



City of Alameda

Staff Report

File Number:2020-8104

City Council

Agenda Date: 7/7/2020

File Type: Regular Agenda Item

Agenda Number: 6-A

Adoption of Resolution Calling for the Holding of a Consolidated Municipal Election in the City of Alameda on Tuesday, November 3, 2020, for the Submission of a Proposed Charter Amendment to Repeal the Prohibition Against Building Multi-Family Housing in Alameda and Authorizing City Councilmembers to File Written Arguments For or Against the Measure. (City Attorney/City Clerk)

EXECUTIVE SUMMARY

On June 2, 2020, City Council directed staff to prepare ballot measures that would amend the City Charter in a number of respects, most notably to delete those sections of the Charter that currently prohibit building multi-family housing in Alameda (commonly known as Measure A).

The City Council will consider adoption of a resolution authorizing the submittal of the ballot measure to the voters in November. The resolution also authorizes the City Council, or members thereof, to submit arguments concerning the measure.

BACKGROUND

In December 2018, Mayor Ezzy Ashcraft appointed a Charter Review Subcommittee to review the City Charter and recommend potential measures to the City Council concerning amendments to the Charter. In May 2020, Council considered those recommendations and on June 2, 2020, provided direction to staff to prepare ballot measures concerning certain sections of the Charter to be placed on the November 3, 2020 ballot for the voters' consideration.

On June 2, 2020, Council specifically directed staff to prepare ballot measures to return with two ballot measures. This measure eliminates the prohibition against the building of multi-family housing in Alameda.

A brief discussion of the amendment is set forth below along with the proposed ballot question.

DISCUSSION

The proposed ballot question and ballot measure language for the measure is being presented to Council for approval to be submitted to the voters. If the measure receives a majority vote of those voting on the measure, the Charter provisions in question will be amended or deleted as proposed.

City Council

Agenda Date: 7/7/2020

File Type: Regular Agenda Item

Agenda Number: 6-A

The ballot question is limited to 75 words.

The measure addresses the prohibition of building multi-family housing in Alameda.

Ballot Question: Shall the measure amending the City Charter to repeal the prohibition against the building of multi-family housing in Alameda, while maintaining the existing citywide density limitation of one housing unit per 2,000 square feet of land, be adopted? Such amendment will be accomplished by deleting Sections 26-1 and 26-2 in their entirety, and amending Section 26-3 of said Charter, as fully set forth in City Council Resolution No. ____.

The proposed text of the second ballot measure is as follows:

ARTICLE XXVI

Density Limitations

Multiple Dwelling Units

Section 26-1 would be deleted in its entirety: Repealed. ~~There shall be no multiple dwelling units built in the City of Alameda.~~

Section 26-2 would be deleted in its entirety: Repealed. ~~Exception being the Alameda Housing Authority replacement of existing low cost housing units and the proposed Senior Citizens low cost housing complex pursuant to Article XXV of the Charter of the City of Alameda.~~

Section 26-3 would be amended as follows: The maximum density for any residential development within the City of Alameda shall be one housing unit per 2,000 square feet of land. This limitation shall not apply to the repair or replacement of existing residential units, whether single-family or multiple-unit, which are damaged or destroyed by fire or other disaster; provided that the total number of residential units on any lot may not be increased. This limitation also shall not apply to the replacement of low cost housing units by the Housing Authority of the City of Alameda ~~units under Section 26-2.~~

Planning Staff Analysis Regarding Proposed Ballot Measure to Repeal Prohibition Against Multi-Family Housing:

In 2019, the Planning, Building and Transportation Department prepared an analysis that found the entirety of Article 26 (i.e., Sections 26-1, 26-2 and 26-3) to be potentially in conflict with State law, the General Plan, the Alameda Municipal Code, and City Council policy in support of affordable housing in Alameda. At that time, the staff analysis recommended removing Article 26 in its entirety from the City Charter.

Agenda Date: 7/7/2020

File Type: Regular Agenda Item

Agenda Number: 6-A

Therefore, Planning staff is in full support of asking the voters to repeal Section 26-1 (the prohibition against multi-family housing), but Planning staff recommends that the Council consider expanding the repeal of Section 26-3 as well. This recommendation for further repeal is due to the recent release of the Regional Housing Needs Allocation (RHNA) for the Bay Area subsequent to the Council's June 2, 2020 Council meeting. Since the June meeting and the receipt of the new RHNA, it appears more likely that the City Council will need to adopt new MF Multifamily Housing zoning ordinances that allow up to 30 units per acre to meet State Housing Law requirements within the next 12 to 18 months. (Article 26-3 prohibits densities above 21 units per acre.) For the entire Bay Area, the RHNA has increased by more than 200% from the previous cycle (2015-2023). While the City has not received its specific apportionment and likely will not receive such until early 2021, it is very likely that the City's final allocation will also increase by 200%. Under State Housing Law, residential densities less than 30 units per acre do not support the development of housing affordable to lower income households (Gov. Code, 65583.2(c)(3) ["For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre."]). To comply with State Housing Law and maintain a legally adequate General Plan in 2022, the City Council will need to adopt a new Housing Element and the City Council will likely need to adopt new Multi-family Residential Combining Zone (MF overlay) ordinances to demonstrate that the City of Alameda has enough land zoned at 30 units per acre to accommodate between 1,500 and 2,000 additional potential housing units. Adoption of additional MF overlays may again be in conflict with City Charter Section 26-3. Planning staff remains concerned by the decision to retain the citywide density limitations in Section 26-3 until a future date.

In 2012, the City Council adopted the necessary MF overlay zoning ordinances, arguably in conflict with Section 26-3, which was added to the Charter following the March 5, 1991 election. If the second ballot measure, which maintains the citywide density limitations, is approved by the voters, then when the City Council adopts the new ordinances in 2022, they may be in direct conflict with Section 26-3 as recommended by Council and approved by the voters in 2020. The City of Alameda General Plan and Zoning Code already include all of the development standards necessary to control development in Alameda. Going forward, the City Council should have the discretion to amend the General Plan and Zoning Code to accommodate State Housing requirements without potentially violating the City Charter or the need to bring those changes to the voters.

Ballot Arguments and Impartial Analysis:

In addition, the resolution authorizes the City Council to submit arguments and rebuttals concerning the measure. Arguments and rebuttals shall be submitted in accordance with Elections Code Sections 9280-9287. The City Clerk, as the City Elections Official, has set the deadline for submitting arguments as 5:00 p.m. on Wednesday, July 22, 2020 and rebuttals are due 5 p.m. on Monday, August 3, 2020.

Agenda Date: 7/7/2020

File Type: Regular Agenda Item

Agenda Number: 6-A

If the City Council elects to prepare ballot arguments and potential rebuttals, it has the following options: 1) draft an argument as a whole body in open session and decide signers at that time; 2) authorize no more than two Councilmembers to meet as a subcommittee of the City Council to draft an argument and have the entire Council sign; 3) authorize no more than two Councilmembers to draft an argument and decide to have a combination of Councilmembers and/or other signers; or 4) authorize no more than two Councilmembers to draft and sign an argument and have up to three/four other signers. The City Council could also elect not to draft an argument.

The resolution also directs the preparation of an impartial analysis of the effects of the measure on the existing law and operation of the measure. For this measure seeking to repeal the prohibition against the building of multi-family housing, the City Attorney is directed to prepare the impartial analysis.

ALTERNATIVES

1. Adopt the resolution placing the measure on the November 3, 2020 ballot amending/deleting the Charter sections as described in this report.
2. Adopt the resolution placing the measure on the November 3, 2020 ballot amending/deleting only some of the Charter sections described in this report.
3. Direct staff to return to Council with revised Charter amendment language consistent with Planning staff's recommendation to repeal the entirety of Article 26.
4. Do not adopt the resolution placing the Charter amendment on the November 3, 2020 ballot.
5. The Council also has alternatives related to drafting arguments and rebuttals, which are outlined above.

FINANCIAL IMPACT

The cost of translating, typesetting and printing the measure would be approximately \$15,000 to \$20,000, which is included in the Fiscal Year (FY) 2020/2021 budget.

MUNICIPAL CODE/POLICY DOCUMENT CROSS REFERENCE

The City Charter is the policy document governing the City. Any amendments must be approved by the voters.

ENVIRONMENTAL REVIEW

A ballot measure to modify Article 26 would have no impact on the environment because the changes to the Charter would not change, modify or lift the existing General Plan and Zoning restrictions that currently govern the development of property in Alameda. Additionally, no initiation, pre-determination, pre-judgment or commitment is being made about whether, where or how, to amend

City Council

Agenda Date: 7/7/2020

File Type: Regular Agenda Item

Agenda Number: 6-A

the General Plan and/or the Zoning Code in the future.

The Charter amendment, if approved by the voters, would allow the City Council to consider, in the future, potential changes, if any, to the General Plan and Zoning, but any future action by the City Council, if any, to change the General Plan and Zoning Code limitations for a particular site or district would be subject to environmental review. At that time, the environmental analysis will evaluate if the specific proposal would have any potential significant impacts on the environment. Those potential impacts would need to be disclosed before any future City Council could take action to amend a zoning district to allow multi-family housing.

CLIMATE IMPACTS

Voter approval to delete the prohibition of building multi-family housing in Alameda would enable the City to provide for higher density housing in future developments that will allow the City to meet State housing requirements, align with the California Climate Change Scoping Plan, and provide for a more efficient and strategic land use policy to meet local, State and national global climate goals.

RECOMMENDATION

Adopt the resolution to place the measure on the November 3, 2020 Ballot to eliminate the prohibition against building multi-family housing in Alameda.

CITY MANAGER RECOMMENDATION

The City Manager concurs with the City Attorney's and City Clerk's recommendation.

Respectfully submitted,
Lara Weisiger, City Clerk
Michael Roush, Chief Assistant City Attorney
Celena Chen, Assistant City Attorney

cc: Eric Levitt, City Manager