

AB 1401'S PARKING REFORM IS A NECESSARY SOLUTION FOR CALIFORNIA'S HOUSING AND CLIMATE CRISES

Contributors and authors: Mott Smith, Council of Infill Builders and Adjunct Professor of Real Estate Development, USC Price School of Public Policy; Michael Manville, PhD, Associate Professor of Urban Planning at UCLA; Shane Phillips, Housing Initiative Project Manager at the UCLA Lewis Center for Regional Policy Studies; Anthony Dedousis, Director, Policy & Research, Abundant Housing LA; Meea Kang, Council of Infill Builders; Michael Lane, State Policy Director, SPUR; Matthew Lewis, Director of Communications, California YIMBY

1. Why do we need parking reform?

California is bad at building enough homes for its people. But California is great at building lots of homes...for cars. California cities, even those well-served by transit, have too much parking and a desperate shortage of housing. This is because of local codes that outlaw new homes and businesses that don't provide large amounts of on-site parking. These laws raise the cost of housing and reinforce car dependency, increasing carbon emissions and making housing less affordable. If we are to address housing affordability, homelessness, and climate change, we must fix these misguided policies.

The way our land-use laws work today is backwards. Despite our deep need for housing, building homes as part of any project is optional. But building parking is nearly always mandatory. This is exactly backwards with respect to our stated values -- and our joint environmental and housing crises are a direct result of this unfortunate policy.

We need to hold our government accountable for its part in the housing and environmental crises. Ending parking requirements now, in and of itself, is the simplest, most powerful first step we can take.

2. How do our parking policies keep us from building more homes for people?

Many cities have "minimum parking requirements" -- laws that ban new housing that doesn't come with a certain number of exclusive parking spaces provided for every unit. Because of these laws, parking spaces often become the *de facto* limit -- more than the explicit restrictions on density or building area -- on how many new homes can be built on any given parcel.

As a practical matter, most development sites can only hold so much parking based on their geometry, soils conditions, cost, and social/physical context.¹ If a local zoning code

¹ It is true that, in theory, you can always build more parking on a site by adding above-ground or underground levels to a garage plan, but the costs of doing so grow significantly with each parking level

mandates two parking spaces for every apartment (a common standard), then the maximum number of apartments you can build is simply the number of parking spaces you can feasibly fit on the site, divided by two -- even if that number is smaller than the allowable density in the zoning code. As a result, it is very common to see housing projects that fully comply with parking rules (generally two spaces per unit) but fall short of the maximum number of housing units supposedly allowed by the code.

A site's practical parking capacity also influences how much housing -- and what kind of housing -- a developer will *want* to build, but in much less rigid ways than zoning dictates. While more and more developers want to build homes for car-free households, many still want to provide *some* parking for their residents. Depending on the income levels they plan to serve (more parking --> higher income residents) and the environments they're building in (more walkable/better transit --> less parking), they will decide (in rough terms) how much parking they need. And when we provide them with flexibility on parking rules, a community of developers will often build a variety of solutions that will serve a diversity of residents.²

But if a city maintains minimum parking requirements, nothing it does, not even nominally expand its zoning capacity, can increase the production of homes, especially on smaller parcels that are currently sitting vacant or underutilized because zoning code imposes requirements they can't readily satisfy.

3. But shouldn't we just let cities eliminate parking requirements on their own?

Some forward-looking cities like Sacramento, San Francisco, Berkeley and others in California and around the nation (most recently, Minneapolis) have begun eliminating local parking minimums, making construction of on-site parking optional. But reform at the local level is happening far too slowly to address California's housing crisis or climate change. There are nearly 500 cities in California with at least 10,000 residents, and state intervention is the only way to bring needed parking reform quickly and decisively enough to make a difference.³

We need action now to provide homes for the millions of Californians across the income spectrum who are housing-insecure, at risk of homelessness or experiencing homelessness.

you construct, especially underground. And because you can't expand a parking structure one space at a time--you need to build whole new floors if you want even one new space--there are many instances where it is simply not possible to add small amounts of parking to a project without facing the deal-killing costs building an entire new parking deck. Note too that going underground removes some space from a building's ground floor, because now part of the ground floor must be a ramp.

² Michael Manville (2013) Parking Requirements and Housing Development, Journal of the American Planning Association, 79:1, 49-66, DOI: 10.1080/01944363.2013.785346

³ It is worth noting that the longest-standing and most impactful limits on off-street parking (New York City, Boston and Portland) were all products of state action.

Also, some anti-housing cities have realized they can rely on heavy on-site parking requirements as a pretext to deter new housing. These cities can nominally increase the number of homes they allow per acre (*i.e.*, density) but not provide flexibility in their parking requirements, so that potential density never gets actualized.

It is unethical to allow these practices to continue, or to maintain bad laws like minimum parking requirements that directly inflate the cost of housing, promote automobile dependency and increase greenhouse gas emissions.

4. What about density bonus programs? Don't they work better when high parking requirements give cities a bargaining chip they can use with developers?

No. First of all, it's unethical to keep bad laws on the books simply because they give governments power -- even the power to do something good, especially if the laws do measurable harm. Few people would support a law saying that every new home had to be made of marble or covered in lead-based paint unless it came with affordable housing. But that is essentially the argument being made by some affordable housing advocates with respect to parking.

Secondly, if we do away with parking requirements -- which are the most important constraint on housing production in California -- density bonus programs will actually work *better* and produce more housing than they do now, both deed-restricted affordable and market-rate.

Here is why: Density bonus programs offer developers a source of ongoing revenues that help subsidize rents for a number of low-income units in a project. The extra revenues come from the "bonus" market-rate units, whose monthly rents must be high enough to more-than offset the monthly cost of keeping other units at below-market prices.

That is one reason Los Angeles' Transit Oriented Communities (TOC) program has been more successful than earlier density bonus programs -- it offers nearly *twice* the number of bonus market-rate units as earlier programs did -- and thus twice as much revenue to help subsidize below-market rents.⁴

But for density bonus programs to work at all -- that is to produce actual mixed-income and/or affordable developments in significant numbers -- participating projects have to overcome the same regulatory roadblocks to housing production as nearly all projects in California.

⁴ It's important to note that the relationship between parking and revenue is complex. Tenants in higher-priced housing tend to demand more parking. So allowing developers to build units with less parking will open up more opportunities, especially on smaller sites in less affluent areas. But to get the higher-rent units needed to subsidize more affordable ones in density bonus projects, developers need to provide enough parking to meet demand from higher-income market segments.

Quite often, these constraints in the zoning code -- including minimum parking requirements, restrictive height limits, "floor area ratio" caps, expansive yard/setback requirements, and lengthy public review processes -- become the practical limits on *how many homes are produced, and whether projects happen at all*.⁵

That is why State density bonus law and local initiatives like Los Angeles' Transit Oriented Communities program saw fit to increase maximum height, reduce parking requirements, and provide a faster, more predictable permitting process. Density bonus laws like TOC typically provide a means of removing these zoning roadblocks. If they didn't, density bonus projects would face the same fate as so many other potential housing developments in California -- they wouldn't get built at all.⁶

Again, crucially, removing zoning constraints is not an *incentive* in and of itself and should not be subject to value capture. For example, letting a developer build a taller building has no value if height doesn't translate into additional units and more monthly rent. The reason many developers ask for additional height as part of their density bonus applications is simply because the extra units, which are subject to value capture, won't fit into a shorter building.

In this light, rather than fighting to maintain rules like minimum parking requirements that block housing and harm the environment, advocates for more affordable housing should (and many do) call for the removal of the zoning roadblocks that suppress *all* housing production -- affordable, market rate, and density bonus, alike. Doing so will expand housing resources across the board and make density bonus programs far more attractive and effective than they are today, even in areas where they are rarely used. To uphold harmful barriers to housing just so we can call their removal "an incentive" is both wrong and counterproductive.

5. What do the Los Angeles TOC data show?

A recent comprehensive survey of Los Angeles' Transit Oriented Communities (TOC) program, a local density bonus program, supports this. Of the nearly 300 TOC projects approved from 2017 through the end of 2020, **most were proposed at very close to the maximum allowable density**. This makes sense: developers did what was expected in maximizing the number of revenue-producing units they can build --

⁵ If, for example, a city with a one-story height limit granted a 300% density bonus to a project without also increasing the height limit to, say, three stories, then that 300% density bonus would be of no value since there would be nowhere in the "zoning envelope" to fit that density. A developer would need a higher height limit to make use of the additional density.

⁶ USC's Richard Green and his team's paper on TOC provide helpful data point: "*According to O'Neill, Gaulco-Nelson, and Biber (n.d.), getting a project entitled takes 11 to 22 months on average, with more extended periods for larger projects and an average time of 13 months across all projects in Los Angeles. By contrast, TOC projects take just over 6 months to get approved on average.*"

something they cannot readily do in most non-TOC-eligible areas, where parking requirements often limit density more than zoning designations do.

But importantly, only 20% of market-rate developers maximized the parking reduction -- and none used *only* the parking reduction. While this might seem counterintuitive, developers provided an amount of parking that aimed to balance the physical constraints of their sites with their market expectations. The worry that developers would build as little parking as possible and “pocket all the money they saved” simply did not occur. Instead, market-rate **TOC developers provided 78% more parking spaces than TOC required.**

The typical market-rate TOC project provided 0.9 parking spaces per unit -- a number consistent with observed parking demand in many existing structures throughout Los Angeles. The typical 100% affordable project built only $\frac{1}{3}$ that amount -- 0.3 space per unit. AB 1734 (Chiu), recognizes the value of eliminating parking requirements for 100% affordable projects near transit. Eliminating parking requirements more broadly will be of great benefit to 100% affordable developers, whose projects currently often struggle to find subsidies to pay for parking requirements that significantly exceed demand.

It's important to note that even though most (though not all) TOC developers proposed to provide *more* parking than TOC requires, they still included *less parking* than baseline zoning would have. And the amount of parking they provided per unit varied widely across projects. This illustrates that **the real value of TOC's parking reductions is flexibility** -- flexibility to build all the density bonus units TOC will allow without downgrading production because of limitations on how much parking a site can support (because of geometry, soils conditions, materials costs and/or other factors).

People sometimes think, understandably, that if lower parking requirements save money for developers, cities should “capture” some of that money and have the developers use it to build subsidized affordable units. Someone might argue, for instance, that if parking costs \$25,000 per space to build, then letting someone build one less space frees up \$25,000. This line of thought is understandable, but also erroneous, for several reasons:

First, not every allowed parking reduction really turns into a cost savings, because not all reductions in *requirements* translate into less parking getting built. Why not? Parking is like pizza -- you can sell it by the slice, but you have to cook it by the whole pie (eight slices at a time). We don't build parking facilities one space at a time. We build them by the floor (or “deck”), the capacity of which is dictated by its dimensions, which are driven by the physical properties of the project site, zoning code, building code and cost considerations. And once you build a parking deck, it usually can't be used for much else. So even if a developer receives a parking reduction, it won't make a difference unless it means she can build fewer floors in her garage than she was planning.

It's also worth noting that projects with less parking rent or sell for lower prices than similar projects with more parking. As a result, there's no "value" to "capture" from parking reductions that translate into lower prices and, accordingly, reduced project revenues.

In those instances where a parking reduction *does* let a developer proceed with less parking than is required -- and the project was economically viable even with excessive parking and will still be viable with less -- then, yes, giving her permission to proceed with less parking could, potentially, result in a true savings. But this is an unusual circumstance, and the timing matters: If the availability of parking reductions is known at the time a developer buys a property, then any value from potential savings would be baked into the purchase price -- benefiting the seller but unavailable to any development-based value capture program.⁷

So for the developer to really reap large savings, they need to have bought the land before parking reductions were made available, *and* be in a position where less parking helps them maximize their profits. In that scenario, importantly, any savings would be a one-time event (in contrast to the ongoing revenues generated by additional density bonus units) that is likely not to be sufficient to offset the cost of a 55-year commitment to subsidize some rents in the building.

6. "Value capture"

As stated above, when parking requirements become a back-door limit on density, it is both unethical and impractical to ask builders to pay extra simply to access the nominal density supposedly allowed in the zone or the density bonus program they're participating in. Plus, there is really no "value" to capture from parking reductions in the same way there is from additional rental units, which provide ongoing income that helps subsidize low-income rents for the life of a project.

In addition, places like Los Angeles and many Bay Area communities now have direct programs for "capture value" -- through the affordable housing linkage fee or inclusionary zoning. Where there are existing value capture mechanisms, there cannot be legitimate concerns over lost "value capture" opportunities from ending laws like minimum parking requirements. In Los Angeles, for example, AB 1401 will increase housing production across the board, and the projects it enables will either participate in density bonus programs or be subject to the Linkage Fee, in either case contributing to the production of more deed-restricted affordable homes.

⁷ One consequence of this fact is that eliminating parking requirements will increase developer buying power -- both market-rate and affordable builders. And this will make it more likely that a car wash that is put up for sale will go to a housing developer rather than a new car wash operator.

There are other places, of course, that don't have linkage fees or inclusionary zoning. Should we keep parking requirements intact in those places? No. It's important to remember that parking requirements do not just shape the projects we see proposed. *They also prevent many projects from being proposed at all.*

In most of California, because of parking requirements, a row of townhouses that come right up to the street is illegal. The adaptive reuse of old buildings that have no on-site parking is illegal (in most jurisdictions). Garden apartments arrayed around a central courtyard are (if they lack a parking lot) illegal. Single Room Occupancy hotels (SROs) without parking are illegal. All of these play important roles in affordability, and parking requirements prevent them. In the 1990s, San Diego helped house its homeless population by allowing new SROs. Affluent neighbors became upset by the proliferation of SROs, however, and killed them off. And they could kill them off with one easy step: giving SROs a parking requirement.

There's also a fear that eliminating parking requirements will lead, for example, to 10 market-rate units rising (with limited parking) on some now-vacant parcel, rather than 13 hypothetical density-bonus units with one reserved for a very low income household. But it's important to remember that if nothing has been built on that parcel to date (most likely because of minimum parking requirements), there's no reason to believe that AB 1401 will have cost us that hypothetical affordable unit. Rather, AB 1401 is helping turn a vacant lot with zero homes into a site with 10 apartments. In lieu of bills like AB 1401, eventually home prices may rise to a level where density bonus projects become feasible in more locations, but that's a much worse outcome than allowing wide proliferation of smaller "missing middle" projects that help moderate housing prices for the entire market.

7. Parking requirements are fundamentally exclusionary. It is time we stop allowing anti-housing communities to hide behind concerns about parking as an excuse to block new development.

AB 1401 will eliminate parking requirements as a tool anti-housing communities can use to claim to be housing-positive (by upzoning, for instance) while maintaining rules that make projects impossible to build. If AB 1401 doesn't pass, these communities will be able to continue hiding behind minimum parking requirements while shirking their responsibility to house people of all income levels. We can't let that happen. AB 1401 will be a massive move towards inclusion.

*Special thanks to **Conner Howe** (USC), **Sevag Sassounian** (Cal Poly Pomona), **Amanda Ryan** (SPUR) and **Livesey Pack** (SPUR) for research assistance with respect to Los Angeles' Transit Oriented Communities program.*