



November 9, 2023

Ms. Angela Calvillo, Clerk
Honorable Supervisor Engardio
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 2023-006326PCAMAP:
Family Housing Opportunity Special Use District
Board File No. 230808

Planning Commission Recommendation: **Approval with Modification**

Dear Ms. Calvillo and Supervisor Engardio,

On October 5, 2023, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed ordinance, introduced by Supervisor Engardio, that would amend various sections of the Planning Code. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

1. Include RM-1 in the eligible Zoning Districts for the SUD.
2. Permit density exception limits up to one Dwelling Unit per 1,000 square feet of lot area.
3. Revise the required rear yard requirements to allow for this Corner Lot provision to shift the rear yard to the interior corner of the lot.
4. Allow lot mergers in RM-1 and all RH Zoning Districts.
5. Decrease the proposed corner lot height limits from 65' to 55'.

The proposed amendments were covered in the San Francisco Housing Element 2022 Update Environmental Impact Report (EIR) certified on November 17, 2022.

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.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron D. Starr", with a stylized flourish extending from the end.

Aaron D. Starr
Manager of Legislative Affairs

cc: Giulia Gualco-Nelson, Deputy City Attorney
Jonathan Goldberg, Aide to Supervisor Engardio
John Carroll, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution

Planning Department Executive Summary



PLANNING COMMISSION RESOLUTION NO. 21414

HEARING DATE: OCTOBER 26, 2023

Project Name: Family Housing Opportunity Special Use District; Design Controls and Review Procedures
Case Number: 2023-006326PCAMAP [Board File No. 230808]
Initiated by: Supervisor Engardio / Introduced July 17, 2023
Staff Contact: Veronica Flores, Legislative Affairs
veronica.flores@sfgov.org, 628-652-7525
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, (628) 652-7533

RESOLUTION APPROVING WITH MODIFICATION A PROPOSED ORDINANCE THAT WOULD AMEND 1) THE PLANNING CODE TO CREATE THE FAMILY HOUSING OPPORTUNITY SPECIAL USE DISTRICT; 2) THE PLANNING CODE TO AUTHORIZE THE GREATER OF UP TO FOUR UNITS OR ONE UNIT PER 1,000 SQUARE FEET OF LOT AREA ON INDIVIDUAL LOTS IN THE RH (RESIDENTIAL, HOUSE) DISTRICT, UP TO SIX DWELLING UNITS ON INDIVIDUAL CORNER LOTS IN THE RH DISTRICT, THE GREATER OF UP TO 12 UNITS OR ONE UNIT PER 1,000 SQUARE FEET OF LOT AREA ON THREE MERGED LOTS AND THE GREATER OF UP TO EIGHT UNITS OR ONE UNIT PER 1,000 SQUARE FEET OF LOT AREA ON TWO MERGED LOTS IN RH-1 (RESIDENTIAL, HOUSE: ONE FAMILY) DISTRICTS, UP TO 18 UNITS ON CORNER LOTS RESULTING FROM THREE LOT MERGERS IN RH-1 DISTRICTS, UP TO 12 UNITS ON CORNER LOTS RESULTING FROM TWO LOT MERGERS IN RH-1 DISTRICTS, AND GROUP HOUSING IN RH-1 DISTRICTS FOR ELIGIBLE PROJECTS IN THE SPECIAL USE DISTRICT; 3) THE PLANNING CODE TO EXEMPT ELIGIBLE PROJECTS IN THE SPECIAL USE DISTRICT FROM CERTAIN HEIGHT, OPEN SPACE, DWELLING UNIT EXPOSURE, AND REAR-YARD REQUIREMENTS, CONDITIONAL USE AUTHORIZATIONS, AND NEIGHBORHOOD NOTIFICATION REQUIREMENTS; 4) THE SUBDIVISION CODE TO AUTHORIZE ELIGIBLE PROJECTS IN THE SPECIAL USE DISTRICT TO QUALIFY FOR CONDOMINIUM CONVERSION OR A CONDOMINIUM MAP THAT INCLUDES THE EXISTING DWELLING UNITS AND THE NEW DWELLING UNITS THAT CONSTITUTE THE PROJECT; 5) THE ADMINISTRATIVE CODE TO REQUIRE NEW DWELLING OR GROUP HOUSING UNITS CONSTRUCTED PURSUANT TO THE DENSITY LIMIT EXCEPTION TO BE SUBJECT TO THE RENT INCREASE LIMITATIONS OF THE RENT ORDINANCE; 6) THE ZONING MAP TO SHOW THE FAMILY HOUSING OPPORTUNITY SPECIAL USE DISTRICT; AND AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1, AND FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on July 17, 2023 Supervisor Engardio introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 230808, which amend 1) the Planning Code to create the Family Housing Opportunity Special Use District; 2) the Planning Code to authorize the greater of up to four units or one unit per 1,000 square feet of lot area on individual lots in the RH (Residential, House) District, up to six dwelling units on individual Corner Lots in the RH District, the greater of up to 12 units or one unit per 1,000 square feet of lot area on three merged lots and the greater of up to eight units or one unit per 1,000 square feet of lot area on two merged lots in RH-1 (Residential, House: One Family) districts, up to 18 units on Corner Lots resulting from three lot mergers in RH-1 districts, up to 12 units on Corner Lots resulting from two lot mergers in RH-1 districts, and Group Housing in RH-1 districts for eligible projects in the Special Use District; 3) the Planning Code to exempt eligible projects in the Special Use District from certain height, open space, dwelling unit exposure, and rear-yard requirements, conditional use authorizations, and neighborhood notification requirements; 4) the Subdivision Code to authorize eligible projects in the Special Use District to qualify for condominium conversion or a condominium map that includes the existing dwelling units and the new dwelling units that constitute the project; 5) the Administrative Code to require new dwelling or group housing units constructed pursuant to the density limit exception to be subject to the rent increase limitations of the Rent Ordinance; 6) the Zoning Map to show the Family Housing Opportunity Special Use District;

WHEREAS, the Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on October 26, 2023; and,

WHEREAS, the proposed amendments were covered in the San Francisco Housing Element 2022 Update Environmental Impact Report (EIR) certified on November 17, 2022; 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 49 South Van Ness Avenue, Suite 1400, 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. The Commission’s proposed recommendations are as follows:

1. Include RM-1 in the eligible Zoning Districts for the SUD.
2. Permit density exception limits up to one Dwelling Unit per 1,000 square feet of lot area.
3. Revise the required rear yard requirements to allow for this Corner Lot provision to shift the rear yard

to the interior corner of the lot.

4. Allow lot mergers in RM-1 and all RH Zoning Districts.
5. Decrease the proposed corner lot height limits from 65' to 55'.

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:

The proposed Ordinance will streamline review of qualifying housing projects.

The proposed Ordinance focuses on increasing housing production in the Well-Resourced neighborhoods.

The Planning Commission expressed concerns with the proposed 65' height limit, particularly with the potential four-story difference between a new corner building next to a two-story structure. There was also interest in limiting this corner lot provision with the increased height limit to District 4 as a pilot program before expanding to the rest of the SUD.

The Planning Commission noted that while the Objective Design Standards are not yet final, they hoped it would include some requirements for the taller buildings to step down to the shorter adjacent buildings.

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 1.A

Ensure housing stability and healthy homes.

OBJECTIVE 3.B

Create a sense of belonging for all communities of color within well-resourced neighborhoods through expanded housing choice.

OBJECTIVE 4.A

Substantially expand the amount of permanently affordable housing for extremely low- to moderate-income households.

OBJECTIVE 4.B

Expand small and mid-rise multi-family housing production to serve our workforce, prioritizing middle-income households.

OBJECTIVE 4.C

Diversify housing types for all cultures, family structures, and abilities.

POLICY 19

Enable low and moderate-income households, particularly American Indian, Black, and other people of color, to live and prosper in Well-resourced Neighborhoods by increasing the number of permanently affordable housing units in those neighborhoods.

POLICY 20

Increase mid-rise and small multi-family housing types by adopting zoning changes or density bonus programs in Well-resourced Neighborhoods and adjacent lower-density areas near transit, including along SFMTA Rapid Network³³ and other transit.

POLICY 25

Reduce governmental constraints on development in Well-resourced Neighborhoods to enable small and mid-rise multi-family buildings providing improved housing choice and affordability.

POLICY 26

Streamline and simplify permit processes to provide more equitable access to the application process, improve certainty of outcomes, and ensure meeting State- and local-required timelines, especially for 100% affordable housing and shelter projects.

POLICY 32

Promote and facilitate aging in place for seniors and multi-generational living that supports extended families and communal households.

POLICY 33

Prevent the outmigration of families with children and support the needs of families to grow.

POLICY 34

Encourage co-housing to support ways for households to share space, resources, and responsibilities, especially to reinforce supportive relationships within and across communities and generations.

The proposed Ordinance aligns with the Housing Element's goal of providing a diverse stock of housing to meet existing and future residents' needs. This legislation especially responds to Policy 26 by eliminating procedural barriers through new streamlining opportunities for qualifying projects within the proposed Family Housing Opportunity SUD. The proposed Ordinance also focuses development opportunities within the Well-Resourced Neighborhoods identified in San Francisco. This directly supports Policy 25 by eliminating development constraints within the Well-Resourced Neighborhoods and Policy 19 by increasing small-and mid-rise buildings within the Well-Resourced Neighborhoods or within low-density neighborhoods. Additionally, the Planning Department's recommendation modification related to permitting Group Housing under this Corner Lot provision promotes Policy 34 which encourages co-housing to supports ways for households to share space, resources, and responsibilities. Collectively, this Ordinance supports the Housing Element's goal of "housing for all".

Planning Code Section 101 Findings

The proposed amendments to the Planning Code and Zoning Map 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.

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 October 26, 2023.



Jonas P. Ionin
Commission Secretary

Jonas P Ionin

Digitally signed by Jonas P Ionin
Date: 2023.11.03 12:20:24 -07'00'

AYES: Braun, Diamond, Imperial, Koppel, Tanner

NOES: Moore

ABSENT: Ruiz

ADOPTED: October 26, 2023



EXECUTIVE SUMMARY

PLANNING CODE TEXT & ZONING MAP AMENDMENT

HEARING DATE: October 5, 2023

90-Day Deadline: October 10, 2023

Project Name: Family Housing Opportunity Special Use District; Design Controls and Review Procedures
Case Number: 2023-003626PCAMAP [Board File No. 230808]
Initiated by: Supervisor Engardio / Introduced July 17, 2023
Staff Contact: Veronica Flores, Legislative Affairs
veronica.flores@sfgov.org, 628-652-7525
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, (628) 652-7533
Environmental Review: San Francisco Housing Element 2022 Update Environmental Impact Report (EIR) certified on November 17, 2022.

Recommendation: Approval with Modifications

Planning Code and Zoning Map Amendment

The proposed Ordinance would amend 1) the Planning Code to create the Family Housing Opportunity Special Use District; 2) the Planning Code to authorize the greater of up to four units or one unit per 1,000 square feet of lot area on individual lots in the RH (Residential, House) District, up to six dwelling units on individual Corner Lots in the RH District, the greater of up to 12 units or one unit per 1,000 square feet of lot area on three merged lots and the greater of up to eight units or one unit per 1,000 square feet of lot area on two merged lots in RH-1 (Residential, House: One Family) districts, up to 18 units on Corner Lots resulting from three lot mergers in RH-1 districts, up to 12 units on Corner Lots resulting from two lot mergers in RH-1 districts, and Group Housing in RH-1 districts for eligible projects in the Special Use District; 3) the Planning Code to exempt eligible projects in the Special Use District from certain height, open space, dwelling unit exposure, and rear-yard requirements, conditional use authorizations, and neighborhood notification requirements; 4) the Subdivision Code to

authorize eligible projects in the Special Use District to qualify for condominium conversion or a condominium map that includes the existing dwelling units and the new dwelling units that constitute the project; 5) the Administrative Code to require new dwelling or group housing units constructed pursuant to the density limit exception to be subject to the rent increase limitations of the Rent Ordinance; 6) the Zoning Map to show the Family Housing Opportunity Special Use District.

The Way It Would Be under the Family Housing Opportunity SUD effective October 15, 2023:

The Family Housing Opportunity SUD would be established under Board File 230026. The boundaries are generally coterminous with the areas designated as high-resource and highest-resource neighborhoods in the “Well-Resourced Neighborhoods Map” of the 2023-2031 Housing Element. Eligible projects would be exempt from CUAs per Section 303 and 317, except if the project demolishes any units subject to the price controls under the Rent Ordinance or a CUA is required per Sections 249.77 (Corona Heights Large Residence SUD) or 249.92 (Central Neighborhoods Large Residence SUD). Additionally, eligible projects would be exempt from the neighborhood notification and public-initiated Discretionary Review (DR) procedures in Section 311, except if the project demolishes any units subject to the price controls under the Rent Ordinance. All projects would be required to record a Notice of Special Restrictions (NSR) describing the approved uses, restrictions, and development controls. Such NSR needs to be signed by the City and recorded against the property prior to building permit issuance.

The Family Housing Opportunity SUD would allow projects with the following densities (exclusive of any Accessory Dwelling Units (ADUs)) and locational requirements:

- Single-Lot Development Project: The construction, including the alteration of an existing structure, of at least two units and a maximum of up to four dwelling units or one unit up to 1,000 square feet of lot area, whichever is greater. This is inclusive of any existing dwelling units on the site, and any Unauthorized Units occupied by a tenant within the past five years. For a project proposing four dwelling units, the fourth dwelling unit shall be constructed in the rear yard only if it meets the rear-yard unit requirements of this SUD; otherwise, the project shall be limited to three units. For a project proposing fewer than four dwelling units, up to one unit may be in the rear yard.
- Lot-Merger Development Project in RH-1 Districts combining lots within RH-1, RH-1(D), or RH-1(S):
 - For two-lot merger: the construction of a minimum of six units and a maximum of up to eight units or one unit up to 1,000 square feet of lot area, whichever is greater.
 - For three-lot merger: the construction of a minimum of nine units and a maximum of up to 12 units or one unit up to 1,000 square feet of lot area, whichever is greater.
 - Lot-Merger projects would not be permitted to have a rear yard unit.
- Group Housing Development Project: A Single-Lot project and a Lot-Merger project may also propose the construction of up to one Group Housing bedroom per 415 square feet of lot area for projects located in RH-1, RH-1(D), or RH-1(S) districts. For projects outside of those districts, Group Housing density based on what is currently permitted under the Planning Code. A project shall not propose both Dwelling Units and Group Housing bedrooms.

To be eligible for this residential density limit exception, projects must demonstrate the following criteria:

- is in an RH district within the Family Housing Opportunity SUD and is not located in the Telegraph Hill - North Beach Residential SUD or the North Beach SUD;
- not combined with the State Density Bonus or HOME-SF programs;

- not proposed on a property resulting from a lot-split under Senate Bill 9;
- provides the following bedroom mix requirements, inclusive of any existing Dwelling Units retained on the site (not applicable to Group Housing):
 - for a Single-Lot, at least two Dwelling Units with two or more bedrooms, unless the project involves adding one Dwelling Unit to a lot with three existing Dwelling Units;
 - for two-lot merger, at least two Dwelling Units with two bedrooms, or at least one Dwelling Unit with three bedrooms; and
 - for three-lot merger, at least three Dwelling Units with two bedrooms, or at least two Dwelling Units with three bedrooms;
- includes more dwelling units than are existing on the site at the time of application, this is inclusive of any Unauthorized Dwelling Units that has been occupied by a tenant within the past five years and ADUs (Group Housing projects need to provide at least as many bedrooms as the project would demolish);
- does not propose the demolition of a known historic building;
- complies with Code and applicable design guidelines, does not seek any Variances or exceptions from the Planning Code, and strives for consistency with the Residential Design Guidelines (RDGs);
- complies with Senate Bill 330 unit replacement requirements for protected units;
- the project sponsor needs to have owned the property for five years if the site contains two or more Dwelling Units, or for at least one year if the site contains one of fewer Dwelling Units. A single-family home containing an Unauthorized Dwelling Unit is subject to the one-year requirement;
- the project does not propose the demolition of any of the following:
 - three or more Dwelling Units that are or were:
 - subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income within the past five years,
 - subject to limits on rent increases under the Residential Rent Stabilization and Arbitration Ordinance within the past five years, or
 - rented by lower or very low-income households within the past five years;
 - a Dwelling Unit occupied by a tenant at the time of application;
 - a Dwelling Unit where a tenant has been evicted under Administrative Code Sections 37.9(a)(8)-(12) or 37.9(a)(14)-(16) no-fault evictions within the past five years or a Dwelling Unit that has been vacated within the past five years pursuant to a Buyout Agreement; and
- the project sponsor has conducted one Pre-Application Meeting prior to filing a development application.

The Ordinance also includes other controls for these projects:

- the height limit shall be 40 feet, notwithstanding Section 261(b), and shall comply with the height limits at the front of the property per Section 261(c);
- for Single-Lot projects proposing a detached rear yard unit:
 - the detached rear yard units would require a four-foot setback from the rear and side property lines and be no greater than 20 feet tall as measured from grade;
 - open space requirements for each unit on the property shall be at least 100 square feet for private, and 133 square feet if common;
 - for the rear yard units and units in the primary building that achieve their only Code-complying exposure from the rear yard, the Dwelling Unit exposure shall face onto an open space that is no less than 25 feet and such open area is not required to expand in every horizontal dimension at each subsequent floor;

- for Lot-Mergers projects: the minimum densities shall be at least six units for a two-lot merger and at least nine units for a three-lot merger;
 - open space requirements for each unit on the property shall be at least 100 square feet for private, and 133 square feet if common;
- the required rear yard shall be 30%, or 15 feet, whichever is greater (except when proposing a detached rear yard unit, in which case a minimum of 25 feet separation would be required); and
- Dwelling Units built over the base density limit would be subject to price and eviction controls under the Rent Ordinance (except Affordable Units provided through the Inclusionary Affordable Housing Program).

The Department shall include an update on the location and number of the units resulting from this SUD within the Housing Inventory Report. Additionally, the Department shall prepare a report containing recommendations to this SUD, including recommendations on the boundaries, prior to December 31, 2030, which is the conclusion of the current Housing Element Cycle.

The Way It Would Be under this Ordinance:

Proposed Densities for Corner Lots Different than the SUD:

- Single-Lot Development Project: The construction, including the alteration of an existing structure, of at least five and no more than six dwelling units on a single lot, inclusive of any existing dwelling units on the site. No units may be proposed in the rear yard.
- Lot-Merger Development Project in RH-1 Districts. A merger of up to three lots in RH-1, RH-1(D), or RH-1(S) districts and the construction of at least 10 units but no more than 12 units on a two-lot merger or at least 15 units but no more than 18 dwelling units on a three-lot merger.
- Group Housing Development Projects would not be permitted.

Eligibility Criteria Different than the SUD:

- The minimum bedroom requirements would not apply.

Other Controls Different than the SUD:

- the height limit shall be 65 feet;
- the required rear yard shall be 25%, or 15 feet, whichever is greater; and
- open space requirements for each unit on the property shall be at least 100 square feet for private, and 133 square feet if common.

Note: Corner Lots can still propose projects complying with the rest of the SUD. The major development difference is that those would be subject to the 40-foot height limit instead of 65 feet under this Corner Lot provision.

Additional Clarifications Impacting Entire SUD:

The Way It Would Be under the Family Housing Opportunity SUD effective October 15, 2023:	The Way It Would Be under this Ordinance:
Lot merger provisions are silent on mergers resulting on through lots.	Lot mergers would not be allowed if they result in a combined Lot with both its front and rear property lines along a Street, Alleys, or a Street and an Alley i.e. not resulting in a through lot. The only exception is if one of the lots to be merged is already a through lot.
When a rear yard unit is proposed, there must be a minimum separation of 25 feet building the two building facades.	The Ordinance would explicitly note this 25-foot separation is for the facades of the rear yard unit and primary building that face onto each other. This separation would be measured from the greatest depth of the rear façade for the primary building and the front façade of the rear yard unit that is closest to the rear yard. Additionally, the open area shall comply with the requirements of Section 135(a)-(c).
Rear yard units and units in the primary building achieving their only Code-complying exposure from the rear yard shall face onto an open space that is no less than 25 feet and such open area is not required to expand in every horizontal dimension at each subsequent floor.	The Ordinance would clarify that the open area that the units face onto shall be unobstructed except for fire escapes not projecting more than necessary for safety, and in no case more than four feet six inches; chimneys; and those obstructions permitted in Sections 136(c)(14), (15), (16), (19), (20), and (26).

Background

The City recently passed legislation (Four-plex Program) allowing increased density of up to four Dwelling Units per lot, and up to six Dwelling Units per lot in Corner Lots, in all RH zoning districts;¹ however, this Ordinance kept in place all existing procedural requirements, such as neighborhood notification (311 Notification) and Conditional Use requirements for demolishing existing housing (Planning Code Section 317). The process requirements help make housing construction less feasible by increasing time and costs associated with the project. This Ordinance seeks to eliminate these constraints by expanding on the forthcoming Family Housing Opportunity SUD to streamline qualifying housing projects seeking such density limit exceptions. The proposed Ordinance also expands on the density limit exception by allowing a greater height limit on Corner Lots.

Family Housing Opportunity SUD

This proposed Ordinance is a duplicate file permitting additional density and increased height limits for eligible Corner Lots.

Supervisor Melgar introduced the Family Housing Opportunity SUD under Board File 230026, which will become effective October 15, 2023. The SUD boundaries would be generally coterminous with the areas designated as

¹ [Ordinance 210-22, Board File No. 210866](#)

high-resource and highest-resource neighborhoods in the “Well-Resourced Neighborhoods Map” of the 2023-2031 Housing Element (see Exhibit C). Eligible projects are exempt from CUAs per Section 303 and 317, except if the project demolishes any units subject to the price controls under the Rent Ordinance or a CUA is required per Sections 249.77 or 249.92. Additionally, eligible projects are exempt from the neighborhood notification and public-initiated Discretionary Review (DR) procedures in Section 311, except if the project demolishes any units subject to the price controls under the Rent Ordinance. All projects would be required to record a NSR describing the approved uses, restrictions, and development controls. Such NSR would need to be signed by the City and recorded against the property prior to building permit issuance.

This proposed Ordinance is a duplicate file permitting additional density and increased height limits for eligible Corner Lots. While this path has overlapping eligibility criterion, there are some minor differences as described above. Both Ordinances still have the goals of streamlining review of eligible projects and revised design controls for eligible projects within the SUD.

Competing Ordinances

Mayoral Executive Directive 23-01 centered on the goal of “Housing for All” and called on all City agencies to create clear action plans to implement the 2022 Housing Element. Specifically, the mayor sought ways to eliminate procedures to streamline housing construction. As part of this effort, Mayor Breed introduced separate legislation under Board File 230446 to reduce housing constraints and eliminate procedural barriers. The mayor’s Ordinance goes beyond the scope of Supervisor Melgar’s Ordinance and includes changes like standardizing rear yard requirements and setting minimum lot size and lot frontage for the entire city; however, there are significant overlaps between the two Ordinances.

Within that overlap, there are three main differences between Supervisor Melgar’s Ordinance and the mayor’s Ordinance. The first is that Supervisor Melgar’s Ordinance creates an SUD based on the Well-Resourced Neighborhoods within which projects are exempt from procedural requirements if they meet the eligibility requirements. The mayor’s Ordinance also creates an SUD but bases it off the Priority Equity Geographies and uses it to preserve existing review procedures within that area; moreover, both Ordinances seek to increase development within Well-Resourced Neighborhoods. The second main difference is that Supervisor Melgar’s Ordinance applies only to RH zoning district within the proposed SUD, while the mayor’s process changes are not limited to RH zoning districts. The third main difference is that Supervisor Melgar’s Ordinance seeks to replicate the density bonus provisions in the recently passed Four-plex Ordinance to create process improvements for those projects. The mayor’s Ordinance does not increase density, but instead relies on existing density, the framework of the existing Four-plex Ordinance, and anticipated zoning changes from the Housing Element implementation process. The Mayor’s Ordinance appeared at the Land Use and Transportation Committee hearing on September 18, 2023 and is scheduled to return to Committee on October 2, 2023.

Issues and Considerations

Housing Affordability Crisis

San Francisco has faced housing affordability challenges for decades including prices and rents that have increased to be among the highest in the nation. Most lower income renters struggle to afford their rent and homeownership is out of reach to all but those with the highest incomes or wealth. Over 85,000 renters and

39,000 owners spend more than 30% of income on housing and are considered cost burdened.^{2, 3} The most recent Point-in-Time (PIT) Count in 2022 found 7,754 people experiencing homelessness, more than 4,000 of whom are unsheltered.⁴ This was a slight decrease compared to the 2019 PIT Count, partially due to the mayor's Homelessness Recovery Plan; however, housing for all is still an issue, nonetheless.

Households of many types face housing challenges; however, the most heavily impacted households are people living alone, who make up most severely burdened renters (spending 50% or more on rent) and families with children. This latter group faces elevated rates of cost burden and makes up nearly half of overcrowded households despite being just 18% of all households. People impacted by lack of housing options are extremely diverse. They include seniors on fixed incomes, people with physical and mental disabilities who want to live independently, college students, young adults trying to move out of their parents' homes, low- and moderate-income workers, middle-income homebuyers, families with children including single parents, and extended families with multiple generations living together.

People of color in San Francisco have substantially lower incomes than White residents and less housing access due to discriminatory policies. Today, Black, American Indian, and Latino residents have lower rates of home ownership than average, higher rates of cost burden, and experience homelessness at disproportionate rates. Asian residents also have higher cost burdens and, along with Latino residents, face higher rates of housing overcrowding than average.

Development Controls

The proposed Ordinance does not bypass design review and the RDGs would still apply to the extent compliance with the guidelines is feasible; however, to further achieve streamlining benefits, the City needs to move away from subjective design review (such as the RDGs) and instead review housing projects against objective design standards. The Department is currently working on objective design standards in conjunction with the rezoning effort to implement the Housing Element. Once adopted, this could further expedite review of all housing projects.

Specifically, these objective design standards would include requirements for tall corner buildings to step down as they get closer to the rest of the block. This would ensure that there is a prominent corner building that still responds to the adjacent buildings with shorter height limits.

Corner Lots

Corner buildings should maintain a contiguous block face and respond to both sides of the street.

Corner buildings play a stronger role in defining the character of the neighborhood than other buildings along the block face. They can act as informal entryways to the street, setting the tone for the streetscape that follows. Corner buildings must recognize their prominent location by responding to buildings on both sides of the street.

² [Housing Needs Assessment and Assessment of Fair Housing. Housing Element 2022 Update. page 68](#)

³ HUD defines cost-burdened families as those “who pay more than 30% of their income for housing” and “may have difficulty affording necessities such as food, clothing, transportation, and medical care.” Severe rent burden is defined as paying more than 50% of one's income on rent.

⁴ [2022 Homeless Count and Survey Comprehensive Report. page 19](#)

This is particularly true for taller buildings that would be proposed under this Ordinance. These projects should create a strong, contiguous, block face as seen in Figure 1.



Figure 1: Example corner building.

The example in Figure 1 showcases a corner building wrapping around the corner and keeps the development pattern of both streets. Additionally, Figure 1 includes fenestration on both streets to make each side feel like a “front” façade. The RDGs also call for higher building height at corner buildings, where appropriate, to add emphasis on the corner. The additional height limit proposed under the Ordinance aligns with this guideline. The draft objective design standards also include a “stepping down” requirement to respond to the shorter, adjacent buildings. This is important when proposed Corner Lot projects under this provision could potentially be over 20 feet taller than the directly adjacent neighbors.

Lot Mergers

The proposed Ordinance includes a new clarification for Lot Mergers:

A project may not propose a lot merger that would result in a lot having both its front and its rear lot line along Streets, Alleys, or a Street and an Alley (“through lot”), unless at least one of the lots that will be merged is a through lot.

The Ordinance does include one exception that mergers involving existing through lots would still be allowed. This amendment applies to the entire SUD, not just Corner Lots, and the Department believes this change would help retain the existing block face pattern. Without such restriction, a lot merger proposed under this SUD could conceivably create a through lot, which then impacts the development pattern. For example, if a lot merger creates a new through lot, the building depth could interfere with the mid-block open space if it provides a required rear yard and other setbacks.

This is illustrated in Figure 2 on the next page which features a potential three-lot merger is outlined in red, with the potential buildable area shaded in yellow. In this illustration, a proposed development may encroach into the mid-block open space while still meeting the required rear yard. The Planning Code typically allows separate buildings at both frontages within a through lot to be in keeping with the street frontage; however, the proposed Ordinance does not allow rear yard units within a lot merger development project. The concern of impacts to the mid-block open space and impacts to the neighborhood block face is addressed through the proposed Ordinance.



Figure 2: Example three-lot merger.

Group Housing

As drafted, the Corner Lot provision does not permit a Group Housing project on a Corner Lot pursuing the 65-foot height exception. Group Housing would be permitted within the rest of the SUD, including in a corner building proposed up to 40 feet tall.

Communal Facilities

The revised definition of GH under Board File 211299 requires minimum amounts of communal space. Group Housing projects generally provide smaller private bedrooms in exchange for more shared facilities and amenities. This is largely achieved by shifting the private amenities normally associated with regular Dwelling Units (such as kitchens and living rooms) to communal facilities shared by all residents. Common space generally includes all the interior areas that cater to communal living, including but not limited to kitchens, lounges, entertainment rooms, fitness rooms, laundry facilities, and shared bathrooms. These definition revisions make Group Housing more livable and desirable than fully-studio buildings that would not be required to provide the same amenities. Without adequate common space amenities in a 100% studio building, tenants are likely to spend less time there.

General Plan Compliance

The proposed Ordinance aligns with the Housing Element's goal of providing a diverse stock of housing to meet existing and future residents' needs. This legislation especially responds to Policy 26 by eliminating procedural barriers through new streamlining opportunities for qualifying projects within the proposed Family Housing Opportunity SUD. The proposed Ordinance also focuses development opportunities within the Well-Resourced Neighborhoods identified in San Francisco. This directly supports Policy 25 by eliminating development constraints within the Well-Resourced Neighborhoods and Policy 19 by increasing small-and mid-rise buildings within the Well-Resourced Neighborhoods or within low-density neighborhoods. Additionally, the Planning Department's recommendation modification related to permitting Group Housing under this Corner Lot provision promotes Policy 34 which encourages co-housing to supports ways for households to share space,

resources, and responsibilities. Collectively, this Ordinance supports the Housing Element's goal of "housing for all".

Racial and Social Equity Analysis

This analysis builds on the efforts to review Supervisor Mandelman's recent legislation to create the four-unit density exception for Residential Districts. That analysis found that the most likely existing housing typology to be affected by the legislation was small, single-family homes. This was because demolition of multi-unit buildings to increase the existing density by a few units was not financially feasible. This proposed Ordinance alleviates some of those financial constraints by allowing qualifying housing projects as of right, instead of requiring additional CUA entitlements.

Reduce Potential Vulnerability of Single-Family Homeowners

Despite high home prices, 50% of single-family homes are owned by moderate- or low-income owners. Single-family homes have much lower turnover than multi-family ownership units or rental units. 46% of single-family homes have been occupied for 20 years or more and 70% occupied for 10 years or more. Length of ownership may explain why so many single-family homes have owners with low and moderate incomes even though current housing prices are unaffordable. These households may have purchased a house when prices were lower, inherited a home, or their income may have been higher when they purchased the property (*i.e., retirees*).⁵

Over 39,000 owners report facing cost burdens, comprising about 30% of all owners. A little less than half of burdened owners experience severe burdens, paying more than 50% of income in housing costs (over 19,000 owners).⁶ Middle income owners are more likely to be cost burdened than renters but more than 80% of severely burdened owners are lower income. People of color are disproportionately impacted by owner cost burden, likely due to disproportionately lower incomes. Black or African American owners, as well as Hispanic or Latino, Native Hawaiian or Pacific Islander, and Asian owners, experience elevated rates of owner cost burden. While rents have dropped, the single-family home market has been highly active. Prices have only gone up in the past couple of years indicating that the pressures that might encourage these homeowners to sell their properties is powerfully in action *now*. Changing density limits is unlikely to make a significant difference in the choices these families currently face.

Aging In Place

Asian and Hispanic households are typically more likely than White households to opt into multi-generational living. The proposed density limit exceptions are especially appealing for multi-generational families looking to live collectively under one roof but still maintain their own independence by having distinct Dwelling Units. This also provides additional opportunities for seniors to age in place by relocating to a new unit on the ground floor or even a detached unit in the rear yard.

The Lot-Merger projects is envisioned to provide homeowners with limited liquid savings to be able to pool their resources together and increase housing opportunities and communal amenities on site. This requires a convergence of financial mechanisms, potential public-private partnerships, and interested property owners or available lots adjacent to each other to be able to pursue such lot mergers. If achieved, this increases the

⁵ [Housing Needs Assessment and Assessment of Fair Housing. Housing Element 2022 Update. page 37](#)

⁶ [Housing Needs Assessment and Assessment of Fair Housing. Housing Element 2022 Update. page 73](#)

flexibility for the building configurations and unit types within a proposed housing project. This could also help families increase their equity in the long run, further cementing or enhancing their ability to age in place.

Making Well-Resourced Neighborhoods More Inclusive

The proposed Ordinance concentrates on increasing housing production within Well-Resourced Neighborhoods. Traditionally, low-income households are limited in their housing choices, often only able to rent or purchase in neighborhoods with fewer resources. The proposed Ordinance aligns with the Housing Element goal to open wealthy, predominantly white, and well-resourced neighborhoods to all communities of color and low-income households. This initiative seeks to provide access to high-quality neighborhood resources that foster positive economic and health outcomes.

Group Housing

Group Housing residents tend to be people who are looking for non-traditional housing. In its earlier days, Group Housing often provided housing for single or migrant workers, with buildings often segregated by sex. It was also a way for new immigrants to move to a city and find affordable housing until they could afford more permanent accommodations. Today, Group Housing offers more and different housing opportunities and caters to people who are unable or not interested in living in a traditional house or apartment. Newer Group Housing residents may include students or those starting a new job in San Francisco. Regardless of the situation, the City still needs to accommodate all types of residents and Group Housing is part of the solution. As proposed, the Ordinance prohibits Group Housing from Corner Lot projects proposed up to 65 feet. Proposed Group Housing projects on Corner Lots would still be permitted following the primary SUD regulations which is limited to up to 40 feet. This additional 25 feet in height could yield greater numbers of Group Housing bedrooms if the Ordinance were amended.

Implementation

The Family Housing Opportunity SUD, which would be effective mid-October, eliminates procedural barriers and streamlines review for qualifying projects. The Department has determined that the implementation impacts of this proposed Ordinance are the same as the original SUD. These efforts (re-listed below for transparency) are already under way:

- Create a new Family Housing Opportunity SUD Informational and Supplemental Application Packet;
- Require applications to submit the above Supplemental Application prior to submitting a Lot Line Adjustment (LLA) application to Public Works;
- Create a Regulatory Agreement template to designate rent-controlled units; and
- Create a new NSR template outlining the approved uses, restrictions, and development controls.

To reiterate from the last report, the items described above will take lead time at the front end and should not increase staff review time or costs. These efforts will be beneficial for the applicants as they will better understand upfront the new options available to them.

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. Permit density exception limits up to one Dwelling Unit per 1,000 square feet of lot area.
2. Revise the required rear yard requirements to allow for this Corner Lot provision to shift the rear yard to the interior corner of the lot and require projects to "step down" to adjacent buildings.
3. Allow lot mergers in all RH Zoning Districts.
4. Permit Group Housing for Corner Lot projects pursuing this new path.

Basis for Recommendation

The Department supports the proposed Ordinance because it supports the Housing Element's goals of increasing housing production and diversifying the housing stock, particularly within the Well-Resourced Neighborhoods. This Ordinance also supports the Mayoral Executive Directive's goal of "Housing for All". However, the Department believes the Ordinance would be more effective with the following modifications:

Recommendation 1: Permit density exception limits up to one Dwelling Unit per 1,000 square feet of lot area.

When Board File 230026 was duplicated, the increased density exception (one unit per 1,000 square feet of lot area) was applied only to non-Corner Lots. Once effective, the Family Housing Opportunity SUD would accommodate large non-Corner Lots allowing them to build more than four units pending the lot area. However, Corner Lots would be restricted to up to four units only. This means that a Corner Lot project could potentially build more units under the standard SUD provisions with the 40-foot height limit. However, the project would be limited to only six units within a 65-foot height limit under this Corner Lot provision. This does not make sense because we should maximize density more, especially for the taller Corner Lot buildings.

Recommendation 2: Revise the required rear yard requirements to allow for this Corner Lot provision to shift the rear yard to the interior corner of the lot and require projects to "step down" to adjacent buildings.

Under the proposed Ordinance, Corner Lot projects under this provision have a required rear yard of 25% of the lot depth, or 15 feet, whichever is greater. Additionally, the required rear yard of Corner Lots can be reduced to match the depth of the adjacent property. The proposed Ordinance should provide more flexibility for these projects to be able to shift the rear yard to the interior corner of the property and maintain a strong block face. This is an exception currently permitted under HOME-SF projects and often a requested incentive or concession for State Density Bonus projects. This was also proposed in the Mayor's Housing Constraints Reduction Ordinance under Board File 230446 to better maintain the neighborhood development pattern, and it should be replicated under this Ordinance. This is especially important when considering the increased height limit for these Corner Lot projects, and the juxtaposition of that taller building next to a required rear yard along one of the street frontages.

Additionally, these Corner Lot projects should step down the farther into the block the building massing is. This will be required under the forthcoming objective design standards and should be implemented for these

projects now. This maintains a prominent corner building while still ensuring better compatibility with the directly adjacent neighbors that have a lower height limit.

Recommendation 3: Allow lot mergers in all RH Zoning Districts.

The Family Housing Opportunity SUD would only allow lot mergers for RH-1, RH-(D), and RH-1(S) zoned, allowing up to eight units for a two-lot merger and up to 12 units for a three-lot merger. The Department is concerned that a property with an underlying zoning district of RH-1 would be able to build a higher density than that of RH-2 and RH-3 (lots shaded in yellow in Exhibit C). This is fundamentally inconsistent with the way the different classes in the RH districts works and should be reconsidered. Additionally, Exhibit C shows that the RH-1 lots shaded in green comprise approximately 50% of eligible parcels within the SUD. This distribution of RH-1 zoned parcels may also result in greater densities in certain pockets of the SUD when all parcels should benefit from this lot merger provision.

The original intent was to limit lot mergers to RH-1 lots so that three homeowners could pool together their resources and erect a new building that could meet their needs, without displacing any tenants. Board File 230026 was recently amended to include more tenant protections. For example, a project proposing to demolish any rent-controlled units would still be subject to a CUA and neighborhood notification. Additionally, projects cannot propose the demolition of a Dwelling Unit occupied by a tenant at the time of the application. Therefore, multi-family buildings on RH-2 or RH-3 lots would still have strong tenant protections in place that were not previously accounted for when limiting the lot merger path to just RH-1 districts. RH-2 and RH-3 should be eligible for lot mergers too to allow for the increased housing capacity like RH-1 lots.

Recommendation 4: Permit Group Housing for Corner Lot projects pursuing this new path.

As drafted, this Corner Lot provision would not permit Group Housing up to 65' in height; however, Group Housing project could still be proposed on a Corner Lot up to 40 feet in height under the existing SUD requirements. This additional 25 feet in height could yield greater numbers of Group Housing bedrooms if the Ordinance incorporated this recommended modification. Further, because the proposed corner lot provision does not include a minimum bedroom requirement, the proposed changes could result in a 65-foot tall, 100% studio building. While the Department does not object to this type of project as it provides more housing choices in our well-resourced neighborhoods, a Group Housing project could provide the same amount of density at a lower cost to tenants while providing more communal amenities for a more livable environment. Expanding the corner lot program to group housing would provide more housing choices for San Franciscans, as is called for in the General Plan and supported by the racial and social equity analysis.

One of the key differences that distinguishes Group Housing from a Dwelling Unit is that Group Housing focuses on shared amenities and communal living. Group Housing usually does not involve a family, but rather individuals seeking a non-traditional form of housing. A person or household may be living in Group Housing for a wide variety of reasons. Some reasons may include, but are not limited to, the following:

- residents have created or joined existing co-living or co-housing communities based on shared values or goals such as a commune or nursery,
- individuals are seeking housing to establish social connections and fight isolation,
- for an opportunity for multiple households to pool and share resources and responsibilities,
- it may be the only affordable housing choice for some households, or
- as a temporary housing solution for newcomers, temporary workers, or as housing for institutions.

Regardless of the reason, Group Housing offers a viable housing option other than a traditional house or apartment. This should not be excluded from the Corner Lot provision. Larger Group Housing projects should be encouraged rather than 100% studio buildings.

The Supervisor expressed concerns that allowing Group Housing would produce student dormitories. However, dormitories would be required to go through the Institutional Master Plan (IMP) process and include other reviews and requirements from there.

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 were covered in the San Francisco Housing Element 2022 Update Environmental Impact Report (EIR) certified on November 17, 2022.

Public Comment

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

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 230808
- Exhibit C: Family Housing Opportunity SUD boundaries (SUD effective October 15, 2023)



PLANNING COMMISSION DRAFT RESOLUTION

HEARING DATE: October 5, 2023

Project Name: Family Housing Opportunity Special Use District; Design Controls and Review Procedures
Case Number: 2023-006326PCAMAP [Board File No. 230808]
Initiated by: Supervisor Engardio / Introduced July 17, 2023
Staff Contact: Veronica Flores, Legislative Affairs
veronica.flores@sfgov.org, 628-652-7525
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, (628) 652-7533

RESOLUTION APPROVING WITH MODIFICATION A PROPOSED ORDINANCE THAT WOULD AMEND 1) THE PLANNING CODE TO CREATE THE FAMILY HOUSING OPPORTUNITY SPECIAL USE DISTRICT; 2) THE PLANNING CODE TO AUTHORIZE THE GREATER OF UP TO FOUR UNITS OR ONE UNIT PER 1,000 SQUARE FEET OF LOT AREA ON INDIVIDUAL LOTS IN THE RH (RESIDENTIAL, HOUSE) DISTRICT, UP TO SIX DWELLING UNITS ON INDIVIDUAL CORNER LOTS IN THE RH DISTRICT, THE GREATER OF UP TO 12 UNITS OR ONE UNIT PER 1,000 SQUARE FEET OF LOT AREA ON THREE MERGED LOTS AND THE GREATER OF UP TO EIGHT UNITS OR ONE UNIT PER 1,000 SQUARE FEET OF LOT AREA ON TWO MERGED LOTS IN RH-1 (RESIDENTIAL, HOUSE: ONE FAMILY) DISTRICTS, UP TO 18 UNITS ON CORNER LOTS RESULTING FROM THREE LOT MERGERS IN RH-1 DISTRICTS, UP TO 12 UNITS ON CORNER LOTS RESULTING FROM TWO LOT MERGERS IN RH-1 DISTRICTS, AND GROUP HOUSING IN RH-1 DISTRICTS FOR ELIGIBLE PROJECTS IN THE SPECIAL USE DISTRICT; 3) THE PLANNING CODE TO EXEMPT ELIGIBLE PROJECTS IN THE SPECIAL USE DISTRICT FROM CERTAIN HEIGHT, OPEN SPACE, DWELLING UNIT EXPOSURE, AND REAR-YARD REQUIREMENTS, CONDITIONAL USE AUTHORIZATIONS, AND NEIGHBORHOOD NOTIFICATION REQUIREMENTS; 4) THE SUBDIVISION CODE TO AUTHORIZE ELIGIBLE PROJECTS IN THE SPECIAL USE DISTRICT TO QUALIFY FOR CONDOMINIUM CONVERSION OR A CONDOMINIUM MAP THAT INCLUDES THE EXISTING DWELLING UNITS AND THE NEW DWELLING UNITS THAT CONSTITUTE THE PROJECT; 5) THE ADMINISTRATIVE CODE TO REQUIRE NEW DWELLING OR GROUP HOUSING UNITS CONSTRUCTED PURSUANT TO THE DENSITY LIMIT EXCEPTION TO BE SUBJECT TO THE RENT INCREASE LIMITATIONS OF THE RENT ORDINANCE; 6) THE ZONING MAP TO SHOW THE FAMILY HOUSING OPPORTUNITY SPECIAL USE DISTRICT; AND AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN,

AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1, AND FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on July 17, 2023 Supervisor Engardio introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 230808, which amend 1) the Planning Code to create the Family Housing Opportunity Special Use District; 2) the Planning Code to authorize the greater of up to four units or one unit per 1,000 square feet of lot area on individual lots in the RH (Residential, House) District, up to six dwelling units on individual Corner Lots in the RH District, the greater of up to 12 units or one unit per 1,000 square feet of lot area on three merged lots and the greater of up to eight units or one unit per 1,000 square feet of lot area on two merged lots in RH-1 (Residential, House: One Family) districts, up to 18 units on Corner Lots resulting from three lot mergers in RH-1 districts, up to 12 units on Corner Lots resulting from two lot mergers in RH-1 districts, and Group Housing in RH-1 districts for eligible projects in the Special Use District; 3) the Planning Code to exempt eligible projects in the Special Use District from certain height, open space, dwelling unit exposure, and rear-yard requirements, conditional use authorizations, and neighborhood notification requirements; 4) the Subdivision Code to authorize eligible projects in the Special Use District to qualify for condominium conversion or a condominium map that includes the existing dwelling units and the new dwelling units that constitute the project; 5) the Administrative Code to require new dwelling or group housing units constructed pursuant to the density limit exception to be subject to the rent increase limitations of the Rent Ordinance; 6) the Zoning Map to show the Family Housing Opportunity Special Use District;

WHEREAS, the Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on October 5, 2023; and,

WHEREAS, the proposed amendments were covered in the San Francisco Housing Element 2022 Update Environmental Impact Report (EIR) certified on November 17, 2022; 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 49 South Van Ness Avenue, Suite 1400, 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. The Commission’s proposed recommendations are as follows:

1. Permit density exception limits up to one Dwelling Unit per 1,000 square feet of lot area.
2. Revise the required rear yard requirements to allow for this Corner Lot provision to shift the rear yard

to the interior corner of the lot and require projects to “step down” to adjacent buildings.

3. Allow lot mergers in all RH Zoning Districts.
4. Permit Group Housing for Corner Lot projects pursuing this new path.

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:

The proposed Ordinance will streamline review of qualifying housing projects.

The proposed Ordinance focuses on increasing housing production in the Well-Resourced neighborhoods.

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 1.A

Ensure housing stability and healthy homes.

OBJECTIVE 3.B

Create a sense of belonging for all communities of color within well-resourced neighborhoods through expanded housing choice.

OBJECTIVE 4.A

Substantially expand the amount of permanently affordable housing for extremely low- to moderate-income households.

OBJECTIVE 4.B

Expand small and mid-rise multi-family housing production to serve our workforce, prioritizing middle-income households.

OBJECTIVE 4.C

Diversify housing types for all cultures, family structures, and abilities.

POLICY 19

Enable low and moderate-income households, particularly American Indian, Black, and other people of color, to live and prosper in Well-resourced Neighborhoods by increasing the number of permanently affordable housing units in those neighborhoods.

POLICY 20

Increase mid-rise and small multi-family housing types by adopting zoning changes or density bonus programs in Well-resourced Neighborhoods and adjacent lower-density areas near transit, including along SFMTA Rapid Network33 and other transit.

POLICY 25

Reduce governmental constraints on development in Well-resourced Neighborhoods to enable small and mid-rise multi-family buildings providing improved housing choice and affordability.

POLICY 26

Streamline and simplify permit processes to provide more equitable access to the application process, improve certainty of outcomes, and ensure meeting State- and local-required timelines, especially for 100% affordable housing and shelter projects.

POLICY 32

Promote and facilitate aging in place for seniors and multi-generational living that supports extended families and communal households.

POLICY 33

Prevent the outmigration of families with children and support the needs of families to grow.

POLICY 34

Encourage co-housing to support ways for households to share space, resources, and responsibilities, especially to reinforce supportive relationships within and across communities and generations.

The proposed Ordinance aligns with the Housing Element's goal of providing a diverse stock of housing to meet existing and future residents' needs. This legislation especially responds to Policy 26 by eliminating procedural barriers through new streamlining opportunities for qualifying projects within the proposed Family Housing Opportunity SUD. The proposed Ordinance also focuses development opportunities within the Well-Resourced Neighborhoods identified in San Francisco. This directly supports Policy 25 by eliminating development constraints within the Well-Resourced Neighborhoods and Policy 19 by increasing small-and mid-rise buildings within the Well-Resourced Neighborhoods or within low-density neighborhoods. Additionally, the Planning Department's recommendation modification related to permitting Group Housing under this Corner Lot provision promotes Policy 34 which encourages co-housing to supports ways for households to share space, resources, and responsibilities. Collectively, this Ordinance supports the Housing Element's goal of "housing for all".

Planning Code Section 101 Findings

The proposed amendments to the Planning Code and Zoning Map 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.

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 October 5, 2023.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: October 5, 2023

[Planning, Subdivision, and Administrative Codes and Zoning Map - Family Housing Opportunity Special Use District]

Ordinance amending 1) the Planning Code to create the Family Housing Opportunity Special Use District; 2) the Planning Code to authorize the greater of up to four units or one unit per 1,000 square feet of lot area on individual lots in the RH (Residential, House) District, up to six dwelling units on individual Corner Lots in the RH District, the greater of up to twelve12 units or one unit per 1,000 square feet of lot area on three merged lots and the greater of up to eight units or one unit per 1,000 square feet of lot area on two merged lots in RH-1 (Residential, House: One Family) districts, up to 18 units on Corner Lots resulting from three lot mergers in RH-1 districts, up to 12 units on Corner Lots resulting from two lot mergers in RH-1 districts, and Group Housing in RH-1 districts for eligible projects in the Special Use District; 3) the Planning Code to exempt eligible projects in the Special Use District from certain height, open space, dwelling unit exposure, and rear-yard setback requirements, conditional use authorizations, and neighborhood notification requirements; 4) amending the Subdivision Code to authorize eligible projects in the Special Use District to qualify for condominium conversion or a condominium map that includes the existing dwelling units and the new dwelling units that constitute the project; 5) amending the Administrative Code to require new dwelling or group housing units constructed pursuant to the density limit exception to be subject to the rent increase limitations of the Rent Ordinance; 6) amending the Zoning Map to show the Family Housing Opportunity Special Use District; and affirming the Planning Department's determination under the California Environmental Quality Act, and making findings of consistency with the General Plan, and the eight priority policies of Planning Code,

1 **Section 101.1, and findings of public necessity, convenience, and welfare under**
2 **Planning Code, Section 302.**

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

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

11 Section 1. CEQA and Land Use Findings.

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

17 (b) On _____, the Planning Commission, in Resolution No. _____,
18 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
19 with the City’s General Plan and eight priority policies of Planning Code Section 101.1. The
20 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
21 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

22 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
23 amendments will serve the public necessity, convenience, and welfare for the reasons set
24 forth in Planning Commission Resolution No. _____, and the Board adopts such
25 reasons as its own. A copy of said resolution is on file with the Clerk of the Board of
Supervisors in File No. _____ and is incorporated herein by reference.

1
2 Section 2. General Findings.

3 (a) California faces a severe crisis of housing affordability and availability, prompting
4 the Legislature to declare, in Section 65589.5 of the Government Code, that the state has “a
5 housing supply and affordability crisis of historic proportions. The consequences of failing to
6 effectively and aggressively confront this crisis are hurting millions of Californians, robbing
7 future generations of a chance to call California home, stifling economic opportunities for
8 workers and businesses, worsening poverty and homelessness, and undermining the state’s
9 environmental and climate objectives.”

10 (b) This crisis of housing affordability and availability is particularly severe in San
11 Francisco. It is characterized by dramatic increases in rent and home sale prices over recent
12 years.

13 (c) According to the Planning Department’s 2020 Housing Inventory, the cost of
14 housing in San Francisco has increased dramatically since the Great Recession of 2008-
15 2009, with the median sale price for a two-bedroom house more than tripling from 2011 to
16 2021, from \$493,000 to \$1,580,000. This includes a 9% increase from 2019 to 2020 alone,
17 even in the face of the COVID-19 pandemic. The median rental price for a two-bedroom
18 apartment saw similar although slightly smaller increases, nearly doubling from \$2,570 to
19 \$4,500 per month, from 2011 to 2019, before declining in 2020 due to the pandemic.

20 (d) These housing cost trends come after decades of underproduction of housing in
21 the Bay Area. The City’s Chief Economist has estimated that approximately 5,000 new
22 market-rate housing units per year would be required to keep housing prices in San Francisco
23 constant with the general rate of inflation. To this end, the City’s COVID-19 Economic
24 Recovery Task Force included a recommendation in its October 2020 report to support
25

1 construction of small multifamily buildings in low density areas to support “missing middle”
2 housing opportunities.

3 (e) Moreover, San Francisco will be challenged to meet increased Regional Housing
4 Needs Allocation (“RHNA”) goals in the 2023-2031 Housing Element cycle, which total 82,069
5 units over eight years, more than 2.5 times the goal of the previous eight-year cycle. At the
6 same time, relatively new State laws like Senate Bill 35 (2017) would limit San Francisco’s
7 local zoning control and discretion if the City does not meet these RHNA housing production
8 goals.

9 (f) San Francisco’s new housing production in recent years has been heavily
10 concentrated in the eastern and southeastern parts of the City, with 90% of all new housing
11 produced in just ten eastside and central neighborhoods, according to the 2019 Housing
12 Affordability Strategies Report. These neighborhoods are home to many of the City’s most
13 established communities of color and communities most vulnerable to displacement
14 pressures.

15 (g) The California Fair Housing Task Force annually updates the Tax Credit Allocation
16 Committee/Department of Housing and Community Development Opportunity Map
17 (“TCAC/HCD Opportunity Map”). The TCAC/HCD Opportunity Map identifies high-resource
18 and highest-resource areas in the state whose concentration of resources have been shown
19 to support positive economic, educational, and health outcomes for low-income families —
20 particularly long-term outcomes for children. The ~~2020~~2021 TCAC/HCD Opportunity Map is
21 the basis for the Well-Resourced Neighborhoods Map in the 2023-2031 Housing Element, on
22 file with the Clerk of the Board of Supervisors in File No. 230001. The Well-Resourced
23 Neighborhoods Map is also on file with the Clerk of the Board of Supervisors in File No.
24 ~~_____~~230026 and is incorporated herein by reference.

1 (h) Since 2005, just 10% of all new housing in San Francisco and 10% of new
2 affordable housing in San Francisco has been built in high- and highest-resource
3 neighborhoods, though these areas cover nearly 52% of the residential land in the city. In
4 these high-resource neighborhoods, 65% of the land is limited to one or two units. Permitting
5 additional units in high-resource areas will increase the supply of available housing, including
6 the supply of modestly-sized family units that are more affordable than large, single-family
7 homes.

8 (i) While recent legislation has authorized multi-family homes in these neighborhoods,
9 additional procedural requirements may render them too expensive to deliver. Streamlining
10 and simplifying permit processes will help provide more equitable access to the application
11 process and improve certainty of development outcomes for small multifamily buildings in
12 high- and highest-resource neighborhoods.

13 (j) This ordinance creates the Family Housing Opportunity Special Use District (SUD),
14 whose boundaries are generally coterminous with the Well-Resourced Neighborhoods Map in
15 the 2023-2031 Housing Element. This legislation expands upon and complements recently
16 enacted state legislation, such as SB 9, that aims to promote multifamily housing development
17 in single-family neighborhoods. To this end, the legislation provides project sponsors
18 flexibility to choose from a menu of incentives to fit their project needs – be it relief from
19 procedural requirements like conditional use authorizations, neighborhood notification, and
20 public-initiated discretionary review, relief from development standards like density, or a
21 combination of the two.

22 (k) The Family Housing Opportunity SUD permits development of the greater of up to
23 four units or one unit per 1,000 square feet of lot area on an individual parcel in an RH District,
24 provided that the proposed project complies with the heights and bulk specified in the City's
25 Zoning Maps (Height & Bulk Maps HT01 through HT14), in addition to other eligibility criteria

1 detailed in this ordinance. The SUD would also permit up to six units on a Corner Lot in an
2 RH District, subject to certain eligibility criteria. The SUD also permits up to one Group
3 Housing ~~unit~~bedroom per 415 square feet of lot area in RH-1, RH-1(D), and RH-1(S) districts,
4 with the exception of certain projects on Corner Lots. In those same districts, the SUD
5 permits the greater of up to 12 units or one unit per 1,000 square feet of lot area if the lot is the
6 result of a merger of three lots, or the greater of eight units or one unit per 1,000 square feet
7 of lot area if the lot is the result of a merger of two lots. If the resulting lot is a Corner Lot, the
8 SUD permits up to 18 units for a three-lot merger and up to 12 units for a two-lot merger. This
9 ordinance also streamlines approval by exempting eligible projects from conditional use
10 authorization and neighborhood notification requirements and public-initiated discretionary
11 review hearings in Planning Code Section 311.

12 (l) All parcels affected by this ordinance are considered urban infill sites under
13 California Government Code Section 65913(e)(3). This Board therefore declares that this
14 ordinance is enacted pursuant to California Government Code Section 65913(e)(3).

15 (m) This Board finds that this ordinance is consistent with San Francisco's obligation to
16 affirmatively further fair housing pursuant to California Government Code Section 8899.50, by
17 increasing density for projects that enter into regulatory agreements with the City
18 acknowledging that, in consideration for the density exceptions, the new units shall be subject
19 to local rent control notwithstanding the Costa-Hawkins Rental Housing Act (California Civil
20 Code Section 1954.50 *et seq.*). Increasing density in this manner meaningfully addresses
21 significant disparities in housing needs and access to opportunity. Additionally, this ordinance
22 streamlines the approval process to promote certainty in development outcomes in high- and
23 highest-resource neighborhoods.

24 (n) This Board finds that it is in the public interest to encourage the production of a
25 variety of unit types, sizes, and tenure to accommodate people in different living situations,

1 including a mix of smaller units that can help young adults secure housing and seniors to
2 downsize, and larger units that can help growing or multi-generational families stay
3 adequately housed.

4 (o) This Board recognizes that additional development opportunities may lead to
5 speculative real estate investments that may seek to displace current residents, demolish
6 existing housing stock, build new units, and quickly sell those units. To discourage such
7 speculation, demolition of existing units, and displacement of current residents, this ordinance
8 makes the benefit of the streamlining and development incentives available only to persons
9 who have owned their properties for one year prior to the date of their application, including
10 the ownership duration of their Eligible Predecessor, as defined herein, subject to exceptions
11 for multiple ownership structures and vacant buildings described further in the ordinance.
12

13 Section 3. Article 2 of the Planning Code is hereby amended by adding Section
14 249.94, to read as follows:
15

16 **SEC. 249.94. FAMILY HOUSING OPPORTUNITY SPECIAL USE DISTRICT.**

17 (a) **Purpose.** To incentivize the development of multifamily housing in the City's well-
18 resourced neighborhoods, a special use district entitled "Family Housing Opportunity Special Use
19 District" is hereby established.

20 (b) **Boundaries.** The boundaries of the Family Housing Opportunity Special Use District are
21 shown on Special Use District Maps Sheets SU 1, SU 2, SU 3, SU 4, SU 5, SU 6, SU 7, SU 11, SU 12,
22 and SU 13. These boundaries consist generally of the areas designated as high-resource and highest-
23 resource on the Well-Resourced Neighborhoods Map of the 2023-2031 Housing Element.

24 (c) **Eligibility.** An eligible project under this Section 249.94 shall be a project that complies
25 with all the following criteria:

1 (1) is located in an RH District in the Family Housing Opportunity Special Use
2 District;

3 (2) is not seeking or receiving approval under the provisions of Planning Code Sections
4 206.3, 206.5, or 206.6;

5 (3) is not located on a parcel resulting from a lot split under California Government
6 Code Section 66411.7;

7 (4) proposes any of the following project types:

8 (A) Single-Lot Development Project. The construction on a single lot,
9 including through the alteration of an existing structure, of at least two dwelling units and no more
10 than the maximum number of four dwelling units on a single lot prescribed in subsection
11 (d)(1)(A) of this Section 249.94, inclusive of any existing dwelling units on the site. For a project
12 proposing four dwelling units, the fourth dwelling unit shall be constructed in the rear yard pursuant to
13 subsection (d)(3) of this Section 249.94. For a project proposing fewer than four dwelling units, up to
14 one unit may be located in the rear yard pursuant to subsection (d)(3) of this Section 249.94.

15 (B) Lot-Merger Development Project in RH-1 Districts. A merger of up to
16 three lots in RH-1, RH-1(D), or RH-1(S) districts and the construction on the resulting lot of at least
17 nine dwelling units and no more than the maximum number of 42 dwelling units prescribed in
18 subsection (d)(1)(B) of this Section 249.94 for a three-lot merger project, or at least six dwelling
19 units and no more than the maximum number of eight dwelling units prescribed in subsection
20 (d)(1)(B) of this Section 249.94 for a two-lot merger project. A project proposing a lot merger shall
21 not be eligible to construct a rear-yard unit pursuant to subsection (d)(3) of this Section 249.94. A
22 project may not propose a lot merger that would result in a lot having both its front and its rear
23 lot line along Streets, Alleys, or a Street and an Alley ("through lot"), unless at least one of the
24 lots that will be merged is a through lot.

1 (C) Group Housing Development Project. A single-lot project pursuant to
2 subsection (c)(4)(A) of this Section 249.94 and a lot-merger project pursuant to subsection (c)(4)(B) of
3 this Section 249.94 may also propose the construction of Group Housing up to the density limits
4 prescribed in subsection (d)(1)(C) of this Section 249.94 or currently otherwise permitted under the
5 Planning Code, whichever is greater. A project shall not propose both dwelling units and Group
6 Housing bedrooms. Projects proposing Group Housing unitsbedrooms shall not be eligible for
7 condominium subdivision, including but not limited to conversion pursuant to Subdivision Code Section
8 1396.7-;

9 (5) contains the following bedroom configurations:

10 (A) for single-lot projects under subsection (c)(4)(A) of this Section
11 249.94, at least two dwelling units with two or more bedrooms-;

12 (B) for two-lot merger projects under subsection (c)(4)(B) of this Section
13 249.94, at least two dwelling units with two bedrooms, or at least one dwelling unit with three
14 bedrooms;

15 (C) for three-lot merger projects under subsection (c)(4)(B) of this
16 Section 249.94, at least three dwelling units with two bedrooms, or at least two dwelling units
17 with three bedrooms.

18 (D) The requirements of this subsection (c)(5) may be satisfied by
19 existing dwelling units retained on site. This provisionsubsection (c)(5) does not apply to
20 projects where all of the units qualify as Group Housing projects or to certain Corner Lot
21 projects, as detailed in subsection (d)(7) of this Section 249.94;

22 (6) includes more dwelling units than are existing on the site at the time of application.
23 For the purposes of this subsection (c)(6), an Unauthorized Unit, as that term is defined in
24 Planning Code Section 317, shall not be considered an existing dwelling unit. In the case of
25

1 Group Housing; projects utilizing this Section 249.94 shall provide more bedrooms than are existing on
2 the site at the time of application;

3 (7) does not propose the demolition of a building that is:

4 (A) ~~listed as a Contributor to~~ located in an Article 10 Historic District;

5 (B) listed as a Landmark under Article 10;

6 (C) located in an Article 11 Conservation District, where the building has a
7 rating of Category I, II, III or IV;

8 (D) listed in or determined eligible for listing in the California Register of
9 Historical Resources individually and/or as a contributor to a historic district; or,

10 (E) listed in or determined eligible for listing in the National Register of
11 Historic Places individually and/or as a contributor to a historic district;

12 (8) complies with the Planning Code and any applicable design guidelines, including
13 but not limited to the provisions of this Section 249.94. Notwithstanding the previous sentence, an
14 eligible project shall strive for consistency with the Residential Design Guidelines to the extent
15 feasible;

16 (9) complies with the requirements of Section 66300(d) of the California Government
17 Code, as may be amended from time to time and as are in effect at the time a complete project
18 application is submitted, except as otherwise specified herein, including but not limited to
19 requirements to replace all protected units and to offer existing occupants of any protected units that
20 are lower income households relocation benefits and a right of first refusal for a comparable unit, as
21 those terms are defined therein. Notwithstanding the foregoing sentence, if California
22 Government Code Section 66300 becomes inoperative, the project shall comply with the last
23 operative version of Section 66300 before it became inoperative. This subsection (c)(9) does
24 not modify or supersede any other City requirements related to relocation, including but not
25 limited to the requirements of Chapter 37 of the Administrative Code; and

1 (10) demonstrates that the project sponsor has owned the subject lot for a minimum of
2 one year prior to the time of the submittal of their application, subject to the following:

3 (A) **Eligible Predecessor.** A property owner who has inherited the subject lot,
4 including any inheritance in or through a trust, from a blood, adoptive, or step family relationship,
5 specifically from either (i) a grandparent, parent, sibling, child, or grandchild, or (ii) the spouse or
6 registered domestic partner of such relations, or (iii) the property owner's spouse or registered
7 domestic partner (each an "Eligible Predecessor"), may add an Eligible Predecessor's duration of
8 ownership of the subject lot to the property owner's duration of ownership of the same lot.

9 (B) **Multiple Ownership.** Whenever property proposed for development is
10 jointly owned, owned as common property or is otherwise subject to multiple ownership, the durational
11 requirements of this subsection (c)(10) must be satisfied by: (i) the majority ownership, whether
12 represented by stock, membership interest, partnership interest, co-tenancy interest, or otherwise, in
13 the case of projects proposed under subsection (c)(4)(A); or (ii) the majority ownership of each lot to
14 be merged, whether represented by stock, membership interest, partnership interest, co-tenancy
15 interest, or otherwise, in the case of projects proposed under subsection (c)(4)(B).

16 (C) **Vacant or Abandoned Property.** The requirement in this subsection (c)(10)
17 that the project sponsor has owned the subject lot for a minimum of one year prior to the time of the
18 submittal of their application shall not apply if the property has been vacant for one or more years at
19 the time of application, or if the property has been registered as a vacant or abandoned building
20 pursuant to Building Code Section 103A.4 et seq.; and

21 (11) does not propose the demolition of:

22 (A) three or more dwelling units that are or were:

23 (i) subject to a recorded covenant, ordinance, or law that restricts
24 rents to levels affordable to persons and families of lower or very low income within the past
25 five years; or

1 (ii) subject to limits on rent increases under the Residential Rent
2 Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) within the past
3 five years; or

4 (iii) rented by lower or very low income households within the past
5 five years; or

6 (B) a dwelling unit occupied by a tenant at the time of application; or

7 (C) a dwelling unit from which a tenant has been evicted under
8 Administrative Code Sections 37.9(a)(8)-(12) or 37.9(a)(14)-(16) within the past five years or a
9 dwelling unit that has been vacated within the past five years pursuant to a Buyout
10 Agreement, as defined in Administrative Code Section 37.9E, as it may be amended from
11 time to time.

12 (D) For the purposes of this subsection (c)(11) of Section 249.94, "lower
13 or very low income households" shall have the same meaning as in Government Code
14 Section 66300.

15 (d) Other Controls.

16 (1) Density Exceptions. Projects that meet the eligibility criteria in subsection (c) of
17 this Section 249.94 are exempt from residential density limits, calculation of which shall not include
18 any Accessory Dwelling Units permitted under Section 207, as follows:

19 (A) Single-Lot Density Exception. For projects eligible under subsection
20 (c)(4)(A), the greater of up to four dwelling units per lot or one dwelling unit per 1,000 square feet
21 of lot area are allowable. Projects on a single Corner Lot may propose up to six dwelling
22 units;

23 (B) Lot-Merger Density Exception. For projects eligible under subsection
24 (c)(4)(B), the greater of up to twelve dwelling units per lot or one dwelling unit per 1,000 square
25 feet of lot area are allowable, if the lot is the result of a merger of three lots, or the greater of up to

eight dwelling units per lot or one dwelling unit per 1,000 square feet of lot area are allowable, if the lot is the result of a merger of two lots. Projects on a resulting Corner Lot may propose up to 18 dwelling units for a three-lot merger project, or up to 12 dwelling units for a two-lot merger project.

(C) Group Housing Density Exception. For both Single-Lot and Lot-Merger Development Projects under subsection (c)(4)(A) or (B), up to one Group Housing unit bedroom per 415 square feet of lot area ~~is allowable~~ in RH-1, RH-1(D), and RH-1(S) districts.

(2) Height. Notwithstanding any other provision of this Code, including but not limited to Section 261(b), the height limit for a project that meets the eligibility criteria in subsection (c) of this Section 249.94 shall be 40 feet, if 40 feet is authorized by the Height Map of the Zoning Map. Notwithstanding the foregoing sentence, a project shall comply with the requirements of Section 261(c).

(3) Construction of Rear-Yard Unit. ~~Construction of a~~ A rear-yard unit shall be a permitted obstruction in the required rear yard under Section 136(c), provided that the project complies with ~~governed by the following standards:~~

(A) The subject parcel must be at least 2,400 square feet;

(B) The rear-yard unit shall be located at least four feet from the side and rear lot lines and shall not share structural walls with any other structure on the lot;

(C) Compliance with minimum rear-yard requirements shall not be required, except that a A minimum 25 feet separation of unobstructed open area shall be provided between the facades of the rear-yard building and the primary building that face each other. Such open area shall comply with the requirements of Section 135(a)-(c);

(D) For the rear-yard unit and units in the primary building that obtain their only Code-complying exposure from the rear yard, The the dwelling unit exposure requirements of Section 140(a)(2) may be satisfied through qualifying windows facing an unobstructed

1 open area that is no less than 25 feet in every horizontal dimension, and such open area is not required
2 to expand in every horizontal dimension at each subsequent floors. Such open area shall be
3 unobstructed except for fire escapes not projecting more than necessary for safety, and in no
4 case more than four feet six inches; chimneys; and those obstructions permitted in Sections
5 136(c)(14), (15), (16), (19), (20), and (26):

6 (E) The rear-yard building height shall be limited to 20 feet measured from
7 existing grade at any given point to either i) the highest point of a finished roof, in the case of a flat
8 roof, or ii) the average height of a pitched roof or stepped roof, or similarly sculptured roof form. The
9 rear-yard building shall not be eligible for any height exemptions in subsection (d)(2) of this Section
10 249.94 or in Section 260(b); and

11 (F) Each dwelling unit or group housing bedroom shall have at least 100
12 square feet of usable open space if private, and or 133 square feet if common.

13 (G) For the purposes of this subsection (d)(3), the unobstructed open
14 area shall be measured from the greatest depth of the rear façade for the primary building and
15 the front façade of the rear-yard building that is closest to the rear yard.

16 (4) **Rear-Yard Setback Requirements.** For projects that do not construct a rear-
17 yard unit pursuant to subsection (d)(3) of this Section 249.94, the ~~The~~ basic rear yard
18 setback requirement shall be equal to 30% of the total depth of the lot on which the building is
19 situated, but in no case less than 15 feet.

20 (5) **Open Space Requirements for Lot-Merger Projects.** For projects eligible under
21 subsection (c)(4)(B) of this Section 249.94, each dwelling unit shall have at least 100 square feet of
22 usable open space if private, and or 133 square feet if common.

23 (6) **Minimum Density Requirement on Merged Lots.** For lots merged pursuant to
24 subsection (c)(4)(B) of this Section 249.94, any development on the resulting lot shall be subject to the
25 following minimum densities:

1 (A) six units per lot, if the lot results from a two-lot merger; or

2 (B) nine units per lot, if the lot results from a three-lot merger.

3 **(7) Additional Requirements for Certain Corner Lot Projects.** For projects

4 on Corner Lots that propose at least five units under subsection (c)(4)(A) of this Section
5 249.94, or at least 15 units for a three-lot merger or at least 10 units for a two-lot merger
6 under subsection (c)(4)(B), the following requirements shall apply:

7 (A) The height limit shall be 65 feet, notwithstanding any provision to the
8 contrary in the Height Map of the Zoning Map and notwithstanding subsection (d)(2) of this
9 Section 249.94. Compliance with Section 261(c) shall not be required;

10 (B) The basic rear yard requirement shall be equal to 25% of the total
11 depth of the lot on which the building is situated, but in no case less than 15 feet;

12 (C) Each dwelling unit shall have at least 100 square feet of usable open
13 space if private, and or 133 square feet if common;

14 (D) Group Housing shall not be permitted;

15 (E) The minimum bedroom requirements in subsection (c)(5) of this
16 Section 249.94 shall not apply; and

17 (F) No units may be located in the rear yard pursuant to subsection (d)(3)
18 of this Section 249.94.

19 **(e) Applicability of Rent Ordinance; Regulatory Agreements.**

20 (1) Sponsors of projects utilizing any of the density exceptions above the base
21 density up to the limits in subsection (d)(1) of this Section 249.94 shall enter into a regulatory
22 agreement with the City subjecting the new units created pursuant to such density exception, except for
23 any required Affordable Units as defined in Planning Code Section 401, to the Residential Rent
24 Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code), as a condition of
25 approval of the density exception ("Regulatory Agreement").

1 (2) The property owner and the Planning Director, or the Director's designee, on
2 behalf of the City, will execute the Regulatory Agreement, which is subject to review and approval by
3 the City Attorney's Office. The Regulatory Agreement shall be executed prior to the City's issuance of
4 the First Construction Document for the project, as defined in Section 107 A.13.1 of the Building Code.
5 Following execution of the Regulatory Agreement by all parties and approval by the City Attorney, the
6 Regulatory Agreement or a memorandum thereof shall be recorded in the title records in the Office of
7 the Assessor-Recorder against the property and shall be binding on all future owners and successors in
8 interest.

9 (3) At a minimum, the Regulatory Agreement shall contain the following:

10 (A) A description of the total number of units approved, including the number of
11 units subject to the Rent Stabilization and Arbitration Ordinance and other restricted units, if any, and
12 the location, square footage of dwelling units, and number of bedrooms in each unit;

13 (B) A statement that the new units created pursuant to the density exception are
14 not subject to the Costa-Hawkins Rental Housing Act (California Civil Code Section 1954.50 et seq.).
15 Further because under Section 1954.52(b), the property owner has entered into and agreed to the
16 terms of the agreement with the City in consideration for an exception from residential density limits,
17 or other direct financial contribution or other forms of assistance specified in California Government
18 Code Section 65915 et seq.;

19 (C) A description of the residential density exception or other direct financial
20 contribution or forms of assistance provided to the property owner; and

21 (D) A description of the remedies for breach of the agreement and other
22 provisions to ensure implementation and compliance with the agreement.

23 (f) **Review and Approvals.** Notwithstanding any other provision of this Code and irrespective
24 of whether a project is utilizing a density exception pursuant to subsection (d)(1) of this Section 249.94,

1 for any project that meets the eligibility criteria in subsection (c) of this Section 249.94 the following
2 shall apply:

3 (1) No conditional use authorization shall be required, including but not limited to the
4 requirements of Sections 303 and 317 of this Code, unless a project would demolish two units that
5 are subject to limits on rent increases under the Residential Rent Stabilization and Arbitration
6 Ordinance (Chapter 37 of the Administrative Code):

7 (2) Compliance with Section 311 of this Code shall not be required; and

8 (3) A Notice of Special Restrictions (“NSR”) shall be recorded on the title of any
9 property receiving approval under this Section 249.94. The NSR shall:

10 (A) Describe the uses, restrictions, and development controls approved under
11 Planning Code Section 249.94, including but not limited to the minimum density restrictions set forth in
12 subsection (d)(6);

13 (B) State that the NSR runs with the land and is binding on all future owners and
14 successors in interest;

15 (C) Provide the Planning Department with the ability to enforce the provisions
16 of this Section 249.94;

17 (D) Describe any other conditions that the Planning Director or Planning
18 Commission deems appropriate to ensure compliance with this Section 249.94; and

19 (E) Be signed by the City and recorded prior to issuance of the building permit
20 for the project receiving approval under this Section 249.94.

21 (g) **Review of Program.** The Planning Department shall include the location and number of
22 units of projects using this Section 249.94 in the Housing Inventory Report. Prior to December 31,
23 2030, the Planning Department shall prepare a report containing recommendations for modifications
24 to this Section 249.94, including modifications to the boundaries described in subsection (b), to further
25 the goals of the City’s Seventh Housing Element Cycle.

Section 4. Pursuant to Sections 106 and 302(c) of the Planning Code, Sheets SU 1, SU 2, SU 3, SU 4, SU 5, SU 6, SU 7, SU 11, SU 12, and SU 13 of the Zoning Map of the City and County of San Francisco are hereby amended, as follows:

Description of Property	Special Use District Hereby Approved
All parcels within the westernmost boundary of the Great Highway; the northernmost boundary of the City; and the area bounded by Leavenworth between Jefferson and North Point; Columbus between North Point and Chestnut; Chestnut between Taylor and Montgomery; Montgomery between Chestnut and Greenwich; Greenwich between Montgomery and Sansome; Sansome between Greenwich and Vallejo; Vallejo between Sansome and Kearny; Kearny between Vallejo and Filbert; Filbert between Kearny and Columbus; Columbus between Filbert and Greenwich; Mason between Greenwich and Green; Green between Mason and Leavenworth; Leavenworth between Green and Washington; Washington between	Family Housing Opportunity Special Use District

1	Leavenworth and Powell; Powell between	
2	Washington and California; California	
3	between Powell and Leavenworth;	
4	Leavenworth between California and Bush;	
5	Bush between Leavenworth and Van Ness;	
6	Van Ness between Bush and California;	
7	California between Van Ness and Steiner;	
8	Steiner between California and Sutter; Sutter	
9	between Steiner and Gough; Gough	
10	between Sutter and Geary; Geary between	
11	Gough and Baker; St. Joseph's Avenue	
12	between Geary and Turk; Turk between St.	
13	Joseph's Avenue and Scott; Scott between	
14	Turk and McAllister; McAllister between	
15	Scott and Steiner; Steiner between	
16	McAllister and Fulton; Fulton between	
17	Steiner and Laguna; Laguna between Fulton	
18	and Oak; Oak between Laguna and	
19	Fillmore; Fillmore between Oak and Page;	
20	Page between Fillmore and Webster;	
21	Webster between Page and Haight; Haight	
22	between Webster and Laguna; Laguna	
23	between Haight and Market; Market between	
24	Laguna and Castro; Castro between Market	
25	and 21st Street; 21st Street between Castro	

1	and Dolores; Dolores between 21st Street	
2	and Cesar Chavez; Cesar Chavez between	
3	Dolores and Noe; Noe between Cesar	
4	Chavez and Laidley; Harry Street Stairs	
5	between Laidley and Beacon; Beacon	
6	between Harry Street Stairs and Miguel;	
7	Miguel between Beacon and Bemis; Bemis	
8	between Miguel and Castro; Sussex	
9	between Castro and Diamond; Diamond	
10	between Sussex and Surrey; Surrey	
11	between Diamond and Bosworth; Bosworth	
12	between Surrey and San Jose; San Jose	
13	between Bosworth and Ocean; Ocean	
14	between San Jose and Howth; Howth	
15	between Ocean and Mt. Vernon; Mt. Vernon	
16	between Howth and Harrold; Grafton	
17	between Harold and Capitol; Capitol	
18	between Grafton and Lakeview; Lakeview	
19	between Capitol and Ashton; Ashton	
20	between Lakeview and Holloway; Holloway	
21	between Ashton and Junipero Serra;	
22	Junipero Serra between Holloway and 19th	
23	Avenue; 19th Avenue between Junipero	
24	Serra and Eucalyptus; Eucalyptus between	
25	19th Avenue and Middlefield; Middlefield	

1 between Eucalyptus and Lake Merced
2 Boulevard; Lake Merced Boulevard between
3 Middlefield and Skyline Boulevard; Skyline
4 between Lake Merced Boulevard and Sloat;
5 Sloat between Skyline and the Great
6 Highway.
7

8
9 Section 5. Article 9 of the Subdivision Code is hereby amended by amending Sections
10 1359, 1396.4, 1396.5 and adding Section 1396.7, to read as follows:
11

12 **SEC. 1359. PARCEL MAP.**

13 * * * *

14 (c) In the case of Conversions where a Tentative Map is not required, the
15 requirements of Section 1314 and the requirements of Article 9 on Conversions shall apply,
16 provided that hearings as provided in Sections 1313 and 1332 shall not be required, and
17 provided further that Article 9 shall not be applied to two-unit buildings where both units are
18 owner-occupied for one year prior to the application for Conversion. This exemption for
19 owner-occupied two-unit buildings shall not apply to units legalized pursuant to Section 207.3
20 of the Planning Code or units constructed pursuant to Section 249.94 of the Planning Code.
21

22 * * * *

23 **SEC. 1396.4. CONDOMINIUM CONVERSION FEE AND EXPEDITED**
24 **CONVERSION PROGRAM.**
25

1 (a) Findings. The findings of Planning Code Section 415.1 concerning the
2 City's inclusionary affordable housing program are incorporated herein by reference and
3 support the basis for charging the fee set forth herein as it relates to the conversion of
4 dwelling units into condominiums.

5 (b) Any building may be exempted from the annual lottery provisions of Section
6 1396 if the building owners for said building comply with either: (1) Section 1396.3(g)(1) and
7 all the requirements of this Section 1396.4; ~~or~~ (2) all the requirements of Section 1396.6; or
8 (3) all the requirements of Section 1396.7. Notwithstanding the foregoing sentence, no property or
9 applicant subject to any of the prohibitions on conversions set forth in Section 1396.2, in
10 particular a property with the eviction(s) set forth in Section 1396.2(b), is eligible for the
11 Expedited Conversion program under this Section 1396.4. Eligible buildings as set forth in this
12 subsection (b) may exercise their option to participate in this program according to the
13 following requirements:

14 * * * *

15
16 **SEC. 1396.5. SUSPENSION OF THE LOTTERY PENDING PRODUCTION OF**
17 **REPLACEMENT UNITS FOR EXPEDITED CONVERSION UNITS.**

18 * * * *

19 (c) Except as otherwise authorized under Section 1396.6 or Section 1396.7, the
20 Department shall not accept an application for the conversion of residential units under
21 Section 1396 nor conduct a lottery under this Article prior to January 1, 2024. Thereafter, the
22 lottery shall resume upon the earlier of the following: (1) the first February following the
23 Mayor's Office of Housing and Community Development report pursuant to subsection (b)
24 showing that the total number of Conversion Replacement Units produced in the City of San
25 Francisco exceeded the total number of units converted as identified in the Department's

1 report prepared pursuant to Subsection (a); or (2) completion of the “Maximum Suspension
2 Period” as defined below.

3 * * * *

4
5 **SEC. 1396.7. CONDOMINIUM CONVERSION ASSOCIATED WITH PROJECTS**
6 **CONSTRUCTED PURSUANT TO PLANNING CODE SECTION 249.94.**

7 *(a) Findings. The findings of Planning Code Section 415.1 concerning the City’s inclusionary*
8 *affordable housing program are incorporated herein by reference and support the basis for charging*
9 *the fee set forth herein as it relates to the conversion of dwelling units into condominiums.*

10 *(b) Definition. “Existing Dwelling Unit” shall mean the dwelling unit in existence on a lot at*
11 *the time of the submittal of an application to construct a new dwelling unit pursuant to Planning Code*
12 *Section 249.94.*

13 *(c) Notwithstanding Section 1396.4 of this Code and Ordinance No. 117-13, a subdivider of a*
14 *one-unit building that has obtained a permit to build one or more new dwelling units pursuant to*
15 *Planning Code Section 249.94, which results in two or more dwelling units, and that has signed an*
16 *affidavit stating the subdivider’s intent to reside in one of those resulting dwelling units, or in the*
17 *Existing Dwelling Unit, for a period of three years after the approval of the Certificate of Final*
18 *Completion and Occupancy for the new dwelling units, shall (1) be exempt from the annual lottery*
19 *provisions of Section 1396 of this Code with respect to the dwelling units built as part of the Project*
20 *and (2) be eligible to submit a condominium conversion application for the Existing Dwelling Units*
21 *and/or include the Existing Dwelling Units in a condominium map application for the project approved*
22 *pursuant to Planning Code Section 249.94. Notwithstanding the foregoing sentence, no property or*
23 *applicant subject to any of the prohibitions on conversions set forth in Section 1396.2 of this Code,*
24 *including but not limited to a property with the eviction(s) set forth in Section 1396.2(b), shall be*
25 *eligible for condominium conversion under this Section 1396.7. Eligible buildings as set forth in this*

1 subsection (c) may exercise their option to participate in this program according to the following
2 requirements:

3 (1) The applicant(s) for the subject building seeking to convert dwelling units to
4 condominiums or subdivide dwelling units into condominiums under this subsection shall pay the fee
5 specified in Section 1315 of this Code.

6 (2) In addition to all other provisions of this Section 1396.7, the applicant(s) shall
7 comply with all of the following:

8 (A) The requirements of Subdivision Code Article 9, Sections 1381, 1382, 1383,
9 1386, 1387, 1388, 1389, 1390, 1391(a) and (b), 1392, 1393, 1394, and 1395.

10 (B) The applicant(s) must certify that within the 60 months preceding the date
11 of the subject application, no tenant resided at the property.

12 (C) The applicant(s) must certify that to the extent any tenant vacated their unit
13 after March 31, 2013, and before recordation of the final parcel or subdivision map, such tenant did so
14 voluntarily or if an eviction or eviction notice occurred it was not pursuant to Administrative Code
15 Sections 37.9(a)(8)-(12) and 37.9(a)(14). If a temporary eviction occurred under Sections 37.9(a)(11)
16 or 37.9(a)(14), then the applicant(s) shall certify that the original tenant reoccupied the unit after the
17 temporary eviction.

18 (3) If the Department finds that a violation of this Section 1396.7 occurred prior to
19 recordation of the final map or final parcel map, the Department shall disapprove the application or
20 subject map. If the Department finds that a violation of this Section occurred after recordation of the
21 final map or parcel map, the Department shall take such enforcement actions as are available and
22 within its authority to address the violation.

23 (4) This Section 1396.7 shall not prohibit a subdivider who has lawfully exercised the
24 subdivider's rights under Administrative Code Section 37.9(a)(13) from submitting a condominium
25 conversion application under this Section 1396.7.

1 **(d) Decisions and Hearing on the Application.**

2 (1) The applicant shall obtain a final and effective tentative map or tentative parcel
3 map approval for the condominium subdivision or parcel map within one year of paying the fee
4 specified in subsection (e) of this Section 1396.7. The Director of the Department of Public Works or
5 the Director's designee is authorized to waive the time limits set forth in this subsection (d)(1) as it
6 applies to a particular building due to extenuating or unique circumstances. Such waiver may be
7 granted only after a public hearing and in no case shall the time limit extend beyond two years after
8 submission of the application.

9 (2) No less than 20 days prior to the Department's proposed decision on a tentative
10 map or tentative parcel map, the Department shall publish the addresses of buildings being considered
11 for approval and post such information on its website. During this time, any interested party may file a
12 written objection to an application and submit information to the Department contesting the eligibility
13 of a building. In addition, the Department may elect to hold a public hearing on said tentative map or
14 tentative parcel map to consider the information presented by the public, other City department, or an
15 applicant. If the Department elects to hold such a hearing it shall post notice of such hearing and
16 provide written notice to the applicant, all tenants of such building, any member of the public who
17 submitted information to the Department, and any interested party who has requested such notice. In
18 the event that an objection to the conversion application is filed in accordance with this subsection
19 (d)(2), and based upon all the facts available to the Department, the Department shall approve,
20 conditionally approve, or disapprove an application and state the reasons in support of that decision.

21 (3) Any map application subject to a Departmental public hearing on the subdivision
22 or a subdivision appeal shall receive a six-month extension on the time limit set forth in subsection
23 (d)(1) of this Section 1396.7.

1 (e) Should the subdivision application be denied or be rejected as untimely in accordance with
2 the dates specified in subsection (d)(1) of this Section 1396.7, or should the tentative subdivision map
3 or tentative parcel map be disapproved, the City shall refund the entirety of the application fee.

4 (f) Conversion of buildings pursuant to this Section 1396.7 shall have no effect on the terms
5 and conditions applicable to such buildings under Section 1385A or 1396 of this Code.
6

7 Section 6. Chapter 37 of the Administrative Code is hereby amended by revising
8 Sections 37.2 and 37.3, to read as follows:
9

10 **SEC. 37.2. DEFINITIONS.**

11 * * * *

12 (r) **Rental Units.** All residential dwelling units in the City together with the land and
13 appurtenant buildings thereto, and all housing services, privileges, furnishings, and facilities
14 supplied in connection with the use or occupancy thereof, including garage and parking
15 facilities.

16 * * * *

17 The term “rental units” shall not include:

18 * * * *

19 (4) Except as provided in subsections (A)-(E), dwelling units whose rents are
20 controlled or regulated by any government unit, agency, or authority, excepting those
21 unsubsidized and/or unassisted units which are insured by the United States Department of
22 Housing and Urban Development; provided, however, that units in unreinforced masonry
23 buildings which have undergone seismic strengthening in accordance with Building Code
24 Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the
25

ordinance is not in conflict with the seismic strengthening bond program or with the program's loan agreements or with any regulations promulgated thereunder;

* * * *

(E) The term "rental units" shall include any new dwelling units created pursuant to the density exception_s set forth in Section_s 207(c)(8) and 249.94 of the Planning Code.

SEC. 37.3. RENT LIMITATIONS.

(a) **Rent Increase Limitations for Tenants in Occupancy.** Landlords may impose rent increases upon tenants in occupancy only as provided below and as provided by subsections 37.3(d) and 37.3(g):

* * * *

(d) **Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.).** Consistent with the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.) and regardless of whether otherwise provided under Chapter 37:

(1) **Property Owner Rights to Establish Initial and All Subsequent Rental Rates for Separately Alienable Parcels.**

(A) An owner or residential real property may establish the initial and all subsequent rental rates for a dwelling or a unit which is alienable separate from the title to any other dwelling unit or is a subdivided interest in a subdivision as specified in subdivision (b), (d), or (f) of Section 11004.5 of the California Business and Professions Code. The owner's right to establish subsequent rental rates under this paragraph shall not apply to a dwelling or unit where the preceding tenancy has been terminated by the owner by notice pursuant to California Civil Code Section 1946 or has been terminated upon a change in the terms of the tenancy noticed pursuant to California Civil Code Section 827; in such instances, the rent

1 increase limitation provisions of Chapter 37 shall continue to apply for the duration of the new
2 tenancy in that dwelling or unit.

3 * * * *

4 (D) An owner's right to establish subsequent rental rates under
5 subsection 37.3(d)(1) shall not apply to a dwelling or unit that is a new dwelling unit created
6 pursuant to the density exception~~s~~ set forth in Section~~s~~ 207(c)(8) and 249.94 of the Planning
7 Code.

8 * * * *

9
10 Section 7. The Planning Department, the Department of Public Works, and the Rent
11 Board are authorized to adopt regulations to implement this ordinance.

12
13 Section 8. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the "Note" that appears under
18 the official title of the ordinance.

19
20 Section ~~89~~. Severability. If any section, subsection, sentence, clause, phrase, or word
21 of this ordinance, or any application thereof to any person or circumstance, is held to be
22 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
23 shall not affect the validity of the remaining portions or applications of the ordinance. The
24 Board of Supervisors hereby declares that it would have passed this ordinance and each and
25 every section, subsection, sentence, clause, phrase, and word not declared invalid or

1 unconstitutional without regard to whether any other portion of this ordinance or application
2 thereof would be subsequently declared invalid or unconstitutional.

3
4 Section ~~9~~10. No Conflict with Federal or State Law. Nothing in this ordinance shall be
5 interpreted or applied so as to create any requirement, power, or duty in conflict with any
6 federal or state law.

7
8 Section ~~40~~11. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor's veto of the ordinance.

12
13 APPROVED AS TO FORM:
14 DAVID CHIU, City Attorney

15 By: /s/ Giulia Gualco-Nelson
16 GIULIA GUALCO-NELSON
Deputy City Attorney

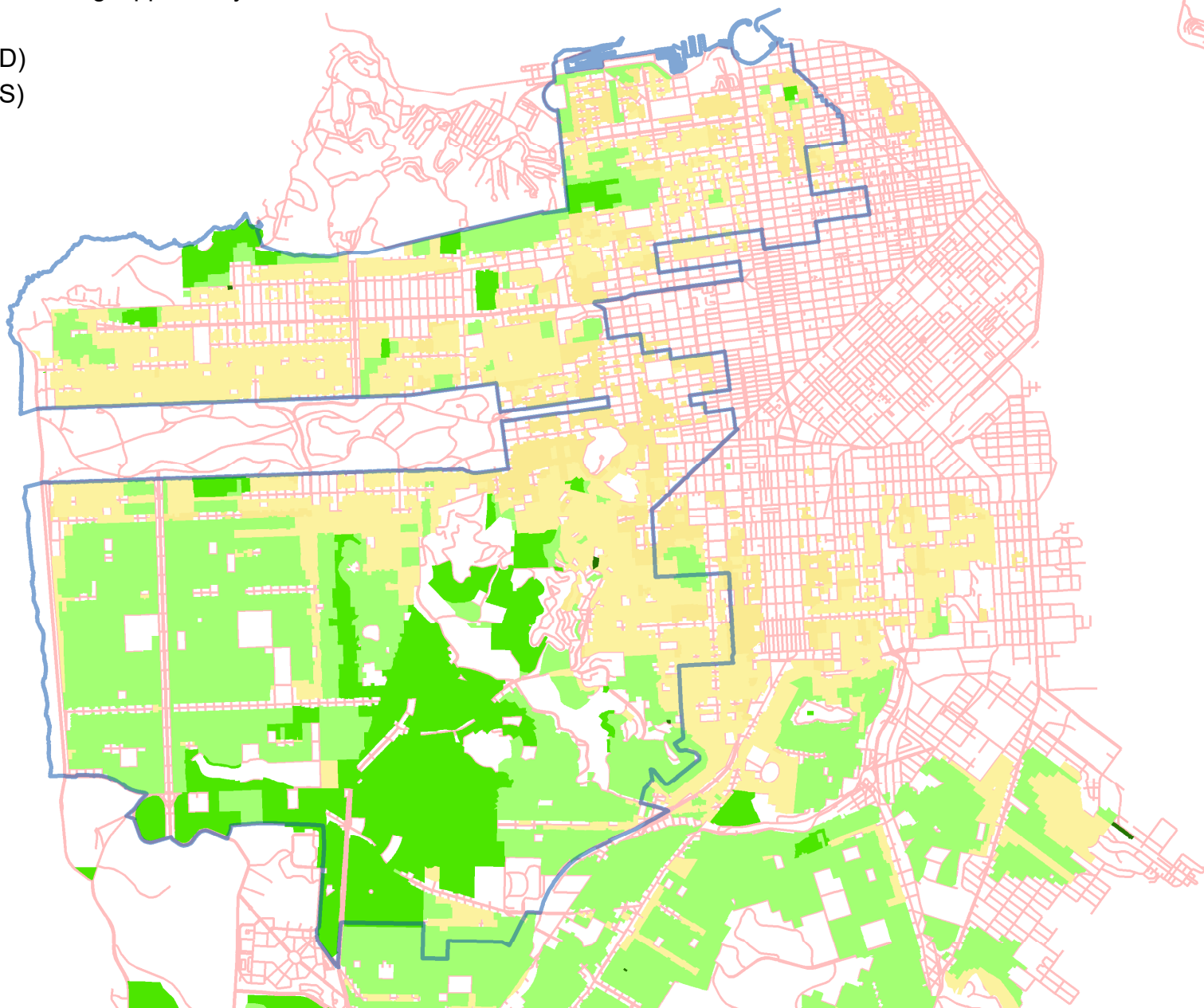
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Family Housing Opportunity SUD

Legend

- Family Housing Opportunity SUD
- RH-1
- RH-1(D)
- RH-1(S)
- RH-2
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