

Nancy McPeak

From: bmathieson@aol.com
Sent: Friday, May 20, 2022 8:55 PM
To: Marilyn Ezzy Ashcraft; John Knox White; Tony Daysog; Malia Vella; Trish Spencer; Asheshh Saheba; Xiomara Cisneros; Ronald Curtis; Hanson Hom; Rona Rothenberg; Teresa Ruiz; Alan Teague
Cc: Lara Weisiger; Nancy McPeak; Andrew Thomas; Allen Tai; tsaxby@tsaxbyarchitect.com; norman@nsarchitecture.com; alvinklau@gmail.com; jennheflinphoto@gmail.com; email.lynnjones@gmail.com; editor@alamedasun.com; editor@alamedapost.com
Subject: [EXTERNAL] To City Council and Planning Board regarding May 23, 2022, Planning Board Agenda Item 7-B

Honorable Mayor Ezzy Ashcraft, City Council Members, and Planning Board Members,

Who is running the City of Alameda? Since before the start of the pandemic, I have attended numerous Zoom meetings of the Planning Board, the Historical Advisory Board, and the City Council to stay informed and voice my opinion as the City updates its General Plan.

Last fall, after the Draft Housing Element of the General Plan was released, I wrote privately to Planning staff pointing out 66 errors, omissions, and undefined terms in the draft and stated that correcting those should make the document easier for the public to understand and thus make them feel more like part of the Housing Element development process. I stated that fixing the typos sooner rather than later would give the draft document more credibility at an early stage. The suggested edits were graciously acknowledged and apparently acted upon. I was happy to help.

I am a social progressive. I cringe at the inequitable distribution of housing opportunities that wholesale single-family residential zoning has had on Alameda residents. Last fall, I recommended that my fellow members of the Alameda Architectural Preservation Society's Preservation Action Committee read Heather McGhee's book, "The Sum of Us," to gain an understanding of why AAPS's well-intentioned support for the early 1970s Measure A (Article 26) had adversely affected people of color. In 2020 I voted for Measure Z, which would have abolished Measure A. Two-thirds of Alameda's voters disagreed with me.

I love old buildings, old neighborhoods, and old downtowns. Alameda's old neighborhoods are racially diverse and provide an abundance of affordable housing that will be threatened by new development if the current Draft Housing Element is finalized. Changing Alameda's zoning to allow massive density increases and weak building height limits, without protecting existing buildings, will result in rampant land speculation by outside investors, raising the cost of housing for everyone. I recommend Patrick M. Condon's book "Sick City" for an explanation and real-world examples of this effect.

In public testimony over the past 2 years I have urged City boards and the City Council to identify sites for new housing throughout the city, including at all of our shopping centers, and to allow construction of additional dwelling units in the Gold Coast, the Bronze Coast, the East End, Bay Farm, South Shore, and every neighborhood built in compliance with Measure A where, by definition, there are no small dwelling units. I have also urged our decision makers to allow additional dwelling units within the walls and roofs of existing buildings throughout our city, much as was happening in older neighborhoods before Measure A. At the same time, I have urged the City to protect our historic downtowns along Park and Webster Streets by restricting height limits to 3 stories; I don't want these special places to become sunless wind tunnels, and I don't want towering new buildings to cast shadows on the adjacent neighborhoods. All Alameda residents, current and future, thrive on light and green spaces which will be threatened if height limits are significantly increased.

Throughout most of the Housing Element process, Planning staff attempted to impress upon Alameda residents that major changes to density and height limits were needed so we could meet our Regional Housing Needs Allocation (RHNA) of 5,353 new housing units in the next 8 years. As planning proceeded and many Alameda residents weren't buying the argument that widespread upzoning was needed for our City to be in compliance, Planning staff developed a fun online Housing Element Tool that allowed each of us to pick and choose where we would put new residential development. As we clicked on each project and added hundreds more residential units, we could watch a progress bar

grow across the screen. I was surprised to see that it wasn't difficult to find space for 5,353 new units, throughout the city, without upzoning of existing neighborhoods.

Apparently, many other people noticed the same thing. At the May 3, 2022, City Council meeting, Planning staff said that, actually, the RHNA number was secondary. Affirmatively Furthering Fair Housing required upzoning of the pre-Measure A, non-single-family, residential neighborhoods (R-2 through R-6). Then, by the time of the May 9, 2022, Planning Board meeting, Planning staff had designated all existing residential neighborhoods, including R-1, for upzoning.

The new residential developments will not have to comply with our city's long-standing, time-tested Citywide Design Review Manual and its Guide to Residential Design. The result, in addition to increased density and building heights, will be ugly buildings springing up throughout the city.

The Draft Housing Element includes a list of 13 "stakeholder" groups—"organizations with an expressed interest in housing"—that Planning staff either interviewed (8 organizations), received written comments from (one organization), or attempted to contact without response. All appear to be housing advocacy organizations. No Alameda community groups are on the list – not the Alameda Architectural Preservation Society, not the Alameda Citizens Task Force, and not any neighborhood organizations. How can it be that regional housing advocacy organizations are stakeholders, but existing Alameda residents are not?

At the May 3, 2022, City Council meeting, two public speakers who spoke in favor of upzoning proudly stated that they had been attending workshops and "Housing Element Working Group" meetings that City Planning staff had held over the past several months. In the interest of transparency, I would like to know how this apparently exclusive Housing Element Working Group fits into the system of balanced civic participation.

Our City Planning staff is about to offer concessions in the form of widespread higher densities and excessive height limits in a Draft Housing Element submittal to the California Department of Housing and Community Development (HCD). These concessions go beyond the direction provided by the City Council on May 3, 2022, and beyond what is needed for compliance with the RHNA. The Draft Housing Element is scheduled to be submitted to HCD without City Council approval of the significant changes that Planning staff made after the May 3, 2022, City Council meeting.

It is inconceivable that our City Council is standing by while Planning staff changes, finalizes, and submits to the State a Draft Housing Element containing excessive height limits and citywide upzoning. Even if the Draft Housing Element did not directly conflict with the wish of the voters as expressed by the defeat of Measure Z, the City Council – our elected representatives – should review and approve the Draft Housing Element before it goes to the State for review. Who is running the City of Alameda?

Sincerely,

Betsy Mathieson
Alameda

cc: Andrew Thomas, Alan Tai, Alameda Historical Advisory Board, Alameda Sun, Alameda Post

Nancy McPeak

From: ps4man@comcast.net
Sent: Sunday, May 22, 2022 1:03 PM
To: Manager Manager; Yibin Shen; Celena Chen; Hanson Hom; Rona Rothenberg; Teresa Ruiz; Asheshh Saheba; Alan Teague; Ronald Curtis; Xiomara Cisneros; Marilyn Ezzy Ashcraft; Malia Vella; John Knox White; Trish Spencer; Tony Daysog
Cc: Allen Tai; Andrew Thomas; Nancy McPeak
Subject: [EXTERNAL] Planning Board May 23 Agenda Item 7-B Draft Housing Element & Proposed Zoning Amendments

Dear Interim City Manager Brazil, Office of City Attorney, Planning Board Members, Mayor Ashcraft, and City Council Members:

I am writing this letter to the above involved parties because it appears that our Planning Director intends to send a draft of our housing element to HCD for review shortly after the May 23 meeting of the Planning Board and before the next scheduled meeting of City Council.

You were copied on my May 6 Letter to HCD advising of the failure of City Council to comply with the direction of AB 215 of 2021, as codified at Government Code Sec. 65585 (b) (1) (2) & (3), that City Council shall consider and incorporate public comments into the draft, and then submit it to HCD.

You were also copied on my letter of May 12 to Mr. Thomas and Mr. Tai taking issue with the capacity projection of ADU's and, more importantly, with the proposed massive upzoning of our residential districts in violation of Article 26 of our Charter. Mr. Thomas has responded with no change in position.

The ADU projection is an issue where reasonable minds can differ. However, my objection to the upzoning and the failure of Council to abide by AB 215 are legal issues. If this draft is submitted to HCD without compliance with AB 215 and deletion of the upzoning of the residential districts I will be writing to the HCD draft reviewer with regard to these objections.

I have also engaged in discussions with several lawyers specializing in these matters who see merit in my position. I would be less than candid if I did not inform you that I am considering exploration of community support for financing a court challenge to the upzoning, should it occur. My position regarding the upzoning has been evolving from facts discovered as currently as yesterday. Thus, I am providing the following update of the same.

Our Planning Director steadfastly maintains that HCD fair housing rules require the upzoning of every residential and mixed use zoning district in the city. What logically follows from that assertion is that there should be no recently certified municipal housing element that would fail to do so.

The 6th cycle 2021-2029 housing elements for the Southern California Association of Governments (SCAG) required certification by Oct. 15, 2021. Unfortunately, only 14 cities have achieved certification, with Los Angeles being as recent as May 11, 2022. I have reviewed pertinent parts of all 14 housing elements, concentrating on site inventories, constraints and fair housing and made the following findings:

1. There are many jurisdictions with as low or much lower density constraints than Alameda, albeit not in a charter.
2. One city does have a charter provision prohibiting any upzoning without the consent of the voters. Their housing element clearly advises HCD that all of their proposed upzonings are subject to voter approval.
3. **None** of these cities includes blanket residential upzoning in their housing element.

4. **Notwithstanding the above, all of these housing elements have letters of certification penned by Paul McDougall, the HCD Senior Program Manager who wrote the oft cited Nov. 29, 2021, letter to Mr. Thomas, decrying Article 26 of our Charter.**

In addition, I have spoken to City Council members of Pleasanton and Lafayette who inform me that they do have low density zoning in their city and that their draft housing element will not propose to upzone all of these districts. **Based on the above, it must be concluded that there is no HCD fair housing requirement to upzone our entire city.**

There is yet another legal problem with a blanket upzoning of our residential districts, almost all of which are comprised of non-vacant parcels. The HCD Site Inventory Guidebook at page 24, states, *“Local governments with limited vacant land resources or with infill and reuse goals may rely on the potential for new residential development on nonvacant sites, including underutilized sites, to accommodate their RHNA”*

https://abag.ca.gov/sites/default/files/documents/2021-08/sites_inventory_memo_final06102020.pdf

However, at the bottom of page 24, the Guidebook states:

*“If the inventory identifies nonvacant sites to address a portion of the RHNA, the housing element must describe the realistic development potential of **each** site within the planning period. Specifically, the analysis must consider the extent that the nonvacant site’s existing use impedes additional residential development, the jurisdiction’s past experience converting existing uses to higher density residential development, market trends and conditions, and regulatory or other incentives or standards that encourage additional housing development on the nonvacant sites”* (Boldface mine)

The Guidebook continues on page 25 and 26 to provide very detailed instructions on the methodology for addressing these issues. The statutory authority for these instructions can be found at Govt. Code Sec. 65583.2 (b) (3), (5) (A), and (g) (1). Which can be viewed at [Section 65583.2 - Use of inventory of land suitable for residential development to identify sites for development, Cal. Gov. Code § 65583.2 | Casetext Search + Citator](#) **This is not addressed in our draft housing element. Moreover, every recent SCAG region certified housing element site inventory that includes non-vacant property does so on a specific site basis, not blanket upzoning.**

To the Planning Board: At the May 23 Planning Board meeting I suggest that Board Members seek answers to these questions from the City Attorney.

1. What city body is required to conduct the AB 215 process? How can the consideration and incorporation of public comment be achieved without a vote of that body approving the draft to be submitted to HCD?
2. Does this draft housing element provide the legally required analysis of the inclusion in our site inventory of the non-vacant parcels in our residential districts?
3. The City Attorney has already opined that Article 26 is pre-empted only to the extent required to comply with state law. Do the state Housing Element Law’s fair housing requirements as applied by HCD require the upzoning of all of our residential and mixed use districts?

To Interim City Manager Kirk Brazil: I implore you to direct the Planning Department to delay submission of the housing element draft to HCD (which is not due until the end of June) until City Council reviews the draft, the public comments, and takes a final vote authorizing the submission of the draft to HCD for review, pursuant to AB 215. (I am sorry to burden you with this on your first day. If you do not have access to the May 6 and May 12 letters, please advise and I will forward them to you.)

Sincerely,

Paul Foreman

Nancy McPeak

From: Donna Fletcher <ohprimadonna@gmail.com>
Sent: Sunday, May 22, 2022 9:57 PM
To: Asheshh Saheba; Alan Teague; Xiomara Cisneros; Teresa Ruiz; Ronald Curtis; Rona Rothenberg; Hanson Hom
Cc: Andrew Thomas; Nancy McPeak
Subject: [EXTERNAL] Re: May 23 Agenda Item 7-B Draft Housing Element & Proposed Zoning Amendments

Dear Members of the Planning Board, Director Thomas, and Planning Staff,

After following the process of developing the Housing Element for many months, I'm concerned that we don't have a way to visualize the true physical impact of the zoning amendments when applied at full capacity.

In order for the community to understand what is being proposed for approval, we need to see sample drawings or mock-ups of housing configurations and maps that illustrate built-out-to-the-max allowable conditions for density, floor area/lot ratio, setbacks, scale, lot size, yard size, # of stories, parking etc.

The Objective Design Review Standards adopted in 2021 by the Planning Board for multi-family projects, and earlier this year for SB9 projects, are other examples that need graphics.

Wouldn't these illustrations be considered a "best practice" in a planning process when such far-reaching changes are about to be set permanently in place?

The only visualization I've seen was one that AAPS provided to demonstrate the scale of 5-story units over retail on Park Street.

As part of the Housing Element documentation, please ask staff to prepare sample drawings of various housing conditions that illustrate the true physical impact of zoning amendments when applied at full capacity. Thank you!

Sincerely,

Donna T. Fletcher
112 Centre Court



May 22, 2022

City of Alameda Planning Board
2263 Santa Clara Avenue, Room 190
Alameda, CA 94501

Subject: Draft Housing Element revisions dated May 16, 2022 (Item 7-B on 5-23-22 Planning Board agenda)

Dear Planning Boardmembers:

The Alameda Architectural Preservation Society (AAPS) was surprised that the May 16 revisions reverse some of the density-moderating changes in the initial list of changes considered by the Planning Board at its May 9 meeting and add new provisions that further increase density through various forms of upzoning within **all** of the residential zoning districts. We have already stated that the previously proposed residential upzonings appear unnecessary to meet the RHNA. The May 16 revisions increases this overkill to an even higher level. The magnitude of the revisions also appear unnecessary to meet state fair housing requirements, since we have not been able to find anything in state law or published HCD guidelines that mandate such sweeping and indiscriminate upzonings **everywhere**.

Here are some specific comments:

1. **Reversion of the transit overlay to 1/4 mile rather than 1/8 mile from “high quality” transit routes (i.e. the 51A bus line) within ALL residential zones and restoring unlimited residential density in all cases and also allowing at least a 40 foot height limit if all new units are 1000 ft.² or less.** We reiterate that:
 - a. Reliance on bus lines as a basis for upzoning is unwise. Bus routes can be easily changed or eliminated and the high frequency service that is critical to a “quality” transit route can be easily reduced. It is irresponsible to base long-term and not easily reversed massive upzonings on something as ephemeral as a bus route. Planning for transit-oriented development is more appropriately based on more permanent transit infrastructure, such as fixed rail; and
 - b. If the transit overlay is retained, it should be as a pilot program and:
 - i. Be applied only to important nodes and to existing buildings rather than only to new buildings and properties fronting the transit corridor itself rather than within ¼ or 1/8 mile; and
 - ii. Use AAPS’s previously recommended expanded ADU program as an alternative to State Density Bonus Law (SDBL) projects.

If the pilot program works out well over a significant period it could be later expanded.

2. **Exempting adaptive reuse of existing buildings for residential purposes from residential density limits and open space standards in *all* residential zoning districts.** AAPS has indicated interest in this approach, but:
 - a. Only in targeted areas rather than everywhere;
 - b. Setting limits on the number of units on a lot rather than allowing an unlimited number of units;
 - c. Applying the strategy only to the extent necessary to meet the RHNA and/or fair housing requirements; and
 - d. Requiring the additional units be in the form of ADUs to avoid triggering SDBL projects (which could demand a waiver from, among other things, limiting the new residential units to the existing building envelope). Alternatively, limit the total number of units on a lot to four to avoid triggering SDBL projects. Both alternatives could include a requirement that one or more of the units be affordable.
3. **Repeated statements that for multifamily development “design review shall be conducted to ensure compliance with adopted Objective Design Review Standards” (ODRS).** This is problematic, since it seems to mean that all development that includes multifamily housing, including market rate, would be based on the ODRS rather than the Citywide Design Review Manual, including the very good Guide to Residential Design. Although the ODRS incorporate many provisions from the Manual and recommendations from AAPS, the ODRS as presently written will result in a lower level of design quality for new construction than provided by the Manual. When the ODRS was prepared in 2021, some of AAPS’s recommendations to address this were not agreed to by the Planning Board. Incorporation of the recommendations could resolve this issue, including increasing the boundary of the ODRS Traditional Design Area to include the very important North Park Street residential neighborhoods. Currently, our understanding is that market rate multifamily projects in Alameda are still subject to the design review manual, but developments that include affordable housing are subject only to the ODRS, pursuant to state law. It is unclear why staff is now apparently proposing to broaden application of the ODRS to situations beyond those mandated by state law.
4. **We continue to believe the Draft Housing Element’s Housing Sites Inventory (Appendix E) estimate of 50 ADUs per year is too low.** 79 ADU permits were issued in 2021, well above the 39 in 2020 and continuing an upward trend. Staff informed the Historical Advisory Board on May 5 that staff is now estimating an annual ADU production of 50 units, rather than the previously estimated 70 units and below the 79 that were generated in 2021, because of guidance from HCD that the ADU estimate must be based on a three-year average, rather than the trend, even though HCD’s Housing Element guidelines advise that these estimates can be based on trends and several Southern California cities have obtained HCD certification of housing elements that base ADU estimates on trends more optimistic than 79 units per year would be for Alameda.

The averaging method seems especially illogical since ADU regulations were drastically liberalized in the past couple of years, which is a main reason that production has increased. ADUs should continue to increase in 2022 and beyond as property owners, contractors, and architects get

more familiar with ADU possibilities. The City should monitor monthly ADU production in 2022 and adjust the estimates as the Housing Element progresses based on the actual production.

Note: The May 16 draft still has inconsistencies concerning the ADU estimate. Although 50 units per year appears to be the intended estimate, Program 5 assumes 70 units, while Appendix E assumes 50 units.

5. New text on page 5 and pages 23–24 of the May 16 revision that now explicitly repeals Alameda Municipal Code provisions that implement City Charter Article 26:

New text on Page 5:

As described in Appendix D Assessment of Fair Housing, Alameda, like many cities in the Bay Area, historically maintained local land use controls that served to restrict access to housing and therefore opportunities for lower income segments of the community. This Housing Element makes a commitment to specific actions to affirmatively further fair housing and foster inclusive communities free from barriers that restrict access to housing and opportunity. These actions, include but are not limited to:

- Amending the Alameda Municipal Code (AMC) to remove the citywide prohibition on multifamily housing of three or more units and removing the citywide prohibition on residential densities over 22 units per acre ensuring equal access to housing opportunities in all Alameda neighborhoods and mixed use districts. (See Housing Programs 2, 3, and 4.)

New text on Pages 23-24:

- Amend the Alameda Municipal Code (AMC) to remove any barriers that are internally inconsistent with other provisions of the Municipal Code including Section 30-50 through 30-53, which prohibits multifamily housing in Alameda and which conflicts with several other provisions within the AMC which permit multifamily housing.

The sending of this very radical draft Housing Element to the State Department of Housing and Community Development (HCD), including effective abolishment of Article 26, without any vote by the Planning Board or City Council is highly problematic, and with respect to *full* repeal of Article 26 (as opposed to Article 26 carveouts as needed to confirm with State law as the City has previously done), possibly illegal as discussed by Planning Board members at the Board's June 9 meeting.

In addition, the Planning Board and Council review process in the form of discussion workshops with no votes has left it up to staff to resolve any conflicting comments from Planning Board and Council members and members of the public. The process should have required a vote by the Planning Board and City Council at each of their meetings (or at least their final meetings) on the draft presented to them, including, if necessary, a series of votes on provisions that Planning Board and Council members had differing opinions on as well as new or modified provisions suggested by Planning Board and Council members.

Related to this, we continue to be concerned that HCD may not look favorably on any effort by the city to walk back any of the upzoning proposals following HCD's review and comments on the subject draft.

Finally, we were disappointed that most of the recommendations in our May 8 letter and May 9 Housing Element markup were not incorporated into the May 16 draft. We were especially surprised that not even innocuous recommendations such as using alpha-numeric designations rather than bullet points to facilitate reference and providing maps of the transit overlay and the Park and Webster Street development sites to assist reader understanding of the proposals were not included, particularly because the first paragraph of the May 16 draft says: "This document displays all of the changes to be made to the April 2022 Draft Housing Element **in response to community comment** and review and further technical review" (emphasis added).

Thank you for the opportunity to comment. Please contact me at (510) 523-0411 or cbuckleyAICP@att.net if you would like to discuss these comments.

Sincerely,

Christopher Buckley, Chair
Preservation Action Committee
Alameda Architectural Preservation Society

cc: Mayor and City Council (by electronic transmission)
Historical Advisory Board (by electronic transmission)
Andrew Thomas and Allen Tai, Planning, Building, and Transportation Department (by electronic transmission)
City Manager and City Clerk (by electronic transmission)
AAPS Board and Preservation Action Committee (by electronic transmission)

Nancy McPeak

From: Drew Dara-Abrams <dda@dara-abrams.com>
Sent: Monday, May 23, 2022 4:28 PM
To: Nancy McPeak
Subject: [EXTERNAL] Item 7-B Housing Element

Ms. McPeak, would you please include in tonight's Planning Board Housing Element agenda item?

Thank you,
Drew Dara-Abrams

Dear Planning Board members and Planning staff,

Thanks, as always, for making a good faith effort to prepare a compliant Housing Element for Alameda.

It's good to see the fine-tuning that Planning staff have recently made to the draft Housing Element. These refinements are important to meet the parallel but distinct goals of meeting RHNA numbers and meeting AFFH requirements.

I am writing in to strongly support the following aspects of the current draft:

- *Program 4: Residential District Zoning Amendments* opening the R-1 through R-6 zones to multifamily and similar types of housing by right, with objective design review and with somewhat more density and height allowed near high quality transit. This will make it again legal to build the type of pre-war multifamily housing that already exists in my neighborhood in the East End, which fits in so seamlessly with the single-family houses that you have to count utility meters to recognize some of these multifamily buildings or small courtyard complexes.
- *Program 3: Commercial Transit Corridor Zoning Amendments* allowing 60' development along all of the Webster Street corridor with a setback of a 15' setback for upper stories in the existing core area. This sounds like a reasonable compromise so that business owners and neighbors can retain the aesthetic characteristic of a consistent facade height line, without surreptitiously undercutting the potential for property owners to successfully develop new multi-use structures.
- *Educational Opportunity*: It's good to see this section fleshed out more fully and no longer relying upon the underbaked goal of encouraging AUSD to switch to open enrollment.
- *McKay Wellness Center Project*: It's good to see this voter-approved project and its important units for the "very low" income level continues to appear in the Housing Element's site inventory. This should go without saying, but it perhaps bears repeating.

These changes have turned the Housing Element from a good to great draft — great because maybe this Housing Element can actually succeed in HCD's review at meeting both the RHNA and AFFH requirements.

Thanks for your time,
Drew Dara-Abrams

Calhoun St