
SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2021 - 2022 Regular

Bill No: SB 621 **Hearing Date:** 4/15/2021
Author: Eggman
Version: 4/5/2021
Urgency: No **Fiscal:** Yes
Consultant: Alison Hughes

SUBJECT: Conversion of motels and hotels: streamlining

DIGEST: This bill allows a ministerial, streamlined conversion of hotels and motels into multifamily housing if the development satisfies specified objective planning standards.

ANALYSIS:

Existing law:

- 1) Requires a local jurisdiction to give public notice of a hearing whenever a person applies for a zoning variance, special use permit, conditional use permit, zoning ordinance amendment, or general or specific plan amendment.
- 2) Requires the board of zoning adjustment or zoning administrator to hear and decide applications for conditional uses or other permits when the zoning ordinance provides therefor and establishes criteria for determining those matters, and applications for variances from the terms of the zoning ordinance.
- 3) Establishes the California Environmental Quality Act (CEQA), which generally requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of proposed projects, and to reduce those impacts to the extent feasible. CEQA applies when a development project requires discretionary approval from a local government. (See “Comments” below for more information.)
- 4) Provides for the following CEQA exemptions or housing streamlining:
 - a) *CEQA exemption for interim motel conversions.* SB 450 (Umberg, Chapter 344, Statutes of 2020) exempted interim motel conversion projects from CEQA, until January 1, 2025, provided the project does not result in an expansion of more than 10% of the floor area of any individual living unit in

the structure or does not result in any significant effects relating to traffic, noise, air quality, or water quality. “Interim motel housing project” is defined as conversion of a motel, hotel, residential hotel, or hostel into supportive or transitional housing.

- b) *CEQA exemption for Project Homekey projects.* AB 83 (Committee on Budget, Chapter 15, Statutes of 2020) included, among other provisions, an exemption from CEQA requirements, until July 1, 2021, for Project Homekey projects if certain requirements are met. Project Homekey is an initiative to purchase and rehabilitate housing, including hotels, motels, vacant apartment buildings, and other types of innovating housing, and convert them into permanent, long-term housing for people experiencing or at risk of homelessness.
- c) *Streamlining for homeless shelters.* AB 101 (Committee on Budget, Chapter 159, Statutes of 2019), among other provisions, defined low-barrier navigation centers as high-quality, low-barrier service-enriched shelters focused on moving people into permanent housing while connecting them with services. AB 101 required, until January 1, 2027, low-barrier navigation centers to be a use by right in areas zoned for mixed uses and non-residential zones permitting multifamily uses if the development meets certain requirements.
- d) *Streamlining for permanent supportive housing.* AB 2162 (Chiu, Chapter 753, Statutes of 2018) streamlined affordable housing projects that include supportive housing and onsite supportive services, by providing that supportive housing shall be a use by right in all zones where multifamily and mixed uses are allowed.
- e) *Streamlined ministerial approval for certain housing projects.* SB 35 (Wiener, Chapter 366, Statutes of 2017) established a ministerial approval process, not subject to CEQA, for certain multifamily affordable housing projects proposed in local jurisdictions that have not met their RHNA allocation.

This bill:

- 1) Establishes a process for use by cities and counties for the complete conversion of a hotel or motel into multifamily housing units that is streamlined, ministerial, and not subject to a conditional use permit, as follows:

- a) Allows a development proponent to submit an application for such a development if:
 - i. The structure has been vacant for at least six months prior to the submission of the application, unless 100% of the total units are for lower income households.
 - ii. At least 10% of the proposed units are reserved for lower-income households for at least fifty-five years for units that are rented to the occupants or forty-five years for units that are owned by the occupants.
 - iii. The development proponent has certified to the local government the development is a public work for purposes of prevailing wage requirements and that a skilled and trained workforce will be used to perform all construction work, as applicable.
- b) Defines “conversion” as a change in use that does not require a change to the exterior of the structure being converted, except as follows:
 - i. A developer may alter the structure or site for aesthetic purposes.
 - ii. A developer may alter the structure or site as necessary to comply with applicable state or local building standards in effect at the time of conversion or to ensure accessibility to individuals with disabilities. A developer may add up to 5% of the square footage of the existing structure.
- c) Requires a local government, if it determines the proposed development is compliant with the above standards, to provide a streamlined application and review process, and to grant ministerial approval to the project. If the local government determines the proposed development is not compliant, it must provide written documentation of the conflicting standard and an explanation of the reason for the conflict, within 30 days of receiving the completed application. If the local government fails to do so, the development is deemed compliant.
- d) Requires any design review or public oversight by the local government planning agency to be objective and assess compliance only with criteria designed for streamlined projects.
- e) Prohibits a local government from imposing parking standards in any of the following circumstances:
 - i. The development is within one half mile of a major transit stop.

- ii. The development is located within an architecturally and historically significant historic district.
 - iii. When onstreet parking permits are required but not offered to the occupants of the development.
 - iv. When there is a car-share vehicle located within one block of the development
- f) Permits, when none of the circumstances in (d) apply, a local government to require up to one parking space per unit.
- g) Prohibits a local government from the following:
- i. Requiring the correction of nonconforming zoning conditions.
 - ii. Imposing any standard requiring a minimum or maximum size requirement for the units of a development subject to this section.
 - iii. Imposing any density restriction, except that the total number of housing units created by this section shall not exceed the total number of units offered by the hotel or motel.
 - iv. Adopting any requirement, including but not limited to, increased fees or inclusionary housing requirements that applies to a project solely or partially on the basis that the project is eligible to receive streamlined review or ministerial approval.
- 2) Provides that the determination of whether an application for a development is subject to the streamlined, ministerial approval process in (1) is not a project for purposes of CEQA.

COMMENTS

- 1) *Author's Statement.* "The shortage of housing and affordable housing has added pressure to Californians experiencing homelessness or shelter instability. To meet housing needs, we need novel housing solutions. My bill would allow project developers to turn former hotels and motels into multifamily housing, with an affordable housing set-aside, via a streamlined ministerial process. Not only would this bill create jobs, provide an expedient process for creating more housing and affordable housing options, but would also avoid urban sprawl and community displacement while utilizing existing infrastructure."
- 2) *CEQA, exemptions, and ministerial approvals.* CEQA applies when a development project requires discretionary approval from a local government

agency. When a local agency has the discretion to approve a project, its CEQA evaluation begins with deciding whether an activity qualifies as a project subject to CEQA review. If an activity is deemed a “project,” the agency decides whether it is exempt from compliance with CEQA under either a statutory or a categorical exemption. Statutory exemptions are activities the Legislature has excluded from CEQA despite potential environmental impacts. If a project is statutorily exempt, it can be implemented without a CEQA evaluation.

In addition to statutory exemptions, the Legislature specifically directed the Secretary of the California Natural Resources Agency to designate categorical exemptions from CEQA. Categorical exemptions include projects that the Secretary deems do not have a significant impact on the environment. The CEQA Guidelines, found in Title 14 of the California Code of Regulations, set forth more than two dozen categorical exemptions covering a wide range of projects, from minor alterations of existing facilities to construction of certain types of buildings. As with statutory exemptions, if the project is categorically exempt, no formal evaluation is required, and the project can be implemented without a CEQA evaluation. Despite the creation of new by-right and development streamlining measures that bypass the CEQA process, if a city chooses not to grant the permits – in violation of state law – a developer’s only recourse is to sue.

Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built. In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors. Some housing projects can be permitted by city or county planning staff ministerially or without further approval from elected officials. Projects reviewed ministerially, or by-right, require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meet standards for building quality, health, and safety. Most large housing projects are not allowed ministerial review. Instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to review under the CEQA, while projects permitted ministerially generally are not.

- 3) *Project Roomkey/Homekey background and Homekey CEQA exemption.* On March 4, 2020, Governor Newsom declared a state of emergency to facilitate the state’s response to the global COVID-19 outbreak. He later signed SB 89 (Committee on Budget and Fiscal Review, Chapter 2, Statutes of 2020), which

provided \$150 million in current-year General Fund monies to support state and local governments in protecting the health and safety of people experiencing homelessness given their vulnerability to contracting COVID-19. On April 3, 2020, Governor Newsom announced a new initiative, Project Roomkey, to provide up to 15,000 hotel and motel rooms for individuals experiencing homelessness in California to protect them and the public from COVID-19.

On July 16, 2020, Governor Newsom announced Project Homekey as the next phase in the state's response to protecting Californians experiencing homelessness who are impacted by COVID-19. Project Homekey provided \$600 million in grants to counties, cities, and other government entities, to purchase and rehabilitate housing, including hotels, motels, vacant apartment buildings, and other types of innovating housing, and convert them into permanent, long-term housing for people experiencing or at risk of homelessness. To help spur these efforts, the Legislature passed AB 83 (Committee on Budget, Chapter 15, Statutes of 2020), which provides an exemption from the requirements of the CEQA for site acquisition under Project Homekey. While this current exemption is set to expire on July 1, 2021, the Governor's January budget proposes to extend it to July 1, 2024.

- 4) *Streamlining hotels/motel conversions to multifamily housing.* This bill would create a new streamlined approval process for the conversion of hotels and motels into multifamily housing. In order to receive streamlined approval, a developer must ensure at least 10% of the units are affordable to lower income households and certify to the local government the development is a public work for purposes of prevailing wage requirements and that a skilled and trained workforce will be used to perform all construction work. In order to prevent lower income families that are living in hotels and motels as an affordable form of housing from being displaced, this bill also requires hotels or motels to be vacant for at least 6 months.
- 5) *This bill versus Project Homekey CEQA exemption.* This bill is similar in practice to the CEQA exemption for Project Homekey, in that both policies allow for a more streamlined and expedited approval of the conversion of hotels and motels into multifamily housing. This bill, however, will be more appealing to housing developers because it provides more benefits, likely reducing more costs to the developer. Below is a comparison chart, but most notably, this bill only requires a 10% of the units be set-aside for lower income households, does not require any public subsidies, does not require a letter of support from a local government, and includes specific approval timelines and parking maximums on local governments. In other words, if this bill were to be

enacted, it is likely that market rate units instead of units for the homeless and formerly homeless would be created.

Given the success of the Homekey program in creating new housing solutions for California’s homeless population, due in part to the CEQA exemption, and to ensure this bill does not inadvertently incent the creation of market rate units over those for the homeless, *moving forward, the author may wish to consider amending her bill in the following ways:*

- a) *Extend the required building vacancy from six months to one year to more effectively prevent the displacement of current tenants.*
- b) *Allow a first right of refusal to a city interested in using the property for Homekey, which has been popular with local jurisdictions seeking to permanently house persons experiencing homelessness and vulnerable to COVID-19. The right of first refusal could balance the need for locals to have sufficient time to use an existing property for the Homekey program, while also providing enough certainty to market rate developers interested in using a property for conversions contemplated by this bill.*

	SB 621 (Eggman) Hotel/Motel Streamlined Approval	AB 83 (Budget, 2020) Project Homekey CEQA Exemption
Eligible Uses	Conversion of hotel or motel rooms into multifamily housing units	Projects that received specified federal or state COVID relief funds for the following purposes: * Acq/Rehab of hotels, motels, or hostels * Master leasing * Acquisition of other sites to convert to permanent housing * Conversion from nonresidential to residential * Purchase of restrictions and affordability covenants * Relation costs for those displaced * Capitalized operating subsidies
Population Served	* At least 10% of the units restricted to households at 80% AMI and below. * 45/55 year covenant as appropriate	* 100% restricted for homeless or at risk of homelessness and impacted by COVID-19 * 55-year covenant

Project Specific Requirements	May increase footprint up to 5% to comply with state or local building standards.	<ul style="list-style-type: none"> * Not acquired by eminent domain * Units will be in decent, safe, and sanitary conditions at the time of occupancy * Letter of support from a local government * Acquisition paid for exclusively by public funds * Original footprint not increased by more than 10%
Labor Requirements	PW and S&T Workforce	PW and S&T Workforce
Receipt of public funds required for streamlining?	No	Yes
Additional restrictions on locals	<ul style="list-style-type: none"> * Must meet specified application approval timelines * Parking limitations * No additional size limits or density restrictions 	None
Sunset?	None	July 1, 2021 <i>*NOTE: The Governor’s 2021 proposed January budget extends to July 1, 2024.</i>

6) *Opposition.* A coalition of housing and homelessness groups state that this bill will undermine existing state efforts to shelter and house Californians experiencing homelessness under Project Roomkey and Homekey. They additionally state that this bill will result in removing from the market a critical resource of deeply affordable housing. Older, lower-cost hotels and motels serve as a source of temporary or permanent housing for people with extremely low-incomes and people experiencing homelessness. Others may be living in a hotel because they are on a long waitlist for affordable housing; have a criminal record, bad credit, or other barriers to accessing permanent housing; can't afford a security deposit; can only pay weekly or in cash; and other reasons. These types of hotels also serve as a part of homeless continuums of care, providing temporary shelter for people, and frequently families, experiencing homelessness through hotel voucher programs. Because SB 621 provides a benefit to developers without a requirement to offer more than 10% of units that are affordable, and no requirement to provide housing to people at risk of or experiencing homelessness, it will result in reducing affordable housing options for Californians experiencing or on the brink of homelessness.

7) *Triple-referral*. Due to the COVID-19 Pandemic and the unprecedented nature of the 2021 Legislative Session, all Senate Policy Committees are working under a compressed timeline. This timeline does not allow this bill to be referred and heard by more than two committees as a typical timeline would allow. In order to fully vet the contents of this measure for the benefit of Senators and the public, this analysis includes information from the third committee included in the original referral. This bill has also been referred to the Governance and Finance Committee.

According to the Senate Environmental Quality Committee:

“CEQA operates, not by dictating pro-environmental outcomes, but rather by mandating that ‘decision makers and the public’ study the likely environmental effects of contemplated government actions and thus make fully informed decisions regarding those actions. ... In other words, CEQA does not care what decision is made as long as it is an informed one.” (Citizens Coalition Los Angeles v. City of Los Angeles (2018) 26 Cal. App. 5th 561, 577.) The Senate Environmental Quality Committee has generally expressed concern with state-mandated ministerial approvals because it denies local jurisdictions the ability to analyze and consider environmental impacts and does not promote informed decision-making. For example, it would be unknown if associated construction with the conversion involves wasteful, inefficient, or unnecessary energy consumption or if the multifamily units would result in solid waste generation in excess of infrastructure capacity. Or, if the number of units are increased, whether there would be impacts to traffic, increased greenhouse gas emissions, or increased stress on public infrastructure or public utilities and services. How will these impacts interact with one another? These impacts, and others, can all result in permanent consequences that should be known before approving a project.”

RELATED LEGISLATION:

AB 2580 (Eggman, 2020) — would have allowed a ministerial, streamlined conversion of hotels and motels into multifamily housing if the development satisfied specified objective planning standards. *This bill was held in the Assembly Appropriations Committee.*

AB 83 (Committee on Budget, Chapter 15, Statutes of 2020) — included, among other provisions, an exemption from CEQA requirements, until July 1, 2021, for Project Homekey projects if certain requirements are met.

SB 450 (Umberg, Chapter 344, Statutes of 2020) — exempted specified interim motel conversion projects from CEQA, until January 1, 2025.

AB 2162 (Chiu, Chapter 753, 2018) — streamlined affordable housing developments that include a percentage of supportive housing units and onsite services

SB 35 (Wiener, Chapter 366, Statutes of 2017) — created a streamlined, ministerial approval process for infill developments in localities that have failed to meet their regional housing needs assessment (RHNA) numbers.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Friday, April 9, 2021.)

SUPPORT:

California Apartment Association (Sponsor)
American Planning Association, California Chapter
Facebook
Lanterman Housing Alliance
State Building and Construction Trades Council of CA

OPPOSITION:

California Coalition for Rural Housing
California Housing Consortium
California Housing Partnership
California Rural Legal Assistance Foundation
Corporation for Supportive Housing
Housing California
Non Profit Housing Association of Northern California
Plumbing-heating-cooling Contractors Association of California
PolicyLink
Public Interest Law Project
Southern California Association of Nonprofit Housing
Western Center on Law & Poverty
Western Electrical Contractors Association