
SENATE COMMITTEE ON TRANSPORTATION AND HOUSING

Senator Jim Beall, Chair

2015 - 2016 Regular

Bill No: AB 744 **Hearing Date:** 6/30/2015
Author: Chau
Version: 6/23/2015
Urgency: No **Fiscal:** Yes
Consultant: Alison Dinmore

SUBJECT: Planning and zoning: density bonuses

DIGEST: This bill requires a city or county, upon the request of a developer that receives a density bonus, to eliminate the minimum parking requirements for the development, if it meets specified criteria.

ANALYSIS:

Existing law:

- 1) Defines “density bonus” as a density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the city, county, or city and county.
- 2) Requires all cities and counties to adopt an ordinance that specifies how they will implement state density bonus law.
- 3) Requires a city, county, or city and county to grant one density bonus and incentives or concessions when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded, that will provide for at least any one of the following:
 - a) Ten percent of the total units of a housing development for lower income households;
 - b) Five percent of the total units of a housing development for very low-income households;
 - c) A senior citizen housing development or a mobilehome park that limits residency based upon age requirements for housing for older persons;

- d) Ten percent of the total dwelling units in a common interest development (CID) for persons and families of moderate income, provided all the units in the development are offered to the public for purchase.
- 4) Requires cities and counties to provide an applicant for a density bonus concessions and incentives based on the number of below market-rate units included in the project as follows:
- a) One incentive or concession if the project includes at least 10% of the total units for low-income households, 5% for very low-income households, or 10% for moderate-income households in a CID;
 - b) Two incentives or concessions if the project includes at least 20% of the total units for low-income households, 10% for very low-income households, or 20% for moderate-income households in a CID; and
 - c) Three incentives or concessions if the project includes at least 30% of the total units for low-income households, 15% for very low-income households, or 30% for moderate-income households in a CID.
- 5) Provides that, upon the developer's request, the local government may not require parking standards greater than the following (the developer may, however, request additional parking incentives or concessions):
- a) Zero to one bedrooms: one onsite parking space;
 - b) Two to three bedrooms: two onsite parking spaces; and
 - c) Four or more bedrooms: two and one-half parking spaces.
- 6) Defines “major transit stop” as a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency-of-service interval of 15 minutes or less during the morning and afternoon peak commute periods.

This bill:

- 1) Provides that when a developer agrees to include the maximum number of very low- or low-income units under Density Bonus Law within one-half mile of a major transit stop and with unobstructed access to the major transit stop from the development, then upon the request of the developer a city, county, or city

and county shall not impose a parking ratio that exceeds 0.5 spaces per bedroom.

- 2) Provides that if a development is 100% affordable to lower income families then upon the request of a developer, a city, county, or city and county, shall eliminate the minimum parking requirements for the development, if it meets one of the following criteria:
 - a) The development is located within one-half mile of a "major transit stop" and there is unobstructed access to the major transit stop from the development. "Unobstructed access" means a resident is able to walk to the major transit stop without encountering natural or constructed impediments.
 - b) The development is a for-rent housing development for individuals who are 62 years of age or older.
 - c) The development is a special needs housing development.
- 3) Provides that this bill does not preclude a city, county, or city and county from reducing or eliminating a parking requirement for developments of any type or location.
- 4) Allows a city, county, or city and county that conducted an area-wide or jurisdiction-wide parking study within the last five years by an independent consultant to impose a higher vehicular parking ratio than the one for 1) and 2) above, but does not exceed the standard under Density Bonus Law. The study must be based on substantial evidence and include, but not be limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, and the effect of parking requirements on the cost of market-rate and subsidized parking.
- 5) Requires the city, county, or city and county which has completed a parking study and imposes a higher standard than 1) and 2) above to make findings supporting the need for a higher parking ratio.

COMMENTS:

Purpose of the bill. In some cases, cities and counties apply minimum parking standards to affordable housing developments that do not reflect the demand from tenants for parking. These projects may be close to transit stations or home to seniors or individuals with special needs who drive less frequently and have fewer vehicles. Parking spaces, which sometimes go unused, can significantly increase

the cost of construction. An in-depth analysis of parking utilization at 68 affordable housing developments throughout the Bay Area by Transform's GreenTrip program found substantial overdevelopment of residential parking, at an extremely high cost.

This bill would allow a developer that is requesting a density bonus and including 100% affordable units in the development to also request that the city or county eliminate the minimum parking requirements for the development. This bill promotes affordable housing by enabling developers to invest in building more affordable dwelling units instead of spending public subsidies on unneeded parking spaces. It also reduces construction costs and encourages building of urban infill, transit-oriented development, and senior and special needs housing while preserving a city's right to establish parking standards suitable for their specific circumstances.

Background of Density Bonus Law. Given California's high land and construction costs for housing, it is extremely difficult for the private market to provide housing units that are affordable to low- and even moderate-income households. Public subsidy is often required to fill the financial gap on affordable units. Density Bonus Law, however, allows public subsidies to be reduced or even eliminated by allowing a developer to include more total units in a project than would otherwise be allowed by the zoning in order to spread the cost of the affordable units over the project as a whole. The idea is to cover at least some of the affordability gap with regulatory incentives rather than additional subsidy.

Under existing law, if a developer agrees to construct a housing development and meets a specified percentage of affordable units, the city or county must provide all of the following benefits: a density bonus, incentives or concessions, waiver of any development standards that prevent the developer from utilizing the density bonus or incentives, and reduced parking standards.

While a local government is not required to provide financial assistance or fee waivers, the incentives a local government must grant include any of the following:

- 1) A reduction in site development standards;
- 2) A modification of zoning code requirements (including a reduction in setbacks, square footage requirements, or parking spaces, or architectural design requirements that exceed the minimum building standards);
- 3) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the

housing development, and if such non-residential uses are compatible with the project; or

- 4) Other regulatory incentives or concessions that result in identifiable, financially sufficient, and actual cost reductions.

Cost of parking spaces. Transform's GreenTrip program analyzed parking utilization at 68 affordable-housing developments throughout the Bay Area and found substantial overdevelopment of residential parking, at an extremely high cost. Surveying the buildings' parking lots at night when residents would be expected to be sleeping (with their cars in the on-site spaces), the study found that 31% of the 9,387 spaces were empty. The cost to construct those spaces amounted to approximately \$139 million. The average construction cost per space, excluding land cost, in a parking structure in the United States is \$24,000 for aboveground parking and \$34,000 for underground parking. Certain types of parking — podium or subterranean — can increase parking costs by 6% or more relative to other types of parking.

Developments that are available only to low-income persons generally receive Low Income Housing Tax Credits (LIHTC) to finance the project. To compete for LIHTC, projects need to meet scoring criteria, including proximity to transit. While senior or special-needs projects are not required to meet the standard that they are within one-half mile of major transit, they will need to meet the transit requirements of the LIHTC.

This bill would require cities and counties to waive costly minimum parking requirements upon request from of a developer, in cases where a development serves low-income persons. The development must be within one-half mile of a major transit stop, serve only persons over 62 years old, or serve persons with special needs.

Parking study/bill exception. This bill provides that a city or county may impose a higher standard of parking than what is otherwise permitted under this section based upon substantial evidence found in an area- or jurisdiction-wide parking study. The study must be conducted by an independent consultant within the last five years and includes certain requirements.

Sustainability goals and transit-oriented development. AB 32 (Núñez, Chapter 488, Statutes of 2006) requires California to reduce greenhouse gas (GHG) emissions to 1990 levels by 2020. SB 375 (Steinberg, Chapter 728, Statutes 2008) supports the state's climate action goals to reduce GHG emissions through coordinated transportation and land-use planning with the goal of more sustainable

communities by requiring cities and counties to adopt sustainable communities strategies to show how development will support reduction in GHG emissions. A key component of reducing GHG is to move people out of their cars and into public transit. To encourage use of transit, some cities and counties have adopted policies like eliminating minimum parking requirements for projects that are close to transit where demand for parking spaces is low. They recognize that parking requirements prevent infill redevelopment on small lots where it is difficult and costly to fit both a new building and the required parking. They also see that parking requirements prevent new uses for older buildings that lack the required parking spaces.

Arguably, cities and counties that place minimum parking requirements for developments near transit may not reflect the demand for parking. This is particularly likely in 100% affordable developments within one-half mile of a transit stop, a seniors-only development, or a development that serves special-needs individuals. In fact, a review of developments funded through the Department of Housing and Community Development's Transit-Oriented Development Implementation Program (TOD program) showed that lower income households drive 25-30% fewer miles when living within one-half mile of transit than those living in non-TOD areas.

Opposition. Opponents state that while some housing projects serving unique populations may need less parking, minimum levels of parking should remain intact as these populations still often have cars. Many seniors do not give up their cars at 62 years of age and many low-income persons require their cars to get to work. Additionally, adequate parking should be available for guests and service providers. Opponents argue that Density Bonus Law already offers two tiers of parking incentives to developers: 1) statutory maximums commencing at one parking space per bedroom, and 2) the ability to seek additional concessions to further reduce parking below the maximums.

Double-referred. This bill is also referred to the Senate Governance and Finance Committee.

Assembly Votes:

Floor: 52-34
Appr: 12-4
LGov: 7-2
H&CD: 6-1

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 24, 2015.)

SUPPORT:

American Planning Association (Support if Amended)
Association of Regional Center Agencies
Blaydes & Associates American Planning Association (Support if Amended)
California Association of Local Housing Finance Agencies
California Apartment Association
California Bicycle Coalition
California Council for Affordable Housing
California Economic Summit
California Housing Consortium
California League of Conservation Voters
California State Treasurer, John Chiang
Circulate San Diego
City of Richmond, California
Council of Infill Builders
Domus Development
Donald C. Shoup, Professor of Urban Planning, UCLA Luskin School of Public Affairs
Eden Housing
EAH Housing
Enterprise Community Partners
Habitat for Humanity Greater San Francisco
Housing Authority of the City of Alameda
Housing California
Housing Leadership Council of San Mateo County
John Chiang, California State Treasurer
LifeSTEPS
LINC Housing
Local Government Commission
Lyft, Inc.
Mayor Ed Lee, City of San Francisco
Mercy Housing California
Metropolitan Transportation Commission
Michael Lane, Policy Director, Non-Profit Housing Association of Northern California
National Community Renaissance
Natural Recourses Defense Council
Non-Profit Housing Association of Northern California

Rebecca J. Garcia, Councilmember, City of Watsonville
Sacramento Housing Alliance
San Diego County Bike Coalition
Tenderloin Neighborhood Development Corporation
Transform
9 individuals

OPPOSITION:

City of Camarillo
City of Encinitas
City of Glendale
City of Lakewood
County of Los Angeles
League of California Cities

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