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March 12, 2021

The Honorable Anna Caballero
State Senator, 12th District
State Capitol, Room 5052
Sacramento, CA 95814

RE: SB 6 (Caballero) – OPPOSE

Dear Senator Caballero,

On behalf of the City of Cupertino, I am writing to express our opposition to SB 6, your measure that would enact 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. Additionally, SB 6 expands the scope of projects eligible for streamlined ministerial review under SB 35 to include housing developments on sites zoned for office or retail commercial use that have had no commercial tenants on 50% or more of its square footage for a period of at least three years.

Specifically, SB 6 would allow a housing development project that consists entirely of residential units or a mix of commercial, retail, office, or residential units, if the project complies 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 jurisdiction 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. This exemption applies 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.

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. Locally elected officials, and members of the community, should have the opportunity to evaluate such decisions, so that the full extent of the local impacts of proposed projects can be considered by the people most familiar with the localities. Additionally, since SB 35 projects are not required to undergo CEQA review, the City is concerned that expanding the type of projects that can qualify for the streamlined review process will result in the development of housing on land that may not be environmentally suitable. For example, areas that are zoned for commercial or retail activity could have served as sites for gas stations, dry cleaners, or other activities that could require environmental mitigation. A local public review of proposed projects allows for these types of issues to be appropriately considered.

Lastly, SB 6 allows for projects utilizing the bill's provisions to contain residential units or a mixed-use development consisting of residential and non-residential uses, such as commercial retail or office uses. Unfortunately, this bill does not specify the amount of retail/office space that can be included in a project. It is possible that a project could be developed that creates considerably more jobs than it contains housing. This kind of action does not improve the housing crisis, rather, it makes the crisis worse. If projects are able to utilize the rezoning and streamlined review features contained in SB 6, they should, at a minimum, be designed to help, and not exacerbate, any housing shortage being experienced in a local community. This is especially true if the reasons behind the legislation are grounded in alleviating the crisis. We cannot favor legislation that makes worse what it purports to try to make better.

It is for these reasons that the City of Cupertino has taken an oppose position on SB 6.

Sincerely,



Darcy Paul
Mayor
City of Cupertino

cc: Senator Dave Cortese
Assemblymember Evan Low
Assemblymember Marc Berman