



SAN FRANCISCO PLANNING DEPARTMENT

June 18, 2015

Ms. Angela Calvillo, Clerk
Honorable Mayor Edwin Lee
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

**Re: Transmittal of Planning Department Case Numbers 2015-007368PCA and 2015-007369PCA
Fee Waiver for In-Law Units, and Citywide Affordable Housing Fund
Board File Nos. 150571 and 150568
Planning Commission Action: Waive Opportunity to Review the Proposed Ordinances**

Dear Ms. Calvillo and Mayor Lee,

On June 18, 2015, the Planning Commission conducted a duly noticed public hearing at regularly scheduled meeting to consider waiving the Commission's opportunity to review and comment on Board Files 150571 and 150568. At the hearing the Planning Commission voted to waive their opportunity to review these two Board files.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron D. Starr", with a long horizontal line extending to the right.

Aaron D. Starr
Manager of Legislative Affairs

cc:

Kate Stacy, Deputy City Attorney
Susan Cleveland-Knowles
Nicole Elliot, Legislative Director, Commission & Board Liaison, Office of Mayor Edwin M. Lee
Linda Wong, Office of the Clerk of the Board

Attachments:

Planning Commission Resolutions 19391 and 19392
Planning Department Memo



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19392

HEARING DATE JUNE 18, 2015

Date: June 11, 2015
Project Name: **Self-Appropriating Citywide Affordable Housing Fund**
Case Number: 2015-007369PCA
[Board File 150568]
Initiated by: Mayor Edwin Lee / Introduced June 2, 2015
Staff Contact: Aaron Starr – (415) 558-6362
aaron.starr@sfgov.org
Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395

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RESOLUTION WAIVING THE PLANNING COMMISSIONS OPPORTUNIT TO CONSIDER BOARD FILE 150568 – SELF-APPROPRIATING CITYWIDE AFFORDABLE HOUSING FUND.

WHEREAS, On June 2, 2015, Mayor Edwin Lee introduced an ordinance associated with the City’s 2015-2017 Budget (hereinafter “Budget”) at the Board of Supervisors under Board of Supervisors (hereinafter “Board”) Board File 150568 – Self-Appropriating Citywide Affordable Housing Fund;

WHEREAS, The Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider waiving their opportunity to hear the proposed Ordinance on June 18, 2015; and,

WHEREAS, Board File 150568 has been determined to not be a project under CEQA Guidelines Section 15378 and 15060(c)(2) because it does not result in a physical change in the environment; and

WHEREAS, per City Charter Section 3.3, the Board shall not later than the last working day of July, adopt the budget as proposed by the Mayor, or as amended by the Board of Supervisors;

WHEREAS, this ordinance is trailing legislation for the City and County of San Francisco’s (hereinafter “City”) Budget and must move out of committee no later than June 25th, 2015 to be included in the Department’s Budget; and

WHEREAS, per Planning Code Section 306.4(d)(3) the Commission is required to rendered its decision on Board initiated ordinances within 90 days from the date of referral of the proposed amendment or modification by the Board to the Commission; and

WHEREAS, failure of the Commission to act within the prescribed time shall be deemed to constitute disapproval by the Commission; and

WHEREAS, this ordinance cannot be properly heard by the Board until this 90-day period has expired or the Commission has taken action; and

WHEREAS, Board Files 150568 was referred to the Planning Department (hereinafter "Department") on June 10, 2015; and

WHEREAS, Board Files 150568 is scheduled to be heard at the heard at the June 22nd Budget and Finance Committee meeting, and the Clerk of the Board requires a response from the Commission on this Ordinances no later than 5:00 p.m. Thursday, June 18th, 2015; and

WHEREAS, this tight timeline does not provide the Department adequate time to comply with the 20-day notification period for ordinances that amend the Planning Code (hereinafter "Code") per Code Section §306.3(a)(3), and calendar the ordinances for consideration by the Commission at a properly noticed public hearing; and

WHEREAS, this ordinance is an important part of the Department's Budget and cannot be included in the Budget unless it is passed by the Board in concert with the City's Budget; and

WHEREAS, the Ordinance is intended to help address the City's unprecedented housing crisis by more quickly allocating affordable housing funds; 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 on behalf of Department staff and other interested parties; and

WHEREAS, 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 Planning Commission has reviewed the proposed Ordinance.

MOVED, that the Planning Commission hereby waives its opportunity to hear Board File 150568 so that they can move forward in concert with the City's Budget.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on June 18, 2015.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Antonini, Hillis, Moore, Richards, and Wu

NOES: none

ABSENT: Commissioners Fong, and Johnson

ADOPTED: June 18, 2015



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19391

HEARING DATE JUNE 18, 2015

Date: June 11, 2015
Project Name: **Fee Waiver for In-Law Units**
Case Number: 2015-007368PCA [Board File 150571]
Initiated by: Mayor Edwin Lee / Introduced June 2, 2015
Staff Contact: Aaron Starr – (415) 558-6362
aaron.starr@sfgov.org
Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395

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RESOLUTION WAIVING THE PLANNING COMMISSIONS OPPORTUNIT TO CONSIDER BOARD FILE 150571- FEE WAIVER FOR IN-LAW UNITS.

WHEREAS, On June 2, 2015, Mayor Edwin Lee introduced an Ordinance associated with the City's 2015-2017 Budget (hereinafter "Budget") at the Board of Supervisors under Board of Supervisors (hereinafter "Board") File 150571- Fee Waiver for In-Law Units; and

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider waiving their opportunity to hear the proposed Ordinance on June 18, 2015; and,

WHEREAS, Board File 150571 has been determined to be statutorily exempt from environmental review under the California Environmental Quality Act Section 15273; and

WHEREAS, per Charter Section 3.3, the Board shall not later than the last working day of July, adopt the budget as proposed by the Mayor, or as amended by the Board of Supervisors;

WHEREAS, this ordinance is trailing legislation for the City and County of San Francisco's (hereinafter "City") Budget and must move out of committee no later than June 25th, 2015 to be included in the Department's Budget; and

WHEREAS, per Planning Code Section 306.4(d)(3) the Planning Commission is required to rendered its decision on Board initiated ordinances within 90 days from the date of referral of the proposed amendment or modification by the Board to the Commission; and

WHEREAS, failure of the Commission to act within the prescribed time shall be deemed to constitute disapproval by the Commission; and

WHEREAS, this ordinance cannot be properly heard by the Board until this 90-day period has expired or the Commission has taken action; and

WHEREAS, Board File 150571 was referred to the Planning Department (hereinafter "Department") on June 10, 2015; and

WHEREAS, Board File 150571 is scheduled to be heard at the June 22nd Budget and Finance Committee meeting, and the Clerk of the Board (hereinafter "Clerk") requires a response from the Commission on this Ordinances no later than 5:00 p.m. Thursday, June 18th, 2015; and

WHEREAS, this tight timeline does not provide the Department adequate time to comply with the 20-day notification period for ordinances that amend the Planning Code (hereinafter "Code") per Code Section §306.3(a)(3), and calendar the ordinances for consideration by the Commission at a properly noticed public hearing; and

WHEREAS, this Ordinance is an important part of the Department's Budget and cannot be included in the Budget unless it is passed by the Board in concert with the City's Budget; and

WHEREAS, this Ordinance is intended to help address the City's unprecedented housing crisis by encouraging the retention of existing housing units; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, 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.

MOVED, that the Commission hereby waives its opportunity to hear Board File 150571 so that it can move forward in concert with the City's Budget.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on June 18, 2015.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Antonini, Hillis, Moore, Richards, and Wu

NOES: none

ABSENT: Commissioners Fong, and Johnson

ADOPTED: June 18, 2015



SAN FRANCISCO PLANNING DEPARTMENT

Memo to the Planning Commission

HEARING DATE: JUNE 18, 2015

Date: June 11, 2015
Project Name: **FY 2015-2016 Budget Trailing Legislation**
Case Number: 2015-007368PCA and 2015-007369PCA
[Board File 150571 and 150568]
Initiated by: Mayor Edwin Lee / Introduced June 2, 2015
Staff Contact: Aaron Starr – (415) 558-6362
aaron.starr@sfgov.org
Reviewed by: Thomas DiSanto, Director of Administration
AnMarie Rodgers, Senior Policy Advisor

Recommendation: Waive Commission Review of Ordinances [BF 150568 and BF 150571]

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One June 2, 2015 Mayor Edwin Lee introduced two ordinances associated with the City's Fiscal Year (FY) 2015-2016 Budget at the Board of Supervisors: Board File 150571- Fee Waiver for In-Law Units, and Board File 150568 - Citywide Affordable Housing Fund. Both of these ordinances are scheduled to be heard by the Budget and Finance Committee on June 22, 2015 so that they can be considered alongside the City's final budget.

Planning Code Section 306.4(d)(3) requires the Planning Commission to render its decision on Board of Supervisor initiated ordinances within 90 days from the date of referral of the proposed amendment or modification by the Board to the Commission. Failure of the Commission to act within the prescribed time shall be deemed to constitute disapproval by the Planning Commission. Further, these items cannot be properly heard by the Board until either the 90-day period has expired or the Commission has taken action. Board Files 150568 and 150571 were referred to the Planning Department on June 10, 2015. As such, the Department has not had adequate time to calendar these items for consideration by the Planning Commission at a properly noticed public hearing. Given the importance of these two items, and the tight adoption timeline of the City's 15-16 Fiscal Year Budget, the Department is requesting that the Planning Commission pass a resolution (see Exhibits A and B) waiving its opportunity to hear both of these ordinances so that they can move forward in concert with the City's Budget.

Board File 150571 Fee Waiver for In-Law Units

On December 1, 2013 the Mayor issued Mayoral Directive 13-01, which directed all Departments "that have the legal authority over the permitting or mapping of new or existing housing to prioritize their administrative work plans to the construction and development of all net new housing, including affordable housing." In response to the Mayor's directive, the Department has been working with the Mayor's Office to ensure that we preserve not only existing permitted housing units but also unpermitted housing units. BF 150571 was developed by the Mayor's office in consultation with the Planning Department after the Department's budget was presented to the Planning Commission; therefore it was not considered by the Planning Commission at that time.

BF 150571 seeks to build upon Mayoral Directive 13-01 by waiving Planning Department and Building Department fees related to legalizing existing accessory dwelling units constructed without permits in order to incentivize the preservation and legalization of these units. The Department estimates that the

fiscal impact of this Ordinance would be minimal. Last year, 34 permits authorized the legalization of existing units within the City. DBI permit fees averaged roughly \$1,540 per approved permit, while Planning permit fees averaged \$1,647 per approved permit (See Exhibit E). If a fee waiver had been in place during this time period, the total cost to the Planning Department would have been roughly \$52,000. Given the relatively low fiscal impact to the Planning Department and the importance of maintaining and legalizing existing housing, the Department recommends that the Commission waive the 90-day review period so that the Board of Supervisors may consider this ordinance without delay as part of the City's budget.

Board File 150568 Citywide Affordable Housing Fund

The Citywide Affordable Housing Fund is currently established in Planning Code Section 413.10 as a special fund established by the Controller. Despite this mention in the Planning Code, the Fund was never defined in the Administrative Code along with the other special funds established by the Controller. Fees from several different programs related to affordable housing, including programs in the Planning Code and the Subdivision Code, are deposited into the Fund. In some cases, the funds are identified as being "appropriated" and in some cases they are not. However, Planning Code Section 413.10, which established the Fund, does include appropriation authority language. This lack of consistency across the Planning Code results in an unclear appropriation authority. Specifically, the following fees dedicated to affordable housing make reference to the Citywide Affordable Housing Fund:

- Jobs-Housing Linkage Fees, Planning Code Section 413.10
- Inclusionary Affordable Housing Program, Planning Code Section 415.5
- Market-Octavia Affordable Housing Requirement, Planning Code Section 416.5
- Eastern Neighborhoods Community Improvements Fund, Designated Affordable Housing Zones, Planning Code Section 423.5
- Expedited Condo Conversion Program, Subdivision Code 1396.4

Board File 150568 corrects this and adds clarity by defining the Citywide Affordable Housing Fund in the Administrative Code as a "Category Eight self-appropriating fund." This is to bring the fund into alignment with the way that other special funds are typically defined. In addition, for consistency, language in the Planning Code sections referenced above is clarified to refer to the Administrative Code as the common governing description of the Fund. The Ordinance allows MOHCD to administer the fund, and the Director of MOHCD approves all expenditures from the Fund. The draft Ordinance also amends the Planning and Subdivision Codes to uniformly refer to the "Citywide Affordable Housing Fund" and clarify that in all cases, the funds that flow into the Fund are appropriated. Allowable expenditures defined by each specific fee remain unchanged, namely, all fee revenues are restricted to use by the Mayor's Office of Housing and Community Development for affordable housing production. City practice has been to follow the appropriation authority granted in the Planning Code for the Jobs-Housing Linkage Fees and the Inclusionary Affordable Housing Program. These proposed changes align the Market-Octavia, Eastern Neighborhoods, and Expedited Condo Conversion fees, which are newer sections of the Planning Code, with the City practice. Given the clarifying nature of this Ordinance and that it would not change City practice of appropriation of fees dedicated to affordable housing production, the Department recommends that the Commission waive the 90-day review period so that the Board of Supervisors may consider this Ordinance without delay as part of the City's budget.

Attachments:

Exhibit A: Draft Resolution for Board File 150571

Exhibit B: Draft Resolution for Board File 150568

Exhibit C: Board File 150571

Exhibit D: Board File 150568

Exhibit E: Status Report: Legalization of existing dwelling units constructed without permits in San Francisco after one year of implementation