



# EXECUTIVE SUMMARY

## PLANNING CODE TEXT AMENDMENT

**HEARING DATE: November 30, 2023**

**90-Day Deadline:** February 1, 2023

**Project Name:** Constraints Reduction (AKA Housing Production) - Duplicated File

**Case Number:** 2023-010508PCA [Board File No. 231142]

**Initiated by:** Mayor Breed, Duplicated for Supervisor Mandelman’s proposed amendments.  
Introduced October 30, 2023

**Staff Contact:** Aaron Starr, Legislative Affairs  
aaron.starr@sfgov.org, 628-652-7533

**Reviewed by:** Aaron Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 628-652-7533

**Environmental Review:** CEQA clearance under the San Francisco Housing Element 2022 Update Environmental Impact Report (EIR) certified on November 17, 2022.

**Recommendation:** Approval with Modifications

### Planning Code Amendment

The proposed Ordinance would sunset the Conditional Use (CU) requirements established by the Corona Heights Large Residence (Corona Heights) and the Central Neighborhoods Large Residence (Central Neighborhoods) Special Use Districts (SUD) at the end of 2024, and thereafter limiting the size of any Dwelling Units resulting from residential development in those Special Use Districts to 3,000 square feet of Gross Floor Area.

<b>The Way It Is</b>	<b>The Way It Would Be</b>
<p>Within the Corona Heights SUD a residential development requires CU authorization if:</p> <ol style="list-style-type: none"> <li>1. <u>Vacant Lot</u>: It will result in total gross floor area exceeding 3,000 square feet;</li> <li>2. <u>Expansion of Large Existing Development</u>. It will result in a total gross floor area of more than 3,000 square feet if that expansion results in more than 75% increase in gross square feet of development on the parcel and does not increase that number of legal dwelling units on the parcel.</li> <li>3. <u>Expansion of Large Existing Development Plus Additional Dwelling Units</u>. It will result in total gross square floor area more than 3,000 gross square feet, if that expansion results in more than 100% increase in gross square feet of development and increases the existing legal unit count on the parcel.</li> <li>4. <u>Rear Yard Trigger</u>. It results in an addition to an existing building or as a new building, that results in less than 45% rear yard depth.</li> </ol>	<p>The CU authorization requirement would be sunset on 12/31/24, and unit size within the SUD would be capped at 3,000 sq. ft., with no ability to expand beyond that limit.</p>
<p>Within the Central Neighborhoods SUD, residential developments:</p> <ol style="list-style-type: none"> <li>1. Are capped at 4,000 sq. ft per unit, except where the total increase in Gross Floor Area of any existing Dwelling Unit is less than 15%.</li> <li>2. Required CU authorization if any Dwelling Unit's Gross Floor Area would exceed the equivalent of a 1:1.2 Floor Area Ratio or would result in any Dwelling Unit exceeding 3,000 square feet of Gross Floor Area, except where the total increase of gross floor area of</li> </ol>	<p>The CU authorization requirement would be sunset on 12/31/24, and unit size within the SUD would be capped at 3,000 sq. ft., except where the total increase of gross floor area of any existing Dwelling Unit is less than 15%.</p>

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## Background

On June 29, 2023, the Planning Commission considered the mayor's Constraints Reduction Ordinance (BF 230446). The proposed ordinance implements several policies called for the City's recently adopted Housing Element by removing constraints on housing production. At the June 29 hearing, the Planning Commission made a recommendation for approval with modifications.

Since then, the item has had several hearings at the Board's Land Use and Transportation Committee. At the last hearing on October 30, 2023, at the request of Supervisor Mandelman, the Land Use Committee duplicated the mayor's Constraints Reduction Ordinance creating Board File 231142. The duplicated ordinance was then amended to include the changes to the Corona Heights SUD and the Central Neighborhoods SUD described above. As these amendments were not considered by the Planning Commission on June 29, 2023, the duplicated ordinance had to be referred to the Planning Commission. While the entire duplicated ordinance is before the Planning Commission, which includes all the changes in the original Constraints Reduction Ordinance, staff is only seeking review and comment on the amendments outlined above that were proposed by Supervisor Mandelman. Staff are also proposing additional amendments to Section 311 based on recent changes to state law, which are detailed in the recommendations section below.

## Issues and Considerations

### Two Large Home SUDs

Both the Corona Heights SUD and the Central Neighborhoods SUD seek to limit the size of dwelling units. In fact, both SUDs have the exact same purpose statement, which is: "to protect and enhance existing neighborhood character, encourage new infill housing at compatible densities and scale, and provide for thorough assessment of proposed large-scale residences that could adversely impact the area and affordable housing opportunities." However, there are some differences in how they go about it. The Corona Heights SUD requires CU authorization if the building, not unit, goes beyond the limits described above. It does not set a maximum cap on the unit or building size. The Central Neighborhood SUD establishes a floor of 3,000 sq. ft. or 1.25 FAR above which CU authorization is required. It also includes a cap of 4,000 sq. ft. on unit size and regulates the unit size not the building size.

The Corona Heights SUD was created in 2018. Since, there have been 10 CU applications triggered by this SUD. Seven of those have been approved, one has been disapproved, and the rest are currently still under review. The Large Homes SUD's has only been effective since last year but has already required 13 projects to apply for CU authorization. Of those, five have been approved and the rest are still under review.

## SB 423

Senate Bill 423, Sponsored by Senator Wiener, was signed by the governor on October 11, 2023, and will become effective on January 1, 2024. The bill does several things, but relevant for this discussion is that it requires cities that are not on track to meet their housing targets (Regional Housing Needs Assessment, or RHNA targets) to ministerially approve housing projects that comply with local codes. A last-minute amendment to the bill made San Francisco subject to annual reviews of its progress on housing—making it the only jurisdiction in the state receiving elevated scrutiny. Essentially this means if San Francisco fails to meet its annual RHNA targets in any one income category, projects that satisfy that income category must be approved ministerially. San Francisco is required to construct about 10,000 units a year for the next eight years, over half of which must be affordable. Unless something drastic changes in the next few months, we will not meet our RHNA targets in any income category. As a result, by April of next year, all projects, market rate or otherwise, will become ministerial.

Ministerial projects can only be reviewed against objective code criteria, such as height, rear yard, and density limits. CU requirements would not apply, including the CUs required in the Corona Heights and Central Neighborhoods SUD. Therefore, the proposed ordinance intends to preserve the controls in these SUDs by turning the subjective CU process into an objective code standard. While this preserves the intent of the SUDs and makes housing approval faster and more predictable, it removes some of the flexibility found in the current SUDs.

## Other Jurisdictions

As part of the Department's work on the rezoning effort, we have been looking at how other jurisdictions regulate the size of homes. More analysis still needs to be done, but so far it appears as if most other jurisdictions in the Bay Area seemed to gear their controls toward limiting the size of single-family homes in a suburban context. Some set a maximum limit on housing size, and some set a limit after which a planning commission hearing is required. Several Peninsula cities have Floor Area Ratios (FARs) of 1 to .45 or 1 to .55, meaning that for every 1 sq. ft. of lot area you get about half a square foot of building area. This low FAR makes sense in cities with larger lots; however, in San Francisco our lots are typically about 2,500 sq. ft., which would only allow about a 1,250 sq. ft. home under those FAR limits. In Redwood City, permit applications for single-family homes bigger than 3,000 sq. ft., or with more than 45% FAR, require a planning commission hearing. This is like the controls in the two subject SUDs and suggests that lots in Redwood City are typically 6,000 sq. ft. or larger.

Regulating by FAR makes sense when you are trying to regulate the size of a building, as it ties the building's size to the lot size. FAR controls are also useful when you are attempting to encourage density by allowing more FAR the more units you build. Portland, Oregon uses FAR to incentivize density by allowing up to four units per lot and providing increased FAR the more units you build. The Planning Department has also proposed using FAR to incentivize density in several instances. The Department's Residential Expansion Threshold (RET) concept, which was never adopted, provided more FAR the more units you proposed to build, like Portland's controls. The program also created an objective code standard, negating the need for a CU hearing at the Planning Commission. The Department also proposed a similar scheme for Supervisor Mandelman for the Central Neighborhoods SUD, but ultimately the more subjective criteria and process was adopted.

## General Plan Compliance

The proposed ordinance is consistent with the General Plan in that it will remove Planning Commission hearings for code complying project; remove subjective criteria that is applied on a project-by-project basis, including a finding of neighborhood compatibility as required in Section 303; and will add an amendment to the Planning Code that affects housing approvals that is simpler than the code's current requirements.

## Racial and Social Equity Analysis

Understanding the potential benefits, burdens, and the opportunities to advance racial and social equity that the proposed amendments provide is part of the Department's Racial and Social Equity Action Plan. This is also consistent with the Mayor's Citywide Strategic Initiatives for equity and accountability, the Planning and Historic Preservation Commissions' 2020 Equity Resolutions, and with the Office of Racial Equity mandates, which requires all Departments to conduct this analysis. Below are some specific issues to consider:

The primary objective of the proposed Special Use Districts (SUDs) and accompanying amendments is to curtail unit size within the SUD boundaries, with a key focus on preserving affordable housing options. The rationale behind these controls is to mitigate market and planning code influences that favor larger residences, thereby safeguarding smaller, more affordable units. While the intention to preserve affordable housing is commendable, merely limiting unit size in well-resourced neighborhoods like Central Neighborhoods SUD and Corona Heights SUD may fall short of promoting racial and social equity. Without a concurrent effort to augment the supply of affordable units in these areas, access to housing for historically marginalized groups remains uncertain.

Specifically, the Central Neighborhoods SUD and the Corona Heights SUD are situated in affluent areas characterized by higher-income populations. Restricting unit size without concurrently encouraging density risks perpetuating the existing status quo rather than advancing equity. To truly address housing disparities, it is crucial to consider measures that not only limit unit size but also foster increased housing density in these neighborhoods.

Furthermore, the proposed ordinance may inadvertently affect BIPOC families with a tradition of multi-generational living. A 3,000 sq. ft. home in San Francisco is notably large, especially when compared to the average home size of approximately 1,600 sq. ft. While the addition of an Accessory Dwelling Unit could make a 3,000 sq. ft. home suitable for multi-generational living, potential impacts should not be overlooked. Ongoing evaluation by the City is essential to understand the full consequences of restricting home sizes on the ability of these families to secure housing across all San Francisco neighborhoods.

City initiatives are underway to address issues related to density and unit size. The Constraints Reduction Ordinance, spearheaded by the mayor, seeks to enhance housing production by streamlining regulations and enabling more projects as of right. Supervisor Mandelman's four-plex ordinance and Supervisor Melgar's Family Housing Opportunity SUD both promote greater density in lower-density neighborhoods, including those covered by the Central Neighborhoods SUD and Corona Heights SUD. Therefore, any shortcomings in the proposed ordinance's ability to advance racial and social equity can potentially be mitigated by existing or pending legislation. Ongoing assessments, particularly within the Housing Element's rezoning effort, are crucial

to comprehensively address questions related to appropriate unit size and the impact on multi-generational families.

## Implementation

The Department has determined that this Ordinance will impact our current implementation procedures by speeding up the approval of housing in these SUDs. Since the CU process will be removed from these SUDs, approval of code complying projects can be done without a Planning Commission hearing, reducing approval time by several months.

## Recommendation

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

1. Change the maximum building size from 3,000 sq. ft. to 3,500 sq. ft. in both SUDs.
2. Allow a 20% increase in both SUDs.
3. Amend Planning Code Section 311 so that the word "building permit" is replaced with "planning entitlement."

## Basis for Recommendation

The Department supports the overall goals of this Ordinance because it removes a subjective conditional use requirement and replaces it with an objective code standard. Removing the subjective process will make housing approvals more consistent and reduce the time it takes to approve these projects. Reducing the time it takes to approve housing, and removing subjective criteria used to evaluate housing projects is also consistent with the General Plan. However, the Department does believe that the maximum unit size should be adjusted up and that each SUD should allow for small additions, even if the unit currently exceeds the maximum unit size. In that respect, the Department is proposing the following amendments. In addition, the Department is also proposing an amendment, not related to Mandelman's proposed changes but germane to the overall Constraints Reduction Ordinance, that would help the Department successfully implement Assembly Bill (AB) 1114.

### Recommendation 1: Change the maximum building size from 3,000 sq. ft. to 3,500 sq. ft.

Setting the 3,500 sq. ft. as the maximum unit size splits the difference between the 3,000 sq. ft threshold for a CU and the 4,000 sq. ft. maximum allowed in the Central Neighborhoods SUD. This also provides a little more flexibility for multi-generational households. Settling on a maximum unit size has been controversial in the past, but the Central Neighborhoods SUD does reflect the most recent consensus on this issue. Staff's recommendation is intended to build upon that consensus.

**Recommendation 2: Allow a 20% increase in both SUDs.** As currently drafted, the Central Neighborhoods SUD allows for an incremental increase of floor area past the maximum unit size. Staff believes that this same

allowance should be granted in the Corona Heights SUD. Currently there is no maximum unit size in the Corona Heights SUD, so setting an absolute maximum is significantly more strict than current controls. The ability to add small additions allows for extra bedrooms, small kitchen remodels, the addition of a bay window, and changes to floor plans that improve livability. Staff are proposing a 20% increase instead of a 15% increase to provide a little more flexibility in both SUDs. Given we are setting a hard cap for unit size that is less than the current 4,000 sq. ft. cap in the Central Neighborhoods SUD, we believe a 20% allowance is appropriate.

**Recommendation 3: Amend Planning Code Section 311 so that the word “building permit” is replaced with “planning entitlement.”** This recommendation is not related to Supervisor Mandelman’s proposed amendments but would help the Planning Department successfully implement AB 1114. AB 1114 will become effective January 1, 2024, and imposes strict timelines on the City’s approval of “post-entitlement permits”. Under the new law, the City will have just 15 business days to determine a building permit’s completeness, and 30 or 60 business days to approve the post-entitlement building permit, depending on the size of the project. The specified intent of AB 1114 is to expedite post-entitlement permitting. Planning entitlements are by their nature pre-entitlement. Changing “building permit” to “planning entitlement” in Section 311 will separate the Planning approval process (CEQA, neighborhood notification, Discretionary Review) from the life-safety focused approval process covered under building permits. The Planning approval process will still be held to the timelessness of the Permit Streamlining Act and Housing Accountability Act. Further, the City is undertaking many other legislative reforms to reduce the time it takes to build much needed housing as part of implementing the Housing Element.

## Required Commission Action

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

## Environmental Review

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

## Public Comment

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

## Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 231142