



January 10, 2020

(By electronic transmission)
Planning Board
City of Alameda
2263 Santa Clara Avenue
Alameda, CA 94501

Subject: Evaluation of City Charter Article 26, commonly known as Measure A (Item 7-A on Planning Board's 1-13-20 agenda)

Dear Boardmembers:

The Alameda Architectural Preservation Society (AAPS) believes that the City Council's Charter Review Committee's request for Planning Board evaluation of Article 26 is premature. **Any discussion of Article 26 should be in the larger context of what changes, if any, the City wants to consider for its development rules in general, especially regarding residential development, to meet the City's evolving development goals and objectives.** Article 26 is only one piece of this larger framework of development rules; discussion of Article 26 outside of this larger framework is therefore premature.

This concern is especially relevant since the City is currently undertaking a complete overhaul of the General Plan and work on the next iteration of the General Plan's Housing Element will begin soon. These planning documents are the proper vehicle for an evaluation of Article 26, rather than an effort to evaluate Article 26 in isolation. The revised planning documents will also involve environmental review, which, among other things, will assess the environmental impacts, including transportation and infrastructure carrying capacity impacts of any changes to the City's development rules, especially changes that could result in increased density.

AAPS was surprised by the staff evaluation's negative tone toward Article 26. The evaluation's conclusions are a striking departure from all of the official policy documents issued by the City over the past decades and in recent years. These documents essentially say that whatever constraints Article 26 may have on housing development, including the City's ability to meet its Regional Housing Needs Assessment (RHNA) obligations, can be satisfactorily addressed.

Article 26 can coexist with the City's housing development objectives, including meeting its RHNA obligations, using a variety of tools. For example the 2015-2023 Housing Element Background Report states on page 49 (PDF page 53) that:

The potential constraints imposed by Measure A on housing development, housing diversity, and housing affordability have been mitigated by the adoption of the

Multifamily Overlay District, the Density Bonus Ordinance, and the Inclusionary Housing Ordinance. As described above, the City of Alameda has been able to ensure that market rate and nonprofit housing developers have been able to provide a variety of housing types (including multifamily housing) for a variety of household incomes (including housing for very low-, low-, and moderate-income households). The City will continue to annually monitor Measure A to ensure it does not constrain housing development.

The Housing Element Background Report conclusion continues to be reflected in the City’s 2018 General Plan and Housing Element Annual Report (the most recent report), which calls for no changes in Article 26. The Annual Report instead notes that such considerations as “funding for affordable and low rent housing is the single biggest challenge facing Alameda”, due, among other things, to “high land costs” and “high construction costs” (see Page 19).

Much of the staff evaluation’s analysis seems superficial and tenuous, including the overall conclusion that “Article 26 does not support the general welfare of the community, does not support the community’s stated General Plan goals, and is not equitable”.

Here are responses to some of the evaluation’s findings:

1. **The affordable housing crisis.** The evaluation states that Article 26 limits the City’s ability to address the local and regional affordable housing crisis.

However, this conclusion is inconsistent with:

- a. The 2015-2023 Housing Element Background Report finding that the potential constraints imposed by Article 26 have been mitigated by the multifamily overlay District, the density bonus ordinance and the inclusionary housing ordinance. In addition, such constraints are further mitigated by the recently adopted Accessory Dwelling Unit (ADU) Ordinance and recent state legislation that became effective January 1, 2020 promoting ADUs; and
- b. The 2018 General Plan and Housing Element Annual Report that does not include Article 26 in its constraints discussion.

In addition, residentially designated land outside of existing built-up residential areas can be made available for multifamily housing to meet future RHNA requirements. For example, staff has advised us that at least 5000 additional housing units can be provided at Alameda Point with a General Plan Amendment.

The evaluation’s Zillow sale price comparison which finds that the average sale price of multifamily units is about 30% less than single-family detached units does not, among other things, take into account the larger sizes of most single family dwelling units. The evaluation also does not appear to recognize that townhouses are permitted under Article 26 and that the sale prices of townhouses are comparable to the sale prices of multifamily units.

Finally, the 2018 General Plan and Housing Element Annual Report states on Page 14 that during the first four years of the current eight year (2015-2023) RHNA cycle that

Alameda issued building permits for 620 housing units and that the projects that are expected to receive building permits in the next four years would provide an additional 652 units, for a total of 2201 units, exceeding the RHNA obligation of 1723 units. The Annual Report does state that “Alameda will not meet the RHNA goals for deed restricted affordable housing”, but that this is due to “high land and construction costs” with no mention of Article 26 as a constraint.

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2. **The climate change emergency.** The evaluation states that “Article 26 is limiting the City’s ability to address the climate emergency”.
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However, the effect of Article 26 on climate change is tenuous. If one accepts the evaluation’s thesis that multifamily housing is better suited to address climate change than one and two unit housing, ample opportunity is still provided to develop multifamily housing, as discussed in Item 1 above, through provisions such as the Multifamily Residential Combining Zone, the Density Bonus Ordinance and the ADU Ordinance.

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3. **Growth control and traffic.** The evaluation states that “Article 26 is not an effective growth control measure and does not reduce traffic or automobile congestion”.
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Again, the argument is tenuous. The studies cited in the evaluation address generic rather than Alameda-specific conditions. Alameda’s Article 26-compliant development patterns are generally more compact than single-family and duplex neighborhoods in other communities reflected in the 2015 study. In addition, the 21.78 units per acre allowed under Article 26 is within the 20-75 units per acre and 20-50 units per acre recommended in the MTC/ABAG report and much of older Alameda already exceeds the Article 26 density, given the extensive number of pre-Article 26 multifamily residences. **The effect of Article 26 is to cap further density increases in these already relatively dense neighborhoods.**

4. **Preserving the character of Alameda neighborhoods.** The evaluation states “Article 26 does not ‘preserve the character of residential neighborhoods’ ”.
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However, the evaluation does not consider the pre-Measure A scenarios of demolishing historic buildings in order to construct large new apartments. The evaluation implies that Alameda’s relatively recent demolition controls for historic and pre-1942 buildings are sufficient to prevent this scenario, but does not consider that those rules can be repealed by a City Council vote (unlike Measure A which requires a vote of the electorate to be changed) and that even under these demolition controls such demolitions could still be approved by the City Council.

While we agree that some of the photographic examples of multifamily older buildings on page 6 could be considered consistent with the character of Alameda neighborhoods, the four-story Union Street example is out of scale. In any case, new development is unlikely to maintain the same high architectural quality of the illustrated examples. Although Article 26 does not specifically prohibit demolition of historic buildings, it, in effect, stopped most of it upon adoption in 1973 by removing the incentive for developers to replace older residences with new architecturally intrusive apartments.

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5. **Economic development.** The evaluation states “Article 26 does not support the City of Alameda’s economic development strategy”.
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The evaluation’s concern that Article 26 has the effect of requiring the City to rezone more commercial land for residential purposes appears overstated. As previously noted, there appears to be ample opportunity in residentially zoned areas of Alameda Point and elsewhere to construct additional multifamily buildings to meet the City’s future RHNA obligations. In addition, some of the extensive open parking areas at major commercial developments, such as Wind River, appear underutilized and could probably be used more efficiently to free up land for further development.

6. **Equity.** The evaluation states that “Article 26 undermines Alameda’s efforts to maintain an economically, culturally and racially diverse community by prohibiting housing types that are most affordable to lower and middle income households” and implies that Article 26 “has led to displacement that has mostly affected low-income and non-white social groups”.
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However, these statements are inconsistent with actual population trends since 1970. According to census data in 1970, Alameda was 90.3% white, and in 2010 Alameda was 50.1% white. During the same period, the black and hispanic populations had increased from 2.6% and 6.7%, respectively, to 6.4% and 11%. Significant increases were also seen in most other ethnic groups. Median income for Alameda residents in 2019 was \$89,045 compared to \$111,700 for Alameda County, suggesting that Alameda is better able to accommodate lower income residents than elsewhere in Alameda County, notwithstanding Article 26.

In addition, Article 26 has tended to protect existing low-cost multifamily residences owned by small investors from purchase and redevelopment by large investors. Numerous anecdotal examples indicate that older multifamily residences owned by small investors are more affordable than newer residential developments by large investors. A spot survey of rents derived from building sales information over the past year supports this observation. Rents in six buildings over 100 years old owned by small investors averaged \$1373 for studios, \$1766 for one bedroom, \$2324 for two bedrooms and \$2237 for three bedrooms. This compared with \$2332-\$2923 for studios, \$2419-\$2785 for one bedrooms, \$2276-\$3826 for two bedrooms and \$4145-\$4580 for 3-4 bedroom townhouses all within relatively new developments owned by large institutional investors. A more complete comparison of rents in different building types and ownerships should be performed as part of any comprehensive housing strategy and evaluation of Article 26 developed as part of the General Plan and/or Housing Element updates.

7. **Integrity of the General Plan.** The evaluation states that “Article 26 does not maintain the integrity of the General Plan” and lists various provisions that the evaluation considers to be “undermined” by Article 26.
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However, the types of housing listed in the identified policies has continued to be developed under Article 26 and, again, the City’s 2015-23 Housing Element Background Report and 2018 General Plan And Housing Element Annual Report

found no constraints imposed by Article 26 that were not considered adequately mitigated.

In addition, there are numerous other General Plan provisions that are highly supported by Article 26. These include:

- Maintain and enhance the residential environment of Alameda's neighborhoods. (Land Use Element 2.4.a)
- Where a suitable residential environment can be created, give priority to housing on land to be developed or redeveloped in order to meet the quantified objectives of the Housing Element. (Land Use Element 2.4.c)
- Limit residential development to one family detached and two family dwellings, in accord with the provisions of Measure A. Up to 325 low cost units may be built in Alameda as multifamily housing as replacement housing for the low cost units lost when Buena Vista Apartments were converted market-rate housing in 1988. Some or all of these replacement units may be located at one or more of the mixed-use sites, or in any area of the City where residential units are permitted.

Although no apartments other than replacement units have been approved in Alameda since passage of initiative Measure A in 1973, in 1990 less than half of all existing units are single-family dwellings.

(Land Use Element 2.4.d)

Note: The above statement that “no apartments other than replacement units have been approved in Alameda since passage of initiative Measure A” reflects the 1991 adoption of Policy 2.4.d. Since 1991, numerous apartments have been built as discussed above.

- Expand housing opportunities for households in all income groups.
See Housing Element Policies B.1 (Section 8 Rental Assistance) and C.1 (Affordable Housing Program Ordinance).

(Land Use Element 2.4.e)

- Protect and restore Alameda's outstanding residential architecture of all periods and styles.

See also City Design Element, Section 3.3, Architectural Resources.

(Land Use Element 2.4.f)

- Preserve historic districts and buildings of architectural significance.

See policies 3.3.a and 3.3.b in City Design Element and policy 5.6.a in Open Space and Conservation Element and the 1980 Historic Preservation Element.

(Land Use Element 2.4.m)

- Amend the Zoning Ordinance and zoning map to be consistent with Measure A, as necessary. (Land Use Element 2.4.p)
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Perhaps the most important General Plan provisions supported by Article 26 are the following “themes” set forth in the General Plan’s introductory Setting and Organization section (Chapter 1) which states:

1.2 THEMES OF THE GENERAL PLAN

The General Plan's policies reinforce five broad themes:

An island: Arriving in Alameda is an event – a journey across or through the water that clearly establishes the City's boundaries and identity. General Plan policies strengthen awareness of the City's island setting by making the shoreline more visible and accessible.

Small town feeling: Alameda has always been a quiet, predominantly residential community, an ideal urban/suburban community created in an era when commutes were by rail or ferry. The City does not have or want tall buildings, freeways, highway commercial strips, or vast tracts of look-alike housing. Measure A, the 1973 initiative that was passed to prevent Alameda from becoming predominantly a city of apartment buildings, stands as a clear rejection of the change that seemed at the time to be engulfing the City.

Respect for history: The City's rich and diverse residential, commercial, industrial, and institutional architecture is continually gaining recognition as an irreplaceable asset. The Bay Area has no similar communities and none will be built. The General Plan emphasizes restoration and preservation as essential to Alameda's economic and cultural environment.

De-emphasis of the automobile: In a city where almost every street is a residential street, it is not surprising that increased traffic is seen as a major threat to the quality of life. The General Plan commits Alameda to vigorous support of transit improvements, ferry service, reduction of peak-hour use of single-occupant vehicles, and an enjoyable pedestrian environment.

Staff has also questioned the suitability of including development regulations like Article 26 in the City Charter. Staff appears to believe that all such regulations should be adopted by the City Council rather than the voters and has suggested that it is highly unusual for such rules to be included in a City Charter.

However, establishing important development regulations in the Charter enables the voters to retain control of the most fundamental ground rules governing a community’s physical character and its future. Entrusting these ground rules to elected officials places a greater burden on the public to monitor and respond to proposed changes in these rules by elected officials and places greater influence in the hands of individuals and groups who are willing to

devote resources to lobbying elected officials to change these rules. Provisions such as Article 26 are a form of direct democracy which has generally served our communities and nation well and has acted as a check on the frequent tendency of elected officials to act on the basis of short term considerations, often under pressure from special interests.

It is also not that unusual for development regulations such as Article 26 to be subject to the voters. Another notable example is San Francisco's Proposition M, approved by the voters in 1986, which establishes an annual cap on office development in downtown San Francisco. Although not part of the San Francisco Charter, Proposition M, like Alameda's Article 26, requires voter approval for any changes.

Notwithstanding the above considerations, AAPS is open to possible modification of Article 26. **But, as stated above, such modification needs to be developed as part of a carefully considered revision of the City's overall development goals and objectives. The current General Plan review process and upcoming Housing Element update will provide better vehicles for evaluation and possible modification of Article 26 rather than the current ad hoc evaluation.** One possible component of this broader evaluation of Article 26 could be to look independently at Article 26's limit of two units per building and its density limit of 2000 sf per unit.

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,

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cc: Andrew Thomas (by electronic transmission)
Mayor and City Council members (by electronic transmission)
AAPS Board and Preservation Action Committee (by electronic transmission)