



MEMORANDUM

Date: March 14, 2017

To: Council Members, Sean McGlynn, Gloria Hurtado, Teresa Stricker, Daisy Gomez

From: Liz Licursi

Subject: Oppose Senate Bill 35: Planning and Zoning: Affordable Housing

Attached is the letter of Opposition to Senate Bill 35 (Wiener).

Due to the time constraints and a matter of urgency, the Mayor has signed this letter and it has been sent to the appropriate Committee/Member. You are receiving a copy of the letter and bill, as per Council Policy 000-40.



February 27, 2017

Senator Scott D. Wiener
State Capitol, Room 4066
Sacramento, CA 95814-4900

OPPOSITION TO SENATE BILL 35

Dear Senator Wiener:

The Santa Rosa City Council's top priority is housing, and it has recently put a Housing Action Plan in motion which promotes a multi-program approach to facilitate housing development in the City.

CHRIS COURSEY
Mayor

JACK TIBBETTS
Vice Mayor

JULIE COMBS
ERNESTO OLIVARES
CHRIS ROGERS
JOHN SAWYER
TOM SCHWEDHELM

Features of SB 35 cause concern. The City allows multifamily housing with no discretionary review in multifamily zoning districts. Design review allows for the public to be notified of projects nearby and to participate in the planning process. Elimination of discretionary design review will limit engagement and incorporation of design elements into projects that are important to community members. Objective standards noted in the legislation may not adequately address compatibility, aesthetic issues, or impacts to historic resources.

The bill suggests annual production goals. The Regional Housing Needs Allocation (RHNA) is an eight-year cycle with measurement of residential units permitted and their affordability levels over that period. The bill should provide greater clarity regarding annual construction reporting and specifically how it relates to the RHNA cycle. Local jurisdictions can facilitate, but do not control housing construction.

The City of Santa Rosa opposes Senate Bill 35 and requests that immediate action be delayed to provide local jurisdictions time to fully analyze provisions of this legislation.

Sincerely,

CHRIS COURSEY
Mayor

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AMENDED IN SENATE FEBRUARY 21, 2017

SENATE BILL

No. 35

Introduced by Senator Wiener
(Principal coauthors: Senators Allen and Atkins)

December 5, 2016

An act to amend Section 65582.1 of, and to add Sections 65589.9 and 65913.4 to, the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 35, as amended, Wiener. Planning and Zoning: affordable housing: ~~streamline~~: *streamlined approval process.*

Existing law requires an attached housing development to be a permitted use, not subject to a conditional use permit, on any parcel zoned for multifamily housing if at least certain percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years and if the project meets specified conditions relating to location and being subject to a discretionary decision other than a conditional use permit.

This bill would require an accessory dwelling unit development or a multifamily housing development that satisfies specified planning objective standards to be subject to a streamlined, ministerial approval process, as provided, and to not be subject to a conditional use permit.

The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. Existing law provides for various incentives intended to facilitate and expedite the construction of affordable housing. Existing law requires the Department of Housing and Community Development to determine existing and projected needs for housing for each region and, in consultation with each council of

governments, adopt a final regional housing plan that allocates a share of the regional housing need to each city, county, or city and county that meets specified requirements.

~~This bill would state the intent of the Legislature to enact legislation to streamline, incentivize, and remove local barriers to housing creation, as specified:~~ *require a city, including a charter city, and a county or city and county, including a charter city and county, to submit a report to the Department of Housing and Community Development that includes specified information regarding units of housing that have completed construction and would require the department to post the information contained in the report on its Internet Web site, as provided.*

By imposing new duties upon local agencies with respect to the streamlined approval process and reporting requirement described above, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 65582.1 of the Government Code is
- 2 amended to read:
- 3 65582.1. The Legislature finds and declares that it has provided
- 4 reforms and incentives to facilitate and expedite the construction
- 5 of affordable housing. Those reforms and incentives can be found
- 6 in the following provisions:
- 7 (a) Housing element law (Article 10.6 (commencing with
- 8 Section 65580) of Chapter 3).
- 9 (b) Extension of statute of limitations in actions challenging the
- 10 housing element and brought in support of affordable housing
- 11 (subdivision (d) of Section 65009).
- 12 (c) Restrictions on disapproval of housing developments
- 13 (Section 65589.5).
- 14 (d) Priority for affordable housing in the allocation of water and
- 15 sewer hookups (Section 65589.7).

1 (e) Least cost zoning law (Section 65913.1).

2 (f) Density bonus law (Section 65915).

3 (g) Accessory dwelling units (Sections 65852.150 and 65852.2).

4 (h) By-right housing, in which certain multifamily housing are
5 designated a permitted use (Section 65589.4).

6 (i) No-net-loss-in zoning density law limiting downzonings and
7 density reductions (Section 65863).

8 (j) Requiring persons who sue to halt affordable housing to pay
9 attorney fees (Section 65914) or post a bond (Section 529.2 of the
10 Code of Civil Procedure).

11 (k) Reduced time for action on affordable housing applications
12 under the approval of development permits process (Article 5
13 (commencing with Section 65950) of Chapter 4.5).

14 (l) Limiting moratoriums on multifamily housing (Section
15 65858).

16 (m) Prohibiting discrimination against affordable housing
17 (Section 65008).

18 (n) California Fair Employment and Housing Act (Part 2.8
19 (commencing with Section 12900) of Division 3).

20 (o) Community redevelopment law (Part 1 (commencing with
21 Section 33000) of Division 24 of the Health and Safety Code, and
22 in particular Sections 33334.2 and 33413).

23 (p) *Streamlining housing approvals during a housing shortage*
24 *(Section 65913.4).*

25 *SEC. 2. Section 65589.9 is added to the Government Code, to*
26 *read:*

27 *65589.9. (a) On or before April 1, 2018, and on or before*
28 *April 1 each year thereafter, a city, including a charter city, and*
29 *a county or city and county, including a charter city and county,*
30 *shall submit a report to the Department of Housing and Community*
31 *Development that includes both of the following:*

32 *(1) The number of units of housing that have completed*
33 *construction in the housing element cycle.*

34 *(2) The income category, including very low income, low*
35 *income, moderate income, and above moderate income, each unit*
36 *of housing satisfies.*

37 *(b) The Department of Housing and Community Development*
38 *shall post on its Internet Web site, within a reasonable time after*
39 *receiving the information, the information reported pursuant to*
40 *subdivision (a).*

1 *SEC. 3. Section 65913.4 is added to the Government Code, to*
2 *read:*

3 *65913.4. (a) A development shall be subject to the streamlined,*
4 *ministerial approval process provided by subdivision (b) and shall*
5 *not be subject to a conditional use permit if it satisfies all of the*
6 *following objective planning standards:*

7 *(1) The development is an accessory dwelling unit development*
8 *or a multifamily housing development that contains two or more*
9 *residential units.*

10 *(2) The development is located on a site that satisfies both of*
11 *the following:*

12 *(A) Is an urban infill site as defined by Section 21061.3 of the*
13 *Public Resources Code.*

14 *(B) Is a site zoned for residential use or residential mixed use*
15 *development.*

16 *(3) If the development contains units that are subsidized, the*
17 *development applicant or development proponent already has*
18 *recorded, or is required by law to record, a land use restriction*
19 *that is:*

20 *(A) Fifty-five years for subsidized units that are rented.*

21 *(B) Forty-five years for subsidized units that are owned.*

22 *(4) The development satisfies both of the following:*

23 *(A) Is located in a locality that, according to its last annual*
24 *production report to the Department of Housing and Community*
25 *Development, completed construction of fewer units of housing by*
26 *income category than was required for the regional housing needs*
27 *assessment cycle for that year.*

28 *(B) The development is subject to a requirement mandating a*
29 *minimum percentage of below market rate housing based on the*
30 *following:*

31 *(i) The locality constructed fewer units of above moderate*
32 *income housing than was required for the regional housing needs*
33 *assessment cycle for that year, and dedicated ____ percent of the*
34 *total number of units to below market rate housing, unless the*
35 *locality has adopted a local inclusionary zoning ordinance that*
36 *requires that greater than ____ percent of the units be dedicated*
37 *to below market rate housing, in which case that inclusionary*
38 *zoning ordinance applies.*

39 *(ii) The locality constructed fewer units of very low, low-, or*
40 *moderate-income housing than was required for the regional*

1 housing needs assessment cycle for that year, and dedicated _____
2 percent of the total number of units to below market rate housing,
3 unless the locality has adopted a local inclusionary zoning
4 ordinance that requires that greater than _____ percent of the units
5 be dedicated to below market rate housing, in which case that
6 inclusionary zoning ordinance applies.

7 (5) The development is consistent with objective zoning
8 standards and objective design review standards in effect at the
9 time that the development is submitted to the local government
10 pursuant to this section. For purposes of this paragraph, "objective
11 zoning standards" and "objective design review standards" mean
12 standards that involve no personal or subjective judgment by a
13 public official.

14 (6) The development is not located on a site that is any of the
15 following:

16 (A) A coastal zone, as defined in Division 20 (commencing with
17 Section 30000) of the Public Resources Code.

18 (B) Either prime farmland or farmland of statewide importance,
19 as defined pursuant to United States Department of Agriculture
20 land inventory and monitoring criteria, as modified for California,
21 and designated on the maps prepared by the Farmland Mapping
22 and Monitoring Program of the Department of Conservation.

23 (C) Wetlands, as defined in Section 328.3 of Title 33 of the Code
24 of Federal Regulations.

25 (D) Within a very high fire hazard severity zone, as determined
26 by the Department of Forestry and Fire Protection pursuant to
27 Section 51178, or within a high or very high fire hazard severity
28 zone as indicated on maps adopted by the Department of Forestry
29 and Fire Protection pursuant to Section 4202 of the Public
30 Resources Code. This subparagraph does not apply to sites
31 excluded from the specified hazard zones by a local agency,
32 pursuant to subdivision (b) of Section 51179, or sites that have
33 adopted sufficient fire hazard mitigation measures as may be
34 determined by their local agency with land use authority.

35 (E) A hazardous waste site that is listed pursuant to Section
36 65962.5 or a hazardous waste site designated by the Department
37 of Toxic Substances Control pursuant to Section 25356 of the
38 Health and Safety Code, unless the Department of Toxic Substances
39 Control has cleared the site for residential use or residential mixed
40 uses.

1 (F) Within a delineated earthquake fault zone as determined by
2 the State Geologist in any official maps published by the State
3 Geologist.

4 (G) Within a flood plain as determined by maps promulgated
5 by the Federal Emergency Management Agency, unless the
6 development has been issued a flood plain development permit
7 pursuant to Part 59 (commencing with Section 59.1) and Part 60
8 (commencing with Section 60.1) of Subchapter B of Chapter I of
9 Title 44 of the Code of Federal Regulations.

10 (H) Within a floodway as determined by maps promulgated by
11 the Federal Emergency Management Agency, unless the
12 development has received a no rise certification in accordance
13 with paragraph (3) of subdivision (d) of Section 60.3 of Title 44
14 of the Code of Federal Regulations.

15 (7) The development does not require the demolition of either
16 of the following:

17 (A) Housing that is subject to rent control, housing that is
18 subject to deed restrictions, or any housing that has been occupied
19 by residents within the past 10 years.

20 (B) A historic structure that was placed on a national, state, or
21 local historic register prior to December 31, 2016.

22 (8) It is the intent of the Legislature to amend this section to
23 subject the development to enforceable wage requirements.

24 (b) (1) If the city, including a charter city, or the county or city
25 and county, including a charter city and county, determines that
26 a development submitted pursuant to this section is in conflict with
27 any of the objective planning standards specified in subdivision
28 (a), it shall provide the development proponent written
29 documentation of which standard or standards the development
30 conflicts with, and an explanation for the reason or reasons the
31 development conflicts with that standard or standards, as follows:

32 (A) Within 60 days of submittal of the development to the local
33 government pursuant to this section if the development contains
34 150 or fewer housing units.

35 (B) Within 90 days of submittal of the development to the local
36 government pursuant to this section if the development contains
37 more than 150 housing units.

38 (2) If the city, including a charter city, or the county or city and
39 county, including a charter city and county, fails to provide the
40 required documentation pursuant to paragraph (1), the

1 *development shall be deemed to satisfy the objective planning*
2 *standards specified in subdivision (a).*

3 *(c) Any design review of the development shall be completed*
4 *as follows and shall not in any way inhibit, chill, or preclude the*
5 *ministerial approval provided by this section or its effect, as*
6 *applicable:*

7 *(1) Within 90 days of submittal of the development to the local*
8 *government pursuant to this section if the development contains*
9 *150 or fewer housing units.*

10 *(2) Within 180 days of submittal of the development to the local*
11 *government pursuant to this section if the development contains*
12 *more than 150 housing units.*

13 *(d) A development approved pursuant to this section shall not*
14 *be subject to any local or state parking minimum requirements.*

15 *SEC. 4. No reimbursement is required by this act pursuant to*
16 *Section 6 of Article XIII B of the California Constitution because*
17 *a local agency or school district has the authority to levy service*
18 *charges, fees, or assessments sufficient to pay for the program or*
19 *level of service mandated by this act, within the meaning of Section*
20 *17556 of the Government Code.*

21 ~~SECTION 1. It is the intent of the Legislature to enact~~
22 ~~legislation to streamline and incentivize the creation of affordable~~
23 ~~housing projects, to remove local barriers to creating affordable~~
24 ~~housing in all communities, to streamline, incentivize, and remove~~
25 ~~local barriers to housing creation in jurisdictions failing to meet~~
26 ~~their regional housing needs contained in their housing element,~~
27 ~~and to ensure the payment of prevailing rate of wages in the~~
28 ~~creation of this housing.~~