

Date of Hearing: March 26, 2025

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Matt Haney, Chair

AB 1061 (Quirk-Silva) – As Introduced February 20, 2025

SUBJECT: Housing developments: urban lot splits: historical resources

SUMMARY: Allows for the provisions of SB 9 (Atkins), Chapter 162, Statutes of 2021 (SB 9) to be used on single-family properties in historic districts. Specifically, **this bill:**

- 1) Applies SB 9, which established a streamlined and ministerial process for single family properties to be subdivided (urban lot split provision) with two units built on each resulting lot (duplex provisions), to properties in located in state or local historic districts.
- 2) Prohibits a property included on the State Historic Resources Inventory, or local historical property, from utilizing the ministerial duplex provisions of SB 9 if it would require the demolition of more than 25% of either of the following:
 - a) An existing structural wall of a property; or
 - b) A contributing structure located within a state or local historical district.
- 3) Prohibits a property included on the State Historic Resources Inventory, or local historical property, from utilizing the urban lot split subdivision provision of SB 9 if it would require the demolition of:
 - a) An existing structural wall of a property; or
 - b) A contributing structure located within a state or local historical district.

EXISTING LAW:

- 1) Requires the streamlined and ministerial approval by a local agency of a duplex in a single-family zone (Government Code (GOV) Section 65852.21), and the urban lot split of a parcel zoned for residential use into two parcels (GOV 66411.7). Specifically:
 - a) Requires a city or county to ministerially approve either or both of the following, as specified:
 - i) A housing development of no more than two units (duplex) in a single-family zone (GOV 65852.21); and
 - ii) The subdivision of a parcel zoned for residential use into two parcels, each at least 40% of the original lot's size (urban lot split), as specified. (GOV 66411.7)
 - b) Prohibits an urban lot split if the lot was previously split under this section GOV, and prohibits an owner or related party from splitting adjacent lots to prevent circumvention of the two-lot limit. (GOV 66411.7)

- c) Provides that an application for a duplex or a lot split must be considered and approved or denied by the local agency within 60 days from the date the local agency receives a completed application. Further provides that:
 - i) If a local agency denies an application for a duplex or lot split, the permitting agency must provide, in writing, a full set of comments to the applicant, with a list of items that are defective or deficient, and a description of how the application can be remedied by the applicant; and
 - ii) If the local agency has not approved or denied the application within 60 days and the application meets all qualifying criteria, the application is deemed approved. (GOV 66411.7 & 65852.21)
- d) Prohibits a local agency from imposing objective standards on a proposed duplex that do not apply uniformly to developments within the underlying zoning district. Otherwise, allows a local agency to adopt or impose objective zoning standards, objective subdivision standards, and objective design standards on development authorized by this section as follows:
 - i) If those standards are more permissive than applicable standards in the underlying zone;
 - ii) If the standards would not physically preclude the construction of up to two units or physically preclude either of the two units from being at least 800 square feet in floor area;
 - iii) A city or county may require a setback of up to four feet from the side and rear lot lines; and
 - iv) A city or county may not require setbacks for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure. (GOV 66411.7 & 65852.21)
- e) Prohibits a city or county from requiring more than one parking space per unit for either a proposed duplex or a proposed lot split. Prohibits a city or county from imposing any parking requirements if the parcel is located within one-half mile walking distance of either a high-quality transit corridor or a major transit stop, or if there is a car share vehicle located within one block of the parcel. (GOV 66411.7 & 65852.21)
- f) Allows a local agency to impose objective standards for a proposed lot split so long as they are related to the design or to the improvements of a parcel. (GOV 66411.7)
- g) Requires an applicant for an urban lot split to sign an affidavit stating they intend to occupy one of the housing units as their primary residence for at least three years following the lot split. (GOV 66411.7)
- h) Prohibits units created from being used as short-term rentals (i.e., they must be rented for terms longer than 30 days). (GOV 66411.7 & 65852.21)

- i) Requires the Department of Housing and Community Development (HCD) to notify a local government if it has taken an action in violation of SB 9, and authorizes HCD to notify the Attorney General (AG) if the local government is in violation of SB 9, at HCD's discretion. (GOV 65585 & 65585.1)
- 2) Establishes the State Historical Resources Commission (SHRC), a nine-member state review board, appointed by the Governor, with responsibilities for the identification, registration, and preservation of California's cultural heritage. (Public Resources Code (PRC) 5020 & 5020.2)
- 3) Defines a "historic district" as a definable unified geographic entity that possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development. (PRC 5020.1)
- 4) Defines a "historic landmark" as any historical resource which is registered as a state historical landmark through a process involving the Commission and the Department of Parks and Recreation. (PRC 5020.1 & 5021)
- 5) Requires the Commission to evaluate and recommend historical resource designations by reviewing applications for the National Register, California Register, and state historical landmarks, while maintaining comprehensive records and criteria for preservation. (PRC 5020.4)
- 6) Recognizes that the long-term preservation and enhancement of historical resources is dependent on the good will and cooperation of the general public and of the public and private owners of those resources, and states that the Legislature intends that public agencies, including the Commission, shall endeavor to elicit the cooperation of the owners of both identified and unidentified resources, to encourage the owners to perceive these resources as assets rather than liabilities, and to encourage the support of the general public for the preservation and enhancement of historical resources. (PRC 5020.7)
- 7) Establishes the California Register of Historical Resources as an authoritative guide for identifying and protecting significant historical resources in the state. (PRC 5024.1)
- 8) Sets criteria and procedures for listing historical resources based on significance in California's history, architecture, and archaeology, including alignment with National Register standards. (PRC 5024.1)
- 9) Allows for the listing of eligible resources even if an owner objects. (PRC 5024.1)
- 10) Provides for the delisting of resources that no longer meet eligibility criteria due to changes or destruction. (PRC 5024.1)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the Author, "SB 9 has been a critical tool in addressing California's housing crisis by allowing homeowners to build additional units on their property. For too long, outdated rules have kept families from building the housing they need, even when

it can be done responsibly. We can expand housing access without erasing our history. AB 1061 protects the integrity of our historic neighborhoods while allowing homeowners to build more housing for the next generation.”

SB 9 (Atkins): In 2021, the Governor signed SB 9 (Atkins), Chapter 162, Statutes of 2021, which allowed up to four homes on lots where currently only one exists. It did so by allowing existing single-family homes to be converted into duplexes. It also allowed single-family parcels to be subdivided into two lots, while allowing for a new two-unit building to be constructed on the newly formed lot.

The changes to land use law created by SB 9’s passage have the potential to help address the state’s multi-million unit housing deficit. According to a 2021 study from the UC Berkeley Turner Center for Housing Innovation, the passage of SB 9 increased the amount of market-feasible homes statewide by 700,000.¹ However, a 2023 analysis from the Turner Center determined that, in its first year, the effect of the law has been relatively limited.² Los Angeles had the most activity, with 211 applications for new units under SB 9 in 2022. The state’s other large cities all reported very few applications for lot splits or new units. For example, the City of San Diego reported receiving just seven applications for new SB 9 units in 2022.

There are multiple reasons for this slow uptake. It often takes a few years for the construction process to catch up with changes to land use policy. Also, higher interest rates greatly increased the cost to finance a second unit, adding a chilling effect to the housing market. The City of San Diego has a generous local ADU program, providing a local pathway to increasing missing-middle housing which is less restrictive than the provisions of SB 9. SB 450 (Atkins), Chapter 286, Statutes of 2024, amended SB 9 to address some of the early barriers to low utilization of SB 9. SB 450 (Atkins) added a 60-day review period for SB 9 applications, removed the ability of local agencies to deny certain SB 9 projects, prohibited a local agency from imposing standards on SB 9 projects that do not apply to the underlying zoning district, gave HCD explicit enforcement authority over SB 9, and strengthened the statewide concern findings that applied SB 9 to charter cities. The provisions of SB 450 became effective on January 1 of this year, so it is too early to judge the impact of those changes on SB 9 uptake.

Despite the changes made to SB 9 with SB 450 (Atkins), some barriers to utilization still remain. One of which is the provision that prohibits both the duplex and urban lot split portions of SB 9 from being used in historic districts. This bill would directly address that by removing the prohibition of using SB 9 in historic districts, while still prohibiting the use of SB 9 on individual historic landmarks.

Historic Preservation, Districts, and Landmarks in California: According to the US National Park Service, historic preservation is “a conversation with our past about our future,” meaning it allows us to convey our understanding of the past to future generations.³ At the federal level, historic preservation efforts are guided by the National Historic Preservation Act (NHPA) of 1966, which was enacted in response to the widespread destruction of historic and cultural sites during postwar infrastructure expansion and urban renewal projects.⁴ The NHPA established the

¹ <https://turnercenter.berkeley.edu/wp-content/uploads/2021/07/SB-9-Brief-July-2021-Final.pdf>

² <https://turnercenter.berkeley.edu/research-and-policy/sb-9-turns-one-applications/>

³ <https://www.nps.gov/subjects/historicpreservation/index.htm>

⁴ <https://www.nps.gov/subjects/archeology/national-historic-preservation-act.htm>

National Register of Historic Places, the nation's official inventory of historic sites, and created procedural protections requiring federal agencies to assess the impact of federal activities on historic resources. It also established a framework for state and local governments, tribal nations, and preservation organizations to participate in historic preservation efforts.

In California, the Office of Historic Preservation (OHP), under the California State Parks, “administers federally and state mandated historic preservation programs to further the identification, evaluation, registration, and protection of California's irreplaceable resources.”⁵ According to the latest version of California's Statewide Historic Preservation Plan, historic preservation efforts have evolved over the past two decades beyond merely identifying and documenting historic resources.⁶ Preservation is now integrated into land use planning, economic development, affordable housing policy, disaster preparedness, and environmental quality initiatives.⁷

There are many historic districts in California, with the stated purpose of preserving the state's architectural, cultural, and historical heritage. These districts are designated at the local, state, and federal levels, each with distinct regulatory frameworks, benefits, and potential development challenges. Local historic districts are formed through city or county ordinances, often requiring historic surveys, community support, and approval by local historic preservation commissions or city councils. Local designation may regulate the scope of alterations or demolitions that can be conducted within a given district. State historic districts are included in the California Register of Historical Resources, and are established through a state nomination process. Development in state historic districts are typically subject to the requirements of the California Environmental Quality Act (CEQA), which requires analysis of potential adverse impacts from future development. The criteria for designation on the California Register of Historical Resources include:

- Association with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
- Association with the lives of persons important in our past;
- Embodiment of the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
- Yield of information important in prehistory or history.⁸

Lastly, federal historic districts are listed on the National Register of Historic Places and must meet national criteria for historic significance and integrity. Notably, federal designation does not automatically prevent development in most of the country. In other states, federal designation simply triggers NHPA reviews if federal funding, permits, or projects are involved. However, in California, development on federally designated properties typically involves CEQA review, and properties that are listed on the National Registry of Historic Places are automatically added to our State Historic Resources Inventory, affording them the same protections as state resources.

⁵ <https://ohp.parks.ca.gov/>

⁶ California's Statewide Historic Preservation Plan 2019-2023 Update, https://ohp.parks.ca.gov/pages/1069/files/CAStatePlan_2019-2023_FINAL.pdf

⁷ California's Statewide Historic Preservation Plan 2019-2023 Update, https://ohp.parks.ca.gov/pages/1069/files/CAStatePlan_2019-2023_FINAL.pdf

⁸ https://ohp.parks.ca.gov/?page_id=21238

Within historic districts, not all buildings or structures carry the same level of significance. “Contributing properties” are those built during the district’s period of significance, retain their historic integrity, and contribute to the overall historical, architectural, or cultural character of the district. Non-contributing properties may exist within a district, meaning that despite their geographic location they lack historic significance due to alterations or later construction. Preservation efforts also focus on character-defining features, which are the architectural and physical elements that give a historic district or landmark its distinctive identity. These may include architectural elements, materials, and spatial relationships.

Historical landmarks are also included on the California Register. Landmarks are individual sites, buildings, or structures recognized for their exceptional historical, architectural, or cultural significance. These landmarks are associated with key historical events, individuals, or architectural styles and are officially designated by the California Office of Historic Preservation. Once designated, they typically receive regulatory protections under CEQA.

Under current law, you cannot use SB 9 in a state or local historic district. This bill would change that. This bill would allow the provisions of SB 9 to be used in historic districts, with some caveats, but not on state or local individual landmark properties. Under this bill, the duplex provisions of SB 9 would be permissible in historic districts so long as they don’t result in the demolition of more than 25% of an existing exterior wall of a historic resource or a contributing structure for a property included on a state or local historic registry. The urban lot split provision of SB 9 would be allowed in historic districts as long as there is no demolition proposed to the exterior walls or a contributing structure of a site listed on a state or local historic registry. In doing so, this bill seeks to balance the goals of maintaining historic integrity and allowing for additional missing-middle housing development. Individual landmark properties would remain ineligible for SB 9.

Nomination to the California Register of Historical Resources: Generally, all nominations for historic properties or districts must be submitted to the OHP, and reviewed and approved by the State Historical Resources Commission (SHRC). Properties already listed on the National Register of Historic Places or designated as California Historical Landmarks (#770 or higher) are automatically added to the California Register. The SHRC is established by PRC and contains nine members appointed by the Governor. All nominations for inclusion on the California Register must provide detailed documentation of the resource’s historical, architectural, or cultural significance, including historical research, photographs, maps, and a justification for eligibility under California Register criteria. Any person or group, including historical societies, advocacy organizations, or members of the public, may prepare and submit a nomination to the SHRC.

Even if a property owner, or local government, objects, the SHRC can still review a nomination for inclusion on the California Register. While a property owner objection prevents the property from being formally listed in the California Register, it may still be determined “eligible for listing” by the SHRC. A property that is “eligible for listing” is typically treated the same as a property that is officially designated a historic resource for purposes of CEQA when it comes to development proposals. It is not uncommon for nominations for historic districts to go directly to the State Historical Resources Commission rather than first trying to obtain local designation.

Case Study: Tension Between Historic District Designation and SB 9: Following the enactment of SB 9, housing advocates have alleged that historic district formation at the state level is being

used to circumvent the applicability of the bill in many high-opportunity and exclusionary neighborhoods. One example of this can be found in the City of San Mateo. In November 2023, the San Mateo Heritage Alliance initiated a proposal to designate the over 400 homes in the Baywood neighborhood of San Mateo as a state historic district by submitting a nomination to the OHP.⁹ The San Mateo Heritage Alliance maintains that these efforts seek to preserve the neighborhood's architectural heritage.

The proposal sparked significant debate. Proponents of the designation argue that it would protect Baywood's unique character, while opponents, including many residents and local officials, worry it could restrict housing development and infringe upon property rights. Local officials also expressed concerns that the Heritage Alliance was moving forward with a request for state designation while the local government was exploring a local ordinance to potentially establish a district.

On February 27, 2025, the San Mateo County Board of Supervisors adopted a resolution opposing the establishment of a historic district in Baywood.¹⁰ While the county does not control zoning decisions within the city of San Mateo, the board's resolution urged the San Mateo Heritage Alliance to withdraw its application and called on the State Historical Resources Commission to reject it. In the resolution, the County stated that this designation "could potentially lead to new requirements for obtaining permits for homeowner improvements, restrict the autonomy and freedom of homeowners to make changes to their homes, and limit the development of new housing."¹¹ The County further argued that the Heritage Alliance "circumvented the City of San Mateo's historic designation process and is attempting to bypass State housing laws that support equitable and affordable housing production,"¹² and raised numerous affirmatively furthering fair housing (AFFH) issues with the proposed designation of San Mateo's only "Segregated Area of White Wealth."¹³ The local debate continued at a March 17, 2025 Special Meeting of the San Mateo City Council, where the Council voted 4-0 to send a letter to OHP asking the state to delay the historic district nomination process.

This situation highlights the broader tension between historic preservation, housing production goals, and state and local governance in California. Especially in the context of single-family zoning districts, many of which have origins in exclusionary zoning policies, it is important to consider the tradeoffs between preserving communities exactly as they were, and allowing for more residents to live in all of our neighborhoods across the state, opening up access to opportunity. While SB 9 is designed to address the state's housing shortage by allowing increased density, initiatives like the Baywood Historic District proposal reflect concerns about preserving neighborhood character and maintaining local control over land use decisions. The pathway to designation at the state level, despite local and property owner opposition, further highlights this conflict.

This bill would directly address this by allowing SB 9 to occur in the state's historic districts. It would maintain the restriction against SB 9 being used on individual landmark properties, and

⁹ <https://www.sfchronicle.com/bayarea/article/housing-nimby-historic-baywood-18450990.php>

¹⁰ https://sanmateocounty.legistar.com/LegislationDetail.aspx?G=1088EC25-A43A-408F-A57C-73C0A70269AB&GUID=70E52BBE-45A1-4F6F-98E4-2DFED7AE8DD3&ID=6549760&Options=&Search=&utm_source=chatgpt.com

¹¹ IBID.

¹² IBID.

¹³ IBID.

includes parameters around how much demolition can occur when using SB 9 in these historic districts.

Committee Amendments: The author is requesting that the following author's amendments be taken as Committee amendments for timing purposes:

65852.21.

~~(5) The development is not located within a historical landmark property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.~~

~~(6) The development does not require demolition of more than 25 percent of either of the following that is included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or designated or listed as a city or county historic resource pursuant to city or county ordinance:~~

(A) The development is not located on a parcel individually listed as a historical resource included in the State Historic Resources Inventory as defined in Section 5024.1 of the Public Resources Code, or within a property individually designated or listed as a city or county landmark, under a city or county ordinance.

(B) Any development within a historic district must not demolish more than 25% of the exterior wall area, nor affect the character-defining exterior features of the principal elevation of a contributing structure of a historic district,

~~(A) An existing exterior structural wall of a property.~~

~~(B) A contributing structure located within a historical district.~~

...

~~(B) (i) Notwithstanding subparagraph (A), 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.~~ *A local government may adopt objective standards for the purposes of maintaining the historical value of a historic district listed in the California Register of Historical Resources, provided those standards comply with the requirements of 65852.21(b).*

...

~~(4) A local agency may adopt objective standards that prevent adverse impacts on a property that is included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code. In the absence of objective standards, the federal Secretary of the Interior's Standards for Rehabilitation, as found in Part 67 of Title 36 of the Code of Federal Regulations, shall apply.~~

66411.7.

~~(F) The proposed urban lot split does not require demolition of either of the following that is included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public~~

~~Resources Code, or designated or listed as a city or county historic resource pursuant to city or county ordinance; following:~~

(i) ~~A contributing structure located within either a historic district that is included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code or within a historic district listed or designated pursuant to a city or county ordinance.~~

(ii) An existing exterior structural wall of a property

...

(4) A local agency may adopt objective standards that prevent adverse impacts on a property that is included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code. ~~In the absence of objective standards, the federal Secretary of the Interior's Standards for Rehabilitation, as found in Part 67 of Title 36 of the Code of Federal Regulations, shall apply.~~

Arguments in Support: California YIMBY, the bill sponsor, writes in support: “California has a severe shortage of middle-income housing and small multi-family developments near jobs, transit, and high-opportunity areas. The problem: restrictive single-family zoning covers over 70% of residential land, limiting the construction of diverse housing options. To address this, the California HOME Act (SB 9) was enacted in 2021, allowing homeowners to split lots and build up to four homes, promoting small-scale infill development.

However, SB 9 has been significantly underutilized due to loopholes that cities and individuals exploit to block housing. A key obstacle is its exclusion of historic districts, which prohibits new housing on any property within these areas at both the state and local levels. This restriction has led to a surge in historic designations, particularly in exclusionary neighborhoods, as a tactic to prevent new development.”

Arguments in Opposition: The League of California Cities writes in opposition: “AB 1061, as currently drafted, will not spur much-needed housing construction in a manner that supports local flexibility, decision-making, and community input. State-driven ministerial or by-right housing approval processes fail to recognize the extensive public engagement associated with developing and adopting zoning ordinances and housing elements certified by the California Department of Housing and Community Development.

...

Historic districts in many communities across California are critical for promoting tourism, local history, and economic development. Most historic districts are hubs for social and commercial activity, providing residents and visitors with options for retail, restaurants, mixed-use housing, and walkable communities. Historical districts are vital for downtown revitalization in many situations. By limiting local review and planning in these districts, local governments will struggle to promote smart economic growth and development in historic districts.”

Related Legislation

SB 450 (Atkins), Chapter 286, Statutes of 2024. Amended the process established by SB 9 (Atkins), Chapter 162, Statutes of 2021 for the ministerial approval of a duplex in a single-family zone and the lot split of a parcel zoned for residential use into two parcels.

SB 9 (Atkins), Chapter 162, Statutes of 2021. Required the ministerial approval by a local agency of a duplex in a single-family zone and the lot split of a parcel zoned for residential use into two parcels. ***Double Referred:*** This bill was also referred to the Committee on Local Government, where it will be heard should it pass out of this Committee.

REGISTERED SUPPORT / OPPOSITION:**Support**

California YIMBY (Sponsor)
California Community Builders
Fremont for Everyone
LeadingAge California

Opposition

League of California Cities

Analysis Prepared by: Dori Ganetsos / H. & C.D. / (916) 319-2085