

TOWNSEND

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MEMO

To: City of Cupertino
Legislative Review Committee

From: Townsend Public Affairs, Inc.

Date: February 26, 2021

Subject: Consider adopting a position on Senate Bill 6 – Local Planning: Housing: Commercial Zones

Summary

Senate Bill 6 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 6 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 6 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 6 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.

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, Toys R Us, and KMart have closed brick and mortar locations throughout the state especially in rural areas. Credit Suisse reported that up to 25% of malls across the nation are expected to close, and have seen the highest number of mall vacancies in the last seven years. SB 6, The Neighborhood Homes Act, authorizes local governments to approve housing development of commercial retail and office spaces. Allowing mixed-use infill development on existing shopping center or strip mall properties will help the state achieve its housing goals and spur economic activity in regions most in need of revitalization."

SB 6 is substantially similar to SB 1385 (Caballero) from the 2020 legislative session. The City adopted an oppose position on SB 1385.

The City's letter indicated, "While in some instances it may make sense to repurpose underutilized retail or commercial areas for housing, 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."

Status

SB 6 was introduced on December 7th. The measure has been referred to the Senate Governance and Finance Committee and the Senate Housing Committee. The bill has not yet been scheduled for a hearing.

Support

Since SB 6 has not yet been set for hearing, an official list of supporters is not yet available.

Opposition

Since SB 6 has not yet been set for hearing, an official list of opponents is not yet available.

Recommended Action

- A) Adopt an oppose position on SB 6 and authorize the Mayor to send letters to the state legislature, unless the City Council decides to place this bill on a future Council agenda to consider as the full Council;
- Or B) Make a recommendation that the City Council take an oppose position on SB 6.