



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Amendment Adoption

HEARING DATE: JUNE 6, 2013

*Date:* May 30, 2013  
*Case No.:* 2013.0536T  
*Project Address:* **Planning Code Amendment: Defining a Significant Increase in Residential Development Potential**  
*Initiated by:* Housing Review Committee, formed as part of Proposition C  
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*Recommendation:* **Approval**

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On November 6, 2012, San Francisco voters adopted Proposition C: “Affordable Housing Trust Fund and Housing Production Incentives” (hereinafter, “Proposition C”). Among other amendments, Proposition C added Charter Section 16.110 to lower and stabilize certain regulatory requirements of the Inclusionary Affordable Housing Program in Planning Code Section 415. The Charter amendment approved by San Francisco voters included direction to draft an amendment to the Planning Code to facilitate the implementation of Proposition C. This language constituted the initiation of the attached draft Ordinance, which is now before the Planning Commission for adoption. Pursuant to Planning Code Section 306.3, the Department provided notice for a hearing to consider the Planning Code amendments contained in the draft Ordinance, as modified at the public hearing.

The passage of Proposition C prohibits the adoption of legislation or regulation that would require an increase in the Inclusionary Housing obligation of future projects beyond the thresholds and requirements defined in the Charter Amendment, with certain exceptions. One such exception is defined in Section 16.110.(h) (1)(B) (iv) as “An area subject to a change in zoning enacted after November 6, 2012 that affects 40 or more acres or greater and results in a significant increase in residential development potential, where the area is not also encompassed by a Special Use District adopted after November 6, 2012,” and deemed that the City would have to subsequently identify what constitutes “a significant increase in residential development potential” as a standard for the purposes of this subsection. While Proposition C did not define the term “a significant increase in residential development potential,” it did establish the Housing Review Committee to recommend a standard in the form of a proposed ordinance to the Board of Supervisors.<sup>1</sup> The Housing Review Committee held public hearings on February 7, 2013 and on March 13, 2013. After considering public input and recommendations of staff, the Housing Review Committee recommended the standard set forth in the attached draft Ordinance for purposes of Charter Section 16.110(h).

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<sup>1</sup> The Housing Review Committee is comprised of the Directors of the Mayor’s Office of Housing, the Planning Department, and the Office of Economic and Workforce Development.

## PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code (herein after “Code”) by adding a new definition to Section 401 for “significant increase in development potential.”

Specifically, the Code amendment would define the following standard for “significant development potential”:

- A 20% or greater increase in developable residential gross floor area, as measured by a change in height limit, Floor Area Ratio limits, or use (over prior zoning); or
- A change in use permitting residential uses where residential uses were not previously permitted; or
- For parcels with an existing residential development capacity of ten units or more, the lesser of:
  - A 50% or greater increase in residential densities over prior zoning; or,
  - An increase in density of at least 15 additional units allowed under the prior zoning.

This newly defined standard would be applicable to areas subject to a change in zoning after the passage of Proposition C, in an area that encompasses 40 acres or more that is not also encompassed by a Special Use District adopted after November 6, 2012.

### The Way It Is Now:

The existing Inclusionary Affordable Housing Program (hereinafter the “Program”) defined in Planning Code Section 415 requires that certain residential projects pay an Affordable Housing Fee or provide a percentage of units constructed as affordable to qualifying households, known as “Below Market Rate” or “BMR” units. As an alternative to providing BMR units on-site, Project Sponsors may provide a higher percentage of the total units as off-site BMR unit, or may pay an Affordable Housing Fee in-lieu of providing units on-or off-site.

Proposition C became effective on January 2, 2013. As of that date, there is a prohibition on increasing Inclusionary Housing requirements for future projects, with exceptions including for areas over 40 acres in size that are re-zoned, but not included in any Special Use District, in a manner that would result in significantly increased residential development potential. This exception is not defined in the Planning Code.

Previously, Ordinance No. 062-13 was adopted to implement most of the amendments made through Proposition C, including three general changes to the Planning Code which became effective on May 10, 2103.<sup>2</sup>

### The Way It Would Be:

The proposed Ordinance would define a specific standard for what constitutes a “significant increase in residential development potential” for the purposes of Charter Section 16.110(h)(1)(B)(iv). This standard would be:

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<sup>2</sup> Ordinance No. 062-13 is available online at: <http://sfgov.legistar.com/LegislationDetail.aspx?ID=1244648&GUID=C98E4733-C3DF-4397-8354-FD44BCE22408&Options=ID|Text|&Search=62-13>. The three amendments to the Planning Code through Ordinance No. 062-13 were: 1) reducing on-site inclusionary requirements by 20%; 2) updates and clarifications to the Program; and 3) changing the threshold for participation in the program to apply to buildings with ten or more units.

- A 20% or greater increase in developable residential gross floor area, as measured by a change in height limit, Floor Area Ratio limits, or use (over prior zoning); or
- A change in use permitting residential uses where residential uses were not previously permitted; or
- For parcels with an existing residential development capacity of ten units or more, the lesser of:
  - A 50% or greater increase in residential densities over prior zoning; or,
  - An increase in density of at least 15 additional units allowed under the prior zoning.

The exemption from the cap on affordable housing obligations would apply to projects that meet the defined threshold. The increase would be calculated on a parcel-by-parcel basis, and only those parcels within the re-zoned area that meet the defined threshold could have an increased inclusionary housing obligation.

### **REQUIRED COMMISSION ACTIONS**

The proposed Ordinance is before the Commission so that it may recommend approval or disapproval of the proposed Planning Code Amendment to the Board of Supervisors.

### **RECOMMENDATION**

The Department recommends that the Commission recommend *approval* of the proposed Ordinance to the Board of Supervisors and adopt the attached Draft Resolution to that effect.

### **BASIS FOR RECOMMENDATION**

In 1992, the Planning Commission adopted the City's first Inclusionary Affordable Housing Policy, requiring housing projects with 10 or more units that seek Conditional Use authorization or a planned unit development to provide 10% of those units as affordable housing. In 2002 the City revised this policy to apply the Inclusionary Requirement to all housing projects with 10 or more units, with higher requirements for projects receiving Conditional Use authorization or for planned unit developments. 2006 legislation modified the requirements in several aspects, including: increasing inclusionary requirements, revisions to the Area Median Income calculations, and expanding the requirements by lowering the unit threshold from projects with 10 or more units to projects with 5 or more units. As noted above, in November of 2012, the Commission and the voters approved two pieces of legislation that further revised the Inclusionary Requirement. These recent changes include: raising the unit number threshold of housing projects subject to affordable housing provisions to 10 or more units and lowering the requirements for the provision of on-site units. Ordinance No. 062-13 was adopted to implement most of the amendments made through Proposition C and became effective on May 10, 2103.

The draft Ordinance provides a definition that was developed by the Housing Review Committee and is based on similar standards used to address Special Use Districts and local re-zoning. Further, the Housing Review Committee staff conducted stakeholder meetings, and two public hearings.

The proposed Ordinance complements Ordinance No. 062-13, by providing a clear definition of a standard by which to evaluate whether a zoning change would result in an increased inclusionary housing obligation. This codification is required by the Charter amendment enacted by Proposition C.

**ENVIRONMENTAL REVIEW**

The proposal to amend the Planning Code would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

**PUBLIC COMMENT**

As of the date of this report, the Planning Department has received no public comment on the proposal.

<b>RECOMMENDATION:</b> <b>Recommendation of Approval</b>
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