
SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2023 - 2024 Regular

Bill No: AB 1490 **Hearing Date:** 6/20/2023
Author: Lee
Version: 5/1/2023
Urgency: No **Fiscal:** Yes
Consultant: Alison Hughes

SUBJECT: Affordable housing development projects: adaptive reuse

DIGEST: This bill authorizes an extremely affordable adaptive reuse housing development project to be an allowable use, regardless of the general plan, specific plan, zoning ordinance or regulation, as specified.

ANALYSIS:

Existing law:

- 1) Establishes Project Homekey, which provides housing for individuals and families who are experiencing homelessness or who are at risk of homelessness, by enabling a by-right process for the acquisition and rehabilitation of motels, hotels, and hostels into housing.
- 2) Enacts, pursuant to SB 6 (Caballero, Chapter 659, Statutes of 2022), the Middle Class Housing Act of 2022, which establishes housing as an allowable use on any parcel zoned for office or retail uses.
- 3) Establishes, pursuant to AB 2011 (Wicks, Chapter 647, Statutes of 2022), a streamlined, ministerial approval process, not subject to CEQA, for certain infill multifamily affordable housing projects that are located on land that is zoned for retail, office, or parking.
- 4) Establishes, pursuant to SB 35 (Wiener, Chapter 366, Statutes of 2017), a streamlined, ministerial approval process, not subject to CEQA, for certain infill multifamily affordable housing projects that are compliant with local zoning and objective standards that are proposed in local jurisdictions that have not met their regional housing needs allocation.
- 5) Establishes the Housing Accountability Act (HAA) which, among other provisions, establishes the following:

- a) When a proposed housing development project, as defined, complies with applicable, objective general plan, zoning, and subdivision standards and criteria in effect at the time that the project's application is complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed project upon specified written findings.
- b) A proposed housing development project, as defined, is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the project is consistent with the objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan, as specified.
- c) A housing development project, as defined, or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the project is consistent, compliant, or in conformity.

This bill:

- 1) Defines "dedicated to industrial use" as any of the following: the square footage is used as an industrial use; the most recently permitted use of the square footage is an industrial use; or the site was designated industrial use in the general plan updated before January 1, 2022.
- 2) Defines "extremely affordable adaptive reuse project" as a housing development project that meets all the following criteria:
 - a) The development is multifamily;
 - b) The development involves the retrofitting and repurposing of an existing building that currently includes residential dwelling units, including temporary or single occupancy residential units, to create new residential units;
 - c) The development will be entirely within the envelope of the existing building;
 - d) The development meets all of the following affordability criteria:
 - i. 100% of the units are dedicated to lower income households at an affordable housing cost or an affordable rent, as specified.
 - ii. At least 50% of the units shall be dedicated to very low income households at an affordable housing cost or affordable rent as specified.

- iii. The units shall be subject to a recorded deed restriction for 55 years for rental units and 45 years for owner-occupied units.
- 3) Defines “industrial use” as utilities, manufacturing, transportation storage and maintenance facilities, and warehousing uses. “Industrial use” does not include power substations or utility conveyances such as power lines, broadband wires, and pipes.
 - 4) Defines “infill parcel” as a parcel that is either at least 75% of the perimeter of the site adjoins parcels developed with urban uses or the parcel is within ½ mile of public transit, as specified.
 - 5) Authorizes a housing development project submitted under this section to be an allowable use, regardless of the general plan, specific plan, zoning ordinance or regulation, if it meets the following standards:
 - a) The development is an extremely affordable adaptive reuse project;
 - b) The development is proposed to be located on an infill parcel;
 - c) The development is not proposed to be located on a site or adjoined on a site where more that the square footage is dedicated to industrial use;
 - d) A local agency may impose objective design review standards for a development submitted pursuant to this section, except that it shall not impose or require the curing of any preexisting deficit of or conflict with the following standards:
 - i. Any maximum density requirements.
 - ii. Any maximum floor area ratio requirements.
 - iii. Any requirement to add additional parking.
 - iv. Any requirement to add open space.
 - 6) Requires a local agency that determines a development is in conflict with any of the objective planning standards in 3) above, to provide the development proponent written documentation of the standards the development conflicts with, and an explanation for the reasons the development conflicts with the standards, within 60 days of submittal of the completed proposal if the development contains 150 or fewer housing units, and within 90 days for proposals containing more than 150 housing units. If the local agency does not provide such documentation in the specified timeframe, the project must be deemed consistent.
 - 7) Requires the following regarding local sources of funding for affordable housing:

- a) Any source of funding that can be used for the development of affordable housing must include adaptive reuse as an eligible project; and
- b) An agency with control of a local source of funding cannot prohibit or exclude a project proposal solely on the basis that the proposal is for an adaptive reuse project.

COMMENTS:

- 1) *Author's Statement.* “[‘Adaptive reuse’] refers to retrofitting and repurposing an existing building to create housing. For example, the Governor’s Project Homekey and Project Roomkey programs have successfully turned hotels and motels into low-income housing. AB 1490 will increase implementation of adaptive reuse affordable housing projects by providing developments that meet certain qualifications with incentives, such as guaranteed permit turnaround times and subsidized energy bills. Eligible developments must guarantee 100% of their units be made available for lower income tenants and 50% be made available for the lowest income households.”
- 2) *California’s Housing Crisis.* California faces a severe housing shortage. A variety of causes contributes to the lack of housing production. Recent reports by the Legislative Analyst’s Office 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 that may not want new neighbors. The building industry also points to CEQA as an impediment, and housing advocates note a lack of a dedicated source of funds for affordable housing.

A major cause of the housing crisis is the mismatch between the supply of housing and the need for housing. The Statewide Housing Plan, adopted by the Department of Housing and Community Development (HCD) in 2022, found that California needs approximately 2.5 million units of housing, including one million units affordable to lower income households, in order to address this mismatch over the next eight years. That would require production of over 300,000 units a year, including over 120,000 units a year of housing affordable to lower income households. By contrast, production in the past decade has been under 100,000 units per year – including less than 10,000 units of affordable housing per year.

- 3) *Adaptive Reuse to Housing.* Adaptive reuse is the process of converting an existing non-residential building to housing. The ability to adaptively reuse a building is highly dependent on the initially designed use. For example, uses such as warehouses and big box retail could not functionally be adaptively

reused, because their tall ceilings, single stories, and rudimentary plumbing would need to be completely reconstituted to be appropriate for human habitation. Office buildings maintain some potential for conversion, because their multi-floor layout is conducive to housing; however, the large configuration of most office buildings makes it impossible to provide the necessary light and air that is required for residential units. For these conversions to occur, it would also need to be financially attractive to the property owner – something that has increased due to the sharp downturn in the downtown office market since the beginning of the COVID-19 pandemic.

According to an April 24, 2020 brief published by McKinsey and Company, the onset of COVID-19 has aggravated the existing challenges that the retail sector faces, including:

- a) A shift to online purchasing over brick-and-mortar sales;
- b) Customers seeking safe and healthy purchasing options;
- c) Increased emphasis on value for money when purchasing goods;
- d) Movement towards more flexible and versatile labor; and
- e) Reduced consumer loyalty in favor of less expensive brands.

The buildings most readily converted to housing are hotels and motels. These uses are already divided into quarters designed for short-term human habitation, and units can readily be converted to housing with the addition of kitchens. The viability of this conversion is visible in the success of Project Homekey, which has created 6,863 units of housing with an expenditure of slightly less than \$2 billion.¹ The cost of under \$300,000 per unit is substantially less than the current cost to build newly constructed housing.

This bill would make the adaptive reuse of existing buildings to 100% affordable housing projects an allowable use, even if such a use conflicted with any local plans, zoning ordinances, or regulations. To qualify, the affordable housing project would need to ensure that all of the households were lower-income, and at least half of the units were dedicated to very-low income households. The building would also need to be in an infill location and not be on or adjacent to an industrial site. Finally, the existing building would need to include residential units, including temporary housing or single occupancy residential units. As such, this bill would not apply to hotels, motels, or office buildings.

Local governments would be required to approve an adaptive reuse project that met the bill's specifications in an expedited timeframe. Additionally, the bill

¹ <https://www.hcd.ca.gov/grants-and-funding/homekey/awards-dashboard>

prohibits the local government from imposing specified objective standards that would be difficult to implement in an adaptive reuse project, because of the physical constraints of the existing building. This includes the provision of additional parking or open space, or a maximum density or floor area ratio.

- 4) *Adaptive Reuse Funding.* In the past three years, the Legislature has taken multiple actions to support adaptive reuse. As mentioned above, Project Homekey has received nearly \$2 billion to convert hotels and motels to housing for the formerly homeless. Additionally, the 2022-2023 budget included \$450 million one-time General Fund (\$200 million in 2022-23 and \$250 million in 2023-24) to convert existing commercial or office space to affordable housing. Finally, AB 1695 (Santiago, Chapter 639, Statutes of 2022) requires any notice of funding availability issued by HCD for an affordable multi-family housing loan and grant program to state that adaptive reuse of a property for an affordable housing purpose is an eligible activity.

This bill applies the premise of AB 1695 to local funding sources, by requiring that any local source of funding that can be used for the development of affordable housing must include adaptive reuse as an eligible project. This bill also specifies that an agency with control of a local source of funding cannot prohibit or exclude a project proposal solely on the basis that the proposal is for an adaptive reuse project. These requirements could open up the potential for more affordable housing projects. They may also be difficult for some local governments to implement if the local funding source is based on a voter-approved initiative.

- 5) *Opposition.* Those in opposition, all writing to prior versions of the bill, are concerned about the timelines for processing permits and loss of local control, specifically around zoning and parking requirements.
- 6) *Double-referral.* This bill was also referred to the Senate Governance and Finance Committee.

RELATED LEGISLATION:

SB 6 (Caballero, Chapter 659, Statutes of 2022) — enacted the Middle Class Housing Act of 2022, which establishes housing as an allowable use on any parcel zoned for office or retail uses.

AB 1695 (Santiago, Chapter 639, Statutes of 2022) — required any notice of funding availability issued by HCD for an affordable multi-family housing loan

and grant program to state that adaptive reuse of a property for an affordable housing purpose is an eligible activity.

AB 2011 (Wicks, Chapter 647, Statutes of 2022) — established a streamlined, ministerial approval process, not subject to CEQA, for certain infill multifamily affordable housing projects that are located in land that is zoned for retail, office, or parking.

SB 35 (Wiener, Chapter 366, Statutes of 2017) — established a streamlined, ministerial approval process, not subject to CEQA, for certain infill multifamily affordable housing projects that are compliant with local zoning and objective standards that are proposed in local jurisdictions that have not met their regional housing needs allocation.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 14, 2023.)

SUPPORT:

Aids Healthcare Foundation (Sponsor)
Advisory Council for Sourcewise
California Apartment Association
East Bay YIMBY
Grow the Richmond
How to ADU
Mountain View YIMBY
Napa-Solano for Everyone
Northern Neighbors
Peninsula for Everyone
People for Housing Orange County
Progress Noe Valley
San Francisco YIMBY
Santa Cruz YIMBY
Santa Rosa YIMBY
Slo County YIMBY
South Bay YIMBY
Southside Forward
Urban Environmentalists
Ventura County YIMBY
YIMBY Action

OPPOSITION:

City of Rosemead
City of San Marcos
City of Santa Clarita
City of Thousand Oaks
City of Whittier

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