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November 30, 2023

Los Angeles City Council
Office of the City Clerk
City Hall, Room 395
Los Angeles, CA 90012

Attention: Planning Land Use Management Committee

Dear Honorable Members:

**REPORT AND RECOMMENDATIONS RELATIVE TO OPPORTUNITIES TO EXTEND
EXECUTIVE DIRECTIVE 1 STREAMLINING PROCESSES TO MIXED-INCOME HOUSING
DEVELOPMENTS (CF 23-0623)**

I. INTRODUCTION

On June 27, 2023, the City Council adopted a motion directing City Planning to prepare a draft ordinance codifying the provisions of the Mayor's Executive Directive No. 1 (ED 1), and to prepare various reports on the effectiveness and impact of ED 1. In addition, the motion directed City Planning to prepare a report with recommendations on opportunities to extend the ED 1 streamlining processes to mixed-income housing developments, including a focus on 'Low Resource' and 'High Segregation & Poverty' areas of the City, as specified by the State of California Tax Credit Allocation Committee. This report focuses on the mixed-income housing issue, with separate reports and the City Planning Commission recommended ordinance addressing other components of the Council motion.

The topics requested for inclusion in this report raise several key policy considerations, particularly when considering expanding streamlining for a broader type of housing projects than are currently addressed by ED 1. Expanded streamlining is a critical part of the solution to housing affordability; however, there is a need to balance the need to provide more housing at all income levels with considerations related to equity, fair housing, and displacement prevention. This report includes a discussion of these issues to help frame potential recommendations, in addition to a discussion of potential parameters that would be associated with a mixed-income streamlining program that builds off the framework of ED 1.

II. **BACKGROUND**

Executive Directive 1

On December 16, 2022, Mayor Karen Bass issued Executive Directive 1 (ED 1) to facilitate the expeditious processing of Shelter projects and 100 Percent Affordable Housing Projects to address the housing and homelessness crisis in Los Angeles. ED 1 was subsequently revised and reissued on June 13, 2023. On June 27, 2023, the City Council adopted a motion instructing City Planning to prepare and present an ordinance to incorporate the streamlining provisions of ED 1 into the Los Angeles Municipal Code (LAMC). This ordinance has been recommended for approval by the City Planning Commission and is pending City Council action. The codification ordinance does not address mixed-income housing developments that contain non-deed restricted (market rate) units.

ED 1 projects are reviewed through a ministerial approval process, which provides various streamlining provisions at all stages of project review for projects that comply with objective zoning, including an exemption from various local planning procedures (including hearings and appeals), the California Environmental Quality Act (CEQA), and any non-objective development standards in the Zoning Code or other overlays or plans. Projects that require a legislative action (e.g., Zone Change, General Plan Amendment) or projects seeking a deviation from development standards outside of Density Bonus or affordable housing incentive programs, are ineligible for the ED 1 ministerial approval process. Projects that require consideration of a Coastal Development Permit are also ineligible.

In the seven months since its introduction, ED 1 has proven to be an effective tool to accelerate production of 100 percent affordable housing projects. The result has been a dramatic increase in the number of 100 percent affordable housing developments being proposed and the speed in which they are approved. As of November 27, over 119 projects with a total of 9,112 units have been proposed - with average approval timelines of 43 days. This compares to about 4,850 units in 100 percent affordable projects proposed to City Planning during the same period of the prior year (City Planning online Housing Progress Report). The streamlining benefits of ED 1 have helped boost overall affordable housing production by facilitating affordable housing projects that do not require a public subsidy, thereby significantly expanding the pool of developers building affordable housing.

Under current regulations, most mixed-income projects do not qualify for a ministerial approval process. This is usually because they contain enough units to require discretionary review (site plan review sets a 50-unit threshold for discretionary review), located in a planning overlay (e.g., Specific Plan or HPOZ) that requires discretionary review, or are requesting certain incentives, waivers, adjustments, variances, zone changes, or other entitlements that necessitate discretionary review per the Zoning Code.

Streamlining certain mixed-income projects would likely result in significantly more housing construction. This would help provide relief for the city's pressing housing needs and create more affordable housing across the city. However, there are concerns that additional streamlining for mixed-income housing would also result in some potential downsides, including a loss of some planning and zoning process and procedures relative to public input and appeal, design controls, environmental reviews, etc., as well as concerns around displacement. Many of these rules and processes are old and potentially in need of an update giving shifting policy priorities - and are being reformed through various efforts such as Community Plans, *re:code:LA* and the Housing Element. Streamlining must be done thoughtfully to prevent inadvertently losing important tools for public benefit. The next section will detail existing and proposed efforts to achieve many of the goals expressed in the Council motion.

Existing and Proposed Efforts to Streamline Housing

Numerous efforts have been developed locally and at the state level to encourage and streamline both 100% affordable and mixed-income housing. The City has citywide incentive programs such as Transit Oriented Communities (TOC), as well as local programs developed by community planning efforts such as Transit Neighborhood Plans, Specific Plans and Community Plan Implementation Overlays (CPIOs) adopted as part of new Community Plan updates. All have all emphasized streamlining for code compliant mixed-income projects that meet policy objectives.

State housing law has evolved in recent years to require ministerial review for certain types of small housing developments (ADUs and SB9), affordable housing and supportive housing (SB 35 and AB 1197/SB 2162) and, most recently, AB 2011 for qualified projects in commercial areas that meet certain standards. AB 2011 became effective in California on July 1, and is notable as the first bill to offer process streamlining for mixed-income projects in Los Angeles. Like SB 35, which currently applies only to projects with at least 50% affordable housing, the bill also requires compliance with certain labor provisions including prevailing wage, health care and participation in certain apprenticeship programs. SB 35 was recently modified by state legislation SB 423, which alters some of the labor requirements to resemble more closely those in AB 2011.

City Planning has several current and future work programs that will result in additional streamlining for mixed-income housing, including those identified in the City's 2021-2029 Housing Element of the General Plan. The Housing Element includes a Rezoning Program to equitably increase allowances for mixed-income and 100% affordable housing, as well as several programs that promote streamlining projects that meet important citywide policies. In addition to project review streamlining, the Department is engaged in other streamlining measures, such as CEQA streamlining, larger efforts to reform and align processes and procedures, as well as local plan updates.

The forthcoming rezoning ordinances will encompass an array of housing strategies, including a Mixed-Income Incentive Program (MIIP). The MIIP will promote mixed-income housing particularly on major corridors in higher resource areas and near major transit stops (which are more likely to be in lower resource areas). The effort will also include a citywide update to the Density Bonus program as well as an Affordable Housing Incentive Program for 100% affordable housing and faith-based affordable housing. While initial recommendations remain under consideration, the proposed streamlining for mixed-income housing is not presently envisioned to extend as far as ED1, in terms of removing discretionary procedures such as Site Plan Review (LAMC 16.05) or those contained in Specific Plans or Overlays. An initial draft of the rezoning programs are expected to be released early in the new year.

The forthcoming Housing Element Rezoning Program will also include a Housing Element Sites Ordinance, which includes a state-required streamlined ministerial approval processes for projects containing at least 20 percent affordable housing on certain housing element sites. These include properties listed on the inventory of adequate sites for residential development (Appendix 4.1 of the Housing Element) for two housing element cycles in a row, as well as certain higher-density sites that are identified to meet the lower income portion of the rezoning. Implementation of these state requirements is required by February 2025 and will make thousands of city sites eligible for streamlined by-right approval. These sites would be scattered around the city and result in similar types of sites and buildings being streamlined or not based on the requirements of state law.

Mayor Bass has also recently issued Executive Directive 7, which amongst other items, requested the Department to submit a report with recommendations to reduce the need for discretionary review of housing projects. The Department is presently in the process of preparing this report for Mayor Bass but has taken note of the congruence between the City Council and Mayoral direction. On December 16, 2022, Mayor Karen Bass issued Executive Directive 1 (ED 1) to facilitate the expeditious processing of Shelter projects and 100 Percent Affordable Housing Projects to address the housing and homelessness crisis in Los Angeles. ED 1 was subsequently revised and reissued on June 13, 2023. On June 27, 2023, the City Council adopted a motion instructing City Planning to prepare and present an ordinance to incorporate the streamlining provisions of ED 1 into the Los Angeles Municipal Code (LAMC). This ordinance has been recommended for approval by the City Planning Commission and is pending City Council action. The codification ordinance does not address mixed-income housing developments that contain non-deed restricted (market rate) units.

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In the seven months since its introduction, ED 1 has proven to be an effective tool to accelerate production of 100 percent affordable housing projects. The result has been a dramatic increase in the number of 100 percent affordable housing developments being proposed and the speed in which they are approved. As of November 27, over 119 projects with a total of 9,112 units have been proposed - with average approval timelines of 43 days. This compares to about 4,850 units in 100 percent affordable projects proposed to City Planning during the same period of the prior year (City Planning online Housing Progress Report). The streamlining benefits of ED 1 have helped boost overall affordable housing production by facilitating affordable housing projects that do not require a public subsidy, thereby significantly expanding the pool of developers building affordable housing.

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Streamlining certain mixed-income projects would likely result in significantly more housing construction. This would help provide relief for the city's pressing housing needs and create more affordable housing across the city. However, there are concerns that additional streamlining for mixed-income housing would also result in some potential downsides, including a loss of some planning and zoning process and procedures relative to public input and appeal, design controls, environmental reviews, etc., as well as concerns around tenant displacement. Many of these rules and processes are old and potentially in need of an update giving shifting policy priorities - and are being reformed through various efforts such as Community Plans, re:code:LA and the Housing Element. Streamlining must be done thoughtfully to prevent inadvertently losing important tools for public benefit. The next section will detail existing and proposed efforts to achieve many of the goals expressed in the Council motion.

111. ANALYSIS AND KEY CONSIDERATIONS

Relationship to Planning and Zoning Regulations

As described above, many state and local efforts, both current and proposed, are addressing the topic of streamlining. The Department's approach to streamlining seeks to balance the need to remove or alter requirements that add time, cost, and risk without adding significant value, with the desires for good urban design and adherence to basic environmental and development standards. Streamlining has been generally targeted at particular uses and has been paired with efforts to increase objective planning standards through tools such as the new zoning code (*re:codeLA*), local planning efforts and various other work programs such as the proposed Landscape and Site Design Ordinance.

One concern with more blanket streamlining, is that it may inadvertently allow for the waiver or modification of processes and standards that currently add value. These may include design review or specialized requirements contained in Specific Plans, Historic Preservation Overlay Zones (HPOZs), or other planning overlays. Many of these overlays are located within South LA, East LA, and the North and Northwest San Fernando Valley regions of the City. They include 28 specific plans, 7 Community Plan Implementation Overlays (CPIOs), and 13 HPOZs. One potential solution may be to apply design review to projects, but not in a way that significantly lengthens review time or results in reduced density.

In addition, a discretionary review process may add value to particularly large projects or those that are located in sensitive environmental areas. Ministerial projects do not undergo review under CEQA, which means that project impacts to the environment may not be adequately addressed without other mitigation. Local and state streamlining measures have generally included environmental protection methods including exemptions or buffers for certain sensitive areas or required soil study and remediation for toxic substances.

Definition of Mixed-Income

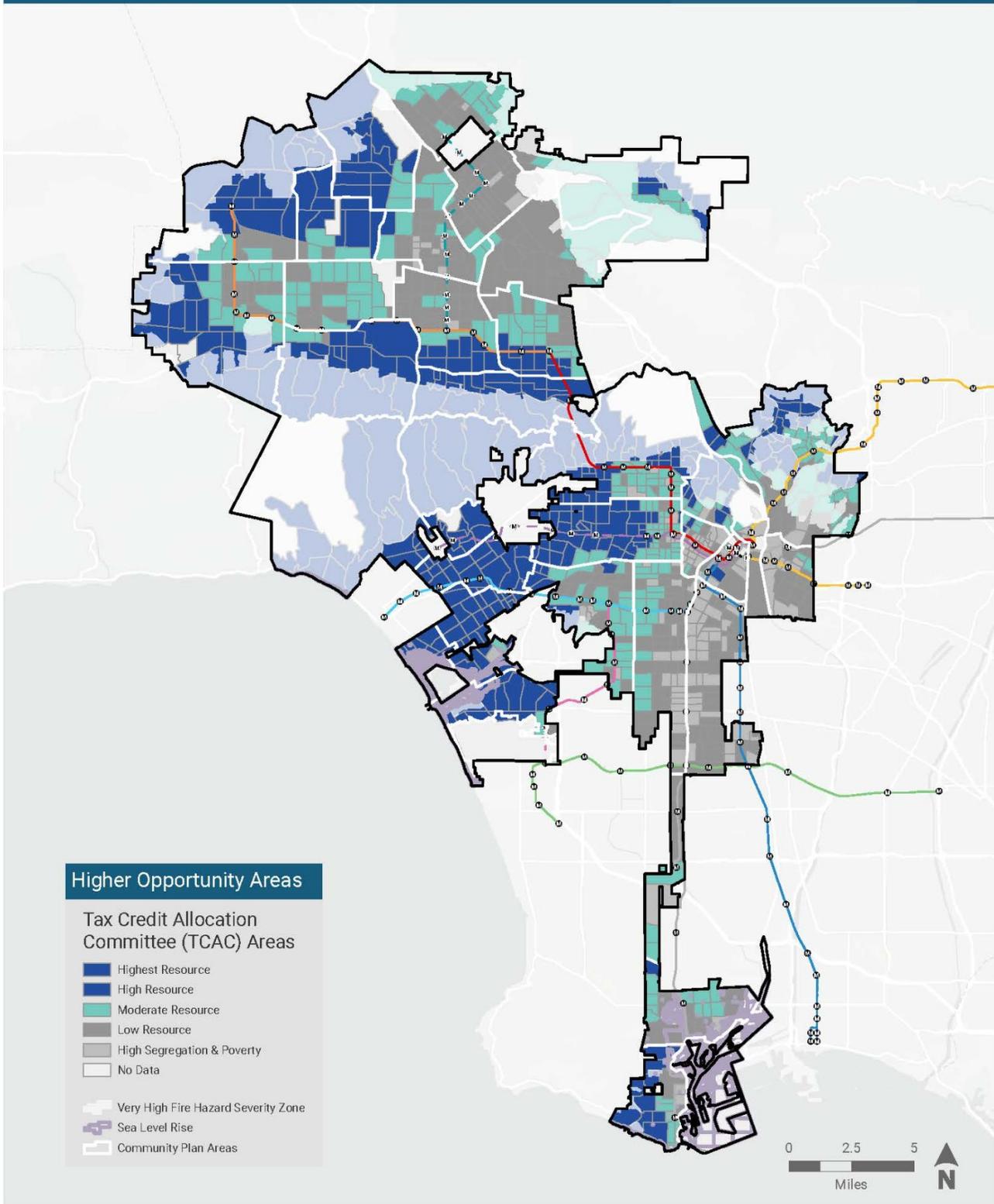
The motion described streamlining being applied to mixed-income projects but did not specify particular income levels or percentages. One option for consideration could be the affordability levels required to obtain an exemption from the Affordable Housing Linkage Fee, which also aligns with the base affordability levels used for the TOC program. This would require either 20% Lower Income, 11% Very Low Income or 8% Extremely Low Income. The 20% Lower Income figure aligns with provisions in state housing element law, mentioned above and represents about twice as many restricted affordable units compared to most mixed-income projects in Los Angeles. Any higher level would likely be undercut by the state law provisions and lead to a patchwork of different streamlining thresholds in the City. Therefore, alignment at the levels described above appears to be the best solution.

Affirmatively Furthering Fair Housing (AFFH)

The motion specifies that recommendations are sought regarding streamlining mixed-income housing, particularly in areas designated as Lower Resource or High Segregation & Poverty areas on the Opportunity Maps created by the State of California Tax Credit Allocation Committee (TCAC) and the Department of Housing and Community Development (HCD). These are generally areas where past discriminatory policies and practices, including long-term disinvestment, have resulted in neighborhoods with concentrated poverty and poor housing stock, limited access to opportunity, unsafe environmental conditions, underfunded schools, dilapidated infrastructure, etc. The Lower Resource and High Segregation & Poverty areas are identified in dark and light gray, respectively, in the map below.

Higher Opportunity Areas

City of Los Angeles



Source(s): Los Angeles Department of City Planning

The state HCD provided a memo on AFFH in April 2021 that provided some policy guidance on how to use the Opportunity Map criteria in policy development to further fair housing goals. It generally calls for remediating conditions of underinvestment and in low resource areas and areas of high segregation and poverty and to encourage better access for lower income and people of color to housing in high resource areas. Streamlining is mentioned in the context of approaches to increase housing choices and affordability in high resource areas, where affordable housing creation is typically lower and the use of procedures to oppose housing is higher. Increasing the equitable distribution of affordable housing is a citywide priority and creating new opportunities in these areas has been identified as an important policy goal (see the Department's reports in Council Files 21-1230 and 19-0416).

That said, furthering fair housing is also about providing access to greater opportunities through place-based strategies to encourage community revitalization. This requires reversing patterns of disinvestment and providing more economic development opportunities in the neighborhoods identified by the motion. Economic development and community enhancement is an important goal of the Community Plan Update program, which can plan for local needs, strengths and opportunities at a more granular level than citywide policy. An important component of place-based strategies is mixed-use and mixed-income development, coupled with strong anti-displacement provisions. Therefore, it is important to ensure local economic development strategies and anti-displacement measures are not undermined, and strengthened, when possible. These topics are discussed below.

Place-Based Development Strategies and Key Standards

Areas identified as Lower Resource or High Segregation & Poverty areas have been disinvested for decades and face urgent housing needs. The prevalence of severe overcrowding, unaffordability, and homelessness underscores the need for interventions to address the acute housing challenges faced by residents in these communities. To counteract these trends, implementing a bold streamlining strategy could facilitate economic activity, job creation and much needed development of housing to the areas.

A place-based strategy acknowledges the unique characteristics, needs, and opportunities within a specific geographic area or community, streamlining housing in areas of the City where it is most needed. The goal is to revitalize communities, reduce poverty and segregation, improve community well-being, and address the distinct housing needs of local communities.

In the context of streamlining mixed-income housing development, this requires extensive and thoughtful community engagement to understand how the policy might impact different Low Resource and High Segregation and Poverty areas differently. The Department of City Planning typically engages in important conversations with community-based organizations and members of the public as part of the process of drafting a new ordinance, including such efforts associated with the Housing Element Update and Community Plan Updates.

For example, based on extensive community engagement, the South and Southeast Community Plans have incorporated innovative economic development strategies, including land use incentives for grocery stores and sit-down restaurants, along with requirements for ground-floor businesses and activities at significant nodes. Recent updates to Community Plans have introduced new implementation overlays (CPIOs), offering tailored development regulations to address local needs. To support these local efforts, it is important to try to balance streamlined development with ensuring key standards are met.

This issue was discussed at length during the ED1 Ordinance adoption process, especially in the context of state Density Bonus law. While density bonuses are vital for housing creation, offering substantial incentives and waivers of local development standards in exchange for providing a certain percentage of affordable housing can unintentionally undermine local planning efforts and detract from the encouraged place-based strategies. Higher quality site design and urban form is an important priority for mixed-income development. Some of the allowances afforded for 100 percent affordable projects may not be appropriate for mixed-income.

Anti-Displacement

An important objective of the recently adopted Housing Element is to prioritize policies around anti-displacement. This entails strengthening renter protections, preserving affordable housing, increasing the stock of affordable housing, and ensuring that anti-displacement measures advance alongside new production strategies. Displacement resulting from new development could hinder low-income communities of color from accessing the intended opportunities.

Displacement is intensified by escalating housing costs, stemming from a shortage of housing to meet demand. Constructing new housing can help direct demand towards new buildings instead of existing housing stock and create vacancies in older buildings, which helps keep them more affordable. New mixed-income housing also provides long-term deed restricted affordable housing but may concurrently hasten eviction and demolition of some existing housing. Numerous policies have been implemented to alleviate displacement risks associated with new development, such as amendments to the Rent Stabilization Ordinance, enacting the recent Just Cause Eviction Ordinance, and incorporating state affordable housing replacement and right-to-return policies under the Housing Crisis Act.

Current rules can be strengthened to ensure there is never a loss of affordable housing because of a particular project. RSO units can all be required to be replaced one-to-one with lower income units, affordable for those at or below the income of current or past occupants. More tenants can be provided the right to return to comparable units in new development. These revisions are being proposed as part of the Housing Element rezoning program's Resident Protection Ordinance (pending release) and can be included or expanded upon as part of any mixed-income streamlining program.

IV. OPTIONS AND RECOMMENDATIONS

Based on the analysis and considerations presented above, the Department has prepared three options for a potential expansion of ED 1 streamlining to mixed-income development projects, depending on the desired geographic reach and approach. These options should be considered beyond existing Departmental streamlining efforts described in the report.

Option A: Direct the Department of City Planning to include, as part of the forthcoming Housing Element rezoning program ordinances, a citywide streamlining incentive for mixed-income projects of different maximum sizes, depending on location, for projects that include at least 20 percent affordable housing at lower income.

Option B: Amend Affordable Housing Streamlining Ordinance to allow for qualifying mixed-income housing with at least 20 percent lower income in lower resource and high segregation and poverty areas to be ministerially approved pursuant to the Administrative Review process.

Option C: Direct the Department of City Planning to create a standalone ordinance to streamline mixed-income housing with at least 20 percent lower income only in Lower Resource and High Segregation & Poverty Areas.

Given the importance and the complexities of streamlining mixed-income housing projects in Low Resource and High Segregation and Poverty areas, staff recommends Option C as the best approach to expanding streamlining opportunities. Any regulatory framework that incentivizes the production of mixed-income housing over current conditions should also explore the following important factors. First, balancing ministerial approvals with quality design that may be more discretionary must be further evaluated to ensure appropriate outcomes. In addition, the premise of incentivizing mixed-income housing in Low Resource and High Segregation and Poverty areas is to facilitate investment and economic improvement for those very communities. An important component of this program should be to ensure that the communities that live in these areas today are able to benefit from that economic investment. Additional anti-displacement strategies focused on Low Resource and High Segregation and Poverty areas should be developed and honed as a core component of this regulatory framework. Additionally, it is important to ensure that all environmentally sensitive impacts are evaluated and addressed to ensure environmental justice issues are not exacerbated given the focus on Low Resource and High Poverty and Segregation Areas. Finally, a key component of drafting this new ordinance will be to engage in thoughtful community engagement to understand how mixed-income housing might impact different Low Resource and High Segregation and Poverty areas differently. These outreach efforts will be key to informing the ordinance itself and would be best had as part of a separate effort focused on this standalone ordinance (rather than part of other ongoing policy work programs).

Therefore, staff recommends Option C as developing a standalone ordinance would afford the City the time to evaluate and address these important concerns. Given the targeted focus on Lower Resource and High Segregation and Poverty Areas, particular attention should be given to create a comprehensive ordinance that would balance the unique needs of the community with streamlining mixed income housing in Low Resource and High Segregation and Poverty areas.

RECOMMENDATION

1. Direct the Department of City Planning to create a standalone ordinance to streamline mixed-income housing with at least 20 percent lower income only in Lower Resource and High Segregation & Poverty Areas.

CONCLUSION

The Department appreciates the opportunity to explore additional strategies to facilitate the development of much-needed housing throughout the City and looks forward to continued discussion on this matter. Should you have any questions regarding this report, please contact Matt Glesne with the Department of City Planning at Matthew.Glesne@lacity.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Vincent P. Bertoni', with a stylized flourish at the end.

VINCENT P. BERTONI, AICP
Director of Planning

VPB:AV:JM:mg:ch:jo:og