



April 22, 2021

The Honorable Anna Caballero
Member, California State Senate
State Capitol, Room 5052
Sacramento, CA 95814

**Re: Senate Bill 6 (Caballero): Local Planning: Housing: Commercial Zones
As Amended on April 12, 2021 – Notice of Oppose Unless Amended
Set for hearing in Senate Housing Committee – April 29, 2021**

Dear Senator Caballero –

The California State Association of Counties (CSAC), Urban Counties of California (UCC), and the Rural County Representatives of California (RCRC) write to regretfully inform you of our opposition to your Senate Bill 6, which would create a new process allowing residential development on commercial sites, including allowing qualifying projects to use the streamlined application procedures of SB 35 (Wiener, 2017).

As indicated by our correspondence last year regarding your SB 1385 (2020), CSAC, UCC, and RCRC are supportive of your fundamental goal, which seeks to provide opportunities for redevelopment of underutilized commercial sites, many of which are near transit and jobs centers. In fact, many counties already allow multifamily residential uses within some of their commercial zones. While some progress was made in 2020 to address our technical concerns, and SB 6 includes an additional modification to address one of our substantive policy concerns, we remain troubled with the following aspects of the bill.

Limit to Commercial Zones Best Suited for Residential Reuse

Commercial uses can vary in type and intensity with some commercial uses being more compatible with housing development than others. For instance, allowable commercial uses in unincorporated areas can include surface mining, outdoor storage, auto salvage, auto repair, hog farms, oil wells, and certain manufacturing and assembly uses.

Accordingly, we request that SB 6 be amended to apply to only office or retail uses in commercial zones. This will lessen the likelihood of issues relating to incompatible uses, as well as limit applicability to zones more commonly located near transit and job centers. An alternative

approach to addressing this issue would be to limit the applicability of the bill to sites that were previously developed with an office or retail use and which are now at least partially vacant.

Finally, many parts of county unincorporated areas have limited infrastructure and government services. We appreciate that Section 1 of the bill includes a basic infill standard, but request that it be strengthened by instead using the standard from Public Resources Code Section 21061.3 or by limiting the applicability of this section to sites located in Census-designated urbanized areas. This would refocus SB 6's zoning override on only the most urbanized areas of the unincorporated zone, which are likely to be the most appropriate commercial sites in counties for use as higher-density housing.

By-Right Process for non-Zoning Compliant Projects

CSAC, UCC and RCRC have consistently supported approaches to expedited housing development that are based on consistency with locally adopted planning. One of the core premises of SB 35 (Wiener, 2017) was to ensure a quick and predictable approval process for projects that were in compliance with adopted local land use standards. SB 6 would drastically change this approach by extending the same by-right authority to non-compliant projects that happen to be located on a site that meets the basic eligibility requirements of SB 35.

Offer Housing Element Credit for Eligible Sites

Consistent with concerns we have stated on other bills seeking to provide statewide overrides to local zoning codes, we request SB 6 be amended to allow counties to count commercial sites where SB 6 would apply toward their regional housing needs allocation planning requirement irrespective of whether the current zoning allows for residential uses, provided that the sites are able to accommodate residential development. This especially relevant for those sites that SB 6 would make eligible for a by-right approval process for a housing project pursuant to SB 35 (Wiener, 2017).

Improve Reallocation Provisions

Counties should be able to designate some commercial properties for exclusively nonresidential uses to ensure opportunities for economic development. The current version of SB 6 allows cities or counties to reallocate residential capacity from SB 6 commercial sites to other sites that 1) meet housing element inventory requirements and 2) are rezoned for by-right residential uses. We would like to work with you on additional language to ensure that this authority can be used in practice—that is, provide certainty as to when the reallocation can take place and provide a guarantee that similarly-sized parcels zoned at the “default densities” will satisfy the bill's criteria.

Rely on Commercial Zoning Rather than General Plan Designations

We propose that SB 6 be amended to use the zoning code rather than any element in the General Plan, as counties update their zoning code on much more regular intervals. This amendment will help ensure that only the most appropriate sites are used for housing

development based on the jurisdiction's most recent housing element and update to their zoning code. This amendment will also help prevent issues related to incompatible uses, as general plan designations typically allow a broader range of uses than do specific zones primarily for office and retail.

We appreciate the opportunity to continue working with you to resolve these concerns as the bill is considered in the 2021-22 legislative session. Should you have any questions about our position, please do not hesitate to contact Jean Kinney Hurst (UCC) at jkh@hbeadvocacy.com, Christopher Lee (CSAC) at clee@counties.org, or Tracy Rhine (RCRC) at trhine@rcrcnet.org.

Sincerely,



Christopher Lee
California State Association of Counties



Jean Kinney Hurst
Urban Counties of California



Tracy Rhine
Rural County Representatives of California

cc: The Honorable Scott Wiener, Chair, Senate Housing Committee
Honorable Members, Senate Housing Committee
Erin Riches, Consultant, Senate Housing Committee
Misa Lennox, Consultant, Office of Senate President pro Tempore Atkins
Ted Morley, Consultant, Senate Republican Caucus