



February 27, 2025

Ms. Angela Calvillo, Clerk
Honorable Supervisor Engardio
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 2024-010325:**
Condominium Conversions of Accessory Dwelling Units
Board File No. 241069

Planning Commission Recommendation: Approval with Modifications

Dear Ms. Calvillo and Supervisor Engardio,

On February 13, 2025, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider a proposed Ordinance, introduced by Supervisor Engardio. The proposed ordinance would amend the Planning and Subdivision Codes to allow certain Accessory Dwelling Units (ADUs) and associated primary dwelling units to be converted to condominiums (condos). At the hearing the Planning Commission adopted a recommendation for approval with modifications. The Commission's proposed modifications were as follows:

1. *Limit the program to the following:*
 - a. *Existing single-family homes and existing condominiums proposing to construct a new, detached ADU through the state program.*
 - b. *New construction single-family homes and new construction condominium projects proposing to construct a detached or attached ADU through the state program.*
2. *Move the state-mandated requirements to the Subdivision Code.*
3. *Make several clarifying amendments.*

- a. Clarify that an application to construct an ADU may be submitted concurrently with the condominium application.
- b. Clarify that eligible ADUs and primary units must meet the same Planning Code standards that are applied to all other condominium conversion projects, which are in Sec. 1383 of the Subdivision Code.

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

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,



Aaron D. Starr
Manager of Legislative Affairs

cc: Peter Miljanich, Deputy City Attorney
Jonathan Goldberg, Aide to Supervisor Engardio
John Carroll, Office of the Clerk of the Board

ATTACHMENTS :

Planning Commission Resolution
Planning Department Executive Summary



PLANNING COMMISSION RESOLUTION NO. 21684

HEARING DATE: FEBRUARY 13, 2025

Project Name: Condominium Conversion of Accessory Dwelling Units
Case Number: 2024-010325PCA [Board File No. 241069]
Initiated by: Supervisor Engardio / Introduced October 29, 2024
Staff Contact: Audrey Merlone, Legislative Affairs
Audrey.Merlone@sfgov.org, 628-652-7534
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

RESOLUTION ADOPTING A RECOMMENDATION FOR APPROVAL OF A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING AND SUBDIVISION CODES TO ALLOW SEPARATE CONVEYANCE OF CERTAIN ACCESSORY DWELLING UNITS AND ASSOCIATED PRIMARY DWELLING UNITS AS CONDOMINIUMS; AFFIRMING THE PLANNING DEPARTMENT’S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1; AND ADOPTING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on October 29, 2024, Supervisor Engardio introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 241069, which would amend the Planning and Subdivision Codes to allow separate conveyance of certain accessory dwelling units and associated primary dwelling units as condominiums;

WHEREAS, the Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 13, 2025; and,

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

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

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

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

MOVED, that the Planning Commission hereby adopts a **recommendation for approval with modifications** of the proposed ordinance. The Commission's proposed recommendations are as follows:

1. Limit the program to the following:
 - a. Existing single-family homes and existing condominiums proposing to construct a new, detached ADU through the state program.
 - b. New construction single-family homes and new construction condominium projects proposing to construct a detached *or* attached ADU through the state program.
2. Move the state-mandated requirements to the Subdivision Code.
3. Make several clarifying amendments.
 - a. Clarify that an application to construct an ADU may be submitted concurrently with the condominium application.
 - b. Clarify that eligible ADUs and primary units must meet the same Planning Code standards that are applied to all other condominium conversion projects, which are in Sec. 1383 of the Subdivision Code.

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:

The Department supports the Supervisor's goal of helping middle- and low-income homeowners to access the equity of their property through the sale of the ADU. This would also reduce the financial strain of adding an ADU to their primary dwelling. The proposed Ordinance would also expand housing options by encouraging affordable-by-design ADUs, often in lower-density, high-resource neighborhoods. This aligns with the city's goal of increasing housing choices. However, as drafted, the Ordinance could allow other types of units, including rent-controlled units, to be converted to condominiums. This may remove rent control protections from some rent-controlled units. To address these concerns, the Department recommends modifications to reduce potential negative impacts on rent control and ensure the program functions as intended.

General Plan Compliance

The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

Policy 31

Facilitate small and mid-rise multi-family buildings that private development can deliver to serve middle-income households without deed restriction, including through adding units in lower density areas or by adding Accessory Dwelling Units (ADUs).

OBJECTIVE 4.C

DIVERSIFY HOUSING TYPES FOR ALL CULTURES, FAMILY STRUCTURES, AND ABILITIES.

Policy 32

Promote and facilitate aging in place for seniors and multi-generational living that supports extended families and communal households.

The proposed Ordinance creates a pathway for ownership of affordable by design housing which is often located in lower-density, high resource neighborhoods. It will assist in encouraging the production of ADUs in our high resource, low density neighborhoods; thereby expanding housing choices for low- and moderate-income households.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

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

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

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

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

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

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

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

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident

employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

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

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

7. That the landmarks and historic buildings be preserved;

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

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

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

Planning Code Section 302 Findings.

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby ADOPTS A RECOMMENDATION FOR APPROVAL WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on February 13, 2025.



Jonas P Ionin Digitally signed by Jonas P Ionin
Date: 2025.02.26 17:22:18 -08'00'

Jonas P. Ionin
Commission Secretary

AYES: Campbell, McGarry, Braun, Moore, So
NOES: Williams
ABSENT: Imperial
ADOPTED: February 13, 2025



EXECUTIVE SUMMARY

PLANNING CODE TEXT AMENDMENT

HEARING DATE: February 13, 2025

90-Day Deadline: May 5, 2025

Project Name: Condominium Conversion of Accessory Dwelling Units
Case Number: 2024-010325PCA [Board File No. 241069]
Initiated by: Supervisor Engardio / Introduced October 29, 2024
Staff Contact: Audrey Merlone, Legislative Affairs
Audrey.Merlone@sfgov.org, 628-652-7534
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533
Environmental Review: Not a Project Under CEQA

RECOMMENDATION: Adopt a Recommendation for Approval with Modifications

Planning Code Amendment

The proposed Ordinance would amend the Planning and Subdivision Codes to allow certain Accessory Dwelling Units (ADUs) and the associated primary dwelling to be converted to condominiums (condos).

The Way It Is	The Way It Would Be
<p>ADUs built using the State Program, Hybrid Program, or Local Program may not be delivered as, or converted to condominiums.</p>	<p>ADU’s and their associated primary dwelling may be delivered as or converted to condos if:</p> <ul style="list-style-type: none"> • The lot or existing building within which the ADU will be constructed contains four units or less; • The entire structure/building included in the condo project meets Building and Planning Code standards; • Is not a Junior ADU, and; • If built using the State Program, the application to construct was submitted on or after January 1, 2020, or; <p style="padding-left: 40px;">If built using the Local Program, the application to construct was submitted on or after November 1, 2024.</p>
<p>The Planning Department does not regulate conformance with the Subdivision Code, Subdivision Map Act, or Sec. 66410 of the Civil Code. It does not conduct safety inspections, nor does it enforce lienholder consents.</p>	<p>Additional requirements for ADUs and their associated primary dwellings that seek to convert to or deliver as condos would be placed in the Planning Code. The requirements include:</p> <ul style="list-style-type: none"> • Compliance with the Davis-Stirling Common Interest Development Act, the Subdivision Map Act, and all objective requirements of the San Francisco Subdivision Code. • Prior to the recordation of the condo plan, a safety inspection of the ADU must be conducted and documented from a certified building inspector. • Written evidence of any lienholder’s consent must be provided to the Assessor-Recorder prior to recordation or modification to the condo plan. • For condo <i>conversions</i> the property owner must notify all relevant public utility providers. • Projects in planned development communities must also obtain their association’s written approval. • The City must include a new notice on all ADU published materials that acknowledges the ability to convert the ADU to a condo and a list of requirements.
<p>There is currently no <i>Code requirement</i> for the Department to report on the number of condo conversions in the Housing Inventory Report or otherwise.</p>	<p>Planning would be required to include data on the location and number of units converted to condos through this program via:</p> <ul style="list-style-type: none"> • The Housing Inventory Report, and • A separate report submitted to the Planning Commission prior to December 31, 2030. This report shall also contain any recommended modifications to the program and that are in furtherance of the goals of the City’s 7th Housing Element cycle.

Issues and Considerations

Types of ADUs

An Accessory Dwelling Unit (ADU) is a residential unit added to an existing or proposed building. Traditionally, ADUs are subordinate to the primary residential unit(s). ADUs are generally developed using underutilized spaces within a lot, whether a garage, storage, rear yard, or an attic. ADUs are independent units that have their own kitchens, bathrooms and living areas. These units can be developed either within the existing building, within an extension to the existing building, or as a separate structure. ADUs are more likely to utilize side entrances, exhibit lower ceiling heights, and experience lower light exposure.

In 2016, San Francisco's Accessory Dwelling Unit Program became available citywide to all zoning districts that permit residential uses.

In 2016, San Francisco's Accessory Dwelling Unit Program became available citywide to all zoning districts that permit residential uses. Beginning in January 2020, California implemented new laws that govern ADUs statewide, allowing ADUs to be added to single- and multi-family buildings. There are four ADU types:

1. **Conversion** ADUs are new units that convert space in a residential building.
2. **Attached** ADUs are new units that expand a residential building.
3. **Detached** ADUs are new free-standing buildings located on a residential property.
4. **Junior** ADUs (JADU) are a new type of ADU that convert up to 500 square feet of space in a single-family structure. JADU requires owner-occupancy in either the remaining portion of the single-family home or the newly created JADU.

The type of ADU which can be added to a property depends on the building type and the ADU program.

ADU Programs

Three ADU Programs are available: Local, State, or Hybrid. Below is a general summary of the differences between the programs.

Local Program

Allows ADUs in existing buildings or new construction.

- *Types of ADUs Allowed:* Conversion, Attached, and Detached
- *Number of ADUs Allowed:*
 - Existing Buildings:
 - 4 or fewer units: 1 ADU + 1 Detached ADU
 - 5 or more units: Unlimited ADUs + 1 Detached ADU
 - New Construction: Unlimited + 1 Detached ADU

- Zoning district density limit is 4 or fewer units: 1 ADU + 1 Detached ADU
- Zoning district density limit is 5 or more units: Unlimited ADUs + 1 Detached ADU
- *Additional Features:* Offers Planning Code waivers. Rent control (Costa-Hawkins Regulatory Agreement) typically applies when waivers are used.

State Program

Allows adding one ADU to an existing building or new construction. Review is ministerial and streamlined. They are only permitted on properties where there are no other ADUs.

- *Types of ADUs allowed:* Attached, Detached and for single-family homes, also Conversion
- *Number of ADUs allowed:* 1
- *Additional Features:* Exempt from many Planning Code requirements like rear yard and exposure.

Hybrid Program¹

Combines State and Local rules, allowing multiple ADUs on single-family and multi-family properties.

- *Types of ADUs Allowed:* Conversion, Detached, and for single-family homes, also Junior ADUs
- *Number of ADUs Allowed:* For single-family homes maximum is 3 (1 Detached, 1 Converted, 1 JADU). For multi-family homes the maximum depends on the number of existing units and ADU types.
- *Additional Features:* Must meet Planning Code standards except for density. Detached ADUs must be within the buildable lot area.

For further details, please see the [ADU FAQs](#)² page on the Department's website.

Assembly Bill 1033

Approved by the Governor in October of 2023, [Assembly Bill 1033 \(AB 1033\)](#)³ authorizes local jurisdictions to create their own ordinances that would allow certain ADUs to be converted into condominiums. The bill contains a specific list of requirements that all local ordinances must also adopt. The proposed Ordinance places all the following state-mandated requirements in the Planning Code:

- Compliance with the Davis-Stirling Common Interest Development Act, the Subdivision Map Act, and all objective requirements of the San Francisco Subdivision Code.

- Prior to the recordation of the condo plan, a safety inspection of the ADU must be conducted and evidenced through either a Certificate of Occupancy or "housing quality standards report" from a certified building inspector.

-Written evidence of any lienholder's consent must be provided to the Assessor-Recorder prior to recordation or modification to the condo plan.

-For condo conversions the property owner must notify all relevant public utility providers.

¹ The Ordinance as currently proposed does not allow ADU's constructed through the Hybrid Program to convert to condominiums.

² <https://sfplanning.org/accessory-dwelling-units#faqs>

³ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB1033

-Projects in planned development communities must also obtain their association's written approval.

-The City must include a new notice on all ADU submittal checklists/applications/info pamphlets that acknowledges the ability to convert the ADU to a condo and a list of requirements to do so.

Unfortunately, many of the above requirements are outside the jurisdiction of the Planning Department. Additionally, the Department does not employ staff qualified to fulfill certain listed requirements. Generally, the Subdivision and Mapping Division of the Department of Public Works leads condominium conversions and creations.

Primary Dwellings Eligible for Conversion

The proposed Ordinance does not explicitly limit the number of primary dwellings that may be converted for every ADU constructed, but state law contains specific language regarding the conversion of primary units to condominiums, in addition to the requirements mandated by AB 1033 to be part of every local program. California Government Code Section 66342, which allows local jurisdictions to adopt an ordinance permitting the sale of ADUs states:

In addition to the requirement that a local agency allow the separate sale or conveyance of an accessory dwelling unit pursuant to Section 66341, a local agency may also adopt a local ordinance to allow the separate conveyance of the primary dwelling unit and accessory dwelling unit or units as condominiums.

The City interprets state law as allowing one primary *dwelling* to be converted to a condo along with the ADU(s). The “primary dwelling” in a multi-unit rental building would consist of the entire existing building. Therefore, when an ADU is converted into a condominium in a multi-unit building under this program, the remaining units are converted into a multi-unit single condominium. It is staff’s understanding that this structure maintains the rent-controlled status of the existing units in the associated *primary* dwelling if they are already subject to such controls, and that the individual units cannot be sold off separately. Depending on the program used to build an ADU(s), this could result in a building where some units are individual condos (that may or may not be subject to rent control), and others are considered multi-family, rent controlled units.

Rent Control

Property owners who use any Planning Code waiver to build an ADU through the Local Program must sign a Regulatory Agreement that subjects the ADU(s) to rent control. This process relies on an exception to the Costa-Hawkins Rental Housing Act, which is a state law that places limits on rent control. The exception allows the City to impose rent control when property owners agree by contract, in exchange for financial contributions or other assistance. In this case, the agreement formalizes the City’s granting of waivers in return for applying rent control to the ADU. For the most part, ADUs built through the State and Hybrid programs are not subject to rent control through this agreement process.

Rent control stabilizes rents and protects tenants from significant rent increases between leases.

Rent control stabilizes rents and protects tenants from significant rent increases between leases. Its main goal is to provide secure housing at reasonable rents and shield tenants from displacement. Studies show rent stabilization reduces displacement for low-income and senior households.

Rent control does not apply to single-family homes, and condos are typically treated as single-family homes.

Rent control does not apply to single-family homes. And under state law, condos that have been sold to a bona fide purchaser for value are typically exempt from rent control. This could jeopardize the application of rent control to condominiums created under the proposed Ordinance. The proposed Ordinance would allow for the ADU(s) to convert to condominiums as well as the primary associated building. This provision could impact the rent control status of ADUs built through the Local Program and Unauthorized Dwelling Units (UDUs) that are legalized. Currently, 79% of the built ADUs in the city are subject to rent control.

Condominiums are treated as individual properties, which means each condo is eligible to file for an Owner Move-In eviction.

Units located within multi-family buildings built before June 1979 are subject to rent control. Approximately 40% of all housing in San Francisco and more than half of renter-occupied housing stock are rent controlled units. This includes many multi-family buildings of four units or less that either already contain or could add one or more ADUs. This means that an existing 4-unit, rent controlled building could add one or more ADUs and bypass the condominium conversion lottery to convert the “primary dwelling,” and the ADU(s), to condominiums. If then sold, the newly created condo units would likely be exempt from rent control; although it is possible that the recorded regulatory agreement for ADUs approved under the City’s Local program *could* maintain rent control for those converted ADUs. However, even if the rent control status of these units remains in place, their conversion to condominiums may still put existing tenants at risk of eviction. Condominiums are more likely to function as owner-occupied housing. In multi-family buildings, Owner Move-In evictions are limited to one unit per building. However, in condo buildings, each unit is treated as a separate property. This means every condo unit could trigger its own Owner Move-In eviction.

ADUs Associated with Single-Family Homes

One of the key findings in the proposed Ordinance is:

. . . to provide an option to homeowners and property owners to expediently seek a return on the capital investment required to construct ADUs, while reducing long-term liabilities and potential risks associated with managing rental property. The intent is to incentivize the production of ADUs, especially in neighborhoods dominated by single-family homes, and thereby increase the supply of affordable, entry-level housing units . . .

The findings additionally cite that nearly 30% of San Francisco's housing stock is comprised of single-family homes, totaling 122,816 housing units. About two-thirds of these single-family homes – an estimated 66% – are owner-occupied. Despite high home prices, 50% of single-family homes are owned by moderate- or low-income owners. Single-family homes have much lower turnover rates than multifamily ownership units or rental units. 46% of single-family homes have been owner-occupied for 20 years or more, and 70% for 10 years or more. Allowing these homeowners the option to build and separately convey their ADUs as condominiums presents a significant opportunity to increase production of new, desperately needed housing. This could help provide sufficient housing for current residents and future generations without having to rely on large-scale area plans and capital-intensive, large-lot redevelopment projects.

Allowing homeowners to sell an ADU separately from the primary dwelling unit can help prevent displacement and support generational wealth-building.

Longtime homeowners often face limited liquidity and cash assets, despite decades of property value appreciation. Accessing this wealth usually requires selling the property, which risks displacing residents and separating extended families. Allowing these homeowners to sell an ADU separately from the primary dwelling unit can help prevent displacement and support generational wealth-building. This option provides seniors with income and allows them to age in place while receiving necessary care.

Other Code Considerations

The Fire and Building Departments have notified staff of additional considerations regarding how their codes classify ADUs. The Building Code differentiates between "primary" and "accessory" units, with stricter standards for primary units. Under the proposed Ordinance, converting an ADU into a condo would reclassify it from an "accessory" unit to a "primary" unit. Primary units must meet stricter life and safety standards.

For instance, an ADU might not initially require sprinklers, especially if it is connected to the primary residence. However, converting it to a condo makes it independent and may require sprinklers. These stricter standards often include safety, accessibility, or other costly upgrades. While the Planning Department does not oversee life and safety issues, they recommend the legislative sponsor consult with relevant agencies to ensure the Ordinance works as intended.

General Plan Compliance

The proposed Ordinance aligns with the Housing Element's Policy 31, which is to: "*Facilitate small and mid-rise multi-family buildings that private development can deliver to serve middle-income households without deed restriction, including through adding units in lower density areas or by adding Accessory Dwelling Units (ADUs).*" It additionally serves Objective 3.B which instructs the city to create a sense of belonging for all communities within well-resourced neighborhoods by expanding housing choices. The proposed Ordinance creates a pathway for ownership of affordable by design housing located in lower-density, high resource neighborhoods.

Racial and Social Equity Analysis

ADUs are often located in the city's high resource neighborhoods, which are often low density and therefore less affordable. It is vital to the city's racial and social equity goals to increase housing choices in our high resource neighborhoods. ADUs are affordable by design and help achieve these goals. As such, the city should make every effort to encourage their construction. This Ordinance goes a step further by allowing ADUs to be sold as separate, single entities. Allowing ADUs to be sold as single units creates opportunities for middle-class families to become homeowners. It will also assist existing low- and middle-class homeowners to access equity in their home through the addition of a unit that can then be sold.

To protect the city's rent-controlled housing stock, limits should be placed on which units can undergo condo conversion through this program.

However, without limits on which units can be converted to condos through this program, rent-controlled tenants may face greater displacement pressure, and units designed to be rent-controlled may lose their rent-controlled status. The city needs to ensure any new program that increases development potential does so without increasing housing insecurity. Rent-controlled units are vital for communities of color, who are most affected by displacement and benefit greatly from rent control protections. Eliminating these units through condo conversions would harm these communities. To protect the city's rent-controlled housing stock, limits should be placed on which units can undergo condo conversion through this program. This will help preserve affordable and stable housing options.

Implementation

The Department has determined that this ordinance will impact our current implementation procedures if not amended. Currently, the state-mandated requirements for all local ordinances include provisions that do not fall under the jurisdiction of the Planning Department. The Planning Department lacks the staff and expertise needed to conduct safety inspections or enforce compliance with various Subdivision acts and codes. It is vital that these requirements are moved to the appropriate Code overseen by an agency that possesses the staff and necessary skillset to carry out these requirements.

Recommendation

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

1. Limit the program to the following:
 - a. Existing single-family homes and existing condominiums proposing to construct a new, detached ADU through the state program.
 - b. New construction single-family homes and new construction condominium projects proposing to construct a detached *or* attached ADU through the state program.
2. Move the state-mandated requirements to the Subdivision Code.
3. Make several clarifying amendments.
 - a. Clarify that an application to construct an ADU may be submitted concurrently with the condominium application.
 - b. Clarify that eligible ADUs and primary units must meet the same Planning Code standards that are applied to all other condominium conversion projects, which are in Sec. 1383 of the Subdivision Code.

Basis for Recommendation

The Department supports the Supervisor's goal of helping middle- and low-income homeowners to access the equity of their property through the sale of the ADU. This would also reduce the financial strain of adding an ADU to their primary dwelling. The proposed Ordinance would also expand housing options by encouraging affordable-by-design ADUs, often in lower-density, high-resource neighborhoods. This aligns with the city's goal of increasing housing choices. However, as drafted, the Ordinance could allow other types of units, including rent-controlled units, to be converted to condominiums. This may remove rent control protections from some rent-controlled units. To address these concerns, the Department recommends modifications to reduce potential negative impacts on rent control, reduce rent-control complications, and ensure the program functions as intended.

Recommendation 1: Limit the program to the following:

- a. Existing single-family homes and existing condominiums proposing to construct a new, detached ADU through the state program.
- b. New construction single-family homes and new construction condominium projects proposing to construct a detached *or* attached ADU through the state program.

Limiting the program to the above greatly reduces rent-control complications and protects tenant-occupied units from condo conversion risks. Single-family homes are not subject to rent control, as noted earlier. Most

single-family homeowners who add an ADU use the State Program, which exempts both the ADU and the primary residence from rent control. For existing buildings, limiting the program to new, *detached* ADUs also ensures that Unauthorized Dwelling Units (UDUs) remain protected. UDUs are subject to the rent ordinance. However, the city does not have a complete record of every existing UDU. To protect the city's unpermitted units from losing their rent control status and prevent tenants from being evicted via the unit's condo conversion, it is vital to ensure existing spaces that convert into ADUs are not able to qualify for this condo program. Limiting the program in these ways still provides low- and moderate-income single-family homeowners with a pathway to access their property's equity and encourages affordable by design housing in high-resource, low-density neighborhoods.

Recommendation 2: Move the state-mandated requirements to the Subdivision Code. The state's ADU condominium program requirements do not belong in the Planning Code because Planning lacks enforcement authority and expertise over these rules. Since the Subdivision and Mapping Division of DPW is the lead agency for condominium mapping and subdivision, these requirements should be moved to the Subdivision Code.

Recommendation 3: Make several clarifying amendments.

- a. **Clarify that an application to construct an ADU may be submitted concurrently with the condominium application.** The legislation is currently silent on whether an application for construction and condo application for the ADU and associated primary dwelling may be submitted concurrently. Units using this program should be treated the same way that other new construction projects seeking to deliver as condos are treated: The legislation should be amended to clarify this.
- b. **Clarify that eligible ADUs and primary units must meet the same Planning Code standards that are applied to all other condominium conversion projects, which are in Sec. 1383 of the Subdivision Code.** The Ordinance currently states that qualified units must meet all "applicable" Building and Planning Code standards. To ensure these units are treated the same as other units seeking to convert to condominiums, Sec. 1383 of the Subdivision Code should be referenced instead.

Required Commission Action

The proposed Ordinance is before the Commission so that it may adopt a recommendation of approval, disapproval, or approval with modifications.

Environmental Review

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

Public Comment

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