

**To:** City of Cupertino  
Legislative Review Committee

**From:** Townsend Public Affairs, Inc.

**Date:** September 2, 2020

**Subject:** Legislative Update

---

### **State Legislative Update**

During the month of August, the State Legislature has been focused on advancing legislation through policy and fiscal committees, so that they can be considered on the Assembly and Senate Floor prior to the adjournment of session on August 31<sup>st</sup>.

While the Legislature had over 600 bills to consider entering into August, most of the attention during the final days of session will be on a handful of bills related to coronavirus response, housing production, and public safety/police reform. These three areas remain the top priority for the Democrats in the Legislature and they are working with the Newsom Administration to increase the likelihood that the Governor will sign any bills in these areas that are approved by the Legislature.

Below are the upcoming deadlines for the Legislature:

**August 31** – Last day for each house to pass bills. Final recess begins upon adjournment

**September 30** – Last day for the Governor to sign or veto legislation

**November 3** – General Election

**November 30** – Adjournment sine die at midnight

**December 7** – 2021-22 Regular Session convenes for Organizational Session

### **Coronavirus Relief Legislation**

On July 27<sup>th</sup>, key members of the Legislature introduced the outline of a \$100 billion economic stimulus plan in response to the impact that the coronavirus has had on businesses and individuals in California. The plan would prioritize economic recovery efforts to build on the Legislature's work on the State Budget. The stimulus plan proposed to raise \$100 billion through several funding streams, including a new tax voucher program, the securitization of future cap and trade auctions revenues, and the acceleration of previously approved, but unspent bond funds.

The Legislature has been working with the Newsom Administration on the economic plan; however, it seems unlikely that the Legislature and Administration will be able to reach consensus on such an ambitious plan, given the short amount of time before the end of the legislative



session. The Legislature may attempt to pass legislation in the final days of session that would direct the Department of Finance to work with them to identify potential funding streams and make recommendations so that legislation can be pursued when the Legislature returns to session in 2021.

While a state-level stimulus plan looks unlikely, the Legislature and Administration continue to work together in an effort to pass legislation that will prevent the eviction of renters, and foreclosure of properties, due to the economic impacts from COVID-19. AB 1436 (Chiu) is the legislative vehicle that the Legislature and Administration are trying to advance; however, consensus has not yet been reached. The bill, in its current form, would provide eviction relief to residential tenants who are experiencing COVID-19-related financial distress and would allow certain mortgage borrowers who are experiencing hardship to request forbearance. Assembly Member Chiu is working with legislative leadership, the Governor's Office, renters advocates, public health advocates, property owners, and the financial industry to try and find a solution that can work for all parties and keep impacted Californians in their homes.

### Housing Legislation

While both the Assembly and Senate Leadership asked members to reduce the number of bills they advanced this year due to the shortened legislative calendar, housing continued to be at the forefront of the Legislature's agenda. On August 20<sup>th</sup>, the Assembly and Senate Appropriations Committees met to consider the measures that were on their Suspense Files, including several housing measures. Below is a summary of the housing-related legislation that was considered by the committees.

- *AB 725 (Wicks)* – This measure would require a metropolitan jurisdiction to allocate at least 25% of its share of the regional housing need for moderate- and above moderate-income housing to sites with zoning that allow at least 4 units of housing in the housing element's inventory of land suitable for residential development. *AB 725 was approved by the Senate Appropriations Committee and referred to the Senate Floor for consideration. The City has taken an oppose position on this bill.*
- *AB 1436 (Chiu)* – This measure would provide temporary eviction relief to residential tenants who are experiencing COVID-19-related financial distress and would allow certain mortgage borrowers who are experiencing financial hardship due to the COVID-19 emergency to request forbearance. *AB 1436 was moved out of Senate Appropriations and referred to Senate Rules Committee so that negotiations with the Administration and stakeholders can continue. The City has taken a watch position on this bill.*
- *AB 2345 (Gonzalez)* – This measure would make numerous changes to the Density Bonus Law to incentivize increased production of very low- and low-income units, as well as moderate-income for sale units in common interest developments, by extending the density formulas to a maximum density of 50%, allowing developers to receive up to five concessions and incentives for including additional density, and reducing parking ratios. *AB 2345 was approved by the Senate Appropriations Committee and referred to the Senate Floor for consideration. The City has taken an oppose position on this bill.*



- *AB 3040 (Chiu)* – This measure would authorize cities and counties to receive a specified credit towards meeting their regional housing needs allocation (RHNA) for moderate- and above moderate-income housing if they identify sites in the housing element that contain a single family dwelling unit but allow four units as a use by right. *AB 3040 was held in on the Suspense File and is no longer eligible for consideration. The City has taken a support position on this bill.*
- *AB 3269 (Chiu)* – This measure would establish the Housing and Homelessness Inspector General (Inspector General), require the Homeless Coordinating and Financing Council (HCFC) to conduct a specified needs and gaps analysis, require local governments to develop actionable plans to address homelessness, and create a public right of action for the Inspector General to compel compliance with those new plans. *AB 3269 was held in on the Suspense File and is no longer eligible for consideration.*
- *SB 795 (Beall)* – This measure would, upon appropriation by the Legislature, make available up to \$2 billion annually for allocation to various existing housing, homelessness and pre-apprenticeship programs, and to two newly created infrastructure financing programs at the State Coastal Conservancy and Strategic Growth Council and Go-Biz. *SB 795 was held in on the Suspense File and is no longer eligible for consideration.*
- *SB 902 (Wiener)* – This measures would allow a city or county to pass an ordinance to zone any parcel for up to 10 units of residential density per parcel in transit-rich or jobs-rich areas or urban infill sites, and exempts these ordinances from CEQA. *SB 902 was held in on the Suspense File and is no longer eligible for consideration. The City has taken an oppose unless amended position on this bill*
- *SB 995 (Atkins)* – This measure would extend the expedited CEQA administrative and judicial review procedures established by the Jobs and Economic Improvement Through Environmental Leadership Act for “environmental leadership development projects” for four years. Additionally, this bill expands the Leadership Act to include smaller housing projects. *SB 995 was approved by the Assembly Appropriations Committee and referred to the Assembly Floor for consideration. The City has taken a support if amended position on this bill.*
- *SB 1085 (Skinner)* – This measure would make various changes to density bonus law, including providing additional benefits to certain moderate-income housing developments. *SB 1085 was approved by the Assembly Appropriations Committee and referred to the Assembly Floor for consideration. The City has taken an oppose position on this bill.*
- *SB 1120 (Atkins)* – This measure would require ministerial approval of duplexes and urban lot splits and allows the life of subdivision maps to be extended by one year. *SB 1120 was approved by the Assembly Appropriations Committee and referred to the Assembly Floor for consideration. The City has taken an oppose position on this bill.*
- *SB 1299 (Portantino)* – This measure would establish a program, to be administered by the Department of Housing and Community Development, to provide grants to local



governments for production of workforce housing on idle commercial shopping center properties. *SB 1299 was approved by the Assembly Appropriations Committee and referred to the Assembly Floor for consideration. The City has taken a support position on this bill.*

- *SB 1410 (Caballero) – This measures would create a tenant-owner COVID-19 eviction relief agreement, restricts rental property owners from evicting tenants for unpaid rent accrued during the state of emergency and allows a tax credit for owners that defer rent for tenants in connections with the COVID-19 pandemic. SB 1410 was held in on the Suspense File and is no longer eligible for consideration. The City has taken a watch position on this bill.*

### Public Safety

Since the death of George Floyd, the Legislature has been focused on several bills that would address police reform, use of force, and public safety across the State. The Legislature has spent several weeks, and will spend the remaining days of session, debating a variety of public safety bills, including bills that will ban the use of tear gas and rubber bullets, change immunity protections for peace officers, and increase the transparency of use-of-force cases.

Last year, the Legislature took action to change the use of force standards in the State while providing training protocols for officers to adhere to the updated standards. The legislation (AB 396) was seen as the most significant use-of-force reform passed by the Legislature in recent memory. After months of negotiating with police advocates, the bill eventually passed with bipartisan support in both houses. In the wake of recent national calls for police reforms and the condensed timeline to pass legislation due to COVID-19, police reform bills will be hotly debated in the coming weeks.

AB 66 (Gonzalez, D-San Diego) would restrict law enforcement agencies from using tear gas during public demonstrations and would set up reporting requirements to require agencies to comply with the new statewide restrictions. SB 731 (Bradford, D-Inglewood) would change the immunity protections for police officers and set up a de-certification review process for individuals not in compliance. Additionally, SB 776 (Skinner, D-Oakland) would expand SB 1421, which authorized the release of police personnel files. The bill would include all use-of force incidents to be subject to disclosure and would allow law enforcement agencies to review these files prior to hiring an officer.

These measures have received significant support from civil rights organizations, social justice groups, and a number of public agencies and elected officials. The measures are largely opposed by law enforcement organizations and other stakeholders representing public safety interests.

### Priority Legislation

Below please find a brief summary, and status, of the measures that the City has taken a position on in 2020.

*AB 725 (Wicks): Housing element: moderate-income and above-moderate income housing*  
City of Cupertino position: Oppose



This measure would require a metropolitan jurisdiction to allocate at least 25% of its share of the regional housing need for moderate- and above moderate-income housing to sites with zoning that allow at least 4 units of housing in the housing element's inventory of land suitable for residential development. **AB 725 was approved by the Senate Appropriations Committee and referred to the Senate Floor for consideration.**

*AB 1063 (Petrie-Norris): Planning and Zoning Law: housing elements*  
City of Cupertino position: Support

This bill would require HCD to allow a city or county to identify adequate sites by a variety of methods. The bill would require the department to allow a city or county to identify sites for potential accessory dwelling units based on existing zoning standards and the demonstrated potential capacity to accommodate accessory dwelling units and junior accessory dwelling units, as determined by the city or county. **The Senate Housing Committee did not set AB 1063 for hearing. The Committee indicated they will work with the author over interim recess to develop a proposal the Committee can support.**

*AB 1279 (Bloom): Housing development: high-opportunity areas*  
City of Cupertino position: Oppose

The Planning and Zoning Law allows a development proponent to submit an application for a development that is subject to a specified streamlined, ministerial approval process not subject to a conditional use permit if the development satisfies certain objective planning standards, including that the development is (1) located in a locality determined high opportunity area by the Department of Housing and Community Development to have not met its share of the regional housing needs for the reporting period, and (2) subject to a requirement mandating a minimum percentage of below-market rate housing, as provided. This bill would require the department to designate areas in this state as high-opportunity areas, by January 1, 2022, in accordance with specified requirements and to update those designations within 6 months of the adoption of new Opportunity Maps by the California Tax Credit Allocation Committee. **AB 1279 was referred to the Senate Housing Committee, but the author withdrew the bill from consideration prior to receiving a hearing.**

*AB 2345 (Gonzalez): Planning and zoning: density bonus*  
City of Cupertino position: Oppose

This measure would make numerous changes to the Density Bonus Law to incentivize increased production of very low- and low-income units, as well as moderate-income for sale units in common interest developments, by extending the density formulas to a maximum density of 50%, allowing developers to receive up to five concessions and incentives for including additional density, and reducing parking ratios. **AB 2345 was approved by the Senate Appropriations Committee and referred to the Senate Floor for consideration.**



*AB 3040 (Chiu): Local planning: regional housing needs assessment*  
City of Cupertino position: Support

This measure would authorize cities and counties to receive a specified credit towards meeting their regional housing needs allocation (RHNA) for moderate- and above moderate-income housing if they identify sites in the housing element that contain a single family dwelling unit but allow four units as a use by right. **AB 3040 was held in on the Suspense File and is no longer eligible for consideration.**

*SB 899 (Wiener): Housing development: higher education institutions and religious institutions*  
City of Cupertino position: Support if Amended

This bill would require that a housing development project be a use by right upon the request of an independent institution of higher education or religious institution that partners with a qualified developer on any land owned in fee simple by the applicant on or before January 1, 2020, if the development satisfies specified criteria. The bill would define various terms for these purposes. Among other things, the bill would require that 100% of the units, exclusive of manager units, in a housing development project eligible for approval as a use by right under these provisions be affordable to lower income households, except that 20% of the units may be for moderate-income households, provided that all the units are provided at affordable rent or affordable housing cost, as specified. The bill would authorize the development to include ancillary uses on the ground floor of the development. **SB 899 was referred to the Assembly Appropriations Committee, but the author withdrew the bill from consideration prior to receiving a hearing.**

*SB 902 (Wiener): Planning and zoning: housing density*  
City of Cupertino position: Oppose Unless Amended

This bill would authorize a local government to pass an ordinance, notwithstanding any local restrictions on adopting zoning ordinances, to zone any parcel for up to 10 units of residential density per parcel, at a height specified by the local government in the ordinance, if the parcel is located in a transit-rich area, a jobs-rich area, or an urban infill site. In this regard, the bill would require the Department of Housing and Community Development, in consultation with the Office of Planning and Research, to determine jobs-rich areas and publish a map of those areas every 5 years, commencing January 1, 2022. **SB 902 was held on the Assembly Appropriations Suspense File. It should be noted, prior to the bill being held, the author had agreed to take the amendments that were requested by the City.**

*SB 939 (Wiener): COVID-19: commercial tenancies: evictions*  
City of Cupertino position: Support

This bill would prohibit a commercial landlord from serving a specified notice of eviction on a commercial tenant, as defined, until 90 days after the state of emergency proclaimed by the Governor on March 4, 2020, is lifted and if specified criteria apply, including that the commercial tenant served a written notice on the landlord affirming, under the penalty of perjury, that the commercial tenant is an eligible COVID-19 impacted commercial tenant. **SB 939 was held on the Senate Appropriations Committee Suspense File.**





*SB 995 (Atkins): Jobs and Economic Improvement Through Environmental Leadership Act of 2011*

City of Cupertino position: Support if Amended

This bill extends the Jobs and Economic Improvement Through Environmental Leadership Act of 2011 for four years, until 2025; and makes housing projects that meet certain requirements, including specified affordable housing requirements and labor requirements, eligible for certification under the Act. The measure was recently amended to clarify that housing units developed through this bill could not be used as short-term rentals. **SB 995 was approved by the Assembly Appropriations Committee and is awaiting consideration on the Assembly Floor. The author has not taken the amendments requested by the City.**

*SB 1049 (Glazer): Cities and counties: short-term rental ordinances*

City of Cupertino position: Support

This bill would authorize the legislative body of a city or county, for the violation of a short term rental ordinance that is an infraction, to impose a fine not exceeding \$1,500 for a first violation, \$3,000 for a 2nd violation of the same ordinance within one year, and \$5,000 for each additional violation of the same ordinance within one year of the first violation. The bill would define “short term rental” for purposes of these provisions to mean a residential dwelling, or any portion of a residential dwelling, that is rented to a visitor for 30 consecutive days or less, and would not include a commercially operated hotel, motel, bed and breakfast inn, or timeshare property. The bill would also make these violations subject to the process for granting a hardship waiver. **SB 1049 was approved by the Assembly Appropriations Committee and is awaiting consideration on the Assembly Floor.**

*SB 1085 (Skinner): Density Bonus Law*

City of Cupertino position: Oppose

Current law requires the amount of a density bonus and the number of incentives or concessions a qualifying developer receives to be pursuant to a certain formula based on the total number of units in the housing development, excluding the units added by a density bonus awarded pursuant to the Density Bonus Law or any local law granting a greater density bonus. This bill would require a unit designated to satisfy the inclusionary zoning requirements of a city or county to be included in the total number of units on which a density bonus and the number of incentives or concessions are based. The bill would require a city or county to grant one incentive or concession for a student housing development project that will include at least 20% of the total units for lower income students. **SB 1085 was approved by the Assembly Appropriations Committee and is awaiting consideration on the Assembly Floor.**

*SB 1120 (Atkins): Subdivisions: tentative maps*

City of Cupertino position: Oppose

This bill would, among other things, require a proposed housing development containing two residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements,



including, but not limited to, that the proposed housing development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls, and that the development is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district. **SB 1120 was approved by the Assembly Appropriations Committee and is awaiting consideration on the Assembly Floor.**

*SB 1299 (Portantino): Housing development: incentives for rezoning idle retail sites*  
City of Cupertino position: Support

Current law establishes, among other housing programs, the Workforce Housing Reward Program, which requires the Department of Housing and Community Development to make local assistance grants to cities, counties, and cities and counties that provide land use approval to housing developments that are affordable to very low and low-income households. This bill, upon appropriation by the Legislature in the annual Budget Act or other statute, would require the department to administer a program to provide incentives in the form of grants allocated as provided to local governments that rezone idle sites used for a big box retailer or a commercial shopping center to instead allow the development of workforce housing. **SB 1299 was approved by the Assembly Appropriations Committee and is awaiting consideration on the Assembly Floor.**

*SB 1385 (Caballero): Local planning: housing: commercial zones*  
City of Cupertino position: Oppose

The Planning and Zoning Law requires each county and city to adopt a comprehensive, long-term general plan for its physical development, and the development of certain lands outside its boundaries, that includes, among other mandatory elements, a housing element. This bill, the Neighborhood Homes Act, would deem a housing development project an allowable use on a neighborhood lot, which is defined as a parcel within an office or retail commercial zone. The bill would require the density for a housing development under these provisions to meet or exceed the density deemed appropriate to accommodate housing for lower income households according to the type of local jurisdiction, including a density of at least 20 units per acre for a suburban jurisdiction. **SB 1385 failed passage in the Assembly Local Government Committee.**

