



Senator Scott Wiener, 11th Senate District

Senate Bill 478 – Housing Opportunity Act

SUMMARY

Senate Bill 478 ensures that local zoned density and state housing laws are not undermined by hyper-restrictive lot requirements that make it practically impossible to build multifamily buildings in areas zoned to allow them. This bill does not change zoned density, but simply removes an abusive tool that some cities use to prevent construction of multi-unit buildings that the city or state has already zoned for. SB 478 will set minimum standards on floor area ratios (FAR) and minimum lot sizes — tools currently used to undermine housing density and that increase the cost of housing — to help local governments meet their new Regional Housing Needs Assessment (RHNA) housing goals. SB 478 will establish a 1.5 state floor area ratio standard for land zoned for missing middle housing (between 2 and 10 units), which will allow areas zoned for multifamily housing to actually build the amount zoned for. The bill also intends to set a minimum lot size for 2-4 unit parcels, and a separate, sustainable minimum lot size for 5-10 unit parcels.

BACKGROUND

Existing housing element law requires local governments to plan and zone for housing through the RHNA process, but also allows them to set regulations on housing that can actually back-door prohibit the production of this housing. These regulations include floor area ratios and minimum lot sizes. This bill proposes to set uniform standards for local governments on these two housing regulations, closing this loophole within current law that does not allow localities to build the amount of housing they've already approved.

The floor area ratio (FAR) of a property is the total area of the floor space in a building, potentially over several floors or units, divided by the area of the entire lot. FAR restrictions control how large a building can be, based on how large the parcel of land is. An exceptionally low FAR can make it impossible to build multi-unit even if the land is zoned for multi-unit. For example, if a 2,000 square foot lot has a floor area ratio of 1.0, this means that a developer can build a one-story building over the entire lot, a two story building over half the lot, or a three story building over a third of the lot. A 5.0 FAR means that the

floor area may be up to five times as large as the lot area; and a 0.5 FAR means that the building cannot occupy more than 50% the lot area.

FAR is just one restrictive component of zoning that can decrease the maximum allowable units built. In practice, an FAR of less than 1.0 would not actually allow a developer to build even one story over the entire lot because other local zoning regulations would still apply, such as setbacks, parking, and open space requirements. Because these added requirements further decrease the amount of buildable area, in reality, a property with an FAR of less than 1.0 will not cover the entire lot.

A minimum lot size requirement is a zoning code regulation that specifies the minimum square footage a lot size can be. This term regulates density and describes the smallest lot that can legally be created within a local jurisdiction. In some areas, lot size minimums can be as large as an acre, or about 43,000 sq. feet. If the minimum lot size is large, people are required to purchase a larger piece of land than what is needed, limiting potential buyers and increasing housing costs. Minimum lot size regulations requiring bigger-than-necessary land purchases incentivize the development of mega-mansions, rather than multifamily units affordable to working people. Coupled with low FAR's, large minimum lot sizes most often encourage, and only allow, the development of these mega-mansions, even if the lot has been zoned for multi-family use.

PROBLEM

California has descended into a suffocating housing crisis, which has led to mass migration out of the state, skyrocketing eviction rates, record levels of chronic homelessness, and a growing class of lower-income super commuters unable to afford or access housing within several hours of their jobs. Many local governments in California are motivated independently to increase density in neighborhoods, and others are required by state law to do so. However, due to the lack of adequate statewide standards and burdensome, outdated regulations, some California cities are able to avoid accountability and find loopholes to prevent denser housing from becoming a reality.

Recent changes to RHNA, which now require regional housing goals to account for unmet existing housing need (rather than projected need), have significantly increased the number of housing units that most local jurisdictions are required to produce. However, local governments may struggle or even dodge responsibility to meet their RHNA housing requirements due to restrictive regulations in statute. Excessively low FAR and large minimum lot sizes are tools that numerous cities use to undermine their own zoned density (or state required density) — in other words, a city zoned for multi-unit housing (or a state law authorizes multi-unit housing) but extreme FAR or lot size requirements make that zoned density effectively impossible. As a result, cities are able to back-door prohibit multi-unit housing otherwise authorized by local or state zoning law.

Excessively small floor area ratios are used to limit density in neighborhoods that are currently zoned for multi-family housing. Less than one-third of California is zoned and approved for multi-family use. However, when a restrictive floor area ratio is applied, the amount of multi-family housing actually built is much less than one-third. A low floor area ratio limits the size of the development, thereby decreasing the number of units that can be built.

For example, if a city has an FAR of 0.4 for fourplexes, and requires a minimum lot size of 4,000 square feet, a building could only be 1,600 square feet, or 400 square feet per home. That unit size likely would not pencil out, and the fourplex would not be built. A single-family home, by contrast, would pencil out. Even in cities or counties where zoning code allows for 2-10 unit buildings, restrictive FARs can effectively prohibit this type of housing. This is a clear example of how a low FAR can directly undermine the amount of housing a local government has approved.

Current state law already addresses this problem in the context of ADUs, by preempting local FAR regulations entirely in order to facilitate the construction of ADUs; when building an ADU, local FAR standards are simply void. SB 478 does not go as far as existing state ADU law. Instead, it simply creates an FAR of 1.5 on multi-family zoned lots (for 2 to 10 units) and thus makes it possible to actually building those homes.

Minimum lot sizes can also be highly restrictive to the production of smaller, more affordable units on multi-family parcels, especially in expensive areas where land cost is the steep. In other words, the larger the mandated minimum lot size, the higher the land use per unit, meaning small multi-family homes don't pencil out but mansions do. Scholars agree that large lot zoning constrains even minimal density, which then increases the cost of housing, exacerbates segregation, and contributes to sprawl — incentivizing single family mega mansions rather than small, multifamily units¹.

As just one example, a small California city currently requires a lot to be at least 14,520 square feet to build a duplex. This means that the required cost just to buy the land to build a duplex is \$540,000 per home. Such a project would never pencil out. By contrast, building a large mansion on that parcel would pencil out.

FAR and minimum lot sizes, when abused, can be used as backdoor way to invalidate multi-family zoning that allows ADUs, duplexes, and small multi-unit buildings. These two factors can make building multifamily homes difficult and inefficient, increasing the cost to build multi-family units, and incentivizing the production of large single family homes. Low floor area ratios and large minimum lot sizes make missing middle, small multi-unit projects financially impossible, discouraging them from being built, and prevents families from buying homes they can afford, further exacerbating income and racial segregation among California communities.

SOLUTION

SB 478 ensures that areas *already zoned* to allow multifamily housing, up to ten units, are able to legally accommodate this type of housing, doing away with abusive requirements that make it effectively impossible to build anything other than a large single-family home, despite the multi-family zoning. This legislation creates a state standard floor area ratio of 1.5 for parcels between 2 and 10 units. This bill also requires a minimum lot size of 1,200 sq. feet for parcels zoned to accommodate 2-4 units. For parcels that are zoned to accommodate 5-10 units, the minimum size of the lot will be determined upon further review.

This bill does not require cities to undertake any rezoning, or change the current zoning on existing parcels. SB 478 also does not change other objective

¹ Paul Boudreaux, "Lotting Large: The Phenomenon of Minimum Lot Size Laws," *Maine Law Review* 68, no. 1 (2016):1

standards such as height, setbacks, or parking requirements.

SB 478 will be an effective tool to combat our housing shortage reducing barriers to developing moderate-income housing, especially in urban areas, and allowing cities to better meet their housing goals legally required of them by the RHNA process. In doing so, this bill will help California build the denser, more affordable, missing middle housing it so desperately needs to help young families stay in California lessen the prevalence of homelessness and evictions, and provide more affordable housing options near jobs and transit.

SUPPORT

- California YIMBY (Sponsor)
- YIMBY Action

FOR MORE INFORMATION

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