

BOARD of SUPERVISORS



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October 27, 2015

Planning Commission
Attn: Jonas Ionin
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Commissioners:

On October 20, 2015, Supervisor Wiener introduced the following **substitute** legislation:

File No. 150914

Ordinance amending the Planning Code to permit affordable housing as a principal use and not requiring a conditional use permit, Section 309 review or large project authorization 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 Parks Department; affirming the Planning Department's determination under the California Environmental Quality Act; making 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.

The proposed ordinance is being transmitted pursuant to Planning Code, Section 302(b), for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in blue ink that reads "Alisa Somera".

By: Alisa Somera, Assistant Clerk
Land Use and Transportation Committee

c: John Rahaim, Director of Planning
Aaron Starr, Acting Manager of Legislative Affairs
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
AnMarie Rodgers, Legislative Affairs
Jeanie Poling, Environmental Planning
Joy Navarrete, Environmental Planning

1 [Planning Code - Affordable Housing as Principal Use]

2
3 **Ordinance amending the Planning Code to permit affordable housing as a principal use**
4 **and not requiring a conditional use permit, Section 309 review or large project**
5 **authorization for affordable housing in other zoning districts, except in RH (Residential,**
6 **House) zoning districts and on designated public open space or property under the**
7 **jurisdiction of the Recreation and Parks Department; affirming the Planning**
8 **Department's determination under the California Environmental Quality Act; making**
9 **Planning Code, Section 302 findings; and making findings of consistency with the**
10 **General Plan, and the eight priority policies of 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
City's General Plan and eight priority policies of Planning Code Section 101.1. The Board

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
2 Board of Supervisors in File No. _____, and is incorporated herein by reference.

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

7
8 Section 2. The Planning Code is hereby amended by revising Sections 202, 253, 309
9 and 329 to read as follows:

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

11 * * * *

12 (e) Notwithstanding anything to the contrary contained in this Planning Code, any project
13 where the principal use is housing comprised solely of housing that is restricted for a minimum of 55
14 years as affordable for "persons and families of low or moderate income," as defined in California
15 Health & Safety Code Section 50093, shall be considered a principally permitted use and shall not
16 require conditional use authorization, permit review under Planning Code Section 309, authorization
17 as a planned unit development or a large project authorization, provided that the site is not designated
18 as public open space, or under the jurisdiction of the San Francisco Recreation and Park Department,
19 or located in an RH zoning district. The City may develop, or cause to be developed, any project where
20 the principal use is housing comprised solely of housing that is restricted for a minimum of 55 years as
21 affordable for "persons and families of low or moderate income," as defined in California Health &
22 Safety Code Section 50093, provided that the site is not designated as public open space, or under the
23 jurisdiction of the San Francisco Recreation and Park Department, or located in an RH zoning district.
24 If a non-residential use contained in any proposed project would require conditional use authorization,
25 permit review under Planning Code Section 309, authorization as a planned unit development or a

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

5
6 **SEC. 253. REVIEW OF PROPOSED BUILDINGS AND STRUCTURES EXCEEDING A**
7 **HEIGHT OF 40 FEET IN RH DISTRICTS, OR MORE THAN 50 FEET IN RM AND RC**
8 **DISTRICTS.**

9 (a) Notwithstanding any other provision of this Code to the contrary, in any RH, RM, or
10 RC District, established by the use district provisions of Article 2 of this Code, wherever a
11 height limit of more than 40 feet in a RH District, or more than 50 feet in a RM or RC District,
12 is prescribed by the height and bulk district in which the property is located, any building or
13 structure exceeding 40 feet in height in a RH District, or 50 feet in height in a RM or RC
14 District, shall be permitted only upon approval by the Planning Commission according to the
15 procedures for conditional use approval in Section 303 of this Code; provided, however, that a
16 building over 40 feet in height in a RM or RC District with more than 50 feet of street frontage
17 on the front façade is subject to the conditional use requirement-; and provided further any
18 project where the principal use is housing comprised solely of housing that is restricted for a minimum
19 of 55 years as affordable for “persons and families of low or moderate income,” as defined in
20 California Health & Safety Code Section 50093, and is not located in an RH zoning district or on a site
21 designated as public open space or under the jurisdiction of the San Francisco Recreation and Park
22 Department, shall not require conditional use authorization as described in this Section 253. If any
23 non-residential uses contained in the project would require conditional use authorization, such
24 requirement would apply unless the non-residential use is accessory to and supportive of the affordable
25 housing on-site. Upon request, the Zoning Administrator shall make a written determination about

1 whether a site is designated as public open space, which determination may be appealed to the Board
2 of Appeals.

3 (b) Commission Review of Proposals.

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

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

17
18 **SEC. 309. PERMIT REVIEW IN C-3 DISTRICTS.**

19 The provisions and procedures set forth in this Section shall govern the review of
20 project authorization and building and site permit applications for (1) the construction or
21 substantial alteration of structures in C-3 Districts, (2) the granting of exceptions to certain
22 requirements of this Code where the provisions of this Section are invoked, and (3) the
23 approval of open space and streetscape requirements of the Planning Code. When any action
24 authorized by this Section is taken, any determination with respect to the proposed project
25 required or authorized pursuant to CEQA may also be considered. This Section 309 shall not

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

13 * * * *

14 **SEC. 329. LARGE PROJECT AUTHORIZATION IN EASTERN NEIGHBORHOODS**
15 **MIXED USE DISTRICTS.**

16 (a) **Purpose.** The purpose of this Section is to ensure that all large projects proposed
17 in the Eastern Neighborhoods Mixed Use Districts are reviewed by the Planning Commission,
18 in an effort to achieve the objectives and policies of the General Plan, the applicable Design
19 Guidelines, and the purposes of this Code.

20 (b) **Applicability.**

21 (1) This Section 329 applies to all projects in the Eastern Neighborhoods Mixed
22 Use Districts, except projects in the Western SoMa Special Use District, subject to Section
23 823(c)(12), that meet at least one of the following criteria:

24 (A) The project includes the construction of a new building greater
25 than 75 feet in height (excluding any exceptions permitted per Section 260(b)), or includes a

1 vertical addition to an existing building with a height of 75 feet or less resulting in a total
2 building height greater than 75 feet; or

3 (2 B) The project involves a net addition or new construction of more than
4 25,000 gross square feet.

5 (2) This Section 329 shall not apply to any project where the principal use is housing
6 comprised solely of housing that is restricted for a minimum of 55 years as affordable for “persons
7 and families of low or moderate income,” as defined in California Health & Safety Code Section
8 50093, and is not located on a site designated as public open space or under the jurisdiction of the
9 San Francisco Recreation and Park Department. If any non-residential uses contained in the project
10 otherwise would require large project authorization or conditional use authorization, such
11 requirement would apply unless the non-residential use is accessory to and supportive of the
12 affordable housing on-site. Upon request, the Zoning Administrator shall make a written
13 determination about whether a site is designated as public open space, which determination may be
14 appealed to the Board of Appeals.

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

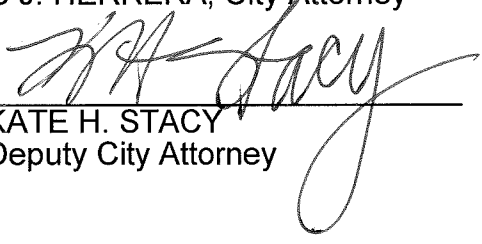
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21 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
22 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
23 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
24 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
25

1 additions, and Board amendment deletions in accordance with the "Note" that appears under
2 the official title of the ordinance.

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

6 By:



A handwritten signature in black ink, appearing to read 'K.H. Stacy', is written over a horizontal line. Below the line, the name 'KATE H. STACY' and title 'Deputy City Attorney' are printed.

7 KATE H. STACY
8 Deputy City Attorney

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