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Board Item No. 6

COMMITTEE/BOARD OF SUPERVISORS

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Completed by: Alisa Somera Date July 19, 2017
Completed by: _____ Date _____

FILE NO. 170834 AMENDED IN BOARD 7/25/2017 ORDINANCE NO.

[Planning Code - Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements]

Ordinance amending 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; ~~adding reporting requirements for density bonus projects~~ to require minimum dwelling unit mix in most residential districts; to clarify Inclusionary Housing requirements in the Transbay C-3 Special Use District; 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.

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. General 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. 170834 and is incorporated herein by reference. The Board affirms this determination.

(b) On April 27, 2017, and on July 6, 2017, the Planning Commission, in Resolution Nos. 19903 and 19956, 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 Resolutions is on file with the Clerk of the Board of Supervisors in File No. 170834, and ~~is~~ are 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 Nos. 19903 and 19956, and the Board incorporates such reasons herein by reference. A copy of Planning Commission Resolution Nos. 19903 and 19956 is on file with the Board of Supervisors in File No. 170834.

Section 2. Findings About Inclusionary Affordable Housing Requirements.

(a) The purpose of this ordinance is to adopt inclusionary or affordable housing obligations following voter approval of Proposition C at the June 7, 2016 election to revise the City Charter's inclusionary affordable housing requirements, which won overwhelming support with 67.9% of the vote, and to update the provisions of the Planning Code that became effective after the Charter Amendment passed, consistent with the process set forth in Section 415.10 of the Planning Code, and ~~elaborated upon~~ further outlined in Ordinance No. 76-16, which required that the City study how to set inclusionary housing obligations in San Francisco at the maximum economically feasible amount in market rate housing development to create affordable housing. The inclusionary affordable housing obligations set forth in this ordinance will supersede and replace any previous requirements.

(b) The San Francisco residential real estate market is one of the most expensive in the United States. In February 2016, the California Association of Realtors reported that the

median priced home in San Francisco was $1,437,500. This price is 222% higher than the State of California median ($446,460), and 312% higher than the national average ($348,900). While the national homeownership rate is approximately 63.8%, only approximately 37% of San Franciscans own their own home. The majority of market-rate homes for sale in San Francisco are priced out of the reach of low- and moderate-income households. In 2015, the average rent was $3,524, which is affordable to households earning over $126,864.

(c) The Board of Supervisors adopted San Francisco's General Plan Housing Element in March 2015, and the California Housing and Community Development Department certified it on May 29, 2015. The Housing Element states that San Francisco's share of the regional housing need for years 2015 through 2022 includes 10,873 housing units for very-low- and low-income households and 5,460 units for moderate~~/middle~~-income households, and a total production of 28,870 net new units, with almost 60% to be affordable for very-low, low- and moderate/middle-income San Franciscans.

(d) In November 2016, the City provided the updated Residential Affordable Housing Nexus Analysis that confirms and quantifies the impact of new market rate housing development on the demand for affordable housing for households earning up to 120% of area median income. The study demonstrates a need of 31.8% affordable housing for rental housing, and 37.6% affordable housing for ownership housing, and a need of 24.1% onsite affordable housing for rental housing, and 27.3% onsite affordable housing for ownership housing for households with incomes up to 120% of Area Median Income. When quantifying affordable housing impacts on households making up to 150% of area median income, the study demonstrates a need of 34.9% affordable housing for rental housing, and a need of 41.3% affordable housing for ownership housing.

(e) In February 2017, the Office of the Controller presented a study of the economic feasibility of increased inclusionary housing requirements, entitled "Inclusionary Housing Working Group: Final Report." The Controller's Office, supported by a contracted consulting team of three firms and advised by a Technical Advisory Committee (TAC) with representatives appointed by the ~~Mayor and Board of Supervisors~~Controller, developed several policy recommendations, including: (1) that the City should impose different inclusionary housing requirements on rental and for-sale (condominium) properties; (2) that the City ~~could~~can set the initial onsite requirements at a maximum feasible amount of 18% for rental projects and 20% for ownership projects; (3) that the City ~~may adopt~~should commit to a 15-year schedule of increases to the inclusionary housing rate, at a rate of 0.5% increase each year; and (4) that the City should revise the schedule of Inclusionary housing fees to provide a more equivalent cost for developers as the on-site requirements. The Controller's Office recommended updating the fee percentage to 23% and 28% to create an equivalency to the recommended 18% and 20% on-site requirements, with the City conducting the specific calculation of the fee itself.

(f) The Controller's Report further acknowledged that if either the state density bonus or a local bonus program were widely implemented in San Francisco, the likely result would be higher residual land values in many locations, which would support a higher inclusionary requirement. ~~application of the state-provided density bonus could make a difference in the financial feasibility of housing development projects.~~

(g) The City's Inclusionary Affordable Housing Program is intended to help address the demonstrated need for affordable housing in the City through the application of the City's land use controls

(h) As rents and sales prices outpace what is affordable to the typical San Francisco family, the City faces a continuing shortage of affordable housing for not only very low- and low-income residents, but also for moderate, middle and upper-middle income families.

(i) In order to maximize the benefit of state and federal funds supporting affordable housing construction, which are typically restricted to very low- and low-income households, and to maximize the amount of affordable units constructed, the majority of the City's new affordable housing production is likely to continue to focus on households at or below 60% of area median income.

(j) The Board of Supervisors recognizes that this Inclusionary Housing Program is only one small part of the City's overall strategy for providing affordable housing to very low-, low-, moderate-, and middle-income households. The City will continue to acquire, rehabilitate and produce units through the Mayor's Office of Housing and Community Development, provide rental subsidies, and provide homeownership assistance to continue to expand its reach to households in need of affordable housing.

(k) The City will also continue to pursue innovative solutions to provide and stabilize affordable housing in San Francisco, including programs such as HOME-SF that incentivize projects that set aside 30% of on-site units as permanently affordable, and 40% of units as family-friendly multiple bedroom units.

(l) In an effort to support a mix of both ownership project and rental projects, the City is providing a direct financial contribution to project sponsors who agree to rent units for a period of 30 years. The direct financial contribution is in the form of a reduction in the applicable affordable housing requirement.

Section 3. The Planning Code is hereby amended by revising Sections 415.2, 415.3, 415.5, 415.6, ~~and~~ 415.7, and 415.10, and adding ~~a new~~ Section 415.11, to read as follows:

SEC. 415.2. DEFINITIONS.

See Section 401 of this Article. ~~For purposes of Sections 415.3et seq., "low income" households shall be defined as households whose total household income *does not exceed 55%* is 40% to 80% of Area Median Income for purposes of renting an affordable unit, or 80% to 100% of Area Median Income for purposes of purchasing an affordable unit, and "moderate income" and "middle income" households shall mean households whose total household income *does not exceed 100%* is 80% to 120% of Area Median Income for purposes of renting an affordable unit, or *120%* 100% to 140% of Area Median Income for purposes of purchasing an affordable unit. The Small Sites Fund, defined in Section 415.5(f)(2), and the Small Sites Program may use Affordable Housing Fees to acquire sites and buildings consistent with the income parameters of the Programs, as periodically updated and administered by MOHCD.~~

"Owned Unit" shall mean a dwelling unit that is a condominium, stock cooperative, community apartment or detached single family home. The owner or owners of an owned unit must occupy the unit as their primary residence.

"Rental Housing Project" shall mean a housing project consisting solely of Rental Units, as defined in Section 401, which meets the following requirements:

(1) The units shall be rental housing for not less than 30 years from the issuance of the certificate of occupancy pursuant to an agreement between the developer and the City. This agreement shall be in accordance with applicable State law governing rental housing. All such agreements entered into with the City must be reviewed and approved by the Planning Director and the City Attorney's Office, and may be executed by the Planning Director;

(2) The agreement shall be recorded against the property prior to issuance of the certificate of occupancy.

SEC. 415.3. APPLICATION.

* * * *

(b) Any development project that has submitted a complete Environmental Evaluation application prior to January ~~1, 2013~~ 12, 2016 shall comply with the Affordable Housing Fee requirements, the on-site affordable housing requirements or the off-site affordable housing requirements, and all other provisions of Section 415.1 et seq., as applicable, in effect on January 12, 2016. For development projects that have submitted a complete Environmental Evaluation application on or after January 1, 2013, the requirements set forth in Planning Code Sections 415.5, 415.6, and 415.7 shall apply to certain development projects consisting of 25 dwelling units or more during a limited period of time as follows.

(1) If a development project is eligible and elects to provide on-site affordable housing, the development project shall provide the following amounts of on-site affordable housing. ~~All other requirements of Planning Code Sections 415.1 et seq. shall apply.~~

(A) Any development project that has submitted a complete Environmental Evaluation application prior to January 1, 2014 shall provide affordable units in the amount of 13% of the number of units constructed on-site.

(B) Any development project that has submitted a complete Environmental Evaluation application prior to January 1, 2015 shall provide affordable units in the amount of 13.5% of the number of units constructed on-site.

(C) Any development project that has submitted a complete Environmental Evaluation application on or prior to January 12, 2016 shall provide affordable units in the amount of 14.5% of the number of units constructed on-site.

(D) Any development project that submits an Environmental Evaluation application after January 12, 2016, shall comply with the requirements set forth in Planning Code Sections 415.5, 415.6 and 415.7, as applicable.

(E) Notwithstanding the provisions set forth in subsections (b)(1)(A), (B) and (C) of this ~~s~~Section 415.3, if a development project is located in a UMU Zoning District or in the South of Market Youth and Family Zoning District, and is eligible and elects to provide on-site units pursuant to Section 415.5(g), such development project shall comply with the on-site requirements applicable within such Zoning Districts, as they existed on January 12, 2016, plus the following additional amounts of on-site affordable units: (i) if the development project has submitted a complete Environmental Evaluation application prior to January 1, 2014, the Project Sponsor shall provide additional affordable units in the amount of 1% of the number of units constructed on-site; (ii) if the development project has submitted a complete Environmental Evaluation application prior to January 1, 2015, the Project Sponsor shall provide additional affordable units in the amount of 1.5% of the number of units constructed on-site; or (iii) if the development project has submitted a complete Environmental Evaluation application on or prior to January 12, 2016, the Project Sponsor shall provide additional affordable units in the amount of 2% of the number of units constructed on-site.

(F) Any development project that has submitted a complete Environmental Evaluation application on or before January 12, 2016 and seeks to utilize a density bonus under State Law shall use its best efforts to provide on-site affordable units in the amount of 25% of the number of units constructed on-site and shall consult with the Planning Department about how to achieve this amount of inclusionary affordable housing. ~~*Any project*~~ *An applicant* seeking a density bonus under the provisions of State Law shall *provide reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions, and waivers or reductions of development standards.* ~~*prepare a report analyzing how the concessions and incentives requested are necessary in order to provide the required on-site affordable housing.*~~

(2) If a development project pays the Affordable Housing Fee or is eligible and elects to provide off-site affordable housing, the development project shall provide the following fee amount or amounts of off-site affordable housing during the limited periods of time set forth below. ~~All other requirements of Planning Code Sections 415.1 et seq. shall apply.~~

(A) Any development project that has submitted a complete Environmental Evaluation application prior to January 1, 2014, shall pay a fee or provide off-site housing in an amount equivalent to 25% of the number of units constructed on-site.

(B) Any development project that has submitted a complete Environmental Evaluation application prior to January 1, 2015, shall pay a fee or provide off-site housing in an amount equivalent to 27.5% of the number of units constructed on-site.

(C) Any development project that has submitted a complete Environmental Evaluation application on or prior to January 12, 2016 shall pay a fee or provide off-site housing in an amount equivalent to 30% of the number of units constructed on-site.

(D) Any development project that submits an Environmental Evaluation application after January 12, 2016 shall comply with the requirements set forth in Sections 415.5, 415.6, and 415.7, as applicable.

(E) Notwithstanding the provisions set forth in subsections (b)(2)(A), (B) and (C) of this Section 415.3, for development projects proposing buildings over 120 feet in height, as measured under the requirements set forth in the Planning Code, except for buildings up to 130 feet in height located both within a special use district and within a height and bulk district that allows a maximum building height of 130 feet, such development projects shall pay a fee or provide off-site housing in an amount equivalent to ~~*33*~~ *30*% of the number of units constructed on-site. Any buildings up to 130 feet in height located both within a special

use district and within a height and bulk district that allows a maximum building height of 130 feet shall comply with the provisions of subsections (b)(2)(A), (B) and (C) of this Section 415.3 during the limited periods of time set forth therein.

(F) Notwithstanding the provisions set forth in subsections (b)(2)(A), (B) and (C) of this ~~S~~Section 415.3, if a development project is located in a UMU Zoning District or in the South of Market Youth and Family Zoning District, and pays the Affordable Housing Fee or is eligible and elects to provide off-site affordable housing pursuant to Section 415.5(g), or elects to comply with a land dedication alternative, such development project shall comply with the fee, off-site or land dedication requirements applicable within such Zoning Districts, as they existed on January 12, 2016, plus the following additional amounts for the Affordable Housing Fee or for land dedication or off-site affordable units: (i) if the development project has submitted a complete Environmental Evaluation application prior to January 1, 2014, the Project Sponsor shall pay an additional fee, or provide additional land dedication or off-site affordable units, in an amount equivalent to 5% of the number of units constructed on-site; (ii) if the development project has submitted a complete Environmental Evaluation application prior to January 1, 2015, the Project Sponsor shall pay an additional fee, or provide additional land dedication or off-site affordable units, in an amount equivalent to 7.5% of the number of units constructed on-site; or (iii) if the development project has submitted a complete Environmental Evaluation application on or prior to January 12, 2016, the Project Sponsor shall pay an additional fee, or provide additional land dedication or off-site affordable units, in an amount equivalent to 10% of the number of units constructed on-site. Notwithstanding the foregoing, a development project shall not pay a fee or provide off-site units in a total amount greater than the equivalent of ~~33~~*30*% of the number of units constructed on-site.

(G) Any development project consisting of 25 dwelling units or more that has submitted a complete Environmental Evaluation application on or prior to January 12,

2016, and is eligible and elects to provide off-site affordable housing, may provide off-site affordable housing by acquiring an existing building to fulfill all or part of the requirements set forth in this Section 415.3 and in Section 415.7 with an equivalent amount of units as specified in this Section 415.3(b)(2), as reviewed and approved by the Mayor's Office of Housing and Community Development and consistent with the parameters of its Small Sites Acquisition and Rehabilitation Program, in conformance with the income limits for the Small Sites Program.

* * * *

(d) Notwithstanding the provisions set forth in Section 415.3(b), or the inclusionary affordable housing requirements contained in Sections 415.5, 415.6, and 415.7, such requirements shall not apply to any project that has not submitted a complete Environmental Evaluation Application on or before January 12, 2016, if the project is located within the Eastern Neighborhoods Mission Planning Area, the North of Market Residential Special Use District Subarea 1 or Subarea 2, or the SOMA Neighborhood Commercial Transit District, because inclusionary affordable housing levels for those areas will be addressed in forthcoming area plan processes or an equivalent community planning process. Until such planning processes are complete and new inclusionary housing requirements for projects in those areas are adopted, projects shall (1) pay a fee or provide off-site housing in an amount equivalent to 30% or (2) provide affordable units in the amount of 25% of the number of Rental Units constructed on-site or 27% of the number of Owned Units constructed on-site. For Rental Units, 15% of the on-site affordable units shall be affordable to low-income households, 5% shall be affordable to moderate-income households and 5% shall be affordable to middle-income households. For Owned Units, 15% of the on-site affordable units shall be affordable to low-income households, 6% shall be affordable to moderate-income households and 6% shall be affordable to middle-income households.

(~~d~~e) The City may continue to enter into development agreements or other similar binding agreements for projects that provide inclusionary affordable housing at levels that may be different from the levels set forth in Sections 415.1 et seq.

(f) Section 415.1 et seq., the Inclusionary Housing Program, shall not apply to:

(1) That portion of a housing project located on property owned by the United States or any of its agencies or leased by the United States or any of its agencies, for a period in excess of 50 years, with the exception of such property not used exclusively for a governmental purpose;

(2) That portion of a housing project located on property owned by the State of California or any of its agencies, with the exception of such property not used exclusively for a governmental or educational purpose; or

(3) That portion of a housing project located on property under the jurisdiction of the San Francisco Office of Community Investment and Infrastructure or the Port of San Francisco where the application of Section 415.1 et seq. is prohibited by California or local law.

(4) A 100% affordable housing project in which rents are controlled or regulated by any government unit, agency or authority, excepting those unsubsidized and/or unassisted units which are insured by the United States Department of Housing and Urban Development. The Mayor's Office of Housing and Community Development must represent to the Planning Commission or Planning Department that the project meets this requirement.

* * * *

(5) A Student Housing project that meets all of the following criteria:

* * * *

(C) The Mayor's Office of Housing and Community Development (MOHCD) is authorized to monitor this program. MOHCD shall develop a monitoring form and

annual monitoring fee to be paid by the owner of the real property or the Post-Secondary Educational Institution or Religious Institutions, as defined in Section 102 of this Code. The owner of the real property and each Post-Secondary Educational Institution or Institutions shall agree to submit annual documentation to MOHCD and the Planning Department, on or before December 31 of each year, ~~that~~ which addresses the following:

* * * *

(iii) The owner of the real property records a Notice of Special Restrictions (NSR) against fee title to the real property on which the Student Housing is located that states the following:

* * * *

d. The Post-Secondary Educational Institution is required to report annually as required in Ssubsection (~~e~~f)(5)(C) above;

* * * *

SEC. 415.5. AFFORDABLE HOUSING FEE.

* * * *

(b) **Amount of Fee.** The amount of the fee ~~*which*~~ *that* may be paid by the project sponsor subject to this Program shall be determined by MOHCD utilizing the following factors:

(1) The number of units equivalent to the applicable off-site percentage of the number of units in the principal housing project.

(A) For housing development projects consisting of 10 dwelling units or more, but less than 25 dwelling units, t~~T~~he applicable percentage shall be 20% ~~*for housing development projects consisting of 10 dwelling units or more, but less than 25 dwelling units*~~.

(B) ~~*The applicable percentage for*~~ *For* development projects consisting of 25 dwelling units or more, *the applicable percentage* shall be 33% *if such units are Owned Units*.

(C) For development projects consisting of 25 dwelling units or more, the applicable percentage shall be 30% if such units are Rental Units in a Rental Housing Project. In the event one or more of the Rental Units in the principal Rental Housing Project become ownership units, for *each Rental Unit or* for *the principal Rental Housing Project in its entirety, as applicable,* the Project Sponsor *shall* ~~pay to~~ either (A) reimburse *the City the* ~~difference in the~~ proportional *amount of the* ~~applicable inclusionary affordable housing fee so that the total fee~~ Inclusionary Affordable Housing Fee, which *would be equivalent to the* current Inclusionary Affordable Housing Fee *requirement for Owned Units,* ~~which is 33% of~~or (B) provide additional on-site or off-site affordable units equivalent to the current inclusionary requirements for Owned Units, apportioned among *the* required *number of* ~~total~~ *units* at various income levels *in* compliance with *the* ~~principal project, or such current percentage that has been adjusted annually by MOHCD~~requirements in effect at the time of conversion.

~~*For the purposes of this Section 415.5, the City shall calculate the fee using the direct fractional result of the total number of units multiplied by the applicable percentage, rather than rounding up the resulting figure as required by Section 415.6(a).*~~

(2) The affordability gap, ~~shall be calculated~~ using data on ~~*the*~~ *MOHCD's* cost of construction of affordable residential ~~of construction of to construct affordable~~ *residential* housing. No later than January 31, 2018, the Controller, with the support of consultants as necessary, and in consultation with the Inclusionary Housing Technical Advisory Committee (TAC) established in Planning Code Section 415.10, shall conduct a study to develop an appropriate methodology for calculating, indexing, and applying the appropriate amount of the Inclusionary Affordable Housing Fee. To support the Controller's study, and annually thereafter, MOHCD shall provide the following documentation: (1) schedules of sources and uses of funds and independent auditor's reports ("Cost Certifications") for all MOHCD-funded developments completed within three years of the date of reporting to the Controller; and, (2)

for any MOHCD-funded development that commenced construction within three years of the reporting date to the Controller but for which no Cost Certification is yet complete, the sources and uses of funds approved by MOHCD and the construction lender as of the date of the development's construction loan closing. Cost Certifications completed in years prior to the year of reporting to the Controller may be increased or decreased by the applicable annual Construction Cost Index percentage(s) for residential construction for San Francisco reported in the Engineering News Record. MOHCD, together with the Controller and TAC, shall evaluate the cost-to-construct data, including actual and appraised land costs, state and/or federal public subsidies available to MOHCD-funded projects, and determine MOHCD's average costs. Following completion of this study, the Board of Supervisors, in its sole and absolute discretion, and within the legal allowances of the Residential Nexus Analysis, will review the analyses, methodology, fee application, and the proposed fee schedule; and may consider adopting legislation to revise the Inclusionary Affordable Housing fees. The method of calculating, indexing, and applying the fee shall be published in the Procedures Manual. ~~for three different building heights, as applicable: (A) up to 55 feet; (B) above 55 feet up to 85 feet; and (C) above 85 feet *and the Maximum Purchase Price for the equivalent unit size*. The fee shall be calculated individually for these three different building types and two types of tenure, ownership and rental, rather than a single fee calculation uniformly applied to all types of projects.~~ The Department and MOHCD shall ~~calculate the affordability gap within 6 months of the effective date of this ordinance and shall~~ update the fee methodology and technical report every ~~two~~ three years, with analysis from the Technical Advisory Committee, ~~*from time to time as they deem appropriate*~~ in order to ensure that the affordability gap remains current, ~~and to reflect current costs of construction~~consistent with the requirements set forth below in Section 415.5(b)(3) and Section 415.10.

(3) Annual Fee Update. *For all housing developments, no* ~~*No*~~ later than January 1 of each year, MOHCD shall adjust the fee *based on* ~~adjustments in~~ *the* ~~City's~~ *cost of constructing* affordable *housing*~~.~~, including development and land acquisition costs. MOHCD shall provide the Planning Department, DBI, and the Controller with current information on the adjustment to the fee so that it can be included in the Planning Department's and DBI's website notice of the fee adjustments and the Controller's Citywide Development Fee and Development Impact Requirements Report described in Section 409(a). ~~MOHCD is authorized to shall develop an appropriate methodology for calculating and indexing the fee, in consultation with the Technical Advisory Committee consistent with the procedures set forth in Section 415.10, based on adjustments in the cost of constructing housing~~*based on adjustments in the cost of constructing housing and the Maximum Purchase Price for the equivalent unit size*. The method of indexing shall be published in the Procedures Manual ~~and shall be provided to the Board of Supervisors when it is updated~~.

(4) *Specific Geographic Areas.* For any housing development that is located in an area with a specific affordable housing requirement set forth in a Special Use District, or in any other section of the Code such as Section 419, the higher affordable housing requirement shall apply.

(5) The applicable amount of the inclusionary housing fee shall be determined based upon the date that the project sponsor has submitted a complete Environmental Evaluation application. *In the event the project sponsor does not procure a building permit or site permit for construction of the principal project within* ~~two years (24~~30 *months*~~)~~ *of the project's approval, the development project shall comply with the inclusionary affordable housing requirements applicable thereafter at the time when the project sponsor does proceed with pursuing a building permit. Such time period shall be extended in the event of any litigation seeking to invalidate the City's approval of such project, for the duration of the litigation.*

(6) The fee shall be imposed on any additional units or square footage authorized and developed under California Government Code Sections 65915 et seq. This subsection 415.5(b)(6) shall not apply to development projects that have submitted a complete Environmental Evaluation application on or before January 1, 2016.

(7) If the principal project has resulted in demolition, conversion, or removal of affordable housing units that are subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate-, low- or very low-income, or housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power and determined to be affordable housing, the Commission or the Department shall require that the project sponsor pay the Inclusionary Affordable Housing Fee equivalent for the number of affordable units removed, in addition to compliance with the inclusionary requirements set forth in this Section.

(c) **Notice to Development Fee Collection Unit of Amount Owed.** Prior to issuance of the first construction document for a development project subject to Section 415.5, ~~MOH~~ the Planning Department shall notify the Development Fee Collection Unit at DBI electronically or in writing of its calculation of the amount of the fee owed.

(d) **Lien Proceedings.** If, for any reason, the Affordable Housing Fee imposed pursuant to Section 415.5 remains unpaid following issuance of the first Certificate of Occupancy, the Development Fee Collection Unit at DBI shall institute lien proceedings to make the entire unpaid balance of the fee, plus interest and any deferral surcharge, a lien against all parcels used for the development project in accordance with Section 408 of this Article and Section 107A.13.15 of the San Francisco Building Code.

(e) If a housing project is located in an Area Plan with an additional or specific affordable housing requirements such as those set forth in a special use district or ~~s~~Sections 416, 417, and 419 or elsewhere in this code, the higher housing requirement shall apply. ~~more~~

~~specific provisions shall apply in lieu of or in addition to those provided in this Program, as applicable.~~

(f) **Use of Fees.** All monies contributed pursuant to the Inclusionary Affordable Housing Program shall be deposited in the Citywide Affordable Housing Fund ("the Fund"), established in Administrative Code Section 10.100-49. The Mayor's Office of Housing and Community Development ("MOHCD") shall use the funds collected under this Section in the following manner:

(1) Except as provided in subsection (2) below, the funds collected under this Section shall be used to:

(A) increase the supply of housing affordable to qualifying households subject to the conditions of this Section; and

(B) provide assistance to low- and moderate-income homebuyers; and

(C) pay the expenses of MOHCD in connection with monitoring and administering compliance with the requirements of the Program. MOHCD is authorized to use funds in an amount not to exceed $200,000 every 5 years to conduct follow-up studies under Section 415.9(e) and to update the affordable housing fee amounts as described above in Section 415.5(b). All other monitoring and administrative expenses shall be appropriated through the annual budget process or supplemental appropriation for MOHCD.

(2) **"Small Sites Funds."**

(A) Designation of Funds. MOHCD shall designate and separately account for 10% percent of all fees that it receives under Section 415.1 et seq. that are deposited into the Citywide Affordable Housing Fund, established in Administrative Code Section 10.100-49, excluding fees that are geographically targeted such as those referred to in Sections 415.5(b)(1) and 827(b)(1), to support acquisition and rehabilitation of Small Sites ("Small Sites Funds"). MOHCD shall continue to divert 10% of all fees for this purpose until

the Small Sites Funds reach a total of $15 million at which point, MOHCD will stop designating funds for this purpose. At such time as designated Small Sites Funds are expended and dip below $15 million, MOHCD shall start designating funds again for this purpose, such that at no time the Small Sites Funds shall exceed $15 million. When the total amount of fees paid to the City under Section 415.1 et seq. totals less than $10 million over the preceding 12 month period, MOHCD is authorized to temporarily divert funds from the Small Sites Fund for other purposes. MOHCD must keep track of the diverted funds, however, such that when the amount of fees paid to the City under Section 415.1 et seq. meets or exceeds $10 million over the preceding 12 month period, MOHCD shall commit all of the previously diverted funds and 10% ~~percent~~ of any new funds, subject to the cap above, to the Small Sites Fund.

(B) **Use of Small Sites Funds.** The funds shall be used exclusively to acquire or rehabilitate "Small Sites" defined as properties consisting of 2-25 units. Units supported by monies from the fund shall be designated as housing affordable to qualified households ~~as set forth in Section 415.2~~ for the life of the project ~~no less than 55 years~~. Properties supported by the Small Sites Funds must be:

(i) rental properties that will be maintained as rental properties;

(ii) vacant properties that were formerly rental properties as long as those properties have been vacant for a minimum of two years prior to the effective date of this legislation;

(iii) properties that have been the subject of foreclosure; or

(iv) a Limited Equity Housing Cooperative as defined in Subdivision Code Sections 1399.1 et seq. or a property owned or leased by a non-profit entity modeled as a Community Land Trust.

(C) Initial Funds. If, within 18 months from April 23, 2009, MOHCD dedicates an initial one-time contribution of other eligible funds to be used initially as Small

Sites Funds, MOHCD may use the equivalent amount of Small Sites Funds received from fees for other purposes permitted by the Citywide Affordable Housing Fund until the amount of the initial one-time contribution is reached.

(D) Annual Report. At the end of each fiscal year, MOHCD shall issue a report to the Board of Supervisors regarding the amount of Small Sites Funds received from fees under this legislation, and a report of how those funds were used.

(E) Intent. In establishing guidelines for Small Sites Funds, the Board of Supervisors does not intend to preclude MOHCD from expending other eligible sources of funding on Small Sites as described in this Section 415.5, or from allocating or expending more than $15 million of other eligible funds on Small Sites.

(3) For all projects funded by the Citywide Affordable Housing Fund, MOHCD requires the project sponsor or its successor in interest to give preference as provided in Administrative Code Chapter 47.

(g) **Alternatives to Payment of Affordable Housing Fee.**

(1) **Eligibility**: A project sponsor must pay the Affordable Housing Fee unless it qualifies for and chooses to meet the requirements of the Program though an Alternative provided in this subsection (g). The project sponsor may choose one of the following Alternatives:

(A) **Alternative #1: On-Site Units.** Project sponsors may elect to construct units affordable to qualifying households on-site of the principal project pursuant to the requirements of Section 415.6.

(B) **Alternative #2: Off-Site Units.** Project sponsors may elect to construct units affordable to qualifying households at an alternative site within the City and County of San Francisco pursuant to the requirements of Section 415.7.

(C) **Alternative #3: Small Sites.** Qualifying project sponsors may elect to fund buildings as set forth in Section 415.7-1.

(D) **Alternative #4: Combination**. Project sponsors may elect any combination of payment of the Affordable Housing Fee as provided in Section 415.5, construction of on-site units as provided in Section 415.6, or construction of off-site units as provided in Section 415.7, provided that the project applicant constructs or pays the fee at the appropriate percentage or fee level required for that option. Development Projects that have submitted a complete Environmental Evaluation application after January 12, 2016 that are providing on-site units under Section 415.6 and that qualify for and receive additional density under California Government Code Section 65915 et seq. shall use Alternative #4 to pay the Affordable Housing Fee on any additional units or square footage authorized under Section 65915.

(2) **Qualifications**: If a project sponsor wishes to comply with the Program through one of the Alternatives described in subsection (g)(1) rather than pay the Affordable Housing Fee, they must demonstrate that they qualify for the Alternative to the satisfaction of the Department and MOHCD. A project sponsor may qualify for an Alternative by the following methods:

(i) **Method #1 - Ownership Units**. All affordable units provided under this Program shall be sold as ownership units and will remain ownership units for the life of the project. Project sponsors must submit the 'Affidavit of Compliance with the Inclusionary Affordable Housing Program' to the Planning Department prior to project approval by the Department or the Commission; or

(ii) **Method #2 - Government Financial Contribution**. Submit to the Department a contract demonstrating that the project's on- or off-site units are not subject to the Costa Hawkins Rental Housing Act, California Civil Code Section 1954.50 because, under

Section 1954.52(b), it has entered into an agreement with a public entity in consideration for a direct financial contribution or any other form of assistance specified in California Government Code Sections 65915 et seq. and it submits an Affidavit of such to the Department. All such contracts entered into with the City and County of San Francisco must be reviewed and approved by ~~the Mayor's Office Housing~~ MOHCD and the City Attorney's Office. All contracts that involve 100% affordable housing projects in the residential portion may be executed by the Mayor or the Director of ~~the Mayor's Office of Housing~~ MOHCD. Any contract that involves less than 100% affordable housing in the residential portion, may be executed by either the Mayor, the Director of ~~the Mayor's Office of Housing~~ MOHCD or, after review and comment by ~~the Mayor's Office of Housing~~ MOHCD, the Planning Director. A Development Agreement under California Government Code Sections 65864 et seq. and Chapter 56 of the ~~San Francisco~~ Administrative Code entered into between a project sponsor and the City and County of San Francisco may, but does not necessarily, qualify as such a contract.

(3) The Planning Commission or the Department may not require a project sponsor to select a specific Alternative. If a project sponsor elects to meet the Program requirements through one of the Alternatives described in subsection (g)(1), they must choose it and demonstrate that they qualify 30 days prior to any project approvals from the Planning Commission or Department. The Alternative will be a condition of project approval and recorded against the property in an NSR. Any subsequent change by a project sponsor that results in the reduction in the number of on-site units shall require public notice for a hearing and approval from the Planning Commission. Notwithstanding the foregoing, if a project sponsor qualifies for an Alternative described in subsection (g)(1) and elects to construct the affordable units on- or off-site, ~~they~~ the project sponsor must submit the "Affidavit of Compliance with the Inclusionary Housing Program" based on the fact that the units will be sold as ownership units. A project sponsor who has elected to construct affordable ownership

units on- or off-site may only elect to pay the Affordable Housing Fee up to the issuance of the first construction document if the project sponsor submits a new Affidavit establishing that the units will not be sold as ownership units. If a project sponsor fails to choose an Alternative before project approval by the Planning Commission or Planning Department or if a project becomes ineligible for an Alternative, the provisions of Section 415.5 shall apply.

(4) If at any time, the project sponsor eliminates the on-site or off-site affordable ownership-only units, then the project sponsor must immediately inform the Department and ~~MOH~~ MOHCD and pay the applicable Affordable Housing Fee plus interest and any applicable penalties provided for under this Code. If a project sponsor requests a modification to its conditions of approval for the sole purpose of complying with this Section, the Planning Commission shall be limited to considering issues related to Section 415 et seq. in considering the request for modification.

SEC. 415.6. ON-SITE AFFORDABLE HOUSING ALTERNATIVE.

~~*The requirements set forth in this Section 415.6 will be reviewed when the City completes an Economic Feasibility Study.*~~ If a project sponsor is eligible and elects to provide on-site units pursuant to Section 415.5(g), the development project shall meet the following requirements:

(a) Number of Units. The number of units constructed on-site shall be as follows:

(1) *For housing development projects consisting of 10 dwelling units or more, but less than 25 dwelling units,* ~~*T*~~the number of *affordable* units constructed on-site shall generally be 12% of all units constructed on the project site ~~*for housing development projects consisting of 10 dwelling units or more, but less than 25 dwelling units.*~~ The affordable units shall *all* be affordable to low~~ and lower~~ income households. *Owned Units shall be affordable to households earning* ~~80%~~up *to 100% of Area Median Income, with an* ~~average~~ *affordable sales price set at* ~~90~~80*% of Area Median Income or less. Rental Units shall be affordable to households earning* ~~40%~~up *to* ~~80~~65*% of Area Median Income, with an* ~~average~~ *affordable rent set at* ~~60~~55*% of Area Median*

Income or less. ~~*The number of units constructed on-site shall generally be 25% of all units constructed on the project site for housing development projects consisting of 25 dwelling units or more, with a minimum of 15% of the units affordable to low-income households and 10% of the units affordable to low- or moderate/middle-income households.*~~

(2) For any housing development project consisting of 25 or more Owned Units, the number of affordable units constructed on-site shall generally be 20% of all units constructed on the project site. A minimum of 10% of the units shall be affordable to low-income households, 5% of the units shall affordable to moderate-income households, and 5% of the units shall be affordable to middle-income households. In no case shall the total number of affordable units required exceed the number required as determined by the application of the applicable on-site requirement rate to the total project units. Owned Units for low-income households shall have an affordable purchase price set at 80% of Area Median Income or less, with households earning up to 100% of Area Median Income eligible to apply for low-income units. Owned Units for moderate-income households shall have an affordable purchase price set at 105% of Area Median Income or less, with households earning from 95% to 120% of Area Median Income eligible to apply for moderate-income units. Owned Units for middle-income households shall have an affordable purchase price set at 130% of Area Median Income or less, with households earning from 120% to 150% of Area Median Income eligible to apply for middle-income units. For any affordable units with purchase prices set at 130% of Area Median Income ~~or above, studio~~ the units shall have a minimum occupancy of two persons. This unit requirement shall be outlined within the Mayor's Office of Housing Preferences and Lottery Procedures Manual no later than 6 months following the effective date of the Ordinance contained in Board of Supervisors File No. 161351. MOHCD may reduce Area Median Income pricing and the minimum income required for eligibility in each ownership category.

(3) For any Rental Housing Project consisting of 25 or more Rental Units, the number of affordable units constructed on-site shall generally be 18% of all units constructed on the project site, with a minimum of 10% of the units affordable to low-income households, 4% of the units affordable to moderate-income households, and 4% of the units affordable to middle-income households. In no case shall the total number of affordable units required exceed the number required as determined by the application of the applicable on-site requirement rate to the total project units. Rental Units for low-income households shall have an affordable rent set at 55% of Area Median Income or less, with households earning up to 65% of Area Median Income eligible to apply for low-income units. Rental Units for moderate-income households shall have an affordable rent set at 80% of Area Median Income or less, with households earning from 65% to 90% of Area Median Income eligible to apply for moderate-income units. Rental Units for middle-income households shall have an affordable rent set at 110% of Area Median Income or less, with households earning from 90% to 130% of Area Median Income eligible to apply for middle-income units. For any affordable units with rental rates set at 110% of Area Median Income ~~or above, studio~~ the units shall have a minimum occupancy of two persons. This unit requirement shall be outlined within the Mayor's Office of Housing Preferences and Lottery Procedures Manual no later than 6 months following the effective date of the Ordinance contained in Board of Supervisors File No. 161351. MOHCD may reduce Area Median Income pricing and the minimum income required for eligibility in each rental category.

(4) Notwithstanding the foregoing, Area Median Income limits for Rental Units and Owned Units, the maximum affordable rents or sales price shall be no higher than 20% below median rents or sales prices for the neighborhood within which the project is located, which shall be defined in accordance with the American Community Survey Neighborhood Profile Boundaries Map ~~Planning Department's Neighborhood Groups Map~~. MOHCD shall

adjust the allowable rents and sales prices, and the eligible households for such units, accordingly, and such potential readjustment shall be a condition of approval upon project entitlement. The City shall review the updated data on neighborhood rents and sales prices on an annual basis.

(5) Starting on January 1, 2018, and no later than January 1 of each year thereafter, MOHCD shall increase the percentage of units required on-site for projects consisting of 10 – 24 units, as set forth in Section 415.6(a)(1), by increments of 0.5% each year, until such requirement is 15%. For all development projects with 25 or more Owned or Rental Units, the required on-site affordable ownership housing to satisfy this Section 415.6 shall increase by 1.0% annually for two consecutive years starting January 1, 2018. The increase shall be apportioned to units affordable to low-income households, as defined above in subsection 415.6(a)(3). Starting January 1, 2020, the increase to on-site rental and ownership developments with 25 or more units shall increase by 0.5% annually, with such increases allocated equally for rental and ownership units to moderate and middle income households, as defined above in subsection 415.6(a)(3). The total on-site inclusionary affordable housing requirement shall not exceed 26% for development projects consisting of Owned Units or 24% for development projects consisting of Rental Units, and the increases shall cease at such time as these limits are reached. MOHCD shall provide the Planning Department, DBI, and the Controller with information on the adjustment to the on-site percentage so that it can be included in the Planning Department's and DBI's website notice of the fee adjustments and the Controller's Citywide Development Fee and Development Impact Requirements Report described in Section 409(a).

~~(2) For any housing development project consisting of 25 or more Owned Units, the number of affordable units constructed on site shall be 27% of all units constructed on the project site, with a minimum of 15% of the units affordable to low or lower income households~~

~~and 12% of the units affordable to moderate/middle-income households. Owned Units for low- and lower-income households shall be affordable to a range of households from 80% to 100% of Area Median Income, with an average affordable sales price set at 90% of Area Median Income or less. Owned Units for middle/moderate income households shall be affordable to a range of households from 100% to 140% of Area Median Income, with an average affordable sales price set at 120% of Area Median Income or less; provided that a middle/moderate income unit shall have a maximum sales price set at 100% of Area Median Income for a single income household. MOHCD may reduce the average Area Median Income upon request by the project sponsor.~~

~~(3) For any Rental Housing Project consisting of 25 or more Rental Units, the number of affordable units constructed on-site shall generally be 24% of all units constructed on the project site, with a minimum of 15% of the units affordable to low- or lower-income households and 9% of the units affordable to moderate/middle-income households. Rental Units for low- and lower-income households shall be affordable to a range of households earning from 40% to 80% of Area Median Income, with an average affordable rent set at 60% of Area Median Income or less. Rental Units for middle/moderate income households shall be affordable to a range of households earning from 80% to 120% of Area Median Income, with an average affordable rent set at 100% of Area Median Income or less; provided that a middle/moderate income unit shall have a maximum rent set at 100% of Area Median Income for a single income household. MOHCD may reduce the average Area Median Income upon request by the project sponsor. MOHCD shall set forth in the Procedures Manual the administration of rental units within this range.~~

~~(4) A minimum of 40% of the on-site affordable units shall consist of two bedroom units and a minimum of 20% of the on-site affordable units shall consist of three bedrooms or larger. Units shall have minimum floor areas that conform to the standards~~

~~developed by the California Tax Credit Allocation Committee (CTCAC) for affordable units. The total residential floor area devoted to the affordable units shall not be less than the applicable percentage applied to the total residential floor area of the principal project, provided that a 10% variation in floor area is permitted.~~

~~(5) In the event one or more of the Rental Units in the principal Rental Housing Project become ownership units, each converted Rental Unit shall reimburse the City the proportional difference between the amount of the then-current inclusionary affordable housing requirement for Rental Units and Owned Units. If a Rental Housing Project is converted to an ownership housing project in its entirety, an additional 3% of the units shall be designated as affordable to qualifying households, apportioned between the required number of low- and lower-income and moderate/middle-income on-site units in compliance with the requirements currently in effect at the time of conversion.~~

(6) The Department shall require as a condition of Department approval of a project's building permit, or as a condition of approval of a Conditional Use Authorization or Planned Unit Development or as a condition of Department approval of a live/work project, that 12%, ~~24% or 27% *25%,*~~ *18%, or 20%,* as applicable, or such current percentage that has been adjusted annually by MOHCD, of all units constructed on the project site shall be affordable to qualifying households so that a project sponsor must construct .12, ~~.24 or .27 *or .25*~~ .18, or .20 times, or such current number as adjusted annually by MOHCD, as applicable, the total number of units produced in the principal project. If the total number of units is not a whole number, the project sponsor shall round up to the nearest whole number for any portion of .5 or above. In no case shall the total number of affordable units required exceed the number required as determined by the application of the applicable on-site requirement rate to the total project units.

(7) In the event one or more of the Rental Units in the principal Rental Housing Project become ownership units, for each converted Rental Unit, or for the principal Rental Housing Project in its entirety, as applicable, the project sponsor shall either (A) reimburse the City the proportional amount of the inclusionary affordable housing fee, which would be equivalent to the then-current inclusionary affordable fee requirement for Owned Units, or (B) provide additional on-site or off-site affordable units equivalent to the then-current inclusionary requirements for Owned Units, apportioned among the required number of units at various income levels in compliance with the requirements in effect at the time of conversion.

(8) **Specific Geographic Areas.** For any housing development that is located in an area with a specific affordable housing requirement set forth in a Special Use District or in any other section of the Code such as Section 419, the higher housing requirement shall apply. *The Planning Department, in consultation with the Controller, shall undertake a study of areas* greater than 5 acres in size, *where an Area Plan, Special Use District, or other re-zoning* is being considered for adoption, or *has been adopted, after January 1, 2015, to determine whether a higher on-site inclusionary affordable housing requirement is feasible on sites that have received a 20% or greater increase in developable residential gross floor area or a 35% or greater increase in residential density over prior zoning, and shall submit such information to the Planning Commission and Board of Supervisors*.

(~~8~~9) If the principal project has resulted in demolition, conversion, or removal of affordable housing units that are subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate-, low- or very-low-income, or housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power and determined to be affordable housing, the Commission or the Department shall require that the project sponsor replace the number of affordable units removed with units of a comparable number of bedrooms and sales prices or rents, in addition

to compliance with the requirements set forth in this Section. ~~renting or selling to households at income levels and/or for a rental rate or sales price below corresponding income thresholds for units affordable to low income households, the Commission or the Department shall require that the project sponsor replace the number of affordable units removed with units of a comparable number of bedrooms in addition to compliance with the inclusionary requirements set forth in this Section 415.6 *or provide that 25% of all units constructed as part of the new project shall be affordable to low income or moderate/middle income households, whichever is greater.*~~

~~(9) **Annual indexing.** The required on-site affordable housing to satisfy this section 415.6 shall increase by 0.75% annually for all development projects with 10-24 units of housing, beginning on January 1, 2018.~~

(10) The applicable amount of the percentage required for the on-site housing units shall be determined based upon the date that the project sponsor has submitted a complete Environmental Evaluation application. *Any development project that constructs on-site affordable housing units as set forth in this Section 415.6 shall diligently pursue completion of such units. In the event the project sponsor does not procure a building permit or site permit for construction of the principal project within* ~~two years (24~~ *30 months)* *of the project's approval, the development project shall comply with the inclusionary affordable housing requirements applicable thereafter at the time when the project sponsor procures a building permit. Such deadline shall be extended in the event of any litigation seeking to invalidate the City's approval of such project, for the duration of the litigation.*

(b) Any On-site units provided through this Section 415.6 may be used to qualify for a density bonus under California Government Code Section 65915, any ordinance implementing Government Code Section 65915, or one of the Affordable Housing Bonus Programs ~~currently proposed in an~~ contained in the ordinance in Board of Supervisors File No. 150969 ~~or its equivalent if such ordinance is adopted~~. An applicant seeking a density

bonus under State Law shall provide reasonable documentation to establish eligibility for a requested density bonus, incentive or concession, and waiver or reduction of development standards, as provided for under State Law and as consistent with the process and procedures detailed in a locally adopted ordinance implementing the State Law.

(c) Beginning in January 2018, the Planning Department shall prepare an annual report to the Planning Commission about the number of density bonus projects under California Government Code Section 65915, the number of density bonus units, and the types of concessions and incentives and waivers provided to each density bonus project.

(d) Unless otherwise specified in this Section 415.1 et seq., in the event the project sponsor is eligible for and elects to receive additional density under California Government Code Section 65915, the Sponsor shall pay the Affordable Housing Fee on any additional units or square footage authorized under that section in accordance with the provisions in Section 415.5(g)(1)(D).

(~~b~~e) **Timing of Construction.** On-site affordable housing required by this Section 415.6 shall be constructed, completed, ready for occupancy, and marketed no later than the market rate units in the principal project.

(~~c~~f) **Type of Housing.**

(1) Equivalency of Units. All on-site units constructed under this Section 415.6 shall be provided as ownership units unless the project sponsor meets the eligibility requirement of Section 415.5(g). ~~*All on-site units must be affordable to low income households.*~~ In general, affordable units constructed under this Section 415.6 shall be comparable in number of bedrooms, exterior appearance and overall quality of construction to market rate units in the principal project. A Notice of Special Restrictions shall be recorded prior to issuance of the first construction document and shall specify the number, location and sizes for all affordable units required under this subsection (~~c~~f). The affordable units shall be evenly

distributed throughout the building. For buildings over 120 feet in height, as measured under the requirements set forth in the Planning Code, the affordable units may be distributed throughout the lower 2/3 of the building, as measured by the number of floors. The interior features in affordable units should be generally the same as those of the market rate units in the principal project, but need not be the same make, model or type of such item as long as they are of good and new quality and are consistent with then-current standards for new housing. ~~The square footage of affordable units does not need to be the same as or equivalent to that in market rate units in the principal project, so long as it is consistent with then-current standards for new housing. The affordable units are not required to be the same size as the market rate units, and may be 90% of the average size of the specific unit type. For buildings over 120 feet in height, as measured under the requirements set forth in the Planning Code, the average size of the unit type may be calculated for the lower 2/3 of the building, as measured by the number of floors.~~ Where applicable, parking shall be offered to the affordable units subject to the terms and conditions of the Department's policy on unbundled parking for affordable housing units as specified in the Procedures Manual and amended from time to time. ~~*On-site affordable units shall be ownership units unless the project applicant meets the eligibility requirement of Section 415.5(9).*~~

(2) Minimum Size of Affordable Units. The affordable units are not required to be the same size as the market rate units~~, and may be 90% of the average size of the specific unit type~~. For buildings over 120 feet in height, as measured under the requirements set forth in the Planning Code, the average size of the unit type may be calculated for the lower 2/3 of the building, as measured by the number of floors. All units shall be no smaller than the minimum unit sizes set forth by the California Tax Credit Allocation Committee as of May 16, 2017, and no smaller than 300 square feet for studios. ~~For affordable dwelling units, individual unit square footage shall not be less than the following for each unit type:~~

~~Studios: 350 square feet~~

~~1 Bedrooms: 550 square feet~~

~~2 Bedrooms: 800 square feet~~

~~3 Bedrooms: 1,000 square feet~~

~~4 Bedrooms: 1,250 square feet~~

~~Units priced to be affordable for households earning 100% of Area Median Income or above shall not include studios.~~ The total residential floor area devoted to the affordable units shall not be less than the applicable percentage applied to the total residential floor area of the principal project, provided that a 10% variation in floor area is permitted.

~~(2) Density Bonus Projects. An applicant seeking a density bonus under the provisions of State Law shall provide reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions, and waivers or reductions of development standards. The Planning Department shall provide information about the value of the density bonus, concessions and incentives for each density bonus project and include it in the Department's case report or decision on the application. In addition, beginning in January 2018, the Planning Department shall prepare an annual report to the Planning Commission about the number of density bonus projects, density bonus units and the kinds of density bonuses, concessions and incentives provided to each density bonus project, which should be presented at the same time as the Housing Balance Report.~~

~~(d)~~(g) **Marketing the Units**. The Mayor's Office of Housing and Community Development ("MOHCD") shall be responsible for overseeing and monitoring the marketing of affordable units under this Section 415.6. In general, the marketing requirements and procedures shall be contained in the Procedures Manual as amended from time to time and shall apply to the affordable units in the project. MOHCD may develop occupancy standards for units of different bedroom sizes in the Procedures Manual in order to promote an efficient

allocation of affordable units. MOHCD may require in the Procedures Manual that prospective purchasers complete homebuyer education training or fulfill other requirements. MOHCD shall develop a list of minimum qualifications for marketing firms that market affordable units under Section 415.6 ~~415.5~~ et seq., referred to in the Procedures Manual as Below Market Rate (BMR units). No developer marketing units under the Program shall be able to market affordable units except through a firm meeting all of the minimum qualifications. The Notice of Special Restrictions or conditions of approval shall specify that the marketing requirements and procedures contained in the Procedures Manual as amended from time to time, shall apply to the affordable units in the project.

(1) **Lottery**. At the initial offering of affordable units in a housing project and when ownership units become available for re-sale in any housing project subject to this Program after the initial offering, MOHCD must require the use of a public lottery approved by MOHCD to select purchasers or tenants.

(2) **Preferences**. MOHCD shall create a lottery system that gives preference according to the provisions of Administrative Code Chapter 47. MOHCD shall propose policies and procedures for implementing these preferences to the Planning Commission for inclusion as an addendum to ~~in~~ the Procedures Manual. Otherwise, it is the policy of the City to treat all households equally in allocating affordable units under this Program.

~~(e)~~ (h) Individual affordable units constructed under Section 415.6 as part of an on-site project shall not have received development subsidies from any Federal, State or local program established for the purpose of providing affordable housing, and shall not be counted to satisfy any affordable housing requirement. Other units in the same on-site project may have received such subsidies. In addition, subsidies may be used, only with the express

written permission by MOHCD, to deepen the affordability of an affordable unit beyond the level of affordability required by this Program.

~~(f)~~ (i) Notwithstanding the provisions of Section ~~415.6(e)~~ 415.6(h) above, a project may use California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and 4% tax credits under the Tax Credit Allocation Committee (TCAC) to help fund its obligations under Section 415.1 et seq.~~this ordinance~~ as long as the project provides 20% ~~percent~~ of the units as affordable to households at 50% ~~percent~~ of Area Median Income for on-site housing or 10% of the units as affordable to households at 50% of Area Median Income, and 30% of the units as affordable to households at 60% of Area Median Income for on-site housing. The income table to be used for such projects when the units are priced at 50% or 60% ~~percent~~ of Area Median Income is the income table used by MOHCD for the Inclusionary Affordable Housing Program, not that used by TCAC or CDLAC. Except as provided in this subsection *(i)*, all units provided under this Section must meet all of the requirements of Section 415.1 et seq.~~this ordinance~~ and the Procedures Manual for on-site housing.

~~(g)~~ (j) **Benefits.** If the project sponsor is eligible for and elects to satisfy the affordable housing requirements through the production of on-site affordable housing in this Section 415.6, the project sponsor shall be eligible to receive a refund for only that portion of the housing project which is affordable for the following fees: a Conditional Use authorization or other fee required by Section 352 of this Code, if applicable; an environmental review fee required by Administrative Code Section ~~31.46B~~ 31.22, if applicable; a building permit fee required by Section 355 of this Code for the portion of the housing project that is affordable. The project sponsor shall pay the building fee for the portion of the project that is market-rate. An application for a refund must be made within six months from the issuance of the first certificate of occupancy.

The Controller shall refund fees from any appropriated funds to the project sponsor on application by the project sponsor. The application must include a copy of the Certificate of Occupancy for all units affordable to a qualifying household required by the Inclusionary Housing Program. It is the policy of the Board of Supervisors to appropriate money for this purpose from the General Fund.

SEC. 415.7. OFF-SITE AFFORDABLE HOUSING ALTERNATIVE.

~~*The requirements set forth in this Section 415.7 will be reviewed when the City completes an Economic Feasibility Study.*~~ If the project sponsor is eligible and elects pursuant to Section 415.5(g) to provide off-site units to satisfy the requirements of Section 415.1 et seq., the project sponsor shall notify the Planning Department and the Mayor's Office of Housing and Community Development ("MOHCD") of its intent as early as possible. The Planning Department and MOHCD shall provide an evaluation of the project's compliance with this Section 415.7 prior to approval by the Planning Commission or Planning Department. The development project shall meet the following requirements:

(a) **Number of Units:** The number of units constructed off-site shall be as follows:

(1) For any housing development that is located in an area *or Special Use District* with a specific affordable housing requirement, or in any other Planning Code provision, such as Section 419, ~~*set forth in Section 419 or elsewhere in this Code,*~~ the higher off-site housing requirement shall apply.

(2) For housing development projects consisting of 10 dwelling units or more but less than 25 units, the number of *affordable* units constructed off-site shall be 20%, so that a project applicant shall construct .20 times the total number of units produced in the principal project. If the total number of units is not a whole number, the project applicant shall round up to the nearest whole number for any portion of .5 or above. In no case shall the total number

of affordable units required exceed the number required as determined by the application of the applicable off-site requirement rate to the total project units. ~~The off-site affordable units shall be affordable to low – and lower – income households.~~ *Owned Units shall be affordable to households earning* ~~80%~~ up *to 100% of Area Median Income, with an* ~~average~~ *affordable sales price set at* ~~90~~ 80% *of Area Median Income or less. Rental Units shall be affordable to households earning* ~~40%~~ up *to* ~~80~~65% *of Area Median Income, with an* ~~average~~ *affordable rent set at* ~~60~~55% *of Area Median Income or less.*

(3) ~~For housing development projects consisting of 25 dwelling units or more, the number of units constructed off-site shall be 33%, with 20% of the units affordable to low-income households and 13% of the units affordable to low- or moderate/middle-income households, so that a project applicant shall construct .33 times the total number of units produced in the principal project. If the total number of units is not a whole number, the project applicant shall round up to the nearest whole number for any portion of .5 or above.~~ *For any housing development project consisting of 25 or more Owned Units, the number of affordable units constructed off-site shall be 33% of all units constructed on the project site, with a minimum of* ~~15% of the units affordable to low- or lower-income households and~~ *18% of the units affordable to* ~~moderate/middle-income households. Owned Units for low- and lower-~~low-*income households,* ~~shall be~~ 8% of the units *affordable to* ~~a range of~~ moderate-income *households,* ~~from 80% to 100 of Area Median Income, with an average Area Median Income, with an average affordable sales price set at 90% of Area Median Income or less. Owned Units for~~ and 7% of the units affordable to *middle/*~~moderate~~ *income households,* ~~shall be affordable to a range of households from 100% to 140% of Area Median Income, with an average affordable sales price set at 120% of Area Median Income or less; provided that a middle/moderate income unit shall have a maximum sales price set at 100% of Area Median Income for a single income household. MOHCD may reduce the average Area Median Income upon request by~~

~~the project sponsor.~~ In no case shall the total number of affordable units required exceed the number required as determined by the application of the applicable off-site requirement rate to the total project units. Owned Units for low-income households shall have an affordable purchase price set at 80% of Area Median Income or less, with households earning up to 100% of Area Median Income eligible to apply for low-income units. Owned Units for moderate-income households shall have an affordable purchase price set at 105% of Area Median Income or less, with households earning from 95% to 120% of Area Median Income eligible to apply for moderate-income units. Owned Units for middle-income households shall have an affordable purchase price set at 130% of Area Median Income or less, with households earning from 120% to 150% of Area Median Income eligible to apply for middle-income units. For any affordable units with purchase prices set at 100% of Area Median Income or above, ~~studio~~ the units shall have a minimum occupancy of two persons. ~~shall not be allowed.~~ This unit requirement shall be outlined within the Mayor's Office of Housing Preferences and Lottery Procedures Manual no later than 6 months following the effective date of the Ordinance contained in Board of Supervisors File No. 161351. MOHCD may reduce Area Median Income pricing and the minimum income required for eligibility in each rental category.

(4) For any Rental Housing Project consisting of 25 or more Rental Units, the number of affordable units constructed off-site shall generally be 30% of all units constructed on the project site, with a minimum of ~~15~~18% *of the units affordable to low-* ~~or lower~~ *income households,* ~~and 15% of the units affordable to moderate/middle income households. Rental Units for low- and lower income households shall be affordable to a range of households earning from 40% to 80% of Area Median Income, with an average affordable rent set at 60% of Area Median Income or less. Rental Units for middle/moderate income households shall be affordable to a range of households earning from 80% to 120% of Area Median Income, with an average~~

~~affordable rent set at 100% of Area Median Income or less; provided that a middle/moderate income unit shall have a maximum rent set at 100% of Area Median Income for a single household. MOHCD may reduce the average Area Median Income upon request by the project sponsor.~~ 6% of the units affordable to moderate-income households, and 6% of the units affordable to middle-income households. In no case shall the total number of affordable units required exceed the number required as determined by the application of the applicable off-site requirement rate to the total project units. Rental Units for low-income households shall have an affordable rent set at 55% of Area Median Income or less, with households earning up to 65% of Area Median Income eligible to apply for low-income units. Rental Units for moderate-income households shall have an affordable rent set at 80% of Area Median Income or less, with households earning from 65% to 90% of Area Median Income eligible to apply for moderate-income units. Rental Units for middle-income households shall have an affordable rent set at 110% of Area Median Income or less, with households earning from 90% to 130% of Area Median Income eligible to apply for middle-income units. For any affordable units with rental rates set at 100% of Area Median Income or above, ~~studio~~ the units shall have a minimum occupancy of two persons. ~~shall not be allowed.~~ This unit requirement shall be outlined within the Mayor's Office of Housing Preferences and Lottery Procedures Manual no later than 6 months following the effective date of the Ordinance contained in Board of Supervisors File No. 161351. MOHCD may reduce Area Median Income pricing and the minimum income required for eligibility in each rental category. *MOHCD shall set forth in the Procedures Manual the administration of rental units within this range.*

(5) In the event one or more of the Rental Units in the principal Rental Housing Project become ownership units, for *each* ~~converted~~ *Rental Unit, or* for *the principal Rental Housing Project in its entirety, as applicable,* the Project Sponsor *shall either (A) reimburse the City the proportional amount of the* ~~inclusionary affordable housing fee~~Inclusionary Affordable Housing Fee, *which*

would be equivalent to the then- *current* ~~inclusionary affordable fee~~Inclusionary Affordable Housing Fee *requirement for Owned Units, or (B) provide additional* on-site or *off-site affordable units equivalent to the* then-*current inclusionary requirements for Owned Units*, apportioned among the required number of units at various income levels in compliance with the requirements in effect at the time of conversion.

~~(6) The Department shall require as a condition of Department approval of a project's building permit, or as a condition of approval of a Conditional Use Authorization or Planned Unit Development or as a condition of Department approval of a live/work project, that 20%, 30% or 33%, as applicable, of all units constructed on the project site shall be constructed off-site and affordable to qualifying households so that a project sponsor must construct .20, .30 or .33 times, as applicable, the total number of units produced in the principal project.~~

~~(7) A minimum of 40% of the off-site affordable units shall consist of two bedroom units and a minimum of 20% of the off-site affordable units shall consist of three bedrooms or larger. Units shall have minimum floor areas that conform to the standards developed by the California Tax Credit Allocation Committee (CTCAC) for affordable units. The total residential floor area devoted to the affordable units shall not be less than the applicable percentage applied to the total residential floor area of the principal project, provided that a 10% variation in floor area is permitted.~~

(~~8~~6) The applicable amount of the percentage required for the off-site housing units shall be determined based upon the date that the project sponsor has submitted a complete Environmental Evaluation application. *Any development project that constructs off-site affordable housing units as set forth in this Section 415.6 shall diligently pursue completion of such units. In the event the project sponsor does not procure a building permit or site permit for construction of the principal project or the off-site affordable housing project within* ~~two years (24~~30

months) *of the project's approval, the development project shall comply with the inclusionary affordable housing requirements applicable thereafter at the time when the project sponsor procures a building permit. Such deadline shall be extended in the event of any litigation seeking to invalidate the City's approval of the principal project or off-site affordable housing project for the duration of the litigation.*

(9*4*) Specific Geographic Areas.(7) For any housing development that is located in an area with a specific affordable housing requirement set forth in a Special Use District, or in any other section of the Code such as Section 419, the higher affordable housing requirement shall apply.

(8) If the principal project or the off-site project has resulted in demolition, conversion, or removal of affordable housing units that are subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate-, low- or very low-income, or housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power and determined to be affordable housing, the Commission or the Department shall require that the project sponsor replace the number of affordable units removed with units of a comparable number of bedrooms and sales prices or rents, in addition to compliance with the inclusionary requirements set forth in this Section.

* * * *

(e) **Marketing the Units:** MOHCD shall be responsible for overseeing and monitoring the marketing of affordable units under this Section 415.7. In general, the marketing requirements and procedures shall be contained in the Procedures Manual as amended from time to time and shall apply to the affordable units in the project. MOHCD may develop occupancy standards for units of different bedroom sizes in the Procedures Manual in order to promote an efficient allocation of affordable units. MOHCD may require in the Procedures Manual that prospective purchasers complete homebuyer education training or

fulfill other requirements. MOHCD shall develop a list of minimum qualifications for marketing firms that market affordable units under Section 415.1 *et seq.*, referred to the Procedures Manual as Below Market Rate (BMR units). No project sponsor marketing units under the Program shall be able to market BMR units except through a firm meeting all of the minimum qualifications. The Notice of Special Restrictions or conditions of approval shall specify that the marketing requirements and procedures contained in the Procedures Manual as amended from time to time, shall apply to the affordable units in the project.

* * * *

(f) Individual affordable units constructed as part of a larger off-site project under this Section 415.7 shall not receive development subsidies from any Federal, State or local program established for the purpose of providing affordable housing, and shall not be counted to satisfy any affordable housing requirement for the off-site development. Other units in the same off-site project may receive such subsidies. In addition, subsidies may be used, only with the express written permission by ~~MOH~~ MOHCD, to deepen the affordability of an affordable unit beyond the level of affordability required by this Program.

(g) Notwithstanding the provisions of Section 415.7(f) above, a project may use California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and 4% credits under the Tax Credit Allocation Committee (TCAC) to help fund its obligations under this ordinance as long as the project provides 25% ~~percent~~ of the units as affordable at 50% ~~percent~~ of area median income for off-site housing. The income table to be used for such projects when the units are priced at 50% ~~percent~~ of area median income is the income table used by ~~MOH~~ MOHCD for the Inclusionary Housing Program, not that used by TCAC or CDLAC. Except as provided in this subsection, all units provided under this Section must meet all of the requirements of this ordinance and the Procedures Manual for off-site housing.

SEC. 415.10. REPORTING TO BOARD OF SUPERVISORS ~~ECONOMIC FEASIBILITY STUDY TO MAXIMIZE HOUSING AFFORDABILITY~~.

* * * *

~~(d) Fee Schedule Analysis. The City shall conduct an analysis to update the Inclusionary Affordable Housing Fee, to analyze MOHCD's true costs of constructing an affordable unit, including development and land acquisition costs. The Controller, with the support of consultants as necessary, and in consultation with the Inclusionary Housing Technical Advisory Committee, shall conduct a study to examine the City's costs of constructing an affordable unit and the amount of the Inclusionary Affordable Housing Fee by January 31, 2018. Following completion of this study, the Board of Supervisors will review the analyses and the proposed fee schedule; and may consider adopting legislation to revise the Inclusionary Affordable Housing fees.~~

(ed) **Report to Board of Supervisors.** The Board of Supervisors may review the feasibility analyses, as well as the periodic updates to the City's Nexus Study evaluating the necessary affordable housing in order to mitigate the impacts of market rate housing. The Board of Supervisors ~~, in its sole and absolute discretion,~~ will review the feasibility analyses within three months of completion and ~~will~~ may consider legislative amendments to the City's Inclusionary Housing in-lieu fees, on-site, off-site or other alternatives, and in so doing will seek consultation from the Planning Commission, adjusting levels of inclusionary or affordable housing obligations and income levels up to maximums as defined in Section 415.2, based on the feasibility analyses, with the objective of maximizing affordable Inclusionary Housing in market rate housing production, and with guidance from the City's Nexus Study. Any adjustment in income levels shall be adjusted commensurate with the percentage of units required so that the obligation for inclusionary housing is not reduced by any change in income levels. The Board of Supervisors may also utilize the Nexus Study in considering

legislative amendments to the Inclusionary Housing requirements. Updates to the City's Inclusionary Housing requirements shall address affordable housing fees, on-site affordable housing and off-site affordable housing, as well as the provision of affordable housing available to low-income households at or below 55% of Area Median Income for rental units and up to 80% of Area Median Income for ownership units, and moderate/middle-income households from 80% to 120% of Area Median Income.

SEC. 415.11. SEVERABILITY.

If any subsection, sentence, clause, phrase, or word of ~~this~~ *Section*s *415*~~,~~.1 et seq., *or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the Section. The Board of Supervisors hereby declares that it would have passed* ~~this ordinance~~Sections 415.1 et seq. *and each and every subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this Section*s 415.1 et seq. *or application thereof would be subsequently declared invalid or unconstitutional.*

Section 4. The Planning Code is hereby amended by adding Section 207.7 to read as follows:

SEC. 207.7. REQUIRED MINIMUM DWELLING UNIT MIX.

(a) **Purpose.** To ensure an adequate supply of family-sized units in new housing stock, new residential construction must include a minimum percentage of units of at least two and three bedrooms.

(b) **Applicability.**

(1) This Section 207.7 shall apply to all applications for building permits and/or Planning Commission entitlements that propose the creation of 10 or more Dwelling Units in

all districts that allow residential uses, unless that project is located in the RTO, RCD, NCT, DTR, and Eastern Neighborhoods Mixed Use Districts, or in an area or Special Use District with higher specific bedroom mix requirements, or is a HOME SF project subject to the requirements of Planning Code Section 206.3.

(2) This Section 207.7 shall not apply to buildings for which 100% of the residential uses are: Group Housing, Dwelling Units that are provided at below market rates pursuant to Section 406(b)(1) of this Code, Single Room Occupancy (SRO) Units, Student Housing (all as defined in Section 102 of this Code), or housing specifically and permanently designated for seniors or persons with physical disabilities, including units to be occupied by staff serving any of the foregoing residential uses. This Section 207.7 shall apply to Student Housing unless the educational institution with which it is affiliated has an Institutional Master Plan that the City has accepted, as required under Planning Code Section 304.5.

(3) This Section 207.7 shall not apply to projects that filed a complete Environmental Evaluation Application on or prior to January 12, 2016, or to projects that have received an approval, including approval by the Planning Commission, as of June 15, 2017.

(c) **Controls.** In all residential districts subject to this Section 207.7, the following criteria shall apply:

(1) No less than 25% of the total number of proposed dwelling units shall contain at least two bedrooms. Any fraction resulting from this calculation shall be rounded to the nearest whole number of dwelling units;

(2) No less than 10% of the total number of proposed dwelling units shall contain at least three bedrooms. Any fraction resulting from this calculation shall be rounded to the nearest whole number of dwelling units. Units counted towards this requirement may also count towards the requirement for units with two or more bedrooms as described in subsection (c)(1).

(d) **Modifications.**

(1) These requirements may be waived or modified with Conditional Use Authorization. In addition to those conditions set forth in Section 303, the Planning Commission shall consider the following criteria:

(A) The project demonstrates a need or mission to serve unique populations, or

(B) The project site or existing building(s), if any, feature physical constraints that make it unreasonable to fulfill these requirements.

~~(2) These requirements may be waived in the case of projects subject to Section 329 through the procedures of that Section.~~

Section 5. The Planning Code is hereby amended by revising Section 249.28, to read as follows:

SEC. 249.28. TRANSBAY C-3 SPECIAL USE DISTRICT.

(a) Purpose. There shall be a Transbay C-3 Special Use District, which is wholly within the Transbay Redevelopment Project Area, comprising all of the parcels, primarily privately-owned and zoned C-3, within the Redevelopment Area but outside of the Transbay Downtown Residential District (TB-DTR), and whose boundaries are designated on Sectional Map No. 1SU of the Zoning Map of the City and County of San Francisco. This district is generally bounded by Mission, Second, Clementina, and Beale Streets and whose primary features include the Transbay Terminal facility and its associated ramps, and a portion of the New Montgomery/Second Street Conservation District. A vision and guidelines for this area as an integral component of the Transbay Redevelopment Area are laid out in the Transbay Redevelopment Plan and its companion documents, including the Design for the Development and the Development Controls and Design Guidelines for the Transbay

Redevelopment Project. California Public Resources Code Section 5027.1 requires that 35% of all dwelling units developed during the life of the Transbay Redevelopment Plan in the Transbay Redevelopment Project Area shall be permanently affordable to low- and moderate-income households, as such households are defined in State law. Section 4.9.3 of the Transbay Redevelopment Plan requires that a minimum of 15% of all units constructed on a particular site shall be affordable to certain qualifying households, as set forth in such Plan.

(b) Controls.

* * * *

(6) Housing Requirements for Residential and Live/Work Development Projects. The requirements of Section 415.1 et seq. shall apply, subject to the following exceptions:

(A) ~~A minimum of 15% of all units~~ The inclusionary affordable housing provided on-site shall be the higher amount determined under Section 4.9.3 of the Transbay Redevelopment Plan or Section 415.6(a) of the Planning Code, as it may be amended from time to time; and the inclusionary affordable housing constructed on the site shall be affordable to, and occupied by, "qualifying persons and families," as defined by Section 4.9.3 of the Transbay Redevelopment Plan;

(B) All required inclusionary affordable housing units in the Transbay C-3 SUD ~~required by this Section~~ shall be built on-site; and

(C) ~~Off-site construction or in-lieu fee payment~~ Payment of the Affordable Housing Fee or compliance with the Off-Site Affordable Housing Alternative ~~are~~ shall not be permitted to satisfy ~~this~~ the inclusionary affordable housing requirement.

Section 6. Effective Date. 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.

Section 7. 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: _____
KATE H. STACY
Deputy City Attorney

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FILE NO. 170834

REVISED LEGISLATIVE DIGEST

(7/25/2017, Amended in Board)

[Planning Code - Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements]

Ordinance amending 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; adding reporting requirements for density bonus projects to require minimum dwelling unit mix in most residential districts; to clarify Inclusionary Housing requirements in the Transbay C-3 Special Use District; 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.

Existing Law

The City generally requires private developers of new market-rate housing to provide affordable housing ("Inclusionary Housing") by paying a fee to the City. A developer could also opt to provide Inclusionary Housing on- or off-site. The City's Inclusionary Affordable Housing Fee and other requirements are set forth in Planning Code Sections 415 et seq. and provide 3 methods of complying with the requirements.

1. Affordable Housing Fee: The development project pays a fee equivalent to the applicable off-site percentage of the number of units in the principal project:

- For development projects consisting of 10 – 24 dwelling units, the percentage is 20%.
- For development projects consisting of 25 dwelling units or more, the percentage is 33%.

2. If a developer opts to provide affordable housing on-site, the on-site Affordable Housing would be provided as follows:

- For housing development projects consisting of 10 – 24 dwelling units, the number of affordable units constructed on-site would generally be 12% of all units constructed on the project site. The units must be affordable to low-income households.
- For housing development projects consisting of 25 dwelling units or more, the number of affordable units constructed on-site would generally be 25% of all units constructed on the project site, with a minimum of 15% of the units affordable to low-income households and 10% of the units affordable to low- or middle- income households.

3. If a developer opts to provide affordable housing off-site, the off-site Affordable Housing would be provided as follows:

- For housing development projects consisting of 10-24 dwelling units, the number of affordable units constructed off-site would be 20% of the number of units in the principal project.

- For housing development projects consisting of 25 dwelling units or more, the number of affordable units constructed off-site would be 33% of the number of units in the principal project, with 20% of the units affordable to low-income households and 13% of the units affordable to low- or middle-income households.

If there is a higher Inclusionary Housing requirement in specific zoning districts, the higher requirement would apply. There are specific Inclusionary Housing requirements for the UMU and SOMA Youth & Families Zoning Districts. The Planning Code also contains a number of "grandfathering" provisions, which set the Inclusionary Housing requirements at lower percentages for a limited period of time, depending on when a complete environmental evaluation application was submitted.

The Planning Code directs the Mayor's Office of Housing and Community Development ("MOHCD") to set the amount of the fee to be paid by the project sponsor to calculate the "affordability gap" using data on the cost of construction of providing the residential housing and the Maximum Purchase Price for the equivalent unit size.

Section 401 defines a low-income household as one whose income does not exceed 55% of Area Median Income for purposes of renting an affordable unit, and 80% of Area Median Income for purposes of purchasing an affordable unit. "Moderate income" and "middle income" households shall mean households whose total household income does not exceed 100% of Area Median Income for purposes of renting an affordable unit, and 120% of Area Median Income for purposes of purchasing an affordable unit.

The Planning Code also requires an applicant seeking a density bonus under State law to provide analysis to support any requested concessions and incentives under the State law. The City has not applied its inclusionary requirements to any density bonus units.

The Planning Code requires the Controller to study the economic feasibility of the City's inclusionary housing requirements and produce a report in 2016 and every three years thereafter. The Board must consider the report within three months and consider legislative amendments to the City's Inclusionary Housing in-lieu fees, on-site, off-site, or other alternatives recommended by the Controller and/or the Planning Commission based on the feasibility analyses and with guidance from the City's Nexus Study, with the objective of maximizing affordable Inclusionary Housing in market rate housing production.

The Planning Code includes some dwelling unit mix requirements, but there is no requirement applicable City-wide in most residential districts.

The Transbay C-3 Special Use District is within the Transbay Redevelopment Project Area, within the Redevelopment Area but outside of the Transbay Downtown Residential District. State law requires that 35% of all dwelling units developed in the Transbay Redevelopment Project Area must be permanently affordable to low- and moderate-income households, as defined in State law. The inclusionary affordable housing requirements of Section 415 apply except that: (A) A minimum of 15% of all units constructed on the site shall be affordable to, and occupied by, qualifying persons and families as defined by the Transbay Redevelopment Plan; (B) All inclusionary units must be built on-site; and (C) Off-site construction or in-lieu fee payment are not permitted to satisfy this requirement.

Amendments to Current Law

The Proposed Legislation would change the inclusionary affordable housing requirement for 3 kinds of inclusionary affordable housing in the following ways.

1. Inclusionary Affordable Housing Fee: The Amendments would set the Inclusionary Affordable Housing Fee for projects consisting of 25 dwelling units or more to 33% for an ownership housing project and 30% for a rental housing project.

The Amendments would direct MOHCD to calculate the Inclusionary Affordable Housing Fee based on the City's cost of constructing affordable housing. No later than January 31, 2018, the Controller, with the support of consultants as necessary, and in consultation with the Inclusionary Housing Technical Advisory Committee (TAC) established in Planning Code Section 415.10, shall conduct a study to develop an appropriate methodology for calculating, indexing, and applying the appropriate amount of the Inclusionary Affordable Housing Fee. To support the Controller's study, and annually thereafter, MOHCD shall provide the following documentation: (1) schedules of sources and uses of funds and independent auditor's reports ("Cost Certifications") for all MOHCD-funded developments completed within three years of the date of reporting to the Controller; and, (2) for any MOHCD-funded development that commenced construction within three years of the reporting date to the Controller but for which no Cost Certification is yet complete, the sources and uses of funds approved by MOHCD and the construction lender as of the date of the development's construction loan closing. Cost Certifications completed in years prior to the year of reporting to the Controller may be increased or decreased by the applicable annual Construction Cost Index percentage(s) for residential construction for San Francisco reported in the Engineering News Record. MOHCD, together with the Controller and TAC, shall evaluate the cost-to-construct data, including actual and appraised land costs, state and/or federal public subsidies available to MOHCD-funded projects, and determine MOHCD's average costs. Following completion of this study, the Board of Supervisors will review the analyses, methodology, fee application, and the proposed fee schedule; and may consider adopting legislation to revise the

Inclusionary Affordable Housing fees. The method of calculating, indexing, and applying the fee shall be published in the Procedures Manual.

The fee shall be imposed on any additional units or square footage authorized and developed under California Government Code Sections 65915 et seq. This requirement would not apply to development projects that have submitted a complete Environmental Evaluation application on or before January 1, 2016.

2. On-Site Inclusionary Affordable Housing Units: A project sponsor may elect to provide on-site affordable housing in lieu of paying the Inclusionary Fee.

For housing projects consisting of 10 – 24 units, the number of affordable units constructed on-site shall be 12% of all units constructed on the project site. The required on-site affordable housing would increase by 0.5% annually for housing projects consisting of 10 – 24 units, beginning on January 1, 2018, until the requirement reaches 15%. Owned Units shall be affordable to households earning up to 100% of Area Median Income, with an affordable sales price set at 80% of Area Median Income or less. Rental Units shall be affordable to households earning up to 65% of Area Median Income, with an affordable rent set at 55% of Area Median Income or less.

For any housing development project consisting of 25 or more Owned Units, the number of affordable units constructed on-site shall generally be 20% of all units constructed on the project site. A minimum of 10% of the units shall be affordable to low-income households, 5% of the units shall affordable to moderate-income households, and 5% of the units shall be affordable to middle-income households.

- Owned Units for low-income households shall have an affordable purchase price set at 80% of Area Median Income or less, with households earning up to 100% of Area Median Income eligible to apply for low-income units. Owned Units for moderate-income households shall have an affordable purchase price set at 105% of Area Median Income or less, with households earning from 95% to 120% of Area Median Income eligible to apply for moderate-income units. Owned Units for middle-income households shall have an affordable purchase price set at 130% of Area Median Income or less, with households earning from 120% to 150% of Area Median Income eligible to apply for middle-income units.
- For any affordable units with purchase prices set at 130% of Area Median Income, the units shall have a minimum occupancy of two persons.

For any Rental Housing Project consisting of 25 or more Rental Units, the number of affordable units constructed on-site shall generally be 18% of all units constructed on the project site, with a minimum of 10% of the units affordable to low-income households, 4% of the units affordable to moderate-income households, and 4% of the units affordable to middle-income households.

- Rental Units for low-income households shall have an affordable rent set at 55% of Area Median Income or less, with households earning up to 65% of Area Median Income eligible to apply for low-income units. Rental Units for moderate-income households shall have an affordable rent set at 80% of Area Median Income or less, with households earning from 65% to 90% of Area Median Income eligible to apply for moderate-income units. Rental Units for middle-income households shall have an affordable rent set at 110% of Area Median Income or less, with households earning from 90% to 130% of Area Median Income eligible to apply for middle-income units.
- For any affordable units with rents set at 110% of Area Median Income, the units shall have a minimum occupancy of two persons.

Notwithstanding the foregoing, Area Median Income limits for Rental Units and Owned Units, the maximum affordable rents or sales price shall be no higher than 20% below median rents or sales prices for the neighborhood within which the project is located, which shall be defined in accordance with the Planning Department's American Community Survey Neighborhood Profile Boundaries Map. MOHCD shall adjust the allowable rents and sales prices, and the eligible households for such units, accordingly, and such potential readjustment shall be a condition of approval upon project entitlement. The City must review the updated data on neighborhood rents and sales prices on an annual basis.

Starting on January 1, 2018, and each year thereafter, MOHCD shall increase the percentage of units required on-site for projects consisting of 10 – 24 units, as set forth in Section 415.6(a)(1), by increments of 0.5% each year, until such requirement is 15%. For all development projects with 25 or more Owned or Rental Units, the required on-site affordable ownership housing to satisfy this section 415.6 shall increase by 1.0% annually for two consecutive years starting January 1, 2018. The increase shall be apportioned to units affordable to low-income households, as defined above in Subsection 415.6(a)(3). Starting January 1, 2020, the increase to on-site rental and ownership developments with 25 or more units shall increase by 0.5% annually, with such increases allocated equally for rental and ownership units to moderate and middle income households, as defined above in Subsection 415.6(a)(3). The total on-site inclusionary affordable housing requirement shall not exceed 26% for development projects consisting of Owned Units or 24% for development projects consisting of Rental Units, and the increases shall cease at such time as these limits are reached. MOHCD shall provide the Planning Department, DBI, and the Controller with information on the adjustment to the on-site percentage so that it can be included in the Planning Department's and DBI's website notice of the fee adjustments and the Controller's Citywide Development Fee and Development Impact Requirements Report described in Section 409(a).

Minimum Size of Affordable Units. All units shall be no smaller than the minimum unit sizes set forth by the California Tax Credit Allocation Committee as of May 16. 2017, and no smaller than 300 square feet for studios.

The total residential floor area devoted to the affordable units shall not be less than the applicable percentage applied to the total residential floor area of the principal project, provided that a 10% variation in floor area is permitted.

MOHCD may reduce Area Median Income pricing and the minimum income required for eligibility in each rental category.

3. Off-Site Inclusionary Affordable Housing.

- For housing development projects consisting of 10 dwelling units or more but less than 25 units, Owned Units shall be affordable to households earning up to 100% of Area Median Income, with an affordable sales price set at 80% of Area Median Income or less. Rental Units shall be affordable to households earning up to 65% of Area Median Income, with an average affordable rent set at 55% of Area Median Income or less.

- For any housing development project consisting of 25 or more Owned Units, the number of affordable units constructed off-site shall be 33% of all units constructed on the project site, with a minimum of 18% of the units affordable low-income households, 8% of the units affordable to moderate-income households, and 7% of the units affordable to middle income households. Owned Units for low-income households shall have an affordable purchase price set at 80% of Area Median Income or less, with households earning up to 100% of Area Median Income eligible to apply for low-income units. Owned Units for moderate-income households shall have an affordable purchase price set at 105% of Area Median Income or less, with households earning from 95% to 120% of Area Median Income eligible to apply for moderate-income units. Owned Units for middle-income households shall have an affordable purchase price set at 130% of Area Median Income or less, with households earning from 120% to 150% of Area Median Income eligible to apply for middle-income units. For any affordable units with purchase prices set at 100% of Area Median Income or above, the units shall have a minimum occupancy of two persons.

- For any Rental Housing Project consisting of 25 or more Rental Units, the number of affordable units constructed off-site shall generally be 30% of all units constructed on the project site, with a minimum of 18% of the units affordable to low income households, 6% of the units affordable to moderate-income households, and 6% of the units affordable to middle-income households. Rental Units for low-income households shall have an affordable rent set at 55% of Area Median Income or less, with households earning up to 65% of Area Median Income eligible to apply for low-income units. Rental Units for moderate-income households shall have an affordable rent set

at 80% of Area Median Income or less, with households earning from 65% to 90% of Area Median Income eligible to apply for moderate-income units. Rental Units for middle-income households shall have an affordable rent set at 110% of Area Median Income or less, with households earning from 90% to 130% of Area Median Income eligible to apply for middle-income units. For any affordable units with rental rates set at 100% of Area Median Income or above, the units shall have a minimum occupancy of two persons.

For all projects, in the event a rental housing project or unit becomes ownership housing, the owner would reimburse the cost of the fee deduction to the City, or provide additional on-site or off-site affordable units, so that the project would comply with the current inclusionary housing requirements for ownership housing.

For all projects, the applicable amount of the inclusionary housing fee or percentage required for the on-site or off-site alternatives will be determined based on the date that the project sponsor submitted a complete Environmental Evaluation application. If a project sponsor does not procure a building permit within 30 months of project approval, the project sponsor must comply with the inclusionary housing requirements at the time of building permit procurement.

For all projects, if the principal project has resulted in demolition, conversion, or removal of affordable housing units that are subject to rental restrictions for persons and families of moderate-, low- or very low-income, or housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power and determined to be affordable housing, the project sponsor would pay the Inclusionary Affordable Housing Fee equivalent for the number of affordable units removed, or replace the units on-site, in addition to compliance with the inclusionary requirements.

All projects must notify the Planning Department which alternative for inclusionary affordable housing they are selecting 30 days prior to approval. Any subsequent change by a project sponsor that results in the removal of on-site units would require public notice for a hearing and approval from the Planning Commission.

The new inclusionary affordable housing requirements shall not apply to any project that has not submitted a complete Environmental Evaluation Application on or before January 12, 2016, if the project is located within the Eastern Neighborhoods Mission Planning Area, the North of Market Residential Special Use District Subarea 1 or Subarea 2, or the SOMA Neighborhood Commercial Transit District. Until such planning processes are complete and new inclusionary housing requirements for projects in those areas are adopted, projects shall (1) pay a fee or provide off-site housing in an amount equivalent to 30% or (2) provide affordable units in the amount of 25% of the number of Rental Units constructed on-site or 27% of the number of Owned Units constructed on-site. For Rental Units, 15% of the on-site affordable units shall be affordable to low-income households, 5% shall be affordable to moderate-income households and 5% shall be affordable to middle-income households. For

Owned Units, 15% of the on-site affordable units shall be affordable to low-income households, 6% shall be affordable to moderate-income households and 6% shall be affordable to middle-income households.

An applicant seeking a density bonus under the provisions of State Law must provide reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions, and waivers or reductions of development standards, consistent with State law. The Planning Department would provide information about the value of the density bonus, concessions and incentives for each density bonus project and include it in the Department's case report or decision on the application. Beginning in January 2018, the Planning Department shall prepare an annual report to the Planning Commission about the number of density bonus projects, density bonus units and the kinds of density bonuses, concessions and incentives provided to each density bonus project, which should be presented at the same time as the Housing Balance Report.

The Planning Department, in consultation with the Controller, must undertake a study of areas greater than 5 acres in size where an Area Plan, Special Use District, or other re-zoning is being considered for adoption, or has been adopted, after January 1, 2015, to determine whether a higher on-site inclusionary affordable housing requirement is feasible on sites that have received a 20% or greater increase in developable residential gross floor area or a 35% or greater increase in residential density over prior zoning, and shall submit such information to the Planning Commission and Board of Supervisors.

Dwelling Unit Mix Requirements.

The Ordinance establishes a minimum unit dwelling mix, for all applications that propose the creation of 10 or more Dwelling Units in all districts that allow residential uses, unless the project is located in the RTO, RCD, NCT, DTR, and Eastern Neighborhoods Mixed Use Districts, or in an area or Special Use District with higher specific bedroom mix requirements, or is a HOME SF project subject to the requirements of Planning Code Section 206.3. No less than 25% of the total number of proposed dwelling units must contain at least two bedrooms and 10% of the total number of proposed dwelling units must contain at least three bedrooms. These requirements may be waived or modified with Conditional Use Authorization and the Planning Commission must consider whether the project demonstrates a need or mission to serve unique populations, or the site or existing building features physical constraints that make it unreasonable to fulfill the dwelling unit mix requirements.

The dwelling unit mix requirements do not apply to buildings for which 100% of the residential uses are: Group Housing, Dwelling Units that are provided at below market rates pursuant to Section 406(b)(1) of this Code, Single Room Occupancy (SRO) Units, Student Housing (which has an Institutional Master Plan that the City has accepted), or housing specifically and permanently designated for seniors or persons with physical disabilities, including units to be occupied by staff serving any of the foregoing residential uses. If a project filed a complete Environmental Evaluation Application on or prior to January 12, 2016,

or received an approval, including approval by the Planning Commission, as of June 15, 2017, these requirements also do not apply.

The Ordinance clarifies its application to the Transbay C-3 Special Use District. The requirements of Planning Code Section 415.1 *et seq.* apply to this area, subject to the following exceptions: (A) The inclusionary affordable housing provided on-site shall be the higher amount determined under the Transbay Redevelopment Plan or Section 415.6(a) of the Planning Code, as it may be amended from time to time; and the inclusionary affordable housing constructed on the site shall be affordable to, and occupied by, "qualifying persons and families," as defined by the Transbay Redevelopment Plan; (B) All required inclusionary affordable housing units must be built on-site; and (C) Payment of the Affordable Housing Fee or compliance with the Off-Site Affordable Housing Alternative shall not be permitted to satisfy the inclusionary affordable housing requirement.

Background Information

The City published the Residential Affordable Housing Nexus Analysis in November 2016.

The Controller completed the Feasibility Analysis required by Planning Code Section 415.10 in February 2017.

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Modifying Inclusionary Housing Requirements: Economic Impact Report

Office of Economic Analysis
Items #161351 and #170208
May 12, 2017

Introduction

- Two ordinances have recently been introduced at the San Francisco Board of Supervisors that would modify requirements that housing developers provide affordable housing, or a fee payment dedicated to affordable housing, as part of their project.
- These requirements, called inclusionary housing, were changed in 2016 by a City Charter Amendment, Proposition C, which also gave the Board of Supervisors the authority to modify them again in the future.
- This economic impact report was prepared based on an initial determination of the Office of Economic Analysis (OEA) that both proposed ordinances would have a material impact on the City's economy.

Economics of Inclusionary Housing

- "Affordable housing" refers to new housing whose rent, or sales price, is limited to make it affordable to households that cannot afford most new privately-produced, "market-rate" housing in the city. Because this limited price is generally lower than the cost of producing the new housing in San Francisco, affordable housing requires a subsidy to be produced.
- In inclusionary housing policy, the subsidy is paid by the market-rate housing developer, which increases their cost of development. It is often argued that developers pass these costs on to land-owners, in the form of lower bids for their land. In this way, those land-owners ultimately bear the cost of the affordable housing subsidies, not developers or market-rate housing consumers.
- However, a reduction in bids from developers can make land-owners better off with the income they already receive from the property, and discourage them from selling to developers to produce more housing. To the extent this is true, housing production would be curtailed. Rents and prices for existing housing—in which the vast majority of households of all income levels live—become higher than they otherwise would be.
- Inclusionary housing policy therefore involves a trade-off between the creation of affordable housing subsidies, for low- and moderate-income households, and the constraining of housing supply that tends to raise market-rate housing prices.

Developer Payment Options and Income Limits

- Under San Francisco's inclusionary housing policy, which apply to projects with 10 or more units, developers have at least three options to fulfill their inclusionary requirements:
  - On-site option: providing a specified number of affordable units as a part of the market-rate housing project.
  - Fee option: instead of providing on-site units, pay a fee to the Mayor's Office of Housing and Community Development (MOHCD), based on the City's cost of producing a comparable unit of housing.
  - Off-site option: providing a specified number of affordable housing units at a different location within the city.
- These requirements are expressed as a percentage: for example, a 15% on-site requirement means that 15% of the units in the project must be affordable. A 30% fee means the developer is required to pay the appropriate MOHCD fee for 30% of the market-rate units in the project.
- Inclusionary housing requirements may also differ in the maximum income that a household must have in order to qualify to rent or buy an affordable unit. These are expressed as percentages of Area Median Income (AMI).

Proposition C and the Trailing Legislation

- In 2012, voters passed a Charter Amendment which created the City's Housing Trust Fund, and established an inclusionary requirement of 12% (for the on-site option) and 20% (for the Fee and off-site options.) All inclusionary units were designated for low-income households, defined as no more than 55% of AMI for rental units, and no more than 90% for ownership units.
- In June 2016, voters passed Proposition C, which raised the inclusionary requirements for projects with 25 or more housing units. The fee and off-site options were raised from 20% to 33%, and the on-site option was raised from 12% to 25%.
- Proposition C also established that the Board of Supervisors could modify the requirements without voter approval in the future. After Proposition C was passed, in trailing legislation, the Board directed the Controller's Office to conduct a financial feasibility study to identify the maximum feasible inclusionary requirements.

Feasibility Study Findings

- During the summer and fall of 2016, the Controller's Office worked with a team of three consulting firms, and an eight-person Technical Advisory Committee, to make a series of recommendations in a final report issued in February, 2017.
- Recommendations of the feasibility study include:
  - Charging different inclusionary housing requirements for rental and owner-occupied housing, based on the finding that new rental housing generally has lower feasibility limits.
  - Establishing initial on-site inclusionary requirements in the range of 14-18% for rentals, and 17-20% for owner-occupied units, based on the finding that higher requirements would likely drive land bids to below their 2012 prices, making it unlikely that landowners would offer land for new housing.
  - Establishing initial fee options at the rate of 18-23% for rentals, and 23-28% for ownership projects, as these levels corresponded to a similar land bid as the recommended on-site ranges.
  - Gradually increase requirements at a rate of 0.5% per year, based on the finding that housing prices generally grow faster than development costs and land values, and projects should therefore be able to support higher requirements in the future.
  - The Controller's analysis was based on the 60/40 split between low and moderate income units that Proposition C established. For example, an 20% on-site ownership requirement would mean a 12% for condos up to 80% of AMI, and 8% for condos up to 120% of AMI.

Details of File #161351 (Sups. Kim / Peskin Legislation)

- File #161351, introduced by Supervisors Kim and Peskin, proposed changes to both the Proposition C requirements for projects with at least 25 units, and smaller projects that were unaffected by Proposition C.
- The changes raise the requirements in some respects, and lower them in others:
  - For projects with 10-24 units, the on-site option is maintained at 12%, but would rise by 0.75% per year, beginning in 2018. The fee option (20% for projects of that size) would not change. On-site ownership units would be affordable to households in the 80-100% AMI range, with an average at 90%, and on-site rental units would be affordable to households in the 40-80% AMI range, with an average at 60%.
  - For projects with 25 or more units, the fee option would be lowered from 33% to 30% for rental projects. Off-site requirements match the 33%/30% fee option.
  - On-site requirements for 25+ projects would be raised from 25% to 27% for owner-occupied and lowered to 24% for rentals.
  - For on-site ownership, 15% must be for households in the 80-100% AMI range, with an average of 90%, and 12% must be in the 100-140% AMI range, with an average of 120%. For on-site rentals, 15% must be for households in the 40%-80% range, with an average of 60%, and 9% must be for households in the 80-120% range, with an average of 100%.
  - The legislation also directs MOHCD to recalculate the fee corresponding to different cost of producing affordable units in buildings of different sizes.

Details of #170208 (Sups. Safai / Breed/ Tang)

- File #170208, sponsored by Supervisors Safai, Breed, and Tang, also changed the requirements for 10-24 units, and the larger 25-or-more unit projects affected by Proposition C:
- For projects with 10-24 units, the legislation would leave the fee unchanged, but increase the applicable on-site and off-site income limits to an average of 80% of AMI for rentals and 120% of AMI for condos.
- For projects with 25 or more units it would:
  - Lower the fee option from 33% to 23% for rental projects and 28% for ownership projects. The fee would rise by 0.5% per year for ten years.
  - Lower and modify the onsite requirement from 25% to 18% for rental projects (for income limits between 55% and 110% of AMI, with an average of 80%), and to 20% for ownership projects (for income limits between 90% and 140% of AMI, with an average of 120%). These on-site requirements would also increase by 0.5% per year for ten years.
  - Set off-site requirements that match the 28%/23% fee option, which would also increase 0.5% per year for 10 years.

Summary of Major Points of Difference Between Current Law (Based on Proposition C) and Each Proposal

	Current Law (Prop C)	Kim/Peskin Proposal	Safai/Breed/Tang Proposal
10-24 unit projects	12% Onsite; 20% Fee	Onsite requirement increases by 0.75% per year	Income limits rise for onsite option, to 80% of AMI for rentals and 120% for ownership
Fee for 25+ unit projects	33%	Falls to 30% for rental projects	Falls to 28% for ownership and 23% for rental projects. Would increase 0.5% per year for 10 years.
Onsite for 25+ unit projects	15% for low-income; 10% for moderate-income	Rises to 27% for ownership projects (15% low-income, 12% moderate); falls to 24% for rental (15% low-income, 9% moderate)	Single tier, falls to 20% for ownership projects; 18% for rental. Would increase 0.5% per year for 10 years.
25+ unit project income limits	Low is 55% of AMI for rentals, 80% for condos; Moderate is 100% and 120%	Largely maintains Prop C levels	Raises average income limits to 80% of AMI for rentals and 120% for ownership

Economic Impact Factors

As discussed earlier, by changing the inclusionary housing requirements established by Proposition C in 2016, the proposed ordinances would affect the economy in two primary ways:

1. Changing inclusionary requirements affects the cost of developing new housing in San Francisco. On the margin, higher requirements could make some projects infeasible, and lower requirements could facilitate projects that had been marginally infeasible. Changing housing production in this way affects housing prices facing all renters and purchasers of market-rate housing in the city, at all income levels.
2. Changing inclusionary requirements would also change the number of, and/or funding for, affordable housing units. This would reduce the subsidy that low and moderate income households receive from this housing, and put upward pressure on the housing burden facing those households.

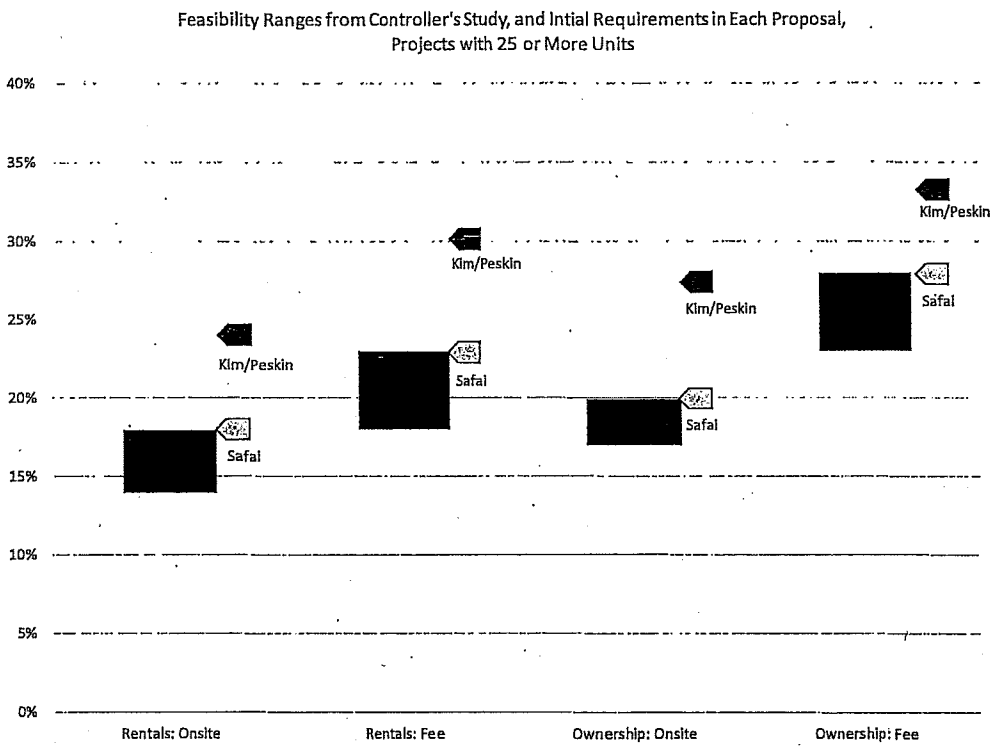
The net impact of both pieces of legislation depends on the relative magnitude of these two effects. Our estimates of them are detailed on the following pages.

Approaches to Estimating How Inclusionary Requirements Effect Feasibility and Housing Production

- During the feasibility study process, two approaches to estimating the impact of changes to the City's inclusionary requirements were developed by the consulting team, and relied upon by the Controller's Office and the Technical Advisory Committee.
- The first approach, which is more traditional in housing feasibility studies, involves using pro formas of representative projects, and testing the impact of policy changes on their financial feasibility. This approach has the advantage of using up-to-date information and a sophisticated financial model, but is weaker at estimating the citywide impact of policy changes, because it relies on data from only a few parcels and projects, which may not be representative.
- The second approach uses a statistical model that estimates the likelihood of each land parcel in the city to produce new housing, based on its land use and zoning characteristics, and the state of the housing and construction markets. This model, based on development projects during the 2000-2015 period, was developed for the OEA's economic impact report on Proposition C[2] and significantly refined during the feasibility study.

[2] http://openbook.sfgov.org/webreports/details3.aspx?id=2278

Pro-Forma Feasibility: How the Two Proposals Relate to Recommendations from the Controller's Feasibility Study



The chart to the left shows the initial requirements of both proposals for rentals and ownership projects, for the on-site and fee options. Next to the arrows are the feasibility range, in dark blue, identified from the pro forma analysis conducted by consultants in the Controller's feasibility study[1].

The Safai/Breed/Tang proposal establishes initial requirements at the maximum of each of the recommended ranges, although the income limits in the Safai/Breed/Tang proposal are higher than those assumed in the Controller's study.

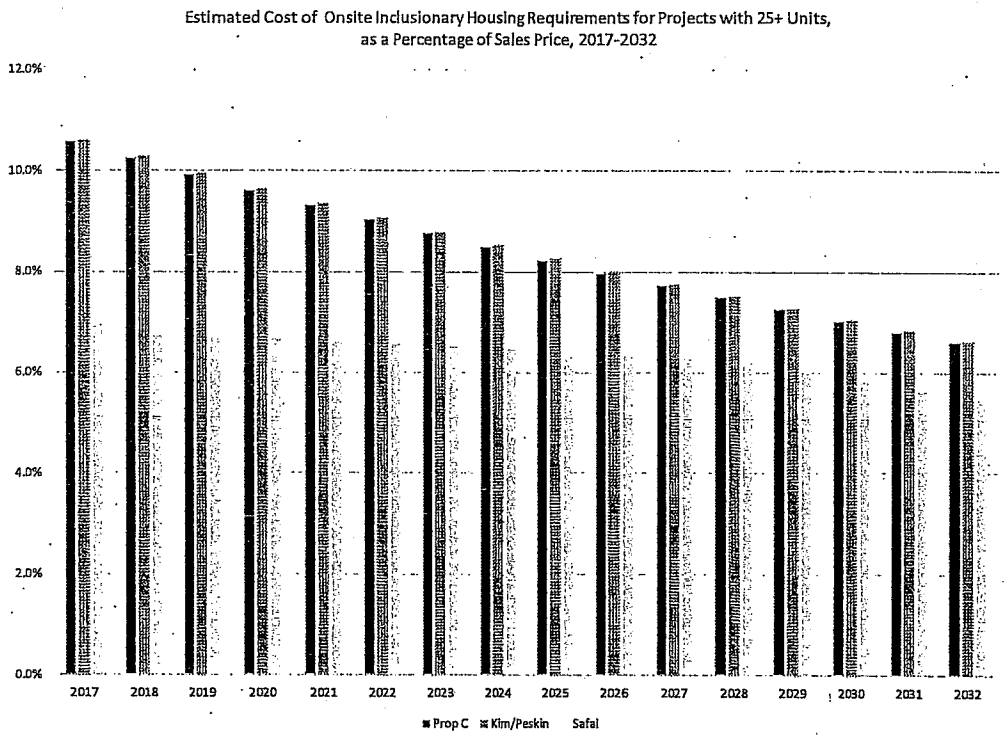
The Kim/Peskin requirements are higher. However, as described on the next page, pro forma prototypes that took the maximum State Density Bonus would be financially feasible under the Kim/Peskin requirements.

[1] http://openbook.sfgov.org/webreports/details3.aspx?id=2413

The State Density Bonus and Feasibility Findings

- State law provides developers with an option to increase the density – and the number of units – within a project, in exchange for providing affordable housing on site. Because the State's affordable requirements are lower than the City's, virtually every new housing project in San Francisco that takes the onsite option could qualify for some State density bonus. Projects taking the fee option are not eligible.
- The bonus units allow projects to support a higher inclusionary requirement and remain feasible. However, the City is prohibited from requiring that any of the bonus units are affordable, and from imposing higher requirements only on those projects that take the bonus.
- For the prototype pro formas studied in the feasibility study, a bonus project providing the Kim/Peskin onsite requirements, would be roughly as feasible as a non-bonus project with the Safai/Breed/Tang requirements. However, a non-bonus project would not be feasible with the Kim/Peskin requirements.
- Use of the bonus has, to date, been limited in San Francisco, and the study reached no conclusions about how widely it would be used in the future.
- The Safai/Breed/Tang proposal requires a bonus project to pay the fee option on the bonus units, so a bonus project would contribute more to affordable housing than a non-bonus project.

The Statistical Model Uses the Cost of the Proposed Policies to Estimate Their Effect on Housing Production



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City and County of San Francisco

The statistical model created during the feasibility study estimates housing production as a function of the cost of the inclusionary policy to developers. Policy cost is expressed as a percentage of the sales price of a new market-rate unit (condo or apartment).

Estimating cost is challenging because of the range of options open to developers, and in this report, we focus on the onsite option. The chart to the left illustrates the estimated cost of the on-site alternative, assuming 65% of future units are condominiums and 35% are apartments.

Costs are projected fall over time, because housing prices generally rise faster the policy costs. The Kim/Peskin proposal closely tracks Proposition C; the Safai/Breed/Tang proposal is less costly to developers, but its cost does not decline as rapidly, because of its rising onsite requirements.

Projecting the Impacts on Housing Production, Prices, and Affordable Housing Units and Subsidy Value

- Using the statistical model of development developed during the feasibility study[3], the OEA simulated the impact of the two proposals, and Proposition C, on overall housing production in the city over the 2017-2032 period.
- To estimate affordable housing production, we used the on-site option for both proposals: multiplying the units produced by the applicable on-site percentages. While developers do utilize other options, their costs and benefits are harder to estimate.
- This approach is only reasonable when onsite and fee options are comparable to each other. Because of this, we are not analyzing 10-24 unit projects, as under the Kim/Peskin proposal, their onsite requirements increase over time, while their fee option does not.
- Projecting future housing development is subject to many uncertainties. We project housing production under a set of different assumptions about housing price and construction cost growth, the split between ownership and rental units, and varying uses of the state density bonus by future housing projects.
- For each of these scenarios, housing production, for projects with 25 or more units, was estimated under current Proposition C policies, and each of the two proposals.
- On the next page, each proposal's outcomes are presented as a range of percentage differences from Proposition C, because results are different under different scenarios.

[3] For more details, see the Preliminary Feasibility Report from September 2016: http://openbook.sfgov.org/webreports/details3.aspx?id=2359

Estimated Impacts of the Two Proposals on Total Housing Production, and Affordable Housing Production

- The model allows us to estimate the total number of units produced (relative to Proposition C), the impact of that difference on citywide housing prices, and the annual spending of market-rate housing consumers.
- We also estimated the number of affordable units, as discussed on page 14. The average subsidy per unit is the difference between a household's annual cost in an affordable unit, and their cost in a new market-rate unit. The number of affordable units, multiplied by the average subsidy per affordable unit, yields the total annual value of the subsidy.

Outcome	Kim/Peskin Proposal vs. Prop C	Safai/Breed/Tang Proposal vs. Prop C
Total number of housing units produced	0.1% less to 0.2% more	4.7% to 7.1% more
Citywide housing prices	0.0%	0.1% to 0.8% less
Annual spending on housing	$0 to $2 M more	$15M to $98M less
Number of Affordable Housing units	2% to 4% more	5% to 8% less
Average subsidy per affordable unit	1% to 2% less	11% to 12% less
Total annual value of subsidy	$1 M to $4 M more	$10M to $50M less

Net Impacts and Conclusions

- In every scenario, the Safai/Breed/Tang proposal, which reduces inclusionary requirements, leads to the production of more housing relative to Proposition C, and lower prices for existing housing, at the cost of reducing the number of affordable units, and the value of subsidy generated they generate.
- Under the Safai/Breed/Tang proposal, the gain to market-rate housing consumers is greater than the loss of affordable housing subsidy. For every dollar of subsidy lost, market-rate housing consumers gain between $1.45 and $2.53 in price savings.
- The Kim/Peskin proposal creates outcomes that closely track to Proposition C. Different outcomes between Proposition C and the Kim/Peskin proposal result from different assumptions about the future split between condominiums and apartments.

Staff Contacts

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June 1, 2017

File No. 161351

Lisa Gibson
Acting Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On May 22, 2017, the Land Use and Transportation Committee amended the following legislation:

File No. 161351

Ordinance amending the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; to require minimum dwelling unit mix in all residential districts; 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.

This amended legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

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: 2017.06.01 14:59:20 -07'00'

Attachment

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

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December 20, 2016

File No. 161351

Lisa Gibson
Acting Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On December 13, 2016, Supervisor Kim introduced the following proposed legislation:

File No. 161351

Ordinance amending 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; affirming the Planning Department's determination under the California Environmental Quality Act; making findings 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.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

for By: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

Attachment

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

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

Jeanie Poling
12/20/16

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March 1, 2017

File No. 161351

Lisa Gibson
Acting Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On February 28, 2017, Supervisor Kim introduced the following substitute legislation:

File No. 161351

Ordinance amending 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; adding reporting requirements for density bonus projects; affirming the Planning Department's determination under the California Environmental Quality Act; making findings 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.

This substitute legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

for By: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

Attachment

c: 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: 2017.03.23 08:43:30 -07'00'

BOARD of SUPERVISORS

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April 21, 2017

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

Dear Commissioners:

On April 18, 2017, Supervisor Kim introduced the following substitute legislation:

File No. 161351

Ordinance amending 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; adding reporting requirements for density bonus projects; affirming the Planning Department's determination under the California Environmental Quality Act; making findings 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.

The substitute 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 Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

for By: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

c: John Rahaim, Director of Planning
Aaron Starr, Acting Manager of Legislative Affairs
Scott Sanchez, Zoning Administrator
Lisa Gibson, Acting Environmental Review Officer
AnMarie Rodgers, Senior Policy Advisor
Jeanie Poling, Environmental Planning
Joy Navarrete, 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.

REVIEWED
By Joy Navarrete at 12:09 pm, Apr 28, 2017

161351
RECEIVED VIA EMAIL
06/16/2017

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Planning Commission Resolution No. 19937

HEARING DATE: JUNE 15, 2017

Date:	June 8, 2017
Project Name:	Inclusionary Affordable Housing Program (Sec 415) Amendments
Case Number:	2017-001061PCA [Board File No. 161351v4]
Sponsored by:	Supervisors Breed, Kim, Peskin, Safai, and Tang
Staff Contact:	Jacob Bintliff, Citywide Planning Division Jacob.bintliff@sfgov.org, 415-575-9170
Reviewed by:	AnMarie Rodgers, Senior Policy Advisor
Recommendation:	Recommend Approval with Modifications

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, The Planning Commission determines that:

1. In making the recommendation to revise the Inclusionary Affordable Housing Program, the Commission reaffirms the Board of Supervisor's policy established by Resolution Number 79-16 that it shall be City policy to maximize the economically feasible percentage of inclusionary affordable housing in market rate housing development.

2. Inclusionary requirements should not exceed the rates recommended in the Controller's Economic Feasibility Study established in Proposition C, that the maximum economically feasible requirements for the on-site alternative are 18% for rental projects or 20% for ownership projects, or the equivalent of a fee or off-site alternative requirement of 23% for rental projects or 28% for ownership projects.

3. The Inclusionary Affordable Housing Program requirements should remain below the City's current Nexus Study.

4. The City should use the Inclusionary Affordable Housing Program to help serve the housing needs for low-, moderate-, and above-moderate income households that area above the level eligible for projects supported by federal low income housing tax credits, and also earn below the minimum level needed to access market rate housing units in San Francisco.

5. The Planning Department should implement additional monitoring and reporting procedures regarding the use of the State Density Bonus Law, and should require that eligible projects that seek and receive a bonus under the State Bonus Law pay the Affordable Housing Fee on additional units provided.

6. The incremental increases to the inclusionary requirements as established by the passage of Proposition C for projects that entered the pipeline between January 1, 2013 and January 12, 2016 should be retained for projects electing the on-site alternative, and removed for projects paying the Affordable Housing Fee or electing the off-site alternative, to maintain consistency with the recommended maximum economically feasible requirements recommended in the Controller's Study.

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

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

FINDINGS

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

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

HOUSING ELEMENT

OBJECTIVE 1
IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

POLICY 1.1
Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

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

POLICY 1.6
Consider greater flexibility in number and size of units within established building envelopes in community based planning processes, especially if it can increase the number of affordable units in multi-family structures.

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

POLICY 3.3
Maintain balance in affordability of existing housing stock by supporting affordable moderate ownership opportunities.

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

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

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

POLICY 4.1
Develop new housing, and encourage the remodeling of existing housing, for families with children.
The ordinance amending the Inclusionary Affordable Housing Program can increase the supply of new affordable housing, including new affordable housing for families. The ordinance amending the Inclusionary Affordable Housing Program includes dwelling unit mix requirements that encourage certain percentages of units with two or three bedrooms.

POLICY 4.4
Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.

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

Policy 4.5
Ensure that new permanently affordable housing is located in all of the city's neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.

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

OBJECTIVE 7
SECURE FUNDING AND RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING, INCLUDING INNOVATIVE PROGRAMS THAT ARE NOT SOLELY RELIANT ON TRADITIONAL MECHANISMS OR CAPITAL.

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

OBJECTIVE 8
BUILD PUBLIC AND PRIVATE SECTOR CAPACITY TO SUPPORT, FACILITATE, PROVIDE AND MAINTAIN AFFORDABLE HOUSING.

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

POLICY 8.3
Support the production and management of permanently affordable housing.

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

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

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

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

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

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

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

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

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

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

URBAN DESIGN ELEMENT

BALBOA PARK AREA PLAN
OBJECTIVE 4.5: PROVIDE INCREASED HOUSING OPPORTUNITIES AFFORDABLE TO A MIX OF HOUSEHOLDS AT VARYING INCOME LEVELS.
The ordinance amending the Inclusionary Affordable Housing Program would increase affordable housing opportunities for a mix of household incomes.

BAYVIEW AREA PLAN

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

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

CENTRAL WATERFRONT AREA PLAN

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

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

CHINATOWN AREA PLAN

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

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

MARKET AND OCTAVIA AREA PLAN

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

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

MISSION AREA PLAN

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

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

SHOWPLACE/POTRERO HILL AREA PLAN

OBJECTIVE 2.1
ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE SHOWPLACE /POTRERO IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES.
The ordinance amending the Inclusionary Affordable Housing Program would increase affordable housing opportunities.

SOMA AREA PLAN

OBJECTIVE 3

ENCOURAGE THE DEVELOPMENT OF NEW HOUSING, PARTICULARLY AFFORDABLE HOUSING.

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

WESTERN SHORELINE AREA PLAN

POLICY 11.3

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

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

POLICY 11.4

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

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

WESTERN SOMA AREA PLAN

OBJECTIVE 3.3

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. That the landmarks and historic buildings be preserved;

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

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

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

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

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

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

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

Implementation and Technical Recommendations.

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

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

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

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

Jonas P. Ionin
Commission Secretary

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

NOES: Moore

ABSENT: Fong

ADOPTED: June 15, 2017

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May 4, 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

Re: **Transmittal of Planning Department Case Number 2017-001061PCA**
Amendments to Section 415, Inclusionary Affordable Housing Program
Board File No: 161351 Inclusionary Affordable Housing Fee and Requirements;
170208 Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements

Planning Commission Recommendation: ***Approval with Modifications***

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

On April 27, 2017, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinances that would amend Planning Code Section 415, introduced by Supervisors Kim and Peskin, and Supervisors Safai, Breed, and Tang, respectively. At the hearing the Planning Commission recommended approval with modifications.

Specifically, the Planning Commission recommended that the Board of Supervisors adopt final legislation as described. The adopted resolution, including detailed recommendations and the associated Executive Summary, are attached.

A. APPLICATION

a. **No amendments are recommended.**

B. INCLUSIONARY REQUIREMENTS

a. **Include a condominium conversion provision** to specify that projects converting to ownership projects must pay a **conversion fee** equivalent to the difference between the fee requirement for ownership projects in effect at the time of the conversion and the requirement the project satisfied at the time of entitlement.
Include provisions of Board File No. 161351 ("Proposal A"), as modified above.

b. Establish fee, on-site, and off-site requirements for Larger Projects (25 or more units) that are within the range of "maximum economically feasible" requirements

recommended in the Controller's Study.
Include provisions of Board File No. 170208 ("Proposal B") without modification, as follows:

For Rental Projects:

i. Fee or Off-Site Alternative: equivalent of 23% of project units

ii. On-Site Alternative: 18% of project units

For Ownership Projects:

i. Fee or Off-Site Alternative: equivalent of 28% of project units

ii. On-Site Alternative: 20% of project units

C. SCHEDULE OF ANNUAL INCREASES TO REQUIREMENTS

a. Establish an explicit maximum requirement at which the schedule of increases would terminate, and that rate should be below the maximum requirement legally supported by the Nexus Study.
Include provisions of Board File No. 170208 ("Proposal B") with modifications to clarify that this provision also applies to both Smaller and Larger projects, as follows:

For Rental Projects:

i. Fee or Off-Site Alternative: equivalent of 28% of project units

ii. On-Site Alternative: 23% of project units

For Ownership Projects:

i. Fee or Off-Site Alternative: equivalent of 33% of project units

ii. On-Site Alternative: 25% of project units

b. Establish that requirement rates be increased by 1.0 percentage point every two years for both Smaller and Large projects.
Include provisions of Board File No. 170208 ("Proposal B"), as modified above.

c. The schedule of increases should commence no fewer than 24 months following the effective date of final ordinance for both Smaller and Larger projects.
Under either ordinance, final legislation should be amended accordingly.

d. Establish a "sunset" provision that is consistent with current practices for the determination of inclusionary requirements and Planning Department procedures, specifically that the requirement be established at the date of Environmental Evaluation Application and be reset if the project has not received a first construction document within three years of the project's first entitlement approval.
Include provisions of Board File No. 170208 ("Proposal B") with modifications to clarify that this provision applies to both Smaller and Larger projects.

D. AFFORDABLE HOUSING FEE

a. Apply the fee on a per gross square foot basis so that the fee is assessed proportionally to the total area of the project.
Include provisions of Board File No. 170208 ("Proposal B") without modification.

b. Revise language to allow MOHCD to calculate the fee to match the actual cost to the City to construct below market rate units, without factoring the maximum sale price of the equivalent inclusionary unit.
Include provisions of Board File No. 170208 ("Proposal B") without modification.

E. INCOME LEVELS

a. Establish affordability requirements that clearly apply to the maximum rent or maximum sale price of the inclusionary unit, and not to the income level of the household placed in that unit.
Under either ordinance, final legislation should be amended accordingly.

b. Designate inclusionary units at three discrete affordability levels for Larger projects to better serve households with incomes between the current low and moderate income tiers.
Include provisions of Board File No. 170208 ("Proposal B"), with modified income tiers as below.

c. Final legislation should target inclusionary units to serve the gap in coverage between low-income households who can access other existing housing programs and moderate and middle-income households earning less than the level needed to access market rate units.
Include provisions of Board File No. 170208 ("Proposal B"), with modifications, as follows:

For Rental Projects:

i. Two-thirds of units at no more than 55% of Area Median Income

ii. One-third of units split evenly between units at no more than 80% of Area Median Income, and units at no more than 110% of Area Median Income

For Ownership Projects:

i. Two-thirds of units at no more than 90% of Area Median Income

ii. One-third of units split evenly between units at no more than 110% of Area Median Income, and units at no more than 140% of Area Median Income

d. **Designate inclusionary units at a single affordability level for Smaller projects.** This requirement should be set to match the middle tier established for larger projects, as described below.
Include provisions of Board File No. 170208 ("Proposal B"), with modifications as follows:

i. For Rental Projects: all inclusionary units at no more than 55% of Area Median Income

ii. For Ownership Projects: all inclusionary units at no more than 80% of Area Median Income

e. Final legislation should include language requiring MOHCD to undertake necessary action to ensure that **in no case may an inclusionary affordable unit be provided at a maximum rent or sale price that is less than 20 percent below the average asking rent or sale price** for the relevant market area within which the inclusionary unit is located.
Under either ordinance, final legislation should be amended accordingly.

F. DENSITY BONUS PROVISIONS

a. Encourage the use of density bonus to maximize the production of affordable housing. At the same time, because a density bonus may not be used in every situation, **the inclusionary requirements established in Section 415 should be economically feasible regardless of whether a density bonus is exercised.**
Include provisions of Board File No. 170208 ("Proposal B") without modification.

b. The final Inclusionary ordinance should be paired with a local density bonus ordinance, such as the HOME-SF Program, that implements the State Density Bonus Law in a manner that is tailored to the San Francisco's contextual and policy needs.
Include provisions of Board File No. 170208 ("Proposal B") without modification.

c. **Direct the Planning Department to require "reasonable documentation" from project sponsors seeking a State Bonus** to establish eligibility for a requested density bonus, incentives of concession, and waivers or reductions of development standards, as provided for under state law, and as consistent with the process and procedures detailed in a locally adopted ordinance implementing the State Density Bonus Law.
Include provisions of Board File No. 161351 ("Proposal A") without modification.

d. **Require the Planning Department to prepare an annual report on the use of the Density Bonus** to the Planning Commission beginning in January 2018 that details

the number of projects seeking a bonus and the concessions, waivers, and level of bonus provided.
Include provisions of Board File No. 161351 ("Proposal A") without modification.

e. Require that projects pay the Affordable Housing Fee on any additional units authorized by the State Bonus program.
Include provisions of Board File No. 170208 ("Proposal B") without modification.

G. UNIT MIX REQUIREMENTS

a. Dwelling unit mix requirements should apply to total project units, not only to on-site inclusionary units to allow for inclusionary units to be provided comparable to market rate units, as required in Section 415.
Under either ordinance, final legislation should be amended accordingly.

b. Final legislation should set a large unit requirement at 40% of the total number of units as two-bedroom or larger, with no fewer than 10% of the total number of units being provided as 3-bedroom or larger.
Under either ordinance, final legislation should be amended accordingly.

H. "GRANDFATHERING PROVISIONS

a. Smaller Projects should remain subject to "grandfathered" on-site and fee or off-site requirements. Both Ordinances would maintain this structure.
No recommended amendments.

b. Larger Projects (25 or more units) choosing the on-site alternative should remain subject to the incremental percentage requirements established by Proposition C.
Include provisions of Board File No. 170208 ("Proposal B") without modification.

c. The incremental increases established for Larger Projects choosing the fee or off-site alternatives, should be amended to match the permanent requirements established in the final legislation, which should not exceed the maximum feasible rate.
Include provisions of Board File No. 170208 ("Proposal B") without modification.

d. The incremental increases established by Proposition C for Larger Projects that entered the pipeline before 2016 and are located in UMU districts should be removed, leaving the area-specific requirements of Section 419 in place for these projects.
Include provisions of Board File No. 170208 ("Proposal B") without modification.

e. Final legislation should explicitly establish that projects in UMU districts that entered the pipeline after January 12, 2016 should be subject to the higher of the on-site, fee, or off-site requirements set forth in Section 419 or the citywide requirements in

Section 415, as established by final legislation.
Under either ordinance, final legislation should be amended accordingly.

f. **Establish that all other Section 415 provisions will apply to pipeline projects,** regardless of the acceptance date of the project's EEA; projects that were fully entitled prior to the effective date of final legislation would be subject to the inclusionary requirements in effect at the time of entitlement.
Under either ordinance, final legislation should be amended accordingly.

I. ADDITIONAL CONSIDERATIONS

a. The Commission recommends that the Board of Supervisors should consider additional measures that may be undertaken by the City to subsidize the ancillary housing costs to owners of inclusionary ownership units, including but not limited to Homeowners Association dues.
Under either ordinance, final legislation should be amended accordingly.

b. Final legislation should require MOHCD to provide regular reporting to the Planning Commission on the racial and household composition demographic data of occupant households of inclusionary affordable units.
Under either ordinance, final legislation should be amended accordingly.

J. REQUIRED FEASIBILITY STUDIES

a. Additional feasibility studies to determine whether a higher on-site inclusionary affordable housing requirement is feasible on sites that have received a 20% of greater increase in developable residential gross floor area of a 35% or greater increase in residential density over prior zoning, should only be required when: 1) the upzoning has occurred after the effective date of this ordinance; 2) no feasibility study for the specific upzoning has previously been completed and published; 3) the upzoning occurred as part of an Area Plan that has already been adopted or which has already been analyzed for feasibility and community benefits prior to the effective date of the ordinance. In no case should the requirement apply for any project or group of projects that has been entitled prior to the effective date of the ordinance.
Under either ordinance, final legislation should be amended accordingly.

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:
Audrey Pearson, Deputy City Attorney
Bobbi Lopez, Aide to Supervisor Kim
Suhagey Sandoval, Aide to Supervisor Safai
Sunny Angulo, Aide to Supervisor Peskin
Michael Howerton, Aide to Supervisor Breed
Dyanna Quizon, Aide to Supervisor Tang
Alisa Somera, Office of the Clerk of the Board
bos.legislation@sfgov.org

Attachments:
Planning Commission Resolution No. 19903
Planning Department Executive Summary

SAN FRANCISCO
PLANNING DEPARTMENT

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Planning Commission Resolution No. 19903

HEARING DATE: APRIL 27, 2017

Project Name:	Inclusionary Affordable Housing Program (Sec 415) Amendments
Case Number:	2017-001061PCA
Initiated by:	Supervisors Kim and Peskin, Introduced December 13, 2016 Version 2, Introduced February 28, 2017; Version 3, Introduced April 18, 2017 Inclusionary Affordable Housing Fee and Requirements [Board File No. 161351]
Initiated by:	Supervisors Safai, Breed, and Tang Introduced February 28, 2017 Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements [Board File No. 170208]
Staff Contact:	Jacob Bintliff, Citywide Planning Division jacob.bintliff@sfgov.org, 415-575-9170
Reviewed by:	AnMarie Rodgers, Senior Policy Advisor anmarie.rodgers@sfgov.org, 415-558-6395

RECOMMENDING THAT THE BOARD OF SUPERVISORS 1) ADOPT A PROPOSED ORDINANCE, WITH MODIFICATIONS THAT WOULD AMEND THE PLANNING CODE TO REVISE THE AMOUNT OF THE INCLUSIONARY AFFORDABLE HOUSING FEE AND THE ON-SITE AND OFF-SITE AFFORDABLE HOUSING ALTERNATIVES AND OTHER INCLUSIONARY HOUSING REQUIREMENTS; REQUIRE MINIMUM DWELLING UNIT MIX IN ALL RESIDENTIAL DISTRICTS; AFFIRM THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKE FINDINGS UNDER PLANNING CODE, SECTION 302; AND MAKE FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1 AND 2) AND MAKE FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE SECTION 101.1 FOR THE AFFORDABLE HOUSING BONUS PROGRAMS AND HOME-SF.

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

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

WHEREAS, on February 28, 2017 Supervisor Safai, Supervisor Breed, and Supervisor Tang introduced a proposed ordinance under Board File Number 170208 (referred to in this resolution as Proposal B), which amends the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; and requires a minimum dwelling unit mix in all residential districts; and,

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

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

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

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

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

WHEREAS, the state law requires that localities adopt ordinances implementing the State Density Bonus Law and comply with its requirements, and the Affordable Housing Bonus Program described in Board File No. 150969, would be such a local ordinance implementing the State Density Bonus Law; and

WHEREAS, on March 13, 2017 the Land Use and Transportation Committee amended the Affordable Housing Bonus Program in Board File Number 161351v6, renaming the Local Affordable Housing Bonus Program as the HOME-SF Program and amending, among other requirements, the HOME-SF Program's average median income levels such that those levels mirror the average median income levels in the

ordinance amending the Inclusionary Affordable Housing Program introduced by Supervisors Safai, Breed and Tang on February 28, 2017, and this Commission must consider whether the Affordable Housing Bonus Program ordinance as amended, is consistent with the General Plan; and

WHEREAS, both proposed ordinances amending the Inclusionary Affordable Housing Program include an explicit reference to the State Density Bonus Law under California Government Code Section 65915, and at least one of the proposed ordinances explicitly references the Affordable Housing Bonus Program in Board File No. 150969, or its equivalent; 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 proposed amendments to the Inclusionary Affordable Housing Program in the two ordinances 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 on January 14, 2016 the Planning Department published Addendum 3 to the *2004 and 2009 Housing Element EIR* analyzing the environmental impacts of the Affordable Housing Bonus Program, and having reviewed the EIR and the addenda thereto, the Planning Commission finds that no further assessment of supplemental or subsequent EIR is required; and

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

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

WHEREAS, the Planning Commission has reviewed the two proposed ordinances amending the Inclusionary Affordable Housing Program and the amendments to the Affordable Housing Bonus Program including the HOME-SF Program; and

WHEREAS, The Planning Commission determines that:

1. In making the recommendation to revise the Inclusionary Affordable Housing Program, the Commission reaffirms the Board of Supervisor's policy established by Resolution Number 79-16 that it shall be City policy to maximize the economically feasible percentage of inclusionary affordable housing in market rate housing development.

2. Inclusionary requirements should not exceed the rates recommended in the Controller's Economic Feasibility Study established in Proposition C, that the maximum economically feasible requirements for the on-site alternative are 18% for rental projects or 20% for ownership projects,

Inclusionary Affordable Housing Program as described 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:

9. General Plan Compliance. The three proposed Ordinances 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.

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

The HOME-SF Program eligible districts generally include the City's neighborhood commercial districts, where residents have easy access to daily services, and are located along major transit corridors. The HOME-SF Program eligible districts generally allow or encourage mixed uses and active ground floors. On balance the program area is located within a quarter-mile (or 5 minute-walk) of the proposed Muni Rapid Network, which serves almost 70% of Muni riders and will continue to receive major investments to prioritize frequency and reliability.

POLICY 1.6
Consider greater flexibility in number and size of units within established building envelopes in community based planning processes, especially if it can increase the number of affordable units in multi-family structures.

Both ordinances amending the Inclusionary Affordable Housing Program provide greater flexibility in the number of units permitted in new affordable housing projects by providing increased heights, relief from any residential density caps, and allowing some zoning modifications. This is achieved by pairing the programs with either the State Density Bonus Law, California Government Code section 65915 et seq. or

or the equivalent of a fee or off-site alternative requirement of 23% for rental projects or 28% for ownership projects.

3. The Inclusionary Affordable Housing Program requirements should remain below the City's current Nexus Study.

4. The City should use the Inclusionary Affordable Housing Program to help serve the housing needs for low-, moderate-, and above-moderate income households that area above the level eligible for projects supported by federal low income housing tax credits, and also earn below the minimum level needed to access market rate housing units in San Francisco. Specifically inclusionary units should be designated to serve households earning at or below 55%, 80%, and 110% of Area Median Income (AMI) for Rental Projects, or 90%, 110%, and 140% of Area Median Income (AMI) for Ownership Projects, with 25 or more units.

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.

7. The City should adopt a local ordinance, such as the HOME-SF Program, that implements the State Density Bonus Law in a manner that is tailored to the San Francisco's contextual and policy needs.

8. The purpose of both the two proposed ordinances amending the Inclusionary Affordable Housing Program and the amendments to the proposed Affordable Housing Bonus Program ordinance to create the HOME-SF Program is to facilitate the development and construction of affordable housing in San Francisco.

NOW THEREFORE BE IT RESOLVED, that the Planning Commission hereby finds that 1) that both proposed ordinances to amend the Inclusionary Affordable Housing Program and the Commission's recommended modifications to the Inclusionary Affordable Housing Program and 2) the Affordable Housing Bonus Program, including the HOME-SF Program and pending amendments, are consistent with the General Plan for the reasons set forth below; and be it

FURTHER RESOLVED, that the Planning Commission hereby recommends that the Board of Supervisors approve a modified ordinance that combines elements of both proposals to revise the

through a local ordinance implementing the state law, such as the Affordable Housing Bonus Program or HOME-SF.

POLICY 1.8
Promote mixed use development, and include housing, particularly permanently affordable housing, in new commercial, institutional or other single use development projects.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance generally include the city's neighborhood commercial districts, where residents have easy access to daily services, and are located along major transit corridors.

POLICY 1.10
Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

On balance, the ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance identify eligible parcels that are located within a quarter-mile (or 5 minute-walk) of the proposed Muni Rapid Network, which serves almost 70% of Muni riders and will continue to receive major investments to prioritize frequency and reliability. These ordinances would support projects that include affordable units where households could easily rely on transit.

POLICY 3.3
Maintain balance in affordability of existing housing stock by supporting affordable moderate ownership opportunities.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance increase affordable ownership opportunities for households with moderate incomes.

Proposed Ordinance BF 161351-2 amending the Inclusionary Affordable Housing Program generally maintains the current "low" and "moderate" income tiers, with the significant change that these targets would be defined as an average AMI served by the project, with units falling within a specified range of income levels. Considering the average incomes served (98% equivalent average for ownership), the proposal would serve households in the middle of both the Low Income (50 – 80% AMI) and Moderate Income (80 – 120% AMI) groups, and would meet the demonstrated need of both income groups, while serving segments of both income groups that are least served by the City's current affordable housing programs.

Proposed Ordinances BF 170208 amending the Inclusionary Affordable Housing Program and proposed Ordinance BF 150969 creating the HOME-SF Program would generally raise the AMI levels served by the Inclusionary Program, and also define income levels as an average AMI served by the project. Considering the average incomes served, these proposals would serve households at the upper end of both the Low Income (50 – 80% AMI) and Moderate (80 – 120% AMI) groups, and would meet the demonstrated need of both income groups, while serving segments of both income groups that are least served by the City's current affordable housing programs.

POLICY 4.1
Develop new housing, and encourage the remodeling of existing housing, for families with children.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance can increase the supply of new affordable housing, including new affordable housing for

families. Both ordinance amending the Inclusionary Affordable Housing Program include dwelling unit mix requirements that encourage certain percentages of units with two or three bedrooms, and the HOME-SF Program includes a dwelling unit mix requirement and encourage family friendly amenities.

POLICY 4.4
Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance encourage the development of greater numbers of permanently affordable housing, including rental units. These affordable units are affordable for the life of the project.

Policy 4.5
Ensure that new permanently affordable housing is located in all of the city's neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.

Both ordinances amending the Inclusionary Affordable Housing reach throughout the City and the HOME-SF Program Ordinance reaches the City's neighborhood commercial districts all three of which enables the City to increase the number of very low, low and moderate income households and encourage integration of neighborhoods.

OBJECTIVE 7
SECURE FUNDING AND RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING, INCLUDING INNOVATIVE PROGRAMS THAT ARE NOT SOLELY RELIANT ON TRADITIONAL MECHANISMS OR CAPITAL.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance seek to create permanently affordable housing by leveraging the investment of private development.

Policy 7.5
Encourage the production of affordable housing through process and zoning accommodations, and prioritize affordable housing in the review and approval processes.

The HOME-SF Program Ordinance provides zoning and process accommodations including priority processing for projects that participate by providing on-site affordable housing.

OBJECTIVE 8
BUILD PUBLIC AND PRIVATE SECTOR CAPACITY TO SUPPORT, FACILITATE, PROVIDE AND MAINTAIN AFFORDABLE HOUSING.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance support 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.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance support the production of permanently affordable housing supply.

POLICY 10.1
Create certainty in the development entitlement process, by providing clear community parameters for development and consistent application of these regulations.

The HOME-SF Program Ordinance proposes a clear and detailed review and entitlement process. The process includes detailed and limited zoning concessions and modifications. Depending the selected program projects will either have no change to the existing zoning process, or some projects will require a Conditional Use Authorization.

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

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance encourage mixed income buildings and neighborhoods.

In recognition that the projects utilizing the AHBP will sometimes be taller or of differing mass than the surrounding context, the AHBP Design Guidelines clarify how projects shall both maintain their size and adapt to their neighborhood context. These design guidelines enable AHBP projects to support and respect the diverse and distinct character of San Francisco's neighborhoods.

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

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

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

Both ordinances 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.

In recognition that the projects utilizing the AHBP will sometimes be taller or of differing mass than the surrounding context, the AHBP Design Guidelines clarify how projects shall both maintain their size and adapt to their neighborhood context. These design guidelines enable AHBP projects to support and respect the diverse and distinct character of San Francisco's neighborhoods.

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

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

Housing produced under either ordinance amending the Inclusionary Affordable Housing Program and that produced through the HOME-SF Program Ordinance would pay impact fees that support the City's infrastructure.

POLICY 13.1
Support "smart" regional growth that locates new housing close to jobs and transit.

On balance the AHBP area is located within a quarter-mile (or 5 minute-walk) of the proposed Muni Rapid network, which serves almost 70% of Muni riders and will continue to receive major investments to prioritize frequency and reliability.

URBAN DESIGN ELEMENT

POLICY 4.15
Protect the livability and character of residential properties from the intrusion of incompatible new buildings.

In recognition that the projects utilizing the AHBP will sometimes be taller or of differing mass than the surrounding context, the AHBP Design Guidelines clarify how projects shall both maintain their size and adapt to their neighborhood context.

BALBOA PARK AREA PLAN

OBJECTIVE 4.5: PROVIDE INCREASED HOUSING OPPORTUNITIES AFFORDABLE TO A MIX OF HOUSEHOLDS AT VARYING INCOME LEVELS.
Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance 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.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance provide zoning and process accommodations which 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.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance provide zoning and process accommodations which would increase affordable housing opportunities

CHINATOWN AREA PLAN

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

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance provide zoning and process accommodations which would increase affordable housing opportunities.

DOWNTOWN PLAN

OBJECTIVE 7
EXPAND THE SUPPLY OF HOUSING IN AND ADJACENT TO DOWNTOWN.

The HOME-SF Program Ordinance provide zoning and process accommodations which would increase affordable housing opportunities.

MARKET AND OCTAVIA AREA PLAN

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

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance 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.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance 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.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance would increase affordable housing opportunities.

SOMA AREA PLAN

OBJECTIVE 3

ENCOURAGE THE DEVELOPMENT OF NEW HOUSING, PARTICULARLY AFFORDABLE HOUSING.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance would increase affordable housing opportunities.

WESTERN SHORELINE AREA PLAN

POLICY 11.1

Preserve the scale and character of existing residential neighborhoods by setting allowable densities at the density generally prevailing in the area and regulating new development so its appearance is compatible with adjacent buildings.

The AHBPs provide zoning and process accommodations which would increase affordable housing opportunities. Based on staff and consultant analysis, the City understands that current allowable densities are not always reflective of prevailing densities in a neighborhood. Many buildings constructed before the 1970's and 1980's exceed the existing density regulations. Accordingly zoning concessions available through the AHBP generally set allowable densities within the range of prevailing densities.

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.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance would increase affordable housing opportunities.

POLICY 11.4

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

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance 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

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance would increase affordable housing opportunities.

10. **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;

       Neither ordinances amending the Inclusionary Affordable Housing Program would 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.

       Pairing either ordinance with the HOME-SF Program Ordinance would create a net addition of neighborhood serving commercial uses. Many of the districts encourage or require that commercial uses be place on the ground floor. These existing requirements ensure the proposed amendments will 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;

       Neither ordinance amending the Inclusionary Affordable Housing Program would have a negative effect on housing or neighborhood character.

       Pairing either ordinance with the HOME-SF Program Ordinance would conserve and protect the existing neighborhood character by stabilizing very low, low and moderate income households who contribute greatly to the City's cultural and economic diversity, and by providing design review opportunities through the Affordable Housing Bonus Program Design Review Guidelines and Board of Supervisors appeal process.

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

       Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance increase City's supply of permanently affordable housing.

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

       Neither ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance would result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

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

Neither ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance would cause displacement of the industrial or service sectors due to office development as it does not enable office development. Further, protected industrial districts, including M-1, M-2 and PDR are not eligible for the HOME SF Program.

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

   The proposed Ordinances 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 Ordinances would not have an adverse effect on the City's Landmarks and historic buildings. Further the HOME-SF Program Ordinance specifically excludes any projects that would cause a substantial adverse change in the significance of an historic resource as defined by California Code of Regulations, Title 14, Section 15064.5.

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

   The proposed Ordinances would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas. Further the HOME-SF Program Ordinance specifically excludes any projects that would adversely impact wind or shadow.

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

BE IT FURTHER RESOLVED that the Commission hereby recommends that the Board ADOPT a proposed Ordinance amending the Inclusionary Affordable Housing Program that includes elements of both the Ordinance proposed by Supervisors Kim and Peskin (referred to below as Proposal A) and the Ordinance proposed by Supervisors Safai, Bree, and Tang (referred to below as Proposal B), as described here:

A. APPLICATION

VOTE +7 -0

a. Inclusionary requirements should continue to apply only to residential projects of 10 or more units, and additional requirements should continue to be applied for Larger Projects of 25 or more units, as currently defined in both Ordinances. No amendments are needed.

B. INCLUSIONARY REQUIREMENTS

VOTE +5 -2 (MELGAR, MOORE AGAINST)

a. The requirement for Smaller Projects (10 – 24 units) should remain 20% for the fee or off-site alternative, or 12% for the on-site alternative, as currently defined in both Ordinances. **No amendments are needed.**

b. Set higher requirements for ownership projects than for rental projects, for Larger Projects (25 or more units). Both Ordinances would establish this structure. **No amendments are needed.**

c. **Include a condominium conversion provision** to specify that projects converting to ownership projects must pay a **conversion fee** equivalent to the difference between the fee requirement for ownership projects in effect at the time of the conversion and the requirement the project satisfied at the time of entitlement. **Include provisions of Proposal A, with modifications.**

d. Establish fee, on-site, and off-site requirements for Larger Projects (25 or more units) that are within the range of "maximum economically feasible" requirements recommended in the Controller's Study. **Include provisions of Proposal B without modification, as follows:**

e. For Rental Projects:

- Fee or Off-Site Alternative: equivalent of 23% of project units
- On-Site Alternative: 18% of project units

f. For Ownership Projects:

- Fee or Off-Site Alternative: equivalent of 28% of project units
- On-Site Alternative: 20% of project units

C. SCHEDULE OF ANNUAL INCREASES TO REQUIREMENTS

VOTE +6 -1 (MOORE AGAINST)

a. **Establish an explicit maximum requirement** at which the schedule of increases would terminate, and that rate should be below the maximum requirement legally supported by the Nexus Study. **Include provisions of Proposal B with modifications to clarify that this provision also applies to both smaller and larger projects.**

b. Establish that requirement rates be **increased by 1.0 percentage point every two years.** Include provisions of Proposal B, with modifications to clarify that this provision also applies to both smaller and larger projects.

c. The schedule of increases should commence no fewer than 24 months following the effective date of final ordinance for both smaller and larger projects. Under either ordinance, final legislation should be amended accordingly.

d. Establish a "sunset" provision that is consistent with current practices for the determination of inclusionary requirements and Planning Department procedures, specifically that the requirement be established at the date of Environmental Evaluation Application and be reset if the project has not received a first construction document within three years of the project's first entitlement approval. Include provisions of Proposal B with modifications to clarify that this provision also applies to both smaller and larger projects.

D. AFFORDABLE HOUSING FEE

VOTE +5 -2 (MELGAR, MOORE AGAINST)

a. Apply the fee on a per gross square foot basis so that the fee is assessed proportionally to the total area of the project. Include provisions of Proposal B without modification.

b. Revise language to allow MOHCD to calculate the fee to match the actual cost to the City to construct below market rate units, without factoring the maximum sale price of the equivalent inclusionary unit. Include provisions of Proposal B without modification.

E. INCOME LEVELS

VOTE +4 -3 (FONG, KOPPEL, HILLIS AGAINST)

a. Establish affordability requirements that clearly apply to the maximum rent or maximum sale price of the inclusionary unit, and not to the income level of the household placed in that unit. Under either ordinance, final legislation should be amended accordingly.

b. Designate inclusionary units at three discrete affordability levels for larger projects to better serve households with incomes between the current low and moderate income tiers. Include provisions of Proposal B, with modifications.

c. Final legislation should target inclusionary units to serve the gap in coverage between low-income households who can access other existing housing programs and moderate and middle-income households earning less than the level needed to access market rate units. Include provisions of Proposal B, with modifications, as follows:

i. For Rental Projects:

i. Two-thirds of units at no more than 55% of Area Median Income

ii. One-third of units split evenly between units at no more than 80% of Area Median Income, and units at no more than 110% of Area Median Income

ii. For Ownership Projects:

i. Two-thirds of units at no more than 90% of Area Median Income

ii. One-third of units split evenly between units at no more than 110% of Area Median Income, and units at no more than 140% of Area Median Income

d. Designate inclusionary units at a single affordability level for smaller projects. This requirement should be set to match the middle tier established for larger projects, as described below. Include provisions of Proposal B, with modifications as follows:

i. For Rental Projects: all inclusionary units at no more than 55% of Area Median Income

ii. For Ownership Projects: all inclusionary units at no more than 80% of Area Median Income

e. Final legislation should include language requiring MOHCD to undertake necessary action to ensure that in no case may an inclusionary affordable unit be provided at a maximum rent or sale price that is less than 20 percent below the average asking rent or sale price for the relevant market area within which the inclusionary unit is located.

F. DENSITY BONUS PROVISIONS

VOTE +5 -2 (MELGAR, MOORE AGAINST)

a. Encourage the use of density bonus to maximize the production of affordable housing. At the same time, because a density bonus may not be used in every situation, the inclusionary requirements established in Section 415 should be economically feasible regardless of whether a density bonus is exercised. Include provisions of Proposal B without modification.

b. The final Inclusionary ordinance should be paired with a local density bonus ordinance, such as the HOME-SF Program, that implements the State Density Bonus Law in a manner that is tailored to the San Francisco's contextual and policy needs. Include provisions of Proposal B without modification.

c. Direct the Planning Department to require "reasonable documentation" from project sponsors seeking a State Bonus to establish eligibility for a requested density bonus, incentives of concession, and waivers or reductions of development standards, as provided for under state law, and as consistent with the process and procedures detailed in a locally adopted ordinance implementing the State Density Bonus Law. Include provisions of Proposal A without modification.

d. Require the Planning Department to prepare an annual report on the use of the Density Bonus to the Planning Commission beginning in January 2018 that details the number of projects seeking a bonus and the concessions, waivers, and level of bonus provided. Include provisions of Proposal A without modification.

e. Require that projects pay the Affordable Housing Fee on any additional units authorized by the State Bonus program. Include provisions of Proposal B without modification.

G. UNIT MIX REQUIREMENTS

VOTE +7 -0

a. Dwelling unit mix requirements should apply to total project units, not only to on-site inclusionary units to allow for inclusionary units to be provided comparable to market rate units, as required in Section 415. Under either ordinance, final legislation should be amended accordingly.

b. Final legislation should set a large unit requirement at 40% of the total number of units as two-bedroom or larger, with no fewer than 10% of the total number of units being provided as 3-bedroom or larger. Under either ordinance, final legislation should be amended accordingly.

H. "GRANDFATHERING" PROVISIONS

VOTE +7 -0

a. Smaller Projects should remain subject to "grandfathered" on-site and fee or off-site requirements. Both Ordinances would maintain this structure. No amendments are needed.

b. Larger Projects (25 or more units) choosing the on-site alternative should remain subject to the incremental percentage requirements established by Proposition C. Include provisions of Proposal B without modification.

c. The incremental increases established for Larger Projects choosing the fee or off-site alternatives, should be amended to match the permanent requirements established in the final legislation, which should not exceed the maximum feasible rate. Include provisions of Proposal B without modification.

d. The incremental increases established by Proposition C for Larger Projects that entered the pipeline before 2016 and are located in UMU districts should be removed, leaving the area-specific requirements of Section 419 in place for these projects. Include provisions of Proposal B without modification.

e. Final legislation should explicitly establish that projects in UMU districts that entered the pipeline after January 12, 2016 should be subject to the higher of the on-site, fee, or off-site requirements set forth in Section 419 or the citywide requirements in Section 415, as established by final legislation. Under either ordinance, final legislation should be amended accordingly.

f. Establish that all other Section 415 provisions will apply to pipeline projects, regardless of the acceptance date of the project's EEA; projects that were fully entitled prior to the effective date of final legislation would be subject to the inclusionary requirements in effect at the time of entitlement. Under either ordinance, final legislation should be amended accordingly.

I. ADDITIONAL CONSIDERATIONS

VOTE +7 -0

a. The Commission recommends that the Board of Supervisors should consider additional measures that may be undertaken by the City to subsidize the ancillary housing costs to owners of inclusionary ownership units, including but not limited to Homeowners Association dues.

b. Final legislation should require MOHCD to provide regular reporting to the Planning Commission on the racial and household composition demographic data of occupant households of inclusionary affordable units.

J. REQUIRED FEASIBILITY STUDIES

VOTE +4 -3 (JOHNSON, KOPPEL, MOORE)

a. Additional feasibility studies to determine whether a higher on-site inclusionary affordable housing requirement is feasible on sites that have received a 20% of greater increase in developable residential gross floor sarea of a 35% or freater increase in residetnail density over prior zoning, should only be required whe n: 1) the upzoning has occurred after the effective date of this ordinance; 2) no feasibility study for the specific upzoning has previously been completed and published; 3) the upzoning occurred as part of an Area Plan that has already been adopted or which has already been analyzed for feasibility and community benefits prior to the effective date of the ordinance. In no case should the requirement apply for any project or group of projects that has been entitled prior to the effective date of the ordinance.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on April 27 2017.

Jonas P. Ionin
Commission Secretary

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

NOES: Moore

ABSENT: None

ADOPTED: April 27, 2017

SAN FRANCISCO
PLANNING DEPARTMENT

Executive Summary

PLANNING CODE TEXT AMENDMENTS
INCLUSIONARY AFFORDABLE HOUSING PROGRAM

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ADOPTION HEARING DATE: APRIL 27, 2017

EXPIRATION DATE: MAY 28, 2017

Project Name:	**Inclusionary Affordable Housing Program Section 415 Amendments**
Case Number:	**2017-001061PCA**
Initiated by:	**Supervisors Kim and Peskin,** Introduced December 13, 2016 Version 2, Introduced February 28, 2017 Inclusionary Affordable Housing Fee and Requirements [Board File No. 161351]
Initiated by:	**Supervisors Safai, Breed, and Tang** Introduced February 28, 2017 Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements [Board File No. 170208]
Staff Contact:	Jacob Bintliff, Citywide Planning Division jacob.bintliff@sfgov.org, 415-575-9170
Reviewed by:	AnMarie Rodgers, Senior Policy Advisor anmarie.rodgers@sfgov.org, 415-558-6395

I. BACKGROUND

Inclusionary Housing Program

The Inclusionary Affordable Housing Program is one of the City's key tools for increasing the availability of affordable housing dedicated to low and moderate income San Franciscans, and has resulted in more than 4,600 units of permanently affordable housing since its adoption in 2002. **Inclusionary housing is distinguished from other affordable housing programs in that it provides new affordable units without the use of public subsidies.** For this reason, the program can address the growing needs of low, moderate, and middle income households that cannot be served by other common affordable housing funding sources, such as the federal Low Income Housing Tax Credit program.

Proposition C and the Controller's Economic Feasibility Study

In March 2016, the Board of Supervisors unanimously adopted a resolution[1] declaring that it shall be City policy to maximize the economically feasible percentage of inclusionary affordable housing in market rate housing development. In June, as housing prices rose drastically, San Francisco voters approved a Charter Amendment (Proposition C), which restored the City's ability to adjust affordable housing requirements for new development by ordinance.

The passage of the Proposition C then triggered the provisions of the so-called "trailing ordinance" [BF 160255, Ord. 76-16[2]], adopted by the Board of Supervisors in May 2016, which amended the Planning and Administrative Codes to 1) temporarily increase the Inclusionary Affordable Housing requirements, pending further action by the Board of Supervisors; 2) require an Economic Feasibility Study by the Office of the Controller; and 3) establish an Inclusionary Housing Technical Advisory Committee (TAC) to advise the Controller.

The TAC convened from July, 2016 to February, 2017 and Controller provided a set of preliminary recommendations[3] to the Board of Supervisors on September 13, 2016 and issued a set of final recommendations on February 13, 2017 [4]. The City's Chief Economist presented the Controller's recommendations to the Planning Commission on February 23, 2017.

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[1] Establishing City Policy Maximizing a Feasible Inclusionary Affordable Housing Requirement [Board File No 160166, Reso. No. 79-16], approved March 11, 2016. Available at: https://sfgov.legistar.com/View.ashx?M=F&ID=4302571&GUID=8243D8E2-2321-4832-A31B-C47B52F71DB2

[2] The ordinance titled, "Inclusionary Affordable Housing Fee and Requirements; Preparation of Economic Feasibility Report; Establishing Inclusionary Housing Technical Advisory Committee," was considered by the Planning Commission on March 31, 2016. The Commission's recommendations are available here: https://sfgov.legistar.com/View.ashx?M=F&ID=4387468&GUID=8D639936-88D9-44E0-B7C4-F61E3E1568CF

[3] Office of the Controller. "Inclusionary Housing Working Group: Preliminary Report September 2016". September 13, 2016: http://sfcontroller.org/sites/default/files/Preliminary%20Report%20September%202016.pdf

[4] Office of the Controller. "Inclusionary Housing Working Group: Final Report," published February, 13 2017, with the consulting team of Blue Sky Consulting Group, Century Urban LLC, and Street Level

Pending Amendments to the Inclusionary Housing Program

On December 13, 2016, Supervisor Kim and Supervisor Peskin introduced "Inclusionary Affordable Housing Fee and Requirements" [BF 161351]. This ordinance was substituted on February 28, 2017 and within this report will be referred to as **"Proposal A: Supervisor Kim and Supervisor Peskin."** Supervisor Safai, Supervisor Breed, and Supervisor Tang introduced "Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements" [Board File No. 170208] on February 28, 2017. This report will refer to this ordinance as **"Proposal B: Supervisor Safai, Supervisor Breed, and Supervisor Tang".**

The legislative sponsors for Proposal A describe that this Inclusionary ordinance is intended to be paired with the State Density Bonus Law; and that such a pairing is needed to maintain the economic feasibility of individual development projects and to maximize affordable housing production.

The legislative sponsors of Proposal B have described that individual development projects would remain economically feasible with or without a density bonus. However, to maximize affordable housing production in a manner compatible with local policy goals, their Inclusionary ordinance is paired with HOME-SF[5], a proposal for a locally tailored implementation of the state density bonus law.

Advisors. Available at: http://sfcontroller.org/sites/default/files/Documents/Economic%20Analysis/Final%20Inclusionary%20Housing%20Report%20February%202017.pdf

[5] On March 13, 2017 the Land Use and Transportation Committee amended an ordinance previously reviewed by the Commission when it was titled "Affordable Housing Bonus Program" [Board File Number 161351v6], renaming the Local Affordable Housing Bonus Program as the HOME-SF Program. The legislative sponsor, Supervisor Tang, announced changes to the program to afford protections for small businesses and change the levels of affordability to match a companion ordinance that would amend the Inclusionary Affordable Housing Program sponsored by Supervisors Safai, Breed & Tang.

Planning Commission Hearings and Additional Supporting Material

The Commission held an informational hearing on the proposed changes on March 16, 2017. The accompanying staff report for that informational hearing, dated March 9, 2017, provides a more detailed summary of the current inclusionary housing program; the findings and recommendations of the Controller's Study; the provisions of both proposed ordinances; and key policy considerations around proposed changes to each component of the program.

The **informational report is publicly available with the supporting materials for the March 9, 2017 Planning Commission hearing**[6], when the item was originally calendared. That report included a comparison chart of the provisions of both proposed ordinances, as well as the current program. **This comparison chart is reproduced here as Exhibit A** for reference.

This report is intended to assist the Commission's action on the proposed ordinances. As such, less background is provided and the focus is on potential recommendations for each of the program areas for which changes have been proposed. For ease of reference, **a summary chart of the recommendations by topic is provided here as Exhibit B.**

[6] http://commissions.sfplanning.org/cpcpackets/2017-001061PCA-02.pdf

II. IMPLEMENTATION CONSIDERATIONS

Either proposed ordinance would constitute the most sweeping set of structural and material changes to the City's Inclusionary Housing Program since the program's inception. Accordingly, Planning Department staff have reviewed each ordinance carefully and seek to raise key program implementation considerations before the Commission.

In addition to the major policy objectives discussed below, these considerations also guided staff's recommendations on the proposed changes to the inclusionary program. This section provides a brief summary of the key implementation considerations by topic. Most of these considerations will require the development of additional policies and procedures by the Planning Department after the adoption of final legislation.

Designation of Inclusionary Units

The Planning Department is responsible for legally designating the specific inclusionary affordable units within a project that elects the on-site alternative. This process is bound by multiple procedures and requirements in the Planning Code and the Procedures Manual published by MOHCD and approved by this Commission. The total of these requirements relate to the distribution of the units throughout the building and comparability of affordable and market rate units, among other factors.

The proposed ordinances would include inclusionary units at multiple income tiers, and at specific dwelling unit mixes, and would require the development of new procedures to clearly define how inclusionary units will be designated.

The Department has not yet developed these procedures, and the recommendations in this report do not reflect any particular approach to unit designation under either ordinance. The Department has, however, had experience in review of a project with multiple income tiers and is confident that staff will be able to broadly implement such requirements.

Rental to Condominium Conversions

Both ordinances would establish higher requirements for condominium projects than for rental projects. In the event that a project converts from rental to condominium after the project's entitlement, the Planning Department would be responsible for implementing any conversion procedures called for in Section 415. Staff's recommendation for a conversion fee is included in this report.

However, it should be noted that the Planning Department does not currently have procedures in place to monitor changes in project tenure following entitlement, and the range of options available to monitor such conversions is unknown at this time. Such procedures would need to be developed in coordination with the Department of Public Works, which is currently the primary agency responsible for tracking such conversions.

"Grandfathering" and Specific-Area Requirements

The proposed amendments to Section 415 would significantly impact the "grandfathering" provisions established by Proposition C; certain area-specific inclusionary requirements for pipeline and future projects; and modify requirements applicable to projects that are currently in the development pipeline in some cases. Accordingly, the Department offers specific recommendations regarding these issues in the relevant section of the report below.

Schedule of Annual Increases to Requirements

Both ordinances would establish a schedule of annual increases to the inclusionary requirements. Such provisions would require that the Planning Department publish new requirements annually for 10 or more years, and apply these requirements in a consistent and appropriate manner for projects whose entitlement process will span several years. Accordingly, the Department offers specific recommendations regarding this provision in the relevant section of the report below.

Affordable Housing Fee Application

The Planning Department is responsible for assessing the Affordable Housing Fee for projects that elect the fee option. The proposals would modify the way the fee is assessed, including a proposal to assess the fee on a per square foot basis, rather than the current method of assessing the fee on a per unit basis. The Department's recommendation in the relevant section of this report reflects any implementation considerations related to such amendments.

III. REQUIRED COMMISSION ACTION

The proposed Ordinances are before the Commission so that it may 1) make recommendations to the Board of Supervisors as required by Planning Code Section 302; 2) affirm the Planning Department's determinations under the California Environmental Quality Act; 3) make findings of consistency of the proposed ordinances [Board Files 161351v2; 170208] and the associated HOME-SF Program [Board File Number 150969v6], with the General Plan; and 4) make findings regarding the eight priority policies of Planning Code Section 101.1.

These items may be acted upon or may be continued, at the discretion of the Commission.

IV. RECOMMENDATIONS

The Department recommends making findings in support of the proposed Ordinances and associated actions as described in the attached draft resolution (Exhibit C). This section focuses on potential Commission recommendations based on staff analysis of the City's affordable housing need, our existing housing programs, the findings of the Controller's Study, comments from the Commission and the public, consultation with MOHCD, and considerations of program implementation. A summary of these recommendations is provided as Exhibit B.

These recommendations build on the key policy issues and considerations described in detail in the informational report dated March 9, 2017. These considerations are briefly reintroduced below as needed. For detailed reference, the informational report is available online with the materials for the March 9, 2017 Planning Commission hearing[7] and the comparison chart of proposed amendments from that report is included here as Exhibit A, for reference.

A. APPLICATION

No changes are proposed to the general application of Section 415 requirements. The program would continue to apply only to projects of 10 or more units. Projects of 25 or more units would continue to have higher requirements than smaller projects, which would remain subject to the requirements in place prior to the passage of Proposition C.[8]

- **Recommendation:** Requirements should continue to be applied differently for Smaller and Larger Projects, as currently defined in both Ordinances. **No amendments are needed.**

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[7] http://commissions.sfplanning.org/cpcpackets/2017-001061PCA-02.pdf

[8] As of January 1, 2016 Section 415 required that projects of 10 or more units provide 12% of units on-site, or pay a fee or provide off-site units equivalent of 20% of the project total.

B. INCLUSIONARY REQUIREMENTS

Rental and Ownership Requirements

Both proposals would set higher requirements for ownership projects than for rental projects, as recommended by the Controller's Study.

- **Recommendation:** Set higher requirements for ownership projects than for rental projects. Both Ordinances would establish this structure. **No amendments are needed.**

In addition, Proposal A would establish additional **conversion provisions** for projects that are entitled as a rental project, but convert to an ownership project at a subsequent time. Staff concurs with both concepts and recommends the following:

- **Recommendation:** Final legislation should **include** a **condominium conversion provision** to specify that **projects** converting to ownership projects must pay a **conversion fee** equivalent to the difference between the fee requirement for ownership projects in effect at the time of the conversion and the requirement the project satisfied at the time of entitlement. **Include provisions of Proposal A, with modifications.**

Requirement for the On-Site Alternative

Both proposals would amend the on-site requirement for larger projects. Proposal A would exceed the maximum economically feasible requirement recommended by the Controller. Proposal B would set the rate at the maximum of this range.

- **Recommendation:** Establish a requirement that is within the range of "maximum economically feasible" requirements recommended in the Controller's Study. **Include provisions of Proposal B without modification.** Specifically, this would establish an on-site rate of 18% or 20% for rental or ownership projects, respectively.

Requirement for the Affordable Housing Fee or Off-Site Alternative

Both proposals set the requirement for payment of the Affordable Housing Fee or off-site alternative for larger projects at the equivalent of the corresponding on-site requirement, with the exception that Proposal A's ownership fee rate would be slightly less costly to a project than the on-site alternative.

- **Recommendation:** Establish a requirement that is within the range of "maximum economically feasible" fee or off-site alternative requirements recommended in the Controller's Study. **Include provisions of Proposal B without modification.** Specifically, this would establish a fee or off-site rate of 23% or 28% for rental or ownership projects, respectively.

C. SCHEDULE OF ANNUAL INCREASES TO REQUIREMENTS

Both proposals would establish a schedule of annual increases to the percentage requirements, though under different conditions. This addition to the Inclusionary Program was recommended in the Controller's Study on the premise that phasing in an increase in the inclusionary requirement over time at a predictable rate would allow the land market to absorb the increase and remain economically viable for development; while securing higher levels of affordable housing production over time.

Staff recommends that final legislation include a schedule of annual increases that is consistent with the Controller's recommendation, with modifications:

- **Recommendation:** Final legislation should **establish an explicit maximum requirement** at which the schedule of increases would terminate, and that rate should be below the maximum requirement supported by the Nexus Study. **Include provisions of Proposal B without modification.**

- **Recommendation:** Final legislation should **establish that requirement rates be increased by 1.0 percentage point every two years.** This is equivalent to the Controller's recommendation of an increase of 0.5 percentage points per year, but would provide for a more effective and transparent implementation of the program by more closely matching the pace of the entitlement process and minimizing ambiguity in the rounding of requirement percentages. **Include provisions of Proposal B, with modifications.**

- **Recommendation:** The schedule of **increases should commence no fewer than 24 months following the effective date of final legislation** if the rate is set to increase biannually, or no fewer than 12 months following the effective date if the rate is set to increase annually. Under either ordinance, **final legislation should be amended accordingly.**

Determination and "Sunset" of Requirement

Both proposed ordinances include a "sunset" provision to specify the duration that a project's inclusionary requirement would be effective during the entitlement process. Proposal A does not specify at what point the requirement would be determined, but would establish that the requirement be reset if the project has not procured a first construction document within 2 years of entitlement. Proposal B would determine the requirement amount at the time of a project's Environmental Evaluation Application (EEA) and establish that the requirement be reset if the project has not received a first construction document within 3 years of entitlement. Both proposals would reset the requirement to the requirement applicable at the time, and not count time elapsed during potential litigation or appeal of the project.

- **Recommendation:** Final legislation should **establish a "sunset" provision that is consistent with current practices** for the determination of inclusionary requirements and Planning Department procedures. **Include provisions of Proposal B without modification.**

D. AFFORDABLE HOUSING FEE

Both proposals would modify the way the Affordable Housing Fee is applied to projects that elect to pay the fee, as well as the method used to calculate the dollar amount of the fee. The Controller's Study called for no specific changes to the application of or methodology for the fee, but did recommend that the fee amount should be maintained at a level that reflects the cost to construct affordable units.

Application of Fee

The Affordable Housing Fee is currently assessed on a per unit basis, with the fee amount increasing with the type of unit, ranging from studio to 4-bedroom units. This method of assessing the fee does not account for the actual size of units or the total area of the project.

- **Recommendation:** Final legislation should **apply the fee on a per gross square foot basis** so that the fee is assessed proportionally to the total area of the project. **Include provisions of Proposal B without modification.**

Calculation of Fee

The dollar amount of the fee is currently calculated based on the cost of construction of residential housing and the maximum purchase price for BMR ownership units. MOHCD is required to update the fee amount annually.

- **Recommendation:** Final legislation should direct MOHCD to calculate the fee to **match the actual cost to the City to construct below market rate units.** This cost should reflect the construction costs of units that are typically in MOHCD's below market rate pipeline, and should not vary based on the building type of the subject project. **Include provisions of Proposal B without modification.**

E. INCOME LEVELS

Currently, inclusionary units are designated as affordable at two discrete income tiers – units serving "low-income" or "moderate-income" households, as defined in Section 415. Both proposals would modify the income levels that inclusionary units are designated to serve. Specifically, both proposals would broaden the affordability requirements to serve households at a range of income levels within a defined range, or at specific tiers.

Either proposal would constitute a significant structural change in the way units are designated. Planning Department staff, in consultation with MOHCD, considered the City's affordable housing need and existing housing programs to arrive at the following recommendations:

- **Recommendation:** Final legislation should **establish affordability requirements that clearly apply to the maximum rent or maximum sale price of the inclusionary unit,** and not to the income level of the household placed in that unit. This distinction is critical to ensure that MOHCD retains flexibility to both serve households that may earn significantly below the target level, and allow for households that make slightly more than the target level to remain eligible, as set forth in the MOHCD Procedures Manual, which will come before this Commission for review. Under either ordinance, **final legislation should be amended accordingly.**

- **Recommendation:** Final legislation should **designate inclusionary units at three discrete affordability levels for larger projects** to better serve households with incomes between the current low and moderate income tiers. This method would provide for a more even distribution of inclusionary units across eligible low and moderate income households, and minimize the coverage gap for household between the existing income tiers. **Include provisions of Proposal B, with modifications.**

- **Recommendation:** Final legislation should **designate inclusionary units at a single affordability level for smaller projects.** This recommendation reflects the scale of these smaller projects, which would in many cases provide fewer than three total inclusionary units. This requirement should be set to match the middle tier established for larger projects, as described below. **Include provisions of Proposal B, with modifications.**

In addition to the structural changes to how inclusionary units are designated, both proposals would also broaden the affordability levels served by the program to serve moderate and middle income households that are not currently served by any existing housing programs, and also are generally not served by market rate housing.

Staff compared existing and proposed affordability requirements to current data on the City's affordable housing need and existing housing programs to recommend an appropriate range of affordability levels to be served by the Inclusionary Program. Note that, again, the requirements set forth in the Planning Code should stipulate the maximum rent or sale price of inclusionary units, while MOHCD will continue to exercise discretion in placing eligible households in the most appropriate affordable unit, as availability and individual household incomes allow.

- **Recommendation:** Final legislation should **target inclusionary units to serve the gap in coverage** between low-income households who can access other existing housing programs, and moderate and middle-income households earning less than the level needed to access market rate units. **Include provisions of Proposal B, with modifications,** as follows:

Smaller Projects (10 – 24 units)			
	Tier 1	**Tier 2**	**Tier 3**
Rental Projects	N/A	80% of AMI	N/A
Owner Projects	N/A	110% of AMI	N/A

Larger Projects (25 or more units)			
	Tier 1	**Tier 2**	**Tier 3**
Rental Projects	55% of AMI	80% of AMI	110% of AMI
Owner Projects	90% of AMI	110% of AMI	140% of AMI

For **rental projects**, these recommended affordability levels are intended to provide that:

- units at the low end of the range (Tier 1) supplement the supply of units affordable to low-income households currently served by other housing programs; and
- units at the high end of the range (Tier 3) would serve households earning above the level served by other housing programs, but below the level served by the market.

For **ownership projects**, these recommended affordability levels are intended to provide that:

- units at the low end of the range (Tier 1) serve households at the lowest income level possible, while still recognizing the significant financial burden (i.e. down payment, mortgage payments, HOA fees, etc.) required of homebuyer; and
- units at the high end of the range (Tier 3) would serve households earning above the level served by other housing programs, but not higher than the level for which data supports a clear affordability need and well below the level served by the market.

For both rental and ownership projects, the middle tier (Tier 2) would provide a mid-point for households earning above the low-income level, but below the middle-income level; accordingly, this tier is set closer to the lower tier to serve as a "stepping stone" for households with growing incomes, or households who earn slightly above the low-income level and are not served by other affordable housing programs or market rate units.[9]

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[9] Market rate rents and sale prices vary widely depending on location and building type. In developing the above recommendations, staff looked at a range of market rate rents and sale prices for recently built developments. For example, average market rents for one-bedroom units were observed to range from $3,100 - $4,200 per month, which would be affordable to the equivalent of a two-person household earning roughly 150% to 200% of AMI, respectively. These levels significantly exceed the income level of the moderate income households that would be served under the higher tier of the above recommendation. Similar analysis was conducted for two-bedroom units as well as for market rate condominium units, which were assumed to range from $650,000 - $1,100,000 for new one-bedroom units, depending on location, which would be affordable to the equivalent of roughly 200% to 350% AMI.

F. DENSITY BONUS PROVISIONS

The Controller's Study concluded that the use of the State Density Bonus Law would impact the outcomes of the Inclusionary Program, if eligible project sponsors who elect the on-site alternative also choose to seek and receive a State Bonus. The Controller's Study further concluded that it would not be reasonable to assume that all projects will utilize the State Bonus, or that if those projects would necessarily receive the maximum bonus allowed. Accordingly, the **Controller's recommendation was to set the inclusionary requirements at the economically feasible level not assuming use of the State Bonus,** and that projects that do receive a State Bonus should pay the Affordable Housing Fee on bonus units.

Proposal A's Inclusionary Ordinance is paired with the State Density Bonus Law. As the sponsoring Supervisors have described, this proposal achieves feasibility by partnering with the State Density Bonus Law. This means that development would not be feasible, according to the Controller's Study, unless the maximum density bonus is provided as allowed under state law (35%). This proposal encourages use of the state bonus law, which requires the City to grant project sponsors a wide range of concessions and waivers from local massing, height, bulk and other development controls, generally at the discretion of the sponsor.

Proposal B's Inclusionary Ordinance is paired with HOME-SF. Here, the sponsoring Supervisors have described that the project sponsors seeking increased density would be encouraged to use a local program (HOME-SF) that tailors the density bonus to San Francisco's local context and policy goals. The HOME-SF program would frame the bonus by providing specified options for how local massing, height, bulk and other development controls may be modified; and provide for a higher percentage of inclusionary affordable units for projects using the HOME-SF program; and also encourage greater production of family-friendly units and include small business protections. The pairing of these two proposals has been crafted in a way that intends to make projects feasible with or without the use of a density bonus.

- **Recommendation:** Final legislation should encourage the use of density bonuses to maximize the production of affordable housing. At the same time, because a density bonus may not be desired in every situation, **the inclusionary requirements established in Section 415 should be economically feasible regardless of whether a density bonus is exercised. Include provisions of Proposal B without modification.**

- **Recommendation:** The final Inclusionary ordinance should be paired with a local density bonus ordinance, such as the proposed HOME-SF Program, that provides increased density and other concessions similar to the State Density Bonus Law in a manner that is tailored to the San Francisco's contextual and policy needs. **Include provisions of Proposal B without modification.**

Additional Administrative Requirements for Density Bonus

Proposal A does not incorporate the Controller's recommendations, but would enact three additional administrative requirements for the Planning Department related to the use of the State Bonus. Staff recommends the following action on these proposed requirements:

- **Recommendation:** Final legislation should **direct the Planning Department to require "reasonable documentation" from project sponsors seeking a State Bonus** to establish eligibility for a requested density bonus, incentives of concession, and waivers or reductions of development standards, as provided for under state law. **Include provisions of Proposal A without modification.**

- **Recommendation:** Final legislation should **require the Planning Department to prepare an annual report on the use of the Density Bonus** to the Planning Commission beginning in January 2018 that details the number of projects seeking a bonus and the concessions, waivers, and level of bonus provided. **Include provisions of Proposal A without modification.**

- **Recommendation:** Final legislation **should <u>not</u> include a requirement to provide information about the value of the density bonus, concessions, and waivers sought** by a project. This proposal would be difficult and costly to implement, in particular because the Department may not be able to compel project sponsors to provide the type of financial information required to perform such analysis. **Do not include this provision of Proposal A.**

Affordable Housing Fee for Bonus Units

The Controller's Study sought to provide guidance as to how the Inclusionary Program should account for the use of the State Density Bonus, recognizing that the use of the program would vary widely based on specific project conditions while the Inclusionary Program establishes requirements that apply to eligible projects on a citywide basis.

The Controller recommended that projects that receive a State Bonus be required to pay the Affordable Housing Fee on any additional units authorized under the State Bonus, similar to how the City impose other impact fees for infrastructure and other City services.

- **Recommendation:** Final legislation should **require that projects pay the Affordable Housing Fee** on any additional units authorized by the State Bonus program. **Include provisions of Proposal B without modification.**

G. UNIT MIX REQUIREMENTS

Both proposals would establish new dwelling unit mix requirements, an area not addressed in the current Inclusionary Program. **Proposal A** would require that **on-site inclusionary units** contain a minimum of 40% of units as 2-bedroom units, and an additional minimum of 20% of on-site inclusionary units as 3-bedroom units or larger. **Proposal B** would require that all residential projects not already subject to the existing unit mix requirement in Plan Areas[10] be subject to a new requirement that 25% of **total units** be provided as 2-bedroom units or larger, or that 10% of total units be provided as 3-bedroom units or larger.

[10] In the RTO, RCD, NCT, DTR, and Eastern Neighborhoods Mixed Use districts, the current requirement is for 40% of total project units to be provided as 2-bedroom units or larger, or for 30% of total project units to be provided as 3-bedroom units or larger.

- **Recommendation:** Dwelling unit mix requirements should **apply to total project units, not only to on-site inclusionary units** to allow for inclusionary units to be provided comparable to market rate units, as required in Section 415 and under both Ordinances. Under either ordinance, **final legislation should be amended accordingly.**

Both proposals are intended to increase the supply of housing units that serve the needs of family households, particularly households with children. The Controller's Study did not examine this issue specifically. However, the economic analysis underlying the Study's feasibility conclusions did reflect development prototypes that fulfilled the Plan Area unit mix requirement by including 35% of units at 2-bedroon units, and 5% of units as 3-bedroom units, for a total of 40% of total project units.

- **Recommendation:** Final legislation **should not set unit mix requirements that would exceed the 40% total large unit requirement** already in place in Plan Areas, and assumed in the Controller's feasibility conclusions. This is a recommendation for a parameter to guide final legislation. **Proposal A does not meet this parameter. Proposal B meets this parameter.**

- **Recommendation:** Dwelling mix requirements should be set in a manner that would **yield a mix of both 2-bedroom and 3-bedroom units;** this may be best achieved by setting a minimum requirement for 3-bedroom units within the large unit requirement. This is a recommendation for a parameter to guide final legislation. **Proposal A meets this parameter. Proposal B does not meet this parameter.**

In addition, Planning Department staff has conducted preliminary analysis on the demographic composition of family households in San Francisco and of the unit mix in the City's existing housing stock and recent development pipeline. While this research is not complete, the preliminary findings suggest:

- 10% of San Francisco households are **families with 2 or more children**, who may be more likely to need a 3-bedroom or larger unit.
- 14% of San Francisco households are **families with 4 or more people**, including families with children *and* families without children, who may be more likely to need a 3-bedroom or larger unit.

Finally, it should also be noted that there may be affordability trade-offs to dwelling unit mix requirements. Larger units will be, at least in the first several years of building occupancy, less affordable to households with fewer than two income earners. The City does not have the ability to require that larger units be made available for family households; data suggest that the majority of larger units are currently not occupied by family households. The Department's recommendations largely focus on maximizing affordability. These recommendations have an unknown impact on affordability and are therefore only provided as "parameters" for final legislation that seek to balance the goals of maximizing affordability with the goal of providing units with more bedrooms.

H. "GRANDFATHERING" PROVSIONS

Following the passage of Proposition C in June 2016, Section 415 was amended to establish incremental on-site, off-site, and fee requirement percentages for projects that entered the development pipeline between January 2013 and January 2016 (as defined by the acceptance date of the project's Environmental Evaluation Application or EEA). Projects that entered the pipeline prior to January 2013 are subject to the inclusionary rates in effect prior to the passage of Proposition C[11], while those that entered the pipeline after January 12, 2016 will be subject to the final requirements to be established by the proposed Ordinances.

Incremental Increases for Pipeline Projects

Smaller Projects (10 – 24 units) were unaffected by the passage of Proposition C and remain subject to the on-site and off-site or fee requirements in place prior to Proposition C.

- **Recommendation:** Smaller Projects should remain subject to "grandfathered" on-site and fee or off-site requirements. Both Ordinances would maintain this structure. **No amendments are needed.**

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[11] As of January 1, 2016 Section 415 required that projects of 10 or more units provide 12% of units on-site as low income units, or pay a fee or provide off-site units equivalent of 20% of the project total.

Larger Projects (25 or more units) that entered the pipeline between 2013 and 2016 are subject to the incremental increases established by Proposition C. However, in some cases these rates exceed the maximum economically feasible rate identified by the Controller's Study and should be retained or amended as follows:

- **Recommendation:** Larger Projects (25 or more units) choosing the **on-site alternative** should remain subject to the incremental percentage requirements established by Proposition C. **Include provisions of Proposal B without modification.**

- **Recommendation:** The incremental increases established for Larger Projects choosing the **fee or off-site alternatives,** however, exceed the maximum feasible rate; these requirements should be amended to match the permanent requirements established in the final legislation, which should not exceed the feasible rate. **Include provisions of Proposal B without modification.**

Area-Specific Inclusionary Requirements

Additional incremental increases were also established for Larger Projects that entered the development pipeline between 2013 and 2016 in the Eastern Neighborhoods Urban Mixed Use (UMU) districts. Projects in these districts are subject to the specific inclusionary requirements established in Section 419 of the Planning Code to reflect the zoning modifications implemented through the Eastern Neighborhoods Area Plan. In some cases, these incremental increases exceed the maximum feasible rate.

- **Recommendation:** The incremental increases established by Proposition C for Larger Projects that entered the pipeline before 2016 and are located in UMU districts should be removed, leaving the area-specific requirements of Section 419 in place for these projects. **Include provisions of Proposal B without modification.**

Additionally, final legislation should make clear that for projects in UMU districts that enter the pipeline after January 12, 2016 whether area-specific or citywide inclusionary requirements apply.

- **Recommendation:** Final legislation should explicitly establish that projects in UMU districts that entered the pipeline after January 12, 2016 **should be subject to the higher of the on-site, fee, or off-site requirements** set forth in Section 419 or the citywide requirements in Section 415, as established by final legislation. Under either ordinance, **final legislation should be amended accordingly.**

Additional Provisions

The "grandfathering" provisions of Proposition C only addressed the requirement rates and did not specify when other features of the inclusionary program would be applicable (e.g. income level targets) to projects in the entitlement process. Given the additional changes to the inclusionary program proposed in both ordinances, staff recommends as follows:

- **Recommendation:** Final legislation should **establish that all other Section 415 provisions will apply to pipeline projects,** regardless of the acceptance date of the project's EEA; projects that were fully entitled prior to the effective date of final legislation would be subject to the inclusionary requirements in effect at the time of entitlement. Under either ordinance, **final legislation should be amended accordingly.**

A comparison table of current and recommended "grandfathering" and UMU districts requirements is provided as Exhibit D.

V. ENVIRONMENTAL REVIEW

On March 1, 2017 the Environmental Review Officer determined that the legislation filed by Supervisors Kim and Peskin [Board File No. 161351] is 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.

On March 7, 2017 the Environmental Review Officer determined that the legislation filed by Supervisors Safai, Breed, and Tang [Board File No. 170208] is 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.

VI. PUBLIC COMMENT

As of the date of publication the Planning Department has received written public comment on the proposed amendments, as well as extensive public comment provided at the Planning Commission informational hearings on February 23 and March 16, 2017.

The bulk of the concerns raised in these hearings were focused on the income levels to be served by the program, the inclusionary requirement percentages, and the impact of the State Density Bonus Law on the program.

Most speakers addressed the income levels at which inclusionary units should be designated, and many urged that the program should primarily serve the needs of low-income households as provided for by other existing affordable housing programs, and that the expansion of the inclusionary program to serve low- and moderate-income households above this level be limited to the levels established by Proposition C. Many speakers also highlighted the growing need for housing affordable to moderate-income households who have traditionally been served by market rate units, but who have also struggled to find affordable housing in recent years. Many also shared their personal experience being unable to find adequate housing in San Francisco either because they could not afford market rate rents, were unable to access the limited supply of affordable units, or because they earned too much to qualify for available affordable units, but not enough to access market rate units.

Regarding the inclusionary requirement percentages, speakers generally advocated for a higher inclusionary rate than that in place prior to Proposition C, but differed on how the conclusions

and recommendations of the Controller's Study and legal limits supported by the City's Nexus Study should be applied to the inclusionary program. Many speakers expressed that the rate should be as high as economically possible, while many others felt that the rates should be set higher than the maximum rates recommended in the Controller's Study.

In particular, many commenters focused on the impact of the State Density Bonus Law on the inclusionary program. Generally, those who felt the Bonus Law would result in most San Francisco developments receiving significant density bonuses supported higher inclusionary rates, while others cautioned that the requirements should avoid imposing too high a requirement and thus become ultimately ineffective.

Written comment was also received during and subsequently to recent hearings, and is attached as Exhibit E. At the February 23 hearing several speakers presented data on household income levels. In addition, a letter was presented from the Council of Community Housing Organizations which posed a series of important questions for consideration by Commissioners, which generally match the topic areas addressed in the accompanying staff report to the hearing. Most notably, the letter advised that the availability of the State Density Bonus Law should support higher inclusionary rates that those recommended in the Controller's Study; that requirements should increase over time at the higher end of the range discussed by the Controller's Technical Advisory Committee; that moderate-income households should be served by the inclusionary program, but not at the expense of low-income households; that the program should be structured to discourage projects to "fee out"; and that the more two- and three-bedroom units should be provided to meet the needs of family households.

At the March 16 hearing a document titled "Statement of Principles on Inclusionary Housing" was presented on behalf of about two-dozen listed organizations. The statement focused on concerns that the inclusionary program should continue to prioritize housing for low-income households at the income levels historically served by the program, and served by other existing housing programs. While recognizing the struggle of middle income households to find affordable housing, the statement urged that the inclusionary program not be expanded to serve these households beyond the levels established in Proposition C.

In addition, the Planning Department received a letter addressed to the Mayor and Board of Supervisors dated April 10 from Yimby Action. The letter expressed opposition to both proposed ordinances based on concerns related to the methodology of the Controller's Economic Feasibility Study and Nexus Study, and proposed that modifications to the inclusionary program be postponed until these analyses can be revised.

CITY AND COUNTY OF SAN FRANCISCO
BOARD OF SUPERVISORS
BUDGET AND LEGISLATIVE ANALYST
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File Nos. 150969
161351
170208

5/8

Policy Analysis Report

To: Supervisor Peskin

From: Budget and Legislative Analyst's Office

Re: Statistics on Median Household Income Across San Francisco Neighborhoods

Date: May 5, 2017

Summary of Requested Action

Your office requested that the Budget and Legislative Analyst gather information on the median household income across San Francisco neighborhoods by ethnicity and household type. Your office also requested that the Budget and Legislative Analyst compare the average rent paid by San Francisco residents with median household income by neighborhood.

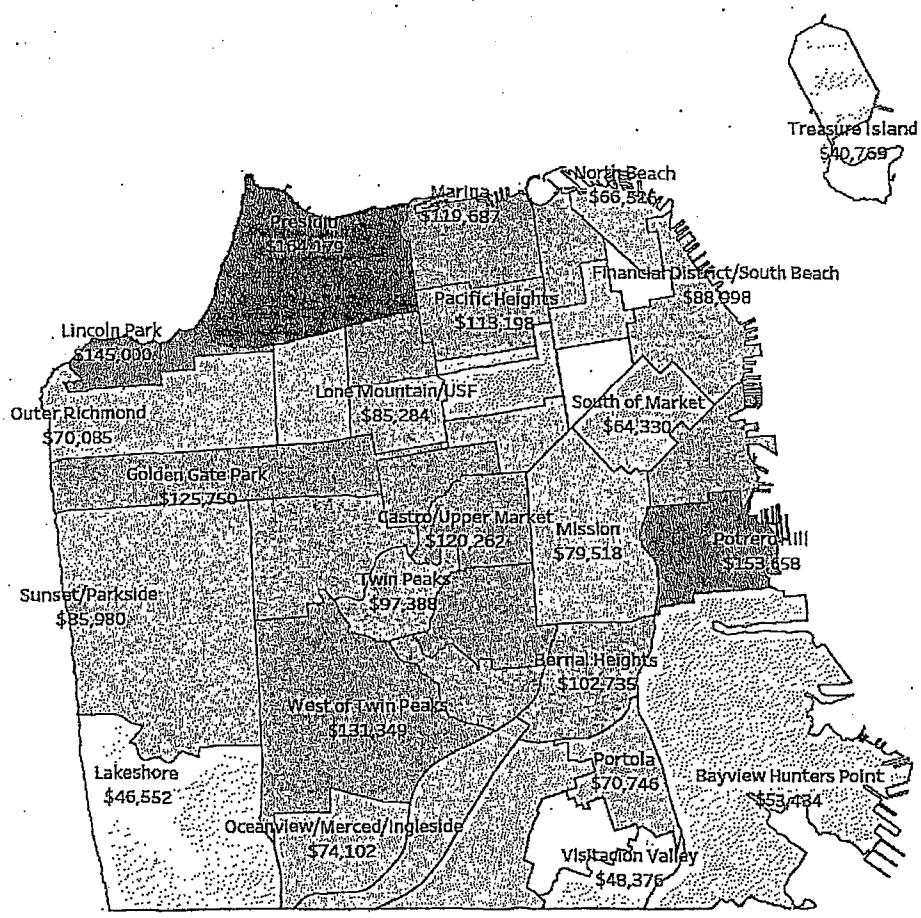
For further information about this report, contact Severin Campbell at the Budget and Legislative Analyst's Office.

Project Staff: Jennifer Millman, Latoya McDonald, and Severin Campbell

Disparities in Median Household Income Across City Neighborhoods

While rising housing costs in San Francisco have been accompanied by an estimated 31.8 percent increase in median household income from $69,894 in 2011 to $92,094 in 2015; there has been an unequal distribution of household income across City neighborhoods, and particularly among different ethnicities. Figure 1 below shows the disparity in median household income by neighborhood using the 39 neighborhoods identified by the Department of Public Health, the Mayor's Office of Housing and Community Development, and the San Francisco Planning Department.[1] In addition to these geocoded neighborhood locations, the Budget and Legislative Analyst used the American Community Survey 2015 five-year estimates to review median household income across neighborhoods in the County of San Francisco.

Figure 1. Median Household Income across San Francisco Neighborhoods



Source: American Community Survey 2015 five-year estimates.

[1] While this data represents reasonable estimates of San Francisco neighborhood boundaries, there are areas in need of improvement in the data. For example, Golden Gate Park and Lincoln Park were identified as high-income neighborhoods even though they are public parks. For this reason, the Budget and Legislative Analyst did not include the statistics for the Golden Gate Park and Lincoln Park in this analysis.

From 2011 to 2015, on average, the 10 neighborhoods with the lowest median household incomes earned 33.3 percent of the income earned by the 10 neighborhoods with the highest median household income in San Francisco, as shown in Figure 2 below. The neighborhoods with the highest median household income, on average, from 2011 to 2015 include the Presidio, Potrero Hill, Sea Cliff, West of Twin Peaks and Noe Valley. The poorest neighborhoods include the Tenderloin, Chinatown, McLaren Park, and Lakeshore.

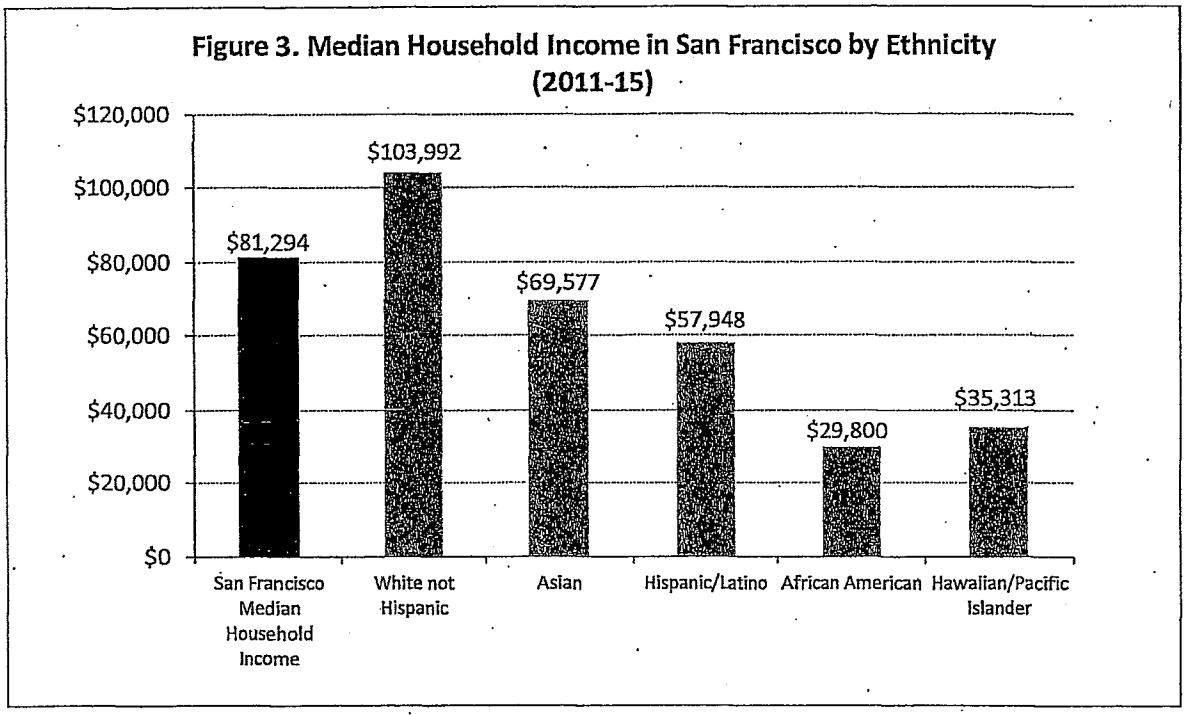
Figure 2. Neighborhoods with the Highest and Lowest Median Household Incomes

Highest Median Household Incomes			Lowest Median Household Incomes		
Neighborhood	Median Household Income	Population Count	Neighborhood	Median Household Income	Population Count
Presidio	$164,179	3,681	South of Market	$64,330	18,093
Potrero Hill	$153,658	13,621	Japantown	$63,423	3,633
Seacliff	$143,864	2,491	Western Addition	$59,709	21,366
West of Twin Peaks	$131,349	37,327	Bayview Hunters Point	$53,434	37,246
Noe Valley	$131,343	22,769	Visitacion Valley	$48,376	17,793
Presidio Heights	$123,312	10,577	Lakeshore	$46,552	13,469
Haight Ashbury	$120,677	17,758	Treasure Island	$40,769	3,187
Castro/Upper Market	$120,262	20,380	Tenderloin	$25,895	28,820
Marina	$119,687	24,915	Chinatown	$21,016	14,336
Pacific Heights	$113,198	24,737	McLaren Park	$16,638	880
Total		178,256			158,823

Source: American Community Survey 2015 five-year estimates.

Variation in Household Income across Ethnicities in San Francisco

The Budget and Legislative Analyst also observed a variation in median household income across the diverse ethnicities represented in San Francisco during 2011-15. As shown in Figure 3 below, the earnings of white households far outpace that of other ethnicities with African American and Hawaiian/Pacific Islander households in San Francisco earning the lowest median household incomes.



Source: American Community Survey 2015 five-year estimates.

Neighborhood-Level Household Income Conceals Rent Burden across Ethnicities

Rent burden is defined as instances where an individual or household spends more than 30 percent of their income on housing costs. Of the 39 City neighborhoods identified, only 12 spent more than 30 percent of their median household income on rental housing costs, as per data collected from the American Community Survey. These 12 neighborhoods represent the areas with the lowest median household income and account for 41.5 percent of all San Francisco residents on average during 2011 to 2015, as shown in Figures 4 and 5 below.[2]

The low number of City neighborhoods with rent burden is in part due to higher income ethnicities skewing the overall median household income of specific City neighborhoods. The Budget and Legislative Analyst found that there are significant disparities in median household income across ethnicities, even within the same neighborhood. For example, Potrero Hill has the second highest median household income in the City at $153,658. However, the high incomes of White and Asian households in Potrero Hill ($168,011 and $143,206, respectively) conceal the low incomes of African Americans ($58,368) and the Hispanic/Latino households ($61,049) in Potrero Hill. Because White and Asian households represent the majority of the Potrero Hill population, using neighborhood-level household income conceals other populations that are struggling with rent burden. Figure 5 below shows median household income by neighborhood and ethnicity with gross rent paid while Figure 6 below shows the population of the various ethnicities represented in each San Francisco neighborhood.

[2] The rent burden percentages shown in Figures 4 and 5 below were taken from the American Community Survey 2015 five-year estimates.

Type of Households across San Francisco Neighborhoods

Given time constraints and the data available, the Budget and Legislative Analyst was unable to stratify San Francisco neighborhoods by the type of households (family or non-family) represented. However, during 2011 to 2015, 45.8 percent or 161,887 of all 353,287 San Francisco households were family households.[3] Family households include married couples or non-married family members residing in the same household. The remaining 54.2 percent of households in San Francisco during this time were non-family households, which include single persons and groups of individuals who are not related.

[3] American Community Survey 2015 five-year estimates

Figure 4. Rent Burden across San Francisco Neighborhoods

	Percent Rent Burden (%)	Median Gross Rent	Median Household Income	Population	Percent of Total
Lakeshore	41.0	$1,800	$46,552	13,469	2%
Visitacion Valley	39.9	$1,071	$48,376	17,793	2%
Oceanview/Merced/Ingleside	38.1	$1,570	$74,102	28,261	3%
Portola	37.6	$1,625	$70,746	16,269	2%
Outer Mission	37.1	$1,549	$76,643	23,983	3%
Bayview Hunters Point	36.9	$1,217	$53,434	37,246	4%
Excelsior	36.5	$1,525	$68,550	39,640	5%
Tenderloin	35.7	$886	$25,895	28,820	3%
Chinatown	33.3	$605	$21,016	14,336	2%
Treasure Island	32.3	$1,732	$40,769	3,187	0%
Sunset/Parkside	32.2	$1,847	$85,980	80,525	10%
Outer Richmond	30.6	$1,588	$70,085	45,120	5%
Subtotal				348,649	41%
Japantown	29.5	$1,500	$63,423	3,633	0%
South of Market	29.3	$1,180	$64,330	18,093	2%
McLaren Park	28.6	$267	$16,638	880	0%
Nob Hill	28.4	$1,425	$64,845	26,382	3%
Glen Park	28.3	$1,665	$113,039	8,119	1%
Twin Peaks	28.1	$900	$97,388	7,310	1%
Western Addition	27.4	$1,295	$59,709	21,366	3%
Inner Richmond	27.1	$1,602	$78,836	22,425	3%
Bernal Heights	27.0	$1,733	$102,735	25,487	3%
Financial District/South Beach	26.8	$1,872	$88,998	16,735	2%
North Beach	26.7	$1,575	$66,526	12,550	1%
Lone Mountain/USF	26.4	$1,654	$85,284	17,434	2%
Mission	25.7	$1,472	$79,518	57,873	7%
Mission Bay	25.5	$2,774	$107,798	9,979	1%
Seacliff	25.1	$2,196	$143,864	2,491	0%
Inner Sunset	25.1	$1,829	$102,993	28,962	3%
West of Twin Peaks	25.0	$2,302	$131,349	37,327	4%
Presidio Heights	24.9	$1,950	$123,312	10,577	1%
Hayes Valley	24.8	$1,552	$82,915	18,043	2%
Presidio	23.7	$2,963	$164,179	3,681	0%
Pacific Heights	23.6	$1,987	$113,198	24,737	3%
Castro/Upper Market	23.3	$1,840	$120,262	20,380	2%
Haight Ashbury	23.2	$1,922	$120,677	17,758	2%
Russian Hill	22.6	$1,864	$106,953	18,179	2%
Noe Valley	22.3	$2,091	$131,343	22,769	3%
Marina	21.3	$1,928	$119,687	24,915	3%
Potrero Hill	19.0	$2,289	$153,658	13,621	2%
Subtotal				491,706	59%
Total				**840,355**	**100%**

Source: American Community Survey 2015 five-year estimates.

Median Rent as a Percentage of Gross Income

ater than 30% considered "Rent Burden"

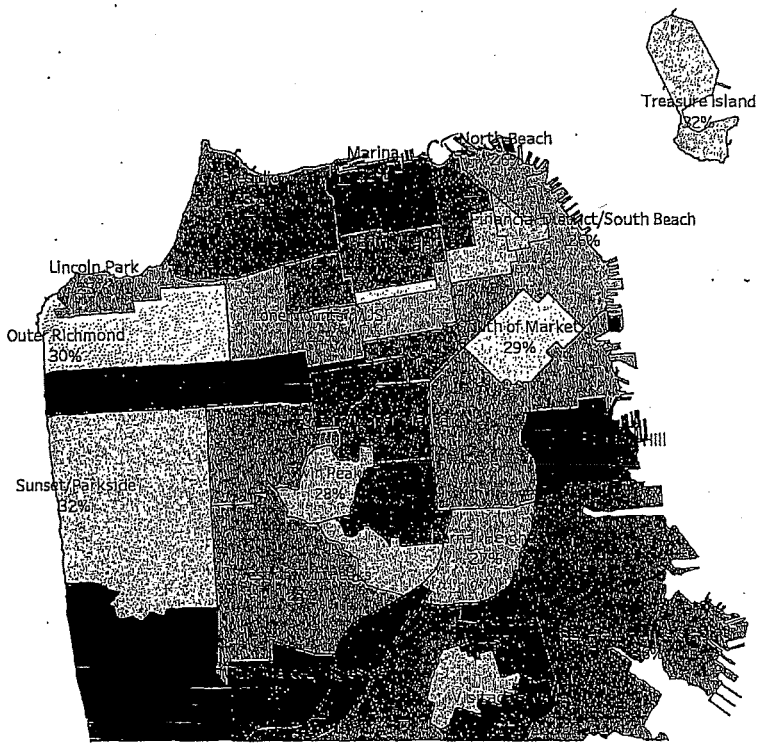


Figure 6. Median Household Income by City Neighborhood and Ethnicity

	Population	Median Gross Rent	Median Gross Rent as % of Income	Median Household Income	White not Hispanic	Hispanic/ Latino	African American	Asian
Lakeshore	13,469	1,800	[illegible]	$46,552	$45,581	$41,979	$45,139	$28,369
Visitacion Valley	17,793	1,071	38.9	$48,376	$47,567	$24,844	$15,872	$55,987
Oceanview/Merced/Ingleside	28,261	1,570	38.1	$74,102	$92,496	$71,108	$52,353	$80,154
Portola	16,269	1,625	37.6	$70,746	$55,848	$57,759	$11,406	$73,089
Outer Mission	23,983	1,549	37.1	$76,643	$78,777	$60,928	$0	$82,414
Bayview Hunters Point	37,246	1,217	36.9	$53,434	$103,428	$40,709	$34,547	$58,239
Excelsior	39,640	1,525	36.5	$68,550	$68,873	$67,218	$33,969	$69,165
Tenderloin	28,820	886	35.7	$25,895	$27,641	$19,933	$9,441	$27,183
Chinatown	14,336	605	33.3	$21,016	$71,252	$0	$0	$18,962
Treasure Island	3,187	1,732	32.3	$40,769	$67,500	$26,591	$29,464	$0
Sunset/Parkside	80,525	1,847	32.2	$85,980	$90,474	$34,178	$0	$86,139
Outer Richmond	45,120	1,588	30.6	$70,085	$75,280	$45,971	$19,460	$71,278
Japantown	3,633	1,500	29.5	$63,423	$84,643	$93,750	$0	$24,500
South of Market	18,093	1,180	29.3	$64,330	$111,036	$21,807	$15,111	$71,413
Grand Total	840,763	1,624	29.1	$84,578	$97,648	$52,792	$16,816	$79,462
McLaren Park	880	267	28.6	$16,638	$0	$40,250	$0	$15,469
Nob Hill	26,382	1,425	28.4	$64,845	$82,605	$25,124	$18,528	$49,001
Glen Park	8,119	1,665	28.3	$113,039	$141,017	$54,063	$0	$46,193
Twin Peaks	7,310	900	28.1	$97,388	$101,066	$83,523	$40,235	$87,326
Western Addition	21,366	1,295	27.4	$59,709	$75,271	$28,987	$12,156	$56,009
Inner Richmond	22,425	1,602	27.1	$78,836	$105,050	$48,968	$0	$50,350
Bernal Heights	25,487	1,733	27.0	$102,735	$135,993	$37,182	$21,334	$112,022
Financial District/South Beach	16,735	1,872	26.8	$88,998	$87,627	$0	$0	$95,140
North Beach	12,550	1,575	26.7	$66,526	$91,456	$26,201	$3,507	$59,720
Lone Mountain/USF	17,434	1,654	26.4	$85,284	$90,247	$81,131	$42,116	$67,232
Lincoln Park	330	2,250	25.8	$145,000	$134,688	$0	$0	$181,500
Mission	57,873	1,472	25.7	$79,518	$107,952	$54,288	$10,503	$59,396
Mission Bay	9,979	2,774	25.5	$107,798	$124,740	$65,985	$0	$106,674
Seacliff	2,491	2,196	25.1	$143,864	$145,938	$0	$0	$121,607

Budget and

	Population	Median Gross Rent	Median Gross Rent as % of Income	Median Household Income	White not Hispanic	Hispanic/ Latino	African American	Asian	H
Inner Sunset	28,962	1,829	25.1	$102,993	$106,813	$80,168	$25,625	$103,398	
West of Twin Peaks	37,327	2,302	25.0	$131,349	$140,962	$101,192	$21,759	$129,001	
Presidio Heights	10,577	1,950	24.9	$123,312	$122,398	$0	$84,120	$110,692	
Hayes Valley	18,043	1,552	24.8	$82,915	$92,903	$52,904	$13,100	$119,075	
Presidio	3,681	2,963	23.7	$164,179	$164,821	$0	$0	$237,292	
Pacific Heights	24,737	1,987	23.6	$113,198	$119,804	$76,977	$8,558	$102,154	
Castro/Upper Market	20,380	1,840	23.3	$120,262	$124,346	$142,309	$18,501	$81,608	
Haight Ashbury	17,758	1,922	23.2	$120,677	$122,991	$48,673	$0	$150,108	
Russian Hill	18,179	1,864	22.6	$106,953	$129,661	$54,239	$0	$64,153	
Noe Valley	22,769	2,091	22.3	$131,343	$129,740	$87,549	$11,875	$163,324	
Marina	24,915	1,928	21.3	$119,687	$121,132	$105,228	$0	$81,398	
Potrero Hill	13,621	2,289	19.0	$153,658	$168,011	$61,049	$58,368	$143,206	
Golden Gate Park	78	1,772	13.2	$125,750	$126,167	$0	$0	$0	
Total	**840,355**								

Source: American Community Survey 2015 five-year estimates.

Figure 7. Representation of Ethnicities across San Francisco Neighborhoods

	Total Population	White not Hispanic	African American	Native American	Asian	Pacific Islander	Other Race	Two or More Races	Hispanic or Latino (any race)
Sunset/Parkside	80,525	27,422	669	88	46,956	106	1,596	3,688	5,122
Mission	57,873	34,130	1,773	430	7,587	139	10,715	3,099	22,707
Outer Richmond	45,120	19,988	808	74	20,330	369	1,029	2,522	3,337
Excelsior	39,640	11,222	943	284	19,589	97	6,058	1,447	12,460
West of Twin Peaks	37,327	20,293	1,222	28	12,574	81	1,180	1,949	3,977
Bayview Hunters Point	37,246	6,280	10,302	164	13,267	955	3,988	2,290	8,255
Inner Sunset	28,962	16,954	563	69	8,906	0	984	1,486	2,427
Tenderloin	28,820	12,084	2,827	222	9,027	48	3,423	1,189	6,679
Oceanview/ Merced/ Ingleside	28,261	5,993	3,823	191	14,787	97	2,161	1,209	4,552
Nob Hill	26,382	14,523	771	62	8,981	70	746	1,229	2,720
Bernal Heights	25,487	15,145	1,243	98	4,071	20	3,353	1,557	7,490
Marina	24,915	20,582	253	20	2,715	15	273	1,057	1,868
Pacific Heights	24,737	18,948	801	2	3,956	63	316	651	1,524
Outer Mission	23,983	5,994	309	99	12,555	40	4,117	869	7,375
Noe Valley	22,769	17,327	650	93	3,092	64	630	913	2,463
Inner Richmond	22,425	12,290	453	18	8,183	63	349	1,069	1,746
Western Addition	21,366	9,324	4,346	222	5,735	29	722	988	2,081
Castro/Upper Market	20,380	16,161	595	102	2,192	48	523	759	1,953
Russian Hill	18,179	11,534	170	0	5,577	13	461	424	957
South of Market	18,093	6,791	2,222	66	7,142	79	930	863	1,900
Hayes Valley	18,043	11,770	2,425	80	2,176	95	706	791	2,679
Visitacion Valley	17,793	1,930	2,324	65	10,114	603	1,988	769	3,322
Haight Ashbury	17,758	14,333	551	53	1,474	27	233	1,087	1,502
Lone Mountain/USF	17,434	10,585	1,196	11	3,937	124	636	945	2,221
Financial District/ South Beach	16,735	9,327	310	31	5,794	21	461	791	2,091
Portola	16,269	3,540	737	63	9,229	7	2,329	364	3,893
Chinatown	14,336	2,155	108	73	11,603	9	235	153	519
Potrero Hill	13,621	9,047	762	21	2,253	70	768	700	2,117
Lakeshore	13,469	6,645	912	35	3,836	24	1,120	897	2,115
North Beach	12,550	6,501	117	0	4,826	0	253	853	1,105
Presidio Heights	10,577	7,318	266	1	2,250	73	127	542	683
Mission Bay	9,979	4,230	509	0	4,382	0	619	239	1,083
Glen Park	8,119	5,625	520	20	1,123	0	435	396	1,010
Twin Peaks	7,310	5,032	314	16	1,142	17	380	409	1,020
Presidio	3,681	3,222	0	0	310	0	13	136	214
Japantown	3,633	2,117	205	0	1,166	0	54	91	281
Treasure Island	3,187	1,191	593	53	545	62	411	332	909
Seacliff	2,491	1,757	13	0	580	0	15	126	165
McLaren Park	880	91	186	0	391	121	46	45	87
Total	**840,355**	**409,401**	**46,791**	**2,854**	**284,353**	**3,649**	**54,383**	**38,924**	**128,609**
Percent of Total Population	**100%**	**49%**	**6%**	**0.3%**	**34%**	**0.4%**	**6%**	**5%**	**15%**

Source: American Community Survey 2015 five-year estimates.

Inclusionary Affordable Housing Program

Planning Commission Recommendations: Material and Technical Modifications

SAN FRANCISCO
PLANNING DEPARTMENT

Board of Supervisors
Land Use and Transportation Committee

June 19, 2017

160581 SUBMITTED IN COMM

AMENDMENT PROCESS

June 2016	Proposition C • Temporary requirements • Feasibility Study and TAC
July 2016 – Feb 2017	Controller's Economic Feasibility Study + Technical Advisory Committee (TAC) • Maximum economically feasible requirements • Additional recommendations
Feb – April 2017	Planning Commission hearings • Commission Recommendations - April 27
May 2017	Board of Supervisors Committee hearings • "Consensus" Ordinance - May 22
June 15, 2017	Planning Commission - Additional Recommendations

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MATERIAL MODIFICATIONS

1. Dwelling Unit Mix: applied to Smaller Projects (10-24 units)
2. Minimum Unit Sizes: differ from state TCAC standards
3. BMR Studio Units: prohibited over 100% AMI
4. Replacement Units: increasing inclusionary requirement
5. Specific Areas: separate requirements for certain areas
6. Fee Requirement: disincentive to use State Bonus Law

COMMISSION RECOMMENDATIONS: MATERIAL MODIFICATIONS

1. Dwelling Unit Mix

   - **Issue**: The requirement is now proposed to apply to smaller projects as well. For these projects, the requirement would be more difficult to meet.
   - **Recommendation**: Clarify that the requirement is for 25% large units, including 10% as 3-bedrooms or larger.

2. Minimum Unit Sizes

   - **Issue:** Would establish new minimum sizes with no analysis or consideration by Commission
   - **Recommendation:** Set minimum unit sizes for Inclusionary units equal to TCAC standards.

COMMISSION RECOMMENDATIONS: MATERIAL MODIFICATIONS

3. BMR Studio Units

- **Issue:** Prohibiting Studio units above 100% AMI would reduce "family-size" units for low-income households.
- **Recommendation:** Do not prohibit Studio units above 100% of AMI; distribute units evenly across income levels.

4. Specific Area Requirements

- **Issue:** Specific area requirements without analysis would weaken effectiveness of Inclusionary Program.
- **Recommendation:** Apply citywide feasible requirement in all areas, unless specific requirements supported by appropriate study.

COMMISSION RECOMMENDATIONS: MATERIAL MODIFICATIONS

5. Fee and State Bonus Units

- **Issue:** Fee requirement (30/33%) above feasible; disincentiv to provide State Bonus units, which are subject to the Fee.
- **Recommendation A:** Set feasible Fee requirement (23/28%).
- **Recommendation B:** Include Fee requirement in required 2017 TAC study of Fee methodology.

COMMISSION RECOMMENDATIONS: TECHNICAL and IMPLEMENTATION

6. Grandfathering Provisions

- **Issue:** Pipeline projects would be subject to new provisions.
- **Recommendation:** Clarify that new provisions only apply to pipeline projects after 1/12/2016; maintain the incremental requirements for 2013–2016 projects, per Prop C.

205

7. Determination of Requirement; Sunsetting of Entitlement

- **Issue:** Requirement would be determined later in the entitlement process than standard Department procedures.
- **Recommendation:** Determine requirement at time of EEA; reset the requirement if no First Construction Document within 30 months from Entitlement.

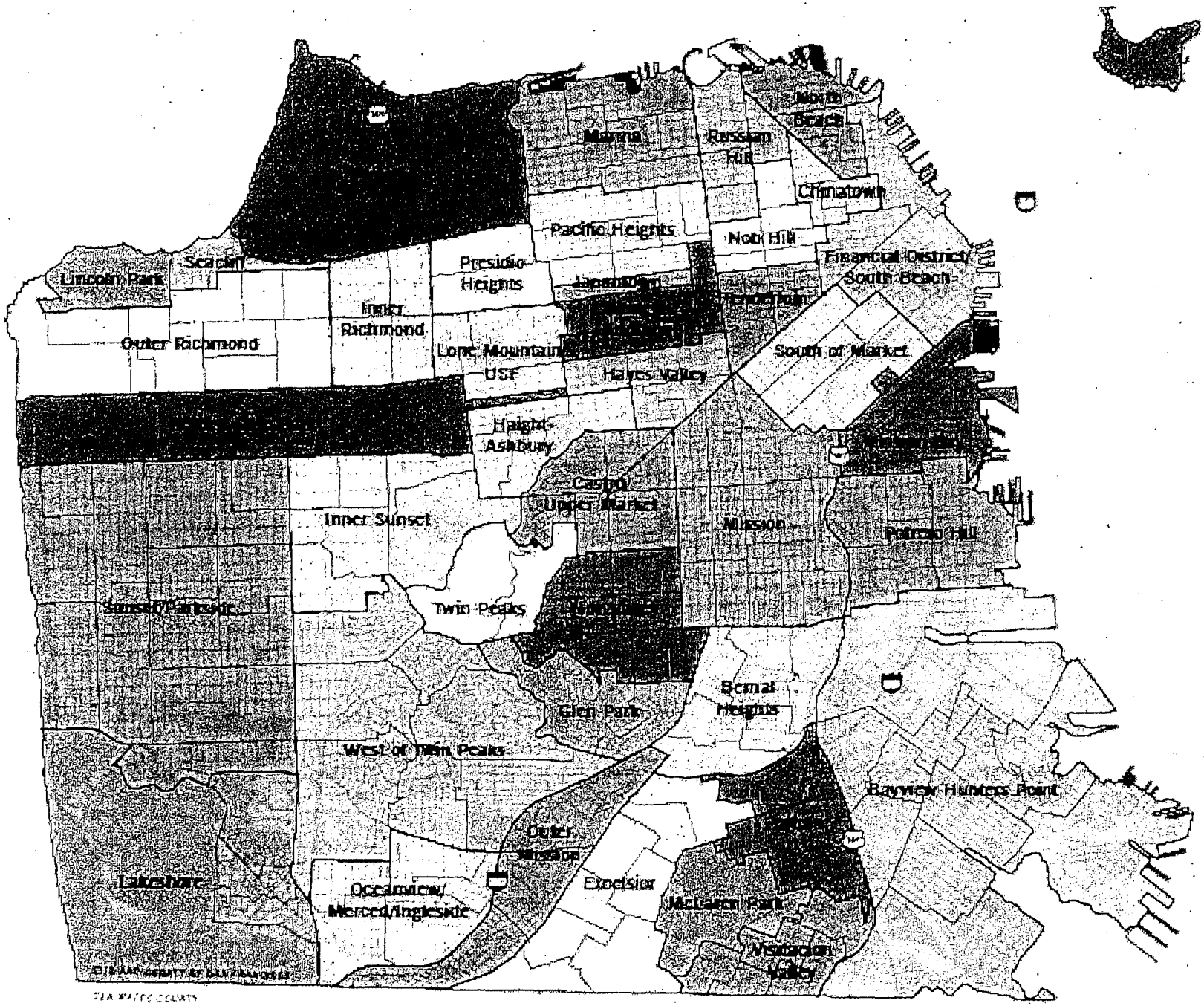
COMMISSION RECOMMENDATIONS: TECHNICAL and IMPLEMENTATION

8. Rounding of Required BMR Units

- **Issue:** Rounding required BMR units by AMI tier would resu in a higher inclusionary requirement for smaller projects.
- **Recommendation:** Clarify that the total percentage of inclusionary units provided not exceed the applicable requirements.

9. Neighborhood Profile Map

- **Issue:** Ordinance references the incorrect Planning Department map for the purpose of market analysis.
- **Recommendation:** Reference the Planning Department's ACS Neighborhood Profile Boundaries Map for the required market analysis.


Marina
Russian Hill
North Beach
Chinatown
Pacific Heights
Nob Hill
Financial District/ South Beach
Presidio Heights
Japantown
Lincoln Park
Seacliff
Inner Richmond
Outer Richmond
Lone Mountain/ USF
Hayes Valley
South of Market
Haight-Ashbury
Castro/ Upper Market
Inner Sunset
Mission
Potrero Hill
Twin Peaks
Sunset/Parkside
Glen Park
Bernal Heights
West of Twin Peaks
Bayview Hunters Point
Outer Mission
Excelsior
Lakeshore
Oceanview/ Merced/Ingleside
McLaren Park
Visitacion Valley

COMMISSION RECOMMENDATIONS: TECHNICAL and IMPLEMENTATION

10. Transbay District Provisions

- **Issue:** Transbay Redevelopment Area must meet inclusionary targets set in Transbay Redevelopment Plan and State law.
- **Recommendation:** Amend Section 249.28 of the Planning Code to clarify that in the Transbay Area:
  - Higher of 15% or Section 415 requirement applies
  - All inclusionary units must be provided On-Site
  - All inclusionary units must serve Condo units below 100% of AMI, or Rental units below 60% of AMI.

THANK YOU

Jacob Bintliff
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415-575-9170

AnMarie Rodgers
AnMarie.Rodgers@sfgov.org
415-558-6395

Carly Grob
Carly.Grob@sfgov.org
415-575-9138

San Francisco Planning

161351

From: Somera, Alisa (BOS)
Sent: Monday, June 19, 2017 11:17 AM
To: Major, Erica (BOS)
Subject: FW: Land Use Committee June 19 Include 650 Divisadero In Affordability Housing Study

Alisa Somera
Legislative Deputy Director
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
415.554.7711 direct | 415.554.5163 fax
alisa.somera@sfgov.org

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From: Joe Chmielewdki [mailto:jcin506@yahoo.com]
Sent: Monday, June 19, 2017 10:26 AM
To: Somera, Alisa (BOS) <alisa.somera@sfgov.org>
Subject: Land Use Committee June 19 Include 650 Divisadero In Affordability Housing Study

June 19, 2017
To:: Alisa Somera
alisa.somera@sfgov.org

From: Joseph Chmielewski
50 Golden Gate Ave. #506
SF, 94102
<jcin506@yahoo.com>
1(415)756-2913

Subject: Include 650 Divisadero In Affordability Housing Study
~~~~~~

Dear Ms Somera

ase include for your Land Use committee records a copy of this email asking not to allow Sup. Breed to exempt Divisadero and Fillmore Streets, and specifically 650 Divsadero St., from an affordable housing study for her district constituents. It's part of the inclusionary housing bill being heard at Land Use committee on June 19th at 1:30 in Room 250 at City Hall. We need more affordable housing on Divisadero.

Thank you.

Sincerely,

Joseph Chmielewski

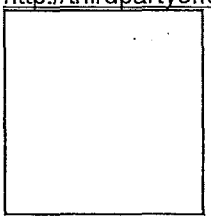
161351

From: Board of Supervisors, (BOS)
Sent: Monday, June 19, 2017 8:58 AM
To: BOS-Supervisors; Major, Erica (BOS); Somera, Alisa (BOS)
Subject: FW: Land Use Committee Agenda 6/19 File No. 161351

From: lgpetty@juno.com [mailto:lgpetty@juno.com]
Sent: Sunday, June 18, 2017 6:52 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Land Use Committee Agenda 6/19

Dear Supervisors
Land Use Committee 6/19 Consideration of Inclusionary Housing legislation amendments.
Re: Inclusionary Housing Amendment Regarding NCT's and other Upzoned Special Use Areas:
As a lifelong Senior voter from District 5
I urge you to include the Divisadero-Fillmore Corridors NCT area
in the proposed study under the Inclusionary Housing Program by SF Planning staff & the Controller's Office
for possible increased affordable units that can be required due to allowing increased density in those areas..
The Divisadero-Fillmore NCT must be included in the study and not treated separately or differently
from other areas designated as special upzoning districts.
I believe the Divisadero-Fillmore NCT must be accorded higher affordability requirements.

Thank you.
Lorraine Petty



Somera, Alisa (BOS)

From:	Board of Supervisors, (BOS)
Sent:	Monday, June 12, 2017 9:53 AM
To:	BOS-Supervisors; Somera, Alisa (BOS)
Subject:	FW: support strong OMI tenant protections
Attachments:	supes omi, taylor-biblowitz.docx

From: Frances Taylor [mailto:duck.taylor@yahoo.com]
Sent: Saturday, June 10, 2017 5:16 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; London.Breed@sfgove.org; Cohen, Malia (BOS) <malia.cohen@sfgov.org>; Mark.Farrell@sfgove.org; Fewer, Sandra (BOS) <sandra.fewer@SFGOV1.onmicrosoft.com>; Kim, Jane (BOS) <jane.kim@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Ronen, Hillary <hillary.ronen@sfgov.org>; Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>; Sheehy, Jeff (BOS) <jeff.sheehy@sfgov.org>; Tang, Katy (BOS) <katy.tang@sfgov.org>; Yee, Norman (BOS) <norman.yee@sfgov.org>
Cc: Iris Biblowitz <irisbiblowitz@hotmail.com>
Subject: support strong OMI tenant protections

Dear Board of Supervisors:

Regarding the proposed agenda item 6 before the Land Use and Transportation Committee on Monday, June 12, we are writing to encourage you to listen to tenants who have been affected by owner move-in (OMI) evictions and to incorporate proposals submitted earlier in Supervisor Peskin's OMI Reform Legislation.

When the issue came up earlier this year, we submitted the letter pasted and attached below (whichever is easier for you), and we hope our personal stories help illustrate the difficulty of the problem and the necessity of consulting with actual tenants whose lives are turned upside-down, often for fraudulent reasons.

While we support any effort to remedy the problem, moving ahead too quickly without taking into consideration earlier thoughtful proposals, such as Supervisor Peskin's legislation, will do less to help tenants than will a more measured and complete process.

Thank you,
Frances Taylor
Iris Biblowitz

April 28, 2017

To: San Francisco Board of Supervisors
From: Iris Biblowitz and Frances Taylor
Re: Owner move-in evictions

We are two senior renters, a 70-year-old retired registered nurse (Biblowitz) and a 67-year-old retired medical editor (Taylor), who have been forced out of our home twice by owner move-in evictions. The circumstances differed in these two cases, but the devastation was similar.

In 1984, we had lived at 77 Mirabel Avenue in Bernal Heights for five years when our two landladies living upstairs in the two-flat building decided they needed to live apart, one in each unit, so we had to leave with a

month's notice. This was a legitimate OMI, as the party involved did move into our flat, but it still completely upended our lives. Even though we were much younger then and it was still possible to find reasonable rent in San Francisco in the 1980s, being evicted was a considerable hardship.

In 1995, after living at 2866 22nd Street in the Mission for 11 years, we received another eviction notice from one landlord who was in the process of breaking up with the other landlord and dividing up their various properties. Again, we were given one month's notice. We suspected that this OMI was bogus, as this landlord had expressed dislike for the neighborhood when he had lived upstairs from us earlier, and we had witnessed nasty exchanges between him and local youth with homophobic taunts on one side and racist insults on the other. Most unpleasant. We consulted a tenant lawyer, who put her face in her hands when she saw our landlord's name. She was already representing another tenant who had been attacked physically by this same landlord, suffering injuries. We later learned that this tenant won a substantial settlement.

Meanwhile, as we haggled over our eviction notice, the landlord tried to rescind it verbally, not in writing, saying something like "that thing I sent you is off, but I may have to do it again, maybe every month." We decided that we did not want to live with this uncertainty over our heads every month. At the same time, we learned of a vacant flat close by at similar rent and decided to move. The landlord eventually evicted all tenants in the building and sold the property. He never moved back in, so the original OMI notice was indeed fraudulent.

We were lucky to have been evicted just before the dot-com boom, but again the process was horrible. Being 11 years older didn't help, and we were disgusted to have this happen a second time. We have now lived in that new flat for 22 years and hope to be able to stay here for as long as we can handle the 30 steps. Given the current environment of frequent evictions and almost no affordable housing, we live with constant fear, just like all tenants in San Francisco.

Our personal experience tells us that any OMI eviction harms the evicted, and the bogus type adds a bitter twist to life in an unforgiving city. Lack of enforcement adds salt to the wounds.

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From: Iris Biblowitz and Frances Taylor
Re: Owner move-in evictions

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Somera, Alisa (BOS)

From:	Patrick Monette-Shaw <pmonette-shaw@earthlink.net>
Sent:	Monday, June 05, 2017 12:41 PM
To:	Farrell, Mark (BOS); Peskin, Aaron (BOS); Tang, Katy (BOS)
Cc:	Kim, Jane (BOS); Safai, Ahsha (BOS); Breed, London (BOS); Somera, Alisa (BOS); Hepner, Lee (BOS)
Subject:	Testimony Regarding the Inclusionary Affordable Housing Fee ""Deal" ... and ADVERSE EFFECT ON HOUSING BALANCE Reports
Attachments:	Printer-Friendly Testimony to Land Use and Transportation Committee Inclusionary Housing 17-06-05.pdf; SF_Sanctuary_City_for_Housing_Developers.pdf

Patrick Monette-Shaw

975 Sutter Street, Apt. 6
San Francisco, CA 94109
Phone: (415) 292-6969 • e-mail: pmonette-shaw@eartlink.net

June 5, 2017

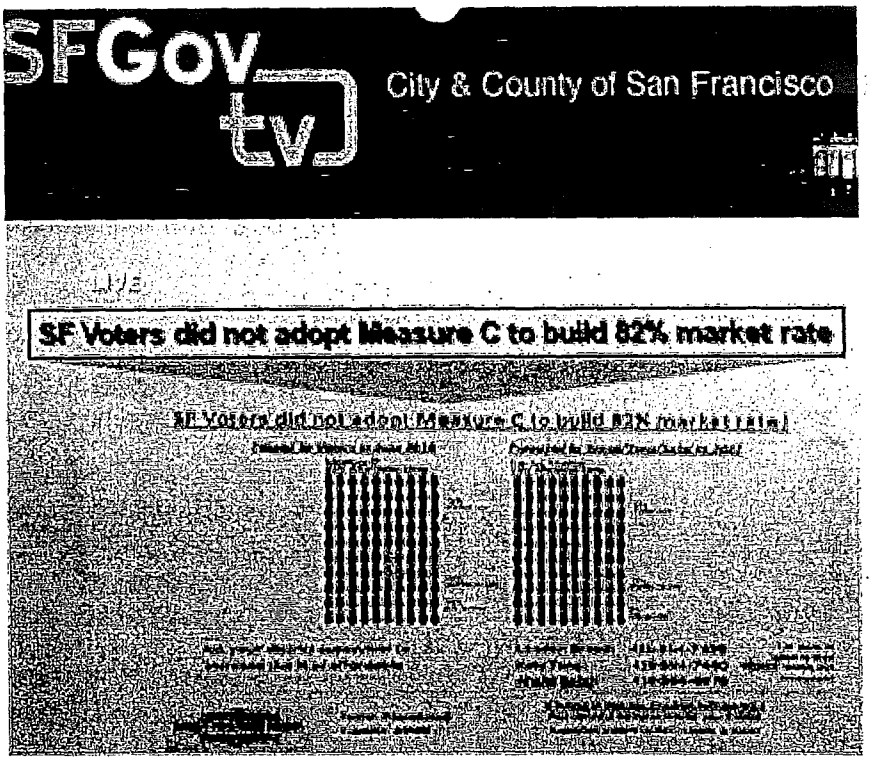
Land Use and Transportation Committee, Board of Supervisors
The Honorable Mark Farrell, Chair
The Honorable Aaron Peskin, Member
The Honorable Katy Tang, Member
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: **Testimony Regarding the Inclusionary Affordable Housing Fee**

Dear Chair Farrell and Members of the Land Use and Transportation Committee,

This testimony concerns item 8 on today's Land Use and Transportation Committee's (LUT-C) agenda, the Ordinance to amend the Planning Code, titled Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements.

I am concerned that the various ownership and rental percentages set in the promise "deal" reached between Supervisors Peskin, Kim, Safai, Breed, and Tang are insufficient and continues to award too much of a Sanctuary for Housing Developers, as I discussed in my June 2017 *Westside Observer* article, "*Sanctuary City for Housing Developers*," attached for your convenience.



Astute Public Testimony: During the Board of Supervisors Government Audit and Oversight Committee meeting on May 15, 2017, a perceptive member of the public displayed this graphic on the overhead projector. [Red text added for clarity.]

Most alarming, the compromise "deal" almost ***guarantees that the City's Housing Balance will continue to be adversely affected*** by details in today's proposed legislation.

On-Site Units — 10–24 Units

The compromise deal you are considering today sets the initial requirement for on-site inclusionary units in projects of 10–24 units at a miserly 12%, and provides for a half-percent (0.5%) increase starting January 1, 2018 until it reaches the maximum ceiling of 15%. It will take six years — until 2023 — to reach that 15% maximum, during which time the Cumulative Housing Balance is more than likely to remain at its current 13.6% (as of Housing Balance Report #5).

On-Site Units — 25 or More Units

As one member of the public noted in his slide on the overhead projector during the LUT-C May 15 hearing, San Franciscans had not passed Prop. "C" in June 2016 to hand developers license to build 82% market-rate units, by restricting affordable rental units to just 18%.

Unfortunately the compromise deal before you today retains that 18% threshold, albeit there is a provision to raise the rental percentage to 20% by January 1, 2019 **apparently apportioned only to low-income rental units which may be capped at 20%,** and to begin raising the rental unit percentages allocated equally only to moderate- and middle-income units starting January 1, 2020 in half-percent (0.5%) increments. Will the low-income units be capped at 20% and not receive the 0.5% increases apparently allocated only to moderate- and middle-income units? Is that a drafting error?

If I am reading page 24 correctly in the legislative Ordinance (Legislation and Legislative Digest Version 4) before you today, the 1% increases in January 2018 and January 2019 will be applied ***only*** to low-income rental or sales (condo) units, and it will take until January 2020 before the 0.5% increases for moderate- and middle-income units to become added, essentially capping the moderate- and middle-income units at 18% for two years until 2020.

If my reading is incorrect and the low-income units ***will*** receive the 0.5% increases starting in 2020, it will take ten years to reach the 24% maximum inclusionary housing rental ceiling for low-income units, which won't be reached until the year 2027. And if there ***is*** a two-year period before the 0.5% increases for moderate- and middle-income units kick in, in 2020, ***it will take 14 years*** (in 2031) to reach the 24% maximum for the moderate- and middle-income rental units.

And if my reading is correct that there will be the same 10-year and 14-year delays for ownership (sales) units — for low-income vs. moderate- and middle-income units — it will also take until 2027 or 2031 to reach the maximum 26% threshold for ownership units.

Once the 24% maximum rental threshold is reached and the 26% maximum for ownership units is reached, developers will still be racking in a "shit-ton" of profits (as Supervisor Peskin has noted) from the remaining 74% to 76% of market-

rate rental and sales units, and they will essentially have license to do so pretty damn close to the 82% market-rate units that they will have if you adopt this legislation as currently written taking 10- to 14-years to get to the 24% and 26% maximum thresholds. You'll just be handing them license to continue to make a "shit-ton" of profits.

And you'll essentially end up causing the Cumulative Housing Balance to remain at just 13.6%.

I would be remiss if I didn't note that you have commendably added a provision that if the principal project will result in **demolition, conversion, or removal of affordable housing units** subject to restricted rents or rental control, the project sponsor has to pay the Inclusionary Affordable Housing Fee equivalent for the number of affordable units ***removed*, in addition to** compliance with the inclusionary requirements for the new units.

Although this new provision may help tide the loss of "*Units Removed from Protected Status*" in the Housing Balance Reports, it will not be enough, because not all of the units removed (lost) are a result of developers converting or demolishing those units, for instance owner-move in evictions that don't involve demolition of existing buildings.

Finally, I should note that the provision for on-site projects of 25 units or more sets the owned unit sales prices far too high at 130% of AMI for middle-income units, allowing households of 120% to 150% of AMI to be eligible to apply. That 150% percentage is obviously market-rate housing — not affordable housing — as then Supervisor Mark Leno had envisioned when he first authored the Inclusionary Housing Ordinance.

I think today's legislation needs further refinement, and should be continued to a future meeting to re-negotiate many of the terms in this Ordinance, with an eye on improving the Housing Balance Report data.

Respectfully submitted,

Patrick Monette-Shaw
Columnist
Westside Observer Newspaper

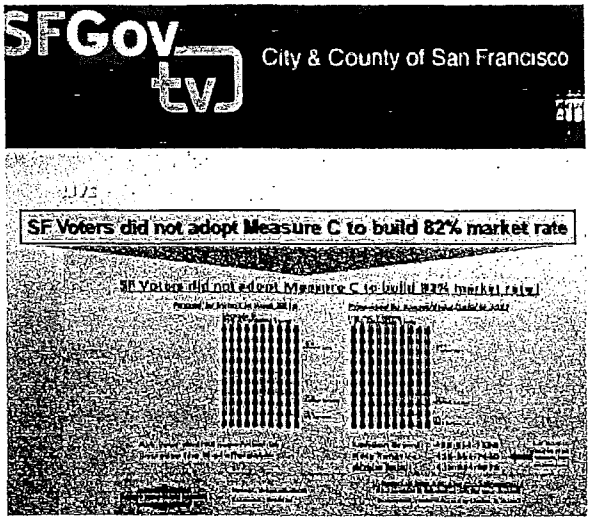
cc: The Honorable Jane Kim, Supervisor, District 6
The Honorable Ahsha Safai, Supervisor, District 11
The Honorable London Breed, Supervisor, District 5

June 2017

Pitting Neighbor Against Neighbor for Affordable Housing

SF: Sanctuary City for Housing Developers

by Patrick Monette-Shaw



Astute Public Testimony: During the Board of Supervisors Government Audit and Oversight Committee meeting on May 15, 2017, a perceptive member of the public displayed this graphic on the overhead projector. [Red text added for clarity.]

As the debate intensified over what percentage of inclusionary affordable housing must be developed, one proposal authored by Supervisors Ahsha Safai, London Breed, and Katy Tang — with Mayor Lee's backing — proposed reducing on-site affordable rental units in construction projects building 25 or more dwellings to just 18%.

That prompted an astute member of the public to note that voters had ***not*** passed Proposition "C" in June 2016 to allow developers to build the remaining 82% of units in a rental housing project of 25 dwellings or more as market-rate rental units, leading to the slide he presented to Supervisors on May 15 during the Land Use Committee's first hearing on the competing proposals, shown on the right, above.

Indeed, voters passed Prop. "C" in 2016 — which required a 50% + 1 affirmative vote for passage — by a whopping 67.9%. Voters spoke resoundingly that they wanted to double the then 12% on-site affordable housing units to 25%, with 15% affordable to low-income households and another 10% affordable to middle-income households. That would have still allowed housing developers to devote 75% to market-rate units!

> **"That prompted an astute member of the public to note that voters had not passed Proposition 'C' in June 2016 to allow developers to build the remaining 82% of units as market-rate rental units."**

The dueling proposals have been all about quibbling over whether developers will be able to devote 75% vs. 82% of new construction to market-rate housing to increase their bottom-line profits. Obviously, developers want the higher percentage — and Safai, Breed, and Tang are only too happy to oblige.

But in exchange for requiring private developers of new market-rate housing projects of 25 or more units to double affordable housing provisions to 25%, Prop. "C" was also contingent on granting authorization to the Board of Supervisors to set affordable housing requirements in a "trailing ordinance" by removing inclusionary housing requirements out of the City charter, instead of having to seek further voter approval at the ballot box.

> **"Voters spoke resoundingly they wanted to double the then 12% on-site affordable housing units to 25%, with 15% as affordable to low-income households, and 10% to middle-income households."**

Skullduggery at the Board of Supervisors soon commenced, in part because the Controller's Statement on Prop. "C" in the voter guide fretted about the potential loss in property tax revenues should developers face restrictions on how much market-rate housing they could develop. Apparently, City Controller Ben Rosenfield was more concerned about the reduction in property tax revenues that would result from lower taxes on assessed values of lower-priced units, and less concerned about developing inclusionary affordable housing units for actual people.

Rosenfield was concerned about money, not people being displaced out of town from skyrocketing housing costs. And apparently, Mayor Ed Lee also appears to be as concerned about lost tax revenue, rather than being concerned about San Franciscans seeking housing.

> **"City Controller Ben Rosenfield was more concerned about reduction in property tax revenues that would result from lower taxes on values of lower-priced units, and less concerned about developing affordable housing units for actual people."**

It's very clear that both Lee and Rosenfield want to create a *Sanctuary City for Housing Developers* to help them maximize their housing project profits, in part to help the City's property tax base.

Showdown at the OK Corral: Two Competing Housing Proposals (May 15, 2017)

Proposition "C" in 2016 was tied to a requirement that the City Controller perform an analysis of the threshold of inclusionary housing percentages that might affect production of market-rate housing, and required the analysis be provided to the Board of Supervisors. Prop. "C" explicitly allows the Board of Supervisors to adjust the inclusionary percentages using "trailing" legislation to follow without further voter approval, so there was no guarantee that the percentage increased by voters under Prop. "C" would remain.

"It's clear that both Lee and Rosenfield want to create a *Sanctuary City for Housing Developers* to help them maximize their housing project profits, in part to help the City's property tax base."

As the *Westside Observer* reported last March in "*Housing Bond Lurches Down a Cliff*," the City Controller released his first inclusionary housing advisory analysis on February 13, 2017 and submitted it to the Board of Supervisors who were expected to debate the Controller's analysis on Valentine's Day. But the *San Francisco Examiner* reported on February 15 that the Board's discussion was postponed to February 28.

The Board of Supervisors agenda for February 28 did ***not*** include any agenda items regarding the Controller's inclusionary housing analysis to discuss whether the Board will adjust the inclusionary percentages passed by voters in Prop. "C," nor did the agendas for other Board subcommittee meetings that week, and the discussion wasn't placed on the full Board of Supervisors March 7 agenda either.

The Board's discussion languished for over two months.

The *Examiner* article on February 15 shows that Mayor Lee is concerned that affordable housing threshold requirements will "keep [private sector] investors confident." That appears to mean that anything to keep the Mayor's development friends — and Ron Conway — happy, is a good thing.

"The two competing proposals to revise the inclusionary housing percentages were first heard by the Board of Supervisors Land Use and Transportation subcommittee on May 15."

The two competing proposals to revise the inclusionary housing percentages were first heard by the Board of Supervisors Land Use and Transportation subcommittee, summarized in the May 15 Legislative Digest for the Peskin-Kim version of the proposed amendments, and a separate May 15 Legislative Digest for the Safai-Breed-Tang version of the proposed amendments.

Developers can choose between three options to meet inclusionary requirements: Paying a fee in-lieu of constructing affordable units on- or off-site, building affordable units on-site, or building affordable units off-site. Reportedly, the trend has been that developers prefer to pay the "in-lieu-of" fee to the City rather than build the affordable housing units.

Back on March 23, 2017 noted housing experts Peter Cohen and Fernando Marti, co-directors of San Francisco's Council of Community Housing Organizations (CCHO), published an article on *48Hills.org*. CCHO is widely regarded as the most influential and most thoughtful of affordable housing organizations. Their article explored the two competing inclusionary housing proposals, and corrected significant misstatements and mistakes in media reports regarding important facts about the two proposals.

"Importantly Cohen and Marti noted it is only the Peskin-Kim proposal that expands housing opportunities for both low-income and middle-income households, and that the Safai-Breed-Tang proposal reduces one category in order to expand the other category of household incomes."

The two men noted there's a big difference between what Peskin and Kim want, versus what Safai and Breed want, and there are many nuances between the two proposals. Importantly the pair noted that it is ***only*** the Peskin-Kim proposal that expands housing opportunities for both low-income and middle-income households, and that the Safai-Breed-Tang proposal reduces one category in order to expand the other category of household incomes. That's a form of pitting one income level against another, or pitting neighbor against San Francisco neighbor. After all, we should be expanding housing opportunities for all, without reducing anyone else's opportunities, Cohen and Marti seem to argue.

Side-by-Side Comparison

A side-by-side comparison of the Peskin-Kim vs. Safai-Breed-Tang competing proposals as of May 15 is instructive:

"A side-by-side comparison of the Peskin-Kim vs. Safai-Breed-Tang competing proposals is instructive."

- The Safai-Breed version proposed lowering the in-lieu fee for projects consisting of 25 housing units or more from the 33% fee passed by voters under Prop. "C" in June 2016, to just a 23% fee for rental units, and just 28% for sales units, typically condo's. Right off the bat, Safai and Breed chose to hand developers a windfall by reducing fees intended to build affordable housing.

- For on-site housing units in construction projects of 25 housing units or more, the Peskin-Kim proposal sought to increase the current 25% affordable requirement for ownership (sales) units to 27%, keeping the current 15% for low-income households, and increasing the middle-income affordable units from 10% to 12%. On-site sales units for low- and lower-income households would range from 80% to 100% of Area Median Income (AMI), with average sales prices of 90% of AMI, up slightly from Prop. "C," and sales prices for middle- and moderate-income households ranging from 100% to 140%, with average sales prices of 120%. However, the Peskin-Kim proposal provided that single-income households would have a maximum sales price set at 100% of AMI, which is 20% lower than the 120% of AMI specified in Prop. "C" for middle-income households."

  In contrast, the Safai-Breed-Tang proposal sought to hand developers another windfall by reducing the current 25% requirement under Prop. "C" for ownership units to just 20%, equally split between households earning 90%, 120% and 140% of AMI (Area Median Income), up from the 80% for low-income households and up from the 120% cap for middle-income households.

- For on-site housing units in construction projects of 25 housing units or more, the Peskin-Kim proposal sought to decrease the current 25% affordable requirement for rental units by 1% to 24%, keeping the current 15% rental units for low-income households, and decreasing the middle-income affordable rental units from 10% to 9%. Their proposal lowered the rental maximums in Prop. "C" from 55% of AMI for low-income renters and 100% of AMI for middle-income renters to 40% to 80% of AMI for lower-income households with average rents at 60% of AMI, and increased AMI from 80% to 120% for middle-income renters with an average rent at 100% of AMI and a ***maximum*** rent also at 100% of AMI.

  Also in stark contrast, the Safai-Breed-Tang proposal sought to hand developers yet another windfall by reducing the current 25% requirement under Prop. "C" for rental units to just 18%, equally split between households earning 55%, 80%, and 110% of AMI, up from the 55% for low-income renters and up from the 100% cap for middle-income renters. In effect, the Safai-Breed-Tang reduction of rental units awarded just 6% to each of these three AMI categories, ***pitting low-income San Franciscans against their middle-income neighbors***!

"The Safai-Breed-Tang proposal sought to hand developers yet another windfall by reducing the current 25% requirement under Prop. 'C' for rental units to just 18%, equally split between households earning 55%, 80%, and 110% of AMI. In effect, the Safai-Breed-Tang reduction of rental units awarded just 6% to each of these three AMI categories, *pitting low-income San Franciscans against their middle-income neighbors*!"

- For off-site owned units in projects of 25 units or more, Prop. "C" currently calls for 33% of the off-site owned units to be affordable, with 20% affordable to low-income households and 13% to middle-income households. The Peskin-Kim proposal kept the 33% requirement, but sought to decrease the off-site affordable owned units to 18% for low-income households and increase the middle-income households to 15%, with the low- and lower-income households having 80% to 100% of AMI, and average affordable sales prices set at 90% of AMI. The Peskin-Kim proposal for off-site owned units for middle- and moderate-income households would have ranged from 100% to 140% of AMI, with average sales prices of 120% of AMI. However, the Peskin-Kim proposal again provided that single-income households would have a maximum sales price set at 100% of AMI.

  Once again, the Safai-Breed-Tang proposal would have handed yet another lucrative windfall to developers by reducing the 33% affordable owned units set in Prop. "C" for off-site projects to just 28%, with average affordable

units set at 120% of AMI, but again, equally distributed among households earning 90%, 120% and 140% of AMI, in effect again ***pitting low-income San Franciscans against their middle-income neighbors!***

- The side-by-side comparison linked above shows that for off-site rental projects, the Safai-Breed-Tang proposal would have reduced the 33% set in Prop. "C" to just 23%, handing developers another 10% savings — or another 10% increase to their net profits, depending on your point of view! The reduction to 23% of affordable off-site rental units would be equally distributed between households earning 55%, 80%, and 120% of AMI, with an average of 85% of AMI.

"The side-by-side comparison shows that for off-site rental projects, the Safai-Breed-Tang proposal would have reduced the 33% set in Prop. 'C' to just 23%, handing developers another 10% savings — or another 10% increase to their net profits."

The Peskin-Kim proposal reduced the 33% to 30%, evenly split at 15% between low-income and middle-income households, with average rents set at 60% of AMI for low- and lower-income households and average affordable rents set at 100% of AMI for middle- and moderate-income households.

- Finally, the Peskin-Kim proposal sought to require that both on-site-and off-site affordable units have a total of 60% of units set aside for families, with 40% consisting of two-bedroom units and another 20% for three-bedroom units.

In stark contrast, the Safai-Breed-Tang proposal required a unit mix of ***either*** 25% two-bedroom, or 10% three-bedroom units, apparently left to the discretion of developers to choose between the two options.

The May 15 competing proposals were continued to the Land Use Committee's May 22 meeting in order to continue negotiations between the competing proposals.

After the two proposals were continued to May 22, the City's Chief Economist released a report dated May 12 that noted:

> "*In every scenario, the **Safai/Breed/Tang proposal, which reduces inclusionary requirements,** leads to the production of more housing relative to Proposition C, and lower prices for existing housing, **at the cost of reducing the number of affordable units,** and the value of subsidy generated they generate. Under the Safai/Breed/Tang proposal, the gain to market-rate housing consumers is greater than the loss of affordable housing subsidy.*" [emphasis added]

There you have it from the City's Chief Economist: An admission that the Safai-Breed-Tang proposal reduces the inclusionary requirements, and thereby reduces the number of affordable units.

This is remarkable, in part because the June 2016 voter guide contained a paid argument in support of Prop. "C" submitted jointly by Supervisor London Breed and former District 10 Supervisor Sophie Maxwell titled "*African American Leaders Support Prop C*" to provide affordable housing "opportunities."

"There you have it from the City's Chief Economist: An admission that the Safai-Breed-Tang proposal reduces the inclusionary requirements, and thereby reduces the number of affordable units."

Readers may recall that Ms. Breed ran for re-election in November 2016 and only narrowly beat her opponent, Dean Preston, by just 1,784 votes (a 4.3% spread between them). Might it be that Breed supported Prop. "C" in June 2016 as part of her re-election strategy, but five months later changed her tune about affordable housing for African Americans when she joined Supervisor Safai in gutting the number of affordable housing units in May 2017?

"Sanctuary" for Developers to Maximize Profits

48Hills.org reported May 14 on the median household income in San Francisco by ethnicity and also the median household income by San Francisco neighborhood, and astutely reported that "The residents of the ten neighborhoods with the lowest median income earned only 33 percent of the money that the residents of the ten highest-income areas took home." The *48Hills* article also included a quote by Jennifer Fieber of the SF Tenants Union she testified about during a recent hearing:

> *"Tenants who live in below-market-rate units have to report their income every year 'and pay the maximum amount they can afford.' On the other hand, developers who get city favors don't have to disclose anything: 'When they [developers] say it doesn't pencil out, we just believe them'."*

Why doesn't the City develop regulations that require developers to report their per-project profits?

That *48Hills* article also noted that:

> *"If the Safai-Breed bill goes through, it would undermine those neighborhood and community-level talks [with developers to increase inclusionary percentages in particular development projects] and allow developers to continue making, in the words of [Supervisor] Peskin, 'a shit-ton of money' without paying their share to the community."*

"'If the Safai-Breed bill goes through, it would undermine those neighborhood and community-level talks and allow developers to continue making, in the words of [Supervisor] Peskin, 'a shit-ton of money' without paying their share to the community'."

— 48Hills.org

The Mayor's Office of Housing and Community Development (MOHCD) FY 2014–2015 annual report included an unnumbered table comparing AMI income levels to affordable housing sales prices.

Table 1: Increased Developer Profit Margins

AMI Level	Affordable[1] Sales Price	Difference 80% to 100%	Difference 100% to 120%	Difference 120% to 140%	Increased Developer Profit Margin: Increase in Difference for 25 Units	Increase in Difference for 50 Units	Increase in Difference for 10 Units
80%[2]	$ 291,000						
100%	$ 385,000	$ 94,000			$ 2,350,000	$ 4,700,000	$ 9,400,000
120%	$ 479,000		$ 94,000		$ 2,350,000	$ 4,700,000	$ 9,400,000
140%[2]	$ 573,000			$ 94,000	$ 2,350,000	$ 4,700,000	$ 9,400,000
150%	$ 620,000						

Footnotes:

[1] Affordable sales price calculation assumes 33% of income is spent on housing, including taxes and insurance, a 10% downpayment, and 90% financing based on an annual average interest rate per the Federal Reserve Bank.

[2] Estimate based on extrapolated data; not included on page 14 in Source document.

Source: MOHCD Annual Report FY 2014–2015, page 14.

As Table 1 above illustrates, for each 20% increase in AMI levels, developers stand to earn an additional $94,000 in profits on each unit sold. That's a lot of incentive for developers seeking sanctuary to market housing units to higher income households by increasing the AMI thresholds. This illustrates the significance of all of the lucrative windfalls the Safai-Breed-Tang proposal would hand to developers by way of fiddling ,with and increasing, various AMI thresholds.

"For each 20% increase in AMI levels, developers stand to earn an additional $94,000 in profits on each unit sold. That's a lot of incentive for developers seeking sanctuary to market housing units to higher income households by increasing the AMI thresholds."

When asked on May 17 for an update to the current sales price data by AMI level — which MOHCD conveniently excluded from its FY 2015–2016 Annual Report — MOHCD lamely claimed it does not maintain this data, despite having reported similar data in FY 2014–2015.

Yet another *48Hills.org* article — *The shape of the housing battle to come* — on March 16, 2017 reported that the Safai-Breed proposal pits the middle class against lower-income people. The article reported:

> *"What Safai and Breed did not say is that **they are proposing to reduce the amount of affordable housing** available to people who make less than around $50,000."*

And the article further reported that Ken Tray, the political director at the teacher's union United Educators of San Francisco, said his union doesn't support the Safai-Breed proposal:

> *"We are all in this together. We refuse to have teachers pitted against our lower-income brothers and sisters. There is no moral foundation that will pit classroom teachers against our low-income students and their families."*

And finally, the article reported that Gen Fujioka, policy director at the Chinatown Community Development Center, "noted that the Safai-Breed plan *'is a step backward. It shrinks the amount of affordable housing'*."

That's ironic, because the initial inclusionary housing legislation was designed by then-Supervisor Mark Leno back in 2002 to increase, not shrink, the amount of affordable housing built. Is that concept lost on Safai and Breed?

> ***"'We are all in this together. We refuse to have teachers pitted against our lower-income brothers and sisters. There is no moral foundation that will pit classroom teachers against our low-income students and their families'."***
>
> **— Ken Tray, Political Director**
> **United Educators of San Francisco**

Commendably, the Coalition for San Francisco Neighborhoods (CSFN) submitted testimony dated April 6 to the Board of Supervisors and to the Planning Commission regarding the battle over the two competing inclusionary housing percentages proposals. CSFN's testimony was intended for the Commission's April 28 meeting.

CSFN's testimony noted the Safai-Breed-Tang proposal places more emphasis on middle-income housing, but would result in the displacement of equally-worthy low- and lower-income households who have greater needs than middle-income households. CSFN noted such a major policy change would pit low- and lower-income San Franciscans against San Franciscans with higher incomes, and suggested this policy change should not be undertaken without a more comprehensive review and without a vote of the electorate.

> ***"[The Safai-Breed plan] 'is a step backward. It shrinks the amount of affordable housing'."***
>
> **— Gen Fujioka, Policy Director**
> **Chinatown Community Development Center**

Among other issues CSFN raised, they were also concerned about "ceilings" and "floors" associated with the ranges of AMI levels, such that households with incomes below the "floors" (the bottom end of the AMI ranges) are squeezed out of qualifying for the affordable units.

Another *48Hills.org* article — *Safai-Breed housing bill: A $60 million giveaway* — on April 26, 2017 reported:

> *"Developers in San Francisco could stand to pick up an additional $60 million in profits under an affordable housing proposal by Sups. London Breed and Ahsha Safai, a new analysis shows."*

48Hills went on to discuss that the new study was authored by CCHO co-directors Peter Cohen and Fernando Marti.

The CCHO analysis showed that for a hypothetical construction project of 100 rental housing units, with just 18% of the units deemed affordable, developer's annual income would be approximately $1 million more. Multiplied by the 3,000 units the City wants to build each year, CCHO concludes developers would be earning $30 million more in profits. But that's only for rental projects.

> ***"'Developers in San Francisco could stand to pick up an additional $60 million in profits under an affordable housing proposal by Sups. London Breed and Ahsha Safai, a new analysis shows'."***
>
> ***— 48Hills.org***

CCHO noted incomes from ownership condo projects is even more stark. Increasing the threshold from 96% to 120% of AMI and given average sales prices, developers profits would increase by $2 million. The article reports that by adding things up, developers "could walk away with as much as $60 million in *additional* profit."

CCHO's analysis supports the data presented in Table 1 above. And as one person who posted a comment on-line to *48Hills*' analysis by CCHO wrote:

> "*Not only is the Breed/Safai legislation terribly misguided in its failure to address the full blown affordable housing crisis that is destabilizing San Francisco, but* ***it actually takes from the neediest and gives to developers.*** *... The Breed/Safai legislation undercuts Prop C and* ***pits middle and low income folks against one another.***" [emphasis added]

As well, the *San Francisco Examiner* carried an article on April 27 by Larry Bush, the co-founder of the group Friends of Ethics, who noted that should the Planning Commission decide to recommend lowering the percentage for inclusionary housing requirements, it would lead to less affordable housing being developed:

> "*At stake is the amount of housing developers will have to set aside that is affordable ... A decision to make this a lower percent would mean more profits for developers and less housing for San Franciscans who live on a paycheck.*"

The next day, the *San Francisco Examiner* carried an article on April 28 by Michael Barba that reported the Planning Commission had recommended the day before that the rental housing proposal by Safai and Breed increase the set-aside for low-income households to 12% from the 6% in the Safai-Breed proposal. The article quoted Supervisor Peskin:

> " '*This is not a technical change, this is a sweeping piece of public policy about* ***how you divide up the affordable housing pie,*** *' Peskin said. 'I appreciate their [Planning's] recommendations but they're just that. They're just recommendations'.*" [emphasis added]

Despite the Planning Commission's recommendation to increase the rental amounts for low-income households to 12%, Safai and Breed appear to have ignored those recommendations — as just *recommendations* as Peskin had noted — and the Safai-Breed proposal that advanced to the Board of Supervisors stubbornly clung to cutting low-income rental units to just 6% not only to Supervisor Breed's constituents in District 5, but low-income African American residents citywide.

Recent Housing Production Performance in San Francisco

The Regional Housing Needs Assessment (RHNA) process is a state mandate regarding planning for housing in California, which requires that all jurisdictions in the state update the Housing Elements of their General Plans. In the Bay Area, it is the Association of Bay Area Governments (ABAG) that sets the City of San Francisco's RHNA goals.

The two primary goals of the RHNA process are to: 1) Increase the supply of housing, and 2) Ensure that local governments consider the housing needs of persons at all income levels.

> ***"'Not only is the Breed/Safai legislation terribly misguided ... it actually takes from the neediest and gives to developers ... and pits middle and low income folks against one another'."***
>
> **— Comment Posted on *48Hills.org***

ABAG's recommendations issued October 26, 2006 for the 2007–2014 period recommended the allocation of housing goals by income categories of housing needs for San Francisco:

Table 2: ABAG Recommendations vs. Actual Housing Built: San Francisco 2007–2014

Regional Housing Needs Allocation Progress: San Francisco 2007–2014

Income Level	AMI Level	ABAG's October 2016 RHNA Recommendation	San Francisco's % Share of Eight-Year RHNA Built Per Planning Department	Variance
Very Low	0 – 50%	23%	20.1%	-2.9%
Low	50% – 80%	16%	8.1%	-7.9%
Moderate	80% – 120%	19%	6.3%	-12.7%
Above Moderate	> 120%	42%	65.5%	23.5%
Upper Income			?	?
	Total	**100%**	**100.0%**	

Sources: ABAG's October 26, 2006 Recommendations vs. San Francisco Planning Department

Table 2 shows that it's clear San Francisco ended up building housing far differently than what had ABAG recommended in 2006 that the City build. For the "Low-Income" category, San Francisco built just half (8.1%) of the 16% ABAG had recommended, built just one-third (6.3%) of the 19% ABAG had recommended be dedicated to "Moderate-Income" households, and built a staggering 23.5% *more than* ABAG had recommended for construction of "Above Moderate-Income" households.

But the share of housing built versus ABG's recommended share of housing that should have been built in Table 2 above is somewhat deceptive.

"Of ABAG recommendations for 2007–2014, San Francisco built just half (8.1%) of the 16% recommended for the 'Low-Income' category, built one-third (6.3%) of the 19% recommended for the 'Moderate-Income' category, and built 23.5% *more than* recommended for the 'Above Moderate-Income' category."

An alternative RHNA report provided by San Francisco's Planning Department for the eight-year period between 2007 and 2014 illustrates disturbing information: Table 3 below shows San Francisco built 108.7% of the RHNA Allocation Goal for "Above-Moderate" households, built 62.5% of the goal for "Very-Low Income" households, built just 30% of the allocation goal for "Low-Income" households, and built only 19% of the goal for "Moderate-Income" households.

Table 3: Regional Housing Needs Allocation Progress: San Francisco 2007–2014

Regional Housing Needs Allocation Progress: San Francisco 2007–2014

Income Level	AMI Level	RHNA Allocation Goal	Eight-Year Total Built	%of RHNA Allocation Built	RHNA Goal Not Built	%of RHNA Goal Not Built	% Share of Eight-Year Total Built
Very Low	0 – 50%	6,589	4,118	62.5%	2,471	37.5%	20.1%
Low	50% – 80%	5,535	1,663	30.0%	3,872	70.0%	8.1%
Moderate	80% – 120%	6,754	1,283	19.0%	5,471	81.0%	6.3%
Above Moderate	120% – 150%	12,315	13,391	108.7%	(1,076)	-8.7%	65.5%
Upper Income	>150%	?	?				
Total		**31,193**	**20,455**	**65.6%**	**10,738**	**34.4%**	**100.0%**
"Very Low" + "Low" Combined		12,124	5,781	47.7%			

Source: San Francisco Planning Department

Of note, MOHCD's FY 2014–2015 *Annual Report* tried to downplay the amount of housing developed between 2007–2014 by income level, since MOHCD creatively combined "Very Low" and "Low" income levels into a single category it creatively called "Low Income" (everything below 80% of AMI), asserting that of the housing built 47.7% of the allocation goal had been met for low-income households. That's obviously not all true.

First, just 30% of the RHNA goal for "Low-Income" households had been met, and 62.5% of the RHNA allocation goal was met for "Very-Low Income" households, which admittedly pencils out to a combined average of 47.7%. Again, it's notable that only 30% of the "Low-Income" goal had actually been met, while just 19% of the "Moderate Income" goal was reached, and a staggering 108.7% of the goal for "Above Moderate" income households was met.

"An alternative view — looking at RHNA goals — San Francisco built 108.7% of the goal for 'Above-Moderate' households, built 62.5% of the goal for 'Very-Low Income' households, built just 30% of the goal for 'Low-Income' households, and built only 19% of the goal for 'Moderate-Income' households."

"It is thought that the 'Upper Income' units and perhaps a good chunk of the 'Above Moderate Income' units are probably all market-rate housing units."

Second, of the 20,455 housing units that were actually built, just 28.2% were built for the two low-income categories, while only 6.3% of the units built were for "Moderate Income" households, and the remaining 65.5% of units built were for "Above Moderate" income households. Unfortunately, the RHNA reports from the Planning Department do not document what proportion of the "Above Moderate" housing goals or actual housing constructed actually went to "Upper Income" households earning more than 150% of AMI, further driving up developer profit margins.

It is thought that the "Upper Income" category is probably all market-rate housing units, and perhaps a good chunk of the "Above Moderate" units may also be market-rate units.

Then there's the issue of the RHNA goals that were ***not*** met in the eight-year period between 2007 and 2014. Fully 10,738, or 34.4%, of units were ***not*** built of the RHNA target goals. Table 3 also shows that 81% of the "Moderate Income," 70% of the "Low Income," and 37.5% of the "Very-Low Income" RHNA goals were ***not*** built.

"Then there's the issue of the RHNA goals that were *not* met in the eight-year period between 2007 and 2014. Fully 10,738, or 34.4%, of units were *not* built of the RHNA target goals. Does ABAG simply 'forgive' the municipality for not having built those units?"

Why aren't those unmet goals rolled over and added onto the subsequent eight-year reporting period for 2015–2022? Or does ABAG simply "forgive" the municipality for ***not*** having built those units, and everyone simply forgets that the RHNA goals weren't met?

"Table 3 also shows that 81% of the 'Moderate Income,' 70% of the 'Low Income,' and 37.5% of the 'Very-Low Income' RHNA goals were *not* built."

Table 4 below highlights another potential problem, involving deed restrictions. Fully 1,877 (9.2%) of the units in the combined "Very Low," "Low," and "Moderate" income units constructed do not have "affordable income limit" deed restrictions. That portends that years from now (or even sooner), those units that do not have deed restrictions to maintain them as affordable units may face rent increases and may end up becoming market-rate units.

"There's another potential problem, involving deed restrictions. Fully 1,877 (9.2%) of the units in the combined 'Very Low,' 'Low,' and 'Moderate' income units constructed do not have 'affordable' deed restrictions, and may end up becoming market-rate units."

So we may end up being right back in the same situation as the problem with "expiring regulations preservation" where previously affordable units are lost to conversion to market-rate units at the end of 25- to 30-year legal contracts, called "covenants," or other expiring deed restrictions. It is not yet known how many of the deed-restricted units do have the typical 55-year deeds or covenants that may also eventually expire, and face conversion to market-rate units.

Table 4: Regional Housing Needs Allocation Progress: San Francisco 2007–2014

Regional Housing Needs Allocation Progress: San Francisco 2007–2014

Income Level	AMI Level	Deed Type[1]	# of Units	% of Units By Deed Type	Eight-Year Total Built	% of Eight-Year Total Built
Very Low	0 – 50%	Deed-Restricted	2,886	70.1%	4,118	20.1%
		Non-Deed Restricted	1,232	29.9%		
Low	50% – 80%	Deed-Restricted	1,481	89.1%	1,663	8.1%
		Non-Deed Restricted	182	10.9%		
Moderate	80% – 120%	Deed-Restricted	820	63.9%	1,283	6.3%
		Non-Deed Restricted	463	36.1%		
Above Moderate	120% – 150%		13,391		13,391	65.5%
Upper Income	> 150%		?		?	
		Total Units:	20,455		20,455	
		Combined Non-Deed Restricted Subtotal	1,877			
		Combined Non-Deed Restricted Percentage	9.2%			

[1] **Deed-Retricted:** Legally bound to rent or sell to households under income limits at a price that is "affordable."

Source: San Francisco Planning Department

Deed-restricted units are legally bound to rent or sell to households under income limits at a price to guarantee affordability of those units for a minimum time period, usually 55 years.

Notably, neither the "Above Moderate" nor the "Upper Income" income units face deed restrictions to set sales prices that are "affordable." They aren't guaranteed to be affordable. It's clear developers are looking for the sky's-the-limit at setting market-rate sales prices!

"Neither the 'Above Moderate' nor the 'Upper Income' income units face deed restrictions to set sales prices that are 'affordable.' They aren't guaranteed to be affordable."

And predictably, data provided by the Planning Department of RHNA planning goals for the eight-year period between 2015 and 2022 shows the same disturbing trends as in the 2007–2014 RHNA allocation, despite the fact that we are just two years in to new the eight-year cycle. Of the 12,536 RHNA 2015–2022 goal for "Above Moderate-Income" households, 6,592 (55.5% of the eight-year goal) have already been built within the first two years of the eight-year period. We are again on track for excessive production of "Above Moderate Income" housing, just as we were for 2007–2014!

The Sudden "Deal" Struck for Inclusionary Housing (Two Days Later on May 17, 2017)

The dueling proposals for Inclusionary Housing amendments between Supervisors Peskin and Kim vs. Supervisors Safai, Breed, and Tang purportedly reached a "deal" on Wednesday, May 17 that was reported in the *San Francisco Examiner* on Friday, May 19.

Unfortunately, the actual "compromise" legislation was not posted to the Board of Supervisors web site in advance of its Land Use Committee hearing on Monday May 22. Lacking both a Legislative Analysis and the actual compromise legislation itself, there was no way to confirm or analyze details of the proposed "deal" prior to the deadline to submit this article for publication in the *Westside Observer*.

"The actual 'compromise' legislation was not posted to the Board of Supervisors web site in advance of its Land Use Committee hearing on Monday May 22, so there was no way to confirm or analyze details of the proposed 'deal'."

In brief, the *Examiner* reported that the "deal" hashed out would require that "developers of large rental projects with at least 25 units who choose to build affordable housing on-site would be required to designate 18% of units as affordable," and that number would grow to 19% in 2018 and then gradually grow an additional 5% to 24% by 2027.

Great! We'll only have to wait for another decade to get back up to the 24% of affordable on-site units that the Peskin-Kim proposal had proposed. That's another decade in which developers will be making another shit-load of profits!

The *Examiner's* article noted that the agreement "deal" reached would ***decrease*** the percentage of affordable housing that developers must build on-site under Prop. "C", "except for in the two neighborhoods most impacted by the housing crisis until further study." The *Examiner* didn't indicate which two neighborhoods might be exempted from the "deal."

"The *Examiner's* article noted that the agreement 'deal' reached would decrease the percentage of affordable housing, 'except for in two neighborhoods ... .' The *Examiner* didn't indicate which two neighborhoods might be exempted."

The *Examiner* also reported that the rental amounts initially proposed by Safai-Breed-Tang would be changed from a 6% split to each AMI category, into three tiers of rentals:

- 10% will be allocated to those who earn 55% of AMI, although those who earn between 40% and 65% of AMI would be eligible to rent those units;
- 4% will be allocated to those who earn 80% of AMI, although those who earn between 65% and 90% of AMI would be eligible; and
- Another 4% will be allocated to those who earn 110% of AMI, and apparently those who earn between 90% and 130% percent of AMI may be eligible for that tier. This is another massive increase for developers, who under Prop. "C" faced a cap of 100% of AMI for middle-income renters. Now households earning up to 130% of AMI may become eligible for the rental units!

One reasonable question is: How much affordable housing will be lost during the 10-year period that it takes to move the dial back up to 24% for rental housing in 2027?

The *Examiner* reported no details about sales (ownership) units, or how the "deal" may have reached compromises on ownership units.

On a thud, the *Examiner* concluded its reporting saying that the revised "proposal is expected to reach the Land Use and Transportation Committee on Monday [May 22] and the full Board of Supervisors for a vote Tuesday [on May 23]."

"One reasonable question is: How much affordable housing will be lost during the 10-years it will take to move the dial back up to 24% for rental housing in 2027?"

Land Use and Transportation Committee Hearing (May 22, 2017)

Notably, the legal language of the compromise amendments to the inclusionary housing ordinance was ***not*** placed on the Board of Supervisors web site for members of the public to examine 72 hours in advance of the Land Use hearing on May 22 in order to adequately understand and prepare testimony regarding the proposed new "deal."

One City Hall staffer wrongfully opined that "*substantive amendments to a properly agendized item can be proposed for the first time [during a] committee [hearing], and public comment may be taken thereupon at that time. The Committee may then take action upon the agendized item.*"

That's complete nonsense, and ignored that way back in 2011 the San Francisco Sunshine Ordinance Task Force had ruled that the previous Land Use and Economic Development Committee had failed to provide substantive amendments to the Park Merced development agreement and had committed official misconduct for having failed to provide those amendments to members of the public *before* the amendments were considered in Committee.

"In 2011 the San Francisco Sunshine Ordinance Task Force ruled that the previous Land Use and Economic Development Committee failed to provide substantive amendments to the Park Merced development agreement and had committed official misconduct for having failed to provide those amendments to members of the public *before* they were considered in Committee."

As reported in the July 2012 *Westside Observer* article "Who Killed Sunshine?":

> "*On September 27, 2011 the Sunshine Task Force heard a complaint from Parkmerced resident Pastor Lynn Gavin that Board of Supervisors President David Chiu and the board's Land Use and Economic Development Committee — composed by Supervisors Eric Mar, Malia Cohen, and Scott Wiener — had violated local and state open-meeting laws by sneaking in 14 pages of amendments to the Parkmerced development deal only minutes before approving it. Pastor Gavin asserted the amendments were so drastic that the Board's agenda didn't accurately reflect the real deal under consideration, and that voting to approve it without sufficient time for review by members of the public violated open-meeting laws. The Sunshine Task Force ruled in Gavin's favor, finding Wiener and the other three supervisors had committed official misconduct, and referred the four Supervisors to the Ethics Commission for enforcement.*"

Someone at City Hall must have gotten through to the Chairperson of the Land Use Committee, Supervisor Mark Farrell, who continued the two competing inclusionary housing proposals now combined into a single proposal to the Land Use Committee's June 5 meeting. At least now members of the public will have time to see a single consolidated version of the combined "deal," and there will be time to post both a Legislative Analysis and the final legislation to the Board of Supervisors web site prior to June 5.

After all, Farrell admitted during the May 22 hearing that there have been "massive changes" and the Inclusionary Ordinance may now be 40 pages long, none of which had been made public prior to the May 22 hearing.

"The Chairperson of the Land Use Committee continued the two competing inclusionary housing proposals now combined into a single proposal to the Land Use Committee's June 5 meeting. At least now members of the public will have time to see a single consolidated version of the combined 'deal'."

Several people who provided oral public comment on May 22 noted that the inclusionary housing legislation that we've had for the past 15 years would become all but moot, given the HOME-SF legislation proposed by Supervisor Katy Tang and the Mayor that they are ramming through the Board of Supervisors, since housing developers will likely opt to use the less stringent HOME-SF formulas for density bonuses rather than complying with the Inclusionary Housing Ordinance, because developers will apparently be able to choose which Ordinance they will follow. And those HOME-SF units may only end up being 700 square feet in size (or smaller), hardly conducive to family housing.

"Supervisor Tang's HOME-SF proposal is toxic, since it pits middle-income against lower-income households!"

CSFN president George Wooding's article in the May 2017 *Westside Observer* — *"Tang's Radical Housing Proposal"* — was right on target with his warnings that Supervisor Tang's HOME-SF proposal is toxic, since it pits middle-income households against lower-income households!

Peter Cohen, co-director of CCHO, testified on May 22, in part:

> *"We are concerned that we have a separate inclusionary [affordable housing] ordinance that is not consistent with that [HOME-SF]. So we do ask that these two mirror each other. If 'inclusionary' [goals] is not embedded in HOME-SF, at least they should mirror each other."*

Cohen and others who testified similarly during the May 22 hearing are correct that the HOME-SF and Inclusionary Housing ordinances should "mirror" each other regarding affordable housing requirements. Otherwise, developers will choose the more lucrative HOME-SF affordable housing requirements rather than the inclusionary requirements.

"CCHO's Peter Cohen and others are correct that the HOME-SF and Inclusionary Housing ordinances should 'mirror' each other regarding affordable housing requirements."

Granting "Sanctuary" to Developers

Are we granting developers "sanctuary" from building affordable housing? And are we granting them sanctuary permission to reap as many profits as they can eke out over the next ten years?

The public speaker on May 15 who asserted voters had ***not*** given permission at the ballot box to hand over 82% of all new housing construction to developers seeking to build more and more market-rate housing was absolutely prescient. Then there's the concern of pitting San Franciscans of different income levels against one another.

There's a final clue about development of affordable housing from the Housing Balance Reports that Supervisor Jane Kim managed to require be provided from the Planning Department. Table 5 below paints a disturbing vision:

Table 5: Production of "Affordable" Units Over a Ten-Year "Rolling" Basis

Successive San Francisco Housing Balance Reports

Housing Balance Report #	Date of Report	Housing Balance Period	% of [1] Net New Housing Produced As "Affordable"	"Constrained" Cumulative Housing Balance	"Expanded" Citywide Cumulative Housing Balance	Projected Housing Balance Citywide
1	7/7/2015	2005 Q1 – 2014 Q4	30%	14%[2]	Not Avail.	11.0%
2	9/4/2015	2005 Q3 – 2015 Q2	28%	15.2%	Not Avail.	11.0%
3	3/31/2016	2006 Q1 – 2015 Q4	25%	8.8%	17.6%	15.0%
4	9/29/2016	2006 Q3 – 2016 Q2	23%	7.6%	16.7%	18.0%
5	5/12/2017	2007 Q1 – 2016 Q4	22%	13.6%	22.5%	14.0%

Footnotes:

[1] Prop. "K" passed by voters in November 2014 set a goal that 33% of all new housing units should be "affordable."

[2] Because the methodology for calculating housing balance changed following the first report, the second housing balance report re-calculated the first housing balance report of a 21% cumulative housing balance to just 14%.

Source: Housing Balance Reports Issued by the San Francisco Planning Department

In 2015, Supervisor Jane Kim sponsored legislation requiring the Planning Department to provide housing balance reports every six months, on a "rolling" ten-year basis under City Ordinance 53-15, involving a look-back every six months to the then previous ten years.

"Since the first Housing Balance Report in July 2015, the percentage of *net new* affordable housing produced plummeted from 30% to just 22% across essentially a two-year period."

Since the first Housing Balance Report in July 2015, the percentage of *net new* affordable housing produced has plummeted from 30% to just 22% across essentially a two-year period, suggesting that as the ten-year rolling periods continue to roll along the number of net new affordable units may continue plummeting even more. After all, once an eight-year "price-point" has plummeted, it will take awhile to turn around any increase (should that happen at all).

"2 + 2 = 5"

In addition to the 8% nose-dive in net new affordable housing being built, Housing Balance Report #5 shows the principal reason the cumulative housing balance stands at just 13.6% shown in Table 5 above, is that while 6,166 new affordable housing units were produced in the most-recent 10-year rolling reporting period (first quarter 2007 to fourth quarter 2016), 4,182 affordable units were ***lost*** to demolition and owner move-in and Ellis Act evictions during the same period.

"While 6,166 new affordable housing units were produced in the most-recent 10-year rolling reporting period (first quarter 2007 to fourth quarter 2016), 4,182 affordable units were *lost* to demolition and owner move-in and Ellis Act evictions. The 4,182 units lost represent fully 68% of the new affordable housing built."

The 4,182 units lost represent fully 68% of the new affordable housing built, in effect reducing the net new housing units built to just 1,984 units (an Orwellian and ironic number of 1984 that may have given George Orwell a good laugh).

The double-speak coming out of Mayor Ed Lee's "Ministry of Truth" — Lee's January 2014 *State of the City* speech in which he pledged to construct or rehabilitate at least 30,000 homes by the year 2020, claiming 50% of the housing would be affordable for middle-class households, and at least 33% would be affordable for low- and moderate-income households — apparently forgot to consider that lost housing might severely erode net new affordable housing gains. Perhaps Mayor Lee bought into the Orwellian propaganda that "2 + 2 = 5," while the "projected housing balance" citywide still stands at just 14%.

Here we are now just three years away from the Mayor's 2020 timeline, and we're still getting double-speak from him regarding affordable housing.

"The double-speak coming out of Mayor Ed Lee's 'Ministry of Truth' apparently forgot to consider that lost housing might severely erode net new affordable housing gains. Perhaps Mayor Lee bought into the Orwellian propaganda that '2 + 2 = 5'."

Just after competing writing this article and while posting it on-line, *48Hills.org* published another article on May 29 that also comments on the erasure of new housing built due to the lost housing. The article is titled "*SF is losing affordable housing almost as fast as we can build it.*"

The decline in net new "affordable" housing produced suggests that if net housing — including market-rate housing — has ***increased*** during the same ten-year rolling period, developers have been, and will continue to be, rolling in nice profits under their Sanctuary deals, even while net new affordable housing has plummeted.

It's clear that when developers are left to their own devices, they have little interest in developing *new* affordable housing and prefer to pay the in-lieu fee rather than building new affordable housing.

"The Board of Supervisors may have caved in to the Safai-Breed-Tang deal, and the 'consensus' deal reached will hand developers their 82% Sanctuary license to build more and more market-rate housing."

It appears the Board of Supervisors may have caved in to the Safai-Breed-Tang deal, and the "consensus" deal reached will hand developers their 82% Sanctuary license to build more and more market-rate housing, at least for the majority of the next decade through 2027. Take that to the "anti-gentrification" bank. Let's see if it trickles down.

We'll have to see, when Land Use takes up this issue again on June 5.

Do we want to be a "Sanctuary City for Developers" to maximize their profits? Or do we want to be a Sanctuary City for all San Franciscans seeking affordable housing, without pitting neighbor against neighbor?

"Do we want to be a 'Sanctuary City for Developers' to maximize their profits? Or do we want to be a Sanctuary City for all San Franciscans seeking affordable housing, without pitting neighbor against neighbor?"

Contact the Board of Supervisors and urge them to increase inclusionary affordable housing requires ***now***, and not wait until 2027 to do so.

Monette-Shaw does not presume to speak as a public policy or housing subject-matter expert. But as a reporter, he does have First Amendment opinions on this housing debate.

He's a columnist for San Francisco's Westside Observer *newspaper, and a member of the California First Amendment Coalition (FAC) and the ACLU. Contact him at monette-shaw@westsideobserver.com.*

Patrick Monette-Shaw

975 Sutter Street, Apt. 6
San Francisco, CA 94109
Phone: (415) 292-6969 • e-mail: pmonette-shaw@eartlink.net

June 5, 2017

Land Use and Transportation Committee, Board of Supervisors
The Honorable Mark Farrell, Chair
The Honorable Aaron Peskin, Member
The Honorable Katy Tang, Member
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

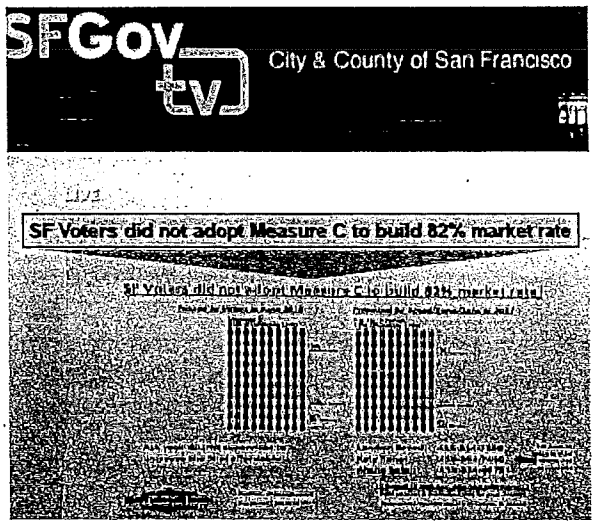
Re: **Testimony Regarding the Inclusionary Affordable Housing Fee**

Dear Chair Farrell and Members of the Land Use and Transportation Committee,

This testimony concerns item 8 on today's Land Use and Transportation Committee's (LUT-C) agenda, the Ordinance to amend the Planning Code, titled Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements.

I am concerned that the various ownership and rental percentages set in the compromise "deal" reached between Supervisors Peskin, Kim, Safai, Breed, and Tang are insufficient and continues to award too much of a Sanctuary for Housing Developers, as I discussed in my June 2017 *Westside Observer* article, "*Sanctuary City for Housing Developers*," attached for your convenience.

Most alarming, the compromise "deal" almost *guarantees that the City's Housing Balance will continue to be adversely affected* by details in today's proposed legislation.



Astute Public Testimony: During the Board of Supervisors Government Audit and Oversight Committee meeting on May 15, 2017, a perceptive member of the public displayed this graphic on the overhead projector. [Red text added for clarity.]

On-Site Units — 10–24 Units

The compromise deal you are considering today sets the initial requirement for on-site inclusionary units in projects of 10–24 units at a miserly 12%, and provides for a half-percent (0.5%) increase starting January 1, 2018 until it reaches the maximum ceiling of 15%. It will take six years — until 2023 — to reach that 15% maximum, during which time the Cumulative Housing Balance is more than likely to remain at its current 13.6% (as of Housing Balance Report #5).

On-Site Units — 25 or More Units

As one member of the public noted in his slide on the overhead projector during the LUT-C May 15 hearing, San Franciscans had not passed Prop. "C" in June 2016 to hand developers license to build 82% market-rate units, by restricting affordable rental units to just 18%.

Unfortunately the compromise deal before you today retains that 18% threshold, albeit there is a provision to raise the rental percentage to 20% by January 1, 2019 **apparently apportioned only to low-income rental units which may be capped at 20%**, and to begin raising the rental unit percentages allocated equally only to moderate- and middle-income units starting January 1, 2020 in half-percent (0.5%) increments. Will the low-income units be capped at 20% and not receive the 0.5% increases apparently allocated only to moderate- and middle-income units? Is that a drafting error?

If I am reading page 24 correctly in the legislative Ordinance (Legislation and Legislative Digest Version 4) before you today, the 1% increases in January 2018 and January 2019 will be applied ***only*** to low-income rental or sales (condo) units, and it will take until January 2020 before the 0.5% increases for moderate- and middle-income units to become added, essentially capping the moderate- and middle-income units at 18% for two years until 2020.

If my reading is incorrect and the low-income units ***will*** receive the 0.5% increases starting in 2020, it will take ten years to reach the 24% maximum inclusionary housing rental ceiling for low-income units, which won't be reached until the

year 2027. And if there ***is*** a two-year period before the 0.5% increases for moderate- and middle-income units kick in, in 2020, ***it will take 14 years*** (in 2031) to reach the 24% maximum for the moderate- and middle-income rental units.

And if my reading is correct that there will be the same 10-year and 14-year delays for ownership (sales) units — for low-income vs. moderate- and middle-income units — it will also take until 2027 or 2031 to reach the maximum 26% threshold for ownership units.

Once the 24% maximum rental threshold is reached and the 26% maximum for ownership units is reached, developers will still be racking in a "shit-ton" of profits (as Supervisor Peskin has noted) from the remaining 74% to 76% of market-rate rental and sales units, and they will essentially have license to do so pretty damn close to the 82% market-rate units that they will have if you adopt this legislation as currently written taking 10- to 14-years to get to the 24% and 26% maximum thresholds. You'll just be handing them license to continue to make a "shit-ton" of profits.

And you'll essentially end up causing the Cumulative Housing Balance to remain at just 13.6%.

I would be remiss if I didn't note that you have commendably added a provision that if the principal project will result in **demolition, conversion, or removal of affordable housing units** subject to restricted rents or rental control, the project sponsor has to pay the Inclusionary Affordable Housing Fee equivalent for the number of affordable units ***removed***, in addition to compliance with the inclusionary requirements for the new units.

Although this new provision may help tide the loss of "*Units Removed from Protected Status*" in the Housing Balance Reports, it will not be enough, because not all of the units removed (lost) are a result of developers converting or demolishing those units, for instance owner-move in evictions that don't involve demolition of existing buildings.

Finally, I should note that the provision for on-site projects of 25 units or more sets the owned unit sales prices far too high at 130% of AMI for middle-income units, allowing households of 120% to 150% of AMI to be eligible to apply. That 150% percentage is obviously market-rate housing — not affordable housing — as then Supervisor Mark Leno had envisioned when he first authored the Inclusionary Housing Ordinance.

I think today's legislation needs further refinement, and should be continued to a future meeting to re-negotiate many of the terms in this Ordinance, with an eye on improving the Housing Balance Report data.

Respectfully submitted,

Patrick Monette-Shaw
Columnist
Westside Observer Newspaper

cc: The Honorable Jane Kim, Supervisor, District 6
The Honorable Ahsha Safai, Supervisor, District 11
The Honorable London Breed, Supervisor, District 5

Somera, Alisa (BOS) 160357

From: Board of Supervisors, (BOS)
Sent: Friday, May 19, 2017 8:36 AM
Subject: FW: INCLUSIONARY HOUSING & HOME SF

From: lgpetty@juno.com [mailto:lgpetty@juno.com]
Sent: Thursday, May 18, 2017 8:00 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: INCLUSIONARY HOUSING & HOME SF

To All Supervisors

Re: **Land Use Committee May 22, 2017 &**
Full Board Meeting May 23, 1917

150969 Bonus Density Program HOME SF and

170208 Inclusionary Affordable Housing Program

Dear Supervisors,

I urge you NOT TO COMBINE THESE TWO ITEMS IN ANY WAY OR ALLOW "HOME SF" TO SUPPLANT OR SUPERCEDE THE INCLUSIONARY PROGRAM IN ANY WAY.

The Inclusionary Housng Program is a Charter mandate from the voters and must be kept as separate legislation, with the mandate
being followed as closely as possible for a preponderance of low income units over middle income units and for adherence to other Inclusionary
building requirements as agreed upon by the Full Board.

PLEASE DO NOT APPROVE MORE MIDDLE INCOME UNITS THAN LOW INCOME UNITS.
The city should continue traditional emphasis on building low income units as those units must go to those who have the greatest need with the fewest other options.

HOME SF AND ALL OTHER DENSITY BONUS PROGRAMS SHOULD BE SEPARATE PROGRAMS -- NOT COMBINED WITH or SUBSTITUTED FOR or SUPERSEDING
THE INCLUSIONARY HOUSING PROGRAM. To do so would defeat the will of the voters.

Further, I think that the low income units-to-middle income units ratio and income levels in the HOME SF legislation should be the same or greater as that approved by the voters under Prop C
as determined by the Full Board under as Prop C Inclusionary requirements.

If anything, any Density Bonus program should have MORE low income units than that required by Inclusionary Housing, as
developers are given a profit bonus from the city through permission to build extra floors and other rezoning benefits.

Thank you.

Lorraine Petty
one of the 67% of voters who approved Prop C
District 5 Voter
Senior & Disability Action member
D5 Action member

170208
161351

Somera, Alisa (BOS)

From: Board of Supervisors, (BOS)
Sent: Monday, May 15, 2017 8:35 AM
Subject: FW: Upcoming workforce housing legislation--in support of Safai, Breed and Tang proposal. File No. 170208

From: Linda Stark Litehiser [mailto:linda.litehi@gmail.com]
Sent: Sunday, May 14, 2017 8:25 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Upcoming workforce housing legislation--in support of Safai, Breed and Tang proposal.

Dear members of the board, I wanted to go on record in support of the Inclusionary Housing legislation proposed by Supervisors- Safai, Breed and Tang. I have studied the proposal as well as the competing proposal and feel that the Safai, Breed and Tang proposal is far superior for our city at this time.

I will try to come to testify in person but wanted to be sure that my support was noted. For too long our working families have been driven out of the city by the high cost of housing. My husband and I have four children and all of them have been forced to leave San Francisco, the place of their birth for other locations. Had housing that focused on reasonable costs for working families been available, I have no doubt that several of them would be living near us today. There needs to be a mix of housing affordability standards and this is legislation that could make that happen.

Best regards, Linda

--
Linda Stark Litehiser
78 Havelock St. San Francisco, CA 94112
District 11
415-585-8005

170208
161351

Somera, Alisa (BOS)

From: Board of Supervisors, (BOS)
Sent: Monday, May 08, 2017 8:44 AM
Subject: FW:

From: lgpetty@juno.com [mailto:lgpetty@juno.com]
Sent: Saturday, May 06, 2017 7:29 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject:

To All Supervisors

Re: Land Use Committee May 8, 2017

Item #2 150969 Affordable Housing Bonus Program

and #3 170208 Inclusionary Affordable Housing Fee & Dwelling Unit Mix Requirements

PLEASE DO NOT COMBINE THESE TWO ITEMS IN ANY WAY.

3 iinvolves a Charter mandate from the voters and must be kept as separate legislation with the mandate being followed as closely as possible in the new legislation regarding the same ratio
low income units to middle income units as that approved by the voters. DO NOT REVERSE THE RATIO. To do so would be a colossal betrayal of the public trust!!

#2 must be considered as separate legislation and NOT COMBINED WITH or SUBSTITUTED FOR or SUPERSEDING any other density bonus legislation.
I believe that the ratio of affordable housing units for the Item 2 Bonus Density proposal should be the same as that approved by the voters under Prop C. and set by the whole Board under Prop C Inclusionary Affordable Housing.

Thank you.
Lorraine Petty
District 5 Voter
Senior & Disability Action member
D5 Action member

170208
161351

Somera, Alisa (BOS)

From:	Board of Supervisors, (BOS)
Sent:	Monday, May 08, 2017 11:41 AM
To:	BOS-Supervisors; Somera, Alisa (BOS)
Cc:	Jhenders@sonic.net
Subject:	FW: HVNA T & P Letter Regarding Inclusionary Housing Ordinance - File No. 170208
Attachments:	2017 05 03 HVNA T & P BMR Letter to London.pdf

Hello,

Please add this letter to File No. 170208.

Thank you.

-----Original Message-----
From: Jason M Henderson [mailto:Jhenders@sonic.net]
Sent: Monday, May 08, 2017 11:17 AM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Cc: Norman.Yee.BOS@sfgov.org; Farrell, Mark (BOS) <mark.farrell@sfgov.org>; Cohen, Malia (BOS) <malia.cohen@sfgov.org>; Tang, Katy (BOS) <katy.tang@sfgov.org>; Fewer, Sandra (BOS) <sandra.fewer@SFGOV1.onmicrosoft.com>; Ronen, Hillary <hillary.ronen@sfgov.org>; Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>; Sheehy, Jeff (BOS) <jeff.sheehy@sfgov.org>; Angulo, Sunny (BOS) <sunny.angulo@sfgov.org>
Subject: HVNA T & P Letter Regarding Inclusionary Housing Ordinance

Dear Ms. Calvillo,

Attached is a letter regarding the Inclusionary Housing Ordinance going before the Board of Supervisors. A printed copy has been delivered to President Breed. We'd like for this to be included in the file for the ordinance. I've cc'd the supervisors who haven't yet received a copy.
Thank you very much.

-Jason Henderson

Chair, Hayes Valley Neighborhood Association Transportation & Planning Committee.

—
Jason Henderson
San Francisco CA
94102

170208
161351

The HAYES VALLEY Neighborhood Association | HVNA

May 3rd, 2017

President London Breed
San Francisco Board of Supervisors

RE: Below Market Rate Housing Policy and Inclusionary Housing Ratios

Dear London,

The Hayes Valley Neighborhood Association's Transportation & Planning Committee, as demonstrated in the Market and Octavia Better Neighborhoods Plan, has long supported housing policies that enable people of diverse incomes to live and work in our community. This point was re-affirmed at our January board and community retreat and affordability was raised as the most important issue facing our community.

HVNA has been observing the dialogue and various inclusionary housing proposals brought before the supervisors recently. We are troubled that our organization, one of those organizations that embraces high-density housing and inclusionary housing onsite, has not been a part of these discussions for D5 and beyond and particularly the HUB.

We have concerns about a proposal that reduces the increment of low and moderate income BMR's when compared to a more inclusionary proposal, both of which are now before the Board of Supervisors. While we recognize the need for a housing policy that helps middle class and upper middle class families (households making 110-140% of AMI), we do not wish to see that subsidy come at the expense of much-needed lower income housing.

HVNA's T & P Committee endorses the proposal for 24% BMR in new large rental developments with density bonus and is comfortable with the split between low income (15%) and moderate income (9%) rather than the proposal for 18% BMR in large rental developments, with a 6%-6%-6% spread subsidizing households making 110% of AMI. For condos, we support the 27% BMR ratio, and the spread of 15% low and 12% moderate income BMRs. Subsidizing someone at 140% of AMI, as the other proposal allows, might say something about how insane housing costs have become; but as it stands now, it would be robbing from the lower class to achieve it.

We also encourage the Board of Supervisors to include the most aggressive "annual indexing" provision as possible in the inclusionary policy, so that the BMR program continues to grow every year. That growth can primarily go toward middle income needs to further increase

housing opportunities, and again doing so without taking away opportunities from lower income households.

We are especially concerned that a major affordable housing opportunity will be lost in the rezone of the Hub. Rezoning the Hub to give higher heights, and thus hundreds of additional housing units, will give the supervisors the means to pressure developers to provide more units for people who live and work in our city. Maintaining that requirement at 15% is not only consistent with the Prop C measure on Inclusionary Housing adopted by voters last June but it will also be more consistent with the spirit of the Market and Octavia Plan and go much further at ensuring diversity and fairness, and keep working families in our city.

Increasing the low income increment to 15% and 9% for middle income will be more consistent with the spirit of the Market and Octavia Plan. A total of 24% BMR rental and 27% BMR for condos in the Hub will go much further at ensuring diversity and fairness, and keep working families in our city.

HVNA T & P recognizes your and your staff's commitment in addressing the complexities within inclusionary housing Inclusionary Housing legislation with the highest total increment of BMRs and with more emphasis on lower income housing consistent with the current city policy. We urge that you and your colleagues continue to seek ways to secure more middle class housing for the economic health of our city. We would appreciate more fully understanding your point of view.

We look forward to continued dialogue with you and your team. We want to further outline ways HVNA can support solutions to create housing for those most in need.

Sincerely,

Gail Baugh, President, HVNA

Jason Henderson, Chair, HVNA Transportation and Planning Committee,

161351

San Francisco Building and Construction Trades Council

1188 FRANKLIN STREET • SUITE 203
SAN FRANCISCO, CA 94109
EMAIL: mike@sfbctc.org

TEL. (415) 345-9333

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22 May 2017

Supervisor Mark Farrell
Supervisor Aaron Peskin
Supervisor Katy Tang

Dear Supervisors Farrell, Peskin, and Tang:

As you may know, Emily Johnstone of the AFL-CIO Housing Investment Trust served on the Controller's committee that made feasibility recommendations per last year's "inclusionary housing" charter amendment. Now as then, Ms. Johnstone has the trust of the San Francisco Building and Construction Trades Council.

Accordingly, the Board of Business Representatives of the Council voted at its meeting of 9 May 2017 to instruct me to send a letter to the Land Use and Transportation Committee in support of the proposal that resulted from the recent negotiations between Supervisors Breed, Safai, and Tang and Supervisors Peskin and Kim if Ms. Johnstone indicated that the proposal was close enough to the recommendations of the Controller's committee to warrant her support.

She has so indicated.

We support the proposal.

Respectfully yours,

Michael Theriault
Secretary-Treasurer

cc: Supervisors Safai and Breed
Emily Johnstone
Affiliates

Somera, Alisa (BOS) 160135

From: Joe Chmielewski <jcin506@yahoo.com>
Sent: Sunday, May 21, 2017 8:09 PM
To: Somera, Alisa (BOS)
Subject: Support Kim-Peskin Inclusionary Housing Proposal

May 21, 2017

To: Alisa Somera
alisa.somera@sfgov.org

From:
Joseph Chmielewski
50 Golden Gate Ave.
#506
SF, 94102
1(415)756-2913
<jcin506@yahoo.com>

Subject: Support Kim-Peskin Inclusionary Housing Proposal

Dear Ms Somera,

As clerk for the Land Use and Transportation Committee, please let the committee members know that I support the Inclusionary Housing proposal sponsored by Supervisors Jane Kim and Aaron Peskin. Their "consensus" measure lowers current inclusionary levels from a voter-approved 25 percent to 18 percent — but gradually increases the rate to 22 percent by 2019.

Please ask the members to reject Katy Tang's Home SF measure, a loophole for San Francisco's inclusionary housing policy that allows developers to build high density housing and charge more for the project's required affordable units.

Thank you.

Sincerely,

Joseph Chmielewski

170208
161351

Coalition for San Francisco Neighborhoods

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April 6, 2017

San Francisco Board of Supervisors

San Francisco Planning Commission

Re Inclusionary Housing Proposals

Ladies and Gentlemen,

We are responding to the presentation by the Staff (the "Staff") of the Planning Commission (the "Commission") of two proposed ordinances (the "Proposals" or a "Proposal") containing different versions of changes to the Planning Code to modify the requirements relating to below market rate housing provided as part of a multifamily market rate development ("inclusionary housing") in San Francisco. One Proposal is sponsored by Supervisors Kim and Peskin (the "Kim-Peskin Proposal") and the other by Supervisors Safai, Breed and Tang (the "Safai-Breed-Tang Proposal"). Currently, required inclusionary housing levels are governed by Proposition C passed by the voters in June, 2016.

The development of the Proposals reflects in part the conclusions of the Final Report dated February 13 2016 [sic] (the "Report") of the Inclusionary Working Group, led by the Office of the Controller, which developed models and analyses of economically feasible levels of inclusionary housing which could be suppled as part of a market rate multifamily housing development.

The Proposals were to be considered by the Commission on April 6, 2017, but that has been put over until April 28. In the hope that in the meantime there will be consideration of changes to the Proposals, the following comments are offered by the Coalition For San Francisco Neighborhoods:

1. THE SAFAI-BREED-TANG PROPOSAL REFLECTS A TECTONIC SHIFT UPWARD IN THE INCOME LEVELS OF ELIGIBLE LPERSONS FOR INCLUSIONARY HOUSING THUS SQUEEZING OUT LESS FORTUNATE CLASSES. THIS BENEFITS DEVELOPERS WHICH CAN CHARGE MORE FOR INCLUSIONARY UNITS, HELPING THEIR PROFIT MARGINS

(Explanatory Note) The Safai-Breed-Tang proposal places much more emphasis on middle income beneficiaries. Because inclusionary rental or sales charges can be higher for these beneficiaries, this helps developers' profits margins. While these beneficiaries are certainly worthy, it will result in the displacement of equally worthy, low and lower income groups who have even greater needs.

Such a major policy change as this is, pitting low and lower means persons against those with higher means, with no significant changes in the amount of inclusionary housing to be produced, should not be undertaken without (1) a much more comprehensive review which extends beyond the Report, which focused primarily on financial issue and mitigating risks for developers, (2) ultimately, a vote of the people.

2. INITIALLY AND FOR SOME TIME TO COME, THE PERENTAGES OF INCLUSIONARY HOUSING PER PROJECT FOR LARGE DEVELOPMENTS ARE LESS UNDER BOTH PROPOSALS THAN CURRENT LAW AND SHOULD ALLOW FOR EARLIER VOLUNTARY INCREASES. THE SAFAI-BREED-TANG PROPOSAL NEVER REACHES EXISTING LAW REQUIREMENTS.

(Explanatory Note) Both Proposals start below their ultimate maximum required levels of inclusionary housing in a project, for larger developments, and step up in very small annual increments, based on a formula proposed by the Report as a risk hedge for developers. Under the Safai-Breed-Tang Proposal, the time period to reach maximum is 15 years, and it would still not reach current law levels then!! Under Kim-Peskin, the required annual increase Increments are somewhat larger and would ultimately provide for inclusionary percentages per project in excess of current law. BOTH PROPOSALS SHOULD PROVIDE FOR PERMISSABLE VOLUNTARY INCREMENTS AT GREATER THAN THE RQUIRED RATES.

3. BY STATING RANAGES OF QUALIFYING INCOME, BOTH PROPOSALS HAVE CAPS AND FLOORS FOR QUALFYING LEVELS, SO PERSONS WITH INCOMES BELOW THE FLOORS ARE SQUEEZED OUT. CURRNENT LAW MERELY PROVIDES FOR INCOME CAPS, NOT FLOORS

(Explanatory Note) Under current law, for smaller developments, (10 to 24 units, the qualifying income level is "not to exceed" 55% or 80%of AMI (for rental or purchase units, respectively). The

two Proposals state ranges with averages, so those below the range don't qualify, and the Safai, Breed-Tang Proposal exacerbates that by significantly raising the ranges as well. See Item 1 above. THE RANGES SHOULD BECOME 'NOT TO EXCEED' PERCENTAGES OF QUALFYING INCOME SO THAT LOWER LEVELS WOULD QUALIFY AS WELL.

4. QUALIFYING INCOME TESTS ARE BASED UPON TOO ECONOMICALLY DIVERSE GEOGRAPHIC AREAS, THUS SQUEEZING OUT PERSON S AND FAMILIES LIVING IN VERFY LOW INCOME NEIGHBORHOOD/REGIONS WHO CANNOT MEET A STATED MEANS TEST.

(Explanatory Note) The Commission agreed, with respect to AHBP, to use a more neighborhood/San Francisco-Centric means test, meaning that, e.g. "55% of AMI" would be calculated on smaller geographic area to eliminate or mitigate the impact of the significant disparities in income levels which can be generally extant in the standard AMI tests. This does not appear to have been done AND MORE OF AN EFFORT SHOULD BE MADE TO ACCOMMODATE THAT.

5. THE REPORT AND THE SAFAI-BREED-TANG PRPOSAL SEEK TO IMPOSE A "FEE OUT" FEE ON BONUS UNITS WHICH ARE RECEJIVED UNDER STATE LAW. SINCE THE BONUS UNITS MUST BE BUILT UNITS, THIS VIOLATES STATE LAW

(Explanatory Note) Under the State Density Bonus Law, to qualify for a bonus, the affordable units must be built on the site of the market rate housing on qualifying donated land. The Report and the Safai-Breed-Tang Proposal both say that there should be a "fee out" charge anyway for BUILT UNITS !! California case law (the "Napa Case") allows inclusionary units built under a local law

program to count as affordable units under State Law, if they otherwise qualify. Since they have to be built on site or on donated land, and can't be fee'd out under State Law, and since inclusionary units which are built, are not charged a fee'd out fee under local law, we believe that if litigated, a court would hold that the fee is impermissible, and would view it as a penalty or tax disincentive to use State Law.

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6. INCLUSIONARY UNITS WHICH ARE FEE'D OUT SHOULD BE BUILT WHEN THE MAIN PROJECT IS BUILT OR SOON THEREAFTER, AND FUNDS THEREFOR SHOULD NOT BE PLACED IN A FUND TO LANGUISH AS THEIR VALUES DECLINE.

(Explanatory Note) The whole concept of "feeing out" is antithetical to developing as much inclusionary housing as possible, as rapidly as possible. The City needs the housing now which the fee'd out dollars are to provide. With land and construction costs seemingly on an irreversible upward trend, then the worth of a dollar today will decline with the passage of time, and the intended number of inclusionary units may not be able to be built.

So either eliminate feeing out OR hold up the certificate of occupancy on the building in chief until construction is started on the facility to be funded with fee'd out dollars, plus any "topping off" necessary to build the number of inclusionary units originally contemplated.

COALITION FOR SAN FRANCISCO NEIGHBOHOODS

Cc: John Rahiam, AnMarie Rodgers, Jacob Bintliff

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

LAND USE AND TRANSPORTATION COMMITTEE

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: **Monday, June 12, 2017**

Time: **1:30 p.m.**

Location: **Legislative Chamber, Room 250, located at City Hall**
1 Dr. Carlton B. Goodlett Place, San Francisco, CA

Subject: **File No. 161351**. Ordinance amending the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; to require minimum dwelling unit mix in all residential districts; 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.

If the legislation passes, new residential projects shall be subject to revised Affordable Housing fees or provide a percentage of dwelling units either on-site or off-site, and other requirements, as follows:

Inclusionary Affordable Housing Fee:

- 10 units or more, but less than 25 units: 20%
- 25 units or more: 33% for ownership projects or 30% for rental projects

The Mayor's Office of Housing and Community Development shall calculate these fees based on the City's cost of constructing affordable residential housing, including development and land acquisition costs.

On-Site Affordable Housing option:

- 10 to 24 units: 12%, increasing by 0.5% annually for all development projects with 10-24 units of housing, beginning on January 1, 2018, until such requirements is 15%.
- 25 ownership units or more: 20%, increasing by 1.0% annually for two consecutive years, starting on January 1, 2018, and then by 0.5% annually starting January 1, 2020, with the total on-site inclusionary affordable housing requirement not exceeding 26%.

- 25 rental units or more: 18%, increase by 1.0% annually for two consecutive years, starting on January 1, 2018, and then by 0.5% annually starting January 1, 2020, with the total on-site inclusionary affordable housing requirement not exceeding 24%

Off-Site Affordable Housing option:

- 10 units or more, but less than 25 units: 20%
- 25 ownership units or more: 33%
- 25 rental units or more: 30%

If the principal project results in the demolition, conversion or removal of affordable housing units that are subject to a recorded, covenant, ordinance or law that restricts rents or is subject to any form of rent or price control, the project sponsor shall pay the Inclusionary Affordable Housing Fee equivalent for the number of units removed or replace the number of affordable units removed with units of a comparable number of bedrooms and sales prices or rents, in addition to compliance with the inclusionary requirements.

The fee shall be imposed on any additional units or square footage authorized and developed under California Government Code Sections 65915 et seq. where the development project submits an Environmental Evaluation application after January 1, 2016.

Projects located within the Eastern Neighborhoods Mission Planning Area, the North of Market Residential Special Use District Subarea 1 or Subarea 2, or the SOMA Neighborhood Commercial Transit District, that have submitted a complete Environmental Evaluation Application on or before January 12, 2016, shall pay a fee or provide off-site housing in an amount equivalent to 30% or provide affordable units in the amount of 25% of the number of rental units constructed on-site or 27% of the number of owned units constructed on-site.

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made as part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, June 9, 2017.

Alisa Somera

for Angela Calvillo
Clerk of the Board

DATED: June 2, 2017
PUBLISHED: June 2 & 7, 2017

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1 DR CARLTON B GOODLETT PL #244
SAN FRANCISCO, CA 94102

EXM# 3017724

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Notice Type: GPN GOVT PUBLIC NOTICE

Ad Description AS - 06.12.17 Land Use - 161351 Fee Ad

To the right is a copy of the notice you sent to us for publication in the SAN FRANCISCO EXAMINER. Thank you for using our newspaper. Please read this notice carefully and call us with ny corrections. The Proof of Publication will be filed with the County Clerk, if required, and mailed to you after the last date below. Publication date(s) for this notice is (are):

06/02/2017 , 06/07/2017

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NOTICE OF PUBLIC HEARING
BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO
LAND USE AND TRANSPORTATION COMMITTEE
MONDAY, JUNE 12, 2017 - 1:30 PM
LEGISLATIVE CHAMBER, ROOM 250, CITY HALL
1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard: **File No. 161351.** Ordinance amending the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; to require minimum dwelling unit mix in all residential districts; 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. If the legislation passes, new residential projects shall be subject to revised Affordable Housing fees or provide a percentage of dwelling units either on-site or off-site, and other requirements, as follows: Inclusionary Affordable Housing Fee: 10 units or more, but less than 25 units: 20%; 25 units or more: 33% for ownership projects or 30% for rental projects. The Mayor's Office of Housing and Community Development shall calculate these fees based on the City's cost of constructing affordable residential housing, including development and land acquisition costs. On-Site Affordable Housing option: 10 to 24 units: 12%, increasing by 0.5% annually for all development projects with 10-24 units of housing, beginning on January 1, 2018, until such requirements is 15%; 25 ownership units or more: 20%, increasing by 1.0% annually for two consecutive years, starting on January 1, 2018, and then by 0.5% annually starting January 1, 2020, with the total on-site inclusionary affordable housing requirement not exceeding 26%; 25 rental units or more: 18%, increase by 1.0% annually for two consecutive years, starting on January 1, 2018, and then by 0.5% annually starting January 1, 2020, with the total on-site inclusionary affordable housing requirement not exceeding 24%; Off-Site Affordable Housing option: 10 units or more, but less than 25 units: 20%; 25 ownership units or more: 33%; 25 rental units or more: 30%. If the principal project results in the demolition, conversion or removal of affordable housing units that are subject to a recorded, covenant, ordinance or law that restricts rents or is subject to any form of rent or price control, the project sponsor shall pay the Inclusionary Affordable Housing Fee equivalent for the number of units removed or replace the number of affordable units removed with units of a comparable number of bedrooms and sales prices or rents, in addition to compliance with the inclusionary requirements. The fee shall be imposed on any additional units or square footage authorized and developed under California Government Code Sections 65915 et seq. where the development project submits an Environmental Evaluation application after January 1, 2016. Projects located within the Eastern Neighborhoods Mission Planning Area, the North of Market Residential Special Use District Subarea 1 or Subarea 2, or the SOMA Neighborhood Commercial Transit District, that have submitted a complete Environmental Evaluation Application on or before January 12, 2016, shall pay a fee or provide off-site housing in an amount equivalent to 30% or provide affordable units in the amount of 25% of the number of rental units constructed on-site or 27% of the number of owned units constructed on-site. In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be

made as part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, June 9, 2017. - Angela Calvillo, Clerk of the Board

BOARD of SUPERVISORS

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Tel. No. 554-5184
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NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

LAND USE AND TRANSPORTATION COMMITTEE

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: **Monday, May 15, 2017**

Time: **1:30 p.m.**

Location: **Legislative Chamber, Room 250, located at City Hall**
1 Dr. Carlton B. Goodlett Place, San Francisco, CA

Subject: **File No. 161351.** Ordinance amending 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; adding reporting requirements for density bonus projects; affirming the Planning Department's determination under the California Environmental Quality Act; making findings 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.

If the legislation passes, new residential projects shall be subject to revised Affordable Housing fees or provide a percentage of dwelling units either on-site or off-site, and other requirements, as follows:

Inclusionary Affordable Housing Fee:

- 10 units or more, but less than 25 units: 20%
- 25 units or more: 33% for ownership projects or 30% for rental projects

The Mayor's Office of Housing and Community Development shall calculate these fees based on the City's cost of construction of providing the residential housing for three different building types and two types of tenure, ownership and rental. The three building types would be based on the height of the building: 1) up to 55 feet; 2) above 55 feet and up to 85 feet; and 3) above 85 feet. The affordability gap would be calculated within six months of the effective date of the amendments and updated annually to ensure the amount reflects the City's current costs for the various building types and tenures.

On-Site Affordable Housing option:

- 10 to 24 units: 12%
- 25 ownership units or more: 27% of all units constructed on the project site
- 25 rental units or more: 24%

Annual indexing. The required on-site affordable housing shall increase by 0.75% annually for all development projects with 10-24 units of housing, beginning on January 1, 2018.

Off-Site Affordable Housing option:

- 10 units or more, but less than 25 units: 20%
- 25 ownership units or more: 33%
- 25 rental units or more: 30%

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made as part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, May 12, 2017.

Alisa Somera

for Angela Calvillo
Clerk of the Board

DATED: May 4, 2017
PUBLISHED: May 5 & 11, 2017

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EXM# 3007787

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05/05/2017 , 05/11/2017

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NOTICE OF PUBLIC HEARING
BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO
LAND USE AND TRANSPORTATION COMMITTEE
MONDAY, MAY 15, 2017 - 1:30 PM
CITY HALL, LEGISLATIVE CHAMBER, ROOM 250
1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard: File No. **161351.** Ordinance amending 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; adding reporting requirements for density bonus projects; affirming the Planning Department's determination under the California Environmental Quality Act; making findings 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. If the legislation passes, new residential projects shall be subject to revised Affordable Housing fees or provide a percentage of dwelling units either on-site or off-site, and other requirements, as follows: Inclusionary Affordable Housing Fee: 10 units or more, but less than 25 units: 20%; 25 units or more: 33% for ownership projects or 30% for rental projects. The Mayor's Office of Housing and Community Development shall calculate these fees based on the City's cost of construction of providing the residential housing for three different building types and two types of tenure, ownership and rental. The three building types would be based on the height of the building: 1) up to 55 feet; 2) above 55 feet and up to 85 feet; and 3) above 85 feet. The affordability gap would be calculated within six months of the effective date of the amendments and updated annually to ensure the amount reflects the City's current costs for the various building types and tenures. On-Site Affordable Housing option: 10 to 24 units: 12%; 25 ownership units or more: 27% of all units constructed on the project site; 25 rental units or more: 24%. Annual indexing. The required on-site affordable housing shall increase by 0.75% annually for all development projects with 10-24 units of housing, beginning on January 1, 2018. Off-Site Affordable Housing option: 10 units or more, but less than 25 units: 20%; 25 ownership units or more: 33%; 25 rental units or more: 30%. In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made as part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, May 12, 2017. - Angela Calvillo, Clerk of the Board

* A 0 0 0 0 0 4 4 3 6 8 0 1 *

SAN FRANCISCO EXAMINER

835 MARKET ST, SAN FRANCISCO, CA 94103
Telephone (415) 314-1835 / Fax (510) 743-4178

This space for filing stamp only

ALISA SOMERA
CCSF BD OF SUPERVISORS (OFFICIAL NOTICES)
1 DR CARLTON B GOODLETT PL #244
SAN FRANCISCO, CA - 94102

EXM#: 3007787

PROOF OF PUBLICATION

(2015.5 C.C.P.)

State of California)
County of SAN FRANCISCO) ss

Notice Type: GPN - GOVT PUBLIC NOTICE

Ad Description:

AS - 05/15/17 Land Use - 161351 Fee Ad

I am a citizen of the United States and a resident of the State of California; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer and publisher of the SAN FRANCISCO EXAMINER, a newspaper published in the English language in the city of SAN FRANCISCO, county of SAN FRANCISCO, and adjudged a newspaper of general circulation as defined by the laws of the State of California by the Superior Court of the County of SAN FRANCISCO, State of California, under date 10/18/1951, Case No. 410667. That the notice, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

05/05/2017, 05/11/2017

Executed on: 05/11/2017
At Los Angeles, California

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Signature

Email

* A 0 0 0 0 0 4 4 6 3 2 6 9 *

NOTICE OF PUBLIC HEARING BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO LAND USE AND TRANSPORTATION COMMITTEE MONDAY, MAY 15, 2017 - 1:30 PM CITY HALL, LEGISLATIVE CHAMBER, ROOM 250 1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard: **File No. 161351.** Ordinance amending 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; adding reporting requirements for density bonus projects; affirming the Planning Department's determination under the California Environmental Quality Act; making findings 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. If the legislation passes, new residential projects shall be subject to revised Affordable Housing fees or provide a percentage of dwelling units either on-site or off-site, and other requirements, as follows: Inclusionary Affordable Housing Fee: 10 units or more, but less than 25 units: 20%; 25 units or more: 33% for ownership projects or 30% for rental projects. The Mayor's Office of Housing and Community Development shall calculate these fees based on the City's cost of construction of providing the residential housing for three different building types and two types of tenure, ownership and rental. The three building types would be based on the height of the building: 1) up to 55 feet; 2) above 55 feet and up to 85 feet; and 3) above 85 feet. The affordability gap would be calculated within six months of the effective date of the amendments and updated annually to ensure the amount reflects the City's current costs for the various building types and tenures. On-Site Affordable Housing option: 10 to 24 units: 12%; 25 ownership units or more: 27% of all units constructed on the project site; 25 rental units or more: 24%. Annual indexing. The required on-site affordable housing shall increase by 0.75% annually for all development projects with 10-24 units of housing, beginning on January 1, 2018. Off-Site Affordable Housing option: 10 units or more, but less than 25 units: 20%; 25 ownership units or more: 33%; 25 rental units or more: 30%. In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made as part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda Information relating to this matter will be available for public review on Friday, May 12, 2017. - Angela Calvillo, Clerk of the Board

BOARD of SUPERVISORS

City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

June 1, 2017

File No. 161351

Lisa Gibson
Acting Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On May 22, 2017, the Land Use and Transportation Committee amended the following legislation:

File No. 161351

Ordinance amending the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; to require minimum dwelling unit mix in all residential districts; 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.

This amended legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

Attachment

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

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Olson Lee, Director, Mayor's Office of Housing and Community Development
Nadia Sesay, Interim Executive Director, Office of Community Investment and Infrastructure
Robert Collins, Executive Director, Rent Board

FROM: Erica Major, Assistant Clerk
Land Use and Transportation Committee

DATE: June 1, 2017

SUBJECT: AMENDED LEGISLATION

The Board of Supervisors' Land Use and Transportation Committee amended the following legislation, introduced by Supervisor Kim on April 18, 2017:

File No. 161351

Ordinance amending the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; to require minimum dwelling unit mix in all residential districts; 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.

If you have 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 or by email at: Erica.Major@sfgov.org

c: Eugene Flannery, Mayor's Office of Housing and Community Development
Kate Hartley, Mayor's Office of Housing and Community Development
Amy Chan, Mayor's Office of Housing and Community Development

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

May 25, 2017

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

Dear Commissioners:

On May 22, 2017, the Land Use and Transportation Committee amended the following ordinance. The Office of the City Attorney has advised that this ordinance requires an additional Planning Commission hearing:

File No. 161351

Ordinance amending the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; to require minimum dwelling unit mix in all residential districts; 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.

The proposed ordinance is being transmitted pursuant to Planning Code, Section 302, for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and is scheduled for hearing on June 5, 2017.

Angela Calvillo, Clerk of the Board

By: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

c: John Rahaim, Director of Planning
Aaron Starr, Acting Manager of Legislative Affairs
Scott Sanchez, Zoning Administrator
Lisa Gibson, Acting Environmental Review Officer
AnMarie Rodgers, Senior Policy Advisor
Jeanie Poling, Environmental Planning
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS

City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

April 21, 2017

File No. 161351

Lisa Gibson
Acting Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On April 18, 2017, Supervisor Kim introduced the following substitute legislation:

File No. 161351

Ordinance amending 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; adding reporting requirements for density bonus projects; affirming the Planning Department's determination under the California Environmental Quality Act; making findings 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.

This substitute legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

for By: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

Attachment

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

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

April 21, 2017

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

Dear Commissioners:

On April 18, 2017, Supervisor Kim introduced the following substitute legislation:

File No. 161351

Ordinance amending 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; adding reporting requirements for density bonus projects; affirming the Planning Department's determination under the California Environmental Quality Act; making findings 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.

The substitute 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 Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

for By: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

c: John Rahaim, Director of Planning
Aaron Starr, Acting Manager of Legislative Affairs
Scott Sanchez, Zoning Administrator
Lisa Gibson, Acting Environmental Review Officer
AnMarie Rodgers, Senior Policy Advisor
Jeanie Poling, Environmental Planning
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Olson Lee, Director, Mayor's Office of Housing and Community Development
Nadia Sesay, Interim Executive Director, Office of Community Investment and Infrastructure
Robert Collins, Executive Director, Rent Board

FROM: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

DATE: April 21, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following substitute legislation, introduced by Supervisor Kim on April 18, 2017:

File No. 161351

Ordinance amending 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; adding reporting requirements for density bonus projects; affirming the Planning Department's determination under the California Environmental Quality Act; making findings 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.

If you have 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 or by email at: alisa.somera@sfgov.org.

c: Eugene Flannery, Mayor's Office of Housing and Community Development
Kate Hartley, Mayor's Office of Housing and Community Development
Amy Chan, Mayor's Office of Housing and Community Development

BOARD of SUPERVISORS

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

March 1, 2017

File No. 161351

Lisa Gibson
Acting Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On February 28, 2017, Supervisor Kim introduced the following substitute legislation:

File No. 161351

Ordinance amending 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; adding reporting requirements for density bonus projects; affirming the Planning Department's determination under the California Environmental Quality Act; making findings 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.

This substitute legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

for By: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

Attachment

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

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

March 1, 2017

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

Dear Commissioners:

On February 28, 2017, Supervisor Kim introduced the following substitute legislation:

File No. 161351

Ordinance amending 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; adding reporting requirements for density bonus projects; affirming the Planning Department's determination under the California Environmental Quality Act; making findings 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.

The substitute 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 Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

for By: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

c: John Rahaim, Director of Planning
Aaron Starr, Acting Manager of Legislative Affairs
Scott Sanchez, Zoning Administrator
Lisa Gibson, Acting Environmental Review Officer
AnMarie Rodgers, Senior Policy Advisor
Jeanie Poling, Environmental Planning
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Olson Lee, Director, Mayor's Office of Housing and Community Development
Nadia Sesay, Interim Executive Director, Office of Community Investment and Infrastructure

FROM: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

DATE: March 1, 2017

SUBJECT: SUBSTITUTE LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following substitute legislation, introduced by Supervisor Kim on February 28, 2017:

File No. 161351

Ordinance amending 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; adding reporting requirements for density bonus projects; affirming the Planning Department's determination under the California Environmental Quality Act; making findings 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.

If you have 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 or by email at: alisa.somera@sfgov.org.

c: Eugene Flannery, Mayor's Office of Housing and Community Development
Kate Hartley, Mayor's Office of Housing and Community Development

BOARD of SUPERVISORS

City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

December 20, 2016

File No. 161351

Lisa Gibson
Acting Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On December 13, 2016, Supervisor Kim introduced the following proposed legislation:

File No. 161351

Ordinance amending 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; affirming the Planning Department's determination under the California Environmental Quality Act; making findings 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.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

for By: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

Attachment

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

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

December 20, 2016

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

Dear Commissioners:

On December 13, 2016, Supervisor Kim introduced the following legislation:

File No. 161351

Ordinance amending 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; affirming the Planning Department's determination under the California Environmental Quality Act; making findings 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.

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 Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

for By: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

c: John Rahaim, Director of Planning
Aaron Starr, Acting Manager of Legislative Affairs
Scott Sanchez, Zoning Administrator
Lisa Gibson, Acting Environmental Review Officer
AnMarie Rodgers, Senior Policy Advisor
Jeanie Poling, Environmental Planning
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Olson Lee, Director, Mayor's Office of Housing and Community Development
Tiffany Bohee, Executive Director, Office of Community Investment and Infrastructure

FROM: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

DATE: December 20, 2016

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Kim on December 13, 2016:

File No. 161351

Ordinance amending 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; affirming the Planning Department's determination under the California Environmental Quality Act; making findings 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.

If you have 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 or by email at: alisa.somera@sfgov.org.

c: Eugene Flannery, Mayor's Office of Housing and Community Development
Kate Hartley, Mayor's Office of Housing and Community Development
Claudia Guerra, Office of Community Investment and Infrastructure

Member, Board of Supervisors
District 2

City and County of San Francisco

MARK E. FARRELL

DATE: May 18, 2017

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Mark Farrell

RE: Land Use and Transportation Committee
COMMITTEE REPORTS

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matters are of an urgent nature and request they be considered by the full Board on Tuesday, May 23, 2017, as Committee Reports:

170240 Police, Building Codes - Lactation in the Workplace

Ordinance amending the Police Code to require employers to provide employees breaks and a location for lactation and to have a policy regarding lactation in the workplace that specifies a process by which an employee will make a request for accommodation, defines minimum standards for lactation accommodation spaces, requires that newly constructed or renovated buildings designated for certain uses include lactation rooms, and outlines lactation accommodation best practices; amending the Building Code to specify the technical specifications of lactation rooms for new or renovated buildings designated for certain use; making findings, including environmental findings and findings regarding the California Health and Safety Code; and directing the Clerk of the Board of Supervisors to forward this Ordinance to the California Building Standards Commission upon final passage.

City Hall • 1 Dr. Carlton B. Goodlett Place • Room 244 • San Francisco, California 94102-2489 • (415) 554-7752
Fax (415) 554-7843 • TDD/TTY (415) 554-2267 • E-mail: Mark.Farrell@sfgov.org

Member, Board of Supervisors
District 2

City and County of San Francisco

MARK E. FARRELL

170208 **Planning Code - Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements**

Ordinance amending the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; to require minimum dwelling unit mix in all residential districts; 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.

161351 **Planning Code - Inclusionary Affordable Housing Fee and Requirements**

Ordinance amending 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; adding reporting requirements for density bonus projects; affirming the Planning Department's determination under the California Environmental Quality Act; making findings 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.

These matters will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, May 22, 2017, at 1:30 p.m.

City Hall • 1 Dr. Carlton B. Goodlett Place • Room 244 • San Francisco, California 94102-2489 • (415) 554-7752
Fax (415) 554-7843 • TDD/TTY (415) 554-5227 • E-mail: Mark.Farrell@sfgov.org

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2017 APR 18 PM 1:01
Time stamp or meeting date
BY: AK

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. [161351]

☐ 9. Reactivate File No. [ ]

☐ 10. 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 Form.

Sponsor(s):

Supervisors Kim; Peskin

Subject:

[Planning Code – Inclusionary Affordable Housing Fee and Requirements]

The text is listed below or attached:

Ordinance amending 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; adding

Signature of Sponsoring Supervisor: [signature]

For Clerk's Use Only:

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2017 FEB 28 PM 4:59
BY
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. [ ]
- ☐ 9. Reactivate File No. [ ]
- ☐ 10. 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 Form.

Sponsor(s):

Supervisor Kim

Subject:

Planning Code – Inclusionary Affordable Housing Fee and Requirements

The text is listed below or attached:

See attached.

Signature of Sponsoring Supervisor:

For Clerk's Use Only:

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

RECEIVED
12/13/16 @
4:41 pm
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. [ ]

☐ 9. Reactivate File No. [ ]

☐ 10. 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 Form.

Sponsor(s):

Supervisors Kim and Peskin

Subject:

Planning Code - Inclusionary Affordable Housing Fee and Requirements

The text is listed below or attached:

See attached.

Signature of Sponsoring Supervisor: [signature]

For Clerk's Use Only: