



February 23, 2022

Ms. Angela Calvillo, Clerk
Honorable Supervisor Mar
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 2021-012246PCA:
Density Limit Exception For Lots in RH zoning districts
Board File No. 211202

Planning Commission Recommendation: Disapproval

Dear Ms. Calvillo and Supervisor Mar,

On February 10, 2022, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Mar that would amend the Planning Code to provide a density limit exception for Lots in RH (Residential, House) zoning districts. At the hearing the Planning Commission recommended disapproval.

The proposed amendments, as modified through the substitute legislation introduced on February 8, 2022, have been determined to meet the requirements of Senate Bill 10, Government Code 65913.5; therefore, review under CEQA is not required.

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,

Aaron D. Starr
Manager of Legislative Affairs

cc: Christopher Tom, Deputy City Attorney
Li Lovett, Aide to Supervisor Mar
Erica Major, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution

Planning Department Executive Summary



PLANNING COMMISSION RESOLUTION NO. 21074

HEARING DATE: FEBRUARY 10, 2022

Project Name: Density Limit Exception For Lots in RH zoning districts
Case Number: 2021-012246PCA [Board File No. 211202]
Initiated by: Supervisor Mar / Introduced November 16, 2021
Staff Contact: Audrey Merlone, Legislative Affairs
Audrey.merlone@sfgov.org, 628-652-7534
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, (628) 652-7533

RESOLUTION DISAPPROVING A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE TO PROVIDE A DENSITY LIMIT EXCEPTION FOR LOTS IN RH (RESIDENTIAL, HOUSE) ZONING DISTRICTS, TO PERMIT UP TO FOUR DWELLING UNITS PER LOT, EXCLUSIVE OF ACCESSORY DWELLING UNITS AND SUBJECT TO MAXIMUM RENTAL RATES AND SALES PRICES DETERMINED TO BE AFFORDABLE AT 100% OF AREA MEDIAN INCOME; AMENDING THE ADMINISTRATIVE CODE TO LIMIT INITIAL RENTAL RATES AND RENTAL RATE INCREASES FOR SPECIFIED UNITS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on November 16, 2021 Supervisor Mar introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 211202, which would amend the Planning Code to provide a density limit exception for Lots in RH (Residential, House) zoning districts, to permit up to four dwelling units per lot, exclusive of accessory dwelling units and subject to maximum rental rates and sales prices determined to be affordable at 100% of area median income; amending the Administrative Code to limit initial rental rates and rental rate increases for specified units;

WHEREAS, The Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 10, 2022; and,

WHEREAS, the proposed Ordinance, once modified through substitute legislation, has been determined to meet the requirements of Senate Bill 10, Government Code 65913.5, and review under CEQA is not required; 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 **disapproves** the proposed ordinance. The Commission's proposed recommendation(s) is/are as follows:

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 Commission supports the overall goals of Supervisor Mar's and Supervisor Safai's ordinances and recognize the need to increase density in areas of the city that have historically seen little housing production while also producing more diverse and importantly affordable housing choices. The question then becomes whether these ordinances will accomplish the supervisors' and Department's shared goals. Unfortunately, as currently drafted, and under current market conditions, the Commission finds neither ordinance would succeed in creating new affordable housing units, and potentially stymie the densification of the city's RH districts.

The proposed ordinances use a model like the City's existing inclusionary Housing Program to create more affordable units in our RH Districts. Our existing Inclusionary Program works only because of the economies of scale in larger projects. Because the proposed ordinances address much smaller scale developments, the inclusionary requirements contained in both make projects financially unfeasible. Although the ordinances may still produce some new units in rare circumstances, the affordability requirements also fail to serve the population they are intended for because they lack income restrictions. Further, there is little to no oversight to ensure that these units remain BMR units.

General Plan Compliance

The proposed Ordinance is inconsistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 5

ENSURE THAT ALL RESIDENT HAVE EQUAL ACCESS TO AVAILABLE UNITS.

Policy 5.1

Ensure an equitable distribution of growth according to infrastructure and site capacity.

Although in theory the proposed ordinance will increase the number of affordable units in the city, the lack of income restrictions for those who occupy these units will prevent residents who need them most from having an equal opportunity to rent or own them. Higher income and higher resourced individuals are most likely to find these units first when they become available.

OBJECTIVE 7

SECURE FUNDING AND RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING, INCLUDING INNOVATIVE PROGRAMS THAT ARE NOT SOLELY RELIANT ON TRADITIONAL MECHANISMS OR CAPITAL.

Policy 7.3

Recognize the importance of funds for operations, maintenance, and services to the success of affordable housing programs.

The City's existing Inclusionary Program works only because of the economies of scale in larger projects. Because the proposed ordinances address much smaller scale developments, the inclusionary requirements contained in both make projects financially unfeasible. The proposed ordinance would do nothing to change this dynamic, and instead disincentivizes four-unit projects and incentivize two- and three-units projects allowed under other programs.

OBJECTIVE 10

ENSURE A STREAMLINED, YET THOROUGH, AND TRANSPARENT DECISION-MAKING PROCESS.

Policy 10.1

Create certainty in the development entitlement process, by providing clear community parameters for development and consistent application of these regulations.

The proposed Ordinance clearly identifies the type of development the City wants but does nothing to reduce process and appeal barriers to make it easier to build those developments. Projects that meet the proposed Ordinance's parameters would still be subject to neighborhood notification, design review, historic preservation review, Conditional Use authorizations, and be able to be appealed through discretionary review. These processes are expensive, and time consuming, and can act as a deterrent. The Commission strongly believes when the code clearly promulgates the type of development the city wants it should also reduce process and appeal barriers to make it easier to build those developments.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with seven of 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 preserving existing housing or neighborhood character.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

The proposed amendments to the Planning Code are inconsistent with Priority Policy #3 set forth in Section 101.1(b) of the Planning Code, in that:

1. 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 current supply of affordable housing, however under current market conditions the amendments lack of feasibility would stymie the

*creation of both new affordable units **and** market-rate units in RHD neighborhoods. The legislation additionally fails to ensure new affordable units built through the proposed ordinance are occupied by the residents who need them most (residents making at or below the AMI levels set for sale/rental prices).*

Planning Code Section 302 Findings.

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare DO NOT require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby DISAPPROVES the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on February 10, 2022.



Jonas P Ionin Digitally signed by Jonas P Ionin
Date: 2022.02.10 09:52:27 -0800

Jonas P. Ionin
Commission Secretary

AYES: Diamond, Fung, Imperial, Moore, Tanner

NOES: Koppel

ABSENT: None

ADOPTED: February 10, 2022



EXECUTIVE SUMMARY PLANNING CODE TEXT AMENDMENT

HEARING DATE: February 10, 2022

90-Day Deadline: February 14, 2022 [BF 211202] and March 15, 2022 [BF 211234]

Project Name: Dwelling Unit Density Exception in RHD's
Case Number: 2021-012237PCA [Board File No. 211202] & 2021-012246PCA [Board File No. 211234]
Initiated by: Supervisor Mar / Introduced November 16, 2021 [Board File No. 211202]
 Supervisor Safai / Introduced December 7, 2021 [Board File No. 211234]
Staff Contact: Audrey Merlone, Legislative Affairs
 Audrey.Merlone@sfgov.org, 628-652-7534
Reviewed by: Aaron Starr, Manager of Legislative Affairs
 aaron.starr@sfgov.org, 628-652-7533

Recommendation: Disapproval

Planning Code Amendment

The proposed Ordinances would amend the Planning Code to provide a density limit exception in certain RH (Residential, House) zoning districts, to permit up to four dwelling units per lot for projects that meet specific conditions.

The Way It Is Now:

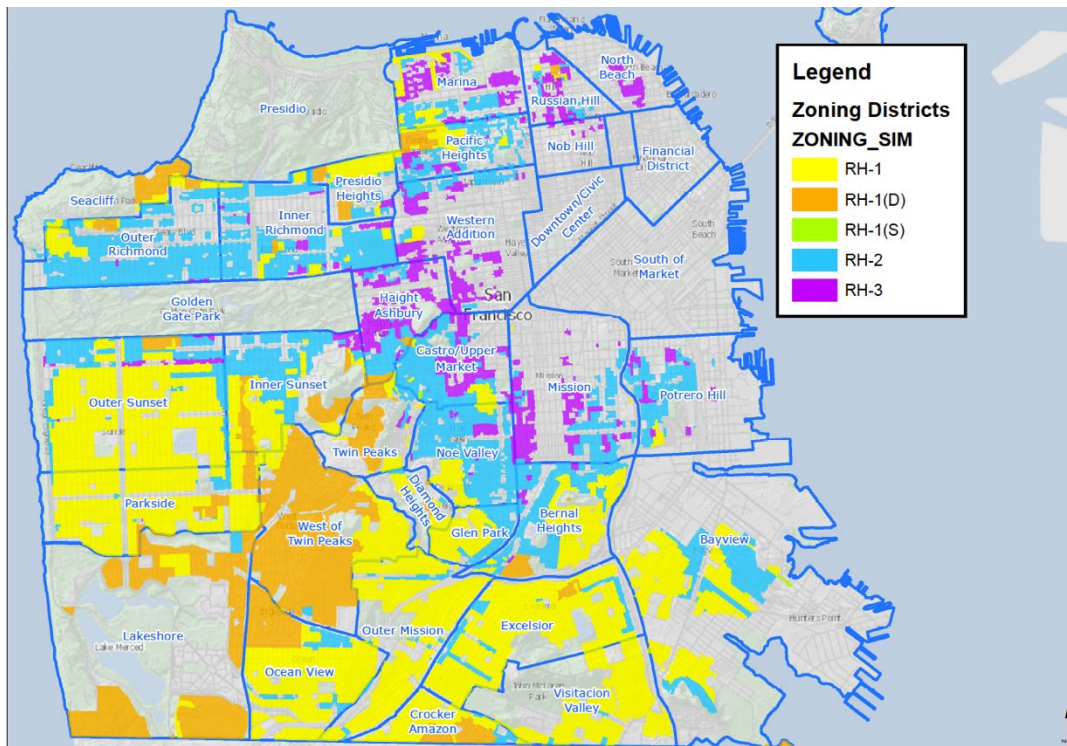
- The RH districts are composed of five separate classes of districts, defined by the number of units permitted in each:

RH-1(D) Districts	1 unit max. per lot
RH-1 Districts	1 unit max. per lot or 1 unit per every 3,000sqft of lot area with a CUA, but in no case more than 3 units per lot
RH-1(S) Districts	1 unit max. per lot, though a small second unit is allowed if it is 600sqft or less, or 1 unit per every 3,000sqft of lot area with CUA, but in no case more than 3 units per lot
RH-2 Districts	2 unit max. per lot or 1 unit per every 1,500sqft of lot area with CUA;
RH-3 Districts	3 unit max. per lot, or 1 unit per every 1,000sqft of lot area with CUA

Accessory Dwelling Units (ADU's) may also be built in addition to the base density allowances in RHD's.

2. Each of the four RH zoning districts has its own set of building standards:

	RH-1(D)	RH-1	RH-1(S)	RH-2	RH-3
Height & Bulk Limits	35ft high for 100% residential buildings, 40ft high for buildings with non-residential uses			40ft high	40ft high
Front Setback	Required. Based on average of adjacent properties or if subject property has a Legislated Setback. When front setback is based on adjacent properties, in no case shall the required setback be greater than 15ft				
Rear Yard	30% of lot depth, but in no case less than 15ft			45% of lot depth or average of adjacent neighbors. If averaged, no less than 25% or 15ft, whichever is greater	
Side Yard	Required for lots wider than 28ft.	Not required			
Front Setback Landscaping	Required. At least 50% of Front Setback shall be permeable to increase storm water infiltration and 20% of Front Setback shall be unpaved and devoted to plant material				
Usable Open Space Minimum per Dwelling Unit	300 sqft if private, 400 sqft if common		300sqft for the 1st unit and 100sqft for the minor 2nd unit if private, and 400sqft for the 1st unit and 133sqft for the 2nd unit if common	125sqft if private, and 166sqft if common	100sqft if private, and 133sqft if common



The Way It Would Be:

	BF# 211202 (Mar)	BF# 211234 (Safai)
Zoning Districts	All RH Districts	RH-1, RH-1(D), RH-2, & RH-3
Density Exception	4 units per lot (<i>not including ADU's</i>)	4 units per lot (<i>inclusive of ADU's</i>)
Eligible Lots	<ul style="list-style-type: none"> All Total of 121,429 parcels 	<ul style="list-style-type: none"> Must be within 1 mile of a major transit stop³ 2,500 sqft Total of 79,850 parcels (<i>See Exhibit C for map</i>)
Eligible Projects	<ul style="list-style-type: none"> Is not receiving another density bonus Each unit over base density must have at least 2 bedrooms, and; Each unit over base density must be rent controlled, and; <ul style="list-style-type: none"> All units over base density must be affordable at 100% AMI for both rental and owner 	<ul style="list-style-type: none"> Will result in at least 3 dwelling units Is not receiving another density bonus Any units proposed for demolition must be replaced Must be proposing new construction or additions to existing structures Must be 100% residential Must include at least 1 affordable unit: <ul style="list-style-type: none"> Rental @ 110% AMI max, or Owner @ 140% AMI max, and; At least 2 units contain 1 or more bedrooms, and; Subject to rent control No unit smaller than min. size set by CA TCAC
Additional Exceptions for Eligible Projects	RH-3 building standards apply	<ul style="list-style-type: none"> Rear yard reduction to no more than 25% or 15 ft (whichever is greater)* Exposure reduction to no less than 25ft in each direction* RM-1 open space standards apply Priority Processing (180 days)* No Neighborhood Notice (311 Notice) No Discretionary Review Minor alleviations from Residential Design Guideline massing standards at discretion of Planning Director Up to 15% additional alleviations from open space, rear yard, and exposure at discretion of Planning Director

*With additional restrictions/conditions

Background

Issues and Considerations

Inclusionary Housing Program

San Francisco’s Inclusionary Housing programs has produced thousands of units and hundreds of millions of dollars for affordable housing development since its inception in 1992. The Program demonstrates that market rate residential developers can serve as critical partners in providing much-needed affordable housing in high-cost urban areas. The program is effective in large part because the base requirement is framed by two critical

studies. The first, a nexus study¹, provides quantitative analysis of the affordable housing need generated by the creation of market rate housing. The second, a financial feasibility analysis², considers the cost of residential development and the ability of market rate residential development to provide certain levels of inclusionary housing. If the inclusionary requirement is set too high, then most market rate housing projects will become financially infeasible.

The effective inclusionary rates applied to this small bonus will place a much higher economic burden on potential projects, a burden which far outweighs the Controller’s recommended maximum inclusionary rates. The result is likely to be very few new units of housing built through either bonus program.

The 2017 feasibility study from the Controller’s Office found the following to be the maximum economically feasible inclusionary rates for those market conditions:

	Maximum Feasible On-Site Requirement	Maximum Feasible Fee or Off-Site Equivalency
Rental Projects	14% - 18%	18% - 23%
Ownership Projects	17%-20%	25%-28%

Both ordinances’ affordability requirements are like the city’s inclusionary housing requirements except that they apply to much smaller projects, have a higher proportional rate of the total project, and have no option to build off-site or pay an in-lieu fee. The city’s current on-site inclusionary housing rates for projects proposing between 10-25 dwelling units is 14.5% of the building’s units, with the affordable units’ sale price set at no more than 80% of AMI and available to owners who make up to 100% AMI. Rental units have a maximum rental rate set at no more than 55% of AMI and available to households earning up to 65% of AMI. These rates are based on the maximum inclusionary rates that the nexus study and feasibility analyses have calculated. Additionally, these small projects are not required to build on-site affordable units. They may also pay an affordable housing fee or build affordable units off-site.

Supervisor Mar’s ordinance requires all “bonus” units to be restricted to 100% AMI for sale or rental price. This would result in mandatory on-site inclusionary rates as follows:

	2 Unit Building*	3 Unit Building*	4 Unit Building*
RH1 & RH-1(D)	50%	66.6%	75%
RH-1(S)	<i>Depends on specific project</i>		
RH-2	-----	33.3%	50%
RH-3	-----	-----	25%

**Does not include allowable ADU’s*

¹ https://sfplanning.org/sites/default/files/documents/legis/inclusionary-affordable-requirements/Inclusionary_Housing_Report.pdf

² <https://commissions.sfplanning.org/cpcpackets/2017-001061PCA-02.pdf>

Under Supervisor Safai's ordinance, any project under his proposed program is required to designate at least one unit as affordable at 140% AMI for sale price and 110% AMI for rental rate. This would result in mandatory on-site inclusionary rates as follows:

	2 Unit Building	3 Unit Building	4 Unit Building
RH1 & RH-1(D)	N/A*	33.3%	25%
RH-2	-----	33.3%	25%
RH-3	-----	-----	25%

**Supervisor Safai's ordinance must result in a building of at least 3 dwelling units to qualify for the density bonus*

The effective inclusionary rates applied to this small bonus will place a much higher economic burden on potential projects, a burden which far outweighs the Controller's recommended maximum inclusionary rates. The result is likely to be very few new units of housing built through either bonus program.

Means Testing Inclusionary Units

The Department supports the intent behind the ordinances' goal to create more affordable housing and more rent-controlled housing; however, neither ordinance ties the affordable units' sale or rental restrictions to the income of the prospective tenant. The affordable units would be restricted in sale or rental price, but there is no requirement that the occupant or buyer of a unit meet the AMI maximums. The units do not have to be offered to occupants who meet the AMI limitations first, nor do they have to be advertised as Inclusionary Units, meaning they would be just as accessible as market-rate units for *any* perspective renter or buyer.

Encouraging Density in RH Districts

Since 2005, 85% of new housing was built in nine neighborhoods located on the eastern half of the city where form-based, multifamily housing is more widely permitted. 87% of all new affordable housing and ADUs added over this period were also built in these same nine neighborhoods, and more than three quarters of all permanently affordable housing is in these neighborhoods³. Additionally, 87% of newer housing has been added in larger buildings of 20 units or more, though just 28% of all existing housing in the city is in buildings of this size.

San Francisco would gain substantial quality of life benefits by increasing residential units in areas currently zoned single-family.

At the same time, housing development is very limited in areas of the city where residents tend to have higher incomes, higher home ownership, and higher educational, employment, and health outcomes. Since 2005, just 10% of all new housing and only 10% new affordable housing was built in higher resourced areas even though these areas cover half of the residential land in the city. In part this is because 65% of land in these areas is limited one or two units or doesn't use form-based density- even near major commercial districts and transit lines. San Francisco would gain substantial quality of life benefits by increasing residential units in areas currently zoned single-family.

³ Summary Draft Needs Assessment for the 2022 Housing Element, page 21. <https://www.sfhousingelement.org/summary-draft-needs-assessment-housing-element-2022-update>

Given these realities, it is important for the city to find ways to increase density in our higher resourced RH Districts. It must be done in a way that reduces displacement and come with resources for low-income and households of color to access housing and wealth-building opportunities. These principles shaped the Department's package of amendments to Supervisor Mandelman's ordinance⁴, which the Planning Commission adopted unanimously. These amendments provided incentives to homeowners and developers to encourage greater density. They called for additional fees to discourage large single-family homes and a recommendation that the Board find ways to increase funding to supportive housing and first-time homebuyer programs.

It must be done in a way that reduces displacement and come with resources for low-income and households of color to access housing and wealth-building opportunities.

Projected Impact

Since the late 1970s, relatively few single-family homes have been redeveloped to include three or four units. Reasons include regulatory limits on density and the demolition of housing, very high market demand for single-family homes, high construction costs, and owner-occupation of most one-unit buildings. The following analogous data points help to demonstrate this picture:

- Of the city's approximately 36,000 parcels zoned RH-2, approximately 19,500 contain single-family homes. These homes are in a zoning district that currently allow two units, not inclusive of ADU's, and yet over half of the lots have continued to remain single-family homes versus add/build modest density.
- The Department analyzed the Market Octavia Plan and Mission Area Plan rezonings where RTO and RTO-M Districts replaced RH-2, RH-3, and RM-1 (Residential, Mixed, Low Density) zoning. In those neighborhoods, the rezoning replaced lot-based density controls with form-based density, allowing for four or more residential units per lot. From 2009 through 2020, only 1.3% of single-family homes in these districts (five out of 378 such lots) had submitted applications to increase the residential density to three or four units. Extrapolating from this 12-year period to a 25-year period, the percentage of such lots might increase to 2.7% going forward.

To better understand these data points, the Planning Department has contracted with consultant Century Urban to analyze the financial feasibility for property owners and/or developers of developing new small multifamily buildings on sites with an existing single-family home. As part of this work, Century Urban has analyzed prototypes based on potential projects that may be possible under Supervisor Mandelman's proposed legislation to allow up to four units (fourplexes) on parcels where currently fewer units are allowed. A summary prepared by Planning staff as well as a consultant report are attached as Exhibit E.

Initial analysis provided by Century Urban on adding affordability requirements to three and four-plex projects shows that they would further worsen the feasibility gap of these projects, making projects more unlikely.

⁴ See Exhibit D

The initial analysis examines the financial feasibility of demolishing and replacing an existing single-family home with a new building of 3-4 units. The analysis studied market rents and sale prices in different neighborhoods including Bayview, Pacific Heights, and a range of “mid-tier” neighborhoods served by rail transit such as West Portal, Glen Park, Castro, and Balboa Park. The analysis found an estimated feasibility “gap” of more than -\$1 million between the residual value generated by prototype developments and the median single family home prices in all neighborhoods analyzed. These results indicate that it would be extremely difficult for developers to produce a financially feasible project by acquiring a typical single-family home at market price to redevelop the site into a triplex or fourplex. In other words, single-family home buyers planning to maintain the home largely as is and paying current prices for most homes would typically outbid a developer hoping to build a triplex or fourplex on the same property. These results are largely driven by construction costs in San Francisco, which are among the highest in the world, as well as the high sale prices of existing single-family homes. Initial analysis provided by Century Urban on adding affordability requirements to 3-4 plex projects shows that they would further worsen the feasibility gap of these projects, making projects more unlikely.

...this does not rule out that some property owners may undertake fourplex projects in the future or that development may be financially feasible in projects differing from the assumptions used in the prototypes.

The analysis provided by Century Urban shows limited financial incentive for property owners and developers to undertake developing fourplex projects; however, this does not rule out that some property owners may undertake fourplex projects in the future or that development may be financially feasible in projects differing from the average assumptions used in the prototypes. Unfortunately, many other hurdles await those attempting this type of development, including the need to secure up \$3-4 million in loans and equity investment to fund the project. Due to the affordability requirements in both Supervisor Mar’s and Supervisor Safai’s proposed ordinances, securing a loan to fund the project will become much more difficult, as traditional loans are issued against the value of the resulting building and total costs would not be covered. Since in all cases one or more of the resulting units must be income restricted, it lowers the value of the home, and thereby lowers the amount of loan (or even ability to obtain a fair loan) an owner can take out against the property to fund the project. There are non-profits with the capital who may choose to pursue projects utilizing one of these ordinances; unfortunately, this model of small project, affordable housing non-profit is not common.

There are other hurdles small property developers will face in these scenarios. Converting an existing single-family house without demolishing it into four units is one of the most expensive ways to increase density. Demolishing is typically less expensive but requires Conditional Use authorization even if the project seeks to maximize density. The Conditional Use process is a costly and time-consuming process that does not guarantee the project will be able to move forward. If an owner plans to retain the existing unit(s) while increasing the density of the property, they will face other hurdles. Vertical additions require modifications to provide additional means of egress, and other life safety upgrades. The most cost-efficient way to add units to existing buildings is through the infill of garage and storage space; however, this often produce smaller units that may not sell or rent for high enough to make the project financially advantageous. Horizontal additions or separate structures behind an existing house are more cost-effective options, but only for those properties that do not

already extend into their required rear-yard and may require modifications to or easements through the existing house for egress.

Housing Element Update

The city is in the process of updating the General Plan's Housing Element, which is expected to be complete by the end of the year. This update, which is the first to be centered on racial and social equity, makes clear that our lack of housing affordability impacts communities of color and low-income communities disproportionately. It also shows that our housing efforts need to support underserved populations across cultures, family structures, and abilities. Small, multifamily housing in lower density neighborhoods – as would be the case with fourplex development - could be a meaningful way to address these challenges.

This update, which is the first to be centered on racial and social equity, makes clear that our lack of housing affordability impacts communities of color and low-income communities disproportionately.

The intentions of both legislative proposals are aligned with many of the goals of the forthcoming Housing Element. These goals include creating housing in well-resourced neighborhoods and along transit corridors, as well as pathways for this housing to be affordable to middle-income households. However, it also recognizes that along with increased density, the city will need to provide significant resources to assure that the benefits of change promote equity. These resources could include tax abatements, down payment assistance, construction loans for low-income homeowners, shared equity models including land trusts, and potentially additional public subsidies. The Department is committed to developing a robust implementation program once the Housing Element is adopted to meet these goals.

Senate Bill 9

Senate Bill 9 (Atkins) requires ministerial approval of a project that would (a) add one new unit to a site with one existing unit, (b) construct two new units on a vacant site, and/or (c) subdivide an RH-1 parcel into two parcels and allow two units on each parcel.⁵ A ministerial decision involves only the use of fixed standards or objective measurements, and the City cannot use subjective judgment in deciding whether or how the project should be carried out. Notably, ministerial approvals are exempt from review under CEQA or any entitlement process.⁶

Should Supervisor Mar's or Supervisor Safai's Ordinance pass, an applicant could use SB 9 to split an RH-1 zoned lot into two, and then build up to four units without any affordability requirement. Property owners would also be able to demolish existing homes without needing Conditional Use authorization. If RH-1 parcels were rezoned to RH-2, as recommended by the Planning Commissions under Mandelman's ordinance, applicants would still be able to build two units and one ADU for a total of three units as of right. While ADUs approved under our local program can be subject to rent control, none of the units would have an affordability requirement. Given those incentives in addition to financial feasibility concerns, it is unlikely that property owners would choose to use either one of the programs proposed under these ordinances.

⁵ For a comprehensive summary of SB 9, please visit: https://commissions.sfplanning.org/cpcpackets/2018-016522CWP_102121.pdf

⁶ For a comparison of the two subject ordinances against SB 9, please see Exhibit F

Housing Development Incentive Program for Homeowners

In conjunction with introducing his ordinance, Supervisor Mar has also introduced a Resolution (BF 211207) that urges the Planning Department and MOHCD to create a Housing Development Incentive Program for Homeowners that supports residents to expand their homes to build new housing. This program would include technical assistance (e.g. for predevelopment, construction, and property management), financial assistance (e.g. grants, no or low interest loans), and streamlined permitting through pre-approved plans. The goal is to increase the number of housing units developed by homeowners and local small property owners. The program is also intended to target low- and moderate- income homeowners RH zoned neighborhoods. The Department supports this effort and encourages the Board to find more ways to help subsidize fourplexes so that they will also include affordable units.

Racial and Social Equity Analysis

Increasing housing in our RH neighborhoods could allow more people to live where there are already good services and transit. It could also allow people who live in these neighborhoods already to find the type of housing they need. This is foundational to the proposed policies in the Housing Element Update 2022 and the goals of the Department. Changing the density requirements, however, is one of the many steps required to unlock this potential, especially if we are to make sure that the benefits and opportunities are equitable and repair the historic burdens and restrictions enacted on Black, American Indian, and other communities of color. Supervisor Mar's legislation proposes to create a set of programs that would offset some of the challenges faced by seniors, middle- moderate- and low-income households, and other vulnerable populations which is an important component towards equity. Yet some of the requirements in the legislation may have unintended consequences. Supervisor Safa i's legislation is a more direct pathway to housing options but faces similar potential impacts.

Changing the density requirements, however, is one of the many steps required to unlock this potential, especially if we are to make sure that the benefits and opportunities are equitable and repair the historic burdens and restrictions enacted on Black, American Indian, and other communities of color.

Reduce Potential Vulnerability of Single-Family Home Renters:

Based on 2018 census data⁷ only 12% of renters live in single-family homes in San Francisco, and some of these renters may occupy ADUs within them. Most renters in single-family homes do not have rent control protections due to the state Costa Hawkins law and could face unregulated rent increases at any time. In addition, because single-family homes are very expensive in San Francisco, the potential profit from a single-family home sale could already induce owners to sell a home and renters may find themselves displaced.

The Department recognizes that equitable outcomes mean protecting existing tenants, especially those who are rent-burdened, on fixed incomes, low-income, those with disabilities, those who identify as LBGTQAI+, seniors, and people of color. Currently, neither proposed ordinance contains measures that prevent the temporary displacement of tenants during construction. Controls such as excluding properties with tenants in

⁷ From the American Community Survey or ACS.

the past three years or Ellis Act Evictions within 15 years and not allow demolition of rent-controlled units would help protect these vulnerable populations.

Homeowner Risk in Taking Advantage of Density Increases

Given the high value of single-family homes and the feasibility challenges described in the attached study (Exhibit E), it is unlikely that real estate developers would be using this legislation to purchase homes and transform them into fourplexes. Current market conditions are atypical for the City in that adding units to a project at this small scale does not confer value. The most likely scenario is that homeowners in mid-tier markets would take on such projects although they would face high risk and numerous challenges.

Longtime homeowners would most benefit from an ability to increase the density on their lot, through either demolition and new construction, or through the addition of units to the existing building. Unfortunately, 30% of owners⁸ (approximately 39,500) are cost burdened⁹, and over 19,000 of these burdened owners are severely cost burdened. Middle income owners are more likely to be cost burdened than renters but more than 80% of severely burdened owners are lower income. Homeowners of color experience higher rates of cost burden, and Black homeowners in particular face higher rates of severe cost burden.¹⁰

Even if the homeowner was willing to build additional units at risk or upside-down in value for family members, when they eventually sell the property, the income-restricted housing units will not have gained the financial equity in the market, meaning that there is very little if any wealth-building reward.

While any fourplex legislation puts forward similar risks, these proposals add the challenge of producing privately financed housing units with permanently restricted prices or rents. This means that any homeowner taking on such a project would need to leverage the equity they already have in their house by getting a loan, in most cases millions of dollars, to fund a long and risky permitting and construction process. This would result in an outcome where they likely could not gain sufficient income to pay off the loan. Many will find banks unwilling to finance a project where the income is not sufficient, especially if they have no track record of project delivery. Even if the homeowner was willing to build additional units at risk or upside-down in value for family members, when they eventually sell the property, the income-restricted housing units will not have gained the financial equity in the market, meaning that there is very little if any wealth-building reward.

The only way to stabilize this process, especially for moderate- or low-income homeowners, would be to substantially publicly subsidize this effort with forgivable construction loans, free land, or other payments from the city. Homeowners even in this situation would need to be financially and socially resilient, as it is not uncommon for there to be delays and cost overruns in the development process, putting low and moderate homeowners at a further disadvantage. It is possible that a community land trust or non-profit housing

⁸ Based on IPUMS data from 2014-2018.

⁹ 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.

¹⁰ Summary Draft Needs Assessment for the 2022 Housing Element, page 24. <https://www.sfhousingelement.org/summary-draft-needs-assessment-housing-element-2022-update>

developers could use this program but there are few existing models, and they would require significant sweat equity, public subsidy, and/or philanthropy.

Homeowners even in this situation would need to be financially and socially resilient, as it is not uncommon for there to be delays and cost overruns in the development process, putting low and moderate homeowners at a further disadvantage.

Renters/Buyers with higher incomes have an advantage in gaining any unit produced

Because the proposed legislation does not enter new units produced into the MOHCD DAHLIA lottery system or provide any other structure toward income verification, there is no guarantee that new renters or buyers are middle-, moderate- or low-income households. Above middle-income prospective renters and buyers are at an advantage, as they are often in better or more flexible job, credit, and resource situations that give them advantages in obtaining housing and it is likely that they will disproportionately reap the opportunities of these fixed price outcomes.

Implementation

Both ordinances will affect the Department's current enforcement implementation procedures. It's assumed in both ordinances that the Planning Department will be the City agency responsible for enforcing the inclusionary restriction on these units. Enforcement and management of our existing inclusionary program is handled by MOHCD. This new responsibility is outside our current expertise and would likely require additional resources.

Enforcement and management of our existing inclusionary program is handled by MOHCD. This new responsibility is outside our current expertise and would likely require additional resources.

Supervisor Safai's ordinance will also affect the Department's permit processing timelines and procedures because it proposes a 180-day approval deadline. The Department supports eliminating 311 notification and Discretionary Review on certain projects, we included this in our recommendation for Supervisor Mandelman's ordinance; however, the ordinance maintains Section 317 Conditional Use authorization, Residential Design Guideline review, and historic review procedures. These processes will apply to many of the submitted projects, and often take much longer than 180 days to complete. Unless this ordinance is accompanied by a change to the Director's Priority Processing Bulletin to move these projects ahead of other projects, it will be very challenging to meet the proposed timeline without additional staffing resources. One solution would be for the ordinance to remove the requirement for a Conditional Use authorization via Sec. 317. This process takes the longest to complete and seems the most arbitrary given the other rigorous standards the projects must meet to qualify for the density bonus.

Recommendation

The Department recommends that the Commission *disapprove* the proposed Ordinance and adopt the attached Draft Resolution to that effect.

Basis for Recommendation

The Department supports the overall goals of Supervisor Mar's and Supervisor Safai's ordinances. We recognize the need to increase density in areas of the city that have historically seen little housing production while also producing more diverse and importantly affordable housing choices. The question then becomes whether these ordinances will accomplish the supervisors' and Department's shared goals. Unfortunately, as currently drafted, and under current market conditions, the Department finds neither ordinance would succeed in creating new affordable housing units, and potentially stymie the densification of the city's RH districts.

The proposed ordinances use a model like the City's existing inclusionary Housing Program to create more affordable units in our RH Districts. Our existing Inclusionary Program works only because of the economies of scale in larger projects. Because the proposed ordinances address much smaller scale developments, the inclusionary requirements contained in both make projects financially unfeasible. Although the ordinances may still produce some new units in rare circumstances, the affordability requirements also fail to serve the population they are intended for because they lack income restrictions. Further, there is little to no oversight to ensure that these units remain BMR units.

The City's best opportunity to rectify past injustice and open opportunities through increased density is to shape a local program that incentivizes density while providing subsidies for more affordability. While both ordinances have aspects that would move the city toward this goal, they also contain aspects that will hinder it.

For the city to accomplish any meaningful housing production in our RH Districts, we will have to find ways to make it financially feasible. We know from our economic analysis that purchasing a single-family home and turning it into four units is not financially feasible under current conditions. In fact, our current planning code regulations as well as market conditions encourage the production of larger and larger single-family homes. The proposed ordinances would do nothing to change this dynamic, and instead disincentivize four-unit projects and incentivize two- and three-units projects allowed under other programs. Supervisor Mar's resolution urging for the creation of a Housing Development Incentive Program for Homeowners is a good way to start searching for these solutions and we look forward to working with the Supervisor on developing this program. We also have an opportunity with our Housing Element update to explore ways to ensure for more equitable outcomes from densifying our RH neighborhoods.

To increase financial feasibility, the City should also look at reducing process on projects that we want to encourage. Of the two ordinances, Supervisor Safai's does the most to advance this idea, but falls short because it does not eliminate the CU requirement for demolitions. Staff strongly believes that our code should clearly promulgate the type of development we want and then reduce process and appeal barriers to make it easier to build those developments. Conditional Use authorization starts with the premise that what you are proposing is not allowed unless the Planning Commission deems it necessary or desirable. This process is expensive, time consuming and can act as a deterrent. Yet constructing missing-middle housing by replacing our aging single-family housing stock is both necessary and desirable and should a priority in our Planning Code not an exception.

The City's best opportunity to rectify past injustice and open opportunities through increased density is to shape a local program that incentivizes density while providing subsidies for more affordability. While both ordinances have aspects that would move the city toward this goal, they also contain aspects that will hinder it. The Department spent several months developing a package of legislative and programmatic recommendations through our analysis of Supervisor Mandelman's four-plex legislation¹¹. These recommendations serve as a package of rules and resources for reducing barriers for communities of color to build equity or access income from their properties. These recommendations also appropriately densifying RH districts in a way that reduces displacement and supports existing homeowners and renters. And importantly they propose ways to incentives they type of development we want by reducing process and appeal avenues. The Department would encourage the supervisors to adopt these measures, which the Planning Commission unanimously recommended for Supervisor Mandelman's ordinance.

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

With the amendments pending introduction through a substitute ordinance to Board File No. 211202, and the findings of Board File No. 211234, the ordinances meet the requirements of Senate Bill 10, Government Code 65913.5, and review under CEQA is not required.

Public Comment

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

Attachments:

- Exhibit A: Draft Planning Commission Resolution for Board File No. 2111202
- Exhibit B: Draft Planning Commission Resolution for Board File No. 211234
- Exhibit C: Map of Eligible RH Parcels: Board File No. 211234
- Exhibit D: Case Packet for Board File No. 210866
- Exhibit E: Triplex & Fourplex Financial Feasibility Analysis
- Exhibit F: Comparison Chart: SB9 vs Subject Ordinances
- Exhibit G: Board of Supervisors File No. 211202
- Exhibit H: Board of Supervisors File No. 211234

¹¹ The recommendations and supporting analysis can be found as Exhibit D.



PLANNING COMMISSION DRAFT RESOLUTION

HEARING DATE: February 10, 2022

Project Name: Density Limit Exception For Lots in RH zoning districts
Case Number: 2021-012246PCA [Board File No. 211202]
Initiated by: Supervisor Mar / Introduced November 16, 2021
Staff Contact: Audrey Merlone, Legislative Affairs
Audrey.merlone@sfgov.org, 628-652-7534
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, (628) 652-7533

RESOLUTION DISAPPROVING A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE TO PROVIDE A DENSITY LIMIT EXCEPTION FOR LOTS IN RH (RESIDENTIAL, HOUSE) ZONING DISTRICTS, TO PERMIT UP TO FOUR DWELLING UNITS PER LOT, EXCLUSIVE OF ACCESSORY DWELLING UNITS AND SUBJECT TO MAXIMUM RENTAL RATES AND SALES PRICES DETERMINED TO BE AFFORDABLE AT 100% OF AREA MEDIAN INCOME; AMENDING THE ADMINISTRATIVE CODE TO LIMIT INITIAL RENTAL RATES AND RENTAL RATE INCREASES FOR SPECIFIED UNITS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on November 16, 2021 Supervisor Mar introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 211202, which would amend the Planning Code to provide a density limit exception for Lots in RH (Residential, House) zoning districts, to permit up to four dwelling units per lot, exclusive of accessory dwelling units and subject to maximum rental rates and sales prices determined to be affordable at 100% of area median income; amending the Administrative Code to limit initial rental rates and rental rate increases for specified units;

WHEREAS, The Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 10, 2022; and,

WHEREAS, the proposed Ordinance, once modified through substitute legislation, has been determined to meet the requirements of Senate Bill 10, Government Code 65913.5, and review under CEQA is not required; 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 **disapproves** the proposed ordinance. The Commission's proposed recommendation(s) is/are as follows:

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 Commission supports the overall goals of Supervisor Mar's and Supervisor Safai's ordinances and recognize the need to increase density in areas of the city that have historically seen little housing production while also producing more diverse and importantly affordable housing choices. The question then becomes whether these ordinances will accomplish the supervisors' and Department's shared goals. Unfortunately, as currently drafted, and under current market conditions, the Commission finds neither ordinance would succeed in creating new affordable housing units, and potentially stymie the densification of the city's RH districts.

The proposed ordinances use a model like the City's existing inclusionary Housing Program to create more affordable units in our RH Districts. Our existing Inclusionary Program works only because of the economies of scale in larger projects. Because the proposed ordinances address much smaller scale developments, the inclusionary requirements contained in both make projects financially unfeasible. Although the ordinances may still produce some new units in rare circumstances, the affordability requirements also fail to serve the population they are intended for because they lack income restrictions. Further, there is little to no oversight to ensure that these units remain BMR units.

General Plan Compliance

The proposed Ordinance is inconsistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 5

ENSURE THAT ALL RESIDENT HAVE EQUAL ACCESS TO AVAILABLE UNITS.

Policy 5.1

Ensure an equitable distribution of growth according to infrastructure and site capacity.

Although in theory the proposed ordinance will increase the number of affordable units in the city, the lack of income restrictions for those who occupy these units will prevent residents who need them most from having an equal opportunity to rent or own them. Higher income and higher resourced individuals are most likely to find these units first when they become available.

OBJECTIVE 7

SECURE FUNDING AND RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING, INCLUDING INNOVATIVE PROGRAMS THAT ARE NOT SOLELY RELIANT ON TRADITIONAL MECHANISMS OR CAPITAL.

Policy 7.3

Recognize the importance of funds for operations, maintenance, and services to the success of affordable housing programs.

The City's existing Inclusionary Program works only because of the economies of scale in larger projects. Because the proposed ordinances address much smaller scale developments, the inclusionary requirements contained in both make projects financially unfeasible. The proposed ordinance would do nothing to change this dynamic, and instead disincentivizes four-unit projects and incentivize two- and three-units projects allowed under other programs.

OBJECTIVE 10

ENSURE A STREAMLINED, YET THOROUGH, AND TRANSPARENT DECISION-MAKING PROCESS.

Policy 10.1

Create certainty in the development entitlement process, by providing clear community parameters for development and consistent application of these regulations.

The proposed Ordinance clearly identifies the type of development the City wants but does nothing to reduce process and appeal barriers to make it easier to build those developments. Projects that meet the proposed Ordinance's parameters would still be subject to neighborhood notification, design review, historic preservation review, Conditional Use authorizations, and be able to be appealed through discretionary review. These processes are expensive, and time consuming, and can act as a deterrent. The Commission strongly believes when the code clearly promulgates the type of development the city wants it should also reduce process and appeal barriers to make it easier to build those developments.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with seven of 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 preserving existing housing or neighborhood character.

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.

The proposed amendments to the Planning Code are inconsistent with Priority Policy #3 set forth in Section 101.1(b) of the Planning Code, in that:

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 current supply of affordable housing, however under current market conditions the amendments lack of feasibility would stymy the creation of both new affordable units **and** market-rate units in RHD neighborhoods. The legislation additionally fails to ensure new affordable units built through the proposed ordinance are occupied by the residents who need them most (residents making at or below the AMI levels set for sale/rental prices).*

Planning Code Section 302 Findings.

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare DO NOT require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby DISAPPROVES the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on February 10, 2022.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: February 10, 2022



PLANNING COMMISSION DRAFT RESOLUTION

HEARING DATE: February 10, 2022

Project Name: Single- Two- and Three-Family Home Bonus Program
Case Number: 2021-012237PCA [Board File No. 211234]
Initiated by: Supervisor Safai / Introduced December 7, 2021
Staff Contact: Audrey Merlone, Legislative Affairs
audrey.merlone@sfgov.org, 628-652-7534
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, (628) 652-7533

RESOLUTION DISAPPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO CREATE A DENSITY BONUS PROGRAM IN RH-1 (RESIDENTIAL, HOUSE, ONE-FAMILY), RH-2 (RESIDENTIAL, HOUSE, TWO-FAMILY), AND RH-3 (RESIDENTIAL, HOUSE, THREE-FAMILY) ZONING DISTRICTS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on December 7, 2021, Supervisor Safai introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 211234, which would amend the Planning Code to create a density bonus program in RH-1 (Residential, House, One-Family), RH-2 (Residential, House, Two-Family), and RH-3 (Residential, House, Three-Family) zoning districts;

WHEREAS, The Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 10, 2022; and,

WHEREAS, the proposed Ordinance has been determined to meet the requirements of Senate Bill 10, Government Code 65913.5, and review under CEQA is not required; 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 **disapproves** the proposed ordinance. The Commission's proposed recommendation(s) is/are as follows:

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 Commission supports the overall goals of Supervisor Mar's and Supervisor Safai's ordinances and recognize the need to increase density in areas of the city that have historically seen little housing production while also producing more diverse and importantly affordable housing choices. The question then becomes whether these ordinances will accomplish the supervisors' and Department's shared goals. Unfortunately, as currently drafted, and under current market conditions, the Commission finds neither ordinance would succeed in creating new affordable housing units, and potentially stymy the densification of the city's RH districts.

The proposed ordinances use a model like the City's existing inclusionary Housing Program to create more affordable units in our RH Districts. Our existing Inclusionary Program works only because of the economies of scale in larger projects. Because the proposed ordinances address much smaller scale developments, the inclusionary requirements contained in both make projects financially unfeasible. Although the ordinances may still produce some new units in rare circumstances, the affordability requirements also fail to serve the population they are intended for because they lack income restrictions. Further, there is little to no oversight to ensure that these units remain BMR units.

General Plan Compliance

The proposed Ordinance is inconsistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 5

ENSURE THAT ALL RESIDENT HAVE EQUAL ACCESS TO AVAILABLE UNITS.

Policy 5.1

Ensure an equitable distribution of growth according to infrastructure and site capacity.

Although in theory the proposed ordinance will increase the number of affordable units in the city, the lack of income restrictions for those who occupy these units will prevent residents who need them most from having an equal opportunity to rent or own them. Higher income and higher resourced individuals are most likely to find these units first when they become available.

OBJECTIVE 7

SECURE FUNDING AND RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING, INCLUDING INNOVATIVE PROGRAMS THAT ARE NOT SOLELY RELIANT ON TRADITIONAL MECHANISMS OR CAPITAL.

Policy 7.3

Recognize the importance of funds for operations, maintenance, and services to the success of affordable housing programs.

The City's existing Inclusionary Program works only because of the economies of scale in larger projects. Because the proposed ordinances address much smaller scale developments, the inclusionary requirements contained in both make projects financially unfeasible. The proposed ordinance would do nothing to change this dynamic, and instead disincentivizes four-unit projects and incentivize two- and three-units projects allowed under other programs.

OBJECTIVE 10

ENSURE A STREAMLINED, YET THOROUGH, AND TRANSPARENT DECISION-MAKING PROCESS.

Policy 10.1

Create certainty in the development entitlement process, by providing clear community parameters for development and consistent application of these regulations.

The proposed Ordinance clearly identifies the type of development the City wants but falls short because it does not eliminate the CU requirement for demolitions. Conditional Use authorization starts with the premise that what you are proposing is not allowed unless the Planning Commission deems it necessary or desirable. This process is expensive, time consuming and can act as a deterrent. The Commission strongly believes when the code clearly promulgates the type of development the City wants it should also reduce process and appeal barriers to make it easier to build those developments.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with seven of 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 preserving existing housing or neighborhood character.

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.

The proposed amendments to the Planning Code are inconsistent with Priority Policy #3 set forth in Section 101.1(b) of the Planning Code, in that:

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 current supply of affordable housing, however under current market conditions the amendments lack of feasibility would stymie the creation of both new affordable units **and** market-rate units in RHD neighborhoods. The legislation*

additionally fails to ensure new affordable units built through the proposed ordinance are occupied by the residents who need them most (residents making at or below the AMI levels set for sale/rental prices).

Planning Code Section 302 Findings.

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare DO NOT require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby DISAPPROVES the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on February 10, 2022.

Jonas P. Ionin
Commission Secretary

AYES:

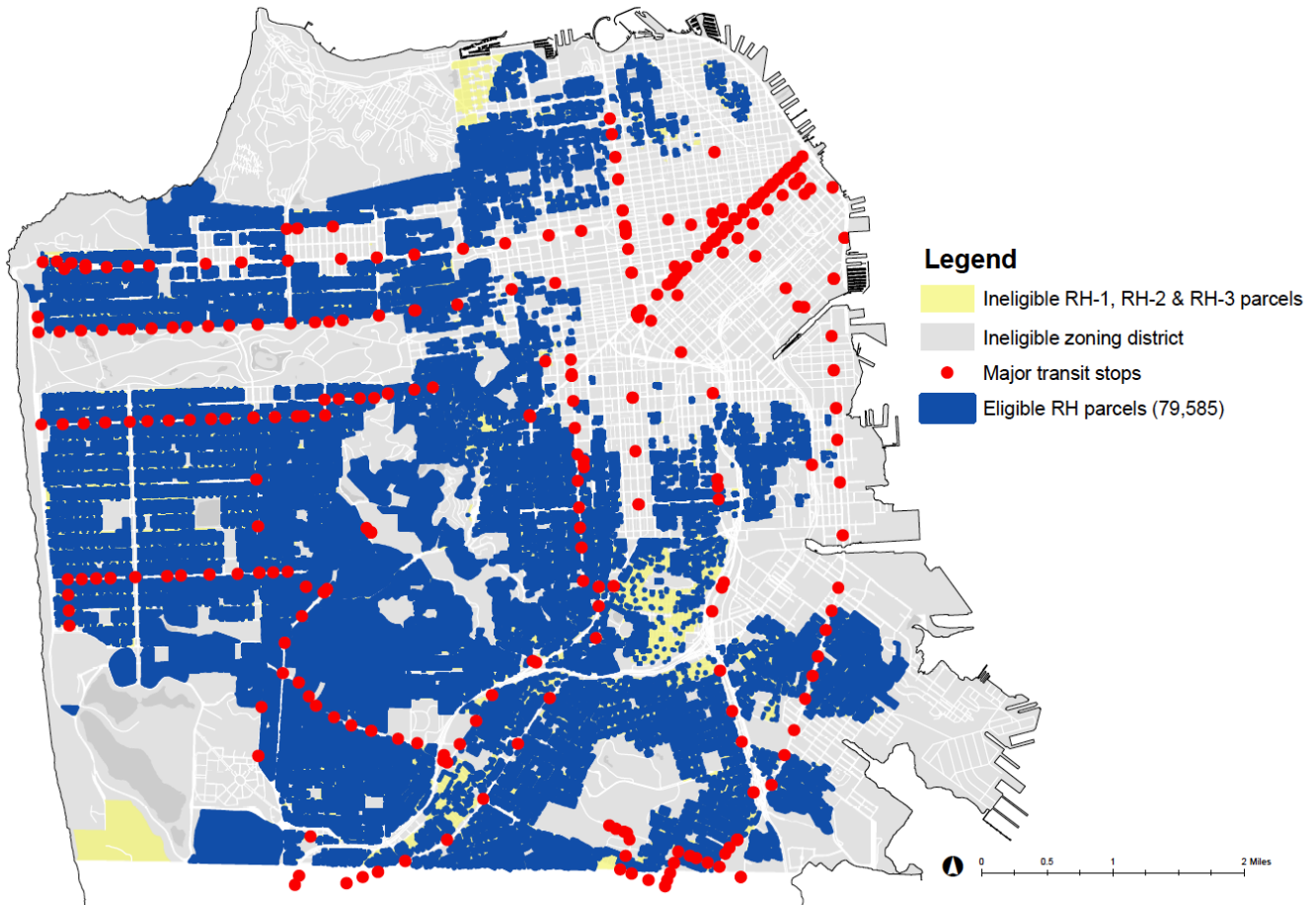
NOES:

ABSENT:

ADOPTED: February 10, 2022

EXHIBIT C

Map: Eligible Parcels Under Board File No. 211234





January 7, 2022

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

Re: Transmittal of Planning Department Case Number 2021-010762PCA:
Four-Unit Density Exception for Residential Districts
Board File No. 210866

Planning Commission Recommendation: Approval with Modification

Dear Ms. Calvillo and Supervisor Mandelman,

On November 18, 2021, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Mandelman which would amend the Planning Code to provide a density limit exception for all lots in RH (Residential, House) zoning districts, to permit up to four dwelling units per lot. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

1. **Rezone all the City's RH-1 Zoning Districts to RH-2.** Modify one of the proposed ordinances to upzone all RH-1, RH-1(D) and RH-1(S) zoning districts to RH-2.
2. **Increase the proposed Ordinances' density exception for corner lots from four units to six units.**
3. **Adopt a local alternative for SB 9.** Adopt the following program as an alternative to SB9¹ to encourage development that meets the City's housing priorities:

		Proposed Local Alternative	
		Non-Owner Occupied	Owner Occupied or Owned by Nonprofit
Where it Applies		All RH Districts	
Requirements	Maximum Density	4 units on Interior Lots, 6 on Corner Lots	
	Minimum Lot Size	Lot split allowed on corner lots with minimum lot size of 1,200 sq. ft. no variances required for existing building w/ minimum 4 ft setback from new property line Maximum 6 units across the two lots	
	Owner Occupancy Requirement	No	Owner "Intent to Occupy" 3 years post construction*
	Increase Density	Must result in at least 4 units	Must add at least 1 new unit
	Required Rear Yard Setback	30%	30% if project results in 4 units, otherwise underlying zoning.
	Unit Proportionality	2nd unit must be at least 50% of 1st unit size	
	Eligibility	<ul style="list-style-type: none"> • Has not been tenant occupied for at least 3 years prior to filing the application • Will not demolish a rent-controlled unit, or a unit with an Ellis Act eviction within the last 15 years • Is not an A building or Historic Resource under Article 10, etc. 	<ul style="list-style-type: none"> • Has been owner occupied for at least 3 years prior to filing the application (not allowed to be vacant)* • Owner signs affidavit stating intent to occupy for at least 3 years post construction* • Will not demolish a rent-controlled unit, or a unit with an Ellis Act eviction within the last 15 years. • Is not an A building or Historic Resource under

		Article 10, etc.	
Process	Subject to 317	No	
	Subject to 311	No	
	Residential Design Guidelines	Objective Standards Only	
	CEQA Review	Yes	
	Fee Waiver for Historic Evaluation	No	Yes
	Condo Conversion Process	Condominiums may be formed as part of new construction, however, owners of non-owner occupied units would remain ineligible to apply for condominium conversion of non-owner occupied units under a new provision of the Subdivision Code enacted under this ordinance	Owner may apply to form condos via new construction pathway, even for existing units being retained. <i>(would require a new provision of the Subdivision Code enacted under this Ordinance)</i>
<p>ALL OTHER PROJECTS in ANY RH DISTRICT: Up to 2-3 units (depending on zoning district) allowed plus ADUs for all projects as of right, with up to 4 units on interior lots allowed and 6 units on corner lots allowed for projects not also seeking a density bonus. 30% rear yard allowed if building at least 4 units. Regular Planning Code processes (311, 317, RDG's, etc.) apply.</p> <p><i>*Not required if owned by a non-profit</i></p>			

4. Explore establishing a fee on single-family homes larger than 4,000 sq. ft. This proposed fee would be assessed against project applications in RH districts that seek new construction of a single-family home of more than 4,000 square feet, or expansion of an existing single-family home beyond 4,000 sq ft. Consider allowances for small additions. Allocate the fee to the city's Down Payment Assistance Loan Program or another supportive program that assists low/moderate income earners and BIPOC communities with home ownership or residential development in the city.
5. Increase funding to supportive housing programs. Encourage the Board of Supervisors and the Mayor's

Office to increase funding to supportive programs that assist low and moderate income and BIPOC residents with buying and building homes in the city.

6. **Amend the proposed Ordinances to comply with the technical requirements of Senate Bill 10.** Make non-substantive changes to qualify for SB10 as follows:
 - a) include a declaration that the zoning ordinance is adopted pursuant to SB 10;
 - b) clearly demarcate the areas that are zoned;
 - c) include a finding that “the increased density authorized by the ordinance is consistent with the city or county’s obligation to affirmatively further fair housing pursuant to Government Code Section 8899.50; and,
 - d) specify heights as shown on the City’s zoning maps.
7. **Pursue the adoption of objective residential design standards.** Direct staff to formalize objective residential design standards and bring back before the Commission for adoption. *See Exhibit F for draft subjective design standards.*
8. **Recommend amendments to the Subdivision Code for projects that meet certain requirements, to apply to form condos via new construction pathway, even for existing units being retained.**

With the recommended amendments to the proposed ordinance in Board File No. 210866, the ordinance meets the requirements of Senate Bill 10, Government Code 65913.5, and review under CEQA is not required.

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,



Aaron D. Starr
Manager of Legislative Affairs

cc: Andrea Ruiz-Esquide, Deputy City Attorney
Jacob Bintliff, Aide to Supervisor Mandelman
Erica Major, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution

Planning Department Executive Summary



PLANNING COMMISSION RESOLUTION NO. 21031

HEARING DATE: NOVEMBER 18, 2021

Project Name: Four-Unit Density Exception for Residential Districts
Case Number: 2021-010762PCA [Board File No. 210866]
Initiated by: Supervisor Mandelman / Introduced July 27, 2021
Staff Contact: Audrey Merlone, Legislative Affairs
Audrey.merlone@sfgov.org, 628-652-7534
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, (628) 652-7533

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO PROVIDE A DENSITY LIMIT EXCEPTION TO PERMIT UP TO FOUR DWELLING UNITS PER LOT IN RH (RESIDENTIAL, HOUSE) ZONING DISTRICTS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on July 27, 2021 Supervisor Mandelman introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 210866, which would amend the Planning Code to provide a density limit exception to permit up to four dwelling units per lot in RH (Residential, House) Zoning Districts;

WHEREAS, The Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 18, 2021; and,

WHEREAS, with the recommended amendments to the proposed Ordinance in Board File No. 210866, the Ordinance meets the requirements of Senate Bill 10, Government Code 65913.5, and review under CEQA is not required; 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 modifications are as follows:

1. **Rezone all the City’s RH-1 zoning districts to RH-2.** Modify one of the proposed ordinances to upzone all RH-1, RH-1(D) and RH-1(S) zoning districts to RH-2.
2. Increase the proposed Ordinances’ density exception for corner lots from four units to six units.
3. **Adopt a local alternative for SB 9.** Adopt the following program as an alternative to SB9¹ to encourage development that meets the City’s housing priorities (*chart continues on following page. For a chart viewable as one page, please see Exhibit D*):

		Proposed Local Alternative	
		Non-Owner Occupied	Owner Occupied or Owned by Nonprofit
Where it Applies		All RH Districts	
Requirements	Maximum Density	4 units on Interior Lots, 6 on Corner Lots	
	Minimum Lot Size	Lot split allowed on corner lots with minimum lot size of 1,200 sq. ft. no variances required for existing building w/ minimum 4 ft setback from new property line Maximum 6 units across the two lots	
	Owner Occupancy Requirement	No	Owner "Intent to Occupy" 3 years post construction*
	Increase Density	Must result in at least 4 units	Must add at least 1 new unit
	Required Rear Yard Setback	30%	30% if project results in 4 units, otherwise underlying zoning.
	Unit Proportionality	2nd unit must be at least 50% of 1st unit size	

¹ For a comprehensive chart comparing SB9 to the proposed local alternative pathways, please see Exhibit E.

	Eligibility	<ul style="list-style-type: none"> Has not been tenant occupied for at least 3 years prior to filing the application Will not demolish a rent-controlled unit, or a unit with an Ellis Act eviction within the last 15 years Is not an A building or Historic Resource under Article 10, etc. 	<ul style="list-style-type: none"> Has been owner occupied for at least 3 years prior to filing the application (not allowed to be vacant)* Owner signs affidavit stating intent to occupy for at least 3 years post construction* Will not demolish a rent-controlled unit, or a unit with an Ellis Act eviction within the last 15 years. Is not an A building or Historic Resource under Article 10, etc.
Process	Subject to 317	No	
	Subject to 311	No	
	Residential Design Guidelines	Objective Standards Only	
	CEQA Review	Yes	
	Fee Waiver for Historic Evaluation	No	Yes
	Condo Conversion Process	<p>Condominiums may be formed as part of new construction, however, owners of non-owner occupied units would remain ineligible to apply for condominium conversion of non-owner occupied units under a new provision of the Subdivision Code enacted under this ordinance</p>	<p>Owner may apply to form condos via new construction pathway, even for existing units being retained. <i>(would require a new provision of the Subdivision Code enacted under this Ordinance)</i></p>
<p>ALL OTHER PROJECTS in ANY RH DISTRICT: Up to 2-3 units (depending on zoning district) allowed plus ADUs for all projects as of right, with up to 4 units on interior lots allowed and 6 units on corner lots allowed for projects not also seeking a density bonus. 30% rear yard allowed if building at least 4 units. Regular Planning Code processes (311, 317, RDG's, etc.) apply.</p> <p><i>*Not required if owned by a non-profit</i></p>			

4. Explore establishing a fee on single-family homes larger than 4,000 sq. ft. This proposed fee would be

assessed against project applications in RH districts that seek new construction of a single-family home of more than 4,000 square feet, or expansion of an existing single-family home beyond 4,000sqft. Consider allowances for small additions. Allocate the fee to the city's Down Payment Assistance Loan Program or another supportive program that assists low/moderate income earners and BIPOC communities with home ownership or residential development in the city.

5. **Increase funding to supportive housing programs.** Encourage the Board of Supervisors and the Mayor's Office to increase funding to supportive programs that assist low and moderate income and BIPOC residents with buying and building homes in the city.
6. **Amend the proposed Ordinances to comply with the technical requirements of Senate Bill 10.** Make non-substantive changes to qualify for SB10 as follows:
 - a) include a declaration that the zoning ordinance is adopted pursuant to SB 10;
 - b) clearly demarcate the areas that are zoned;
 - c) include a finding that "the increased density authorized by the ordinance is consistent with the city or county's obligation to affirmatively further fair housing pursuant to Government Code Section 8899.50; and,
 - d) specify heights as shown on the City's zoning maps.
7. **Pursue the adoption of objective residential design standards.** Direct staff to formalize objective residential design standards and bring back before the Commission for adoption. *See Exhibit F for draft subjective design standards.*
8. **Recommend amendments to the Subdivision Code for projects that meet certain requirements, to apply to form condos via new construction pathway, even for existing units being retained.**

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:

Objective 4 of the Housing Element instructs the City to "foster a housing stock that meets the needs of all residents across all lifecycles." The proposed Ordinance, with all staff modifications, will end a decades old exclusionary practice that has helped segregate our city. Removing single-family zoning will also create opportunities for areas of the city that have seen little housing production in the last several decades to add modest density, thereby increasing housing choice for existing residents, and opening opportunities for current homeowners to build equity through the addition of a unit(s). Objective 10 of the Housing Element instructs the City to "ensure a streamlined, yet thorough, and transparent decision-making process". The proposed Ordinance, with all staff modifications, will make adding modest density to our RH districts more manageable for homeowners and developers, through the creation of two ministerial pathways, open to projects and applicants that meet the City's housing priorities.

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

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.6

Consider greater flexibility in number and size of units within established building envelopes in community based planning processes, especially if it can increase the number of affordable units in multi-family structures.

OBJECTIVE 4

FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

Policy 4.6

Ensure that new permanently affordable housing is located in all of the city's neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.

OBJECTIVE 5

ENSURE THAT ALL RESIDENTS HAVE EQUAL ACCESS TO AVAILABLE UNITS.

Policy 5.2

Increase access to housing, particularly for households who might not be aware of their housing choices.

Policy 5.4

Provide a range of unit types for all segments of need, and work to move residents between unit types as their needs change.

The proposed Ordinance, with all staff modifications, will allow areas of the City that have been restricted to single-family zoning for decades, to add modest density to their neighborhoods, thereby providing a larger range of housing choices for current and future residents. These range of housing units in size, type, and affordability will assist current residents with being able to stay within their existing community, even if their housing needs change. It will also open opportunities for new residents to move into neighborhoods that are currently exclusionary due to the lack of housing options for those who cannot afford to buy or rent a single-family home.

OBJECTIVE 7

SECURE FUNDING AND RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING, INCLUDING INNOVATIVE PROGRAMS THAT ARE NOT SOLELY RELIANT ON TRADITIONAL MECHANISMS OR CAPITAL.

Policy 7.8

Develop, promote, and improve ownership models which enable households to achieve homeownership within their means, such as down-payment assistance, and limited equity cooperatives.

The proposed Ordinance, with all staff modifications, emphasizes the importance of coupling the densification effort with supportive programs.

OBJECTIVE 10

ENSURE A STREAMLINED, YET THOROUGH, AND TRANSPARENT DECISION-MAKING PROCESS.

Policy 10.2

Implement planning process improvements to both reduce undue project delays and provide clear information to support community review.

The proposed Ordinance, with all staff modifications, will promote modest density across RH districts in the City through the addition of residential units and ADU's. The proposed Ordinance additionally ensures that large, single-family home construction or expansions are not approved without careful consideration through a CU authorization.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

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

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

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

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

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

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

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

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

employment and ownership in these sectors be enhanced;

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

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

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

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

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

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

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 November 18, 2021.



Jonas P Ionin Digitally signed by Jonas P Ionin
Date: 2021.11.17 16:03:12 -0800

Jonas P. Ionin
Commission Secretary

AYES: Tanner, Chan, Diamond, Fung, Imperial, Moore, Koppel

NOES: None

ABSENT: None

ADOPTED: November 18, 2021



CASE REPORT PLANNING CODE TEXT AMENDMENT

HEARING DATE: November 18, 2021

90-Day Deadline: January 19, 2022 [Board File No. 210564]
November 1, 2022 [Board File No. 210866]

Project Name: Dwelling Unit Density Exception in RHD's
Case Number: 2020-003971PCA [Board File No. 210564] &
2021-010762PCA [Board File No. 210866]
Initiated by: Supervisor Mandelman / Introduced May 24, 2021 [Board File No. 210564] &
July 27, 2021 [Board File No. 210866]
Staff Contact: Audrey Merlone, Legislative Affairs
Audrey.Merlone@sfgov.org, 628-652-7534
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

Recommendation: Approval with Modifications

Planning Code Amendment

The proposed Ordinances would amend the Planning Code to provide a density limit exception for solely Corner Lots (Board File No. 210564) or *all* lots (Board File No. 210866) in RH (Residential, House) zoning districts, to permit up to four dwelling units per lot.

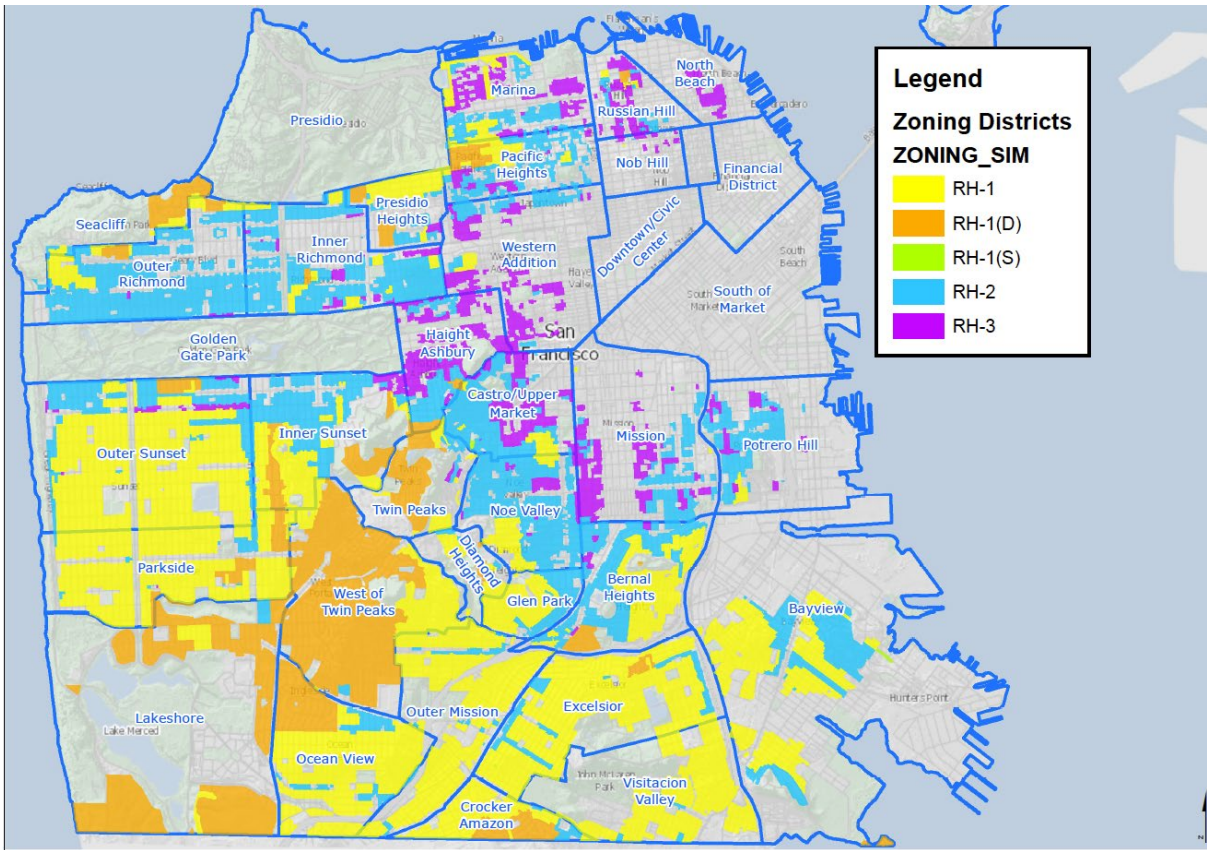
The Way It Is Now:

- The RH districts are composed of five separate classes of districts, defined by the number of units permitted in each:

RH-1(D) Districts	1 unit max. per lot
RH-1 Districts	1 unit max. per lot or 1 unit per every 3,000sqft of lot area with a CUA, but in no case more than 3 units per lot
RH-1(S) Districts	1 unit max. per lot, though a small second unit is allowed if it is 600sqft or less, or 1 unit per every 3,000sqft of lot area with CUA, but in no case more than 3 units per lot
RH-2 Districts	<u>2 unit</u> max. per lot or 1 unit per every 1,500sqft of lot area with CUA;
RH-3 Districts	<u>3 unit</u> max. per lot, or 1 unit per every 1,000sqft of lot area with CUA

Accessory Dwelling Units (ADU's) may also be built in addition to the base density allowances in RHD's.

2. Each of the four RH zoning districts has its own set of building standards.



The Way It Would Be Under Board File No. 210564:

1. In all RHD's, up to four units (not including any allowed ADU's) would be allowed on corner lots, for projects that are not also seeking to utilize a density bonus program.
2. Projects that utilize the proposed legislation's density waiver would be subject to the building standards of RH-3 districts.

The Way It Would Be Under Board File No. 210866:

As above, except that applicability would be expanded to all lots.

Background

Supervisor Mandelman introduced the subject Ordinances in conjunction with an ordinance (Board File No. 210116), that would amend the Planning Code to require Conditional Use Authorization for certain large residence developments in RH zoning districts. The Planning Commission heard Board File No. 210116 on September 23rd and voted to disapprove the Ordinance.

Board File No. 210564: Supervisor Mandelman introduced this Ordinance on May 24, 2021. The Ordinance only proposed to grant a density exception for corner RH lots as the predicted impact was small enough to be covered through an Addendum to the Department's existing Housing Element. This addendum is attached as Exhibit C.

Board File No. 210866: Supervisor Mandelman introduced this Ordinance on July 27, 2021. The Ordinance would affect a much larger area of the city, as it would apply to all RH district lots. While it was initially thought that the required CEQA review of this Ordinance would be incorporated into that of the 2022 Housing Element, passage of Senate Bill 10 has made it possible for the Department to bring this Ordinance before the Commission now.

Senate Bill 9: On September 16, 2021 Governor Newsom signed Senate Bill 9, which allows duplexes and lot splits for certain parcels in single family (RH-1) zoning. The bill becomes effective on January 1, 2022. This bill affects the implementation of both of Supervisor Mandelman's proposed Ordinances, when said Ordinances are applied to single-family zoned lots.

Senate Bill 10: On September 16, 2021 Governor Newsom signed Senate Bill 10, which under certain circumstances allows local jurisdictions to adopt rezoning ordinances that increase density up to 10 units per parcel without CEQA review. The bill becomes effective on January 1, 2022.

Issues and Considerations

Senate Bill 9 (SB 9)

Senate Bill 9 (Atkins) requires ministerial approval of a project that would (a) add one new unit to a site with one existing unit, (b) construct two new units on a vacant site, and/or (c) subdivide an RH-1 parcel into two parcels.¹ A ministerial decision involves only the use of fixed standards or objective measurements, and the City cannot use subjective judgment in deciding whether or how the project should be carried out. Notably, ministerial approvals are exempt from review under CEQA or any entitlement process. Please see the following page for a chart which comparing SB 9 to Supervisor Mandelman's proposed Ordinances.

Should Supervisor Mandelman's more expansive Ordinance pass, along with SB 9, in RH-1, RH-1(D), and RH-(S) districts, an applicant *might* be able to use SB 9 to split a 2,400sqft. parcel into two parcels, and then build up to four units on each new parcel not inclusive of ADU's. Under SB 9 alone, only two units are allowed on each split lot.

Both SB 9 and Supervisor Mandelman's ordinances co-existing may lead to confusion and conflict on how many units are allowed per lot, the building standards required, and processes that apply. As such, the Department has worked to develop a recommendation that incorporates the best aspects of both SB 9 and Supervisor Mandelman's Ordinances, and if implemented fully, would serve as a local alternative to SB 9.

¹ For a comprehensive summary of SB 9, please visit: https://commissions.sfplanning.org/cpcpackets/2018-016522CWP_102121.pdf

SB 9			Supervisor Mandelman's Proposed Ordinances	
Proposal	Lot Split	No Lot Split	Corner Lots Only (Board File No. 210564)	All Lots (Board File No. 210866)
Where it Applies	RH-1, RH-1(D), & RH-1(S)		RH-1, RH-1(D), & RH-1(S), RH-2, & RH-3	
Requirements	Maximum Density	2 units on each new lot + ADUs if allowed by local Ordinance	2 units + ADUs	4 units + ADU'S
	Minimum Lot Size	1,200 sq ft for each new lot (2,400 sq ft total)	no minimum lot size required	Standard
	Owner Occupancy Requirement	Owner "Intent to Occupy" 3 years post lot split approval	No owner occupancy requirement pre/post project	No owner occupancy requirement pre/post project
	Required Rear Yard Setback	-No building standards are allowed that would prevent two, 800sqft units per parcel -4ft rear yard setback can be required by local Ordinance		RH-3 Building Standards (45% rear yard)
	Unit Proportionality	None	None	None
	Increase Density	An SB 9 development must include 2 units per lot		Must be more than base allowable density
	Eligibility	-Has not been tenant occupied for at least 3 years prior to filing the application (could be owner occupied or vacant) -Will not demolish a rent-controlled unit, or a unit with an Ellis Act eviction within the last 15 years -Is not a Historic Resource under Article 10 or in a Historic District		May not also seek or receive a density bonus under Sec. 206.5 or 206.6
Process	Subject to 317	No		Yes
	Subject to 311	No		Yes
	Residential Design Guidelines	Objective RD Standards only		Residential Design Guidelines
	CEQA Review	No		Yes
	Fee Waiver for Historic Evaluation	No		No
Condo Conversion Program	Depends on the project	Depends on the project	Subject to condo conversion process for proposals retaining an existing unit(s)	

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. The most recent count of people experiencing homelessness in 2019 found a recent high of over 8,000 people, more than 5,000 of whom are unsheltered.² Households of many types face housing challenges; however, the most heavily impacted households are people living alone, who make up the majority of 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.

Recent Development Patterns

Since 2005, 85% of new housing was built in nine neighborhoods located on the eastern half of the city where form-based, multifamily housing is more widely allowed. These neighborhoods include the Financial District/ South Beach, South of Market, Mission Bay, Potrero Hill, Bayview Hunters Point, the Mission, Tenderloin, Hayes Valley, and Western Addition (see darker areas on map). 87% of all new affordable housing and ADUs added over this period were also built in these same nine neighborhoods, and more than three quarters of all permanently affordable housing is in these neighborhoods³.



87% of newer housing has been added in larger buildings of 20 units or more, though just 28% of all existing housing in the city is in buildings of this size. The neighborhoods where multifamily housing is allowed often have larger lots and higher permitted heights, resulting in larger housing projects. Because much of the rest of the city has far more restrictive rules on housing, few smaller projects on smaller lots are possible. The tendency toward larger projects on larger lots limits options for adding housing, especially for smaller property owners, contractors, and builders who do not have the capital or scale to work on larger developments.

² Housing Element Summary of Draft Needs Assessment – Published April 2021; Data from SF Planning Department Analysis of 2014-2018 IPUMS-USA <https://www.sfhousingelement.org/summary-draft-needs-assessment-housing-element-2022-update>

³ Summary Draft Needs Assessment for the 2022 Housing Element, page 21. <https://www.sfhousingelement.org/summary-draft-needs-assessment-housing-element-2022-update>

Residents ultimately bear the brunt of these restrictions, finding limited available and affordable housing options, particularly in higher opportunity areas of the city.

Limited Housing Options in Single-Family Zoning

The city's diverse and pressing housing needs could be met through a range of housing from small studios to homes with two or more bedrooms; however, housing options are often limited in much of the city. 41% of the city's residential land is restricted to just one home per lot and 18% of land is restricted to two homes per lot in total nearly 60% of all residential land in the city. Combined with high prices for land, high development costs, and extensive procedural requirements, restrictions on the number of units allowed make it difficult to provide housing to meet diverse needs. Just 3% of housing built since 2005 was added in areas that allow one to two units (only 6% of affordable housing when ADUs are counted). Single-family homes occupy most of the housing in these areas, and the median single-family home price of \$1.5 million is affordable only to those with high incomes or existing wealth. The ability to add ADUs has created a pathway to expand rental housing in all residential areas; however, the majority of ADUs created so far have been added in existing multifamily rental buildings or have been legalizations of unpermitted units.

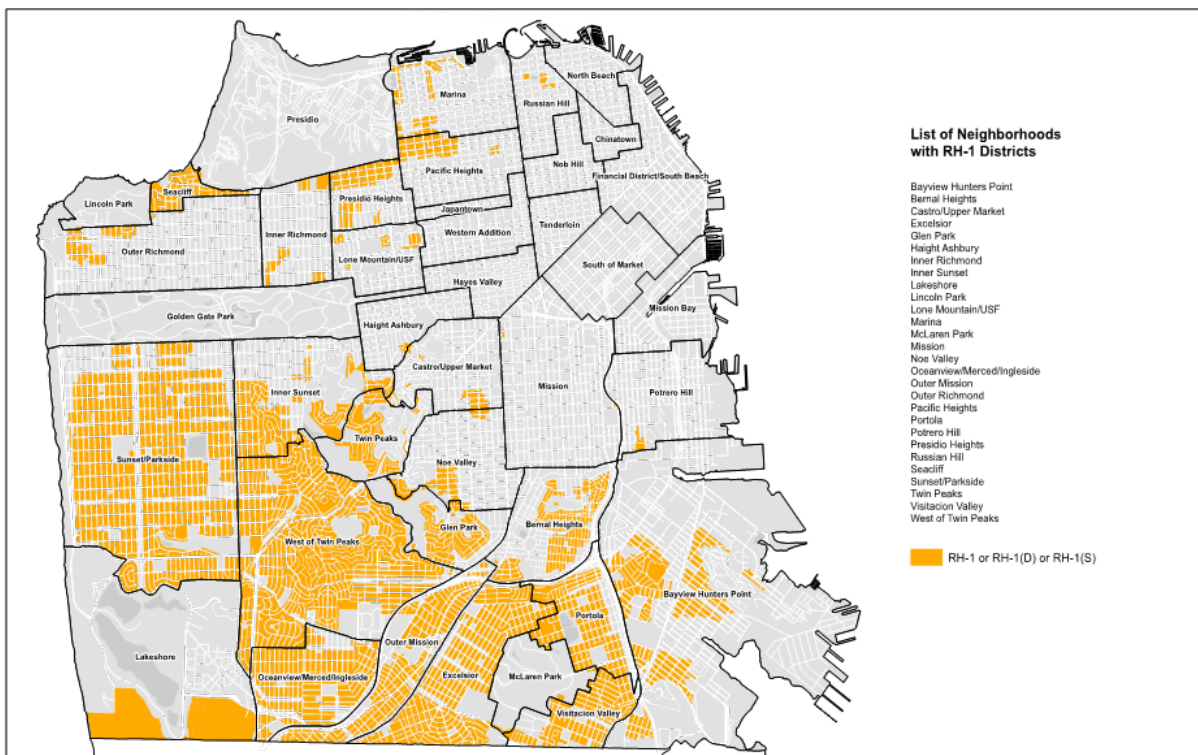


Figure 2 Single Family Zoned Districts

Housing development is very limited in areas of the city where residents tend to have higher incomes, higher home ownership, and higher educational, employment, and health outcomes. Since 2005, just 10% of all new housing and 10% new affordable housing has been built in higher resourced areas though these areas cover nearly half of the residential land in the city. In part this is because 65% of land in these areas is limited one or

two units and most of the rest also has fixed restrictions on the number of units allowed- even near major commercial districts and transit lines.

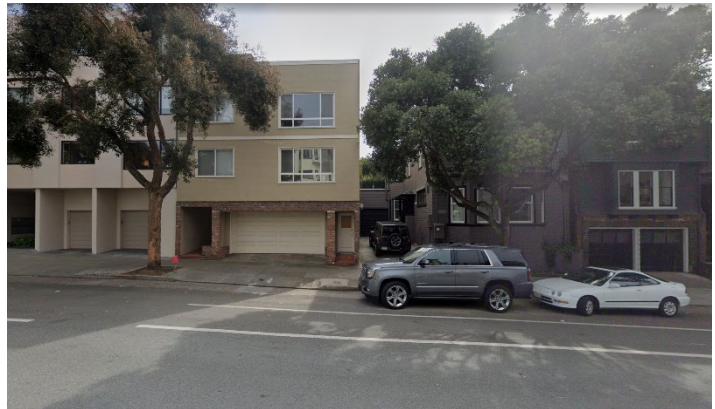
Return to San Francisco's Historic Development Pattern

San Francisco's current single-family neighborhoods all began as places for small, multi-family housing and many non-conforming structures still exist. Today there are 12,658 existing residential buildings in the city that have more units than would be allowed under current rules. These buildings provide about 31% of all homes for thousands of residents (125,466 units). From the outside, buildings that exceed current restrictions on number of units may be nearly indistinguishable from ones that don't-- with only the configuration of units and rooms on the inside setting them apart. This varied mix of multifamily buildings along with smaller buildings with fewer units, and the varied sizes of units themselves from studios to three bedrooms units, help support the diversity of people and households that the city is known for by offering more options of space and price.

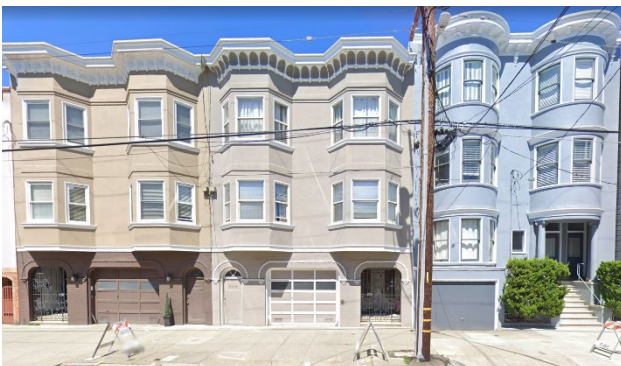
Examples of 4-Unit Buildings in RH Districts:



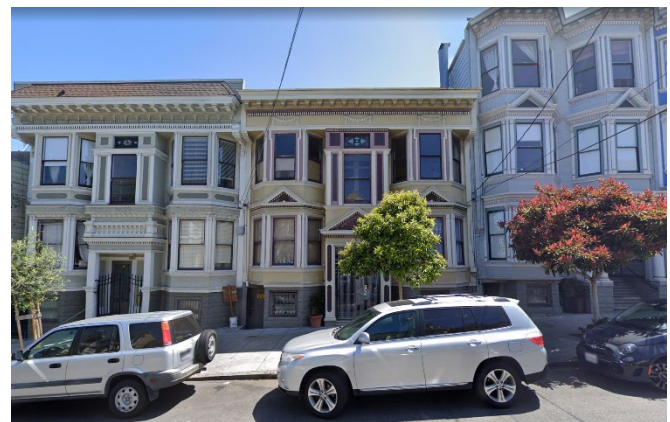
A 4-unit interior lot building adjacent to a 7-unit building (left) and a 6-unit building (right) in an RH-3 District in Russian Hill



A 4-unit interior lot building adjacent to a 15-unit building (left) and a single-family home (right) in an RH-2 District in the Inner Richmond



A 4-unit interior lot building (center), surrounded by 3-unit buildings to the left and right in an RH-2 District in the Marina



Three, 4-unit interior lot buildings in an RH-3 District in the Haight-Ashbury

Current restrictions on the number of homes that can be built on most of the city’s residential land date largely to the 1970s, when the city faced a substantially different housing context. The city had lost population from 1950 to 1980 as many middle- and upper-class people, who were typically White, moved to rapidly growing suburban communities of single-family homes. Jobs were also growing quickly in suburban areas including manufacturing, logistics, and new suburban office parks. The amount of housing produced regionally was significantly higher than today and housing costs were lower. For many residents and elected officials in the 1970s, adopting rules to limit the number of housing units allowed to less than what had previously been permitted seemed like a way to protect neighborhoods. These measures appealed to many communities, from neighborhoods that were mostly lower income renters living in apartments to those that were primarily middle- and upper-income homeowners. Some officials and analysts of the time noted restrictive zoning could reduce housing production and affordability. By the 1990s housing development average fewer than 1,000 units per year.

Given the crisis of affordability, the need for diverse housing types, access to neighborhoods with good resources, and building on the city’s history of small, multifamily options, the Department recommends rezoning all RH-1, RH-1(D), RH-1(S) parcels to RH-2 zoning districts. By developing a package of rules and programs and rezoning all the single-family districts to multi-family districts, the City will be able to apply its own tailored version of SB 9 across our RH districts; one that reduces displacement, supports existing homeowners and renters, and commits resources to low-income and households of color to access housing and wealth-building opportunities. Details to achieve these goals will be discussed further in the following sections.

Estimated Number of Parcels			
Total parcels in RH-1, RH-1D, and RH-1S	75,000	Total parcels in RH-2	36,000
Parcels with two or more units	3,500	Parcels with two or more units	15,300
Total parcels with one residential unit in RH-1, RH-1D, and RH-1S	71,500	Parcels with three or more units	4,800
Identified Historic Resources A10 district; A10 individuals; CEQA A	6,100	Parcels with four or more units	2,700
Vacant	800	Total parcels with one residential unit in RH-2	19,500
Non-residential uses	200	Identified Historic Resources A10 district; A10 individuals; CEQA A	3,200
		Vacant	350
		Non-residential uses	900

Increasing Neighborhood Vitality

As a city of neighborhoods, San Francisco could also gain substantial quality of life benefits to increasing residential units in current areas of single-family zoning. An increase of people living nearby could support neighborhood goods and services that are currently struggling in light of increased online retail sales and the pandemic-induced recession, helping to bring back revenue and enliven neighborhood commercial corridors. More people would further support street life and activity providing “eyes on the street” which heightens feelings of security for those who feel more at risk in isolated areas. As post-pandemic life shifts for many into “hybrid” working and for those who do not work or do not work outside of the home, a local environment proximate and rich in services and culture is increasingly sustaining.

Enhanced Density at Corner Lots

Corner lots play a stronger role in defining the character of the neighborhood, more so than other buildings along the block face. They can act as informal entryways to the street, setting the tone for the streetscape that follows. The city's Residential Design Guidelines encourage corner buildings to recognize their prominent location by embracing the public realm with a greater visual emphasis, including using greater building height to increase that emphasis. The city's typical Victorian-era form and massing was overwhelmingly comprised of multi-family residences with single-family homes located at mid-block locations. This style of street pattern has permeated throughout the city, with examples of larger corner buildings existing across every low-density residential neighborhood. It is not uncommon for a corner lot in an RH district to contain as many as 20 units. Their location also allows for larger buildings without impeding on mid-block open space. The design impact of this legislation on RH streetscapes would be minimal, and in many cases create buildings that are more appropriate for the surrounding neighborhood's street pattern.

Borrowing from Supervisor Mandelman's density exception proposal, the Department is recommending a density exception be created for all RH districts, to allow up to 4 units on interior RH lots, and up to 6 units on corner RH lots. As is a requirement in Supervisor Mandelman's Ordinances, projects seeking to build four units (or 6 units on corner lots), must not seek or receive a density bonus through Sec. 206.5 or 206.6. Although interior lots in the city's RH districts typically do not contain as many units as corner lots, it is still common to find multiple buildings on a single block that contain more than the currently allowed units for their zoning district. This is often because the building predates the city's restricted RH density controls. Allowing a density exception for up to 4 units on interior lots, while retaining existing height controls, ensures the modest density increase still fits within the city's typical streetscape.

Examples of 5-6 Unit Corner Lot Buildings in RH Districts:



A 5-unit building adjacent to a 2-unit building in an RH-3 District in Noe Valley.



A 6-unit building adjacent to a 3-unit building (left) and a single-family home (right) in an RH-2 District in the Inner Sunset.



A 6-unit corner lot building abutting single-family homes on either side, located in an RH-2 District in the Mission.



A 6-unit building adjacent to a 2-unit building (left) and a single-family home (right) in an RH-2 District in the Outer Richmond.

Projected Impact

As currently drafted, Supervisor Mandelman's proposed Ordinances would affect projects in RH Districts that would not also seek any density bonus. While enabling the potential to add up to four units on all RH lots (as proposed in Supervisor Mandelman's more expansive proposal) may seem extremely impactful, there are many factors beyond density limits that affect the likelihood of a property being redeveloped and densified. These include:

- physical characteristics of the lot or existing structure (e.g., size or configuration, soil conditions, topography)
- existing land use or ownership characteristics including deed restrictions (e.g., churches, schools, family trusts, easements, utility conflicts)
- financial constraints (e.g., access to financing, land basis, construction costs)
- other regulatory requirements (e.g., massing standards, building, fire, utility, or Planning Code restrictions)
- risk (e.g., market conditions, entitlement process, unanticipated site conditions) that significantly reduce

the chance of redeveloping many sites.

As previously stated, since the late 1970s, relatively few single-family homes have been redeveloped to include three or four units. Reasons include regulatory limits on density and on the demolition of housing, very high market demand for single-family homes, increasingly high construction costs, and owner-occupation of most one-unit buildings.

The following analogous data points help to demonstrate this picture:

- Of the city's approximately 36,000 parcels zoned RH-2, approximately 19,500 contain single-family homes. These homes are in a zoning district that currently allow two units, not inclusive of ADU's, and yet over half of the lots have continued to remain single-family homes versus add/build modest density.
- The Department analyzed the Market Octavia Plan and Mission Area Plan rezonings where RTO and RTO-M Districts replaced RH-2, RH-3, and RM-1 (Residential, Mixed, Low Density) zoning. In those neighborhoods, the rezoning replaced lot-based density controls with form-based density, allowing for four or more residential units per lot. From 2009 through 2020, only 1.3 percent of single-family homes in these districts (five out of 378 such lots) had submitted applications to increase the residential density to three or four units. Extrapolating from this 12-year period to a 25-year period, the percentage of such lots might increase to 2.7% going forward.

Accordingly, it is uncertain how many new housing units will be created under Supervisor Mandelman's Ordinances as currently drafted.

General Plan Compliance

Objective 4 of the Housing Element instructs the City to "foster a housing stock that meets the needs of all residents across all lifecycles." The proposed Ordinance, with all staff modifications, will end a decades old exclusionary practice that has helped segregate our city. Removing single-family zoning will also create opportunities for areas of the city that have seen little housing production in the last several decades to add modest density, thereby increasing housing choice for existing residents, and opening opportunities for current homeowners to build equity through the addition of a unit(s). Objective 10 of the Housing Element instructs the City to "ensure a streamlined, yet thorough, and transparent decision-making process". The proposed Ordinance, with all staff modifications, will make adding modest density to our RH districts more manageable for homeowners and developers, through the creation of two ministerial pathways, open to projects and applicants that meet the City's housing priorities.

Racial and Social Equity Analysis

The Department's recommended modifications to these ordinances are designed to increase equity outcomes. Staff first worked to determine the locations and types of lots where development through the proposed legislation and staff's recommended modifications was most likely to occur. Based on the data presented by the EIR Addendum for this legislation, and analysis in conjunction with the Office of Racial Equity, staff concluded that the most likely existing housing typology to be affected by this legislation is small, single-family homes. This

is because demolition of multi-unit buildings to increase the existing density by a few units is not financially feasible. The focus then shifted to potential impacts on renters and owners of single-family homes.

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 multifamily ownership units or rental units, with 46% of single-family homes 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 prices would likely be financially out of reach. These households may have bought a home when prices were lower, inherited a home, or their income may have been higher when they purchased the property (*i.e., retirees*).⁴

Planning Department analysis of 2014-2018 IPUMS data found that 30% of owners are cost burdened⁵ (*approximately 39,500 owners*). Over 19,000 of these burdened owners are severely cost burdened. Middle income owners are more likely to be cost burdened than renters but more than 80% of severely burdened owners are lower income. Homeowners of color experience higher rates of cost burden, and Black homeowners in particular face higher rates of severe cost burden.⁶ While rents have dropped, the single-family home market has been highly active, and prices have only gone up in the past two 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.

Density is Coming Regardless of Local Action

Given that SB 9 will be law on January 1st, the question is no longer whether increased density in single-family neighborhoods will impact people in San Francisco but more specifically who and how. This will become part of the real estate landscape regardless of local action. The city's best opportunity to rectify past injustice and open opportunities through this change is to shape a local program. The program must include a package of rules and resources that reducing barriers for communities of color to build equity or access income from their properties while incentivizing them to stay in the city.

Assistance Programs

The Department recognizes that equity outcomes can only be achieved in a rezoning proposal if the city commits to resourcing the agency of owners and households of color in their own housing choices, including taking advantage of programs to the development of their properties into rental units or other forms of income.

Developing one's own property is a difficult challenge under the best and more resourced of circumstances. It requires specialized knowledge or experience, financial resiliency, and temporary relocation and disruption. These are additional barriers for many people of color and low-income homeowners that put these options out of reach. Creating an ownership or Community Land Trust as a key benefit for those developing their own

⁴ Summary Draft Needs Assessment for the 2022 Housing Element, page 15. <https://www.sfhousingelement.org/summary-draft-needs-assessment-housing-element-2022-update>

⁵ 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.

⁶ Summary Draft Needs Assessment for the 2022 Housing Element, page 24. <https://www.sfhousingelement.org/summary-draft-needs-assessment-housing-element-2022-update>

properties for their future inhabitation or for non-profit community-based developers would help less resourced homeowners by reducing risk and disruption.

Reduce Potential Vulnerability of Single-Family Home Renters:

Based on 2018 census data (*from the American Community Survey or ACS*), only 12% of renters live in single-family homes in San Francisco (and some of these renters may be occupying ADU's *within* single-family homes). Most renters in single-family homes do not have rent control protections due to the state Costa Hawkins law and could, therefore, face unregulated rent increases at any time. In addition, because single-family homes are very expensive in San Francisco, the potential profit from a single-family home sale *could* induce owners to sell a home and renters may find themselves displaced.

The Department recognizes that equitable outcomes mean protecting existing tenants, especially those who are rent-burdened, on fixed incomes, low-income, those with disabilities, those who identify as LBGTQAI+, seniors, and people of color. Controls such as excluding properties with tenants in the past three years or Ellis Act Evictions within 15 years and not allow demolition of rent-controlled units would help protect these vulnerable populations.

New Units should benefit Workforce Families, especially those of Color:

The outcomes of changing density in single-family neighborhoods are likely to play out over a long period of time. These outcomes could potentially reinforce the exclusionary history of many of these areas without specific equity considerations. State law and federal policy require San Francisco to affirmatively further fair housing to address the history of discrimination and current inequalities in housing access. According to state law:

"Affirmatively furthering fair housing" means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity ... Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a public agency's activities and programs relating to housing and community development. - (California Gov. Code, § 8899.50, subd. (a)(1).)

In many high income, high resourced neighborhoods, housing regulations that limit housing options overlay a history of public and private racial discrimination. Racially restrictive covenants, redlining and lending discrimination have limited housing options for people of color for decades in San Francisco- and much of the rest of the country. The single-family housing developments constructed in the city from the 1930's onward were heavily shaped by these discriminatory policies. Further, these policies were often required by federal agencies as a condition of federally insured loans. In addition, people of color were often excluded from buying or renting in historically higher income areas of the city. Adding to the devastation of these discriminatory practices, urban renewal in the 1950 and 1960's destroyed various communities of color including the Fillmore and parts of SoMa. Though many discriminatory policies have been outlawed, their effects can still be widely seen today. People of color remain more concentrated in communities in the east and south of the city. These neighborhoods tend to be lower income, have lower homeownership, and have worse health outcomes. While higher opportunity areas tend to have higher concentrations of White residents and offer good resources and better health and wealth

outcomes for its residents. Rules that limit where multifamily housing can be built in higher opportunity areas are often referred to as “exclusionary zoning” because these rules can limit housing options for low- and moderate-income people and people of color.

The new housing produced in formerly exclusionary neighborhoods must be variable to offer different scales and types to fit the needs of people across the city. It must also be financially accessible to those with lower incomes and communities of color, especially those in Black and American Indian Communities. Producing more units is not enough given the historic dearth, to facilitate housing choice for these residents and to encourage the return of people of color who have already been displaced.

To address this, the Department has identified three actions to help mitigate these issues:

Explore establishing an impact fee on large single-family home developments This new fee would be charged to applicants who propose the substantial addition to or a new single-family house anywhere in the city. By not adding or maximizing density, applicants are under-using land and limiting the options of others; therefore, the revenue collected would be used directly to support the housing of those with financial barriers, specifically down payment assistance or construction loan programs described in this memo. The Department will continue to work with Human Rights Commission to explore how this could support the housing component of the Dreamkeeper Initiative.

Significantly increase resources for down payment assistance programs Use the fee to significantly increase the funds available to eligible families by increasing down payment assistance to at least \$500,000 per property, substantially increasing the number of families given resources, and lowering the paperwork or logistics barriers that make it difficult for families to qualify.

Require unit parity The Department’s proposed recommendation requires that the second unit provided on any site be 50% the size of the largest unit with no restrictions on the additional units provided. This is intended to incentivize the production of a variety of unit types and sizes to accommodate people in different types of living conditions. Small units can help young adults start to establish credit or build wealth and help seniors to both downsize and stay in their neighborhoods. Additionally, small units are less common in single-family neighborhoods and tend to be more affordable by design. Increasing the amount of larger units helps growing or multi-generational families stay adequately housed; statistically more likely to be families of color. This also encourages applicants to use the building envelope more equitably rather than taking advantage of a streamlined process for a very large house with little space given to the other unit residents.

Fund silent construction loans The Department recommends establishing a new program that would provide silent construction loans and technical assistance (design, financing, permitting, legal, etc.) to qualifying households to add units to their existing properties.

Implementation

The Department has determined that this Ordinance will impact our current implementation procedures; however, the proposed changes can be implemented without increasing permit costs or review time.

Recommendation

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect. *Please Note:* At this time, these proposals have not been fully reviewed by the City Attorney’s Office. More research may be needed to implement some of them. The Department recommends all of the following:

1. **Rezone all the City’s RH-1 zoning districts to RH-2.** Modify one of the proposed ordinances to upzone all RH-1, RH-1(D) and RH-1(S) zoning districts to RH-2.
2. Increase the proposed Ordinances’ density exception for corner lots from four units to six units.
3. **Adopt a local alternative for SB 9.** Adopt the following program as an alternative to SB9⁷ to encourage development that meets the City’s housing priorities (*chart continues on following page. For a chart viewable as one page, please see Exhibit D*):

		Proposed Local Alternative	
		Non-Owner Occupied	Owner Occupied or Owned by Nonprofit
Where it Applies		All RH Districts	
Requirements	Maximum Density	4 units on Interior Lots, 6 on Corner Lots	
	Minimum Lot Size	Lot split allowed on corner lots with minimum lot size of 1,200 sq. ft. no variances required for existing building w/ minimum 4 ft setback from new property line Maximum 6 units across the two lots	
	Owner Occupancy Requirement	No	Owner "Intent to Occupy" 3 years post construction*
	Increase Density	Must result in at least 4 units	Must add at least 1 new unit
	Required Rear Yard Setback	30%	30% if project results in 4 units, otherwise underlying zoning.
	Unit Proportionality	2nd unit must be at least 50% of 1st unit size	

⁷ For a comprehensive chart comparing SB9 to the proposed local alternative pathways, please see Exhibit E.

Process	Eligibility	<ul style="list-style-type: none"> • Has not been tenant occupied for at least 3 years prior to filing the application • Will not demolish a rent-controlled unit, or a unit with an Ellis Act eviction within the last 15 years • Is not an A building or Historic Resource under Article 10, etc. 	<ul style="list-style-type: none"> • Has been owner occupied for at least 3 years prior to filing the application (not allowed to be vacant)* • Owner signs affidavit stating intent to occupy for at least 3 years post construction* • Will not demolish a rent-controlled unit, or a unit with an Ellis Act eviction within the last 15 years. • Is not an A building or Historic Resource under Article 10, etc.
	Subject to 317	No	
	Subject to 311	No	
	Residential Design Guidelines	Objective Standards Only	
	CEQA Review	Yes	
	Fee Waiver for Historic Evaluation	No	Yes
	Condo Conversion Process	<p>Condominiums may be formed as part of new construction, however, owners of non-owner occupied units would remain ineligible to apply for condominium conversion of non-owner occupied units under a new provision of the Subdivision Code enacted under this ordinance</p>	<p>Owner may apply to form condos via new construction pathway, even for existing units being retained. <i>(would require a new provision of the Subdivision Code enacted under this Ordinance)</i></p>
<p>ALL OTHER PROJECTS in ANY RH DISTRICT: Up to 2-3 units (depending on zoning district) allowed plus ADUs for all projects as of right, with up to 4 units on interior lots allowed and 6 units on corner lots allowed for projects not also seeking a density bonus. 30% rear yard allowed if building at least 4 units. Regular Planning Code processes (311, 317, RDG's, etc.) apply.</p> <p><i>*Not required if owned by a non-profit</i></p>			

4. **Explore establishing a fee on single-family homes larger than 4,000 sq. ft.** This proposed fee would be assessed against project applications in RH districts that seek new construction of a single-family home of more than 4,000 square feet, or expansion of an existing single-family home beyond 4,000sqft. Consider allowances for small additions. Allocate the fee to the city's Down Payment Assistance Loan Program or another supportive program that assists low/moderate income earners and BIPOC communities with home ownership or residential development in the city.
5. **Increase funding to supportive housing programs.** Encourage the Board of Supervisors and the Mayor's Office to increase funding to supportive programs that assist low and moderate income and BIPOC residents with buying and building homes in the city.
6. **Amend the proposed Ordinances to comply with the technical requirements of Senate Bill 10.** Make non-substantive changes to qualify for SB10 as follows:
 - a) include a declaration that the zoning ordinance is adopted pursuant to SB 10;
 - b) clearly demarcate the areas that are zoned;
 - c) include a finding that "the increased density authorized by the ordinance is consistent with the city or county's obligation to affirmatively further fair housing pursuant to Government Code Section 8899.50; and,
 - d) specify heights as shown on the City's zoning maps.
7. **Pursue the adoption of objective residential design standards.** Direct staff to formalize objective residential design standards and bring back before the Commission for adoption. *See Exhibit F for draft subjective design standards.*
8. **Recommend amendments to the Subdivision Code for projects that meet certain requirements, to apply to form condos via new construction pathway, even for existing units being retained.**

Basis for Recommendation

The Department supports the overall goals of Supervisor Mandelman's ordinances, which provide a pathway for modest density to be added to some of the city's neighborhoods that have historically seen little housing production. The density restrictions placed on much of the city's west and south sides has resulted in a concentration of housing production in the eastern half of the city. The City should encourage the production of modest, multi-unit buildings as alternative to single-family homes, or to high-density developments, and also focus this development in areas of the city that have seen few new units of housing in recent decades. This can be best accomplished by focusing upzoning on the city's RH districts.

Recommendation 1: Rezone all the City's RH-1 zoning districts to RH-2. Rezoning all single-family districts will allow the city to develop its own local alternative to SB 9 while also maintaining control over the shape and pattern of our built environment. Further, eliminating single-family zoning will end a decades-old exclusionary practice that has helped segregate our city. Removing single-family zoning will also create opportunities for areas of the city that have seen little housing production in the last several decades to add modest density,

thereby increasing housing choice for existing residents, and opening opportunities for current homeowners to build equity through the addition of a unit(s).

Recommendation 2: Increase the proposed Ordinances' density exception for corner lots from four units to six units. See "Return to San Francisco's Historic Development Pattern" and "Enhanced Density at Corner Lots" sections for basis for recommendation.

Recommendation 3: Adopt a local alternative for SB 9. Adopting a local alternative to SB 9 will allow the City to incorporate aspects of the state bill that would be most beneficial to housing production while ensuring local protections vital to the city's livability. The local program could assist in making the development process more manageable for homeowners and developers, while also ensuring the city's most vulnerable residents are protected from displacement or pressure to sell. A local program could additionally retain current review procedures meant to protect certain historic buildings that could be in jeopardy under SB 9 (e.g. buildings listed as Category A Resources under CEQA), and allow the City to maintain control over our urban form.

Two tracks; one program: Increasing the allowable density on RH lots alone will not succeed in accomplishing the City's housing goals, which include (1) increasing density without negatively impacting current residents, (2) supporting the preservation and improvement of historic buildings, and (3) opening the development process to current homeowners. The proposed "homeowner" path requires the subject property to have been owner occupied for at least 3 years prior to application, and owners must sign an affidavit of intent stating they will reside in the property for at least 3 years post-construction (if the owner is a non-profit, they may still qualify for this path without meeting the occupancy requirements). In exchange, the owner could bypass many of the traditional processes that have historically made adding density financially infeasible. The Department's secondary goal was to encourage projects that would maximize the new allowable density without negatively impacting current tenants or historic buildings. The second path available through this program is for properties that do not meet the owner occupancy requirement but would maximize density. The presumption is that these projects would not be sponsored by individual owners, but rather traditional development professionals. As such, some of the alleviations made for owners in the first path (such as the ability to deliver condominium units, and waivers from Historic Evaluation fees) are not waived.

30% Rear Yard Requirement: Allowing a 30% rear yard will provide a larger building envelope for those adding the most units. Those not seeking to maximize density would have a larger rear setback requirement (45%) and thus a smaller allowable building envelope. The 30% rear yard is both practical and an incentive for additional units.

Eliminating 317 and 311 Processes: San Francisco's development process can be long and expensive. Eliminating the CU requirement in Section 317, and the notification requirement in Section 311 is intended to expedite and add certainty to that process. This in turn would also reduce the costs associated with development. If applicants are adding housing in a manner that meets the city's policy goals, it should be approvable without added process or review.

Fee Waiver for Historic Resource Evaluation: This incentive would apply only to the owner-occupied portion of the program. It is intended to incentivize homeowners to add more units to their property. Having the City pay for the historic evaluation will only provide a small reduction in the overall cost associated with the development; however, it will allow homeowners to know if their property is eligible for the density waiver

program before plans are drawn or too much has been invested in the process. Additional revenue should be identified to make up the cost of this fee waiver.

Recommendation 4: Explore establishing a fee on single-family homes larger than 4,000 sq. ft. See Racial and Social Equity Analysis for explanation of burdens and benefits.

Recommendation 5: Increase funding to supportive housing programs. See Racial and Social Equity Analysis for explanation of burdens and benefits.

Recommendation 6: Amend the proposed Ordinances to comply with the technical requirements of Senate Bill 10. Staff recommends that the ordinance be amended to comply with the requirements of SB 10. No height increases are proposed by the ordinance or in the recommended modifications, and height limits would be as shown on the City's zoning maps.

Recommendation 7: Pursue the adoption of objective residential design standards. Direct staff to formalize objective residential design standards and bring back before the Commission for adoption. *See Exhibit F for draft subjective design standards.*

Recommendation 8: Recommend amendments to the Subdivision Code for projects that meet certain requirements, to apply to form condos via new construction pathway, even for existing units being retained. This incentive would apply only to the owner-occupied portion of the program. Currently, if a project is considered new construction, it may be delivered as condominiums. If, however, an existing unit(s) would like to add an additional unit or units, the building must first:

- Have every unit owner occupied for at least 1 year (thereby necessitating the formation of a Tenancy in Common or TIC)
- File an application to convert the building to condos with an average wait time of over one year
- Finance the project either as a jumbo loan shared among owners, or receive Tenancy in Common financing, and then refinance as separate mortgages once the condo conversion is approved

These processes create a financial and process burden that the average homeowner cannot afford. It also increases risk for homeowners who would like to sell the new unit they build as a condo versus a TIC. The Department's recommendation would allow owner-occupied projects to deliver their entire building as condos even if they retain existing units. It will reduce additional costs and process burdens that would likely prevent their participation in the program. Allowing owners who retain an existing unit(s) while adding density to go through the same condominium establishment process as new construction also reduces the incentive to demolish existing housing.

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 Planning Department has determined that the environmental impacts of the proposed ordinance in Board File No.210564 have been adequately identified and analyzed under CEQA in the 2004 and 2009 Housing Element FEIR, and the proposed ordinance would not result in any new or more severe environmental impacts than were identified in the FEIR. The addendum prepared for this legislation is attached as Exhibit C.

With the recommended amendments to the proposed ordinance in Board File No. 210866, the ordinance meets the requirements of Senate Bill 10, Government Code 65913.5, and review under CEQA is not required.

Public Comment

As of the date of this report, the Planning Department has received one public comment regarding the proposed Ordinance. It is attached as Exhibit G.

Attachments:

- Exhibit D: "Recommendation 3" Chart
- Exhibit E: SB9 vs "Recommendation 3" Chart
- Exhibit F: Draft Objective Residential Design Standards
- Exhibit G: Public Comment

**SOME EXHIBITS FOR THIS CASE PACKET HAVE BEEN REMOVED FOR LENGTH. PLEASE SEE:
[HTTPS://SFGOV.LEGISTAR.COM/VIEW.ASHX?M=F&ID=10389623&GUID=7AD7CC57-B19B-4F79-B2D0-671566A62CC0](https://sfgov.legistar.com/view.ashx?M=F&ID=10389623&GUID=7AD7CC57-B19B-4F79-B2D0-671566A62CC0)
FOR FULL CASE PACKET AND ALL ORIGINAL EXHIBITS.**

		Proposed Local Alternative	
		Non-Owner Occupied	Owner Occupied or Owned by Nonprofit
Where it Applies		All RH Districts	
Requirements	Maximum Density	4 units on Interior Lots, 6 on Corner Lots	
	Minimum Lot Size	Lot split allowed on corner lots with minimum lot size of 1,200 sq. ft. no variances required for existing building w/ minimum 4 ft setback from new property line Maximum 6 units across the two lots	
	Owner Occupancy Requirement	No	Owner "Intent to Occupy" 3 years post construction*
	Increase Density	Must result in at least 4 units	Must add at least 1 new unit
	Required Rear Yard Setback	30%	30% if project results in 4 units, otherwise underlying zoning.
	Unit Proportionality	2nd unit must be at least 50% of 1st unit size	
	Eligibility	<ul style="list-style-type: none"> Has not been tenant occupied for at least 3 years prior to filing the application Will not demolish a rent-controlled unit, or a unit with an Ellis Act eviction within the last 15 years Is not an A building or Historic Resource under Article 10, etc. 	<ul style="list-style-type: none"> Has been owner occupied for at least 3 years prior to filing the application (not allowed to be vacant)* Owner signs affidavit stating intent to occupy for at least 3 years post construction* Will not demolish a rent-controlled unit, or a unit with an Ellis Act eviction within the last 15 years. Is not an A building or Historic Resource under Article 10, etc.
Process	Subject to 317	No	
	Subject to 311	No	
	Residential Design Guidelines	Objective Standards Only	
	CEQA Review	Yes	
	Fee Waiver for Historic Evaluation	No	Yes
	Condo Conversion Process	Condominiums may be formed as part of new construction, however, owners of non-owner occupied units would remain ineligible to apply for condominium conversion of non-owner occupied units under a new provision of the Subdivision Code enacted under this ordinance	Owner may apply to form condos via new construction pathway, even for existing units being retained. <i>(would require a new provision of the Subdivision Code enacted under this Ordinance)</i>
<p>ALL OTHER PROJECTS in ANY RH DISTRICT: Up to 2-3 units (depending on zoning district) allowed plus ADUs for all projects as of right, with up to 4 units on interior lots allowed and 6 units on corner lots allowed for projects not also seeking a density bonus. 30% rear yard allowed if building at least 4 units. Regular Planning Code processes (311, 317, RDG's, etc.) apply.</p> <p><i>*Not required if owned by a non-profit</i></p>			

		SB 9		Proposed Local Alternative	
Proposal		Lot Split	No Lot Split	Non-Owner Occupied	Owner Occupied or Owned by Nonprofit
Where it Applies		RH-1, RH-1(D), & RH-1(S)		All RH Districts	
Requirements	Maximum Density	2 units on each new lot + ADUs if allowed by local Ordinance	2 units + ADUs	4 units on Interior Lots, 6 on Corner Lots	
	Minimum Lot Size	1,200 sq ft for each new lot (2,400 sq ft total)	no minimum lot size required	Lot split allowed on corner lots with minimum lot size of 1,200 sq. ft. no variances required for existing building w/ minimum 4 ft setback from new property line	
	Owner Occupancy Requirement	Owner "Intent to Occupy" 3 years post lot split approval	No owner occupancy requirement pre/post project	No	Owner "Intent to Occupy" 3 years post construction*
	Required Rear Yard Setback	-No building standards are allowed that would prevent two, 800sqft units per parcel -4ft rear yard setback can be required by local Ordinance		30%	30% if project results in 4 units, otherwise underlying zoning.
	Unit Proportionality	None		2nd unit must be at least 50% of 1st unit size	
	Increase Density	An SB 9 development must include 2 units per lot		Must result in at least 4 units	Must add at least 1 new unit
	Eligibility	-Has not been tenant occupied for at least 3 years prior to filing the application (could be owner occupied or vacant) -Will not demolish a rent-controlled unit, or a unit with an Ellis Act eviction within the last 15 years -Is not a Historic Resource under Article 10 or in a Historic District		<ul style="list-style-type: none"> •Has not been tenant occupied for at least 3 years prior to filing the application •Will not demolish a rent-controlled unit, or a unit with an Ellis Act eviction within the last 15 years •Is not an A building or Historic Resource under Article 10, etc. 	<ul style="list-style-type: none"> •Has been owner occupied for at least 3 years prior to filing the application (not allowed to be vacant)* •Owner signs affidavit stating intent to occupy for at least 3 years post construction* •Will not demolish a rent-controlled unit, or a unit with an Ellis Act eviction within the last 15 years. •Is not an A building or Historic Resource under Article 10, etc.
Process	Subject to 317	No		No	
	Subject to 311	No		No	
	Residential Design Guidelines	Objective Standards Only		Objective Standards Only	
	CEQA Review	No		Yes	
	Fee Waiver for Historic Evaluation	No		No	Yes
	Condo Conversion Process	Depends on the project		Condominiums may be formed as part of new construction, however, owners of non-owner occupied units would remain ineligible to apply for condominium conversion of non-owner occupied units under a new provision of the Subdivision Code enacted under this ordinance	Owner may apply to form condos via new construction pathway, even for existing units being retained (would require a new provision of the Subdivision Code enacted under this Ordinance)

ALL OTHER PROJECTS in ANY RH DISTRICT: Up to 2 units allowed plus ADU's for all projects as of right, with up to 4 units on interior lots allowed and 6 units on corner lots allowed for projects not also seeking a density bonus. 30% rear yard allowed if building at least 4 units. Regular Planning Code processes (311, 317, RDG's, etc.) apply.

A fee would be charged for projects in RH districts proposing new construction of a single-family home, or expansion of an existing single-family home that would result in a unit 4,000sqft or more. The amount of the fee should be based on both nexus and feasibility studies and should be distributed to the Down Payment Assistance Fund.

*Not required if owned by a non-profit

Draft Objective Residential Design Guidelines

As projects potentially redevelop into structures with more units, this could impact two primary areas of people's experiences of the built environment: the public "urban room" and the private rear yard. The City currently addresses these impacts in our RH Districts with the Residential Design Guidelines. These are a collection of subjective design guidelines and applied to projects on a case-by-case basis. An alternative to subject design guidelines would be objective design standards. Objective design standards can be applied uniformly to all projects to provide greater consistency and a more streamlined approval process. They also often meet state mandates that require ministerial approval.

The "Urban Room"

Most of us are familiar with what our neighborhood feels like from walking through the "urban room": The space defined by the "walls" of the front facades on both sides of a street and the "floor" of the street and sidewalks between them. While there are areas of mixed character which reflect a natural investment and evolution of structures in some neighborhoods, in other areas of the City streetwalls still reflect a more similar character. This is due to single-family neighborhoods built by private developers in large efforts, conforming to efficient practices which used repetitive systems of construction and design. Most high-quality facades made with natural materials given the era and availability are largely age-eligible for historic evaluation. If these buildings are recognized through that process, they not permitted to take advantage of the stream-lined pathways being proposed here. Any proposed modification to an identified historic resource under the existing pathway would remain subject to meeting the Secretary of Interior Standards. Facades that reflect lesser quality commercial or material standards should not be reinforced in future outcomes and change provides a potential opportunity to increase the quality of architecture and durability. New development should be held to a standard that lasts over time; expands expression, artistry, and creativity which better reflects the racial and social diversity of the City; and exhibits and support the talents of local builders and architects.

Since this proposal does not alter building heights or massing at the front of single-family home parcels, there is little potential impact to the overall scale of the neighborhood from the front. The potential of new structures, however, does provide an opportunity to support a critical goal in the public interest, however, the sense of *community through durability*. While overall compositional design plays a role, the quality of materials at the front building façade has the biggest overall effect and can be codified into an objective measure.

The Department recommends requiring that front façade materials that cover all non-roof surfaces within 10' of lot line or front setback shall be natural materials, specifically concrete, tile, masonry, wood, metal, glass, or stucco. Front façade window frames shall be fiberglass, wood, or aluminum. This list shall be reviewed for modifications by the Planning Commission every five years with recommendations from staff based on input from industry experts including the local chapter of the American Institute of Architects. This review shall incorporate racial and social equity concerns including financially achievable means.

The Rear Yard

Currently the application of the Residential Design Guidelines reduces the scale and size of R- district structures based on neighboring structures often significantly beyond rear yard requirements. With the increase of potential units on these lots and a ministerial pathway for owner-occupied applicants, it is critical to find the right *balance between needing land for indoor space to house people and outdoor space for nature and access to sunlight to support their health*, especially children. Staff has identified two ways

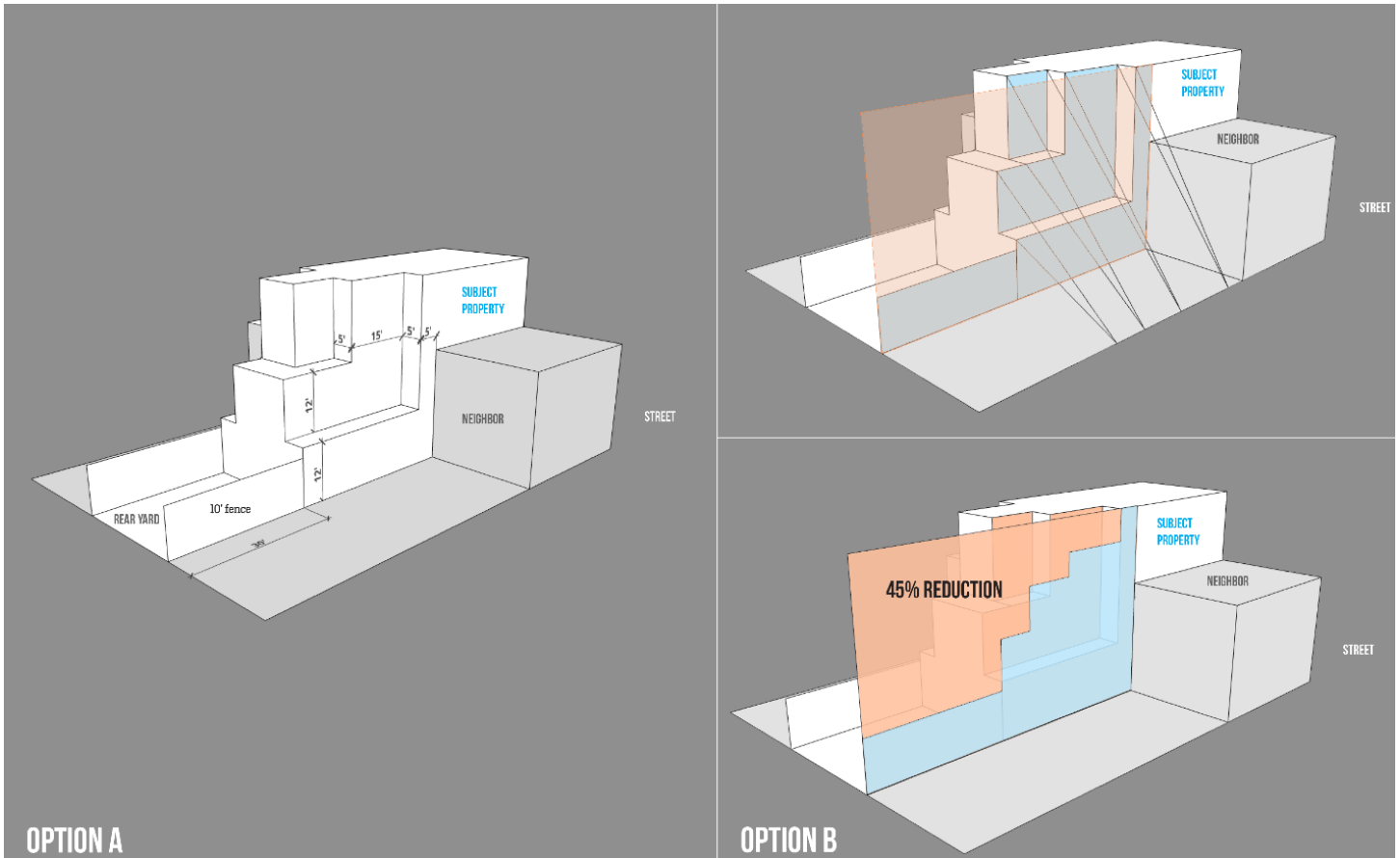
to achieve this through objective design standards. Option A, which is based on the current application of the Residential Design Guidelines, sets prescribed numeric setbacks; and Option B, which allows a project to create its own rear sculpting of the building by reducing “apparent mass.”

Option A: This option codifies how the Department currently applies the Residential Design Guidelines. Under this option, the following dimensional rules would be required:

- Above 12' in height (measured from upper side of a sloped lot): provide a side setback to match adjacent building, including where there is no building, to same depth up to max of 5' (unless more desired by applicant). Can start 5' beyond adjacent neighbor's rear wall. Match lightwell with minimum of 75% length.
- Above 24' in height (measured from upper side of a sloped lot): provide side setbacks to match adjacent building to same depth up to max of 5' (unless more desired by applicant). If no building massing adjacent, setback minimum 10' depth to start minimum 15' beyond adjacent neighbor's rear wall. Match lightwell with minimum of 75% length.

Option B: This option allows a project to create its own rear sculpting of the building by demonstrating that it reduces the “Apparent Mass” along each lot sidewall by 45%. Apparent mass can be measured as the area taken up in the plane defined by the property line from the back of an adjacent structure to the end of the lot and a line from the ground to the allowable height. The more that the subject property mass is reflected in that plane, the less natural light, increase of shadow, and visual impact on the neighborhood backyard or rear façade of the adjacent house. A preliminary study indicates a 45% reduction of this impact balances the needs for indoor space and outdoor experience based on Option (see figure on following page). This would provide greater flexibility to the applicant and architect to meet their design and interior space goals as well as construction practicality, while ensuring a contribution to mid-block open space and neighboring light and air.

Draft Objective Residential Design Guidelines



Objective Design Standard Recommendation 2: Option A includes dimensional setback requirements while Option B establishes a measurable performance goal to reduce apparent massing.

From: [Thomas Schuttish](#)
To: [Merlone, Audrey \(CPC\)](#)
Cc: sheila.nickolopoulous@sfgov.org; [Conner, Kate \(CPC\)](#); [Bintliff, Jacob \(BOS\)](#); [Hepner, Lee \(BOS\)](#)
Subject: November 18, 2021 Hearing on 4 Plex #2020-003971 PCA and #2021-010762PCA
Date: Friday, November 05, 2021 12:58:21 PM
Attachments: [Snapshot of Feb. 2021 Article.pdf](#)

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

Dear Audrey,
Good morning to you and hope all is well.

I have attached links to two articles, as well as a pdf scan of the first link to the SFChronicle article from February 28, 2021 as comment and information for the upcoming hearing on these two Planning Code amendments.

Not to be a “downer” but both articles raise questions about these Planning Code Amendments to change the Zoning.

Director Hillis is quoted in the second link, but it is the quotes of Mr. Kieghran in the first link that are really interesting, given he is the head of the RBA, particularly relating to four-plex generally.

That is why I made the attached scan of a portion of the article with his quote. (I assume he was accurately quoted).

Mr. Solomon’s quotes in this link are interesting too. Here it is:

“That zoning is a tool to create housing production is a widely held and completely fallacious idea. Just because something is permitted doesn’t mean it will happen. It’s very hard to find a vacant lot or tear down at a price that would work.”

This lot for the project at 247 27th Avenue was a thru-lot to an alley and it measured 30.5’ x 120’ for a total lot size of 3,660 sq. ft.

Almost a Pacific Heights-sized lot and certainly larger than most lots in the City, in most San Francisco RH neighborhoods.

And even larger than most corner lots I would guess in most San Francisco neighborhoods?

I know this is an issue that has come up and was covered by Kate Conner and Sheila Nickolopoulous in their very fine report on SB-9.

But I also wanted to mention it in the context of the Demo Calcs and the corner lot issue.

As long as the Demo Calcs are not adjusted per Planning Code Section 317 (b) (2) (D), the Commission and Staff are hamstrung.

Here are two examples:

There are two projects on corner lots that come to mind and that I have mentioned during General Public Comment over the past few years.

One is 1647 Sanchez/290 Day Streets.

This project should have been a CUA. It was a truly, truly decrepit old structure that was turned into a mega mansion that sold for \$9.1 million last year using the Demo Calcs to its advantage. The Calcs were astounding close and I think manipulated. I have the project plans that illustrate this argument. Although the lot was only 57.5' x 80' it probably could have accommodated three "real units" which the Commission discussed at the DR hearing, but could not impose because it was an Alteration due to the project sponsors carefully using the current Demo Calcs, and *not* a Demolition requiring a CUA as it should have been.

The second is 3790-92 21st Street.

This project has no published Demo Calcs. It was two units in a really nice Mediterranean style building that was turned into another mega mansion with a very, very small second unit that appears to be internally accessible to the main unit. And it is now sitting empty as it has for months. Whether it is the price that hasn't been lowered enough or the design is not desirable, I don't know, but it is unoccupied. This lot measures 30' x 58' according to the PIM. It should have been reviewed as a Demolition, but it wasn't. And the Commission could have decided whether to preserve the two existing rent controlled units (which had been occupied) or actually tear it down and perhaps densify. But they couldn't because the project was an "Alterations" due to the current Demo Calcs. (Only the Sanchez/Day project had a DR hearing, the 21st Street DR was withdrawn prior to the hearing).

So what is my point?

With these corner lot examples, I see the Demo Calcs as a double-edged sword. They should be adjusted as intended. Because they have never been adjusted they can be used to thwart Commission policy by allowing the "de-facto demolition" of sound housing to create ultra expensive homes...which is what happens most of the time....or they can be used to thwart Commission policy to densify sensibly if that is the policy. I think this is the issue for both these examples but most particularly for the Sanchez/Day project.

And it is true for the projects on mid block lots as well. By the way, will these PCAs be heard next week or will they be continued to 2022?

Thanks very much and take very good care.

Sincerely,

Georgia

<https://www.sfchronicle.com/bayarea/article/Bay-Area-cities-want-to-end-single-family-home-15983648.php>

<https://www.sfchronicle.com/bayarea/article/New-housing-laws-may-change-the-Bay-Area-s->

[16477512.php?](#)

[utm_campaign=CMS%20Sharing%20Tools%20\(Premium\)&utm_source=share-by-email&utm_medium=email

Data](#)

TO Tiff
42
247
30.5 x 120
7th AVE = 3,660 sq ft

unlikely housing c

Zoning from page A1

2,700 square feet — which doesn't allow much room to shoehorn four units. And vacant lots are rare, as are "tear downs," small and outdated homes that don't have much value.

Sean Kieghran, president of San Francisco's Residential Builders Association, said he supports getting rid of single-family only zoning but doesn't think it will result in many new units. Kieghran said that building fourplexes requires either two staircases or a staircase and an elevator, which takes up too much of the site.

And, unless the city streamlined the process of building a fourplex on a single-family lot, builders would run into too many bureaucratic obstacles, Kieghran said. "With how long it takes to get through planning and fire and DPW and all the other red tape it's not likely we are going to see anybody building fourplexes anytime soon," he said.

Before the late 1960s, San Francisco developers regularly built two-, three-, and four-unit buildings. Stacked flats were the bread and butter of San Francisco's housing stock. But in the late 1960s and 1970s a series of laws changed that, and the majority of the city, especially the west side, was rezoned to prohibit anything but single-family homes.

One of the few architects to design fourplexes on single-family sized lots in the last few decades is Daniel Solomon, who has worked on three such projects. One of those is at 247 27th Ave., a

Effort to add housing praised, scorned

quar that roof- Golde yond. into a typical trict — homes, or three apartmen corner.

Zoning changes unlikely to end Bay Area crisis

By J.K. Dineen

"These effects, but the big dent in Solomon's a tool to create production is a completely because some ted doesn't n. It's very hard lot or tear down would work."

He said the designed and itable, but bare took as much t and execute as complexes his f known for.

"You would ne developer willing risk on a minusc an architect who e damage," he said. complicated little p the absolute opposi omy of scale."

While lots are big East Bay, there are s of obstacles, accordir Anthony, a veteran C builder. Land is expe neighbors unreceptiv velopment, and curre quirements — 12-foot ways, open space requ ments, parking minim would make four units sible unless it's a large

And the projects wot expensive — four 1,250-

The national movement to eliminate exclusionary single-family zoning is picking up steam in the Bay Area as cities explore the benefits of getting rid of a land use policy designed to keep people of color and working class families out of certain neighborhoods.

Last week, the city council in Berkeley and South San Francisco took steps to end single-family zoning, with Berkeley promising to get rid of it within a year and South City initiating a

study as part of its general plan update. After the Berkeley vote, Council Member Terry Taplin, one of the authors of the resolution, called it a "historical moment for us in Berkeley."

But while the movement to allow multifamily buildings in zones previously limited to single-family homes is being embraced as a correction of past discriminatory policies — Sacramento, Oregon and Minneapolis have passed such laws — the question of whether it will actually increase housing production is a lot more complicated, according to builders and architects.

In particular, building "fourplexes" — the four-unit building type that has been promoted as a more democratic, sustainable and affordable alternative to the single-family homes — is challenging in fully built urban centers such as



of 247 27th Ave. in San Francisco. The Most single-family lots in the city are to



One of bedroom the third floor of 27th Ave. movement end zo for sin family is gain steam the Ba

likely million, s, loan

ig it es, rce of pro- ed to a

or

much to qualify for sub housing. To hit the middle in San Francisco units would have to be able to households ma between 80% to 120% median income, which family of four is betwe \$102,500 and \$153,700

Opponents to the u fear that it could lead placement. South San co Mayor Mark Addie developers could targ single-family rentals t vide some of the city' affordable housing.

"I am fearful that t houses to be gobbled developers might be



MEMO TO THE PLANNING COMMISSION

Supplemental

February 3, 2022

Project: Summary of Triplex and Fourplex Prototype Financial Feasibility Analysis

Case Number: 2021-005878CWP

Staff Contact: James Pappas, Senior Planner, 628.652.7470,
james.pappas@sfgov.org

Reviewed by: Joshua Switzky, Land Use Program Manager, 628.652.7464

joshua.switzky@sfgov.org; and

Maia Small, Community Equity Policies and Strategies Manager, 628.652.7373,

maia.small@sfgov.org

Recommendation: None- Informational

Background

The San Francisco Planning Department has contracted with consultant Century Urban to analyze the financial feasibility for property owners and/or developers of building small multifamily buildings on sites currently occupied by an existing single-family home. As part of this work, Century Urban has analyzed prototypes based on potential projects that may be possible under recently proposed legislation to allow up to four units (fourplexes) on parcels where currently fewer units are allowed, specifically parcels with existing single-family homes.

This summary highlights key findings and assumptions from high level financial analyses that Century Urban performed on development prototype projects in selected neighborhoods representative of potential scenarios under proposed local legislation to allow fourplexes. This type of financial analysis is important to understand the potential financial costs and benefits of small multifamily housing developments, the types of owners or developers likely to undertake them, where and under what circumstances such developments may be more likely to occur, and the barriers or challenges affecting the potential addition of housing in San Francisco. This analysis is related to work on [financial feasibility](#) of potential projects that may be possible under State law [SB 9](#).

Assumptions

Century Urban analyzed potential for development of small multifamily buildings on sites with existing single-family homes. For this analysis, Century Urban reviewed prototype developments using general market assumptions for unit types, costs, rents, sale prices, financing, and other factors that shape feasibility and likelihood of development. Initial triplex and fourplex prototypes were developed working with an architect. While financial feasibility (discussed more below) was assessed using metrics typically used by housing developers, the prospective developments and their economic performance are largely similar for long time property owners wishing to redevelop their property. Practical and financial constraints for existing owners to building triplex and fourplex prototype projects are discussed in more detail below.

Development Scenarios, Tenure, and Neighborhoods

Century Urban analyzed both triplex and fourplex prototype scenarios to assess potential financial costs and benefits for a property owner or developer. Century Urban analyzed both for-sale and rental versions of each of the prototype scenarios and researched rents and sale pricing in different neighborhoods, specifically Bayview, Pacific Heights, and various transit-served neighborhoods representing the “mid-tier” of the housing market including West Portal, Castro, Balboa Park, and Glen Park. Each of the scenarios assumed that a single-family home would be demolished and replaced with a new triplex or fourplex covering a similar footprint to a prototypical single-family home but rising to three or four stories. (Note that [financial feasibility analysis of projects adding units to an existing home without demolition, such as might be possible under SB 9](#), was examined in a previous memo.) Century Urban analyzed each triplex and fourplex prototype with and without a parking space.

Defining Costs and Financial Feasibility

In this analysis costs for developing housing are broken down into three broad categories:

- **Hard costs** for construction labor and materials, and
- **Soft costs** for architecture and engineering, financing costs, permits and fees, etc. and
- **Land costs** for purchasing the parcel on which a project would be built.

In addition to development costs, there are costs for selling or renting new housing such as marketing and brokerage fees and for rental properties ongoing costs of maintenance, property taxes, and insurance. Given that someone must be compensated for their time spent developing a project as well as for the inherent risk associated with investing money in property development, the analysis assumes in the case of the for-sale prototypes, a return to the property owner/ developer of 18% of hard and soft costs and in the case of the for-rent prototypes, a target return on cost of 5.25%.

To assess financial feasibility for these prototype scenario projects, Century Urban calculated the **residual value**, the amount that a purchaser of a home or land can afford to pay for that home or land and still have a profitable project. Residual value is calculated by subtracting the hard and soft costs of the project and developer return from the total net sale value of the project. If the residual value is below the estimated sale price for an existing single-family home then a property owner would be less financially motivated to redevelop the property, and a developer would be unable to match typical offers from other single-family home buyers. For rental projects, the analysis assumes a target return on cost and then

estimates the total amount a buyer could pay for a development parcel. This amount represents the residual value for the rental versions of the prototype developments.

Project Funding and Developer Profile

For this analysis Century Urban used a simplifying assumption that a property owner/developer would be able to borrow 65% of the project cost to build the new units. Because of the scale of these projects, loans could range from more than \$2.1 million for a triplex development to more than \$2.7 million for a fourplex. To provide financing at these amounts for these types of projects, lenders would likely require verified prior development experience as well as the net worth and financial liquidity to sufficiently fund the project and any cost overruns. Someone seeking to undertake a project of this scale would likely need to provide approximately 35% of the project cost in equity investment that would range from over \$1.1 to nearly \$1.5 million for a triplex and fourplex, respectively.

Given the costs involved in the development of a prototypical triplex or fourplex project and the relatively high level of development experience and financial resources needed, a professional developer would be more likely to consider the kinds of triplex and fourplex projects analyzed here than the average owner of an existing single-family home. For most existing homeowners, smaller scale projects to add housing units to their property in ways that are more modest modifications to existing properties, such as units added by converting existing space in ground floors, rear additions, or rear yard structures, may be more likely and manageable to take on.

Project Timing

Century Urban's analysis assumes entitlement, design, permits and financing, and construction of a triplex or fourplex development can be completed within one year. This is an optimistic assumption that may not reflect the typical timeline and complexity of entitling and building a small multifamily project in San Francisco.

Key Findings

Below are key findings from the financial feasibility analysis performed by Century Urban.

At Current Costs, Rental Rates, and Single-Family Prices, Financial Feasibility of Demolishing an Existing Single-Family Home to Develop New Triplexes and Fourplexes is Challenging

In the scenarios analyzed, estimated residual values for a prototype redevelopment (i.e., the amount someone could pay for the property) fell below current single family home sale prices in all cases analyzed. The "gap" between the residual value generated by prototype developments and median single family home prices in all neighborhoods analyzed was more than -\$1 million. These results indicate that it would be extremely difficult for developers to produce a financially feasible project by acquiring a typical single-family home at typical market price to redevelop the site into a triplex or fourplex. In other words, single-family home buyers planning to maintain the home largely as-is and paying current prices would typically outbid a developer hoping to build a triplex or fourplex on the same property.

The analysis is based on average or median costs, prices, and rents, and there may be circumstances when the price of an existing home is low enough that it is feasible for a developer to acquire an existing

Summary of Prototype Financial Feasibility Analysis

single-family home and construct additional units. For example, when a home is unusually small and/ or poorly maintained, a developer may face less competition from homebuyers who can afford single family home prices in San Francisco where the median price is over \$1.5 million.

Though all prototype projects analyzed appear financially infeasible, variations in the prototypes resulted in marginal changes to feasibility. Ownership prototype projects were marginally closer to feasibility than rental projects, projects without a parking space were marginally closer to feasibility than those with a parking space, and fourplex projects were marginally closer to feasibility than triplexes. The best performing of the prototypes analyzed was a for-sale, fourplex with no parking in Pacific Heights, however, this project was still far from being feasible as measured by the residual value compared to median home prices.

Low Financial Feasibility of Triplex and Fourplex Developments Makes Requiring Affordability Difficult

Some recent local legislative proposals to allow up to four units in areas currently restricted to fewer units would impose affordability requirements on at least one newly added unit, targeting rents and prices to a specific income level relative to the Area Median Income (AMI). Studies and data indicate that there are substantial unmet needs for housing affordable to moderate- and middle- income households, particularly for homeownership opportunities. Unfortunately, mandating units at 100%, 110%, or 140% of AMI appears to worsen already challenged financial feasibility. Given that prototype projects are far from feasible when assuming market rents and sale prices, requiring additional affordability simply increases the feasibility gap and further reduces the likelihood of new housing being built in triplexes or fourplexes. Affordability requirements could also inadvertently encourage development or expansion of single-family homes rather than triplexes or fourplexes by making single-family homes more financially appealing. Producing units that are affordable to middle income households, given the current market conditions, would require significant subsidy. Additionally, since the income generated by the new units would be fixed or reduced, it would create a burden on the project owner to repay a construction loan, potentially even making it difficult to obtain one in the first place.

Hard Costs are by Far the Largest Cost of Adding Units

Construction costs, including labor and materials, are the largest component of the development costs for adding new units, typically representing a little more than 70% of development costs excluding land costs. As a result, while reducing other costs such as permits, fees, transaction costs, or compensation for a developer's time or investment may have relatively minor impacts on feasibility, the fundamental challenge with new project feasibility stems primarily from cost of construction relative to the value generated from rents and sale prices. Construction costs in San Francisco, which are among the world's highest, are therefore a significant barrier to building triplex and fourplex projects but also represent an area where cost reductions could make a substantial difference to feasibility.

Financial Feasibility Is Challenging in All Neighborhoods

Financial feasibility is challenged in all neighborhoods reviewed because high construction costs are consistent throughout the city. Higher potential sale prices in Pacific Heights result in higher potential residual land values, however, higher single-family home purchase prices in Pacific Heights mean developers are still unlikely to outbid home buyers for typical properties. The financial feasibility gap in Pacific Heights could be multiple millions relative to the median home price. Neighborhoods with high

Summary of Prototype Financial Feasibility Analysis

development costs and lower rents and sale prices, such as the Bayview show no estimated residual value. In mid-tier neighborhoods near transit, feasibility is also challenged with residual value falling far below median home sale prices. In some rare cases, there may be single family homes sold at prices significantly below average in these mid-tier neighborhoods that could be closer to the residual values estimated in this analysis, resulting in the potential for a feasible project.

Property Owners Face Significant Financial Constraints to Creating Ground-up Triplexes and Fourplexes, but Smaller Additions to Existing Housing May be More Feasible

Existing property owners may have a variety of motivations for wanting to add housing to their properties that are not purely financial, including the housing needs of family and friends. However, owners with these motivations seem unlikely to take on the type of triplex and fourplex projects analyzed here. The scale of the prototype projects that demolish an existing single-family home and build a triplex or fourplex appears beyond the financial or technical reach of most existing single-family homeowners. The financial feasibility challenges mean that it is also unlikely that professional developers will take on these projects in most cases.

Previous [analysis](#) of prototype projects potentially allowed under SB 9 show that projects that do not demolish an existing home may be more financially feasible than those that do, though feasibility is still challenging in large part due to high construction costs. The analysis of SB 9 prototype projects mostly looked at scenarios that would retain an existing home, including adding a unit in the ground floor of a home and/or adding one to two units in a rear yard. The lower construction costs associated with these potential projects, along with avoiding the potentially costly purchase and demolition of an existing home, make them relatively more financially feasible. Additionally, the size of the loan and equity needed for projects of that scale are lower than for demolition and ground-up fourplex construction, making those projects that modify or add on to existing homes possibly more within the practical reach for homeowners or small property owners. Retaining flexibility for these types of projects could be beneficial policy to enable more housing to be added in ways that are more affordable and represent less dramatic physical change to existing homes. While existing ADU legislation allows for similar types of rental units as were studied in relation to SB 9, allowing ownership options could expand homebuying opportunities for more people.

Conclusion and Next Steps

The analysis provided by Century Urban implies very limited financial incentive for property owners and developers to undertake prototype triplex and fourplex projects on a site with an existing single-family home. However, this does not rule out that some property owners may undertake projects to build triplexes and fourplexes in the future or that development may be financially feasible in projects differing from the average assumptions used in the prototypes. In general, changes in key factors, for example construction costs, could affect project feasibility and likelihood of adding units for existing property owners and developers alike though the size of the estimated feasibility gaps in most circumstances imply that significant changes would be needed for more projects to become feasible. Planning will continue to work with Century Urban on analysis of financial feasibility of fourplexes and other small multi-family development types on parcels with existing single-family homes including potential public policy tools to support improving feasibility and achieving greater levels of affordability.



Century | Urban

**Strategic
Real Estate
Advisory Services**

**Small Multifamily Analysis – 3- and 4-Unit
Prototypes – Conceptual Analysis**

Presented to:

**City of San Francisco, Planning
Department**

January 31, 2022



SMALL MULTIFAMILY ANALYSIS - CONCEPTUAL ANALYSIS

TO: City of San Francisco, Planning Department
FROM: Century | Urban
SUBJECT: Small Multifamily Analysis - 3- and 4-Unit Prototypes - Conceptual Analysis
DATE: January 31, 2022

Summary

The City of San Francisco (the “City”) has engaged Century | Urban to conduct certain analyses regarding potential changes to residential zoning laws allowing single-family residential properties to be redeveloped into three- and four-plex residential properties.

Century | Urban prepared a high-level conceptual analysis of for-rent and for-sale three- and four-plex prototype development projects. An analysis of each scenario with and without parking was prepared for three neighborhoods, Pacific Heights, a prototype “Mid-Tier”¹ neighborhood, and the Bayview. The specific scenarios and preliminary results of the analysis are summarized in the attached [Exhibit A](#) and [Exhibit B](#).

Analysis Qualifications

The analysis referenced in this memorandum utilizes prototypical projects that represent high-level average or median types of projects and high-level project assumptions at the time of analysis preparation. The prototypical projects do not correspond with any particular actual project or actual economics. Any actual project may reflect dramatically different costs, rental rates, sale prices, or other details driven by the circumstances of that project such as its sponsor, history, site conditions, contractor, business plan, and/or other factors. Moreover, the criteria and assumptions utilized in selecting and analyzing the prototypes are specific to the time the analysis was prepared and the research was conducted and will likely change over time as sale prices, rental rates, development costs, lender/investor return targets, and land costs change over time based on market conditions.

Key Assumptions

To prepare the conceptual analysis, research was conducted regarding development costs, and rental rate and sale price comparables, among other assumptions.

¹ Mid-Tier neighborhoods represented by the prototype include West Portal, Glen Park, Balboa Park, 24th St. and Castro.



This conceptual analysis includes simplifying assumptions shown in Exhibit C including assuming similar hard costs and designs across the three prototype neighborhoods, a fully-entitled project, and 65% loan-to-cost construction financing, as well as other assumptions. While past sale comparable information and available comparable rental rates were researched for each of the various size prototype units in each of the neighborhoods, the revenue and sale numbers shown in Exhibit A and resultant feasibility gaps reflected in Exhibit B are based on averages or weighted averages of the research data. Consequently, unless otherwise noted, the results of this analysis reflect potential outcomes for an average project, not for any particular instance or case.²

Century | Urban estimated the residual value of each scenario by subtracting the estimated development costs from 1) in the case of for-sale scenarios, net sales proceeds, and 2) in the rental scenarios, projected project values based on capitalizing income with estimated return on cost targets. The estimated residual values represent the supportable cost of land / initial home cost at which a developer would achieve “economic feasibility” for a given development project.³ Typically, where the market value of a potential development site exceeds residual value, proceeding with development would not be considered feasible. The difference between the residual value and the median and minimum home prices reflected in the sales data from 2019-2021 is shown in Exhibit B as the “feasibility gap” for each scenario.

Initial Conclusions

- ❖ The analysis concluded that the estimated residual values for the rental scenarios range from \$0 to \$433,000 and the residual values for the for-sale scenarios range from \$0 to \$546,000. Of all the scenarios, the highest estimated residual value was generated by a for-sale fourplex prototype without parking.⁴
- ❖ All scenarios result in a feasibility gap representing a difference between the residual value of the projects and the sales prices of single-family homes (see Exhibit B). This difference suggests that for a project resembling one of the prototypes, a buyer of a single-family home who intends to use that home for occupancy would typically outbid a developer with a plan to redevelop the site into a three- or four-plex building.
- ❖ The analysis included base case and optimistic scenarios. In the optimistic scenarios, the rents were increased by \$0.25 per square foot and sale prices were increased by \$50 per square foot over the established base case scenarios. In all cases reviewed, the estimated residual values of the redevelopment scenarios are less than the median and minimum

² Century | Urban notes that construction costs vary over time, that additional unit sizes are in practice driven by actual available buildable square footage at a given property, and that rental rates and sale costs respond to macro- and micro-economic market conditions. Therefore, the general conclusions noted below apply to the prototypes examined at the time of the examination, but not necessarily over a larger timescale or in specific instances.

³ Economic feasibility in this memorandum is used to mean that the homeowner/developer would receive a return of their total investment plus an approximately 18% profit margin on the new development cost expenditure.

⁴ For projects which result in an infeasible residual value, the residual value in Exhibit A is shown as zero.



prices of homes in these neighborhoods based on 2019-2021 sales data for single family homes.

- ❖ The analysis of the Bayview neighborhood indicates that these scenarios would not support any residual value.
- ❖ The analysis of the Pacific Heights neighborhood reflects the highest residual values of the surveyed neighborhoods, with an estimated residual value as high as \$546,000 for a four-plex project without parking in an optimistic scenario. However, as the costs of single-family homes in Pacific Heights are also the highest of the surveyed neighborhoods, the residual values are consistently less than the median or minimum price to purchase a home.
- ❖ As previously noted in a separate memorandum, the estimated residual values associated with single family home properties in which additional units are added to garages and backyards are generally higher than that of the three- and four-plex prototype development projects. This is due to the high cost of construction and the relatively larger amount of construction required in the demolition of a home and building of a new residential building, as opposed to the incremental addition of new residential square footage.

Exhibit A

Century | Urban

3-4 Plex Residual Value Scenarios - Residual Values and Key Assumptions

Residual Values

Type	Units	Parking	Type	Base Case			Optimistic		
				Bayview	Mid-Tier	Pacific Heights	Bayview	Mid-Tier	Pacific Heights
V 1A	3	No	Sale	\$0	\$122,000	\$268,000	\$0	\$268,000	\$414,000
V 1C	3	Yes	Sale	\$0	\$109,000	\$249,000	\$0	\$249,000	\$390,000
V 1A	3	No	Rental	\$0	\$2,000	\$168,000	\$0	\$168,000	\$335,000
V 1C	3	Yes	Rental	\$0	\$0	\$120,000	\$0	\$120,000	\$280,000
III 2A	4	No	Sale	\$0	\$168,000	\$357,000	\$0	\$357,000	\$546,000
III 2C	4	Yes	Sale	\$0	\$96,000	\$280,000	\$0	\$280,000	\$463,000
III 2A	4	No	Rental	\$0	\$3,000	\$218,000	\$0	\$218,000	\$433,000
III 2C	4	Yes	Rental	\$0	\$0	\$135,000	\$0	\$135,000	\$345,000

Price Assumptions

	Base Case			Optimistic		
	Bayview	Mid-Tier	Pacific Heights	Bayview	Mid-Tier	Pacific Heights
Sale Price (PSF)	\$800	\$1,150	\$1,200	\$850	\$1,200	\$1,250
Monthly Rental PSI	\$4.00	\$5.25	\$5.50	\$4.25	\$5.50	\$5.75

Single Family Home Prices

	2019-2021 Single Family Home Sales		
	Bayview	Mid-Tier	Pacific Heights
Minimum	\$575,000	\$535,000	\$1,217,000
Median	\$950,000	\$1,650,000	\$5,350,000
Maximum	\$1,625,000	\$6,700,000	\$14,500,000
Average	\$990,000	\$1,910,000	\$6,050,000

Notes

1. All financial and programmatic estimates are preliminary in nature, for illustrative purposes only, and subject to change
2. All amounts rounded to nearest \$1,000
3. Rent analysis with parking assumes one space rented for \$300 per month; sale analysis assumes one parking space sold for \$100,000
4. Mid-Tier neighborhoods include West Portal, Glen Park, Balboa Park, 24th Street and Castro
5. Two data points are removed from the single family home sales prices in the Bayview and Mid-Tier markets which are considered to be outliers. In Pacific Heights, eight data points are removed representing home sales above \$15 million.

Exhibit B

Century | Urban

3-4 Plex Residual Value Scenarios - Feasibility Gap**Feasibility Gap Based on 2019-2021 Median Single-Family Home Prices**

Construction				Base Case			Optimistic		
Type	Units	Parking	Type	Bayview	Mid-Tier	Pacific Heights	Bayview	Mid-Tier	Pacific Heights
V 1B	3	No	Sale	(\$1,869,000)	(\$1,528,000)	(\$5,082,000)	(\$1,720,000)	(\$1,382,000)	(\$4,936,000)
V 1C	3	Yes	Sale	(\$1,843,000)	(\$1,541,000)	(\$5,101,000)	(\$1,699,000)	(\$1,401,000)	(\$4,960,000)
V 1A	3	No	Rental	(\$1,799,000)	(\$1,648,000)	(\$5,182,000)	(\$1,629,000)	(\$1,482,000)	(\$5,015,000)
V 1C	3	Yes	Rental	(\$1,809,000)	(\$1,691,000)	(\$5,230,000)	(\$1,645,000)	(\$1,530,000)	(\$5,070,000)
III 2B	4	No	Sale	(\$2,128,000)	(\$1,482,000)	(\$4,993,000)	(\$1,935,000)	(\$1,293,000)	(\$4,804,000)
III 2C	4	Yes	Sale	(\$2,169,000)	(\$1,554,000)	(\$5,070,000)	(\$1,981,000)	(\$1,370,000)	(\$4,887,000)
III 2B	4	No	Rental	(\$2,047,000)	(\$1,647,000)	(\$5,132,000)	(\$1,827,000)	(\$1,432,000)	(\$4,917,000)
III 2C	4	Yes	Rental	(\$2,099,000)	(\$1,726,000)	(\$5,215,000)	(\$1,885,000)	(\$1,515,000)	(\$5,005,000)

Feasibility Gap Based on 2019-2021 Minimum Single-Family Home Prices

Construction				Base Case			Optimistic		
Type	Units	Parking	Type	Bayview	Mid-Tier	Pacific Heights	Bayview	Mid-Tier	Pacific Heights
V 1B	3	No	Sale	(\$1,494,000)	(\$413,000)	(\$949,000)	(\$1,720,000)	(\$267,000)	(\$803,000)
V 1C	3	Yes	Sale	(\$1,468,000)	(\$426,000)	(\$968,000)	(\$1,699,000)	(\$286,000)	(\$827,000)
V 1A	3	No	Rental	(\$1,424,000)	(\$533,000)	(\$1,049,000)	(\$1,629,000)	(\$367,000)	(\$882,000)
V 1C	3	Yes	Rental	(\$1,434,000)	(\$576,000)	(\$1,097,000)	(\$1,645,000)	(\$415,000)	(\$937,000)
III 2B	4	No	Sale	(\$1,753,000)	(\$367,000)	(\$860,000)	(\$1,935,000)	(\$178,000)	(\$671,000)
III 2C	4	Yes	Sale	(\$1,794,000)	(\$439,000)	(\$937,000)	(\$1,981,000)	(\$255,000)	(\$754,000)
III 2B	4	No	Rental	(\$1,672,000)	(\$532,000)	(\$999,000)	(\$1,827,000)	(\$317,000)	(\$784,000)
III 2C	4	Yes	Rental	(\$1,724,000)	(\$611,000)	(\$1,082,000)	(\$1,885,000)	(\$400,000)	(\$872,000)

Notes

1. All financial and programmatic estimates are preliminary in nature, for illustrative purposes only, and subject to change
2. All amounts rounded to nearest \$1,000

Exhibit C

Century | Urban

3-4 Plex Residual Value Scenarios - Key Assumptions

Prototype Sizes

Gross to Net / Efficiency 80.0%

3-Unit Prototype	# Units	Unit Type	Net SF/Unit	
			No Parking	Parking
	1	2-bedroom	975	825
	2	3-bedroom	1,475	1,475
Total	3		3,925	3,775

4-Unit Prototype	# Units	Unit Type	Net SF/Unit	
			No Parking	Parking
	1	2-bedroom	1,025	900
	3	3-bedroom	1,350	1,350
Total	4		5,075	4,950

Hard Costs

Residential	\$500 per square foot
Parking	\$400 per square foot for scenarios with parking
Contingency	5% of Hard Costs

Soft Costs

Financing	65% LTC, 1% fee, 5% rate
A&E	10% of hard costs
Permits and Fees	Includes: School Impact fee, Childcare Impact Fee, PG&E Connection Fees, Wastewater Connect Fees, Water Capacity Fees, Other Utility Fees, Building
Total Soft Costs (approximate)	28% of Hard Costs

Revenue Assumptions

Rental assumptions	See Exhibit A
--------------------	---------------

Other Assumptions

Sale Value of Parking Space \$100,000 per space

Rental Scenario Assumptions

Occupancy	95%
Operating Expenses not incl. property taxes	\$6,000 per unit/year
Capitalization Rate	4.25%
Permanent Financing	Refinance construction loan amount; 4% rate, 30 year amortization
Target Return on Cost	5.25%

Sale Scenario Assumptions

For Sale Brokerage	5%
Closing Costs/Unit	\$3,000
Warranty Reserve	1%
Target Profit Margin	18%

Notes:

All financial and programmatic estimates are preliminary in nature for illustrative purposes and subject to change.

EXHIBIT F

Comparison Chart: SB9 vs Subject Ordinances

		SB 9		Board File # 211202 (Mar)	Board File # 211234 (Safai)
Proposal		Lot Split	No Lot Split		
Where it Applies		RH-1, RH-1(D), & RH-1(S)		All RH Districts	RH-1, RH-1(D), RH-2, & RH-3 within 1 mile of major transit stop
Requirements	Maximum Density	2 units on each new lot + ADU's	2 units + ADU's	4 units + ADU's	4 units
	Minimum Lot Size	1,200 sq ft for each new lot (2,400 sq ft total)	no minimum lot size required	Standard	≥ 2,500sqft lot
	Owner Occupancy Requirement	Owner "Intent to Occupy" 3 years post lot split approval	None	None	
	Building Standards	<ul style="list-style-type: none"> No building standards are allowed that would prevent two, 800sqft units per parcel 4ft rear yard setback can be required by local Ordinance 		RH-3 Building Standards (45% rear yard)	<ul style="list-style-type: none"> Rear yard reduction up to 25% or 15 ft (whichever is greater)* Exposure reduction to no less than 25ft in each direction* RM-1 open space standards Up to 15% additional alleviations from open space, rear yard, and exposure at discretion of Planning Director
	Unit Specifications	None	None	Each unit over base density must have at least 2 bedrooms	<ul style="list-style-type: none"> At least 2 units must contain 1 or more bedrooms No unit may be smaller than min. size set by CA TCAC
	Increase Density	Must include at least 2 units per lot		Must be more than base allowable density	Must result in at least 3 dwelling units
	Eligibility	<ul style="list-style-type: none"> No tenant for at least 3 yrs (owner occupied or vacant) No demo of rent-controlled unit or Ellis Act eviction within the last 15 yrs Not an Art. 10 Historic Resource or in a Historic District 		Is not receiving another density bonus	<ul style="list-style-type: none"> Is not receiving another density bonus Must replace any demo'd units Must be new construction or additions to existing structures Must be 100% residential
	Affordability	None		<ul style="list-style-type: none"> Each unit over base density must be rent controlled All units over base density must be affordable at 100% AMI for both rental and owner 	<ul style="list-style-type: none"> Must include at least 1 affordable unit: <ul style="list-style-type: none"> Rental @ 110% AMI max Owner @ 140% AMI max Subject to rent control
Process	Subject to 317	No		Yes	
	Subject to 311	No		Yes	No
	Discretionary Review	No		Yes	No
	Priority Processing	No		No	Yes (180 days)
	Residential Design Guidelines	Objective RD Standards only		Residential Design Guidelines	Minor alleviations RDG from massing standards at discretion of Planning Director
	CEQA Review	No		Yes	

*With additional restrictions/conditions

EXHIBIT G

1 [Planning, Administrative Codes - Dwelling Unit Density Exception in Residential Districts and
2 Rent Control of Bonus Dwelling Units]

3 **Ordinance amending the Planning Code to provide a density limit exception for Lots in**
4 **RH (Residential, House) zoning districts, to permit up to four dwelling units per lot,**
5 **exclusive of accessory dwelling units and subject to maximum rental rates and sales**
6 **prices determined to be affordable at 100% of area median income; amending the**
7 **Administrative Code to limit initial rental rates and rental rate increases for specified**
8 **units; affirming the Planning Department's determination under the California**
9 **Environmental Quality Act; and making findings of consistency with the General Plan,**
10 **and the eight priority policies of Planning Code, Section 101.1, and findings of public**
11 **necessity, convenience, and welfare under Planning Code, Section 302.**

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

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

20 Section 1. CEQA and Land Use Findings.

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

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

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

11
12 Section 2. Background and Findings.

13 (a) According to the Planning Department's 2020 Housing Inventory, housing costs in
14 San Francisco have increased dramatically since the Great Recession of 2008-2009, with the
15 median sale price for a two-bedroom house more than tripling from 2011 to 2021, from
16 \$493,000 to \$1,580,000. This increase in housing costs includes 9% growth from 2019 to
17 2020 alone, even in the face of the COVID-19 pandemic.

18 (b) From 2011 to 2019, the median rental rate for a two-bedroom apartment similarly
19 increased, nearly doubling from \$2,570 to \$4,500 per month. Despite the COVID-19 pandemic
20 and a temporarily dampened housing market, the median rental rate in 2020 was \$3,570. The
21 2019 and 2020 median rental rate far exceed the \$2,664 rental rate of a two-bedroom
22 apartment priced to be affordable for a household at 100% of San Francisco's Area Median
23 Income ("AMI") in 2021, according to the Mayor's Office of Housing and Community
24 Development.

1 (c) According to the Planning Department’s 2020 Housing Inventory, while San
2 Francisco met 148% of its 2015-2022 Above Moderate (greater than 120% of AMI) housing
3 goal as of 2020, it met only 39% of its Low Income (less than 80% of AMI) and Very Low
4 Income (less than 50% of AMI) housing goals, and only 27% of its Moderate Income (80-
5 120% of AMI) housing goal, as of 2020.

6 (d) In the near future, San Francisco is likely to face steeper challenges to meet its
7 Moderate Income housing goal in light of an anticipated 250% increase in the Regional
8 Housing Needs Allocation for Moderate Income households in San Francisco in the upcoming
9 2023-2031 Housing Element cycle, according to the State of California's revised population
10 growth projections.

11 (e) According to the Planning Department’s Housing Balance Report No. 12, many
12 Supervisorial Districts are experiencing a Negative Cumulative Housing Balance, meaning
13 that the number of units removed from protected status (for example, by means of Ellis Act
14 evictions, Owner Move-In evictions, or housing demolition) exceeds the number of new
15 affordable housing units added to that district in a given period. The following San Francisco
16 Supervisorial Districts, all of which have a large number of single-family homes, had Negative
17 Cumulative Housing Balances between 2011-2020: District 4 (-73.9%), District 1 (-46.8%),
18 District 11 (-18.8%), District 8 (-13.8%), and District 2 (-10.6%).

19 (f) As set forth in Board of Supervisors Resolution No. _____, on file in File No.
20 211207, the Board of Supervisors has expressed its commitment to support low- and
21 moderate-income homeowners as an essential component of addressing the housing
22 affordability and housing stability crisis, and the Board of Supervisors has urged the Planning
23 Department and other City agencies to create a Housing Development Incentive Program for
24 Homeowners (“Program”) that supports San Francisco residents to build new housing, which
25 would include technical assistance (e.g., for predevelopment, construction, and long-term

1 property management) and financial assistance (e.g., grants, no- or low- interest loans), and
2 streamlined permitting through pre-approved plans, with the goal to increase the number of
3 housing units developed by homeowners and local small property owners. The Program
4 would target low- and moderate- income homeowners in RH (Residential, House) Districts
5 and in Sensitive Communities, as defined by the UC Berkeley Urban Displacement Project,
6 and the Program would include financial incentives for homeowners who rent or sell the new
7 units to low- and moderate-income households at an affordable level.

8
9 Section 3. Articles 1, 2, and 4 of the Planning Code are hereby amended by revising
10 Sections 102 (with a new definition placed in alphabetical sequence), 207, and 209.1, and
11 adding Section 436, to read as follows:

12 **SEC. 102. DEFINITIONS.**

13 * * * *

14 *Dwelling Unit, Bonus.* A Bonus Dwelling Unit is any Dwelling Unit that is not an Accessory
15 *Dwelling Unit and which is permitted to be constructed in an RH District, contingent upon compliance*
16 *with Section 207(c)(8), in excess of the number of units otherwise permitted by right in the applicable*
17 *RH District as set forth in Table 209.1. For example, a property owner with a lot in an RH-1 District is*
18 *permitted to construct one unit per lot, according to Table 209.1. If the property owner elects to*
19 *comply with Section 207(c)(8) and is thereby authorized to construct four units, the three units*
20 *authorized under Section 207(c)(8) in excess of the one unit permitted under the RH-1 column of Table*
21 *209.1 shall be deemed Bonus Dwelling Units. Each Bonus Dwelling Unit shall have a minimum of two*
22 *bedrooms and shall be subject to the requirements of Planning Code Section 436 and Administrative*
23 *Code Section 37.3(h). In addition, the property owner shall enter into a regulatory agreement with the*
24 *City, as a condition of approval of the Bonus Density Units authorized under Section 207(c)(8)*
25 *(“Regulatory Agreement”). The Regulatory Agreement shall contain the following: (a) a statement*

1 that the Bonus Density Units are not subject to the Costa Hawkins Rental Housing Act (California Civil
2 Code Section 1954.50) because, under Section 1954.52(b), the property owner has entered into this
3 agreement with the City in consideration for a waiver of residential density up to four dwelling units or
4 other direct financial contribution or other form of assistance specified in California Government Code
5 Sections 65915 et seq.; (b) a description of the waiver of residential density or other direct financial
6 contribution or form of assistance provided to the property owner; and (c) a description of the
7 remedies for breach of the agreement and other provisions to ensure implementation and compliance
8 with the agreement. The property owner and the Planning Director (or the Director's designee), on
9 behalf of the City, will execute the Regulatory Agreement, which shall be reviewed and approved by the
10 City Attorney's Office. The Regulatory Agreement shall be executed prior to the City's issuance of the
11 First Construction Document for the project, as defined in Section 107A.13.1 of the San Francisco
12 Building Code. Following execution of the Regulatory Agreement by all parties and approval by the
13 City Attorney, the Regulatory Agreement or a memorandum thereof shall be recorded to the title
14 records in the Office of the Assessor-Recorder for the real property containing the Bonus Dwelling
15 Unit and shall be binding on all future owners and successors in interest.

16 * * * *

17 **SEC. 207. DWELLING UNIT DENSITY LIMITS.**

18 * * * *

19 **(c) Exceptions to Dwelling Unit Density Limits.** An exception to the calculations
20 under this Section 207 shall be made in the following circumstances:

21 * * * *

22 (8) Residential Density in RH Districts. For projects located in RH Districts that are not
23 seeking or receiving a density bonus under Planning Code Sections 206.5 or 206.6, or California
24 Government Code Sections 65915 et seq., and have executed an agreement to comply with the
25 requirements of Planning Code Section 436 and Administrative Code Section 37.3(h), residential

density limits shall be waived for up to four dwelling units, not inclusive of any Accessory Dwelling Units as permitted under this Section 207. Projects using the density exception of this subsection (c)(8) shall be subject to the Height and Bulk Limits, Rear Yard, and Side Yard standards applicable to the RH-3 zoning district as set forth in Section 209.1.

SEC. 209.1. RH (RESIDENTIAL, HOUSE) DISTRICTS.

These Districts are intended to recognize, protect, conserve, and enhance areas characterized by dwellings in the form of houses, usually with one, two, or three units with separate entrances, and limited scale in terms of building width and height. Such areas tend to have similarity of building styles and predominantly contain large units suitable for family occupancy, considerable open space, and limited nonresidential uses. The RH Districts are composed of five separate classes of districts, as follows:

* * * *

**Table 209.1
ZONING CONTROL TABLE FOR RH DISTRICTS**

Zoning Category	§ References	RH-1(D)	RH-1	RH-1(S)	RH-2	RH-3
BUILDING STANDARDS						
Massing and Setbacks						
Height and Bulk Limits (10)	§§ 102, 105, 106, 250-252, 253, 260, 261, 261.1, 270, 271. See also Height and Bulk District Maps.	No portion of a Dwelling may be taller than 35 feet. Structures with uses other than Dwellings may be constructed to the prescribed height limit, which is generally 40 feet. Per § 261 the height limit may be decreased or increased based on the slope of the lot.			No portion of a Dwelling may be taller than 40 feet. Structures with uses other than Dwellings may be	Varies, but generally 40 feet. Height sculpting on Alleys per § 261.1.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

				constructed to the prescribed height limit. Per § 261 the height limit may be decreased based on the slope of the lot.		
* * * *						
Rear Yard (10)	§§ 130, 134	30% of lot depth, but in no case less than 15 feet.	45% of lot depth or average of adjacent neighbors. If averaged, no less than 25% or 15 feet, whichever is greater.			
Side Yard (10)	§§ 130, 133	Required for lots 28 feet and wider. Width of side setback depends on width of lot.	Not Required			
* * * *						
RESIDENTIAL STANDARDS AND USES						
* * * *						
Residential Uses						
Residential Density, Dwelling Units (6)(11)	§§ 102, 207	One unit per lot.	P up to one unit per lot. C up to one unit per 3,000 square feet of lot area,	P up to two units per lot, if the second unit is 600 sq. ft. or less. C up to one	P up to two units per lot. C up to one unit per 1,500 square feet of lot area.	P up to three units per lot. C up to one unit per 1,000 square feet of lot area.

			with no more than three units per lot.	unit per 3,000 square feet of lot area, with no more than three units per lot.		
* * * *						

* * * *

(10) Lots that include two or more Bonus Dwelling Units in the RH-1(D), RH-1, RH-1(S), and RH-2 zoning districts shall be subject to the Height and Bulk Limits, Rear Yard, and Side Yard standards applicable in the RH-3 zoning district.

(11) P for up to four dwelling units pursuant to Section 207(c)(8).

SEC. 436. SALES OF BONUS DWELLING UNITS. For any building containing a Bonus Dwelling Unit, each Bonus Dwelling Unit shall be offered for sale with a maximum sales price determined by the Mayor’s Office of Housing and Community Development (“MOHCD”) to be affordable for a buyer at 100% of the median income for San Francisco as published annually by MOHCD and derived in part from income limits and area median income published by the United States Department of Housing and Urban Development for the County of San Francisco (“AMI”). The maximum sales price would be determined using an affordable sales price methodology established and approved by MOHCD. MOHCD may adjust the AMI and maximum sales price based on a household size appropriate for the Bonus Dwelling Unit and number of bedrooms. The owner of the Bonus Dwelling Unit shall obtain MOHCD’s approval of the maximum sales price prior to any marketing or sale of a Bonus Dwelling Unit. These requirements and limitations shall be memorialized in a notice or declaration of special restrictions that is recorded to the title records in the Office of the Assessor-

1 Recorder for the real property containing the Bonus Dwelling Unit. The requirements and limitations
2 in this Section 436 shall apply for the time during which the building remains in existence in or upon
3 the subject property in its present state or as modified, except such requirements and limitations shall
4 not apply to a dwelling or a unit that does not constitute a Bonus Dwelling Unit.

5
6 Section 4. Chapter 37 of the Administrative Code is hereby amended by revising
7 Sections 37.2 and 37.3, to read as follows:

8
9 **SEC. 37.2. DEFINITIONS.**

10 * * * *

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

15 * * * *

16 The term "rental units" shall not include:

17 * * * *

18 (4) Except as provided in subsections (A)-(~~DE~~), dwelling units whose rents are
19 controlled or regulated by any government unit, agency, or authority, excepting those
20 unsubsidized and/or unassisted units which are insured by the United States Department of
21 Housing and Urban Development; provided, however, that units in unreinforced masonry
22 buildings which have undergone seismic strengthening in accordance with Building Code
23 Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the
24 ordinance is not in conflict with the seismic strengthening bond program or with the program's
25 loan agreements or with any regulations promulgated thereunder;

1 * * * *

2 (E) The term “rental units” shall include Bonus Dwelling Units constructed
3 pursuant to Section 207(c)(8) of the Planning Code.

4
5 **SEC. 37.3. RENT LIMITATIONS.**

6 (a) Rent Increase Limitations for Tenants in Occupancy. Landlords may impose rent
7 increases upon tenants in occupancy only as provided below and as provided by subsections
8 37.3(d), ~~and~~ 37.3(g), and 37.3(h):

9 * * * *

10 (g) New Construction and Substantial Rehabilitation.

11 (1) An owner of a residential dwelling or unit which is newly constructed and
12 first received a certificate of occupancy after the effective date of Ordinance No. 276-79 (June
13 13, 1979), or which the Rent Board has certified has undergone a substantial rehabilitation,
14 may establish the initial and all subsequent rental rates for that dwelling or unit, except:

15 (A) where rent restrictions apply to the dwelling or unit under
16 Sections 37.3(d) or 37.3(f);

17 (B) where the dwelling or unit is a replacement unit under
18 Section 37.9A(b);

19 (C) as provided for certain categories of Accessory Dwelling Units under
20 Section 37.2(r)(4)(D); ~~and~~

21 (D) as provided in a development agreement entered into by the City
22 under Administrative Code Chapter 56-; and

23 (E) as provided for Bonus Dwelling Units under Section 37.3(h).

24 (h) Limitations on Rental Rates and Rental Rate Increases of Bonus Dwelling Units.

1 For any building containing a Bonus Dwelling Unit, each Bonus Dwelling Unit shall be offered
2 for rent at the rate determined by the Mayor’s Office of Housing and Community Development
3 (“MOHCD”) for rent for households earning 100% of Area Median Income (“AMI”), as set forth in
4 the table titled “Maximum Monthly Rent By Unit Type,” as filed with MOHCD annually for the
5 Inclusionary Housing Program and available for viewing on the MOHCD website, and as
6 memorialized in a notice or declaration of special restrictions that is recorded to the title records in the
7 Office of the Assessor-Recorder for the real property containing the Bonus Dwelling Unit. The
8 requirements and limitations in this subsection 37.3(h) shall apply for the time during which the
9 building remains in existence in or upon the subject property in its present state or as modified, except
10 such requirements and limitations shall not apply to a dwelling or a unit that does not constitute a
11 Bonus Dwelling Unit.

12 (1) Rental Rates at Commencement of Tenancy. At or prior to the commencement of
13 any tenancy in a Bonus Dwelling Unit, the owner of the Bonus Dwelling Unit shall offer the Bonus
14 Dwelling Unit for rent at the rate set forth by MOHCD for rent by households earning 100% of AMI, as
15 set forth in the table titled “Maximum Monthly Rent By Unit Type,” as filed with MOHCD annually,
16 and as memorialized in a notice or declaration of special restrictions that is recorded to the title
17 records in the Office of the Assessor-Recorder for the real property containing the Bonus Dwelling
18 Unit.

19 (2) Rent Increases. The owner of a Bonus Dwelling Unit may impose rent increases
20 upon a tenant in occupancy only as provided in Administrative Code subsections 37.3(a) and 37.3(d).

21
22 Section 5. Effective Date. This ordinance shall become effective 30 days after
23 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
24 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
25 of Supervisors overrides the Mayor’s veto of the ordinance.

1 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the “Note” that appears under
6 the official title of the ordinance.

7

8 APPROVED AS TO FORM:
9 DAVID CHIU, City Attorney

9

10 By: /s/ Christopher T. Tom
11 CHRISTOPHER TOM
 Deputy City Attorney

12

13 n:\legana\as2021\2100467\01565840.docx

14

15

16

17

18

19

20

21

22

23

24

25

1 [Planning Code - Single, Two and Three-Family Home Bonus Program]

2

3 **Ordinance amending the Planning Code to create a density bonus program in RH-1**
4 **(Residential, House, One-Family), RH-2 (Residential, House, Two-Family), and RH-3**
5 **(Residential, House, Three-Family) zoning districts; affirming the Planning**
6 **Department’s determination under the California Environmental Quality Act; and**
7 **making findings of consistency with the General Plan, and the eight priority policies of**
8 **Planning Code, Section 101.1, and findings of public necessity, convenience, and**
9 **welfare under Planning Code, Section 302.**

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

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

18 Section 1. Environmental and Land Use Findings.

19 (a) The Planning Department has determined that the actions contemplated in this
20 ordinance do not constitute a project for purposes of the California Environmental Quality Act
21 (California Public Resources Code Sections 21000 et seq.), under Government Code section
22 65913.5. The Board affirms this determination.

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

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

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

8

9 Section 2. Additional Findings.

10 (a) San Francisco is experiencing a severe housing shortage. The shortage of
11 affordable housing has forced lower-income and middle-class families out of the City. There is
12 a need to make it easier to build affordable and middle-income housing to keep our city
13 diverse, and provide homes for lower- and middle-income workers, including nurses,
14 firefighters, teachers, small business owners, retail and non-profit workers, and Muni drivers.
15 In the midst of this severe housing shortage and affordability crisis, San Francisco must
16 immediately remove barriers to building housing for low- and middle-income residents and
17 working families.

18 (b) Teachers and other employees of the San Francisco Unified School District as well
19 as employees of the City and County of San Francisco suffer from the City's severe housing
20 shortage combined with high housing costs and the escalating cost of living. Yet when it
21 comes to providing quality public service for our residents, it is far preferable for employees to
22 live in the City where they work.

23 (c) Many of our service sector employers, including homeless service providers,
24 mental health providers, child care facilities, restaurants, retail stores, and other small
25 business operators cannot hire sufficient employees to keep their businesses fully operational

1 because these employees cannot afford to live in San Francisco. This contributes to
2 storefront vacancies, restaurant closures, and the inability to provide services to the most
3 vulnerable communities in the City.

4 (d) Affordable housing is an especially paramount concern in San Francisco. San
5 Francisco has one of the highest housing costs in the nation, but our economy and culture
6 rely on a diverse workforce at all income levels. It is the policy of the City to enable these
7 workers to afford housing in San Francisco and ensure that they pay a reasonably
8 proportionate share of their incomes to live in adequate housing and to not have to commute
9 ever-increasing distances to their jobs.

10 (e) By creating additional density and allowing additional units by right with an
11 affordable component, this ordinance will result in thousands of additional units for working
12 families who need to be housed. Adding affordability to the increased density preserves San
13 Francisco's rich diversity while helping to solve the City's housing shortage.

14 (f) This Board declares that this ordinance is adopted pursuant to Government Code
15 Section 65913.5, because it zones all RH-1 (D), RH-1, RH-2, and RH-3 parcels (as shown on
16 the Zoning Maps ZN 01 through ZN 14) within the City for up to 10 units of residential density
17 at the heights currently specified in the City's Zoning Maps (Height Maps HT 01 through HT
18 14), and all parcels affected by this ordinance are considered urban infill sites under California
19 Government Code Section 65913.5(e)(3).

20 (g) By creating additional density in high opportunity areas and ensuring that units will
21 be affordable to lower- and middle-class households, this Board finds that this ordinance is
22 consistent with San Francisco's obligation to affirmatively further fair housing pursuant to
23 California Government Code Section 8899.50.

1 Section 3. The Planning Code is hereby amended by adding Sections 206.10 and
2 315.2, to read as follows:

3 **SEC. 206.10. AFFORDABLE HOUSING INCENTIVE PROGRAM.**

4 (a) Purpose. The propose of the Affordable Housing Incentive Program is to facilitate the
5 construction of housing projects with up to four units in single, two, and three-family home districts if
6 at least one of the units is affordable to moderate-income families.

7 (b) Definitions. The definitions in Section 102 and the definitions in Section 401 for “Area
8 Median Income” or “AMI,” “Housing Project,” and “Life of the Project,” shall generally apply to this
9 Section 206.10.

10 (c) Applicability. An Affordable Housing Incentive Program project shall be a housing project
11 that:

12 (1) is located in an RH-1 (D), RH-1, RH-2, or RH-3 district;

13 (2) is located within one mile of a major transit stop, which shall include a BART
14 Station, Caltrain Station, or MUNI Rapid Network or Light Rail stop;

15 (3) is located on a lot no smaller than 2500 square feet;

16 (4) includes at least three dwelling units, including the additional units allowed under
17 this Section 206.10;

18 (5) is not seeking and receiving a density or development bonus under the provisions of
19 California Government Code Sections 65915 et seq. or any other State or local program that allows
20 additional density or development bonuses;

21 (6) if the project requires the demolition, removal, or conversion of residential units,
22 consists of at least as many residential units as will be demolished, removed, or converted, and
23 replaces any demolished, removed, or converted protected units, as required by California Government
24 Code Section 66300(d)(2);

25 (7) consists of new construction or additions to existing structures; and

1 (8) includes only Dwelling Units.

2 (d) Requirements. An Affordable Housing Incentive Program project shall be a housing
3 project that:

4 (1) includes at least one unit affordable to households with incomes up to 110% of Area
5 Median Income if Rental Units, or 140% of Area Median Income if Owned Units. The restricted
6 affordable unit or units shall be restricted for the Life of the Project and shall comply with all of the
7 requirements of the Procedures Manual authorized in Section 415, except as otherwise provided
8 herein.

9 (2) includes at least 2 units containing at least one bedroom; and

10 (3) includes units that are no smaller than the minimum unit sizes set forth by the
11 California Tax Credit Allocation Committee as of May 16, 2017.

12 (e) Development Bonuses. Notwithstanding any other provision of this Code, Affordable
13 Housing Incentive Program projects shall be entitled to the following development bonuses:

14 (1) Density. An Affordable Housing Incentive Program project may include up to four
15 units.

16 (2) Height. Notwithstanding any other provision of this Code, including but not limited
17 to Section 261 and 253, the height of an Affordable Housing Incentive Program project shall be the
18 height authorized by the Height Map of the Zoning Map.

19 (3) Zoning modifications. Affordable Housing Incentive Program projects shall be
20 entitled to the following zoning modifications:

21 (A) Rear Yard. The required rear yard per Section 134 may be reduced to no
22 less than 25% of the lot depth, or 15 feet, whichever is greater. Corner properties may provide 25% of
23 the lot area at the interior corner of the property to meet the minimum rear yard requirement, provided
24 that each horizontal dimension of the open area is a minimum of 15 feet and the open area is wholly or
25

1 partially contiguous to the existing midblock open space, if any, formed by the rear yards of adjacent
2 properties.

3 (B) Dwelling Unit Exposure. The dwelling unit exposure requirements of
4 Section 140(a)(2) may be satisfied through qualifying windows facing an unobstructed open area that
5 is no less than 25 feet in every horizontal dimension, and such open area is not required to expand in
6 every horizontal dimension at each subsequent floor.

7 (C) Open Space. The Open Space requirements for RM-1 districts set forth in
8 Section 135 shall control.

9 (4) Priority Processing. Affordable Housing Incentive Program projects shall be
10 reviewed in coordination with relevant priority processing and shall be approved, denied, or approved
11 subject to conditions by the Planning Director under Section 315.2 within 180 days of submittal of a
12 complete project application, unless the Environmental Review Officer determines that an
13 environmental impact report is required for the project under Administrative Code Section 31.09.

14 (f) Regulatory Agreements. Recipients of development bonuses under the Affordable Housing
15 Incentive Program projects shall enter into a Regulatory Agreement with the City.

16 (1) The terms of the Regulatory Agreement shall include:

17 (A) a statement that the restricted affordable units in an Affordable Housing
18 Incentive Program project are not subject to the Costa-Hawkins Rental Housing Act (California Civil
19 Code Sections 1954.50 et seq.) because, under Section 1954.52(b), the owner has entered into an
20 agreement with the City in consideration for a complete or partial waiver of the density limits and
21 zoning modifications of this Code or other direct financial contribution or other form of assistance
22 specified in California Government Code Sections 65915 et seq. (“Agreement”);

23 (B) a description of the complete or partial waiver of Code requirements
24 granted by this Section 206.10 and/or the Planning Director, or other direct financial contribution or
25 form of assistance provided to the property owner; and

1 (C) a description of the remedies for breach of the Agreement and other
2 provisions to ensure implementation and compliance with the Agreement.

3 (2) The property owner and the Planning Director (or the Director's designee), on
4 behalf of the City, will execute the Agreement, which shall be reviewed and approved by the City
5 Attorney's Office. The Agreement shall be executed prior to the City's issuance of the First
6 Construction Document for the project, as defined in Section 107A.13.1 of the San Francisco Building
7 Code.

8 (3) Following execution of the Agreement by all parties and approval by the City
9 Attorney, the Agreement or a memorandum thereof shall be recorded against the property and shall be
10 binding on all future owners and successors in interest.

11 (g) **Prohibition of Short-Term Rentals.** Units in an Affordable Housing Incentive Program
12 project shall not be used for Short-Term Residential Rentals under Chapter 41A of the Administrative
13 Code, which restriction shall be recorded as a Notice of Special Restriction on the subject lot.

14 (h) **Review and Approval.** Notwithstanding any other provision of this Code, building permit
15 applications to construct an Affordable Housing Incentive Program project pursuant to this Section
16 206.10 shall not be subject to the notification or review requirements of Section 311. Projects under
17 this Section 206.10 shall be approved under the provisions set forth in Section 315.2. As long as the
18 Planning Commission has delegated its authority to the Planning Department to review applications
19 for an Affordable Housing Incentive Program project, no requests for discretionary review shall be
20 accepted by the Planning Department or heard by the Planning Commission for Affordable Housing
21 Incentive Program projects.

22
23 **SEC. 315.2. AFFORDABLE HOUSING INCENTIVE PROGRAM REVIEW AND**
24 **AUTHORIZATION.**

1 (a) Purpose. The purpose of this Section 315.2 is to ensure that all Affordable Housing
2 Incentive Program projects under Planning Code Section 206.10 are reviewed in coordination with
3 Priority Processing.

4 (b) Applicability. This Section 315.2 applies to all Affordable Housing Incentive Program
5 projects that meet the requirements described in Section 206.10.

6 (c) Design Review. The Planning Department shall review and evaluate all physical aspects of
7 an Affordable Housing Incentive Program project as follows:

8 (1) Affordable Housing Incentive Program projects shall be consistent with the
9 Residential Design Guidelines, except for the provisions under Section IV. Building Scale and Form
10 that address “Building Scale and Form” and “Building Scale at the Mid-Block Open Space,” and any
11 other applicable design guidelines.

12 (2) As set forth in subsection (d), the Planning Director may also grant minor
13 exceptions to the provisions of this Code, or require minor modifications to a project to reduce the
14 impacts of an Affordable Housing Incentive Program project on surrounding buildings. However, such
15 exceptions or modifications may only be granted to allow building mass to appropriately shift to
16 respond to surrounding context, and only when such modifications do not substantially reduce or
17 increase the overall building envelope permitted by the Program under Section 206.10. All
18 modifications and exceptions shall be consistent with the Residential Design Guidelines as set forth in
19 Section 315.2(c)(1).

20 (3) The Planning Director may require other design-related modifications or conditions
21 in order to achieve the objectives and policies of the Program. This review shall be limited to design
22 issues including the following:

23 (A) whether the bulk and massing of the building is consistent with the
24 Residential Design Guidelines, except for the provisions under Section IV. Building Scale and Form
25 that address “Building Scale and Form” and “Building Scale at the Mid-Block Open Space;” and

1 (B) whether building design elements including, but not limited to, architectural
2 treatments, facade design, and building materials, are consistent with the Residential Design
3 Guidelines, except for the provisions under Section IV. Building Scale and Form that address
4 “Building Scale and Form” and “Building Scale at the Mid-Block Open Space,” and any other
5 applicable design guidelines.

6 (d) **Exceptions.** As a component of the review process under this Section 315.2, the Planning
7 Director may grant minor exceptions (no greater than 15%) to the provisions of this Code as provided
8 below, in addition to the development bonuses granted to the project in Section 206.10(e). Such
9 exceptions, however, may only be granted to allow building mass to appropriately shift to respond to
10 surrounding context, and only when the Planning Director finds that such modifications do not
11 substantially reduce or increase the overall building envelope permitted by the Program under Section
12 206.10, and the project, with the modifications and exceptions, is consistent with the Residential Design
13 Guidelines. These exceptions may include:

14 (1) Exception from residential usable open space requirements of Section 135.

15 (2) Exception for rear yards, pursuant to the requirements of Section 134.

16 (3) Exception from dwelling unit exposure requirements of Section 140.

17 (e) **Decision and Imposition of Conditions.** The Planning Director may authorize, disapprove,
18 or approve subject to conditions, the project and any associated requests for exceptions and shall make
19 appropriate findings. The Director may impose additional conditions, requirements, modifications, and
20 limitations on a proposed project in order to achieve the objectives, policies, and intent of the General
21 Plan or of this Code.

22 (f) **Discretionary Review.** As long as the Planning Commission has delegated its authority to
23 the Planning Department to review applications for an Affordable Housing Incentive Program project,
24 the Planning Commission shall not hold a public hearing for discretionary review of an Affordable
25 Housing Incentive Program project that is subject to this Section 315.2.

1 (g) Appeals. The Planning Director's administrative determination regarding an Affordable
 2 Housing Incentive Program project pursuant to this Section 315.2 shall be considered part of a related
 3 building permit. Any appeal of such determination shall be made through the associated building
 4 permit.

5
 6 Section 4. The Planning Code is hereby amended by revising Section 209.1 to read as
 7 follows:

8
 9 **SEC. 209.1. RH (RESIDENTIAL, HOUSE) DISTRICTS.**

10 * * * *

11 **TABLE 209.1**

12 **ZONING CONTROL TABLE FOR RH DISTRICTS**

Zoning Category	§ Reference	RH-1(D)	RH-1	RH-1(S)	RH-2	RH-3
BUILDING STANDARDS						
Massing and Setbacks						
Height and Bulk Limits	§§ 102, 105, 106, <u>206.10</u> , 250-252, 253, 260, 261, 261.1, 270, 271, See also Height and Bulk District Maps.	No portion of a Dwelling may be taller than 35 feet, <u>except as allowed by § 206.10</u> . Structures with uses other than Dwellings may be constructed to the prescribed height limit, which is generally 40 feet. Per § 261, the height limit		No portion of a Dwelling may be taller than 40 feet. Structures with uses other than Dwellings may be		Varies, but generally 40 feet. Height sculpting on Alleys per § 261.1.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

		may be decreased or increased based on the slope of the lot.	constructed to the prescribed height limit. Per § 261 the height limit may be decreased based on the slope of the lot.	
* * * *				

* * * *

Section 5. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles,

//
//
//
//

1 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
2 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
3 additions, and Board amendment deletions in accordance with the “Note” that appears under
4 the official title of the ordinance.

5

6

7 APPROVED AS TO FORM:
8 DAVID CHIU, City Attorney

8

9 By: /s/ Audrey Pearson
10 AUDREY PEARSON
Deputy City Attorney

10

11 n:\legana\as2021\2100439\01569716.docx

12

13

14

15

16

17

18

19

20

21

22

23

24

25