

**Metropolitan Transportation Commission and Association of Bay Area Governments  
Joint MTC Legislation Committee and ABAG Legislation Committee**

July 12, 2019

Agenda Item 5b

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**SB 330 (Skinner): Housing Crisis Act of 2019**

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- Subject:** SB 330 aims to accelerate new housing construction by speeding up project approvals; prohibiting downzoning in high-rent, low-vacancy areas; and providing project proponents with a higher degree of certainty as to the rules and standards that apply when submitting a preliminary application for a housing development.
- Background:** MTC and ABAG took a “Seek Amendments” position on SB 330 in May. The bill has since been substantially amended. The following amendments to the bill address our concerns:
- Removal of provisions that would have limited a city’s ability to apply parking minimums;
  - Removal of the provision that would have frozen impact fees at January 1, 2018 levels;
  - Removal of provisions that would have hampered voters’ ability to set supermajority requirements or to require a vote of the people before certain land use changes are made; and
  - Removal of the “look back” provision on allowable densities to allow a developer to build at densities in effect “prior to” January 1, 2018.
- Other substantial amendments made since our May action include:
- Elimination of a provision that would have allowed residents to remain in “substandard buildings” that didn’t meet state building code as long as the code violations were not “health and safety” related;
  - Reduced duration of the bill’s provisions to just five years (through 2025) rather than 2030;
  - Aligns the new requirements related to housing applications with the existing Permit Streamlining Act (1970), rather than creating new duplicative process.
- Discussion:** Staff continues to find SB 330’s provisions related to streamlining zoning-compliant projects reasonable and likely to speed up the construction of new housing in high-rent, low-vacancy jurisdictions throughout the Bay Area. Eight Bay Area cities do not meet the SB 330 high-rent, low vacancy criteria and would therefore be exempted from the bill, as detailed in Attachment A. Many of the concerns raised by MTC and ABAG as well as the Housing Legislative Working Group have been addressed through the amendments to the bill, such as restrictions on imposing minimum parking requirements (struck); requirement that a project be approved within 12 months (struck); cap on impact fees (struck); and the allowance for a developer to build at densities that had been allowed *prior to* January 1, 2018 (struck); and a provision related to occupied substandard buildings (struck).

**Project Approval Acceleration**

Given the amendments made to the bill, it is now focused on providing developers with greater certainty as to what is required when proposing a new housing development in a given jurisdiction and speeding up the overall project review process. Specifically, SB 330 establishes new criteria applicable to determining when a housing development project proponent has submitted a “preliminary application.” The bill has been amended to require that each local agency compile its own checklist

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and application form that applicants for housing development projects can use to submit a preliminary application but also requires the Department of Housing and Community Development to adopt a standardized form for this purpose if a local agency hasn't adopted its own form. This change is responsive to concerns we heard at the Housing Legislative Working Group: Don't mandate that cities use a state form; let them develop the form but rely on HCD if they need to do so. Importantly, the bill includes a list of 13 general categories of information that shall be included in the checklist for a preliminary application to be deemed complete and prohibits a jurisdiction from requiring additional items.

The bill continues to require that a project may not be subject to new ordinances, rules or fees after a preliminary application is submitted except under certain circumstances, such as when necessary for health and safety, to mitigate a project under the California Environmental Quality Act, or the project has not begun construction within three years of receiving final approval. If a project complies with existing zoning and the general plan, the bill provides that a local government may not: (1) require more than five hearings or 2) delay a decision about whether or not to issue a permit beyond 12 months, with an extension allowed in certain circumstances.

**Prohibit Downzoning in Affected Areas**

The bill would prohibit a local agency, or its voters, from (1) adopting any policy that would result in a "less intensive" residential use than what was in effect on January 1, 2018; (2) imposing a moratoria or cap on housing development, unless HCD determines that it is to protect against an immediate health and safety threat for persons residing in or near the area subject to the moratorium or to protect projects identified as existing restricted affordable housing; or (3) imposing or enforcing design standards that are not objective. Importantly, the bill allows for a reduction in residential density if the local agency adjusts zoning elsewhere to ensure no net loss in residential capacity.

Because SB 330 is the most significant "production" related housing policy bill still moving in 2019 and because the major areas of concern expressed by MTC and ABAG in our May action have since been addressed, staff recommends a support position on the bill.

**Recommendation:** Support

**Bill Positions:** See attached

**Attachments:** **Attachment A:** SB 330 (Skinner) Definitions and Affected Cities and Counties in the Bay Area  
**Attachment B:** SB 330 (Skinner) Bill Positions  
**Attachment C:** Preliminary Checklist items

  
Therese W. McMillan

### **Definitions of Affected Cities and Counties in SB 330 (Skinner)**

“Affected city or county” in the bill means a city, or city and certain unincorporated areas of a county, including a charter city, for which the Department of Housing and Community Development determines that the average of both of the following amounts is greater than zero:

- The percentage by which the city’s average rate of rent differed from 130 percent of the national median rent in 2017, based on the federal 2013–2017 American Community Survey 5-year Estimates.
- The percentage by which the vacancy rate for residential rental units differed from the national vacancy rate, based on the federal 2013–2017 American Community Survey 5-year Estimates.

Additionally, “affected city” does not include any city that has a population of 5,000 or less and is not located within an urban core “Affected county” means unincorporated portions of a county that are wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau, for which the Department of Housing and Community Development determines that the average of both of the following amounts is greater than zero:

- The percentage by which the average rate of rent for residential uses in the unincorporated portions of the county that are wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau, differed from 130 percent of the national median rent in 2017, based on the federal 2013-2017 American Community Survey 5-year Estimates.
- The percentage by which the vacancy rate for residential rental units in the unincorporated portions of the county that are wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau, differed from the national vacancy rate, based on the federal 2013-2017 American Community Survey 5-year Estimates.

### **Affected Cities and Counties in the Bay Area**

The following cities are NOT considered “affected cities” for purposes of the bill:

- Belvedere, Marin County
- Ross, Marin County
- Yountville, Napa County
- Los Altos Hills, Santa Clara County
- Monte Sereno, Santa Clara County
- City of Brisbane, San Mateo County
- Town of Colma, San Mateo County
- Town of Portola Valley, San Mateo County

All other Bay Area cities are considered affected cities.

**SB 330 (Skinner) Bill Positions**

**Support**

Bay Area Council  
Bridge Housing Corporation  
Building Industry Association of the Bay Area  
California Apartment Association  
California Association of Realtors  
California Building Industry Association  
California Chamber of Commerce  
California Community Builders  
California-Hawaii State Conference of the NAACP  
California YIMBY  
Chan Zuckerberg Initiative  
East Bay for Everyone  
East Bay Leadership Council  
Eden Housing  
Emerald Fund  
Enterprise Community Partners  
Facebook  
Hamilton Families  
Local Government Commission  
Martin Luther King Jr. Freedom Center  
MidPen Housing Corporation  
Non-Profit Housing Association of Northern California  
North Bay Leadership Council  
Oakland Metropolitan Chamber of Commerce  
Orange County Business Council  
PICO California  
Related California  
The San Francisco Foundation  
San Francisco Housing Action Coalition  
Santa Cruz YIMBY  
Silicon Valley At Home  
Silicon Valley foundation  
SPUR  
Terner Center for Housing Innovation  
TMG Partners  
Urban Displacement Project, UC-Berkeley  
Working Partnerships USA

**Oppose**

AIDS Healthcare Foundation  
Association of California Cities - Orange County  
Boyle Heights Community Partners  
Cities Association Of Santa Clara County  
City of Bellflower  
City of Beverly Hills  
City of Burbank  
City of Camarillo  
City of Cloverdale  
City of Clovis  
City of Cupertino  
City of Downey  
City of Garden Grove  
City of Glendale  
City of La Mirada  
City of Laguna Hills  
City of Los Alamitos  
City of Mountain View  
City of Novato  
City of Orinda  
City of Paramount  
City of Pasadena  
City of Rancho Cucamonga  
City of San Carlos  
City of San Dimas  
City of San Marcos  
City of Solana Beach  
City of Thousand Oaks  
City of Torrance  
City of Tulare  
City of Ventura  
City of Vista  
Coalition for Economic Survival  
Coalition for San Francisco Neighborhoods  
Coalition for Valley Neighborhoods  
Coalition to Preserve LA  
Cultural Action Network  
Dolores Heights Improvement Club  
East Mission Improvement Association  
Environmental Defense Center  
Grayburn Avenue Block Club  
Individuals Opposed to SB 330

**Oppose, cont'd.**

Jorge Castaneda  
Keep Sunnyvale Beautiful  
League of California Cities  
Livable California  
Los Angeles County Division, League of  
California Cities  
Marin County Council of Mayors and  
Council Members  
Paul Koretz, Councilmember, City of Los  
Angeles

San Gabriel Valley Council of Governments  
Save our Heritage Organization  
Solano County Board of Supervisors  
South Bay Cities Council of Governments  
Spaulding Square Neighborhood  
Association  
Sustainable TamAlmonte  
Town of Colma  
Ventura Council of Governments  
Individuals - 96

**Oppose Unless Amended**

California State Association of Counties  
City of Morgan Hill  
Urban Counties of California

**SB 330 (Skinner) Preliminary Application Checklist**

Section 65941.1 (a) specifies the following information shall be included in a preliminary application for it to have been deemed submitted:

- (1) The specific location, including parcel numbers, a legal description, and site address, if applicable.
- (2) The existing uses on the project site and identification of major physical alterations to the property on which the project is to be located.
- (3) A site plan showing the location on the property, elevations showing design, color, and material, and the massing, height, and approximate square footage, of each building that is to be occupied.
- (4) The proposed land uses by number of units and square feet of residential and nonresidential development using the categories in the applicable zoning ordinance.
- (5) The proposed number of parking spaces.
- (6) Any proposed point sources of air or water pollutants.
- (7) Any species of special concern known to occur on the property.
- (8) Any portion of the property located within any of the following:
  - (A) A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178.
  - (B) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
  - (C) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code.
  - (D) A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency.
  - (E) A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.
- (9) Any historic or cultural resources known to exist on the property.
- (10) The number of proposed below market rate units and their affordability levels.
- (11) The number of bonus units and any incentives, concessions, waivers, or parking reductions requested pursuant to Section 65915.
- (12) Whether any approvals under the Subdivision Map Act, including, but not limited to, a parcel map, a tentative map, or a condominium map, are being requested.
- (13) The applicant's contact information and, if the applicant does not own the property, consent from the property owner to submit the application.