

Date of Hearing: April 29, 2021

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 500 (Ward) – As Amended April 19, 2021

SUBJECT: Local planning: permitting: coastal development

SUMMARY: Authorizes the California Coastal Commission (Commission) to facilitate the preservation and creation of housing affordable to lower and moderate-income households in the Coastal Zone. Specifically, **this bill**:

- 1) Removes the provision that no local coastal program can be required to include housing policies and programs.
- 2) Requires, as part of the Coastal Act's development policies, that in nonhazardous areas, including, but not limited to, areas not vulnerable to sea level rise, new development must preserve and enhance the supply of higher density residential, multifamily residential, and mixed-use development in areas with adequate public transit.
- 3) Requires, as part of the Coastal Act's public access policies, that housing opportunities for persons of low and moderate income must be protected, encouraged, and, where feasible, provided in the coastal zone.
- 4) Requires, no later than January 1, 2024, that a local government within the coastal zone that has a certified land use plan or a fully certified local coastal program (LCP) must adopt an amendment to that plan or program specifying streamlined permitting procedures for the approval of accessory dwelling units (ADUs) and supportive housing projects. Specifies that the amendment may include provisions for coastal development permit waivers or exemptions in nonhazardous areas where coastal resources and public access will not be negatively impacted by that development.
- 5) Provides that, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs must be made.

EXISTING LAW:

- 1) Establishes the California Coastal Act (Public Resources Code Sections 30000-30900), which includes the following provisions:
 - a) Establishes the Commission in the Natural Resources Agency and requires the Commission to consist of 15 members (three non-voting and 12 voting), with specified appointments;
 - b) Requires each local government located, in whole or in part, within the coastal zone to prepare a LCP for that portion of the coastal zone within its jurisdiction, or have the Commission prepare it for them. Each LCP must contain a specific public access component to assure that maximum public access to the coast and public recreation areas is provided;

- c) Requires a person planning to perform or undertake any development in the coastal zone to obtain a coastal development permit (CDP) from the Commission or local government enforcing an LCP;
 - d) Defines “development” to mean, among other things, the placement or erection of any solid material or structure on land or in water. “Structure” includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line;
 - e) Defines the “coastal zone” as the land and water area of the State of California from the Oregon border to the border of the Republic of Mexico, extending seaward to the state's outer limit of jurisdiction, including all offshore islands, and extending inland generally 1,000 yards from the mean high tide line of the sea. In significant coastal estuarine, habitat, and recreational areas, the coastal zone extends inland to the first major ridgeline paralleling the sea or five miles from the mean high tide line of the sea, whichever is less. In developed urban areas, the zone generally extends inland less than 1,000 yards. The coastal zone does not include the area of jurisdiction of the San Francisco Bay Conservation and Development Commission, nor any contiguous area, including any river, stream, tributary, creek, or flood control or drainage channel flowing into such area;
 - f) Requires lower cost visitor and recreational facilities to be protected, encouraged, and, where feasible, provided. Declares a preference for developments providing public recreational opportunities;
 - g) Provides that the commission must encourage housing opportunities for persons of low and moderate income; and
 - h) Prohibits LCPs from being required to include housing policies and programs.
- 2) Establishes requirements and standards for ADUs (Government Code Section 65852.2), including:
- a) Requiring streamlined and ministerial approval of ADUs that meet specified standards around size, height, and site location;
 - b) Authorizes local governments to adopt local ADU ordinances applying local standards and conditions, as long they comply with specified requirements; and
 - c) Provides that nothing in ADU law can be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act, except that a local government must not be required to hold public hearings for coastal development permit applications for ADUs.
- 3) Establishes rules and regulations regarding supportive housing, including:
- a) Defining “supportive housing” to mean housing with no limit on length of stay, that is occupied by persons and families who are homeless, and that is linked to onsite or offsite

services that assist the supportive housing resident in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community (Health and Safety Code Section 50675.14); and

- b) Requiring supportive housing to be a use by right in zones where multifamily and mixed uses are permitted, including in non-residential zones permitting multifamily uses, if the proposed housing development satisfies specified requirements, including that 100 percent of the units be affordable to lower income households, and at least 25 percent of the units are targeted to homeless persons and families (Government Code Sections 65650-65656).

FISCAL EFFECT: Unknown

COMMENTS:

Author's Statement: According to the author, "ADUs and supportive housing are proven solutions to address the current housing crisis for middle- and low-income Californians, yet they are underutilized in the coastal zone, in part due to the time-intensive regulatory process. AB 500 will streamline the regulatory process for ADUs and supportive housing, and will give coastal communities the opportunity to partner with the California Coastal Commission to provide new affordable housing solutions for all Californians."

The California Coastal Act and Coastal Commission: California's coast is a vital natural resource and delicately balanced ecosystem, as well as an important economic and social resource for the state. Recognizing this, the people of the state established the Coastal Commission by voter initiative in 1972 (Proposition 20), which was later made permanent by the Legislature through adoption of the Coastal Act in 1976.

The Commission is an independent, quasi-judicial state agency, and is composed of 12 voting members, appointed equally (four each) by the Governor, the Senate Rules Committee, and the Speaker of the Assembly. In partnership with coastal cities and counties, the Commission plans and regulates the use of land and water in the coastal zone, an area along the length of the state's coast that is currently home to approximately one million people. In the coastal zone, development activities, including construction of housing, require a coastal development permit (CDP) from either the Commission or the local government with a certified local coastal program (LCP).

Affordable Housing in the Coastal Zone: California is in the midst of a housing crisis. Only 27 percent of households can afford to purchase the median priced single-family home – 50 percent less than the national average. Over half of renters, and 80 percent of low-income renters, are rent-burdened, meaning they pay over 30 percent of their income towards rent. At last count, there were over 160,000 individuals experiencing homelessness in California. The housing crisis is particularly acute in many coastal communities, where demand for housing is driven by the combination of high-paying jobs and natural amenities.

The state has enacted numerous bills in recent years to facilitate the production of affordable housing in high-demand areas, including the coastal zone. AB 828 (Wiener, 2018) increased the amount of housing coastal cities need to plan for, AB 686 (Santiago,

2017) requires cities to facilitate the development of affordable housing in higher-income communities, and SB 330 (Skinner, 2019) precludes the demolition of rental housing without in-kind replacement. Nevertheless, more can be done to further facilitate protection, preservation, and production of affordable housing.

In its early years, the Commission had authority over housing in the coastal zone. According to the Commission, in the period from 1977-1981, its requirements facilitated the development of a substantial amount of housing, and led to the creation of approximately 2,500 affordable units and protected 1,100 affordable units from demolition. However, in 1981, SB 626 (Mello) repealed the Commission's role related to housing, by removing housing from its policy purview and explicitly banning the requirement for LCPs to include housing policies and programs. While 2003's SB 619 (Ducheny) directed the Coastal Commission to encourage housing opportunities for persons of low and moderate income, it did not authorize it to do so. The result is that the Commission has not been able to guide housing policy within its jurisdiction, stem the removal of existing affordable units, nor mandate its inclusion in new projects. Such housing policies have been left strictly to the purview of the local governments.

Restoring the Commission's Authority over Housing: This bill would restore the Coastal Commission's authority over housing that had been removed in 1981. It would do so in three ways:

- By specifying that one of the Commission's priorities regarding development is that, in nonhazardous areas, new development must preserve and enhance the supply of higher density residential, multifamily residential, and mixed-use development in areas with adequate public transit;
- By specifying that one of the Commission's priority policies regarding public access is the provision and protection of housing opportunities for persons of low and moderate income; and
- By reinstating the Commission's ability to require LCPs to include housing policies and programs.

As stated above, development activities, including construction of housing, require a CDP from either the Commission or the local government with a certified LCP. The provisions of this bill would enable the Commission to act as the oversight body for housing policy in the coastal zone, in a manner akin to how the Department of Housing and Community Development provides oversight by certifying the housing element of a local government's General Plan. In cities without an adopted LCP (such as Los Angeles), it would also enable the Commission to act in the role of the local planning authority, through its CDP permitting authority. In cities with an adopted LCP, this bill would strengthen the Commission's role over housing by being able to dictate the inclusion of housing policies and programs in the LCP. By emphasizing density, the provisions in this bill could result in additional housing in the coastal zone beyond that otherwise required by the local government. By emphasizing the provision and protection of housing opportunities for persons of low and moderate income, this bill could result in more housing opportunities for such households than otherwise required by the local government.

ADUs: This bill seeks to further affordable housing goals by requiring, by January 1, 2024, local governments to specify streamlined permitting procedures for the approval of ADUs. ADUs, because of their smaller size, are often much less expensive than other proximal housing. Existing law states that nothing in ADU law can be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act, except that a local government must not be required to hold public hearings for coastal development permit applications for ADUs. As such, if a local government's LCP does not facilitate the creation of ADUs, or is silent on the topic, then ADUs could effectively be banned from that area. The provisions of this bill would require that LCPs create a path to enable ADUs to be streamlined in nonhazardous areas where coastal resources and public access will not be negatively impacted by that development, while maintaining the ability to limit ADUs where they would substantially conflict with other policy goals of the Coastal Act. This provision would be expected to lead to an increase in ADUs in the coastal zone.

Supportive Housing: This bill also seeks to further affordable housing goals by requiring, by January 1, 2024, local governments to specify streamlined permitting procedures for the approval of supportive housing projects. Supportive housing is by definition affordable housing, including that 25 percent of the units must be dedicated to homeless persons and families. Existing law requires that supportive housing must be permitted by right, and provides no exception for the coastal zone. However, both the Coastal Act and supportive housing law are state laws, meaning that it is unclear which requirement prevails when the two are in conflict, such as when an LCP requires the provision of low-cost lodging. Such conflict can arise when trying to convert hotels and motels to housing for the homeless, such as in the state's Project Homekey. The provisions of this bill would require that LCPs create a path to enable supportive housing to be streamlined in nonhazardous areas where coastal resources and public access will not be negatively impacted by that development, while maintaining the ability to limit them where they would substantially conflict with other policy goals of the Coastal Act. This provision would be expected to lead to an increase in supportive housing in the coastal zone.

Arguments in Support: Supporters of the bill argue that it would allow housing policy in the coastal zone to align with current state policy around density, affordable housing, and ADUs. According to the California Coastal Commission, "On Wednesday, April 15, 2021, the California Coastal Commission voted unanimously to support AB 500, which would provide the Commission with effective tools to advance the State's goal of increasing residential density and affordable housing in the coastal zone."

Arguments in Opposition: There is no opposition to this bill on file.

Related Legislation:

AB 2162 (Chiu, Daly), Chapter 753, Statutes of 2018. This bill streamlines 100 percent affordable housing developments that include a percentage of supportive housing units and onsite services.

AB 663 (Bloom, 2017). This bill would have required, until January 1, 2023, housing opportunities for persons of low and moderate income to be protected, encouraged, and,

where feasible, provided by the Coastal Act. This bill failed the Assembly Floor on a 33-37 vote.

AB 2299 (Bloom), Chapter 735, Statutes of 2016: This bill required streamlined and ministerial approval of ADUs that met specified criteria.

SB 619 (Ducheny) Chapter 793, Statutes of 2003: This bill directed the Coastal Commission to encourage housing opportunities for persons of low and moderate income.

SB 626 (Chapter 1007 Statutes of 1981) - amended the California Coastal Act to limit the jurisdiction of the Coastal Commission to matters of physical development.

Double referred: This bill was also referred to the Assembly Committee on Natural Resources, where it will be heard on April 28, 2021, and referred to this committee pending its passage.

REGISTERED SUPPORT / OPPOSITION:

Support

Azul
Coastal Commission
Elders Action Network

Opposition

None on file.

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