



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Amendment to the Administrative Code

HEARING DATE: APRIL 7, 2011

Project Name: **Proposed amendment to Administrative Code Section 41F.3, Section 41F.3 relating to large tourist hotel conversions: extending the deadline for Planning Commission approval of applications**

Case Number: 2011.0278U [Board File No. 11-0282]

Initiated by: Mayor Lee / Introduced March 8, 2011

Staff Contact: Sophie Hayward, Legislative Affairs
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Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
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Recommendation: **Recommend Approval with Modifications**

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ADMINISTRATIVE CODE AMENDMENT

The proposed Ordinance would amend the Administrative Code Section 41F.3 (Large Tourist Hotels), to extend the deadline for Planning Commission approval of applications to convert large tourist hotel rooms to condominiums beyond the existing November 1, 2010 expiration of the queue.

The Way It Is Now:

In March 2008 the Board of Supervisors adopted the Large Tourist Hotel Conversion Ordinance (Administrative Code Chapter 41F). As amended in January 2009, the Ordinance regulates the conversion of Large Tourist Hotel rooms into condominiums or other ownership structures that reduce the City's inventory of large tourist hotel rooms. The Ordinance generally prohibits the conversion of large tourist hotel rooms into condominiums with two exceptions. First, the Ordinance established a lottery for additional Conversions (to be conducted by the Planning Department) in future years, but only if inventory-related preconditions are met. Second, the Ordinance provided for conversion of up to 550 Large Tourist Hotel Rooms – independently of the Lottery – subject to the requirement that applicants for these "pre-lottery" conversions obtain Planning Commission approval prior to November 1, 2010.

To implement the pre-lottery portion of the Ordinance, the Planning Department established a queue for use of 550 Conversion credits. Credits were awarded on a first-come first-served basis. Each member of the queue held credits that allowed the hotel to apply to the Planning Commission for permission to convert a fixed number of Large Tourist Hotel Rooms. The 2008-2010 queue included four large tourist hotels: The Palace Hotel, The Grand Hyatt Hotel, The Fairmont Hotel, and The Mark Hopkins Hotel. The Mark Hopkins Hotel, however, only received 11 of the 179 requested credits, preventing the Planning Department from processing its application for the project as a whole. All four hotel properties in the 2008-2010 queue failed to meet the November 1, 2010 deadline established in Administrative Code Section 41F.3 (b). This

section states that a queue member must obtain Planning Commission approval of its conversion application prior to November 1, 2010. This deadline has passed and, therefore, the Planning Commission no longer has authority to approve the pre-lottery conversion applications. As of November 2, 2010, the queue effectively expired and no longer confers any special standing. Now, all hotels in the City must await an increase in the City's supply of large tourist hotels rooms of at least 100 rooms over the 2009 Baseline Inventory level (See Ordinance Section 41F.3(d)). After an annual inventory shows such an increase, the Department will hold a lottery to determine which hotels may be allowed to condo convert. If there is no such increase no lottery will be held.

The Way It Would Be:

The proposed ordinance would amend the Administrative Code to extend the deadline for the Planning Commission to approve applications for the conversion of large tourist hotels to condominium projects, provided that the applicants had completed project-specific milestones by November 1, 2010.

As outlined in the amended ordinance, Administrative Code Section 41F.3(b) would allow the Planning Commission to approve the use of pre-lottery conversion credits that were established in the 2008-2010 queue if, specific milestones were met prior to November 1, 2010 including:

- (1) the project seeking Conversion had submitted a 41F.3 Conversion application to the Planning Department; and
- (2) the Planning Commission had held a public hearing on the Draft Environmental Impact Report for the project seeking Conversion.

If these project-specific milestones are met, the Commission can approve the conversion application. The only queue member to meet these two project-specific deadlines is the Fairmont Hotel. Therefore, the potential extension of the Planning Commission's approval deadline would only apply to the Fairmont Hotel. All other hotels in the now pre-lottery queue would be ineligible for condo conversions until such time as the Annual Inventory shows an increase sufficient to trigger a lottery.

REQUIRED COMMISSION ACTION

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

RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department recommends that the Ordinance extend the deadline for Planning Commission approval of use of pre-lottery conversion queue credits to November 3, 2012 – two years from the original deadline.

BASIS FOR RECOMMENDATION

When the Planning Commission considered the 2008 Ordinance, it considered the need to balance supporting San Francisco's urban character by increasing density near transit, while maintaining a certain density of tourists in order to support our economy. At the time, we considered occupancy rates, potential production of new rooms and potential loss of existing

rooms. Of primary concern was that hotel capacity would be lost and that the City would see a reduction in the number of tourists and their associated spending capacity. Perhaps most pressing was the very specific concern about the City's capacity to house large conventions such as the Oracle Convention. With 65,000 hotel stays in 2006, this convention needed to reserve nearly every room in the City. The 2007 Oracle convention was "estimated to pump about \$80 million into San Francisco, including hotel room rentals, event planning, and business at restaurants and tourist attractions."

The 2008 Large Tourist Hotel Conversion Ordinance authorized the Planning Commission to approve the conversion of up to 550 existing large tourist hotel rooms to condominiums; the 550 conversion cap reflected the addition of 550 new rooms to the City's hotel inventory by the Hotel Intercontinental. No new large tourist hotel rooms have been added to the City's inventory since the 2008 Ordinance went into effect, nor have any of the 550 hotel rooms been converted to condominiums; therefore, our recommendation remains to allow the Planning Commission to authorize the conversion of up to 550 hotel rooms.

No hotel in the 2008-2010 queue received approval of its conversion application from the Planning Commission prior to the November 1, 2010, deadline. However, more than one hotel in the queue did show good faith effort to advance its application. By extending the deadline for all hotels in the queue by two years, the Planning Commission will have an opportunity to analyze each application submitted by hotels in the pre-lottery conversion queue on a case-by-case basis. The Department's proposed modification will not single out any one project; rather, the Planning Commission may approve the conversion applications of any hotel in the queue that has sufficient credits to proceed with conversion. Currently, the Palace Hotel, the Grand Hyatt Hotel, and the Fairmont Hotel have sufficient credits to convert.

In addition, the recommended modification clarifies the process by which unused credits may be reallocated to applicants in the queue that lack sufficient credits to proceed (e.g., the Mark Hopkins Hotel). In order to enable reallocation, a member of the queue must provide written notification to the Planning Department of intent to withdraw its conversion application. If an application is withdrawn more than two months prior to the conversion deadline, the Planning Department would have the discretion to reallocate the unused credits toward unmet demand in the queue, thereby enabling other projects to submit complete conversion applications for consideration by the Planning Commission prior to November 3, 2012.

The Planning Department also recommends modifications to clarify the number of credits required for a project to apply for Planning Commission approval. Currently, each project application is treated as a whole and, consequently, the project may not be divided into smaller parts for piece-meal implementation. For example, if a project has only 25 percent of the necessary credits to meet the need described in its application, it will not be able to convert those 25 percent of rooms. As modified, however, the Ordinance would enable the Planning Commission to approve piece-meal conversion if an applicant obtains a majority of the necessary credits. The Ordinance would continue to require one conversion credit for each room converted.

Lastly, the Planning Department has recommended modifications clarifying the timing requirements for an appeal of Planning Commission approval or denial of applications for conversion. If the Planning Department takes action no later than November 3, 2012, an interested party or applicant may appeal the decision to the Board of Supervisors.

In sum, the Department supported the 2008 Large Tourist Hotel Conversion Ordinance, including the provisions allowing the Planning Commission to approve the additional conversion of 550 existing large tourist hotel rooms to condominiums. The Department therefore supports an amendment to the existing Chapter 41F of the Administrative Code in order to preserve the ability of the Planning Commission to approve the pre-lottery conversion credits by hotels in the queue.

ENVIRONMENTAL REVIEW

The proposal to amend the Administrative Code Section 41F would result in no physical impact to the environment. The proposed amendment is not a project, pursuant to Section 15060(c)(3) and 15378 of the CEQA Guidelines.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any comments in with regard to the proposed Ordinance.

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| RECOMMENDATION: Recommendation of Approval with Modifications |
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Draft Board of Supervisors Ordinance as introduced
- Exhibit C: Draft Ordinance with recommended modifications by the Planning Department



SAN FRANCISCO PLANNING DEPARTMENT

Draft Planning Commission Resolution

HEARING DATE: APRIL 7, 2011

Project Name: **Proposed amendment to Administrative Code Section 41F.3, Section 41F.3 relating to large tourist hotel conversions: extending the deadline for Planning Commission approval of applications**

Case Number: 2011.0278U [Board File No. 11-0282]

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND THE ADMINISTRATIVE CODE TO EXTEND THE DEADLINE FOR PLANNING COMMISSION APPROVAL OF APPLICATIONS FOR CONVERSION OF LARGE TOURIST HOTELS TO CONDOMINIUM PROJECTS, SUBJECT TO COMPLETION OF PROJECT-SPECIFIC MILESTONES BY NOVEMBER 1, 2010, AND MAKING REQUIRED FINDINGS.

PREAMBLE

Whereas, on March 8, 2011, Mayor Lee introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 11-0282 which would amend the Administrative Code Chapter 41F, Section 41F.3, to extend the deadline for Planning Commission approval of applications for conversion of large tourist hotels to condominium projects, subject to completion of project-specific milestones by November 1, 2010; and

Whereas, the Planning Commission recommended approval of the 2008 Large Tourist Hotel Conversion Ordinance, which authorized the Planning Commission to approve the conversion of up to 550 existing large tourist hotel rooms to condominiums. The 550 conversion cap reflected the addition of 550 rooms to the City's hotel inventory by the Hotel Intercontinental in 2008; and

Whereas, on April 7, 2011, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed amendment to the Administrative Code has been determined to be “Not a Project,” under the California Environmental Quality Act Guidelines Sections 15060(c)(3) and 15378; and

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented by Department staff, and other interested parties; and

Whereas, the 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 Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors recommends *approval with modifications of the proposed Ordinance* and adopts the attached Draft 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. No hotel in the 2008-2010 queue met the November 1, 2010, deadline for Planning Commission approval set out in Section 41F.3(b) of the Large Tourist Hotel Conversion Ordinance (Chapter 41F of the San Francisco Administrative Code). However, more than one hotel in the queue did show good faith effort to advance its application. The Planning Commission proposes modifying the proposed Ordinance to extend the existing deadline for approval of conversion queue applications to November 3, 2012, a two-year extension. This modification would grant the Planning Commission the authority to continue to evaluate all applications submitted by hotels in the existing pre-lottery conversion queue on a case-by-case basis.
2. As modified, the amendment will not single out any one project; rather, the Planning Commission may approve the conversion applications of any hotel in the existing queue that has sufficient credits to proceed with conversion. Currently, the Palace Hotel, the Grand Hyatt Hotel, and the Fairmont Hotel have sufficient credits to convert. In addition, the proposed modification clarifies the process by which credits may be reallocated to applicants next in the queue such as, for example, The Mark Hopkins Hotel. Specifically, it will enable projects in the queue to withdraw their applications up to two months prior to the November 2012 deadline and for the Planning Department to reallocate these abandoned credits to the next project in the queue.

3. The Planning Commission supports the amendment of the Large Tourist Hotel Conversion Ordinance to extend its authority to approve the use of pre-lottery conversion credits. The Planning Commission recommends that the proposed Ordinance be amended in a manner consistent with the modifications proposed by Department staff at this hearing. The Planning Commission intends that these modifications result in uniform extension of the deadline for approval of conversion applications by members the pre-lottery queue.
4. The Large Tourist Hotel Conversion Ordinance will continue to limit the conversion of hotel rooms to condominiums. Only those projects in the most recent pre-lottery conversion queue will be affected by the deadline change in the proposed Ordinance. All other hotel room conversions to condominiums will be subject to the lottery as established in Chapter 41F of the Administrative Code.
5. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

I. COMMERCE & INDUSTRY ELEMENT

THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN SETS FORTH OBJECTIVES AND POLICIES THAT ADDRESS THE BROAD RANGE OF ECONOMIC ACTIVITIES, FACILITIES, AND SUPPPORT SYSTEMS THAT CONSTITUTE SAN FRANCISCO'S EMPLOYMENT AND SERVICE BASE.

GOALS

THE THREE GOALS OF THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN RELATE TO CONTINUED ECONOMIC VITALITY, SOCIAL EQUITY, AND ENVIRONMENTAL QUALITY.

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

POLICY 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

OBJECTIVE 8

ENHANCE SAN FRANCISCO'S POSITION AS A NATIONAL CENTER FOR CONVENTIONS AND VISITOR TRADE.

POLICY 8.1

Guide the location of additional tourist related activities to minimize their adverse impacts on existing residential, commercial, and industrial activities.

The proposed ordinance will continue to limit pre-lottery conversions of large tourist hotel rooms to the previously permitted 550 existing rooms according to the established queue. After the November 1, 2012 deadline specified in the proposed ordinance, any future conversions will continue to be tied to an increase in the total number of large tourist hotel rooms available, as accounted in the Large Tourist Hotel Inventory.

The intent of the proposed Ordinance is to continue to promote the preservation of space for tourist lodging- specifically "block" booking of multiple rooms for conferences, while providing an opportunity for the Planning Commission to review and to approve projects for conversion that are in the pre-lottery conversion queue.

6. The proposed replacement project is consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

The proposed Ordinance will not impact neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses; existing neighborhood-serving retail uses will be preserved.

B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

The proposed Ordinance will potentially increase available housing by allowing the Planning Commission to approve certain conversions from Large Tourist Hotels to condominiums. This ordinance will not impact existing housing, nor will it adversely impact existing neighborhood character or economic diversity.

C) The City's supply of affordable housing will be preserved and enhanced:

The proposed Ordinance will have no adverse effect on the City's supply of affordable housing. Any conversion proposals will be subject to all affordable housing requirements included in the Planning Code.

D) The commuter traffic will 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.

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed Ordinance would not encourage new commercial office development.

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments. Any new construction or alteration associated with a conversion from hotel rooms to condominiums would be executed in compliance with all applicable construction and safety measures.

- G) That landmark and historic buildings will be preserved:

Landmarks and historic buildings would be unaffected by the proposed Ordinance. Should a proposed conversion be located within a landmark or historic building, such site would be evaluated under typical Planning Code provisions and comprehensive Planning Department policies.

- H) Parks and open space and their access to sunlight and vistas will 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. It is not anticipated that conversions would be such that sunlight access, to public or private property, would be adversely impacted.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on April 7, 2011.

Linda Avery
Commission Secretary

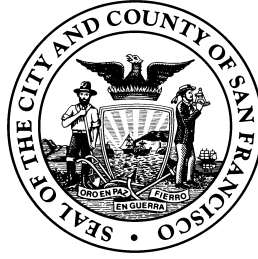
AYES:

NAYS:

ABSENT:

ADOPTED: April 7, 2011

BOARD of SUPERVISORS



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MEMORANDUM

TO: John Rahaim, Director
Planning Department

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

DATE: March 28, 2011

SUBJECT: LEGISLATION INTRODUCED

On March 8, 2011, Mayor Lee introduced the following legislation that has been assigned to the Land Use and Economic Development Committee. Pursuant to BOS Rules of Order 5.41, the Planning Department has 30 days to review and comment.

File No. 110282

Ordinance amending the San Francisco Administrative Code Chapter 41F, Section 41F.3, to extend the deadline for Planning Commission approval of applications for conversion of large tourist hotels to condominium projects, subject to completion of project-specific milestones by November 1, 2010, and making required findings.

If you wish to submit any comments or reports please return this memorandum with your response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

cc: Linda Avery, Secretary, Planning Commission
AnMarie Rodgers, Legislative Affairs
Scott Sanchez, Zoning Administrator
Bill Wycko, Environmental Review Officer
Brett Bollinger, Mayor Environmental Analysis

1 [Administrative Code - Large Tourist Hotel Conversion]

2

3 **Ordinance amending the San Francisco Administrative Code Chapter 41F, Section**
4 **41F.3, to extend the deadline for Planning Commission approval of applications for**
5 **conversion of large tourist hotels to condominium projects, subject to completion of**
6 **project-specific milestones by November 1, 2010, and making required findings.**

7 NOTE: Additions are *single-underline italics Times New Roman*;
8 deletions are ~~*strike-through italics Times New Roman*~~.
9 Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

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

11 Section 1. Findings.

12 (1) On March 18, 2008, the Board of Supervisors adopted the Large Tourist Hotel
13 Conversion Ordinance.

14 (2) On May 23, 2008, the Zoning Administrator promulgated a Bulletin and Letter of
15 Determination setting forth the process that the Planning Department would follow to
16 determine "complete applications" for pre-lottery Conversion applications under Section
17 41F.3(b) of the Large Tourist Hotel Conversion Ordinance. The Letter of Determination
18 applied the principles set forth in the Bulletin to establish a priority listing of pending projects
19 ("Queue"). The Board of Appeals issued a decision on November 12, 2008, that corrected the
20 Bulletin, Letter of Determination, and Queue to conform with the Zoning Administrator's intent.

21 (3) On January 6, 2009, the Mayor signed legislation into effect that clarified the
22 scope and implementation of the Large Tourist Hotel Conversion Ordinance, including minor
23 edits to the definition of "Convert" and additional guidance regarding the conversion process
24 for Large Tourist Hotels Rooms, and making required findings.

25

1 (4) The Board of Supervisors intends that these amendments apply retroactively to
2 the effective date of the original ordinance, April 24, 2008, except to the extent that such
3 application would abridge vested rights under the law.

4 Section 2. Environmental Findings. The Planning Department has determined that the
5 actions contemplated in this Ordinance are in compliance with the California Environmental
6 Quality Act (California Public Resources Code sections 21000 et seq.). Said determination is
7 on file with the Clerk of the Board of Supervisors in File No. _____ and is
8 incorporated herein by reference.

9 Section 3. The San Francisco Administrative Code is hereby amended by amending
10 Section 41F.3 to read as follows:

11 Sec. 41F.3 - CONVERSIONS RESTRICTED.

12 (a) General Prohibition. It shall be unlawful for any person to Convert any portion of a
13 Large Tourist Hotel except as provided in this Chapter. Notwithstanding Conversion approval
14 under this Chapter, a Conversion project must in addition obtain all applicable City permits
15 and approvals, including any applicable conditional use authorization requirements. This
16 Chapter shall not limit City discretion to deny or approve with conditions a proposed
17 Conversion project.

18 (b) ~~Conversion prior to November 1, 2010~~Pre-Lottery Conversion Credits. Notwithstanding
19 the foregoing restriction, the Planning Commission may approve use of Conversion credits
20 allocated through the pre-lottery Conversion queue for a total of up to 550 Large Tourist Hotel Rooms
21 to be Converted if, prior to November 1, 2010: (1) the project seeking Conversion submits a 41F.3
22 Conversion application to the Planning Department; and (2) the Planning Commission holds a public
23 hearing on the Draft Environmental Impact Report for the project seeking Conversion. The Planning
24 Commission shall approve applications for such Conversions under this section on a first-come first-
25 served basis. An applicant's place in the Conversion queue for the 550 pre-lottery Conversion

1 credits shall be based upon the date the Planning Department receives a complete
2 subdivision or environmental application, as determined by the Zoning Administrator, and
3 provided the application or subsequent written communication identifies the number of tourist
4 hotel rooms to be Converted.

5 (c) Ancillary Hotel Areas. A person may Convert all or any portion of an Ancillary Hotel
6 Area upon a showing that the Conversion shall not result in a reduction in the number of
7 Large Tourist Hotel Rooms in the subject hotel.

8 (d) Conversion Lottery. Beginning in 2010, the Planning Department shall hold an
9 annual lottery for Conversion credits for Large Tourist Hotel Rooms in accordance with the
10 following:

11 (1) The Planning Department shall hold the lottery only if:

12 (i) The Annual Inventory shows a net increase of at least 100 Large Tourist Hotel
13 Rooms over the prior year's inventory, as calculated in Section 41F.3(g) below; and

14 (ii) Conducting a lottery would not result in a reduction in the number of Large Tourist
15 Hotel Rooms below the Baseline Inventory.

16 (2) The number of Conversion credits available in each lottery shall equal the net
17 increase in Large Tourist Hotel Rooms during the previous year's inventory. Large Tourist
18 Hotel Rooms lost through authorized Conversions shall not be considered for purposes of
19 calculating the net increase in Large Tourist Hotel Rooms under this section, as described in
20 Section 41F.3(g), below.

21 (3) In order to participate in the conversion credit lottery, applicants must submit a
22 Section 41F.3(f)(3) application within 15 business days of the formal adoption of the Annual
23 Inventory update. The Planning Department shall issue one lottery ticket per Large Tourist
24 Hotel applicant. Only one application may be submitted per Large Tourist Hotel.

1 (4) The Planning Department shall hold the lottery at a public hearing within 6 weeks of
2 the formal adoption of the Annual Inventory. Winning lottery tickets shall be chosen randomly,
3 one at a time. If not enough credits remain in the pool to satisfy a winning ticket, then the
4 applicant shall receive the number of credits remaining in the pool and be eligible to receive
5 the remainder as the first applicant on the standby list. If a lottery would otherwise be required
6 by the Chapter and the number of available credits exceeds the total number of applicants'
7 requests for Conversion credits in a particular year, then the credits shall be granted and no
8 lottery shall take place.

9 (5) If applicants collectively seek more Conversion credits than are available in the
10 lottery pool, then, after the last winning ticket is drawn, the Planning Department shall draw a
11 reasonable number of alternate tickets for inclusion in a standby list. If, nine months after the
12 lottery, the Planning Department revokes winning credits according to subsection (e)(2),
13 below, the credits shall be reallocated to the standby list, in the order drawn.

14 (e) Large Tourist Hotel Conversion Credits.

15 (1) Conversion is prohibited unless the applicant uses Conversion credits to offset the
16 loss of Large Tourist Hotel Rooms. An award of Conversion credits does not grant the credit-
17 holder a right to development or otherwise limit City discretion to deny or approve with
18 conditions a proposed Conversion project. A credit holder must still obtain all otherwise
19 applicable City permits and approvals, including but not limited to Planning Commission
20 approval of the Conversion pursuant to Section 41F.3(f).

21 (2) Credits are building-specific and non-transferable, except that if the credit holder
22 does not make diligent and good faith efforts within nine months of issuance of the
23 Conversion credit(s), the credits may be revoked and reallocated to the queue, for pre-lottery
24 credits, or the standby list, for lottery credits. Credits shall expire if the applicant or standby-list
25 recipient fails to diligently and in good faith pursue Conversion for any 18 consecutive months,

1 as determined by the Zoning Administrator after notice and a public hearing. The Board of
2 Appeals shall hear and determine appeals under this section.

3 (f) Conversion Process.

4 (1) The City may not issue permits related to use of pre-lottery or lottery Conversion
5 credits until and unless the Planning Commission approves a Section 41F.3(f) Conversion
6 application for the proposed Conversion project.

7 (2) The notice and hearing requirements applicable to conditional use authorizations
8 shall apply to Planning Commission's action to approve or deny Conversion applications for
9 use of Conversion credits under this Chapter.

10 (3) Any party seeking Conversion under this Chapter shall submit a written Conversion
11 application to the Planning Department containing, at minimum, the following information:

12 (i) The name and address of the building in which the conversions are proposed;

13 (ii) The names and addresses of all owners and operators of said building;

14 (iii) A description of the proposed Conversion including the nature of the Conversion,
15 the total number of Large Tourist Hotel Rooms prior to and following Conversion, a description
16 of the area and/or rooms to be Converted, including floor number and location, and the
17 estimated total number of Condominium Units to be created;

18 (iv) Preliminary drawings showing the existing floor plans and proposed floor plans;

19 (v) A description of the improvements or changes proposed to be constructed or
20 installed and the tentative schedule for start of construction;

21 (vi) Information specifying any changes to the subject building or buildings' inventory of
22 rooms in the 5 years preceding the date of application for Conversion;

23 (vii) The average rental rates of the rooms to be converted, calculated over the
24 calendar year preceding the year of application for Conversion;

25

1 (viii) Applicants for the lottery must provide information demonstrating that the
2 Conversion will not reduce the supply of Large Tourist Hotel Rooms to levels below the
3 Baseline Inventory.

4 (ix) Applicants for Ancillary Hotel Area Conversion must provide information
5 demonstrating that the proposed Conversion will not result in loss of Large Tourist Hotel
6 Rooms in the subject Large Tourist Hotel, including specifying any proposed changes to the
7 subject buildings' inventory of rooms planned in the 5 years following the date of application
8 for Conversion.

9 (x) Applicants for Conversion must pay the Planning Department a processing fee set
10 by the Planning Director at a full cost recovery level.

11 (xi) As a condition of approval, an applicant must provide annual updates to the
12 Planning Department on the status of the approved Conversions until such time as the
13 Conversions are complete or the Conversion credits have been revoked or have expired.

14 (4) The Zoning Administrator shall make a recommendation regarding the approval,
15 denial, or approval with conditions of the Conversion application to the Planning Commission,
16 based upon whether the proposed Conversion meets Planning Code requirements including,
17 but not limited to, this Chapter. The Planning Commission shall approve the Conversion, deny
18 it, or approve it with conditions. Any member of the public wishing to appeal the decision of
19 the Planning Commission must appeal the decision to the Board of Supervisors pursuant to
20 the appeals process set forth in Section 308 of the Planning Code.

21 (g) Inventory Procedure.

22 (1) Adoption of Inventory. The Planning Commission shall adopt a Baseline Inventory
23 and subsequent Annual Inventories of the number of Large Tourist Hotel Rooms in the City as
24 of March 1 of each year. The Planning Department shall provide the public with an opportunity
25

1 for meaningful review and comment on Baseline and Annual Inventories, including a public
2 hearing no later than March 15th of each year.

3 (2) Calculating Additions to the Annual Inventory. Large Tourist Hotel Rooms created
4 by new Large Tourist Hotel construction and/or expansion shall be counted as part of the
5 Annual Inventory year in which the City issues final certificates of occupancy.

6 (3) Calculating Losses from the Annual Inventory.

7 (i) Losses of Large Tourist Hotel Rooms shall count in the inventory year in which the
8 rooms cease to be commercially available for rent.

9 (ii) In conducting its Annual Inventory, the Planning Department will distinguish how
10 many Large Tourist Hotel Rooms were lost due to authorized Conversions, and how many
11 were lost for other reasons.

12 (4) Calculating the number of Conversion credits available for the annual lottery. The
13 number of Conversion credits available for each year's lottery shall equal the number of
14 additions as calculated in subsection (2) above, less the number of rooms lost due to reasons
15 other than authorized Conversions, as calculated in subsection (3) above.

16 Section 4. This section is uncodified.

17 In enacting this Ordinance, the Board intends to amend only those words, phrases,
18 paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams or any
19 other constituent part of the Planning Code that are explicitly shown in this legislation as
20 additions, deletions, Board amendment additions, and Board amendment deletions in
21 accordance with the "Note" that appears under the official title of the legislation. This
22 Ordinance shall not be construed to effectuate any unintended amendments. Any additions or
23 deletions not explicitly shown as described above, omissions, or other technical and non-
24 substantive differences between this Ordinance and the municipal code that are contained in
25 this legislation are purely accidental and shall not effectuate an amendment to such code.

1 The Board hereby authorizes the City Attorney, in consultation with the Clerk and other
2 affected City departments, to make those necessary adjustments to the published municipal
3 code, including non-substantive changes such as renumbering or re-lettering, to ensure that
4 the published version of the municipal is consistent with the laws that this Board enacts.

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

8 By: _____
9 Andrew W. Garth
Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Large Tourist Hotel Conversion]

Ordinance amending the San Francisco Administrative Code Chapter 41F, Section 41F.3, to extend the deadline for Planning Commission approval of applications for conversion of large tourist hotels to condominium projects, subject to completion of project-specific milestones by November 1, 2010, and making required findings.

Existing Law

San Francisco Administrative Code Chapter 41F, the Large Tourist Hotel Conversion Ordinance, regulates the conversion of Large Tourist Hotel Rooms into Condominium Projects and restricts certain changes to Large Tourist Hotels that would reduce the City's inventory of hotel rooms. Existing law provides for establishment of a project queue for conversion of up to 550 rooms, on a first-come first-served basis, contingent on Planning Commission approval of a conversion no later than November 1, 2010. Under current law, failure to obtain Planning Commission approval by November 1, 2010, results in a expiration of the conversion credits.

Under existing law, the Large Tourist Hotel Conversion Ordinance also provides that the Planning Department shall hold an annual lottery for credits to convert Large Tourist Hotel Rooms, but only if there has been an increase in the Citywide inventory during the year preceding the lottery.

Amendments to Current Law

The proposed legislation would amend Section 41F.3(b) of the Large Tourist Hotel Conversion Ordinance to extend the deadline for use of pre-lottery allocations of credits for projects in the queue that meet specified conditions. In order to qualify for the extended deadline, a project from the pre-lottery conversion queue must meet the following two conditions:

1. The project must have submitted a 41F.3 conversion application to the Planning Department no later than November 1, 2010; and
2. The Planning Commission must have held a public hearing on the Draft Environmental Impact Report for the project no later than November 1, 2010.

Under the amended Ordinance, a project meeting the above conditions would not be subject to a fixed deadline for using its allotment of pre-lottery conversion credits. The project's conversion credits, however, would expire if the applicant failed to diligently and in good faith pursue conversion for any 12 consecutive months (Section 41F.3(e)).

1 [Amending Administrative Code Chapter 41F -- Large Tourist Hotel Conversion Ordinance]

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3 **Ordinance amending Administrative Code Ch. 41F, Section 41F.3, to extend the**
4 **deadline for Planning Commission approval of applications for conversion of Large**
5 **Tourist Hotels to Condominium Projects, subject to completion of project-specific**
6 **milestones by November 1, 2010, and making required findings.**

7 NOTE: Additions are *single-underline italics Times New Roman*;
8 deletions are ~~*strike-through italics Times New Roman*~~.
9 Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

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

11 Section 1. Findings.

12 (1) On March 18, 2008, the Board of Supervisors adopted the Large Tourist Hotel
13 Conversion Ordinance.

14 (2) On May 23, 2008, the Zoning Administrator promulgated a Bulletin and Letter of
15 Determination setting forth the process that the Planning Department would follow to
16 determine "complete applications" for pre-lottery Conversion applications under Section
17 41F.3(b) of the Large Tourist Hotel Conversion Ordinance. The Letter of Determination
18 applied the principles set forth in the Bulletin to establish a priority listing of pending projects
19 ("Queue"). The Board of Appeals issued a decision on November 12, 2008, that corrected the
20 Bulletin, Letter of Determination, and Queue to conform with the Zoning Administrator's intent.

21 (3) On January 6, 2009, the Mayor signed legislation into effect that clarified the
22 scope and implementation of the Large Tourist Hotel Conversion Ordinance, including minor
23 edits to the definition of "Convert" and additional guidance regarding the conversion process
24 for Large Tourist Hotels Rooms, and making required findings.

25

1 (4) The Board of Supervisors intends that these amendments apply retroactively to
2 the effective date of the original ordinance, April 24, 2008, except to the extent that such
3 application would abridge vested rights under the law.

4 Section 2. Environmental Findings. The Planning Department has determined that the
5 actions contemplated in this Ordinance are in compliance with the California Environmental
6 Quality Act (California Public Resources Code sections 21000 et seq.). Said determination is
7 on file with the Clerk of the Board of Supervisors in File No. _____ and is
8 incorporated herein by reference.

9 Section 3. The San Francisco Administrative Code is hereby amended by amending
10 Section 41F.3 to read as follows:

11 Sec. 41F.3 - CONVERSIONS RESTRICTED.

12 (a) General Prohibition. It shall be unlawful for any person to Convert any portion of a
13 Large Tourist Hotel except as provided in this Chapter. Notwithstanding Conversion approval
14 under this Chapter, a Conversion project must in addition obtain all applicable City permits
15 and approvals, including any applicable conditional use authorization requirements. This
16 Chapter shall not limit City discretion to deny or approve with conditions a proposed
17 Conversion project.

18 (b) ~~Conversion prior to November 1, 2010~~Pre-Lottery Conversion Credits. Notwithstanding
19 ~~the foregoing restriction, the~~The Planning Commission may approve use of up to 550 total
20 Conversion credits allocated through the pre-lottery Conversion queue, subject to the following
21 project-specific requirements:

22 ~~for a total of up to 550 Large Tourist Hotel Rooms to be Converted if, prior to~~
23 ~~November 1, 2010 :~~ (1) the project seeking Conversion submits a 41F.3 Conversion
24 application to the Planning Department; and (2) the Planning Commission holds a public
25 hearing on the Draft Environmental Impact Report for the project seeking Conversion.

1 (1) The Planning Department allocates a sufficient number of Conversion credits to the
2 applicant to Convert a majority the project. The Planning Commission shall approve
3 applications for such Conversions under this section on a first-come first-served basis. An
4 applicant's place in the Conversion queue for the 550 pre-lottery Conversion credits shall be
5 based upon the date the Planning Department receives a complete subdivision or
6 environmental application, as determined by the Zoning Administrator, and provided the
7 application or subsequent written communication identifies the number of tourist hotel rooms
8 to be Converted;

9 (2) The Planning Commission approves or disapproves the 41F.3 Conversion
10 application no later than November 3, 2012; and

11 (3) If the Planning Commission decision is appealed in accordance with 41F.3(f), the
12 Board of Supervisors approves the Conversion application.

13 (c) Ancillary Hotel Areas. A person may Convert all or any portion of an Ancillary Hotel
14 Area upon a showing that the Conversion shall not result in a reduction in the number of
15 Large Tourist Hotel Rooms in the subject hotel.

16 (d) Conversion Lottery. Beginning in 2010, the Planning Department shall hold an
17 annual lottery for Conversion credits for Large Tourist Hotel Rooms in accordance with the
18 following:

19 (1) The Planning Department shall hold the lottery only if:

20 (i) The Annual Inventory shows a net increase of at least 100 Large Tourist Hotel
21 Rooms over the prior year's inventory, as calculated in Section 41F.3(g) below; and

22 (ii) Conducting a lottery would not result in a reduction in the number of Large Tourist
23 Hotel Rooms below the Baseline Inventory.

24 (2) The number of Conversion credits available in each lottery shall equal the net
25 increase in Large Tourist Hotel Rooms during the previous year's inventory. Large Tourist

1 Hotel Rooms lost through authorized Conversions shall not be considered for purposes of
2 calculating the net increase in Large Tourist Hotel Rooms under this section, as described in
3 Section 41F.3(g), below.

4 (3) In order to participate in the conversion credit lottery, applicants must submit a
5 Section 41F.3(f)(3) application within 15 business days of the formal adoption of the Annual
6 Inventory update. The Planning Department shall issue one lottery ticket per Large Tourist
7 Hotel applicant. Only one application may be submitted per Large Tourist Hotel.

8 (4) The Planning Department shall hold the lottery at a public hearing within 6 weeks of
9 the formal adoption of the Annual Inventory. Winning lottery tickets shall be chosen randomly,
10 one at a time. If not enough credits remain in the pool to satisfy a winning ticket, then the
11 applicant shall receive the number of credits remaining in the pool and be eligible to receive
12 the remainder as the first applicant on the standby list. If a lottery would otherwise be required
13 by the Chapter and the number of available credits exceeds the total number of applicants'
14 requests for Conversion credits in a particular year, then the credits shall be granted and no
15 lottery shall take place.

16 (5) If applicants collectively seek more Conversion credits than are available in the
17 lottery pool, then, after the last winning ticket is drawn, the Planning Department shall draw a
18 reasonable number of alternate tickets for inclusion in a standby list. If, nine months after the
19 lottery, the Planning Department revokes winning credits according to subsection (e)(2),
20 below, the credits shall be reallocated to the standby list, in the order drawn.

21 (e) Large Tourist Hotel Conversion Credits.

22 (1) Conversion is prohibited unless the applicant uses Conversion credits to offset the
23 loss of Large Tourist Hotel Rooms. An award of Conversion credits does not grant the credit-
24 holder a right to development or otherwise limit City discretion to deny or approve with
25 conditions a proposed Conversion project. A credit holder must still obtain all otherwise

1 applicable City permits and approvals, including but not limited to Planning Commission
2 approval of the Conversion pursuant to Section 41F.3(f).

3 (2) Credits are building-specific and non-transferable, except that if the credit holder
4 does not make diligent and good faith efforts within nine months of issuance of the
5 Conversion credit(s), the credits may be revoked and reallocated to the queue, for pre-lottery
6 credits, or the standby list, for lottery credits. If a holder of pre-lottery Conversion queue
7 credits withdraws its application for Conversion in writing to the Planning Department prior to
8 September 7, 2012, the Planning Department may reallocate the abandoned credits to the
9 next applicant in the queue that lacks credits needed to proceed with its application. Credits
10 shall expire if the applicant or standby-list recipient fails to diligently and in good faith pursue
11 Conversion for any 18 consecutive months, as determined by the Zoning Administrator after
12 notice and a public hearing. The Board of Appeals shall hear and determine appeals under
13 this section.

14 (f) Conversion Process.

15 (1) The City may not issue permits related to use of pre-lottery or lottery Conversion
16 credits until and unless the Planning Commission approves a Section 41F.3(f) Conversion
17 application for the proposed Conversion project.

18 (2) The notice and hearing requirements applicable to conditional use authorizations
19 shall apply to Planning Commission's action to approve or deny Conversion applications for
20 use of Conversion credits under this Chapter.

21 (3) Any party seeking Conversion under this Chapter shall submit a written Conversion
22 application to the Planning Department containing, at minimum, the following information:

- 23 (i) The name and address of the building in which the conversions are proposed;
- 24 (ii) The names and addresses of all owners and operators of said building;

1 (iii) A description of the proposed Conversion including the nature of the Conversion,
2 the total number of Large Tourist Hotel Rooms prior to and following Conversion, a description
3 of the area and/or rooms to be Converted, including floor number and location, and the
4 estimated total number of Condominium Units to be created;

5 (iv) Preliminary drawings showing the existing floor plans and proposed floor plans;

6 (v) A description of the improvements or changes proposed to be constructed or
7 installed and the tentative schedule for start of construction;

8 (vi) Information specifying any changes to the subject building or buildings' inventory of
9 rooms in the 5 years preceding the date of application for Conversion;

10 (vii) The average rental rates of the rooms to be converted, calculated over the
11 calendar year preceding the year of application for Conversion;

12 (viii) Applicants for the lottery must provide information demonstrating that the
13 Conversion will not reduce the supply of Large Tourist Hotel Rooms to levels below the
14 Baseline Inventory.

15 (ix) Applicants for Ancillary Hotel Area Conversion must provide information
16 demonstrating that the proposed Conversion will not result in loss of Large Tourist Hotel
17 Rooms in the subject Large Tourist Hotel, including specifying any proposed changes to the
18 subject buildings' inventory of rooms planned in the 5 years following the date of application
19 for Conversion.

20 (x) Applicants for Conversion must pay the Planning Department a processing fee set
21 by the Planning Director at a full cost recovery level.

22 (xi) As a condition of approval, an applicant must provide annual updates to the
23 Planning Department on the status of the approved Conversions until such time as the
24 Conversions are complete or the Conversion credits have been revoked or have expired.
25

1 (4) The Zoning Administrator shall make a recommendation regarding the approval,
2 denial, or approval with conditions of the Conversion application to the Planning Commission,
3 based upon whether the proposed Conversion meets Planning Code requirements including,
4 but not limited to, this Chapter. The Planning Commission shall approve the Conversion, deny
5 it, or approve it with conditions. Any member of the public wishing to appeal the decision of
6 the Planning Commission must appeal the decision to the Board of Supervisors pursuant to
7 the appeals process set forth in Section 308 of the Planning Code.

8 (g) Inventory Procedure.

9 (1) Adoption of Inventory. The Planning Commission shall adopt a Baseline Inventory
10 and subsequent Annual Inventories of the number of Large Tourist Hotel Rooms in the City as
11 of March 1 of each year. The Planning Department shall provide the public with an opportunity
12 for meaningful review and comment on Baseline and Annual Inventories, including a public
13 hearing no later than March 15th of each year.

14 (2) Calculating Additions to the Annual Inventory. Large Tourist Hotel Rooms created
15 by new Large Tourist Hotel construction and/or expansion shall be counted as part of the
16 Annual Inventory year in which the City issues final certificates of occupancy.

17 (3) Calculating Losses from the Annual Inventory.

18 (i) Losses of Large Tourist Hotel Rooms shall count in the inventory year in which the
19 rooms cease to be commercially available for rent.

20 (ii) In conducting its Annual Inventory, the Planning Department will distinguish how
21 many Large Tourist Hotel Rooms were lost due to authorized Conversions, and how many
22 were lost for other reasons.

23 (4) Calculating the number of Conversion credits available for the annual lottery. The
24 number of Conversion credits available for each year's lottery shall equal the number of
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1 additions as calculated in subsection (2) above, less the number of rooms lost due to reasons
2 other than authorized Conversions, as calculated in subsection (3) above.

3 Section 4. This section is uncodified.

4 In enacting this Ordinance, the Board intends to amend only those words, phrases,
5 paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams or any
6 other constituent part of the Planning Code that are explicitly shown in this legislation as
7 additions, deletions, Board amendment additions, and Board amendment deletions in
8 accordance with the "Note" that appears under the official title of the legislation. This
9 Ordinance shall not be construed to effectuate any unintended amendments. Any additions or
10 deletions not explicitly shown as described above, omissions, or other technical and non-
11 substantive differences between this Ordinance and the municipal code that are contained in
12 this legislation are purely accidental and shall not effectuate an amendment to such code.
13 The Board hereby authorizes the City Attorney, in consultation with the Clerk and other
14 affected City departments, to make those necessary adjustments to the published municipal
15 code, including non-substantive changes such as renumbering or re-lettering, to ensure that
16 the published version of the municipal is consistent with the laws that this Board enacts.

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

20 By: _____
21 Andrew W. Garth
22 Deputy City Attorney
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