CEQA Reform in the COVID Era? The California Senate Housing Production Package Moves Forward

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Key Points

- A five bill, California Senate housing package heads to Appropriations after unanimously passing key committee votes last week.
- CEQA streamlining, increasing density, and affordable housing remain top priorities, including one bill seeking to incentivize commercial use conversion to residential use.

Legislative Highlights

A package of five potentially impactful housing bills moved forward in the California Senate last week, as Senators continue to seek creative ways to address the state’s housing crisis. These issues will no doubt take on even more urgency than usual due to financial and housing pressures exacerbated by COVID-19. Given the pandemic’s predicted strain on state budgets, each bill seeks a lower-cost alternative to funding affordable housing by modifying the California Environmental Quality Act (CEQA) and its potential regulatory obstacles to increasing housing production. The legislative highlights include:

- Creating a local government policy streamlining tool to increase density in targeted areas, up to 10 housing units per parcel.
- Allowing cities to more easily convert office or retail commercial use to housing development.
- Increasing density bonuses for housing projects meeting certain affordable housing criteria.
- Expanding expedited judicial review to affordable housing projects valued at over $15 million and simplifying duplex creation for individuals.

With one exception, each bill is scheduled to be considered by the California Senate Appropriations Committee on Monday, June 8th.

2020 California Senate Housing Package Summary

SB 902 (Wiener). The primary impact of SB 902 would be allowing, but not requiring, local governments to create zoning ordinances that bypass CEQA review for housing developments...
up to 10 units. To qualify, the development cannot include existing home demolition and must also be in or on a transit-rich area (within a half-mile of a major transit stop or on a high quality bus corridor parcel), a jobs-rich area, or an urban infill site. Adopting the zoning ordinance itself would also not be subject to CEQA review. The California Senate Housing Committee unanimously approved SB 902.

**SB 1385 (Caballero).** Known as the Neighborhood Homes Act, SB 1385 would potentially address two critical issues at once by expanding California’s housing stock while also repurposing struggling or vacant commercial centers. As proposed, the bill would:

- Streamline new housing development, including mixed-use projects, by increasing the available land for residential projects, thereby helping cities and counties satisfy rezoning obligations under the Regional Housing Needs Assessment (RHNA).
- Allow upzoning “neighborhood lots” currently zoned for office or retail commercial use, as long as the project meets certain density, design, and other development standards. Permitting processes that apply would in effect be borrowed from certain other city or county zones that allow high-density residential developments, generally for projects with 20 or more units. This flexibility would increase the chances for underutilized commercial properties to be adaptively reused for residential housing, likely in the form of low-rise apartments, townhomes, and condominiums.
- Extend SB 35’s ministerial, CEQA exempt housing approval process to commercial and retail locations that (a) satisfy any objective zoning, design, and subdivision standards that apply to the neighborhood lot due to SB 1385; (b) are vacant or under fifty percent occupied for at least three years before the project application submittal; (c) meet all other SB 35 requirements.

The bill would not alter obligations under existing environmental, public health, labor, or housing laws, including CEQA related ordinances and coastal requirements. The Senate Government and Finance Committee unanimously approved SB 1385.

Three other bills are also part of this year’s Senate housing package.

- **SB 1085 (Skinner)** provides density bonuses of up to 35% if 20% of the units have rents at least 30% below the project area’s market rate. The bill, which unanimously passed the Senate Housing Committee, is targeted to assist very low-income residents and low-income college students through measures such as barring local governments from levying impact fees on a project’s affordable units.
- **SB 1120 (Atkins)** would make small scale, infill development project approval for individual owners a ministerial decision without discretionary review or hearing. The bill is projected by some sources to permit as many as 800,000 new housing units across California by simplifying the process of building duplexes converting large single-family lots to subdivided lots with two duplex homes. The bill unanimously passed the Government and Finance Committee.
- **SB 995 (Atkins)** involves an expansion of the AB 900 expedited CEQA judicial review provisions to now include $15 million or greater projects that also have at least 15% affordable housing and dedicate at least two-thirds of the project for residential use. The bill unanimously passed the Senate Environmental Quality Committee but is not at the time of this publication scheduled to be considered by the Senate Appropriations Committee at its June 8th meeting.

**What Happens Next?**

We will continue tracking these bills as they move to the Senate Appropriations Committee next week. The trend to streamline CEQA for housing projects is not new but may have stronger political will in the midst of the COVID-19 pandemic. Notably, **SB 950**, designed to expand CEQA’s procedural and substantive reach,
failed passage last week in the Environmental Quality Committee but will likely be reconsidered. The California State Assembly is also moving several housing production bills forward this year that seek to reduce duplicative CEQA review. We are tracking these bills as well and will share additional alerts as the respective legislative tracks become clearer.

For more information about this legislation or any other land use issue you are facing, please contact the authors or the Hanson Bridgett Land Use Group. You can also follow @Cal_LandUseLaw on Twitter.

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