

From: [Lara Weisiger](mailto:Lara.Weisiger@alamedaca.gov)
To: [City Clerk](mailto:City.Clerk@alamedaca.gov)
Subject: Spencer Referral Attachment (emails)
Date: Tuesday, December 7, 2021 4:40:00 PM

From: ps4man@comcast.net <ps4man@comcast.net>
Sent: Friday, November 26, 2021 1:45 PM
To: 'Andrew Thomas' <athomas@alamedaca.gov>
Cc: 'Yibin Shen' <yshen@alamedacityattorney.org>; 'Eric Levitt' <elevitt@alamedaca.gov>
Subject: RE: [EXTERNAL] Adoption of R-1 amendments as an urgency ordinance.

Andrew,

I believe you are misreading the article. YIMBY is not challenging the urgency process. They are challenging the content of amendments proposed in various cities, I think the reference to Campbell in the third paragraph from the bottom bears this out.

The article does indicate that some cities are considering R-1 zoning amendments which seek to evade SB-9, rather than supplement it with reasonable objective standards. I fully understand the YIMBY position on those proposed ordinances. I have not been privy to a draft of your proposed ordinance but I am confident that our ordinance will supplement SB-9, not subvert it.

I am very concerned about your resistance to an urgency ordinance based on your belief that there will not be a flood of applications in January. I don't think there has to be a flood of applications anticipated to justify an urgency ordinance in this case.

SB-9. In effect, transforms our R-1 district into a multi-family district, without any of the objective standards that are in our current multi-family ordinances. As such it is an incomplete upzoning that fails to address the land use restrictions that are part and parcel of any multi-family zoning ordinance.

If SB-9 did not exist and you were tasked with drafting an upzoning of R-1 to a multi-family district, neither you or any other competent city planner would enact a ordinance that simply provided for density, without including, setbacks, open space requirements, design standards, etc. You are doing exactly that when you leave SB-9 to take effect on Jan.1 without any of these provisions in place.

Paul

-----Original Message-----

From: Andrew Thomas <athomas@alamedaca.gov>
Sent: Friday, November 26, 2021 11:50 AM
To: Paul Foreman <ps4man@comcast.net>
Cc: Yibin Shen <yshen@alamedacityattorney.org>; Eric Levitt <elevitt@alamedaca.gov>
Subject: Re: [EXTERNAL] Adoption of R-1 amendments as an urgency ordinance.

Hi Paul. Thanks for sending this along. I also see that YImby law is preparing to challenge the use of urgency ordinances for this purpose.

I defer to the city manager and city attorney, but I personally am not seeing the immediate threat to public health and safety from staff following state law for a couple months while our draft ordinance goes through the normal adoption process: pb hearing in December. Council hearings in Jan. Second reading in end of Jan of early feb, and effective late feb or early March.

Andrew Thomas,
510-774-5361 (c)

> On Nov 24, 2021, at 1:33 PM, Paul Foreman <ps4man@comcast.net> wrote:

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> Andrew,

> The attached article from the SF Chronicle has just been brought to my attention. It indicates that, rather than going the MOU Resolution route to get something in place before Jan. 1, Los Altos is using the urgency ordinance process under Govt. Code. Sec.

65858.[https://leginfo.ca.gov/faces/codes_displaySection.xhtml?](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65858.&lawCode=GOV)

[sectionNum=65858.&lawCode=GOV](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65858.&lawCode=GOV)<https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65858.&lawCode=GOV> which would allow adoption and immediate effect on passage if it gets a super-majority of the Council to vote affirmatively. The MOU route is better than nothing but no nearly as legally effective as an urgency ordinance.

> The above section expressly says that it applies to charter cities and our Charter Sec. 3-12 and our Sunshine Ordinance Sec. 2-91.5 (g)(2) are consistent with it. I would think that a super-majority could be obtained. Although no agenda notice is required, you have already indicated that the ordinance would be agendized early in December for the Dec. 13 Planning Board meeting, the same notice could be posted 12 days before the Dec. 21 Council meeting, so that the public at least gets general notice that this is coming.

> Obviously such action needs the approval of the City Manager and City Attorney which is why I have copied them.

> I know that you do not believe that there is going to be a rush of SB-9 development applications, but other cities do not share that view and nobody can really predict this with any certainty. If only one project gets approved under the current ordinance, it would be unfortunate and unfair.

> Paul

>

> Sent from my iPad

On Nov 26, 2021 11:41 AM, Andrew Thomas <athomas@alamedaca.gov> wrote:

Dear Council member Spencer.

The SB 9 ordinance is scheduled for dec 13th Planning Board public hearing, which means it can be at the city council in January for a first reading.

As of this time, there has been no indication that the city is going to receive a flood of Sb 9 applications in January. In fact we have no indication at we will get any applications in Jan and if we do, staff will process them consistent with state law and our existing adopted objective design standards.

A state wide study by the Turner center estimates that Sb 9 could potentially increase dwelling unit and accessory dwelling unit production in California's R-1 districts by 40%.

In 2021 Alameda's R-1 districts produced 21 ADUs. So Sb 9 could result in about 9 additional units each year in Alameda's R-1 districts, which include over 9,500 parcels.

Given that with our new RHNA we will need to be producing about 670 units per year citywide, staff is not particularly concerned about SB 9. Nevertheless, we will have a draft ordinance to the planning board in dec.

Andrew Thomas,

510-774-5361 (c)

On Nov 26, 2021, at 9:43 AM, Trish Spencer <tspencer@alamedaca.gov> wrote:

Dear Mr. Garfinkle,

Thank you for taking the time to comprehensively respond to Director Thomas's email. As you shared, time is of the essence. Unfortunately, it's too late for me to do a referral on this. However, I believe that this should come to Council prior to the expiration of the time within which City Council may decide what action, if any, it wants to take. Sadly, otherwise, the decision to not take action is made by Staff by default. I truly believe that this is appropriately a City Council decision and should be agendized by Staff in a timely manner as such.

Sincerely,

Trish Herrera Spencer

Councilmember

On Nov 24, 2021 4:43 PM, Jay <garsurg@comcast.net> wrote:

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November 24, 2021

Since you asked, Andrew, let me explain what I believe to be the purpose and potential benefit of adopting an appropriate memorandum (MOU) before January 1, 2022:

The purpose of SB9 is presumably to increase the housing stock in jurisdictions throughout the State. And in order to accomplish this expeditiously it would remove the potential barriers to rapidly approving permits for building applications qualified for processing consistent with the provisions of SB9 by eliminating the jurisdictions' ability to exercise discretion which could be employed, either intentionally or simply as a result of bureaucratic and political sloth, two factors that frequently creep into the process of issuing permits. And while I can understand the well-intentioned motives for inserting this restriction on the exercise of discretion, I believe that it is an unnecessary overreach on Sacramento's part as it virtually eliminates the jurisdictions' ability to optimize the issuance of appropriately and constructively developed permits that are designed to enhance the ambiance and quality of life for the residents of the community while also endeavoring to increase their housing stock.

Fortunately, jurisdictions such as the City of Alameda are permitted to develop objective criteria the use of which eliminates the need for employing the potentially time-consuming-discretionary element found in the traditional permitting process. It is inconceivable to me that any planners, city managers or politicians intent on making things better for their residents, which is quite naturally expected to be their most important assignment as city leaders, would not avail themselves of the opportunity to employ appropriately developed objective criteria for use in their permitting process.

As you know, in order to have maximal benefit for individual cities the objective criteria must be set up/adopted by December 31st as the potentially harmful elements of SB9 will take effect on January 1, 2022. However, given the trepidation inherent in the personalities of many "city leaders" when it comes to making decisions they may later come to regret, the process of adopting appropriate language which would allow for the use of appropriate objective criteria can be so slow that the January 1st deadline will be missed.

Fortunately, as I understand the process, if an appropriate resolution can't be put in place before January 1st, a Memorandum of Understanding can be adopted that will preserve the jurisdiction's ability to develop and adopt the desired objective criteria in 2022, thus obviating the December 31st deadline. And since development and adoption of the MOU would be much less time consuming than that of adopting a formal resolution, **it seems only reasonable that the City's Leaders would move expeditiously to accomplish this.**

Let me clarify that the term MOU is being used as shorthand for a memorandum, document or resolution adopted by the City which would obligate the various departments to comply with a list of requirements/instructions which would be included in the Memorandum. To facilitate this process of developing a list of such requirements/instructions for departments to observe, I would encourage you to refer to the list of ten such instructions which is included in the example draft resolution for the City of Los Angeles which was given to you some time ago, a copy of which is attached to this email message.

I see this as a **no-lose** proposition for the residents of Alameda, a proposition which we should be able to accomplish by December 31st if the City's Executive Staff and Council are willing to put their minds to getting it done. And given that the City's leaders have never shied away from calling special meetings when it suited their purposes, I see absolutely no reason why the appropriate action should not and cannot be initiated immediately, if credibility is to be retained by those who have the ability to get this done timely.

I trust that this explains what I believe is the purpose and potential benefit of adopting an appropriate "MOU".

Please, enjoy your holiday, Andrew.

Jay Garfinkle

From: Andrew Thomas <athomas@alamedaca.gov>

Sent: Tuesday, November 23, 2021 10:42 PM

To: Jay <garsurg@comcast.net>

Cc: Lara Weisiger <lweisiger@alamedaca.gov>

Subject: Re: [EXTERNAL] RE: Planning Board Meeting - Cancelled

Explain the purpose of the MOU. What is the benefit?

Andrew Thomas,

510-774-5361 (c)