FILE NO. 150911

LEGISLATIVE DIGEST

[Planning Code - Inclusionary Affordable Housing Program]

Ordinance amending the Planning Code to provide revised geographic, timing, pricing and other requirements for the off-site alternative to the Inclusionary Affordable Housing Fee; create a new option for off-site projects that qualify as Nonprofit Provider Partner Projects; create a new alternative for project sponsors of smaller market-rate projects to direct the Affordable Housing Fee to small sites projects; create an option for project sponsors of on- and off-site housing to provide higher amounts of affordable housing at higher levels of affordability termed "dialing up"; revise certain definitions and operating procedures related to the Inclusionary Housing Program and make conforming changes; and affirming the Planning Department's determination under the California Environmental Quality Act, and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

The Inclusionary Affordable Housing Program or Program requires project sponsors of new market rate residential units to pay a fee or, in the majority of cases, to provide 12% of their units as affordable On-site units or 20% of their units as affordable off-site units. Inclusionary Housing Units must be affordable to households of 55% of Area Median Income (AMI) if rented and 90% of AMI if sold as on-site Units and to 70% of AMI if sold as off-site Units. If a project sponsor pays the fee, it goes into the Citywide Affordable Housing Fund to be used to increase the supply of affordable housing and to provide assistance to low and moderate income homebuyers. The Mayor's Office of Housing and Community Development ("MOHCD") must use approximately 10% of the fee money for a "Small Sites Fund" that funds affordable housing projects consisting of less than 25 units. Off-site Units must be marketed and occupied no later than the market-rate units in the principal project, and must be within one mile of the principal project. While units in tax credit projects can qualify as off-site Inclusionary Housing Units, a project sponsor must provide a higher number of units for off-site projects than for on-site projects.

Amendments to Current Law

The Proposed Legislation makes three primary policy changes to the Inclusionary Program.

1. Creates a "Dial" to allow project sponsors to increase the AMI levels of On- or Off-site units in exchange for providing more units. For rental units, sponsors will be able to dial up from 55% AMI to 70% or 90% AMI, in exchange for a higher percentage of units. For ownership units, sponsors may choose to dial up from 90% to 120% AMI, in exchange for more units.

2. Addition of a "Small Sites" Alternative. The Proposed Ordinance adds an alternative in which developers of small projects of up to 25 units have the option to direct their fee toward the "Small Sites Program." MOHCD will expend the funds from a particular market rate project to acquire rental buildings at risk of conversion to market-rate in the neighborhood of the project.
3. The draft Ordinance includes a set of amendments that aim to strengthen the Offsite alternative. Changes include:
   - **Geography**. The area in which an off-site project may be located in relation to the principal project has been expanded from one mile to one mile and a quarter, or within the same Planning Department-defined neighborhood.
   - **Timing**. If the project meets certain requirements, the offsite building may be completed one year after the principal project is completed, rather than at the same time or before the market rate project receives its First Certificate of Occupancy. If the offsite project is constructed by a nonprofit housing developer, that timeline may be further extended, if it meets certain requirements, to two years (with the option of an additional one year extension) after the completion of the principal project.
   - **Square Footage**: Offsite projects constructed by a nonprofit housing developer may satisfy the offsite requirement based on square footage, rather than based on the total unit count of the principal project.
   - **Pricing for Offsite Ownership Units and Tax Credit Projects**. The Proposed Legislation would standardize the pricing of off-site ownership units with the current requirement for on-site ownership units as affordable to households earning 90% of AMI. The Proposed Legislation also removes the increased requirement for Off-site projects that use non-competitive Low Income Housing Tax Credits or bond financing to be the same as that for on-site units – 20%. .

The Proposed Legislation also revises certain definitions and clarifies and streamlines some operating procedures related to the Inclusionary Housing Program and makes conforming changes throughout Article 4 of the Planning Code.

Background Information

The package of amendments included in the Proposed Legislation are the result of work done under the umbrella of the Mayor's Housing Working Group, convened by Mayor Lee in February, 2014. The goal of the group was to implement changes to help bring additional affordable units online quickly; the focus of the Legislative Subcommittee was to create and to strengthen alternatives to paying the Inclusionary Housing Fee. The Legislative Subcommittee was comprised of stakeholders who included market rate and affordable housing developers, advocates, property managers, and city staff. The group vetted and discussed concepts over the course of 12 meetings beginning in the spring of 2014. Specific components were developed with the benefit of economic analysis and modeling conducted by Seifel Consulting, SPUR's Housing Board, and Council of Community Housing Organizations' staff.

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