



CONTRA COSTA COUNTY
Department of Conservation & Development
Community Development Division
30 Muir Road
Martinez, CA 94553-4601
Telephone: 674-7205 Fax: 674-7257

TO: Lara Delaney, Senior Deputy County Administrator
County Administrator's Office

FROM: Aruna Bhat, Deputy Director *A. Bhat*
Department of Conservation and Development

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SUBJECT: By-Right Multi-Family Proposal

The Governor is proposing a change in state law to streamline development timeframe by granting multi-family attached housing to be approved through an expedited by-right ministerial process.

The by-right approval does stipulate that conformance with existing general plan and zoning rules is required for such projects, including objective zoning standards. It also states that it applies to projects with 2 or more housing units/structure. The project must be surrounded by "Urban Uses" defined as housing, commercial buildings, public facilities or transportation infrastructure and requires these projects to provide affordable units. Eligible projects would not require CEQA review.

The proposal also states that a developer must notify the appropriate city or county of its intent to seek by-right approval. After receiving this notification, the city or county would have 30 days to review the project and inform the developer in writing if the project is not consistent with general plan and zoning standards. If the city or county does not provide a written determination within 30 days, the project is automatically deemed to meet general plan and zoning standards.

The language is not clear and staff recommends revisions to the above language. Would the standard review process to determine "completeness" of submittal be retained for "by-rights" projects? This language should be amended to require a complete application and collection of appropriate filing fees.

The Governor's proposal does not preclude cities and counties from conducting design review of housing projects. The proposal, however, likely would reduce the scope of

some communities' design review process. Specifically, design review could not take longer than 90 days nor could it interfere with the by-right approval of an eligible project.

Again, it is unclear what is meant by "nor could it interfere with the by-right approval of an eligible project."

- Can the projects be conditioned like other multiple-family projects?
- Can standard development fees be collected?
- Can frontage improvements, C3, collect and convey, dedications be required as a condition of approval?

This proposal by the Governor does reduce local authority over land use. However, this appears to encourage more housing near transit and job centers.

Thank you for the opportunity to comment on this proposal.

CEQA Can Be Used to Delay or Reduce Building Activity

The CEQA process can provide valuable information to decision makers and help to avoid unnecessary environmental impacts. The CEQA review process also provides many opportunities for opponents to raise concerns regarding a project's potential effects on a wide array of matters, including parking, traffic, air and water quality, endangered species, and historical site preservation. A project cannot move forward until all concerns are addressed, either through mitigation or with a determination by elected officials that benefits of the project outweigh the

costs. In addition, after a local governing board approves a project, opponents may file a lawsuit challenging the validity of the CEQA review. As a result of these factors, CEQA review can be time consuming for developers. Our review of CEQA documents submitted to the state by California's ten largest cities between 2004 and 2013 indicates that local agencies took, on average, around two and a half years to approve housing projects that required an EIR. The CEQA process also, in some cases, results in developers reducing the size and scope of a project in response to concerns discovered during the review process.

GOVERNOR'S PROPOSAL TO STREAMLINE MULTIFAMILY HOUSING APPROVALS

California's local communities often fail to fully recognize the benefits of new housing. Because of this, they have and likely will continue to approve less housing than is ideal from a regional or statewide perspective. This will result in continued challenges for many Californians and slowed economic growth. To avoid this outcome, state policy makers would need to make major changes to how cities and counties plan for and approve housing. Consistent with this, the Governor's May Revision proposal includes proposed changes to how cities and counties approve multifamily housing. These proposed changes have the potential to be an important first step toward addressing California's housing shortage. We believe the Governor's proposal warrants serious consideration from the Legislature.

Below, we describe the Governor's proposal. In the next section, we offer some ways the Legislature could strengthen the Governor's proposal.

By-Right Approval of Certain Housing Projects. The administration proposes that cities and counties require only by-right approval for housing projects that meet certain conditions. Cities and counties would not be allowed to require any type of discretionary approval process for qualifying housing projects. To be eligible for by-right approval, a housing development would need to:

- ***Conform With Existing General Plan and Zoning Rules.*** A project generally must be on a site designated for housing by a local general plan or zoning laws. The project also must be consistent with "objective general plan and zoning standards" in place at the time the project applies for city or county approval. No definition for objective general plan and zoning standards is provided.

- **Be Multifamily Housing.** Only projects with two or more housing units per structure would be eligible.
- **Be Infill Housing.** A project must be surrounded by “urban uses,” defined as housing, commercial buildings, public facilities, or transportation infrastructure. Specifically, a site proposed for development must either (1) neighbor urban uses or (2) have at least 75 percent of its perimeter bordered by urban uses.
- **Meet Affordability Requirements.** A project must set 20 percent of its housing units at prices affordable to low-income households for at least 30 years. These requirements would be lower for projects within one-half mile of an existing or planned transit stop. In these cases, developers would need to set aside either (1) 10 percent of the housing for low-income households or (2) 5 percent for very-low-income households.
- **Not Develop Certain Types of Land.** The site proposed for development also generally could not be prime farm land, wetlands, or a hazardous waste site nor within a very high fire hazard area, an earthquake fault zone, or a flood plain.

Sets Timeline for Cities and Counties to Object to Streamlined Approval. Under the Governor’s

proposal, a developer of a project that meets the above conditions must notify the appropriate city or county of its intent to seek by-right approval. After receiving this notification, the city or county would have 30 days to review the project and inform the developer in writing if it believes the project is not consistent with general plan and zoning standards. If the city or county does not provide a written determination within 30 days, the project is automatically deemed to meet general plan and zoning standards.

Expedited Design Review. The Governor’s proposal does not preclude cities and counties from conducting design review of housing projects. The proposal, however, likely would reduce the scope of some communities’ design review processes. Specifically, design review could not take longer than 90 days nor could it interfere with the by-right approval of an eligible project.

Eligible Projects Would Not Require CEQA Review. Under the Governor’s proposal, the by-right approval of eligible projects generally would not be an action subject to CEQA review. As a result, eligible housing projects would not need to undergo a CEQA analysis.

Requires Relocation Assistance for Displaced Households. The Governor’s proposal would require a developer to provide relocation assistance to households if they are displaced by a housing project that takes advantage of by-right approval.

MODIFICATIONS COULD STRENGTHEN GOVERNOR’S PROPOSAL

The Governor’s proposed by-right approval rules, if enacted, would be an important step toward increasing housing production in California. Nonetheless, we feel changes could be

made to the Governor’s proposal to bring about even more home building and, consequently, even greater improvements in housing affordability.