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REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT
March 7, 2006

Honorable Members of the
Law and Legislation Committee

Subject: Assembly Bill 1387 relating to CEQA and residential infill projects

Location/Council District: Citywide

Recommendation:

Staff recommends that the Law and Legislation Committee support Assembly Bill 1387 relating to facilitating infill projects of less than 100 units under certain conditions. Staff also recommends that the City suggest some amendments to the legislation to allow the City to better take advantage of the bill's provisions.

Contact: Lucinda Willcox, Infill Coordinator, 808-5052

Presenters: Lucinda Willcox, Infill Coordinator

Department: Development Services

Division: Infill

Organization No: 4814

Summary:

This report provides information on AB 1387 authored by Assembly Member Dave Jones. The bill would amend the California Environmental Quality Act (CEQA) to allow local governments to approve urban infill projects of 100 units or less within one-half mile of a transit stop without requiring traffic mitigations, under specified circumstances.

Committee/Commission Action:

None.

Background Information:

CEQA requires that local governments, acting as lead agencies, analyze proposed projects for their impacts on the environment, make findings about the significance of potential impacts on the environment, and adopt feasible mitigation measures as necessary to reduce the impacts. Such impacts

commonly include effects of proposed projects on local and regional traffic conditions.

From a regional perspective, higher density infill projects reduce the length and number of automobile trips, provide greater efficiencies and opportunities for transit use, and therefore reduce overall regional traffic congestion compared with lower density development in more suburban locations.

AB 1387 would provide that for specified residential infill projects, local governments would not be required to make findings regarding the significant environmental impacts of the project on traffic. The bill would not relieve local governments from any requirement to analyze the project's effects on traffic, and would permit local governments to require improvements to address pedestrian and bicycle safety.

Eligible projects would have to meet the following criteria:

- Must be on an "infill site" in an "urbanized area" as defined by CEQA
- Must be 100 units or less
- Site must be four acres or less
- Project must have minimum density of 20 units per acre
- Project must be within one-half mile of a transit stop
- EIR must have been prepared for the project area. It must be no more than five years old, and no major changes in the area may have occurred since its certification
- Project area EIR must not have been certified with overriding considerations with respect to the traffic, circulation, and transportation policy of the general plan or local ordinances
- Project must be in compliance with traffic policies of general plan and associated ordinances

The proposed legislation supports streamlining the development of higher density infill housing in proximity to transit stations, focusing on regional traffic benefits and transit support related to this kind of development.

Currently, the City of Sacramento's existing transportation goals and practices would make taking advantage of these provisions infeasible, as higher levels of congestion are generally considered to be significant. For most, if not all, EIRs for higher density development, traffic impacts are considered to be significant, but the City makes findings of overriding consideration related to the other benefits of such development.

The City is re-examining its transportation policies in connection with the General Plan update, so might be able to take advantage of the bill's provisions in the

future if the City adopts transportation policies that better address the regional benefits on traffic and effects on transit and other modes of transportation from higher density urban infill development.

Another challenge with the proposed legislation concerns the requirement that an EIR have been prepared for the area within five years. The City has few areas where project area EIRs have been adopted within the last five years. As the City moves forward with adopting transit station area plans, it may be able to take better advantage of these provisions.

To better take advantage of the bill's provisions sooner, staff recommends that the City suggest amending the legislation as follows:

- Instead of the requirement that an EIR for the area has been prepared in the last five years, allow eligibility if the local government makes findings that the EIR completed for the area is still current and relevant. This would extend the potential for some area EIRs where realizing development potential can take an extended period of time. For instance, the 65th Street Transit Village EIR was adopted in 2001, so this area would not be eligible.
- Instead of requiring that the parent EIR made no findings of overriding consideration related to traffic, include a provision that traffic levels anticipated from the proposed development do not exceed those analyzed in the prior EIR and are consistent with any findings of overriding consideration. A fair share for any required traffic mitigations could be applied to individual projects.

Financial Considerations:

There are no financial considerations associated with this report.

Environmental Considerations:

The proposed legislation would alter required environmental findings related to traffic in certain circumstances. As currently written, it would only affect the City after consideration of new transportation policies and preparation of area wide EIRs.

Policy Considerations:

The proposed ordinance is consistent with the City's Strategic Plan, three year goals to enhance sustainability and improve livability.

Emerging Small Business Development (ESBD):

No goods or services are being purchased under this report.

Respectfully Submitted by: 
Lucinda Willcox
Infill Coordinator

Approved by: 
Carol Shearly
Director of Planning

Recommendation Approved:



Gustavo F. Vina, Assistant City Manager

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March 7, 2006

Honorable Dave Jones
California State Assembly
State Capitol
Sacramento, CA 95814

Support: Assembly Bill 1387 Relating to Residential Infill Projects

Dear Assembly Member Jones:

On behalf of the City of Sacramento, I am pleased to express the City's support of Assembly Bill 1387 related to facilitating residential urban infill projects. As you know, higher density urban infill projects are an important component of the Sacramento region's future growth to address regional traffic congestion and support transit usage.

I would like to offer the following suggestions that would allow the City to better take advantage of the bill's provisions.

- Instead of the requirement that an EIR for the area has been prepared in the last five years, allow eligibility if the local government makes findings that the EIR completed for the area is still current and relevant.
- Instead of requiring that the parent EIR made no findings of overriding consideration related to traffic, include a provision that traffic levels anticipated from the proposed development do not exceed those analyzed in the prior EIR and are consistent with any findings of overriding consideration.

Thank you for considering these provisions, and for introducing this important legislation.

Sincerely,

LAUREN HAMMOND, Chair
Law and Legislation Committee

cc: Mayor Fargo and Members of the City Council
Senator David Cox
Senator Deborah Ortiz
Assembly Member Alan Nakanishi
Assembly Member Roger Niello

March 7, 2006

Senate Environmental Quality Committee
California State Senate
State Capitol
Sacramento, CA 95814

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Sincerely,

LAUREN HAMMOND, Chair
Law and Legislation Committee

cc: Mayor Fargo and Members of the City Council
Senator David Cox
Senator Deborah Ortiz
Assembly Member Dave Jones
Assembly Member Alan Nakanishi
Assembly Member Roger Niello
Assembly Natural Resources Committee

AMENDED IN ASSEMBLY JANUARY 13, 2006

AMENDED IN ASSEMBLY APRIL 18, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1387

Introduced by Assembly Member Jones

February 22, 2005

An act to add Section 21081.2 to the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 1387, as amended, Jones. CEQA: residential infill projects.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on a project, as defined, 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 prohibits a public agency from approving or carrying out a project for which an environmental impact report has been certified that identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless the public agency makes specified findings with respect to each significant effect, including, among other things, that (1) the changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effect on the environment or (2) those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

The bill would provide that, *except as specified*, if a residential project, not exceeding ~~200~~ 100 units, with a minimum residential density of 20 units per acre, and within one-half mile of the transit stop, on an infill site, as defined, in an urbanized area, as defined, is in compliance with the traffic, circulation, and transportation policies of the general plan and applicable ordinances of the local government, and the local government with jurisdiction over the area where the project is located requires that the mitigation measures approved in a previously certified *project area* environmental impact report, *as the bill would define that term*, applicable to the project be incorporated into the project, the local government is not required to comply with specified requirements with respect to the making of any findings regarding the significant environmental effects from impacts of the project on traffic at intersections, or on streets, highways, or freeways.

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

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

- 1 SECTION 1. Section 21081.2 is added to the Public
2 Resources Code, to read:
3 21081.2. ~~(a) If a residential project, not exceeding 200 units,~~
4 21081.2. (a) *Except as provided in subdivision (c), if a*
5 *residential project, not exceeding 100 units, with a minimum*
6 *residential density of 20 units per acre and within one-half mile*
7 *of a transit stop, on an infill site in an urbanized area is in*
8 *compliance with the traffic, circulation, and transportation*
9 *policies of the general plan and applicable ordinances of the local*
10 *government with jurisdiction over the area where the project is*
11 *located, and the local government requires that the mitigation*
12 *measures approved in a previously certified project area*
13 *environmental impact report applicable to the project be*
14 *incorporated into the project, the local government is not*
15 *required to comply with subdivision (a) of Section 21081 with*
16 *respect to the making of any findings regarding the impacts of*
17 *the project on traffic at intersections, or on streets, highways, or*
18 *freeways.*
19 (b) Nothing in subdivision (a) restricts the authority of a local
20 government to adopt feasible mitigation measures with respect to
21 the impacts of a project on pedestrian *and bicycle* safety.

1 (c) Subdivision (a) does not apply in any of the following
2 circumstances:

3 (1) The application for a proposed project is made more than
4 five years after certification of the project area environmental
5 impact report applicable to the project.

6 (2) A major change has occurred within the project area after
7 certification of the project area environmental impact report
8 applicable to the project.

9 (3) The project area environmental impact report applicable
10 to the project was certified with overriding considerations to the
11 significant impacts on the environment with respect to traffic or
12 transportation.

13 (4) The proposed project covers more than four acres.

14 (d) A project shall not be divided into smaller projects in
15 order to qualify pursuant to this section.

16 (e) Nothing in this section relieves a local government from
17 the requirement to analyze the project's effects on traffic at
18 intersections, or on streets, highways, or freeways, or from
19 making a determination that the project may have a significant
20 effect on traffic.

21 (f) For the purposes of this section, "project area
22 environmental impact report" means an environmental impact
23 report certified on any of the following:

24 (1) A general plan.

25 (2) A revision or update to the general plan that includes at
26 least the land use and circulation elements.

27 (3) An applicable community plan.

28 (4) An applicable specific plan.

29 (5) A housing element of the general plan, if the environmental
30 impact report analyzed the environmental effects of the density of
31 the proposed project.

32 (6) A zoning ordinance.