

DISCUSSION ITEMS

Agenda Item # 8

AGENDA REPORT SUMMARY

Meeting Date: July 30, 2019

Subject: Legislative Update

Prepared by: Chris Jordan, City Manager

Attachment(s):

Initiated by: City Council

Previous Council Consideration:

Fiscal Impact:

None

Environmental Review:

Not Applicable

Policy Question(s) for Council Consideration:

To be determined

Summary:

• Councilmember Enander will provide a legislative update for the Council and the Council can determine how it wishes to proceed

Staff Recommendation:

Council should consider the legislative update and direct how it wishes to proceed

Reviewed By:

Legislative Update July 23, 2019

[Prepared by Councilmember Anita Enander, Los Altos representative to Santa Clara County Cities Association Legislative Committee, based on information from that committee, League of California Cities Webinar Mid-term Legislative Briefing July 16, ABAG Executive Board meeting July 18, and personal analysis from official California Legislature website.]

The Legislature is on summer break until Aug. 12.

Bills that will move forward have passed the committees and floor votes in the originating houses and gone through the policy committees of the other house.

Most are now in the Appropriations Committees of the opposite house.

Final action must be taken by Sept. 13, giving the Governor until Oct. 13 to sign them.

The Governor's budget and a trailer bill regarding housing have passed, and open legislation should be considered in the context of what the budget will do for housing.

GOVERNOR'S BUDGET AND TRAILER BILL

- 1. Does not tie SB 1 transportation funds to housing.
- 2. Establishes enforcement and fine structure for cities that do not have Housing Elements approved by HCD.
- 3. Provides grant programs for RHNA implementation for rezoning and updating planning documents, infrastructure planning, developing/improving ADU ordinances.
- 4. Provides grant programs for infill infrastructure (water, sewer, streets, roads, sidewalk/streetscape) for a qualifying residential or mixed-use project in an urbanized area.

[Obtaining the above grants may be positively influenced by a jurisdiction being deemed "prohousing" by establishing a local housing trust fund, reducing parking requirements, using byright approvals, reducing permit processing time, reducing development impact fees, etc. These are most likely to be large cities, but this provision is at least tacit acknowledgment that additional housing requires infrastructure.]

5. Provides funding to support regional coordination, expand or develop local capacity, and address immediate homelessness challenges (but is based on jurisdiction's share of state's total homeless population, so unlikely to directly affect Los Altos).

HOUSING BILLS

* indicates "Hot" bill as tracked by League of California Cities.

Positions shown for League of California Cities (LCC) as of July 13, Santa Clara County Cities Association (SCCCA) as of June 13; others if relevant

- * SB 50 (Wiener) Planning and Zoning: Housing Development: Streamlined Approval: Incentives *and*
- * AB 1279 (Bloom) Planning and Zoning: Housing Development: High-Resource Areas Both have been "parked" as 2-year bills. No further action in 2019. They will likely be reintroduced in January 2020.

Position: SCCCA: Opposed both

* SB 330 (Skinner) Housing Crisis Act of 2019.

Declares a statewide housing crisis and for a five-year period.

Establishes a new "preliminary application" limited to specific items. Submission of such "preliminary application" freezes applicable codes, development standards, and applicable fees.

Response to applicant with list of remaining items required for complete application must be done in 60 days and no further requirements can be imposed unless the project changes by more than 20%.

Limit of 5 public "hearings," which apparently includes any study sessions or other publiclynoticed meetings.

Prohibits downzoning of housing density unless matched by upzoning elsewhere contemporaneous with development.

Position: LCC: Oppose SCCCA: Oppose Status: Assembly Appropriations Committee

* SB 592 (Wiener) Housing Accountability Act.

Previously considered by Los Altos City Council.

Expands covered development projects to include ADUs.

Requires specific findings if city requires development of fewer units or bedrooms.

As most recently amended does not apply to single home, unless the development is conditioned on a reduced number of bedrooms.

Position: LCC: Oppose Unless Amended SCCCA: Not yet considered

Status: Assembly Appropriations Committee

* AB 1487 (Chiu) San Francisco Bay Area: Housing Development: Financing

Requirement for the bill to be heard by Senate Governance and Finance Committee prior to the summer recess was waived.

Original bill gutted to leave only a small shell, for further amendments.

Legislative staff is crafting amendments in communication with ABAG/MTC ad hoc committee (MTC: Vice Chair Alfredo Pedroza, Jim Spering, Amy Worth, Libby Schaaf and Damon Connolly; ABAG: President David Rabbit, Vice President Jesse Arreguin, Cindy Chavez, Julie Pierce and Warren Slocum).

Expected amendments: No new organization; discussion on-going about ABAG vs. MTC role in governance and process for agreeing to text and placing ballot measure to raise funds; sharing formulas; minimum/caps on amounts returned to originating jurisdictions for each of Preservation, Production, Protection; include commercial linkage fees but exclude sales tax as funding sources; \$25M to fund ABAG for administration.

Recent ABAG Exec. Board supported because it "would allow us to put a measure on the ballot in 2020."

Position: SCCCA: Opposed ABAG Exec. Board: support

LCC: No position (regional measure)

* AB 1763 (Chiu) Density Bonus. Affordable Housing.

Greatly expands existing Density Bonus Law. Projects that are 100% affordable (max. 20% moderate and 80%+ lower-income) must receive an 80 percent density bonus and four incentives/concessions.

Projects within one-half mile of a major transit stop would be allowed unlimited density, four incentives and concessions, and up to three additional stories.

Position: LCC: Oppose Unless Amended SCCCA: No position taken

Status: Senate Appropriations Committee

* SB 5 (Beall/McGuire/Portantino) Affordable Housing and Community Development Investment Program.

Creates a local-state partnership to provide up to \$2 billion annually to fund state-approved affordable housing, infrastructure, and economic development projects that also support state policies to reduce greenhouse gas emissions, expand transit oriented development (TOD), address poverty, and revitalize neighborhoods.

Restores RDA-type ongoing financing for such projects.

Position: LCC: Support SCCCA: Support Status: Assembly Appropriations Committee

*ACA 1(Aguiar-Curry) Local Government Financing. Affordable Housing And Public Infrastructure. Voter Approval.

Reduces the vote threshold for local bonds and taxes to invest in infrastructure and affordable housing from 2/3rds to 55 percent.

Position: LCC: Support SCCCA: Support

Status: Assembly Floor

AB 68 (Ting) Accessory Dwelling Units.

Additional statewide standards that supersede locally-adopted ordinances.

Prohibits minimum lot size requirements; must allow units less than 800 sq ft and maximum cannot be less than 800 sq.ft. per ADU.

Requires approval within 60 days.

Minimum setbacks (rear and side) 4 ft.

Allows 2 ADU's in multi-family developments.

Position: LCC: Oppose Unless Amended SCCCA: Oppose

Status: Senate Appropriations Committee

AB 881 (Bloom) Accessory Dwelling Units.

Prohibits owner occupancy requirements.

Requires ministerial approval on lots with multi-family residences and within existing garages.

Adds a definition of "public transit" to mean a bus stop, bus line, light rail, street car, car share drop off or pick up, or heavy rail stop; no additional parking can be required (or replaced) if within ½ mile of such "public transit."

Position: LCC: Oppose Unless Amended SCCCA: Oppose

Status: Senate Appropriations Committee

SB 13 (Wieckowski) Accessory Dwelling Units.

Prohibits local impact fees on ADUs less than 750 square feet; limits such fees on ADUs over 750 square feet to 25 percent of the fees otherwise charged for a new single-family dwelling unit on the same lot.

Prohibits requiring replacement parking when a garage, carport, or covered parking structure is demolished or converted into an ADU.

Prohibits owner-occupancy requirements.

Position: LCC: Oppose Unless Amendee SCCCA: Watch

Status: Assembly Appropriations Committee

TRAFFIC/SAFETY BILLS

* AB 516 (Chiu) Authority to Remove Vehicles.

Prohibits cities from immobilizing or towing vehicles when vehicle owners fail to respond for at least 3 weeks to a minimum of five unpaid parking tickets.

Prohibits cities and/or law enforcement from immobilizing or towing vehicles when vehicle owners fail to pay or appear in court for a minimum of five moving traffic violations.

Prohibits cities from towing vehicles for a 72-hour violation, until a minimum of 5 days have elapsed after a violation has already occurred.

Position: LCC: Oppose SCCCA: Oppose Status: Senate Appropriations Committee

AB 1266 (R. Rivas) Traffic Control Devices. Bicycles.

Requires Caltrans to develop lane striping, pavement markings, and appropriate signage standards that would allow bicyclists to proceed safely through an intersection instead of having to turn when approaching a right-turn only lane.

Position: LCC: Support SCCCA: No position

Status: Senate Floor

ADDITIONAL INFORMATION

Other bills tracked by LCC and/or SCCCA that died in committee: AB 11, AB 291, AB 836, AB 1483, AB 1484

For August Council meeting, if interest: bills affecting labor relations, worker compensation eligibility, elections, public records, environmental, and other issues.

The status, legislative history, and other information per League of California Cities can be found at:

https://ctweb.capitoltrack.com/public/publish.aspx?session=19&id=545f89bc-9106-40ae-9099-a0534f7c363f

Direct information on bills can be found at http://www.leginfo.legislature.ca.gov then search on bill number.

Action: Consistent with positions taken by the League of California Cities and/or the Santa Clara County Cities Association, as follows (draft letters to be provided prior to meeting):

- 1. Authorize mayor to sign letters supporting SB 5 and AB 1266.
- 2. Authorize mayor to sign letters opposing SB 330, AB 1487, AB 1763, AB 68, AB 881, SB 13, and AB 516.
- 3. Seek Council direction or no action on ACA 1.

Draft Letters to support/oppose various State Legislation

The Honorable Lorena Gonzalez Chair, Assembly Committee on Appropriations 1020 N. St., Room 2114 Sacramento, CA 95814

RE: SB 330 (Skinner) Housing Crisis Act of 2019 Notice of Opposition (as amended 7/1/19)

Dear Assembly Member Gonzalez:

The City of Los Altos respectfully **opposes** SB 330, even with the amendments taken on July 1, 2019 in the Committee on Local Government. As amended, this measure would create a newly framed "preliminary" application and would freeze nearly all development-related fees upon submission of such application.

Specifically, the City of Los Altos opposes the following provisions in SB 330:

* Creates a New "Preliminary" Project Application

Los Altos already freezes the applicable code and fees when a complete application is submitted. The new "preliminary" application as defined in SB 330 adds a layer of confusion and interferes with cities obtaining the critical and complete information needed to fully evaluate an application and identify the applicable fees – including fees to support infrastructure and affordable housing.

* Essentially Bans Project Specific Fees

SB 330 would essentially ban project specific fees because these fees cannot be determined until we fully analyze a project. All such fees are regulated extensively by state law and the constitution. Los Altos conducts the requisite nexus studies so that cost recovery fees are properly validated. We question the effectiveness of restricting these and other housing related fees. As written, SB 330 would likely interfere with the collection of essential fees yet not require any cost savings associated with these limitations to be passed on to the renter or purchaser. Rather, developers would most likely pocket the savings, and taxpayers would bear the burden of the foregone fees.

* Will Not Result in the Construction of Additional, Affordable Housing SB 330 places considerable constraints on both staff review and public input to the creation of new housing, processes that have garnered public support for higher density housing. Yet nothing in this bill would have added a single additional unit to the multi-family projects approved by Los Altos during the past decade or more, nor would it add to any of the projects currently in our pipeline.

For the reasons stated above, the	City of Los Altos	opposes SB 330.	If you have any	questions
please feel free to contact me at _	·			

Sincerely,

Lynette Lee Eng Mayor

Cc: Senator Nancy Skinner Members, Assembly Committee on Appropriations Senator Jerry Hill Assembly Member Mark Berman

The Honorable Mark McGuire Chair, Senate Committee on Governance and Finance State Capitol Room 408 Sacramento, CA 95814

RE: AB 1487 (Chiu) San Francisco Bay Area: Housing Development: Financing Notice of Opposition

Dear Senator McGuire:

Senator Jerry Hill

Assembly Member Mark Berman

The City of Los Altos must respectfully **oppose** AB 1487. This bill arises from the deeply flawed "CASA Compact" process that excluded small cities with more than two-thirds of the residents in the San Francisco Bay Area. While the bill as amended no longer includes creation of a new bureaucracy, the following compel us to oppose the bill.

- * ABAG/MTC Executive Boards, dominated by large cities and counties, would be able to structure tax measures with little practical benefit or return to the smaller communities that would be taxed. Smaller cities would have virtually no influence or benefit.
- * It funds administrative costs of \$25 million, without identifying the source of that funding.
- * Although sales tax has been removed as a permissible funding source, there are no guarantees that residents would be protected from undue tax burdens to fund affordable housing without the corporations that compel the needs for such housing paying an equitable share.
- * Such a regional measure is a poor replacement for the broader redevelopment programs previously funded by the State and which could be better targeted.

For these reasons, the City of Los Altos opposes AB 1487.
If you have any questions, please feel free to contact me at
Sincerely,
Lynette Lee Eng Mayor
Cc: Assembly Member David Chiu Members, Senate Committee on Governance and Finance

RE: AB 1763 (Chiu) Density Bonus: 100% Affordable Housing Notice of Opposition

Dear Senator Portantino:

The City of Los Altos must respectfully **oppose** AB 1763. This measure would greatly expand the existing Density Bonus Law to create significantly more density by right, additional concessions/incentives, and excessive additional height in projects where 100% of the units are restricted to lower-income households.

* The Fallacy of "No Parking" Near Transit

Unfortunately, the measure would perpetuate the unfounded premise that higher density housing can be developed near "major transit stops" and "high quality transit corridors" without parking. We have not found this credible, as we increasing place multi-family housing along the El Camino corridor.

* Places Land-Use Decisions with Transit Agencies

There is no guarantee that transit service would continue to be available to service these units, as cities have no direct authority or control over such decisions. The Valley Transportation Authority in our county is currently making substantial cuts in routes and frequency of service, including along the El Camino corridor.

* Unlimited Density and Additional Height has Adverse Consequences on Adjacent Housing

In Los Altos, the El Camino Real is being transformed from a commercial area to one of predominantly high-density housing. However, nearly all such parcels back up to single-family zoning with long-established single and 2-story homes, usually with shared rear property lines. The prospect of 6-8 stories looking into the backyards of these homes is too extreme and places an intolerable penalty on these areas that is vastly inconsistent with community-based housing plans. Los Altos is an example of why "one-size fits all" is poor public policy.

We would support state efforts to establish incentives for the creation of additional affordable housing and cooperation among cities and non-profits that can create lower-income housing within our communities, such as provide in SB 5 which you co-authored. AB 1763, however, is counter to this important goal.

For these reasons, the City of Los Altos must oppose AB 1763.
If you have any questions, please feel free to contact me at
Sincerely,
Lynette Lee Eng Mayor
Cc: Assembly Member David Chiu

Cc: Assembly Member David Chiu Members, Senate Committee on Appropriations Senator Jerry Hill Assembly Member Mark Berman The Honorable Lorena Gonzalez Chair, Assembly Committee on Appropriations 1020 N. St., Room 2114 Sacramento, CA 95814

RE: SB 5 (Beall/McGuire/Portantino) Affordable Housing ad Community Devlopment Investment Program
Notice of SUPPORT (As Amended 6/17/2019)

Dear Assembly Member Gonzalez:

The City of Los Altos is pleased to **support** SB 5 (Beall/McGuire/Portantino), which would create the Affordable Housing and Community Development Investment Program. This measure provides incentives for cities throughout California to identify innovative solutions. It recognizes that because of the diverse circumstances of cities throughout the state, each community needs the flexibility to accomplish housing goals with due consideration for local circumstances.

Since redevelopment agencies were eliminated, the Legislature has created several new tools, such as enhanced infrastructure financing districts (EIFD) and community revitalization investment authorities (CRIA), but these often lack financial capacity on par with what was available under former redevelopment agencies. As a consequence, few cities have taken advantage of these tools, while housing supplies continue to be outpaced by commercial development.

The partnership created between the State and local entities under SB 5 would fund affordable housing and economic development projects, as well as key infrastructure to support such projects. The State budget surplus allows for restoration of financing local efforts to build affordable housing and provide essential infrastructure. The City of Los Altos strongly supports SB 5 for its incentives for recognizing the importance of local flexibility and innovation. If you have any questions, please feel free to contact me at

Sincerely,

Lynette Lee Eng Mayor

Cc: Senator Jim Beall, Senator Mike McGuire, and Senator Anthony Portantino
The Honorable Richard Roth, Anna Caballero, Ben Jueeso, Henry Stern, Scott Wiener
The Honorable Wendy Carillo, Ash Kalra, Kevin Mullin, Buffy Wicks, Jesse Gabriel
Members, Assembly Committee on Appropriations
Senator Jerry Hill
Assembly Member Mark Berman

RE: AB 68 (Ting) Accessory Dwelling Units Notice of Opposition

Dear Senator Portantino:

The City of Los Altos must respectfully **oppose** AB 68, which would amend the statewide standards that apply to locally adopted ordinances concerning accessory dwelling units (ADUs). Following the thorough revision made to these laws in 2016, with further amendments in 2017, Los Altos has completely revised our municipal code for ADUs. In consequence, we have seen a marked increase in applications and have entitled dozens of units, which are a critical component of affordable housing. Yet, AB 68 would compel further changes with adverse consequences to our community.

* Loophole around Health and Safety Standards.

Section 1 of AB 68 amends Government Code Section 65852.2(e), circumventing our ordinance that may exclude ADUs for narrow criteria based on health and safety. We believe that our ordinance, adopted pursuant to Government Code Section 65852.2(a)(1)(A) provides a reasonable protection for our communities.

* Prohibits Replacement Parking

Our neighborhoods are already experiencing the adverse effects of state law that constrains local ordinances to require residential parking in multi-family units, whether from application of the Density Bonus Law or from proximity to transit. AB 68 would go further, prohibiting a city from requiring replacement parking when a garage, carport, or covered parking structure is demolished or converted into an ADU. This would exacerbate parking conflicts that have already developed because state law prohibits cities from imposing parking requirements on new ADUs if they are within one-half mile of transit.

* Reduces Minimum Setbacks

When revising our ADU ordinances, Los Altos established minimum rear and side setbacks that allow construction of ADUs that preserve ready access for fire and emergency services. AB 68 would further constrain local ordinances with minimum rear and side setbacks of 4 feet that are unduly narrow for our community and that would present health and safety issues.

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For these reasons, the City of I feel free to contact me at	1.1	oose AB 68. If you	have any questions, p	lease
Sincerely,				
Lynette Lee Eng Mayor				

Cc:

Assembly Member Philip Ting Members, Senate Committee on Appropriations Senator Jerry Hill Assembly Member Mark Berman

RE: AB 881 (Bloom) Accessory Dwelling Units Notice of Opposition

Dear Senator Portantino:

The City of Los Altos must respectfully **oppose** AB 881 (Bloom). It would further expand statemandated constraints on local ordinances for approving ADUs, which were completely revised and amended in 2016 and 2017.

* Prohibits owner-occupancy requirements

AB 881 would prohibit a local jurisdiction from requiring a property owner to live in the principal or an accessory dwelling unit on the property until January 1, 2025. This decision should be reserved to local jurisdictions, which are sensibly concerned that large-scale investors could purchase many single-family homes (with or by adding ADUs) and then operate like a property management company. This trend has been noted in parts of California, directly contravening the concept of ADUs as being inherently affordable and allowing residents to gain additional income or create a living situation that allows older homeowners to age in place.

* Further expands definition of "public transit" to constrain parking requirements
The measure adds a definition of "public transit" to mean a bus stop, bus line, light rail, street car, car share drop off or pick up, or heavy rail stop, and no additional parking can be required (or mandated to be replaced) if within ½ mile of such "public transit." This perpetuates the unfounded belief that proximity to such transit will eliminate the need for parking. It also gives transit authorities de facto control over an aspect of land use that should be reserved to the cities, with the potential for stranding residents if transit service is reduced.

For these reasons, the City of Los Altos opposes AB 881. Los Altos has conformed our municipal code to the significant changes made regarding ADUs in 2016 and 2017, and we are seeing significant increases in applications and entitlements. Further encroachment on local authority is simply not warranted, and could have substantial adverse effects.

If you have any questions, please feel free to contact me at
Sincerely,
Lynette Lee Eng Mayor
Cc: Assembly Member Richard Bloom

Assembly Member Richard Bloom Members, Senate Committee on Appropriations Senator Jerry Hill Assembly Member Mark Berman

The Honorable Lorena Gonzalez Chair, Assembly Committee on Appropriations 1020 N. St., Room 2114 Sacramento, CA 95814

RE: SB 13 (Wieckowski) Accessory Dwelling Units Notice of Opposition (as amended 7/1/19)

Dear Assembly Member Gonzalez:

The City of Los Altos must respectfully **oppose** SB 13, which would further encroach on the otherwise successful efforts made by our city to expand the number of Accessory Dwelling Units, an important component of affordable housing.

Unreasonably mandates limits on fees

Local jurisdictions should retain the discretion to reduce impact fees, without state mandates. There is no evidence we have found that such fees so constrain the production of these units that a state limit is warranted.

Constrains parking/parking replacement

The measure unreasonably interferes with local ordinances that reasonably require parking in single-family zones by prohibiting any requirement to replace parking when a garage, carport, or covered parking structure is demolished or converted into an ADU. This is an issue that should remain the prerogative of local jurisdictions that have worked diligently to provide for safe neighborhoods.

Prohibits owner-occupancy requirements

AB 881 would prohibit a local jurisdiction from requiring a property owner to live in the principal or an accessory dwelling unit on the property until January 1, 2025. This decision should be reserved to local jurisdictions, which are sensibly concerned that large-scale investors could purchase many single-family homes (with or by adding ADUs) and then operate like a property management company. This trend has been noted in parts of California, directly contravening the concept of ADUs as being inherently affordable and allowing residents to gain additional income or create a living situation that allows older homeowners to age in place.

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For these reasons, the City of Los Altos opposes SB13. Los Altos code to the significant changes made regarding ADUs in 2016 an significant increases in applications and entitlements. Further encimply not warranted, and could have substantial adverse effects.
If you have any questions, please feel free to contact me at
Sincerely,
Lynette Lee Eng Mayor
Cc: Senator Bob Wieckowski

Members, Assembly Committee on Appropriations Senator Jerry Hill Assembly Member Mark Berman

RE: AB 516 (Chiu) Authority to Remove Vehicles Notice of Opposition

Dear Senator Portantino:

The City of Los Altos must respectfully **oppose** AB 516 (Chiu), a measure that would eliminate the ability of our city to adequately enforce state and local vehicle violations.

AB 516 would reduce or eliminate enforcement tools directed to motorists who disregard basic laws that benefit our community. Specifically, the measure would eliminate the ability of the City of Los Altos to:

- "Immobilize" or place a "boot" on a vehicle, for motorists who have five or more unpaid parking tickets.
- Remove vehicles with expired registration that are operating illegally; and
- Remove vehicles in violation of parking time restrictions.

Recent legislation (AB 503, 2017, and AB 2544, 2018) provided reasonable means for those with five or more unpaid parking tickets to establish payment plans. This is a fair process that allows those with limited income to pay their outstanding parking citations without adversely impacting their ability to maintain their livelihood or means of transportation. AB 516 interferes with our ability to enforce the law with those who ignore even these reasonable options.

The authority to remove vehicles that are operating unlawfully for failing to register within six months of expiration is an essential enforcement tool to compel motorists to retain insurance and to have vehicles that comply with clean air and pollution laws. Those who would ignore these laws are also avoiding their basic responsibility to pay for various programs and services collected with their registration.

AB 516 rewards people who break the law and then fail to take advantage of reasonable notices and opportunities to remedy the violations. Eliminating proportional consequences for these violations will exacerbate parking scarcity and create quality of life concerns across all income demographics in California.

For these reasons, the City of Los Altos opposes AB 516. If you have any questions, ple free to contact me at	ease feel
Sincerely,	
Lynette Lee Eng Mayor	
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Assembly Member David Chiu Members, Senate Committee on Appropriations Senator Jerry Hill Assembly Member Mark Berman The Honorable Jerry Hill State Capitol, room 5035 Sacramento, CA 95814

RE: AB 1266 (R. Rivas) Traffic Control Devices. Bicycles. Notice of Support

Dear Senator Hill:

On behalf of the City of Los Altos, I am writing to express our position of **support** for AB 1286. This seemingly small piece of legislation would significantly increase safety for bicycles and the cars with which they share our roads by requiring Caltrans to develop lane striping, pavement markings, and appropriate signage standards that would allow bicyclists to proceed safely through an intersection instead of having to turn when approaching a right-turn only lane.

If you have any questions about our position, please feel free to contact me at
Sincerely,

Lynette Lee Eng Mayor

Cc: Assembly Member Robert Rivas Assembly Member Mark Berman