



SAN FRANCISCO PLANNING DEPARTMENT

November 29, 2016

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

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**Re: Transmittal of Planning Department Case Number 2016-013420PCA:
Inclusionary Housing Small Sites Program
Board File No. 161157
Planning Commission Recommendation: Approval with Modification**

Dear Ms. Calvillo, Mayor Lee and Supervisor Campos,

On November 17, 2016, the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed Ordinance that would amend Planning Code Section 415, introduced by Mayor Lee and Supervisor Campos. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

- Modify the Ordinance to require designated Affordable Housing Fees to be used to acquire Small Sites within the neighborhood that the principal project incurring the Fee is located.

A project sponsor of a principal project comprised of up to 24 residential units may elect under Section 415.5(g) to meet its Inclusionary Affordable Housing requirement by designating its payment of the Affordable Housing Fee due under Section 415.5 into a Small Site program that MOHCD shall establish for this purpose. Affordable Housing Fees designated for this program shall not be considered part of the designated funds specified by Section 415.5(f). MOHCD shall expend the funds from a principal project on a Small Sites Project that meets the requirements set forth in Section 415.5(f)(2)(B) within the geographic area described in Section 415.7 same neighborhood as the principal project, as determined by the Planning Department and MOHCD and using a definition of "neighborhood" in common use by the Planning Department, such as the Planning Department's 37-neighborhood notification map. 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 same neighborhood as the Principal Project 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 proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

Mayor Lee or Supervisor Campos, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

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 Starr", with a long horizontal line extending to the right.

Aaron D. Starr
Manager of Legislative Affairs

cc:

Victoria Wong, Deputy City Attorney
Mawuli Tugbenyoh, Office of Mayor Lee
Maria Benjamin, Mayor's Office of Housing and Community Development
Sheila Chung Hagen, Aide to Supervisor Campos
Alisa Somera, Office of the Clerk of the Board

Attachments:

Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19778 HEARING DATE NOVEMBER 17, 2016

Project Name: Inclusionary Housing Small Sites Program
Case Number: 2016-013420PCA [Board File No. 161157]
Initiated by: Mayor Lee, Supervisor Campos / Introduced October 25, 2016
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD CREATE AN ALTERNATIVE FOR PROJECT SPONSORS OF SMALLER MARKET RATE PROJECTS TO DIRECT THE AFFORDABLE HOUSING FEE TO SMALL SITES PROJECTS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on October 25, 2016 Mayor Lee and Supervisor Campos introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 161157, which would create an alternative for Project Sponsors of smaller market rate projects to direct the Affordable Housing Fee to Small Sites projects;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 17, 2016; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2) and 15378; 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 Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with modifications** the proposed ordinance.

The modifications include:

1. Modify the Ordinance to require designated Affordable Housing Fees to be used to acquire Small Sites within the neighborhood that the principal project incurring the Fee is located.

A project sponsor of a principal project comprised of up to 24 residential units may elect under Section 415.5(g) to meet its Inclusionary Affordable Housing requirement by designating its payment of the Affordable Housing Fee due under Section 415.5 into a Small Site program that MOHCD shall establish for this purpose. Affordable Housing Fees designated for this program shall not be considered part of the designated funds specified by Section 415.5(f). MOHCD shall expend the funds from a principal project on a Small Sites Project that meets the requirements set forth in Section 415.5(f)(2)(B) within the geographic area described in Section 415.7 same neighborhood as the principal project, as determined by the Planning Department and MOHCD and using a definition of "neighborhood" in common use by the Planning Department, such as the Planning Department's 37-neighborhood notification map. 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 same neighborhood as the principal project 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.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Inclusionary Affordable Housing Program, which requires Project Sponsors to pay the Affordable Housing Fee or elect one of three alternatives, can help the City meet its goals for affordable housing production.
2. Project Sponsors of smaller market rate projects with 24 residential units or less should have the option of designating the Affordable Housing Fee for the purpose of acquiring and rehabilitating smaller residential buildings within the same neighborhood as their project.
3. Smaller residential buildings comprise a significant number of all residential buildings in the City. Owing to this, the City's affordable housing portfolio should include this building type.
4. Acquiring, rehabilitating and making permanently affordable this housing stock is a worthy goal as the City strives to address its shortage of affordable housing. Amending the Inclusionary Affordable Housing Program to facilitate this goal is therefore imperative.
5. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 3

PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

Policy 3.2

Promote voluntary housing acquisition and rehabilitation to protect affordability for existing occupants.

The proposed Ordinance will create a new source of financing that will aid in the acquisition and rehabilitation of affordable housing for existing occupants.

OBJECTIVE 4

FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

Policy 4.1

Develop new housing, and encourage the remodeling of existing housing, for families with children.

Policy 4.4

Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.

The proposed Ordinance will generate new resources for the acquisition and renovation of existing rental housing that will remain affordable to households for at least 55 years.

OBJECTIVE 7

SECURE FUNDING AND RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING, INCLUDING INNOVATIVE PROGRAMS THAT ARE NOT SOLELY RELIANT ON TRADITIONAL MECHANISMS OR CAPITAL.

Policy 7.1

Expand the financial resources available for permanently affordable housing, especially permanent sources.

Policy 7.6

Acquire and rehabilitate existing housing to maximize effective use of affordable housing resources.

The proposed Ordinance will expand the City's financial resources allowing the acquisition and rehabilitation of existing housing and require that it be affordable to households for at least 55 years.

6. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance may help preserve neighborhood serving retail uses by having the City acquire the buildings in which they are located and extend their tenancies

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance will have a beneficial effect on housing and neighborhood character because it seeks to improve the delivery of affordable housing. This improves the diversity of the City's neighborhoods.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance will help to enhance the City's supply of affordable housing by facilitating the acquisition of smaller rental buildings that will be made affordable to households for at least 55 years.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking as it deals with creating a new method of compliance with the City's Inclusionary Affordable Housing Program.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance will not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired because the Ordinance deals creating a new method of compliance with the City's Inclusionary Affordable Housing Program.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance will not have an adverse effect on City's preparedness against injury and loss of life in an earthquake because it deals with the Inclusionary Affordable Housing Program.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance will not have an adverse effect on the preservation of the City's Landmarks and historic buildings as the Ordinance seeks to acquire and rehabilitate small residential buildings and make them affordable to households.

- 8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance will not have an adverse effect on the City's parks and open space and their access to sunlight and vistas because it seeks to amend the City's Inclusionary Affordable Housing Program.

- 7. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance with modifications as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on November 17, 2016.



Jonas P. Ionin
Commission Secretary

AYES: Hillis, Johnson, Koppel, Melgar, Moore, Richards, Fong

NOES: None

ABSENT: None

ADOPTED: November 17, 2016



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: NOVEMBER 17, 2016

EXPIRATION DATE: JANUARY 30, 2017

Project Name: **Inclusionary Housing Small Sites Program**
Case Number: **2016-013420PCA** [Board File No. 161157]
Initiated by: Mayor Lee, Supervisor Campos / Introduced October 25, 2016
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Recommend Approval with Modifications**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend Planning Code Section 415 to create an alternative for project sponsor of smaller market rate projects to direct the Affordable Housing Fee to Small Sites Projects.

The Way It Is Now:

A Project Sponsor may elect to pay the Affordable Housing Fee in compliance with Planning Code Section 415.5, Affordable Housing Fee, or select one of three alternatives.

The Way It Would Be:

Projects Sponsors of principal projects with no more than 25 residential units may elect to direct their Affordable Housing Fee to the new Small Sites Program. If the Affordable Housing Fee is not used within two years of payment within the eligible area it would be released to the Affordable Housing Fund.

BACKGROUND

San Francisco's Inclusionary Affordable Housing Program (Program) dates back to 2002.¹ The Program has required Project Sponsors of certain market rate projects to either pay an Affordable Housing Fee (Fee) or provide Inclusionary Housing Units. Since its inception the Program has been frequently amended to address a variety of policy goals and concerns. One example is the creation of the Small Sites Fund.

¹ BF001262 <https://sfgov.legistar.com/View.ashx?M=F&ID=2607162&GUID=834416F9-DCED-42CF-A972-81D26DED2D9F>

Ordinance 63-09 established the Small Sites Fund.² This 2009 Ordinance directs the Mayor's Office of Housing and Community Development (MOHCD) to set aside 10% of collected Fees for acquiring and rehabilitating rental properties with no more than 25 units. These "Small Sites" are typically rental properties subject to the Rent Ordinance that are occupied by long-term tenants at risk of eviction and displacement. Some Small Sites also have street level retail or commercial uses. When these properties are acquired and brought into the MOHCD portfolio they become permanently affordable housing.

Since launching in 2014, 12 Small Sites properties have been acquired, totaling 68 units. These properties are found in a number of neighborhoods, including the Mission, SOMA, Bernal Heights, North Beach and North of Panhandle, among others. As with any new construction of affordable housing using Fees, there is no required geographic connection to the principal project that incurred the Fees. Properties in the Small Sites portfolio are generally renter occupied buildings of four to six units when acquired and less than half have ground floor retail uses. The typical household residing in these properties has an income between 40% to 80% of the Area Median Income. MOHCD reports that there are 10 additional properties with pending applications and that there is enormous interest in acquiring additional Small Sites.

The Housing Working Group, convened by Mayor Edwin M Lee in February 2014, is another example of the continual effort to improve affordable housing production. The Housing Working Group was comprised of multiple subcommittees, including the Legislative Subcommittee. The Legislative Subcommittee was tasked with exploring legislative changes to the Program. Market rate and affordable housing developers, advocates, property managers, and City staff involved in administering the Program formed the Legislative Subcommittee. The Legislative Subcommittee vetted and discussed possible amendments over the course of 12 meetings beginning in the spring of 2014. Amending the Small Sites Fund was one proposal developed from this effort.

ISSUES AND CONSIDERATIONS

The Existing Small Sites Fund

The Importance of Acquiring Small Sites

As mentioned above, the existing Small Sites Fund is administered by MOHCD for the purpose of acquiring and renovating Small Sites. Acquiring this building type is important for a number of reasons. First, this residential building type contains a significant share of the City's residential units (see Table 1 below). Given the steady number of "No-Fault" eviction notices over the last five years³ it is important, and is City policy,⁴ that the City help acquire this building type and protect tenants from eviction.

² BF081249 <https://sfgov.legistar.com/View.ashx?M=F&ID=712557&GUID=6EF3D361-7BC9-4684-B35A-66672A8AEE75>

³ The Rent Board provides data on the number of No-Fault eviction notices, which can serve as a proxy for tenant displacement.

<https://housing.datasf.org/data-browser/rent-control/eviction-notices-impacting-supply>. Referenced November 1, 2016

⁴ 2014 Housing Element

Objective 3 Protect the Affordability of the Existing Housing Stock, Especially Rental Units, Policy 3.2: Promote voluntary housing acquisition and rehabilitation to protect affordability for existing occupants
Objective 6: Reduce Homelessness and the Risk of Homelessness

Second, when the MOHCD helps acquire multifamily properties it provides stability not only for existing and future tenants but for the neighborhood as well. The Planning Commission has recognized the effect new market rate housing can have on neighborhood affordability and acquiring Small Sites in the same neighborhood can off-set those effects.⁵ Third, acquiring Small Sites diversifies the City’s affordable housing portfolio. When MOHCD finances the construction of new 100% affordable housing projects they contain upwards of 45 units. Augmenting the City’s holdings with Small Sites helps it serve a different, yet equally important, population. As the Table 1 indicates, buildings with 2 – 25 units comprise a significant portion of the City’s housing stock. It is important that the City’s affordable housing stock also include this building type. Last, acquiring Small Sites immediately increases the City’s stock of affordable housing. In light of protracted affordable housing production timelines, Small Site acquisition is especially advantageous.

TABLE 1: RESIDENTIAL BUILDING TYPES

Building Size	No. of Buildings	No. of Units	% of Buildings	% of Units
1 Unit	97,342	97,342	70%	27%
2 -25 Units	40,010	164,831	29%	46%
26+ Units	1,356	97,062	1%	27%
TOTAL	138,708	359,235	100%	100%

Limited Funding

MOHCD allocates 10% of collected Fees towards the Small Sites Fund, as required by the Planning Code. However, these resources are capped and demand for them exceeds their source. When the Small Sites Fund reaches a total of \$15 million, MOHCD stops allocating Fees to this purpose. When less than \$10 million in Fees is collected in any 12 month period, MOHCD may temporarily divert existing Small Sites funds to other purposes. During the last economic downturn, the Small Sites Fund was not adequately funded which delayed the launch of the program to 2014. In this light, and given the importance of the Small Sites acquisition effort, it is reasonable to amend existing regulations to help direct resources to this end.

Potential Improvements to the Small Sites Acquisition Effort

Additional Financing Source

Creating an additional source of financing for Small Site acquisition is one way to improve the Small Sites effort. Project Sponsors of smaller market rate buildings could be allowed to designate 100% of their Fee

⁵ San Francisco City Planning Commission Motion 13052:

Whereas, New market rate development can increase the rents and property values in a surrounding neighborhood. Low cost rental units become vacant and are rented at higher market rates. The value of owner occupied units increases and the units are sold at a higher price. While the upgrading of city neighborhoods is a valid and desirable objective, it has to be balanced with negative impacts on the ability of lower-income households to secure affordable housing, through appropriate mitigations. A certain amount of affordable housing in relation to the use of residential land will help provide needed affordable housing development.

toward this effort. This would augment the existing resources dedicated to the Small Sites Fund as well as any other future resources dedicated to this end.

Increased Connection between Market Rate and Small Sites Projects

Another improvement to the Small Sites effort would be to restrict designated Fee for acquiring Small Sites in proximity to the market rate project incurring the Fee. This could take the form of requiring that Small Sites are located within the same “neighborhood” as the market rate project. The Planning Department (Department) maintains a Neighborhood Groups Map which is used as a tool for neighborhood groups to receive notification of projects within their neighborhoods.⁶ This map, in conjunction with input from the Department and MOHCD, could serve as the tool to define “neighborhood.” This creates a geographic connection between both projects, which is lacking in the Small Sites Fund but is a fundamental principle of the Affordable Housing Program. It is also preferable to a radius restriction because it assures that Small Sites are located in the same neighborhood as the market rate project. Under a radius restriction a Small Site project could be located in a different neighborhood if the market rate project is near or along a neighborhood boundary.

Imposing time limits on the use of designated Fees would also be a valuable feature to incorporate. A time limit would ensure that designated Fees do not sit idle but are actively used. It would also create a temporal connection between the market rate project and the Small Site.

RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department’s proposed recommendations are as follows:

1. Modify the Ordinance to require designated Affordable Housing Fees to be used to acquire Small Sites within the neighborhood that the principal project incurring the Fee is located.

A project sponsor of a principal project comprised of up to 25 residential units may elect under Section 415.5(g) to meet its Inclusionary Affordable Housing requirement by designating its payment of the Affordable Housing Fee due under Section 415.5 into a Small Site program that MOHCD shall establish for this purpose. Affordable Housing Fees designated for this program shall not be considered part of the designated funds specified by Section 415.5(f). MOHCD shall expend the funds from a principal project on a Small Sites Project that meets the requirements set forth in Section 415.5(f)(2)(B) within the geographic area described in Section 415.7 same neighborhood as the principal project, as determined by the Planning Department and MOHCD and using a definition of “neighborhood” in common use by the Planning Department, such as the Planning Department’s 37-neighborhood notification map. 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 same neighborhood as the Principal Project 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.

⁶ <http://sf-planning.org/neighborhood-groups-map>

BASIS FOR RECOMMENDATION

The Department is in support of the proposed Ordinance because it creates another source of acquisition financing for smaller renter occupied buildings, helps diversify the City's affordable housing stock and addresses community stabilization concerns. Because the Small Sites Fund's resources are capped and constrained by the collection of Fee, establishing another source of financing will bolster the continued acquisition of Small Sites. The continued acquisition of Small Sites diversifies and augments the City's affordable housing stock while providing residents a large measure of housing stability. It also helps stabilize existing communities, which is increasingly important in neighborhoods experiencing rapid demographic change.

Recommendation 1: Modify the Ordinance to require designated Affordable Housing Fees to be used to acquire Small Sites within the neighborhood that the principal project incurring the Fee is located. Staff recommends this change because it furthers the Department's goal of addressing community stabilization concerns, maintains the connection between market rate and Inclusionary Housing and increases the City's affordable housing stock. Locating Small Sites in the same neighborhood as a market rate project helps foster the connection between projects. It also helps offset effects of the market rate project by creating a new supply of affordable housing. These are foundational concepts of the City's Affordable Housing Program. The time limits on the use of designated Fee assure that the City actively uses Affordable Housing Fees for affordable production where they are needed.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

IMPLEMENTATION

The Department determined that this ordinance will not impact our current implementation procedures.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

RECOMMENDATION:	Recommendation of Approval with Modification
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Attachments:

Exhibit A: Draft Planning Commission Resolution
Exhibit B: Board of Supervisors File No. 161157