

REPORT TO CITY COUNCIL

DATE: JUNE 28, 2023

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: NATHAN HAMBURGER, CITY MANAGER

BY: DENICE THOMAS, COMMUNITY DEVELOPMENT DIRECTOR
ROBBY NESOVIC, SENIOR PLANNER

SUBJECT: CONDUCT A PUBLIC HEARING, WAIVE FULL READING AND INTRODUCE ORDINANCE NO. 23-471 AMENDING ARTICLE IX (ZONING) AND ARTICLE X (SUBDIVISIONS) OF THE AGOURA HILLS MUNICIPAL CODE TO ESTABLISH A MINISTERIAL PERMIT PROCESS FOR QUALIFYING SINGLE-FAMILY RESIDENCES, DUPLEXES, AND URBAN LOT SPLITS, AND TO ESTABLISH OBJECTIVE ZONING, DESIGN, AND SUBDIVISION STANDARDS CONSISTENT WITH STATE LAW ENACTED BY SENATE BILL 9

The request before the City Council is to adopt Ordinance No. 23-471 (Ordinance) to establish a ministerial permit process and objective standards for housing developments and urban lot splits pursuant to Senate Bill (SB) 9. The Planning Commission conducted a public hearing on June 1, 2023, and approved Resolution No. 23-1279 (Exhibit A), with a 5-0 vote, recommending the City Council adopt the draft Ordinance (Exhibit B).

On September 16, 2021, Governor Newsom signed SB 9 into law, following its approval by the State Legislature. The law took effect on January 1, 2022, therefore, development in single-family residential zones is currently subject to the provisions of the bill. The purpose of SB 9 is to increase housing production and affordability by allowing two primary units to be built on properties zoned for detached single-family housing and requiring cities to allow single-family lots to be subdivided into two separate lots through a by-right ministerial process. A ministerial approval process means the City cannot conduct a public hearing or discretionary review, and that SB 9 developments are not considered a project under the California Environmental Quality Act (CEQA).

The bill applies to all lots within single-family residential zones, including the Residential Single-Family District (RS), Residential Low-Density District (RL), and the Residential Very-Low Density District (RV), which meet the following requirements:

- A. The development is not located on a site that is any of the following:
 1. Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

2. A hazardous waste site as described in Government Code Section 65913.4(6)(E), unless certain listed exemptions are met.
 3. Within a FEMA flood zone, unless a letter of map revision is prepared by FEMA, or the site meets FEMA requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program.
 4. Within a regulatory floodway unless the development has received a no-rise certification.
 5. Lands identified for conservation in an adopted natural community conservation plan, as specified in Government Code Section 65913.4(6)(I).
 6. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973, the California Endangered species Act, or the Native Plant Protection Act.
 7. Lands under conservation easement.
- B. The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls unless the site has not been occupied by a tenant in the last three years.
- C. The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or any local City of Agoura Hills historic resources registry that may be established.

Applicability will be determined on an individual basis at the time that a permit application is submitted, however, Exhibit C depicts the areas of the City where SB 9 is likely applicable.

Prior to the effective date of SB 9, a single-family residential property in the City was typically allowed one primary dwelling unit, one accessory dwelling unit (ADU), and one junior accessory dwelling unit (JADU). Under the new bill, the City is required to ministerially approve up to two primary dwelling units on a single-family lot, allowing a total of four units per lot.

Alternatively, SB 9 also allows a single-family lot to be subdivided into two separate lots, and each lot can be improved with two units of any kind (inclusive of ADUs). Regardless of whether an urban lot split is proposed, the original parcel would be able to be improved with up to four dwelling units.

When reviewing an SB 9 housing development project, the bill only allows cities to consider objective zoning, subdivision, and development standards provided they comply with SB 9 and other state housing laws. Objective standards involve no personal or subjective judgment by a public official and are uniformly verifiable by reference 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.

Currently, many of the City standards for single-family residential development are “guidelines” to provide flexibility in design as opposed to “objective standards”. The goal of the draft Ordinance is to create standards for the development of single-family lots, and to protect orderly planning and aesthetics related to such development by creating objective standards the City can implement and enforce.

While developing the objective standards, staff also took into consideration the Housing Crisis Act (HCA), which was approved in 2019. The HCA prohibits local agencies from reducing the intensity of land use anywhere housing is an allowable use, without concurrently increasing intensity of use elsewhere. The HCA defines the reduction of land use intensity as any act that would individually or cumulatively reduce a site’s residential development capacity, including reductions in height, density, floor area ratio, new or increased open space or lot size requirements, new or increased setback requirements, minimum frontage requirements, maximum lot coverage limitations, or anything that would lessen the intensity of housing.

Pursuant to the California Department of Housing and Community Development’s (HCD) April 29, 2022, letter of technical assistance to the City of Temple City (Exhibit D), it is HCD’s position that any new objective standards proposed by an SB 9 ordinance are not allowed to reduce the intensity of housing compared to the standards that are currently in place due to the HCA. For this reason, the Ordinance proposes to keep existing development standards where possible, and only modify or add new standards in a manner that would not lessen housing intensity.

The standards contained in the draft Ordinance supplement, and are in addition to, the development standards for the applicable zoning district in which a proposed project is located. Meaning, standards contained elsewhere in the zoning ordinance may be applied, so long as those standards are objective.

In addition to requiring local agencies to allow up to two units on a single-family zoned lot, SB 9 sets forth what a local agency can and cannot require in approving a housing development or urban lot split in a single-family residentially zoned area. The following standards have been included in the Ordinance to satisfy the requirements of SB 9:

- A. Parking. Off-street parking of one space per dwelling unit is required, except that no off-street parking spaces are required in either of the following instances:
 - 1. The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.
 - 2. There is a car share vehicle located within one block of the parcel.
- B. Septic. For residential units connected to an onsite wastewater treatment system, a percolation test must have been completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.

- C. Setbacks. Side and rear setbacks shall be a minimum of four feet, except that no setback shall be required for an existing structure, or a structure constructed in the same location and to the same dimensions as an existing structure.
- D. Units Allowed. A maximum of two units may be located on a lot created through an urban lot split, inclusive of ADUs and JADUs.
- E. Exceptions. All applicable objective standards shall be met unless such objective standard would have the effect of physically precluding the construction of up to two units (on either of the resulting parcels in the case of a lot split), or would physically preclude either of the two units from being at least 800 square feet in floor area. If the application of an objective standard would have the effect of physically precluding either or both units from being at least 800 square feet in floor area, such standard shall be waived or reduced only to the extent necessary to allow construction of the affected unit(s) to a size no greater than 800 square feet in floor area.
- F. Lot Size. In the case of an urban lot split, both newly created parcels shall be no smaller than 1,200 square feet. Neither parcel shall be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.
- G. Offsite Improvements. Regulations shall not be imposed that require dedications of rights-of-way or the construction of off-site improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split.
- H. Easements. When required by City standards, easements shall be required for the provision of public services and facilities. If the City determines such easements are required, prior to or concurrent with recording a parcel map, the subdivider shall enter into agreements for conveyance of easements for the provision of public services and facilities and for the provision of access to the public rights-of-way.
- I. Access. All parcels created through an urban lot split are required to have access to, provide access to, or adjoin the public right-of-way.
- J. Uses Allowed. The primary use of a parcel created through an urban lot split shall be residential. Any other use on the property shall be accessory to a residential use.
- K. Affidavit. The applicant for an urban lot split shall 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 approval of the urban lot split.
 - 1. This provision shall not apply to an applicant that is a “community land trust,” as defined in clause (II) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation code, or is a “qualified nonprofit corporation” as described in Section 214.15 of the Revenue and Taxation Code.
- L. Rental Term. A rental of any unit located on a parcel created through an urban lot split shall be for a term longer than 30 days.
- M. Nonconforming Zoning Conditions. The correction of nonconforming zoning conditions shall not be required as a condition of approval for an urban lot split.
- N. Connected Structures. An application shall not be denied solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

- O. Lot Dimensions. Any lot created pursuant to an urban lot split is not subject to minimum lot width or depth requirements if the lot is smaller than the minimum allowable lot in the underlying zoning district.

The Ordinance proposes many new or revised development standards that will be applicable to all projects in single-family residential zones. Most notably, there are new landscaping and oak tree standards, and lighting is required to be shielded and downward facing.

The City currently has landscape guidelines that recommend certain planting materials, and advises applicants on how to reduce water consumption, promote fire safety, and maintain their landscaping. The Ordinance proposes new objective landscaping requirements that meet the intent of the current guidelines. Landscaping will be required in all front yard areas visible from the public right-of-way, and new landscaping shall use at least 50 percent native, drought-tolerant species. Existing native plants and landscaping may be used to meet this requirement, and at least five different shrubs and groundcovers must be used to provide foliage, texture, and color. Invasive species and palm trees are prohibited in new landscape areas. Additionally, all landscape plans must meet Low Impact Development (LID), fuel modification, and California State Model Water Efficient Landscape Ordinance (MWELO) requirements.

Agoura Hills Municipal Code Section 9657 and Appendix A set forth the City's requirements for the removal or alteration of protected oak trees. The draft Ordinance mirrors the current oak tree removal protections and mitigation requirements, while only applying the sections of the current oak tree standards that are objective. No more than 10 percent of the total estimated tree canopy or root structure of oak trees on a property shall be removed, and oak trees shall only be removed if the continued existence at their present location prevents the proposed use of the subject property to such an extent that alternative development plans cannot achieve the same permitted density, or that the cost of such alternative would be prohibitive. A 4:1 mitigation ratio is required if a project encroaches greater than 20 percent into the root zone or canopy zone of an oak tree, and the replacements must be planted on site. The removal of landmark oak trees (48 inches in diameter) is prohibited.

The development standards for underlying zoning districts, including front yard setbacks, building coverage, height limits, and impermeable surface coverage requirements have not been modified further than what is required under SB 9. This means that while each lot has more unit potential than before, the actual footprint of development on each lot will remain the same unless a standard physically precludes the property from having two 800-square-foot units, in which case the development potential of a lot would only be increased to the extent that it would allow for two 800-square-foot units.

The standards for three overlay districts were modified to comply with SB 9. The Indian Hills Overlay District standards were slightly modified because a local agency may not impose regulations that require the construction of off-site improvements for the parcels

being created as a condition of issuance of a parcel map. All projects in Indian Hills will be required to connect to the public sewer system, except as prohibited by SB 9 in the case of an urban lot split. In this instance, a development project would not be approved unless the applicant voluntarily connected to the public sewer or provides a private wastewater system that is fully contained within the new parcel boundaries and meets the requirements of the Los Angeles County Environmental Health Division.

The Equestrian Overlay District currently requires all projects to dedicate at least 1,500 square feet of relatively flat, usable area toward the stabling and servicing of horses. The municipal code gives the Planning Commission the authority to waive this requirement on lots less than 10,890 square feet. Since the permit process is now required to be ministerial, the Planning Division will not be allowed to exercise discretion when reviewing a housing development project. Furthermore, requiring a property owner to dedicate 1,500 square feet towards equestrian use on lots smaller than 10,890 square feet could be construed as reducing housing intensity under the HCA. For these reasons, the Ordinance proposes that all new lots less than 10,890 square feet shall not be required to maintain an equestrian area. The Equestrian Overlay Exhibit (Exhibit E) shows which parcels have the potential to be smaller than 10,890 square feet in the case of an urban lot split.

New objective standards have been created for projects located in the Old Agoura Overlay District based on the existing Old Agoura Design Guidelines. To comply with SB 9, the Floor Area Ratio (FAR) tables located in the Old Agoura Design Guidelines were modified to allow at least two 800 square-foot dwelling units in all scenarios. Additionally, the current guidelines allow an exemption from FAR calculations for three-car garages up to a maximum of 690 square feet. Since there may now be two primary dwellings on a lot and SB 9 does not allow the City to require more than one parking space per unit, the Ordinance proposes an exemption from FAR calculations for two two-car garages to incentivize off-street parking spaces in Old Agoura, which is almost entirely developed with private roads in the Very High Fire Hazard Severity Zone (VHFHSZ).

The City's Architectural Design Guidelines were originally created to harmonize development with the surrounding community and the natural environment, while also allowing for design creativity. The guidelines do not dictate specific architectural styles, but they do reflect the importance of building orientation, proportion, colors and materials. Using the existing architectural guidelines and the objective design standards created during the latest General Plan Update for multifamily development, staff created new objective design standards specific to single-family residential projects to ensure that new projects continue to display the same architectural quality displayed throughout the City.

Using Section 9293.12 of the draft Ordinance, project plans will be required to identify an architectural style of their choosing and shall include at least five features consistent with the chosen style, with roof type and characteristic pitch required to be at least one of the five features. Roof treatments will be required to display visual interest through the integration of at least two different roof forms (orientation, pitch, height), and weather

protection shall be provided at residential unit entries using treatments such as overhangs, awnings, porch roofs, trellises, or canopies.

All colors and materials will be required to be earth-tone, and the use of fluorescent or neon colors, as well as, vinyl siding, mirrored glass, gloss tiles, and T1-11 plywood is prohibited. The number of colors appearing on the entire building exterior shall be limited to a maximum of four colors (or four tones of the same color), including trim and accent colors.

Second stories facing the public right-of-way will be required to provide second story offsets or step backs from the first floor to avoid an unrelieved two-story wall. Massing of second stories will be reduced using at least two of the following approaches:

- A. Varying roofline;
- B. Dormers;
- C. Recessed or protruding windows;
- D. Using at least two changes in color and texture; or
- E. Creating varying setbacks in the façade, which may include porches, balconies, or recessed entryways.

To address privacy concerns, second story balconies within 40 feet of an adjacent residential property with a direct line of site into neighboring residential side or rear yards shall not be allowed unless landscaping is provided that screens the views into the neighboring property. Additionally, second story windows within 40 feet of an existing residential building shall stagger their windows to avoid direct lines of sight.

In conclusion, the purpose of the draft Ordinance is to establish standards to ensure the development of single-family lots is compatible with existing community character, and to protect orderly planning and aesthetics related to such development by creating objective standards the City can implement and enforce. Senate Bill 9 has been in effect since January 1, 2022, and staff is already required to process development applications in accordance with the bill, however, many of the City standards pertaining to single-family development are not objective and would not be able to be applied to a new development application. The new objective standards provide for continued flexibility of design while also maintaining the City's values in terms of aesthetics and architectural quality.

RECOMMENDATION

Staff respectfully recommends the City Council adopt Ordinance No. 23-471 amending Article IX (Zoning) and Article X (Subdivisions) of the Agoura Hills Municipal Code to establish a ministerial permit process for qualifying single-family residences, duplexes, and urban lot splits, and to establish objective zoning, design, and subdivision standards consistent with state law enacted by Senate Bill 9.

Attachments:

- Exhibit A: PC Resolution No. 23-1279
- Exhibit B: Ordinance No. 23-471
- Exhibit C: SB 9 Applicable Parcels
- Exhibit D: Temple City Letter of Technical Assistance
- Exhibit E: Equestrian Overlay Exhibit

Exhibit A
Resolution No. 23-1279

RESOLUTION NO. 23-1279

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL OF THE CITY OF AGOURA HILLS ADOPT AN ORDINANCE AMENDING ARTICLE IX (ZONING) AND ARTICLE X (SUBDIVISIONS) OF THE AGOURA HILLS MUNICIPAL CODE TO ESTABLISH A MINISTERIAL PERMIT PROCESS FOR QUALIFYING SINGLE-FAMILY RESIDENCES, DUPLEXES, AND URBAN LOT SPLITS, AND TO ESTABLISH OBJECTIVE ZONING, DESIGN, AND SUBDIVISION STANDARDS CONSISTENT WITH STATE LAW ENACTED BY SENATE BILL 9

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

Section I. On September 15, 2021, Governor Newsom signed Senate Bill (SB) 9 into law, effective January 1, 2022, following its approval by the State Legislature to increase housing production and affordability by allowing the development of up to two units per lot and urban lot splits in single-family residential neighborhoods, and by limiting cities' discretion over such development.

Section II. SB 9 authorizes a city to establish an ordinance to implement the bill, and to create objective zoning standards, objective subdivision standards, and objective design review standards, if those standards do not conflict with state law. Such objective zoning standards, objective subdivision standards, and objective design review standards may not 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 square feet," among certain other limitations.

Section III. The Planning Commission of the City of Agoura Hills considered the zoning and subdivision amendments at a public hearing held on June 1, 2022, at 6:30 p.m. The public hearing was held in-person in the City Council Chambers and via remote video conferencing. The members of the public were given the opportunity to present statements and to provide materials to the Planning Commission both in-person and electronically. Notice of the time, date, means of participation in, and purpose of the aforesaid hearing was duly given and published as required by state law.

Section IV. Evidence, both written and oral, including the staff report and supporting documentation, was presented to, and considered by the Planning Commission at the aforementioned public hearing.

Section V. The zoning and subdivision amendments are consistent with the objectives of the Housing Element. Appendix B of the Housing Element outlines how the City will take meaningful actions to affirmatively further fair housing. One high-priority fair housing issue identified in Appendix B is the limited affordable housing options throughout Agoura Hills. To promote housing mobility, the City identified the adoption of an SB 9

ordinance as an action item to expand housing supply in high resource single-family zoned areas.

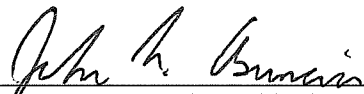
Section VI. Pursuant to Sections 65852.21(j) and 66411.7(n) of the California Government Code, an ordinance adopted to implement the provisions of SB 9 shall not be considered a project under the California Environmental Quality Act (CEQA), and therefore is not subject to CEQA review.

Section VII. Based on the aforementioned findings, the Planning Commission hereby recommends that the City Council adopt an ordinance amending Article IX (zoning) and Article X (subdivisions) of the Agoura Hills Municipal Code to establish a ministerial permit process for qualifying single-family residences, duplexes, and urban lot splits, and to establish objective zoning, design, and subdivision standards consistent with state law enacted by Senate Bill 9

Section VIII. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and its certification to be entered in the Book of Resolutions of the Planning Commission of the City.

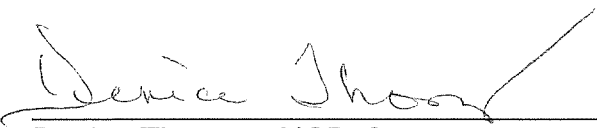
PASSED, APPROVED, AND ADOPTED this 1st day of June, 2023, by the following vote to wit:

AYES: (5) Asuncion, Anderson, Reinhardt, Roth, Sharon
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)



John R. Asuncion, Chair

ATTEST:



Denice Thomas, AICP, Secretary

Exhibit B
Ordinance No. 23-471

ORDINANCE NO. 23-471

AN ORDINANCE OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING ARTICLE IX (ZONING) AND ARTICLE X (SUBDIVISIONS) OF THE AGOURA HILLS MUNICIPAL CODE TO ESTABLISH A MINISTERIAL PERMIT PROCESS FOR QUALIFYING SINGLE-FAMILY RESIDENCES, DUPLEXES, AND URBAN LOT SPLITS, AND TO ESTABLISH OBJECTIVE ZONING, DESIGN, AND SUBDIVISION STANDARDS CONSISTENT WITH STATE LAW ENACTED BY SENATE BILL 9

WHEREAS, on September 15, 2021, Governor Newsom signed Senate Bill (SB) 9 into law, effective January 1, 2022, following its approval by the State Legislature to increase housing production and affordability by allowing the development of up to two units per lot and urban lot splits in single-family residential neighborhoods, and by limiting cities' discretion over such development.

WHEREAS, SB 9 authorizes a city to establish objective zoning standards, objective subdivision standards, and objective design review standards, if those standards do not conflict with state law. Such objective zoning standards, objective subdivision standards, and objective design review standards may not 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 square feet," among certain other limitations.

WHEREAS, the City Council finds that without objective zoning, design, and subdivision standards regulating the development of single-family zoned lots, SB 9 projects would have the potential to impact public health, safety, and welfare, as well as community character.

WHEREAS, the City Council finds that this Ordinance establishes a balance between preserving neighborhood character and providing the appropriate amount of flexibility in project design, while meeting the requirements of SB 9 and promoting additional housing units in high-resource single-family zoned areas.

WHEREAS, pursuant to Sections 65852.21(j) and 66411.7(n) of the California Government Code, an ordinance adopted to implement the provisions of Senate Bill 9 shall not be considered a project under the California Environmental Quality Act (CEQA), and therefore is not subject to CEQA review.

NOW, THEREFORE, the City Council of the City of Agoura Hills hereby ordains as follows:

Section 1. The facts set forth in the recitals of this Ordinance are true and correct.

Section 2. Consistency with the General Plan. The proposed amendments are consistent with the objectives of the Housing Element. Appendix B of the Housing Element outlines how the City will take meaningful actions to affirmatively further fair housing. One high-priority fair housing issue identified in Appendix B is the limited affordable housing options throughout Agoura Hills. To promote housing mobility, the City identified the adoption of an SB 9 ordinance as an action item to expand housing supply in high resource single-family zoned areas.

Section 3. Zoning Code Amendment. A new Part 11 is hereby added to Chapter 2 (Residential Land Use Districts) of Article IX (Zoning) of the Agoura Hills Municipal Code to read as follows:

“PART 11. – SENATE BILL 9 HOUSING DEVELOPMENT STANDARDS

9293. - Senate Bill 9 housing development standards: purpose.

This part provides objective development and design standards and permit processing procedures for housing development projects containing no more than two residential units within single-family residential zones (RS, RL, and RV zoning districts) in accordance with Government Code Section 65852.21.

9293.1. – Definitions.

For the purposes of this Section, the following words, phrases, or terms shall be defined as follows:

- A. *Contains two residential units.* A housing development contains two residential units if the development proposes no more than two new units, or if it proposes to add one new unit to one existing unit.
- B. *Existing structure.* “Existing structure” shall mean a structure that has been constructed legally and has received all required final permits and clearances prior to the submittal of a housing development application.
- C. *Earth tone.* “Earth tone” shall mean colors found in nature that have a variety of hues that have brown undertones, including rust, marigold, burnt sienna brown, terracotta, sage, and turmeric. For the purposes of this definition, brown shall mean a hue with a hexadecimal RGB code of 964B00.
- D. *Impermeable surface.* “Impermeable surface” shall refer to any surface that does not allow water or other fluids to pass through.
- E. *Convex lot.* “Convex lot” shall mean a parcel of land with a bowl-shaped formation in which the midpoint elevation of the property is higher than the elevation of the front and rear lot lines.

9293.2. – Applicability.

The standards contained within this part supplement and are in addition to the development standards for the applicable zoning district in which a proposed project is

located. If a conflict occurs between this part and other provisions contained within Article IX of the Agoura Hills Municipal Code, this part shall govern.

This part shall be applicable to a proposed housing development containing no more than two residential units which meets the following requirements:

- A. The project is located on a parcel with a zoning designation of RS, RL, or RV.
- B. The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4 of the California Government Code.
- C. Notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:
 - 1. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
 - 2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - 3. Housing that has been occupied by a tenant in the last three years.
- D. The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
- E. The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the site has not been occupied by a tenant in the last three years.
- F. The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or any local City of Agoura Hills historic resources registry that may be established.

9293.3. – Application and review process.

- A. By-Right Approval. Projects that comply with the requirements of this part are permitted by right.
- B. Review and Approval. An application for a project pursuant to this part shall be completed on a form provided by the planning and community development department for an administrative review. The administrative review application shall be reviewed by the director and shall be granted if it is found that the application complies with all of the requirements of this part.
- C. Grounds for Denial. Notwithstanding section 9293.3.B, the director may deny a proposed housing development project if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5 of the

California Government Code, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

- D. Application Checklist. The requirements for submittal of an administrative review application pursuant to this part shall be listed on a form provided by the planning and community development department.
- E. Expiration. If the owner has not obtained a certificate of occupancy within three years of the approval date for the administrative review application, the approval shall expire and become null and void. Prior to the expiration of the administrative approval, the applicant may request an extension for a period of time not exceeding 12 months. An extension shall be granted by the director if the applicant is diligently working toward obtaining all necessary approvals from other agencies.

9293.4. – Development standards for all projects.

All housing development applications submitted pursuant to this part shall comply with the following development standards:

- A. Parking. Off-street parking of one space per dwelling unit is required, except that no off-street parking spaces are required in either of the following instances:
 - 1. The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in Section 21155(b) of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.
 - 2. There is a car share vehicle located within one block of the parcel.
- B. Septic. For residential units connected to an onsite wastewater treatment system, a percolation test must have been completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.
- C. Setbacks. Side and rear setbacks shall be a minimum of four feet, except that no setback shall be required for an existing structure, or a structure constructed in the same location and to the same dimensions as an existing structure.
- D. Fencing. All fencing shall meet the requirements listed in section 9606.2. No fencing or other barriers shall be established that prevent public access to trails or trailheads.
- E. Private Streets. Developments may be served by private streets, provided that:
 - 1. Unless prohibited by Government Code Section 66411.7(b)(3) as amended, an irrevocable offer to dedicate shall be made as a part of all development;
 - 2. Evidence is provided that easements required for the provision of public services and facilities exist to provide adequate access to all development served from said private street;
 - 3. Evidence is provided that adequate agreements exist to guarantee the ongoing maintenance of said private streets; and
 - 4. The width of said private streets comply with the City's standards for public streets.

- F. Accessory Dwelling Units. Accessory dwelling units shall not be permitted on parcels that have been created through an urban lot split or are proposed to be created through an urban lot split, and propose housing development containing no more than two residential units pursuant to this part.
- G. Utilities. All utilities shall be provided as required by Chapter 6.
- H. Right-of-Way Improvements. Unless prohibited by Government Code Section 66411.7(b)(3), all projects adjacent to a public street shall be designed and constructed to full public right-of-way improvements along the project frontages in accordance with the Committee of Public Works Standards, Inc.'s standard plans for public works construction and any applicable specific plans.
- I. Drainage Courses. No structures or parts of structures shall overhang, project, or protrude into any known drainage course.
 - 1. Fences and other structures, culverts and bridges, and any other improvements which must be constructed within drainage courses, shall be designed to the requirements of the City to prevent an obstruction or division of drainage flows and to minimize adverse effects to natural riparian vegetation and ecosystems.
- J. Landscaping. All projects shall meet the following landscape standards:
 - 1. Landscaping shall be provided in all front yard areas visible to the public from any adjacent rights-of-way that are not specifically used for parking, driveways, walkways, patios, gardens, or other recreational purposes. Existing native vegetation or landscaping in front yard areas may be used to satisfy this standard.
 - 2. All manufactured slopes or the face of cut and fill slopes shall be planted or otherwise protected from the effects of storm runoff and erosion, and such planting or protection must occur within 30 days after completion of grading.
 - 3. All new landscaping shall use at least 50 percent native, drought-tolerant species selected from those listed by the California Native Plant Society in the Calscape website specific to Agoura Hills.
 - 4. No plants on the California Invasive Plant Council's list of invasive species may be used in the project landscaping.
 - 5. Artificial turf is discouraged in landscape areas to reduce the urban heat island effect, fire danger, and environmental impacts including waste materials and microplastic pollution.
 - 6. New required landscape areas shall provide at least five different shrubs and groundcovers to provide foliage, texture, and color.
 - 7. Palm trees are prohibited in new landscape areas.
 - 8. Planted berms and slopes shall be no steeper than 2:1, and 3:1 is preferred to provide greater planting opportunities.
 - 9. Landscape design shall conform to storm water design and Low Impact Development (LID) requirements.
 - 10. Landscape plans shall meet the requirements of the Los Angeles fire Department, Fuel Modification Unit for fire safety.
 - 11. Landscape and irrigation plans subject to the California State Model Water Efficient Landscape Ordinance (MWELO) shall conform to the requirements therein to achieve water efficient landscaping.

- K. Oak Tree Report. The City's Oak Tree Ordinance (section 9657 et seq.) shall not apply to a project seeking approval under this part, except for the following sections:
1. Section II. (Definitions) of Appendix A of Article IX.
 2. Items D, E, F.2, and F.3 of Section IV (Oak tree permit) of Appendix A of Article IX.
 3. Items A.3 and A.4 of Section V (Standards for performance of required work) of Appendix A of Article IX.
 4. Item E (Oak tree report) of section 9657.5 of the Agoura Hills Municipal Code.
- L. Oak Tree Standards. A project seeking approval under this part shall comply with the following standards:
1. No more than 10 percent of the total estimated tree canopy or root structure of all protected oak trees on a property shall be removed.
 2. Protected oak trees may only be removed, relocated, or altered if the removal, relocation, or alteration is necessary because the continued existence at their present location(s) prevents the proposed use of the subject property to such an extent that alternative development plans cannot achieve the same permitted density or that the cost of such alternative would be prohibitive.
 3. If a project involves the removal of or encroachment greater than 20 percent into the root zone or canopy zone of a protected oak tree that is 48 inches in diameter or less per the City's Oak Tree Ordinance and Guidelines (oak trees of the genus *Quercus*), one 36-inch-box oak tree, two 24-inch-box oak trees, and one 15-gallon oak tree of the same species shall be planted on the site as mitigation for each oak tree removed or impacted. For scrub oak species protected per the City's Oak Tree Ordinance and Guidelines, on-site replacement for removal shall be equal to four times the square footage of the area removed, with scrub oaks of the same species planted to a five foot on center spacing within the replacement area.
 4. The removal of or encroachment greater than 20 percent into the root zone or canopy zone of a protected "landmark" oak tree (trees whose diameter exceeds 48 inches) is prohibited.
 5. For established oak trees, no planting, soil disturbance, or irrigation shall occur within a distance of six feet or 25 percent of the total canopy width from the trunk in any direction, whichever is greater. For newly planted oak trees, no planting shall occur within four feet of the tree trunk.
- M. Lighting. All outdoor lighting shall be shielded and downward facing to avoid direct illumination of neighboring properties.
- N. Rental Term. A rental of any unit created pursuant to this part shall be for a term longer than 30 days.
- O. Connected Structures. Adjacent or connected dwelling units shall be allowed provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

9293.5. – Development standards for projects in the RS zoning district.

The following development standards apply to all parcels in the RS zoning district:

- A. For lots 10,000 square feet or larger, the following standards shall apply:
 - a. The minimum front setback shall be 25 feet.
 - b. The maximum building coverage shall be 35 percent.
- B. For lots less than 10,000 square feet, the following standards shall apply:
 - a. The minimum front setback shall be 20 feet.
 - b. The maximum building coverage shall be 50 percent.
- C. The maximum building height in the RS zoning district shall be 35 feet or two stories, whichever is less.

9293.6. – Development standards for projects in the RL zoning district.

The following development standards apply to all parcels in the RL zoning district:

- A. The minimum front yard setback shall be one and one-quarter (1.25) feet per every vertical foot in building height with a minimum front yard setback of 25 feet.
- B. The maximum site coverage of all impermeable surfaces shall not exceed 35 percent. Surface driveways for flag lots and fire department required turnaround areas shall be excluded from the impermeable surface coverage.
- C. The maximum building height shall be 30 feet, or two stories, whichever is less. Vertical design projections may not exceed a height of 35 feet as measured vertically from the finished grade to the top of said projection.

9293.7. – Development standards for projects in the RV zoning district.

The following development standards apply to all parcels in the RV zoning district:

- A. The minimum front yard setback shall be 25 feet.
- B. The maximum site coverage of all impermeable surfaces shall not exceed 25 percent. Surface driveways for flag lots and fire department required turnaround areas shall be excluded from the impermeable surface coverage.
- C. The maximum building height shall be 35 feet, or two stories, whichever is less. Vertical design projections may not exceed a height of 35 feet as measured vertically from the finished grade to the top of said projection.

9293.8. – Development standards for hillside lots.

The hillside standards in Division 2 of Part 2 of Chapter 6 of Article IX shall not apply to housing development applications submitted pursuant to this part. Instead, development on any parcel having an average slope of greater than 10 percent shall meet the following standards:

- A. In determining the average slope of a property, areas with a slope percentage greater than 35 percent shall be excluded, and no development or soil disturbance activities shall occur on slopes greater than 35 percent unless it is required to provide access roads to a dwelling unit.
- B. All manufactured slopes or the face of cut and fill slopes shall be planted or otherwise protected from the effects of storm runoff and erosion within 30 days after the completion of grading.
- C. Where the average elevation of the rear lot line is higher than the average elevation of the front lot line, no building or structure shall exceed a height of 15 feet above the average finished grade of the rear yard lot line. Where the average elevation of the rear lot line is below the average elevation of the front lot line, no building or structure shall exceed a height of 15 feet above the average elevation of the front lot line. The purpose of this standard is to locate development lower on hillsides in order to preserve viewsheds. On uniquely shaped convex lots where the strict application of this standard would prohibit the reasonable development of the lot, this standard shall not apply.
- D. Structures shall be located with a minimum building setback of 20 feet from the top of a slope greater than 10%.
- E. Stilt and cantilevered structures are prohibited in the Very High Fire Hazard Severity Zone (VHFHSZ).
- F. Any necessary upgrades or construction of new storm water drainage facilities shall be designed in compliance with Los Angeles County Flood Control District (County Public Works Department) objective standards, and in compliance with state and federal law.
- G. The average slope of a parcel of land shall be calculated using the methodology outlined in section 9652.12.B. of the Agoura Hills Municipal Code.

9293.9. – Old Agoura Overlay District Standards

All housing development projects in the Old Agoura Overlay District shall meet the following standards:

- A. Floor Area.
 - 1. The maximum residential floor area shall be 8,000 square feet, regardless of lot size.
 - 2. The following are exempt from FAR calculations:
 - a. Space for a three-car garage if one dwelling unit is proposed (230 square feet per space up to a maximum of 690 square feet), or space for two two-car garages if two dwelling units are proposed (230 square feet per space up to a maximum of 920 square feet).
 - b. Attic space under 6 feet in height.
 - c. A basement with no exposed sides in which the finished floor of the level above the basement level, at any point, is not more than three feet above adjacent natural or finished grade, whichever is lower. Such floor area may abut light wells which may occupy not more than forty percent of the lineal perimeter of that level of the building.

- d. Roofed porches attached to the primary residence, and facing the street, with no enclosure between the height of three feet and seven feet except for the building face to which it is attached.
 - e. Unenclosed roofed structures for the keeping or maintaining of horses up to 300 square feet in area and one detached one story barn for the keeping or maintaining of horses up to 576 square feet in area.
3. The floor area ratio of all lots shall conform to the maximum allowable FAR in Table 1. Hillside lots shall have their maximum allowable FAR reduced based on the slope factor of the lot as shown in Table 2.
- a. In no scenario may a lot's allowable FAR be reduced below 1,600 square feet.
 - b. In determining the average slope of a property, areas with a slope percentage greater than 35% shall be excluded, and no development or soil disturbance activities shall occur on slopes greater than 35 percent unless it is required to provide access roads to a dwelling unit.

Table 1 – Old Agoura Maximum Floor Area Ratio (FAR)

Lot Size	Maximum Allowed FAR
10,000 square feet or less	1,600 square feet plus .2 multiplied by the lot area over 8,000 square feet.
10,001 to 20,000 square feet	2,000 square feet plus .2 multiplied by the lot area over 10,001 square feet
20,001 to 40,000 square feet	4,000 square feet plus .06 multiplied by the lot area over 20,001 square feet
40,001 to 80,000 square feet	5,200 square feet plus .02 multiplied by the lot area over 40,001 square feet
80,001 to 90,000 square feet	6,000 square feet plus .009 multiplied by the lot area over 80,001 square feet
90,001 to 130,000 square feet	6,300 square feet plus .009 multiplied by the lot area over 90,001 square feet
130,001 and above	6,660 square feet plus .012 multiplied by the lot area over 130,001 square feet

Table 2 – Slope Factor as Related to a Lot's Average Slope

% Slope	Slope Factor	% Slope	Slope Factor
15 or less	1.00	25	.90
16	.99	26	.88
17	.98	27	.86
18	.97	28	.84
19	.96	29	.82
20	.95	30	.80
21	.94	31	.78

% Slope	Slope Factor	% Slope	Slope Factor
22	.93	32	.76
23	.92	33	.73
24	.91	34	.70

- B. Fencing. If fencing is proposed in front yard areas, the use of equestrian style fencing using white or natural wood is encouraged. All fencing shall meet the requirements listed in section 9606.2.
- C. Hardscape and Driveways.
 - 1. Permeable and semi-permeable paving surfaces are encouraged wherever possible to reduce runoff and augment ground water recharging. Preferred materials are:
 - a. Decomposed granite or other natural appearing aggregates such as gravel
 - b. Natural flat stone
 - c. Interlocking concrete manufactured pavers
 - d. Grasscrete
 - 2. If concrete is used, it shall be stained or stamped concrete, or exposed aggregate concrete.
 - 3. The use of asphalt is prohibited. Chip seal may be used as an alternative.

9293.10. – Indian Hills Overlay District Standards

All housing development projects in the Indian Hills Overlay District shall meet the following standards:

- A. All systems shall be connected to the public sewer system unless, except as prohibited by Government Code Section 66411.7(b)(3), such connection requires an offsite improvement, in which case the newly created lot shall provide a private wastewater system that is fully contained within the new parcel boundaries.
- B. No property shall be developed without fully improved public street access and full underground utility improvements within the public street right-of-way including, but not limited to, power, water, sewer, and storm drain improvements.

9293.11. – Equestrian Overlay District Standards

All housing development projects in the Equestrian Overlay District shall meet the following standards:

- A. Lots equal to or greater than 10,890 sq. ft. shall contain at least 1,500 square feet of usable area to dedicate toward the stabling and servicing of horses. This provision does not apply to lots with an average slope greater than 25 percent.

Lots under 10,890 square feet are not required to maintain a horse keeping area.

- B. Useable area for horse keeping shall be defined as an area with an average slope no greater than 10 percent. Proposed development projects shall demonstrate that the horse keeping area is able to viably site, at a minimum, the following horse facilities:
 - 1. Stall: 12' by 12' or a minimum 144 square feet per horse with a minimum 10-foot interior clearance.
 - 2. Paddock (corral): A 24' by 48' (1,152 square foot) paddock area with length for running shall be provided. Paddocks refer to pens, exercise areas, or pasture often adjacent to horse stalls.
 - 3. Access for feed delivery, manure management and veterinary access.
 - 4. A minimum area of 150 square feet for hay and tack storage.
- C. The dedicated horse keeping area, if not actually supporting horses, may be developed to the extent that any activity (such as landscaping) or structures may be easily removed without any loss of value to the entire property. Site improvements consisting of landscaping and irrigation; detached trellises, patio covers or gazebos; above-grade/portable spas; barbeques and fire pits; temporary (as defined by the building code) non-habitable accessory structures that are no more than 120 square feet in size and private sewage disposal systems shall be permitted within the horse keeping area. Orchards, vineyards and specimen trees are not considered landscaping for the purposes of this section and would be prohibited within the horse keeping area. Any improvements in the horse keeping area shall have a permeable foundation.
- D. Barns and other similar roofed structures for stabling or servicing horses shall be permitted to encroach up to 30 percent into the required front yard setback of the underlying district.
- E. Unless prohibited by Government Code Section 66411.7(b)(3), all lots adjacent to a proposed equestrian trail shall provide the public equestrian trails in accordance with city plans and policies.

9293.12. – Design standards.

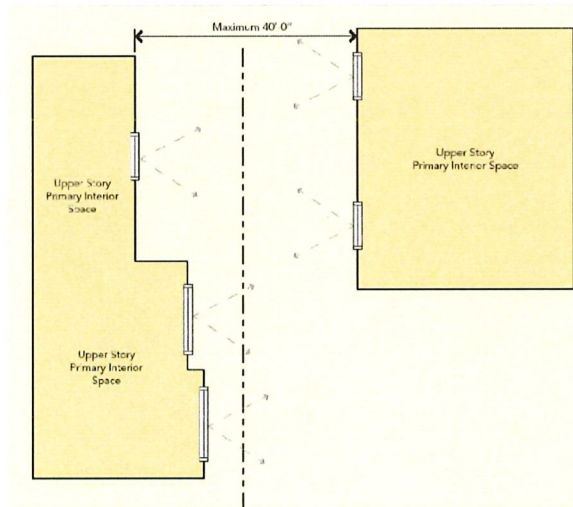
For the purpose of defining architectural styles as set forth in this part, the reference guide shall be the most currently published version of *A Field Guide to American Houses: the definitive guide to identifying and understanding America's domestic architecture* by Virginia Savage McAlester.

All housing development applications submitted pursuant to this part shall comply with the following design standards:

- A. Entry features. Dwellings visible from a public or private street shall have front entry features oriented to such street. Where a site is located along two or more public streets, the primary building entry shall be oriented toward the street with the highest classification. If a parcel fronts two public streets of equal classification, either frontage may be used to meet the standard.

- B. Architectural style. When a new dwelling unit is proposed on a lot with an existing unit, the new dwelling unit shall have the same architectural style as the existing unit. Using the building design reference document identified in section 9293.12, project plans shall identify an architectural design style and include at least five (5) of the following features consistent with the descriptions of the following elements of a single specific style, with roof type and characteristic pitch required to be at least one of the five features.
1. Roof type and characteristic pitch;
 2. Roof rake, eave overhang and cornice detail;
 3. Wall façade symmetry or asymmetry and detail;
 4. Wall material and arrangement relative to the roof;
 5. Window type, relative proportion, shape, and detail;
 6. Door type, relative proportion, shape, and detail;
 7. Porch type, relative proportion, shape, and detail.
- C. Roof treatments.
1. Visual interest shall be created through the integration of a minimum of two different roof forms (orientation, pitch, height) and designs along a building façade. Such roof forms shall be used on all sides of the building.
 2. Roof lines shall be vertically articulated along the street frontage by at least two of the following architectural elements:
 - a. Varying cornices;
 - b. Clerestory windows;
 - c. Varying roof heights;
 - d. Varying roof form.
 3. Gutters and other means to collect rainwater from roof runoff shall be integrated into roofing design and in colors and styles consistent with the roofing materials.
- D. Weather protection. Weather protection shall be provided at individual residential unit entries using treatments such as overhangs, awnings, porch roofs, trellises, or canopies.
- E. Garage doors. Garage doors shall include at least one detail treatment, such as windows, paneled surfaces, or use of multiple colors or textures.
- F. Color and materials.
1. An earth-tone color palette shall be required for all structures.
 2. The use of fluorescent or neon colors, as well as vinyl siding, mirrored glass, gloss tiles, and T1-11 plywood is prohibited.
 3. The number of colors appearing on the entire building exterior shall be limited to a maximum of four colors (or four tones of the same color), including trim and accent colors.
- G. Required screening. Mechanical equipment, storage, trash areas, and utilities shall be screened from public view. Screening shall be provided pursuant to any provisions located in Chapter 6 of the Agoura Hills Municipal Code.
- H. Second story design. Two story homes shall incorporate the following design features to reduce the visual prominence of the second floor and to address privacy concerns.

1. Building façades facing the public right-of-way shall provide second floor offsets or step backs from the first floor to avoid an unrelieved two-story wall. For corner lots, the building façade containing front entry features shall be required to provide the second story step backs.
2. Where a dwelling is visible from the public right-of-way, the façade containing front entry features shall break up the massing of the dwelling using a combination of at least two of the following approaches:
 - a. Varying the roofline, including using different roof pitches, angles, and heights to create visual interest;
 - b. Incorporating dormers to break up large roof expanses;
 - c. Creating depth with recessed or protruding windows;
 - d. Incorporating at least two changes in color and texture along wall surfaces;
 - e. Creating depth with varying setbacks in the façade, which may include porches, balconies, or recessed entryways;
3. Second story decks or balconies with a direct line of sight into neighboring residential side or rear yards shall not be allowed unless landscaping is provided which screens the views into the neighboring property. If the balcony is located at least 40 feet from the property line of the adjacent residential property, this standard shall not apply.
4. Windows within 40 feet and facing an existing residential use on an adjacent property shall be placed to avoid direct lines of sight to windows on the adjacent property, as shown in the image below.



9293.13. – Exceptions.

All applicable objective standards within this part shall be met unless such objective standard would have the effect of physically precluding the construction of up to two units or would physically preclude either of the two units from being at least 800 square feet in floor area.

If the application of an objective standard would have the effect of physically precluding either or both units from being at least 800 square feet in floor area, such standard shall be waived or reduced only to the extent necessary to allow construction of the affected unit(s) to a size no greater than 800 square feet in floor area.”

Section 4. Subdivision Code Amendment. A new Part 4 (Urban Lot Splits) is hereby added to Chapter 9 (Special Provisions) of Article X (Subdivisions) of the Agoura Hills Municipal Code to read as follows:

“PART 4. – URBAN LOT SPLITS

10900.400. – Purpose.

The standards contained within this part supplement and are in addition to the standards for parcel maps and tentative parcel maps located in chapters 1 through 9 of Article X, and the zoning standards located in Article IX. If a conflict occurs between this part and other provisions contained within the municipal code, this part shall govern.

This part provides objective standards and processing procedures for urban lot splits within single-family residential zones (RS, RL, and RV zoning districts) in accordance with Government Code Section 66411.7.

10900.401. – Applicability.

This part shall be applicable to a proposed division of land subdividing an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision. The parcel proposed to be subdivided shall meet the following requirements:

- (a) The parcel has a zoning designation of RS, RL, or RV.
- (b) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4 of the California Government Code.
- (c) The proposed urban lot split would not require demolition or alteration of any of the following types of housing:
 - (1) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
 - (2) Housing that is subject to any form of rent or price control through a public entity’s valid exercise of its police power.
 - (3) A parcel or parcels on which an owner of residential real property has exercised the owner’s rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent

or lease within 15 years before the date that the development proponent submits an application.

- (4) Housing that has been occupied by a tenant in the last three years.
- (d) The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or any local City of Agoura Hills historic resources registry that may be established.
- (e) The parcel has not been established through prior exercise of an urban lot split as provided for in this part.
- (f) Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this part.

10900.402. – Review.

A parcel map application for an urban lot split shall be reviewed in accordance with the following requirements:

- (a) A parcel map application for an urban lot split shall be reviewed in the same manner as any other parcel map, except that the application shall be reviewed by the director without discretionary review.
- (b) The director is authorized to develop the forms and procedures for urban lot split applications pursuant to the requirement of this part.
- (c) An urban lot split shall be approved by the director if it conforms to all applicable objective requirements of this part, except as otherwise expressly provided.
- (d) An urban lot split shall be denied if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
- (e) The director's action to grant or deny a parcel map application for an urban lot split is final and is not subject to appeal.

10900.403. – Standards for urban lot splits.

A parcel map application for an urban lot split is subject to the following standards:

- (a) Size. Both newly created parcels shall be no smaller than 1,200 square feet. Neither parcel shall be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.
- (b) Flag lots. Flag lots shall not be allowed in the RS zoning district, or on lots zoned RL or RV which do not meet the minimum size requirements listed in their underlying zoning district. The "staff" or minimum fifteen-foot access strip portion of a flag lot shall be excluded when calculating the required area of such lots.

- (c) Subdivision Map Act. An urban lot split shall conform to all applicable objective requirements of the Subdivision Map Act, except as otherwise expressly provided in Section 66411.7 of the California Government Code.
- (d) Offsite improvements. Regulations shall not be imposed that require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split pursuant to this part.
- (e) Setbacks. No minimum setbacks are required for an existing structure, or a structure constructed in the same location and to the same dimensions as an existing structure. In all other circumstances, a setback of four feet is required from the side and rear lot lines.
- (f) Easements. When required by City standards, easements shall be required for the provision of public services and facilities. If the City determines such easements are required, prior to or concurrent with recording a parcel map, the subdivider shall enter into agreements for conveyance of easements for the provision of public services and facilities and for the provision of access to the public rights-of-way.
- (g) Access. All parcels created through an urban lot split must have access to, provide access to, or adjoin the public right-of-way.
- (h) Parking. Off-street parking of at least one space per unit shall be provided, except where:
 - (1) The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in Section 21155(b) of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code.
 - (2) There is a car share vehicle located within one block of the parcel.
- (i) Uses allowed. The primary use of a parcel created through an urban lot split shall be residential uses. Any other use on the property shall be accessory to a residential use.
- (j) Affidavit. The applicant for an urban lot split shall 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 approval of the urban lot split.
 - (1) This provision shall not apply to an applicant that is a "community land trust," as defined in clause (II) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation code, or is a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code.
- (k) Rental term. A rental of any unit located on a parcel created through an urban lot split shall be for a term longer than 30 days.
- (l) Nonconforming zoning conditions. The correction of nonconforming zoning conditions shall not be required as a condition of approval for an urban lot split.
- (m) Units allowed. A maximum of two units may be located on a lot created through an urban lot split, inclusive of accessory dwelling units and junior accessory dwelling units.

- (n) Connected structures. An application shall not be denied solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.
- (o) Lot dimensions. Any lot created pursuant to an urban lot split is not subject to minimum lot width or depth requirements if the lot is smaller than the minimum allowable lot in the underlying zoning district.
- (p) Lot lines. Lot lines shall be straight lines, unless there is a conflict with existing improvements or the natural environment.
- (q) Objective City standards. All urban lot splits must comply with all applicable objective standards set forth in the Agoura Hills Municipal Code, except as otherwise expressly provided in Section 66411.7 of the California Government Code.
- (r) Exception. All applicable objective standards within this part shall be met unless such objective standard 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 square feet. If the application of an objective standards would have the effect of physically precluding either or both units from being at least 800 square feet in floor area, such standard shall be waived or reduced only to the extent necessary to allow construction of the affected unit(s) to a size no greater than 800 square feet in floor area.

Section 5. CEQA. Pursuant to Sections 65852.21(j) and 66411.7.(n) of the California Government Code, an ordinance adopted to implement the provisions of Senate Bill 9 shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code. Since this Ordinance is implementing the provisions of Senate Bill 9, it is not considered a project under the California Environmental Quality Act.

Section 6. Severability Clause. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or its application to any person or circumstances, is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsections, subdivision, paragraph, sentence, clause, phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 7. Effective Date. This Ordinance shall take effect thirty (30) days after passage.

Section 8. Certification. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

PASSED, APPROVED, AND ADOPTED this ___th day of _____, 2023, by the following vote to wit:

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

Chris Anstead, Mayor

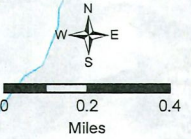
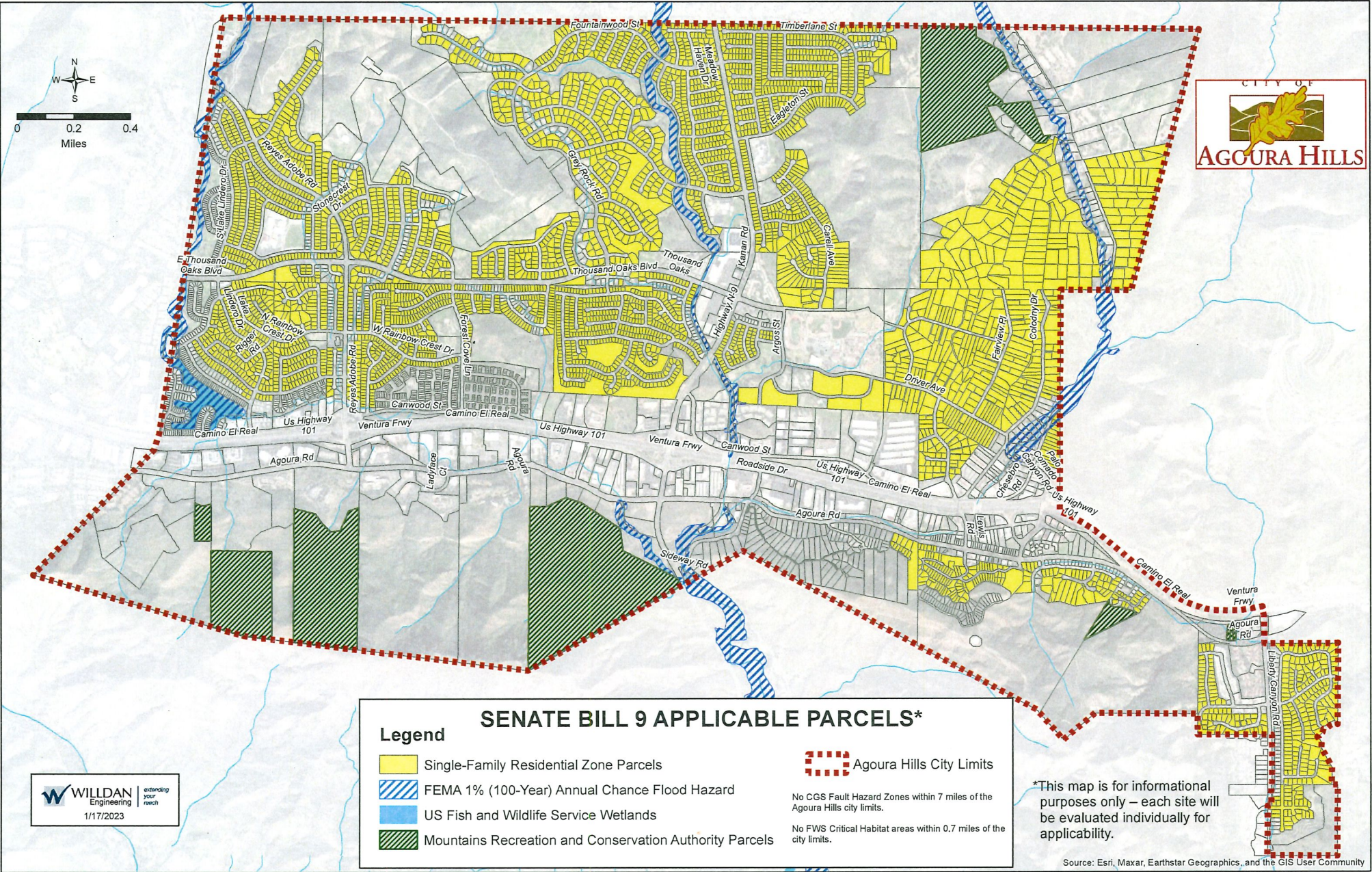
ATTEST:

Kimberly M. Rodrigues, MMC, City Clerk

APPROVED AS TO FORM:

Candice K. Lee, City Attorney

Exhibit C
Senate Bill 9 Applicable Parcels



SENATE BILL 9 APPLICABLE PARCELS*

<p>Legend</p> <ul style="list-style-type: none"> Single-Family Residential Zone Parcels FEMA 1% (100-Year) Annual Chance Flood Hazard US Fish and Wildlife Service Wetlands Mountains Recreation and Conservation Authority Parcels 	<ul style="list-style-type: none"> Agoura Hills City Limits <p>No CGS Fault Hazard Zones within 7 miles of the Agoura Hills city limits.</p> <p>No FWS Critical Habitat areas within 0.7 miles of the city limits.</p>
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WILLDAN Engineering
 extending your reach
 1/17/2023

*This map is for informational purposes only – each site will be evaluated individually for applicability.

Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

Exhibit D

Temple City Letter of Technical Assistance

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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www.hcd.ca.gov



April 29, 2022

Scott Reimers
City of Temple City
Community Development Director
9701 Las Tunas Drive
Temple City, CA 91780

Dear Scott Reimers:

RE: City of Temple City – Housing Crisis Act, Letter of Technical Assistance

The purpose of this letter is to provide technical assistance to the City of Temple City (City) regarding the relationship between its recently adopted Senate Bill (SB) 9 implementation ordinance (Ordinance Nos. 21-1058 U, 21-1059) (“Ordinance”) and the Housing Crisis Act of 2019 (Gov. Code, § 66300), among other relevant state housing laws. The California Department of Housing and Community Development (HCD) received a complaint in which concerns were raised that certain provisions of the Ordinance may violate state law. HCD subsequently reviewed the adopted ordinance and other publicly available materials. This letter identifies several concerning provisions of the Ordinance and describes the ways in which these provisions likely violate the Housing Crisis Act of 2019 (HCA).

This letter also identifies provisions of the Ordinance that raise concerns under other housing laws, such as State Housing Element Law (Gov. Code, § 65580 et seq.), Accessory Dwelling Unit (ADU) Law (Gov. Code, § 65852.2), Affirmatively Furthering Fair Housing (AFFH) (Gov. Code, § 8899.50), and Anti-Discrimination in Land Use Law (Gov. Code, § 65008). These additional concerns are addressed briefly in anticipation of the forthcoming 6th Cycle Temple City Housing Element review letter.

Housing Crisis Act of 2019 (Gov. Code, § 66300)

The HCA limits the ability of a local agency to reduce the intensity of land use anywhere where housing is an allowable use without concurrently increasing the intensity of land use elsewhere to compensate for the loss of residential development capacity. The HCA defines reductions in the intensity of land use to include the addition or modification of development standards. Specifically, the law provides the following:

Changing the general plan land use designation, specific plan land use

designation, or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district in effect at the time of the proposed change, below what was allowed under the land use designation or zoning ordinances of the affected county or affected city, as applicable, as in effect on January 1, 2018, except as otherwise provided in clause (ii) of subparagraph (B) or subdivision (i). For purposes of this subparagraph, "reducing the intensity of land use" includes, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or any other action that would individually or cumulatively reduce the site's residential development capacity.

(Gov. Code, § 66300, subd. (b)(1)(A).) In addition, the HCA is to be broadly construed to maximize the development of housing.

HCD's analysis of the adopted Ordinance involved identifying new or modified development standards, comparing those development standards against the development standards applicable to the R-1 Zone District and in effect on January 1, 2018¹, and noting instances that suggested a reduction in residential development capacity. In reviewing materials from the October 5, 2021; November 9, 2021; December 7, 2021; and January 4, 2022, Planning Commission and City Council meetings, it appears that the potential impacts of the HCA on the Ordinance were not discussed. For this reason, HCD assumes that no HCA analysis was undertaken and no concurrent and compensatory increase in the intensity of land use pursuant to subdivision (i) of Government Code section 66300 occurred.

Development Standard 1: Maximum Unit Size of 800 Square Feet.²The Ordinance creates new maximum size standards for residential development that appear to reduce the intensity of land use. The Ordinance limits the maximum size of a dwelling built under SB 9 to 800 square feet (TCMC 9-1T-21.A.4.c). The development standards of the R-1 Zone District currently impose no equivalent limitation on the absolute maximum size of dwellings. Rather, the R-1 Zone District regulates the size of dwellings by a combination of maximum floor area ratios and maximum floor areas, which vary depending on lot area, depth, and whether the dwelling is one or two stories in height. It is beyond the scope of this letter to comprehensively describe the intricacies of these development standards; however, by examining the maximum lot

¹ For the purposes of this analysis, HCD assumes that the relevant current development standards were in effect on January 1, 2018.

² While it is beyond the scope of this letter to address potential violations of SB 9 itself, Government Code section 65852.21, subdivision (b)(2)(A), seems to contemplate units that are "at least 800 square feet in floor area," not limited to a maximum of 800 square feet, as required by the Ordinance.

coverage standard, it is possible to see how the new standard represents a reduction in residential development capacity. This section examines only the maximum lot coverage standard in order to provide a comparison; other development standards could also serve for this purpose.

Table 9-1G-3 (R-1 Zone District Residential Development Standards) provides that the maximum lot coverage shall be calculated according to the following formula: $(.275 \times \text{lot area}) + 1,125$ square feet. The resulting figure represents the maximum amount of ground level residential floor area that a development can have. Lots with existing development (e.g., a single-family home) can receive additional floor area by constructing additions or by constructing new structures until the maximum lot coverage limit is reached. Vacant lots are subject to the same maximum lot coverage limit as already developed lots. HCD is particularly concerned by scenarios under which the Ordinance will prevent a property owner from developing its lot to the extent permitted under the previously existing development standards.

For example, a typical 7,200 square-foot lot in the R-1 zone is generally able to be developed with a house approximately 3,000 square feet in size. Were the same size lot developed with “urban dwellings” pursuant to the City’s SB 9 implementation Ordinance, the size of each home would be limited to 800 square feet. This represents a reduction in floor area of approximately 75 percent if one urban dwelling were constructed and approximately 50 percent if two urban dwellings were constructed. As demonstrated here, the Ordinance’s 800 square-foot maximum unit size reduces the site’s residential development capacity dramatically in certain instances. One potential remedy to this situation would be to impose the same suite of floor area-related development standards to lots with SB 9 units as to lots with one single-family dwelling.

Development Standard 2: Height Limit: The Ordinance limits the maximum height of a new attached or detached dwelling built under SB 9 to one story and 18 feet (TCMC 9-1T-21.A.4.f). The development standards of the R-1 Zone District currently limit building heights depending on the lot characteristics. Lots wider than 75 feet allow one-story or two-story dwellings up to 32 feet in height. Lots narrower than 75 feet allow one-story or two-story dwellings up to 28 feet in height. On flag lots, uniquely shaped lots, or lots with less than 35 feet of street frontage, the building height is limited to one story and 18 feet. The Ordinance would impose the smallest, one-story, and 18-foot height limitation on all units built under SB 9 regardless of the size or other characteristics of the lot. This limitation, to the extent it prevents development of equivalent floor area compared to that allowed under the existing development standards as described above, reduces the intensity of land use and represents a reduction in residential development capacity.

Development Standard 3: Courtyards: The Ordinance requires that all new detached dwellings built under SB 9 provide an open space courtyard with a minimum area of 1,000 square feet or ten percent of the lot area and with a minimum width and depth of 20 feet,

whichever is larger (TCMC 9-1T-21.A.6.m). The development standards of the R-1 Zone District currently impose no such requirement on other dwellings. As a point of comparison, in the higher density R-2 Zone District, a courtyard is required only for sites proposing more than two units and having a lot width of 50 feet or more. As with the height standard discussed above, imposing a courtyard requirement in the R-1 Zone District creates a reduction in residential development capacity if it prevents development of equivalent floor area compared to that allowed under the existing development standards.

Governmental Constraints under Housing Element Law (Gov. Code, §§ 65580-65589.11)

Housing elements are required to contain analysis of potential and actual governmental constraints on the development of housing for all income levels. (Gov. Code, § 65583, subd. (a)(5).) This includes, but is not limited to, analysis of land use controls, building codes and their enforcement, and locally adopted ordinances that directly impact the cost and supply of residential development. After identifying governmental constraints, the City must implement programs to remove those governmental constraints to the development of housing where legally possible. (Gov. Code, § 65583, subd. (c)(3).) Therefore, the City should be aware that HCD will examine the City's SB 9 implementation Ordinance in the context of the commitments made in the City's forthcoming draft 6th Cycle Housing Element.

In addition to Development Standards 1-3 discussed above, the following provisions of the Ordinance appear to create governmental constraints on the development of housing that would reduce the economic feasibility of projects.

Parking Requirements: The Ordinance prohibits a property owner from constructing off-street parking spaces that would serve the residents of an SB 9 unit (TCMC 9-1T-21.A.4.j; 9-1T-21.11.f). Additionally, the property owner must remove existing driveways and driveway aprons that might facilitate off-street parking. The development standards of the R-1 Zone District currently impose no such prohibition on the creation of additional off-street parking spaces beyond the two-space-per-dwelling minimum provided they meet the requirements of subsection G (Vehicle Parking and Driveways) of the R-1 Zone District development standards. These requirements impose a new burden on property owners seeking to develop housing under SB 9—a burden which is not borne by any other property owner in the R-1 Zone District. Coupled with the Ordinance's prohibition on the issuance of on-street overnight parking permits to residents of SB 9 units (TCMC 3-3A-23.B.1.i), these requirements likely represent a governmental constraint on the development of housing.

Additionally, these requirements raise concerns related to AFFH and housing discrimination. Materials reviewed by HCD indicate that the City did not perform an analysis to demonstrate that, within the R-1 Zone District in Temple City, households with protected characteristics that do not have a personal vehicle can access resources in a manner equivalent to households

that do have a personal vehicle.³ If the City is concerned with environmental impacts associated with personal automobile use, a more defensible policy may be to make off-street parking and on-street parking permits optional for SB 9 units and their residents while encouraging active transportation and transit use. Policies that encourage these behaviors can include covered and secure bicycle parking, subsidized bus passes, etc.

30-Year Affordable Housing Deed Restriction: The Ordinance requires that all units created under SB 9 be deed-restricted to low- or very low-income households (9-1T-21.A.4.l). While inclusionary zoning requirements are a well-used and important tool for the creation of affordable housing, this requirement is equivalent to a 100 percent inclusionary requirement that is not imposed on any other type of residential development in Temple City. A typical inclusionary requirement is 15 or 20 percent and is applicable to a broad range of residential development. This requirement has the potential to render development of SB 9 units economically infeasible, and as such may constitute a governmental constraint to housing development. As a part of the ongoing housing element update process, the City will need to demonstrate that local development costs and anticipated affordable rents will result in projects that are economically feasible.

Additionally, Government Code section 65850, subdivision (g), authorizes local agencies to adopt an inclusionary housing ordinance that includes residential rental units affordable to lower- and moderate-income households. In certain circumstances, HCD may request the submittal of an economic feasibility study to ensure the ordinance does not unduly constrain housing production. For additional information, see [HCD's Rental Inclusionary Housing Memorandum](#).

LEED Platinum Certification: The Ordinance requires that all new detached dwellings built under SB 9 achieve LEED Platinum certification (TCMC 9-1T-21.A.4.o). While environmental sustainability is a laudable goal, the development standards of the R-1 Zone District currently impose no such requirement on other dwellings. For a building to achieve a LEED Platinum certification, it must provide the very highest level of energy efficiency—far beyond the requirements of the state building code. To achieve this highest-level of sustainable design, specific building design, siting, materials, fixtures, appliances, and heating/cooling systems are required. These additional physical requirements will substantially increase the cost of development of SB 9 units and will therefore likely result in a governmental constraint to the development of housing.

³ This may also raise concerns under [2 CCR § 12060\(a\)](#) regarding practices with a discriminatory effect. Discriminatory effects occur when the policy or practice predictably results in a disparate impact on a group of individuals, or creates, increases, reinforces, or perpetuates segregated housing patterns based on membership in a protected class. See also Anti-Discrimination in Land Use Law (Gov. Code, § 65008) and AFFH (Gov. Code, § 8899.50).

As stated above, housing elements must contain an analysis of governmental constraints on the development of housing for all income levels (Gov. Code, § 65583, subd. (a)(5)) and implement programs to remove those constraints (Gov. Code, § 65583, subd. (c)(3)). The concerns raised above may constitute such constraints.

Subterranean Third Story Requirement: In certain instances, the Ordinance requires that a portion of the floor area of a dwelling built under SB 9 be located underground (TCMC 9-1T-21.A.4.f). Under SB 9, when a local agency's development standards would physically preclude the construction of up to two residential units at least 800 square feet in size, the local agency is required to modify or waive one or more development standards to accommodate a development of that size. (Gov. Code, §§ 65852.21, subd. (b); 66411.7, subd. (c).) Anticipating that in some cases SB 9 units may need to be built as three-story dwellings to meet this statutory requirement, the City appears to have included this undergrounding requirement. In no other instance is a dwelling in the R-1 Zone District required to build habitable floor area that is otherwise consistent with other development standards such as maximum floor area, FAR, etc., as underground living space. This requirement could substantially increase the cost of development of some SB 9 units and may result in a governmental constraint to the development of housing.

State ADU Law (Gov. Code, §§ 65852.2 and 65858.22)

SB 9 and State ADU Law are complementary. Both laws can be implemented in ways that result in developments with both "SB 9 Units" and ADUs. When combined, up to four units may be built in the same lot area typically used for a single-family home. The calculation varies slightly depending on whether a lot split is involved, but the outcomes regarding total maximum unit counts are identical. After reviewing the City's Ordinance to verify consistency with State ADU Law, the following concern was noted.

Accessory Dwelling Units – No Lot Split: The Ordinance establishes a limit of two residential units on each lot developed under SB 9 and requires that ADUs and Junior ADUs (JADUs) count toward that limit (TCMC 9-1T-21.A.4.b). As written, this limitation applies to situations in which a lot split is proposed as well as to situations when a lot split is not proposed. This inaccurately implements SB 9 and denies property owners the right to develop ADU(s) consistent with State ADU Law. (Gov. Code, §§ 65852.2; 65852.22.) The provisions of SB 9 that allow a local agency to impose a limit of two residential units specifies that ADUs/JADUs are to be counted towards that limit only in instances when a lot split is proposed. (Gov. Code, § 66411.7, subd. (j)(1).) In instances when a lot split is not proposed, these limitations do not apply and the local agency must allow ADUs as it typically would pursuant to State ADU Law. (Gov. Code, § 65852.21, subd. (f).)

Conclusion

Separately and collectively, these development standards and other requirements reduce the intensity of land use, raising concerns under the HCA. They also raise concerns under State Housing Element Law, State ADU Law, AFFH, and Anti-Discrimination in Land Use Law. The implementation of these policies will almost certainly have a chilling effect on the production of housing under SB 9 by rendering projects economically infeasible. HCD would like to remind the City that under Government Code section 65585, subdivision (j), HCD has enforcement authority over these and other housing laws. Accordingly, HCD may review local government actions to determine consistency with these and other laws. (Gov. Code, § 65585, subd. (i).). If HCD finds that a city's actions do not comply with state law, HCD may notify the California Office of the Attorney General. (Gov. Code, § 65585, subd. (j).)

Thank you for your prompt attention to this matter. HCD recommends the City conduct a comprehensive review of the HCA and other applicable state housing laws and update its SB 9 implementing ordinance accordingly. Additionally, HCD requests that the City respond in writing within 30 days of receipt of this letter. The City's response should include a proposed timeline for corrective actions. If you have questions or need additional information, please contact Brian Heaton, of our staff, at Brian.Heaton@hcd.ca.gov.

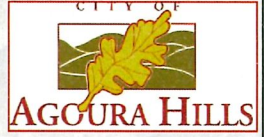
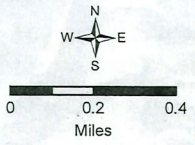
Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Zisser', with a long horizontal flourish extending to the right.




David Zisser
Assistant Deputy Director
Local Government Relations and Accountability

cc: Brian Cooke, City Manager
Greg Murphy, City Attorney

Exhibit E
Equestrian Overlay Exhibit



EQUESTRIAN OVERLAY

-  Equestrian Overlay
-  SFR parcels within Equestrian Overlay District smaller than 21,780 SF
-  SFR parcels within Equestrian Overlay District smaller than 27,225 SF
-  Other SFR Parcels within Equestrian Overlay District
-  Agoura Hills City Limits

WILLDAN Engineering
extending your reach
5/10/2023

Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community