

BOARD of SUPERVISORS



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MEMORANDUM

TO: Olson Lee, Director, Mayor's Office of Housing and Community Development
Tiffany Bohee, Executive Director, Office of Community Investment and Infrastructure
Tom Hui, Director, Department of Building Inspection

FROM: *ll for* Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

DATE: November 1, 2016

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Mayor Lee on October 25, 2016:

File No. 161157

Ordinance amending the Planning Code to create an alternative for project sponsors of smaller market rate projects to direct the Affordable Housing Fee to Small Sites Projects; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, the eight priority policies of Planning Code, Section 101.1; and making a finding of public necessity, convenience, and welfare under Planning Code, Section 302.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: alisa.somera@sfgov.org.

c: Eugene Flannery, Mayor's Office of Housing and Community Development
Sophie Hayward, Mayor's Office of Housing and Community Development
Claudia Guerra, Office of Community Investment and Infrastructure
Natasha Jones, Office of Community Investment and Infrastructure
William Strawn, Department of Building Inspection
Carolyn Jayin, Department of Building Inspection

1 [Planning Code - Inclusionary Housing Small Sites Program]

2
3 **Ordinance amending the Planning Code to create an alternative for project sponsors of**
4 **smaller market rate projects to direct the Affordable Housing Fee to Small Sites**
5 **Projects; affirming the Planning Department's determination under the California**
6 **Environmental Quality Act; and making findings of consistency with the General Plan,**
7 **the eight priority policies of Planning Code, Section 101.1; and making a finding of**
8 **public necessity, convenience, and welfare under Planning Code, Section 302.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

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

17 Section 1. Findings.

18 (a) The Planning Department has determined that the actions contemplated in this
19 ordinance comply with the California Environmental Quality Act (California Public Resources
20 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
21 Supervisors in File No. ___ and is incorporated herein by reference. The Board affirms this
22 determination.

23 (b) On _____, the Planning Commission, in Resolution No. _____,
24 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
25 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that the
4 proposed Planning Code amendments will serve the public necessity, convenience, and
5 welfare for the reasons set forth in Planning Commission Resolution No. _____, and
6 the Board incorporates such reasons herein by reference.

7
8 Section 2. The Planning Code is hereby amended by revising Section 415.2 and 415.5
9 and adding Section 415.7-1, to read as follows:

10 **SEC. 415.2. DEFINITIONS.**

11 See Section 401 of this Article. For purposes of Sections 415.3et seq., "low income"
12 households shall be defined as households whose total household income does not exceed
13 55% of Area Median Income for purposes of renting an affordable unit, or 80% of Area
14 Median Income for purposes of purchasing an affordable unit, and "moderate income" and
15 "middle income" households shall mean households whose total household income does not
16 exceed 100% of Area Median Income for purposes of renting an affordable unit, or 120% of
17 Area Median Income for purposes of purchasing an affordable unit. The Small Sites Fund,
18 defined in Section 415.5(f)(2), and the Small Sites Program, *including any program established*
19 *pursuant to Section 415.7-1*, may use Affordable Housing Fees to acquire sites and buildings
20 consistent with the income parameters of the Programs, as periodically updated and
21 administered by MOHCD.

22
23 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

24 The fees set forth in this Section 415.5 will be reviewed when the City completes an
25 Economic Feasibility Study. Except as provided in Section 415.5(g), all development projects

1 subject to this Program shall be required to pay an Affordable Housing Fee subject to the
2 following requirements:

3 * * * *

4 (f) **Use of Fees.** All monies contributed pursuant to the Inclusionary Affordable
5 Housing Program shall be deposited in the Citywide Affordable Housing Fund ("the Fund"),
6 established in Administrative Code Section 10.100-49. The Mayor's Office of Housing and
7 Community Development ("MOHCD") shall use the funds collected under this Section 415.5 in
8 the following manner:

9 * * * *

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

11 (A) **Designation of Funds.** MOHCD shall designate and separately
12 account for 10% ~~percent~~ of all fees that it receives under Section 415.1 et seq. that are
13 deposited into the Citywide Affordable Housing Fund, established in Administrative Code
14 Section 10.100-49, excluding fees that are geographically targeted such as those referred to
15 in Sections 415.5(b)(1) and 827(b)(1), to support acquisition and rehabilitation of Small Sites
16 ("Small Sites Funds"). MOHCD shall continue to divert 10% ~~percent~~ of all fees for this purpose
17 until the Small Sites Funds reach a total of \$15 million at which point, MOHCD will stop
18 designating funds for this purpose. At such time as designated Small Sites Funds are
19 expended and dip below \$15 million, MOHCD shall start designating funds again for this
20 purpose, such that at no time the Small Sites Funds shall exceed \$15 million. When the total
21 amount of fees paid to the City under Section 415.1 et seq. totals less than \$10 million over
22 the preceding 12-month period, MOHCD is authorized to temporarily divert funds from the
23 Small Sites Fund for other purposes. MOHCD must keep track of the diverted funds, however,
24 such that when the amount of fees paid to the City under Section 415.1 et seq. meets or
25 exceeds \$10 million over the preceding 12-month period, MOHCD shall commit all of the

1 previously diverted funds and 10% ~~percent~~ of any new funds, subject to the cap above, to the
2 Small Sites Fund.

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

- 8 (i) rental properties that will be maintained as rental properties;
- 9 (ii) vacant properties that were formerly rental properties as long
10 as those properties have been vacant for a minimum of two years prior to the effective date of
11 this legislation;
- 12 (iii) properties that have been the subject of foreclosure; or
- 13 (iv) a Limited Equity Housing Cooperative as defined in
14 Subdivision Code Sections 1399.1 et seq. or a property owned or leased by a non-profit entity
15 modeled as a Community Land Trust.

16 * * * *

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

21 * * * *

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

23 (1) **Eligibility:** A project sponsor must pay the Affordable Housing Fee unless it
24 qualifies for and chooses to meet the requirements of the Program through an Alternative
25

1 provided in this §subsection (g). The project sponsor may choose one of the following
2 Alternatives:

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

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

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

11 (D) **Alternative #34:** Combination. Project sponsors may elect any
12 combination of payment of the Affordable Housing Fee as provided in Section 415.5,
13 construction of on-site units as provided in Section 415.6, or construction of off-site units as
14 provided in Section 415.7, provided that the project applicant constructs or pays the fee at the
15 appropriate percentage or fee level required for that option.

16 * * * *

17
18 **SEC. 415.7-1. SMALL SITES AFFORDABLE HOUSING ALTERNATIVE.**

19 A project sponsor of a principal project comprised of up to 25 residential units may elect under
20 Section 415.5(g) to meet its Inclusionary Affordable Housing requirement by designating its payment of
21 the Affordable Housing Fee due under Section 415.5 into a Small Sites program that MOHCD shall
22 establish for this purpose. Affordable Housing Fees designated for this program shall not be
23 considered part of the designated funds specified by Section 415.5(f). MOHCD shall expend the funds
24 from a principal project on a Small Sites Project that meets the requirements set forth in Section
25 415.5(f)(2)(B) within the geographic area described in Section 415.7. If MOHCD is unable to identify

1 a qualifying Small Sites Project and apply the fee to a Small Sites Project within the geographic area
2 required in Section 415.7 within two years of the payment of the fee, such fee shall be released into the
3 Affordable Housing Fund to fund other qualifying Small Sites Projects in San Francisco.

4
5 Section 3. Effective Date. This ordinance shall become effective 30 days after
6 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
7 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
8 of Supervisors overrides the Mayor’s veto of the ordinance.

9
10 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
11 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
12 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
13 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
14 additions, and Board amendment deletions in accordance with the “Note” that appears under
15 the official title of the ordinance.

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

20 By: 
21 VICTORIA WONG
22 Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Inclusionary Housing Small Sites Program]

Ordinance amending the Planning Code to create an alternative for project sponsors of smaller market rate projects to direct the Affordable Housing Fee to Small Sites Projects; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, the eight priority policies of Planning Code, Section 101.1; and making a finding of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

Under the City's Inclusionary Affordable Housing Program, Planning Code Sections 415 et seq., a project sponsor of a residential development must pay an Affordable Housing Fee or, in the alternative, choose to provide On-site or Off-site units, or a combination thereof. (Planning Code § 415.5(g).)

The City's existing Small Sites Fund consists of 10% of all fees deposited into the Citywide Affordable Housing Fund, excluding fees that are geographically targeted such as those referred to in Sections 415.5(b)(1) and 827(b)(1), up to a total of \$15 million. These funds are designated to support acquisition and rehabilitation of Small Sites, defined as properties consisting of 2-25 units. Units supported by monies from the fund are to be designated as housing affordable to qualified households as set forth in Section 415.2 for no less than 55 years. Properties supported by the Small Sites Funds must be:

- (i) rental properties that will be maintained as rental properties;
- (ii) vacant properties that were formerly rental properties as long as those properties have been vacant for a minimum of two years prior to the effective date of this legislation;
- (iii) properties that have been the subject of foreclosure; or
- (iv) a Limited Equity Housing Cooperative as defined in Subdivision Code Sections 1399.1 et seq. or a property owned or leased by a non-profit entity modeled as a Community Land Trust. (Planning Code § 415.5(f)(2)(B).)

Amendments to Current Law

This ordinance would create a third alternative to payment of the Affordable Housing Fee for sponsors of projects comprised of up to 25 residential units. These project sponsors may elect to meet their Inclusionary Affordable Housing requirement by designating their payment of the Affordable Housing Fee into a Small Sites program, pursuant to which the funds would be used to acquire or rehabilitate Small Sites. Affordable Housing Fees designated for the new Small Sites program would be expended on a Small Sites Project that meets the existing requirements for the City's Small Sites Program (Section 415.5(f)(2)(B)) and that is located within one mile of the principal project, pursuant to Section 415.7. If MOHCD is unable to

identify a qualifying Small Sites Project and apply the fee to a Small Sites Project within the geographic area required in Section 415.7 within two years of the payment of the fee, such fee shall be released into the Affordable Housing Fund to fund other qualifying Small Sites Projects in San Francisco. The funds would not be considered part of the designated funds specified by Section 415.5(f).

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