File No. 150348 Committee Item No. 6
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Land Use & Transportation **Date** July 13, 2015

Board of Supervisors Meeting **Date** _____

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Completed by: Andrea Ausberry **Date** July 10, 2015
Completed by: _____ **Date** _____

SUBSTITUTED
5/19/2015

FILE NO. 150348 ORDINANCE NO.

[Planning Code - Applying Inclusionary Housing Requirements to Group Housing]

Ordinance amending the Planning Code to clarify that the Inclusionary Affordable Housing Program applies to housing projects, as defined, including group housing projects; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings, including findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Environmental, Planning Code, and General Plan Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 150348 and is incorporated herein by reference. The Board affirms this determination.

(b) On July 2, 2015, the Planning Commission, in Resolution No. 19405, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 150348, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code Amendment will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 19405, and the Board incorporates such reasons herein by reference.

Section 2. General Findings.

(a) The Board of Supervisors finds that the Inclusionary Affordable Housing Program ("Inclusionary Program"), adopted in 2002 by Ordinance No. 37-02, was originally intended to apply and has always applied to group housing projects. Ordinance No. 37-02 provided that the Inclusionary Program applied to all applications for "housing projects" filed on or after June 18, 2001. The definition of "Housing project" in Ordinance No. 37-02 states that it includes a broad variety of developments "which are intended to provide long-term housing to individuals and households." The 2002 definition specifically included group housing, among other forms of housing. The definition of "Housing project" currently found in Planning Code Section 401 has not changed in any material respect since the adoption of Ordinance No. 37-02. It continues to specifically include group housing. The Board finds that the definition of "Housing project" specifically includes group housing in a broad definition of housing to insure that all types of developments that are intended to provide long-term housing to individuals and households are subject to the requirements of the Inclusionary Program.

(b) The Board has learned that, at some point since the adoption of the Inclusionary Program, the Planning Department began to disregard the specific reference to group housing as a "Housing project" subject to the Inclusionary Program. It is the Board's understanding that in reaching this conclusion the Department relied on language in the Inclusionary Program that sets a threshold of application to "10 or more units." The Department concluded

that group housing is not measured in "units" and is not comprised of "dwelling units" as defined in the Planning Code. The Inclusionary Housing ordinance, however, does not use the Planning Code definition of "Dwelling Unit" that excludes group housing, but rather refers broadly to "dwelling units" as defined in the San Francisco Housing Code. That definition can include group housing that meets certain requirements. The Department's interpretation was never formalized in a written Zoning Administrator determination under Planning Code Section 307 that could have been appealed to the Board of Appeals. Thus, neither the Board nor the public were aware of the Department's unofficial policy to exclude group housing projects from the application of the Inclusionary Program.

(c) To reiterate the original intent of Ordinance 37-02, the Board of Supervisors adopts this ordinance to specifically require the Planning Department and Department of Building Inspection to follow the original intent and the express language of the Planning Code to apply the Inclusionary Program to group housing and all other forms of housing intended to provide long-term housing to individuals and households.

Section 3. The Planning Code is hereby amended by revising Section 401 to read as follows:

SEC. 401. DEFINITIONS.

In addition to the specific definitions set forth elsewhere in this Article, the following definitions shall govern interpretation of this Article:

* * * *

"Allowable average purchase price." A price for all affordable owned units of the size indicated below that are affordable to a household of median income as defined in this Section, adjusted for the household size indicated below as of the date of the close of escrow, except for Single Room Occupancy units *and Group Housing* (*both* as defined in Section

102~~890.88~~), which shall be 75% of the maximum purchase price level for studio units, and, where applicable, adjusted to reflect the Department's policy on unbundled parking for affordable housing units as specified in the Procedures Manual and amended from time to time:

Number of Bedrooms (or, for live/work units square foot equivalency)	*Number of Persons in Household*
0 (Less than 600 square feet)	1
1 (601 to 850 square feet)	2
2 (851 to 1,100 square feet)	3
3 (1,101 to 1,300 square feet)	4
4 (More than 1,300 square feet)	5

"Allowable average annual rent." Annual rent for an affordable rental unit of the size indicated below that is 30 percent of the annual gross income of a household of low income as defined in this Section, adjusted for the household size indicated below except for Single Room Occupancy units *and Group Housing* (*both* as defined in Section *102*~~890.88~~), which shall be 75% of the maximum rent level for studio units, and, where applicable, adjusted to reflect the Department's policy on unbundled parking for affordable housing units as specified in the Procedures Manual and amended from time to time:

Number of Bedrooms (or, for live/work units square foot equivalency)	*Number of Persons in Household*

0 (Less than 600 square feet)	1
1 (601 to 850 square feet)	2
2 (851 to 1,100 square feet)	3
3 (1,101 to 1,300 square feet)	4
4 (More than 1,300 square feet)	5

At no time can a rent increase, or can multiple rent increases within one year, exceed the percentage change in Maximum Monthly Rent levels as published by MOH from the previous calendar year to the current calendar year.

* * * *

"Housing project." Any development which ~~*has*~~ *includes* residential ~~*units*~~ *use* as defined in ~~*the*~~ Planning Code *Section 102*, including but not limited to *D*~~*d*~~wellings, *G*~~*g*~~roup *H*~~*h*~~ousing, *Single Room Occupancy Units,* independent living units, and other forms of development which are intended to provide long-term housing to individuals and households. "Housing project" shall not include that portion of a development that qualifies as an Institutional Use under the Planning Code. "Housing project" for purposes of the Inclusionary Housing Program shall also include the development of live/work units as defined by Section 102.13 of this Code. Housing project for purposes of the Inclusionary Housing Program shall mean all phases or elements of a multi-phase or multiple lot residential development.

"Housing unit" or "unit." A *residential use* ~~*dwelling unit*~~ *in a Housing project*~~*as defined in San Francisco Housing Code Section 401*~~. *For the purposes of the Inclusionary Affordable Housing Program, Planning Code Section 415 et seq., and corresponding definitions in this Section 401, the use of the word "unit" will also mean bedrooms where a Group Housing or other Housing project is measured by number of bedrooms.*

* * * *

"Maximum annual rent." The maximum rent that a housing developer may charge any tenant occupying an affordable unit for the calendar year. The maximum annual rent for an affordable housing unit, of the size indicated below shall be no more than 30 percent of the annual gross income for a household of low income as defined in this Section, as adjusted for the household size indicated below, except in the case of Single Room Occupancy units *and Group Housing* (*both* as defined in Section *102~~890.88~~*), which shall be 75% of the maximum rent level for studio units, as of the first date of the tenancy:

Number of Bedrooms (or, for live/work units square foot equivalency)	*Number of Persons in Household*
0 (Less than 600 square feet)	1
1 (601 to 850 square feet)	2
2 (851 to 1,100 square feet)	3
3 (1,101 to 1,300 square feet)	4
4 (More than 1,300 square feet)	5

At no time can a rent increase, or can multiple rent increases within one year, exceed the percentage change in Maximum Monthly Rent levels as published by MOH from the previous calendar year to the current calendar year.

"Maximum purchase price." The maximum purchase price for an affordable owned unit of the size indicated below except in the case of Single Room Occupancy units *and Group Housing* (*both* as defined in Section *102 ~~890.88~~*), which shall be 75% of the maximum purchase price level for studio units, that is affordable to a household of moderate income, adjusted for the household size indicated below, assuming an annual payment for all housing costs of 33

percent of the combined household annual gross income, a down payment recommended by MOH and set forth in the Procedures Manual, and available financing:

Number of Bedrooms (or, for live/work units square foot equivalency)	*Number of Persons in Household*
0 (Less than 600 square feet)	1
1 (601 to 850 square feet)	2
2 (851 to 1,100 square feet)	3
3 (1,101 to 1,300 square feet)	4
4 (More than 1,300 square feet)	5

* * * *

Section 4. Effective Date; Applicability, and Retroactivity of Ordinance. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance. This ordinance shall apply to all Housing projects as defined, including Group Housing projects, where the Department of Building Inspection issues the First Construction Document, as defined in San Francisco Building Code Section 107A.13.1, after May 19, 2015. Accordingly, this ordinance shall be retroactive to May 20, 2015.

Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: 
Susan Cleveland-Knowles
Deputy City Attorney

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FILE NO. 150348

LEGISLATIVE DIGEST
(Substituted 5/19/2015)

[Planning Code - Applying Inclusionary Housing Requirements to Group Housing]

Ordinance amending the Planning Code to clarify that the Inclusionary Affordable Housing Program, Planning Code Section 415 et seq. applies to housing projects, as defined, including group housing projects; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings including findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.

Existing Law

The Inclusionary Affordable Housing Program ("Inclusionary Program"), adopted by the Board in 2002 provided that the Inclusionary Program applies to all applications for "housing projects" including 10 or more units. The definition of "Housing project" includes a broad variety of developments "which are intended to provide long-term housing to individuals and households," specifically including group housing, among other forms of housing. The definition of "housing project," currently found in Planning Code Section 401, has not changed in any material respect and the Program still applies to projects of 10 or more units. "Unit" is defined as a dwelling unit under the San Francisco Housing Code.

Amendments to Current Law

The Proposed Legislation makes findings establishing that the Board intended that the Inclusionary Program, as adopted in 2002 and subsequently amended, should apply to group housing, including a variety of other forms of housing. The legislation amends the definition of housing project and housing unit to more clearly include group housing, and provides that the use of the term "unit" where it appears in the Inclusionary Program can mean a bedroom where a group housing or other housing project is measured by number of bedrooms.

Background Information

In implementing the Inclusionary Program, the Planning Department has not applied the Program to group housing. The sponsors have introduced this legislation to clarify that the Department should apply the Program to group housing.

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July 8, 2015

Ms. Angela Calvillo, Clerk
Honorable Supervisor John Avalos
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 2015.005457PCA: Amendments relating to Applying Inclusionary Housing Requirements to Group Housing**
Board File No. 15-0348
Planning Commission Recommendation: ***Approval with Modification***

Dear Ms. Calvillo and Supervisor Avalos,

On July 2, 2015, the San Francisco Planning Commission conducted duly noticed public hearing at a regularly scheduled meeting to consider the proposed amendments to the Planning Code introduced by Supervisors Avalos and Kim. At the hearing, the Planning Commission recommended approval with modification of this Ordinance.

The Commission also considered the amendments proposed by Supervisor Christensen in her letter dated June 11, 2015. However, the Commission did not have enough information to recommend approval or disapproval for these amendments.

The proposed amendments are exempt from environmental review under Section 15060(c)(2) and 15378 of the CEQA Guidelines.

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

Sincerely,

Aaron D. Starr
Manager of Legislative Affairs

cc:
Supervisor John Avalos, Jane Kim, Julie Christensen
Jon Givner, City Attorney
Susan Cleveland-Knowles
Jeremy Pollock, Legislative aid to Supervisor John Avalos

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Planning Commission Resolution No. 19405

Planning Code Text Change

HEARING DATE: JULY 2, 2015

Project Name:	**Amendments relating to Applying Inclusionary Housing Requirements to Group Housing**
Case Number:	2015.005457PCA [Board File No. 150348]
Initiated by:	**Supervisor John Avalos** / Introduced May 19th, 2015
Staff Contact:	Kimia Haddadan, Legislative Affairs Kimia.haddadan@sfgov.org, 415-558-6257
Reviewed by:	Aaron Starr, Manager Legislative Affairs aaron.starr@sfgov.org, 415-558-6395
Recommendation:	**Recommend Approval**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO CLARIFY THAT THE INCLUSIONARY AFFORDABLE HOUSING PROGRAM, PLANNING CODE SECTION 415 ET SEQ. APPLIES TO HOUSING PROJECTS, AS DEFINED, INCLUDING GROUP HOUSING PROJECTS; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; AND MAKING FINDINGS INCLUDING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.

PREAMBLE

WHEREAS, on May 19th 2015 Supervisor John Avalos introduced a proposed Ordinance under the Board of Supervisors (hereinafter "Board") File Number 150348, which would amend the Planning Code to clarify that the Inclusionary Affordable Housing Program, Planning Code Section 415 et seq. applies to housing projects, as defined, including group housing projects; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings including findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1; and

WHEREAS, on June 11, Supervisor Christensen submitted a letter to the Planning Commission (hereinafter referred to as "Supervisor Christensen's letter") expressing her intent to propose amendments to this Ordinance when it returns to the Board of Supervisors at the Land Use Committee. The letter provides that her amendments would modify Section 124 (f) of the Planning Code, clarifying the existing FAR bonus provisions in C-3 zoning districts for affordable units; and

WHEREAS, the proposed Ordinance has been determined not to be a project under the California Environmental Quality Act Section 15060(c) and 15378; and

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on July 2, 2015; 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 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

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors recommend **approval with modifications of** the proposed ordinance and amendments proposed in Supervisor Christensen's letter, with the proposed modifications as follows:

1. Apply exposure requirements to group housing and allow a Zoning Administrator partial waiver from the exposure requirements for all group housing bedrooms or the group housing common room. The partial waiver would allow the windows to face an open area of 15 feet by 15 feet.
2. Clarify that the inclusionary group housing bedrooms would be priced as 75% of the maximum purchase price for studio units <u>if the bedrooms are less than 350 square feet</u>. Otherwise, the inclusionary group housing bedrooms would be subject to the price for a studio.
3. Allow on-site inclusionary group housing rooms satisfying the Inclusionary Requirements to be exempt from density calculations.
4. Request the Planning Department to conduct a study on group housing definitions and requirements and specifically propose appropriate ratios to require common rooms in group housing projects.

FINDINGS

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

1. Since 2002, when the Inclusionary Ordinances became effective in San Francisco, the Planning Department has not applied the inclusionary requirements to group housing projects. The Planning Code requires "Housing Projects" with 10 or more units to pay towards the Affordable Housing Fee or set aside certain percentage of their units affordable to qualifying households. The Code's definition of a Housing Projects includes group housing
2. In another section of the Inclusionary Ordinance the threshold for the inclusionary requirements is set as 10 or more "units". The Planning Code distinguishes group housing bedrooms from dwelling units. Based on this practice, the Department has historically taken the position that group housing projects are not subject to the Inclusionary Program since such projects do not include dwelling units. However "housing unit" or "unit" in Article 4 of the Planning Code does not relate to the Planning Code's definition of dwelling unit but the Housing Code definition of

this term. Unlike the Planning Code, the Housing Code does not exclude group housing from the definition of a dwelling unit. Despite this, the Department has been interpreting that a "housing unit" does not include a group housing bedroom. This interpretation aligned with group housing projects that the Department reviewed in the past decade, as they were mostly serving special needs populations. The recent type of group housing projects however highlighted the inconsistency of the Department's practice in implementing the Inclusionary Program.

3. Group housing as a housing type is distinct from a dwelling unit in that it provides smaller shared or private bedrooms, sometimes with limited cooking facilities. It also includes shared amenities such as common living rooms, kitchens, or even bathrooms. Group housing promotes a shared living style where bedroom units would sell or rent less expensively than a dwelling unit as they are smaller in size and less independent. Group housing generally has higher density allowance compared to dwelling units in the same zoning districts. Group housing projects also have a reduced open space requirement (1/3 of dwelling unit requirements) and are exempt from exposure requirements. Also, rear yard requirements do not apply to group housing units if they qualify as Single Room Occupancy (hereinafter SRO) units per the Planning Code, which means the room is less than 350 square feet. The Planning Code lacks any requirements for group housing projects to provide a common room to serve the shared living style and complement the smaller bedroom sizes. The Department has been requesting such amenities from the project sponsors on a case by case basis.

4. In the past decade group housing projects have changed in style and targeted demographics. While in the past most group housing projects targeted special needs population and provided affordable housing, currently such projects provide smaller sized market rate private bedroom suites. It is necessary for the Department to update its regulations and practices of this housing typology to reflect this change.

5. **General Plan Compliance.** The proposed Ordinance is consistent with the Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 4
FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES

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 proposed Ordinance would help advance this policy by clarifying that group housing projects are subject to the inclusionary requirement. This would result in affordable group housing units that could help address the need for housing for low-income single person or two person households.

6. **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 effect on neighborhood serving retail uses and will not affect 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.

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

        The proposed Ordinance would result in more affordable housing as group housing projects comply with the City's inclusionary requirements.

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

        The proposed Ordinance would not have an adverse effect on the City's commuter traffic and would not impede MUNI transit service or overburden the City's 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 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.

7. **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, approved as to form by the City Attorney and as described in this Resolution.

I hereby certify that the foregoing Resolution was ADOPTED by the San Francisco Planning Commission on **July 2nd , 2015**.

Jonas Ionin
Commission Secretary

AYES: Johnston, Hillis, Wu, Moore, Richards

NOES: Anotonini, Fong

ABSENT:

SAN FRANCISCO
PLANNING DEPARTMENT

Executive Summary
Planning Code Text Change
HEARING DATE: JULY 2, 2015

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Project Name:	**Amendments relating to Applying Inclusionary Housing Requirements to Group Housing**
Case Number:	2015.005457PCA [Board File No. 150348]
Initiated by:	**Supervisor John Avalos** / Introduced May 19th, 2015
Staff Contact:	Kimia Haddadan, Legislative Affairs Kimia.haddadan@sfgov.org, 415-558-6257
Reviewed by:	Aaron Starr, Manager Legislative Affairs aaron.starr@sfgov.org, 415-558-6395
Recommendation:	**Recommend Approval**

PLANNING CODE AMENDMENT

The proposed ordinance would amend the Planning Code to clarify that the Inclusionary Affordable Housing Program, Planning Code Section 415 et seq. applies to housing projects, as defined, including group housing projects; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings including findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.

Supervisor Christensen's Proposed Amendments

On June 11, Supervisor Christensen submitted a letter to the Planning Commission (hereinafter referred to as "Supervisor Christensen's letter") expressing her intent to propose amendments to this Ordinance when it returns to the Board of Supervisors at the Land Use Committee[1]. The letter provides that her amendments would modify Section 124 (f) of the Planning Code, clarifying the existing FAR bonus provisions in C-3 zoning districts for affordable units.

The Way It Is Now:

Because of conflicting language in the Planning Code, the Inclusionary Housing Requirements in Planning Code Section 415 are not applied to Group Housing projects.

Supervisor Christensen's Proposed Amendments

Planning Code Section 124(f) allows projects in C-3 zoning districts to exempt dwelling units from the building FAR calculations if those units are affordable to 150% AMI for 20 years.

[1] These amendments are not related to group housing but further clarifies some Planning Code provisions related to inclusionary and affordable units.

The Way It Would Be:

The conflicting language in the Planning Code would be corrected, and Inclusionary Housing requirements in Planning Code Section 415 would be applied to Group Housing projects that have not received a First Construction Permit before May 20, 2015.

Supervisor Christensen's Proposed Amendments

The proposed amendments would modify the controls for affordable bonus units subject to Section 124(f) so that such units:

- are affordable to households of 120% of AMI if rental and affordable to 150% AMI if ownership units.
- remain affordable for their lifetime
- are two or three bedrooms (except if the units are also satisfying the Inclusionary Program per Section 415)
- are subject to the Inclusionary Program's pricing methodology, procedures, but not the unit mix requirements.
- are subject to a Costa Hawkins Exception Agreement if the designated units are rental

BACKGROUND

Since 2002, when the Inclusionary Ordinances became effective in San Francisco, the Planning Department has not applied the inclusionary requirements to group housing projects. The Planning Code requires "Housing Projects" with 10 or more units to pay towards the Affordable Housing Fee or set aside certain percentage of their units affordable to qualifying households. The Code's definition of a Housing Projects includes group housing: *"Any development which has residential units as defined in the Planning Code, including but not limited to dwellings, group housing, independent living units, and other forms of development which are intended to provide long-term housing to individuals and households."*

In another section of the Inclusionary Ordinance the threshold for the inclusionary requirements is set as 10 or more "units". The Planning Code distinguishes group housing bedrooms from dwelling units. Based on this practice, the Department has historically taken the position that group housing projects are not subject to the Inclusionary Program since such projects do not include dwelling units. However "housing unit" or "unit" in Article 4 of the Planning Code does not relate to the Planning Code's definition of dwelling unit but the Housing Code definition of this term. Unlike the Planning Code, the Housing Code does not exclude group housing from the definition of a dwelling unit. Despite this, the Department has been interpreting that a "housing unit" does not include a group housing bedroom. This interpretation aligned with group housing projects that the Department reviewed in the past decade, as they were mostly serving special needs populations. The recent type of group housing projects however highlighted the inconsistency of the Department's practice in implementing the Inclusionary Program.

The proposed legislation would create consistency in the Planning Code with regards to application of the Inclusionary Program to group housing development projects. It clarifies the definition of a "Housing Unit" for the purpose of Section 415 (the Affordable Housing Fee) to explicitly include a group housing bedroom as well as a dwelling unit. It also establishes that the pricing for the inclusionary group housing bedrooms would be calculated as 75% of pricing for studios, as established by the Mayor's Office of Housing and Community Development (MOHCD).

ISSUES AND CONSIDERATIONS

Group Housing: Definition and Requirements

Group housing as a housing type is distinct from a dwelling unit in that it provides smaller shared or private bedrooms, sometimes with limited cooking facilities. It also includes shared amenities such as common living rooms, kitchens, or even bathrooms. Group housing promotes a shared living style where bedroom units would sell or rent less expensively than a dwelling unit as they are smaller in size and less independent. The Planning Code defines group housing as:

> *"A Residential Use that provides lodging or both meals and lodging, without individual cooking facilities, by prearrangement for a week or more at a time, in a space not defined by this Code as a dwelling unit. Such group housing shall include, but not necessarily be limited to, a Residential Hotel, boardinghouse, guesthouse, rooming house, lodging house, residence club, commune, fraternity or sorority house, monastery, nunnery, convent, or ashram. It shall also include group housing affiliated with and operated by a medical or educational institution, when not located on the same lot as such institution, which shall meet the applicable provisions of Section 304.5 of this Code concerning institutional master plans."*

In 2005, an interpretation by the Zoning Administrator[2] at the time expanded this definition so that group housing units may include limited kitchen facilities (two burner oven, small under-counter fridge, microwave, small sink, but no oven). Group housing units with such limited cooking facilities are closer in design and unit type to small studio dwelling units.

Despite such similarity, the Planning Code requirements for group housing are relaxed compared to dwelling units. Group housing generally has higher density allowance compared to dwelling units in the same zoning districts. Group housing projects also have a reduced open space requirement (1/3 of dwelling unit requirements) and are exempt from exposure requirements. Also, rear yard requirements do not apply to group housing units if they qualify as Single Room Occupancy (hereinafter SRO) units per the Planning Code, which means the room is less than 350 square feet. The higher density and relaxed Planning Code requirements allow group housing projects to be more financially feasible on smaller or narrow lots, offering small private bedroom suites to the market.

The Planning Code lacks any requirements for group housing projects to provide a common room to serve the shared living style and complement the smaller bedroom sizes. The Department has been requesting such amenities from the project sponsors on a case by case basis.

Given that group housing units tend to serve more as private independent rooms often with kitchenettes, and also given the increased popularity of group housing projects, further clarifications of group housing definition and regulations are needed. Such clarifications should update the definition of group housing, the amount and quality of required shared amenities such as a common room, the bedroom size and amenities, along with other quality of life requirements such as exposure.

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[2] Planning Code interpretation for Section 209.2(a), effective date 10/05

One precedent for applying exposure requirement of the Planning Code to inherently smaller units is the provisions for the Accessory Dwelling Units. These are units added to an existing residential building within the existing built envelope. The Zoning Administrator can issue an administrative waiver from the exposure requirements partially, so that in such units the required open area to which the windows face can be of smaller size (15 feet by 15 feet).

Past and Current Group Housing Projects

In the past 10 years, four group housing projects have been approved and constructed, all of which provide housing or shelter to specific needs groups including youth shelter[3], or supportive housing[4] for formerly homeless senior.

Currently, there are two group housing projects in the pipeline that would be affected by the proposed Ordinance: 1) 361 Turk Street proposing 238 group housing rooms with individual kitchenettes; and 2) 1178 Folsom Street including 42 Single Room Occupancy (SRO)[5] group housing units also with individual kitchenettes. The Department currently is also reviewing a few PPAs that propose similar types of group housing private bedroom suites.

The change in the type of group housing projects that seek approval highlighted the inconsistency in the Planning Code and the Department's practice in not applying the inclusionary requirements to group housing projects. While in the past most group housing projects were either homeless shelters or supportive housing, or elderly care, today the market calls for group housing projects with private bedroom suites.

Inclusionary Unit Pricing

The inclusionary housing requirements in the Planning Code can be satisfied with an on-site option. Per this option, the project sponsor would set aside a certain number of units (usually 12% of the units) in the building affordable to households earning 55% of AMI if rental or 90% of AMI if ownership. The Mayor's Office of Housing and Community Development (hereinafter MOHCD) established a pricing mechanism to determine the rental or sales price for these units to remain affordable for the targeted household types. The pricing mechanism is based on unit type (studio, one-bedroom, two-bedroom, etc.) and household size. If the affordable units qualify as an SRO, MOHCD calculates the pricing based on 75% of a studio unit[6]. The purpose of this adjustment is to account for the fact that an SRO unit is usually cheaper than a studio as they are smaller in size. Similarly, the proposed Ordinance recommends using the same adjustment for group housing bedrooms as they also tend to be smaller in size and less independent than a studio dwelling unit.

It is important to note that for a rental housing project in order to satisfy the requirements of the Inclusionary Housing program with an on-site option, project sponsors need to enter into a Cost-Hawkins Exception Agreement with the City. This agreement holds that units within the buildings are maintained affordable to low income households in return for a direct financial contribution that the

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[3] 536 Central- Diamond Youth Shelter

[4] 416 Bay Street- The Arc of San Francisco- supportive housing for adults with disabilities & 2500 Market- Market Street Mission (homeless shelter and services)

[5] For the purpose of the Planning Code, an SRP dwelling unit or group housing mean the unit/bedroom is smaller than 350 sq. ft.

[6] A studio can be up to 600 sq. ft. in MOHCD's pricing table.

sponsor receives. Generally, a direct financial contribution includes exemptions from rear yard, open space, exposure, density, or so forth. Group housing projects, as discussed earlier, are more permissive than dwelling unit projects and such exemptions may not be needed. This may deem the on-site option legally infeasible due to a lack of available direct financial contribution as described in the Code.

Demographics of Group Housing

The current group housing projects primarily target single person households or couples without children, offering a smaller private bedroom setting, often with a kitchenette, along with shared common rooms and facilities. Given the increase in people living alone, and couples without children, in San Francisco and generally in the country, this is a housing type that would address such demographic change. Looking at living arrangement data in San Francisco from 2000 to 2013, there has been an 18% increase in couples without children. Additionally, there has been a 24% increase in unrelated individuals living together in larger dwelling units that otherwise could accommodate families. Group housing projects can accommodate these increasing demographics, providing private bedroom suites for such independent individuals while maintaining a shared living style.

Per the proposed Ordinance, if such group housing bedrooms are made affordable (through the on-site option), the unit provides a very affordable rent of about $600 per month for rental. Such rate is on a lower end of affordability spectrum serving a single person or a two person household, a need that is aggravated by the demographic shifts in household types.

Supervisor Christensen Letter: Middle Income Affordable Units

Section 124(f) of the Planning Code was adopted as a part of the Downtown Plan in 1985. The intent of this Code section was to facilitate provision of units that are affordable to households of middle income (150% of AMI) through an FAR bonus in C-3-G and C-3-S Districts. Since then, the City established an Inclusionary Zoning program in 2002, where the units are affordable to 55% of AMI for rental and 90% of AMI for ownership units. Many projects have used the inclusionary units also as designated units subject to 124(f) for an FAR bonus. Only two projects (55 9th Street and 1400 Mission) have used this Section to provide "bonus units" outside of the inclusionary program. However, the units provided, given the current housing affordability crisis do not serve the intended middle income population. For example, in 55 9th Street, the affordable studio rents out for $2,700 for a household earning 150% AMI. Such rent is already available on the market for a studio and therefore does not serve as an affordable unit. In addition, 124(f) requires the project sponsor to restrict the affordability for only 20 years – a much shorter term than other current affordability restrictions, which often last for from 50 years up to the "life of the project."

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

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

1. Apply exposure requirements to group housing and allow a Zoning Administrator partial waiver from the exposure requirements for all group housing bedrooms or the group housing common room. The partial waiver would allow the windows to face an open area of 15 feet by 15 feet.
2. Clarify that the inclusionary group housing bedrooms would be priced as 75% of the maximum purchase price for studio units <u>if the bedrooms are less than 350 square feet.</u> Otherwise, the inclusionary group housing bedrooms would be subject to the price for a studio.
3. Allow on-site inclusionary group housing rooms satisfying the Inclusionary Requirements to be exempt from density calculations.
4. Request the Planning Department to conduct a study on group housing definitions and requirements and specifically propose appropriate ratios to require common rooms in group housing projects.

<u>Recommendations Related to Supervisor Christensen's Proposed Amendments</u>

5. Clarify that the designated units would not be exempt from Planning Code Infrastructure Impact Fees.

BASIS FOR RECOMMENDATION

Staff supports the notion that the Inclusionary Program should apply to all housing projects including group housing. Since the establishment of the Inclusionary Program, most group housing projects were homeless shelters or other forms of subsidized housing. Under the current Inclusionary Housing requirements such 100% affordable housing developments are not subject to the Inclusionary Housing requirements and, under the Proposed Legislation, would continue to be exempt. The more recent group housing projects in the pipeline offer market-rate private bedroom suites. This highlighted the inconsistency in the Planning Code in implementation of the Inclusionary Program. Requiring this Ordinance to apply to projects that have not received their First Construction Permit before May 20, 2015 would capture all market rate group housing projects in the pipeline. Staff also supports the clarification in the pricing mechanism for affordable group housing units. The adjusted pricing (75% of MOHCD's pricing for a studio) reflects the current practice pricing for SROs and addresses the distinction of group housing bedroom suites, with less independent living arrangement (limited cooking facilities, common living room, etc.), from a studio unit, which is an independent living arrangement.

The following are the explanations for staff's proposed modification to the Ordinance:

1. **Apply exposure requirements to group housing and allow a Zoning Administrator partial waiver from the exposure requirements for all group housing bedrooms or the group housing common room-** The Planning Code establishes quality of life standards for residential buildings in order to ensure a certain standard of living for San Franciscans. Group housing units should provide these standards consistent with other types of housing. For a dwelling unit, the Planning Code requires at least one room to have exposure to light and air through a window facing a street or an open area of a

certain size. Staff's proposed modification would adapt this requirement to group housing. Group housing bedrooms are often smaller and less of an independent living arrangement compared to dwelling units and a common room usually serves as living room for these bedrooms. Similar to the current practices of the Planning Code's exposure requirements, the proposed modification would allow either the private bedrooms or the shared common room to comply with the exposure requirements. The goal is that if any of the private bedrooms does not comply with the exposure requirements, the common room in the building would provide such quality of life. Additionally the proposed modifications replicate the partial waiver from exposure for ADUs currently in the Planning Code. This proposal aims to ensure that group housing units are still feasible without compromising quality of life gained by exposure to light and air.

2. **Clarify that the inclusionary group housing bedrooms would be priced as 75% of the maximum purchase price for studio units <u>if the bedrooms are less than 350 square feet</u> -** The Planning Code does not restrict the size of a group housing room. While group housing projects currently existing or in the pipeline generally have smaller units, it is possible for a project to propose 450 sq. ft. group housing bedroom suites, for example. The proposed modification aims to capture such potential instances. If a group housing bedroom suite is larger than 350 sq. ft. (the maximum threshold for an SRO), MOHCD would no longer apply the 75% pricing adjustment. Such larger size group housing bedroom suite would be more similar in design and amenities to a studio and therefore should be priced similarly as well.

3. **Allow on-site inclusionary group housing rooms satisfying the Inclusionary Requirements to be exempt from density calculations -** The private bedroom suites in the group housing projects would serve types of household which are on the rise: single persons or couples without children. Inclusionary affordable group housing bedrooms would provide housing on the cheapest spectrum of affordability in the inclusionary program for these types of households. Encouraging project sponsors to satisfy their inclusionary requirement with the on-site option would help provide more affordable housing options at the lower level of rent or sales price. The proposed modification would provide an incentive for project sponsors to provide on-site affordable group housing bedroom suites both financially; and also legally for rental projects, as it provides the necessary grounds for the Costa Hawkins Exception Agreement. This proposal would exempt affordable units from density calculations, where density restrictions exist, allowing additional units, and enhancing financial feasibility of the project. This exception would only exempt the units from density calculations while other height, bulk, and building envelope limitations would still apply.

4. **Request the Planning Department to conduct a study on group housing definition and requirements and specifically propose appropriate ratios to require common rooms in group housing projects.** In the past decade group housing projects have changed in style and targeted demographics. While in the past most group housing projects targeted special needs population and provided affordable housing, currently such projects provide smaller sized market rate private bedroom suites. It is necessary for the Department to update its regulations and practices of this housing typology to reflect this change. For example, group housing projects have smaller open space requirements and also tend to have smaller bedroom sizes. Residents of such buildings would therefore need additional living room space used for relaxing and gathering. The Department has been requesting common rooms when reviewing group housing on a case by case basis. Given the current boom in the housing market and the tendency to maximize number of units in each project, staff finds that there is a need for an established common room requirement for group housing projects in order to maintain a standard quality of life in such projects.

Supervisor Christensen's Proposed Amendments

Staff also supports the amendments recommended in Supervisor Christensen's letter. The amendments align the intent of Section 124(f) provisions with the current inclusionary procedures and practices of MOHCD. The adjustment to the AMI income levels reflects the distinction MOHCD makes for affordability levels of rental versus ownership units. The amendments also would set the unit type as two or three bedrooms, adjusting the provisions to address the current need for middle income housing for families and households of larger size. This would also avoid having a studio affordable to 150% of AMI while the market already offers such level of affordability. Staff proposes one modification to these amendments:

5. **Clarify that the designated units would not be exempt from Planning Code Infrastructure Impact Fees -** Since the adoption of the Downtown Plan in 1985, the City has establishes several infrastructure impact fees for development projects. The intention of Section 124(f) was to only exempt the bonus units from FAR calculations. Staff recommends clarifying that such fees would still apply to the additional bonus units.

ENVIRONMENTAL REVIEW

The proposed Ordinance would result in no physical impact on the environment. The proposed amendments are exempt from environmental review under Sections 15060(c)(2) and 15378 of the CEQA Guidelines.

PUBLIC COMMENT

The Department has not received any public comment on this Ordinance.

RECOMMENDATION:	**Recommendation of Approval with modification**

Attachments:

Exhibit A: Draft Planning Commission Resolution
Exhibit B: Supervisor Christensen Letter
Exhibit C: Board of Supervisors File No. 150348

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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Fax No. 554-5163
TDD/TTY No. 554-5227

April 15, 2015

File No. 150348

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On April 7, 2015, Supervisor Avalos introduced the following legislation:

File No. 150348

Ordinance amending the Planning Code to clarify that the Inclusionary Affordable Housing Program applies to housing projects, as defined, including group housing projects; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings, including findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Andrea Ausberry, Assistant Clerk

Attachment

cc: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

Joy Navarrete

Digitally signed by Joy Navarrete
DN: cn=Joy Navarrete, o=Planning, ou=Environmental Planning, email=joy.navarrete@sfgov.org, c=US
Date: 2015.04.27 16:00:53 -07'00'

BOARD of SUPERVISORS

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May 27, 2015

File No. 150348

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On May 19, 2015, Supervisor Avalos introduced the following substituted legislation:

File No. 150348

Ordinance amending the Planning Code to clarify that the Inclusionary Affordable Housing Program applies to housing projects, as defined, including group housing projects; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings, including findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Andrea Ausberry, Assistant Clerk

Attachment

cc: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

BOARD of SUPERVISORS

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May 27, 2015

Planning Commission
Attn: Jonas Ionin
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Commissioners:

On May 19, 2015, Supervisor Avalos introduced the following substituted legislation:

File No. 150348

Ordinance amending the Planning Code to clarify that the Inclusionary Affordable Housing Program applies to housing projects, as defined, including group housing projects; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings, including findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use and Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

By: Andrea Ausberry, Assistant Clerk

cc: John Rahaim, Director of Planning
Aaron Starr, Acting Manager of Legislative Affairs
AnMarie Rodgers, Senior Policy Manager
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
Jeanie Poling, Environmental Planning
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS

City Hall
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MEMORANDUM

TO: Tom Hui, Director, Department of Building Inspection
Olson Lee, Director, Mayor's Office of Housing & Community Development
Delene Wolf, Executive Director, Rent Board

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Transportation Committee, Board of Supervisors

DATE: May 27, 2015

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following substituted legislation, introduced by Supervisor Avalos on May 19, 2015:

File No. 150348

Ordinance amending the Planning Code to clarify that the Inclusionary Affordable Housing Program applies to housing projects, as defined, including group housing projects; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings, including findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

If you have any additional comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c:
William Strawn, Department of Building Inspection
Carolyn Jayin, Department of Building Inspection
Eugene Flannery, Mayor's Office of Housing & Community Development
Sophie Hayward, Mayor's Office of Housing & Community Development

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Rcvd in Board 5.19

Time stamp or meeting date

I hereby submit the following item for introduction (select only one):

☐ 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.

☐ 2. Request for next printed agenda without reference to Committee.

☐ 3. Request for hearing on a subject matter at Committee.

☐ 4. Request for letter beginning "Supervisor [ ] inquires"

☐ 5. City Attorney request.

☐ 6. Call File No. [ ] from Committee.

☐ 7. Budget Analyst request (attach written motion).

☒ 8. Substitute Legislation File No. 150348

☐ 9. Request for Closed Session (attach written motion).

☐ 10. Board to Sit as A Committee of the Whole.

☐ 11. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☒ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

Avalos, Kim

Subject:

Ordinance - Planning Code - Applying Inclusionary Housing Requirements to Group Housing

The text is listed below or attached:

Signature of Sponsoring Supervisor:

For Clerk's Use Only: