
UNFINISHED BUSINESS

Bill No: SB 1120
Author: Atkins (D), Caballero (D), Rubio (D) and Wiener (D), et al.
Amended: 8/12/20
Vote: 21

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

SENATE FLOOR: 39-0, 6/24/20
AYES: Allen, Archuleta, Atkins, Bates, Beall, Borgeas, Bradford, Caballero, Chang, Dahle, Dodd, Durazo, Galgiani, Glazer, Lena Gonzalez, Grove, Hertzberg, Hill, Hueso, Hurtado, Jackson, Jones, Leyva, McGuire, Melendez, Mitchell, Monning, Moorlach, Morrell, Nielsen, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Stern

ASSEMBLY FLOOR: Not available

SUBJECT: Subdivisions: tentative maps

SOURCE: Author

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

Assembly Amendments strengthen tenant protections, increase flexibility in what local standards can apply, require lot splits to conform to all other requirements of the subdivision map act, and make other technical changes.

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, including charter cities, 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 or landmark district, or a site that has a historic property or landmark under state or local law, as specified.
- 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 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, subdivision, and design standards that do not conflict with the provisions of the bill, but:
- a) Prohibits a city or county from requiring a project to comply with any standard that would physically preclude two units from being built, except that local governments can require a setback of up to four feet from the side and rear lot lines.
 - b) Provides that no setback shall be required for an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure
- 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 wastewater 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) Allows adjacent or connected structures, as specified.
- 10) 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 located in a residential zone.
 - 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.
- 11) Requires a local agency to approve the lot split only if it conforms to all applicable objective requirements in the Subdivision Map Act that aren't expressly provided in the bill. 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.
- 12) Allows a local agency to impose objective zoning, subdivision, and design standards that do not conflict with the bill, so long as those standards do not physically preclude the construction of two units on either of the resulting parcels.
- 13) 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.

- 14) 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.
- 15) Prohibits the development of accessory dwelling units on parcels that use both the urban lot split and duplex provisions of this bill.
- 16) Allows local governments to extend the life of subdivision maps by one year, up to a total of four years.
- 17) Requires each city or county to include in its annual report to the Department of Housing and Community Development the number of units permitted under the duplex and lot split provisions of the bill.
- 18) Defines its terms.
- 19) 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?

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

According to the Assembly Appropriations Committee:

- HCD estimates costs of \$105,000 (GF) in the first year and \$99,000 (GF) annually thereafter for 0.5 PY of staff time to provide technical assistance and outreach education to local agencies and affordable housing developers.
- The state Coastal Commission (Commission) estimates potentially significant costs (GF) for potential litigation due to the bill's disregard for the unique state regulatory, planning and oversight role the Commission plays in local land use approvals subject to the Coastal Act. According to the Commission, this bill raises unintended procedural and regulatory complexities in the coastal zone that will most certainly result in costs, confusion, litigation and uncertainty at the local level with respect to Local Coastal Program (LCP) policies and appeals to the Commission.
- Unknown state-mandated 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.

SUPPORT: (Verified 8/29/20)

Abundant Housing LA

All Home

American Planning Association, California Chapter

Associated Builders and Contractors Northern California Chapter

Bay Area Council

Bay Area Housing Advocacy Coalition

Bridge Housing Corporation

California Apartment Association

California Association of Realtors

California Building Industries Association

California Chamber of Commerce

California Community Economic Development Association

California YIMBY

Casita Coalition

City of Oakland

Council of Infill Builders

Facebook

Generation Housing

Granville Homes
Greenlining Institute
Habitat for Humanity California
Livable Sunnyvale
Local Government Commission
Los Angeles Area Chamber of Commerce
Los Angeles Business Council
San Diego Regional Chamber of Commerce
San Francisco Housing Action Coalition
Sand Hill Property Company
Santa Monica Forward
Schneider Electric
Silicon Valley At Home
South California Rental Housing Association
South Pasadena Residents for Responsible Growth
Southern California Leadership Council
SPUR
Sv@home Action Fund
Terner Center for Housing Innovation At the University of California, Berkeley
The Casita Coalition
The Greenlining Institute
The Two Hundred
TMG Partners
United Dwelling
Up for Growth
Valley Industry & Commerce Association
Zillow Group

OPPOSITION: (Verified 8/29/20)

AIDS Healthcare Foundation
Aircraft Owners and Pilots Association
Angeles Mesa Homeowners Community Group
Bay Area Transportation Working Group
Brentwood Beautiful
Brentwood Homeowners Association
Brynhurst Avenue Block Club
By the Beach Tamarack Group
California League of Conservation Voters
Center for Biological Diversity
Cherrywood Leimert Park Block Club

Cities Association of Santa Clara County
Citizens Preserving Venice
Citizens Protecting San Pedro
Cities of Agoura Hills; Beverly Hills; Burbank; Camarillo; Campbell; Cerritos;
Chino Hills; Cupertino; Del Mar; Diamond Bar; Downey; El Segundo;
Glendora; Hawthorne; Hidden Hills; Huntington Beach; Laguna Beach; Lomita;
Newport Beach; Norwalk; Orinda; Paramount; Pasadena; Pico Rivera; Rancho
Palos Verdes; Redondo Beach; Rohnert Park; Rosemead; Santa Clarita;
Saratoga; Signal Hill; Thousand Oaks; and Torrance
Coastal San Pedro Neighborhood Council
Comstock Hills Homeowners Association
Contra Costa Taxpayers Association
Families of Park Mesa Heights
Federation of Hillside and Canyon Associations
Franklin Corridor Coalition
Friends of Sunset Park
Grayburn Avenue Block Club
Graylawn Neighbors for Quality of Life
Hyde Park Organizational Partnership for Empowerment
Las Virgenes-Malibu Council of Governments
Leimert Park - Edgehill Drive Residents Association
Livable California
Livable Pasadena
Livable Riverside & Moreno Valley
Mission Street Neighbors
North Santa Ana Preservation Alliance
Northeast San Fernando Valley Activists
Orinda Watch
Pacific Palisades Community Council
Planning and Conservation League
Protecting Our Foothill Community
Rampart Village Neighborhood Council
Riviera Homeowners Association
Shadow Hills Property Owners Association
Sherman Oaks Homeowners Association
Sierra Club California
South Bay Cities Council of Governments
Southeast Torrance Homeowners' Association, Inc.
Sunnyvale Neighbors
Sunset-parkside Education and Action Committee

Sustainable Tamalmon
Tamalpais Design Review Board
Tarzana Property Owners Association
Transportation Solutions Defense and Education Fund
United Neighborhoods for Los Angeles
Victoria/54th Ave Block Club
View Heights Block Club
WCH Association
West Wood Highlands Neighborhood Association
Westwood Hills Property Owners Association
Wilshire Montana Neighborhood Coalition
Woodland Hills Homeowners Organization
60 Individuals

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