutional investors. SB 9 prevents profiteers from evicting or displacing tenants by excluding properties where a tenant has resided in the past three years.

- **Establishes a maximum number of units.** Recent amendments clarify that this bill would allow no more than four units on what is currently a single-family parcel.
- **Preserves historic neighborhoods.** SB 9 excludes historic and landmark districts.
- **Respects local control.** Homeowners must comply with local zoning requirements when developing a duplex (height, floor area ratios, lot coverage etc.) as long as they do not physically preclude a lot split or duplex. This bill also allows locals to require a percolation test for any duplex proposed to be on septic tanks.
- **Promotes strategic infill growth.** Under this bill, the parcel must be located in a jurisdiction that is part of an urbanized area or urban cluster, as designated by the US Census. This means that it applies only to areas that meet certain population and density thresholds. It excludes the provisions of the bill being used in very high fire hazard severity zones, prime agriculture land, hazardous waste sites, earthquake zones, floodplains that do not have adequate mitigation, and others. At the end of the day, if local governments do not allow people to build homes in an area, then the bill does not apply.

**What this bill does:** Senate Bill 9 – the California Housing Opportunity and More Efficiency (HOME) Act streamlines the process for a homeowner to create a duplex or subdivide an existing lot. Any new housing created as a result of this bill must meet a specific list of qualifications that protects historic districts, preserves environmental quality and the look of communities, and prevents tenants from being displaced. This legislation will enable homeowners to create intergenerational wealth, and provide access to more rental and ownership options for working families who would otherwise be priced out of neighborhoods.

**What's different from last year:** We took what was a good bill – which had widespread support in both the Senate and Assembly at the end of last year and on track to pass before it fell victim to the clock – and improved upon it since reintroducing it as SB 9 this year. We listened to concerns from homeowners, municipalities, and other stakeholders, and have incorporated many amendments make the bill stronger, more clear, and address those concerns. Because of all the variables that make a neighborhood what it is – size of lots, local ordinances, desire of homeowners to even use this option – not everyone will choose to do a lot split or turn their home into a duplex. Just like not everyone added an

let split or turn their home into a duplex, just like not everyone added an ADU when that good law was enacted.

## MYTHS VS. FACTS

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**What this bill does:** Senate Bill 9 – the California Housing Opportunity and More Efficiency (HOME) Act streamlines the process for a homeowner to create a duplex or subdivide an existing lot. To be eligible for the streamlining provided by this bill, a parcel must meet a specific list of qualifications that protects historic districts, preserves the environmental quality and the look of communities, and prevents tenants from being displaced. This legislation will enable homeowners to create intergenerational wealth, and provide access to more rental and ownership options for working families who would otherwise be priced out of neighborhoods.

**What's different from last year:** We took what was a good bill – which had widespread support in both the Senate and Assembly at the end of last year and on track to pass before it fell victim to the clock – and improved upon it since reintroducing it as SB 9 this year. We listened to concerns from homeowners, municipalities, and other stakeholders, and have incorporated many amendments to make the bill stronger, more clear, and address those concerns.

**Myth:** My neighbors are going to be able to build 5 or 6-units next door to my single-family home.

**Fact:** SB 9 would allow no more than four units on what is currently a single-family parcel. This bill encourages neighborhood scale homes – meaning modifications to a property need to be in keeping with the look of the neighborhood.

**Myth:** This is going to ruin the look of our neighborhood.

**Fact:** In many communities across California – including in San Diego – there are beautiful duplexes and triplexes next door to traditional single-family homes. Look at Linda Vista, Hillcrest, North Park – these are communities central to the city and job centers that are coveted places to live. In fact, many are beautiful and well-kept, providing not only a bright spot on the street, but a comfortable place for not just one but two households to call home.

**Myth:** This bill won't help expand housing options that are more affordable and help real people.

**Fact:** The HOME Act builds intergenerational wealth. For homeowners, it provides more options to maintain and build intergenerational wealth – a currency we know is crucial to combatting inequity and creating social mobility. There is no silver bullet to solving the housing crisis that has been decades in the making. SB 9 is one modest tool in the toolbox. This bill allows for more types of housing to create more equitable and inclusive neighborhoods.

**Myth:** This is a land grab by institutional investors looking to ruin our neighborhoods.

**Fact:** This bill benefits homeowners, and homeowners alone. SB 9 contains an owner occupancy requirement, which requires a homeowner to live in one of the units for three years from the time they get approval for a lot split. Additionally, this bill prohibits the development of small subdivisions and prohibits ministerial lot splits on adjacent parcels by the same individual to prevent investor speculation. In fact, allowing for more neighborhood scale housing in California's communities actually curbs

the market power of institutional investors. SB 9 also prevents profiteers from evicting or displacing tenants by excluding properties where a tenant has resided in the past three years.

**Myth:** This bill will destroy historic neighborhoods.

**Fact:** SB 9 excludes historic and landmark districts.

**Myth:** This will change local control of land use decisions.

**Fact:** Homeowners must comply with local zoning requirements when developing a duplex (height, floor area ratios, lot coverage, etc.) as long as they do not physically preclude a duplex. This bill also allows locals to require a percolation test for any duplex proposed to be on septic tanks.

**Myth:** Under SB 9, a lot split requires a single family home to be demolished.

**Fact:** This bill provides options for homeowners and does NOT require any demolition. SB 9 contains strong tenant protections to ensure rental housing is not demolished. A recent study shows that the additional housing options provided by SB 9 actually decreases the likelihood of a single family home being torn down and replaced by a larger single family home. Additionally, nearly 97% of all single family homes would be

home. Additionally, nearly 97% of all single-family homes would be retained under SB 9. This bill is one way to help solve the state's housing production crisis. SB 9 provides more pathways to homeownership and expands access to the California dream.

**Myth:** This bill does not take into consideration environmental and infrastructure concerns.

**Fact:** Under this bill, the parcel must be located in a jurisdiction that is part of an urbanized area or urban cluster, as designated by the US Census. This means that it applies only to areas that meet certain population and density thresholds. It excludes very high fire hazard severity zones, prime agriculture land, hazardous waste sites, earthquake zones, floodplains that do not have adequate mitigation, and others. At the end of the day, if local governments do not allow people to build homes in an area, then the bill does not apply. Additionally, SB 9 does NOT make any changes to existing law, which specifies a local agency's ability to impose impact fees.



## SB9 SUPPORTERS

AARP • Abundant Housing LA • ADU Task Force East Bay • All Home • American Planning Association, California Chapter • Bay Area Council • Bridge Housing Corporation • Cal Asian Chamber of Commerce • California Apartment Association • California Asian Pacific Chamber of Commerce (CAPCC) • California Association of Realtors • California

Commerce (CAI CC) • California Association of Realtors • California Building Industry Association • California Chamber of Commerce • California Community Economic Development Association (CCEDA) • California Hispanic Chamber of Commerce • California YIMBY • Casita Coalition • Chan Zuckerberg Initiative • Circulate San Diego • City of Alameda • City of Oakland • City of San Diego • Clear Advocacy • Council Member Jon Wizard, City of Seaside • Council Member Zach Hilton, City of Gilroy • Council of Infill Builders • County of Monterey • East Bay for Everyone • Eden Housing • Facebook • Facebook, INC. • Fathers and Families of San Joaquin • Fieldstead and Company, INC. • Generation Housing • Greenbelt Alliance • Habitat for Humanity California • Hello Housing • Hollywood Chamber of Commerce • Housing Action Coalition • Inland Empire Regional Chamber of Commerce • InnerCity Struggle • League of Women Voters of California • LISC San Diego • Livable Sunnyvale • Local Government Commission • Long Beach Yimby • Los Angeles Business Council • Midpen Housing Corporation • Modular Building Institute • Monterey; County of • Mountain View Yimby • National Association of Hispanic Real Estate Professionals (NAHREP) • Non-profit Housing Association of Northern California • North Bay Leadership Council • Northern Neighbors • Office of Sacramento Mayor Darrell Steinberg • Orange County Business Council • Palo Alto Forward • Peninsula for Everyone • People for Housing - Orange County • Pierre Charles General Construction • Plus Home Housing Solutions • Regional Economic Association Leaders (REAL) Coalition • San Diego Housing Commission • San Diego Regional Chamber of Commerce • San Fernando Valley YIMBY • San Francisco Bay Area Planning and Research Association • San Francisco YIMBY • Sand Hill Property Company • Santa Barbara Women's Political Committee • Santa Barbara Women's Political Committee • Santa Cruz YIMBY • Schneider Electric • Share Sonoma County • Silicon Valley Leadership Group • South Bay Cities Council of Governments • South Bay YIMBY • South Pasadena Residents for Responsible Growth • Streets for People Bay Area • Sv@home • Techequity Collaborative • Tent Makers • Turner Center for Housing Innovation At the University of California, Berkeley • The Casita Coalition • The Central Valley Urban Institute • The Two Hundred • Tmg Partners • United Way of Greater Los Angeles • Urban Environmentalists • Yimby Action • YIMBY Democrats of San Diego County • Zillow Group

## WHAT OTHERS ARE SAYING

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**"Editorial: To save California, sacrifice single-family zoning"** (<https://www.latimes.com/opinion/story/2021-08-22/editorial-sb9-sb10-california-housing>)

Written by the Los Angeles Times Editorial Board

**"California must fix its housing crisis with increased density and duplexes"**  
(<https://www.sacbee.com/opinion/op-ed/article250639664.html>)

Op-ed Written By Senate pro Tempore, Toni G. Atkins

**"As San Diego's mayor, I urge you support Senate Bill 9 to ease California's housing crisis"**  
(<https://www.sandiegouniontribune.com/opinion/commentary/story/2021-06-02/san-diego-home-price-california-housing-senate-bill-9>)

Op-ed Written by San Diego Mayor Todd Gloria

**"California's housing crisis is getting worse. So is anti-housing denialism"**  
(<https://www.sfchronicle.com/opinion/editorials/article/Editorial-California-s-housing-crisis-is-16192395.php>)

Chronicle Editorial Board

**"Housing reform bill would right some of redlining's wrongs"** (<https://calmatters.org/commentary/my-turn/2021/06/housing-reform-bill-would-right-some-of-redlinings-wrongs/>)

Op-Ed written by Eric Payne, executive director of the Central Valley Urban Institute and chair of the Fresno Anti-Displacement Task Force

**"Long Beach Press-Telegram news organization information and history"**



**(<https://www.presstelegram.com/2021/07/24/long-beach-can-be-part-of-the-housing-solution-by-saying-yes-to-sb-9/>)**

Op-ed Written by Senator Lena Gonzalez (D-Long Beach)

**"Community Character' Concerns Are a Veil – a Thin One"**  
**(<https://www.voiceofsandiego.org/topics/opinion/community-character-concerns-are-a-veil-a-thin-one/>)**

Op-ed Written by Al Abdallah, COO of the Urban League of San Diego County

**"Will Senate Bill 9 change your California neighborhood? Probably not in the way you think"**  
**(<https://www.sacbee.com/opinion/op-ed/article253547404.html>)**

Op-ed written by David Garcia, policy director at the Turner Center for Housing Innovation at UC Berkeley

**"State Legislature's Modest Efforts to Permit Increased Density in Residential Neighborhoods are Necessary Steps Toward Ending the State's Housing Crisis"**  
**(<https://voiceofoc.org/2021/07/state-legislatures-modest-efforts-to-permit-increased-density-in-residential-neighborhoods-are-necessary-steps-toward-ending-the-states-housing-crisis/>)**

Op-ed written by Kenneth Stahl, Professor of Law and Director of the Environmental, Land Use and Real Estate Law Program at Chapman University Dale E. Fowler School of Law in Orange

**"Housing bills would help address California's wealth inequality"**  
**([https://calmatters.org/commentary/2021/08/housing-bills-would-help-address-californias-wealth-inequality/?utm\\_source=CalMatters+Newsletters&utm\\_campaign=f71e48276c-WHATMATTERS&utm\\_medium=email&utm\\_term=0\\_faa7be558d-f71e48276c-151163392&mc\\_cid=f71e48276c&mc\\_eid=77f9a3f611](https://calmatters.org/commentary/2021/08/housing-bills-would-help-address-californias-wealth-inequality/?utm_source=CalMatters+Newsletters&utm_campaign=f71e48276c-WHATMATTERS&utm_medium=email&utm_term=0_faa7be558d-f71e48276c-151163392&mc_cid=f71e48276c&mc_eid=77f9a3f611))**

Op-ed Written by Adam Briones, CEO of California Community Builders, and Robert Apodaca, founder of ZeZen Advisors and California Community Builders boardmember

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### **Senator Scott Wiener (D-San Francisco)**

“SB 9 will play an important role in ending exclusionary zoning, which prevents California from building the housing we need — affordable to working people and families of all income levels — to end our housing shortage. We cannot end our housing crisis unless we build more housing. SB 9 is a common sense bill that will make California more affordable and provide more housing options for everyone.”

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### **Senator Nancy Skinner (D-Berkeley)**

“Duplexes and other small multi-family homes were once the norm throughout California until cities began adopting exclusionary zoning. SB 9 will allow California to turn the page on our history of exclusion. Plus, legalizing duplexes will bring us much-needed housing.”

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### **Senator Anna Caballero (D-Salinas)**

“As a proud joint author of SB 9, I applaud Senate pro Tempore Atkins for her leadership to promote gentle density increases in our communities. Since the implementation of recent law that makes it easier to build accessory dwelling units, we’ve seen a significant increase in new, small-scale housing that provides important access to new homeownership opportunities. SB 9 makes it easier for communities to add more naturally occurring affordable housing to their neighborhoods, creates new investment opportunities for property owners, and most importantly, helps to address California’s colossal housing crisis.”

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### **Senator Susan Rubio (D-Los Angeles)**

“Senate Bill 9, by Senate pro Tem Toni Atkins, was proposed after years of discussion on the best way forward to create more affordable housing, bringing everyone to the table in thoughtful engagement. It will spur housing production by unlocking underutilized land. The financial uncertainty that many families have been facing even before COVID-19 highlights the need for us to act now to build more housing – especially affordable housing – in California.”

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### **Nathan Fletcher, Chair, County of San Diego Board of Supervisors**

“The COVID-19 pandemic has highlighted the critical importance of having a safe place to call home. But in the midst of escalating housing costs and a severe housing shortage, it continues to be difficult for Californians to find a place to live. I am supportive of legislation like SB9

(Atkins), the California HOME Act, which provides an important tool to create much-needed housing, encouraging smart growth within urban areas and close to existing services and transportation, providing Californians with homes and helping us to reach our climate change goals.”

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### **County of San Diego Supervisor Terra Lawson-Remer**

“Senate President Pro Tem Toni Atkins continues to lead our state in addressing the housing crisis. SB 9 allows California to take necessary steps to remedy our state’s deepening crisis of housing access. The bill strikes a difficult balance between the needs of tenants, current homeowners, aspiring homeowners, preservation of communities, and protecting our environment and quality of life.”

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### **San Diego City Councilmember Raul A. Campillo**

“We are in a housing crisis, and we need to take bold and immediate action to bring more units to market as quickly as possible, which SB 9 will accomplish. I applaud Senate President Pro Tem Atkins for crafting

legislation that will benefit homeowners, help millions of Californians build intergenerational wealth, and that encourages building of middle-income housing near jobs and transit.”

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### **Nancy McPherson, State Director of AARP California**

“AARP strongly supports SB 9 – The California Housing Opportunity & More Efficiency (HOME) Act that will make accessory dwelling units (ADUs) easier to build and expand options for homeowners who wish to be part of the solution in solving the state’s housing crisis. Bi-partisan support for SB 9 will provide Californians with additional housing choices, greater economic security and the opportunity to age in place.”

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### **Ricardo Flores, Executive Director of LISC San Diego**

“We strongly support SB 9 (Atkins), which will enhance property rights, while at the same time widen opportunities for Black and Brown families to own or rent in neighborhoods they may have previously been priced out of, increasing equity and inclusivity. Most importantly, SB 9 begins the process of truly ending the structural racism inherent within our zoning laws, which has continued to segregate our communities throughout California.”

**Eric Phillips, Vice President of Policy and Legislation  
American Planning Association, California Chapter**

“APA California is proud to support SB 9. As California continues to face an overwhelming housing crisis, we must remove artificial barriers to creating homes. SB 9 would help create a more equitable and inclusive California for all by increasing housing opportunities in existing neighborhoods while allowing planners to facilitate context-sensitive development. We appreciate Senate Pro Tem Atkins’ leadership on this important issue.”

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**League of Women Voters of California**

“We urgently need SB 9 to increase affordable housing supply in high-opportunity neighborhoods. Too many Californians – especially first-time homebuyers, low- and middle-income workers, and people of color – are locked out of the housing market because of exclusionary zoning that favors high-income households. SB 9 will empower local communities to build more middle-income housing and make the dream of homeownership a reality for more Californians.”

## LATEST NEWS

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**Senate Leader Atkins Praises Senate’s Passing of SB 9:  
‘Giving Californians the Opportunity to Pursue Their  
Version of the California Dream’**  
(<https://sd39.senate.ca.gov/news/20210830-senate-leader-atkins-praises-senate%E2%80%99s-passing-sb-9-%E2%80%98giving-californians-opportunity>)

August 30, 2021

**Bills to increase housing density in California head to  
Newsom**  
(<https://www.sfchronicle.com/politics/article/Bills-to->

increase-housing-density-in-California-16423796.php)

August 30, 2021

After Years of Failure, California Lawmakers Pave the Way for More Housing  
(<https://www.nytimes.com/2021/08/26/business/california-duplex-senate-bill-9.html>)

August 26, 2021

# CAN YOU PICK OUT THE SINGLE FAMILY HOMES AND DUPLEXES?

*HOVER OVER THE IMAGES TO SEE IF YOU GUESSED CORRECTLY*



# MEDIA



SB 9: The California HOME Act



Watch on  YouTube

06 September 2022  
City Council Members...

Within the draft SB9 Ordinance presented to the Planning Commission are statements suggesting the draft ordinance is designed to minimize confusion in order to enable a more streamlined implementation. While this might be true in the eyes of those that prepared the draft, it does the exact opposite in the mind of someone reading the draft like mine.

Mind you, I have a black and white approach when reviewing ordinances. In other words, what I read is what is being conveyed versus what I read is not that which intended by the author.

Beyond the many obvious typographical blunders within the Commission version due to cutting and pasting, the inconsistencies between the proposed draft and adopted City code, and offerings that don't follow the State statutes, the overriding question that continuously passed through my mind as I reviewed the text is whether the ordinance is designed to create parcels for single family residential or multi-family dwellings?

I question this because there are objective standards copied from our municipal code for development in multi-family zones. A few examples include percentage of coverage area, and mandatory laundry and storage areas. Conversely, setback requirements, building envelopes for properties with steeper slope, and development impact fees are from our municipal code for single family zones. Then there are things like exceptions for setback within the single family zone and 15 foot minimum setback for dwellings in the multi-family zone that are allowed in our adopted codes but not the proposed. There is even standard that requires a 10 foot setback from an access way flag or easement which I have never seen before. If this is desired, why not just require a 30 ft wide easement for a driveway that is 20 feet in width?

**Please note that everyone I have spoken with about SB9 desire the same goal. They have equity in their property and desire to subdivide the land to gift to a son or daughter so they can build a comfortable home of 1,600 to 2,000 sq ft so they and their Families can afford to live in the town they grew up.**

**Conversely, no one and I mean no one has stated that their desire is that which Staff suggests which is I want to be a slum lord and squeeze as much development possible on two undersized parcels and rent the units out at unaffordable rates and at the same time destroy neighborhood character.**

Next, there are several terms and ambiguous use of terminology within the draft. For example, an urban dwelling unit shall be a maximum of 1000 sq ft of habitable area, or an urban dwelling unit must not exceed 1,000 sq ft in floor area, or the maximum size of an urban dwelling unit must not exceed 800 sq ft in floor area including attached accessory storage rooms or enclosed porches. What? Are each of these examples designed to minimize confusion to enable a more streamlined implementation?

In 2020, our City adopted development impact fees for accessory dwelling units. This wasn't by way of an AB 1600 study but rather through the following. Adopted development impact fees range from \$16,989 to \$18,213 based on the size of parcel a home is being developed. In the analysis, it was determined the average size of a home in the City is 1,666 sq ft. The average home size was then divided into the single family residential base fee to calculate a per sq ft. fee. Those sums range from \$10.20 to \$10.90 per sq ft.

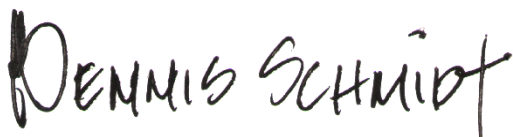
The reason I bring this up is because when it comes to development impact fees, the draft ordinance states clearly urban dwelling units shall be subject to single family impact fees and all other development and utility connections that are adopted and in effect at the time of permit application. Since this is true, then the full single family rate ranging from \$16,989 to \$18,213 is what applies to a urban dwelling unit that is somewhere around 800 sq ft (depending what definition is used), whereas the same fee would apply to a home of let's say 2,000 sq ft on land subdivided under the City's discretionary process and not the to be adopted SB9 ordinance?

**The ordinance does not address whether an existing home on a resulting SB9 parcel be required to pay a development impact fee.**

Next, the draft Ordinance makes citation to Government Code Sections 65852.21 and 66411.7. For your knowledge, Sections 65852.21 and 66411.7 state clearly that "Objective Standards, objective subdivision standards, and objective design review standards mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by referenced to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal." With this in mind, do City Council Members along with the Citizens they represent agree that the proposed development impact fee meets this definition?

In closing, the draft ordinance ends with a conflict statement reading "If any section within this chapter conflicts with Government Code Sections 65852.21 and 66411.7, then the Government Code sections will apply." Please note that within each Government Code Section it reads, "A local Agency shall not impose objective zoning standards, objective subdivision standards, and objective design review standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 sq ft." Based on what I read, I'm not convinced the draft ordinance accomplishes this minimum SB9 requirement.

Bottom line, SB9 is not a process that will result in a mad rush of hundreds of applications into the City as naysayers predicted after the Governor signed the law. So far there have been 2 in 9 months within the City, none within the County or the City of Paso Robles, and although I have not looked, my belief is the same zero for any of the other jurisdictions within the County. This law has limited appeal with few single family lots being able to meet the minimum criteria written into the State Law. My recommendation to the Council is not to adopt SBD Ordinance and allow the State law to be used which is what the County has chosen to do. If for whatever reason, the Council agrees an Ordinance is needed, then do not adopt any standard that limits development of a urban dwelling unit on a resulting SB9 lot to anything less that is allowed for a single family home on a parcel created using the City's discretionary subdivision Code.



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Dennis Schmidt

Atascadero, CA 93422



**From:** Steve Wrightson [REDACTED]  
**Sent:** Sunday, September 11, 2022 4:42 PM  
**To:** City Council <[CityCouncil@atascadero.org](mailto:CityCouncil@atascadero.org)>; Heather Moreno <[hmoreno@atascadero.org](mailto:hmoreno@atascadero.org)>;  
[hnewsom@atascaderoatascadero.org](mailto:hnewsom@atascaderoatascadero.org) <[hnewsom@atascaderoatascadero.org](mailto:hnewsom@atascaderoatascadero.org)>; Susan Funk <[sfunk@atascadero.org](mailto:sfunk@atascadero.org)>;  
Mark Dariz <[mdariz@atascadero.org](mailto:mdariz@atascadero.org)>; Charles Bourbeau <[cbourbeau@atascadero.org](mailto:cbourbeau@atascadero.org)>  
**Subject:** Comments Re: Proposed SB-9 UDU and Lot Split Ordinance

Dear Council Members,

At the September 13, 2022 Council meeting, you will be considering the proposed Ordinance adopting standards for the Implementation of Senate Bill 9 UDUs and lot splits. I will be unable to attend that meeting and am therefore submitting comments to you about that item via this email. I am a resident and property owner in Atascadero. My comments are attached.

Thank you for considering my comments.

Respectfully,  
Steve Wrightson  
[REDACTED]

**Comments on Ordinance Adopting Standards for the Implementation of SB9: Urban Dwelling Units and Urban Lot Splits as Included on the September 13, 2022 City Council Agenda**

**Prepared September 11, 2022**

I have two items of concern about the proposed Ordinance: 1) the size limitation of 1000 sf for the urban dwelling unit (UDU), and 2) the emergency/fire access requirements for existing flag & easement-accessed lots.

### **Size Limitation of 1000 SF:**

The state law establishing SB9 dictates an 800 sf minimum size limitation but does not define a maximum size. However, for ADUs the state sets a maximum size of 1200 sf. I believe the State intentionally left the upper size of a UDU unrestricted because ADUs already include an upper size limitation and that more flexibility is needed for house sizes based on individual circumstances. Similarly, the State did not include any affordability objective in its legislation—again to provide flexibility for individual circumstances.

The California Department of Housing and Community Development has issued a SB9 Fact Sheet. The fact sheet notes that SB9 and ADU laws are complementary but that they overlap *“only to a limited extent on a relatively small number of topics.”* The fact sheet further states: *“Treating the provisions of these two laws as identical or substantially similar may lead a local agency to implement the laws in an overly restrictive or otherwise inaccurate way.”* The proposed ADU and SB9 ordinances appear to be nearly identical in their application and requirements. In fact, the SB9 Staff Report (pg 213) states: *The proposed language includes a maximum unit size of 1,000 square-feet, consistent with recommended maximum unit sizes for Accessory Dwelling Units. Consistency will enable more streamlined implementation of both laws and minimize confusion to the public.* Clearly the City is proposing to treat the two laws as nearly identical. *[I’m trying not to be offended by the implication that the public needs to be protected from confusion by dumbing down the legislation.]*

Here is where I believe a major objective of SB9, different from ADUs, is being overlooked: Ownership and targeted usage. ADUs by definition are owned by the owner of the principal residence on a particular property and as such, an ADU is a rental property. While sometimes rented to the general public, ADUs are also often built to be utilized by the elderly and other empty-nesters looking to downsize—hence these small houses have often been referred to as “granny units”. In such cases, 1000 sf houses are often sufficient and there is no issue with conforming to the State’s 1200 sf maximum size. However, SB9 presents a very different opportunity for home ownership and targeted usage. The two main components of SB9 are 1) the development of UDUs and 2) lot splits. It is important to consider these two components together, not as separate issues, as they have a hand-in-glove relationship. Critically different from ADUs, implementing a lot split and building a UDU allows for home ownership. And who needs the most help achieving home ownership and benefits the most from ownership: our youth—our children. Our youth, young adults and children, represent the future of our community, our State, and our Country yet they are the most compromised sector when it comes to home ownership in California. SB9 presents a great opportunity for our town, Atascadero, to help our youth, but as written, the proposed SB9 ordinance is missing that opportunity.

Going through the effort to subdivide a property for the purpose of building a 1000 sf house for a growing young family is not economically rational. Why restrict the house size to 1000 sf? It is much more practical to provide the principal property owner the flexibility to size that house to meet the needs of the prospective occupants. By doing so a principal property owner could help their children obtain ownership of the subdivided (second) lot and the new UDU. This can be done by the property owner foregoing immediate payment for the severed lot. This helps a young family obtain part of the American Dream—home ownership (with equity growth)—and allows those families to remain local—not having to relocate to more affordable areas or waste money on rental housing.

Ownership potential versus renting—that’s the key difference between ADUs and UDU/lot splits. But the UDU/lot split rules need to be written in a manner that makes that route attractive and practical so that the resulting UDU meets the real needs of the community.

The proposed SB9 ordinance alleges to place the 1000 sf maximum size restriction for the purpose of affordability by design. It has also been explained that the size limitation has been proposed by the City as a means of preserving the character of the existing community by preventing mega multi primary house development on what is currently a single lot. I believe these bases for the 1000 sf limitation are unfounded and misguided for the following reasons:

1. Affordability is a very subjective measure. The State requires that the City only impose Objective design standards. The primary property owner and prospective occupant should have the right and freedom to choose the size of the UDU provided it complies with the City's existing ordinances for construction and primary residence.
2. The Staff Reports states that State findings expect UDUs to be smaller. That may happen but the State very specifically did not legislate a maximum size UDU. The State's legislation very specifically says that local jurisdictions must allow UDUs of at least 800 sf. Setting the minimum but no maximum, and considering that the State did legislate a 1200 sf maximum for ADUs, clearly suggests that the State did not view there to be an affordability benefit or other necessity for mandating a maximum square footage. It appears that the State expects the SB9 program to be more effective without a maximum size limit.
3. Affordability based solely on square footage is an over simplification of the Affordability by Design initiative and severely reduces the efficacy of SB9. Getting a good price on something you don't want is not a good use of resources. Paying a little more for something that is truly useful is a much better use of our land and finances. The square-foot cost of a house is not linear. In fact, for the same build-level, the cost per square foot goes down as the square footage goes up. This is especially so when a larger house could easily be built on the same property. The cost of the land, water service, other utilities, development fees, design, construction mobilization, inspection, etc. is generally about the same for a 1800 sf house as it is for a 1000 sf house. So the more cost-effective and useful option for many homeowners is the larger house with the lower \$/sf.
4. Supply is another important factor in the affordability of houses. An ordinance that actually increases supply will aid in affordability. The proposed SB9 ordinance will not promote housing development. As the Staff Report notes, there have been only two applications for lot splits since the interim ordinance went into effect.
5. If the size of UDUs was not limited (or was made considerably larger), the owner of an existing house that needs more space could build a new larger UDU and make the existing smaller house available to others that require a more affordable house. This way the needs of two homeowners are met. This is another way to achieve affordability.
6. Building houses that are too small to be truly comfortable and useful is not a good use of our land and monetary resources. In fact, it's very wasteful. Again, a disincentive to build additional housing.
7. The State's SB9 law includes no language about, or reference to, affordability. Affordability is not a requirement of the SB9 law and house size is not limited under the State's law.
8. It has been noted previously that the City has some concern about excessive use of SB9 lot splits and UDU construction that will degrade the character of our community and neighborhoods. This has been given as a reason for limiting the size of UDUs. I believe this concern is unfounded and could be characterized as a "Don Quixote syndrome" whereby the City seeks to protect against threats that, in reality, do not exist. The SB9 law was enacted to increase housing supply through the development of UDUs by individual primary property owners—not Developers. And the occupancy requirements of SB9 are included to ensure such application. The likelihood that any principal property owner is going to do a lot split and then build three additional and large primary residences on the property is miniscule. Yet the Ordinance is structured to protect against such a remote possibility at the expense of allowing the more likely scenario of doing a lot split and building one additional primary home of a reasonable size useful to the youth of our community. Furthermore, the City already has ordinances on the books for the development of housing on residential sites, and those ordinances contain many criteria such as setbacks, lot coverage, sewage connection/treatment, parking, architectural features, etc. that will sufficiently protect the community from the development of awkward and unsuitable houses on any particular lot. There is no need to develop additional restrictions especially as those restrictions will result in losing the opportunity to provide more and useful housing for our community.

#### **Emergency/Fire Access:**

There are many existing flag and easement-accessed lots in Atascadero of sufficient size to implement SB9 lot splits. However, I have not found emergency/fire access requirements in the proposed ordinance for such lots. The proposed ordinance did include requirements for such access to newly developed SB9 lots, but again, I did not see that for existing lots.

My concern is that many of the existing flag and easement-accessed lots do not have existing accessway of the width the Ordinance is prescribing for newly developed flag/easement lots. Further, it may not be feasible for many of those existing lots to acquire additional access width simply because the adjacent land is already utilized and owned by other developed properties. Imposing the access standards defined for newly developed flag and easement-accessed lots on existing flag/easement-accessed lots, has the potential of making much land that could otherwise be very suited to the development of UDUs non-permittable. This would be an unfortunate loss of many high potential building sites that could otherwise contribute to our housing inventory.

Therefore, I am requesting that emergency/fire safety access requirements for existing flag/easement-accessed lots be developed in a manner that is practical and reasonable given the existing conditions so as not to preclude the use of such available property for development of UDUs. Please understand that I am not suggesting that we forego necessary emergency access requirements but only that the requirements balance the benefits of additional home development with less-than-ideal, yet still functional, emergency access.

**Conclusion:**

1. ADU law and SB9 law and objectives are different. To best serve our upcoming younger families, our plumbers, electricians, school teachers, etc. with obtaining ownership of comfortable and desirable homes, the 1000 sf limitation on UDUs needs to be stricken and preferably replaced with no limit but otherwise with an upper limit of 2000 sf. The existing ordinance that defines the requirements for construction of a new UDU on a building site should be adequate and applicable for SB9 UDU construction.
2. Emergency/fire access requirements to existing flag and easement-accessed lots need to be developed in a practical manner that allows such properties to be utilized for SB9 lot splits and UDU development.

Yes, SB9 was mandated by the State. But that doesn't necessarily make it bad. If embraced, it can be an effective tool for creating desirable homes for our youth to own, build equity, and raise growing families right in our town. Let's take the opportunity to lead Atascadero into the future for the benefit of our youth and the greater community by making the SB9 process as useful as possible.

Steve Wrightson  
[REDACTED]

**From:** Krista Jeffries [REDACTED]

**Sent:** Tuesday, September 13, 2022 5:02 PM

**To:** City Clerk <cityclerk@atascadero.org>

**Subject:** SB9 and ADU support

Please find attached our client's relevant correspondence for the agenda items on tonight's City Council meeting.

Thank you,

Krista Jeffries

Assistant Project Manager

HRM Consulting Group



Atascadero City Council  
6500 Palma Avenue  
Atascadero, CA 93422

## *North San Luis Obispo County AOR*

To the Honorable City Council of Atascadero

We are the North SLO County Association of Realtors. We seek to preserve and promote housing production, homeownership, and property rights, so that more Central Coast residents can achieve the American dream.

We want to express our support for the increase in flexibility for the use of Senate Bill 9 in Atascadero, as well as the liberalization of Accessory Dwelling Unit (ADU) standards.

The California Association of Realtors endorsed SB9 before it was passed into law and has historically supported ADUs as well. The production of these “Missing Middle” housing types have allowed Californians to further capitalize on their home investment, create lasting wealth for their families, and allow flexibility for America’s changing households.

Homeownership in California is currently at a historic low of 56% and has the second-lowest rate in the nation. Facilitating lot splits allows more residents and working families to get a foothold into ownership where they would otherwise be barred by the cost of a large lot, or by the lack of an available lot at all. Additionally, older residents who may need the income from the sale of extra land can use those proceeds to help them age in place or update their homes before moving for retirement.

ADUs have increased significantly statewide since several legislative packages from Sacramento have gone into effect. However, [a recent study](#) from the Turner Center for Housing Innovation at UC Berkeley found that about 50% of homeowners who built ADUs reported difficulty in obtaining a permit, and about the same proportion found it difficult to build according to their jurisdiction’s objective standards. This same study also found that new ADU construction remains out of reach for most homeowners who make under \$100k a year, who arguably have the most need for supplemental income.

The staff report indicated that increased housing carries a negative impact on the City’s budget. While homes and thus property taxes are not big revenue generator for municipal budgets in California, the ongoing affordability crisis is a threat to Atascadero’s potential economic growth, community character, and public safety. We encourage the City Council and staff to consider the costs of this ongoing housing crisis in light of the costs of allowing a gradual increase in homes.

Sincerely,  
North SLO County Association of Realtors  
Government Affairs Director

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**From:** Preston Jones <[REDACTED]>  
**Sent:** Tuesday, September 13, 2022 10:20 AM  
**To:** City Clerk  
**Subject:** ADU Comments/Amendments

To Whom It May Concern,

I request that the council does not vote to accept at this time, until this is sent back to city staff and cleaned up/address all the communities concerns.

I know there will be a lot of other questions and comments so I have only selected a few items that I would like to see addressed/responded to:

**9-5.030 Septic on Smaller Lots:**

I figure the "City conducted nitrogen loading analysis" could not be exhaustive due to cost. Homeowners should have the ability to have their own third party (approved by the City) soils testing to see if their specific site has issues (even in the locations determined by the city). This may already be available, but if not, the City should provide the nitrogen limitation values/threshold that triggers not allowing a standard septic on the smaller lots.

The city should also provide wastewater engineering alternatives or pre-approved systems that do not degrade water quality of create unsafe drinking or environmental water conditions. For example, in Santa Margarita which has a similar issue, an advanced system similar to this is an option for the required treatment: <https://www.orengo.com/products/treatment-system>.

**9-5.042 ADU Maximum Square Footages/etc.:**

What is the reasoning for limiting the ADU maximum to 1000 sq. ft.? The city had already met the state guidelines of maximum of 1200 sq. ft. You will still have designs that are 3 bedroom/2 bathroom that are just less comfortable. If it fits within all other state parameters of setbacks, heights, etc., then 1200 sq. ft. should continued to be allowed. The City restricting the size to 1000 sq. ft. will force less comfortable designs/living situations.

The limitation of 250 sq. ft. attached unconditioned space does not make any sense. To comfortably fit a truck in a garage you need 14' wide x 22' deep. Also, because you will still see 1000 sq. ft. ADU's are 3 bedroom / 2 bath, there will most likely be tenants that have 2 cars where a 2 car garage is desired. Again, if it fits on the site, why is the City limiting the unconditioned space?

The limitation to 450 sq. ft. for the lower unconditioned space also does not make any sense. A 21 x 21 garage barely provides enough for 2 cars to get into and it not a very desired design. Limiting the size of a 2 car garage has further implications that that city staff has not considered. By creating certain size limitations will require certain structural elements that are more costly than standard shear walls. (For instance the garage door opening and shear panels on each side versus strong walls)

The total summation of unconditioned space should be 1000 sq. ft. which would allow for a adequately sized garage, attached porches/decks and general storage.

With more allowable square footage, you allow home owners to create ADU's that match the quality/architectural of their existing home. Otherwise they are limited to very box/simple designs like the draft stock ADU's that the city has considered. Although economical, home owner's should have the option and size ability to create structures that are consistent with their main residence.

Requiring 2nd story ADU's to be inset an additional 3' is not economical. This "wedding cake" style typically requires large floor beams in lieu of stacking bearing walls on the exterior. Although it normally is architecturally pleasing, this adds an additional cost due to the beams, support columns, foundation (pads), etc. Again, home owner's should have the flexibility to construct economical designs.

The whole idea of the ADU's is to create affordable housing and certain requirements such as 2nd story offsets and garage size limitations actually add more cost in construction.

Thank you,

Preston Jones

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**From:** Max Zappas <[REDACTED]>  
**Sent:** Tuesday, September 13, 2022 5:04 PM  
**To:** City Clerk  
**Subject:** Letter for city council hearing tonight

Hello,

Below is a short letter I was hoping might be read into the record tonight in front of the council members:

Honorable council and Mayor,

My name is Max Zappas, I am a local real estate broker and developer. I am also the president of the Homebuilder's Association of the Central Coast and I am writing in the hopes that you will make decisions tonight to allow as much housing as possible rather than restricting the housing in the form of ADU policies.

Restricting the size of an ADU to 1000 square feet is a restriction on the market that is simply not necessary. The state is 1200 square feet and the city should be as well. The extra square footage is something that the market would determine is worthwhile or not, 200 square feet less will have no material impact on the city but it will have a large financial impact on each builder. No matter what the size of the ADU they simply need to comply with setbacks and the other design standards but as long as they can meet them then it should be allowed to be 1200 square feet. The hurdles, fees, regulation, and time it takes to get one permit means that builders need to maximize each permit as much as possible. 200sq. ft./1200sq. ft. is 16% of the square footage lost. The ADU's will likely get built no matter if it is 1200 or 1000 square feet so the city services will be impacted just as much but now that home builder will realize 16% less in value... There is no rationale or reason for you to do this to your constituents.... They need to build as many homes for you guys as possible to support the traffic counts and population rings needed to support the jobs/commercial that the City of Atascadero so desperately needs.

Thank you for your time and consideration.

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Thank you,



Max Zappas  
Z Villages Management & Development

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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