



California League of
Conservation Voters



PLANNING AND CONSERVATION LEAGUE



July 24, 2020

Assembly Member Cecilia Aguiar-Curry
Chair, Assembly Local Government Committee
1020 N Street, Room 157
Sacramento, California 95814

RE: SB 1385 (Caballero, Rubio) Oppose Unless Amended

Dear Chair Aguiar-Curry,

The undersigned organizations write to express our opposition to SB 1385, by Senators Caballero and Rubio, unless amended to address major concerns with the bill. SB 1385 establishes housing as an allowable use on any lot for office or retail commercial uses. We greatly support the intent of this legislation to better utilize underutilized development, and we thank the authors for their attention to this important issue amid California's escalating affordable housing crisis.

However, we feel it is necessary to provide some additional constraints to these provisions, similar and in addition to those included in AB 3107 by Assemblymembers Bloom and Ting, in order to ensure that the intent of the bill is realized without undercutting our jurisdictions' ability to meet California greenhouse gas (GHG) and vehicle miles travelled (VMT) reduction goals, and without perpetuating historic patterns of segregation.

These provisions should include the following:

- The provision to allow residential uses on underutilized commercial land should be constrained to Low-VMT zones, wholly within Urban areas and Urban clusters as defined by the Census Bureau, for both cities and unincorporated areas. "Low-VMT zones" (per the OPR Technical Advisory on SB 743 (2013) CEQA Guidelines) are areas exhibiting per capita VMT performance of -15% of city or regional average.
- These provisions should also exclude industrial-commercial areas, and sites adjacent to industrial uses, from applicability (as similarly provided in AB 3107).
- These provisions should exclude any sites on a list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code, and all sites allowed by these provisions should be subject to a preliminary endangerment assessment prepared by an environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.
 - If a release of a hazardous substance is found to exist on the site, the release shall be removed, or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements.

- If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.
- A cumulative municipal services review should be undertaken by the jurisdiction to access infrastructure readiness before these provisions are enacted.
- Sites allowed by these provisions should require housing development to be subject to a recorded deed restriction requiring that at least 20 percent of the units have an affordable housing cost or affordable rent for lower income households (as similarly provided by AB 3107).

As written, SB 1385 lacks these important provisions such as affordability requirements, infill requirements, anti-sprawl requirements, requirements that housing is not built on or next to hazardous industrial sites, and is not constrained to urban areas and areas with low VMT. Alternatively, AB 3107 achieves a similar policy but with much more conditions. While AB 3107 applies to more sites it does include important provisions such as affordability requirements, projects cannot be adjacent to industrial use, and the bill has a sunset. Affordability requirements in particular are important due to the fact that many jurisdictions are still not meeting their low-income housing requirements under Regional Housing Needs Allocation (RHNA), which for many regions leads to higher VMT, and thus higher levels of air pollution from private vehicles, due to many Californians not being able to afford to live in the same city that they work or go to school in.

For these reasons we must oppose SB 1385 unless amended to address our major concerns with the bill in print.

Sincerely,



Melissa Romero
Legislative Affairs Manager, **California League of Conservation Voters**



Matthew Baker
Policy Director, **Planning and Conservation League**



Brian Nowicki
California Climate Policy Director, **Center for Biological Diversity**