CHAPTER 10.66 CONDOMINIUM CONVERSION PERMITS

10.66.010 Purpose and Applicability

The conversion of any existing or approved development project (occupied or unoccupied) to a condominium, community apartment project or stock cooperative project shall require the issuance of a Condominium Conversion Permit. The conversion of an approved development project that is not yet been constructed shall also require amendment of the Design Review Permit. The procedures, considerations, findings and requirements set forth in this Chapter and in Chapters 10.50 (Land Use Permit Procedures), 10.80 (Zoning Ordinance Administration), and 10.82 (Public Hearings) shall govern the issuance of a Condominium Conversion Permit.

In addition to the general purposes of this Title, the specific purposes of establishing procedures and a framework for Condominium Conversion Permits are as follows:

- A. To establish criteria and procedures for the conversion of existing multiple family rental housing to condominiums, community apartments, stock cooperatives and any other subdivision which is a conversion of rental housing;
- B. To insure the performance of maintenance responsibilities in condominiums and to avoid public nuisances and hazards to public health and safety in condominiums;
- C. To insure that rental apartments being converted to condominiums meet physical standards as required by all applicable laws, ordinances and regulations;
- D. To maintain the availability of rental housing and to maintain an adequate supply of moderate income units;
- E. To assure that purchasers of converted housing have been properly informed as to the physical condition of the structure which is offered for purchase;
- F. To provide a balance of ownership and rental housing in Sausalito and a variety of choices of tenure, type, price and location of housing; and
- G. To prevent effectively subdividing or splitting parcels which otherwise do not comply with zoning or subdivision ordinances.

New construction of condominiums shall be subject to Title 9 (Subdivision Ordinance) and Chapter 10.54 (Design Review Procedures) of this Title.

10.66.020 Authority

The Planning Commission may approve, conditionally approve, or deny a Condominium Conversion Permit application, unless otherwise restricted by State law. Development must comply with all applicable requirements of this Title, including but not limited to Chapters 10.40 (General Development Regulations) and 10.44 (Specific Use Requirements). Development shall also comply with Title 9 (Subdivision Ordinance) and the Subdivision Map Act.

10.66.030 Applications

Applications for Condominium Conversion Permits shall include all information specified by Chapter 10.50 (Land Use Permit Procedures) and Title 9 (Subdivision Ordinance). Submittals shall also include the following:

- A. Map showing all common areas and usage of the building, showing the boundaries of all units for informational purposes;
- B. Specific information regarding the demographic characteristics of the project, its current tenants and future occupants, including but not limited to the following:
 - 1. Square footage and number of rooms in each unit;
 - 2. Rental rate history for each type of unit for previous five years and any utilities included in rent;
 - 3. Monthly vacancy rate for each month during preceding two years;
 - 4. Makeup of existing tenant households, including family size, length of residence, age of tenants, and whether receiving federal or state rent subsidies;
 - 5. Proposed sale price of units;
 - 6. Proposed Homeowners' Association fee;
 - 7. Financing available;
 - 8. Names and addresses of all tenants;
 - 9. Expiration date of any current lease agreements; and
 - 10. Approximate "effective housing cost" of representative sales units after taxes (including maintenance fees and homeowners' association dues) given a thirty percent (30%) tax bracket.
- C. **Physical Elements Report.** A report prepared by a registered engineer or architect or licensed qualified contractor describing the physical elements of all structures and facilities. The report shall include, but not be limited to, the following:
 - 1. A report detailing the structural condition of all elements of the property including foundations, electrical, plumbing, utilities, walls, roofs, ceilings, windows, recreational facilities, sound transmission of each building, mechanical equipment, parking facilities and appliances.

For each element, the report shall state to the best knowledge or estimate of the applicant, when such element was built, the condition of each element, when said element was replaced, the approximate date upon which said element will require replacement, the cost of replacing said element, and any variation of the physical condition of said element from the current zoning and from the City

Housing Code and City Building Code in effect on the date that the last building permit was issued for the subject structure. The report shall identify any defective or unsafe elements and set forth the proposed corrective measures to be employed.

- 2. A report from a licensed structural pest control operator, approved by the City, on each structure and each unit within the structure.
- 3. A report on soil and geological conditions regarding soil deposits, rock formations, faults, groundwater, and landslides in the vicinity of the project and a statement regarding any known evidence of soils problems relating to the structures. Reference shall be made to any previous soils reports for the site and a copy submitted with said report.
- 4. A statement of repairs and improvements to be made by the subdivider necessary to refurbish and restore the project to achieve a high degree of appearance and safety.
- D. A Declaration of Covenants, Conditions and Restrictions which would be applied on behalf of any and all owners of condominium units within the project. The declaration shall include, but not be limited to, the conveyance of units; the assignment of parking; an agreement for common area maintenance, including facilities and landscaping, together with an estimate of any initial assessment fees anticipated for such maintenance; description of a provision for maintenance of all vehicular access areas within the project; an indication of appropriate responsibilities for maintenance of all utility lines and services for each unit; a plan for equitable sharing of communal water metering.
- E. Full architectural plans, including floor plans, elevations, site plan, as determined necessary.
- F. Signed copies from each tenant of Notice of Intent to Convert, as specified in Section 10.66.140 (Tenant Provisions). The subdivider shall submit evidence that a letter of notification was sent to each tenant for whom a signed copy of said notice is not submitted. This requirement shall be deemed satisfied if such notices comply with the legal requirements for service by mail.
- G. Any other information which, in the opinion of the Community Development Department, will assist in determining whether the proposed project will be consistent with the purposes of this article.

The final form of the Physical Elements report and other documents shall be as approved by the Community Development Director. The reports in their acceptable form shall remain on file with the Community Development Department for review by any interested persons. The report shall also be referenced in the subdivision report to the Planning Commission.

Application procedures and processing timeframes shall be consistent with Chapter 10.50 (Land Use Permit Procedures), this Chapter, State law and additional procedural guidelines established by the Community Development Director. Acceptance of an application does not constitute any indication of approval.

10.66.040 Public Notice and Hearing

The Planning Commission shall hold a public hearing on an application for a Condominium Conversion Permit, following completion of a staff report pursuant to Section 10.50.090 (Staff Report and Recommendations). Public hearing shall be noticed and held in accordance with Chapter 10.82 (Public Hearings). The Planning Commission shall consider the following factors when reviewing an application for a Condominium Conversion Permit:

- A. Size, age and condition of any building proposed for conversion to condominiums.
- B. Balance between owned and rental units within the community.
- C. Balance between high, moderate and low income housing within the community.
- D. Provisions for relocation of any tenants in a building proposed for condominium conversion, including the time available for such relocation.
- E. The desires and needs of any tenants in a building proposed for condominium conversion, including any desire to either purchase prospective condominium units or maintain rental status.
- F. Possible effect on neighborhood property values and taxes.
- G. Dedication of unused development rights to City to be used for open space dedication.

10.66.050 Findings

The Planning Commission may issue a Condominium Permit if the following findings can be made:

- A. The Planning Commission has received and reviewed an overall assessment report from the Community Development Department regarding the general condition of all buildings and listing all code violations.
- B. Factors identified in Section 10.66.040 (Public Notice and Hearing) have been fully considered by the Planning Commission.
- C. The condominium project will conform to all applicable laws, ordinances and regulations, including but not limited to those pertaining to housing, building, fire, and subdivision.
- D. The condominium project conforms to the Sausalito General Plan.
- E. The City approves the declaration of restrictions required by California Civil Code § 1355 for the project, as specified in Section 10.66.060 (Conditions of Approval).
- F. Approval of the proposed condominium project will not adversely affect the provision of adequate housing for all segments of the community, and adequate replacement housing for displaced tenants is available. The vacancy rate for comparable units shall be considered in evaluating the adequacy of replacement housing.

- G. No deficiency of multiple family rental housing and two-family rental dwelling units exists within the City of Sausalito, consistent with the Housing Element.
- H. All provisions of this article are met; or

The minimum number of parking spaces required by this article is being met, any existing nonconformities are not being increased, and to the greatest extent practicable, some existing nonconformities are being decreased.

- I. The overall design and physical condition of the condominium conversion a chieves a high degree of appearance, quality and safety.
- J. The proposed project will not convert during the current calendar year more than 5% of the potentially convertible rental units in Sausalito for the current calendar year except as otherwise provided in this article, consistent with Section 10.66.150 (Effect on City's Low- and Moderate-Income Housing Supply).
- K. Vacancies in the project have not been intentionally increased for the purpose of preparing the project for conversion.
- L. There has been no new construction over 300 square feet within the past three (3) years.
- M. The project will not result in the eviction of a senior citizen tenant.
- N. The project will not result in a loss of low and moderate income housing stock of the City.

10.66.060 Conditions of Approval

The Planning Commission may apply reasonable conditions of approval to assure compliance with applicable regulations and standards, including those recommended by City Departments and those specified in Section 10.50.100 (Recommended Conditions of Approval). In addition, the following conditions of approval shall apply:

- A. A declaration of restrictions required by California Civil Code § 1355 shall set forth the occupancy and management policies for the project and shall contain provisions satisfactory to the City regarding the following:
 - 1. Maintenance of all common areas and payment of all assessments and taxes;
 - 2. Provision for the City to make any repairs or engage in any maintenance necessary to abate any nuisances, health or safety hazards and assess the owners of the condominium units for such repair or maintenance; and
 - 3. Provision that an individual owner cannot avoid liability for his prorated share of the expenses for the common area by renouncing rights in the common area.
- B. Prior to final map approval, the subdivider shall provide the City with a copy of the proposed budget for maintenance and operation of common facilities including needed

reserves. The budget shall show estimated monthly costs to the owner of each unit, projected over a five (5) year period, or such time as is required by the Department of Real Estate. Such budget shall be prepared or reviewed and analyzed by a professional management firm, experienced with management of condominium complexes. The management firm shall submit a statement of qualifications.

- C. The subdivider shall provide each purchaser with a copy of all submittals (in their final, acceptable form) required by Section 10.66.030.C (physical elements report), 10.66.030.D (declaration of Covenants, Conditions and Restrictions), and 10.66.030.G (other information) prior to said purchaser executing any purchase agreement or other contract to purchase a unit in the project, and said developer shall give the purchaser sufficient time to review said information. Copies of the submittals shall be made available at all times at the sales office and shall be posted at various locations, as approved by the City, at the project site. Copies shall also be provided to the Homeowners' Association upon its formation.
- D. Prior to the close of escrow, the subdivider shall submit the following information to the Community Development Department:
 - Name, address and phone number of Homeowners' Association;
 - 2. Actual sales price of units;
 - 3. Actual Homeowners' Association fees;
 - 4. Number of prior tenants who purchased units; and
 - 5. Number of units purchased with intent to be used as rentals.
- E. All provisions of the Sausalito Municipal Code shall be met. Any violations shall be corrected prior to the approval of the final or parcel map, or upon approval of the Community Development Department, funds shall be secured as provided by Section 10.50.190 (Security for Performance) to assure completion of such corrective work.
- F. A physical inspection of each unit shall be completed prior to final map approval to ensure compliance with the Housing Code.
- G. The following physical standards shall be met:
 - 1. The project shall conform to the applicable standards of the City Housing Code and shall be found to comply with the Uniform Building Code of the Sausalito Municipal Code in effect on the date the last building permit was issued for the subject structure or structures, except as herein provided.
 - 2. Each bathroom in each living unit shall be provided with ground fault circuit interrupters.
 - 3. Each living unit shall be provided with approved smoke detectors conforming to the latest Uniform Building Code standards, mounted on the ceiling or wall at a

point centrally located in the corridor or area giving access to rooms for sleeping purposes.

- 4. All fire hydrants, fire alarm systems, portable fire extinguishers, and other fire protective appliances shall be retained in an operable condition at all times.
- 5. The structure shall conform to all interior and exterior sound transmission standards of Appendix Chapter 12 Division II & IIA of the California Building Code. In such cases where present standards cannot reasonably be met, the Planning Commission may require the applicant to notify potential buyers of the noise deficiency currently existing within these units.
- 6. Each dwelling unit shall be separately metered for gas and electricity. A plan for equitable sharing of communal water metering shall be developed prior to final map approval and included in the Covenants, Conditions and Restrictions. In such cases where the subdivider can demonstrate that this standard cannot or should not be reasonably met, the Planning Commission may modify this standard.
- 7. Each unit shall have at least 200 cubic feet of enclosed weather-proofed and lockable private storage space in addition to guest, linen, pantry and clothes closets customarily provided. Such space may be provided in any location approved by the Community Development Department, but shall not be divided into two or more locations. In such cases where the subdivider can demonstrate that this standard cannot or should not be reasonably met, the Planning Commission may modify this standard.
- 8. A laundry area shall be provided in each unit; or, if common laundry facilities are provided, such facilities shall consist of not less than one automatic washer and one dryer of equivalent capacity for every 5 units of three or more bedrooms; every 7 two-bedroom units, and every 10 one-bedroom units. In such cases where the subdivider can demonstrate that this standard cannot or should not be reasonably met, the Planning Commission may modify this standard.
- 9. All landscaping shall be restored as necessary and maintained to achieve a high degree of appearance and quality. If a significant amount of new landscaping is required, the landscape plan shall be subject to Administrative Design Review.
- 10. The developer shall provide a warranty to the buyer of each unit at the close of escrow that any dishwashers, garbage disposals, stoves, refrigerators, hot water tanks and air conditioners that are provided have a useful life of one year. At such time as the Homeowners' Association takes over management of the development, the developer shall provide a warranty to the Association that any pool and pool equipment (filter, pumps, chlorinator) and any appliances and mechanical equipment to be owned in common by the Association have a useful life of one year. Prior to Final Map approval, the developer shall provide the City with a copy of Warranty Insurance covering equipment and appliances pursuant to this section.

- 11. All main buildings, structures, fences, patio enclosures, carports, accessory buildings, sidewalks, driveways, landscaped areas, and additional elements as required by the Community Development Department shall be refurbished and restored as necessary to achieve a high degree of appearance, quality and safety. The developer shall provide to the Homeowners' Association and/or purchaser a one-year warranty on all physical improvements required under this section. If substantial restoration is required, the design plans shall be subject to Design Review.
- 12. Prior to approval of the Final Map, the developer shall provide evidence to the City that a long-term reserve fund for replacement has been established in the name of the Homeowners' Association. Such fund shall equal two (2) times the estimated monthly homeowner's assessment for each dwelling unit.

Five or more existing dwelling units

The following conditions shall also apply to Condominium Conversions affecting five or more existing dwelling units:

- H. Lifetime leases shall be provided for existing tenants who are age 62 or over. The owners of such units will be entitled to annual rent increases not to exceed the percentage indicated in the most recently completed 12-month period of the San Francisco-Oakland Consumer Price Index for All Urban Consumers, Housing, Rent, Residential, published by the U.S. Department of Labor.
- I. Fifteen percent (15%) of the units, and not less than one, shall be provided as inclusionary units for persons of low/moderate income as affordable housing in the community with resale controls to assure permanent affordability.
- J. Tenants who move at the time of conversion shall be reimbursed for moving expenses not to exceed a sum equal to three times the monthly rent in effect at the time.

10.66.070 Notice of Decision

Planning Commission decision shall be in the form of a written resolution, which shall include findings on which the decision was based, applicable conditions of approval and a summary of the appeal process. Written decision shall be mailed to the applicant.

10.66.080 Effect of Failure to Give Notice

No action, inaction or recommendation regarding any development by the Planning Commission shall be held void or invalid or be set aside by any Court by reason of error or omission pertaining to the notices, including the failure to give any notice required by this section. Any determination of error or omission shall require Court examination of the entire case, and that such error or omission causes a different result than would have been probable if such error or omission had not occurred or existed. There shall be no presumption that the error or omission is prejudicial or that injury was done if error or omission is shown.

Appeals 10.66.090

All decisions of the Planning Commission may be appealed to the City Council within ten (10) days of the decision date. All appeals shall be in writing and shall be submitted and processed in accordance with Chapter 10.84 (Appeals) of this Title.

Effective Date of Permit 10.66.100

Condominium Conversion Permit shall become effective ten (10) days after the decision is rendered, provided no appeal has been filed.

10.66.110 **Expiration**

Condominium Conversion Permits are valid for one year unless a different expiration date is stipulated at the time of approval, a building permit has been issued and construction diligently pursued, or the permit is renewed or extended. If more than one phase of a development is approved in a single action and later phases remain outstanding, approval shall lapse at the end of the authorized time frame.

10.66.120 **Amendments**

The Community Development Director may approve changes to a diagrammatic floor plan approved in conjunction with a Condominium Conversion Permit subject to the following requirements:

- The application for an amendment shall include a plan showing all common areas and Α. usage of the building and showing the boundaries of all units for informational purposes.
- The proposed changes must be consistent with all applicable provisions of this Title. B.
- The application shall include a demonstration to the satisfaction of the Community C. Development Director that the condominium homeowners' a ssociation, as well as the record owner and all record holders of security interests in the condominium unit, have reviewed and consented to the proposed changes.
- Within thirty (30) days of recordation as provided by California Civil Code § 1351, a copy D. of the condominium plan or amendment to the condominium plan shall be filed with the City.

10.66.130 **Tenant Provisions**

In addition to the other provisions of this chapter and Title 9 (Subdivision Ordinance), the subdivider/applicant shall comply with all the current provisions of Government Code Section 66427 (or any law that supercedes that section), including but not limited to those regulations related to noticing existing tenants of residential units proposed for condominium conversion, tenants' rights, increase in rents, moving expenses, senior citizens and low-moderate income tenants.

10.66.140 Effect on City's Low- and Moderate-Income Housing Supply

In order to reduce the effect of condominium conversions on the City's housing supply and to minimize the displacement of tenants, the number of condominium conversions shall be limited to no more than 5% of the City's potentially convertible rental stock in any one calendar year. Conversion applications will be processed in the order that completed applications are submitted. A proposed project that is larger than the permitted number of units in a given year, if approved, will be considered to have used the permitted number for as many future years as necessary.

The potentially convertible rental stock will be defined as follows: the number of rental units in buildings of two or more units, as determined by the most recent census, plus any new rental units constructed since the census, minus any units which have received tentative map approval to convert since the census. Once the yearly limit has been reached, a project may be approved for conversion only if the Planning Commission makes one or more of the following findings:

- A. The developer will provide for a significant increase in housing for low- and moderate income households or senior citizen households over and above the provisions of this article.
- B. The developer will provide for the construction of new rental housing.
- C. The developer will donate an acceptable site or an acceptable amount of funds to the City for construction of new rental or senior citizen housing.

The need and demand for low cost home ownership to be provided for by this project will outweigh the detriment caused by further reduction of the rental stock.