



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY**  
**DEVELOPMENT**  
**JOSEPH A. CURTATONE**  
**MAYOR**

TO: Somerville Board of Aldermen  
FROM: George Proakis, Director of Planning  
RE: Inclusionary Housing Ordinance Amendments  
DATE: May 8, 2016

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The attached document serves as the Planning Division's staff recommendation for the petition submitted to change the inclusionary zoning regulations in the zoning ordinance.

The draft submitted is built off the draft that was reviewed at the Land Use Committee meeting on May 3, 2016, with adjustments as follows:

- a. Any amendment to the current ordinance is underlined and bolded.
- b. Language to be removed is crossed out.
- c. Language that is underlined, bold AND crossed out was proposed in the last draft but is now recommended to be removed.
- d. Items colored in ORANGE are items that were agreed upon at the Land Use Committee meeting, and therefore the amendment with the ORANGE edits reflects the ordinance as it was referred out of the Land Use Committee on May 3<sup>rd</sup>.
- e. Items colored in GREEN are the recommendations of the Planning Division staff. At the end of the May 3<sup>rd</sup> meeting, the staff was unable to make a recommendation on a number of key items in the ordinance. At that time, a number of items were colored in RED, and they reflected items recommended by the Planning Board that were not agreed upon by the original petitioners. These items have been replaced with the items in GREEN.

### **Analysis**

During the past week, the staff met with the advocates representing the original petitioners. Staff reviewed the information provided by the petitioners and the data from the RKG report. Staff created analysis of the impact of the ordinance on projects in different zoning districts with different metrics. The staff review of metrics included analysis of:

- a. The trigger point (the smallest project that triggers the ordinance)
- b. Different percentages of affordable units for smaller projects, and different points at which the ordinance requires 20%
- c. Different levels for a lot area per dwelling unit bonus (from no bonus to a 25% bonus)
- d. Different configurations of the three Tiers
- e. Adjustments to the system of calculating affordable rents for the first two Tiers
- f. Adjustments to the way that fractional units are treated

## **A set of Dials**

Planning Division staff has been describing the inclusionary ordinance as being like a set of dials. We spend most time discussing the dial for the percentage of inclusionary housing (currently 12.5%) and if it should be raised to 20%. In 2012, SomerVision anticipated that this number could be raised to 15%. Nonetheless, with the need for more affordable housing, the zoning overhaul team begun in November of 2014 to seek a larger increase. At that time, the overhaul was able to recommend up to 20% in areas where large projects would be built on transformational sites adjacent to the MBTA station. This was possible, because the ordinance also provided for more units, opened up development in new areas of the city, reduced parking requirements, introduced a middle income tier and adjusted the way that affordable rents were set. In other words, by adjusting other dials, it was possible to increase the dial for inclusionary units up as far as 20%.

The petitioner's ordinance was submitted to address immediate needs for affordable housing, and the staff understands those needs are real. But, by submitting a 20% ordinance without incorporating the other changes in the overhaul, the proposal moved one dial without making substantial changes to any of the others. Staff has worked to review all of these metrics within the existing ordinance to recommend changes to the petitioner's proposal and the Planning Board's subsequent recommendation. For this reason, the enclosed draft adjusts more of the ordinance than originally anticipated by the petitioners. But, it does so to address the need to review all of the dials.

While staff still would prefer to incorporate changes to inclusionary zoning into the zoning overhaul, the staff is also committed to reaching this 20% goal. Should the Board choose to approve an ordinance on inclusionary zoning, staff will carry forward its provisions into the overhaul.

## **Our City's Priorities**

As mentioned at the last Board meeting, one of the challenges with addressing inclusionary housing at 20% is the need to balance this goal with other metrics for inclusionary housing (such as the Tiers of affordability). But, another pressing need is to balance the needs for affordable housing with other community benefits.

Development provides opportunities to seek out community benefits. Communities can use zoning to require affordable housing, public open space and other benefits, as long as those benefits continue to make a project financially viable. SomerVision incorporates over 100 goals, policies and actions that address zoning issues. The ordinance presented here represents one very important goal, but requesting ambitious affordable housing requirements may make it more difficult for individual projects to provide for a number of important priorities, such as open space and infrastructure investment. At this time, there is a particular concern that projects can contribute to our infrastructure needs, especially in transformational areas such as Union Square and Boynton Yards, and especially as the MBTA now looks to us to further contribute towards the Green Line extension. Staff has worked to have these affordable housing metrics fit with other city priorities for benefits, but there is a concern that projects may be able to provide the necessary affordable housing, but do so at the expense of other priorities.

## **The RKG Data**

Through continued conversation with RKG, the staff has come to understand the many benefits of their financial feasibility model, but also its limitations. The model provides an accurate introduction to the feasibility of projects in our current market, with strong housing prices and the anticipate forthcoming Green Line. The model does not anticipate any economic downturns. And, while the market for housing in the Boston area, and in Somerville in particular is likely to remain much stronger than other communities or regions, our region would not be altogether immune from national or global trends in real estate finance. For this reason, as values level off or decline, projects that may work today could be unable to be financed in the foreseeable future. The RKG project indicated feasibility issues TODAY with smaller projects. Larger projects appear to be more feasible with greater inclusionary housing. But, even for those larger projects, there could be challenges if prices go down, even a bit. While the staff sees long-term strength in the Somerville community, these trends will impact us, and therefore the

recommendations of staff anticipate that some economic impacts would soon make larger projects more challenging with 20% inclusionary housing.

**Income Tiers**

Per the request of the Board, income limits as follows:

	1 person	2 people	3 people	4 people	5 people
50%	\$34,350	\$39,250	\$44,150	\$49,050	\$53,000
80%	\$51,150	\$58,450	\$65,750	\$73,050	\$78,900
110%	\$75,850	\$86,700	\$97,550	\$108,350	\$117,050
140%	\$96,540	\$110,350	\$124,150	\$137,900	\$148,970

Note: income rates for 140% are estimated based off 110% rates.

**BOA Recommended Changes**

The ordinance incorporates the items agreed-upon at the May 3<sup>rd</sup> meeting. It:

- a. Removes the exception for projects that have approved preliminary master plans
- b. Clarifies the nature of the bonuses in Table 13.3.4.B
- c. Adds a table to clarify how the Tiers work
- d. Adjusts priorities to ensure that preferences for Somerville residents and those recently displaced from Somerville, to the greatest extent possible
- e. Removes the provision to permit rental units to be managed by an entity chosen by the SPGA
- f. Adds the reversion clause proposed by Alderman White

**The Staff’s Recommendation**

The ordinance incorporates the following staff recommendations:

- a. On Page 2: Staff recommends adjusting the inclusionary trigger to 6 units, as requested by the petitioners. But, staff recommends adjusting table 13.3.4.A on page 7 to permit projects with 6 or 7 units to meet their requirements by making a payment for a fractional unit (40% of a unit for a 6 unit project and 60% of a unit for a 7 unit project). Essentially, there is a challenge to selecting a trigger point under the current inclusionary housing system: Whatever number is chosen always converts into units never built. Currently, an 8 unit project triggers inclusionary housing. For this reason, developers with enough land to built an 8 unit project (and often a 9 unit project as well) will choose to build 7 units to avoid inclusionary housing. As a result, we lose units (both inclusionary and market rate units), and further set back our ability to meet portions of our regional housing demand. Reducing this number to 6 (as recommended by the petitioners) or 7 (as recommended by the Planning Board) will shift down the number of units built. Most likely, triggering inclusionary requirements in a 6 unit project will cause many more projects to be built with 5 very large and expensive units. Therefore, staff recommends that the Board replace this trigger point with a process that ramps up towards providing the first unit. Projects with 6 and 7 units will contribute to the affordable housing trust fund, and projects with 8 units will provide on-site inclusionary housing. This system will provide new support for the trust fund while reducing the likelihood that developers will drop a unit to avoid participation in the inclusionary housing program.
- b. On page 4: The staff recommends correcting a mistake from the 5/3/16 draft by identifying the proper income indexes for income for the condominium units. They were corrected for rental units but not for the sale units on the previous draft.
- c. On page 5: The word ‘individual’ is corrected with the word ‘household’, so that entire household income is considered.
- d. On page 7: Table 13.3.4.A: As noted above, projects providing 6 or 7 total units are permitted to provide an affordable unit but may substitute this with a payment to the affordable housing trust fund. Beyond this, staff was tasked with determining an appropriate affordable housing percentage for smaller projects and a point where the inclusionary percentage reaches 20%. The Planning Board recommendation included 15% affordable housing for projects up to 19 units and

20% for projects with 20 or more units. The petitioners responded by suggestion 15% for up to 12 units and 20% for 13 or more units. Staff has reviewed these options, and the impact of the proposal on smaller projects. Of particular concern is the impact of the petitioner's recommendations on projects with 13 or 14 units which would, as the petitioners designed it, require these projects to provide 3 inclusionary units, which is likely difficult for a project of this size to carry. After extensive review of the data, including review of the relative difference in project feasibility at different project sizes, staff recommends requiring 15% affordable housing for up to 17 units and 20% for projects of 18 or more units.

- e. On Page 7: prior to Table 13.3.4.B, staff recommends clarifying that bonuses are only available to projects that provide ALL their affordable units on-site. The petitioners suggested this change, and staff agrees.
- f. One Page 7: Table 13.3.4.B, staff worked to set a reasonable lot area per dwelling unit bonus. The Planning Board recommended bonuses that would place affordable units on top of the total permitted under the ordinance (thereby reducing the effective affordable housing rate to 16.6%). The Board clearly stated that was an unacceptable system. The petitioners did not oppose a bonus but requested that the total percentage of affordable units reach 20%. Staff carefully reviewed options for a bonus. A bonus at 10% would permit an applicant to meet inclusionary housing at 20% without the need to reduce their total number of market rate units. But, it would provide no additional financial flexibility (especially in a down market) to cover the cost of these additional units). A bonus at 25% would permit an additional market rate unit to match each additional affordable unit, thereby providing an effective system for offsetting the cost of affordable units by having the profit from the market rate units to cover costs. But, with RKG's feedback on larger projects suggesting that there is some space for larger projects to cover costs of additional units, this seems high. Planning Staff is suggesting a middle ground, permitting applicants a bonus in the form of a 17.5% reduction in lot area per dwelling unit for all projects that will provide 20% on site. These projects will require a total of 20% affordable units.

- For example, a project on a 100,000 square foot lot in a district with a 1000 square foot requirement for lot area per dwelling unit will work as follows:

	Total Units	Market Rate	Affordable
Current	100	87	13
Proposed	117	94	23
Difference	+17	+7	+10

At the past meeting, there had been concern expressed that the bonus would lead to very small units. In general, this does not appear to be the case. Currently, most residential projects do not use their full allotted floor-area-ratio (FAR). While developers of large buildings are building units now that average under 1,000 square feet, the FAR permits larger units overall and will still permit adequate sized units within residential buildings. For example, see below:

District	LA/DU	FAR	Portion of FAR for circulation and retail	Average Unit Size Permitted	Average Unit Size Permitted with Bonus
CBD/BA	1000	2	30%	1400	1150
NB	1000	2	35%	1300	1073
CCD45	750	2.5	30%	1313	1082
CCD55	600	3	30%	1260	1040

With adequate average unit sizes, and the ability to continue to request projects to include variable unit sizes, including larger units, staff is comfortable recommending the bonus and continuing to work for family-sized units in individual projects.

- g. On page 8 staff recommends maintaining the previous recommendation on Tiers for the first five affordable units. The first five units would repeat a pattern (first at Tier 1, second at Tier 2, third at Tier 1, fourth at Tier 2 and fifth at Tier 3). Staff converted this information into a table at the request of the Board. Staff notes that this recommendation for the three-tier system follows the system in the overhaul. The proponents requested switching the system so that one out of every six units was at Tier 3. But, the staff review indicates that the most effective strategy to reach 20% inclusionary units involves meeting this need for individuals who currently do not qualify for any type of affordable housing. For this reason, staff recommends that, beyond the first five units, projects include a Tier 3 unit as one out of every FOUR units. This would impact projects with over 45 units, shifting them to provide more units in Tier 3. For example, a 235 unit project

would, today, provide 29 units (plus a payment for 37.5% of an additional unit), of which 15 would be at Tier 1 and 14 at Tier 2. Under this recommendation, such a project would provide 18 units at Tier 1, 18 units at Tier 2, and 11 units at the new Tier 3.

- h. On page 8: Staff is recommending a change to how fractional units are rounded. This change was not in the Planning Board's recommendation, but was incorporated into the zoning overhaul. Staff recommends that all fractional units be permitted to pay into the Affordable Housing Trust Fund, instead of providing a unit on site. Currently, fractions at or above 0.5 units are required to 'round up' and provide on-site units. Staff had originally recommended this change in the overhaul, because the current system leaves units unbuilt. Applicants currently don't build 12, 20, or 28 units, because building 11, 19 or 27 requires one-less on-site unit and permits a cash payment at a rate of 37.5% of a unit cost. That next step up is never worth doing for a developer. When converting to a higher inclusionary percentage, permitting all fractional units to convert to a payment will make projects at all sizes more feasible. This recommendation is essential to making the math work for smaller projects. Staff would like to note that, without this provision, the bonuses would likely need to be higher and need to be reinstated for smaller projects.
- i. On page 12: A note about cash payments is fixed to match the change about fractional units on page 8
- j. On page 12: The calculation of fractional and off-site units for rental projects is added. This method has been adopted by housing staff many years ago as an alternative accepted method of valuation. It should now be incorporated into the ordinance.
- k. Page 13: Wording is adjusted to address that the 'additional' units permitted under this section are in addition to the bonus in Table 13.3.4.B.
- l. Page 15: This section makes two changes to the housing needs assessment process. First, it incorporates financial feasibility into the process, requiring a review of the feasibility of additional units in addition to the needs assessment. Second, it requires an assessment in two years, to ensure that this particular strategy is working. This is especially important if the Board does not pass the overhaul, with its intended holistic strategy towards addressing affordability together with other SomerVision goals. At that point, it will allow the administration and the Board to determine if this provision is effectively producing affordable housing.

### **The Challenge with "HUD HOME" Rents**

On page 5, Planning Staff considered recommending a change to the way that rents are set for the first and second tier. While the staff is not recommending a change to the ordinance at this time, the issue is worth noting here.

The HUD HIGH RENT (for the second tier) is correlated closer to 65% of AMI than 80% of AMI, thereby causing some households at this tier to be paying a rent that is below what would be necessary for a subsidy. While this lower rent is certainly good for families in this situation, it limits the ability to provide additional subsidies for other priorities (including additional affordable units). Adjusting the Tier 2 rent to match 30% of income for Tier 2 renters (similar to the language used for Tier 3 renters) would provide more of an opportunity to target developer subsidy to areas of greater need (i.e. more units).

Developers providing affordable housing units in Somerville notified staff that a change to this provision would help provide some room to cover costs of more inclusionary units. Nonetheless, such a change may be difficult to administer, as it will require new units to have income verification systems that are different than those for current units.

The ordinance currently permits the OSPCD Housing Division, with a public hearing before the Planning Board to adopt alternative guidelines for setting rents for the Tiers. For this reason, staff recommends maintaining this language in the ordinance, and making adjustments through the regulations, only if such adjustments become necessary to make the 20% inclusionary requirement work. This strategy may be especially effective if market conditions change and the higher inclusionary requirement slows housing production.

## **Conclusion**

The Planning Division staff review has determined that the strategy recommended in the attached ordinance is the best available option to achieve 20% affordable housing while continuing to meet SomerVision housing and jobs goals prior to implementing the zoning overhaul. The staff's primary recommendation is that these provisions be incorporated into a holistic zoning overhaul that also opens up transformational areas of the city (like Brickbottom and Twin City Plaza) to mixed-use development, addresses other community needs (open space and jobs/housing balance), while providing more housing opportunities and affordability including in the new third Tier. Nonetheless, should the Board determine a need to pursue a 20% inclusionary housing percentage at this time, it is difficult, if not impossible, to do so without also incorporating many of the recommendations that were already in the overhaul. For this reason, other overhaul strategies (changing the 'round-up provision; adding the third-tier; having a lower requirement for smaller projects; etc.) need to be incorporated into this ordinance for staff to recommend it and believe it will effectively work. The planning staff appreciates the immediate needs around affordable housing, and the work of the petitioners to bring forward an inclusionary housing ordinance. And, while staff understands that the petitioners are seeking further changes, and that this current recommendation meets most, but not all, of their requests, this is the draft that the staff is willing to support at this time.

Planning staff will be in attendance at the meeting on May 9, 2016 and available to present, discuss and answer questions about this draft.