

File No. 200142 Committee Item No. 1  
 Board Item No. 4

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date May 4, 2020

Board of Supervisors Meeting Date May 19, 2020

**Cmte Board**

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| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
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Completed by: Erica Major Date April 30, 2020

Completed by: Erica Major Date May 6, 2020

1 [Planning Code - Conditional Use Authorizations for Demonstrably Unaffordable Housing]

2

3 **Ordinance amending the Planning Code to require Conditional Use authorization for**  
4 **applications to demolish a Single-Family Residential Building on a site zoned as RH-1**  
5 **or RH-1(D), when the building is demonstrably not affordable or financially accessible**  
6 **housing; affirming the Planning Department’s determination under the California**  
7 **Environmental Quality Act; making findings of consistency with the General Plan, and**  
8 **the eight priority policies of Planning Code, Section 101.1; and adopting findings of**  
9 **public convenience, necessity, and welfare under Planning Code, Section 302.**

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

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

18 Section 1. Findings.

19 (a) The Planning Department has determined that the actions contemplated in this  
20 ordinance comply with the California Environmental Quality Act (California Public Resources  
21 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
22 Supervisors in File No. 200142 and is incorporated herein by reference. The Board affirms  
23 this determination.

24 (b) On April 23, 2020, the Planning Commission, in Resolution No. 20689, adopted  
25 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 Board

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
2 Board of Supervisors in File No. 200142, 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. 20689, and the Board incorporates such reasons  
6 herein by reference. A copy of said Resolution is on file with the Board of Supervisors in File  
7 No. 200142.

8  
9 Section 2. Article 3 of the Planning Code is hereby amended by revising Section 317  
10 to read as follows:

11  
12 **SEC. 317. LOSS OF RESIDENTIAL AND UNAUTHORIZED UNITS THROUGH**  
13 **DEMOLITION, MERGER, AND CONVERSION.**

14 \* \* \* \*

15 (c) **Applicability; Exemptions.**

16 (1) Any application for a permit that would result in the Removal of one or more  
17 Residential Units or Unauthorized Units is required to obtain Conditional Use authorization.  
18 For Unauthorized Units, this Conditional Use authorization will not be required for Removal if  
19 the Zoning Administrator has determined in writing that the unit cannot be legalized under any  
20 applicable provision of this Code. The application for a replacement building or alteration  
21 permit shall also be subject to Conditional Use requirements.

22 \* \* \* \*

23 ~~————(5)——The Demolition of a Single-Family Residential Building that meets the~~  
24 ~~requirements of Subsection (d)(3) below may be approved by the Department without requiring a~~  
25 ~~Conditional Use authorization.~~

1                   (5) The Demolition of a Single-Family Residential Building that meets the  
2 requirements of Subsection (d)(3) below may be approved by the Department without  
3 requiring a Conditional Use authorization.

4                   (6) Exception for Certain Permits Filed Before February 11, 2020. An  
5 application to demolish a Single-Family Residential Building on a site in a RH-1 or RH-1(D)  
6 District that is demonstrably not affordable or financially accessible housing, meaning housing  
7 that has a value greater than 80% than the combined land and structure values of single-  
8 family homes in San Francisco as determined by a credible appraisal made within six months  
9 of the application to demolish, is exempt from the Conditional Use authorization requirement  
10 of Subsection (c)(1), provided that a complete Development Application was submitted prior to  
11 February 11, 2020.

12                   (d)     **Demolition.**

13                   \* \* \* \*

14                   (3)—*An application to demolish a Single-Family Residential Building on a site in a*  
15 *RH-1 or RH-1(D) District that is demonstrably not affordable or financially accessible housing is*  
16 *exempt from the Conditional Use authorization requirement of Subsection (c)(1). Specific numerical*  
17 *criteria for such analyses shall be adopted by the Planning Commission in the Code Implementation*  
18 *Document, in accordance with this Section 317, and shall be adjusted periodically by the Zoning*  
19 *Administrator based on established economic real estate and construction indicators.*

20                   —(A)—*The Planning Commission shall determine a level of affordability or*  
21 *financial accessibility, such that Single-Family Residential Buildings on sites in RH-1 and RH-1(D)*  
22 *Districts that are demonstrably not affordable or financially accessible, that is, housing that has a*  
23 *value greater than at least 80% of the combined land and structure values of single-family homes in*  
24 *San Francisco as determined by a credible appraisal, made within six months of the application to*  
25 *demolish, are not subject to a Conditional Use hearing. The demolition and replacement building*



1 additions, and Board amendment deletions in accordance with the “Note” that appears under  
2 the official title of the ordinance.

3

4 APPROVED AS TO FORM:  
5 DENNIS J. HERRERA, City Attorney

6 By: /s/ Kristen A. Jensen  
7 KRISTEN A. JENSEN  
8 Deputy City Attorney

9 n:\legana\as2020\2000166\01444086.docx

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**REVISED LEGISLATIVE DIGEST**  
(Amended in Committee, 5/4/2020)

[Planning Code - Conditional Use Authorizations for Demonstrably Unaffordable Housing]

**Ordinance amending the Planning Code to require Conditional Use authorization for applications to demolish a Single-Family Residential Building on a site zoned as RH-1 or RH-1(D), when the building is demonstrably not affordable or financially accessible housing; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public convenience, necessity, and welfare under Planning Code, Section 302.**

Existing Law

Planning Code Section 317 currently requires a Conditional Use authorization for any building permit application that proposes elimination of one or more Residential Units or Unauthorized Units through Conversion, Demolition or Merger of Residential Units. Existing law provides limited exceptions, including an exception for permits to demolish single family homes in an RH-1 or RH-1(D) district that are not demonstrably affordable or financially accessible housing.

Amendments to Current Law

The proposed legislation was introduced on February 11, 2020. Prior to the Planning Commission hearing on April 23, 2020, the sponsor submitted language to the Commission making clerical corrections, and proposed to amend the ordinance to exempt from the Conditional Use authorization requirement of Subsection 317(c)(1) certain applications submitted prior to February 11, 2020.

The proposed legislation would amend Planning Code Section 317 to eliminate the prior exception, and require Conditional Use authorization, for permits to demolish single family homes in an RH-1 or RH-1(D) district that are not demonstrably affordable or financially accessible housing. The legislation would except projects from the Conditional Use authorization requirement of Subsection 317(c)(1) where a complete Development Application to demolish a Single-Family Residential Building on a site in a RH-1 or RH-1(D) District that is demonstrably not affordable or financially accessible housing was submitted prior to February 11, 2020.

BOARD of SUPERVISORS



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Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

February 14, 2020

File No. 200142

Lisa Gibson  
Environmental Review Officer  
Planning Department  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Ms. Gibson:

On February 11, 2020, Supervisor Mandelman submitted the following legislation:

**File No. 200142**

**Ordinance amending the Planning Code to require Conditional Use authorization for applications to demolish a Single-Family Residential Building on a site zoned as RH-1 (Residential, House District, One Family) or RH-1(D) (Residential, House District, One Family-Detached), when the building is demonstrably not affordable or financially accessible housing; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public convenience, necessity, and welfare under Planning Code, Section 302.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

Handwritten signature of Erica Major in cursive.

By: Erica Major, Assistant Clerk  
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Don Lewis, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.

2/28/2020

Handwritten signature of Joy Navarrete in cursive.





# SAN FRANCISCO PLANNING DEPARTMENT

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May 1, 2020

Ms. Angela Calvillo, Clerk  
Honorable Supervisor Mandelman  
Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

**Re: Transmittal of Planning Department Case Number 2020-003035PCA:  
Conditional Use Authorizations for Demonstrably Unaffordable Housing  
Board File No. 200142  
Planning Commission Recommendation: Approval with Modification**

Dear Ms. Calvillo and Supervisor Mandelman,

On April 23, 2020, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Mandelman that would amend the Planning Code Section to require Conditional Use authorization for applications to demolish a single-family residential building on a site zoned as RH-1 (Residential, House District, One Family) or RH-1(D) (Residential, House District, One Family-Detached), when the building is demonstrably not affordable or financially accessible housing. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modification was as follows:

- Modify the Ordinance to grandfather projects submitted before the Ordinance's introduction date of February 11, 2020 that would have qualified for a Conditional Use authorization exemption under Section 317(d)(3)(A).

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

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information, please do not hesitate to contact me.

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron D. Starr". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Aaron D. Starr  
Manager of Legislative Affairs

cc:

Kristen Jensen, Deputy City Attorney  
Jacob Bintliff, Aide to Supervisor Mandelman  
Erica Major, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution  
Planning Department Executive Summary



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Resolution No. 20689

HEARING DATE: APRIL 23, 2020

*Project Name:* **Conditional Use Authorizations for Demonstrably Unaffordable Housing**  
*Case Number:* **2020-003035PCA [Board File No. 200142]**  
*Initiated by:* Supervisor Mandelman / Introduced February 11, 2020  
*Staff Contact:* **Audrey Merlone**, Legislative Affairs  
audrey.merlone@sfgov.org, 415-575-9129  
*Reviewed by:* Aaron D Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362

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**RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO REQUIRE CONDITIONAL USE AUTHORIZATION FOR APPLICATIONS TO DEMOLISH A SINGLE-FAMILY RESIDENTIAL BUILDING ON A SITE ZONED AS RH-1 (RESIDENTIAL, HOUSE DISTRICT, ONE FAMILY) OR RH-1(D) (RESIDENTIAL, HOUSE DISTRICT, ONE FAMILY-DETACHED), WHEN THE BUILDING IS DEMONSTRABLY NOT AFFORDABLE OR FINANCIALLY ACCESSIBLE HOUSING; 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 February 11, 2020 Supervisor Mandelman introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 200142 which would amend the Planning Code to require conditional use authorization for applications to demolish a single-family residential building on a site zoned as RH-1 (Residential, House District, One Family) or RH-1(D) (Residential, House District, One Family-Detached), when the building is demonstrably not affordable or financially accessible housing;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on April 23, 2020; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c) and 15378; 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

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance.

## 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:

While the Commission does not find that the proposed Ordinance will help solve any of the major shortcomings in Section 317, it will also not cause any additional harm. The Commission still believes that regulating de facto demolition does not help preserve affordability, mainly because there are no size limits or density increase requirements. The resulting housing units are often much more expensive than the original. The Ordinance does solve one problem; it will remove the perception that wealthier homeowners are exempt from additional process by placing all proposed demolitions of residential units on an even playing field. It will also allow neighbors the opportunity to have their concerns heard by the Planning Commission. By extension it will also allow the Planning Commission an opportunity to encourage more density in these types of projects.

**Recommendation 1: Include a grandfathering provision.** The Commission recommends amending the Ordinance to grandfather projects submitted before the Ordinance's introduction date of February 11, 2020 because it will prevent applications filed under Section 317(d)(3)(A) from being caught between two different processes. Limiting the grandfathering provision to applications filed before the Ordinance's introduction date also ensures that projects will not be submitted in the interim period between introduction and enactment of the Ordinance specifically to avoid the new regulations.

1. In the City's FY 12-13 budget, responsibility for providing strategic direction, planning and oversight of early care and education programs was consolidated in the new agency, OECE
2. The proposed Ordinance will correct the Planning Code so that it is in line with the City's current practices and adopted budget.
3. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

## HOUSING ELEMENT

### OBJECTIVE 2

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

**Policy 2.1**

Discourage the demolition of sound existing housing, unless the demolition results in a net increase in affordable housing.

**Policy 2.4**

Promote improvements and continued maintenance to existing units to ensure long term habitation and safety.

*The proposed Ordinance establishes that even demonstrably unaffordable single-family homes are subject to a public process and review by the Planning Commission. This review ensures any potential demolition of housing is evaluated for its contribution to neighborhood character and value as existing housing stock.*

4. **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;

*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.*

5. **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 APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on April 23, 2020.



Jonas P. Ionin  
Commission Secretary

AYES: Diamond, Imperial, Johnson, Koppel, Moore

NOES: Fung

ABSENT: None

ADOPTED: April 23, 2020



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Amendment HEARING DATE: APRIL 23, 2020 90-DAY DEADLINE: MAY 18, 2020

*Project Name:* **Conditional Use Authorizations for Demonstrably Unaffordable Housing**

*Case Number:* **2020-003035PCA [Board File No. 200142]**

*Initiated by:* Supervisor Mandelman / Introduced February 11, 2020

*Staff Contact:* Audrey Merlone, Legislative Affairs  
audrey.merlone@sfgov.org, (415) 575-9129

*Reviewed by:* Aaron Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362

*Recommendation:* **Approval with Modifications**

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### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to require Conditional Use authorization for applications to demolish a single-family residential building on a site zoned as RH-1 (Residential, House District, One Family) or RH-1(D) (Residential, House District, One Family-Detached), even when the building is demonstrably not affordable or financially accessible housing

#### The Way It Is Now:

Single-family homes in RH-1(D) or RH-1 districts deemed to be “demonstrably unaffordable” are exempt from the requirement to obtain a Conditional Use authorization for demolition. “Demonstrably unaffordable” is defined as a single-family home that has a value greater than at least 80% of the combined land and structure values of single-family homes in the City, based on an appraisal made within 6 months of the application to demolish the home.

#### The Way It Would Be:

Applications to demolish a single-family residential building on sites zoned as RH-1 or RH-1(D), when the building is demonstrably not affordable or financially accessible housing would require Conditional Use authorization.

### BACKGROUND

Section 317 was established in 2008 by Ordinance #69-08 as a way to preserve relatively affordable, existing housing. In addition to regulating the demolition of sound existing housing, Section 317 also covers the loss of units through merger and conversion to other uses. Since the focus of 317 is on affordability, the Ordinance exempted from Planning Commission review the demolition of single-family homes that were determined to be demonstratively unaffordable. Originally this exemption only included demonstrably unaffordable single-family homes in RH-1 Districts; however, in 2013 this exemption was expanded to

include demonstrably unaffordable single-family homes in RH-1(D) Districts. Section 317 was further amended in 2016 to require Conditional Use authorization for the demolition of one to two units, whereas before these were only subject to Mandatory Discretionary Review. Any demolition of three or more units already required Conditional Use authorization.

## ISSUES AND CONSIDERATIONS

### Data Considerations

The Zoning Administrator is responsible for modifying economic criteria related to property values and construction costs in the Implementation Document as warranted by changing economic conditions. The following chart displays the numerical criteria required to be defined as “Demonstrably Unaffordable” over the last ten years:

<b>Demonstrably Unaffordable Values - Sec. 317</b>	
March 2009 - March 2014	\$ 1,342,000
March 2014 - November 2015	\$ 1,506,000
November 2016 - December 2015	\$ 1,630,000
December 2017 - July 2019	\$ 1,900,000
July 2019 - Present	\$ 2,200,000

Since the program was established in 2008, the Department has found that Section 317 does not serve its intended goals of retaining existing housing stock. Nor does it necessarily result on projects that are more in-keeping with neighborhood character.

### Preserving Relatively Affordable Housing

Section 317 was established with the intention of protecting relatively affordable housing and neighborhood character. As such, demolition thresholds were established to prevent major alterations from becoming de-facto demolition. The threshold for a de facto demolition is defined as the removal of more than 50% of the sum of the Front Facade and Rear Facade while also removing more than 65% of the sum of all exterior walls; *or* removal of more than 50% of the Vertical Envelope Elements and more than 50% of the Horizontal Elements of the existing building.

Since the program was established in 2008, the Department has found that Section 317 does not serve its intended goals of retaining relatively affordable housing stock, nor does it necessarily result in projects that are more in-keeping with neighborhood character. As stated in a June 1, 2017 informational presentation to the Planning Commission, after over a decade of implementation: “it is evident to Department staff that the controls lack clarity, increase uncertainty, and do not achieve their initial policy goals. Furthermore, the tantamount to demolition review process can often be a lengthy and iterative process between applicants and the Department, thereby increasing the time and cost of projects, and often resulting in projects that are challenging to build in the field.”



The proposed Ordinance will not solve one of the main problems with Section 317. It does not prevent demonstrably unaffordable projects from submitting renovation applications that remove just under the tantamount to demolition threshold. As a result of this Ordinance, projects that would have originally qualified as demonstrably unaffordable will likely instead submit an application for an extensive remodel, which does not preserve the relative affordability homes. Worse yet, Section 317's demolition controls often disincentivize adding new units to existing homes, which can be extremely difficult to accomplish without triggering a demolition. The result is the expansion of existing units to unaffordable sizes through extensive remodels that propose to remove just under the tantamount to demolition threshold. While the Ordinance will not solve the overarching problems with Section 317, it will at least remove a provision that was not aiding in protecting relatively affordable housing.

### **General Plan Compliance**

Objective 2 of the Housing Element is to retain existing housing units and promote safety and maintenance standards, without jeopardizing affordability. This includes discouraging the demolition of sound existing housing, unless the demolition results in a net increase in affordable housing. The proposed Ordinance establishes that even demonstrably unaffordable single-family homes are subject to a public process and review by the Planning Commission. This review ensures *any* potential demolition of housing is evaluated for its contribution to neighborhood character and value as existing housing stock.

### **Racial and Social Equity Analysis**

Understanding the benefits, burdens and opportunities to advance racial and social equity that proposed Planning Code and Zoning Map amendments provide is part of the Department's Racial and Social Equity Initiative. This is also consistent with the Mayor's Citywide Strategic Initiatives for equity and accountability and with the forthcoming Office of Racial Equity, which will require all Departments to conduct this analysis.

The "demonstrably unaffordable" provision has long been viewed as a way for the wealthiest homeowners to bypass public process. A report published by ABODO which used data from the American Community Survey found that the median home value of minority owned homes in the San Francisco-Oakland-Hayward MSA for 2016 was only 43.5% of the White median home value (minority owned homes in the MSA had a median home value of \$708,300).<sup>1</sup> Although it was not the provision's intent, the result has been an inequitable treatment of proposed demolitions of residential units, with White homeowners more likely to benefit. Deleting this provision will place all proposed demolitions of housing through the same level of scrutiny, with the same opportunities for public input. Ensuring all proposed removals of residential units are treated equally furthers Objective 4 of the General plan to equitably evaluate existing housing and its future development in the City. To ensure other potential racial and social inequities of Section 317 are addressed, the entirety of the Section should be evaluated for potential changes that will succeed in preserving affordable housing where Section 317 has failed.

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<sup>1</sup> Is U.s. Minority Homeownership Falling Fastest For African Americans?  
Sydney Temple - <https://www.abodo.com/blog/minority-homeowners/>

### Implementation

Since 2018, the Department has received approximately 10 applications to demolish single-family homes in RH-1 or RH-1(D) districts that meet the “demonstrably unaffordable” criteria. Of the 10 applications, 3 have faced a Discretionary Review appeal. The Department considers the number of demonstrably unaffordable demolition applications it receives to make up a very small proportion of their caseload. Although the proposed Ordinance may increase the number of Conditional Use applications, it is not predicted to have a severe impact on staff resources.

### RECOMMENDATION

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

1. Modify the Ordinance to grandfather projects submitted before the Ordinance’s introduction date of February 11, 2020 that would have qualified for a Conditional Use authorization exemption under Section 317(d)(3)(A).

### BASIS FOR RECOMMENDATION

While the Department does not find that the proposed Ordinance will help solve any of the major shortcomings in Section 317, it will also not cause any additional harm. The Department still believes that regulating de facto demolition does not help preserve affordability, mainly because there are no size limits or density increase requirements. The resulting housing units are often much more expensive than the original. The Ordinance does solve one problem; it will remove the perception that wealthier homeowners are exempt from additional process by placing all proposed demolitions of residential units on an even playing field. It will also allow neighbors the opportunity to have their concerns heard by the Planning Commission. By extension it will also allow the Planning Commission an opportunity to encourage more density in these types of projects.

**Recommendation 1: Include a grandfathering provision.** Staff recommends amending the Ordinance to grandfather projects submitted before the Ordinance’s introduction date of February 11, 2020 because it will prevent applications filed under Section 317(d)(3)(A) from being caught between two different processes. Limiting the grandfathering provision to applications filed before the Ordinance’s introduction date also ensures that projects will not be submitted in the interim period between introduction and enactment of the Ordinance specifically to avoid the new regulations.

### REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

### ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) 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 received one letter from the public which is attached as Exhibit B.

### **Attachments:**

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Public Comment
- Exhibit C: Board of Supervisors File No. 200142



# SAN FRANCISCO PLANNING DEPARTMENT

EXHIBIT A

## Planning Commission Draft Resolution HEARING DATE APRIL 23, 2020

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

*Project Name:* **Conditional Use Authorizations for Demonstrably Unaffordable Housing**  
*Case Number:* **2020-003035PCA** [Board File No. 200142]  
*Initiated by:* Supervisor Mandelman / Introduced February 11, 2020  
*Staff Contact:* **Audrey Merlone**, Legislative Affairs  
audrey.merlone@sfgov.org, 415-575-9129  
*Reviewed by:* Aaron D Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362

**RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO REQUIRE CONDITIONAL USE AUTHORIZATION FOR APPLICATIONS TO DEMOLISH A SINGLE-FAMILY RESIDENTIAL BUILDING ON A SITE ZONED AS RH-1 (RESIDENTIAL, HOUSE DISTRICT, ONE FAMILY) OR RH-1(D) (RESIDENTIAL, HOUSE DISTRICT, ONE FAMILY-DETACHED), WHEN THE BUILDING IS DEMONSTRABLY NOT AFFORDABLE OR FINANCIALLY ACCESSIBLE HOUSING; 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 February 11, 2020 Supervisor Mandelman introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 200142 which would amend the Planning Code to require conditional use authorization for applications to demolish a single-family residential building on a site zoned as RH-1 (Residential, House District, One Family) or RH-1(D) (Residential, House District, One Family-Detached), when the building is demonstrably not affordable or financially accessible housing;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on April 23, 2020; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c) and 15378; 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  
WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance.

## 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:

While the Commission does not find that the proposed Ordinance will help solve any of the major shortcomings in Section 317, it will also not cause any additional harm. The Commission still believes that regulating de facto demolition does not help preserve affordability, mainly because there are no size limits or density increase requirements. The resulting housing units are often much more expensive than the original. The Ordinance does solve one problem; it will remove the perception that wealthier homeowners are exempt from additional process by placing all proposed demolitions of residential units on an even playing field. It will also allow neighbors the opportunity to have their concerns heard by the Planning Commission. By extension it will also allow the Planning Commission an opportunity to encourage more density in these types of projects.

**Recommendation 1: Include a grandfathering provision.** The Commission recommends amending the Ordinance to grandfather projects submitted before the Ordinance's introduction date of February 11, 2020 because it will prevent applications filed under Section 317(d)(3)(A) from being caught between two different processes. Limiting the grandfathering provision to applications filed before the Ordinance's introduction date also ensures that projects will not be submitted in the interim period between introduction and enactment of the Ordinance specifically to avoid the new regulations.

1. In the City's FY 12-13 budget, responsibility for providing strategic direction, planning and oversight of early care and education programs was consolidated in the new agency, OECE
2. The proposed Ordinance will correct the Planning Code so that it is in line with the City's current practices and adopted budget.
3. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

## HOUSING ELEMENT

### OBJECTIVE 2

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

#### Policy 2.1

Discourage the demolition of sound existing housing, unless the demolition results in a net increase in affordable housing.

**Policy 2.4**

Promote improvements and continued maintenance to existing units to ensure long term habitation and safety.

*The proposed Ordinance establishes that even demonstrably unaffordable single-family homes are subject to a public process and review by the Planning Commission. This review ensures any potential demolition of housing is evaluated for its contribution to neighborhood character and value as existing housing stock.*

**4. 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;

*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.*

5. **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 APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on April 23, 2020.

Jonas P. Ionin  
Commission Secretary

AYES:


NOES:

ABSENT:

ADOPTED: April 23, 2020


Reply all  Delete  Junk  Block ...

## Demonstrably Unaffordable Housing Legislation Comments #2020-003035PCA

 Flag for follow up.

S SchuT <schuttishtr@sbcglobal.net>

Tue 4/7/2020 2:16 PM

Merlone, Audrey (CPC) 

    ...

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Audrey,

Good afternoon. I hope all continues to go well for you and your loved ones in this emergency.

This email is a follow up to my previous comments for the packet for this proposed legislation to remove §317 (d) (3) from the Planning Code.

Attached is the link to the web ad for 653 28th Street, a spec project, which was Administratively Approved for Demo only after a first appraisal came in exactly at the value but a second appraisal was completed and was "found" to be \$45K over the value at that time, which was \$1.63 million back in 2017.

As I wrote in my April 2nd email to you for the Commission packet, 653 28th Street should not have been demolished without a CUA as it is the type of housing that the Housing Element Priority Policies says should be preserved, specifically and most importantly: Objective 2, Policy 2.1 and Objective 3, Policy 3.4.

Similar homes located throughout San Francisco in the RH-1 need to be preserved per these Objectives and Policies. They should not be approved for Demo without a Conditional Use.

I assume that the link will transfer to the packet if the Commissioners or members of the public want to view the photos. These photos show that the home was not "dilapidated" as stated by the Project Sponsor. If the link here doesn't work, folks who are interested can just Google "653 28th Street SF" and they should see the link to the Zillow web ad.

This legislation to remove §317 (d) (3) is a positive step in preserving housing like 653 28th Street in the RH-1 zoned districts to maintain relative affordability. Additionally this typology of single family homes could accommodate an ADU with reasonable alterations including taking advantage of the recent Planning Code change of no minimum parking requirements.

Thank you again, Audrey. This will be my final submission to you for the packet.

Please take very good care and be well.

Sincerely,

Georgia

[https://www.zillow.com/homedetails/653-28th-St-San-Francisco-CA-94131/15199488\\_zpid/](https://www.zillow.com/homedetails/653-28th-St-San-Francisco-CA-94131/15199488_zpid/)

Sent from my iPad



**Re: Demonstrably Unaffordable Housing Hearing April 23rd**

SchuT &lt;schuttishtr@sbcglobal.net&gt;

Fri 4/3/2020 12:55 PM

To: Merlone, Audrey (CPC) &lt;audrey.merlone@sfgov.org&gt;

Thank you, Audrey.

I am glad you all are OK as are we all.

Sometimes I wear my fancier clothes around the house and pretend I am going to party which is a fantasy that is good for sanity. Anyways...

I appreciate you including my original email in the packet.

Take good care and stay well.

Georgia

Sent from my iPad

On Apr 3, 2020, at 11:53 AM, Merlone, Audrey (CPC) &lt;audrey.merlone@sfgov.org&gt; wrote:

Hi Georgia,

Thank you for the well wishes and I hope you and your family are also staying healthy and sane :). This item is on track to be heard at the remote CPC hearing on April 23rd. The case packet should go up with the agenda on the Thursday before, as usual. If you don't see it there by the 16th feel free to reach out and I can email you a copy. I'll be sure to include your email in the packet as public comment.

-Audrey

**Audrey Merlone****Senior Planner, Legislative Affairs**

San Francisco Planning Department

1650 Mission Street, Suite 400 San Francisco, CA 94103

Direct: 415.575.9129 | [www.sfplanning.org](http://www.sfplanning.org)[San Francisco Property Information Map](#)

**REDUCED CAPACITY DURING THE SHELTER IN PLACE ORDER** -- The Planning Department is open for business. Most of our staff are working from home and we're [available by e-mail](#). Our [Public Portal](#), where you can file new applications, and our award-winning [Property Information Map](#) are available 24/7. Similarly, the [Board of Appeals](#) and [Board of Supervisors](#) are accepting appeals via e-mail despite office closures. To protect everyone's health, all of our in-person services at 1650 and 1660 Mission Street are suspended, and the Planning and Historic Preservation Commissions are cancelled until April 9, at the earliest. [Click here for more information](#).

---

**From:** SchuT <schuttishtr@sbcglobal.net>**Sent:** Thursday, April 2, 2020 9:30 AM**To:** Merlone, Audrey (CPC) <audrey.merlone@sfgov.org>**Subject:** Demonstrably Unaffordable Housing Hearing April 23rd

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Audrey,  
Good morning.

Hello and I hope you and your husband and both of your families are well and fine in this emergency and stay that way.

As for the subject of this email, I just wondered if this item was going to proceed as planned and if the Staff Report will be available in advance of the Agenda?

Also are you accepting comments prior to your completion of the Staff Report?

If so I will briefly say that I think the projects up in Dolores Heights are good examples, like those along Sanchez recently, particularly 801 Sanchez (Demo on a 100 x 100 lot and rebuild a single family home!) and the Cumberland project on two lots that had the big CUA a few years ago that was only \$75K over the RH-1 Value at the time of the appraisal. The only reason it had the CUA was because of the lot merger.

Particularly important, at least to me, is the case of 653 28th Street.

It is a poster child for this proposed legislation.

Originally an "alteration" it turned into a Demo. However the first appraisal came in right exactly on the nose of the RH-1 Value at the time so it could not get the exemption. They then got a second appraisal that was able to boost it to \$45K over the Value which was \$1.63 at the time. (I can send you a copy of this appraisal if you can't access it in your files, if you want.)

I worry there are other houses like this not only in the RH-1 parts of Noe Valley up on the hill where the prices have really jumped, just as in Dolores Heights, but also throughout the RH-1 zoned parts of the City...

This 28th Street house did not need to be Demo'ed and it should have had a CUA. It was exactly the kind of house as outlined in the Housing Element that should be preserved. I have a lot of photos of the interior (which the project sponsor described to the Commission at the DR hearing on the replacement as "dilapidated"), and I would be happy to send them to you. The house was perfectly fine....it was just modest. I also have photos of the various phases of construction of the replacement.

That's it.

Please take very good care and I am looking forward to hearing from you when you have a chance to write back.

Sincerely,  
Georgia  
415-265-7570

Sent from my iPad

1 [Planning Code - Conditional Use Authorizations for Demonstrably Unaffordable Housing]

2

3 **Ordinance amending the Planning Code to require conditional use authorization for**  
 4 **applications to demolish a single-family residential building on a site zoned as RH-1**  
 5 **(Residential, House District, One Family) or RH-1(D) (Residential, House District, One**  
 6 **Family-Detached), when the building is demonstrably not affordable or financially**  
 7 **accessible housing; affirming the Planning Department’s determination under the**  
 8 **California Environmental Quality Act; making findings of consistency with the General**  
 9 **Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting**  
 10 **findings of public convenience, necessity, and welfare under Planning Code, Section**  
 11 **302.**

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

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

17 Section 1. Findings.

18 (a) The Planning Department has determined that the actions contemplated in this  
 19 ordinance comply with the California Environmental Quality Act (California Public Resources  
 20 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
 21 Supervisors in File No. 200142 and is incorporated herein by reference. The Board affirms  
 22 this determination.

23 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_,  
 24 adopted findings that the actions contemplated in this ordinance are consistent, on balance,  
 25 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. A copy of said Resolution is on file with the Board of Supervisors in File  
7 No. \_\_\_\_\_.

8  
9 Section 2. Article 3 of the Planning Code is hereby amended by revising Section 317  
10 to read as follows:

11  
12 **SEC. 317. LOSS OF RESIDENTIAL AND UNAUTHORIZED UNITS THROUGH**  
13 **DEMOLITION, MERGER, AND CONVERSION.**

14 \* \* \* \*

15 (c) **Applicability; Exemptions.**

16 (1) Any application for a permit that would result in the Removal of one or more  
17 Residential Units or Unauthorized Units is required to obtain Conditional Use authorization.  
18 For Unauthorized Units, this Conditional Use authorization will not be required for Removal if  
19 the Zoning Administrator has determined in writing that the unit cannot be legalized under any  
20 applicable provision of this Code. The application for a replacement building or alteration  
21 permit shall also be subject to Conditional Use requirements.

22 \* \* \* \*

23 ~~(5) — The Demolition of a Single-Family Residential Building that meets the~~  
24 ~~requirements of Subsection (d)(3) below may be approved by the Department without requiring a~~  
25 ~~Conditional Use authorization.~~

1 (d) **Demolition.**

2 \* \* \* \*

3 (3)—~~An application to demolish a Single-Family Residential Building on a site in a~~  
4 ~~RH-1 or RH-1(D) District that is demonstrably not affordable or financially accessible housing is~~  
5 ~~exempt from the Conditional Use authorization requirement of Subsection (c)(1). Specific numerical~~  
6 ~~criteria for such analyses shall be adopted by the Planning Commission in the Code Implementation~~  
7 ~~Document, in accordance with this Section 317, and shall be adjusted periodically by the Zoning~~  
8 ~~Administrator based on established economic real estate and construction indicators.~~

9 ~~—————(A)—— The Planning Commission shall determine a level of affordability or~~  
10 ~~financial accessibility, such that Single-Family Residential Buildings on sites in RH-1 and RH-1(D)~~  
11 ~~Districts that are demonstrably not affordable or financially accessible, that is, housing that has a~~  
12 ~~value greater than at least 80% of the combined land and structure values of single-family homes in~~  
13 ~~San Francisco as determined by a credible appraisal, made within six months of the application to~~  
14 ~~demolish, are not subject to a Conditional Use hearing. The demolition and replacement building~~  
15 ~~applications shall undergo notification as required by other sections of this Code. The Planning~~  
16 ~~Commission, in the Code Implementation Document, may increase the numerical criterion in this~~  
17 ~~Subsection by up to 10% of its value should it deem that adjustment is necessary to implement the intent~~  
18 ~~of this Section 317, to conserve existing housing and preserve affordable housing.~~

19 ~~—————(B)—— The Planning Commission, in the Code Implementation~~  
20 ~~Document, shall adopt criteria and procedures for determining the soundness of a structure~~  
21 ~~proposed for demolition, where "soundness" is an economic measure of the feasibility of~~  
22 ~~upgrading a residence that is deficient with respect to habitability and Housing Code~~  
23 ~~requirements, due to its original construction. The "soundness factor" for a structure shall be~~  
24 ~~the ratio of a construction upgrade cost (i.e., an estimate of the cost to repair specific~~  
25 ~~habitability deficiencies) to the replacement cost (i.e., an estimate of the current cost of~~

1 building a structure the same size as the existing building proposed for demolition), expressed  
2 as a percentage. A building is unsound if its soundness factor exceeds 50%. A Residential  
3 Building that is unsound may be approved for demolition without requiring a Conditional Use  
4 authorization.

5 \* \* \* \*

6  
7 Section 3. Effective Date. This ordinance shall become effective 30 days after  
8 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
9 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
10 of Supervisors overrides the Mayor’s veto of the ordinance

11  
12 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
13 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
14 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
15 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
16 additions, and Board amendment deletions in accordance with the “Note” that appears under  
17 the official title of the ordinance.

18  
19  
20 APPROVED AS TO FORM:  
21 DENNIS J. HERRERA, City Attorney

22 By: \_\_\_\_\_  
23 KRISTEN A. JENSEN  
24 Deputy City Attorney

25 n:\legana\as2019\2000166\01408103.docx

**From:** aeboken <[aeboken@gmail.com](mailto:aeboken@gmail.com)>

**Sent:** Monday, May 4, 2020 3:24 AM

**To:** BOS-Supervisors <[bos-supervisors@sfgov.org](mailto:bos-supervisors@sfgov.org)>; BOS-Legislative Aides <[bos-legislative\\_aides@sfgov.org](mailto:bos-legislative_aides@sfgov.org)>

**Subject:** SUPPORTING Land Use and Transportation Committee Agenda Item #1 Planning Code - Conditional Use Authorization for Demonstrably Unaffordable Housing. File #200142

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

TO: Board of Supervisors members

I am strongly supporting the legislation to amend the Planning Code to require a Conditional Use Authorization for the demolition of existing housing and the replacement of existing housing with demonstrably unaffordable housing.

Eileen Boken

Chair, Land Use and Transportation Committee

Coalition for San Francisco Neighborhoods \*

\* For identification purposes only.

Sent from my Verizon, Samsung Galaxy smartphone

**From:** [Caleb Balbera](#)  
**To:** [Major, Erica \(BOS\)](#)  
**Cc:** [sonja@yimbylaw.org](mailto:sonja@yimbylaw.org)  
**Subject:** SF Board of Supervisors Land Use Committee Comment  
**Date:** Monday, May 4, 2020 2:00:35 PM

---

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Hi Erica - I'd like to comment that Supervisors Mandelman and Peskins' proposal does nothing to help San Francisco build the thousand of units of additional housing it needs to put even a dent in our current affordability crisis. Instead, they are pushing to preserve single-family homes, which are not affordable and which use valuable city-center land that could be used to house more people for less. Although preventing demolition of extant housing is admirable in theory, doing so prevents the city from growing to meet the needs of its existing and future residents.

Thanks,

—

**Caleb Balbera**

Associate Director, Real Estate | West Coast

(516) 776-7733

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**From:** [Kristy Wang](#)  
**To:** [Mandelman, Rafael \(BOS\)](#); [Peskin, Aaron \(BOS\)](#); [Safai, Ahsha \(BOS\)](#); [Preston, Dean \(BOS\)](#)  
**Cc:** [Major, Erica \(BOS\)](#); [Bintliff, Jacob \(BOS\)](#); [Hepner, Lee \(BOS\)](#); [Sandoval, Suhagey \(BOS\)](#); [Smeallie, Kyle \(BOS\)](#); [ajohn-baptiste](#); [Nick Josefowitz](#)  
**Subject:** SPUR suggests Section 317 exemption for demolitions that add net new units  
**Date:** Monday, May 4, 2020 9:44:05 AM  
**Attachments:** [SPUR suggests Section 317 exemption for net new units.pdf](#)

---

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Dear Supervisors,

I hope that you and your families and staff are safe and doing ok. Thank you for your service in these unprecedented times.

SPUR appreciates Supervisor Mandelman and Supervisor Peskin's effort to treat the largest and most expensive single-family homes the same as other single-family homes, but we suggest that you explore eliminating conditional use approvals for the demolition of non-historic single-family homes *where additional units would be added post-demolition, regardless of their value*. This would have the potential to make Section 317 both more effective and more equitable.

Please see attached letter for more details.

Thank you for your consideration.

Best,  
Kristy Wang

--

Kristy Wang, LEED AP  
Community Planning Policy Director  
SPUR • Ideas + Action for a Better City  
(415) 644-4884  
(415) 425-8460 m  
[kwang@spur.org](mailto:kwang@spur.org)

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**SPUR**

San Francisco | San Jose | Oakland

May 3, 2020

Land Use and Transportation Committee  
San Francisco Board of Supervisors  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

RE: May 4, 2020 Agenda Item 1 [Board File No. 200142]  
Conditional Use Authorizations for Demonstrably Unaffordable Housing

Dear Supervisors:

Thank you for the opportunity to provide comment on proposed legislation that would require a conditional use authorization to demolish “demonstrably unaffordable” single-family homes.

While we agree that single-family homes with higher property values should not be *exempt* from such a requirement (particularly since as Planning’s memo notes, this exemption has disproportionately benefited wealthy and largely white homeowners), SPUR would argue for reconsidering Section 317 altogether. As SF Planning staff note, Section 317 has not served its intended goals of retaining relatively affordable housing stock or even of “protecting neighborhood character,” and it has been a barrier to adding new units to existing homes.

If this regulation is a barrier to adding new units to our housing stock, this raises the broader question of why the demolition of non-historic single-family homes should require a conditional use permit at all, particularly at a time when communities all over the country are reconsidering the extraordinary privileges and racist history of single-family homeownership. Are these the homes in need of greatest protection?

**SPUR appreciates Supervisor Mandelman and Supervisor Peskin’s effort to treat the largest and most expensive single-family homes the same as the rest, but we suggest that you explore eliminating conditional use approvals for the demolition of non-historic single-family homes *where additional units would be added post-demolition*, regardless of their value. This would have the potential to make Section 317 both more effective and more equitable.**

Please let me know if you have any questions.

Best,

Kristy Wang  
Community Planning Policy Director

Cc: SPUR Board of Directors

PETITION

To add a ‘grandfathering’ clause based on the effective date of the legislation to 5/4 Land Use and Transportation Committee Item #1 (200142):  
Conditional Use Authorizations for Demonstrably Unaffordable Housing

May 3, 2020

Board of Supervisors Land Use and Transportation Committee

[erica.major@sfgov.org](mailto:erica.major@sfgov.org)

cc: [audrey.merlone@sfgov.org](mailto:audrey.merlone@sfgov.org)

Re: Remote hearing May 4, 2020 Item #1 (200142): Conditional Use Authorizations for Demonstrably Unaffordable Housing

Dear Board of Supervisors Land Use and Transportation Committee:

We are writing to request that this ordinance, if approved, include a clause for ‘grandfathering’ projects already in the Planning process at the time of legislation approval.

The Planning Department, like the Building Department already does, should evaluate projects according to the Code active at the time the project is accepted for review. (Or the current Code, if the project sponsor opts for this.) This approach would create logical consistency and reduce the volatility of what is already a lengthy and unpredictable process. Is there any other situation in business or civic life where one party unilaterally changes the rules AFTER an agreement has been made?

Grandfathering based on the date that legislation is introduced, while a step in the right direction, is clearly unfair. This strategy would require that project sponsors and architects track and react to multiple possible futures while navigating the maze of the existing process. It is the logical equivalent of charging someone for a crime retroactively, for an act that was legal at the time.

As architects practicing in San Francisco, we often see homeowners purchase (or decline to purchase) properties based largely on Planning Department pre-application feedback. They understand the risks inherent in the process. But it is unreasonable that they should also be asked to absorb the entire playing field arbitrarily changing any time. How can the Board of Supervisors justify betraying the trust of such individuals, who are trying to understand the rules and play by them in good faith?

We hope that you will consider the inherent flaws in such a disjointed approach to policymaking and use this opportunity to incorporate a ‘grandfathering’ clause based on the effective date of the legislation into this and future Planning ordinances. There is one successful precedent for this approach that we are aware of, the recent modification of Section 134.c. – which incorporates the language “based on the applicable law on the date of submission.” This and future ordinances should do the same.

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**From:** [Yonathan](#)  
**To:** [Major, Erica \(BOS\)](#); [Peskin, Aaron \(BOS\)](#); [MandelmanStaff, \[BOS\]](#); [Safai, Ahsha \(BOS\)](#); [Preston, Dean \(BOS\)](#)  
**Subject:** Allow demolition of unaffordable houses to build more housing  
**Date:** Friday, May 1, 2020 5:52:07 PM

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To the Land Use Committee of the Board of Supervisors,

On Monday, 5/4/2020, the Land Use and Transportation Committee will consider an ordinance to require Conditional Use Approval before demolishing unaffordable houses ([Board File 200142](#), [agenda](#)). I urge the Supervisors to please amend the legislation to not require CU when replacement project has more housing than the old house, in order to promote housing affordability.

PC317(g) has a lofty set of Conditional Use criteria before demolitions can be approved, but words are not all that matters. Please consider not only the official CU findings but also the **implicit costs and incentives** caused by the CU process itself. Conditional Use adds months of delay and great uncertainty, which increases the costs of development. And when one type of project requires CU but another type does not, this means the City is encouraging developers to propose the kinds of project that don't require CU.

Originally, PC317 was supposed to protect relative affordability of existing old housing, and it did not require CU for "demonstrably not affordable" projects. This means the City was telling developers, "**If you want to make a major renovation, then please start by buying a house that is not affordable anyway.**" This was not simply an oversight or "loophole," as Sup. Mandelman and his aide Jacob Bintliff claimed, but instead an attempt to preserve the lower-priced housing by making it harder to demolish affordable housing than unaffordable housing.

With the current proposal, the City will stop telling developers to buy an unaffordable house before embarking on a major renovation. Instead, the city will be telling these developers to adhere to the existing "tantamount to demolition" standard, which as we all know is deeply flawed. In other words, the City will only tell developers, "**If you want to make a major renovation, then please preserve a few studs and joists in the name of affordability.**" Nobody (well, almost nobody) thinks that this incentive does anything to further the goal of affordability, including official Planning Department reports (see, for example, [2017 RET Fact Sheet](#), [4/12/2018 demolition presentation](#), [6/20/2019 proposed demolition controls video](#)). So it makes no sense to *expand* it to cover all houses.

What should we do instead? We should start identifying types of projects that actually improve housing affordability that don't require CU, in order to encourage project sponsors to propose projects that the city needs more of. In particular, we should tell developers, "**If you want to make a major renovation, then please add more units or more bedrooms that people can live in than previously existed**" to avoid CU. This would provide a better message that actually improves housing affordability, as opposed to the preservation of studs which helps nobody.

Therefore, please amend the proposed ordinance to **not require CU when the project provides more housing**, in particular more housing units and/or sleeping rooms.

Yonathan Randolph

**From:** [Board of Supervisors, \(BOS\)](#)  
**To:** [Major, Erica \(BOS\)](#)  
**Subject:** FW: Proposed change to Demolition Language  
**Date:** Monday, May 11, 2020 12:39:06 PM  
**Importance:** High

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Erica,

I believe this is for File No. 200142.

Jackie Hickey  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244  
San Francisco, CA 94102-4689  
Phone: (415) 554-5184 | Direct: (415) 554-7701  
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---

**From:** Serina Calhoun <serina@sync-arch.com>  
**Sent:** Thursday, May 7, 2020 2:08 PM  
**To:** Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; Haney, Matt (BOS) <matt.haney@sfgov.org>; MandelmanStaff, [BOS] <mandelmanstaff@sfgov.org>; Mar, Gordon (BOS) <gordon.mar@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Preston, Dean (BOS) <dean.preston@sfgov.org>; Fewer, Sandra (BOS) <sandra.fewer@sfgov.org>; Ronen, Hillary <hillary.ronen@sfgov.org>; Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>; Stefani, Catherine (BOS) <catherine.stefani@sfgov.org>; Walton, Shamann (BOS) <shamann.walton@sfgov.org>; Yee, Norman (BOS) <norman.yee@sfgov.org>; Koppel, Joel (CPC) <joel.koppel@sfgov.org>; Moore, Kathrin (CPC) <kathrin.moore@sfgov.org>; Diamond, Susan (CPC) <sue.diamond@sfgov.org>; Fung, Frank (CPC) <frank.fung@sfgov.org>; Imperial, Theresa (CPC) <theresa.imperial@sfgov.org>; Johnson, Milicent (CPC) <milicent.johnson@sfgov.org>; Ionin, Jonas (CPC) <jonas.ionin@sfgov.org>; CPC-Commissions Secretary <commissions.secretary@sfgov.org>  
**Cc:** Hillis, Rich (CPC) <rich.hillis@sfgov.org>  
**Subject:** Proposed change to Demolition Language  
**Importance:** High

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Good afternoon,

I am a local architect with a small office in Hayes Valley. I am writing today in STRONG OPPOSITION to the proposed changes to SF Planning Code 317 as introduced by Supervisors Mandelman and Peskin. I believe the intent of this legislation is to prevent historic resources from being demolished by a few "bad actors" who lie on their permit applications like what happened with the Neutra house. I support that intent but, my feelings about this legislation are the same as those for Supervisor

Peskin's legislation from last year. This is not the way to achieve that goal.

On average, my residential clients already spend 2-5 years going through their permit process on a conforming addition. Recently, one of my clients spent 5 years waiting for their code compliant vertical addition to be approved. That project didn't even require a hearing. When they started they had a 1-story, 1-bedroom unit and were pregnant with their first child. A child they had no bedroom for. In the span of their 5 year process, they had a child, sent that child to school, their marriage failed, and they filed for divorce. That's a snapshot of how people's lives can change during the lengthy and arduous permit process. In that same span, construction costs have more than doubled, placing their project even further out of reach. Let me dispel a mis-conception. My clients are not rich. They are small families having their first child, or having an elderly parent move in with them and they need more space. I can't tell you how many clients come to me, already pregnant with their first child, needing an addition so they have a room their baby. Unfortunately, that baby will be walking and talking before their code compliant addition will be approved and that's what I have to tell them each and every time they call me. It's heartbreaking, to be honest.

This legislation will make an already arduous, and time consuming process, much worse, not to mention much more costly. We need legislation that does the opposite – that makes it easier to modify our homes and businesses. Maybe people wouldn't lie on their permit applications if the process was simpler and faster. Maybe there wouldn't be so many vacant storefronts if it didn't take 6-9 months to get a permit for a commercial space. This proposal makes it worse, not better, across the board.

Now, due to the shut-down, the single family home renovation, addition, and new construction projects have almost entirely been put on hold as homeowners struggle to pay their mortgages and worry for their future. In just the first week of the shut-down, my architectural colleagues, and many contractors across the city were forced to lay off their entire staff and, in many cases, close their firms forever. They all specialized in single family home projects. The market evaporated overnight. This legislation was introduced prior to the shut-down and with positive intent, but now, more than ever, we need single family residential projects to be as easy to achieve as possible. We're facing a new work model – one where people stay home with their kids and partners. I expect that those people will need more space. Space for a dedicated home office, or private space in their home to separate themselves from the rest of their family. How will they do that if it now takes 3+ years to do a vertical or horizontal addition to their home.

My strong suggestion to solving the problem of people lying on their permit applications is simple – introduce legislation that requires a building inspection prior to start of construction. The City of Oakland does that and it's very successful. I also support penalties for people caught lying on their applications or exceeding the scope of their permit without additional inspection oversight. Bad actors should pay the price, but not the vast majority of homeowners who just need space to meet the needs of their families.

I appreciate your thoughtfulness on this important issue.

Thank you,

Serina Calhoun

*Principal Architect*

**syncopated** architecture

415-558-9843

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TDD/TTY No. 554-5227

February 18, 2020

File No. 200142

Lisa Gibson  
Environmental Review Officer  
Planning Department  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Ms. Gibson:

On February 11, 2020, Supervisor Mandelman submitted the following legislation:

**File No. 200142**

**Ordinance amending the Planning Code to require Conditional Use authorization for applications to demolish a Single-Family Residential Building on a site zoned as RH-1 (Residential, House District, One Family) or RH-1(D) (Residential, House District, One Family-Detached), when the building is demonstrably not affordable or financially accessible housing; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public convenience, necessity, and welfare under Planning Code, Section 302.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk  
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Don Lewis, Environmental Planning



BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
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TDD/TTY No. 554-5227

February 18, 2020

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

Dear Commissioners:

On February 11, 2020, Supervisor Mandelman introduced the following legislation:

**File No. 200142**

**Ordinance amending the Planning Code to require Conditional Use authorization for applications to demolish a Single-Family Residential Building on a site zoned as RH-1 (Residential, House District, One Family) or RH-1(D) (Residential, House District, One Family-Detached), when the building is demonstrably not affordable or financially accessible housing; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public convenience, necessity, and welfare under Planning Code, Section 302.**

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 cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk  
Land Use and Transportation Committee

c: Rich Hillis, Director  
Scott Sanchez, Zoning Administrator  
Lisa Gibson, Environmental Review Officer  
Devyani Jain, Deputy Environmental Review Officer  
Adam Varat, Acting Director of Citywide Planning  
Aaron Starr, Manager of Legislative Affairs  
Andrea Ruiz-Esquide, Deputy City Attorney  
Joy Navarrete, Major Environmental Analysis


# Introduction Form

By a Member of the Board of Supervisors or Mayor

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BY  or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor  inquiries"
- 5. City Attorney Request.
- 6. Call File No.  from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.**

Sponsor(s):

Subject:

The text is listed:

Signature of Sponsoring Supervisor: