

# SB 9

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## Guidebook for Community Land Trusts in California

SCI-Arc R\*search



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This guidebook is a product of a series of conversations with Community Land Trusts (CLTs), lenders, and city planners in California that we held during the first six months of 2023 to learn about SB9 and how it can help CLTs to grow a supply of permanently affordable housing in California. It provides visual tools to facilitate discussions about spatial opportunities of SB9, describe and clarify implementation problems, and inform potential advocacy strategies.

We want to thank Leo Goldberg for helping to organize this research and providing thoughtful advice throughout the process. We are very grateful to:

- **Iliana Nicolas** and **Duane Bay** from the East Palo Alto Community Alliance Neighborhood Development Organization (EPACANDO);
- **Tom De Simone** and **Alejandro Gonzales** from Genesis LA;
- **Michelle Levy** and **Ken Bernstein** from Los Angeles City Planning;
- **Pam Dorr** from Community Land Trust of West Marin (CLAM);
- **Jim Frank** from Northern California Land Trust (formerly);
- **Francis McIlveen**;
- **Darryl Berlin** from Commonsplace Community Land Trust;
- **Mark Rowley** from Banner Bank;
- **Christine Doolittle** from Caliber Home Loans

for the time and information they have generously provided.

Throughout this guidebook we will discuss:

What SB9 is as well as its potential benefits and purpose **7–12**;

Planning and Impact fees which are important during both the construction and permitting process **15–16**;

An ordinance and application guide with additional consideration to local comparisons **17–24**;

Various scenarios - we have provided guides and timelines for some of the most likely scenarios with additional possibilities in the appendix **25–32 & 41–42** respectively;

Drawings of potential floor plans **33–36**;

Bills under consideration and its legislative impacts **37–38**;

Our findings and suggestions **39–40**.



**SB9 allows to perform an urban lot split to produce more viable land parcels for housing development. This is an opportunity for CLTs to increase their land inventory for affordable housing projects by acquiring one or both of the newly created lots.**

**Additionally, it offers more opportunities for CLT's to diversify their housing portfolio without having to purchase land at a market-rate price, while allowing to develop a mix of housing types, addressing to different needs within the community.**

**The streamlined process for subdividing existing single-family zoned lots can reduce administrative hurdles and costs for individual property owners and CLTs alike.**

# What is SB 9?



SB 9, the California Housing Opportunity and More Efficiency (“HOME”) Act, facilitates the process for owners to subdivide their current single-family residential lot into two separate lots and build up to two new housing units on each. The key components of SB 9 surround the streamlined process for subdividing an existing single-family-zoned lot into two new distinct parcels, also known as an Urban Lot Split and the subsequent process for Two Unit Development.

In general, this state law aims to alleviate the California housing crisis by producing a larger housing supply and diversifying the types of housing and, thus, available pathways for homeownership. Additionally, SB9 allows for specific opportunities distinct from standard ADU legislature, such as selling separate dwelling units.

This guidebook aims to inform and advise Community Land Trusts on the SB9 process. This legislature presents itself as a new tool to diversify homeownership pathways and allows CLTs to expand and vary their housing inventory.

The implementation of SB9 has been more limited than expected, however, in part due to the application process’s perceived complexity and the varying ordinance principles that need to be individually navigated for each unique municipality. On the other hand, although ADU legislature initially had similar pitfalls, it has since seen widespread use and success due to extensive research and tuning to streamline the process. Various grant programs have also been enacted to make ADU construction even more feasible for a wider use group. While SB9 is a relatively new tool, it has the potential to be a handy device to enable homeownership and create housing value in the current economy if it receives the same attention and calibration that we have seen with the ADU legislature.

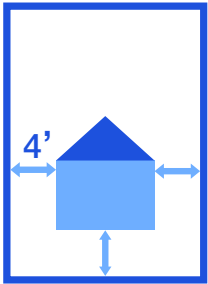


# Ordinance Principles





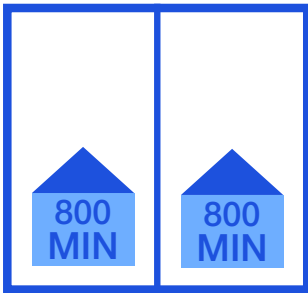
SB 9, the California Housing Opportunity and More Efficiency (“HOME”) Act facilitates the process for homeowners to subdivide their current residential lot or build a duplex.



## SETBACKS

A maximum of 4 ft side and rear setback can be applied. However, an existing structure or a replacement structure constructed in the same location with the same physical dimensions as a legally existing structure would not require setbacks.

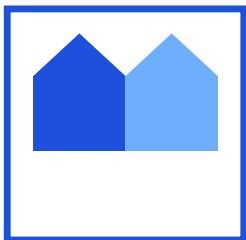
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## UNIT SIZE

Local agencies may apply objective zoning, subdivision or design review standards as long as those standards do not physically preclude the creation of up to two primary units on one parcel, or up to two primary units on each of the resulting parcels, in the case of a lot split that are at least 800 square feet in size for each primary unit.

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## CONNECTED OR ADJACENT

An attached (or connected) two-unit development is permitted on one lot. In an SB 9 urban lot split case, zoning regulation regarding space between buildings won't apply to a project only because it proposes adjacent structures, as long as the structures comply with building code safety standards and allows separate conveyance.

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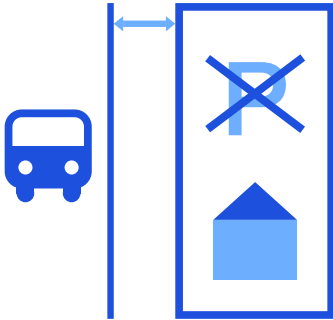


## PARKING

Not more than one parking space per unit may be required.

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½ MILE



## TRANSIT CORRIDOR

No parking will be required if the parcel is within ½ mile of walking distance from a high-quality transit corridor, a major transit stop, or if a car-share vehicle drop-off or pickup location is located within one block.

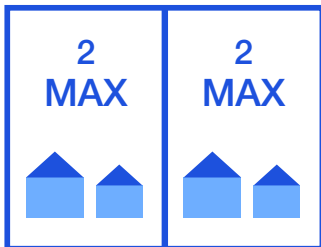
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## DEMOLITION AND ALTERATION

Affordable or rent-controlled housing or units a tenant has occupied in the last three years can't be demolished or altered.

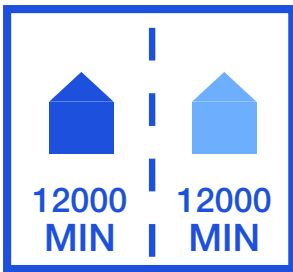
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## TWO MAXIMUM UNITS

No more than two units are allowed on each parcel created through an Urban Lot Split. Those two units can either be two primary residential units or a combination of all three unit options (primary unit, ADU, or JADU).

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## LOT AREA

The two newly split lot areas can not be under 1,200 square feet.

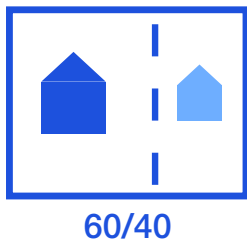
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## SHORT TERM RENTAL

Units created under SB 9 are not allowed to be rented for a period of less than 30 days. However, rentals under 30 days are allowed for residents living in these units and can participate in the City of LA Home Sharing Program.

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## LOT SPLIT

Homeowners can split their single-family parcel into up to two new parcels with an approximately equal lot area (60/40 split at most from original lot size).

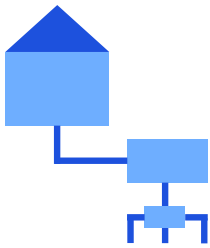
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## OWNER OCCUPANCY

Homeowners applying for an Urban Lot Split must sign an affidavit stating their intention to live in one of the resulting units for a minimum of 3 years.

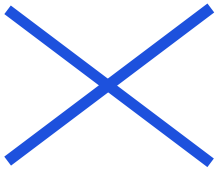
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## ON-SITE WASTEWATER TREATMENT

Units that are connected to a septic system on site must have a percolation test completed within the last five years or the previous ten years if the percolation system has been recertified.

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## NON-CONFORMING ZONES

A City may not require the correction of existing or created nonconforming zoning conditions as a condition for SB9 ministerial approval of an Urban Lot Split (a factory is a legal holdover from the old zoning code).

The term “nonconforming use” covers several designations, including nonconforming uses, lots and structures and is governed by local interpretation. In most cases, nonconforming designation occurs when a property’s current use or structure does not conform to new regulations. Nonconforming uses are sometimes allowed to continue even if they don’t conform to the current zoning regulations. This is known as “grandfathering” or “legal nonconforming status.” While nonconforming uses are often allowed to continue, there may be restrictions on the expansion, modification, or rebuilding of the nonconforming property. Zoning regulations typically aim to phase out nonconforming uses over time, encouraging compliance with the new zoning requirements.

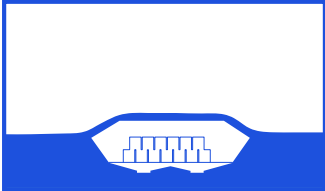


## RESIDENTIAL USE

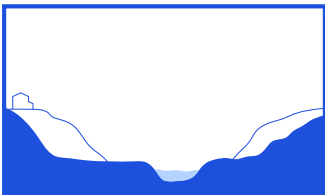
A lot created by an Urban Lot Split may be used for residential units only (a shop cannot be lot split as non-residential).

## PROHIBITED ZONES

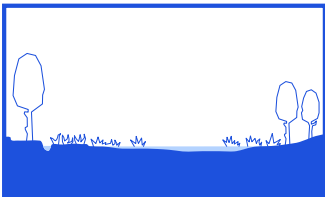
Hazardous waste sites, floodways, floodplains, wetlands, habitat areas for certain species, conservation areas, or certain historic sites (Note: Projects located in Very High Fire Hazard Severity Zones and earthquake fault zones may be permitted in some instances).



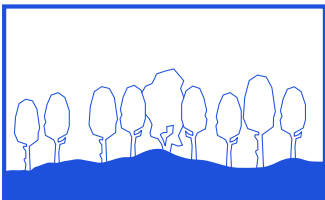
HAZARDOUS WASTE SITES



FLOODWAYS



WETLANDS



CONSERVATION AREAS



HISTORIC SITES



EARTHQUAKE ZONES

# SB 9 vs ADU

There are benefits to using SB9 and/or ADU, depending on the situation, as both carry certain restrictions, benefits, and costs.

	Can Sell Separately?	Applies to Multifamily?
SB 9	<div>YES</div> <div>You can use a lot split to create two parcels that can be sold separately, with or without dwellings on them.</div>	<div>NO</div> <div>SB9 applies only to single-family zoned properties.</div>
ADU	<div>NO</div> <div>ADUs cannot be sold independently of the primary residence.</div>	<div>YES</div> <div>Build up to two ADUs on a multifamily-zoned property.</div>

CLT can sell ADU separately if local laws permit, then a non-profit may sell ADU's separately from the primary property to low-income residents. The property must also be sold as a tenant in common interest.

Tenancy in Common (TIC) is an arrangement in which two or more parties share a real estate property or land parcel. TIC is a practice widely seen in San Francisco and partially used for conversions of a property without performing an Ellis Act Withdrawl.



Owner Occupancy requirements does not apply to an applicant that is a "community land trust" as described in the law (see 66411.7(g)(2)).

## Allowed in High Fire/Historic

## Waived Impact Fees

## Separate Metering

### NO

Prohibited in high fire and historic districts.

### NO

No relief on standard single family housing impact fees and permits.

### YES

Must be separately metered and require right of way improvements.

### YES

Generally allowed in high fire and historic zones when designed to code.

### YES

Most impact fees are waived for structures under 750', otherwise scaled down.

### NO

ADUs generally allow utility connections behind the curb.

# Impact Fees

Impact fees are payments local governments require for infrastructure improvements that must be built due to new property development. New development brings new residents, which can strain a city’s infrastructure and services, including schools, libraries, water and sewerage, police and fire protection services. Impact fees are designed to offset the additional cost of maintaining these services.

## GENERAL TYPES

### PARK FEES

A park fee to be used for improvements and facilities to park lands for recreation and leisure activities.

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### FIRE AND POLICE CAPITAL IMPACT FEES

A fire and police capital impact fee to be used for police and fire department buildings, equipment and training facilities.

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### WATER IMPACT FEES

On land that has not had prior water service, a water impact fee is paid to be used for water system facilities and improvements, including, but not limited to, wells, pipelines, pump stations, reservoirs, and related facilities.

THE COST

For example, in pursuing a Minor Land Division Ammendment Permit in Los Angeles, a fee of \$1000 would be paid to the regional planning department, \$2967 would be paid fo public works, \$442 for fire, \$140 for parks, and \$46 for public health for a total of \$4595 to paid.

#### CALCULATING THE COST

Many local governments publish their impact fee schedules or ordinances online. Check the official website of the relevant jurisdiction and project. Look for specific information about the types of impact fees, calculation methods, and any exemptions or reductions available. Impact fees are typically assessed based on the type of development and its anticipated impact on public infrastructure. In some cases, cities will have a fee calculator which can assist in tabulating relevant fees during the construction and application process.

## STORM DRAIN FACILITIES FEES

A storm drain facilities fee to be used for constructing planned drainage facilities.

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## ROAD, BRIDGE AND THOROUGHFARE FEES

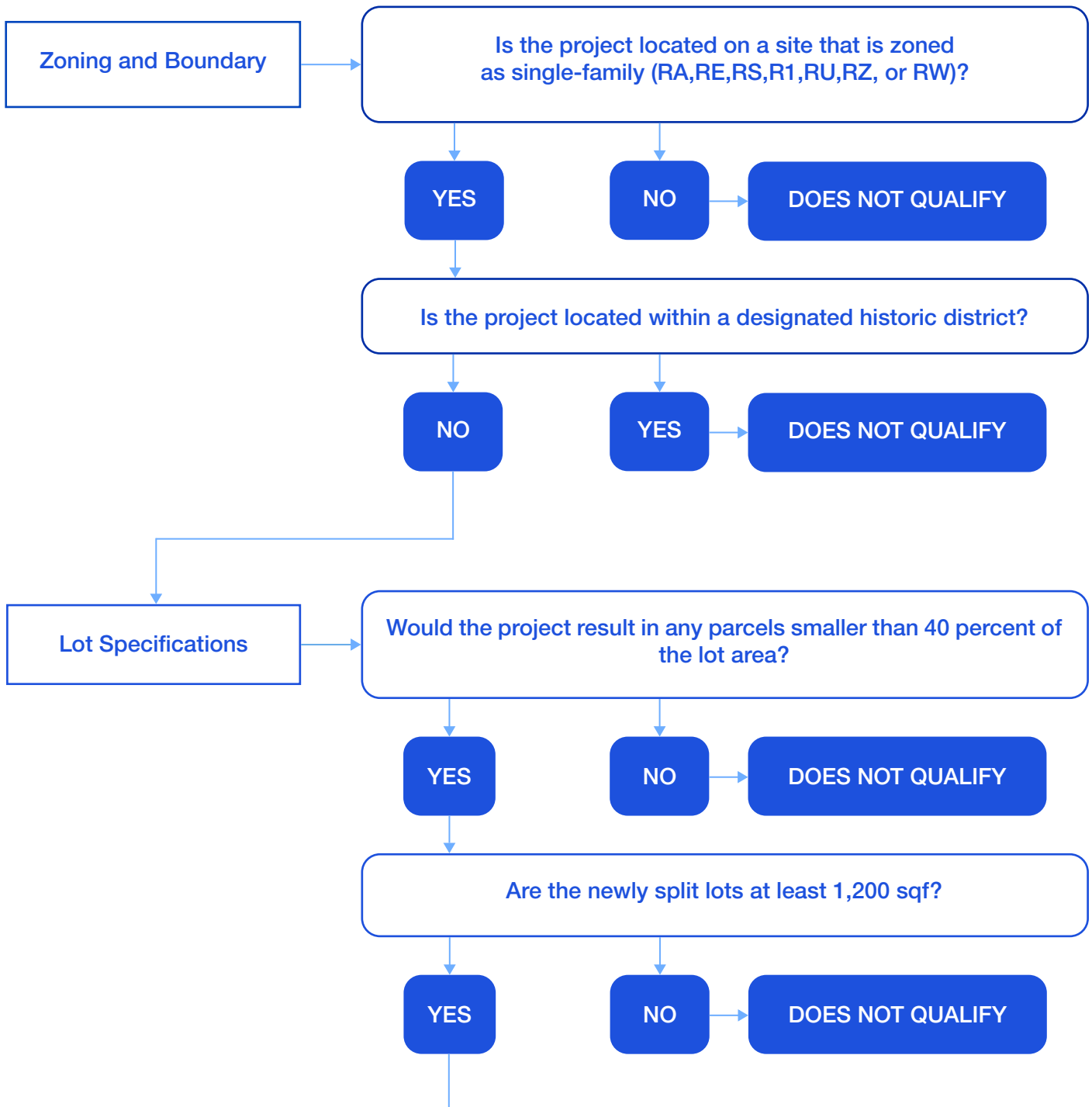
A road, bridge and thoroughfare fee to be used for the construction of roads, bridges, and major thoroughfares.

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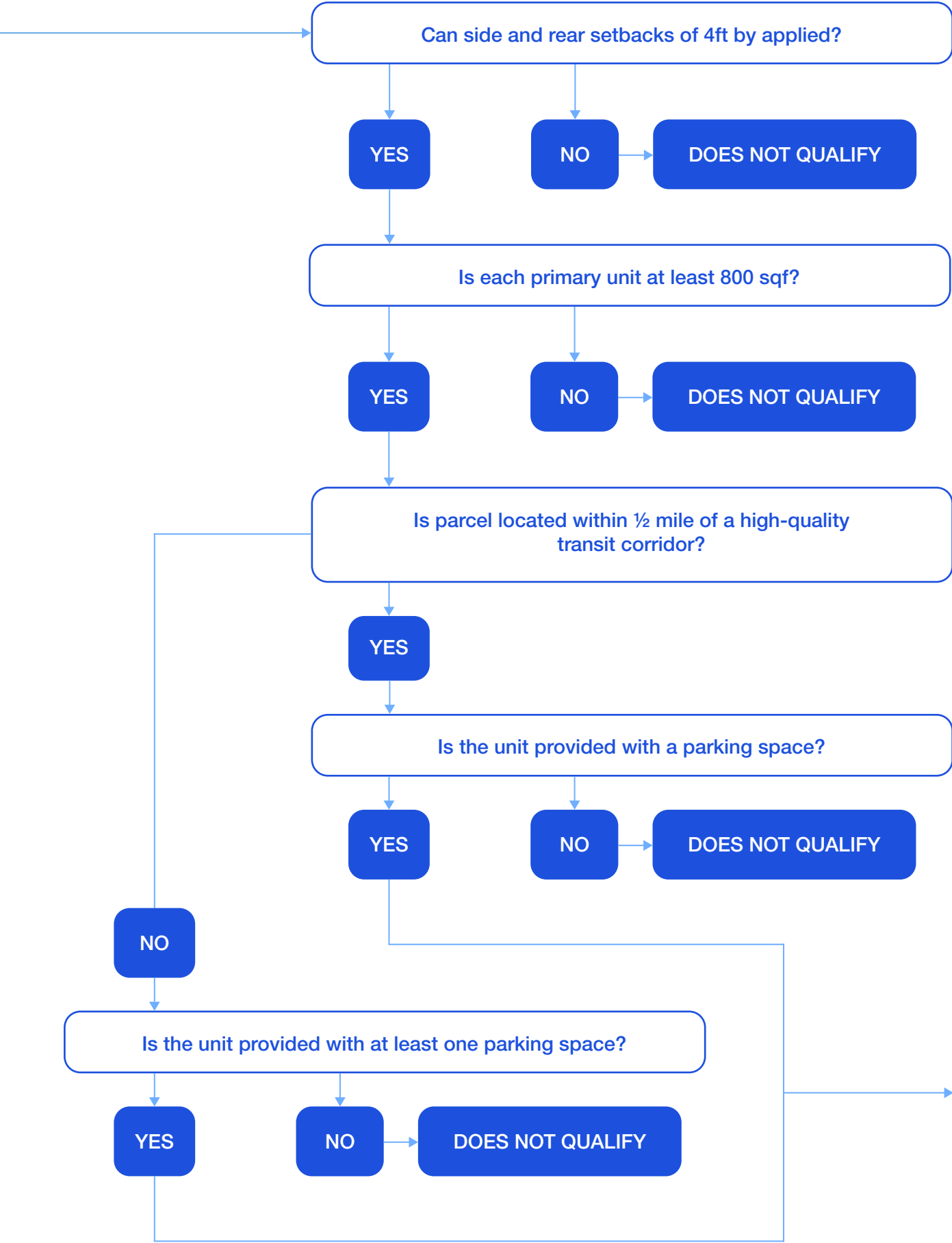
## TRAFFIC SIGNAL FEES

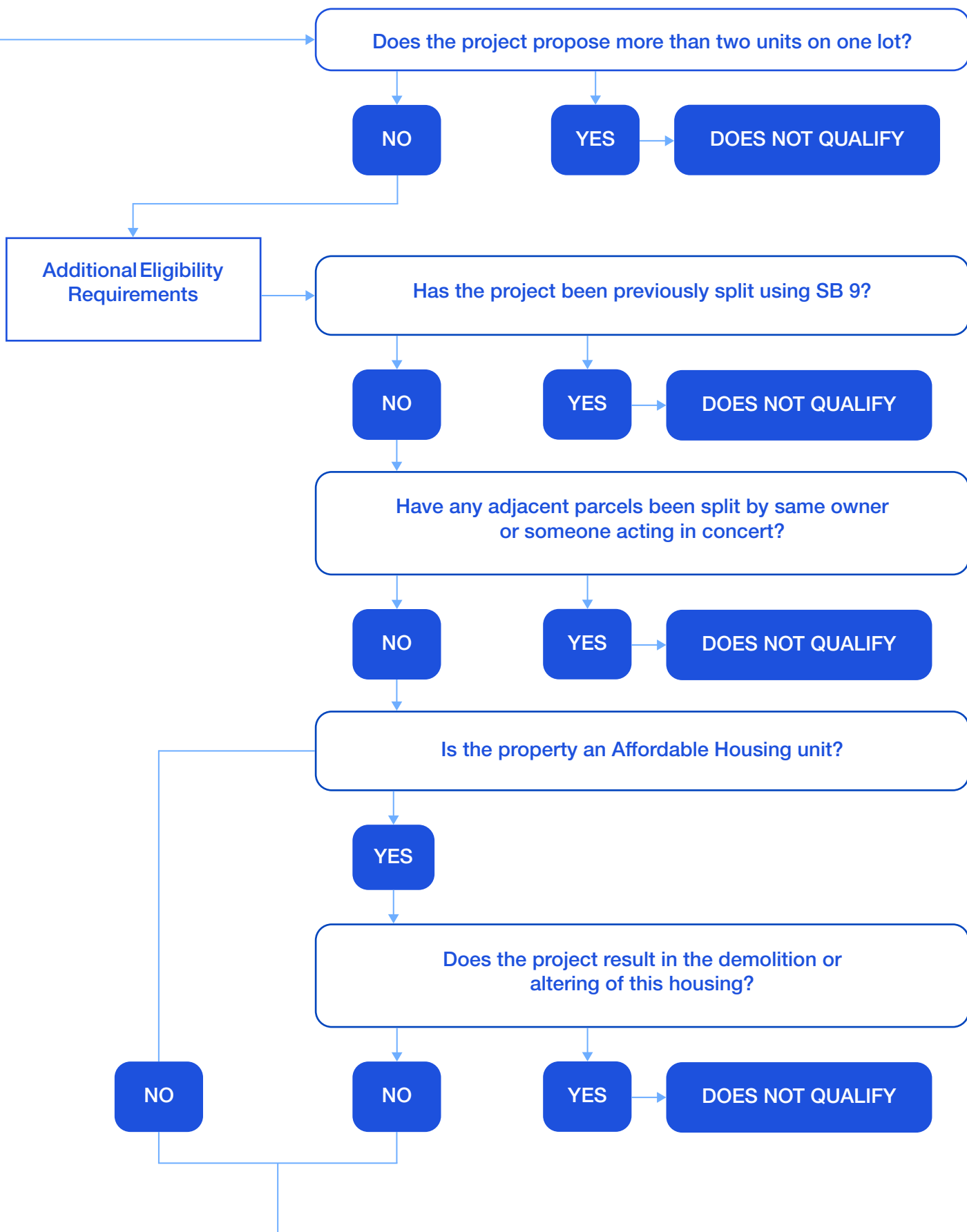
A traffic signal fee for traffic signal improvements.

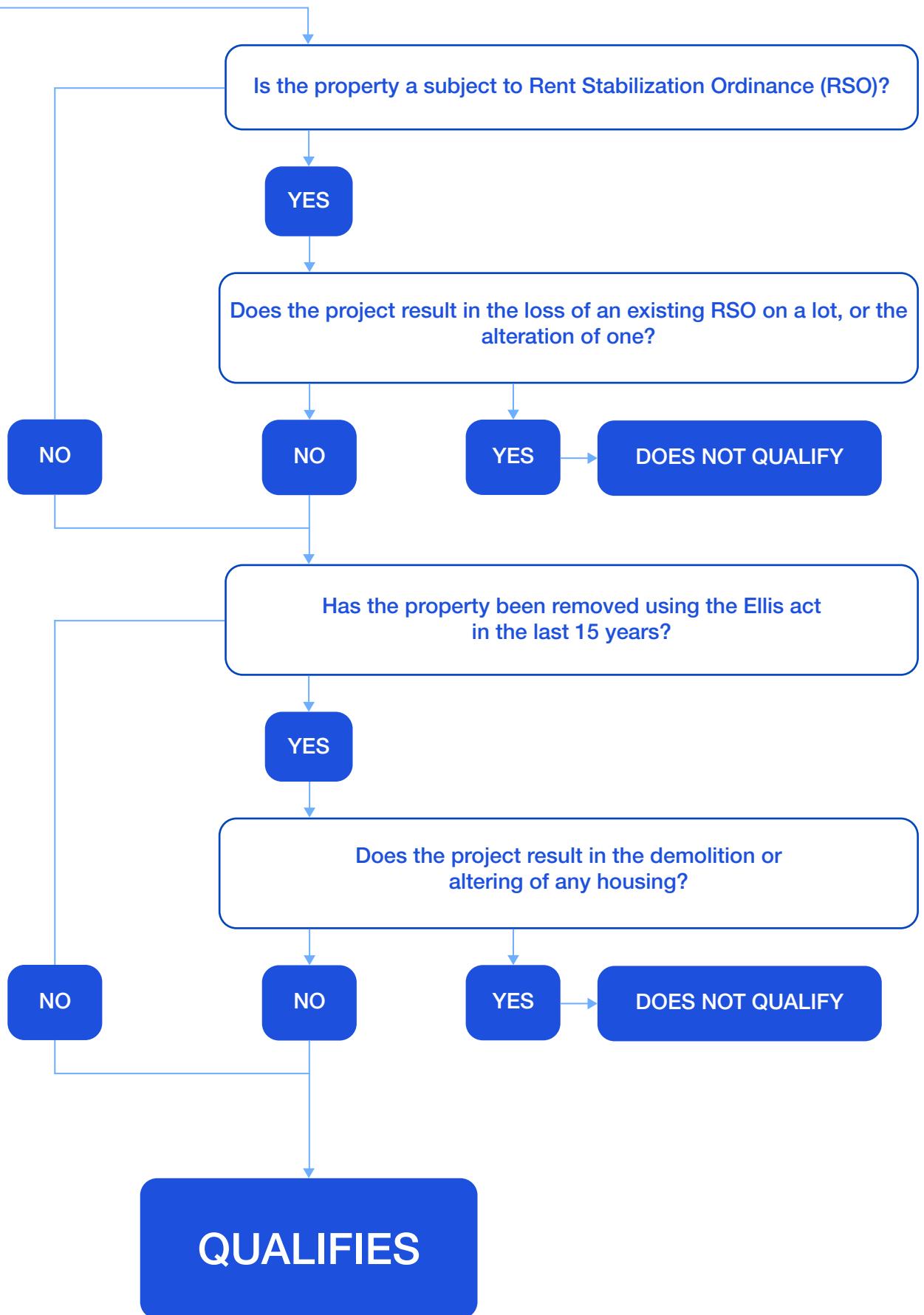
State law currently provides for the discretion of local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions. Ministerial approval allows for a streamlined permit process for development approval involving little or no personal judgment by the public official. This approval carries specific ordinances that must be upheld; local agencies can also develop additional provisions.



# Navigating Ordinance







# Local Comparison

	Maximum Unit Size(sq. ft.)	Design Requirements
State SB 9 Standards	Local discretion	Local discretion
San Diego	Not listed, assume no maximum	Not listed
San José	Not listed, assume no maximum	Not listed
Sonoma	Must be the maximum floor area ratio of the base zoning or 1600 sq. ft. for both units	Design standards for lot lines, parcel design, map requirements, and utilities and sewage. No new ADUs or JADUs on the lots. More requirements on linked source document
LA County	Not listed, assume no maximum	None
East Palo Alto	Not listed, assume no maximum	Not listed
Marin County	Not listed, assume no maximum	Not listed



Side and Rear Setbacks	Parking	Development Impact Fees
4' maximum	1 parking unit except for 1/2 mile near major public transit or car share	Local discretion
4' for multi-story buildings adjacent to residential. 0' for multistory buildings adjacent to non-residential and all single-story buildings	1 parking unit except for near "transit priority area" or car share	First 2 units are exempt. 3rd and 4th units pay scaled development impact fees
4' maximum	State standard	N/A
4' maximum, unless double frontage	1 parking unit except for 1/2 mile near major public transit or car share No tandem parking	Yes
4' maximum	1 parking unit except for 1/2 mile near major public transit or car share No tandem parking	Yes
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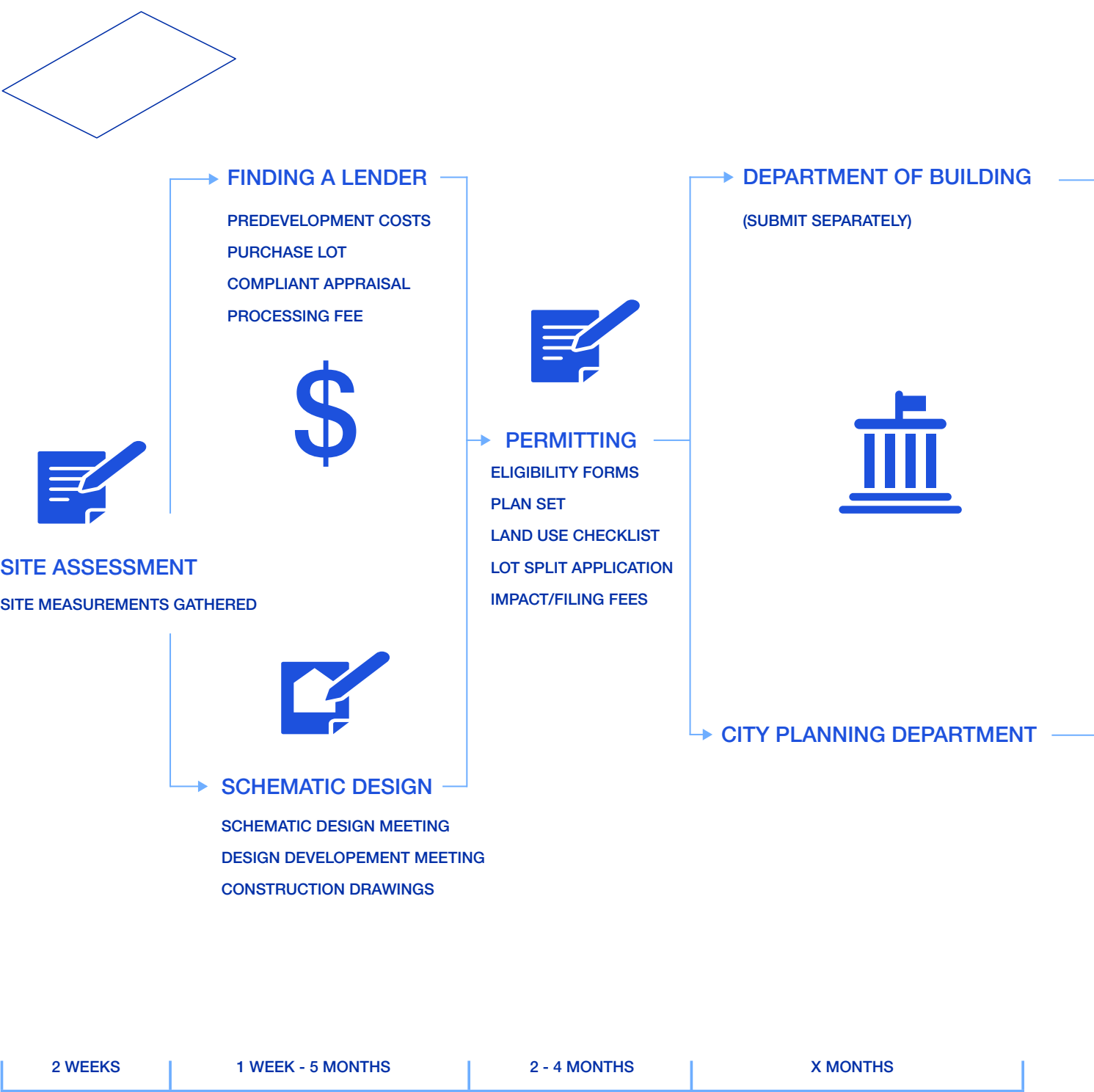
	Affordability Requirement	Landscape/ Exterior Requirements
State SB 9 Standards	Local discretion	Local discretion
San Diego	No	1 tree for every 5,000 sq. ft. of lot area. Compliance with street tree regulations if more than 2 units are constructed. Similar to 1 tree per every 30 ft. facing the street
San José	No	No
Sonoma	Yes, under 80 percent AMI for renters and under 120 percent AMI for homeowners	Street trees must be planted in city's right-of-way, and each parcel must have at least 3 mature trees and 10 shrubs. No flag lots and 600 sq. ft. area per unit must not be occupied by structures, parking, or driveways to be shared by both units
LA County	No	No
East Palo Alto	CLTs are exempt from Inclusionary Zoning	If within a High Flood Zone the project must and each parcel must have at least 3 mature trees and an elevation license must be obtained
Marin County	No	No

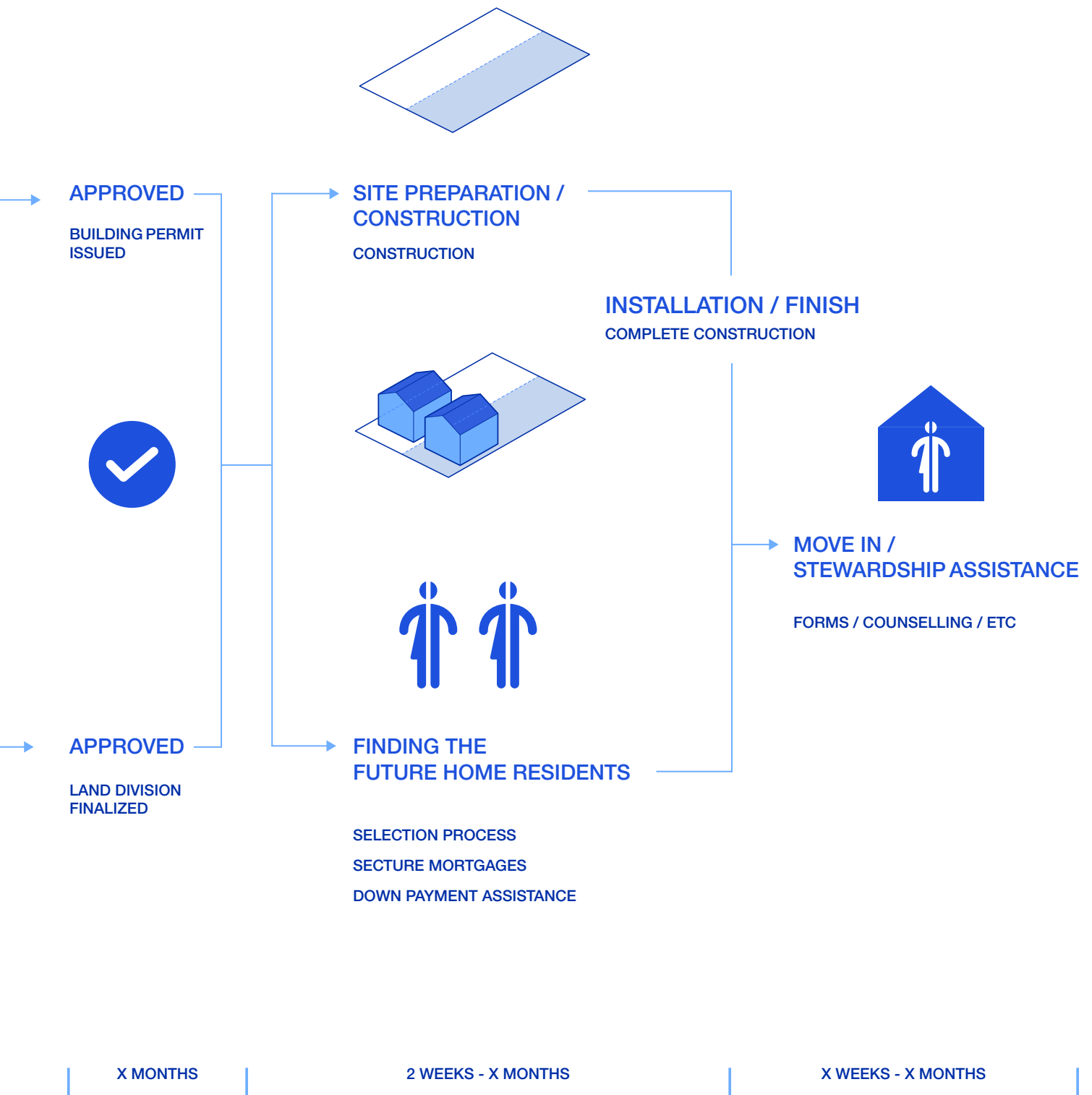
Some information and the structure of the table is taken from Turner Centers' report 'State Law, Local Interpretation: How Cities Are Implementing Senate Bill 9', June 8, 2022, <https://turnercenter.berkeley.edu/research-and-policy/state-law-local-interpretation-senate-bill-9/>

Height Standards/ Front Setbacks	Easements	Other
Local discretion	Local discretion	Local discretion
Height limit of 30 ft. and front setback of 15 ft	N/A	N/A
30 ft. maximum height (2 stories), unless within 20 ft. of the rearmost property then maximum of 20 ft.	Split of 30 ft. between 2 lots, 12 ft. minimum for one side	N/A
Height limit of 18 ft., but exception up to 25 ft. (requiring planning director approval) possible if the height limit precludes SB 9 unit construction	Easement of 12–16 ft., car access easement of minimum 20 ft. and parking is required for lot split	N/A
No	No	N/A
No	No	N/A
No	No	Not located on prime farmland or farmland of statewide importance or in a special flood hazard zone unless a Letter of Map Revision is prepared or in a regulatory floodway unless a certification of no-rise is obtained in a habitat for protected species or lands under conservation easement

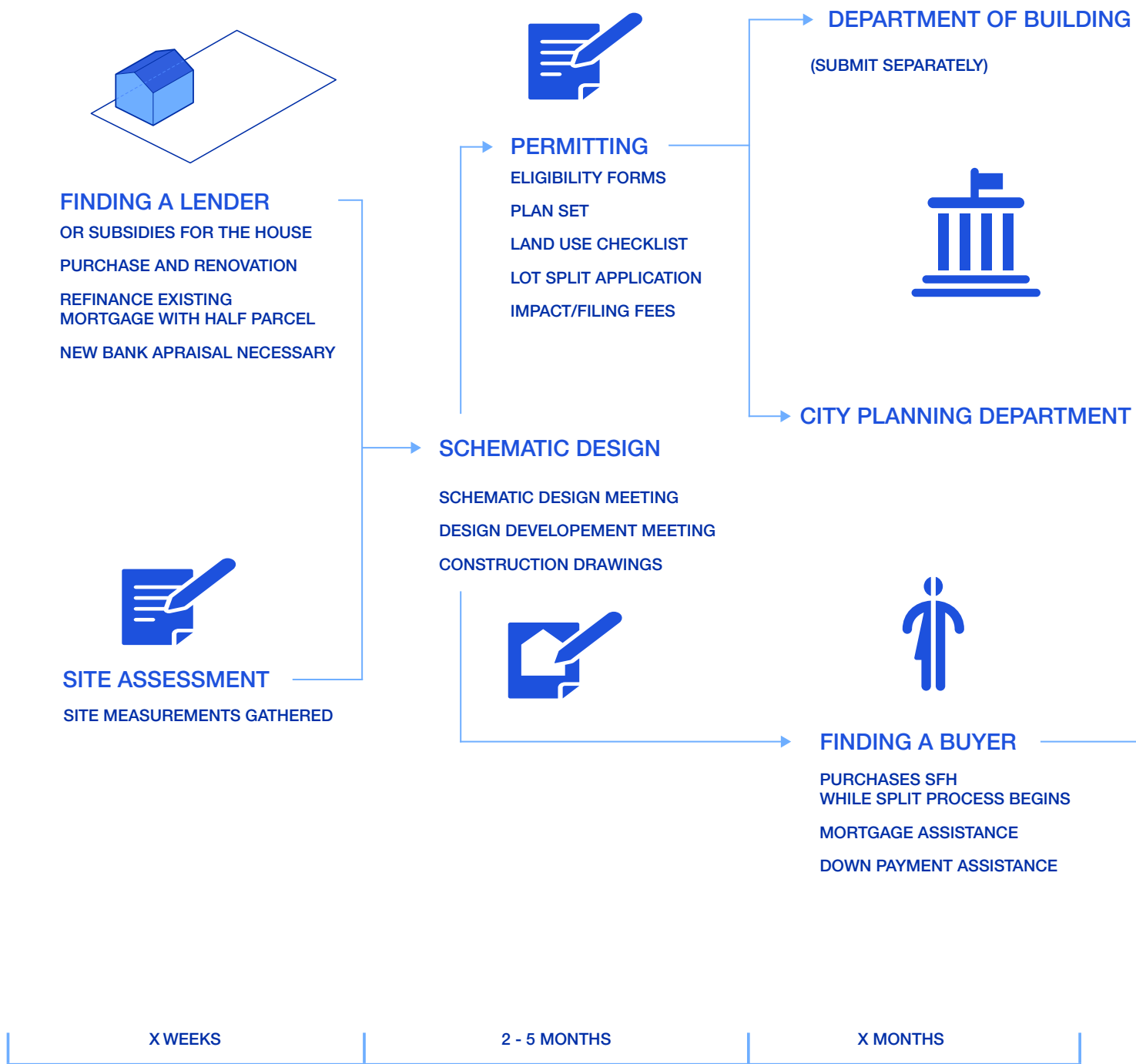
# Scenarios

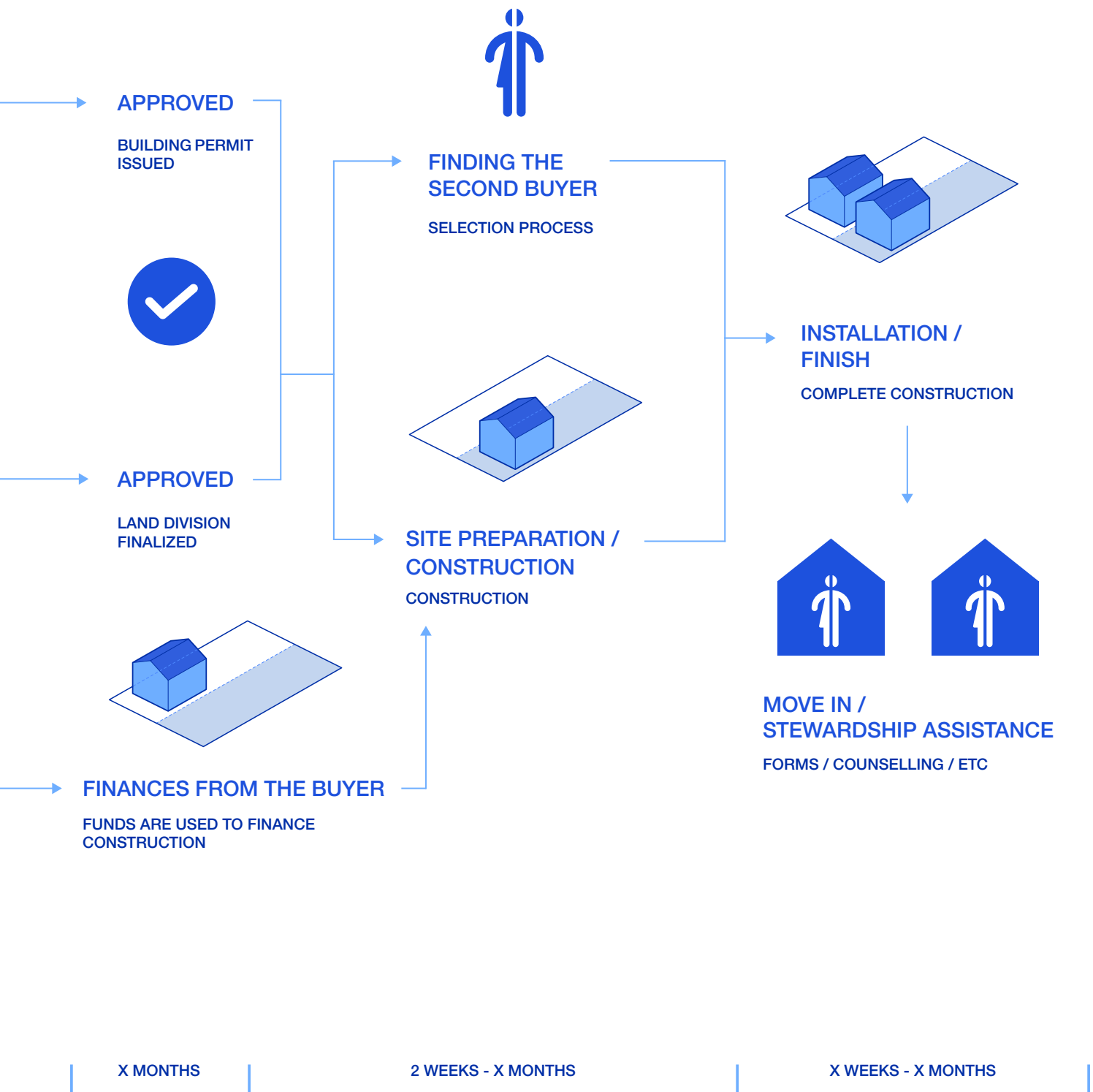
CLT purchases an empty lot, they want to perform an Urban Lot Split under SB9 and build two units.



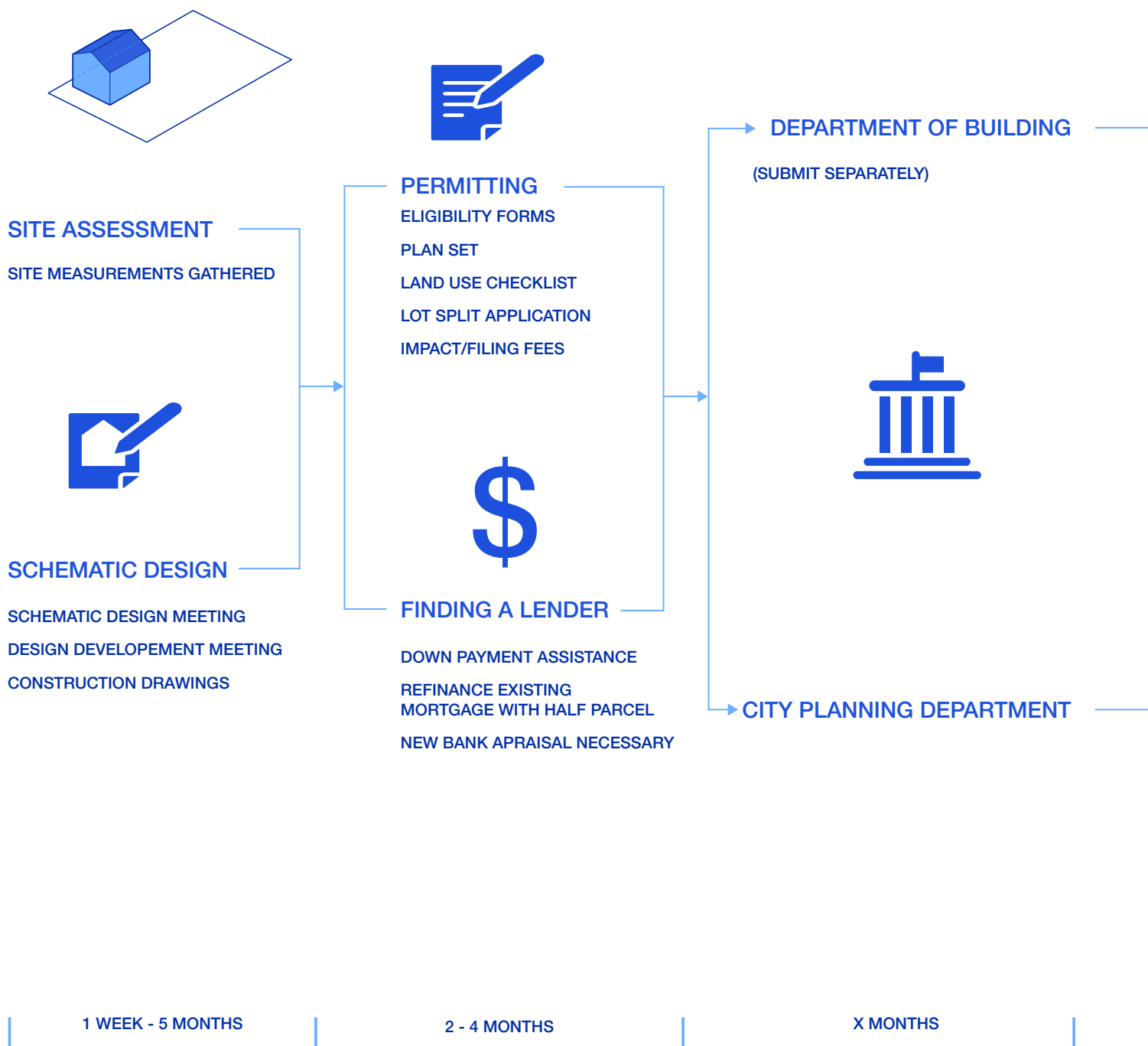


CLT purchases a single-family house that is not subject to the city’s Rent Stabilization Ordinance; they decide to split the lot and sell the single family house and use the funds to finance the construction of the 2nd single family house on the remaining lot.

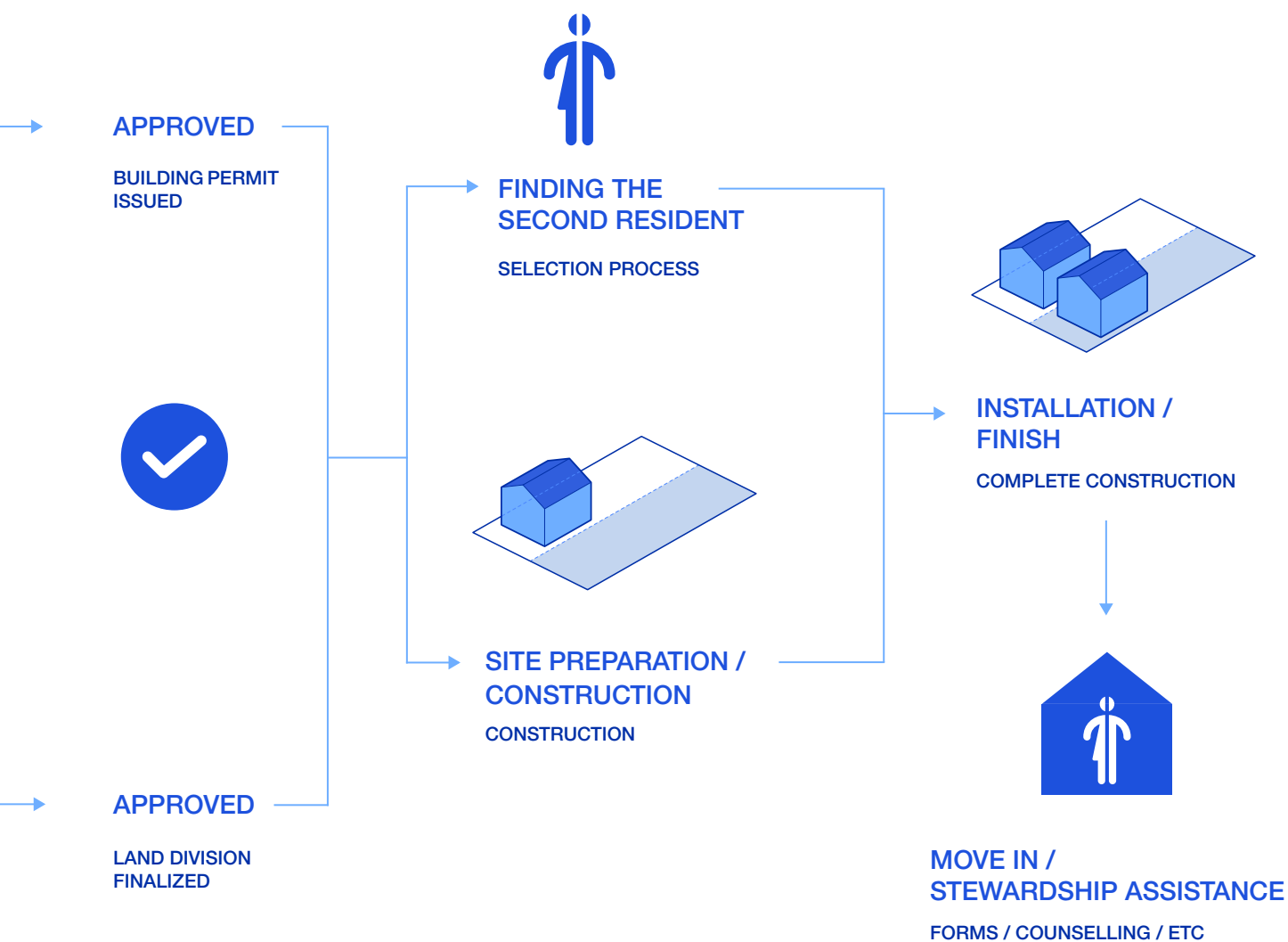




CLT already owns a lot with a single-family house on it, and they want to perform an Urban Lot Split under SB9.





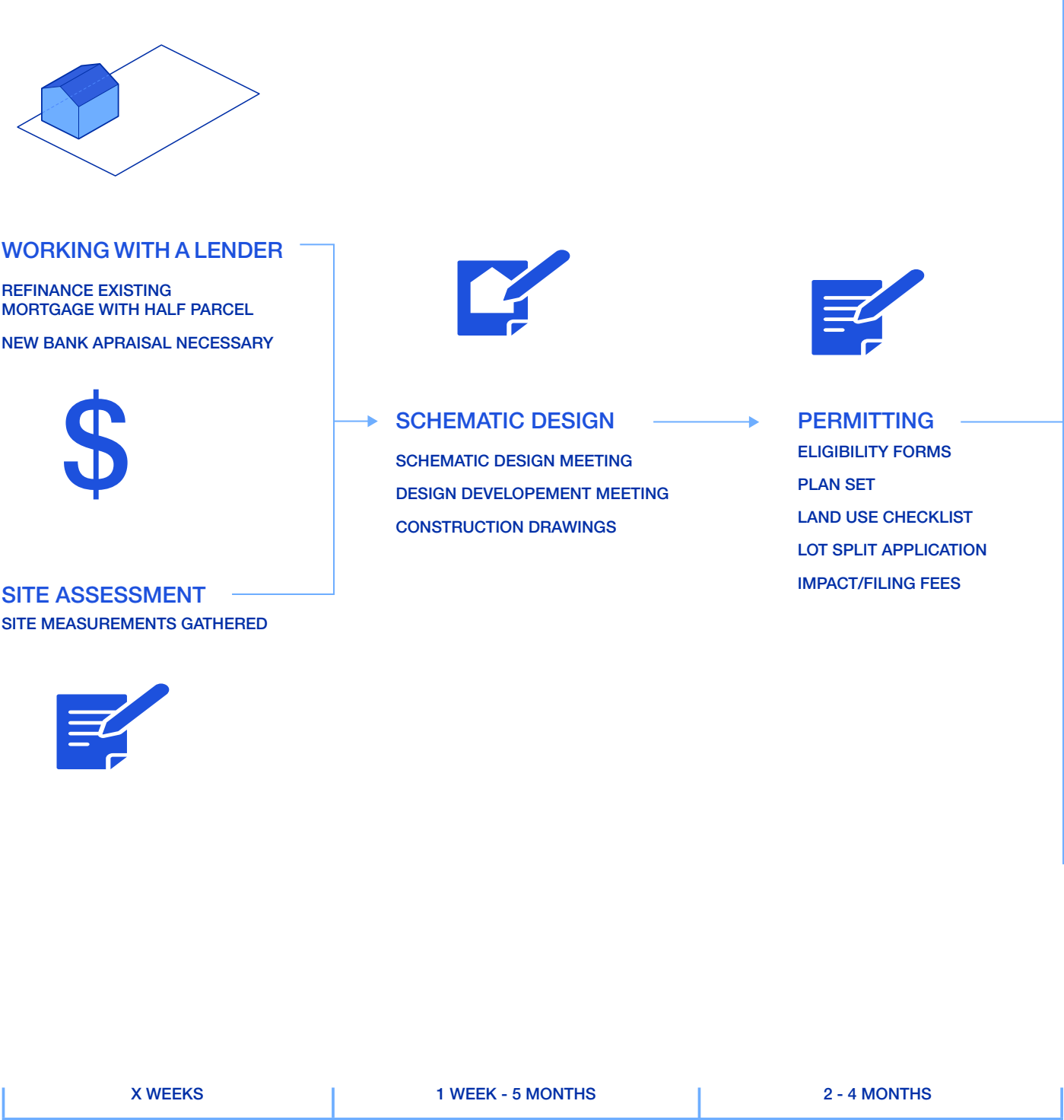


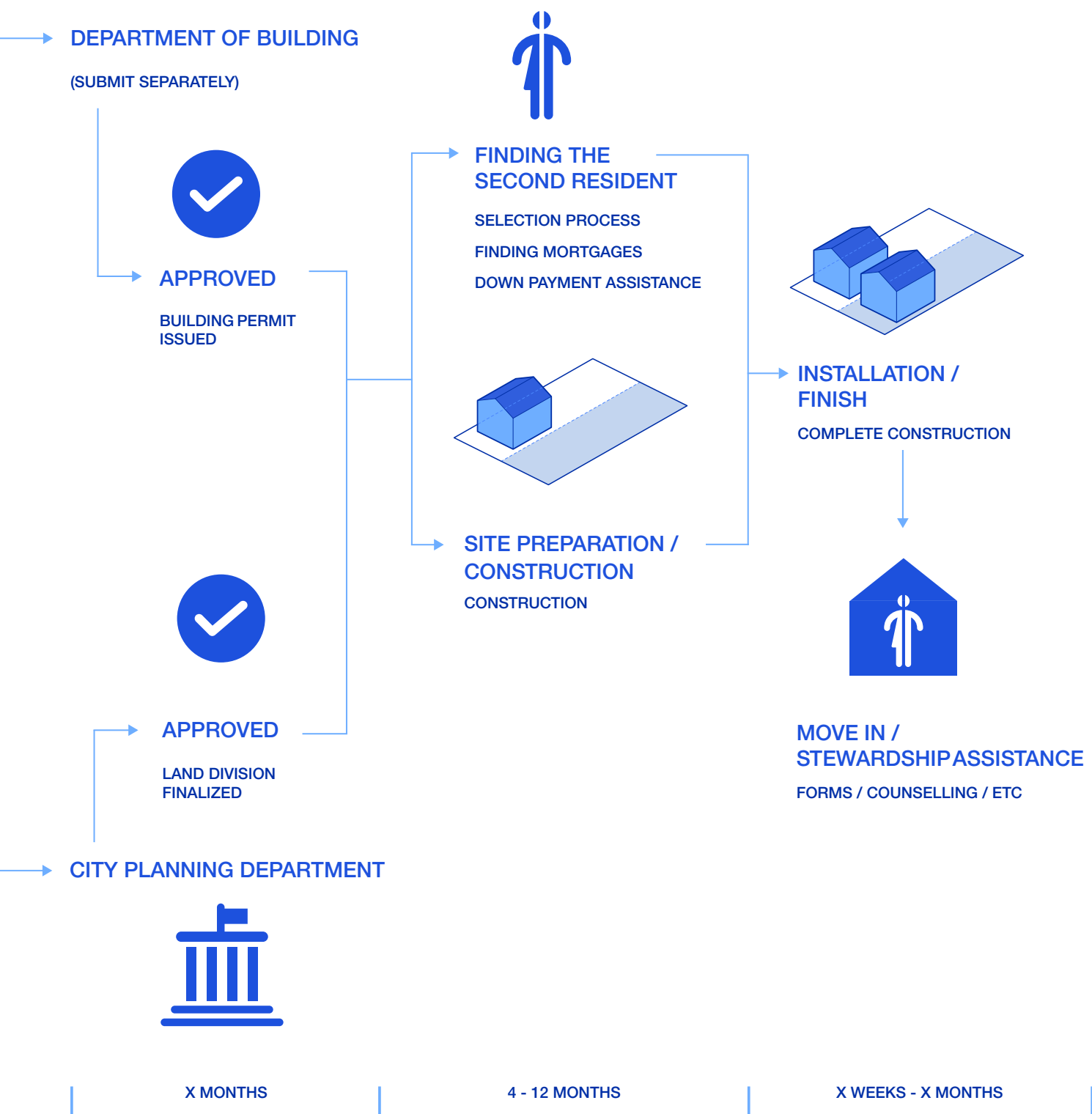
X MONTHS

4 - 12 MONTHS

X WEEKS - X MONTHS

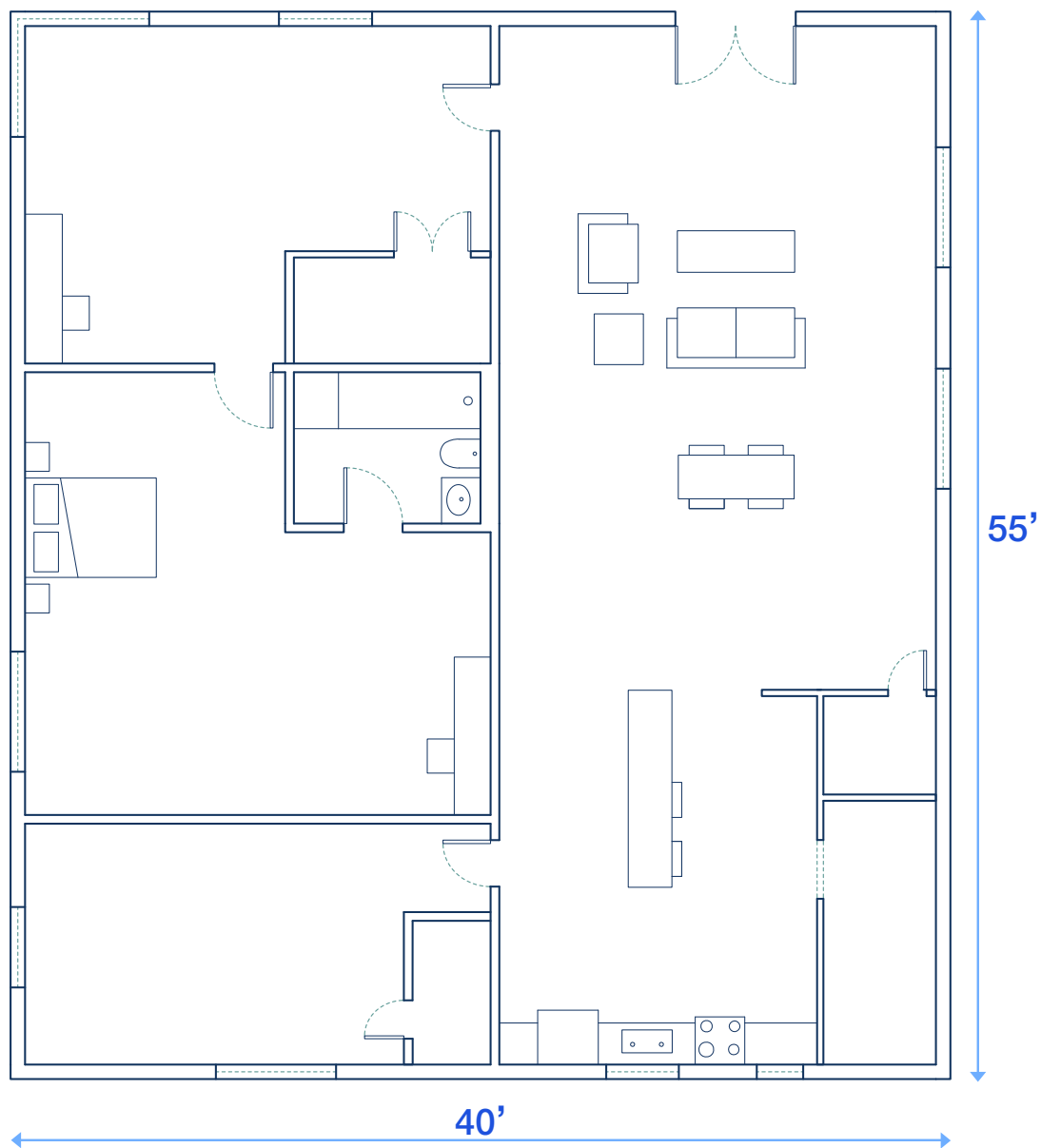
CLT is contacted by an owner who owns a single-family house and is considering selling part of the lot to CLT after performing a split.



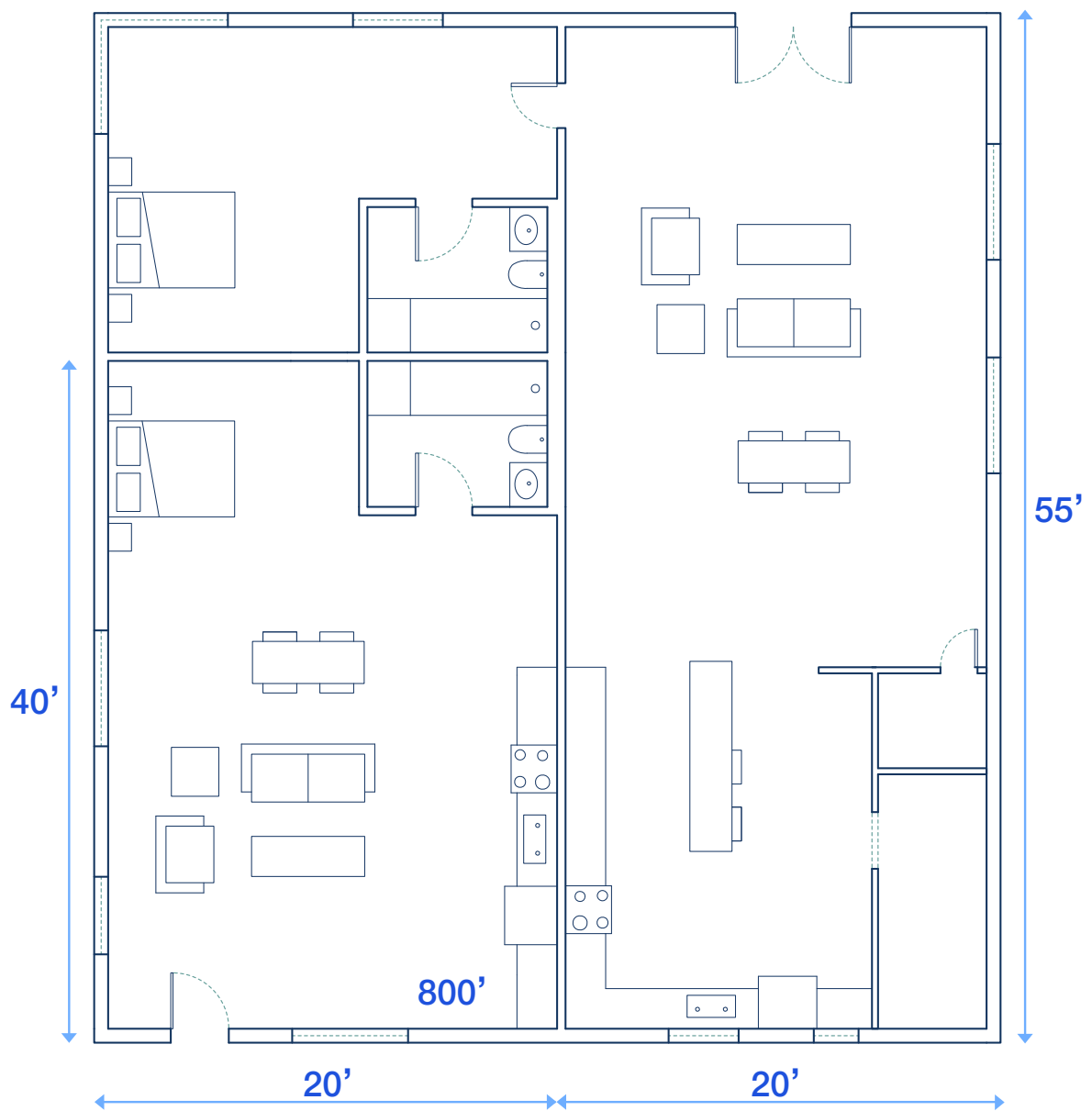


# Potential Floor Plans

A potential floor plan of a house unit split. The separate unit is carved out of an existing one. The extra space adjacent to the bedroom is used for the new kitchen. The area of each dwelling should be at least 800 square feet after the split.

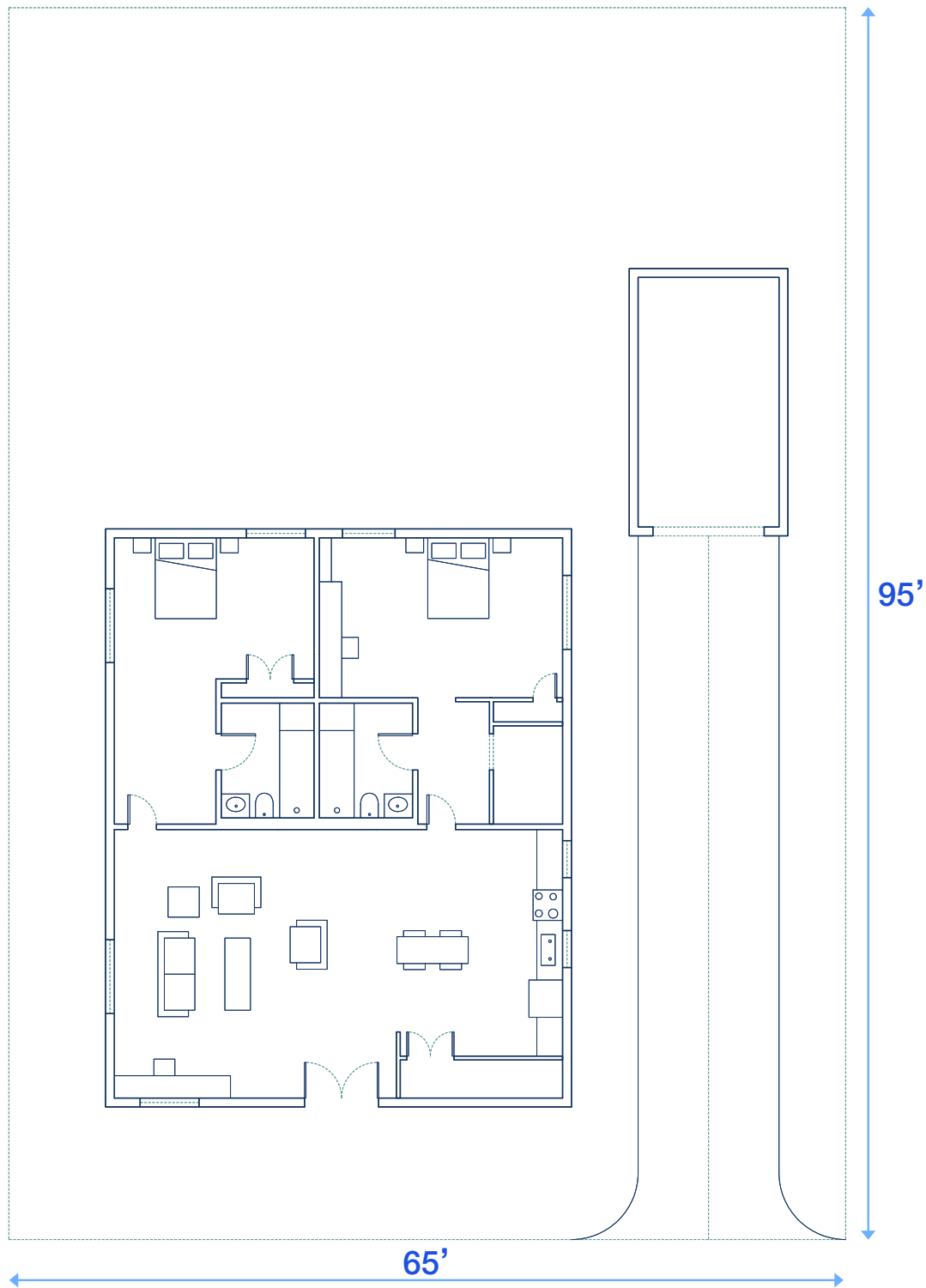


Floor plan before splitting

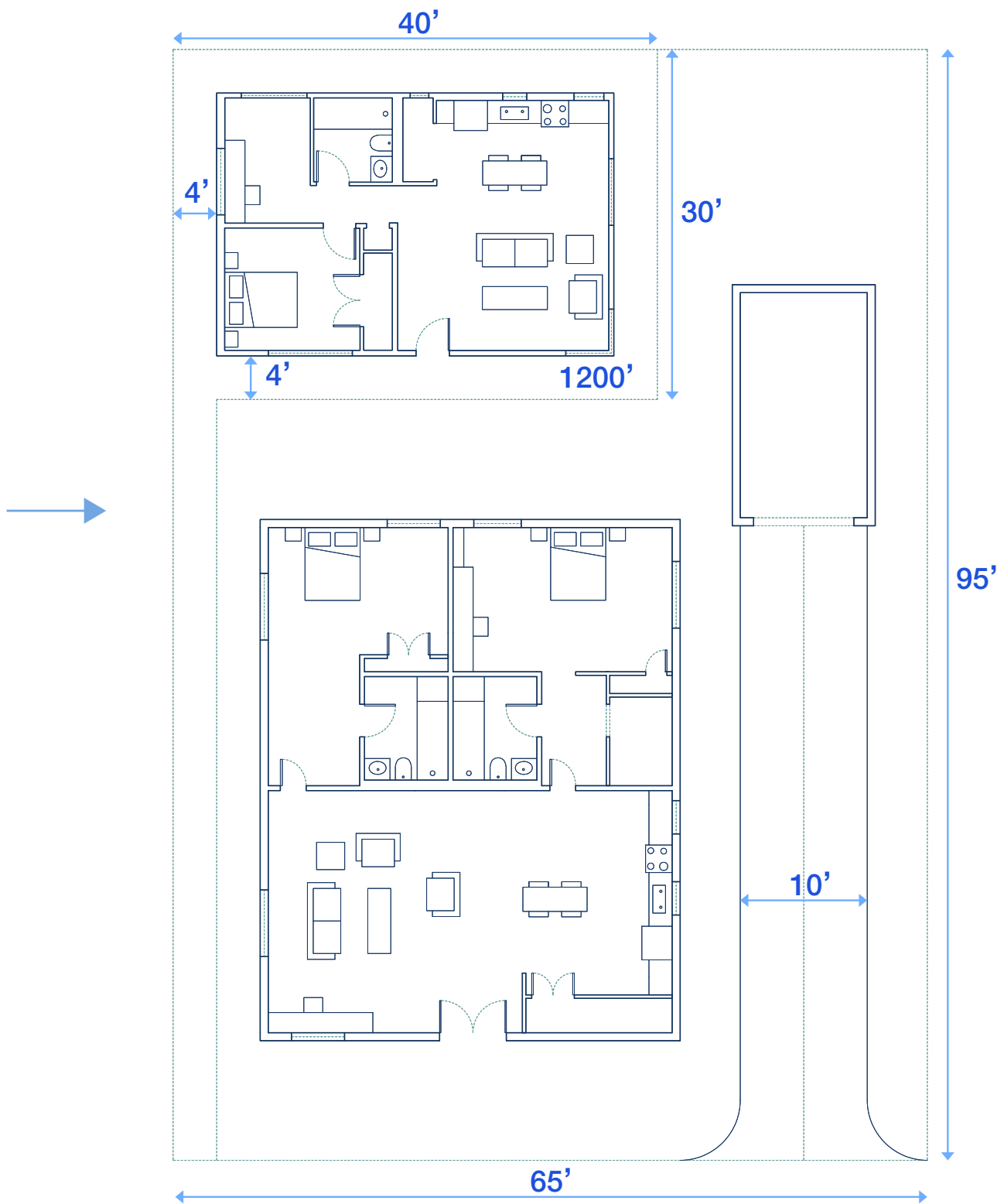


Floor plan after splitting

A potential plan of a lot split with the initial house and the added one. The two newly split lot areas can not be under 1,200 square feet. A maximum of 4 ft side and rear setback can be applied.



Floor plan before splitting



Floor plan after splitting

# Bills under consideration in CA

## AB976

THIS BILL WAS PASSED ON 5/31/23. THE PROHIBITION OF OWNER-OCCUPANCY REQUIREMENTS ON PROPERTIES WHERE ADUS ARE BUILT WILL BECOME PERMANENT, LIKELY RESULTING IN THE PRODUCTION OF MORE ADUS

Extends the ability of property owners to build ADUs by extending the rental unit provisions of 2020's AB 881, which expire in 2025. The provisions allow owners to build rental ADUs on the same property as their existing rentals. AB 881, (Bloom), passed in 2020, prohibits local governments from imposing owner-occupancy requirements on properties where ADUs are built until 2025. This is against the existing law: beginning January 1, 2025, authorizes a local agency to impose an owner-occupancy requirement on an accessory dwelling unit, provided that the accessory dwelling unit was not permitted between January 1, 2020, and January 1, 2025.

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## AB1033

THE ALLOWANCE OF ADU'S TO BE CONVEYED AND SOLD SEPARATELY WILL LIKELY RESULT IN THE CONSTRUCTION OF MORE ADUS, OR AT LEAST MUCH MORE FLEXIBILITY

ADDITIONALLY, THIS LEGISLATURE HAS MAJOR IMPACTS ON SB9. AS ONE IMPORTANT ASPECT OF SB9 IS THE ABILITY TO PERFORM A LOT SPLIT TO SELL A PROPERTY, THIS LEGISLATURE WOULD GIVE MORE FLEXIBILITY TO SELLING WITHOUT A LOT SPLIT. ADDITIONALLY, IT INCREASES THE OPTIONS FOR COMBINATIONS OF RENTAL AND PURCHASE PROPERTIES

This bill would amend Government Code Section 65852.2 provide that an accessory dwelling unit may be sold or otherwise conveyed separate from the primary residence as provided by specified law or by ordinance.

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## SB4

AFFORDABLE HOUSING ADVOCATES SAY SB 4 COULD MEANINGFULLY BOLSTER CALIFORNIA'S HOUSING STOCK BECAUSE RELIGIOUS AND NONPROFIT INSTITUTIONS OFTEN HAVE EXCESS LAND AVAILABLE FOR DEVELOPMENT, USUALLY IN PROXIMITY TO COMMUNITY RESOURCES SUCH AS TRANSIT AND JOB CENTERS

An act to add section 65913.16. to the government code related to housing. Streamlines the building process for religious institutions and independent institutions of higher education that want to build 100% affordable housing on their land. The proposal would supersede local zoning rules that either prohibit or discourage this development and would bar opponents of the housing projects from using the environmental review law to slow down construction through litigation.

Affordable housing advocates say SB 4 could meaningfully bolster California's housing stock because religious and nonprofit institutions often have excess land available for development, usually in proximity to community resources such as transit and job centers.



# CA CLT network has been working on altering the text of AB671

## AB671

THE RESULT WOULD BE MORE ADU CONSTRUCTION SUPPORT FOR CLT THROUGH THE USE OF CALHOME FUNDS

The CalHome Program Provides grants to local public agencies and nonprofit corporations for first-time homebuyer and housing rehabilitation assistance, homebuyer counseling and technical assistance activities to enable low- and very low-income households to become or remain homeowners. Because of recent state and local policies that encourage the construction of ADUs on single family parcels, CLTs have begun to buy more ADU parcels. AB671 would allow for CLTs to build ADUs with CalHome funds.

## SB294

WOULD MAKE IT EASIER TO CREATE LARGE MULTIFAMILY 10-CAP + HOMES IN AREAS ALREADY ZONED FOR THEM BY HAVING MORE OVERSIGHT OVER JURISDICTIONAL FAR ABUSE

The bill expands on previous legislation, SB 478. Existing law prohibits a local agency, from imposing a floor area ratio standard that is less than 1.0 on a housing development project that consists of 3 to 7 units, or less than 1.25 on a housing development project that consists of 8 to 10 units. Existing law prohibits a local agency from imposing a lot coverage requirement that would physically preclude a housing development project of not more than 10 units from achieving the floor area ratios described above. This bill would delete the 10-unit maximum for eligible projects, and would prohibit a local agency from imposing a floor area ratio standard that is less than 2.5 on a housing development project that consists of 11 to 20 units. The bill would prohibit a local agency from imposing a floor area ratio standard that is less than 1.25 for every ten housing units, rounded to the nearest ten units, on a housing development project that consists of more than 20 units.

It removes the 10-home cap in SB 478 and mandates a minimum FAR of 2.5 for projects between 11 to 20 homes, with an increasing, tiered FAR for projects above that, based on the number of homes.

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## SB13

ALLOWS FOR THE CONSTRUCTION OF MORE ADU

Prohibits development impact fees on ADUs smaller than 750 square feet, and significantly limits the impact fees that may be charged to larger ADUs.

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## AB42

This bill, until January 1, 2027, would prohibit a local agency from imposing or enforcing any requirement to provide fire sprinklers for a temporary sleeping cabin with a total floor area of less than 250 square feet that is on a site with 50 or fewer units. The bill would define “temporary sleeping cabin” to mean a nonpermanent fixture that is intended to provide temporary housing to people experiencing homelessness or at risk of homelessness, has a total floor area of less than 250 feet, and does not include plumbing.

# Findings and Suggestions

The implementation of SB9 has been more limited than anticipated, in part due to the perceived complexity of the application process as well as the varying ordinance principles that need to be individually navigated for each municipality. Although the legislature is flexible and offers many possibilities, especially for the implementation of various housing types per lot, an abundance of options can make it challenging to understand what is permissible in totality.

Similarly, the Accessory Dwelling Unit (ADU) Bills, although initially having similar pitfalls, have since seen widespread use and success due to extensive research and tuning to streamline

the permitting process. Various grant programs have also been enacted to make ADU construction more feasible for a wider use group. While SB9 is a relatively new tool, it has the potential to be extremely useful to enable permanently affordable housing on community-owned land if it receives the same attention as the ADU legislature.

We have seen an increased interest in understanding and updating the SB9 process in the case of both design studies (LA Planning's Low Rise Studio) as well as more recent updates to the SB9 legislature in general (insert bill number). The continual updating of SB9 will help to make it more widespread, especially as time continues to demystify the paranoia that a density bill carries with it. This information will make its way over to lenders and appraisers. During our conversations with lenders, it became clear that appraisers' lack of expertise and familiarity with SB9 or any other legislature is one of the major hurdles to getting a project funded. Furthermore, SB9-driven projects demand significant equity, and we believe that it will remain difficult for CLTs to implement them on a large scale if additional resources are not dedicated to SB9 education of lenders and appraisers, pilot projects, pre-development assessment costs, acquisition funds, mortgage down payment assistance. The future of SB9 for CLTs, non-profit developers and individual homeowners rests on real-life testing of a legislative mechanism and the dissemination of findings to a broader audience of actors.

# Appendix



The options for combining SB9 and ADU legislation are plentiful. However, the total number of units can not exceed four in total.

