

Date of Hearing: May 12, 2020

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1851 (Wicks) – As Amended May 5, 2020

SUBJECT: Religious institution affiliated housing development projects: parking requirements.

SUMMARY: Allows a religious institution to develop an affordable housing project at a place of worship owned by the religious institution even if the development requires the religious institution to reduce the number of religious-use parking spaces available at the place of worship. Specifically, **this bill:**

- 1) Defines “religious institution affiliated housing development project” as a housing development project that is:
 - a) Located on one or more contiguous parcels that are owned entirely by a religious institution;
 - b) Located near religious-use parking, as defined; and,
 - c) Eligible for a density bonus as a result of including units affordable to households with low, very-low, or moderate income.
- 2) Prohibits a city or county from requiring a religious institution to replace religious-use parking spaces that a religious institution proposes to eliminate as a part of a religious institution affiliated housing development project.
- 3) Prohibits a city or county from requiring a religious institution to cure a preexisting deficit of the number of religious-use parking spaces as a condition of approval of a religious institution affiliated housing development project.
- 4) Prohibits a city or county from denying a religious institution affiliated housing development project solely on the basis that the project will reduce the total number of parking spaces.
- 5) Limits the number of religious-use parking spaces that a religious institution can reduce as part of a religious institution affiliated housing development project to 50% of the number of existing religious-use parking spaces.
- 6) Allows the religious-use parking spaces that remain at the place of worship to count toward the minimum number of parking spaces that are required for the religious institution affiliated housing development project.
- 7) Specifies that the reduction of religious-use parking authorized under this bill does not count as a concession awarded to the developer for the purposes of Density Bonus Law (DBL).
- 8) Provides that no reimbursement is required by this bill pursuant to Section 6 of Article XIII B of the California Constitution 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 bill.

EXISTING LAW:

- 1) Allows a city or county to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public, including land use authority.
- 2) Requires each city or county to adopt a general plan for the physical development of the city or county and authorizes the adoption and administration of zoning laws, ordinances, rules, and regulations by cities and counties.
- 3) Under DBL, requires cities and counties to grant a density bonus and award other incentives or concessions to an applicant for a housing development of five or more units that agrees to set aside a minimum number of units that are affordable to households with low, very-low, or moderate income.
- 4) Limits the number of parking spaces a local government can require for an affordable housing development project that is eligible for a density bonus.

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

- 1) **Background.** The California Constitution provides cities and counties the authority to regulate behavior to preserve the health, safety, and welfare of the public. This provision (commonly called the police power) gives cities and counties broad authority to regulate land use authority and other matters, provided that the local policy is “not in conflict with general laws.”

Cities and counties use their police power to enact zoning ordinances that shape development, such as setting maximum heights and densities for housing units, setbacks to preserve privacy, lot coverage ratios to increase open space, and others. Through this authority, local governments also establish minimum numbers of required parking spaces for commercial and residential buildings, including places of religious worship and assembly, such as churches, mosques and temples.

- 2) **Author’s Statement.** According to the author, “California’s communities of faith have taken interest in redeveloping portions of their properties, like parking lots, into housing. With faith-based parking spaces not used more than a few times a week, they remain vacant the majority of the year. However, plans to build new housing on church sites have often-struck roadblocks. One of the most common is the inability to count available church properties toward residential parking requirements due to restrictive local ordinances. AB 1851 will facilitate this type of housing construction by reducing parking requirements on church properties for qualifying housing projects.”
- 3) **Parking Standards for Places of Worship.** Cities and counties establish parking standards for various commercial and religious uses. It is not uncommon for cities to establish religious-use parking requirements as a part of parking requirements for commercial venues and other places of assembly, such as theaters, entertainment centers, and auditoriums. The

number of parking spaces required for churches and large venues is commonly established by the total square footage of the venue, the number of individual seats, or square inches of bench or pew space.

- 4) **Yes in God's Backyard (YIGBY).** A growing movement of religious institutions are seeking to develop affordable housing projects on their existing property, including on or adjacent to the parking lots of their places of worship. In the City of San Diego, this movement, known as "YIGBY," was accelerated by an effort by the County Tax Collector that identified more than 1,100 religious use properties, many of which are in areas zoned for housing. However, in the case of a church in the City of San Diego that is seeking to develop an affordable housing project in its parking lot, the parking formula in the San Diego City Code would have required the church to expand its religious-use parking capacity prior to developing the affordable housing project.

Establishing additional parking spaces can be expensive and can significantly impact the viability of an affordable housing development project. The code in the City of San Diego required churches to have either: one off-street parking space for every three seats, one off-street parking space for every 60 inches of pew space, or 30 off-street parking spaces per 1,000 square feet of assembly area. In response to advocacy associated with the project, the city recently updated its code to substantially relax the parking requirements for religious-use parking, decreasing the required number of parking spaces to 10 off-street parking spaces per 1,000 square feet of assembly area.

- 5) **Statewide Approach?** Cities and counties generally establish parking standards that capture a type of facility and use, or a category of facility types, e.g. facilities used for general assembly such as churches. These standards may reflect maximum, or surge parking capacity in order to prevent an overflow of vehicles parking on the street in residential communities. For example, the City of Davis requires churches to have one off-street parking space for every four seats regardless of the average number of seats that are occupied on a regular basis. Parking formulas may be appropriate for a project at the time of development, however, as time goes on parking demands may change. To account for changes in parking demand, local agencies must change their parking formulas, which may require the local agency to update their ordinance. This is demonstrated by the action taken by the City of San Diego in response to local YIGBY advocacy efforts.

However, while the City of San Diego updated its ordinance in response to local advocates, supporters argue that this effort took four years of advocacy and that, "It is widely accepted that certain outdated zoning codes held by municipalities across the State have slowed the appropriate level of new housing development for our Communities." Supporters believe a statewide approach is necessary and argue that similar antiquated ordinances across the state will unnecessarily prevent or delay similar projects from moving forward and relieving the immediate demand for affordable housing.

- 6) **Bill Summary.** This bill seeks to remove barriers to developing affordable housing on property owned by religious institutions by allowing developers to reduce the number of religious-use parking spaces that are required for a place of worship if the reduction is a part of an affordable housing development project. This bill also allows the remaining religious-use parking spaces to count toward the parking required for the housing development project.

Under this bill, a local government cannot deny a religious institution affiliated housing development project solely on the basis that the project will reduce the total number of religious-use parking spaces. Under this bill, religious affiliated housing development projects are still subject to all other local discretionary approvals, and the total number of parking spaces that can be reduced is limited based on the religious institution's existing parking stock.

To ensure that benefits accrue to persons of low, very-low or moderate income, this bill uses established definitions of affordable housing to limit the scope of projects eligible for the parking reduction benefits. Under this bill, the parking reductions are only applicable to affordable housing projects that are eligible for a density bonus.

This bill is sponsored by California YIMBY and New Way Homes.

- 7) **Related Legislation.** SB 899 (Weiner) deems specific types of housing development projects to be an eligible "use by right" if they are developed on land owned by religious institutions or nonprofit hospitals and certain conditions are met. SB 899 is pending a hearing in the Senate Housing Committee.
- 8) **Arguments in Support.** Habitat for Humanity California writes, "Faith-based organizations have a long history of partnering with nonprofit developers to build affordable housing. Often these religious organizations have land that they make available for affordable housing developments. In fact, two of our Habitat affiliates are in conversations to partner with local faith-based organizations to develop affordable housing on their property..."

"Parking requirements increase costs to build housing for nonprofits like faith-based organizations. By increasing the costs of development, parking requirements create a financial barrier for faith-based organizations who would like to help alleviate California's housing and homelessness crisis by building affordable housing. These costs can range up to \$38,000 per space in California. According to Dr. Donald Shoup at the University of California, Los Angeles, "On a typical construction site in Los Angeles, parking requirements reduce the number of units in an apartment building by 13 percent."

"Reducing the costs associated with affordable housing development is a necessary step in stimulating the development of housing. This legislation would make building affordable housing easier, faster, and less expensive for faith-based institutions in a broad range of communities across California. Many of these institutions are already community anchors, and this will help them build stable, safe, affordable housing for local residents and families."

- 9) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

California YIMBY [SPONSOR]
New Way Homes [SPONSOR]
Alameda County Supervisor Keith Carson- District 5
All Home
Astron Development Corp
California Apartment Association
California Community Builders
California YIMBY
City of Berkeley
East Bay Housing Organizations
Greater Cooper AME Zion Church, Oakland
Gunkel Architecture
Habitat for Humanity California
Leadingage California
Non-Profit Housing Association of Northern California
Oakland City Council
Peace United Church of Christ, Santa Cruz
Silicon Valley At Home (SV@HOME)
Techequity Collaborative
TMG Partners

Opposition

None on file

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