

LEGISLATIVE DIGEST

[Planning Code, Zoning Map - 30 Van Ness Avenue Special Use District; Amendment of Agreement for Sale of Real Estate]

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.

Planning Code section 405 allows a project sponsor to seek a refund of development impact fees if a building or site permit is canceled or withdrawn, or if the permit expires prior to completion of work and commencement of occupancy, such that it will be necessary to obtain a new permit to carry out any work.

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 pay a fee equivalent to a 33% on-site requirement. The inclusionary requirement was memorialized in a Notice of Special Restrictions on the property.

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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 not be subject to the requirements of Section 415, the Inclusionary Affordable Housing Program; and 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 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 modify the Notice of Special Restrictions on 30 Van Ness Avenue to remove the 25% on-site/33% fee affordable housing requirement.

Background Information

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 for certain projects, and reduced most development impact fees by 33%. Because the project at 30 Van Ness Avenue had already started construction, it was not eligible for the inclusionary housing or fee reductions.

This special use district is designed to improve the financial feasibility of development at 30 Van Ness Avenue. 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) would not have to comply with the Inclusionary Housing Program, but also would not be eligible for a refund of development impact fees. The SUD expires if the current project is issued a refund of development impact fees, or after construction, whichever occurs first. Therefore, a new project would be subject to the applicable requirements of the Inclusionary Housing Program. In either case, the requirement in the NSR on 30 Van Ness Avenue to provide 25% on-site units or pay a 33% fee, would be removed.

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