File No. 111374 Committee Item No. 3
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development **Date** February 27, 2012

Board of Supervisors Meeting **Date** _____

Cmte	Board	
☐	☐	**Motion**
☐	☐	**Resolution**
☒	☐	**Ordinance**
☒	☐	**Legislative Digest**
☐	☐	**Budget and Legislative Analyst Report**
☐	☐	**Legislative Analyst Report**
☐	☐	**Youth Commission Report**
☐	☐	**Introduction Form (for hearings)**
☒	☐	**Department/Agency Cover Letter and/or Report**
☐	☐	**MOU**
☐	☐	**Grant Information Form**
☐	☐	**Grant Budget**
☐	☐	**Subcontract Budget**
☐	☐	**Contract/Agreement**
☐	☐	**Form 126 – Ethics Commission**
☐	☐	**Award Letter**
☐	☐	**Application**
☐	☐	**Public Correspondence**

OTHER **(Use back side if additional space is needed)**

☒	☐	Planning Commission Resolution No. 18485
☒	☐	Eastern Neighborhood CAC Recommendation, dtd 1/11/12
☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	

Completed by: Alisa Miller **Date** February 24, 2012
Completed by: _____ **Date** _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

[Planning Code - Creating a New Definition of Student Housing]

Ordinance amending the San Francisco Planning Code by: 1) adding a new Section 102.36 to create a definition of Student Housing; 2) amending Section 135(d)(2) to adjust the minimum open space requirements for dwelling units that do not exceed 350 square feet, plus a bathroom; 3) amending Section 207(b)(3) to exempt Student Housing from the unit mix requirement in RTO, NCT, DTR, and Eastern Neighborhoods Mixed Used Districts; 4) amending Section 307 to permit the conversion of Student Housing into residential uses, when certain conditions are met; 5) amending Section 312 to require notice for a change of use to Group Housing; 6) amending Section 317 to prohibit the conversion of residential units into Student Housing; 7) amending Section 401 to make conforming amendments and amend the definition of Qualified Student Housing; and 7) making findings, including environmental findings and findings of consistency with the priority policies of Planning Code Section 101.1 and the General Plan.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

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

Section 1. Findings. The Board of Supervisors of the City and County of San Francisco hereby finds and determines that:

(a) The Planning Department has determined that the actions contemplated in this Ordinance are in compliance 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. 111374 and is incorporated herein by reference.

(b) On November 3, 2011, the Planning Commission, in Resolution No. 18485 approved and recommended for adoption by the Board of Supervisors this legislation and adopted findings that it is consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 111374, and is incorporated by reference herein.

(c) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this legislation will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 18485, and incorporates such reasons by reference herein.

Section 2. The San Francisco Planning Code is hereby amended by adding Section 102.36, to read as follows:

SEC. 102.36. STUDENT HOUSING.

Student Housing is a living space for students of accredited post-secondary Educational Institutions that may take the form of dwelling units, group housing, or a SRO. The use of Student Housing is permitted where the form of housing is permitted in the underlying Zoning District in which it is located. Student Housing must be owned, operated or otherwise controlled by an accredited post-secondary Educational Institution, as defined in Section 209.3(i) of this Code.

Section 3. The San Francisco Planning Code is hereby amended by amending Section 135(d)(2), to read as follows:

SEC. 135. USABLE OPEN SPACE FOR DWELLING UNITS AND GROUP HOUSING, R, NC, MIXED USE, C, AND M DISTRICTS.

(d)(2) For group housing structures, ~~and~~ SRO units, *and dwelling units that measure less than 350 square feet plus a bathroom,* the minimum amount of usable open space provided for use by each bedroom shall be 1/3 the amount required for a dwelling unit as specified in Paragraph (d)(1) above. For purposes of these calculations, the number of bedrooms on a lot shall in no case be considered to be less than one bedroom for each two beds. Where the actual number of beds exceeds an average of two beds for each bedroom, each two beds shall be considered equivalent to one bedroom.

Section 4. The San Francisco Planning Code is hereby amended by amending Section 207.6(b)(3), to read as follows:

SEC. 207.6. REQUIRED MINIMUM DWELLING UNIT MIX IN RTO, NCT, DTR, AND EASTERN NEIGHBORHOODS MIXED USE DISTRICTS.

(3) This Section does not apply to buildings for which 100 percent of the residential uses are: group housing, dwelling units which are provided at below market rates pursuant to Section 326.3(h)(2)(B) of this Code, Single Room Occupancy Units, ~~s~~Student ~~h~~Housing (as defined in Sec. ~~*315.1.38*~~ *106.36*), or housing specifically and permanently designated for seniors or persons with physical disabilities.

Section 5. The San Francisco Planning Code is hereby amended by adding Section 307(j), to read as follows:

SEC. 307. OTHER POWERS AND DUTIES OF THE ZONING ADMINISTRATOR.

(j) Conversion from Student Housing to Non-Student Residential Use. If a residential project no longer qualifies as Student Housing as defined in Planning Code Section 102.36, the Zoning Administrator may allow the conversion of the Student Housing to any permitted residential use in the

zoning district in which the Student Housing is located upon determination that the converted Student Housing has complied with any applicable Inclusionary Affordable Housing Requirements as outlined in Planning Code Section 415.3(c)(5)(C)(iii), and that all other Planning Code requirements applicable to that residential use have been met or modified through appropriate procedures.

Section 6. The San Francisco Planning Code is hereby amended by amending Section 312(c), to read as follows:

SEC. 312. PERMIT REVIEW PROCEDURES FOR ALL NC AND EASTERN NEIGHBORHOODS MIXED USE DISTRICTS.

(c) Changes of Use. In NC Districts, all building permit applications for a change of use to a bar, as defined in Section 790.22, a liquor store, as defined in Section 790.55, a walkup facility, as defined in Section 790.140, other large institutions, as defined in Section 790.50, other small institutions, as defined in Section 790.51, a full-service restaurant, as defined in Section 790.92, a large fast food restaurant, as defined in Section 790.90, a small self-service restaurant, as defined in Section 790.91, a self-service specialty food use, as defined in Section 790.93, a massage establishment, as defined in Section 790.60, an outdoor activity, as defined in Section 790.70, an adult or other entertainment use, as defined in Sections 790.36 and 790.38, ~~or~~ a fringe financial service use, as defined in Section 790.111, *or Group Housing as defined in Section 790.88(b)* shall be subject to the provisions of Subsection 312(d). In all Eastern Neighborhoods Mixed Use Districts all building permit applications for a change of use from any one land use category to another land use category shall be subject to the provisions of Subsection 312(d). In addition, any accessory massage use in the Ocean Avenue Neighborhood Commercial Transit District shall be subject to the provisions of Subsection 312(d).

For the purposes of this Subsection, "land use category" shall mean those categories used to organize the individual land uses which appear in the use tables in Article 8, immediately preceding a group of individual land uses, and include the following: residential use, institutional use, retail sales and service use, assembly, recreation and entertainment use, office use, motor vehicle services use, industrial home and business service use, or other use.

Section 7. The San Francisco Planning Code is hereby amended by amending Section 317, subsections (b)(1) and (f)(1), to read as follows:

SEC. 317. LOSS OF DWELLING UNITS THROUGH MERGER, CONVERSION, AND DEMOLITION.

(b)(1) "Conversion of Residential Unit" shall mean the removal of cooking facilities in a Residential Unit or the change of occupancy (as defined and regulated by the Building Code), or the change of use (as defined and regulated by the Planning Code), of any Residential Unit to a non-residential use. *The change of occupancy from a dwelling unit, group housing, or SRO to Student Housing is also considered a conversion of a residential unit.*

(f) Loss of Residential Units Through Conversion.

(1) Conversion of Residential Units not otherwise subject to Conditional Use authorization by this Code, shall be prohibited, unless the Planning Commission approves the building permit application at a Mandatory Discretionary Review hearing. *The conversion of residential uses to Student Housing is prohibited. For the purposes of this subsection, residential uses that have been defined as such by the time a First Certificate of Occupancy has been issued by the Department of Building Inspection for new construction shall not be converted to Student Housing.*

Section 8. The San Francisco Planning Code is hereby amended by amending the definitions of "Qualified Student Housing Project" and "Student Housing" in Section 401, to read as follows:

SEC. 401. DEFINITIONS.

"Qualified Student Housing Project" shall mean any *Student* ~~h~~*H*ousing project that contains housing for Qualified Students and which may also contain housing for persons who are enrolled students but not Qualified Students, created either through new construction or conversion of an existing building or space. *A Qualified Student Housing Project may consist of all or part of a building*.

"Student ~~h~~*H*ousing." ~~*A building where 100 percent of the residential uses are affiliated with and operated by an accredited post-secondary educational institution. Typically, student housing is for rent, not for sale. This housing shall provide lodging or both meals and lodging, by prearrangement for one week or more at a time. This definition only applies in the Eastern Neighborhoods Mixed Use Districts.*~~ *As defined in Planning Code Section 102.36.*

Section 9. Effective Date. This ordinance shall become effective 30 days from the date of passage.

Section 10. In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent parts of the Planning Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance to the "Note" that appears under the official title of this legislation. This Ordinance shall not be construed to effectuate any unintended amendments. Any additions or deletions not explicitly shown as described above, omissions, or other technical and non-substantive

differences between this Ordinance and the Planning Code that are contained in this legislation are purely accidental and shall not effectuate an amendment to the Planning Code. The Board hereby authorizes the City Attorney, in consultation with the Clerk and other affected City departments, to make those necessary adjustments to the published Planning Code, including non-substantive changes such as renumbering or relettering, to ensure that the published version of the Planning Code is consistent with the laws that this Board enacts.

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

By: _____
ANDREA RUIZ-ESQUIDE
Deputy City Attorney

FILE NO. 111374

LEGISLATIVE DIGEST

[Planning Code - Creating a New Definition of Student Housing]

Ordinance amending the San Francisco Planning Code by: 1) adding a new Section 102.36 to create a definition of Student Housing; 2) amending Section 135(d)(2) to adjust the minimum open space requirements for dwelling units that do not exceed 350 square feet, plus a bathroom; 3) amending Section 207(b)(3) to exempt Student Housing from the unit mix requirement in RTO, NCT, DTR, and Eastern Neighborhoods Mixed Used Districts; 4) amending Section 307 to permit the conversion of Student Housing into residential uses, when certain conditions are met; 5) amending Section 312 to require notice for a change of use to Group Housing; 6) amending Section 317 to prohibit the conversion of residential units into Student Housing; 7) amending Section 401 to make conforming amendments and amend the definition of Qualified Student Housing; and 7) making findings, including environmental findings and findings of consistency with the priority policies of Planning Code Section 101.1 and the General Plan.

Existing Law

While the Planning Code contains definitions for many different uses in the City, it currently does not contain a definition of student housing.

Amendments to Current Law

This Ordinance creates a new definition of Student Housing, based on occupancy and ownership or control and applicable citywide. The new Section 102.36 defines Student Housing as "a living space for students of accredited post-secondary Educational Institutions that may take the form of dwelling units, group housing, or a SRO." It establishes that "[t]he use of Student Housing is permitted where the form of housing is permitted in the underlying Zoning District in which it is located. Student Housing must be owned, operated or otherwise controlled by an accredited post-secondary Educational Institution...".

The Ordinance creates a process to allow conversions of Student Housing into other residential uses. It provides that "[i]f a residential project no longer qualifies as Student Housing," the Zoning Administrator may allow the conversion of the Student Housing to any permitted residential use in the zoning district in which the Student Housing is located, once the Zoning Administrator finds that the converted Student Housing has complied with any applicable Inclusionary Affordable Housing Requirements, and that all other Planning Code requirements applicable to that residential use have been met or modified through appropriate procedures. (See new subsection 307(j).)

On the other hand, the Ordinance prohibits conversion of residential uses into Student Housing. (See amended subsection 317(f)(1).)

The Ordinance makes other changes related to this new definition of Student Housing. It amends Section 135(d)(2), to adjust the minimum open space requirements for dwelling units that do not exceed 350 square feet, plus a bathroom; it amends Section 207(b)(3), to exempt Student Housing from the unit mix requirement in RTO, NCT, DTR and Eastern Neighborhoods Mixed Used Districts; and it amends Section 312, to require notice for a change of use to Group Housing. It also makes conforming amendments to the definition of "Qualified Student Housing" in Section 401 of the Planning Code.

Background Information

This legislation originated in the Planning Department. The Planning Commission found that the adoption of the Ordinance would encourage the production of new student housing while protecting the City's existing housing stock, by prohibiting the conversion from any form of housing to student housing, and by providing incentives for the construction of new student housing. It also found that the proposed definition of student housing acknowledges the different forms that new student housing may take, such as very small efficiency dwellings with individual kitchens and bathrooms in addition to group housing. Finally, the Commission found that the Ordinance provides incentives to construct new student housing such as an exemption from the unit mix requirements within RTO, NCT, DTR, and Eastern Neighborhood Mixed-Use districts.

SAN FRANCISCO
PLANNING DEPARTMENT

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2011 DEC 15 PM 3:20
BY

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

December 13, 2011

Ms. Angela Calvillo, Clerk
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: **Transmittal of Planning Department Case Number 2011.0206T:**
Definition of Student Housing and Associated Controls

BOS File No: 111374
Planning Commission Recommendation: ***Approval***

Dear Ms. Calvillo,

On October 27, 2011 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the initiation of a proposed Ordinance;

On November 10, 2011 the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance;

The proposed Ordinance initiated by the Planning Commission would add Section 102.36, and amend Sections 135(d)(2), 207(b)(2), 166, 307, 312, and 317 of the Planning Code (hereinafter "Code") to create a definition of "Student Housing" and to make associated amendments including but not limited to:

- Adding a new Code Section 102.36 to define Student Housing, applicable citywide;
- Amending Section 401 to delete the existing definition of Student Housing which only applies to the Eastern Neighborhood Mixed-Use Districts. This definition would be replaced with a reference to the new definition, which would apply city-wide;
- Amending Section 317 to prohibit the conversion of residential units to Student Housing;
- Amending Section 135 to adjust the open space requirements for small dwelling units that measure less than 350 square feet plus a bathroom;
- Amending Section 207.6 to exempt Student Housing from the unit mix requirements in RTO, NCT, DTR, and Eastern Neighborhood Mixed Use Districts;
- Amending Section 307 to establish a procedure for the conversion of Student Housing to any form of residential units that are not considered Student Housing,

provided that all aspects of the Planning Code have been met or appropriately modified;

- Amending Section 312 to require neighborhood notification for a change of use to Group Housing within Neighborhood Commercial districts.

The proposed changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2).

At the November 10th hearing, the Commission voted to recommend **approval** of the proposed Ordinance. Please find attached documents relating to the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

AnMarie Rodgers
Manager of Legislative Affairs

cc:
Mayor's Office, Jason Elliot
Mayor's Office, Malcolm Yeunge
Supervisor Jane Kim
Supervisor Scott Wiener
City Attorney, Andrea Ruiz-Esquide

Attachments (one copy of the following):
Planning Commission Resolution No. 18485
Planning Commission Executive Summary for Case No. 2011.0206T
Draft Ordinance (original sent via interoffice mail)

SAN FRANCISCO
PLANNING DEPARTMENT

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Resolution No. 18485

HEARING DATE: NOVEMBER 10, 2011

Date:	November 3, 2011
Case No.:	**2011.0206T**
Project Address:	**Planning Code Amendments: Student Housing**
Initiated by:	John Rahaim, Director of Planning
Staff Contact:	Sophie Hayward – (415) 558-6372 *sophie.hayward@sfgov.org*
Reviewed by:	AnMarie Rodgers, Manager, Legislative Affairs Anmarie.rodgers@sfgov.org
Recommendation:	**Recommend Approval**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO ADD A NEW SECTION 102.36 TO CREATE A DEFINITION OF STUDENT HOUSING, TO AMEND SECTION 135(D)(2) TO ADJUST THE MINIMUM OPEN SPACE REQUIREMENTS FOR DWELLING UNITS THAT DO NOT EXCEED 350 SQUARE FEET PLUS A BATHROOM, TO AMEND SECTION 207(B)(3) TO EXEMPT STUDENT HOUSING FORM THE UNIT MIX REQUIREMENT IN RTO, NCT, DTR, AND EASTERN NEIGHBORHOOD MIXED-USE DISTRICTS, TO AMEND SECTION 307 TO PERMIT THE CONVERSION OF STUDENT HOUSING TO RESIDENTIAL USES THAT DO NOT QUALIFY AS STUDENT HOUSING, TO AMEND SECTION 312 TO REQUIRE NOTICE FOR A CHANGE OF USE TO GROUP HOUSING IN NC DISTRICTS, TO AMEND SECTION 317 TO PROHIBIT THE CONVERSION OF RESIDENTIAL USES TO STUDENT HOUSING, AND TO AMEND SECTION 401 TO MAKE CONFORMING AMENDMENTS AND TO MODIFY THE DEFINITION OF QUALIFIED STUDENT HOUSING.

PREAMBLE

WHEREAS, the existing Code does not include a clear definition of Student Housing based on occupancy and ownership or control that is applicable citywide; and

WHEREAS, the Code sections controlling loss of dwelling units do not specifically address the conversion from housing to Student Housing; and

WHEREAS, the Code does not provide a clear process for converting Student Housing to housing; and

WHEREAS, the open space requirements for dwelling units that are smaller than 350 square feet plus a bathroom may be greater than the actual need; and

WHEREAS, the dwelling unit mix requirement within the RTO, NCT, DTR, and Eastern Neighborhood Mixed-Use Districts may not facilitate the production of new Student Housing; and

WHEREAS, no neighborhood notification is currently required for the addition of new Group Housing within the NC Districts, which appears to be inconsistent with other noticing requirements within the NC Districts; and

WHEREAS, the proposed legislation is intended to resolve the aforementioned issues; and

Whereas, on November 10, 2011, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, pursuant to Planning Code Section 306.3 the Planning Commission adopted Resolution No. 18477 initiating amendments to the Planning Code on October 27, 2011; and

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties; and

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

Whereas, the pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the Commission has reviewed the proposed Ordinance.

MOVED, that the Commission hereby ***adopts*** this Resolution to recommend approval of the draft Ordinance to the Board of Supervisors, with additional modifications to Planning Code Section 317, as recommended by Staff at the public hearing; and

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 Ordinance will encourage the production of new student housing while protecting the City's existing housing stock by prohibiting the conversion from any form of housing to student housing, and by providing incentives for the construction of new student housing;

2. The new definition of student housing acknowledges the different forms that new student housing may take, such as very small efficiency dwellings with individual kitchens and bathrooms in addition to group housing;

3. The Ordinance provides incentives to construct new student housing such as an exemption from the unit mix requirements within RTO, NCT, DTR, and Eastern Neighborhood Mixed-Use

districts, a reduction in the open space requirements for very small dwelling units, and a streamlined process by which student housing may be converted to standard housing.

4. The proposed modification to Planning Code Section 3179(f)(1) clarifies when residential uses are defined by adding the sentence: *For the purposes of this subsection, residential uses that have been defined as such by the time a First Certificate of Occupancy has been issued by the Department of Building Inspection for new construction shall not be converted to Student Housing.*

5. **General Plan Compliance.** This Resolution is consistent with the following Objectives and Policies of the General Plan:

I. HOUSING ELEMENT

OBJECTIVE 1
TO PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT DEMAND.

POLICY 1.1
Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

POLICY 1.9
Require new commercial developments and higher educational institutions to meet the housing demand they generate, particularly the need for affordable housing for lower income workers and students.

POLICY 1.10
Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

The proposed Ordinance recognizes the need for new student housing, and is intended to encourage the production of new student housing while protecting the City's existing housing stock. The proposed Ordinance will provide incentives for providing new student housing in transit-rich neighborhoods such as RTO, NCT, DTR, and Eastern Neighborhoods Mixed-Use Districts. In addition, the proposed Ordinance recognizes that the City's existing housing stock, particularly forms such as Group Housing and SROs that often provide housing for low-income residents, need protection from conversion to student housing.

OBJECTIVE 2
RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

POLICY 2.2
Retain existing housing by controlling the merger of residential units, except where a merger clearly creates new family housing.

The proposed Ordinance would protect the existing housing stock from conversion from standard housing to student housing.

6. This Resolution is consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

   A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced.

   B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

   C) The City's supply of affordable housing will be preserved and enhanced.

   D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking.

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

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

   G) That landmark and historic buildings will be preserved.

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

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on November 10, 2011.

Linda Avery
Commission Secretary

AYES: Commissioners Borden, Fong, Miguel, Moore, Sugaya

NAYS: Commissioner Antonini

ABSENT: Commissioner Olague

ADOPTED: November 10, 2011

SAN FRANCISCO
PLANNING DEPARTMENT

Executive Summary
Proposed Planning Code Amendments: Student Housing

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

HEARING DATE: NOVEMBER 10, 2011

Date:	November 3, 2011
Case No.:	**2011.0206T**
Project Address:	**Planning Code Amendments: Student Housing**
Initiated by:	John Rahaim, Director of Planning
Staff Contact:	Sophie Hayward – (415) 558-6372 *sophie.hayward@sfgov.org*
Reviewed by:	AnMarie Rodgers, Manager, Legislative Affairs Anmarie.rodgers@sfgov.org
Recommendation:	**Approval**

PLANNING CODE AMENDMENT

On October 27, 2011 the Commission initiated amendments to the Planning Code controls for Student Housing. At that hearing and pursuant to Planning Code Section 306.3, the Planning Commission authorized the Department to prepare for a hearing to consider the Planning Code amendments contained in the draft Ordinance.

The proposed Ordinance would amend the Planning Code (herein after "Code") to achieve the following: 1) encourage the production of new Student Housing; 2) protect the existing housing stock; 3) create a definition of Student Housing that may be used throughout the Planning Code; and 4) make additional modifications to the Planning Code for consistency and clarity.

The proposed Code amendment creates a definition of Student Housing that is based on occupancy and ownership and/or control. With the adoption of the proposed Ordinance, Student Housing would take the form of dwelling units (as defined in Code Section 102.6), Group Housing (as defined in Code Section 209.2), or Single Room Occupancy (SRO) units (as defined in Code Section 890.88), and must be owned, operated, or otherwise controlled by an accredited post-secondary Educational Institution. Additional Code changes have been included in the proposed Ordinance in order to encourage the production of new Student Housing while protecting San Francisco's existing housing stock.

The proposed substantive Code amendments include:

- Adding a new Code Section 102.36 to define Student Housing, applicable citywide.
- Amending Section 401 to delete the existing definition of Student Housing which only applies to the Eastern Neighborhood Mixed-Use Districts. This definition would be replaced with a reference to the new definition, which would apply city-wide;
- Amending Section 317 to prohibit the conversion of residential units to Student Housing;
- Amending Section 135 to adjust the open space requirements for small dwelling units that measure less than 350 square feet plus a bathroom;

- Amending Section 207.6 to exempt Student Housing from the unit mix requirements in RTO, NCT, DTR, and Eastern Neighborhood Mixed Use Districts;
- Amending Section 307 to establish a procedure for the conversion of Student Housing to any form of residential units that are not considered Student Housing, provided that all aspects of the Planning Code have been met or appropriately modified;
- Amending Section 312 to require neighborhood notification for a change of use to Group Housing within Neighborhood Commercial districts.

The Way It Is Now:

The proposed Ordinance amends five existing Sections of the Planning Code (hereafter referred to as "Code"). Below is a concise summary of the pertinent components of the Sections proposed for amendment.

- There currently exist two relevant definitions in the Code:
  - **Student Housing in Eastern Neighborhood Mixed-Use Districts.** This definition, located in Planning Code Section 401, identifies Student Housing as a "building where 100 percent of the residential uses are affiliated with and operated by an accredited post-secondary educational institution. Typically, Student Housing is for rent, not for sale. This housing shall provide lodging or both meals and lodging, by prearrangement for one week or more at a time. This definition only applies in the Eastern Neighborhoods Mixed Use Districts." This definition only applies to a limited area of the City's zoning districts, and does not apply citywide.
  - **Qualified Student Housing.** This definition, also located in Planning Code Section 401, defines Qualified Student Housing as, "housing or Group Housing (measured either by units or beds) or accessory living space within a non-residential space, either owned by a Qualified Educational Institution or controlled by a Qualified Educational Institution through a long-term master lease for a period of at least 20 years in which at least thirty percent (30%) of such beds are occupied by Qualified Students. The Qualified Student Housing may be on the site of the Institution or at another location in the City and County of San Francisco." This definition relates to income level of the occupants and the ownership of the housing for the purposes of an exemption from the inclusionary housing fee, but does not define the form of Student Housing or where is it is permitted.
- Code Section 317, which addresses the loss of dwelling units through demolition, merger, or conversion, does not specifically address the loss of residential dwellings through the conversion from housing to Student Housing.
- Code Section 135 outlines the requirements for usable open space for dwelling units and Group Housing. Section 135(d)(2) identifies a reduced requirement for usable open space for use by each bedroom in both Group Housing and SRO units, which is one-third that of required for a dwelling unit.
- Code Section 207.6 defines minimum dwelling unit mixes in certain zoning districts, in order to ensure an adequate supply of family sized units, which include at least two bedrooms. Section 207.6(b)(3) does not apply to buildings for which 100 percent of the uses are Group Housing, dwelling units which are provided at below market rates, Single Room Occupancy Units, or

Student Housing pursuant to the existing definition located in Section 401 (which applies only to mixed-use districts within the Eastern Neighborhoods.

- Code Section 312(c) defines the circumstances in Neighborhood Commercial (NC) districts in which changes of use require neighborhood notification. Currently, a change of use to Group Housing from any other use does not trigger neighborhood notice.

The Way It Would Be:

The proposed Ordinance would amend the following Sections within the Code:

- New Code Section 102.36 would create a citywide land-use definition of Student Housing. This new definition would reflect the variety of Student Housing types that are anticipated. The definition would be based on the occupancy as well as the ownership or control of the space. Student Housing would take the form of a dwelling unit, Group Housing, or an SRO that is occupied by students of an accredited post-secondary educational institution. In addition, the housing must be owned or otherwise controlled by the educational institution.
- Conversions from any existing form of housing to Student Housing would be prohibited with proposed amendments to Code Section 317.
- Conversions from Student Housing to any form of residential use permitted in the underlying zoning district would be approvable by the Zoning Administrator, provided that all Planning Code Requirements have been met or appropriately modified. This is reflected in the proposed addition of Code Section 307(j).
- Student Housing would be exempt, as are Group Housing, SROs, and dwellings offered at Below Market Rate, from the unit mix requirement within RTO, NCT, DTR, and Eastern Neighborhood Mixed-Use Districts. If at any point the housing no longer qualifies as Student Housing (as would be defined in new Section 102.36), the exemption from the unit mix requirement would no longer be applicable, and modifications to the unit mix may be required. This is reflected in the proposed amendment to Section 207.7(B)(3).
- Dwelling units that are less than 350 square feet plus a bathroom – including those that are considered Student Housing – would have the same reduced open space requirement (one-third that of dwelling units) as Group Housing and SROs, with the proposed amendment to Section 135(d)(2).
- A change of use to Group Housing within an NC district would require neighborhood notification pursuant to Section 312.
- Qualified Student Housing, as defined in Planning Code Section 401, may consist of all or part of a building, with the proposed modification to the definitions in Section 401.

REQUIRED COMMISSION ACTIONS

The proposed Ordinance is before the Commission so that it may approve or disapprove the proposed Planning Code Amendments.

RECOMMENDATION

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

BASIS FOR RECOMMENDATION

In December, 2010, Ordinance Number 321-10 was passed providing an Affordable Housing Program exemption for Qualified Student Housing.[1] When the Planning Commission considered this Ordinance, introduced by Supervisor Dufty, it recognized both the need for additional Student Housing and for protections for existing forms of housing from conversion to Student Housing. The Commission directed Department Staff to further consider these issues. The proposed Ordinance is the result of the Department's work with stake holders that include other City departments, community groups, developers, and elected officials.

The goal of the proposed Ordinance is to encourage the production of new Student Housing while protecting the City's existing housing stock. Of primary concern is to prohibit the conversion from any form of housing to Student Housing. The Department also prepared for a future potential in the event that approved Student Housing units would seek to convert to standard housing. The recommended process would allow this conversion provided that the requirements for standard housing have been met. These requirements include applicable open space standards, unit mix requirements, as well as affordable housing requirements.

New Varieties in the Form of Student Housing
The new definition of Student Housing is intended to acknowledge the different forms that new Student Housing may take. Educational institutions and investors alike are reporting changes in the form of today's Student Housing. Gone are the days of only traditional dormitory housing. Today's students benefit from a variety of forms of Student Housing, such as very small efficiency dwellings with individual kitchens and bathrooms in addition to Group Housing models.

Preserving the Existing Housing Stock
The Department is recommending that conversions from any form of housing to Student Housing be prohibited. This prohibition is intended as a clear protection for the City's existing housing stock, including Group Housing and SROs that often provide housing for low income residents. The Department is also recommending several specific incentives to encourage the production of new Student Housing through new construction that more than offset the prohibition to convert housing to Student Housing.

Encouraging the Production of New Student Housing
Incentives to construct new Student Housing include an exemption from the unit mix requirements within RTO, NCT, DTR, and Eastern Neighborhood Mixed-Use districts. These neighborhoods are transit rich, and can support small units intended to house students who may attend any of the area educational institutions. In addition, the Department recommends that the open space requirements for very small dwelling units – less than 350 square feet plus a bathroom – be reduced to 1/3 the basic requirement of

[1] Ordinance No. 321-10 (Board File 101095) amends Section 415 of the Code to provide an exemption from Inclusionary Housing fees for "Qualified Student Housing," which is defined as housing that is owned or controlled through a long-term lease in which a minimum of 30% of beds are occupied by students who are eligible to receive need-based financial aid, including but not limited to Pell Grants, Perkins Loans, Stafford Subsidized Loans, or other grants or loans.

dwelling units, which is consistent with the way that open space for Group Housing and SROs is provided.

Finally, the Department has outlined a streamlined process by which Student Housing may be converted to housing through review by the Zoning Administrator. Conversions from Student Housing to housing may be approved provided that all Code requirements for the underlying district are met or modified through appropriately modified through the Variance process.

The proposal for a new definition of Student Housing, with the associated amendments, described above complements the existing incentive that exempts "Qualified Student Housing" from Inclusionary Housing requirements. The existing exemption sets a fairly low bar for housing to be considered "Qualified Student Housing," such that almost any student can be considered a "Qualified Student." In order to avoid paying the Inclusionary Housing fees, 30 percent of the students in the housing need only qualify for any loan or grant, including (but not limited to) Pell Grants, Stafford Subsidized Loans, or Perkins Loans. Almost any Student Housing may qualify for the exemption from inclusionary housing fees. It is important to note that the proposed Ordinance provides incentives such as reduced open space requirements and an exemption from the unit mix requirements in specific areas that are in addition to the existing exemption from paying inclusionary housing fees. For this reason, the Department does not feel that there exists sufficient reason to also allow additional square footage above that permitted by the base floor area ratio limits in the C-3 districts, as has been suggested by members of the Housing Action Coaltion (HAC), in their June 10, 2011 memo (attached).

Adding New Noticing Procedures

The proposed change to the neighborhood notification process is intended correct an inconsistency in the Code. Currently, while the addition of a dwelling unit within an NC District would require neighborhood notification, the addition of, or conversion to, Group Housing would not. This inconsistency is addressed in the proposed Ordinance, and would apply to Student Housing as well as any form of Group Housing.

In sum, the Department feels that the proposed Ordinance provides additional incentives to create new Student Housing, particularly in transit-rich neighborhoods such as the RTO, NCT, DTR, and Eastern Neighborhoods Mixed-Use Districts. While these incentives are important and the need for new Student Housing is real, the Department also feels that the proposed Ordinance adds needed protection for the existing housing stock, particularly for types such as Group Housing and SROs that often provide housing for low-income residents.

ENVIRONMENTAL REVIEW

The proposal to amend the Planning Code would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

PUBLIC COMMENT

As of the date of this report, the Planning Department has two letters from the Housing Action Coalition (HAC) regarding this legislation. The letters are attached.

RECOMMENDATION:	Recommendation of Approval

Exhibit A: Draft Planning Commission Resolution: Recommending Approval of Amendments to the Planning Code

Exhibit B: Draft Ordinance Adding a Definition for Student Housing and Associated Amendments

Exhibit C: Two memos from the Housing Action Coaltion (HAC), dated March 23, 2011 and June 10, 2011

File 111374
BOS-11, CU clerk(AM)

SAN FRANCISCO
PLANNING DEPARTMENT

MEMO

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2012 JAN 12 PM 3: 05
BY AK

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

DATE: January 11, 2012

TO: Honorable Members of the Board of Supervisors

THROUGH: Clerk of the Board

FROM: Mat Snyder
Eastern Neighborhood Community Advisory Committee (EN CAC) Staff Planner

RE: Student Housing Trailing Legislation
Planning Case No. 2011.0206T
Board File No. 111-374

At their January 9, 2012 meeting, the EN CAC passed a motion supporting a proposal to remove the Conditional Use (CU) requirement from student housing projects in the Eastern Neighborhoods.

As you know, the Board of Supervisors passed legislation last year that established "student housing' as a sub-type of use throughout the City and eliminating the Below Market Rate (BMR) requirement, and family-sized unit requirements for such uses. Trailing legislation addressing student housing definitions, among other things, was recently approved by the Planning Commission and forwarded to the Board of Supervisors for action.

As part of the EN Zoning and General Plan legislation adopted in January 2009, CU was required for student housing. However, the CU requirement was established to largely address inappropriate conversions of other uses to student housing. The student housing legislation passed this past year was to encourage the development of new student housing and a means to address shortage of affordable student housing. Because the EN controls had been recently established, staff did not recommend changing the CU requirement in the EN.

In anticipation of trailing student housing legislation to be heard at the Land Use Committee, the Housing Action Coalition (HAC) made a presentation to the EN CAC advocating the removal of the CU requirement in the EN.

At the conclusion of the presentation, the EN CAC made the following motion:

Motion: Based on the policy discussion at the January 9, 2012 EN CAC meeting, support the removal of the CU requirement for student housing in Eastern Neighborhood Mixed Use Districts except for the for the SP (South Park) District.

1st: Goldstein 2nd: Gillett

Ayes: Block, Doumani, Goldstein, Grande, Gillett, Huie, Ongoco, Scully, Shen, Sofis

Nos: [none]

Please let me know if you have any questions regarding this Motion or the CAC's discussion.

cc:

Chris Block, EN CAC Chair, via e-mail
Kate Sofis, EN CAC Vice-Chair, via e-mail
AnMarie Rodgers, Manager of Legislative Affairs, via e-mail
Sophie Hayward, Planner, via e-mail

I:\Implementation Group\CACs\EN CAC\2011 Meetings\Meeting 2011#10 - 11-21-2011\EN CAC - BOS Memo re Legitimization.doc