

July 18, 2022

Honorable Mayor Kate Colin and City Council members
City of San Rafael
1400 Fifth Ave. Room 203
San Rafael, CA 94901

RE: Agenda item #5.a. SB9 Housing Development and Urban Lot Split Regulations

Honorable Mayor Kate Colin and City Council members:

I have the following comments:

1. Natural State requirement on Hillsides.

Staff analysis supports limitations to lot coverage provided by the Natural State requirement for hillside development, per analysis under Maximum Floor Area, page 3 of staff report. However, staff later recommends that the Natural State requirement be the first development standard to be waived for SB9 projects reasoning that it is better to waive only one standard than waive several standards (see “Elections to Objective Development standards”, page 5 of staff report). Staff suggests that by waiving the Natural State requirement “first”, that “lot coverage”, “front setbacks”, and “second floor area limitations” will not need to be waived.

The “Natural State” requirement applies to development on hillside lots with an average slope of 25% or greater, per SRMC 14.12, and these development standards were adopted ***“to protect public health and safety by minimizing hazards, including seismic and landslide risks, soil erosion and fire danger associated with development on steep and/or unstable slopes” (SRMC 14.12.010(A)).***

The amount of land left in it’s “Natural State” or remaining undisturbed/undeveloped increases as the slope of the land increases resulting in steeply sloped lots, where the risks to public health and safety are greatest, having the greatest need to leave land undisturbed. The Building Official is tasked with determining if an SB9 application should be denied for Public Health and Safety issues and would review the required geotechnical and soils reports for steeply sloped lots before making that determination.

None of the other standards listed by staff have the same threats to the public health and safety as the Natural State requirement does. So why would you choose to eliminate a development standard that protects public health and safety first? I believe that staff has not thoroughly evaluated the importance of the Natural State requirement with regard to the protection of Public Health and Safety.

I would recommend the following wording changes to the proposed “Exceptions to Development Standards”, SRMC 14.16.282(C)(3)(a)(ii), as follows:

ii. Election of development standards. If necessary, objective zoning, subdivision, or design standards will be set aside ~~in the following order~~ until the site can contain two, 800-square-foot units:

- a) Natural State (where applicable), provided the Building Official has determined that by waiving this requirement there is no increased threat to Public Health and Safety or the physical environment, per SRMC 14.16.282(B)(3) and SRMC 14.12.010(A).
- b) Lot Coverage
- c) Front Setbacks
- d) Second Floor Area limitations

2. Resolution No. 22-10, paragraph 4 “WHEREAS”:

Staff references Government Code Sections 66411.7 and 65852.21 which DO NOT refer to the types of sites described. I believe staff meant to reference California Government Code Section 65913.4 (6)(B) to (K), in agreement with 14.16.282 (B)(4)(d), per page 4 of the staff report.

Since these sites are restricted from SB9 development, I suggest staff identify these properties on the San Rafael Map and provide this information to the City Council and the public. This information would also assist the Building department in providing accurate information to applicants inquiring about submittal of an SB9 application.

Thank you for your consideration.

Sincerely,

Victoria DeWitt

cc: Alicia Giudice, Community Development Director
Robert Epstein, City Attorney
Don Jeppson, Chief Building Official