



# SAN FRANCISCO PLANNING DEPARTMENT

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October 13, 2009

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

Re: Transmittal of Planning Department Case Number 2009.0787T:  
Amendments to the Planning Code Section 209.1- Double Density Benefits  
Board File Number 09-0906  
Planning Commission Recommendation: *Approval*

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

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

Dear Ms. Calvillo,

On October 8, 2009, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance;

The proposed Ordinance would amend Planning Code Section 209.1(m), add 102.6.1 and 209.1(o) to clarify the requirements for double density housing for senior citizens.

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

At the October 8<sup>th</sup> hearing, the Commission voted to recommend approval of the proposed Ordinance.

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

Sincerely,

A handwritten signature in black ink, appearing to read "John Rahaim", written over a horizontal line.

John Rahaim  
Director of Planning

cc: Supervisor Chiu

Attachments (one copy of the following):

Planning Commission Resolution No. 17961

Planning Commission Executive Summary for Case No. 2009.0787T



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Resolution No. 17961

HEARING DATE: OCTOBER 8, 2009

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CA 94103-2479

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*Project Name:* Amendments to the Planning Code:  
Section 209.1 - Double Density Benefits

*Case Number:* 2009.0787T [Board File No. 09-0906]  
*Initiated by:* Supervisor Chiu / Introduced July 14, 2009  
*Staff Contact:* Tara Sullivan, Legislative Affairs  
tara.sullivan@sfgov.org, 415-558-6257

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

*90-day Deadline:* October 12, 2009

*Recommendation:* **Recommend Approval**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT AN ORDINANCE THAT WOULD AMEND PLANNING CODE BY ADDING SECTION 102.6.1 TO CREATE A DEFINITION RELATED TO HOUSING FOR SENIORS; AMENDING 209.1(M) RELATED TO THE USES PERMITTED IN RESIDENTIAL DISTRICTS TO UPDATE THE REQUIREMENTS FOR OBTAINING DOUBLE DENSITY BONUSES BY PROVIDING SENIOR HOUSING; AND ADDING SECTION 209.1(O) TO REQUIRE, IN CERTAIN CIRCUMSTANCES, A CONDITIONAL USE AUTHORIZATION FOR OBTAINING A DOUBLE DENSITY BONUS FOR SENIOR HOUSING.

### PREAMBLE

Whereas, on July 14, 2009, Supervisor Chiu introduced a proposed Ordinance under Board File Number 09-0906 that would amend Planning Code Section 209.1(m), add 102.6.1 and 209.1(o) to clarify the requirements for double density housing for senior citizens; and

Whereas, on October 8, 2008, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

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

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented 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 recommends *approval of the proposed ordinance* and adopts the attached Draft Resolution to that effect.

## 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. Section 209.1 outlines the type of dwelling units that are permitted in residentially-zoned districts. 209.1(m) was placed in the Code in 1978 and states that in limited circumstances a developer may receive double the amount of permitted dwelling units if certain requirements were met.
2. This double density bonus is permitted as-of-right at staff level review in all residentially-zoned districts. The current language in the code does not specify the number of units that must be dedicated to seniors or physically disabled, nor does it require monitoring of these units over the lifetime of the building.
3. The need for revisions to Section 209.1(m) came about in the winter of 2009, when a project located on Polk Street violated the provisions of the double-density bonus requirements. It became apparent that this section needed revisions to clarify a project sponsors requirements, create certainty for any persons who will reside in these units, and provide an easy and transparent method for the Department to track and enforce projects that receive this bonus.
4. The result is a revised 209.1(m) that clearly references all State & Federal code provisions, outlines the design and unit requirements that the building must have in order to meet senior housing definitions, requires several methods of recording the restrictions of senior citizen residency requirements, plus incorporates sound planning policies, such as affordable housing and neighborhood services.
5. Therefore, the Commission recommends *approval of the proposed Ordinance* and that the Board of Supervisors adopt the proposed Ordinance.
6. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

**I. HOUSING ELEMENT**

**OBJECTIVE 1**

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

**POLICY 1.1**

Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing, and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are affordable to lower income households.

**OBJECTIVE 4**

SUPPORT AFFORDABLE HOUSING PRODUCTION BY INCREASING SITE AVAILABILITY AND CAPACITY.

**POLICY 4.4**

Consider granting density bonuses for the construction of affordable housing or senior housing.

1. 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 help protect existing neighborhood-serving retail uses by requiring that development of double density projects for seniors be located within ¼ mile from them, thus ensuring that there will be a customer base for these 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 help preserve the cultural and economic character of neighborhoods by providing for a mix of peoples, specifically senior citizens.*

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

*The proposed Ordinance will enhance the supply of affordable housing by requiring it to be located on-site.*

- 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 would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.*

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

*The proposed Ordinance will ensure that all new development will be constructed to the more updated seismic requirements.*

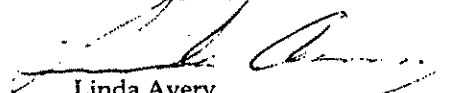
- G) That landmark and historic buildings will be preserved:

*The proposed Ordinance will not have an impact on historic resources.*

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

*The proposed Ordinance will not impact the City's parks and open space.*

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on October 8, 2009.



Linda Avery  
Commission Secretary

AYES: Miguel, Olague, Moore, Sugaya, Borden

NAYS: Antonini

ABSENT: Lee

ADOPTED: October 8, 2009



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Change HEARING DATE: OCTOBER 8, 2009

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*90-day Deadline:* October 12, 2009

*Recommendation:* **Recommend Approval**

### PLANNING CODE AMENDMENT

The proposed Ordinance introduced by Supervisor Chiu would amend Planning Code by doing the following:

1. Adding Section 102.6.1 to create a definition related to housing for seniors;
2. Amending 209.1(m) related to the uses permitted in Residential Districts to update the requirements for obtaining double density bonuses by providing senior housing; and
3. Adding Section 209.1(o) to require, in certain circumstances, a conditional use authorization for obtaining a double density bonus for senior housing.

#### The Way It Is Now:

Section 209.1 outlines the type of dwelling units that are permitted in residentially-zoned districts. 209.1(m) was placed in the Code in 1978 and states that in limited circumstances a developer may receive double the amount of permitted dwelling units if certain requirements were met.

If a proposed project was specifically designed and occupied by 1) senior citizens or 2) physically disabled persons, then the project can increase the number of dwelling units by double. These units must be occupied by seniors or physically disabled people for the lifetime of the building and meet all State and Federal programs for dwelling unit requirements for these classes.

This double density bonus is permitted as-of-right at staff level review in all residentially-zoned districts. The current language in the code does not specify the number of units that must be dedicated to seniors or physically disabled, nor does it require monitoring of these units over the lifetime of the building.

**The Way It Would Be:**

The proposed Ordinance would clarify the requirements that a developer must meet in order to receive the double density bonus. Specifically, it would do the following:

1. Limit this provision to senior housing only;
2. Add Section 102.6.1: Dwellings Specifically Designed for & occupied by Senior Citizens, which
  - a. Links the definition of a senior citizen to the California Civil Code and Federal Fair Housing Act;
  - b. Itemizes 7 specific design criteria for senior citizens (California Civil Code Section 51.2(d));
  - c. Creates 2 categories of housing definitions for senior citizens:
    - i. Senior citizen is a person who is 62 years of age or older; or
    - ii. A senior citizen housing development is a development that has at least 35 units. If a development has 35 units, then the age limit for a qualifying senior citizen is lowered to 55 years of age or higher;
    - iii. **NOTE:** therefore, if a proposed development will contain less than 35 units, ALL of the residents must be 62 years of age or older. If there are 35+ units, the residents can be 55 years of age or older.
  - d. Requires the building to be occupied by qualifying senior citizens (defined above) for the life of the building, regardless of whether the units will be owner-occupied or rented;
  - e. Must include any Inclusionary Housing Requirements (per Section 315) on site and limited to qualifying senior citizens;
  - f. Project must be located within ¼ mile of a Neighborhood Commercial District-zoned area;
  - g. Project sponsor must record a notice of special restriction with the Assessor-Recorder outlining the occupancy requirements for the lifetime of the building; and
  - h. If the proposed development will be condominiumized, the project sponsor must provide the Department with a copy of the Covenants, Conditions, & Restrictions.
3. Permits this bonus as-of-right in residentially-zoned districts if all of the requirements are met (that is, approvable at staff level); and
4. Requires a conditional use authorization if the project will be located further than ¼ mile from a Neighborhood Commercial District.

**REQUIRED COMMISSION ACTION**

The proposed Resolution 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* of the proposed Resolution and adopt the attached Draft Resolution to that effect.

## BASIS FOR RECOMMENDATION

The need for revisions to Section 209.1(m) came about in the winter of 2009, when a project located on Polk Street violated the provisions of the double-density bonus requirements. It became apparent that this section needed revisions to clarify a project sponsors requirements, create certainty for any persons who will reside in these units, and provide an easy and transparent method for the Department to track and enforce projects that receive this bonus.

Section 209.1(m) has not been amended since it was put into the Code in 1978. Because this provision allows projects to be approved at the staff level without any Planning Commission review, the Department has not been able to track the number of projects that have received a double density bonus under this Code section.

When revising this section, the Department focused on a few key items: 1) defining senior housing and making it align with both State & Federal requirements; 2) providing as much information in the Code as possible about the design requirements for senior housing to prevent unnecessary cross-referencing to State & Federal code provisions; and 3) requiring sufficient methods for the Department to track and enforce projects that utilize the double density bonus.

A few other issues arose when analyzing this section, such as requiring any inclusionary housing requirements (pursuant to Section 315) to be provided on-site (instead of allowing the developer to provide it off-site or pay an in-lieu fee), and to require that these projects, since they are developed primarily for senior citizens, be located close to neighborhood services.

The result is a revised 209.1(m) that clearly references all State & Federal code provisions, outlines the design and unit requirements that the building must have in order to meet senior housing definitions, requires several methods of recording the restrictions of senior citizen residency requirements, plus incorporates sound planning policies, such as affordable housing and locating housing near neighborhood services.

For the majority of projects, if all of the requirements are met, the Department believes that these projects can continued to be approved at staff level. The several recording methods will ensure that the public will know that these units must be rented or sold to qualifying senior citizens and provide a way for the Department to monitor and enforce these projects. The only situation that the Department is requiring a conditional use authorization is when the project is not located within a ¼ mile of a qualifying Neighborhood Commercial District.

Lastly, in consultation with the Mayor's Office of Disability, the Department recommended that the bonus provisions be eliminated for physically disabled persons. This was due to the reality that a project that utilized the double-density units would not adequately provide for the needs of the physically disabled and requirements in the State & Federal codes, such as on-site nursing care, multi-unit dwellings, and assisted living facilities. The Department is committed to working with the Mayor's Office of Disability on housing requirements for physically disabled persons.



In sum, the Planning Department supports the proposed Ordinance and encourages the Commission to recommend approval of the proposal.

**ENVIRONMENTAL REVIEW**

The proposal to amend Planning Code Section 209.1(m) would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

**PUBLIC COMMENT**

As of the date of this report, the Planning Department has received no letters in support or opposition to the proposal from the public.

<b>RECOMMENDATION:</b> <b>Recommend of Approval</b>
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**Attachments:**

- Exhibit A:      Draft Planning Commission Resolution
- Exhibit B:      Draft Board of Supervisors Ordinance