



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning & Administrative Code Text Change

HEARING DATE: MARCH 6TH, 2014

Project Name: **Addition of Dwelling Units in the Castro**
Case Number: 2013.1674I [Board File No. 13-1063]
Initiated by: Supervisor Weiner / Introduced April 6, 2010
Staff Contact: Kimia Haddadan, Legislative Affairs
Kimia.haddadan@sfgov.org, 415-575-9068
Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation: **Recommend Approval with Modification**

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PLANNING & ADMINISTRATIVE CODE AMENDMENTS

The proposed Ordinance would amend the Planning Code to allow the construction of an additional dwelling unit (ADU) or units within the existing envelope of a residential building or auxiliary structure on the same lot (In-Law Units) on any parcel in the Castro Street Neighborhood Commercial District and within 1,750 feet of the District boundaries, excluding any lot within 500 feet of Assessor Block No. 2623, Lot Nos. 116 through 154. (see Exhibit A for a map of the study area). It would authorize the Zoning Administrator to waive density and other Planning Code requirements in order to create In-Law Unit(s).

The proposed Ordinance would amend the Administrative Code to provide that an In-Law Unit constructed with a waiver of code requirements shall be subject to the provisions of the San Francisco Residential Rent Stabilization and Arbitration Ordinance if the existing building, or any existing dwelling unit, is already subject to the Rent Ordinance.

The Way It Is Now:

California Government Code 65852.2 allows local governments to adopt an Ordinance that allows secondary units¹ in single-family or multifamily residential units. Currently, San Francisco only allows accessory dwelling units dedicated for seniors² in the RH-1(S) district and within zoning districts where density is not limited by square footage these units may be added without limitation as to the resident type. The Castro NCD zoning district and its surrounding area (1,750

¹ The State law defines secondary units as "an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel", which are added to a single family dwelling unit located on a single family or multi-family zoned parcel.

² Section 209.1(m) of the Planning Code

ft buffer) maintains density limits and therefore would not currently allow a “secondary unit” as defined in the State Law.

The Way It Would Be:

The proposed ordinance would allow development of an accessory dwelling unit (ADU) beyond the density limits in the Castro NCD and within a 1,750 ft. buffer around the district, excluding any lot within 500 feet of Assessor Block No. 2623, Lot Nos. 116 through 154 (See Exhibit A for a map of the project area). The following restriction would apply:

- ADU units can only be built within the existing building envelope.
- The new units would be exempt from certain provisions of the Planning Code such as rear yard, open space, parking, and partially exposure through an administrative waiver.
- Existing required parking spaces can be removed to provide space to create ADUs.
- For buildings of 10 units or less only one ADU would be allowed whereas for buildings with more than 10 units, two new ADUs would be allowed.
- ADUs cannot exceed 750 sq. ft.
- The new units, if on a lot where the original building is subject to rent control law, will also be subject to the rent control law.

BACKGROUND

San Francisco is experiencing a boom in development with over 6,000 units currently under construction and another 4,700 units permitted to start construction. Over 3,500 new units were added to the City’s housing stock in the last two years, a steep increase from the 270 net new units built in 2011. This recent boom may well surpass the ten year average of 2,245 net units built between 2001 and 2010. Rental prices in San Francisco rose almost 11% over the last year. A recent map published by Trulia indicates that the median asking rents in recent listings varied by neighborhoods ranging up to about \$3,300 per bedroom³. A one-bedroom listed at \$2,500, for example, would be affordable to a two-person household with a combined income of \$104,900 equivalent to 135% of AMI^{4,5}. Low and middle-income households are today more than ever under pressure and have been leaving the city for lower-rental markets in the Bay Area. In his State of the City speech in early January 2014, Mayor Lee acknowledged a housing shortage and established a seven point plan for housing, one of which focuses on building “more affordable housing, faster”. In the midst of this crisis for housing affordable to low or middle income households a variety of housing policies are needed to achieve the City’s housing goals.

³ Trulia, San Francisco Real Estate Overview, Retrieved at http://www.trulia.com/real_estate/San_Francisco-California/ on February 1, 2014

⁴ Area Median Income (AMI) is the dollar amount where half the population earns less and half earns more.

⁵ San Francisco Mayor’s Office of Housing, *Maximum Rent by Unit Type: 2014*, <http://sf-moh.org/modules/showdocument.aspx?documentid=7572>

Accessory Dwelling Units within existing residential buildings have been an idea promoted by the State and employed by many local jurisdictions in California to meet housing needs⁶. The benefits of ADUs have been identified in academic research and published reports for more than two decades. Allowing ADUs within existing residential buildings signifies pragmatic infill strategy to create housing affordable to low and middle income households, without increasing building heights or altering the built form. In 1978, a new zoning district in San Francisco was created to allow secondary units (RH-1(S)), which permitted a two-family dwelling, with the second dwelling limited to 600 square feet of net floor area. This zoning district remained one of the smallest districts with only about 40 parcels. Beyond RH-1(S), ADUs remain prohibited yet prevalent in the existing housing stock built as illegal units. The Asian Law Caucus carried out a report on secondary units in the Excelsior Neighborhood in San Francisco. This report suggests that “secondary units are home to tens of thousands of San Francisco residents”, while acknowledging the uncertainty of this statement due to the hidden nature of the units as illegal units⁷.

Existing ADUs in San Francisco may have been established through many processes; They may have been built prior to existing limits on residential density; or established within existing density limits with variances from some Planning Code requirements; or built without the benefit of permit and may be in excess of density limits.

The proposed Ordinance would allow ADUs in the Castro area in San Francisco, creating an opportunity to supply new types of residential units. ADUs can provide residential units that are affordable to low and middle income households who are being poorly served by the current market.

ISSUES AND CONCERNS

Intent of Accessory Dwelling Units

Accessory Dwelling Units are residential units that are subordinate to the other residential units in the same lot, due to their location on the lot, or location of the entrance, low ceiling heights, less light exposure, and so forth. Also known as Secondary Units, In-Law Units, or Granny Flats, ADUs are generally developed using unused spaces within a lot, whether a garage, storage, rear yard, or an attic. Accessory units are generally subordinate to the main dwelling unit or units, based on the type of space they occupy, size, or other physical characteristics. However these units are wholly independent from the primary unit or units, with independent kitchen, bathroom, sleeping facilities, and access to the street; they may share laundry facilities, yards, and other traditional types of common spaces with the primary unit(s).

The California Department of Housing and Community Development identifies multiple

⁶ Examples are Santa Cruz, Berkeley, Los Angeles, San Luis Obispo.

⁷ Asian Law Caucus, *Our Hidden Communities: Secondary unit households in the Excelsior Neighborhood of San Francisco*, March 22, 2013.

potential benefits that ADUs can offer to communities, including: an important source of affordable housing, easing a rental housing deficit, maximizing limited land resources and existing infrastructure, and assisting low and moderate-income homeowners with supplemental income⁸. The primary public intent of allowing new ADUs is therefore to provide opportunities for affordable housing in our existing built-out communities. The benefits for the property owner can include making property ownership more affordable through creating an additional source of income or providing space for a family member or care-taker.

Affordability

California Code Section 65852.2 regulates provisions that jurisdictions would employ to allow new ADUs. This State Law allows local jurisdictions to regulate unit size, parking requirements and fees related to ADUs. The proposed Ordinance controls the size of ADUs with a maximum limit of 750 sq. ft. It also prohibits using habitable space from existing residential units in developing an ADU. Through these constraints, this Ordinance uses an “affordable by design strategy” to seek affordability of the new ADUs.

ADUs by nature are often small to medium sized units located on the ground floor or top floor attic, usually with a lower ceiling height and entrance access from the side of the building. The Center for Community Innovation completed a study of secondary units in the East Bay region. This study found that the existing illegal secondary units stock is affordable to very low and low income households⁹. The focus of this study remains only on “illegal” units as opposed to legally permitted ADUs. The illegal status of these units may contribute to maintaining lower rents for these units. The Asian Law Caucus conducted a survey of existing in-law units in the Excelsior neighborhood in San Francisco and estimated a range of \$1000-\$1,200 for a 2-bedroom apartment. Based on this data the in law units in this neighborhood offer affordable rents compared to the market rate asking rental prices at \$1,200 per bedroom in the same neighborhood reported by the Trulia map¹⁰. It remains unclear how much of such low rents attribute to the illegal status of such units and how much relates to physical and design constraints.

Today, the San Francisco rental market is among the priciest in the nation. Trulia trend reports puts San Francisco rents as the highest in the nation, easily out pricing New York¹¹. The report also finds that San Francisco rents are rising at a pace that is triple that of the national average¹². Within the Castro neighborhood, Trulia reports a median rental rate of about \$2,700 per

⁸ California Department of Housing and Community Development, Memorandum for Planning Directors and Interested Parties, August 6, 2003; http://www.hcd.ca.gov/hpd/hpd_memo_ab1866.pdf retrieved on January 29, 2014.

⁹ “30% of secondary units are affordable to households in the Very Low-Income category (30% to just under 50% of AMI), and that 49% lie within the Low-Income category (50% to just under 80% of AMI).” Karen Chapple, Jake Wegmann, Alison Nemirow, Colin Dentel-Post; *Yes to My Back Yard, Mobilizing the Market for Secondary Units*; Center for Community Innovation at the Institute of Urban and Regional Development, June 2012.

¹⁰ Trulia, San Francisco Real Estate Overview, Retrieved at http://www.trulia.com/real_estate/San_Francisco-California/ on February 1, 2014

¹¹ Kolko, Jed; Chief Economist; Trulia trends, January 4th, 2014 Retrieved from <http://trends.truliablog.com/2014/01/price-and-rent-monitors-dec-2013/> on February 26, 2014.

¹² 10.6% year over year change in rents compared to average 3% in the nation.

bedroom¹³. Staff also surveyed rents for units comparable to ADUs within and near the project area¹⁴ on Craigslist. The results reflect Trulia's rates and find an average rent of about \$2,700 per unit for units of average 630 sq. ft. in size (See Exhibit B).

When looking at existing housing affordability, it's important to consider the monthly rental rate in relation to the household's actual income. The Mayor's Office of Housing and Community Development generally identifies a unit affordable if the housing costs do not exceed 30% of a household's annual income. In the current market, studio or one bedroom unit smaller than 750 sq. ft. rented at market rate in the Castro, as suggested by Craigslist comparable listings, would be affordable to a household earning \$108,000 annually which equals a two person household earning at 140% AMI or one person earning 150% of AMI (See Exhibit C).

The proposed Ordinance would create legally permitted ADUs built with some physical constraints similar to the existing illegal units. The concept of affordability by design, as applied to ADUs, anticipates that these physical and design constraints will result in lower rents for ADUs compared to the regular new units currently being built. ADUs resulting from this Ordinance may offer a lower rent rates due to the physical constraints mentioned above, such as: being located on the back or basement of the buildings, or location of the entrance, low ceiling heights, less light exposure, and so forth. Whether these constraints result in prices low enough to create housing affordable to middle to lower income households remains unclear at this point. The City does not maintain any information about the current rental rates for the existing stock of ADUs (which are mostly built without permits).

Application of Rent Control Regulations

San Francisco Residential Rent Stabilization and Arbitration Ordinance¹⁵ (Rent Control Law) regulates the existing housing stock in San Francisco, establishing rent increase constraints for rental units in residential buildings built prior to 1979. The Rent Control Law also protects the tenants residing in these rent-controlled units against evictions; restricting evictions of these tenants to only fourteen specified just causes. This law does not apply to residential units built after 1979 and therefore such units are not subject to rent restrictions or just cause evictions. No new units have been added to Rent Control since the adoption of the 1979 ordinance.

The proposed Ordinance presents a breakthrough opportunity in that it would, if adopted, add new units to Rent Control for the first time since the adoption of the 1979 ordinance. This change

¹³ Trulia, San Francisco Real Estate Overview, Retrieved at http://www.trulia.com/real_estate/San_Francisco-California/ on February 1, 2014.

¹⁴ The survey included listings of 10/13 to 12/13 for Castro/upper Market, Cole Valley, and Mission Dolores neighborhoods. It is important to note that this list does NOT exclusively survey secondary units or illegal units on the market. Since the proposed Ordinance would make these units "legal", staff determined that the rental market would not be identical to existing "illegal" units and would reflect studio and one-bedroom units on the ground floor. Therefore, while the survey excluded listings for units that belong to new developments and luxury buildings, most other studio and one bedroom units less than 750 sq. ft were included in the survey and used in calculation of average rental market for the future ADUs in this area.

¹⁵ Chapter 37 of the Administrative Code

would create the opportunity to increase the approximately 170,000 units currently protected under Rent Control¹⁶.

Using an infill development strategy to provide housing, ADUs rely on unused spaces within already existing buildings. Given that 97%¹⁷ of residential buildings in the project area are subject to the Rent Control law, new ADUs created by the proposed Ordinance, would predominantly be built within buildings subject to this law. Based on the current Rent Control Law, these new units would not be subject to rent control regulations since their construction would occur after 1979. Therefore, the proposed Ordinance would amend the Administrative Code to apply Rent Control to the ADUs that are built within a building that is currently subject to the law. The proposed Ordinance would help to maintain the affordability of these units at a reasonable rate from the initial rent. Applying the Rent Control Law to these ADUs would also prevent significant rent increases and no-cause evictions.

There are two benefits to this amendment to the Administrative Code. First, without this change, there would be complexities in enforcement of the Rent Control law, creating residential buildings where some units are subject to the law while one or two units (ADUs) are not. The proposed change to the Administrative Code would ensure minimum complexity when enforcing the Rent Control Law. Second, the change will apply the annual rent increase limits to these units at a regulated reasonable rate—helping to ensure tenants don't become priced out of their unit during an economic upturn. The rent stabilization strategy of the City's rent control law prevents the City's entire housing stock to rise during economic booms, securing rental prices for the tenants of such units.

The proposed Ordinance also established procedures through which the Rent Control Law can apply to the new ADUs. This procedure includes an agreement between the City and the property owner that would waive to unit from the Costa Hawkins Act, a State law that was enacted to prohibit municipal rent control ordinances which did not allow landlords to raise rents to market level when tenants vacated a unit. Under the Costa Hawkins Act, municipalities could regulate the amount of rent increase while the tenant is occupying the unit, but the landlord would be able to set the initial rent for a new tenant when a unit is vacated. This agreement represents a condition project approval for an ADU, which is also being used when on-site inclusionary rental units are provided within a project.

Density Limits and Other Waivers

The proposed Ordinance allows waivers from density limits in the project area: one unit may be added for buildings including 10 units or less and two unit may be added for buildings with more than 10 units. Waivers from density cannot currently be obtained through any mechanism. This Ordinance would allow this exception when building ADUs. This neighborhood represents a suitable area to test policies supporting additional density. This neighborhood is very well served in terms of amenities such as parks and open spaces, library, and transit access.

¹⁶ San Francisco Rent Board. <http://www.sfrb.org/index.aspx?page=940> Retrieved on 2/1/14.

¹⁷ 1,404 parcels containing 4,982 rental units in the study area; 1,404 (4,859 units) of those were built before 1979.

Historically, when the City allows higher densities on a lot, certain value recapture mechanisms would be introduced to ensure the City and the public in general would also enjoy the additional benefits. Examples are impact fees in Market-Octavia or Eastern Neighborhood Area Plans. The proposed Ordinance aims to introduce more affordable housing, as the public value recapture, to the current unaffordable market of housing in San Francisco.

Quality of Life Regulations

The Building, Fire, Housing, and Planning Codes all regulate quality of life standards in housing units in order to ensure habitability of residential units. While earthquake and fire safety measures along with access to light and air standards represent the minimum life and safety standards, Planning Code requirements regarding open space, exposure, and parking define the quality of life beyond minimum habitation standards. Given the restrictions against expanding the building envelope to create these units, historically ADUs sought variance from some of the Planning Code requirements such as open space, rear yard, exposure, and parking. This Ordinance aims to streamline and incentivize development of ADUs and therefore authorizes the Zoning Administrator (ZA) to waive open space, rear yard, and parking requirements for these units. Since, the buildings with the new units won't increase in size, the visual impacts to adjacent neighbors will be minimal. There the streetscape will remain the same size and scale and there will be no changes to view sheds.

Open Space- The study area falls within a walking distance of major parks and open spaces in the city such as Dolores Park, Duboce Park, Corona Heights, Kites Hill, Eureka Valley Recreation Center, and Buena Vista Park. The existing recreation and open space facilities exceed that of most San Francisco neighborhoods of similar density and can serve the existing community and new residents of the future ADUs and lack of private open space will not diminish the quality of life at these units.

Rear Yard- The proposed Ordinance allows new ADUs to be built within the existing building envelope and therefore the existing rear yard would remain unchanged. In cases, where the existing buildings are already non-conforming to the rear yard requirements, this Ordinance would allow the new units to be exempt from complying with the rear yard requirements as well. The rear yard requirement is intended to preserve midblock open space; therefore, the intent is not compromised by the addition of an ADU in the existing building envelope.

Exposure- Exposure requirements contribute significantly to quality of life as they regulate light and air into residential space. While the Building Code regulates the size of windows, the Planning Code requires such windows to face a "code compliant" rear yard. While minimum quality of life standards demand Building Code compliant windows in all residential units, allowing flexibility in the size of the rear yard to which these units should face would not harm livability and may be critical to ensuring these units are built. The proposed Ordinance allows such rear yard to be 15' by 15'. Through this provision while access to light and air is not compromised, the smaller rear yard to which the windows can face, would help these units to be built in circumstances where "code compliant" rear yard is not in place.

Parking- According to the American Community Survey 2008 to 2012, 54% of commutes to work in the Castro area occur through transit, biking, or walking. This data also indicates that 37% of renting households in the area do not own a car. The study area also falls within a walking

distance of the Castro Muni Subway station, where three different Muni lines stop (K, L, and M), above ground the Muni 24, 33, 35, 37, and F lines provide additional service. This area also hosts about ten car-share locations. As a transit and car-share rich area with a low rate of driving and car ownership, residents of the study area depend less on private cars and support the lifestyle without a car and parking garage.

This Ordinance proposes waivers for parking in two different circumstances. First, it would allow removing an existing required parking space to provide space for an ADU. Second, new ADUs are not required to provide parking. It's important to note that most of the ADUs developed due to this new Ordinance would not require providing off-street parking based on the existing Code, as the existing Code does not trigger a parking space when adding only one unit to a building. The new Ordinance would waive off-street parking requirements when up to two ADUs are added to a building. As mentioned above, staff only estimates a small number of ADUs being developed in parcels with 10 or more units, which indicates the minimal impact of this provision. In a typical new construction project, an average cost of a podium parking spot has been reported nearly \$30,000 per space¹⁸. In the case of new ADUs, while this cost can be lower due to the existing structure, maintaining a parking requirement for these units would still likely render new ADUs as infeasible. Parking waivers outlined in this Ordinance are appropriate as a way to reduce the cost of the new housing and because the study area signifies one of the transit-oriented neighborhoods within San Francisco.

The above-mentioned waivers could help streamline development of ADUs. An administrative waiver, instead of the longer process for a variance, would shorten the time as well as reducing the permit costs. The proposed waivers of open space, exposure, rear yard, and parking would incentivize development of ADUs in an area with a high-quality of life.

Facilitating Efficient Use of Space

Building ADUs support an infill development strategy to accommodate more supply of housing within our existing built-out neighborhoods. Efficient use of underutilized spaces within existing buildings would provide the opportunity for an additional household to live in an existing building. Existing buildings within the already dense project area would rarely include underutilized spaces that exceed 750 sq. ft within the existing building envelope. However, in cases where there is more than 750 sq. ft. of space available, inclusion of that space in the ADU could result in an overall more efficient use of space for housing. For example, when ground floors are converted to ADUS, space over 750 square feet may be unusable for other purposes due to various access constraints. Imposing a cap on the maximum size of ADUs may result in oddly shaped leftover spaces that could otherwise improve the quality of ADUs.

¹⁸ Seifel Consulting Inc, Inclusionary Housing Financial Analysis, December 2012, Report prepared for San Francisco Mayor's Office of Housing, page 15.

Anticipated Development Volume of ADUs

The proposed legislation allows one unit to be added beyond the density limits in buildings of 10 units or less and two units to be added in buildings with more than 10 units. Within the project area, there are 3,117 parcels with residential buildings of 10 units or less and 47 parcels with more than 10 units. These parcels represent the theoretical total number of parcels that could take advantage of the provisions of the ordinance without consideration of physical or economic constraints of the addition of dwelling units. Other than the regulatory framework through which this Ordinance would control development of ADUs, other factors would play into realizing these units. These factors fall under four general categories: ownership, costs, opportunity spaces, and past trends. Figure 1 in Exhibit E illustrates in detail this calculation based on the three major factors explained above (For visual summary of this analysis see Exhibit D).

Ownership structures- When building an ADU, a property owner converts an unused space under his or her ownership to a new unit. Unused spaces that are a common area under multiple ownerships introduce a hurdle in the process of building a new unit, which is reaching a consensus between multiple owners and might possibly prove infeasible due to subdivision restrictions. Both buildings with condominiums and Tenancy in Commons (TIC) occupancies would face such ownership struggle when attempting to build a new ADU. While the city does not maintain a comprehensive database for TICs, information on condominiums exists. Therefore to estimate building ownership structures which are unlikely to develop an ADU, a conservative estimate would be to remove buildings within the project area which have condominium ownership structure. This resulted in the removal of 356 parcels from the theoretical number of effected parcels. While there are likely a number of additional buildings with TIC occupancies, these buildings were not removed from our estimate.

Costs of ADUs- Construction of new units may prove costly to property owners. The type of space being used to create these units determines the construction costs. A soft story space, whether garage or storage space, can cost about \$100,000 (\$100K)¹⁹ to convert to a new unit, while if excavation is necessary the cost could increase up to \$160K. Permit costs can also play a critical role in driving up the cost of an ADU.

Importantly, a two unit building is considered a "Dwelling Unit" under the Department of Building Inspection's Building Code whereas, a three unit building is considered an "Apartment" and is subject to the provisions of the Fire Code requiring sprinklers at all floors. Converting from a two unit building to a three unit building would incur a minimum additional cost of \$60K²⁰ for building upgrades required by the Fire Code alone. This would likely serve as a deterrent for ADUs in two-unit buildings that would only be allowed to add one ADU. Within the project area there are 709 non-condo buildings with two units. Based on the higher costs of building an ADU within these buildings, the Department estimates only 10 percent of these parcels/buildings would take advantage of this provision.

¹⁹ Phone conversation with Pat Buskovitch, Structural Engineer in San Francisco currently working on ADU projects through soft story seismic improvements required by DBI

²⁰ Ibid.

Opportunity Spaces - The proposed Ordinance only allows these units to be built within the existing building envelope, which restrains the space necessary to build an ADU to a few options: including parking garage, storage, attic, soft story, and the like. The city does not maintain any database indicating existence of such spaces in our residential building stock. However, given that parking garages seem the most feasible and likely type of space that could accommodate ADUs, the Department conducted a sample survey of the project area to estimate the number of parcels that have a garage space. The Department conducted a survey of seven blocks (462 parcels and about 15 percent of the project area) within the study area. Blocks were chosen at random, and then refined to include a variety of zoning districts. Parcels were visually surveyed to determine the presence of a garage space that could potentially be converted into an ADU. The survey results were used to estimate the proportion of parcels in the project area that might have garages suitable for conversion to ADUs. Based on this information, the Department estimates that roughly 70 percent of parcels in the study area have convertible garage spaces.

Past Trends- Recent zoning changes in the area allow a comparable assessment of the number of property owners who, when zoning changes allow, may seek building permits to install ADUs. In 2008, through the Market-Octavia and Eastern Neighborhoods community planning processes, parts of the city were rezoned to Residential Transit-oriented districts (RTO). The RTO zoning district removed density limits and parking requirements on residential parcels and therefore allowed existing residential buildings to add new units to their existing building as long as other Planning Code requirements (open space, parking, rear yard, exposure) were followed. These recent rezoning, in fact, facilitates the production of more ADUs than the proposed Ordinance in that there are no requirements that the new units be built in the existing building envelope. Even with these broader zoning changes to the plan areas' RTO parcels, very few have taken advantage of the change to add new units. Since 2008, of the 3,452 RTO parcels, only owners of 13 RTO-zoned parcels with existing buildings on them have chosen to add units. Of those 13 new units, roughly 7 units were additions within the existing building envelope.

In addition, it is interesting to note that within the study area, there are approximately 1,100²¹ single family residential buildings on lots that would allow additional unit(s) within the allowable density requirements²². This trend explains that even absent of the proposed Ordinance these 1,100 lots could have potentially added 1,100 units. However, the property owners were not interested or did not have a desire to build additional units. Zoning requirements and allowances, therefore, only partially drive the building trend while personal interests can play more substantial role.

Based on the factors analyzed above, the Department roughly estimates 1,506 parcels have the physical space available to accommodate ADUs. Of those, 39 parcels have 10+ unit buildings, and could potentially add two ADU (78) while the remaining 1,467 parcels could only each add one ADU. Based on this analysis, a total theoretical maximum potential of 1,545 (1,467 + 78) additional units in the project area. Based on past trends, the Department observed that within RTO zoning districts, in the past five years only about 0.3 percent of parcels actually created

²¹ There are 880 single family buildings in the RH-2, 206 in RH-3, 3 in RM-2 districts, and there are 13 parcels in the RTO district.

ADUs. Given that the proposed Ordinance would provide certain exemptions to help streamline the development of ADUs, for purposes of this analysis the Department conservatively assumes an aggressively higher rate of 25 percent of parcels that would utilize this new provision and build an ADU. Applying this factor to the theoretical maximum potential of 1,545 units, the Department estimates a maximum potential of approximately 390 new ADUs to be built in the study area. This estimate does not consider any limited timeline and represents an approximate number of new ADUs within an unlimited timeframe in the project area.

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 AND BASIS FOR RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. Below is a discussion of each recommendation.

- **Remove the 750 sq. ft. size cap for ADUs-** While 750 square feet represents a reasonable amount of space that might be available within existing buildings, the Department recommends removing the proposed maximum size limit for ADUs. An arbitrary maximum size limit may only result in oddly shaped left over spaces, in cases where there is more than 750 sq. ft. of space available for an ADU, impeding creating an otherwise larger unit that could potentially include two bedrooms. The Department, therefore, recommends removal of any maximum size limits for ADUs in order to allow most efficient use of underutilized spaces.
- **Establish a monitoring system to document the rental rates of ADUs.** The few existing reports and surveys on existing ADUs, either in San Francisco or other Bay Area cities, indicate an affordable rental rate for such units. However, the Department does not find sufficient information to determine whether or not the new ADUs would maintain such affordable rates, especially due to the heated rental market in San Francisco. The intent of allowing ADUs is to create affordable housing through the affordable by design strategy. As described earlier, when additional value is conferred to private parties through zoning changes, it is the City's practice to introduce value recapture mechanisms to ensure the City and the public in general would also enjoy the additional benefits. If allowing such ADUs provide affordable housing, due to their physical design constraints, the value recapture mechanism would be inherent in the provision: the value of density waivers would be recaptured by an increase in stock of affordable housing. If, however, these ADUs would prove unaffordable to the middle or low income households, the City should revisit and modify the regulations in order to capture the public value of density limit and other Planning Code exceptions. Therefore, the Department recommends requiring property owners to disclose the rental rates for

ADUs once they are on the Market. The Department would maintain a master list of ADUs built and permitted in this area and would reach out to the owners and occupants of these units to obtain the rental rates. This information would help the City to evaluate the affordable by design strategy employed in this Ordinance and would inform later policies and decision regarding affordability of ADUs. If these units did not prove affordable to middle or low income households (80%-120% AMI), the City should reevaluate the provisions of this Ordinance.

- **Require a report one year after the effective date of this Ordinance and include reporting in the Housing Inventory afterwards.** In order to effectively evaluate and discuss the types of units being developed as a result of this Ordinance as well as their affordability rates, the Department recommends publishing a report one year after this Ordinance becomes effective. This report would inform the decision makers and the public on the implementation of this Ordinance for potential amendments or expansion to where ADUs can be built.
- **Replace the term "in-law" unit with the term Accessory Dwelling Units and minor edits to the definition-** The proposed Ordinance identifies ADUs as "in-law" units. The existing illegal units on the market are also commonly referred to as "in-law" units. In order to distinguish between these new ADUs and the existing illegal unit, the Department recommends replacing the more neutral term Accessory Dwelling Units. The term ADU is also a common name used for these types of units across different jurisdictions. Furthermore, the Department recommends minor edits to how these units are defined in the legislation in order to ensure that any unit built within the existing building envelope, whether or not a density waiver is necessary, would be defined as ADU and subject to the ADU controls. Below these edits are provided in underline and strikethrough format:

"an ~~In-Law Unit~~ Accessory Dwelling Unit is defined as an additional dwelling unit that (1) is permitted to be constructed within the envelope of an existing building zoned for residential use or within the envelope of an existing auxiliary structure on the same lot and (2) will be constructed with a complete or partial waiver from the Zoning Administrator of the density limits and/or the parking, rear yard, ~~and~~ exposure, or open space standards of this Code pursuant to the Special Provisions in Table 715 and Section 307(l)."

ENVIRONMENTAL REVIEW

The proposed Ordinance is covered under Case No. 2013.1674E, and is exempt from environmental review under the General Rule Exclusion (GRE), pursuant to CEQA Guidelines Section 15061(b)(3). The GRE is attached in Exhibit E.

PUBLIC COMMENT

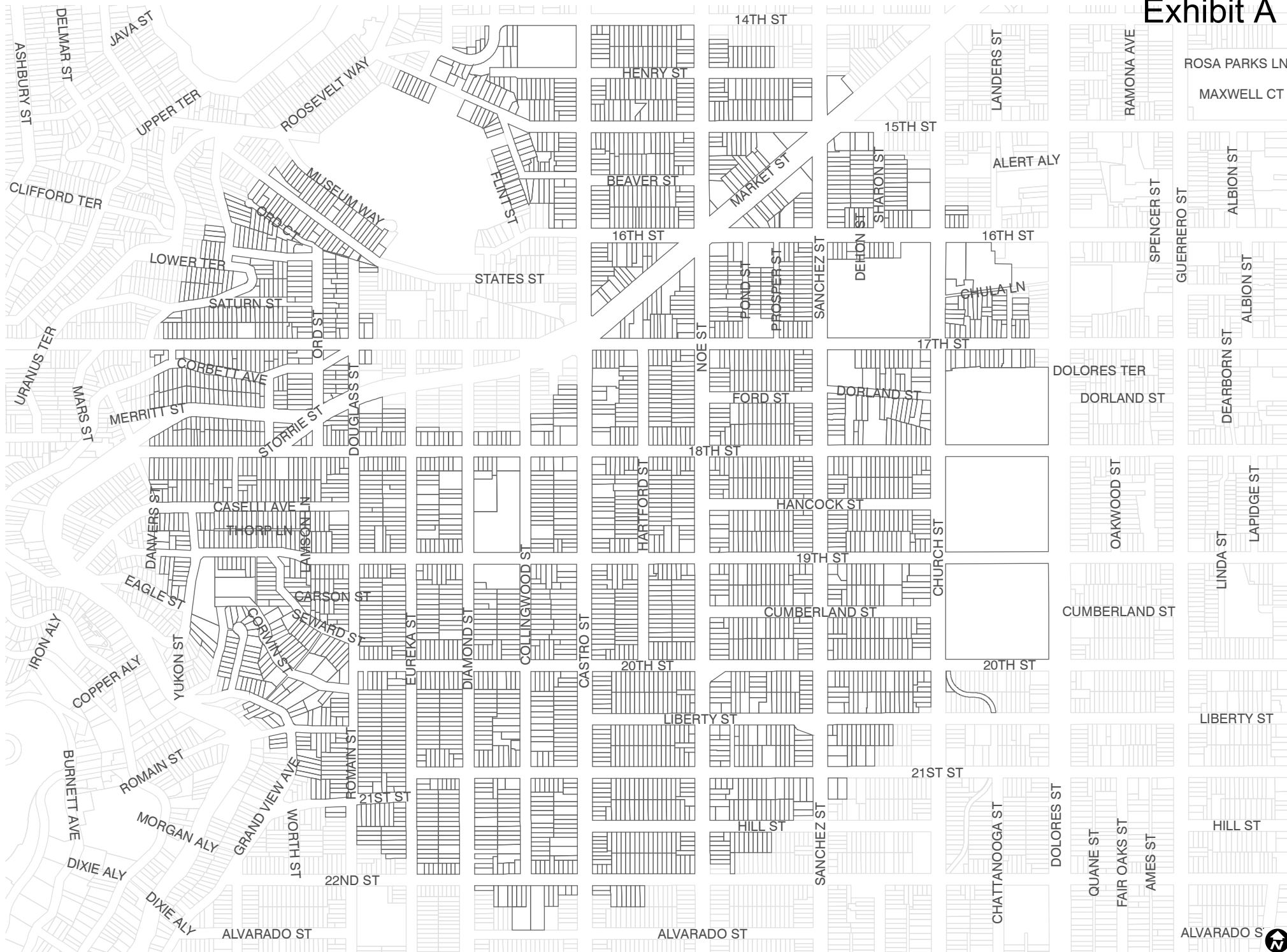
As of the date of this report, the Planning Department has not received any comments about this Ordinance.

RECOMMENDATION: Recommendation of Approval with Modification
--

Attachments:

- Exhibit A: Map of the Study Area affected by the Proposed Ordinance
- Exhibit B: Surveyed Craigslist listings for average rent
- Exhibit C: Mayor's Office of Housing, Maximum Income by Household Size 2014 and
Maximum Monthly Rent by Unit Type 2014
- Exhibit D: Calculation summary for maximum potential volume of ADUs
- Exhibit E: Environmental Review: General Rule Exclusion
- Exhibit F: Draft Planning Commission Resolution
- Exhibit G: Draft Ordinance [Board of Supervisors File No. 10-0434]

Exhibit A



ROSA PARKS LN
MAXWELL CT

ALBION ST
ALBION ST

ALBION ST
ALBION ST

DEARBORN ST
DEARBORN ST

LAPIDGE ST
LAPIDGE ST

LINDA ST
LINDA ST

LIBERTY ST
LIBERTY ST

HILL ST
HILL ST

ALVARADO S

Exhibit B- Craigslist Listings of Studio and One-bedroom Units smaller than 750 Sq. ft. *

pid	neighborhood	title	price	bedrooms	date	sqft	date_scraped	sizecat	Rent per square foot
4232587733	cole valley / ashbury hts	1 bedroom for rent	1995	1	12/19/2013	650	2013_12_20	(1570, 2070]	3.07
4236709625	cole valley / ashbury hts	1br - Lovely Quiet 1BR with Back Patio/Garden	2150	1	12/9/2013	600	2013_12_10	(2070, 2570]	3.58
4242219504	cole valley / ashbury hts	View apartment with patio Available Now	2200	1	12/13/2013	700	2013_12_14	(2070, 2570]	3.14
4194846994	castro / upper market	Are you a quiet person with no tv?	2250	1	11/20/2013	450	2013_11_21	(2070, 2570]	5.00
4229104727	castro / upper market	Seeking quiet, respectful tenant	2250	1	12/4/2013	450	2013_12_05	(2070, 2570]	5.00
4208159942	castro / upper market	Open House: Fantastic Views, 1 Bedroom Apartment in 16 Unit Building	2275	1	11/22/2013	750	2013_11_23	(2070, 2570]	3.03
4228711343	castro / upper market	Open House: Fantastic Views, 1 Bedroom Apartment in 16 Unit Building	2275	1	12/4/2013	750	2013_12_05	(2070, 2570]	3.03
4180616771	cole valley / ashbury hts	Charming Cole Valley 1 bedroom	2290	1	11/8/2013	534	2013_11_09	(2070, 2570]	4.29
4184082252	castro / upper market	Cozy Niche in the Castro	2300	1	11/10/2013	400	2013_11_11	(2070, 2570]	5.75
4171493660	cole valley / ashbury hts	Good-Sized 1BR Apt. near UCSF	2475	1	11/4/2013	700	2013_11_05	(2070, 2570]	3.54
4245530521	castro / upper market	Refreshed, Views, Inclusive	2600	1	12/21/2013	600	2013_12_22	(2570, 3070]	4.33
4182665505	cole valley / ashbury hts	Heart of Cole Valley-New Remodeled 1 Bedroom Apt, Shown by Appointment	2625	1	11/10/2013	650	2013_11_11	(2570, 3070]	4.04
4199590929	castro / upper market	Castro Corner @ 16th St. one bedroom	2750	1	11/18/2013	650	2013_11_19	(2570, 3070]	4.23
4164994345	castro / upper market	Castro Corner @ 16th St. one bedroom	2795	1	11/5/2013	650	2013_11_06	(2570, 3070]	4.30
4233449040	castro / upper market	Castro Corner @ 16th St. one bedroom	2795	1	12/7/2013	700	2013_12_08	(2570, 3070]	3.99
4204870915	castro / upper market	1BR furnished apt, available December 4	2800	1	11/20/2013	490	2013_11_21	(2570, 3070]	5.71
4245530521	castro / upper market	Remodeled Upper Market Views	2800	1	12/15/2013	600	2013_12_16	(2570, 3070]	4.67
4209660973	cole valley / ashbury hts	Victorian 1 BR	2850	1	11/23/2013	700	2013_11_24	(2570, 3070]	4.07
4240090452	castro / upper market	Large upper market apt in small building on Graystone	2850	1	12/13/2013	750	2013_12_14	(2570, 3070]	3.80
4241664942	castro / upper market	Large one bedroom apt in Upper Market, Dogs OK	2850	1	12/17/2013	750	2013_12_18	(2570, 3070]	3.80
4194394852	cole valley / ashbury hts	Nice fully furnished flat 1 block from UCSF	2950	1	11/15/2013	650	2013_11_16	(2570, 3070]	4.54
4245832217	castro / upper market	Newly remodeled 1BR/1BA apartment	3000	1	12/15/2013	500	2013_12_16	(2570, 3070]	6.00
4217705152	cole valley / ashbury hts	Victorian Sunny Deck Yard nr USF/UCSF new kitchen Cole Haight Ashbury	3045	2	11/30/2013	700	2013_12_01	(2570, 3070]	4.35
4177940895	cole valley / ashbury hts	Gorgeous fully furnished view flat near UCSF	3100	1	11/11/2013	600	2013_11_12	(3070, 3570]	5.17
4254077801	castro / upper market	1BR/1BA w/ PARKING & VIEWS - 17th & Roosevelt	3100	1	12/21/2013	700	2013_12_22	(3070, 3570]	4.43
4255350211	castro / upper market	1 Bedroom 1 Bath with Parking	3199	1	12/22/2013	700	2013_12_23	(3070, 3570]	4.57
4225820944	Mission Dolores	**** FABULOUS ONE-BDRM APT nr DOLORES PARK	3495	1	12/4/2013	700	2013_12_05	(3070, 3570]	4.99
4196932055	castro / upper market	Located at the center of where you want to be!	3550	1	11/17/2013	727	2013_11_18	(3070, 3570]	4.88

* The survey included listings of 10/13 to 12/13 for Castro/upper Market, Cole Valley, and Mission Dolores neighborhoods. It is important to note that this list does NOT exclusively survey secondary units or illegal units on the market. Since the proposed Ordinance would make these units "legal", staff determined that the rental market would not be identical to existing "illegal" units and would reflect studio and one-bedroom units on the ground floor. Therefore, while the survey excluded listings for units that belong to new developments and luxury buildings, most other studio and one bedroom units less than 750 sq. ft were included in the survey and used in calculation of average rental market for the future ADUs in this area.

2014
MAXIMUM INCOME BY HOUSEHOLD SIZE
 derived from the
Unadjusted Area Median Income (AMI)
 for HUD Metro Fair Market Rent Area (HMFA) that contains San Francisco

Income Definition	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person	9 Person
20% OF MEDIAN	\$13,600	\$15,550	\$17,500	\$19,400	\$20,950	\$22,550	\$24,100	\$25,650	\$26,400
25% OF MEDIAN	\$17,000	\$19,450	\$21,850	\$24,300	\$26,200	\$28,150	\$30,100	\$32,050	\$33,000
30% OF MEDIAN	\$20,400	\$23,300	\$26,200	\$29,150	\$31,450	\$33,800	\$36,100	\$38,450	\$39,600
40% OF MEDIAN	\$27,200	\$31,100	\$34,950	\$38,850	\$41,950	\$45,050	\$48,150	\$51,250	\$52,800
50% OF MEDIAN	\$34,000	\$38,850	\$43,700	\$48,550	\$52,450	\$56,350	\$60,200	\$64,100	\$66,050
55% OF MEDIAN	\$37,350	\$42,750	\$48,050	\$53,400	\$57,650	\$61,950	\$66,200	\$70,500	\$72,650
60% OF MEDIAN	\$40,750	\$46,600	\$52,450	\$58,250	\$62,900	\$67,600	\$72,250	\$76,900	\$79,250
70% OF MEDIAN	\$47,550	\$54,400	\$61,200	\$67,950	\$73,400	\$78,850	\$84,300	\$89,700	\$92,450
72% OF MEDIAN	\$48,900	\$55,950	\$62,950	\$69,900	\$75,500	\$81,100	\$86,700	\$92,250	\$95,100
75% OF MEDIAN	\$50,950	\$58,300	\$65,550	\$72,850	\$78,650	\$84,500	\$90,300	\$96,100	\$99,050
80% OF MEDIAN	\$54,350	\$62,150	\$69,900	\$77,700	\$83,900	\$90,100	\$96,300	\$102,500	\$105,650
90% OF MEDIAN	\$61,150	\$69,950	\$78,650	\$87,400	\$94,350	\$101,400	\$108,350	\$115,350	\$118,850
100% OF MEDIAN	\$67,950	\$77,700	\$87,400	\$97,100	\$104,850	\$112,650	\$120,400	\$128,150	\$132,050
110% OF MEDIAN	\$74,750	\$85,450	\$96,150	\$106,800	\$115,350	\$123,900	\$132,450	\$140,950	\$145,250
120% OF MEDIAN	\$81,550	\$93,250	\$104,900	\$116,500	\$125,800	\$135,200	\$144,500	\$153,800	\$158,450
135% OF MEDIAN	\$91,750	\$104,900	\$118,000	\$131,100	\$141,550	\$152,100	\$162,550	\$173,000	\$178,250
140% OF MEDIAN	\$95,150	\$108,800	\$122,350	\$135,950	\$146,800	\$157,700	\$168,550	\$179,400	\$184,850
150% OF MEDIAN	\$101,950	\$116,550	\$131,100	\$145,650	\$157,300	\$169,000	\$180,600	\$192,250	\$198,100
200% OF MEDIAN	\$135,900	\$155,400	\$174,800	\$194,200	\$209,700	\$225,300	\$240,800	\$256,300	\$264,100

San Francisco Mayor's Office of Housing and Community Development

Notes:

1. Source: U.S. Dept. of Housing and Urban Development, published December 18, 2013.
2. Figures derived by SF MOH from HUD's 2012 Median Family Income for a 4 person Household for San Francisco ("HMFA"), unadjusted for high housing costs, and are rounded to the nearest \$50.
3. Additional information on HUD's defined income limits can be found at: <http://www.huduser.org/portal/datasets/ii.html>

Effective Date: 1/1/2014

2014

MAXIMUM MONTHLY RENT BY UNIT TYPE

With and Without Utilities - for MOH singlefamily programs
derived from the

Unadjusted Area Median Income (AMI)

for HUD Metro Fair Market Rent Area (HMFA) that contains San Francisco

Published by the San Francisco Mayor's Office of Housing and Community Development

		SRO	STUDIO	1 BDRM	2 BDRM	3 BDRM	4 BDRM	5 BDRM
*As published by the San Francisco Housing Authority on 12/01/2013		\$35	\$35	\$47	\$62	\$83	\$110	\$137
20% OF MEDIAN	With Utilities	\$255	\$340	\$389	\$438	\$485	\$524	\$564
	Without Utilities	\$220	\$305	\$342	\$376	\$402	\$414	\$427
25% OF MEDIAN	With Utilities	\$319	\$425	\$486	\$546	\$608	\$655	\$704
	Without Utilities	\$284	\$390	\$439	\$484	\$525	\$545	\$567
30% OF MEDIAN	With Utilities	\$383	\$510	\$583	\$655	\$729	\$786	\$845
	Without Utilities	\$348	\$475	\$536	\$593	\$646	\$676	\$708
40% OF MEDIAN	With Utilities	\$510	\$680	\$778	\$874	\$971	\$1,049	\$1,126
	Without Utilities	\$475	\$645	\$731	\$812	\$888	\$939	\$989
50% OF MEDIAN	With Utilities	\$638	\$850	\$971	\$1,093	\$1,214	\$1,311	\$1,409
	Without Utilities	\$603	\$815	\$924	\$1,031	\$1,131	\$1,201	\$1,272
55% OF MEDIAN	With Utilities	\$700	\$934	\$1,069	\$1,201	\$1,335	\$1,441	\$1,549
	Without Utilities	\$665	\$899	\$1,022	\$1,139	\$1,252	\$1,331	\$1,412
60% OF MEDIAN	With Utilities	\$764	\$1,019	\$1,165	\$1,311	\$1,456	\$1,573	\$1,690
	Without Utilities	\$729	\$984	\$1,118	\$1,249	\$1,373	\$1,463	\$1,553
70% OF MEDIAN	With Utilities	\$892	\$1,189	\$1,360	\$1,530	\$1,699	\$1,835	\$1,971
	Without Utilities	\$857	\$1,154	\$1,313	\$1,468	\$1,616	\$1,725	\$1,834
72% OF MEDIAN	With Utilities	\$917	\$1,223	\$1,399	\$1,574	\$1,748	\$1,888	\$2,028
	Without Utilities	\$882	\$1,188	\$1,352	\$1,512	\$1,665	\$1,778	\$1,891
75% OF MEDIAN	With Utilities	\$955	\$1,274	\$1,458	\$1,639	\$1,821	\$1,966	\$2,113
	Without Utilities	\$920	\$1,239	\$1,411	\$1,577	\$1,738	\$1,856	\$1,976
80% OF MEDIAN	With Utilities	\$1,019	\$1,359	\$1,554	\$1,748	\$1,943	\$2,098	\$2,253
	Without Utilities	\$984	\$1,324	\$1,507	\$1,686	\$1,860	\$1,988	\$2,116
90% OF MEDIAN	With Utilities	\$1,147	\$1,529	\$1,749	\$1,966	\$2,185	\$2,359	\$2,535
	Without Utilities	\$1,112	\$1,494	\$1,702	\$1,904	\$2,102	\$2,249	\$2,398
100% OF MEDIAN	With Utilities	\$1,274	\$1,699	\$1,943	\$2,185	\$2,428	\$2,621	\$2,816
	Without Utilities	\$1,239	\$1,664	\$1,896	\$2,123	\$2,345	\$2,511	\$2,679
110% OF MEDIAN	With Utilities	\$1,402	\$1,869	\$2,136	\$2,404	\$2,670	\$2,884	\$3,098
	Without Utilities	\$1,367	\$1,834	\$2,089	\$2,342	\$2,587	\$2,774	\$2,961
120% OF MEDIAN	With Utilities	\$1,529	\$2,039	\$2,331	\$2,623	\$2,913	\$3,145	\$3,380
	Without Utilities	\$1,494	\$2,004	\$2,284	\$2,561	\$2,830	\$3,035	\$3,243
135% OF MEDIAN	With Utilities	\$1,720	\$2,294	\$2,623	\$2,950	\$3,278	\$3,539	\$3,803
	Without Utilities	\$1,685	\$2,259	\$2,576	\$2,888	\$3,195	\$3,429	\$3,666
140% OF MEDIAN	With Utilities	\$1,784	\$2,379	\$2,720	\$3,059	\$3,399	\$3,670	\$3,943
	Without Utilities	\$1,749	\$2,344	\$2,673	\$2,997	\$3,316	\$3,560	\$3,806
150% OF MEDIAN	With Utilities	\$1,912	\$2,549	\$2,914	\$3,278	\$3,641	\$3,933	\$4,225
	Without Utilities	\$1,877	\$2,514	\$2,867	\$3,216	\$3,558	\$3,823	\$4,088

	SRO	STUDIO	1 BDRM	2 BDRM	3 BDRM	4 BDRM	5 BDRM
FAIR MRKT:	\$893	\$1,191	\$1,551	\$1,956	\$2,657	\$3,212	\$3,694

Source: HUD, effective 11/06/2013

http://www.huduser.org/portal/datasets/fmr/fmrs/FY2014_code/2014summary.odn

See also SFHA Payment Standards:

Source: SFHA, effective 10/01/2013

	SRO	STUDIO	1 BDRM	2 BDRM	3 BDRM	4 BDRM	5 BDRM
SFHA Payment Standard:	\$893	\$1,191	\$1,473	\$1,858	\$2,524	\$2,891	\$3,324

http://sfha.org/Copy_of_2014_FMR_Payment_Standard_Chart.pdf

	STUDIO	1 BDRM	2 BDRM	3 BDRM	4 BDRM	5 BDRM
LOW HOME RENTS	\$980	\$1,050	\$1,262	\$1,460	\$1,630	\$1,798
HIGH HOME RENTS	\$1,093	\$1,334	\$1,602	\$1,842	\$2,035	\$2,227

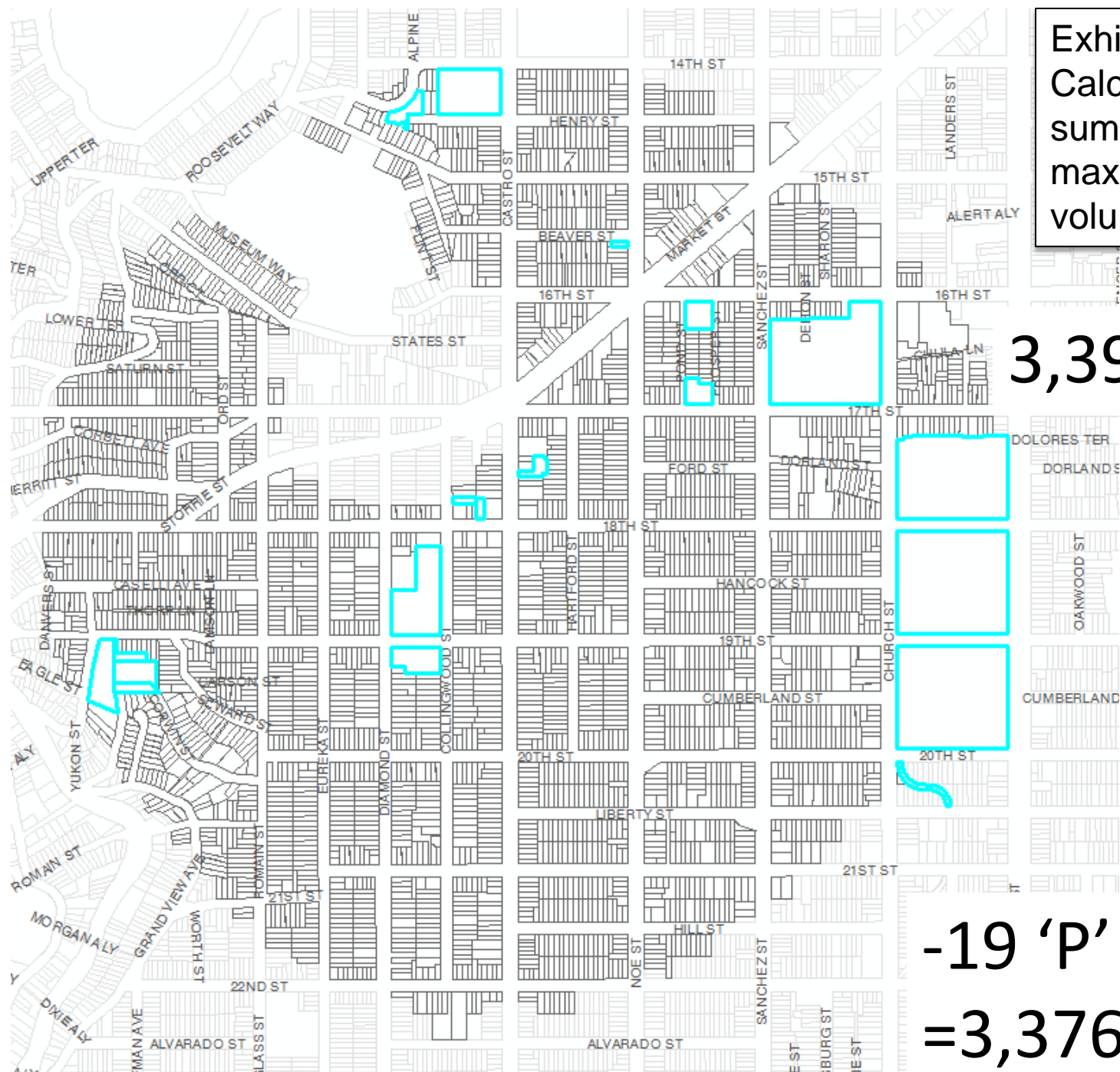
Source: <http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/rent/2013/ca.pdf>

Assumptions/Notes:

1. Rents Calculated at 30% of corresponding monthly income limit amount.
2. Utility allowances were determined by the San Francisco Housing Authority, effective 12/1/2013. For more information, see http://sfha.org/Copy_of_Utility_Allowance_HUD_S8_Form_52667_-_2013_4.pdf and
3. Occupancy Standard is one person per bedroom plus one additional person.
4. For developments created under the San Francisco Inclusionary Housing Program, this data should be used only for projects that received their first site or building permit before September 9, 2006.

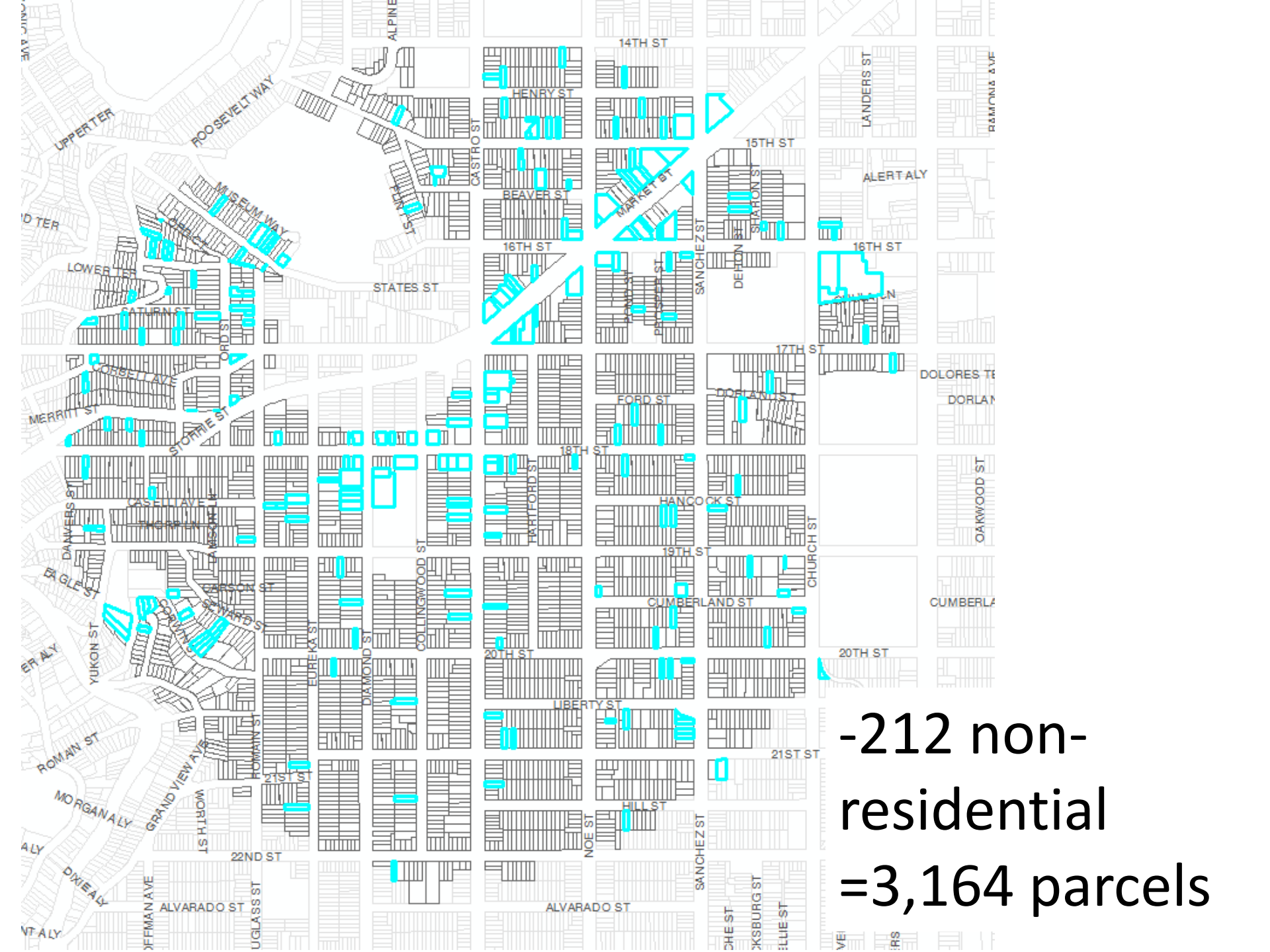
Effective Date: 1/1/2014

Exhibit D-
Calculation
summary for
maximum potential
volume of ADUs

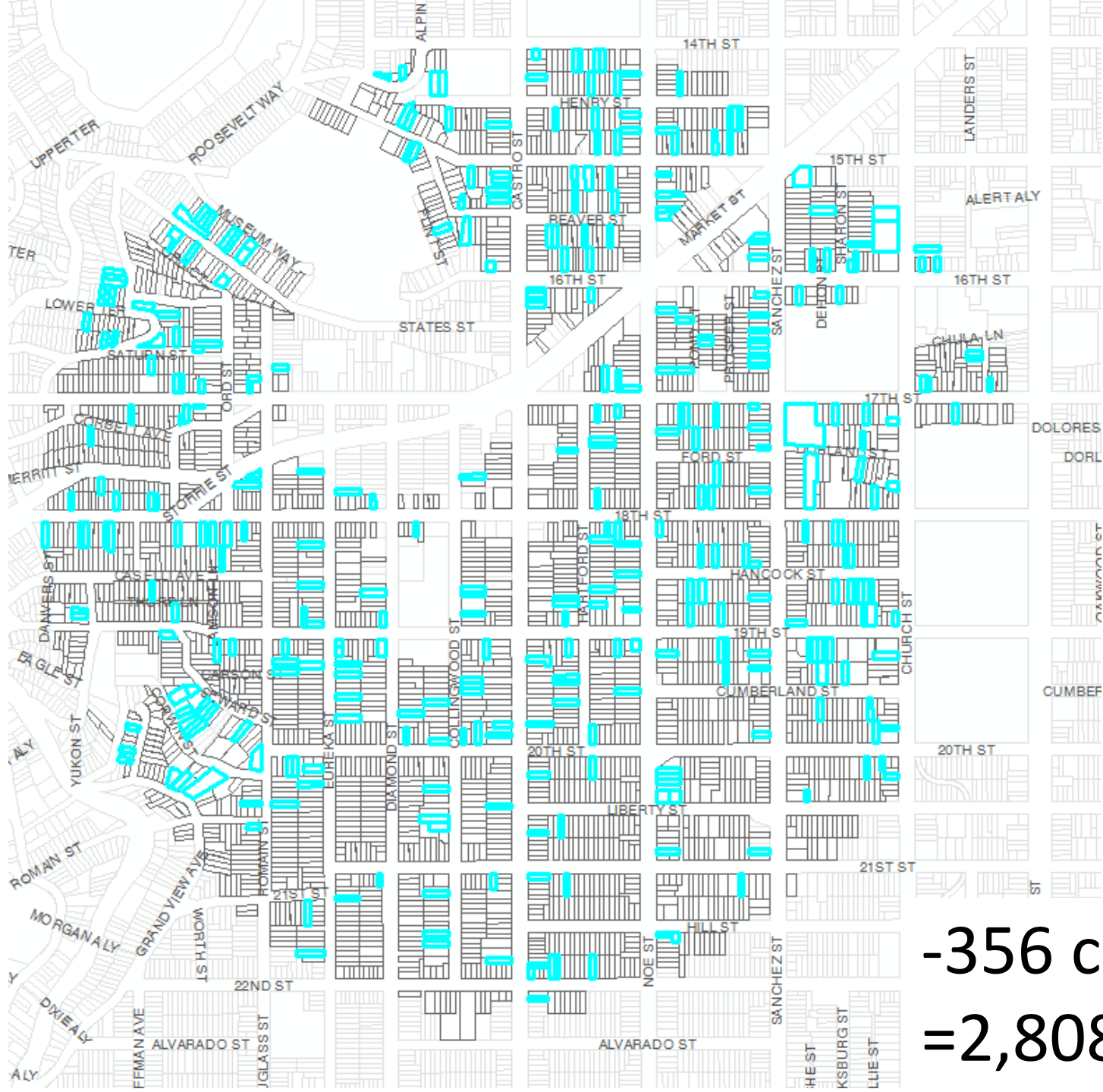


3,395 parcels

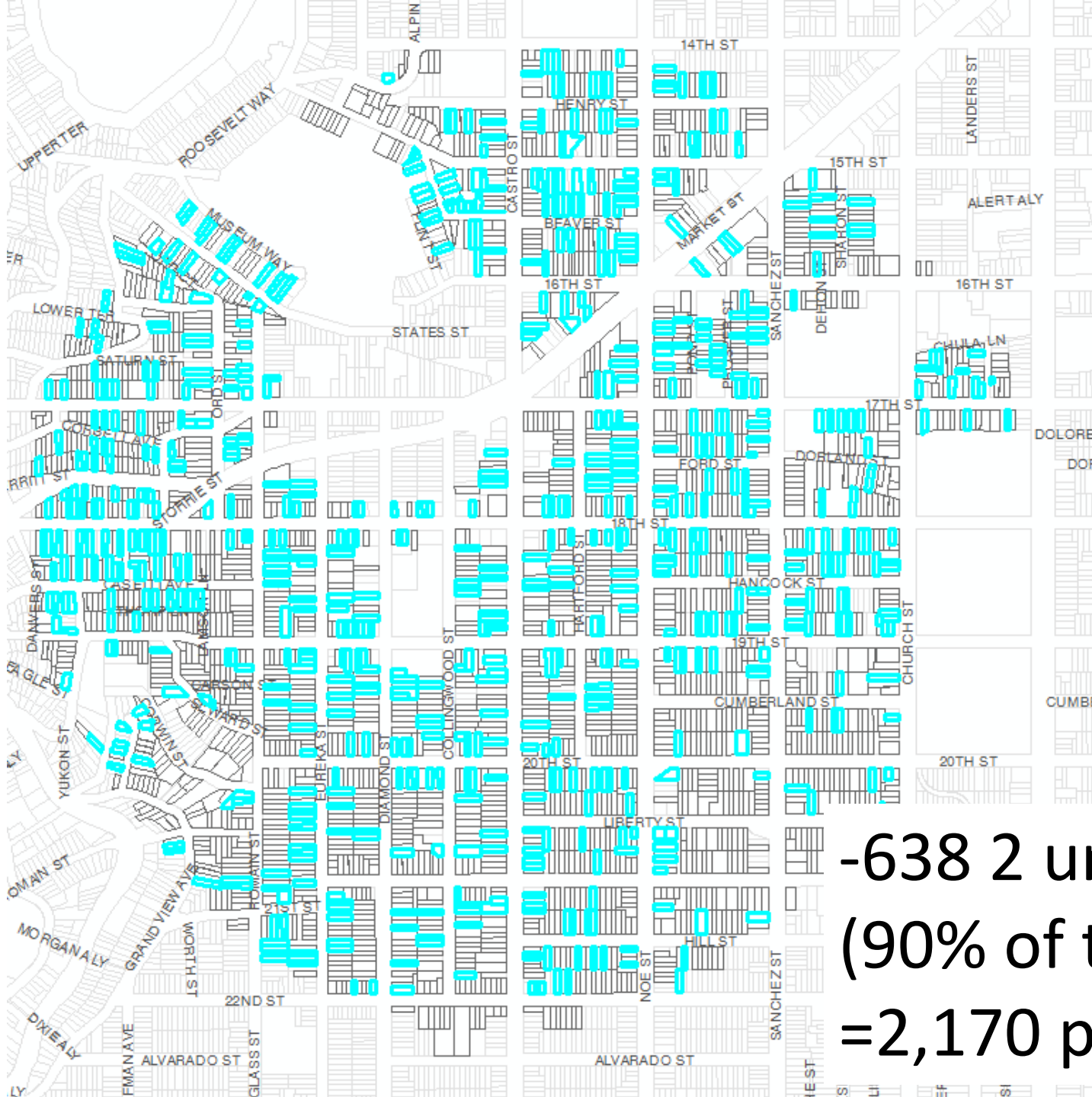
-19 'P' zoned
=3,376 parcels



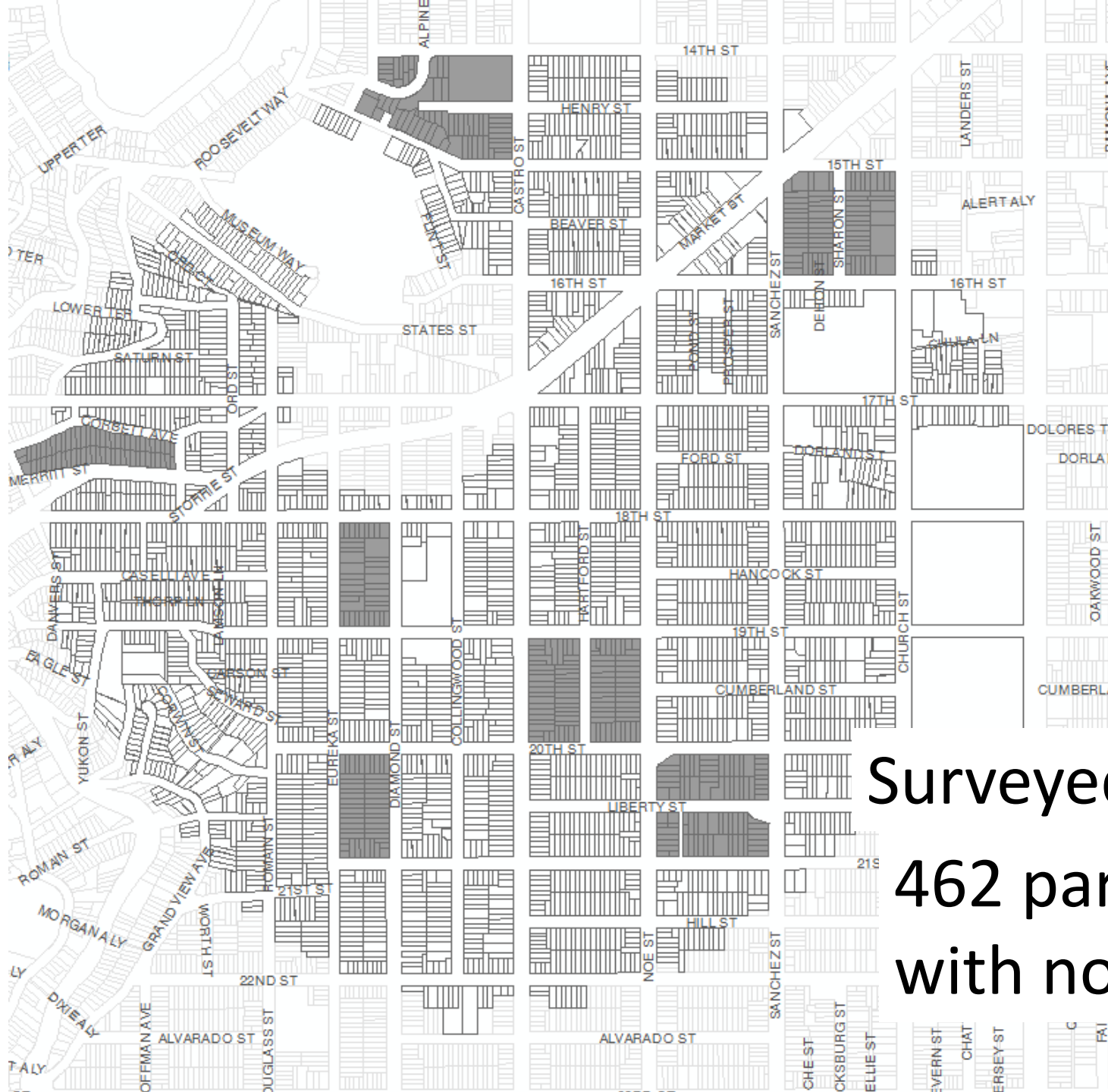
-212 non-residential
=3,164 parcels



-356 condos
=2,808 parcels



-638 2 unit bldgs
(90% of total)
=2,170 parcels



Surveyed Blocks
462 parcels: 123
with no garage

Applying the
survey results to
the study area

2,170 parcels
-664 estimated
w/no garage
=1,506 parcels

1,506 parcels

~39 10+ units

~1,467 <10 units

$$39 * 2 + 1,467 = 1,545$$

$$1,545 * 0.25 = \sim 386$$



SAN FRANCISCO PLANNING DEPARTMENT

Certificate of Determination EXCLUSION/EXEMPTION FROM ENVIRONMENTAL REVIEW

Case No.: 2013.1674E
Project Title: Board of Supervisors File No. 131063; Addition of Dwelling Units in the Castro NCD and Surrounding Area
Zoning: Various
Block/Lot: Various
Project Sponsor: Supervisor Scott Wiener, District 8, San Francisco Board of Supervisors
Staff Contact: Don Lewis – (415) 575-9095
don.lewis@sfgov.org

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION:

The proposed legislation, introduced by Supervisor Wiener on October 29, 2013, would amend Section 715 of the San Francisco Planning Code to allow the construction of an “in-law” unit within the existing envelope of a residential building or auxiliary structure on the same lot on any parcel in the Castro Street Neighborhood Commercial District and within 1,750 feet of the District’s boundaries, excluding any lot within 500 feet of Assessor’s Block 2623, Lots 116 through 154 (project area). “In-law” units, otherwise known as accessory dwelling units (ADUs), secondary units or granny flats (herein, ADUs), are defined by California Government Code 65852.2 as an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons and includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel. The

(Continued on next page.)

EXEMPT STATUS:

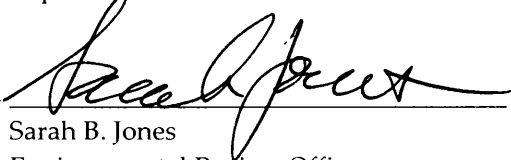
General Rule Exclusion (State CEQA Guidelines, Section 15061(b)(3)).

REMARKS:

Please see next page.

DETERMINATION:

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


 Sarah B. Jones
 Environmental Review Officer

February 25, 2014
 Date

cc: Kimia Haddadan
Supervisor Scott Wiener

Distribution List
Virna Byrd, M.D.F

PROJECT DESCRIPTION (CONTINUED):

proposed legislation would amend the Planning Code to authorize the Zoning Administrator to waive residential density limits and the open space, rear yard, exposure, and parking requirements in the Planning Code in order to create ADUs as specified.

Specifically, the proposed ordinance would allow development of an ADU beyond the density limits within the project area, with the following restrictions:

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

In addition, the proposed legislation includes a restriction on the size of an ADU, limiting them to 750 square feet or less. However, the Planning Department (Department), in their recommendation to the Planning Commission, will recommend changes to the proposed legislation that would remove the 750-square-foot size cap for ADUs. For the purposes of this environmental review, the Department assumes the approval of this modification to the legislation so that it is possible that some ADUs could be larger than 750 square feet. The Department is also recommending the following modifications to the legislation: (1) Establish a monitoring system to document the rental rates of ADUs; (2) Require a report one year after the effective date of this Ordinance and include reporting in the Housing Inventory afterwards; and (3) Replace the term "in-law" unit with the term Accessory Dwelling Unit. These proposed modifications would not result in a physical effect on the environment.

PROJECT APPROVALS:

On March 6, 2014, the Department will present the legislation to the Planning Commission. The Planning Commission will make a recommendation to the Board of Supervisors (Board), and then the legislation would be heard before the Land Use Committee of the Board, followed by a hearing before the full Board. The Board of Supervisors' approval of the proposed legislation would constitute the Approval Action pursuant to Chapter 31 of the Administrative Code.

REMARKS:

Setting

As noted above, the legislation authorizes the creation of ADUs, subject to certain requirements, generally in the Castro Street Neighborhood Commercial District and within 1,750 feet of the District's boundaries. The project area is characterized by low-rise residential and commercial buildings, and includes a diverse range of zoning designations. Zoning designations within the project area include the following: Residential House, One-Family (RH-1); Residential House, One-Family with Minor Second Unit (RH-1(S)); Residential House, Two-Family (RH-2); Residential House, Three-Family (RH-3); Residential, Mixed, Low Density (RM-1); Residential, Mixed, Moderate Density (RM-2); Residential Transit-Oriented (RTO); Neighborhood Commercial Cluster District (NC-1); Castro Neighborhood Commercial District (Castro NCD); Neighborhood Commercial Transit (NCT); and Public Use (Public). All of these zoning designations allow residential uses except for P districts. The project area

encompasses about 370 acres and is characterized as primarily residential with some commercial and mixed uses along neighborhood commercial corridors. The average residential density is approximately 20 units per acre.

There are a total of 3,395 parcels within the project area. Of these parcels, 19 are zoned Public Use and there are an additional 212 parcels that do not currently contain residential units. Therefore the legislation does not apply to 231 parcels within the project area. The remaining 3,164 residential parcels in the project area represent the theoretical maximum number of parcels that could take advantage of the proposed legislation without consideration of physical or economic constraints to the addition of dwelling units. Of these 3,164 parcels, there are 3,117 parcels with residential buildings of ten units or less, and 47 parcels with residential buildings of 11 units or more.

Anticipated Development Volume of ADUs

The proposed legislation could increase the number of residential units within the project area by allowing a one-unit increase for buildings containing ten units or less, or a two unit increase in buildings containing eleven units or more. Any new unit must be constructed within the existing building envelope and cannot be created using space from an existing unit. Due to these and other constraints, the Department anticipates that a limited number of new units are likely to be created as a result of the proposed legislation. To arrive at this conclusion, the Department considered real-world constraints to developing these units that would severely limit ADU creation. These constraints to the creation of new ADUs fall under three general categories: ownership, costs, and opportunity spaces.

Ownership. Residential buildings which are under common ownership, such as condominiums or tenancy in commons (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 with multiple owners introduce a hurdle in the process of building a new unit, namely reaching a consensus between multiple owners. While the City does not maintain a comprehensive database of the number of TICs, there are 356 parcels with condominium units on them. Because parcels with condominium units would not likely develop an ADU for the above reasons, the Department subtracted those 356 parcels from the total number of parcels that could take advantage of the proposed legislation.¹ The removal of all parcels with condominiums would still result in an over-estimate of the number of new units that are likely to be created because it does not take into account TICs, which would face similar constraints as condominiums.

Costs. Construction of new units may prove costly to property owners, further limiting the number of new units created by the proposed legislation. The type of space used to create these units determines the construction costs. A review of building permit applications indicates that a soft-story space, such as garage or storage space, can cost about \$100,000 (\$100K) to convert to a new unit. If excavation is necessary to convert the space to an ADU, the cost of such conversion could increase to up to \$160K.² Permit costs would increase these construction cost estimates.

In some cases, San Francisco Building Code requirements would also increase the cost of conversion. A two-unit building is considered a "Dwelling Unit" under the San Francisco Building Code whereas a three-unit building is considered an "Apartment Building" under the Building Code, and is subject to

¹ San Francisco Planning Department, Executive Summary: Planning and Administrative Code Text Change, Addition of Dwelling Units in the Castro, Kimia Haddadan, Hearing Date March 6, 2014. The document is available for review at 1650 Mission Street, Suite 400 as part of Case No. 2013.1674T.

² Ibid.

provisions of the Fire Code, which requires sprinklers at all floors. Thus, converting from a two-unit building to a three-unit building would incur a minimum additional cost of \$60K for building upgrades required by the Fire Code alone. This additional cost and complication would likely serve as a deterrent for the creation of ADUs in two-unit buildings. Additionally, some of the ADUs would be subject to the Rent Ordinance, which may also be a deterrent to development of an ADU. Within the project area there are 709 non-condominium buildings with two units. Based on the higher costs of building an ADU within these buildings, the Department estimates that only about 10 percent of the buildings on these parcels would likely take advantage of the provisions of the legislation and construct an ADU. The Department therefore reasonably subtracted 638 parcels from the estimate of potential new ADUs.

Opportunity Spaces. ADUs would be built by property owners that would seek an investment and a revenue stream through renting the new unit. The proposed ordinance only allows these units to be built within the existing building envelope, and may not be created using space from an existing residential unit. These factors constrain the space necessary to build an ADU to a few options, including parking garages, storage space, and attics. The City does not maintain any database indicating the existence of such spaces in its residential building stock. However, given that the minimum size of a dwelling unit is 220 square feet³, parking garages appear to be the most feasible and likely type of space that could accommodate ADUs. Therefore, the Department conducted a sample survey of the project area to estimate the number of buildings that have a garage space. The Department surveyed seven blocks (462 parcels) within the project area (or about 15 percent of the project area). Blocks were chosen at random, and then refined to include a variety of zoning districts. Parcels were visually surveyed to determine the presence of a garage space that could potentially be converted into an ADU. The survey results were used to estimate the proportion of parcels (with assumptions refined by zoning district) in the project area that might have garages suitable for conversion to ADUs. Based on this information, the Department estimates that roughly 70 percent of parcels in the study area have garage spaces, and thus 30 percent do not, and likely would not have sufficient space to convert that space to an ADU. This resulted in the subtraction of 664 parcels from the estimate of potential new ADUs.⁴

Past Trends

In 2008, through the Market-Octavia and Eastern Neighborhoods community planning processes, parts of the City were rezoned to RTO. The RTO zoning district removed density limits on residential parcels, and therefore allowed existing residential buildings to add new units to their existing building as long as other Planning Code requirements (open space, parking, rear yard, and exposure) were followed. In total, there are about 3,452 RTO parcels in the City. Since 2008, only 13 RTO-zoned parcels with existing buildings on them have added additional residential units; of those 13, roughly 7 (0.3 percent) were additions within the existing building envelope. Unlike the RTO district, however, the proposed legislation would allow for administrative variances to open space, parking, rear yard, and exposure, which may result in a higher percentage of buildings that would construct a new ADU. On the other

³ International Building Code, Chapter 12, Section 1208.4, Efficiency Dwelling Units shall comply with the following: (1) The unit shall have a living room of not less than 220 square feet of floor area. An additional 100 square feet of floor area shall be provided for each occupant of such unit in excess of two; (2) The unit shall be provided with a separate closet; (3) The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front. Light and ventilation conforming to this code shall be provided; and (4) the unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

⁴ San Francisco Planning Department, Executive Summary: Planning and Administrative Code Text Change, Addition of Dwelling Units in the Castro, Kimia Haddadan, Hearing Date March 6, 2014. The document is available for review at 1650 Mission Street, Suite 400 as part of Case No. 2013.1674T.

hand, the proposed legislation has its own limitations as well, such as restrictions that the new ADU must be created within the existing building envelope, cannot be created by taking space from other dwelling units, and the new unit would be subject to the Rent Ordinance.

Summary

It is speculative to predict with any certainty precisely how many new ADUs would be created from the proposed ordinance. However, based on the general factors discussed above, the Department roughly estimates that only approximately 1,506 of the total number of parcels have the physical space available to accommodate ADUs, are not under common ownership and where the cost of adding an ADU would not be cost prohibitive. Of those 1506 parcels, 39 parcels are expected to have eleven or more unit buildings, and could potentially add two ADUs (78); the remaining 1,467 parcels could only each add one ADU. Based on this analysis, the Department determined that there is a theoretical maximum potential of 1,545 (1,467 plus 78) additional units in the project area.

Based on past trends the Department has observed within RTO zoning districts, in the past five years only about 0.3 percent of parcels actually created ADUs within the existing building envelope. Given that the proposed ordinance would provide certain exemptions to help streamline the development of ADUs not available to buildings in RTO zoning districts, for purposes of this analysis the Department conservatively assumes an aggressively higher rate of 25 percent of parcels that would take advantage of the legislation and build an ADU. This 25 percent estimate is far higher than historical trend would indicate; however, using a very conservative measure allows for a true “worst case” scenario analysis and also captures any unintended variance between the estimates and the actual number of property owners that might add ADUs under the proposed legislation.

Applying this factor to the theoretical maximum potential of 1,545 units, the Department estimates a maximum potential of no more than about 400 new ADUs to be created within the project area.⁵

Figure 1: Anticipated Development Volume of ADUs

Total Number of Parcels in Project Area	3,395
Number of Non-Residential Parcels	-231
Number of Parcels with Condominiums	-356
90% of Parcels with Two-Unit Buildings	-638
Estimate Number of Remaining Parcels with No Garages	-664
Estimate Number of Potential ADU Parcels	1,506
Approximate Number of Remaining 11 Plus Unit Buildings	39
Approximate Number of Remaining 10 or Less Unit Buildings	1,467
Theoretical Maximum Potential of ADUs (39 x 2+ 1,467)	1,545
Estimate Number of Potential ADUs (1,545 x 0.25 = 386)	400

This estimate of 400 potential new ADUs is considered very conservative (i.e. high-end) and likely over-estimates the number of units for the reasons further discussed below. Many sites within the project area are not currently developed to their highest residential density potential. Under the existing Planning Code these sites could be developed further. For example, the owner of a two-unit dwelling located in

⁵ Twenty-five percent of 1,545 units is approximately 390 new ADUs. However, the Department is using 400 for conservative purposes. This number of new ADUs represents the total maximum number the Department anticipates would be ever constructed as a result of this legislation.

an RH-3 zoning district could currently add another unit to the property under the District's allowable density provisions without triggering the restrictions required under the proposed ordinance (e.g., units must be constructed within the existing building envelope, cannot be created by taking space from existing units, and units are subject to the Rent Ordinance). Thus, for sites currently developed below their maximum zoning potential, it is unlikely that the proposed legislation would affect an owner's decision to develop to a greater density.

Additionally, on any given site, site-specific constraints may also result in a project with fewer units than the maximum density allowed by zoning. Factors such as site layout, building design, and other considerations can affect the total number of units actually developed on a given site. The greatest constraint to adding an ADU under the ordinance is the requirement that a new ADU may not expand the dimensions of the building in which the unit is added, and may not be created by removing space from existing dwelling units. Thus, to the extent that a parcel is not already developed to the maximum allowed by density due to these site constraints, the proposed legislation, even with the waivers allowed by the Zoning Administrator, may not remove the pre-existing constraints on adding new dwelling units. Furthermore, housing production under the proposed legislation similarly would be constrained by factors which constrain housing production generally, including the availability of financing, location and ownership of lots, the real estate market, regional housing market, regional economy and job market, labor pool, entitlement permit process, personal preference, and neighborhood opposition.

POTENTIAL ENVIRONMENTAL EFFECTS

California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) establishes the general rule that CEQA applies only to projects that have the potential to cause a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.⁶ The following discusses the potential for the proposed legislation to result in significant environmental effects.

Transportation

In order to approximate potential transportation-related impacts that could result from implementation of the legislation a hypothetical conservative development scenario was determined. The development scenario assumes the addition of 400 new housing units within the project area. The following summarizes the findings of a Transportation Memorandum prepared in support of this determination.⁷

Trip Generation. As shown in the Transportation Memorandum, 400 new residential units would result in approximately 1,202 new automobile trips per day, of which 208 would be during the p.m. peak hour based on the calculation methodology included in the San Francisco Transportation Impact Analysis Guidelines, October 2002 (SF Guidelines).

Of the 208 p.m. peak hour vehicle trips, 84 would be inbound to the project area from the greater downtown area. Given that the additional units that could be created under the ordinance would be distributed throughout the 370-acre project area, it is not possible to predict paths of travel or assign

⁶ CEQA Guidelines section 15282(h) statutorily exempts the adoption of an ordinance to implement the provision of Government Code Section 65852.2, which regulates the adoption of ordinances related to second units in single-family and multi-family residential zones.

⁷ The Transportation Memorandum is available for public review as part of Case No. 2013.1674E at 1650 Mission Street, Suite 400, San Francisco.

trips to the roadway network within or outside the project area. However, the Level of Service (LOS) impact discussion generally considers whether 84 inbound p.m. peak hour trips from the greater downtown area could result in a LOS impact.

The majority of the intersections within the project area are unsignalized, mostly stop-sign controlled. Development under the ordinance would be scattered throughout the project area at a low intensity because the majority of parcels would only be allowed one additional unit, and the remainder only two. For this reason, local unsignalized intersections would not be affected.

Under the City's significance criteria, a proposed project (here the creation of up to 400 new residential units under the ordinance) would have an impact at signalized intersections if it would (a) reduce LOS from LOS D or better to LOS E or LOS F and/or (b) contribute at least 5 percent of the trips to an intersection that is already operating at LOS F. A higher concentration of new vehicle trips could occur at major (signalized) intersections in the area, such as: Market Street/Castro Street and Market Street/Sanchez Street. The Market Street/Castro Street and Market Street/Sanchez Street intersections operate at LOS F and E respectively under existing (2010) conditions⁸ during the p.m. peak hour, and would both drop to LOS F in the cumulative (year 2020) condition.⁹

Development under the legislation would occur gradually, as homeowners are able to finance and implement the necessary improvements. Also, development would be dispersed throughout the project area, since no more than two units could be added to any particular parcel and the parcels that qualify for two units are fairly limited; with the majority of parcels qualifying for only one unit. These improvements would occur over a period of years, and the incremental increase in traffic would fit within the average annual growth accounted for in the traffic model. However, the following analysis conservatively adds all project-generated trips to the existing conditions (2010) and assumes all 84 p.m. peak hour trips pass through the intersections of Market Street/Castro Street and/or Market Street/Sanchez Street.

As described above, the proposed project would have an impact if it would (a) reduce LOS from LOS D or better to LOS E or F and/or (b) contribute at least five percent of the trips to an intersection that is already operating at LOS E or F.

The volume of vehicles at the intersection of Market Street and Castro Street in the p.m. peak hour is 6,228 vehicles;¹⁰ therefore, a five percent contribution would be 311 trips. The volume of vehicles at the intersection of Market Street and Sanchez Street is 2,947 vehicles;¹¹ therefore, a five percent contribution would be 147 vehicles. Conservatively assuming that all 84 p.m. peak hour trips passed through the intersections of Market Street/Castro Street and/or Market Street/Sanchez Street, the traffic generated by the new development under the ordinance would not result in a five percent contribution to an intersection already operating at LOS E or F, or decrease LOS from E to F.

Therefore, the traffic generated by the new development under the ordinance would not result in any foreseeable significant effects on existing traffic conditions at local intersections.

⁸ California Pacific Medical Center Long Range Development Plan Transportation Impact Analysis. June 2010. A copy of the study may be found in the docket for Case No. 2005.0555! at 1650 Mission Street, Suite 400, San Francisco.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

Under cumulative 2020 conditions, a project would have an impact if it would contribute at least five percent of the trips to the intersections of Market Street/Castro Street and/or Market Street/Sanchez Street in the p.m. peak hour. The volume of vehicles at the intersection of Market Street and Castro Street is 4,185 vehicles;¹² the volume of vehicles at the intersection of Market Street and Sanchez Street is 3,053 vehicles.¹³ Conservatively assuming that all 84 p.m. peak hour trips passed through the intersections of Market Street/Castro Street and/or Market Street/Sanchez Street, the traffic generated by new development under the proposed legislation would not result in significant effects on traffic conditions.

Transit. The creation of additional units under the legislation would result in 1,346 daily transit trips, 233 of which would occur during the p.m. peak hour. Of the 233 p.m. peak hour transit trips, 93 would be inbound trips to the project area from the greater downtown area. Transit service within the study area is provided by the San Francisco Municipal Railway (Muni). Existing Muni service includes the following:

- F Market historic streetcar
- KT Ingleside-Third
- L Taraval
- M Ocean View
- 24 Divisadero
- 33 Stanyan
- 35 Eureka
- 37 Corbett

Of the transit lines serving the project area, the F Market, K/T Ingleside/Third and L Taraval were all reported to exceed Muni's 85 percent capacity utilization standard.¹⁴

However, under the Transit Effectiveness Project (TEP) Draft EIR (DEIR),¹⁵ only the F Market (p.m. peak outbound) and K Ingleside (a.m. inbound and p.m. outbound) are reported as exceeding the 85 percent capacity utilization standard. The L Taraval does not show an exceedance. The TEP proposes improvements to these lines (and others in the project area) to reduce capacity utilization to less than 85 percent, with the exception of the F Market & Wharves and the K Ingleside in the a.m. peak hour (inbound) and p.m. peak hour (outbound), which are discussed below.¹⁶

The TEP proposes improvements to the F Market & Wharves and the K Ingleside lines which reduce capacity utilization but not to less than 85 percent in the existing plus project condition. Regardless, impacts to transit are measured on a screenline basis rather than a line by line basis because transit riders have several transit options to choose from and trips tend to be dispersed from more crowded

¹² Ibid.

¹³ Ibid.

¹⁴ 2001 Market Street Transportation Impact Study. November 1, 2010. A copy of the study may be found in the docket for Case No. 2008.0550! at 1650 Mission Street, Suite 400, San Francisco.

¹⁵ Transit Effectiveness Project Draft Environmental Impact Report. July 10, 2013. A copy of the study may be found in the docket for Case No. 2011.0558E

¹⁶ Transit Effectiveness Project Draft Environmental Impact Report. July 10, 2013. A copy of the study may be found in the docket for Case No. 2011.0558E

lines to less crowded lines.¹⁷ No screenline impacts occur under the TEP for lines serving the project area in the existing, existing plus project, or cumulative conditions; therefore the proposed project would not contribute to any existing or future cumulative transit impact.

Also, given that the 93 p.m. peak hour inbound transit trips would be dispersed among at least eight different transit lines, it is not foreseeable that any one particular line would be overly burdened as a result of development under the ordinance.

Pedestrians. Creation of new units under the legislation would result in approximately 198 daily pedestrian trips, 35 of which would occur during the p.m. peak hour. Given that these trips would be dispersed throughout a 370-acre project area, that existing pedestrian facilities have not been identified as deficient, and that pedestrian improvements are on-going both in compliance with the Better Streets Plan and projects such as the Castro Street Streetscape Improvement Project, no pedestrian impacts would occur as a result of development under the proposed legislation.

Bicycles. Creation of new units under the legislation would result in approximately 177 daily and 31 p.m. peak hour 'other' person trips. 'Other' person trips include taxi, motorcycle, worked at home, and other means, including trips made by bicycle. The project area is currently served by both bike lanes and bike routes. The following bicycle routes traverse the study area: Route 40, Route 44, Route 47, Route 49 and Route 50.

Given that bicycle trips would be dispersed throughout a 370-acre project area, and given that the project area is well served by the bicycle routes listed above, no impacts related to bicycle trips would result from development under the legislation.

Loading. The loading demand for one or two residential units is zero loading spaces per day. Residential land uses do not have a high loading demand with key demand being related to deliveries (such as Federal Express, United Parcel Service, etc.) and move-in/move-out operations. Any new units would be dispersed throughout the project area in existing residential neighborhoods where such deliveries and move-in/move-out activities currently occur. The incidental additional loading activities related to units created under the legislation would have no impact.

Construction. Construction-related impacts associated with small residential projects are generally not considered to be significant due to their temporary and limited duration and are assessed on a case-by-case basis.

Due to the requirement that units created under the legislation involve no expansion of the building envelope, the individual units that could be created under the proposed ordinance would largely involve interior construction which can usually be staged within the project site. This would reduce the potential for temporary encroachments into the public right-of-way. Further, the restriction on expanding the building envelope would limit excavation and foundation work to incidental work required around existing utility infrastructure or seismic retrofitting, thereby limiting hauling and/or large truck trips. As a result, creation of units under the legislation would not result in construction-related impacts.

Parking¹⁸. Parking conditions are not static, as parking supply and demand varies from day to day, from day to night, from month to month, etc. Hence, the availability of parking spaces (or lack thereof) is not

¹⁷ Transit Effectiveness Project Draft Environmental Impact Report. July 10, 2013. A copy of the study may be found in the docket for Case No. 2011.0558E

¹⁸ The proposed legislation to change existing zoning is not one of the types of projects specified in Public Resources Code Section

a permanent physical condition, but changes over time as people change their modes and patterns of travel. While parking conditions change over time, a substantial deficit in parking caused by a project that creates hazardous conditions or significant delays to traffic, transit, bicycles or pedestrians could adversely affect the physical environment. Whether a deficit in parking creates such conditions will depend on the magnitude of the shortfall and the ability of drivers to change travel patterns or switch to other travel modes. If a substantial deficit in parking caused by a project creates hazardous conditions or significant delays in travel, such a condition could also result in secondary physical environmental impacts (e.g., air quality or noise impacts caused by congestion), depending on the project and its setting.

The absence of a ready supply of parking spaces, combined with available alternatives to auto travel (e.g., transit service, taxis, bicycles or travel by foot) and a relatively dense pattern of urban development, induces many drivers to seek and find alternative parking facilities, shift to other modes of travel, or change their overall travel habits. Any such resulting shifts to transit service or other modes (walking and biking), would be in keeping with the City's "Transit First" policy and numerous San Francisco General Plan Policies, including those in the Transportation Element. The City's Transit First Policy, established in the City's Charter Article 8A, Section 8A.115, provides that "parking policies for areas well served by public transit shall be designed to encourage travel by public transportation and alternative transportation."

Potential secondary effects from parking deficits, such as cars circling and looking for a parking space in areas of limited parking supply, are typically offset by a reduction in vehicle trips due to others who are aware of constrained parking conditions in a given area, and thus choose to reach their destination by other modes (i.e. walking, biking, transit, taxi). If this occurs, any secondary environmental impacts that may result from a shortfall in parking in the vicinity would be minor as the potential increase in vehicle trips would be dispersed throughout the approximately 370 acre project area.

According to the SF Guidelines, the parking demand for one residential unit is about one parking space for a studio or one-bedroom unit and about 1.5 spaces for a unit that has two or more bedrooms. However, the legislation would allow for administrative variances from off-street parking requirements and many of the units would be constructed in place of existing garages, further reducing the off-street parking supply. The majority of the project area is within SFMTA's Residential Parking Permit Zone 'S'. Residents of the new units would be eligible to apply for an annual Residential Parking Permit. This would allow longer-term/overnight on-street parking (subject to street cleaning restrictions) in most places in the project area with the exception of parking within the Castro Street NCD where short term parking is enforced by parking meters.

There are three off-street paid parking facilities in the project area, and three just outside the project area boundary:

- 4116 18th Street (18th and Collinwood) – 28 spaces
- 457 Castro Street (Castro Theater) – 20 spaces
- 2254 Market Street (Sullivan Funeral Home) – 30 spaces
- 2175 Market Street (Market Street 76 Station) – 12 spaces
- 2144 Market Street (Paradise Parking) – 19 spaces
- 2110 Market Street (Home Restaurant) – 13 spaces

21099(d).

However, these parking facilities are largely associated with businesses and are not likely to provide a longer-term parking solution for area residents. An on-street parking supply and utilization survey was conducted as part of the 2001 Market Street Transportation Impact Study.¹⁹ That survey indicated that free parking in the area was on average about 85 to 90 percent utilized during the weekday midday and evening periods and 90 to 100 utilized during the Saturday midday period. Given these circumstances, parking availability for existing and new residents is likely to be very constrained. However, new demand for parking would be widely dispersed throughout the 370-acre project area, and would be incremental compared with existing demand. Unmet parking demand is not considered an impact unless it creates a hazardous condition, such as vehicles queuing across driveways where potential conflicts with pedestrians could occur. In summary, the proposed legislation would not result in a substantial parking deficit and create hazardous conditions or significant delays affecting traffic, transit, bicycles or pedestrians. Therefore, the increased parking demand associated with the new units created under the ordinance would not be considered significant.

Transportation Conclusion. Under the proposed legislation, the development of up to 400 units within the 370-acre project area provides a conservative (i.e., high-end) estimate of the number of potential new units. Given that the legislation only permits one additional unit for parcels where one to ten units currently exist; and two additional units where 11 or more units currently exist, any development under the ordinance would be widely dispersed throughout the 370-acre project area. As a result, the vehicle, transit, pedestrian, bicycle and other impacts would also be dispersed. Given that the capacity of local signalized intersections is high, the proposed project would not create a volume of trips that could reduce intersection LOS to LOS E or LOS F or contribute significantly to a LOS F condition. Existing transit capacity is adequate on some local lines and over capacity on others. However, planned TEP improvements would reduce capacity utilization on key lines. Further, the transit trips associated with development under the legislation would be dispersed and would not result in a volume of trips that could result in a significant impact or a significant contribution to an existing or future transit impact. Adequate facilities exist to accommodate pedestrian and bicycle trips and incidental loading operations throughout the project area. Off-street parking would be constrained, however, no hazardous condition would result and there would be no impacts due to parking deficits.

Land Use

The proposed legislation would allow ADUs only within existing residential buildings, and thus would not introduce new land uses that could affect existing land use character. With regard to increased density affecting land use character, the potential 400 new units would be distributed throughout the 370-acre project area and would have no significant effects on land use character as the ADUs would be developed within existing residential buildings. Currently, the 370-acre project area has an average density of about 20 units per acre. The addition of 400 units would increase the density by about 1 unit per acre. Implementation of this legislation would not result in construction of new buildings or increases to the height or bulk of existing buildings. Therefore, the proposed ordinance would not disrupt or divide the physical arrangement of an established community, and effects related to land use would not be significant.

¹⁹ 2001 Market Street Transportation Impact Study. November 1, 2010. A copy of the study may be found in the docket for Case No. 2008.0550!

Aesthetics, Wind, and Shadow

New ADUs constructed pursuant to the proposed legislation would not result in construction of new buildings or increases to the building envelope. Thus, there would be no impacts of the proposed ordinance to light, views, wind, or shadows.

Population

ADUs constructed pursuant to the legislation would not result in a significant increase in population or concentration of growth. For the nine census tracts within the project area, the average number of persons per household is 1.84. ADU's created under the legislation would likely average less than 1.84 persons per household, due to the anticipated smaller size of new units. Therefore, it is anticipated that each unit would likely be occupied by no more than two people. Given that the new units would be dispersed throughout the project area, the small increase in population would be undetectable to most people and would not be significant.

Historical Resources

The proposed legislation would permit creation of ADUs within existing residential buildings, some of which may be historical resources. Because the new units would be added to residential buildings without increasing the building envelope, building alterations would be limited to the interior, and thus would not result in a significant adverse effect to historic buildings. The proposed legislation would not result in increased building heights or envelopes and therefore would not have the potential to impact a historical district or affect known historic resources.

Archeological Resources

New ADUs created pursuant to the proposed legislation would not result in construction of new buildings or increase building envelopes. This restriction would limit excavation and foundation work. Minor disturbances that could occur if ground floors are renovated are unlikely to exceed depth and area already disturbed as part of the original building construction. Therefore, there would be no impact to below-grade resources.

Noise

Ambient noise levels in urban areas are usually a by-product of vehicular traffic. Based on published scientific acoustic studies, the traffic volumes in a project area would need to approximately double to produce an increase in ambient noise levels noticeable to most people in the area.²⁰ Given that the projected additional unit creation would be dispersed throughout the project area and would not cause a doubling in traffic volumes, the proposed legislation would not cause a noticeable increase in the ambient noise level in the project area. Construction from the creation of ADUs would temporarily generate noise and possibly vibrations that could be considered an annoyance by occupants of nearby properties. Construction noise is regulated by the San Francisco Noise Ordinance (Article 29 of the Police Code). For these reasons, and due to the temporary and intermittent nature of this impact, construction noise would not be significant. Title 24 of the California Code of Regulations establishes uniform noise insulation standards for residential projects. The Department of Building Inspection (DBI) would review the final building plans for proposed ADUs to ensure that the building wall and

²⁰ http://www.fhwa.dot.gov/environment/noise/regulations_and_guidance/analysis_and_abatement_guidance/polguide01.cfm, accessed on February 4, 2014

floor/ceiling assemblies meet State standards regarding sound transmission. For the above reasons, noise-related impacts of the proposed legislation would not be significant.

Air Quality and Greenhouse Gas Emissions

Implementation of the proposed legislation would potentially result in an incremental increase in construction activities or greater intensity of use at specific project sites. Since the additional residential units would be constructed within existing structures without expanding the building envelope, implementation of the legislation would not require heavy equipment or other machinery that would result in substantial emissions of air pollutants. Land use projects typically result in emissions of criteria air pollutants and toxic air contaminants primarily from an increase in motor vehicle trips. Implementation of the legislation would not result in a substantial increase in vehicle trips that would affect regional or local air quality or generate substantial emissions of greenhouse gases that would conflict with local, regional and state plans for reducing greenhouse gas emissions.

Utilities and Public Services

The proposed legislation allows for the creation of additional residential units in existing residential buildings. Utilities and public services are already provided for in the existing buildings within the project area; therefore utility extensions would not be required. The proposed legislation would incrementally increase demand for, and use of, public services and utilities within the project area, but not in excess of amounts expected and already provided for. The proposed legislation would therefore not result in significant impacts associated with demand for utilities and public services.

Geotechnical Review

The final building plans for any ADU unit would be reviewed by DBI. In reviewing building plans, DBI refers to a variety of information sources to determine existing hazards and assesses requirements for mitigation. DBI would require that additional site-specific soils report(s) be prepared in conjunction with permit applications, as needed. Therefore, potential damage to structures from geologic hazards on sites where ADUs are created would be avoided through the DBI review of building permit applications pursuant to its implementation of the Building Code and the requirement for geotechnical reports under certain circumstances.

Hazardous Materials

Creation of additional units within any residential building with asbestos-containing materials or lead-based paint would require compliance with applicable Federal, state, and local regulations and procedures. These regulations and procedures, already established as a part of the permit review process, would ensure that any potential impacts associated with asbestos or lead-based paint would not be significant.

Public Notice and Comment

A "Notification of Project Receiving Environmental Review" was mailed on January 7, 2014 to potentially interested parties. One individual requested to be retained on the distribution list to receive further environmental review documents.

Conclusion

The proposed legislative amendments would likely facilitate a modest increase in the number of dwelling units within the project area. However, this increase in the number of dwelling units would be

relatively small and new units would be distributed throughout the 370-acre project area. For these reasons, and the reasons cited above, it is determined with certainty that the proposed legislation would result in no significant environmental effects.

CEQA Guidelines Section 15061(b)(3) provides an exemption from environmental review where it can be seen with certainty that the proposed project would not have a significant impact on the environment. As noted above, there are no unusual circumstances surrounding the current proposal that would suggest a reasonable possibility of a significant effect. Since the proposed project would have no significant environmental effects, it is appropriately exempt from environmental review under the General Rule Exclusion (CEQA Guidelines Section 15061(b)(3)).



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution Planning & Administrative Code Text Change

HEARING DATE: MARCH 6TH, 2014

Project Name: **Addition of Dwelling Units in the Castro**
Case Number: 2013.1674T [Board File No. 13-1063]
Initiated by: Supervisor Weiner / Introduced April 6, 2010
Staff Contact: Kimia Haddadan, Legislative Affairs
Kimia.haddadan@sfgov.org, 415-575-9068
Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation: **Recommend Approval with Modifications**

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE WITH MODIFICATIONS AS RECOMMENDED BY THE PLANNING COMMISSION THAT WOULD 1) AMEND PLANNING CODE SECTIONS 715, 715.1, AND 307 TO ALLOW THE CONSTRUCTION OF AN ADDITIONAL DWELLING UNIT (ADU) OR UNITS WITHIN THE EXISTING ENVELOPE OF A RESIDENTIAL BUILDING OR AUXILIARY STRUCTURE ON THE SAME LOT (IN-LAW UNITS) ON ANY PARCEL IN THE CASTRO STREET NEIGHBORHOOD COMMERCIAL DISTRICT AND WITHIN 1,750 FEET OF THE DISTRICT BOUNDARIES, EXCLUDING ANY LOT WITHIN 500 FEET OF ASSESSOR BLOCK NO. 2623, LOT NOS. 116 THROUGH 154. 2) AUTHORIZE THE ZONING ADMINISTRATOR TO WAIVE DENSITY AND OTHER PLANNING CODE REQUIREMENTS IN ORDER TO CREATE AN IN-LAW UNIT(S), AND 3) AMEND THE ADMINISTRATIVE CODE TO PROVIDE THAT AN IN-LAW UNIT CONSTRUCTED WITH A WAIVER OF CODE REQUIREMENTS SHALL BE SUBJECT TO THE PROVISIONS OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE IF THE EXISTING BUILDING, OR ANY EXISTING DWELLING UNIT IS ALREADY SUBJECT TO THE RENT ORDINANCE.

WHEREAS, on October 29, 2013 and later on substituted on February 11, 2014, Supervisors Weiner introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 131063, which would amend Sections 715, 715.1, and 307 of the Planning Code to allow additional units beyond density limits to be permitted in residential zoned lots within the Castro area under certain circumstances;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on March 6, 2014; and,

WHEREAS, the proposed Ordinance has been determined to be exempt from environmental review under the General Rule Exclusion (GRE), pursuant to CEQA Guidelines Section 15061(b)(3); 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 Planning Commission hereby recommends that the Board of Supervisors **approve with modifications** the proposed ordinance. Specifically, the Commission recommends the following modifications:

- **Remove the 750 sq. ft. size cap for ADUs-** While 750 square feet represents a reasonable amount of space that might be available within existing buildings, the Commission recommends removing the proposed maximum size limit for ADUs. An arbitrary maximum size limit may only result in oddly shaped left over spaces, in cases where there is more than 750 sq. ft. of space available for an ADU, impeding creating an otherwise larger unit that could potentially include two bedrooms. The Commission, therefore, recommends removal of any maximum size limits for ADUs in order to allow most efficient use of underutilized spaces.
- **Establish a monitoring system to document the rental rates of ADUs.** The few existing reports and surveys on existing ADUs, either in San Francisco or other Bay Area cities, indicate an affordable rental rate for such units. However, the Commission does not find sufficient information to determine whether or not the new ADUs would maintain such affordable rates, especially due to the heated rental market in San Francisco. The intent of allowing ADUs is to create affordable housing through the affordable by design strategy. The Commission recommends requiring property owners to disclose the rental rates for ADUs once the units are on the market, upon the Planning Department request. The Department would maintain a master list of ADUs built and permitted in this area and would reach out to the owners and occupants of these units to obtain the rental rates. This information would help the City to evaluate the affordable by design strategy employed in this Ordinance and would inform later policies and decision regarding affordability of ADUs.
- **Require a report one year after the effective date of this Ordinance and include reporting in the Housing Inventory afterwards.** In order to effectively evaluate and discuss the types of units being developed as a result of this Ordinance as well as their affordability rates, the Commission recommends publishing a report one year after this Ordinance becomes effective. This report would inform the decision makers and the public on the implementation of this Ordinance for potential amendments or expansion to where ADUs can be built. When additional value is conferred to private parties through zoning changes, it is the City's practice to introduce value recapture mechanisms to ensure the City and the public in general would also enjoy the additional benefits. If allowing such ADUs provide affordable housing, due to their physical design constraints, the value recapture mechanism would be inherent in the provision: the value

of density waivers would be recaptured by an increase in stock of affordable housing. If, however, these ADUs would prove unaffordable to the middle or low income households, the City should revisit and modify the regulations in order to capture the public value of density limit and other Planning Code exceptions. If these units did not prove affordable to middle or low income households (80%-120% AMI), the City should reevaluate the provisions of this Ordinance.

- **Replace the term "in-law" unit with the term Accessory Dwelling Units and minor edits to the definition-** The proposed Ordinance identifies ADUs as "in-law" units. The existing illegal units on the market are also commonly referred to as "in-law" units. In order to distinguish between these new ADUs and the existing illegal unit, the Commission recommends replacing the more neutral term Accessory Dwelling Units. The term ADU is also a common name used for these types of units across different jurisdictions. Furthermore, the Commission recommends minor edits to how these units are defined in the legislation in order to ensure that any unit built within the existing building envelope, whether or not a density waiver is necessary, would be defined as ADU and subject to the ADU controls. Below these edits are provided in underline and strikethrough format:

"an ~~In-Law Unit~~ Accessory Dwelling Unit is defined as an additional dwelling unit that (1) is permitted to be constructed within the envelope of an existing building zoned for residential use or within the envelope of an existing auxiliary structure on the same lot and (2) will be constructed with a complete or partial waiver from the Zoning Administrator of the density limits and/or the parking, rear yard, ~~and~~ exposure, or open space standards of this Code pursuant to the Special Provisions in Table 715 and Section 307(l)."

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. California Code Section 65852.2 regulates provisions that jurisdictions would employ to allow new ADUs. This State Law allows local jurisdictions to regulate unit size, parking requirements and fees related to ADUs. The proposed Ordinance controls the size of ADUs with a maximum limit of 750 sq. ft. It also prohibits using habitable space from existing residential units in developing an ADU. Through these constraints, this Ordinance uses an "affordable by design strategy" to seek affordability of the new ADUs.
2. Today, the San Francisco rental market is among the priciest in the nation. Trulia trend reports puts San Francisco rents as the highest in the nation, easily out pricing New York¹. It also finds that San Francisco rents are rising at a pace that is triple that of the national average². Within the Castro

¹ Kolko, Jed; Chief Economist; Trulia trends, January 4th, 2014 Retrieved from <http://trends.truliablog.com/2014/01/price-and-rent-monitors-dec-2013/> on February 26, 2014.

² 10.6% year over year change in rents compared to average 3% in the nation.

neighborhood, Trulia reports a median rental rate of about \$2,700 per bedroom³. In the current market, a studio or one bedroom unit smaller than 750 sq. ft. rented at market rate in the Castro, as suggested by Trulia and Craigslist comparable listings, would be affordable to a household earning \$108,000 annually which equals to a two person household earning at 140% AMI or one person earning 150% of AMI.

3. The proposed Ordinance would create legally permitted ADUs built with some physical constraints similar to the existing illegal units. The concept of affordability by design, as applied to ADUs, anticipates that these physical and design constraints will result in lower rents for ADUs compared to the regular new units currently being built. ADUs resulting from this Ordinance might offer a lower rent rates due to the physical constraints mentioned above, such as: being located on the back or basement of the buildings, or location of the entrance, low ceiling heights, less light exposure, and so forth. Whether these constraints result in prices low enough to create housing affordable to middle to lower income households remains unclear at this point. The City does not maintain any information about the current rental rates for the existing stock of ADUs (which are mostly built without permits).
4. The proposed Ordinance aims to introduce more affordable housing to the current unaffordable market of housing in San Francisco. If such ADUs provide affordable housing, due to their physical design constraints, the value recapture mechanism would be inherent in the provision: the value of density waivers would be recaptured by an increase in stock of affordable housing. If, however, these ADUs would prove unaffordable to the middle or low income households, the City should revisit and modify the regulations in order to capture the public value of density limit and other Planning Code exceptions.
5. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the Objectives and Policies of the General Plan:

OBJECTIVE 1

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

POLICY 1.5

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

The proposed Ordinance would allow Accessory Dwelling units in the Castro neighborhood, and aims to maintain these units affordable through affordability by design strategies, such as only allowing the new units to be constructed within the existing building envelope. This change in land use controls is not part of a community planning effort led by the Planning Department. However, the Commission listened to the public comment and considered the outreach completed by the Board Member and finds that there is sufficient community support and potential to achieve goals in the public interest of the neighborhood, to warrant the

³ Trulia, San Francisco Real Estate Overview, Retrieved at http://www.trulia.com/real_estate/San_Francisco-California/ on February 1, 2014.

undertaking of this change in this test area; especially with the recommended modification that the level of affordability is monitored and that the ordinance be modified in the future if affordability goals are not achieved.

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.

The proposed Ordinance aims to support housing for middle income households through affordable by design strategies, such as only allowing the new units to be constructed within the existing building envelope.

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

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

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

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

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

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

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing and aims to create affordable units through affordability by design strategies, such as only allowing the new units to be constructed within the existing building envelope. The ordinance would, if adopted, increase the number of rent-controlled units in San Francisco for the first time since the creation of rent control in 1979.

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

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

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

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

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

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

7. That the landmarks and historic buildings be preserved;

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

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

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

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

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

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on March 6, 2014.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED:

1 [Planning and Administrative Codes - Construction of In-Law Units in Existing Residential
2 Buildings or Auxiliary Structures on the Same Lot; Rent Control]

3 **Ordinance amending the Planning Code to allow the construction of an additional**
4 **dwelling unit or units within the existing envelope of a residential building or auxiliary**
5 **structure on the same lot (In-Law Units) on any parcel in the Castro Street**
6 **Neighborhood Commercial District and within 1,750 feet of the District boundaries,**
7 **excluding any lot within 500 feet of Block No. 2623, Lot Nos. 116 through 154; and**
8 **authorizing the Zoning Administrator to waive density and other Planning Code**
9 **requirements in order to create the In-Law Units; amending the Administrative Code, to**
10 **provide that an In-Law Unit constructed with a waiver of Code requirements shall be**
11 **subject to the provisions of the San Francisco Residential Rent Stabilization and**
12 **Arbitration Ordinance if the existing building, or any existing dwelling unit, is already**
13 **subject to the Rent Ordinance; making environmental findings, and findings of**
14 **consistency with the General Plan, and the eight priority policies of Planning Code,**
15 **Section 101.1, and directing the Clerk to send a copy of this Ordinance to the California**
16 **Department of Housing and Community Development, in accordance with State law.**

17
18 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
19 **Additions to Codes** are in *single-underline italics Times New Roman font*.
20 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
21 **Board amendment additions** are in double-underlined Arial font.
22 **Board amendment deletions** are in ~~strikethrough Arial font~~.
23 **Asterisks (* * * *)** indicate the omission of unchanged Code
24 subsections or parts of tables.

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

Section 1. General and Environmental Findings.

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

5 (b) On _____, the Planning Commission, in Resolution No. _____, adopted
6 findings that the actions contemplated in this ordinance are consistent, on balance, with the
7 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
8 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
9 Board of Supervisors in File No. _____, and is incorporated herein by reference.

10 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
11 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth
12 in Planning Commission Resolution No. _____ and the Board incorporates such reasons
13 herein by reference. A copy of Planning Commission Resolution No. _____ is on file with the
14 Board of Supervisors in File No. _____.

15 Section 2. Specific Findings.

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

18 2. Policy 1.5 of the City's 2009 Housing Element states that adding new units in
19 existing residential buildings represents a simple and cost-effective method of expanding the
20 City's housing supply.

21 3. In Section 65852.150 of the California Government Code, the State Legislature
22 finds and declares that second units are a valuable form of housing in California. Permitting
23 the creation of in-law units in existing residential buildings within the Castro Street
24 Neighborhood Commercial District and nearby will provide additional housing without
25 changing the built character of this established, already dense, and transit-rich neighborhood.

1 It also “greens” San Francisco by efficiently using existing buildings and allowing more
2 residents to live within walking distance of transit, shopping, and services.

3 Section 3. The Planning Code is hereby amended by amending Section 715.1 and the
4 Section 715 Zoning Control Table, to read as follows:

5 **SEC. 715.1. CASTRO STREET NEIGHBORHOOD COMMERCIAL DISTRICT.**

6 The Castro Street District is situated in Eureka Valley, close to the geographic center of
7 San Francisco between the Mission District, Twin Peaks, and Upper Market Street. The
8 physical form of the district is a crossing at Castro and 18th Streets, the arms of which contain
9 many small, but intensely active commercial businesses. The multi-purpose commercial
10 district provides both convenience goods to its immediate neighborhood as well as
11 comparison shopping goods and services on a specialized basis to a wider trade area.
12 Commercial businesses are active both in the daytime and late into the evening and include a
13 number of gay-oriented bars and restaurants, as well as several specialty clothing and gift
14 stores. The district also supports a number of offices in converted residential buildings.

15 The Castro Street District controls are designed to maintain existing small-scale
16 development and promote a balanced mix of uses. Building standards permit small-scale
17 buildings and uses and protect rear yards above the ground story and at residential levels. In
18 new buildings, most commercial uses are permitted at the ground and second stories. Special
19 controls are necessary to preserve the existing equilibrium of neighborhood-serving
20 convenience and specialty commercial uses. In order to maintain convenience stores and
21 protect adjacent residential livability, controls authorize some additional eating and drinking
22 establishments with a conditional use, permit self-service specialty food establishments, and
23 permit with certain limitations new late-night uses, adult and other entertainment, and financial
24 service uses. The continuous retail frontage is maintained by prohibiting most automobile and
25 drive-up uses.

Housing development in new buildings is encouraged above the second story. Existing housing units are protected by limitations on demolitions and upper-story conversions.

“In-Law Units,” which are also known as Secondary Units, are allowed in the Castro Street Neighborhood Commercial District and on a lot within 1,750 feet of the District boundaries, excluding any lot within 500 feet of Block 2623, Lots 116 through 154. For purposes of this Section, an In-Law Unit is defined as an additional dwelling unit that (1) is permitted to be constructed within the envelope of an existing building zoned for residential use or within the envelope of an existing auxiliary structure on the same lot and (2) will be constructed with a waiver from the Zoning Administrator of the density limits and/or the parking, rear yard, and open space standards of this Code pursuant to the Special Provisions in Table 715 and Section 307(l).

**SEC. 715. CASTRO STREET NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

			Castro Street
No.	Zoning Category	§ References	Controls
BUILDING STANDARDS			
715.10	Height and Bulk Limit	§§ 102.12, 105, 106, 250-252, 260, 261.1, 263.20, 270, 271	40-X, 65B; additional 5 feet for parcels with active ground floor uses; see Section 263.20. See Zoning Map Height Sculpting on Alleys:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

			§ 261.1
715.11	Lot Size [Per Development]	§§ 121.1, 790.56	P up to 4,999 sq. ft.; C 5,000 sq. ft & above § 121.1
715.12	Rear Yard	§§ 130, 134, 136	Required at the second story and above and at all residential levels § 134(a) (e)
715.13	Street Frontage	§ 145.1	Required
715.14	Awning	§ 790.20	P § 136.1(a)
715.15	Canopy	§ 790.26	P § 136.1(b)
715.16	Marquee	§ 790.58	P § 136.1(c)
715.17	Street Trees		Required § 138.1
COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES			
715.20	Floor Area Ratio	§§ 102.9, 102.11, 123	3.0 to 1 § 124(a) (b)
715.21	Use Size	§§ 121.2, 790.50, 790.130	P to 1,999 sq. ft.;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

	[Non-Residential]		C 2,000 sq. ft. to 3,999 sq. ft.; NP # 4,000 sq. ft. & above
715.22	Off-Street Parking, Commercial/Institutional	§§ 150, 153 - 157, 159 - 160, 204.5	Generally, none required if occupied floor area is less than 5,000 sq. ft. §§ 151, 161(g)
715.23	Off-Street Freight Loading	§§ 150, 153 - 155, 204.5	Generally, none required if gross floor area is less than 10,000 sq. ft. §§ 152, 161(b)
715.24	Outdoor Activity Area	§ 790.70	P if located in front; C if located elsewhere § 145.2(a)
715.25	Drive-Up Facility	§ 790.30	
715.26	Walk-Up Facility	§ 790.140	P if recessed 3 ft.; C if not recessed § 145.2(b)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

715.27	Hours of Operation	§ 790.48			P 6 a.m. - 2 a.m.;	C 2 a.m. - 6 a.m.
715.30	General Advertising Sign	§§ 262, 602 - 604, 608, 609				
715.31	Business Sign	§§ 262, 602 - 604, 608, 609			P #	§ 607.1(f)2
715.32	Other Signs	§§ 262, 602 - 604, 608, 609			P #	§ 607.1(c) (d) (g)
No.	Zoning Category	§ References			Castro Street	
					Controls by Story	
		§ 790.118	1st	2nd	3rd+	
715.36	Residential Conversion	§ 317	P	C		
715.37	Residential Demolition	§ 317	P	C	C	
Retail Sales and Services						
715.40	Other Retail Sales and Services [Not Listed Below]	§ 790.102	P	P		
715.41	Bar	§ 790.22				
715.43	Limited-Restaurant	§ 790.90	P			
715.44	Restaurant	§ 790.91	C			
715.45	Liquor Store	§ 790.55	C			
715.46	Movie Theater	§ 790.64	P			

1	715.47	Adult Entertainment	§ 790.36	C		
2	715.48	Other Entertainment	§ 790.38	C		
3	715.49	Financial Service	§ 790.110	C	C	
4	715.50	Limited Financial Service	§ 790.112	C		
5						
6	715.51	Medical Service	§ 790.114	P	P	C
7	715.52	Personal Service	§ 790.116	P	P	C
8	715.53	Business or Professional Service	§ 790.108	P	P	C
9						
10	715.54	Massage Establishment	§ 790.60, § 1900 Health Code	C #	C #	
11						
12						
13	715.55	Tourist Hotel	§ 790.46	C	C	C
14	715.56	Automobile Parking	§§ 156, 160, 790.8	C	C	C
15						
16	715.57	Automotive Gas Station	§ 790.14			
17	715.58	Automotive Service Station	§ 790.17			
18						
19	715.59	Automotive Repair	§ 790.15			
20	715.60	Automotive Wash	§ 790.18			
21	715.61	Automobile Sale or Rental	§ 790.12			
22						
23	715.62	Animal Hospital	§ 790.6	C		
24						
25						

1	715.63	Ambulance Service	§ 790.2			
2	715.64	Mortuary	§ 790.62			
3	715.65	Trade Shop	§ 790.124	P	C	
4	715.66	Storage	§ 790.117			
5	715.68	Fringe Financial	§ 790.111			
6		Service				
7	715.69	Tobacco	§ 790.123	C		
8		Paraphernalia				
9		Establishments				
10	715.69B	Amusement Game	§ 790.4			
11		Arcade (Mechanical				
12		Amusement Devices)				
13	715.69C	Neighborhood	§ 102.35(a)	P	P	P
14		Agriculture				
15	715.69D	Large-Scale Urban	§ 102.35(b)	C	C	C
16		Agriculture				
17	Institutions and Non-Retail Sales and Services					
18	715.70	Administrative Service	§ 790.106			
19	715.80	Hospital or Medical	§ 790.44			
20		Center				
21	715.81	Other Institutions,	§ 790.50	P	C	C
22		Large				
23	715.82	Other Institutions,	§ 790.51	P	P	P
24		Small				
25						

1	715.83	Public Use	§ 790.80	C	C	C
2	715.84	Medical Cannabis Dispensary	§ 790.141	P		
3	RESIDENTIAL STANDARDS AND USES					
4	715.90	Residential Use	§ 790.88	P	P	P
5	715.91	Residential Density, Dwelling Units	§§ 207, 207.1, 790.88(a)	Generally, 1 unit per 600 sq. ft. lot area § 207.4#		
6	715.92	Residential Density, Group Housing	§§ 207.1, 790.88(b)	Generally, 1 bedroom per 210 sq. ft. lot area § 208		
7	715.93	Usable Open Space [Per Residential Unit]	§§ 135, 136	Generally, either 80 sq. ft. if private, or 100 sq. ft. if common § 135(d)#		
8	715.94	Off-Street Parking, Residential	§§ 150, 153 - 157, 159 - 160, 204.5	Generally, 1 space for each dwelling unit §§ 151, 161(a) (g)#		
9	715.95	Community Residential Parking	§ 790.10	C	C	C

**SPECIFIC PROVISIONS FOR CASTRO STREET
NEIGHBORHOOD COMMERCIAL DISTRICT**

Article 7 Code Section	Other Code Section	Zoning Controls
§ 715.21	§ 121.1	Use Size shall generally not exceed 4,000 square feet except that an Institution, Other Large as defined in Section 790.50 that is operated by a non-profit and is neighborhood-serving may exceed 4,000 sq. ft. by Conditional Use Authorization.
§ 715.31 § 715.32	§ 608.10	<p style="text-align: center;">UPPER MARKET STREET SPECIAL SIGN DISTRICT</p> <p>Boundaries: Applicable only for the portions of the Castro Street NCD as mapped on Sectional Map SSD</p> <p>Controls: Special restrictions and limitations for signs</p>
§ 715.44	§ 790.91	<p style="text-align: center;">CASTRO STREET LIQUOR LICENSES FOR RESTAURANTS</p> <p>Boundaries: Applicable to the Castro Street Neighborhood Commercial District</p> <p>Controls: A Restaurant Use may only add ABC license types 47, 49 or 75 as a conditional use on the ground level if, in addition to the criteria set forth in Section 303, the Planning Commission finds that the restaurant is operating as a Bona Fide Eating Place, as defined in Section 790.142 of this Code. Should a restaurant fail to operate as a Bona Fide Eating Place for any length of time, the conditional use authorization shall be subject to immediate revocation.</p>
.54	§ 790.60, § 1900	<p style="text-align: center;">MESSAGE ESTABLISHMENT</p> <p>Controls: Massage shall generally be subject to Conditional Use authorization. Certain exceptions to the Conditional Use requirement for</p>

1 2 3 4	Health Code	massage are described in Section 790.60(c). When considering an application for a conditional use permit pursuant to this subsection, the Planning Commission shall consider, in addition to the criteria listed in Section 303(c), the additional criteria described in Section 303(o).
5 6 7 8 9 10 11 12	§ 715.68	<p style="text-align: center;">FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT (FFSRUD)</p> <p>Boundaries: The FFSRUD and its 1/4 mile buffer includes, but is not limited to, the Castro Street Neighborhood Commercial District.</p> <p>Controls: Within the FFSRUD and its 1/4 mile buffer, fringe financial services are NP pursuant to Section 249.35. Outside the FFSRUD and its 1/4 mile buffer, fringe financial services are P subject to the restrictions set forth in Subsection 249.35(c)(3).</p>
13 14 15 16 17 18 19 20 21 22 23 24 25	§ 715	<p style="text-align: center;"><u>IN-LAW UNITS</u></p> <p><u>Boundaries:</u> <i>The Castro Street NCD and on a lot within 1,750 feet of the District boundaries, excluding any lot within 500 feet of Block 2623, Lots 116 through 154.</i></p> <p><u>Controls:</u> <i>An “In-Law Unit,” as defined in Section 715, is permitted to be constructed within an existing building zoned for residential use or within an existing and authorized auxiliary structure on the same lot under the following conditions:</i></p> <p style="padding-left: 40px;"><i>(1) An In-Law Unit shall be constructed entirely within the existing building envelope.</i></p> <p style="padding-left: 40px;"><i>(2) For buildings that have no more than 10 existing dwelling units, one In-Law Unit is permitted; for buildings that have more than 10 existing dwelling units, two In-Law Units are permitted.</i></p>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

		<p><u>(3) An In-Law Unit shall not exceed 750 square feet of habitable space.</u></p> <p><u>(4) An In-Law Unit shall not be constructed using space from an existing dwelling unit.</u></p> <p><u>(5) Pursuant to the provisions of Section 307(l) of this Code, an In-Law Unit may receive a waiver of the density limits and/or parking, rear yard, and open space standards of this Code from the Zoning Administrator; provided, however, that if the existing building or any existing dwelling unit within the building is subject to the provisions of the San Francisco Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the San Francisco Administrative Code), the property owner shall submit to the Department (i) a proposed agreement demonstrating that the In-Law Unit(s) are not subject to the Costa Hawkins Rental Housing Act (California Civil Code Section 1954.50) because, under Section 1954.52(b), the owner has entered into this agreement with the City in consideration for a direct financial contribution or any other form of assistance specified in California Government Code Sections 65915 et seq. ("Agreement") and (ii) if the Planning Director determines necessary, an Affidavit containing information about the direct financial contribution or other form of assistance provided to the property owner. The property owner and the Planning Director (or his designee), on behalf of the City, will execute the Agreement, which shall be reviewed and approved by the City Attorney's Office. The Agreement shall be approved prior to the City's issuance of the First Construction Document, as defined in Section 107A.13.1 of the San Francisco Building Code.</u></p>
--	--	---

1 Section 4. The Planning Code is hereby amended by amending Section 307, to read as
2 follows:

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

4 In addition to those specified in Sections 302 through 306, and Sections 316 through
5 316.6 of this Code, the Zoning Administrator shall have the following powers and duties in
6 administration and enforcement of this Code. The duties described in this Section shall be
7 performed under the general supervision of the Director of Planning, who shall be kept
8 informed of the actions of the Zoning Administrator.

9 (a) **Rules, Regulations and Interpretations.** The Zoning Administrator shall,
10 consistent with the expressed standards, purposes and intent of this Code and pursuant to its
11 objectives, issue and adopt such rules, regulations and interpretations as are in the Zoning
12 Administrator's opinion necessary to administer and enforce the provisions of this Code. Such
13 rules and regulations, and any such interpretations that will be of general application in future
14 cases, shall be made a part of the permanent public records of the Planning Department. The
15 Zoning Administrator shall respond to all written requests for determinations regarding the
16 classification of uses and the interpretation and applicability of the provisions of this Code.

17 (b) **Compliance with This Code.** The Zoning Administrator shall have authority to take
18 appropriate actions to secure compliance with this Code, through review of permit
19 applications, surveys and record-keeping, enforcement against violations as described in
20 Section 176, and other means.

21 (c) **Inspection of Premises.** In the performance of any prescribed duties, the Zoning
22 Administrator and employees of the Planning Department authorized to represent the Zoning
23 Administrator shall have the right to enter any building or premises for the purposes of
24 investigation and inspection; provided, that such right of entry shall be exercised only at
25

1 reasonable hours, and that in no case shall entry be made to any building in the absence of
2 the owner or tenant thereof without the written order of a court of competent jurisdiction.

3 (d) **Code Maintenance.** The Zoning Administrator shall periodically review and study
4 the effectiveness and appropriateness of the provisions of this Code, for the purpose of
5 recommending necessary changes to the Director of Planning and the Planning Commission.

6 (e) **Exercise of Powers and Duties by Others.** In cases where absence, incapacity,
7 vacancy of the office, conflict of interest or other sufficient reasons prevent action by the
8 Zoning Administrator, the Director of Planning may designate any officer or employee of the
9 Department to carry out any function of the Zoning Administrator so affected.

10 (f) **Cooperation With Other Departments.** The Zoning Administrator shall furnish to
11 the various departments, officers and employees of the City vested with the duty or authority
12 to issue permits or licenses (including but not limited to the Department of Public Works,
13 Department of Public Health, Police Department and Fire Department) such information as
14 will insure the proper administration of this Code and of all the rules, regulations,
15 interpretations and other determinations of the Planning Department relative thereto. It shall
16 be the duty of said departments, officers and employees to cooperate with the Zoning
17 Administrator in the performance of the Zoning Administrator's duties, and to assist in the
18 enforcement of the provisions of this Code.

19 (g) **Exceptions from Certain Specific Code Standards through Administrative**
20 **Review in the Chinatown Mixed Use Districts and the South of Market Mixed Use**
21 **Districts.** The Zoning Administrator may allow complete or partial relief from parking, rear
22 yard, open space and wind and shadow standards as authorized in the applicable sections of
23 this Code, when modification of the standard would result in a project better fulfilling the
24 criteria set forth in the applicable section. The procedures and fee for such review shall be the
25

1 same as those which are applicable to variances, as set forth in Sections 306.1 through 306.5
2 and 308.2.

3 (h) **Exceptions from Certain Specific Code Standards through Administrative**
4 **Review in the Eastern Neighborhoods Mixed Use Districts.** In the Eastern Neighborhoods
5 Mixed Use Districts, the Zoning Administrator may allow complete or partial relief from certain
6 standards specifically identified below and elsewhere in this Code when modification of the
7 standard would result in a project fulfilling the criteria set forth below and in the applicable
8 section.

9 (1) **Applicability.** For projects not subject to Section 329, relief may be provided
10 for the following requirements: rear yard; non-residential open space; off-street loading
11 requirements; and off-street parking limits up to the maximum quantities described in Section
12 151.1. Relief may also be provided for dwelling unit exposure requirements for buildings which
13 are designated landmark buildings or contributory buildings within designated historic districts
14 per Article 10 of this Code, and/or buildings recorded with the State Historic Preservation
15 Office as eligible for the California Register, when the following criteria are met: (i) literal
16 enforcement of Section 140 would result in the material impairment of the historic resource;
17 and (ii) the project complies with the Secretary of the Interior's Standards, (36 C.F.R. § 67.7
18 (2001)) and/or Section 1006 and any related Article 10 appendices of this Code.

19 (2) **Procedures.** The review of a modification requested under this Section shall
20 be conducted as part of, and incorporated into, a related building permit application or other
21 required project authorizations; no additional fee shall be required. Under no circumstances
22 shall such modification provide relief from any fee, including those related to usable open
23 space pursuant to Sections 135(j) and 135.3(d). The provisions of this Subsection (h) shall not
24 preclude such additional conditions as may be deemed necessary by the Zoning
25 Administrator to further the purposes of this Section or other Sections of this Code.

1 **(i) Criteria for the Reduction or Modification of Off-Street Parking Requirements.**

2 In approving a reduction or modification of off-street requirements authorized by this Code,
3 the Zoning Administrator or the Planning Commission shall consider and apply the following
4 criteria:

5 (1) the reduction in the parking requirement is justified by the reasonably
6 anticipated automobile usage by residents of and visitors to the project; and

7 (2) the reduction in the parking requirement will not be detrimental to the health,
8 safety, convenience, or general welfare of persons residing in or working in the vicinity; and

9 (3) the minimization of conflict of vehicular and pedestrian movements; and

10 (4) the availability of transportation modes other than the automobile; and

11 (5) the pattern of land use and character of development in the vicinity; and

12 (6) such other criteria as the Zoning Administrator deems appropriate in the
13 circumstances of the particular case.

14 **(j) Conversion from Student Housing to Non-Student Residential Use.** If a

15 residential project no longer qualifies as Student Housing as defined in Planning Code Section
16 102.36, the Zoning Administrator may allow the conversion of the Student Housing to any
17 permitted residential use in the zoning district in which the Student Housing is located upon
18 determination that the converted Student Housing has complied with any applicable
19 Inclusionary Affordable Housing Requirements as outlined in Planning Code Section
20 415.3(c)(5)(C)(iii), and that all other Planning Code requirements applicable to that residential
21 use have been met or modified through appropriate procedures.

22 **(k) Waiver or Modification of Required Bicycle Parking.** The Zoning Administrator

23 shall conduct the review of any administrative waiver under Section 307(k) as part of, and
24 incorporate into, a related building permit application or other required project authorization
25 and shall not require an additional fee or application.

1 (1) Waiver or Modification of Class 1 Bicycle Parking Requirements.

2 (A) **Alternative Locations.** The Zoning Administrator may grant approval that
3 Class 1 bicycle parking be located on an offsite lot, under certain circumstances. Uses subject
4 to Section 155.2 may apply for alternative locations approval only when off-street automobile
5 parking does not exist on the subject lot. Existing City-owned buildings subject to 155.3 may
6 apply for alternative locations approval when compliance with subsection 155.3(b) may not be
7 feasible because of demonstrable hardship including when off-street automobile parking does
8 not exist on the subject lot. In acting upon all these cases, the Zoning Administrator shall be
9 guided by the following criteria:

10 (i) Such alternative facilities shall be well lit and secure.

11 (ii) The alternative facility bicycle entrance shall be no more than 500 feet
12 from the entrance of the primary building, unless there are no feasible locations within a 500
13 foot radius that can be provided. However, in no event shall an alternative location be
14 approved that is farther from the entrance of the building than the closest automobile parking
15 garage.

16 (B) **Temporary Exemptions.** The Zoning Administrator may issue a temporary
17 exemption for bicycle parking subject to Section 155.3 of this Code for one year, under the
18 following circumstances:

19 (i) For required Class 1 bicycle parking requirements in City-owned and
20 leased buildings, if no feasible alternative parking facility exists nearby that can be approved
21 pursuant to Subsection (k)(1)(A) above, or securing an alternative location would be unduly
22 costly and pose a demonstrable hardship on the Landlord or on the City where the City owns
23 the building. In order to obtain this exemption, the Responsible City Official shall certify to the
24 Zoning Administrator in writing that the Landlord or the City where the City owns the building,
25 will not prohibit Employees from storing a bicycle in a Workspace provided that such bicycles

1 are stored in a way that the Fire Code is not violated and that the normal business of the
2 building is not disrupted. The Responsible City Official shall provide the required bicycle
3 parking within one year of the issuance of such exemption, or shall obtain a new exemption
4 for each year until such bicycle parking is provided.

5 (ii) For required bicycle parking in non-accessory automobile garages or
6 lots with 500 or more spaces. In order to obtain this exemption, the Responsible City Official
7 shall provide to the Zoning Administrator in writing an analysis demonstrating that the demand
8 for bicycle parking in that location is less than the amount required by Section 155.3 of this
9 Code. This exemption may only be provided for any required bicycle parking above fifty Class
10 2 spaces. The exemptions for these garages may be issued for up to one year. The
11 Responsible City Official shall provide the required bicycle parking within one year of the
12 issuance of such exemption, or shall obtain a new exemption for each year until such bicycle
13 parking is provided.

14 (2) **Temporary Exemptions, Waiver or Modification of Required Class 2**
15 **Bicycle Parking.** Temporary exemptions for Class 2 bicycle parking shall be granted as
16 allowed in subsection 1(B) above. The Zoning Administrator may administratively waive some
17 or all of the Class 2 bicycle parking requirement in any case when all of findings (A)-(D) are
18 affirmatively met for some or all of the Class 2 requirements:

19 (A) No off-street auto parking is provided on-site in a garage or lot;

20 (B) No on-site publicly-accessible open space is provided where it would
21 be appropriate to locate some or all of the required Class 2 bicycle parking as allowed per
22 Section 155.1(b)(2) of this Code;

23 (C) The provision of on-site Class 2 bicycle parking is not desirable or
24 feasible based on the physical character, pedestrian circulation, historic character or urban
25 design of the building and block;

1 (D) The San Francisco Municipal Transportation Agency, Department of
2 Public Works, or other relevant agency will not grant approval to install Class 2 bicycle racks
3 in the public right-of-way adjacent to the subject lot sufficient to meet the requirements
4 because the bicycle rack would: (i) interfere with utilities or the general public welfare or (ii)
5 adversely affect the design and configuration of existing or planned streetscape
6 improvements.

7 (E) In Lieu Fee in Case of Waiver or Variance for Class 2 Parking. For
8 each required Class 2 bicycle parking space that the Zoning Administrator waives as a result
9 of a variance per Section 305 or waives in accordance with subsection (D)(ii) above, the
10 project sponsor shall pay an in lieu bicycle parking fee as provided by Section 430 et seq. of
11 this Code.

12 **(l) Exceptions from Certain Specific Code Standards through Administrative Review**
13 **in the Castro Street Neighborhood Commercial District and within 1,750 feet of the District**
14 **boundaries, excluding any lot within 500 feet of Block 2623, Lots 116 through 154.**

15 The Zoning Administrator may allow complete or partial relief from the density limits and from
16 the parking, rear yard, and open space requirements of this Code when modification of the requirement
17 would facilitate the construction of an In-Law Unit, as defined in Section 715.1 of this Code. The
18 exposure requirements of Section 140 may be satisfied through windows facing a 15 foot by 15 foot
19 rear yard. In considering any request for complete or partial relief from these Code requirements, the
20 Zoning Administrator shall facilitate the construction of such In-Law Units to the extent feasible and
21 shall consider any criteria elsewhere in this Section 307 that he or she determines to be applicable.

22 Section 5. The Administrative Code is hereby amended by amending Section 37.2, to
23 read as follows:

24 * * * *

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

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

12 The term "rental units" shall not include:

13 (1) Housing accommodations in hotels, motels, inns, tourist houses, rooming and
14 boarding houses, provided that at such time as an accommodation has been occupied by a
15 tenant for 32 continuous days or more, such accommodation shall become a rental unit
16 subject to the provisions of this Chapter; provided further, no landlord shall bring an action to
17 recover possession of such unit in order to avoid having the unit come within the provisions of
18 this Chapter. An eviction for a purpose not permitted under Section 37.9(a) shall be deemed
19 to be an action to recover possession in order to avoid having a unit come within the
20 provisions of this Chapter;

21 (2) Dwelling units in nonprofit cooperatives owned, occupied and controlled by a
22 majority of the residents or dwelling units solely owned by a nonprofit public benefit
23 corporation governed by a board of directors the majority of which are residents of the
24 dwelling units and where it is required in the corporate by-laws that rent increases be
25 approved by a majority of the residents;

1 (3) Housing accommodation in any hospital, convent, monastery, extended care
2 facility, asylum, residential care or adult day health care facility for the elderly which must be
3 operated pursuant to a license issued by the California Department of Social Services, as
4 required by California Health and Safety Chapters 3.2 and 3.3; or in dormitories owned and
5 operated by an institution of higher education, a high school, or an elementary school;

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

14 (A) For purposes of Sections 37.2, 37.3(a)(10)(A), 37.4, 37.5, 37.6, 37.9, 37.9A,
15 37.10A, 37.11A and 37.13, and the arbitration provisions of Sections 37.8 and 37.8A
16 applicable only to the provisions of Sections 37.3(a)(10)(A), the term "rental units" shall
17 include units occupied by recipients of tenant-based rental assistance where the tenant-based
18 rental assistance program does not establish the tenant's share of base rent as a fixed
19 percentage of a tenant's income, such as in the Section 8 voucher program and the "Over-
20 FMR Tenancy" program defined in 24 CFR Section 982.4;

21 (B) For purposes of Sections 37.2, 37.3(a)(10)(B), 37.4, 37.5, 37.6, 37.9, 37.9A,
22 37.10A, 37.11A and 37.13, the term "rental units" shall include units occupied by recipients of
23 tenant-based rental assistance where the rent payable by the tenant under the tenant-based
24 rental assistance program is a fixed percentage of the tenant's income; such as in the Section
25

1 8 certificate program and the rental subsidy program for the Housing Opportunities for
2 Persons with Aids ("HOPWA") program (42 U.S.C. Section 12901 et seq., as amended);

3 (C) The term "rental units" shall include units in a building for which tax credits
4 are reserved or obtained pursuant to the federal low income housing tax credit program
5 (LIHTC, Section 42 of the Internal Revenue Code, 26 U.S.C. Section 42), that satisfy the
6 following criteria:

7 (i) Where a tenant's occupancy of the unit began before the applicable
8 LIHTC regulatory agreement was recorded; and,

9 (ii) Where the rent is not controlled or regulated by any use restrictions
10 imposed by the City and County of San Francisco, the San Francisco Redevelopment
11 Agency, the State of California Office of Housing and Community Development, or the United
12 States Department of Housing and Urban Development.

13 Nothing in this Section 37.2(r)(4)(C) precludes a landlord from seeking an exemption
14 from rent regulation on the basis of substantial rehabilitation under Section 37.2(r)(6).

15 This Section 37.2(r)(4)(C) definition of "rental unit" shall apply to any unit where the
16 qualifying tenant (see Section 37.2(r)(4)(C)(i)) is in possession of the unit on or after the
17 effective date of this ordinance (Ord. No. 281-06), including but not limited to any unit where
18 the tenant has been served with a notice to quit but has not vacated the unit and there is no
19 final judgment against the tenant for possession of the unit as of the effective date of this
20 ordinance (Ord. No. 281-06).

21 (D) The term "rental units" shall include In-Law Units constructed pursuant to Section
22 715.1 of the Planning Code and the Section 715 Zoning Control Table and that have received a waiver
23 of the density limits and/or the parking, rear yard, and open space standards from the Zoning
24 Administrator pursuant to Planning Code Section 307(l), provided that the building containing the In-
25 Law Unit(s) or any unit within the building is already subject to this Chapter.

1 (5) Rental units located in a structure for which a certificate of occupancy was first
2 issued after the effective date of this ordinance; (A) except as provided for certain categories
3 of units and dwellings by Section 37.3(d) and Section 37.9A(b) of this Chapter, (B) except as
4 provided in a development agreement entered into by the City under San Francisco
5 Administrative Code Chapter 56; and (C) except as provided for foreclosed units and
6 dwellings by Section 37.9D.

7 (6) Dwelling units in a building which has undergone substantial rehabilitation after
8 the effective date of this ordinance; provided, however, that RAP rental units are not subject to
9 this exemption; and except as provided for foreclosed units and dwellings by Section 37.9D.

10 (7) Dwellings or units otherwise subject to this Chapter 37, to the extent such
11 dwellings or units are partially or wholly exempted from rent increase limitations by the Costa-
12 Hawkins Rental Housing Act (California Civil Code Sections 1954.50, et seq.) and/or San
13 Francisco Administrative Code Section 37.3(d).

14 * * * *

15 Section 6. This section is uncodified. The Director of the Department of Building
16 Inspection shall determine whether equivalencies from the provisions of the San Francisco
17 Building Code can be developed in order to facilitate the construction of the In-Law Units
18 defined in Planning Code Section 715, shall prepare one or more Administrative Bulletins to
19 define and implement the code equivalencies, and shall coordinate with the Zoning
20 Administrator in the development of any joint Administrative Bulletins that the Planning and
21 Building Departments determine are necessary or desirable in order to implement the policy
22 and provisions of this ordinance. Any Administrative Bulletins developed jointly or by either
23 Department shall be completed within one year of the effective date of this ordinance.

24 Section 7. Effective Date. This ordinance shall become effective 30 days after
25 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the

1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
2 of Supervisors overrides the Mayor's veto of the ordinance.

3 Section 8. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
4 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
5 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
6 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
7 additions, and Board amendment deletions in accordance with the "Note" that appears under
8 the official title of the ordinance.

9 Section 9. Severability. If any section, subsection, sentence, clause, phrase, or word of
10 this Section is for any reason held to be invalid or unconstitutional by a decision of any court
11 of competent jurisdiction, such decision shall not affect the validity of the remaining portions of
12 the Section. The Board of Supervisors hereby declares that it would have passed this Section
13 and each and every section, subsection, sentence, clause, phrase, and word not declared
14 invalid or unconstitutional without regard to whether any other portion of this Section would be
15 subsequently declared invalid or unconstitutional.

16 Section 10. Directions to Clerk. The Clerk is hereby directed to submit a copy of
17 this ordinance to the California Department of Housing and Community Development within
18 60 days following adoption pursuant to Section 65852.2(h) of the California Government
19 Code.

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

22 By: _____
23 JUDITH A. BOYAJIAN
24 Deputy City Attorney

25 n:\legana\as2013\1200161\00901951.doc