

The Honorable Mike McGuire
Chair, Senate Governance and Finance
California State Capitol, Room 5061
Sacramento, CA 95814

17 April 2019

RE: SB 50 (Wiener) Planning and zoning: housing development: incentives.

Notice of Opposition

Dear Senator McGuire:

The City of Cupertino opposes SB 50.

The fundamental problem in California is that insufficient affordable housing is being built. We have an affordable housing crisis. SB 50 will worsen the affordable housing crisis in California.

Cupertino has significant concerns with the following:

SB 50 undermines our General Plan, and Housing Element (which are certified by HCD). By allowing developers to override state approved housing plans, SB 50 seriously calls to question the need for cities to develop community based plans in the first place.

SB 50 does not address the key issue of housing development for Cupertino and many other cities: developers with Regional Housing Needs Assessment (RHNA) entitlements are refusing to actually construct entitled projects. This has led to the false narrative by some entities that Cupertino is “anti-growth.” The reality is that In Cupertino, we have exceeded our RHNA entitlement by about 40%. However, out of 1,408 entitled units, including 10% Below Market Rate (BMR, we now require 15% BMR, but 10% was negotiated prior to the Palmer Fix), only 19 units (100% affordable) are under construction. Four other RHNA entitled projects have not begun construction. Developers have a long list of reasons why they do not want to use their entitlements, including the requirement to include affordable units. A more effective approach to encourage the construction of affordable housing would be to enact a state law which would allow cities to remove entitlements from developers that fail to use their entitlements in a timely manner. This could allow cities to return the housing to the city-wide pool for redistribution or the RHNA entitled property could be purchased by the city or state so that the housing, both market rate and BMR, can be developed.

SB 50 attempts a “one size fits all” solution to affordable housing. California is a large state with 58 counties and 482 cities, and each city is unique. The same tactics in a transit-rich city like San Francisco cannot be used in transit-poor cities.

SB 50 embraces the premise that making housing dense will make it more affordable, but this premise has no basis in fact. Density invariably raises prices as land becomes more valuable with increased income potential and new, high-cost luxury housing replaces naturally affordable existing housing. Despite what some people believe, “the law of supply and demand” is not an actual state law.

SB 50 rewards construction of 85-ft towers next to single-family homes. SB 50 encourages 75-ft and 85-ft-tall luxury towers in single-family areas that are either too close to transit or too close

to jobs and good schools. The height limit is NOT 45 feet and 55 feet, the density bonus allows up to thirty additional feet.

SB 50 naively believes that if developers are allowed to reduce or eliminate parking requirements that mass transit will magically appear or that everyone will walk or cycle everywhere. The reality is that without sufficient parking vehicles will be parked on the street in adjoining neighborhoods, further endangering pedestrians and cyclists. The proper place for parking in multi-unit developments is underground, but developers don't want to incur this expense, preferring to export the parking problem to public streets.

SB 50's reduced parking requirements limits the use of electric vehicles (versus parking garages with electric vehicle chargers). Without the ability to charge their vehicles at night, vehicle owners are much less likely to switch to electric cars.

Despite being allowed to not provide sufficient parking, there is nothing in SB 50 that mandates that the cost savings of not providing parking be passed on to renters and purchasers.

Under SB 50, housing developers and transit agencies would have the power to determine housing densities, heights up to 85 feet, parking requirements, and design review standards for "transit-rich housing projects" within one-half mile of a major transit stop. For those "transit-rich housing projects" within one-quarter mile radius of a stop on a high-quality bus corridor, developers would be able to determine housing density, and limit parking requirements to 0.5 parking spaces per unit.

SB 50 is environmentally destructive. At a time when California should be reducing energy usage to combat climate change, SB-50 encourages high-density housing whose residents consume 27 percent more energy per occupant than low-rise residents. Furthermore, due to lack of roof space, high-density housing is also unable to generate sufficient electricity through the use of solar panels.

SB 50 hurts cities with no mass transit that have been long ignored by regional transit agencies. Cupertino would be subjected to densification in areas where nearly all residents would be forced to drive everywhere, creating more traffic congestion and more degradation of the environment. SB 50 will create a transportation crisis while failing to solve the affordable housing crisis.

SB 50's definition of a "high-quality bus corridor" is ludicrous and unacceptable. Transit agencies like VTA continue to cut service and there are no guarantees that existing service will continue at the present levels. 15 minute headways on a slow bus line, that doesn't go between housing rich areas and job-rich areas (such as the 22 and 23 lines in Santa Clara County), should not be the parameters used to define a "high-quality bus corridor." The 23 bus line, is not designed to transport Cupertino residents to the job centers of the county, located in Mountain View, Sunnyvale, Santa Clara, and north San Jose, it is used mainly by students commuting to De Anza College from outside Cupertino. VTA's bus service from Cupertino to surrounding job centers is three to five times slower than driving.

SB 50 discourages alternative transportation. While getting people out of single occupancy vehicles is a worthwhile goal, the reality is that in cities without mass transit, residents will still

use cars. In Cupertino, and in Santa Clara County, VTA is once again reducing service to Cupertino.

SB 50 allows some communities to be exempt if they develop their own plan that is consistent with the objectives of the bill. All jurisdictions should have the ability to have a community-led planning process that takes into account local needs and input as long as state objectives are still met.

SB 50 does not take into account the existing jobs/housing balances of cities that have been responsible in terms of not permitting excessive office space without commensurate housing. Responsible cities with very good jobs/housing balances, like Cupertino, Sunnyvale, and San Jose, are lumped in with cities that have very poor jobs/housing balances, like Santa Clara, Palo Alto, and San Francisco.

SB 50 will increase displacement of housing insecure families as high-cost luxury housing replaces naturally affordable housing. We are already seeing Ellis Act evictions spreading throughout the Bay Area as property owners exit the rental housing business. SB 50 increases the incentives to redevelop affordable housing into high-cost housing. SB 50 will have the unintended consequence of increased homelessness and more individuals and families living in vehicles.

SB 50 discourages home ownership and attacks the middle class by upzoning sensitive areas with naturally affordable starter homes.

SB 50 is not data-driven, it is developer-driven. Cities that have met their RHNA entitlements are being punished for circumstances beyond their control.

SB 50 drives up the value of land, exacerbating the affordable housing crisis. Upzoning increases land speculation without actually increasing construction. More market-rate housing will be built in areas that are already expensive and congested.

SB 50 does not identify the funding for the infrastructure needs that densification brings. Cities and school districts need to provide roads, sewers, parks, and schools, for new residents. Mitigation fees are insufficient to fund this infrastructure. Cupertino Union School District is one of the lowest funded school districts in the state, despite being a high-quality school district. The schools that will be impacted by SB 50 are already severely overcrowded and there are not sufficient funds to add additional school facilities.

HCD should not be tasked with identifying “job-rich” areas, without any accountability or transparency. “Job-rich” is the wrong criteria to be using, and for cities like Cupertino which rely heavily on a single employer, today’s “job-rich” city may not be tomorrow’s. The criteria should be areas with a jobs to housing imbalance.

SB 50 does not require that net job growth (or loss) be used when determining a “job-rich” area. For example, in Cupertino, Apple Inc. purchased a large parcel of land from Hewlett-Packard. As HP shrunk, 9,800 Hewlett Packard employees left Cupertino. 13,000 employees now occupy the new Apple campus, but most of them came from other Apple facilities. The net change in employment, citywide, was very small as a result of the ownership change of the parcel.

SB 50 does not require higher percentages of BMR housing as height and density increase.

SB 50 does not prohibit developers from paying in-lieu fees instead of providing inclusionary housing and the in-lieu fees are too low to provide an equivalent amount of BMR housing.

SB50 does not prohibit developers from constructing lower-quality, smaller, BMR units than the market-rate units, which would not be allowed per Cupertino's BMR requirements. Inclusionary BMR housing should not be permitted to be sub-standard.

In conclusion, SB 50 is a real estate bill. It will serve solely to enrich private developers. It will not provide the affordable housing needed by housing-insecure Californians, in fact it will worsen housing insecurity for our most vulnerable population.

Cupertino acknowledges that there is an affordable housing shortage in California. It is imperative that laws intended to address the affordable housing shortage look at the big picture and do not allow developers to worsen this shortage.

For these reasons, the City of Cupertino opposes SB 50.

Sincerely,

A handwritten signature in cursive script that reads "Steven M. Scharf". The signature is written in black ink on a light-colored background.

Steven Scharf
Mayor
City of Cupertino

cc. The Honorable Scott Wiener
The Honorable Jim Beall
The Honorable Mark Berman
The Honorable Evan Low
League of California Cities, cityletters@cacities.org