

June 20, 2013

California Preservation Foundation
Opposition to SB 731 (Steinberg) CEQA Reform

The reasons that California Preservation Foundation requests amendment to SB 731 are as follows:

- 1. “Transit priority area” as defined in the bill does not implement the goals of the Sustainable Communities Strategy, but gives a wholesale exemption on Aesthetics to almost any project located within one-half mile of an existing or planned major transit stop. The term “transit priority area” will be confused with the term “transit priority project”, already defined in the California Government Code and the Public Resources Code.**

It appears that one of the primary purposes of the bill is to support the Sustainable Communities Strategy by streamlining CEQA and providing funding for implementation. The bill specifically authorizes \$30,000,000 annually be awarded to local agencies for planning activities to implement the Sustainable Communities Strategy. The basic premise of the Sustainable Communities Strategy is to reduce greenhouse gas emissions by encouraging projects near transit, among other actions.

Section 21099 of SB 731 (c) (1) states that “Aesthetic impacts of residential, mixed-use residential, or employment center project within a priority transit area shall not be considered significant impacts on the environment”. The complete definition of a “*transit priority area*” in SB 731 is an *area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon (twenty years) established by Section 450.322 of Title 23 of the Code of Federal Regulations.*

The definition of a “transit priority area” is overly broad and inconsistent with the definition of “transit priority project”, a term already in use in conjunction with the Sustainable Communities Strategy. A “transit priority project” must meet certain criteria (Public Resources Code Section 21155.1) that insure the project is environmentally sound, provides housing, including affordable housing or mitigation for affordable housing, and does not have a significant effect on a historical resource (21155.1(a)(5)). Historical resources are those pursuant to Section 21084.1, which states that a project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment.

“Transit priority projects” are already given expedited CEQA review (Government Code Sec. 65470 (a) (2) referencing Section 65950 (a) (2).

SB 731 grants special considerations to any project within a “transit priority area” based solely on geographic location. The proposed exemption does not support the Sustainable Communities Strategy goals of creating jobs, reducing vehicle miles traveled, expanding the availability of accessible open-space, building the density needed for transit viability, and meeting regional housing targets under California Government Code Section 65470.

The introduction of the term “transit priority area” is misleading and will cause confusion with the existing defined term of “transit priority project”. It allows any project to be approved with no

Aesthetic review and constructed many years in advance of a “planned” transit stop. It gives a significant incentive to projects for which there is no defined community benefit.

2. The elimination of Aesthetics as a possible significant impact in “transit priority areas” will result in the elimination of consideration for those factors that make our communities unique and beautiful.

Under SB 731, Aesthetic factors would not be considered for almost any project within ½ mile of an existing or planned major transit stop. Transit stops are often in downtown areas with a high concentration of jobs. Downtowns are also where historic buildings, neighborhoods, skylines and mature landscaping are present. The beautiful streetscapes surrounding the California capitol building are a perfect example.

Appendix G, the Environmental Checklist Form of the Guidelines for Implementation of CEQA poses the following questions for analysis of Aesthetics. These questions would no longer be relevant for “transit priority areas”.

Would the project:

- a) Have a substantial adverse effect on a scenic vista?
- b) Substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?
- c) Substantially degrade the existing visual character or quality of the site and its surroundings?
- d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Aesthetic features are not arbitrary, but can be defined and can be very specific. Examples of scenic resources (as cited in the Caltrans Standard Environmental Reference) include:

- A tree that displays outstanding features of form or age;
- A landmark tree or a group of distinctive trees accented in a setting as a focus of attention;
- An unusual planting that has historical value;
- A unique, massive rock formation;
- An historic building that is a rare example of its period, style, or design, or which has special architectural features and details of importance;
- A feature specifically identified in applicable planning documents as having special scenic value;
- A unique focus or a feature integrated with its surroundings or overlapping other scenic elements to form a panorama;
- An exceptional example of proportion, balance, rhythm, and variety - all of these are amenable attractions of a visual scene.
- A vegetative or structural feature that has local, regional, or statewide importance.

Signage is often reviewed under Aesthetics. Without review, development projects could include billboards and flashing, animated or inflatable signs or structures for purposes of attracting attention. Without consideration of Aesthetics, neither neighborhood style, character, skylines, nor mature landscaping and street trees would be discussed. There would be no CEQA discussion of development on top of ridgelines with the potential to ruin the view shed for the community. Discussion of Aesthetic features helps make our communities unique and beautiful.

3. Aesthetic features are extremely important in how people value their community .

The questions of Aesthetics stimulate thought and discussion of neighborhood character, of the context and relationship that the proposed project will have on the existing environment. Aesthetics considerations are extremely important to the reasons people cite for community satisfaction and attachment. People who are attached to a community tend to become engaged and invested in making it a better place. Studies have shown that beauty and Aesthetic factors play a considerable role in community satisfaction.

“The Soul of the Community Project” by Gallup and the John S. and James L. Knight Foundation found, after interviewing 43,000 people, that three factors were most important in community satisfaction – Aesthetics, social offerings and openness (how welcoming). (<http://www.soulofthecomunity.org/>).

Another study, a working paper of Martin Prosperity Research titled “Beautiful Places: The Role of Perceived Aesthetic Beauty in Community Satisfaction” found that the four strongest areas of people’s community satisfaction were economic security, basic services, openness and social capital, and Aesthetics. (<http://www.creativeclass.com/rfcgdb/articles/Beautiful%20places.pdf>).

The removal of Aesthetic considerations from project discussions may lead to the creation of soulless places that residents do not care for or take care of– isn’t this reminiscent of this nation’s early redevelopment housing projects?

Our growing population must be accommodated in urban areas (to reduce greenhouse gas emissions from automobile use) and our urban areas must be aesthetically pleasing for people to want to live there. Grace and beauty are important qualities in the physical environment. They are good for our souls.

4. Addressing Aesthetics through local Design Review ordinances does not work for all communities.

SB 731 states that Aesthetics can still be addressed through a local jurisdiction’s Design Review ordinance. However many communities, particularly smaller communities with limited resources and staff members, do not have design review ordinances or design review boards. CEQA is therefore the only opportunity for review of aesthetic impacts in many communities.

In summary, our objections to SB 731 are:

1. There is no clear exception from the exemption for projects that impact historic resources;
2. The exemption does not support the policy it is intended to implement because it is overly broad and applies to all projects within a geographic area, regardless of whether they further a Sustainable Communities Strategy;
3. Aesthetics review frequently incorporates consideration of historic resources;
4. CEQA is frequently the only tool that communities have to evaluate aesthetic impacts, especially in smaller communities that may be located on major transit lines;
5. People cherish beautiful communities.

Requested Revision

California Preservation Foundation requests that SB 731 be revised to clarify that this exemption does not apply to projects that may adversely affect Historic Resources, consistent with the limits on categorical exemptions under CEQA. This would allow impacts on Historic Resources to be avoided or mitigated, as necessary to protect them from damage. Alternatively, exempted projects should be limited to those that are consistent with

an adopted Sustainable Community Strategy and are located in communities with a local design review ordinance.