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THIRD READING

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Bill No: SB 1120  
Author: Atkins (D), Caballero (D), Rubio (D) and Wiener (D), et al.  
Amended: 6/18/20  
Vote: 21

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SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 5/28/20  
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 6/18/20  
AYES: Portantino, Bates, Bradford, Hill, Jones, Leyva, Wieckowski

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**SUBJECT:** Subdivisions: tentative maps

**SOURCE:** Author

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**DIGEST:** This bill requires ministerial approval of duplexes and specified parcel maps.

**ANALYSIS:**

Existing law:

- 1) Allows, under the California Constitution, cities and counties to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.”
- 2) Requires every county and city to adopt a general plan that sets out planned uses for all of the area covered by the plan. A general plan must include specified mandatory “elements,” including a housing element that establishes the locations and densities of housing, among other requirements.
- 3) Requires cities’ and counties’ major land use decisions—including zoning ordinances and other aspects of development permitting—must be consistent with their general plans.

- 4) Governs, pursuant to the Subdivision Map Act, how local officials regulate the division of real property into smaller parcels for sale, lease, or financing.
- 5) Authorizes local governments to impose a wide variety of conditions on subdivision maps.
- 6) Requires local governments to ministerially permit one accessory dwelling unit and one junior accessory dwelling unit per single family parcel, subject to certain size limitations.

This bill:

- 1) Requires cities and counties to permit ministerially either or both of the following, as long as they meet specified conditions:
  - a) A housing development of up to two units (a duplex).
  - b) The subdivision of a parcel into two equal parcels (urban lot split).
- 2) Requires a development or parcel to be subdivided to be located within an urbanized area or urban cluster, as defined by the United States Census and cannot be located on any of the following:
  - a) Prime farmland or farmland of statewide importance;
  - b) Wetlands;
  - c) Land within the very high fire hazard severity zone, unless the development complies with state mitigation requirements;
  - d) A hazardous waste site;
  - e) An earthquake fault zone;
  - f) Land within the 100-year floodplain or a floodway;
  - g) Land identified for conservation under a natural community conservation plan, or lands under conservation easement;
  - h) Habitat for protected species; or
  - i) A site located within a historic district that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

- 3) Requires the proposed duplex to be located in a single family zone and the urban lot split to be for a parcel zoned for residential use.
- 4) Prohibits demolition or alteration that would require the evacuation or eviction of an existing housing unit of rent-restricted housing, housing that has been the subject of an Ellis Act eviction within the past 15 years, or housing that has been occupied by a tenant in the last three years.
- 5) Allows a city or county to impose objective zoning and design standards that do not conflict with the provisions of the bill, and prohibits a city or county from requiring a project to comply with any standard that would prevent two units from being built.
- 6) Allows a local government to require a percolation test completed within the last 5 or 10 years, as specified, as part of the application for a permit to create a duplex connected to an onsite water treatment system.
- 7) Prohibits demolition of more than 25% of the exterior walls of an existing structure unless the local ordinance allows greater demolition or if the site has not been occupied by a tenant in the last three years.
- 8) Prohibits the units from being rented for less than 30 days.
- 9) Requires a city or county to ministerially approve or deny a parcel map for an urban lot split that meets the following requirements, in addition to the requirements for eligible parcels that apply to both duplexes and urban lot splits:
  - a) The parcel map subdivides an existing parcel to create two new parcels of equal size.
  - b) Both newly created parcels are no smaller than 1,200 square feet, unless the local agency adopts a smaller minimum lot size.
  - c) The parcel being subdivided is zoned for residential use.
  - d) The parcel does not contain rent-restricted housing, housing where an owner has exercised their rights under the Ellis Act within the past 15 years, or housing that has been occupied by tenants in the past three years.
  - e) The parcel being subdivided was not previously created through an urban lot split.

- f) Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split.
- 10) Prohibits a local agency from imposing regulations that require dedications of rights-of-way or the construction of reasonable offsite and onsite improvements for parcels created through an urban lot split. However, a local agency may require easements and that the parcel have access to, provide access to, or adjoin the public right-of-way.
- 11) Allows a local agency to impose objective zoning and design standards that do not conflict with the bill, so long as those standards do not reduce the buildable area, as defined, on each newly created parcel to less than 50 percent of the buildable area on the parcel being subdivided.
- 12) Limits the parking that local agencies may require for both urban lot splits and duplexes to no more than one space per unit, except that local agencies cannot require any parking for developments within ½ mile walking distance from a major transit stop or a stop on a high frequency bus line, or one block from a car share vehicle.
- 13) Allows a local agency to adopt an ordinance to implement the urban lot split requirements and the duplex provisions, and provides that those ordinances are not a project under the California Environmental Quality Act.
- 14) Prohibits the development of accessory dwelling units on parcels that use both the urban lot split and duplex provisions of this bill.
- 15) Allows local governments to extend the life of subdivision maps by one year, up to a total of four years.
- 16) Includes findings and declarations to support its purposes.

## **Background**

*Zoning and approval processes.* Local governments use their police power to enact zoning ordinances that shape development, such as setting maximum heights and densities for housing units, minimum numbers of required parking spaces, setbacks to preserve privacy, lot coverage ratios to increase open space, and others. These ordinances can also include conditions on development to address aesthetics, community impacts, or other particular site-specific considerations.

Local governments have broad authority to define the specific approval processes needed to satisfy these considerations. Typically, most large housing projects require “discretionary” approvals from local governments, such as a conditional use permit or a change in zoning laws. This process requires hearings by the local planning commission, public notice, and may require additional approvals. City or county planning staff can permit some housing projects “ministerially” or “by right”: without discretionary approval from elected officials.

*Subdivision Map Act.* Cities and counties adopt local subdivision ordinances to carry out the Subdivision Map Act and local requirements. City councils and county boards of supervisors use the Map Act to control a subdivision's design and improvements. Local subdivision approvals must be consistent with city and county general plans.

Under the Subdivision Map Act, cities and counties can attach scores of conditions. The Map Act allows local officials to require, as a condition of approving a proposed subdivision, the dedication of property within a subdivision for streets, alleys, drainage, utility easements, and other public easements and improvements. Once subdividers comply with those conditions, local officials must issue final maps. For smaller subdivisions that create four or fewer parcels, local officials usually use parcel maps, but they can require tentative parcel maps followed by final parcel maps. The Map Act also constrains the dedications and improvements that local cities and counties can require as a condition of a subdivision of four or fewer lots to only the dedication of rights-of-way, easements, and the construction of reasonable offsite and onsite improvements for the parcels being created.

*California's housing challenges.* California faces a severe housing shortage. In its most recent statewide housing assessment, the California Department of Housing and Community Development (HCD) estimated that California needs to build an additional 100,000 units per year over recent averages of 80,000 units per year to meet the projected need for housing in the state. Prior to the onset of COVID-19, California was building approximately 100,000 to 115,000 units a year in recent years, but many analysts expect homebuilding activity to drop.

A variety of causes have contributed to the state's lack of housing production. Recent reports by the Legislative Analyst's Office (LAO) and others point to local approval processes as a major factor. They argue that local governments control most of the decisions about where, when, and how to build new housing, and those governments are quick to respond to vocal community members who may not want new neighbors. The building industry also points to California Environmental

Quality Act (CEQA) review, and housing advocates note a lack of a dedicated source of funds for affordable housing. This shortage has driven up housing prices and resulted in overcrowding within existing homes.

The author wants to increase the number of units that can be permitted in residential areas.

## Comments

1) *Purpose of the bill.* According to the author, “SB 1120 promotes small-scale neighborhood residential development by streamlining the process for a homeowner to create a duplex or subdivide an existing lot in all residential areas. This policy builds upon existing prior successful housing policies such as the state’s Accessory Dwelling Unit (ADU) law, which led to a 63% increase in ADU permit requests statewide in the first two years alone. Additionally, the policy leverages valuable but previously untapped resources, such as developed but underutilized land, while building valuable equity for homeowners. The bill also respects the priorities of local governments in local land use decisions: such applications must meet a specific list of qualifications that ensure protection of local zoning and design standards, historic districts, environmental quality, and existing tenants vulnerable to displacement.

“COVID-19 has dramatically exacerbated California’s already-severe housing crisis. Essential workers are more likely to live in overcrowded housing, which is linked to an increased risk of contracting (and dying from) the disease. Among households facing COVID-related loss of income, half were already struggling to afford rent pre-COVID and now face eviction, housing instability, and homelessness. Finally, estimates show that homeless individuals are two to three times more likely to die from COVID than their housed counterparts. The best way to address these issues is to provide more housing that is affordable to low- and moderate-income families by creating the environment and opportunity for small-scale neighborhood development.”

2) *One size fits all?* California is a geographically and demographically diverse state, and that is reflected in its 482 cities and 58 counties. Local elected officials for each of those municipalities are charged by the California Constitution with protecting their citizens’ welfare. One chief way local governments do this is by exercising control over what gets built in their community. Local officials weigh the need for additional housing against the concerns and desires of their constituents. Where appropriate, those officials enact ordinances to shape their communities based on local conditions and

desires. SB 1120 allows duplexes to be built in many single-family zones, even if local officials and residents have said they don't want them, and it allows for the creation of smaller parcels than local governments would allow on their own. However, the bill provides that local zoning standards that don't conflict with the bill still apply and limits the situations where demolition can take place, so the duplexes allowed under the bill couldn't take up more space than a single family home in the same area and will retain much of the look and feel of the neighborhood. Is SB 1120 a flexible enough bill to account for the variation in local communities?

### **Related/Prior Legislation**

SB 1120 is part of the Senate's housing package, along with the following bills:

SB 899 (Wiener) requires local governments to ministerially permit specified 100% affordable housing developments on land owned by a religious institution or non-profit college.

SB 902 (Wiener) allows a local government to adopt an ordinance to allow up to 10 units per parcel, notwithstanding local voter initiatives, in infill, transit-rich, or high opportunity areas.

SB 995 (Atkins) expands the streamlined judicial review provisions of AB 900 (Buchanan, 2011) to a project with at least 15% of its units affordable to lower income households and a minimum investment of \$15 million.

SB 1085 (Skinner) grants a density bonus to a project with at least 20% of its units affordable to moderate income households and increases the density bonus from 35% to 40% for projects that include the maximum amount of very low income households under density bonus law.

SB 1385 (Caballero) establishes residential use as an allowable use on any parcel zoned for office or retail uses.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- HCD estimates it would incur costs of \$105,000 in the first year and \$99,000 annually thereafter for 0.5 PY of staff time to provide technical assistance and outreach education to local agencies and affordable housing developers.

(General Fund)

- Unknown local costs to establish streamlined project review processes for proposed duplex housing developments and tentative maps for urban lot splits, and to conduct expedited design reviews of these proposals. These costs are not state-reimbursable because local agencies have general authority to charge and adjust planning and permitting fees to cover their administrative expenses associated with new planning mandates. (local funds).

**SUPPORT:** (Verified 6/19/20)

American Planning Association, California Chapter  
Associated Builders and Contractors Northern California Chapter  
Bay Area Council  
California Apartment Association  
California Association of Realtors  
Facebook  
Habitat for Humanity California  
Livable Sunnyvale  
San Francisco Housing Action Coalition  
Schneider Electric  
United Dwelling

**OPPOSITION:** (Verified 6/19/20)

Brentwood Homeowners Association  
Cities Association of Santa Clara County  
City of Hawthorne  
City of Newport Beach  
City of Orinda  
City of Pasadena  
City of Thousand Oaks  
City of Torrance  
Contra Costa Taxpayers Association  
Livable California  
Orinda Watch  
Sherman Oaks Homeowners Association



South Bay Cities Council of Governments  
Sustainable Tamalmon

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