



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19282 Planning Code Text Amendments

HEARING DATE: NOVEMBER, 20TH 2014

Date: November 20, 2014
Case No.: 2014.0156T
Project Address: **Reasonable Modification Ordinance**
Initiated by: John Rahaim, Director of Planning
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Reviewed by: Kearstin Dischinger
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Recommendation: **Recommend Approval**

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO PROVIDE A PROCESS FOR INDIVIDUALS REQUESTING REASONABLE MODIFICATIONS TO RESIDENTIAL PROPERTIES BY AMENDING EXISTING PLANNING CODE SECTION 305 TO INCLUDE SECTION 305.1 TO DESCRIBE AN ADMINISTRATIVE REASONABLE MODIFICATION PROCESS AND A STANDARD VARIANCE PROCESS FOR REASONABLE MODIFICATIONS.

PREAMBLE

WHEREAS, it is the policy of the City and County of San Francisco to comply with the Federal Fair Housing Act, the Americans with Disabilities Act and the California Fair Employment and Housing Act by reasonably modifying its zoning regulations for people with disabilities; and

WHEREAS, the California Department of Housing and Community Development requires that Housing Elements provide a program to “address and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing for persons with disabilities. The program shall remove constraints to and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities, and

WHEREAS, San Francisco’s 2009 Housing Element calls for a local ordinance in Implementation Measure # 39: Planning will develop a legislative ordinance that will enable persons with disabilities who require reasonable accommodation as exceptions to the City’s Planning Code to bypass the currently required variance process, and to access a streamlined procedure permitting special structures or appurtenances such as access ramps of lifts and other non-physical accommodations, and

WHEREAS, the San Francisco Planning Department developed this proposal in coordination with key stakeholders including the Mayor's Office of Disabilities, to ensure that the legislation comprehensively addresses anticipated reasonable modifications requests made by people with disabilities for residential uses, and

WHEREAS, in determining whether a requested modification of zoning or subdivision regulations is reasonable, the City will consider, among other relevant factors, the extent to which the requested modification might be in conflict with or result in a fundamental alteration in the nature of the Planning Code or General Plans; and

WHEREAS, "fundamental alteration" is defined in federal and state Fair Housing Laws; and

WHEREAS, an applicant may seek a modification through this section for an improvement that is available under other sections of the Planning Code; and

WHEREAS, the proposed legislation will create an Administrative Reasonable Modification and the Standard Variance for persons who seek reasonable accommodations on residential properties; and

WHEREAS, the Planning Commission (hereinafter "Commission") initiated hearings on this legislation on October 16, 2014

WHEREAS, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 20, 2014; and

WHEREAS, the proposed Ordinance would be categorically exempt from environmental review under the California Environmental Quality Act Section 15061(b)(3); and

WHEREAS, the 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, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Commission has reviewed the proposed Ordinance:

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

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, the Commission finds, concludes and determines as follows:

1. As part of the state mandated Housing Element, the California Department of Housing and Community Development (HCD) requires municipalities "where appropriate and legally

possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities.”

2. The 2009 Housing Element had a specific implementation measure ; *Implementation Measure 39: Planning will develop a legislative ordinance that will enable persons with disabilities who require reasonable accommodation” as exceptions to the City’s Planning Code to bypass the currently required variance process, and to access a streamlined procedure permitting special structures or appurtenances such as access ramps of lifts and other non-physical accommodations, which directs the Department to develop a Reasonable Modification Ordinance.*
3. **General Plan Compliance.** The proposed Ordinance is consistent with the Objectives and Policies of the General Plan:

OBJECTIVE 4

FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

POLICY 4.3

Create housing for people with disabilities and aging adults by including universal design principles in new and rehabilitated housing units.

The proposed ordinance would provide a path for persons with disabilities to request modifications to their homes, allowing them equal access to live in different neighborhoods in the City.

1. 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 impact on neighborhood serving retail uses and will not impact 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. The modifications proposed would impose minimal impact on the existing housing and 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. The ordinance provides a path for persons with a disability to remain in their homes.

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

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing. The ordinance provides a path for persons with a disability to remain in their home.

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

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

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

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

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have a negative impact on the City's Landmarks and historic buildings as any new modifications would be added under the guidance of local law and policy protecting historic resources, when appropriate.

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 impact on the City's parks and open space and their access to sunlight and vistas.

4. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance, approved as to form by the City Attorney in Exhibit A, described in this Resolution.

I hereby certify that the foregoing Resolution was ADOPTED by the San Francisco Planning Commission on November 20, 2014.

A handwritten signature in black ink, appearing to read 'Jonas Ionin', written over a faint grid background.

Jonas Ionin
Commission Secretary

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

NOES:

ABSENT: