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AB-1490 Affordable housing development projects: adaptive reuse. (2023-2024)

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Assembly Bill No. 1490

CHAPTER 764

An act to add Sections 65913.12 and 65960.1 to the Government Code, relating to housing.

[Approved by Governor October 11, 2023. Filed with Secretary of State October 11, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1490, Lee. Affordable housing development projects: adaptive reuse.

Existing law requires the Department of Housing and Community Development to give priority with respect to funding under the Multifamily Housing Program to projects that prioritize adaptive reuse in existing developed areas served with public infrastructure, as specified. Existing law, the Housing Accountability Act, which is part of the Planning and Zoning Law, prohibits a local agency from disapproving, or conditioning approval in a manner that renders infeasible, a housing development project, as defined for purposes of the act, for very low, low-, or moderate-income households or an emergency shelter unless the local agency makes specified written findings based on a preponderance of the evidence in the record. That act states that it shall not be construed to prohibit a local agency from requiring a housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need, except as provided. That act further provides that a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

Under this bill, a housing development that is, among other requirements, an extremely affordable adaptive reuse project on an infill parcel that is not located on or adjoined to a site where more than $\frac{1}{3}$ of the square footage on the site is dedicated to industrial use, as specified, would be an allowable use. The bill would authorize a local agency to impose objective design review standards, except as specified. The bill would authorize a local agency to deny the project if it is proposed to be located on a site or adjoined to any site where any of the square footage on the site is dedicated to industrial use and the local agency makes written findings that approving the development would have an adverse effect on public health and safety. The bill would provide that for purposes of the Housing Accountability Act, a proposed housing development project is consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if the housing development project is consistent with the standards specified in these provisions. The bill would require a local agency to determine whether the proposed development meets those standards within specified timeframes. The bill would define an "extremely affordable adaptive reuse project" for these purposes to mean a multifamily housing development project that involves retrofitting and repurposing of a residential or commercial building that currently allows temporary dwelling or occupancy, and that meets specified affordability requirements, including that 100% of the units be dedicated to lower income households, 50% of which shall be dedicated to very low income households, as specified. Because the bill would require local officials to provide a higher level of service, the bill would impose a state-mandated local program.

This bill would require a local source of funding that can be used for the development of affordable housing to include adaptive reuse as an eligible project and prohibit an agency with control of a local source of funding from prohibiting or excluding a development proposal that uses an adaptive reuse model for an affordable housing project development solely on the basis that the proposal is for an adaptive reuse project.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65913.12 is added to the Government Code, immediately following Section 65913.11, to read:

65913.12. (a) For purposes of this section, the following terms have the following meanings:

(1) "Dedicated to industrial use" means any of the following:

(A) The square footage is currently being used as an industrial use.

(B) The most recently permitted use of the square footage is an industrial use.

(C) The site was designated for industrial use in the latest version of a local government's general plan adopted before January 1, 2022.

(2) "Development proponent" means a developer who submits a housing development project application to a local agency pursuant to this section.

(3) "Extremely affordable adaptive reuse project" means a housing development project that meets the following criteria:

(A) The development is a multifamily housing development project.

(B) The development involves the retrofitting and repurposing of a residential building or commercial building that currently allows temporary dwelling or occupancy, to create new residential units.

(C) The development will be entirely within the envelope of the existing building.

(D) The development meets all of the following affordability criteria:

(i) One hundred percent of the units within the development project, excluding managers' units, shall be dedicated to lower income households at an affordable housing cost, as defined by Section 50052.5 of the Health and Safety Code, or an affordable rent set in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee.

(ii) At least 50 percent of the units within the development project shall be dedicated to very low income households at an affordable housing cost, as defined by Section 50052.5 of the Health and Safety Code, or an affordable rent set in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee.

(iii) The units shall be subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units.

(4) "Housing development project" has the same meaning as defined in Section 65589.5.

(5) "Industrial use" means utilities, manufacturing, transportation storage and maintenance facilities, and warehousing uses. "Industrial use" does not include power substations or utility conveyances such as power lines, broadband wires, and pipes.

(6) "Infill parcel" means a parcel that is either of the following:

(A) At least 75 percent of the perimeter of the site of the development adjoins parcels that are developed with urban uses. For purposes of this paragraph, parcels that are separated by a street or highway shall be considered adjoined.

(B) The parcel is within one-half mile of public transit.

(7) "Local agency" means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.

(8) "Lower income households" has the same meaning as defined in Section 50079.5 of the Health and Safety Code.

(9) "Public transit" means a major transit stop as defined in Section 21064.3 of the Public Resources Code.

(10) "Very low income households" has the same meaning as defined in Section 50105 of the Health and Safety Code.

(b) (1) Notwithstanding any inconsistent provision of a local agency's general plan, specific plan, zoning ordinance, or regulation, a housing development project submitted pursuant to this section shall be an allowable use if it meets the following objective planning standards:

(A) The development is an extremely affordable adaptive reuse project.

(B) The development is proposed to be located on a site that is an infill parcel.

(C) The development is not proposed to be located on a site or adjoined to any site where more than one-third of the square footage on the site is dedicated to industrial use. For purposes of this paragraph, parcels only separated by a street or highway shall be considered adjoined.

(D) The development does not eliminate any existing open space on the parcel.

(E) For developments of 50 units or more, the development shall provide onsite management services.

(2) Except as specified in paragraph (3), a local agency may impose objective design review standards for a housing development project submitted pursuant to this section.

(3) A local agency shall not impose or require the curing of any preexisting deficit of or conflict with any of the following standards on a project submitted for review pursuant to this section:

(A) Any maximum density requirements.

(B) Any maximum floor area ratio requirements.

(C) Any requirement to add additional parking.

(D) Any requirement to add additional open space.

(4) A local agency may deny a project specified in paragraph (1) that is proposed to be located on a site or adjoined to any site where any of the square footage on the site is dedicated to industrial use if the local agency makes written findings that approving the development would have an adverse effect on public health and safety.

(c) (1) For purposes of the Housing Accountability Act (Section 65589.5), a proposed housing development that is consistent with the provisions of subdivision (b) shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

(2) If a local agency determines that a development submitted pursuant to this section is in conflict with any of the objective planning standards specified in or an objective design review standard imposed pursuant to subdivision (b), it shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, within the following timeframes:

(A) Within 60 days of submittal of the completed proposal for the development project to the local agency if the development contains 150 or fewer housing units.

(B) Within 90 days of submittal of the completed proposal for the development project to the local agency if the development contains more than 150 housing units.

(3) If a local agency does not make a timely determination within the timeframes described in paragraph (2), the application shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

SEC. 2. Section 65960.1 is added to the Government Code, to read:

65960.1. (a) Any local source of funding that can be used for the development of affordable housing shall include adaptive reuse as an eligible project. No agency with control of a local source of funding shall prohibit or exclude a project proposal that uses an adaptive reuse model for an affordable housing project development solely on the basis that the proposal is for an adaptive reuse project.

(b) For purposes of this section "adaptive reuse" means the retrofitting and repurposing of an existing building to create new residential units.

SEC. 3. The Legislature finds and declares that developing affordable housing in a timely and cost-effective manner through the adaptive reuse of existing properties is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 1 and 2 of this act adding Sections 65913.12 and 65960.1 to the Government Code apply to all cities, including charter cities.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.