



SAN FRANCISCO PLANNING DEPARTMENT

June 16, 2014

Supervisor Scott Wiener
Ms. Angela Calvillo, Clerk
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

**Re: Transmittal of Planning Department Case Number 2014.0348T
Revisions to Rules for Calculating Dwelling Unit Densities
Board of Supervisors File No. 140036
Planning Commission Recommendation: Approval as amended**

Dear Ms. Calvillo and Supervisor Wiener,

On June 12, 2014 the Planning Commission conducted a duly noticed public hearing at regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Wiener, which would amend Sections 207.1 and 207.4 to exclude Affordable Housing Units (AHUs) from density calculations for projects that provide at least 20 percent of their units as AHUs and would amend density calculations under certain other scenarios. The Commission voted unanimously to recommend that Board of Supervisors approve the proposed Ordinance as amended.

The proposed Ordinance was determined not to be a project per State CEQA Guidelines, Section 15060(c) and 15378.

Please find the attached documents relating to the actions of the Commissions. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron D. Starr", written over a horizontal line.

Aaron D. Starr
Acting Manager of Legislative Affairs

cc:
Andres Power, Aide to Supervisor Wiener
Susan Cleveland Knowles, City Attorney
Andrea Ausberry, Office of the Clerk of the Board

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Attachments

Planning Commission Resolution 19173

Planning Commission Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution Planning Code Text Change JUNE 12, 2014

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Name: Board of Supervisors File No. 140036; Revisions to Rules for Calculating Dwelling Unit Densities
Case Number: 2014.0348T [Board File No. 14-0036]
Initiated by: Supervisor Weiner / Introduced January 14, 2014
Staff Contact: Kearstin Dischinger
Kearstin.Dischinger@sfgov.org, 415-558-6284
Reviewed by: Aaron Starr, Acting Manager Legislative Affairs
Aaron.starr@sfgov.org, 415.558.6362
Recommendation: **Recommend Approval**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTIONS 207.1 AND 207.4 TO EXCLUDE AFFORDABLE HOUSING UNITS (AHUS)¹ FROM DENSITY CALCULATIONS FOR PROJECTS THAT PROVIDE AT LEAST 20 PERCENT OF THEIR UNITS AS AHUS AND WOULD AMEND DENSITY CALCULATIONS UNDER CERTAIN OTHER SCENARIOS AND AMENDING DENSITY CALCULATIONS UNDER CERTAIN SCENARIOS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.

WHEREAS, on January 14, 2014 and later on substituted on June 3, 2014, Supervisors Weiner introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 14-0036, which would amend Sections 207.1 and 207.4 to exclude Affordable Housing Units (AHUs)² from density calculations for projects that provide at least 20 percent of their units as AHUs and would amend density calculations under certain other scenarios;

¹ For purposes of this legislation, AHUs are defined as units where affordability is regulated through existing programs, specifically units that meet (1) the criteria of Section 406(b),¹ (2) the requirements of Section 415 (Inclusionary Affordance Housing Ordinance), or (3) restricted units in a project using California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and 4 percent tax credits under the Tax Credit Allocation Committee (TCAC).

² For purposes of this legislation, AHUs are defined as units where affordability is regulated through existing programs, specifically units that meet (1) the criteria of Section 406(b),² (2) the requirements of Section 415 (Inclusionary Affordance Housing Ordinance), or (3) restricted units in a project using California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and 4 percent tax credits under the Tax Credit Allocation Committee (TCAC).

WHEREAS, The Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on June 12, 2014; and,

WHEREAS, The Commission will revisit this ordinance while considering the proposal generated through the Mayor’s Working Group around the *revised Housing Density Bonus Program*; and,

WHEREAS, the proposed Ordinance has been determined to be exempt from environmental review under the General Rule Exclusion (GRE), pursuant to CEQA Guidelines Section 15061(b)(3); 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 reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with modifications** the proposed ordinance. The proposed modifications include modifying the ordinance in alignment with the document circulated to the Commission at the June 12 hearing, included here as Exhibit A.

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:

1. San Francisco is currently working to identify a series of policies and programs to facilitate the development of affordable housing.
2. The proposed Ordinance aims to introduce more affordable housing to the current unaffordable market of housing in San Francisco. The value of density waivers would be recaptured by an increase in stock of affordable housing.
3. This ordinance directs the Board of Supervisors to revisit this ordinance while considering the proposal generated through the Mayor’s Working Group around the *revised Housing Density Bonus Program*.
4. **General Plan Compliance.** The proposed Ordinance and the Commission’s recommended modifications are consistent with the Objectives and Policies of the General Plan:

OBJECTIVE 1

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

The proposed Ordinance could facilitate additional affordable housing development, specifically, the ordinance could encourage project sponsors to pursue on-site affordable housing development in properties that otherwise are unlikely to host affordable housing.

OBJECTIVE 7

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

The proposed Ordinance aims to support additional affordable housing without the need for further public subsidy. Offering an exception to density for affordable housing units does not rely on traditional mechanisms or Capital to produce affordable housing.

1. **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 proposed Ordinance would not have a negative impact on neighborhood serving retail uses and will not impact 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 proposed Ordinance would not have a negative effect on housing or neighborhood character. The new units would be built within the existing building envelope and therefore would impose minimal impact on the existing housing and neighborhood character.

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

The proposed Ordinance could enhance the City's supply of affordable housing and aims to create additional affordable units within the allowable building envelope by offering exceptions to density for affordable units that comprise more than 20% of the project.

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

The proposed Ordinance would not 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 proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

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 impact 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 a negative impact on the City's Landmarks and historic buildings as the new units would be added under the guidance of local law and policy protecting historic resources, when appropriate.

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 impact on the City's parks and open space and their access to sunlight and vistas.

- 8. 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.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance with modifications as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on June 12, 2014.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Hillis, Sugaya, Fong, Antonini, Borden, Moore, and Wu

NOES: None

ABSENT: None

ADOPTED: June 12, 2014



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change

HEARING DATE: JUNE 12, 2014

Project Name: Board of Supervisors File No. 140036; Revisions to Rules for Calculating Dwelling Unit Densities
Case Number: 2014.0348T [Board File No. 140036]
Initiated by: Supervisor Weiner / Introduced January 14, 2014
Staff Contact: Kearstin Dischinger
Kearstin.Dischinger@sfgov.org, 415-558-6284
Reviewed by: Aaron Starr, Acting Manager Legislative Affairs
Aaron.starr@sfgov.org, 415.558.6362
Recommendation: **Recommend Approval**

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PLANNING & ADMINISTRATIVE CODE AMENDMENTS

The proposed legislation, introduced by Supervisor Wiener on January 14, 2014, would amend the San Francisco Planning Code to exclude Affordable Housing Units (AHUs)¹ from density calculations for projects that provide at least 20 percent of their units as AHUs in districts with density maximums except RH-1 and RH-2 and would amend density calculations under certain other scenarios.

The Way It Is Now:

1. For many districts in the City, housing density standards are established in terms of numbers of dwelling units in proportion to the size of the building lot. For example, in an RM-1 district, one dwelling unit is permitted for each 800 square feet of lot area. This limitation generally applies regardless of the size of the unit and the number of people likely to occupy the unit or the *level of affordability of the unit*. There are many districts, in various areas of the city that, do not have numeric density limits, rather they regulate density indirectly by setting limits on building based on height and bulk.

¹ For purposes of this legislation, AHUs are defined as units where affordability is regulated through existing programs, specifically units that meet (1) the criteria of Section 406(b),¹ (2) the requirements of Section 415 (Inclusionary Affordance Housing Ordinance), or (3) restricted units in a project using California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and 4 percent tax credits under the Tax Credit Allocation Committee (TCAC).

2. When calculating the number of residential units permitted in districts which establish a maximum dwelling unit density, the remaining fraction of one-half or more of the minimum amount of lot area per dwelling unit is rounded downward to the next whole number of dwelling units.
3. In NC Districts, the density limit is specified in the zoning control table for the district, or that of the nearest Residential or Residential-Commercial District, whichever permits the greater density. The distance to each Residential or Residential-Commercial District is currently measured from the midpoint of a lot or from a point directly across the street therefrom, whichever permits the greater density.

The Way It Would Be:

1. For many districts in the City, housing density standards are established in terms of numbers of dwelling units in proportion to the size of the building lot. For example, in an RM-1 district, one dwelling unit is permitted for each 800 square feet of lot area. This legislation would exempt affordable units from the maximum density calculation. This legislation would not apply to RH-1, RH-2, nor to districts that do not have numeric maximum densities, such as RTO and NCT. This legislation does not provide exemptions from other Planning Code requirements that limit a site's development potential such as height, bulk, or open space requirements.
2. In districts which establish a maximum dwelling unit density, , the remaining fraction of one-half or more of the minimum amount of lot area per dwelling unit would be rounded upward to the next whole number of dwelling units.
3. In NC Districts, the density limit would be retained in the manner currently specified in the zoning control table for the district, or that of the nearest Residential or Residential-Commercial District, whichever permits the greater density; however, the proposed Ordinance would change the way the number was calculated such that the distance to each Residential or Residential-Commercial District would be measured from any portion of a lot or from a point directly across the street therefrom, whichever permits the greater density.

BACKGROUND

Other Efforts to Address San Francisco's Housing Crisis

San Francisco has a shortage of housing, particularly affordable housing. Policy makers are working to address this housing shortage, and particularly the affordable housing shortage, by pursuing numerous policies, funding mechanisms, and programs. This past winter Mayor Lee issued an Executive Directive which enacted a number of short term policies and identified

potential long term programs and policies to address the affordable housing issue. The Mayor has also established a number of working groups to develop implementable solutions to achieve a 30,000 housing unit production goal, which includes a 10,000 affordable housing unit production goal. In recent months the Planning Commission reviewed and endorsed a number of Board of Supervisor initiated Planning Code amendments in this vein. Additionally, the City recently established strong local funding tools for affordable housing through the voter supported Proposition C, which established the City's Housing Trust Fund.

No single legislation, policy, or program will solve the affordable housing issues in San Francisco; however, a series of programs, together will enable the city to work towards improving the supply of housing. This legislation is a Board of Supervisor initiated effort to contribute to the ongoing set of solutions to the affordable housing crisis. Specifically, this legislation could potentially result in greater on-site affordable unit production, slightly greater housing production overall, and could potentially encourage development on marginally feasible development sites.

Similar Work Now Underway: Mayor's Housing Working Group

The Planning Department and the Mayor's Housing Working Group, are currently working to develop a *revised housing density bonus program* that will establish the City's preferences, priorities, and procedures for projects seeking a density bonus through the State Density Bonus Law. The *revised housing density bonus program* developed through this work will supersede the City's existing process, which includes granting density bonuses consistent with State law through a Special Use District (SUD). The *revised housing density bonus program* is currently under development with input from the Mayor's Working Group; also the Department is working with architecture and financial consultants to inform the *revised program*.

The Supervisor's proposed legislation, which is before you today, excludes any projects that are seeking a density bonus through the State program (Government Code Section 65915). The *revised Housing Density Program* could afford greater flexibility for projects than the legislation before you today, as the State Density Bonus Law requires, under certain circumstances, that in addition to proscribed relief from density limits, a Project receives concessions and incentives to accommodate onsite affordable housing. This legislation generally has similar policy intent as the *revised housing density bonus program*.

ISSUES AND CONCERNS

Coordination with the Ongoing Mayor's Working Group Initiative.

This legislation is related to the Mayor's working group initiative around a *revised housing density bonus program*, which is currently under development. In some instances, such as with Formula Retail and Medical Cannabis Dispensaries, the Department has recommended that the Board of Supervisors coordinate their proposed legislation with related ongoing Department studies and initiatives. In this case, however, the Board legislation was introduced before the Mayor's working group was initiated. Additionally, this proposed legislation, is not in conflict with the ongoing *revised housing density bonus program*. Also, the Supervisor added language indicating

that the City will revisit this legislation while considering the proposal generated through the Mayor's Working Group.

The Mayor's working group *revised housing density bonus program* proposal will go further to incentivize affordable housing development in accordance with the State Density Bonus Law. Specifically, it will offer additional exceptions and incentives to support new affordable housing development, as required by State Law. However, there may be some projects that can benefit from this proposal, thus generating additional affordable housing units for the City, in the interim period. To date, the Department is not aware of any projects that intend to seek a density exception through this legislation. The legislation would not allow a project seeking a bonus through the State Density Bonus law to obtain the bonus under the legislation.

There are some limitations on the legislation's ability to incentivize a large number of additional housing units as described below.

Anticipated Impact on the Construction of New Affordable Housing.

The Department projects that this legislation could facilitate some new affordable and market rate housing production. First, the potential density benefit could encourage projects to provide 20% affordable units onsite. This is a net gain in affordable units from the required 12% onsite requirement. Also, this program could incentivize projects that might otherwise elect to pay the inclusionary housing fee to elect to build the affordable housing units on site, in order to receive the density bonus. This legislation could also benefit parcels, in a limited number of districts in the City, which are zoned for residential use yet their total development capacity is constrained by density limits, rather than the other Planning Code requirements that are discussed in the next section. This legislation offers some relief from density constraints for these parcels.

However, the Department projects that the total number of development projects that will elect to take advantage of this program will be limited based on a few factors. To start, most parcels in the City are not eligible to participate in this program. The proposed legislation would not apply to RH-1 and RH-2 districts, which make up approximately 72² percent of all existing land parcels, and 50³ percent of the City's developable acreage (meaning non-open space or land that is not federally owned). Combined, these two districts regulate the vast majority of residential parcels. It also would not apply in any areas subject to a redevelopment plan, such as Mission Bay and Transbay redevelopment areas. Finally, a number of zoning districts do not have numeric density limits, so there is no incentive for a project to participate in a density bonus program based on the

2 As of March 2014 there are 110,720 parcels zoned RH-1 or RH-2; there are 153,827 parcels in the city (this does not include multiple condos mapped to a single parcel). Source: SF Planning Department Zoning Map.

3 As of March 2014 8113 acres of land is zoned RH-1 or RH-2; less than 17,000 acres of land in San Francisco has other a zoning designation other than RH-1 or RH-2. Of the 17,000 some smaller parks, public lands, and zoning districts that do not allow housing have been included. For this reason, the ratio is presented as an approximate number to frame the relative ratio of land. Source: SF Planning Department Zoning Map.

calculation set forth in Section 207.1. See Exhibit A for a map of zoning districts which could potentially benefit from the legislation.

Other Limiting Factors

Within the geographies that could benefit from the legislation, only some projects will elect to pursue the density exemptions allowed through this legislation. First, there are considerable financial factors; projects that elect to participate in the program receive a limited level of relief from existing controls (density exemptions for affordable units only), however they must elect to provide 20% of their units as affordable. Given the existing 12% requirement under Planning Code Section 415 – this legislation nearly doubles the total number of required affordable units. The additional costs of providing a greater number of affordable units could exceed the potential density benefit permitted within the existing building envelope. In some cases, such as projects that intend to provide 20% or higher inclusionary housing under the California Debt Limit Allocation Committee (“CDLAC”) financing or are otherwise 100% affordable housing projects, projects could benefit from this legislation without considerable additional financial burdens.

Since this legislation does not offer any concessions or incentives that increase the total buildable area, some projects may not benefit from this legislation. In some cases, there are physical constraints that will not allow a project to achieve a 20% density bonus within the allowed building envelope. Other Planning Code requirements such as height, exposure, rear yard requirements, useable open space requirements, and parking requirements could limit the number of additional units that a given site could accommodate regardless of relief from the density limits made available through this legislation. These constraints will reduce the number of projects that are able to benefit from this potential density bonus.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION AND BASIS FOR RECOMMENDATION

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

- The legislation could enable and facilitate additional construction of affordable housing units, including higher rates of affordable units in mixed income market rate housing developments.
- The legislation could encourage projects to select the onsite option to meet the requirements of Planning Code Section 415.
- The legislation includes a clause directing the Board of Supervisors to revisit this legislation, especially section 207.1(f), should the 2014 Mayor’s Housing Working Group advance a broader legislative density bonus proposal for consideration.

ENVIRONMENTAL REVIEW

The proposed Ordinance is covered under Case No. **2014.0348E**, and is exempt from environmental review under the General Rule Exclusion (GRE), pursuant to CEQA Guidelines Section 15061(b)(3).

PUBLIC COMMENT

The Planning Department received one public comment from the Council of Community Housing (CCHO) suggesting that the legislation “should be part of the Mayor’s Housing Task Force process. . . . and part of a package that builds political consensus through the Mayor’s big tent process.” Additionally the commenter questioned the relationship between this legislation, micro unit developments and the price of Below Market Rate Units.

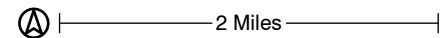
RECOMMENDATION: Recommendation of Approval
--

Attachments:

- Exhibit A: Map of Districts that could potentially benefit from legislation
- Exhibit B: Draft Planning Commission Resolution
- Exhibit C: Draft Ordinance [Board of Supervisors File No. **140036**]



SAN FRANCISCO
 Potential Locations of Bonus Units Under Dwelling Unit Density Legislation



Source: San Francisco Planning Department 2014