



CITY OF SACRAMENTO

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CITY PLANNING DEPARTMENT

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PLANNING DIRECTOR

November 25, 1980

City Council
Sacramento, California

Honorable Members in Session:

- SUBJECT: A. An Ordinance Amending the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, Relating to Required Findings for Approval of a Condominium Conversion Project (M-483)
- B. An Ordinance Amending the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, Relating to Tenant Protection Provisions and Condominium Conversion Projects (M-483)

SUMMARY

This item is presented at this time for City Council approval of its publication for legal advertisement purposes.

BACKGROUND

Prior to publication of an item in a local paper to meet legal advertising requirements, the City Council must first pass the item for publication. The City Clerk then transmits the title of the item to the paper for publication and for advertising the meeting date.

RECOMMENDATION

It is recommended that the item be passed for publication.

Respectfully submitted,

Marty Van Duyn
Planning Director

FOR CITY COUNCIL INFORMATION
WALTER J. SLIPE
CITY MANAGER

APPROVED PFP +
BY THE CITY COUNCIL

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OFFICE OF THE
CITY CLERK

December 2, 1980
All Districts

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Attachments
M-483

AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SACRAMENTO, ORDINANCE NO. 2550, FOURTH SERIES, RELATING TO REQUIRED FINDINGS FOR APPROVAL OF A CONDOMINIUM CONVERSION PROJECT

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 28-C-6(a)(ii) of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby amended to read as follows:

(ii) That the average rental vacancy rate in the affected community plan areas during the 12 months preceding the date the City-determined rental vacancy rates are issued pursuant to subsection B-4 of this Section is greater than 5%; provided, that a special permit may be approved where the said vacancy rate is equal to or less than 5% if the applicant has proposed measures which the Council finds would effectively mitigate the displacement of tenants and any adverse effects upon the rental housing stock in the affected community plan areas which would be caused by the proposed conversion.

In evaluating the average rental vacancy rate in the affected community plan areas and in the building proposed for conversion, the City Planning Commission and City Council shall consider the rental history of the building, including the number of evictions and increases in rent over the preceding three (3) years. Notwithstanding any other provision of this subsection the City Council may deny a special permit under this Section if it finds that a substantial number of vacancies in the building have been created by unjust evictions or unreasonable rent increases in order to qualify a project for conversion under this subsection, or that the applicant has intentionally created or maintained a substantial number of vacancies to reduce the number of eligible and eligible special category tenants in the project who would be entitled to the tenant protection provision set forth in this Section.

The requirements of this subsection (ii) shall not apply to condominium conversion projects comprised of the

conversion of a nonresidential building into condominium ownership intended for residential occupancy.

PASSED FOR PUBLICATION:

ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SACRAMENTO, ORDINANCE NO. 2550, FOURTH SERIES, RELATING TO TENANT PROTECTION PROVISIONS AND CONDOMINIUM CONVERSION PROJECTS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 22-A-60(t) is hereby added to the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, to read as follows:

t. Household. Household shall mean one or more individuals living as a single housekeeping unit.

SECTION 2.

Section 28-C-1-(j) of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby amended to read as follows:

(j). A detailed report describing the methods by which the applicant shall comply with the provisions of subsection C-5-(a), Sales and Lease Program for Qualified Low and Moderate Income Tenants and Households. The description shall include, where applicable, the appraised apartment market value of the project, and each unit. This description shall be supported by an affidavit or declaration under penalty of perjury as to its truth and accuracy.

SECTION 3.

Section 28-C-5-(a) of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby amended to read as follows:

(a) Sales and Lease Program for Qualified Low and Moderate Income Tenants and Households.

(i) Purpose. The primary purpose of the sales and lease program is to mitigate the special impact a conversion project has on the low and moderate income tenants living in the project before conversion. This special impact is the result of the conversion project displacing these tenants while at the same time reducing the number of rental units in the market. The displaced low and

moderate income tenants are more severely affected than other tenants and other individuals because of their inability, in most cases, to purchase the converted unit, their resulting immediate need to find replacement housing, and their lesser financial ability to compete for the remaining available rental units in the market. The proposed sales and lease program addresses this problem by providing ownership opportunities for low and moderate income tenants, thereby taking those tenants out of the rental market along with the converted unit, and by providing renewable leases for those tenants who cannot purchase, thereby retaining those units in the rental market for as long as the tenants are in need of them. An alternative program approved by the City Council under subsection C-5-(a)(vii) must specifically address the special impacts on the tenants in the project identified in this paragraph.

A secondary purpose of the sales and lease program is to use condominium conversion projects as a source of low and moderate income housing. Any alternative program approved by the City Council under subsection C-5-a(vii) shall provide ownership and lease opportunities to qualified low and moderate income households where feasible and consistent with the housing policies of the City of Sacramento.

(ii) Definitions.

a. A qualified low or moderate income tenant shall be a tenant who meets all of the following requirements:

i. The tenant is an eligible tenant.

ii. The tenant has an income of 110% or less of the median income as established annually by the U.S. Department of Housing and Urban Development for the Standard Metropolitan Statistical Area in which the proposed conversion project is located, adjusted for the number of members in the tenant's household.

iii. The tenant does not, at the time notice of intent to convert is given by the applicant and at the time the offer is made, own any residential real property.

iv. The tenant has not previously received assistance under this subsection C-5-(a).

v. The monthly payments of principal, interest, loan insurance fees, property taxes and assessments, fire and casualty insurance, property maintenance and repairs, utilities (excluding telephone service), and homeowner association fees and assessments associated with the unit if it were to be sold without restrictions would exceed thirty-five (35) percent of the tenant's monthly income.

vi. The tenant's assets are not greater than the total of the amount necessary to pay the estimated closing costs and down payment on the unit, the amount necessary to pay six months of the monthly payments identified in v. immediately preceding, and \$5,000

vii. The tenant has provided the City with the information requested under subsection C-5-(a)(iii)b. within the specified time, and has supported the information provided with an affidavit or declaration under penalty of perjury to its truth and accuracy.

viii. "Assets" shall mean the value of the tenant's savings and any equity in stocks, bonds, real property, or other forms of capital investment. "Assets" does not include items reasonably necessary for the personal use of the tenant, such as personal effects, furniture, appliances, and automobiles.

ix. References to the qualified tenant's assets and income shall include the assets and income of those persons eighteen (18) years of age and older who are living with the tenant as a single housekeeping unit.

b. A qualified low or moderate income household shall be a household which meets all of the following requirements:

i. The household has an income of 110% or less of the median income as established annually by the U. S. Department of Housing and Urban Development for the Standard Metropolitan Statistical Area in which the proposed conversion project is located, adjusted for the number of members in the household.

ii. The household does not, at the time the offer for sale or lease is made by the applicant, own any residential real property.

iii. The household has not previously received assistance under this subsection C-5-(a).

iv. The monthly payments of principal, interest, loan insurance fees, property taxes and assessments, fire and casualty insurance, property maintenance and repairs, utilities (excluding telephone service), and homeowner association fees and assessments associated with the unit if it were to be sold without restrictions would exceed thirty-five (35) percent of the household's monthly income.

v. The household's assets are not greater than the total of the amount necessary to pay the estimated closing costs and down payment on the unit, the amount necessary to pay six months of the monthly payments identified in iv. immediately preceding, and \$5,000.

~~vi.~~ "Assets" shall mean the value of the household's savings and any equity in stocks, bonds, real property, or other forms of capital investment. "Assets" does not include items reasonably necessary for the personal use of household, such as personal effects, furniture, appliances, and automobiles.

vii. References to the qualified household's assets and income shall include the assets and income of those persons eighteen (18) years of age and older who are living within the household as a single housekeeping unit.

c. i. A price which is "affordable" to the tenant or household shall be the maximum price at which the tenant or household can qualify for financing for the unit for a minimum of thirty (30) years and for which the total monthly housing costs described in subsection C-5-(a)(ii) a. v. and b. iv. would not exceed 35% of the tenant's or household's monthly income; provided, that in no event shall the applicant be required to sell the unit under this sales program at a price below the apartment market value of the unit at the time the application for a special permit under this Section is filed.

ii. "Apartment market value" shall be the value of the unit as an apartment and shall be determined by either a single appraisal or, at the option of the applicant, by averaging the results of two independent appraisals. The appraisal(s) shall be made by appraiser(s) selected randomly by the Planning Director from a pool of names of no less than five (5) qualified appraisers. A "qualified appraiser" shall be an appraiser experienced in appraising multiple family residential property and who is an active MAI member in good standing of the American Institute of Real Estate Appraisers, an active SREA or SRPA member in good standing of the Society of Real Estate Appraisers, an active ASA (urban real estate) member in good standing of the American Society of Appraisers, or a similarly qualified appraiser in good standing in a nationally recognized real estate appraisal institute or society. The names of qualified appraisers for the pool shall be selected by the City Manager or his/her designee. The value determined by the appraisal(s) shall be binding on the City and the applicant. The applicant shall pay the fee(s) of the appraiser(s).

(iii) Offer of Sale or Lease to Qualified Tenants;
Planning Director to Qualify Tenants.

a. Subject to the provisions and limitations set forth in subsection C-5-(a)(iii)b., the applicant shall offer for sale to qualified low and moderate income tenants the unit in which each tenant resides at the time the special permit for the conversion project is approved, or a comparable unit within the project, at a price which is affordable to the tenant. A "comparable unit" shall be a unit with the same floor plan, same amount of floor area (as measured in square feet) and the same amenities as the unit in which the tenant resides at the time the special permit is approved. The offer shall be made before or concurrent with the grant of the exclusive right to contract for the purchase of the unit provided for in Section 66427.1(b) of the Government Code. The qualified tenant shall have 90 days from

the date the offer is made to accept the offer of sale under this subsection C-5-(a). If the tenant does not accept the offer within that time period or fails to secure the necessary financing within that time period the tenant shall be entitled to the renewable lease provisions set forth in subsection C-5-(d) and to all other protections provided in this Section.

b. i. To determine which tenants qualify for assistance under this subsection C-5-(a), the Planning Director, using the names and addresses of all the tenants in the proposed conversion project provided by the applicant in the completed application, shall notify the tenants of the provisions of this subsection C-5-(a) by mailing a notice to each on a form approved by the City Council. The notice shall request all information necessary to determine which tenants qualify for assistance. The notice shall instruct the tenants to return to the City Planning Department within 15 days the information requested, supported by affidavit or declaration under penalty of perjury as to its truth and accuracy. Based on the information received, the Planning Director shall determine which tenants are qualified tenants, shall notify those tenants, and shall submit their names to the applicant.

ii. The applicant shall make an offer for sale or lease pursuant to this subsection C-5-(a)(iii) to each qualified tenant whose name has been submitted to the applicant by the Planning Director; provided, that in no event shall the applicant be required to sell or lease more than fifty (50) percent of the units in the project to qualified tenants. In the event the number of qualified tenants whose names have been submitted to the applicant by the Planning Director exceeds fifty (50) percent of the number of units in the project, the applicant shall make offers for sale or lease pursuant to this subsection C-5-(a)(iii) in the manner set forth in the subsection immediately following, C-5-(a)(iii)b.iii.

iii. In the event the Planning Director determines that the number of qualified tenants in the project exceeds fifty (50) percent of the number of units in the project, he/she shall, at the time of determining which tenants are qualified tenants, list at random the names of all qualified tenants, shall notify each qualified tenant of his/her place on the list, and shall submit the list to the applicant. The applicant shall make offers for sale or lease pursuant to this subsection C-5-(a)(iii) to the qualified tenants in the order that they appear on the list so that offers are made on fifty (50) percent of the units in the project. If a qualified tenant who receives an offer for sale or lease pursuant to this subsection C-5-(a)(iii) does not purchase or lease the unit, the applicant shall, immediately after receiving notice thereof, make an offer for sale or lease pursuant to this subsection C-5-(a)(iii) to the qualified tenant next on the list; provided, that in no event shall the applicant be required to hold a unit for sale or lease pursuant to this subsection C-5-(a)(iii) for more than twelve (12) months after issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code.

iv. Notwithstanding the provisions of Section 18 of this ordinance, the decision of the Planning Director as to which tenants qualify for assistance under this subsection C-5-(a) shall be appealable directly to the City Council and shall be governed by the provisions of Article XIX of Chapter 2 of the Sacramento City Code.

v. Unless an appeal of the decision of the Planning Director is filed, and except for name and address, the information supplied by a tenant to the City under this subsection C-5-(a)(iii) shall be held in confidence and shall not be disclosed to the public without the express written consent of the tenant. In the event an appeal is filed, the information shall be disclosed to the extent necessary to fully apprise all parties to the appeal of the facts supporting the Planning Director's decision.

vi. Failure of any tenant to receive the notice advising of the sales program under this subsection shall not invalidate any proceedings conducted hereunder.

(iv) Offer of Sale or Lease to Qualified Households

a. In the event less than ten (10) percent of units within the project are purchased or leased by qualified tenants under the sales and lease program set forth in subsection C-5-(a)(iii), the applicant shall offer units within the project to qualified low and moderate income households. The offer shall be for sale at an affordable price or, if the household does not purchase, for lease pursuant to subsection C-5-(d). The applicant shall make offers to enough qualified household so that at least ten (10) percent of the units within the project are purchased or leased by qualified low or moderate income tenants or households; provided, that in no event shall an applicant be required to hold a unit for sale or lease under this subsection C-5-(a)(vi) for more than twelve (12) months after issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code.

b. The Sacramento Housing and Redevelopment Agency shall qualify low and moderate income households for participation in the sales and lease program under this subsection C-5-(a)(iv). Within ten (10) days of determining the applicability of this subsection C-5-(a)(iv) and the requirement to offer units for sale or lease to qualified households, the applicant shall notify the Sacramento Housing and Redevelopment Agency of the availability of units for qualified low and moderate income households and request the names of qualified households. Upon such notice by the applicant, the Agency shall submit to the applicant the names of qualified households. In selecting qualified households to participate in

in the sales and lease program in a particular project, the Agency shall match the size of the available unit to the size of the qualified household.

c. Offers for sale or lease made pursuant to this subsection C-5-(a)(iv) shall be made as soon as is practicable after issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, after compliance with subsection C-5-(a)(iii) of this Section, if necessary, and after compliance with Section 66427.1(b) of the Government Code. The offer for sale shall remain open for 90 days.

d. Units offered for sale or lease to qualified households under this subsection C-5-(a)(iv) shall be varied in size and geographically dispersed throughout the project.

e. Compliance with the provisions of this subsection C-5-(a)(iv) shall be subordinate to the requirements of Section 66427.1(b) of the Government Code.

(v) Applicant to Pay Downpayments, Closing Costs Where Necessary

If, at the time the offer for sale at an affordable price is made under this subsection C-5-(a), the assets of the qualified household or tenant, as defined in subsections C-5-(a)(ii) a.viii and b. vi are not sufficient to cover the down payment and closing costs on the unit required by the financing institution to qualify for financing on the unit, the applicant shall pay all or a portion of the down payment and closing costs, as necessary, in an amount not to exceed \$2,000. The amount paid by the applicant under this subsection shall be added to the amount secured by the second deed of trust on the unit under subsection C-5-(a)(vi).

(vi) Antispeculation Control

Whenever a unit is sold to a qualified tenant or household under the provisions of this subsection C-5-(a), the unit shall be encumbered by a second deed of trust securing an obligation in an amount equal to the difference between the sales price paid by the qualified tenant or household and the price at which the unit would have sold without the requirements imposed by this subsection C-5-(a). The beneficiary under the second deed of trust shall be the applicant. The second deed of trust shall provide for the following:

a. Simple interest on the amount secured shall accrue at a rate not exceeding 5% per annum.

b. Neither principal nor interest shall be payable until the obligation secured by the second deed of trust has matured. The obligation shall mature when the unit is conveyed, transferred, leased, rented or otherwise alienated by the tenant; provided, that "conveyed, transferred, leased, rented or otherwise alienated"

shall not include changes of ownership described in Sections 62 and 63 of the Revenue and Taxation Code.

(vii) Alternative Programs; Waivers

a. Upon the request of the applicant, and in lieu of the requirements of this subsection C-5-(a), the City Council may approve, or approve with conditions, an alternative program for providing housing opportunities to the low and moderate income tenants and households in the proposed conversion project, upon a finding that the alternative program is the substantial equivalent of the program provided by this subsection. Alternative programs may include, but need not be limited to, use of FHA single family purchase programs and the Homeownership Assistance Program administered by the State Department of Housing and Community Development (25 Cal. Adm. Code Sec. 7900 et seq.).

b. Upon request of the applicant the City Council may waive, or waive with conditions, in whole or in part, the requirements of this subsection C-5-(a) upon a finding that compliance would be inconsistent with or not in furtherance of the purposes set forth in subsection A and C-5-a(i) of this section or the goals and policies of the Housing Element of the City General Plan.

c. A request by the applicant pursuant to paragraph a. or b. immediately preceding shall be made within fifteen (15) days after the determination of the Planning Director made pursuant to subsection C-5-(a)(iii) b. has been forwarded to the applicant. The City shall give notice of the request in the same manner as it gives notice of the hearing on the special permit, and a hearing shall be conducted on the request concurrently with the hearing on the special permit.

d. The applicant shall, within ten (10) days from the date of submitting the request to City, notify in writing all the eligible tenants in the project that a request for approval of an alternative program or a waiver under this subsection C-5-a(vii) has been made and shall describe in detail the elements of the alternative program or the reasons for the waiver.

SECTION 4.

Section 28-C-5-(d) of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, is hereby amended to read as follows:

(d) Leases - Eligible Elderly or Handicapped Tenants, Qualified Low and Moderate Income Tenants.

(i) The applicant shall unconditionally offer each eligible tenant who is elderly or handicapped and each qualified low and moderate income tenant who does not accept an offer of sale on a unit under the sales program provided in subsection C-5-(a), a written lease for a term of three (3) years on the unit in which the tenant resides at the time the special permit is approved or a comparable unit within the project. A "comparable unit" shall be a unit with the same floor plan, same amount of floor area (as measured in square feet) and the same amenities as the unit in which the tenant resides at the time the special permit is approved.

(ii) The applicant shall unconditionally offer each qualified low and moderate income household who does not accept an offer of sale on a unit under the sales program provided in subsection C-5-(a) a written lease for a term of three (3) years on the unit which was the subject of the offer of sale.

(iii) Each such lease shall provide that the lessee shall have four (4) successive options to renew the lease upon the terms and conditions as the original lease required by this subsection.

(iv) In the case of lessees who are qualified tenants, the rental of the first year of the original lease shall be the rental paid by the tenant on the date that the notice specified in subsection C-2-(a) was given. Thereafter, the rental may be increased annually on the anniversary date of the lease, commencing with the first anniversary date; provided, that the annual percentage increase in rent shall not exceed seven percent (7%). In the case of lessees who are qualified households, the rental for the first year of the original lease shall be the average of rentals paid for the unit and all comparable units on the date that the notice specified in subsection C-2-(a) was given. Thereafter, the rental may be increased annually on the anniversary date of the lease, commencing with the first anniversary date; provided, that the annual percentage increase in rent shall not exceed seven percent (7%).

(v) Each such lease shall further provide that the lessee shall have no power or right to assign the lease, or to rent or sublease the premises or any portion thereof, and that upon the death of the lessee the lease shall terminate. Any lease provision which violates the provisions of this subsection shall be void, and the balance of the lease shall be valid and enforceable. To the extent that such lease shall not expressly contain the provisions required by this subsection, said provisions shall be deemed to be incorporated in full therein. Any lessee who has paid rent in excess

of the maximum rental specified by this subsection shall be entitled to a refund in the amount of the excess payment. Such lessees may elect to deduct the amount of the refund due them from future rent payments, provided notice is given in advance as to the intention to do so.

PASSED FOR PUBLICATION:

ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK