

Council Meeting of
April 20, 2021

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: City Manager and Community Development – Review Proposed State Assembly Constitutional Amendment regarding local Land Use controls and Zoning regulations and Adopt RESOLUTION Stating City Position.

Expenditure: None.

RECOMMENDATION

Recommendation of the City Manager and Community Development Director that City Council:

- 1) Review proposed State Assembly Constitutional Amendment regarding local land use controls and zoning regulations; and
- 2) Adopt RESOLUTION stating City position.

BACKGROUND AND ANALYSIS

At the April 13, 2021 meeting, Councilman Griffiths requested that Assembly Constitutional Amendment 7 (ACA 7) be analyzed and returned to Council with a recommendation for Council action. ACA 7 is a Constitutional Amendment that will face a vote of the people of the State of California prior to being enacted. Unlike the majority of housing related legislation being considered during this session, ACA 7 makes a strong statement in favor of local control, and, for that reason, should be supported.

As a proposed State Constitutional Amendment, a 2/3 vote of both houses of the State Legislature is required for placement on the ballot, which would then allow the citizens of the State to decide whether to amend the State Constitution to prioritize local control over zoning and land use matters. To encourage that level of support, State legislators need to understand the level of support for this proposal at the local level, in order to encourage the legislature to support placing this item on the ballot.

ACA 7 as introduced by Assemblyman Muratsuchi and titled “Local government: police power: municipal affairs: land use and zoning”, declares that “a county or city ordinance

or regulation that regulates the zoning or use of land within the boundaries of the county or city shall prevail over conflicting general laws". The amendment states that regulation of zoning or use of land within the boundaries of the city shall be deemed to address a municipal affair and shall prevail over a conflicting state statute. Simply put, ACA 7 recognizes the authority of local jurisdictions to control land use and zoning decisions within their jurisdictions, without regard to state statutes addressing land use and zoning.

The Amendment lays out three specific conditions under which State statutes would prevail:

- Land use decisions under the purview of the State Coastal Commission
- The siting of a power plant capable of generating in excess of 50 megawatts of electricity
- Development of water or transportation infrastructure project which has been designated by the State as a matter of statewide concern, with the express exception of transit-oriented development projects, whether residential, commercial or mixed-use

It is recommended that Council adopt the attached resolution strongly supporting ACA 7; that staff attach said resolution to a letter of support for ACA 7; that staff continue to monitor current and new legislation for adverse or positive impacts; and, that staff return to Council with additional resolutions when necessary.


Respectfully submitted,

DANNY E. SANTANA
COMMUNITY DEVELOPMENT DIRECTOR

CONCUR:



DANNY E. SANTANA
Community Development Director

By 

Linda Cessna
Deputy Community Development Director



ARAM CHAPARYAN
City Manager

Attachments:

- A) Resolution supporting ACA 7
- B) ACA 7 text
- C) Correspondence

RESOLUTION NO. 2021-**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE,
EXPRESSING STRONG SUPPORT FOR PROPOSED STATE
CONSTITUTIONAL AMENDMENT ACA 7 AND EXPRESSING SUPPORT FOR
ACTIONS TO FURTHER STRENGTHEN LOCAL DEMOCRACY, AUTHORITY
AND CONTROL**

WHEREAS, the legislature of the State of California continues to propose a number of bills addressing a range of housing issues; and

WHEREAS, the majority of these bills usurp the authority of local jurisdictions to determine for themselves the land use policies and practices that best suit their cities and residents and instead impose mandates that do not take into account the needs and differences of jurisdictions throughout the State, as well as imposing unfunded mandates on jurisdictions for actions that are not in their best interests; and

WHEREAS, for example, the ability of jurisdictions to determine for themselves which projects require review beyond a ministerial approval, what parking requirements are appropriate for various locales within their jurisdiction, what plans and programs are suitable and practical for each community rather than having these decisions imposed upon cities without regard to the circumstances of each individual city is a matter of great import to the City of Torrance, and

WHEREAS, certain pieces of proposed legislation undermine both California Environmental Quality Act (CEQA) and Subdivision Map Act provisions to the detriment of local jurisdictions by establishing ministerial review processes, without public hearing, public participation or vetting by local legislative bodies as well as usurping the authority granted to local jurisdictions by the subdivision map act to regulate and control the design and improvement of subdivisions through the approval of maps; and

WHEREAS, certain pieces of proposed legislation do not address some of the critical issues that have caused and exacerbated the housing crisis, appear to incentivize the construction of market-rate housing and luxury units while requiring few, if any, affordable units, with the potential to attract high-income people who don't necessarily use public transportation into newer luxury buildings adjacent to transit, bringing in more cars while providing insufficient parking; and

WHEREAS, State legislation has the potential to undermine the accomplishments and potential benefits of the City's current policies, in addition to degrading the quality of life in the City's established residential communities without assessing potential impacts to public infrastructure, potential loss of existing more affordable residential housing, loss of historically viable economic and employment options and loss of community stakeholder input and voter input on new development proposals; and

WHEREAS, proposed Constitutional Amendment ACA 7 addresses these concerns by amending the State Constitution to declare that, with certain, specific exceptions, local zoning ordinances have precedence over State legislation and a city charter provision, or an ordinance or a regulation adopted pursuant to a city charter, that regulates the zoning or use of land within the boundaries of the city shall be deemed to address a municipal affair and shall prevail over a conflicting state statute; and

WHEREAS, the City Council of the City of Torrance feels strongly that our local government is best able to assess the needs of our community, objects to the proliferation of State legislation that deprives us of that ability and welcomes the recognition of local control provided in ACA 7;

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF TORRANCE HEREBY:

Registers its strong support for the State Constitutional Amendment introduced in the Assembly that seeks to recognize the importance of local control over land use:

- ACA 7 (Muratsuchi) Local government: police power: municipal affairs: land use and zoning.

Registers its equally strong opposition to the current practice of the State legislature of proposing and passing multitudes of bills that directly impact and interfere with the ability of Cities to control their own destiny through use of the zoning authority that has been granted to them; and

Declares that, due to the continued practice of the State to pass legislation that attacks local municipal authority, control and revenue, the City of Torrance will strongly support Assembly Constitutional Amendment 7 (ACA 7) that would, through a vote of the people of the State of California, limit the State ability to control local land use activities and strengthen local democracy and authority.

Introduced, approved and adopted this 20th day of April.

Mayor Patrick J. Furey

Councilmember Heidi Ann Ashcraft

Councilmember George Chen

Councilmember Tim Goodrich

Councilmember Mike Griffiths

Councilmember Sharon Kalani

Councilmember Aurelio Mattucci

APPROVED AS TO FORM:

PATRICK Q. SULLIVAN, City Attorney

by _____
Tatia Y. Strader, Assistant City Attorney

ATTEST:

Rebecca Poirier, City Clerk

Assembly Constitutional Amendment**No. 7**

Introduced by Assembly Member Muratsuchi
 (Principal coauthor: Senator Glazer)

March 16, 2021

Assembly Constitutional Amendment No. 7—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 7 of, and adding Section 5.5 to, Article XI thereof, relating to local government.

LEGISLATIVE COUNSEL’S DIGEST

ACA 7, as introduced, Muratsuchi. Local government: police power: municipal affairs: land use and zoning.

The California Constitution authorizes a city or county to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws, which is also known as the police power. Existing law also authorizes a county or city to adopt a charter, as provided. The California Constitution authorizes a city governed under a charter make and enforce all ordinances and regulations in respect to municipal affairs and provides that, with respect to municipal affairs, a city charter supersedes all inconsistent laws. Under the California Constitution, the power to regulate land use is within the scope of the police power, and is also generally considered to be a municipal affair, for purposes of these provisions.

This measure would provide that a county or city ordinance or regulation enacted under the police power that regulates the zoning or use of land within the boundaries of the county or city would prevail over conflicting general laws, with specified exceptions. The measure, in the event of the conflict with a state statute, would also specify that

ACA 7

— 2 —

a city charter provision, or an ordinance or regulation adopted pursuant to a city charter, that regulates the zoning or use of land within the boundaries of the city is deemed to address a municipal affair and prevails over a conflicting state statute, except that the measure would provide that a court may determine that a city charter provision, ordinance, or regulation addresses either a matter of statewide concern or a municipal affair if it conflicts with specified state statutes. The measure would make findings in this regard and provide that its provisions are severable.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2021–22 Regular
3 Session commencing on the seventh day of December 2020,
4 two-thirds of the membership of each house concurring, hereby
5 proposes to the people of the State of California, that the
6 Constitution of the State be amended as follows:

7 First—That the people of the State of California find and declare
8 all of the following:

9 (a) The circumstances and impacts of local land use decisions
10 vary greatly across the state from locality to locality.

11 (b) The infrastructure required to maintain appropriate levels
12 of public services, including police and fire services, parklands
13 and public open spaces, transportation, schools, and sewers, also
14 varies greatly across the state from locality to locality.

15 (c) Land use decisions made by local officials seek to balance
16 development with the economic, environmental, and social needs
17 of the particular communities served by those local officials.

18 (d) Thus, it is in the best interests of the state for these complex
19 decisions to be made at the local level to ensure that the specific,
20 unique characteristics, constraints, and needs of those communities
21 are properly analyzed and addressed.

22 (e) Gentrification of housing adjacent to public transportation
23 will reduce or eliminate the availability of very low income housing
24 near public transit.

25 (f) The Legislature cannot properly assess the impacts upon
26 each community of sweeping land use rules and zoning regulations
27 that apply across the state and, as a result, do great harm to many
28 local communities with differing circumstances and concerns.

1 (g) Development within a community should not be controlled
2 by state laws that may or may not address the needs of, and the
3 impacts upon, that local community.

4 (h) Numerous state laws have been enacted, and continue to be
5 proposed, that eliminate or erode local control over the type and
6 character of local development.

7 (i) The purpose of this measure is to ensure that all decisions
8 regarding local land use controls and zoning regulations are made
9 within the affected communities in accordance with local law,
10 while still allowing either local or state law to control, as it
11 otherwise would, in those instances where state and local law
12 conflict regarding the coastal zone, the siting of a power plant that
13 can generate more than 50 megawatts of electricity, or the
14 development or construction of a water or transportation
15 infrastructure project for which the Legislature declares why the
16 project addresses a matter of statewide concern and is in the best
17 interests of the state. For purposes of this measure, it is the intent
18 that a transportation infrastructure project not include a
19 transit-oriented development project that is residential, commercial,
20 or mixed used.

21 Second—That Section 5.5 is added to Article XI thereof, to
22 read:

23 SEC. 5.5. (a) Except as provided in subdivision (b), in the
24 event of a conflict with a state statute, a city charter provision, or
25 an ordinance or a regulation adopted pursuant to a city charter,
26 that regulates the zoning or use of land within the boundaries of
27 the city shall be deemed to address a municipal affair within the
28 meaning of Section 5 and shall prevail over a conflicting state
29 statute.

30 (b) A city charter provision, or an ordinance or a regulation
31 adopted pursuant to a city charter, may be determined by a court
32 of competent jurisdiction, in accordance with Section 5, to address
33 either a matter of statewide concern or a municipal affair if that
34 provision, ordinance, or regulation conflicts with a state statute
35 with regard to any of the following:

36 (1) The California Coastal Act of 1976 (Division 20
37 (commencing with Section 30000) of the Public Resources Code),
38 or a successor statute.

39 (2) The siting of a power generating facility capable of
40 generating more than 50 megawatts of electricity.

1 (3) The development or construction of a water or transportation
 2 infrastructure project for which the Legislature has declared in
 3 statute the reasons why the project addresses a matter of statewide
 4 concern and is in the best interests of the state. For purposes of
 5 this paragraph, a transportation infrastructure project does not
 6 include a transit-oriented development project, whether residential,
 7 commercial, or mixed use.

8 (c) The provisions of this section are severable. If any provision
 9 of this section or its application is held invalid, that invalidity shall
 10 not affect other provisions or applications that can be given effect
 11 without the invalid provision or application.

12 Third—That Section 7 of Article XI thereof is amended to read:

13 SEC. 7. (a) A county or city may make and enforce within
 14 its limits all local, police, sanitary, and other ordinances and
 15 regulations ~~not that are not, except as provided in subdivision (b),~~
 16 in conflict with general laws.

17 (b) (1) *A county or city ordinance or regulation that regulates*
 18 *the zoning or use of land within the boundaries of the county or*
 19 *city shall prevail over conflicting general laws, except for the*
 20 *following:*

21 (A) *An ordinance or regulation that conflicts with the California*
 22 *Coastal Act of 1976 (Division 20 (commencing with Section 30000)*
 23 *of the Public Resources Code), or a successor statute.*

24 (B) *An ordinance or regulation that addresses the siting of a*
 25 *power generating facility capable of generating more than 50*
 26 *megawatts of electricity.*

27 (C) *An ordinance or regulation that addresses the development*
 28 *or construction of a water or transportation infrastructure project*
 29 *for which the Legislature has declared in statute the reasons why*
 30 *the project addresses a matter of statewide concern and is in the*
 31 *best interests of the state. For purposes of this subparagraph, a*
 32 *transportation infrastructure project does not include a*
 33 *transit-oriented development project, whether residential,*
 34 *commercial, or mixed use.*

35 (2) *The provisions of this subdivision are severable. If any*
 36 *provision of this subdivision or its application is held invalid, that*
 37 *invalidity shall not affect other provisions or applications that can*
 38 *be given effect without the invalid provision or application.*

The logo for SETHA (Southeast Torrance Homeowners' Association) features the word "SETHA" in a bold, sans-serif font. The letters are contained within a square frame that has a dashed border, suggesting a window or a sign.

Southeast Torrance Homeowners' Association, Inc.
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Torrance, CA 90501-5549
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April 10, 2021

Honorable Al Muratsuchi
State Capitol
Sacramento CA 95814

Dear Assembly Member Muratsuchi,

Notice of Support

ACA 7 (Muratsuchi) Local government: police power: municipal affairs: land use and zoning.

Dear Assembly Member Muratsuchi,

The Board of Directors of the Southeast Torrance Homeowners' Association, Inc., most respectfully supports ACA7. The Constitution of the State of California must be amended to require all local land-use controls and zoning regulations remain within the communities incorporated by the state of California.

ACA 7 will make it possible for Torrance and other local agencies to control their own destiny without the numerous current legislative attempts to undermine local control and without exacerbating our housing crisis and increasing residential segregation.

The Southeast Torrance Homeowners' Association, Inc., feels strongly that the City of Torrance and other local government agencies are best able to assess the needs of our community and objects to the proliferation of State legislation that deprives us of that ability. Accordingly ACA 7, is needed to ensure that local cities and communities will make the final decisions on land use and zoning regulations.

Therefore, the Southeast Torrance Homeowner's Association, Inc., (SETHA) **supports** ACA 7.

Sincerely,

John H. Bailey

John H. Bailey, President
Southeast Torrance Homeowner's Association, Inc.

cc: Congresswoman Maxine Waters
Senator Ben Allen and Senator Steven Bradford
Mayor Pat Furey and Torrance City Council



West Torrance Homeowners Association, Inc.
 c/o 4602 Carmelynn Street
 Torrance, CA 90503
westtorrancehoa@gmail.com
 EIN: 33-0989182

April 12, 2021

Honorable Al Muratsuchi
 State Capitol
 Sacramento CA 95814

Dear Assembly Member Muratsuchi:

Notice of Support

ACA 7 (Muratsuchi) Local government: police power: municipal affairs: land use and zoning.

Dear Assembly Member Muratsuchi,

The Board of Directors of the West Torrance Homeowners' Association, Inc., most respectfully supports ACA7. The Constitution of the State of California must be amended to require all local land-use controls and zoning regulations remain within the communities incorporated by the state of California.

ACA 7 will make it possible for Torrance and other local agencies to control their own destiny without the current or new legislative attempts to undermine local control and without exacerbating our housing crisis and increasing residential segregation.

The West Torrance Homeowners' Association, Inc., feels strongly that the City of Torrance and other local government agencies are best able to assess the needs of our community and objects to State legislation that deprives us of that ability. Accordingly ACA 7, is needed to ensure that local cities and communities will make the final decisions on land use and zoning regulations.

Therefore, the West Torrance Homeowner's Association, Inc., **supports** ACA 7.

Sincerely,

Melanie Dreike

Melanie Dreike, President
 West Torrance Homeowners Association, Inc.