

**LEGISLATIVE DIGEST**

[Planning Code - Downtown Support Special Use District; Fees in Lieu of On-Site Open Space]

**Ordinance amending the Downtown Support Special Use District to allow the Planning Commission to authorize a monetary contribution to satisfy on-site open space requirements, exclude certain features from floor area ratio and gross floor area calculations, establish a fund to accept the monetary contributions and provide that the monies deposited shall be used for recreation and open space in the South of Market area, provide that the SOMA Community Stabilization Fund Community Advisory Committee shall advise on the administration of the fund, affirming the Planning Department's California Environmental Act determination; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

Existing Law

Planning Code Section 247 established the Downtown Support Special Use District (SUD) for property on 5th Street between Mission and Howard Streets. The purpose of the SUD was to allow a certain area within the C-3-S District to be developed for a hotel use. Within the SUD area, the basic and maximum floor area ratio, after purchase of all market-rate, available Transferable Development Rights (TDR) within the District, is 7.5:1. Where there are fewer square feet of TDR available than the Planning Commission determines is required, the Commission may authorize a project sponsor to make a monetary contribution towards the preservation of a Landmark building within the C-3 area in an amount to be determined by the Commission. All other provisions of the Planning Code apply within the SUD.

Amendments to Current Law

The SUD is proposed to be renamed the "Downtown Support Open Space Demonstration Special Use District" and will authorize the Planning Commission to allow the project sponsor of an existing project to make a monetary contribution instead of providing the required amount of on-site open space if (1) the development has physical constraints, (2) an existing open space has proven to be little-used, (3) the project cannot provide safe, convenience access to the public, (4) the square footage of open space is not sufficient to provide a usable open space, or (5) such additional reasons as the Commission may determine. Development at densities above the basic floor area ratio of 7.5:1 will not be permitted within the SUD but roof eaves, cornices, or belt courses which project no more than two feet from the face of the building will be excluded from the floor area ratio calculations.

The in lieu fee will be \$87.84 for each square foot of required gross floor area, excluding balconies, porches, roof decks, terraces, courts, and similar features if they are fully open to the sky even if covered by retractable canopies and associated support structures. All monies

collected will be deposited into a special fund to be maintained by the Controller and used solely to provide recreation and open space in the South of Market Area (SOMA). The SOMA Community Stabilization Fund Community Advisory Committee established in Section 418.7(d) of the Planning Code will provide input to City agencies and decision makers with regard to the appropriate prioritization of projects to receive monies from the Fund.

Background Information

An existing hotel project that was developed pursuant to the SUD established in Planning Code Section 247 has been unable to satisfy the requirement of on-site open space due to physical constraints and other factors.

n:\legana\as2014\1400428\00945960.doc