



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 18056

HEARING DATE: MARCH 25, 2010
CONTINUED FROM: FEBRUARY 25, 2010

Project Name: Amendments relating to Planning Code Section 315:
Amending the Affordable Housing Program

Case Number: 2010.0050T [Board File No. 10-0046 and 10-0046-2]

Initiated by: Mayor Newsom & Supervisor Chiu /
BF 10-0046 Introduced January 12, 2010
BF 10-0046-2 Substitute Ord. Introduced January 26, 2010

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90-day Deadline: April 28, 2010

Recommendation: Recommend Approval With Modifications

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RECOMMENDING THAT THE BOARD OF SUPERVISORS APPROVE WITH MODIFICATIONS THE PROPOSED ORDINANCE THAT WOULD AMEND SAN FRANCISCO PLANNING CODE SECTION 315 ET. ALL TO CHANGE THE RESIDENTIAL INCLUSIONARY AFFORDABLE HOUSING PROGRAM TO THE AFFORDABLE HOUSING PROGRAM AND TO REQUIRE ALL PARTICIPANTS TO PAY AN AFFORDABLE HOUSING FEE UNLESS THEY ARE ELIGIBLE FOR AN ALTERNATIVE; MAKING OTHER AMENDMENTS TO THE PROGRAM; AMENDING SECTION 827 OF THE RINCON HILL AREA PLAN AND CHAPTER 56 OF THE ADMINISTRATIVE CODE TO CONFORM TO THE CHANGES TO THE AFFORDABLE HOUSING PROGRAM.

PREAMBLE

Whereas, on January 12, 2010, Mayor Newsom and Supervisor Chiu introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 10-0046; and

Whereas, on January 26, 2010 substitute legislation was introduced under Board File Number 10-0046-2 that would amend San Francisco Planning Code Section 315 et all, to do the following:

1. Change the name of the *Residential Inclusionary Housing Affordable Program* to the *Affordable Housing Program*;

2. Require all project applicants to pay the Affordable Housing fee unless they are eligible for an alternative;
3. Making other amendments to the program including:
 - a. Expanding the uses of the Citywide Affordable Housing Fund,
 - b. Deleting provisions relating to certain requirements of off-site units, and
 - c. Deleting provisions requiring a refund of fees after issuance of certificate of occupancy;
4. Amending Section 827 of the Rincon Hill Area Plan to delete the requirement that 50% of on – or off- site affordable housing units provided under Section 315 be provided as rental; and
5. Amending the Administrative Code Chapter 56 (Development Agreements) to allow Development Agreements between the City and a project sponsor if there will be developments with on-site inclusionary rental housing units; and

Whereas, the Commission received a letter from the Mayor’s Office of Housing (Exhibit C attached), that described additional modifications requested to the proposed Ordinance; and

Whereas, on February 25, 2010 the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance;

Whereas, the proposed zoning changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the 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 the applicant, Department staff, and other interested parties; and

Whereas, the 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 Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors recommend approval of the proposed Ordinance with the modifications described in Exhibit C and adopts the attached Draft Resolution to that effect.

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. San Francisco's Inclusionary Affordable Housing Policy was first adopted by the Planning Commission in 1992, and in 2002 the City formally adopted this policy as a part of the Planning Code (Section 315).
2. In August 2006, the Board of Supervisors passed changes to the Planning Code that significantly amended Section 315 (BOS File No. 05-1685), with trailing legislation passed in April 2007 (BOS File No. 06-1529), clarifying portions of Section 315.
3. In late 2009 the Second District Court of Appeals published its decision in *Palmer/Sixth Street Properties vs. City of Los Angeles*, which held that the California Costa-Hawkins Rental Housing Act preempts a Los Angeles requirement mandating, as a condition of development, that a portion of newly constructed dwelling units be rented at low-income rents.

The proposed Ordinance, in part, responds to the *Palmer* case . The Mayor's Office of Housing and the Department have been working together to update the Planning Code so that it is more in line with that decision. Under the proposed ordinance, the Affordable Housing Program will be modified to a fee-based program and will no longer contain any requirement to build affordable units. A development that is subject to Section 315 must pay an affordable housing fee that is equivalent to "the applicable percentage of the number of units in the principal project. (The applicable percentage shall be 20% [unless otherwise stated].)"

4. It is important to note that neither the fee requirements nor the percentages of on or off-site housing are being amended with this legislation.
5. The Commission has been working closely with the Mayor's Office of Housing to ensure that there are no adverse impacts to Section 315, the ability for affordable housing continue to be constructed in San Francisco, or in the Mayor's Office of Housing's ability to run the program.
6. Therefore, the Commission strongly supports the proposed legislation, and recommends approval of the proposed Ordinance.
7. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

I. HOUSING ELEMENT INTRODUCTION

THE OBJECTIVES AND POLICIES DETAILED BELOW ADDRESS THE STATE'S, THE REGION'S AND THE CITY'S GOALS OF ACHIEVING DECENT, SUITABLE, AND AFFORDABLE HOUSING FOR CURRENT AND FUTURE SAN FRANCISCANS. INCREASING THE CITY'S HOUSING STOCK, PROTECTING AND CONSERVING EXISTING UNITS, AND ENCOURAGING HOUSING CHOICE ARE OBJECTIVES PREDICATED ON AFFORDABILITY..

OBJECTIVE 5

INCREASE THE EFFECTIVENESS AND EFFICIENCY OF THE CITY'S AFFORDABLE HOUSING PRODUCTION SYSTEM.

POLICY 5.1

Prioritize affordable housing projects in the planning review and approval processes, and work with the development community to devise methods of streamlining housing projects.

POLICY 5.2

Support efforts of for-profit and non-profit organizations and other community-based groups and expand their capacity to produce and manage permanently affordable housing.

POLICY 5.3

Create greater public awareness about the quality and character of affordable housing projects and generate community-wide support for new affordable housing.

POLICY 5.4

Coordinate governmental activities related to affordable housing.

The proposed Ordinances updates Section 315 to create the Affordable Housing Program. The Commission has been working closely with the Mayor's Office of Housing to ensure that there are no adverse impacts from the amendments to Section 315 including impacts on the ability for affordable housing to continue to be constructed in San Francisco, or on the Mayor's Office of Housing's ability to run the program and strongly supports the proposed Ordinance.

1. The proposed replacement project is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:
 - A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

The proposed Ordinance will not impact existing neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses.
 - B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

The proposed Ordinance will have no impact to neighborhood character.
 - C) The City's supply of affordable housing will be preserved and enhanced:

The proposed Ordinance will have no adverse effects on the City's supply of affordable housing.

- D) The commuter traffic will 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.

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed Ordinance.

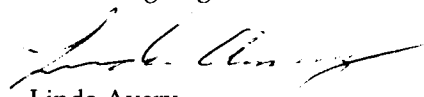
- G) That landmark and historic buildings will be preserved:

Landmarks and historic buildings would be unaffected by the proposed amendments.

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendments.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on March 25, 2010.



Linda Avery
Commission Secretary

AYES: Miguel, Olague, Borden, Lee, Antonini, Sugaya, Moore

NAYS:

ABSENT:

ADOPTED: March 25, 2010