



Senator Scott Wiener, 11th Senate District

Senate Bill 79 – TOD Upzoning and Transit Agency Land Use Authority

SUMMARY

Senate Bill 79 allows more housing development near major public transportation stops by establishing state standards for transit oriented zoning around major transit stops – especially train stations. Specifically, SB 79 zones for multifamily residential uses near major transit stops on any site zoned for residential, mixed use, commercial, or light industrial (if a local jurisdiction does not opt out specific parcels) development, up to a specified height, density, and floor area ratio. These standards will ensure that transit oriented developments (TODs) are feasible and enhance access to transit. The bill also authorizes transit agencies to develop at the same or greater density on land they own or have a permanent operating easement on.

TODs under SB 79 are eligible for the streamlined ministerial approvals process under Senate Bill 423 (Wiener, 2023) if they meet that law’s environmental, labor, and affordability standards.

BACKGROUND/EXISTING LAW

Existing law under SB 375 (Steinberg, 2005) encourages coordination of housing and transportation policy, with greater land use intensity and more housing near transit. Additionally, under AB 2097 (Friedman, 2022) and AB 2011 (Wicks, 2022), existing law preempts certain local land use restrictions that limit housing near transit and allows greater densities near transit.

Existing law, under AB 2923 (Chiu, 2018), requires cities and counties to adopt the zoning standards in the San Francisco Bay Area Rapid Transit District’s (BART) TOD guidelines and establishes a streamlined approval process for

certain projects on BART-owned land. Existing law also establishes a streamlined, ministerial process for approving housing developments that are in compliance with the applicable objective state and local planning standards.

Several jurisdictions outside of California have made progress in making transit-oriented development easier. Colorado requires cities to allow an average of 40 dwelling units per acre within a quarter-mile of transit. Massachusetts Bay Transportation Authority must have at least one multifamily district allowing at least 15 dwelling units per acre. Utah requires an average density of 50 dwelling units per acre in transit reinvestment zones.

PROBLEM

California faces a housing shortage both acute and chronic, particularly in areas with access to robust public transit infrastructure. Restrictive zoning in existing communities forces development into sprawl – increasing traffic and pollution, and accelerating the loss of open space and farmland. Building more homes near transit reduces transportation and housing costs for California families, promotes environmental sustainability and economic growth, and reduces traffic congestion.

Public transit systems require sustainable funding to provide reliable service, especially in areas with increased density and ridership. California does not invest in public transit service to the same degree as it does in roads, and funds a smaller proportion of the state’s major transit agencies’ operations costs than other states with comparable systems. Transit systems in other countries derive significant revenue from TOD at and near their stations.

The housing crisis itself has had a direct impact on transit ridership. According to a UCLA study¹ an increase of \$230 per month in rent led to 22% less transit use by the neighborhood.

Although California has made progress in making TOD easier, most areas within a half-mile of transit are essentially off-limits to TOD – whether they are not zoned for five or more units and thus do not qualify for state density bonus law (SDBL), or they are zoned commercial and not residential.²

Although many regional transit authorities have TOD goals and own the land next to their station, permitting and rezoning barriers and lack of general and (access to) public funding to build deed restricted housing results in these agencies struggling to realize their TOD goals. Building housing on transit authority land will increase ridership and revenue, which will generate sustainable funding for the transit agency.

SOLUTION

Senate Bill 79 establishes state standards for transit oriented zoning around qualifying transit stops. Recent author's amendments focus these state zoning standards on "urban transit counties," defined as counties with 15 or more rail stations. SB 79 authorizes specified heights and densities in parcels near qualifying transit stops in these urban transit counties, based on the capacity of the transit service at the station, categorized as follows:

Tier 1: Major transit stops served by:

- Heavy rail transit (**i.e. BART and LA Metro B & D Lines**)
- Very high frequency commuter rail (commuter rail with 72+ trains running daily) (**e.g. Caltrain stations**)

Tier 2: Major transit stops served by:

- Light rail transit (**i.e. Sac RT and SF Muni**)

- High frequency commuter rail (commuter rail with 48+ trains running daily) (**e.g. certain Metrolink stations**)
- Bus rapid transit

Tier 3: Major transit stops served by:

- Frequent commuter rail transit, as defined (**e.g. SMART Rail**)
- Ferry service

Although SB 79 still applies outside of "urban transit counties", it applies in a more constrained form; transit stops outside of "urban transit counties" are subject only to limited Tier 3 requirements.

All SB 79 projects are subject to local affordability requirements, or the affordability requirements provided in SDBL. If a local jurisdiction has an affordability requirement, SB 79 projects are subject to that requirement. If a local jurisdiction does not have an affordability requirement, SB 79 projects are subject to the affordability requirements to qualify for the State Density Bonus Law.

SB 79 provides local governments the option to tailor SB 79 through an amendment to their Housing and Land Use Elements, reviewed by HCD. A local TOD alternative plan would be required to maintain the same total increase in zoned capacity as provided for under SB 79, and allow at least a minimum density on all residential parcels near qualifying transit oriented development stops. Within those constraints, cities would be able to adjust allowed densities and heights, as well as designate additional transit oriented development areas. Cities with an approved local TOD alternative plan in place would not be subject to SB 79's baseline standards for height, density, and FAR.

SB 79 also provides transit agencies with the land use authority to develop land it controls, so long as the development is within a TOD stop area, as

¹ [Neighborhood Change and Transit Ridership](#) (Manville et al, UCLA)

² California YIMBY

defined. Transit agencies may also allow otherwise excluded major transit stops to qualify for SB 79 as Tier 3. Thus, SB 79 helps deal with the very real issue in California of adequately funding our public transportation systems and giving them tools to sustain themselves and succeed. Cities like Tokyo, Taipei, Paris, Barcelona, Mexico City, and Santiago, Chile have frequent transit that costs little to ride due to their good tax support and ability to control land use around their station. SB 79 does not provide for broad land use authority, but it gives them authority to build both TOD housing and commercial development to energize the area around the station, create more ridership, and generate revenue for the transit system.

SB 79 projects that meet the affordability, environmental, and labor standards of SB 423 (Wiener, 2023) may qualify for streamlining under that law. Otherwise, TODs under SB 79 will go through local review and CEQA as under current law. SB 79 projects are also subject to the anti-displacement protections provided under SB 330 and the Housing Crisis Act.³

SUPPORT

- Bay Area Council (co-sponsor)
- California YIMBY (co-sponsor)
- Greenbelt Alliance (co-sponsor)
- SPUR (co-sponsor)
- Streets For All (co-sponsor)
- 21st Century Alliance
- AARP
- Abundance Network
- Abundant Housing LA
- Active San Gabriel Valley
- Alameda-Contra Costa Transit District (AC Transit)
- All Voting Members of the North Westwood Neighborhood Council
- American Institute of Architects California
- Bike Culver City
- Bike East Bay
- Bike Long Beach

- Bike San Diego
- Brian Barnacle – Council Member, Petaluma
- The Board of the Costa Mesa Alliance for Better Streets
- Business for Good San Diego
- CalBike
- California Apartment Association
- California Asian Chamber of Commerce
- California Community Builders
- California Council for Affordable Housing
- California Nightlife Association
- Car-Lite Long Beach
- Circulate San Diego
- City of Culver City
- City of Emeryville
- City of San Diego
- City of Santa Monica
- City of West Hollywood
- **City of Berkeley Councilmember Rashi Kesarwani**
- **City of Claremont Councilmember Jed Leano**
- **City of El Cerrito Councilmember Rebecca Saltzman**
- **City of Emeryville Councilmember Matthew Solomon**
- **City of Gilroy Councilmember Zach Hilton**
- **City of Mount Shasta, Councilmember Casey Glaubman**
- **City of Mountain View Councilmember Lucas Ramirez**
- **City of Petaluma Councilmember Brian Barnacle**
- **City of Santa Monica Councilmember Jesse Zwick**
- **City of South San Francisco Councilmember James Coleman**
- Climate Action Campaign
- Climate Hawks Vote
- Common Ground California
- Council of Infill Builders
- Culver City Democratic Club

³ YIMBY Action

- East Bay for Everyone
- East Bay Leadership Council
- East Bay YIMBY
- Environmental Protection Information Center - EPIC
- Everybody's Long Beach
- Families for Safe Streets San Diego
- Fieldstead and Company, Inc.
- **Foster City Councilmember Phoebe Shin Venkat**
- Fremont For Everyone
- Glendale YIMBY
- Grow the Richmond
- Hammond Climate Solutions Foundation
- House Sacramento
- Housing Action Coalition
- Housing Leadership Council of San Mateo County
- Housing Trust Silicon Valley
- Jamboree Housing Corporation
- Inclusive Lafayette
- Indivisible Claremont/Inland Valley
- Indivisible Sacramento
- LeadingAge California
- Local Initiatives Support Corporation, San Diego (LISC SD)
- **Mayor of Campbell, Sergio Lopez**
- Mountain View YIMBY
- Napa-Solano for Everyone
- National Independent Venue Association of California
- Natural Resources Defense Council
- New Way Homes
- Non-Profit Housing (NPH) Association of Northern California
- Northern Neighbors
- Orange County Business Council
- Orchard City Indivisible
- Our Time to Act
- Pathway to Tomorrow
- Peninsula for Everyone
- People for Housing – Orange County
- Redlands YIMBY
- Prosperity California
- Remake Irvine Streets for Everyone
- Ride SD
- **Sacramento City Councilmember Caity Maple**
- Sacramento Housing Alliance
- San Mateo County Economic Development Association (SAMCEDA)
- San Diego County Bicycle Coalition
- San Fernando Valley Young Democrats
- San Francisco YIMBY
- Santa Clara County Valley Transportation Authority
- Santa Cruz YIMBY
- Santa Rosa YIMBY
- Sierra Business Council
- Silicon Valley Leadership Group
- South Bay YIMBY
- South Pasadena Residents for Responsible Growth
- State Superintendent of Public Instruction Tony Thurmond
- Streets Are For Everyone (SAFE)
- Strong Towns Poway & RB
- Strong Towns San Diego
- Student Homes Coalition
- University of California Student Association
- UC San Diego Housing Commission
- **United States Congressman Scott Peters, CA-50**
- U.S. Green Building Council California (USGBC-CA)
- United Way Bay Area
- Ventura County YIMBY
- **Vice Mayor Mark Dinan - City of East Palo Alto**
- **Vice Mayor Laura Nakamura – City of Concord**
- **Vice Mayor Alexander Pedersen - City of Capitola**
- **Vice Mayor Emily Ann Ramos - City of Mountain View**
- Walk Bike Berkeley
- Walk San Francisco
- Westside for Everyone
- Wildlands Network
- WPH Holdings, LLC
- YIMBY Action

- YIMBY Democrats of San Diego County
- YIMBY Los Angeles
- YIMBY San Luis Obispo
- Zillow

***Bolded are Elected Officials**

FOR MORE INFORMATION

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