



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 18967 Planning Code Text Change

HEARING DATE: SEPTEMBER 19, 2013

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Project Name: **Nonconforming Units: Enlargement, Alteration, or Reconstruction**
Case Number: 2013.1164T [Board File No. 130783]
Initiated by: Supervisor Avalos / Introduced July 30th, 2013
Staff Contact: Sophie Hayward, Legislative Affairs
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Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
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Recommendation: **Recommend Approval**

RECOMMENDING THAT THE BOARD OF SUPERVISORS APPROVE A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO PERMIT THE ENLARGEMENT, ALTERATION, OR RECONSTRUCTION OF A DWELLING OR OTHER HOUSING STRUCTURE THAT EXCEEDS THE PERMITTED DENSITY OF THE DISTRICT IF DWELLING UNITS ARE PRINCIPALLY PERMITTED IN THE DISTRICT AND THE ENLARGEMENT, ALTERATION, OR RECONSTRUCTION DOES NOT EXTEND BEYOND THE BUILDING ENVELOPE AS IT EXISTED ON JANUARY 1, 2013; AND ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.

WHEREAS, on July 30, 2013, Supervisors Avalos introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 13-0783, which would amend Section 181 of the Planning Code regarding nonconforming units;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 19, 2013; and,

WHEREAS, the proposed Ordinance has been determined to be exempt from environmental review under California Environmental Quality Act Section 15060(c)(2); and

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

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

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

MOVED, that the Commission hereby recommends that the Board of Supervisors *approve* the draft Ordinance and adopts the attached Resolution to that effect.

FINDINGS

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

1. The proposed Ordinance would add protection and flexibility for existing nonconforming units;
2. That the proposed Ordinance includes safeguards against unintended implications to the affordability of existing nonconforming residential units.
3. Based on information from the Department's Information and Analysis group, of the approximately 360,000 dwelling units in the City, nearly 52,000 units exceed the permitted zoning of the parcel on which they are located, representing close to 14% of existing units in the City.
4. Generally speaking, these legal nonconforming units are in older buildings constructed prior to the establishment of current zoning districts.
5. The age of the structures, together with the existing prohibition to expand, means that very often nonconforming units are among the city's most affordable housing stock, and are often subject to rent control.
6. The draft Ordinance would provide increased flexibility for nonconforming units, which may encourage the improvement and expansion of existing unsubsidized affordable housing units.
7. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

I. HOUSING ELEMENT

OBJECTIVE 2

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

POLICY 2.4

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

The draft Ordinance will allow increased flexibility to expand nonconforming units, which may encourage maintenance of existing housing stock.

OBJECTIVE 3

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

POLICY 3.1

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

POLICY 3.4

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

The draft Ordinance is intended to provide increased flexibility to upgrade and to improve existing nonconforming units, many of which are naturally and unsubsidized affordable units.

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

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

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

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

The proposed Ordinance is intended to protect existing housing and neighborhood character through increased flexibility regarding expansion and alteration of nonconforming units.

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

The proposed Ordinance would encourage the improvement and enhancement of the existing unsubsidized affordable housing stock by allowing alterations and expansion of units that are nonconforming as relates to density.

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

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

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

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

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

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

7. That the landmarks and historic buildings be preserved;

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

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

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

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

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on September 19, 2013.

Jonas P. Ionin
Acting Commission Secretary

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

NOES: Commissioner Antonini

ABSENT: None

ADOPTED: September 19, 2013