January 15, 2016

To: APA California Board of Directors

From: John C. Terell AICP, VP Policy & Legislation

RE: APA California Sponsored Legislation 2016

From time to time, APA California sponsors legislation on planning related issues. Such sponsorship would include providing draft bill language, enlisting a legislative sponsor and working with legislators to support the legislation. Based on discussions and issues raised over the past year, I am recommending that the Board authorize two issues for sponsorship in 2016.

The first issue is a bill that would mandate by right housing for sites identified in a certified housing element. With continued recovery from the recent recessions, housing costs in coastal and other parts of the State are once again unaffordable for broad categories of residents. A major State report issued during the year identified a list of potential remedies, including process and environmental review reforms to increase project approval certainty and decrease processing timeframes.

One relatively non-controversial way to encourage additional housing supply to meet the increased demand is by right housing for sites identified to meet the requirements for a certified housing element. Some provision would be included to apply to general plan designated sites for those jurisdictions without a certified housing element to avoid any adverse impact on those jurisdictions in compliance with State law. As initially defined, by right housing projects would not be subject to any special permits (e.g. conditional use permits) if located on approved sites and in conformance with generally applicable local codes, including design review and current zoning for the sites. The intent is to limit the applicability to infill sites as an additional incentive to develop such sites over green field areas.

Both legislative and State Treasurer’s Office staffs, which has been tracking recent housing element task force meetings, have expressed an interest in discussions on the issue. No potential sponsor has been identified.

This issue would be pursued expeditiously for introduction in 2016 if authorized by the Board. The issue is consistent with the adopted 2015-16 Legislative Policy.

The second issue is a bill that would bar local government provisions to require hold harmless or litigation guarantee provisions in planning contracts. Taken to the extreme, a planning consultant would be required to defend against a lawsuit challenging a legislative action based on the consultant’s work.

All other project design professionals (engineers, architects and landscape architects) are currently protected from such requirements by State law. This issue was raised by a consultant planner member and supported by several others, indicating a relatively pervasive concern.

Since the other professions are currently State-licensed, research and discussions with legislative staffs will be required prior to drafting legislation. Therefore, this issue will most likely be prepared for introduction in 2017. The issue is not mentioned in the adopted 2015-16 Legislative Policy, but would not be inconsistent with any of its provisions.