



SAN FRANCISCO PLANNING DEPARTMENT

Memo to the Planning Commission

HEARING DATE: MARCH 7, 2013
Continued from the November 29, 2012 Hearing

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Project Name: **Amendments related to Student Housing: Monitoring Requirement**
Case Number: 2012.1315T [Board File No. 12-0883]
Initiated by: Supervisor Kim / Introduced September 14, 2012
Staff Contact: Sophie Hayward, Legislative Affairs
sophie.hayward@sfgov.org, 415-558-6257
Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation: **Recommend Approval with Modifications**

BACKGROUND

On November 29, 2012, the Planning Commission (hereinafter "Commission") considered the proposed Ordinance introduced by Supervisor Kim that would amend the Planning Code by adding Section 102.36.1 to establish an annual monitoring requirement for Student Housing conversions. The proposed Ordinance would also require a posting to announce that the report is available for public review, and would provide an enforcement mechanism for failure to submit the annual report.

The Department's recommendation to the Commission at the November hearing was to recommend to the Board of Supervisors approval with five modifications.

At the November hearing, the Commission continued the item to March 7, 2013, and encouraged continued outreach and discussion among stakeholders, including universities, developers, and housing advocates.

CURRENT PROPOSAL

Since the November Commission hearing, Supervisor Kim has conducted further outreach. Supervisor Kim has indicated that she intends to make all of the proposed modifications discussed at the Commission's November hearing. The Department, therefore, is again recommending that the Commission pass a resolution formalizing the recommendations. The five modifications are:

1. New projects will file an initial report that details the number and average rent of Student Housing units in a given project;
2. After the initial filing, a full report is required only when any of the incentives associated with Student Housing are applied to a proposed project, or when Student Housing has been converted to other forms of housing;
3. If no incentive has been invoked, or no conversion has taken place, the owners or operators of Student Housing must submit a letter, every two years, confirming that no change in the Student Housing has occurred;

4. Any report or letter must be filed by January 31st detailing usage for the previous calendar year, so that the data may be included in the Department's annual Housing Inventory Report;
5. The Section 102.36.1(5) of the proposed Ordinance will be removed, and no additional notification to the Zoning Administrator is required when Student Housing units are converted to other forms of housing.

The draft resolution and associated staff report provide background information and the basis for this recommendation.

RECOMMENDATION

The Department recommends *approval with modifications* of the proposed Ordinance.

RECOMMENDATION: Approve with modifications
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Attachments:

Executive Summary, dated November 29, 2012

Draft Resolution

Board File No. 12-0883



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change

HEARING DATE: NOVEMBER 29, 2012

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code by adding Section 102.36.1 to establish an annual monitoring requirement for Student Housing conversions. The proposed Ordinance would also require a posting to announce that the report is available for public review, and would provide an enforcement mechanism for failure to submit the annual report.

The Way It Is Now:

Student Housing is defined in Section 136 of the Planning Code as a living space for students that may take the form of dwelling units, group housing, or an SRO, that is owned or controlled by an accredited post-secondary Educational Institution. Student Housing is permitted where the form of housing is permitted in the underlying Zoning District and Student Housing may consist of all or part of a building. Multiple institutions may provide Student Housing in a single building.

Section 307(j) of the Planning Code states that the Zoning Administrator may allow the conversion of Student Housing to any permitted residential use in the underlying zoning upon determination that the converted Student Housing has complied with all applicable aspects of the Planning Code.

The Way It Would Be:

The proposed Ordinance would establish an annual monitoring requirement for property owners, operators, or other entities that control Student Housing. The monitoring would involve the submittal of a report to the Planning Department containing data related to the Student Housing, including:

1. The total number of units under the ownership or control of the Post-Secondary Institution, per building;
2. The number of vacant and occupied Student Housing units per building – and if more than 50% of the Student Housing units are vacant, an explanation as to why;
3. The average rent for the Student Housing units;
4. The number of Student Housing units rented by week or by month;

5. The designation by room number and location of the Student Housing units. If the operator converts any Student Housing units to market-rate housing, the Zoning Administrator must be notified in writing of the conversion.

The proposed Ordinance would also require a posting to announce that the report is available for public review, and would provide an enforcement mechanism for failure to submit the annual report.

REQUIRED COMMISSION ACTION

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

RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

The proposed Ordinance would create a monitoring requirement for Student Housing projects. The proposed Ordinance requires an Annual Unit Usage Report in order to monitor conversions.

As drafted, the annual report would be required of each entity that owns, operates, or controls Student Housing. The requirement applies to all providers of Student Housing, whether or not the Student Housing is located on an institution's campus, and whether the operator or owner is taking advantage of any of the incentives offered to encourage the production of new Student Housing, such as the exemption from inclusionary housing fees, the Floor Area Ratio (FAR) bonus, or the exemption from unit mix requirements in certain zoning districts. The report would be required annually, whether conversions have occurred or not.

The Department's recommendation is intended to simplify the method and frequency of the monitoring report. Specifically, after an initial filing, the Department recommends that the full report be required only when any of the incentives listed above are applied to a proposed project, or when Student Housing has been converted to other forms of housing. If no incentive has been invoked or no conversion has occurred, no new report would be required. However, every two years, owners or operators of Student Housing projects would submit a letter confirming that no change has occurred.

The Department recommends that the reporting process align with the reporting requirements for Residential Hotels and their conversion. Baseline information would be provided with the establishment of new Student Housing, and a full report would be submitted at the time of approved conversions. This data would be included in the annual Housing Inventory Report published by the Department in the spring for the preceding calendar year.¹ As proposed in the draft Ordinance, the Annual Usage Report would be submitted to the Department by November 1st of each year. In order to better coincide with existing reporting requirements for similar housing data, the Department recommends a report be submitted by January 31st for the previous calendar year. This data would be reflected in the spring

¹ The Housing Inventory Report is available online at: http://www.sf-planning.org/ftp/files/publications_reports/2011_Housing_Inventory_Report.pdf. Page 17 of the 2011 report addresses Residential Hotels, and may serve as a model for the reporting format and method for Student Housing usage and conversion.

Housing Inventory Report. Procedurally, this reporting requirement could be added as a Condition of Approval for new Student Housing projects, and the report could be filed based on a form available on the Planning Department's website in order to ensure that the data submitted are consistent across projects by multiple project sponsors.

Lastly, the Department recommends that the requirement that the Zoning Administrator be informed in writing of any conversions from Student Housing to market rate or other forms of housing be removed from the proposed Ordinance. The existing requirements for the conversion from Student Housing to any other form of housing outlined in Planning Code Section 307(j) already require review by the Zoning Administrator. The Department recommends against adding a duplicate Zoning Administrator review process to the conversion process.

Proposed Modifications

The Department recommends the following specific modifications:

1. The Department recommends that new projects file an initial report that details the number and average rent of Student Housing units in a given project;
2. After the initial filing, the Department recommends that a full report be required only when any of the incentives associated with Student Housing are applied to a proposed project, or when Student Housing has been converted to other forms of housing;
3. If no incentive has been invoked, or no conversion has taken place, the Department recommends the owners or operators of Student Housing submit a letter, every two years, confirming that no change in the Student Housing has occurred;
4. The Department recommends that any report or letter be filed by January 31st detailing usage for the previous calendar year, so that the data may be included in the Department's annual Housing Inventory Report;
5. The Department recommends that Section 102.36.1(5) of the proposed Ordinance be removed, and that no additional notification to the Zoning Administrator be required when Student Housing units are converted to other forms of housing.

ENVIRONMENTAL REVIEW

The proposal to amend the Planning Code by adding Section 102.36.1 to add an annual monitoring requirement, as well as a posting requirement, and an enforcement mechanism for failure to submit the annual report would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

PUBLIC COMMENT

As of the date of this report, the Planning Department has no written comments in regard to the proposed Ordinance.

RECOMMENDATION:	Recommendation of Approval with Modification
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Attachments:

Exhibit A: Draft Planning Commission Resolution
Exhibit B: Board of Supervisors File No. 12-0883



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

NOVEMBER 29, 2012

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE BY ADDING SECTION 102.36.1 TO ESTABLISH AN ANNUAL MONITORING REQUIREMENT FOR STUDENT HOUSING CONVERSIONS, TO REQUIRE A POSTING TO ANNOUNCE THAT THE REPORT IS AVAILABLE FOR PUBLIC REVIEW, AND TO PROVIDE AN ENFORCEMENT MECHANISM FOR FAILURE TO SUBMIT THE ANNUAL REPORT; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on September 14, 2012, Supervisor Kim introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 12-0883, which would add a new Planning Code Section 102.36.1 regarding the monitoring of Student Housing conversions;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 29, 2012; and,

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

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

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

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

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

1. That new projects file an initial report that details the number and average rent of Student Housing units in a given project;
2. That after the initial filing, a full report be required only when any of the incentives associated with Student Housing are applied to a proposed project, or when Student Housing has been converted to other forms of housing;
3. That if no incentive has been invoked, or no conversion has taken place, the owners or operators of Student Housing submit a letter, every two years, confirming that no change in the Student Housing has occurred;
4. That any report or letter be filed by January 31st detailing usage for the previous calendar year, so that the data may be included in the Department's annual Housing Inventory Report;
5. That Section 102.36.1(5) of the proposed Ordinance be removed, and that no additional notification to the Zoning Administrator be required when Student Housing units are converted to other forms of housing.

FINDINGS

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

1. The proposed Ordinance would create a monitoring requirement for Student Housing projects, and would require an Annual Unit Usage Report in order to monitor conversions.
2. Baseline information would be provided with the establishment of new Student Housing, and a full report would be submitted at the time of approved conversions.
3. Data received as part of the Annual Unit Usage Report would be included in the annual Housing Inventory Report published by the Department;
4. Procedurally, this reporting requirement could be added as a Condition of Approval for new Student Housing projects, and the report could be filed based on a form available on the Planning Department's website in order to ensure that the data submitted are consistent across projects by multiple project sponsors.
5. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

I. HOUSING ELEMENT

OBJECTIVE 1

TO PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES

INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT DEMAND.

POLICY 1.1

Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

POLICY 1.9

Require new commercial developments and higher educational institutions to meet the housing demand they generate, particularly the need for affordable housing for lower income workers and students.

The proposed Ordinance recognizes the need for new student housing, while creating a mechanism to track the demand for Student Housing and the rate at which it is converted to other forms of housing. While existing procedures prohibit the conversion of the existing housing stock to Student Housing, the proposed Ordinance would require a detailed annual report to support that policy with data.

OBJECTIVE 2

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

POLICY 2.2

Retain existing housing by controlling the merger of residential units, except where a merger clearly creates new family housing.

The proposed Ordinance would further protect the existing housing stock from conversion from standard housing to student housing by introducing a formal reporting requirement.

6. **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:
 - A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced.
 - B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.
 - C) The City's supply of affordable housing will be preserved and enhanced.
 - D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking.

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced.
- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.
- G) That landmark and historic buildings will be preserved.
- H) Parks and open space and their access to sunlight and vistas will be protected from development.

7. **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 as described in this Resolution and in the proposed Ordinance with the modifications outlined above.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on November 29, 2012.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED:

BOARD of SUPERVISORS



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September 14, 2012

Planning Commission
Attn: Linda Avery
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On September 14, 2012, Supervisor Kim introduced the following proposed legislation:

File No. 120883

Ordinance amending the San Francisco Planning Code by: 1) adding a new Section 102.36.1 to establish an annual monitoring requirement for student housing conversions; and 2) making findings, including environmental findings and findings of consistency with the priority policies of Planning Code Section 101.1 and the General Plan.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Miller".

By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

- c: John Rahaim, Director of Planning
- Scott Sanchez, Zoning Administrator
- Bill Wycko, Chief, Major Environmental Analysis
- AnMarie Rodgers, Legislative Affairs
- Monica Pereira, Environmental Planning
- Joy Navarrete, Environmental Planning

1 [Planning Code - Establishing a Program to Monitor Student Housing Conversions]

2
3 **Ordinance amending the San Francisco Planning Code by: 1) adding a new Section**
4 **102.36.1, to establish an annual monitoring requirement for student housing**
5 **conversions; and 2) making findings, including environmental findings and findings of**
6 **consistency with the priority policies of Planning Code Section 101.1 and the General**
7 **Plan.**

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

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

13 Section 1. Findings. The Board of Supervisors of the City and County of San
14 Francisco hereby finds and determines that:

15 (a) The Planning Department has determined that the actions contemplated in this
16 Ordinance are in compliance with the California Environmental Quality Act (California Public
17 Resources Code sections 21000 et seq.) Said determination is on file with the Clerk of the
18 Board of Supervisors in File No. _____ and is incorporated herein by
19 reference.

20 (b) On _____, 2011, the Planning Commission, in Resolution
21 No. _____ approved and recommended for adoption by the Board of Supervisors
22 this legislation and adopted findings that it is consistent, on balance, with the City's General
23 Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these
24 findings as its own. A copy of said Resolution is on file with the Clerk of the Board of
25 Supervisors in File No. _____, and is incorporated by reference herein.

1 (c) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this
2 legislation will serve the public necessity, convenience, and welfare for the reasons set forth in
3 Planning Commission Resolution No. _____, and incorporates such reasons by
4 reference herein.

5 Section 2. The San Francisco Planning Code is hereby amended by adding Section
6 102.36.1, to read as follows:

7 **SEC. 102.36.1 STUDENT HOUSING CONVERSION MONITORING PROGRAM.**

8 (a) Reporting Requirement. On November 1st of each year, every entity that owns, operates, or
9 controls Student Housing as defined in Section 102.36 shall file with the Department an Annual Unit
10 Usage Report containing the following information:

11 _____ (1) The total number of units under the ownership, operation, or control of the entity
12 that are used for Student Housing per building as of October 15th of the year of filing;

13 _____ (2) The number of vacant and occupied Student Housing units per building as of
14 October 15th of the year of filing; if more than 50 percent of the units are vacant, explain why;

15 _____ (3) The average rent for the Student Housing units as of October 15th of the year of
16 filing;

17 _____ (4) The number of Student Housing units rented by week or month as of October 15th
18 of the year of filing; and

19 _____ (5) The designation by room number and location of the Student Housing units as of
20 October 15th of the year of filing. The owner or operator shall maintain such designated units as
21 Student Housing units for the following year unless the owner or operator notifies the Zoning
22 Administrator in writing of a conversion of units to non-student use and complies with the requirements
23 of this Code for such conversion. The purpose of this provision is to simplify enforcement efforts while
24 providing owner or operator with reasonable and sufficient flexibility in designation and renting of
25 rooms;

1 (b) Notice of Annual Unit Usage Report. On the day of filing, the owner or operator shall post
2 a notice that a copy of the Annual Unit Usage Report submitted to the Department is available for
3 inspection between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday, which notice shall
4 remain posted for 30 days.

5 (c) Extension of Time for Filing. Upon application by an owner or operator and upon showing
6 good cause, the Director may grant one extension of time not to exceed 30 days for said filing.

7 (d) Certificate of Annual Unit Usage Report. After receipt of a completed Annual Unit Usage
8 Report, the Department shall issue a certified acknowledgment of receipt.

9 (e) Failure to File Annual Unit Usage Report or Insufficient Filing; Enforcement and
10 Penalties. If an owner or operator fails to file the Annual Unit Usage Report or the Department
11 determines that the filing is insufficient, then the subject Student Housing use(s) shall be deemed in
12 violation of this Code. The Zoning Administrator may seek an enforcement action, including the
13 imposition of penalties, against said use(s) as set forth in this Code.

14 Section 3. This Section is uncodified. This legislation shall be effective only if an
15 Ordinance creating a definition of Student Housing, as contained in the Clerk of the Board of
16 Supervisors File No. 111374, is final and effective, otherwise this legislation shall be null and
17 void.

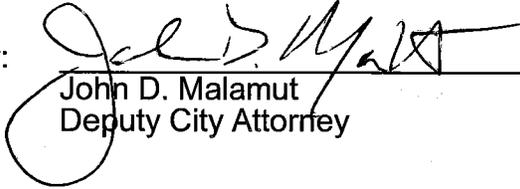
18 Section 4. Effective Date. This ordinance shall become effective 30 days from the
19 date of passage.

20 Section 5. In enacting this Ordinance, the Board intends to amend only those words,
21 phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams,
22 or any other constituent parts of the Planning Code that are explicitly shown in this legislation
23 as additions, deletions, Board amendment additions, and Board amendment deletions in
24 accordance to the "Note" that appears under the official title of this legislation. This Ordinance
25 shall not be construed to effectuate any unintended amendments. Any additions or deletions

1 not explicitly shown as described above, omissions, or other technical and non-substantive
2 differences between this Ordinance and the Planning Code that are contained in this
3 legislation are purely accidental and shall not effectuate an amendment to the Planning Code.
4 The Board hereby authorizes the City Attorney, in consultation with the Clerk and other
5 affected City departments, to make those necessary adjustments to the published Planning
6 Code, including non-substantive changes such as renumbering or relettering, to ensure that
7 the published version of the Planning Code is consistent with the laws that this Board enacts.

8
9 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

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11 By:


12 John D. Malamut
13 Deputy City Attorney
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Supervisor Kim
BOARD OF SUPERVISORS

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9/4/2012

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