



MEMO TO: SENATE TRANSPORTATION AND HOUSING COMMITTEE
FROM: APA CALIFORNIA
DATE: JULY 3, 2017
SUBJECT: **OPPOSE UNLESS AMENDED – AB 1397 (LOW) – HOUSING ELEMENT SITE INVENTORY RESTRICTIONS – IN SENATE TRANSPORTATION & HOUSING COMMITTEE – TUESDAY, JULY 11TH**

The American Planning Association, California Chapter (APA California) has reviewed the July 3, 2017 amendments to AB 1397. The amendments include a number of changes suggested by APA, which are appreciated. However, APA continues to have a number of major concerns with AB 1397 as currently drafted. The bill would place restrictions on the ability of cities and counties to designate non-vacant sites as suitable for housing development, even in built out jurisdictions with few if any vacant housing sites, and includes a long list of new mandates without any funding to accomplish these detailed changes. These detailed requirements would also be imposed on jurisdictions that are following the law and have a housing element deemed in compliance with housing element law by HCD.

APA supports the provisions in the bill that would make it easier for affordable housing to be built: any site designated for lower income housing must allow by-right development of an 100% affordable project. This could make a difference for affordable housing developers competing with market-rate developers for the same sites and will speed up production of those affordable units.

APA also understands that the goal of the bill is to prohibit the designation of sites that are in reality not feasible for development. But, there are pages of restrictions in existing law on the sites that can be identified in the inventory as suitable for development. APA is willing to deal with specific deficiencies in existing law and have suggested additional amendments to do that -- but is concerned that without these amendments, cities and counties will not be able to identify enough sites to meet the RHNA requirements. Requirements for cities and counties to ensure utilities are available to serve the site, which are not provided by the city or county, must be amended to allow jurisdictions to use information provided by the utility provider and forecasts of availability.

Below are the remaining sections of highest concern and suggested amendments:

1. 65583(a)(3): Page 5, lines 12-17:

(3) An inventory of land suitable and available for residential development during the planning period, including vacant sites and sites having realistic and demonstrated potential for redevelopment to meet a portion of the locality's

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housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites.

2. 65583.2(b)(5); Page 15, lines 32-40:

(5) (A) A description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities.

(B) Parcels included in the inventory must have sufficient a water, sewer, and dry utilities supply available and accessible to support housing development during the planning period. The local agency may rely on a determination of availability and accessibility in the Urban Water Management Plan, a sewer collection system master plan or availability and access to water, sewer, and dry utilities may be determined or be included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity providing water or sewer service, to secure that forecasts a sufficient water, sewer, and dry utilities supply to support housing development. This paragraph does not impose any additional duty on the city or county to construct, finance, or otherwise provide water, sewer, or dry utilities to parcels included in the inventory.

3. 65583.2(c)(2); Page 17, lines 6-12:

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583, the realistic development capacity for the site, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities based upon the planning documents of water and sewer providers ~~within three years of the beginning of the planning period.~~

4. 65583.2(c)(2)(A); Page 17, lines 13-21:

(A) A site smaller than ~~one~~ one-half acre shall not be deemed realistic for development adequate to accommodate lower income housing need unless...

5. 65583.2(c)(2)(B); Page 17, 22-27:

~~(B) The capacity of a site zoned for development at densities that exceed the maximum density of existing or approved multifamily residential development shall be calculated at the densities required by paragraph (3) unless a development at a greater density has been proposed and approved for development on the site.~~

6. 65583.2(c)(2)(C); Page 17, lines 28-33:

(C) A site larger than 10 acres shall not be deemed realistic for development adequate to accommodate the jurisdiction's total lower income housing need only unless the locality...

7. 65583.2(g)(1):

(g)(1) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may demonstrate that the existing use identified pursuant to paragraph (3) of subdivision (b) does not constitute an impediment to additional residential development during the period covered by the element. An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued during the planning period.

This shall include an analysis of the jurisdiction's past experience with converting existing uses to

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higher density residential development, the current market demand for the existing use, ~~an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development,~~ development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

If you have any questions, please contact APA California's lobbyists, Sande George or Lauren De Valencia with Stefan/George Associates, 916-443-5301 or sgeorge@stefangeorge.com and lauren@stefangeorge.com.

cc: Senate Transportation & Housing Committee
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