



November 2, 2023

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 and Request for Introduction
Planning Department Case Number 2022-012067PCA: Code Corrections Ordinance 2023

Planning Commission Recommendation: **Approval with Modifications**

Dear Ms. Calvillo,

On September 28, 2023, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, initiated by the Planning Commission, that would amend the Planning and Administrative codes to correct typographical errors, update outdated cross-references, and make non-substantive language revisions to clarify/simplify Code language. At the hearing the Planning Commission recommended approval with modifications. All proposed modifications have been added to the attached ordinance.

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
Erica Major, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution

Planning Department Executive Summary

Ordinance Approved to Form: Word Version

Ordinance Approved to Form: PDF Version



PLANNING COMMISSION RESOLUTION NO. 21395

HEARING DATE: SEPTEMBER 28, 2023

Project Name: Code Corrections Ordinance 2023
Case Number: 2022-012067PCA
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

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD MAKE AMENDMENTS TO THE PLANNING CODE TO CORRECT TYPOGRAPHICAL ERRORS, UPDATE OUTDATED CROSS-REFERENCES, AND MAKE NON-SUBSTANTIVE LANGUAGE REVISIONS TO CLARIFY/SIMPLIFY CODE LANGUAGE. RESOLUTION; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, the Planning Director periodically requests that amendments be made to the Planning Code in furtherance of the Department's goal to make the Planning Code clear and correct; and

WHEREAS, on July 20, 2023, the Planning Commission adopted a Resolution to initiate said amendments under Resolution No. 21362; and

WHEREAS, the proposed Planning and Administrative Code text changes would amend several sections of the Code as outlined in the draft Ordinance and incorporated herein; and

WHEREAS, due to multiple changes to the Planning Code, over time text has been dropped inadvertently, amendments made by one ordinance are not reflected in subsequent legislation, and citations have become out of date; and

WHEREAS, the proposed legislation is intended to resolve the aforementioned issues; and

WHEREAS, the proposed changes in the ordinance can be classified as "good government" measures meant to improve the clarity of the Planning Code; and

WHEREAS, such changes are meant to improve the ability of decision makers, Department staff, and the public to understand, interpret, and implement the requirements of the Code; and

WHEREAS, the Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider initiation of the proposed Ordinance on September 28, 2023; and

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under California Environmental Quality Act Sections 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:

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance. The Commission’s proposed modifications are as follows:

The Department recommends that the Commission approve with modifications the proposed ordinance.

The Department’s proposed modifications are as follows:

1. **Section 249.92:** Reverse the FAR ratio in the Central Neighborhoods Large Residence SUD.

SEC. 249.92

SEC. 308.2. APPEALS: VARIANCES AND ADMINISTRATIVE ACTIONS.

* * * *

(b) **Notice of Appeal.** Any appeal under this Section shall be taken by filing written notice of appeal with the Board of Appeals within 10 days after the date of the written variance decision of the Zoning Administrator or within ~~15~~30 days of any other written determination of the Zoning Administrator.

less than 15%.

* * * *

Section 308.2: Change the appeal period from 15-30 days as was the intent through the Penalties for

Code Enforcement ordinance (BF 220878).

2. **Table 833:** Delete a confusing parenthetical which was erroneously added during the Article 8 Code reorganization.

Table 833

MUR – MIXED USE-RESIDENTIAL DISTRICT ZONING CONTROL TABLE

* * * *		
Zoning Category	§ References	Mixed Use-Residential District Controls
NON-RESIDENTIAL STANDARDS AND USES		
Development Standards		
* * * *	* * * *	* * * *
Non-Retail Sales and Service*	§ 102	P(4)
* * * *	* * * *	* * * *

* Not listed below

(1) P in historic buildings per § 803.9(b).

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 overall goals of the proposed Ordinance because it will increase the effectiveness of the Department's the code enforcement program and deter future violations. The administrative penalty program has not been significantly updated since its creation in 2008, and as such, its process and penalty amounts have become less effective in inducing compliance with the Planning Code. The proposed Ordinance, with all recommended modifications, will give the Department much needed tools to increase the effectiveness of the Enforcement Division.

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 40:

ENFORCE AND IMPROVE PLANNING PROCESSES AND BUILDING REGULATIONS TO ENSURE A HEALTHY ENVIRONMENT FOR NEW HOUSING DEVELOPMENTS, ESPECIALLY IN ENVIRONMENTAL JUSTICE.

The proposed Ordinance will bring more consistency to the Planning Code, including areas that concern the development of housing. The proposed Ordinance will serve the General Plan by amending sections of the Planning Code to be consistent, clear, and concise. These amendments will improve the quality of the Planning Code and thereby make it easier for the objectives and policies of the Code to be carried out.

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 APPROVES 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 September 28, 2023.



Jonas P. Ionin
Commission Secretary

Jonas P Ionin

Digitally signed by Jonas P
Ionin
Date: 2023.10.18 09:13:08
-07'00'

AYES: Braun, Ruiz, Diamond, Imperial, Koppel, Moore, Tanner

NOES: None

ABSENT: None

ADOPTED: September 28, 2023



EXECUTIVE SUMMARY

PLANNING & ADMINISTRATIVE CODE TEXT AMENDMENT

HEARING DATE: September 28, 2023

Project Name: Code Corrections Ordinance 2023
Case Number: 2022-012067PCA
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: Approval with Modifications

Planning Code Amendment

The proposed Ordinance would amend the Planning and Administrative codes to correct typographical errors, update outdated cross-references, and make non-substantive language revisions to clarify/simplify Code language. The proposed Ordinance will also update outdated references to specific gender pronouns and amend the name of the Compton's Transgender Cultural District in the Planning and Administrative codes to reflect the name change as approved by the District. All the proposed changes are considered non-substantive to the policies in and implementation of the Planning Code.

The Way It Is Now:

The Planning Code contains multiple grammatical and syntactical errors, unintentional cross-references and accidental additions and deletions that undermine the legitimacy and enforceability of the Planning Code as a regulatory document.

The Way It Would Be:

The proposed Ordinance seeks to correct these errors and improve the overall quality and readability of the Code. The specific proposed changes are attached as Exhibit B.

Background

The Planning Code experiences frequent amendments. Although individual ordinances are reviewed by the Planning Department and the City Attorney's Office, the volume of legislative actions and complexity of the Code as a legal, living document ensures that errors will inadvertently arise. The Planning Department actively collects these reported errors and presents them as a Code Corrections Ordinance.

General Plan Compliance:

Policy 40 of the Housing Element is to "Enforce and improve planning processes and building regulations to ensure a healthy environment for new housing developments, especially in environmental justice." The proposed Ordinance will bring more consistency to the Planning Code, including areas that concern the development of housing. The proposed Ordinance will serve the General Plan by amending sections of the Planning Code to be consistent, clear, and concise. These amendments will improve the quality of the Planning Code and thereby make it easier for the objectives and policies of the Code to be carried out.

Recommendation

The Department recommends that the Commission **approve with modifications** the proposed ordinance. Since the July 20, 2023, initiation, staff has identified three additional needed code corrections that the City Attorney has deemed non-substantive (corrective in nature). The Department's proposed additions are as follows:

1. **Section 249.92:** Reverse the FAR ratio in the Central Neighborhoods Large Residence SUD.

SEC. 249.92

* * * *

[(e)] **Conditional Use Authorizations.** For all lots zoned RH within the Central Neighborhoods Large Residence Special Use District, a Conditional Use authorization shall be required for any residential development or expansion of a Residential Building that would result in any Dwelling Unit with a Gross Floor Area exceeding the equivalent of a ~~1:1.2~~ 1.2:1 Floor Area Ratio, or would result in any Dwelling Unit exceeding 3,000 square feet of Gross Floor Area, except where the total increase of gross floor area of any existing Dwelling Unit is less than 15%.

2. **Section 308.2:** Change the appeal period from 15-30 days as was the intent through the Penalties for Code Enforcement ordinance (BF 220878).

SEC. 308.2. APPEALS: VARIANCES AND ADMINISTRATIVE ACTIONS.

* * * *

(b) **Notice of Appeal.** Any appeal under this Section shall be taken by filing written notice of appeal with the Board of Appeals within 10 days after the date of the written variance decision of the Zoning Administrator or within ~~15~~30 days of any other written determination of the Zoning Administrator.

3. **Table 833:** Delete a confusing parenthetical which was erroneously added during the Article 8 Code reorganization.

Table 833

MUR – MIXED USE-RESIDENTIAL DISTRICT ZONING CONTROL TABLE

Zoning Category	§ References	Mixed Use-Residential District Controls
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Development Standards		
*****	*****	*****
Non-Retail Sales and Service*	§ 102	P(4)
*****	*****	*****

* Not listed below

(1) P in historic buildings per § 803.9(b).

Basis for Recommendation

This Ordinance is intended to correct identified errors in the Planning and Administrative codes. Although these are considered minor errors, they cannot be corrected without a legislative change. The proposed Ordinance will make the codes more consistent, accurate and easier to use.

Recommendation 1: Section 249.92 - Reverse the FAR ratio in the Central Neighborhoods Large Residence SUD. The SUD's FAR limit was erroneously reversed in a substitute ordinance that was introduced during the Land Use & Transportation Committee hearing. The amendment the Planning Commission proposed, and that the Land Use Committee discussed and approved, was to increase the CUA trigger from 2,500sqft to 3,000sqft. A 1.2:1 FAR on a standard SF lot is 3,000sqft.

Recommendation 2: Section 308.2 - Change the appeal period from 15-30 days as was the intent through the Penalties for Code Enforcement ordinance (BF 220878). The recently passed ordinance's intent was to increase the appeal period from 15 to 30 days, however Sec. 308.2 was not amended to reflect as such and still states 15 days for appeal to the Board of Appeals for any action by the ZA except Variances. The new appeal period is already reflected in Sec. 176.

Recommendation 3: Table 833 - Delete a confusing parenthetical which was erroneously added during the Article 8 Code reorganization. The parenthetical makes it unclear where the use is Permitted.

Required Commission Action

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

Environmental Review

The proposal to amend the Planning Code is not considered a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical 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: Appendix with List of Proposed Changes
- Exhibit C: R-21362
- Exhibit D: Proposed Ordinance