

Date of Hearing: April 30, 2014

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Ed Chau, Chair

AB 1690 (Gordon) – As Introduced: February 13, 2014

SUBJECT: Local Planning: Housing Elements.

SUMMARY: Deletes the requirement that a local government, when it fails to identify adequate sites in its housing element and must adopt a rezoning program, rezone at least 50% of its affordable housing sites on land designated for residential use and for which nonresidential uses or mixed-uses are not permitted. This bill would instead require the program to accommodate at least 50% of the affordable housing need on sites designated for residential use or mixed-uses.

EXISTING LAW:

- 1) Requires every city and county to prepare and adopt a general plan containing seven mandatory elements, including a housing element. (Government Code Sections 65300 and 65302)
- 2) Requires a jurisdiction's housing element to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. (Government Code Section 65583)
- 3) Requires cities and counties located within the territory of a metropolitan planning organization (MPO) to revise their housing elements every eight years following the adoption of every other regional transportation plan. Cities and counties in rural non-MPO regions must revise their housing elements every five years. (Government Code 65588)
- 4) Requires, prior to each housing element revision, that each council of governments (COG), in conjunction with the Department of Housing and Community Development (HCD), prepare a RHNA and allocate to each jurisdiction in the region its fair share of the housing need for all income categories. Where a COG does not exist, HCD determines the local share of the region's housing need. (Government Code Sections 65584-65584.09)
- 5) Divides the RHNA into the following income categories:
 - a) Very low-income (50% or lower of area median income);
 - b) Low-income (80% or lower of area median income);
 - c) Moderate-income (between 80% and 120% of area median income); and
 - d) Above moderate-income (exceeding 120% area median income).

(Government Code Section 65584)

- 6) Requires housing elements to include an inventory of land suitable for residential development that identifies enough sites that can be developed for housing within the planning period to accommodate the jurisdiction's entire share of the RHNA. (Government Code Sections 65583 and 65583.2)
- 7) Requires that, where the inventory of sites does not identify adequate sites to accommodate the need for groups of all household income levels, rezoning of those sites, including adoption of minimum density and development standards, is required by a specified deadline. (Government Code Section 65583)
- 8) Requires the rezoning program to accommodate 100 % of the need for housing for very low- and low-income households for which site capacity has not been identified in the inventory of sites. These sites must:
 - a) Be zoned to permit owner-occupied and rental multifamily residential use by-right during the planning period;
 - b) Be zoned with minimum density and development standards that permit between 16 and 20 units per acre, depending on the jurisdiction; and
 - c) Accommodate at least 50% of the very low- and low-income housing need on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.

(Government Code Section 65583.2)

FISCAL EFFECT: None.

COMMENTS:

Adequate Sites:

Every local government is required to prepare a housing element as part of its general plan. The housing element process starts when HCD determines the number of new housing units a region is projected to need at all income levels (very low-, low-, moderate-, and above-moderate income) over the course of the next housing element planning period to accommodate population growth and overcome existing deficiencies in the housing supply. This number is known as the regional housing needs assessment (RHNA). The COG for the region, or HCD for areas with no COG, then assigns a share of the RHNA number to every city and county in the region based on a variety of factors.

In preparing its housing element, a city or county must show how it plans to accommodate its share of the RHNA. The housing element must include an inventory of sites already zoned for housing. When a local government's housing element does not identify adequate sites to accommodate the need for groups of all household income levels, it must rezone those sites by a specific deadline during the planning period. This rezoning program has to accommodate 100% of the RHNA need for very low- and low-income households, for which site capacity has not been identified, on sites that are zoned to permit owner occupied and rental multifamily use by-

right during the planning period. These zones must allow for, depending on the jurisdiction, between 16 and 20 units per acre. At least 50% of the very low- and low-income housing need must be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.

Purpose of the Bill:

According to the author, encouraging mixed-use development is critical to California's smart growth goals. As local governments, particularly built-out urban communities, add more zoning designations and overlays, restrictive segregation of use is increasingly rare. Integrating commercial uses into a low-income and very low-income project can also provide benefits from a development perspective. In the author's view, a commercial component can also make a project more attractive to a community, like a food desert, starved for services. The most direct benefit of accommodating more low-income and very-low income residents in mixed-use projects is that they are less likely to be isolated from jobs and services. The author contends that AB 1690 will allow local cities and counties the option of planning for growth in a way that better integrates new low- and very low-income housing into communities.

Staff Comments:

AB 1690 will impact reforms to housing element law that came out of the Housing Element Working Group (HEWG), which convened in 2003. One of the bills that implemented the reform, AB 2348 (Mullin), amended housing element law by clarifying the land inventory requirements to provide local governments more certainty about the statutory requirements. Amongst other things, AB 2348 provided clarity about the relationship between the land inventory and adequate sites program. The bill clarified that a rezoning program to provide adequate sites is only needed when the inventory does not identify adequate sites already appropriately zoned to accommodate the RHNA.

AB 1690 relates to the scenario where a local government has not identified adequate sites to accommodate its RHNA which, in the most recent housing element cycle, is comprised of about 25% of local governments statewide. As noted above, if a local government fails to identify adequate sites, then it must adopt a rezoning program to accommodate its RHNA share, and at least 50% of the very low- and low-income RHNA must be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted. These sites must also be zoned to permit owner-occupied and rental multifamily residential use by-right.

The idea behind these existing requirements was likely to encourage the development of affordable housing in areas that did not identify adequate sites for it to begin with. Requiring that affordable housing sites must allow residential uses by-right certainly removes impediments to developing affordable housing. Affordable housing developers have indicated that, while it is possible to develop mixed-use projects, there tends to be more impediments to this type of development. For example, once sites are zoned as mixed use, the price of the land is likely to increase, which has the effect of excluding affordable housing developers. The 50% floor on residential sites for affordable housing can be viewed as promoting the actual development of affordable housing by making it more feasible for developers.

AB 1690 provides that this 50% requirement may also be accommodated on mixed-use sites, which is prohibited under existing law. Although the author states that AB 1690 allows cities

and counties the option of planning for growth in a way that better integrates new low- and very low-income housing into communities, it is unclear how the bill in its current form will accomplish this. The restriction that the bill seeks to remove only applies to local governments that have not already identified adequate sites, and this restriction was implemented to remove impediments to the development of affordable housing.

The Committee may wish to consider whether the bill in its current form is sound statewide policy in light of the shortage of affordable housing. If the author's goal is to encourage mixed-use projects to better align with smart growth goals, it may be more appropriate to reexamine the sections of housing element law that relate to site inventory requirements or how a local government may identify adequate sites for residential development.

Double referred: If AB 1690 passes this committee, the bill will be referred to the Committee on Local Government.

REGISTERED SUPPORT / OPPOSITION:

Support

League of California Cities
City of Santa Monica

Opposition

None on file

Analysis Prepared by: Rebecca Rabovsky / H. & C.D. / (916) 319-2085