

ORDINANCE NO. 2049

AN ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA, AMENDING CHAPTER 17.05 ("SUBDIVISIONS") OF TITLE 17 ("DEVELOPMENT") OF "THE CODE OF THE CITY OF SANTA CLARA, CALIFORNIA" TO REVISE THE SUBDIVISION PROCESS FOR SB 9 DEVELOPMENTS

BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, on September 16, 2021, Governor Newsom signed into law legislation known as Senate Bill 9, the "California H.O.M.E. Act" (SB 9), which added Sections 65852.21 and 66411.7 to the California Government Code;

WHEREAS, beginning January 1, 2022, SB 9 requires local agencies to ministerially approve the construction of two primary dwellings and lot splits, pursuant to a parcel map, on single-family residential zoned lots upon satisfaction of a number of qualifying criteria;

WHEREAS, SB 9 allows local agencies to impose objective zoning, subdivision, and design review standards on the construction of two residential dwellings on single-family lots, subject to certain limitations;

WHEREAS, because the law requires SB 9 projects, including lot splits, to be conducted ministerially (without public hearing or discretionary review), the City's subdivision ordinance, SCCC Chapter 17.05, which currently requires all subdivisions to have a public hearing at City Council, must also be amended to provide for the ministerial review and approval, by the City Engineer, of SB 9 Parcel Maps; and

WHEREAS, this ordinance amends Title 17 to implement the provisions of SB 9 with specific objective subdivision review standards; and

WHEREAS, pursuant to Government Code Sections 65852.21 (j) and 66411.7 (n), a local agency may adopt an ordinance to implement SB 9 and that ordinance shall not be

considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

NOW THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

SECTION 1: That Section 17.05.110 (entitled "Responsibilities") of Chapter 17.05 (entitled "Subdivisions") of Title 17 (entitled "Development") of "The Code of the City of Santa Clara, California" ("SCCC") is hereby amended to read as follows:

"17.05.110 Responsibilities.

(a) City Attorney. The City Attorney shall be responsible for approving as to form all property development agreements, subdivision improvement agreements and/or public improvement agreements.

(b) City Manager. Pursuant to the authority granted by Section 802(a) of the Santa Clara City Charter, the City Manager shall designate the following positions: Director of Planning and Inspection, City Engineer, and Building Official. Further, the City Manager shall be responsible for executing all property development agreements, subdivision improvement agreements and/or public improvement agreements.

(c) City Council. The City Council shall have final jurisdiction in the approval of tentative and final maps, tentative parcel maps and improvement agreements, and the acceptance by the City of lands and/or improvements as may be proposed for dedication to the City for subdivisions of five or more parcels. Notwithstanding the foregoing, the City Engineer shall have approval authority over lot splits pursuant to Sections 17.05.430 and 18.13.050.

The City Council shall act as the appeal board for hearing appeals of the approval, conditional approval or denial of tentative subdivision maps for subdivisions of five or more parcels.

(d) City Engineer. The City Engineer shall be responsible for:

(1) Establishing design and construction details, standards and specifications;

(2) Determining if proposed subdivision improvements comply with the provisions of this chapter and the Subdivision Map Act and for reporting the findings together with any recommendations for approval, or conditional approval, of the tentative map to the Director of Planning and Inspection;

(3) The processing of final maps, parcel maps, reversion to acreage maps and amended maps; the processing and approval of subdivision improvement plans, lot line adjustments, mergers, lot splits pursuant to Sections 17.05.430 and 18.13.050, and certificates of compliance;

(4) Examining and stating that final maps and parcel maps are in substantial conformance with the approved tentative map;

(5) The inspection, approval and acceptance of subdivision improvements;

(6) The acceptance of dedications and improvements for subdivisions of four or fewer parcels.

(e) Director of Community Development. The Director of Community Development shall be responsible for:

(1) The processing of tentative subdivision and tentative parcel maps, and for the collection of all required planning fees.

(2) The recording of a notice of completion of private subdivision improvements when not to be maintained by the City.

(f) Project Clearance Committee. The Project Clearance Committee shall be responsible for the review of tentative maps for subdivisions of five or more parcels or units for compliance with City ordinances and regulations and determining the practicability of the proposal with respect to the provision of City services, and for providing suitable conditions of approval to the Planning Commission and the City Council.

(g) Planning Commission. The Planning Commission shall be responsible for making recommendations for approval, conditional approval, or denial of the tentative map for subdivisions of five or more lots or units and reporting its recommendations to the City Council; and hearing of appeals for minor subdivisions of four or fewer parcels.

(h) Subdivision Committee. The Subdivision Committee shall be responsible for making recommendations for approval, conditional approval or denial of tentative parcel maps for four or fewer parcels and review of lot line adjustments.

(i) Director of Community Development. The Director of Community Development shall be responsible for investigating proposed subdivisions for conformity to the General Plan, specific plans and Zoning Ordinance of the City, and reporting findings together with recommendations for approval or conditional approval to the Planning Commission and City Council for subdivisions of five or more parcels."

SECTION 2: That Subsection (e) (entitled “Approval and/or Denial”) of Section 17.05.400 (entitled “Tentative Parcel Map”) of Chapter 17.05 (entitled “Subdivisions”) of Title 17 (entitled “Development”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended to read as follows:

“(e) Approval and/or Denial.

(1) In approving or conditionally approving the tentative map, the City Council shall find that the proposed subdivision, together with its provisions for its design and improvements, is consistent with the General Plan and any applicable specific plans adopted by the City and all applicable provisions of this code and if the tentative map provides, to the extent feasible, for future passive or natural heating or cooling opportunities.

(2) Whether or not such a condition is explicitly listed as a condition of approval, every approved tentative map shall be deemed to include a condition requiring the subdivider to defend, indemnify and hold harmless the City and its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attach, set aside, void or annul an approval of the City Council, Planning Commission, Subdivision Committee or City staff concerning a subdivision. The City shall promptly notify the subdivider of any claim, action or proceeding and shall cooperate fully in the defense.”

SECTION 3: That a new Section 17.05.430 (entitled “Parcel Map for Lot Splits Pursuant to Section 18.13.050”) is hereby added to Chapter 17.05 (entitled “Subdivisions”) of Title 17 (entitled “Development”) of “The Code of the City of Santa Clara, California” (“SCCC”) to read as follows:

“17.05.430 Parcel Map for Lot Splits Pursuant to Section 18.13.050

(a) Parcel Maps for Lot Splits pursuant to Section 18.13.050 shall comply with all requirements of Section 17.05.400, Tentative Parcel Map, except for subsections (d), (e)(1), and (f).

(b) Parcel Maps for Lot Splits Pursuant to Section 18.13.050 shall also comply with all requirements of Section 17.05.410, Parcel Maps.

(c) The City Engineer shall approve the Parcel Map for a Lot Split pursuant to Section 18.13.050 unless the City Engineer determines that the proposed map is not

consistent with specific objective standards of the General Plan, applicable specific plans, or any applicable provision of this Code.”

SECTION 4: That Section 17.05.500 (entitled “Dedication of streets, alleys and other public rights-of-way or easements”) of Chapter 17.05 (entitled “Subdivisions”) of Title 17 (entitled “Development”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended to read as follows:

“17.05.500 Dedication of streets, alleys and other public rights-of-way or easements.

(a) As a condition of approval of a tentative, or parcel map, the subdivider shall dedicate or make an irrevocable offer of dedication of all parcels of land within the subdivision that are needed for streets and alleys, including access rights and abutters' rights, drainage, public greenways, scenic easements, public utility easements, and other public easements. In addition, the subdivider shall improve or agree to improve all streets and alleys, including access rights and abutters' rights, drainage, public utility easements and other public easements.

(b) This Section does not apply to lot splits pursuant to Sections 17.05.430 and 18.13.050.”

SECTION 5: That Subsection (a) (entitled “General”) of Section 17.05.610 (entitled “Improvements required”) of Chapter 17.05 (entitled “Subdivisions”) of Title 17 (entitled “Development”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended to read as follows:

“(a) General. All improvements as may be required as conditions of approval of the tentative map or City ordinance, together with, but not limited to the following shall be required of all subdivisions.

(1) Requirements for construction of on-site and off-site improvements for subdivisions of four or less parcels shall be noted on the parcel map, or waiver of parcel map or the subdivision improvement agreement recorded prior to or concurrent with the parcel map.

(2) As a condition of approval of a tentative map, there may be imposed a requirement that improvements installed by the subdivider for the benefit of the subdivision contain supplemental size, capacity, number or length for the benefit of property not within the subdivision and that those improvements be dedicated to the

public, subject to the provisions of Sections 66485 through 66489 of the Subdivision Map Act.

(3) Notwithstanding subsections (a)(1) and (a)(2) above, for Lot Splits authorized by Sections 18.13.050 and 17.050.430, required improvements shall be limited to on-site improvements.”

SECTION 6: Savings clause. The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded by the fee schedules adopted by the City Council.

SECTION 7: Effective date. This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of “The Charter of the City of Santa Clara, California.”

PASSED FOR THE PURPOSE OF PUBLICATION this 5TH day of July, 2022, by the following vote:

AYES: COUNCILORS: Becker, Chahal, Hardy, Jain, Park, and Watanabe and Mayor Gillmor

NOES: COUNCILORS: None

ABSENT: COUNCILORS: None

ABSTAINED: COUNCILORS: None

ATTEST:



NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference: None