
SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2021 - 2022 Regular

Bill No:	SB 10	Hearing Date:	3/18/2021
Author:	Wiener		
Version:	2/24/2021		
Urgency:	No	Fiscal:	Yes
Consultant:	Erin Riches		

SUBJECT: Planning and zoning: housing development: density

DIGEST: This bill authorizes a city or county to pass an ordinance to zone any parcel for up to 10 units of residential density, at a height specified by the local government in the ordinance, if the parcel is located in a transit-rich area, a jobs-rich area, or an urban infill site, as specified.

ANALYSIS:

Existing law:

- 1) Requires a local jurisdiction to give public notice of a hearing whenever a person applies for a zoning variance, special use permit, conditional use permit, zoning ordinance amendment, or general or specific plan amendment.
- 2) Requires the board of zoning adjustment or zoning administrator to hear and decide applications for conditional uses or other permits when the zoning ordinance provides therefor and establishes criteria for determining those matters, and applications for variances from the terms of the zoning ordinance.
- 3) Exempts the adoption of an accessory dwelling unit (ADU) ordinance by a city or county from the California Environmental Quality Act (CEQA).

This bill:

- 1) Authorizes a city or county to pass an ordinance, notwithstanding any local restrictions on zoning ordinances, to zone any parcel for up to 10 units of residential density, at a height specified by the ordinance, if the parcel is located in a transit-rich area, a jobs-rich area, or an urban infill site (see below for definitions).

- 2) Specifies that neither an ordinance adopted consistent with (1) above, nor any resolution adopted to amend the jurisdiction's general plan to be consistent with that ordinance, is a project for purposes of CEQA.
- 3) Defines "transit-rich area" as a parcel within one-half mile of a major transit stop, or a parcel on a high-quality bus corridor. Defines "high-quality bus corridor" as a corridor with a fixed-route bus service that meets specified service interval times.
- 4) Defines "jobs-rich area" as an area identified by the California Department of Housing and Community Development (HCD), in consultation with OPR and other necessary stakeholders, that is high opportunity and is either jobs-rich or would enable shorter commute distances based on whether, in a regional analysis, the tract meets both of the following:
 - a) The tract is high opportunity, meaning its characteristics are associated with positive educational and economic outcomes for households of all incomes residing in the tract.
 - b) The tract meets either of the following criteria:
 - i) New housing sited in the tract would enable residents to live near more jobs than is typical for tracts in the region.
 - ii) New housing sited in the tract would enable shorter commute distances for residents, relative to existing commute patterns and jobs-housing fit.
- 5) Requires HCD to publish and update, beginning January 1, 2023 and every five years thereafter, a map showing "jobs-rich areas" as described in (4) above. Requires HCD to begin with the most current version of the HCD and Tax Credit Allocation Committee (TCAC) Opportunity Maps, and to update the methodology as HCD determines is appropriate to advance the goals of (4).
- 6) Defines "urban infill site" as a site that satisfies all of the following:
 - a) A site that is a legal parcel or parcels located in a city if the city boundaries include some portion of either an urbanized area or urban cluster or for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster.
 - b) A site in which at least 75% of the perimeter adjoins parcels that are developed with urban uses. Parcels that are only separated by a street or highway shall be considered to be adjoined.

- c) A site that is zoned for residential use or residential mixed-use, or has a general plan designation that allows residential use or a mix of residential and non-residential uses, with at least two-thirds of the square footage of the development designated for residential use.
- 7) Excludes parcels located in a high or very high fire hazard severity zone, except for parcels excluded from such zones by a local agency or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development. Also excludes a project to create two ADUs or two JADUs per parcel.
- 8) Provides that a residential or mixed-use residential project consisting of more than 10 units on one or more parcels zoned to permit residential development pursuant to this bill shall not be approved ministerially or by right, and shall not be exempt from CEQA.
- 9) Prohibits a parcel from being subdivided into smaller projects in order to exclude the project from the prohibitions in (7) or (8).

COMMENTS

- 1) *Author's statement.* "California's massive housing shortage is driving people into homelessness and threatening our environment, economy, and diversity. SB 10 provides cities with a powerful, fast, and effective tool to allow light-touch density exactly where it should be: near jobs, near public transportation, and in existing urbanized areas. Specifically, SB 10 allows cities, if they choose, to rezone these non-sprawl locations for up to 10-unit buildings in a streamlined way without CEQA. Given that cities face significantly increased housing production goals under the revised RHNA, and are required by state housing element law to complete rezonings to accommodate these goals, SB 10 is a powerful new tool for cities to use in their comprehensive planning efforts. SB 10 will help ease California's housing crisis, spurred by a statewide shortage of 3.5 million homes, and move the state away from a sprawl-based housing policy, and toward a more sustainable, equitable, and effective housing policy."
- 2) *Housing needs and approvals generally.* Every city and county in California is required to develop a general plan that outlines the community's vision of future development through a series of policy statements and goals. A community's general plan lays the foundation for all future land use decisions, as these decisions must be consistent with the plan. General plans are comprised of several elements that address various land use topics. Seven elements are mandated by state law: land use, circulation, housing,

conservation, open-space, noise, and safety. Each community's general plan must include a housing element, which outlines a long-term plan for meeting the community's existing and projected housing needs. The housing element demonstrates how the community plans to accommodate its "fair share" of its region's housing needs. To do so, each community establishes an inventory of sites designated for new housing that is sufficient to accommodate its fair share. Communities also identify regulatory barriers to housing development and propose strategies to address those barriers. State law requires cities and counties to update their housing elements every eight years.

3) *Zoning ordinances generally.* Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built. In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors. A zoning ordinance may be subject to CEQA if it will have a significant impact upon the environment. The adoption of ADU ordinances, however, are explicitly exempt from CEQA. There are also some several statutory exemptions that provide limited environmental review for projects that are consistent with a previously adopted general plan, community plan, specific plan, or zoning ordinance.

4) *Denser Housing in Single-Family Zoning.* California's high — and rising — land costs necessitate dense housing construction for a project to be financially viable and for the housing to ultimately be affordable to lower-income households. Yet, recent trends in California show that new housing has not commensurately increased in density. In a 2016 analysis, the Legislative Analyst's Office (LAO) found that the housing density of a typical neighborhood in California's coastal metropolitan areas increased only by 4% during the 2000s. In addition, the pattern of development in California has changed in ways that limit new housing opportunities. A 2016 analysis by BuildZoom found that new development has shifted from moderate but widespread density to pockets of high-density housing near downtown cores surrounded by vast swaths of low-density single-family housing. Specifically, construction of moderately-dense housing (2 to 49 units) in California peaked in the 1960s and 1970s and has slowed in recent decades.

A 2019 Zillow report found that even modest densification, such as duplexes and fourplexes, could result in millions more homes. Across 17 metro areas analyzed nationwide, allowing 10% of single-family lots to house two units instead of one could yield almost 3.3 million additional housing units to the existing housing stock. In the L.A. region, if one in five single-family lots were

re-zoned to hold two homes, the local housing stock could be boosted by 775,000 homes. Allowing four homes instead of two on those same 20% of single-family lots could yield a housing stock increase of more than 2.3 million homes, or a 53.4% boost over the current stock when combined with homes already expected to be built. Similarly, a 2016 McKinsey report found that California has the capacity to build between 341,000 and 793,000 new units by adding units to existing single-family homes.

The UC Berkeley Turner Center conducted a residential land use survey in California from August 2017 to October 2018. The survey found that most jurisdictions devote the majority of their land to single family zoning and in two-thirds of jurisdictions, multifamily housing is allowed on less than 25% of land. Some jurisdictions in the US have taken steps to increase density in single-family zones. Minneapolis recently became the first major U.S. city to end single-family home zoning when its City Council passed a comprehensive plan to permit three-family homes in the city's residential neighborhoods, abolish parking minimums for all new construction, and allow high-density buildings along transit corridors. The City of Sacramento may be the first city in California to end single-family zoning; in January 2021, its City Council gave preliminary approval to a proposal to allow up to four homes per lot in single-family zones.

- 5) *Housing near Transit.* Research has shown that encouraging more dense housing near transit serves not only as a means of increasing ridership of public transportation to reduce greenhouse gases (GHGs), but also a solution to the state's housing crisis. As part of California's overall strategy to combat climate change, the Legislature began the process of encouraging more transit oriented development with the passage of SB 375 (Steinberg, Chapter 728, Statutes of 2008). SB 375 is aimed at reducing the amount that people drive and associated GHGs by requiring the coordination of transportation, housing, and land use planning.

The 2016 McKinsey Report found that increasing housing demand around high-frequency public transit stations could build 1.2 – 3 million units within a half-mile radius of transit. The report notes that this new development would have to be sensitive to the community's character, and recommends that local communities proactively rezone station areas for higher residential density to pave the way for private investments, accelerate land-use approvals, and use bonds to finance station area infrastructure.

- 6) *Zoning not a project under CEQA.* In an effort to encourage denser housing, this bill authorizes a local government to pass an ordinance for the construction of housing up to 10 units in "transit-rich areas" (near transit), "jobs-rich areas"

(high opportunity neighborhoods), and on infill sites. The local government may set the height requirements, and this ordinance would override any restrictive local zoning ordinances that limit the ability to adopt zoning ordinances. The ordinance authorized by this bill is not considered a project for purposes under CEQA. This provision is similar to the exemption authorized for the adoption of ADU ordinances. Current law requires ministerial approval of one ADU and one junior accessory dwelling unit (JADU) per lot that is within an existing structure, as specified; one detached ADU within a proposed or existing structure or the same footprint as the existing structure, along with one JADU, as specified; multiple ADUs within existing multifamily structures; or two detached ADUs on a multifamily lot, as specified.

- 7) *Opportunity maps.* In February 2017, HCD and TCAC convened a task force to provide research and recommendations to HCD and other related state agencies and departments on how to affirmatively further fair housing. HCD and TCAC charged the task force with creating an “opportunity map” to evaluate access to opportunity, racial segregation, and concentrated poverty on 11 evidence-based indicators related to long-term life outcomes. The HCD/TCAC Opportunity Maps were first adopted in late 2017 for use in the 2018 program year; each year, the task force revises the maps, with public input. The maps include eight major regions, as well as a category for rural areas. This bill requires HCD to publish a map showing “jobs-rich” areas, beginning with the current HCD/TCAC Opportunity Maps.
- 8) *Opposition concerns.* Opponents state that this bill removes community-driven planning processes and stakeholder involvement; eliminates single-family zoning; and lacks affordable housing requirements.
- 9) *Housing Production Package.* This bill has been included in the Senate’s 2021 Housing Production Package. It is the same as SB 902 of last year, except that it also: excludes parcels located in the very high fire hazard severity zone; clarifies that a project of more than 10 units shall not be ministerially approved or exempt from CEQA; specifies that it shall not apply to a project to create two ADUs and two JADUs; prohibits a project from being divided into smaller projects in order to avoid the requirements of this bill; and clarifies that the HCD/TCAC Opportunity Maps shall be used to determine jobs-rich areas.
- 10) *Committee amendments.* The author proposes amendments to this bill that were not completed in time to meet the committee’s deadline; **therefore, the committee will consider them as committee amendments.** These amendments remove section (b) from Section 1 of the bill. This section excludes ADUs and JADUs, and prohibits a project from being subdivided as specified.

11) *Triple-referral.* Due to the COVID-19 Pandemic and the unprecedented nature of the 2021 Legislative Session, all Senate Policy Committees are working under a compressed timeline. This timeline does not allow this bill to be referred and heard by more than two committees as a typical timeline would allow. In order to fully vet the contents of this measure for the benefit of Senators and the public, this analysis includes information from the third committee included in the original referral. This bill has also been referred to the Governance and Finance Committee.

According to the Senate Environmental Quality Committee:

“CEQA operates, not by dictating pro-environmental outcomes, but rather by mandating that ‘decision makers and the public’ study the likely environmental effects of contemplated government actions and thus make fully informed decisions regarding those actions. ... In other words, CEQA does not care what decision is made as long as it is an informed one.” (*Citizens Coalition Los Angeles v. City of Los Angeles* (2018) 26 Cal. App. 5th 561, 577.) The Senate Environmental Quality Committee has generally expressed concern with CEQA exemptions because they do not promote informed decision-making. CEQA exemptions for zoning ordinances such as ones covered by this bill, and for amending a General Plan to be consistent with such ordinances, prevents local officials from being fully informed of the potential environmental consequences associated with the ordinance or amended General Plan. Without CEQA, would a local government be properly informed of traffic, air, or pollution impacts? Does bypassing CEQA potentially create a liability for decision-makers who should have known about those impacts? Is it appropriate for the public to live with the consequences of a zoning ordinance or amended General Plan that may not be fully vetted and whose impacts are not mitigated or alternatives considered?”

RELATED LEGISLATION:

SB 902 (Wiener, 2020) — would have authorized a local government to pass an ordinance to zone any parcel up to 10 units of residential density per parcel, at a height specified by the local government in the ordinance, if the parcel is located in a transit-rich area, a jobs-rich area, or an urban infill site, as specified. *This bill was held on the suspense file in the Assembly Appropriations Committee.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Friday, March 12, 2021.)

SUPPORT:

California YIMBY (Sponsor)
Abundant Housing LA
American Planning Association, California Chapter
Bay Area Council
CalChamber
California Association of Realtors
California Building Industry Association
California Community Builders
Circulate San Diego
Council of Infill Builders
Councilmember Zach Hilton, City of Gilroy
East Bay for Everyone
Greenbelt Alliance
Habitat for Humanity California
Housing Action Coalition
Los Angeles Business Council
San Francisco Bay Area Planning and Urban Research Association (SPUR)
San Francisco Bay Area Rapid Transit District (BART)
Silicon Valley @ Home
Silicon Valley Community Foundation
South Pasadena Residents for Responsible Growth
TechEquity Collaborative
The Two Hundred
Valley Industry and Commerce Association (VICA)
Zillow Group
3 Individuals

OPPOSITION:

A Better Way Forward to House California
Adams Hill Neighborhood Association
Aids Healthcare Foundation
Alameda Citizens Task Force
Berkeley Associated Neighbors Against Non-affordable Housing
Burton Valley Neighborhoods Group
California Alliance of Local Electeds

California Cities for Local Control
Catalysts
Citizens Preserving Venice
City of Beverly Hills
City of El Segundo
City of Lafayette
City of Millbrae
City of Palo Alto
City of Pleasanton
City of Rancho Palos Verdes
City of Santa Monica
City of Torrance
City of Yorba Linda
Coalition for San Francisco Neighborhoods
Coalition to Save Ocean Beach
College Terrace Residents Association
Committee to Save the Hollywoodland Specific Plan
Councilmember Dawn Murdock, City of Palos Verdes Estates
Cow Hollow Association
D4ward
Durand Ridge United
Encinitas Neighbors Coalition
Friends of Sutro Park
Hills 2000 Friends of The Hills
Hollywoodland Homeowners Association
LA Brea Hancock Homeowners Association
Lafayette Homeowners Council
Latino Alliance for Community Engagement
Livable California
Los Feliz Improvement Association
Miracle Mile Residential Association
Mission Street Neighbors
Neighborhood Council Sustainability Alliance Trees Committee
Northeast Neighbors of Santa Monica
Pacific Palisades Community Council
Planning Association for The Richmond
Riviera Homeowners Association
Save Lafayette
Shadow Hills Property Owners Association
Sherman Oaks Homeowners Association
Sierra Club
South Shores Community Association

State Building & Construction Trades Council of California
Sunnyvale United Neighbors
Sunset-Parkside Education and Action Committee
Sustainable Tamalmonite
Verdugo Woodlands West Homeowners Association
West Wood Highlands Neighborhood Association
Westside Regional Alliance of Councils
Westwood Hills Property Owners Association
Westwood Homeowners Association
Wilshire Montana Neighborhood Coalition
Windsor Square Association
128 Individuals

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