



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Resolution No. 19937

HEARING DATE: JUNE 15, 2017

*Date:* June 8, 2017  
*Project Name:* Inclusionary Affordable Housing Program (Sec 415) Amendments  
*Case Number:* 2017-001061PCA [Board File No. 161351v4]  
*Sponsored by:* Supervisors Breed, Kim, Peskin, Safai, and Tang  
*Staff Contact:* Jacob Bintliff, Citywide Planning Division  
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*Reviewed by:* AnMarie Rodgers, Senior Policy Advisor

*Recommendation:* **Recommend Approval with Modifications**

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**RECOMMENDING THAT THE BOARD OF SUPERVISORS 1) ADOPT A PROPOSED ORDINANCE, WITH MODIFICATIONS THAT WOULD AMEND THE PLANNING CODE TO REVISE THE AMOUNT OF THE INCLUSIONARY AFFORDABLE HOUSING FEE AND THE ON-SITE AND OFF-SITE AFFORDABLE HOUSING ALTERNATIVES AND OTHER INCLUSIONARY HOUSING REQUIREMENTS; TO REQUIRE MINIMUM DWELLING UNIT MIX IN ALL RESIDENTIAL DISTRICTS; TO ESTABLISH DWELLING UNIT MINIMUM SIZES; TO ESTABLISH A PROHIBITION ON STUDIO UNITS WITH PRICES SET AT 100% AMI OR ABOVE; TO REPLACE OR PAY A FEE FOR ANY AFFORDABLE UNITS THAT MAY BE LOST DUE TO DEMOLITION OR CONVERSION; AND AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302; AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1.**

WHEREAS, on December 13, 2016 Supervisor Kim and Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 161351 (referred to in this resolution as Proposal A), which amends Section 415 of the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; and adds reporting requirements for density bonus projects; and,

WHEREAS, on February 28, 2017 Supervisor Kim and Supervisor Peskin introduced substitute legislation under Board File Number 161351v2; and,

WHEREAS, on February 28, 2017 Supervisor Safai, Supervisor Breed, and Supervisor Tang introduced a proposed ordinance under Board File Number 170208 (referred to in this resolution as Proposal B), which amends the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-

Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; and requires a minimum dwelling unit mix in all residential districts; and,

WHEREAS, on September 29, 2015, Mayor Ed Lee and Supervisor Tang introduced a proposed Ordinance under Board File Number 150969, to add Planning Code Section 206 to create the Affordable Housing Bonus Program, the 100 Percent Affordable Housing Bonus Program, the Analyzed State Density Bonus Program, and the Individually Requested State Density Bonus Program, to provide for development bonuses and zoning modifications for increased affordable housing, in compliance with, and above those required by the State Density Bonus Law, Government Code, Section 65915, et seq.; to establish the procedures in which these Programs shall be reviewed and approved; and to add a fee for applications under the Programs; and

WHEREAS, on October 15, 2015 the Planning Commission voted to initiate an amendment to the General Plan to add language to certain policies, objectives and maps that clarified that the City could adopt policies or programs that allowed additional density and development potential if a project included increased amounts of on-site affordable housing; and

WHEREAS, on February 25, 2016, this Commission found that the Affordable Housing Bonus Program was, on balance, consistent with the San Francisco General Plan as amended, and forwarded the Affordable Housing Bonus Program, together with several recommended amendments, to the Board of Supervisors for their consideration; and

WHEREAS, on June 13, 2016, Supervisor Tang duplicated the AHBP ordinance file and amended the AHBP ordinance to include only the 100% Affordable Housing Bonus Program, and amended the 100% Affordable Housing Bonus Program to, among other items, prohibit the use of the program on parcels containing residential units and to allow an appeal to the Board of Supervisors; and

WHEREAS, on June 30, 2016, in Resolution 19686, the Planning Commission found that both the 100% Affordable Housing Bonus Program [BF 150969] and 100% Affordable Housing Density and Development Bonuses [BF 160668] to be consistent with the General Plan, and in July 2016 the Board of Supervisors adopted the 100% Affordable Housing Bonus Program, which is now found in Planning Code section 206; and

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public informational hearing at a regularly scheduled meeting to consider the two proposed ordinances on March 16, 2017; and

WHEREAS, The Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the two proposed Ordinances on April 27, 2017; and

WHEREAS, The Commission passed Resolution Number 19903 recommending approval with modifications of an Ordinance amending the Planning Code controls for the Affordable Inclusionary Housing Program and certain other requirements among other actions; and

WHEREAS, On May 22, 2017 at the Land use and Transportation Committee, Supervisor Peskin moved to amend BF 161351. After the motion was seconded by Supervisor Safai, the ordinance as amended became the "Consensus" ordinance.

WHEREAS, The components of the Consensus Ordinance that are materially different than elements considered by the Commission on April 27, 2017 include the following:

1. to **require a minimum dwelling unit mix** in all residential districts for projects of 10 - 24 units, as well as projects of 25 units or more, in all residential zoning districts outside of Plan Areas;
2. to **establish a minimum unit size for inclusionary units** required through Section 415,;
3. to prohibit the designation of inclusionary **studio units at affordable levels above 100% AMI**;
4. to **require replacement of or fee payment for any affordable units that may be lost** due to demolition or conversion, above and beyond the required inclusionary units under Section 415;
5. to **exclude certain areas from the proposed citywide Inclusionary requirements** and make them subject to higher requirements until additional analysis is completed to address affordability levels in these areas, including a) the Eastern Neighborhoods Mission Planning Area; the North of Market Residential Special Use District Subarea 1 or Subarea 2 and the SOMA Neighborhood Commercial Transit District.
6. to require an Affordable Housing Fee amount that is substantially above the maximum economically feasible level as identified by the Controller's Economic Feasibility Study required by Proposition C, and thus **establish a significant disincentive for the use of the State Density Bonus Law** to produce bonus units. This is because Bonus units would be subject to the Fee amount under the proposed Ordinance. This disincentive was not previously considered by the Planning Commission.

WHEREAS, Planning Code Section 302(d) requires that material modifications added by the Board of Supervisors be referred to the Planning Commission for consideration.

WHEREAS, the proposed amendments to the Inclusionary Affordable Housing Program in the modified ordinance is not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has the "Consensus" ordinance amending the Inclusionary Affordable Housing Program [BF 161351]; and

WHEREAS, The Planning Commission determines that:

1. In making the recommendation to revise the Inclusionary Affordable Housing Program, the Commission reaffirms the Board of Supervisor's policy established by Resolution Number 79-16 that it shall be City policy to maximize the economically feasible percentage of inclusionary affordable housing in market rate housing development.
2. Inclusionary requirements should not exceed the rates recommended in the Controller's Economic Feasibility Study established in Proposition C, that the maximum economically feasible requirements for the on-site alternative are 18% for rental projects or 20% for ownership projects, or the equivalent of a fee or off-site alternative requirement of 23% for rental projects or 28% for ownership projects.
3. The Inclusionary Affordable Housing Program requirements should remain below the City's current Nexus Study.
4. The City should use the Inclusionary Affordable Housing Program to help serve the housing needs for low-, moderate-, and above-moderate income households that area above the level eligible for projects supported by federal low income housing tax credits, and also earn below the minimum level needed to access market rate housing units in San Francisco.
5. The Planning Department should implement additional monitoring and reporting procedures regarding the use of the State Density Bonus Law, and should require that eligible projects that seek and receive a bonus under the State Bonus Law pay the Affordable Housing Fee on additional units provided.
6. The incremental increases to the inclusionary requirements as established by the passage of Proposition C for projects that entered the pipeline between January 1, 2013 and January 12, 2016 should be retained for projects electing the on-site alternative, and removed for projects paying the Affordable Housing Fee or electing the off-site alternative, to maintain consistency with the recommended maximum economically feasible requirements recommended in the Controller's Study.

NOW THEREFORE BE IT RESOLVED, that the Planning Commission hereby **finds** that the proposed ordinance to amend the Inclusionary Affordable Housing Program and the Commission's recommended modifications to the Inclusionary Affordable Housing Program are **consistent with the General Plan** for the reasons set forth below; and be it

FURTHER RESOLVED, that the Planning Commission hereby **recommends that the Board of Supervisors approve** a modified ordinance to revise the Inclusionary Affordable Housing Program as described within Resolution Number 19903 and within this resolution and adopts the findings as set forth below.

## FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

7. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

### HOUSING ELEMENT

#### OBJECTIVE 1

**IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.**

#### POLICY 1.1

**Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.**

*The ordinance amending the Inclusionary Affordable Housing Program furthers the potential for creation of permanently affordable housing in the City and facilitate an increase the number of affordable housing units that could be built in San Francisco. Generally affordable projects require that units be affordable for 55 years or permanently, depending on the funding source. This program is one tool to plan for affordable housing needs of very low, low and moderate income households.*

#### POLICY 1.6

**Consider greater flexibility in number and size of units within established building envelopes in community based planning processes, especially if it can increase the number of affordable units in multi-family structures.**

*The ordinance amending the Inclusionary Affordable Housing Program provides greater flexibility in the number of units permitted in new affordable housing projects by providing increased heights, relief from any residential density caps, and allowing some zoning modifications. This is achieved by pairing the programs with either the State Density Bonus Law, California Government Code section 65915 et seq. or through the local ordinance implementing the state law, such as the Affordable Housing Bonus Program or HOME-SF [BF 150969].*

#### POLICY 3.3

**Maintain balance in affordability of existing housing stock by supporting affordable moderate ownership opportunities.**

*The ordinance amending the Inclusionary Affordable Housing Program increase affordable ownership opportunities for households with moderate incomes.*

*The ordinance amending the Inclusionary Affordable Housing Program generally maintains the current "low" and "moderate" income tiers, with the significant change that these targets would be defined as an average AMI served by the project, with units falling within a specified range of income levels. Considering the average incomes served, the proposal would serve households in the middle of both the Low Income*

*and Moderate Income groups, and would meet the demonstrated need of both income groups, while serving segments of both income groups that are least served by the City's current affordable housing programs.*

**POLICY 4.1**

**Develop new housing, and encourage the remodeling of existing housing, for families with children.**

*The ordinance amending the Inclusionary Affordable Housing Program can increase the supply of new affordable housing, including new affordable housing for families. The ordinance amending the Inclusionary Affordable Housing Program includes dwelling unit mix requirements that encourage certain percentages of units with two or three bedrooms.*

**POLICY 4.4**

**Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.**

*The ordinance amending the Inclusionary Affordable Housing Program encourage the development of greater numbers of permanently affordable housing, including rental units. These affordable units are affordable for the life of the project.*

**Policy 4.5**

**Ensure that new permanently affordable housing is located in all of the city's neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.**

*The ordinance amending the Inclusionary Affordable Housing Program reaches throughout the City which enables the City to increase the number of very low, low and moderate income households and encourage integration of neighborhoods.*

**OBJECTIVE 7**

**SECURE FUNDING AND RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING, INCLUDING INNOVATIVE PROGRAMS THAT ARE NOT SOLELY RELIANT ON TRADITIONAL MECHANISMS OR CAPITAL.**

*The ordinance amending the Inclusionary Affordable Housing Program seeks to create permanently affordable housing by leveraging the investment of private development.*

**OBJECTIVE 8**

**BUILD PUBLIC AND PRIVATE SECTOR CAPACITY TO SUPPORT, FACILITATE, PROVIDE AND MAINTAIN AFFORDABLE HOUSING.**

*The ordinance amending the Inclusionary Affordable Housing Program supports this objective by revising the Inclusionary Affordable Housing Program to maximize the production of affordable housing in concert with the production of market-rate housing.*

**POLICY 8.3**

**Support the production and management of permanently affordable housing.**

*The ordinance amending the Inclusionary Affordable Housing Program supports the production of permanently affordable housing supply.*

**OBJECTIVE 11  
SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.**

*The ordinance amending the Inclusionary Affordable Housing Program encourages mixed income buildings and neighborhoods.*

**POLICY 11.3  
Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.**

*Establishing permanently affordable housing in the City's various neighborhoods would enable the City to stabilize very low, low and moderate income households. These households meaningfully contribute to the existing character of San Francisco's diverse neighborhoods.*

**POLICY 11.5  
Ensure densities in established residential areas promote compatibility with prevailing neighborhood character.**

*The ordinance amending the Inclusionary Affordable Housing Program will produce buildings that are generally compatible with existing neighborhoods. State Density Bonus Law, California Government Code section 65915 et seq. does enable higher density that San Francisco's zoning would otherwise allow.*

**OBJECTIVE 12  
BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY'S GROWING POPULATION.**

**OBJECTIVE 13  
PRIORITIZE SUSTAINABLE DEVELOPMENT IN PLANNING FOR AND CONSTRUCTING NEW HOUSING.**

*Housing produced under either ordinance amending the Inclusionary Affordable Housing Program would pay impact fees that support the City's infrastructure.*

**URBAN DESIGN ELEMENT**

**BALBOA PARK AREA PLAN  
OBJECTIVE 4.5: PROVIDE INCREASED HOUSING OPPORTUNITIES AFFORDABLE TO A MIX OF HOUSEHOLDS AT VARYING INCOME LEVELS.**

*The ordinance amending the Inclusionary Affordable Housing Program would increase affordable housing opportunities for a mix of household incomes.*

**BAYVIEW AREA PLAN**

**OBJECTIVE 6 ENCOURAGE THE CONSTRUCTION OF NEW AFFORDABLE AND MARKET RATE HOUSING AT LOCATIONS AND DENSITY LEVELS THAT ENHANCE THE OVERALL RESIDENTIAL QUALITY OF BAYVIEW HUNTERS POINT.**

*The ordinance amending the Inclusionary Affordable Housing Program would increase affordable housing opportunities for a mix of household incomes.*

**CENTRAL WATERFRONT AREA PLAN**

**OBJECTIVE 2.1 ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE CENTRAL WATERFRONT IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES.**

*The ordinance amending the Inclusionary Affordable Housing Program would increase affordable housing opportunities*

**CHINATOWN AREA PLAN**

**OBJECTIVE 3  
STABILIZE AND WHERE POSSIBLE INCREASE THE SUPPLY OF HOUSING.**

*The ordinance amending the Inclusionary Affordable Housing Program would increase affordable housing opportunities.*

**MARKET AND OCTAVIA AREA PLAN**

**OBJECTIVE 2.4  
PROVIDE INCREASED HOUSING OPPORTUNITIES AFFORDABLE TO HOUSEHOLDS AT VARYING INCOME LEVELS.**

*The ordinance amending the Inclusionary Affordable Housing Program would increase affordable housing opportunities.*

**MISSION AREA PLAN**

**OBJECTIVE 2.1  
ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE MISSION IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES.**

*The ordinance amending the Inclusionary Affordable Housing Program would increase affordable housing opportunities.*

**SHOWPLACE/POTRERO HILL AREA PLAN**

**OBJECTIVE 2.1  
ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE SHOWPLACE /POTRERO IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES.**

*The ordinance amending the Inclusionary Affordable Housing Program would increase affordable housing opportunities.*



## **SOMA AREA PLAN**

### **OBJECTIVE 3**

#### **ENCOURAGE THE DEVELOPMENT OF NEW HOUSING, PARTICULARLY AFFORDABLE HOUSING.**

*The ordinance amending the Inclusionary Affordable Housing Program would increase affordable housing opportunities.*

## **WESTERN SHORELINE AREA PLAN**

### **POLICY 11.3**

**Continue the enforcement of citywide housing policies, ordinances and standards regarding the provision of safe and convenient housing to residents of all income levels, especially low- and moderate-income people.**

*The ordinance amending the Inclusionary Affordable Housing Program would increase affordable housing opportunities.*

### **POLICY 11.4**

**Strive to increase the amount of housing units citywide, especially units for low- and moderate-income people.**

*The ordinance amending the Inclusionary Affordable Housing Program would increase affordable housing opportunities.*

## **WESTERN SOMA AREA PLAN**

### **OBJECTIVE 3.3**

#### **ENSURE THAT A SIGNIFICANT PERCENTAGE OF THE NEW HOUSING CREATED IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES**

*The ordinance amending the Inclusionary Affordable Housing Program would increase affordable housing opportunities.*

8. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

*The ordinance amending the Inclusionary Affordable Housing Program would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

*The ordinance amending the Inclusionary Affordable Housing Program would not have a negative effect on housing or neighborhood character.*

3. That the City's supply of affordable housing be preserved and enhanced;

*The ordinance amending the Inclusionary Affordable Housing Program would increase City's supply of permanently affordable housing.*

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

*The ordinance amending the Inclusionary Affordable Housing Program would result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

*The ordinance amending the Inclusionary Affordable Housing would not cause displacement of the industrial or service sectors due to office development as it does not enable office development.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

*The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.*

8. That our parks and open space and their access to sunlight and vistas be protected from development;

*The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.*

9. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302; and .

BE IT FURTHER RESOLVED that the Commission hereby recommends that the Board ADOPT a proposed Ordinance amending the Inclusionary Affordable Housing Program, as described in the Commission's April 27, 2017 recommendation as recorded in Resolution Number 19903, with the following new recommended modifications as summarized below.

**Material Modifications.** For the material modifications, the Commission's new recommendations are as follows:

1. Add clarifying language about the **dwelling unit mix requirement, that the total requirement should be inclusive of the 3-bedroom requirement;**
2. Set the **proposed minimum unit sizes to be equal to the current TCAC minimum sizes for all inclusionary units;**
3. Remove the **prohibition on studio units with prices set at 100% AMI or above and distribute units evenly across income levels;**
4. **Establish a consistent citywide inclusionary requirement that is within the feasible level identified by the Controller's Study, unless appropriate study has been completed to support any neighborhood of district specific requirements. Further, if the Board maintains neighborhood-specific Inclusionary Requirements, the upcoming study by the Controller, in consultation with an Inclusionary Housing Technical Advisory Committee should be required to include a study of neighborhood-specific requirements in addition to the upcoming the Fee schedule methodology to be completed by January 31, 2018 for later consideration by the Board of Supervisors.**
5. **Set economically feasible Affordable Housing Fee requirements that do not establish a disincentive to use the State Density Bonus Law to produce bonus units and recommend further study through the Fee Schedule Analysis to be conducted by the Controller and TAC.**


**Implementation and Technical Recommendations.**

Beyond the response to the material modifications described above, Department staff have reviewed the Consensus Ordinance for implementation and technical considerations and offers the following additional revisions:

6. Clarify the **grandfathering language so as to specify that the new and modified provisions of the Inclusionary program under the Consensus Ordinance would apply only to new projects that filed an EEA on or prior to January 12, 2016, while maintaining the incremental increases to the On-Site and Fee/Off-Site percentage requirements for pipeline projects as established by Proposition C.**
7. Add clarifying language to ensure that the cumulative rounding up of required inclusionary units in each of the three income tiers in no case exceed the total percentage requirement as applicable to the project as a whole (e.g. 18% total)
8. Reference the appropriate Planning Department map of neighborhood areas for the purpose of analyzing neighborhood-level data to ensure that inclusionary units are priced below the market rate, the **American Community Survey Neighborhood Profile boundaries map.**
9. **Ensure that the application of the new requirements under Section 415 of the Planning Code is consistent with the Transbay Redevelopment Plan and the state law governing redevelopment of the Transbay area, per OCII recommendation.**
10. **Revise provisions regarding the determination and sunseting of inclusionary requirements for projects to allow for program implementation that is consistent with standard Department practices and Planning Commission recommendations, specifically that the applicable**

requirement be determined at the filing date of the EEA, and would be automatically reset to the applicable rate if no First Construction Document is obtained within 30 months from the time of project entitlement.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on June 15, 2017.



Jonas P. Ionin  
Commission Secretary

AYES: Hillis, Richards, Johnson, Koppel, and Melgar

NOES: Moore

ABSENT: Fong

ADOPTED: June 15, 2017