



SAN FRANCISCO PLANNING DEPARTMENT

September 23, 2014

Ms. Angela Calvillo, Clerk
Honorable Supervisor Breed
Board of Supervisors
City and County of San Francisco
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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,

AnMarie Rodgers
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

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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

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
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Recommendation: **Recommend Approval**

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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 proposed 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