

**From:** [Andrew Thomas](#)  
**To:** [ps4man@comcast.net](mailto:ps4man@comcast.net)  
**Cc:** [Marilyn Ezzy Ashcraft](#); [Malia Vella](#); [John Knox White](#); [Tony Daysog](#); [Trish Spencer](#); [Eric Levitt](#); [Yibin Shen](#); [Lara Weisiger](#); [Celena Chen](#)  
**Subject:** Re: [EXTERNAL] March 30 Council Meeting Item 9-A Daysog Referral-Calculation of Housing Units Zoned C-2 PD  
**Date:** Tuesday, March 30, 2021 4:20:14 PM

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Dear Paul and ACT.

Thank you for your email. As documented in many past staff reports on development projects, the city of alameda determines the number of units permitted on a residential site or mixed use site based on the total size of the site. (Gross acreage).

ACT is proposing that the city determine the number of units on less acreage (by subtracting things like commercial buildings that might exist or are proposed). Since this approach would reduce the number of units permitted, it is by definition a down zoning. Any down zoning needs to be accompanied by a companion up zoning to preserve regional housing opportunities. (state law)

The good news is that The City of Alameda planning staff has begun work with a Planning Board Subcommittee to prepare a citywide up-zoning to accommodate the City's regional housing need as required by state law. To accommodate the projected 5,400 units needed, the city will need to upzone and reduce zoning constraints on a number of sites and districts. As part of this effort, we will be considering shopping centers for rezoning as housing opportunity sites.

We would be happy to consider your proposed zoning change as part of a citywide zoning update to accommodate the Regional Housing Need as part of the State mandated Housing Element update. We plan to have the update completed and before the city council for final action next year, as required by State Housing law.

I will be sure to notify you of all the upcoming public meetings for the housing element.

Andrew Thomas,  
510-774-5361 (c)

On Mar 30, 2021, at 8:49 AM, ps4man@comcast.net wrote:

**ACT**  
**Alameda Citizens Task Force**  
Vigilance, Truth, Civility

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March 30, 2021

Dear Mayor Ashcraft, Vice-Mayor Vella and Council Members Knox-White, Daysog sand

Spencer:

ACT agrees with Council Member Daysog on the need for clarification of the methodology for determining allowable dwelling units in the C-2 PD zoning district. However, we believe that the clarification is needed for all zoning districts that allow for mixed-use, not just C-2. Also, we suggest an alternative to the Daysog formula.

Our proposal is to include as residential acreage any land on which residential use is proposed, including buildings where commercial and residential use would be combined in the same building, but excluding acreage which would be purely commercial. Using this formula as applied to current zoning, a 20 acre shopping center that proposed 10 acres of residential use including buildings where the two uses are combined and with 10 acres remaining purely commercial, would be allowed 210 (21 X 10) dwelling units.

We would deal with the parking issue by requiring a developer to provide dedicated parking space for each dwelling unit in accord with the existing City Ordinance which parking area would be included as residential use acreage. In addition, we would require the developer to add any new commercial use parking space necessitated by existing parking being dedicated to residential use.

We disagree with the position expressed by YIMBY Law that either proposal constitutes a down zoning prohibited by State law. Neither proposal reduces residential density. In fact, it is certain that density will be increased to a minimum of 30 units per acre plus applicable density bonus by being included in a multi-family overlay in order to qualify mixed use property for lower income housing and meet our RHNA.

Our current zoning ordinances do not address how allowable units are determined in mixed use developments, which creates the ambiguity that is raised by Mr. Daysog's referral. As Mr. Daysog points out, State law, as interpreted in the Woolmer Case, does not require allowable dwelling units to be calculated by the entire acreage of a mixed use development, but leaves that decision to the development of a consistent methodology by City Council.

We are only asking that you develop a methodology, whether it be Mr. Daysog's, ours, or a hybrid, that applies a formula for determining allowable units that only includes acreage devoted to residential use.

Alameda Citizens Task Force

Gretchen Lipow, President

**From:** [ps4man@comcast.net](mailto:ps4man@comcast.net)  
**To:** [Marilyn Ezzy Ashcraft](#); [Malia Vella](#); [John Knox White](#); [Tony Daysog](#); [Trish Spencer](#)  
**Cc:** [Eric Levitt](#); [Andrew Thomas](#); [Yibin Shen](#); [Lara Weisiger](#)  
**Subject:** [EXTERNAL] March 30 Council Meeting Item 9-A Daysog Referral-Calculation of Housing Units Zoned C-2 PD  
**Date:** Tuesday, March 30, 2021 8:48:52 AM

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# ACT

## Alameda Citizens Task Force

### Vigilance, Truth, Civility

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March 30, 2021

Dear Mayor Ashcraft, Vice-Mayor Vella and Council Members Knox-White, Daysog and Spencer:

ACT agrees with Council Member Daysog on the need for clarification of the methodology for determining allowable dwelling units in the C-2 PD zoning district. However, we believe that the clarification is needed for all zoning districts that allow for mixed-use, not just C-2. Also, we suggest an alternative to the Daysog formula.

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that applies a formula for determining allowable units that only includes acreage devoted to residential use.

Alameda Citizens Task Force

Gretchen Lipow, President

**From:** [Teresa Ruiz](#)  
**To:** [City Clerk](#); [Marilyn Ezzy Ashcraft](#); [Malia Vella](#); [John Knox White](#); [Tony Daysog](#); [Trish Spencer](#)  
**Subject:** [EXTERNAL] 3/16/2021 City Council Meeting Agenda Item #9A  
**Date:** Monday, March 15, 2021 11:20:20 PM

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Madam Mayor, Vice Mayor, and Council Members,

Although I am a member of our Planning Board, I'm reaching out to express my concern on Item #9A as a community member. My comment below is not reflective of the Planning Board but as a private citizen.

The Bay Area is facing an unprecedented housing crisis resulted from decades of systematic constraint in housing supply and increased demand due to population growth. Such housing shortages have pushed our housing cost to beyond reason, and created greater adverse effects on lower social/economical and minority residents. The age-old concept of supply-and-demand is being show-cased in our own backyard. To combat such dire need, the State is mandating cities to remove housing restrictions and provide an easier process to encourage housing production, such as SB 35, and SB 330.

Item #9A is in direct conflict of SB 330 as it is a change in the zoning policy that will result in a reduction of housing production. It is a policy change disguised as a clarification. In addition, if the Council chooses to pass Item #9A, it will put Alameda in a very difficult position to meet the upcoming RHNA allotment. I urge Council Members to focus on meeting the State mandate by providing much needed housing for our community. We need to fulfill the role of the government and provide a safety net for those who are in need of housing, rather than perpetuate the gap between those that can afford to live here and those that cannot.

Respectfully,

Teresa Ruiz

**From:** [Drew Dara-Abrams](#)  
**To:** [City Clerk](#)  
**Cc:** [Marilyn Ezzy Ashcraft](#); [John Knox White](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#)  
**Subject:** [EXTERNAL] Re 6-A Housing Element Update and 9-A Parcels Zoned C-2-PD  
**Date:** Monday, February 1, 2021 11:41:06 AM

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Dear Mayor, Vice Mayor, and Councilmembers,

As an Alameda resident, I encourage you all to move ahead with city planning staff's recommended approach for preparing a new Housing Element and working diligently to meet Alameda's next RHNA allotment in good faith.

The shortage of housing in Alameda and the greater Bay Area continues to be one of the thorniest of challenges, underlying so many of our problems, from climate change to racial equity to the economic competitiveness of local businesses. For better or worse, the "levers" for addressing this problem rest with you and other local leaders.

Item 9-A shows one way to use these local levers: throw sand in the gears. This may please a vocally engaged group of folks — who I guess have very strong feelings about the parking lot in front of the South Shore Safeway? In any case, I see that this proposal has already received the response it deserves: a letter from a YIMBY legal group citing relevant state law. (For anyone who isn't already familiar with Sonja Trauss and her collaborators' track-record suing local cities, including Lafayette, let me recommend the recent book "Golden Gates" by New York Times reporter Conor Dougherty or [this excerpt](#).)

Item 6-A shows another way forward: a careful step-by-step process of creatively maximizing housing development on key sites, crafting a new zoning addition that would allow sufficient density and flexibility across wider areas, and community engagement that is broad and inclusive.

The latter option isn't only the right option as far as housing is concerned, it's also the right option in terms of "good governance." That is, protecting city finances from state penalties and trying to pursue more, rather than fewer, state grants. Also, treating Alameda residents as adults in a medium-sized city — who all have concerns and priorities, some of which clash, but all of whom should be expected to honestly engage with trade-offs and with the substance of regional and state regulations relevant to their proposals.

I joke about the parking lot in front of Safeway and why anyone would care so much for it, but honestly, I can understand why some folks would be opposed to change of any kind. Let's use this as an opportunity to engage with them in good faith, help them understand the "sticks" that really do compel Alameda to open shopping centers to mixed-use re-development, and also help them to see some of the benefits to the "carrots" offered by the state and where Alameda can craft thoughtful compromises.

Alameda is fortunate to have planning staff who are skilled and creative enough to "thread the needle" of a new Housing Element past many constraints and obstacles. Please move ahead with the new Housing Element process to make a good-faith effort to meet Alameda's RHNA numbers.

Sincerely,  
Drew Dara-Abrams

Calhoun St

**From:** [Zac Bowling](#)  
**To:** [City Clerk](#); [Marilyn Ezzy Ashcraft](#); [Malia Vella](#); [Trish Spencer](#); [John Knox White](#); [Tony Daysog](#)  
**Subject:** [EXTERNAL] Comment for item 9A  
**Date:** Friday, January 29, 2021 2:18:22 PM

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It would seem the downzoning proposed on this referral from Councilmember Daysog would violate the state's Housing Crisis Act, SB330, which has prohibitions on downzoning like this until 2025, without making up for the loss somewhere else.

Given our 5406 unit RHNA allocation and the failure of measure Z, the council and planning board both need to seriously consider how these types of changes are going to prevent us from meeting our needs allocation. C-2-PD zoned areas of Alameda are going to be critical in how the city attempts to draw up a housing element that conforms with state law.

Downzoning and trying to lower the possible number of units that can be built on those parcels to be  $\frac{1}{3}$  of what they are today is going to make that task even harder for the planning staff.

This seems more about saving face from the measure Z campaign where it was insinuated by the no on Z campaign backers, including in scare tactic campaign mailers and online threads on social media, that these zoned areas could be turned into condos if measure Z had passed.

The reality has always been, and something that many of us housing advocates had specifically warned about, that if measure Z were to fail, the city would specifically have to look to these areas for upzoning and multifamily overlays to meet our RHNA obligation and certify our housing element since would not be able to build more housing closer to our transit and retail corridors given the density limitations of article 26. Now we face that very real situation, where now these locations are going to be necessary to consider for additional housing with our 21 unit per acre charter requirement.

I urge council not to take any action on this referral, not only because it's morally wrong to limit potential housing like this during a housing crisis, but that it would risk potential litigation for directly violating SB 330 and exacerbate our problem with finding a way to come up with an reasonable housing element that HCD will certify.

Thank you!

Zac Bowling





## YIMBY LAW

YIMBY Law  
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San Francisco, CA 94103  
[hello@yimbylaw.org](mailto:hello@yimbylaw.org)

1/29/2021

Alameda City Council  
2263 Santa Clara Avenue  
Alameda, CA 94501

[clerk@alamedaca.gov](mailto:clerk@alamedaca.gov); [planning@alamedaca.gov](mailto:planning@alamedaca.gov);  
Via Email

Re: Discussion Regarding Establishing a New Methodology by which the Number of  
Housing Units are Calculated for Parcels Zoned C-2-PD  
File #: 2021-508

Dear Alameda City Council,

YIMBY Law submits this letter to inform you that the City Council has an obligation to abide by all relevant state housing laws when evaluating the above captioned proposal, including the Housing Crisis Act of 2019 also known as SB 330.

California Government Code §65300(b)(1), the Housing Crisis Act of 2019, prohibits localities from reducing the intensity of residential use permitted on any parcel below that which was in effect on January 1st, 2018.

(b)(1) Notwithstanding any other law except as provided in subdivision (i), with respect to land where housing is an allowable use, an affected county or an affected city shall not enact a development policy, standard, or condition that would have any of the following effects:

(A) Changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district below what was allowed under the land use designation and zoning ordinances of the affected county or affected city, as applicable, as in effect on January 1, 2018, except as otherwise provided in clause (ii) of subparagraph (B). For purposes of



## YIMBY LAW

this subparagraph, "less intensive use" includes, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, or new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or anything that would lessen the intensity of housing. (Cal. Gov. Code §66300(b)(1))

The proposed zoning changes meet the criteria in the statute to be considered a reduction in residential intensity. The changes being proposed for consideration would reduce the number of units and the amount of residential square footage that applicants in the C-2-PD zone could build. Alameda could not legally enact this policy without simultaneously replacing the entirety of the lost residential capacity elsewhere.

Another important aspect of the law to note is the specific prohibition on cities enacting any "development policy, standard, or condition" that has the effect of reducing residential intensity. In the presentation provided alongside the City Council Agenda the proposed changes for consideration are phrased as clarifications to existing rules. Regardless of phrasing, "clarifying" the existing zoning in a way that reduces the residential intensity of development projects in the zone is a violation of the law. A policy change cannot be disguised by simply refusing to call it a policy change.

If the City Council is absolutely set on the idea of reducing residential capacity in C-2-PD zones, then the only lawful way to go about it would be to add equivalent amounts of residential capacity elsewhere.

Yimby Law is a 501(c)3 non-profit corporation, whose mission is to increase the accessibility and affordability of housing in California.

I am signing this letter both in my capacity as the Executive Director of YIMBY Law, and as a resident of California who is affected by the shortage of housing in our state.

Sincerely,

Sonja Trauss  
Executive Director  
YIMBY Law

**From:** [Ashley Mullins](#)  
**To:** [City of Alameda Zoom 2](#); [City Clerk](#)  
**Subject:** [EXTERNAL] Comment on Item 9A  
**Date:** Tuesday, January 5, 2021 7:55:09 PM

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To Councilmember Daysog: I do not see anywhere in your proposed methodology an alternative plan for achieving our state-mandated RHNA. Any housing proposal that does not include that detail is, in my view, not one to be taken seriously. Our community has a legal mandate and a moral obligation to address the housing crisis in California. If you have forgotten the broader picture, I urge you to have a few conversations with residents of Alameda who are unhoused, who are in danger of losing their homes, or who are unable to sustain the quality of life that was afforded to older, predominantly white generations in this city. Housing is a basic human right that must be made accessible to ALL, not a privilege to be greedily controlled by those who have it. If you have a house, Mr Daysog, you do not have the right to deny others that same right. And that is exactly what this proposed methodology would do. I respectfully ask you to reconsider your position. To the other councilmembers, I urge you to vote against this proposal that would harm residents of our community and prevent our city from fulfilling our legal and moral obligations. Thank you. Ashley Mullins