

BOARD of SUPERVISORS



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MEMORANDUM

TO: Phil Ginsburg, General Manager, Recreation and Parks Department
Olson Lee, Director, Mayor's Office of Housing & Community Development
Cynthia Goldstein, Executive Director, Board of Appeals

FROM: Derek Evans, Assistant Clerk, Board of Supervisors

DATE: September 22, 2015

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, introduced by Supervisor Wiener on September 15, 2015:

File No. 150914

Ordinance amending the Planning Code to permit affordable housing as a principal use in the public zoning district and not requiring a conditional use permit for affordable housing in other zoning districts, except in RH (Residential, House) zoning districts and on designated public open space or property under the jurisdiction of the Recreation and Park Department; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, Planning Code, Section 302, and the eight priority policies of Planning Code, Section 101.1.

If you have any additional comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

cc: Sarah Ballard, Recreation and Parks Department
Margaret McArthur, Recreation and Parks Commission
Sophie Hayward, Mayor's Office of Housing
Eugene Flannery, Mayor's Office of Housing
Victor Pacheco, Board of Appeals

1 [Planning Code - Affordable Housing as Principal Use]

2
3 **Ordinance amending the Planning Code to permit affordable housing as a principal use**
4 **in the public zoning district and not requiring a conditional use permit for affordable**
5 **housing in other zoning districts, except in RH (Residential, House) zoning districts**
6 **and on designated public open space or property under the jurisdiction of the**
7 **Recreation and Park Department; affirming the Planning Department's determination**
8 **under the California Environmental Quality Act; and making findings of consistency**
9 **with the General Plan, Planning Code, Section 302, and the eight priority policies of**
10 **Planning Code, Section 101.1.**

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

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

19 Section 1. Findings.

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

25 (b) On _____, 2015, the Planning Commission, in Resolution No. _____, adopted
findings that the actions contemplated in this ordinance are consistent, on balance, with the

1 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
2 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
3 Board of Supervisors in File No. _____, and is incorporated herein by reference.

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

8
9 Section 2. The Planning Code is hereby amended by revising Sections 202, 211.1,
10 211.2, 253 and 309, to read as follows:

11 **SEC. 202. USES PERMITTED BY THIS CODE.**

12 * * * *

13 (e) Notwithstanding anything to the contrary contained in this Planning Code, any project
14 where the principal use is housing comprised solely of housing that is restricted for a minimum of 55
15 years as affordable for "persons and families of low or moderate income," as defined in California
16 Health & Safety Code Section 50093, shall be considered a principally permitted use and shall not
17 require conditional use authorization, authorization as a planned unit development or a large project
18 authorization, provided that the site is not designated as public open space, or under the jurisdiction of
19 the San Francisco Recreation and Park Department, or located in an RH zoning district. The City may
20 develop, or cause to be developed, any project where the principal use is housing comprised solely of
21 housing that is restricted for a minimum of 55 years as affordable for "persons and families of low or
22 moderate income," as defined in California Health & Safety Code Section 50093, provided that the site
23 is not designated as public open space, or under the jurisdiction of the San Francisco Recreation and
24 Park Department, or located in an RH zoning district. If a non-residential use contained in any
25 proposed project would require conditional use authorization, authorization as a planned unit

1 development or a large project authorization, such requirement would apply unless the non-residential
2 use is accessory to and supportive of the affordable housing on-site. Upon request, the Zoning
3 Administrator shall make a written determination about whether a site is designated as public open
4 space, which determination may be appealed to the Board of Appeals.

5
6 **SEC. 211.1. PRINCIPAL USES PERMITTED, P DISTRICTS.**

7 The following uses are principally permitted in all P Districts when found to be in
8 conformity with the General Plan:

9 * * * *

10 (h) Any project where the principal use is housing comprised solely of housing that is restricted
11 for a minimum of 55 years as affordable for “persons and families of low or moderate income,” as
12 defined in California Health & Safety Code Section 50093, provided that the site is not designated as
13 public open space or under the jurisdiction of the San Francisco Recreation and Park Department. If a
14 non-residential use contained in any proposed project would require conditional use authorization,
15 authorization as a planned unit development or a large project authorization, such requirement would
16 apply unless the non-residential use is accessory to and supportive of the affordable housing on-site.
17 Upon request, the Zoning Administrator shall make a written determination about whether a site is
18 designated as public open space, which determination may be appealed to the Board of Appeals.

19
20 **SEC. 211.2. CONDITIONAL USES, P DISTRICTS.**

21 The following uses shall require Conditional Use authorization from the Planning
22 Commission, as provided in Section 303 of this Code, unless otherwise permitted under
23 Section 211.1 of this Code:

24 * * * *

1 (c) Additionally, on property with a P District designation that the City and County of
2 San Francisco owns, any use not otherwise principally permitted in a P district as set forth in
3 Section ~~211.1~~ ~~234.1~~ of this Code shall be permitted with ~~e~~Conditional ~~#~~Use authorization,
4 except for:

5 (1) ~~Residential uses;~~

6 (2) Any use first permitted in a M-2 District; and

7 (3-2) ~~Formula~~ ~~Formal~~ Retail uses where the subject P zoned lot is within ¼ of a
8 mile of a zoning district that prohibits Formula Retail.

9
10 **SEC. 253. REVIEW OF PROPOSED BUILDINGS AND STRUCTURES EXCEEDING A**
11 **HEIGHT OF 40 FEET IN RH DISTRICTS, OR MORE THAN 50 FEET IN RM AND RC**
12 **DISTRICTS.**

13 (a) Notwithstanding any other provision of this Code to the contrary, in any RH, RM, or
14 RC District, established by the use district provisions of Article 2 of this Code, wherever a
15 height limit of more than 40 feet in a RH District, or more than 50 feet in a RM or RC District,
16 is prescribed by the height and bulk district in which the property is located, any building or
17 structure exceeding 40 feet in height in a RH District, or 50 feet in height in a RM or RC
18 District, shall be permitted only upon approval by the Planning Commission according to the
19 procedures for conditional use approval in Section 303 of this Code; provided, however, that a
20 building over 40 feet in height in a RM or RC District with more than 50 feet of street frontage
21 on the front façade is subject to the conditional use requirement; and provided further any
22 project where the principal use is housing comprised solely of housing that is restricted for a minimum
23 of 55 years as affordable for “persons and families of low or moderate income,” as defined in
24 California Health & Safety Code Section 50093, and is not located in an RH zoning district or on a site
25 designated as public open space or under the jurisdiction of the San Francisco Recreation and Park

1 Department, shall not require conditional use authorization or a Large Project Authorization as
2 described in this Section 253. If any non-residential uses contained in the project would require
3 conditional use authorization or a Large Project Authorization, such requirement would apply unless
4 the non-residential use is accessory to and supportive of the affordable housing on-site. Upon request,
5 the Zoning Administrator shall make a written determination about whether a site is designated as
6 public open space, which determination may be appealed to the Board of Appeals.

7 (b) Commission Review of Proposals.

8 (1) In reviewing any such proposal for a building or structure exceeding 40 feet
9 in height in a RH District, 50 feet in height in a RM or RC District, or 40 feet in a RM or RC
10 District where the street frontage of the building is more than 50 feet the Planning
11 Commission shall consider the expressed purposes of this Code, of the RH, RM, or RC
12 Districts, and of the height and bulk districts, set forth in Sections 101, 209.1, 209.2, 209.3,
13 and 251 hereof, as well as the criteria stated in Section 303(c) of this Code and the objectives,
14 policies and principles of the General Plan, and may permit a height of such building or
15 structure up to but not exceeding the height limit prescribed by the height and bulk district in
16 which the property is located.

17 (2) In reviewing a proposal for a building exceeding 50 feet in RM and RC
18 districts, the Planning Commission may require that the permitted bulk and required setbacks
19 of a building be arranged to maintain appropriate scale on and maximize sunlight to narrow
20 streets (rights-of-way 40 feet in width or narrower) and alleys.

21
22 **SEC. 309. PERMIT REVIEW IN C-3 DISTRICTS.**

23 The provisions and procedures set forth in this Section shall govern the review of
24 project authorization and building and site permit applications for (1) the construction or
25 substantial alteration of structures in C-3 Districts, (2) the granting of exceptions to certain

1 requirements of this Code where the provisions of this Section are invoked, and (3) the
2 approval of open space and streetscape requirements of the Planning Code. When any action
3 authorized by this Section is taken, any determination with respect to the proposed project
4 required or authorized pursuant to CEQA may also be considered. This Section shall not require
5 review for any project where the principal use is housing comprised solely of housing that is restricted
6 for a minimum of 55 years as affordable for “persons and families of low or moderate income,” as
7 defined in California Health & Safety Code Section 50093, provided that the site is not designated as
8 public open space or under the jurisdiction of the San Francisco Recreation and Park Department. If
9 any non-residential uses contained in the project would otherwise require review under this Section
10 309, such requirement would apply unless the non-residential use is accessory to and supportive of the
11 affordable housing on-site. Upon request, the Zoning Administrator shall make a written determination
12 about whether a site is designated as public open space, which determination may be appealed to the
13 Board of Appeals. This Section shall not require additional review in connection with a site or
14 building permit application if review hereunder was completed with respect to the same
15 proposed structure or alteration in connection with a project authorization application pursuant
16 to Section 322.

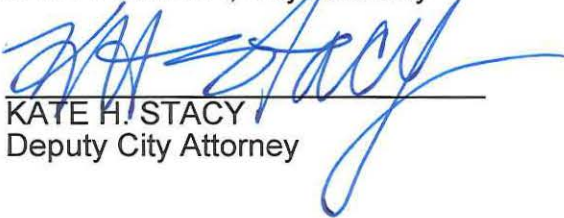
17 * * * *

18 Section 3. Effective Date. This ordinance shall become effective 30 days after
19 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
20 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
21 of Supervisors overrides the Mayor’s veto of the ordinance.

22
23 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
24 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
25 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal

1 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
2 additions, and Board amendment deletions in accordance with the "Note" that appears under
3 the official title of the ordinance.

4
5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney

7 By: 
8 KATE H. STACY
9 Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Affordable Housing as Principal Use]

Ordinance amending the Planning Code to permit affordable housing as a principal use in the Public zoning district and not requiring a conditional use permit or large project authorization for affordable housing in other zoning districts, except in RH zoning districts and on designated public open space or property under the jurisdiction of the Recreation and Parks Department; and affirming the Planning Department's determination under the California Environmental Quality Act; Planning Code, Section 302, findings; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

The Planning Code requires development projects to apply for certain kinds of permits, depending on the requirements of the particular zoning district where the project is located. There is no exception from the Planning Code requirements for affordable housing projects.

Amendments to Current Law

The amendments would allow projects where the principal use is housing comprised solely of housing that is restricted for a minimum of 55 years as affordable for "persons and families of low or moderate income," as defined in California Health & Safety Code Section 50093, to be considered a principally permitted use and would not require conditional use authorization, authorization as a planned unit development or a large project authorization, provided that the site is not designated as public open space, or under the jurisdiction of the San Francisco Recreation and Park Department, or located in an RH zoning district. If a non-residential use contained in a proposed project would require conditional use authorization, authorization as a planned unit development or a large project authorization, such requirement would apply unless the non-residential use is accessory to and supportive of the affordable housing on-site. Upon request, the Zoning Administrator must make a written determination about whether a site is designated as public open space, which determination may be appealed to the Board of Appeals.

The legislation would also allow the same kind of affordable housing to be a principally permitted use on a lot zoned for Public use, provided that the site is not designated as public open space, or under the jurisdiction of the San Francisco Recreation and Park Department. Any non-residential use of the project would be subject to the same limitations stated above.