

REVISED LEGISLATIVE DIGEST

(1/14/2025, Amended in Board)

[Planning Code, Zoning Map - 30 Van Ness Avenue Special Use District; Amendment of Agreement for Sale of Real Estate between the City and 30 Van Ness Development LLC]

Ordinance amending the Planning Code and Zoning Map to create the 30 Van Ness Avenue Special Use District, in the area generally bound by Fell Street to the north, Market Street to the east and south, and Van Ness Avenue to the west; modifying the Notice of Special Restrictions related to inclusionary housing obligations under the Agreement for Sale of Real Estate between the City and 30 Van Ness Development LLC; affirming the Planning Department’s determination under the California Environmental Quality Act; making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1; and making public necessity, convenience, and welfare findings under Planning Code, Section 302.

Existing Law

Planning Code Section 415 et seq, the Inclusionary Housing Ordinance, requires projects to pay a development impact fee, which is used by the Mayor’s Office of Housing and Community Development to construct affordable housing projects in San Francisco. Housing developers may also elect to provide affordable units within the project (on-site units), or provide off-site affordable units. The amount of the fee, or the number of required on-site or off-site units varies depending on, among other factors, when the project was proposed, when it is approved, and where the project is located.

Planning Code Section 249.33(b)(10), the accessory parking provisions of the Van Ness & Market Residential Special Use District, allows projects that provide more than 25% on-site affordable units to jointly use accessory residential parking and accessory non-residential parking in certain circumstances.

In February 2017, the Board of Supervisors authorized a Purchase and Sale Agreement of the property at 30 Van Ness Avenue, which included a requirement that the purchaser provide 25% of residential units as on-site inclusionary units, or provide 33% of units as off-site affordable units, or a combination of both; the purchaser was not allowed to comply with the Inclusionary Ordinance by paying the inclusionary fee. This specific inclusionary requirement was memorialized in a Notice of Special Restrictions recorded against the property.

Amendments to Current Law

This ordinance would amend the Planning Code to create a special use district for 30 Van Ness Avenue. Projects in the special use district (“SUD”) must have had a building permit or site permit prior to August 1, 2024. Such projects would need to comply with the Planning Code except as stated in the SUD. In particular, eligible projects would be subject to the

requirements of Section 415, the Inclusionary Affordable Housing Program, at the following percentages: for the inclusionary fee or off-site units, 16.4%; for on-site units, 12%. In addition, accessory non-residential parking could be used jointly with accessory residential parking even if a project did not provide 25% on-site affordable units.

The ordinance would allow projects that pay the inclusionary fee to have all or a portion of that fee waived. The amount of the waiver of the fee is equal to the sum of the amount of development impact fees already paid, minus 67% of the sum of development impact fees already paid using the fee rate in effect on May 21, 2020, and minus the amount of interest accrued on the fees at 4.5% per annum from the date the fees were paid until the effective date of the ordinance.

The SUD would expire by operation of law at the earlier of the City providing a refund of development impact fees, issuance of a Temporary Certificate of Occupancy, or issuance of a Certificate of Final Completion.

The ordinance would approve a modification of the Notice of Special Restrictions on 30 Van Ness Avenue to remove the 25% on-site/33% off-site affordable housing requirement, and instead allow a project to pay the inclusionary fee, or provide on-site or offsite units at the percentages noted above. A project that does not use the SUD would be required to comply with the otherwise applicable requirements of Section 415.

Background Information

This version of the ordinance includes amendments made at the Board of Supervisors on January 14, 2025.

In May 2020, the City approved a mixed-use residential and office project at 30 Van Ness Avenue, with 333 dwelling units, 25% of which would be affordable units (consistent with the NSR on the property, noted above). The project sponsor later obtained a site permit, paid over \$41 million in development impact fees, and began construction. The developer halted construction in approximately November 2023, due to feasibility concerns.

Based on recommendations from the Controller and the Affordable Technical Advisory Committee, in October 2023, the City reduced the inclusionary housing requirements in Planning Code section 415 for certain projects, reduced most development impact fees by 33%, and allowed projects to pay impact fees after construction, rather than at building permit issuance. Because the project at 30 Van Ness Avenue had already paid impact fees and started construction, it was not eligible for the inclusionary housing or fee reductions, or fee deferral.

The special use district is designed to improve the financial feasibility of the development at 30 Van Ness Avenue. As originally introduced on September 10, 2024, the ordinance exempted projects with a site permit issued prior to August 2024 (i.e. the current project, or a

modification of the current project that is consistent with the Planning Code) from compliance with the Inclusionary Housing Program altogether. However, the SUD expired if the current project is issued a refund of development impact fees, or after construction, whichever occurred first. A new project would be subject to the then-applicable requirements of the Inclusionary Housing Program.

As amended on December 9, 2024, at the Land Use and Transportation Committee, the SUD required compliance with the Inclusionary Ordinance, but at the following rates: 17.4% fee/off-site and 12.8% on-site. In addition, the amendments provided for another sunset date trigger of May 1, 2029.

The amendments adopted on January 14, 2025 at the Board of Supervisors also require compliance with the Inclusionary Ordinance, but at the following rates: 16.4% for fee/off-site (rather than 17.4%), and 12% for on-site (rather than 12.8%). The amendment would also allow for a waiver of the inclusionary fee in the amount noted above, under "Amendments to the Current Law." Finally, the amendments delete the May 1, 2029 sunset date trigger.

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