
SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2021 - 2022 Regular

Bill No: AB 803 **Hearing Date:** 6/17/2021
Author: Boerner Horvath
Version: 4/20/2021
Urgency: No **Fiscal:** Yes
Consultant: Alison Hughes

SUBJECT: Starter Home Revitalization Act of 2021

DIGEST: This bill requires cities and counties to allow denser development of single-family housing, as specified.

ANALYSIS:

Existing law:

- 1) Provides that each community's fair share of housing be determined through the regional housing needs allocation (RHNA) process, which is composed of three main stages: (a) the Department of Finance and the Department of Housing and Community Development (HCD) develop regional housing needs estimates; (b) councils of government (COGs) allocate housing within each region based on these estimates (where a COG does not exist, HCD makes the determinations); and (c) cities and counties incorporate their allocations into their housing elements.
- 2) Requires cities and counties to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policy objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. Requires the housing element to contain an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs.
- 3) Requires a locality's inventory of land suitable for residential development to be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the locality's share of the regional housing need for all income levels.

- a) Requires the inventory to provide certain information on each site, such as the general plan designation and zoning of each site and available infrastructure;
 - b) Requires the inventory of land to specify the additional development potential for each non-vacant site within the planning period and an explanation of the methodology used to determine the development potential; and
 - c) Requires sites identified for very low- and low-income households to have a minimum allowable density of 30 units per acre for metropolitan jurisdictions and 20 units per acre for suburban jurisdictions.
- 4) Requires a local government to determine whether each site in the site inventory can accommodate some portion of the jurisdiction's share of the RHNA by income category during the housing element planning period. A community either must use the "default zoning densities" or "Mullin densities" to determine whether a site is adequately zoned for lower income housing or must provide an alternative analysis. Current Mullin densities:
- a) 15 units/acre—cities within non-metropolitan counties; nonmetropolitan counties with metropolitan areas
 - b) 10 units/acre—unincorporated areas in all non-metropolitan counties not included in the 15 units/acre category
 - c) 20 units/acre—suburban jurisdictions
 - d) 30 units/acre—jurisdictions in metropolitan counties
- 5) Pursuant to density bonus law, provides that upon the request of a developer, a city or county shall not require a vehicular parking ratio, inclusive of disabled and guest parking, that meets the following ratios:
- a) Zero to one bedroom — one onsite parking space.
 - b) Two to three bedrooms — one and one-half onsite parking spaces
 - c) Four and more bedrooms — two and one-half parking spaces.

This bill:

- 1) Authorizes a development proponent to submit an application for a small home lot development, pursuant to (2) if it meets the following requirements:

- a) The development is zoned for multifamily residential development for no more than five acres and substantially surrounded by qualified urban uses.
 - b) The development proponent proposes to construct single-family housing units on “fee simple” ownership lots.
 - c) The development will result in at least as many units per acre as the maximum site density identified in the housing element for that parcel.
 - d) The residential properties within a radius of 500 feet are zoned to have an allowable residential density of less than 30 dwelling units per acre.
 - e) The site complies with existing site front, side, and rear setback requirements.
 - f) The jurisdiction has adopted a housing element for the current planning period that is in substantial compliance with housing element law.
 - g) The proposed site is not identified in the housing element as a site to accommodate any portion of the jurisdictions regional housing need for low- or very low-income households.
 - h) The average total area of floorspace for the proposed units does not exceed 1,750 net habitable square feet.
 - i) The development complies with any local adopted inclusionary ordinance.
 - j) The development of the housing development project on the proposed site does not require the demolition or alteration of any of the following types of housing:
 - i) Housing subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to moderate-, low-, or very low-income households.
 - ii) Housing subject to rent or price control, as specified.
 - iii) Housing occupied by tenants within the seven years preceding the date of application, as specified.
 - iv) A parcel on which an owner or residential property has exercised the owner’s rights pursuant to the Ellis Act within 15 years before the date that the development proponent submits an application.
- 2) Prohibits a local agency from imposing the following requirements on a small home lot development:

- a) A setback requirement between units, unless required by the California Building Code.
 - b) A minimum lot size.
 - c) A requirement to provide parking beyond that which is required by state density bonus law. If the development is located within ½ mile of a major transit stop, as specified, the local agency shall not impose a parking requirement above .5 spaces per bedroom.
 - d) The formation of a homeowners' association.
- 3) Authorizes a local agency to amend its zoning ordinances or general plan to incorporate the policies, procedures, and other provisions applicable to the creation of a small home lot development if the provisions are consistent with this section and may adopt policies, procedures, and other provisions applicable to the creation of a small home lot development that allow for the creation of more housing units than allowed by this bill.

COMMENTS:

- 1) *Author's Statement.* "While home ownership options have traditionally been limited to single-family homes on 5,000 square foot lots or as attached condominiums, the passage of a statewide Small Lot Subdivision authorization will create more entry-level home ownership opportunities, and add as an option another type of housing that is currently missing in our state's housing supply".
- 2) *Housing needs and approvals generally.* Every city and county in California is required to develop a general plan that outlines the community's vision of future development through a series of policy statements and goals. A community's general plan lays the foundation for all future land use decisions, as these decisions must be consistent with the plan. General plans are comprised of several elements that address various land use topics. Seven elements are mandated by state law: land use, circulation, housing, conservation, open-space, noise, and safety. Each community's general plan must include a housing element, which outlines a long-term plan for meeting the community's existing and projected housing needs. The housing element demonstrates how the community plans to accommodate its "fair share" of its region's housing needs, which is completed through the regional housing needs allocation (RHNA) process. To do so, each community establishes an inventory of sites ("site inventory") designated for new housing that is sufficient to accommodate its fair share. Each jurisdiction then has three years

to complete any rezoning necessary to accommodate the units identified in their housing element and in the site inventory than identifies where potential development would occur. Communities also identify regulatory barriers to housing development and propose strategies to address those barriers. State law requires cities and counties to update their housing elements every eight years

- 3) *Impacts of modest densification.* California’s high — and rising — land costs necessitate dense housing construction for a project to be financially viable and for the housing to ultimately be affordable to lower-income households. Yet, recent trends in California show that new housing has not commensurately increased in density. In a 2016 analysis, the Legislative Analyst’s Office (LAO) found that the housing density of a typical neighborhood in California’s coastal metropolitan areas increased only by four percent during the 2000s.¹

Some jurisdictions in the US have taken steps to increase density in single-family zones. Minneapolis recently became the first major U.S. city to end single-family home zoning when its City Council passed a comprehensive plan to permit three-family homes in the city’s residential neighborhoods, abolish parking minimums for all new construction, and allow high-density buildings along transit corridors. The City of Sacramento may be the first city in California to end single-family zoning; in January 2021, its City Council gave preliminary approval to a proposal to allow up to four homes per lot in single-family zones.

A 2019 Zillow report found that even modest densification, such as duplexes and fourplexes could result in millions more homes.² Across 17 metro areas analyzed nationwide, allowing 10% of single-family lots to house two units instead of one could yield almost 3.3 million additional housing units to the existing housing stock. In the L.A. region, if one in five single-family lots were re-zoned to hold two homes, the local housing stock could be boosted by 775,000 homes. Allowing four homes instead of two on those same 20% of single-family lots could yield a housing stock increase of more than 2.3 million homes, or a 53.4% boost over the current stock when combined with homes already expected to be built

- 4) *Facilitating “missing-middle” housing types.* Another method of lowering the cost of housing is to facilitate the construction of “missing middle” housing types that generate more units per acre, such as town homes, duplexes, and

¹ Alamo, Chas and Brian Uhler. “California’s High Housing Costs: Causes and Consequences.” Legislative Analyst’s Office (March 2015)

² Zillow. *A Modest Proposal: How Even Minimal Densification Could Yield Millions of New Homes.* (December 6, 2019) <https://www.zillow.com/research/modest-densification-new-homes-25881/>

fourplexes. These units are more likely to be affordable to moderate-income households that cannot afford market rate units. This bill seeks to incentivize the construction of modestly dense homes designed for ownership at more affordable prices than neighboring single-family homes. It does this by removing the ability for local agencies to impose setback requirements between units and minimum lot sizes, and reducing parking requirements. It also precludes a local agency from requiring a small home lot development to be within a homeowners association. This is likely due to the fact that homeownership dues can significantly add to the cost of ownership.

Development using the provisions of this bill would be limited to sites surrounded by single family or other lower density housing in an attempt to ensure that this bill only applies to sites where single-family housing is the prevailing character. This bill includes displacement prevention measures to ensure that the creation of these starter homes that promote homeownership are not created at the expense of existing tenants. This bill also ensures that these developments do not compete with a local government’s obligations to identify sufficient sites for low- and very low-income households.

5) *Double-referral.* This bill was also referred to the Senate Governance and Finance Committee.

RELATED LEGISLATION:

AB 2366 (Boerner-Horvath, 2020) — would have facilitated small lot single-home developments. *This bill died in the Assembly Housing Committee.*

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 11, 2021.)

SUPPORT:

California Association of Realtors
Livable California

OPPOSITION:

None received.