

RESOLUTION NO. 85-2021

**IDENTIFYING APPLICABLE OBJECTIVE DEVELOPMENT STANDARDS,
SUBDIVISION STANDARDS, DESIGN STANDARDS, AND MINIMUM
SUBMITTAL REQUIREMENTS RELATED TO THE IMPLEMENTATION OF THE
MANDATED REQUIREMENTS OF STATE SENATE BILL 9**

WHEREAS, on September 16, 2021, Senate Bill 9 amended Section 66452.6 of the Government Code and added Government Code Sections 65852.21 and 66411.7, changing the requirements for additional housing units on properties within a single-family zone and for parcel map approval of an urban lot split; and

WHEREAS, the changes to Government Code by Senate Bill 9 are effective January 1, 2022; and

WHEREAS, State law provides that a local agency may adopt a resolution which provides for ministerial approval for: (1) no more than two residential units on a lot within a single-family residential zone, and (2) for an urban lot split; and

WHEREAS, State law also provides that a local agency may require these applications to meet objective development, subdivision, and design standards; and

WHEREAS, the proposed resolution implements the requirements of state law and assemble existing objective standards that are within the scope of the state law; and

WHEREAS, on December 14, 2021, the Planning Commission held a noticed public hearing and considered and recommended approval of a resolution containing objective development, subdivision, and design standards; and

WHEREAS, the proposed resolution is to implement Senate Bill 9 and is not considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code and are Categorically Exempt from the California Environmental Quality Act (CEQA) according to Guidelines Section 15303 (Class 3).

WHEREAS, a staff report was submitted recommending that the Town Council approve the objective development, subdivision, and design standards; and

WHEREAS, the Town Council did hear and consider all reports, recommendations, and testimony submitted in writing and presented at the hearing; now, therefore, be it

RESOLVED that the Town Council of the Town of Danville approves the applicable objective development standards, subdivision standards, design standards, and

minimum submittal requirements related to the implementation of the mandated requirements of State Senate Bill 9.

STANDARDS

Two-Unit Housing Developments and Urban Lot Splits

A. General

1. Urban lot splits and two-unit housing developments are allowed in the following single family zoning districts: R-6, R-7, R-10, R-12, R-15, R-20, R-40, R-65, and R-100. They are also allowed in P-1 districts if the underlying zoning standards are for single family residential uses.
2. No more than two housing units shall be allowed on each lot, including a second residential unit, Accessory Dwelling Units, and Junior Accessory Dwelling Units.
3. Lots created under SB 9 shall be limited to residential use only.
4. The rental of any residential unit constructed as part of a two-unit housing development urban lot split may not be rented for any period shorter than 30 days.
5. A housing development and urban lot split are not considered to increase the density of the lot upon which it is located. A housing development unit is a residential use that is consistent with the existing general plan and zoning designation for the lot.
6. An application to create a housing development and/or urban lot split, shall be subject to ministerial review by the Town and shall be subject to objective development standards, defined as "standards that 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."
7. The Town may deny a two-unit housing development and/or an urban lot split 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 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.

B. Eligibility

To be eligible for a housing development or urban lot split as specified in state law, the proposed housing development or urban lot split shall meet all of the following criteria:

1. A proposed development cannot be located on a site that is any of the following, as identified in Government Code Section 65913.4(a)(6)(B) to (K), or as amended:
 - a. Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.
 - b. Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
 - c. Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Government Code Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This does not apply to sites excluded from the specified hazard zones by the Town, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.
 - d. A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.
 - e. Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law, or by the Town's building division.

- f. Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the Town shall not deny the application on the basis that the development proponent did not comply with any additional local permit requirement, standard, or action adopted by the city and applicable to that site. A development may be located on a site described in this subparagraph if any of the following are met:
 - i. The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the Town.
 - ii. The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 and Part 60 of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.
 - iii. Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the Town shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by the city and applicable to that site.
- g. Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act, habitat conservation plan pursuant to the federal Endangered Species Act of 1973, or other adopted natural resource protection plan.
- h. 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 of Division 3 of the Fish and Game Code), or the Native Plant Protection Act.

- i. Lands under conservation easement.
2. The proposed two-unit housing development and/or urban lot split shall not require demolition or alteration of any of the following types of housing:
 - a. 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.
 - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - c. 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 of California State Law to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
 - d. Housing that has been occupied by a tenant in the last three years.
 3. The parcel may not be located within a historic district or property included on the State Historic Resources Inventory, or within a site that is designated or listed as a Town or County landmark or historic property or district pursuant to the Town or County's ordinance.
 4. For a new urban lot split, the parcel may not have been established through prior exercise of an urban lot split under SB 9.
 5. For a new urban lot split, neither the owner of the parcel being subdivided nor any person acting in concert with the owner may have previously subdivided an adjacent parcel using an urban lot split as provided under SB 9.

C. Development Standards for an Urban Lot Split

1. The parcel map shall 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.
2. Both newly created lots may be no smaller than 1,200 square feet (net).

3. All fire code requirements of the San Ramon Valley Fire Protection District shall be met with respect to, but not limited to: access, driveway length and width, turnarounds, clearance, road grades and fire hydrant connections.
4. The Town may not impose objective zoning standards, objective subdivision standards, and objective design review standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.

D. Development and Design Standards for Housing Developments

The following development and design standards apply to all two-unit housing developments and development on all lots created by an urban lot split:

1. Minimum side yard and rear yard setback shall conform to the existing setbacks established under the respective zoning districts.

The standards set forth in this Chapter shall not physically preclude the construction of up to two units per parcel and shall not preclude each unit from being at least 800 square feet in floor area, unless otherwise precluded by law. If the housing project cannot be designed to meet the objective standards and the objective standards would preclude two 800 square foot units, the Town will provide relief from one or more of the objective standards set forth Resolution as prioritized by the Town Council. The Town shall determine the extent of relief necessary to allow two 800 square foot units. The purpose of this section is for the housing development and/or urban lot split to comply with the objective standards, General Plan and Danville Municipal Code to the maximum extent.

The Town Council hereby lists the following objective standards from lowest-to-highest priority. Encroach into 1) side yard, 2) rear yard, 3) secondary front yard, 4) front yard, 5) creek setback, and 5) ridgeline setback and slope requirements, in that order.

2. Front and secondary front yard setbacks shall conform to the existing setbacks established under the respective zoning districts.
3. Two-unit development may be attached or detached, with no separation requirement.
4. A proposed residence with a zoning designation of R-6, R-7, R-10, R-12, R-15, and lots that are 15,000 square feet or smaller shall have the gross square footage of

their second story be limited to be no larger than 80% of the gross square footage of the ground floor of the residence. In addition, the second story shall be recessed a minimum of five feet from the plain on the first floor wall along the primary front elevation and secondary front elevation if the ground story is setback less than 35 feet to the front property line.

5. 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.
6. A proposed residence may not exceed two and one-half (2-1/2) stories or 35 feet in height, whichever is less.
7. Residential development within Town-identified Scenic Hillside area is limited to 28 feet in height.
8. Residential development within a Town-identified Major Ridgeline areas is limited to 24 feet in height.
9. Within a Town-identified Scenic Hillside or Major Ridgeline Area, no new lot shall be created which results in the creation of a building site within 100 vertical feet of the top of the ridgeline, or on a slope that is greater than 30 percent in steepness.
10. A minimum of one on-site garage parking space shall be provided for each dwelling unit unless the parcel is located within one-half mile walking distance of either a high-quality transit corridor or there is a car share vehicle within one block of the parcel. The minimum interior dimensions for the garage shall be 10 feet wide by 22 feet deep.
11. All housing developments shall provide for separate utility connections and meters. If an existing accessory dwelling unit becomes a primary residence on a lot as a result of an urban lot split, that unit shall be required to provide for separate utility connections and meters.
12. Lots with aggregate landscaped area equal or greater to 2,500 square feet shall comply with the Danville Model Water Efficient Landscape Ordinance.
13. Housing development shall be subject to the requirements of the Town's Tree Preservation Ordinance (Municipal Code Section 32-79).
14. Prior to the issuance of a building permit, the applicant for an urban lot split shall be required to sign an affidavit stating that the applicant intends to occupy one

of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split.

15. For a two-unit residential development, the property owner is required to live in one of the two units. The applicant shall be required to record a deed notification setting forth this requirement prior to issuance of building permits.

E. Submittal and Design Requirements for Urban Lot Splits

Urban lot splits shall be consistent with the requirements of the Town's Subdivision Ordinance (Section 31-1 of the Town Municipal Code). Lot split applications shall be subject to the following submittal requirements:

1. The Town may not impose regulations 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.
2. Easements for access and public services and facilities such as water, sewer, electricity and gas, and cable services may be required by the Town.
3. The title sheet shall contain the subdivision number and shall contain affidavits, certificates, and dedications; names and addresses for the legal owner of property; subdivider; and person or persons who prepared the map.
4. A topographical map accurately showing contours and other features of the existing terrain within the subdivision, existing drainage channels, roads, culverts, overhead and underground utility lines which may affect the design of the subdivision, wells and springs, major structures, irrigation ditches, utility poles, and other improvements in their correct location. Elevations shall be in accord with U.S. Geological Survey (1929 Sea Level Datum). The map shall be drawn to an engineer's scale large enough to show all information clearly. The parcel shall be oriented on the map sheet such that the north arrow shall point toward the top of the sheet. Contour interval shall not be greater than two (2') feet if the ground slope is less than ten (10%) percent nor larger than five (5') feet for ground slopes greater than ten (10%) percent; and at such intervals that the contour lines will not be spread more than one hundred fifty (150') feet (ground distance) apart. The map shall show:
 - a. The outline of any geologic or potentially hazardous soil condition, and areas subject to inundation or ponding;
 - b. The edges of pavement of existing streets, private roads, driveways and

other paved areas;

- c. Location of existing property lines and approximate boundaries of existing easements within the subdivision, with the names of the owners of record, of easements, exclusions, and the properties abutting the subdivision;
- d. The proposed lot and street layout with scaled dimensions of each lot.
- e. Lots, where not served by public sewers, shall not be smaller in area than the County Health Department shall approve for septic tanks and drain field installation.
- f. Side lot lines shall be substantially at right angles or radial to street lines.
- g. The subdivider shall show the area of each lot on the parcel map. The area shall be exclusive of the portion lying within any public right-of-way or vehicular access easement.
- h. The location of all proposed easements for drainage and access;
- i. The location and species of all trees or, if massed, the outline of the tree mass. Trunk diameter of all trees six (6") inches in diameter and over shall be noted and any Town-protected trees shall be identified;
- j. Street names, width of streets and easements, approximate grade, and radius of curves along property lines of each street;
- k. Typical geometric sections for streets showing pavement width, curbs, sidewalks, grading in margin strips, slopes of cuts and fills, and other construction proposed or applicable;
- l. Areas to be used for public purposes;
- m. Location, approximate grade, direction of flow and type of facility of existing drainage channels and storm drains;
- n. A vicinity map showing roads, adjoining subdivisions, towns, creeks, railroads, and other data sufficient to locate the proposed subdivision and show its relation to community development;
- o. North arrow, scales for maps and contour interval;

- p. Boundary lines of existing land use zones shall be delineated;
 - q. Statement or plan as to proposed plans for draining the area subject to flooding or inundation by waters flowing into or from the subdivision.
5. A written statement of general information which shall contain the following information:
- a. Existing use or uses of property;
 - b. A description of the proposed lot split, their net size.
 - c. Source of water supply;
 - d. The method of sewage disposal proposed;
 - e. Other improvements proposed;
6. A preliminary geologic and/or soils reconnaissance report. The requirement for a preliminary geologic or soils reconnaissance report may be waived if the Engineering Division determines that there are no apparent hazardous geologic or soils conditions within, adjacent to, or affecting the subdivision, based upon the geotechnical knowledge the Town possesses, as required by the Engineering Division.

Each geological investigation shall be prepared and signed by an engineering geologist. Each report of a soil investigation shall be prepared and signed by a soil engineer. The required report should be based on the latest grading plan for the subject development and shall reference the date of the grading plan. All reports shall include the following:

- a. A detailed geologic map showing the location and extent of any geologic hazard or potentially hazardous soil condition within or immediately adjoining the subject property which warrants special management and/or further evaluation;
- b. Recommendations outlining an exploration program to fully define and delineate any geologic hazard or potentially hazardous soil condition, and to accurately identify developable areas;
- c. Conclusions regarding the effect of any geologic hazard or potentially hazardous soil condition within or immediately adjoining the project site on

the design of the proposed subdivision;

- d. Recommendations for redesign of the subdivision and/or recommendations for construction procedures to mitigate potentially hazardous conditions, if warranted.
- e. Preliminary grading and site development plans, including drainage, when required by the Engineering Division.

F. Submittal Requirements for Two-Unit Housing Developments

1. Plot plan (drawn to scale) showing the dimensions of the lot on which the housing development units will be located; the location and dimensioned setbacks of all existing and proposed structures on the site; any existing trees proposed to be removed; all existing and proposed easements; building envelopes; and number and dimensions of parking spaces and curb cuts for the project site.
2. Floor plans of each structure, existing and proposed, with each room dimensioned.
3. Elevation drawings of existing and proposed elevations, showing all relevant details of the proposed construction, including but not limited to: dimensions, materials and colors, and any other special characteristics of the project.
4. If demolition of any existing building is proposed, a demolition plan showing: (1) the linear feet of existing exterior structural walls to be demolished; (2) a total of the linear feet of exterior structural walls; (3) a calculation indicating existing structural walls to be demolished as a percentage of total existing exterior structural walls; (4) the area to be demolished, with square footage; and (5) a calculation indicating the square footage of the area to be demolished as a percentage of total existing square footage.
5. A table detailing the lot size; existing residential unit square footage (with and without the garage) if applicable; square footage of each proposed housing unit; and square footage of each proposed accessory dwelling unit or junior accessory dwelling unit, if applicable.

APPROVED by the Danville Town Council at a regular meeting on December 21, 2021,
by the following vote:

AYES: Arnerich, Fong, Morgan, Stepper, Storer

NOES: None

ABSTAINED: None

ABSENT: None

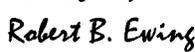
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MAYOR

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CITY CLERK