

TOWNSEND

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MEMO

To: City of Cupertino
Legislative Review Committee

From: Townsend Public Affairs, Inc.

Date: May 14, 2021

Subject: Consider adopting a position on Senate Bill 778 (Becker) Planning and zoning: accessory dwelling units: mixed-use or multifamily structures

Bill Information

The official text of SB 778 can be found [here](#)¹.

Summary

SB 778 requires ministerial approval of accessory dwelling units (ADUs) in vacant space of mixed-use buildings. Specifically, the bill modifies the existing ministerial approval of a permit to build, in a residential or mixed-use zone, multiple ADUs within existing mixed-use structures (in addition to existing multifamily structures), to include commercial space, industrial space, retail space, or other vacant space, provided each unit complies with state building standards for dwellings.

SB 778 also provides that any portion of a multifamily structure or mixed-use structure that is vacant space, must have been vacant for at least six months prior to applying for a permit to convert it to an ADU.

Status

SB 778 was approved by the Senate Housing Committee (9-0) on April 29th. The measure is currently in the Senate Appropriations Committee.

Support

According to the author, "In a continued effort to address the state's housing shortage, SB 778 would help streamline mixed-use commercial space conversion into ADUs. SB 778 clarifies that owners of mixed-use or multifamily buildings may turn commercial spaces into these extra units, also known as in-law units or granny flats, a valuable form of housing at below-market prices within existing neighborhoods. The clarification centers on AB 68, a 2019 law that requires local governments to ministerially approve the conversion of non-living spaces in mixed-use and multifamily buildings into ADUs. The law gives examples of non-living areas that would qualify, such as garages and boiler rooms, but does not expressly use the words "commercial or retail space." Some jurisdictions have misinterpreted the law and failed to provide the streamlined approval as intended under AB 68. SB 778 closes that loophole by mandating the issuance of

¹ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB778

permits to create ADUs out of commercial space, industrial space, retail space, or any other vacant space if each unit complies with state building standards for dwellings. Clear guidance on an owner's right to create additional residential living space in these is vital to fulfilling California's stated goal to increase housing supply."

Supporters of SB 778 include: California Building Industry Assn; and California YIMBY

Opposition

There is no official opposition to SB 778.

Recommended Action

Adopt an oppose position on SB 778 and authorize the Mayor to send letters to the state legislature.