



DATE: May 18, 2026

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF AN ORDINANCE DEFERRING IMPLEMENTATION OF THE AFFORDABLE HOMES NEAR TRANSIT ACT (SB 79) INCLUDING EXEMPTIONS – SB 79 ORDINANCE**

### **RECOMMENDATION**

Staff recommends that the Planning Commission adopt Planning Commission Resolution No. 2026-P08 recommending City Council approval of a phasing ordinance, as authorized under SB 79, to exclude and exempt eligible sites, and defer implementation of SB 79 on qualifying sites, as authorized under Government Code Sections 65912.157(h), 65912.160(e)(1) and 65912.161(b)(1).

### **BACKGROUND**

On October 10, 2025, SB 79 was signed into law (Government Code Section 65912.155 et seq.), with its provisions implementing zoning density capacity slated to take effect on July 1, 2026. SB 79 is intended to increase housing stock within local jurisdictions with qualified transit-oriented housing developments. The bill would permit low-rise and mid-rise housing on sites within one half mile of designated major transit stops within an urban transit county. Just eight counties in the state meet the criteria for such designation, as they contain more than 15 passenger rail stations: Alameda, Los Angeles, Orange, Sacramento, San Diego, San Francisco, San Mateo, and Santa Clara. All other counties are exempt from SB 79.

In order to utilize the provisions of SB 79, a site must be located within one half mile of a transit-oriented development (TOD) stop, as defined by Government Code § 65912.156(p). A TOD stop is defined as “a major transit stop, as defined by Section 21064.3 of the Public Resources Code, and also including stops on a route for which a preferred alternative has been selected or which are identified in a regional transportation improvement program, that is served by heavy rail transit, very high frequency commuter rail, high frequency commuter rail, light rail transit, or bus service within an urban transit county meeting the standards of paragraph (1) of subdivision (a) of Section 21060.2 of the Public Resources Code.” If the site meets the definition of a TOD location, it must also be zoned one of the following: residential, commercial, or mixed-use. Zoning designations such as, open space, industrial, or institutional are not subject to SB 79 and excluded from total housing capacity. In addition, local governments are granted the authority to

exempt certain sites from the provisions of SB 79 outright, as well as defer implementation of SB 79’s provisions on other sites via an ordinance. The proposed ordinance presented for City Council consideration identifies such exemptions and, where exemption is not possible, applies deferral. Additional information on this recommended approach is provided in the Analysis section of this staff report.

Pursuant to SB 79, metropolitan planning organizations (MPOs) are required by statute to publish locally serving maps officially designating the applicable TOD stops and zones for the region. As of the date of drafting, our local MPO, the San Diego Association of Governments (SANDAG) has not published nor shared such a map. Therefore, staff has followed the approach taken by other larger local jurisdictions and developed its own set of maps reflecting stops and zones using statutory language and informal discussions with SANDAG staff. Should SANDAG publish maps that conflict with staff’s assumptions, staff will review and take possible further amendments into consideration.

Per staff’s mapping efforts, Oceanside contains seven potential TOD zones, surrounding the stations listed below. While the Melrose Drive Station is technically located in Vista, the surrounding TOD zone extends into Oceanside’s city limits.

1. Oceanside Transit Center (OTC)
2. Coast Highway Sprinter Station
3. Crouch Street Sprinter Station
4. El Camino Real Sprinter Station
5. Rancho Del Oro Sprinter Station
6. College Boulevard Sprinter Station
7. Melrose Drive Sprinter Station

Parcels within one half mile of the above TOD stops are shown in Attachment 2.

SB 79 establishes minimum and maximum development standards for housing projects utilizing its provisions. Specifically, SB 79 prescribes maximum floor area ratio (FAR) standards, minimum and maximum density controls, and maximum height. Maximum limitations on density, height, and FAR depend on the proximity to a TOD stop, as well as the “tier” of the TOD stop. TOD stops that receive at least 72 trains per day are designated as “Tier 1” and those that receive at least 48 trains per day are designated as “Tier 2.” As shown in Table 1 below, Tier 1 stops permit more intensive development than Tier 2 stops. In addition to the TOD stop tiers, there are three levels of proximity to a TOD stop which also affect applicable development standards. These levels are 200 feet, one-quarter mile, and one-half mile—measured from the property to the TOD stop (as-the-crow-flies). Local governments may impose additional development standards unless they would physically preclude a project from achieving the maximum FAR.

Table 1: SB 79 Development Standards

| <b>Radius</b> | <b>Maximum Density*</b> | <b>Maximum Height</b> | <b>Maximum FAR**</b> |
|---------------|-------------------------|-----------------------|----------------------|
| Tier 1        |                         |                       |                      |
| Within 200ft  | 160 du/a                | 95 feet               | 4.5                  |

|              |          |         |     |
|--------------|----------|---------|-----|
| Within 1/4mi | 120 du/a | 75 feet | 3.5 |
| Within 1/2mi | 100 du/a | 65 feet | 3   |
|              |          |         |     |
| Tier 2       |          |         |     |
| Within 200ft | 140 du/a | 85 feet | 4   |
| Within 1/4mi | 100 du/a | 65 feet | 3   |
| Within 1/2mi | 80 du/a  | 55 feet | 2.5 |

*\*All SB 79 projects must have at least five units and a minimum density of 30 units per acre*

*\*\*Residential FAR. Nonresidential FAR would be limited by the applicable zoning district*

While the City disputes the applicability of the “high frequency commuter rail” definition as it relates to the North County Transit District (NCTD) Sprinter line and reserves the right to challenge the rebuttable presumption attached to the MPO mapping when it is published, in an abundance of caution the City is assuming all TOD stops listed above will be designated as Tier 2.

SB 79 requires a minimum amount of deed-restricted affordable dwelling units in a project in order to benefit from its provisions, with the exception of projects of 10 units or less. Developers may choose from the different options below:

- At least 7 percent extremely low-income (ELI)
- At least 10 percent very low-income (VLI)
- At least 13 percent lower-income (LI)

Should the City’s inclusionary housing requirements mandate a higher percentage of affordable units or a deeper level of affordability than the above list, the local inclusionary requirement shall prevail.

By including the minimum levels of affordable dwelling units, most SB 79 projects would be eligible to utilize the provisions of state density bonus law (SDBL) in conjunction with SB 79. A TOD project would be eligible for incentives or concessions, waivers or reductions of development standards, and parking ratios pursuant to Section 65915 using SB 79 as the base density. However, local governments are not required to grant additional height beyond what is allowed under SB 79 via SDBL waivers or concessions.

SB 79 was drafted with the ability to utilize either the streamlined ministerial approval process under Government Code Section 65913.4 (SB 35), or standard discretionary review process determined by the local jurisdiction. If the applicant elects the ministerial approval, they will be subject to all applicable provisions restricting the sites eligible for streamlining and will be required to reserve a greater number of units for lower-income households and subject themselves to increased construction labor requirements. Specifically, this means that development projects would have to reserve at least 10% of the base units for VLI households (rental projects) or LI households (ownership projects), However, SB 35’s applicability depends on a municipality’s progress on the Regional Housing Needs Allocation (RHNA). If and when Oceanside meets its allocation for above-moderate income building permits issued, the SB 35 eligibility requirement increases to a minimum 50% LI reservation per project. By the end of 2025, the City was 305 above-

moderate building permits away from meeting that threshold.

Furthermore, if an applicant submitted under SB 35 the project would not be subject to a CEQA review. All other SB 79 projects would be subject to compliance with CEQA. In addition, SB 79 also does not exempt projects from needing to comply with the Coastal Act and Local Coastal Program, as well as the replacement housing requirements of Government Code Section 66300.6.

In addition to limited abilities to exempt and defer certain sites, SB 79 also allows local governments to adopt TOD Alternative Plans which allow zoned capacity to be shifted across sites and across TOD zones as long as there is no net loss of total unit capacity. The intent of this flexibility is to give local governments the ability to steer more intensive development to sites that are better suited for growth while reducing the impact of SB 79 on sites less appropriate for TOD. For example, the City could allow higher densities than dictated by SB 79 for sites along main commercial corridors, while reducing allowable densities in the single-family neighborhoods which fall in a TOD zone. SB 79 sets strict limits on the capacity fluctuation on each individual site, requiring the City to include all residential neighborhoods via the Alternative Plan. Given the nature of the effort, the Alternative Plan will not be ready for adoption prior to July 1 and staff recommends adoption of the proposed phased implementation Ordinance to defer the full effects of SB 79 while staff works on the more comprehensive Alternative Plan.

### Analysis

As stated above, state law allows local governments to exempt or defer implementation of SB 79's provisions on sites that meet certain statutory criteria via the phasing ordinance. The list below identifies the criteria for sites considered ineligible, exemptible, and deferrable. Sites that are ineligible cannot utilize SB 79 in any case. Exemptible sites may be permanently precluded from utilizing SB by local ordinance. Deferred sites would be temporarily precluded from utilizing SB 79 until a later date: either once a City adopts an Alternative TOD Plan or prior to one year following the adoption of the City's seventh revision of the City's Housing Element. Sites eligible for exemption as well as deferral have been designated for permanent exemption. Sites that only meet the criteria for deferral cannot be exempted, even upon the adoption of an Alternative Plan. As of now, implementation of SB 79 on all sites proposed to be deferred would be delayed until the latter date. However, the City may decide to remove the deferred status on one or more sites if/when adopting an Alternative Plan should it see fit. Most likely, sites meeting criterion 3.a below would be reintroduced to allow greater flexibility in the TOD Alternative Plan. Sites meeting criterion 3.g would likely keep their deferred status as long as possible. The latest possible date for deferral statuses to expire would be June 15, 2032.

1. Sites Ineligible for SB 79:
  - a. Sites located more than one-half mile from a designated TOD stop
  - b. Sites that do not permit residential, mixed-use, or commercial uses

- c. Sites containing more than two units that would require demolition of housing subject to some form of rent or price control as defined under Gov't. Code Section 66300.5(h) for "protected units;" (Attachment 3)
  - d. Sites with existing wetlands, consisting of a 100-ft buffer (Attachment 4)
  - e. Sites identified in the Vital and Sustainable Resources Element of the general plan as habitat preserves (Attachment 5)
2. Sites Allowed to be Exempt from SB 79 Voluntarily:
    - a. Sites that do not have a pedestrian path of travel along a continuous paved segment less than one mile to a designated TOD stop (Attachment 6)
  3. Sites Allowed to be Deferred from SB 79 until 2032 (Government Code Section 65912.161(b)(1):
    - a. Sites that currently permit density and residential FAR at a level no less than 50 percent of the standards of SB 79 (Attachment 7)
    - b. Sites in a TOD zone in which at least 33 percent of sites in the relevant zone have permitted density and residential FAR no less than 50 percent of SB 79 and which includes sites with densities that cumulatively allow for at least 75 percent of the aggregate density for the TOD zone
    - c. Sites in a TOD zone that is primarily comprised of a low-resource area which includes sites with densities that cumulatively allow for at least 40 percent of the aggregate density for the TOD zone under SB 79 (Attachment 8)
    - d. Sites in a low-resource area within a jurisdiction that cumulatively allows for at least 50 percent of the total capacity for units and floor area under SB 79 across all TOD zones.
    - e. Sites within a very high fire hazard severity zone, or within the state responsibility area
    - f. Sites that are vulnerable to one foot of sea level rise
    - g. Sites with a historic resource designated as of January 1, 2025, on a local register (Attachment 9)

No sites meet deferment criteria 3.b 3.d, 3.e, or 3.f.

The information above provides the framework for exclusion and deferment under SB 79. The excluded sites remove parcels that exceed the one-half mile, are not zoned for residential and/or commercial, mixed-use, are subject to some form of "rent or price control," or are undevelopable. The City has interpreted the definition for "rent and/or price" control under Government. Code Section 66300.5(h) for "protected units." The definition includes a residential dwelling unit that is or was subject to any form of rent or price control through a public entity. Sites that are subject to some form of rent or price control per 1.c above include sites with an active affordable housing regulatory agreement, mobile home parks subject to rent ceiling adjustments under Chapter 16B of the Oceanside City Code, and sites with three or more units that are at least 15 years old and therefore subject to the 2019 Tenant Protection Act's Statewide rent control, as specified in Civil Code Section 1947.12. Undevelopable sites per criteria 1.d and 1.e include those within 100 feet of an identified wetland pursuant to Vital and Sustainable Resources Element Policy 5-12, as well as habitat preserves. Protecting existing

affordable housing, whether deed restricted or naturally occurring, as well as sensitive habitat is of the utmost importance to the City; therefore, these sites have been mapped to make potential developers aware that such sites will be unable to be developed or redeveloped under SB 79.

Per Government Code Section 65912.160(e)(1), sites without a pedestrian path of travel of less than one mile per 2.a above are defined as sites that are separated from the nearest TOD stop by barriers such as train tracks, waterways, limited-access freeways, and disconnected street or sidewalk networks. Allowing intensive development and redevelopment in such areas could create challenges to the goals of SB 79, with the potential to increase vehicle miles traveled (VMT), transportation emissions, transportation costs, municipal service costs, and, above all, potentially result in increased safety risks to future residents, especially those with limited mobility.

Sites that currently permit significant development under local codes per 3.a above include sites such as those located in the Downtown or Coastal Zone, and sites along the Oceanside Boulevard Smart and Sustainable Corridor. Due to the expected development capacity allowed under SB 79, density would significantly increase to levels of 80 and/or 100 du/ac, significantly superseding local growth management plans resulting in potential deficiencies in public infrastructure. Delaying the provisions of SB 79 on these sites would ensure that local infrastructure demands affected by development will be planned for through the Alternative Plan. In addition, such densities could impact the City's ability to achieve its greenhouse gas reduction (GHG) targets contemplated under the Climate Action Plan. Therefore, additional GHG analysis and consideration of potential GHG reduction measures will likely be necessary as a future TOD Alternative Plan is developed.

Similar to 3.a, criterion 3.c also allows local governments to defer SB 79 on sites that currently allow a minimum amount of housing capacity but only if the TOD zone in which the site is located consists predominantly of low-resource areas per the California Tax Credit Allocation Committee (CTCAC). Low-resource areas comprise the majority of the City's TOD zones; however, only the OTC zone meets the 40 percent existing capacity threshold. In order to protect low-resources areas to the greatest extent possible, staff is proposing to defer all sites within the OTC zone not eligible for permanent exemption. Phasing the implementation of SB 79 in this way seeks to affirmatively further fair housing by facilitating development in higher resource areas first, reducing the potential for rapid, transformational change in areas with more lower-income households.

Per 3.g above, there are seven sites within TOD zones that have existing, historic resources that are designated on a local register. All seven resources are located in the Townsite Neighborhood Planning Area. Protecting these historic resources ensures that priceless cultural assets are not lost in the redevelopment process.

Staff is recommending that the Planning Commission adopt a resolution recommending City Council adoption of an ordinance to exclude, exempt and/or defer all sites which could potentially be exempted or deferred. SB 79 has the potential to significantly disrupt

the growth management plan identified under the Smart and Sustainable Corridors Plan for increased housing density. This action would disrupt the local infrastructure and economy; therefore, exempting and deferring as many sites as possible would potentially reduce SB 79's impact to the greatest extent possible. Maps of all the sites to be exempted or deferred can be found in Attachment 10. Sites not eligible to be exempted or deferred would be subject to the provisions of SB 79 starting on July 1, 2026.

### Next Steps

As previously noted, staff is concurrently working on preparing a TOD Alternative Plan which would assist in tailoring SB 79's housing capacity to local conditions, within the limitations of the statute. Both efforts, this implementation ordinance and the TOD Alternative Plan, would complement each other to reduce the potential negative impacts of SB 79 while still meeting the spirit of the legislation. However, the Alternative Plan will require additional staff time to evaluate the optimal redistribution of capacity. Therefore, staff has split the efforts into separate tasks in the interest of time. Staff expects to complete the TOD Alternative Plan by late 2026 or early 2027. While the TOD Alternative Plan would maintain all sites' exemption status, the City can decide on a site-by-site basis whether to keep the proposed deferment or remove the deferment condition to use sites for the housing capacity redistribution effort.

### **ENVIRONMENTAL REVIEW**

This activity is not a project pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15378(b)(5) as it is an organizational or administrative activity of government that will not result in any direct or indirect physical changes in the environment. As such, this activity is not subject to CEQA pursuant to CEQA Guidelines Section 15060(c)(3). This determination is predicated on CEQA Guidelines Section 15004, which provides direction to lead agencies on the appropriate timing for environmental review. This action would not result in any changes from the regulations that apply to new development today. Rather it would comply with SB 79's procedural requirements to exempt certain areas from its application and to implement SB 79 in other areas at date later than July 1, 2026. Any future discretionary actions related to implementation of SB 79 will be evaluated in accordance with CEQA and state law.

### **SUMMARY**

Protecting the community from potential impacts of SB 79 to the greatest extent legally allowable is a priority for the City. By exempting certain sites from SB 79 indefinitely, and deferring implementation on others, the City strives to achieve this goal.

Therefore, staff recommends that the Planning Commission, by motion:

1. Confirm issuance of a statutory exemption per the CEQA Guidelines under Sections 15378(b)(5) and 15060(c)(3); and

2. Adopt Planning Commission Resolution No. 2026-P08 recommending City Council approval of a phasing ordinance, as authorized under SB 79, to exclude and exempt eligible sites, and defer implementation of SB 79 on qualifying sites, as authorized under Government Code Sections 65912.157(h), 65912.160(e)(1) and 65912.161(b)(1).

PREPARED BY:

SUBMITTED BY:

---

Dane Thompson  
Senior Planner

---

Oscar Romero  
City Planner

Attachments:

1. Resolution No. 2026-P08
2. Sites Located Within TOD Zones
3. Sites Subject to Some Form of Rent or Price Control
4. Sites with Wetland
5. Sites with Habitat Preserve
6. Sites Exceeding a One-Mile Walking Path
7. Sites with Sufficient Local Capacity
8. Sites with Sufficient Local Capacity in Low-Resource Area
9. Sites with a Locally-Designated Historic Resource
10. All Exempted/Deferred Sites
11. Draft City Council Exclusion and Deferment Ordinance
12. Notice of Exemption