



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: NOVEMBER 29, 2018
90-DAY DEADLINE: DECEMBER 25, 2018

Project Name: Designated Child Care Units (DCCU)
Case Number: 2017-012001PCA [Board File No. 180917]
Initiated by: Supervisor Yee / Introduced September 18, 2018
Staff Contact: Sheila Nickolopoulos, Legislative Affairs
Sheila.Nickolopoulos@sfgov.org, 415-575-9089
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Approval**

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PLANNING CODE AMENDMENT

Ordinance amending the Planning Code to permit an affordable dwelling unit with a State-licensed Small Family Child Care Home on the ground floor in certain commercial streets; excluding certain Child Care units from the calculation of maximum density on the site; and making environmental findings, findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 102.

The Way It Is Now:

Designated Child Care Units (DCCUs) definition

1. DCCUS are not currently defined in Planning Code Section 102.

Calculation of Value of Designated Child Care Unit in lieu of Residential Child Care Impact Fee

2. To determine the value of the DCCU to calculate a waiver for the Child Care Fee, the City multiplies the number of DCCUs provided by the average number of children per Unit multiplied by the cost per child care space. The formula uses numbers derived from the 2014 San Francisco Citywide Nexus Study: total number of gross square feet of the DCCU * Residential Child Care Impact Fee * 20. This value shall be deducted from the amount of the Residential Child Care Impact Fee owed.

Development of Procedures

3. The Office of Early Care and Education (OECE) monitors DCCUs and refers any instances of noncompliance to the Planning Department for enforcement.

Responsibilities of Operators of Small Family Child Care Homes in DCCUs

4. A tenant of any DCCU must operate a licensed Small Family Child Care Home in the unit for a minimum of 10 years as follows:

- If, in the determination of the OECE, the tenant does not begin to operate a licensed Small Family Child Care Home in the unit within nine months of occupying the unit, or if the tenant ceases to operate a licensed Small Family Daycare Home at any point in time within ten years from the date the DCCU is first leased to a tenant to operate a licensed Small Family Child Care Home, all tenants in the Unit shall be required to vacate the unit within 180 days.

Ground floor BMR DCCUs on commercial street frontages

5. Child Care is an active use, but DCCUs are not permitted on the ground floor or categorized as an active use.
6. ADUs are not permitted on the ground floor in NCDs, Chinatown Community Business District, or Visitor Retail Districts if they would eliminate or reduce ground floor retail or commercial space.
7. DCCUs are not BMR units.

The Way It Would Be:

Designated Child Care Units (DCCUs) Definition

1. DCCU would be defined in Planning Code Section 102 as a “Dwelling Unit that is designated for use as a State licensed Small Family Child Care Home.”

Calculation of Value of Designated Child Care Unit in lieu of Residential Child Care Impact Fee

2. To determine the value of the DCCU to calculate a waiver for the Child Care Fee, the City would use the following formula: total number of gross square feet of the DCCU * Residential Child Care Impact Fee * 20. This value would be deducted from the amount of the Residential Child Care Impact Fee owed.

Development of Procedures

3. The Planning Code would specifically direct OECE and the Mayor’s Office of Housing and Community Development (MOHCD) to develop written procedures, standards, and eligibility requirements for selecting State-licensed Small Family Child Care Home operators for these DCCUs; provide outreach and information to child care providers about the program; and monitor DCCUs and refers any instances of noncompliance to the Planning Department for enforcement.

Responsibilities of Operators of Small Family Child Care Homes in DCCUs

4. A tenant of any DCCU would operate a licensed Small Family Child Care Home in the unit for a minimum of 10 years as follows:
 - If, in the determination of the OECE, the tenant does not begin to operate a licensed Small Family Child Care Home in the unit within nine months of occupying the unit, or if the tenant ceases to operate a licensed Small Family Daycare Home at any point in time within ten years from the date the DCCU is first leased to a tenant to operate a licensed Small Family Child Care Home, all tenants in the Unit shall be required to vacate the unit within 180 days, provided that if a tenant has offered a Small Family Child Care Home for ten years, such a tenant will not be required to vacate the unit after such ten-year period.

Ground floor DCCUs on commercial street frontages

5. DCCUs would be added to table 145.4 as an allowable ground floor commercial use. Section 207, Dwelling Unit Density Limits, would be amended to permit DCCUs in Neighborhood Commercial Districts or in the Chinatown Community Business or Visitor Retail Districts.
6. DCCUs would be exempt from the prohibition of ADUs on the ground floor in NCDs, Chinatown Community Business District, or Visitor Retail Districts if ADUs would eliminate or reduce ground floor retail or commercial space.
7. Ground floor DCCUs would be required to be BMR units:
 - Rent would be set at 80% AMI.
 - OECE and MOHCD would maintain lists of eligible tenants.
 - Units would maintain this designation for the life of the building.
 - Units would be excluded from calculation of maximum density permitted onsite.
 - Units in new construction would have two or more bedrooms and be 1,000 square feet or more. Units added to existing buildings could be one-bedroom if two bedrooms is not Code compliant.
 - Only one unit would be permitted per building.

BACKGROUND

In January 2016, Ordinance 2-16 (Board File Number 150793) created Section 414A.6 to define and regulate Designated Child Care Units. The Code currently permits developers to elect to designate a market rate unit as a DCCU in lieu of the Residential Child Care Impact Fee. To date, developers have not elected to include these units; in addition, these market-rate units would likely be unaffordable to child care providers. The proposed legislation would clarify the existing definition of DCCUs in Section 414A.6 and expand the definition to allow BMR DCCUs on the ground in commercial corridors in new and existing buildings.

A DCCU can be provided in lieu of Residential Child Care Impact Fee if it meets the following:

- The number of DCCUs in a project shall be a maximum of one unit for Residential Projects of 25-100 units, two units for Residential Projects of 101-200 units, or three units for Residential Projects of 201 or more units
- A DCCU has two or more bedrooms and is 1,000 square feet or more
- A DCCU is offered only for rent and only to a tenant who agrees to operate a licensed Small Family Child Care Home in the Unit
- A DCCU is reserved for a period of at least ten years from the date the Designated Unit is first leased to a tenant for use as a licensed Small Family Child Care Home
- A DCCU may not be an On-site or Off-site Unit, as defined in Planning Code Sections 415 establishing the Inclusionary Affordable Housing Program.

Current requirements for child care providers will remain the same:

- At least one-third of the children served by the Small Family Child Care Home would be from Households of Low- or Moderate-income, as defined in Section 401.

- The Small Family Child Care Home established in any DCCU would have to serve at least four children of whom the operator of the Small Family Child Care Home is not a parent or guardian, based on an average over the previous 12 months.

ISSUES AND CONSIDERATIONS

Although DCCUs have been available to developers for several years, to date developers have chosen to pay the Child Care Impact Fee rather than include a DCCU in their projects. The proposed legislation would create a new category of ground floor BMR DCCU, differing from its predecessor in several key ways: these units would be permissible on the ground floor where active uses are required and residential uses are not permitted, and these units would be BMR rental only.

The Importance of Child Care

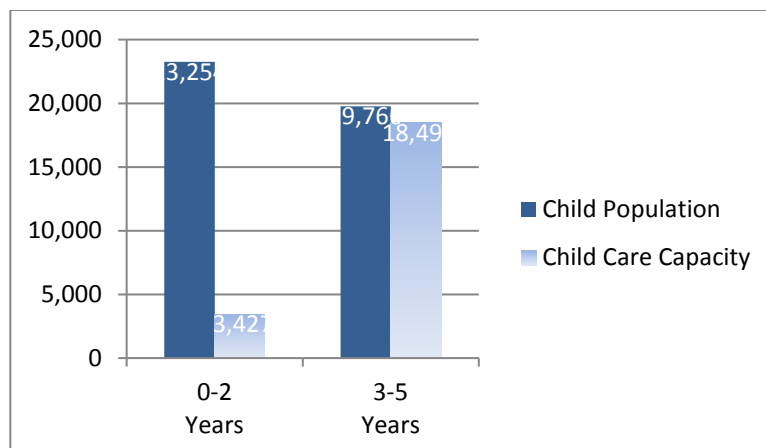
Child care helps families thrive. When parents can find child care that meets their needs, they can maintain employment or enrollment in school, improve their ability to support their families, and advance economically.

Quality child care also means more success down the road. A child’s brain develops most significantly during the first five years of life—and the quality of child care in these early years can make a difference between a healthy start and falling behind. Substantial research demonstrates that accessible high quality early care and education positively affects childhood growth, physical development, health, cognitive, behavioral and school related outcomes.

Child Care Options in San Francisco Today

San Francisco has a severe shortage of child care spots in family child care and facilities for all age levels between 0 and 5 years old, but the lack of facilities is particularly acute for infants: in 2014-16, San Francisco had 1,414 spots for an infant population of 23,254 (see attachment B:2). Throughout San Francisco, there are 21,991 child care spots for 43,020 children (51% of the City’s child population), but the majority (at least 64%) of those spots are for preschoolers. San Francisco offers far fewer child care spots than what are needed, creating a significant burden for families.

Child Care in San Francisco (2014-16)



These numbers convey the limited number of spots, but they don't paint the full picture of how hard it is to match child care to families' needs. Location, daily hours of operation, seasonal closures, price, and program structure are all factors that make securing child care even more difficult for families. Commutes to child care can be difficult because child care is not necessarily located where children live, and waitlists are very long--as of January 2017, San Francisco child care facilities had wait lists totally 2,463 children.

Family Child Care Homes

A child care provider is licensed by the State of California to offer child care in their homes. Small family child care homes usually enroll 6-8 children aging from infants to preschoolers. These home-based businesses are mostly operated by women and an important source of income to families. Family child care homes are an incredibly important resource for working parents, primarily because they can care for infants, which many larger child care centers cannot.

Ground floor BMR DCCUs would need to comply with the Draft Guidelines for Ground Floor Residential Design, which includes design principles.

- Modulate facades to express individual ground floor residences
- Set back frontages to create a usable transition space between the street and the individual dwelling unit
- Raise the floor level of residences to enhance livability, or create setbacks with landscaping
- Design protected and identifiable entries
- Create defensible spaces with screening elements

Need For Child Care

San Francisco desperately needs child care options, particularly for infants. In an OECE survey from 2016, there were 23,000 children ages 0-2 in San Francisco, but only 3,400 child care spots for them. Home based child care is an important source of care for infants because so few child care centers are licensed to care for babies. Family child care homes, which operates out of providers' homes, are at risk of displacement. For example, in the Mission there were 53 family child care providers in 2006, and in 2017 there were only 27. Home based child care is an important source of income for women and their families.

Filling Ground Floor Commercial Spaces

Although vacancy rates in ground floor commercial spaces differ among neighborhoods, many neighborhoods increasingly struggle to fill ground floors with active uses. As the nature of retail and commerce shift, ground floor DCCUs provide another option for developers while also meeting a community need. In focus groups with developers held during the development of this legislation, they indicated a preference for having more options for ground floor uses and suggested that a ground floor BMR DCCU would provide reliable income (compared to the volatile retail market) as well as offer a community amenity without impacting the allowable number of market rate units.

General Plan Compliance

This legislation would support key Objectives and Policies from the General Plan:

- The Housing Element supports the production of affordable housing and housing for families with children, as well as locating child care and housing in close proximity.

- Policy 2.3 of the Commerce and Industry Element calls for the City to maintain a favorable social and cultural climate in order to enhance its attractiveness as a firm location. Reliable, quality Child Care enables parents and guardians to pursue education, job training, and employment opportunities. Increasing the number and variety of child care options throughout San Francisco will give parents more options, provide children with the play and early learning that is the foundation for a successful school experience, and ensure that child care providers have the dedicated space needed to provide their service.
- Both the Mission Area Plan and the Bayview Hunters Point Area Plan identify the need for child care, which this Ordinance would provide.

Implementation

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

RECOMMENDATION

The Department recommends that the Commission *approve* the proposed Ordinance and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

The Department supports the proposed ordinance because in developments that elect to include a ground floor BMR DCCU, that unit would be in addition to any required inclusionary, thus producing additional BMR units. The legislation will also ensure that child care providers can provide their services to the community. Allowing developments to include a ground floor BMR DCCU provides affordable housing, stable housing for child care providers, who are predominantly women, and child care for families who, with their children in the care of a licensed provider, can work or attend school. Rent for these BMR units would be set at 80% AMI, which is a median income for family child care home providers (based on a survey of 31 providers in May 2017 by the Office of Early Care and Education).

Supervisor Yee worked closely with Planning, the City Attorney, the Mayor's Office of Housing and Community Development, and the Office of Early Care and Education to develop this legislation. Developers were also consulted to gauge their support for the proposed changes.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) 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 received one public comment in support of the Ordinance.

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Maps of proposed areas allowing ground floor BMR DCCUs
- Exhibit C: Letters of Support/Opposition or other supporting documentation, etc.
- Exhibit D: Board of Supervisors File No. 180917



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

HEARING DATE: NOVEMBER 29, 2018

Project Name: Designated Child Care Units (DCCU)
Case Number: 2017-012001PCA [Board File No. 180917]
Initiated by: Supervisor Yee / Introduced September 18, 2018
Staff Contact: Sheila Nickolopoulos, Legislative Affairs
Sheila.Nickolopoulos@sfgov.org, 415-575-9089
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

RESOLUTION APPROVING A PROPOSED ORDINANCE AMENDING THE PLANNING CODE TO PERMIT AN AFFORDABLE DWELLING UNIT WITH A STATE-LICENSED SMALL FAMILY CHILD CARE HOME ON THE GROUND FLOOR ON CERTAIN COMMERCIAL STREETS; EXCLUDING CERTAIN CHILD CARE UNITS FROM THE CALCULATION OF MAXIMUM DENSITY PERMITTED ON THE SITE; AND MAKING ENVIRONMENTAL FINDINGS, FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1, AND FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on September 18, 2018, Supervisor Yee introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 180917, which would amend the Planning Code to permit an affordable dwelling unit with a state-licensed Small Family Child Care Home on the ground floor on certain commercial streets and exclude certain child care units from the calculation of maximum density permitted on the site.

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on October 25, 2018; and,

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

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby approves the proposed ordinance.

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 Code currently permits projects to designate a market rate unit as a DCCU in lieu of the Residential Child Care Impact Fee. The proposed legislation would clarify the existing definition of DCCUs in Section 414A.6 and expand the definition to allow moderate-income affordable DCCUs on the ground floor in commercial corridors in new and existing buildings.
2. There is a severe shortage of child care options throughout San Francisco. For infant to two-year-olds in particular: in 2014-16, there were 1,414 spots for an infant population of 23,254. Child care is a necessary and desirable service that benefit parents, children, and our communities.
3. The Planning Commission finds that the legislation will benefit child care providers, families, and children in several ways.
 - Child care providers operating out of their homes are at risk of displacement. Creating moderate-income affordable DCCUs will ensure that providers have stable housing from which to offer child care.
 - Families need reliable child care so that they may work or attend school. There is a dire need citywide for child care, especially for infants and toddlers.
 - Children need safe, stable, supportive environments to grown and learn social and emotional skills. Early education provides a foundation for life-long learning.
4. The nature of retail and commerce is changing. Ground floor moderate-income affordable DCCUs will maintain the spirit of creating an active ground floor while providing additional options for a diversifying commercial landscape.
5. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 1

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

To enable easy access and movement throughout the city, housing should be located close to transit, and to other necessary public infrastructure such as schools, parks and open space, as well as quasi-public or privately provided services such as child care and health facilities.

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.*

For family sized units to work for families the City needs to look beyond the provision of housing to ensure that the other amenities critical to families are provided. Proximity to schools, to open space, and to affordable child care are critical for the well-being of families.

Policy 4.7: *Consider environmental justice issues when planning for new housing, especially affordable housing.*

The City should promote new, and rehabilitated, low-income housing on sites that do not have negative health impacts, near services and supplies so that residents have access to transit and healthy fresh food, jobs, child care and youth programs.

OBJECTIVE 12

BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY'S GROWING POPULATION.

Other important neighborhood elements maintain the health, well-being, and social standards of our city, including publicly provided functions such as schools, parks, libraries; as well as privately developed ones such as grocery stores and neighborhood retail, child care, art and cultural facilities. These elements are critical to maintaining and enhancing the quality of life in San Francisco and should be encouraged and supported.

Policy 12.2: *Consider the proximity of quality of life elements, such as open space, child care, and neighborhood services, when developing new housing units.*

San Francisco's neighborhoods support a variety of life choices through the quality of life elements they provide. Such elements include open space, child care facilities and other neighborhood services such as libraries, neighborhood-serving retail (including grocery stores), community centers, medical offices, personal services, locally owned businesses, and a pedestrian and bike-friendly environment. These elements enable residents to continue to live in their neighborhood as their needs change, and encourage neighborhood relationships. Access to these amenities and services at a neighborhood level enables residents to make many trips on foot or public transportation.

Ground floor moderate-income affordable DCCUs will meet two goals of the Housing Element: the production of permanently affordable housing units and the provision of child care in proximity to housing and other neighborhood amenities.

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.3: *Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.*

An important factor in choosing to locate in San Francisco or to remain once here is the attractiveness of the city as a place to live, work and pursue recreational interests. Recognition must be given to the importance of public efforts to improve the environmental quality in residential neighborhoods, provide recreational and cultural opportunities, and to improve the quality of the schools, and create and protect other amenities. Those aspects of the city have direct economic value. Desirability as a place to live and as an area in which to enjoy cultural and recreational activities are particularly important factors in determining location for the types of activities for which San Francisco enjoys a comparative advantage. If the city is to maintain its economically vital areas, it must assure that these social, cultural and environmental factors remain strong assets.

Reliable, quality Child Care enables parents and guardians to pursue education, job training, and employment opportunities. Increasing the number and variety of child care options throughout San Francisco will give parents more options, as well as provide children with the play and early learning that is the foundation for a successful school experience.

COMMUNITY FACILITIES ELEMENT

In many instances, citizens are deprived of ready access to services because neighborhoods lack adequate facilities to house needed services. In other cases, the inability of facilities to meet code requirements, such as open space standards for child care or kitchen health standards for meals programs, precludes provision of services. Furthermore, existing services are often inaccessible to many people they ought to serve.

For these reasons, many San Franciscans do not have adequate access to needed human services, and therefore a commitment should be made to develop a network of neighborhood centers that will provide a focus for neighborhood activities and services. These centers would provide new and better locations for existing services that are inadequately housed, and would have space for new services or expanded existing services to meet the needs of a particular neighborhood. In addition to providing services directly, the neighborhood centers can be used to refer residents to other locations in a citywide network of services.

Fundamental Assumptions

1. The quality of community life is enhanced when services and facilities that meet diverse human needs are readily available.
2. Expanding community responsiveness to meeting social needs and enriching human life requires the development of adequate and flexible facilities to house needed services.

Child care helps meet the social, cultural, educational, recreational, and civic needs and contributes significantly to the quality of community life.

MISSION AREA PLAN

OBJECTIVE 7.1

PROVIDE ESSENTIAL COMMUNITY SERVICES AND FACILITIES

Community facilities are necessary for many kinds of households, but particularly for families - improved schooling, upgraded libraries, improved and expanded parks, and increased child care facilities, including programming, are critical to maintaining an acceptable quality of life for San Francisco's families. Schools provide an anchor for families even beyond education: providing a safe local environment, facilitating social connections, and facilitating child growth and development.

Child care facilities, like schools, can be strong neighborhood and community anchors. Locating child care in schools, near residential areas, on-site in new residential complexes, near transit facilities, or near employment centers, supports families by reducing the time spent by parents going to and from daycare. This may also contribute to other plan goals such as traffic reduction, and increased transit ridership. Sufficient care facilities for the neighborhood's working families are critical if the Eastern Neighborhoods are to not only continue, but grow their role as a place for families.

Therefore, the city should facilitate the careful location and expansion of essential neighborhood services, while limiting the concentration of such activities within any one neighborhood. New development can also help fund such additional new services and amenities in proportion to the need generated by new development. Additionally, maintenance is an important, though often neglected, aspect of community facilities. Proper maintenance of existing (and new) facilities is equally important to the creation of new facilities. The influx of residents will further increase the usage of existing facilities, potentially increasing their staffing and maintenance costs. Even if no new facilities are built in Mission, existing facilities need to be adequately staffed and maintained and methods for meeting the increased costs must be considered.

The policies to provide essential community facilities and services are as follows:

POLICY 7.1.1: Support the siting of new facilities to meet the needs of a growing community and to provide opportunities for residents of all age levels.

POLICY 7.1.2: Recognize the value of existing facilities, including recreational and cultural facilities, and support their expansion and continued use.

POLICY 7.1.3: Ensure childcare services are located where they will best serve neighborhood workers and residents.

The proposed Ordinance would create child care options for families and ensure that child care providers are able to continue to operate Small Family Child Care Homes. The proposed ordinance would require one-third of enrollment be children from low- to moderate-income families.

BAYVIEW HUNTERS POINT AREA PLAN

OBJECTIVE 15

COMBINE SOCIAL REVITALIZATION WITH PHYSICAL AND ECONOMIC REVITALIZATION EFFORTS.

There is an increasing need for physical facilities for more specialized community services, particularly child care centers and senior housing related facilities. Although the Bayview has one of the highest female-headed household and child populations in the city, it has only two subsidized child care centers. As large scale new development occurs it will be important to also require provision of child care facilities as a part of the development. The need for even more specialized services has come with the increase in babies born into addiction due to drug usage by their mothers during pregnancy. The effort to stimulate construction of more senior housing in the district should include measures to assure that the housing is properly designed to meet the social and health needs of the residents on a project specific basis.

The proposed Ordinance would ensure consistent and stable child care options in neighborhoods like the Bayview Hunters Point. Child care provides care for children, which enables parents and caregivers to pursue school and work. For child care providers, operating a Small Family Child Care Home also generates a livable income for women and their families.

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 would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

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 would not have a negative effect on housing or neighborhood character.

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

The proposed Ordinance would have positive effect on the City's supply of affordable housing.

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

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

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 would 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.

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

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

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

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

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 APPROVES the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on October 25, 2018.

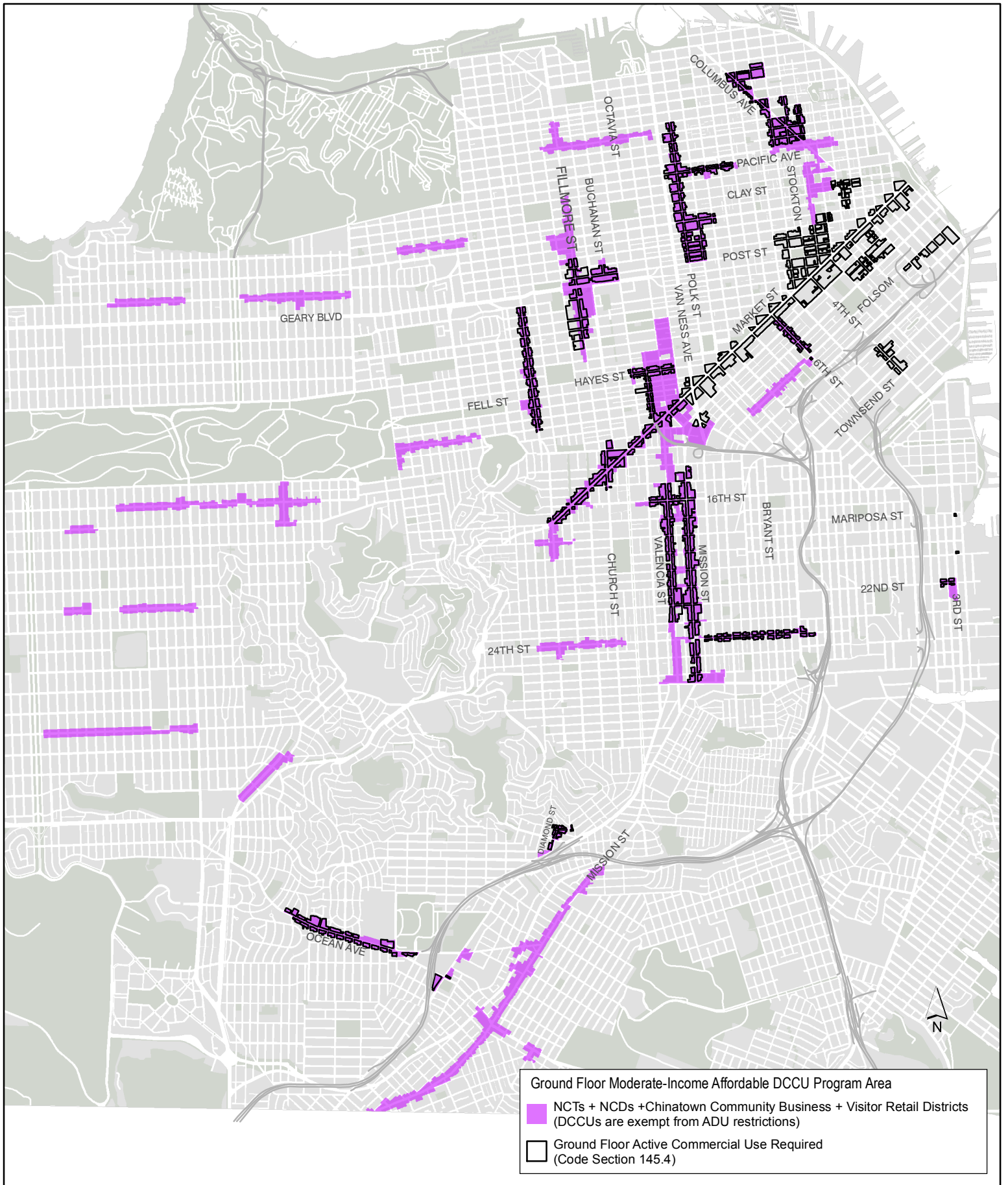
Jonas P. Ionin
Commission Secretary

AYES:

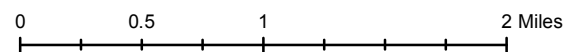
NOES:

ABSENT:

ADOPTED: October 25, 2018



**Ground Floor BMR Designated Child Care Units
Subject Areas
SAN FRANCISCO**



SEC. 145.4. REQUIRED GROUND FLOOR COMMERCIAL USES

DCCUs would be permitted in the following areas, where ground floor active commercial uses are required.

- (a) **Purpose.** To support active, pedestrian-oriented commercial uses on important commercial streets.
- (b) **Applicability.** The requirements of this Section [145.4](#) apply to the following street frontages.
 - (1) Folsom Street for the entirety of the Rincon Hill DTR and Folsom and Main Residential/Commercial Special Use Districts, pursuant to Sections [827](#) and [249.1](#);
 - (2) The entirety of the C-3-R District, along any block frontage that is entirely within such district or partly in such district and partly in the C-3-O District, where such block frontage faces a street 40 feet or more in width;
 - (3) Van Ness Avenue, in the Van Ness and Market Downtown Residential Special Use District, from Fell Street to Market Street;
 - (4) South Van Ness Avenue, for the entirety of the Van Ness and Market Downtown Residential Special Use District;
 - (5) Market Street, for the entirety of the Upper Market NCT, NCT-3, and all C-3 Districts;
 - (6) Third Street, in the UMU districts for parcel frontages wholly contained within 100 linear feet north or south of Mariposa Street or 100 linear feet north or south of 20th Street;
 - (7) Fourth Street, between Bryant and Townsend in the SLI and MUO Districts;
 - (8) Hayes Street, for the entirety of the Hayes-Gough NCT;
 - (9) Octavia Boulevard, between Fell Street and Hayes Street, in the Hayes-Gough NCT;
 - (10) On building frontages facing Destination Alleyways, as defined in the Downtown Streetscape Plan, in all C-3 Districts;
 - (11) Church Street, for the entirety of the NCT-3 and Upper Market NCT Districts;
 - (12) 22nd Street, between Third Street and Minnesota Streets within the NCT-2 District;
 - (13) Valencia Street, between 15th and 23rd Streets in the Valencia Street NCT District;
 - (14) Mission Street, for the entirety of the Mission Street NCT District;
 - (15) 24th Street, for the entirety of the 24th Street-Mission NCT;
 - (16) 16th Street, between Guerrero and Capp Streets;
 - (17) 22nd Street, between Valencia and Mission Streets;
 - (18) 6th Street for its entirety within the C-3 and SoMa NCT Districts;
 - (19) Ocean Avenue, for the entirety of the Ocean Avenue NCT District, except on the north side of Ocean Avenue between Plymouth and Brighton Avenues;
 - (20) Geneva Avenue, between I-280 and Delano Avenue within the NCT-1 and NCT-2 Districts;
 - (21) Fillmore Street, in the Fillmore Street NCD from Bush Street to McAllister Street;
 - (22) Diamond Street, for the entirety of the Glen Park NCT District;
 - (23) Chenery Street, for the entirety of the Glen Park NCT District;
 - (24) Buchanan Street, between Post Street and Sutter Street;
 - (25) Post Street, between Fillmore Street and Laguna Street on the south side and between Webster Street and Laguna Street on the north side;
 - (26) Divisadero Street for the entirety of the Divisadero Street NCT District;
 - (27) The entirety of the North Beach Neighborhood Commercial District and North Beach Special Use District;
 - (28) Any street frontage that is in the Polk Street Neighborhood Commercial District; and,
 - (29) Pacific Avenue, between Van Ness Avenue and Jones Street, on lots where the last known ground floor use was a commercial or retail use.

Nickolopoulos, Sheila (CPC)

From: Sue Hestor <hestor@earthlink.net>
Sent: Wednesday, October 10, 2018 11:42 AM
To: Nickolopoulos, Sheila (CPC)
Subject: Child care facilities legislation 10/25
Attachments: DCCU 180917 PC (ID 1037148).pdf

Thanks for straightening Child Care leg and issue out. ONLY one hearing on Child Care and it is on 10/25, not 11/29.

There are still a few of us around who worked to get the original child care fee (as well as housing and transit fees) as part of the Downtown Plan in 80s. Will try to round up several of them to come in support. (Elections are complication.) Hope this is early on agenda.

Also working right now with people south of Market and in Mission and hotel workers. Lower income residents in particular NEED child care so they can work to earn enough money to live in SF.

Sue Hestor

----- Forwarded Message -----

Subject:RE: Request 2 amends - Affordable DU on ground floor + Residential care facilities
Date:Wed, 10 Oct 2018 18:27:24 +0000
From:Nickolopoulos, Sheila (CPC) <sheila.nickolopoulos@sfgov.org>
To:Sue Hestor <hestor@earthlink.net>

Hi Sue, I will be taking the DCCU legislation to the Planning Commission October 25. Attached is the Ordinance. Please let me know if you have any questions.

Thank you,
Sheila

Sheila Nickolopoulos, MPP
Sr Administrative Analyst

San Francisco Planning Department
1650 Mission Street, Suite 400 San Francisco, CA 94103
Direct: 415.575.9089 | www.sfplanning.org
[San Francisco Property Information Map](#)

From: Butkus, Audrey (CPC)
Sent: Wednesday, October 10, 2018 11:09 AM
To: Sue Hestor <hestor@earthlink.net>
Cc: Nickolopoulos, Sheila (CPC) <sheila.nickolopoulos@sfgov.org>
Subject: RE: Request 2 amends - Affordable DU on ground floor + Residential care facilities

Hi Sue,

I've just been informed that I was assigned the ADU on the Ground Floor case in error. In reality, this Ordinance is the same as case number: 2017-012001PCA Designated Child Care Units. Sheila Nickolopoulos will be taking this item to the Commission on October 24th. I've cc'd her here if you have any further questions. As for the case number 2018-013238, that will be deleted from our system.

Sincerely,

Audrey Butkus

From: Sue Hestor <hestor@earthlink.net>

Sent: Tuesday, October 09, 2018 1:07 PM

To: Butkus, Audrey (CPC) <audrey.butkus@sfgov.org>

Subject: Request 2 amends - Affordable DU on ground floor + Residential care facilities

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

You are staff for 2 Plan Code amends slated for *adoption? initiation?* on November 29.

Would you please send as attachments text of Planning Code Amendments -

2018-013238 Affordable DU on the ground floor

2018-013472 Residential Care facilities.

Thank you.

Sue Hestor

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

September 26, 2018

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

Dear Commissioners:

On September 18, 2018, Supervisor Yee introduced the following legislation:

File No. 180917

Ordinance amending the Planning Code to permit an affordable dwelling unit with a State-licensed Small Family Child Care Home on the ground floor on certain commercial streets; excluding certain Child Care units from the calculation of maximum density permitted on the site; and making environmental findings, findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, 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: John Rahaim, Director of Planning
- Aaron Starr, Acting Manager of Legislative Affairs
- Scott Sanchez, Zoning Administrator
- Lisa Gibson, Environmental Review Officer
- AnMarie Rodgers, Director of Citywide Planning
- Laura Lynch, Environmental Planning
- Joy Navarrete, Environmental Planning

1 [Planning Code - Small Family Child Care in an Affordable Dwelling Unit on the Ground Floor]

2
3 **Ordinance amending the Planning Code to permit an affordable dwelling unit with a**
4 **State-licensed Small Family Child Care Home on the ground floor on certain**
5 **commercial streets; excluding certain Child Care units from the calculation of**
6 **maximum density permitted on the site; and making environmental findings, findings**
7 **of consistency with the General Plan, and the eight priority policies of Planning Code,**
8 **Section 101.1, and findings of public necessity, convenience, and welfare under**
9 **Planning Code, Section 302.**

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

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

18 Section 1. Environmental and Land Use Findings.

19 (a) The Planning Department has determined that the actions contemplated in this
20 ordinance comply with the California Environmental Quality Act (California Public Resources
21 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
22 Supervisors in File No. _____ and is incorporated herein by reference.

23 (b) On _____, the Planning Commission, in Resolution No. _____, adopted
24 findings that the actions contemplated in this ordinance are consistent, on balance, with the
25 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
2 Board of Supervisors in File No. _____, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
4 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth
5 in Planning Commission Resolution No. _____ and the Board incorporates such reasons
6 herein by reference.

7
8 Section 2. The Planning Code is hereby amended by revising Sections 102, 145.4,
9 207, 401, 414A.3, and 414A.6, to read as follows:

10
11 **SEC. 102. DEFINITIONS.**

12 * * * *

13 *Designated Child Care Unit. A Dwelling Unit that is designated for use as a State-licensed Small*
14 *Family Child Care Home and meets the applicable standards established in Section 414A.6.*

15 * * * *

16 **SEC. 145.4. REQUIRED GROUND FLOOR COMMERCIAL USES.**

17 * * * *

18 (c) **Definitions.**

19 "Active commercial uses" shall include those uses specifically identified below in Table 145.4,
20 and:

21 (1) Shall not include Automotive Uses Except for Automobile Sale or Rental uses
22 where curb-cuts, garage doors, or loading access are not utilized or proposed, and such sales
23 or rental activity is entirely within an enclosed building and does not encroach on surrounding
24 sidewalks or open spaces;

1 (2) Shall include Public Facilities as defined in Section 102 and Public Uses as defined
2 in Section 890.80, except for Utility Installations; ~~and~~

3 (3) Shall not include Residential Care Facilities as defined in Sections 102 and
4 890.50; and

5 (4) Shall include one or more Designated Child Care Units as defined in Section 102, provided
6 that each such unit meets all applicable criteria set forth in Section 414A.6 of this Code.

7 **Table 145.4**

Reference for Commercial, Neighborhood Commercial, and Residential- Commercial Districts	Reference for Mixed Use Districts	Use
* * * *	* * * *	* * * *
<u>102</u>	<u>N/A</u>	<u>Designated Child Care Unit that meets the applicable criteria of Planning Code Section 414A.6</u>
* * * *	* * * *	* * * *

15
16 **SEC. 207. DWELLING UNIT DENSITY LIMITS.**

17 * * * *

18 (c) **Exceptions to Dwelling Unit Density Limits.** An exception to the calculations
19 under this Section 207 shall be made in the following circumstances:

20 * * * *

21 (4) **Accessory Dwelling Units in Multifamily Buildings; Accessory Dwelling**
22 **Units in Single-Family Homes That Do Not Strictly Meet the Requirements in**
23 **Subsection (c)(6).**

24 * * * *

1 (C) **Controls on Construction.** An Accessory Dwelling Unit is permitted
2 to be constructed under the following conditions:

3 * * * *

4 (vi) An Accessory Dwelling Unit shall not be permitted in any
5 building in a Neighborhood Commercial District or in the Chinatown Community Business or
6 Visitor Retail Districts if it would eliminate or reduce a ground-story retail or commercial space,
7 unless the Accessory Dwelling Unit is a Designated Child Care Unit, as defined in Section 102, and
8 meets all applicable standards of Planning Code Section 414A.6(e).

9 * * * *

10 (7) A Designated Child Care Unit that meets all the applicable standards of Planning
11 Code Section 414A.6 shall not count towards the calculation of maximum density permitted on the site.

12
13 **SEC. 401. DEFINITIONS.**

14 In addition to the specific definitions set forth elsewhere in this Article, the following
15 definitions shall govern interpretation of this Article:

16 * * * *

17 Designated Child Care Unit. As defined in Section 102. ~~A residential unit provided by a protect~~
18 ~~subject to Section 414A.6 and that is designated for use as a Small Family Daycare Home.~~

19 * * * *

20
21 **SEC. 414A.3. APPLICATION OF RESIDENTIAL CHILD CARE IMPACT FEE.**

22 (a) **Application.**

23 (1) Sections 414A.1 et seq. shall apply to any residential development project
24 that results in:

25 (A) At least one net new ~~residential~~ dwelling unit;

1 (B) Additional space in an existing ~~residential dwelling~~ unit of more than
2 800 gross square feet;

3 (C) At least one net new group housing facility or residential care facility;
4 or

5 (D) Additional space in an existing group housing or residential care
6 facility of more than 800 gross square feet.

7 (2) Section 414A.1 et seq. shall not apply to

8 (A) That portion of a residential development project consisting of a retail
9 use;

10 (B) That portion of a residential development project located on property
11 owned by the United States or any of its agencies;

12 (C) That portion of a residential development project located on property
13 owned by the State of California or any of its agencies, with the exception of such property not
14 used for a governmental purpose;

15 (D) That portion of a residential development project located on property
16 under the jurisdiction of the Port of San Francisco or the San Francisco Office of Community
17 Investment and Infrastructure where the application of ~~this~~ Section 414A.1 et seq. is
18 prohibited by State or local law; and

19 (E) Any residential development project that has obtained its First
20 Construction Document prior to the effective date of Section 414A.1 et seq.

21
22 **SEC. 414A.6. OPTION TO PROVIDE ~~ONSITE~~ SMALL FAMILY DAY-CHILD CARE HOME**
23 **IN LIEU OF FEE.**

24 (a) **Election to Provide Designated Child Care Units in Lieu of Residential Child**
25 **Care Impact Fee.** Consistent with the timing to elect the option to provide On- or Off-site

Units under Section 415.5(g), the sponsor of a development project subject to the requirements of Sections 414A.1 et seq., may elect to fulfill all or a portion of the Residential Child Care Impact Fee requirement ~~imposed as a condition of approval~~ by creating one or more Designated Child Care Units in the project, as follows:

(1) The number of Designated Child Care Units in a project subject to this Section 414A shall be as follows:

TABLE 414A.6A

NUMBER OF DESIGNATED CHILD CARE UNITS

<u>Residential Project Size</u>	<i>Maximum allowable Designated Child Care Units</i>
<i>Residential Projects of 25-100 Dwelling #Units</i>	1 Unit
<i>Residential Projects of 101-200 Dwelling #Units</i>	2 Units
<i>Residential Projects of 201 or more Dwelling #Units</i>	3 Units

(2) A Designated Child Care Unit shall have two or more bedrooms and shall be 1,000 square feet or more;

(3) A Designated Child Care Unit shall be offered only for rent and only to a tenant who agrees to operate a State-licensed Small Family ~~Daycare~~ Child Care Home in the Unit;

(4) A Designated Child Care Unit shall be reserved for a period of at least ten years from the date the Designated Unit is first leased to a tenant for use as a State-licensed Small Family ~~Daycare~~ Child Care Home; and

1 (5) A Designated Child Care Unit may not be an On-site or Off-site Unit, as
2 defined in Planning Code Sections 415 et seq. establishing the Inclusionary Affordable
3 Housing Program.

4 (b) **Calculation of Value of Designated Child Care Unit in Lieu of Residential**
5 **Child Care Impact Fee.** For purposes of determining the value of a Designated Child Care
6 Unit to calculate a waiver of the Child Care Fee, the City shall ~~use the~~ *calculate the number*
7 *Designated Child Care Units being provided multiplied by the average number of children per Unit*
8 *multiplied by the cost per child care space. The following formula, using numbers derived from the*
9 *2014 San Francisco Citywide Nexus Study shall be used:*

10 Total number of gross square feet of the unit or units designated as Child Care
11 Units * Residential Child Care Impact Fee * 20.

12 This value shall be deducted from the amount of the Residential Child Care
13 Impact Fee owed.

14 (c) **Development of Procedures. Responsibilities of Operators of Small Family Daycare**
15 **Child Care Homes in Designated Child Care Units.** *Within nine months of the Effective Date of the*
16 *ordinance in Board File No. _____ amending this subsection (c), the* ~~The~~ Office of Early Care and
17 Education shall *work with the Mayor's Office of Housing and Community Development to:*

18 *(1) develop a set of written procedures, standards, and eligibility requirements for*
19 *selecting State-licensed Small Family Child Care Home operators for these Designated Child Care*
20 *Units;*

21 *(2) provide outreach and information to the early care and education community about*
22 *the availability of Designated Child Care Units; and*

23 *(3) monitor Designated Child Care Units and refer any instances of*
24 noncompliance to the Planning Department for enforcement.

1 **(d) Responsibilities of Operators of Small Family Child Care Homes in Designated Child**

2 **Care Units.** A tenant of any Designated Child Care Unit shall agree to operate a State-licensed
3 Small Family ~~Daycare~~ Child Care Home in the unit for a minimum of 10 years as follows:

4 (1) If, in the determination of the Office of Early Care and Education, the tenant
5 does not begin to operate a State-licensed Small Family ~~Daycare~~ Child Care Home in the unit
6 within nine months of occupying the unit, or if the tenant ceases to operate a State-licensed
7 Small Family ~~Daycare~~ Child Care Home at any point in time within ten years from the date the
8 Designated Child Care Unit is first leased to a tenant to operate a State-licensed Small Family
9 ~~Daycare~~ Child Care Home, all tenants in the Unit shall be required to vacate the unit within 180
10 days, provided that if a tenant has offered a Small Family Child Care Home for ten years, such tenant
11 will not be required to vacate the unit after such ten-year period;

12 (2) At least ~~1/3~~ one-third of the children served by the Small Family ~~Daycare~~
13 Child Care Home shall be from Households of Low- or Moderate-income, as defined in Section
14 401; and

15 (3) The Small Family ~~Daycare~~ Child Care Home established in any Designated
16 Child Care Unit shall serve at least four children of whom the operator of the Small Family
17 ~~Daycare~~ Child Care Home is not a parent or guardian, based on an average over the previous
18 12 months.

19 **(e) Option to Provide Designated Child Care Units in the Ground Floor on Commercial**

20 **Street Frontages.** On street frontages where ground floor commercial uses are required pursuant to
21 Section 145.4 of this Code, a Designated Child Care Unit may be considered an Active Commercial
22 Use if the unit meets all of the following requirements:

23 (1) the Dwelling Unit is a Rental Unit, as defined in Planning Code Section 401;

24 (2) the Designated Child Care Unit shall have two or more bedrooms and shall be
25 1,000 square feet or more;

1 (3) If a Designated Child Care Unit is being added to an existing building in the ground
2 floor commercial space, and it is not physically possible to provide two code-complying bedrooms,
3 such Designated Child Care Unit shall have one bedroom and shall be 1,000 square feet or more;

4 (4) no more than one Designated Child Care Unit shall be permitted in each building;

5 (5) the Dwelling Unit is eligible to be designated a below market rate unit affordable to
6 moderate-income households, which shall have an affordable rent set at 80% of Area Median Income
7 or less, with households earning from 65% to 90% of Area Median Income eligible to apply for such
8 dwelling unit, but the Dwelling Unit may not be an On-site or Off-site Affordable Housing Unit, as
9 required by Planning Code Sections 415 et seq. establishing the Inclusionary Affordable Housing
10 Program;

11 (6) a State-licensed Small Family Child Care Home is provided in such Dwelling Unit
12 and complies with the applicable requirements set forth in Planning Code Section 414A.6(d) for a
13 Designated Child Care Unit;

14 (7) If a Designated Child Care Unit no longer provides a State-licensed Small Family
15 Child Care Home in the unit, the owner of the project in which the unit is located shall provide notice
16 to the Mayor's Office of Housing and Community Development (MOHCD) and the Office of Early Care
17 and Education within 30 days. All tenants in the Unit shall be required to vacate the unit within 180
18 days. The owner of the project in which the Designated Child Care Unit is located shall allow
19 MOHCD, as assisted by the Office of Early Care and Education, to attempt to fill that unit with a
20 Tenant eligible under the Inclusionary Affordable Housing Program who is also an eligible operator of
21 a Small Family Child Care Home. If, in the determination of the Office of Early Care and Education,
22 the tenant fraudulently did not intend to operate a State-licensed Small Family Child Care Home in the
23 unit within nine months of occupying the unit, all tenants in such unit shall be required to vacate the
24 unit within 60 days. MOHCD shall use its best efforts to fill such vacated unit with a Tenant registered
25

1 with the Office of Early Care and Education and licensed to provide Small Family Child Care Home
2 who also meets the Income restrictions for a Designated Unit; and

3 (8) The Designated Child Care Unit shall remain so designated for the life of the
4 building. Each tenant occupying the Designated Child Care Unit shall be obligated to provide a State-
5 licensed Small Family Child Care Home in the Designated Child Care Unit for a minimum of 10 years.
6 In the event a tenant provides this child care for 10 years, such tenant shall not thereafter be obligated
7 to vacate the unit if it ceases to provide child care in the Designated Child Care Unit.

8
9 Section 3. Effective Date. This ordinance shall become effective 30 days after
10 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
11 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
12 of Supervisors overrides the Mayor's veto of the ordinance.

13
14 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
15 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
16 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
17 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
18 additions, and Board amendment deletions in accordance with the "Note" that appears under
19 the official title of the ordinance.

20
21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA
City Attorney

23 By:


KATE H. STACY
Deputy City Attorney

n:\leganalas2018\1700230\01305196.doc

LEGISLATIVE DIGEST

[Planning - Small Family Child Care in an Affordable Dwelling Unit on the Ground Floor]

Ordinance amending the Planning Code to permit an affordable dwelling unit with a State-licensed Small Family Child Care Home on the ground floor on certain commercial streets; excluding certain Child Care units from the calculation of maximum density permitted on the site; and making environmental findings, findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

The Planning Code currently requires active commercial uses to be provided on the ground floor in certain commercial areas and streets of the City. Residential uses are not considered active commercial uses.

The Planning Code allows certain dwelling units to be designated as Child Care units in lieu of paying the City's Residential Child Care Impact Fee. Such child care units would be considered in calculating maximum density allowed on the site.

Amendments to Current Law

The amendments would consider a State-licensed Small Family Child Care Home in a dwelling unit to be an active commercial use on the ground floor in certain commercial areas and streets, provided it met the following criteria: (1) the Dwelling Unit is a Rental Unit; (2) the dwelling unit has two or more bedrooms and 1,000 square feet or more; (3) If the dwelling unit is being added to an existing building in the ground floor commercial space, and it is not physically possible to provide two code-complying bedrooms, the unit may have one bedroom and 1,000 square feet or more; (4) no more than one Designated Child Care Unit would be permitted in each building; (5) the Dwelling Unit is eligible to be designated a below market rate unit affordable to moderate-income households, which shall have an affordable rent set at 80% of Area Median Income or less, with households earning from 65% to 90% of Area Median Income eligible to apply for such dwelling unit, but the Dwelling Unit may not be an On-site or Off-site Affordable Housing Unit; (6) a State-licensed Small Family Child Care Home is provided in such Dwelling Unit and complies with the applicable requirements set forth in Planning Code Section 414A.6(d) for a Designated Child Care Unit; (7) if a Designated Child Care Unit no longer provides a State-licensed Small Family Child Care Home in the unit, the tenants would be required to vacate within 180 days. MOHCD, as assisted by the Office of Early Care and Education, would attempt to fill that unit with a Tenant eligible under the Inclusionary Affordable Housing Program who is also an eligible operator of a Small Family Child Care Home. If the tenant fraudulently did not intend to operate a State-licensed Small

Family Child Care Home in the unit within nine months of occupying the unit, all tenants in such unit would be required to vacate the unit within 60 days; and (8) The dwelling unit shall remain a designated child care unit for the life of the building. Each tenant occupying the Designated Child Care Unit would be obligated to provide a State-licensed Small Family Child Care Home in the Designated Child Care Unit for a minimum of ten years. In the event a tenant provides this child care for ten years, such tenant shall not thereafter be obligated to vacate the unit if it ceases to provide child care.

The amendments would exclude a designated child care unit from the calculation of maximum density on each site.

The amendments obligate the Office of Early Care and Education and MOHCD to develop procedures and eligibility standards within 9 months, and to provide outreach to the eligible communities about these child care opportunities.

n:\legana\as2018\1700230\01304552.docx