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July 16, 2020

The Honorable Nancy Skinner
State Senator, 9th District
State Capitol, Room 5094
Sacramento, CA 95814

RE: SB 1085 (Skinner) – OPPOSE

Dear Senator Skinner,

On behalf of the City of Cupertino, I am writing to express our opposition to SB 1085, your measure that would modify existing Density Bonus Law by increasing the number of incentives provided to housing development projects that include moderate income rental housing units.

Specifically, SB 1085 includes provisions that would:

- Provide that a development containing 20% moderate-income rental units to receive a 35% density bonus, and a parking ratio not to exceed 0.5 spaces per bedroom for projects located within ½ mile from a transit stop;
- Provide that the inclusion of moderate-income rental units shall entitle a developer to a sliding scale of concessions and incentives;
- Provide that to be eligible for the concessions and incentives, the rent for the moderate-income unit must be 30% below the market rate for the locality;
- Prohibit fees related to affordable housing from being imposed on a housing development's affordable units or bonus units.

While your intent is to incentivize the construction of more developments containing moderate-income units, we believe this bill will in fact discourage the development of low-income housing. This is due to the fact that SB 1085 would enable certain developments with 20% low-income units to receive the same density and parking benefits as certain developments with 20% moderate-income units. Given the choice, a developer will likely choose to develop the moderate-income units because those developments will yield greater financial returns for the developer.

Similarly, current law requires a developer to provide 40% of moderate-income units to receive a 35% density bonus. SB 1085 would lower the threshold and require a developer to provide only 20% of moderate-income units to receive the same 35% density bonus. As a result, we believe that

it is likely that a developer would choose to build 20% more luxury and market-rate housing units, instead of moderate-income units, since the luxury and market-rate units would yield more income and the developer would still receive the same bonus.

Lastly, SB 1085 requires any affordable units that are constructed to receive a density bonus, which shall count towards a local government's inclusionary zoning ordinance, rather than be additive to the inclusionary ordinance requirement. This greatly reduces the effect of an inclusionary housing ordinance and greatly diminishes the amount of affordable housing that would typically be required to be constructed.

It is for these reasons that the City of Cupertino has taken an oppose position on SB 1085.

Sincerely,



Steven Scharf
Mayor
City of Cupertino

cc: Senator Jim Beall
Assemblymember Evan Low
Assemblymember Marc Berman