

Date of Hearing: May 20, 2020

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 2580 (Eggman) – As Amended May 11, 2020

SUBJECT: Conversion of motels and hotels: streamlining

SUMMARY: Allows ministerial, streamlined conversion of non-residential hotels and motels into housing. Specifically, **this bill:**

- 1) Establishes a process for the complete conversion of a non-residential hotel or motel into multifamily housing units that is streamlined, ministerial, and not subject to a conditional use permit, as follows:
 - a) Allows a development proponent to submit an application for such a development if:
 - i. At least 20 percent of the proposed units are reserved for low income households for at least fifty-five years for units that are rented to the occupants or forty-five years for units that are owned by the occupants; and
 - ii. The development is not located in the coastal zone.
 - b) Requires a local government to act on the application as follows:
 - i. If the local government determines that the proposed development is compliant with the standards specified above, the local government must provide a streamlined application and review process for, and to grant ministerial approval to, the project;
 - ii. If the local government determines that the proposed development is not compliant with the standards specified above, the local government must provide the development proponent written documentation of the standard or standards with which the development conflicts, and an explanation of the reason or reasons the development conflicts with the standard or standards, within 30 days of submittal of the completed application for the development to the local government; and
 - iii. If the local government fails to provide this documentation, the development will be deemed to be compliant.
 - c) Allows a local government's planning agency to conduct any design review or public oversight of the development, as follows:
 - i. The design review or public oversight must be objective and assess compliance only with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application, and must be broadly applicable to development within the jurisdiction; and
 - ii. The design review or public oversight must be completed within 60 days of submittal of the completed application for the development to the local government pursuant to

- this section, and must not in any way inhibit, chill, or preclude the ministerial approval provided by this process.
- d) Defines “conversion” as a change in use altering the interior of the structure, including merging of units, but that does not require a change in the exterior of the building except for:
 - i. Compliance with applicable state or local building standards or to ensure access accessibility to individuals with disabilities. Allows a developer could add up to five percent square footage onto the existing structure to comply with these requirements; and
 - ii. Aesthetic purposes.
 - e) Establishes automobile parking requirements for compliant developments approved pursuant to this process, as follows:
 - i. For developments that meet any of the following criteria, a local government may not impose automobile parking standards:
 - a. The development is located within one-half mile of a major transit stop;
 - b. The development is located within an architecturally and historically significant historic district;
 - c. When on-street parking permits are required but not offered to the occupants of the development; and
 - d. When there is a car-share vehicle located within one block of the development.
 - ii. For projects that do not meet the criteria below, a local government can impose automobile parking requirements, not to exceed one parking space per unit.
 - f) Requires that, if a local government approves a development pursuant to this process, then that approval must not expire for five years.
 - g) Prohibits a local government from requiring, as a condition for approval of a development pursuant to this process, the correction of nonconforming zoning conditions.
 - h) Prohibits a local government from imposing any standard requiring a minimum or maximum size requirement for the units, or any density restriction more strict than the number of units in the hotel and motel.
 - i) Prohibits a local government from requiring increased fees or inclusionary housing requirements that apply to a project solely or partially on the basis that the project is eligible to receive for this process.
- 2) Finds and declares that this Act addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution and therefore applies to all cities, including charter cities.

- 3) Provides that no reimbursement is required by this act because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

EXISTING LAW:

- 1) Establishes regulations for the adoption and administration of zoning laws, ordinances, rules and regulations by counties and cities, as well as to implement such general plan as may be in effect in any such county or city (Government Code 65800 et seq).
- 2) Declares that the legislature finds and declares that the costs of new housing developments have been increased, in part, by the existing permit process and by existing land use regulations and that vitally needed housing developments have been halted or rendered infeasible despite the benefits to the public health, safety, and welfare of those developments and despite the absence of adverse environmental impacts. Summarily established a series of exemptions from local control of zoning housing approval process (Government Code 65913 et seq).

FISCAL EFFECT: Unknown

COMMENTS:

Author's Statement: According to the author, "California's shortage of housing and affordable housing has added pressure to Californians experiencing homelessness or shelter instability. To meet housing needs, we need novel housing solutions. My bill would allow project developers to turn former hotels and motels into multifamily housing, with an affordable housing set-aside, via a streamlined ministerial process. Not only would this bill provide more housing options, but would not contribute to urban sprawl, community displacement, or add pressure to existing urban infrastructure such as water and sewer resources."

Background:

Housing Crisis: The cost of housing in California is twice the national average, and higher than any state except for Hawai'i. Only 28 percent of households can buy the median priced home. 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. According to a 2016 McKinsey Global Institute, every year Californians pay \$50 billion more for housing than they are able to afford.

According to the Legislative Analyst's Office, "a collection of factors drive California's high cost of housing. First and foremost, far less housing has been built in California's coastal areas than people demand. As a result, households bid up the cost of housing in coastal regions. In addition, some of the unmet demand to live in coastal areas spills over into inland California, driving up prices there too. Second, land in California's coastal areas is expensive. Homebuilders typically respond to high land costs by building more housing units on each plot of land they develop, effectively spreading the high land costs among more units. In California's coastal metros, however, this response has been limited, meaning higher land costs have translated more directly into higher housing costs. Finally, builders' costs—for labor, required building materials, and government fees—are higher in California than in other states. While these higher building costs contribute to higher prices throughout the state, building costs appear to play a smaller role in explaining high housing costs in coastal areas."

According to Up for Growth's 2018 analysis, housing underproduction is rampant throughout the United States, but California's underproduction is greater than the other 49 states combined. According to the 2016 McKinsey study, California's housing deficit is over two million units, and that it would require production of 500,000 units a year (3.5 million units total) over a seven year period to normalize the state's housing prices. According to HCD, there needs to be 180,000 units built per year to maintain housing costs. By contrast, housing production averaged less than 80,000 new homes annually over the last ten years.

Evolving Role of Hotels: There are approximately 530,000 tourist hotel and motel rooms in California. The hotel and motel market is diversified to serve a broad spectrum of demand, in terms of price and amenities. In California, this includes about 25 percent of the rooms being considered economy class, which is the least expensive type of hotel or motel. While most hotels and motels serve travelers, these inexpensive hotels and motels have historically provided lodging for lower income individuals. In some instances, the hotels and motels become a primary residence for six or more guests, at which time it becomes classified as a residential hotel. Other hotels may become the primary residence for less than six guests, or provide lodging for less than 30 days for people who do not have a primary residence, including homeless individuals and families, and those who may not have sufficient cash on hand or face other impediments that hinder them from securing more traditional housing. It is unknown how many individuals are utilizing hotels in this manner at any given time, or over the course of a year.

Until the onset of COVID-19 pandemic, the hotel industry in California was robust, including establishing a record for new rooms opened in 2019 at nearly 12,000. An additional 28,000 rooms were under construction at the start of 2020, with another 160,000 in the planning stage. However, the pandemic has rapidly changed the circumstances for hotels in California and throughout the world. As of the first week of May, U.S. hotel rooms had an occupancy rate of approximately 30 percent, and revenues were down 80 percent from the year prior. In early April, Governor Newsom announced "Project Roomkey," an effort by the state to secure up to 15,000 of these vacant hotel and motel rooms to protect unhoused individuals during the pandemic. It is unclear at this time how long those rooms will be able to be secured and at what cost. It is also unclear at this time what the overall impact of the pandemic and ensuing economic downturn will be on the industry, and how many hotels will opt to go out of business.

Purpose of the bill: This bill could facilitate new housing by facilitating the ministerial and streamlined conversion of hotels and motels into multifamily housing, regardless of the underlying zoning. The conversion of hotels and motels to multifamily housing is an appealing strategy for addressing the housing crisis for a number of reasons:

- Because such hotels are typically situated in central business districts or along major arterial roads, they are likely to be in locations well suited for multifamily housing;
- Because of the inherently smaller room sizes, the new units are more likely to be affordable to a wider range of households;
- Because they are already designed for habitation, conversion to residential uses is often less expensive than new construction, making such conversions more viable for both market rate and affordable housing developers;
- By not allowing expansion of the existing buildings (except for a nominal amount to comply with building code requirements and disability standards), the converted buildings would not have a substantial physical change in character; and

- As a result of the COVID-19 pandemic, a substantial number of hotels at all economic strata are likely to close, potentially permanently, providing a unique opportunity to secure multi-family housing sites at a substantially reduced price point.

Absent this bill, in many instances hotels and motels are already permitted to convert to residential uses. The bill leverages the value bestowed by the ministerial and streamlined process to require that 20 percent of the new units be affordable to households making less than 80 percent of their area's median income. This will likely result in the creation a much greater number of affordable units than would have occurred had the conversion not occurred through this process, given that most jurisdictions either have no affordability requirements or have ones that are much lower than proposed by this bill.

Arguments in Support: Arguments in support largely focus on the need to provide a substantial amount of housing to address the housing crisis. According to the California Apartment Association, "California's ongoing housing supply and affordability crisis has been well documented and continues to plague the state and fuel homelessness. To meet housing needs, we need novel housing solutions. Although the state has made efforts to address this crisis, there are still many local barriers, including delays and duplicative reviews, that limit the production of housing in this state. AB 2580 would facilitate the conversion of hotels and motels into multifamily housing through a streamlined ministerial process. Hotels and motels are often located in or near places where people work and want to live, thereby serving as ideal locations for desperately needed housing."

Arguments in Opposition: Arguments in opposition include concerns about lack of labor standards in the bill. According to the State Building and Construction Trades Council, "While this bill seeks to solve the festering problem of homelessness in California, it does so at the expense of working families, including the very workers constructing modifications to hotel or motel structures. The bill does not include a requirement to pay the prevailing wage, ensuring that the workers building the housing will be paid barely above the minimum wage to toil on dangerous construction sites."

Other arguments in opposition are focused on the potential for displacement of extremely low-income individuals and families that utilize hotels as de facto housing. According to the Corporation for Supportive Housing, "One of the many unfortunate impacts of the COVID-19 crisis may be an uptick in lower-cost hotels and motels that are available for sale. This presents a unique opportunity to capture these properties to serve critical community needs and address the severe shortage of housing for Californians with extremely low incomes. Without amendments, AB 2580 may impede this opportunity by driving more competition for these properties."

Staff Comments: Despite the benefits of more overall and affordable units, there is the potential for this bill to conversely have a substantially negative impact on the very low-income and extremely-low income populations that rely on the network of lower cost hotel and motel rooms to serve as residences of last resort. Even before the COVID-19 pandemic, it would have difficult to predict on balance the overall result in terms of lower income units or account for substantial local variation. Give the current upheaval of the hotel and motel industry, such a prediction becomes impossible.

Simultaneously, through Project Roomkey and other efforts, there is currently the substantial opportunity to convert hotel and motel rooms into 100 percent affordable housing, including

those spaces that are currently being used to house the homeless during the pandemic. This bill has the opportunity to expedite that process and reduce costs.

To address the risk of displacement while facilitating conversion to 100 percent affordable housing, **the committee may wish to consider amending this bill as follows:**

- **Enable a hotel or motel converting to 100 percent affordable housing to convert immediately;**
- **Require a hotel or motel converting to market rate housing to have been vacant for at least six months before it could benefit from the provisions of this bill, and require that if the rooms become occupied again after the submittal of the application then the application becomes void;**
- **Provide more deeply affordable units in market rate projects by requiring five percent of overall units are dedicated to extremely low-income households and 15 percent to low-income households; and**
- **Require that, if a local government has local affordability requirements that exceed the percentages specified above, that those local requirements apply.**

The provisions above do not ameliorate displacement risks for extremely low-income individuals and households when the hotels and motels they are lodging in are converted to 100 percent affordable housing. Creating an anti-displacement strategy for such individuals is challenging because often they have not established tenancy and are transient by nature. Also, requiring relocation for those that have established tenancy could disincentivize hotel and motel owners from facilitating longer term stays at the same time that government bodies are trying to facilitate and fund such stays during the pandemic. Given its importance and challenging nature, this issue merits further consideration between the author, committee staff, and other experts in this area.

The precedent for the streamlined, ministerial process identified in this bill is SB 35 (Wiener, Mitchell, Chapter 366, Statutes of 2017). SB 35 established that such housing projects should return the value created by the expedited process in the form of affordable housing and increased labor standards. The law provides that large multifamily housing must pay a prevailing wage and utilize a skilled and trained workforce, with exceptions for 100 percent affordable housing projects (which are already subject to labor standards per the Labor Code as “public works”). Recognizing the value creating by this bill, and the societal benefit of a highly skilled and appropriately compensated workforce, **the committee may wish to consider amending this bill to require prevailing wage provisions for all projects and the use of a skilled and trained workforce for hotel and motel conversions utilizing the provisions of this bill that are not 100 percent affordable housing projects.**

Committee Amendments: The committee may wish to consider amending the bill as follows to address the concerns outlined above:

- Enable a hotel or motel converting to 100 percent affordable housing to convert immediately;
- Require a hotel or motel converting to market rate housing to have been vacant for at least six months before it could benefit from the provisions of this bill, and require that if the rooms become occupied again after the submittal of the application then the application becomes void;

- Provide more deeply affordable units in market rate projects by requiring five percent of overall units are dedicated to extremely low-income households and 15 percent to low-income households;
- Require that, if a local government has local affordability requirements that exceed the percentages specified above, that those local requirements apply; and
- Require prevailing wage provisions for all projects and the use of a skilled and trained workforce for hotel and motel conversions utilizing the provisions of this bill that are not 100 percent affordable housing projects.

Related Legislation:

SB 35 (Wiener, Mitchell), Chapter 366, Statutes of 2017: This bill creates a streamlined, ministerial approval process for infill developments in localities that have failed to meet their regional housing needs assessment (RHNA) numbers.

AB 3107 (Bloom) (2019): This bill would allow the housing to be built in areas designated by a general plan element to allow commercial development, as long as the housing has at least 20 percent of its units reserved for low income households.

AB 3155 (Rivas) (2019): This bill would a streamlined, ministerial process for infill developments of 10 units or fewer. This bill is pending hearing in this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Apartment Association (sponsor)
 Associated Builders and Contractors Northern California Chapter
 California Association of Realtors
 California Community Builders
 California Council for Affordable Housing
 California Travel Association
 California YIMBY
 Facebook
 Habitat for Humanity California
 National Association of Social Workers, California Chapter
 Southern California Rental Housing Association
 United Way of Greater Los Angeles
 8 Individuals

Support If Amended

Aids Healthcare Foundation
 American Planning Association, California Chapter
 California Housing Partnership Corporation

Support in Concept

California State Association of Counties
Rural County Representatives of California
Urban Counties of California

Opposition

California State Council of Laborers
California Teamsters Public Affairs Council
International Union of Operating Engineers, Cal-Nevada Conference
State Building and Construction Trades Council of California

Oppose Unless Amended

California Rural Legal Assistance Foundation
Corporation for Supportive Housing
Housing California
Leadership Counsel for Justice and Accountability
PolicyLink
Public Advocates
Public Interest Law Project
Western Center on Law & Poverty

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