



## MEMORANDUM

**Date:** July 21, 2022  
**To:** Angela Calvillo, Clerk of the Board of Supervisors  
**From:** Lisa Gibson, Environmental Review Officer – [lisa.gibson@sfgov.org](mailto:lisa.gibson@sfgov.org) (628) 652-7571  
Joy Navarrete, Principal Environmental Planner – [joy.navarrete@sfgov.org](mailto:joy.navarrete@sfgov.org) (628) 652-7561  
**RE:** BOS File No. 220631 - Affordable Housing Production Act  
**Hearing Date:** July 26, 2022

This memorandum provides further detail regarding the Planning Department’s determination that Board File No. 220631 - Affordable Housing Production Act (“proposed charter amendment”), is not a project under the California Environmental Quality Act (“CEQA”). In addition, this memorandum provides an alternative basis for compliance with CEQA.

### **The Proposed Charter Amendment Is Not a Project Under CEQA**

In evaluating the appropriate level of environmental review, the lead agency must first establish whether the proposal is subject to CEQA. Pursuant to CEQA Guidelines Section 15060(c), an activity is not subject to CEQA if it (1) does not involve the exercise of discretionary powers by a public agency; (2) will not result in a direct or reasonably foreseeable indirect physical change in the environment; or (3) is not a project.

CEQA defines a “project” as “an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” Additionally, CEQA defines “environment” as the physical conditions which exist within the area which will be affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance. The “area” involved is that in which significant effects would occur either directly or indirectly as a result of the project. The environment includes both natural and man-made conditions.

In determining whether an activity may create a “reasonably foreseeable indirect physical change in the environment,” as required to be a “project” under CEQA, it is important to understand that a physical change is identified by comparing existing physical conditions with the physical conditions that are predicted to exist when the proposed activity has been implemented. The difference between these two sets of physical conditions, if any, is the relevant “physical change” for CEQA purposes. (Pub. Res. Code § 21065).

Opting to place the proposed charter amendment on the ballot is an activity that involves the exercise of discretionary powers by the Board of Supervisors - a public agency. As such, the Planning Department was required to determine whether the activity was otherwise subject to CEQA.

The proposed charter amendment would change City laws to streamline approval of three types of housing: (1) multi-family housing where 100% of the residential units are affordable to households with incomes up to 120% of area median income and the average income for all units is no more than 100% of area median income; (2) multi-family housing with 10 or more residential units that provide on-site affordable units required by City law plus additional affordable housing units equal to 8% of the total number of units in the entire project; and (3) multi-family housing, or a development that includes housing

and other commercial uses, where 100% of the residential units are for households that include at least one San Francisco Unified School District or City College employee, and where at least 80% of the residential units are affordable.

The proposed charter amendment would exempt these housing developments from any discretionary approvals by the City. However, if a proposed project (1) requires approval for a contract with a term of more than 10 years, (2) requires the City to spend at least \$10 million, or (3) includes a lease of City property for at least 10 years, the project would require Board of Supervisors approval. The City would have about seven months to approve these projects. Some of these decisions, particularly for projects including 100% affordable housing, may nonetheless not be subject to CEQA under SB-35, a state law that governs affordable housing approvals.

Implementation of the proposed charter amendment would change *how* eligible projects are reviewed and approved, but does not itself *approve* any particular project, such as construction of new structures or rehabilitation of existing ones. Additionally, it does not raise height limits, expand buildable areas, or otherwise change zoning controls or affect development capacity.

Because the proposed charter amendment would only change *how* eligible projects are reviewed and approved, it would not result in a direct or reasonably foreseeable indirect physical change in the environment. For these reasons, the proposed charter amendment is not a project under CEQA.

### **Even If It Were Considered a Project, the Proposed Charter Amendment Would Not Require Further Environmental Review**

Moreover, even assuming the proposed charter amendment were to be considered a project under CEQA, any environmental impacts of housing projects that could be approved under it have already been analyzed in the 2004 and 2009 Housing Element Final Environmental Impact Report (“FEIR”) and its addenda.<sup>1</sup> The addenda include those prepared for the HOME-SF program (Planning Code Section 206 et seq.; FEIR Addendum 3) and the proposed charter amendment found in Board File No. 190437: Non-Discretionary Review of 100 Percent Affordable Housing and Teacher Housing Projects (FEIR Addendum 5). The discussions and findings from those previous addenda are applicable to the proposed charter amendment and are incorporated herein by reference.

Assuming the proposed charter amendment were to be considered a project under CEQA, the proposed charter amendment would not result in any new significant environmental impacts, substantially increase the severity of previously identified impacts, or necessitate implementation of additional or considerably different mitigation measures than those identified in the FEIR or the previous addenda. Any impacts associated with the proposed charter amendment would be substantially the same as those disclosed in the FEIR and discussed in the previous addenda, and thus no supplemental or subsequent EIR or further analysis under CEQA would be required.

As discussed above, the proposed charter amendment would change how a certain group of eligible projects are reviewed and approved. Streamlining the review process could result in eligible projects being constructed and occupied more quickly than under existing procedures, but would not change the physicality or amount of development already allowed in the City. Construction of housing units in excess of the number analyzed in the FEIR and the previous addenda would not occur and thus, even if the proposed charter amendment were to be considered a project under CEQA, any possible impacts would have already been analyzed in the FEIR and the previous addenda.

<sup>1</sup> San Francisco Planning Department, San Francisco 2004 and 2009 Housing Element Final Environmental Impact Report, 2007.1275E, see link: [San Francisco 2004 and 2009 Housing Element EIR and Addenda](#), accessed 7/20/22.