



SAN FRANCISCO PLANNING DEPARTMENT

December 27, 2019

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 2019-014348PCA:
Exemption from Density Limits for Affordable and Unauthorized Units
Board File No. 190757
Planning Commission Recommendation: Approval with Modification**

Dear Ms. Calvillo and Supervisor Mandelman,

On December 5, 2019, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Mandelman that would amend the Planning Code to provide an exception from density limit calculations for all affordable units in projects not seeking and receiving a density bonus, permit the legalization of all unauthorized dwelling units notwithstanding a history of no-fault evictions, and principally permit residential care facilities for seven or more persons in all RH (Residential, House) zoning districts. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

Recommendation 1: Amend Section 207(c) to exempt voluntary Affordable units *only*.

Recommendation 2: Add a subsection to Section 207(c) for 100% Affordable projects.

Recommendation 3: Remove the prohibition to use the legalization program where no-fault evictions have occurred and amend the Planning and Rent Ordinance to:

- Clarify that the existing five-year price control applies to no-fault evictions in unauthorized units (Section 37.3(f) of the Administrative Code).
- Require the unit be offered to the previous tenant evicted like provisions for capital improvement (37.9a(11)), Ellis Act (37.9A), and owner move-in evictions (37.9(B)).

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.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

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.

www.sfplanning.org

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron D. Starr". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Aaron D. Starr
Manager of Legislative Affairs

cc:

Judy Boyajian, Deputy City Attorney
Erin Mundy, 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. 20584

HEARING DATE: DECEMBER 5, 2019

Project Name: **Exemption from Density Limits for Affordable and Unauthorized Units**
Case Number: **2019-014348PCA [Board File No. 190757]**
Initiated by: Supervisor Mandelman / Introduced July 9, 2019
Staff Contact: **Audrey Merlone, Legislative Affairs**
Audrey.Butkus@sfgov.org, 415-575-9129
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

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RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO PROVIDE AN EXCEPTION FROM DENSITY LIMIT CALCULATIONS FOR ALL AFFORDABLE UNITS IN PROJECTS NOT SEEKING AND RECEIVING A DENSITY BONUS, PERMIT THE LEGALIZATION OF ALL UNAUTHORIZED DWELLING UNITS NOTWITHSTANDING A HISTORY OF NO-FAULT EVICTIONS, AND PRINCIPALLY PERMIT RESIDENTIAL CARE FACILITIES FOR SEVEN OR MORE PERSONS IN ALL RH (RESIDENTIAL, HOUSE) ZONING 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 July 9, 2019 Supervisor Mandelman introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 190757, which would amend the Planning Code to provide an exception from density limit calculations for all affordable units in projects not seeking and receiving a density bonus, permit the legalization of all unauthorized dwelling units notwithstanding a history of no-fault evictions, and principally permit residential care facilities for seven or more persons in all RH (Residential, House) zoning districts;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on December 5, 2019; 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

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 with modifications** the proposed ordinance.

Recommendation 1: Amend Section 207(c) to exempt voluntary Affordable units *only*.

Recommendation 2: Add a subsection to Section 207(c) for 100% Affordable projects.

Recommendation 3: Remove the prohibition to use the legalization program where no-fault evictions have occurred and amend the Planning and Rent Ordinance to:

- a) Clarify that the existing five year price control applies to no-fault evictions in unauthorized units (Section 37.3(f) of the Administrative Code).
- b) Require the unit be offered to the previous tenant evicted similar to provisions for capital improvement (37.9a(11)), Ellis Act (37.9A), and owner move-in evictions (37.9(B)).

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. The Planning Commission supports the proposed Ordinance with the recommended modifications to Section 207(c) because it expands the ability to build Affordable housing and Residential Care Facilities in low-density districts, closes loopholes in the UDU legalization program, and increases the ability to build/legalize more ADU's. San Francisco and the Bay Area have a housing shortage. The Planning Department is working to meet these housing needs. The ADU and UDU legalization programs have helped create new dwelling units, mostly through infill efforts. Any such effort to improve the viability of these programs should be supported. The Ordinance will build on these efforts by expanding opportunities for underutilized auxiliary structures and UDU's to become viable, affordable housing. In addition to facing a traditional housing shortage, San Francisco is also facing a shortage of Skilled Nursing Facilities (SNF's). 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.
2. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 1

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.5

Consider secondary units in community plans where there is neighborhood support and when other neighborhood goals can be achieved, especially if that housing is made permanently affordable to lower-income households.

The proposed Ordinance would provide further flexibility for Accessory Dwelling unit program in pursuit of goals to increase housing opportunities. It would also provide more opportunities to preserve existing unauthorized units.

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.

OBJECTIVE 7

SECURE FUNDING AND RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING, INCLUDING INNOVATIVE PROGRAMS THAT ARE NOT SOLELY RELIANT ON TRADITIONAL MECHANISMS OR CAPITAL.

Policy 7.7

Support housing for middle income households, especially through programs that do not require a direct public subsidy.

ADUs and UDU's are subordinate to the original unit due to their size, location of the entrance, lower ceiling heights, etc. ADUs and UDU's provide a lower rent compared to the residential units developed in newly constructed buildings and therefore the proposed Ordinance would support housing for middle income households.

Removing dwelling unit density limits for 100% affordable projects and excluding voluntary affordable units from density calculations will additionally assist in building permanently affordable housing without public subsidy.

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.

3. **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.

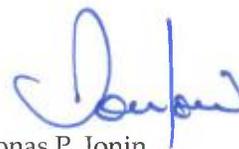
8. That our parks and open space and their access to sunlight and vistas be protected from development;

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

4. **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 WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on December 5, 2019.



Jonas P. Ionin
Commission Secretary

AYES: Diamond, Fung, Johnson, Koppel, Melgar, Moore

NOES: None

ABSENT: Richards

ADOPTED: December 5, 2019

