File No. 150805 Committee Item No. 3
Board Item No. 6

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Land Use & Transportation Date July 27, 2015

Board of Supervisors Meeting Date 9/8/15

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Completed by: Andrea Ausberry Date July 24, 2015
Completed by: _____ Date _____

BOARD of SUPERVISORS

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MEMORANDUM

LAND USE AND TRANSPORTATION COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Malia Cohen, Chair
Land Use and Transportation Committee

FROM: Andrea Ausberry, Assistant Clerk

DATE: July 27, 2015

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, July 28, 2015

The following file should be presented as a **COMMITTEE REPORT** at the Board meeting, Tuesday, July 28, 2015. This item was acted upon at the Committee Meeting on Monday, July 27, 2015, at 1:30 p.m., by the votes indicated.

Item No. 75 **File No. 150805**

Ordinance amending the Planning Code to allow the construction of Accessory Dwelling Units (ADUs, also known as Secondary or In-Law Units) within the boundaries of Board of Supervisors District 3, ~~prohibit approval of an application for construction of an ADU in any building where a tenant has been evicted under the Ellis Act within ten years prior to filing the application, and prohibit an ADU from being used for short-term rental~~ require the Planning Department to monitor the use of ADUs as short-term rentals; amending the Administrative Code to correct section references; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and directing the Clerk of the Board of Supervisors to send a copy of this Ordinance to the California Department of Housing and Community Development after adoption.

DUPLICATED:
Vote: Supervisor Malia Cohen - Aye
Supervisor Scott Wiener - Aye
Supervisor Jane Kim – Aye

AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE:
Vote: Supervisor Malia Cohen - Aye
Supervisor Scott Wiener - Aye
Supervisor Jane Kim – Aye

RECOMMENDED AS AMENDED AS A COMMITTEE REPORT:

Vote: Supervisor Malia Cohen - Aye
Supervisor Scott Wiener - Aye
Supervisor Jane Kim - Aye

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

AMENDED IN BOARD
7/28/15

FILE NO. 150805 ORDINANCE NO.

[Planning, Administrative Codes - Construction of Accessory Dwelling Units - District 3]

Ordinance amending the Planning Code to allow the construction of Accessory Dwelling Units (ADUs, also known as Secondary or In-Law Units) within the boundaries of Board of Supervisors District 3, ~~prohibit approval of an application for construction of an ADU in any building where a tenant has been evicted under the Ellis Act within ten years prior to filing the application, and prohibit an ADU from being used for short-term rental~~ require the Planning Department to monitor the use of ADUs as short-term rentals; amending the Administrative Code to correct section references; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and directing the Clerk of the Board of Supervisors to send a copy of this Ordinance to the California Department of Housing and Community Development after adoption.

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. General 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. 150805 and is incorporated herein by reference. The Board affirms this determination

(b) On July 16, 2015, the Planning Commission, in Resolution No. 19419, 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. 150805, 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. 19419 and the Board incorporates such reasons herein by reference. A copy of Planning Commission Resolution No. 19419 is on file with the Clerk of the Board of Supervisors in File No. 150805.

Section 2. Specific Findings.

(a) San Francisco has long had a housing shortage. The housing market continues to be tight and housing costs are beyond the reach of many households.

(b) Policy 1.5 of the City's 2014 Housing Element, which is a required element of the City's General Plan, states that adding new units in existing residential buildings represents a simple and cost-effective method of expanding the City's housing supply.

(c) In Section 65852.150 of the California Government Code, the State Legislature finds and declares that adding an additional unit to existing single-family homes is a valuable form of housing in California. Permitting the creation of accessory dwelling units in existing residential buildings in established, already dense, and transit-rich neighborhoods will provide additional housing without changing the built character of these areas. It also will

"green" San Francisco by efficiently using existing buildings and allowing more residents to live within walking distance of transit, shopping, and services.

(d) Nothing in this ordinance is intended to change the personal obligations of property owners under existing private agreements.

Section 3. The Planning Code is hereby amended by revising Sections 102, 207 and 307, to read as follows:

SEC. 102. DEFINITIONS.

* * * *

Dwelling Unit, Accessory. *Also known as a Secondary Unit or In-Law Unit, is a Dwelling Unit added to an existing residential property and constructed with a complete or partial waiver from the Zoning Administrator of the density limits and/or the parking, rear yard, exposure, or open space standards of this Code pursuant to the provisions of Sections 207(c)(4) and 307(i).*

SEC. 207. DWELLING UNIT DENSITY LIMITS.

* * * *

(c) **Exceptions to Dwelling Unit Density Limits.**

(1) **Affordable Units in Projects with 20 percent or more Affordable Units.** For projects that are not located in any RH-1 or RH-2 zoning district, or are not seeking and receiving a density bonus under the provisions of California Government Code Section 65915, where 20 percent or more of the Dwelling Units on-site are "Affordable Units," the on-site Affordable Units shall not count towards the calculation of dwelling unit density. This Planning Code Section does not provide exceptions to any other Planning Code requirements such as height or bulk. For purposes of this Section 207, "Affordable Units" shall be defined as meeting ~~(1)~~ (A) the criteria of Section 406(b); ~~(2)~~ (B) the requirements of Section 415 et seq. for on-site units; or ~~(3)~~ (C) restricted units in a project using California Debt Limit Allocation

Committee (CDLAC) tax-exempt bond financing and 4 percent tax credits under the Tax Credit Allocation Committee (TCAC). If a project sponsor proposes to provide "Affordable Units" that are not restricted by any other program, in order to receive the benefit of the additional density permitted under this Subsection (c)(1) or Subsection (c)(2), the project sponsor shall elect and the Planning Department and MOHCD shall be authorized to enforce, restricting the units as affordable under Planning Code Section 415.6 up to a maximum of 20 percent of the units in the principal project. The project sponsor shall make such election through the procedures described in Section 415.5(g) including submitting an Affidavit of Compliance indicating the project sponsor's election to pursue the benefits of Subsection (c)(1) or (c)(2) and committing to 20% *percent* on-site units restricted under Section 415.6 prior to approval by the Planning Commission or Planning Department staff. If a project sponsor obtains the exemption from the density calculation for Affordable Units provided in this subsection, the exemption shall be recorded against the property. Any later request to decrease the number of Affordable Units shall require the project to go back to the Planning Commission or Planning Department, whichever entity approved the project as a whole.

* * * *

(4) **Accessory Dwelling Units.**

(A) **Definition.** An "Accessory Dwelling Unit," ~~*also known as a Secondary Unit or In-Law Unit,*~~ is defined *in Section 102* ~~*for purposes of this Subsection 207(c)(4) as an additional Dwelling Unit that:*~~

~~*(i) is constructed entirely within the existing built envelope of an existing building zoned for Residential use or within the envelope of an existing and authorized auxiliary structure on the same lot; and*~~

~~*(ii) will be constructed with a complete or partial waiver from the Zoning Administrator of the density limits and/or the parking, rear yard, exposure, or open space standards of this Code pursuant to the provisions of this Section 207(c)(4) and Section 307(l) of this Code.*~~

~~*As used in this Section 207, the term Accessory Dwelling Unit is separate and distinct from the term "dwelling units accessory to other uses" in Section 204.4.*~~

(B) **Applicability.** The exceptions permitted by this Subsection 207(c)(4) shall apply only to:

(i) lots within the Castro Street Neighborhood Commercial District (NCD) or within 1,750 feet of the Castro Street NCD boundaries, excluding any lot within 500 feet of Block 2623 Lots 116 through 154;

(ii) lots within the boundaries of Board of Supervisors District 3 extant on July 1, 2015.

~~*(ii)*~~ *(iii)* lots ~~*located in*~~ *with* a building undergoing mandatory seismic retrofitting in compliance with Section 34B of the Building Code or voluntary seismic retrofitting in compliance with the Department of Building Inspection's Administrative Bulletin 094.

(C) **Controls.** An Accessory Dwelling Unit is permitted to be constructed under the following conditions:

(i) An Accessory Dwelling Unit shall not be constructed using space from an existing Dwelling Unit.

(ii) The Accessory Dwelling Unit is subject to the provisions of the San Francisco Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) if the existing building or any existing Dwelling Unit within the building is subject to the Rent Stabilization and Arbitration Ordinance.

~~(iii) The Accessory Dwelling Unit shall not be used for short-term rental under Chapter 41A of the Administrative Code.~~ The Department shall require the applicant to disclose on any application for construction of an Accessory Dwelling Unit whether the applicant intends to use, or authorize the use of, the Accessory Dwelling Unit for Short-Term Residential Rentals. The Department shall not approve an application for construction of an Accessory Dwelling Unit unless the applicant has provided the information required by this subsection.

~~(iv) The Department shall not approve an application for construction of an Accessory Dwelling Unit in any building where a tenant has been evicted pursuant to Section 37.9(a)(10) of the Administrative Code within ten years prior to filing the application for construction of an Accessory Dwelling Unit.~~

~~(ii)~~ ~~(v)~~ (iv) **Castro Street NCD and Surrounding Area.** For Accessory Dwelling Units on lots covered by Subsection 207(c)(4)(B)(i):

a. An Accessory Dwelling Unit shall not be permitted in any RH-1(D) zoning district.

b. An Accessory Dwelling Unit shall be constructed entirely within the existing building envelope or auxiliary structure, as it existed three (3) years prior to the time of the application *for a building permit*.

c. For buildings that have no more than 10 existing dwelling units, one Accessory Dwelling Unit is permitted; for buildings that have more than 10 existing dwelling units, two Accessory Dwelling Units are permitted.

~~(vi)~~ (v) ***Board of Supervisors District 3.*** *For Accessory Dwelling Units on lots covered by Subsection 207(c)(4)(B)(ii):*

a. An Accessory Dwelling Unit shall not be permitted in any RH-1(D) zoning district.

b. An Accessory Dwelling Unit shall be constructed entirely within the existing building envelope or auxiliary structure, as it existed three (3) years prior to the time of the application for a building permit.

c. For buildings that have four existing dwelling units or fewer, one Accessory Dwelling Unit is permitted; for buildings that have more than four existing dwelling units, there is no limit on the number of Accessory Dwelling Units permitted by this Section 207(c)(4).

(~~iii~~ vii) **Buildings Undergoing Seismic Retrofitting.** For Accessory Dwelling Units on lots covered by Subsection 207(c)(4)(B)*(iii)* ~~(ii)~~:

a. An Accessory Dwelling Unit shall not be permitted in any RH-1 or RH-1(D) zoning district.

b. If ~~allowed~~ *permitted* by the Building Code, a building in which an Accessory Dwelling Unit is constructed may be raised up to three ~~additional~~ feet ~~in height~~ to create ~~ground floor ceiling~~ heights suitable for residential *use on lower floors. Such a raise in height shall be:*

1) exempt from the notification requirements of Sections 311 and 312 of this Code; and

2) permitted to expand a noncomplying structure, as defined in Section 180(a)(2) of this Code and further regulated in Sections 172, 180 and 188, without obtaining a variance for increasing the discrepancy between existing conditions on the lot and the required standards of this Code.

(viii) a Pursuant to the provisions of Section 307(l) of this Code, *the Zoning Administrator may grant* an Accessory Dwelling Unit ~~may receive~~ a *complete or partial* waiver of the density limits and parking, rear yard, exposure, or open space standards of this Code*.* ~~from the Zoning Administrator; provided, h~~*H*owever, ~~that~~ if the existing building or any existing dwelling unit within the building is subject to the provisions of the San Francisco

Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code), the property owner shall submit *the following* to the Department:

a. ~~*(AA)*~~ a proposed agreement demonstrating that the Accessory Dwelling Unit(s) are not subject to the Costa Hawkins Rental Housing Act (California Civil Code Section 1954.50) because, under Section 1954.52(b), the owner has entered into this agreement with the City in consideration for a direct financial contribution or any other form of assistance specified in California Government Code Sections 65915 et seq. ("Agreement") and

b. ~~*(BB)*~~ if the Planning Director determines necessary, an Affidavit containing information about the direct financial contribution or other form of assistance provided to the property owner. The property owner and the Planning Director (or his designee), on behalf of the City, will execute the Agreement, which shall be reviewed and approved by the City Attorney's Office. The Agreement shall be approved prior to the City's issuance of the First Construction Document, as defined in Section 107A.13.1 of the San Francisco Building Code.

(D) **Monitoring Program.**

(i) **Monitoring of Affordability.** The Department shall establish a system to monitor the affordability of the Accessory Dwelling Units authorized to be constructed by this Subsection 207(c)(4). Property owners shall provide the Department with rent information as requested by the Department. The Board of Supervisors recognizes that property owners and tenants generally consider rental information sensitive and do not want it publicly disclosed. The intent of the Board is for the Department to obtain the information so that it can be used by the Department in aggregate form, not in a manner that would be linked to specific individuals or units. The Department shall only request rental information from property owners if the notice includes the statement that the Department is acquiring it in

confidence and will publicly disclose it only in aggregate form. The Department shall not ask property owners to provide rental information if it determines, after consulting with the City Attorney's Office, that the information would be publicly disclosable under federal, state, or local law in nonaggregated form.

(ii) **Monitoring of use as Short Term Rentals.** The Department shall collect data on the use of Accessory Dwelling Units authorized to be constructed by this Subsection (c)(4) as Short-Term Residential Rentals, as that term is defined in Administrative Code Section 41A.4, and shall use such data to evaluate and enforce the requirements of Administrative Code Chapter 41A.

(iii) **Department Report.** The Department shall publish a report by April 1, 2016, that describes and evaluates the types of units being developed and their affordability rates, as well as their use as Short-Term Residential Rentals. The report shall contain such additional information as the Director determines would inform decision makers and the public on the effectiveness and implementation of ~~the~~ this Subsection (c)(4) and make recommendations for any amendments or expansion of areas where Accessory Dwelling Units should be constructed. In subsequent years, this information on Accessory Dwelling Units shall be included in the Housing Inventory.

SEC. 307. OTHER POWERS AND DUTIES OF THE ZONING ADMINISTRATOR.

In addition to those specified in Sections 302 through 306, and Sections 316 through 316.6 of this Code, the Zoning Administrator shall have the following powers and duties in administration and enforcement of this Code. The duties described in this Section shall be performed under the general supervision of the Director of Planning, who shall be kept informed of the actions of the Zoning Administrator.

* * * *

(l) **Exceptions from Certain Specific Code Standards through Administrative Review for Accessory Dwelling Units** *Constructed Pursuant to Section 207.4(c) of this Code* ~~*in the Castro Street Neighborhood Commercial District and within 1,750 feet of the District boundaries, excluding any lot within 500 feet of Block 2623, Lots 116 through 154*~~.

The Zoning Administrator may allow complete or partial relief from the density limits and from the parking, rear yard, exposure, or open space requirements of this Code when modification of the requirement would facilitate the construction of an Accessory Dwelling Unit, as defined in Section *102 and meeting the requirements of Section 207(c)(4)* ~~*715.1*~~ of this Code. The exposure requirements of Section 140 apply, except that subsection (a)(2) may be satisfied through windows facing an open area that is at least 15 feet in every horizontal direction that is not required to expand on subsequent floors. In considering any request for complete or partial relief from these Code requirements, the Zoning Administrator shall facilitate the construction of such Accessory Dwelling Units to the extent feasible and shall consider any criteria elsewhere in this Section 307 that he or she determines to be applicable.

Section 4. The Planning Code is hereby amended by revising the Zoning Control Tables of Sections 209.1, 209.2, 209.3, 209.4, 210.1 and 210.2, to read as follows:

Table 209.1

ZONING CONTROL TABLE FOR RH DISTRICTS

Zoning Category	§ References	RH-1 (D)	RH-1	RH-1(S)	RH-2	RH-3
* * * *	* * * *	* * * *				
RESIDENTIAL STANDARDS AND USES						
* * * *						
Residential Uses						

Residential Density, Dwelling Units *(7)*	§ 207	One unit per lot	P up to one unit per lot. C up to one unit per 3,000 square feet of lot area with no more than three units per lot	P up to two units per lot area, if the second unit is 600 sq. ft. or less. C up to one unit per 3,000 square feet of lot area, with no more than three units per lot	P up to two units per lot. C up to one unit per 1,500 square feet of lot area.	P up to three units per lot. C up to one unit per 1,000 square feet of lot area. for every 275 square feet of lot area.
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *	* * * *

* Not listed below.

(1) P for Limited Commercial Uses per § 136.1(a) only; otherwise NP.

(2) C required for 15 or more children.

(3) C required for 7 or more persons.

(4) C for 5 or fewer guest rooms or suites of rooms; NP for 6 or more guest rooms.

(5) Use must be located on a parcel that contains a Hospital or a Post-Secondary Educational Institution, additional operating restrictions apply.

(6) Must be located on a landmark site, and where the site is within a Height and Bulk District of 40 feet or less, and where a columbarium use has lawfully and continuously operated since the time of designation.

(7) Construction of Accessory Dwelling Units may be permitted pursuant to Section 207(c)(4).

Table 209.2

ZONING CONTROL TABLE FOR RM DISTRICTS

Zoning Category	§ References	RM-1	RM-2	RM-3	RM-4
* * * *	* * * *	* * * *			

RESIDENTIAL STANDARDS AND USES					
* * * *					
Residential Uses					
Residential Density, Dwelling Units *(7)*	§ 207	Up to one unit per 800 square feet of lot area.	Up to one unit per lot. 600 square feet of lot area.	Up to one unit per 400 square feet of lot area.	Up to one unit per 200 square feet of lot area.
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *

* Not listed below.
(1) P for Limited Commercial Uses per § 136.1(a) only; otherwise NP.
(2) C required for 15 or more children.
(3) C required for 7 or more persons.
(4) C for 5 or fewer guest rooms or suites of rooms; NP for 6 or more guest rooms.
(5) Use must be located on a parcel that contains a Hospital or a Post-Secondary Educational Institution, additional operating restrictions apply.
(6) Must be located on a landmark site, and where the site is within a Height and Bulk District of 40 feet or less, and where a columbarium use has lawfully and continuously operated since the time of designation.
(7) Construction of Accessory Dwelling Units may be permitted pursuant to Section 207(c)(4).

Table 209.3

ZONING CONTROL TABLE FOR RESIDENTIAL-COMMERCIAL DISTRICTS

Zoning Category	§ References	RC-3	RC-4
* * * *	* * * *	* * * *	
RESIDENTIAL STANDARDS AND USES			
* * * *			
Residential Uses			
Residential Density, Dwelling Units *(7)*	§ 207	Up to one unit per 400 square feet of lot area	Up to one unit per 200 square feet of lot area. No density limits in the Van Ness SUD (§ 243)

			C up to one unit per 1,000 square feet of lot area. for every 275 square feet of lot area.
* * * *	* * * *	* * * *	* * * *

* Not listed below.
(1) P for Limited Commercial Uses per § 136.1(a) only; otherwise NP.
(2) C required for 15 or more children.
(3) C required for 7 or more persons.
(4) C for 5 or fewer guest rooms or suites of rooms; NP for 6 or more guest rooms.
(5) Use must be located on a parcel that contains a Hospital or a Post-Secondary Educational Institution, additional operating restrictions apply.
(6) Must be located on a landmark site, and where the site is within a Height and Bulk District of 40 feet or less, and where a columbarium use has lawfully and continuously operated since the time of designation.
(7) Construction of Accessory Dwelling Units may be permitted pursuant to Section 207(c)(4).

Table 209.4

ZONING CONTROL TABLE FOR RTO DISTRICTS

Zoning Category	**§ References**	**RTO**	**RTO-M**
* * * *	* * * *	* * * *	
RESIDENTIAL STANDARDS AND USES			
* * * *			
Residential Uses			
Residential Density, Dwelling Units *(7)*	§ 207	P up to one unit per 600 square feet of lot area. C above, per criteria of §207(a).	No density limit. Density is regulated by the permitted height and bulk, and required setbacks, exposure, and open space of each parcel, along with Residential Design Guidelines.
* * * *	* * * *	* * * *	* * * *

* Not listed below.
(1) P for Limited Commercial Uses per § 136.1(a) only; otherwise NP.
(2) C required for 15 or more children.
(3) C required for 7 or more persons.
(4) C for 5 or fewer guest rooms or suites of rooms; NP for 6 or more guest rooms.
(5) Use must be located on a parcel that contains a Hospital or a Post-Secondary Educational Institution, additional operating restrictions apply.
(6) Must be located on a landmark site, and where the site is within a Height and Bulk District of 40 feet or less, and where a columbarium use has lawfully and continuously operated since the time of designation.
(7) Construction of Accessory Dwelling Units may be permitted pursuant to Section 207(c)(4).

Table 210.1

ZONING CONTROL TABLE FOR C-2 DISTRICTS

Zoning Category	**§ References**	**C-2**	
* * * *	* * * *	* * * *	
RESIDENTIAL STANDARDS AND USES			
* * * *			
Residential Uses			
Residential Density, Dwelling Units *(5)*	§ 207	P at a density ratio not exceeding the number of dwelling units permitted in the nearest R District, with the distance to such R District measured from the midpoint of the front lot line or from a point directly across the street therefrom, whichever permits the greater density; provided, that the maximum density ratio shall in no case be less than one unit for each 800 square feet of lot area. NP above.	
* * * *	* * * *	* * * *	* * * *

* Not listed below.
(1) C required if not recessed 3 feet.
(2) C required if taller than 25 feet above roof, grade or height limit (depending on site) or if within 1000 feet of an R District and includes a parabolic antenna with a diameter in excess of three meters or a composite diameter or antennae in excess of six meters. See definition in *Section* 102 for more information.
(3) Not required to be in an enclosed building.
(4) Allowed to operate on an open lot, but C required if operated on an open lot.

(5) Construction of Accessory Dwelling Units may be permitted pursuant to Section 207(c)(4).

Table 210.2

ZONING CONTROL TABLE FOR C-3 DISTRICTS

Zoning Category	§ References	C-3	C-3-O (SD)	C-3-R	C-3-G	C-3-S
* * * *	* * * *	* * * *				
RESIDENTIAL STANDARDS AND USES						
* * * *						
Residential Uses						
Residential Density, Dwelling Units *(7)*	§ 207	No density limit. Density is regulated by the permitted height and bulk, and required setbacks, exposure, and open space of each development lot.				
* * * *	* * * *	* * * *	* * * *			

* Not listed below.
(1) C is required if at or below the ground floor.
(2) P if located on the ground floor and offers on-site services to the general public. NP on the ground floor if it does not provide onsite services to the general public. C is required if the use is larger than 5,000 gross square feet in size or located above the ground floor. In the C-3-R District, in addition to the criteria set forth in Section 303, approval shall be given upon a determination that the use will not detract from the District's primary function as an area for comparison shopper retailing and direct consumer services.
(3) C Required if operated on an open lot.
(4) Required to be in an enclosed building, NP if operated on open lot.
(5) C required if taller than 25 feet above roof, grade or height limit depending on site or if within 1000 feet of an R District and includes a parabolic antenna with a diameter in excess of 3 meters or a composite diameter of antennae in excess of 6 meters. See definition in Section 102 for more information.
(6) C required for Formula Retail on properties in the C-3-G District with frontage on Market Street, between 6th Street and the intersection of Market Street, 12th Street and Franklin Street.
(7) Construction of Accessory Dwelling Units may be permitted pursuant to Section 207(c)(4).

Section 5. The Planning Code is hereby amended by revising Sections 714, 722, 723, 732 and the corresponding Zoning Control Tables, to read as follows:

SEC. 714. BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT.

The Broadway Neighborhood Commercial District, located in the northeast quadrant of San Francisco, extends along Broadway from east of Columbus Avenue to Osgood Place. It is part of a larger commercial area which includes North Beach to the north, Chinatown to the south and west, and Jackson Square to the southeast. Broadway's fame and popularity as a Citywide and regional entertainment district is derived from a concentration of nightclubs, music halls, adult theaters, bars, and restaurants between Grant Avenue and Montgomery Street. These places attract locals and visitors alike, mainly in the evening and late-night hours. In addition to the entertainment and some retail businesses, Broadway contains many upper-story residential hotels. Due to its proximity to downtown, there is strong pressure to develop upper-story offices.

The Broadway District controls are designed to encourage development that is compatible with the existing moderate building scale and mixed-use character, and maintain the district's balance of entertainment uses, restaurants, and small-scale retail stores. New buildings exceeding 40 feet in height will be carefully reviewed and rear yards at residential levels are protected. Most commercial uses in new buildings are permitted at the first two stories. Neighborhood-serving businesses are strongly encouraged. In order to protect the livability of the area, limitations apply to new fast-food restaurants and adult entertainment uses at the first and second stories, as well as late-night activity. Financial services are allowed on the ground story subject to certain limitations. Nonretail offices are prohibited in order to prevent encroachment of the adjoining downtown office uses. Due to the high traffic volume on Broadway, most automobile and drive-up uses are prohibited in order to prevent

further traffic congestion. Parking garages are permitted if their ingress and egress do not disrupt the traffic flow on Broadway.

Housing development in new buildings is encouraged above the second story. Existing housing is protected by limitations on demolitions and upper-story conversions. *Accessory dwelling units are permitted within the district pursuant to Subsection 207(c)(4) of this Code.*

Table 714. BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *	* * * *	* * * *	* * * *		
No.	**Zoning Category**	**§ References**	**Broadway**		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
RESIDENTIAL STANDARDS AND USES					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
714.91	Dwelling Unit Density	§§ 207	Generally, up to 1 unit per 400 sq. ft. lot area # § 207(c)		
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *

SPECIFIC PROVISIONS FOR THE BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT

Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *

§§ 714, 714.91	§ 207(c)(4)	*ACCESSORY DWELLING UNITS* ***Boundaries:*** *Within the boundaries of the Broadway NCD.* ***Controls:*** *An "Accessory Dwelling Unit," as defined in Section 102 and meeting the requirements of Section 207(c)(4) is permitted to be constructed within an existing building zoned for residential use or within an existing and authorized auxiliary structure on the same lot.*

SEC. 722. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT.

The North Beach Neighborhood Commercial District is a nonlinear district centered on Columbus Avenue, located in the valley between Telegraph Hill and Russian Hill north of Broadway. North Beach functions as a neighborhood-serving marketplace, citywide specialty shopping, and dining district, and a tourist attraction, as well as an apartment and residential hotel zone. Traditionally, the district has provided most convenience goods and services for residents of North Beach and portions of Telegraph and Russian Hills. North Beach's eating, drinking, and entertainment establishments remain open into the evening to serve a much wider trade area and attract many tourists. The balance between neighborhood-serving convenience stores and Citywide specialty businesses has shifted, as convenience stores have been replaced by restaurants and bars. The proliferation of financial services, limited financial services, and business and professional services has also upset the district's balance of uses. The relocation of business and professional offices from downtown to North Beach threatens the loss of upper-story residential units.

The North Beach District controls are designed to ensure the livability and attractiveness of North Beach. Building standards limit new development to a small to moderate scale. Rear yards are protected above the ground story and at residential levels. Most new commercial development is permitted at the first two stories. Small-scale, neighborhood-serving businesses are strongly encouraged and formula retail uses are

prohibited. Use sizes are controlled to limit future consolidation of spaces and to encourage conversion back to the traditional small-scale commercial spaces. Special controls are necessary because an over-concentration of food and beverage service establishments limits neighborhood-serving retail sales and personal services in an area that needs them to thrive as a neighborhood. In order to maintain neighborhood-serving retail sales and personal services and to protect residential livability, additional eating and drinking establishments are prohibited in spaces that have been occupied by neighborhood-serving retail sales and personal services. Special controls limit additional ground-story entertainment uses and prohibit new walk-up automated bank teller machines (ATMs). Financial services, limited financial services, and ground-story business and professional office uses are prohibited from locating in the portion of the district south of Greenwich Street, while new financial services locating in the portion of the district north of Greenwich Street are limited. Restrictions on automobile and drive-up uses are intended to promote continuous retail frontage and maintain residential livability.

In keeping with the district's existing mixed-use character, housing development in new buildings is encouraged above the second story. Existing residential units are protected by prohibitions of upper-story conversions and limitations on demolitions. *Accessory dwelling units are permitted within the district pursuant to Subsection 207(c)(4) of this Code.*

Table 722. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *	* * * *	* * * *	* * * *		
No.	**Zoning Category**	**§ References**	**North Beach Controls by Story**		
		§ 790.118	1st	2nd	3rd+

* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
RESIDENTIAL STANDARDS AND USES					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
722.91	Dwelling Unit Density	§§ 207	Generally, up to 1 unit per 400 sq. ft. lot area # § 207(c)		
* * * *	* * * *	* * * *	* * * *		

SPECIFIC PROVISIONS FOR THE NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT

Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§§ 722, 722.91	*§ 207(c)(4)*	*ACCESSORY DWELLING UNITS* ***Boundaries:*** *Within the boundaries of the North Beach NCD.* ***Controls:*** *An "Accessory Dwelling Unit," as defined in Section 102 and meeting the requirements of Section 207(c)(4) is permitted to be constructed within an existing building zoned for residential use or within an existing and authorized auxiliary structure on the same lot.*

SEC. 723. POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT.

Sitting in the gulch between Nob and Russian Hills and Pacific Heights, the Polk Street Neighborhood Commercial District extends for a mile as a north-south linear strip, and includes a portion of Larkin Street between Post and California Streets. Polk Street's dense mixed-use character consists of buildings with residential units above ground-story commercial use. The district has an active and continuous commercial frontage along Polk

Street for almost all of its length. Larkin Street and side streets in the district have a greater proportion of residences than Polk Street itself. The district provides convenience goods and services to the residential communities in the Polk Gulch neighborhood and to the residents on the west slopes of Nob and Russian Hills. It has many apparel and specialty stores, as well as some automobile uses, which serve a broader trade area. Commercial uses also include offices, as well as movie theaters, restaurants, and bars which keep the district active into the evening.

The Polk Street District controls are designed to encourage and promote development which is compatible with the surrounding neighborhood. The building standards monitor large-scale development and protect rear yards at residential levels. Consistent with Polk Street's existing mixed-use character, new buildings may contain most commercial uses at the first two stories. The controls encourage neighborhood-serving businesses, but limit new eating, drinking, other entertainment, and financial service uses, which can produce parking congestion, noise and other nuisances or displace other types of local-serving convenience goods and services. They also prohibit new adult entertainment uses. Restrictions on drive-up and most automobile uses protect the district's continuous retail frontage and prevent further traffic congestion.

Housing developed in new buildings is encouraged above the second story, especially in the less intensely developed portions of the district along Larkin Street. Existing housing units are protected by limitations on demolitions and upper-story conversions. *Accessory dwelling units are permitted within the district pursuant to Subsection 207(c)(4) of this Code.*

Table 723. POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *	* * * *	* * * *	* * * *
No.	**Zoning Category**		**Polk Street**

		§ References	Controls by Story		
		§ 790.118	1st	2nd	3rd+
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
RESIDENTIAL STANDARDS AND USES					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
723.91	Dwelling Unit Density	§§ 207	Generally, up to 1 unit per 400 sq. ft. lot area # § 207(c)		
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *

SPECIFIC PROVISIONS FOR THE POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT

Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§§ 723, 723.91	§ 207(c)(4)	*ACCESSORY DWELLING UNITS* ***Boundaries:*** *Within the boundaries of the Polk Street NCD.* ***Controls:*** *An "Accessory Dwelling Unit," as defined in Section 102 and meeting the requirements of Section 207(c)(4) is permitted to be constructed within an existing building zoned for residential use or within an existing and authorized auxiliary structure on the same lot.*

SEC. 732. PACIFIC AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT.

Located in the Presidio Heights neighborhood in north-central San Francisco, the Sacramento Street Neighborhood Commercial District functions as a small-scale linear shopping area. It extends along Sacramento Street between Lyon and Spruce. Interspersed among residential buildings and garages, the district's daytime-oriented retail stores provide a limited array of convenience goods to the immediate neighborhood. Sacramento Street also has many elegant clothing, accessory, and antique stores and services, such as hair salons, which attract customers from a wider trade area. Its numerous medical and business offices draw clients from throughout the City. Evening activity in the district is limited to one movie theater, a few restaurants, and some stores near Presidio Avenue.

The Sacramento Street District controls are designed to promote adequate growth opportunities for development that is compatible with the surrounding low-density residential neighborhood. The building standards monitor large-scale development and protect rear yards at the grade level and above. Most new commercial development is permitted at the first

story; general retail uses are permitted at the second story only if such use would not involve conversion of any existing housing units. Special controls are designed to protect existing neighborhood-serving ground-story retail uses. New medical service uses are prohibited at all stories except a change of use is permitted on the first story or below from a business or professional service use to medical service use under certain circumstances. Personal and business services are restricted at the ground story and prohibited on upper stories. Limits on new ground-story eating and drinking uses, as well as new entertainment and financial service uses, are intended to minimize the environmental impacts generated by the growth of such uses. The daytime orientation of the district is encouraged by prohibiting bars and restricting late-night commercial activity. New hotels and parking facilities are limited in scale and operation to minimize disruption to the neighborhood. Most new automobile and drive-up uses are prohibited to promote continuous retail frontage.

Housing development in new buildings is encouraged above the second story. Existing residential units are protected by limitations on demolitions and prohibitions of upper-story conversions. *Accessory dwelling units are permitted within the district pursuant to Subsection 207(c)(4) of this Code.*

Table 732. PACIFIC AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

* * * *	* * * *	* * * *	* * * *		
No.	**Zoning Category**	**§ References**	**Pacific Avenue Controls by Story**		
		§ 790.118	1st	2nd	3rd+
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
RESIDENTIAL STANDARDS AND USES					

* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
732.91	Dwelling Unit Density	§§ 207	Generally, up to 1 unit per 1,000 sq. ft. lot area # § 207(c)		
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *

SPECIFIC PROVISIONS FOR THE PACIFIC AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT

Article 7 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§§ 732, 732.91	*§ 207(c)(4)*	*ACCESSORY DWELLING UNITS* ***Boundaries:*** *Within the boundaries of the Pacific Avenue NCD.* ***Controls:*** *An "Accessory Dwelling Unit," as defined in Section 102 and meeting the requirements of Section 207(c)(4) is permitted to be constructed within an existing building zoned for residential use or within an existing and authorized auxiliary structure on the same lot.*

Section 6. The Planning Code is hereby amended by revising Sections 810, 811, 812 and the corresponding Zoning Control Tables, to read as follows:

SEC. 810.~~1.~~ CHINATOWN COMMUNITY BUSINESS DISTRICT.

The Chinatown Community Business District, located in the northeast quadrant of San Francisco, extends along Broadway from the eastern portal of the Broadway Tunnel to Columbus Avenue and along Kearny Street from Columbus to Sacramento Street. This district

also includes portions of Commercial Street between Montgomery Street and Grant Avenue and portions of Grant Avenue between Bush and California Streets. It is part of the larger core area of Chinatown.

The portions of Broadway, Kearny and Commercial Streets and Grant Avenue in this district are transitional edges or entries to Chinatown. North and east of the two blocks of Broadway contained in this district are North Beach and the Broadway Entertainment Districts. Kearny and Columbus Streets are close to intensive office development in the Downtown Financial District. Both Grant Avenue and Commercial Street provide important pedestrian entries to Chinatown. Generally, this district has more potential for added retail and commercial development than other parts of Chinatown.

This zoning district is intended to protect existing housing, encourage new housing and to accommodate modest expansion of Chinatown business activities as well as street-level retail uses. The size of individual professional or business office use is limited in order to prevent these areas from being used to accommodate larger office uses spilling over from the financial district.

Housing development in new buildings is encouraged at upper stories. Existing housing is protected by limitations on demolitions and upper-story conversions. *Accessory dwelling units are permitted within the district pursuant to Subsection 207(c)(4) 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+
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
RESIDENTIAL STANDARDS AND USES					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
.91	~~*Residential Density,*~~ Dwelling Units~~*s*~~ *Density*	§§ 207, 207.1, 890.88(a)	*Generally, up to* 1 unit per 200 sq. ft. lot area # § 207~~*.5*~~ *(c)*		
* * * *	* * * *	* * * *	* * * *		

SPECIFIC PROVISIONS FOR THE CHINATOWN COMMUNITY BUSINESS DISTRICT

Article 8 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§§ 810.~~1~~ .91	*§ 207(c)(4)*	*ACCESSORY DWELLING UNITS* ***Boundaries:*** *Within the boundaries of the Chinatown Community Business District.* ***Controls:*** *An "Accessory Dwelling Unit," as defined in Section 102 and meeting the requirements of Section 207(c)(4) is permitted to be constructed within an existing building zoned for residential use or within an existing and authorized auxiliary structure on the same lot.*

SEC. 811.~~1.~~ CHINATOWN VISITOR RETAIL DISTRICT.

The Chinatown Visitor Retail Neighborhood Commercial District extends along Grant Avenue between California and Jackson Streets. This district contains a concentration of shopping bazaars, art goods stores and restaurants which attract visitors and shoppers and

contribute to the City's visual and economic diversity. Grant Avenue provides an important link between Downtown retail shopping and the Broadway, North Beach and Fisherman's Wharf areas.

This district is intended to preserve the street's present character and scale and to accommodate uses primarily appealing to visitors (e.g. tourist gifts shops, jewelry stores, art goods, large restaurants. In order to promote continuous retail frontage, entertainment, financial services, medical service, automotive and drive-up uses are restricted. Most commercial uses, except financial services are permitted on the first two stories. Administrative services, (those not serving the public) are prohibited in order to prevent encroachment from downtown office uses. There are also special controls on fast-food restaurants and tourist hotels. Building standards protect and complement the existing small-scale development and the historic character of the area.

The height limit applicable to the district will accommodate two floors of housing or institutional use above two floors of retail use. Existing residential units are protected by prohibition of upper-story conversions and limitation on demolition. *Accessory dwelling units are permitted within the district pursuant to Subsection 207(c)(4) of this Code.*

Table 811
CHINATOWN VISITOR RETAIL DISTRICT
ZONING CONTROL TABLE

* * * *	* * * *	* * * *			
			Chinatown Visitor Retail *~~District~~*		
			Controls by Story		
No.	**Zoning Category**	**§ References**	1st	2nd	3rd+
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
RESIDENTIAL STANDARDS AND USES					

* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
.91	~~*Residential Density,*~~ Dwelling Unit~~s~~ Density	§§ 207	*Generally, up to* 1 unit per 200 sq. ft. lot area # § 207~~.5~~ *(c)*		
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *

SPECIFIC PROVISIONS FOR THE CHINATOWN BUSINESS RETAIL DISTRICT

Article 8 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§§ 811.~~1~~ .91	*§ 207(c)(4)*	*ACCESSORY DWELLING UNITS* ***Boundaries:*** *Within the boundaries of the Chinatown Visitor Retail District.* ***Controls:*** *An "Accessory Dwelling Unit," as defined in Section 102 and meeting the requirements of Section 207(c)(4) is permitted to be constructed within an existing building zoned for residential use or within an existing and authorized auxiliary structure on the same lot.*

SEC. 812.~~1.~~ CHINATOWN RESIDENTIAL NEIGHBORHOOD COMMERCIAL DISTRICT.

The Chinatown Residential Neighborhood Commercial District extends along Stockton Street between Sacramento and Broadway and along Powell Street between Washington Street and Broadway. It is generally west and uphill from Grant Avenue and is close to the relatively intensely developed residential areas of lower Nob and Russian Hills. Stockton Street is a major transit corridor which serves as "Main Street" for the Chinatown

neighborhood. Both Stockton and Powell Streets contain a significant amount of housing as well as major community institutions supportive to Chinatown and the larger Chinese community. This daytime-oriented district provides local and regional specialty food shopping for fresh vegetables, poultry, fish and meat. Weekends are this area's busiest shopping days.

Because Stockton Street is intended to remain principally in its present character, the Stockton Street controls are designed to preserve neighborhood-serving uses and protect the residential livability of the area. The controls promote new residential development compatible with existing small-scale mixed-use character of the area. Consistent with the residential character of the area, commercial development is directed to the ground story. Daytime-oriented use is protected and tourist-related uses, fast-food restaurants and financial services are limited.

Housing development in new and existing buildings is encouraged above the ground floor. Institutional uses are also encouraged. Existing residential units are protected by limits on demolition and conversion. *Accessory dwelling units are permitted within the district pursuant to Subsection 207(c)(4) of this Code.*

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+
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *

RESIDENTIAL STANDARDS AND USES					
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
.91	~~*Residential Density*~~ Dwelling Unit~~s~~ *Density*	§§ 207	*Generally, up to* 1 unit per 200 sq. ft. lot area # § 207~~.5~~ *(c)*		
* * * *	* * * *	* * * *	* * * *		

SPECIFIC PROVISIONS FOR THE CHINATOWN RESIDENTIAL NEIGHBORHOOD COMMERCIAL DISTRICT

Article 8 Code Section	Other Code Section	Zoning Controls
* * * *	* * * *	* * * *
§§ 812.~~1~~ .91	*§ 207(c)(4)*	*ACCESSORY DWELLING UNITS* ***Boundaries:*** *Within the boundaries of the Chinatown Residential Neighborhood Commercial District.* ***Controls:*** *An "Accessory Dwelling Unit," as defined in Section 102 and meeting the requirements of Section 207(c)(4) is permitted to be constructed within an existing building zoned for residential use or within an existing and authorized auxiliary structure on the same lot.*

Section 7. The Administrative Code is hereby amended by revising Section 37.2, to read as follows:

* * * *

(r) **Rental Units.** All residential dwelling units in the City and County of San Francisco together with the land and appurtenant buildings thereto, and all housing services, privileges, furnishings and facilities supplied in connection with the use or occupancy thereof, including garage and parking facilities.

Garage facilities, parking facilities, driveways, storage spaces, laundry rooms, decks, patios, or gardens on the same lot, or kitchen facilities or lobbies in single room occupancy (SRO) hotels, supplied in connection with the use or occupancy of a unit, may not be severed from the tenancy by the landlord without just cause as required by Section 37.9(a). Any severance, reduction or removal permitted under this Section 37.2(r) shall be offset by a corresponding reduction in rent. Either a landlord or a tenant may file a petition with the Rent Board to determine the amount of the rent reduction.

The term "rental units" shall not include:

* * * *

(4) Except as provided in Subsections (A), (B) and (C), dwelling units whose rents are controlled or regulated by any government unit, agency or authority, excepting those unsubsidized and/or unassisted units which are insured by the United States Department of Housing and Urban Development; provided, however, that units in unreinforced masonry buildings which have undergone seismic strengthening in accordance with Building Code Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the ordinance is not in conflict with the seismic strengthening bond program or with the program's loan agreements or with any regulations promulgated thereunder;

* * * *

(D) The term "rental units" shall include ~~*In-Law*~~ *Accessory Dwelling* Units constructed pursuant to Section *207(c)(4)* ~~*715.1*~~ of the Planning Code ~~*and the Section 715 Zoning Control Table*~~ and that have received a complete or partial waiver of the density limits and/or

the parking, rear yard, exposure, and or open space standards from the Zoning Administrator pursuant to Planning Code Section 307(l), provided that the building containing the ~~*In-Law*~~ *Accessory Dwelling* Unit(s) or any unit within the building is already subject to this Chapter.

* * * *

Section 8. 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 9. 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.

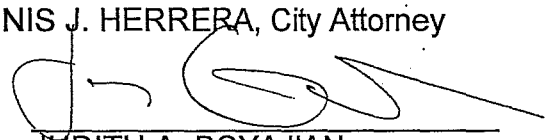
Specifically, the Board of Supervisors recognizes that a pending ordinance in Board of Supervisors File No. 1500365 that authorizes the construction of Accessory Dwelling Units within the boundaries of Board of Supervisors District 8 amends some of the same sections of the Planning Code. The Board intends that, if adopted, the additions and deletions shown in both ordinances be given effect so that the substance of each ordinance be given full force and effect. To this end, the Board directs the City Attorney's Office and the publisher to harmonize the provisions of each ordinance.

Section 10. Severability. If any section, subsection, sentence, clause, phrase, or word of this Section is for any reason held to be invalid or unconstitutional by a decision of any

court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Section. The Board of Supervisors hereby declares that it would have passed this Section and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this Section would be subsequently declared invalid or unconstitutional.

Section 11. Directions to Clerk. The Clerk of the Board of Supervisors is hereby directed to submit a copy of this ordinance to the California Department of Housing and Community Development within 60 days following adoption pursuant to Section 65852.2(h) of the California Government Code.

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

By: 
JUDITH A. BOYAJIAN
Deputy City Attorney

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FILE NO. 150805

LEGISLATIVE DIGEST

(7/28/15 – Amended in Board)

[Planning, Administrative Codes - Construction of Accessory Dwelling Units - 3]

Ordinance amending the Planning Code to allow the construction of Accessory Dwelling Units (ADUs, also known as Secondary or In-Law Units) within the boundaries of Board of Supervisors District 3, and require the Planning Department to monitor the use of ADUs as short-term rentals; amending the Administrative Code to correct section references; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and directing the Clerk of the Board of Supervisors to send a copy of this Ordinance to the California Department of Housing and Community Development after adoption.

Existing Law

Planning Code Section 102 has definitions for various uses. Section 207(c) establishes exemptions to dwelling unit density limits for various types of projects. Subsection (c)(4) allows Accessory Dwelling Units (ADUs), also known as Secondary Units or In-Law Units, to be constructed within the built envelope of an existing building zoned for residential use or an authorized auxiliary structure on the same lot within the Castro Neighborhood Commercial District and surrounding area, and in a building undergoing mandatory seismic retrofitting under the Building Code. An ADU cannot be constructed using space from an existing Dwelling Unit.

Section 307 authorizes the Zoning Administrator to grant complete or partial waivers from the Planning Code's density, parking, rear yard, exposure or open space requirements to facilitate the construction of an ADU and the Planning Department is required to establish a system for monitoring their affordability. If the ADU was constructed with a waiver of Planning Code requirements, it will be subject to the Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) if the building or any existing Dwelling Unit in the building is already subject to the Rent Ordinance.

Amendments to Current Law

Planning Code Section 102 is amended to add a definition for Accessory Dwelling Unit. Section 207(c)(4) is amended to allow ADUs to be constructed anywhere within the boundaries of Board of Supervisor District 3. An ADU may not be subdivided in a manner that would allow the ADU to be sold or separately financed pursuant to any condominium plan, housing cooperative, or similar form of separate ownership. For buildings undergoing mandatory seismic retrofitting, a noncomplying structure may be expanded without needing a variance and, if permitted by the Building Code, the building may be raised up to three feet to create heights suitable for residential use on lower floors. The increase in height for buildings

undergoing mandatory seismic retrofitting is exempt from the notification requirements of Planning Code Sections 311 and 312. The Zoning Control Tables for zoning districts within the boundaries of District 3 are amended to refer to ADUs, and conforming amendments are made to Section 307 and the Rent Ordinance.

An applicant for construction of an ADU must disclose whether the applicant intends to use, or authorize the use of, the ADU for Short-Term Residential Rentals, as that term is defined in Administrative Code Section 41A.4, and the Planning Department cannot approve the application unless the applicant has disclosed this information. The Department is required to collect data on the use of ADUs as Short-Term Residential Rentals, and must use that data to evaluate and enforce the requirements of Chapter 41A.

Background Information

San Francisco has long had a housing shortage. The housing market continues to be tight and housing costs are beyond the reach of many households. Policy I.5 of the City's 2014 Housing Element states that adding new units in existing residential buildings represents a simple and cost-effective method of expanding the City's housing supply. The State Legislation has also declared, in Section 65852.150 of the California Government Code, that second units in existing residential buildings are a valuable form of housing in California.

Permitting the creation of Accessory Dwelling Units in additional areas of the City that are already dense and transit rich will provide additional housing without changing the built character of these neighborhoods. It also "greens" San Francisco by efficiently using existing buildings and allowing more residents to live within walking distance of transit, shopping, and services.

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SAN FRANCISCO
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July 16, 2015

Ms. Angela Calvillo, Clerk
Honorable Supervisor Christensen
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 2015.007459PCA:
Construction of Accessory Dwelling Units in Supervisor District 3
Board File No. 15-0585
Planning Commission Recommendation: *Approval with Modification*

Dear Ms. Calvillo and Christensen,

On July 16, 2015, the San Francisco Planning Commission conducted duly noticed public hearing at a regularly scheduled meeting to consider the proposed amendments to the Planning Code introduced by Supervisors Christensen. At the hearing, the Planning Commission recommended approval with modification of this Ordinance.

The proposed amendments is covered as an Addendum to the 2004 and 2009 Housing Element Final Environmental Impact Report under Case No. 2015-005350ENV, pursuant to California Environmental Quality Act(CEQA) Guidelines Section 15164.

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

Sincerely,

Aaron D. Starr
Manager of Legislative Affairs

cc:
Andrea Ausberry, Assistant Clerk, Land Use and Economic Development Committee of the Board of Supervisors
Judith Boyajian, City Attorney
Kanishka Burns, Legislative aid to Supervisor Julie Christensen

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Planning Commission Resolution No. 19419

Planning & Administrative Code Text Change

HEARING DATE: JULY 16, 2015

Project Name:	Construction of Accessory Dwelling Units in Supervisorial District Three
Case Number:	2015-007459PCA [Board File No. 15-0585]
Initiated by:	Supervisor Christenson / Introduced June 2, 2015
Staff Contact:	Kimia Haddadan, Legislative Affairs Kimia.haddadan@sfgov.org, 415-575-9068
Reviewed by:	Aaron Starr, Manager Legislative Affairs aaron.starr@sfgov.org, 415-558-6362
Recommendation:	Recommend Approval with Modification

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE AMENDING THE PLANNING CODE TO ALLOW THE CONSTRUCTION OF ACCESSORY DWELLING UNITS (ALSO KNOWN AS SECONDARY OR IN-LAW UNITS) WITHIN THE BOUNDARIES OF BOARD OF SUPERVISORS DISTRICT 3; AMENDING THE ADMINISTRATIVE CODE TO CORRECT SECTION REFERENCES; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1; AND DIRECTING THE CLERK OF THE BOARD OF SUPERVISORS TO SEND A COPY OF THIS ORDINANCE TO THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AFTER ADOPTION.

WHEREAS, on Jun 2, 2015, Supervisor Christensen introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 150585, which would amend the Planning Code to allow accessory dwelling units in residential buildings within the boundaries of District 3; and,

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on July 16, 2015; and,

WHEREAS, the proposed Ordinance is covered as an Addendum to the 2004 and 2009 Housing Element Final Environmental Impact Report under Case No. 2015-005350ENV, pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15164.

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 Planning Commission hereby recommends that the Board of Supervisors approve with modification of the proposed ordinance. Specifically, the Commission recommends the following modifications:

1. Prohibit conversion of retail on the ground floor to ADUs.

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. Allowing ADUs within existing residential buildings is a pragmatic infill strategy to create more housing. This strategy is crucial for San Francisco's housing market in multiple aspects. First, adding apartments to existing, older housing stock complements the current housing development trends in San Francisco, which primarily occurs on lots that are significantly underdeveloped or vacant. Second, this existing housing stock provides limited available rental housing to the market as many of these buildings are also under rent control where the turnover rate of units for rental is generally low. Lastly, this infill strategy would create more apartments in the areas of the city that are already built-out without changing the neighborhood character, increasing building heights or altering the built form. Such small-scale residential infill could create additional homes for existing and future San Franciscans spread throughout the city.

2. ADUs are usually located on the ground floor in space that was previously used for parking or storage, and as a result typically have lower ceilings heights. These units will also likely have less light exposure due to smaller windows or windows facing smaller open areas, and side entrances due to location of the unit on the lot. Such subordinate characteristics of ADUs result in lower rents compared to the rental rates of a unit in a newly developed building. Further, the lower rents would accommodate populations that are not adequately being served by the market: younger households, small families, senior and elderly individuals and so forth. Estimated rents for ADUs in District 3 or 8 would provide more rental housing affordable to these households earning 130% to 145% AMI.

3. The proposed Ordinance would allow ADUs throughout Districts 3; a right step to the right direction of small scale infill housing. Expanding the geographies where ADUs are allowed can potentially provide thousands of units in areas of the city that currently have very low available rental housing on the market.

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

OBJECTIVE 1
IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

POLICY 1.5
Consider secondary units in community plans where there is neighborhood support and when other neighborhood goals can be achieved, especially if that housing is made permanently affordable to lower-income households.

The proposed Ordinance would allow Accessory Dwelling units within the boundaries of District 3. San Francisco is in deer need for more housing due to high demand pressures. Allowing ADUs within the existing residential buildings is an infill housing strategy and would provide one housing option among many options needed for San Francisco. This change in land use controls is not part of a community planning effort led by the Planning Department. However, the Commission listened to the public comment and considered the outreach completed by the Board Member and finds that there is sufficient community support and potential to achieve goals in the public interest of the neighborhood, to warrant the undertaking of this change in this these areas;

OBJECTIVE 7
SECURE FUNDING AND RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING, INCLUDING INNOVATIVE PROGRAMS THAT ARE NOT SOLELY RELIANT ON TRADITIONAL MECHANISMS OR CAPITAL.

POLICY 7.7
Support housing for middle income households, especially through programs that do not require a direct public subsidy.

ADUs are subordinate to the original unit due to their size, location of the entrance, lower ceiling heights, etc. ADUs are anticipated to provide a lower rent compared to the residential units developed in newly constructed buildings and therefore the proposed Ordinance would support housing for middle income households.

1. Planning Code Section 101 Findings. The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative impact on neighborhood serving retail uses and will not impact opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character. The new units would be built within the existing building envelope and therefore would impose minimal impact on the existing housing and neighborhood character.

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

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing and aims to create units affordable to middle income households. The ordinance would, if adopted, increase the number of rent-controlled units in San Francisco.

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

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

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

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

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

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

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have a negative impact on the City's Landmarks and historic buildings as the new units would be added under the guidance of local law and policy protecting historic resources, when appropriate. Further, the additional income that may be gained by the property owner may enable the property owner to pursue a higher standard of maintenance for the building.

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

The proposed Ordinance would not have an impact on the City's parks and open space and their access to sunlight and vistas.

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

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance with modifications as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on July 16, 2015.

Jonas P. Ionin
Commission Secretary

AYES: Fong, Antonini, Richards, Johnston,

NOES: Wu, Moore

ABSENT: Hillis

ADOPTED:

SAN FRANCISCO
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Executive Summary
Planning and Administrative Code Text Change
HEARING DATE: JULY 16, 2015

Project Name:	**Construction of Accessory Dwelling Units in Supervisorial Districts Three and Eight**
Case Number:	2015-005464PCA [Board File No. 15-0365] & 2015-007459PCA [Board File No. 15-0585]
Initiated by:	Supervisor Weiner and Supervisor Christenson / Introduced June 2, 2015
Staff Contact:	Kimia Haddadan, Legislative Affairs Kimia.haddadan@sfgov.org, 415-575-9068
Reviewed by:	Aaron Starr, Manager Legislative Affairs aaron.starr@sfgov.org, 415-558-6362
Recommendation:	Recommend Approval with Modification

PLANNING & ADMINISTRATIVE CODE AMENDMENTS

The two proposed Ordinances would amend the Planning Code to allow the construction of Accessory Dwelling Units (also known as Secondary or In-Law Units) within the boundaries of Board of Supervisors Districts 3, and District 8 excluding any lot within 500 feet of Block 2623 Lots 116 through 154; amending the Administrative Code to correct section references; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and directing the Clerk of the Board of Supervisors to send a copy of this ordinance to the California Department of Housing and Community Development after adoption.

The Way It Is Now:

1. Currently, San Francisco allows new ADUs in and within 1,750 feet of the Castro NCD, and also in buildings that are undergoing voluntary or mandatory seismic retrofitting, subject to the following conditions:
   - ADUs can only be built within the existing built envelope and cannot use space from an existing unit.
   - ADUs are exempt from certain provisions of the Planning Code such as rear yard, open space, partial exposure, and parking through an administrative waiver.
   - If the original building is subject to rent control, the AUD(s) would also be subject to the rent control.

- For AUDs in buildings undergoing a seismic retrofit, buildings with four or fewer units are permitted to have one ADU and buildings with 5 or more are permitted to have an unlimited number of ADUs.
- For ADUs in or within 1,750 feet of the Castro NC District, buildings of 10 units or less can add one ADU, and buildings with 11 or more units can add up to two ADUs.

2. In zoning districts with density controls in District 3, new ADUs are not permitted.
3. The Definition of an ADU is located in Section 207.
4. When adding an ADU in buildings undergoing seismic retrofitting, the building can be raised three feet to create the height suitable for residential use.

The Way It Would Be:

1. ADUs would be permitted throughout District 8 subject to the same controls listed above; depending on whether or not it was a seismic retrofit building.
2. ADUs would be permitted throughout District 3 subject to the same controls for ADUs in seismic retrofit buildings.
3. The definition of an ADUs would be moved to Section 102 of the Planning Code.
4. For ADUs in buildings undergoing seismic retrofitting, it would be clarified that in cases of raising the building for a maximum of three feet: a) notification requirements of Section 311 and 312 would not apply, and b) a variance is not required if expanding a noncomplying structure.

Exhibit A shows the areas affected by the two Proposed Ordinances.

BACKGROUND

In his State of the City speech in January 2014, Mayor Lee acknowledged a housing shortage and established a seven point plan for housing, one of which focuses on building "more affordable housing, faster". In the midst of this crisis for housing affordable to low or middle income households, a variety of housing policies are needed to achieve the City's housing goals.

ADUs within existing residential buildings have been an idea promoted by the State and employed by many local jurisdictions[1] in California to meet affordable housing needs. Academic research and published reports have identified the benefits of ADUs for more than two decades. The California Department of Housing and Community Development identifies multiple potential benefits that ADUs can offer to communities, including: an important source of affordable housing, easing a rental housing deficit, maximizing limited land resources and

[1] Examples are Santa Cruz, Berkeley, Los Angeles, San Luis Obispo.

existing infrastructure, and assisting low and moderate-income homeowners with supplemental income[2].

What is an Accessory Dwelling Unit?

An ADU is a residential unit added to an existing building or lot with an existing residential use that is subordinate to the other residential units due to its smaller size, location, location of the entrance, low ceiling heights, less light exposure, and so forth. Also known as secondary units, in-law units, or granny flats, ADUs are generally developed using uninhabited spaces within a lot, whether a garage, storage, rear yard, or an attic. These units are entirely independent from the primary unit or units, with independent kitchen, bathroom, sleeping facilities, and access to the street; however, they may share laundry facilities, yards, and other traditional types of common spaces with the primary unit(s).

In 2014, Ordinance 0049-14 created a definition in the Planning Code for an ADU. This definition aligns with the concept of an ADU described above, with a specific restriction that an ADU is a unit added within the existing built envelope as it existed three years prior to application of building permit for the ADU.

San Francisco's Policy for Adding Dwelling Units in Existing Residential Buildings

Many residential properties in the city include fewer units than the zoning controls already allow (Exhibit B). Property owners of these lots can simply apply for a permit to add a unit. Since these units are added to an existing building, it is likely that they were created as an infill of an existing unused space: smaller in size, subordinate location on the lot, potential lower ceiling. Also, in late 2000s after many years of community planning, the City rezoned large areas of the City as a result of the Eastern Neighborhoods, Market Octavia, and Balboa Area Plans. These efforts removed numerical density limits that restrict the number of units per lot in these districts. Instead, the number of units is controlled through height, FAR, and open space, rear yard, and exposure requirements. In the absence of traditional density limits, property owners are now able to add units to the existing buildings as long as other Planning Code requirements are met. Many of these units seek variances from some Planning Code requirements such as open space, rear yard, and exposure. In the past five years, only about 300 units were added through one-unit additions.

The City has also allowed the addition of new units beyond density limits. In 1978, the City created a new zoning district, RH-1(S), to allow secondary units limited to 600 square feet in single-family homes; however, only about 40 parcels fall under this zoning category. More than three decades later, the City expanded on this effort. First was the legalization of illegal units: units built without the benefit of permit and may be in excess of density limits. The Asian Law Caucus carried out a report on such units in the Excelsior Neighborhood in San Francisco. This report suggested that "secondary units are home to tens of thousands of San Francisco residents", while acknowledging the uncertainty of this statement due to the hidden nature of the units as

[2] California Department of Housing and Community Development, Memorandum for Planning Directors and Interested Parties, August 6, 2003; http://www.hcd.ca.gov/hpd/hpd_memo_ab1866.pdf retrieved on January 29, 2014.

illegal units[3]. As a response to this issue, Supervisor Chu sponsored an ordinance (Ordinance 0043-14) that created a path for owners to legalize existing units built without permits beyond the density limits. Since the start of this voluntary program in May 2014, the City has received over 200 permit applications for the legalization program. Also in 2014, two other new programs related to ADUs were adopted. Ordinance 0049-14 allowed new ADUs in the Castro District over the existing density limit, followed by Ordinance 003-15 that expanded this provision to buildings undergoing voluntary or mandatory seismic retrofitting (Exhibit B).

These Ordinances signify a turning point in the City's housing policy towards ADUs, a major change from previously requiring removal of illegal units to allowing additional units beyond the established density.

ISSUES AND CONCERNS

ADUs: An Infill Housing Strategy

Allowing ADUs within existing residential buildings is a pragmatic infill strategy to create more housing. This strategy is crucial for San Francisco's housing market in multiple aspects. First, adding apartments to existing, older housing stock complements the current housing development trends in San Francisco, which primarily occurs on lots that are significantly underdeveloped or vacant. ADUs would allow more efficient use of land within our existing housing stock as the majority of the city's residential properties are already developed and are unlikely to be redeveloped in near or long-term future. Second, this existing housing stock provides limited available rental housing to the market as many of these buildings are also under rent control where the turnover rate of units for rental is generally low. Exhibit C shows the concentration of rental listings in the past year[4] indicating low volumes of units available on the market for rent in most of the city except for areas in, SoMa, lower Nob Hill, or parts of the Mission. New ADUs would provide more rental units on the market in these areas with low availability. Lastly, this infill strategy would create more apartments in the areas of the city that are already built-out without changing the neighborhood character, increasing building heights or altering the built form. Such small-scale residential infill could create additional homes for existing and future San Franciscans spread throughout the city.

The proposed Ordinances would allow ADUs throughout Districts 3 and 8; a right step to the right direction of small scale infill housing. Expanding the geographies where ADUs are allowed can potentially provide thousands of units in areas of the city that currently have very low available rental housing on the market.

ADUs: Middle Income Housing

Despite the boom in development with about 7,000 units currently under construction, the city's rental market remains the most expensive in the nation. Trulia, an online real estate service,

[3] Asian Law Caucus, Our Hidden Communities: Secondary unit households in the Excelsior Neighborhood of San Francisco, March 22, 2013.

[4] Data scraping from Padmapper from January to June 2015

publishes a trend report that puts San Francisco rents as the highest in the nation, easily out pricing New York[5]. Trulia also published a map of median asking rents in recent listings by neighborhoods, which ranges up to about $3,750 per bedroom[6]. The median rent price for a 1 bedroom apartment in San Francisco has been reported as high as $3,500 by Zumper.[7] Within District 8 the median price for a 1 bedroom ranges from $2,810 in Glen Park to $3,650 in the Castro. In District 3, the median rent for a one bedroom ranges from $3,040 in North Beach to $3,995 in financial district. However, the rental listings on this website primarily rely on units in new development projects which are different than what an ADU would look like.

ADUs are usually located on the street level, potentially behind the garage, or a side entrance, possibly low ceiling heights or less light exposure. Looking at Craigslist rental listings for comparable units to an ADU indicates a lower average of $2,600 for such units in District 3 and $2,700 in District 8.[8] Staff estimates that a one bedroom ADU created as a result of the two proposed Ordinances would rent between $2,600 to $2900 rent for a new one-bedroom apartment. Assuming that rent is affordable to a household if they are spending less than 30% of their gross income, such apartment would be affordable to a two-person household with a combined income of between $104K to $116K equivalent to 130% to 145% of AMI[9,10]. For San Francisco, this income level represents middle-income households who are today, more than ever, feeling the pressure to leave the city for lower-rental markets in the Bay Area; therefore ADUs can serve this section of the population who are currently poorly served by the new development.

Density Limits Waivers

Similar to previous Ordinances allowing ADUs, the proposed Ordinances allow waivers from density limits. Ordinance 0049-14, allowing ADUs in the Castro, provided waivers from density for one ADU in buildings of 10 units or less and for two ADUs in buildings of more than 10 units. The proposed Ordinance for District 8 expands the same proposal to all parcels within District 8. The proposed Ordinance for District 3, however, allows waivers from density for one ADU in buildings of four units or less, and a complete waiver from density in buildings of five units or more. This proposal aligns with the ADU controls in buildings undergoing seismic retrofitting

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[5] Kolko, Jed; Chief Economist; Trulia trends, January 8th, 2015 Retrieved from http://www.trulia.com/trends/category/price-rent-monitors/ on January 8, 2015.

[6] Trulia, San Francisco Real Estate Overview, Retrieved at http://www.trulia.com/real_estate/San_Francisco-California/ on January 27, 2015

[7] Zumper National Rent Report: June 2015, Retrieved from https://www.zumper.com/blog/2015/06/zumper-national-rent-report-june-2015/ July 1st, 2015.

[8] These averages are based on a limited pool of listing pulled at one time from Craigslist.

[9] Area Median Income (AMI) is the dollar amount where half the population earns less and half earns more.

[10] San Francisco Mayor's Office of Housing, *Maximum Rent by Unit Type: 2015*, http://www.sf-moh.org/modules/showdocument.aspx?documentid=8829

where a complete waiver from density limits is allowed. The seismic retrofit program applies only to buildings of five units or more.

The Planning Code imposes density limits in many areas of the city through either an absolute maximum number of units per parcel (RH 1, RH-2, and RH-3) or limits based on the size of the lot (RM-1-, RM-2, RM-3, etc). Waivers from density in these areas cannot currently be obtained through any mechanism. However, removing density limits has been a strategy implemented in San Francisco. In certain areas of city (most of the mixed use districts in the Mission, SoMA, Potrero Hill, etc), the Planning Code does not maintain density limits through such variables. Instead the number of units per lot is controlled by height, bulk, rear yard, open space, and bedroom count requirements.

Ordinance 003-15, allowing ADUs in buildings undergoing seismic retrofitting, struck a balance in the City's policy towards density, in that under certain conditions the density limits on a lot is removed. Those conditions include: 1) if new units are added within the existing built envelope without taking space from existing units, and 2) if the buildings is mid to large scale (5 or more units).

Feasibility of ADUs

Adding an ADU within an existing building requires existing uninhabited space, typically on the ground floor, usually a garage or storage space. Such space is not always available in San Francisco buildings, especially the older buildings without any garage. Other owners may not favor removing garage spaces to add an apartment. Other factors can also prohibit owners from deciding to add a unit: lengthy and complex permitting process, lack of familiarity with the construction process, costs of construction, lack of interest for managing a rental apartment, and so forth.

Based on these challenges, unit additions are not very common in San Francisco, despite the already existing vast potential for adding units within existing buildings throughout the city. Over 37,000 parcels[11] can add at least on unit within the allowable density in residential buildings in San Francisco (Exhibit D). However, the Department receives unit additions permits for only a very small fraction of that each year. Since 2014 when the two ADU programs were established, only three applications have been received: two ADUs in the Castro and one in a seismic retrofit program.

To encourage more ADUs, the Department has recently published an ADU handbook developed by a consultant. It is the Department's hope that this handbook will help guide and encourage homeowners that may have the ability to add an ADU to their building, but have been discouraged in the past to do so. This handbook includes six prototypes of adding a unit to an existing building and summarizes the City regulations that govern such permits. The Department will publish this handbook in the coming weeks. This handbook also includes costs analysis for adding a unit to a building. It found that on average an ADU could cost from $150,000 to

[11] This number includes that are density controlled lots that are underbuilt by at least one unit to a maximum of five units, as well as residential lots without density controls throughout the city; it does not include the ADUs allowed beyond the density limits per the new Ordinances since 2014.

$200,000. While this cost could make adding a unit financially infeasible to many, it indicates that with some investment a property owner could add a unit to their building that would pay for itself within about five years.

Given many factors contributing to the feasibility of an ADU, it is uncertain how many ADUs could potentially result from the two proposed Ordinances. Despite this, staff used a methodology to approximate such a number in Exhibit E. ADUs resulting from these two Ordinances or any unit additions throughout the city would be added incrementally and spread out in different residential blocks.

Application of Rent Control Regulations

San Francisco Residential Rent Stabilization and Arbitration Ordinance[12] (Rent Control Law) regulates the existing housing stock in San Francisco, establishing rent increase constraints for rental units in residential buildings built prior to 1979. The Rent Control Law also protects the tenants residing in these units against no-fault evictions, restricting evictions of these tenants to only fourteen specified just causes. Similar to the previous ADU Ordinances, the two proposed Ordinances require that any new ADU constructed in a building with units currently subject to rent control would also be subject to rent control. Given that most of the buildings in these districts eligible for adding ADUs were all built before 1979 it is safe to assume that the overwhelming majority[13] of these buildings are subject to the Rent Control law.

This change would create the opportunity to increase the approximately 170,000 units currently protected under Rent Control[14]. It would apply the annual rent increase limits to these units at a regulated reasonable rate—helping to ensure tenants won't become priced out of their unit during an economic upturn. The rent stabilization strategy of the City's rent control law limits the amount that the rent can be increased in rent-controlled units, stabilizing rental prices for the tenants of such units, especially during economic booms like the one we are currently in.

The Planning Code already outlines the procedure through which an ADU would legally be subject to the Rent Control law. This procedure includes an agreement between the City and the property owner that would waive the unit from the Costa Hawkins Act, a State law that prohibits municipal rent control ordinances for buildings built after 1995. Under the Costa Hawkins Act, for buildings built after 1995, the property owner may establish the initial and all subsequent rental rates. This agreement represents a condition for permitting an ADU, which is also being used when on-site inclusionary rental units are provided within a project.

Quality of Life Regulations

The Building, Fire, Housing, and Planning Codes all regulate quality of life standards in housing units in order to ensure habitability of residential units. While earthquake and fire safety

[12] Chapter 37 of the Administrative Code

[13] Condominiums and tenancy in Common buildings are ownership units and not subject to the Rent Control Ordinance.

[14] San Francisco Rent Board. http://www.sfrb.org/index.aspx?page=940 Retrieved on 2/1/14.

measures along with access to light and air standards represent the minimum life and safety standards, Planning Code requirements regarding open space, exposure, and parking define the quality of life beyond minimum habitation standards. Historically, applications for adding a unit in areas that are already allowed sought variance from some of the Planning Code requirements such as open space, rear yard, exposure, and parking. The two recent Ordinances that allowed ADUs in the Castro or buildings undergoing seismic retrofitting provided a streamlined waiver process from these requirements under the condition that the unit is within the existing built envelope. Similarly, the proposed Ordinances allow the Zoning Administrator (ZA) to waive open space, rear yard, and parking requirements for these ADUs in District 3 or 8. Other City policies such as street trees and provision of bicycle parking remain applicable to these units. Below is a summary discussion of how such provision would facilitate ADUs without compromising the quality of life for ADUs.

Rear Yard- The existing rear yard in a building where an ADU is added would remain unchanged. In cases where the existing buildings are already non-conforming to the rear yard requirements, this Ordinance would allow the new units to also be exempt from complying with the rear yard requirements as well. These buildings were built prior to establishment of rear yard requirements and any added unit would offer similar quality of life levels as the existing units in the building.

Exposure- Exposure requirements contribute significantly to quality of life as they regulate light and air into residential space. While the Building Code regulates the size of windows, the Planning Code regulates the size and quality of the open area to which the windows face. In existing buildings built prior to the Planning Code exposure requirements, it is usually infeasible to provide a code compliant open area for exposure purposes. Allowing flexibility in the size of the open area would not harm livability of ADUs and may be critical to ensuring these units are built. The two most recent ADU ordinances allowed such open area to be 15' by 15'.

Parking- The provision to waive parking requirements would facilitate ADUs in two ways: First, it would allow removing an existing required parking space to provide space for an ADU. Second, if two or more ADUs are proposed on a lot, the parking requirement can also be waived. It is important to note that currently, the Planning Code does not require parking space if only one unit is being added to an existing building.

In a typical new construction project, an average cost of a podium parking spot has been reported nearly $30,000 per space[15]. In the case of new ADUs, while this cost can be lower due to the existing structure, maintaining a parking requirement for these units would still likely render new ADUs as infeasible. Given the goal of streamlining and facilitating earthquake resilience in this Ordinance, parking waivers are appropriate and necessary. San Francisco has advanced a transit first policy that aligns with providing housing without off-street parking.

[15] Seifel Consulting Inc, Inclusionary Housing Financial Analysis, December 2012, Report prepared for San Francisco Mayor's Office of Housing, page 15.

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.

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 proposed modifications are as follows:

1. Create consistency in number of ADUs allowed per lot across different geographies.
2. Expand the eligible geography within District 8 to include the buffer areas around the associated Supervisor's residences.

BASIS FOR RECOMMENDATION

The Department supports the recommendations of these two Ordinances. San Francisco and the Bay Area region is in dire need for more housing given the significant increase in number of jobs in the region. ADUs represent one housing strategy among many that the City is promoting to facilitate a variety of housing options. Allowing ADUs represent a small-scale infill housing strategy that complements current development. This strategy would create potential to add new homes to properties that otherwise would not have any development potential, efficiently using unoccupied space in existing buildings as a resource to provide more housing.

ADUs are usually located on the ground floor in space that was previously used for parking or storage, and as a result typically have lower ceilings heights. These units will also likely have less light exposure due to smaller windows or windows facing smaller open areas, and side entrances due to location of the unit on the lot. Such subordinate characteristics of ADUs result in lower rents compared to the rental rates of a unit in a newly developed building. Further, the lower rents would accommodate populations that are not adequately being served by the market: younger households, small families, senior and elderly individuals and so forth. Estimated rents for ADUs in District 3 or 8 would provide more rental housing affordable to these households earning 130% to 145% AMI.

The following is the basis for the Department's recommended modifications:

1. **Create consistency in number of ADUs allowed per lot across different geographies-** Staff recommends that the controls for ADUs in District 8 be modified to align with District 3 controls: For buildings with 4 units or less only one ADU per lot would be allowed, and for buildings with more than four units, density controls would not apply. As proposed, the controls for ADUs in District 8 differ from ADUs in District 3 in terms of number of ADUs allowed per lot. The same difference exists in the existing regulations for ADUs in buildings undergoing seismic retrofitting compared to ADUs in the Castro. Staff finds that the density controls for ADUs in seismic retrofit buildings are further aligned with the City's overall policy towards density controls. In many areas of the City, a combination of form and unit type related requirements (height, bulk, rear yard, open space, and bedroom count requirements) control the number of units allowed per lot as opposed to a certain square footage per unit. Similarly, the ADU controls in buildings

undergoing seismic retrofitting establish form and unit size related requirements in mid to large size buildings (five or more units): that the ADU should stay within the existing built envelope, and it should not take space from existing units. The proposed Ordinance in District 3 already reflects this strategy for buildings with 5 or more units. For smaller buildings (4 or less units) however, recognizing the smaller scale and character of these buildings and the neighborhoods, it would only allow one ADU. Staff supports these controls and recommends that District 8 ADU control also be modified to adopt the more balanced density control strategies.

2. **Expand the eligible geography within District 8 to incorporate the buffer areas around the associated Supervisor's residences currently excluded from the program.** The proposed Ordinance in District 8 excludes properties within a 500' buffer around the residence of Supervisor Wiener sponsoring the legislation. These areas were excluded due to the California Political Reform Act that precludes the ability of officials to participate in decisions that affect their financial interests. Staff finds that applying the ADU controls to the entirety of the district would serve the broader public interest. Expanding the ADU controls to include this area would enable application of the proposed provisions fairly and consistently throughout the District.

ENVIRONMENTAL REVIEW

The proposed ordinance is covered as an Addendum to the 2004 and 2009 Housing Element Final Environmental Impact Report under Case No. 2015-005350ENV, pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15164.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any comments about this Ordinance.

RECOMMENDATION:	Recommendation of Approval with Modification

Attachments:

Exhibit A:	Affected Properties in the two Proposed Ordinances
Exhibit B:	Areas where ADUs are already allowed
Exhibit C:	Concentration of Rental Listings in 2015
Exhibit D:	Potential number of new ADUs
~~Exhibit E:~~	~~Draft Planning Commission Resolution for BF No. 15-0365~~
~~Exhibit F:~~	~~Draft Planning Commission Resolution for BF No. 15-0585~~
~~Exhibit G:~~	~~Draft Ordinance [Board of Supervisors File No. 15-0365]~~
~~Exhibit H:~~	~~Draft Ordinance [Board of Supervisors File No. 15-0585]~~

Exhibit A

Residential Buildings in District 8 (excluding RH-1(D))

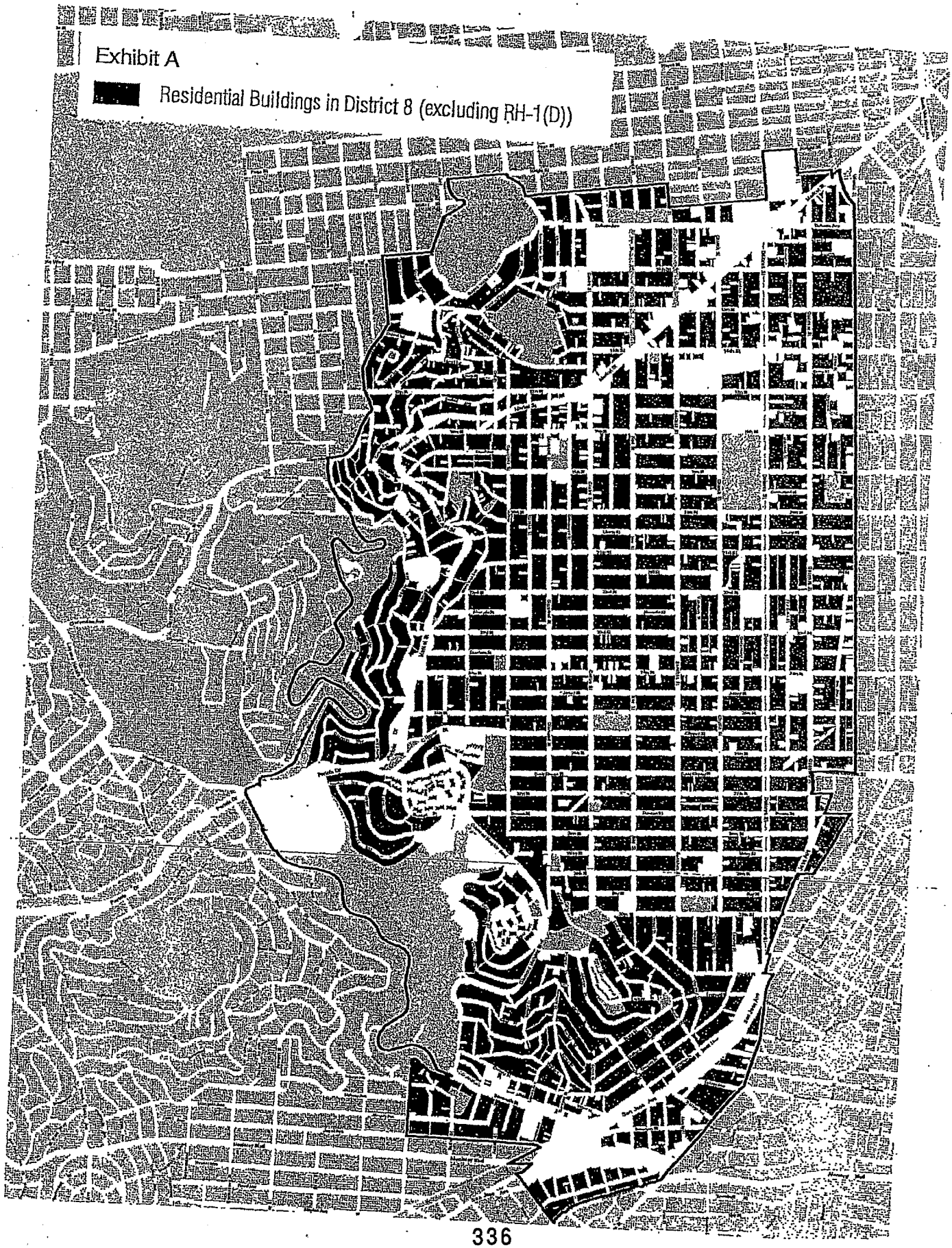


Exhibit A
Residential Buildings In District 3

Exhibit B

ELIGIBLE PARCELS FOR ADDING AT LEAST ONE UNIT

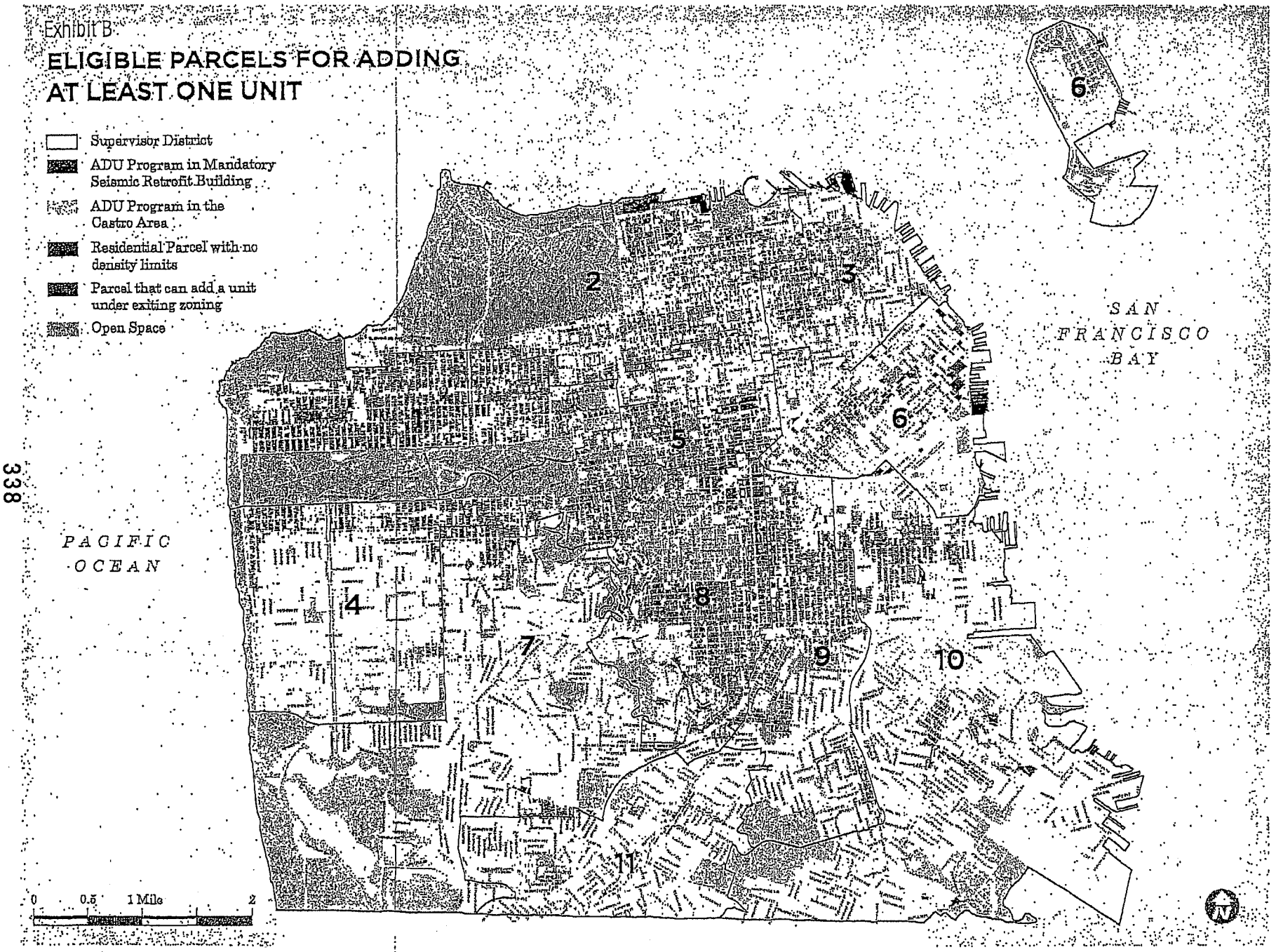
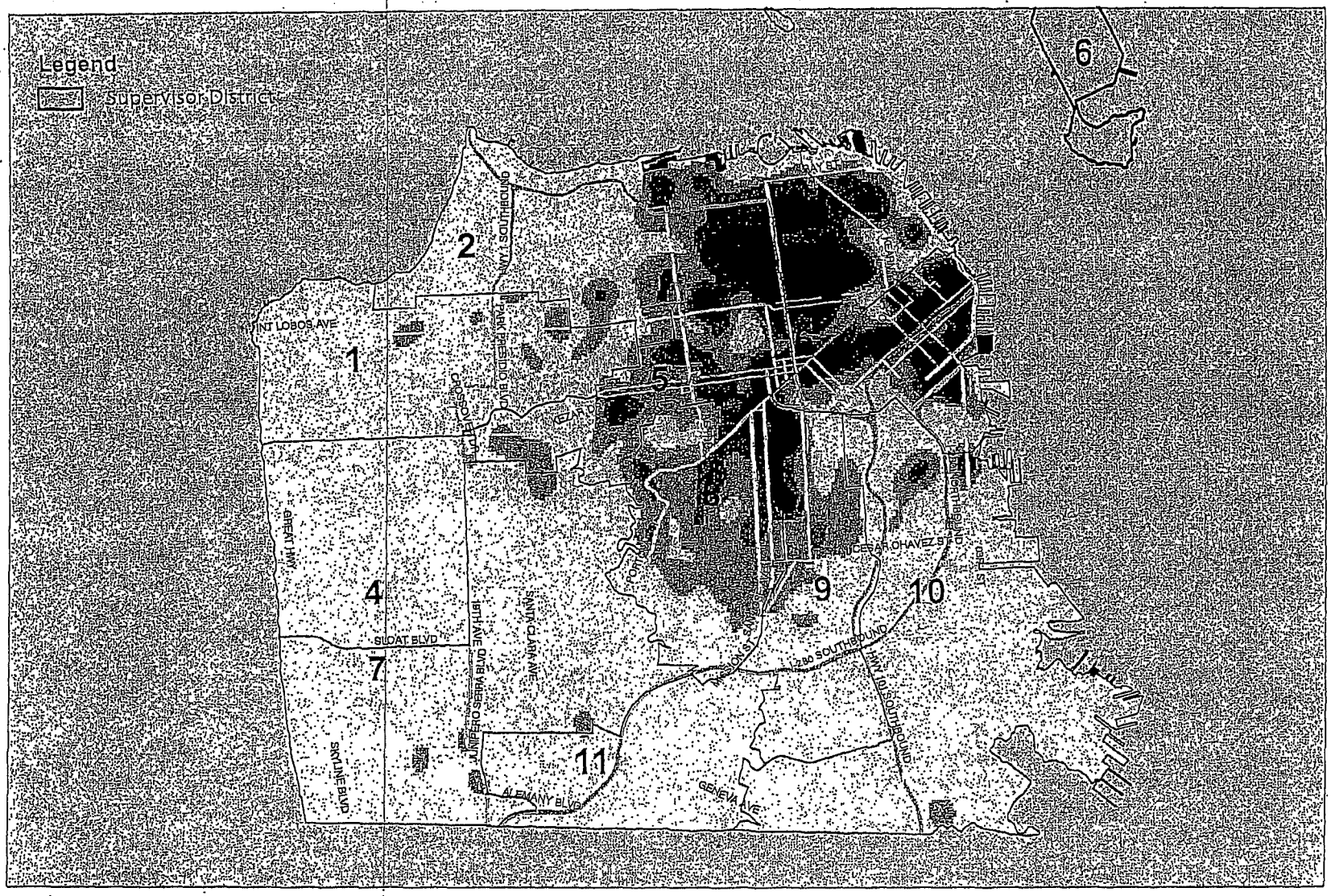


Exhibit C: Concentration of Rental Listings from January to June 2015 (Source: Padmapper)



Printed: 6 July, 2015

Exhibit D--Potential number of new ADUS

Total Number of Parcels in District 3	5,780
Number of non-residential parcels	-1,350
Number of parcels that may create ADUs under other ordinances[1]	-570
Number of parcels with condominiums[2]	-390
Estimate number of remaining parcels with no garages[3]	-1,300
Estimate Number of Potential ADU Parcels in District 3	2,170
Approximate number of remaining 4 or less units buildings	1,224
Approximate number of remaining five or more unit buildings[4]	946
Theoretical Maximum Potential of ADUs in District 3 (1,224 + 946*2)	3,116
Estimate Number of Potential New ADUs in District 3 (3,116 x 0.25 = 779)	779

[1] ADUs allowed in buildings undergoing seismic retrofitting

[2] Due to the ownership structure for condominiums in a building, staff anticipates that such buildings would not add ADUs.

[3] Based on field survey in the Castro Area in 2014

[4] Based on past trends it is anticipated that buildings of five or more units would on average add a maximum of two ADUs.

Total Number of Parcels in District 8	16,700
Number of non-residential parcels	-540
Number of parcels that may create ADUs under other ordinances[5]	-3,800
Number of parcels with condominiums	-1,560
Estimate number of remaining parcels with no garages	-3,870
Estimate Number of Potential ADU Parcels in District 8	6,930
Approximate number of remaining 10 or less unit buildings	6,750
Approximate number of remaining 11 or more unit buildings[6]	180
Theoretical Maximum Potential of ADUs in District 8 (6,750 + 180*2)	7,110
Estimate Number of Potential New ADUs in District 8 (7,110 x 0.25 = 1,77.5)	1,778

[5] ADUs allowed in buildings undergoing seismic retrofitting, or the Castro area.

[6] Based on past trends it is anticipated that buildings of five or more units would on average add a maximum of two ADUs.

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Addendum 2 to Environmental Impact Report

Addendum Date:	July 14, 2015
Case No.:	2015-005350ENV
Project Title:	BOS 150365—Accessory Dwelling Units
	BOS 150585 – Accessory Dwelling Units
EIR:	San Francisco 2004 and 2009 Housing Element, 2007.1275E
	SCL No. 2008102033, certified March 24, 2011, re-certified April 24, 2014
Project Sponsor:	San Francisco Board of Supervisors
Sponsor Contact	Kimia Haddadan, (415) 558-9068
Lead Agency:	San Francisco Planning Department
Staff Contact:	Jenny Delumo – (415) 575-9146
	Jenny.Delumo@sfgov.org

REMARKS

The purpose of this Addendum to the 2004 and 2009 Housing Element Final Environmental Impact Report (EIR) is to substantiate the Planning Department's determination that no supplemental environmental review is required for the proposed legislation, as the environmental effects of amending the locations in which an Accessory Dwelling Unit ("ADU") may be created has been adequately analyzed pursuant to the California Environmental Quality Act ("CEQA") in a Final Environmental Impact Report ("2004 and 2009 Housing Element Final EIR" or "Final EIR") previously prepared for the 2004 and 2009 Housing Elements. Nor would the proposed project result in new or heightened environmental impacts than those analyzed in the Final EIR. This memorandum describes the proposed ADU legislation, analyzes the project in context of the 2004 and 2009 Housing Element Final EIR, and summarizes the potential environmental effects that may occur as a result of implementing the proposed project.

Background

The 2009 Housing Element was adopted by the San Francisco Board of Supervisors ("Board") as the Housing Element of the San Francisco General Plan on June 21, 2011. However, pursuant to the San Francisco Superior Court's direction in *San Franciscans for Livable Neighborhoods v City and County of San Francisco* (San Francisco Superior Court Case No. 513-077), the San Francisco Planning Department ("Planning Department" or "Department") recirculated for public review a revised Chapter VII Alternatives of the Final EIR (Revised EIR) on December 18, 2013. The public hearing on the Revised EIR occurred before the San Francisco Planning Commission

("Planning Commission") on January 23, 2014. The public comment period ran from December 18, 2013 through February 18, 2014 (the original close of the public comment period was February 3, 2014, but was extended to February 18, 2014 in response to requests from the public and the Planning Commissioners). The Responses to Comments document for the Revised EIR was issued on April 10, 2014. These documents together comprise the 2004 and 2009 Housing Element Final EIR. On April 24, 2014 the Planning Commission held a noticed hearing to consider certification of the 2004 and 2009 Housing Element Final EIR. The Planning Commission found that the 2004 and 2009 Housing Element Final EIR reflects the independent judgment and analysis of the City and County of San Francisco's ("City"), is adequate, accurate and objective, and it complies with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco *Administrative Code*. Thus, a Final Environmental Impact Report for the 2004 and 2009 Housing Elements (File No. 2007.1275E) was certified by the Planning Commission on April 24, 2014. On June 17, 2014, the Board denied an appeal of the certification and re-adopted the 2009 Housing Element with minor revisions. On January 22, 2015, in response to the proposed 2014 Housing Element, the Planning Department prepared Addendum 1 to 2004 and 2009 Housing Element Final EIR. Addendum 1 was certified by the Planning Commission on February 5, 2015 and adopted by the Board on April 26, 2015. This Addendum 2 applies only to implement the proposed ADU legislation.

PROPOSED REVISIONS TO PROJECT

Background and Legislative Applicability

The Housing Element is a component of the City's General Plan that establishes the City's overall housing policies. State Housing Element law (California *Government Code* Section 65583) requires local jurisdictions to adequately plan for and address the housing needs of all segments of its population in order to attain the region's share of projected state-wide housing goals. This law requires local governments to plan for their existing and projected housing needs by facilitating the improvement and development of housing and removing constraints on development opportunities.

As discussed in the City's Housing Element, housing density standards in San Francisco have been traditionally set in terms of numbers of dwelling units in proportion to the size of the building lot. For the various zoning districts of the City, the San Francisco *Planning Code* limits the number of dwelling units permitted on a given lot. In a Residential House, Two Family (RH-2) district, for example, two dwelling units are principally permitted per lot, and one dwelling unit is permitted per 1,500 square feet of lot area with conditional use authorization. The 2004 and 2009 Housing Elements discussed the need to increase housing stock through policies that promote intensification of density on developed lots. As described in Table 1, the following policies and associated implementation measures, the creation of ADUs and were analyzed in the Final EIR:

Table 1: 2004 and 2009 Housing Element Policies and Implementation Measures that Promote Increased Density-Related Development Standards for the Creation of ADUs

Policies & Implementation Measures	2004 Housing Element	2009 Housing Element	2014 Housing Element
Policies	Policy 1.8 – Allow secondary units in areas where their effects can be dealt with and there is neighborhood support, especially if that housing is made permanently affordable to lower income households.	Policy 1.5 – Consider secondary units in community plans where there is neighborhood support and when other neighborhood goals can be achieved, especially if that housing is made permanently affordable to lower-income households. Policy 1.6 – Consider greater flexibility in the number and size of units within established building envelopes in community plan areas, especially if it can increase the number of affordable units in multi-family structures.	Policy 1.5 – Consider secondary units in community planning processes where there is neighborhood support and when other neighborhood goals can be achieved, especially if that housing is made permanently affordable to lower-income households.
Implementation Measures	Implementation Measure 1.8.1 – The Board has introduced *Planning Code* amendments to allow secondary units in new buildings that are in close proximity to neighborhood commercial districts and public transit. Measure 1.8.3 –	Implementation Measure 13 – When considering legalization of secondary units within a community planning process, Planning should develop design controls that illustrate how secondary units can be developed to be sensitive to the surrounding neighborhood, to ensure	Implementation Measure 13 – When considering legalization of secondary units within a community planning process, Planning should develop design controls that illustrate how secondary units can be developed to be sensitive to the surrounding

	Ongoing planning will propose *Planning Code* amendments to encourage secondary units where appropriate.	neighborhood character is maintained.	neighborhood, to ensure neighborhood character is maintained.

The Planning Department engaged in a community planning process to develop a number of Area Plans to guide future development within specific areas of the City. These plans have been incorporated into the City's General Plan. The Final EIR found that implementation of the 2009 Housing Element would promote neighborhood and area plans as part of the planning process, such as that found in 2009 Housing Element Policy 1.5. In addition, the Final EIR determined that implementation of the 2004 and 2009 Housing Elements would not result an adverse effect on the application of General Plan policies and plans, and would not lead to inconsistencies with adopted Area Plans. Table 2 lists the Areas Plans located completely or partially within the boundaries of the project area.

Table 2: Area Plans within Project Area by District

Area Plans in District 3	*Area Plans in District 8*
Chinatown	Glen Park
Downtown	Market & Octavia
Northeast Waterfront	Mission

Accessory Dwelling Unit Program

Project Description

Legislation was introduced to the San Francisco Board of Supervisors by Supervisor Wiener on April 14, 2015 (BOS File No. 150365)[1] and Supervisor Christensen on June 2, 2015 (BOS File No. 150585), that would amend San Francisco *Planning Code* Sections 102, 207, 209, 210, 307, 714, 722, 723, 732, 810, 811, and 812 to allow the construction of ADUs within the boundaries of Supervisorial District 8 ("District 8") and Supervisorial District 3 ("District 3"), collectively known as the project area. ADUs, also referred to as Secondary Dwelling Units or In-Law Units, are defined in Section 207(c)(4)(A) of the *Planning Code* as additional dwelling units constructed entirely within the existing built envelope of a building or authorized auxiliary structure (the "building envelope") zoned for residential uses, and may be constructed with a complete or

1 BOS 150365 was originally introduced on April 14, 2015. The proposed legislation language was substituted and reintroduced on June 2, 2015.

partial waiver from the Zoning Administrator for density limits and parking, rear yard, exposure, and open space standards in the *Planning Code.*

In 2004 the Board passed legislation allowing the creation of ADUs on lots in the Castro Street Neighborhood Commercial District and within 1,750 feet of the District's boundaries (excluding lots within 500 feet of Assessor's Block 2623, Lots 116 through 154) under Board File No. 13103.[2] The proposed ordinance would remove the requirement that creation of an ADU within the boundaries of District 8 is restricted to lots in the Castro Street Neighborhood Commercial District and within 1,750 feet of the District's boundaries. Proposed amendments to Section 207 of the *Planning Code* would authorize ADUs, as defined in Section 207(c)(4)(A) of the *Planning Code,* throughout District 8 (excluding any lot within 500 feet of Assessor's Block 2623, Lots 116 through 154) and District 3. The development of ADUs in Districts 3 and 8 beyond the density limits within the project area would be subject to the following conditions:

- New units must be constructed within the existing building envelope; no building expansion would be allowed.
- New units cannot be created using space from existing dwelling units; however, existing required parking spaces can be removed to provide space to create an ADU.
- In District 3, one ADU would be permitted in buildings with four existing dwelling units or fewer; more than one ADU would be permitted in buildings with five or more units.
- In District 8, one ADU would be permitted in buildings with 10 existing dwelling units or fewer; two ADUs would be permitted in buildings with 11 or more units.
- If the existing building or any dwelling unit therein is subject to the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), the new ADU would be subject to the Rent Ordinance.
- The proposed legislation would not apply to buildings on lots zones RH-1(D) (Residential Housing – One Family, Detached Dwellings).

Pursuant to Section 207(c)(4)(C)(iii) of the *Planning Code,* ADUs may be created in buildings implementing seismic retrofits, and the height of those building may be raised up to three feet in order to provide adequate ceiling height for residential uses on the ground floor. The proposed legislation would clarify that the height increase is permitted within a noncomplying structure without requiring a variance from the Zoning Administrator and is exempt from the notification requirements in Sections 311 and 312 of the *Planning Code.*

In addition, the proposed legislation would define Accessory Dwelling Units in Section 102 of the *Planning Code,* amend incorrect cross references in Section 37.2 of the *Administrative Code,* affirm environmental findings, and adopt findings of consistency with the General Plan and the eight priority policies of Section 101.1 of the *Planning Code.*

The Planning Department is recommending the following modification to the legislation:[3]

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2 San Francisco Planning Department, Certificate of Determination: Exclusion/exemption from Environmental Review. Case No. 2013.1674E for Board of Supervisors File No. 131063, Addition of Dwelling Units in the Castro NCD and Surrounding Areas, February 25, 2014. The document, and all other documents herein, is available for review at 1650 Mission Street, Suite 400 as part of Case No. 2015-005350ENV.

3 San Francisco Planning Department, Executive Summary: Planning and Administrative Code Text Change, Construction of

(1) Modify the controls for ADUs in District 8 to align with controls for ADUs in District 3 so that for buildings with 4 units or less only one ADU per lot would be allowed, and for buildings with more than four units, density controls would not apply.

(2) Permit lots within 500 feet of Assessor's Block 2623 (Lots 116 through 154) to participate in the proposed ordinance.

For the purposes of this environmental review, the Planning Department assumes the approval of these modifications.

Anticipated Development of ADUs

It is uncertain how many ADUs could potentially result from implementation of the proposed legislation. However, the Planning Department identified the following factors, which may contribute to the overall feasibility of creating an ADU.

Past Trends

As previously discussed, the Board approved the creation of ADUs under the Additional Dwelling Units in Castro Ordinance ("Castro ADU Ordinance". The ordinance provided for the development of ADUs beyond the density limits of the project area under similar conditions as those in the proposed legislation:

- The new units can only be built within the existing building envelope (no building expansion).
- Existing required parking spaces can be removed to provide space to create ADUs.
- For buildings of 10 units or less only one ADU would be allowed; for buildings with more than 10 units, two new ADUs would be allowed.
- The new units, if on a lot where the original building is subject to the Rent Ordinance, would also be subject to the Rent Ordinance.
- The development of new units cannot be created using space from an existing unit.
- ADUs created under the legislation cannot be greater than 750 square feet.

The Planning Department has received two permit applications since the Additional Dwelling Units in Castro Ordinance was enacted.

In addition to the Additional Dwelling Units in the Castro Ordinance, the Board passed the Exceptions from Dwelling Unit Density Limits for Buildings Undergoing Seismic Retrofitting Ordinance ("Seismic Retrofit Ordinance", Board File No. 140954). This ordinance permits the creation of ADUs beyond existing density limits in buildings undergoing mandatory or voluntary seismic retrofitting. The condition under which new ADUs may be created under the Seismic Retrofit Ordinance varies slightly from the Castro ADU Ordinance:

- New units must be built within the existing building envelope, except a building may be raised up to 3 feet in order to accommodate adequate ceiling heights for residential uses.[4]

Accessory Dwelling Units in Supervisorial District Three and Eight, Kimia Haddadan, Hearing Date July 16, 2015.

4 This provision does not permit a building to be raised above the established height limit, nor does it exempt the project from

- There is no limit on the number of new units that may be added.

The Planning Department has received one permit application for the creation of an ADU under the Seismic Retrofit Ordinance.

In 2008, through the Market-Octavia and Eastern Neighborhoods community planning processes, parts of the City were rezoned to Residential, Transit Oriented ("RTO") and Residential, Transit Oriented-Mission Neighborhood ("RTO-M"). The RTO zoning district removed density limits on residential parcels, and therefore allowed existing residential buildings to add new units to their existing building as long as other *Planning Code* requirements (open space, parking, rear yard, and exposure) were fulfilled. There are about 1,120 RTO and 1,110 RTO-M parcels in the City, for a total of approximately 2,230 parcels. Since 2008, 15 RTO- and RTO-M-zoned parcels with existing buildings on them have added secondary dwelling units, 8 of which were added within the existing building envelope.

Development Constraints

In order to determine the likely number of new units that would be constructed under the proposed ordinance, the Planning Department identified which constraints would limit the development of ADU units. Constraints on the creation of new ADUs fall under three general categories: *ownership, costs, and opportunity spaces.*

Ownership. Residential buildings which would be under common ownership, such as condominiums or tenancies in commons ("TIC"), are unlikely to convert space to an ADU. Construction of an ADU requires the conversion of unused space to a new unit. Unused spaces that are currently used as common areas with multiple owners may be less likely to be developed into an ADU as it would require consensus among multiple owners. While the City does not maintain a comprehensive database of the number of TICs, there are approximately 1,950 parcels (390 in District 3 and 1,560 in District 8) with condominium units on them. As parcels with condominium units would not likely develop an ADU, the Planning Department subtracted those parcels from the total number of parcels that could take advantage of the proposed legislation. The subtraction of all parcels with condominiums would still result in an over estimate of the number of new units that are likely to be created, as it does not take into account existing TICs, which would face similar constraints as condominiums.

Costs. Construction of new units may prove costly to property owners, further limiting the number of new units created by the proposed legislation. The Planning Department estimates it would cost approximately $150000-$200,000 to develop an ADU,[5] excluding any excavation, foundation, or façade work. For example, if excavation is necessary to convert the space to an ADU, the cost of such conversion could increase by approximately $100 per square foot of plan

CEQA.

5 San Francisco Planning Department, Executive Summary: Planning and Administrative Code Text Change, Construction of Accessory Dwelling Units in Supervisorial District Three and Eight, Kimia Haddadan, Hearing Date July 16, 2015. The document, and all other documents herein, is available for review at 1650 Mission Street, Suite 400 as part of Case No. 2015-005350ENV.

area.[6] In some cases, San Francisco *Building Code* requirements would also increase the cost of conversion. For example, if an ADU was created in a building located in an area where ambient noise exceeds 75 decibels (dBA[7]) the property owner would be required to implement noise attenuation measures to shield new residents from street noise.

Opportunity Spaces. Pre-existing factors such as site layout and building design may affect the total number of units developed on a potential site under the proposed legislation. A new ADUs may not expand the dimensions of the building in which the unit is added, and may not be created by removing space from existing dwelling units. These factors constrain the space available to build an ADU to only a few options, including parking garages, storage space, and attics. The City does not maintain a database indicating the existence of such spaces in its residential building stock. However, parking garages appear to be the most feasible and likely type of space that could accommodate ADUs. Based on sample survey research[8] the Planning Department conducted for the Addition of Dwelling Units in Castro Ordinance[9], the Department estimated that approximately 5,170 parcels (1,300 parcels in District 3 and 3,870 parcels in District 8) in the project area do not have garage spaces. Therefore, it is unlikely those buildings would have sufficient space to create an ADU.

Theoretical Maximum Number of ADUs

There are approximately 22,480 parcels within the project area (5,780 parcels in District 3 and 16,700 parcels in District 8). Of these parcels, roughly 208 parcels (69 in District 3 and 139 in District 8) are zoned Public Use. The Planning Department estimates an additional 1,682 parcels (1,281 in District 3 and 401 in District 8) do not currently contain residential units. Therefore, the legislation does not apply to approximately 1,890 parcels within the project area. 4,370 of parcels (570 in District 3 and 3,800 in District 8) may already create ADUs under the Additional Dwelling Units in the Castro and Seismic Retrofit ordinances. The remaining approximately 16,220 residential parcels in the project area represent the theoretical maximum number of parcels that could take advantage of the proposed legislation without consideration of physical or economic constraints.

Based on the development constraints and factors discussed above, the Planning Department estimates that 9,100 parcels (2,170 parcels in District 3 and 6,930 parcels in District 8) have the physical space available to accommodate ADUs, are not under common ownership, and the cost of adding an ADU would not be prohibitive. Of those 9,100 parcels:

6 San Francisco Planning Department, Accessory Dwelling Unit Guide, July 2015.

7 A-weighted sound levels (dBA) is the method for measuring environmental noise to reflect that human hearing is less sensitive to low sound frequencies.

8 The Department conducted a sample survey of the Castro ADU project area to estimate the number of buildings that have a garage space. The Department surveyed seven blocks (462 parcels) within the project area (or about 15 percent of the project area). Blocks were chosen at random, and then refined to include a variety of zoning districts. Parcels were visually surveyed to determine the presence of a garage space that could potentially be converted into an ADU.

9 San Francisco Planning Department, Executive Summary: Planning and Administrative Code Text Change, Addition of Dwelling Units in the Castro, Kimia Haddadan, Hearing Date March 6, 2014.

- District 3: 1,224 parcels are estimated to have buildings with four or fewer residential units and each parcel could add one ADU. The remaining 946 parcels would have buildings with five or more residential units and could add an unlimited number of ADUs. Based on the development constraints discussed above, including the proposed condition that would restrict creation of ADUs to within the existing building envelope, the Planning Department estimates lots in District 3 developed with buildings with five or more residential dwelling units would likely only add two ADUs under the proposed ordinance. Thus, the Department anticipates a maximum of approximately 3,116 ADUs could be created on those parcels.
- District 8: 180 parcels are expected to have eleven or more unit buildings, and could potentially add two ADUs, for an anticipated total of 360 parcels; the remaining 6,750 parcels could only each add one ADU. Therefore, the Department anticipates a maximum of approximately 7,110 ADUs could be created on those parcels.

Based on the above, the Planning Department estimates that a theoretical maximum number of approximately 10,226 units could potentially be created in the project area under the ordinance as proposed. While past trends indicate a very limited number of property owners would create an ADU under the proposed legislation, the Department conservatively assumes 25 percent of parcels would take advantage of the legislation and build an ADU. The Department assumes a conservative estimate due to the *Planning Code* waivers the proposed legislation would permit in order to facilitate the expeditious development of ADUs in the project area. Although the 25 percent estimate is higher than historical trends, a conservative measure allows for an analysis of the likely greatest extend of development that could result from implementation of the proposed legislation. In addition, a highly conservative estimate would allow for any unintended variance between the estimates and the actual number of property owners that might add ADUs under the proposed legislation. Therefore, by applying this factor to the theoretical maximum number of potential ADUs in the project area (approximately 10,226 units), the Planning Department estimates the proposed legislation could result in the creation of approximately 2,557 ADUs (779 in District 3 and 1,778 in District 8) across the project area.[10]

Tables 3 and 4 illustrate how the Planning Department generated an estimate number of potential ADUs that could be created as a result of the implementation of the proposed legislation. However, should the Board adopt the Planning Department's recommendations, additional ADUs could be created in District 8 as a result of implementation of the proposed legislation.

10 Twenty-five percent of 10,226 units is approximately 2,556.5 new ADUs. However, the Department is using 2,557 for conservative purposes. This number of new ADUs represents the total maximum number the Department anticipates would be ever constructed as a result of this legislation.

Table 3: Anticipated Development Volume of ADUs in District 3

Total Number of Parcels in District	5,780
Number of non-residential parcels	-1,350
Number of parcels that may create ADUs under other ordinances	-570
Number of parcels with condominiums	-390
Estimate number of remaining parcels with no garages	-1,300
Estimate Number of Potential ADU Parcels in District 3	2,170
Approximate number of remaining 4 or less units buildings	1,224
Approximate number of remaining five or more unit buildings	946
Theoretical Maximum Potential of ADUs in District 3 (1,224 + 946*2)	3,116
Estimate Number of Potential New ADUs in District 3 (3,116 x 0.25 = 779)	779

Table 4: Anticipated Development of ADUs in District 8

Total Number of Parcels in District	16,700
Number of non-residential parcels	-540
Number of parcels that may create ADUs under other ordinances	-3,800
Number of parcels with condominiums	-1,560
Estimate number of remaining parcels with no garages	-3,870
Estimate Number of Potential ADU Parcels in District 8	6,930

Approximate number of remaining 10 or less unit buildings	6,750
Approximate number of remaining 11 or more unit buildings	180
Theoretical Maximum Potential of ADUs in District 8 (6,750 + 180*2)	7,110
Estimate Number of Potential New ADUs in District 8 (7,110 x 0.25 = 1,777.5)	1,778

The estimated 2,557 potential new ADUs is based on a conservative analysis of the potential development that could occur as a result of the proposed ordinance and likely over estimates the number of units, as discussed in the Past Trends and Development Constraints sections.

In addition to the cost, ownership, and opportunity space constraints previously discussed, general constraints on housing production would limit the number of new ADUs created under the proposed legislation. These factors may include the availability of financing, location and ownership of lots, the real estate market, regional housing market, regional economy and job market, labor pool, entitlement permit process, personal preference, and neighborhood opposition.

The Final EIR evaluated the City's ability to meet the Regional Housing Needs Assessment ("RHNA") under existing zoning. The analysis included a review of additional housing units that could be provided on undeveloped and underdeveloped parcels (e.g. "soft sites"), on parcels where zoning controls were recently changed, on parcels where rezoning efforts were already underway at the time of the analysis, and residential development projects in the pipeline at the time the analysis. The Final EIR found that approximately 149,330 additional residential dwelling units could be provided on these sites under existing zoning controls.

In addition to the analysis of housing capacity under zoning, the Final EIR also considered projected household growth in the City and used these projections as the basis for the analysis of growth-related impacts. The Final EIR used ABAG projections for the period of 2009-2025 and found that an additional 39,568 households would be added to the City by the year 2025.

Although the Final EIR identified residential development capacity based on existing zoning, the analysis did not associate potential development with any specific sites within the City. Thus, this Addendum reasonably assumes the new ADUs that could be created due to implementation of the proposed legislation would be within overall Housing Element projections. While any growth enabled by the proposed legislation would occur on sites other than those discussed in the Final EIR, the total number of residential units would be within the amount projected and analyzed in the Final EIR.

For these reasons, the proposed project would not result in growth beyond that analyzed in the Final EIR with Addendum 1. Therefore, new ADUs created as a result of implementation of the proposed legislation, including additional units that could be developed in District 8 should the

Board adopt the Planning Department's recommendations, would be adequately covered under the Final EIR and Addendum 1.

Project Approvals

On July 16, 2015, the Planning Department will present the legislation to the Planning Commission. The Planning Commission will make a recommendation to the Board. Then the legislation would be heard before the Land Use Committee of the Board, followed by a hearing before the full Board. If the full Board votes in favor of the proposed legislation, the Mayor may sign it into law. The Mayor's approval of the proposed ordinance would constitute the Approval Action pursuant to Chapter 31 of the *Administrative Code*.

Setting

Project Location

The proposed legislation authorizes the creation of ADUs, subject to the conditions outlined above, in Supervisorial Districts 3 and 8. District 3, located in the northeast corner of the City's boundaries, encompasses approximately 1,211 acres and is characterized by primarily residential buildings with ground-floor commercial uses. District 8, located in the roughly the middle of the City's boundaries, encompasses approximately 2,250 acres, and is characterized by primarily residential development with some commercial and mixed-use development along neighborhood commercial corridors. A map of each district can be found in the Appendix section.

Collectively, the project area is about 3,461 acres, with a residential density of approximately 35 units per acre in District 3 and 18 units per acre in District 8, and includes a diverse range of zoning designations. Table 5 delineates the zoning districts within the project area by each District.

Table 5: Existing Zoning Districts in Project Area

Zoning Districts	District 3	District 8
(24th-NOE NCD): 24th Street-Noe Valley Neighborhood Commercial District		✓
(Broadway NCD): Broadway Neighborhood Commercial District	✓	
(Castro NCD): Castro Neighborhood Commercial District		
(C-2): Community Business District	✓	
(C-3-G): Downtown General Commercial	✓	
(C-3-O): Downtown Office District	✓	
(C-3-R): Downtown Retail	✓	

(CCB): Chinatown Community Business District	✓	
(CR/NC): Chinatown Residential/Neighborhood Commercial District	✓	
(CVR): Chinatown Visitor Retail District	✓	
(NC-1): Neighborhood Commercial Cluster District	✓	
(NC-2): Small-Scale Neighborhood Commercial District		✓
(NC-3): Moderate-Scale Neighborhood Commercial District		✓
(North Beach NCD): North beach Neighborhood Commercial District	✓	
(P): Public Use	✓	
(Pacific Ave. NCD): Pacific Avenue Neighborhood Commercial District	✓	
(Polk NCD): Polk Street Neighborhood Commercial District	✓	
(RC-3): Residential-Commercial, Medium Density	✓	
(RC-4): Residential-Commercial, High Density	✓	
(RH-1): Residential House, One-Family	✓	✓
(RH-1(D)): Residential, House, One-Family Detached		✓
(RH-1(S)): Residential House, One-Family with Minor Second Unit		✓
(RH-2): Residential House, Two-Family	✓	✓
(RH-3): Residential House, Three-Family	✓	✓
(RM-1): Residential, Mixed, Low Density	✓	✓
(RM-2): Residential, Mixed, Moderate Density	✓	✓
(RM-3): Residential, Mixed, Medium Density	✓	
(RM-4): Residential, Mixed, High Density	✓	✓
(RSD): Residential Service District		✓
(RTO): Residential Transit-Oriented		✓
(Upper Market NCD): Upper Market Neighborhood Commercial District		✓

Analysis of Potential Environmental Effects

Section 31.19(c)(1) of the San Francisco *Administrative Code* states that a modified project must be reevaluated and that, "if, on the basis of such reevaluation, the Environmental Review Officer determines, based on the requirements of CEQA, that no additional environmental review is necessary, this determination and the reasons therefor shall be noted in writing in the case record, and no further evaluation shall be required by this Chapter." CEQA Guidelines Section

15164 provides for the use of an addendum to document the basis of a lead agency's decision not to require a Subsequent or Supplemental EIR for a change to a project that has been analyzed in a certified EIR. The lead agency's decision to use an addendum must be supported by substantial evidence that the conditions that would trigger the preparation of a Subsequent EIR, as provided in CEQA Guidelines Section 15162, are not present.

The 2004 and 2009 Housing Elements, were the subject of an EIR, originally certified by the Planning Commission on March 24, 2011 and adopted by the Board of Supervisors on June 21, 2011. The Planning Department recirculated a revised Chapter VII Alternatives for the Final EIR ("Revised EIR") on December 18, 2013 for public review. Subsequently, the Planning Commission certified the 2004 and 2009 Housing Element Final EIR on April 24, 2014. On June 17, 2014, the Board denied an appeal of the certification and re-adopted the 2009 Housing Element. An Addendum 1 to the Final EIR was prepared in response to the 2014 Housing Element. Addendum 1 was certified by the Planning Commission on February 2, 2015 and adopted by the Board on April 26, 2015. The Final EIR now also covers the 2014 Housing Element, which is the current Housing Element for the San Francisco General Plan.

The 2004 and 2009 Housing Element Final EIR analyzed potential impacts in the environmental areas of: Land Use and Land Use Planning, Aesthetics, Population and Housing, Cultural and Paleontological Resources, Transportation and Circulation, Noise, Air Quality, Greenhouse Gas Emissions, Wind and Shadow, Recreation, Utilities and Service Systems, Public Services, Biological Resources, Geology and Soils, Hydrology and Water Quality, Hazards and Hazardous Materials, Mineral and Energy Resources, Agricultural and Forest Resources. The Final EIR identified less-than-significant impacts in the following topics:

- Land Use and Land Use Planning
- Aesthetics
- Population and Housing
- Cultural and Paleontological Resources
- Air Quality
- Greenhouse Gas Emissions
- Wind and Shadow
- Recreation
- Utilities and Service Systems
- Public Services
- Biological Resources
- Geology and Soils
- Hydrology and Water Quality
- Hazards and Hazardous Materials
- Mineral and Energy Resources
- Agricultural and Forest Resources

The Final EIR determined that the effects of encouraging new residential development along streets with noise levels above 75 dBA Day-Night Average Sound Level (Ldn[11]) can be avoided

11 The Day-Night Level (Ldn) is the rating system used to measure A-weighted (dBA) equivalent continuous sound exposure level for a 24 hour period. The measurement accounts for the change in noise sensitivity that occurs during typical hours of sleep (10:00

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

June 29, 2015

File No. 150585

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

Dear Ms. Jones:

On June 2, 2015, Supervisor Christensen introduced the following legislation:

File No. 150585

Ordinance amending the Planning Code to allow the construction of Accessory Dwelling Units (also known as Secondary or In-Law Units) within the boundaries of Board of Supervisors District 3; amending the Administrative Code to correct section references; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and directing the Clerk of the Board of Supervisors to send a copy of this Ordinance to the California Department of Housing and Community Development after adoption.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Andrea Ausberry, Assistant Clerk
Land Use & Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

BOARD of SUPERVISORS

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TDD/TTY No. 554-5227

June 30, 2015

File No. 150622

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

Dear Ms. Jones:

On June 9, 2015, Mayor Lee introduced the following legislation:

File No. 150585

Ordinance amending the Administrative Code to clarify existing preferences in allocating City affordable housing units first to Certificate of Preference holders and second to tenants evicted under the Ellis Act, create a third preference for residents in the neighborhood where the affordable housing is located, create additional categories of eligible displaced tenants, and make conforming amendments to provisions of the Administrative and Planning Codes; to affirm the Planning Department's determination under the California Environmental Quality Act; and to make findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Andrea Ausberry, Assistant Clerk
Land Use & Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

Not defined as a project under CEQA Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

- Jeanie Poling 7/13/15

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San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Olson Lee, Director, Mayor's Office of Housing & Community Development
Delene Wolf, Executive Director, Rent Board
Tom Hui, Director, Department of Building Inspection

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Transportation Committee, Board of Supervisors

DATE: June 30, 2015

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following substitute legislation, introduced by Supervisor Christensen on June 2 2015:

File No. 150585

Ordinance amending the Planning Code to allow the construction of Accessory Dwelling Units (also known as Secondary or In-Law Units) within the boundaries of Board of Supervisors District 3; amending the Administrative Code to correct section references; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and directing the Clerk of the Board of Supervisors to send a copy of this Ordinance to the California Department of Housing and Community Development after adoption.

If you have any additional comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Sophie Hayward, Mayor's Office of Housing
Eugene Flannery, Mayor's Office of Housing
William Strawn, Legislative & Public Affairs
Carolyn Jayin, Department of Building Inspection
Sonya Harris, Commission Secretary

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

June 29, 2015

Planning Commission
Attn: Jonas Ionin
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Commissioners:

On June 2, 2015, Supervisor Christensen introduced the following legislation:

File No. 150585

Ordinance amending the Planning Code to allow the construction of Accessory Dwelling Units (also known as Secondary or In-Law Units) within the boundaries of Board of Supervisors District 3; amending the Administrative Code to correct section references; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and directing the Clerk of the Board of Supervisors to send a copy of this Ordinance to the California Department of Housing and Community Development after adoption.

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 and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

By: Andrea Ausberry, Assistant Clerk
Land Use and Transportation Committee

c: John Rahaim, Director of Planning
Aaron Starr, Acting Manager of Legislative Affairs
AnMarie Rodgers, Senior Policy Manager
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
Jeanie Poling, 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: Olson Lee, Director, Mayor's Office of Housing & Community Development
Delene Wolf, Executive Director, Rent Board
Tom Hui, Director, Department of Building Inspection

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Transportation Committee, Board of Supervisors

DATE: July 24, 2015

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following substitute legislation, introduced by Supervisor Christensen on June 2, 2015 and Duplicated on July 20, 2015:

File No. 150805

Ordinance amending the Planning Code to allow the construction of Accessory Dwelling Units (ADUs, also known as Secondary or In-Law Units) within the boundaries of Board of Supervisors District 3, prohibit approval of an application for construction of an ADU in any building where a tenant has been evicted under the Ellis Act within ten years prior to filing the application, and prohibit an ADU from being used for short-term rental; amending the Administrative Code to correct section references; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and directing the Clerk of the Board of Supervisors to send a copy of this Ordinance to the California Department of Housing and Community Development after adoption.

If you have any additional comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Sophie Hayward, Mayor's Office of Housing
Eugene Flannery, Mayor's Office of Housing
William Strawn, Legislative & Public Affairs
Carolyn Jayin, Department of Building Inspection
Sonya Harris, Commission Secretary

ORIG: COB; LM Comm Clerk; Leg Dep.

Member, Board of Supervisors
District 10

City and County of San Francisco

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2015 JUL 15 AM 9:11

MALIA COHEN
馬莉亞郭嫻

DATE: July 15, 2015
TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Malia Cohen
Chairperson

RE: Land Use and Transportation Committee
COMMITTEE REPORT

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on July 21, 2015, as a Committee Report:

150585 - [Planning, Administrative Codes - Construction of Accessory Dwelling Units]

Ordinance amending the Planning Code to allow the construction of Accessory Dwelling Units (also known as Secondary or In-Law Units) within the boundaries of Board of Supervisors District 3; amending the Administrative Code to correct section references; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and directing the Clerk of the Board of Supervisors to send a copy of this Ordinance to the California Department of Housing and Community Development after adoption.

This matter will be heard in the Land Use and Transportation Committee on July 20, 2015, at 1:30 p.m.

Sincerely,

Malia

Malia Cohen
Member, Board of Supervisors

City Hall • 1 Dr. Carlton B. Goodlett Place • Room 244 • San Francisco, California 94102-4689 • (415) 554-7670
Fax (415) 554-7674 • TDD/TTY (415) 554-5227 • E-mail: malia.cohen@sfgov.org

SPUR
San Francisco | San Jose | Oakland

July 19, 2015

Land Use and Transportation Committee
San Francisco Board of Supervisors
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: **Construction of Accessory Dwelling Units in Supervisorial Districts 3 & 8**
File Nos. 150365 and 150585

Dear Supervisors Cohen, Wiener and Kim:

On behalf of SPUR, thank you for the opportunity to comment on the ordinances allowing the construction of Accessory Dwelling Units (ADU) in Board of Supervisors Districts 3 and 8.

SPUR has long advocated making it easier to build or legalize ADUs in San Francisco. Creating ADUs helps add more homes across the city in a way that does not change existing neighborhood character and has limited impact on neighborhood infrastructure. ADUs also provide a subsidy-free path to provide housing units that are typically "affordable by design" because of their size, location and physical constraints.

We support the expansion of Supervisor Wiener's Castro and seismic retrofitting ADU ordinances to the entirety of Districts 3 and 8, which increases the potential for ADUs to help expand the city's housing supply. We support planning staff's modifications that now include the formerly-excluded area around a supervisor's home and create consistency for the allowable number of ADUs per property.

SPUR supports these ordinances and thanks Supervisors Wiener and Christensen for their leadership on this topic.

Please feel free to contact me if you have any questions.

Best,

Kristy Wang
Community Planning Policy Director

Cc: SPUR Board of Directors
Supervisor Christensen

SAN FRANCISCO
654 Mission Street
San Francisco, CA 94105
(415) 781-8726

SAN JOSE
76 South First Street
San Jose, CA 95113
(408) 638-0083

OAKLAND
c/o Impact Hub Oakland
2323 Broadway
Oakland, CA 94612
(510) 250-8210

July 20, 2015
VIA HAND DELIVERY

Land Use and Transportation Committee
San Francisco Board of Supervisors
City Hall, Legislative Chamber, Room 250

RE: Item No. 6 – 150585
Construction of Accessory Dwelling Units in District 3

Dear Chair Cohen and Members of the Committee,

Thank you for considering Telegraph Hill Dwellers' (THD) comments regarding the proposed Planning and Administrative Code amendments that would allow for the construction of Accessory Dwelling Units (ADUs) in District 3.

First, please know that THD is not opposed to the concept of AUDs. Had we been consulted, we would have offered changes to address potential impacts on our existing residents and businesses, as well as amendments to ensure the long-term affordability of the ADUs to renters. Given the rampant number of evictions in North Beach, it is also important to prevent AUDs from becoming a target for increased real estate speculation.

As stated in my email to the Planning Commission requesting a continuance, and as reiterated by our representative at the Commission's hearing on July 16th, we are appropriately concerned with the lack of process and community outreach regarding this legislation, which is crafted specifically for District 3. The Telegraph Hill Dwellers, like several other longstanding District 3 neighborhood organizations, was not consulted in any way. The legislation's sponsor Supervisor Christensen acknowledged to the Planning Commission, that the Telegraph Hill Dwellers was never contacted.

I respectfully request that THD and other District 3 neighborhood and community groups be afforded a modicum of time to work with the sponsor to craft a mutually acceptable proposal. With the participation of Supervisor Christensen we believe that this could be accomplished with the affected neighborhood and community organizations, which are prepared to move it along.

Based on our very recent review of the legislation in consultation with other neighborhood, business and community groups, we offer the following suggestions for your consideration:

1. Consistent with the City's Transit First Policy, prohibit all residents of ADUs from obtaining Residential Parking Permits. Also, as to any ADUs constructed in place of an existing garage, residents of the original unit should also be prohibited from obtaining residential parking permits.

2. Limit the number of ADUs that can be added to buildings of 4 or more units to a maximum of two. As proposed in District 3, this number would be unlimited. Supervisor Wiener's proposal for District 8 provides that a building of 10 or more units may only have a maximum of two and buildings under 10 units can only have a one ADU.

3. Prohibit ADUs in any building where tenants have been displaced, whether by Ellis Act evictions, no-fault evictions and/or buy-out agreements.

4. Prohibit ADUs from being used for short-term rentals.

5. Keep the public notification requirements of Sections 311 and 312 for any height increases from the addition of ADUs. In our dense neighborhood where buildings are built to the edges of the lot lines, existing residents and property owners should not be deprived of this important right.

6. Protect our ground-floor retail and commercial business spaces by prohibiting ADUs from replacing them.

7. Include provisions to prevent ADUs from being merged into the original units or from being subdivided into condos, which would defeat the purpose of creating affordable rental units.

8. We believe that a monitoring program of some nature should be established to evaluate the "success" of ADUs program and to guide any necessary amendments.

We urge the Committee to include at least these amendments in the District 3 ADU ordinance. Alternatively, we ask you to consider continuing the legislation pending community outreach by its sponsor.

Thank you,

Judy Irving

Judy Irving, Vice President
for
Stan Hayes, President
Telegraph Hill Dwellers

Dup. 150811

July 20, 2015
VIA HAND DELIVERY

Land Use and Transportation Committee
San Francisco Board of Supervisors
City Hall, Legislative Chamber, Room 250

RE: Item No. 6 – 150585
Construction of Accessory Dwelling Units in District 3

Dear Chair Cohen and Members of the Committee,

Thank you for considering Telegraph Hill Dwellers' (THD) comments regarding the proposed Planning and Administrative Code amendments that would allow for the construction of Accessory Dwelling Units (ADUs) in District 3.

First, please know that THD is not opposed to the concept of AUDs. Had we been consulted, we would have offered changes to address potential impacts on our existing residents and businesses, as well as amendments to ensure the long-term affordability of the ADUs to renters. Given the rampant number of evictions in North Beach, it is also important to prevent AUDs from becoming a target for increased real estate speculation.

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I respectfully request that THD and other District 3 neighborhood and community groups be afforded a modicum of time to work with the sponsor to craft a mutually acceptable proposal. With the participation of Supervisor Christensen we believe that this could be accomplished with the affected neighborhood and community organizations, which are prepared to move it along.

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2. Limit the number of ADUs that can be added to buildings of 4 or more units to a maximum of two. As proposed in District 3, this number would be unlimited. Supervisor Wiener's proposal for District 8 provides that a building of 10 or more units may only have a maximum of two and buildings under 10 units can only have a one ADU.

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4. Prohibit ADUs from being used for short-term rentals.

5. Keep the public notification requirements of Sections 311 and 312 for any height increases from the addition of ADUs. In our dense neighborhood where buildings are built to the edges of the lot lines, existing residents and property owners should not be deprived of this important right.

6. Protect our ground-floor retail and commercial business spaces by prohibiting ADUs from replacing them.

7. Include provisions to prevent ADUs from being merged into the original units or from being subdivided into condos, which would defeat the purpose of creating affordable rental units.

8. We believe that a monitoring program of some nature should be established to evaluate the "success" of ADUs program and to guide any necessary amendments.

We urge the Committee to include at least these amendments in the District 3 ADU ordinance. Alternatively, we ask you to consider continuing the legislation pending community outreach by its sponsor.

Thank you,

Judy Irving

Judy Irving, Vice President
for
Stan Hayes, President
Telegraph Hill Dwellers

PLSC
150811

THD COMMENTS ON PROPOSED ADU LEGISLATION

SFBOS, Land Use & Transportation Committee
Monday, July 27, 2015

- Good afternoon.
- I'm Stan Hayes, President of the Telegraph Hill Dwellers.
- We support the concept of ADUs if properly safeguarded.
- Toward that end, we strongly support the amendments you have made to the proposed legislation, and we urge you and the full Board to adopt other amendments in our letter of July 20th.
- For 16 years, I was a planning commissioner in a town in Marin County.
- For all that time, we had a second-unit ordinance. And, it worked.
- We required public hearings to enable neighborhood input, and a finding that the neighborhood wouldn't be harmed.
- And, we monitored our successes and failures. Fixing the ordinance over time to make it better.
- That's what is needed here.
- You need checks and balances to avoid ADUs that overwhelm a neighborhood, especially in areas with limited parking.
- You need to require public notice and consultation to ensure neighborhood support, as required for secondary units by Policy 1.5 of the Housing Element.
- You need to monitor how well the ordinance is working, and fix it if it isn't.
- We urge you and full Board to adopt amendments to add these provisions.
- And, because this legislation amounts to a de-facto rezoning, please don't short-circuit the usual community outreach process.
- Please seek further public consultation before adopting this legislation.
- Thank you.

COB, LN, Leg Dep.

Member, Board of Supervisors
District 10

City and County of San Francisco

MALIA COHEN
馬莉亞郭嫻

DATE: July 22, 2015
TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Malia Cohen
Chairperson

RE: Land Use and Transportation Committee
COMMITTEE REPORT

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on July 28, 2015, as a Committee Report:

150805
150585 - **[Planning, Administrative Codes - Construction of Accessory Dwelling Units]**

Ordinance amending the Planning Code to allow the construction of Accessory Dwelling Units (also known as Secondary or In-Law Units) within the boundaries of Board of Supervisors District 3; amending the Administrative Code to correct section references; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and directing the Clerk of the Board of Supervisors to send a copy of this Ordinance to the California Department of Housing and Community Development after adoption.

This matter will be heard in the Land Use and Transportation Committee on July 27, 2015, at 1:30 p.m.

Sincerely,

Malia

Malia Cohen
Member, Board of Supervisors

City Hall • 1 Dr. Carlton B. Goodlett Place • Room 244 • San Francisco, California 94102-4689 • (415) 554-7670
Fax (415) 554-7674 • TDD/TTY (415) 554-5227 • E-mail: malia.cohen@sfgov.org

AMENDED IN COMMITTE
07/20/15

FILE NO. 150805 ORDINANCE NO.

[Planning, Administrative Codes - Construction of Accessory Dwelling Units - District 3]

Ordinance amending the Planning Code to allow the construction of Accessory Dwelling Units (ADUs, also known as Secondary or In-Law Units) within the boundaries of Board of Supervisors District 3, prohibit approval of an application for construction of an ADU in any building where a tenant has been evicted under the Ellis Act within ten years prior to filing the application, and prohibit an ADU from being used for short-term rental; amending the Administrative Code to correct section references; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and directing the Clerk of the Board of Supervisors to send a copy of this Ordinance to the California Department of Housing and Community Development after adoption.

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. General 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. 150805 and is incorporated herein by reference. The Board affirms this determination

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. Reactivate File No. [ ]

☐ 10. 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 Form.

Sponsor(s):

Supervisor Christensen

Subject:

Planning, Administrative Codes - Construction of Accessory Dwelling Units

The text is listed below or attached:

Ordinance amending the Planning Code to allow the construction of Accessory Dwelling Units (also known as Secondary or In-Law Units) within the boundaries of Board of Supervisors District 3; amending the Administrative Code to correct section references; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1; and directing the Clerk of the Board of Supervisors to send a copy of this ordinance to the California Department of Housing and Community Development after adoption.

Signature of Sponsoring Supervisor:

For Clerk's Use Only:

150585