City of Long Beach
Working Together to Serve

Memorandum

Date: May 6, 2019

To: Mayor and Members of the City Council

From: Patrick H. West, City Manager

Subject: **SB 50 (Wiener) Planning and zoning: housing development: incentives**

Introduction

The Long Beach City Council has agenized a discussion to oppose Senate Bill 50 (SB 50), introduced by Senator Scott Wiener. This memorandum is intended to provide background information on that bill and is written based on the most recent version of SB 50 (Wiener) with amendments as of May 1, 2019. As the State legislative process is still on-going, details within this proposal will likely change; however, core principles proposed by this bill will likely stay the same. Attached for information, is the most recent bill text.

SB 50 proposes to address the State's housing crisis by enabling density developments along high-quality transit corridors, around major transit stops, and in jobs-rich areas. The bill would also allow up to four-unit developments on parcels zoned for single-family residential units. Applicable to charter cities, the intent behind SB 50 to make it general statewide policy aims to afford the "fullest possible weight to the interest of, and the approval and provision of, housing"; as well as guide development "away from prime agricultural lands… therefore… encourage to the maximum extent practicable, in filling existing urban areas."

The bill would weaken, and in some cases completely remove, a city's local land use approval authority in designated areas, however, the bill recognizes local communities' desire to maintain single-family residential neighborhoods and proposes to allow for density and height increases along transit-oriented corridors and near major transit stops. In residential areas outside of these locations, the bill proposes to enable multifamily housing projects that mimic the exterior design and size of single-family homes. The net effect of the bill would allow multi-family housing construction in many areas of urban cities traditionally zoned for single-family housing.

The City agrees California's housing crisis exists and has been working locally to try and ease the burden via an updated Land Use Element of the City's General Plan, streamlined housing development approvals in designated planning areas, and an updated Accessory Dwelling Unit Ordinance and other programs.

Summary

SB 50 (Wiener) proposes to increase housing supply in two ways, through:

1. "Neighborhood multifamily housing projects" in all residential areas; and,
2. "Equitable communities incentive" for housing density along "transit-oriented corridors," around "major transit stops" and in "job rich areas."

Generally, chambers of commerce across California support SB 50. Local governments, including the City of Los Angeles, and City and County of San Francisco, oppose the legislation.

Support for SB 50, as of April 19, 2019, has come from:

- AARP
- Bridge Housing Corporation
- Burbank Housing Development Corporation
- California Apartment Association
- California Chamber of Commerce
- California Yimby
- City of Emeryville
- Facebook, Inc.
- Los Angeles Area Chamber of Commerce
- Natural Resources Defense Council
- Orange County Business Council
- Yimby Action

Opposition to the bill includes:

- American Planning Association
- City of Brentwood
- City of Chino Hills
- City of Cupertino
- City of Downey
- City of Glendale
- City of Glendora
- City of Lafayette
- City of Lakewood
- City of La Mirada
- City of Los Angeles (City Council voted 12-0 to oppose on April 16)
- City of Palo Alto
- City of Rancho Cucamonga
- City of Rancho Palos Verdes
- City of Pasadena
- City of Pinole

- City of Redondo Beach
- City and County of San Francisco (Board of Supervisors voted 9-2 to oppose on April 9)
- City of San Mateo
- City of Santa Clarita
- City of Solana Beach
- City of Sunnyvale
- City of Vista
- Coalition for San Francisco Neighborhoods
- Preserve LA
- League of California Cities
- South Bay Cities Council of Governments

A summary of the two ways in which SB 50 proposes to increase housing supply in California is below:

Neighborhood multifamily housing project. This bill proposes to enable housing density increases in single-family residential neighborhoods that are not located in a coastal zone, wetlands, high-fire zone, historic zone, or flood zone with a 1 percent chance of flooding in a 100-year flood. The proposal would allow a "neighborhood multifamily housing project" to include up to four residential dwelling units on vacant land, or through the conversion of an existing home, as long as the conversion is not of a home that has been occupied by tenants within the past 10 years, is subject to rent or price control, a recorded covenant, ordinance or law that restricts rent to a level that qualifies the home as moderate, low or very-low income, does not require more than 25 percent of the existing structure to be demolished, and the interior space does not increase by more than 15 percent. These types of projects would require 0.5 parking spaces for every housing unit on site.

Equitable communities incentive. This bill further proposes to enable housing density along "high-quality bus corridors," around "major transit stops" and in "job rich areas." For the purposes of this density allowance:

- "High-quality bus corridors" means a corridor with fixed route bus service that meets all of the following criteria:
    - It has average service intervals for each line and in each direction of no more than 10 minutes during the three peak hours between 6 a.m. to 10 a.m., inclusive and the three peak hours between 3 p.m. to 7 p.m., inclusive, on Monday through Friday;
    - It has average service intervals for each line and in each direction of no more than 20 minutes during the hours of 6 a.m. to 10 p.m., inclusive, on Monday through Friday; and

- It has average service intervals for each line and in each direction of no more than 30 minutes during the hours of 8 a.m. to 10 p.m., inclusive on Saturday and Sunday.

- "Major transit stop" means a rail transit station or a ferry terminal that is already recognized by State law as a major transit stop; and

- "Jobs-rich area" means an area that will be identified if SB 50 becomes State law by the State Department of Housing and Community Development, in consultation with the Office of Planning and Research that is "high opportunity and jobs rich, based on whether, in a regional analysis, the tract meets both of the following":

  - The tract is "high opportunity, meaning its characteristics are associated with positive educational and economic outcomes for households of all income levels residing in the housing tract.
  - The tract meets either of the following criteria:
    - New housing sited in the tract would enable residents to live near more jobs than is typical for tracts in the region; or
    - New housing sited in the tract would enable shorter commute distances for residents relative to existing commute patterns for people of all income levels.

Housing developments located in the areas defined above are eligible for density increases above what otherwise may be allowable by the local jurisdiction. SB 50 proposes to provide projects qualifying for an "equitable communities incentive" with:

- A waiver from maximum controls on density;
- A waiver from minimum automobile parking requirements greater than 0.5 parking spots per unit; and
- In counties with a population over 600,000, projects located:
  - Within one-half mile radius, but outside of a one-quarter mile radius of a major transit stop shall receive:
    - A waiver from maximum height requirements less than 45 feet;
    - A waiver from maximum Floor Area Ratio (FAR) less than 2.5; and
    - A waiver from any minimum parking requirement.
  - Within one-quarter mile radius of a major transit stop shall receive:
    - A waiver from maximum height requirements less than 55 feet;
    - A waiver from FAR requirements less than 3.25; and
    - A waiver from any minimum parking requirement.

Summary Chart

SB 50	Neighborhood Multifamily Housing Project	Equitable Communities Incentive
Location definition	Single-family residential neighborhoods that are not located in a coastal zone, wetlands, high-fire zone, historic district, or flood zone with a 1 percent chance of flooding in a 100-year flood	• ¼ mile of a high-quality transit corridor; • ½ mile of a major transit stop; or • Within a jobs-rich area
Density	Up to four residential dwelling units on vacant land, or through conversion of an existing home	Density waivers for projects in high-quality transit corridors, major transit stops, and jobs-rich areas
Parking	0.5 parking spaces required for every housing unit on site	Cannot require more than 0.5 spaces per unit
Height	Same as objective zoning standards for the residential zone	Cannot set maximum height limits below 45 feet for projects within ½ mile, but outside ¼ mile of a major transit stop; cannot set maximum height limits below 55 feet for projects within ¼ mile of a major transit stop
Floor Area Ratio (FAR)	NA	Cannot set FAR below 2.5 for projects within ½ mile, but outside ¼ mile of a major transit stop; cannot set FAR below 3.25 for projects within ¼ mile of a major transit stop
Streamlining	Yes, ministerial approval and no conditional use permit if project qualifies as a neighborhood multifamily housing project	Yes, ministerial approval if project qualifies for the equitable communities incentive
Inclusionary	None	Yes, follow local ordinance, as long as ordinance is as or more

		inclusive as that proposed in SB 50. If no local inclusionary ordinance, and if the project has 11-20 units, developer may pay an in-lieu fee; if the project has more than 20 units, the developer may make a contribution towards housing offsite to lower income households, or include units onsite: 21-200 units 15% inclusionary; 201-350 units 17% inclusionary; 351+ 25% inclusionary
Tenant Protections	Yes, 10-years	Yes, 7-years
CEQA	Exempt	Exempt
Affordable Housing	None	Yes, through inclusionary housing requirements.

Legislative Analysis

Policy arguments for additional housing production:

- SB 50 encourages additional housing production. In concept, the City supports increases in housing production, as indicated in the updated Land Use Element due to:
  - The potential for more housing of all types statewide and in Long Beach.
  - The need to accommodate current overcrowding.
  - The City's interest in supporting anticipated future economic and population growth.
- The City also generally supports transit-oriented developments, as these projects will help systematically reduce greenhouse gas emissions while also providing access to transportation near homes. The City Council's 2019 Adopted State Legislative Agenda includes statements in support of transit-oriented development such as:
  - Support policies, legislation and grants to improve public education to promote an increase in transit ridership.
  - Support active transportation and transit-oriented development.

- Support policies, legislation and grants that couple planning efforts with greenhouse gas emission reduction, green building, and transit-oriented development strategies.

Policy arguments for preserving the City's local land use approval authority:

- SB 50 significantly reduces and, in some cases, eliminates local land use approval authority in areas designated by the bill. This would be a significant departure from how land use has been determined in Long Beach. Loss of local control is typically opposed by the City based on the City Council's direction, as provided in the 2019 Adopted State Legislative Agenda:
    - Oppose policies and legislation that diminish the City's local control over land use, planning, zoning and development decisions, and oppose legislation in conflict with the City's adopted General Plan or other Council adopted land use policies.
- On February 13, 2018, the Long Beach City Council voted (8-0) to oppose SB 827 (Weiner), which would usurp local land use restrictions. In the previous State legislative session, SB 827 sought to achieve the same goals that SB 50 has been introduced to address in the current legislative session. Ultimately, SB 827 failed to advance in the 2018 State Legislative Session. Senator Wiener has been determined to enable density increases as a way to increase housing supply and potentially reduce housing costs. Therefore, in reintroducing the legislative proposal contained in SB 827 from 2018, SB 50 was also recently amended to extend density allowances to all single-family residential zones that are not located in a coastal zone, wetlands, high-fire zone, historic district, or flood zone with a 1 percent chance of flooding in a 100-year flood, making SB 50 more expansive than SB 827, legislation the City had previously opposed.
- It is also important to note, an analysis of county populations statewide shows generally, counties with a population over 600,000 are located in southern California, with the exception of San Francisco, and counties with a population below 600,000 are generally located in northern California. Therefore, the most dramatic height increases proposed by SB 50 would predominately occur only in southern California, disproportionately shifting the statewide burden for increasing housing supply to large urban areas in southern California.

Long Beach Impacts

Neighborhood Multifamily Housing Projects – These potential four-unit housing developments could be located in single-family residential neighborhoods that are not located in a coastal zone, wetlands, high-fire zone, historic district, or flood zone with a 1 percent chance of flooding in a 100-year flood.

Equitable Communities Incentive – Based on current definitions in SB 50 and the Long Beach Transit bus schedule, housing developments eligible for height, and other density and parking waivers would be located within:

- ¼-mile radius around Anaheim Street from Pacific Avenue to halfway between Clark Avenue and Bellflower Boulevard on the basis that this area falls along a high-quality transit corridor;

- ½-mile radius of Metro Blue Line stops at 5th/Pacific, 1st/Pine, 5th/Long Beach Boulevard, Anaheim/Long Beach Boulevard, Pacific Coast Highway/Long Beach Boulevard, Willow/Long Beach Boulevard, Wardlow Street/Pacific Avenue, Del Amo Boulevard/Santa Fee Avenue, and Artesia Boulevard/Willowbrook Avenue on the basis that these areas fall within the definition of a major transit stop; and

- "Jobs-rich areas" have yet to be designed by the State Department of Housing and Community Development, in consultation with the Office of Planning and Research. Therefore, the City is unable to note these locations at this time.

Housing Developments in Long Beach

Specific to housing, in our City, statistics on housing development show from 2014 to 2018 developers proposed to build a total of 7,384 new housing units in Long Beach.

Of the 7,384 housing units proposed, the City:

- Has entitled 3,061 new housing units;
- Continues to work with developers on entitlements for 2,155 new housing units; and
- Denied 5 housing units.

Once a developer secures entitlement, they can apply for building permits. City has engaged on 1,933 building permits for new housing units.

- We have issued building permits for 1,097 new housing units, but the units are not complete yet; and
- We have finalized building permits for 801 new housing units.
- More than 1,000 units have been approved through the planning process, however, the developer has not proceeded with building permits or construction.

The City is also actively supporting the development of Accessory Dwelling Units.

- We have approved construction of 96 ADUs that have yet to finish construction; and
- We are pleased to report that 57 permitted and approved ADU's have been completed.
- Some 77 ADU's that are currently being processed, but do not have building permits.

It is worth noting developers, rather than cities, build housing. A city's role in the housing development process is to work with the City Council and community to appropriately designate areas within the city where housing can be built. In Long Beach, one of the ways in which our City Council can exercise local land use approval authority is through an update of our Land Use Element, as well as adoption of specific planning areas such as the Downtown Plan,

Midtown Plan, and SEASP. Implementation of each of these land use planning tools is currently progressing and the City continues to work with developers to shape quality developments in accordance with our local planning documents, for development by the developers. For example, the City has worked with housing developers on these and many more housing projects:

- Clarke Estates – Habitat for Humanity continues to invest in single-family homes in west Long Beach.
- The Spark at Midtown – Under construction is a 5-story, 94-unit affordable housing development near the Metro Blue Line.
- Vistas Del Puerto – Under construction is a 5-story housing development with 47-units reserved for extremely-low and very-low income residents.
- The Beacon – This project is under construction and will provide 121-units of affordable senior housing once it is complete.
- Dorado – Development of a new gated community with 40 single-family homes on a 5.8-acre site in east Long Beach.
- Riverdale – Development of a former Boy Scout camp site. This housing project has been completed and offers 131 new detached single-family homes, and park space in north Long Beach.

Local Efforts to Increase Housing Supply

Recognizing new State laws, and the general trend of housing affordability in California, the City has invested significant resources into increasing housing supply. The City has implemented four specific plans that streamline housing and other developments in critical areas of the City and has updated its Accessory Dwelling Unit (ADU) Ordinance.

Streamlined Housing and Development Incentives

Downtown Plan – Since its adoption in January 2012, the Downtown Plan has encouraged a proactive planning process that promotes high quality, context-sensitive building designs that contribute to defining and activating the public realm in more innovative and sustainable ways. Between 2015 and 2035, the City expects 5,000 new residential homes will be built within the Downtown Plan area. Currently, 1,787 units are under construction or have been approved for construction by the City; 1,276 new units are in the approvals process, and 367 units have been completed. To support new housing in this year, 247 new businesses have opened within the Downtown Plan area in just the past year.

Midtown Plan – The Midtown Specific Plan provides a framework for the development and improvement of a 369-acre corridor along Long Beach Boulevard in the City of Long Beach. The Specific Plan was intended to be more flexible than conventional zoning to encourage new investment and development along the corridor, and immediately after adoption, resulted in over 200 affordable housing units with more in the pipeline. The plan has been an early leader in multi-modal transportation practices where a person can safely and easily travel by walking, riding a bike, catching a bus, taking a train, or

driving a car. Vista Del Puerto and the Spark at Midtown are examples of housing projects currently under construction as a result of this planning document.

SEASP Plan – The Southeast Area Specific Plan area is comprised of several established neighborhoods and is frequently viewed as one of the last remaining areas of Long Beach that is not entirely built out. The area contains approximately 175 acres of undeveloped wetlands and several underutilized properties that are substantial in size, aging, and nearing the end of their useful economic life in their existing configurations. Long Beach rezoned coastal real estate to allow approximately 2,000 new housing units over time. This plan is pending California Coastal Commission approval.

Accessory Dwelling Unit (ADU) ordinance
On January 1, 2017, new State laws took effect to create opportunities for accessory dwelling units (ADUs), also referred to as "backyard homes," "second units," "in-law units," or "granny flats." Beyond traditional market rate construction and affordable housing developments, ADUs provide an alternative, flexible housing model that can help address home supply and affordability in California.

In response to the new State regulations, the Long Beach City Council adopted an ADU Ordinance in December 2017 to enable the construction of ADUs in many residential zones within the City. The ADU Ordinance builds on the City's efforts to meet the diverse housing needs of the community, while also maintaining the character and livability of Long Beach neighborhoods.

The City's ADU ordinance requires that the property owner must live in either the primary residence or ADU, the property must be an existing single-family residence, the minimum lot size on which the ADU will be built must be 4,800 square feet, and only one ADU may be developed on a lot with only one existing single-family residence. The maximum unit size for an ADU is 800 square feet or 50% of an existing unit, whichever is less. In response to the first year of data and ongoing housing affordability and supply concerns, the City Council in April 2019 updated the ADU ordinance to lower the minimum lot size from 5,200 to 4,800 square feet.

Local Efforts to Address Access to Housing and Affordability

The City also recognizes access to housing can be a challenge. To this end, we have made several commitments to supporting individuals and families with securing stable housing options. We initiated the Everyone Home Long Beach Initiative, purchased property to open a 24-hour year-round homeless shelter by 2020, continue to make progress towards a Tenant Assistance Program Ordinance, and have sponsored statewide legislation that would exempt motel conversions to temporary or supportive housing from the California Environmental Quality Act process to enable more individuals and family access pathways towards permanent housing.

Everyone Home Long Beach (EHLB) Initiative
On May 21, 2018, the City launched the Everyone Home Long Beach (EHLB) Initiative to address homelessness and housing in the City of Long Beach. EHLB was designed

to build on the City's comprehensive homeless services and affordable housing efforts already underway and to identify innovative approaches to provide new pathways into housing and prevent residents from falling into homelessness.

On June 15, 2018, the City convened the first EHLB Taskforce (Taskforce) meeting, chaired by Jane Close Conoley, President of California State University (CSU) Long Beach. The Taskforce was comprised of leaders from across the City, including CEOs and leadership from major institutions, a diverse group of Long Beach organizations, community members and those with lived experience. Institutions represented include: CSU Long Beach, Long Beach City College, Long Beach Unified School District, a variety of non-profit organizations healthcare institutions, Long Beach Transit, faith-based organizations, Downtown Long Beach Alliance, Greater Long Beach Chamber of Commerce, Continuum of Care Board and Homeless Services Advisory Committee.

The Everyone Home Long Beach Taskforce was provided context, data, system and service information, and information on gaps through presentations provided by experts and people with lived experience. The taskforce listened to public comments, asked good questions and engaged in lively, thoughtful conversations. From this process, the Taskforce determined specific categories for focus and developed the following goals and recommendations to guide the City's next steps to end homelessness:

- Goal 1: Strengthen Governance and Increase Funding
- Goal 2: Increase Housing Access
- Goal 3: Employ People
- Goal 4: Reduce Homelessness
- Goal 5: Support Families
- Goal 6: Connect to Health
- Goal 7: Develop Population Based Service Models

Since the EHLB report was released, the City has moved forward with:

- *Atlantic Farms 125-bed Year-Round Homeless Shelter* – Purchase of property at Atlantic Farms for a 24-hour, year-round homeless shelter funded by FY 19 State HEAP funds
- *Storage* – Purchase of property for a storage facility for individuals and families experiencing homelessness funded by FY 19 State HEAP funds
- *Safe Parking* – S.A.F.E. Parking Pilot Program funded by FY 19 State HEAP funds with a Request for Proposal (RFP) released in May 2019.
- *Homeless Work Program* – Program RFP released in May 2019.
- *Transportation* – Purchase of a truck to transport individuals and families experiencing homelessness funded by

Tenant Assistance

Following on the development and commitment to implementation of our streamlined planning documents, as well as Everyone Home Long Beach, on April 2, 2019, the Long Beach City Council provided direction on a tenant assistance ordinance. An ordinance will return to the City Council for consideration in spring 2019.

Motel Conversion Legislation

The City recognizes the need for additional temporary and supportive housing capacity. Motels, particularly those that draw higher rates for calls for service, code enforcement violations and where homeless families tend to seek shelter already, may be prime for conversion from a motel to temporary or supportive housing. This type of conversion would typically trigger the California Environmental Quality Act (CEQA) process due to the change in use from commercial to residential. While the City does not have a particular motel in mind for conversion at this time, the City has sponsored legislation to enable the conversion without needing to conduct CEQA when the time comes for Long Beach to explore such a project. This legislation, SB 450 (Umberg) would also apply statewide, ideally enabling other local governments, non-profit providers and developers to move forward on motel conversions statewide, thereby reducing the City's burden locally. The City is also in the process of developing a local implementing ordinance, which will be in effect prior to the effective date of SB 450, should it become law.

Next Steps

The bill was approved by the Senate Governance and Finance Committee and will be heard in Senate Appropriations before May 17.

The City Council has agenized a discussion on May 7 to oppose the bill. City staff will receive direction from the City Council on that date and take action according to the City Council's direction.

Should you have any questions, please contact Diana Tang, Manager of Government Affairs and Communications at (562) 570-6506 or Diana.Tang@longbeach.gov or Linda Tatum, Director of Development Services at (562) 570-6428 or Linda.Tatum@longbeach.gov.

CC: CHARLES PARKIN, CITY ATTORNEY
TOM MODICA, ASSISTANT CITY MANAGER
KEVIN JACKSON, DEPUTY CITY MANAGER
LINDA TATUM, DIRECTOR OF DEVELOPMENT SERVICES
JOHN KEISLER, DIRECTOR OF ECONOMIC DEVELOPMENT
KELLY COLOPY, DIRECTOR OF HEALTH AND HUMAN SERVICES
ROBERT LUNA, CHIEF OF POLICE
MONIQUE DE LA GARZA, CITY CLERK
REBECCA GARNER, ADMINISTRATIVE DEPUTY TO THE CITY MANAGER
DIANA TANG, MANAGER OF GOVERNMENT AFFAIRS

ATTACHMENT
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AMENDED IN SENATE MAY 1, 2019

AMENDED IN SENATE MARCH 11, 2019

SENATE BILL No. 50

Introduced by Senator Wiener
(Coauthors: Senators Caballero, Hueso, Moorlach, Skinner, and Stone)
(Coauthors: Assembly Members Burke, *Chu,* Diep, Fong, Kalra, Kiley, Low, *McCarty,* Robert Rivas, Ting, and Wicks)

December 3, 2018

An act to amend Section 65589.5 of, *to add Sections 65913.5 and 65913.6 to,* and to add Chapter 4.35 (commencing with Section 65918.50) to Division 1 of Title 7 ~~of~~ *of,* the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 50, as amended, Wiener. Planning and zoning: housing development: incentives.

~~Existing~~

(1) Existing law 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 authorize a development proponent of a neighborhood multifamily project located on an eligible parcel to submit an application for a streamlined, ministerial approval process that is not subject to a conditional use permit. The bill would define a "neighborhood multifamily project" to mean a project to construct a multifamily structure on vacant land, or to convert an existing structure that does

not require substantial exterior alteration into a multifamily structure, consisting of up to 4 residential dwelling units and that meets local height, setback, and lot coverage zoning requirements as they existed on July 1, 2019. The bill would also define "eligible parcel" to mean a parcel that meets specified requirements, including requirements relating to the location of the parcel and restricting the demolition of certain housing development that may already exist on the site.

This bill would require a local agency to notify the development proponent in writing if the local agency determines that the development conflicts with any of the requirements provided for streamlined ministerial approval; otherwise, the development is deemed to comply with those requirements. The bill would limit the authority of a local agency to impose parking standards or requirements on a streamlined development approved pursuant to these provisions, as provided. The bill would provide that the approval of a project under these provisions expires automatically after 3 years, unless that project qualifies for a one-time, one-year extension of that approval. The bill would provide that approval pursuant to its provisions would remain valid for 3 years and remain valid thereafter, so long as vertical construction of the development has begun and is in progress, and would authorize a discretionary one-year extension, as provided. The bill would prohibit a local agency from adopting any requirement that applies to a project solely or partially on the basis that the project receives ministerial or streamlined approval pursuant to these provisions.

This bill would allow a local agency to exempt a project from the streamlined ministerial approval process described above by finding that the project will cause a specific adverse impact to public health and safety, and there is no feasible method to satisfactorily mitigate or avoid the adverse impact.

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.

This bill would establish a streamlined ministerial approval process for neighborhood multifamily and transit-oriented projects, thereby exempting these projects from the CEQA approval process.

(2) Existing law, known as the ~~Density Bonus Law,~~ *density bonus law,* requires, when an applicant proposes a housing development within the jurisdiction of a local government, that the city, county, or city and county provide the developer with a density bonus and other incentives or concessions for the production of lower income housing units or for the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for very low, low-, or moderate-income households or qualifying residents.

This bill would require a city, county, or city and county to grant upon request an equitable communities incentive when a development proponent seeks and agrees to construct a residential development, as defined, that satisfies specified criteria, including, among other things, that the residential development is either a job-rich housing project or a transit-rich housing project, as those terms are defined; the site does not contain, or has not contained, housing occupied by tenants or accommodations withdrawn from rent or lease in accordance with specified law within specified time periods; and the residential development complies with specified additional requirements under existing law. *The bill would impose additional requirements on a residential development located within a county with a population equal to or less than 600,000.* The bill would require that a residential development *within a county with a population greater than 600,000 that is* eligible for an equitable communities incentive ~~receive~~ *receive, upon request,* waivers from maximum controls on density and minimum ~~controls on~~ automobile parking requirements greater than 0.5 parking spots per ~~unit, up to 3 additional incentives or concessions under the Density Bonus Law, and~~ *unit. The bill would require that a residential development also receive* specified additional waivers if the residential development is located within a ½-mile or ¼-mile radius of a major transit stop, as defined. *For a residential development within a county with a population equal to or less than 600,000, the bill would instead require that the incentive provide waivers from maximum controls on density, subject to certain limitations; maximum height limitations less than or equal to one story, or 15 feet, above the highest allowable height for mixed use or residential use; maximum floor area ratio requirements*

less than 0.6 times the number of stories in the proposed project; and minimum automobile parking requirements, as provided. The bill would require a local government to grant an equitable communities incentive unless it makes a specified finding regarding the effects of the incentive on any real property or historic district that is listed on a federal or state register of historical resources. The bill would authorize a local government to modify or expand the terms of an equitable communities incentive, provided that the equitable communities incentive is consistent with these provisions.

The bill would include findings that the changes proposed by these provisions address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities. The bill would also delay implementation of these provisions in *potentially* sensitive communities, as defined, until July 1, ~~2020, as provided.~~ *2020. The bill would further delay implementation of these provisions in sensitive communities, determined as provided, until January 1, 2026, unless the city or county in which the area is located votes to make these provisions applicable after a specified petition and public hearing process. On and after January 1, 2026, the bill would apply these provisions to a sensitive community unless the city or county adopts a community plan for the area that meets certain requirements.*

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

The Housing Accountability Act prohibits a local agency from disapproving, or conditioning approval in a manner that renders infeasible, a housing development project ~~for very low, low-, or moderate-income households or an emergency shelter~~ *that complies with applicable, objective general plan, zoning, and subdivision standards and criteria in effect at the time the application for the project is deemed complete* unless the local agency makes specified written findings based on a preponderance of the evidence in the record. That law provides that the receipt of a density bonus is not a valid basis on which to find a proposed housing development is inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision of that act.

This bill would additionally provide that the receipt of an equitable communities incentive is not a valid basis on which to find a proposed housing development is inconsistent, not in compliance, or not in

conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision of that act.

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

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.

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

SECTION 1. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) (1) The Legislature finds and declares all of the following:

(A) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(B) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(C) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(D) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects.

(2) In enacting the amendments made to this section by the act adding this paragraph, the Legislature further finds and declares the following:

(A) California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives.

(B) While the causes of this crisis are multiple and complex, the absence of meaningful and effective policy reforms to significantly enhance the approval and supply of housing affordable to Californians of all income levels is a key factor.

(C) The crisis has grown so acute in California that supply, demand, and affordability fundamentals are characterized in the negative: underserved demands, constrained supply, and protracted unaffordability.

(D) According to reports and data, California has accumulated an unmet housing backlog of nearly 2,000,000 units and must provide for at least 180,000 new units annually to keep pace with growth through 2025.

(E) California's overall homeownership rate is at its lowest level since the 1940s. The state ranks 49th out of the 50 states in homeownership rates as well as in the supply of housing per capita. Only one-half of California's households are able to afford the cost of housing in their local regions.

(F) Lack of supply and rising costs are compounding inequality and limiting advancement opportunities for many Californians.

(G) The majority of California renters, more than 3,000,000 households, pay more than 30 percent of their income toward rent and nearly one-third, more than 1,500,000 households, pay more than 50 percent of their income toward rent.

(H) When Californians have access to safe and affordable housing, they have more money for food and health care; they are less likely to become homeless and in need of government-subsidized services; their children do better in school; and businesses have an easier time recruiting and retaining employees.

(I) An additional consequence of the state's cumulative housing shortage is a significant increase in greenhouse gas emissions caused by the displacement and redirection of populations to states with greater housing opportunities, particularly working- and

middle-class households. California's cumulative housing shortfall therefore has not only national but international environmental consequences.

(J) California's housing picture has reached a crisis of historic proportions despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the approval, development, and affordability of housing for all income levels, including this section.

(K) The Legislature's intent in enacting this section in 1982 and in expanding its provisions since then was to significantly increase the approval and construction of new housing for all economic segments of California's communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects and emergency shelters. That intent has not been fulfilled.

(L) It is the policy of the state that this section should be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.

(3) It is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety, as described in paragraph (2) of subdivision (d) and paragraph (1) of subdivision (j), arise infrequently.

(b) It is the policy of the state that a local government not reject or make infeasible housing development projects, including emergency shelters, that contribute to meeting the need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, for very

low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the housing development project infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the housing development project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The housing development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the ~~specific~~ *specific*, adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use

designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the housing development project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The housing development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The housing development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article. For purposes of this section, a change to the zoning ordinance or general plan land use designation subsequent to the date the application was deemed complete shall not constitute a valid basis to disapprove or condition approval of the housing development project or emergency shelter.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the housing development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element

of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low, low-, and moderate-income categories.

(C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the congestion management program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). ~~Neither shall anything~~ *Nothing* in this section *shall* be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) (1) Nothing in this section shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to

Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development.

(2) Nothing in this section shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project or emergency shelter.

(4) For purposes of this section, a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to persons and families of moderate income as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Disapprove the housing development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved, including any required land use approvals or entitlements necessary for the issuance of a building permit.

(B) Fails to comply with the time periods specified in subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes conditions, including design changes, lower density, or a reduction of the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to

Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of conditions on the development is the subject of a court action which challenges the denial or the imposition of conditions, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by a preponderance of the evidence in the record. For purposes of this section, "lower density" includes any conditions that have the same effect or impact on the ability of the project to provide housing.

(j) (1) When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist:

(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(2) (A) If the local agency considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision as specified in this subdivision, it shall provide the applicant with written documentation identifying the provision or provisions, and an

explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity as follows:

(i) Within 30 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains 150 or fewer housing units.

(ii) Within 60 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains more than 150 units.

(B) If the local agency fails to provide the required documentation pursuant to subparagraph (A), the housing development project shall be deemed consistent, compliant, and in conformity with the applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

(3) For purposes of this section, the receipt of a density bonus pursuant to Section 65915 or an equitable communities incentive pursuant to Section 65918.51 shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.

(4) For purposes of this section, a proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan. If the local agency has complied with paragraph (2), the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning which is consistent with the general plan, however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

(5) For purposes of this section, “lower density” includes any conditions that have the same effect or impact on the ability of the project to provide housing.

(k) (1) (A) The applicant, a person who would be eligible to apply for residency in the development or emergency shelter, or a housing organization may bring an action to enforce this section.

If, in any action brought to enforce this section, a court finds that either (i) the local agency, in violation of subdivision (d), disapproved a housing development project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making findings supported by a preponderance of the evidence, or (ii) the local agency, in violation of subdivision (j), disapproved a housing development project complying with applicable, objective general plan and zoning standards and criteria, or imposed a condition that the project be developed at a lower density, without making the findings required by this section or without making findings supported by a preponderance of the evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the housing development project or emergency shelter. The court may issue an order or judgment directing the local agency to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. For purposes of this section, "lower density" includes conditions that have the same effect or impact on the ability of the project to provide housing.

(B) (i) Upon a determination that the local agency has failed to comply with the order or judgment compelling compliance with this section within 60 days issued pursuant to subparagraph (A), the court shall impose fines on a local agency that has violated this section and require the local agency to deposit any fine levied pursuant to this subdivision into a local housing trust fund. The local agency may elect to instead deposit the fine into the Building Homes and Jobs *Trust* Fund, if Senate Bill 2 of the 2017–18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund. The fine shall be in a minimum amount

of ten thousand dollars ($10,000) per housing unit in the housing development project on the date the application was deemed complete pursuant to Section 65943. In determining the amount of fine to impose, the court shall consider the local agency's progress in attaining its target allocation of the regional housing need pursuant to Section 65584 and any prior violations of this section. Fines shall not be paid out of funds already dedicated to affordable housing, including, but not limited to, Low and Moderate Income Housing Asset Funds, funds dedicated to housing for very low, low-, and moderate-income households, and federal HOME Investment Partnerships Program and Community Development Block Grant Program funds. The local agency shall commit and expend the money in the local housing trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. After five years, if the funds have not been expended, the money shall revert to the state and be deposited in the Building Homes and Jobs *Trust* Fund, if Senate Bill 2 of the 2017–18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund, for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households.

(ii) If any money derived from a fine imposed pursuant to this subparagraph is deposited in the Housing Rehabilitation Loan Fund, then, notwithstanding Section 50661 of the Health and Safety Code, that money shall be available only upon appropriation by the Legislature.

(C) If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency and to approve the housing development project, in which case the application for the housing development project, as proposed by the applicant at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed to be approved unless the applicant consents to a different decision or action by the local agency.

(2) For purposes of this subdivision, "housing organization" means a trade or industry group whose local members are primarily engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households and have filed written or oral comments with the local agency prior to action on the housing development project. A housing organization may only file an action pursuant to this section to challenge the disapproval of a housing development by a local agency. A housing organization shall be entitled to reasonable attorney's fees and costs if it is the prevailing party in an action to enforce this section.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in subdivision (k), the court, in addition to any other remedies provided by this section, shall multiply the fine determined pursuant to subparagraph (B) of paragraph (1) of subdivision (k) by a factor of five. For purposes of this section, "bad faith" includes, but is not limited to, an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency, unless the petitioner elects to prepare the record as provided in subdivision (n) of this section. A petition to enforce the provisions of this section shall be filed and served no later than 90 days from the later of (1) the effective date of a decision of the local agency imposing conditions on, disapproving, or any other final action on a housing development project or (2) the expiration of the time periods specified in subparagraph (B) of paragraph (5) of subdivision (h). Upon entry of the trial court's order, a party may, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court

may for good cause allow, or may appeal the judgment or order of the trial court under Section 904.1 of the Code of Civil Procedure. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

SEC. 2. Section 65913.5 is added to the Government Code, to read:

65913.5. For purposes of this section and Section 65913.6, the following definitions shall apply:

(a) "Development proponent" means the developer who submits an application for streamlined approval pursuant to Section 65913.6.

(b) "Eligible parcel" means a parcel that meets all of the following requirements:

(1) The parcel satisfies the requirements specified in paragraphs (2) and (6) of subdivision (a) of Section 65913.4.

(2) The development of the project on the proposed parcel would not require the demolition or alteration of any of the following types of housing:

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

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing that has been occupied by tenants within the past 10 years.

(3) The site was not previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent submits an application under this section.

(4) The development of the project on the proposed parcel would not require the demolition of a historic structure that was placed on a national, state, or local historic register.

(5) The proposed parcel does not contain housing units that are occupied by tenants, and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.

(c) "Local agency" means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.

(d) "Neighborhood multifamily project" means a project to construct a multifamily structure of up to four residential dwelling units that meets all of the following requirements:

(1) The project meets one of the following conditions:

(A) The parcel or parcels on which the neighborhood multifamily project would be located is vacant land, as defined in subdivision (e).

(B) The project is a conversion of an existing structure that does not require substantial exterior alteration. For the purposes of this subparagraph, a project requires "substantial exterior alteration" if the project would require either of the following:

(i) The demolition of 25 percent or more of the existing exterior vertical walls, measured by linear feet.

(ii) Any building addition that would increase total interior square footage by more than 15 percent.

(2) (A) The neighborhood multifamily project meets all objective zoning standards and objective design review standards that do not conflict with this section or Section 65913.6. If, on or after July 1, 2019, a local agency adopts an ordinance that eliminates residential zoning designations or decreases residential zoning development capacity within an existing zoning district in which the development is located than what was authorized on July 1, 2019, then that development shall be deemed to be consistent with any applicable requirement of this section and Section 65913.6 if it complies with zoning designations not in conflict with this section and Section 65913.6 that were authorized as of July 1, 2019.

(B) For purposes of this paragraph, "objective zoning standards" and "objective design review standards" means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development proponent and the public official before the development proponent submits an application pursuant to this section. These standards include, but are not limited to, height, setbacks, floor area ratio, and lot coverage.

(3) The project provides at least 0.5 parking spaces per unit.

(e) "Vacant land" means either of the following:

(1) A property that contains no existing structures.

(2) A property that contains at least one existing structure, but the structure or structures have been unoccupied for at least five years and are considered substandard as defined by Section 17920.3 of the Health and Safety Code.

SEC. 3. Section 65913.6 is added to the Government Code, to read:

65913.6. (a) For purposes of this section, the definitions provided in Section 65913.5 shall apply.

(b) Except as provided in subdivision (g), a development proponent of a neighborhood multifamily project on an eligible parcel may submit an application for a development to be subject to a streamlined, ministerial approval process provided by this section and not be subject to a conditional use permit if the development meets the requirements of this section and Section 65913.5.

(c) (1) If a local agency determines that a development submitted pursuant to this section is in conflict with any of the requirements specified in this section or Section 65913.5, it shall provide the development proponent written documentation of which requirement or requirements the development conflicts with, and an explanation for the reason or reasons the development conflicts with that requirement or requirements, as follows:

(A) Within 60 days of submission of the development to the local agency pursuant to this section if the development contains 150 or fewer housing units.

(B) Within 90 days of submission of the development to the local agency pursuant to this section if the development contains more than 150 housing units.

(2) If the local agency fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the requirements of this section and Section 65913.5.

(d) Any design review or public oversight of the development may be conducted by the local agency's planning commission or any equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as appropriate. That design review or public oversight shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local agency before submission of a development application, and shall be broadly applicable to development within the local agency. That design review or public oversight shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(1) Within 90 days of submission of the development to the local agency pursuant to this section if the development contains 150 or fewer housing units.

(2) Within 180 days of submission of the development to the local agency pursuant to this section if the development contains more than 150 housing units.

(e) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing automobile parking requirements in multifamily developments, shall not impose automobile parking standards for a streamlined development that was approved pursuant to this section beyond those provided in the minimum requirements of Section 65913.5.

(f) (1) If a local agency approves a development pursuant to this section, that approval shall automatically expire after three years except that a project may receive a one-time, one-year extension if the project proponent provides documentation that there has been significant progress toward getting the development construction ready. For purposes of this paragraph, "significant progress" includes filing a building permit application.

(2) If a local agency approves a development pursuant to this section, that approval shall remain valid for three years from the date of the final action establishing that approval and shall remain

valid thereafter for a project so long as vertical construction of the development has begun and is in progress. Additionally, the development proponent may request, and the local agency shall have discretion to grant, an additional one-year extension to the original three-year period. The local agency's action and discretion in determining whether to grant the foregoing extension shall be limited to considerations and process set forth in this section.

(g) This section shall not apply if the local agency finds that the development project as proposed would have a specific, adverse impact upon the public health or safety, including, but not limited to, fire safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(h) A local agency shall not adopt any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval pursuant to this section.

(i) This section shall not affect a development proponent's ability to use any alternative streamlined by right permit processing adopted by a local agency, including the provisions of subdivision (i) of Section 65583.2 or 65913.4.

~~SEC. 2.~~

SEC. 4. Chapter 4.35 (commencing with Section 65918.50) is added to Division 1 of Title 7 of the Government Code, to read:

Chapter 4.35. Equitable Communities Incentives

65918.50. For purposes of this chapter:

(a) "Development proponent" means an applicant who submits an application for an equitable communities incentive pursuant to this chapter.

(b) "Eligible applicant" means a development proponent who receives an equitable communities incentive.

(c) "FAR" means floor area ratio.

(d) "High-quality bus corridor" means a corridor with fixed route bus service that meets all of the following criteria:

(1) It has average service intervals *for each line and in each direction* of no more than ~~15~~ *10* minutes during the three peak hours between 6 a.m. to 10 a.m., inclusive, and the three peak hours between 3 p.m. ~~and~~ *to* 7 p.m., inclusive, on Monday through Friday.

(2) It has average service intervals *for each line and in each direction* of no more than 20 minutes during the hours of 6 a.m. to 10 p.m., inclusive, on Monday through Friday.

(3) It has average *service* intervals *for each line and in each direction* of no more than 30 minutes during the hours of 8 a.m. to 10 p.m., inclusive, on Saturday and Sunday.

(e) (1) "Jobs-rich area" means an area identified by the Department of Housing and Community Development in consultation with the Office of Planning and Research that is ~~both~~ high opportunity and jobs rich, based on whether, in a regional analysis, the tract meets *both of* the following:

(A) The tract is ~~higher opportunity and~~ *high opportunity, meaning* its characteristics are associated with positive educational and economic outcomes for households of all income levels residing in the tract.

(B) The tract meets either of the following criteria:

(i) New housing sited in the tract would enable residents to live ~~in or near a jobs-rich area, as measured by employment density and job totals.~~ *near more jobs than is typical for tracts in the region.*

(ii) New housing sited in the tract would enable shorter commute distances for residents, ~~compared to existing commute levels.~~ *relative to existing commute patterns for people of all income levels.*

(2) The Department of Housing and Community Development shall, commencing on January 1, 2020, publish and update, every

five years thereafter, a map of the state showing the areas identified by the department as "jobs-rich areas."

(f) "Job-rich housing project" means a residential development within ~~an area identified as~~ a jobs-rich ~~area by the Department of Housing and Community Development in consultation with the Office of Planning and Research, based on indicators such as proximity to jobs, high area median income relative to the relevant region, and high-quality public schools, as an area of high opportunity close to jobs.~~ *area.* A residential development shall be deemed to be within ~~an area designated as job-rich~~ *a jobs-rich area* if both of the following apply:

(1) All parcels within the project have no more than 25 percent of their area outside of the ~~job-rich~~ *jobs-rich* area.

(2) No more than 10 percent of residential units or 100 units, whichever is less, of the development are outside of the ~~job-rich~~ *jobs-rich* area.

(g) "Local government" means a city, including a charter city, a county, or a city and county.

(h) "Major transit stop" means a rail transit station or a ferry terminal that is a major transit stop pursuant to subdivision (b) of Section 21155 of the Public Resources Code.

(i) "Potentially sensitive community" means any of the following:

(1) An area that is designated as "high segregation and poverty" or "low resource" on the 2019 Opportunity Maps developed by the California Tax Credit Allocation Committee.

(2) A census tract that is in the top 25 percent scoring census tracts from the internet-based CalEnviroScreen 3.0 tool.

(3) A qualified census tract identified by the United States Department of Housing and Urban Development for 2019.

(4) It is the intent of the Legislature to consider all of the following:

(A) Identifying additional communities as potentially sensitive communities in inland areas, areas experiencing rapid change in housing cost, and other areas based on objective measures of community sensitivity.

(B) Application of the process for determining sensitive communities established in subdivision (d) of Section 65918.55 to the San Francisco Bay area.

~~(i)~~

(j) "Residential development" means a project with at least two-thirds of the square footage of the development designated for residential use.

~~(j)~~

(k) "Sensitive community" means either of the following:

~~(1) Except as provided in paragraph (2), an area identified by the Department of Housing and Community Development, which identification shall be updated every five years, in consultation with local community-based organizations in each metropolitan planning region, as an area where both of the following apply:~~

~~(A) Thirty percent or more of the census tract lives below the poverty line, provided that college students do not compose at least 25 percent of the population.~~

~~(B) The location quotient of residential racial segregation in the census tract is at least 1.25 as defined by the Department of Housing and Community Development.~~

(1) Except as provided in paragraph (2), an area identified pursuant to subdivision (d) of Section 65918.55.

(2) In the Counties of Alameda, Contra Costa, Marin, Napa, Santa Clara, San Francisco, San Mateo, Solano, and Sonoma, areas designated by the Metropolitan Transportation Commission on December 19, 2018, as the intersection of disadvantaged and vulnerable communities as defined by the Metropolitan Transportation Commission and the San Francisco Bay Conservation and Development Commission, which identification of a sensitive community shall be updated at least every five years by the Department of Housing and Community Development.

~~(k)~~

(l) "Tenant" means a person who does not own the property where they reside, including residential situations that are any of the following:

(1) Residential real property rented by the person under a long-term lease.

(2) A single-room occupancy unit.

(3) An accessory dwelling unit that is not subject to, or does not have a valid permit in accordance with, an ordinance adopted by a local agency pursuant to Section 65852.22.

(4) A residential motel.

(5) A mobilehome park, as governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of

Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

(6) Any other type of residential property that is not owned by the person or a member of the person's household, for which the person or a member of the person's household provides payments on a regular schedule in exchange for the right to occupy the residential property.

~~(*l*)~~

(m) "Transit-rich housing project" means a residential ~~development~~ *development,* the parcels of which are all within a one-half mile radius of a major transit stop or a one-quarter mile radius of a stop on a high-quality bus corridor. A project shall be deemed to be within the radius if both of the following apply:

(1) All parcels within the project have no more than 25 percent of their area outside of a one-half mile radius of a major transit stop or a one-quarter mile radius of a stop on a high-quality bus corridor.

(2) No more than 10 percent of the residential units or 100 units, whichever is less, of the project are outside of a one-half mile radius of a major transit stop or a one-quarter mile radius of a stop on a high-quality bus corridor.

65918.51. A local government shall, upon request of a development proponent, grant an equitable communities incentive, as specified in Section 65918.53, when the development proponent seeks and agrees to construct a residential development that satisfies the requirements specified in Section 65918.52.

65918.52. In order to be eligible for an equitable communities incentive pursuant to this chapter, a residential development shall meet all of the following criteria:

(a) The residential development is either a job-rich housing project or transit-rich housing project.

(b) The residential development is located on a site ~~that, at~~ *that meets the following requirements:*

(1) At the time of application, *the site* is zoned to allow housing as an underlying use in the zone, including, but not limited to, a

residential, mixed-use, or commercial zone, as defined and allowed by the local government.

(2) If the residential development is located within a coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code, the site satisfies the requirements specified in paragraph (2) of subdivision (a) of Section 65913.4.

(3) The site is not located within any of the following:

(A) A coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code, within a city with a population of less than 50,000.

(B) A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. A parcel is not ineligible within the meaning of this paragraph if it is either of the following:

(i) A site excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179.

(ii) A site that has adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

(C) A parcel that is a contributing parcel within a historic district established by an ordinance of the local government that was in effect as of December 31, 2010.

(c) If the residential development is located within a county that has a population equal to or less than 600,000, the residential development satisfies all of the following additional requirements:

(1) The site satisfies the requirements specified in paragraph (2) of subdivision (a) of Section 65913.4.

(2) The site is not located within either of the following:

(A) An architecturally or historically significant historic district, as defined in subdivision (h) of Section 5020.1 of the Public Resources Code.

(B) A flood plain as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has been issued a flood plain development permit pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(3) The residential development has a minimum density of 30 dwelling units per acre in jurisdictions considered metropolitan, as defined in subdivision (f) of Section 65583.2, or a minimum density of 20 dwelling units per acre in jurisdictions considered suburban, as defined in subdivision (e) of Section 65583.2.

(4) The residential development is located within a one-half mile radius of a major transit stop and within a city with a population greater than 50,000.

~~(c)~~

(d) (1) If the local government has adopted an inclusionary housing ordinance requiring that the development include a certain number of units affordable to households with incomes that do not exceed the limits for ~~moderate-income,~~ *moderate income,* lower income, very low income, or extremely low income specified in Sections 50079.5, 50093, 50105, and 50106 of the Health and Safety Code, and that ordinance requires that a new development include levels of affordable housing in excess of the requirements specified in paragraph (2), the residential development complies with that ordinance. The ordinance may provide alternative means of compliance that may include, but are not limited to, in-lieu fees, land dedication, offsite construction, or acquisition and rehabilitation of existing units.

(2) (A) If the local government has not adopted an inclusionary housing ordinance, as described in paragraph (1), the residential development includes an affordable housing contribution for households with incomes that do not exceed the limits for extremely low income, very low income, and low income specified in Sections 50093, 50105, and 50106 of the Health and Safety Code.

(B) For purposes of this paragraph, the residential development is subject to one of the ~~following:~~ *following, as applicable:*

(i) If the project has 10 or fewer units, no affordability contribution is imposed.

(ii) If the project has 11 to 20 residential units, the development proponent may pay an in-lieu fee to the local government for affordable housing, where feasible, pursuant to subparagraph (C).

(iii) If the project has more than 20 residential units, the development proponent shall do either of the following:

(I) Make a comparable affordability contribution toward housing offsite that is affordable to lower income households, pursuant to subparagraph (C).

(II) Include units on the site of the project that are affordable to extremely low income, ~~as defined in Section 50105 of the Health and Safety Code,~~ very low income, or ~~low-income~~ *lower income* households, as defined in ~~Section 50079.5~~ *Sections 50079.5, 50105, and 50106* of the Health and Safety Code, as follows:

Project Size	Inclusionary Requirement
21– 200 units	15%
	~~low~~
	lower
	income; or
	8% very low income; or
	6% extremely low income
201–350 units	17%
	~~low~~
	lower
	income; or
	10% very low income; or
	8% extremely low income
351 or more units	25%
	~~low~~
	lower
	income; or
	15% very low income; or
	11% extremely low income

(C) *(i)* The development proponent of a project that qualifies pursuant to clause (ii) or subclause (I) of clause (iii) of subparagraph (B) may make a comparable affordability contribution toward housing offsite that is affordable to lower income households, ~~as follows:~~ *pursuant to this subparagraph.*

~~(i) The local government collecting the in-lieu fee payment shall make every effort to ensure that future affordable housing will be sited within one-half mile of the original project location within the boundaries of the local government by designating an existing housing opportunity site within a one-half mile radius of the project site for affordable housing. To the extent practicable, local housing~~

~~funding shall be prioritized at the first opportunity to build affordable housing on that site.~~

~~(ii) If no housing opportunity sites that satisfy clause (i) are available, the local government shall designate a site for affordable housing within the boundaries of the local government and make findings that the site for the affordable housing development affirmatively furthers fair housing, as defined in Section 8899.50.~~

(ii) For the purposes of this subparagraph, "comparable affordability contribution" means either a dedication of land or direct in-lieu fee payment to a housing provider that proposes to build a residential development in which 100 percent of the units, excluding manager's units, are sold or rented at affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or affordable rent, as defined in Section 50053 of the Health and Safety Code, subject to all of the following conditions:

(I) The site, and if applicable, the dedicated land, is located within a one-half mile of the qualifying project.

(II) The site, and if applicable, the dedicated land, is eligible for an equitable communities incentive.

(III) The residential development that receives a dedication of land or in-lieu fee payment pursuant to this paragraph provides the same number of affordable units at the same income category, which would have been required onsite for the qualifying project pursuant to subclause (II) of clause (iii) of subparagraph (B) of paragraph (2).

(IV) The value of the dedicated land or in-lieu fee payment must be at least equal to the capitalized value of the forgone revenue that the development proponent would have incurred if the qualifying project had provided the required number and type of affordable units onsite.

(V) The comparable affordability contribution is subject to a recorded covenant with the local jurisdiction. A copy of the covenant shall be provided to the Department of Housing and Community Development.

(iii) For the purposes of this subparagraph, "qualifying project" means a project that receives an equitable communities incentive by providing a comparable affordability contribution.

(iv) The qualifying development shall not be issued a certificate of occupancy before the residential development receiving a

dedication of land or direct in-lieu fee payment pursuant to this subparagraph receives a building permit.

(D) Affordability of units pursuant to this paragraph shall be restricted by deed for a period of 55 years for rental units or 45 years for units offered for sale.

~~(d)~~

(e) The site does not contain, or has not contained, either of the following:

(1) Housing occupied by tenants within the seven years preceding the date of the application, including housing that has been demolished or that tenants have vacated prior to the application for a development permit.

(2) A parcel or parcels on which an owner of residential real property has exercised their rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years prior to the date that the development proponent submits an application pursuant to this chapter.

~~(e)~~

(f) The residential development complies with all applicable labor, construction employment, and wage standards otherwise required by law and any other generally applicable requirement regarding the approval of a development project, including, but not limited to, the local government's conditional use or other discretionary permit approval process, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), or a streamlined approval process that includes labor protections.

~~(f)~~

(g) The residential development complies with all other relevant standards, requirements, and prohibitions imposed by the local government regarding architectural design, restrictions on or oversight of demolition, impact fees, and community benefits agreements.

~~(g)~~

(h) The equitable communities incentive shall not be used to undermine the economic feasibility of delivering low-income housing under the state density bonus program or a local implementation of the state density bonus program, or any locally adopted program that puts conditions on new development

applications on the basis of receiving a zone change or general plan amendment in exchange for benefits such as increased affordable housing, local hire, or payment of prevailing wages.

65918.53. (a) *(1)* Any transit-rich or ~~jobs-rich~~ *job-rich* housing project *within a county that has a population greater than 600,000* that meets the criteria specified in Section 65918.52 shall receive, upon request, an equitable communities incentive as follows:

~~(1)~~

(A) A waiver from maximum controls on density.

~~(2)~~

(B) A waiver from minimum automobile parking requirements greater than 0.5 automobile parking spots per unit.

~~(3) Up to three incentives and concessions pursuant to subdivision (d) of Section 65915.~~

~~(b)~~

(2) An eligible applicant proposing a residential development *within a county that has a population greater than 600,000* that is located within a one-half mile radius, but outside a one-quarter mile radius, of a major transit stop shall receive, in addition to the incentives specified in ~~subdivision (a),~~ *paragraph (1),* waivers from all of the following:

~~(1)~~

(A) Maximum height requirements less than 45 feet.

~~(2)~~

(B) Maximum FAR requirements less than 2.5.

~~(3)~~

(C) Notwithstanding subparagraph (B) of paragraph (1), any ~~maximum~~ *minimum* automobile parking requirement.

~~(c)~~

(3) An eligible applicant proposing a residential development *within a county that has a population greater than 600,000* that is located within a one-quarter mile radius of a major transit stop shall receive, in addition to the incentives specified in ~~subdivision (a),~~ *paragraph (1),* waivers from all of the following:

~~(1)~~

(A) Maximum height requirements less than 55 feet.

~~(2)~~

(B) Maximum FAR requirements less than 3.25.

~~(3)~~

(C) Notwithstanding paragraph ~~(1)~~ *(2)* of subdivision ~~(b),~~ *(a),* any minimum automobile parking requirement.

(b) A residential development within a county that has a population less than or equal to 600,000 that meets the criteria specified in Section 65918.52 shall receive, upon request, an equitable communities incentive as follows:

(1) A waiver from maximum controls on density, subject to paragraph (3) of subdivision (c) of Section 65918.52.

(2) A waiver from maximum height limitations less than or equal to one story, or 15 feet, above the highest allowable height for mixed use or residential use. For purposes of this paragraph, "highest allowable height" means the tallest height, including heights that require conditional approval, allowable pursuant to zoning and any specific or area plan that covers the parcel.

(3) Maximum FAR requirements less than 0.6 times the number of stories proposed for the project.

(4) A waiver from minimum automobile parking requirements, as follows:

(A) If the residential development is located within a one-quarter mile radius of a rail transit station in a city with a population of greater than 100,000, the residential development project shall receive a waiver from any minimum automobile parking requirement.

(B) If the residential development does not meet the criteria specified in clause (i), the residential development project shall receive a waiver from minimum automobile parking requirements of less than 0.5 parking spaces per unit.

~~(d)~~

(c) Notwithstanding any other law, ~~for purposes of calculating any additional incentive or concession~~ *a project that qualifies for an equitable communities incentive may also apply for a density bonus, incentives or concessions, and parking ratios* in accordance with *subdivision (b) of* Section ~~65915,~~ *65915. To calculate a density bonus for a project that receives an equitable communities incentive, the "otherwise maximum allowable gross residential density" as described in subdivision (f) of Section 65915 shall be equal to* the *proposed* number of units ~~in~~ *in, or the proposed square footage of,* the residential development after applying the equitable communities incentive received pursuant to this ~~chapter shall be used as the base density for calculating the incentive or concession~~

~~under that section.~~ *chapter. In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of this chapter and subdivision (b) of Section 65915 at the unit count or square footage or with the concessions or incentives permitted by this chapter and as may be increased under Section 65915 in accordance with this subdivision, but no additional waivers or reductions of development standards, as described in subdivision (e) of Section 65915 shall be permitted.*

(d) The local government shall grant an incentive requested by an eligible applicant pursuant to this chapter unless the local government makes a written finding, based on substantial evidence, that the incentive would have a specific, adverse impact on any real property or historic district that is listed on a federal or state register of historical resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable.

(e) An eligible applicant proposing a project that meets all of the requirements under Section 65913.4 may submit an application for streamlined, ministerial approval in accordance with that section.

(f) The local government may modify or expand the terms of an equitable communities incentive provided pursuant to this chapter, provided that the equitable communities incentive is consistent with, and meets the minimum standards specified in, this chapter.

65918.54. The Legislature finds and declares that this chapter addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter applies to all cities, including charter cities.

~~65918.55. (a) Implementation of this chapter shall be delayed in sensitive communities until July 1, 2020.~~

~~(b) Between January 1, 2020, and ____, a local government, in lieu of the requirements of this chapter, may opt for a community-led planning process in sensitive communities aimed toward increasing residential density and multifamily housing choices near transit stops, as follows:~~

~~(1) Sensitive communities that pursue a community-led planning process at the neighborhood level shall, on or before January 1,~~

~~2025, produce a community plan that may include zoning and any other policies that encourage multifamily housing development at a range of income levels to meet unmet needs, protect vulnerable residents from displacement, and address other locally identified priorities.~~

~~(2) Community plans shall, at a minimum, be consistent with the overall residential development capacity and the minimum affordability standards set forth in this chapter within the boundaries of the community plan.~~

~~(3) The provisions of this chapter shall apply on January 1, 2025, to sensitive communities that have not adopted community plans that meet the minimum standards described in paragraph (2), whether those plans were adopted prior to or after enactment of this chapter.~~

65918.55. (a) On or before July 1, 2020, Sections 65918.51 to 65918.54, inclusive, shall not apply to a potentially sensitive community. After July 1, 2020, Sections 65918.51 to 65918.54, inclusive, shall apply in any potentially sensitive community that is not identified as a sensitive community pursuant to subdivision (b).

(b) On or before July 1, 2020, sensitive communities in each county shall be identified and mapped in accordance with the following:

(1) The council of governments, or the county board of supervisors in a county without a council of governments, shall establish a working group comprised of residents of potentially sensitive communities within the county, ensuring equitable representation of vulnerable populations, including, but not limited to, renters, low-income people, and members of classes protected under the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2).

(2) The working group shall develop a map of sensitive communities within the county, which shall include some or all of the areas identified as potentially sensitive communities pursuant to subdivision (i) of Section 65918.50. The working group shall prioritize the input of residents from each potentially sensitive community in making a determination about that community.

(3) Each board of supervisors or council of governments shall adopt the sensitive communities map for the county, along with an explanation of the composition and function of the working

group and the community process and methodology used to create the maps, at a public hearing held on or before July 1, 2020.

(c) Sections 65918.51 to 65918.54, inclusive, shall apply in a sensitive community on and after January 1, 2026, unless the city or county in which the sensitive community is located has adopted a community plan for an area that includes the sensitive community that is aimed toward increasing residential density and multifamily housing choices near transit stops and meets all of the following:

(1) The community plan is not in conflict with the goals of this chapter.

(2) The community plan permits increased density and multifamily development near transit, with all upzoning linked to onsite affordable housing requirements that meet or exceed the affordable housing requirements in Sections 65918.51 to 65918.54, inclusive. Community plans shall, at a minimum, be consistent with the overall residential development capacity and the minimum affordability standards set forth in Sections 65918.51 to 65918.54, inclusive, within the boundaries of the community plan.

(3) The community plan includes provisions to protect vulnerable residents from displacement.

(4) The community plan promotes economic justice for workers and residents.

(5) The community plan was developed in partnership with at least one of the following:

(A) A nonprofit or community organization that focuses on organizing low-income residents in the sensitive community.

(B) A nonprofit or community organization that focuses on organizing low-income residents in the jurisdiction.

(C) If there are no nonprofit or community organizations working within the sensitive community or the jurisdiction, a nonprofit with demonstrated experience conducting outreach to low-income communities.

(6) Residents of the sensitive community are engaged throughout the planning process, including through at least three community meetings that are held at times and locations accessible to low-income residents.

(7) All public documents and meetings related to the planning process are translated into all languages spoken by at least 25 percent of residents of the sensitive community.

(8) The community plan is adopted before July 1, 2025.

(d) Each city and each county shall make reasonable efforts to develop a community plan for any sensitive communities within its jurisdiction. A community plan may address other locally identified priorities, provided they are not in conflict with the intent of this chapter or any other law. A city or county may designate a community plan adopted before July 1, 2020, as the plan that meets the requirements of this paragraph, provided that the plan meets all criteria in this section.

(e) Notwithstanding any other provision of this section, Sections 65918.51 to 65918.54, inclusive, shall apply in any sensitive community if all of the following apply:

(1) At least 20 percent of adult residents of the sensitive community sign a petition attesting that the community desires to make the provisions of Sections 65918.51 to 65918.54, inclusive, applicable in the area. The petition shall describe in plain language the planning standards set forth in Sections 65918.51 to 65918.54, inclusive; be translated into all languages spoken by at least 25 percent of residents in the affected area; and collect contact information from signatories to the petition, including first, middle, and last name, mailing address, and phone number and email address if available.

(2) The local government has verified the petition to ensure compliance with paragraph (1).

(3) Following signature verification, the local government provides public notice and opportunity to comment to residents of the affected area and holds a minimum of three public hearings in the affected area at a time and in a place and manner accessible to low-income residents and other vulnerable populations.

(4) The governing body for the city or county in which the sensitive community is located determines, by majority vote, to apply this chapter in the affected area.

(f) It is the intent of the Legislature to consider all of the following:

(1) Tasking local government entities with greater community connection with convening and administering the process for identifying sensitive communities.

(2) Requiring review by the Department of Housing and Community Development of the designation of sensitive communities.

~~SEC. 3.~~

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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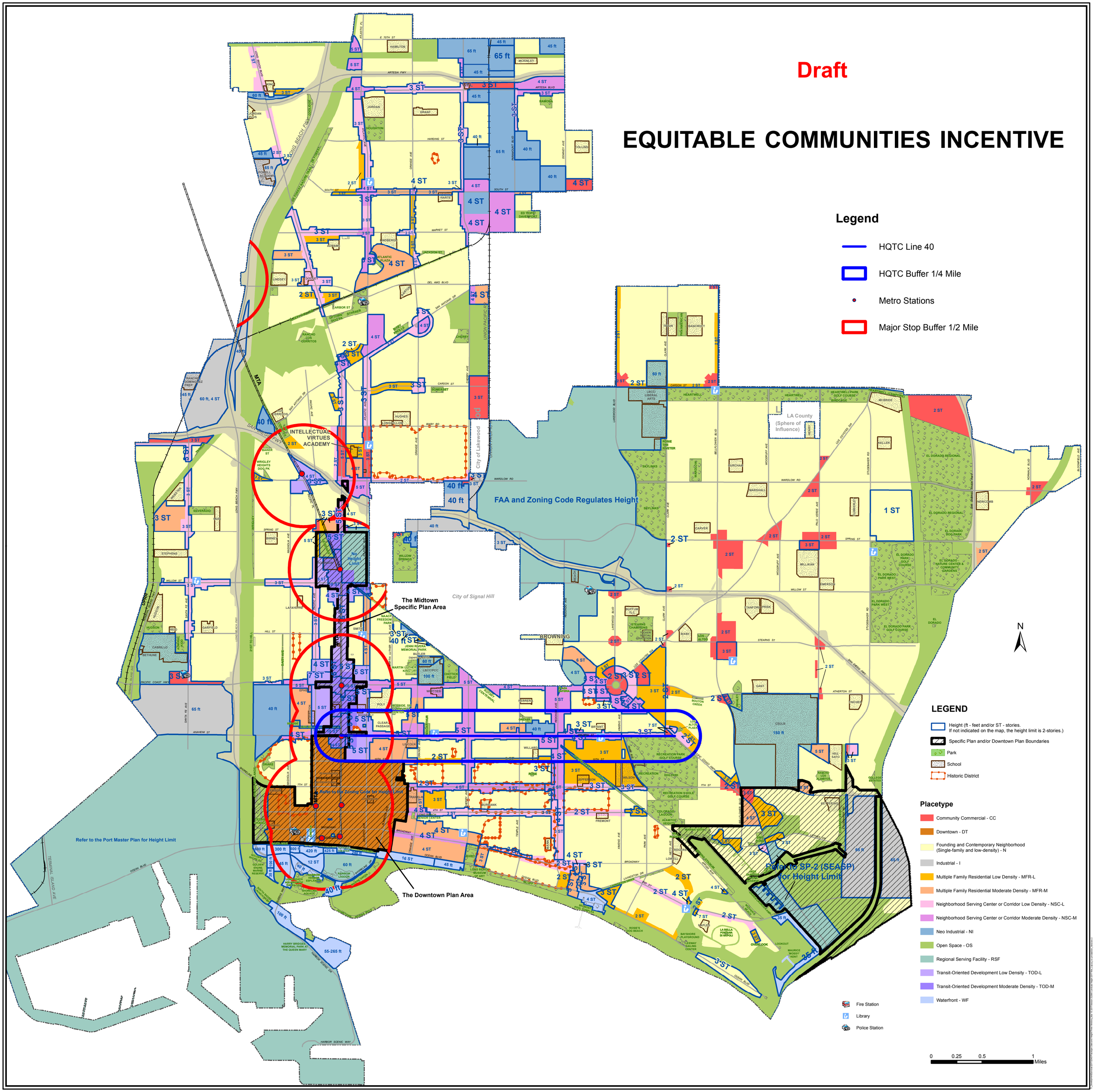
EQUITABLE COMMUNITIES INCENTIVE



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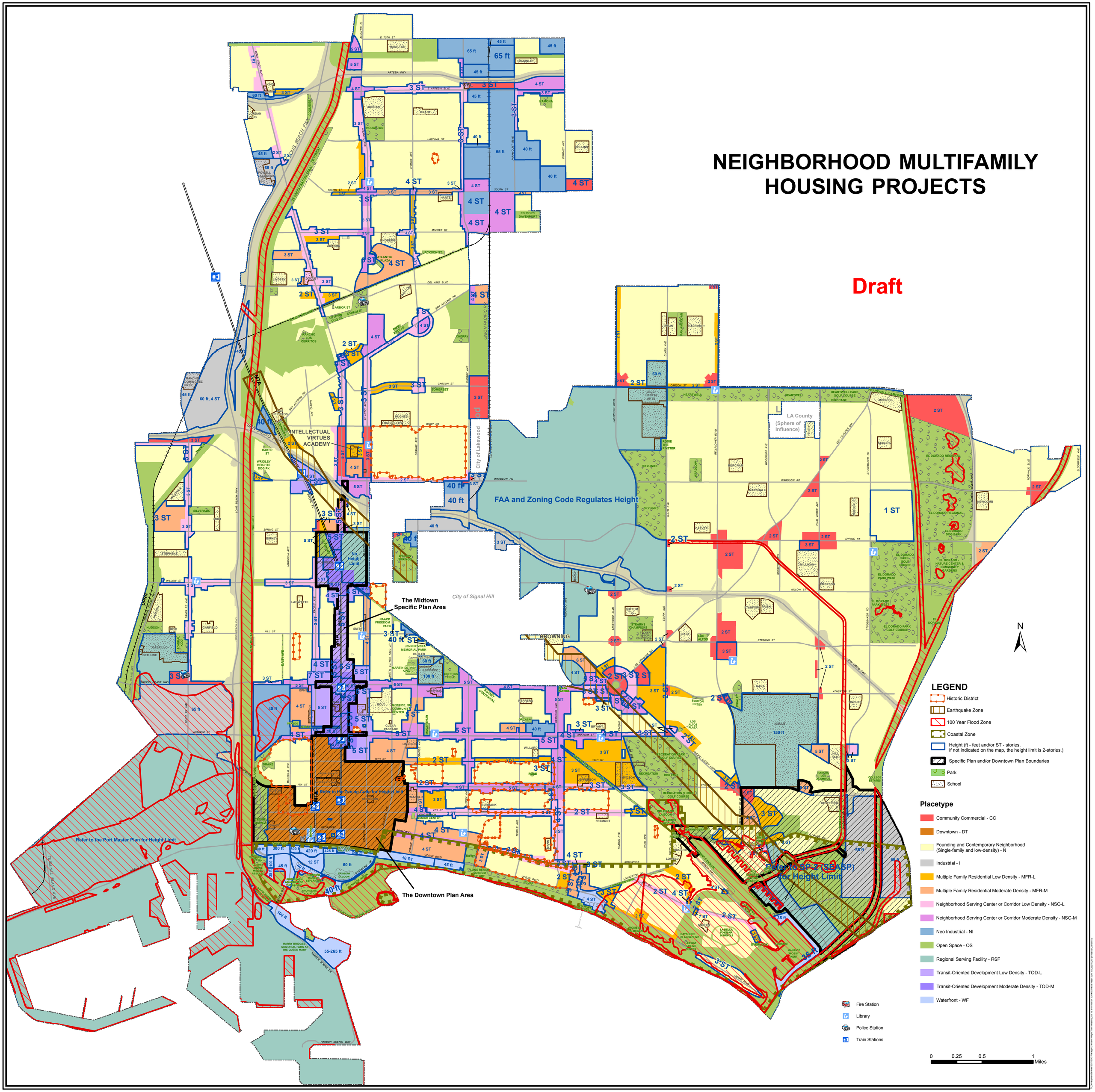
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