California State Senator Scott Wiener's SB 827, which would relax local restrictions on housing adjacent to transit, is a revolutionary step in the history of California land use. The initial version of the bill was clearly an opening salvo, reflecting a general statewide principle that locals should no longer squash housing in prime transit areas, based on the environmental and economic harm it causes.

So it was inevitable that the legislative process would chip away at this broad framework, sometimes for good (recognizing that context matters in a state as large and diverse as California and that some changes might actually improve implementation and achievement of the larger goals) — and sometimes for bad (appeasing key legislators who don't care much about building new housing near transit, to get their votes).

And now the first significant round of amendments were just introduced last night as the bill faces its first committee hearing and vote, with the promise of potentially a dozen more rounds of amendments as SB 827 works its way through Capitol hearing rooms.

Below is the rundown on amendments, as Senator Wiener outlined in an accompanying Medium post. I'll start with the good (or at least not horrible) and end with the unfortunate.

Good or Harmless Amendments:

- **No net loss of affordable or rent-controlled housing provision:** if a developer seeks to use SB 827 to build on a site with rent-controlled or subsidized affordable housing, the developer must replace each of these units with a permanently affordable housing unit on a 1:1 basis. This is a good provision because a loss of low-income residents near transit is not only unfortunate for those residents, it undermines transit usage. Low-income residents tend to use transit more than upper-income people. So we don't want a situation where 30 low-income residents are replaced by 30 affluent residents under the bill. Otherwise, there could be a net loss in transit ridership and usage.
- **Scale back qualifying bus stops:** in its original form, SB 827 would apply equally to rail transit stops and any bus stop with 15-minute headways during commute hours. The provision might have been too generous, as many bus stops may have those headways during commute times but otherwise don't provide enough service to truly allow car-free living for those nearby. The amendments now make the bill apply only to transit stops that have "consistent, high-quality transit during the week and on weekends, from early morning to late night." Specifically, they must have at least 20 minute average service intervals between 6am and 10pm and 30 minute intervals on weekends from 8am to 10pm. The upside is that we won't be building a lot of homes

near transit stops that don't really provide sufficient service to allow car-free living (or at least significantly reduced car trips).
- **New residential percentage thresholds:** any project under SB 827 must now be at least two-thirds residential by square footage.

The Not Terrible Amendments:

- **Restriction on demolitions: a** developer could not use SB 827 to demolish a building if the properties have had an Ellis Act eviction (kicking rent-controlled people out of their units with legal justification) recorded in the last five years. This provision provides an additional disincentive for property owners to evict rent-controlled residents, beyond what's already in the bill. As with the "no net loss" provision, it might reduce the chances of displacement of low-income residents.
- **Scale back relaxation of parking minimums:** high parking requirements are a major disincentive to more dense development and essentially a tax on all homebuyers and renters. One of my favorite parts of the bill was that it eliminated parking requirements for any project within .5 mile of transit. But the new amendments allow cities to impose a .5 parking spot requirement per new residential unit in the .25 to .5 mile zone around transit. A developer must also provide recurring monthly transit passes to all residents at no cost. I don't love the scaling back of the parking provision, but .5 in this outer radius is still a win. It mirrors the big parking victory under AB 744 (Chau, 2015), sponsored by the Council of Infill Builders, which reduced parking minimums to .5 for all affordable housing projects near transit, including in the 0-.25 mile zone that SB 827 relaxes completely. I'll file this change as "not terrible" for now, barring any future weakening.

The Unfortunate Amendments:

- **Lower height restrictions:** the original bill allowed construction up to 85 feet within .25 miles of transit, under certain conditions. Now, around rail and ferry stations, only buildings up to 55' tall can be permitted in the first .25 mile and 45' in the second .25 mile zone. Furthermore, no building height increase will take place around any qualifying bus lines. The one upside is that parking and density restrictions will still be relaxed. For me, reducing the height limits means fewer units will be built, which is too bad. But if I had to give on either density, parking or height, I would probably give up on height, among the three. Density relaxations can help make up for many of the lost units that would have been built in the upper stories.
- **Requirements to include affordable housing:** it was pretty clear that SB 827 would have to include some kind of affordable housing mandate to pass, and here it is.

If a community does not have a local "inclusionary housing" requirement (i.e. mandate for any market-rate developer to include some affordable units), the amendments offer a detailed set of options for developers to comply, ranging from 20% inclusionary if it's a 50+ unit building to 10% low income or 5% very low income for 10-25 units. I don't like inclusionary zoning because it's a tax on new homebuyers and renters and not an equitable way to fund affordable units. It also depresses home production. A more equitable way to build affordable housing is through property taxes or broad-based taxes or bonds. But as far as things go, this isn't a horrible formula.

- **Delay of implementation by 2 years:** SB 827 was set to go into effect this coming January 1st, if it passes. Now the operative date is two years later on January 1, 2021. A local government can also apply for a one-time, one-year extension if they can "prove to the Housing and Community Development Department that they have made significant good-faith progress." The argument in favor is that local governments will have more time to "conduct studies, update inclusionary housing ordinances, and adopt specific transit oriented development plans." Cities also won't be able to use the time though to reduce or eliminate residential zoning to avoid SB 827 requirements. I don't like the delay for two reasons: first, we need to get going on new home building right away, and local compliance with SB 827 really shouldn't be that complicated. Second, I worry this gives opponents time to figure out a counter-strategy, or at least delay other needed measures to boost housing under the guise of "let's see what happens in 3 years when SB 827 is finally in effect."

Overall, a half a loaf is better than no loaf, and SB 827 is still a no-doubt landmark bill, even with these changes. The big worry is what happens in future rounds as more legislators require trade-offs for their votes. But advocates can cross that bridge when they come to it. The main goal now is ensuring that there are still bridges to cross, with a worthy bill. And these amendments keep that effort going with only some loss and even some gain.