

File No. 140775

Committee Item No. 2

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date September 29, 2014

Board of Supervisors Meeting

Date _____

Cmte Board

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Completed by: Andrea Ausberry Date September 25, 2014

Completed by: _____ Date _____

1 [Planning Code - Amending Definition of Residential Unit and Residential Conversion
2 Requirements]

3 **Ordinance amending the Planning Code to amend the definition of Residential Unit and**
4 **clarify the requirements for a Residential Conversion of a Residential Hotel Unit**
5 **regulated under Administrative Code, Chapter 41; and making environmental findings,**
6 **and findings of consistency with the General Plan, and the eight priority policies of**
7 **Planning Code, Section 101.1.**

8 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
9 **Additions to Codes** are in *single-underline italics Times New Roman font*.
10 **Deletions to Codes** are in ~~*italics Times New Roman font*~~.
11 **Board amendment additions** are in double-underlined Arial font.
12 **Board amendment deletions** are in ~~Arial font~~.
13 **Asterisks (* * * *)** indicate the omission of unchanged Code
14 subsections or parts of tables.

15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. Findings

17 (a) The Planning Department has determined that the actions contemplated in this
18 ordinance comply with the California Environmental Quality Act (California Public Resources
19 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
20 Supervisors in File No. 140775 and is incorporated herein by reference.

21 (b) On September 18, 2014, the Planning Commission, in Resolution No. 19238,
22 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
23 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
24 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
25 the Board of Supervisors in File No. 140775, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, this Board finds that this Planning
Code Amendment will serve the public necessity, convenience, and welfare for the reasons

1 set forth in Planning Commission Resolution No. 19238 and the Board incorporates such
2 reasons herein by reference.

3 Section 2. The Planning Code is hereby amended by revising Subsections 317(b) and
4 317(f) to read as follows:

5 * * * *

6 (b) Definitions. For the purposes of this Section 317, the terms below shall be defined
7 as follows:

8 (1) "Residential Conversion" shall mean the removal of cooking facilities, ~~in a~~
9 ~~Residential Unit or the~~ change of occupancy (as defined and regulated by the Building Code),
10 ~~or the~~ change of use (as defined and regulated by the Planning Code), of any Residential ~~Use~~
11 ~~or Live-Work Unit~~ to a non-residential or student housing use. ~~The change of occupancy from a~~
12 ~~dwelling unit, group housing, or SRO to Student Housing is also considered a conversion of a~~
13 ~~Residential Unit. Notwithstanding the foregoing, the change of use or occupancy of a dwelling unit,~~
14 ~~group housing, or SRO to Student Housing is not considered a conversion of a Residential Unit if the~~
15 ~~dwelling unit, group housing or SRO will be Student Housing owned, operated or otherwise controlled~~
16 ~~by a not for profit post-secondary Educational Institution and~~

17 ~~— (A) it was built by the post-secondary Educational Institution;~~

18 ~~— (B) it is in a convent, monastery, or similar religious order facility;~~

19 ~~— (C) it is on an adjoining lot (i.e., sharing the same lot line) to the post-secondary~~
20 ~~Educational Institution, so long as the lot has been owned by the post-secondary Educational~~
21 ~~Institution for at least ten years as of the effective date of Ordinance 188-12; or~~

22 ~~— (D) as of August 10, 2010, it was owned, operated or otherwise controlled by a post-~~
23 ~~secondary Educational Institution that had an Institutional Master Plan on file with the Planning~~
24 ~~Commission, and where the occupancy by those other than students at that date was less than 20% of~~
25 ~~the total occupants. For purposes of determining occupancy, the post-secondary Educational~~

1 ~~Institution shall present to the Planning Department verified information regarding its rental or lease~~
2 ~~of units as of that date.~~

3 (2) "Residential Demolition" shall mean any of the following:

4 (A) Any work on a Residential Building for which the Department of
5 Building Inspection determines that an application for a demolition permit is required, or

6 (B) A major alteration of a Residential Building that proposes the
7 Removal of more than 50% of the sum of the Front Facade and Rear Facade and also
8 proposes the Removal of more than 65% of the sum of all exterior walls, measured in lineal
9 feet at the foundation level, or

10 (C) A major alteration of a Residential Building that proposes the
11 Removal of more than 50% of the Vertical Envelope Elements and more than 50% of the
12 Horizontal Elements of the existing building, as measured in square feet of actual surface
13 area.

14 (D) The Planning Commission may reduce the above numerical
15 elements of the criteria in Subsections (b)(2)(B) and (b)(2)(C), by up to 20% of their values
16 should it deem that adjustment is necessary to implement the intent of this Section 317, to
17 conserve existing sound housing and preserve affordable housing.

18 (3) "Facade" shall mean an entire exterior wall assembly, including but not
19 limited to all finishes and siding, fenestration, doors, recesses, openings, bays, parapets,
20 sheathing and framing.

21 (4) "Front Facade" shall mean the portion of the Facade fronting a right-of-way,
22 or the portion of the Facade most closely complying with that definition, as in the case of a
23 flag lot. Where a lot has more than one frontage on rights-of-way. all such frontages shall be
24 considered Front Facades except where a facade meets the definition of "Rear Facade."
25

1 (5) "Horizontal Elements" shall mean all roof areas and all floor plates, except
2 floor plates at or below grade.

3 (6) "Mandatory Discretionary Review" shall mean a hearing before the Planning
4 Commission that is required by this Section 317 at which the Commission will determine
5 whether to approve, modify or disapprove a permit application.

6 (7) "Residential Merger" shall mean the combining of two or more legal
7 Residential Units, resulting in a decrease in the number of Residential Units within a building,
8 or the enlargement of one or more existing units while substantially reducing the size of others
9 by more than 25% of their original floor area, even if the number of units is not reduced. The
10 Planning Commission may reduce the numerical element of this criterion by up to 20% of its
11 value should it deem that adjustment is necessary to implement the intent of this Section 317,
12 to conserve existing housing and preserve affordable housing.

13 (8) "Rear Facade" shall mean that portion of the Facade facing the part of a lot
14 that most closely complies with the applicable Planning Code rear yard requirements.

15 (9) "Removal" shall mean, with reference to a wall, roof or floor structure, its
16 dismantling, its relocation or its alteration of the exterior function by construction of a new
17 building element exterior to it. Where a portion of an exterior wall is removed, any remaining
18 wall with a height less than the Building Code requirement for legal head room shall be
19 considered demolished. Where exterior elements of a building are removed and replaced for
20 repair or maintenance, in like materials, with no increase in the extent of the element or
21 volume of the building, such replacement shall not be considered Removal for the purposes of
22 this Section. The foregoing does not supersede any requirements for or restrictions on
23 noncomplying structures and their reconstruction as governed by Article 1.7 of this Code.

24 (10) "Removal" shall mean, with reference to a Residential Unit, its Conversion,
25 Demolition, or Merger.

1 (11) "Residential Building" shall be mean any structure containing one or more
2 Residential Uses or Live-Work Units as a principal use, regardless of any other uses present
3 in the building.

4 (12) "Residential Unit" shall mean a legal conforming or nonconforming dwelling
5 unit as defined in Planning Code Section 102.7, or a legal nonconforming Live/Work Unit as
6 defined in Planning Code Section 102.13, or Group Housing as defined in Planning Code
7 Section 209.2(a), (b), and (c). ~~; provided, however, this definition shall not include a Residential~~
8 ~~Unit in a Residential Hotel, as defined and regulated by Chapter 41 of the San Francisco~~
9 ~~Administrative Code.~~

10 (13) "Vertical Envelope Elements" shall mean all exterior walls that provide
11 weather and thermal barriers between the interior and exterior of the building, or that provide
12 structural support to other elements of the building envelope.

13 * * * *

14 (f) Residential Conversion.

15 (1) Residential Conversion not otherwise prohibited or subject to Conditional
16 Use authorization by this Code, shall be prohibited, unless the Planning Commission
17 approves the building permit application at a Mandatory Discretionary Review hearing, or is
18 exempted from such approval as provided in subsections (f)(3) or (4) below. The conversion of
19 Residential Units to Student Housing is prohibited. For the purposes of this subsection,
20 Residential Units that have been defined as such by the time a First Certificate of Occupancy
21 has been issued by the Department of Building Inspection for new construction shall not be
22 converted to Student Housing.

23 (2) The Planning Commission shall consider the following criteria in the review
24 of applications for Residential Conversion:

1 (A) whether conversion of the unit(s) would eliminate only owner
2 occupied housing, and if so, for how long the unit(s) proposed to be removed were owner
3 occupied;

4 (B) whether Residential Conversion would provide desirable new non-
5 residential use(s) appropriate for the neighborhood and adjoining district(s);

6 (C) in districts where Residential Uses are not permitted, whether
7 Residential Conversion will bring the building closer into conformance with the uses permitted
8 in the zoning district;

9 (D) whether conversion of the unit(s) will be detrimental to the City's
10 housing stock;

11 (E) whether conversion of the unit(s) is necessary to eliminate design,
12 functional, or habitability deficiencies that cannot otherwise be corrected;

13 (F) whether the Residential Conversion will remove Affordable Housing,
14 or units subject to the Rent Stabilization and Arbitration Ordinance.

15 (3) Planning Commission approval shall not be required for the change of use or
16 occupancy of a dwelling unit, group housing, or SRO to Student Housing if the dwelling unit, group
17 housing or SRO will be Student Housing owned, operated or otherwise controlled by a not for profit
18 post-secondary Educational Institution and

19 (A) it was built by the post-secondary Educational Institution;

20 (B) it is in a convent, monastery, or similar religious order facility;

21 (C) it is on an adjoining lot (i.e., sharing the same lot line) to the post-secondary
22 Educational Institution, so long as the lot has been owned by the post-secondary Educational
23 Institution for at least ten years as of the effective date of Ordinance 188-12; or

24 (D) as of August 10, 2010, it was owned, operated or otherwise controlled by a
25 post-secondary Educational Institution that had an Institutional Master Plan on file with the Planning

1 Commission, and where the occupancy by those other than students at that date was less than 20% of
2 the total occupants. For purposes of determining occupancy, the post-secondary Educational
3 Institution shall present to the Planning Department verified information regarding its rental or lease
4 of units as of that date.

5 (4) Planning Commission approval shall not be required for a Residential Conversion if
6 the Residential Unit was subject to the Residential Hotel Unit Conversion and Demolition Ordinance,
7 San Francisco Administrative Code Chapter 41, and obtained a permit to convert in compliance with
8 the requirements set forth therein.

9 * * * *

10 Section 3. Effective Date. This ordinance shall become effective 30 days after
11 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
12 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
13 of Supervisors overrides the Mayor's veto of the ordinance.

14 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
15 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
16 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
17 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
18 additions, and Board amendment deletions in accordance with the "Note" that appears under
19 the official title of the ordinance

20
21 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

22
23 By:


24 Kate H. Stacy
Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Amending Definition of Residential Unit and Residential Conversion Requirements]

Ordinance amending the Planning Code to amend the definition of Residential Unit and clarify the requirements for a Residential Conversion of a Residential Hotel Unit regulated under Administrative Code, Chapter 41; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

Planning Code Section 317 sets forth definitions of "Residential Unit" and "Residential Conversion," which govern the application of Section 317 to residential units or a residential conversion. Section 317 defines a Residential Unit to exclude a residential unit in a residential hotel that is regulated by Administrative Code Chapter 41. Section 317 defines a Residential Conversion as the change of a residential use to a non-residential or student housing use.

Amendments to Current Law

The proposed ordinance deletes the exclusion of a residential unit in a residential hotel that is regulated by Administrative Code Chapter 41 from the definition of "Residential Unit." It clarifies that Planning Commission approval shall not be required for either (1) the conversion of a Residential Unit that was subject to the Residential Hotel Unit Conversion and Demolition Ordinance, San Francisco Administrative Code Chapter 41, and obtained a permit to convert in compliance with the requirements set forth therein, or (2) the conversion of a residential unit to student housing provided that certain requirements, similar to the provisions set forth in current Section 317, are met.

Background Information

Planning Code Section 317 was amended in late 2013 to revise the criteria for residential demolition, merger and conversion, and to standardize those definitions across use districts and prohibit residential mergers where certain evictions of tenants have occurred, and to establish a strong presumption in favor of preserving dwelling units. Amendments to the definitions of "residential unit" and "residential conversion" inadvertently excluded residential units regulated under Administrative Code Chapter 41 from the definition of "residential unit" more broadly than intended and created an inconsistency in the definitions of "residential unit" and "residential conversion," which this ordinance seeks to correct and clarify. This ordinance also streamlines the definitions and application of Section 317 provisions without making any other substantive change.

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SAN FRANCISCO PLANNING DEPARTMENT

September 23, 2014

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

1650 Mission St.
Suite 400
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415.558.6377

Re: **Transmittal of Planning Department Case Number 2014.1204T:
Definition of Residential Unit and Residential Conversion
Board File No. 140775
Planning Commission Recommendation: Approval**

Dear Ms. Calvillo and Supervisor Avalos,

On September 18, 2014, the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed Ordinance that would amend the definition of Residential Unit and clarify the requirements for a Residential Conversion of a Residential Hotel Unit regulated under Administrative Code, Chapter 41. At the hearing the Planning Commission recommended approval.

The proposed amendments have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c)(2) and 15378.

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,

Digitally signed by anmarie
rodgers
DN: dc=org, dc=sfgov,
dc=cityplanning,
ou=CityPlanning, ou=Senior
Managers, cn=anmarie rodgers,
email=anmarie.rodgers@sfgov.or
g

AnMarie Rodgers Date: 2014.09.23 15:38:14 -07'00'

Senior Policy Advisor

cc: Jon Givner, Deputy City Attorney
Andrea Ausberry, Office of the Clerk of the Board

Attachments : Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19238

HEARING DATE SEPTEMBER 18, 2014

1650 Mission St.
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San Francisco,
CA 94103-2479

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Project Name: Amendments to Definition of Residential Unit and Residential Conversion Requirements
Case Number: 2014.1240T [Board File No. 140775]
Initiated by: Supervisor Avalos/ Introduced July 8, 2014
Staff Contact: Aaron Starr, Acting Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Reviewed by: AnMarie Rodgers, Senior Policy Advisor
anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation: Recommend Approval

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT AN ORDINANCE AMENDING THE PLANNING CODE TO AMEND THE DEFINITION OF RESIDENTIAL UNIT AND CLARIFY THE REQUIREMENTS FOR A RESIDENTIAL CONVERSION OF A RESIDENTIAL HOTEL UNIT REGULATED UNDER ADMINISTRATIVE CODE, CHAPTER 41; MAKING ENVIRONMENTAL FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1.

WHEREAS, on July 8, 2014, Supervisor Avalos introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 140775, which would amend the Planning Code to amend the definition of Residential Unit and clarify the requirements for a Residential Conversion of a Residential Hotel Unit regulated under Administrative Code, Chapter 41; making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 18; and,

WHEREAS, the proposed Ordinance has been determined not to be a project under the California Environmental Quality Act Section 15060(c)(2) 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.

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve** 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. The Commission finds that this Ordinance is intended to fix an unintended consequence created by a previously approved ordinance, Board File 130041.
2. The Commission is concerned that the loophole created by Board File 130041 could be exploited by post-secondary educational institutions by allowing them to convert existing Residential Hotels to Student Housing by right.
3. The Commission finds that Residential Hotel units are endangered housing resources and must be protected, and the conversion of Residential Hotel units affects those persons who are least able to cope with displacement in San Francisco's housing market. The Board of Supervisors and the Mayor recognized this issue in 1979 and passed Chapter 41 to protect this form of housing from conversion to tourist hotel use.
4. The Commission finds that Planning Code Section 317 was also added to the Code to protect all of the City's housing stock; however this recent change has put one of the City's important sources of affordable housing at risk.
5. The Commission finds that it passed Resolution 18652 on June 21, 2012, which strongly opposed allowing Residential Hotels to be converted to Student Housing.
6. **General Plan Compliance.** The proposed amendments to the Planning Code are consistent with the following Objectives and Policies of the General Plan.

HOUSING ELEMENT

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 would reinstate previous restrictions the conversion of Residential Hotels to Student Housing, helping to preserve an important source of affordable rental housing in San Francisco.

7. **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.

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 maintain existing housing and neighborhood character by ensuring that residential units in Residential Hotels could not be converted to Student Housing without public oversight. Conversion to Student Housing would not only impact the availability of housing available for low-income residents, it would also change the character of the neighborhoods where these buildings exist by potentially displacing existing residents.

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

The proposed Ordinance seeks to remove a provision in the Planning Code that would allow affordable housing to be converted into Student Housing without Planning Commission review.

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 impact 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 a negative 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 a negative effect on the City's parks and open space access to sunlight and vistas.

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 as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on September 18, 2014.

Jonas P. Ionin
Commission Secretary

AYES: Wu, Fong, Hillis, Johnson, Moore, and Richards

NOES: Antonini

ABSENT:

ADOPTED: September 18, 2014



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change HEARING DATE: SEPTEMBER 18, 2014

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Project Name: Amendments to Definition of Residential Unit and Residential Conversion Requirements
Case Number: 2014.1240T [Board File No. 140775]
Initiated by: Supervisor Avalos/ Introduced July 8, 2014
Staff Contact: Aaron Starr, Acting Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Reviewed by: AnMarie Rodgers, Senior Policy Advisor
anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation: Recommend Approval

PLANNING CODE AMENDMENT

This Ordinance would amend the Planning Code to amend the definition of Residential Unit and clarify the requirements for a Residential Conversion of a Residential Hotel Unit regulated under Administrative Code, Chapter 41; make environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

The Way It Is Now:

Per Section 317(f) of the Planning Code, Residential Conversion of a Residential Unit to Student Housing is prohibited. Moreover, the definition of a Residential Unit does not include "Residential Units in a Residential Hotel"; therefore, prohibition on the conversion of Residential Units to Student Housing does not apply to Residential Hotels. Currently, a Residential Hotel can be converted to Student Housing per the terms of Chapter 41 of the Administrative Code.

The Way It Would Be:

The proposed legislation would:

1. Amend the definition of Residential Unit so that it no longer excludes Residential Units in Residential Hotels, as defined in Chapter 41 of the Administrative Code.
2. Exempts the Residential Conversion of the Residential Unit from Planning Commission approval if the conversion is subject to the Residential Hotel Unit Conversion and Demolition Ordinance, San Francisco Administrative Code Chapter 41, and obtains a permit to convert in compliance with the requirements in Administrative Code Chapter 41.
3. Reorganizes portions of Planning Code Section 317 for clarity and to updated references.

ISSUES AND CONSIDERATIONS

Board File (BF) 130041: Demolition, Merger, Conversion and Conformity of Residential Units

Board File 130041 revised the criteria for residential demolition, merger and conversion, and standardized those definitions across use districts. It prohibited residential mergers where certain

evictions of tenants have occurred, and it also established a strong presumption in favor of preserving dwelling units in enforcement of Code requirements. The Commission heard this ordinance on October 24, 2013 and voted six to one to recommend approval with modifications to the Board of Supervisors.

The Commission recommended the following modifications:

1. That the prohibition be triggered by no-fault evictions that occur as of October 24, 2013; and,
2. That the prohibition last for ten years, as Supervisor Avalos recommends in his proposed language; and,
3. That Supervisor Avalos consider so-called "Owner Move-In" and other no-fault evictions differently than "Ellis Act" evictions.

Board File 130041 also amended Section 317(b)(12) by adding language that removed a "Residential Unit in a Residential Hotel" from the definition of a Residential Unit (See page 10, line 11 of Exhibit C). This change was made so that Residential Hotels would not have to go through both the conversion process under Chapter 41 of the Administrative Code and the conversion process in Section 317, instead relying solely on the more restrictive controls of the Chapter 41 of the Administrative Code. However, the unintended consequence of this change was that it removed the prohibition on the conversion of Residential Hotels to Student Housing—a substantive change that was neither intended by the legislators nor considered by this Commission. In fact, the Commission has previously voted quite strongly to not allow Residential Hotels to be converted to Student Housing. Specifically, Planning Commission Resolution 18652 passed on June 21, 2012 stated:

The Commission has recently taken two actions: first in November 2010 and later in 2011 to affirm that institutions seeking to establish Student Housing should build new housing and should not convert existing housing. For this reason, the Commission maintains that conversion of existing housing stock should generally be prohibited.

Residential Hotels have typically not been attractive for other residential uses but as demand for Student Housing increases, the threat to this affordable housing stock will increase unless institutions are encouraged to build new housing.

The Residential Hotel Ordinance regulates and protects the existing stock of residential hotels. This ordinance requires that residential hotel rooms replaced with tourist rooms should be replaced at a 1 to 1 ratio.

According to a 2009 report commissioned by the Human Services Agency, "The City of San Francisco is unable to meet [existing] residents' demand for affordable housing. Many of the city's most vulnerable populations, including families with children seniors and adults with disabilities, and other public service recipients, are often at risk for homelessness. SROs account for a substantial portion of San Francisco's affordable housing stock, as they provide housing for more low-income people than all the city's public housing developments".

Planning Code Section 317

Per Section 317(f) Residential Conversion of a Residential Unit to Student Housing is prohibited. However, since BF 130041 was passed, the definition of a "Residential Unit" in Planning Code Section 317 no longer includes "Residential Units in a Residential Hotel." As a consequence the prohibition on conversion no longer applies to these units, and a Residential Hotel can be converted to Student Housing per the terms of Chapter 41 of the Admin Code.

To address this issue, the proposed Ordinance removes the language that exempts "Residential Units in a Residential Hotel" from the definition of Residential Units, and to address the issue or requiring a redundant approval processes for the conversion of units in residential hotels, the Ordinance adds the following language:

(4) Planning Commission approval shall not be required for a Residential Conversion if the Residential Unit was subject to the Residential Hotel Unit Conversion and Demolition Ordinance, San Francisco Administrative Code Chapter 41, and obtained a permit to convert in compliance with the requirements set forth therein.

Administrative Code Chapter 41

Chapter 41 of the Administrative Code regulates the conversion of Residential Hotel units into Tourist Hotels, and among other things requires a one-to-one replacement when such units are converted to other uses or demolished. The definition of Conversion in Chapter 41 does not recognize the occupancy of Residential Hotel units by students as a conversion; therefore the conversion of Residential Hotels to Student Housing would not trigger a one to one replacement and is not prohibited or controlled by Chapter 41.

The definition of Conversion in Chapter 41 is as follows:

(c) Conversion. The change or attempted change of the use of a residential unit as defined in subsection (q) below to a tourist use, or the elimination of a residential unit or the voluntary demolition of a residential hotel. However, a change in the use of a residential hotel unit into a non-commercial use which serves only the needs of the permanent residents, such as resident's lounge, storeroom or common area, shall not constitute a conversion within the meaning of this Chapter.

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

Recommend Approval

BASIS FOR RECOMMENDATION

This Ordinance is intended to fix an unintended consequence created by a previously approved ordinance. The Department is concerned that the loophole created by BF 130041 could be exploited by post-secondary educational institutions by allowing them to convert existing Residential Hotels to Student Housing by right. According to Chapter 41 of the Administrative Code, Residential Hotel units are endangered housing resources and must be protected, and the conversion of Residential Hotel units affects those persons who are least able to cope with displacement in San Francisco's housing market. The Board of Supervisors and the Mayor recognized this issue in 1979 and passed Chapter 41 to protect this form of housing from conversion to tourist hotel use. Planning Code Section 317 was also added to the Code to protect all of the City's housing stock; however this recent change has put one of the City's important sources of affordable housing at risk. Adopting this Ordinance would correct this error.

ENVIRONMENTAL REVIEW

The proposal Ordinance would result in no physical impact on the environment. The Project was determined to be exempt from the California Environmental Quality Act ("CEQA") under the Non-Physical Exemption (CEQA Guidelines Section 15060(c)(2)) as described in the determination contained in the Planning Department files for this Project.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any comments about the proposed Ordinance.

RECOMMENDATION: Recommendation of Approval
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 140775, Version 1
- Exhibit C: Board of Supervisors File No. 130041, Final Version

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

July 23, 2014

File No. 140775

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On July 8, 2014, Supervisor Avalos introduced the following legislation:

File No. 140775

Ordinance amending the Planning Code to amend the definition of Residential Unit and clarify the requirements for a Residential Conversion of a Residential Hotel Unit regulated under Administrative Code, Chapter 41; making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A Ausberry".

By: Andrea Ausberry, Assistant Clerk
Land Use & Economic Development Committee

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

Not defined as a project under CEQA
Guidelines Sections 15378 & 15060(c)(2)
because it does not result in a physical
change in the environment.

Joy Navarrete

Digitally signed by Joy Navarrete
DN: cn=Joy Navarrete, o=Planning,
ou=Environmental Planning,
email=joy.navarrete@sfgov.org, c=US
Date: 2014.07.25 16:03:25 -07'00'

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MEMORANDUM

TO: Olson Lee, Acting Director, Mayor's Office of Housing
Delene Wolf, Executive Director, Rent Board

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Economic Development
Committee, Board of Supervisors

DATE: July 24, 2014

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, introduced by Supervisor Avalos on July 8, 2014:

File No. 140775

Ordinance amending the Planning Code to amend the definition of Residential Unit and clarify the requirements for a Residential Conversion of a Residential Hotel Unit regulated under Administrative Code, Chapter 41; making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

If you have any additional comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Eugene Flannery, Mayor's Office of Housing

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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MEMORANDUM

TO: Tom Hui, Director, Department of Building Inspection
Sonya Harris, Secretary, Building Inspection Commission

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Economic Development
Committee, Board of Supervisors

DATE: July 23, 2014

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following legislation, introduced by Supervisor Avalos on July 8, 2014:

File No. 140775

Ordinance amending the Planning Code to amend the definition of Residential Unit and clarify the requirements for a Residential Conversion of a Residential Hotel Unit regulated under Administrative Code, Chapter 41; making environmental findings, and 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 Charter Section D3.750-5 for public hearing and recommendation. It is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Please forward me the Commission's recommendation and reports at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: William Strawn, Department of Building Inspection
Carolyn Jayin, Department of Building Inspection

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

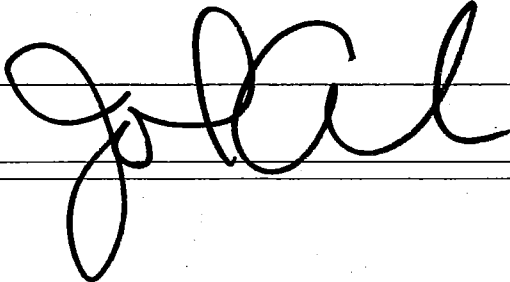
Supervisor John Avalos

Subject:

Ordinance - Planning Code - Amending Definition of Residential Unit and Residential Conversion Requirements

The text is listed below or attached:

[Empty box for text listing]

Signature of Sponsoring Supervisor: 

For Clerk's Use Only: