



May 5, 2020

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

**Subject: Recommendation by the City Council's Charter Review Subcommittee to consider providing direction to City staff to draft a charter amendment related to Article 26 (commonly known as Measure A)- -Item 3-A on City Council's May 7, 2020 agenda.**

Dear Mayor Ashcraft and Councilmembers:

The Alameda Architectural Preservation Society (AAPS) requests that the City Council defer consideration of the Charter Review Subcommittee recommendation and any further discussion of repeal or modification of Article 26 until after the restrictions related to COVID-19 are reduced sufficiently to allow in-person attendance at City Council meetings.

It is highly inappropriate to have a City Council discussion on such an important issue as amending the City charter to repeal or modify Article 26 without in-person public participation. In addition, considering this issue at a special meeting with only seven days public notice rather than the usual 12 day notice for regular meetings discourages public comment and creates the impression that the City Council is attempting to take action with minimal public scrutiny. The seven day public noticing period also inhibits internal review within organizations similar to ours of the options presented in the subcommittee report.

**AAPS's position on any changes to Article 26**

AAPS's position on any changes to Article 26 continues to be as set forth in our January 10, 2020 letter to the Planning Board: although we are open to possible modification of Article 26, the current ad hoc evaluation of Article 26 is premature and 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 to meet the City's evolving goals and objectives. Article 26 is only one piece of this larger framework of development rules.

The need for this broader evaluation 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 a better vehicle for an evaluation of Article 26, rather than the current 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.

The subcommittee report's Option 3 (which would repeal the two unit limit per building, but retain the 2000 sf minimum lot area per unit) could be a promising roadmap, but, again, needs to be evaluated as part of a broader review process, taking into account the varying character of Alameda's specific areas.

### **January 13, 2020 Planning Board meeting.**

The need for a broader and more carefully considered review is consistent with our primary takeaway from the January 13, 2020 Planning Board meeting. Although some Planning Board members expressed support for modifications of Article 26 (such as deleting the two unit limit per building, but, for most boardmembers, retaining the 2000 sf minimum lot area per unit), at least five of the seven boardmembers urged further study.

The subcommittee report summary of the Planning Board meeting is misleading and is mostly limited to Planning Board statements indicating support for Article 26 modification, but omits the statements urging further study. See the attached Planning Board minutes for a more accurate summary. For a complete and accurate record of the Planning Board meeting, please review the meeting video.

### **AAPS response to subcommittee report and staff evaluation of Article 26.**

As noted in our 1/10/20 letter, we were surprised by the negative tone toward Article 26 in the staff evaluation of Article 26 provided to the Planning Board and attached to the subcommittee report. 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.

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". There are also misleading statements and inaccuracies, perhaps most notably the statement that Article 26 "does not preserve the character of residential neighborhoods". Although Article 26 does not specifically prohibit demolition of historic buildings, it, in effect, stopped most of it in 1973 by removing the incentive for developers to replace older residences with new architecturally intrusive apartments.

We specifically reiterate our response to the argument that it is unusual for land use regulations such as Article 26 to be in a city charter. 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. Additional examples of land use regulations created by the voters and requiring voter approval for changes can be found in other California communities.

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See our 1/10/20 letter for a more detailed rebuttal of the staff evaluation. At the 1/13/20 Planning Board meeting, boardmembers also questioned some of the staff evaluation's conclusions.

Unfortunately, the subcommittee report attaches the staff evaluation to the report and references it as a basis for some of the subcommittee report's statements. The report itself has a similar bias, most notably couching the presumed need to repeal or amend Article 26 "to resolve conflicts between Article 26 and the City of Alameda General Plan and Alameda Municipal Code". This is a mischaracterization. As noted in the subcommittee report, the General Plan inconsistencies referred to in the report are actually Article 26 carveouts adopted in 2012 and 2014 due to State of California interventions. Article 26 is highly consistent with the other provisions of the General Plan (some of which are also inconsistent with the 2012 and 2014 carveouts) listed in detail in our 1/10/20 letter, most conspicuously the following provisions:

- Limit residential development to one family detached and two family dwellings, in accord with the provisions of Measure A. (Land Use Element 2.4.d)
  - 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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## **Conclusion**

AAPS is open to possible modification of Article 26, but any 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 than the current ad hoc evaluation.

Thank you for the opportunity to comment. Please contact me at (510) 523-0411 or [cbuckleyAICP@att.net](mailto:cbuckleyAICP@att.net) if you would like to discuss these comments.

Sincerely,

Christopher Buckley, Chair  
Preservation Action Committee  
Alameda Architectural Preservation Society

Attachments: (1) AAPS 1-10-20 letter to Planning Board  
(2) 1-13-20 Planning Board minutes

cc: Eric Levitt, Lara Weisiger and Andrew Thomas (by electronic transmission)  
AAPS Board and Preservation Action Committee (by electronic transmission)