

File No. 241069

Committee Item No. 6

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date: April 21, 2025

Board of Supervisors Meeting:

Date: \_\_\_\_\_

#### Cmte Board

<input type="checkbox"/>	<input type="checkbox"/>	Motion
<input type="checkbox"/>	<input type="checkbox"/>	Resolution
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ordinance
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legislative Digest
<input type="checkbox"/>	<input type="checkbox"/>	Budget and Legislative Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Youth Commission Report
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Introduction Form
<input type="checkbox"/>	<input type="checkbox"/>	Department/Agency Cover Letter and/or Report
<input type="checkbox"/>	<input type="checkbox"/>	MOU
<input type="checkbox"/>	<input type="checkbox"/>	Grant Information Form
<input type="checkbox"/>	<input type="checkbox"/>	Grant Budget
<input type="checkbox"/>	<input type="checkbox"/>	Subcontract Budget
<input type="checkbox"/>	<input type="checkbox"/>	Contract / DRAFT Mills Act Agreement
<input type="checkbox"/>	<input type="checkbox"/>	Form 126 – Ethics Commission
<input type="checkbox"/>	<input type="checkbox"/>	Award Letter
<input type="checkbox"/>	<input type="checkbox"/>	Application
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Public Correspondence

#### OTHER

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Planning Commission Transmittal – February 27, 2025</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>CEQA Determination – November 15, 2024</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Referrals CEQA PC and FYI – November 6, 2024</u>
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Prepared by: John Carroll

Date: April 17, 2025

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

[Planning, Subdivision Codes - Condominium Conversion of Accessory Dwelling Units]

**Ordinance amending the Planning and Subdivision Codes to allow separate conveyance of certain accessory dwelling units and associated primary dwelling units as condominiums; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302.**

NOTE: **Unchanged Code text and uncoded text** are in plain Arial font.  
**Additions to Codes** are in *single-underline italics Times New Roman font*.  
**Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.  
**Board amendment additions** are in double-underlined Arial font.  
**Board amendment deletions** are in ~~Arial font~~.  
**Asterisks (\* \* \* \*)** indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. Background and General Findings.

(a) San Francisco has been grappling with a housing affordability crisis for the past couple of decades; a crisis felt by low-, moderate-, and, more recently, middle-income households. To address this ongoing crisis, San Francisco has adopted a Housing Element that calls for the production of 82,069 new housing units by 2031.

(b) San Francisco's housing crisis stifles economic growth, contributes to the homelessness epidemic, consumes an ever-growing share of the paychecks of working families, and limits tens of thousands of residents from achieving the dream of homeownership. Decades of restrictive zoning, land use decisions, and burdensome

1 permitting policies have contributed to the gap between San Francisco's housing needs for all  
2 income levels and the available supply of housing.

3 (c) As the cost of living in San Francisco has ballooned over the years, the City has  
4 lost much of the social, cultural, and economic diversity that once was central to its identity.  
5 Entry-level housing options serve the diverse communities that reflect the City's essential  
6 values. But San Francisco has been unable to provide the needed housing for the wide range  
7 of workers that our economy requires and the wide range of individuals and families that  
8 ought to be able to live in our community.

9 (d) San Francisco's homeownership rates are among the lowest in California and  
10 nationwide. High median home prices, supply limitations, and high development costs have  
11 made economically attainable homeownership increasingly out of reach for many San  
12 Franciscans, particularly immigrants, communities of color, and first-time homebuyers.

13 (e) San Francisco's housing shortage limits economic mobility and opportunity for the  
14 City's workforce and residents. It contributes to longer commutes, overcrowding, and a  
15 decline in the quality of life in the City.

16 (f) According to the Federal Reserve's 2022 Survey of Consumer Finances,  
17 homeownership is a powerful tool for closing the racial and ethnic wealth gap in our society.  
18 Without question, homeownership remains one of the most effective ways in which all San  
19 Franciscans can build wealth and assets.

20 (g) Small, multi-family housing construction projects in San Francisco, including the  
21 construction and legalization of Accessory Dwelling Units ("ADUs"), have historically faced  
22 unique challenges and constraints. The combination of high land values and construction  
23 costs presents significant barriers that discourage the average homeowner and developer  
24 from pursuing this type of housing. In addition, small housing projects in well-resourced  
25

1 neighborhoods have often faced strong localized opposition, which undermines community  
2 support for this type of housing as reasonable, appropriate, and a viable option to build.

3 (h) This ordinance authorizes the separate conveyance of primary dwelling units and  
4 ADUs as condominiums. The goal is to provide an option to homeowners and property  
5 owners to expediently seek a return on the capital investment required to construct ADUs,  
6 while reducing long-term liabilities and potential risks associated with managing rental  
7 property. The intent is to incentivize the production of ADUs, especially in neighborhoods  
8 dominated by single-family homes, and thereby increase the supply of affordable, entry-level  
9 housing units.

10 (i) ADUs are an affordable housing option because they do not require the purchase of  
11 land, major new infrastructure, structured parking, or elevators. These units can be built using  
12 cost-effective wood frame construction, which is significantly less costly than homes in new  
13 multifamily infill buildings, while providing as much living space as many newly-built  
14 apartments and condominiums. Reducing construction costs on ADUs when sold separately  
15 as condominiums can help reduce for-sale prices of these units and increase the supply of  
16 entry-level homes.

17 (j) According to the Planning Department's 2022 Housing Element and the United  
18 States Census Bureau, nearly 30% of San Francisco's housing stock is comprised of single-  
19 family homes, totaling 122,816 housing units. About two-thirds of these single-family homes –  
20 an estimated 66% – are owner-occupied. Despite high home prices, 50% of single-family  
21 homes are owned by moderate- or low-income owners. Single-family homes have much lower  
22 turnover rates than multifamily ownership units or rental units. Forty-six percent of single-  
23 family homes have been owner-occupied for 20 years or more, and 70% have been owner-  
24 occupied for 10 years or more. These longtime residents are often pillars of neighborhood  
25 identity, diversity, and culture. Allowing these homeowners the option to build and separately

1 convey their ADUs as condominiums presents a significant opportunity to increase production  
2 of new, desperately needed housing units within existing, well-resourced neighborhoods. This  
3 would help provide sufficient housing for current residents and future generations, and help  
4 support and maintain a city with diverse cultures, family structures, and communities, without  
5 having to rely on large-scale area plans and capital-intensive, large-lot redevelopment  
6 projects.

7 (k) Longtime homeowners are often constrained by limited liquidity and cash assets,  
8 even as the value of their home and property has appreciated over decades. Access to this  
9 accrued wealth is typically only possible when these assets are sold, which can displace  
10 longtime residents and separate multigenerational extended families. The City can help  
11 prevent such displacement and create opportunities to build generational wealth by allowing  
12 these homeowners the option to convey an ADU separately from the owner-occupied primary  
13 dwelling unit. This option allows seniors to age in place as they require more care, and  
14 provides an additional source of income for homeowners.

15 (l) Nothing in this ordinance is intended to promote speculative real estate investments  
16 that may seek to displace current residents, demolish existing housing stock, build new units,  
17 and quickly sell those units. Further, nothing in this ordinance is intended to reduce the supply  
18 of ADUs subjected to rent control under Planning Code Section 207.1.

19 (m) This Board of Supervisors finds that the separate conveyance of ADUs as  
20 condominiums is consistent with the City's obligation to affirmatively further fair housing  
21 pursuant to California Government Code Section 8899.50 et seq. Promoting greater density  
22 within well-resourced neighborhoods in this manner meaningfully addresses significant  
23 disparities in housing needs, fosters positive economic and health outcomes, and increases  
24 access to high-quality neighborhood resources and areas of opportunity. In addition, the  
25 Board finds that this ordinance broadly supports the goals and objectives in the Housing

1 Element of the General Plan, and furthers Program Area 7: Expanding Housing Choice, and  
2 Implementing Program Area 7.4: Accessory Dwelling Units.

3  
4 Section 2. Environmental and Land Use Findings.

5 (a) The Planning Department has determined that the actions contemplated in this  
6 ordinance comply with the California Environmental Quality Act (California Public Resources  
7 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
8 Supervisors in File No. 241069 and is incorporated herein by reference. The Board affirms  
9 this determination.

10 (b) On February 13, 2025, the Planning Commission, in Resolution No. 21684,  
11 adopted findings that the actions contemplated in this ordinance are consistent, on balance,  
12 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The  
13 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of  
14 the Board of Supervisors in File No. 241069, and is incorporated herein by reference.

15 (c) Pursuant to Planning Code Section 302, the Board finds that these Planning Code  
16 amendments will serve the public necessity, convenience, and welfare for the reasons set  
17 forth in Planning Commission Resolution No 21684, and the Board incorporates such reasons  
18 herein by reference. A copy of said resolution is on file with the Clerk of the Board of  
19 Supervisors in File No. 241069.

20  
21 Section 3. Article 2 of the Planning Code is hereby amended by revising Sections  
22 207.1 and 207.2, and adding Section 207.4, to read as follows:

23  
24 **SEC. 207.1. LOCAL ACCESSORY DWELLING UNIT PROGRAM.**

1           (a) **Exception to Dwelling Unit Density Limits for Certain Accessory Dwelling**  
2 **Units Under City’s Local Program.** An exception to the calculations under Section 207 of  
3 this Code shall be made for Accessory Dwelling Units (“ADUs”), as defined in Section 102 of  
4 this Code, meeting the requirements of this Section 207.1.

5           \* \* \* \*

6           (e) **Restrictions on Subdivisions.** Notwithstanding the provisions of Article 9 of the  
7 Subdivision Code, a lot with an ADU authorized under this Section 207.1 shall not be  
8 subdivided in a manner that would allow for the ADU to be sold or separately financed  
9 pursuant to any condominium plan, housing cooperative, or similar form of separate  
10 ownership. This prohibition on separate sale or finance of the ADU shall not apply to an ADU:

11                 (1) in a building that consisted entirely of condominium units as of July 11, 2013,  
12 and has had no evictions pursuant to Sections 37.9(a) through 37.9(a)(12) and 37.9(a)(14) of  
13 the Administrative Code since July 11, 1996; ~~This prohibition on separate sale or finance of the~~  
14 ~~ADU shall not apply to an ADU~~

15                 (2) that meets the requirements of California Government Code Section 66341; ~~;~~  
16 or

17                 (3) that meets the requirements of Planning Code Section 207.4.

18           \* \* \* \*

19  
20           **SEC. 207.2. STATE MANDATED ACCESSORY DWELLING UNIT PROGRAM.**

21           (a)   **Exception to Dwelling Unit Density Limits for Certain Accessory Dwelling**  
22 **Units Under the State-Mandated Program.** An exception to the calculations under Section  
23 207 of this Code shall be made for Accessory Dwelling Units (“ADUs”) and Junior Accessory  
24 Dwelling Units (“JADUs”), as defined in Section 102 of this Code, meeting the requirements of  
25 this Section 207.2. The purpose of this Section 207.2 is to implement California Government

Code Sections 66314 and 66333, which require ministerial consideration of ADUs and JADUs that meet certain standards.

\* \* \* \*

(i) **Rental; Restrictions on Subdivisions.** An ADU or JADU constructed pursuant to this Section 207.2 may be rented and is subject to all applicable provisions of the Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code). Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an ADU or JADU authorized under this Section 207.2 shall not be subdivided in a manner that would allow for the ADU or JADU to be sold or separately financed pursuant to any condominium plan, housing cooperative, or similar form of separate ownership, except that this prohibition on separate sale or finance of the ADU shall not apply to an ADU that meets the requirements of California Government Code Section 66333(f) or that meets the requirements of Planning Code Section 207.4.

\* \* \* \*

**SEC. 207.4. CONDOMINIUM CONVERSION OF CERTAIN ACCESSORY DWELLING UNITS AND ASSOCIATED PRIMARY DWELLING UNITS.**

(a) This Section 207.4 sets forth the requirements for conversion of certain new or existing Accessory Dwelling Units (“ADUs”), as defined in Section 102 of this Code, and associated primary dwelling units, into condominiums. These condominiums maybe sold or otherwise conveyed separately from the primary residence only under the conditions set forth in this Section 207.4 and in compliance with the San Francisco Subdivision Code.

(b) **Eligibility.** Only ADU projects meeting the following requirements are eligible for condominium conversion under this Section 207.4:



1                   (1) For ADUs approved under the City's state-mandated, ministerial approval  
2 programs in Planning Code Section 207.2, or former Planning Code subsection 207(c)(6), an  
3 application to construct such ADUs must have been submitted on or after January 1, 2020.

4                   (2) For ADUs approved under the City's local, discretionary approval program in  
5 Planning Code Section 207.1, an application to construct such ADUs must have been submitted on or  
6 after November 1, 2024.

7                   (3) The lot proposed for subdivision, or the building within which any ADU will be  
8 constructed, contains four or fewer existing dwelling units.

9                   (4) All structures and buildings included as part of a condominium project authorized  
10 under this Section 207.4 shall meet all applicable Building and Planning Code requirements. The  
11 conversion of ADUs and associated primary dwelling units to condominium units shall not reduce or  
12 eliminate any Building and Planning Codes requirements applicable to any such units.

13                   (5) **Junior ADUs.** Junior ADUs shall not be eligible for conversion to condominiums  
14 under this Section 207.4.

15                   **(c) Requirements.**

16                   (1) All condominiums converted from ADUs and associated primary dwelling units  
17 under this Section 207.4 shall be created pursuant to the Davis-Stirling Common Interest Development  
18 Act (Part 5 (commencing with Section 4000) of Division 4 of the California Civil Code).

19                   (2) All condominiums converted from ADUs and associated primary dwelling units  
20 under this Section 207.4 shall be created in conformance with all applicable objective requirements of  
21 the Subdivision Map Act (Division 2 (commencing with Section 66410) of the California Government  
22 Code) and all objective requirements of the San Francisco Subdivision Code.

23                   (3) **Safety Inspection.** Prior to the recordation of the condominium plan, a safety  
24 inspection of the ADU shall be conducted as evidenced either through a certificate of occupancy or a  
25

1 housing quality standards report from a building inspector certified by the United States Department of  
2 Housing and Urban Development.

3 (4) **Lienholder Consent.** Neither a subdivision map nor a condominium plan shall be  
4 recorded without each lienholder's consent. A lienholder may refuse to give consent. A lienholder may  
5 also consent provided that any terms and conditions required by the lienholder are satisfied. Prior to  
6 recordation of the initial or any subsequent modifications to the condominium plan, written evidence of  
7 the lienholder's consent shall be provided to the Assessor-Recorder along with a signed statement from  
8 each lienholder that states as follows: "[Name of lienholder] hereby consents to the recording of this  
9 condominium plan in their sole and absolute discretion and the borrower has or will satisfy any  
10 additional terms and conditions the lienholder may have." A lienholder's consent shall be included on  
11 the condominium plan or a separate form attached to the condominium plan that includes the following  
12 information:

13 (A) The lienholder's signature.

14 (B) The name of the record owner or ground lessee.

15 (C) The legal description of the real property.

16 (D) The identities of all parties with an interest in the real property as reflected  
17 in the real property records.

18 (E) The lienholder's consent shall be recorded with the Assessor-Recorder.

19 (5) **Notice.** The City shall include the following notice on any ADU submittal checklist  
20 or public information that describes the requirements and permitting for ADUs, and shall include the  
21 following notice as part of the conditions of any ADU building permit or condominium plan approval:

22  
23 "NOTICE: If you are considering establishing your primary dwelling unit and accessory  
24 dwelling unit as a condominium, please ensure that your building permitting agency allows this  
25 practice. If you decide to establish your primary dwelling unit and accessory dwelling unit as a

1 condominium, your condominium plan or any future modifications to the condominium plan  
2 must be recorded with the County Recorder. Prior to recordation or modification of your  
3 subdivision map and condominium plan, any lienholder with a lien on your title must provide a  
4 form of written consent either on the condominium plan, or on the lienholder's consent form  
5 attached to the condominium plan, with text that clearly states that the lender approves  
6 recordation of the condominium plan and that you have satisfied their terms and conditions, if  
7 any.

8 In order to secure lender consent, you may be required to follow additional lender  
9 requirements, which may include, but are not limited to, one or more of the following:

10 (a) Paying off your current lender.

11 You may pay off your mortgage and any liens through a refinance or a new loan. Be  
12 aware that refinancing or using a new loan may result in changes to your interest rate or tax  
13 basis. Also, be aware that any subsequent modification to your subdivision map or  
14 condominium plan must also be consented to by your lender, which consent may be denied.

15 (b) Securing your lender's approval of a modification to their loan collateral due to the  
16 change of your current property legal description into one or more condominium parcels.

17 (c) Securing your lender's consent to the details of any construction loan or ground  
18 lease.

19 This may include a copy of the improvement contract entered in good faith with a  
20 licensed contractor, evidence that the record owner or ground lessee has the funds to complete  
21 the work, and a signed statement made by the record owner or ground lessor that the  
22 information in the consent above is true and correct.”

1                   (6) Notice to Utility Providers. If an ADU is converted to a condominium, the property  
2 owner shall notify providers of utilities, including water, sewer, gas, and electricity, of the creation of  
3 the condominium and any separate conveyance.

4                   (7) Additional Requirements for Projects in Planned Developments. The owner of a  
5 property or a separate interest within an existing planned development that has an existing association,  
6 as defined in Section 4080 of the California Civil Code, shall not record a condominium plan to create  
7 a common interest development under Section 4100 of the California Civil Code that includes an ADU  
8 authorized under this Section 207.4 without express written authorization by the existing association.  
9 For purposes of this subsection (c)(7), written authorization by the existing association means approval  
10 by the board at a duly noticed board meeting, as defined in Section 4090 of the California Civil Code,  
11 and, if needed pursuant to the existing association's governing documents, membership approval of the  
12 existing association.

13                   (d) Review of Program. The Planning Department shall include the location and number of  
14 units of projects approved for conversion to condominiums under this Section 207.4 in the Housing  
15 Inventory Report. Prior to December 31, 2030, the Planning Department shall prepare and submit to  
16 the Planning Commission a report containing recommendations as necessary or appropriate for  
17 modifications to this Section 207.4, including modifications to further the goals of the City's Seventh  
18 Housing Element Cycle.

19  
20                   Section 4. Article 9 of Division 1 of the Subdivision Code is hereby amended by adding  
21 Section 1396.8, to read as follows:  
22

23                   **SEC. 1396.8. CONDOMINIUM CONVERSION OF CERTAIN ACCESSORY DWELLING**  
24 **UNITS AND ASSOCIATED PRIMARY DWELLING UNITS UNDER PLANNING CODE**  
25 **SECTION 207.4.**

1           Notwithstanding any other provisions of this Code, a subdivider shall (1) be exempt from the  
2           annual lottery provisions of Section 1396 of this Code with respect to any Accessory Dwelling Units  
3           ("ADUs") and associated primary dwelling units that satisfy the requirements of Planning Code  
4           Section 207.4; and (2) be eligible to submit a condominium conversion application for said ADUs and  
5           associated primary dwelling units and/or include said ADUs in a condominium map application for a  
6           project approved pursuant to Planning Code Section 207.4. Notwithstanding the foregoing sentence, no  
7           property or applicant subject to any of the prohibitions on conversions set forth in Section 1396.2 of  
8           this Code, including but not limited to a property with the eviction(s) set forth in Section 1396.2(b),  
9           shall be eligible for condominium conversion under this Section 1396.8.

11           Section 5. Effective Date. This ordinance shall become effective 30 days after  
12           enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
13           ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
14           of Supervisors overrides the Mayor's veto of the ordinance.

16           /  
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1           Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
5 additions, and Board amendment deletions in accordance with the “Note” that appears under  
6 the official title of the ordinance.

7  
8 APPROVED AS TO FORM:  
9 DAVID CHIU, City Attorney

10 By: /s/ Peter Miljanich  
11       PETER MILJANICH  
12       Deputy City Attorney

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## **LEGISLATIVE DIGEST**

[Planning, Subdivision Codes - Condominium Conversion of Accessory Dwelling Units]

**Ordinance amending the Planning and Subdivision Codes to allow separate conveyance of certain accessory dwelling units and associated primary dwelling units as condominiums; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302.**

### **Existing Law**

The Planning Code sets forth both the City's local, discretionary accessory dwelling unit ("ADU") approval program (Planning Code Section 207.1) and the City's state-mandated, ministerial ADU approval program (Planning Code Section 207.2). Under both programs, with limited exceptions, a lot containing an ADU may not be subdivided in a manner that would allow for the ADU to be sold or separately financed pursuant to any condominium plan, housing cooperative, or similar form of separate ownership.

### **Amendments to Current Law**

This ordinance would amend the Subdivision Code, and add new Planning Code Section 207.4, to create a process by which property owners may convert certain new or existing ADUs, and associated primary dwelling units, into condominiums. Among other requirements, this ordinance would require all condominiums converted from ADUs and associated primary dwelling units to be created pursuant to the Davis-Stirling Common Interest Development Act (Part 5 (commencing with Section 4000) of Division 4 of the California Civil Code), and in conformance with all applicable objective requirements of the California Subdivision Map Act and the San Francisco Subdivision Code. This ordinance would also require any lienholder to consent to the conversion of any ADUs and associated primary dwelling units.

This ordinance would also require the Planning Department, prior to December 31, 2030, to prepare and submit to the Planning Commission a report containing recommendations as necessary or appropriate for modifications to this ADU condominium conversion program.

### **Background Information**

Assembly Bill 1033, authored by Assembly member Ting, took effect on January 1, 2024 and amended state law to explicitly allow the conversion of accessory dwelling units and associated primary dwelling units into condominiums.

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February 27, 2025

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

Re: **Transmittal of Planning Department Case Number 2024-010325:**  
Condominium Conversions of Accessory Dwelling Units  
Board File No. 241069

**Planning Commission Recommendation: Approval with Modifications**

Dear Ms. Calvillo and Supervisor Engardio,

On February 13, 2025, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider a proposed Ordinance, introduced by Supervisor Engardio. The proposed ordinance would amend the Planning and Subdivision Codes to allow certain Accessory Dwelling Units (ADUs) and associated primary dwelling units to be converted to condominiums (condos). At the hearing the Planning Commission adopted a recommendation for approval with modifications. The Commission's proposed modifications were as follows:

1. *Limit the program to the following:*
  - a. *Existing single-family homes and existing condominiums proposing to construct a new, detached ADU through the state program.*
  - b. *New construction single-family homes and new construction condominium projects proposing to construct a detached or attached ADU through the state program.*
2. *Move the state-mandated requirements to the Subdivision Code.*
3. *Make several clarifying amendments.*



- a. Clarify that an application to construct an ADU may be submitted concurrently with the condominium application.
- b. Clarify that eligible ADUs and primary units must meet the same Planning Code standards that are applied to all other condominium conversion projects, which are in Sec. 1383 of the Subdivision Code.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

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,



Aaron D. Starr  
Manager of Legislative Affairs

cc: Peter Miljanich, Deputy City Attorney  
Jonathan Goldberg, Aide to Supervisor Engardio  
John Carroll, Office of the Clerk of the Board

**ATTACHMENTS :**

Planning Commission Resolution  
Planning Department Executive Summary



# PLANNING COMMISSION RESOLUTION NO. 21684

**HEARING DATE: FEBRUARY 13, 2025**

*Project Name:* Condominium Conversion of Accessory Dwelling Units  
*Case Number:* 2024-010325PCA [Board File No. 241069]  
*Initiated by:* Supervisor Engardio / Introduced October 29, 2024  
*Staff Contact:* Audrey Merlone, Legislative Affairs  
Audrey.Merlone@sfgov.org, 628-652-7534  
*Reviewed by:* Aaron D Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 628-652-7533

**RESOLUTION ADOPTING A RECOMMENDATION FOR APPROVAL OF A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING AND SUBDIVISION CODES TO ALLOW SEPARATE CONVEYANCE OF CERTAIN ACCESSORY DWELLING UNITS AND ASSOCIATED PRIMARY DWELLING UNITS AS CONDOMINIUMS; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1; AND ADOPTING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.**

WHEREAS, on October 29, 2024, Supervisor Engardio introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 241069, which would amend the Planning and Subdivision Codes to allow separate conveyance of certain accessory dwelling units and associated primary dwelling units as condominiums;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 13, 2025; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15378 and 15060(c)(2); 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 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby adopts a **recommendation for approval with modifications** of the proposed ordinance. The Commission's proposed recommendations are as follows:

1. Limit the program to the following:
  - a. Existing single-family homes and existing condominiums proposing to construct a new, detached ADU through the state program.
  - b. New construction single-family homes and new construction condominium projects proposing to construct a detached *or* attached ADU through the state program.
2. Move the state-mandated requirements to the Subdivision Code.
3. Make several clarifying amendments.
  - a. Clarify that an application to construct an ADU may be submitted concurrently with the condominium application.
  - b. Clarify that eligible ADUs and primary units must meet the same Planning Code standards that are applied to all other condominium conversion projects, which are in Sec. 1383 of the Subdivision Code.

## 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:

The Department supports the Supervisor's goal of helping middle- and low-income homeowners to access the equity of their property through the sale of the ADU. This would also reduce the financial strain of adding an ADU to their primary dwelling. The proposed Ordinance would also expand housing options by encouraging affordable-by-design ADUs, often in lower-density, high-resource neighborhoods. This aligns with the city's goal of increasing housing choices. However, as drafted, the Ordinance could allow other types of units, including rent-controlled units, to be converted to condominiums. This may remove rent control protections from some rent-controlled units. To address these concerns, the Department recommends modifications to reduce potential negative impacts on rent control and ensure the program functions as intended.

## 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

#### Policy 31

Facilitate small and mid-rise multi-family buildings that private development can deliver to serve middle-income households without deed restriction, including through adding units in lower density areas or by adding Accessory Dwelling Units (ADUs).

#### OBJECTIVE 4.C

DIVERSIFY HOUSING TYPES FOR ALL CULTURES, FAMILY STRUCTURES, AND ABILITIES.

#### Policy 32

Promote and facilitate aging in place for seniors and multi-generational living that supports extended families and communal households.

*The proposed Ordinance creates a pathway for ownership of affordable by design housing which is often located in lower-density, high resource neighborhoods. It will assist in encouraging the production of ADUs in our high resource, low density neighborhoods; thereby expanding housing choices for low- and moderate-income households.*

#### Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

*The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

*The proposed Ordinance would not have a negative effect on housing or neighborhood character.*

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

*The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.*

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

*The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident

employment and ownership in these sectors be enhanced;

*The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

*The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.*

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

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

### 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 ADOPTS A RECOMMENDATION FOR APPROVAL WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on February 13, 2025.



Jonas P Ionin

Digitally signed by Jonas P Ionin  
Date: 2025.02.26 17:22:18 -08'00'

Jonas P. Ionin  
Commission Secretary

AYES: Campbell, McGarry, Braun, Moore, So  
NOES: Williams  
ABSENT: Imperial  
ADOPTED: February 13, 2025



# EXECUTIVE SUMMARY

## PLANNING CODE TEXT AMENDMENT

**HEARING DATE:** February 13, 2025

**90-Day Deadline:** May 5, 2025

*Project Name:* Condominium Conversion of Accessory Dwelling Units  
*Case Number:* 2024-010325PCA [Board File No. 241069]  
*Initiated by:* Supervisor Engardio / Introduced October 29, 2024  
*Staff Contact:* Audrey Merlone, Legislative Affairs  
Audrey.Merlone@sfgov.org, 628-652-7534  
*Reviewed by:* Aaron Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 628-652-7533  
*Environmental Review:* Not a Project Under CEQA

**RECOMMENDATION:** Adopt a Recommendation for Approval with Modifications

### Planning Code Amendment

The proposed Ordinance would amend the Planning and Subdivision Codes to allow certain Accessory Dwelling Units (ADUs) and the associated primary dwelling to be converted to condominiums (condos).

The Way It Is	The Way It Would Be
<p>ADUs built using the State Program, Hybrid Program, or Local Program may not be delivered as, or converted to condominiums.</p>	<p>ADU's and their associated primary dwelling may be delivered as or converted to condos <b>if</b>:</p> <ul style="list-style-type: none"> <li>• The lot or existing building within which the ADU will be constructed contains four units or less;</li> <li>• The entire structure/building included in the condo project meets Building and Planning Code standards;</li> <li>• Is not a Junior ADU, and;</li> <li>• If built using the State Program, the application to construct was submitted on or after January 1, 2020, or;</li> </ul> <p>If built using the Local Program, the application to construct was submitted on or after November 1, 2024.</p>
<p>The Planning Department does not regulate conformance with the Subdivision Code, Subdivision Map Act, or Sec. 66410 of the Civil Code. It does not conduct safety inspections, nor does it enforce lienholder consents.</p>	<p>Additional requirements for ADUs and their associated primary dwellings that seek to convert to or deliver as condos would be placed in the Planning Code. The requirements include:</p> <ul style="list-style-type: none"> <li>• Compliance with the Davis-Stirling Common Interest Development Act, the Subdivision Map Act, and all objective requirements of the San Francisco Subdivision Code.</li> <li>• Prior to the recordation of the condo plan, a safety inspection of the ADU must be conducted and documented from a certified building inspector.</li> <li>• Written evidence of any lienholder's consent must be provided to the Assessor-Recorder prior to recordation or modification to the condo plan.</li> <li>• For condo <i>conversions</i> the property owner must notify all relevant public utility providers.</li> <li>• Projects in planned development communities must also obtain their association's written approval.</li> <li>• The City must include a new notice on all ADU published materials that acknowledges the ability to convert the ADU to a condo and a list of requirements.</li> </ul>
<p>There is currently no <i>Code requirement</i> for the Department to report on the number of condo conversions in the Housing Inventory Report or otherwise.</p>	<p>Planning would be required to include data on the location and number of units converted to condos through this program via:</p> <ul style="list-style-type: none"> <li>• The Housing Inventory Report, and</li> <li>• A separate report submitted to the Planning Commission prior to December 31, 2030. This report shall also contain any recommended modifications to the program and that are in furtherance of the goals of the City's 7<sup>th</sup> Housing Element cycle.</li> </ul>

## Issues and Considerations

### Types of ADUs

An Accessory Dwelling Unit (ADU) is a residential unit added to an existing or proposed building. Traditionally, ADUs are subordinate to the primary residential unit(s). ADUs are generally developed using underutilized spaces within a lot, whether a garage, storage, rear yard, or an attic. ADUs are independent units that have their own kitchens, bathrooms and living areas. These units can be developed either within the existing building, within an extension to the existing building, or as a separate structure. ADUs are more likely to utilize side entrances, exhibit lower ceiling heights, and experience lower light exposure.

In 2016, San Francisco's Accessory Dwelling Unit Program became available citywide to all zoning districts that permit residential uses.

In 2016, San Francisco's Accessory Dwelling Unit Program became available citywide to all zoning districts that permit residential uses. Beginning in January 2020, California implemented new laws that govern ADUs statewide, allowing ADUs to be added to single- and multi-family buildings. There are four ADU types:

1. **Conversion** ADUs are new units that convert space in a residential building.
2. **Attached** ADUs are new units that expand a residential building.
3. **Detached** ADUs are new free-standing buildings located on a residential property.
4. **Junior** ADUs (JADU) are a new type of ADU that convert up to 500 square feet of space in a single-family structure. JADU requires owner-occupancy in either the remaining portion of the single-family home or the newly created JADU.

The type of ADU which can be added to a property depends on the building type and the ADU program.

### ADU Programs

Three ADU Programs are available: Local, State, or Hybrid. Below is a general summary of the differences between the programs.

#### Local Program

Allows ADUs in existing buildings or new construction.

- *Types of ADUs Allowed:* Conversion, Attached, and Detached
- *Number of ADUs Allowed:*
  - Existing Buildings:
    - 4 or fewer units: 1 ADU + 1 Detached ADU
    - 5 or more units: Unlimited ADUs + 1 Detached ADU
    - New Construction: Unlimited + 1 Detached ADU



- Zoning district density limit is 4 or fewer units: 1 ADU + 1 Detached ADU
- Zoning district density limit is 5 or more units: Unlimited ADUs + 1 Detached ADU
- *Additional Features:* Offers Planning Code waivers. Rent control (Costa-Hawkins Regulatory Agreement) typically applies when waivers are used.

### State Program

Allows adding one ADU to an existing building or new construction. Review is ministerial and streamlined. They are only permitted on properties where there are no other ADUs.

- *Types of ADUs allowed:* Attached, Detached and for single-family homes, also Conversion
- *Number of ADUs allowed:* 1
- *Additional Features:* Exempt from many Planning Code requirements like rear yard and exposure.

### Hybrid Program<sup>1</sup>

Combines State and Local rules, allowing multiple ADUs on single-family and multi-family properties.

- *Types of ADUs Allowed:* Conversion, Detached, and for single-family homes, also Junior ADUs
- *Number of ADUs Allowed:* For single-family homes maximum is 3 (1 Detached, 1 Converted, 1 JADU). For multi-family homes the maximum depends on the number of existing units and ADU types.
- *Additional Features:* Must meet Planning Code standards except for density. Detached ADUs must be within the buildable lot area.

For further details, please see the [ADU FAQs](#)<sup>2</sup> page on the Department's website.

## **Assembly Bill 1033**

Approved by the Governor in October of 2023, [Assembly Bill 1033 \(AB 1033\)](#)<sup>3</sup> authorizes local jurisdictions to create their own ordinances that would allow certain ADUs to be converted into condominiums. The bill contains a specific list of requirements that all local ordinances must also adopt. The proposed Ordinance places all the following state-mandated requirements in the Planning Code:

*- Compliance with the Davis-Stirling Common Interest Development Act, the Subdivision Map Act, and all objective requirements of the San Francisco Subdivision Code.*

*- Prior to the recordation of the condo plan, a safety inspection of the ADU must be conducted and evidenced through either a Certificate of Occupancy or "housing quality standards report" from a certified building inspector.*

*-Written evidence of any lienholder's consent must be provided to the Assessor-Recorder prior to recordation or modification to the condo plan.*

*-For condo conversions the property owner must notify all relevant public utility providers.*

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<sup>1</sup> The Ordinance as currently proposed does not allow ADU's constructed through the Hybrid Program to convert to condominiums.

<sup>2</sup> <https://sfplanning.org/accessory-dwelling-units#faqs>

<sup>3</sup> [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240AB1033](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB1033)

*-Projects in planned development communities must also obtain their association's written approval.*

*-The City must include a new notice on all ADU submittal checklists/applications/info pamphlets that acknowledges the ability to convert the ADU to a condo and a list of requirements to do so.*

Unfortunately, many of the above requirements are outside the jurisdiction of the Planning Department. Additionally, the Department does not employ staff qualified to fulfill certain listed requirements. Generally, the Subdivision and Mapping Division of the Department of Public Works leads condominium conversions and creations.

#### Primary Dwellings Eligible for Conversion

The proposed Ordinance does not explicitly limit the number of primary dwellings that may be converted for every ADU constructed, but state law contains specific language regarding the conversion of primary units to condominiums, in addition to the requirements mandated by AB 1033 to be part of every local program. California Government Code Section 66342, which allows local jurisdictions to adopt an ordinance permitting the sale of ADUs states:

*In addition to the requirement that a local agency allow the separate sale or conveyance of an accessory dwelling unit pursuant to Section 66341, a local agency may also adopt a local ordinance to allow the separate conveyance of the primary dwelling unit and accessory dwelling unit or units as condominiums.*

The City interprets state law as allowing one primary *dwelling* to be converted to a condo along with the ADU(s). The “primary dwelling” in a multi-unit rental building would consist of the entire existing building. Therefore, when an ADU is converted into a condominium in a multi-unit building under this program, the remaining units are converted into a multi-unit single condominium. It is staff’s understanding that this structure maintains the rent-controlled status of the existing units in the associated *primary* dwelling if they are already subject to such controls, and that the individual units cannot be sold off separately. Depending on the program used to build an ADU(s), this could result in a building where some units are individual condos (that may or may not be subject to rent control), and others are considered multi-family, rent controlled units.

#### **Rent Control**

Property owners who use any Planning Code waiver to build an ADU through the Local Program must sign a Regulatory Agreement that subjects the ADU(s) to rent control. This process relies on an exception to the Costa-Hawkins Rental Housing Act, which is a state law that places limits on rent control. The exception allows the City to impose rent control when property owners agree by contract, in exchange for financial contributions or other assistance. In this case, the agreement formalizes the City’s granting of waivers in return for applying rent control to the ADU. For the most part, ADUs built through the State and Hybrid programs are not subject to rent control through this agreement process.

Rent control stabilizes rents and protects tenants from significant rent increases between leases.

Rent control stabilizes rents and protects tenants from significant rent increases between leases. Its main goal is to provide secure housing at reasonable rents and shield tenants from displacement. Studies show rent stabilization reduces displacement for low-income and senior households.

Rent control does not apply to single-family homes, and condos are typically treated as single-family homes.

Rent control does not apply to single-family homes. And under state law, condos that have been sold to a bona fide purchaser for value are typically exempt from rent control. This could jeopardize the application of rent control to condominiums created under the proposed Ordinance. The proposed Ordinance would allow for the ADU(s) to convert to condominiums as well as the primary associated building. This provision could impact the rent control status of ADUs built through the Local Program and Unauthorized Dwelling Units (UDUs) that are legalized. Currently, 79% of the built ADUs in the city are subject to rent control.

Condominiums are treated as individual properties, which means each condo is eligible to file for an Owner Move-In eviction.

Units located within multi-family buildings built before June 1979 are subject to rent control. Approximately 40% of all housing in San Francisco and more than half of renter-occupied housing stock are rent controlled units. This includes many multi-family buildings of four units or less that either already contain or could add one or more ADUs. This means that an existing 4-unit, rent controlled building could add one or more ADUs and bypass the condominium conversion lottery to convert the “primary dwelling,” and the ADU(s), to condominiums. If then sold, the newly created condo units would likely be exempt from rent control; although it is possible that the recorded regulatory agreement for ADUs approved under the City’s Local program *could* maintain rent control for those converted ADUs. However, even if the rent control status of these units remains in place, their conversion to condominiums may still put existing tenants at risk of eviction. Condominiums are more likely to function as owner-occupied housing. In multi-family buildings, Owner Move-In evictions are limited to one unit per building. However, in condo buildings, each unit is treated as a separate property. This means every condo unit could trigger its own Owner Move-In eviction.

## ADUs Associated with Single-Family Homes

One of the key findings in the proposed Ordinance is:

*... to provide an option to homeowners and property owners to expediently seek a return on the capital investment required to construct ADUs, while reducing long-term liabilities and potential risks associated with managing rental property. The intent is to incentivize the production of ADUs, especially in neighborhoods dominated by single-family homes, and thereby increase the supply of affordable, entry-level housing units...*

The findings additionally cite that nearly 30% of San Francisco's housing stock is comprised of single-family homes, totaling 122,816 housing units. About two-thirds of these single-family homes – an estimated 66% – are owner-occupied. Despite high home prices, 50% of single-family homes are owned by moderate- or low-income owners. Single-family homes have much lower turnover rates than multifamily ownership units or rental units. 46% of single-family homes have been owner-occupied for 20 years or more, and 70% for 10 years or more. Allowing these homeowners the option to build and separately convey their ADUs as condominiums presents a significant opportunity to increase production of new, desperately needed housing. This could help provide sufficient housing for current residents and future generations without having to rely on large-scale area plans and capital-intensive, large-lot redevelopment projects.

Allowing homeowners to sell an ADU separately from the primary dwelling unit can help prevent displacement and support generational wealth-building.

Longtime homeowners often face limited liquidity and cash assets, despite decades of property value appreciation. Accessing this wealth usually requires selling the property, which risks displacing residents and separating extended families. Allowing these homeowners to sell an ADU separately from the primary dwelling unit can help prevent displacement and support generational wealth-building. This option provides seniors with income and allows them to age in place while receiving necessary care.

## Other Code Considerations

The Fire and Building Departments have notified staff of additional considerations regarding how their codes classify ADUs. The Building Code differentiates between "primary" and "accessory" units, with stricter standards for primary units. Under the proposed Ordinance, converting an ADU into a condo would reclassify it from an "accessory" unit to a "primary" unit. Primary units must meet stricter life and safety standards.

For instance, an ADU might not initially require sprinklers, especially if it is connected to the primary residence. However, converting it to a condo makes it independent and may require sprinklers. These stricter standards often include safety, accessibility, or other costly upgrades. While the Planning Department does not oversee life and safety issues, they recommend the legislative sponsor consult with relevant agencies to ensure the Ordinance works as intended.

## General Plan Compliance

The proposed Ordinance aligns with the Housing Element's Policy 31, which is to: "*Facilitate small and mid-rise multi-family buildings that private development can deliver to serve middle-income households without deed restriction, including through adding units in lower density areas or by adding Accessory Dwelling Units (ADUs).*" It additionally serves Objective 3.B which instructs the city to create a sense of belonging for all communities within well-resourced neighborhoods by expanding housing choices. The proposed Ordinance creates a pathway for ownership of affordable by design housing located in lower-density, high resource neighborhoods.

## Racial and Social Equity Analysis

ADUs are often located in the city's high resource neighborhoods, which are often low density and therefore less affordable. It is vital to the city's racial and social equity goals to increase housing choices in our high resource neighborhoods. ADUs are affordable by design and help achieve these goals. As such, the city should make every effort to encourage their construction. This Ordinance goes a step further by allowing ADUs to be sold as separate, single entities. Allowing ADUs to be sold as single units creates opportunities for middle-class families to become homeowners. It will also assist existing low- and middle-class homeowners to access equity in their home through the addition of a unit that can then be sold.

To protect the city's rent-controlled housing stock, limits should be placed on which units can undergo condo conversion through this program.

However, without limits on which units can be converted to condos through this program, rent-controlled tenants may face greater displacement pressure, and units designed to be rent-controlled may lose their rent-controlled status. The city needs to ensure any new program that increases development potential does so without increasing housing insecurity. Rent-controlled units are vital for communities of color, who are most affected by displacement and benefit greatly from rent control protections. Eliminating these units through condo conversions would harm these communities. To protect the city's rent-controlled housing stock, limits should be placed on which units can undergo condo conversion through this program. This will help preserve affordable and stable housing options.

## Implementation

The Department has determined that this ordinance will impact our current implementation procedures if not amended. Currently, the state-mandated requirements for all local ordinances include provisions that do not fall under the jurisdiction of the Planning Department. The Planning Department lacks the staff and expertise needed to conduct safety inspections or enforce compliance with various Subdivision acts and codes. It is vital that these requirements are moved to the appropriate Code overseen by an agency that possesses the staff and necessary skillset to carry out these requirements.

## Recommendation

The Department recommends that the Commission ***adopt a recommendation for 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. Limit the program to the following:
  - a. Existing single-family homes and existing condominiums proposing to construct a new, detached ADU through the state program.
  - b. New construction single-family homes and new construction condominium projects proposing to construct a detached *or* attached ADU through the state program.
2. Move the state-mandated requirements to the Subdivision Code.
3. Make several clarifying amendments.
  - a. Clarify that an application to construct an ADU may be submitted concurrently with the condominium application.
  - b. Clarify that eligible ADUs and primary units must meet the same Planning Code standards that are applied to all other condominium conversion projects, which are in Sec. 1383 of the Subdivision Code.

## Basis for Recommendation

The Department supports the Supervisor's goal of helping middle- and low-income homeowners to access the equity of their property through the sale of the ADU. This would also reduce the financial strain of adding an ADU to their primary dwelling. The proposed Ordinance would also expand housing options by encouraging affordable-by-design ADUs, often in lower-density, high-resource neighborhoods. This aligns with the city's goal of increasing housing choices. However, as drafted, the Ordinance could allow other types of units, including rent-controlled units, to be converted to condominiums. This may remove rent control protections from some rent-controlled units. To address these concerns, the Department recommends modifications to reduce potential negative impacts on rent control, reduce rent-control complications, and ensure the program functions as intended.

### Recommendation 1: Limit the program to the following:

- a. Existing single-family homes and existing condominiums proposing to construct a new, detached ADU through the state program.
- b. New construction single-family homes and new construction condominium projects proposing to construct a detached *or* attached ADU through the state program.

Limiting the program to the above greatly reduces rent-control complications and protects tenant-occupied units from condo conversion risks. Single-family homes are not subject to rent control, as noted earlier. Most

single-family homeowners who add an ADU use the State Program, which exempts both the ADU and the primary residence from rent control. For existing buildings, limiting the program to new, *detached* ADUs also ensures that Unauthorized Dwelling Units (UDUs) remain protected. UDUs are subject to the rent ordinance. However, the city does not have a complete record of every existing UDU. To protect the city's unpermitted units from losing their rent control status and prevent tenants from being evicted via the unit's condo conversion, it is vital to ensure existing spaces that convert into ADUs are not able to qualify for this condo program. Limiting the program in these ways still provides low- and moderate-income single-family homeowners with a pathway to access their property's equity and encourages affordable by design housing in high-resource, low-density neighborhoods.

**Recommendation 2: Move the state-mandated requirements to the Subdivision Code.** The state's ADU condominium program requirements do not belong in the Planning Code because Planning lacks enforcement authority and expertise over these rules. Since the Subdivision and Mapping Division of DPW is the lead agency for condominium mapping and subdivision, these requirements should be moved to the Subdivision Code.

**Recommendation 3: Make several clarifying amendments.**

- a. **Clarify that an application to construct an ADU may be submitted concurrently with the condominium application.** The legislation is currently silent on whether an application for construction and condo application for the ADU and associated primary dwelling may be submitted concurrently. Units using this program should be treated the same way that other new construction projects seeking to deliver as condos are treated: The legislation should be amended to clarify this.
- b. **Clarify that eligible ADUs and primary units must meet the same Planning Code standards that are applied to all other condominium conversion projects, which are in Sec. 1383 of the Subdivision Code.** The Ordinance currently states that qualified units must meet all "applicable" Building and Planning Code standards. To ensure these units are treated the same as other units seeking to convert to condominiums, Sec. 1383 of the Subdivision Code should be referenced instead.

## Required Commission Action

The proposed Ordinance is before the Commission so that it may adopt a recommendation of approval, disapproval, or approval with modifications.

## Environmental Review

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

## Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.



BOARD of SUPERVISORS



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1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

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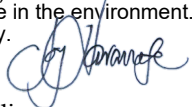
MEMORANDUM

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Date: November 6, 2024  
To: Planning Department/Planning Commission  
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee  
Subject: Board of Supervisors Legislation Referral - File No. 241069  
Planning, Subdivision Codes - Condominium Conversion of Accessory Dwelling Units

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- ☒ California Environmental Quality Act (CEQA) Determination  
(California Public Resources Code, Sections 21000 et seq.) Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment. Modification of processes or procedures only.  
☒ Ordinance / Resolution  
☐ Ballot Measure  
11/15/2024 
- ☒ Amendment to the Planning Code, including the following Findings:  
(Planning Code, Section 302(b): 90 days for Planning Commission review)  
☒ General Plan ☒ Planning Code, Section 101.1 ☒ Planning Code, Section 302
- ☐ Amendment to the Administrative Code, involving Land Use/Planning  
(Board Rule 3.23: 30 days for possible Planning Department review)
- ☐ General Plan Referral for Non-Planning Code Amendments  
(Charter, Section 4.105, and Administrative Code, Section 2A.53)  
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
- ☐ Historic Preservation Commission  
☐ Landmark (Planning Code, Section 1004.3)  
☐ Cultural Districts (Charter, Section 4.135 & Board Rule 3.23)  
☐ Mills Act Contract (Government Code, Section 50280)  
☐ Designation for Significant/Contributory Buildings (Planning Code, Article 11)

Please send the Planning Department/Commission recommendation/determination to John Carroll at [john.carroll@sfgov.org](mailto:john.carroll@sfgov.org).

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Carla Short, Director, Public Works  
William Blackwell, Chief Surveyor  
Joaquín Torres, Assessor-Recorder  
Christina Varner, Executive Director, Residential Rent Stabilization and Arbitration Board

FROM: John Carroll, Assistant Clerk, Land Use and Transportation Committee

DATE: November 6, 2024

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Engardio on October 29, 2024.

**File No. 241069**

Ordinance amending the Planning and Subdivision Codes to allow separate conveyance of certain accessory dwelling units and associated primary dwelling units as condominiums; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302.

If you have 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 or by email at: [john.carroll@sfgov.org](mailto:john.carroll@sfgov.org).

cc:  
Offices of Chair Melgar and Supervisor Engardio  
David Steinberg, Public Works  
Ian Schneider, Public Works  
Jason Wong, Public Works  
Kurt Fuchs, Office of the Assessor-Recorder  
Holly Lung, Office of the Assessor-Recorder

## Introduction Form

(by a Member of the Board of Supervisors or the Mayor)

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

- ☒ 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- ☐ 2. Request for next printed agenda (For Adoption Without Committee Reference)  
(Routine, non-controversial and/or commendatory matters only)
- ☐ 3. Request for Hearing on a subject matter at Committee
- ☐ 4. Request for Letter beginning with "Supervisor \_\_\_\_\_ inquires..."
- ☐ 5. City Attorney Request
- ☐ 6. Call File No. \_\_\_\_\_ from Committee.
- ☐ 7. Budget and Legislative Analyst Request (attached written Motion)
- ☐ 8. Substitute Legislation File No. \_\_\_\_\_
- ☐ 9. Reactivate File No. \_\_\_\_\_
- ☐ 10. Topic submitted for Mayoral Appearance before the Board on \_\_\_\_\_

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- ☐ Small Business Commission    ☐ Youth Commission    ☐ Ethics Commission
- ☒ Planning Commission    ☐ Building Inspection Commission    ☐ Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- ☐ Yes    ☐ No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Supervisor Joel P. Engardio

Subject:

Planning, Subdivision Codes - Condominium Conversion of Accessory Dwelling Units

Long Title or text listed:

Ordinance amending the Planning and Subdivision Codes to allow separate conveyance of certain accessory dwelling units and associated primary dwelling units as condominiums; affirming the Planning Department's determination under the California Environmental Quality Act ("CEQA"); making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1, and adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Signature of Sponsoring Supervisor:

