

Date of Hearing: March 23, 2022

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 2244 (Wicks) – As Introduced February 16, 2022

SUBJECT: Religious institution affiliated housing: colocated place of worship.

SUMMARY: Expands the authorization to reduce religious-use parking spaces that are a part of a religious institution affiliated housing development (RIAHD) project to developments at new places of worship. Specifically, **this bill:**

- 1) Expands the definition of “religious-use parking spaces” to include parking spaces that would be required in a proposed development for a new colocated place of worship.
- 2) Specifies that the calculation for the maximum 50 percent reduction in religious-use parking spaces that a RIAHD is eligible for shall be done as follows:
 - a) For a RIAHD that is developed at an existing place of worship, the total number of religious-use parking spaces that may be reduced is either 50 percent of the number of spaces available at the time the development project is requested, or 50 percent of the spaces that would be required for a newly constructed colocated place of worship that is identical to the existing colocated place of worship, whichever is greater.
 - b) For a RIAHD that is developed at a newly constructed place of worship, 50 percent of the number of religious-use parking spaces that would be required for a newly constructed colocated place of worship.
- 3) Prohibits a local agency from denying a RIAHD solely on the basis that the project will reduce the total number of parking spaces available at the place of worship provided that the reduction does not exceed 50 percent of the parking spaces that would be required of a new development that is identical to the existing colocated place of worship.

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 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.
- 3) Limits the number of parking spaces a local government can require for an affordable housing development project that is eligible for a density bonus.
- 4) Defines “place of worship” as a property owned or operated by a religious institution, that is used for the purpose of regular assembly by members of the institution.

- 5) Defines “religious institution” as an institution owned, controlled, and operated and maintained by a bona fide church, religious denomination, or religious organization composed of multid denominational members of the same well-recognized religion, lawfully operating as a nonprofit religious corporation pursuant to state law.
- 6) Defines a RIAHD as a housing development project that meets all of the following requirements:
 - a) Is located on parcels that are owned by a bona fide religious institution that lawfully operates as a nonprofit religious corporation under state law.
 - b) Qualifies as being near colocated religious-use parking by being on or adjacent to a parcel with religious-use parking, or located within one-tenth of a mile of a parcel that contains religious-use parking.
 - c) Qualifies for a density bonus.
- 7) Prohibits a local agency from requiring the replacement of religious-use parking spaces that a developer of a RIAHD project proposes to eliminate at an existing place of worship as part of that housing development.

FISCAL EFFECT: None

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 religious communities are working on creative solutions that add to the state’s existing housing stock by redeveloping portions of their property. Religious institutions from Oakland to Los Angeles are proposing policy driven solutions to repurpose underutilized land into housing. However, plans to build housing on newly proposed developments have hit roadblocks.

“In 2019, Governor Newsom signed AB 1851 (Wicks) that eased parking requirements for housing on religious properties. However, local governments have interpreted that it only applies to existing religious institutions, not new ones that can be developed into housing. This limits the ability of future congregations to address the housing needs of their local community. Therefore, AB 2244 clarifies that the reduction of residential parking

requirements for housing development on religious properties applies equally to existing and proposed religious institutions.”

- 3) **Parking Standards for Places of Worship.** Cities and counties establish parking standards for various uses. It is common 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 sought 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 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.

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 of that effort argued that a statewide approach was necessary.

- 5) **Statewide Approach.** In response to the issues noted above, the Governor signed AB 1851 (Wicks), Chapter 196, Statutes of 2020. The bill allowed 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. The bill also allowed the remaining religious-use parking spaces to count toward the parking required for the housing development project. Finally, the bill prohibited local agencies from denying a RIAHD solely on the basis that the project will reduce the total number of religious-use parking spaces available.
- 6) **Bill Summary.** This bill clarifies that the provisions of AB 1851 that apply to existing places of worship also apply to a proposed development for a new place of worship that includes a RIAHD. Specifically, this bill allows a new development of a place of worship and RIAHD to reduce the number of religious-use parking spaces it is required to provide by 50 percent,

and prohibits a local agency from denying a RIAHD based solely on the RIAHD proposing to reduce the number of spaces that would otherwise be required at the newly developed place of worship.

This bill is sponsored by the Non-Profit Housing Association of Northern California.

7) **Policy Considerations.** The Committee may wish to consider the following:

- a) **Electric Vehicle (EV) and Accessible Parking.** State and federal requirements for providing EV parking spaces and parking spaces that are accessible to persons with disabilities are indexed to the number of parking spaces the development provides. The Committee may wish to consider if the parking reductions provided in this bill will undercut existing state goals and requirements for furthering EV infrastructure and guaranteeing accessibility for persons with disabilities.
- b) **Increasing Parking Requirements.** Under current law, existing places of worship may reduce their parking by 50 percent of the number of religious-use parking spaces available at the time a proposal to develop a RIAHD is put forward. This provision cannot extend to new places of worship that do not have an existing number of religious-use parking spaces available. To resolve this issue, this bill allows new places of worship to develop 50 percent of the total religious-use parking spaces that the local code would require at the time the development is proposed. This bill also extends this concept of indexing the total allowed parking reduction to the number of spaces the local code would require of new places of worship to existing places of worship, and requires existing places of worship to link their reduction to whichever number is greater.

Requiring existing places of worship to index their parking reduction to the greater of the two standards could require existing places of worship to increase the number of parking spaces they provide prior to developing a RIAHD. For example, an existing place of worship with 50 religious-use parking spaces located in a jurisdiction that would require a new identical development to provide 150 religious-use parking spaces could be required to increase its parking to 75 spaces (the maximum 50 percent parking reduction from the new code requirement of 150). This contrasts with current law, which ties the reduction of religious-use parking spaces at the existing place of worship seeking to develop a RIAHD to the number of existing spaces, not the number of spaces that would be required. Under current law, this existing place of worship could reduce its total parking to 25 religious-use parking spaces when developing a RIAHD. This bill could be interpreted to require the existing place of worship to increase its total number of parking spaces to 75 prior to developing a RIAHD.

8) **Technical Considerations.** The Committee may wish to consider the following technical items:

- a) Existing law and this bill appear to use the term “religious-use parking” and “religious-use parking spaces” interchangeably.
- b) The bill applies its provisions to a “new colocated place of worship;” however “colocated place of worship” is not defined.

- 9) **Committee Amendments.** In order to address some of the items raised above, the Committee may wish to consider the following amendments:
- a) Add a new subdivision that specifies that the bill “shall not reduce, eliminate, or preclude the enforcement of any requirement imposed on a new development to provide electric vehicle supply equipment installed parking spaces or parking spaces that are accessible to persons with disabilities that otherwise applies.”
 - b) In Subdivision (b) Paragraph (1) Subparagraph (A) delete: “~~or 50 percent of the parking spaces that would be required for a plan for a newly constructed colocated place of worship that is identical to the existing colocated place of worship, whichever is greater.~~”
 - c) In Subdivision (b) Paragraph (1) Subparagraph (B) delete: “~~if not for this section.~~”
 - d) In subdivision (e) delete and replace: “~~that is identical to the existing colocated place of worship~~” with “of a place of worship.”
 - e) Throughout the bill, add “spaces” behind the term “religious-use parking.”
 - f) Throughout the bill, delete “colocated” from the term “new colocated place of worship.”
- 10) **Arguments in Support.** According to the United Way of Greater Los Angeles, “California’s religious communities are leading innovative efforts to redevelop portions of their property to alleviate the state’s housing crisis. Religious institutions across the state are working with cities from Oakland to Los Angeles to discuss turning underused land into housing. However, plans to build housing on newly proposed developments have hit roadblocks. Current state law eases parking requirements for housing on religious properties, but local governments have interpreted that it only applies to existing religious institutions, not new ones that are proposed to be developed. These interpretations strictly limit the applicability of this important housing option for all future congregations that may wish to support and address the housing needs of their local community.”

11) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

Non-Profit Housing Association of Northern California [SPONSOR]
 All Home
 Hope Solutions
 United Way of Greater Los Angeles

Opposition

None on file.

Analysis Prepared by: Hank Brady / L. GOV. / (916) 319-3958