



April 5, 2021

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

**Re: SB 478 (Wiener): Planning and Zoning Law: Housing Development Projects
As introduced February 17, 2021 – Oppose Unless Amended
Set for hearing Senate Governance and Finance April 8, 2021**

Dear Senator Wiener,

The California State Association of Counties (CSAC) and the Urban Counties of California (UCC), have taken an oppose unless amended position to your SB 478, which would impose statewide overrides on zoning standards that otherwise apply to housing projects for two to ten residential units.

Counties have engaged in good faith on measures designed to provide new options for increased density in lower-density residential neighborhoods, including Senator Atkins' proposal to provide for by-right lot splits and duplexes, as well as proposals to streamline acceptance of "missing middle" housing in the housing element inventory (AB 3040, Chiu). As with any statewide land use proposal, careful attention is needed to avoid unintended consequences, especially in unincorporated areas that often lack supporting infrastructure taken for granted within cities; accordingly, we would remove our opposition if we are able to negotiate amendments that address the following issues:

Implications for Agricultural Zoning

Many counties have agricultural zones that allow for residential uses, including primary and secondary dwelling units and housing for agricultural workers. These zones can include minimum lot sizes designed to promote viable agricultural production, which are therefore much higher than a typical residential lot. For example, *minimum* parcel sizes could range from 40 acres for irrigated agriculturally-zoned properties with permanent crops (e.g. orchards, vineyards), to 160 acres or higher for non-irrigated rangeland.¹ We appreciate that your bill is intended to focus on residential zones, but the bill must be amended to explicitly exclude properties zoned for agricultural uses.

Clarity on Interactions with ADU Laws

SB 478 includes an accessory dwelling unit (ADU) or junior accessory dwelling unit (JADU) in the definition of a "unit" for the purposes of this bill. In residential zones, state law already provides for one ADU and one JADU that meet the standards in Government Code Section 65852.2(e), thereby imposing limitations on counting accessory dwelling units toward the maximum zoned density of a parcel, removing lot coverage standards, and constraining setback requirements. Accordingly, we propose

¹ <https://www.yolocounty.org/home/showpublisheddocument?id=23689>

removing the reference to ADUs and JADUs in the bill and explicitly focusing the bill on zoning standards for developments of two to ten units, not inclusive of ADUs or JADUs.

Applicability in Rural Areas Unserved By Infrastructure

In many rural and unincorporated areas infrastructure such as public water and sewer systems are not available. Accordingly, larger lots to accommodate wells and onsite water treatment systems are a practical necessity in addition to being required under local zoning rules. We appreciate the bill's intent to remove constraints to intensify residential development in urban areas, and propose including an infill standard and making the bill inapplicable in areas without full urban infrastructure.

Interactions between FAR and other Standards

Counties have reported that their residential land use regulations typically rely on density or parcel size rather than floor area ratio (FAR) and have commented that they do not believe that their minimum lot sizes and other standards would preclude development up to the designated densities. Moreover, we note that local agencies would have to review the capacity of their residential zoning in the current/upcoming housing element cycle: if other standards do not allow development up to the zoned density, this reality would be reflected in the housing element sites inventory.

While we appreciate that the bill intends to maintain controls on setbacks and height limitations, we note that a FAR of 1.5 is a very permissive standard, especially for duplex or fourplex zoning. We would encourage starting at a lower minimum FAR. Counties also want to carefully review the language and consider how it interacts with other standards once the bill is amended to include specific maximum lot sizes.

For these reasons, we are opposed, unless amended, to SB 478. Should you have any questions about our position on this measure, please do not hesitate to contact Christopher Lee (CSAC) at clee@counties.org, Jean Hurst (UCC) at jkh@hbeadvocacy.com.

Sincerely,



Christopher Lee
CSAC



Jean Hurst
UCC

cc: The Honorable Mike McGuire, Chair, Senate Governance and Finance Committee
Honorable Members, Senate Governance and Finance Committee
Anton Favorini-Csorba, Consultant, Senate Governance and Finance Committee
Ryan Eisberg, Consultant, Senate Republican Caucus