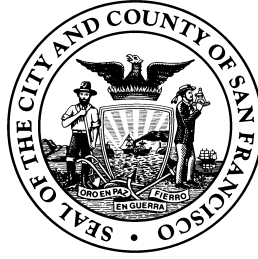


BOARD of SUPERVISORS



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FOR YOUR INFORMATION SEE THE ATTACHED LEGISLATION

DATE SENT: August 17, 2010

FILE #: 101016

DESCRIPTION: Planning Code – Revised Interim Controls Related to Affordable Housing Requirements

FROM:

- Budget & Finance
- City Operations & Neighborhood Services
- City & School District Select
- Government Audit & Oversight
- Land Use & Economic Development
- Rules
- Public Safety

This item is scheduled to be heard in Committee on: N/A

URGENT (response needed within one week) **OR:** No date set yet

Hearing or Legislation referred to:

- Building Inspection Commission *Charter Section D3.750-5*
- Ethics Commission *Campaign & Governmental Conduct Code Section 1.103*
- Historic Preservation Commission *Charter Section 4.135*
- Planning - Code Amendment *Planning Code Section 302(b) and 306(a) (90 days to respond)*
- Planning - Environmental review – 30 days to respond
- Planning - Environmental review (fees) *CEQA CA Public Resources Code § 21000 et seq – 10 days to respond*
- Planning - Interim Controls *Planning Code Section 306.7(c)*
- Retirement Board *Campaign & Governmental Code or Elections Code*
- Small Business Commission *M01-33*
- Youth Commission *Charter Section 3.720-2; Charter Section 4.124 (12 day to respond)*
- FYI – Planning Department
- FYI – Department of Building Inspection
- FYI – Mayor’s Office of Housing

1 [Planning Code - Revised Interim Controls Related to Affordable Housing Requirements]

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3 **Resolution approving revised interim controls providing that the alternatives provided**
4 **to project applicants of residential development under Planning Code Section 415 et**
5 **seq. shall, except for certain eligible projects, be suspended and replaced by an interim**
6 **affordable housing fee that is equivalent to the current in lieu fee and amending the**
7 **housing requirements for residential projects in the Rincon Hill Area Plan for 18**
8 **months or until a permanent ordinance amending Planning Code Section 415 et seq. is**
9 **adopted; and making findings of consistency with the priority policies of Planning**
10 **Code Section 101.1 and environmental findings.**

11 WHEREAS, The Board of Supervisors makes the following findings related to
12 imposition of interim zoning controls:

13 (1) Planning Code Section 306.7 provides for the imposition of interim zoning controls
14 to accomplish objectives related to the public interest. The provision and generation of
15 affordable housing is a recognized public purpose and is within the public interest of the City
16 and County of San Francisco.

17 (2) On February 2, 2010, pursuant to Resolution No. 36-10 in Board of Supervisors
18 File 100047, the Board of Supervisors adopted interim controls for residential housing projects
19 amending Planning Code Sections 315 et seq. and related sections of the Planning Code and
20 Administrative Code ("Interim Controls Resolution 36-10"). The Interim Controls Resolution
21 36-10 incorporated by reference draft permanent controls ("Draft Permanent Controls") found
22 in File No. 100046. In Ordinances Nos. 0107-10 and 0108-10 the Board of Supervisors
23 subsequently adopted the "Development Fee Collection Procedure; Administrative Fee" and
24 the "Development Impact and In-Lieu Fees" ordinances. These subsequently adopted

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Mayor Newsom, Supervisor Chiu
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1 ordinances made amendments to the Building Code and Planning Code and, to some extent,
2 amended the same provisions of the Planning Code covered by Interim Control Resolution
3 36-10 and the Draft Permanent Controls including, but not limited to, moving Sections 315 et
4 seq. to Sections 415 et seq. in a new Article IV of the Planning Code. In order to conform
5 Interim Controls Resolution 36-10 with Ordinances 0107-10 and 0108-10, the Board
6 introduces these revised Interim Controls ("Revised Interim Controls") and draft revised
7 Permanent Controls ("Draft Revised Permanent Controls"). The Revised Interim Controls and
8 Draft Revised Permanent Controls are not intended to alter the substance of Interim Controls
9 Resolution 36-10, but incorporate the newly enacted language of Ordinance No. 0108-10.
10 The Draft Revised Permanent Controls are being simultaneously introduced and substituted in
11 Board File No. 100046.

12 (3) The Planning Department and Mayor's Office of Housing ("MOH") analyzed the
13 Draft Permanent Controls and supported the need for the Draft Permanent Controls in a staff
14 report for Case No. 2010.0050T. On March 25, 2010, in Resolution No. 18056, the Planning
15 Commission recommended to the Board of Supervisors adoption of the Draft Permanent
16 Controls with modifications proposed by Planning and MOH staff. These modifications are
17 not included in the Revised Interim Controls or the Draft Revised Permanent Controls but may
18 be considered when the Draft Revised Permanent Controls come before the Land Use
19 Committee.

20 (4) Pursuant to this resolution, the Board of Supervisors proposes the Revised Interim
21 Controls for residential housing projects that are set forth in the Draft Revised Permanent
22 Controls ordinance amending Planning Code Section 415 et seq. being introduced as
23 substitute legislation at the Board of Supervisors simultaneously and on file with the Clerk of
24 the Board in File No. 100046. If adopted, the Revised Interim Controls will insure that the

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1 applications currently being processed by the City will not be in conflict with the current
2 proposed amendments to Planning Code Section 415 et seq in the Draft Revised Permanent
3 Controls. The Revised Interim Controls affect projects that are currently subject to the
4 provisions of Planning Code Section 415 et seq. (formerly Section 315 et seq.) currently
5 known as the Residential Inclusionary Affordable Housing Program ("Program"). The Revised
6 Interim Controls do not increase the requirements of the Program; rather the Revised Interim
7 Controls require the payment of an affordable housing fee in most circumstances. The
8 Affordable Housing fee is the same as the current "in lieu" fee.

9 (5) The Revised Interim Controls will also modify the housing requirements of the
10 Rincon Hill Area Plan by deleting the requirement that 50 percent of all on- or off-site units
11 must be provided as rental units.

12 (6) The affordable housing fee, which is equivalent to the current in lieu fee and the
13 other alternatives for a project applicant, if eligible, to build on- or off-site affordable housing
14 are supported by the findings set out in the Draft Revised Permanent Controls, including the
15 study undertaken by Keyser Marston Associates entitled "Nexus analysis in support of the
16 Inclusionary Housing Program, or an analysis of the impact of development of market rate
17 housing on affordable housing supply and demand." The study is on file with the Clerk of the
18 Board of Supervisors in File No. 061529. Specifically, the Board finds that this study and the
19 findings in the Draft Revised Permanent Controls support the affordable housing fee proposed
20 in these Revised Interim Controls because it: identifies the purpose of the fee to mitigate
21 impacts on the demand for affordable housing in the City; identifies the use to which the fee is
22 to be put as being to increase the City's affordable housing supply; and establishes a
23 reasonable relationship between the use of the fee for affordable housing and the need for
24 affordable housing and the construction of new market rate housing. Moreover, the Board

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1 finds that the current requirements proposed in these Revised Interim Controls are less than
2 the cost of mitigation and do not include the costs of remedying any existing deficiencies. The
3 Board also finds that the study establishes that the current Program requirements and the
4 requirements being proposed in these Revised Interim Controls do not duplicate other City
5 requirements or fees.

6 (7) This Board has considered the impact on the public health, safety, peace, and
7 general welfare if the Revised Interim Controls proposed herein were not imposed.

8 (8) This Board has determined that the public interest will be best served by imposition
9 of these Revised Interim Controls at this time in order to ensure that the legislative scheme
10 that may be ultimately adopted is not undermined during the planning and legislative process
11 for permanent controls, which process shall be conducted within a reasonable time.

12 WHEREAS, The Board of Supervisors makes the following findings of consistency with
13 the Priority Policies set forth in Planning Code Section 101.1. These Revised Interim Controls
14 advance Priority Policy 3 that the City's supply of affordable housing be preserved and
15 enhanced. These Revised Interim Controls do not conflict with other priority policies and are,
16 on balance, consistent with the Priority Policies.

17 WHEREAS, The Planning Department has determined that the actions contemplated in
18 this Resolution are in compliance with the California Environmental Quality Act (California
19 Public Resources Code §§ 21000 et seq.). Said determination is on file with the Clerk of the
20 Board of Supervisors in File No. _____ and is incorporated herein by reference. Now,
21 therefore, be it

22 RESOLVED That the provisions of the Draft Revised Permanent Controls Ordinance
23 entitled "Amending Inclusionary Housing Ordinance " on file with the Clerk of the Board of
24

1 Supervisors in File No. 100046, which is hereby declared to be a part of this motion as if set
2 forth fully herein, shall be adopted as interim zoning controls; and therefore be it,

3 FURTHER RESOLVED That, upon imposition of these Revised Interim Controls, the
4 Planning Department shall conduct a study of the contemplated zoning proposal and shall
5 propose permanent legislation or recommend adoption, modification, or disapproval of the
6 Draft Revised Permanent Controls proposed by the Board of Supervisors; and therefore be it,

7 FURTHER RESOLVED That, notwithstanding Planning Code Section 415.3, the
8 requirements of these Revised Interim Controls shall take effect immediately upon adoption
9 and apply to all projects regardless of application date; and therefore be it,

10 FURTHER RESOLVED That these Revised Interim Controls shall remain in effect for
11 18 months from the adoption of Interim Controls Resolution 36-10 unless extended in
12 accordance with Planning Code Section 306.7(h) or until permanent controls are adopted to
13 address the issues posed by the impact of new market-rate residential development on the
14 need for affordable housing.

15 APPROVED AS TO FORM:

16 DENNIS J. HERRERA, City Attorney

17 By: _____
18 Susan Cleveland-Knowles
19 Deputy City Attorney