



September 11, 2022

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

Subject: Revised draft zoning amendments related to Housing Element (Item 7-B on 9-12-22 Planning Board agenda)

Dear Planning Boardmembers:

The Alameda Architectural Preservation Society (AAPS) is continuing to review these extremely complex and important documents, so the following comments are preliminary and subject to modification and expansion. In particular, we need a version of the zoning changes that reflect modifications from the July 1 draft so that we can find those changes without laboriously comparing the July 1 text with the current text. The following comments reiterate many of our June 12, 2022 and July 10, 2022 comments, but with some modification and significant new comments, notably Items 2 (first two paragraphs), 3, 6 (third paragraph) and 16:

- 1. The proposed upzonings continue to be excessive.** We reiterate our comments previously submitted in detail especially in our May 8 letter to the City Council and our May 22 letter to the Planning Board that most of the various forms of upzonings (residential density and height limit increases) proposed in the draft Housing Element and the zoning amendments within **all** of the residential zoning districts and in the historic commercial districts appear unnecessary to meet the RHNA and state fair housing requirements. Again, we have not been able to find anything in state law or published California Housing and Community Development (HCD) guidelines that demand such sweeping and indiscriminate upzonings **everywhere**. Recently certified Housing Elements for other communities do not include such massive upzonings to meet the RHNA and fair housing requirements. The staff report notes that HCD's August 25, 2022 letter specifically references Program 4 as critical to accommodate the RHNA and affirmatively furthering fair housing, but this reference is just in passing, includes Program 4 among "many other" Housing Element actions (including Programs 1, 2, 3 and 6) and does not discuss the degree and extent of Program 4's provisions.
- 2. Delete Program 4's R3–R6 residential density increases, including the Transit Overlay Housing Waiver (TOHW).** The 270 units previously estimated for "Site 15b"-- infill residential development (Pages E-14 and E-15) and Program 4 (pages 19-20) has now been reduced to 160 units, largely made possible by the 150 additional condominium units obtained through conversion or redevelopment of the Coral Reef Hotel at 400 Park Street. Site 15b is now limited to unlimited density within existing buildings throughout the City. This provision is also included in Program 4, but Program 4 still also consists of the highly problematic density increases in the R3 through

R6 zoning districts, and the TOHW's unlimited density and 40 foot height limit for development in **new** and existing buildings within a quarter-mile of the 51 bus line and other "high quality" bus routes.

The R3-R6 upzonings and TOHW are therefore not necessary to meet the Regional Housing Needs Assessment (RHNA) but the Housing Element and staff report state they are still necessary to meet the state's fair housing requirements. Again, such a vast upzoning to meet the fair housing requirements is unnecessary and overkill.

We reiterate our previous TOHW comments 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 TOHW is retained, it should be as a pilot program and:
 - i. Applied only to the extent necessary to meet the RHNA and/or fair housing requirements;
 - ii. Applied only to important nodes and to existing buildings fronting the transit corridor itself rather than within ¼ or 1/8 mile;
 - iii. Retain the July 1 draft zoning amendments 1000 sf maximum unit size as a way to maximize the number of units and promote affordability, rather than use the now-proposed 1200 sf; and
 - iv. 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.

In addition, the TOHW mapping is based on the location of the "high frequency transit corridors", rather than an actual map or verbal description of the actual corridors (e.g. the 51A bus line) as they existed on the date of the zoning amendment adoption. **This is irresponsible and somewhat bizarre, since it appears to mean that the mapping of such corridors is under the control of AC Transit.** If AC Transit adds, deletes or changes a route, the half mile wide corridor would change accordingly with no action by the City of Alameda. To allow the City to retain control of the waiver mapping as well as make the provision more understandable to document users, **the waiver should be shown as a zoning map overlay**, such as shown on Attachment A, which was provided to the Historical Advisory Board at its June 2, 2022 meeting.

3. Reduce Site 15b's (Adaptive Reuse Residential Density Waiver) unlimited density proposed for new units within existing building envelopes to four units per parcel, plus ADUs.

Reduction to four regular units per parcel would eliminate the possibility of state density bonus

law projects on these parcels and the possible height limit increases, waiver of universal design requirements and even a waiver from the requirement that the new units be within an existing building envelope. But if more units are desired, they could be in the form of ADUs, which would not count toward the five units that would allow density bonus projects. Extra ADUs above a certain threshold could also be designated deed-restricted affordable, which would accomplish the density bonus objective of providing affordable housing, without the potential unintended consequences.

Since the proposed unlimited density within existing buildings would produce only 160 units citywide over the eight year housing element cycle or 20 units per year, limiting the new units to four per parcel should be sufficient, especially if the ADU allowance is increased, given that ADUs count toward the RHNA.

4. Revise the proposed zoning text for Site 15b (Section 30-5.11) to read as follows:

To support and encourage construction of new housing units within existing buildings, addition of one or more housing units within an existing building located in a zoning district which permits residential uses shall be exempt from any applicable residential density standards. The exemption shall not apply if the proposal includes modifications to the exterior of the building are not exempt from Design Review pursuant to Section 30-37.2.b Exempt Improvements. No addition to the building exterior may be made for a period of 10 years following final inspection pursuant to the building permit issued for the additional housing units.

5. Elimination of all provisions implementing City Charter Article 26. The draft zoning amendments now explicitly delete Article III from the Development Regulations which sets forth the provisions implementing Article 26 and confirms the effect of the massive upzonings discussed in Items 1, 2 and 3 above, despite the likelihood that the upzonings to the degree proposed are not necessary to obtain a certified Housing Element. This deletion parallels the provisions in the draft Housing Element that effectively repeals of Article 26. **Has the City Attorney reviewed this?**

6. Webster Street and Park Street height limits. We still consider the proposed unlimited density and increased height limits for the historic portions of Park and Webster Streets¹ unnecessary to meet the RHNA and the state’s fair housing requirements and which, through density bonus projects, could lead to taller buildings than intended, as well as other unforeseen consequences.

We also continue to recommend that the existing 60 foot by-right height limits on Park Street itself between Encinal and Lincoln be reduced to 40 feet, although with greater height allowed with a use permit.

If these height limit changes are implemented, we could support increasing the by-right residential density within the historic areas to 30 units/acre from the current 21.78 units/acre. This would still meet the state’s 30 unit/acre threshold for counting the development capacity toward the RHNA affordable housing requirements. Allowing 30 units/acre rather than unlimited density would reduce the potential development capacity on Webster Street by only two

¹ See Item 16(a) below for definition of “historic portions of Park and Webster Streets”.

units, but would reduce and possibly make unfeasible of the proposed 50 unit project at the old two story Bank of America building at the northwest corner of Park Street and Santa Clara Ave. We understand that this project would involve demolishing the existing building except for the street facades and constructing a new four or five story building behind the facades, possibly with upper floor setbacks. Although keeping the street facades is better than complete demolition, the building is a major contributor to the Park Street National Register District. A project like this will set a bad precedent that would incentivize similar projects and could eventually lead to disqualifying Park Street from the National Register.

Although the revised drafts continue to propose a 60 foot height limit for all of Webster and Park Streets, for Webster Street the 15 foot setback for upper floor height would now be triggered by 40 feet rather than the previously proposed 50 feet. This is helpful but also consider the following variations:

- a. Provide a 60 feet height limit north of Lincoln on Webster Street without setbacks in exchange for keeping 40 feet south of Lincoln.
- b. If the upper floor setback approach is kept south of Lincoln:
 - i. Base the upper floor setback on sight lines rather than 15 feet (as WABA originally proposed for heights over 40 feet north of Lincoln); and
 - ii. Require the upper floor setbacks on the street side of corner lots in addition to along the front lot line. The setback along the street side lot lines could be reduced for narrow lots (perhaps for lots with widths less than 40 feet and perhaps with the side setback proportional to the lot width).

We were surprised by the concern of some Planning Board members that dividing Park Street and Webster Street into different height zones would be too complicated. This is already done on Park Street and is a common practice in other communities. Good zoning rules should be based in part on conditions on the ground rather than a potentially arbitrary mapping over a relatively large area that does not recognize more localized conditions.

7. **For new buildings at the front of interior lots and adjacent to existing buildings with substandard front yard setbacks, allow exceptions to the normally required front yard setback by allowing the setback to be the average of the adjacent buildings' front setbacks.** This is similar to a provision now proposed for deletion currently applicable only to entire blocks within new large scale developments that should be retained and expanded to apply to individual development sites to help maintain streetscape, design character and more efficient lot coverage.
8. **Minimize interior and exterior demolition to promote resource conservation and retain valuable materials.** When adding units within existing building envelopes, include requirements that discourage gut rehab to help preserve distinctive interiors and minimize the amount of debris that ends up in the landfill. This strategy will promote the resource conservation provisions added last year to the General Plan and help avoid over-improvements that increase costs and inhibit production of affordable housing. For pre-1942 buildings, the California Historical Building Code (CHBC) would help implement this strategy, since:

- a. the CHBC allows alternatives to regular code that preserve historic fabric, can significantly reduce code-related project costs and allow projects that would be financially infeasible under regular code to become feasible; and
- b. in Alameda, the CHBC applies to all pre-1942 buildings and post-1942 buildings on the Historic Building Study List, comprising thousands of structures.

9. Other residential zoning relaxations. There are numerous other relaxations of existing zoning rules, including reduction of minimum lot sizes to 2000 ft.², reduced side yard setbacks on wide lots, increased lot coverage by buildings, elimination of minimum lot width, and reduction in usable open space. These changes are apparently intended to promote new development, but there needs to be analysis of whether each of these changes is really necessary as well as adverse impacts, such as promoting McMansions, conversion of pervious to impervious surfaces (thereby increasing stormwater runoff), and tree and vegetation removals.

10. In all residential zones, require the portion of a building over 30 feet to be located within the roof envelope, using gables and dormers to develop habitable living space to minimize visual bulk, mitigate solar access impacts on neighbors and so that large new buildings do not look like big boxes, like many post-1920s apartment buildings. See examples attached to our 7-10-22 letter of buildings with a ca. 30 foot wall height and ca. 10-15 foot roof height with living space within the roof envelope.

More detailed provisions could include requiring the roof pitch to be between 4:12 and 12:12, subject, where applicable, to the context-- based roof pitch in the Objective Multifamily Design Review Standards. We are suggesting 4:12 as a minimum roof pitch because lower pitches will look too underscaled and awkward on buildings with 30 foot wall heights. But we expect many applicants will opt for a steeper pitch anyway, since it will maximize the amount of floor area within the roof envelope. Many early 20th century “steep roof” (mostly Colonial Revival) houses have roof pitches up to approximately 24:12, but this is probably too steep for purposes of this proposal so we are recommending a 12:12 maximum.

If this proposal is pursued, it could be further fine-tuned.

11. North Park Street. We would again like to thank staff for reducing the Residential Subarea height limit from the previously proposed 45 feet to 40 feet. This is still a full story higher than the existing 30 foot height limit but could be workable if the portion of the building above 30 feet is included in the roof envelope as discussed in Item 10 above and exceptions to these height provisions triggered by state density bonus law projects can be avoided.

We continue to recommend:

- a. A 40 foot height limit on the west side of Park Street between Lincoln and Buena Vista Avenues to, among other things, avoid visual competition with the visual landmark McGee’s Building, especially the tower (see the simulation that we previously provided of McGee’s with a 60 foot tall building mass next to it, where, among other things, the heights of various elements of McGee’s are indicated);

- b. Retaining the existing one unit per 2000 ft.² of lot area in at least the Residential, Mixed Use and possibly portions of the Workplace Subdistricts; and
- c. Retaining the existing height limits within the Mixed Use and possibly portions of the Workplace Subdistricts unless the portions of a building above 30 feet are within the roof envelope as discussed above for the Residential Subdistrict.

As an alternative to (a):

- (i) between Pacific and Buena Vista provide a 40 foot height limit and allow greater height if setback 30 feet from the Park Street frontage to avoid visual competition with McGee's; and
- (ii) between Lincoln and Pacific base the height limit on the results of a historical/architectural evaluation for the very old building at 1623 Park Street, which has been altered but may be restorable.

See Item 9 in our June 12, 2022 comments and our May 8, 2022 letter to the City Council for further discussion. As stated in the May 8 letter, **much of North Park Street consists of one of the oldest and most historically significant residential areas in Alameda** in addition to the important historic buildings on the west side of Park Street between Lincoln and Buena Vista Avenues.

12. On residential frontages where at least 75% of the block face is developed with one story houses, require that upper floors be set back from the front wall. We recommend a setback of at least 15 feet. This expresses a provision in the Guide to Residential Design as an objective standard. It was considered as part of the Objective Multi Family Design Review Standards, but staff thought that it should be treated as a zoning standard (since it limits the potential building envelope) rather than as a design standard.

Although a setback less than 15' might be sufficient, we are recommending 15 feet to help ensure that the visibility of the upper floor is sufficiently minimized. Specific examples of upper floor setbacks on existing houses could be studied to help determine the appropriate amount of setback. We recommended 15 feet after looking at about a dozen of these houses. Several of them had upper floors set back more than 15 feet. If the Planning Board is interested in the overall approach, specific examples of existing buildings with varying upper floor setbacks could be presented to the Board to help determine the amount of setback.

13. Include the Bridgeside Shopping Center within the Community Mixed Use Combining (CMU) District. The Bridgeside Shopping Center is currently in the North Park Street Workplace Subdistrict, which requires residential uses to be above ground floor non-residential uses, which is not required in the CMU District. Including Bridgeside in the CMU district would enhance the feasibility of residential development at Bridgeside. Also, the North Park Street Workplace height limit is 60 feet at Bridgeside, while the CMU District allows 65 feet.

14. Proposed ADU height increase to 25 feet from 16 feet in certain cases (Zoning Amendments Section 30-5.18c.4.(f)). This is problematic due to, among other things, potential privacy impacts on neighbors. Arguably, a 25 foot tall accessory structure is no longer accessory except in name.

15. Revise the new last sentence of the North Park Street Building Height Exceptions (Zoning Amendments Section 30–4.25d.iv) to read:

If any side or rear lot line abuts a residential property in ~~the~~ Residential, Mixed Use or Workplace sub districts, the height limit of the adjacent sub district shall apply within twenty (20') ~~20~~ feet of such lot line.

We are recommending this change because the Mixed Use and to a lesser degree the Workplace Subdistricts contain significant numbers of residential buildings.

16. Environmental review.

The staff report relies on the General Plan EIR as the environmental document for adoption of the Housing Element and related zoning amendments and states that no further environment review with respect to the General Plan EIR is required. **This assertion is highly questionable regarding impacts on historic properties.**

The General Plan EIR is a “program” EIR, that analyzes many potential environmental impacts only at a generalized level and “tiers” (defers) more detailed analysis to subsequent environmental review for more specific actions such as individual projects and the Housing Element and zoning amendments. This strategy is reflected in, among other places, the following statements on pages 2-22 and 2-23 of the General Plan Final EIR, which responded to comments in AAPS’s 6-21-22 letter commenting on the Draft EIR:

1. Land Use Classifications and Zoning Changes to Accommodate the Regional Housing Need. Staff is recommending that these provisions be amended in the final draft General Plan to remove specific recommended zoning changes to accommodate the regional housing need. Those zoning changes will occur as necessary when the Housing Element is adopted.
4. Zoning Changes for Heights and Uses. Whenever a change to the zoning is proposed, that proposed change will be subject to review under the California Environmental Quality Act. At that time, it can be determined if the proposed change would result in a significant impact on the environment.

Note: The General Plan originally proposed specific residential density and height limit increases similar to, but less radical than those now proposed in the Housing Element and zoning amendments, but those increases were removed from the General Plan, based at least in part on AAPS’s 6-25-21 letter’s observation that the density and height limit increases does result in adverse impacts on historic properties. Item 1 above from the final EIR refers to these removals, and in combination with Item 4, tiers evaluation of the impacts of these increases on historic properties to CEQA review of the Housing Element and zoning amendments.

However, as we have previously and repeatedly noted, **the proposed residential density and height limit increases will encourage demolition and replacement of historic buildings with new and larger buildings that architecturally disrupt historic neighborhoods and are**

inconsistent with Theme 4 “Character” on page 17 of the General Plan. The increases could also encourage architecturally incompatible alterations and additions to historic buildings.

The General Plan EIR appropriately justified deferring evaluation of the density and height limit increases to the Housing Element and zoning amendments primarily because after these increases were removed from the General Plan, the location and extent of the increases, including their location relative to historic properties, was no longer known and could not be known until the specific increase proposals were provided in the Housing Element and zoning amendments. **Now that the proposals are available, environmental impact analysis of the proposals’ impacts on historic properties is now feasible and necessary** (contrary to the staff report’s determination), based on CEQA Guidelines Section 15162(a), which reads in relevant part:

When an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

3. “New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete... shows any of the following:

A. The project will have one or more significant effects not discussed in the previous EIR...

In this case, the “new information”, of course, is the specific degree and locations of the density and height limit increases (including locations relative to historic properties), that were not known at the time of the General Plan EIR certification.

Finally, the staff report determination appears to assume that impacts of the residential density and height limit increases will be tiered to the project level once specific projects allowed by the density and height limit increases are proposed. However, Programs 2, 3, and 4 contain the following or very similar language:

“Permit multifamily housing, shared housing, transitional housing, supportive housing, senior assisted living, and low barrier navigation centers by right. “By right” means the use shall not require a conditional use permit, planned unit development permit, or other discretionary review or approval. Design Review shall be conducted to ensure compliance with adopted Objective Design Review Standards.”

The use of the phrases “by right” and “ ‘by right’ means the use shall not require... discretionary review or approval” and the reference to Objective Design Review Standards” suggests that review of all of these projects throughout the City will be “ministerial” rather than “discretionary” and therefore exempt from CEQA. If this interpretation is correct, **environmental review of the impacts of such projects on historic properties at the Housing Element and zoning amendments level is the only opportunity for evaluating these impacts, since the analysis normally cannot be tiered to the project level. Is it actually the City’s intent to exempt all of the above project types from CEQA, even when the projects adversely affect historic**

properties? It our understanding that such a broad exemption goes beyond the requirements of State law.

Moreover, some projects such as SB 35 projects (including SB 35 projects combined with state density bonus law projects) are not subject to environmental review for historic preservation impacts unless they involve demolition of national, state or local register properties. But such projects still have significant effects for CEQA purposes on such properties, such as incompatible new construction within a historic area or adverse alterations to such properties.

Related to all of this, the staff report states:

*Older and Significant Properties. AAPS correctly points out that the residential districts include a very large number of older Victorians and historical Study List properties. In recognition of Alameda’s older building stock, **the zoning amendments do not change how the City treats historic properties or the review process for alterations or demolition of a Study List property (emphasis added).***

The above paragraph suggests that developments impacting Study List and presumably Historical Monuments and pre-1942 properties would not be ministerial and still be subject to CEQA and HAB, at least with regard to historic property impacts. **How can all of these seemingly contradictory and somewhat ambiguous statements be sorted out?**

Proposal.

To avoid adverse impacts of the Housing Element and zoning amendments on historic properties, we recommend the following changes to the Housing Element and zoning amendments. The changes are mostly based on a project alternative which we previously provided for the General Plan EIR, which became moot regarding the EIR due to the deletion of the residential density and height limit increases from the General Plan:

- a. *Delete the proposed residential density and height limit increases, in the following areas:*
 - (i) *the R-2 through R-6 Zones, the NP-R and NP-MU Zones (portions of the North Park Street area), and the C-1 Zone (which includes the “Stations”), all as shown on the 2020 City of Alameda Zoning Map;*
 - (ii) *the historic portions of the Park and Webster Street Business Districts; and*
 - (iii) *properties that are on the City of Alameda Historical Monument or Historic Building Study Lists;*

***except** for increased density within existing building envelopes resulting in a maximum of four regular dwelling units per parcel plus ADUs.*

Define the historic portion of the Park Street Business District as:

“The portion of the Park Street Business District located in: (i) the C-C Zone south of Lincoln Avenue; and (ii) the NP-G Zone on the west side of Park Street between Lincoln and Buena Vista Avenues all as shown on the 2020 City of Alameda Zoning Map.”

Define the historic portion of the Webster Street Business District as:

“The portion of the Webster Street Business District located in the C-C Zone between Central and Lincoln Avenues as shown on the 2020 City of Alameda Zoning Map”

- b. *Clarify the “by right”, “not require discretionary review or approval” and references to “Objective Design Review Standards” to ensure that the current discretionary approval procedures for historic properties as set forth in the historic preservation ordinance and the City’s current design review procedures, including new construction within the Park Street and NAS Alameda (Alameda Point) National Register Districts, will be retained.*

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

Attachment A: TOHW map

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)
California Department of Housing and Community Development (by electronic transmission)
AAPS Board and Preservation Action Committee (by electronic transmission)



"3 Blocks to Transit" Overlay
Approx. 1/4 Mile From High Frequency Transit
= 5-minute walk