



SAN FRANCISCO PLANNING DEPARTMENT

November 30, 2018

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

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**Re: Transmittal of Planning Department Case Number 2018-013472PCA:
Residential Care Facilities in RH-3
Board File No. 180915
Planning Commission Recommendation: Approval**

Dear Ms. Calvillo and Supervisor Mandelman,

On November 29, 2018 the Planning Commission conducted duly noticed public hearing at regularly scheduled meetings to consider the proposed Ordinance, introduced by Supervisor Mandelman, that would amend the Planning Code to allow Residential Care Facilities for seven or more persons as principally permitted in RH-3 (Three-Family), RC, RM, RTO, DTR, MUG, MUO, MUR, RED and WMUG Districts, and above the ground floor in all Neighborhood Commercial Districts. At the hearing the Planning Commission recommended approval.

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,

A handwritten signature in black ink, appearing to read "Aaron D. Starr".

Aaron D. Starr
Manager of Legislative Affairs

cc:

Judy Boyajian, Deputy City Attorney
Kyle Smealie, Aide to Supervisor Mandelman
Erica Major, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 20346

HEARING DATE NOVEMBER 29, 2018

Project Name: Residential Care Facilities in RH-3
Case Number: 2018-013472PCA [Board File No. 180915]
Initiated by: Supervisor Mandelman / Introduced September 9, 2018
Staff Contact: Audrey Butkus, Legislative Affairs
Audrey.Butkus@sfgov.org, 415-575-9129
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

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RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE TO ALLOW RESIDENTIAL CARE FACILITIES FOR SEVEN OR MORE PERSONS AS PRINCIPALLY PERMITTED IN RH-3 (THREE-FAMILY), RC, RM, RTO, DTR, MUG, MUO, MUR, RED AND WMUG DISTRICTS, AND ABOVE THE GROUND FLOOR IN ALL NEIGHBORHOOD COMMERCIAL DISTRICTS.; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on September 18, 2018 Supervisor Mandelman introduced, and Supervisor Yee co-sponsored a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 180915, which would amend the Planning Code to allow Residential Care Facilities for seven or more persons as principally permitted in RH-3 (Three-Family), RC, RM, RTO, DTR, MUG, MUO, MUR, RED and WMUG Districts, and above the ground floor in all Neighborhood Commercial Districts;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 29, 2018; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c) and 15378; 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 1650 Mission Street, Suite 400, 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 **approves** the proposed ordinance.

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. As the number of SNFs in San Francisco continue to decline, Residential Care Facilities are one way of filling the gap in long-term care. As long-term care continues to shift to a more residential model, Residential Care Facilities are also in increasing demand.
2. The proposed amendments will provide more opportunities for Residential Care Facilities to establish themselves in San Francisco.
3. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 4

FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

The proposed Ordinance will expand opportunities for Residential Care in San Francisco neighborhoods, including Residential Care Facility for the Elderly (RCFE) facilities, those seeking treatment for substance abuse, mental health, and for persons with disabilities to support their ability to live independently in the community.

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 7

ENHANCE SAN FRANCISCO'S POSITION AS A NATIONAL AND REGIONAL CENTER FOR GOVERNMENTAL, HEALTH, AND EDUCATIONAL SERVICES.

Policy 7.3

Promote the provision of adequate health and educational services to all geographical districts and cultural groups in the city.

The proposed Ordinance will assist in expanding the reach of Residential Care Facilities across the city, by loosening the restrictions on where they may locate by-right, and by removing the size restrictions based on the number of beds provided.

COMMUNITY FACILITIES ELEMENT

OBJECTIVE 9

ASSURE THAT INSTITUTIONAL USES ARE LOCATED IN A MANNER THAT WILL ENHANCE THEIR EFFICIENT AND EFFECTIVE USE.

Policy 9.1

Locate institutional uses according to the Institutional Facilities Plan.

The proposed Ordinance will promote Residential Care Facilities to locate in neighborhoods with compatible residential density by continuing to enforce the current controls for RH-1 and RH-2 Districts, but loosening the controls in NC Districts and higher density residential districts like RTO, RM, and RH-3 Districts.

4. **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.

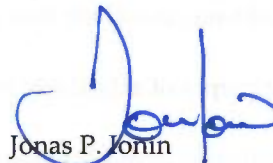
8. That our parks and open space and their access to sunlight and vistas be protected from development;

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

5. **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 APPROVES the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on November 29, 2018.



Jonas P. Jorin
Commission Secretary

AYES: Fong, Hillis, Johnson, Koppel, Melgar, Moore

NOES: None

ABSENT: Richards

ADOPTED: November 29, 2018



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: NOVEMBER 29, 2018
90-DAY DEADLINE: DECEMBER 8, 2018

Project Name: Residential Care Facilities in RH-3
Case Number: 2018-013472PCA [Board File No. 180915]
Initiated by: Supervisor Mandelman / Introduced September 9, 2018
Co-Sponsor: Supervisor Yee
Staff Contact: Audrey Butkus, Legislative Affairs
Audrey.Butkus@sfgov.org, 415-575-9129
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Approval**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to allow Residential Care Facilities for seven or more persons as principally permitted in RH-3 (Three-Family), RC, RM, RTO, DTR, MUG, MUO, MUR, RED and WMUG Districts, and above the ground floor in all Neighborhood Commercial Districts. This ordinance does not change existing ground floor controls for Residential Care Facilities in NC Districts or the controls in RH-1 (One-Family) or RH-2 (Two Family) Districts.

The Way It Is Now:

1. In Residential Districts – RH (Residential-House), RC (Residential-Commercial), RM (Residential-Mixed), and RTO (Residential-Transit Oriented) Districts – Residential Care Facilities are principally permitted for six or fewer persons but require a Conditional Use authorization for seven or more persons.
2. In most Neighborhood Commercial Districts, Residential Care Facilities are principally permitted, but facilities for seven or more persons require a Conditional Use authorization.
3. Residential Care Facilities are not permitted in RED (Residential Enclave Districts), but are conditionally permitted in DTR (Downtown Residential), MUG (Mixed Use-General), MUO (Mixed Use-Office), MUR (Mixed Use-Residential), and WMUG (WSOMA Mixed Use-General) Districts.

The Way It Would Be:

1. In all Residential Districts except RH-1 and RH-2 Districts, Residential Care Facilities will be principally permitted regardless of how many persons the use serves. In RH-1 and RH-2 Districts the controls will remain the same.
2. In all Neighborhood Commercial Districts, Residential Care Facilities will be principally permitted above the ground floor regardless of the number of persons it services. The stricter ground floor controls would remain in place for the few NC Districts that do not permit Residential Care Facilities on the ground floor (North Beach NCD & Folsom Street NCT), require

a CU on the ground floor (Pacific Avenue NCD), or require a CU on the ground floor for seven or more persons (West Portal Avenue NCD).

3. Residential Care Facilities in the DTR, MUG, MUO, MUR, RED and WMUG Districts will be principally permitted regardless of how many persons the use serves.

BACKGROUND

The Planning Code currently classifies Residential Care Facilities as a Non-Residential Institutional Use. Prior to the recent Planning Code reorganizations, Residential Care Facilities were not regulated as a separate use.

In 2016, San Francisco's Post-Acute Care Project recommended expanding opportunities for Residential Care in San Francisco neighborhoods, including Residential Care Facility for the Elderly (RCFE) facilities. Residential Care Facilities are regulated as an Institutional Use, therefore the current controls subject Residential Care Facilities to Floor Area Ratio limits, as well as to the Non-Residential Use Size limits in Neighborhood Commercial Districts. Conversion of an existing Residential Use to a Residential Care Facility either requires a Conditional Use authorization or is not permitted, depending on the zoning district and the floor of the building.

ISSUES AND CONSIDERATIONS

Definition of Residential Care Facilities:

Planning Code Section 102 defines Residential Care Facility as:

An Institutional Healthcare Use providing lodging, board and care for a period of 24 hours or more to persons in need of specialized aid by personnel licensed by the State of California. Such facility shall display nothing on or near the facility that gives an outward indication of the nature of the occupancy except for a sign as permitted by Article 6 of this Code, shall not provide outpatient services, and shall be located in a structure which remains residential in character. Such facilities shall include, but not necessarily be limited to, a board and care home, family care home, long-term nursery, orphanage, rest home or home for the treatment of addictive, contagious or other diseases, or psychological disorders.

A Residential Care Facility is designed to provide long-term care in which the population it serves considers the facility their "home". They are not considered a Health Service Use, as Residential Care Facilities do not offer out-patient services, may or may not have Medical Doctors on staff, and are generally designed to treat patients of specific demographics, such as the elderly, or those suffering from substance abuse, in a residential setting.

Defining Skilled Nursing Facilities (SNFs):

The proposed Ordinance has largely been initiated due to the findings of the Post-Acute Care Project which is discussed further in the following subsection. The study focuses on the loss of a specific type of medical bed, and medical facility known as "Skilled Nursing Facilities" or "SNFs". SNFs provide short-term care, long-term care, or a combination thereof. Residents often consider facilities oriented toward long-term stays "home." Whereas facilities oriented toward short-term stays, with a focus on rehabilitation or care following an illness or injury, have a resident community constantly in flux. San

Francisco acute care SNFs primarily provide short-term rehabilitative care, while Laguna Honda Hospital and the Jewish Home have a greater number of beds oriented towards long-term patient stays.

Freestanding SNFs commonly referred to as nursing homes, provide most of the institutional short and long-term care in the United States. San Francisco's 16 freestanding SNFs provide 1,223 skilled nursing beds. It is important to understand that SNF beds are considered a higher level of care. These are not beds that are simply located in a hospital or medical facility. The care being provided through a SNF bed is usually intensive and requires constant monitoring by a medical professional. These beds are not commonly found in large amounts in most Residential Care Facilities, however they *can* be located nursing homes, and rehab facilities.

Post-Acute Care Project:

San Francisco's only subacute unit is located on CPMC's St. Luke's campus. In 2011, California Pacific Medical Center (CPMC, part of Sutter Health) announced that it expected to close this facility by 2019, when the new St. Luke's Hospital opens. As a result, the City's Development Agreement with CPMC that required CPMC to work with San Francisco Department of Public Health and other hospitals to develop proposals for providing subacute care services in San Francisco. One product of this requirement was the "Post-Acute Care Project" study, released in 2016 (see Exhibit B). Some of the key findings of the study were as follows:

- San Francisco's growing older population coupled with the high-cost of doing business in the city and low reimbursement rates for long-term skilled nursing care may result in a capacity problem for institutional skilled nursing care needs in the future.
- Growing Aging Population: San Francisco currently has 22 skilled nursing beds per 1,000 adults age 65 and older. If San Francisco were to maintain this rate as our population ages, the city would need 4,287 SNF beds –an increase of nearly 70% (1,745) over the current supply – by 2030.
- One approach to reducing the demand for institutional skilled nursing care is to increase the availability and integration of home- and community-based care. Key elements of home- and community-based care range from home-based health and personal care services, to community behavioral health programs, to community living options that include Residential Care Facilities for the Elderly (RCFEs—Assisted Living Facilities, Board and Care Homes) and alternative community housing arrangements, to community adult day services and social support programs.

Ongoing Collaboration between Department of Public Health and Planning:

The Planning Department, in conjunction with the Department of Public Health, have been working to update the 2013 Healthcare Master Plan. Some of the initial data states:

- In 2010 the number of Long-Term Care establishments in San Francisco was 197. In 2015, that number decreased to 162.
- The demand for both SNFs and Residential Care for the Elderly (RCFE) facilities is projected to increase due to demographic shifts.
- Health care providers face difficulties finding affordable sites for new facilities and tend to feel that land use controls are overly restrictive and/or confusing.
- In San Francisco, emergency room visits due to acute and chronic alcohol use disorder continue to increase across all race/ethnicity groups, with the homeless population especially at risk.

- San Francisco should increase access to and capacity of long-term care options for its growing senior population, those seeking treatment for substance abuse, mental health, and for persons with disabilities to support their ability to live independently in the community.

General Plan Compliance

- The Housing Element supports fostering a housing stock that meets the needs of all residents across lifecycles. The proposed Ordinance will better enable Residential Care Facilities, including nursing and retirement homes, to establish themselves by removing many of the process limitations set by bed number maximums for Institutional Uses.
- The Commerce and Industry Element strives to promote the provision of adequate health services to all geographical districts and cultural groups in the city. The proposed Ordinance will assist in expanding the reach of Residential Care Facilities across the city, by loosening the restrictions on where they may locate by-right, and by removing the size restrictions based on the number of beds provided.
- The Community Facilities Element requires Institutional Uses to locate in a manner that will enhance their efficient and effective use, while also not detracting from the surrounding neighborhood. The proposed Ordinance will promote Residential Care Facilities to locate in neighborhoods with compatible residential density by continuing to enforce the current controls for RH-1 and RH-2 Districts, but loosening the controls in NC Districts and higher density residential districts like RTO, RM, and RH-3 Districts.

Implementation

The Department has determined that this ordinance will not impact our current implementation procedures.

RECOMMENDATION

The Department recommends that the Commission *approve* the proposed Ordinance and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

In 2016, San Francisco's Post-Acute Care Project recommended expanding opportunities for Residential Care in San Francisco neighborhoods, including Residential Care Facility for the Elderly (RCFE) facilities. The limitation on the number of beds that may be allowed before a Conditional Use authorization is required, or before not permitting the use altogether, contradicts the Post-Acute Care Project's identified need for additional beds to care for the elderly and those suffering from long-term illnesses. As the number of SNFs in San Francisco continue to decline, Residential Care Facilities are one way of filling the gap in long-term care. As long-term care continues to shift to a more residential model, Residential Care Facilities are also in increasing demand. The proposed amendments will provide more opportunities for Residential Care Facilities to establish themselves in San Francisco.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it 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.

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Post-Acute Care Project
- Exhibit C: Board of Supervisors File No. 180915