



MEMO TO THE BOARD OF SUPERVISORS

June 1, 2022

Subject: SB330 Analysis of Group Housing Ordinance (Board File No. 211300) and Fourplex Ordinance (Board File No. 220446)

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Background

California Government Code 66300, also known as the Senate Bill 330 Housing Crisis Act of 2019 (“SB330”), prohibits jurisdictions from making any regulatory changes that have the effect of reducing the housing development capacity of any parcels below what was allowed as of January 1, 2018, without concurrently adopting changes on other parcels within the jurisdiction to ensure that there is no net loss in residential capacity. (See Gov’t Code 666300(b) and (i).) This memorandum summarizes and analyzes two ordinances that might be considered by the Board of Supervisors concurrently under SB330: the Group Housing Special Use District ordinance (Board File No. 211300) and the “Fourplex” Ordinance (Board File 220446). The memorandum looks at the effects of the ordinances on residential capacity in terms of “soft-sites” – the realistic development potential of existing sites assuming typical market forces.

Group Housing Special Use District Ordinance (Board File No. 211300)

This proposed ordinance would prohibit new group housing units within two geographies defined in the ordinance, generally characterized as covering large portions of the Tenderloin and Chinatown neighborhoods. The ordinance does not reduce the capacity or allowed density of dwelling unit development or change the allowed square footage or envelope of housing that can be built on any parcel, but rather only limits one specialized sub-category of residential use within that envelope. Because the proposed ordinance does not reduce the amount of housing that could be built on a parcel, it would not trigger the provisions of SB330

Nevertheless, because group housing is presently permitted at higher densities of units per parcel area than other types of housing in most of the underlying zoning districts within the affected geographies, the Planning Department has conducted an analysis of the unit-count difference between group housing and dwelling units to produce the most conservative analysis of the proposed ordinance in light of the restrictions in SB 330. Of the potential “soft sites” for new development in the affected geographies, the



maximum reduction of unit “potential” is approximately 1,574 units across 43 parcels using a 40% softness threshold.¹

This analysis should be considered conservative for two reasons. First, Planning typically uses a maximum 30% softness threshold in estimating zoned capacity and likely development. Here, a 30% softness threshold would result in a potential reduction of fewer units (1408). Second,, though the Planning Code provides for a density allowance for group housing expressed in the form of “units”, neither the Planning Code nor the Planning Department has an equivalency or conversion factor from group housing “units” to regular dwelling units, as group housing does not necessarily always take the form of identifiable “units”. Since there is a nominal difference in the number of “units” that could be built as group housing compared to the number of regular housing units permitted, the analysis considered each group housing unit equivalent to a dwelling unit.²

“Fourplex Ordinance” (Board File No. 220446)

This proposed ordinance would rezone all RH-1 and RH-1(D) lots to RH-2 and RH-2-D respectively (thus allowing two units per lot), and create a density exception to allow up to four units per lot in all RH districts and up to six units on corner lots. The version of the ordinance currently being considered by the Land Use and Transportation Committee includes various conditions and requirements on utilizing the density exception for more than two units per parcel, including that the subject property be in the same ownership for at least five years prior to submitting an entitlement application, imposition of rent controls rules to “exception units” should they be rented, and limiting condominium subdivision of density exception projects to those where both the owner attests their intent to live in one of the units for at least three years post-construction and where there have been no tenants in any unit for the prior five years.

A development and buildout capacity analysis of a rezoning ordinance typically looks at likely development sites using traditional metrics indicating likely “softness”, or likelihood of development, which predominantly weights sites with little existing development relative to permitted zoning envelope and that typically contains no residential uses, given the strong policy and regulatory limits and discouragement of demolishing existing housing and displacement of tenants.³ Typical “soft sites”, as

¹ Softness is measured by existing built development, by square footage, as a ratio of the maximum allowed zoning envelope. Soft sites exclude properties with existing housing and those with significant historic structures.

² Note that for a number of soft sites within the affected areas, specifically within the C-3 districts, there are no density limits for either regular housing or group housing uses, and so there is no difference between the number of units currently allowed and the number of units allowed should the group housing ordinance be approved.

³ This analysis, as is typical of all buildout and capacity analyses conducted by the Planning Department, considers “residential capacity” based on a soft-site and probabilistic analysis of the practical effects of the two ordinances



evidenced by past patterns of development, thus tend to be sites with no existing housing and that are vacant or contain small non-residential buildings or no significant buildings at all (eg parking lots, gas stations). In the case of this proposed ordinance, the focus of the rezoning is districts where almost all lots have existing housing, though a very small percentage of lots are either vacant or have no housing and are developed with other uses. This analysis is therefore bifurcated into two sub-categories of lot conditions: (a) lots with no existing housing, including vacant lots and sites with not more than a 1-story non-residential structure; and (b) lots with a single dwelling unit. Lots with two or more dwelling units are not considered likely to be significant candidates for redevelopment under this ordinance. This analysis does not consider the incremental additional units added by adding one or two units to structures that already contain one or more residential units, as existing ADU laws already allow the addition of one unit to all lots in excess of density limits, and possibly more under some circumstances.

Capacity on Vacant Lots. There are approximately 735 vacant⁴ RH lots in the city. These 735 vacant lots would have a theoretical capacity under the proposed ordinance of approximately 3,000 units (i.e. 735×4). However, this assumes that all of these lots are actually developable and not otherwise encumbered by other factors unrelated to the specific amount of existing development on them, ranging from topography and natural conditions, deed restrictions, or other use or ownership characteristics that make them impossible or highly unlikely to redevelop. A more detailed and thorough individual analysis of these lots would reveal many of these conditions, though this information is not easily ascertained through high-level citywide data analysis.. Planning recommends a reasonable discount factor to account for these unknown factors of 50-75%, suggesting that the realistic housing capacity under the ordinance for vacant lots is possibly 750-1,500 units.

Capacity on Lots with One-Story structures. There are presently approximately 393 lots in RH districts that contain no residential uses and a non-residential structure that is one story in height. Lots in RH districts with non-residential structures of two or more stories are not considered soft sites as their existing structures are substantial relative to the building envelope allowed within the 40' height limit typical of these districts. The total maximum capacity of these parcels is approximately 1,600 net units (i.e. 393×4). As per the above discussion of the vacant lots, staff recommends applying a discount factor to these

and not of "raw" maximum zoning capacity which would count every net unit not currently built on each lot under the maximum zoning however unlikely those units would be to ever be constructed. Under a raw zoning capacity analysis, the fourplex ordinance would, at a minimum, increase the capacity of the City's RH lots by well over 100,000 net zoned theoretical units.

⁴ The Department's Land Use Database (LUDB) identifies more than 735 parcels as "Vacant." Two methods were used to refine this dataset. First, parcels were removed that were indicated in the Planning Department's Building Footprint 3D dataset as having any structures at all (ie. floors >0), despite the LUDB classification as "vacant". Secondly, Planning staff hand-culled the map by a simple visual check to remove "vacant" parcels that are clearly and objectively not developable because they are actually active street ROWs, parks, or similarly restricted lots that are miscellaneous artifacts of past or ongoing subdivisions or redevelopment projects and have not yet been appropriately categorized with their actual use in the LUDB or by the Assessor.



estimates to account for potential unknown constraints on development on a share of the lots. Given that these lots have existing structures on them, mostly single-story commercial structures, it is likely that a much smaller percentage have unknown factors rendering them undevelopable or highly unlikely to be developed in the long term (eg 30 years) than for the completely vacant lots. Planning recommends a reasonable discount factor to account for these unknown factors for the one-story lots of about 25%, resulting in a potential maximum capacity of about 1,200 units.

Capacity on Lots with a Single Residential Unit. Out of the 127,727 lots in the city currently zoned RH, 93,275 lots have a single residential unit on them. The major intent of the legislation and policy discussion around the Fourplex legislation is the allowance of incremental densification and redevelopment of existing single-family house lots. Even prior to considering the draft ordinance's potential additional restrictions on ownership and occupancy described above, the likelihood of any homeowner or buyer of a single family house pursuing a project to densify or redevelop their property more intensely than adding an ADU is low due to a variety of factors, including practical, financial as well as personal. The financial feasibility analyses conducted by economic consultants Century Urban, working with the Planning Department, concluded that the feasibility of demolishing a single family house and replacing it with a 3-4 unit building is very challenging given present economic conditions and cost factors, particularly the costs of construction and the high market value of single family houses. To supplement this analysis, the Planning Department conducted two data analyses of broader development patterns to look at analogous situations where single dwelling unit structures have been developed into 3-6 unit buildings over the past 10-15 years.

The first analysis looked at how many single-unit properties in the City's RTO and RTO-M districts added 2-3 net units since the RTO districts were established in 2008-2009 as part of the rezoning actions that accompanied adoption of the Market Octavia and Mission Area plans. The RTO districts have no lot-based density limits, thus allowing allow 4 or more units per parcel, consolidating and replacing the RH-2, RH-3, and RM-1 districts in significant swaths of those neighborhoods, though single-family homes are commonly mixed in with multi-unit buildings in these areas. Given that the RTO districts are largely residential-only, feature mostly small lots, and typically feature similar 40' height limits to the RH districts, that recent rezoning is a close approximation for comparison. Of the total 378 lots in the RTO and RTO-M districts that had one unit as of 2009 (i.e. at the time of rezoning to RTO/RTO-M), four (4) projects have been processed by the Planning Department that would build up to a total of 4 units per lot. In other words, in the RTO districts, 1.3% of the lots with one unit were densified or redeveloped up to 4 units since 2009. To extrapolate this pattern from the past 12 years for the 25-30 period that is considered the standard for long-term buildout capacity and CEQA analyses, it would be reasonable to multiply 1.3% by 2.1 (ie 25/12) to yield a potential of 2.73% of 1-unit lots being densified over a 25 year period, assuming the same pace of development activity from the past 12 years would continue over coming years. This means that, using this benchmark analogy, that of the 93,275 one-unit lots affected by the proposed



ordinance, this analysis would estimate that approximately 2,500 lots with one unit would add 3 units, or about 7,500 net new units, over the next 25-30 years.

The second methodology looked more broadly not at a specific zoning change that enabled more units per parcel, but simply at how many lots citywide with one unit within zoning districts that already allowed 3 or more units per parcel were redeveloped into buildings with 3-6 units over the recent 15-year period (2005-2020). Of the 2,895 lots with one dwelling unit in 2005 that are in zoning districts allowing three or more units per parcel, a total of 81 lots, or 2.8%, were redeveloped such that they had 3-6 units in 2020. Considering only lots that densified from one unit to 4-6 units, the number of lots drops to 25 lots, or 0.9% of lots over 15 years. This, like the prior methodology, would similarly suggest a range of 2-3% of the 93,275 one-unit lots affected by the proposed ordinance might be densified or redeveloped into 4-6 unit buildings over 25-30 years.

Total Capacity. Using typical buildout analysis metrics and recent past patterns of development described above, the sum total of these categories suggest a possible total buildout of around 9,500 net units over 25-30 years citywide as a result of this ordinance, of which approximately 2,000 would come from currently vacant lots and those with small non-residential structures, and the rest on existing one-unit residential properties.

There are three significant caveats to consider when looking at these analogies to estimate what might happen as a result of the proposed ordinance that must be layered on the above estimate to discount it further. *First*, the current economic and real estate conditions are not necessarily analogous to those that prevailed during the past 15 years. Construction costs have increased significantly, more than doubling during the past several years; similarly the market value of single family homes has also increased by similar or even larger margins. While these trends may change over the next two to three decades to more resemble the economics that prevailed in the late 2000s and early 2010s, the future is uncertain and current economics for such redevelopment are unfavorable for the median property. This factor alone suggests a substantial discount of the above percentages of likely redevelopment. *Second*, a key question for an analysis of this sort of zoning change is the likely maximum “saturation point” over a long period of time for existing single-family buildings to densify or redevelop given all of the factors involved. Somewhat similar to prior efforts to estimate the likely “capacity” or “buildout” of ADU ordinances, where theoretically *every* property can add one or more ADUs, there is the question of, economics notwithstanding, what share of the owners of all of the lots that would be enabled to add the full density allowance to existing lots with single family homes actually will, over time, seek to redevelop the property, add units, or subdivide the existing houses. *Finally*, the effects of the draft ordinance’s ownership, residency, and rent control requirements will substantially decrease both the number of eligible properties at any one time as well as limit the pool and types of parties that might be able to undertake such projects, particularly limiting the ability of professional developers with both experience and resources to undertake such projects. While long-term property owners may find ways to bring in development partners, the necessity of undertaking this sort of arrangement undoubtedly will serve to



limit the volume of projects using the ordinance. In contrast, development in the benchmark densification analogies from the past 15 years described above was not subject to such limitations on ownership, residency, and rent control.

Staff is not able as of the drafting of this analysis to develop a methodology for determining what discount factors ought to be applied to the buildout capacity based on the ordinance's ownership, residency and rent control requirements. However, for the sake of the present analysis we assume a substantial further reduction of 50-75% to the 9,500 unit estimate above to reflect the possible effects of these requirements and trends, resulting in buildout capacity estimate of 2,400 – 4,800 units.

SB 330 Findings

The estimated housing capacity increase of the proposed Fourplex ordinance (Board File No. 220446), with its wide potential range of 2,400-4,800 units would substantially exceed, even at its lowest end, the maximum reduction in housing capacity from the proposed Group Housing ordinance (Board File No. 211300) of 1,400-1,600 "units". Again, this is a conservative analysis and assumes that the Group Housing ordinance actually reduces capacity. As noted above, because group housing "units" are an alternative form of residential use not necessarily comparable to regular dwelling units, there would be no reduction in capacity as a result of the Group Housing ordinance.