

YIMBY Law

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Ms. Mona Miyasoto, Clerk of the Board
Santa Barbara County Board of Fire Appeals
105 E. Anapamu St. 4th floor
Santa Barbara, CA. 93101

**Re: Appeal of Fire Marshal Denial of “Same Practical Effect” Determination
2640 Las Encinas Lane**

Honorable Board Members:

YIMBY Law is a 501(c)3 non-profit corporation, whose mission is to increase the accessibility and affordability of housing in California. YIMBY Law sues municipalities when they fail to comply with state housing laws, including the Housing Element Law, the Housing Crisis Act, and the Housing Accountability Act.

We have recently become aware of the ongoing dispute over the SB 9 project located at 2640 Las Encinas Lane. The applicant obtained a building permit in 2022 which has been extended to conclude the housing project. The sole obstacle to approval of that lot split is the County’s insistence that, prior to Planning Department approval, she must construct offsite improvements. It is our understanding that the process of a local fire appeal cannot actually be conducted, and therefore the project is not required to seek an appeal. California law obligates the County and all government agencies to approve this project, without requiring offsite improvements.

The law is quite unambiguous about SB 9 projects and offsite development:

“...a local agency shall 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 pursuant to this section.”

Gov. Code § 66411.7 (b)(1)(3).

HCD has reiterated this point to the County specifically, as recently as October of 2025.¹ Any demand that the applicant perform these improvements prior to the Planning Director’s processing of an application is entirely without legal justification.

SB9 projects are entitled to ministerial review,² and are only subject to review under objective design standards;³ 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.⁴ It is our understanding that because your Fire Board does not have a quorum, you have not set a hearing on the appeal that County Counsel required for the applicant’s project. Unknowable criteria fail this standard, such as whether a given board of appeals will be staffed and by when.

Under SB 9 requirements, the County has the burden to prove, by a preponderance of evidence, that construction of the unit will result in a specific

¹ California Department of Housing & Community Development, *Review of Santa Barbara County’s Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, §§ 66310 - 66342) and Senate Bill (SB) 9 Ordinance (Gov. Code, §§ 65852.21; 66411.7)*, (Oct. 31, 2025), <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/santa-barbara-cou-sb9-findings-103125.pdf>

² Gov. Code, §§ 65852.21, subd. (a); 66411.7, subds. (a), (b)(1).

³ Gov. Code, §§ 65852.21, subd. (b); 66411.7, subd. (c).

⁴ California Department of Housing & Community Development, *SB9 Fact-Sheet*, (Sept. 2024), <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/sb-9-fact-sheet.pdf>.

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health and safety hazard. Without such proof and without illegally applied standards, the project must be approved.

I am signing this letter both in my capacity as the Executive Director of YIMBY Law, and as a resident of California who is affected by the shortage of housing in our state.

Sincerely,

A handwritten signature in cursive script that reads "Sonja Trauss".

Sonja Trauss
Executive Director
YIMBY Law

1 66313 of a junior accessory dwelling unit as defined in subdivision (d) of
2 Section 66313.

3 77.3 Gov. Code Section 66411.7(b)(2) provides: “ A local agency
4 shall approve an urban lot split only if it conforms to all applicable objective
5 requirements of the Subdivision Map Act (Division 2, commencing with
6 Section 66410)), **except as otherwise expressly provided in this section.**
7 **(emphasis added)**

8 78. Gov. Code Section 66411.1 provides (for discretionary subdivisions):

9 “(a) Notwithstanding Section 66428, whenever a local ordinance
10 requires improvements for a division of land which is not a subdivision of
11 five or more lots, the regulations shall be limited to the dedication of rights-
12 of-way, easements, and **the construction of reasonable offsite and onsite**
13 **improvements for the parcels being created.** Requirements for the
14 construction of offsite and onsite improvements shall be noticed by a
15 statement on the parcel map, on the instrument evidencing the waiver of the
16 parcel map, or by a separate instrument and shall be recorded on,
17 concurrently with, or prior to the parcel map or instrument of waiver of a
18 parcel map being filed for record.

19 (b) Notwithstanding Section 66428, fulfillment of the construction
20 requirements shall not be required until the time a permit or other grant of
21 approval for development of the parcel **is issued** by the local agency...”

22 79. Notwithstanding this general Map Act provision, SB 9, Gov. Code Section
23 specifically 66411.7(b)(3) provides:

24 “Notwithstanding Section 66411.1, a local agency **shall not impose**
25 **regulations that require dedications of rights-of-way or the construction**
26 **of offsite improvements for the parcels** being created **as a condition of**
27
28

1 **issuing a parcel map** for an urban lot split pursuant to this section.”

2 (emphasis added)

3 80. In defiance of this express prohibition, on June 14, 2023, Defendant Hazard not
4 only demanded that Plaintiff construct offsite improvements as a condition of
5 issuing a parcel map, despite Defendant Williams’ direct observation of the site
6 conditions and access road, three months later, Defendant Board of Supervisors
7 then demanded, on November 7, 2023, that Plaintiff complete these
8 improvements *prior* to “ministerial” processing of her parcel map, and despite
9 that even in a discretionary subdivision, the County is also prohibited from
10 demanding improvements be completed prior to *issuance* of a permit. Gov.
11 Code Section 66411.1(b). Defendant Fire Marshal has been informed, that
12 since at least March of 2020, the specific improvements they demanded that
13 Plaintiff perform are and were the legal responsibility of Plaintiff’s neighbors,
14 the Museum of Natural History, and the owners of other properties on Las
15 Encinas Lane.

16 81. Defendants were informed specifically of the illegality and futility of their
17 demands, repeatedly, including by email on August 7, 2023 to Defendant Board
18 of Supervisors, and County Counsel, and again prior to filing of this litigation
19 on January 15, 2024. Defendants, and County Counsel, by email dated
20 September 5, 2023 and subsequently, were informed repeatedly of the correct
21 procedural option to address any public safety concern (if one existed, which it
22 does not): that the Fire Marshal make a finding of “same practical effect” on the
23 same basis he had already done in approving the ADU dwelling.

24 82. At all times relevant, Defendants Plowman, Seawards, Hazard, and the Board
25 of Supervisors, have been informed specifically of the provisions of this section
26 66411.7(b)(3).
27
28

I asked staff for their response to this message and found it insufficient. I will be talking with them early next week about something more helpful for resolving this.

From: Jana Zimmer <zimmerccc@gmail.com>
Sent: Wednesday, December 13, 2023 4:20 PM
To: Das Williams <das_williams@hotmail.com>
Cc: Lisa Plowman <lplowman@countyofsb.org>; Rachel Van Mullem <Rvanmull@co.santa-barbara.ca.us>; mhartwig@countyofsb.org <mhartwig@countyofsb.org>; Rob Hazard <RHazard@countyofsb.org>; Fred Tan <ftan@countyofsb.org>; Richard Solomon <rcsolomon42@gmail.com>
Subject: Re: Status Zimmer SB 9 lot split compliance

[Quoted text hidden]

Jana Zimmer <zimmerccc@gmail.com>
To: Das Williams <das_williams@hotmail.com>
Cc: Richard Solomon <rcsolomon42@gmail.com>

Fri, Dec 15, 2023 at 7:01 PM

Thank you. Let me know if there is an information you need to help.

Sent from my iPhone

On Dec 15, 2023, at 6:46 PM, Das Williams <das_williams@hotmail.com> wrote:

[Quoted text hidden]

Richard Solomon <rcsolomon42@gmail.com>
To: Jana Zimmer <zimmerccc@gmail.com>

Wed, Dec 20, 2023 at 2:13 PM

FYI. Shall I try to have a phone conversation with her (assuming adequate preparation)?

----- Forwarded message -----

From: Callie Kim <ckim@countyofsb.org>
Date: Thu, Dec 14, 2023 at 9:49 AM
Subject: Status Zimmer SB 9 lot split compliance
To: Richard Solomon <rsolomon2@cox.net>, Richard Solomon <rcsolomon42@gmail.com>
Cc: Mona Miyasato <mmyasato@countyofsb.org>, Plowman, Lisa <lplowman@countyofsb.org>, Rachel Van Mullem <Rvanmull@countyofsb.org>, Hartwig, Mark <mhartwig@countyofsb.org>, Hazard, Rob <RHazard@countyofsb.org>, Tan, Fred <ftan@countyofsb.org>

Mr. Solomon,

I want to make sure you are receiving my messages. Can you kindly confirm receipt of this and the attached emails?

As Ms. Van Mullem informed you via email on October 27, 2023, I am the attorney assigned to handle this matter going forward. Please direct further communications about this matter to me.

With respect to your client's message below, the County is happy to hear Ms. Zimmer may have made some progress in her efforts to improve access to her parcel. Please note, however, as provided in the attached letter from Fire and shown below, to meet the "Same Practical Effect" for access, the road must be paved and have a clear width of 15 feet and a vertical clearance of 13.5 feet. The email below indicates that the Museum has requested that a neighbor remove improvements on the Museum's side of the easement. Unless and until these

improvements are actually removed and the entire road to the subject parcel is 15 feet wide, paved, and has a vertical clearance of 13.5 feet, the property remains ineligible for an SB 9 lot split.

2. Improve Las Encinas Road to ensure all portions of the road to your parcel is constructed to the maximum extent of your allowed easement of 15 feet. The road shall be paved and have a clear width of 15 feet and a vertical clearance of 13.5 feet.

Please let me know if you have any questions.

Thank you,

Callie

Callie Patton Kim

Deputy County Counsel

Santa Barbara County Counsel

105 East Anapamu Street, Suite 201

Santa Barbara, California 93101

(805) 568-2955

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From: Jana Zimmer <zimmerccc@gmail.com>

Sent: Wednesday, December 13, 2023 2:57 PM

To: >

Cc: Das Williams <das_williams@hotmail.com>; Joan Hartmann <jHartmann@countyofsb.org>; Laura Burton Capps <laura@lauracapps.com>; Bob Nelson <bnelson@countyofsb.org>; Jacquelyne Alexander <jralexander@countyofsb.org>

Subject: Status Zimmer SB 9 lot split compliance

Caution: This email originated from a source outside of the County of Santa Barbara. Do not click links or open attachments unless you verify the sender and know the content is safe.

[Quoted text hidden]

----- Forwarded message -----

From: Callie Kim <ckim@countyofsb.org>

To: "rcsolomon42@gmail.com" <rcsolomon42@gmail.com>

Cc: "Plowman, Lisa" <lplowman@countyofsb.org>, "Hazard, Rob" <RHazard@countyofsb.org>, Rachel Van Mullem <Rvanmull@countyofsb.org>, Mona Miyasato <mmyiasato@countyofsb.org>