

TOWNSEND

PUBLIC AFFAIRS

EST TPA 1998

MEMO

To: City of Cupertino
Legislative Review Committee

From: Townsend Public Affairs, Inc.

Date: June 19, 2020

Subject: Consider adopting a position on Senate Bill 1385 (Caballero) – Local planning:
housing: commercial zones

Summary

Senate Bill 1385 enacts the “Neighborhood Homes Act,” which establishes a housing development project as an authorized use on a neighborhood lot, defined as a lot zoned for office or retail commercial use under a local agency’s zoning code or general plan. A housing development project on a neighborhood lot may consist entirely of residential units or a mix of commercial, retail, office, or residential units and must comply with the following:

- The density for the housing development must meet or exceed the applicable density deemed appropriate to accommodate housing for lower income households under housing element law. If more than one zoning designation in the city or county meets this requirement, the zoning standards that apply to a neighborhood lot are the same zoning standards that apply to the closest parcel that allows for residential use at that density. If the existing zoning on the parcel allows denser residential use, the local zoning applies.
- The housing development is subject to local zoning, parking, design, and other ordinances, and must comply with any design review or other procedural requirements imposed by the local government, applicable to a housing development in the zone identified above.

SB 1385 allows a local agency to exempt a lot zoned for commercial retail or office use from the bill if the local agency concurrently reallocates the lost residential density to other lots so that there is no net loss in residential production capacity, but only if the local agency finds that the construction cost of the reallocated housing units will not be greater than the construction cost of housing units built on the neighborhood lot.

The bill provides that its provisions do not alter or lessen the applicability of any housing, environmental, or labor law applicable to a housing development authorized by the bill, including, but not limited to: the California Coastal Act of 1976, CEQA, the HAA, density bonus law, obligations to affirmatively further fair housing, and state or local housing and tenant protection laws. SB 1385 also provides that for the purposes of the HAA, a project is deemed consistent, compliant, and in conformity with local standards if it meets the standards applied by the bill to a neighborhood lot.

SB 1385 also modifies the Mello-Roos annexation process. The bill allows an applicant seeking to develop a housing project on a neighborhood lot to request that a Mello-Roos CFD be formed

State Capitol Office • 925 L Street • Suite 1404 • Sacramento, CA 95814 • Phone (916) 447-4086 • Fax (916) 444-0383

Federal Office • 600 Pennsylvania SE • Suite 207 • Washington, DC 20003 • Phone (202) 546-8696 • Fax (202) 546-4555

Southern California Office • 1401 Dove Street • Suite 330 • Newport Beach, CA 92660 • Phone (949) 399-9050 • Fax (949) 476-8215

Central California Office • 744 P Street • Suite 308 • Fresno, CA 93721 • Phone (949) 399-9050 • Fax (949) 476-8215

Northern California Office • 300 Frank Ogawa Plaza • Suite 204 • Oakland, CA 94612 • Phone (510) 835-9050 • Fax (510) 835-9030

or annexed into an existing CFD, consistent with existing law. However, SB 1385 allows annexation of a neighborhood lot into an existing CFD without the opportunity for existing CFD residents to protest. An applicant who voluntarily enrolls in a CFD cannot be required to pay impact fees or exactions to the extent that these facilities and services are funded by the CFD, consistent with existing law, but must pay all costs not funded by the CFD.

SB 1385 allows housing developments on neighborhood lots to be eligible for SB 35's streamlined ministerial approval process if it meets all of the following requirements:

- The proposed project meets the objective zoning, design, and subdivision standards that apply to the neighborhood lot
- The proposed project meets all of SB 35's other requirements
- The site is zoned for office or retail commercial use and 50 percent or more of its total square footage has been vacant for a period of at least three years prior to the submission of the application.

Status

SB 1385 was approved by the Senate Governance and Finance Committee on May 28th on a 6-0 vote. The measure is currently in the Senate Appropriations Committee and has been referred to the Suspense File. The measure is scheduled to be heard on June 18th.

Support

According to the author, "large shopping malls, strip malls, and 'big box' retail stores are facing a new reality: consumers' needs are being met online. Many shopping centers have struggled to remain viable as large anchor stores like Sears and Toys R Us have closed their doors or gone out of business, unable to keep up with major online retailers like Amazon. Now, many areas throughout California are left with struggling or vacant, often-times run-down, commercial centers without any interest in development from commercial business.

"At the same time retail vacancies are growing, California's housing crisis continues to worsen. According to the California Budget and Policy Center, over 50% of renters and nearly 40% of homeowners pay more than 30% of their income in rent. In addition, the Public Policy Institute of California recently reported that California's housing shortage continues to grow as the number of residential building permits issued for 2018 and 2019 were far below the recommended annual average of new homes needed. While there is no single policy to fix California's housing crisis, providing easy ways for cities to increase their housing supply is a step in the right direction, and SB 1385 will do just that. This bill allows for cities to approve residential development in commercially zoned retail and office spaces that are vacant or no longer viable. By doing so, we open up previously developed land that is a perfect opportunity to convert to residential or mixed-use purposes and expand California's housing supply."

Supporters of SB 1120 include: California Forward Action Fund, Bay Area Council, California Apartment Assn, California Assn of Realtors, California Building Industry Assn, California YIMBY, Habitat for Humanity, Orange County Business Council, San Francisco Housing Action Coalition, and other affordable housing advocates.

Opposition

There is no official opposition to SB 1385.

Potential Impact

While in some instances it may make sense to repurpose underutilized retail or commercial areas, this should not be a decision that is made on a streamlined, ministerial basis. The loss of retail and commercial spaces can have a significant fiscal impact on a city, particularly those that do not have a broad base of retailers. Locally elected officials, and members of the community, should have the opportunity to weigh in on such decisions, so that the full extent of the local impacts can be considered.

While SB 1385 requires that a site must have had no commercial or retail tenants on 50% or more of its total square footage for at least three years, this bill could result in the displacement of existing businesses and retail. In many instances, it will not make sense for a business to relocate to another city, and they may not have the ability to wait for new retail spaces to become available.

Recommended Action

Adopt an oppose position on SB 1385 and authorize the Mayor to send letters to the state legislature.