SENATE BILL SB-34

Introduced by Senator Scott Wiener (D-11)

An act relating to Housing Infill and Reuse Act.

LEGISLATIVE COUNSEL'S DIGEST

SB-34, Scott Wiener (D-11). Housing Infill and Reuse Act.

(1) Existing law, the Planning and Zoning Law, authorizes local governments to adopt ordinances establishing zoning regulations and administrative procedures for housing development permits. Existing law provides various discretionary review processes for local agencies to evaluate environmental impact, architectural design, and community fit prior to issuing building permits.

This bill would automatically rezone eligible commercial real estate (defined as any real property zoned for commercial, office, retail, or shopping center use that has a total Floor Area Ratio (FAR) of 0.35 or less, or where surface parking comprises at least 50 percent of the total parcel square footage) to permit residential development at a density of up to 60 units per acre, overriding any local low-density restrictions.

(2) Existing law requires local planning agencies to review and process applications for housing development permits within specified timeframes.

This bill would require a local agency to administratively approve an infill housing proposal that complies with a city's objective zoning standards within 60 calendar days of submission, unless the local agency identifies specific, objective building or health and safety code violations. If the local agency fails to approve or deny the project based on objective criteria within this 60-day window, the application would be deemed approved as a matter of law.

(3) The California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment.

This bill would exempt urban infill housing developments up to 5 stories in height from CEQA litigation and review if the project is constructed on commercial strip malls, parking lots, or vacant urban lots. To qualify for this CEQA exemption and the expedited permit timeline, the bill would require the development project to set aside at least 15 percent of its baseline residential units as affordable housing for lower-income households and commit to paying prevailing wages to all construction workers on the project.

(4) Existing law allows local authorities to enforce local design guidelines during the land use review process.

This bill would explicitly prohibit local governments from denying or conditioning a qualifying infill permit based on vague or subjective design criteria, including aesthetic rules regarding neighborhood character, facade styles, or rooflines.

Vote: Majority. **Appropriations/fiscal:** no. **Local program:** no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65852.26 is added to the Government Code, to read:

65852.26.
(a) The Legislature finds and declares all of the following:

(1) California is experiencing a severe housing crisis driven by a chronic lack of residential supply, resulting in astronomical rent burdens, widespread displacement, and increased homelessness.
(2) Unreasonable administrative delays, subjective land-use reviews, and extended litigation under the California Environmental Quality Act (CEQA) are frequently weaponized at the local level to block or delay urban infill housing.
(3) Converting eligible commercial strip malls, vacant parking lots, and underperforming commercial structures into mixed-income housing is vital to achieving California's climate objectives, reducing vehicle miles traveled (VMT), and revitalizing local economies.

(b) For purposes of this section, "eligible commercial real estate" means any real property zoned for commercial, office, retail, or shopping center use that has a total Floor Area Ratio (FAR) of 0.35 or less, or where surface parking comprises at least 50 percent of the total parcel square footage. "Eligible commercial real estate" does not include parcels located within a Very High Fire Hazard Severity Zone, a protected wetland, or a designated floodway.

(c) Notwithstanding any local ordinance, general plan designation, or specific plan, any parcel of eligible commercial real estate shall be automatically rezoned by operation of state law to permit residential development up to a maximum density of 60 residential units per acre.

(d) A proposed housing development project located on eligible commercial real estate, a parking lot, or an infill vacant lot shall be a permitted use by-right and subject strictly to ministerial, administrative approval without discretionary review or public hearings, provided the project meets all of the following requirements:
(1) The proposed development does not exceed 5 stories in height.
(2) The developer dedicates a baseline minimum of 15 percent of the total residential units as affordable housing units for lower-income households, as defined in Section 50079.5 of the Health and Safety Code, secured by a deed restriction for a period of not less than 55 years.
(3) The developer certifies that all construction workers, contractors, and subcontractors employed on the project will be paid prevailing wages in accordance with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(e) Qualifying development projects that satisfy all requirements of subsection (d) shall be fully exempt from the provisions of the California Environmental Quality Act (CEQA) (Division 13 (commencing with Section 21000) of the Public Resources Code), including exemption from administrative environmental impact reviews and environmental litigation or third-party appeals.

(f) A local agency shall review an application submitted under this section and grant administrative approval or issue a notice of specific, objective building or health and safety code violations within 60 calendar days of receiving a completed application.

(g) If a local agency fails to approve or deny the application based on written, objective violations of the California Building Standards Code within the 60-calendar-day period, the application shall be deemed approved by operation of law.

(h) No local agency, planning commission, or city council shall deny, downsize, or condition a permit application under this section based on vague, discretionary, or subjective design criteria, including, but not limited to, architectural style, neighborhood character fit, roofline geometry, or facade aesthetics.

Local agencies may only enforce objective, written design standards that were formally adopted prior to the submission of the application.

(i) The provisions of this section are self-executing and shall be enforced by a court of competent jurisdiction. If a local agency unlawfully denies an application or fails to act within the timeframes established in subsection (f), an applicant, housing advocacy organization, or aggrieved party may bring civil action to compel compliance. In any action pursuant to this subsection, a prevailing plaintiff shall be entitled to reasonable attorney's fees and costs.

(j) A project that meets the requirements of subdivision (d), including the 15 percent affordable housing requirement and the prevailing wage requirement, shall receive, upon request, a density bonus of 20 percent above the density otherwise allowed. The local agency shall grant one additional story above the height cap in Section 2(b) where necessary to accommodate the bonus units.

(k) For a project that meets the requirements of subdivision (d), a local agency shall:
(1) Defer the collection of municipal permit and development impact fees until the issuance of a certificate of occupancy; and
(2) Reduce total municipal development impact fees by 25 percent.
This subdivision shall not apply to fees authorized under state law or levied by a school district.

(l) A city, county, or city and county may, by ordinance or resolution, grant a local property tax abatement for a period not to exceed 5 years for a project that meets the requirements of subdivision (d).