File No. 180268 Committee Item No. 2
Board Item No. 21

COMMITTEE/BOARD OF SUPERVISORS

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Board of Supervisors Meeting **Date** JULY 17, 2018

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Completed by: Victor Young **Date** July 6, 2018
Completed by: JW **Date** JULY 13, 2018

[Planning~~, Building~~ Codes - Accessory Dwelling Units]

Ordinance amending the Planning Code to 1) authorize expansion of an Accessory Dwelling Unit (ADU) within the buildable area, 2) authorize the Zoning Administrator to waive or modify bicycle parking requirements for an Accessory Dwelling Unit, 3) allow more than one unauthorized unit constructed without a permit to be legalized, 4) exempt from the permit notification requirement ADUs constructed within the defined existing built envelope, 5) allow conversion of an existing stand-alone garage, ~~or~~ storage structure, or other auxiliary structure to an ADU and expansion of the existing building envelope to add dormers, and 6) ~~eliminate~~ allow payment of an in lieu fee for ~~the~~ an ADU's street tree requirement; ~~for an ADU, and 6) allow one ADU to be added to a new residential building of three units or less as a component of the new construction; amending the Building Code to provide for a preapplication plan review for ADUs;~~ 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; adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302; and directing the Clerk to send a copy of this Ordinance to the California Department of Housing and Community Development.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 180268 and is incorporated herein by reference. The Board affirms this determination.

(b) On June 21, 2018, the Planning Commission, in Resolution No.20213, 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. 180268, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this ordinance will serve the public necessity, convenience, and welfare for the reasons stated in Planning Commission Resolution No. 20213.

~~(d) Pursuant to Charter Section D3.750-5, the Building Inspection Commission considered this ordinance at a duly noticed public hearing held on _____, 2018.~~

Section 2. The Planning Code is hereby amended by revising Sections 102, 136, 138.1, 140, 155.1, 207, 207.3, 307, and 317, to read as follows:

SEC. 102. DEFINITIONS.

* * * *

Dwelling Unit, Accessory. Also known as a Secondary Unit or In-Law Unit, is a Dwelling Unit that is constructed *either* entirely within the existing built envelope, the "living area" as defined in State law, or the buildable area of an existing building in areas that allow

residential use; or *is constructed* within the existing built envelope ~~*or buildable envelope*~~ of an existing and authorized auxiliary structure on the same lot.

* * * *

SEC. 136. OBSTRUCTIONS OVER STREETS AND ALLEYS AND IN REQUIRED SETBACKS, YARDS, AND USABLE OPEN SPACE.

Streets and Alleys	Set-backs	Yards	Usable Open Space	
				* * * * (c) The permitted obstructions shall be as follows: * * * * (32) Infill under decks and cantilevered rooms when adding an Accessory Dwelling Unit; provided, however, that such infill shall comply with Section 207(c)(4) or Section 207(c)(6) of this Code, whichever is applicable; and provided further that if the ADU is proposed for a single-family home, the rear yard must be 25% of the lot depth but in no case less than 15 feet. * * * *
		x		

SEC. 138.1. STREETSCAPE AND PEDESTRIAN IMPROVEMENTS.

* * * *

(c) **Required streetscape and pedestrian improvements.** Development projects shall include streetscape and pedestrian improvements on all publicly accessible rights-of-way directly fronting the property as follows:

(1) **Street trees.** Project Sponsors shall plant and maintain street trees as set forth in Article 16, Sections 805(a) and (d) and 806(d) of the Public Works Code; *provided, however, that* where a property owner is either (A) adding an Accessory Dwelling Unit pursuant to Section 207(c)(4) or 207 (c)(6) of this Code or (B) legalizing a Dwelling Unit pursuant to Section 207.3 of this Code, the owner may elect to pay the in-lieu fee authorized by Section 807(f) of the Public Works Code ~~a street tree or trees shall not be required for an ADU authorized to be constructed pursuant to Section 207(c)(4) or 207(c)(6) of this Code~~.

* * * *

SEC. 140. ALL DWELLING UNITS IN ALL USE DISTRICTS TO FACE ON AN OPEN AREA.

* * * *

(c) **Exceptions.**

(1) For historic buildings identified in Section 307(h), and for the conversion of a nonconforming use in an existing building to a Residential Use in a district where the Residential Use is principally permitted, the requirements of this Section 140 may be modified or waived pursuant to the procedures and criteria set forth in Sections 307(h) and 329. This administrative exception does not apply to new additions to historic buildings.

(2) For Accessory Dwelling Units, the requirements of this Section 140 may be modified or waived pursuant to the procedures and criteria set forth in Sections 307(l) and 207(c)(4)(G).

155.1. BICYCLE PARKING: DEFINITIONS AND STANDARDS.

* * * *

(b) **Standards for Location of Bicycle Parking Spaces.** These standards apply to all bicycle parking subject to Section 155.2, as well as bicycle parking for City-owned and leased buildings, parking garages and parking lots subject to Section 155.3. Bicycle racks shall be located in highly visible areas as described in subsections below in order to maximize convenience and minimize theft and vandalism. *For Accessory Dwelling Units, the requirements of this subsection (b) may be modified or waived pursuant to the procedures and criteria set forth in Sections 307(l) and 207(c)(4)(G).*

* * * *

(c) **Design Standards for Bicycle Parking Spaces.** These design standards apply to all bicycle parking spaces subject to Sections 155.2 and 155.3. Bicycle parking shall follow the design standards established in Zoning Administrator Bulletin No. 9, which includes specific requirements on bicycle parking layout and acceptable types of Class 1 and Class 2 bicycle parking spaces. *For Accessory Dwelling Units, the requirements of this subsection (c) may be modified or waived pursuant to the procedures and criteria set forth in Sections 307(l) and 207(c)(4)(G).*

* * * *

SEC. 207. DWELLING UNIT DENSITY LIMITS.

* * * *

(c) **Exceptions to Dwelling Unit Density Limits.** An exception to the calculations under this Section 207 shall be made in the following circumstances:

* * * *

(4) **Accessory Dwelling Units in Multifamily Buildings; Accessory Dwelling Units in Single-Family Homes That Do Not Strictly Meet the Requirements in Subsection (c)(6).**

(A) **Definition.** An "Accessory Dwelling Unit" (ADU) is defined in Section 102.

(B) **Applicability.** This subsection (c)(4) shall apply to the construction of Accessory Dwelling Units on all lots located within the City and County of San Francisco in areas that allow residential use, except that construction of an Accessory Dwelling Unit is regulated by subsection (c)(6), and not this subsection (c)(4), if all of the following circumstances exist:

(i) only one ADU will be constructed;

(ii) the ADU will be located on a lot that is zoned for single-family or multifamily use and contains an existing single-family dwelling;

(iii) the ADU will be constructed entirely within the "living area" (as defined in subsection (c)(6)(B)(iii)) or the buildable area of an existing single-family home, or *constructed* within the built envelope of an existing and authorized auxiliary structure on the same lot; provided, however, that (A) when a stand-alone garage, storage structure, or other auxiliary structure is being converted to an ADU, an expansion to the envelope is allowed to add dormers even if the stand-alone garage, storage structure, or other auxiliary structure is in the required rear yard and (B) on a corner lot, a legal stand-alone nonconforming garage, storage structure, or other auxiliary structure may be expanded within its existing footprint by up to one additional story in order to create a consistent street wall and improve the continuity of buildings on the block.

(iv) the ADU will strictly meet the requirements set forth in subsection (c)(6) without requiring a waiver of Code requirements pursuant to subsection (c)(4)(G); and

(v) the permit application does not include seismic upgrade work pursuant to subsection (c)(4)(F).

~~*provided, however, that the Department shall not approve an application for construction of an Accessory Dwelling Unit in any building regulated by this subsection (c)(4) where a tenant has been evicted pursuant to Administrative Code Sections 37.9(a)(9) through 37.9(a)(14) under a notice of eviction served within 10 years prior to filing the application for a building permit to construct the ADU or where a tenant has been evicted pursuant to Administrative Code Section 37.9(a)(8) under a notice of eviction served within five years prior to filing the application for a building permit to construct the ADU. This provision shall not apply if the tenant was evicted under Section 37.9(a)(11) or 37.9(a)(14) and the applicant(s) either (A) have certified that the original tenant reoccupied the unit after the temporary eviction or (B) have submitted to the Department and to the Rent Board a declaration from the property owner or the tenant certifying that the property owner notified the tenant of the tenant's right to reoccupy the unit and the tenant chose not to reoccupy it.*~~

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

(i) For lots that have four existing Dwelling Units or fewer, one ADU is permitted; for lots that have more than four existing Dwelling Units or are undergoing seismic retrofitting under subsection *(c)(4)*(F) below, there is no limit on the number of ADUs permitted; *provided, however, that the Department shall not approve an application for construction of an Accessory Dwelling Unit in any building regulated by this subsection (c)(4) where a tenant has been evicted pursuant to Administrative Code Sections 37.9(a)(9) through 37.9(a)(14) under a notice of eviction served within 10 years prior to filing the application for a building permit to construct the ADU or where a tenant has been evicted pursuant to Administrative Code Section 37.9(a)(8) under a notice of eviction served within five years prior to filing the application for a building permit to construct the ADU. This provision shall not apply if the tenant was evicted under Section 37.9(a)(11)* or *37.9(a)(14) and the applicant(s) either (A) have certified that the original tenant reoccupied the unit after the temporary eviction or (B) have submitted to the Department and to the Rent Board a*

declaration from the property owner or the tenant certifying that the property owner notified the tenant of the tenant's right to reoccupy the unit and the tenant chose not to reoccupy it.

(ii) *Except as provided in subsections (iii) and (iv) below,* ~~A~~a Accessory Dwelling Unit shall be constructed entirely within the ~~built envelope~~ buildable area of an existing lot ~~building~~ or within the built envelope of an existing and authorized *stand-alone garage, storage structure, or other* auxiliary structure on the same lot, as the built envelope ~~in either case~~ existed three years prior to the time the application was filed for a building permit to construct the ADU. For purposes of this provision, the "built envelope" shall include the open area under a cantilevered room or room built on columns; decks, except for decks ~~*that encroach into the required rear yard, or decks*~~ that are supported by columns or walls other than the building wall to which ~~*it is*~~ *they are* attached and are multi-level or more than 10 feet above grade; and lightwell infills provided that the infill will be against a blank neighboring wall at the property line and not visible from any off-site location; as these spaces exist as of July 11, 2016 ~~*and except for any of these spaces that encroach on the required rear yard.*~~ *An ADU constructed entirely within the existing built envelope, as defined in this subsection (ii),* along with permitted obstructions allowed in Section 136(c)(32), *of an existing building or authorized auxiliary structure on the same lot, or where an existing stand-alone garage or storage structure has been expanded to add dormers, is exempt from the notification requirements of Section 311 of this Code.*

~~(iii) One ADU over the density limits in this Code is allowed in a newly-built residential structure of three units or less as a component of the new construction.~~

(iii ~~iv~~*) When a stand-alone garage,* ~~or~~ *storage,* or other auxiliary *structure is being converted to an ADU, an expansion to the envelope is allowed to add dormers* even if the stand-alone garage, storage structure, or other auxiliary structure is in the required rear yard.

(iv) On a corner lot, a legal stand-alone nonconforming garage, storage structure, or other auxiliary structure may be expanded within its existing footprint by up to one additional story in order to create a consistent street wall and improve the continuity of buildings on the block.

(v) ~~(iii)~~ An Accessory Dwelling Unit shall not be constructed using space from an existing Dwelling Unit except that an ADU may expand into habitable space on the ground or basement floors provided that it does not exceed 25% of the gross square footage of such space. The Zoning Administrator may waive this 25% limitation if (a) the resulting space would not be usable or would be impractical to use for other reasonable uses included but not limited to storage or bicycle parking or (b) waiving the limitation would help relieve any negative layout issues for the proposed ADU.

(vi) ~~(iv)~~ A building undergoing seismic retrofitting may be eligible for a height increase pursuant to Ssubsection (c)(4)(F) below.

(vii) ~~(v)~~ Notwithstanding any other provision of this Code, an Accessory Dwelling Unit authorized under this Section 207(c)(4) may not be merged with an original unit(s).

(viii) ~~(vi)~~ An Accessory Dwelling Unit shall not be permitted in any building in a Neighborhood Commercial District or in the Chinatown Community Business or Visitor Retail Districts if it would eliminate or reduce a ground-story retail or commercial space~~;~~.

(D) **Prohibition of Short-Term Rentals.** An Accessory Dwelling Unit shall not be used for Short-Term Residential Rentals under Chapter 41A of the Administrative Code, which restriction shall be recorded as a Notice of Special Restriction on the subject lot.

(E) **Restrictions on Subdivisions.** Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an Accessory Dwelling Unit authorized under this

Section 207(c)(4) shall not be subdivided in a manner that would allow for the ADU to be sold or separately financed pursuant to any condominium plan, housing cooperative, or similar form of separate ownership; provided, however, that this prohibition on separate sale or finance of the ADU shall not apply to a building that (i) within three years prior to July 11, 2016 was an existing condominium with no Rental Unit as defined in Section 37.2(r) of the Administrative Code, and (ii) has had no evictions pursuant to Sections 37.9(a) through 37.9(a)(14) of the Administrative Code within 10 years prior to July 11, 2016.

(F) **Buildings Undergoing Seismic Retrofitting.** For Accessory Dwelling Units on lots with a building undergoing mandatory seismic retrofitting in compliance with Chapter 4D of the Existing Building Code or voluntary seismic retrofitting in compliance with the Department of Building Inspection's Administrative Bulletin 094, the following additional provision applies: If allowed by the Building Code, a building in which an Accessory Dwelling Unit is constructed may be raised up to three feet to create ground floor ceiling heights suitable for residential use. Such a raise in height

(i) shall be exempt from the notification requirements of Sections 311 and 312 of this Code; and

(ii) may 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.

(iii) on lots where an ADU is added in coordination with a building undergoing mandatory seismic retrofitting in compliance with Chapter 4D of the Existing Building Code or voluntary seismic retrofitting in compliance with the Department of Building Inspection's Administrative Bulletin 094, the building and the new ADU shall maintain

any eligibility to enter the condo-conversion lottery and may only be subdivided if the entire property is selected on the condo-conversion lottery.

(iv) pursuant to subsection (4)(C)(i), there is no limit on the number of ADUs that are permitted to be added in connection with a seismic retrofit.

(G) **Waiver of Code Requirements; Applicability of Rent Ordinance.** Pursuant to the provisions of Section 307(l) of this Code, the Zoning Administrator may grant an Accessory Dwelling Unit a complete or partial waiver of the density limits and *off-street* parking, *bicycle parking,* rear yard, exposure, or open space standards of this Code. If the Zoning Administrator grants a complete or partial waiver of the requirements of this Code and the subject lot contains any Rental Units at the time an application for a building permit is filed for construction of the Accessory Dwelling Unit(s), the property owner(s) shall enter into a Regulatory Agreement with the City under subsection (c)(4)(H) subjecting the ADU(s) to the San Francisco Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) as a condition of approval of the ADU(s). For purposes of this requirement, Rental Units shall be as defined in Section 37.2(r) of the Administrative Code.

(H) **Regulatory Agreements.** A Regulatory Agreement required by subsection (c)(4)(G) as a condition of approval of an Accessory Dwelling Unit shall contain the following:

(i) a statement that the ADU(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 complete or partial waiver of the density limits, and/or *off-street* parking, *bicycle parking,* rear yard, exposure, or open space standards of this Code or other direct financial contribution or

other form of assistance specified in California Government Code Sections 65915 et seq. ("Agreement"); and

(ii) a description of the complete or partial waiver of Code requirements granted by the Zoning Administrator or other direct financial contribution or form of assistance provided to the property owner; and

(iii) a description of the remedies for breach of the Agreement and other provisions to ensure implementation and compliance with the Agreement.

(iv) The property owner and the Planning Director (or ~~*his*~~ *the Director's* 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 executed prior to the City's issuance of the First Construction Document for the project, as defined in Section 107A.13.1 of the San Francisco Building Code.

(v) Following execution of the Regulatory Agreement by all parties and approval by the City Attorney, the Regulatory Agreement or a memorandum thereof shall be recorded against the property and shall be binding on all future owners and successors in interest.

Any Regulatory Agreement entered into under this Section 207(c)(4) shall not preclude a landlord from establishing the initial rental rate pursuant to Section 1954.53 of the Costa Hawkins Rental Housing Act.

(I) **Monitoring Program.**

(i) **Monitoring and Enforcement of Unit 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) and shall use such data to enforce the requirements of the Regulatory Agreements entered into pursuant to subsection (c)(4)(H). 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 for purposes of monitoring and enforcement but that its public disclosure is not linked to specific individuals or units. The Department shall consult with the City Attorney's Office with respect to the legal requirements to determine how best to achieve the intent of the Board.

(ii) **Monitoring of Prohibition on Use as Short Term Rentals.** The Department shall collect data on the use of Accessory Dwelling Units authorized to be constructed by this Ssubsection (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 Notices of Special Restriction pursuant to subsection 207(c)(4)(D) and the requirements of Administrative Code Chapter 41A.

(iii) **Department Report.** The Department shall publish a report annually until April 1, 2019, 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 or the Board of Supervisors determines would inform decision makers and the public on the effectiveness and implementation of this subsection (c)(4) and include recommendations for any amendments to the requirements of this Section 207(c)(4). The Department shall transmit this report to the Board of Supervisors for its review and public input. In subsequent years, this information on Accessory Dwelling Units shall be reported annually in the Housing Inventory.

* * * *

(6) **Accessory Dwelling Units in Existing Single-Family Homes.**

(A) **Applicability.** This subsection (c)(6) shall apply to the construction of Accessory Dwelling Units (as defined in Section 102) in existing single-family homes that

meet the requirements of this subsection. An ADU constructed pursuant to this subsection is considered a residential use that is consistent with the General Plan and the zoning designation for the lot. Adding one ADU to an existing single-family home ~~*shall*~~ *does* not exceed the allowable density for the lot. If construction of the ADU will not meet the requirements of this subsection and the ADU cannot be constructed without a waiver of Code requirements pursuant to subsection (c)(4)(G), the ADU is regulated pursuant to subsection (c)(4) and not this subsection (c)(6).

(B) **Lots Zoned for Single-Family or Multifamily Use and Containing an Existing Single-Family Home; Controls on Construction.** An Accessory Dwelling Unit located in a residential zoning district and constructed pursuant to this subsection (c)(6) shall meet all of the following:

(i) The ADU will strictly meet the requirements set forth in this subsection (c)(6)(~~*BC*~~) without requiring a waiver of Code requirements pursuant to subsection (c)(4)(G).

(ii) The permit application does not include seismic upgrade work pursuant to subsection (c)(4)(F).

(iii) Only one ADU will be constructed that is entirely within either the "living area" or the buildable area of an existing single-family home~~,~~ or, *except as provided in subsection (C)(x)* and (xi) *below,* within the built envelope of an existing and authorized auxiliary structure on the same lot. "Living area" means (as defined in Section 65852.2(i)(1) of the California Government Code) "the interior habitable area of a dwelling unit including basements and attics, but does not include a garage or any accessory structure."

(iv) If contained within the existing space of a single-family residence or accessory structure, the ADU must have independent exterior access from the existing residence or accessory structure, and side and rear setbacks sufficient for fire safety.

(v) If construction of the ADU will have adverse impacts on a property listed in the California Register of Historic Places or any other known historical resource, the Department shall require modification of the proposed project to the extent necessary to prevent or mitigate such impacts.

(vi) The Department shall apply any design guidelines in the Code to the proposed project and review the design of the proposed project to ensure architectural compatibility with existing buildings on the subject lot.

(vii) No setback is required for an existing garage that is converted to an ADU.

(viii) All applicable requirements of San Francisco's health and safety codes shall apply, including but not limited to the Building and Fire Codes.

(ix) No parking is required for the ADU. If existing parking is demolished in order to construct the ADU, only the parking space required by this Code for the existing single-family home must be replaced. If replacement parking is required, it may be located in any configuration on the lot including but not limited to covered, uncovered, or tandem space or by the use of mechanical automobile parking lifts.

(x) *When a stand-alone garage,* ~~or~~ *storage,* or other auxiliary *structure is being converted to an ADU, an expansion to the envelope is allowed to add dormers* even if the stand-alone garage, storage structure, or other auxiliary structure is in the required rear yard.

(xi) On a corner lot, a legal stand-alone nonconforming garage, storage structure, or other auxiliary structure may be expanded within its existing footprint by up to one additional story in order to create a consistent street wall and improve the continuity of buildings on the block.

(C) **Permit Application Review and Approval.** Except as authorized by subsections (c)(6)(B)(v) and (vi), the Department shall approve an application for a permit to

construct an Accessory Dwelling Unit within 120 days from receipt of the complete application, without modification or disapproval, if the proposed construction fully complies with the requirements set forth in subsection (c)(6)(*B*~~C~~).

(D) **Prohibition of Short-Term Rentals.** An Accessory Dwelling Unit authorized under this subsection (c)(6) shall not be used for Short-Term Residential Rentals under Chapter 41A of the Administrative Code. This restriction shall be recorded as a Notice of Special Restriction on the subject lot.

(E) **Rental; Restrictions on Subdivisions.**

(i) An ADU constructed pursuant to this subsection (c)(6) may be rented and is subject to all applicable provisions of the Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code).

(ii) Notwithstanding the provisions of Article 9 of the Subdivision Code, a lot with an Accessory Dwelling Unit authorized under this subsection (c)(6) shall not be subdivided in a manner that would allow for the ADU to be sold or separately financed pursuant to any condominium plan, housing cooperative, or similar form of separate ownership~~; provided, however, that this prohibition on separate sale or finance of the ADU shall not apply to a building that within three years prior to July 11, 2016, was an existing condominium with no Rental Unit as defined in Section 37.2(r) of the Administrative Code, and also within 10 years prior to July 11, 2016 had no evictions pursuant to Sections 37.9(a) through 37.9(a)(14) of the Administrative Code~~.

(F) **Department Report.** In the report required by subsection (c)(4)(I)(iii), the Department shall include a description and evaluation of the number and types of units being developed pursuant to this subsection (c)(6), their affordability rates, and such other information as the Director or the Board of Supervisors determines would inform decision makers and the public.

SEC. 207.3. AUTHORIZATION OF DWELLING UNITS CONSTRUCTED WITHOUT A PERMIT IN AN EXISTING BUILDING ZONED FOR RESIDENTIAL USE.

Notwithstanding Section 207.2 or any other provision of this Code, certain dwelling units that were constructed without benefit of permit in an existing residential building or in an ancillary structure located on the same lot may be granted legal status subject to the conditions and procedures set forth below. For purposes of this Section 207.3, a dwelling unit shall not include single room occupancy units.

(b) **Scope.**

(1) Except as provided in subsection (2) below, this Section 207.3 shall apply to an existing building or an ancillary structure on the same lot, that is located in a district where residential use is principally permitted, and that has one or more dwelling units that were constructed prior to January 1, 2013 without benefit of permit and used as residential space. ~~One~~ *Any* of the unauthorized dwelling units ~~per~~ *on the* lot *that* meet~~ing~~ this threshold requirement *and the requirements of this Section* may be granted legal status this Section, regardless of the density limits of the zoning district.

* * * *

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

In addition to those specified in Sections 302 through 306 of this Code, the Zoning Administrator shall have the following powers and duties in administration and enforcement of this Code.

* * * *

(l) **Exceptions from Certain Specific Code Standards Through Administrative Review for Accessory Dwelling Units Constructed Pursuant to Section 207(c)(4) of this Code.** The Zoning Administrator may allow complete or partial relief from the density limits and from the *off-street* parking, *bicycle parking,* rear yard, exposure, and/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) of this Code.

*(1) **Exposure.*** 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 *225 square feet, with no horizontal direction being less than nine feet, and* ~~*15 feet in every horizontal direction*~~ that is not required to expand on subsequent floors. *Permitted obstructions that are outlined in Section 140 and fire escapes, not projecting more than 4 feet 6 inches, would be allowed in such open area.* 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. Nothing in this Section shall be interpreted as allowing for an existing *nonconforming* ~~*non-conforming*~~ use to be deemed conforming.

*(2) **Bicycle Parking.** The requirements of Sections 155.1 and 155.2 shall apply, except that (A) in a building with no new corridors, an existing three-foot corridor may satisfy the requirement of a legal nonconforming access corridor for purposes of bicycle parking access in existing buildings and (B) vertical bicycle parking may satisfy up to 100% of required bicycle parking.*

SEC. 317. LOSS OF RESIDENTIAL AND UNAUTHORIZED UNITS THROUGH DEMOLITION, MERGER AND CONVERSION.

* * * *

(c) **Applicability; Exemptions.**

(1) Any application for a permit that would result in the Removal of one or more Residential Units or Unauthorized Units is required to obtain Conditional Use authorization. *For Unauthorized Units, this Conditional Use authorization will not be required for Removal if the unit cannot be legalized under any available provision of this Code.* The application

for a replacement building or alteration permit shall also be subject to Conditional Use requirements.

* * * *

(g) **Conditional Use Criteria.**

* * * *

(6) **Removal of Unauthorized Units.** In addition to the criteria set forth in Subsections (g)(1) through (g)(4) above, the Planning Commission shall consider the criteria below in the review of applications for removal of Unauthorized Units:

(A) ~~*whether the Unauthorized Unit or Units are eligible for legalization under Section 207.3 of this Code;*~~

~~*(B)*~~ whether the costs to legalize the Unauthorized Unit or Units under the Planning, Building, and other applicable Codes is reasonable based on how such cost compares to the average cost of legalization per unit derived from the cost of projects on the Planning Department's Master List of Additional Dwelling Units Approved required by Section 207.3(k) of this Code;

(*B*~~*C*~~) whether it is financially feasible to legalize the Unauthorized Unit or Units. Such determination will be based on the costs to legalize the Unauthorized Unit(s) under the Planning, Building, and other applicable Codes in comparison to the added value that legalizing said Units would provide to the subject property. The gain in the value of the subject property shall be based on the current value of the property with the Unauthorized Unit(s) compared to the value of the property if the Unauthorized Unit(s) is/are legalized. The calculation of the gain in value shall be conducted and approved by a California licensed property appraiser. Legalization would be deemed financially feasible if gain in the value of the subject property is equal to or greater than the cost to legalize the Unauthorized Unit.

(C~~D~~) If no City funds are available to assist the property owner with the cost of legalization, whether the cost would constitute a financial hardship.

Section 3. As introduced, this ordinance proposed revising Building Code Sections 106A.4.9 and 106A.4.9.1. At the Land Use and Transportation Committee meeting of July 9, 2018, the Committee amended the ordinance to remove those sections.

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

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

Section 6. 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
JUDITH A. BOYAJIAN
Deputy City Attorney
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FILE NO. 180268

REVISED LEGISLATIVE DIGEST
(Amended in Committee, 7/9/2018)

[Planning Code - Accessory Dwelling Units]

Ordinance amending the Planning Code to 1) authorize expansion of an Accessory Dwelling Unit (ADU) within the buildable area, 2) authorize the Zoning Administrator to waive or modify bicycle parking requirements for an Accessory Dwelling Unit, 3) allow more than one unauthorized unit constructed without a permit to be legalized, 4) exempt from the permit notification requirement ADUs constructed within the defined existing built envelope, 5) allow conversion of an existing stand-alone garage, or storage structure, or other auxiliary structure to an ADU and expansion of the existing building envelope to add dormers, and 6) eliminate allow payment of an in lieu fee for the an ADU's street tree requirement; for an ADU, and 6) allow one ADU to be added to a new residential building of three units or less as a component of the new construction; amending the Building Code to provide for a preapplication plan review for ADUs; 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; adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302; and directing the Clerk to send a copy of this Ordinance to the California Department of Housing and Community Development.

Existing Law

Planning Code Section 102 defines "Accessory Dwelling Unit" (ADU) and Sections 207(c)(4) and 207(c)(6) establish the requirements for constructing an ADU in areas in San Francisco that are zoned for residential use. The provisions in (c)(6) apply only to existing single-family homes that strictly meet the state law's ADU requirements. An ADU must be constructed entirely within the existing built envelope, "living area," or buildable area of an existing building or within the existing built envelope of an existing and authorized auxiliary structure on the same lot. Sections 207(c)(4) and 307(l) authorize the Zoning Administrator to modify or waive the density limits, parking, rear yard, exposure, or open space standards of the Code in order to facilitate the construction of an ADU. Section 207.3 authorizes the legalization of one dwelling unit per lot that was constructed prior to January 1, 2013 without the required permit.

Section 136 sets forth the allowable obstructions over Streets and Alleys and in required setbacks, yards, and usable open space. Section 138.1 establishes the requirements for streetscape and pedestrian improvements, including the obligation to plant and maintain street trees; pursuant to the Article 2 Zoning Control Tables, planting street trees is required for projects in areas zoned for residential use. Section 140 requires all Dwelling Units to face/have exposure to an open area that meets specified minimum requirements. Section 155.1 contains the requirements and standards for bicycle parking. Section 317, among other things, requires a Conditional Use authorization for the Removal of an unauthorized dwelling unit.

Amendments to Current Law

Section 102 is amended to make the definition consistent with the language in Sections 207(c)(4) and (c)(6). Section 207(c)(4) is amended to provide that construction of an ADU is not subject to Section 311 notification if it is entirely within the "built envelope" of the existing structure, which is defined to include a cantilevered room and other specified areas, or if the envelope of a converted stand-alone garage, storage structure, or other existing auxiliary structure is expanded to add dormers for the ADU. Section 207.3 is amended to allow the legalization of more than one unauthorized unit on the lot if the unit can meet all the Code requirements.

Section 136 is amended to allow infilling under decks and cantilevered rooms when adding an Accessory Dwelling Unit provided that if the ADU is proposed for a single-family home, the rear yard must be 25% of the lot depth but in no case less than 15 feet. Section 138.1 is amended to allow payment of an in lieu fee for an ADU's street tree requirement. Sections 140, 155.1, and 307(l) are amended to authorize the Zoning Administrator to modify or waive the exposure and bicycle parking requirements in order to facilitate the construction of an ADU. Section 317 is amended to provide that if an unauthorized unit can be legalized under any available provision of the Code, its Removal requires a Conditional Use authorization.

Background Information

The State Legislature has declared that second units (ADUs) are a valuable form of housing in California for many reasons. They are also an affordable type of housing because they do not include the costs of purchasing land or require major new infrastructure. In San Francisco, an ADU can be added to an existing building without changing the character of the neighborhood. San Francisco first enacted an ADU ordinance in 2015 and since then has updated its ADU program in response to amendments to the state law. The proposed amendments will facilitate the construction of ADUs in San Francisco.

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SAN FRANCISCO
PLANNING DEPARTMENT

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

June 29, 2018

Ms. Angela Calvillo, Clerk
Honorable Supervisor Tang
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 2018.004194PCA:**
Amendments to Accessory Dwelling Units Requirements
Board File No. 180268
Planning Commission Recommendation: ***Approval with Modifications***

Dear Ms. Calvillo and Supervisor Tang,

On June 21, the San Francisco Planning Commission (hereinafter: Commission) conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed amendments introduced by Supervisor Tang to the Accessory Dwelling Unit program. At the hearing, the Planning Commission recommended approval with modifications for the Ordinance.

The proposed Ordinance is under the Addendum 4 to the Housing Element EIR issued June 15, 2016.

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

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

Sincerely,

Aaron Starr
Manager of Legislative Affairs

cc:
Menaka Mohan, Supervisor Tang's Legislative Aide
Jon Givner, City Attorney
Judy Boyajian, City Attorney

Alisa Somera, Legislative Deputy Director

Attachments (two hard copies of the following):
Planning Commission Resolution No. 20213
Planning Department Executive Summary

SAN FRANCISCO
PLANNING DEPARTMENT

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Resolution No. 20213

HEARING DATE: JUNE 21, 2018

Project Name:	Amendments to Accessory Dwelling Units Requirements
Case Number:	2018-004194PCA, [Board File No. 180268]
Initiated by:	Supervisor Tang / Introduced March 20, 2018
Staff Contact:	Kimia Haddadan, Legislative Affairs Kimia.haddadan@sfgov.org , 415-575-9068
Reviewed by:	Aaron Starr, Manager of Legislative Affairs aaron.starr@sfgov.org, 415-558-6362

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO AUTHORIZE THE ZONING ADMINISTRATOR TO WAIVE OR MODIFY BICYCLE PARKING REQUIREMENTS FOR AN ACCESSORY DWELLING UNIT (ADU), ALLOW MORE THAN ONE UNAUTHORIZED UNIT CONSTRUCTED WITHOUT A PERMIT TO BE LEGALIZED, EXEMPT FROM THE PERMIT NOTIFICATION REQUIREMENT ADUS CONSTRUCTED WITHIN THE DEFINED EXISTING BUILT ENVELOPE, ALLOW CONVERSION OF AN EXISTING STAND-ALONE GARAGE OR STORAGE STRUCTURE TO AN ADU AND EXPANSION OF THE EXISTING BUILDING ENVELOPE TO ADD DORMERS, ELIMINATE THE STREET TREE REQUIREMENT FOR AN ADU, AND ALLOW ONE ADU TO BE ADDED TO A NEW RESIDENTIAL BUILDING OF THREE UNITS OR LESS AS A COMPONENT OF THE NEW CONSTRUCTION; AMENDING THE BUILDING CODE TO PROVIDE FOR A PREAPPLICATION PLAN REVIEW FOR ADUS; 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

WHEREAS, on March 20, 2018, Supervisor Tang introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 180268, which would amend the Planning and Building Codes to provide some amendments to the Accessory Dwelling Unit Program; and,

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinances on June 7, 2018; and,

WHEREAS, the proposed Ordinance is covered under the Addendum 4 to the Housing Element EIR issued June 15, 2016; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

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

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

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission **approves with modifications** the proposed ordinance.

1) Allow expansion of ADUs within the buildable envelope.

2) Allow expansion for ADUs under cantilevered rooms and decks in required rear yard without neighborhood notification, as drafted in the Ordinance, but amend Section 136 (c) to list filling under those spaces as permitted obstructions when adding ADUs.

3) On a corner lot, allow one story expansion of existing standalone garage structures limited to its existing footprint.

4) Clarify that the provision to allow dormers when converting existing standalone garages/structures to ADUs would allow such expansion even if those structures are in the required rear yard.

5) Allow ADUs to pay into an in-lieu fee for street tree requirements. Apply the same provision to unauthorized units undergoing legalization.

6) Consider size thresholds for ADUs so that the units remain accessory.

7) Remove the prohibition to use the legalization program where no-fault evictions have occurred and amend the Planning Code and the Rent Ordinance to:

i. clarify that the existing five year price control applies to no-fault evictions in unauthorized units (Section 37.3(f) of the Administrative Code)
ii. require the unit be offered to the previous tenant evicted similar to provisions for capital improvement (37.9a(11)), Ellis Act (37.9A), and owner move-in evictions (37.9(B)).

FINDINGS

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

1. The Commission supports the overall goals of this Ordinance as it would provide more flexibility to build ADUs while maintaining quality of these units.

2. Allowing ADUs to expand within the buildable envelope is consistent with recent changes to the ADU program per State Law. Those changes allowed ADUs in single-family homes to expand within the buildable envelope. In addition, the City allows enlarging an existing unit within the buildable envelope. Applying same provisions to ADUs would be consistent with the City's policy to produce more housing.

3. The Commission supports allowing infill under cantilevered rooms and decks even when they are in the required rear yard. This would improve light access for the unit and would help with meeting the exposure requirements. Infill under these spaces has minimal impact on the mid- block open space as they would fill under already existing and legal projection into the rear yard. For Code consistency and clarity, the Commission recommends amending Section 136 (c) of the Code to reflect this change as well. This section of the Code includes all permitted obstructions allowed in the required rear yard. Similarly allowing filling in under decks and cantilevered rooms in the required rear yard for ADUs would be a permitted obstruction in the required rear yard.

4. Standalone garages on corner lots can already be converted to ADUs but only within their existing built footprint. These garages face the street and as a one-story structure create a gap in the street wall. Allowing one-story expansion of legal non-conforming garages/structures for ADUs would create a consistent street wall and improve the continuity of the buildings in the block. Such expansion would not affect the quality of mid-block open space. Lastly, these ADUs would likely have direct access to the street, better access to light, and are therefore higher quality units.

5. The Ordinance as drafted would allow expansion of standalone garages/structures to add dormers. Many of such standalone garages/structures are currently in the required rear yard. However the language as drafted is not clear that dormers could be added to structures even when they are in the required rear yard. The Commission recommends clarifying the language to reflect such provision. Adding dormers when converting a one-story garage would provide opportunities for additional light and ventilation, and would increase occupiable floor area by raising the vertical clearance of a room.

6. The Commission acknowledges how meeting the street tree requirements add to the complexities of permit processes for ADUs. Instead of exempting ADUs from this requirement, the Commission recommends allowing ADUs to pay into an in lieu fee to satisfy this requirement. This would shorten the review period from the Department of Public Works for ADUs while still implementing the City's Better Street Plan by creating more trees and greenery on streets. Similarly same issues apply to unauthorized units that are undergoing the legalization program. To maintain consistent provision, the Commission recommends offering the same flexibility to those permits so that those applicants can pay into an in-lieu fee in order to satisfy the street tree requirement.

7. The Commission identified a need to address the eviction loophole currently existing in the legalization program. Through this loophole, property owners inclined to remove an unauthorized unit can evict their tenants, and then remove the unit without a CU permit. The eviction prohibition in the legalization program was originally placed to protect tenants but no longer serves this goal. To address this loophole, the Commission's recommendations would maintain the goal of tenant protection but change how the legalization program serves this goal. The Commission recommends removing the eviction prohibition in the legalization program; this would eliminate using tenant evictions as an excuse to remove the unauthorized unit. It would also help the City to preserve its existing rent control housing stock.

   In addition, already existing price control laws now address the goal of tenant protections. This means that property owners no longer have the opportunity to evict a tenant, legalize their unit, and then increase the rental price. Instead, to re-rent a newly legalized unit within five years subsequent

to an eligible[1] no-fault eviction, the owner can only ask for the rental rates at the time of eviction (plus allowable annual increases). The Commission recommends simply making a reference in the legalization program that those price controls apply. Second, to fully discourage evictions prior to legalization, the Commission recommends using the right to return model currently in practice for Capital Improvement, Ellis Act, and Owner Move-in evictions. In these models, property owners are required to offer the unit to tenants previously evicted, if the unit is being re-rented for a period of time after eviction occurred. Together with price control, this would mean that if an owner legalizes a unit subsequent to a no-fault eviction and then re-rents the unit, the unit would have to be first offered to the same tenant and at the same rate as the time of eviction (plus allowable annual increases). This would further prevent using the legalization program as a means for evicting tenants.

8. The proposed Ordinance will correct the Planning Code so that it is in line with the City's current practices and adopted budget.

9. **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 provide further flexibility for Accessory Dwelling unit program in pursuit of goals to increase housing opportunities. It would also provide more opportunities to preserve existing unauthorized units.

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.

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[1] Eligible evictions for five year price control are: Owner move-in, condo conversion, demolitions and removal from housing, capital improvements, and lead abatement.

Similarly existing unauthorized units generally offer lower rents compared to other units on the market. The proposed Ordinance would expand the legalization program and therefore maintain more housing for low and middle income households.

10. **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 have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

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

       The proposed Ordinance would not have a negative effect on housing or neighborhood character.

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

       The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

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

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

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

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

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

       The proposed Ordinance would not have an 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.

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

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

11. **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 June 21, 2018.

Jonas P. Ionin
Commission Secretary

AYES: Hillis, Johnson, Koppel, Richards, Moore

NOES: None

ABSENT: Fong, Melgar

ADOPTED: June 21, 2018

SAN FRANCISCO
PLANNING DEPARTMENT

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Executive Summary
Planning Code Text Change
HEARING DATE: JUNE 7, 2018
90 DAY DEADLINE: JUNE 26, 2018

Date:	June 7, 2018
Project Name:	**Amendments to Accessory Dwelling Units Requirements**
Case Number:	2018-004194PCA, [Board File No. 180268]
Initiated by:	Supervisor Tang / Introduced March 20, 2018
Staff Contact:	Kimia Haddadan, Legislative Affairs Kimia.haddadan@sfgov.org , 415-575-9068
Reviewed by:	Aaron Starr, Manager of Legislative Affairs aaron.starr@sfgov.org, 415-558-6362
Recommendation:	**Recommend Approval with Modification**

PLANNING & ADMINISTRATIVE CODE AMENDMENTS

The proposed Ordinance would amend the Planning Code to authorize the Zoning Administrator to waive or modify bicycle parking requirements for an Accessory Dwelling Unit (ADU), allow more than one unauthorized unit constructed without a permit to be legalized, exempt from the permit notification requirement ADUs constructed within the defined existing built envelope, allow conversion of an existing stand-alone garage or storage structure to an ADU and expansion of the existing building envelope to add dormers, eliminate the street tree requirement for an ADU, and allow one ADU to be added to a new residential building of three units or less as a component of the new construction. It would also amend the Building Code to provide for a preapplication plan review for ADUs.

In addition, Supervisor Tang asked the Planning Department (not currently part of the Ordinance) to propose recommendations for allowing vertical expansion when adding ADUs to stand alone garages on corner lots. This concept is referred to as "ADU infill".

The Way It Is Now:

ADUs in new construction

1. ADUs can only be added to existing buildings. If an application proposes demolition and reconstruction, ADUs are not permitted.

The existing built envelope limiting the ADU & neighborhood notification

2. ADUs are required to be built within the existing built envelope of a building as it existed three years prior to the application. The built envelope is defined to include filling under the following spaces as long as they are not in the required rear yard: a cantilevered room, room built on columns, decks that are only supported by the building wall (not by

columns or other walls), as well as filling in lightwells if against a blank neighboring wall at the property line. Per the Zoning Administrator (ZA) Bulletin No. 4 filling in under spaces listed above, whether for an ADU or other types of permits, are exempt from neighborhood notifications of Section 311 of the Planning Code (as long as such spaces are not in the required rear yard).

3. When converting a standalone garage or structure to an ADU, the unit can be added only within the exiting built envelope of the structure.

Street tree requirement

4. ADUs are currently subject to the street tree requirements of the Public Works Code[1]. When adding a dwelling unit, the sponsor is required to plant a street tree in front of the subject property or pay an in-lieu fee if the tree cannot be planted.

Bicycle parking requirements

5. Corridors that provide access to bicycle parking are currently required to be five feet wide. Vertical bicycle parking is only allowed to satisfy up to one-third of the requirements. There are no ZA waivers available for such requirements for ADUs.

Exposure requirements

6. The ADU program allows the ZA to waive exposure requirements if windows are facing an open area that is 15' by 15' in dimensions without needing to expand vertically. This is a reduction from the standard exposure requirement where the open area should be at least 25' by 25' expanding 5' in every dimension at each floor.

Pre-application meetings with DBI

7. Applicants can choose to schedule a pre-application meeting with DBI to go over preliminary concerns about the project. These meetings are usually staffed by DBI and the Fire Department.

Legalization of Unauthorized Units

8. Only one unauthorized unit per lot can take advantage of the legalization program.
9. The Zoning Administrator has interpreted the Code to clarify situations where unauthorized units can be removed without a conditional use hearing. Per this interpretation, if the unit cannot be legalized through *any path* available in the Code, the unit can be removed without a CU permit.

[1] Article 16, Sections 805(a) and (d)

The Way It Would Be:

ADUs in new construction

1. New construction projects with three units or less would be allowed to include one ADU.

The existing built envelope limiting the ADU & neighborhood notification

2. The proposed Ordinance would allow ADUs to fill in under the following type of spaces, even if such spaces encroach into the required rear yard. These spaces include: a cantilevered room, or room built on columns, or decks that are only supported by the building wall (not by columns or other walls), as well as filling in lightwells if against a blank neighboring wall at the property line. In other words, filling in under such spaces would be a permitted obstruction in the required rear yard. The proposed Ordinance would exempt such permitted obstructions from neighborhood notification.
3. When converting a standalone garage or structure to an ADU, the structure can be expanded to add dormers and such expansion would be exempt from neighborhood notification requirements.

Street Tree Requirement

4. ADUs would not be subject to the street tree requirements of the Public Works Code.

Bicycle Parking Requirements

5. The ZA would be able to provide waivers for bicycle parking requirements for ADUs so that: a) in existing buildings where no new corridors are being built, a three foot corridor could provide access to the bicycle parking space ; b) vertical bicycle parking can satisfy up to 100% of required bicycle parking.

Exposure Requirements

6. The ZA would be able to waive the exposure requirement so long as windows are facing an open area that is 225 sq. ft. with no dimension smaller than nine feet.

Pre-application Meetings with DBI

7. Staff from the Planning Department would be required to attend pre-application meetings if such meeting is requested by applicant.

Legalization of Unauthorized Units

8. All unauthorized units on a lot could take advantage of the legalization program.
9. The Planning Code would be clarified to reflect the existing Zoning Administrator interpretation; if the unit cannot be legalized through *any path* available in the Code (legalization, ADUs, or unit addition within allowable density), the unit could be removed without a CU permit.

BACKGROUND

San Francisco's ADU program has been in effect since 2014 starting as a pilot program in a small area and expanded citywide in 2016. As of the first quarter of 2018, there are 1243 units in the pipeline in 691 permits. A detailed review of ADU permits is provided in the ADU Tracking Report also published on May 30, 2018. Since its inception, the ADU program has been modified multiple times to strike a balance between improving flexibility of adding units and maintaining standard quality of life in those units. The proposed Ordinance includes further modifications to improve this program.

ISSUES AND CONCERNS

Exposure and bicycle parking requirements

After reviewing over 700 ADU permits, which includes a wide cross-section of building types, staff has identified two Planning Code requirements that persistently create challenges for adding ADUs, or significantly delay their approval; exposure requirements and bike parking standards.

The current ZA waiver for exposure requirements in ADUs allows windows to face an open area of at least 15' by 15'; however, even with this waiver, the Department has received several variance applications for exposure. These variances have represented as much as 25% of all requests on the monthly variance hearing calendar. The ZA is inclined to grant such variances when the unit quality is retained through other design measures, but the proposed open space does not meet the strict 15' by 15' dimensions while still containing a total of 225 sq. ft. (15x15). Yet, these variance applications can cause the project to be delayed anywhere between six to nine months. In addition, to meet this 15'x15' requirement, sponsors often propose substantial modifications to components of other units. This usually affects existing tenants or the building and increases the overall project cost. Further, staff has observed that the unit quality is maintained with the open area of 225 sq. ft., and when at least one dimension is no less than nine feet.

Bicycle parking requirements are triggered when adding dwelling units to an existing residential building with required off-street parking, or when required off-street parking is removed. ADUs often meet one or both of these triggers because they are typically built in garage spaces and removing parking. Staff has observed two challenges in meeting the bicycle parking requirements. The first challenge is meeting the five foot width for the corridors required to access the bicycle parking facility. The second is finding sufficient space on the ground floor to accommodate the required racks and spacing between the racks. To address these challenges, applicants often need to re-design the proposed units or the overall building, typically to the detriment of the unit configuration and often causing significant time delays. The proposed ordinance addresses this issue by providing greater flexibility to meet bike parking requirements, while still ensuring that these units have safe and secure bike parking. This Ordinance would provide such flexibility through ZA waivers in two ways: a) where no new corridors are being installed, an existing corridor as narrow as 3' would be sufficient to access the bicycle parking

facility; b) allow use of vertical bicycle parking to satisfy all required racks (currently only one-third of racks can be vertical).

Pre-application meeting

Currently, sponsors can schedule a pre-Application meeting with DBI (includes Building, and Fire, if applicable), or they can also schedule a Project Review meeting with just the Planning Department. These meetings are currently held separately. The proposed Ordinance would amend the Building Code to require that DBI's Pre-application meetings include Planning Department staff. A combined Pre-app meeting would enhance inter-Departmental coordination between Planning, DBI, and Fire Department. Conflicting input from different Departments can be resolved at one meeting, potentially eliminating or reducing the iterative revision process. Further, in February of this year, President of the Building Inspection Commission directed DBI and Planning Department to assess and coordinate a combined Pre-app meeting.

ADUs in new construction

Currently, ADUs are only allowed to be added into existing buildings, but cannot be added to new construction. One way around this rule is for the applicant to design their project in anticipation of adding an ADU, and in three years apply to add an ADU under a separate permit. The three year time period comes from the Planning Code, which stipulates that ADUs can only be added to an existing built envelope as it existed three years prior to the application. This creates inefficiencies in terms of construction and likely discourages owners from adding an ADU. Meanwhile, the City is in a housing crisis and generally encourages opportunities to add ADUs. The proposed Ordinance would create such opportunity by allowing ADUs to be added as a part of new construction permits for buildings of three units or less. Further, ADUs in new construction would benefit from better quality of life standards than traditional ADUs (lower ceiling height, smaller windows, non-standard entry, etc.) because the building would be designed from the beginning with the ADU in mind. At the same time, this may create confusion on how to distinguish ADUs from regular residential units in a new building. While ADUs are always different from residential units in that they cannot be subdivided and sold separately, and that they cannot be rented as Short Term Rentals, physical controls to distinguish ADUs in new construction from a regular unit may be needed.

Built vs. buildable envelope to limit ADUs

In recent years, the City has intensified efforts to provide more housing and has streamlined housing production, especially ADUs. One focus of these streamlining efforts has been on providing more flexibility on the definition of built envelope and the area within which ADUs are limited to be built on any lot. This is because limiting ADUs to the built footprint often affects the quality of ADU. Specifically, decks or cantilevered rooms on the upper stories impose limitations on meeting light exposure requirements. In 2016, the ADU program was amended to allow filling in under those spaces as long as they are not encroaching into the required rear yard. Filling in under such spaces are not generally subject to neighborhood notifications and the same principle applied to ADUs.

The proposed Ordinance would advance this flexibility and allow filling in under such spaces, even if they encroach into the rear yard. This proposal both help improve quality of ADUs with minimum impact to the visible mass of the building (See Exhibit B). In addition, this change would incentivize production of ADUs over expanding an existing unit; it would allow such expansion only for ADUs while expanding an existing unit under such spaces in the required rear yard would still require a variance hearing subject to neighborhood notification.

The Ordinance also proposes another minor change with regards to adding dormers to standalone garages/structures. Currently when an standalone garage is being converted to an ADU, only the existing built envelope can be used. Many of these structures have short ceiling height and a simple change of adding dormers would improve light and ventilation. Dormers would also allow for additional vertical space and therefore a higher quality and more spacious unit.

Finally, a more comprehensive way to improve flexibility for ADUs would be to allow all ADUs to expand within the buildable envelope. The Department has proposed this amendment in the past and still maintains the benefit of such amendment. It would be consistent with the Ordinance's proposal to allow ADUs in new construction, as those ADUs would also be allowed within the buildable envelope. Similarly, it would also be consistent with changes to the ADU program in 2017 to comply with the State Law updates. Those changes applied to single-family homes only and allowed ADUs within the existing buildable envelope. Lastly, these expansions are available for enlarging an existing unit and it would be reasonable to allow same provisions when adding to the City's housing stock.

Street tree requirement

Staff has heard that the process to satisfy the street tree requirement of the Public Works Code can prove lengthy and complicated. The permit for street tree requires review of site conditions, and a determination on whether a street tree can be planted, and finally an approval of street tree permit. The proposed Ordinance exempts ADUs from meeting this requirement to help address this issue. A sponsor may also need additional permits from Public Works; for example, if removing off-street parking, a permit to reinstall the curb is required.
Staff also realized that the same limitations of the street tree requirement apply to unauthorized units undergoing legalization and those permits can also benefit from some flexibility for meeting the street tree requirements.

Vertical expansion in the required rear yard of corner lots

Per a request by the sponsoring Supervisor, staff looked into vertical expansion of a standalone garage on a corner lot to add ADUs (not part of the draft Ordinance). Standalone garages in corner lots are often legal non-forming structures within the required rear yard. They also create a gap in the street wall as a one story structure, while most buildings are two stories and more. Currently such a garage/structure can be converted to an ADU without expansions. Allowing a one story expansion above the existing footprint would provide opportunities for either a higher quality ADU, or more than one ADU. It would also allow filling the street wall gap and improve the physical continuity of the block (See Exhibit C).

Legalization Program: Cap on number of units & eviction loophole

In a memo to the Commission dated April 20, 2017, staff highlighted two policy concerns with the legalization program. The first was the cap of one unit per lot that can be legalized. The proposed Ordinance addresses that concern by allowing more than one unit to be legalized per lot. The second concern was the limitations related to eviction history. The proposed Ordinance does not address this concern.

Currently, unauthorized units cannot be legalized if there has been a no-fault eviction associated with the unit. The policy goal for this provision is to protect tenants from potential evictions; the opportunity to legalize a unit could incentivize the owner to evict the tenant, legalize the unit, and put the unit back on the market for higher rent. However, subsequent legislative changes conflict with the eviction prohibition in the legalization program and create a loophole. The City now requires Conditional Use (CU) authorization to remove unauthorized units unless the unit is not eligible for legalization. This change has incentivized property owners who wish to remove the unit to evict their tenant, making the unit ineligible for the legalization program. The property owner is then allowed to remove the unit without a CU authorization. In this way, the eviction prohibition in the legalization program is no longer serving its original goal to protect tenants.

In addition, the original concerns driving the eviction prohibition have been addressed through another piece of legislation, commonly known as Eviction Protection 2.0. This legislation incorporated a five year price control into five types of no-fault evictions: owner move-in, condo conversions, capital improvements, lead abatement, and demolition/removal from housing. The latter is the most common type of eviction used for tenants in unauthorized units. The price control removes the incentive to evict a tenant prior to legalization, since higher rents would not be allowed for five years; therefore, the need for an eviction prohibition in the legalization program is no longer necessary. In addition, a right to return provision can further protect the tenants in the unauthorized units. The right to return already exists for three types of no-fault evictions for five years: Ellis Act, owner move-in, and Capital Improvements.

General Plan Compliance

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 provide further flexibility for Accessory Dwelling unit program in pursuit of goals to increase housing opportunities. It would also provide more opportunities to preserve existing unauthorized units.

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. Similarly existing unauthorized units generally offer lower rents compared to other units on the market. The proposed Ordinance would expand the legalization program and therefore maintain more housing for low and middle income households.

Implementation

The Department determined that this ordinance will impact our current implementation procedures in the following ways:

- The proposed Ordinance would update some of the current controls for ADUs. Department's ADU fact sheets and webpage would need to be updated for the public. The Department would also need to hold training sessions for staff for these updates.

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 Department recommends the following modifications:

1) **Restrict the size of the ADUs added as a part of new construction to 1,200 sq. ft. in order to differentiate them from a regular unit.**
2) **Allow expansion of ADUs within the buildable envelope.**
3) **Allow expansion of ADUs under cantilevered rooms and decks in required rear yard without neighborhood notification, as drafted in the Ordinance, but amend Section 136 (c) to list filling under those spaces as permitted obstructions when adding ADUs.**
4) **On a corner lot, allow one story expansion of existing standalone garage structures limited to its existing footprint.**
5) **Clarify that the provision to allow dormers when converting existing standalone garages/structures to ADUs would allow such expansion even if those structures are in the required rear yard.**
6) **Allow ADUs to pay into an in-lieu fee for street tree requirements. Apply the same provision to unauthorized units undergoing legalization.**
7) **Remove the prohibition to use the legalization program where no-fault evictions have occurred and amend the Planning and Rent Ordinance to:**
   i. clarify that the existing five year price control applies to no-fault evictions in unauthorized units (Section 37.3(f) of the Administrative Code)
   ii. require the unit be offered to the previous tenant evicted similar to provisions for capital improvement (37.9a(11)), Ellis Act (37.9A), and owner move-in evictions (37.9(B)).

BASIS FOR RECOMMENDATION

The Department supports the overall goals of this Ordinance as it would provide more flexibility to build ADUs while maintaining quality of these units. The following is the basis for the Department's recommended modifications:

1) **Restrict the size of the ADUs added as a part of new construction to 1,200 sq. ft. in order to differentiate them from a regular unit:**
   As discussed earlier, traditional ADUs added to existing buildings generally have low ceiling heights, indirect entry, smaller windows, etc. ADUs in new construction would likely not have such limitations and may physically look similar to regular residential units. To distinguish an ADU in new construction from a regular residential unit, staff recommends using a unit size limit already identified for ADUs in State Law, which is a maximum of 1,200 sq. ft.
2) **Allow expansion of ADUs within the buildable envelope.**
   As discussed earlier, allowing ADUs to expand within the buildable envelope is consistent with recent changes to the ADU program per State Law. Those changes allowed ADUs in single-family homes to expand within the buildable envelope. In addition, the City allows enlarging an existing unit within the buildable envelope. Applying same provisions to ADUs would be consistent with the City's policy to produce more housing.
3) **Allow expansion for ADUs under cantilevered rooms and decks in required rear yard without neighborhood notification, as drafted in the Ordinance, but amend Section 136 (c) to list filling under those spaces as permitted obstructions when adding ADUs.**
   Staff supports this amendment as drafted in the Ordinance which would provide property owners with flexibility to expand the ADU under decks and cantilevered room even if they are in the required rear yard. This would improve light access for the unit and would help with meeting the exposure requirements. Infill under these spaces has minimal impact on the mid-block open space as they would fill under already existing and legal projection into the rear yard. For Code consistency and clarity, Staff recommends amending Section 136 (c) of the Code to reflect this change as well. This section of the Code includes all permitted obstructions allowed in the required rear yard. Similarly allowing filling in under decks and cantilevered rooms in the required rear yard for ADUs would be a permitted obstruction in the required rear yard.

4) **On a corner lot, allow up to one story expansion of existing standalone garage structures limited to its existing footprint.**
   As discussed earlier, standalone garages on corner lots can already be converted to ADUs but only within their existing built footprint. These garages face the street and as a one-story structure create a gap in the street wall. Allowing one-story expansion of legal non-conforming garages/structures for ADUs would create a consistent street wall and improve the continuity of the buildings in the block. Such expansion would not affect the quality of mid-block open space. Lastly, these ADUs would likely have direct access to the street, better access to light, and are therefore generally higher quality units.

5) **Clarify that the provision to allow dormers when converting existing standalone garages/structures to ADUs would allow such expansion even if those structures are in the required rear yard.**

The Ordinance as drafted would allow expansion of standalone garages/structures to add dormers. Many of such standalone garages/structures are currently in the required rear yard. However the language as drafted is not clear that dormers could be added to structures even when they are in the required rear yard. Staff recommends clarifying the language to reflect such provision. Adding dormers when converting a one story garage would provide opportunities for additional light and ventilation, and would increase occupiable floor area by raising the vertical clearance of a room.

6) **Allow ADUs to pay into an in-lieu fee for street tree requirements. Apply the same provision to unauthorized units undergoing legalization.**

Staff acknowledges how meeting the street tree requirements can prove lengthy and complicated for ADUs. Instead of exempting ADUs from this requirement, staff recommends allowing ADUs to pay into an in lieu fee to satisfy this requirement. This would shorten the review period from the Department of Public Works for ADUs while still implementing the City's Better Street Plan by creating more trees and greenery on streets. Similarly same issues apply to unauthorized units that are undergoing the legalization program. To maintain consistency, staff recommends offering the same flexibility to those permits so that those applicants can pay into an in-lieu fee in order to satisfy the street tree requirement.

7) **Remove the prohibition to use the legalization program where no-fault evictions have occurred and amend the Planning Code and the Rent Ordinance to:**

i. **clarify that the existing five year price control applies to no-fault evictions in unauthorized units (Section 37.3(f) of the Administrative Code)**

ii. **require the unit be offered to the previous tenant evicted similar to provisions for capital improvement (37.9a(11)), Ellis Act (37.9A), and owner move-in evictions (37.9(B)).**

Staff identified a need to address the eviction loophole currently existing in the legalization program. Through this loophole, property owners inclined to remove an unauthorized unit can evict their tenants, and then remove the unit without a CU permit. The eviction prohibition in the legalization program was originally placed to protect tenants but no longer serves this goal (see page 6-7 for more details). To address this loophole, staff's recommendations would maintain the goal of tenant protection but change how the legalization program serves this goal. Staff recommends removing the eviction prohibition in the legalization program; this would eliminate using tenant evictions as an excuse to remove the unauthorized unit. It would also help the City to preserve its existing rent control housing stock.

In addition, already existing price control laws now address the goal of tenant protections. This means that property owners no longer have the opportunity to evict a tenant, legalize their unit, and then increase the rental price. Instead, to re-rent a newly

legalized unit within five years subsequent to an eligible[2] no-fault eviction, the owner can only ask for the rental rates at the time of eviction (plus allowable annual increases). Staff recommends simply making a reference in the legalization program that those price controls apply. Second, to fully discourage evictions prior to legalization, staff recommends using the right to return model currently in practice for Capital Improvement, Ellis Act, and Owner Move-in evictions. In these models, property owners are required to offer the unit to tenants previously evicted, if the unit is being re-rented for a period of time after eviction occurred. Together with price control, this would mean that if an owner legalizes a unit subsequent to a no-fault eviction and then re-rents the unit, the unit would have to be first offered to the same tenant and at the same rate as the time of eviction (plus allowable annual increases). This would further prevent using the legalization program as a means for evicting tenants.

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.

ENVIRONMENTAL REVIEW

The Environmental review for this Ordinance is pending and will be available for the Commission Hearing. Staff anticipates the proposed Ordinance is covered under the Addendum 4 to the Housing Element EIR issued June 15, 2016.

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

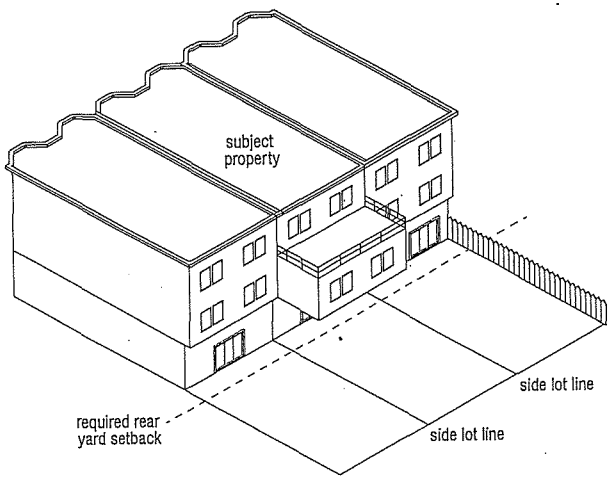
[2] Eligible evictions for five year price control are: Owner move-in, condo conversion, demolitions and removal from housing, capital improvements, and lead abatement.

Attachments:

Exhibit A:	Draft Planning Commission Resolution for BF No. 180268
Exhibit B:	Three-Dimensional Graphics Showing the Proposed Changes To Allow Filling In Under Cantilevered Rooms And Decks That Are In The Required Rear Yard
Exhibit C:	Three-Dimensional Graphics Showing the Proposed Changes To Allow Vertical Expansions of Standalone Garages on Corner Lots
Exhibit D:	Draft Ordinance

Exhibit B- Proposed Amendment to Allow Filling in Under:
a) Cantilevered Rooms That Are In the Required Rear Yard

EXISTING



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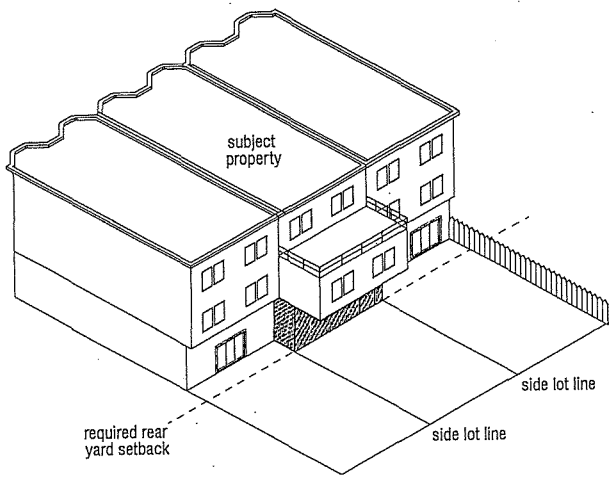
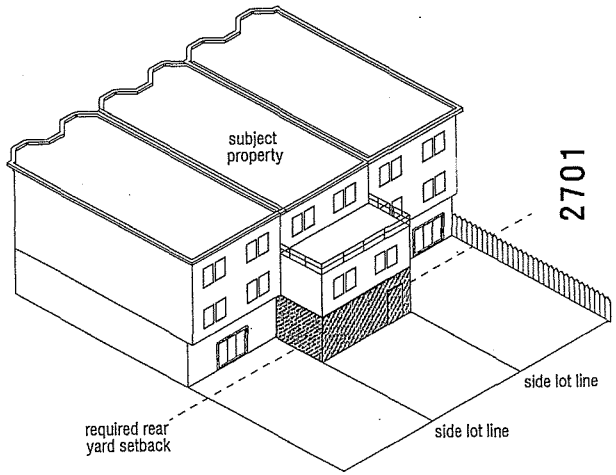


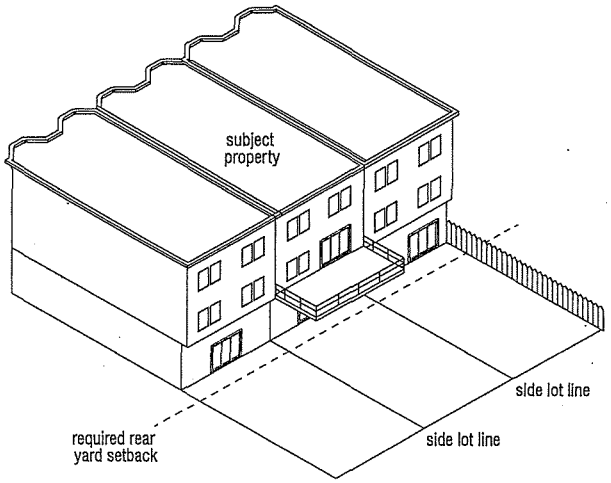
PROPOSED



2701

Exhibit B- Proposed Amendment to Allow Filling in Under:
b) Decks That Are In the Required Rear Yard

EXISTING



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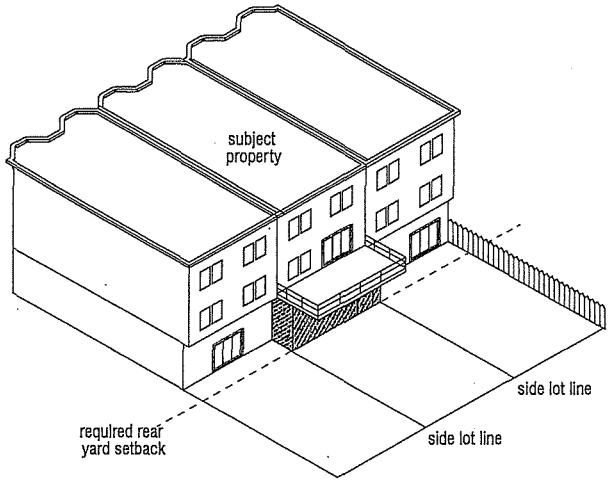
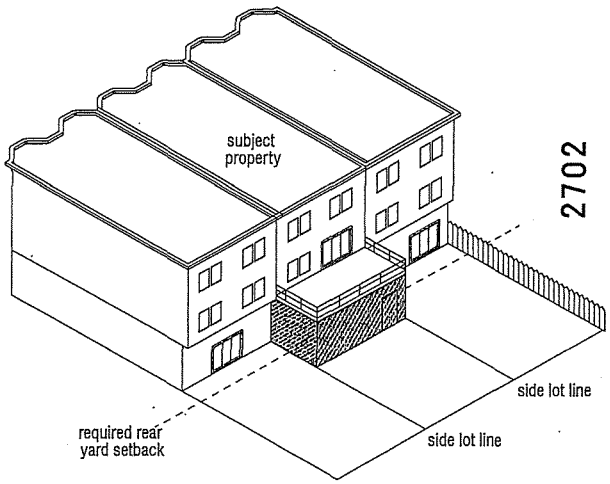


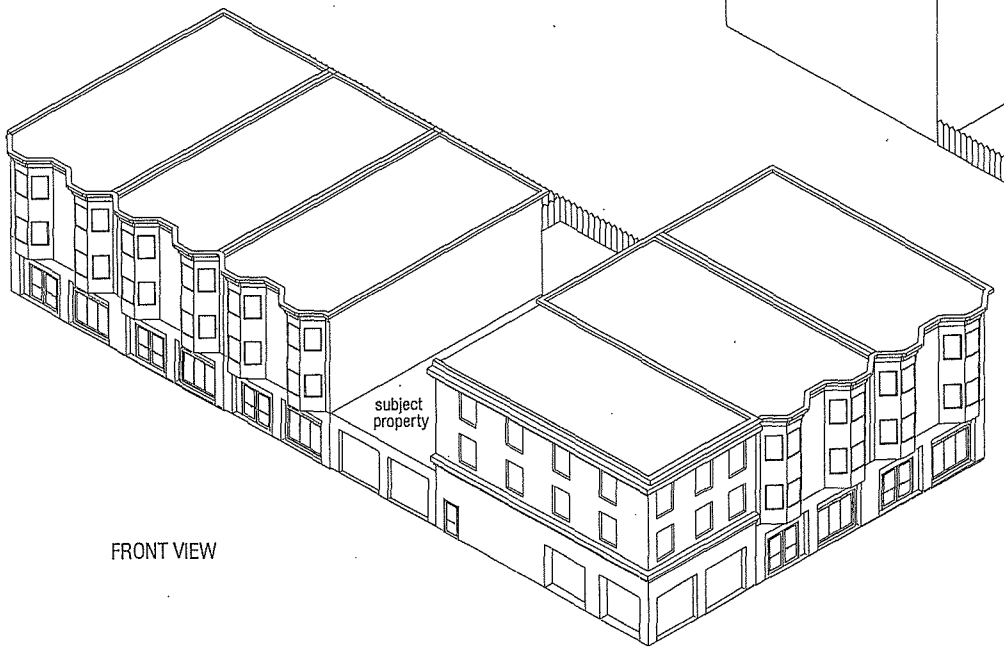
PROPOSED



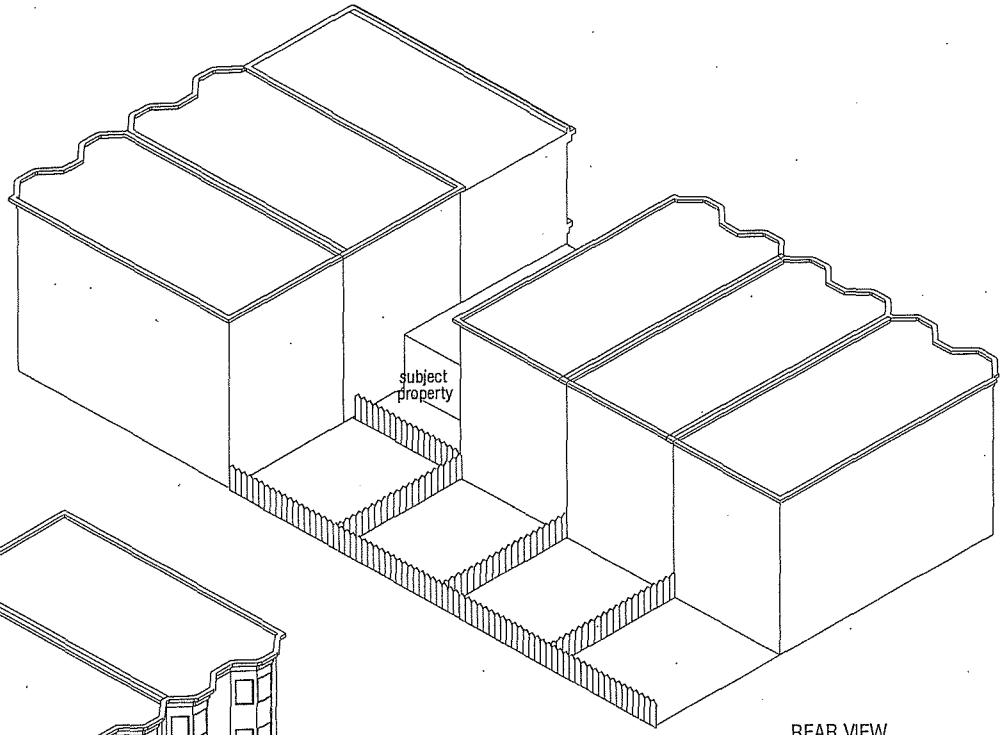
2702

Exhibit C- Proposal to Allow Vertical Expansion of of A Standalone Garage on a Corner Lot (Within the Required Rear Yard)
a) Existing Views

EXISTING STAND-ALONE GARAGE
ON CORNER LOT



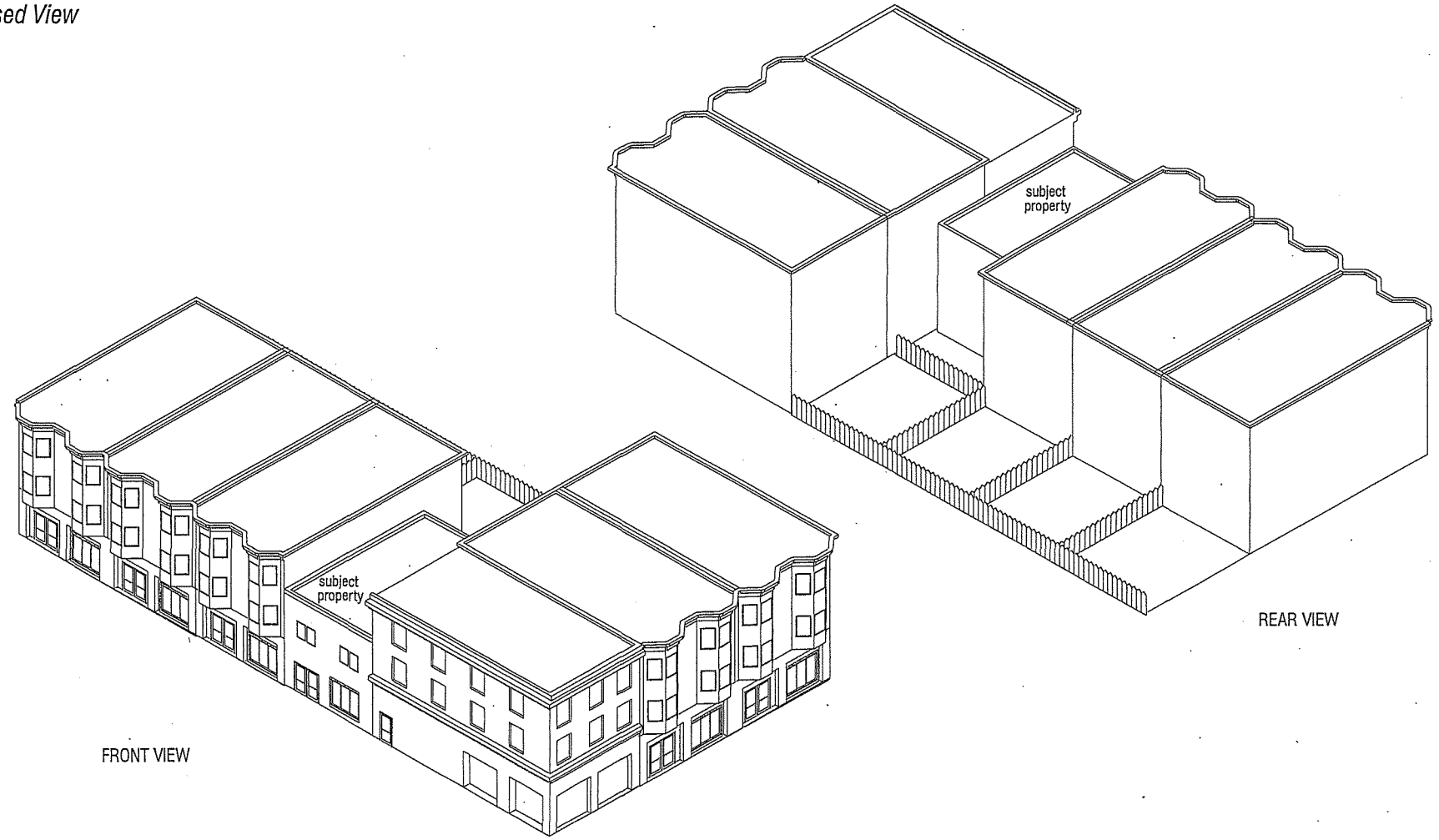
FRONT VIEW



REAR VIEW

2703

Exhibit C- Proposal to Allow Vertical Expansion of of A Standalone Garage on a Corner Lot (Within the Required Rear Yard)
b) Proposed View



2704

SAN FRANCISCO
PLANNING DEPARTMENT

Addendum 4 to Environmental Impact Report

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Addendum Date:	June 15, 2016
Case No.:	**2016-004042ENV**
Project Title:	**BOS File No. 160252 – Construction of Accessory Dwelling Units;**
	BOS File No. 160657 – Construction of Accessory Dwelling Units
EIR:	San Francisco 2004 and 2009 Housing Element, 2007.1275E
	SCL No. 2008102033, certified March 24, 2011, recertified April 24, 2014
Project Sponsor:	Supervisor Peskin; Supervisors Farrell and Wiener
Sponsor Contact:	Kimia Haddadan, (415) 575-9068, kimia.haddadan@sfgov.org
Lead Agency:	San Francisco Planning Department
Staff Contact:	Michael Li, (415) 575-9107, michael.j.li@sfgov.org

REMARKS

This document is an addendum to the 2004 and 2009 Housing Element Final Environmental Impact Report ("2004 and 2009 Housing Element FEIR" or "FEIR"). Its purpose is to substantiate the Planning Department's determination that no supplemental or subsequent environmental review is required prior to adoption of proposed legislation to allow accessory dwelling units ("ADUs") on a citywide basis ("modified project"). As described more fully below, the modified project is an implementing program of the 2014 Housing Element. The Planning Department has determined that the environmental impacts of the modified project have been adequately identified and analyzed under CEQA in the 2004 and 2009 Housing Element FEIR, and the proposed project would not result in any new or more severe environmental impacts than were identified in the FEIR.

Background

On April 24, 2014, the San Francisco Planning Commission ("Planning Commission") certified the 2004 and 2009 Housing Element FEIR pursuant to the California Environmental Quality Act ("CEQA").[1]

On June 17, 2014, the San Francisco Board of Supervisors ("Board") adopted the 2009 Housing Element as the Housing Element of the *San Francisco General Plan* ("*General Plan*").

In response to the proposed 2014 Housing Element, which updated the Data and Needs Analysis of the 2009 Housing Element and added five additional policies, the San Francisco Planning Department ("Planning Department") prepared Addendum 1 to the 2004 and 2009 Housing Element FEIR. Based on Addendum 1, issued by the Planning Department on January 22, 2015, the Board found that no additional

[1] San Francisco Planning Department, *2004 and 2009 Housing Element Final Environmental Impact Report*, April 24, 2014. Case No. 2007.1275E, http://sf-planning.org/environmental-impact-reports-negative-declarations, accessed on May 24, 2016. Unless otherwise noted, all documents cited in this report are available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, San Francisco, California, as part of Case No. 2016-004042ENV.

environmental review was required beyond the review in the FEIR.[2] On April 27, 2015, the Board adopted the 2014 Housing Element.

In response to proposed legislation to amend the locations in which ADUs may be constructed, the Planning Department prepared Addendum 2 to the 2004 and 2009 Housing Element FEIR. Based on Addendum 2, issued by the Planning Department on July 14, 2015, the Board found that no additional environmental review was required beyond the review in the FEIR.[3] On September 8, 2015, the Board adopted the proposed legislation allowing the construction of ADUs in Supervisorial Districts 3 and 8.

In response to proposed legislation that would create a program allowing the construction of taller and denser buildings in exchange for a higher number of affordable dwelling units (the "Affordable Housing Bonus Program" or the "AHBP"), the Planning Department prepared Addendum 3 to the 2004 and 2009 Housing Element FEIR. The Planning Department issued Addendum 3 on January 14, 2016, and the AHBP will be considered by the Board during the second half of 2016.[4]

This Addendum 4 only applies to the current legislation proposed by Supervisor Peskin, the current legislation jointly proposed by Supervisors Farrell and Wiener, and the Planning Department's proposed amendments to both pieces of legislation (see "Proposed Legislation" below).

California Government Code Section 65852.2

Pursuant to California Government Code Section 65852.2, any local agency must, by ordinance, provide for the creation of ADUs in zones that allow residential uses. The California State Legislature finds and declares that these units are a valuable form of housing in California.

San Francisco 2014 Housing Element

The Housing Element is a component of the *General Plan* and establishes the City's overall housing policies. California State Housing Element law (California Government Code Section 65580 et seq.) 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 statewide 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. San Francisco's 2014 Housing Element was required to plan for an existing and projected housing need of 28,869 new dwelling units.

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[2] San Francisco Planning Department, *Addendum to 2004 and 2009 Housing Element Final Environmental Impact Report, 2014 Housing Element*, January 22, 2015, Case No. 2014.1327E. Available at http://sf-planning.org/environmental-impact-reports-negative-declarations, accessed on May 24, 2016.

[3] San Francisco Planning Department, *Addendum 2 to 2004 and 2009 Housing Element Final Environmental Impact Report, Accessory Dwelling Units in Supervisorial Districts 3 and 8*, July 14, 2015, Case No. 2015-005350ENV. Available at http://sf-planning.org/environmental-impact-reports-negative-declarations, accessed on May 24, 2016.

[4] San Francisco Planning Department, *Addendum 3 to 2004 and 2009 Housing Element Final Environmental Impact Report, Affordable Housing Bonus Program*, January 14, 2016, Cases No. 2014.1304E and 2014-001503GPA. Available at http://sf-planning.org/environmental-impact-reports-negative-declarations, accessed on May 24, 2016.

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 throughout the City, the San Francisco Planning Code ("Planning Code") limits the number of dwelling units permitted on a given lot. For example, in an RH-2 (Residential, House, Two-Family) District, two dwelling units are principally permitted per lot, and one dwelling unit is permitted for every 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 dwelling unit density on developed lots. As shown in Table 1: Housing Element Policies and Implementation Measures Related to ADUs, the following policies and associated implementation measures call for the creation of ADUs and were analyzed in the Final EIR:

Table 1: Housing Element Policies and Implementation Measures Related to ADUs

Policies and 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. **Implementation Measure 1.8.3** – Ongoing planning will propose Planning Code amendments to encourage secondary units where appropriate.	**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 neighborhood character is maintained.	**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 neighborhood character is maintained.

PROPOSED LEGISLATION

On March 15, 2016, Supervisor Peskin introduced legislation (Board File No. 160252) to the Board that would amend the Planning Code and the Administrative Code to allow the construction of ADUs on all lots within the City and County of San Francisco in areas that allow residential uses.

On May 31, 2016, Supervisors Farrell and Wiener sponsored legislation (Board File No. 160657) that would also allow the construction of ADUs on all lots within the City and County of San Francisco in areas that allow residential uses.

Both proposed ordinances, as well as amendments that are being proposed by the Planning Department, are summarized below. Collectively, the two proposed ordinances and the proposed amendments constitute the modified project that is the subject of this Addendum 4.

Legislation as Proposed by Supervisor Peskin

Under this proposed legislation, ADUs would be allowed in existing buildings containing dwelling units and located in zoning districts that allow residential uses, whether principally permitted or conditionally permitted, subject to the following conditions:

1. In existing buildings with up to 10 dwelling units, one ADU could be constructed. In existing buildings with more than 10 dwelling units, two ADUs could be constructed.
2. ADUs would only be allowed if they can be constructed entirely within the built envelope of an existing building or the built envelope of an existing and authorized auxiliary structure that is on the same lot.
3. ADUs would not be allowed to use space from existing dwelling units.
4. ADUs would not be allowed to eliminate or reduce existing ground-floor commercial or retail spaces in Neighborhood Commercial Districts, the Chinatown Community Business District, or the Chinatown Visitor Retail District.
5. ADUs cannot be merged with an original dwelling unit(s).
6. ADUs cannot be subdivided and sold separately.
7. ADUs cannot be used for short-term rentals.
8. ADUs cannot be constructed in buildings with the following no-fault eviction history:
    a. owner move-in eviction within the five years prior to the building permit application date for the ADU pursuant to Administrative Code Section 37.9(a)(8); or
    b. eviction related to condominium conversion, demolition, capital improvements, substantial rehabilitation, Ellis Act withdrawal, or lead remediation within the 10 years prior to the building permit application date for the ADU pursuant to Administrative Code Sections 37.9(a)(9) through 37.9(a)(14).

Under this proposed legislation, waivers from Planning Code requirements related to rear yard, usable open space, dwelling unit exposure, and off-street parking would still be available to ADUs. However, for ADUs contained in buildings that are proposed to be raised three feet as part of seismic retrofitting, the

exemption from neighborhood notification under Planning Code Sections 311 and 312 would no longer be available.

Under this proposed legislation, the Residential Rent Stabilization and Arbitration Ordinance would be applicable to any ADU constructed in an existing building containing rental units at the time that the building permit application for the ADU is filed as long as certain waivers from Planning Code requirements are obtained. The Planning Department would be responsible for evaluating and monitoring the affordability of ADUs and monitoring the prohibition on using ADUs as short-term rentals. The Planning Department would publish an annual report through April 1, 2019. In subsequent years, the information collected would be included in the annual Housing Inventory.

Legislation as Proposed by Supervisors Farrell and Wiener

Under this proposed legislation, ADUs would be allowed in existing buildings containing dwelling units and located in zoning districts that allow residential uses, whether principally permitted or conditionally permitted, subject to the following conditions:

1. In existing buildings containing up to four dwelling units, one ADU could be constructed. In existing buildings containing more than four dwelling units, an unlimited number of ADUs could be constructed.
2. In RH-1(D) Districts, ADUs would be allowed only as mandated by California Government Code Section 65852.2 and only in strict compliance with the requirements of California Government Code Section 65852.2(b).
3. ADUs would only be allowed if they can be constructed entirely within the built envelope of an existing building or the built envelope of an existing and authorized auxiliary structure that is on the same lot. The built envelope shall include all spaces included in Zoning Administrator Bulletin No. 4, as amended from time to time, as well as any infilling underneath rear extensions.
4. ADUs would not be allowed to use space from existing dwelling units.
5. ADUs would not be allowed to eliminate, or reduce by more than 25 percent, existing ground-floor commercial or retail spaces in Neighborhood Commercial Districts, the Chinatown Community Business District, or the Chinatown Visitor Retail District.
6. ADUs cannot be merged with an original dwelling unit(s).
7. ADUs may be subdivided and sold separately.
8. ADUs cannot be used for short-term rentals.
9. ADUs cannot be constructed in buildings with the following no-fault eviction history:
    a. owner move-in eviction within the five years prior to the building permit application date for the ADU pursuant to Administrative Code Section 37.9(a)(8); or
    b. eviction related to condominium conversion, demolition, capital improvements, substantial rehabilitation, Ellis Act withdrawal, or lead remediation within the 10 years prior to the building permit application date for the ADU pursuant to Administrative Code Sections 37.9(a)(9) through 37.9(a)(14).

Under this proposed legislation, waivers from Planning Code requirements related to rear yard, usable open space, dwelling unit exposure, and off-street parking would still be available to ADUs. In addition, for ADUs contained in buildings that are proposed to be raised three feet as part of seismic retrofitting, the exemption from neighborhood notification under Planning Code Sections 311 and 312 would still be available.

Under this proposed legislation, the Residential Rent Stabilization and Arbitration Ordinance would be applicable to any ADU constructed in an existing building containing rental units at the time that the building permit application for the ADU is filed. The Planning Department would be responsible for evaluating and monitoring the affordability of ADUs and monitoring the prohibition on using ADUs as short-term rentals. The Planning Department would publish an annual report through April 1, 2019. In subsequent years, the information collected would be included in the annual Housing Inventory.

Proposed Amendments to Legislation

The Planning Department is proposing the following amendments to the legislation introduced by Supervisors Peskin and Supervisors Farrell and Wiener:

1. Remove the cap on the number of ADUs allowed per lot in existing mid- to large-sized buildings (those containing more than four units).
2. Allow ADUs to be constructed as part of newly constructed small-sized buildings (those containing up to four units).
3. Allow ADUs to be constructed as part of ground-floor expansions of existing building envelopes (i.e., no vertical additions). Such ground-floor expansions would be subject to applicable Planning Code requirements governing buildable area.
4. Clarify that the definition of existing building envelope includes spaces listed in Zoning Administrator Bulletin No. 4 that are exempt from neighborhood notification under Planning Code Sections 311 and 312.
5. ADUs involving mergers with existing dwelling units shall be subject to the same controls regulating the mergers of unauthorized units as set forth in Planning Code Section 317.
6. Allow ADUs to be subdivided and sold separately.
7. The prohibition on adding ADUs in existing buildings with an eviction history shall be applied prospectively (i.e., the prohibition shall apply if there are evictions after the effective date of the ordinance). Existing buildings with temporary evictions (e.g., capital improvements, substantial rehabilitation, lead remediation, etc.) in which dwelling units have been offered to or reoccupied by the evicted tenants shall be exempt from the prohibition.
8. Amend Planning Code Section 207(c)(4)(C)(vi)c., which allows a building undergoing seismic retrofitting to be raised three feet, to correctly refer to Building Code Section 34 instead of Building Code Section 34B. Clarify that this three-foot height increase is exempt from the existing built envelope limitation for ADUs.

Table 2: Comparison of Proposed ADU Ordinances and Proposed Amendments

	Supervisor Peskin's Ordinance	Supervisors Farrell and Wiener's Ordinance	Planning Department's Proposed Amendments
Eligible Properties	Properties in any zoning district that allows residential uses.	Properties in any zoning district that allows residential uses, except as discussed below. In RH-1(D) Districts, ADUs would be allowed only as mandated by California Government Code Section 65852.2 and only in strict compliance with California Government Code Section 65852.2(b).	No changes proposed.
ADUs in Existing Buildings	One ADU permitted in existing buildings with up to 10 units. Two ADUs permitted in existing buildings with more than 10 units.	One ADU permitted in existing buildings with up to four units. No limit on number of ADUs in buildings with more than four units.	One ADU permitted in existing buildings with up to four units. No limit on number of ADUs in buildings with more than four units.
ADUs as Part of New Construction	Not permitted	Not permitted	One ADU permitted for buildings containing up to four units. The smallest unit shall be designated as the ADU.
ADUs Involving Expansion of Built Envelope	Not permitted	Not permitted, except as discussed below. The definition of built envelope shall include all spaces listed in ZA Bulletin No. 4, as amended from time to time, and infilling underneath rear extensions.	Permitted on ground floor only. The definition of built envelope shall include all spaces listed in ZA Bulletin No. 4 that are exempt from neighborhood notification under Planning Code Sections 311 and 312.
ADUs Involving Buildings Being Raised Three Feet as Part of Seismic Retrofitting	Not exempt from neighborhood notification under Planning Code Sections 311 and 312	Exempt from neighborhood notification under Planning Code Sections 311 and 312	The three-foot height increase shall be included in the definition of built envelope.

	Supervisor Peskin's Ordinance	Supervisors Farrell and Wiener's Ordinance	Planning Department's Proposed Amendments
ADUs Involving Use of Space from Existing Units	Not permitted	Not permitted	No changes proposed.
Elimination or Reduction of Ground-Floor Commercial or Retail Uses in NCDs, the CCB District, or the CVR District	Elimination of such a use is not permitted. Reduction of the floor area of such a use is not permitted.	Elimination of such a use is not permitted. Reduction of up to 25 percent of the floor area of such a use is permitted.	No changes proposed.
Mergers of ADUs with Original Units	Not permitted	Not permitted	Subject to controls regulating mergers of unauthorized units (Planning Code Section 317).
Subdivision and Sale of ADUs	Not permitted	Permitted	Permitted
Use of ADUs as Short-Term Rental Units	Not permitted	Not permitted	No changes proposed.
ADUs in Buildings with Eviction History	Not permitted	Not permitted	Not permitted if there is an eviction after the effective date of the ADU ordinance. Buildings with temporary evictions in which units have been offered to or reoccupied by the evicted tenants shall be exempt from the prohibition.

For the purposes of assessing the physical environmental impacts of the modified project, the analysis in this Addendum 4 addresses the legislation as proposed by Supervisors Peskin, Farrell, and Wiener as well as all of the amendments proposed by the Planning Department.

Project Approvals

The proposed legislation consists of amendments to the Planning Code and the Administrative Code and requires the following project approvals:

- Recommendation to the Board of Supervisors *(Planning Commission)*
- Findings of consistency with the *General Plan* and the eight priority policies of Planning Code Section 101.1 *(Planning Commission and Board of Supervisors)*
- Affirmation of the Planning Department's CEQA determination *(Board of Supervisors)*

- Adoption of an ordinance *(Board of Supervisors)*
- Mayoral signature of the ordinance *(Mayor)*

ANTICIPATED DEVELOPMENT OF ADUs

It is uncertain how many ADUs would be constructed through implementation of the modified project and which specific parcels in San Francisco would be developed with ADUs. For the purpose of environmental review, the Planning Department has estimated a theoretical maximum number of ADUs that could be constructed, based on the following factors that may contribute to the overall feasibility of constructing ADUs.

Past Trends

In 2015, the Board adopted three ordinances related to the construction of ADUs. The first ordinance, effective April 2015, allowed the construction of ADUs in existing buildings undergoing seismic retrofitting. The second and third ordinances, effective October 2015, allowed the construction of ADUs in existing buildings located in Supervisorial Districts 3 and 8. The Planning Department estimated that implementation of these two ordinances could result in a combined estimate of 3,407 potential ADUs (850 units under the seismic retrofitting ordinance and 2,557 units under the Districts 3 and 8 ordinance). Since these ordinances became effective, building permit applications for a total of 139 ADUs have been filed.

Development Constraints

In order to determine the likely number of new units that would be constructed under the modified project, the Planning Department identified constraints that would limit the development of ADUs.

Ownership

Existing residential buildings that are under common ownership, such as condominiums or tenancies in common ("TICs"), 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 among multiple owners may be less likely to be developed into an ADU as it would require consensus among multiple owners.

Cost

Construction of new ADUs may prove costly to property owners, further limiting the number of new ADUs that could be created by the proposed legislation. The Planning Department estimates it would cost approximately $150,000 to $200,000 to develop an ADU, excluding any excavation, foundation, or façade work.[5] If excavation is necessary to convert a space to an ADU, the cost of such conversion could increase by approximately $100 per square foot.[6] In some cases, state or local building code requirements could increase the cost of conversion.

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[5] San Francisco Planning Department, *Executive Summary, Planning and Administrative Code Text Change, Construction of Accessory Dwelling Units in Supervisorial Districts Three and Eight*, Hearing Date: July 16, 2015.

[6] San Francisco Planning Department, *Accessory Dwelling Unit Handbook*, July 2015. Available at

Opportunity Spaces

For ADUs that would be created through the conversion of existing spaces without expanding existing building envelopes, preexisting factors such as building layout or design may affect the total number of ADUs that could be constructed on specific sites. In addition, ADUs may not be created by removing space from existing dwelling units or, in certain zoning districts, space from ground-floor commercial or retail uses. In addition, the Residential Rent Stabilization and Arbitration Ordinance may constrain an owner's ability to construct an ADU through the conversion of existing spaces such as common areas or storage areas. As a result of these constraints, the options for creating ADUs through the conversion of existing spaces would be limited to garages, storage areas, and attics.

Other Factors

In addition to the development constraints discussed above, there are socioeconomic factors that may affect the number of ADUs that could be constructed under the proposed legislation. These socioeconomic factors include the availability of financing, the current state of the local and regional real estate markets, fluctuations in the construction labor pool, the ease or difficulty of the permitting process, and neighborhood opposition to projects proposing ADUs.

Theoretical Maximum Number of ADUs

There are approximately 155,468 parcels within the project area. The Planning Department eliminated some of these parcels from consideration as potential ADU sites based on eligibility requirements or because they were already evaluated for potential ADU development under previous legislation and environmental review. The characteristics of the parcels eliminated from consideration as potential ADU sites are listed below:

- Developed parcels that do not have existing residential uses
- Parcels in zoning districts that do not have residential density limits
- Parcels covered by the seismic retrofitting ADU ordinance
- Parcels covered by the Districts 3 and 8 ADU ordinances

Eliminating these parcels narrowed the number of potential ADU sites in the project area to 110,880 parcels.

The legislation proposed by Supervisor Peskin also eliminates existing buildings containing ground-floor commercial or retail uses that are located in Neighborhood Commercial Districts, the Chinatown Community Business District, or the Chinatown Visitor Retail District from the pool of potential ADU sites. However, the legislation proposed by Supervisors Farrell and Wiener would allow the reduction in the floor area of such ground-floor commercial or retail uses by up to 25 percent to accommodate new ADUs. Therefore, the Planning Department included existing buildings containing ground-floor commercial and retail uses in the aforementioned zoning districts as part of the pool of potential ADU sites.

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http://default.sfplanning.org/plans-and-programs/planning-for-the-city/accessory-dwelling-units/2015_ADU_Handbook.pdf, accessed May 26, 2016.

The Planning Department eliminated parcels with certain characteristics that would make the construction of ADUs less likely. The characteristics of these additional parcels eliminated from consideration as potential ADU sites are listed below:

- Parcels larger than 5,000 square feet that were developed after 1980 (it is assumed that post-1980 residential development includes underground parking and is less likely to include unused ground-floor space that could be converted to ADUs)
- All buildings constructed after 2000 (due to increasing land costs, it is assumed that post-2000 buildings are more space-efficient than older buildings and would be more likely to maximize the amount of living space and less likely to have unused ground-floor space that could be converted to ADUs)
- 95 percent of condominium buildings (it is assumed that more complicated logistics involving multiple owners would discourage the addition of ADUs to condominium buildings)

Eliminating the parcels listed above leaves 104,639 parcels for consideration as potential ADU sites (2,677 parcels containing five or more dwelling units and 101,962 parcels containing fewer than five dwelling units).

In estimating the potential number of ADUs for previous legislation to allow ADUs in the Castro, the Planning Department estimated that about 70 percent of all buildings in the Castro have garages or other unused ground-floor spaces that could be converted to ADUs. This estimate was based on a field survey conducted over several blocks in the Castro. The Planning Department then estimated that about 25 percent of the owners of such buildings would actually choose to construct ADUs under the Castro ADU ordinance (now superseded by Supervisor Wiener's District 8 ADU ordinance). This 25 percent factor was very conservative (i.e., it was substantially higher than the actual percentage of properties that have undergone construction to add ADUs).

The proposed legislation now under consideration would allow ADUs to be constructed on a citywide basis. At this scale, past citywide trends can more justifiably be used for estimating the number of ADUs that could be constructed instead of the two factors discussed above, which were applied to a much smaller geographic area.

Planning Department data show there are approximately 37,000 buildings to which dwelling units could be added under current zoning controls (i.e., the existing buildings are underdeveloped compared to the maximum development potential). Over the past 10 years, approximately 560 applications (an average of 56 applications per year) were filed to add between one and four dwelling units to existing buildings. Based on this data, ADUs have been added to about 0.15 percent of eligible buildings on an annual basis over the past 10 years.

Planning Department data show there are approximately 4,800 buildings that are eligible for the City's soft-story seismic retrofitting program. Under the existing seismic retrofitting ADU ordinance, effective April 2015, 72 applications have been filed to add dwelling units to existing buildings. Based on this data, over a one-year period, ADUs have been added to about 1.5 percent of buildings eligible for the City's soft-story seismic retrofitting program.

Relying on this development data, the Planning Department estimates that the proposed legislation would result in ADUs being added to eligible parcels at a rate between 0.15 percent and 1.5 percent. The ADU production rate under the proposed legislation should be higher than the 0.15 percent rate seen over the past 10 years, because:

- the proposed legislation would provide waivers from certain Planning Code requirements that were not previously available over the past 10 years;
- the City has been promoting ADUs as an infill housing strategy and anticipates more interest from property owners in the future; and
- the proposed Planning Department recommendation to allow the expansion of the building envelope on the ground floor would provide property owners who would otherwise not convert their parking spaces or other unused spaces with the opportunity to add ADUs.

The ADU production rate under the proposed legislation should be lower than the 1.5 percent rate for buildings undergoing soft-story seismic retrofitting, because:

- buildings undergoing mandatory seismic retrofitting are more likely to add ADUs under the existing seismic retrofitting ADU ordinance since they are already required to undergo construction;
- the cost of seismic retrofitting is often offset by revenue from ADUs;
- buildings undergoing mandatory seismic retrofitting are often owned by commercial property owners who are generally more knowledgeable about the construction process and have the financial resources to pursue construction; and
- the proposed legislation is not tied to buildings undergoing seismic retrofitting.

Based on all of the factors discussed above, the Planning Department used annual ADU production rates of 0.5 percent for parcels with buildings containing up to four dwelling units and 1.5 percent for parcels with buildings containing more than four dwelling units. Applying these two rates over an anticipated period of 25 years results in 12,009 parcels with buildings containing up to four dwelling units and 842 parcels with buildings containing more than four dwelling units, the owners of which might pursue the addition of ADUs.[7] Buildings containing up to four dwelling units could each add one ADU, for an estimated 12,009 ADUs. The Planning Department estimates that buildings containing more than four dwelling units, for which there would be no limit on the number of ADUs, would each add two ADUs (because it is unlikely that most existing buildings have sufficient space for more than two ADUs), for an estimated 1,684 ADUs. Based on these projections, a theoretical maximum of

[7] For the 101,962 parcels with buildings containing up to four dwelling units, an ADU production rate of 0.5 percent was applied for the first year, resulting in 510 parcels that would be expected to add ADUs during the first year and leaving a pool of 101,452 parcels for the second year. The ADU production rate of 0.5 percent was applied to the 101,452 parcels, resulting in 507 parcels that would be expected to add ADUs during the second year and leaving a pool of 101,035 parcels for the third year. This calculation was repeated for Years 3 through 25. The parcels that would be expected to add ADUs each year were then added together to determine the 25-year total of 12,009 parcels. The same methodology was applied to the 2,677 parcels with buildings containing more than four dwelling units using an ADU production rate of 1.5 percent.

13,693 potential ADUs might be constructed on a citywide basis over an anticipated period of 25 years (about 550 ADUs per year).

This number is a theoretical maximum that relies on much higher annual rates of ADU production than what has occurred in the past. The theoretical maximum number of ADUs discussed above is a reasonable basis for assessing the physical environmental impacts of the modified project under CEQA.

PROJECT SETTING

San Francisco is a consolidated city and county located on the tip of the San Francisco Peninsula with the Golden Gate Strait to the north, San Francisco Bay to the east, San Mateo County to the south, and the Pacific Ocean to the west. San Francisco has an area of approximately 49 square miles. Although San Francisco is densely developed, there are vacant and underused lots that can be developed or redeveloped. These lots are located throughout San Francisco, and many are currently zoned to allow residential uses.

ANALYSIS OF POTENTIAL ENVIRONMENTAL EFFECTS

San Francisco Administrative Code Section 31.19(c)(1) states that a modified project must be reevaluated and that "[i]f, on the basis of such reevaluation, the Environmental Review Officer ("ERO") determines, based on the requirements of CEQA, that no additional environmental review is necessary, this determination and the reasons therefore 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 modified project, which would implement the policies and measures related to intensifying dwelling unit density referenced in the Housing Element, would not result in any new significant environmental impacts, substantially increase the severity of previously identified effects, or necessitate implementation of additional or considerably different mitigation measures than those identified in the FEIR. The effects associated with the modified project would be substantially the same as those reported for the FEIR, and thus no supplemental or subsequent EIR is required. The following discussion provides the basis for this conclusion.

2004 and 2009 Housing Element FEIR Conclusions

The 2009 Housing Element adopted policies that generally encouraged housing and higher density housing along transit lines and in proximity to other infrastructure and neighborhood services, such as open space and childcare providers. The 2009 Housing Element policies also encouraged higher density through a community planning process and, for affordable housing projects, promoted the construction of multifamily housing. The 2004 and 2009 Housing Element FEIR identified less-than-significant environmental impacts for the following environmental 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 FEIR found that significant effects related to encouraging new residential development along streets with noise levels above 75 dBA L_{dn} can be avoided or reduced to a less-than-significant level with mitigation, and a mitigation measure addressing the issue was incorporated into the adopted Housing Element as an implementation measure.[8, 9] The FEIR found also that adoption of the 2009 Housing Element would potentially result in significant environmental effects on the transit network that could not be mitigated to a less-than-significant level with implementation of feasible mitigation measures. The policies in the 2014 Housing Element were substantially the same as those in the 2009 Housing Element, and the adoption of the 2014 Housing Element did not change the conclusions in the FEIR.

Changed Circumstances Since the Certification of the FEIR

Since the certification of the FEIR, a number of revisions have been made to the Planning Code, *General Plan*, and other city policies and regulations (e.g., the Inclusionary Housing Program, Standards for Bird-Safe Buildings, the Transportation Sustainability Fee) related to housing and development in San Francisco. Most changes to the Planning Code and other documents can be found on the Planning Department's website: http://sf-planning.org/planning-code-change-summaries. Those changes were independent from the adoption of the Housing Element and have undergone independent review under CEQA. The revisions primarily pertain to neighborhood-specific issues, and none of them would result in changes that substantially deviate from the overarching goals and objectives that were articulated in the 2009 or 2014 Housing Element (such as directing growth to certain areas of the City, promoting preservation of residential buildings, etc.) in a way that could render the conclusions in the FEIR invalid or inaccurate. These revisions to the regulatory environment also would not be expected to increase the severity of impacts discussed in the FEIR. Furthermore, no new information has emerged that would materially change the analyses or conclusions set forth in the FEIR. Any additional draft amendments proposed for adoption, but not yet adopted, would be reviewed for environmental impacts prior to adoption.

Changes to Housing Projections

The FEIR contains population and housing projections that have since been updated. As reported in the 2014 Housing Element, the 2012 American Community Survey estimated San Francisco's population to be about 807,755.[10] The Association of Bay Area Governments projects continued population growth to

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[8] The standard method used to quantify environmental noise involves evaluating the sound with an adjustment to reflect the fact that human hearing is less sensitive to low-frequency sound than to mid- and high-frequency sound. This measurement adjustment is called "A" weighting, and the data are reported in A-weighted decibels (dBA).

[9] The L_{dn} is the L_{eq}, or Energy Equivalent Level, of the A-weighted noise level over a 24-hour period, obtained after the addition of 10 dB to sound levels during nighttime hours (10:00 p.m. to 7:00 a.m). The L_{eq} is the level of a steady noise which would have the same energy as the fluctuating noise level integrated over the time period of interest.

[10] San Francisco Planning Department, *2014 Housing Element, Part I*, p. I.4.

981,800 by 2030 or an overall increase of about 174,045 people who will need to be housed over the next 18 years.[11] In comparison, the 2009 Housing Element projected San Francisco's population at 934,000 by 2030. Household growth, an approximation of the demand for housing, currently indicates a need for some 72,530 new units in the 18 years from 2012 to 2030. As with the 2009 and 2014 Housing Elements, the modified project would not change the population and housing projections, because those projections are due to and influenced by births, deaths, migration rates, and employment growth. Rather, the modified project would influence the location and type of residential development that would be constructed to meet demand.

Land Use and Land Use Planning

2009 Housing Element

The FEIR concluded that the 2009 Housing Element would result in less-than-significant impacts related to land use and land use planning. The 2009 Housing Element would not conflict with applicable land use plans, policies, or regulations, including, but not limited to, the *San Francisco General Plan* (*General Plan*), the *San Francisco Countywide Transportation Plan,* and the *San Francisco Bicycle Plan.* Individual development projects would be reviewed for consistency and compliance with applicable land use plans, policies, or regulations. The 2009 Housing Element would not physically divide established communities by promoting the construction of physical barriers to neighborhood access, such as new freeways, or by removing existing means of access, such as bridges or roadways. The 2009 Housing Element would not have a substantial impact upon the existing character of San Francisco. Individual development projects would undergo design review to ensure that new construction is compatible with the neighborhoods in which the projects are located. In addition, individual development projects would be reviewed for compliance with San Francisco Planning Code (Planning Code) regulations to ensure that the proposed land uses are permitted in the zoning districts in which the projects are located.

Modified Project

The modified project would promote housing in established neighborhoods throughout San Francisco and would result in buildings that could be denser than what is currently permitted under existing regulations.

Plans, policies, and regulations adopted for the purpose of avoiding or mitigating an environmental effect are those that directly address environmental issues and/or contain targets or standards that must be met in order to maintain or improve characteristics of the City's physical environment. Examples of such plans, policies, or regulations include the Bay Area Air Quality Management District's *2010 Clean Air Plan* and the San Francisco Regional Water Quality Control Board's *San Francisco Basin Plan.* The modified project would not directly conflict with any plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. ADUs proposed under the modified project would be evaluated by City decision-makers for their consistency with such plans, policies, or regulations, and conflicts would need to be addressed prior to the approval of any entitlements.

The modified project would not physically divide established communities by calling for the construction of physical barriers to neighborhood access, such as freeways, or the removal of existing means of access, such as bridges and roadways. ADUs would generally be constructed in established neighborhoods with existing infrastructure. New freeways would not need to be constructed to provide access to and from

[11] Association of Bay Area Governments, *Projections 2013*, p. 75.

these ADUs, and existing bridges and roadways would not need to be removed to accommodate the development of these ADUs.

The modified project would not have a substantial impact on the existing land use character of San Francisco, because it would promote housing in zoning districts that allow residential uses. The construction of ADUs would add housing to established neighborhoods in which residential uses already exist. Therefore, ADUs would be compatible with the existing land use character of the neighborhoods in which they would be constructed. The construction of ADUs could result in buildings that are denser than existing development. However, the increased density would not affect the land use character of a neighborhood in which an ADU is located, because new residential uses would be compatible with existing residential uses whether they are housed in a building with fewer units or a building with more units. The physical environmental impacts associated with denser buildings are discussed under the topics of Population and Housing, Recreation, Utilities and Service Systems, and Public Services.

For these reasons, the modified project would result in less-than-significant impacts related to land use and land use planning. The modified project would not result in more severe impacts than the 2009 Housing Element, would not result in new significant impacts beyond those identified in the FEIR, and would not require new mitigation measures. Furthermore, there is no new information that would alter the FEIR's conclusions regarding impacts related to land use and land use planning.

Aesthetics

2009 Housing Element

The FEIR concluded that the 2009 Housing Element would result in less-than-significant impacts on aesthetics. The 2009 Housing Element would not have a substantial adverse effect on a scenic vista, would not damage scenic resources that contribute to a scenic public setting, and would not degrade the existing visual character of San Francisco. As discussed in the FEIR, future development would be required to comply with existing regulations adopted for the purpose of avoiding such impacts. The FEIR also found that the 2009 Housing Element would not create new sources of substantial light and glare that would adversely affect day or nighttime views or would substantially affect other people or properties. New exterior lighting associated with future development would be focused on specific areas rather than illuminating large areas that are currently not illuminated. Furthermore, all future development would be required to comply with Planning Commission Resolution No. 9212, which prohibits the use of highly reflective or mirrored glass in new construction.

Modified Project

The modified project would promote housing in established neighborhoods throughout San Francisco and, in some cases, would result in newly constructed buildings that could alter the visual character of the areas in which they are located.

CEQA was amended in 2013 to add Public Resources Code ("PRC") Section 21099 regarding the analysis of aesthetics and parking impacts for certain urban infill projects in transit priority areas.[12]

[12] A "transit priority area" is defined in as an area within one-half mile of an existing or planned major transit stop. A "major transit stop" is defined in Section 21064.3 of the California Public Resources Code as a rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with

PRC Section 21099(d) provides that, "aesthetics and parking impacts of a residential, mixed-use residential, or employment center project on an infill site located within a transit priority area shall not be considered significant impacts on the environment." Accordingly, aesthetics and parking are no longer to be considered in determining if a project has the potential to result in significant environmental effects for projects that meet all of the following three criteria:

1) The project is in a transit priority area;

2) The project is on an infill site; and

3) The project is residential, mixed-use residential, or an employment center.

Since the modified project would promote housing on sites in established neighborhoods, most, if not all, ADUs would meet all three of the criteria listed above. Pursuant to PRC Section 21099, ADU projects that meet the three criteria listed above would not result in significant impacts related to aesthetics. ADU projects would not result in expansions of existing buildings or newly constructed buildings that would be larger than what is permitted under current zoning controls such that scenic vistas, scenic resources, or the visual character of the surroundings would be affected.

For these reasons, the modified project would result in less-than-significant impacts related to aesthetics. The modified project would not result in more severe impacts than the 2009 Housing Element, would not result in new significant impacts beyond those identified in the FEIR, and would not require new mitigation measures. Furthermore, there is no new information that would alter the FEIR's conclusions regarding impacts related to aesthetics.

Population and Housing

2009 Housing Element

The FEIR concluded that the 2009 Housing Element would result in less-than-significant impacts related to population and housing. As noted above, population growth in San Francisco and the region is primarily a result of births, deaths, migration, and employment growth. The growth projections in the FEIR were not driven by assumptions regarding proposed development. The purpose of the 2009 Housing Element is to provide ways for housing supply to meet housing demand and need; if housing supply were the basis for the growth projections, there would be no need for a housing element. For this reason, the 2009 Housing Element would not induce a substantial amount of population growth above the level anticipated in regional growth projections generated by the Association of Bay Area Governments. Implementation of the 2009 Housing Element would not displace substantial numbers of existing housing units or people. Individual development projects would be subject to regulations that limit the demolition and merger of existing housing units, which would reduce the need to construct replacement housing.

Modified Project

The modified project would not directly induce population growth above that anticipated by regional growth projections based on births, deaths, migration and employment growth; rather, it would be a new mechanism for providing housing supply to meet demand. In addition, the modified project would not

a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. A map of transit priority areas in San Francisco can be found at http://sfmea.sfplanning.org/CEQA%20Update-SB%20743%20Summary.pdf.

indirectly induce substantial population growth by calling for the extension of roads, utilities, or other infrastructure. The modified project would promote housing in established neighborhoods that are already served by roads, utilities, and other infrastructure. ADUs proposed under the modified project would be evaluated for their impacts on demand for roads, utilities, and other infrastructure.

Newly constructed buildings containing ADUs could involve the demolition of existing buildings containing dwelling units. These types of development projects would be subject to local policies and regulations that protect existing housing stock. These policies and regulations include, but are not limited to, the Housing Element of the General Plan; Planning Code Section 317: Loss of Dwelling Units through Demolition, Merger, and Conversion; San Francisco Administrative Code (Administrative Code) Chapter 41: Residential Hotel Unit Conversion and Demolition Ordinance; Administrative Code Chapter 41A: Residential Unit Conversion Ordinance; and Administrative Code Chapter 41C: Time-Share Conversion Ordinance. Required compliance with these policies and regulations would ensure that newly constructed buildings containing ADUs would not displace substantial numbers of existing housing units or residents, thus minimizing the demand for replacement housing and the environmental impacts associated with the construction of replacement housing.

The modified project would not directly displace businesses, but the construction of new buildings containing ADUs could involve the demolition of existing buildings occupied by businesses. The physical effects of business displacement would be considered on an individual basis as part of the environmental review process for each project, because such impacts are project-specific and location-specific. Without individual development proposals to evaluate, it would be speculative to conclude that the modified project would result in significant overall impacts related to business displacement.

Although businesses are not afforded the same type of protection as residents where displacement is concerned, the City operates several programs to assist displaced businesses. The Office of Economic and Workforce Development runs the Invest in Neighborhoods program, which helps displaced businesses find relocation sites and, under certain circumstances, can provide funding for specific construction improvements, such as façade upgrades. The Small Business Development Center offers pro bono legal advice and technical assistance, and the Office of Small Business provides one-to-one case management assistance with licenses, permits, and financing.

For these reasons, the modified project would result in less-than-significant impacts related to population and housing. The modified project would not result in more severe impacts than the 2009 Housing Element, would not result in new significant impacts beyond those identified in the FEIR, and would not require new mitigation measures. Furthermore, there is no new information that would alter the FEIR's conclusions regarding impacts related to population and housing.

Cultural and Paleontological Resources

2009 Housing Element

The FEIR concluded that the 2009 Housing Element could result in a substantial adverse change to a historic resource if it promoted inappropriate alterations to or demolition of an existing building that is a historic resource, inappropriate new construction in a historic district, or demolition by neglect.[13] The

[13] CEQA defines "substantial adverse change" as "demolition, destruction, relocation or alteration," activities that would impair the significance of a historical resource either directly or indirectly. Demolition by neglect is the

FEIR also found that assessing such impacts on historic resources would be most appropriate during the review of individual development projects proposed under the 2009 Housing Element. Such impacts would be offset through required compliance with existing federal, state, and local regulations that protect historic resources.

The FEIR also found that the 2009 Housing Element would not result in a substantial adverse change to an archeological resource, would not destroy a paleontological resource or site or unique geologic feature, and would not disturb human remains. Individual development projects that could have potential impacts on archeological resources, paleontological resources, or human remains would be subject to existing regulations that protect such resources. These regulations include, but are not limited to, the National Historic Preservation Act and the California Public Resources Code. In addition, the Planning Department has established procedures to assess impacts on archeological resources as well as mitigation measures to reduce potentially significant impacts to less-than-significant levels.

Modified Project

The modified project would not directly alter existing historic resources, but ADUs proposed under the modified project could result in direct effects on historic resources. An existing building that is a historic resource could undergo a ground-floor expansion to accommodate ADUs, or it could be demolished and replaced with a newly constructed building containing ADUs. In addition, a newly constructed building containing ADUs could be located on a parcel within the boundaries of an existing historic district.

Regarding ADUs that are constructed within existing building envelopes (i.e., no expansion), private interior spaces are not considered historic resources under CEQA. Therefore, the construction of ADUs within existing building envelopes would not result in significant impacts on historic resources.

Development projects that do not include ADUs but involve the demolition or alteration of historic resources or new construction in existing historic districts can currently be proposed by developers and evaluated and approved by the City. Potential impacts on historic resources from development projects, whether or not they contain ADUs, would be evaluated on a project-by-project basis, because impacts on historic resources are project-specific and location-specific. Without individual development proposals to evaluate, it would be speculative to conclude that, on a program level, the modified project would result in significant overall impacts on historic resources.

The modified project would not directly place or encourage housing in areas of San Francisco that could be underlain by soils containing archeological resources, paleontological resources (i.e., fossils), or human remains. However, ADUs proposed under the modified project could be located in such areas. Required compliance with existing federal, state, and local regulations and procedures would ensure that projects containing ADUs would not result in a substantial adverse change to an archeological resource, would not destroy a paleontological resource or site or unique geologic feature, and would not disturb human remains.

For these reasons, the modified project would result in less-than-significant impacts on cultural and paleontological resources. The modified project would not result in more severe impacts than the

gradual deterioration of a building when routine or major maintenance is not performed and/or when a building is allowed by the owner to remain vacant and open to vandals.

2009 Housing Element, would not result in new significant impacts beyond those identified in the FEIR, and would not require new mitigation measures. Furthermore, there is no new information that would alter the FEIR's conclusions regarding impacts on cultural and paleontological resources.

Transportation and Circulation

2009 Housing Element

The FEIR concluded that the 2009 Housing Element would result in less-than-significant impacts on traffic, pedestrians, bicycles, loading, emergency access, and construction-related traffic. However, the FEIR concluded that the 2009 Housing Element would result in a significant and unavoidable transit impact, because policies in the 2009 Housing Element that encourage transit-oriented residential development could result in a mode shift toward transit. Such a shift could result in an exceedance of the San Francisco Municipal Railway's capacity utilization standard of 85 percent. The FEIR identified two mitigation measures to address this impact. The first mitigation measure called for the City to implement various transportation plans and programs that would reduce congestion and decrease transit travel times.[14] Since the certification of the FEIR, the Transit Effectiveness Project and the Van Ness Avenue Bus Rapid Transit Project have been approved and are being implemented. The second mitigation measure called for the San Francisco Municipal Transportation Agency to increase capacity by providing more buses. At the time that the FEIR was certified, the feasibility of these mitigation measures could not be established. For this reason, the FEIR concluded that the 2009 Housing Element's impact on transit would be significant and unavoidable.

Modified Project

The modified project would promote housing in established neighborhoods throughout San Francisco, many of which are well-served by public transit. The modified project would be consistent with many local plans, policies, and regulations, including the *General Plan*, the *San Francisco Countywide Transportation Plan*, and the City's Transit First Policy. This type of transit-oriented development would help encourage residents to move away from the use of private automobiles and toward alternatives modes of transportation, such as transit, bicycling, and walking. This mode shift would help reduce impacts on traffic, pedestrians, bicycles, loading, emergency access, and construction-related traffic. Although this mode shift is consistent with the 2009 Housing Element policies, it has the potential to increase the demand for transit service to the degree that the San Francisco Municipal Railway's capacity utilization of 85 percent would be exceeded.[15]

Since ADUs would be distributed on a citywide basis, the associated impacts on traffic, pedestrians, bicycles, loading, emergency access, and construction-related traffic would also be distributed on a citywide basis instead of being concentrated in a small number of neighborhoods. As a result, these impacts would not be expected to be more severe than those identified in the FEIR. Similarly, ADU-related transit trips would be distributed across the citywide transit network instead of being

[14] The FEIR noted that various transportation plans were adopted, but not implemented, or proposed. Adopted plans/programs included SF Park, SF Go, the *San Francisco Bicycle Plan*, the Transbay Terminal, Caltrain Electrification, and High Speed Rail project, and the Central Subway. Proposed plans included congestion pricing, SFMTA's Transit Effectiveness Project, the Van Ness Avenue and Geary Boulevard Bus Rapid Transit projects, and the *San Francisco Better Streets Plan*.

[15] Capacity utilization is the number of passengers on board a transit vehicle relative to the total capacity.

concentrated on a small number of transit lines. As a result, ADU-related transit trips would not be expected to overburden the transit network and result in more severe impacts than those identified in the FEIR.

For these reasons, the modified project would result in less-than-significant impacts on traffic, pedestrians, bicycles, loading, emergency access, and construction-related traffic, but it would result in a significant and unavoidable impact on transit. The modified project would not result in more severe impacts than the 2009 Housing Element, would not result in new significant impacts beyond those identified in the FEIR, and would not require new mitigation measures. Furthermore, there is no new information that would alter the FEIR's conclusions regarding impacts on transportation and circulation.

Noise

2009 Housing Element

The FEIR concluded that the 2009 Housing Element would result in a less-than-significant impact related to a substantial temporary or periodic increase in ambient noise levels due to policies that discourage demolition and encourage maintenance of the City's existing housing stock. In addition, all construction activities are required to comply with the regulations set forth in the San Francisco Noise Ordinance ("Noise Ordinance").

The FEIR concluded that the 2009 Housing Element would not result in the exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels, because potential impacts resulting from groundborne vibration or groundborne noise due to construction activities would be reduced to less-than-significant levels through compliance with federal, state, and local regulations. The FEIR also found that the 2009 Housing Element would not result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing at the time of that the Notice of Preparation of an EIR was published.

Lastly, the FEIR concluded that the 2009 Housing Element would result in a significant but mitigable impact related to the exposure of persons to, or generation of, noise levels in excess of established standards. The FEIR concluded that by encouraging future growth along transit corridors within the City, such growth could be located in areas with existing ambient noise levels exceeding 60 dBA L_{dn}, which is the maximum satisfactory exterior noise level for residential areas.[16,17] Interior noise levels for residential uses are addressed through compliance with the noise standards set forth in Title 24 of the California Code of Regulations, as implemented during the design and review phase for individual development projects. However, some areas of the City may be especially noisy. FEIR Mitigation Measure M-NO-1: Interior and Exterior Noise, requires the preparation of a noise analysis for new residential development projects located on streets with noise levels above 75 dBA L_{dn}. The noise analysis shall include, at a minimum, (1) a site survey to identify potential noise-generating uses within two blocks of the project site and (2) at least one 24-hour noise measurement with maximum noise level readings taken at least every 15 minutes prior to completion of the environmental review. The analysis shall demonstrate with reasonable certainty that

[16] The standard method used to quantify environmental noise involves evaluating the sound with an adjustment to reflect the fact that human hearing is less sensitive to low-frequency sound than to mid- and high-frequency sound. This measurement adjustment is called "A" weighting, and the data are reported in A-weighted decibels (dBA).

[17] L_{dn} is the average equivalent sound level during a 24-hour day, obtained after the addition of 10 dB to sound levels during nighttime hours (from 10:00 p.m. until 7:00 a.m.).

Title 24 standards, where applicable, can be met. FEIR Mitigation Measure M-NO-1 also requires that open space for new residential uses be protected, to the maximum extent feasible, from existing ambient noise that could prove annoying or disruptive to users of the open space. Implementation of this measure could involve designing the project in a way that uses the building itself to shield on-site open space from noise sources, constructing noise barriers between on-site open space and noise sources, and appropriately using both common and private open space in multi-unit residential buildings. Since the certification of the FEIR, this mitigation measure has been implemented as part of every proposed residential project that (1) is located on a street with ambient noise levels above 75 dBA L_{dn} and/or (2) includes open space.

Modified Project

The modified project would promote housing in areas of San Francisco that could have existing ambient noise levels exceeding 60 dBA L_{dn}. ADUs proposed under the modified project would be required to comply with the noise standards set forth in Title 24 as well as the provisions of the Noise Ordinance.

A 2015 California Supreme Court decision held that CEQA does not generally require an agency to consider the effects of existing environmental conditions on a proposed project's future users or residents except where a project or its residents may exacerbate existing environmental hazards.[18] The addition of ADUs to existing residential buildings or as part of newly constructed residential buildings would result in incremental increases in dwelling unit density in various locations throughout San Francisco. These incremental increases in dwelling unit density are not expected to exacerbate existing environmental hazards.

Construction of ADUs would result in temporary site-specific increases in noise and vibration levels. Once construction has been completed, noise and vibration produced by construction equipment and construction vehicles would cease. In addition, all construction activities in San Francisco are required to comply with the Noise Ordinance, which prohibits construction between the hours of 8:00 p.m. and 7:00 a.m. Construction of ADUs would generate vibration that could damage adjacent or nearby buildings. The Department of Building Inspection (DBI) is responsible for reviewing building permit applications to ensure that proposed construction activities, including pile driving, shoring, and underpinning, comply with all applicable procedures and requirements and would not materially impair adjacent or nearby buildings.

Vehicle traffic is a primary source of noise and vibration throughout San Francisco. Like the 2009 Housing Element, the modified project would promote housing in established neighborhoods, some of which are along or near major transportation corridors that have higher ambient noise and vibration levels than other areas of San Francisco. Although buildings containing ADUs could be denser than development anticipated under the 2009 Housing Element, such buildings would not include substantially more units such that there would be a noticeable increase in traffic noise and vibration.

Newly constructed buildings containing ADUs could include mechanical equipment, such as heating and ventilation systems, that could produce operational noise and potentially disturb adjacent and nearby noise-sensitive receptors. The operation of this mechanical equipment is subject to the provisions of the Noise Ordinance. Compliance with the Noise Ordinance would minimize noise from building operations.

[18] California Building Industry Association v. Bay Area Air Quality Management District, December 17, 2015, Case No. S213478. Available at: http://www.courts.ca.gov/opinions/documents/S213478.PDF, accessed on May 25, 2016.

For these reasons, the modified project would result in less-than-significant noise and vibration impacts. The modified project would not result in more severe impacts than the 2009 Housing Element, would not result in new significant impacts beyond those identified in the FEIR, and would not require new mitigation measures. Furthermore, there is no new information that would alter the FEIR's conclusions regarding noise and vibration impacts.

Air Quality

2009 Housing Element

The FEIR concluded that the 2009 Housing Element would result in less-than-significant impacts on air quality. As discussed in the FEIR, the 2009 Housing Element would not increase the overall citywide population from 2009 to 2025 above the level assumed in the *Bay Area 2005 Ozone Strategy*, which was the applicable air quality plan at the time the FEIR was prepared. During this 16-year period, the number of vehicle-miles-traveled would increase at a lower rate than the rate of population growth, meaning that air pollution from vehicles would not outpace the population growth anticipated in the *Bay Area 2005 Ozone Strategy*. For these reasons, the 2009 Housing Element would not conflict with or obstruct implementation of the applicable air quality plan and would not violate an air quality standard or contribute substantially to an existing or projected air quality violation. In addition, all construction activities associated with individual development projects would be subject to the provisions of the Construction Dust Control Ordinance.

The FEIR concluded that the 2009 Housing Element would not expose sensitive receptors to substantial air pollutant concentrations. Increased housing development along or near transit corridors could increase concentrations of certain air pollutants, including $PM_{2.5}$, NO_2, and toxic air contaminants, on some roadways within San Francisco. At the same time, increased density and associated shifts from private automobiles to alternative modes of transportation, such as transit, bicycling, and walking, could reduce the overall expected growth of vehicle trips and vehicle-miles traveled. In addition, Article 38 of the San Francisco Health Code contains requirements for air quality assessment and mitigation when new residential exposures exceed action levels for acceptable air pollutant concentrations.

The FEIR also concluded that the 2009 Housing Element would result in less-than-significant impacts related to carbon monoxide (CO) concentrations. To support this conclusion, CO concentrations were calculated based on simplified CALINE4 screening procedures developed by the Bay Area Air Quality Management District (BAAQMD). Based on the modeling, under future 2025 cumulative traffic conditions, none of the 10 worst-performing intersections included in the model would exceed CO standards. Thus, it was assumed that if CO levels at the 10 worst-performing intersections do not exceed the CO thresholds, then the remaining 50 intersections analyzed in the traffic study would not exceed the CO thresholds.

Lastly, the FEIR concluded that the 2009 Housing Element would result in less-than-significant impacts related to objectionable odors, because residential uses generally do not create objectionable odors.

Modified Project

The modified project would not directly contribute to air pollutant emissions, but ADUs proposed under the modified project would contribute to air pollutant emissions during their construction and operational phases. ADUs would be subject to state, regional, and local plans, policies, and regulations related to the

protection of air quality. These plans, policies, and regulations include, but are not limited to, the BAAQMD's *2010 Clean Air Plan*, the San Francisco Construction Dust Control Ordinance, and Article 38 of the San Francisco Health Code. The Construction Dust Control Ordinance requires that all site preparation work, demolition, or other construction activities that have the potential to create dust or to expose or disturb more than 10 cubic yards or 500 square feet of soil comply with specified dust control measures. Such measures include watering all active construction areas sufficiently to prevent dust from becoming airborne, wet sweeping or vacuuming the streets, sidewalks, paths, and intersections where work is in progress at the end of the workday, and covering inactive stockpiles of excavated material, backfill material, gravel, sand, road base, and soil. Pursuant to Article 38, any development project located in an Air Pollutant Exposure Zone (APEZ) would be required to provide an enhanced ventilation system to protect its residents from exposure to toxic air contaminants. In addition, any development project located in an APEZ may be subject to mitigation measures that are necessary to reduce construction-related air quality impacts to less-than-significant levels. Required compliance with these plans, policies, and regulations would ensure that ADUs would not violate an air quality standard, contribute substantially to an existing or projected air quality violation, or expose sensitive receptors to substantial air pollutant concentrations.

Residential uses generally do not create objectionable odors. Land uses that commonly create objectionable odors include wastewater treatment plants, oil refineries, landfills, and composting facilities. Since the modified project would not include these types of land uses, implementation of the modified project would not create objectionable odors.

For these reasons, the modified project would result in less-than-significant impacts on air quality. The modified project would not result in more severe impacts than the 2009 Housing Element, would not result in new significant impacts beyond those identified in the FEIR, and would not require new mitigation measures. Furthermore, there is no new information that would alter the FEIR's conclusions regarding impacts on air quality.

Greenhouse Gas Emissions

2009 Housing Element

The FEIR concluded that the 2009 Housing Element would not generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment and would not conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions. Moreover, implementation of the 2009 Housing Element would not conflict with Assembly Bill (AB) 32 or San Francisco's *Strategies to Address Greenhouse Gas Emissions*.

Modified Project

The modified project would not directly generate GHG emissions, but ADUs proposed under the modified project would generate GHG emissions during their construction and operational phases. The modified project would promote housing in established neighborhoods where jobs and other services are easily accessible by public transit or are within walking distance. This type of development would encourage the use of alternative modes of transportation (transit, bicycling, walking) and help reduce GHG emissions from the use of private automobiles, which is one of the primary sources of GHG emissions. To the degree that ADUs are concentrated closer to public transit and in taller and denser

buildings (i.e., fewer buildings in fewer locations), GHG emissions would be reduced when compared to development patterns anticipated under the 2009 Housing Element.

For these reasons, the modified project would result in less-than-significant impacts related to GHG emissions. The modified project would not result in more severe impacts than the 2009 Housing Element, would not result in new significant impacts beyond those identified in the FEIR, and would not require new mitigation measures. Furthermore, there is no new information that would alter the FEIR's conclusions regarding impacts related to GHG emissions.

Wind and Shadow

2009 Housing Element

The FEIR concluded that the 2009 Housing Element would result in less-than-significant wind and shadow impacts, because the 2009 Housing Element would not directly result in the construction of projects that would alter wind or create new shadow. In addition, wind and shadow impacts are project-specific; individual development projects would be subject to the Planning Department's procedures requiring modification of any new building or addition that would exceed the Planning Code's wind hazard criterion and would be evaluated for their shadow impacts under CEQA and for compliance with Planning Code Sections 146, 147, and 295.

Modified Project

The modified project would not increase existing height and bulk limits such that taller and bulkier buildings could be constructed, resulting in wind and shadow impacts that are more severe than those identified in the FEIR. The modified project would not directly alter wind or create new shadow, but newly constructed buildings containing ADUs could alter wind or create new shadow in their respective vicinities.

Development projects that do not include ADUs but involve new construction of multi-story buildings can currently be proposed by developers and evaluated and approved by the City. Potential wind and shadow impacts from development projects proposing new construction of multi-story buildings, whether or not they contain ADUs, would be evaluated on a project-by-project basis, because wind and shadow impacts are project-specific and location-specific. Without individual development proposals to evaluate, it would be speculative to conclude that, on a program level, the modified project would result in significant overall wind and shadow impacts. ADUs constructed within existing building envelopes or as part of ground-floor expansions of existing buildings would not be tall enough to alter wind or create new shadow in a manner that substantially affects outdoor recreation facilities or other public areas.

For these reasons, the modified project would not result in more severe impacts than the 2009 Housing Element, would not result in new significant impacts beyond those identified in the FEIR, and would not require new mitigation measures. Furthermore, there is no new information that would alter the FEIR's conclusions regarding wind and shadow impacts.

Recreation

2009 Housing Element

The FEIR concluded that the 2009 Housing Element would result in less-than-significant impacts related to the increased use of existing parks or recreational facilities, the need to construct new or expand existing recreational facilities, and the physical degradation of existing recreational resources. While the FEIR concluded that the 2009 Housing Element contains policies that could result in an increase in demand for existing recreational facilities in certain areas, the 2009 Housing Element also contains policies that could reduce the need for construction or expansion of recreational facilities by encouraging quality-of-life elements in residential developments such as on-site usable open space. The 2009 Housing Element includes measures to ensure community plan areas are adequately served by recreation facilities, thereby indirectly promoting the construction or expansion of recreational facilities. The need for new or expanded recreational facilities and their associated impacts would be determined during the evaluation of specific community plan proposals.

Modified Project

As noted above, the modified project would promote housing throughout San Francisco but would not increase the overall citywide population above the level of future growth projected in the 2009 Housing Element. For this reason, implementation of the modified project would not increase the overall demand for recreational facilities above the level analyzed in the FEIR, but there could be localized fluctuations in demand for certain recreational facilities depending on where ADUs are constructed. In November 2000, San Francisco voters approved Proposition C, which extended the life of the Open Space Fund through Fiscal Year 2030-2031. The Open Space Fund is used to finance property acquisitions and capital improvement projects for the San Francisco Recreation and Park Department. A percentage of property tax revenues is set aside for the Open Space Fund, and such revenue would increase with the development of ADUs.

In addition, ADUs would be subject to Planning Code requirements for usable open space. Although ADUs would be eligible for complete or partial waivers from these requirements, they would not be entirely exempt from complying with these requirements. The granting of complete or partial waivers from open space requirements would not significantly increase demand for recreational facilities such that new open space or recreational facilities would be required. Most of the City's recreational facilities are located on properties in P (Public Use) Districts; the modified project would not reclassify any P Districts to other zoning districts that would allow residential uses. Lastly, the modified project would not convert existing recreational facilities to residential uses or otherwise physically degrade recreational resources.

For these reasons, the modified project would result in less-than-significant impacts related to recreation. The modified project would not result in more severe impacts than the 2009 Housing Element, would not result in new significant impacts beyond those identified in the FEIR, and would not require new mitigation measures. Furthermore, there is no new information that would alter the FEIR's conclusions regarding impacts related to recreation.

Utilities and Service Systems

2009 Housing Element

The FEIR concluded that the 2009 Housing Element would result in less-than-significant impacts on utilities and service systems. The 2009 Housing Element would not exceed wastewater treatment requirements, would not exceed the capacity of the wastewater treatment provider, and would not require the construction of new or expansion of existing wastewater treatment or stormwater drainage facilities. Such impacts would be offset through required compliance with existing regulations that address wastewater and stormwater discharges. In addition, the 2009 Housing Element would not increase water demand above the level assumed for planning purposes in the San Francisco Public Utilities Commission's (SFPUC's) Water Supply Availability Study that was prepared for the FEIR. Lastly, the 2009 Housing Element would not exceed the permitted capacity of the City's designated landfill. Any incremental increases in waste at landfills would be offset through required compliance with existing regulations that address the generation and disposal of solid waste.

Modified Project

The modified project would not directly generate stormwater or wastewater, but individual ADUs proposed under the modified project would generate stormwater and wastewater during their construction and operational phases. All stormwater and wastewater generated by ADUs would flow to the City's combined stormwater/sewer system and would be treated to standards contained in the City's National Pollutant Discharge Elimination System (NPDES) Permits for the Southeast Treatment Plant and the Oceanside Treatment Plant prior to discharge into San Francisco Bay and the Pacific Ocean, respectively. The NPDES standards are set and regulated by the San Francisco Bay Area Regional Water Quality Control Board (RWQCB). Therefore, ADUs would not conflict with RWQCB requirements and would not exceed wastewater treatment requirements. In addition, ADUs would be subject to local regulations that include, but are not limited to, the Green Building Ordinance and the Stormwater Management Ordinance. Required compliance with these regulations would reduce stormwater and wastewater flows from ADUs, thereby ensuring that ADUs would not exceed the capacity of the wastewater treatment provider and would not require the construction of new or expansion of existing wastewater treatment and stormwater drainage facilities.

The modified project would not directly consume water, but ADUs proposed under the modified project would consume water during their construction and operational phases. As noted above, the modified project would promote housing throughout San Francisco but would not increase the overall population beyond the future growth projected in the 2009 Housing Element. For this reason, ADUs would not increase the overall demand for water above the level assumed for planning purposes in the SFPUC's Water Supply Availability Study prepared for the FEIR. In addition, ADUs would be subject to local regulations that include, but are not limited to, the Green Building Ordinance, the Green Landscaping Ordinance, and the Residential Water Conservation Ordinance. Required compliance with these regulations would reduce water consumption by ADUs, thereby ensuring that ADUs would not exceed the available water supply and would not require new or expanded water supply resources or entitlements.

The modified project would not directly generate solid waste, but ADUs proposed under the modified project would generate solid waste during their construction and operational phases. The modified

project would promote housing throughout San Francisco but would not increase the overall citywide population above the level of future growth projected in the 2009 Housing Element. For this reason, ADUs would not increase the overall amount of solid waste generated above the level analyzed in the FEIR. In addition, ADUs would be subject to local regulations that include, but are not limited to, the Mandatory Recycling and Composting Ordinance, the Construction and Demolition Debris Recovery Ordinance, and the Green Building Ordinance. Required compliance with these regulations would promote the composting and recycling of solid waste and reduce the amount of solid waste sent to the City's designated landfill, thereby ensuring that AHBP projects would not exceed the permitted capacity of the City's designated landfill.

For these reasons, the modified project would result in less-than-significant impacts on utilities and service systems. The modified project would not result in more severe impacts than the 2009 Housing Element, would not result in new significant impacts beyond those identified in the FEIR, and would not require new mitigation measures. Furthermore, there is no new information that would alter the FEIR's conclusions regarding impacts on utilities and service systems.

Public Services

2009 Housing Element

The FEIR concluded that the 2009 Housing Element would result in less-than-significant impacts on fire protection, police protection, schools, or other public services, such as libraries or public health facilities. The San Francisco Fire Department and the San Francisco Police Department regularly redeploy their resources based on need to ensure that response times and service ratios do not fall below acceptable levels. New development projects are required to pay development impact fees to fund school and library facilities and operations, which would help offset potential impacts on school and library services. The 2009 Housing Element would not increase the overall citywide population above regional growth projections for which public health facilities have accounted, which would reduce the need to construct new or expand existing facilities.

Modified Project

As noted above, the modified project would promote housing throughout San Francisco but would not increase the overall citywide population above the level of future growth projected in the 2009 Housing Element. For this reason, the modified project would not increase the overall demand for fire protection or police protection above the level analyzed in the FEIR. There could be localized fluctuations in demand for fire protection and police protection depending on where ADUs are constructed, but as discussed above, both the Fire Department and the Police Department regularly redeploy their resources based on need to ensure that response times and service ratios do not fall below acceptable levels. The modified project would promote housing on sites in established neighborhoods that already receive fire protection and police protection, potentially allowing the Fire Department and the Police Department to maintain response times and service ratios at or close to their current levels and reducing the need to construct new or expand existing facilities.

As discussed in the FEIR, the San Francisco Unified School District (SFUSD) assigns students to schools based on a lottery system. This lottery system ensures that student enrollment is distributed to facilities that have sufficient capacity to adequately serve the educational needs of students. Directing growth to certain areas of San Francisco generally would not affect the school system, because students are not

assigned to schools based on location. ADUs could affect school services if they create additional demand for school services that cannot be accommodated by the SFUSD's existing capacity, thereby requiring the need to construct new or expand existing facilities. At the time of the preparation of the FEIR, SFUSD facilities had a capacity of about 63,835 students, and about 56,446 students were enrolled in these facilities. More recently, approximately 58,400 students were enrolled in SFUSD facilities during the 2014-2015 school year. Pursuant to California Education Code Section 17620(a)(1), the governing board at any school district is authorized to levy a fee, charge, dedication, or other requirement against any construction within the boundaries of the district for the purpose of funding the construction or reconstruction of school facilities. ADUs would be subject to a development impact fee, and the payment of this fee would help fund school facilities and operations and offset potential impacts on school services.

The modified project would promote housing throughout San Francisco but would not increase the overall citywide population above the level of future growth projected in the 2009 Housing Element. For this reason, ADUs would not increase the overall demand for libraries or public health facilities, but there could be localized fluctuations in demand for libraries and public health facilities depending on where ADUs are constructed. In November 2000, San Francisco voters approved a bond measure to fund the Branch Library Improvement Program (BLIP). Among other objectives, the BLIP calls for the renovation of 16 existing branch libraries, the demolition and replacement of three branch libraries with newly constructed facilities, and the construction of a new branch library in the emerging Mission Bay neighborhood. In addition to the BLIP, property tax revenue from ADUs would help fund library facilities and operations and offset potential impacts on library services. The modified project would promote housing on sites in established neighborhoods that are already served by public health facilities, potentially allowing such facilities to maintain response times and service ratios at or close to their current levels and reducing the need to construct new or expand existing facilities.

For these reasons, the modified project would result in less-than-significant impacts on public services. The modified project would not result in more severe impacts than the 2009 Housing Element, would not result in new significant impacts beyond those identified in the FEIR, and would not require new mitigation measures. Furthermore, there is no new information that would alter the FEIR's conclusions regarding impacts on public services.

Biological Resources

2009 Housing Element

The FEIR concluded that the 2009 Housing Element would result in less-than-significant impacts on biological resources. The 2009 Housing Element would not have a substantial adverse effect on any candidate, sensitive, or special-status species, riparian habitat, other sensitive natural communities, or federally protected wetlands, and would not interfere with the movement of species. Some 2009 Housing Element policies would promote housing in certain areas of the City, consequently increasing the amount of new housing being constructed in those areas and resulting in impacts on biological resources (e.g., tree removal, construction on or near riparian habitat or sensitive natural communities, interference with migration, etc.). However, increasing density could accommodate more of the City's fair share of the Regional Housing Needs Allocation in fewer buildings, resulting in fewer construction sites and decreasing the potential for disturbance of or interference with biological resources. The FEIR also found that the 2009 Housing Element would not conflict with any local policies or ordinances protecting biological resources or conflict with the provisions of an adopted habitat conservation plan, because the

2009 Housing Element does not contain any policies that would directly or indirectly conflict with any policies protecting biological resources or any adopted habitat conservation plans.

Modified Project

The modified project would not directly place housing in areas of San Francisco that are in or near riparian habitat or sensitive natural communities. However, ADUs proposed under the modified project could be in or near such areas. ADUs would be evaluated for their impacts on biological resources and would be required to comply with applicable federal, state, and local regulations that protect biological resources. These regulations include, but are not limited to, the federal Migratory Bird Treaty Act, Sections 3503 and 3503.5 of the California Fish and Game Code, the San Francisco Urban Forestry Ordinance, and San Francisco Planning Code Section 139: Standards for Bird-Safe Buildings. The modified project would not conflict with the provisions of an adopted habitat conservation plan, because the modified project does not contain any objectives, policies, or measures that would directly or indirectly conflict with any policies protecting biological resources or any adopted habitat conservation plans.

For these reasons, the AHBP would result in less-than-significant impacts on biological resources. The AHBP would not result in more severe impacts than the 2009 Housing Element, would not result in new significant impacts beyond those identified in the FEIR, and would not require new mitigation measures. Furthermore, there is no new information that would alter the FEIR's conclusions regarding impacts on biological resources.

Geology and Soils

2009 Housing Element

The FEIR concluded that the 2009 Housing Element would result in less-than-significant impacts on geology and soils. Individual development projects would be developed in a seismically sound manner because they would be required to comply with building regulations for seismic safety that are enforced through the City's interdepartmental review process. Compliance with these regulations would ensure that people or structures would not be exposed to substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, strong seismic ground shaking, seismic-related ground failure, landslides, unstable soil, or expansive soils. The FEIR also found that the 2009 Housing Element would result in less-than-significant impacts related to soil erosion or the loss of topsoil, because these impacts are site-specific. Individual development projects would be evaluated for their impacts related to soil erosion or the loss of topsoil and would be required to comply with applicable regulations related to the prevention of erosion and the discharge of sediment into construction site runoff. Lastly, the FEIR concluded that the 2009 Housing Element would not substantially change the topography or any unique geologic or physical features of development sites, because all permit applications for excavation and grading would be reviewed by City agencies for consistency with policies related to land alteration.

Modified Project

ADUs proposed under the modified project could be located in or near areas that are susceptible to geologic hazards (e.g., earthquake faults, landslide or liquefaction zones, unstable or expansive soils). ADUs would be required to comply with the seismic safety standards set forth in the San Francisco Building Code. The DBI is the City agency responsible for reviewing building permit applications,

structural drawings and calculations, and geotechnical reports and ensuring that projects comply with the seismic safety standards and other applicable requirements of the Building Code. Project compliance with the Building Code would ensure that people or structures would not be exposed to substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, strong seismic ground shaking, seismic-related ground failure, landslides, unstable soil, or expansive soils. ADUs would be evaluated for their impacts related to soil erosion or the loss of topsoil and would be required to comply with applicable regulations related to the prevention of erosion and the discharge of sediment into construction site runoff. All permit applications for excavation and grading activities would be reviewed by City agencies for consistency with policies related to land alteration.

For these reasons, the modified project would result in less-than-significant impacts related to geology and soils. The AHBP would not result in more severe impacts than the 2009 Housing Element, would not result in new significant impacts beyond those identified in the FEIR, and would not require new mitigation measures. Furthermore, there is no new information that would alter the FEIR's conclusions regarding impacts on geology and soils.

Hydrology and Water Quality

2009 Housing Element

The FEIR concluded that the 2009 Housing Element would result in less-than-significant impacts on hydrology and water quality. The 2009 Housing Element would not violate any water quality standards or waste discharge requirements, would not alter existing drainage patterns or substantially increase the rate or amount of surface runoff in a manner that would result in substantial erosion, siltation, or flooding, and would not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff. Individual development projects would be required to comply with applicable regulations related to erosion prevention and stormwater management, treatment, and discharge.

The FEIR also concluded that the 2009 Housing Element would not substantially deplete groundwater supplies or substantially interfere with groundwater recharge, would not result in significant impacts related to placing housing in areas at risk of flooding, and would not expose people or structures to a significant risk of injury, loss, or death involving inundation by seiche, tsunami, mudflow, or the failure of a dam or levee.

Modified Project

The modified project would not directly result in the construction of housing in areas of San Francisco that are prone to flooding or are at risk of inundation by seiche, tsunami, mudflow, or the failure of a dam or levee. However, ADUs proposed under the modified project could be located in such areas. Such ADUs would be required to comply with applicable regulations related to minimizing the risk of loss, injury, or death from hydrologic hazards. These regulations include, but are not limited to, the San Francisco Floodplain Management Ordinance and the San Francisco Building Code. Groundwater could be encountered during the construction of new buildings containing ADUs. Dewatering of excavated areas during construction would lower groundwater levels, but these effects would be temporary. Once dewatering has been completed, groundwater levels would return to normal. Wastewater and stormwater generated by ADUs would flow to the City's combined stormwater/sewer system and would be treated to standards contained in the City's National Pollutant Discharge Elimination System Permit for the

Oceanside Treatment Plant and the Southeast Treatment Plant prior to discharge into the Pacific Ocean and San Francisco Bay, respectively. Required compliance with the San Francisco Stormwater Management Ordinance would ensure that ADUs would not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.

For these reasons, the modified project would result in less-than-significant impacts on hydrology and water quality. The modified project would not result in more severe impacts than the 2009 Housing Element, would not result in new significant impacts beyond those identified in the FEIR, and would not require new mitigation measures. Furthermore, there is no new information that would alter the FEIR's conclusions regarding impacts on hydrology and water quality.

Hazards and Hazardous Materials

2009 Housing Element

The FEIR concluded that the 2009 Housing Element would result in a less-than-significant impact related to hazards and hazardous materials. The 2009 Housing Element would not transport, use, or dispose of hazardous materials and would not release hazardous materials into the environment. However, the construction of individual development projects would result in the emission of exhaust from construction equipment and vehicles as well as the demolition of older buildings that may contain asbestos, lead-based paint, or other hazardous building materials. In addition, the operation of individual development projects would involve the use of relatively small quantities of hazardous materials such as batteries, household cleaning products, and paint for routine purposes. Most of these materials are consumed through use, resulting in relatively little waste. Existing federal, state, and local regulations and programs address emissions from construction equipment and vehicles, the abatement of hazardous building materials during demolition and construction activities, and the transportation and disposal of hazardous materials. Individual development projects, including those that would be on sites on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 or would handle hazardous materials within one-quarter mile of an existing or proposed school, would be required to comply with these existing regulations and programs.

The FEIR also concluded that the 2009 Housing Element would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan or expose people or structures to a significant risk of loss, injury, or death involving fires. In San Francisco, fire safety is ensured through compliance with the provisions of the Building Code and the Fire Code. The building permit applications for individual development projects would be reviewed by the DBI and the Fire Department for compliance with all regulations related to fire safety.

Modified Project

The modified project would not directly result in the construction of housing on sites that are included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. However, ADUs proposed under the modified project could be located on such sites. All development projects in San Francisco, including those located on hazardous materials sites or those that would handle hazardous materials within one-quarter mile of an existing or proposed school, would be required to comply with applicable federal, state, and local regulations and programs related to the abatement of hazardous materials, the emission of exhaust from construction equipment and vehicles, and the transportation and

disposal of hazardous materials. Required compliance with such regulations and programs would ensure that ADUs would not emit hazardous materials into the environment and would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. Required compliance with fire safety regulations would ensure that ADUs would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan or expose people or structures to a significant risk of loss, injury, or death involving fires.

For these reasons, the modified project would result in less-than-significant impacts related to hazards and hazardous materials. The modified project would not result in more severe impacts than the 2009 Housing Element, would not result in new significant impacts beyond those identified in the FEIR, and would not require new mitigation measures. Furthermore, there is no new information that would alter the FEIR's conclusions on impacts regarding hazards and hazardous materials.

Mineral and Energy Resources

2009 Housing Element

The FEIR concluded that the 2009 Housing Element would result in a less-than-significant impact on mineral and energy resources. The 2009 Housing Element would not result in the loss of availability of a known mineral resource, the loss of availability of a locally important mineral resource recovery site, or the use of large amounts of fuel, water, or energy.

Modified Project

All land in San Francisco is designated Mineral Resource Zone 4 (MRZ-4) by the California Division of Mines and Geology (CDMG) under the Surface Mining and Reclamation Act of 1975.[19] This designation indicates that there is inadequate information available for assignment to any other MRZ. For this reason, ADU-eligible sites are not designated areas of significant mineral deposits or locally important mineral resource recovery sites, and the construction of ADUs would not result in the loss of availability of such resources. Furthermore, the modified project would not encourage activities that result in the use of large amounts of fuel, water, or energy, or use these in a wasteful manner, because ADUs proposed under the modified project would be required to comply with state and local ordinances that regulate such activities. In California, energy consumption for the heating, cooling, ventilation, and lighting of buildings is regulated by Title 24 of the California Code of Regulations. As part of the building permit application process, project sponsors are required to submit documentation demonstrating project compliance with Title 24 standards. In addition, projects in San Francisco are subject to the requirements of the San Francisco Green Building Ordinance.

For these reasons, the modified project would result in less-than-significant impacts on mineral and energy resources. The modified project would not result in more severe impacts than the 2009 Housing Element, would not result in new significant impacts beyond those identified in the FEIR, and would not require new mitigation measures. Furthermore, there is no new information that would alter the FEIR's conclusions regarding impacts on mineral and energy resources.

[19] California Division of Mines and Geology, Open File Report 96-03, 1996, and Special Report 146 Parts I and II, 1986.

Agriculture and Forest Resources

2009 Housing Element

The FEIR concluded that the 2009 Housing Element would result in a less-than-significant impact related to conflicts with existing zoning for agricultural use. Implementation of the 2009 Housing Element would not include any changes to the City's zoning districts and would not conflict with existing zoning for urban agricultural uses.

Modified Project

San Francisco is not zoned for agricultural use and is not subject to a Williamson Act contract.[20] The modified project would not convert farmland to non-agricultural use and would not conflict with existing zoning related to agricultural use. The modified project would not directly block sunlight to community gardens, but newly constructed buildings containing ADUs could block sunlight to community gardens. These projects would be evaluated for their specific shadow impacts on community gardens as part of their individual environmental review and entitlement processes.

At the time of the preparation of the FEIR, the topic of forest resources was not part of the Environmental Checklist Form (CEQA Guidelines, Appendix G). For this reason, the FEIR did not analyze impacts on forest resources. In 2010, the topic of forest resources was added to the Environmental Checklist Form. San Francisco does not contain forest land or timberland as defined in Public Resources Code Section 12220(g) and Public Resources Code Section 4526, respectively. The modified project would not convert forest land or timberland to non-forest use and would not conflict with existing zoning related to forest use.

For these reasons, the modified project would result in less-than-significant impacts on agriculture and forest resources. The modified project would not result in more severe impacts than the 2009 Housing Element, would not result in new significant impacts beyond those identified in the FEIR, and would not require new mitigation measures. Furthermore, there is no new information that would alter the FEIR's conclusions regarding impacts on agriculture and forest resources.

MITIGATION MEASURES

The 2004 and 2009 Housing Element FEIR identified Mitigation Measure M-NO-1: Interior and Exterior Noise, to mitigate the potentially significant impact related to interior and exterior noise to a less-than-significant level. Mitigation Measure M-NO-1 requires a noise analysis to be conducted for any new residential development located along a street with ambient noise levels exceeding 75 dBA L_{dn} in order to demonstrate that the noise standards set forth in Title 24 can be met. In addition, any required open space for a new residential development must be protected to the maximum extent feasible from ambient noise that could be annoying or disruptive to users of the open space. Mitigation Measure M-NO-1 was adopted as Implementation Measures 17 and 18 in both the 2009 Housing Element and the 2014 Housing Element. As discussed under the topic of Noise in the "Analysis of Potential Environmental Effects" section (pp. 21-23), FEIR Mitigation Measure M-NO-1 is not applicable to the modified project.

[20] California Department of Conservation, *San Francisco Bay Area Important Farmland 2010.* Available online at ftp://ftp.consrv.ca.gov/pub/Dlrp/FMMP/pdf/regional/2012/bay_area_2012_fmmp_base.pdf, accessed May 19, 2016.

No other FEIR mitigation measures are applicable, and no new mitigation measures have been identified in this Addendum 4.

CONCLUSION

I do hereby certify that the above determination has been made pursuant to State and Local requirements.

DATE June 15, 2016

Sarah B. Jones, Environmental Review Officer
for John Rahaim, Director of Planning

SAN FRANCISCO
PLANNING DEPARTMENT

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

July 3, 2018

Ms. Angela Calvillo, Clerk
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: **Transmittal of Planning Department ADU Tracking and Monitoring Report**
Planning Commission Recommendation: ***None- Informational Item***

Dear Ms. Calvillo and Supervisors,

On June 7, 2018, the Planning Commission heard an informational item at a regularly scheduled meeting on the Accessory Dwelling Unit (ADU) Tracking and Monitoring Report. Pursuant to Planning Code Section 207(c)(4)(I), the Planning Department is require to describe and evaluate the types of units being developed as part of the ADU program and their affordability rates, as well as their use as Short-Term Residential Rentals. These finding are then required to be sent to the Board of Supervisors for its review and public input. This is the first of such reports, and includes data since San Francisco's ADU legislation was first enacted in 2014 through the first quarter of 2018. The Planning Commission heard an filed this report without comment

Sincerely,

Aaron D. Starr
Manager of Legislative Affairs

cc:
Alisa Somera, Office of the Clerk of the Board
Erica Major, Office of the Clerk of the Board

Attachments :
Accessory Dwelling Unit (ADU) Tracking and Monitoring Report, June 7, 2018

SAN FRANCISCO
PLANNING DEPARTMENT

Executive Summary
ADU Tracking Report

HEARING DATE: JUNE 7, 2018

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Date:	May 31, 2018
Project Name:	**Accessory Dwelling Unit (ADU) Tracking and Monitoring Report**
Staff Contact:	Marcelle Boudreaux - (415) 575-9140 Marcelle.boudreaux@sfgov.org
Recommendation:	*None – Informational*

Pursuant to Ordinances adopted by the Board of Supervisors[1] which created the ADU program and Sections 207(c)(4)(I) and (c)(6)(F) of the Planning Code require a tracking and monitoring report to be prepared for the Accessory Dwelling Unit (ADU) program. This is the first of such reports, and includes data since San Francisco's ADU legislation was first enacted in 2014[2] through the first quarter of 2018.

San Francisco's ADU legislation allows one ADU on a property with four or less existing dwelling units or an unlimited amount of ADUs on a property with a building including five or more dwelling units or undergoing seismic retrofitting. The number of ADUs proposed per property during this reporting period has ranged from 1 – 9 units, and they have been located within a variety of property types (single-family homes, small flats, mid-sized apartments and large apartment buildings) throughout the City.

Overview of ADU Tracking

Approximately 691 building permit applications (permits) have been filed to construct 1,244 ADUs with the Department of Building Inspection (DBI).[3] Since that time, permits have been issued to sponsors for constructing 306 ADUs, and of those 28 ADUs have been built and are ready for occupancy.

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[1] Ord. Nos. 49-14, 161-15, 162-15, 162-16 and 95-17 created and refined the Tracking and Monitoring requirement

[2] Ord. No. 49-14 focused on a specific geographic area around the Castro Street NCD

[3] Of the 691 permits filed, approximately 40 building permits were either withdrawn by sponsor (due to lack of interest, eviction history on property rendering the property ineligible to participate, or other), or permits were converted to dwelling units otherwise approvable under Planning Code (Code-compliant, or Legalization program through Section 207.3).

Table 1: Permits and # of ADUs Issued and Completed (2014 - Q12018)

Filed		Issued[4]		CFC[5] (Completed)	
Permits	# ADUs	Permits	# ADUs	Permits	# ADUs
691	1,244	179	306	27	28

As the first step in the building permit review process for ADUs, applicants submit a Screening Form to DBI for enrollment in the program. These Screening Forms indicate an intent to file a permit; there are an additional 52 properties with a Screening Form on file but no building permit filed to-date.

The ADU program was implemented in discrete geographic areas starting in 2014, and additional legislation has further expanded the program: to specific supervisorial districts (3 and 8) in 2015, expansion to citywide in September 2016, expansion to increase flexibility for single-family homes through adoption of local version of State Law in June 2017, and to make further refinements in August 2017. Table 1 below outlines the annual submittals. As the legislation expanded participation eligibility, there is a notable increase in applications.

Table 2: ADUs Filed - Building Permit Applications & # ADUs (Yearly)

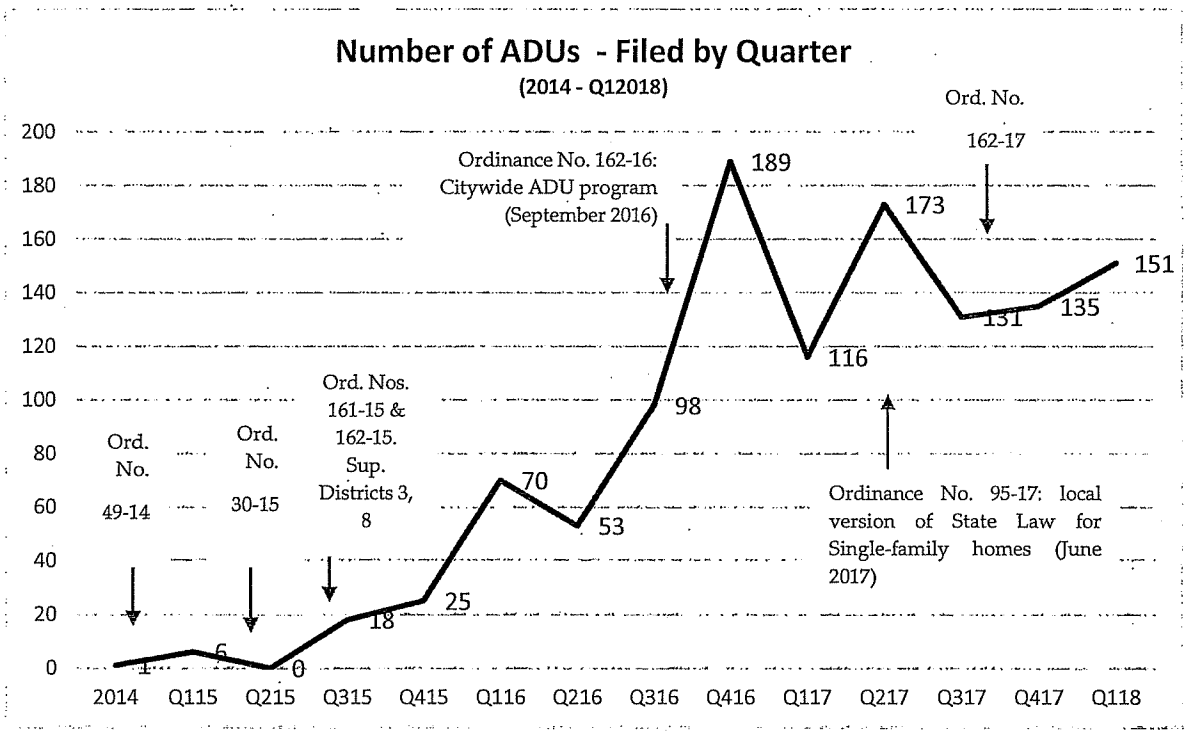
Year Filed	Building Permit Application (permits)	# ADUs
2014	1	1
2015	35	53
2016	217	439
2017	308	555
Q12018	90	151

In addition, please see attached map *ADU Projects Concurrent with Mandatory Seismic Work (2014-Q12018).* This map illustrates the overall citywide distribution of permits filed for ADUs.

The graph below illustrates the quarterly numbers of ADUs filed. Since the citywide legislation was enacted in September of 2016, approximately 73% of all ADU applications have been submitted (503 permits, for a total of 923 ADUs).

[4] Issued: Includes BPAs Approved, Issued, and Subsequently Completed

[5] CFC: Of those Issued permits, these BPAs have construction Completed



Please see attached table titled: *Number of ADUs Filed by Zoning District, Categorized by Supervisor District (2014 – Q12018).* This table breaks down the number of ADUs filed in each supervisor district and by zoning district.

ADUs and Seismic Work

The initial ADU legislation was limited to properties undergoing mandatory seismic retrofitting (Section 34B of the Building Code - generally buildings with five or more dwelling units) or voluntary seismic upgrades (AB-094). Further amendments (Ord. No. 162-16) removed the requirement for concurrent seismic work, but included incentives for property owners undertaking either of these retrofitting options. Generally, these incentives include the ability to add an unlimited number of ADUs on the property and retain eligibility for a future subdivision. It is important to note that there are a variety of other seismic upgrades a project may be subject to from DBI that do not fall within the mandatory seismic or voluntary seismic per AB-094 requirements.

See the attached map, *ADU Projects Concurrent with Mandatory Seismic Work (2014 – Q12018),* for a geographic distribution of ADU permits and those identified with concurrent mandatory seismic retrofitting permits.[6]

[6] Due to limitations in map size and for legibility purposes, only projects with concurrent mandatory seismic were mapped.

Table 3: ADU Permits Filed concurrent with Seismic Work (2014 - Q12018)

	Filed		Issued[7]		CFC[8] (Completed)	
	Permits	# ADUs	Permits	# ADUs	Permits	# ADUs
Mandatory Seismic	335	698	126	244	21	31
Voluntary Seismic per AB-094	38	56	13	17	1	1

ADU permits filed concurrently with mandatory or voluntary seismic permits represent approximately 54% of all filings from 2014 – Q12018. Since June 2017, there has been an increase in filings for single-family homes to add one ADU under Ord. No. 95-17 (Section 207(c)(6) of the Planning Code); under this legislation, there is a prohibition against concurrent mandatory seismic or voluntary seismic per AB-094 work.

Single-Family Homes and ADUs

In June 2017, Ord. No. 95-17[9] enacted a local version of the State Law for single-family homeowners to add one ADU to their property, which decreased the regulations for these property owners. Prior to that, single family homeowners could add one ADU to their home in certain zoning districts in combination with a voluntary seismic permit, in certain zoning districts through Ord. No. 162-16 (since September 2016), or through State Law (since January 2017). Table 4 below breaks down permit filings for adding one ADU to a one-unit building.

Table 4: Single Family Home ADUs

	Filed 2014 – Q1 2018	Filed June 2017 – Q1 2018
Single family home + one ADU	85	51

These permit filings represent approximately 12% of overall submittals, with 60% of filings having occurred after June 2017.

For projects filed and processed under Ord. No. 95-17, a timely review period is legislated of 120 days for the Planning Department to approve a complete application. The working average is 87 days for approving an application, which includes Staff receipt of the conformed Notice of Special Restrictions from the property owner.

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[7] Issued: Includes BPAs Approved, Issued, and Subsequently Completed

[8] CFC: Of those Issued permits, these BPAs have construction Completed

[9] Section 207(c)(6) of the Planning Code

ADU: Dwelling Unit information

To-date, ADU applications have ranged from adding between 1 – 9 units, and the number of bedrooms for each ADUs has varied.

- **Size.** ADUs typically vary in square footage due to the existing building's interior layout and various Code requirements. The most common ADUs are studio and one-bedroom units, ranging between 460-630 SF.

	Studio	One bedroom	Two bedroom	Three bedroom
Average	462SF	630SF	823SF	1203SF
Range	224SF - 620 SF	350SF - 1288SF	424SF - 1337SF	1109SF - 1365SF

*SF = square feet

- **Rental Rates.** Staff sent an anonymous survey to property owners of the 28 completed ADUs to obtain information on rental rates for the ADUs. Of the seven surveys returned for projects completed and ready for occupancy, located in Supervisor Districts 3 and 8,
  - Two ADUs were indicated as studio units, with one being rented to a family member and no rent charged and the other rented for $2,250 monthly rate;
  - Five ADUs were indicated as one-bedroom units, with monthly rental rates as follows: $2,000 (noted as rented to a family member at below market rate), $2,500, $2,750, $2,900 and $3,100, for an average of $2,650.

ADUs and Short Term Rentals

In San Francisco, ADUs are prohibited from use as a short-term rentals (Sections 207(c)(4)(D) and 207(c)(6)(D) of the Planning Code). The Planning Department has collected the following additional data on the use of ADUs as short-term rentals.

Planning Department

Procedurally, the property owner for each project is required to sign and notarize a Notice of Special Restrictions (NSR) acknowledging restrictions applicable to the new ADU. One of these restrictions notes that "said Accessory Dwelling Unit shall not be used for Short-Term Residential Rentals under Chapter 41 of the Administrative Code". This notarized NSR is recorded onto the property deed for existing and future property owners' acknowledgement, and procedures are well-established at the Planning Department that no permit will receive final approval without receipt of a recorded copy of the NSR, which is then uploaded to the Department's public-facing database.

Office of Short Term Rentals

The staff at Office of Short-Term Rentals (OSTR) works closely to review registration applications at properties with existing or potential ADUs. OSTR staff has access to similar resources as Planning staff for research. When applications are submitted to host short-term rentals, OSTR staff checks a variety of sources to determine how the overall property is used, including whether a permitted ADU, if present, is being used for short-term rentals, including DBI's 3R report, prior/current Building or Planning Code complaints, recent building permit applications and subsequent planning application references (especially alterations that typically denote an ADU). They also look at the Sanborn maps, the Assessor's report, and current short-term rental advertisements/listings to see which area of the home is being

advertised for use as a short-term rental. In some instances, OSTR site visit has conducted site visits to ensure that a proposed short-term rental is not using space that has been approved as an ADU.

If OSTR staff has a concern over an ADU being used for short-term rentals, they can flag the registration and conduct further investigations; if OSTR staff determine that the host has offered short-term rentals in the ADU, they can revoke the certificate for the entire property, for a year. OSTR staff has denied a limited number of applications where the host was offering short-term rentals in the ADU.

Planning staff provided the information of completed ADUs to OSTR staff to ensure compliance. At two properties that have ADUs, there was some activity related to short-term activity, however, all owners appear to be in compliance with City regulations. One property has a valid short-term rental certificate but the short-term rental activity is confined to the main dwelling unit (OSTR staff conducted a site visit for verification). The other property has an active short-term rental complaint (which is a Planning Department enforcement case) related to the ADU, but the owners have modified the listing to a 30-day minimum rental, which is permitted but will be monitored.

Staff at Planning Department and OSTR work closely together on this topic, and will continue to review and monitor the use of ADUs as short-term rentals, reporting on a quarterly basis.

Process Improvements

Since September 2016, there has been a substantial increase in submittals and two additional rounds of legislation increasing flexibility and opportunities for property owners to add ADUs onto their property. Planning has been working to research process improvements both internally and collaboratively with City agencies involved the permit review process – to streamline review while ensuring compliance with Departmental obligations. Most of this is outlined in the Department's response to the Mayor's Executive Directive specific to ADUs[10], some of which is procedural and some of which requires legislation.

Planning has been working internally and collaboratively with other agencies having permit review functions to figure out best practices for these ADU permits. Some successes to date include:

- At Planning, focusing resources for consistent messaging including: continuous internal training, dedicating key staff to review the ADU permits, and responsive external communications, through Handouts and through use of the CPC.ADU@sfgov.org inbox to field inquiries and track trends.
- Working with DBI, a new routing procedure has been developed for those ADU permits requiring the Zoning Administrator (ZA) waivers, and thus a Costa Hawkins Agreement (regulatory agreement subjecting the unit to rent control).
    - This has resulted in a reduction in time the permit is with Planning after initial review from an average of 166 days to an average of 68 days.

Some other notable process improvements still in development, include:

1. In response to tenant concerns regarding removal of housing services by property owners for adding ADU(s), Planning and DBI are working to modify the ADU Screening Form to ensure that notice has been conducted to tenants about the proposed work.

[10]http://default.sfplanning.org/administration/communications/ExecutiveDirective17-02_ProcessImprovementsPlan.pdf

2. Key ADU staff will begin over the counter plan review for ADUs and legalization permits by appointment, and field general inquiries, this summer. This will assist in further streamlining review and improving customer service, while ensuring compliance with Departmental and City obligations.
3. Single-family homeowner applicants remain a small percentage of overall participation in the ADU program. This summer, focused community outreach to single family homeowners citywide, touching each supervisor district, will highlight resources and updated processes.
4. Development of a robust tracking mechanism for rental rates as more units become completed, and ready for occupancy.

Number of ADUs Filed by Zoning District, Categorized by Supervisor District (2014 – Q12018)			
Zoning	**Zoning District Name**	**Supervisor District**	**No. ADUs Filed**
NC-1	Neighborhood Commercial, Cluster	1	6
NC-3	Neighborhood Commercial, Moderate Scale	1	8
NCD	Inner Clement Street Neighborhood Commercial	1	1
RH-1	Residential- House, One Family	1	2
RH-2	Residential- House, Two Family	1	46
RH-3	Residential- House, Three Family	1	14
RM-1	Residential- Mixed, Low Density	1	36
RM-2	Residential- Mixed, Moderate Density	1	2
NC-2	Neighborhood Commercial, Small Scale	2	2
NC-3	Neighborhood Commercial, Moderate Scale	2	25
RH-1(D)	Residential- House, One Family- Detached	2	1
RH-2	Residential- House, Two Family	2	41
RH-3	Residential- House, Three Family	2	44
RM-1	Residential- Mixed, Low Density	2	40
RM-2	Residential- Mixed, Moderate Density	2	34
RM-3	Residential- Mixed, Medium Density	2	27
CRNC	Chinatown- Residential- Neighborhood Commercial	3	1
NCD	North Beach Neighborhood Commercial	3	2
NCD	Pacific Avenue Neighborhood Commercial	3	2
NCD	Polk Street Neighborhood Commercial	3	6
RC-3	Residential- Commercial, Medium Density	3	7
RC-4	Residential- Commercial, High Density	3	19
RH-2	Residential- House, Two Family	3	2
RH-3	Residential- House, Three Family	3	16
RM-1	Residential- Mixed, Low Density	3	23
RM-2	Residential- Mixed, Moderate Density	3	25
RM-3	Residential- Mixed, Medium Density	3	38
RM-4	Residential- Mixed, High Density	3	4
NCD	Judah Street Neighborhood Commercial District	4	2
NCD	Taraval Street Neighborhood Commercial District	4	2
RH-1	Residential- House, One Family	4	13
RH-2	Residential- House, Two Family	4	8
RH-3	Residential- House, Three Family	4	2
RM-2	Residential- Mixed, Moderate Density	4	3
NC-1	Neighborhood Commercial, Cluster	5	5
NCD	Inner Sunset Neighborhood Commercial	5	1
NCT	Divisadero Street Neighborhood Commercial Transit District	5	1
NCT	Hayes NCT	5	3
RH-1	Residential- House, One Family	5	1

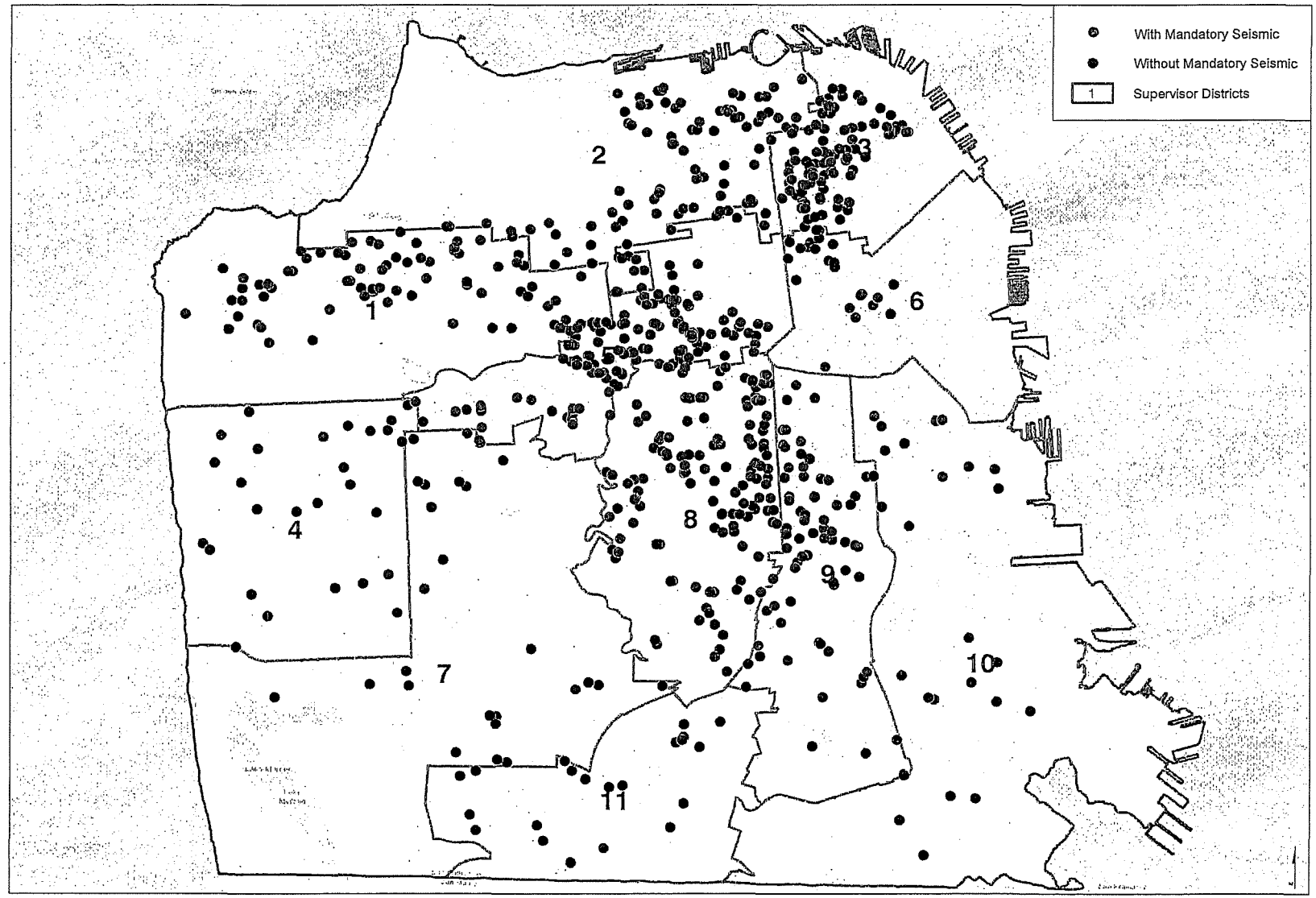
Zoning	Zoning District Name	Supervisor District	No. ADUs Filed
RH-2	Residential- House, Two Family	5	27
RH-3	Residential- House, Three Family	5	88
RM-1	Residential- Mixed, Low Density	5	72
RM-2	Residential- Mixed, Moderate Density	5	21
RM-3	Residential- Mixed, Medium Density	5	1
RTO	Residential Transit Oriented District	5	19
MUG	Mixed Use-General	6	5
MUR	Mixed Use-Residential	6	1
NC-3	Neighborhood Commercial, Moderate Scale	6	1
P	Public	6	1
RC-4	Residential- Commercial, High Density	6	40
RED	Residential Enclave	6	10
RED-MX	Residential Enclave-Mixed	6	1
NC-1	Neighborhood Commercial, Cluster	7	1
NC-2	Neighborhood Commercial, Small Scale	7	4
RH-1	Residential- House, One Family	7	5
RH-1(D)	Residential- House, One Family- Detached	7	10
RH-2	Residential- House, Two Family	7	7
RM-4	Residential- Mixed, High Density	7	9
NC-1	Neighborhood Commercial, Cluster	8	1
NCD	Castro Street Neighborhood Commercial	8	3
NCT	Upper Market Neighborhood Commercial Transit	8	6
RH-1	Residential- House, One Family	8	8
RH-2	Residential- House, Two Family	8	54
RH-3	Residential- House, Three Family	8	40
RM-1	Residential- Mixed, Low Density	8	34
RM-2	Residential- Mixed, Moderate Density	8	8
RTO	Residential Transit Oriented District	8	34
RTO-M	Residential Transit Oriented- Mission	8	10
NC-2	Neighborhood Commercial, Small Scale	9	2
NC-3	Neighborhood Commercial, Moderate Scale	9	1
NCT	24th-Mission Neighborhood Commercial Transit	9	1
NCT	Mission Street Neighborhood Commercial Transit	9	4
RH-1	Residential- House, One Family	9	12
RH-1(D)	Residential- House, One Family- Detached	9	1
RH-2	Residential- House, Two Family	9	25
RH-3	Residential- House, Three Family	9	14
RM-1	Residential- Mixed, Low Density	9	17
RTO-M	Residential Transit Oriented- Mission	9	33
RH-1	Residential- House, One Family	10	7
RH-2	Residential- House, Two Family	10	18

Zoning	Zoning District Name	Supervisor District	No. ADUs Filed
RH-3	Residential- House, Three Family	10	5
UMU	Urban Mixed Use	10	2
NCD	Excelsior Outer Mission Street Neighborhood Commercial District	11	6
NCT	Ocean Avenue Neighborhood Commercial Transit	11	1
RH-1	Residential- House, One Family	11	12
RH-2	Residential- House, Two Family	11	3

Number of ADUs Filed by Supervisor District (2014-Q12018)		
	Total ADUs	% ADUs
District 1	115	9.58%
District 2	214	17.83%
District 3	145	12.08%
District 4	30	2.50%
District 5	239	19.92%
District 6	59	4.92%
District 7	36	3.00%
District 8	198	16.50%
District 9	110	9.17%
District 10	32	2.67%
District 11	22	1.83%

ADU Projects Concurrent with Mandatory Seismic Work (2014-Q12018)

SAN FRANCISCO PLANNING DEPARTMENT



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Printed: 31 May, 2018

180268

Member, Board of Supervisors
District 4

City and County of San Francisco

KATY TANG

Accessory Dwelling Unit Legislation

Legislation modifies existing ADU program to: remove onerous bicycle parking requirements, modify exposure requirements, allow more than one unit to be legalized on a property if the unit meets the legalization program requirements, and exempts certain projects from permit notification, allows conversion of a standalone garage to an ADU with dormers, and eliminates the street tree requirement.

GOALS

1) Provide San Francisco homeowners with a more affordable way to create ADUs.
2) Provide solutions to common code issues (bicycle parking and exposure) that have arisen since the ADU program became available citywide in 2016.
3) Provide the option to add an ADU as part of new construction of 3 units or less and to add more than one unit as part of the legalization program.
4) Create process improvements by removing neighborhood notification for certain ADU projects and eliminates the street tree requirement.
5) Provide more options for homeowners to add an ADU if they have an existing standalone structure.

CURRENT ADU PROGRAM

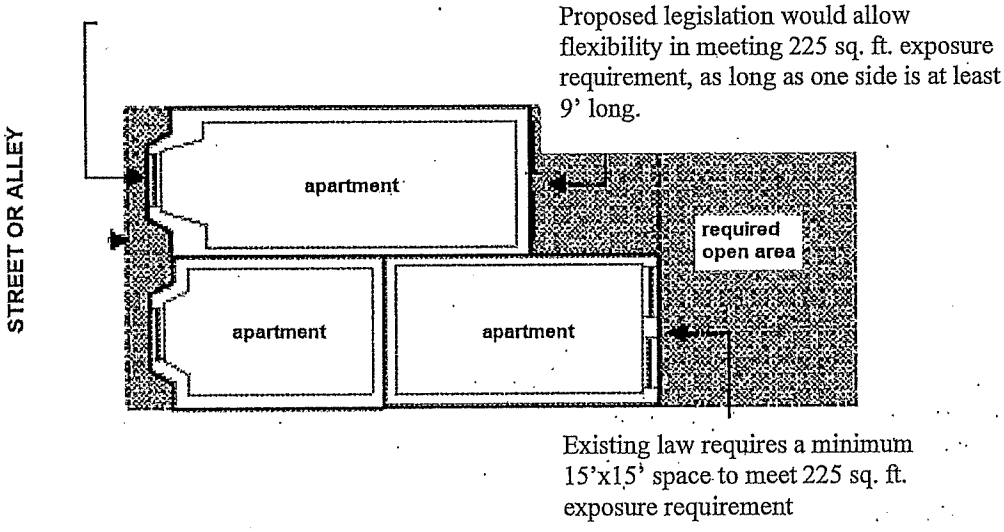
- San Francisco's ADU program is broken down into two primary categories: ADUs as part of multi-unit buildings and ADUs as part of single-family homes.
- San Francisco is unique in that it allows ADUs as part of multi-unit buildings.
- ADUs as part of multi-unit rental buildings often need waivers from the Zoning Administrator to meet code requirements such as exposure, open space, and rear yards. ADUs proposed in single-family may not need as many waivers.
- ADUs cannot be used for Short-Term Rentals.
- ADUs cannot be sold independently (unless they are added as part of soft-story program and the original building was eligible for condo version).
- New ADUs added to multi-unit buildings will result in the building being subject to rent control.
- New ADUs added to single-family homes could result in the building being subject to rent control.
- ADUs added to multi-unit buildings often do not require neighborhood notification.
- Multi-unit buildings do not require neighborhood notification for creation of ADUs unless the project requires a variance from the Planning Code.
- The ADU program cannot be used in multi-unit buildings that have had owner move-in evictions in the last 5 years, or other no-fault evictions in the last 10 years prior to the permit application.

PROPOSED LEGISLATION

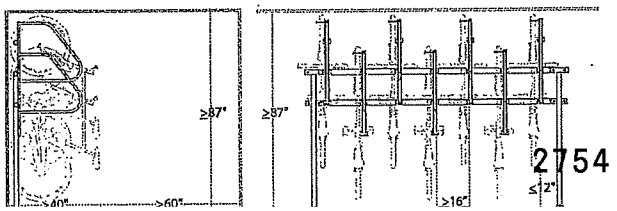
1) **Eliminate the street tree requirement to speed up the approval process for ADUs, page 4, line 3**
   The permit process for street trees can often take months for project sponsors who are adding a unit.

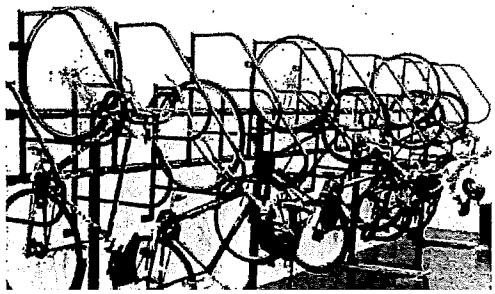
Land Use Amendment: Allow project sponsors to pay an in-lieu fee for ADUs and unauthorized units. With a fee the City is still able to obtain the tree and the project sponsor does not have to wait for the street tree permit.

2) **Exception to Section 140 of Planning Code (*All Dwelling Units in all Use Districts to Face on an Open Area*) page 4, line 18; page 18 line 4**
Allow for a Zoning Administrator waiver to permit installation of a window facing an open area that is at least 225 square feet, with no horizontal direction being less than 9 feet and permit obstructions (outlined in Section 140) not projecting more than 4 feet 6 inches.
Rationale: It has been a common issue where project sponsors cannot meet the 15'x15' (225 square feet) exposure requirement for ADUs. These variances have represented as much as 25% of all requests on the monthly variance hearing calendar and can delay projects up to nine months. This Zoning Administrator waiver will allow ADUs to have windows face an open area of at least 225 square feet. For example, if one horizontal direction is 9 feet, the other horizontal direction would need to be 25 feet so that the open space is 225 square feet.



3) **Location of Bicycle Parking Spaces, page 5, line 5; page 5, line 13; page 11, line 8, 23; page 17, line 25; page 18, line 14**
Allows building with no new corridors to use an existing 3-foot corridor and allows vertical bicycle parking to satisfy 100% of the bicycle parking requirement.
Rationale: This helps multi-unit building project sponsors that are adding ADU units and cannot meet the corridor requirements for bicycle parking, which were designed for new construction. Bicycle parking waivers are typically not needed for single-family homes.

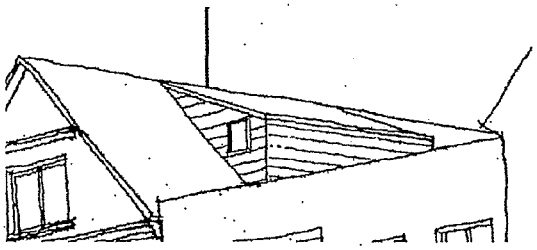




KATY TANG

4) **Allow the addition of dormers when an existing standalone structure or garage is converted to an ADU without neighborhood notification even if the dormer extends into the required rear yard. Page 6 line 13; Page 8, line 14, 21, page 15, line 17**
Dormers on their own are generally exempted from 311 notice and therefore should also be exempted when considered part of a freestanding structure that is converting to an ADU. Dormers are narrowly defined in the planning code, are 8 x 8 structres.
Land Use Amendment: Clarify that the provision to allow dormers when converting existing standalone garages/structures to ADUs would allow such expansion even if those structures are in the required rear yard
Rationale: Many existing standalone structures such as garages are already in the required rear yards and therefore allowing the addition of dormers in the required rear yard is make the unit more livable by expanding the ceiling height.

Dormer Window



5) **Allow expansion of for ADUs under cantilevered rooms and decks in the required rear yard without neighborhood notification (primarily applies to multi-unit buildings). Page 3, line 12; page 8, line 10;**
Currently applications for ADUs under cantilevered rooms and decks are only permitted within the built area of the lot. An ADU is not permitted to expand into the required rear yard setback, even if the existing cantilevered room is a legal structure that extends beyond the setback. Because the ADU is required to face an area that is open to the sky to meet exposure requirements, the inability to extend to the edge of the existing room or deck results in additional requests for variances, which add time, cost, and uncertainty to the permitting process.
Rationale: Infills under cantilevered rooms are already permitted within the required rear yard up and up to one story for residential expansions. Allowing an ADU to occupy space under an existing cantilevered room or deck is more consistent with existing policy, and will result in ADUs with greater access to light and air.
Land Use Amendment: Propose a mandatory pre-application meeting for the adjacent neighborhoods
Land Use Amendment: Amend Planning Code Section 136 (c) to list filling under those spaces as permitted obstructions when adding ADUs as it pertains to the definition of ADUs (need to be amended into legislation)

Member, Board of Supervisors
District 4

City and County of San Francisco

KATY TANG

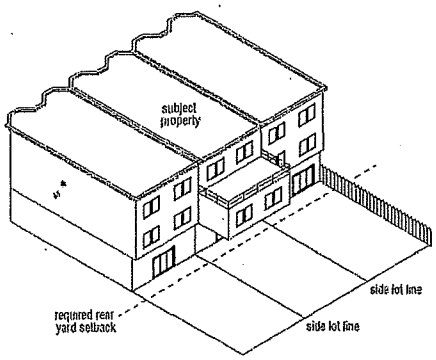
Rationale: This section of the Code includes all permitted obstructions allowed in the required rear yard. Similarly allowing filling in under decks and cantilevered rooms in the required rear yard for ADUs would be a permitted obstruction in the required rear yard.
Land Use Amendment: Ensure that single-family homes maintain a rear yard lot depth of 25% but no less than 15 feet.
Rationale: This section of the ordinance primarily applies to multi-unit buildings that are legally non-conforming that may need to encroach on the last 15 feet to create a livable unit, however the same rules are not appropriate for single family homes.

Currently:
Shaded areas are permitted & do not require neighborhood notification if the ADU is within the required rear yard. ADUs are not allowed beyond the required rear yard but home expansions are allowed.

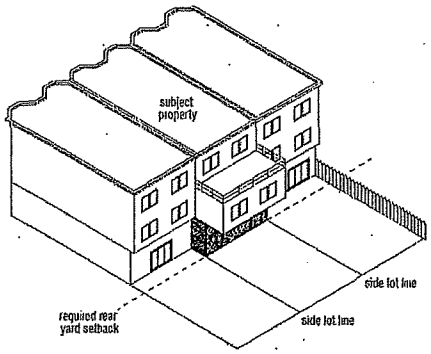
Proposed legislation:
Shaded area can be permitted without neighborhood notification, even if the ADU extends past the required rear yard.

Cantilevered Rooms

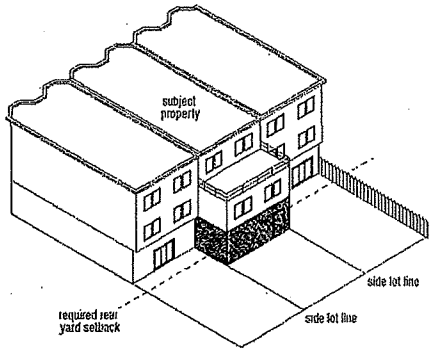
EXISTING



ALLOWED TODAY

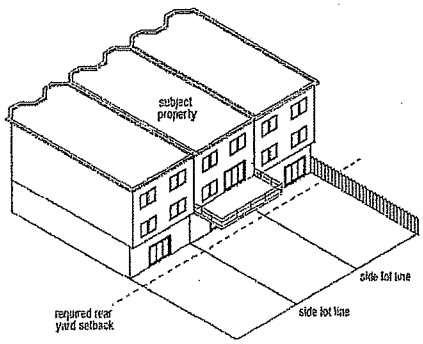


PROPOSED

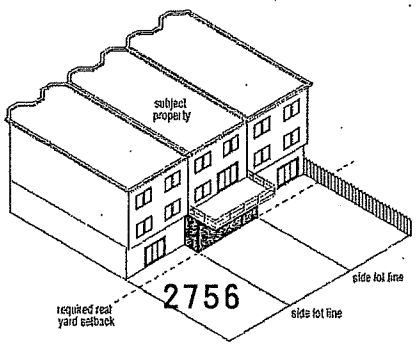


Decks

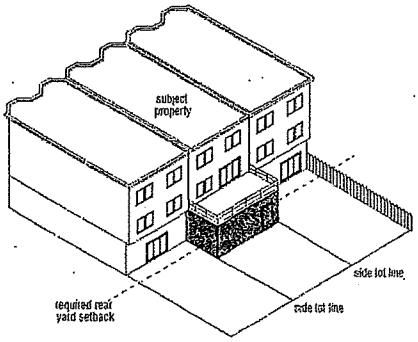
EXISTING



ALLOWED TODAY



PROPOSED



KATY TANG

6) **Allow more than one unauthorized unit to be permitted if it meets code requirements. Page 17, line 13**
Currently, only one unauthorized unit is allowed to be legalized even if more than one unit on the lot could be legalized. Additional units must still meet the parameters of the program and demonstrate that construction of the unit(s) was prior to 1/1/2013.
Rationale: Any existing ADUs should meet building and fire code regulations.

7) **Codify an existing interpretation for the Conditional Use requirement for unauthorized units that cannot be legalized. Page 19, line 11**
Currently, removal of an unauthorized unit requires Conditional Use Authorization from the Planning Commission. This would allow the Zoning Administrator to remove an unauthorized unit when the unit cannot meet Planning Code requirements.
Rationale: In some cases, the Planning Code does not provide a path to legalization, such as in areas that do not permit residential uses. The Zoning Administrator has determined that if a unit cannot be legalized under the Planning Code, then it may be removed administratively, as the Planning Commission could not require that the owner legalize the unit if it's not permitted under the Planning Code.

8) ***Land Use Amendment:*** **On a corner lot, allow up to one story expansion of existing legal nonconforming structures. Page 9, line 1; page 15, line 20**
Currently existing structures on corner lots can be converted to ADUs if they are converted within the existing footprint. These structures (often garages or sheds) face the street and create a gap in the street wall given that they are often one story. A one-story expansion will create a consistent street wall and not impact midblock open space. Additionally, these ADUs have direct access to the street and access to better light resulting in higher quality units and start addressing the "ADU Infill."

Exhibit C- Proposal to Allow Vertical Expansion of of A Standalone Garage on a Corner Lot (Within the Required Rear Yard)
a) Existing Views

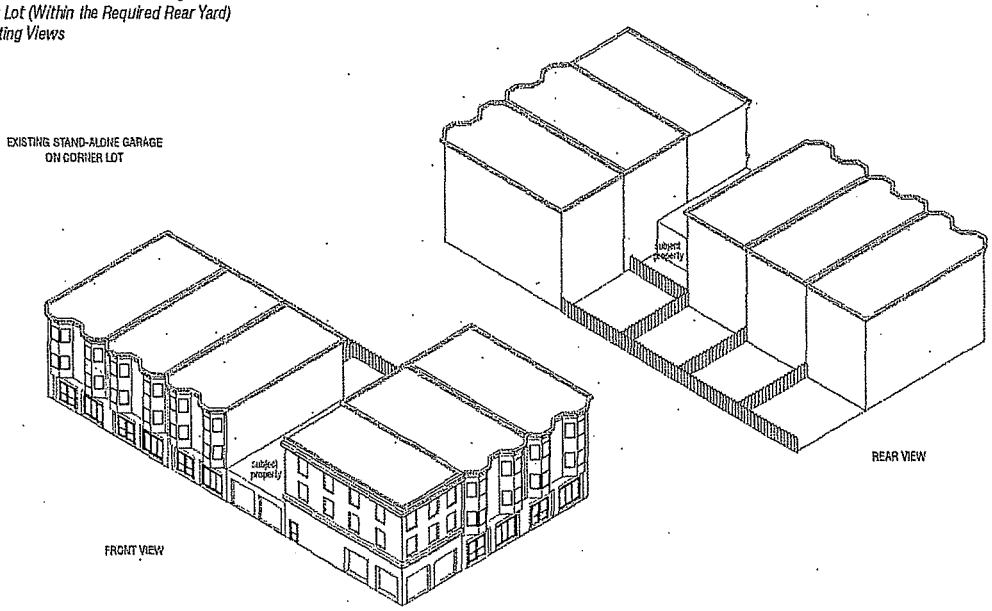
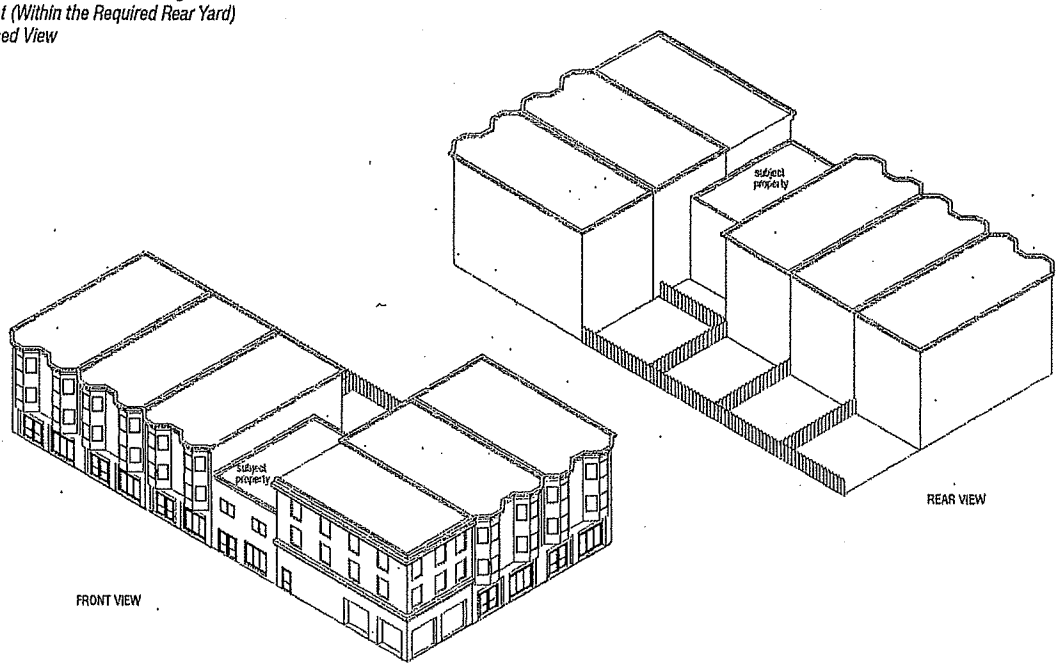


Exhibit C- Proposal to Allow Vertical Expansion of of A Standalone Garage on a Corner Lot (Within the Required Rear Yard) b) Proposed View



9) ***Land Use Amendment:*** **Allow expansion of ADUs within the buildable envelope, page 8, line 3.**

Rationale: Allowing ADUs to expand within the buildable envelope is consistent with recent changes to the ADU program per State Law, which allows ADUs in single-family homes to expand within the buildable envelope. Additionally, current regulations already allow the expansion of a home within the buildable envelope.

- *Note: This needs to be amended on Tuesday because of the following typo:*
  Except as provided in subsections (iii) and (iv) below, A~~*a*~~n Accessory Dwelling Unit shall be constructed entirely within ~~the built envelope or~~ the buildable area of an existing lot ~~building~~ or within the built envelope of an existing and authorized *stand-alone garage, storage structure, or other* auxiliary structure on the same lot, as the built envelope ~~in either case~~ existed three years prior to the time the application was filed for a building permit to construct the ADU. For purposes of this provision, the "built envelope" shall include the open area under a cantilevered room or room built on columns; decks, except for decks ~~*that encroach into the required rear yard, or decks*~~ that are supported by columns or walls other than the building wall to which ~~*it is*~~ *they are* attached and are multi-level or more than 10 feet above grade; and lightwell infills provided that the infill will be against a blank neighboring wall at the property line and not visible from any off-site location; as these spaces exist as of July 11, 2016. *An ADU constructed entirely within the existing built envelope, as defined in this subsection (ii)* along with permitted obstructions allowed in Section 136 (c)(32), *of an existing building or authorized auxiliary structure on the same lot, or where an existing stand-alone garage or storage structure has been expanded to add dormers, is exempt from the notification requirements of Section 311 of this Code.*

10) **Require Planning Department, Fire Department, and Building Department be present at pre-application meetings with project sponsors of ADUs. Page 20, line 6**
Currently pre-application (or pre-app) plan reviews are governed by the Building Code. This amendment would require that three departments–Fire, Building, and Planning–attend a pre-application meeting to address challenges early on.
Land Use Amendment: the Building Code Amendments will trail behind at Land Use Committee
Rationale: Current conversations with the departments have demonstrated this amendment needs further refinement as mandating the Planning Department to attend a pre-app meeting could cause more delay.
Note: The way this is drafted now it would delete the entire the planning code section or the entire building code section. Need to reformat for Tuesday.

11) **Allow one ADU in a newly-built residential structure of three units or less as a component of new construction. Page 8, line 18**
Currently projects of three units or less cannot add an ADU as ADUs can only be considered as part of an existing building. The addition of one ADU is a reasonable method to increase the housing stock at the time of construction given that existing buildings already have this ability.
Land Use amendment: Remove the ability to add ADUs as part of new construction
Rationale: Given ongoing conversations at the Planning Commission and the City about the impact of demolitions of single family homes, the amendment regarding new construction needs more research and time.

DEFINITIONS:

- **Accessory Dwelling Unit:** Also known as a Secondary Unit or In-Law Unit, is a dwelling unit that is constructed entirely within the existing built envelope, the "living area" as defined in the State law, or the buildable area of an existing building in area that allow residential use; within the existing built envelope of an existing and authorized auxiliary structure on the same lot.
- **Waiver:** An exception granted for certain code requirements that can be granted by the Zoning Administrator in the Planning Department.
- **Dormer**: A type of window on a sloping roof.
- **Neighborhood Notification:** Per Section 311 of the Planning Code and applicable to all R (Residential) Districts, this is notification required when there is new construction (subsequent to a demolition or on an undeveloped portion of the buildable area); or vertical additions that add 7' or more to the existing building height; or horizontal additions that add more than 10' feet to the existing building depth at any level. In limited cases decks and other additions, such as dormers (windows), may not require notification.
- **Variance:** A request for an exception from the quantitative standards of the Planning Code, such as pertaining to the rear yard, front setback and parking, but not limited to open space, dwelling unit exposure, mass reduction, permitted obstruction and the like.
- **Buildable Area:** The buildable area in residential districts is the entire lot, minus the front setback requirement, if any, and rear yard requirement, plus permitted obstructions.

KATY TANG

NON-LEGISLATIVE CHANGES TO ADU PROGRAM

- City agencies (Planning Department, Department of Building Inspection, Fire Department, Public Utilities Commission, and San Francisco Public Works) continue to meet regularly to address process challenges with the current program.
- San Francisco Planning Department will be issuing a new ADU Handbook in 2019.
- The San Francisco Planning Department will be doing outreach in summer 2018 for single-family homeowners interested in adding an ADU.

DATES (SUBJECT TO CHANGE)

- May 30, 2018: ADU Community Meeting hosted by *West Side = Best Side* at Grace Evangelical Lutheran Church – 3201 Ulloa Street & 33rd Avenue.
- June 7, 2018: Legislation heard at Planning Commission, Room 400 at City Hall.
- June 21, 2018: Legislation recommended at Planning Commission, Room 400 at City Hall
- July 9, 2018: Land Use Committee at Board of Supervisors

Last updated 7/5/2018

ADUs with a 1200 sq. ft. size may not be distinguishable from a regular unit and thus building projects can bypass the zoning for the parcel. This would also occur when legalizing an unlimited number of ADUs on a property. In Executive Summary, Planning admits not being able to differentiate ADUs from regular units.

ADU's into the required rear yard should retain noticing as was in the 2016 Farrell/Wiener/Peskin legislation.

Thank you.
Rose H.

1. **Lege Page 7, Lines 8-12**:

"An ADU constructed entirely within the existing built envelope, as defined in this subsection (ii), of an existing building or authorized auxiliary structure on the same lot, or where an existing stand-alone garage or storage structure has been expanded to add dormers, is exempt from the notification requirements of Section 311 of this Code."

QUESTION: Would the decks and cantilevered extensions be allowed to fill in even in *non-complying* buildings with the addition of their being allowed in required rear yards; and without any notices (e.g. Variance Notice)?

If the structure is legal non-conforming yes. If it's not legal and non-conforming, no.

2. **Lege Page 14, Lines 3-4**:

"(x) When a stand-alone garage or storage structure is being converted to an ADU, an expansion to the envelope is allowed to add dormers."

QUESTION: Will the existing size restrictions for dormers remain or will this be made into no maximum size as in the upcoming "Obstructions" lege?

The existing design guidelines for dormers would still apply.

3. **Lege Page 18, Lines 21-25**) – Sec.106A.4.9 "Pre-Application plan review or inspection, Subsection 106A.4.9.1 <new> "Accessory Dwelling Units"):

"A preapplication plan review meeting for construction of an Accessory Dwelling Unit under Planning Code Section 207(c)(4) or 207(c)(6) shall include representatives from the Department of Building Inspection, Fire Department, and Planning Department. The representatives of these Departments shall review with the applicant all applicable state and local Code requirements as well as acceptable Code equivalencies."

QUESTION: Would a neighbor be allowed to ask for a Pre-app meeting or is it only the Project Sponsor who can initiate it?

I believe it's only the project applicant.

180268

From: Board of Supervisors, (BOS)
Sent: Monday, July 09, 2018 4:50 PM
To: Major, Erica (BOS)
Subject: FW: ADU legislation pending
Attachments: ADU letter.pdf

File No. 180268

From: Jennifer Fieber [mailto:jennifer@sftu.org]
Sent: Sunday, July 08, 2018 10:19 PM
To: Tang, Katy (BOS) <katy.tang@sfgov.org>; Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Fewer, Sandra (BOS) <sandra.fewer@sfgov.org>; Stefani, Catherine (BOS) <catherine.stefani@sfgov.org>; Cohen, Malia (BOS) <malia.cohen@sfgov.org>; Breed, London (BOS) <london.breed@sfgov.org>; Yee, Norman (BOS) <norman.yee@sfgov.org>; Kim, Jane (BOS) <jane.kim@sfgov.org>; Ronen, Hillary <hillary.ronen@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: ADU legislation pending

Please consider our attached letter on the pending ADU legislation as an organization with much on-the-ground experience.

S A N • F R A N C I S C O
T E N A N T S • U N I O N

558 Capp Street • San Francisco CA • 94110 • (415) 282-6543 • www.sftu.org

Dear Supervisors,

Legislation to streamline Accessory Dwelling Unit (ADU) production is coming your way. The Tenants Union supports more ADU production, but not until we have better safeguards in place. In our on-the-ground role, we have found some serious flaws in the process of how ADUs and seismic work is permitted and how it can harm existing tenants—which is clearly counterproductive to the goal of more housing for everyone.

We ask that you please slow down to consider the totality of your actions. A task force between DBI and Planning is supposed to be convened, which should help—but the Rent Board and/or a tenant attorney also needs to be consulted. Currently some ADUs violate sections of the Rent Ordinance (to be discussed below) but it is left to the tenant alone to hire a private attorney to assert their rights.

We recommend that you prohibit ADUs that will impact existing tenants and define those impacts clearly so that planning staff has the tools to disapprove or alter certain applications before it becomes the tenant's problem.

Much of the commentary in support of this legislation emphasizes the benefits of streamlining for permit seekers and planning staff. Except for some Planning Commissioners, who have seen first hand permits that were used by speculators to pressure existing tenants, it is rare that anyone mentions other tenants in the building. In fact, planning staff has stated repeatedly to us, that they have no directive to consider existing tenants when reviewing applications. Supervisor Tang's aide similarly stated at the June 6th Commission hearing that the legislation need not write-in tenant protections as that was the purview of the Rent Board.

While we object to this "let the chips fall where they may" attitude in general, there seems to be a misunderstanding about what the Rent Board can and cannot do. They cannot compel a landlord to stop acting in a way that violates a tenants rights (like a court injunction can)—they can only grant a reduction of rent going forward if a tenants rights were violated and they have remained in their unit.

We therefore need to consider the potential for harm to existing tenants BEFORE ADU permits are approved.

Our organization has been involved in Discretionary Reviews (DRs) for some egregious abuses of tenants through renovation projects. With 93-year old tenant Carl Jensen, a new owner sought to completely gut Carl's apartment around him so that it would no longer

exist. Carl's existence wasn't even disclosed to planning staff or commissioners reviewing the project until a neighbor came forward. Carl passed away in duress while the community fought the permits on his behalf.

At 505 Grand View Ave, a new owner sought to install a private elevator to a new penthouse routed through the apartments of two existing tenants. This was under the ruse of an ADU permit application. The tenants were told they'd have to move out for a lengthy and undefined time and that their apartments would become smaller. Planning staff nonetheless recommended approval of this ridiculous project which we halted through a DR. While the outcome was positive to keep the tenants in their homes, DRs require much effort for our staff, the tenants and the planning commissioners who hear them. It makes more sense for planning staff to consider the potential for harming existing tenants and reject those projects.

Currently the only discovery required by planners is to check for eviction petitions filed at the Rent Board looking backwards. This does not consider that owners face no repercussions for failing to file eviction paperwork at the Rent Board. We find that evictions often settle in buyouts or in court and the paperwork does not go back to the Rent Board.

Before passing this ADU legislation, we urge you to plan holistically and address the existing conflicts with the Administrative Code, the Planning Code, the Planning Department's Operating Procedures, and the Rent Ordinance. We simply cannot use the excuse that we can fix it later or push responsibility onto a Rent Board that no one has even met with.

Problem: ADUs violate the Just Cause provision of the Rent Ordinance in many cases

The Rent Ordinance Section 37.2 (r) defines a rental unit as:

(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.**

And that

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).**

As you can see, installing an ADU into a garage or laundry room that is part of a tenant's established lease severs that housing service. When it comes to seismic work, which definition (r) Rental Unit comes from, it is assured that severing housing services such as

garage and laundry which are part of a tenants lease is **only temporary** and that the tenants must be made compensate for the inconvenience and the service reinstated. Our ADU legislation does not define ADUs as a Just Cause for severing housing service, nor protect tenants from being put in uncomfortable positions of defending their leased spaces from profitseekers who want new terms.

Tenant attorneys will tell you that owners who seek to convert space into ADUs take the position that: (a) the verbiage of the foregoing section specifically allows "severance" as long as there is a just-cause; and (b) the just-cause for the severance is the demolition of the garage/storage (37.9(a)(10)) – which planning procedure causes by granting permits.

Of course, 37.9(a)(10) speaks in terms of demolition of a tenant's entire unit, not removing a part of the unit. The Code has created some confusion on the issue by its inclusion of verbiage which references severance of garage/storage (provided of course that there is a just-cause).

Notification to Tenants Alone is not Enough

The Planning Department has addressed this by suggesting notice requirements to existing tenants and better coordination with DBI. In reality though, we have many well-meaning noticing requirements on the books (such as registering buyouts) but there are no true repercussions if an owner fails to comply.

But even with notice, a tenant is in the same position—forced to defend their rights on their own as the planning staff simply checks a box that the owner sent some mail.

Legislative Solutions:

If the planning department is serious about its *Community Stabilization and Anti-Displacement Strategy* report goals, impacts on existing tenants need to be considered and staff needs better tools. They should:

- Conduct site visits to determine if tenants live in a building, especially vulnerable ones
- DENY permits if floorplans or lengthy construction timelines will adversely affect existing tenants
- Insist that owners, under penalty of perjury, produce proof that tenants have accepted loss of housing services voluntarily or were never entitled to it

To honor the objectives of the San Francisco General Plan *to preserve affordable housing especially, rent controlled housing,* it is imperative that the living, breathing EXISTING TENANTS are given as much consideration as floorplans and design materials. We do not make progress with new units, if we drive out existing tenants with affordable rents through renovations.

I thank you for your time and hope you will consider including better tenant protection language in future drafts and amendments.

Sincerely,

Jennifer Fieber
San Francisco Tenants Union

TO: ERICA MAJOR 7/9/2018

June 12, 2018
To: Planning Commission and the Board of Supervisors
Re: ADUa scheduled for June 21, 2018 at Planning Commission
Board of Supervisors File No. 180268 #2018-004194PCA

Dear Commissioners and Supervisors:

I am requesting that you include an amendment to this legislation that defines "proposed" as any project that *does not* involve a demolition of a single family home, particularly in the RH-1 zoned neighborhoods. ADUs should not be an economic incentive to demolish existing housing, because as is clear from the Housing Element, existing housing is generally considered to be more affordable than new construction.

Please consider the following broad points about ADUs:

What is the concept of an ADU? It is an "extra" dwelling unit on a lot. It is intended to provide private and separate, somewhat smaller living space, either for a relative or as a source of additional income as a rental property to the homeowner. That is the concern of the individual property owner.

What is the policy concern of government? It is to expand housing opportunities that are more affordable by design to more of the population.

It is concerning if ADUs could be an incentive to demolish a house just to build a very large house with an ADU. I think that is what occurred with the Discretionary Review for 653 28th Street (RH-1) which the Commission approved in September 2017. If there had been no DR, the Commission would not have heard this project. Contrary to what Ms. Mohan and Director Rahaim said at the June 7th hearing, that any demolition would require a CUA, that is not true for projects in the RH-1 which can be Administratively Approved. Vast swaths of the City are, for better or worse depending on your point of view, zoned RH-1. I do not think anyone wants to see an uptick in demolitions across these neighborhoods.

Sound, relatively affordable housing in the RH-1 neighborhoods can add ADUs without demolition. It is not good infill housing, to increase the ADUs, by demolishing single family homes and thereby doing what was referred to at the Planning Commission hearing on June 7th as "backdoor up-zoning" and lose relatively affordable housing.

Please consider this point: As the Planning Commission has discussed during deliberations for many projects, they have no control over how the interior of a property is used. Given the economics of building and the explosion of "monster home" construction it seems reasonable to suggest that the living space from an ADU in totally brand new single family construction is more likely to be kept off the market as a rental unit, and instead, *will be absorbed into the main, larger portion of the new housing.* This is probably *less likely* when an ADU is added to an existing building.

Until recently the City's ADU legislation did not include the word "proposed". The State legislation does. (SB 229 which went into effect in September 2017 and SB 831 which is pending). This State legislation was proposed by Senator Wieckowski. He represents the East Bay where there is more land and potentially brand new single family or town homes that could accommodate ADUs. That makes sense for "proposed" housing in the areas of California where there is still undeveloped land. San Francisco does not have undeveloped land....but there is space for ADUs in existing single family housing as Staff discussed in their presentation at the June 7th Commission hearing.

The idea of ADUs as infill is great for those single-family homeowners who want to add the unit. It is not great when it means the Demolition of housing by speculators or by a developer who wants to avoid the City's intention to densify *by pretending to densify, but actually only wants to build a big house.* It is bad when existing, affordable housing is lost.

This seems like a potential loophole and potentially a negative for housing in San Francisco. Please create a definition of "proposed" that prohibits demolition of sound, viable, relatively affordable housing that matches San Francisco housing needs for now and in the future, and is compliant with the Housing Element of the General Plan. ADUs can be added to existing buildings, not demolished ones.

Sincerely,
Georgia Schuttish Georgia Schuttish

cc: Kimia Haddadan; Marcelle Boudreaux; Jonas Ionin; Scott Sanchez; John Rahaim; Menaka Mohan;

California Renters Leg ` Advocacy and Education F ·d

1260 Market Street
San Francisco, CA 94103
hi@carlaef.org

CaRLA

180268
SUBMITTED IN COMMITTEE

July 9, 2019

City of San Francisco
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Re: Accessory Dwelling Unit Ordinance

Dear Board of Supervisors, and City Attorney,

The California Renters Legal Advocacy and Education Fund (CaRLA) submits this letter to inform the Board of Supervisors that they have an obligation to abide by relevant state housing laws when enacting a local ordinance governing the standards and procedures for accessory dwelling units. The current ordinance under consideration by the board includes some reforms that would make ADU development easier in San Francisco, and CaRLA supports these changes. However, the ordinance fails to remedy numerous conflicts between the local regulations and the state maximum standards governing ADUs. Specifically, the provisions of the existing and proposed San Francisco Planning Code governing ADU development on lots containing single-family homes are too restrictive when compared to state standards. In accordance with California Government Code Section 65852.2(a)(4), any ordinance that fails to meet the standards of state law "shall be null and void . . . and that agency shall thereafter apply" the state law standards for review and approval of ADU applications. The proposed San Francisco ordinance falls short of the state standards in two ways.

I. The proposed ordinance would prohibit ADUs in conjunction with proposed single-family homes.

The state maximum standards for ADU applications outlined in Section 65852.2(a)(1)(D)(i)–(xi) allow local agencies to require that an ADU be located on a lot that is "zoned to allow single-family or multifamily use and includes a *proposed* or existing single-family dwelling." Section 65852.2(a)(6) makes clear that these state law standards are "the

maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit . . . ." By barring ADU on lots with proposed (new) single family homes, San Francisco's ordinance would be more restrictive than allowed under these state standards. The legislative history behind the 2017 amendments to the ADU laws make very clear that the state legislature intended to *require* that local governments allow ADUs in new construction. Senate Bill 229 (2017) amended the language of the state ADU law to include the word 'proposed' specifically to require that local governments allow for ADUs in new development. The assembly floor analysis of the final bill makes clear that the purpose of the amendment is to "[p]rovide that ADUs *must* be allowed in lots zoned to allow for single-family or multi-family uses that include a *proposed* or existing single-family dwelling."[1]

The original San Francisco ordinance sent to the planning commission for review included provisions that would have allowed for ADUs in proposed single-family homes. The Planning Commission recommended to removing these provisions, however, out of an unfounded concern that allowing ADUs in new construction would encourage displacement. If the Board accepts this recommendation, the ordinance would be out of compliance with the state standards for review of ADU applications outlined above. The ordinance would therefore be null and void and San Francisco would be required to review ADU applications using exclusively state law standards.

II. The proposed ordinance would subject ADU applications to non-ministerial, discretionary procedures.

State law is even more clear that cities are prohibited from applying discretionary review procedures during the consideration of ADU applications. Section 65852.2(a)(4) states:

> An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision.

The intent behind this provision could not be clearer. The state enacted this provision in 2016; over two years later San Francisco remains out of compliance.

---

[1]Assembly Floor analysis:
http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180SB229#

The San Francisco ADU ordinance does not directly address review procedures for most ADUs, other than to require review of ADU applications within 120 days for "no-waiver" ADUs. Section 311(b)(1) of the San Francisco Planning Code makes clear, however, that the non-ministerial community notification and discretionary review procedures apply to "an increase to the exterior dimensions of a residential building." San Francisco's ADU guidance also confirms that discretionary review applies to ADU application that increase the building dimensions on the lot, and that the application of such procedures would cause the review period to exceed the allotted 120 days, instead taking "4 to 6 months."[2] San Francisco cannot continue to ignore this explicit requirement of state law. The Board of Supervisors should amend the ordinance to provide a full exemption for all ADU applications from community notification and discretionary review. The existing planning code, and any ordinance passed that is lacking a full exemption for ADU applications, would again be null and void under California Government Code Section 65852.2(a)(4).

III. San Francisco's open space requirements are not permitted under state law.

State law limits the regulations that local governments can apply in reviewing permit applications for ADUs. Localities may include in ADU ordinances standards for "parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places." Code Section 65852.2(a)(4). These specific standards allowed by state law are the "maximum standards" that cities can impose on new ADU applications, and "[n]o additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days." Code Section 65852.2(a)(1)(B)(i). This framework was put in place by the state to ensure that ADUs are treated as uses accessory to a primary residential use on the property, and that zoning standards written to apply to new single-family homes would not be applied to ADU applications.

San Francisco's ADU ordinance does not hold true to this principle because it applies open space requirements written for single-family homes to new ADUs. San Francisco requires up to 300 square feet of usable open space per dwelling unit or 400 square feet of shared space per unit. This requirement limits ADU development by imposing the requirement designed for

[2] http://default.sfplanning.org/plans-and-programs/planning-for-the-city/accessory-dwelling-units/NoWaiver_ADUFactSheet.pdf

single-family homes to a second unit on the same lot. These open space requirements are not authorized under any portion of the state ADU law. The open space regulations are "additional standards" being "utilized or imposed" on ADU developments and are therefore prohibited by state ADU law.

IV. The required state law changes would improve San Francisco's ADU policy.

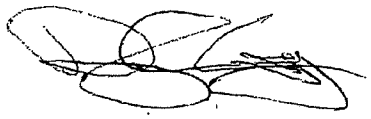
The state standards outlined above were enacted by in response to the historic housing crisis in California. Due to the artificial shortage of rental housing, costs of rental housing have skyrocketed, inflicting pain on tenants at all income levels, especially those most vulnerable. Accessory Dwelling Units are not the only solution to the housing crisis, and yet still they provide an affordable means by which homeowners may contribute to ending San Francisco's housing shortage. San Francisco specifically has over two thirds of its developable land area devoted to single family homes. Removing barriers to ADUs could open up many of these parcels for new backyard rental units. These new units would be relatively cheap to produce—well within the budget of many current homeowners—and would not significantly alter the architectural character of the city's neighborhoods. The above changes would remove barriers for ADU development by providing more predictability in the permitting process and allowing for new homes to be designed with a second unit in mind. San Francisco can and should take additional steps to promote ADU development by relaxing rear yard restrictions and open space requirements to allow for more flexible configuration of ADUs on lots. The changes outlined in this letter are both mandated by state law, and would remove important barriers to ADU development.

Instead of taking these needed steps forward, however, San Francisco is choosing to continue to ignore the state law requirements for consideration of ADU permits. By ignoring these requirements, San Francisco is maintaining its regressive housing policies for no apparent benefit at the expense of the most vulnerable. While other California cities become leaders in removing barriers for ADUs, San Francisco is falling behind. The Board of Supervisors should consider its duty to uphold state law and enact good policy by amending the present ordinance as outlined above.

CaRLA is a 501(c)3 non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. The proposed amendments outlined above would provide badly needed housing in single family home neighborhoods. While there is no silver bullet capable of ending the regional housing shortage, these amendments would help provide the kind of housing San Francisco

needs to mitigate displacement, provide shelter for its growing population, and arrest unsustainable housing price appreciation. You may learn more about CaRLA at www.carlaef.org.

Sincerely,



Dylan Casey
ADU Director
California Renters Legal Advocacy and Education Fund

180268

Coalition for San Francisco Neighborhoods

www.csfn.net • PO Box 320098 • San Francisco CA 94132-0098 • 415.262.0440 • Est 1972

June 29, 2018

Board of Supervisors Land Use and Transportation Committee
Supervisors Tang, Kim, and Safai
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94103

Re: ADUs - Case No. 2018-004194PCA (Board File No. 180268, (Tang)) – Amendments to ADU Requirements

Dear Chair Tang and Members of the Board of Supervisors Land Use and Transportation Committee,

Earlier, the Coalition for San Francisco Neighborhoods (CSFN) submitted a letter dated June 4, 2018 on this subject.

The CSFN opposes the non-notification of ADUs (aka "extensions," expansions," "pop-outs") into the required side and rear yard setback areas as any expansions beyond the footprint of the building today requires a 311/312 Notification.

Most recently at the Planning Commission and the Board of Supervisors meetings, the neighbors have advocated strongly for notification, especially for "pop-outs." This ADU legislation, while not using the term "pop outs," has the same impact by removing noticing the neighbors. Instead, an alternate process like the Pre-app meeting is relied on to get information to neighbors.

Today, the 311/312 Notices are in place to notify neighbors. The noticing workflow recently approved for pop-outs should be retained for ADUs under cantilevered rooms and decks and those going into required rear and side setbacks.

CSFN urges that the BOS Land Use and Transportation Committee move to preserve the notification to neighbors rather than to exclude them per the proposed legislation. Thank you for your consideration.

Sincerely,

G. B. Wooding

George Wooding
President

Cc: Board of Supervisors, Clerk of the Board, Planning Commission, Commissions Secretary, Planning Department, Kimia Haddadan (CPC Staff), Mayor

180268

From: Kristy Wang <kwang@spur.org>
Sent: Monday, July 09, 2018 7:24 AM
To: Tang, Katy (BOS); Kim, Jane (BOS); Safai, Ahsha (BOS)
Cc: Major, Erica (BOS); Mohan, Menaka (BOS); Duong, Noelle (BOS); Sandoval, Suhagey (BOS); Rahaim, John (CPC); Rodgers, AnMarie (CPC); Haddadan, Kimia (CPC); Starr, Aaron (CPC)
Subject: SPUR Supports ADU Legislation
Attachments: SPUR Supports 2018 ADU Legislation.pdf

Dear Supervisors:

Thank you for the opportunity to share SPUR's support for Supervisor Tang's proposed amendments to the ADU ordinance. Please see attached letter for more details.

Best,
Kristy Wang

Kristy Wang, LEED AP
Community Planning Policy Director
SPUR • Ideas + Action for a Better City
(415) 644-4884
(415) 425-8460 m
kwang@spur.org

SPUR
San Francisco | San Jose | Oakland

July 6, 2018

Land Use & Transportation Committee
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

RE: July 9, 2018 Agenda Item No. 2
Accessory Dwelling Units (Board File No. 180268)

Dear Supervisors Tang, Kim and Safaí:

Thank you for the opportunity to weigh in on the accessory dwelling unit legislation now proposed by Supervisor Tang. We're pleased to once again support a round of suggested improvements that will make ADUs easier to create. As we have said before, in SPUR's 2006 *Secondary Units* report, as well as follow-up blog posts and letters, ADUs provide many benefits: they serve many different kinds of households, they typically rent for less than other unrestricted units, and they can easily add a little more density in all kinds of neighborhoods with limited physical impact.

A series of modifications have been made since 2014 that have expanded the scope of the program and addressed issues in the code as they have been identified. This proposed legislation builds on those prior efforts to address several barriers to the construction of more in-law units in San Francisco.

We appreciate that this legislation:

- Addresses a few of the most common challenges that ADUs currently face: exposure requirements, bicycle parking requirements and street tree requirements
- Allows strategic expansion for ADUs within the buildable envelope of existing structures, including standalone garages or other storage structures on the lot
- With Planning staff's modifications, addresses challenges with ADU legalization and evictions
- Creates a combined pre-application process that gets Planning, DBI and the Fire Department in the room at the same time to identify and resolve potential issues more efficiently

The Planning Commission has recommended several modifications, many of which improve the proposed legislation, but we are disappointed that the proposal to allow in-law units in new

construction was removed from the legislation at Planning Commission. That new building can come back as soon as it exists to add an ADU—with a much higher price tag, which makes little sense. We encourage the city to continue looking at how to address this issue in order to create more opportunities for ADUs in future new construction.

Thank you for the opportunity to share our support for Supervisor Tang's proposed set of modifications to the ADU ordinance. We appreciate that San Francisco is clearly serious about making its ADU regulations most effective. Please contact me if you have any questions.

Best,

Kristy Wang
Community Planning Policy Director

cc: SPUR Board of Directors

180268

From: Charlie Vaughan <charlie@buteobuilders.com>
Sent: Monday, June 11, 2018 9:14 AM
To: richhillissf@gmail.com; Melgar, Myrna (CPC); planning@rodneyfong.com; Johnson, Milicent (CPC); Koppel, Joel (CPC); Moore, Kathrin (CPC); Richards, Dennis (CPC); asha.safai@sfgov.org; Kim, Jane (BOS); Tang, Katy (BOS)
Cc: Secretary, Commissions (CPC); Haddadan, Kimia (CPC); Mohan, Menaka (BOS); Major, Erica (BOS)
Subject: Re: Please send a quick note to support the new ADU legislation

Dear Supervisors and Planning Commissioners,

I am a renter/homeowner in the Sunset/Parkside/etc. and I want to express my support for the ADU legislation sponsored by Supervisor Katy Tang (2018-004194PCA, [Board File No.180268]). Please approve it!

Thanks,

Charlie Vaughan
1894 48th Ave SFCA

On Wed, Jun 6, 2018 at 4:30 PM, Westside = best side! <westsidebestsidesf@gmail.com> wrote:
Following our successful meeting with Katy Tang last week, we have decided to support the new ADU legislation. More info about the legislation here: http://commissions.sfplanning.org/cpcpackets/2018-004194PCA.pdf

Please send an email **right now** to show we need more ADUs, and faster! Here's an example :)

To: richhillissf@gmail.com, Myrna.Melgar@sfgov.org, planning@rodneyfong.com, Milicent.Johnson@sfgov.org, Joel.Koppel@sfgov.org, kathrin.moore@sfgov.org, dennis.richards@sfgov.org, asha.safai@sfgov.org, jane.kim@sfgov.org, katy.tang@sfgov.org

Cc: commissions.secretary@sfgov.org, kimia.haddadan@sfgov.org, menaka.mohan@sfgov.org, erica.major@sfgov.org

Bcc: westsidebestsidesf@gmail.com

Dear Supervisors and Planning Commissioners,

I am a renter/homeowner in the Sunset/Parkside/etc. and I want to express my support for the ADU legislation sponsored by Supervisor Katy Tang (2018-004194PCA, [Board File No.180268]). Please approve it!

Thanks,

Your Name

--

Charlie Vaughan
Buteo Builders
415 519 0735

180268

From: Patrick Wolff <patrick@grandmastercap.com>
Sent: Thursday, June 07, 2018 2:25 PM
To: richhillissf@gmail.com; Melgar, Myrna (CPC); planning@rodneyfong.com; Johnson, Milicent (CPC); Koppel, Joel (CPC); Moore, Kathrin (CPC); Richards, Dennis (CPC); asha.safai@sfgov.org; Kim, Jane (BOS); Tang, Katy (BOS)
Cc: Secretary, Commissions (CPC); Haddadan, Kimia (CPC); Mohan, Menaka (BOS); Major, Erica (BOS)
Subject: ADU Legislation Support

Dear Supervisors and Planning Commissioners,

I am a renter/homeowner in the Sunset/Parkside/etc. and I want to express my support for the ADU legislation sponsored by Supervisor Katy Tang (2018-004194PCA, [Board File No.180268]). Please approve it!

Thanks,

Patrick

Patrick Wolff
Email: patrick@grandmastercap.com
Cell: +1 415-652-1403

180268

From: Greg Soltis <gsoltis@gmail.com>
Sent: Thursday, June 07, 2018 11:15 AM
To: richhillissf@gmail.com; Melgar, Myrna (CPC); planning@rodneyfong.com; Johnson, Milicent (CPC); Koppel, Joel (CPC); Moore, Kathrin (CPC); Richards, Dennis (CPC); asha.safai@sfgov.org; Kim, Jane (BOS); Tang, Katy (BOS)
Cc: Secretary, Commissions (CPC); Haddadan, Kimia (CPC); Mohan, Menaka (BOS); Major, Erica (BOS)
Subject: Support ADU legislation

Dear Supervisors and Planning Commissioners,

I am a homeowner in the Sunset, and I want to express support for the ADU legislation sponsored by Supervisor Katy Tang ((2018-004194PCA, [Board File No.180268]). Please approve it! One of the best ways to grow housing availability is to take advantage of what we already have, or can easily add on to!

Thanks,

-Greg Soltis

SPUR
San Francisco | San Jose | Oakland

June 6, 2018

Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: **Accessory Dwelling Units** Case No. 2018-004194PCA (Board File No. 180268)

Dear Planning Commissioners:

Thank you for the opportunity to weigh in on the accessory dwelling unit legislation now proposed by Supervisor Tang. We're pleased to once again support a round of suggested improvements that will make ADUs easier to create. As we have said before, in SPUR's 2006 *Secondary Units* report, as well as follow-up blog posts and letters, ADUs provide many benefits: they serve many different kinds of households, they typically rent for less than other unrestricted units, and they can easily add a little more density in all kinds of neighborhoods with limited physical impact.

A series of modifications have been made since 2014 that have expanded the scope of the program and addressed issues in the code as they have been identified. This proposed legislation builds on those prior efforts to address several barriers to the construction of more in-law units in San Francisco.

We appreciate that this legislation:

- Addresses a few of the most common challenges that ADUs currently face: exposure requirements, bicycle parking requirements and street tree requirements
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- Allows strategic expansion for ADUs within the buildable envelope of existing structures, including standalone garages or other storage structures on the lot
- With Planning staff's modifications, addresses challenges with ADU legalization and evictions
- Creates a combined pre-application process that gets Planning, DBI and the Fire Department in the room at the same time to identify and resolve potential issues more efficiently

Thank you for the opportunity to share our support for Supervisor Tang's proposed set of modifications to the ADU ordinance. We appreciate that San Francisco is clearly serious about making its ADU regulations most effective. Please contact me if you have any questions.

Best,

Kristy Wang
Community Planning Policy Director

cc: Supervisor Katy Tang
SPUR Board of Directors

180768

To: Mohan, Menaka (BOS)
Subject: RE: Item 12b: SPUR Supports Supervisor Tang's ADU legislation

From: Kristy Wang [mailto:kwang@spur.org]
Sent: Thursday, June 07, 2018 11:41 AM
To: Rich Hillis <richhillissf@gmail.com>; Melgar, Myrna (CPC) <myrna.melgar@sfgov.org>; Koppel, Joel (CPC) <joel.koppel@sfgov.org>; Planning@rodneyfong.com; Richards, Dennis (CPC) <dennis.richards@sfgov.org>; Moore, Kathrin (CPC) <kathrin.moore@sfgov.org>; Johnson, Milicent (CPC) <milicent.johnson@sfgov.org>
Cc: Secretary, Commissions (CPC) <commissions.secretary@sfgov.org>; Rahaim, John (CPC) <john.rahaim@sfgov.org>; Tang, Katy (BOS) <katy.tang@sfgov.org>; Mohan, Menaka (BOS) <menaka.mohan@sfgov.org>; Haddadan, Kimia (CPC) <kimia.haddadan@sfgov.org>; Starr, Aaron (CPC) <aaron.starr@sfgov.org>
Subject: Item 12b: SPUR Supports Supervisor Tang's ADU legislation

Dear Planning Commissioners:

Thank you for the opportunity to weigh in on the accessory dwelling unit legislation now proposed by Supervisor Tang. We're pleased to once again support a round of suggested improvements that will make ADUs easier to create. As we have said before, in SPUR's 2006 Secondary Units report, as well as follow-up blog posts and letters, ADUs provide many benefits: they serve many different kinds of households, they typically rent for less than other unrestricted units, and they can easily add a little more density in all kinds of neighborhoods with limited physical impact.

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Thank you for the opportunity to share our support for Supervisor Tang's proposed set of modifications to the ADU ordinance. We appreciate that San Francisco is clearly serious about making its ADU regulations most effective. Please contact me if you have any questions.

Best,
Kristy

Kristy Wang, LEED AP
Community Planning Policy Director

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(415) 644-4884
'415) 425-8460 m
.vang@spur.org

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Reserve your spot today >>

180268

From: JL <mrbokchoi@gmail.com>
Sent: Thursday, June 07, 2018 9:49 AM
To: richhillissf@gmail.com; Melgar, Myrna (CPC); planning@rodneyfong.com; Johnson, Milicent (CPC); Koppel, Joel (CPC); Moore, Kathrin (CPC); Richards, Dennis (CPC); asha.safai@sfgov.org; Kim, Jane (BOS); Tang, Katy (BOS)
Cc: Secretary, Commissions (CPC); Haddadan, Kimia (CPC); Mohan, Menaka (BOS); Major, Erica (BOS)
Subject: Please support ADU legislation sponsored by Katy Tang

Dear Supervisors and Planning Commissioners,

I am a renter living in the Outer Sunset. I am writing to you to express my support for the ADU legislation sponsored by Supervisor Katy Tang (2018-004194PCA, [Board File No.180268]).

San Francisco is in a housing crisis and because of this, people are unable to stay and live here because the entire Bay Area is so unaffordable. As someone who is born and raised in San Francisco Sunset district, I have no choice but to live in an ADU because the supply of housing units is so low that I am oftentimes priced out. Many of my high school friends that grew up with me in the Sunset also live in ADUs as well. We are all very grateful to have access to housing and without the ADUs, we would be homeless or force to move out of the city that we were born in.

Please approve this important piece of legislation.

Thanks,

Your Name
Jimmy

180268

From:	Chris Shaffer <chris.shaffer@gmail.com>
Sent:	Wednesday, June 06, 2018 7:39 PM
To:	richhillissf@gmail.com; Melgar, Myrna (CPC); planning@rodneyfong.com; Johnson, Milicent (CPC); Koppel, Joel (CPC); Moore, Kathrin (CPC); Richards, Dennis (CPC); asha.safai@sfgov.org; Kim, Jane (BOS); Tang, Katy (BOS)
Cc:	Secretary, Commissions (CPC); Haddadan, Kimia (CPC); Mohan, Menaka (BOS); Major, Erica (BOS)
Subject:	Please support ADU legislation

Dear Supervisors and Planning Commissioners,

I am a renter in the Sunset and I want to express my support for the ADU legislation sponsored by Supervisor Katy Tang (2018-004194PCA, [Board File No.180268]). Please approve it!

Thanks,

Chris Shaffer
1524 18th Ave
San Francisco, CA 94122

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

March 26, 2018

File No. 180268

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On March 20, 2018, Supervisor Tang introduced the following proposed legislation:

File No. 180268

Ordinance amending the Planning Code to authorize the Zoning Administrator to waive or modify bicycle parking requirements for an Accessory Dwelling Unit (ADU), allow more than one unauthorized unit constructed without a permit to be legalized, exempt from the permit notification requirement ADUs constructed within the defined existing built envelope, allow conversion of an existing stand-alone garage or storage structure to an ADU and expansion of the existing building envelope to add dormers, eliminate the street tree requirement for an ADU, and allow one ADU to be added to a new residential building of three units or less as a component of the new construction; amending the Building Code to provide for a preapplication plan review for ADUs; 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; adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302; and directing the Clerk to send a copy of this ordinance to the California Department of Housing and Community Development.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

BOARD of SUPERVISORS

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

March 26, 2018

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

Dear Commissioners:

On March 20, 2018, Supervisor Tang introduced the following legislation:

File No. 180268

Ordinance amending the Planning Code to authorize the Zoning Administrator to waive or modify bicycle parking requirements for an Accessory Dwelling Unit (ADU), allow more than one unauthorized unit constructed without a permit to be legalized, exempt from the permit notification requirement ADUs constructed within the defined existing built envelope, allow conversion of an existing stand-alone garage or storage structure to an ADU and expansion of the existing building envelope to add dormers, eliminate the street tree requirement for an ADU, and allow one ADU to be added to a new residential building of three units or less as a component of the new construction; amending the Building Code to provide for a preapplication plan review for ADUs; 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; adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302; and directing the Clerk to send a copy of this ordinance to the California Department of Housing and Community Development.

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

for By: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

c: John Rahaim, Director of Planning
Aaron Starr, Acting Manager of Legislative Affairs
Scott Sanchez, Zoning Administrator
Lisa Gibson, Environmental Review Officer
AnMarie Rodgers, Senior Policy Advisor
Laura Lynch, Environmental Planning
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS

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1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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MEMORANDUM

TO: Tom Hui, Director, Department of Building Inspection
Sonya Harris, Secretary, Building Inspection Commission

FROM: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

DATE: March 26, 2018

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, introduced by Supervisor Tang on March 20, 2018:

File No. 180268

Ordinance amending the Planning Code to authorize the Zoning Administrator to waive or modify bicycle parking requirements for an Accessory Dwelling Unit (ADU), allow more than one unauthorized unit constructed without a permit to be legalized, exempt from the permit notification requirement ADUs constructed within the defined existing built envelope, allow conversion of an existing stand-alone garage or storage structure to an ADU and expansion of the existing building envelope to add dormers, eliminate the street tree requirement for an ADU, and allow one ADU to be added to a new residential building of three units or less as a component of the new construction; amending the Building Code to provide for a preapplication plan review for ADUs; 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; adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302; and directing the Clerk to send a copy of this ordinance to the California Department of Housing and Community Development.

The proposed ordinance is being transmitted pursuant to Charter, Section D3.750-5, for public hearing and recommendation. It is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Please forward me the Commission's recommendation and reports at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: alisa.somera@sfgov.org.

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

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
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MEMORANDUM

TO: Robert Collins, Executive Director, Rent Board
Kate Hartley, Director, Mayor's Office of Housing and Community Development
Joanne Hayes-White, Chief, Fire Department

FROM: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

DATE: March 26, 2018

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Tang on March 20, 2018:

File No. 180268

Ordinance amending the Planning Code to authorize the Zoning Administrator to waive or modify bicycle parking requirements for an Accessory Dwelling Unit (ADU), allow more than one unauthorized unit constructed without a permit to be legalized, exempt from the permit notification requirement ADUs constructed within the defined existing built envelope, allow conversion of an existing stand-alone garage or storage structure to an ADU and expansion of the existing building envelope to add dormers, eliminate the street tree requirement for an ADU, and allow one ADU to be added to a new residential building of three units or less as a component of the new construction; amending the Building Code to provide for a preapplication plan review for ADUs; 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; adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302; and directing the Clerk to send a copy of this ordinance to the California Department of Housing and Community Development.

If you have 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 or by email at: alisa.somera@sfgov.org.

c: Eugene Flannery, Mayor's Office of Housing and Community Development
Amy Chan, Mayor's Office of Housing and Community Development
Kelly Alves, Fire Department

180268

ADU Leg

Coalition for San Francisco Neighborhoods (CSFN.NET) June 4, 2018 Letter:

- Unclear of "fee out" & not require street trees for ADUs – requested appropriate number of trees planted within a certain time period
- Requested noticing for conversion of non-living spaces to living spaces
- Fill-ins of existing structures might not comply with rear & side setbacks per code
- Adding ADUs in a newly constructed building can exceed code maximum for zoning
- Amend code to read "Any existing ADUs *shall* meet building and fire code regulations."

June 7, 2018 PC

1. Housing Accountability Act (HAA) issue with ADUs:
   A. CUs to as-of-right approvals due to HAA
   B. Incentive to demolish
2. Planning Commission pushed out to June 21, 2018.

180268

...ica (BOS)

From: :) <gumby5@att.net>
Sent: Monday, June 11, 2018 6:09 PM
To: Major, Erica (BOS)
Cc: Board of Supervisors, (BOS)
Subject: For 6/11/2018 BOS-LUC Minutes (Planning, Building Codes - ADUs)

Dear Ms. Erica Major:
Please put verbatim into the 6/11 BOS-LUC minutes per Sunshine.
It is for File No. 180268.
Thank you very much.
Rose Hillson for CSFN

ADU Leg

Coalition for San Francisco Neighborhoods (CSFN.NET) June 4, 2018 Letter:

- Unclear of "fee out" & not require street trees for ADUs – requested appropriate number of trees planted within a certain time period
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- Amend code to read "Any existing ADUs *shall* meet building and fire code regulations."

June 7, 2018 PC

1. Housing Accountability Act (HAA) issue with ADUs:
   A. CUs to as-of-right approvals due to HAA
   B. Incentive to demolish
2. Planning Commission pushed out to June 21, 2018.

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

SAN FRANCISCO
2018 MAR 20 PM 4:25
Time stamp or meeting date
BY

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):

Tang

Subject:

Planning, Building Codes - Accessory Dwelling Units

The text is listed below or attached:

Signature of Sponsoring Supervisor: Jeff Tang

For Clerk's Use Only: