

BOARD of SUPERVISORS



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March 3, 2020

Planning Commission
Attn: Jonas Ionin
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Commissioners:

On February 25, 2020, Supervisor Fewer introduced the following legislation:

File No. 200213

Ordinance amending the Planning Code to allow extra height, exceeding otherwise applicable height limitations, for 100% Affordable Housing and Educator Housing projects, and to allow such projects to be constructed on parcels greater than 8,000 square feet or which contain only surface parking lots and do not demolish any existing buildings; making findings that the Ordinance furthers the purpose of Planning Code, Section 206.9; making findings under the California Environmental Quality Act, findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public convenience, necessity, and welfare under Planning Code, Section 302.

The proposed ordinance is being transmitted pursuant to Planning Code, Section 302(b), for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

- c: Rich Hillis, Director
Scott Sanchez, Zoning Administrator
Lisa Gibson, Environmental Review Officer
Devyani Jain, Deputy Environmental Review Officer
Adam Varat, Acting Director of Citywide Planning
Aaron Starr, Manager of Legislative Affairs
Andrea Ruiz-Esquide, Deputy City Attorney
Joy Navarrete, Major Environmental Analysis
Georgia Powell, Planning Misc. Permits Routing

[Planning Code - 100% Affordable Housing and Educator Housing Streamlining Program]

Ordinance amending the Planning Code to allow extra height, exceeding otherwise applicable height limitations, for 100% Affordable Housing and Educator Housing projects, and to allow such projects to be constructed on parcels greater than 8,000 square feet or which contain only surface parking lots and do not demolish any existing buildings; making findings that the Ordinance furthers the purpose of Planning Code, Section 206.9; making findings under the California Environmental Quality Act, findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public convenience, necessity, and welfare under Planning Code, Section 302.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in *strikethrough italics Times New Roman font*.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Environmental and Land Use Findings.

(a) On April 24, 2014, in Motion No. 19121, the Planning Commission certified a Final Environmental Impact Report (FEIR) for the 2004 and 2009 Housing Element of the General Plan, pursuant to the California Environmental Quality Act (CEQA) (California Public Resources Code Sections 21000 et seq.), the CEQA Guidelines (14 Cal. Code Reg. Sections 15000 et seq.), and Chapter 31 of the Administrative Code. In Ordinance No. 97-14, the Board of Supervisors adopted the Planning Commission's environmental findings as its own,

1 and relies on these same findings for purposes of this ordinance. Copies of Planning
2 Commission Motion No. 19121 and Ordinance No. 97-14 are on file with the Clerk of the
3 Board of Supervisors in File No. 140414 and incorporated herein by reference.

4 On _____, the Planning Department published an addendum to the FEIR finding that
5 no subsequent or supplemental environmental review was required for the actions
6 contemplated in this ordinance. A copy of the addendum is on file with the Clerk of the Board
7 of Supervisors in File No. _____. The Board of Supervisors has reviewed the FEIR and
8 the addendum and concurs with their conclusions, and finds that the actions contemplated in
9 this ordinance are within the scope of the project described and analyzed in the FEIR and that
10 no further environmental review is required.

11 (b) On _____, the Planning Commission, in Resolution No. _____,
12 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
13 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
14 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
15 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

16 (c) Pursuant to Planning Code Section 302, the Board finds that this ordinance will
17 serve the public necessity, convenience, and welfare for the reasons set forth in Planning
18 Commission Resolution No. _____, and the Board incorporates such reasons herein by
19 reference. A copy of Planning Commission Resolution No. _____ is on file with the Clerk of
20 the Board of Supervisors in File No. _____.

21
22 Section 2. Article 2 of the Planning Code is hereby amended by revising Section
23 206.9, to read as follows:

24 **SECTION 206.9. 100% AFFORDABLE HOUSING AND EDUCATOR HOUSING**
25 **STREAMLINING PROGRAM.**

* * * *

(c) **Applicability.** A 100% Affordable Housing Project or Educator Housing Project under this Section 206.9 shall be a Housing Project that:

(1) is located in any zoning district that allows Residential Uses;

(2) is located on a lot or lots equal to or greater than ~~10,000~~ 8,000 square feet or, in the alternative, is located on a parcel or parcels that contains a surface parking lot and does not demolish any existing buildings on such parcel or parcels other than buildings that are accessory to the surface parking lot use, such as a guard station or kiosk;

(3) is not located on land under the jurisdiction of the Recreation and Parks Department for the purpose of a public park;

(4) meets the definition of a "100 Percent Affordable Housing Project" or an "Educator Housing Project" in subsection (b); and

(5) does not demolish, remove, or convert any Residential Units, and does not include any other parcel that has any Residential Units that would be demolished, removed, or converted as part of the project.

* * * *

(e) **Zoning Modifications.** Notwithstanding any other provision of this Code, 100% Affordable Housing Projects and Educator Housing Projects may select any or all of the following Planning Code modifications:

(1) **Rear Yard.** The required rear yard per Section 134 or any applicable special use district may be reduced to no less than 15 feet. Rear yards shall be provided with an open area at the lowest story containing a Dwelling Unit, and at each succeeding level or story of the building. Projects located on corner parcels may meet the minimum rear yard requirement at the interior corner of the property provided that each horizontal dimension of the open space is a minimum of 15 feet, and that the open area is wholly or partially

1 contiguous to the existing midblock open space, if any, formed by the rear yards of adjacent
2 properties, and provides for access to light and air to and views from adjacent properties.

3 (2) Open Space. The required common open space per Section 135 may be
4 reduced to no less than 36 square feet of open space per unit.

5 (3) Inner Courts as Open Space. Inner courts qualifying as useable common
6 open space per Section 135(g)(2) may be provided by courtyards with no less than 25 feet in
7 every horizontal dimension, with no restriction on the heights of adjacent walls. All area within
8 such an inner court shall qualify as common open space under Section 135.

9 (4) Dwelling Unit Exposure. The dwelling unit exposure requirements of
10 Section 140(a)(2) may be satisfied through qualifying windows facing an unobstructed open
11 area that is no less than 15 feet in every horizontal dimension, and such open area is not
12 required to expand in every horizontal dimension at each subsequent floor.

13 (5) Required commercial space. Notwithstanding any other provision of this
14 Code, any required ground-floor commercial space may include Arts Activities or
15 Neighborhood-Serving Businesses, as defined in Section 102. Ground floor commercial
16 spaces accessory to the 100% Affordable Housing or Educator Housing Project shall not be
17 limited by use size restrictions. Ground floor Arts Activities or Neighborhood-Serving
18 Businesses shall be considered active uses if more than 50 percent of the linear street
19 frontage provides transparent walls and direct pedestrian access to a public sidewalk, and are
20 consistent with the Ground Floor Residential Design Guidelines.

21 (6) Ground Floor Ceiling Height. Projects with active ground floors, as defined
22 in Section 145.1(b)(2), shall receive up to a maximum of an additional five feet above the
23 height limit, exclusively to provide a minimum 14-foot (floor to ceiling) ground floor ceiling
24 height.
25

1 (7) Projects located entirely or partially on a parcel or parcels designated on the
2 San Francisco Zoning Map as open space (OS) that are not under the jurisdiction of the
3 Recreation and Parks Department shall be deemed to have a height limit and a bulk
4 designation of the closest zoning district that allows Residential Uses.

5 (8) Height. Projects that demonstrate to the satisfaction of the Environmental Review
6 Officer that the project does not cause a substantial adverse change in the significance of an historic
7 resource as defined by California Code of Regulations, Title 14, Section 15064.5, and does not create
8 new shadow in a manner that substantially affects outdoor recreation facilities or other public areas,
9 shall be allowed additional height as follows:

10 (A) Projects located on a parcel or parcels with a height limit of 40 feet shall be
11 allowed up to 10 additional feet above the parcel's height district limit in order to provide one
12 additional story of Residential Use. Exceptions under Section 260(b) shall apply to all such projects.

13 (B) Projects located on a parcel or parcels with a height limit of less than 40
14 feet shall be allowed up to 20 additional feet above the parcel's height district limit in order to provide
15 two additional stories of residential use. Exceptions under Section 260(b) shall apply to all such
16 projects.

17 * * * *

18
19 Section 3. Purpose Finding. The Board of Supervisors finds that the amendments
20 herein further the purpose of Section 206.9 because the amendments will facilitate the
21 construction and development of 100% Affordable Housing Projects, and Affordable Educator
22 Housing Projects, as defined in Section 209.6(b), by allowing such projects to be constructed
23 on more parcels within the City and by allowing such projects to exceed the height limit, as
24 applicable..
25

1 Section 4. Supermajority Vote Requirement. In accordance with Planning Code
2 Section 206.9(h), enacted by the voters as part of Proposition E at the November 5, 2019
3 election, the City may enact this ordinance only if the Board approves the ordinance by at
4 least a two-thirds vote of all its members.

5
6 Section 5. Effective Date. This ordinance shall become effective 30 days after
7 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
8 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
9 of Supervisors overrides the Mayor's veto of the ordinance.

10
11 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
12 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
13 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
14 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
15 additions, and Board amendment deletions in accordance with the "Note" that appears under
16 the official title of the ordinance.

17
18
19 APPROVED AS TO FORM:
20 DENNIS J. HERRERA, City Attorney

21 By:


22 AUDREY WILLIAMS PEARSON
23 Deputy City Attorney

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25

LEGISLATIVE DIGEST

[Planning Code - 100% Affordable Housing and Educator Housing Streamlining Program]

Ordinance amending the Planning Code to allow extra height, exceeding otherwise applicable height limitations, for 100% Affordable Housing and Educator Housing projects, and to allow such projects to be constructed on parcels greater than 8,000 square feet or which contain only surface parking lots and do not demolish any existing buildings; making findings that the Ordinance furthers the purpose of Planning Code, Section 206.9; making findings under the California Environmental Quality Act, findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public convenience, necessity, and welfare under Planning Code, Section 302.

Existing Law

Planning Section 206.9 – the 100% Affordable Housing and Educator Housing Streamlining Program – requires that projects be located on a lot or lots equal to or greater than 10,000 square feet. In addition, projects must comply with applicable height limits.

Amendments to Current Law

This ordinance would amend Planning Code section 206.9 to allow projects that are located on a lot or lots equal to or greater than 8,000 square feet, or in the alternative, on a parcel or parcels that contain surface parking lots and that do not demolish any existing buildings. In addition, the ordinance would amend section 206.9 to allow additional height to projects in zoning districts that limit new structures to 40 feet or less and that (1) do not have substantial impacts on historic resources and (2) do not create new shadows that substantially impact outdoor recreation areas. Projects on sites with a 40-foot height limit would be allowed up to 10 additional feet above the height district limit, and projects on sites with a height limit of less than 40 feet would be allowed up to an additional 20 feet of height.

Background Information

Proposition E on the November 5, 2019 Municipal Consolidated Election ballot established the 100% Affordable Housing and Educator Housing Streamlining Program in Planning Code section 206.9, which streamlines review and approval of qualified affordable housing projects and projects for employees of the San Francisco Unified School District or Community College District. The Board must approve the ordinance by at least a two-thirds vote of all its members.

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