File No. 120464 Committee Item No. 4
Board Item No. 18

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Land Use and Economic Development **Date** September 24, 2012

Board of Supervisors Meeting **Date** October 2, 2012

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Completed by: Alisa Miller **Date** September 20, 2012
Completed by: Alisa Miller **Date** September 26, 2012

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

[Planning Code - Threshold for Application of Inclusionary Affordable Housing Program]

Ordinance amending the San Francisco Planning Code Section 415.3 to: 1) provide that, as of January ~~1~~15, 2013, the requirements of the Inclusionary Affordable Housing Program apply only to housing projects of 10 units or more and will no longer apply to buildings of 5 to 9 units that have not yet received a first construction document; (2) make conforming amendments to Planning Code Section 419.3 related to the Application of the UMU Affordable Housing Requirements to clarify that those requirements only apply to housing projects of 10 units or more; and ~~2~~3) condition operation of the Ordinance on the adoption and implementation of the Housing Trust Fund Charter amendment at the November 6, 2012 election; setting an operative date; and making environmental findings and findings of consistency with the General Plan.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are *~~strike-through italics Times New Roman~~*. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

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

Section 1. Findings. The Board of Supervisors of the City and County of San Francisco hereby finds and determines that:

(a) The Planning Department has determined that the actions contemplated in this Ordinance are in compliance 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. 120464 and is incorporated herein by reference.

(b) On August 16, 2012, the Planning Commission, in Resolution No. 18692 approved and recommended for adoption by the Board of Supervisors this legislation and

adopted findings that it is consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 120464, and is incorporated by reference herein.

(c) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this legislation will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 18692, and incorporates such reasons by reference herein.

Section 2. The San Francisco Planning Code is hereby amended by amending Section 415.1(A)(9) as follows:

Section 3. The San Francisco Planning Code is hereby amended by amending Section 415.3, subsections (a) and (b), to read as follows:

SEC. 415.3. APPLICATION.

(a) Section 415.1 et seq. shall apply to any housing project that consists of ~~*five*~~ *ten* or more units where an individual project or a phased project is to be undertaken and where the total undertaking comprises a project with ~~*five*~~ *ten* or more units, even if the development is on separate but adjacent lots; and

(1) Does not require Commission approval as a Conditional Use Authorization or Planned Unit Development;

(2) Requires Commission approval as a Conditional Use Authorization or Planned Unit Development;

(3) Consists of live/work units as defined by Section 102.13 of this Code; or

(4) Requires Commission approval of replacement housing destroyed by earthquake, fire or natural disaster only where the destroyed housing included units restricted under the Inclusionary Affordable Housing Program or the City's predecessor inclusionary housing policy, condominium conversion requirements, or other affordable housing program.

(b) The effective date of these requirements shall be either April 5, 2002, which is the date that the requirements originally became effective, or the date a subsequent modification, if any, became operative. The following table is designed to summarize the most significant subsequent modifications to this Program and the dates those modifications went into effect. The Planning Department and the Mayor's Office of Housing shall maintain a record for the public summarizing various amendments to this Program and their effective or operative dates. To the extent there is a conflict between the following table or any summary produced by the Department or MOH and the provisions of the original implementing ordinances, the implementing ordinances shall prevail.

Table 415.3

Program Modification	Effective or Operative Date
All projects with 5 or more units must participate in the Inclusionary Housing Program Section 415 (changed from a threshold of 10 units).	All *5-9 unit* projects that submitted a first application on or after July 18, 2006 *and received a first construction document prior to January* ~~1~~15, *2013.*
Threshold changed back to 10 units or more such that the Section 415 et seq. no longer applies to buildings of 5-9 units.	*Any 5-9 unit project, regardless of when it submitted a first application, that has not received a first construction*

	document as of January 15, 2013.
Affordable Housing Percentages: 20% Fee 15% on-site* 20% off-site* *Of total number of units	All projects that submitted a first application on or after July 18, 2006 (except projects which require a rezoning to increase buildable residential units or square footage)
On-Site units must be priced and sold at 90% of AMI and rented at 55% of AMI	All projects that receive a first site or building permit on or after September 9, 2006
Project sponsor must select Program compliance option upon project approval and cannot alter their compliance option	All projects that received Planning Commission or Planning Department approval on or after September 9, 2006
All off-site units must be located within 1 mile of the principal project and Off-site units must be priced and sold at 70% of AMI	All Projects that receive Planning Commission or Planning Department approval after September 9, 2006
Lottery preference for applicants living or working in San Francisco	All projects that are marketed on or after June 4, 2007
Lottery preference for applicants holding a Certificate of Preference from the Redevelopment Agency	All projects that are marketed on or after December 30, 2008

Lottery required for all new and resale units	All projects that are marketed on or after September 9, 2006
Must provide on-site units as owner-occupied only unless specifically exempted pursuant to Section 415	All projects beginning February 11, 2010
All off-site units must follow standards set out in Procedures Manual	Projects that receive Planning Commission or Planning Department approval on or after June 4, 2007

Section 4. The San Francisco Planning Code is hereby amended by amending Section 419.3, subsections (a) and (b), to read as follows:

SEC. 419.3. APPLICATION OF UMU AFFORDABLE HOUSING REQUIREMENTS.

(a) Section 419.1 et seq. shall apply to any housing project located in the UMU Zoning District of the Eastern Neighborhoods, that is subject to the requirements of Sections 415 et seq.

(b) Additional UMU Affordable Housing Requirements to the Section 415 Inclusionary Affordable Housing Program Requirements. The requirements of Section 415 through 415.9 shall apply subject to the following exceptions:

(1) For all projects sites designated as Tier A, a minimum of 18 percent of the total units constructed shall be affordable to and occupied by qualifying persons and families

as defined elsewhere in this Code, so that a project sponsor must construct .18 times the total number of units produced in the principal project beginning with the construction of the ~~fifth~~tenth unit. If the total number of units is not a whole number, the sponsor shall round up to the nearest whole number for any portion of .5 or above.

(A) If the project sponsor is eligible for and elects pursuant to Section 415 415.5(g) to build off-site units to satisfy the requirements of this program, the sponsor shall construct 23 percent so that a sponsor must construct .23 times the total number of units produced in the principal project beginning with the construction of the ~~fifth~~tenth unit. If the total number of units is not a whole number, the sponsor shall round up to the nearest whole number for any portion of .5 or above.

(B) If the project sponsor elects pursuant to Section 415.5 to pay the fee to satisfy the requirements of this program, the sponsor shall meet the requirements of Section 415 according to the number of units required above if the project applicant were to elect to meet the requirements of this Section by off-site housing development. For the purposes of this Section, the City shall calculate the fee using the direct fractional result of the total number of units multiplied by the percentage of off-site housing required, rather than rounding up the resulting figure.

(2) For all project sites designated Tier B, a minimum of 20 percent of the total units constructed shall be affordable to and occupied by qualifying persons and families as defined elsewhere in this Code, so that a project sponsor must construct .20 times the total number of units produced in the principal project beginning with the construction of the ~~fifth~~tenth unit. If the total number of units is not a whole number, the sponsor shall round up to the nearest whole number for any portion of .5 or above.

(A) If the project sponsor is eligible for and elects pursuant to Section 415.5(g) to build off-site units to satisfy the requirements of this program, the sponsor shall construct 25 percent so that a sponsor must construct .25 times the total number of units produced in the principal project beginning with the construction of the ~~fifth~~tenth unit. If the total number of units is not a whole number, the sponsor shall round up to the nearest whole number for any portion of .5 or above.

(B) If the project sponsor elects pursuant to Section 415.5(g) to pay the fee to satisfy the requirements of this program, the sponsor shall meet the requirements of Section 415 according to the number of units required above if the sponsor were to elect to meet the requirements of this Section by off-site housing development. For the purposes of this Section, the City shall calculate the fee using the direct fractional result of the total

number of units multiplied by the percentage of off-site housing required, rather than rounding up the resulting figure.

(3) For all project sites designated Tier C, a minimum of 22 percent of the total units constructed shall be affordable to and occupied by qualifying persons and families as defined elsewhere in this Code, so that a project sponsor must construct .22 times the total number of units produced in the principal project beginning with the construction of the ~~fifth~~tenth unit. If the total number of units is not a whole number, the sponsor shall round up to the nearest whole number for any portion of .5 or above.

(A) If the project sponsor is eligible for and elects pursuant to Section 415.5(g) to build off-site units to satisfy the requirements of this program, the sponsor shall construct 27 percent so that a sponsor must construct .27 times the total number of units produced in the principal project beginning with the construction of the ~~fifth~~tenth unit. If the total number of units is not a whole number, the sponsor shall round up to the nearest whole number for any portion of .5 or above.

(B) If the project sponsor elects pursuant to Section 415.5 to pay the fee to satisfy the requirements of this program, the sponsor shall meet the requirements of Section 415 according to the number of units required above if the sponsor were to elect to meet the requirements of this Section by off-site housing development. For the purposes of this

Section, the City shall calculate the fee using the direct fractional result of the total number of units multiplied by the percentage of off-site housing required, rather than rounding up the resulting figure.

(c) **Timing and Payment of Fee.** Any fee required by Section 419.1 et seq. shall be paid to the Development Fee Collection Unit at DBI prior to issuance of the first construction document, with an option for the project sponsor to defer payment to prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge in accordance with Section 107A.13.3 of the San Francisco Building Code.

Section 5. Effective Date; Operative Date; Adoption and Implementation of Housing Trust Fund Amendment.

(a) This ordinance shall become effective 30 days from the date of passage.

(b) This ordinance shall become operative on January ~~1~~15, 2013, but only if (1) the voters adopt the Housing Trust Fund and Housing Productions Incentives Charter amendment, adding Section 16.110 to the Charter, at the November 6, 2012 election, and (2) the Mayor does not terminate the amendment prior to January 1, 2013 as provided in subsection (l) of the amendment. If the voters do not adopt the amendment at that election or if the Mayor terminates the amendment, this ordinance shall become inoperative and shall have no force and effect and shall be repealed.

Section 6. Application. This section is uncodified. This ordinance shall apply to any building of 5 to 9 units that has not received its first construction document as of January ~~1~~15,

2013. The requirements of Planning Code Section 415 et seq. shall continue to apply to any building of 5 to 9 units that submitted a first application on or after July 18, 2006 and received a first construction document prior to January ~~1~~15, 2013.

Section 7. This section is uncodified. Within three years of the effective date of this legislation, the Planning Department shall evaluate the effect of the exemption for five- to nine-unit developments on achieving the City's housing policies and production goals, balancing the City's desire to create viable economic housing policies for small builders in context with the city's other housing production goals. Subsequent evaluations shall be done in conjunction with the five-year evaluation required to be undertaken by the Mayor's Office of Housing under Planning Code Section 415.9(e) and in conjunction with any evaluation of the Housing Trust Fund that may be required under the Administrative Code.

Section ~~7~~8. This section is uncodified. In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent part of the Planning Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

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

By:
SUSAN CLEVELAND-KNOWLES
Deputy City Attorney

Name of Supervisor/Committee/Department
BOARD OF SUPERVISORS

FILE NO. 120464

REVISED LEGISLATIVE DIGEST

(9/24/2012, Amended in Committee)

[Planning Code - Threshold for Application of Inclusionary Affordable Housing Program]

Ordinance amending the San Francisco Planning Code Section 415.3 to: 1) provide that, as of January ~~1~~15, 2013, the requirements of the Inclusionary Affordable Housing Program apply only to housing projects of 10 units or more and will no longer apply to buildings of 5 to 9 units that have not yet received a first construction document; (2) make conforming amendments to Planning Code Section 419.3 related to the Application of the UMU Affordable Housing Requirements to clarify that those requirements only apply to housing projects of 10 units or more; and ~~2~~3) condition operation of the Ordinance on the adoption and implementation of the Housing Trust Fund Charter amendment at the November 6, 2012 election; setting an operative date; and making environmental findings and findings of consistency with the General Plan.

Existing Law

The Inclusionary Affordable Housing Program, Planning Code Section 415 et seq., requires that housing projects of 5 units or more pay an Affordable Housing Fee or provide a certain percentage of units constructed on-site as affordable to qualifying households ("inclusionary units") or a higher percentage if constructed off-site.

Amendments to Current Law

The proposed legislation would raise the threshold, such that the Inclusionary Affordable Housing Program would only apply to housing projects of 10 units or more. As of the operative date of the Ordinance, the Program would not apply to any housing project of 5 to 9 units that has not received a first construction document as of January 15, 2013.

The proposed legislation contains a condition that operation of the ordinance is contingent on the adoption and implementation of the Housing Trust Fund Charter amendment at the November 6, 2012 election. The proposed legislation also contains a requirement that, within 3 years of the effective date of the legislation, the Planning Department shall evaluate the effect of the exemption for five- to nine-unit developments on achieving the City's housing policies and production goals, balancing the City's desire to create viable economic housing policies for small builders in context with the city's other housing production goals.

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

July 11, 2012

File No. 120464

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

Dear Mr. Wycko:

On June 26, 2012, Mayor Lee introduced the following proposed legislation:

File No. 120464

Ordinance amending the San Francisco Planning Code Section 415.3 to: 1) provide that, as of January 1, 2013, the requirements of the Inclusionary Affordable Housing Program apply only to housing projects of 10 units or more and will no longer apply to buildings of 5 to 9 units that have not yet received a first construction document; and 2) condition operation of the Ordinance on the adoption and implementation of the Housing Trust Fund Charter Amendment at the November 6, 2012, election; setting an operative date; and making environmental findings and findings of consistency with the General Plan.

This legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board
Alisa Miller
By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

Non-physical exemption
CEQA Section 15060(c)(2)
July 13, 2012
JOY NAVARRETE

SAN FRANCISCO
PLANNING DEPARTMENT

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September 19, 2012

Mayor Edwin Lee, Supervisors David Chiu , Jane Kim and
Ms. Angela Calvillo, Clerk
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 Case Number 2012.0901T**
BF No. 12-0464:

Recommendation: **Approval**

Dear Mayor Lee, Supervisors Chiu and Kim, and Ms. Calvillo,

On August 16th, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance under Board of Supervisors File Number 12-0464.

At the June 16th Hearing, the Commission voted 6-0 to recommend approval with modifications of the proposed Ordinance which would amend the Planning Code to provide that as of January 1, 2013, the requirements of the inclusionary affordable housing program apply only to housing projects of 10 units or more and will no longer apply to buildings of 5 to 9 units that have not yet received a first construction document.

The attached resolution provides more detail about the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

AnMarie Rodgers
Manager of Legislative Affairs

Cc: City Attorneys Jon Givner, Clerk Allisa Miller and Susan Cleveland-Knowles

Attachments (one copy of the following): Planning Commission Resolution No. 18692
Department Executive Summary

SAN FRANCISCO
PLANNING DEPARTMENT

Planning Commission Resolution No.18692

HEARING DATE: AUGUST 16TH , 2012

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Project Name:	Threshold for Inclusionary Housing
Case Number:	2012.0901T [Board File No. 12-0464]
Initiated by:	Mayor Edwin M. Lee, Supervisors David Chiu and Jane Kim
Introduced on:	June 26, 2012
Staff Contact:	Kimia Haddadan, 415.575.9068 kimia.haddadan@sfgov.org
Reviewed by:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415.558.6395
90-Day Deadline:	*September 26th, 2012*
Recommendation:	Approval

RECOMMENDING THAT THE BOARD OF SUPERVISORS PASS AN ORDINANCE WITH AMENDMENTS TO THE SAN FRANCISCO PLANNING CODE SECTION 415.3 TO 1) PROVIDE THAT, AS OF JANUARY 1, 2013, THE REQUIREMENTS OF THE INCLUSIONARY AFFORDABLE HOUSING PROGRAM APPLY ONLY TO HOUSING PROJECTS OF 10 UNITS OR MORE AND WILL NO LONGER APPLY TO BUILDINGS OF 5 TO 9 UNITS THAT HAVE NOT YET RECEIVED A FIRST CONSTRUCTION DOCUMENT; 2) SETTING A CONDITION OF OPERATION OF THE ORDINANCE WOULD BE ONLY UPON THE ADOPTION AND IMPLEMENTATION OF THE HOUSING TRUST FUND CHARTER AMENDMENT; AND MAKING ENVIRONMENTAL FINDINGS AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1 AND 302.

PREAMBLE

Whereas, on June 6, 2012 Mayor Edwin Lee, Supervisors David Chiu, and Jane Kim introduced a proposed Ordinance under Board File Number 12-0464 that would amend Planning Code by making amendments to the San Francisco Planning Code Section 415.3 to 1) provide that, as of January 1, 2013, the requirements of the inclusionary affordable housing program apply only to housing projects of 10 units or more and will no longer apply to buildings of 5 to 9 units that have not yet received a first construction document; and 2) setting a condition of operation of the Ordinance would be only upon the adoption and implementation of the Housing Trust Fund Charter Amendment; and

Whereas, the proposal was a part of the larger Housing Trust Fund legislation proposed by Mayor Edwin Lee which would contribute to affordable housing about $1.2 billion over the course of the next thirty years; and

Whereas, since the introduction of the proposed Ordinance, the Planning Department recommended approval of the proposed Ordinance; and

Whereas, on August 16th, 2012 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance and the proposed modification; and

Whereas, the proposed Ordinance have been found exempt from the California Environmental Quality Act per sections 15060(c)(2); and

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented by Department staff, and other interested parties; and

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

Whereas, the Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors recommend *approval* of the proposed Ordinance.

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:

1. There is a critical need for affordable housing in San Francisco amplified by the continuous decline in funding sources. Federal assistance to affordable housing has experienced a significant cutback since the 1970s; Budget Authority's housing assistance has declined by 48% since 1976, from $56.4 billion to$29.2 billion. More recently, the redevelopment agencies across California were resolved, which left San Francisco with a void of $40 to $50 Million per year for affordable housing.
2. The Housing Trust Fund strives to respond to this critical need for affordable housing, matching San Francisco's need for low to moderate housing production with significant funding. Over 30 years, the Housing Trust Fund will provide approximately $1.2 billion for affordable housing production. Total investment in housing and the economy over the 30 year span of the Housing Trust Fund will be approximately $3 billion in today's dollars.
3. The Housing Trust Fund includes many components which were determined through collaborations among fifty groups of stakeholders including affordable housing advocates,

market-rate developers, Mayor's Office, Members of the Board of Supervisors, property owners, and lenders among other groups. On July 24, 2012, the Board of Supervisors approved the Housing Trust Fund to be placed on the ballot for the November 6, 2012 elections.

4. Moving the threshold of the inclusionary housing program from 5 or more units to 10 or more units is one of those components. Smaller-scale projects (such as 5-9 unit projects) represent the most prevalent type of infill development in the City. Sponsors of such projects indicate that removing the burden of inclusionary program would stimulate such projects, helping the City to best utilize the infill sites; and contribute to the dire need for housing. Residential developers argue that the inclusionary program imposes a higher burden on smaller-scale projects compared to other projects. Staff did not find data that could support this assumption and believes such units can potentially maintain the flexibility to absorb the inclusionary program costs

5. Since 2006, there has been only about seven projects (with 5-9 units) completed that were subject to the inclusionary requirements. Not one of these projects have been constructed yet. Three of these projects are expected to provide on-site Below Market Rate units (three units in total), and the other four projects would pay the in lieu fee which would amount to approximately $1.4M. There are also 16 projects of this type in the pipeline, constituting 107 units. These projects have not received entitlements yet. Assuming that all these units move forward to completion, and that they all choose the in-lieu fee option, the City would receive another $5.5M. These projects would likely become exempt from the inclusionary program, should the proposed Ordinance becomes effective.

6. Affordable housing provided as a result of 5-9 unit projects remain minuscule compared to what the Housing Trust Fund would contribute, if passed by the voters. Moving the threshold from 10 units or more to 5 units or more is a piece of a large package, for which all stakeholders compromised to achieve consensus. Currently, the Housing Trust Fund has the support of all stakeholders involved in the process of negotiations; and should it pass at the elections, it would introduce a continuous and reliable revenue stream to affordable housing development.

7. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

OBJECTIVE 7
Secure funding and resources for permanently affordable housing, including innovative programs that are not solely reliant on traditional mechanisms or capital.

POLICY 7.1
Expand the financial resources available for permanently affordable housing, especially permanent sources.

San Francisco should continue to be a leader in identifying, securing and mandating funding for permanently affordable housing. Building on a good track record for securing federal and state funds, the City shall continue to lobby for necessary funding in coordination with regional

entities. Local programs such as HOPE-SF, inclusionary housing and 50% set asides of Redevelopment Areas' Tax Increment Financing dollars demonstrate a strong dedication to providing local funding to affordable housing. These programs should be continued and expanded as feasible.

A dedicated, permanent source of local funding for housing programs will also help address the need for affordability over the long-term. Currently, local funding for affordable housing is dependent on annual budgeting, which makes long-term planning difficult. It also creates a situation where affordable housing funding is dramatically effected by downturns in the economy, which further exacerbates issues already faced by low-income families. Ultimately San Francisco's affordable housing programs should have a permanent funding source.

The proposed Ordinance would advance this Objective and Policy by supporting the Housing Trust Fund legislation as an innovative funding approach at the critical time when the City is in desperate need for affordable housing.

8. **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.

9. **Planning Code Section 101 Findings.** The proposed replacement project is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

   A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

   The proposed Ordinance will have no adverse impact on the neighborhood-serving retail uses.

   B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

   The proposed Ordinance will have no adverse effect on existing housing and neighborhood character. The proposed Ordinance will help ensure that neighborhoods maintain a mix of housing for diverse economic levels

   C) The City's supply of affordable housing will be preserved and enhanced:

   The proposed Ordinance will facilitate approval of the Housing Trust Fund that would significantly enhance affordable housing finance in the City. Over 30 years, the Housing Trust Fund is estimated to provide approximately $1.2 billion for affordable housing production.

   D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed Ordinance will not result in displacement of industrial or service sectors.

F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The proposed Ordinance would not affect the preparedness against injury and loss of life in an earthquake.

G) That landmark and historic buildings will be preserved:

The proposed Ordinance would not adversely affect landmark and historic buildings.

H) Parks and open space and their access to sunlight and vistas will be protected from development:

The proposed Ordinance would not adversely affect parks and open spaces in terms their access to sunlight and vistas.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on August 16th, 2012.

Linda Avery
Commission Secretary

AYES: Antonini, Fong, Hillis, Moore, Sugaya, Wu

NAYS:

ABSENT: Borden

ADOPTED: 8/16/2012

SAN FRANCISCO
PLANNING DEPARTMENT

Executive Summary
Planning Code Text Change
HEARING DATE: AUGUST 16TH , 2012

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Planning
Information:
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Project Name:	**Threshold for Inclusionary Housing**
Case Number:	2012.0901T [Board File No. 120464]
Initiated by:	Mayor Edwin M. Lee, Supervisors David Chiu and Jane Kim
Introduced on:	June 26, 2012
Staff Contact:	Kimia Haddadan, 415.575.9068 kimia.haddadan@sfgov.org
Reviewed by:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415.558.6395
90-Day Deadline:	*September 26th, 2012*
Recommendation:	**Approval**

PLANNING CODE AMENDMENTS

The proposed Ordinance would initiate amendments to the San Francisco Planning Code Section 415.3 to 1) provide that, as of January 1, 2013, the requirements of the inclusionary affordable housing program apply only to housing projects of 10 units or more and will no longer apply to buildings of 5 to 9 units that have not yet received a first construction document; and 2) condition of operation of the Ordinance would be only upon the adoption and implementation of the Housing Trust Fund Charter Amendment.

The Way It Is Now:

Section 415 of the Planning Code currently establishes requirements for residential projects of five units or more to provide a certain amount of housing affordable to specific household income ranges. In addition, in the absence of San Francisco Redevelopment Agency, a dedicated local funding source for affordable housing does not exist.

The Way It Would Be:

The proposed Ordinance would amend Planning Code Section 415.3 to raise the unit number threshold of housing projects subject to affordable housing provisions to 10 and more units, from the existing 5 and more units. This proposed change would only apply if the Housing Trust Fund Charter Amendment passes at the November 6, 2012 elections. The Housing Trust Fund would dedicate a certain portion of the General Fund each year, for thirty years, to affordable housing. It should be noted that this Ordinance only proposes to change the threshold for which projects would be subject to the Inclusionary Affordable Housing Program. This Ordinance does *not* otherwise change the requirements. The Housing Trust Fund, however, does propose lowering the requirements for the provision of on-site units.

ISSUES AND CONSIDERATION

Background

In July, 2012 Mayor Edwin Lee and Supervisors David Chiu and Jane Kim introduced a legislation which proposes to establish a new Housing Trust Fund dedicated to providing affordable housing and other housing related assistance. The proposal came after the State of California ruled to remove the Redevelopment Agency which removed a significant source of financing for affordable housing in San Francisco. Over fifty stakeholders in housing convened and underwent a detailed negotiation process to determine the components of the Housing Trust Fund. The stakeholders for the Housing Trust Fund Working Group include affordable housing advocates, market-rate developers, Mayor's Office, Members of the Board of Supervisors, property owners, and lenders among other groups. On July 24, 2012, the Board of Supervisors approved the Housing Trust Fund to be placed on the ballot for the November 6, 2012 elections.

The three major components of the Housing Trust Fund are as follows:

- Dedicate annual contribution of the General Fund to the newly established Housing Trust Fund, for thirty years. First year contributions would be $20M, plus an additional $2.8M each year, until the limit of $50.8M per year is reached.
- Lower the existing on-site inclusionary housing requirement[1] by 20%. In practice, the City would calculate the required inclusionary units (15% of the project's total units) and then reduce that number by 20% if the units are to be provided on-site. However, in no case shall the on-site requirement be less than 12% of the units provided.
- Prohibit future increases to the inclusionary housing requirements, with certain exceptions.

This group of stakeholders developed this proposed Ordinance as a companion piece. While not part of the Charter Amendment that will be before the voters, the stakeholders determined that this change was necessary to create consensus:

- Companion legislation raising the unit threshold for the inclusionary housing requirements from housing projects with 5 units or more to projects with 10 units or more.

In the past decade, there have been changes to the inclusionary housing program. In 1992, the Planning Commission adopted the City's first Inclusionary Affordable Housing Policy, requiring housing projects with 10 or more units that seek a conditional use permit or planned unit development to provide 10% of those units as affordable housing. In 2002 the City revised this policy to apply to all housing projects with 10 or more units, with higher requirements for projects receiving a conditional use permit or planned unit development. Most recently, in 2006 legislation passed which modified the requirements in several aspects; among them were: increasing inclusionary requirements, revisions to the Area Median Income calculations, expanding the requirements by lowering the unit threshold from projects with 10 or more units to projects with 5 or more units.

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[1] The existing requirements of Section 415 Inclusionary Affordable Housing Program are as follows: either fee payment or provision of 15% of the project's units as on-site affordable units or the provision of 20% of project's units off-site as affordable to low- to moderate-income households. The fee payment is calculated based on the off-site requirements percentage (usually 20% with exceptions in the Eastern Neighborhoods), proportional to unit type(studio, 1-2-3 bedroom and so forth). This percentage is then multiplied by the affordability gap, which is the difference between the cost of producing the unit and the maximum unit sales price when sold as an affordable unit.

The proposed Ordinance before the Commission today would revert the threshold for inclusionary requirements to what was in place before the 2006 legislation.

Housing Trust Fund and need for affordable housing

San Francisco severely lacks housing affordable to moderate, low and very low income households. Comparing current housing productions trends with what Regional Housing Need Allocations[2] (RHNA) projected for these income ranges better illustrates this fact. As of the first quarter of 2012, only 25% of the RHNA projection for households earning 80%-120% of AMI has been met. This percentage plummets to 17% for households earning 50%-79% of AMI.

Such critical need is amplified by the continuous dwindling of funding sources for affordable housing. In the past few decades, there has been a consistent downward trend in federal funding allocated to subsidize housing production. Federal assistance for affordable housing, historically a pillar of support for affordable housing in San Francisco, has steadily declined since the 1970s; Budget Authority's housing assistance declined by 48% since 1976, from $56.4 billion to $29.2 billion (See Exhibit A, Figure 1). In just the past five years, yearly federal housing funds allocated to San Francisco have been almost cut in half, from over $13 million per year to under $8 million per year. The Mayor's Office of Housing projects a 48 percent cut to federal HOME funds, which is one of the primary sources of federal affordable housing funding to San Francisco. This decrease in city allocated federal funding, combined with the elimination of redevelopment agencies, has resulted in projected available housing resources dropping from a five-year high of over $140 million dollars for FY 2008-2009 to a projected total of less than $20 million in FY 2012-13. At the local level, San Francisco, along with other municipalities across California, recently lost a secured funding resource for affordable housing with the abolishment of redevelopment agenciesHistorically, Redevelopment Agency tax increment and bond proceeds accounted for more than 50% of the total funding for affordable housing development and preservation, about $40 to $50 million a year.

The Housing Trust Fund strives to respond to this critical need for affordable housing, matching San Francisco's need for low to moderate housing production with significant funding. Over 30 years, the Housing Trust Fund will provide approximately $1.2 billion for affordable housing production. Total investment in housing and the economy over the 30 year span of the Housing Trust Fund will be approximately $3 billion in today's dollars.

Examining 5-9 unit buildings

Fewer 5-9 unit buildings produced. The 5-9 unit projects constitute only 6% of residential projects in San Francisco, providing only 3% of all residential units in the City in the past ten years. Therefore, this Ordinance would affect a relatively small portion of development projects in the City. Staff looked at the development trend for 5-9 unit projects since the inclusionary requirements were expanded to include these smaller projects. While data shows a decline in development 5-9 unit buildings since 2006, the downward trend began a few years before during the early 2000s. In addition, such decline is also visible in other smaller to moderate scale projects, specifically in recent years due to the 2008 market crash (See

[2] Amount projected by California HUD and ABAG for the 2007-2014 cycle.

Exhibit A, Figure 2) Based on these findings, one could not necessarily attribute the decline in development of 5-9 unit projects to inclusionary requirements.

Feasibility of 5-9 unit projects. In 2006, when the last significant modifications to the inclusionary housing programs occurred, the Mayor's Office hired a consultant[3] to evaluate feasibility of the proposed fee. This study looked at four different development prototypes. It did not provide specific evaluation on 5-9 unit projects and moving the threshold component of the legislation. However, one of the study's prototypes, wood-frame construction residential unit over a concrete podium garage, generally matches projects with 5-9 units. The analysis of small wood frame prototype found that the inclusionary requirements would be feasible for this prototype[4] – and that this requirement was feasible for both the on-site and the in-lieu fee options. Sample pro formas for 5-9 unit projects could more accurately evaluate the cost burden of inclusionary requirements on project sponsors of these projects. Staff was unable to secure such pro formas, in 2006.

Production of affordable housing by 5-9 unit buildings. In 2006, staff also found that within the 5-9 unit projects in the City, buildings with 6 or 8 units are the most common. Staff did not observe a high propensity in 9 unit projects, seems to show that developers did not exhibit a tendency to avoid the inclusionary housing program by building one less unit in their projects. Since 2006, there has been only about seven projects (with 5-9 units) approved that were subject to the inclusionary requirements. Not one of these projects have been constructed yet. Three of these projects are expected to provide on-site Below Market Rate units (three units in total), and the other four projects would pay the in lieu fee which would amount to approximately $1.4M. There are also 16 projects of this type in the pipeline, constituting 107 units. These projects have not received entitlements yet. Assuming that all these units move forward to completion, and that they all choose the in-lieu fee option, the City would receive another $5.5M. These projects would likely become exempt from the inclusionary program, should the proposed Ordinance becomes effective.

Lastly, it is important to highlight that the affordable housing provided as a result of 5-9 unit projects remain minuscule compared to what the Housing Trust Fund would contribute, if passed by the voters. Moving the threshold from 10 units or more to 5 units or more is a piece of a large package, for which all stakeholders compromised to achieve consensus. Currently, the Housing Trust Fund has the support of all stakeholders involved in the process of negotiations; and should it pass at the elections, it would introduce a continuous and reliable revenue stream to affordable housing development.

REQUIRED COMMISSION ACTION

The proposed Resolution is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

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[3] Keyser Martson Associates, Inc. Inclusionary Program San Francisco Sensitivity Analysis.

[4] In both cases the 18% minimum Return on Cost threshold is met. Prototype 1 also meets a minimum 15% Margin on Net Sales test. The estimated timeline is 3.1 years and the Annualized Return on Equity computes to 27.6% for In-Lieu and 27.8% for On-Site.

RECOMMENDATIONS

The Department recommends that the Commission recommend *approval* of the proposed Ordinances and adopt the attached Draft Resolution to that effect.

Basis for Recommendation of Support

Funding prospects for affordable housing are dire. The Housing Trust Fund was formed through a collaborative process, bringing developers, affordable housing advocates, bankers, and City officials to a consensus on how to best fund affordable housing locally. The General Plan's Housing Element specifically states the City should find such funding in Policy 7.1: "Expand the financial resources available for permanently affordable housing, especially permanent sources".

The Housing Trust Fund's revenue stream for affordable housing would by far offset and overshadow any potential loss of funding caused by moving the threshold from 5 or more units to 10 or more units. There is currently not enough analysis that would support that removing 5-9 unit projects from the inclusionary program would stimulate these project types. However, staff's argument for supporting this Ordinance is that the Ordinance would only be enacted if the voters also approve the Housing Trust Fund. Therefore, staff supports this proposal as a part of the Housing Trust Fund consensus and the best avenue to protect funding for affordable housing.

ENVIRONMENTAL REVIEW

This legislation was reviewed under CEQA and found not a project per CEQA guidelines Sections 15060 (c) (2).

PUBLIC COMMENT

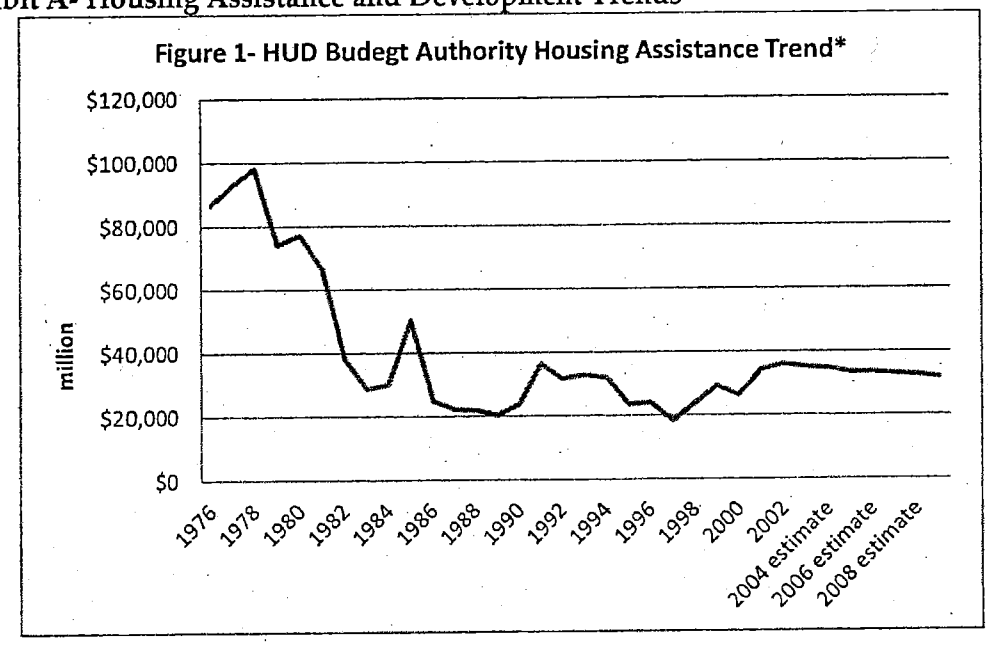
The Department has received no public comments regarding this legislation.

RECOMMENDATION:	Recommendation of Approval

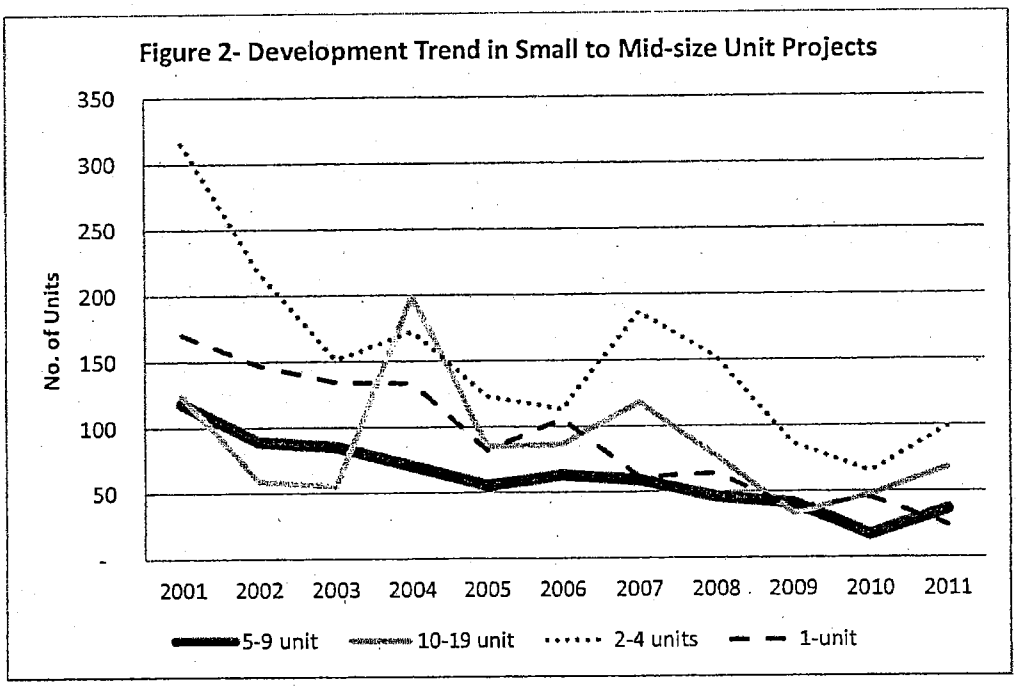
Attachments:

Exhibit A:	Housing Assistance and Development Trends
Exhibit B:	Draft Resolution
Exhibit C:	Draft Board of Supervisors Ordinance [Board File No. 12-0464]

Exhibit A- Housing Assistance and Development Trends



*Source: The National Low Income Housing Coalition, Changing Priorities: The Federal Budget and Housing Assistance, October 2004



File No. 120464 09/24/12 Presented in Committee

MAYOR'S OFFICE OF HOUSING

SAN FRANCISCO HOUSING TRUST FUND

1137

CITY AND COUNTY OF

SAN FRANCISCO

MAYOR EDWIN M. LEE

HTF SUMMARY

Revenue	Charter Amendment	Ordinance	Admin Policy
General fund allocation based on projected existing and new revenue	Funding for BMR housing production and programs up to 120% AMI	5 to 9 unit exclusion from inclusionary program	Expansion of DALP
	Authorize use for complete neighborhoods	Citywide onsite BMR "buy up" program (20%)	Housing Stabilization Programs
	Housing obligation reduction and cap	Inclusionary "Dial" program	
	Mayoral Veto	Limited fee deferral 120' and higher	
	30 Year Term	Periodic reporting to the BOS - HTF activities	

1138

MAYOR'S OFFICE OF HOUSING

INCLUSIONARY THRESHOLD (5-9)

1. Risk of parcel subdivisions
2. 5-9 production since 2006
3. BMR production since 2006
4. Infill and economic development potential

PARCEL SUBDIVISIONS

"Housing project for purposes of the Inclusionary Housing Program shall mean *all phases or elements of a multi-phase or multiple lot residential development*."

Section 401, San Francisco Planning Code

1140

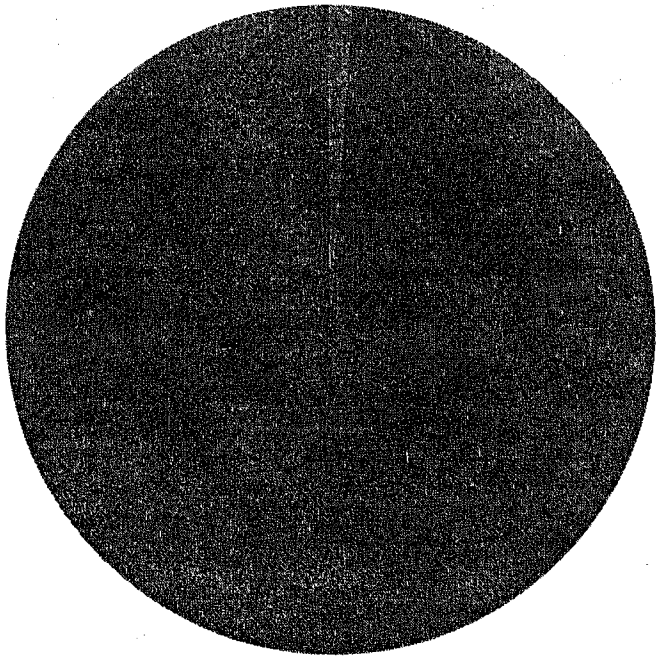
PARCEL SUBDIVISIONS

- All lot subdivisions are recorded in Planning's case tracking system

- A Notice of Special Restriction (NSR) may be recorded at time of subdivision.

- Upon project application, planner reviews case tracking to:
  1. Confirm NSR was recorded at time of lot subdivision; or,
  2. Even if no NSR, still apply appropriate inclusionary requirements.

5-9 PRODUCTION



Housing Production
2001-2011

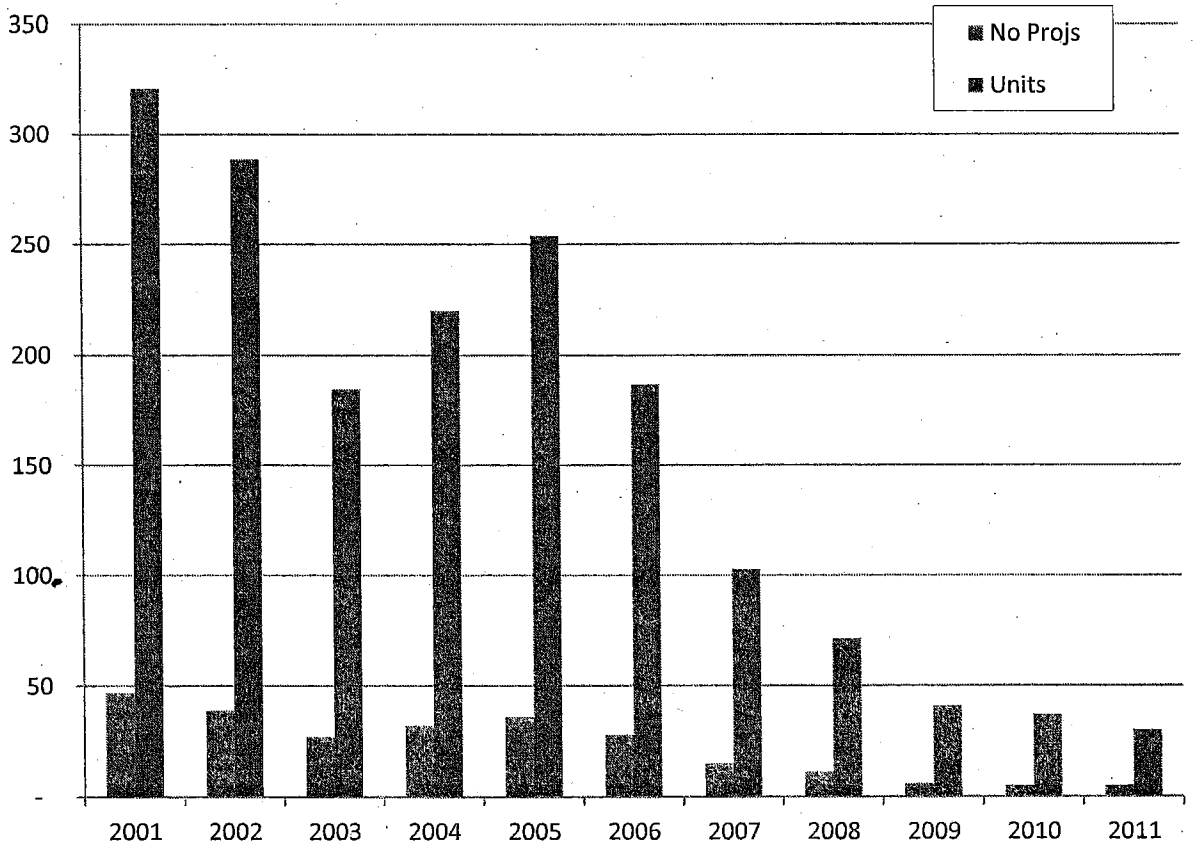
5-9 unit production represents approximately 3% of our overall housing production

Given the decline in the overall housing market, it is challenging to find direct correlation between the 2006 legislation and production

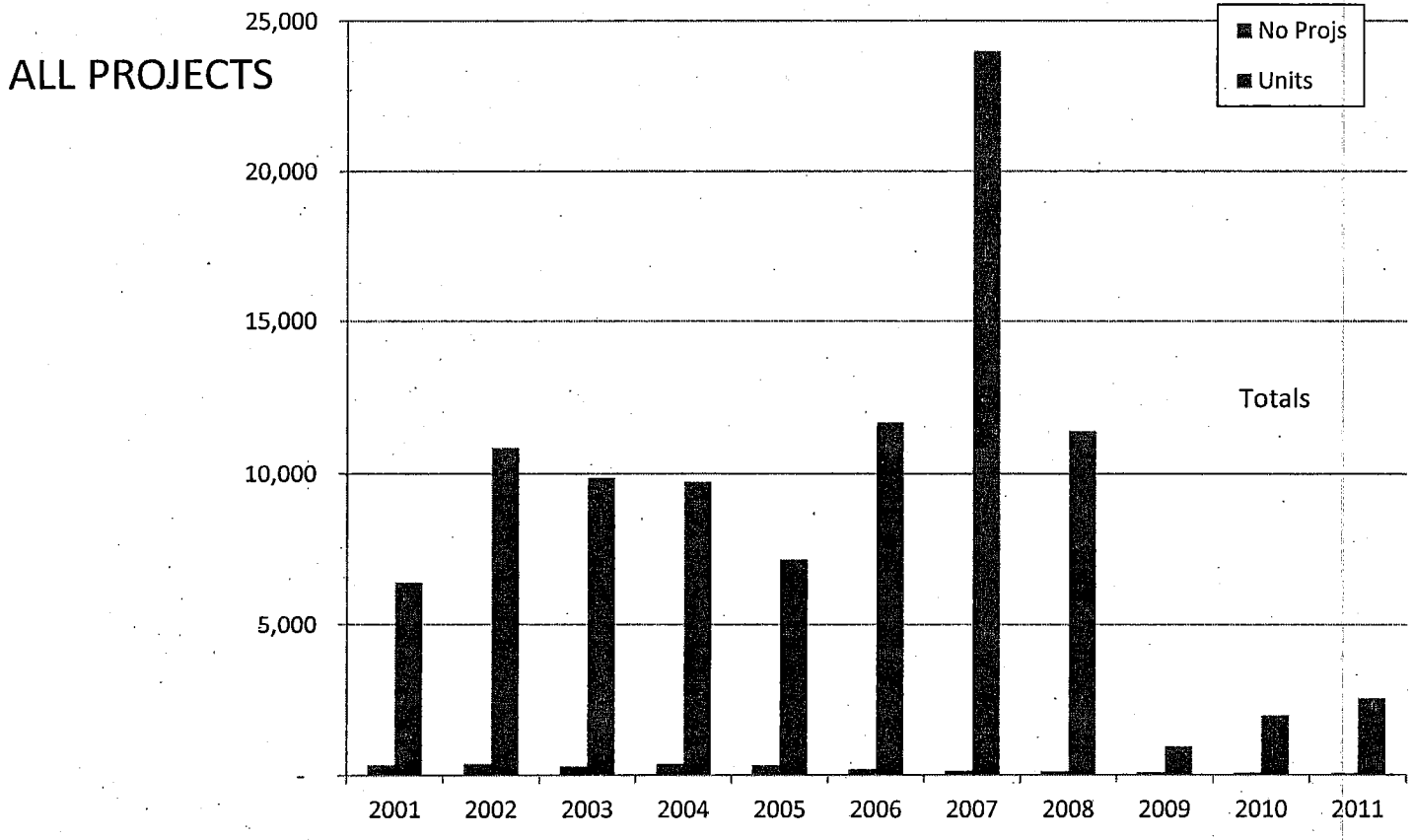
However, applications for 5-9 unit buildings have been in steep decline since the 2006 reduction of the Inclusionary threshold

5-9 PRODUCTION

5-9 UNIT PROJECTS



Filing for 5-9 unit environmental (Planning) review



Total filings for environmental (Planning) review

BMR PRODUCTION

5-9 properties do not represent a mechanism for creation of significant numbers of BMR units, nor generation of significant affordable housing fees

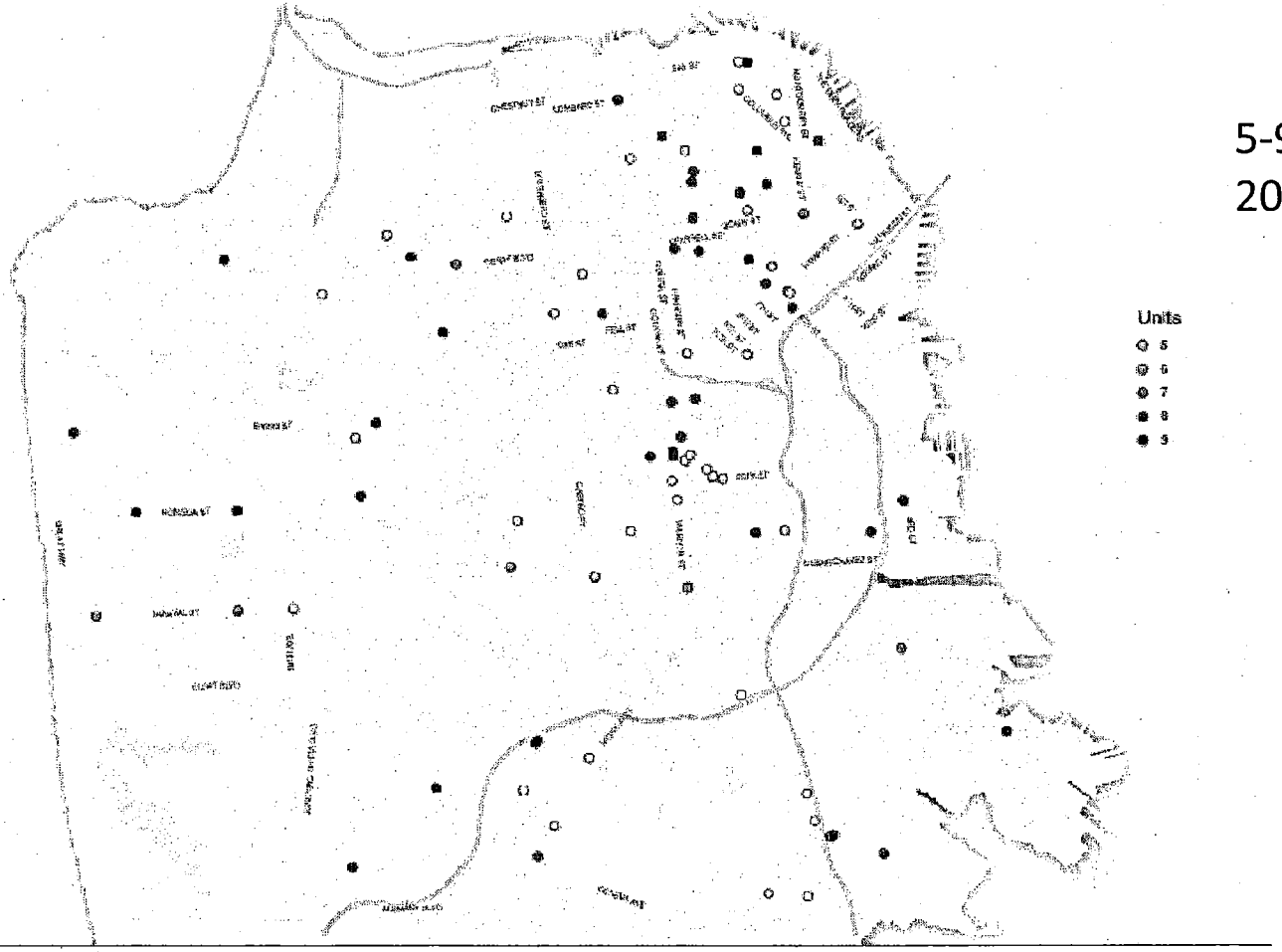
Since 2006, only 7 properties of 5-9 units have been entitled, and only one project has been completed, generating only 1 BMR unit

1146

"Residential districts contain a substantial number of undeveloped lots. Locating new housing development in these districts makes sense, as housing should go where other housing already exists. These in-fill sites are scattered throughout all residential neighborhoods and construction of additional units will have very minimal cumulative effect on infrastructure needs"

- San Francisco Housing Element

INFILL/ECONOMIC DEVELOPMENT



Housing Unit Development 2001-2011
5 - 9 Units

5-9 Completed Projects
2001-2011

CONCLUSIONS

1. 5-9 buildings are a small but important part of our residential fabric
2. 5-9 production can support infill housing goals and neighborhood commercial economic goals
3. 5-9 unit buildings do not represent significant BMR production
4. Tools are in place to protect against lot subdivisions

File No. 120464
09/24/12. Received
in Committee

COUNCIL OF COMMUNITY HOUSING ORGANIZATIONS
325 Clementina Street
San Francisco, California 94103
ccho@sfic-409.org | 415.882.0901

August 16, 2012

Planning Commissioners
SF Planning Commission
1650 Mission St. Suite 400
San Francisco, CA. 94103

Re: CASE NO. 2012.0901T, Threshold for Inclusionary Housing

Dear Commissioners:

On behalf of the Council of Community Housing Organizations (CCHO), I am writing to express our support for the drafting of the ordinance lifting the inclusionary threshold for 5-9 unit buildings as part of the overall package of agreements that were developed by the Housing Trust Fund working group.

As an organization intimately involved in the drafting of San Francisco's Inclusionary Housing program to preserve San Francisco's mixed-income and diverse neighborhoods, we would like to provide some context. As acknowledged in the Planning Staff report, the Inclusionary program did not originally apply to 5-9 unit buildings. In 2006, the ordinance was amended to include 5-9 unit buildings to deal with two issues:

1. A perception that some developers were building nine units buildings where 10 or 11 units would be otherwise allowed by zoning, in order to avoid fulfilling their inclusionary obligation.
2. A perception that some developers were subdividing properties that would otherwise have allowed 10 or more units, and building several smaller buildings, again in order to avoid fulfilling their inclusionary obligation.

The 2006 changes to the inclusionary ordinance were not specifically designed to create a large new number of on-site BMRs, which, as the Planning staff report indicates, is not necessarily provided by these smaller buildings. Rather, the purpose of the change was to address community fears, particularly in low-income neighborhoods and among communities of color, that market-rate developers had found a loophole to shirk their obligation to create mixed-income buildings with inclusionary units in their communities. Our understanding is that the two issues in the above bullet points are being dealt with in this legislation, or have already been dealt with elsewhere.

In closing, we want to reiterate that CCHO, as part of the Housing Trust Fund working group, supports the lifting of the inclusionary threshold for 5-9 unit buildings. If you have any further questions, please feel free to contact me by phone at 415-882-0901 or by email at fernando@sfic-409.org.

Sincerely,

Fernando Martí
Co-director, SF Council of Community Housing Organizations

Cc: Linda Avery, Commission Secretary
Jeff Buckley, Mayor's Office

OFFICE OF THE MAYOR
SAN FRANCISCO

EDWIN M. LEE
MAYOR

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Mayor Edwin M. Lee
RE: Planning Code – Inclusionary Affordable Housing Program
DATE: June 26, 2012

Attached for introduction to the Board of Supervisors is the ordinance amending the San Francisco Planning Code by amending section 415.3 to:1) provide that, as of January 1, 2013, the requirements of the Inclusionary Affordable Housing Program will no longer apply to buildings of 5 to 9 units that have not yet received a first construction document, and 2) condition operation of the ordinance on the adoption and implementation of the Housing Trust Fund Charter amendment at the November 6, 2012 election; setting an operative date, and making environmental findings and findings of consistency with general plan.

I request that this item be calendared in Land Use and Economic Development Committee.

Should you have any questions, please contact Jason Elliott (415) 554-5105.

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