File No. 120352 Committee Item No. 5
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Board of Supervisors Meeting **Date** _____

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Completed by: Alisa Miller **Date** July 27, 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 - Housing Preservation and Production]

Ordinance amending the San Francisco Planning Code by: 1) adding Article 5 to implement San Francisco's housing preservation and production policies and goals; and 2) making environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

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) Environmental Findings. The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 120352 and is incorporated herein by reference.

(b) Section 302 Findings. Pursuant to Planning Code Section 302, the Board finds that the proposed ordinance will serve the public necessity, convenience and welfare for the reasons set forth in Planning Commission Resolution No. 18654, which reasons are incorporated herein by reference as though fully set forth. A copy of Planning Commission Resolution No. 18654 is on file with the Board of Supervisors in File No. 120352.

(c) General Plan and Planning Code Section 101.1 Findings. At a duly noticed public hearing held on June 28, 2012, the Planning Commission in Resolution No.

1 190656 found that the proposed Planning Code amendments contained in this
2 ordinance were consistent with the San Francisco General Plan and with Planning Code
3 Section 101.1(b). The Board finds that the proposed Planning Code amendments contained in
4 this ordinance are consistent with the San Francisco General Plan and with Planning Code
5 Section 101.1(b) for the reasons set forth in said Resolution.
6
7 Section 2. The San Francisco Planning Code is hereby amended by adding Article 5, to
8 read as follows:
9 ***ARTICLE 5***
10 ***HOUSING PRESERVATION AND PRODUCTION***
11 ***SEC. 501. Findings.***
12 *A. In Section 65580 of the California Government Code, the State Legislature declared that:*
13 *(1) the availability of decent housing and a suitable living environment for every Californian is of vital*
14 *statewide importance and a priority of the highest order, (2) attainment of the State's housing goal*
15 *requires the cooperative participation of government and the private sector to expand housing*
16 *opportunities and accommodate housing needs at all economic levels, (3) the provision of housing*
17 *affordable to low- and moderate-income households requires the cooperation of all levels of*
18 *government, (4) local and state governments have a responsibility to use the powers vested in them to*
19 *facilitate the improvement and development of housing to make adequate provision for the housing*
20 *needs of all economic segments of the community, (5) in carrying out this responsibility, each local*
21 *government also has the responsibility to consider, among other things, community goals set forth in*
22 *the general plan, and (6) each local government has a responsibility to cooperate with the state in*
23 *addressing regional housing needs.*
24 *B. The State of California has enacted several laws to implement the State's housing goals.*
25 *Among these is a requirement that a local jurisdiction have a Housing Element as part of its General*

Plan that, among other things, contains an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing that meets the existing and projected needs of all economic segments of the community. (Gov. Code Section 65583 et seq.)

C. Pursuant to Government Code Section 65584, the Association of Bay Area Governments (ABAG), in coordination with the California State Department of Housing and Community Development (HCD), determines the Bay Area's regional housing need based on regional trends, projected job growth, and existing needs. ABAG has calculated San Francisco's fair share of the regional housing need for January 2007 through 2014 – the implementation period for the current Housing Element -- as 31,190 units, or about 4,160 units per year.

D. The regional housing needs assessment (RHNA) determination includes production targets addressing housing needs of a range of household income categories. ABAG has projected that at least 39% of new housing demands will be from low and very low income households (households earning under 80% of area median income), and another 22% should be affordable to households of moderate means (earning between 80% and 120% of area median income). Market-rate housing is considered housing that is generally available to households making at or above 120% of median income. Because the median income in San Francisco is lower than the regional median income, the Mayor's Office of Housing publishes a local AMI standard.

E. In 1996, San Francisco enacted a Jobs-Housing Linkage Program in an effort to increase the amount of affordable housing being built in the City. In 2002, San Francisco enacted an inclusionary housing ordinance in a further attempt to increase the supply of affordable housing. Nonetheless, although over 4,920 new affordable housing units were added to the City's housing stock between 2000 and 2008, the City did not meet its fair share of the regional housing needs production targets, especially for low and moderate income housing.

F. Housing affordability continues to be a major concern as San Francisco has one of the least affordable housing markets in the nation. Under the heading "Why is Housing an Issue," Part II: Objectives & Policies of the Housing Element's introduction says:

"Based on the growing population, and smart growth goals of providing housing in central areas like San Francisco, near jobs and transit, the State Department of Housing and Community Development (HCD), with the Association of Bay Area Governments (ABAG), estimates that San Francisco must plan for the capacity for roughly 31,000 new units, 60% of which should be suitable for housing for the extremely low, very low, low and moderate income households, in the 2007-2014 Housing Element period to meet its share of the region's projected housing demand."

Objective 1 of the San Francisco Housing Element states that the City should "identify and make available for development adequate sites to meet the City's housing needs, especially permanently affordable housing." Objective 7 states that San Francisco's projected affordable housing needs far outpace the capacity for the City to secure subsidies for new affordable units. Therefore, the City needs to look for creative ways to facilitate affordable housing development.

G. San Francisco has an older housing stock, with 75% of all units over 50 years old. This is the largest concentration of older housing stock in California. Most of this older housing stock is in sound condition. The Housing Element recognizes that this existing housing is an important cultural and housing asset and that conserving and improving it is critical to San Francisco's long-term housing strategy. Existing housing is the greatest stock of rental and financially accessible residential units, and conserving it reduces the need for resources to build new housing. In 2008, a Planning Commission policy requiring a public hearing prior to the approval of any permit that would remove existing housing through merger, demolition, or conversion was enacted into law.

H. In January 2012, the San Francisco Budget and Legislative Analyst published a Performance Audit of San Francisco's Affordable Housing Policies and Programs, which was prepared at the request of the Board of Supervisors. Table 1 of the Performance Audit shows that between 1999

and 2006, San Francisco met 153.4% of its production goal for market-rate housing, 82.8% of its goal for very low income housing, 52.4% of its goal for low income housing, and 12.9% of its goal for moderate income housing. In Table 2 of the Performance Audit, San Francisco's housing production goals for 2007-2014 are: 10.6% of all new housing for extremely low income households, 10.6% for very low income households, 17.7% for low income households, 21.7% for moderate income households, and 39.5% for market rate housing.

I. Among other things, the Performance Audit concluded that the Planning Commission does not receive a sufficiently comprehensive evaluation of the City's achievement of its housing goals and that the Board of Supervisors does not receive consistent information on the overall impact of the City's housing policies on the development of affordable housing in San Francisco. Among other things, the Budget and Legislative Analyst recommended that: (1) Planning Department staff reports to the Planning Commission include data on the expected unit type and income level of any proposed projects or area plans under review, including how such units would address the City's fair share of the Regional Housing Need, (2) the Planning Department resume providing the Commission with a Quarterly Housing Production Report, and (3) the Planning Department include in the annual Housing Inventory an evaluation of (a) how residential projects entitled in the preceding calendar year contributed to the City's housing goals for each income level and to the Housing Element's policies and objectives, (b) how entitled housing projects met inclusionary housing or affordable housing fee requirements, and their expected impact on achieving the City's housing goals for each income level, (c) whether entitled housing projects advanced various Area Plan goals and objectives, and(d) the current and projected status of housing development in the City compared to the City's housing goals.

SEC. 502. Affordable Housing Requirements. *This Chapter does not intend to modify or supersede San Francisco's affordable housing requirements for certain development projects that are contained in other Article 4 of this Code:*

SEC. 503. Affordable Housing and Senior Housing Special Use Districts. This Chapter does not intend to modify or supersede the sections in Article 2 of this Code that establish affordable housing and senior housing development projects for specific properties.

SEC. 504 (formerly Section 317). **LOSS OF DWELLING UNITS THROUGH MERGER, CONVERSION, AND DEMOLITION.**

(a) **Findings.** San Francisco faces a continuing shortage of affordable housing. There is a high ratio of rental to ownership tenure among the City's residents. The General Plan recognizes that existing housing is the greatest stock of rental and financially accessible residential units, and is a resource in need of protection. Therefore, a public hearing will be held prior to approval of any permit that would remove existing housing, with certain exceptions, as described below. The Planning Commission shall develop a Code Implementation Document setting forth procedures and regulations for the implementation of this Section 317 as provided further below. The Zoning Administrator shall modify economic criteria related to property values and construction costs in the Implementation Document as warranted by changing economic conditions to meet the intent of this Section.

(b) **Definitions.** For the purposes of this Section 317, the terms below shall be defined as follows:

(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.

(2) "Demolition of Residential Buildings" shall mean any of the following:

(A) Any work on a Residential Building for which the Department of Building Inspection determines that an application for a demolition permit is required, or

(B) A major alteration of a Residential Building that proposes the Removal of more than 50% of the sum of the Front Facade and Rear Facade and also proposes the Removal of more than 65% of the sum of all exterior walls, measured in lineal feet at the foundation level, or

(C) A major alteration of a Residential Building that proposes the Removal of more than 50% of the Vertical Envelope Elements and more than 50% of the Horizontal Elements of the existing building, as measured in square feet of actual surface area.

(D) The Planning Commission may reduce the above numerical elements of the criteria in Subsections (b)(2)(B) and (b)(2)(C), by up to 20% of their values should it deem that adjustment is necessary to implement the intent of this Section 317, to conserve existing sound housing and preserve affordable housing.

(3) "Facade" shall mean an entire exterior wall assembly, including but not limited to all finishes and siding, fenestration, doors, recesses, openings, bays, parapets, sheathing and framing.

(4) "Front Facade" shall mean the portion of the Facade fronting a right-of-way, or the portion of the Facade most closely complying with that definition, as in the case of a flag lot. Where a lot has more than one frontage on rights-of-way. all suck frontages shall be considered Front Facades except where a facade meets the definition of "Rear Facade."

(5) "Horizontal Elements" shall mean all roof areas and all floor plates, except floor plates at or below grade.

(6) "Mandatory Discretionary Review" shall mean a hearing before the Planning Commission that is required by this Section 317 at which the Commission will determine whether to approve, modify or disapprove a permit application.

(7) "Merger" shall mean the combining of two or more legal Residential Units, resulting in a decrease in the number of Residential Units within a building, or the enlargement of one or more existing units while substantially reducing the size of others by more than 25% of their original floor area, even if the number of units is not reduced. The Planning Commission may reduce the numerical element of this criterion by up to 20% of its value should it deem that adjustment is necessary to implement the intent of this Section 317, to conserve existing housing and preserve affordable housing.

(8) "Rear Facade" shall mean that portion of the Facade facing the part of a lot that most closely complies with the applicable Planning Code rear yard requirements.

(9) "Removal" shall mean, with reference to a wall, roof or floor structure, its dismantling, its relocation or its alteration of the exterior function by construction of a new building element exterior to it. Where a portion of an exterior wall is removed, any remaining wall with a height less than the Building Code requirement for legal head room shall be considered demolished. Where exterior elements of a building are removed and replaced for repair or maintenance, in like materials, with no increase in the extent of the element or volume of the building, such replacement shall not be considered Removal for the purposes of this Section. The foregoing does not supersede any requirements for or restrictions on noncomplying structures and their reconstruction as governed by Article 1.7 of this Code.

(10) "Removal" shall mean, with reference to a Residential Unit, its Conversion, Demolition, or Merger.

(11) "Residential Building" shall be mean any structure containing one or more Residential Units as a principal use, regardless of any other uses present in the building.

(12) "Residential Unit" shall mean a legal conforming or non-conforming dwelling unit as defined in Planning Code Section 102.7, or a legal non-conforming Live/Work Unit as defined in Planning Code Section 102.13.

(13) "Vertical Envelope Elements" shall mean all exterior walls that provide weather and thermal barriers between the interior and exterior of the building, or that provide structural support to other elements of the building envelope.

(c) **Applicability.** Where an application for a permit that would result in the loss of one or more Residential Units is required to obtain Conditional Use authorization by other sections of this Code, the application for a replacement building or alteration permit shall also be subject to Conditional Use requirements. Any application for a permit that would result in the loss or Removal of three or more Residential Units, notwithstanding any other sections of this Code, shall require a Conditional Use authorization for the Removal and replacement of the units. Approval of any other application that would result in the loss or Removal of up to two Residential Units is prohibited unless the Planning Commission approves such permit application and the replacement structure permit application at a Mandatory Discretionary Review hearing, with certain exceptions specified below.

(d) **Loss of Residential Units Through Demolitions.**

(1) No permit to Demolish a Residential Building in any zoning district shall be issued until a building permit for the replacement structure is finally approved, unless the building is determined to pose a serious and imminent hazard as defined in the Building Code. A building permit is finally approved if the Board of Appeals has taken final action for approval on an appeal of the issuance or denial of the permit or if the permit has been issued and the time for filing an appeal with the Board of Appeal has lapsed with no appeal filed.

(2) If Conditional Use authorization is required for approval of the permit to Demolish a Residential Building by other sections of this Code, the Commission shall consider the replacement structure as part of its decision on the Conditional Use application. If Conditional Use authorization is required for the replacement structure by other sections of this Code, the Commission shall consider the demolition as part of its decision on the Conditional Use

application. In either case, Mandatory Discretionary Review is not required, although the Commission shall apply appropriate criteria adopted under this Section 317 in addition to the criteria in Section 303 of the Planning Code in its consideration of Conditional Use authorization. If neither permit application is subject to Conditional Use authorization, then separate Mandatory Discretion Review cases shall be heard to consider the permit applications for the demolition and the replacement structure.

(3) For those applications to Demolish a Residential Building in districts that require Mandatory Discretionary Review, administrative review criteria shall ensure that only applications to demolish Single-Family Residential Buildings that are demonstrably not affordable or financially accessible housing, or Residential Buildings of two units or fewer that are found to be unsound housing, are exempt from Mandatory Discretionary Review hearings. Specific numerical criteria for such analyses shall be adopted by the Planning Commission in the Code Implementation Document, in accordance with this Section 317, and shall be adjusted periodically by the Zoning Administrator based on established economic real estate and construction indicators.

(A) The Planning Commission shall determine a level of affordability or financial accessibility, such that Single-Family Residential Buildings on sites in RH-1 Districts that are demonstrably not affordable or financially accessible, that is, housing that has a value greater than at least 80% of the combined land and structure values of single-family homes in San Francisco as determined by a credible appraisal, made within six months of the application to demolish, are not subject to a Mandatory Discretionary Review hearing. The demolition and replacement building applications shall undergo notification as required by other sections of this Code. The Planning Commission, in the Code Implementation Document, may increase the numerical criterion in this subsection by up to 10% of its value should it deem that

adjustment is necessary to implement the intent of this Section 317, to conserve existing housing and preserve affordable housing.

(B) The Planning Commission, in the Code Implementation Document, shall adopt criteria and procedures for determining the soundness of a structure proposed for demolition, where "soundness" is an economic measure of the feasibility of upgrading a residence that is deficient with respect to habitability and Housing Code requirements, due to its original construction. The "soundness factor" for a structure shall be the ratio of a construction upgrade cost (i.e., an estimate of the cost to repair specific habitability deficiencies) to the replacement cost (i.e., an estimate of the current cost of building a structure the same size as the existing building proposed for demolition), expressed as a percent. A building is unsound if its soundness factor exceeds 50%. A Residential Building that is unsound may be approved for demolition.

(C) The Planning Commission shall consider the following additional criteria in the review of applications to demolish Residential Buildings:

(i) whether the property is free of a history of serious, continuing Code violations;

(ii) whether the housing has been maintained in a decent, safe, and sanitary condition;

(iii) whether the property is an "historical resource" under CEQA;

(iv) whether the removal of the resource will have a substantial adverse impact under CEQA;

(v) whether the project converts rental housing to other forms of tenure or occupancy;

(vi) whether the project removes rental units subject to the Rent Stabilization and Arbitration Ordinance;

(vii) whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;

(viii) whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;

(ix) whether the project protects the relative affordability of existing housing;

(x) whether the project increases the number of permanently affordable units as governed by Section 315;

(xi) whether the project locates in-fill housing on appropriate sites in established neighborhoods;

(xii) whether the project creates Quality, new family housing;

(xiii) whether the project creates new supportive housing;

(xiv) whether the protect promotes construction of well-designed housing to enhance existing neighborhood character;

(xv) whether the project increases the number of on-site dwelling units;

(xvi) whether the project increases the number of on-site bedrooms.

(4) Nothing in this Section is intended to permit the Demolition of Residential Buildings in those areas of the City where other sections of this Code prohibit such demolition or replacement structure.

(5) Nothing in this Section is intended to exempt buildings or sites where demolition is proposed from undergoing review with respect to Articles 10 and 11 of the Code, where the requirements of those articles apply. Notwithstanding the definition of "Demolition of Residential Buildings" in this section and as further described in the Code Implementation Document with regard to the loss of Residential Units, the criteria of Section 1005 shall apply to projects subject to review under the requirements of Article 10 with regard to the structure itself.

(e) **Loss of Residential Units Through Merger.**

(1) The Merger 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, applying criteria in subsection (2) below, or the project qualifies for administrative approval and the Planning Department approves the project administratively in accordance with subsections (3) or (4) below.

(2) The Planning Commission shall consider these criteria in the review of applications to merge Residential Units:

(i) whether removal of the unit(s) would eliminate only owner occupied housing, and if so, for how long the unit(s) proposed to be removed have been owner occupied;

(ii) whether removal of the unit(s) and the merger with another is intended for owner occupancy;

(iii) whether removal of the unit(s) will bring the building closer into conformance with the prevailing density in its immediate area and in the same zoning district;

(iv) whether removal of the unit(s) will bring the building closer into conformance with prescribed zoning;

(v) whether removal of the unit(s) is necessary to correct design or functional deficiencies that cannot be corrected through interior alterations.

(3) Administrative review criteria shall ensure that only those Residential Units proposed for Merger that are demonstrably not affordable or financially accessible housing are exempt from Mandatory Discretionary Review hearings. Applications for which the least expensive unit proposed for merger has a value greater than at least 80% of the combined land and structure values of single-family homes in San Francisco, as determined by a credible appraisal, made within six months of the application to merge, are not subject to a Mandatory Discretionary Review hearing. The Planning Commission, in the Code

Implementation Document, may increase the numerical criterion in this subsection by up to 10% of its value should it deem that adjustment is necessary to implement the intent of this Section 317, to conserve existing housing and preserve affordable housing.

(4) Projects that meet a supermajority of the merger criteria, in subsection (d)(2) above, may be approved administratively by the Planning Department, consistent with this Section 317.

(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.

(2) The Planning Commission shall consider these criteria in the review of applications for Conversation of Residential Units;

(i) whether conversion of the unit(s) would eliminate only owner occupied housing, and if so, for how long the unit(s) proposed to be removed were owner occupied;

(ii) whether conversation of the unit(s) would provide desirable new non-residential use(s) appropriate for the neighborhood and adjoining district(s);

(iii) whether conversation of the unit(s) will bring the building closer into conformance with the prevailing character of its immediate area and in the same zoning district;

(iv) whether conversion of the unit(s) will be detrimental to the City's housing stock;

(v) whether conversion of the unit(s) is necessary to eliminate design, functional, or habitability deficiencies that cannot otherwise be corrected.

(g) This Section 317 Shall Not Apply to Property:

(1) Owned by the United States or any of its agencies;

(2) Owned by the State of California or any of its agencies, with the exception of such property not used exclusively for a governmental purpose;

(3) Under the jurisdiction of the Port of San Francisco or the San Francisco Redevelopment Agency *or its successor agency* where the application of this ordinance is prohibited by State or local law; or

(4) Where demolition of the building or Removal of a Residential Unit is necessary to comply with a court order or City order that directs the owner to demolish the building or remove the unit, due to conditions that present an imminent threat to life safety.

SEC. 505. Housing Production Reports.

(a) Department Staff Reports to the Planning Commission.

(1) Beginning within 30 days after the effective date of this Article and no later than July 1, 2012, Planning Department staff reports to the Planning Commission and case reports for 311 or 312 building or site permits on a proposed residential project or area plan shall include data on the expected unit type and household income level of any such proposed project or area plan under review, including a running total of housing approved to date and how the additional units in the subject proposed project would address the City's quantified production goals in the General Plan's Housing Element. Baseline data on entitled projects for this reporting shall be updated on at least a quarterly basis, such that the staff reports and case reports will provide a "dashboard" of current progress toward the Housing Element's production targets.

(2) Planning Department staff shall provide the Planning Commission with a Quarterly Housing Production Report that contains, at a minimum, information on whether the housing production targets in the Housing Element are being met on a Citywide basis and also how the Housing Element production targets are being achieved within particular geographic areas that are covered by an area plan.

(3) The Planning Department shall publish an annual Housing Inventory that contains at a minimum:

(i) an evaluation of how residential projects entitled in the preceding calendar year contributed to the City's quantified housing goals for each household income level and to the Housing Element's policies and objectives;

(ii) how entitled housing projects met inclusionary housing requirement as on-site below-market-rate (BMR) units, off-site BMR units, or payment of an in-lieu fee, and the implications of that pattern on achieving the City's housing goals for moderate-income households;

(iii) whether entitled housing projects to date have advanced various Area Plan goals and objectives, and

(iv) the current and projected status of the overall housing entitlement and construction pipelines in the City compared to the City's quantified production goals in the General Plan's Housing Element.

SEC. 506. Annual Hearing by Planning Commission; Report to the Board. *The Planning Commission shall hold a public hearing one year from the effective date of this Chapter, and annually thereafter, to review the Department's annual Housing Inventory and other reports that have been provided to the Commission pursuant to Section 506. The Commission shall consider the information that is contained in these reports and provided at the public hearing to determine whether:*

(a) the numerical housing production goals set forth in the San Francisco Housing Element for various income levels and types of housing are on target for being met for the current Housing Element implementation period; and

(b) the mix of housing affordability types and number of units in a geographic area covered by an area plan is being met.

The Commission shall also review the policies and goals of the General Plan's Housing Element and determine whether to recommend legislation to further those policies and goals.

The Planning Department shall provide an annual report to the Board of Supervisors concerning the results of the Commission's hearing and any recommendations for legislation.

SEC. 507. Planning Commission Rules and Regulations. *The Planning Commission shall adopt rules and regulations to implement the provisions of this Chapter.*

Section 3. Effective Date. This ordinance shall become effective 30 days from the date of passage.

Section 4. This section is uncodified. 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 part of the Planning Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

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

By: Judith A. Boyajian
JUDITH A. BOYAJIAN
Deputy City Attorney

FILE NO. 120352

LEGISLATIVE DIGEST

[Planning Code - Housing Preservation and Production]

Ordinance amending the San Francisco Planning Code by: 1) adding Article 5 to implement San Francisco's housing preservation and production policies and goals; and 2) making environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

Existing Law

There are no provisions of existing law that are proposed to be amended.

Amendments to Current Law

This legislation would use Article 5 of the Planning Code, which is currently reserved, to implement the City's housing preservation and production goals. Planning Code Section 317, which deals with loss of dwelling units through merger, conversion and demolition, is moved into Article 5 and renumbered. The ordinance also implements monitoring and reporting recommendations made by the Budget and Legislative Analysis in a January 18, 2012 Performance Audit of San Francisco's Affordable Housing Policies and Programs.

Background Information

The State of California has enacted several laws to implement the State's housing goals. Among these is a requirement that a local jurisdiction have a Housing Element as part of its General Plan that, among other things, contains an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing that meets the existing and projected needs of all economic segments of the community. (Gov. Code Section 65583 et seq.) Pursuant to Government Code Section 65584, the Association of Bay Area Governments (ABAG), in coordination with the California State Department of Housing and Community Development (HCD), determines the Bay Area's regional housing need based on regional trends, projected job growth, and existing needs. These projections are incorporated into the City's Housing Element. This legislation is intended to establish a process for the City to monitor its on-going progress towards the Housing Element's housing production targets.

SAN FRANCISCO
PLANNING DEPARTMENT

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July 12, 2012

Supervisors Olague, Kim, Campos, Mar, and
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 Case Number 2012.0604T**
BF No. 12-0352: Housing Production Reports

Recommendation: **Approval with Modifications**

Dear Supervisors and Ms. Calvillo,

On June 28th, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance under Board of Supervisors File Number 12-0352.

At the June 28th Hearing, the Commission voted 6-0 to recommend approval with modifications of the proposed Ordinance which would codify Planning Department reports on Housing Production trends and how they compare with Regional Housing Needs Assessment projections.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission. The attached resolution and exhibits provides more detail about 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: City Attorneys Cheryl Adams and Judith Boyajian

Attachments (one copy of the following): Planning Commission Resolution No. 18656
Department Executive Summary
Exhibit B- Recommended modifications to the Administrative Code

SAN FRANCISCO
PLANNING DEPARTMENT

Planning Commission Resolution

HEARING DATE: JUNE 28TH , 2012

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Project Name:	**Housing Production Reports**
Case Number:	2012.0604T [Board File No. 120352]
Initiated by:	Supervisors Olague, Kim, Campos, and Mar
Introduced on:	April 10, 2012
Staff Contact:	Kimia Haddadan, 415.575.9068 kimia.haddadan@sfgov.org
Reviewed by:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415.558.6395
90-Day Deadline:	*July 16th*
Recommendation:	**Recommend Approval with Modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS PASS AN ORDINANCE WITH MODIFICATIONS THAT WOULD INITIATE AMENDMENTS TO THE SAN FRANCISCO PLANNING CODE BY 1) ADDING ARTICLE 5 TO IMPLEMENT SAN FRANCISCO'S HOUSING PRESERVATION AND PRODUCTION POLICIES AND GOALS; AND 2) MAKING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.

PREAMBLE

Whereas, on April 10, 2012 Supervisor Chiu introduced a proposed Ordinance under Board File Number 12-0352 that would amend Planning Code by 1) adding Article 5 to implement San Francisco's housing preservation and production policies and goals; and 2) making environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1; and

Whereas, since the introduction of the proposed Ordinance, the Planning Department recommended modifications to the proposed Ordinance; and

Whereas, on June 28th, 2012 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance and the proposed modification; and

Whereas, the proposed Ordinance have been found exempt from the California Environmental Quality Act per sections 15060 (c) (3) and 15378.

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 by Department staff, and other interested parties; and

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

Whereas, the Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors recommend ***approval with modifications*** of the proposed Ordinance. The Commission further moves that these future reports should also contain the specific comments listed below and adopts the attached Draft Resolution to that effect.

- MODIFICATIONS TO PROPOSED ORDINANCE. The recommended modifications include 1) codification through Administrative law that three reports would be mandated including: The Housing Production Summary Attachment, the Quarterly Housing Production Report, and the Annual Housing Inventory 2) Including the analysis on how residential projects at any stage of housing production contribute to RHNA projections in all these three reports, 3) codifying that these reports along with the Annual Housing Element Progress Report be presented at the first hearing of the Planning Commission in April of each year and sent to the Board of Supervisors; and **Exhibit B to this resolution presents the modifications to the legislation language;** and 3) allowing this Commission resolution to establish the specific contents of the reports as listed below.
    - CONTENT OF FUTURE REPORTS. The Housing Production Summary be provided for both private development projects and area plans under Commission review as presented in Exhibit A.
    - The Quarterly Housing Production Report should contain a geographic presentation of all projects entitled, permitted, and completed with an overlay of the Area Plans. Map graphics would better visualize where projects are being proposed or built relative to the Area Plans.
    - Housing Element Progress Report should continue analyzing how the housing production trend has met the RHNA projections. Planning Department staff should also analyze both inclusionary housing and below market rate housing production trends as part of this report.

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 California state law has declared availability of decent housing for every Californian a vital statewide importance and priority. This law has vested power in local and state governments to facilitate the improvement and development of housing to accommodate meeting the housing needs of all economic segments of the community. In order to achieve this goal, the state law has mandated that local jurisdictions adopt a Housing Element as a part of their General Plans. In addition to providing goals and policies for enhancing housing production and preservation, the Housing Element should identify and analyze the existing and projected housing needs of the locality. The California Department of Housing and Community Development (HCD) determine the total housing need for a region, and the Association of Bay Area Governments distributes this need to local governments, through the Regional Housing Need Allocation (RHNA) process. RHNA projects the number of units across four household income segments that each locality should accommodate in order to fulfill the projected housing needs.

2. RHNA projections focus on *planning* for housing rather than *producing* housing. The private market forces drive housing production; while local governments can exert influence on how and where development occurs, they cannot control these market forces and decisions about if housing actually gets built. Additionally, RHNA numbers are usually high compared to the market's capacity and therefore, given market constraints, RHNA goals cannot be completely fulfilled. Based on these concerns, RHNA projections do not always mirror realistic housing production targets in localities. They only represent estimates of housing needs at each income level.

3. Section 10.E in the Administrative Code regulates the Department's Area Plan Monitoring reports. In order to maintain consistency of the content of the entirety of San Francisco City Code, staff proposes to include the new law in the Administrative Code, where similar regulations regarding Planning Department reports exist.

4. The new Housing Production Summary attachment represents the Department's ongoing effort to provide Commissioners and the public with more information. This attachment is also as part of the implementation of the 2009 Housing Element. The Housing Production Summary report would serve only as information for the Commission and would not be a basis for recommendation for projects.

5. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

   OBJECTIVE 1
   Identify and make available for development adequate sites to meet the City's housing needs, especially permanently affordable housing.

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

San Franciscans are a diverse population, with a diverse set of housing needs. Future housing policy and planning efforts must take into account the diverse needs for housing. The RHNA projections indicate housing goals for various income levels, these provide basic planning goals for housing affordability. San Francisco's housing policies and programs should provide strategies that promote housing at each income level, and furthermore identify sub-groups, such as middle income and extremely low income households that require specific housing policy. In addition to planning for affordability, the City should plan for housing that serves a variety of household types and sizes.

The proposed Ordinance would help advance this policy by providing consistent information for the public and before the Planning Commission regarding how the current housing production trends contribute towards RHNA projections. The mandated frequent and consistent reporting would help Department's analysis at the end of each Housing Element statutory period.

6. The proposed replacement project is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

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

   The proposed Ordinance will have no adverse impact on the neighborhood-serving retail uses.

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

   The proposed Ordinance will have no adverse effect on existing housing and neighborhood character.

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

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

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

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

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

The proposed Ordinance will not result in displacement of industrial or service sectors.

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

The proposed Ordinance would not affect the preparedness against injury and loss of life in an earthquake.

G) That landmark and historic buildings will be preserved:

The proposed Ordinance would not adversely affect landmark and historic buildings.

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

The proposed Ordinance would not adversely affect parks and open spaces in terms their access to sunlight and vistas.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on June28, 2012.

Linda Avery
Commission Secretary

AYES: Commissioners Fong, Wu, Antonini, Borden, Miguel, Moore, and Sugaya

NAYS: None

ABSENT: None

ADOPTED: 6/28/2012

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Housing Production Summary Report

2007 TO PRESENT

State law requires each city and county to adopt a Housing Element as a part of its general plan. The State Department of Housing and Community Development (HCD) determines a Regional Housing Need (RHNA) that the Housing Element must address. The need is the minimum number of housing units that a region must plan for in each RHNA period.

This table represents completed units and development projects in the current residential pipeline. The total number of entitled units is tracked by the San Francisco Planning Department and is updated quarterly in coordination with the *Pipeline Report.* Subsidized housing units, including moderate and low income units, are tracked by the Mayor's Office of Housing, and are also updated quarterly.

Household Income Category	2007-2014 RHNA Production Targets	HOUSING PRODUCTION SUMMARY				TOTALS	TOTALS as % of RHNA Targets
		Completed, 2007 to 2011 and Q1 2012	Under Construction, as of Q1 2012	Building Permits Issued, as of Q1 2012	Entitled by Planning* as of Q1 2012		
Very Low (< 50% AMI)†	6,589	2,836	661	170	771	4,438	67.4%
Low (50-79% AMI)	5,535	736	124	-	105	965	17.4%
Moderate (80-120% AMI)	6,754	957	187	197	361	1,702	25.2%
Above Moderate (over 120% AMI)	12,315	8,029	3,136	1,085	4,741	16,991	138.0%
TOTALS	**31,193**	**12,558**	4,108	1,452	5,978	24,096	77.2%

**This total does not include entitled major development projects such as Candlestick Hunters' Point, Treasure Island, and ParkMerced. While entitled, these projects are not expected to be completed within the current RHNA reporting period (2007 through June 2014).*

Exhibit B- Planning Department's Recommended Modifications to the Administrative Code

Note: The Department recommends adding a new Section 10E.4 and modifying the title chapter of 10E.

All additions are shown in *italic, underline font.*

Deletions are shown in ~~*strikethrough italic font.*~~

CHAPTER 10E: ~~*NEIGHBORHOOD AREA PLAN*~~ *PLANNING* MONITORING

10E.4 Housing Production Reports and Hearings.

(a) Findings.

A. In Section 65580 of the California Government Code, the State Legislature declared that: 1) the availability of decent housing and a suitable living environment for every Californian is of vital statewide importance and a priority of the highest order, (2) *attainment of the State's housing goal requires the cooperative participation of government and the private sector to expand housing opportunities and accommodate housing needs at all economic levels,* (3) *the provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of government,* (4) *local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community,* (5) *in carrying out this responsibility, each local government also has the responsibility to consider, among other things, community goals set forth in the general plan, and* (6) *each local government has a responsibility to cooperate with the state in addressing regional housing needs.*

B. The State of California has enacted several laws to implement the State's housing goals. Among these is a requirement that a local jurisdiction have a Housing Element as part of its General Plan that, among other things, contains an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and schedule programs for the preservation, improvement, and development of housing that meets the existing projected needs of all economic segments of the community. (Gov. Code Section 65583 *et seq.)*

C. Pursuant to Government Code Section 65584, the Association of Bay Area Governments

(ABAG), in coordination with the California State Department of Housing and Community Development (HCD), determines the Bay Area's regional housing need based on regional trends, projected job growth, and existing needs. ABAG calculates San Francisco's fair share of the regional housing need for each statutory period of the Housing Element. The regional housing needs assessment (RHNA) determination includes production targets addressing housing needs of a range of household income categories. Because the median income in San Francisco is lower than the regional median income, the Mayor's Office of Housing publishes a local AMI standard.

D. *In* 1996, *San Francisco enacted a Jobs-Housing Linkage Program in an effort to increase amount of affordable housing being built in the City. In 2002, San Francisco enacted an inclusionary housing ordinance in a further attempt to increase the supply of affordable housing. Housing affordability continues to be a major concern as San Francisco has one of the least affordable housing markets in the nation.*

E. *In January 2012, the San Francisco Budget and Legislative Analyst published a Performance Audit of San Francisco's Affordable Housing Policies and Programs, which was prepared at the request of the Board of Supervisors. Table 1 of the Performance Audit shows that between 1999and 2006, San Francisco met 153.4% of its production goal for market-rate housing, 82.8% of its goal for very low income housing, 52.4% of its goal for low income housing, and 12.9% of its goal for moderate income housing. In Table 2 of the Performance Audit, San Francisco's housing production goals for 2007-2014 are: 10.6% of all new housing for extremely low income households, 10.6% for very low income households, 17.7% for low income households, 21.7% for moderate income households, and 39.5% for market rate housing.*

F. *Among other things, the Performance Audit concluded that the Planning Commission does not receive a sufficiently comprehensive evaluation of the City's achievement of its housing goals and that the Board of Supervisors does not receive consistent information on the overall impact of the City's housing policies on the development of affordable housing in San Francisco.*

(b) Planning Department Reports to the Planning Commission.

(1) ***Housing Production Summary Attachment.*** *Beginning within 30 days after the effective date of this Article, Planning Department staff reports to the Planning Commission on a proposed project containing residential units or area plan shall include a total number of units at all stages of the housing production process, within the current Housing Element statutory period, as it contributes towards meeting San Francisco's regional housing needs allocation for*

different household income levels as determined in the General Plan's Housing Element. Baseline data on housing production for this reporting shall be updated quarterly

(2) ***Quarterly Housing Production Reports.*** *Planning Department staff shall provide the Planning Commission with a Quarterly Housing Production Report that contains at a minimum comparative analysis of current housing production and regional housing needs allocation for San Francisco for different household income levels as determined in the General Plan's Housing Element.*

(3) ***Annual Housing Inventory Reports.*** *The Planning Department shall publish an annual Housing Inventory on April 1st of each year that contains at a minimum: (i) an evaluation of how residential projects at any stage of the housing production process during the preceding calendar year contribute to the City's regional housing needs allocation for different household income levels as determined in the General Plan's Housing Element and (ii) how residential projects in the housing production process met inclusionary housing requirement as on-site below market-rate (BMR) units, off-site BMR units, or payment of an in-lieu fee.*

(c) ***Annual Commission Housing Hearing and Annual Report to the Board of Supervisors.***

(1) ***Commission Hearing****. The Planning Commission shall hold an annual public hearing subsequent to publishing the Housing Inventory. This hearing shall provide at minimum information on: (i) Findings of the annual Housing Inventory regarding how housing production trends match with San Francisco's regional housing needs allocation for different income levels as determined in the General Plan's Housing Element. (ii) Findings of the state mandated annual Housing Element Progress Report regarding how housing production trends advance the Housing Elements policies and goals.*

(2) ***Annual Report to Board.*** *The Planning Department shall provide an annual report to the Board of Supervisors concerning the results of the Commission's hearing and any Commission recommendations.*