

File No. 090906

Committee Item No. 1

Board Item No. 03

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date May 24, 2010

Board of Supervisors Meeting Date 06/15/10

Cmte Board

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OTHER

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Environmental Review Determination</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Planning Commission Resolution No. 17961</u> |
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Completed by: Alisa Somera Date May 21, 2010
Completed by: Alisa Somera Date May 20, 2010

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

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1 [Planning – Uses Permitted in R Districts – Double Density For Senior Housing.]

2
3 Ordinance amending the Planning Code by adding Section 102.6.1 to create a definition
4 related to housing for seniors; amending Planning Code Section 209.1(m) related to the
5 Uses Permitted in R Districts - Dwelling Zoning Control Table to update the
6 requirements for obtaining double density for providing senior housing and, adding
7 Section 209.1(o) to require, in certain circumstances, a conditional use authorization;
8 making environmental findings, and making findings of consistency with the General
9 Plan and priority policies of Planning Code Section 101.1.

10 NOTE: Additions are *single-underline italics Times New Roman*;
11 deletions are ~~*strike-through italics Times New Roman*~~.
12 Board amendment additions are double-underlined;
13 Board amendment deletions are ~~strikethrough normal~~.

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

14 Section 1. Findings. The Board of Supervisors of the City and County of San
15 Francisco hereby finds and declares as follows:

16 (a) In enacting Civil Code Section 51.3, the California Legislature found that it is
17 essential to establish and preserve specially designed accessible housing for senior citizens.
18 There are senior citizens who need special living environments and services, and the
19 Legislature found that there was an inadequate supply of this type of housing in the State.
20 The Board concurs in this finding and, in addition, finds that that there is a shortage of housing
21 for seniors in San Francisco. The shortage is especially acute for seniors of low and
22 moderate income.

23 (b) Current Planning Code Section 209.1(m) permits a double density bonus for
24 dwelling units specifically designed for seniors or persons with disabilities. The density
25 permitted cannot exceed twice the number of permitted dwelling units. The double density

1 bonus is permitted in all Residential-zoned districts and is granted at the Planning Department
2 staff level, without a hearing in front of the Planning Commission.

3 (c) Permitting a double density project for seniors will increase the number of
4 dwelling units constructed for and occupied by senior citizens, but is only in the public interest
5 if 100% of the units are initially occupied by senior citizens and that thereafter the project is
6 occupied for the life of the project by senior citizens under the conditions outlined in State and
7 Federal law.

8 (d) The Uses Permitted in Residential Districts Zoning Controls, specifically the
9 Dwelling Uses zoning table as outlined in 209.1, have not been substantially revised since
10 their adoption in 1978. In evaluating this Section, the Planning Department and the Board of
11 Supervisors find and determine that the provisions related to senior housing need to be
12 clarified in order to prevent recent abuses of this provision and to ensure that occupancy of
13 the project is consistent with State and Federal law and, that under local law, the restrictions
14 will remain in place for the life of the project. The Planning Department and the Board of
15 Supervisors developed this legislation to prevent any further abuse of the double-density
16 provisions.

17 (e) By requiring a Conditional Use Authorization in certain circumstances, the Board
18 of Supervisors finds that a public hearing process would further solidify the intent of any
19 double density project to be 100% occupied by seniors. A Conditional Use Authorization
20 would create additional mechanisms for the Planning Department to monitor and enforce the
21 intent behind the double density provision of the Planning Code.

22 (f) The Board of Supervisors finds that there is a shortage of housing for low- and
23 moderate-income senior housing. The Board finds that it is desirable to locate any
24 inclusionary housing units produced under the provisions of this ordinance on-site. The Board
25

1 finds that the additional density allowed for will make it feasible for the developer to meet its
2 inclusionary housing obligations on-site.

3 Section 2. Environmental Findings, General Plan Findings, and Other Findings.

4 (a) The Planning Department has determined that the actions contemplated in this
5 Ordinance are in compliance with the California Environmental Quality Act (California Public
6 Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the
7 Board of Supervisors in File No. 090906 and is incorporated herein by
8 reference.

9
10 (b) On October 8, 2009, the Planning Commission, in Resolution
11 No. 17961 approved and recommended for adoption by the Board this legislation
12 and adopted findings that it is consistent, on balance, with the City's General Plan and eight
13 priority policies of Planning Code Section 101.1. The Board adopts these findings as its own.
14 A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No.
15 090906, and is incorporated by reference herein.

16 (c) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this
17 legislation will serve the public necessity, convenience, and welfare for the reasons set forth in
18 Planning Commission Resolution No. 17961, and incorporates such reasons by
19 reference herein.

20 Section 3: The San Francisco Planning Code is hereby amended by adding Section
21 102.6.1, to read as follows:

22 **Sec. 102.6.1. DWELLING SPECIFICALLY DESIGNED FOR AND OCCUPIED BY**
23 **SENIOR CITIZENS.**

24 (a) *Definitions: In order to qualify as a "dwelling specifically designed for and occupied*
25 *by senior citizens", the following definitions shall apply and shall have the same meaning as the*

1 definitions in California Civil Code Sections 51.2, 51.3, and 51.4, as amended from time to time. These
2 definitions shall apply as shall all of the other provisions of Civil Code Section 51.2, 51.3, and 51.4.
3 Any development specifically designed for and occupied by senior citizens must also be consistent with
4 the Fair Housing Act, 42 U.S.C. §§3601-3631 and the Fair Employment and Housing Act, California
5 Government Code Sections 12900-12996.

6 "Designed to meet the physical and social needs of senior citizens" shall mean a development
7 that meets the requirements of Civil Code Section 51.2(d), is constructed on or after January 1, 2001,
8 and includes all of the following elements:

9 (1) Entryways, walkways, and hallways in the common areas of the development, and doorways
10 and paths of access to and within the housing units, shall be as wide as required by current laws
11 applicable to new multifamily housing construction for provision of access to persons using a standard-
12 width wheelchair.

13 (2) Walkways and hallways in the common areas of the development shall be equipped with
14 standard height railings or grab bars to assist persons who have difficulty with walking.

15 (3) Walkways and hallways in the common areas shall have lighting conditions which are
16 sufficient brightness to assist persons who have difficulty seeing.

17 (4) Access to all common areas and housing units within the development shall be provided
18 without use of stairs, either by means of an elevator or sloped walking ramps.

19 (5) The development shall be designed to encourage social contact by providing at least one
20 common room and at least some common open space.

21 (6) Refuse collection shall be provided in a manner that requires a minimum of physical
22 exertion by residents.

23 (7) The development shall comply with all other applicable requirements for access and design
24 imposed by law, including, but not limited to, the Fair Housing Act (42 U.S.C. Sec. 3601 et seq.), the
25 Americans with Disabilities Act (42 U.S.C. Sec. 12101 et seq. and the regulations promulgated at Title

1 24 of the California Code of Regulations that relate to access for persons with disabilities or
2 handicaps. Nothing in this section shall be construed to limit or reduce any right or obligation
3 applicable under those laws.

4 "Qualifying Resident" or "Senior citizen" means a person 62 years of age or older, or 55 years
5 of age or older in a senior citizen housing development.

6 "Senior citizen housing development" means a residential development developed, substantially
7 rehabilitated or substantially renovated for, senior citizens that has at least 35 dwelling units. Any
8 senior citizen housing development which is required to obtain a public report under Section 11010 of
9 the Business and Professions Code and which submits its application for a public report after July 1,
10 2001, shall be required to have been issued a public report as a senior citizen housing development
11 under Section 11010.05 of the Business and Professions Code. No housing development constructed
12 prior to January 1, 1985 shall fail to qualify as a senior citizen housing development because it was not
13 originally developed or put to use or occupancy by senior citizens.

14 (b) Requirements: In order to qualify as a dwelling specifically designed for and occupied
15 by senior citizens for purposes of Section 209.1, the proposed project must meet all of the following
16 conditions:

17 (1) Design and construction: The project must be designed to meet the physical and social
18 needs of senior citizens as defined herein.

19 (2) Occupancy: Each proposed dwelling unit must be initially put to use by a senior
20 citizens and shall be limited to the occupancy of senior citizens or other qualifying residents under
21 Civil Code Section 51.3 for the actual lifetime of the building, regardless of whether the units will be
22 owner-occupied or renter-occupied. The project must meet all of the requirements of Civil Code
23 Section 51.3 including, but not limited to, the requirement that the covenants, conditions, and
24 restrictions shall set forth limitations on occupancy, residency, and use based on age. Any such
25 limitation shall not be more exclusive than to require that one person in residence in each dwelling unit

1 may be required to be a senior citizen and that each other resident in the same dwelling unit may be
2 required to be a qualified permanent resident as defined in Civil Code Section 51.3(b), a permitted
3 health care resident as defined in Civil Code Section 51.3(b), or a person under 55 years of age whose
4 occupancy is permitted under Civil Code Section 51.3 or Section 51.4(b). That limitation may be less
5 exclusive but, shall at least require that the persons commencing any occupancy of a dwelling unit
6 include a senior citizen who intends to reside in the unit as his or her primary residence on a
7 permanent basis. The application of the rules set forth in this Section and in State law may result over
8 time in less than all of the dwellings being actually occupied by a senior citizen.

9 (3) Inclusionary Housing Requirements: If the project must meet the requirements of the
10 Residential Inclusionary Affordable Housing Program, Planning Code Sections 315 et seq., the
11 inclusionary units must be constructed on-site and, like the other units in the project, will be limited to
12 occupancy as stated above.

13 (4) Location: The proposed project must be within a 1/4 of a mile from a NCD-2 (Small-
14 Scale Neighborhood Commercial District) zoned area or higher, including named neighborhood
15 commercial districts, and must be located in an area with adequate access to services, including but
16 not limited to transit, shopping, and medical facilities;

17 (5) Recording: The project sponsor must record a Notice of Special Restriction with the
18 Assessor-Recorder that states all of the above restrictions and any other conditions that the Planning
19 Commission or Department places on the property; and

20 (6) Covenants, Conditions, And Restrictions: If the property will be condominiumized, the
21 project sponsor must provide the Planning Department with a copy of the Covenants, Conditions, &
22 Restrictions ("CC&R") that will be filed with the State.

23 (7) As provided for in Section 209.1(m), a proposed project that meets all of the
24 requirements under this Section may be principally permitted. As provided for in Section 209.1(o), for
25

1 a proposed project that meets all of the requirements under this section, except for subsection (4), a
 2 Conditional Use Authorization is required.

3 (8) For the purpose of qualifying for and receiving additional density at a density ratio or
 4 number of dwelling units not exceeding twice the number of dwelling units otherwise permitted,
 5 the project sponsor shall enter into a contract with the City acknowledging that the additional
 6 density received under Section 209.1(m) or (o) is a form of assistance specified in California
 7 Government Code Sections 65915 et seq for purposes of Civil Code Section 1954.52(b) of the
 8 Costa-Hawkins Rental Housing Act. All such contracts must be reviewed and approved by the
 9 Mayor's Office of Housing and approved as to form by the City Attorney. All contracts that involve
 10 100% affordable housing projects in the residential portion shall be executed by the Director of the
 11 Mayor's Office of Housing. Any contract that involves less than 100% affordable housing in the
 12 residential portion, may be executed by either the Director of the Mayor's Office of Housing or,
 13 after review and comment by the Mayor's Office of Housing, the Planning Director.

14 Section 4: The San Francisco Planning Code is hereby amended by amending Section
 15 209.1, to read as follows:

16 **Sec. 209.1. DWELLINGS.**

17 TABLE INSET:

| RH -1 (D) | RH -1 | RH -1 (S) | RH -2 | RH -3 | RM -1 | RM -2 | RM -3 | RM -4 | RTO | RC -1 | RC -2 | RC -3 | RC -4 | |
|-----------------|----------|-----------------|----------|----------|----------|----------|----------|----------|-----|----------|----------|----------|----------|---|
| | | | | | | | | | | | | | | SEC. 209.1. DWELLING S. |
| P | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | (a) One- family dwelling having side |

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| | | | | | | | | | | | | | | yards as required by Section 133 of this Code. |
| | P | P | P | P | P | P | P | P | P | P | P | P | P | (b) Other one-family dwelling. |
| | | P | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | (c) Two-family dwelling with the second dwelling unit limited to 600 square feet of net floor area. |
| | | | P | P | P | P | P | P | P | P | P | P | P | (d) Other two-family dwelling. |
| | | | | P | P | P | P | P | P | P | P | P | P | (e) Three-family dwelling. |
| | C | C | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | (f) Dwelling at a density ratio up to one dwelling unit for each 3,000 square feet of lot area, but no more than three dwelling units per lot, if authorized as a conditional |

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| | | | | | | | | | | | | | | use by the City Planning Commission. |
| | | | C | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | (g) Dwelling at a density ratio up to one dwelling unit for each 1,500 square feet of lot area, if authorized as a conditional use by the City Planning Commission. |
| | | | C | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | (h) Dwelling at a density ratio up to one dwelling unit for each 1,000 square feet of lot area, if authorized as a conditional use by the City Planning Commission. |
| | | | | | P | NA | NA | NA | NA | P | NA | NA | NA | (i) Dwelling at a density ratio not exceeding one dwelling unit for each 800 square feet of lot area. |
| | | | | | | P | NA | NA | P | | P | NA | NA | (j) Dwelling at a density |

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| | | | | | | | | | | | | | | ratio not exceeding one dwelling unit for each 600 square feet of lot area. | |
| | | | | | | | P | NA | C | | | | P | NA | (k) Dwelling at a density ratio not exceeding one dwelling unit for each 400 square feet of lot area. |
| | | | | | | | | | | | | | | | (l) Dwelling at a density ratio not exceeding one dwelling unit for each 200 square feet of lot area; provided, that for purposes of this calculation a dwelling unit in these districts containing no more than 500 square feet of net floor area and consisting of not more than one habitable room in addition to a kitchen and a |

LEGISLATIVE DIGEST

[Planning – Uses Permitted in R Districts – Double Density For Senior Housing.]

Ordinance amending the Planning Code by adding Section 102.6.1 to create a new definition related to housing for seniors; amending Planning Code Section 209.1(m) related to the Uses Permitted in R Districts - Dwelling Zoning Control Table to update the requirements for obtaining double density for providing senior housing and, adding Section 209.1(o) to require, in certain circumstances, a conditional use authorization; making environmental findings, and making findings of consistency with the General Plan and priority policies of Planning Code Section 101.1.

Existing Law

Currently the Planning Code allows as a principally permitted use a project in certain residential districts to receive double the usual density if the project includes dwellings specifically designed for and occupied by senior citizens or persons with physical disabilities. The units must be occupied as such for the actual lifetime of the project and are subject to Federal and State laws. The Code does not currently re-state applicable parts of Federal or State law; explicitly require that the restrictions be recorded, nor refer to the inclusionary housing ordinance.

Amendments to Current Law

The proposed ordinance revises the current requirements to clarify the definition of a dwelling specifically designed for and occupied by senior citizens. The ordinance makes clear that each proposed dwelling unit must be initially put to use by a senior citizen and that thereafter, occupancy is governed by the provisions of State law. The ordinance requires that the occupancy and other restrictions be recorded against the property. The ordinance requires that, if the project is subject to the Inclusionary Housing Ordinance, that all inclusionary units be built on-site. The ordinance also specifies, consistent with State law, that the units must be designed to meet the physical and social needs of senior citizens.

If a project that meets the definition and requirements for a dwelling specifically designed for and occupied by senior citizens is located within a ¼ mile of an NCD-2 (Small-Scale Neighborhood Commercial District) zoned area or higher, including neighborhood commercial districts, and is located in an area with adequate access to services such as transit, shopping and medical facilities, the project will be treated as principally permitted. If the project does not meet this geographic requirement, the project will be treated as a conditional use.

The proposed ordinance does not maintain the double-density provision for persons with physical disabilities.

BOARD of SUPERVISORS



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

July 23, 2009

File No. 090906

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

Dear Mr. Wycko:

On July 14, 2009, Supervisor Chiu introduced the following proposed legislation:

File No. 090906 Ordinance amending the Planning Code by adding Section 102.6.1 to create a definition related to housing for seniors; amending Planning Code Section 209.1(m) related to the Uses Permitted in R Districts - Dwelling Zoning Control Table to update the requirements for obtaining double density for providing senior housing and, adding Section 209.1(o) to require, in certain circumstances, a conditional use authorization; making environmental findings, and making findings of consistency with the General Plan and priority policies of Planning Code Section 101.1.

The legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

By: Linda Laws, Committee Clerk
Land Use & Economic Development Committee

Attachment

cc: Nannie Turrell, Major Environmental Analysis
Brett Bollinger, Major Environmental Analysis

*CEQA Guidelines Section 15378
Not a project under CEQA
Nannie R. Turrell
July 24, 2009.*

Environmental Review Referral

7/23/09



SAN FRANCISCO PLANNING DEPARTMENT

October 13, 2009

Ms. Angela Calvillo, Clerk
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 2009.0787T:
Amendments to the Planning Code Section 209.1- Double Density Benefits
Board File Number 09-0906
Planning Commission Recommendation: *Approval*

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Dear Ms. Calvillo,

On October 8, 2009, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance;


The proposed Ordinance would amend Planning Code Section 209.1(m), add 102.6.1 and 209.1(o) to clarify the requirements for double density housing for senior citizens.

The proposed zoning changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2).

At the October 8th hearing, the Commission voted to recommend approval of the proposed Ordinance.

Please find attached documents relating to the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,


John Rahaim
Director of Planning

cc: Supervisor Chiu

Attachments (one copy of the following):

Planning Commission Resolution No. 17961

Planning Commission Executive Summary for Case No. 2009.0787T



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 17961 HEARING DATE: OCTOBER 8, 2009

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Name: Amendments to the Planning Code:
Section 209.1 - Double Density Benefits

Case Number: 2009.0787T [Board File No. 09-0906]
Initiated by: Supervisor Chiu / Introduced July 14, 2009
Staff Contact: Tara Sullivan, Legislative Affairs
tara.sullivan@sfgov.org, 415-558-6257

Reviewed By: AnMarie Rodgers, Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395

90-day Deadline: October 12, 2009

Recommendation: Recommend Approval

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT AN ORDINANCE THAT WOULD AMEND PLANNING CODE BY ADDING SECTION 102.6.1 TO CREATE A DEFINITION RELATED TO HOUSING FOR SENIORS; AMENDING 209.1(M) RELATED TO THE USES PERMITTED IN RESIDENTIAL DISTRICTS TO UPDATE THE REQUIREMENTS FOR OBTAINING DOUBLE DENSITY BONUSES BY PROVIDING SENIOR HOUSING; AND ADDING SECTION 209.1(O) TO REQUIRE, IN CERTAIN CIRCUMSTANCES, A CONDITIONAL USE AUTHORIZATION FOR OBTAINING A DOUBLE DENSITY BONUS FOR SENIOR HOUSING.

PREAMBLE

Whereas, on July 14, 2009, Supervisor Chiu introduced a proposed Ordinance under Board File Number 09-0906 that would amend Planning Code Section 209.1(m), add 102.6.1 and 209.1(o) to clarify the requirements for double density housing for senior citizens; and

Whereas, on October 8, 2008, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed zoning changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); 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 by 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; and

MOVED, that the Commission hereby recommends that the Board of Supervisors recommends *approval of the proposed ordinance* and adopts the attached Draft Resolution to that effect.

FINDINGS

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

1. Section 209.1 outlines the type of dwelling units that are permitted in residentially-zoned districts. 209.1(m) was placed in the Code in 1978 and states that in limited circumstances a developer may receive double the amount of permitted dwelling units if certain requirements were met.
2. This double density bonus is permitted as-of-right at staff level review in all residentially-zoned districts. The current language in the code does not specify the number of units that must be dedicated to seniors or physically disabled, nor does it require monitoring of these units over the lifetime of the building.
3. The need for revisions to Section 209.1(m) came about in the winter of 2009, when a project located on Polk Street violated the provisions of the double-density bonus requirements. It became apparent that this section needed revisions to clarify a project sponsors requirements, create certainty for any persons who will reside in these units, and provide an easy and transparent method for the Department to track and enforce projects that receive this bonus.
4. The result is a revised 209.1(m) that clearly references all State & Federal code provisions, outlines the design and unit requirements that the building must have in order to meet senior housing definitions, requires several methods of recording the restrictions of senior citizen residency requirements, plus incorporates sound planning policies, such as affordable housing and neighborhood services.
5. Therefore, the Commission recommends *approval of the proposed Ordinance* and that the Board of Supervisors adopt the proposed Ordinance.
6. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

I. HOUSING ELEMENT

OBJECTIVE 1

TO PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT DEMAND.

POLICY 1.1

Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing, and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are affordable to lower income households.

OBJECTIVE 4

SUPPORT AFFORDABLE HOUSING PRODUCTION BY INCREASING SITE AVAILABILITY AND CAPACITY.

POLICY 4.4

Consider granting density bonuses for the construction of affordable housing or senior housing.

1. The proposed replacement project is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

- A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

The proposed Ordinance will help protect existing neighborhood-serving retail uses by requiring that development of double density projects for seniors be located within ¼ mile from them, thus ensuring that there will be a customer base for these uses.

- B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

The proposed Ordinance will help preserve the cultural and economic character of neighborhoods by providing for a mix of peoples, specifically senior citizens.

- C) The City's supply of affordable housing will be preserved and enhanced:

The proposed Ordinance will enhance the supply of affordable housing by requiring it to be located on-site.

- D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

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

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The proposed Ordinance will ensure that all new development will be constructed to the more updated seismic requirements.

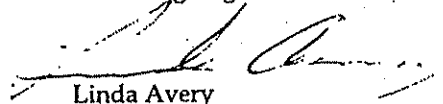
- G) That landmark and historic buildings will be preserved:

The proposed Ordinance will not have an impact on historic resources.

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

The proposed Ordinance will not impact the City's parks and open space.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on October 8, 2009.


Linda Avery
Commission Secretary

AYES: Miguel, Olague, Moore, Sugaya, Borden

NAYS: Antonini

ABSENT: Lee

ADOPTED: October 8, 2009



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change HEARING DATE: OCTOBER 8, 2009

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San Francisco,
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Project Name: Amendments to the Planning Code:
Section 209.1 - Double Density Benefits

Case Number: 2009.0787T [Board File No. 09-0906]
Initiated by: Supervisor Chiu / Introduced July 14, 2009
Staff Contact: Tara Sullivan, Legislative Affairs
tara.sullivan@sfgov.org, 415-558-6257

Reviewed By: AnMarie Rodgers, Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395

90-day Deadline: October 12, 2009

Recommendation: Recommend Approval

PLANNING CODE AMENDMENT

The proposed Ordinance introduced by Supervisor Chiu would amend Planning Code by doing the following:

1. Adding Section 102.6.1 to create a definition related to housing for seniors;
2. Amending 209.1(m) related to the uses permitted in Residential Districts to update the requirements for obtaining double density bonuses by providing senior housing; and
3. Adding Section 209.1(o) to require, in certain circumstances, a conditional use authorization for obtaining a double density bonus for senior housing.

The Way It Is Now:

Section 209.1 outlines the type of dwelling units that are permitted in residentially-zoned districts. 209.1(m) was placed in the Code in 1978 and states that in limited circumstances a developer may receive double the amount of permitted dwelling units if certain requirements were met.

If a proposed project was specifically designed and occupied by 1) senior citizens or 2) physically disabled persons, then the project can increase the number of dwelling units by double. These units must be occupied by seniors or physically disabled people for the lifetime of the building and meet all State and Federal programs for dwelling unit requirements for these classes.

This double density bonus is permitted as-of-right at staff level review in all residentially-zoned districts. The current language in the code does not specify the number of units that must be dedicated to seniors or physically disabled, nor does it require monitoring of these units over the lifetime of the building.

The Way It Would Be:

The proposed Ordinance would clarify the requirements that a developer must meet in order to receive the double density bonus. Specifically, it would do the following:

1. Limit this provision to senior housing only;
2. Add Section 102.6.1: Dwellings Specifically Designed for & occupied by Senior Citizens, which
 - a. Links the definition of a senior citizen to the California Civil Code and Federal Fair Housing Act;
 - b. Itemizes 7 specific design criteria for senior citizens (California Civil Code Section 51.2(d));
 - c. Creates 2 categories of housing definitions for senior citizens:
 - i. Senior citizen is a person who is 62 years of age or older; or
 - ii. A senior citizen housing development is a development that has at least 35 units. If a development has 35 units, then the age limit for a qualifying senior citizen is lowered to 55 years of age or higher;
 - iii. NOTE: therefore, if a proposed development will contain less than 35 units, ALL of the residents must be 62 years of age or older. If there are 35+ units, the residents can be 55 years of age or older.
 - d. Requires the building to be occupied by qualifying senior citizens (defined above) for the life of the building, regardless of whether the units will be owner-occupied or rented;
 - e. Must include any Inclusionary Housing Requirements (per Section 315) on site and limited to qualifying senior citizens;
 - f. Project must be located within ¼ mile of a Neighborhood Commercial District-zoned area;
 - g. Project sponsor must record a notice of special restriction with the Assessor-Recorder outlining the occupancy requirements for the lifetime of the building; and
 - h. If the proposed development will be condominiumized, the project sponsor must provide the Department with a copy of the Covenants, Conditions, & Restrictions.
3. Permits this bonus as-of-right in residentially-zoned districts if all of the requirements are met (that is, approvable at staff level); and
4. Requires a conditional use authorization if the project will be located further than ¼ mile from a Neighborhood Commercial District.

REQUIRED COMMISSION ACTION

The proposed Resolution is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend *approval* of the proposed Resolution and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

The need for revisions to Section 209.1(m) came about in the winter of 2009, when a project located on Polk Street violated the provisions of the double-density bonus requirements. It became apparent that this section needed revisions to clarify a project sponsors requirements, create certainty for any persons who will reside in these units, and provide an easy and transparent method for the Department to track and enforce projects that receive this bonus.

Section 209.1(m) has not been amended since it was put into the Code in 1978. Because this provision allows projects to be approved at the staff level without any Planning Commission review, the Department has not been able to track the number of projects that have received a double density bonus under this Code section.

When revising this section, the Department focused on a few key items: 1) defining senior housing and making it align with both State & Federal requirements; 2) providing as much information in the Code as possible about the design requirements for senior housing to prevent unnecessary cross-referencing to State & Federal code provisions; and 3) requiring sufficient methods for the Department to track and enforce projects that utilize the double density bonus.

A few other issues arose when analyzing this section, such as requiring any inclusionary housing requirements (pursuant to Section 315) to be provided on-site (instead of allowing the developer to provide it off-site or pay an in-lieu fee), and to require that these projects, since they are developed primarily for senior citizens, be located close to neighborhood services.

The result is a revised 209.1(m) that clearly references all State & Federal code provisions, outlines the design and unit requirements that the building must have in order to meet senior housing definitions, requires several methods of recording the restrictions of senior citizen residency requirements, plus incorporates sound planning policies, such as affordable housing and locating housing near neighborhood services.

For the majority of projects, if all of the requirements are met, the Department believes that these projects can continued to be approved at staff level. The several recording methods will ensure that the public will know that these units must be rented or sold to qualifying senior citizens and provide a way for the Department to monitor and enforce these projects. The only situation that the Department is requiring a conditional use authorization is when the project is not located within a ¼ mile of a qualifying Neighborhood Commercial District.

Lastly, in consultation with the Mayor's Office of Disability, the Department recommended that the bonus provisions be eliminated for physically disabled persons. This was due to the reality that a project that utilized the double-density units would not adequately provide for the needs of the physically disabled and requirements in the State & Federal codes, such as on-site nursing care, multi-unit dwellings, and assisted living facilities. The Department is committed to working with the Mayor's Office of Disability on housing requirements for physically disabled persons.

In sum, the Planning Department supports the proposed Ordinance and encourages the Commission to recommend approval of the proposal.

ENVIRONMENTAL REVIEW

The proposal to amend Planning Code Section 209.1(m) would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

PUBLIC COMMENT

As of the date of this report, the Planning Department has received no letters in support or opposition to the proposal from the public.

| | |
|------------------------|------------------------------|
| RECOMMENDATION: | Recommend of Approval |
|------------------------|------------------------------|

Attachments:

Exhibit A: Draft Planning Commission Resolution

Exhibit B: Draft Board of Supervisors Ordinance