



# MEMORANDUM

Agenda Item #: 7  
Meeting Date: July 28, 2020

**TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS**

**FROM: LAURA GUGLIELMO, CITY MANAGER**

**SUBJECT: CONSIDERATION OF AND POSSIBLE ACTION TO AUTHORIZE THE MAYOR TO SIGN A LETTER IN OPPOSITION TO SENATE BILL 902**

**DATE: JULY 28, 2020**

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**ACTION REQUIRED**  **CONSENT**  **RECEIVE & FILE**

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## **Recommendation**

It is recommended that the City Council authorize the Mayor to sign a letter in opposition to Senate Bill 902 (SB 902.)

## **Summary**

On March 9, Senator Scott Wiener introduced SB 902, the latest incarnation of his legislation aiming to boost the production of multi-family housing across the state. Described as a “light touch” version of his previous defeated housing bill, SB 50, the legislation included a proposal to allow by-right construction of duplex, triplex and fourplex residential developments in single-family neighborhoods, depending on city population. SB 902 was amended in May to remove these by-right provisions. The latest version of the bill allows, but does not require, local governments to adopt zoning ordinances that bypass California Environmental Quality Act (CEQA) review for housing developments of up to ten units per parcel, at a height specified in the ordinance, if the parcel is located in a transit-rich area, a jobs-rich area, or an urban infill site.

While these changes ensure that the City of Palos Verdes Estates is not required to allow the greater density described in SB 902, the legislation still has the potential to negatively impact our City and other cities that do not elect to use the zoning tool created by the bill. If a neighboring city were to rezone a parcel for such a project along the city border, residents would be impacted, but would be unable to voice their concerns via the CEQA review process. Palos Verdes Estates borders three cities: Rancho Palos Verdes,

Torrance and Rolling Hills Estates. Additionally, SB 902's definition of "jobs-rich areas" is unclear. The bill leaves these areas to be determined by the Department of Housing and Community Development and the Office of Planning and Research. For these reasons, staff recommends the City Council authorize the Mayor to sign a letter to Senator Wiener, as drafted, or with revisions, opposing SB 902.

**Alternatives**

1. Do not authorize the Mayor to sign a letter in opposition to SB 902;
2. Provide alternative direction to Staff

**Fiscal Impact**

There is no fiscal impact associated with this proposed action.

**Notification**

This matter has been agendaized and posted in the routine manner.

**ATTACHMENTS:**

- A. Draft letter in opposition to SB 902
- B. Text of SB 902 as amended May 21, 2020

July 28, 2020

The Honorable Scott Wiener  
California State Senate State Capitol, Rm. 5100  
Sacramento, CA 95814

SUBJECT: Notice of Opposition to SB 902 Dear Senator Wiener:

The City of Palos Verdes Estates thanks you for the attention you have given to the concerns raised by our City and others with regard to legislative efforts to streamline the production of multi-unit housing in our communities. We are writing today, however, to voice our opposition to SB 902. While we appreciate the removal of provisions that would allow by-right construction of duplexes, triplexes and fourplexes in single-family zones, we remain concerned that this bill still has the potential to negatively impact cities that do not elect to use the zoning tool it creates. If a neighboring city were to rezone a parcel for a project of up to 10 units along the city border, our residents would be impacted, but would be unable to voice their concerns via the CEQA review process. Additionally, SB 902 leaves “jobs-rich areas” to be determined by the Department of Housing and Community Development and the Office of Planning and Research. More specificity is needed to meaningfully understand where these projects could be built. For these reasons, the City of Palos Verdes Estates opposes SB 902.

Sincerely,

David McGowan, Mayor

cc: Ben Allen, Senator, 26th State Senate District  
Al Muratsuchi, Assembly Member, 66th Assembly District  
Jeff Kiernan, League of California Cities  
Meg Desmond, League of California Cities  
Marcel Rodarte, California Contract Cities Association  
Palos Verdes Estates City Council  
Laura Guglielmo, City Manager  
Kylynn Chaney, City Clerk

AMENDED IN SENATE MAY 21, 2020

AMENDED IN SENATE MARCH 9, 2020

**SENATE BILL**

**No. 902**

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**Introduced by Senator Wiener**  
*(Principal coauthor: Senator Atkins)*

January 30, 2020

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An act to add Section 65913.3 to the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 902, as amended, Wiener. Planning and zoning: ~~neighborhood multifamily project: use by right:~~ *housing development:* density.

The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. Existing law requires an attached housing development to be a permitted use, not subject to a conditional use permit, on any parcel zoned for multifamily housing if at least certain percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years and if the project meets specified conditions relating to location and being subject to a discretionary decision other than a conditional use permit. Existing law provides for various incentives intended to facilitate and expedite the construction of affordable housing.

~~Existing law, until January 1, 2026, authorizes a development proponent to submit an application for a multifamily housing development that satisfies specified planning objective standards to be subject to a streamlined, ministerial approval process, as provided, and not subject to a conditional use permit.~~

~~This bill would provide that a neighborhood multifamily project is a use by right in zones where residential uses are permitted if the project is not located in a very high fire severity zone, does not demolish sound rental housing or housing that has been placed on a national or state historic register, follows specified local objective criteria, and meets specified density requirements. The bill would define use by right to mean that the local government's review of the housing development may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a project for purposes of the California Environmental Quality Act (CEQA).~~

~~This bill would additionally authorize a local government to pass an ordinance *ordinance, notwithstanding any local restrictions on adopting zoning ordinances*, to zone any parcel for up to 10 units of residential density per parcel, at a height specified by the local government in the ordinance, if the parcel is located in a transit-rich area, a jobs-rich area, or an urban infill *site, as those terms are defined. In this regard, the bill would require the Department of Housing and Community Development, in consultation with the Office of Planning and Research, to determine jobs-rich areas and publish a map of those areas every 5 years, commencing January 1, 2022, based on specified criteria.* The bill would specify that an ordinance adopted under these provisions is not a project for purposes of ~~CEQA: the California Environmental Quality Act.~~~~

~~CEQA requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.~~

~~By requiring local planning officials to approve housing developments as a use by right under certain circumstances, this bill would expand the above-described exemption from CEQA for the ministerial approval of projects.~~

By adding to the duties of local planning officials, this bill would impose a state-mandated local program.

This bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~-no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 65913.3 is added to the Government  
2 Code, to read:

3 ~~65913.3. (a) A neighborhood multifamily project shall be a~~  
4 ~~use by right in zones where residential uses are permitted, if the~~  
5 ~~proposed housing development satisfies all of the following~~  
6 ~~requirements:~~

7 ~~(1) The project is not located in a very high fire hazard severity~~  
8 ~~zone.~~

9 ~~(2) The project does not demolish sound rental housing or~~  
10 ~~housing that has been placed on a national or state historic register.~~

11 ~~(3) The project follows all local objective criteria related to local~~  
12 ~~impact fees, local height and setback limits, and local demolition~~  
13 ~~standards.~~

14 ~~(4) The project meets, and does not exceed, one of the following~~  
15 ~~densities:~~

16 ~~(A) Two residential units per parcel in unincorporated areas or~~  
17 ~~in cities with a population of 10,000 or fewer people.~~

18 ~~(B) Three residential units per parcel in cities with a population~~  
19 ~~between 10,000 and 50,000 people.~~

20 ~~(C) Four residential units per parcel in cities with a population~~  
21 ~~of 50,000 or more people.~~

22 ~~(b)~~

23 ~~65913.3. (a) (1) A local government may pass an ordinance,~~  
24 ~~notwithstanding any local restrictions on adopting zoning~~  
25 ~~ordinances enacted by the jurisdiction, including restrictions~~

1 enacted by a local voter initiative, that limit the legislative body’s  
2 ability to adopt zoning ordinances, to zone any parcel for up to 10  
3 units of residential density per parcel, at a height specified by the  
4 local government in the ordinance, if the parcel is located in one  
5 of the following:

6 (A) A transit-rich area.

7 (B) A jobs-rich area.

8 (C) An urban infill site.

9 (2) An ordinance adopted in accordance with this subdivision  
10 shall not constitute a “project” for purposes of Division 13  
11 (commencing with Section 21000) of the Public Resources Code.

12 (e)

13 (b) For purposes of this section:

14 (1) “High-quality bus corridor” means a corridor with fixed  
15 route bus service that meets all of the following criteria:

16 (A) It has average service intervals of no more than 15 minutes  
17 during the three peak hours between 6 a.m. to 10 a.m., inclusive,  
18 and the three peak hours between 3 p.m. and 7 p.m., inclusive, on  
19 Monday through Friday.

20 (B) It has average service intervals of no more than 20 minutes  
21 during the hours of 6 a.m. to 10 a.m., inclusive, on Monday through  
22 Friday.

23 (C) It has average intervals of no more than 30 minutes during  
24 the hours of 8 a.m. to 10 p.m., inclusive, on Saturday and Sunday.

25 (2) (A) “Jobs-rich area” means an area identified by the  
26 Department of Housing and Community Development in  
27 consultation with the Office of Planning and Research that is high  
28 opportunity and either is jobs rich or would enable shorter commute  
29 distances based on whether, in a regional analysis, the tract meets  
30 both of the following:

31 (i) The tract is high opportunity, meaning its characteristics are  
32 associated with positive educational and economic outcomes for  
33 households of all income levels residing in the tract.

34 (ii) The tract meets either of the following criteria:

35 (iii) New housing sited in the tract would enable residents to  
36 live near more jobs than is typical for tracts in the region.

37 (iv) New housing sited in the tract would enable shorter  
38 commute distances for residents, relative to existing commute  
39 patterns and jobs-housing fit.

1 (B) The Department of Housing and Community Development  
2 shall, commencing on January 1, 2022, publish and update, every  
3 five years thereafter, a map of the state showing the areas identified  
4 by the department as “jobs-rich areas.”

5 (3) (A) “Sound rental housing” means any of the following:

6 (i) ~~Housing that is subject to a recorded covenant, ordinance,~~  
7 ~~or law that restricts rents to levels affordable to persons and~~  
8 ~~families of moderate, low, or very low income.~~

9 (ii) ~~Housing that is subject to any form of rent or price control~~  
10 ~~through a public entity’s valid exercise of its police power.~~

11 (iii) (I) ~~Housing occupied by tenants within the seven years~~  
12 ~~preceding the date of the application, including housing that has~~  
13 ~~been demolished or that tenants have vacated before the application~~  
14 ~~for a development permit.~~

15 (II) For purposes of this clause, “tenant” means a person who  
16 does not own the property where they reside, including residential  
17 situations that are any of the following:

18 (ia) ~~Residential real property rented by the person under a~~  
19 ~~long-term lease.~~

20 (ib) ~~A single-room occupancy unit.~~

21 (ic) ~~An accessory dwelling unit that is not subject to, or does~~  
22 ~~not have a valid permit in accordance with, an ordinance adopted~~  
23 ~~by a local agency pursuant to Section 65852.2.~~

24 (id) ~~A residential motel.~~

25 (ie) ~~A mobilehome park, as governed under the Mobilehome~~  
26 ~~Residency Law (Chapter 2.5 (commencing with Section 798) of~~  
27 ~~Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational~~  
28 ~~Vehicle Park Occupancy Law (Chapter 2.6 (commencing with~~  
29 ~~Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code),~~  
30 ~~the Mobilehome Parks Act (Part 2.1 (commencing with Section~~  
31 ~~18200) of Division 13 of the Health and Safety Code), or the~~  
32 ~~Special Occupancy Parks Act (Part 2.3 (commencing with Section~~  
33 ~~18860) of Division 13 of the Health and Safety Code).~~

34 (if) ~~Any other type of residential property that is not owned by~~  
35 ~~the person or a member of the person’s household, for which the~~  
36 ~~person or a member of the person’s household provides payments~~  
37 ~~on a regular schedule in exchange for the right to occupy the~~  
38 ~~residential property.~~

39 (iv) ~~A parcel or parcels on which an owner of residential real~~  
40 ~~property has exercised their rights under Chapter 12.75~~

1 ~~(commencing with Section 7060) of Division 7 of Title 1 to~~  
2 ~~withdraw accommodations from rent or lease within 15 years~~  
3 ~~before the date that the development proponent submits an~~  
4 ~~application pursuant to a streamlined, ministerial approval process.~~

5 ~~(B) “Sound rental housing” shall not mean housing that the local~~  
6 ~~agency has deemed uninhabitable due to fire, flood, earthquake,~~  
7 ~~or other natural disaster.~~

8 ~~(4)~~

9 (3) “Transit-rich area” means a parcel within one-half mile of  
10 a major transit stop, as defined in Section 21064.3 of the Public  
11 Resources Code, or a parcel on a high-quality bus corridor.

12 ~~(5)~~

13 (4) “Urban infill site” means a site that satisfies all of the  
14 following:

15 (A) A site that is a legal parcel or parcels located in a city if,  
16 and only if, the city boundaries include some portion of either an  
17 urbanized area or urban cluster, as designated by the United States  
18 Census Bureau, or, for unincorporated areas, a legal parcel or  
19 parcels wholly within the boundaries of an urbanized area or urban  
20 cluster, as designated by the United States Census Bureau.

21 (B) A site in which at least 75 percent of the perimeter of the  
22 site adjoins parcels that are developed with urban uses. For the  
23 purposes of this section, parcels that are only separated by a street  
24 or highway shall be considered to be adjoined.

25 (C) A site that is zoned for residential use or residential  
26 mixed-use development, or has a general plan designation that  
27 allows residential use or a mix of residential and nonresidential  
28 uses, with at least two-thirds of the square footage of the  
29 development designated for residential use.

30 ~~(6) (A) “Use by right” means that the local government’s review~~  
31 ~~of the housing development may not require a conditional use~~  
32 ~~permit, planned unit development permit, or other discretionary~~  
33 ~~local government review or approval that would constitute a~~  
34 ~~“project” for purposes of Division 13 (commencing with Section~~  
35 ~~21000) of the Public Resources Code. Any subdivision of the sites~~  
36 ~~shall be subject to all laws, including, but not limited to, the local~~  
37 ~~government ordinance implementing the Subdivision Map Act~~  
38 ~~(Division 2 (commencing with Section 66410)).~~

39 (B) A local ordinance may provide that “use by right” does not  
40 exempt the housing development from design review. However,

1 that design review shall not constitute a “project” for purposes of  
2 Division 13 (commencing with Section 21000) of the Public  
3 Resources Code.

4 (7) “Very high fire hazard severity zone” means a very high  
5 fire hazard severity zone as determined by the Department of  
6 Forestry and Fire Protection pursuant to Section 51178, or within  
7 a high or very high fire hazard severity zone as indicated on maps  
8 adopted by the Department of Forestry and Fire Protection pursuant  
9 to Section 4202 of the Public Resources Code.

10 (d)

11 (c) The Legislature finds and declares that ensuring the adequate  
12 production of affordable housing is a matter of statewide concern  
13 and is not a municipal affair as that term is used in Section 5 of  
14 Article XI of the California Constitution. Therefore, this section  
15 applies to all cities, including charter cities.

16 SEC. 2. No reimbursement is required by this act pursuant to  
17 Section 6 of Article XIII B of the California Constitution because  
18 a local agency or school district has the authority to levy service  
19 charges, fees, or assessments sufficient to pay for the program or  
20 level of service mandated by this act, within the meaning of Section  
21 17556 of the Government Code.