



MEMORANDUM

TO: Planning Commission
FROM: Immanuel Bereket, Principal Planner
DATE: February 22, 2024
RE: 2024 Development Code Amendments

At the February 5, 2024 Planning Commission Workshop, Commissioners directed staff to (1) investigate whether the County can regulate the number and size of managerial units in multi-family housing development projects; (2) to bring forth an alternative SB 9 unit that is greater than the current 1,200 square feet but less than the 1,800 square feet; (3) review the code language that prohibits urban lot splits for those properties that do not adjoin a public right-of-way; and (4) re-consider the maximum allowable development are on steeply slopped sites under the form based code.

1. Limitation in managerial units

California law mandates that every apartment building with more than 16 units must have an on-site property manager. An on-site property manager is a person who lives in a residential unit, such as an apartment unit in an apartment building. (Cal. Code Regs. tit. 25 § 42). Similarly, the California Tax Credit Allocation Committee (CTCAC) regulations require projects with 16 or more dwelling units to provide an on-site manager’s unit, and projects with at least 161 units must provide a second on-site manager’s unit plus an additional on-site manager’s unit for each 80 beyond 161 units, up to a maximum of four on-site manager’s units. (CTCAC Regulation § 10325(f)(7)(J)). Similarly, the State Density Bonus Law allows for more than one manager’s unit. (Cal. Govt. Code § 65915.c.3.a).

Additionally, the California Tax Credit Allocation Committee (CTCAC) regulations provide that when a project or an owner proposes to utilize a low-income unit to meet California and CTCAC manager unit requirements, the unit is considered a low-income restricted unit and must comply with all local requirements associated with low-income restricted units and the tenant cannot be evicted upon employment termination.

Since the State laws are the controlling authority for the minimum and maximum permissible number of managerial units, staff recommends that the Planning Commission does not adopt a local control and make changes to the proposed amendments, as it may conflict with State law and or other funding source requirements.

2. SB 9 Alternatives

Increase the maximum size of an SB 9 house to 1,800 square feet.

At the direction of the Commission to establish a reasonable unit size, staff reviewed SB 9 ordinances adopted by the Counties of Alameda, Contra Costa, Napa, San Mateo, Santa Clara, Solano, Sonoma, and the City and County of San Francisco. Additionally, staff reviewed ordinances adopted by or spoke with planning staff from the following cities: Berkeley, Fremont, Pleasanton, Santa Rosa, and Sonoma.

Staff has found that most jurisdictions apply the underlying zoning development standards related to objective design standards, height, and either lot coverage or floor area ratio (FAR) standards to regulate two-unit developments. For example, San Mateo County uses cumulative development lot coverage to limit SB 9-unit size, with a cumulative maximum development of 6,000 square feet of floor area, while the City and County of San Francisco has adopted an SB 9 specific objective designed standards without maximum floor area limitations. The Counties of Alameda, Contra Costa, and Napa apply the underlying zoning districts without an absolute maximum, while the County of Santa Clara applies a maximum of 1,600 square feet for a second unit, which can be increased on a case-by-case basis if the lot size exceeds the minimum required by underlying zoning district. Similarly, while most of the cities mentioned above apply the underlying zoning district without an absolute maximum, only the City of Sonoma imposes an absolute maximum of 1,600 square feet of cumulative development on an SB 9 duplex. Since Marin County has many areas with Planned zoning districts, which do not have minimum lot sizes or maximum floor area ratio or lot coverage standards, staff continues to recommend that the County establish a specific floor area standard rather than relying on other zoning regulations.

Staff recommends that the Planning Commission increase the size of the SB 9 development from 1,200 square feet to 1,600 square feet. When considering single-family lots can be developed with a primary residence, an 800 square feet attached ADU, and a 1,200 square detached ADU, allowing 1,600 square feet of a second primary dwelling unit while simultaneously prohibiting an ADU on the same lot is a reasonable proposal. Further, unlike ADUs, SB 9 offers the opportunity to increase the supply of starter, modestly priced homes by encouraging the building of smaller houses on small lots. This would help achieve the County's equity goals by increasing the diversity of housing stock.

The proposed amendments have been modified to include this revised floor area standard in section 22.32.184(l). (see Attachment No. 3).

Alternative 2: Allow Urban Lot Splits on Private Streets

Based on research on other Bay Area counties, most jurisdictions have not adopted a separate regulation to limit urban lot split potential based on access to a public right of way and default to State law. Of the jurisdictions staff reviewed, only Napa and Sonoma counties and the City of Sonoma require that newly created lots provide access to a public right-of-way, which may also be provided through private roadways.

SB 9 legislation allows the County to impose a "requirement that the parcels have access to, provide access to, or adjoin the public right-of-way." (Cal. Govt. Code §66411.7(e)(2).

Staff recommends the Planning Commission approve revised text that copies State law verbatim. This would ensure that properties which take access through a private driveway within an easement over a neighboring property must meet the allowances of that easement but would allow urban lot splits on properties that take access from a right of way that is dedicated to the subdivision rather than being dedicated to the public.

The proposed amendments have been modified to include this revised text in section 22.00.064.F.2. (Attachment No. 3).

3. Form Base Code

Your commission expressed a desire to allow more areas that may be developed in sloped lots, but not to the amount originally recommended by staff. In response, staff recommends the following modifications to the slope standards, as shown in the table below. (new text is underlined while old text appears in ~~striketrough~~).

Table 04.050.A: Maximum Amount of Sloped Areas Allowed to be Developed				
Portions of Design Site with Existing Slope	Development Site^{1,2}			Previously Developed
	Greenfield			
	Up to 1 acre	1 to 3 acres	>3 acres	>1 acre
0–5.99%	100% max.	100% max.	100% max.	Not to exceed previously developed footprint <u>or</u> percentage indicated for <u>greenfield sites, whichever is greater</u>
6–9.99%	100% max.	70% max.	70% max.	
10–14.99%	100% max.	50% max.	25 <u>30</u> % max.	
15–25%	75% max.	25 <u>30</u> % max.	10 <u>20</u> % max.	
> 25%	10 <u>20</u> % max.	10 <u>20</u> % max.	10 <u>20</u> % max.	

The modified maximum development areas proposed above are significantly lower than previously recommended. For example, for lots with slope of 25 percent or greater, staff previously recommended the percentage should be increased from 10 to 35 percent. The revised modifications would be an increase from 10 percent to 20 percent maximum. There are no other revisions to the proposed amendments to the FBC.

A draft Resolution recommending that the Board of Supervisors adopt the amendments is attached along with the proposed text amendments.

Attachments:

1. Recommended Resolution
2. Revised Development Code Amendments
3. Proposed SB 9 Amendments
4. Revised Form Base Code Amendments
5. Public comments