



March 12, 2025

Ms. Angela Calvillo, Clerk
Mr. David Chiu, San Francisco City Attorney
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 2025-001027PCA:**
Conversion of Residential Hotel Rooms to Tourist Hotel Rooms at 447 Bush Street
Board File No. 250069

Planning Commission Recommendation: Approval

Dear Ms. Calvillo and City Attorney Chiu,

On March 6, 2025, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by the City Attorney's Office, that would, among other things, amend the Planning Code to principally permit up to 51 tourist hotel rooms 447 Bush Street. At the hearing the Planning Commission adopted a recommendation for approval.

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.

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: Kristen Jensen, Deputy City Attorney
Andrea Ruiz-Esquide, Deputy City Attorney
John Carroll, Office of the Clerk of the Board

ATTACHMENTS :

Planning Commission Resolution
Planning Department Executive Summary



PLANNING COMMISSION RESOLUTION NO. 21696

HEARING DATE: March 6, 2025

Project Name: Conversion of Residential Hotel Rooms to Tourist Hotel Rooms at 447 Bush Street
Case Number: 2025-001027PCA/ Board File No. 250069
Initiated by: City Attorney / Introduced January 28, 2025
Staff Contact: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-558-6362
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-558-6362

RESOLUTION ADOPTING A RECOMMENDATION FOR APPROVAL OF A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO PRINCIPALLY PERMIT UP TO 51 TOURIST HOTEL ROOMS AT BLOCK 0287, LOT 020, ALSO KNOWN AS 447 BUSH STREET; EXEMPTING 447 BUSH STREET FROM THE REQUIREMENT TO OBTAIN A CONDITIONAL USE AUTHORIZATION TO CONVERT 38 RESIDENTIAL HOTEL ROOMS TO TOURIST HOTEL ROOMS; WAIVING DEVELOPMENT IMPACT FEES AND REQUIREMENTS FOR THE CONVERSION OF THE 38 ROOMS; PROVIDING THAT THE CONVERSION OF THE 38 ROOMS SHALL OCCUR SIMULTANEOUSLY WITH THE APPLICATION OF THE RESIDENTIAL HOTEL UNIT CONVERSION AND DEMOLITION ORDINANCE TO 27 GROUP HOUSING ROOMS AT 412-422 HAYES STREET AND SEVEN GROUP HOUSING ROOMS AT 319-321 IVY STREET, ASSESSOR'S PARCEL BLOCK 0808, LOT 007; PROVIDING THAT THE DEPARTMENT OF BUILDING INSPECTION SHALL ISSUE CERTIFICATES OF USE TO REFLECT THE CHANGES IN USE OF ALL THE AFOREMENTIONED PROPERTIES AND WAIVING ASSOCIATED FEES; PROVIDING THAT THE ORDINANCE IS CONDITIONED ON ENACTMENT OF THE ORDINANCE APPROVING SETTLEMENT OF CLAIMS IN HOTEL DES ARTS, LLC V. CITY AND COUNTY OF SAN FRANCISCO ET AL.; 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 MAKING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on January 28, 2025, the Office of City Attorney David Chiu introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 250069 which would amend the Planning Code to principally permit up to 51 tourist hotel rooms at block 0287, lot 020, also known as 447 Bush Street; exempting 447 Bush Street from the requirement to obtain a conditional use authorization to convert 38

residential hotel rooms to tourist hotel rooms; waiving development impact fees and requirements for the conversion of the 38 rooms; providing that the conversion of the 38 rooms shall occur simultaneously with the application of the residential hotel unit conversion and demolition ordinance to 27 group housing rooms at 412-422 Hayes Street and seven group housing rooms at 319-321 Ivy Street, assessor's parcel block 0808, lot 007; providing that the Department of Building Inspection shall issue Certificates of Use to reflect the changes in use of all the aforementioned properties and waiving associated fees; providing that the ordinance is conditioned on enactment of the ordinance approving settlement of claims in *Hotel Des Arts, LLC v. City and County of San Francisco et al.* (Northern District of California, Case No. 3:23-cv-02933)("Lawsuit");

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on March 6, 2025; and,

WHEREAS, the Planning Department has determined that the proposed Ordinance has been determined is not a project for purposes of review under the California Environmental Quality Act; 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** of the proposed ordinance. The Commission's proposed recommendation(s) is/are as follows:

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 proposed Ordinance is a required component of the agreement to settle the Lawsuit brought by Plaintiff Hotel Des Arts to challenge the City's 2023 amendments to the Hotel Conversion Ordinance, Chapter 41 of the San Francisco Administrative Code ("HCO"). The settlement approximates a one-for-one exchange as permitted under Administrative Code sections 41.12 - 41.14, permits the Plaintiff to use the 38 Residential Units at the Hotel Des Arts for Tourist Use, and imposes the Residential Use restrictions of Chapter 41 on 34 units and associated amenities including shared kitchens, mail services and open space, including 27 units located at 412-422 Hayes Street and 7 units located at 319-321 Ivy Street.

The proposed Ordinance is one aspect of a comprehensive settlement agreement which removes the restrictions of the HCO from an existing hotel (Hotel Des Arts), in exchange for imposing the restrictions of Chapter 41 on 34 units and associated amenities in another building. By imposing the HCO on the units at 412-422 Hayes Street and 7 units located at 319-321 Ivy Street, the settlement will result in those units being subject to a minimum 30-day tenancy requirement, whereas they currently may be rented for as little as 7 days. The settlement is not possible without the code amendment and waivers set forth in the proposed Ordinance.

General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

POLICY 36

Maximize the use of existing housing stock for residential use by discouraging vacancy, short-term use, and speculative resale.

POLICY 19

Enable low and moderate-income households, particularly American Indian, Black, and other people of color, to live and prosper in Well-resourced Neighborhoods by increasing the number of permanently affordable housing units in those neighborhoods.

The proposed Ordinance is consistent with Policy 19 of the Housing Element in that it will expand group housing opportunities- a more affordable housing option. While not inside the Well-resourced Neighborhoods, the units are close to it and outside the Priority Equity Geographies. It is also consistent with Policy 36 in the Housing Element's, which seeks to discourage vacancies and short-term uses of existing housing stock by converting seven-day tenancy units into 30-day tenancy units.

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. In fact, by consolidating residential units subject to the HCO in one location, at 412-422 Hayes and 319-321 Ivy Street, instead of having those residential units mixed in with tourist units as is currently the case at the 447 Bush Street hotel, the proposed Ordinance, by facilitating the related settlement agreement, preserves the availability of the units at 412-422 Hayes Street and 319-321 Ivy Street for residential uses. By doing so, it contributes to the overall supply of housing in the City, and indirectly enhances affordability.

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 the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on March 6, 2025.



Jonas P. Ionin
Commission Secretary

Jonas P Ionin

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Date: 2025.03.12 13:33:38
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AYES: Campbell, McGarry, Williams, Braun, Imperial, Moore, So
NOES: None
ABSENT: None
ADOPTED: March 6, 2025



EXECUTIVE SUMMARY

PLANNING CODE AMENDMENT

HEARING DATE: March 6, 2025

90-Day Deadline: April 29, 2025

Project Name: Conversion of Residential Hotel Rooms to Tourist Hotel Rooms at 447 Bush Street
Case Number: 2025-001027PCA /Board File No. 250069
Initiated by: City Attorney / Introduced January 28, 2025
Staff Contact: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-558-6362
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-558-6362
Environmental Review: Not a Project Under CEQA

RECOMMENDATION: Adopt of Recommendation for Approval

Planning Code Amendment

The proposed Ordinance would amend the Planning Code to make a Tourist Hotel a principally permitted use for all 51 Hotel Units at 447 Bush Street (Assessor’s Parcel Block No. 0287, Lot N. 020), the Hotel Des Arts location; waive the requirement for a conditional use authorization under Planning Code Section 317 for the conversion of the current 38 Residential Hotel Units at that location; and waive otherwise applicable impact fees and application and permit review fees for the conversion of the 38 Residential Hotel Units to Tourist use. The Planning Code amendments and waivers are part of a settlement of litigation (“Settlement Agreement”) to resolve litigation brought in federal court challenging the Board of Supervisors’ 2023 amendments to the Hotel Conversion Ordinance (Board File No. 220815, Ord. No. 36-23 [“HCO”]). They are conditioned on the approval of the Settlement Agreement by the Board of Supervisors through Board File No. 250068.

The Way It Is Now:

1. The Hotel Des Arts is regulated under the Hotel Conversion Ordinance (HCO). The Hotel currently contains 38 Residential Hotel Units, and 13 Tourist Hotel Units. Under Planning Code Section 210.2, Hotel Uses require a Conditional Use Authorization (CUA) in this location, in the C-3 zoning district. In addition, Conversion of Residential Units requires a CUA under Section 317 of the Planning Code.
2. 412-422 Hayes Street and 319-321 Ivy Street contain 34 Group Housing Units, 8 kitchens, 7 full and 4 half bathrooms, and associated amenities. The Planning Code definition of Group Housing currently includes a required minimum stay of 30 days. However, prior to May 1, 2022, Section 102 of the Planning Code required Group Housing to offer only lodging of “prearrangement for a week or more at a time.” Because the existing Group Housing at 412-422 Hayes Street and 319-321 Ivy Street use was operating legally under the old definition at the time that Section 102 was amended, it became a nonconforming use when the amendment took effect.

The Way It Would Be:

1. The Hotel Des Arts would not be subject to the CUA requirement to establish a Hotel under Planning Code Section 210.2 or the CUA requirement under Planning Code Section 317 for the conversion of residential units to a Hotel Use. The proposed ordinance would also waive otherwise applicable impact fees and application and permit review fees for the conversion of the 38 Residential Hotel Units to Hotel Use. The result will be to make a Tourist Hotel a principally permitted use for all 51 Hotel Units at 447 Bush.
2. In exchange for the concession stated above, the entirety of the buildings located at 412-422 Hayes Street and 319-321 Ivy Street would be subjected to the HCO, creating 34 new Residential Units (collectively, the “TRADED UNITS”) and associated amenities (including laundry, mail and common courtyard access). Along with other provisions of the Settlement Agreement, the result would be that the Residential Units at 412-422 Hayes Street and 319-321 Ivy Street would be subject to minimum tenancies of 30 days, as well as all other provisions of the HCO. The Settlement Agreement also requires the operator of the TRADED UNITS to adopt certain operating terms in order to encourage the rental of those units for residential purposes at all times. It also requires that Plaintiff record a Notice of Special Restrictions to memorialize the obligations of the settlement.

Background

Plaintiff Hotel Des Arts filed a writ petition and complaint for injunctive and declaratory relief (“Lawsuit”) in federal court challenging the Board of Supervisors’ 2023 amendments to HCO that define Tourist or Transient use as a stay of less than 30 days and establish 2-year amortization period for hotel owners to recoup their investments in tourist uses of their Residential Hotel Units. Plaintiff Hotel Des Arts is currently regulated under the HCO, and operates 38 residential and 13 tourist rooms, for a total of 51 rooms.

The proposed Ordinance implements the settlement of the Lawsuit, as set forth in a related Settlement Ordinance (Board File No. 250068).

Since 1981, the City has regulated residential hotel rooms through the HCO. The City amended the HCO several times to reinforce its original policy goal that residential rooms subject to the ordinance would remain available to the City's most vulnerable residents. The City amended the HCO again in 2023 responding to the Court of Appeal's order in an earlier lawsuit and included both a two-year amortization period for the legislative changes to the HCO and a process for a property owner to request an extension of the amortization period to recover its reasonable investments. The Lawsuit challenges these amendments.

The parties have agreed to settle the Lawsuit. The Settlement Agreement requires the City to remove the restrictions of the HCO from the Hotel des Arts and place those restrictions on 34 units, including 27 units, 6 kitchens, 5 full and 4 half bathrooms, and all associated amenities (including laundry, mail and common courtyard access) at 412-422 Hayes Street and 7 units, 2 kitchens, and 2 bathrooms, and all associated amenities (including laundry, mail and common courtyard access) at 319-321 Ivy Street. Adding the HCO restrictions to these buildings will extend the minimum tenancy period for the Group Housing use from seven to 30 days. Consolidating these rooms in buildings without tourist rooms, and with related residential amenities, along with other provisions of the settlement agreement, increases the likelihood that these units will be rented to San Francisco Residents, rather than for transient use. Upon approval of the Proposed Ordinance, Plaintiff will dismiss its challenge to the 2023 amendments to the HCO. The proposed ordinance is required to effectuate the settlement.

Issues and Considerations

The proposed ordinance is one component of a settlement that is intended to end litigation challenging the 2023 amendments to the HCO, and to restrict the TRADED UNITS for minimum 30-day tenancies. Without the proposed ordinance, the settlement will not be approved, and the litigation challenging the 2023 amendments will recommence.

Housing Affordability

The Planning Department's paramount concern is the impact that Residential Units in Chapter 41 hotels have on the availability and affordability of the City's housing stock. While the proposed Ordinance furthers the conversion of Residential units to Tourist hotel units at 447 Bush Street, it also helps preserve housing stock at 412-422 Hayes Street and 319-321 Ivy Street, for the following reasons: First, although the TRADED UNITS are currently Group Housing, under the settlement agreement, the tenancy will increase from seven to 30 days. Moreover, the TRADED UNITS include other amenities such as laundry, mailroom, and courtyard access, which increases the likelihood that these units will be indeed rented for residential uses. Second, having all the residential units consolidated in one location, as opposed to being mixed with tourist uses, as they currently are at the Hotel, would also be beneficial to the City and in furtherance of City policies, as stated below.

General Plan Compliance

The proposed ordinance is consistent with Policy 19 of the Housing Element in that it will expand group housing opportunities- a more affordable housing option. It is also consistent with Policy 36 in the Housing

Element, which seeks to discourage vacancy and short-term uses of existing housing stock by converting seven-day tenancy units into 30-day tenancy units.

Racial and Social Equity Analysis

Because the Ordinance applies to a limited number of parcels, its impact on the City's racial and social equity cannot be directly quantified. The proposal converts Residential Hotel units into Tourist Hotel rooms; however, these units do not currently provide long-term stable housing, and no tenants will be displaced as a result. To offset this change, the ordinance increases the minimum tenancy requirement for 34 Group Housing units from seven days to 30 days. Group housing is generally a more affordable option, expanding housing choices for residents.

Implementation

The Department has determined that this ordinance will not impact our current implementation procedures.

Recommendation

The Department recommends that the Commission ***adopt a recommendation for approval*** of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

Basis for Recommendation

The proposed Ordinance is a required component of the agreement to settle the Lawsuit. The settlement approximates a one-for-one exchange as permitted under Administrative Code sections 41.12 - 41.14, permits the Plaintiff to use the 38 Residential Units at the Hotel Des Arts for Tourist Use, and imposes the Residential Use restrictions of Chapter 41 on 34 units, including 27 units located at 412-422 Hayes Street and 7 units located at 319-321 Ivy Street. The TRADED UNITS include kitchens, mail service and laundry facilities. As a result, the TRADED UNITS provide greater benefits to the prospective residential tenants, making those units beneficial to the target population of the HCO. In addition, it will benefit the City to have all these residential units consolidated in one location, as opposed to being mixed with tourist uses, as they currently are at the Hotel. As a result of the settlement, the 34 TRADED UNITS will be subject to Chapter 41, and will be subject to minimum 30-day tenancies instead of the 7-day tenancy requirement currently applicable to those units. For these reasons, the Department supports the proposed Ordinance. .

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.

ATTACHMENTS:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 250069