



SAN FRANCISCO PLANNING DEPARTMENT

September 11, 2015

Ms. Angela Calvillo, Clerk
Honorable Supervisor Wiener
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
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**Re: Transmittal of Planning Department Case Number 2015-008150PCA:
Notice to Tenants of Dwelling Unit Merger or Demolition
Board File No. 150587
Planning Commission Recommendation: Approval with Modification**

Dear Ms. Calvillo and Supervisor Wiener,

On September 10, 2015, the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed Ordinance that would amend Planning Code Sections 311 and 312, introduced by Supervisor Wiener. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

- 1. Modify the Ordinance to highlight that the removal of a residential unit, including an unauthorized residential unit, is subject to Sections 311 and 312.** Specifically, Section 311(b) would be modified to read as follows:

Applicability. Except as indicated herein, all building permit applications for demolition and/or new construction, and/or alteration of residential buildings, including the removal of an authorized or unauthorized residential unit, in RH, RM and RTO districts shall be subject to the notification and review procedures required by this Section.

Proposed Section 311(c)(2) would be modified as follows:

Written notice shall be mailed to the notification group which shall include the project sponsor, tenants of the subject property, ~~irrespective of whether a tenant resides in a legal residential unit~~, relevant neighborhood organizations as described in Subparagraph 311(c)(2)(C) below, all individuals having made a written request for notification for a specific parcel or parcels pursuant to Planning Code Section 351 and all owners and, to the extent practical, occupants, of properties in the notification area. For the purposes of Section 311(g) below, written notice shall also be mailed to tenants of the subject property in unauthorized residential units.

Section 312(b) would be modified to read as follows:

Applicability. Except as indicated herein, all building permit applications for demolition, new construction, the removal of an authorized or unauthorized residential unit, changes in use to a formula retail use as defined in Section 303.1 of this Code or alterations which expand the exterior dimensions of a building shall be subject to the notification and review procedures required by Section 312(d).

Proposed Section 312(d)(2) would be modified to read as follows:

Written notice shall be mailed to the notification group which shall include the project sponsor, tenants of the subject property, irrespective of whether a tenant resides in a legal residential unit, relevant neighborhood organizations as described in Subparagraph 312(d)(2)(C) below, all individuals having made a written request for notification for a specific parcel or parcels pursuant to Planning Code Section 351 and all owners and, to the extent practical, occupants, of properties in the notification area. For the purposes of Section 312(h) below, written notice shall also be mailed to tenants of the subject property in unauthorized residential units.

2. **Modify proposed Subsection 311(g) and 312(h) for consistency with existing notification procedures.** Specifically, proposed Subsection 311(g) would be modified as follows:

(g) Removal of Residential Units. When removal or elimination of a residential unit is proposed, the Applicant shall provide notice to occupants of the subject property, by complying with the following notification procedures.

(1) The Applicant shall provide a list of all existing residential units in the subject property to the Zoning Administrator, including those units that may be unauthorized unpermitted residential units.

(2) The Applicant shall post a notice of the application at least ~~15~~ 30 inches by ~~15~~ 30 inches in a conspicuous common area of the subject property, with the following information content as described in Subsections (c)(5)(A)-(D) above, and including the phone numbers of the agencies to contact regarding building permit issuance and appeal; ~~permit number; filing date; address and phone number of the agency to contact for information regarding permit issuance; the date of permit issuance, if applicable; address and phone number of agency to contact to appeal issuance of permit; name, address and phone number of permittee.~~ The sign shall also contain a list of indicate the appropriate City agency or resource to contact for assistance in securing tenant counseling or legal services that can provide assistance to tenants with understanding and participating in the City's processes. The sign shall be posted upon submittal of an application no later than the start date of the notice required under Subsection (c)(5) and shall remain posted until the conclusion of any hearings on the permit before the Planning Commission, the Zoning Administrator, the Board of Supervisors or the Board of Appeals. Such notice shall also include contact information for translation services into Spanish, Chinese, and Russian.

~~(3) The Zoning Administrator shall deliver notice of such application via hand delivery or U.S. mail. The Planning Department shall cause notice to be mailed to all residential units in the building, irrespective of whether the unit is a legal or illegal residential unit including any unauthorized residential units.~~

Proposed Subsection 312(h) would be modified as follows:

(h) Removal of Residential Units. When removal or elimination of a residential unit is proposed, the Applicant shall comply with the following notification procedures.

(1) The Applicant shall provide a list of all residential units in the subject property to the Zoning Administrator, including those units that may be ~~unauthorized-unpermitted~~ residential units.

(2) The Applicant shall post a notice of the application at least ~~15 30~~ inches by ~~15 30~~ inches in a conspicuous common area of the subject property, with the ~~following information content as described in Subsection (d)(2) above, and including the phone numbers of the agencies to contact regarding building permit issuance and appeal; permit number, filing date, address and phone number of the agency to contact for information regarding permit issuance; the date of permit issuance; address and phone number of agency to contact to appeal issuance of permit; name, address and phone number of permittee.~~ The sign shall also ~~contain a list of~~ indicate the appropriate City agency or resource to contact for assistance in securing tenant counseling or legal services that can provide assistance to tenants with understanding and participating in the City's processes. The sign shall be posted ~~upon~~ ~~submission of an application~~ no later than the mailing date of the notice required under Subsection (d)(2) and shall remain posted until the conclusion of any hearings on the permit before the Planning Commission, the Zoning Administrator, the Board of Supervisors or the Board of Appeals. Such notice shall also include contact information for translation services into Spanish, Chinese, and Russian.

~~(3) The Zoning Administrator shall deliver notice of such application via hand delivery or U.S. mail. The Planning Department shall cause notice to be mailed to all residential units in the building, irrespective of whether the unit is a legal or illegal residential unit including any unauthorized residential units.~~

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.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron D. Starr", with a long horizontal line extending to the right.

Aaron D. Starr
Manager of Legislative Affairs

cc:

Kate H. Stacy, Deputy City Attorney
Andres Power, Aide to Supervisor Wiener
Andrea Ausberry, Office of the Clerk of the Board

Attachments:

Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution 19455

HEARING DATE SEPTEMBER 10, 2015

Project Name: Notice to Tenants of Dwelling Unit Merger or Demolition
Case Number: 2015-008150PCA [Board File No. 150587]
Initiated by: Supervisor Wiener / Introduced June 2, 2015
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Recommend Approval with Modifications**

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTIONS 311 AND 312 TO REQUIRE WRITTEN AND POSTED NOTICE TO ALL TENANTS OF A BUILDING IN WHICH DEMOLITION OR MERGER OF A DWELLING UNIT IS PROPOSED; 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 June 2, 2015 Supervisor Wiener introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 150587, which would amend Sections 311 and 312 of the Planning Code to require written and posted notice to all tenants of a building in which demolition or merger of a dwelling unit is proposed;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 10, 2015; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 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

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with modifications** the proposed ordinance.

The Commission recommended modifications are:

1. **Modify the Ordinance to highlight that the removal of a residential unit, including an unauthorized residential unit, is subject to Sections 311 and 312.** Specifically, Section 311(b) would be modified to read as follows:

Applicability. Except as indicated herein, all building permit applications for demolition and/or new construction, and/or alteration of residential buildings, including the removal of an authorized or unauthorized residential unit, in RH, RM and RTO districts shall be subject to the notification and review procedures required by this Section.

Proposed Section 311(c)(2) would be modified as follows:

Written notice shall be mailed to the notification group which shall include the project sponsor, tenants of the subject property, ~~irrespective of whether a tenant resides in a legal residential unit~~, relevant neighborhood organizations as described in Subparagraph 311(c)(2)(C) below, all individuals having made a written request for notification for a specific parcel or parcels pursuant to Planning Code Section 351 and all owners and, to the extent practical, occupants, of properties in the notification area. For the purposes of Section 311(g) below, written notice shall also be mailed to tenants of the subject property in unauthorized residential units.

Section 312(b) would be modified to read as follows:

Applicability. Except as indicated herein, all building permit applications for demolition, new construction, the removal of an authorized or unauthorized residential unit, changes in use to a formula retail use as defined in Section 303.1 of this Code or alterations which expand the exterior dimensions of a building shall be subject to the notification and review procedures required by Section 312(d).

Proposed Section 312(d)(2) would be modified to read as follows:

Written notice shall be mailed to the notification group which shall include the project sponsor, tenants of the subject property, ~~irrespective of whether a tenant resides in a legal residential unit~~, relevant neighborhood organizations as described in Subparagraph 312(d)(2)(C) below, all individuals having made a written request for notification for a specific parcel or parcels pursuant to Planning Code Section 351 and all owners and, to the extent practical, occupants, of properties in the notification area. For the purposes of Section 312(h) below, written notice shall also be mailed to tenants of the subject property in unauthorized residential units.

2. **Modify proposed Subsection 311(g) and 312(h) for consistency with existing notification procedures.** Specifically, proposed Subsection 311(g) would be modified as follows:

(g) *Removal of Residential Units.* When removal or elimination of a residential unit is proposed, the Applicant shall provide notice to occupants of the subject property, by complying with the following notification procedures.

(1) The Applicant shall provide a list of all existing residential units in the subject property to the Zoning Administrator, including those units that may be ~~unauthorized-unpermitted~~ residential units.

(2) The Applicant shall post a notice of the application at least ~~15 30~~ inches by ~~15 30~~ inches in a conspicuous common area of the subject property, with the ~~following information~~ *content as described in Subsections (c)(5)(A)-(D) above, and including the phone numbers of the agencies to contact regarding building permit issuance and appeal; permit number; filing date; address and phone number of the agency to contact for information regarding permit issuance; the date of permit issuance, if applicable; address and phone number of agency to contact to appeal issuance of permit; name, address and phone number of permittee.* The sign shall also ~~contain a list of~~ *indicate the appropriate City agency or resource to contact for assistance in securing* tenant counseling or legal services that can provide assistance to tenants with understanding and participating in the City's processes. The sign shall be posted ~~upon submittal of an application~~ *no later than the start date of the notice required under Subsection (c)(5)* and shall remain posted until the conclusion of any hearings on the permit before the Planning Commission, the Zoning Administrator, the Board of Supervisors or the Board of Appeals. Such notice shall also include contact information for *translation services into Spanish, Chinese, and Russian.*

(3) ~~The Zoning Administrator shall deliver notice of such application via hand delivery or U.S. mail. The Planning Department shall cause notice to be mailed to all residential units in the building, irrespective of whether the unit is a legal or illegal residential unit including any unauthorized residential units.~~

Proposed Subsection 312(h) would be modified as follows:

(h) *Removal of Residential Units.* When removal or elimination of a residential unit is proposed, the Applicant shall comply with the following notification procedures.

(1) The Applicant shall provide a list of all residential units in the subject property to the Zoning Administrator, including those units that may be ~~unauthorized-unpermitted~~ residential units.

(2) The Applicant shall post a notice of the application at least ~~15 30~~ inches by ~~15 30~~ inches in a conspicuous common area of the subject property, with the ~~following information~~ *content as described in Subsection (d)(2) above, and including the phone numbers of the agencies to contact regarding building permit issuance and appeal; permit number; filing date; address and phone number of the agency to contact for information regarding permit issuance; the date of permit issuance; address and phone number of agency to contact to appeal issuance of permit; name, address and phone number of permittee.* The sign shall also ~~contain a list of~~ *indicate the appropriate City agency or resource to contact for assistance in securing* tenant counseling or legal services that can provide assistance to tenants with understanding and participating in the City's processes. The sign shall be posted ~~upon submittal of an application~~ *no later than the mailing date of the notice required under Subsection (d)(2)* and shall remain posted until the conclusion of any hearings on the permit before the Planning Commission, the Zoning Administrator, the Board of Supervisors or the Board of

Appeals. Such notice shall also include contact information for translation services into Spanish, Chinese, and Russian.

~~(3) The Zoning Administrator shall deliver notice of such application via hand delivery or U.S. mail. The Planning Department shall cause notice to be mailed to all residential units in the building, irrespective of whether the unit is a legal or illegal residential unit including any unauthorized residential units.~~

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 recent escalation in housing costs, in combination with a relative lack of new housing production and consistent loss of housing units from demolition, has resulted in what many deem a citywide housing crisis.
2. The City of San Francisco, through Mayoral Executive Directive or legislation, has sought to document and slow the loss of residential units. The loss of rental units, and especially rental units subject to rent stabilization is of great concern. These units, sometime unauthorized by the City, provide housing to families, seniors and members of the disabled community of a variety of income levels.
3. Existing notice procedures covering the loss unauthorized residential units can be improved. Minor changes to the existing notice procedures can assure that all tenants residing in a building proposed for alteration receive adequate notice of any proposed change in residential unit count, irrespective of whether they reside in an unauthorized unit.
4. **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 2

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

Policy 2.2

Retain existing housing by controlling the merger of residential units, except where a merger clearly creates new family housing.

The proposed Ordinance helps to retain existing housing by adding a new noticing procedure to projects proposing the merger of residential units. The noticing procedure can help in the consideration of whether the proposed merger of residential units responds to an identified housing need rather than creating fewer, larger and more expensive units.

OBJECTIVE 3

PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

Policy 3.1

Preserve rental units, especially rent controlled units, to meet the City's affordable housing needs.

The proposed Ordinance helps to preserve rental units, and many of which are also rent controlled units, by creating a new noticing procedure that will alert tenants and other residents of the elimination of a residential unit. This new notice may help those residing in residential units proposed for removal by demolition or merger to exercise any relevant tenant rights.

BALBOA PARK STATION AREA PLAN

OBJECTIVE 4.6

ENHANCE AND PRESERVE THE EXISTING HOUSING STOCK.

Policy 4.6.1

Maintain a presumption against the loss of existing housing units.

Policy 4.6.2

Discourage dwelling unit mergers.

The proposed Ordinance creates a new notification process that can help preserve existing housing units and temper the rate of loss of housing units as a result of merger.

EAST SOMA AREA PLAN

OBJECTIVE 2.2

RETAIN AND IMPROVE EXISTING HOUSING AFFORDABLE TO PEOPLE OF ALL INCOMES.

Policy 2.2.1

Adopt citywide demolition policies that discourage demolition of sound housing, and encourage replacement of affordable units.

The proposed Ordinance creates a new notification process for projects proposing to demolish dwelling units. This notification process will apply across the City and will help raise awareness about the loss of housing.

MARKET AND OCTAVIA AREA PLAN

OBJECTIVE 2.3

PRESERVE AND ENHANCE EXISTING SOUND HOUSING STOCK.

Policy 2.3.1

Prohibit residential demolitions unless they would result in sufficient replacement of existing housing units. Even when replacement housing is provided, demolitions should further be restricted to ensure affordable housing and historic resources are maintained.

Policy 2.3.2

Discourage dwelling-unit mergers

The proposed Ordinance creates a new notification process that can help preserve existing housing units and address concerns about the loss of housing from demolition and dwelling unit merger.

MISSION AREA PLAN

OBJECTIVE 2.6

CONTINUE AND EXPAND THE CITY'S EFFORTS TO INCREASE PERMANENTLY AFFORDABLE HOUSING PRODUCTION AND AVAILABILITY.

Policy 2.6.2

Explore housing policy changes at the citywide level that preserve and augment the stock of existing rental and ownership housing.

The proposed Ordinance creates a new notification process for projects proposing to eliminate a dwelling unit through demolition or merger. This new process will be in effect citywide and can help temper the rate of housing loss.

5. **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 as the proposed Ordinance concerns itself with notification of residential projects.

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 help conserve the existing housing and neighborhood character of San Francisco's neighborhoods by creating a new notification process for projects proposing the elimination of residential units through demolition or merger.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would help to preserve the City's supply of affordable housing by creating a new notification process to alert residents of the elimination of residential units.

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 as the proposed Ordinance concerns itself with notification of residential projects.

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 as the proposed Ordinance concerns itself with notification of residential projects.

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 as the proposed Ordinance concerns itself with notification of residential projects.

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 as the proposed Ordinance concerns itself with notification of residential projects.

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 as the proposed Ordinance concerns itself with notification of residential projects.

- 8. 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 recommends that the Board ADOPT the proposed Ordinance with modifications as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on September 10, 2015.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Antonini, Hillis, Johnson, Moore, Richards and Wu

NOES:

ABSENT: Commissioner Fong

ADOPTED: September 10, 2015



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: SEPTEMBER 10, 2015

Project Name: Notice to Tenants of Dwelling Unit Merger or Demolition
Case Number: 2015-008150PCA [Board File No. 150587]
Initiated by: Supervisor Wiener / Introduced June 2, 2015
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Recommend Approval with Modifications**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Building Code to require an applicant to sign an affidavit and post a notice stating that the applicant is not removing a dwelling unit when submitting a building permit application proposing the removal of kitchens, stoves or bathrooms. It also amends the Building Code to require an applicant to post notice when proposing to eliminate a dwelling unit, whether established with benefit of permit or not.

The proposed Ordinance would amend Planning Code Sections 311 and 312 to require written notice of applicable projects to all tenants of the subject property, including to tenants residing in dwelling units established without benefit of permit ("unauthorized units"). It also amends those Sections to require mailed and posted notice to all tenants of a building in which demolition or merger of a dwelling unit is proposed.

The Way It Is Now:

1. The Planning Code requires written notice pursuant to Sections 311 and 312 to be mailed to owners and occupants of property within 150 feet of a subject property. However, the Planning Code does not explicitly require written notice to be mailed to tenants in unauthorized units of that subject property.
2. The Planning Code does not require notice to be mailed to tenants in buildings with less than three authorized units when the elimination of an unauthorized unit by demolition or merger is proposed.
3. The Planning Code requires Project Sponsors to provide the Planning Department with a list of individuals owning and/or residing in properties adjacent to a subject property proposing to eliminate at least one dwelling unit. However, it does not require Project Sponsors to provide the Zoning Administrator (ZA) with a list of all tenants, including those in unauthorized units, residing in the subject property.

4. The Planning Code requires Project Sponsors to post a notice visible from the public right of way on the same day written notice is mailed for the removal of an authorized dwelling unit.
5. The Planning Code requires the Planning Department to cause notice to be mailed when a project proposes to eliminate an authorized dwelling unit.

The Way It Would Be:

1. The Planning Code would explicitly require notice, pursuant to Sections 311 or 312, to be mailed to tenants residing in unauthorized units.
2. The Planning Code would require notice to be mailed to tenants in buildings with less than three authorized units when the elimination of an unauthorized unit by demolition or merger is proposed.
3. The Planning Code would require Project Sponsors to provide the ZA with a list of all tenants residing in a building when a building permit application proposes the elimination of at least one dwelling unit.
4. The Planning Code would require Project Sponsors to post a notice in a conspicuous common area of a subject building upon submission of an application to eliminate a residential unit in addition to the posted notice pursuant to Planning Code Sections 311 and 312,
5. The Planning Code would require the ZA to hand deliver or mail written notice to residential units when a project proposes to eliminate a residential unit.

BACKGROUND

San Francisco Housing Crisis

The escalation in housing costs, relative lack of new housing production and consistent loss of housing units from demolition in San Francisco is well documented. For example, Zillow indicates that the median home sale price in June 2015 was \$1,160,000, up more than 50% from the \$735,000 June 2010 price.¹ Mirroring that trend, the median asking rental rate for a one bedroom apartment reached \$3,500 in 2015, up from \$2,195 in 2011.²

A recent report from San Francisco Planning and Urban Research (SPUR) cites the lack of new housing production at all levels as one aspect fueling the housing crisis.³ SPUR notes that while San Francisco

¹ "San Francisco Home Prices and Values." Zillow. 18 August 2015. <http://www.zillow.com/san-francisco-ca/home-values/>

² Anderson, Lamar. "SF's Median Asking Rent for a One-Bedroom Tops Manhattan's." Curbed San Francisco. 18 August 2015. http://sf.curbed.com/archives/2015/07/02/sfs_median_asking_rent_for_a_onebedroom_tops_manhattans.php; "The San Francisco Rent Explosion." Priceonomics. 18 August 2015. <http://priceonomics.com/the-san-francisco-rent-explosion/>

³ "How to Make San Francisco Affordable Again." SPUR. 18 August 2015. <http://www.spur.org/publications/article/2014-02-11/how-make-san-francisco-affordable-again>

produced on average 1,500 units a year over the last two decades, Seattle averaged twice that amount over the same period. Compounding this relative lack of production is a steady loss of units from demolition. The 2014 San Francisco Housing Inventory indicates that between 2010 and 2014, a total of 905 units were lost to demolition.⁴ This is an average of 226 units a year over that five year period.

This is occurring while San Francisco's population is steadily growing. Over the past four years alone the population has increased from 805,000 in 2010 to 852,000 in 2014.⁵ This population growth undoubtedly increases demand on the available housing stock.

Given this context it is extremely important to not only facilitate housing production but to stem the loss of existing residences as well.

Executive Directive 13-01: Housing Production and Preservation of Rental Stock

On December 18, 2013 Mayor Edwin M. Lee issued Executive Directive 13-01 in recognition of the need to preserve and promote the City's rental housing stock. Among other policy directives, Executive Directive 13-01 directs the Planning Department to implement a Mandatory Discretionary Review policy for building permit applications proposing the removal of a dwelling unit, authorized or otherwise, in buildings with *more than two dwelling units*. Under this policy the Planning Commission must consider the reasons for the reduction in dwelling units, with special attention paid to preserving the City's rental stock.

As part of the implementation of Executive Directive 13-01, the Planning Department requires Project Sponsors seeking to remove an unauthorized unit to submit Mandatory Discretionary Review findings that outline why they are removing, rather than legalizing, the dwelling unit. For building permit applications to remove an unauthorized unit where there is a feasible path to legalize the unit, the Planning Department will recommend that the current housing affordability crisis creates an "exceptional and extraordinary" circumstance such that the Planning Commission should deny the building permit application and preserve the unit.

For building permit applications where there is no feasible path to legalize the unit, the Department will place the Discretionary Review on the Planning Commission's consent calendar with a recommendation to approve the building permit application.

Housing Balance Monitoring and Reporting

In April 2015 the Board of Supervisors passed Ordinance 53-15, City Housing Balance Monitoring and Reporting.⁶ The Ordinance has eight stated purposes, including the following three:

⁴"2014 San Francisco Housing Inventory." San Francisco Planning Department. 18 August 2015. http://www.sf-planning.org/ftp/files/publications_reports/2014_Housing_Inventory.pdf. For the purposes of the San Francisco Housing Inventory a demolished unit is a housing unit physically lost from either the elimination of an unauthorized unit and/or vacant unit, the remodeling/rehabilitation of a building and/or fire damage. These losses are reported to the Department of Building Inspection and include units subject to and not subject to rent stabilization.

⁵"State and County QuickFacts San Francisco County." United States Census Bureau. 18 August 2015. <http://quickfacts.census.gov/qfd/states/06/06075.html>.

- making housing available for all income levels and housing need types;
- offsetting the withdrawal of existing housing units from rent stabilization and the loss of single-room occupancy hotel (SRO) units; and
- ensuring adequate housing for families, seniors and the disabled community.

To realize its purposes Ordinance 53-15 amended the Planning Code, requiring the Planning Department to report on the City's *Housing Balance*. The Housing Balance is the ratio of affordable housing production, rehabilitation and entitlement, less the loss of rent controlled and SRO units ("protected units"), to all new housing production and entitlement. This figure covers a ten year period, starting with the first quarter of 2005 through the last quarter of 2014. Subsequent housing balance reports will cover the 10 years preceding the most recent quarter.

The first Housing Balance Report was released in July 2015.⁷ The Housing Balance Report indicated that during the first reporting period the Citywide Cumulative Housing Balance was 21%. During this ten year period 8,417 affordable housing units were produced either through new construction or acquisition and rehabilitation. Another 3,034 affordable housing and public housing units were entitled or are slated for rehabilitation as well. However, the City also lost 5,470 protected units during this same period. This is concerning for three reasons. First, the magnitude of the loss is significant. Second, once lost this housing stock is extraordinarily difficult to replace given State law on the rent control of dwelling units. And third, protected units often provide adequate housing for families, seniors and members of the disabled community having a variety of income levels.

ISSUES AND CONSIDERATIONS

Existing Notice Procedures

The Planning Code requires many types of projects needing discretionary permits to notice adjacent and surrounding properties of their scope. The most common notification is for the improvement of property in the City's residential and neighborhood commercial zoning districts. In these zoning districts Planning Code Sections 311 and 312 require the Planning Department to cause notice to occur once a project application is determined to be compliant with applicable Planning Code Sections. These two Planning Code sections outline the procedures, required materials and responsibilities for Project Sponsors and the Planning Department in the notification process.

Sections 311 and 312 require notice of a proposed project be posted at the subject property and mailed to adjacent properties within a 150 foot area ("notification area"). For mailed notices, Project Sponsors provide the Planning Department with a list of owners and occupants of properties within the notification area. Project Sponsors attain this list from the San Francisco Assessor's office, which maintains records on the authorized uses of properties, including the number of authorized dwelling units. The Planning Department subsequently prepares and mails a notice describing the project in narrative form and providing a summary of existing and proposed conditions. The mailed notice also includes a plan set with a site plan, floor plans, elevations and other graphic materials for the purposes of

⁶<https://sfgov.legistar.com/View.ashx?M=F&ID=3731491&GUID=55158A10-A58F-419E-A018-FE7842D22732>

⁷ <http://www.sf-planning.org/Modules/ShowDocument.aspx?documentid=9376>

clarifying the project's scope and the existing conditions. Contact information for the applicant and assigned Planning Department staff is included in the event there are questions about the project. The mailed notice allows a concerned member of the public to file a request for the Planning Commission to exercise its Discretionary Review powers over the application during a 30 day notification period.

For posted notices, the Planning Department provides projects sponsors with an 11" x 17" poster that contains the same descriptive content as the mailed notice. However, the posted notice excludes graphic materials such as a plan set. It is the responsibility of the Project Sponsor to post this notice in accordance with the posting instructions the Planning Department provides. This includes posting the poster in a manner that is visible from the public right of way on the same day the mailed notice is sent. The Project Sponsor must maintain the poster posted for the entire 30 day notification period.

BF 150494: Residential Mergers

On May 12, 2015, Supervisor John Avalos introduced BF 150494 Residential Mergers. BF 150494 proposes to amend the entitlement, review and notification procedures in Planning Code Section 317 as they concern the loss of residential units through dwelling unit merger. As currently drafted, BF 150494 would require Conditional Use authorization for eliminating unauthorized units and require notice to all residential units in the subject property. In this way, BF 150494 is similar to the proposed Ordinance as they both seek to notice tenants residing in unauthorized units of a proposed loss of dwelling units in their building. Should BF 150494 become effective as currently drafted, the requirement of Conditional Use authorization would supersede the Section 311 and 312 process as proposed in the proposed Ordinance. It is anticipated that BF 150494 will be before the Planning Commission for review by the end of 2015.

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's proposed recommendations are as follows:

1. **Modify the Ordinance to highlight that the removal of a residential unit, including an unauthorized residential unit, is subject to Sections 311 and 312.** Specifically, Section 311(b) would be modified to read as follows:

Applicability. Except as indicated herein, all building permit applications for demolition and/or new construction, and/or alteration of residential buildings, including the removal of an authorized or unauthorized residential unit, in RH, RM and RTO districts shall be subject to the notification and review procedures required by this Section.

Proposed Section 311(c)(2) would be modified as follows:

Written notice shall be mailed to the notification group which shall include the project sponsor, tenants of the subject property, ~~irrespective of whether a tenant resides in a legal residential unit,~~ relevant neighborhood organizations as described in Subparagraph 311(c)(2)(C) below, all individuals having made a written request for notification for a specific parcel or parcels pursuant to Planning Code Section 351 and all owners and, to the extent practical, occupants, of properties in the notification area. For the purposes of Section 311(g) below, written notice shall also be mailed to tenants of the subject property in unauthorized residential units.

Section 312(b) would be modified to read as follows:

Applicability. Except as indicated herein, all building permit applications for demolition, new construction, ~~the removal of an authorized or unauthorized residential unit,~~ changes in use to a formula retail use as defined in Section 303.1 of this Code or alterations which expand the exterior dimensions of a building shall be subject to the notification and review procedures required by Section 312(d).

Proposed Section 312(d)(2) would be modified to read as follows:

~~Written notice shall be mailed to the notification group which shall include the project sponsor, tenants of the subject property, irrespective of whether a tenant resides in a legal residential unit, relevant neighborhood organizations as described in Subparagraph 312(d)(2)(C) below, all individuals having made a written request for notification for a specific parcel or parcels pursuant to Planning Code Section 351 and all owners and, to the extent practical, occupants, of properties in the notification area. For the purposes of Section 312(h) below, written notice shall also be mailed to tenants of the subject property in unauthorized residential units.~~

2. **Modify proposed Subsection 311(g) and 312(h) for consistency with existing notification procedures.** Specifically, proposed Subsection 311(g) would be modified as follows:

~~(g) Removal of Residential Units. When removal or elimination of a residential unit is proposed, the Applicant shall provide notice to occupants of the subject property, by complying with the following notification procedures.~~

~~(1) The Applicant shall provide a list of all existing residential units in the subject property to the Zoning Administrator, including those units that may be unauthorized-unpermitted residential units.~~

~~(2) The Applicant shall post a notice of the application at least 15 30 inches by 15 30 inches in a conspicuous common area of the subject property, with the following information content as described in Subsections (c)(5)(A)-(D) above, and including the phone numbers of the agencies to contact regarding building permit issuance and appeal: permit number, filing date, address and phone number of the agency to contact for information regarding permit issuance; the date of permit issuance, if applicable; address and phone number of agency to contact to appeal issuance of permit; name, address and phone number of permittee. The sign shall also contain a list of indicate the appropriate City agency or resource to contact for assistance in securing tenant counseling or~~

legal services that can provide assistance to tenants with understanding and participating in the City's processes. The sign shall be posted ~~upon submittal of an application~~ no later than the start date of the notice required under Subsection (c)(5) and shall remain posted until the conclusion of any hearings on the permit before the Planning Commission, the Zoning Administrator, the Board of Supervisors or the Board of Appeals. Such notice shall also include contact information for translation services into Spanish, Chinese, and Russian.

~~(3) The Zoning Administrator shall deliver notice of such application via hand delivery or U.S. mail. The Planning Department shall cause notice to be mailed to all residential units in the building, irrespective of whether the unit is a legal or illegal residential unit including any unauthorized residential units.~~

Proposed Subsection 312(h) would be modified as follows:

(h) ~~Removal of Residential Units. When removal or elimination of a residential unit is proposed, the Applicant shall comply with the following notification procedures.~~

(1) The Applicant shall provide a list of all residential units in the subject property to the Zoning Administrator, including those units that may be ~~unauthorized-unpermitted-residential units.~~

(2) The Applicant shall post a notice of the application at least ~~15 30~~ inches by ~~15 30~~ inches in a conspicuous common area of the subject property, with the ~~following information content as described in Subsection (d)(2) above, and including the phone numbers of the agencies to contact regarding building permit issuance and appeal.:~~ permit number; filing date; address and phone number of the agency to contact for information regarding permit issuance; the date of permit issuance; address and phone number of agency to contact to appeal issuance of permit; name, address and phone number of permittee. The sign shall also contain a list of ~~indicate the appropriate City agency or resource to contact for assistance in securing~~ tenant counseling or legal services that can provide assistance to tenants with understanding and participating in the City's processes. The sign shall be posted ~~upon submittal of an application~~ no later than the mailing date of the notice required under Subsection (d)(2) and shall remain posted until the conclusion of any hearings on the permit before the Planning Commission, the Zoning Administrator, the Board of Supervisors or the Board of Appeals. Such notice shall also include contact information for translation services into Spanish, Chinese, and Russian.

~~(3) The Zoning Administrator shall deliver notice of such application via hand delivery or U.S. mail. The Planning Department shall cause notice to be mailed to all residential units in the building, irrespective of whether the unit is a legal or illegal residential unit including any unauthorized residential units.~~

BASIS FOR RECOMMENDATION

The Department supports the intent of this Ordinance, which is to assure that all tenants residing in a building proposed for alteration receive adequate notice of the proposed work, irrespective of whether they reside in an unauthorized unit. The amendments to the Planning Code result in relatively minor procedural changes to the existing notification process, which the Department believes will be easily integrated into our existing procedures. However, the Department believes that some of the proposed amendments require modification for improved implementation.

Recommendation 1: Modify the Ordinance to highlight that the removal of a residential unit, including an unauthorized residential unit, is subject to Sections 311 and 312.

Staff recommends the amendments to subsections 311(b) and 312(b), the “Applicability” subsections, because they serve as a reminder to Planning Department staff and the general public that the removal of a residential unit, including an unauthorized residential unit, is subject to the permit review procedures of Planning Code Sections 311 and 312.

Staff recommends the amendments to subsections 311(c)(2) and 312(d)(2), the “Notification” subsections, because they specify that the additional notification is only required for the removal of residential units. It is important to make this distinction. The distinction avoids an interpretation of Sections 311 and 312 requiring notification to all tenants in unauthorized residential units in the notification area for any scope of work subject to Sections 311 and 312. This would be overly burdensome for the Project Sponsor. Obtaining accurate information on unauthorized units in the notification area would be very difficult given the likely reluctance of property owners in the notification area to disclose this information and absence of this information at the Assessor’s office.

Recommendation 2: Modify proposed Subsection 311(g) and 312(h) for consistency with existing notification procedures.

Staff recommends the addition of a subsection title for proposed subsections 311(g) and 312(h) because all subsections in Sections 311 and 312 are titled. The subsection title adds clarity and consistency to the proposed amendments.

Staff recommends requiring the proposed new posted notice be 30 inches by 30 inches because these are the minimum dimensions for most other posted notices, as specified in Planning Code Section 306.8, Posting of Signs Required. In addition, a larger poster is more visible and better serves the purpose of noticing within the notification area and the subject property.

Staff recommends amending the content of the proposed new poster to reflect the existing content of Section 311 and 312 posters, but with the addition of the phone numbers of the agencies to contact regarding building permit issuance and appeal. The existing Section 311 and 312 poster content includes the permit number, filing date, and the name, address and phone number of the permittee. The date of permit issuance cannot be known at the time of a Section 311 or Section 312 posting. By adding the phone numbers of the agencies that issue permits and handles their appeals, the proposed Staff modifications include all relevant information as proposed by the Ordinance.

Staff recommends modifying the requirement that the Planning Department provide lists of organizations or firms that provide tenant counseling or legal services and instead indicate an appropriate City agency or City resource guide to contact or reference for assistance in securing tenant counseling or legal services. The Planning Department does not keep lists of tenant or legal service providers. However, the Mayor’s Office of Housing and Community Development and the San Francisco Rent Board have created a housing resource guide and/or referral list that serves this purpose and referencing these eliminates duplicative work on the part of the Planning Department.⁸

⁸ San Francisco Housing Resource Guide. Mayor’s Office of Housing and Community Development. April 30, 2105. <http://www.sfmohcd.org/modules/showdocument.aspx?documentid=8077>; Rent Board Referral Listing August 2015. <http://www.sfrb.org/Modules/ShowDocument.aspx?documentid=1917>

Staff recommends aligning the date of posting the posted notice with the date of the mailing of the written notice as this is the current practice for notification pursuant to Sections 311 and 312. The Planning Department staff, after reviewing the proposal and confirming Planning Code compliance, would generate the poster and direct the Project Sponsor to post it at the subject property. This ensures that the posted notice provides accurate and consistent information and is not inappropriately or unnecessarily posted.

Staff recommends that the Planning Department be the agent to cause written notice to be mailed instead of the Zoning Administrator. This is in line with current notification practice where the Planning Department causes Section 311 and 312 notice to occur while the Zoning Administrator is responsible for notice in relation to other entitlement processes.

Staff recommends eliminating language implying the Zoning Administrator will hand deliver written notice. Not only would this be overly burdensome to have the Zoning Administrator hand deliver notices to tenants residing in unauthorized units, but also unprecedented. All other written notice is delivered by mail.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because it does 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.

RECOMMENDATION:	Recommendation of Approval with Modification
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Attachments:

Exhibit A: Draft Planning Commission Resolution
Exhibit B: Board of Supervisors File No. 150587