
SENATE COMMITTEE ON HOUSING
Senator Nancy Skinner, Chair
2023 - 2024 Regular

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| Bill No: | SB 1077 | Hearing Date: | 4/16/2024 |
| Author: | Blakespear | | |
| Version: | 4/10/2024 | Amended | |
| Urgency: | No | Fiscal: | Yes |
| Consultant: | Alison Hughes | | |

SUBJECT: Coastal resources: coastal development permits: accessory and junior accessory dwelling units

DIGEST: This bill requires, by an unspecified date, the California Coastal Commission (CCC) to develop and provide guidance for local governments to facilitate the preparation of amendments to a local coastal program to clarify and simplify the permitting process for accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) within the coastal zone.

ANALYSIS:

Existing law:

- 1) Defines an accessory dwelling unit (ADU) as an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It must include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated on.
- 2) Requires a local agency to ministerially approve, within specified timelines, an application for a building permit within a residential or mixed-use zone to create one or more ADUs that meet all state and local requirements.
- 3) Provides that a local agency is limited in its ability to establish local development standards that differ from specified standards for such issues as height, square footage, and setbacks.
- 4) Requires a local agency to allow for at least one ADU within an existing multifamily dwelling (i.e., attached to the primary building) and allow up to 25% of the existing multifamily dwelling units.

- 5) Requires a local agency to allow for no more than two detached ADUs that are located on a lot that has an existing or proposed multifamily dwelling.
- 6) Establishes the California Coastal Commission (CCC) in the California Natural Resources Agency.
- 7) Provides for the planning and regulation of development within the coastal zone.
 - a) A person planning to perform or undertake any development in the coastal zone is required to obtain a coastal development permit from the CCC or local government enforcing a local coastal program (LCP) certified by the CCC.
 - b) A LCP cannot be required to include housing programs and policies.
 - c) The coastal zone means the coastal land and waters of California, and includes the lands that extend inland generally 1,000 yards from the mean high tide line, as specified, with various exceptions including the San Francisco Bay.
 - d) Development means, among other things, the placement or construction of any solid material or structure on land or in water.

This bill:

- 1) Requires, by an unspecified date, the CCC to develop and provide guidance for local governments to facilitate the preparation of amendments to a local coastal program to clarify and simplify the permitting process for ADUs and JADUs within the coastal zone.

COMMENTS:

- 1) *Author's statement.* "Restrictive land use policies have fueled our current housing shortage, which disproportionately pushes Californians with low incomes and Californians from marginalized ethnic groups into housing instability and homelessness. Make no mistake, this is a humanitarian crisis. Because almost 75 percent of developed land in California is zoned for single family housing, simplifying the regulatory process for adding accessory (ADUs) and junior accessory dwelling units (JADUs) can provide much of the housing our communities need while mitigating perceived impacts on community character and natural resources. SB 1077 will make it easier for coastal homeowners to add ADUs and JADUs to their properties by exempting from the Coastal Development Permit (CDP) process projects that have a low risk of coastal natural resource degradation based on their location. This will provide homeowners located in the coastal zone with more autonomy to meet

their households' housing needs and to rent to people who currently struggle to find housing in the coastal zone. SB 1077 balances protections for coastal resources with unlocking the housing production our coastal communities need. I urge members to support SB 1077.”

- 2) *Second units as a solution to the housing crisis?* California's high — and rising — land costs necessitate dense housing construction for a project to be financially viable and for the housing to ultimately be affordable to lower-income households. Yet, recent trends in California show that new housing has not commensurately increased in density. In a 2016 analysis, the Legislative Analyst's Office (LAO) found that the housing density of a typical neighborhood in California's coastal metropolitan areas increased only by four percent during the 2000s. In addition, the pattern of development in California has changed in ways that limit new housing opportunities. A 2016 analysis by BuildZoom found that new development has shifted from moderate but widespread density to pockets of high-density housing near downtown cores surrounded by vast swaths of low-density single-family housing. Specifically, construction of moderately-dense housing (2 to 49 units) in California peaked in the 1960s and 1970s and has slowed in recent decades.

Recently, there has been a national trend to allow for more "gentle density" (e.g., ADUs, duplexes, four-plexes, townhomes, and other moderately dense developments that were common before the imposition of zoning). The Legislature has also taken a more active role in facilitating this type of gentle density. In 2016, AB 2299 (Bloom) and SB 1069 (Wieckowski), permitted ADUs by-right on all residentially-zoned parcels in the state. By permitting an ADU as a second unit on all single-family lots, these laws effectively doubled their allowed density.

A research paper by UCLA's Lewis Center for Regional Policy Studies, *One to Four: The Market Potential of Fourplexes in California's Single-Family Neighborhoods* (June 2020), found that because state law now requires cities to allow ADUs and JADUs in single-family neighborhoods, there is potential for 1.5 million new units in the form of ADUs and JADUs.

- 3) *How many ADUs are being built in California?* Prior to the Legislature requiring ministerial approval of ADUs in 2017, ADUs were less than one percent of permitted new construction. Now they are approximately 10%, at over 9,600 *completed* units in 2022; additionally, according to cities' and counties' latest Annual Progress Reports, nearly 25,000 ADUs were *permitted* statewide in 2022.

- 4) *Housing needs and ministerial approvals: expediting critical housing projects.* Every city and county in California is required to develop a general plan that outlines the community's vision of future development through a series of policy statements and goals. A community's general plan lays the foundation for all future land use decisions, as these decisions must be consistent with the plan. Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built. In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors.

Some housing projects can be permitted by city or county planning staff ministerially or without further approval from elected officials. Projects reviewed ministerially require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meet standards for building quality, health, and safety. Most large housing projects are not allowed ministerial review. Instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to review under the California Environmental Quality Act (CEQA), while projects permitted ministerially generally are not.

- 5) *Need for certainty in the permitting process.* A variety of causes have contributed to the lack of housing production, including restrictive zoning ordinances, local permitting processes that provide multiple avenues to stop a project, and fiscal incentives associated with development decisions. These issues pose challenges to constructing market-rate and affordable housing developments alike. Given the complexities of developing housing in California, and in particular multifamily housing, the Legislature and Governor have passed over 150 bills since 2016 in an effort to facilitate more housing production.

One such set of reforms have included expediting and simplifying the approval process at the pre-entitlement, entitlement, and post-entitlement phases, including creating multiple pathways for by-right approvals for ADUs, deed-restricted affordable housing, and market-rate housing. In addition to bypassing the CEQA process and the potential for litigation, housing streamlining – *e.g.*, ministerial or by-right approval – provides more certainty as to what is required for permitting approval, and generally requires approval within specified timelines. This certainty and shortened approval timelines are particularly beneficial to affordable housing developers seeking funding from multiple federal, state, and local public funding sources. Additionally, this certainty

provides more opportunities for multifamily developers to build in jurisdictions that are not housing friendly. Some local governments have intentionally made entitlement and permitting onerous to such a degree that developers – and in particular affordable housing developers – have avoided working in those jurisdictions altogether. Longer, uncertain permitting situations are risky for developers, and could kill projects all together. Streamlining unlocks more land opportunities, particularly in higher-resource, unfriendly housing cities.

Streamlined approval process changes have started to show results. ADU construction has exponentially grown from a handful each year statewide to over 10,000. In the past few years, affordable housing development has approached 20,000 units per year, doubling previous totals.

- 6) *Coastal Zone demographics.* California coastal communities are on average wealthier and less diverse than the state as a whole. Within 1km of coastal access, there are roughly 25% more white people and 30% more senior citizens, while at the same time there are 52% fewer Hispanic or Latino people, 60% fewer Black or African American people, 57% fewer American Indians, and 18% fewer households below the poverty line as compared to their population predicted by a proportionate distribution. Additionally, coastal residents earn on average 20% more than the state average income, and on average, people from low-income communities and communities of color must travel further to access the social, economic, scenic, and health benefits of the coast.

Given this correlation, increasing housing density – and by extension housing equity – in the coastal zone is essential to fulfilling the Coastal Act’s goal of maximizing public access to and along the coast, as well as the State’s goal of advancing environmental justice and equality.

- 7) *Developing in the coastal zone.* The Coastal Act outlines standards for development in the coastal zone including specific policies addressing shoreline public access, recreation, protection of habitats, development design, and other things. Local governments within the coastal zone can adopt a local coastal plan (LCP). LCPs generally contain the rules for development and protection of coastal resources and basic planning tools used by the local government. Each LCP contains a land use plan and implementing measures (such as zoning and maps), some of which are subjective standards (such as requirements around design or community character), some of which are objective standards. In order for the local government to have primary jurisdiction over development permitting in the coastal zone, however, the LCP must be approved by the CCC. Once the LCP is approved by the CCC, the local government assumes permitting authority over local developments, including housing, and the LCP

is considered to be an extension of the Coastal Act. About 73% of local jurisdictions in the coastal zone have approved LCPs. In the remaining jurisdictions (*i.e.*, those that do not have an approved LCP), coastal development permits (CDPs) are issued by the CCC directly. Additionally, permitting decisions made by a local government with an approved LCP can be appealed directly to the CCC under specified circumstances. In reviewing the permit, CCC generally must defer to those standards outlined in the LCP.

- 8) *ADU development in the Coastal zone.* According to the sponsors, the Casita Coalition whose members build ADUs, reports that the process for permitting coastal zone ADU and JADU projects is so convoluted and disparate from jurisdiction to jurisdiction that even highly experienced contractors struggle to navigate the process and avoid coastal markets. In comparison, outside the coastal zone, many homeowners are able to obtain permits themselves.

This bill requires, by an unspecified date, the CCC to develop and provide guidance for local governments to facilitate the preparation of amendments to a local coastal program to clarify and simplify the permitting process for ADUs and JADUs within the coastal zone.

- 9) *Gutted.* This bill was gut and amended on April 10, 2024 from a bill that exempted certain ADU and JADUs from requiring a coastal development permit in the coastal zone.

- 10) *Opposition.* Neighborhood homeowner groups were opposed to a prior version of this bill for adding density with no parking requirements in the coastal zone. Environmental groups opposed to a prior version of this bill maintain that “exempting ADUs and JADUs from Coastal Commission jurisdiction would compromise the protections provided by the Coastal Act.” This bill was amended on April 10th coming out of the Senate Natural Resources and Water Committee. This Committee was not able to independently verify if these amendments changed the positions of any other opposition stakeholders.

- 11) *Double referral.* This bill was heard in the Senate Natural Resources and Water Committee on April 9, 2024 and passed on an 11-0 vote.

RELATED LEGISLATION

SB 951 (Wiener, 2024) — makes changes to the California Coastal Act and clarifies that local coastal program updates, for local governments in the coastal zone, shall be completed in the same timeframes as required in the housing

element. *This bill is being heard in the Senate Housing Committee at this same hearing.*

SB 1092 (Blakespear, 2024) — requires the California Coastal Commission (CCC), on or before January 1, 2028, to provide a report to the Legislature that provides the following information regarding appeals filed after January 1, 2025 regarding coastal development permits for multifamily housing developments that are appealed, approved, and denied. *This bill is being heard in the Senate Housing Committee at this same hearing.*

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 10, 2024.)

SUPPORT:

Casita Coalition (Sponsor)
Abodu
ADU Geeks
ADU Homes
American Planning Association, California Chapter
Bequall
California Apartment Association
California Community Builders
City of Encinitas
City of San Diego
Coresgb, LLC
Cottage Technologies
Crest Backyard Homes
Dirt to Keys
East Bay YIMBY
Grow the Richmond
HelloADU
Housing Action Coalition
How to ADU
Mountain View YIMBY
Napa-Solano for Everyone
Northern Neighbors
Peninsula for Everyone
People for Housing - Orange County
Progress Noe Valley

Safe Place for Youth
San Francisco Bay Area Planning and Urban Research Association (SPUR)
San Francisco YIMBY
San Luis Obispo YIMBY
Santa Cruz YIMBY
Santa Rosa YIMBY
SnapADU
South Bay YIMBY
Southside Forward
Streets for All
Streets for People
Tentmakers INC
The Casita Coalition
Urban Environmentalists
Ventura County YIMBY
Villa Homes
YIMBY Action

OPPOSITION:

Azul
Board of Supervisors President Aaron Peskin, County of San Francisco
California Cities for Local Control
California Coastal Protection Network
Clean Water Action
Eac of West Marin
Eco San Diego
Environment California
Green Foothills
Inland Empire Waterkeeper
Livable California
Natural Resources Defense Council
Orange County Coastkeeper
Surfrider Foundation
1 Individual

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