

Date of Hearing: April 17, 2024

**ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT**

Juan Carrillo, Chair

AB 1801 (Jackson) – As Introduced January 8, 2024

**SUBJECT:** Supportive housing: administrative office space

**SUMMARY:** Allows a supportive housing development utilizing the by-right process in current law to include administrative office space in the nonresidential floor area of the development, up to certain limits. Specifically, **this bill:**

- 1) Adds administrative office space to the existing authorization to include certain amounts of nonresidential floor area in proposed supportive housing projects seeking to utilize the by-right process in AB 2162 (Chiu), Chapter 753, Statutes of 2018.
- 2) Defines “administrative office space” to mean an organizational headquarters or auxiliary office space utilized by a nonprofit organization for the purpose of providing onsite supportive services at a supportive housing development authorized under AB 2162 (Chiu) and includes other nonprofit operations beyond the scope of the corresponding development, including parking necessary to serve the office space.
- 3) Limits the total floor area dedicated to administrative office space and associated parking that may be included in a streamlined project to no more than 50% of the total floor area dedicated to residential units.
- 4) Modifies the definition of “supportive housing” under specified law to specifically include nonresidential uses and administrative office space, as defined, as well as transitional housing for youth and young adults.
- 5) Provides that no reimbursement is required by this bill because the only costs that may be incurred by a local agency or school district under this bill would result from a legislative mandate that is with the scope of paragraph (7) of subdivision (b) of Section 3 of Article 1 of the California Constitution.

**EXISTING LAW:**

- 1) Establishes a streamlined, by-right process for supportive housing in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses, if the proposed housing development satisfies the following requirements:
  - a) Units within the development are subject to a recorded affordability restriction for 55 years;
  - b) One hundred percent of the units, excluding managers’ units, within the development are restricted to lower income households and are or will be receiving public funding to ensure affordability of the housing to lower income Californians, as specified;
  - c) At least 25% of the units in the development or 12 units, whichever is greater, are restricted to residents in supportive housing who meet criteria of the target

- population. If the development consists of fewer than 12 units, then 100% of the units, excluding managers' unit, must be restricted to residents in supportive housing;
- d) The developer provides the planning agency with certain specified information;
  - e) Nonresidential floor area must be used for onsite supportive services in the following amounts:
    - i) For a development with 20 or fewer units, at least 90 square feet; or
    - ii) For a development of more than 20 units, at least 3% of the total nonresidential floor area must be provided for onsite supportive services that are limited to tenant use, including, but not limited to, community rooms, case management offices, computer rooms, and community kitchens.
  - f) The developer replaces any dwelling units on the site of the supportive housing development in the manner provided as specified; and
  - g) Units within the development include at least one bathroom and a kitchen or other cooking facilities, including, at a minimum, a stovetop, sink, and refrigerator. [Government Code (GOV) §65651]
- 2) Allows a local government to require a supportive housing development subject to the by-right process in 1) to comply with written, objective development standards and policies; however, the standards and policies must apply generally to other multifamily development within the same zone. (GOV § 65651)
- 3) Requires a local government's review of a supportive housing development under 2) to be conducted consistent with [65589.5(f)] and establishes that the review does not constitute a "project" for purposes of the California Environmental Quality Act. (GOV§ 65651)
- 4) Defines, for purposes of the by-right process in 1), "supportive housing" to mean housing where:
- a) At least 40% of the units are targeted to individuals or families experiencing chronic homelessness, homeless youth, or individuals exiting institutional settings who were homeless when entering the institutional setting, have a disability, and who resided in the setting for at least 15 days; and
  - b) The project provides or demonstrates collaboration with programs that provide services that meet the needs of the residents, among other requirements. [Health and Safety Code Section (HSC) § 50675.14]
- 5) Defines "homeless youth" to mean either of the following:
- a) A person who is not older than 24 years of age and is either homeless or at risk of becoming homeless, is no longer eligible for foster care on the basis of age, or has run away from home; or
  - b) A person who is younger than 18 years of age, emancipated, and homeless or at risk of becoming homeless. (GOV § 12957)

**FISCAL EFFECT:** This bill is keyed fiscal and contains a state-mandated local program.

**COMMENTS:**

- 1) **Bill Summary.** This bill allows a supportive housing development to include up to 50% the total floor area for nonresidential uses, which includes administrative office space and parking, and still be eligible for by-right approval under existing law. The bill also specifically includes transitional housing for youth and young adults in the definition of supportive housing. This bill is author sponsored.
- 2) **Author's Statement.** According to the author, "California has a moral imperative to provide the needed housing and supportive services to our unhoused populations. AB 1801 will provide greater clarity and cost efficiency to those non-profits who seek to build affordable housing for the thousands of Californians in need."

"AB 1801 helps accomplish this goal by providing clarity to current law and will allow for the construction and development of administrative office spaces, facilities, and parking on the same grounds as the supportive housing projects. We know that when the administrative and other needed facilities are on the same site as the housing, people are better served and set up to thrive."

- 3) **Planning and Zoning Law.** State law provides powers and duties for cities and counties regarding land use. Each city and county must prepare and periodically update a comprehensive, long-range general plan to guide future planning decisions. The general plan has seven mandatory elements: land use, circulation, housing, conservation, open-space, noise, and safety. General plans must also either include an eighth element on environmental justice, or incorporate environmental justice concerns throughout the other elements. Cities and counties may adopt optional elements that address issues of their choosing, and once adopted, those elements have the same legal force as the mandatory elements. The general plan must be "internally consistent," which means the various elements cannot have conflicting information or assumptions.

The general plan works as the foundation for community planning and provide the long-range goals of development in a jurisdiction. In contrast to the long-term, zoning classifies the specific, immediate uses of land. Counties, general law cities, and charter cities with populations of more than two million are required to maintain consistency between their zoning ordinance and their adopted general plan. The Office of Planning and Research state in its *General Plan Guidelines and Technical Advisories* advises that zoning must be consistent with the general plan. If not, the zoning is invalid at the time of its enactment.

- 4) **Zoning and Approval Processes.** Local governments use their police power to enact zoning ordinances that shape development, such as setting maximum heights and densities for housing units, minimum numbers of required parking spaces, setbacks to preserve privacy, lot coverage ratios to increase open space, and others. These ordinances can also include imposing conditions on developments to address aesthetics, community impacts, or other particular site-specific considerations.

- 5) **By-right Permitting.** Some local ordinances provide “ministerial” processes for approving projects that are permitted “by right”—the zoning ordinance clearly states that a particular use is allowable, and local government does not have any discretion regarding approval of the permit if the application is complete. Local governments have two options for providing landowners with relief from zoning ordinances that might otherwise prohibit or restrict a particular land use: variances and conditional use permits. A variance may be granted to alleviate a unique hardship on a property owner because of the way a generally-applicable zoning ordinance affects a particular parcel. A conditional use permit allows a land use that is not authorized by right in a zoning ordinance, but may be authorized if the property owner takes certain steps, such as to mitigate the potential impacts of the land use. Both of these processes require hearings by the local zoning board and public notice.
  
- 6) **Supportive Housing.** State law defines supportive housing to be housing with no limit on length of stay, that is occupied by homeless persons or families, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing is widely acknowledged as a cost-effective model for providing housing and services to people who would otherwise be institutionalized or at risk of institutionalization, as well as reducing chronic homelessness.

Despite its successes, supportive housing continues to face challenges. Supportive housing projects are often opposed by neighborhood groups that are concerned about the impact of such developments on the surrounding area. Because the land use approval process requires many steps and public hearings, and affords local governments a wide degree of latitude to deny or condition projects, opponents of supportive housing have historically been able to use these processes to block projects. CEQA has also been used to block projects that do not otherwise qualify for an exemption.

SB 2 (Cedillo), Chapter 663, Statutes of 2008, took the first step toward removing local land use barriers for emergency shelters and supportive housing by requiring localities to accommodate their need for emergency shelters on sites where the use is allowed without a conditional use permit (CUP), and requiring cities and counties to treat transitional and supportive housing projects as a residential use of property. Local governments must treat supportive housing the same as other multifamily residential housing for zoning purposes and can only apply the same restrictions on multifamily housing in the same zone to supportive housing.

Recognizing the continuing difficulties with moving supportive housing developments through a discretionary process, in 2018, AB 2162 (Chiu), Chapter 753, created a by-right approval process for certain supportive housing developments so long as they met specific zoning and unit requirements. The bill established supportive housing as a use “by right” in all zones where multifamily and mixed uses are permitted, including commercial zones, so long as at least 25% or 12 units of the proposed project – whichever is greater – are restricted to people experiencing or at risk of homelessness. The remaining units, excluding managers’ units, must be restricted to lower income households. A project must also dedicate a minimum amount of floor area in the development to providing onsite supportive services – either 90 square feet in projects with 20 units or fewer, or 3% of the total nonresidential floor area in projects with more than 20 units.

The author's office points out that in AB 2162, use of residential zoned land for the provision of supportive services is acknowledged, but it is unclear if dedicating other space in the development to other nonresidential activities may trigger a local jurisdiction to consider the use as "Office/Administrative." This would be considered a non-conforming use, and may require a CUP to proceed. If CUP is required, ministerial approval streamlining is generally void, and a lengthy and costly discretionary approval process is required.

- 7) **Previous Legislation.** AB 2162 (Chiu), Chapter 753, Statutes of 2018 established a by-right, ministerial approval process for supportive housing developments that meet certain criteria in certain jurisdictions.
- 8) **Arguments in Support.** None on file.
- 9) **Arguments in Opposition.** None on file.
- 10) **Double-Referral.** This bill was double-referred to the Assembly Housing and Community Development Committee, where it passed on a 9-0 vote on April 10, 2024.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file.

**Opposition**

None on file.

**Analysis Prepared by:** Linda Rios / L. GOV. / (916) 319-3958