



American Planning Association
California Chapter

Making Great Communities Happen

March 25, 2019

Senator Scott Wiener
Room 2028
State Capitol
Sacramento, California 95814

SUBJECT: **SB 50 (Wiener) – Notice of Oppose unless Amended**
Housing Development Incentives and Requirements
In Senate Housing Committee – Tuesday, April 2nd

Dear Senator Wiener:

The American Planning Association, California Chapter must respectfully oppose SB 50 unless amended. SB 50 will create mandatory overrides of local zoning around transit as well as areas with high job but low housing rates. Although our organization is generally supportive of increasing housing development and planning for density near transit and promoting a healthy regional jobs-housing fit, APA is concerned about the mechanics of implementing SB 50 in its current form. APA appreciates meeting with you and your staff on this bill to discuss our perspective.

Without having more information on the points below, even as recently amended it is hard to know how effective SB 50 would be, where it would apply, and what local options for influencing development would remain. The responses to these comments will determine if APA can eventually support the bill.

- The definitions of “job-rich housing project” and “job-rich area” need to be defined in statute, rather than deferred to a determination by HCD in consultation with OPR, so that the areas subject to the “equitable communities incentive” that are not within a one-half mile radius of a major transit stop or a one-quarter mile radius of a stop can be understood in advance. (S. 65918.50 (e) - (f).)
- The bill appears to apply to all zones where residential uses are permitted, even where such uses are only considered conditionally permitted uses. The bill should not require communities to adopt residential projects in commercial zones where residential is only a permitted use with a CUP, for example, to avoid incompatible uses. (S. 65918.52(b).)
- Projects eligible for an equitable communities incentive should be required to build the affordable units in exchange for the incentive benefits rather than permit project to qualify through payment of an in-lieu fee or other alternative that is not guaranteed to result in affordable housing production.

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(S. 65918.52 (c).)

- The new unit threshold of 10 or fewer units for imposing affordability contribution requirements for eligible projects will be below existing density bonus requirements, which apply to projects with five or more units. To avoid confusion about whether a project can receive incentives and concessions and waivers under the density bonus law after qualifying for an equitable communities incentive, the two laws should be harmonized. Moreover, because an equitable communities incentive would increase development potential beyond what is allowed under density bonus law, the affordability requirements to qualify for an equitable communities incentive should be greater than what is needed to qualify for a density bonus. (S. 65918.52(B) and 65918.53.)
- The bill still requires the same incentives be given developers in every jurisdiction of the state. It should allow jurisdictions that agree to approve the eligible projects by right to gradually increase heights/FAR/densities up to the greater of four times greater than surrounding neighborhoods or the maximum specified in the bill. As noted above, however, the increases in development potential allowed for equitable communities incentive projects must be provided in exchange for much higher affordability percentages in the project than are currently required in the bill or in density bonus law. This approach is more similar to LA's JJJ concept and would still substantially increase the development potential in these targeted areas. (S. 65918.52 (B) and 65918.53.)
- Under GC S. 65915 subdivision (e), density bonus law requires local jurisdictions to waive any development standards that "physically preclude" development at the permitted density. If an applicant receives a "waiver from density" as an equitable communities incentive and continues to qualify for density bonus waivers, as written this could potentially allow a project to waive any other development standards. ((S. 65918.53(a)(1) and (b)(1).) This must be fixed by defining what, if any, waivers must be granted to an equitable communities incentive project.
- Rather than inventing a new "sensitive communities" definition and process, using the SB 1000 definition and process would allow communities to understand where this section would apply and to use the recently adopted community plans already completed. (S. 65918.50 (j) and 65918.55.)

If you have any questions, please contact our lobbyist, Sande George, with Stefan/George Associates, sgeorge@stefangeorge.com, 916-443-5301.

Sincerely,



Eric S. Phillips
Vice President, Policy and Legislation - APA California

cc: Governor's Office
Senate Housing Committee
OPR
Republican Caucus