

Date of Hearing: April 19, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 529 (Gabriel) – As Amended March 30, 2023

SUBJECT: Adaptive reuse projects.

SUMMARY: Makes changes to state law related to adaptive reuse projects. Specifically, **this bill:**

- 1) Adds the facilitation of the conversion or redevelopment of commercial properties into housing, including the adoption of adaptive reuse ordinances or other mechanisms that reduce barriers for these conversions, to the list of pro-housing local policies the Department of Housing and Community Development (HCD) may consider in designating jurisdictions as pro-housing.
- 2) Requires HCD, in consultation with the State Fire Marshal, to research and develop building standards pertaining to the requirements for adaptive reuse development projects.
- 3) Allows HCD to propose revisions and clarifications to the California Building Standards Code pertaining to adaptive reuse to the California Buildings Standards Commissions (CBSC).
- 4) Specifies that the bill’s building code provisions related to HCD and the State Fire Marshal shall commence with the next triennial edition of the California Building Standards Code adopted after January 1, 2024.
- 5) Requires the CBSC to consider for adoption the revisions and clarifications proposed by HCD.
- 6) Expresses legislative intent that any revisions and clarifications to the California Building Standards Code proposed or adopted pursuant to this bill facilitate the development of adaptive reuse projects.

EXISTING LAW:

- 1) Defines “adaptive reuse” to mean the repurposing of building structures for residential purposes, such as former office use, commercial use, or business parks. When referring to building structures, adaptive reuse means retrofitting and repurposing of existing buildings that create new residential units, and expressly excludes a project that involves rehabilitation of any construction affecting existing residential units that are, or have been, recently occupied (Health and Safety Code § 53559.1).
- 2) Establishes the CBSC within the Department of General Services (DGS), and requires the commission to approve and adopt building standards and to codify those standards in the California Building Standards Code (Health and Safety Code § 18930).
- 3) Defines “prohousing local policies” to mean policies that facilitate the planning, approval, or construction of housing. Specifies that these policies may include, but are not limited to, the following:

- a) Local financial incentives for housing, including, but not limited to, establishing a local housing trust fund.
- b) Reduced parking requirements for sites that are zoned for residential development.
- c) Adoption of zoning allowing for use by right for residential and mixed-use development.
- d) Zoning more sites for residential development or zoning sites at higher densities than is required to accommodate the minimum existing regional housing need allocation for the current housing element cycle.
- e) Adoption of accessory dwelling unit ordinances or other mechanisms that reduce barriers for property owners to create accessory dwelling units beyond existing law requirements, as determined by HCD.
- f) Reduction of permit processing time.
- g) Creation of objective development standards.
- h) Reduction of development impact fees.
- i) Establishment of a Workforce Housing Opportunity Zone or a housing sustainability district.
- j) Preservation of affordable housing units through the extension of existing project-based rental assistance contracts to avoid the displacement of affected tenants and a reduction in available affordable housing units (Government Code § 65589.9).

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

- 1) **Bill Summary and Author's Statement.** This bill expands the activities that HCD must consider as a pro-housing local policy to include actions that facilitate adaptive reuse as specified. This bill also requires HCD to research and develop, and consider proposing building standards pertaining to adaptive reuse development projects. Finally this bill requires CBSC to consider the revisions and clarifications proposed by HCD.

According to the author, "Encouraging residential development on commercially zoned land through adaptive reuse can accomplish several of California's policy goals. The construction of new homes and mixed-use projects on underutilized retail and office property will spur economic growth while also addressing California's crippling housing shortage. Furthermore, this type of redevelopment promotes key environmental and infill development goals by bringing residents closer to jobs, amenities, and public transportation, which reduces the state's per capita greenhouse gas emissions from personal vehicle use. In the post-pandemic economy, there are new opportunities to convert underutilized commercial spaces into housing. Aligning state and local adaptive reuse goals and funds ensures that we can take full advantage of this unique opportunity."

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

- 2) **Adaptive Reuse.** Adaptive reuse refers to the repurposing of existing building structures for new uses. This can include small projects, like converting an old church into a storefront or restaurant, or large projects, such as converting former offices, malls, or business parks into mixed-use spaces or multifamily housing. In communities with historic architecture, adaptive reuse can serve as a form of historic preservation by maintaining exterior facades of buildings while allowing the conversion of interiors for modernized or different uses. Adaptive reuse for residential projects can also promote greenhouse gas reduction by facilitating infill development near existing jobs, transit, and retail and reducing the need for vehicle trips. In some instances, rehabilitating an existing building can bring new housing online quicker than a traditional new construction project. Adaptive reuse also eliminates the need to demolish the existing building, which can be an expensive component of the overall development costs of a project.

However, a UC Berkeley Turner Center for Housing Innovation report from November 2021, “Adaptive Reuse Challenges and Opportunities in California,” finds that adaptive reuse of existing commercial buildings to multifamily housing “tends to be more expensive than new construction, particularly when unexpected expenses (e.g., seismic retrofitting or environmental remediation) are taken into account. The structure of the existing building also determines the feasibility and cost of conversion, meaning that not every commercial property will be a good candidate for redevelopment. Buildings with specific architectural characteristics, such as shallow floor plates, generous exterior exposure, or unique building features, are especially conducive to adaptive reuse.”

- 3) **Pro-housing Local Policies.** In 2019, the Legislature enacted AB 101 (Committee on Budget), Chapter 26, Statutes of 2019, which required HCD to designate cities and counties as pro-housing if their local policies facilitate the planning, approval, or construction of housing. “Pro-housing” jurisdictions receive a competitive advantage in applying for certain state programs, including the Affordable Housing and Sustainable Communities Program, Transformative Climate Communities Program, and the Infill Incentive Grant Program.

Although AB 101 provided examples of pro-housing local policies, HCD has discretion over the final designation criteria, which were adopted via emergency regulations in July 2021 and subsequently converted to permanent regulations in April 2022. This bill would add the facilitation of the conversion or redevelopment of commercial properties into housing, including the adoption of adaptive reuse ordinances or other mechanisms that reduce barriers for these conversions, to the list of examples of pro-housing policies that HCD may consider.

Adaptive reuse projects often reconfigure midsize and large office or commercial buildings into multifamily housing. The final regulations adopted by HCD already provide specific points to jurisdictions for taking actions to facilitate the creation of multifamily housing – without regard to the specific type of development that creates the multifamily housing.

As the list of pro-housing local policies in statute is permissive and HCD has already adopted permanent regulations establishing the pro-housing designation program criteria, the expansion of criteria in this bill may not result in changes to HCD’s specific regulations.

- 4) **The California Building Standards Code.** The California Building Standards Law establishes the process for adopting state building standards by CBSC. Statewide building standards are intended to provide uniformity in building across the state. CBSC’s duties include the following: receiving proposed building standards from state agencies for

consideration in each triennial and intervening building code adoption cycle; reviewing and approving building standards submitted by state agencies; adopting building standards for state buildings where no other state agency is authorized by law; and publishing the approved building standards in the California Building Standards Code (California Code of Regulations, Title 24).

There are approximately 20 state agencies that develop building standards and propose them for adoption to CBSC. HCD is responsible for the standards for residential buildings, hotels and motels. The California Existing Building Code governs the structural capacity, life-safety system, and environmental performance requirements for adaptive reuse projects. Updates and changes to building standards are adopted on two timelines: through the triennial code adoption cycle which occurs every three years and through the intervening code adoption cycle which provides an update to codes 18 months after the publication of the triennial codes.

- 5) **Arguments in Support.** The Non-Profit Housing Association of Northern California, writes in support, “Encouraging residential development on commercially zoned land through adaptive reuse can accomplish several of California’s policy goals. The construction of new homes and mixed-use projects on underutilized retail and office property will spur economic growth while also addressing California’s housing shortage.”
- 6) **Arguments in Opposition.** None on file.
- 7) **Previous Legislation.** AB 1029 (Mullin), Chapter 28, Statutes of 2021, added the preservation of affordable housing units as a pro-housing, local policy that HCD can consider in developing a pro-housing designation.

AB 101 (Committee on Budget), Chapter 26, Statutes of 2019, required HCD to designate cities and counties as pro-housing if their local policies facilitate the planning, approval, or construction of housing.

- 8) **Double-Referral.** This bill was double-referred to the Housing and Community Development Committee, where it passed on a 8-0 vote on March 29, 2023.

REGISTERED SUPPORT / OPPOSITION:

Support

Non-profit Housing Association of Northern California [SPONSOR]

AARP

Aids Healthcare Foundation

California Apartment Association

California Housing Partnership

California Yimby

Civicwell (formally the Local Government Commission)

Cty Housing, INC.

Devine & Gong, INC.

East Bay Yimby

Facebook, INC.

Grow the Richmond

How to ADU
Merritt Community Capital Corporation
Mountain View Yimby
Napa-Solano for Everyone
Northern Neighbors Sf
Peninsula for Everyone
People for Housing Orange County
Progress Noe Valley
San Francisco Bay Area Planning and Urban Research Association
San Francisco Yimby
Santa Cruz Yimby
Santa Rosa Yimby
South Bay Yimby
Southside Forward
The John Stewart Company
The San Francisco Housing Accelerator Fund
Urban Environmentalists
Ventura County Yimby
Yimby Action
Yimby Slo

Opposition

None on file

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