



American Planning Association  
**California Chapter**

*Making Great Communities Happen*

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MEMO TO: SENATE TRANSPORTATION & HOUSING COMMITTEE

FROM: AMERICAN PLANNING ASSOCIATION, CALIFORNIA CHAPTER

DATE: APRIL 12, 2018

SUBJECT: **SB 827 (WIENER) – NOTICE OF OPPOSITION AS AMENDED**  
**OVERRIDING LOCAL ZONING NEAR TRANSIT**  
**IN SENATE TRANSPORTATION & HOUSING COMMITTEE**  
**TUESDAY, APRIL 17TH**

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The American Planning Association, California Chapter (APA California) must respectfully **continue to oppose SB 827 as amended April 9th**. SB 827 as amended would require a local government, if requested, to grant a “transit-rich” housing bonus to a development proponent of a “transit-rich” housing project located near transit by eliminating specific local land use authority.

APA California continues to oppose the bill’s main goal: to alter state policy to replace local land use planning with a state-mandated one-size fits all approach for every city and county, in areas as diverse as San Francisco and Redding. The approach in SB 827 provides no planning flexibility and does not take into consideration what is currently on the ground, what cities and counties have already accomplished to increase density around transit, or the detrimental consequences to existing affordable housing that the bill’s significant benefits to developers would encourage. This bill would overrule public input in the local decision-making process, which is an essential feature of planning and zoning law, making it even more difficult for California’s cities and counties to achieve the balanced community planning historically supported (and mandated) by state law. APA California believes the approach in SB 827 will adversely impact all housing development, including multifamily housing, and set a troubling precedent for further diminishing of local land use planning in future legislation.

APA California understands and supports the goal of increasing the number of new multifamily housing units rather than low-density housing around transit stops – it is one of APA’s principles to support density, affordability and inclusive communities near transit and throughout the community. **APA**

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California would support revising existing planning and Transit Oriented Development laws to increase density and affordability requirements near transit stops by requiring a minimum density and affordability standard on vacant and redeveloping properties -- and allowing each jurisdiction to figure out how best to meet those minimums. Strong protections for existing housing and tenant must also be part of that process.

But, SB 827 does much more than set a new mandate for density. It would override local planning efforts including longstanding General Plan land use plans in stable, builtout communities, Housing Elements certified by HCD, Sustainable Communities Strategies, development agreements, specific plans, and Transit Oriented Developments. The amendments to the bill also now appear to provide several opportunities for developers near transit to avoid including any housing affordable to low and very low-income residents in these projects.

The amendments also add a new definition of “maximum allowable residential density” to mean “the density allowed under the zoning ordinance and land use element of the general plan” or “the maximum allowable density for the specific zoning range and land use element of the general plan.” It also states that if the density allowed under the zoning ordinance “is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.” APA strongly objects to this new definition, which is similar to but different than a concept conceived in SB 35. The General Plan and the land use element were never intended to be as specific as a zoning ordinance – it covers different areas of the city with general categories. This major change would take away the whole purpose of the General Plan being general and would eliminate the long-standing relationship between the General Plan and zoning, forcing the General Plan map to be like the much more specific zoning map. This would make a major and fundamental change to a very general document after it has been approved. However, if the bill is amended to instead allow the developer to use the density specified in the housing element or zoning ordinance for a specific site, whichever is higher, APA would support that change. The housing element is the most detailed element in the General Plan and includes site-specific density information certified by HCD.

APA appreciates the amendments to provide a delayed effective date, parking minimums in some cases, and recognition that the original 85-foot height requirement for projects in every community near transit was not appropriate. However, the amendments retain mandatory heights of 45-55 feet and a long list of other exemptions from local planning. They also add significant complexity and unexplained new terms and processes, particularly related to displacement of existing tenants, the meaning of “specific adverse impact” and even what constitutes an inclusionary housing ordinance.

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APA California is willing to work with you to craft legislation to increase density around major transit stops using approaches like minimum density and affordability standards as suggested. However, APA cannot support a bill that begins to eliminate or otherwise diminishes local land use planning through an arbitrary blanket standard applicable to every unique community in California without any regard for existing local circumstances.

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*

John C. Terell, AICP  
Vice President, Policy and Legislation  
APA California

cc: Governor's Office  
Senate Transportation and Housing Committee  
Senate Local Government Committee  
OPR  
Republican Caucus

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