



SAN FRANCISCO PLANNING DEPARTMENT

February 13, 2014

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

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

**Re: Transmittal of Planning Department Case Number:
2013.1695T: Allowing Certain Non-Conforming Structures to be Rebuilt Under
Certain Conditions
BOS File No.: 131059
Planning Commission Recommendation: Disapproval**

Dear Ms. Calvillo,

On February 3, 2014, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance under Board of Supervisors File Number 13-1059. The proposed Ordinance would amend Planning Code Section 188 to allow noncomplying secondary structures in the C-3-R District to be demolished, in whole or in part, and rebuilt, if certain findings can be made by the Planning Commission.

At the February 6th Hearing, a motion was made to recommend the approval of the proposed Ordinance with non-substantive modifications. The Commission voted 3-3 on that motion, which constitutes a failed motion. Since the motion to recommend approval of the proposed Ordinance failed, the Commission's lack of action constitutes a recommendation of disapproval, pursuant to Planning Code Section 306.4.

If you have any questions or require further information please do not hesitate to contact me at (415) 558-6395.

Sincerely,

AnMarie Rodgers
Manager of Legislative Affairs

Cc: City Attorneys Kate Stacy, Jon Givner
Andrea Ausberry, Clerk's Office
Jason Elliott, Mayor's Office
Judson True, Supervisor Chiu's Office
Andrea Bruss, Supervisor Cohen's Office

Attachments (one copy of the following):

Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change

HEARING DATE: FEBRUARY 06, 2014

Project Name: **Amendments allowing the reconstruction of structures that are non-complying with regard to Floor Area Ratio within the C-3-R District**

Case Number: 2013.1695T [Board File No. 13-1059]

Initiated by: Supervisor Chiu / Introduced October 29, 2013

Staff Contact: Elizabeth Watty, Current Planning
Elizabeth.Watty@sfgov.org, 415-558-6620

Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395

Recommendation: **Recommend Approval with Modifications**

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San Francisco,
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PLANNING CODE AMENDMENT

The proposed Ordinance would amend Planning Code Section 188 (Noncomplying Structures: Enlargements, Alterations and Reconstruction), to allow noncomplying secondary structures located within the C-3-R (Downtown Retail) Zoning District that exceed a property's maximum floor area ratio limit to be reconstructed after a voluntary demolition or partial demolition, if certain findings can be made by the Planning Commission through the Downtown Project Authorization process (Planning Code Section 309). The Ordinance would not modify other existing restrictions relating to the demolition of buildings, including processes relating to historic properties.

The Way It Is Now:

Planning Code Section 188 prohibits the reconstruction of noncomplying structures after a voluntary demolition, even if the proposed reconstruction would result in a net decrease in the property's floor area ratio (FAR).

The Way It Would Be:

The proposed Ordinance would allow through the Downtown Project Authorization process, noncomplying secondary structures¹ located within the C-3-R Zoning District to be removed, in whole or in part, and reconstructed pursuant to the following criteria:

1. The project would promote and enhance the C-3-R District as a retail destination;
2. The project would result in an increased benefit to the public and the adjacent properties;
3. The project would enhance the aesthetic qualities and/or character of the property;

¹ For the purposes of this legislation, a secondary structure means a structure located on a lot with two or more structures that has no more than one-quarter of the gross floor area of the primary structure on the lot.

4. The project would result in a net decrease of gross floor area of all structures on the property;
5. The project would result in a structure that more closely conforms to the floor area ratio limit;
6. The project would not result in an adverse impact to a historic resource;
7. The project would not cause significant shadows or wind impacts on public sidewalks or parks;
8. The project would not obstruct significant public view corridors; and
9. The Project would not significantly impair light and air to abutting properties.

REQUIRED COMMISSION ACTION

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

RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department recommends modifying the scope of this legislation so that it will only affect Lot 016 of Assessor's Block 0295, which is occupied by the Grand Hyatt Hotel and a retail store, most recently occupied by Levi Strauss, and has a current proposal to replace the Levi Strauss store with a retail store for Apple Inc. As currently drafted, the legislation would only apply to those properties in the C-3-R District that contain a secondary structure. In effect, this narrows the legislation's applicability down to one parcel: Lot 016 of Assessor's Block 0295. No other properties within the C-3-R District have a secondary structure. The Department believes that adding the block and lot number of the one affected parcel helps to clarify the applicability of the legislation and provide certainty that its effect is limited to this one parcel within the C-3-R District.

BASIS FOR RECOMMENDATION

Section 188 states that a noncomplying structure may be enlarged, altered or relocated, or undergo a change or intensification of use in conformity with the use limitations of this Code, provided that with respect to such structure there is no increase in any discrepancy, or any new discrepancy, at any level of the structure, between existing conditions on the lot and the required standards for new construction set forth in the Planning Code. However, a noncomplying structure that is voluntarily razed – in whole or in part – may only be reconstructed in full conformity with the requirements of the Planning Code.

The City's Downtown Retail District (C-3-R) is a regional center for retail shopping and includes many supporting uses, such as tourist hotels and other consumer services. It covers a compact area with the City, generally bounded by Bush Street to the north (with the exception of a few parcels that extend to Bush Street), the west side of Powell Street to the west, the north side of Mission Street to the south, and the west side of Third/Kearny Street to the east. It includes many properties that pre-date the Downtown Plan, which established the current FAR limits, thereby resulting in 38 parcels that exceed the current FAR controls.

Within the C-3-R District, there are 238 parcels, of which, 38 sites – or 16% - are noncomplying with regard to floor area ratio (FAR).

The table below identifies the 38 parcels in the C -3-R District that are noncomplying with regard to FAR:

STREET NO.	STREET	LOTAREA	BLDGSQFT	FAR
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450-464	Sutter St	23,597	294,416	12.48
390-390	Stockton St	3,528	34,215	9.70
433	Powell St	3,792	48,713	12.85
201-209	Post St	7,838	99,223	12.66
281	Geary St	6,073	104,872	17.27
55-65	Stockton St	2,287	100,715	44.04
321-323	Grant St	2,105	23,100	10.97
201-209	Grant St	8,865	96,870	10.93
132-140	Geary St	5,474	56,933	10.40
750-780	Market St	31,368	327,339	10.44
77-79	O'farrell St	7,219	68,472	9.49
701-703	Market St	5,218	94,519	18.11
50	03 rd St	39,594	490,000	12.38
432-462	Powell St	15,976	232,984	14.58
70-76	Geary St	6,118	120,334	19.67
37-45	Geary St	5,926	55,584	9.38
201-225	Powell St	9,577	97,137	10.14
77	O'farrell St	2,250	68,472	30.43
785	Market St	8,481	90,896	10.72
350-360	Post St	10,313	110,893	10.75
345	Stockton St	35,894	610,645	17.01
73-77	Geary St	13,931	132,356	9.50
170	O'farrell St	12,052	114,468	9.50
55-59	Stockton St	2,266	100,715	44.44
41 -55	Stockton St	6,046	100,715	16.66
55	04 th St	128,263	1,194,693	9.31
555	Pine St	20,631	356,820	17.30
340	Stockton St	8,142	92,000	11.30
300-330	Geary St	56,250	508,714	9.04
234-240	Stockton St	4,200	45,260	10.78
60	Maiden Lane	6,498	59,786	9.20

101	Stockton St	26,048	264,780	10.17
188	O'farrell St	7,599	81,360	10.71
281	Geary St	6,066	104,872	17.29
201-221	Powell St	1,854	97,137	52.40
111	O'farrell St	4,546	100,715	22.15
799	Market St	16,963	155,871	9.19
166-170	Geary St	5,378	48,600	9.04
233	Geary St	19,033	243,612	12.80

The Ordinance is further limited in scope by tying the controls to those sites with "Secondary Structures." With the Secondary Structure limitation, this Ordinance appears to apply to only one parcel: 345 Stockton Street (aka 300 Post Street), which is the site of the pending Apple Inc., retail store. The Apple store project would require the approval of this Ordinance in order to be approved. The Department's recommendation, discussed above, does not change the effect of the proposed Ordinance as drafted, but rather makes it more explicit that this Ordinance will only affect one parcel (Lot 016 of Assessor's Block 0295), now and in the future. The Department's recommendation has shifted since this item was originally scheduled for hearing, in response to concerns raised by several Commissioners about the unintended consequences that could result from applying this Ordinance to all of the properties that are noncomplying with regard to FAR within the C-3-R District, not just those with secondary structures. The Department appreciates those concerns, and has since modified our recommendation to support the legislation as drafted, with minor modifications to clarify its applicability within the C-3-R District.

The Department supports this Ordinance since nine other findings would have to be made by the Planning Commission at a public hearing through a Downtown Project Authorization process (Section 309), in order to grant the reconstruction of floor area that exceeds the site's maximum FAR. The Commission would need to make the findings that the project would promote and enhance the C-3-R District as a retail destination; result in an increased benefit to the public and the adjacent properties; enhance the aesthetic qualities and/or character of the property; result in a net decrease of gross floor area of all structures on the property; result in a structure that more closely conforms to the floor area ratio limit; would not result in an adverse impact to a historic resource; would not cause significant shadows or wind impacts on public sidewalks or parks; would not obstruct significant public view corridors; and would not significantly impair light and air to abutting properties. The project would also be subject to a public hearing by the Zoning Administrator, in order to grant a variance from the transparency requirements along Stockton Street.

The proposed Ordinance is very limited in scope and would affect only one parcel. It enables an irregularly-shaped building at 300 Post Street (345 Stockton Street) to be regularized in form, lowered in height, and reduced in overall square footage. This rezoning serves the public interest by enabling an improved and regularized building form at 300 Post Street, strengthening the street wall along Stockton Street, and by reducing the degree of noncompliance relating to FAR at 300 Post Street. This Ordinance gives the property owner of this one parcel more flexibility in how they can alter and improve the property, while ensuring that a noncomplying structure is becoming more in compliance with the spirit of Planning Code Section 188.

In sum, the Department supports the proposed Ordinance to permit a noncomplying structure on Lot 016 of Assessor's Block 0295 to be removed and reconstructed, with review by the Planning Commission through the Downtown Project Authorization process.

ENVIRONMENTAL REVIEW

On January 28, 2014, pursuant to CEQA Guidelines Section 15302, a Certificate of Determination of Categorical Exemption from Environmental Review was published by the Environmental Planning division of the Planning Department (Case No. 2013.0628E).

PUBLIC COMMENT

As of the date of this report, the Planning Department has received comments from the Service Employees International Union – United Service Workers West (“SEIU-USWW”) expressing opposition to this Ordinance. The Department has also received a letter in support of the proposed Apple, Inc. retail store project – which relies on this Ordinance – from the Union Square Business Improvement District.

RECOMMENDATION:	Recommendation of Approval with Modifications
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 13-1695T
- Exhibit C: Map of Potentially Affected Properties