

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 10 - Planning and Zoning: Housing Development: Density

Summary

SB 10 (Wiener) permits a local government to pass an ordinance to rezone any parcel up to 10 units of residential density per parcel, at a height specified by the local government. To be eligible for increased zoning, the area must be urban infill, or be near high quality public transportation or a jobs-rich area (to be determined by HCD/OPR). The measure specifies that an ordinance passed pursuant to this bill would not qualify as a project for the purposes of CEQA.

In addition to the above provisions, SB 10 allows a local government to approve an ordinance allowing a parcel to be rezoned for up to 10 units, even if local voters have approved measures that restrict zoning.

According to the author, "SB 10 allows cities to upzone non-sprawl areas (areas that are close to job centers and/or transit and areas that are in existing urbanized locations, thus reducing vehicle usage and long commutes) up to ten-unit buildings. This streamlining tool would be the most powerful one for cities to increase density. By allowing cities to choose to zone for up to 10 units per parcel, SB 10 will make it possible for cities to build significantly more housing in a way that makes sense within their local context."

SB 10 is substantially similar to SB 902 (Wiener) from the 2020 legislative session. The City adopted an oppose unless amended position on SB 902.

The City's letter on SB 902 indicated, "Unfortunately, we must oppose SB 902 due to the provisions that would allow a local government to pass an ordinance to rezone a parcel, even if a local voter initiative has been passed that would directly prohibit such an ordinance. The ability for voters to approve local measures is fundamental to our political process and should not be allowable under SB 902, that goes against a locally approved voter initiative, then that ordinance should be submitted to the voters.

The City of Cupertino does not believe that local governments should be able to ignore the will of their local voters, even for a worthy purpose, such as the creation of new housing. This provision creates a slippery slope, which could spur future legislation that may allow government to ignore the will of the voters for less worthy causes. We believe that the right of the voters to approve local measures, and for government to respect those measures, is foundational to our democracy

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and must be protected. We would request that you consider removing this provision from SB 902, in which case the City would be glad to remove our opposition.”

Status

SB 10 was introduced on December 7th. The measure has been referred to the Senate Housing Committee and the Senate Governance and Finance Committee. The bill has not yet been scheduled for a hearing.

Support

Since SB 10 has not yet been set for hearing, an official list of supporters is not yet available.

Opposition

There is no official opposition yet registered to SB 10.

Recommended Action

A) Adopt an oppose unless amended position on SB 10 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 unless amended position on SB 10.