



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

DATE: February 5, 2018
TO: Members of the Planning Commission
FROM: AnMarie Rodgers, Citywide Planning Director; Joshua Switzky,
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RE: SB 827

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Dear Planning Commissioners,

This memo is in response to the Commission’s request for an analysis of the proposed State Senate Bill 827 and its potential effects on San Francisco. It is important to note that the implications of this bill for San Francisco are based on the version of the bill as currently proposed, and it is likely that future versions of the bill would change this analysis. Nonetheless, we believe it is important for policy-makers to understand the implications of such a far-reaching proposal.

SB 827 Summary

SB 827 proposes to increase housing development capacity in areas that meet minimum levels of transit service with state-imposed minimum zoning standards for certain key development controls. The bill would have its greatest impact on the State’s core metropolitan regions with more extensive transit service. In San Francisco, this would be virtually the entire city. In the rest of the Bay Area, large swaths of Oakland, Berkeley, and San Jose would be affected, as would all areas right around Caltrain, BART, and SMART stations, various singular corridors along both sides of the Bay, such as San Pablo Avenue and El Camino Real, and areas around ferry terminals. Outside of the Bay Area, the state’s two largest cities—Los Angeles, and San Diego—would be substantially rezoned under this bill, with much lesser changes in other cities.

SB 827 would remove residential density and floor area ratio (FAR) limits, minimum parking requirements, and impose minimum height limits statewide for residential projects on residentially zoned parcels within defined proximity to transit stations and corridors that meet certain minimum criteria, as follows (colors correspond to attached Map). The bill would also prohibit the enforcement of “Any design standard that restricts the applicant’s ability to construct the maximum number of units consistent with any applicable building code.”

SB 827 Proposed Height Limits by Proximity to Transit and Street Width						
Category	Radius Affected	Transit Type	Street Width (feet)			
			>45 ft		<45 ft	
			Base	w/ SDB	Base	w/SDB
A	1/4 mile	Transit corridor	85 ft	~105 ft	55 ft	~75 ft
	1 block	Major transit stop				
B	1/2 mile	Major transit stop	55 ft	~75 ft	45 ft	~65 ft

SBD= State Density Bonus

San Francisco Policies on Growth and Transit

San Francisco's General Plan, including the Housing Element and Transportation Element, explicitly emphasizes the importance of focusing growth in close proximity to major transit services, as well as providing flexibility to maximize unit count within the allowed building envelope and minimizing the impact of parking on the provision of housing. These core policies assume that transit-oriented, walkable dense development is the basis for efficient, sustainable cities and further provides more affordable, diverse choices for people to live and commute without cars for most daily needs. Moreover, higher urban densities create a rich environment for varied experiences and encounters, and contribute to both economic and cultural vibrancy.

San Francisco also recognizes the importance of comprehensive regional planning for jobs and housing, and the wide disparities at the regional level in the extent to which cities have been actively and willingly planning for and building for housing, particularly in areas with greater access to transit. Increased housing development around transit in more jurisdictions around the Bay Area could open up housing opportunities in both higher income, higher opportunity suburbs in addition to core urban areas. Substantially increased housing production is necessary to improve housing affordability not just in the Bay Area, but statewide, and zoning is the foundational regulation that determines how much housing can be built over time.

The apparent objective of the bill is to provide more transit accessible housing statewide, helping to both meet sustainability and transportation needs while and moderating housing prices by increasing zoned housing capacity.

Although the General Plan, as the embodiment of the City's guiding policy document for the evolution of San Francisco, shares these key objectives with SB 827, the General Plan also explicitly emphasizes the importance of planning for land use change in consultation with communities and in consideration of a variety of relevant factors in the context of each area—urban form, open space, historic preservation, and other factors. Additionally, in its analysis of the bill, the Planning Department makes a number of observations about the practicalities of implementing the bill and other key inconsistencies with General Plan policies, particularly the importance of maintaining key urban design standards related to livability, walkability, and context, as well as discussing the very notion of transit "richness."

SB 827 does not explicitly eliminate or limit local controls regarding demolition and removal of units.

Related to the previous point, SB 827 does not appear to explicitly limit a city's discretion to limit or prohibit demolition or removal of units, nor would it preempt local tenant protections under the Rent Control ordinance. However as discussed below, there is uncertainty regarding the interpretation of the "design standards" provision. Presuming that limitations on demolishing units is not considered a "design standard," then the effect of the bill would be initially to direct growth to conventional "soft sites" (i.e., underdeveloped sites without existing residential uses) along with encouraging *additions* to existing residential properties. In the longer term, however, absent any outright Code prohibition on demolishing existing units, which does not currently exist in most of San Francisco, it is possible that more and more sites containing existing residential units, including single family homes, would be incentivized to redevelop at higher densities as property ownership changes.

SB 827 would affect most of San Francisco and would significantly upzone most of the city. As shown in the attached map, almost 96% of the city's parcels are within ½-mile of a major transit stop or ¼-mile of a transit corridor meeting the definition in the bill. San Francisco's transit network is expansive and most

bus lines run service at or more frequent than every 15 minutes during peak commute hours. Over 90% of the city's parcels currently have a height limit of 45' or less. Given that most major streets in the city have widths greater than 45', the majority of the streets in the City would have their height limits doubled from 40'/45' to 85'. Even where height limits are not raised significantly, the elimination of density controls could result in significantly more units per parcel, as many of these areas are zoned RH-1 or RH-2. Approximately 72% of San Francisco parcels are zoned RH-1 or RH-2. Overall, these parcels would receive the most dramatic upzoning under SB 827, combining the height and density changes. For example, on a typical 2,500 sq ft RH-1 lot on an eligible street, current zoning permits two units (one primary unit plus one ADU) and a 35' height limit. Under SB 827, zoning would likely result in permitting an estimated range of ten to sixteen units depending on whether the lot falls within the bill's 55' or 85' height zones. (Note this does not yet account for use of the State Density Bonus, which would allow more height and density. See below.) The zoning changes would also upzone substantial areas recently rezoned under such plans as the Market & Octavia Plan and Eastern Neighborhoods, which are density decontrolled (in such districts as NCT, RTO, and UMU) but where height limits are lower than 85'.

SB 827 does not limit use of State Density Bonus. The legislation does not seem to remove the ability to use the State Density Bonus on top of the bill's rezoning. Hence what is proposed as 45', 55', and 85' heights could actually be 65', 75'-85', and over 100' respectively, and so should be viewed in that light.

SB 827 appears to eliminate the ability to enforce Planning Code standards or other adopted Design Standards that are the backbone of livability, walkability and urban design quality. The bill's provision regarding design standards is dramatic. Unlike SB 35 which accommodates "objective standards" and State Density Bonus law which limits the waiver of Planning Code standards to the minimum necessary to accommodate an allowed bonus, SB 827 as proposed completely eliminates *all design standards related to building envelope* other than height for buildings within the prescribed height limits. It precludes the applicability of any design guideline and Planning Code provisions that in any way reduces the size and shape of the building envelope from a maximal box within the height limit, allowing only application of California Building Code standards. This would preclude the ability to maintain any standards regarding rear yard, lot coverage, exposure, open space, setbacks, and bulk controls of any kind, to name a few. While the California Building Code addresses light and air as primarily life and safety issues, these planning controls establish basic housing and neighborhood livability standards such as access and connection to daylight, openness in urban density, and natural spaces. Their elimination could result in residential projects with full lot coverage and little modulation or articulation, since any building modulation by definition reduces maximum building volume. The bill would upend urban design standards in recent plans such as Eastern Neighborhoods and Market-Octavia that were the design foundation accompanying the elimination of density controls. The bill would also countermand the basic principles laid forth in the Urban Design Element, which reinforce livability patterns within the city fabric such as preservation of mid-block open space, inclusion of mid-block alleys on long blocks, matching of lightwells, and consideration of sun and shadow.

SB 827 does not explicitly change local approval processes, however uncertainty exists about the extent of discretion retained by the City. This proposed bill does not currently contain any provisions regarding permit review, entitlement, processing or streamlining. The bill affects key zoning provisions determining what is allowable on a lot, but itself does not otherwise mandate review and approval timelines or processes. This would appear to leave in place traditional local powers and processes of Conditional Use, discretionary review, variance, large project authorization, and other processes,

including CEQA. While this is true, it is unclear whether the discretion typically vested in the Planning Commission under these processes could be exercised to the extent they invoke design considerations that would cause any reduction of buildable envelope within the heights prescribed in the bill, as noted above. This uncertainty would extend to historic preservation considerations. Analysis by the City Attorney's office is necessary, including to what effect project sponsors could use the Housing Accountability Act to challenge or overturn any City decision that had the effect of reducing potential density based on either on application of Code and design standards as described above or other processes and discretion currently vested with the Commission.

SB 827 would reduce interest in local affordability incentive programs, but may result in more affordable housing overall. The upzoning proposed under SB 827 does not require increased levels of affordability and could blunt the use of local bonus programs such as HOME SF but would likely result in the production of more affordable housing due to overall significantly greater housing production under SB 827 than under existing zoning.

HOME-SF removes density restrictions and allows an additional two stories to generally permit height limits between 65' and 85', in exchange for 30% on-site affordable units in Neighborhood Commercial Districts (NCD) and a number of other zoning districts throughout the city that still have density limits. The program relies on the additional development capacity offered by the city to justify the 30% on-site affordability requirement.

SB 827 would, in most cases, offer greater development capacity than allowable under HOME-SF, thus removing the incentive to use HOME-SF. However it would be likely that SB 827's much broader and more significant up-zoning would result in substantially more total inclusionary units than current zoning even with HOME-SF because more and larger buildings with on-site inclusionary would be developed under SB 827. Note that SB 827 does not limit the City's ability to adjust inclusionary housing requirements to capture the benefits of the additional development capacity created by SB 827. Further financial feasibility analysis would be necessary to ascertain what, if any, increases to inclusionary requirements and other impact fees would be warranted under SB 827.

The bill provides potentially huge additional value to property owners throughout the state, without concurrent value capture. San Francisco spends years crafting rezonings that try to balance demands for housing and jobs, while also capturing a portion of that value for public benefits, including inclusionary housing, impact fees for local infrastructure, and other measures. The proposed bill would neither allow this local planning process to take place concurrently, nor would it give a path for local jurisdictions to conduct necessary studies and implement programs to capture an appropriate level of the increased value for public benefits and impact mitigation at the same time as the intensified zoning is implemented.

SB 827 definition of "transit rich"-ness is low, especially for "corridors." The minimum standard for a corridor to trigger the major rezoning is a single bus line that runs four times an hour during peak morning and afternoon commute hours (i.e. a couple of hours per day). This bus could run only during these peak hours (such as an express bus) or have much lower headways at other times of day (e.g., 20-30 minutes). It may not run at all on weekends and there may be no other transit that serves other destinations other than that one bus. The Housing Element explicitly notes that the presence of a bus line does not equate with transit "richness." Rather transit corridors considered "rich" are those that offer round-the-clock, daily (including weekend), high-frequency, high-capacity, and efficient service.

Additionally, the bill refers to transit “corridors,” but it is true that many bus routes that meet the peak hour service definition are commute express buses that may not stop for miles along their journey, stopping only at the ends. However the proposed this bill would appear to upzone the entire path taken by such a bus (for example, in San Francisco the areas adjacent to Highway 101 would be upzoned because of bus use along the Highway; or all areas along the paths taken by express commute buses from the outer reaches of the city to downtown would similarly be upzoned).

Tying Zoning to Transit Service Introduces Substantial Uncertainties Over Time. Bus routes can change over time, as well as increase and decrease service levels. The zoning map would be dynamically tied to constantly shifting factors and would require constant monitoring of transit service levels and routes to maintain an updated zoning map. This could mean that zoning could fluctuate somewhat dramatically over time as service levels increase or decrease due to transit budgets, ridership, travel patterns, or agency service strategy. Under the proposed bill, if an operator were to cut service from 15 minutes to 18 minutes, that would trigger a sudden rezoning for 1/4-mile around the bus route; similarly minor increases in transit service could trigger dramatic rezoning. Certainly, delivered transit service performance often doesn’t match scheduled transit service. Similarly, if a bus route were shifted from one street to the next, or lines truncated or consolidated, it could significantly affect zoning. Furthermore, it could create pushback from jurisdictions or neighborhoods who oppose increased density to suspend already planned transit service enhancements or avoid planning for increased transit service altogether. There are also yet un-analyzed nuances, such as how services provided by regional transit providers, such as Golden Gate Transit and SamTrans, which provide bus service through San Francisco, would impact zoning under SB 827, as well as transit services provided by private operators or major institutions.

SB 827 Ties Building Height Limit to Curb-to-Curb rather than ROW width. The General Plan endorses the common urban design principle that street width—the whole street, inclusive of sidewalks—is an appropriate frame by which to establish comfortable building height limits. However, the proposed bill sets height limits based not on overall right-of-way width, but on curb-to-curb distance—i.e. only the vehicular portion of the ROW. Curb to curb is wholly dependent on sidewalk widths and varies substantially from street to street and over time. Right-of-way width is fixed and won’t change for a given street. The impact under this bill is that any time the city widens (or narrows) sidewalks, then zoning could change. Like transit service and routing, curb-to-curb width can be difficult to track comprehensively over time and would make maintaining a stable zoning scheme challenging. In addition, the bill sets up the unfortunate unintended consequence that property owners and developers would be inclined to oppose sidewalk widening since it could result in a significant downzoning.

In conclusion, although core principles of the General Plan and planning best practice, including key state mandates and programs, such as SB 375, align closely with SB 827’s vision of increasing housing capacity statewide near transit, the extent of the effect on San Francisco would be significant and key provisions lack clarity.

Attachment

Map of Affected Parcels

SB827 Proposed Minimum Height Limits in San Francisco

- 1/4 mile from transit: 85ft (110 ft w/ SDB) or 55ft (75 w/SDB)
- 1/2 mile from major transit station: 55 ft (75 ft w/SDB) or 45 ft (65ft w/SDB)
- Major Transit Stations
- Muni routes that run every 15 minutes during peak
- Parks and Open Space

