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March 28, 2017

Tom Torlakson, Superintendent of Public Instruction
California Department of Education
1430 N St, Sacramento, CA 95814

D R A F T

DRAFT Subject: Title 5 School Siting and Design Standards Review

Dear Superintendent Torlakson:

This letter responds to the California Department of Education's (Department) School Facilities & Transportation Services Division request for input on its review of Title 5 which was initiated in late 2016. Contra Costa County (County) welcomes this review as we have witnessed gaps in state school siting practices relative to contemporary land use and transportation planning statutes and principles. Specifically, the County urges the Department to conform school siting practices with State and local policies to ensure that the siting of new schools does not violate goals related to student safety, growth management, greenhouse gas reduction, health in all policies, agricultural preservation, complete streets, and general public health.

The County recognizes the significant link between the built environment and public health. This recognition led the Board of Supervisors to create a staff level committee in 2007, the Planning Integration Team for Community Health (PITCH). PITCH is comprised of staff from three Departments, Conservation and Development, Health Services, and Public Works. Respectively, these Departments are responsible for land use/transportation planning, public health, and engineering. PITCH advises the Board of Supervisors on policies and strategy related to land development, grant applications, policy changes, infrastructure investment, etc.

Given the significant and enduring effect that schools have on the character and safety of the community surrounding school sites, the Board of Supervisors directed PITCH to develop this response to the Title 5 revision effort. We have organized this response as follows:

- I. Immediately below is the policy context in which the PITCH Departments developed comments.
- II. Below the policy context we provide broader recommendations that don't lend themselves to direct insertion in to the existing Title 5 text.
- III. Attached are specific, recommended revisions entered directly in the body of the Title 5 text.

I. Policy Context

Numerous policies guide land development and transportation infrastructure investment at both the local and state levels. School sites, which are defining institutions in our communities, have a substantial impact on the safety and character of the surrounding community, and serve a vulnerable population, are often not developed to be consistent with the adopted policies listed below.

Because schools are exempt from complying with local ordinances they are frequently inconsistent with many local and state policies that are enacted to combat sprawl, achieve greenhouse emission goals, ensure safe and efficient transportation, and protect public health. The policies include:

Local Policies

Urban Limit Line: Contra Costa County voters approved an Urban Limit Line (ULL) in 1990. In 2006 voters passed a new Measure which affirmed and extended the ULL protection to 2026. The ULL limits urban development to certain areas of the County and helps to preserve farmland, open space, and combat sprawl.

Currently, schools are being planned and built outside the ULL undermining growth restrictions approved by the voters.

Complete Streets: Contra Costa County's Complete Streets policy was adopted by General Plan revision in 2008 and pre-dates the State Complete Streets Act. The policy was reaffirmed and expanded in 2016 with the Board of Supervisors Adoption of an updated Complete Streets Policy. Complete Streets recognizes that streets serve many users and should accommodate users of all ages, abilities, and modes including cyclists, pedestrians, transit users and the mobility impaired.

When schools are located as infrastructure islands in rural or agricultural areas it is not financially possible to provide adequate transportation infrastructure throughout the school attendance boundaries to accommodate student cyclists and pedestrians. These sites are often well outside of established transit routes, promote increased vehicular travel, and make it unsafe and impractical to get to school by using active transportation such as walking and bicycling because there are no sidewalks or adequate facilities for student cyclists.

Climate Action Plan: In December 2015, Contra Costa County adopted a Climate Action Plan that outlines how we will reduce greenhouse gas emissions in our County. The Climate Action Plan has goals and requirements regarding green buildings; the State should ensure that the Title 5 update recognizes local sustainability and green building policies, as well as comply with State policies. The Climate Action Plan sets goals for increasing active transportation in our County with specific targets around number of weekday bike trips, implementing the Safe Routes to School program, and reducing the number of vehicle miles traveled.

State Policies

Complete Streets Act of 2008: Similar to Contra Costa County's local policy, the state Complete Streets Act (AB 1358/2008) directs that transportation facilities be planned, designed, operated, and maintained to provide safe mobility for all users, including bicyclists, pedestrians, transit vehicles, etc. appropriate to the function and context of the facility.

When the State facilitates the development of schools in disconnected areas, it compromises the ability for local jurisdictions to adhere to complete streets policies.

Greenhouse Gas (GHG) Reduction Legislation (AB32 – 2006, SB375 – 2008, SB743 – 2013):

Through various mechanisms, this State legislation dictates how GHG's are to be reduced. Given that land development is most often a local activity, the successful implementation of these mandates often fall to local agencies to implement through changes to land development and infrastructure investment practices.

Though local jurisdictions are implementing these policies at the city/county level, the State school siting program impedes implementation of this legislation by facilitating the development of school sites in remote areas, thereby driving up vehicle miles traveled.

Recognizing this issue, in the California Air Resources Board's (CARB) original draft implementation guidance for AB 32, the reform of school siting practices was included. In the final version, the guidance was removed without explanation.

Health in all policies: The State adopted a Health in All Policies (HIAP) approach to improve the health of all people by incorporating health considerations into collaborative decision-making across sectors and policy areas. The HIAP effort includes 22 State agencies and departments that fall under the Health In All Policies Task Force which is in turn overseen by the Strategic Growth Council.

While efforts are made through the HIAP program to improve health through policy changes, the State school siting program conflicts with this effort by facilitating the development of school sites in remote areas. This practice limits the ability for students to use active transportation to make the home/school/home trip. Concurrently, the State practices compromise safety for those that do walk/bike to school because it is not financially possible to construct adequate non-motorized transportation infrastructure connecting remote schools to the communities they serve.

Similar to CARB's GHG reduction effort, this issue was acknowledged by the State early during HIAP implementation. The original draft strategies for implementing HIAP included addressing school siting practices. Subsequent revisions to the HIAP removed school siting reform activities.

II. Broad Policy Recommendations

Establish Clear Authority/Responsibility: The County has had numerous conversations with local school districts and state officials on school siting practices over the years that reveal a lack of clarity regarding authority on school siting practices. It would appear that a vacuum of responsibility exists that does not foster comprehensive planning or accountability:

- In discussing and advocating for school siting policy changes with State staff a common response is, "local school districts are responsible, we merely provide guidance".
- In discussing and advocating for a change in school siting practices with local school districts a common response is, "we are just following state policies".
- When the County advocates for better decision making a common response is, "school districts are exempt from local ordinances".

Administering a massive public investment program such as school construction requires a process with clear lines of authority and responsibility. Ultimately, the lack of clear responsibilities and effective policies has led to adversarial situations. Please see the attached letters for examples.

Develop Financial Incentives and Disincentives: In Contra Costa, and we assume in other Counties with rural areas, one significant reason schools are developed on remote or agricultural land is the lower cost. Addressing this fundamental issue will be necessary to make policy changes effective. The State should consider implementing financial incentives and disincentives.

Develop Compulsory Requirements: There are substantial *existing* statutes and guidance related to school siting. Site selection, safety considerations, access, consultation with local land use agencies are all in this guidance. A compulsory component should be included with any policy changes to ensure effective implementation.

Encourage/Incentivize Cooperation between Developers and School Districts: There are existing policies that facilitate consultation between school districts and the local land use agencies. In practice, some of the more successful school sites are a product of coordination between developers and school districts. The State should investigate methods to encourage, incentivize or require coordination between developers and school districts.

Enforce Urban Limit Line (ULL)/Urban Growth Boundary (UGB): At a minimum, the state should respect locally approved growth control measures and institute some minimal subsidiarity by prohibiting school districts from acquiring and developing school sites outside of adopted ULLs/UGBs. This would help to establish consistency with local priorities and direct growth to where it can best be served. Absent an outright prohibition, the state could adopt incentives and/or disincentives that would help protect the ULL/UGB.

Expand Authority of Local Agency Formation Commissions (LAFCO): The two main purposes of LAFCOs per the Cortese-Knox-Hertzberg Act are **1)** discourage sprawl, and **2)** encourage planned, orderly, coordinated, logical development. This authority directly addresses the problems experienced statewide with school siting practices.

Ensure Complete Streets Consistency: The following approach would help to bring school siting practices into consistency with State and local policies relative to complete streets, active transportation, safe routes to school, greenhouse gas reduction, and health in all policies.

1) The school board may only approve the purchase of a school site if the board also:

- *Makes findings with substantial evidence in the record that the proposed site complies with, or will ultimately comply with, all applicable guidance in Title 5, Guide to School Site Analysis and Development, and School Site Selection and Approval Guide. These findings should provide enough relevant information or data and reasonable inferences to support the conclusion that the proposed site complies with the aforementioned policy documents, (as they may be amended or superseded from time to time), and*
- *Approves a preliminary multimodal (bus, automobile, pedestrian, bicycle, active) circulation and safety plan (spanning both immediate site access and attendance boundaries) approved by a licensed traffic engineer representing the Department of Transportation.*
- *Must establish that it is reasonable to project that all necessary, multi-modal transportation infrastructure will be in place concurrent with the opening of the school (secured bond, projects on local capital improvement plan for instance)*

2) The school board may only approve a final school design if the board also:

- *Makes findings with substantial evidence in the record that the proposed site will comply with all applicable guidance in Title 5, Guide to School Site Analysis and Development, and School Site Selection and Approval Guide upon opening of the school. These findings should provide enough relevant information or data and reasonable inferences to support the conclusion that the proposed site complies with the aforementioned policy documents, as they may be amended or superseded from time to time,*
- *Approves a final multimodal (bus, automobile, pedestrian, bicycle, active) circulation and safety plan (spanning both immediate site access and attendance boundaries) approved by a licensed traffic engineer representing the Department of Transportation.*
- *Establish that all necessary, multi-modal transportation infrastructure will be in place*

concurrent with the opening of the school.

III. Title 5 Revisions

Please find our detailed, redline/strikeout comments on the Title 5 code attached to this letter.

We appreciate the Department of Education conducting the Title 5 review and the opportunity to provide input. We look forward to your response and working with the State in addressing this serious issue.

Sincerely,

John Kopchik, Director
Department of Conservation and
Development

Dr. William Walker, Director
Health Services Department

Julia R. Bueren, Director
Public Works Department

Attachments:

Comments on Title 5 - School Facilities Construction Policies

August 25, 2010 Letter: Contra Costa County to Liberty Union High School District: Re: Postponement FEIR Certification

August 24, 2016 Letter: Contra Costa County to Liberty Union High School District: Re: Parcel Purchase with no notice.

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Members, Board of Supervisors

Contra Costa County Legislative Delegation

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Siddharth Nag, CA Gov Office of Planning and Research

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Bob Glover, Building Industry Association of the Bay Area

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