

TOWNSEND

PUBLIC AFFAIRS

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MEMO

To: City of Cupertino

From: Townsend Public Affairs, Inc.

Date: June 19, 2020

Subject: Consider adopting a position on Assembly Bill 1279 (Bloom) - Planning and zoning: housing development: high-opportunity areas

Summary

AB 1279 requires certain development sites in high resource areas to allow for more density and height and makes these sites subject to "use by-right" approval.

The measure requires the Department of Housing and Community Development (HCD) to designate areas in this state as "high-opportunity areas" no later than January 1, 2022. HCD shall consider any area designated as "highest resource" or "high resource" on the most recent Opportunity Maps adopted by the California Tax Credit Allocation Committee as a potential high-opportunity area. HCD will not be able to designate a location as a high-opportunity area if the area is at risk for displacement of lower income households or if low wage workers in the potential areas do not have significantly longer commutes than other low wage workers within the region. AB 1279 also provides a process by which a city or county can appeal a high-opportunity area within its boundaries.

AB 1279 requires that a housing development project must be a use-by-right in any high-opportunity area if the development satisfies any of the following criteria:

- The residential development is located on a site that is one-quarter acre or larger and is adjacent to an arterial road or located within a central business district and the project consists of up to 50 residential units with a height of up to 40 feet, or the maximum height allowed under local zoning ordinances. Residential projects with 10 or fewer units would need to meet the same affordability parameters as the projects in single-family zones discussed above. Projects of more than 10 units would need to dedicate at least 10% of the units to households with low incomes and 5% to very low incomes.
- If the parcel exceeds one-half acre and is located adjacent to an arterial road or located within a central business district, a project that had at least 25% of its units dedicated to low-income households and 25% to very-low income households would be allowed to have up to 120 residential units with a height of up to 55 feet, or the maximum height allowed under local zoning ordinances. Such a project could receive a density bonus, provided that the total density increase does not exceed eighty percent, if it were to include additional affordable units.

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- An applicant for a residential development project shall agree to the continued affordability of all extremely low, very low, and lower income rental units for at least 55 years.
- A residential development would not be eligible for approval as a use-by-right if the development project is proposed to be located on a site that has currently occupied rental housing or had occupied rental housing within the past 10 years. Additionally, a project would not be eligible if it is located within a coastal zone, prime farmland, wetlands, a hazardous waste site, within a delineated earthquake fault zone, within a special flood hazard area, under conservation easement, or in other specified designated zones.
- Any approval for a residential development project shall expire after two years, except that a project may receive a one-time, one-year extension if the development proponent provides documentation that there has been significant progress toward getting the development construction ready.

Status

AB 1279 was approved by the Assembly on May 29, 2019 with a vote of 46-20. The measure was referred to the Senate Housing Committee and is currently awaiting hearing.

Support

According to the author, "California's housing shortage is well-documented, and it is primarily a shortage of units affordable to households at the lower end of the income spectrum. Facilitating the production of affordable housing units requires increasing allowable residential densities in many communities and creating more opportunities for multifamily development. Allowing these types of projects to be developed by right in the most exclusionary places is crucial to ensuring that they are able to proceed."

Supporters argue that this bill addresses exclusionary zoning practices in high-resource areas, which exacerbate racial and economic segregation and reduce opportunities for lower-wage workers to live close to where they work, and will facilitate mixed-income and affordable housing in high-resource, lower-density communities.

AB 1279 is officially supported by: California Rural Legal Assistance Foundation, Public Advocates, Inc., Western Center on Law and Poverty, and TechEquity Collaborative

Opposition

The opponents to AB 1279 point to a variety of reasons for their opposition, including concerns over state regulation of local land use decisions, the lack of specific definitions of high-resource areas, and the proscriptive nature of the appeals process. Additionally, opponents of the measure question whether or not this measure would actually facilitate significant housing development, given there are numerous other by-right approval bills that have been signed into law in recent years.

AB 1279 is officially opposed by: California State Association of Counties, Urban Counties of California, City of Long Beach, and the City of La Palma.

Potential Impact

If AB 1279 is signed into law, the measure would require the City, if deemed to be in a "high-opportunity area," to approve housing developments that meet certain criteria, as a use by-right.

The local jurisdiction is the appropriate level to conduct land use planning, as it fully incorporates the involvement of local community members. Legislation that provides for housing as a use by right, removes the ability for a local government, and its community members, to have input on aspects of a project that would best serve the local community.

Recommended Action

Adopt an oppose position on AB 1279 and authorize the Mayor to send letters to the state legislature.