



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Amendment

HEARING DATE: DECEMBER 6, 2018  
90-DAY DEADLINE: FEBRUARY 5, 2019

*Project Name:* HOME-SF Project Authorization  
*Case Number:* 2018-014996PCA [Board File No. 181046]  
*Initiated by:* Supervisor Tang / Introduced October 30, 2018  
*Staff Contact:* Paolo Ikezoe, Citywide Division  
paolo.ikezoe@sfgov.org, 415-575-9137  
*Reviewed by:* Aaron Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362  
*Recommendation:* **Approval with Modifications**

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### PLANNING CODE AMENDMENT

The proposed Ordinance would amend Section 328 of the Planning Code to clarify the types of Conditional Use Authorization requirements that would apply to HOME-SF projects. It would also amend the fee for Affordable Housing Bonus Program (AHBP) projects.

#### The Way It Is Now:

1. HOME-SF projects seek approval via a 'HOME-SF Project Authorization' pursuant to Planning Code Section 328. The current code section specifies that if a HOME-SF project otherwise requires a Conditional Use for (1) a specific land use, (2) a use size limit or (3) a requirement adopted by the voters, then the Planning Commission shall make all findings and consider all criteria required by the Code as part of the HOME-SF Project Authorization. However, it does not clearly state whether the Commission should consider Conditional Use Authorization or discretionary approvals not specified above.
2. All projects subject to Section 206, including 100% AHBP and Individually Requested State Density Bonus projects, are subject to the AHBP fee schedule, even if they do not require a Planning Commission hearing.

#### The Way It Would Be:

1. Section 328 would be amended to clarify that HOME-SF projects would be exempt from all other discretionary approval processes, including requirements for Conditional Use Authorization, except for in the following cases:
  - a. The HOME-SF project would otherwise require a Conditional Use Authorization or other discretionary approval process that was adopted by the voters of San Francisco  
*In this case, the HOME-SF project would still be required to seek a Conditional Use*

*Authorization or other discretionary approval process, in addition to seeking a HOME-SF Project Authorization pursuant to Section 328.*

- b. The HOME-SF project would otherwise require a Conditional Use Authorization for a specific use type or use size limit.

*In this case, the Planning Commission would make any findings required by the Conditional Use Authorization as part of the HOME-SF Project Authorization. The project would not be required to seek a Conditional Use Authorization in addition to a HOME-SF Project Authorization.*

2. Only projects requiring a Planning Commission hearing would be subject to the AHBP fee schedule. This would include HOME-SF (Section 206.3) and Analyzed State Density Bonus Projects (Section 206.5).

## **BACKGROUND**

The HOME-SF program was approved unanimously by the Board of Supervisors and subsequently signed by Mayor Ed Lee on June 13, 2017. As originally drafted, HOME-SF projects were to be approved through a process similar to the existing Large Project Authorization (LPA) process. However, during the Planning Commission and Board of Supervisors adoption process, the program was modified to instead require HOME-SF projects to seek a Conditional Use Authorization pursuant to Section 303. Follow-up legislation in June of this year created the Section 328 HOME-SF Project Authorization, bringing the approval process for HOME-SF projects in line with the original intent of the program.

On October 4, 2018, the Commission considered the city's first HOME-SF project at 2601 Van Ness Avenue. This project triggered Conditional Use Authorizations for parking in excess of 0.5 spaces per unit, building height, and bulk requirements. While the intent of HOME-SF was for Section 328 to supersede these Conditional Use Authorization requirements, the specific language of the section was deemed unclear, and the project was required to seek two separate entitlements - a Section 328 HOME-SF Project Authorization and a Conditional Use Authorization. As a result, the project could have been appealable to both the Board of Appeals (for the Section 328 HOME-SF Authorization) and the Board of Supervisors (for the Conditional Use Authorization).

## **ISSUES AND CONSIDERATIONS**

The goal of this legislation is to bring Section 328 in line with the original intent of HOME-SF, which was to create a single, all-encompassing entitlement for HOME-SF projects. The legislation also aims to amend the fee schedule such that only projects requiring Commission hearings are charged the AHBP fee.

### **Section 328 should supersede Conditional Use Authorizations, except in specific cases**

The original intent of Section 328 was that it would supersede most Conditional Use Authorization triggers, except for those related to a specific land use, use size, or requirement adopted by the voters, but the adopted code did not specifically exempt HOME-SF projects from other discretionary approvals that might be triggered. The proposed legislation specifically exempts HOME-SF projects from any discretionary approvals the project would otherwise trigger, aside from Section 328.

### **Only projects that require Commission hearings should be charged the AHBP fee**

The AHBP fee schedule was developed to cover the cost of preparing and bringing HOME-SF and 100% Affordable Housing Bonus Program projects to the Planning Commission. However, the code section was written such that all projects seeking entitlement pursuant to Section 206 (including Individually

Requested State Density Bonus projects) were subject to the fee, whether the project required a Planning Commission hearing or not. 100% Affordable Housing Bonus Program projects no longer require a Planning Commission hearing, and there are many cases where Individually Requested State Density Bonus projects do not otherwise trigger a Planning Commission hearing. This legislation clarifies that only Section 206 projects that require a Planning Commission hearing for approval are subject to the AHBP fee.

## **RECOMMENDATION**

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

1. If a HOME-SF project requests excess parking pursuant to Section 151.1(e), require the Commission to make applicable Conditional Use Authorization findings as part of the Section 328 HOME-SF Project Authorization.

## **BASIS FOR RECOMMENDATION**

The Department supports the proposed ordinance because it will bring Section 328 in line with the original intent of HOME-SF, which was to have one streamlined entitlement for HOME-SF projects.

The Department is recommending the following amendment:

**Recommendation 1: Amend Sections 151.1(e), 206.3(e) and 328(g) to clarify, in situations where a HOME-SF project requests parking in excess of what is principally permitted, that the Commission shall make Section 151.1(e) findings as part of the Section 328 HOME-SF Project Authorization.**

Project sponsors wishing to provide more parking than is principally permitted under Section 151.1 of the Planning Code must obtain a Conditional Use Authorization pursuant to Section 151.1(e). In order to ensure Commission review of such requests by HOME-SF projects, the Department is recommending Sections 151.1, 206.3 and 328 be amended to clarify that HOME-SF projects providing parking in excess of what is principally permitted will be required to make specific findings as part of the Section 328 HOME-SF Project Authorization. This amendment will allow HOME-SF projects the flexibility to provide excess parking if necessary, while ensuring such requests are reviewed by the Planning Commission.

## **REQUIRED COMMISSION ACTION**

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

## **ENVIRONMENTAL REVIEW**

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

## **PUBLIC COMMENT**

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

RECOMMENDATION:

### **Attachments:**

Exhibit A: Draft Planning Commission Resolution  
Exhibit B: Board of Supervisors File No. 181046



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Draft Resolution HEARING DATE DECEMBER 6, 2018

*Project Name:* HOME-SF Project Authorization  
*Case Number:* 2018-014996PCA [Board File No. 181046]  
*Initiated by:* Supervisor Tang / Introduced October 30, 2018  
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**RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO REQUIRE ADDITIONAL FINDINGS FOR HOME-SF PROJECT AUTHORIZATIONS; AMENDING THE FEE FOR AFFORDABLE HOUSING BONUS PROGRAM PROJECTS; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1; AND MAKING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.**

WHEREAS, on October 30, 2018 Supervisors Tang introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 181046, which would amend Sections 206.3 and 328 of the Planning Code to amend the HOME-SF program to clarify that HOME-SF projects seeking approval under Section 328 are exempt from other discretionary approvals, including Conditional Use Authorizations, except in certain cases and amend the fee for Affordable Housing Bonus Program projects; and

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on December 6, 2018; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act CEQA Guidelines Section 15378 and 15060(c)(2); 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; now therefore be it

RESOLVED, that the Planning Commission hereby adopts the following findings and recommends the Board of Supervisors **approve with modifications** the proposed ordinance. The Commission's proposed modifications are as follows:

**1: Amend Sections 206.3(e) and 328(g) to clarify, in situations where a HOME-SF project requests parking in excess of what is principally permitted, that the Commission shall make Section 151.1(f) findings as part of the Section 328 HOME-SF Project Authorization.**

The Planning Commission hereby adopts the following findings:

## 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 Commission finds that the proposed ordinance will bring the HOME-SF program in line with the legislation's original intent by clarifying that HOME-SF projects seeking approval pursuant to Section 328 are exempt from other discretionary approvals, including Conditional Use Authorizations, except in specific cases.
2. The Commission finds that the proposed ordinance will bring the HOME-SF program in line with the legislation's original intent by amending the fee charged to Affordable Housing Bonus Program projects so that only projects requiring Commission hearings are subject to the fee.
3. **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 increase 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.*

4. **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.

AND THEREFORE BE IT FURTHER RESOLVED that the Commission hereby recommends the Board of Supervisors APPROVE WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on June 28, 2018.

Jonas P. Ionin  
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED:     December 6, 2018



[Planning Code - HOME-SF Project Authorization]

**Ordinance amending the Planning Code to require additional findings for HOME-SF project authorizations; amending the fee for Affordable Housing Bonus Program projects; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, 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 ~~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.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 181046 and is incorporated herein by reference. The Board affirms this determination.

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

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

3 (c) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this  
4 ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in  
5 Planning Commission Resolution No. \_\_\_\_\_, and incorporates such reasons by this  
6 reference thereto. A copy of said resolution is on file with the Clerk of the Board of  
7 Supervisors in File No. \_\_\_\_\_.

8  
9 Section 2. The Planning Code is hereby amended by revising Section 206.3, to read  
10 as follows:

11 **Section 206.3 HOUSING OPPORTUNITIES MEAN EQUITY – SAN FRANCISCO**  
12 **PROGRAM**

13 \* \* \* \*

14 (e) Implementation.

15 (1) Application. An application to participate in the HOME-SF Program shall be  
16 submitted with the first application for approval of a Housing Project and processed  
17 concurrently with all other applications required for the Housing Project. The application shall  
18 be submitted on a form prescribed by the City and shall include at least the following  
19 information:

20 (A) A full plan set, including a site plan, elevations, sections, and floor  
21 plans, showing total number of units, number of and location of HOME-SF Units; and a draft  
22 Regulatory Agreement;

23 (B) The requested development bonuses and/or zoning modifications  
24 from those listed in subsection (d).

1 (C) A list of all on-site family friendly amenities. Family friendly amenities  
2 shall include, but are not limited to, dedicated cargo bicycle parking, dedicated stroller  
3 storage, open space and yards designed for use by children.

4 (D) Documentation that the applicant has provided written notification to  
5 all existing commercial or residential tenants that the applicant intends to develop the property  
6 pursuant to this section 206.3 and has provided any existing commercial tenants with a copy  
7 of the Office of Economic and Workforce Development's Guide to Small Business Retention  
8 and Relocation Support. Any affected commercial tenants shall be given priority processing  
9 similar to the Department's Community Business Priority Processing Program, as adopted by  
10 the Planning Commission on February 12, 2015, under Resolution Number 19323, to support  
11 relocation of such business in concert with access to relevant local business support  
12 programs.

13 (2) Procedures Manual. The Planning Department and MOHCD shall amend  
14 the Procedures Manual, authorized in Section 415, to include policies and procedures for the  
15 implementation, including monitoring and enforcement, of HOME-SF Units. As an amendment  
16 to the Procedures Manual, such policies and procedures are subject to review and approval  
17 by the Planning Commission under Section 415. Amendments to the Procedures Manual shall  
18 include a requirement that project sponsors in specified areas complete a market survey of  
19 the area before marketing HOME-SF Units.

20 (3) Notice and Hearing. HOME-SF Projects shall comply with Section 306 for  
21 review and approval.

22 (4) Controls. HOME-SF Projects shall be governed by the procedures and  
23 timelines in Section 328. A HOME-SF Project shall be exempt from any other discretionary  
24 approval process by the Planning Commission, including but not limited to a conditional use  
25 authorization, unless that conditional use authorization requirement or other discretionary approval

1 process was adopted by the voters of San Francisco. If a HOME-SF Project would otherwise require a  
2 conditional use authorization due to the type of use or use size, then the Planning Commission shall  
3 make any findings or comply with any criteria required by such conditional use in its HOME-SF  
4 authorization under Section 328.

5 (5) Regulatory Agreements. Recipients of development bonuses under this  
6 Section 206.3 shall enter into a Regulatory Agreement with the City, as follows.

7 (A) The terms of the agreement shall be acceptable in form and content  
8 to the Planning Director, the Director of MOHCD, and the City Attorney. The Planning Director  
9 shall have the authority to execute such agreements.

10 (B) Following execution of the agreement by all parties, the completed  
11 Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions filed  
12 and recorded on the Housing Project.

13 (C) The approval and recordation of the Regulatory Agreement shall  
14 take place prior to the issuance of the First Construction Document. The Regulatory  
15 Agreement shall be binding to all future owners and successors in interest.

16 (D) The Regulatory Agreement shall be consistent with the guidelines of  
17 the City's Inclusionary Housing Program and shall include at a minimum the following:

18 (i) The total number of dwelling units approved for the Housing  
19 Project, including the number of HOME-SF Units or other restricted units;

20 (ii) A description of the household income group to be  
21 accommodated by the HOME-SF Units, and the standards for determining the corresponding  
22 Affordable Rent or Affordable Sales Price. If required by the Procedures Manual, the project  
23 sponsor must commit to completing a market survey of the area before marketing HOME-SF  
24 Units;

- (iii) The location, dwelling unit sizes (in square feet), and number of bedrooms of the HOME-SF Units;
- (iv) Term of use restrictions for the life of the project;
- (v) A schedule for completion and occupancy of HOME-SF Units;
- (vi) A description of any Concession, Incentive, waiver, or modification, if any, being provided by the City;
- (vii) A description of remedies for breach of the agreement (the City may identify tenants or qualified purchasers as third party beneficiaries under the agreement); and
- (viii) Other provisions to ensure implementation and compliance with this Section.

\* \* \* \*

Section 3. The Planning Code is hereby amended by revising Section 328, to read as follows:

#### **SECTION 328. HOME-SF PROJECT AUTHORIZATION**

\* \* \* \*

(g) ***Other Required Findings.*** *Pursuant to Section 206.3(e)(4), a HOME-SF Project shall be exempt from any other discretionary approval process by the Planning Commission, including but not limited to a conditional use authorization, unless that conditional use authorization requirement or other discretionary approval process was adopted by the voters of San Francisco. If a HOME-SF Project would otherwise require a conditional use authorization due to the type of use or use size, then the Planning Commission shall make any findings or comply with any criteria required by such conditional use requirement. ~~If a HOME-SF Project otherwise requires a conditional use~~*

1 ~~authorization due only to (1) a specific land use, (2) use size limit, or (3) requirement adopted by the~~  
2 ~~voters, then the Planning Commission shall make all findings and consider all criteria required by this~~  
3 ~~Code for such use or use size as part of this HOME-SF Project Authorization.~~

4  
5 Section 4. The Planning Code is hereby amended by revising Section 350, to read as  
6 follows:

7 **SECTION 350. FEES**

8 \* \* \* \*

9 (b) **Base Fees.** The base fee to be charged and collected by the Department for each  
10 class of application, permit, filing request, activity, or service processed or performed by the  
11 Department are stated in Section 4 of Ordinance No. 149-16, available in Board of  
12 Supervisors File No. 160632 and on the website of the Board of Supervisors. The base fees  
13 stated in Section 4 of that ordinance are the fees in effect as of the date of introduction of the  
14 ordinance. If the Board of Supervisors adopts a new base fee, or modifies or deletes an existing base  
15 fee, the new or modified fee shall be included on the Planning Department Fee Schedule together with  
16 the applicable ordinance number.

17  
18 Section 5. This section is uncodified.

19 The Planning Department Fee Schedule for Affordable Housing Bonus Program  
20 Projects shall be revised to read as follows:

21 ~~(e) 100% Affordable Housing Bonus Program (Section 206).~~ This fee shall not apply to  
22 projects approved under Section 206.4 or 206.6. Projects approved under 206.6 shall comply with the  
23 Fee Schedule for Planning Department review covered under other sections of the Fee Schedule. For  
24 example, if a project seeking review under Section 206.6 needs a Conditional Use authorization, the  
25 project would pay the fee required for review of a Conditional Use authorization. The initial fee

~~amount is not to exceed 50% of the construction cost.~~ A \$120 surcharge shall be added to the fees for a conditional use or planned unit development to compensate the City for the costs of appeals to the Board of Supervisors for Analyzed State Density Bonus Projects under Planning Code Section 206.5.

Estimated Construction Cost	Initial Fee
<del>No construction cost, excluding extension of hours</del>	<del>\$1,012.00</del>
<del>No construction cost, extension of hours</del>	<del>\$724.00</del>
<del>Wireless Telecommunications Services (WTS)</del>	<del>\$5,061.00</del>
\$1.00 to \$9,999.00	\$724.00
\$10,000.00 to \$999,999.00	\$724.00 plus 0.328% of cost over \$10,000.00
\$1,000,000.00 to \$4,999,999.00	\$4,033.00 plus 0.391% of cost over \$1,000,000.00
\$5,000,000.00 to \$9,999,999.00	\$19,986.00 plus 0.328% of cost over \$5,000,000.00
\$10,000,000.00 to \$19,999,999.00	\$36,701.00 plus 0.171% of cost over \$10,000,000.00
\$20,000,000.00 or more	\$54,120.00

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

1           Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
5 additions, and Board amendment deletions in accordance with the "Note" that appears under  
6 the official title of the ordinance.

7  
8 APPROVED AS TO FORM:  
9 DENNIS J. HERRERA, City Attorney

10 By: \_\_\_\_\_  
11       AUDREY WILLIAMS PEARSON  
12       Deputy City Attorney

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