



SAN FRANCISCO PLANNING DEPARTMENT

July 7, 2017

Ms. Angela Calvillo, Clerk
Honorable Supervisors Kim, Safai, Peskin, Breed, and Tang
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

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**Re: Transmittal of Planning Department Case Number 2017-001061PCA
Amendments to Section 415, Inclusionary Affordable Housing Program
Board File No: 161351v4 Inclusionary Affordable Housing Fee and
Requirements; and Dwelling Unit Mix Requirements**

Planning Commission Recommendation: *Recommend approval of the proposed ordinance with no recommendation on a specific cap until further study.*

Dear Ms. Calvillo and Supervisors Kim, Safai, Peskin, Breed, and Tang,

On June 19, 2017 at the Land use and Transportation Committee, the Committee duplicated the amended Consensus Ordinance [Board File No. 170760] and referred the duplicated Ordinance to the Commission for consideration. The amended Consensus Ordinance included one additional material modification from the Ordinance previously considered by the Commission. **The new material modification is an amendment to the proposed Planning Code Section 207.7 to establish a maximum limit on the percentage of studio units in certain residential development projects at no more than 30% of total project units.**

At yesterday's public hearing, the Planning Commission adopted a resolution recommending approval of the proposed Ordinance, inclusive of the Commission's previous recommendations as recorded in Resolution Number 19903; as reaffirmed and elaborated in the Commission's subsequent Resolution Number 19937; and with one additional recommendation concerning the new material modification.

Concerning the New Recommendation Material Modification: The Commission recommends approval of the proposed ordinance with no recommendation on a specific cap until further study.

The adopted resolution, including detailed recommendations and the associated Executive Summary, are attached.

Supervisors, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission into your proposed Ordinance. Please

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

Sincerely,



AnMarie Rodgers
Senior Policy Advisor

cc:

Kate Stacey, Deputy City Attorney
Michael Howerton, Aide to Supervisor Breed
Bobbi Lopez, Aide to Supervisor Kim
Sunny Angulo, Aide to Supervisor Peskin
Suhagey Sandoval, Aide to Supervisor Safai
Ashley Summers, Aide to Supervisor Tang
Alisa Somera, Office of the Clerk of the Board
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Attachments:

Planning Commission Resolution No. 19956
Planning Department Executive Summary Case No. 2017-001061PCA



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19956

HEARING DATE: JULY 6, 2017

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Date: June 29, 2017
Project Name: **Inclusionary Affordable Housing Program (Sec 415) and Dwelling Unit Mix Requirements (Sec 207) Amendments**
Case Number: 2017-001061PCA [Board File No. 170760]
Sponsored by: Supervisors Breed, Kim, Peskin, Safai, and Tang
Staff Contact: Jacob Bintliff, Citywide Planning Division
jacob.bintliff@sfgov.org, 415-575-9170
Reviewed by: AnMarie Rodgers, Senior Policy Advisor
Recommendation: **Recommend approval of the proposed ordinance with no recommendation on a specific cap until further study.**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE, WITH MODIFICATIONS THAT WOULD AMEND THE PLANNING CODE TO AMEND THE INCLUSIONARY AFFORDABLE HOUSING PROGRAM AND ESTABLISH A REQUIRED DWELLING UNIT MIX IN PLANNING CODE SECTION 207.7; 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, 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, 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 require a minimum dwelling unit mix in all residential districts; 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 to 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 to require a minimum dwelling unit mix in all residential districts, and adopting necessary findings; 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 [Board File No. 161351v4]; and

WHEREAS, six components of the Consensus Ordinance constituted material modifications from the Ordinances considered by the Commission on April 27, 2017; and

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

WHEREAS, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the material modifications on June 15, 2017; and

WHEREAS, the Commission passed Resolution Number 19937 recommending approval with modifications of the Consensus Ordinance to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and to require a minimum dwelling unit mix in all residential districts, and adopting necessary findings; and

WHEREAS, on June 19, 2017 at the Land use and Transportation Committee, the Committee further amended the Consensus Ordinance [Board File No. 161351v5]; and

WHEREAS, on June 19, 2017 at the Land use and Transportation Committee, the Committee duplicated the amended Consensus Ordinance [Board File No. 170760] and referred the duplicated Ordinance to the Commission for consideration; and

WHEREAS, the amended Consensus Ordinance included one additional material modification from the Ordinance previously considered by the Commission. The new material modification is an amendment to the proposed Planning Code Section 207.7 to establish a maximum limit on the percentage of studio units in certain residential development projects at no more than 30% of total project units; and

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

WHEREAS, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the material modifications on July 6, 2017; and

WHEREAS, the proposed amendments in the modified Ordinance are 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 previously determined 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 maximum levels supported by the City's current Residential 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 are 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 Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and to require a minimum dwelling unit mix in all residential districts, and the Commission's recommended modifications to the Inclusionary Affordable Housing Program and Dwelling Unit Mix Requirements 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 adopt a modified ordinance** to revise the Inclusionary Affordable Housing Program and establish new Dwelling Unit Mix Requirements as described within Resolution Number 19903 and 19937 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 facilitates an increase in 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, moderate, and above-moderate income households.

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 expands eligibility to households at income levels currently not served by existing affordable housing programs. Considering the average incomes served, the proposal would serve households in the Low-Income, Moderate-Income, and Above-Moderate Income groups, and would meet the demonstrated need of all these income groups, while serving households 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 would also establish new Dwelling Unit Mix Requirements in a new Planning Code Section 207.7 with the purpose of encouraging increased production of units with two or more 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 encourages the development of greater numbers of permanently affordable housing units in residential developments that are constructed, 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 applies to residential development projects throughout the City, including the requirement for greater numbers of units available to low-, moderate-, and above-moderate income households, which further encourages the integration of households of different income levels in all the City's 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, with no use of public subsidy.

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 low-, moderate-, and above-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. The ordinance established new Dwelling Unit Mix Requirements to encourage the production of units with two or more bedrooms to support the ability of family households to reside in San Francisco's neighborhoods.

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. The provision of greater housing opportunities in San Francisco for households at low-, moderate-, and above-moderate incomes reduces provides greater opportunity for worker households to reside in closer proximity to jobs located in San Francisco, thus reducing the demands on the region's transportation infrastructure and lowering regional vehicle miles travelled and associated Greenhouse Gas emissions.

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.

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, and would enhance the cultural and economic diversity of neighborhoods by expanding opportunities for mixed-income residential developments and establishing citywide Dwelling Unit Mix Requirements to encourage a greater supply of larger units better suited to serve family households.

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 provided through newly constructed residential developments.

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 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 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 WITH MODIFICATIONS a proposed Ordinance amending the Inclusionary Affordable Housing Program and establishing new Dwelling Unit Mix Requirements, as described in the Commission's April 27, 2017 recommendations as recorded in Resolution Number 19903, and as described and reaffirmed in the Commission's June 15, 2017 recommendations as recorded in Resolution Number 19937, with the following new recommendation, as relate to the additional material modification contained within the amended and duplicated Consensus Ordinance [Board File No. 170760]:

Recommend approval of the proposed ordinance with no recommendation on a specific cap until further study.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on July 6, 2017.



Jonas P. Ionin
Commission Secretary

AYES: Hillis, Richards, Fong, Johnson, Koppel, Melgar, and Moore
NOES: None
ABSENT: None
ADOPTED: July 6, 2017



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: JULY 6, 2017
90 DAY DEADLINE: SEPTEMBER 27 2017

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Date: June 29, 2017
Project Name: **Inclusionary Affordable Housing Program (Sec 415) and Dwelling Unit Mix Requirements (Sec 207) Amendments**
Case Number: 2017-001061PCA [Board File No. 170760]
Sponsored by: Supervisors Breed, Kim, Peskin, Safai, and Tang
Staff Contact: Jacob Bintliff, Citywide Planning Division
jacob.bintliff@sfgov.org, 415-575-9170
Reviewed by: AnMarie Rodgers, Senior Policy Advisor
Recommendation: **Recommend Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to revise the Inclusionary Affordable Housing Program (Section 415) and to establish new Dwelling Unit Mix Requirements (new Section 207.7) in most residential districts.

The Way It Is Now:

1. The Consensus Ordinance, generally consistent with previous Planning Commission recommendations, would revise the requirements for the Affordable Housing Fee, On-Site, and Off-Site alternatives required in Section 415 for residential projects of 10 or more units, and
2. Would establish a new Planning Code Section 207.7 to require that residential developments of 10 or more units in all residential districts outside of Plan Areas must provide a minimum of 25% of total unit as two-bedroom units, including 10% of total units as three-bedroom or larger units.

The Way It Would Be:

1. No additional material modifications to Section 415 are proposed.
2. The amended and duplicated Consensus Ordinance includes one material modification not previously considered by the Planning Commission. Specifically, Section 207.7 would be amended to **establish a maximum limit on studio units at 30% of all project units** for development projects of 10 or more units in all residential districts outside of Plan Areas.

BACKGROUND

The Planning Commission considered the findings of the Controller’s Economic Feasibility Study that was required by Proposition C to advise the Board of Supervisors of the maximum economically feasible

Inclusionary requirements on February 23, 2017, and held an informational hearing on proposed amendments to the Inclusionary Affordable Housing Program on March 16, 2017. The Planning Commission considered two ordinances on April 27, 2017 [Board File No. 161351 Inclusionary Affordable Housing Fee and Requirements and Board File No. 170208 Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements], and adopted specific recommendations on amendments to the Inclusionary Program. After this Commission hearing, the sponsors of the two ordinances collaborated to draft a revised ordinance [Board File No. 161351v4], the “Consensus” ordinance, which contained six new features not previously considered by the Commission. These new features were considered “material modifications,” and on June 15, 2017, the Planning Commission made additional recommendations on these material modifications. On June 19, 2017, the Board of Supervisor’s Land Use and Transportation Committee again amended the Consensus Ordinance (Version 5), and duplicated the file [Board File No. 170760, Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirement] so that the Ordinance could be referred to the Planning Commission for consideration, as required by Planning Code Section 302(d). The purpose of this hearing is for the Commission to consider this new material modification.

ISSUES AND CONSIDERATIONS

1. Impacts on Family-Size Unit Policies

The Ordinance would establish new minimum requirements for two-bedroom and three-bedroom units in residential projects of 10 or more units. These requirements would apply in all residential districts not already subject to the minimum large unit requirements in effect for Plan Area districts. The stated policy intent for this requirement is to extend the policy of ensuring an adequate supply of family-sized housing in new developments to the remaining residential districts of the City. The Commission recommended adoption of this new requirement at the April 27, 2017 hearing based on this intent.

However, this new requirement to establish a maximum requirement limiting the number of studio units may be at odds with the overarching policy goal of providing more family-sized units in San Francisco. This is because in many projects that do comply with the existing minimum large unit requirements, or otherwise seek to maximize the number of two-bedroom or larger units, the additional large units are often balanced by the provision of more studio or “junior one-bedroom” units in the remaining floor area of the building. **Limiting the percentage of the project that may contain studio units could limit the ability of projects to provide the desired level of larger family-size units in some cases.**

2. Lack of Analysis of Need and Feasibility

The Department’s understanding of the existing number of and future need for studio units is limited at this time due to the definitional challenges mentioned above, and the fact that the regulation of number of studio units is a new policy concept not routinely captured in previous pipeline and housing stock analysis. However, preliminary data suggest **a significant number of recently approved projects have provided more than the proposed maximum of 30% studio units, and would have required modification or Conditional Use Authorization to comply with the proposed requirement.**

Furthermore, the physical and financial feasibility of the proposed requirement has not been analyzed at this time. Initial staff review indicates that for some projects, especially smaller projects of fewer than 25 units to which the requirement would apply, the physical limitations of a given site can make prescriptive unit mix requirements difficult to meet, and may force projects to decrease the total number of new housing units provided, or provide especially small units or units with undesirable configurations.

3. Prescriptive Requirements

The proposed new requirement would be prescriptive in a way that previously established and proposed unit mix requirements are not. Specifically, the proposed requirement is for a maximum number of studio units that would apply in conjunction with a required minimum number of two-bedroom and three-bedroom units, meaning the new requirement would **in effect prescribe a specific unit mix for some projects**, or significantly limit a project's flexibility in meeting other requirements and objectives. If the policy intent of the proposed requirement is to maximize the provision of family-size units, it is unclear that such a specific unit mix is necessarily required to meet that objective, for all projects across many site contexts and zoning districts.

RECOMMENDATIONS

The Department recommends that the Commission recommend *approval with modifications* of the proposed Consensus Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

Recommendations:

1. **Modify the Ordinance to remove the proposed maximum limit on studio units** in residential districts outside of Plan Areas, unless and until such a maximum limit can be supported by appropriate study and analysis. Specifically, such analysis should consider the estimated need for different unit types in San Francisco; how the proposed maximum limit on studio units would function in conjunction with minimum requirements for large units; and how such requirements taken as a whole would impact the viability of projects at a variety of scales.
2. As the Board of Supervisors has discretion to establish a studio unit limit without the support of relevant study and analysis, the Department advises that the Commission also **recommend that no cap lower than 50% of total project units should be set**, without further analysis. Such a maximum would significantly limit the likelihood of impacting project viability and decreasing the number of housing units produced by pipeline and future projects.

BASIS FOR RECOMMENDATION

The proposed additional material modification to Section 207.7 would have potentially negative impacts on other policies to promote more family-size housing units, has not been analyzed for the potential

adverse impacts on project feasibility and housing production, is prescriptive in nature, and raises the implementation and enforcement challenges described below.

The Department recommends approval of the Consensus Ordinance, with the above modifications that this new material modification to Section 207.7 should not be included unless supported by further study to minimize the possibility of negative impacts on the supply of affordable housing and family-size housing in San Francisco.

IMPLEMENTATION CONSIDERATIONS

Studio Definition

The Planning Code definition of a bedroom relies on the definition of a “Sleeping Room” in the Building Code, as applied in an interpretation of Section 102.29 of the Planning Code. That interpretation defines a room as a “bedroom” if the room 1) contains at least 70 square feet, 2) has at least one window, and 3) is clearly labeled as a “bedroom” on submitted plans.

However, dwelling units are commonly marketed and labeled in plans in ways that prevent the Planning Department from counting certain rooms as bedrooms, meaning that many units may be counted as “studio” units, though they may contain a room that functions or is marketed as a bedroom. For example, units are commonly marketed as “junior one-bedroom” units, which may include a separate room or space for sleeping that is nonetheless not considered a bedroom for the purposes of the Planning Code.

Because the City has not previously regulated the number of studio units permitted in a project, **it is unclear whether the proposed limit could be implemented or enforced effectively** given current code language and plan review processes.

Pipeline Impact

At this time, Planning staff is not able to estimate the impact of the proposed new requirement on pipeline or future residential projects. In addition, the new provision would apply to any project that submitted an Environmental Evaluation Application (EEA) on or after January 12, 2016. This means the new requirement would apply to projects that have been in the pipeline and undergoing plan review for over 18 months. It is likely that many of these projects would need to submit substantial revisions in project design to meet the new requirement, or seek a Conditional Use Authorization to waive or partially waive the requirement. The requirement would increase the potential for delay and duplicative review in the entitlement process, including additional Commission hearings.

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.

ENVIRONMENTAL REVIEW

The proposed Ordinance is not defined as a project under CEQA Guidelines Section 15378 and 15060(c) (2) because it does not result in a physical change in the environment.

PUBLIC COMMENT

To date the Planning Department has received no public comment on the Consensus Ordinance.

RECOMMENDATION: Approval with Modifications

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 170760
- Exhibit C: Legislative Digest for Board of Supervisors File No. 170760