



City Council

Mike Anderson, Mayor  
Susan Candell, Vice Mayor  
Steven Bliss, Council Member  
Cameron Burks, Council Member  
Teresa Gerring, Council Member

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May 25, 2020

The Honorable Steven Glazer  
State Senator, 7<sup>th</sup> District  
State Capitol, Room 5108  
Sacramento, CA 95814

The Honorable Rebecca Bauer-Kahan  
Assembly Member, 16<sup>th</sup> District  
State Capitol, Room 2130  
Sacramento, CA 95814

Dear Senator Glazer and Assembly Member Bauer-Kahan:

I am writing to provide comments, per your request, on the package of bills that was released by a group of Senators aimed at increasing housing production in California. I genuinely appreciate your efforts to solicit feedback from the local governments that you represent, as these bills have the potential to significantly impact cities throughout the State. I also appreciate that these measures appear to incorporate some of the feedback that local governments have been providing on many of the housing production bills that have been considered over the past several years.

Before getting to the comments, I would like to clarify that the City of Lafayette has not taken any positions on the current versions of any of these measures. Additionally, since City staff has been focused on responding to the public health and economic impacts of the coronavirus pandemic, we have not had sufficient time to review each of the bills in detail, some of which have only been in their amended form for a few days. As such, the comments below should be viewed as the City's initial thoughts on the measures. We may have additional ideas and comments as we delve further into these measures and assess their potential impact on the City.

The following are initial comments on each of the measures that were included in the housing production proposal that was released last week.

SB 902 (Wiener)

- Appreciate that the zoning of up to 10 units per parcel will be a locally driven decision and left up to each community to decide. Each city in the State is different and providing communities with tools that can be utilized, as each community deems appropriate, will lead to housing production that is locally supported.

- Concerned regarding the provisions that would allow local officials to adopt increased zoning on a parcel, even if local voters have approved a local measure to the contrary. While this would still be a local decision, it would seem that allowing a City Council to adopt an ordinance counter to a voter-approved measure, runs contrary to the powers granted to voters in the Constitution.

#### SB 995 (Atkins)

- Appreciate the inclusion of legislation that considers the impacts of CEQA on housing projects. Often, proposed projects can be subject to CEQA litigation, which can significantly delay a project and lead to increased costs associated with the project.
- Appreciate the approach to streamline judicial review, as projects will still be required to conduct an Environmental Impact Report to determine the project's impact on the surrounding community.
- Concerned about the minimal \$15 million investment requirement needed to be eligible for the streamlined judicial review. While the current \$100 million threshold in current law may be high, it is unclear to the City what the appropriate investment threshold should be to justify this review. In the Bay Area, a \$15 million housing development is a very different project than a \$15 million project in the Central Valley, which is different than a project of that cost in Los Angeles. If the acquisition of land is considered as part of the investment, a \$15 million project in the City of Lafayette could produce as few as 15-20 units. It seems to be appropriate to consider a formulaic investment threshold that is based on local economic conditions.

#### SB 1085 (Skinner)

- This measure has the potential of being one of the more impactful bills to the City.
- Current Density Bonus Law already allows generous levels of concessions and waivers for projects that have as low as 5% affordable units.
- Concerned that by providing additional concessions, at relatively low affordability thresholds, this measure could result in projects that are oversized for their communities **while providing only a minimal increase in the number of affordable units.**
- Concerned that by offering a significant amount of concessions, this bill when combined with existing Density Bonus Law, will further erode local land-use authority.
- Concerned that if the goal of the legislation is to increase the overall amount of affordable housing, then the author should consider substantially increasing the percentage of affordable units that must be included in a project in order to receive additional concessions or waivers.
- Concerned that if a local jurisdiction has an inclusionary housing requirement, as does the City of Lafayette, then a project should not receive additional concessions unless and until they contain more affordable units than would otherwise be required by the local ordinance. In the case of Lafayette, a project would not be eligible for concessions on the first 15% of affordable units, as that is the level that is required under the City's inclusionary housing ordinance.

- Concerned regarding the provisions that would not allow for impact fees, in-lieu fees, and other public benefit fees to be imposed on a housing development's affordable units or bonus units. While I appreciate the desire to reduce the costs associated with affordable housing, the fees in question are directly related to the infrastructure and services needed to support those that will reside in the housing development. The residents living in the affordable and bonus units will still require access to roads, sewer and water, parks, and the other local infrastructure that is funded through these fees. If these fees are not collected, that will put pressure on the City to fund those items, which will be difficult, if not impossible, given the new economic realities facing local governments throughout the State.

#### SB 1120 (Atkins)

- This measure has the potential of being one of the more impactful bills to the City.
- Concerned that even with the changes that have been made in this bill, compared to previous legislation, this measure is an attack on single-family zoning and will reduce the housing choices that are available within our communities. Local jurisdictions should be allowed to determine the appropriate mix of housing solutions that are right for their communities, which may include single-family housing.
- Appreciate that the bill would not allow its provisions to be implemented in areas that have been identified as a very high fire hazard severity zone. This provision is of great importance to the City, as portions of the City are within such a zone and we have the responsibility to ensure the safety of all residents. To authorize dense developments in areas that are in increased risk of being impacted by wildfires runs counter to that obligation to protect public safety.
- Appreciate the provisions within the bill that would **not** require a local jurisdiction to permit an accessory dwelling unit (ADU) on parcels that take advantage of the streamlining provisions contained in the bill. This is important because if this bill were to require ADUs to be permitted, then a single-family home could be proposed for a lot split as well as development of an ADU and JADU on each lot, resulting in six residences on what was a single parcel. While this may be appropriate for some lots, by not requiring, but still allowing, a local government to permit ADUs, this measure will ensure that the resulting parcels or duplexes will adhere to local requirements for setbacks, rights-of-way, and other safety related provisions.

#### SB 1385 (Caballero)

- I appreciate the author's desire to repurpose underutilized retail and commercial spaces for housing; however, there are many areas of the State where there is a need to preserve retail and commercial spaces so that residents have access to those resources and jobs. In Lafayette, the conversion of retail and commercial space into housing ultimately results in our residents needing to travel increased distances to the jobs, access services, or to go shopping. I believe that it runs counter to the author's goals, as this measure could result in increased commutes and vehicle miles travelled for the residents of Lafayette, which is why we believe that local governments should be

provided with tools that they can utilize based on what is best for individual communities

- While SB 1385 requires that a site must have had no commercial or retail tenants on 50% or more of its total square footage for at least three years, this bill would result in the displacement of existing businesses and retail as the economic impact of CoVID-19 will be with us for many years. In a city like Lafayette, that likely means that small, locally owned businesses would be displaced by a proposed housing development.
- While in some instances it may make sense to repurpose underutilized retail or commercial areas, however, I do not think that this should be a decision that should be made on a streamlined, ministerial basis. The loss of retail and commercial spaces can have a significant fiscal impact on a city, particularly those that do not have a broad base of retailers. I believe that locally elected officials, and members of the community, should have the opportunity to weigh in on such decisions, so that the full extent of the local impacts can be considered.

#### Renter/Landlord Stabilization Program

- While not currently in a bill, the City is generally supportive of a budget proposal that would allow renters and landlords to voluntarily work with the State to address issues of renters being unable to afford their rent due to impacts from COVID-19.
- The City believes that it is important for landlords to be included in any solution. While attention is rightly given to the impacts to renters, many landlords are individuals or small businesses that rely on rental income. The City believes that relief for renters should not come at the expense of landlords, but that the two groups need to work together with the State to craft a solution that works for all parties.

#### Conclusion

The package of legislation that was unveiled last week represents updated policy positions, which the City appreciates. That said, the City of Lafayette continues to believe that adopting a holistic approach that considers housing, transportation and jobs is the best way to arrive at solutions to address California's housing crisis and work towards achieving California's greenhouse gas reduction goals. The City continues to believe that legislative solutions should consider the following:

- **The impact of housing production on local job loss.** In many smaller cities, job centers are being eliminated in favor of housing. This upsets the local jobs-housing balance, impacts revenues and budgets, and forces residents to drive outside the city for services and employment.
- **Allow cities to offer the affordable housing units to people who live and work in those cities.**  
This would improve the local jobs housing balance, reduce commuting impacts` and build stronger communities.

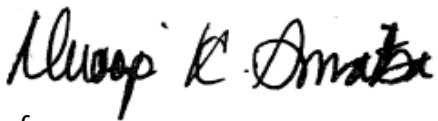
- **Include a guaranteed funding mechanism for cities to incentivize housing production.** A guaranteed source of funding will allow cities to offer incentives such as writing down impact fees and paying for more affordable units to spur housing production.
- **Allocate more housing to counties with the highest number of jobs and the highest imbalance in the jobs/housing ratio.** Locating housing where jobs already exist will result in shorter commute times for residents, increased productivity (less time spent in traffic), and lower impacts on the already-constrained highway and transit systems.

Rather than the singular focus on housing production, we suggest that the use of the local jobs/housing balance as a metric for an integrated assessment of jobs, housing, and transportation will lead to better solutions. One idea worth considering in the Bay Area is to promote the location of more jobs in the East Bay which currently houses a significant number of people employed in San Francisco and the peninsula. Both protecting and attracting more jobs centers in Contra Costa and Alameda counties would optimize the use of BART and the highways through a significant reverse commute flow, decrease greenhouse gas emissions, and improve the quality of life for all residents.

Thank you again for working with your communities and providing us with the opportunity to comment on legislation being considered in Sacramento. While these bills are being considered in the State Capitol, their impacts will ultimately be felt in communities throughout the State. As such, we appreciate the continued opportunity to work with you and your colleagues to ensure that we can achieve our mutual goals of maintaining the quality of life our residents expect, while providing opportunities to expand our community and welcome new residents.

If you have any questions about the comments on the potential impacts of the housing production legislation, please reach out to our City Manager, Niroop Srivatsa, at (925) 299-3206.

Sincerely,



for

Mike Anderson  
Mayor  
City of Lafayette

Cc: Senate Governance and Finance Committee  
City Council