



American Planning Association  
**California Chapter**

*Making Great Communities Happen*

March 22, 2018

Assembly Member Laura Friedman  
Room 2137  
State Capitol  
Sacramento, California 95814

SUBJECT: **AB 2753 (FRIEDMAN) – NOTICE OF OPPOSITION UNLESS  
AMENDED – TIMELINE FOR DETERMINATION OF DENSITY  
BONUS – IN ASSEMBLY HOUSING & COMMUNITY  
DEVELOPMENT AND LOCAL GOVERNMENT COMMITTEES**

Dear Assembly Member Friedman:

The American Planning Association, California Chapter (APA California) must respectfully oppose AB 2753 unless amended. We appreciate your staff working with APA prior to the bill being introduced. Unfortunately, though, AB 2753 as introduced still creates an unrealistic timeline for local governments to grant a density bonus and any accompanying waivers and concessions. Such a timeline is not only infeasible for the local government for a number of reasons, it will not be a benefit to the developer either.

AB 2753 would add in the Density Bonus statute a provision that was eventually removed from AB 2501 before it was passed two years ago. Like AB 2753, AB 2501 would also have required a city or county to make a written determination on whether the applicant's density bonus (DB) application is complete within 30 calendar days of receipt or within 10 days for resubmittal of an application. In addition, the city or county, within 60 calendar days after determining an application is complete, would have been required to act to approve or disapprove the density bonus. If the review and approval by the deadlines are not met, the application would have been deemed complete and the requested bonus is granted.

We understand that the goal of this proposal is to give the developer a very quick approval of the density bonus. However, such short timelines for final **approval** of the Density Bonus requests were ultimately determined not to be feasible or benefit the developer. As a result, the sponsors of AB

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2501 removed those changes and instead required all cities and counties to adopt procedures and timelines for processing a density bonus application; provide a list of submittal requirements; and notify applicants whether the application is complete as required by the Permit Streamlining Act. This process still provides certainty and makes sense for the city and county, and the developer. APA recommends that AB 2753 be amended to also remove these unworkable timelines.

It would be possible, though, for local agencies to determine if the project is **eligible** for a density bonus and parking reductions within 30-60 days, and APA would be willing to work with you on such an amendment to the bill.

Without that change, APA must oppose the bill for the following reasons:

1. The 30-days is too short a time frame for applications for a density bonus that are filed in conjunction with another land use approval (e.g. conditional use permit, subdivision map, etc.). Most applications for a density bonus are made in conjunction with an application for a land use approval that requires a public hearing and takes longer to process. In addition, making a decision on incentives and waivers before review of the entire application is completed isn't feasible. Typically, a jurisdiction will process the granting of the density bonus in conjunction with the processing of the application, so everything can be processed at once – for instance, if a tentative map is approved for 180 units, a project with a density bonus giving more than 180 units wouldn't be consistent with the tentative map. The density bonus decisions need to be incorporated in the project approvals.
2. A city **cannot** grant a density bonus before it approves the project for which the density bonus is requested. Even if final approval were feasible, planning staff does not have the authority to make such a final determination during the application process. The determinations would have to go to the approval body - staff doesn't have the authority to say yes or no. Staff can determine if a project meets the standards for a DB and the parking incentive, and whether the information for waiver and concessions has been provided. The determination though whether it needs a waiver (because it can't fit on the site with a density bonus) or incentive (for feasibility reasons) depends substantially on being able to review the complete project, and **final approval** of the DB is almost always required to be approved by the Board or Council.
3. To further explain the determination of **eligibility** for a density bonus and parking, a city or county could tell the developer if a project qualifies for a DB requested, and the parking incentives, because those are fixed standards – the project either qualifies or it does not. Incentives and waivers are much more difficult because they depend on the complete processing of the application. Waivers in particular are difficult. For instance, there will be a small number of units in the DB, but the jurisdiction must look at the grading plan for the entire project, so it is hard to say whether a waiver is needed or not until the project is finalized – this is true for both the city or county and the developer. And the developer may decide to change the project late in the process: if CEQA review requires mitigation for instance that the developer decides would be too onerous and instead changes the project to eliminate the need for the mitigation. It is not to the advantage of the developer to redesign the project before final approval if

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a certain concession ends up not being acceptable and other alternatives might be better, which also depends on the final review of the plans.

4. The bill would impose the same timelines on hugely different scales of projects – 6 single family homes vs a 2,000-unit subdivision, for instance. If a project does need environmental review, a detailed response before that review is completed and mitigation is determined also won't be beneficial to the applicant.

If the bill requires localities to state within 30 days whether the project is **eligible** for a density bonus and parking reductions, that is easy to do. But the final density bonus, incentives and waivers are subject to findings and analysis that depend on what the ultimate project looks like. APA California would be willing to work with you on our suggested amendments, but APA cannot support the bill as currently written.

If you have any questions, please contact our lobbyist, Sande George, with Stefan/George Associates, [sgeorge@stefangeorge.com](mailto:sgeorge@stefangeorge.com), 916-443-5301.

Sincerely,

*John C. Terell*

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Vice President, Policy and Legislation  
APA California

cc: Governor's Office  
Assembly Housing & Community Development Committee  
Assembly Local Government Committee  
OPR  
Republican Caucus

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