File No. 130041 Committee Item No. 2
Board Item No. 13

COMMITTEE/BOARD OF SUPERVISORS

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☒	☐	CatEx Stamp, dtd 1/22/13
☒	☐	Planning Commission Resolution No. 18927
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Completed by: Andrea Ausberry **Date** December 6, 2013
Completed by: **Date**

[Planning Code - ~~Conversion,~~ Demolition, Merger, Conversion and Conformity of Residential Units]

Ordinance amending the Planning Code to revise the criteria for residential demolition, ~~conversion, and~~ merger and conversion, and to standardize those definitions across use districts and prohibit residential mergers where certain evictions of tenants have occurred; establish a strong presumption in favor of preserving dwelling units in enforcement of Code requirements; and making environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.

NOTE: **Unchanged Code text and uncodified 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 ~~strikethrough 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. Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 130041 and is incorporated herein by reference.

(b) On July 18, 2013, the Planning Commission, in Resolution No. 18927, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The Board

adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 130041, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code Amendment will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 19009 and the Board incorporates such reasons herein by reference.

Section 2. The Planning Code is hereby amended by revising Sections 180, 212, 317, 703.2 and the Zoning Control Tables of Sections 710 through 742, 803.8, and the Zoning Control Tables of Sections 803.2, 810 through 818 and 827, to read as follows:

SEC. 180. NONCONFORMING USES, NONCOMPLYING STRUCTURES AND SUBSTANDARD LOTS OF RECORD: GENERAL.

The following provisions shall apply to ~~*non-conforming*~~ *nonconforming* uses, noncomplying structures and substandard lots of record:

(a) ***Definitions.*** Such uses, structures and lots are hereby defined as follows:

(1) A "nonconforming use" is a use which existed lawfully at the effective date of this Code, or of amendments thereto, or a live/work unit which existed on the effective date of Ordinance No. 412-88 (effective October 10, 1988) (other than a live/work unit wholly or partly occupying space whose legal occupancy under the Building Code was then limited to a residential occupancy) and which fails to conform to one or more of the use limitations under Articles 2, 6, 7 and 8 of this Code that then became applicable for the district in which the property is located.

(2) A "noncomplying structure" is a structure which existed lawfully at the effective date of this Code, or of amendments thereto, and which fails to comply with one or more of the regulations for structures, including requirements for off-street parking and

loading, under Articles 1.2, 1.5, 2.5, 6, 7 and 8 of this Code, that then became applicable to the property on which the structure is located.

(3) A "substandard lot of record" is a lot which existed lawfully at the effective date of any requirement of this Code applicable thereto for minimum lot width or area (on December 26, 1946, or through subsequent amendments), and which fails to meet one or more of such requirements. Any lot existing and recorded as a separate parcel in the office of the Assessor or the Recorder at such effective date shall be deemed to be a lot of record under this Code as of such date. Any lot created by merger of such existing lots of record or parts thereof in such a manner as to establish a lesser number of lots, each having an increased area with no reduction in width, or an increased width with no reduction in area, or both an increased area and an increased width, shall also be deemed to be a lot of record under this Code as of the date of such merger.

(b) ***Timely compliance with the Code.*** Such uses, structures and lots, in failing to meet applicable requirements of this Code, are incompatible with the purposes of this Code and with other uses, structures and lots in the City, and it is intended that these uses, structures and lots shall be brought into compliance with this Code as quickly as the fair interests of the parties will permit.

(c) ***Continuation of nonconforming uses, structures, and lots.*** Notwithstanding any other provision of this Code, such uses, structures and lots may be continued, except as otherwise provided in Sections 180 through 189, and subject to the limitations of this Article 1.7.

(d) ***Change in ownership.*** A mere change of title or possession or right of possession of property, without any other change that is relevant to the restrictions of this Code, shall not terminate the status of a nonconforming use, noncomplying structure or substandard lot of record.

(e) ***Lawfully existing structures and uses.*** Any structure or use for which a permit was lawfully granted prior to May 2, 1960, pursuant to the ~~*City*~~ Planning Code provisions in effect on that date, and which was thereafter commenced and completed in accordance with such provisions, shall be deemed to have been a lawfully existing structure or use on that date. Any structure or use for which a permit has been lawfully granted pursuant to the provisions of this Code relating to amendments, and which has thereafter been commenced and completed in accordance with such provisions, shall be deemed to be a lawfully existing structure or use at the time of the amendment that causes it to become a noncomplying structure or a nonconforming use.

(f) ***Compliance with other requirements of the Planning Code.*** Except as specifically provided in this Code to the contrary, every nonconforming use, noncomplying structure and substandard lot of record shall comply with the applicable requirements of this Code, other than those requirements from which such uses, structures and lots are exempted by this Section 180.

(g) ***Nonconforming signs.*** Section 606(c) and other provisions of Article 6 of this Code shall regulate the signs permitted for nonconforming uses. In addition, signs which are themselves classified as nonconforming uses and noncomplying structures under this Code shall be governed by Section 604 and other provisions of Article 6 of this Code.

(h) ***Preserving Dwelling Units.*** *If the administrative record regarding a nonconforming unit does not provide conclusive evidence that the unit is illegal, it shall be presumed to be a legal nonconforming unit.*

SEC. 212. ADDITIONAL REQUIREMENTS FOR USES IN CERTAIN C AND M DISTRICTS.

In the following C and M Districts, the permitted uses indicated in Sections 215 through 227 shall be subject to the additional requirements contained in this Section 212.

(a) **Uses in enclosed buildings.** In ~~*C-1 and*~~ C-2 Districts, all permitted uses, and all storage, servicing, fabricating, processing or repair uses accessory thereto, shall be conducted within enclosed buildings, with the exceptions of:

(1) Those uses indicated by an asterisk (*) in the column for the district;

(2) Accessory off-street parking and loading areas where permitted;

(3) Accessory outdoor dining areas where permitted;

(4) Accessory recreation areas where permitted; and,

(5) Mobile Food Facilities as defined in Section 102.34.

(b) ***Drive-up Facilities.*** ~~***Drive-in uses.***~~ In C-3 Districts, *a Drive-up Facility, as defined in Section 790.30 of this Code, shall not be* ~~*no*~~ permitted ~~*use shall include an establishment of the "drive-in" type, serving customers waiting in parked motor vehicles, with the exception of automobile service stations and automobile washes where permitted*~~.

(c) **Required ground-floor commercial frontage in** ~~*the*~~ **C-3 Districts.**

(1) **Purpose.** The purpose of this section is to assure continuity of retail and consumer service uses in the C-3-R District, and in other important commercial streets in C-3 Districts.

(2) **Applicability.**

(A) In the C-3-R District, along any block frontage that is entirely within such district or partly in such district and partly in the C-3-O District, where such block frontage faces a street 40 feet or more in width;

(B) On building frontages facing Destination Alleyways, as defined in the Downtown Streetscape Plan;

(C) Along any street frontage facing Market Street in all C-3 Districts except the Van Ness and Market Downtown Residential Special Use District.

(3) **Controls.**

(A) **Ground story**. Only those permitted uses listed in Sections 218 and 221 shall be located facing such street in the ground story of any building. At least 1/2 the total width of any new or reconstructed building, parallel to and facing such street, shall be devoted at the ground story to entrances, show windows or other displays of such uses.

(B) **All levels.** All other permitted uses shall be located either on stories above or below the ground story or at a distance of not less than 20 feet behind each street frontage at the ground story. No more than 1/3 the width of any lot, parallel to and facing such street, shall be devoted to entrances to such other permitted uses.

(d) ***Hazardous, noxious, or offensive uses prohibited.*** No use listed as permitted in any C District or M-1 District shall include any use that is hazardous, noxious or offensive for reasons described in Section 202(c) of this Code.

~~*(e) **Loss of Housing in C-3 Districts.** In C-3 Districts, all demolitions of residential buildings and all conversions to nonresidential use of residential uses above the ground floor shall be permitted only if authorized as a conditional use under Section 303 of this Code, unless the Superintendent of the Bureau of Building Inspection or the Chief of the Bureau of Fire Prevention and Public Safety determines that the building is unsafe or dangerous and that demolition is the only feasible means to secure the public safety. When considering whether to grant a conditional use permit for the demolition or conversion, in lieu of the criteria set forth in Planning Code Section 303, consideration shall be given to the adverse impact on the public health, safety and general welfare of the loss of housing stock in the district and to any unreasonable hardship to the applicant if the permit is denied.*~~

SEC. 317. LOSS OF DWELLING UNITS THROUGH DEMOLITION, MERGER AND~~, CONVERSION~~, AND DEMOLITION~~.

(a) **Findings.** San Francisco faces a continuing shortage of affordable housing. There is a high ratio of rental to ownership tenure among the City's residents. The General Plan recognizes that existing housing is the greatest stock of rental and financially accessible

residential units, and is a resource in need of protection. Therefore, a public hearing will be held prior to approval of any permit that would remove existing housing, with certain exceptions, as described below. The Planning Commission shall develop a Code Implementation Document setting forth procedures and regulations for the implementation of this Section 317 as provided further below. The Zoning Administrator shall modify economic criteria related to property values and construction costs in the Implementation Document as warranted by changing economic conditions to meet the intent of this Section.

(b) **Definitions.** For the purposes of this Section 317, the terms below shall be defined as follows:

(1) "*Residential* Conversion ~~*of Residential Unit*~~" shall mean the removal of cooking facilities in a Residential Unit or the change of occupancy (as defined and regulated by the Building Code), or the change of use (as defined and regulated by the Planning Code), of any Residential *Use or Live-Work* Unit to a non-residential use. ~~This definition shall not apply to conversions of residential hotels, as defined and regulated in Chapter 41 of the San Francisco Administrative Code.~~ The change of occupancy from a dwelling unit, group housing, or SRO to Student Housing is also considered a conversion of a ~~r~~*R*esidential ~~u~~*U*nit. Notwithstanding the foregoing, the change of use or occupancy of a dwelling unit, group housing, or SRO to Student Housing is not considered a conversion of a ~~r~~*R*esidential ~~u~~*U*nit if the dwelling unit, group housing or SRO will be Student Housing owned, operated or otherwise controlled by a not for profit post-secondary Educational Institution and

~~(i)~~ *(A)* it was built by the post-secondary Educational Institution;

~~(ii)~~ *(B)* it is in a convent, monastery, or similar religious order facility;

~~(iii)~~ *(C)* it is on an adjoining lot (i.e., sharing the same lot line) to the post-secondary Educational Institution, so long as the lot has been owned by the post-secondary

Educational Institution for at least ten years as of the effective date of ~~this~~ ~~o~~Ordinance 188-12; or

~~(iv)~~ (D) as of August 10, 2010, it was owned, operated or otherwise controlled by a post-secondary Educational Institution that had an Institutional Master Plan on file with the Planning Commission, and where the occupancy by those other than students at that date was less than 20% of the total occupants. For purposes of determining occupancy, the post-secondary Educational Institution shall present to the Planning Department verified information regarding its rental or lease of units as of that date.

(2) "*Residential* Demolition ~~*of Residential Buildings*~~" shall mean any of the following:

(A) Any work on a Residential Building for which the Department of Building Inspection determines that an application for a demolition permit is required, or

(B) A major alteration of a Residential Building that proposes the Removal of more than 50% of the sum of the Front Facade and Rear Facade and also proposes the Removal of more than 65% of the sum of all exterior walls, measured in lineal feet at the foundation level, or

(C) A major alteration of a Residential Building that proposes the Removal of more than 50% of the Vertical Envelope Elements and more than 50% of the Horizontal Elements of the existing building, as measured in square feet of actual surface area.

(D) The Planning Commission may reduce the above numerical elements of the criteria in Subsections (b)(2)(B) and (b)(2)(C), by up to 20% of their values should it deem that adjustment is necessary to implement the intent of this Section 317, to conserve existing sound housing and preserve affordable housing.

(3) "Facade" shall mean an entire exterior wall assembly, including but not limited to all finishes and siding, fenestration, doors, recesses, openings, bays, parapets, sheathing and framing.

(4) "Front Facade" shall mean the portion of the Facade fronting a right-of-way, or the portion of the Facade most closely complying with that definition, as in the case of a flag lot. Where a lot has more than one frontage on rights-of-way. all ~~*suck*~~ *such* frontages shall be considered Front Facades except where a facade meets the definition of "Rear Facade."

(5) "Horizontal Elements" shall mean all roof areas and all floor plates, except floor plates at or below grade.

(6) "Mandatory Discretionary Review" shall mean a hearing before the Planning Commission that is required by this Section 317 at which the Commission will determine whether to approve, modify or disapprove a permit application.

(7) "*Residential* Merger" shall mean the combining of two or more legal Residential Units, resulting in a decrease in the number of Residential Units within a building, or the enlargement of one or more existing units while substantially reducing the size of others by more than 25% of their original floor area, even if the number of units is not reduced. The Planning Commission may reduce the numerical element of this criterion by up to 20% of its value should it deem that adjustment is necessary to implement the intent of this Section 317, to conserve existing housing and preserve affordable housing.

(8) "Rear Facade" shall mean that portion of the Facade facing the part of a lot that most closely complies with the applicable Planning Code rear yard requirements.

(9) "Removal" shall mean, with reference to a wall, roof or floor structure, its dismantling, its relocation or its alteration of the exterior function by construction of a new building element exterior to it. Where a portion of an exterior wall is removed, any remaining wall with a height less than the Building Code requirement for legal head room shall be

considered demolished. Where exterior elements of a building are removed and replaced for repair or maintenance, in like materials, with no increase in the extent of the element or volume of the building, such replacement shall not be considered Removal for the purposes of this Section. The foregoing does not supersede any requirements for or restrictions on noncomplying structures and their reconstruction as governed by Article 1.7 of this Code.

(10) "Removal" shall mean, with reference to a Residential Unit, its Conversion, Demolition, or Merger.

(11) "Residential Building" shall be mean any structure containing one or more Residential *Uses or Live-Work* Units as a principal use, regardless of any other uses present in the building.

(12) "Residential Unit" shall mean a legal conforming or ~~*non-conforming*~~ *nonconforming* dwelling unit as defined in Planning Code Section 102.7, or a legal ~~*non-conforming*~~ *nonconforming* Live/Work Unit as defined in Planning Code Section 102.13, *or Group Housing as defined in Planning Code Section 209.2(a), (b), and (c)*; provided, however, this definition shall not include a Residential Unit in a Residential Hotel, as defined and regulated by Chapter 41 of the San Francisco Administrative Code.

(13) "Vertical Envelope Elements" shall mean all exterior walls that provide weather and thermal barriers between the interior and exterior of the building, or that provide structural support to other elements of the building envelope.

(c) **Applicability.** ~~*Where an*~~ *An* application for a permit that would result in the loss of one or more Residential Units is required to obtain Conditional Use authorization ~~*by other sections of this Code,*~~ *in the RTO, RTO-M, NCT, and Upper Market NCD Zoning Districts, as well as the loss of any residential unit above the ground floor in the C-3 Zoning District.* ~~*the*~~ *The* application for a replacement building or alteration permit shall also be subject to Conditional Use requirements. *When considering whether to grant Conditional Use authorization for the loss of dwelling unit(s) in the C-3 districts, in lieu of the criteria set forth in Planning Code Section 303,*

consideration shall be given to the adverse impact on the public health, safety, and general welfare of the loss of housing stock in the district and to any unreasonable hardship to the applicant if the permit is denied. Any application for a permit that would result in the loss or Removal of three or more Residential Units, notwithstanding any other sections of this Code, shall require a Conditional Use authorization for the Removal and replacement of the units. Approval of any other application that would result in the loss or Removal of up to two Residential Units is prohibited unless the Planning Commission approves such permit application and the replacement structure permit application at a Mandatory Discretionary Review hearing, with certain exceptions specified below.

(d) ~~*Loss of Residential Units Through*~~ **Demolitions**.

(1) No permit to Demolish a Residential Building in any zoning district shall be issued until a building permit for the replacement structure is finally approved, unless the building is determined to pose a serious and imminent hazard as defined in the Building Code. A building permit is finally approved if the Board of Appeals has taken final action for approval on an appeal of the issuance or denial of the permit or if the permit has been issued and the time for filing an appeal with the Board of Appeal*s* has lapsed with no appeal filed.

(2) If Conditional Use authorization is required for approval of the permit ~~*to Demolish a*~~ *for* Residential *Demolition* ~~*Building*~~ by other sections of this Code, the Commission shall consider the replacement structure as part of its decision on the Conditional Use application. If Conditional Use authorization is required for the replacement structure by other sections of this Code, the Commission shall consider the demolition as part of its decision on the Conditional Use application. In either case, Mandatory Discretionary Review is not required, although the Commission shall apply appropriate criteria adopted under this Section 317 in addition to the criteria in Section 303 of the Planning Code in its consideration of Conditional Use authorization. If neither permit application is subject to Conditional Use

authorization, then separate Mandatory Discretion Review cases shall be heard to consider the permit applications for the demolition and the replacement structure.

(3) For those applications ~~*to Demolish*~~ *for* a Residential *Demolition* ~~*Building*~~ in districts that require Mandatory Discretionary Review, administrative review criteria shall ensure that only applications to demolish Single-Family Residential Buildings that are demonstrably not affordable or financially accessible housing, or Residential Buildings of two units or fewer that are found to be unsound housing, are exempt from Mandatory Discretionary Review hearings. Specific numerical criteria for such analyses shall be adopted by the Planning Commission in the Code Implementation Document, in accordance with this Section 317, and shall be adjusted periodically by the Zoning Administrator based on established economic real estate and construction indicators.

(A) The Planning Commission shall determine a level of affordability or financial accessibility, such that Single-Family Residential Buildings on sites in RH-1 *and RH-1(D)* Districts that are demonstrably not affordable or financially accessible, that is, housing that has a value greater than at least 80% of the combined land and structure values of single-family homes in San Francisco as determined by a credible appraisal, made within six months of the application to demolish, are not subject to a Mandatory Discretionary Review hearing. The demolition and replacement building applications shall undergo notification as required by other sections of this Code. The Planning Commission, in the Code Implementation Document, may increase the numerical criterion in this subsection by up to 10% of its value should it deem that adjustment is necessary to implement the intent of this Section 317, to conserve existing housing and preserve affordable housing.

(B) The Planning Commission, in the Code Implementation Document, shall adopt criteria and procedures for determining the soundness of a structure proposed for demolition, where "soundness" is an economic measure of the feasibility of upgrading a

residence that is deficient with respect to habitability and Housing Code requirements, due to its original construction. The "soundness factor" for a structure shall be the ratio of a construction upgrade cost (i.e., an estimate of the cost to repair specific habitability deficiencies) to the replacement cost (i.e., an estimate of the current cost of building a structure the same size as the existing building proposed for demolition), expressed as a percent. A building is unsound if its soundness factor exceeds 50%. A Residential Building that is unsound may be approved for demolition.

(C) The Planning Commission shall consider the following additional criteria in the review of applications ~~*to demolish*~~ *for* Residential *Demolition* ~~*Buildings*~~:

(i) whether the property is free of a history of serious, continuing Code violations;

(ii) whether the housing has been maintained in a decent, safe, and sanitary condition;

(iii) whether the property is an "historical resource" under CEQA;

(iv) whether the removal of the resource will have a substantial adverse impact under CEQA;

(v) whether the project converts rental housing to other forms of tenure or occupancy;

(vi) whether the project removes rental units subject to the Rent Stabilization and Arbitration Ordinance or *affordable housing*;

(vii) whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;

(viii) whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;

(ix) whether the project protects the relative affordability of existing housing;

(x) whether the project increases the number of permanently affordable units as governed by Section 415;

(xi) whether the project locates in-fill housing on appropriate sites in established neighborhoods;

(xii) whether the project *increases the number of family-sized units on-site* ~~*creates Quality, new family housing*~~;

(xiii) whether the project creates new supportive housing;

(xiv) whether the ~~*protect*~~ *project* ~~*promotes construction of well-designed housing*~~ *is of superb architectural and urban design, meeting all relevant design guidelines,* to enhance existing neighborhood character;

(xv) whether the project increases the number of on-site dwelling units;

(xvi) whether the project increases the number of on-site bedrooms*;*

(4) Nothing in this Section is intended to permit ~~*the*~~ *Residential* Demolition ~~*of Residential Buildings*~~ in those areas of the City where other sections of this Code prohibit such demolition or replacement structure.

(5) Nothing in this Section is intended to exempt buildings or sites where demolition is proposed from undergoing review with respect to Articles 10 and 11 of the Code, where the requirements of those articles apply. Notwithstanding the definition of ~~*"Demolition of*~~ *"*Residential *Demolition* ~~*Buildings*~~" in this section and as further described in the Code Implementation Document with regard to ~~*the loss of*~~ Residential *Demolition* ~~*Units*~~, the criteria of

Section 1005 shall apply to projects subject to review under the requirements of Article 10 with regard to the structure itself.

(e) ~~*Loss of*~~ **Residential** ~~*Units Through*~~ **Merger.**

(1) The Merger of Residential Units not otherwise subject to Conditional Use authorization by this Code, shall be prohibited, unless the Planning Commission approves the building permit application at a Mandatory Discretionary Review hearing, applying *the* criteria in subsection (2) below, or the project qualifies for administrative approval and the Planning Department approves the project administratively in accordance with subsection~~s~~ (3) ~~*or (4)*~~ below.

(2) The Planning Commission shall consider ~~*these*~~ *the following* criteria in the review of applications to merge Residential Units:

~~*(i)*~~ *(A)* whether removal of the unit(s) would eliminate only owner occupied housing, and if so, for how long the unit(s) proposed to be removed have been owner occupied;

~~*(ii)*~~ *(B)* whether removal of the unit(s) and the merger with another is intended for owner occupancy;

~~*(iii)*~~ *(C) whether the removal of the unit(s) will remove an affordable housing unit as defined in Section 415 of this Code or housing subject to the Rent Stabilization and Arbitration Ordinance;* ~~*whether removal of the unit(s) will bring the building closer into conformance with the prevailing density in its immediate area and in the same zoning district*~~;

~~*(iv)*~~ *(D)* whether removal of the unit(s) will bring the building closer into conformance with prescribed zoning;

(E) if removal of the unit(s) removes an affordable housing unit as defined in Section 401 of this Code or units subject to the Rent Stabilization and Arbitration Ordinance, whether

replacement housing will be provided which is equal or greater in size, number of bedrooms, affordability, and suitability to households with children to the units being removed;

(F) whether the number of bedrooms provided in the merged unit will be equal to or greater than the number of bedrooms in the separate units;

~~(v)~~ *(G)* whether removal of the unit(s) is necessary to correct design or functional deficiencies that cannot be corrected through interior alterations.

(3) Administrative review criteria shall ensure that only those Residential Units proposed for Merger that are demonstrably not affordable or financially accessible housing are exempt from Mandatory Discretionary Review hearings. Applications for which the least expensive unit proposed for merger has a value greater than at least 80% of the combined land and structure values of single-family homes in San Francisco, as determined by a credible appraisal, made within six months of the application to merge, are not subject to a Mandatory Discretionary Review hearing. The Planning Commission, in the Code Implementation Document, may increase the numerical criterion in this subsection by up to 10% of its value should it deem that adjustment is necessary to implement the intent of this Section 317, to conserve existing housing and preserve affordable housing.

(4) The Planning Commission shall not approve an application for merger if any tenants ~~have~~ has been evicted pursuant to ~~San Francisco~~ Administrative Code Sections ~~37.9(a)(8)~~ 37.9(a)(9) through 37.9(a)(14) where the tenant was served with a notice of eviction after ~~October 24, 2013~~ December 10, 2013 ~~and~~ if the notice was served within ten (10) years prior to filing the application for merger.~~,~~ Additionally, the Planning Commission shall not approve an application for merger if any tenant has been evicted pursuant to Administrative Code Section 37.9(a)(8) where the tenant was served with a notice of eviction after December 10, 2013 if the notice was served within five (5) years prior to filing the application for merger. This Subsection (e)(4) shall not apply ~~provided that if an eviction has taken place~~ if the tenant

was evicted under Section 37.9(a)(11) ~~, 37.9(a)(12)~~ or 37.9(a)(14), ~~then~~ and the applicant(s) ~~shall certify that~~ either (A) have certified that the original tenant reoccupied the unit after the temporary eviction or (B) have submitted to the Planning Commission a declaration from the property owner or the tenant certifying that the property owner or the Rent Board notified the tenant of the tenant's right to reoccupy the unit after the temporary eviction and that the tenant chose not to reoccupy it.

~~*(4) Projects that meet a supermajority of the merger criteria, in subsection (d)(2) above, may be approved administratively by the Planning Department, consistent with this Section 317.*~~

(f) ~~*Loss of*~~ **Residential** ~~*Units Through*~~ **Conversion.**

(1) ~~*Conversion of*~~ Residential *Conversion* ~~*Units*~~ not otherwise *prohibited or* subject to Conditional Use authorization by this Code, shall be prohibited, unless the Planning Commission approves the building permit application at a Mandatory Discretionary Review hearing. The conversion of ~~*r*~~*R*esidential ~~*u*~~*U*nits to Student Housing is prohibited. For the purposes of this subsection, ~~*r*~~*R*esidential ~~*u*~~*U*nits that have been defined as such by the time a First Certificate of Occupancy has been issued by the Department of Building Inspection for new construction shall not be converted to Student Housing.

(2) The Planning Commission shall consider ~~*these*~~ *the following* criteria in the review of applications for *Residential Conversion* ~~*Conversation of Residential Units*~~;

~~*(i)*~~ *(A)* whether conversion of the unit(s) would eliminate only owner occupied housing, and if so, for how long the unit(s) proposed to be removed were owner occupied;

~~*(ii)*~~ *(B)* whether *Residential Conversion* ~~*conversation of the unit(s)*~~ would provide desirable new non-residential use(s) appropriate for the neighborhood and adjoining district(s);

~~(iii)~~ *(C) in districts where Residential Uses are not permitted,* whether *Residential Conversion* ~~*conversation of the unit(s)*~~ will bring the building closer into conformance with the *uses permitted* ~~*prevailing character of its immediate area and*~~ in the ~~*same*~~ zoning district;

~~(iv)~~ *(D)* whether conversion of the unit(s) will be detrimental to the City's housing stock;

~~(v)~~ *(E)* whether conversion of the unit(s) is necessary to eliminate design, functional, or habitability deficiencies that cannot otherwise be corrected;

(F) whether the Residential Conversion will remove Affordable Housing, or units subject to the Rent Stabilization and Arbitration Ordinance;

(g) ***Exemptions.*** This Section 317 Shall Not Apply to Property:

(1) Owned by the United States or any of its agencies;

(2) Owned by the State of California or any of its agencies, with the exception of such property not used exclusively for a governmental purpose;

(3) Under the jurisdiction of the Port of San Francisco or the *Successor Agency to the* ~~*San Francisco*~~ Redevelopment Agency *of the City and County of* where the application of this ~~*ordinance*~~ *Section* is prohibited by State or local law; or

(4) Where demolition of the building or Removal of a Residential Unit is necessary to comply with a court order or City order that directs the owner to demolish the building or remove the unit, due to conditions that present an imminent threat to life safety.

SEC. 703.2. USES PERMITTED IN NEIGHBORHOOD COMMERCIAL DISTRICTS.

A use is the specific purpose for which a property or building is used, occupied, maintained, or leased. Whether or not a use is permitted in a specific district is set forth or summarized and cross-referenced in Article 7 of this Code for each district class.

(a) **Use Categories.** The uses, functions, or activities, which are permitted in each Neighborhood Commercial District class include those listed below by zoning control category and number and cross-referenced to the Code Section containing the definition.

No.	Zoning Control Categories for Uses	Section Number of Use Definition
* * * *		
~~.38~~ *.36*	Residential Conversion	§ *317* ~~*790.84*~~
~~.39~~ *.37*	Residential Demolition	§ *317* ~~*790.86*~~
.38	*Residential Division*	*§ 207.8*
.39	*Residential Merger*	*§ 317*
* * * *		

SEC. 710. NEIGHBORHOOD COMMERCIAL CLUSTER DISTRICT NC-1 ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	NC-1		
			Controls by Story		
		§ 790.118	**1st**	**2nd**	**3rd+**
710.36 ~~*710.38*~~	Residential Conversion	§ *317* ~~*790.84*~~	P		
~~*710.39*~~ *710.37*	Residential Demolition	§ *317* ~~*790.86*~~	P	C	C

* * * *

SEC. 711. SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-2 ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	NC-2		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
711.36	Residential Conversion	§ *317* ~~*790.84*~~	P	C	
~~*711.38*~~					
711.37	Residential Demolition	§ *317* ~~*790.86*~~	P	C	C
~~*711.39*~~					
* * * *					

SEC. 712. MODERATE-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-3 ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	NC-3		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
712.36	Residential Conversion	§ *317* ~~*790.84*~~	P	C	C#
~~*711.38*~~					
712.37	Residential Demolition	§ *317* ~~*790.86*~~	P	C	C
~~*712.39*~~					
* * * *					

SEC. 713. NEIGHBORHOOD COMMERCIAL SHOPPING CENTER DISTRICT NC-S ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	NC-S		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
713.36 ~~*713.38*~~	Residential Conversion	§ *317* ~~*790.84*~~	P		
713.37 ~~*713.39*~~ * * * *	Residential Demolition	§ *317* ~~*790.86*~~	P	C	C

SEC. 714. BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Broadway		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
714.36 ~~*714.38*~~	Residential Conversion	§ *317* ~~*790.84*~~	P	C	
714.37 ~~*714.39*~~ * * * *	Residential Demolition	§ *317* ~~*790.86*~~	P	C	C

SEC. 715. CASTRO NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Castro Street Controls by Story		
		§ 790.118	1st	2nd	3rd+
715.36 ~~*715.38*~~	Residential Conversion	§ *317* ~~*790.84*~~	P	C	
715.37 ~~*715.39*~~	Residential Demolition	§ *317* ~~*790.86*~~	P	C	C
* * * *					

SEC. 716. INNER CLEMENT STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Inner Clement Street Controls by Story		
		§ 790.118	1st	2nd	3rd+
716.36 ~~*716.38*~~	Residential Conversion	§ *317* ~~*790.84*~~	P		
716.37 ~~*716.39*~~	Residential Demolition	§ *317* ~~*790.86*~~	P	C	C
* * * *					

SEC. 717. OUTER CLEMENT NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Outer Clement Street		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
717.36 *~~717.38~~*	Residential Conversion	§ *317* ~~*790.84*~~	P		
717.37 *~~717.39~~*	Residential Demolition	§ *317* ~~*790.86*~~	P	C	C
* * * *					

SEC. 718. UPPER FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Upper Fillmore Street		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
718.36 *~~718.38~~*	Residential Conversion	§ *317* ~~*790.84*~~	P	C	
718.37 *~~718.39~~*	Residential Demolition	§ *317* ~~*790.86*~~	P	C	C
* * * *					

SEC. 719. HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Haight Street		
			Controls by Story		
		§ 790.118	**1st**	**2nd**	**3rd+**
719.36 ~~*719.38*~~	Residential Conversion	§ *317* ~~*790.84*~~	P		
719.37 ~~*719.39*~~	Residential Demolition	§ *317* ~~*790.86*~~	P	C	C
* * * *					

SEC. 720. HAYES-GOUGH NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT ZONING CONTROL TABLE

* * * *

No.	**Zoning Category**	**§ References**	**Hayes-Gough *Transit***		
			Controls by Story		
		§ 790.118	**1st**	**2nd**	**3rd+**
720.36 ~~*720.38*~~	Residential Conversion	§ *317* ~~*207.7, 790.84*~~	C	C	
720.37 ~~*720.39*~~	Residential Demolition	§ *317* ~~*207.7, 790.86*~~	C	C	C
720.38 ~~*720.39a*~~	Residential Division	§ 207.8	P	P	P
* * * *					

SEC. 721. UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Upper Market Street		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
721.36 ~~*721.38*~~	Residential Conversion	§ *317* ~~*790.84*~~	~~*P*~~ *C*	C	
721.37 ~~*721.39*~~	Residential Demolition	§ *317* ~~*790.86*~~	~~*P*~~ *C*	C	C
721.38 ~~*721.39a*~~	Residential Division	§ 207.8	P	P	P
721.39 * * * *	*Residential Merger*	*§ 317*	*C*	*C*	*C*

SEC. 722. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	North Beach		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
722.36 ~~*722.38*~~	Residential Conversion	§ *317* ~~*790.84*~~	P		
722.37 ~~*722.39*~~ * * * *	Residential Demolition	§ *317* ~~*790.86*~~	P	C	C

SEC. 723. POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Polk Street Controls by Story		
		§ 790.118	1st	2nd	3rd+
723.36 ~~*723.38*~~	Residential Conversion	§ *317* ~~*790.84*~~	P	C	
723.37 ~~*723.39*~~	Residential Demolition	§ *317* ~~*790.86*~~	P	C	C
* * * *					

SEC. 724. SACRAMENTO STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Sacramento Street Controls by Story		
		§ 790.118	1st	2nd	3rd+
724.36 ~~*724.38*~~	Residential Conversion	§ *317* ~~*790.84*~~	P		
724.37 ~~*724.39*~~	Residential Demolition	§ *317* ~~*790.86*~~	P	C	C
* * * *					

SEC. 725. UNION STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Union Street Controls by Story		
		§ 790.118	1st	2nd	3rd+
725.36 ~~*725.38*~~	Residential Conversion	§ *317* ~~*790.84*~~	P	C	C
725.37 ~~*725.39*~~	Residential Demolition	§ *317* ~~*790.86*~~	P	C	C

* * * *

SEC. 726. VALENCIA STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Valencia Street Transit Controls by Story		
		§ 790.118	1st	2nd	3rd+
726.36 ~~*726.37*~~	Residential Conversion	§ *317* ~~*207.7, 790.84*~~	C		
726.37 ~~*726.38*~~	Residential Demolition	§*317* ~~*207.7, 790.86*~~	C	C	C
726.38 ~~*726.39*~~	Residential Division	§ 207.8	P	P	P
726.39	*Residential Merger*	*§ 317*	*C*	*C*	*C*

* * * *					

SEC. 727. 24TH STREET – MISSION NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	24th Street – Mission Transit Controls by Story		
		§ 790.118	1st	2nd	3rd+
727.36 *~~727.37~~*	Residential Conversion	§*317* ~~*207.7, 790.84*~~	C		
727.37 *~~727.38~~*	Residential Demolition	§*317* ~~*207.7, 790.86*~~	C	C	C
727.38 *~~727.39~~*	Residential Division	§ 207.8	P	P	P
727.39 * * * *	*Residential Merger*	*§ 317*	*C*	*C*	*C*

SEC. 728. 24TH STREET – NOE VALLEY NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	24th Street – Noe Valley Controls by Story		
		§ 790.118	1st	2nd	3rd+
728.36 *~~728.38~~*	Residential Conversion	§ *317* ~~*790.84*~~	P		
728.37	Residential Demolition	§ *317* ~~*790.86*~~	P	C	C

~~728.39~~ * * * *					

SEC. 729. WEST PORTAL AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	West Portal Avenue		
			Controls by Story		
		§ 790.118	**1st**	**2nd**	**3rd+**
729.36 *~~729.38~~*	Residential Conversion	§ *317* *~~790.84~~*	P		
729.37 *~~729.39~~* * * * *	Residential Demolition	§ *317* *~~790.86~~*	P	C	C

SEC. 730. INNER SUNSET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Inner Sunset		
			Controls by Story		
		§ 790.118	**1st**	**2nd**	**3rd+**
730.36 *~~730.38~~*	Residential Conversion	§ *317* *~~790.84~~*	P		
730.37 *~~730.39~~* * * * *	Residential Demolition	§ *317* *~~790.86~~*	P	C	C

SEC. 731. MODERATE-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT NCT-3 ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	NCT-3		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
731.36 *~~731.38~~*	Residential Conversion	§ *317* *~~207.7, 790.84~~*	C	C	C
731.37 *~~731.39~~*	Residential Demolition	§ *317* *~~207.7, 790.86~~*	C	C	C
731.38 *~~731.39a~~*	Residential Division	§ 207.8	P	P	P
731.39 * * * *	*Residential Merger*	*§ 317*	*C*	*C*	*C*

SEC. 732. PACIFIC AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Pacific Avenue *~~NCD~~*		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
732.36 *~~732.38~~*	Residential Conversion	§ *317* *~~790.84~~*	C		
732.37 *~~732.39~~* * * * *	Residential Demolition	§ *317* *~~790.86~~*	C		

SEC. 733. UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT
ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Upper Market Street *Transit* Controls by Story		
		§ 790.118	1st	2nd	3rd+
733.36 ~~*733.38*~~	Residential Conversion	§ *317* ~~*207.7, 790.84*~~	C	C	-
733.37 ~~*733.39*~~	Residential Demolition	§ *317* ~~*207.7, 790.86*~~	C	C	C
733.38 ~~*733.39a*~~	Residential Division	§ 207.8	P	P	P
733.39 * * * *	*Residential Merger*	*§ 317*	*C*	*C*	*C*

SEC. 733A. NEIGHBORHOOD COMMERCIAL TRANSIT CLUSTER DISTRICT NCT-1
ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	NCT-1 Controls by Story		
		§ 790.118	1st	2nd	3rd+
733A.36 ~~*733A.38*~~	Residential Conversion	§ *317* ~~*790.84*~~	P		
733A.37 ~~*733A.39*~~	Residential Demolition	§ *317* ~~*790.86*~~	C	C	C
733A.38	Residential Division	§ 207.8	P	P	P

~~733A.39a~~					
733.39	Residential Merger	§ 317	C	C	C
* * * *					

SEC. 734. SMALL-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT NCT-2 ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	NCT-2 Controls by Story		
		§ 790.118	1st	2nd	3rd+
734.36 ~~734.37~~	Residential Conversion	§ 317 ~~207.7, 790.84~~	C	C	
734.37 ~~734.38~~	Residential Demolition	§ 317 ~~207.7, 790.86~~	C	C	C
734.38 ~~734.39~~	Residential Division	§ 207.8	P	P	P
734.39	Residential Merger	§ 317	C	C	C
* * * *					

SEC. 735. SOMA NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	SoMa Transit Controls by Story		
		§ 790.118	1st	2nd	3rd+
735.36 ~~735.37~~	Residential Conversion	§ 317 ~~207.7, 790.84~~	C	C	-

735.37 ~~*735.38*~~	Residential Demolition	§ *317* ~~*207.7, 790.86*~~	C	C	C
735.38 ~~*735.39*~~	Residential Division	§ 207.8	P	P	P
735.39	*Residential Merger*	*§ 317*	*C*	*C*	*C*
* * * *					

SEC. 736. MISSION NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT ZONING CONTROL TABLE

* * * *			Mission Street *Transit*		
No.	**Zoning Category**	**§ References**	**Controls by Story**		
		§ 790.118	**1st**	**2nd**	**3rd+**
736.36 ~~*736.37*~~	Residential Conversion	§ *317* ~~*207.7, 790.84*~~	C	C	C
736.37 ~~*736.38*~~	Residential Demolition	§ *317* ~~*207.7, 790.86*~~	C	C	C
736.38 ~~*736.39*~~	Residential Division	§ 207.8	P	P	P
736.39	*Residential Merger*	*§ 317*	*C*	*C*	*C*
* * * *					

SEC. 737. OCEAN AVENUE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT ZONING CONTROL TABLE

* * * *

			Ocean ~~*Ave.*~~ *Avenue Transit*
No.	**Zoning Category**	**§ References**	**Controls by Story**

		§ 790.118	1st	2nd	3rd+
737.36 ~~*737.38*~~	Residential Conversion	§ *317* ~~*790.84*~~	C	C	
737.37 ~~*737.39*~~	Residential Demolition	§ *317* ~~*790.86*~~	C	C	C
737.38 ~~*737.39a*~~	Residential Division	§ 207.8	P	P	P
737.39 * * * *	*Residential Merger*	*§ 317*	*C*	*C*	*C*

SEC. 738. GLEN PARK NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Glen Park ~~*NCT*~~ *Transit* Controls by Story		
		§ 790.118	1st	2nd	3rd+
738.36 ~~*738.38*~~	Residential Conversion	§ *317* ~~*790.84*~~	C	C	
738.37 ~~*738.39*~~	Residential Demolition	§ *317* ~~*790.86*~~	C	C	C
738.38 ~~*738.39a*~~	Residential Division	§ 207.8	P	P	P
738.39 * * * *	*Residential Merger*	*§ 317*	*C*	*C*	*C*

SEC. 739. NORIEGA STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Noriega Street ~~Neighborhood Commercial District~~ Controls by Story		
		§ 790.118	1st	2nd	3rd+
739.36 ~~739.38~~	Residential Conversion	§ *317* ~~790.84~~	P	C	
739.37 ~~739.39~~ * * * *	Residential Demolition	§ *317* ~~790.86~~	P	C	C

SEC. 740. IRVING STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Irving Street ~~Neighborhood Commercial District~~ Controls by Story		
		§ 790.118	1st	2nd	3rd+
740.36 ~~740.38~~	Residential Conversion	§ *317* ~~790.84~~	P	C	
740.37 ~~737.39~~ * * * *	Residential Demolition	§ *317* ~~790.86~~	P	C	C

SEC. 741. TARAVAL STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Taraval Street ~~Neighborhood Commercial District~~ Controls by Story		
		§ 790.118	1st	2nd	3rd+
741.36 ~~741.38~~	Residential Conversion	§ *317* ~~790.84~~	P	C	
741.37 ~~741.39~~	Residential Demolition	§ *317* ~~790.86~~	P	C	C
* * * *					

SEC. 742. JUDAH STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *

No.	Zoning Category	§ References	Judah Street ~~Neighborhood Commercial District~~ Controls by Story		
		§ 790.118	1st	2nd	3rd+
742.36 ~~742.38~~	Residential Conversion	§ *317* ~~790.84~~	P	C	
742.37 ~~742.39~~	Residential Demolition	§ *317* ~~790.86~~	P	C	C
* * * *					

TABLE 803.2
USE CATEGORIES PERMITTED IN THE CHINATOWN MIXED USE DISTRICTS

* * * *		
803.2.38a	Residential Conversion, Residential Hotels	~~§ 890.84~~ *Chapter 41, Admin. Code*
803.2.38b	Residential Demolition, Residential Hotels	~~§ 890.86~~ *Chapter 41, Admin. Code*
803.2.39a	Residential Conversion~~, Apartments~~	§ ~~890.84~~ 317
803.2.39b	Residential Demolition~~, Apartments~~	§ ~~890.86~~ 317
* * * *		

SEC. 803.8. HOUSING IN MIXED USE DISTRICTS.

(a) ~~***Demolition or Conversion of Group Housing or Dwelling Units in South of Market Mixed Use Districts.*** *Demolition, or conversion to any other use, of a group housing unit or dwelling unit or any portion thereof, in any South of Market Mixed Use District shall be allowed only subject to Section 233(a) and only if approved as a conditional use pursuant to Sections 303 and 316 of this Code, notwithstanding any other provision of this Code. This provision shall extend to any premises whose current use is, or last use prior to a proposed conversion or demolition was, in fact as a group housing unit or dwelling unit as well as any premises whose legal use as shown in the records of the Bureau of Building Inspection is that of a group housing or dwelling unit.~~

~~*(b)*~~ **Low-Income Affordable Housing Within the Service/Light Industrial District.** Dwelling units and SRO units may be authorized in the SLI District as a conditional use pursuant to Sections 303, 316, 817.14, and 817.16 of this Code provided that such dwelling~~s~~ units shall be rented, leased or sold at rates or prices affordable to a household whose income is no greater than 80 percent of the median income for households in San Francisco

("lower income household"), as determined by Title 25 of the California Code of Regulations Section 6932 and implemented by the Mayor's Office of Housing.

(1) "Affordable to a household" shall mean a purchase price that a lower income household can afford to pay based on an annual payment for all housing costs of 33 percent of the combined household annual net income, a 10-percent down payment, and available financing, or a rent that a household can afford to pay, based on an annual payment for all housing costs of 30 percent of the combined annual net income.

(2) The size of the dwelling unit shall determine the size of the household in order to calculate purchase price or rent affordable to a household, as follows:

(A) For a one-bedroom unit, a household of two persons;

(B) For a two-bedroom unit, a household of three persons;

(C) For a three-bedroom unit, a household of four persons;

(D) For a four-bedroom unit, a household of five persons.

(3) No conditional use permit will be approved pursuant to this Subsection 803.8(b) unless the applicant and City have agreed upon enforcement mechanisms for the provisions of this Subsection which are acceptable to the City Attorney. Such enforcement mechanisms may include, but not be limited to, a right of first refusal in favor of the City, or a promissory note and deed of trust.

(4) The owner(s) of dwelling units authorized pursuant to this Subsection shall submit an annual enforcement report to the City, along with a fee whose amount shall be determined periodically by the ~~*City*~~ Planning Commission to pay for the cost of enforcement of this Subsection. The fee shall not exceed the amount of such costs. The annual report shall provide information regarding rents, mortgage payments, sales price and other housing costs, annual household income, size of household in each dwelling unit, and any other information the City may require to fulfill the intent of this Subsection.

(b) ~~*(e)*~~ **Housing Requirement in the Residential/Service District.**

(1) Amount Required. Nonresidential uses subject to Sections 815.26, 815.28, 815.30, 815.31 through 815.47, and 815.59 through 815.65, of this Code shall be permitted in new construction in the Residential/Service District only if the ratio between the amount of occupied floor area for residential use to the amount of occupied floor area of the above-referenced nonresidential use is three to one or greater.

(2) Means of Satisfying the Housing Requirement.

(A) ~~*Live/work units may satisfy the residential requirement pursuant to this Subsection and, when applicable, shall be subject to Sections 124(j) and/or 263.11(c)(3) of this Code; or*~~

~~*(B)*~~ The residential space required pursuant to this Subsection may be satisfied by payment of a one-time in-lieu fee equal to $30 per square foot of residential space required by this Subsection and not provided on-site payable to the City's Affordable Housing Fund administered by the Mayor's Office of Housing; or

(B) ~~*(C)*~~ The residential space requirement may be satisfied by providing the required residential space elsewhere within the South of Market Mixed Use District where housing is permitted or conditional and is approved as a conditional use.

(c) ~~*(d)*~~ **Housing Requirement in the Mixed Use – Residential (MUR) District.** In new construction in the MUR District, three square feet of gross floor area for residential use is required for every one gross square foot of permitted nonresidential use, subject to Section 841 of this Code.

Table 810
CHINATOWN COMMUNITY BUSINESS DISTRICT ZONING CONTROL TABLE

			Chinatown Community Business District		
* * * *			Controls by Story		
No.	**Zoning Category**	**§ References**	**1st**	**2nd**	**3rd+**
.38a	Residential Conversion, Residential Hotels	Ch. 41 Admin. Code			
.38b	Residential Demolition, Residential Hotels	Ch. 41 Admin. Code			
.39a	Residential Conversion ~~*Apartments*~~	*§ 317*			
.39b	Residential Demolition ~~*Apartments*~~	*§ 317*			
* * * *					

Table 811
CHINATOWN VISITOR RETAIL DISTRICT ZONING CONTROL TABLE

			Chinatown Visitor Retail District		
* * * *			Controls by Story		
No.	**Zoning Category**	**§ References**	**1st**	**2nd**	**3rd+**
.38a	Residential Conversion, Residential Hotels	Ch. 41 Admin. Code			
.38b	Residential Demolition, Residential Hotels	Ch. 41 Admin. Code			
.39a	Residential Conversion	*§ 317*			

	~~*Apartments*~~				
.39b * * * *	Residential Demolition ~~*Apartments*~~	*§ 317*			

Table 812
CHINATOWN RESIDENTIAL NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *			**Chinatown Residential Neighborhood Commercial District**		
			Controls by Story		
No.	**Zoning Category**	**§ References**	**1st**	**2nd**	**3rd+**
.38a	Residential Conversion, Residential Hotels	Ch. 41 Admin. Code			
.38b	Residential Demolition, Residential Hotels	Ch. 41 Admin. Code			
.39a	Residential Conversion ~~*Apartments*~~	*§ 317*			
.39b * * * *	Residential Demolition ~~*Apartments*~~	*§ 317*			

Table 813
RED - RESIDENTIAL ENCLAVE DISTRICT ZONING CONTROL TABLE

			Residential Enclave Districts
No.	**Zoning Category**	**§ References**	**Controls**
* * * *			C
813.12	Residential Conversion	§ *317* ~~*803.9(a)*~~	

813.13 * * * *	Residential Demolition	§ *317* ~~*803.9(a)*~~	C

Table 814
SPD – SOUTH PARK DISTRICT ZONING CONTROL TABLE

			South Park District
No.	**Zoning Category**	**§ References**	**Controls**
* * * *			
814.12	Residential Conversion	§ *317* ~~*803.8(a)*~~	C
814.13	Residential Demolition	§ *317* ~~*803.8(a)*~~	C
* * * *			

Table 815
RSD - RESIDENTIAL/SERVICE MIXED USE DISTRICT ZONING CONTROL TABLE

			Residential/Service Mixed Use Districts
No.	**Zoning Category**	**§ References**	**Controls**
* * * *			
815.12	Residential Conversion	§ *317* ~~*803.5(b)*~~	C
815.13	Residential Demolition	§ *317* ~~*803.5(b)*~~	C
* * * *			

Table 816
SLR - SERVICE/LIGHT INDUSTRIAL/RESIDENTIAL MIXED USE~~D~~ DISTRICT ZONING CONTROL TABLE

			Service/Light Industrial/ Residential Mixed Use District
No.	**Zoning Category**	**§ References**	**Controls**
* * * *			
816.12	Residential Conversion	§ *317* ~~*803.5(b)*~~	C
816.13	Residential Demolition	§ *317* ~~*803.5(b)*~~	C
* * * *			

Table 817
SLI - SERVICE/LIGHT INDUSTRIAL DISTRICT ZONING CONTROL TABLE

			Service/Light Industrial District
No.	**Zoning Category**	**§ References**	**Controls**
* * * *			
817.12	Residential Conversion	§ *317* ~~*803.5(b)*~~	C
817.13	Residential Demolition	§ *317* ~~*803.5(b)*~~	C
* * * *			

Table 818
SSO - SERVICE/SECONDARY OFFICE ZONING CONTROL TABLE

			Service/Light Industrial District
No.	**Zoning Category**	**§ References**	**Controls**
* * * *			
818.12	Residential Conversion	§ *317* ~~*803.5(b)*~~	C
818.13	Residential Demolition	§ *317* ~~*803.5(b)*~~	C
* * * *			

Table 827
RINCON HILL DOWNTOWN RESIDENTIAL MIXED USE DISTRICT ZONING CONTROL TABLE

			Rincon Hill Downtown Residential Mixed Use District Zoning
No.	**Zoning Category**	**§ References**	**Controls**
* * * *			
.51	Residential Conversion~~s~~	§ *317* ~~*790.84, Ch. 41 Admin. Code*~~	C
.52	Residential Demolition	*§ 317*	C
* * * *			

Section 3. The Planning Code is hereby amended by deleting Sections 207.7, 790.84, 790.86, 890.84, and 890.86, to read as follows:

~~***SEC. 207.7. RESTRICTIONS ON DEMOLITION, CONVERSION, AND MERGER OF EXISTING DWELLING UNITS IN RTO, NCT, AND THE UPPER MARKET NEIGHBORHOOD COMMERCIAL DISTRICTS.***~~

~~*(a)* **Purpose.** *The controls governing the RTO,, NCT, and the Upper Market Neighborhood Commercial Districts are flexible with regard to dwelling unit density and parking, and intended to foster creative infill housing of moderate to high density while maintaining the character of the district. The intent of this flexibility, however, is not to encourage the demolition or removal of existing housing stock, particularly units in older buildings.*~~

~~*(b)* **Controls.** *Demolition of any dwelling unit, merger of any two or more dwelling units, or conversion of a dwelling unit to a non-residential use (herein all generally referred to as "demolition") in an RTO, NCT, or the Upper Market Neighborhood Commercial District shall be permitted only with Conditional Use authorization from the Planning Commission. Under no circumstance may the Commission grant a Conditional Use for demolition of a dwelling unit absent consideration of a replacement Code-complying project on the same lot. In granting any Conditional Use, the Commission shall consider each of the following characteristics of the dwelling unit(s) proposed for demolition and of the proposed replacement project, and shall approve such demolition if, on balance, the proposal meets these criteria, and serves the public interest:*~~

~~*(1) the assessed value of the units proposed for demolition exceed that which is affordable to households earning 100% of median income;*~~

~~*(2) the units proposed for demolition are unsound, in accord with the Planning Commission's adopted definition of "unsound";*~~

~~*(3) there is no history of poor maintenance or Code violations;*~~

~~*(4) the property is not a historic resource under CEQA;*~~

~~*(5) the proposed replacement project results in a net increase in the number of units on-site;*~~

~~*(6) the proposed replacement project is of superb architectural and urban design, meets or exceeds all relevant design guidelines and Area Plan policies;*~~

~~*(7) the proposed replacement project preserves rental housing on site from conversion to other forms of occupancy or tenure;*~~

~~*(8) the proposed replacement project restores rent control to equivalent number of units on the site;*~~

~~*(9) the proposed replacement project features affordability at least equivalent to the existing units;*~~

~~*(10) the proposed replacement project represents no net loss in the number of family-sized units;*~~

~~*(11) the proposed replacement project serves as supportive housing or serves a special or underserved population;*~~

~~*(12) the proposed project seeks to convert a ground-floor, street-facing residential use to a commercial use in a neighborhood commercial district where such commercial uses are desirable; and*~~

~~*(13) the proposed replacement project serves a public interest or public use that cannot be met without the proposed demolition.*~~

~~***SEC. 790.84. RESIDENTIAL CONVERSION.***~~

~~*The change in occupancy (as defined and regulated by the Building Code) of any residential use to a nonresidential use. This definition shall not apply to conversions of residential hotels, as defined and regulated in Chapter 41 of the San Francisco Administrative Code.*~~

~~***SEC. 790.86. RESIDENTIAL DEMOLITION.***~~

~~*The demolition (as defined by the Building Code) of any building or structure or portion thereof containing a residential use. This definition shall not apply to demolitions of residential hotels, as regulated in Chapter 41 of the San Francisco Administrative Code.*~~

~~***SEC. 890.84. RESIDENTIAL CONVERSION.***~~

~~*The change in occupancy (as defined and regulated by the Building Code) of any residential use to a nonresidential use. This definition shall not apply to conversions of residential hotels, as defined and regulated in Chapter 41 of the San Francisco Administrative Code.*~~

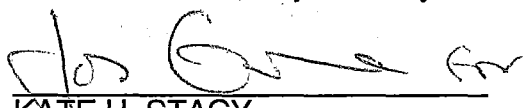
~~***SEC. 890.86. RESIDENTIAL DEMOLITION.***~~

~~*The demolition (as defined by the Building Code) of any building or structure or portion thereof containing a residential use. This definition shall not apply to conversions of residential hotels, as regulated in Chapter 41 of the San Francisco Administrative Code.*~~

Section 4. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

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

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: 
KATE H. STACY
Deputy City Attorney

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FILE NO. 130041

REVISED LEGISLATIVE DIGEST

(12/10/2013, Amended in Board)

[Planning Code - Demolition, Merger, Conversion and Conformity of Residential Uses]

Ordinance amending the Planning Code to revise the criteria for residential demolition, merger and conversion, and to standardize those definitions across use districts and prohibit residential mergers where certain evictions of tenants have occurred; establish a strong presumption in favor of preserving dwelling units in enforcement of Code requirements; and making environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.

Existing Law

Planning Code Section 180 sets forth requirements applicable to nonconforming uses, noncomplying structures, and substandard lots of record. Sections 207.7, 212, and 317 establish restrictions on the demolition, merger and conversion of existing dwelling units and residential uses. Articles 7 and 8 and their Zoning Control Tables establish and regulate the uses in Neighborhood Commercial Districts and Mixed Use Districts, respectively. Sections 790.84, 790.86, 890.84, and 890.86 define Residential Conversion and Residential Demolition.

Amendments to Current Law

Section 180 is amended to establish a strong presumption in favor of preserving Dwelling Units in the enforcement of the Code. Definitions for Residential Demolition, Residential Merger and Residential Conversion are consolidated into Section 317 and the criteria are modified to prioritize preservation of housing and encourage the replacement of housing. Sections 212, 703.2, 803.8, and the Zoning Control Tables in Articles 7 and 8 are amended to refer to the definitions of and criteria for Residential Demolition, Residential Merger and Residential Conversion in Section 317 and obsolete Code provisions are deleted. All the existing conditional use requirements or prohibitions on residential conversion, demolition, and merger in specific zoning districts are retained unchanged, except that an owner who has evicted any tenants after December 10, 2013 under the "owner move-in" provision of the Rent Ordinance will not be permitted to merge dwelling units for 5 years following such eviction, and an owner who has evicted any tenants after December 10, 2013 under the other "no fault" provisions of the Rent Ordinance will not be permitted to merge dwelling units for 10 years following such eviction.

Background Information

The 2009 Housing Element of the General Plan includes several policies which call for the preservation of existing housing, including discouraging the demolition of sound housing (Policy 2.1), controlling the merger of existing units (Policy 2.2), preserving existing affordable housing (Policy 3.1), and which call for considering whether replacement housing is affordable (Policy 2.1). The Planning Code amendments in this ordinance are intended to bring the

provisions of the Planning Code into harmony with the housing policies of the General Plan. The restrictions on merger are intended to reduce the possibility that more tenants will be evicted in order to be able to merge dwelling units under these provisions of the Planning Code. The ordinance also improves the organization and usability of the Code by consolidating definitions and controls, updating zoning control tables to include applicable controls, and deleting obsolete provisions.

This Legislative Digest includes amendments to the tenant eviction provisions adopted by the Board at its regular meeting on December 10, 2013.

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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

August 6, 2013

File No. 130041-2

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

Dear Ms. Jones:

On July 30, 2013, Supervisor Avalos introduced the following **substitute** legislation:

File No. 130041-2

Ordinance amending the Planning Code to revise the criteria for residential demolition, conversion, and merger and to standardize those definitions across use districts; establish a strong presumption in favor of preserving dwelling units in enforcement of Code requirements; and making environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

A categorical exemption stamp was received on January 22, 2013 for the previous version of the legislation. If you wish to submit an additional determination for this version, please forward it to me.

Angela Calvillo, Clerk of the Board

By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

Not a Project
Per CEQA Guidelines Sector 15060(c)(2)
(Individual projects will undergo environmental review)

Aug. 9, 2013
JOY NAVARRETE 2013.1103E

BOARD of SUPERVISORS

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January 22, 2013

File No. 130041

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

Dear Mr. Wycko:

On January 15, 2013, Supervisor Avalos introduced the following proposed legislation:

File No. 130041

Ordinance amending the Planning Code, by repealing Sections 790.84, 790.86, 890.84, and 890.86, and amending Section 317, and various other sections, to revise the criteria for the residential demolition, conversion, and merger; standardize definitions of residential demolition, conversion, and merger across various use districts; permit the enlargement or alteration of dwelling units which are nonconforming as to density in districts where dwelling units are principally permitted if there is no increase in nonconformity of height, bulk, or required rear yards or setbacks; permit alterations to nonconforming uses or noncomplying structures to comply with disabled access requirements or to provide secure bicycle parking; establish a strong presumption in favor of preserving dwelling units in enforcement of requirements for nonconforming uses, structures, and lots; and making environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code, Section 101.1.

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

Angela Calvillo, Clerk of the Board
Alisa Miller
By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

Not a project pursuant to CEQA Guidelines Section 15060(c)(2). (Individual projects will undergo physical environmental review.)
Jeanie L Gaskell
January 22, 2013

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October 25, 2013

Ms. Angela Calvillo, Clerk
Honorable Supervisor Avalos
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 2013.0134T:**
Conversion, Demolition, Merger, and Conformity of Units
Board File No. 13-0041
Planning Commission Recommendation: ***Approval with Modifications***

Dear Ms. Calvillo and Supervisor Avalos,

On October 24, 2013, the San Francisco Planning Commission conducted a duly noticed public hearing at its regularly scheduled meeting to consider the proposed modifications to Section 317 that may be made by Supervisor Avalos as further amendments to the above referenced Board File in advance of the Land Use Committee's consideration of the item. At the October 24th hearing, the Planning Commission recommended approval with modifications.

Specifically, the modifications recommended by the Commission include:

1. that the prohibition be triggered by no-fault evictions that occur as of October 24, 2013; and,
2. that the prohibition last for ten years, as Supervisor Avalos recommends in his proposed language; and,
3. that Supervisor Avalos consider so-called "Owner Move-In" and other no-fault evictions differently than "Ellis Act" evictions.

The proposed amendments have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2). Pursuant to San Francisco's Administrative Code Section 8.12.5 "Electronic Distribution of Multi-page Documents," the Department is sending electronic documents and one hard copy. Additional hard copies may be requested by contacting Sophie Hayward at 558-6372.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission. Please find attached documents relating to the action of the Planning Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

AnMarie Rodgers
Manager of Legislative Affairs

cc:
Supervisor John Avalos
Judy Boyajian, Deputy City Attorney
Jason Elliot, Mayor's Director of Legislative & Government Affairs

Attachments (two hard copies of the following):
Planning Commission Resolution No. 19009
Planning Department Executive Summary

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Planning Commission Resolution No. 19009

Planning Code Text Change

HEARING DATE: OCTOBER 24, 2013

Project Name:	**Conversion, Demolition, Merger, and Conformity of Residential Units**
Case Number:	2013.0134T [Board File No. 130041]
Initiated by:	Supervisor Avalos / Introduced January 15th, 2013
Staff Contact:	Sophie Hayward, Legislative Affairs sophie.hayward@sfgov.org, 415-558-6372
Reviewed by:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation:	**Recommend Approval with Modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS APPROVE WITH MODIFICATIONS ADDITIONAL AMENDMENTS TO A PROPOSED ORDINANCE THAT WOULD PROHIBIT THE COMMISSION FROM APPROVING THE LOSS OF ONE OR MORE DWELLING UNIT(S) THROUGH DEMOLITION, MERGER, OR CONVERSION IF THE BUILDING BEEN SUBJECT TO A "NO-FAULT" EVICTION WITHIN THE LAST TEN YEARS.; AND ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.

WHEREAS, on January 22, 2103, Supervisors Avalos introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 13-0041, which would amend Sections 207.7, 212(e), and 317of the Planning Code regarding the loss of dwelling units, would amend Sections 180 and 181 regarding nonconforming units, and would make various amendments to consolidate criteria and references in the Planning Code;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on July 18, 2013; and,

WHEREAS, The Commission adopted Resolution No. 18927 recommending approval with modifications of the components of the draft Ordinance that address the criteria for evaluation of the loss of dwelling units; and,

WHEREAS, Supervisor Avalos accepted the modifications and has incorporated them into the current draft Ordinance; and,

WHEREAS, Supervisor Avalos introduced the current draft Ordinance as substitute legislation on July 30th, 2013; and,

WHEREAS, Supervisor Avalos has expressed the intent to further amend the draft Ordinance to include language that would prohibit the demolition, conversion, or merger of units in buildings that have had a no-fault eviction within ten years; these additional amendments are substantive and the Commission had not previously considered them; and,

WHEREAS, the proposed Ordinance has been determined to be exempt from environmental review under the General Rule Exclusion, California Environmental Quality Act Section 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 1650 Mission Street, Suite 400, San Francisco; and

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

MOVED, that the Commission hereby recommends that the Board of Supervisors ***approve with modifications*** the draft Ordinance and the additional language that Supervisor Avalos intends to include that would prohibit the demolition, merger, or conversion of a unit in a building that has had a no-fault eviction within ten years, and adopts the attached Resolution to that effect. The Planning Commission recommends the following modifications, described in detail in the attached Executive Summary:

1. That the prohibition be triggered by no-fault evictions that occur as of October 24, 2013; and,
2. That the prohibition last for ten years, as Supervisor Avalos recommends in his proposed language; and,
3. That Supervisor Avalos consider so-called "Owner Move-In" and other no-fault evictions differently than "Ellis Act" evictions.

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. While specific language to be incorporated into the draft Ordinance has not yet been included, the Department is supportive of efforts to discourage displacing tenants through no-fault evictions.
2. The proposed additional modifications would create a disincentive to evict by linking no-fault evictions to a prohibition to merge, convert, or to demolish a unit.
3. The Department's proposed modification to tie the prohibition to the effective date of Ordinance is intended to clarify that the prohibition is not punitive toward no-fault evictions that have lawfully occurred in the past; rather, the prohibition is a disincentive for no-fault evictions moving forward.
4. The Department's proposed modification that the prohibition be applicable to buildings that have had no-fault evictions within five years of the date of application for the demolition, merger, or

conversion would make the prohibition last for the same five year period as the defined duration that a unit may not be re-rented pursuant to local Ellis Act restrictions.

5. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

I. HOUSING ELEMENT

OBJECTIVE 2
RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

POLICY 2.1
Discourage the demolition of sound existing housing, unless the demolition results in a net increase in affordable housing.

POLICY 2.2
Retain existing housing by controlling the merger of residential units, except where a merger clearly creates new family housing.

POLICY 2.4
Promote improvements and continued maintenance to existing units to ensure long term habitation and safety.

The draft Ordinance will consolidate and clarify controls for the loss of dwelling units through demolition, merger, or conversion. The additional amendments proposed by Supervisor Avalos would prohibit the loss of units in buildings in which there had been a no-fault eviction.

OBJECTIVE 3
PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS

POLICY 3.1
Preserve rental units, especially rent controlled units, to meet the City's affordable housing needs.

POLICY 3.4
Preserve "naturally affordable" housing types, such as smaller and older ownership units.

The proposed modifications to the draft Ordinance would increase protections for existing units, and would create a disincentive for no-fault evictions.

6. **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 amendments will 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 is intended to protect existing housing and neighborhood character through careful review of the loss of dwellings.

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

   The proposed Ordinance would maintain the existing criteria for the review of the loss of dwelling units. With the proposed modifications, the draft Ordinance will provide oversight intended to protect affordable housing provided through units that are nonconforming as relates to density.

4. That commuter traffic 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.

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 will not negatively impact the City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

   Landmarks and historic buildings would not be negatively impacted by the proposed Ordinance.

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

   The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed Ordinance.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board APPROVE 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 July 24, 2013.

Jonas P. Ionin
Acting Commission Secretary

AYES: Commissioners Borden, Fong, Hillis, Moore, Sugaya and Wu

NOES: Commissioner Antonini

ABSENT: None

ADOPTED: October 24, 2013

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Executive Summary
Planning Code Text Change
HEARING DATE: OCTOBER 24, 2013

Project Name:	**Conversion, Demolition, Merger, and Conformity of Residential Units**
Case Number:	2013.0134T [Board File No. 130041]
Initiated by:	Supervisor Avalos / Substituted July 30th, 2013
Staff Contact:	Sophie Hayward, Legislative Affairs sophie.hayward@sfgov.org, 415-558-6372
Reviewed by:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation:	**Recommend Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance was introduced as substitute legislation by Supervisor Avalos on July 30th, 2013. The original proposal was more extensive, and was considered by the Planning Commission at its July 18, 2013 public hearing. At that hearing, Supervisor Avalos agreed to divide the legislation into two separate components: one that addresses the loss of dwelling units – the focus of this report and the attached draft Ordinance – and a second ordinance which regulates the opportunities to expand, alter, or reconstruct legal, nonconforming units that exceed the permitted density—issues this Commission considered in July. The Planning Commission considered and supported, with modifications, the proposal to expand opportunities to alter and enlarge nonconforming units at its September 19, 2013 public hearing (Case No. 2013.1164T, BF 130783, PC Resolution No. 18927—Attached here as Exhibit C).

At the July 18th hearing, the Planning Commission was supportive of the draft Ordinance, including components that would amend the criteria used to evaluate the loss of dwelling units, and recommended approval with a number of technical modifications (please see Exhibit C). Supervisor Avalos has made all of the modifications recommended by the Commission; those changes are reflected in the attached draft Ordinance.

Supervisor Avalos has expressed in writing his intent to further amend the draft Ordinance to include language that would prohibit the Commission from approving the loss of one or more dwelling unit(s) through demolition, merger, or conversion if the units had been subject to a "no-fault" eviction within the last ten years. **This substantive change, which has not yet been included in the draft Ordinance but may be added in advance of the Board of Supervisor's review, is the focus of the Commission's review at this time.**

The Way It Is Now:

Planning Code Section 317 defines the terms, the controls, and the criteria for evaluation associated with the loss of dwelling units through *demolition*, *merger*, and *conversion*.

Project proposals that would result in the loss or removal of three or more dwelling units require Conditional Use authorization by the Planning Commission. Projects that would result in the loss of up

to two dwelling units require a Mandatory Discretionary Review hearing before the Planning Commission. Section 317 provides certain exceptions from the requirement for public hearings; Section 317(e)(4) allows an administrative review in lieu of a public hearing for proposed mergers that meet four out of the five specific criteria used to evaluate the loss of residential units through the merging of two or more units into a single, larger unit.

The Way It Would Be:

Overall, the draft Ordinance proposes amendments that would consolidate the location in the Planning Code of controls for the loss of dwelling units, and amend the criteria for their review. In addition, the further amendments proposed by Supervisor Avalos (expressed in writing at the July 18th Planning Commission hearing, but not yet incorporated into the draft Ordinance), would prohibit the Commission from approving a demolition, merger, or conversion if one or more of the units had been subject to a no-fault eviction within the last ten years.

Planning Code Sections 317(d), (e), and (f) would be amended to prohibit demolition, merger, and conversion of units in buildings with "no-fault" evictions within the past ten years. This change has been described by the supervisor (See Exhibit D) but is not yet drafted nor shown in the attached draft Ordinance.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors. The Commission passed Resolution 18927 on July 18th recommending approval with modification to the Board of Supervisors. At the July 18th public hearing, the Commission did not discuss the proposed additional modification that would prohibit the approval of demolition, mergers, or conversions in buildings with "no-fault" evictions in the last ten years, and may recommend adoption, rejection, or modification of that – or any other component of the draft Ordinance – at the October 24th public hearing.

RECOMMENDATION

Overall, the Department recommends that the Commission recommend *approval with modifications* of both the proposed Ordinance as drafted, and the additional modification that would prohibit demolitions, mergers, and conversions in buildings with no-fault evictions within the last ten years, and recommends that the Commission adopt the attached Draft Resolution to that effect.

The Department recommends two specific modifications:

- That the prohibition be triggered by no-fault evictions that occur as of the effective date of the Ordinance (and not those no-fault evictions that pre-date the Ordinance); and,
- That the prohibition last for five years rather than ten years.

BASIS FOR RECOMMENDATION

While specific language to be incorporated into the draft Ordinance has not yet been included, the Department is supportive of efforts to discourage displacing tenants through no-fault evictions. The proposed additional modifications would create a disincentive to evict by linking no-fault evictions to a prohibition to merge, convert, or to demolish a unit: preserving existing rental units is a policy supported by Objective 3, Policy 3.4 of the City's Housing Element.

The Department's proposed modification to tie the prohibition to the effective date of Ordinance is intended to clarify that the prohibition is not punitive toward no-fault evictions that have lawfully occurred in the past; rather, the prohibition is a disincentive for no-fault evictions moving forward.

The Department's proposed modification that the prohibition be applicable to buildings that have had no-fault evictions within five years of the date of application for the demolition, merger, or conversion would make the prohibition last for the same five year period as the defined duration that a unit may not be re-rented pursuant to local Ellis Act restrictions.[1]

ISSUES AND CONSIDERATIONS

The draft Ordinance consolidates the controls and criteria for review for the loss of dwelling units in a single location in the Planning Code. The Department is supportive of this amendment and is hopeful that this will help to improve consistency of review and public understanding of the controls. The Planning Commission considered the content of the draft Ordinance in July, and again in September when it re-reviewed the separated file that addressed expansion of nonconforming units.

The Department is providing a recommendation to the Commission based on language that has not been drafted, but that has been suggested by Supervisor Avalos. If language that is incorporated into the draft Ordinance includes substantive changes from the language outlined in the Supervisor's July 18, 2013 memo to the Commission, the Ordinance will be re-referred to the Commission for re-review.

ENVIRONMENTAL REVIEW

The proposed Ordinance reviewed and determined to be not a project pursuant to CEQA Section 15060(c)(2) on January 22, 2013. Please note that individual projects will undergo physical environmental review.

PUBLIC COMMENT

Staff has received no public comment at the time of the publication of this report.

RECOMMENDATION:	**Recommendation of Approval with Modifications**

[1] The full text of the Ellis Act (California Government Code Section 7060) is available online at: http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=07001-08000&file=7060-7060.7 (October 15, 2013).

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July 26, 2013

Ms. Angela Calvillo, Clerk
Honorable Supervisor Avalos
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 2013.0134T:**
Planning Code Amendment: Conversion, Demolition, and Mergers and Conformity of Residential Uses
Board File No. 13-0041
Planning Commission Recommendation: ***Approval with Modifications***

Dear Ms. Calvillo and Supervisor Avalos:

On July 18, 2013, the San Francisco Planning Commission conducted a duly noticed public hearing at the regularly scheduled meeting to consider the proposed amendments to the Planning Code introduced by Supervisor John Avalos as described in the draft Ordinance referenced above. At the hearing, the Planning Commission recommended approval with modifications. The modifications note, among other changes, that the Supervisor split the file so that the Commission can consider the proposed amendments to Planning Code Section 181 at a later date.

The proposed amendments have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2). Pursuant to San Francisco's Administrative Code Section 8.12.5 "Electronic Distribution of Multi-page Documents", the Department is sending electronic documents and one hard copy. Additional hard copies may be requested by contacting Sophie Hayward at 558-6372.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commissions.

Please find attached documents relating to the actions of both Commissions. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

AnMarie Rodgers
Manager of Legislative Affairs

cc:
Supervisor John Avalos
Jon Givner, Deputy City Attorney
Judy Boyajian, Deputy City Attorney
Jason Elliot, Mayor's Director of Legislative & Government Affairs

Attachments (two hard copies of the following):
Planning Commission Resolution 18927
Draft Ordinance
Planning Department Executive Summary

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Planning Commission Resolution No. 18927

Planning Code Text Change

HEARING DATE: JULY 18, 2013

Project Name:	**Conversion, Demolition, Merger, and Conformity of Residential Units**
Case Number:	2013.0134T [Board File No. 130041]
Initiated by:	Supervisor Avalos / Introduced January 15th, 2013
Staff Contact:	Sophie Hayward, Legislative Affairs sophie.hayward@sfgov.org, 415-558-6372
Reviewed by:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation:	**Recommend Approval with Modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS APPROVE WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO: 1) REVISE THE CRITERIA FOR REVIEWING AND THE DEFINITIONS OF RESIDENTIAL DEMOLITION, CONVERSION, AND MERGER OF UNITS; 2) PERMIT THE ALTERATION OF NON-CONFORMING UNITS IN REGARD TO DENSITY WITHOUT INCREASING THE NON-CONFORMITY IN OTHER ASPECTS; 3) ESTABLISH A PRESUMPTION IN FAVOR OF PRESERVING DWELLING UNITS IN ENFORCEMENT OF REQUIREMENTS FOR NON-CONFORMING USES AND STRUCTURES; AND TO 4) TO PERMIT ALTERATIONS TO NON-CONFORMING USES AND NON-COMPLYING STRUCTURES IN ORDER TO COMPLY WITH DISABLED ACCESS REQUIREMENTS OR TO PROVIDE SECURE BICYCLE PARKING; AND ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.

WHEREAS, on January 22, 2103, Supervisors Avalos introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 13-0041, which would amend Sections 207.7, 212(e), and 317 of the Planning Code regarding the loss of dwelling units, would amend Sections 180 and 181 regarding nonconforming units, and would make various amendments to consolidate criteria and references in the Planning Code;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on July 18, 2013; and,

WHEREAS, the proposed Ordinance has been determined to be exempt from environmental review under the General Rule Exclusion, California Environmental Quality Act Section 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 1650 Mission Street, Suite 400, San Francisco; and

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

MOVED, that the Commission hereby recommends that the Board of Supervisors *approve with modifications* the draft Ordinance and adopts the attached Resolution to that effect. The Planning Commission recommends the following modifications, described in detail in the attached Executive Summary:

1. **Split the draft Ordinance into two separate Ordinances:** one file that addresses the loss of dwelling units through demolition, merger, and conversion, as well as proposed amendments Section 180, and a second file that amends Planning Code Section 181 regarding enlargements and alterations of non-conforming uses. The modifications recommended in this Resolution reflect the Planning Commission's recommendations regarding the loss of dwelling units. The Commission will consider the proposed amendments to Planning Code Section 181 separately.
2. **Repeal Section 207.7 in its entirety.**
3. **Delete Section 212(e) in its entirety.**
4. **Add Requirements to and Amend Criteria in Section 317(c) and (d):**

   a. Amend Section 317(c) Applicability in two ways: 1) Add language that requires Conditional Use authorization for the demolition of any units, the merger of two or more units, or the conversion of any unit within the RTO, RTO-M, NCT, and Upper Market NCD Zoning Districts; 2) Add language to Section 317 that addresses the loss of units by demolition, merger, or conversion in the C-3 Zoning Districts, and note that the criteria for review of the required Conditional Use authorization are different than those outlined in Section 303, and are applicable only to the C-3 Zoning District. The Commission recommends the following language:

   317(c) **Applicability.** ~~Where~~ ***A***n application for a permit that would result in the loss of one or more Residential Units is required to obtain Conditional Use authorization ~~by other sections of this Code~~ ***in the RTO, RTO-M, NCT, and Upper Market NCD Zoning Districts, as well as the loss of any residential unit above the ground floor in the C-3 Zoning District. T***he application for a replacement building or alteration permit shall also be subject to Conditional Use requirements. ***When considering whether to grant Conditional Use authorization for the loss of dwelling unit(s) in the C-3 districts, in lieu of the criteria set forth in Planning Code Section 303, consideration shall be given to the adverse impact on the public health, safety, and general welfare of the loss of housing stock in the district and to any unreasonable hardship to the applicant if the permit is denied.***

   b. Amend the language of 317(d)(3)(A) to clarify that buildings proposed for demolition in RH-1 ***and RH-1(d)*** districts are not subject to a Mandatory Discretionary Review if they meet the levels that define "demonstrably not affordable."

   c. Amend Section 317(d) by adding the specific criteria for evaluating the loss of dwelling units currently listed in Section 207.7 that are not listed in Section 317(d) to maintain the

review and evaluation policies for the loss of units outlined currently in Section 207.7, developed through the Market-Octavia Plan. The Commission's recommendations are summarized in the Table 1 below:

Table 1: Comparing the Criteria for Demolition in the Draft Ordinance to the Department's Proposed Modifications

Draft Ordinance: Amended 317(d)(3)(C)(i-xvi) -- Criteria For Review of Demolition	Department's Proposed Modifications to Section 317(d)(3)(A)(i-xvi) of the Draft Ordinance
Whether the property is free of a history of serious, continuing Code violations;	(i) Whether the property is free of a history of serious, continuing Code violations;
Whether the housing has been maintained in a decent, safe, and sanitary condition;	(ii) Whether the housing has been maintained in a decent, safe, and sanitary condition;
Whether the property is an "historical resource" under CEQA;	(iii) Whether the property is an "historical resource" under CEQA;
Whether the removal of the resource will have a substantial adverse impact under CEQA;	(iv) Whether the removal of the resource will have a substantial adverse impact under CEQA;
Whether the project converts rental housing to other forms of tenure or occupancy;	(v) Whether the project converts rental housing to other forms of tenure or occupancy;
Whether the project removes rental units subject to the Rent Stabilization and Arbitration Ordinance;	(vi) Whether the project removes rental units subject to the Rent Stabilization and Arbitration Ordinance ***or Affordable Housing***;
Whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;	(vii) Whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;
Whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;	(viii) Whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;
Whether the project protects the relative affordability of existing housing;	(ix) Whether the project protects the relative affordability of existing housing;
Whether the project increases the number of permanently affordable units as governed by *Article 4*;	(x) Whether the project increases the number of permanently affordable units as governed by ~~*Article 4*~~ ***Section 415***;
Whether the project locates in-fill housing on appropriate sites in established neighborhoods;	(xi) Whether the project locates in-fill housing on appropriate sites in established neighborhoods;
Whether the project creates quality, new family housing;	(xii) Whether the project ~~creates Quality new family housing,~~ ***increases the number of family-sized units on-site***;
Whether the project creates new supportive housing;	(xiii) Whether the project creates new supportive housing;
Whether the ~~protect~~ *project* promotes construction of well-designed housing to enhance existing neighborhood character;	(xiv) Whether the *project* ~~promotes construction of well-designed housing to~~ ***is of superb architectural and urban design, meeting all relevant design guidelines***, to enhance existing neighborhood character;
Whether the project increases the number of on-site dwelling units;	(xv) Whether the project increases the number of on-site dwelling units;
Whether the project increases the number of on-site bedrooms.	(xvi) Whether the project increases the number of on-site bedrooms.
If the Residential Demolition removes Affordable Housing or housing subject to the Rent Stabilization and Arbitration Ordinance, whether replacement housing will be provided which is equal or greater in size, number of bedrooms, affordability, and suitability to households with children to the housing to be demolished.	~~*(xvii) If the Residential Demolition removes Affordable Housing or housing subject to the Rent Stabilization and Arbitration Ordinance, whether replacement housing will be provided which is equal or greater in size, number of bedrooms, affordability, and suitability to households with children to the housing to be demolished.*~~

5. **Remove the new definition for "Residential Use" proposed in the draft Ordinance for Section 317(b)(13).** Instead, amend the existing definition of "Residential Unit" in Section 317(b)(12) to include Group Housing, along with Dwelling Units and Live/Work units. The Commission recommends the following language for Section 317(b)(12):

   "Residential Unit" shall mean a legal conforming or non-conforming dwelling unit as defined in Planning Code Section 102.7, or a legal non-conforming Live/Work Unit as defined in Planning Code Section 102.13, ***or Group Housing as defined in Planning Code Section 209.2(a)(b) and (c)***.

6. **Add Requirements to and Amend Criteria in Section 317(e).**

   d. Do not amend the criterion in Section 317(e)(2)(iv) that reads, "whether the removal of the unit will bring the building closer into conformance with the prescribed zoning."

   e. Amend the proposed new criterion in Section 317(e)(2)(D), and replace it with a new criterion that considers whether the merged unit will provide family-sized housing, by including the following language, "***whether the number of bedrooms provided in the merged unit will be equal to or greater than the number of bedrooms in the separate units.***"

   f. Clarify the term "owner-occupied" as used in Section 317(e)(2)(i) and (ii).

7. **Delete Inapplicable Language in Section 317(f).**

   g. Delete Section 317(f)(2)(C), which, as amended would require that the Commission consider whether, in districts in which residential uses are not permitted (such as industrial districts), the residential conversion will bring the building in closer conformity with uses permitted in the district.

   h. Delete the proposed new Section 317(f)(2)(G), which evaluates the replacement housing as it compares to the existing housing.

8. **Amend Section 180(h).** In the proposed new Section 180(h), clarify the term "strong presumption in favor of preserving Dwelling Units" revising the section to read, "**Preserving Dwelling Units.** ***If the administrative record regarding a nonconforming unit does not provide conclusive evidence that the unit is illegal, it shall be presumed to be a legal nonconforming unit.***"

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. The proposed Ordinance would amend the Planning Code in three ways: 1) consolidate and amend controls for the loss of dwelling units in Section 317 of the Planning Code; 2) add protection and flexibility for existing nonconforming units; and 3) simplify the Planning Code.

2. While the Commission is generally supportive of the amendments, careful consideration should be given to the potential for unintended implications to the affordability of existing nonconforming residential units.

3. Based on information from the Department's Information and Analysis group, of the approximately 360,000 dwelling units in the City, nearly 52,000 units exceed the permitted zoning of the parcel on which they are located, representing close to 14% of existing units in the City.

4. Generally speaking, these legal nonconforming units are in older buildings constructed prior to the establishment of current zoning districts.

5. The age of the structures, together with the existing prohibition to expand, means that very often nonconforming units are among the city's most affordable housing stock, and are often subject to rent control.
6. The Commission's recommendation, detailed above, is intended to provide oversight in cases that would expand nonconforming units in a manner that includes adding bedrooms, by requiring Conditional Use authorization. This recommendation is intended to provide increased flexibility while allowing the Commission to consider the impacts to affordability that a proposed expansion or alteration may have.
7. The draft Ordinance consolidates the controls and criteria for review for the loss of dwelling units in a single location in the Planning Code. The Commission is supportive of this amendment and is hopeful that this will help to improve consistency of review and public understanding of the controls.

8. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

I. HOUSING ELEMENT

OBJECTIVE 2
RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

POLICY 2.1
Discourage the demolition of sound existing housing, unless the demolition results in a net increase in affordable housing.

POLICY 2.2
Retain existing housing by controlling the merger of residential units, except where a merger clearly creates new family housing.

POLICY 2.4
Promote improvements and continued maintenance to existing units to ensure long term habitation and safety.

The draft Ordinance will consolidate and clarify controls for the loss of dwelling units through demolition, merger, or conversion. In addition, the draft Ordinance will allow increased flexibility to expand nonconforming units, which may encourage maintenance of existing housing stock.

OBJECTIVE 3

PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS

POLICY 3.1
Preserve rental units, especially rent controlled units, to meet the City's affordable housing needs.

POLICY 3.4
Preserve "naturally affordable" housing types, such as smaller and older ownership units.

The Commission's recommended modifications would provide oversight in cases that would expand nonconforming units in a manner that includes adding bedrooms, by requiring Conditional Use authorization. This recommendation is intended to provide increased flexibility while allowing the Commission to consider the impacts to affordability that a proposed expansion or alteration may have.

9. **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 amendments will 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 is intended to protect existing housing and neighborhood character through careful review of the loss of dwellings and expansion of nonconforming units.

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

      The proposed Ordinance would maintain the existing criteria for the review of the loss of dwelling units. With the proposed modifications, the draft Ordinance will provide oversight intended to protect affordable housing provided through units that are nonconforming as relates to density.

   4. That commuter traffic 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.

   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 will not negatively impact the City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

   Landmarks and historic buildings would not be negatively impacted by the proposed Ordinance.

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

   The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed Ordinance.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board APPROVE 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 July 18, 2013.

Jonas P. Ionin
Acting Commission Secretary

AYES: Commissioners Borden, Fong, Moore, Sugaya, and Wu

NOES: Commissioner Antonini

ABSENT: Commissioner Hillis

ADOPTED: July 18, 2013

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Executive Summary
Planning Code Text Change
HEARING DATE: JULY 18, 2013

Project Name:	**Conversion, Demolition, Merger, and Conformity of Residential Units**
Case Number:	2013.0134T [Board File No. 130041]
Initiated by:	Supervisor Avalos / Introduced January 15th, 2013
Staff Contact:	Sophie Hayward, Legislative Affairs sophie.hayward@sfgov.org, 415-558-6372
Reviewed by:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation:	**Recommend Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code by repealing Sections 790.84, 790.86, 890.84, and 890.86, and amending Section 317 to: 1) revise the criteria used for evaluating residential demolitions, conversions, and mergers, 2) standardize definitions of residential demolition, conversion, and merger across various use districts, 3) permit the enlargement or alteration of dwelling units which are nonconforming as to density in districts where dwelling units are principally permitted if there is no increase in nonconformity of height, bulk, or required rear yards or setbacks; 4) permit alterations to nonconforming uses or noncomplying structures to comply with disabled access requirements or to provide secure bicycle parking; 5) establish a strong presumption in favor of preserving dwelling units in enforcement of requirements for nonconforming uses, structures, and lots; and 6) various technical amendments.

The Way It Is Now:

Planning Code Section 181 describes the provisions for enlarging, altering, and reconstructing a nonconforming structure[1]. Section 181(c) notes that in a building that has a total number of dwelling units that exceeds the permitted density in a given zoning district, only those units that exceed the permitted density are considered nonconforming. Those units that are the nonconforming units in the building may not be enlarged, altered, or reconstructed in a manner that increases their nonconformity.

Planning Code Section 207.7 addresses specific requirements associated with the loss of dwelling units in the RTO (Residential, Transit-Oriented), NCT (Neighborhood Commercial, Transit-Oriented), and the Upper Market Neighborhood Commercial Districts. Section 207.7 outlines a single set of criteria to be used to evaluate the loss of a dwelling unit through demolition, merger, or conversion – this is distinct from Planning Code Section 317 (described below), which sets forth specific criteria for demolition that differ from those used to evaluate mergers and conversions. In districts for which this section is

[1] Planning Code Section 180(a)(2) defines a nonconforming structure as "a structure which existed lawfully at the effective date of this Code, or of amendments thereto, and which fails to comply with one or more of the regulations for structures, including requirements for off-street parking and loading, under Articles 1.2, 1.5, 2.5, 6, 7 and 8 of this Code, that then became applicable to the property on which the structure is located."

applicable, the loss of any dwelling unit requires Conditional Use authorization by the Planning Commission, and the Commission must consider thirteen criteria for projects associated with the loss of a unit. The criteria for the review of the loss of dwelling units in the RTO, NCT, and Upper Market NCD districts are not identical to the criteria outlined in Section 317, as illustrated below in Table 1.

Planning Code Section 212 defines additional requirements for uses in specific C (Commercial) and M (Industrial) districts. Section 212(b) prohibits any permitted use in the C-3 zoning district from including a "drive-in" component that would serve customers in parked cars, except for gas stations and car washes, where they are permitted. Section 212(e) requires that the loss of any dwelling unit above the ground floor require Conditional Use authorization, unless a building is deemed unsafe or dangerous. The criteria for review of the loss of dwelling units are specific: in lieu of the criteria outlined in Section 303, Section 212(e) states that the Commission shall consider the adverse impact on the public health, safety and general welfare of the loss of housing stock in the district and to any unreasonable hardship to the applicant if the permit is denied. As with Section 207.7, the criteria for evaluation of the loss of units included in Section 212 are not the same as those listed in Section 317.

Planning Code Section 317 defines the terms and the controls associated with the loss of dwelling units through *demolition, merger,* and *conversion.* Project proposals that would result in the loss or removal of three or more dwelling units require Conditional Use authorization by the Planning Commission. Projects that would result in the loss of up to two dwelling units require a Mandatory Discretionary Review hearing before the Planning Commission. Section 317 identifies certain exceptions from the requirement for public hearings:

Section 317 provides the following exceptions for demolition proposals:

- Single-Family homes in RH-1 Zoning Districts that are demonstrably not affordable or financially accessible do not require a Mandatory Discretionary Review hearing[2]; and,
- Residential buildings with two units or fewer that are found to be unsound do not require a Mandatory Discretionary Review hearing.[3]

Section 317 provides the following exceptions for the loss of units through mergers:

- Applications in which the least expensive of the units proposed for a merger is demonstrably not affordable or financially accessible; and,
- Projects that meet four out of the five specific criteria used to evaluate the loss of residential units through mergers.

As noted above, Section 317 also defines the criteria that the Planning Commission and the Department must consider in reviewing applications for the loss of units through demolition, merger, and conversion. These criteria are not identical to those outlined in Section 207.7 and in Section 212(e).

There are 16 criteria for the evaluation of applications for *demolition.*

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[2] The specific language, including affordability thresholds are detailed in Planning Code Section 317(d)(3) and 317(d)(3)(A).

[3] The specific language for the exception and the procedure for determining a structure's soundness are detailed in Planning Code Section 317(d)(3)(B).

There are five criteria for the evaluation of applications for residential *mergers,* including whether the removal of the unit will bring the building closer into conformance with the prevailing density and the prescribed zoning in its immediate area and within the zoning district.

There are also five criteria for the evaluation of applications for residential *conversion,* including whether the conversion of the unit would bring the building closer into conformance with the prevailing character of the immediate area and the zoning district.

The following two tables compare the differences between the criteria for evaluating the loss of dwelling units in Section 207.7 and Section 317; please note that the criteria are not numbered and have been rearranged in order to clearly show where the existing criteria are the same or similar between the two Planning Code Sections.

Table 1: Comparing the Criteria of 207.7(b) to the Criteria for Demolition in Section 317 (*emphasis* added)

Existing 207.7(b)(1-13): Applies to Demolition, Merger, and Conversion in the RTO, NCT, and Upper Market NCD	**Existing 317(d)(3)(C)(i-xvi) -- Criteria For Review of Demolition**
There is no history of poor maintenance or Code *violations*;	Whether the property is free of a history of serious, continuing Code *violations*;
The units proposed for demolition are unsound, in accord with the Planning Commission's adopted definition of "*unsound*";	Whether the housing has been maintained in a decent, *safe*, and sanitary condition;
The property is not a *historic resource* under CEQA;	Whether the property is an "*historical resource*" under CEQA;
	Whether the removal of the resource will have a substantial adverse impact under CEQA;
The proposed replacement project *preserves rental housing* on site from conversion to other forms of occupancy or tenure;	Whether the project *converts rental housing* to other forms of tenure or occupancy;
The proposed replacement project *restores rent control* to equivalent number of units on the site;	Whether the project *removes rental units* subject to the *Rent Stabilization and Arbitration Ordinance*;
	Whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;
	Whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;
The proposed *replacement project features affordability* at least equivalent to the existing units;	Whether the project *protects the relative affordability of existing* housing;
The proposed replacement project serves as *supportive housing* or serves a special or underserved population;	Whether the project creates new *supportive housing*;
The proposed replacement project represents *no net loss in the number of family-sized units*;	Whether the project *creates quality, new family housing*;
The proposed replacement project is of *superb architectural and urban design*, meets or exceeds all relevant design guidelines and Area Plan policies;	Whether the protect promotes construction of *well-designed housing* to enhance existing neighborhood character;
The proposed replacement project results in a *net increase in the number of units* on-site;	Whether the project *increases the number of on-site dwelling units*;
	Whether the project increases the number of on-site bedrooms.
	Whether the project locates in-fill housing on appropriate sites in established neighborhoods;
	Whether the project increases the number of permanently affordable units as governed by Section 415;
The proposed project seeks to convert a ground-floor, street-facing residential use to a commercial use in a neighborhood commercial district where such commercial uses are desirable; and	
The proposed replacement project serves a public interest or public use that cannot be met without the proposed demolition.	
The assessed value of the units proposed for demolition exceed that which is affordable to households earning 100% of median income;	

Table 2: Comparing the Criteria of Section 207.7(b) to the Criteria for Mergers and Conversions in Section 317 (*emphasis* added)

Existing 207.7(b)(1-13): Applies to *Demolition, Merger, and Conversion* in the RTO, NCT, and Upper Market NCD	Existing 317e(2)(A-E) -- Criteria for Review of *Mergers*	Existing 317(f)(2)(A-E) -- Criteria for Review of *Conversions*
	Whether removal of the unit(s) would *eliminate only owner occupied housing*, and if so, for how long the unit(s) proposed to be removed have been owner occupied;	Whether conversion of the unit(s) would *eliminate only owner occupied housing*, and if so, for how long the unit(s) proposed to be removed were owner occupied;
	Whether removal of the unit(s) and the merger with another is intended for owner occupancy;	
	Whether removal of the unit(s) will bring the building *closer into conformance* with the prevailing *density* in its immediate area and in the same zoning district;	Whether conversion of the unit(s) will bring the building *closer into conformance* with the prevailing *character* of its immediate area and in the same zoning district;
	Whether removal of the unit(s) will bring the building *closer into conformance* with prescribed *zoning*;	
		Whether conversion of the unit(s) will be detrimental to the City's housing stock;
	Whether removal of the unit(s) is necessary to *correct design or functional deficiencies* that cannot be corrected through interior alterations.	Whether conversion of the unit(s) is necessary to *eliminate design, functional, or habitability deficiencies* that cannot otherwise be corrected.
The assessed value of the units proposed for demolition exceed that which is affordable to households earning 100% of median income;		
The units proposed for demolition are unsound, in accord with the Planning Commission's adopted definition of "unsound";		
There is no history of poor maintenance or Code violations;		
The property is not a historic resource under CEQA;		
The proposed replacement project results in a net increase in the number of units on-site;		
The proposed replacement project is of superb architectural and urban design, meets or exceeds all relevant design guidelines and Area Plan policies;		
The proposed replacement project preserves rental housing on site from conversion to other forms of occupancy or tenure;		
The proposed replacement project restores rent control to equivalent number of units on the site;		
The proposed replacement project features affordability at least equivalent to the existing units;		
The proposed replacement project represents no net loss in the number of family-sized units;		

Table 2: Comparing the Criteria of Section 207.7(b) to the Criteria for Mergers and Conversions in Section 317 (*emphasis* added)

Existing 207.7(b)(1-13): Applies to *Demolition, Merger, and Conversion* in the RTO, NCT, and Upper Market NCD	Existing 317e(2)(A-E) -- Criteria for Review of *Mergers*	Existing 317(f)(2)(A-E) -- Criteria for Review of *Conversions*
The proposed replacement project serves as supportive housing or serves a special or underserved population;		
The proposed project seeks to *convert a ground-floor, street-facing residential use to a commercial use in a neighborhood commercial district* where such commercial uses are desirable; and		Whether conversion of the unit(s) would *provide desirable new non-residential use(s)* appropriate for the neighborhood and adjoining district(s);
The proposed replacement project serves a public interest or public use that cannot be met without the proposed demolition.		

The Way It Would Be:

The draft Ordinance proposes amendments that may be divided into three topics: 1) consolidation and amendment of controls for the loss of dwelling units in Section 317 of the Planning Code; 2) added protection and flexibility for existing nonconforming units; and 3) simplification of the Planning Code.

1. **Consolidation and Amendment of Controls for Loss of Dwelling Units**
   Much of Section 207.7 and Section 212(e) would be deleted and replaced with a reference to Section 317. This would simplify the Planning Code by consolidating the location of controls for the loss of dwelling units. Section 317 would be amended to change the evaluation criteria for the loss of units, as well as to remove the provision that allows for the administrative review of dwelling unit mergers.

   Planning Code Section 207.7 would be amended to apply only to RTO and RTO-M zoning districts. In these two zoning districts, all demolitions, mergers, or conversions would require Conditional Use authorization. The thirteen criteria for review of loss of units would be deleted, and replaced with a reference to the amended criteria for evaluating demolition applications listed in Section 317(d)(3)(C). The draft Ordinance does not completely repeal Section 207.7 in order to maintain the requirement that the loss of two or fewer units in the RTO zoning districts obtain Conditional Use authorization.[4]

   Planning Code Section 212 would be amended to explicitly state that no Drive-Up facility, as defined in Planning Code Section 790.30, is permitted in the C-3 district. Section 212(e) would be amended by removing the specific criteria for consideration of loss of dwelling units, and replacing the existing criteria with a reference to Section 317, as well as the general criteria for review for applications for Conditional Use authorizations listed in Section 303. This change would result in stricter criteria for the evaluation of the loss of residential units above the ground floor in the C-3 districts.

   Planning Code Section 317 would be amended to:
   - Change the definitions related to the loss of dwelling units, in the following manner:
     1. Clarify that Section 317(b)(1), which defines "Residential Conversions," would not apply to the conversion of residential hotels, which are governed by the Administrative Code.

[4] Planning Code Section 207.7 requires that the loss of any dwelling units requires Conditional Use authorization; in most other zoning districts, the loss of up to two dwelling units requires a Mandatory Discretionary Review by the Planning Commission.

2. Highlight in Section 317(b)(11) that the presence of one "live-work" unit as a principal use in a structure would make the building a "Residential Building" for the purposes of the review of loss of units;
3. Add Section 317(b)(13) to define "Residential Use" as a Dwelling Unit or Group Housing as a principal use.

- Remove Section 317(e)(4), which allows for administrative review of proposed residential mergers that meet a super majority of the criteria for demolition. All proposals for residential mergers would be subject to a Mandatory Discretionary Review hearing unless the least expensive unit proposed for the merger is demonstrably not affordable or financially accessible.
- Add a new, 17th criterion for review of residential *demolitions*. The new criterion would require the Commission to consider whether the demolition would remove Affordable Housing or housing subject to the Rent Stabilization Ordinance, and if so, whether the replacement housing would be equal or greater in size, number of bedrooms, affordability, and suitability to households with children to the housing that is proposed for demolition (Section 317(d)(3)(C)(xvii)).
- For the evaluation of residential *mergers*, two criteria would be removed, and two criteria would be added. The effect of this change would be to move emphasis for consideration away from existing zoning and prevailing density and toward consideration of the loss of affordable housing. Specifically, the changes would be:
    1. The criterion that requires the Commission to consider whether the removal of the unit will bring the building closer into conformity with the prevailing density of the immediate area would be removed. This existing criterion would be replaced with a criterion that would require the Commission to consider whether the removal of the unit would remove Affordable Housing or housing subject to rent control (Section 317(e)(2)(C)).
    2. The existing criterion that requires the Commission to consider whether the removal of the unit will be bring the building closer into conformity with the prescribed zoning of the district would be removed, and replaced with a criterion that would require that the Commission, in cases in which Affordable or rent controlled units are lost, whether the replacement housing is equal or greater in size, number of bedrooms, affordability, and suitability to households with children to the units that may be removed (Section 317(e)(2)(D)).
- For the evaluation of residential *conversions*, one existing criterion would be removed and replaced, and two additional criteria would be added. Similar to the amendments related to residential mergers, the effect of this change would be to shift emphasis in consideration away from the existing zoning and prevailing density and toward loss of affordable housing. Specifically, the changes would be:
    1. The criterion that requires that the Commission consider the prevailing character of the immediate area and its zoning district would be replaced with a criterion that would specifically address conversions in zoning districts that do not permit residential uses, and would require that the Commission considers whether the residential conversion

brings the building closer into conformity with uses permitted in the zoning district (Section 317(f)(2)(C)).[5]

2. Criteria would be added that would require the Commission to consider: (1) whether the conversion will remove Affordable Housing or rent controlled units, and (2) if so, whether replacement housing will be provided that is equal or greater in size, number of bedrooms, affordability, and suitability to families with children to the units being converted (Section 317(f)(2)(F) and (G)).

2. **Added Protections and Flexibility for Nonconforming Units**
Legal, nonconforming units would be allowed to be enlarged, and when the permit history of an existing nonconforming unit is unclear, the presumption would be that the unit was legally constructed.

Planning Code Section 180, which describes and defines nonconforming uses, would be amended to add subsection 180(h), to assert that in enforcing nonconforming uses, there would be a strong presumption in favor of preserving dwelling units.

Planning Code Section 181, which outlines provisions for enlargements, alterations, and reconstruction of nonconforming uses, would be amended to:

- Add a new Section 181(b)(5) that would allow alterations necessary in order to bring the building into conformity with disabled access or to provide secure bike parking;
- Amend Section 181(c) would be amended to allow, in zoning districts in which dwelling units are principally permitted, even the nonconforming units that exceed the zoning district's permitted density to be enlarged, altered, or reconstructed, provided that the alterations would not increase the nonconformity in permitted height, bulk, or required rear yards or setbacks.
- Amend Section 181(h) to include buildings with residential uses in the M-2 zoning district.

3. **Simplification of the Planning Code**
The proposed Ordinance would repeal, in their entirety, the following Planning Code Sections and subsections, and would instead provide consistent references in Articles 7 and 8 to the controls for loss of dwelling units consolidated into Section 317:

- 790.84 (Residential Demolition, defined for Neighborhood Commercial districts);
- 790.86 (Residential Merger, defined for Neighborhood Commercial districts);
- 803.8(a) (Housing in Mixed Use Districts – Demolition or Conversion of Group Housing or Dwelling Units in South of Market Mixed Use Districts);
- 890.84 (Residential Conversion, defined for Mixed-Use districts); and
- 890.86 (Residential Demolition, defined for Mixed-Use districts).

REQUIRED COMMISSION ACTION

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

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[5] List districts in which residential uses are not permitted.

RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The specific modifications recommended by the Department are detailed below.

BASIS FOR RECOMMENDATION

As noted above, the draft Ordinance proposes a series of amendments that may be divided into three broad categories: 1) consolidation of and amendments to the controls for loss of residential units; 2) additional protections and flexibility for nonconforming units; and 3) general Planning Code "clean up" amendments to condense the controls for loss of dwelling units to Article 3. Many of the proposed amendments reduce duplicative references and serve to update the Code in a manner consistent with planning efforts in recent years, including the focus on increasing density near transit in a manner that is sensitive to existing neighborhood character.

The Department recommends the following modifications to the draft Ordinance:

Consolidation and Amendment of Controls for Loss of Dwelling Units
Planning Code Section 207.7 was created as part of the Market and Octavia planning effort, and was added to the Planning Code in 2008.[6] It details restrictions on the loss of residential units that are specific to the RTO, NCT, and the Upper Market Neighborhood Commercial Districts.[7] The procedure outlined for the review of the loss of dwelling units is slightly different in Section 207.7 than in Section 317, as are the criteria for review. As proposed, the draft Ordinance would eliminate much of Section 207.7 and replace it with a reference to the controls and criteria of Section 317. It is important to note that as proposed, the draft Ordinance replaces the single set of criteria set forth in 207.7 (which applies to the loss of a dwelling unit through demolition, merger or conversion), with the contrasting approach outlined in Section 317, which uses separate criteria to evaluate demolitions, mergers, and conversions. The differences between the criteria for evaluation are summarized above in Table 1, which illustrates that while many of the criteria are similar, they are not exactly the same. Similarly, the draft Ordinance proposes deleting much of Section 212(e), which addresses the loss of residential units above the ground floor in the C-3 Districts, and adding a reference to Sections 303 and 317. Section 212(e) outlines a specific process as well as specific criteria for review, which are not the same as those outlined in Section 317.

The Department recommends the following modifications to the draft Ordinance related to the loss of dwelling units:

1. **Repeal Section 207.7 in its entirety.** The draft Ordinance maintains 207.7(a) and a portion of 207.7(b) in order to preserve the requirement that the loss of any number of units in the RTO zoning district obtain Conditional Use authorization, rather than the more typical requirement that a Mandatory Discretionary Review is required for the loss of up to two units and Conditional Use authorization for three or more units. In addition, the amendment would apply

[6] Section 207.7 was added by Ordinance 72-08, Board File 071157.

[7] Section 207.7(a) includes the following explicit policy statement: that addresses the potential for the flexible density and parking controls in the Market-Octavia to encourage demolition: the controls are "intended to foster creative infill housing of moderate to high density while maintaining the character of the district. The intent of this flexibility, however, is not to encourage the demolition or removal of existing housing stock, particularly units in older buildings."

requirements in 207.7 to RTO-M zoning districts in the Mission District. The Department recommends that Section 207.7 be repealed in its entirety, and that the specific requirement for Conditional Use authorization for the loss of one and two units in the RTO and RTO-M districts be added to Section 317. As detailed below, the Department further recommends that the criteria for review of loss of dwelling units in Section 317 be amended to include the criteria developed through the Market-Octavia Plan currently listed in Section 207.7. These changes are proposed in the spirit of Code consolidation and clarity.

2. **Delete Section 212(e) in its entirety.** The draft Ordinance deletes most of Section 212(e), which includes controls and criteria for the review of the loss of dwelling units in the C-3 Zoning District, and replaces them with a reference to Sections 303 and 317. The criteria for review of the loss of dwelling units in the C-3 are less stringent than those used in residential and neighborhood commercial districts. The Department's proposed modification would delete the entire subsection, but would add new language to Section 317 to include the specific controls and criteria listed in Section 212(e). These changes are proposed in the spirit of Code consolidation and clarity, and maintain the current standards for review of the loss of dwelling units in the C-3 Zoning District.

3. **Add Requirements to and Amend Criteria in Section 317(c) and (d).** While the Department recommends repealing Section 207.7, it also recommends adding language to Section 317 to maintain the review and evaluation policies for the loss of units outlined currently in Section 207.7, developed through the Market and Octavia Plan, as well as the policies currently located in Section 212(e), applicable to the loss of dwelling units in the C-3 districts. These modifications would eliminate the need for Section 207.7 as well as Section 212(e). To this end, the Department recommends the following:

   a. Amend Section 317(c) Applicability in two ways: 1) Add language that requires Conditional Use authorization for the demolition of any units, the merger of two or more units, or the conversion of any unit within the RTO, RTO-M, NCT, and Upper Market NCD Zoning Districts; 2) Add language to Section 317 that addresses the loss of units by demolition, merger, or conversion in the C-3 Zoning Districts, and note that the criteria for review of the required Conditional Use authorization are different than those outlined in Section 303, and are applicable only to the C-3 Zoning District. The Department recommends the following language:

      317(c) **Applicability.** ~~Where~~ ***A***n application for a permit that would result in the loss of one or more Residential Units is required to obtain Conditional Use authorization ~~by other sections of this Code~~ ***in the RTO, RTO-M, NCT, and Upper Market NCD Zoning Districts, as well as the loss of any residential unit above the ground floor in the C-3 Zoning District. T***he application for a replacement building or alteration permit shall also be subject to Conditional Use requirements. ***When considering whether to grant Conditional Use authorization for the loss of dwelling unit(s) in the C-3 districts, in lieu of the criteria set forth in Planning Code Section 303, consideration shall be given to the adverse impact on the public health, safety, and general welfare of the loss of housing stock in the district and to any unreasonable hardship to the applicant if the permit is denied.***

   b. Amend the language of 317(d)(3)(A) to clarify that buildings proposed for demolition in RH-1 ***and RH-1(d)*** districts are not subject to a Mandatory Discretionary Review if they meet the levels that define "demonstrably not affordable."

c. Amend Section 317(d) by adding the specific criteria for evaluating the loss of dwelling units currently listed in Section 207.7 that are not listed in Section 317(d) to maintain the review and evaluation policies for the loss of units outlined currently in Section 207.7, developed through the Market-Octavia Plan. The Department's recommendation are summarized in the table below; please note that the Section 317(d)(3)(C) subsection numbers have been added to the proposed modifications for clarity:

Table 3: Comparing the Criteria for Demolition in the Draft Ordinance to the Department's Proposed Modifications

Draft Ordinance: Amended 317(d)(3)(C)(i-xvi) -- Criteria For Review of Demolition	**Department's Proposed Modifications to Section 317(d)(3)(A)(i-xvi) of the Draft Ordinance**
Whether the property is free of a history of serious, continuing Code violations;	(i) Whether the property is free of a history of serious, continuing Code violations;
Whether the housing has been maintained in a decent, safe, and sanitary condition;	(ii) Whether the housing has been maintained in a decent, safe, and sanitary condition;
Whether the property is an "historical resource" under CEQA;	(iii) Whether the property is an "historical resource" under CEQA;
Whether the removal of the resource will have a substantial adverse impact under CEQA;	(iv) Whether the removal of the resource will have a substantial adverse impact under CEQA;
Whether the project converts rental housing to other forms of tenure or occupancy;	(v) Whether the project converts rental housing to other forms of tenure or occupancy;
Whether the project removes rental units subject to the Rent Stabilization and Arbitration Ordinance;	(vi) Whether the project removes rental units subject to the Rent Stabilization and Arbitration Ordinance ***or Affordable Housing***;
Whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;	(vii) Whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;
Whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;	(viii) Whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;
Whether the project protects the relative affordability of existing housing;	(ix) Whether the project protects the relative affordability of existing housing;
Whether the project increases the number of permanently affordable units as governed by *Article 4*;	(x) Whether the project increases the number of permanently affordable units as governed by ~~*Article 4*~~ ***Section 415***;
Whether the project locates in-fill housing on appropriate sites in established neighborhoods;	(xi) Whether the project locates in-fill housing on appropriate sites in established neighborhoods;
Whether the project creates quality, new family housing;	(xii) Whether the project~~ creates Quality new family housing~~, ***increases the number of family-sized units on-site***;
Whether the project creates new supportive housing;	(xiii) Whether the project creates new supportive housing;

Table 3: Comparing the Criteria for Demolition in the Draft Ordinance to the Department's Proposed Modifications

Draft Ordinance: Amended 317(d)(3)(C)(i-xvi) -- Criteria For Review of Demolition	Department's Proposed Modifications to Section 317(d)(3)(A)(i-xvi) of the Draft Ordinance
Whether the ~~protect~~ *project* promotes construction of well-designed housing to enhance existing neighborhood character;	(xiv) Whether the *project* ~~promotes construction of well-designed housing to~~ ***is of superb architectural and urban design, meeting all relevant design guidelines***, to enhance existing neighborhood character;
Whether the project increases the number of on-site dwelling units;	(xv) Whether the project increases the number of on-site dwelling units;
Whether the project increases the number of on-site bedrooms.	(xvi) Whether the project increases the number of on-site bedrooms.
If the Residential Demolition removes Affordable Housing or housing subject to the Rent Stabilization and Arbitration Ordinance, whether replacement housing will be provided which is equal or greater in size, number of bedrooms, affordability, and suitability to households with children to the housing to be demolished.	~~*(xvii) If the Residential Demolition removes Affordable Housing or housing subject to the Rent Stabilization and Arbitration Ordinance, whether replacement housing will be provided which is equal or greater in size, number of bedrooms, affordability, and suitability to households with children to the housing to be demolished.*~~

4. **Remove the new definition for "Residential Use" proposed in the draft Ordinance for Section 317(b)(13).** Instead, amend the existing definition of "Residential Unit" in Section 317(b)(12) to include Group Housing, along with Dwelling Units and Live/Work units. This would require that the loss of housing in the form of Group Housing, as defined in Section 209.2(a-c), be considered in the same manner (and subject to the same fees and process) as the loss of dwelling units and live/work units – without the need for a new definition in Section 317(b). The Department recommends the following language for Section 317(b)(12):

   "Residential Unit" shall mean a legal conforming or non-conforming dwelling unit as defined in Planning Code Section 102.7, or a legal non-conforming Live/Work Unit as defined in Planning Code Section 102.13, ***or Group Housing as defined in Planning Code Section 209.2(a)(b) and (c)***.

5. **Add Requirements to and Amend Criteria in Section 317(e).** In Section 317(e), which addresses **Mergers**, the effect of the changes proposed in the draft Ordinance would be to move emphasis for consideration away from existing zoning and prevailing density and toward consideration of the loss of affordable housing. While the Department agrees that more consideration should be given to the loss of affordable housing given the housing crisis in San Francisco, it seems this should be balanced with consideration of existing law. If the density controls in the existing Planning Code are believed to be too restrictive, then density limits should be explicitly amended. Therefore, the Department recommends the following modifications to the draft Ordinance, which would both preserve consideration of existing zoning laws and add consideration of the loss of affordable housing:

   a. Do not amend the criterion in Section 317(e)(2)(iv) that reads, "whether the removal of the unit will bring the building closer into conformance with the prescribed zoning."

   b. Amend the proposed new criterion in Section 317(e)(2)(D), and replace it with a new criterion that considers whether the merged unit will provide family-sized housing, by including the following language, "***whether the number of bedrooms provided in the***

merged unit will be equal to or greater than the number of bedrooms in the separate units."

c. Clarify the term "owner-occupied" as used in Section 317(e)(2)(i) and (ii).

6. **Delete Inapplicable Language in Section 317(f).** In Section 317(f). which addresses **Conversion** of existing units from residential uses to non-residential uses, the Department recommends removing two new criteria proposed in the draft Ordinance, as they do not appear to applicable or necessary. The Department recommends deleting the following criteria, in the spirit of Code consolidation and clarity:

   a. Delete Section 317(f)(2)(C), which, as amended would require that the Commission consider whether, in districts in which residential uses are not permitted (such as industrial districts), the residential conversion will bring the building in closer conformity with uses permitted in the district. This is not necessary, as any new use proposed through a conversion would need to be consistent with the existing zoning, and would be subject to all Planning Code requirements.

   b. Delete the proposed new Section 317(f)(2)(G), which evaluates the replacement housing as it compares to the existing housing. This criterion does not appear to be applicable to the conversion of a residential use to a non-residential use.

Added Protections and Flexibility for Nonconforming Units

Planning Code Sections 180 and 181, as noted above, define and outline controls for nonconforming uses, including dwelling units that lawfully exist, but that are in excess of the permitted density of the zoning district in which they are located. The draft Ordinance would amend Planning Code 181(c) to allow nonconforming units that exceed the permitted density to expand. The Department's proposed modifications would allow nonconforming units to expand, but would add an additional layer of oversight when the expansion may result in decreased affordability of expanded nonconforming units.

The following three modifications are suggested to both clarify the Code, as well as to protect affordability of existing housing:

1. **Amend Section 180(h).** In the proposed new Section 180(h), clarify the term "strong presumption in favor of preserving Dwelling Units" revising the section to read, "**Preserving Dwelling Units.** ***If the administrative record regarding a nonconforming unit does not provide conclusive evidence that the unit is illegal, it shall be presumed to be a legal nonconforming unit.***"

2. **Delete Section 181(b)(5).** In the proposed new Section 181(b)(5), alterations to bring nonconforming uses into conformity with disabled access requirements and to provide secure bike parking are permitted. The Department recommends deleting this section, as any proposed alteration of a nonconforming unit may be altered to conform to such requirements through the existing Variance process.

3. **Amend Section 181(c).** In section 181(c), remove the proposed new language that would specify that nonconforming units that exceed the permitted density would only be allowed to expand "so long as such enlargements, alterations, or reconstruction do not otherwise increase nonconformity in permitted height, bulk, or required rear yards or setbacks." The Department recommends that the draft Ordinance be amended to explicitly state that dwellings that are

nonconforming as to density, in districts where a Dwelling Unit is a principally permitted use, may be expanded, altered, or enlarged. However, the Department also recommends that when a nonconforming unit is expanded or altered, Conditional Use authorization is required if the number of on-site bedrooms is increased. To that end, the Department recommends the following language:

181(c) A dwelling or other housing structure exceeding the permitted density of dwelling units or other housing units set forth in Sections 207.5, 208, 209.1, 209.2, or 215 of this Code for the district in which it is located shall be classified as a nonconforming use under Section 180 of this Code, but only to the extent that such dwelling or other housing structure exceeds the permitted density. This Section 181 shall *not* apply with respect to enlargements, alterations and reconstruction of the nonconforming portion of such dwelling or other housing structure, consisting of those dwelling units or other housing units which exceed the permitted density ***in districts in which a Dwelling Unit is a principally permitted use, Dwelling Units that are nonconforming as to density in such districts may be altered, enlarged, or expanded. When the alteration would result in the addition of one or more bedroom(s) to the nonconforming unit, Conditional Use authorization shall be required.*** Any dwelling unit or other housing unit coming within the density limit shall not be affected by this Section 181. Except as provided in Sections 181(h) and 182(e), no dwelling or other housing structure exceeding the permitted density of dwelling units or other housing units shall be altered to increase the number of dwelling units or other housing units therein, or to increase or create any other nonconformity with respect to the dwelling unit or other housing unit density limitations of Section 209.1 or Section 209.2.

ISSUES AND CONSIDERATIONS

Nonconforming Units and Affordability

The draft Ordinance proposes a series of amendments to the Planning Code, which, if adopted, would result in changes to the way that the loss of residential housing and alterations to nonconforming units are controlled and considered. While the Department is generally supportive of the amendments, careful consideration should be given to the potential for unintended implications to the affordability of existing nonconforming residential units.

For the purposes of this report, nonconforming units are legal units that do not conform to current existing density controls. Generally speaking, these units are in older buildings constructed prior to the establishment of current zoning districts; a typical example is a three-unit building located in an RH-2 zoning district, or a larger apartment building located on a corner parcel within an RH-2 zoning district. Currently, buildings that contain a greater number of units than is permitted by the zoning district in which they are located must designate units as either "conforming," or "nonconforming." Only those units that are conforming may be expanded or otherwise altered. Building owners may choose which units to designate as conforming or nonconforming, which means that most often the smallest or least desirable units are made the nonconforming units. The age of the structure, together with the prohibition to expand, means that very often nonconforming units are among the city's most affordable housing stock, and are often subject to rent control. While these units are affordable, they are not, by definition, so-called "secondary units," or "illegal in-law" units, as they were legally constructed with permits.[8]

[8] Secondary units, distinct from nonconforming units, also provide an important source of affordable housing in San Francisco. The March, 2013 report "Our Hidden Communities: Secondary Unit Households in the Excelsior Neighborhood of San Francisco,"

Based on information from the Department's Information and Analysis group, of the approximately 360,000 dwelling units in the City, nearly 52,000 units exceed the permitted zoning of the parcel on which they are located, representing close to 14% of existing units in the City – and, as noted above, many of these units provide affordable housing. The amendments to controls for nonconforming units included in the draft Ordinance would provide increased flexibility, which could encourage the improvement, expansion, or production of family-sized housing. Alternatively, the amendments could result in expansions that would increase the cost of the units, including rental units, such that they are no longer affordable.[9] **At this point, the Department cannot fully predict the implications of such a change but encourages decision-makers to carefully consider these potential impacts to the city's most affordable, yet unsubsidized, form of housing.**

The Department's recommendation, detailed above, is intended to provide oversight in cases that would expand nonconforming units in a manner that includes adding bedrooms, by requiring Conditional Use authorization. This recommendation is intended to provide increased flexibility while allowing the Commission to consider the impacts to affordability that a proposed expansion or alteration may have. The proposed modification is consistent with the Department's support for the amendment to Section 317(e) in the draft Ordinance, which removes the administrative review criteria for residential mergers: such mergers may impact the city's naturally affordable units, and should also require careful review by the Commission.

In addition to concerns regarding impact to affordability of nonconforming units, the Department would like to make explicit the review process for enlarging or altering nonconforming units. As drafted, the proposed Ordinance would amend Section 181(c) allow nonconforming units to expand "so long as such enlargements, alterations, or reconstruction do not otherwise increase nonconformity in permitted height, bulk, or required rear yards or setbacks."[10] This may create a scenario by which, through serial permits, a nonconforming use could be expanded, provided that the conforming units are first enlarged, and then in a subsequent stage the nonconforming units are expanded into the new "buildable envelope."

Consolidation and Amendment of Controls for Loss of Dwelling Units

The draft Ordinance consolidates the controls and criteria for review for the loss of dwelling units in a single location in the Planning Code. The Department is supportive of this amendment and is hopeful that this will help to improve consistency of review and public understanding of the controls.

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by the Asian Law Caucus (available online at: http://www.advancingjustice-alc.org/news-media/publications/our-hidden-communities-secondary-unit-households-excelsior-neighborhood-san (July 10, 2013)) outlines the role of in-law units, the problems associated with their lack of legal standing, and provides policy recommendations to ensure health and safety as well as to preserve existing housing stock.

[9] The costs associated with alterations, expansions, and improvements to rental units may be passed through to existing tenants by petitioning the Rent Board for a Capital Improvement Passthrough. In buildings with five or fewer residential units, 100% of the improvement cost may be passed through to the tenant. In buildings with six or more units, in most cases 50% of the improvement cost may be passed through. (Information provided by the San Francisco Rent Board: http://www.sfrb.org/index.aspx?page=947).

[10] Language included in Section 181(c), lines 9-10 of the Draft Ordinance.

ENVIRONMENTAL REVIEW

The proposed Ordinance reviewed and determined to be not a project pursuant to CEQA Section 15060(c)(2) on January 22, 2013. Please note that individual projects will undergo physical environmental review.

PUBLIC COMMENT

Staff has received no public comment at the time of the publication of this report, although we continue to conduct outreach, in coordination with Supervisor Avalos and his staff, in order to further explore impacts to affordability of housing discussed above.

RECOMMENDATION:	Recommendation of Approval with Modifications

BOARD of SUPERVISORS

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MEMORANDUM

LAND USE AND ECONOMIC DEVELOPMENT COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Scott Wiener, Chair
Land Use and Economic Development Committee

FROM: Andrea Ausberry, Committee Clerk

DATE: December 10, 2013

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, December 10, 2013

The following files should be presented as a **COMMITTEE REPORT** at the Board meeting, Tuesday, December 10, 2013. These items were acted upon at the Committee Meeting on December 9, 2013, at 1:30 p.m., by the votes indicated.

Item No. 34 **File No. 130041**

Ordinance amending the Planning Code to revise the criteria for residential demolition, merger and conversion, and to standardize those definitions across use districts and prohibit residential mergers where certain evictions of tenants have occurred; establish a strong presumption in favor of preserving dwelling units in enforcement of code requirements; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

REFERRED WITHOUT RECOMMENDATION AS A COMMITTEE REPORT
Vote: Supervisor Scott Wiener - Aye
Supervisor Jane Kim - Aye
Supervisor David Chiu - Aye

Item No. 35 File No. 130783

Ordinance amending the Planning Code to permit the enlargement, alteration or reconstruction of a dwelling or other housing structure that exceeds the permitted density of the district if dwelling units are principally permitted in the district and the enlargement, alteration or reconstruction does not extend beyond the building envelope as it existed on January 1, 2013, and if no tenants were evicted under certain provisions of the Rent Ordinance; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

REFERRED WITHOUT RECOMMENDATION AS A COMMITTEE REPORT
Vote: Supervisor Scott Wiener - Aye
Supervisor Jane Kim - Aye
Supervisor David Chiu - Aye

Item No. 36 File No. 130998

Ordinance amending the Planning Code, by adding Section 102.37 and amending Section 204.1, to allow Cottage Food Operation as an accessory use for dwelling units and increase the allowable area for accessory uses in dwelling units; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

RECOMMENDED AS A COMMITTEE REPORT
Vote: Supervisor Scott Wiener - Aye
Supervisor Jane Kim - Aye
Supervisor David Chiu – Aye

Item No. 37 File No. 131149

Resolution adding the name "Donaldina Cameron Alley" to Old Chinatown Lane in recognition of Donaldina Cameron and her many contributions to San Francisco.

This item did not come out as a Committee Report.

Item No. 38 File No. 131150

Resolution adding the name "Harold 'Bud' Moose Lane" to Merchant Street in recognition of Bud Moose and his many contributions to San Francisco.

This item did not come out as a Committee Report.

Item No. 39 File No. 131151

Resolution adding the name "Enid Ng Lim Alley" to Bartol Street in recognition of Enid Ng Lim and her many contributions to San Francisco.

This item did not come out as a Committee Report.

c: Board of Supervisors
Angela Calvillo, Clerk of the Board
Rick Caldeira, Deputy Legislative Clerk
Jon Givner, Deputy City Attorney

Miller, Alisa

From: Pollock, Jeremy
Sent: Monday, December 09, 2013 10:26 AM
Subject: FW: File number 130041: Residential demolition, merger, and conversion ordinance.

From: Anna M. Krieger [mailto:akrieger@gmail.com]
Sent: Monday, December 09, 2013 10:12 AM
To: Board of Supervisors
Subject: File number 130041: Residential demolition, merger, and conversion ordinance.

I write in support of Supervisor Avalos' proposal to change merger criteria in San Francisco. I am a tenant in San Francisco and my former landlord attempted to displace me from my home through a merger that would have removed rent control protections. **Mergers should not be a back-door to an eviction of tenants in rent-controlled properties.** This is why I support Supervisor Avalos' change to the merger criteria.

I lived with my partner in a two-unit rental property that was foreclosed on and bought at auction by a property developer who wanted to flip the property. The property developer told me and my partner that he wanted us to leave the building so he could resell the property. When we told him we did not want to leave, he threatened to Ellis Act evict us. The tenant in the other unit left, but, **instead of proceeding with the Ellis Act eviction, the property developer sought merge the two units, which would have removed all rent control protections and allowed him to evict us.** The property developer did not live in the other unit and did not intend to move in after the merger was completed. The merger was administratively approved by the Planning Department based on incomplete information provided by the property developer and without anyone from Planning speaking with us. So, our only option was to request a discretionary review because there was no mandatory review. We spent countless hours and our own money on the discretionary review. **We were extremely lucky to have the support of Supervisor Campos, Supervisor Avalos, and the San Francisco Tenants Union.** After many months, we came to an agreement with the property developer, however, had the new merger law proposed by Supervisor Avalos been in place, we never would have had to engage in this fight and our tenancy would not have been unfairly threatened.

I believe mergers should never be used as a means to displace tenants from a rent-controlled property. **Mergers should not subvert the purpose of rent-control protections.** We were lucky in that we had the resources and knowledge to oppose the merger of our units, however no one else should have to go through what we did. **Mergers should not become back-door evictions at the price of our city's valuable and irreplaceable affordable housing stock.**

Sincerely,

Anna Krieger

Resident of District 11

San Francisco, CA

--
Anna M. Krieger

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

MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Chris Schulman, Commission Secretary
Small Business Commission, City Hall, Room 448

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: July 30, 2013

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use & Economic Development Committee

The Board of Supervisors' Land Use and Economic Development Committee has received the following **substitute** legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 130041-2

Ordinance amending the Planning Code to revise the criteria for residential demolition, conversion, and merger and to standardize those definitions across use districts; establish a strong presumption in favor of preserving dwelling units in enforcement of Code requirements; and making environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

****

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: September 17, 2013

X **No Comment**

____ **Recommendation Attached**

Chairperson, Small Business Commission

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

August 6, 2013

File No. 130041-2

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

Dear Ms. Jones:

On July 30, 2013, Supervisor Avalos introduced the following **substitute** legislation:

File No. 130041-2

Ordinance amending the Planning Code to revise the criteria for residential demolition, conversion, and merger and to standardize those definitions across use districts; establish a strong presumption in favor of preserving dwelling units in enforcement of Code requirements; and making environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

A categorical exemption stamp was received on January 22, 2013 for the previous version of the legislation. If you wish to submit an additional determination for this version, please forward it to me.

Angela Calvillo, Clerk of the Board

By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

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

August 6, 2013

Planning Commission
Attn: Jonas Ionin
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On July 30, 2013, Supervisor Avalos introduced the following **substitute** legislation:

File No. 130041-2

Ordinance amending the Planning Code to revise the criteria for residential demolition, conversion, and merger and to standardize those definitions across use districts; establish a strong presumption in favor of preserving dwelling units in enforcement of Code requirements; and making environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

The Planning Commission held a public hearing on the previous version of this legislation on July 18, 2013 and their recommendation has been received for the file. If you wish to submit additional documentation or reports, please forward them to me.

Angela Calvillo, Clerk of the Board

By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

c: John Rahaim, Director of Planning
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
AnMarie Rodgers, Legislative Affairs
Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

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

MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Chris Schulman, Commission Secretary
Small Business Commission, City Hall, Room 448

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: July 30, 2013

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use & Economic Development Committee

The Board of Supervisors' Land Use and Economic Development Committee has received the following **substitute** legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 130041-2

Ordinance amending the Planning Code to revise the criteria for residential demolition, conversion, and merger and to standardize those definitions across use districts; establish a strong presumption in favor of preserving dwelling units in enforcement of Code requirements; and making environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

****

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

____ No Comment

____ Recommendation Attached

_____
Chairperson, Small Business Commission

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

MEMORANDUM

TO: Tom Hui, Acting Director, Department of Building Inspection

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: August 6, 2013

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following **substitute** legislation, introduced by Supervisor Avalos on July 30, 2013. This matter is being referred to your department for informational purposes.

File No. 130041-2

Ordinance amending the Planning Code to revise the criteria for residential demolition, conversion, and merger and to standardize those definitions across use districts; establish a strong presumption in favor of preserving dwelling units in enforcement of Code requirements; and making environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

If you wish to submit any reports or documentation to be included as part of the file, please send those to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: William Strawn, Department of Building Inspection
Carolyn Jayin, Department of Building Inspection

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

January 22, 2013

File No. 130041

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

Dear Mr. Wycko:

On January 15, 2013, Supervisor Avalos introduced the following proposed legislation:

File No. 130041

Ordinance amending the Planning Code, by repealing Sections 790.84, 790.86, 890.84, and 890.86, and amending Section 317, and various other sections, to revise the criteria for the residential demolition, conversion, and merger; standardize definitions of residential demolition, conversion, and merger across various use districts; permit the enlargement or alteration of dwelling units which are nonconforming as to density in districts where dwelling units are principally permitted if there is no increase in nonconformity of height, bulk, or required rear yards or setbacks; permit alterations to nonconforming uses or noncomplying structures to comply with disabled access requirements or to provide secure bicycle parking; establish a strong presumption in favor of preserving dwelling units in enforcement of requirements for nonconforming uses, structures, and lots; and making environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code, Section 101.1.

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

Angela Calvillo, Clerk of the Board
By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

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

January 22, 2013

Planning Commission
Attn: Linda Avery
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On January 15, 2013, Supervisor Avalos introduced the following proposed legislation:

File No. 130041

Ordinance amending the Planning Code, by repealing Sections 790.84, 790.86, 890.84, and 890.86, and amending Section 317, and various other sections, to revise the criteria for the residential demolition, conversion, and merger; standardize definitions of residential demolition, conversion, and merger across various use districts; permit the enlargement or alteration of dwelling units which are nonconforming as to density in districts where dwelling units are principally permitted if there is no increase in nonconformity of height, bulk, or required rear yards or setbacks; permit alterations to nonconforming uses or noncomplying structures to comply with disabled access requirements or to provide secure bicycle parking; establish a strong presumption in favor of preserving dwelling units in enforcement of requirements for nonconforming uses, structures, and lots; and making environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code, Section 101.1.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

c: John Rahaim, Director of Planning
Scott Sanchez, Zoning Administrator
Bill Wycko, Chief, Major Environmental Analysis
AnMarie Rodgers, Legislative Affairs
Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS

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

MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Chris Schulman, Commission Secretary
Small Business Commission, City Hall, Room 448

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: January 22, 2013

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use & Economic Development Committee

The Board of Supervisors' Land Use and Economic Development Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 130041

Ordinance amending the Planning Code, by repealing Sections 790.84, 790.86, 890.84, and 890.86, and amending Section 317, and various other sections, to revise the criteria for the residential demolition, conversion, and merger; standardize definitions of residential demolition, conversion, and merger across various use districts; permit the enlargement or alteration of dwelling units which are nonconforming as to density in districts where dwelling units are principally permitted if there is no increase in nonconformity of height, bulk, or required rear yards or setbacks; permit alterations to nonconforming uses or noncomplying structures to comply with disabled access requirements or to provide secure bicycle parking; establish a strong presumption in favor of preserving dwelling units in enforcement of requirements for nonconforming uses, structures, and lots; and making environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code, Section 101.1.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

****

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

____ No Comment

____ Recommendation Attached

_____
Chairperson, Small Business Commission

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

MEMORANDUM

TO: Tom Hui, Acting Director, Department of Building Inspection

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: January 22, 2013

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, introduced by Supervisor Avalos on January 15, 2013. This matter is being referred to your department for informational purposes.

File No. 130041

Ordinance amending the Planning Code, by repealing Sections 790.84, 790.86, 890.84, and 890.86, and amending Section 317, and various other sections, to revise the criteria for the residential demolition, conversion, and merger; standardize definitions of residential demolition, conversion, and merger across various use districts; permit the enlargement or alteration of dwelling units which are nonconforming as to density in districts where dwelling units are principally permitted if there is no increase in nonconformity of height, bulk, or required rear yards or setbacks; permit alterations to nonconforming uses or noncomplying structures to comply with disabled access requirements or to provide secure bicycle parking; establish a strong presumption in favor of preserving dwelling units in enforcement of requirements for nonconforming uses, structures, and lots; and making environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code, Section 101.1.

If you do wish to submit any additional reports or documentation to be included as part of the file, please send those to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: William Strawn, Legislative & Public Affairs, Department of Building Inspection
Carolyn Jayin, Department of Building Inspection

Member, Board of Supervisors
District 8

City and County of San Francisco

SCOTT WIENER
威善高

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2013 DEC -5 AM 9:47

DATE: December 3, 2013

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Scott Wiener
Chairperson

RE: Land Use and Economic Development Committee
COMMITTEE REPORT

Pursuant to Board Rule 4.20, as Chair of the Land Use and Economic Development Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on December 10, 2013, as a Committee Report:

130041 **Planning Code - Conversion, Demolition, Merger, and Conformity of Residential Uses**

Ordinance amending Planning Code, Section 317, and various other sections, and repealing Sections 790.84, 790.86, 890.84, and 890.86, to revise the criteria for the residential demolition, conversion, and merger; standardize definitions of residential demolition, conversion, and merger across various use districts; permit the enlargement or alteration of dwelling units which are nonconforming as to density in districts where dwelling units are principally permitted if there is no increase in nonconformity of height, bulk, or required rear yards or setbacks; permit alterations to nonconforming uses or noncomplying structures to comply with disabled access requirements or to provide secure bicycle parking; establish a strong presumption in favor of preserving dwelling units in enforcement of requirements for nonconforming uses, structures, and lots; and making environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code, Section 101.1.

This matter will be heard in the Land Use and Economic Development Committee on December 9, 2013, at 1:30 p.m.

City Hall • 1 Dr. Carlton B. Goodlett Place • Room 244 San Francisco, California 94102-4689 • (415) 554-6968
Fax (415) 554-6909 • TDD/TTY (415) 554-5227 • E-mail: Scott.Wiener@sfgov.org

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

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

☐ 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.

☐ 2. Request for next printed agenda without reference to Committee.

☐ 3. Request for hearing on a subject matter at Committee.

☐ 4. Request for letter beginning "Supervisor [ ] inquires"

☐ 5. City Attorney request.

☐ 6. Call File No. [ ] from Committee.

☐ 7. Budget Analyst request (attach written motion).

☒ 8. Substitute Legislation File No. 130041

☐ 9. Request for Closed Session (attach written motion).

☐ 10. Board to Sit as A Committee of the Whole.

☐ 11. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☒ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

Supervisor John Avalos

Subject:

Ordinance - Planning Code - Conversion, Demolition, Merger, and Conformity of Residential Uses

The text is listed below or attached:

Signature of Sponsoring Supervisor:

For Clerk's Use Only:

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

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

☒ 1. For reference to Committee: [ ]

An ordinance, resolution, motion, or charter amendment.

☐ 2. Request for next printed agenda without reference to Committee.

☐ 3. Request for hearing on a subject matter at Committee: [ ]

☐ 4. Request for letter beginning "Supervisor [ ] inquires"

☐ 5. City Attorney request.

☐ 6. Call File No. [ ] from Committee.

☐ 7. Budget Analyst request (attach written motion).

☐ 8. Substitute Legislation File No. [ ]

☐ 9. Request for Closed Session (attach written motion).

☐ 10. Board to Sit as A Committee of the Whole.

☐ 11. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.

Sponsor(s):

John Avalos

Subject:

Planning Code - Conversion, Demolition, Merger and Conformity of Residential Uses

The text is listed below or attached:

Signature of Sponsoring Supervisor: [signature]

For Clerk's Use Only: