



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: DECEMBER 8, 2016
EXPIRATION DATE: JANUARY 11, 2017

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CA 94103-2479

Reception:
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Information:
415.558.6377

Project Name: **Terrace Infill for Noncomplying Structure Designated as a Significant Building in C-3 Zoning District**
Case Number: **2016-013415PCA [Board File No. 161068]**
Initiated by: Supervisor Peskin / Introduced October 4, 2016
Staff Contact: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Recommend Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to permit Terrace Infill on a noncomplying structure that is designated as a Significant Building under Planning Code, Article 11, and located in a C-3 Zoning District.

The Way It Is Now:

Buildings that are noncomplying with regards to height, Floor Area Ratio (FAR) and bulk limits are prohibited from expanding if it would make the building more noncomplying.

The Way It Would Be:

Buildings that are designated as significant under Article 11 and within the C-3 District that are noncomplying with regards to height, FAR and bulk limits would be allowed to infill an existing terrace of up to 1,500 sq. ft. Any infill would require a major alteration permit and is subject to Historic Preservation Commission (HPC) review and approval.

HPC would have to find that the terrace infill would:

1. Not be visible from the primary building frontage;
2. Not have an adverse impact on any character-defining features of the building; and
3. Not exceed 1,500 net new square feet per building; and

BACKGROUND

This Ordinance is being proposed to allow the Clift Hotel to infill an existing terrace. The Clift Hotel (495 Geary St.) is located at the corner of Geary and Taylor Streets within the C-3-G Zoning District. The hotel is designated as a Significant Building: Category 1 under Article 11, and it is over its FAR, height and bulk limits so new floor area or bulk cannot be added to the building. The terrace that they wish to infill is located within the inner courtyard of the building, not on a primary façade, and not easily visible from the street.

The Clift Hotel has enclosed the terrace with a tent structure and has used it for parties and the like; however, the Fire Department told Clift that without sprinklers the tent's occupancy load is limited, so the hotel wishes to enclose the terrace with a more permanent structure with sprinklers.

ISSUES AND CONSIDERATIONS

HPC Review

This ordinance was reviewed by the HPC on November 16, 2013, which voted unanimously to recommend approval with modifications of the proposed ordinance. The HPC took most of staff recommended modifications, but instead of taking the proposed modifications in recommendation one below, the HPC voted to delete finding two in the proposed ordinance altogether. Recommendations two and three were not changed.

Staff's original recommendations to the HPC on 11/16/16:

1. Amend language in finding two as follows:

Not alter, remove, or obscure ~~have an adverse impact on~~ any character-defining features of the building;

2. Restrict the proposed change only to the block that contains the Clift Hotel: Assessor's Block Number 0316.
3. Place a two-year time limit on the proposed Planning Code change. The following language should be inserted into the proposed ordinance: The City Attorney is hereby authorized to direct the Publisher to delete this Section on or after XXXX, XX 20XX.

Staff proposed the modifications in recommendation one because the language in the proposed ordinance is related more to CEQA review and not historic review. Staff's proposed language is more consistent with what the HPC uses to review major alteration permits; however, since the HPC already uses this criteria in reviewing major alteration permits, the HPC decided to take it out altogether as it would be duplicative and unnecessary. Staff's recommendation to the Planning Commission has been amended to reflect the HPC's modifications.

Article 11 Buildings

The proposed ordinance would only apply to Significant Buildings under Article 11. Significant Buildings include two categories, Categories 1 and 2, and encompasses 255 buildings (210 in Category 1 and 45 in Category 2). Since Article 11 only applies to the C-3 Districts, all of these buildings are located within a C-3 District. The criteria for listing a building in either Category 1 or Category 2 are as follows:

Significant Buildings - Category I. Buildings that:

1. Are at least 40 years old; and
2. Are judged to be Buildings of Individual Importance; and
3. Are rated Excellent in Architectural Design or are rated Very Good in both Architectural Design and Relationship to the Environment.

Significant Buildings - Category II. Buildings:

1. That meet the standards of a Category 1 Building; and

2. To which, because of their depth and relationship to other structures, it is feasible to add different and higher replacement structures or additions to height at the rear of the structure, even if visible when viewing the principal facades, without affecting their architectural quality or relationship to the environment and without affecting the appearance of the retained portions as separate structures when viewing the principal facades. The designation of Category II Buildings shall identify for each building the portion of the building beyond which such additions may be permitted.

RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. Delete finding two: "Not have an adverse impact on any character-defining features of the building;"
2. Restrict the proposed change only to the block that contains the Clift Hotel: Assessor's Block Number 0316.
3. Place a two-year time limit on the proposed Planning Code change. The following language should be inserted into the proposed ordinance: *The City Attorney is hereby authorized to direct the Publisher to delete this Section on or after XXXX, XX 20XX.*

BASIS FOR RECOMMENDATION

The Department does not object to allowing the proposed infill and supports allowing historic buildings to adapt to changing needs as long as it doesn't impact the resource; however, the Department does not know how much utility this narrowly tailored ordinance would have for the rest of the C-3 District. The Department has no way of knowing how many buildings this ordinance would impact, or if there are any other buildings would be able to take advantage of it. We know that there are 255 buildings that are considered Significant per Article 11; but we don't know how many are non-conforming with regards to height, FAR, and bulk limits, or how many of those buildings have terraces of less than 1,500 sq. ft. Therefore, the Department is proposing to limit the ordinance further with the following recommendations so that it only impacts the Clift Hotel.

Recommendations:

1. **Delete finding two:** The HPC recommended that finding two be deleted since the language proposed is more closely aligned with CEQA review and not historic review, and because the amended language proposed by staff (discussed above) would be duplicative of what the HPC already uses for Major Permits to Alter.
2. **Restrict the proposed change only to the block that contains the Clift Hotel.** The Department would like to narrow the proposed ordinance to only impact the intended block mainly because we have no way of know how many properties this ordinance would impact. On the subject block there are two other properties designated as Significant under Article 11, The Geary and Curran Theaters. Neither of these properties appears to have an eligible terrace. There are other buildings also listed under Article 11, but are designated as Contributors. Given the uncertainty

and that only one property has so far asked for such an exception we recommend limiting it to just the subject block.

3. **Place a two-year time limit on the proposed Planning Code change.** Changes like this, which have limited utility, live on in the Planning Code in perpetuity, adding unnecessary complexity to an already complex Planning Code. Having a sunset date will allow the City Attorney to direct the published to remove the language after two years, while still providing the Clift Hotel enough time to take advantage of this change. The two year time period will also give the City an indication as to whether this amendment could be useful to other properties, and make modifications to the Code accordingly.

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.

IMPLEMENTATION

The Department determined that this ordinance will not impact our current implementation procedures.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any public comment regarding 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. 161068



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

HEARING DATE DECEMBER 8, 2016

1650 Mission St.
Suite 400
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Initiated by: Supervisor Peskin / Introduced October 4, 2016

Staff Contact: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

Recommendation: **Recommend Approval with Modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO PERMIT TERRACE INFILL ON A NONCOMPLYING STRUCTURE THAT IS DESIGNATED AS A SIGNIFICANT BUILDING UNDER PLANNING CODE, ARTICLE 11, AND LOCATED IN A C-3 ZONING DISTRICT; 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 October 4, 2016 Supervisors Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 161068, which would amend the Planning Code to permit Terrace Infill on a noncomplying structure that is designated as a Significant Building under Planning Code, Article 11, and located in a C-3 Zoning District;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 16, 2016; and,

WHEREAS, The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment; and

WHEREAS, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented 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 Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors **approve with modifications** the proposed ordinance. The Commission's proposed modifications are as follows:

1. Delete finding two: "Not have an adverse impact on any character-defining features of the building;"
2. Restrict the proposed change only to the block that contains the Clift Hotel: Assessor's Block number 0316.
3. Place a two-year time limit on the proposed Planning Code change. The following language should be inserted into the proposed ordinance: The City Attorney is hereby authorized to direct the Publisher to delete this Section on or after XXXX, XX 20XX.

FINDINGS

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

1. The Commission supports allowing historic buildings to adapt to changing needs as long as it doesn't impact the resource; however, the Commission acknowledges that the Planning Department does not know how much utility this narrowly tailored ordinance would have for the rest of the C-3 District.
2. Because the Planning Department does not have any way of knowing how many buildings this ordinance would impact, or if any other buildings would be able to take advantage of it at all, the Commission is proposing to limit the ordinance even further with the proposed recommendations.
3. The Commission agrees with the Historic Preservation Commission's recommendation to remove finding two in the proposed ordinance because it is not useful for their review.
4. Having a sunset date will allow the City Attorney to direct the published to remove the language after two years, while still providing the Clift Hotel enough time to take advantage of this change. The two year time period will also give the City an indication as to whether this amendment could be useful to other properties.
5. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

URBAN DESIGN ELEMENT

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Policy 2.4

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

Policy 2.5

Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings

THE DOWNTOWN PLAN

OBJECTIVE 12

CONSERVE RESOURCES THAT PROVIDE CONTINUITY WITH SAN FRANCISCO'S PAST.

Policy 12.1

Preserve notable landmarks and areas of historic, architectural, or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

Policy 12.2

Use care in remodeling significant older buildings to enhance rather than weaken their original character.

Because of its limited scope and strong review requirements, the proposed Ordinance is consistent with the above Objectives and Policies in the Urban Design Element and the Downtown Plan; it will allow for a change to a Significant Building per Article 11 of the Planning Code, while ensuring the preservation of its historic features and not weakening its original character.

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:

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

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

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

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

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

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

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

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

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

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

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

7. That the landmarks and historic buildings be preserved;

Because of its limited scope and strong review requirements, the proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

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

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

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 with modifications as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on November 16, 2016.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: December 8, 2016

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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October 13, 2016

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

Dear Commissioners:

On October 4, 2016, Supervisor Peskin introduced the following legislation:

File No. 161068

Ordinance amending the Planning Code to permit Terrace Infill on a noncomplying structure that is designated as a Significant Building under Planning Code, Article 11, and located in a C-3 Zoning District; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings, including findings of public necessity, convenience, and welfare under Planning Code, Section 302, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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

Angela Calvillo, Clerk of the Board

A handwritten signature in blue ink, appearing to read "Alisa Somera".

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

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

[Planning Code - Terrace Infill for Noncomplying Structure Designated as a Significant Building in C-3 Zoning District]

Ordinance amending the Planning Code to permit Terrace Infill on a noncomplying structure that is designated as a Significant Building under Planning Code, Article 11, and located in a C-3 Zoning District; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings, including findings of public necessity, convenience, and welfare under Planning Code, Section 302, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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

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

Section 1. Findings.

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

(b) On _____, the Planning Commission, in Resolution No. _____, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
4 amendment will serve the public necessity, convenience, and welfare for the reasons set forth
5 in Planning Commission Resolution No. _____ and the Board incorporates such reasons
6 herein by reference, as though fully set forth herein. A copy of Planning Commission
7 Resolution No. _____ is on file with the Clerk of the Board of Supervisors in File No.
8 _____.

9 Section 2. The Planning Code is hereby amended by revising Section 188, to read as
10 follows:

11 **SEC. 188. NONCOMPLYING STRUCTURES: ENLARGEMENTS, ALTERATIONS**
12 **AND RECONSTRUCTION.**

13 (a) Within the limitations of this Article 1.7, and especially Sections 172 and 180 hereof,
14 a noncomplying structure as defined in Section 180 may be enlarged, altered or relocated, or
15 undergo a change or intensification of use in conformity with the use limitations of this Code,
16 provided that with respect to such structure there is no increase in any discrepancy, or any
17 new discrepancy, at any level of the structure, between existing conditions on the lot and the
18 required standards for new construction set forth in this Code, and provided the remaining
19 requirements of this Code are met.

20 * * * *

21 (g) Notwithstanding subsection (a) of this Section 188, Terrace Infill, defined as floor area or
22 building volume located within an existing terrace that is already framed by no less than one wall, may
23 be permitted to be enclosed on a noncomplying structure, as defined in Planning Code Section 180,
24 notwithstanding otherwise applicable height, floor area ratio and bulk limits, where the noncomplying
25 structure is designated as a Significant Building under Article 11 of this Code and is located in a C-3

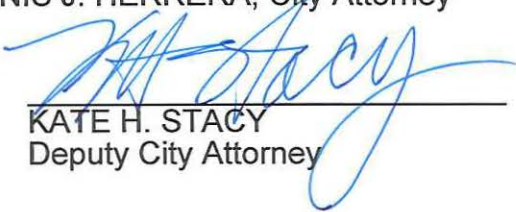
1 Zoning District. An application for Terrace Infill shall be considered a Major Alteration under Section
2 1111.1 of this Code and shall be subject to the applicable provisions of Article 11 of this Code,
3 including but not limited to the requirement to apply for and procure a Permit to Alter. As part of the
4 Historic Preservation Commission's consideration of such application, in addition to other
5 requirements set forth in this Code, the facts presented must establish that the Terrace Infill (1) would
6 not be visible from the primary building frontage, (2) would not have an adverse impact on any
7 character-defining features of the building, and (3) would not exceed 1,500 net new square feet per
8 building.

9 Section 3. Effective Date. This ordinance shall become effective 30 days after
10 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
11 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
12 of Supervisors overrides the Mayor's veto of the ordinance.

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

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

22 By:

23 
KATE H. STACY
24 Deputy City Attorney

25 n:\legana\as2016\1700148\01140853.docx

LEGISLATIVE DIGEST

[Planning Code - Terrace Infill for Noncomplying Structure Designated as a Significant Building in C-3 Zoning District]

Ordinance amending the Planning Code to permit Terrace Infill on a noncomplying structure that is designated as a Significant Building under Planning Code, Article 11, and located in a C-3 Zoning District; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings, including findings of public necessity, convenience, and welfare under Planning Code, Section 302, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

Existing structures that do not comply with the current restrictions set forth in the Planning Code generally may not be enlarged or intensified so as to increase any discrepancy, or create any new discrepancy, at any level of the structure, between existing conditions on the lot and the required standards for new construction set forth in the Planning Code. Certain enlargements and intensifications are permitted under certain conditions, as set forth in Planning Code Section 188.

Amendments to Current Law

The Amendment would amend Planning Code Section 188 to permit Terrace Infill, defined as floor area or building volume located within an existing terrace that is already framed by no less than one wall, to be enclosed on a noncomplying structure, where such structure is designated as a Significant Building under Article 11 of this Code and located in a C-3 Zoning District. An application for Terrace Infill§ would be considered a Major Alteration under Section 1111.1 of this Code and would be required to apply for a Permit to Alter. As part of the Historic Preservation Commission's consideration of the application, the facts must establish that the Terrace Infill (1) would not be visible from the primary building frontage, (2) would not have an adverse impact on any character-defining features of the building, and (3) would not exceed 1,500 net new square feet per building.

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