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Single-Family Zoning Reform: An Analysis of SB 1120

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The COVID-19 pandemic has exacerbated California's housing crisis by heightening social and economic inequalities, with disparate impact on those unable to perform their jobs. The strong likelihood of a prolonged recession means that it will be even more difficult to build the housing needed to address the state's housing shortfall. It is increasingly apparent that a broad, innovative set of strategies needs to be implemented to address this dire need for housing. In May 2020, California State Senate President Pro Tem Toni Atkins unveiled a series of legislative proposals to facilitate the production of more housing. This Senate Housing Production Package includes several ideas to bolster new home construction and remove barriers by streamlining the development process. This brief focuses on Senate Bill 1120, one bill in this package, which addresses land use and development on single-family residential parcels.

As written, SB 1120 affects single-family parcels in two ways that could ultimately lead to up to four homes on lots where currently only one exists. First, the proposed legislation would allow existing single-family homes to be converted into duplexes. Second, the proposed legislation would allow single-family parcels to be subdivided into two lots, while also allowing for a new, two-unit building to be constructed on the newly formed lot. Together, these changes have the potential to facilitate the construction of a significant number of new homes. However, the ultimate production of these new homes will still be dictated by the local regulatory landscape, as well as financing options available to homeowners, particularly for the creation of new duplexes resulting from the lot subdivision. This analysis focuses on the potential impact of the second provision included in SB 1120 by assessing how many parcels statewide would be eligible for a lot split as defined by the bill's current language. We also consider the factors that could limit the effectiveness of new homebuilding under

SB 1120, such as design requirements specified in the bill's language, as well as additional design and regulatory requirements from jurisdictions themselves. We conclude with recommendations to address these issues.

Background

Existing literature on the impact of zoning for small-scale development is limited and the findings are mixed. On the one hand, relaxing Accessory Dwelling Unit (ADU) regulations in the past five years has led to a significant increase in this type of residential development in California. A suite of bills passed in 2017 resulted in a significant increase in the number of new ADU permits.¹ Los Angeles in particular has seen a marked rise in ADU activity, with its number of new ADU permits issued increasing from 117 in 2016 to over 4,100 in 2018 and more than 3,300 in 2019.² A recent report estimates that California's most recent ADU legislation could produce as many as 1.5 million new housing units.³ Northwestern cities like Portland, Seattle and Vancouver have also experienced well-documented success in promoting ADU construction.⁴ On the other hand, there is also anecdotal evidence that ADUs are largely being built by affluent homeowners leveraging home equity or cash savings. Unless ADU financing options can be made available to moderate- and lower-income households, this may limit the potential to expand the ADU market.

There is less established research on the impacts of allowing lot splits and smaller-scale construction in single-family neighborhoods, as is proposed in SB 1120. According to one analysis, three- and four-plexes in single-family residential zones could potentially create 1.2 million new housing units across California. This analysis finds that all regions would see increases in new feasible housing despite variations in the impact of proposed legislation across different jurisdictions.⁵

There are several instances of municipalities changing their zoning to allow for densification in areas with more restrictive zoning, though thus far, the results are either mixed or inconclusive. Los Angeles passed its Small Lot Subdivision Ordinance in 2005 to encourage infill development, however the ordinance only applied to multifamily and commercial zones, not single-family residential zones. Nevertheless, the ordinance did facilitate some infill development, with 331 small lot subdivisions (or 3,412 small lot homes) approved between 2005-16.⁶ Despite some success, the Small Lot Ordinance continues to face challenges ranging from time-consuming entitlement and permitting processes, high parking requirements, and complex interactions with existing zoning standards, all of which function as obstacles to development and financial feasibility. As a result, in numerous instances, fewer units were developed on a site using the small lot provision than would have been possible based on the site's original zoning.⁷

Additional examples of zoning for increased density outside of California show mixed results as well. Denver, CO amended its zoning laws in 2010 to allow small lot development in single-family residential zones, which enabled a range of taller, denser residential structures to be built across the city.⁸ However, the city's zoning update lacked specific design guidelines, which led to new housing construction that many local residents felt was out of character and detracted from their communities.⁹

Other cities and states have taken similar steps more recently to allow multifamily housing production in single-family zones, though the impacts of these changes cannot yet be determined. Asheville, NC adopted changes to its zoning regulations in 2017 to allow duplexes and triplexes. In 2019, Seattle altered zoning designations in 27 of its neighborhood urban villages to the Residential Small Lot (RSL) designation.¹⁰ A significant drawback

of Seattle's approach is its small scope (only 6 percent of the city's residential zones are impacted).¹¹ The plan has come under fire for not doing enough to respond to the housing shortage, especially when additional requirements and barriers to development still remain.¹² Minneapolis and the state of Oregon have legalized multifamily development in all single-family areas. The impacts of these new laws will not be apparent for several years, though similar proposals are being introduced across the country in places like Charlotte, NC, as well as the states of Maryland, Nebraska, Virginia, and Washington.

SB 1120 Proposed Changes

As currently written, SB 1120 allows for the conversion of existing single-family homes into duplexes and permits lot splits¹³ for parcels currently zoned for single-family homes statewide. SB 1120 would also require local jurisdictions to ministerially approve of the conversion, lot split, and new two-unit housing project that meets certain requirements. These changes would bypass the local approvals processes (Table 1).

Policies that relax zoning standards in single-family neighborhoods have the potential to create significant amounts of new housing given how much land is currently dedicated for single-family homes throughout the state. Per the Turner Center's 2018 California Residential Land Use Survey, 66.8 percent of jurisdictions across the state have over 50 percent of their land zoned for single-family residential development.¹⁴ New residential construction on merely a fraction of the parcels in these areas would create substantial amounts of new housing units.

Table 1: Eligibility Criteria for Split Lots Under SB 1120 (Proposed)

Location
<ul style="list-style-type: none"> • The parcel, lot, or development must be located in a single-family residential zone • The parcel cannot not be located in a historic district or be a historic property itself (as defined by the state or local county or city) • The parcel must be in a city whose boundaries include some portion of an urbanized area or urban cluster as designated by the US Census Bureau • If the parcel lies in an unincorporated area, then the parcel at stake must be a legal parcel wholly within the boundaries of an urbanized area/cluster
Parcel Size
<ul style="list-style-type: none"> • The parcel must be a minimum of 2,400 square feet in size • The parcel must be divided into two parcels of equal size (therefore each parcel resulting from the subdivision must be at least 1,200 square feet in size)
Anti-Displacement
<ul style="list-style-type: none"> • The lot split cannot require the demolition or alteration of a housing unit currently serving moderate-, low- or very-low income household(s) or a rent-controlled unit • The lot split cannot result in the demolition or alteration of housing that has been occupied by a tenant in the last three years or where an owner has used the Ellis Act to remove a rental unit from the market within the last 15 years
Other
<ul style="list-style-type: none"> • The parcel cannot have been created from a previous lot split • The same person (or another party acting on their behalf) cannot perform a lot split on adjacent lots

SB 1120 is also important given its focus on single-family areas, which are the country's predominant form of residential zones and continue to expand. Previous Turner Center research has found that the number of single-family neighborhoods across the country's largest metropolitan areas has increased by nearly 40 percent since 1990. Single-family neighborhoods also tend to score highly on metrics that measure opportunity.¹⁵ However, our research has also revealed that such neighborhoods are less likely to contain rental options. At the same time, the availability of entry-level single-family homes for sale

has declined while their prices have risen sharply, resulting in the demographics of recent homebuyers to be less diverse, older, and higher-income. The evidence suggests that increasing production and diversifying the types of housing built could provide more ownership opportunities for lower-income and younger homebuyers.¹⁶ SB 1120 could function as one tool to create more housing opportunities for renters and homebuyers in single-family zones, which are both widespread and typically enjoy higher levels of social and economic opportunity.

Methodology

To demonstrate the bill's potential effect, we modeled how many California parcels would be eligible for a lot split under SB 1120. To do this, we used the county tax assessor database, which contains information on over 12.5 million parcels across the entire state.¹⁷ We filtered out all parcels that were not of the single-family residential use type ("RSFR" in the data) and all parcels with a lot size below 2,400 square feet. To determine the eligible locations, we used "urban area" and "place" boundary shapefiles from the U.S. Census Bureau. We selected all cities and towns which contained at least part of an urban area, and included the union of those places with the urban areas. Thus, each eligible location could either be both within an urban area and within a city's boundary, or only within one or the other. Cities that are not part of an urban area were not included. We then used an additional layer from the National Park Service to remove locations within historic districts.¹⁸ Then, using geocoded coordinate information provided in the original database, we checked whether or not each parcel was located within the eligible area. We then identified the number of parcels meeting all criteria (use type, lot size, location) in each county.

Findings

Millions of single-family parcels in California meet minimum lot size and historic district thresholds for a lot split under SB 1120.

Our analysis indicates that as many as 5,977,061 parcels would be eligible for a ministerial lot split, per the minimum lot size and historic district language in SB 1120. This total represents approximately 92 percent of California single-family parcels in our analysis.¹⁹ The widespread application of SB 1120 has the potential to result in significant amounts of new housing. For example, if just 5 percent of the parcels in our analysis created new two-unit structures as a result of SB 1120, that would result in 597,706 new homes. It should be noted that not all parcels identified in our analysis are well positioned for a lot split given topographic constraints and the size and placement of each parcel's existing single-family home. For example, while lots that are 2,400 square feet in size are eligible for a lot split, many of these smaller lots lack sufficient additional buildable area to facilitate new construction in addition to the lot's existing single-family home. However, a strong majority of lots in our analysis are larger than the 2,400 square foot threshold. When narrowed to a 4,000 square feet threshold, our analysis shows that 87 percent of single-family parcels remain eligible for a lot split.

Our estimate of eligible parcels also does not identify parcels where a lot split might require the demolition or alteration of affordable or rent-controlled housing with existing moderate, low-income, or very low-income tenants in order to facilitate new construction, which is not allowed by current bill language. We estimate that approximately 23 percent of single-family homes may be currently in use

Table 2: Most populous California counties by percentage of single-family parcels 2,400 square feet or more and not in an historic district

County	Total Parcels	% of Total Single-Family Parcels
Contra Costa	265,277	98.4%
Los Angeles	1,398,254	98.1%
Santa Clara	324,334	97.6%
Alameda	290,999	97.2%
Riverside	493,718	96.4%
Sacramento	352,809	95.7%
San Diego	331,953	93.8%
Orange	312,788	93.5%
San Bernardino	452,941	92.3%
Fresno	183,730	91.4%
Kern	86,673	90.3%
San Francisco	71,109	75%

as rentals in California.²⁰ It also does not take into account housing where the owner has used the Ellis Act within the previous 15 years or that has been used as a rental within the last three years, provisions which would disqualify additional parcels.

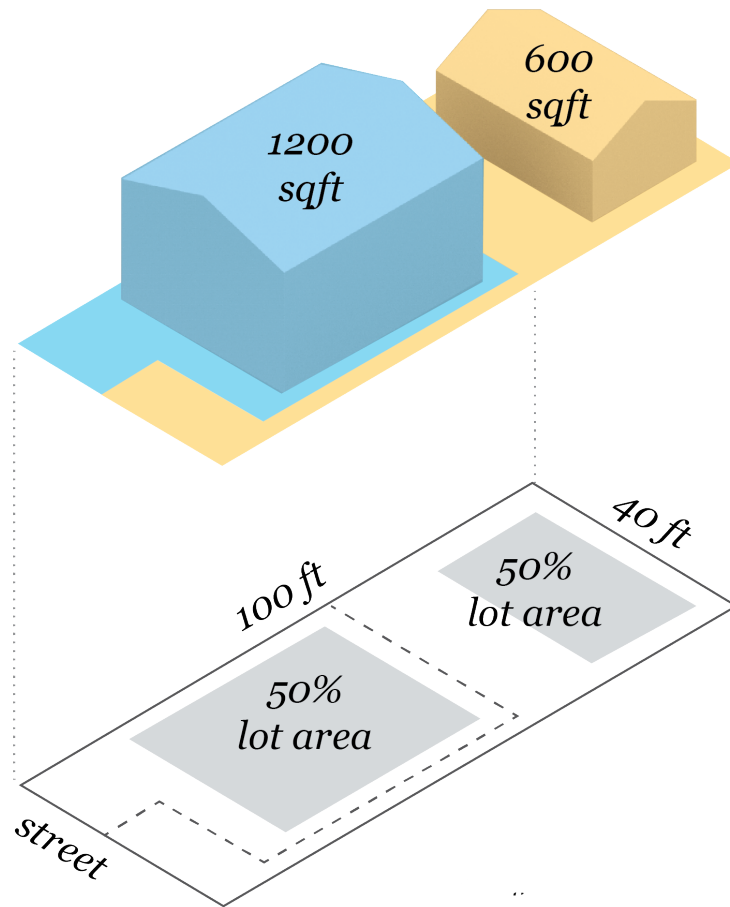
There is variation in parcel eligibility by region, though many of the state's most populous counties have percentages of eligible parcels in line with the overall state percentage (Table 2). For example, 98.1 percent of all single-family parcels in Los Angeles County meet the criteria we examined, equating to 1,398,254 parcels overall. Many less populated counties also have high percentages of parcels that meet the size threshold, such as Napa County, where 97.8 percent of single-family parcels are eligible, the fourth highest percentage state-wide. Some more populous counties showed smaller, but still significant, percentages of eligible parcels. For example, 75 percent of single-family parcels in San Francisco meet the criteria for eligibility for a lot split under SB 1120. The difference in San Francisco is driven by larger shares of parcels that are under 2,400 square feet in size and therefore ineligible for a lot split.

Local design requirements could substantially limit the impact of SB 1120 on development.

While an overwhelming majority of single-family parcels would be eligible for a ministerial lot split under SB 1120, some of the legislation's language could limit the number of new homes that are actually created. In the bill's most current text, a lot split must result in two lots of equal size (e.g., splitting a 2,400 square foot lot must result in two 1,200 square foot lots). This presents a challenge due to the difficulty of creating two equally-sized parcels when the primary structure is located in the middle of a parcel, which is common given local front, rear, and side setback requirements. In these instances, it may not be possible to create two equally-sized parcels without creating impractical lot lines.

For example, in Figure 1, a sample parcel has a 1,200 square foot home sited in the middle of the lot. To meet the "equal size" parcel requirements of SB 1120, the new resulting lot would need to comprise a significant portion of the front yard area, in addition to the entire rear of the lot.

Figure 1: Impact of SB 1120 equal lot split requirement on sample parcel



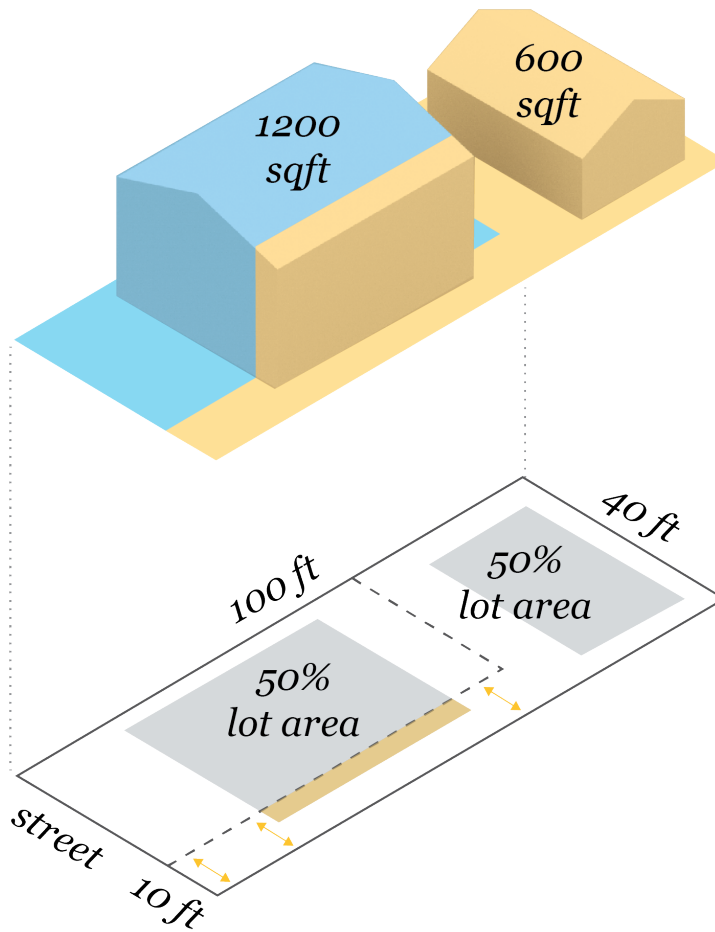
In addition to the equal lot size requirement, the bill's parking language may also limit feasibility on parcels where accommodating off-street parking may not be possible. While SB 1120's one space per unit maximum may be less onerous than typical local parking requirements for single-family homes, it nonetheless may prove difficult for smaller parcels to adhere to given limited space and narrow access to a back lot.²¹

Local design requirements could further limit the impact of SB 1120 on development.

In addition to the bill's equal size requirement, local design requirements may also limit development potential. Many cities have design requirements for single-family zones that are incompatible with the creation

of a new two-unit structure in addition to an existing single-family home. These requirements include minimum front, rear, and side setbacks, street frontage, floor area ratios, right of way width, and height maximums, among many others, which can require significant amounts of space between lot lines and new structures. While the bill does include language on maximum allowable setbacks (4 feet), it is silent on nearly all other design issues. For example, Figure 2 depicts the limitations of creating right of way access where a local jurisdiction requires a minimum width of 10 feet. This tension with existing local design guidelines was identified as an issue with early ADU legislation as well, and required subsequent legislation (e.g., AB 68 in 2019) to ensure that ADUs could be constructed in all communities.

Figure 2: Impact of 10' minimum right of way requirement on lot split and new duplex feasibility



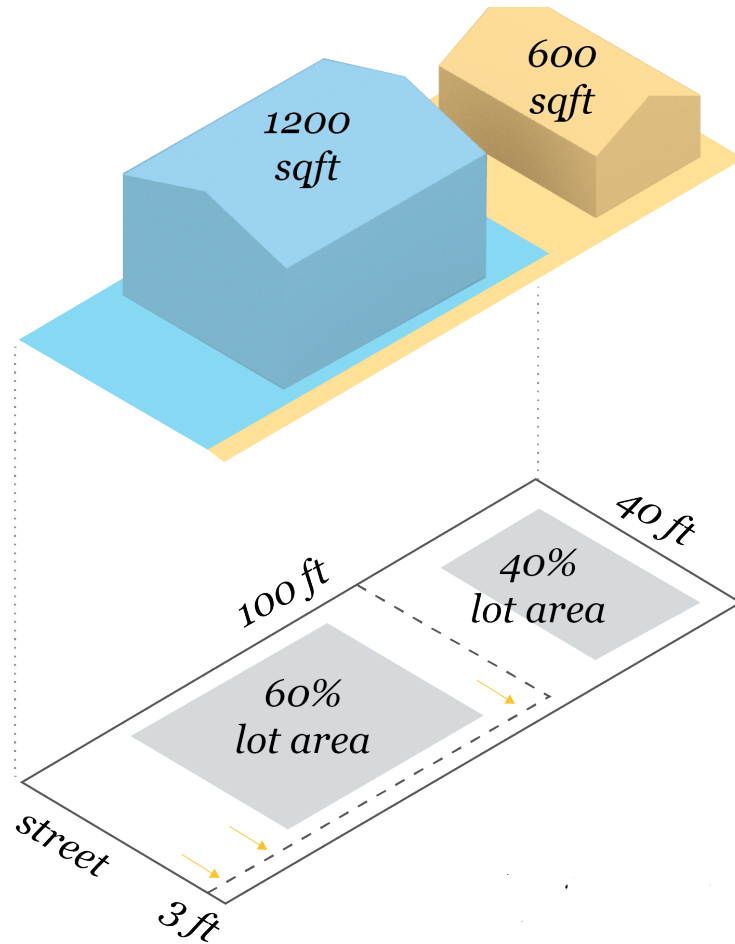
Additional limitations to development potential should also be considered.

In addition to design requirements, other outstanding questions regarding feasibility remain. For example, as currently drafted, the bill is silent on how homeowners' association rules may limit a homeowner from pursuing a lot split and new housing. This has been an issue with ADUs, and has only recently been addressed through the 2019 passage of AB 670. It is also presumed that mortgage holders will require owners who wish to subdivide their lots to refinance given that a homeowner's mortgage entails the entire existing lot. While this could be beneficial for some homeowners given the historically low interest rates currently in effect, it is not clear to what extent valuations might shift for the original homeowner in the context of a smaller lot.

Recommendations

To ensure that SB 1120 creates conditions for the greatest number of new homes, two specific changes should be considered to the existing bill language. First, flexibility in lot size should be allowed, rather than requiring that each newly-created lot be of equal size. Additionally, the bill should incorporate more specific design standards, such as minimum standards for right of way easements to facilitate "flag lots"²² which make the most effective use of space. For example, in Figure 3, the proportions of the two new lots are 60 percent for the parcel with the primary structure, and 40 percent for the new lot and structure. A three-foot right of way enables street access. The flexibility provided by these small changes creates better cohesiveness for

Figure 3: Recommendation for parcel size and right of way requirements



each lot. SB 1120 should incorporate similar provisions. In addition, the bill should also consider requiring that any local regulations do not result in a minimum buildable area of less than a certain square footage (e.g., 800 square feet) to guard against other design impediments.

Conclusion

SB 1120 has the potential to be a powerful tool for creating new, small-scale housing throughout California by allowing the conversion of single-family homes to duplexes as well as ministerially approved single-family parcel lot splits and new duplexes. This bill is particularly important because it changes

what can be built in single-family areas, which provide heightened access to opportunity but have traditionally been resistant to new housing. However, the shortfalls explored above reveal that changes should be incorporated to ensure that SB 1120 is more widely applicable. And while other questions remain—such as whether homeowners' associations will accommodate this new law and the extent to which mortgage lenders may value the same home that now sits on a smaller lot—SB 1120 represents one of the most consequential housing proposals in California for the legislative session. Given the state's ongoing housing crisis, bold legislation such as SB 1120 is both necessary and overdue.

ENDNOTES

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17. Source: DataQuick, 2014.
18. Bill amendments on July 27th, 2020 expanded the number of parcels that are ineligible for a lot split to parcels on the California State Historic Resources Inventory. We were unable to expand our analysis to include this new provision.
19. Our analysis omitted parcels that did not include information on lot size. Therefore, the percentages presented only consider parcels for which full data exists in our database.
20. Determined by identifying single-family detached units by tenure through the American Community Survey Public Use Microdata Sample data.
21. SB 1120 also does not require parking when the parcel is located within a half-mile of a high-quality transit corridor or major transit stop or within one block of a car share vehicle service.
22. A flag lot is an irregularly-shaped lot with a much wider area further back from the street (the flag) that is connected to the street by a small, narrow strip (the flagpole). Flag lots typically have a very small amount of street frontage.

ACKNOWLEDGMENTS

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