

From: [Meg Heisler](#)
To: [Melgar, Myrna \(BOS\)](#); [Peskin, Aaron \(BOS\)](#); [Preston, Dean \(BOS\)](#); [Major, Erica \(BOS\)](#)
Cc: [Angulo, Sunny \(BOS\)](#); [Colleen Rivecca](#)
Subject: Support - File Number 211299 - Group Housing Definition
Date: Monday, February 28, 2022 2:51:11 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image008.png](#)
[TNDC Support Letter - Group Housing Definition.docx](#)

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

Tenderloin Neighborhood Development Corporation submits the attached letter as comment for File Number 211299.

Respectfully,

Meg

Meg Heisler

Policy & Planning Manager

pronouns: she/her

mheisler@tndc.org

c 973.768.6436

Tenderloin Neighborhood Development Corporation
210 Golden Gate Ave | San Francisco, CA, 94102

tndc.org



At TNDc, we believe that everyone deserves to thrive. We support tenants and community members in building transformative communities through Homes, Health, and Voice. Together, we can build a future with economic and racial equity. Join us at tndc.org!



February 28, 2022

Land Use and Transportation Committee of the Board of Supervisors
Chair Supervisor Melgar; Members Supervisor Peskin and Supervisor Preston

Re: File Number 211299 – Group Housing Definition - SUPPORT

Dear Chair Melgar and members of the Land Use and Transportation Committee,

Tenderloin Neighborhood Development Corporation (TNDC) is writing to offer its support for File Number 211299, the revision of the Group Housing definition.

Recently, group housing projects have been proposed in the Tenderloin in ever greater numbers. In response, Tenderloin residents have expressed concerns about the ambiguous definition of group housing and have been clear about the community's need for dwelling units with full kitchens. Without full kitchens, residents do not have the ability to store fresh foods at home or to cook meals from scratch and instead must subsist on more expensive prepared meals or less healthy processed foods. To that end, units that come with kitchen amenities should be classified as Dwelling Units and offer the full breadth of amenities needed for families to thrive. Dwelling units should have full, not limited kitchens.

We ask for your support of this updated group housing definition, and we thank the Planning Department staff and Supervisor Peskin's office for listening to the concerns of residents in developing and refining this legislation.

Respectfully,

Colleen Rivecca
Director of Community Organizing, Policy, and Planning
TNDC



From: [Somera, Alisa \(BOS\)](#)
To: [Major, Erica \(BOS\)](#)
Subject: FW: Group Housing Legislation at Land Use
Date: Tuesday, March 1, 2022 12:51:54 PM
Attachments: [Green, high-tech, high-quality affordab...redevelopers in America. Here s proof.pdf](#)
[22-0210 Planning Commission Letter.docx](#)
[FDP Logo NEW.png](#)

Alisa Somera

Legislative Deputy Director
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
415.554.7711 direct | 415.554.5163 fax
alisa.somera@sfgov.org

(VIRTUAL APPOINTMENTS) To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

Due to the current COVID-19 health emergency and the Shelter in Place Order, the Office of the Clerk of the Board is working remotely while providing complete access to the legislative process and our services.

Click [HERE](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

~~~~~

**Disclosures:** *Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.*

---

**From:** Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>  
**Sent:** Tuesday, March 1, 2022 8:55 AM  
**To:** BOS-Supervisors <bos-supervisors@sfgov.org>  
**Cc:** Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Laxamana, Junko (BOS) <junko.laxamana@sfgov.org>; Mchugh, Eileen (BOS) <eileen.e.mchugh@sfgov.org>; Ng, Wilson (BOS) <wilson.l.ng@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>  
**Subject:** FW: Group Housing Legislation at Land Use

---

**From:** Bert Polacci <[bpolacci@maximusrepartners.com](mailto:bpolacci@maximusrepartners.com)>

**Sent:** Monday, February 28, 2022 3:29 PM

**To:** Board of Supervisors, (BOS) <[board.of.supervisors@sfgov.org](mailto:board.of.supervisors@sfgov.org)>; ChanStaff (BOS) <[chanstaff@sfgov.org](mailto:chanstaff@sfgov.org)>; Haney, Matt (BOS) <[matt.haney@sfgov.org](mailto:matt.haney@sfgov.org)>; [Mandelmanstaff@sfgpv.org](mailto:Mandelmanstaff@sfgpv.org); [Gordon.Mar@sfgpv.org](mailto:Gordon.Mar@sfgpv.org); Melgar, Myrna (BOS) <[myrna.melgar@sfgov.org](mailto:myrna.melgar@sfgov.org)>; Peskin, Aaron (BOS) <[aaron.peskin@sfgov.org](mailto:aaron.peskin@sfgov.org)>; Preston, Dean (BOS) <[dean.preston@sfgov.org](mailto:dean.preston@sfgov.org)>; Ronen, Hillary <[hillary.ronen@sfgov.org](mailto:hillary.ronen@sfgov.org)>; Safai, Ahsha (BOS) <[ahsha.safai@sfgov.org](mailto:ahsha.safai@sfgov.org)>; Stefani, Catherine (BOS) <[catherine.stefani@sfgov.org](mailto:catherine.stefani@sfgov.org)>; [Shamonn.Walton@sfgov.org](mailto:Shamonn.Walton@sfgov.org)

**Subject:** Group Housing Legislation at Land Use

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

---

**From:** Richard Hannum <[richard@forgedevelopmentpartners.com](mailto:richard@forgedevelopmentpartners.com)>

**Date:** Monday, February 28, 2022 at 11:53 AM

**Subject:** Land Use Committee Hearing 2/28/22

In 1978, as a member of the AIA Board of Directors, I represented the AIA before the Board of Supervisors on the subject of housing policy with a focus on expanding development options in the low rise sections of the City. The process was successful and endured for many years. We are here again, many presentations later, hoping to bring the professional expertise of the City in this important arena of housing, to your service, working for the good of the greater community. This is a very complex matter that will have broad reaching impact on our collective ability to deliver quality, privately financed, workforce housing in San Francisco. Because the negative impacts are significant, we ask that the Committee consider a moratorium on the proposed zoning changes to allow a working group of industry professionals, including but not limited to the AIA, to further assess the impacts of this legislation. **We request a delay of 6 months accompanied by a freeze on any new projects under this zoning be imposed throughout the City while this is resolved.** This approach addresses the sense of urgency while maintaining your opportunity to get this right.

**Group Occupancy**, the zoning affected, is very different from the model called Group Housing being touted and **is the only zoning that supports privately financed, highly sustainable workforce housing in San Francisco.** Material efforts to misrepresent the nature of this housing undermines your ability to clearly understand the potential negative impact of changes to this principally permitted zoning. Once it is gone, we will be hard pressed to find another successful vehicle for this housing.

Our attached letter to the Planning Commission dated February 10 outlines the issues that impact

this housing typology. Minor changes to the language proposed by Mr Peskin would achieve the majority of the benefits sought and not eliminate the housing opportunity. There is a potential balance that is not presented as written but may be amended to address concerns about the typology while maintaining the ability of the development community to provide needed housing.

361 Turk is the only new building being delivered in San Francisco that is based on the Group Occupancy zoning. **It is a state of the art, Independent Living, housing prototype.** It is available to tour at your convenience and demonstrates all of the elements identified in your amendments, including the allocation of community spaces exactly as presented in the proposed legislation. **We encourage you to take the time to join us and walk the project. It is delivering 240 new housing units this summer.**

We hope to share this with you in person later today.

Richard Hannum AIA  
CEO



Forge Development Partners  
3450 Sacramento Street, #434, San Francisco  
Cell 415.215.8702  
Office 415.855.1869  
[richard@forgedevelopmentpartners.com](mailto:richard@forgedevelopmentpartners.com)  
[www.forgedevelopmentpartners.com](http://www.forgedevelopmentpartners.com)



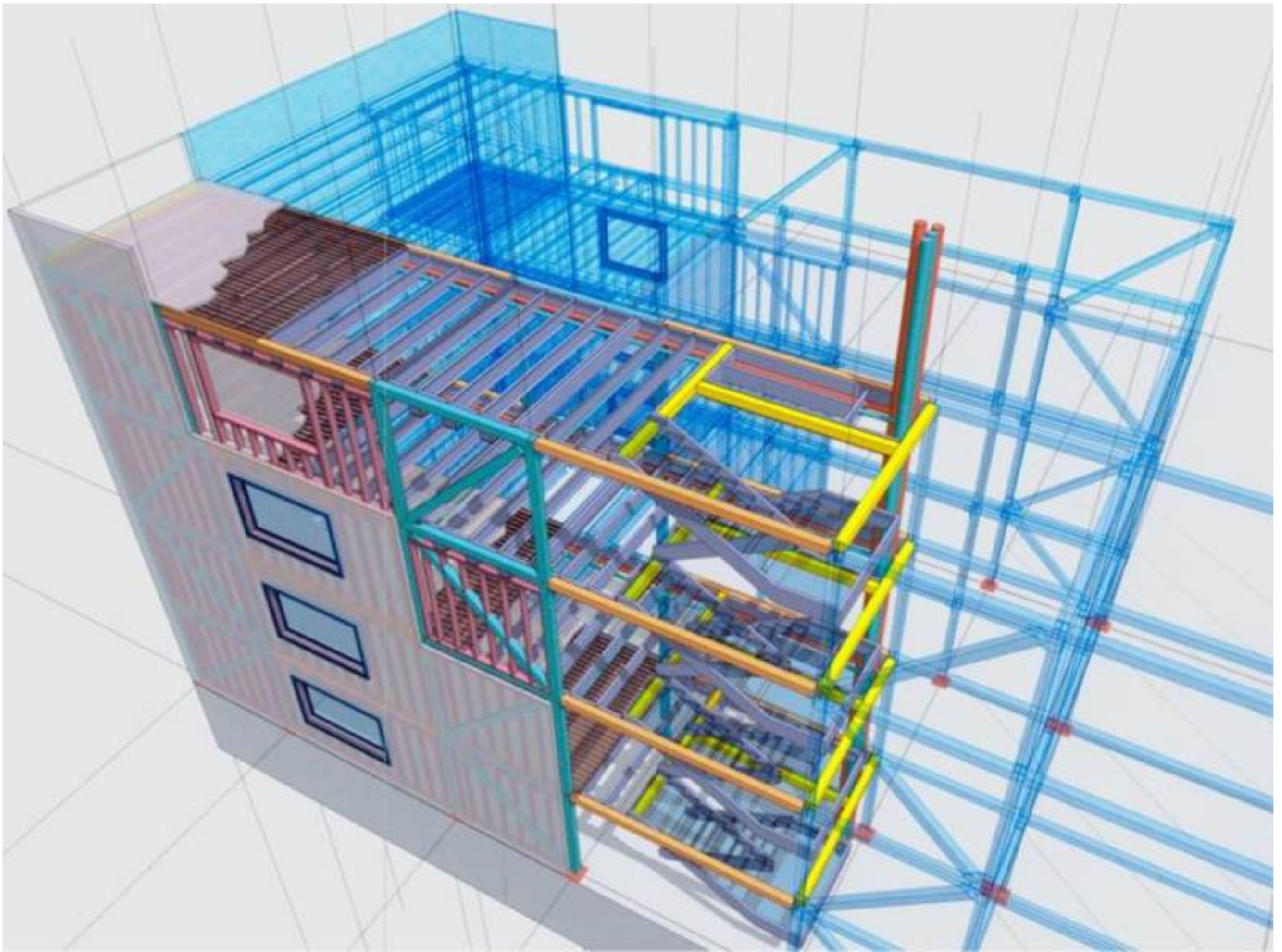
# REVITALIZATION™

THE JOURNAL OF URBAN, RURAL & ENVIRONMENTAL RESILIENCE  
*News, opportunities & resources to regenerate economies, heritage, farms & nature.*

A publication of RECONOMICS **Institute**

## CURRENT ISSUE

**GREEN, HIGH-TECH, HIGH-QUALITY  
AFFORDABLE WORKFORCE  
HOUSING CAN BE DELIVERED BY  
PRIVATE REDEVELOPERS IN  
AMERICA. HERE'S PROOF.**



**O**n January 21, 2022, **Forge Development Partners** and joint venture partner **Bridge Investment Group** showed that technologically advanced, privately financed workforce housing can be delivered in urban **America**.

Their **TL 361** and **TL 145** redevelopment projects in **San Francisco**'s long-distressed **Tenderloin** district are the proof. These projects are transforming ugly surface parking lots into affordable housing, which is desperately needed in order to revitalize the Tenderloin.

Through a unique integration of technology, innovative design and construction practices, as well as cutting-edge sustainability measures, the TL 361 and 145 Projects are providing high-quality housing that is accessible for the middle-income worker while being more environmentally responsible than traditional multifamily housing currently available. Combined with the operational services and systems, these projects showcase multiple important Environmental, Social, and Governance (ESG) characteristics and innovated approaches.

Forge CEO and Founder, **Richard Hannum**, says "We have honed our urban solution for over 10 years with a focus on providing affordable workforce housing for the future consumer. We are fortunate to have partnered with the best and the brightest to ensure TL 361 and TL 145 provide comfort, technological quality and wellness not found in other multifamily developments at any price point. This combination of technology, innovative design and sustainable construction practices will be Forge's benchmark for all future projects, including an upcoming development at 601 Beech Street in San Diego."

The TL 361 and TL 145 projects have benefited from the support of San Francisco Mayor Breed's Office through her commitment to innovation in all forms of housing in response to the City's housing crisis. Innovation built on currently applicable city policies created

the opportunity, but real time efforts from the Mayor's office helped smooth the construction process and made this sustainable, climate, and social justice responsive project a possibility.

With the recent release of the City's Climate Action Plan and the Mayor's **ClimateSF** initiative, the sustainability measures and advancements incorporated into TL 361 and TL 145 align with the City's goals for increased climate resilience and provide an application of ESG in action.

A Bridge Investment Group representative said *"We are delighted to have partnered with Forge on the TL 361 and 145 Projects. Our investment support has helped Forge and its partners create a new model that integrates environmental sustainability, social programs and key innovations with local governments and utilities that will serve as a new model for multifamily workforce housing in America."*

The projects have been innovative since ideation. Forge worked with Gensler and Olson Steel to design and construct the TL 361 and TL 145 buildings using the Pueblo Structural System. The steel used in this system is approximately 30% lighter and uses between 90-95% recycled steel, resulting in a quicker building construction and a smaller carbon footprint when compared with traditional multifamily building construction.

Lighter weight concrete used as part of the construction further reduces the building's greenhouse gas impacts while remaining earthquake resistant. The cost and time savings measures are carried over to future residents through more affordable rents and the construction of more units in a quicker timeframe.

Forge and its partners also incorporated climate and health-conscious building systems as part of its efforts to construct environmentally sustainable developments. Both buildings include solar thermal water heating systems that reduce overall water boiler gas usage by 30% when compared with traditional systems. Moreover, the buildings incorporate a state-of-the-art HVAC system that provides the highest level of air quality available in multifamily units.

*"Our HVAC system uses the most efficient MERV 13 antimicrobial filters on the market to create a pressurized hypoallergenic air supply for the building,"* stated Hannum. *"This filters out wildfire smoke and industrial pollutants, which is becoming more important due to climate change, as well as viruses including COVID-19."*

To further minimize the spread of viruses, Forge partnered with Homebase to develop Smart Apartment Homes for the TL 361 and 145 Projects, which will reduce contact with high-touch surfaces and provide a more seamless user experience. Smart Apartment Homes allows future residents to unlock their front doors, turn on lighting, adjust heating and cooling systems and more from an app on their mobile phone.

In addition, this technology will sense when residents aren't home so that adjustments can be made to temperature controls to reduce unnecessary energy consumption. The building's smart systems will also control elevator energy usage and the common areas HVAC system, while relaying building information to staff to further optimize energy consumption and cost savings. These systems will operate over a state-of-the-art Internet of Things model, which uses 5G to create a high-speed ethernet backbone for these systems and future residents internet use.

Beyond construction and technological innovations, Forge and Bridge also seek to build healthy communities through their partnership with Project Access, a 501(c)(3) nonprofit organization that is the leading provider of on-site health, education and employment services to middle and low-income residents.

Project Access will provide the TL 361 and 145 Projects with fully operational resources centers that serve as a community hub offering high-quality tailored programming and services such as cooking and fitness classes, financial management and leadership training, business networking events, social events and volunteer opportunities. Through these programs, Forge, Bridge and Project Access will give residents the tools they need to become healthier, further educated and financially successful.

Forge is also driving government innovations that are changing how we think about how multifamily developments are structured. In partnership with PG&E, Forge has obtained approvals for the first single metered multifamily property in the country in 30 years. Instead of individual meters tracking energy consumption of the units, utilizing single meter for the building achieves a minimum \$40,000 in savings per unit and frees up space in the building for additional units by removing the storage space for the individual meters.



This single meter initiative is scalable, and Forge has obtained approvals to build a 34 story, 328-unit multifamily building in San Diego that will use this system to reduce costs and provide a state-of-the-art development for future middle-income residents in San Diego's Little Italy neighborhood.

*"At the end of the day, it is not only about the steel, concrete or technology in the building," concluded Hannum. "We are forging a new path with the next generation of housing for the Essential middle-income worker, and it takes all these pieces as well as a commitment to wellness for our tenants to develop privately-financed, accessible housing that allows our workers to live in the city where they work. Can we redefine the urban lifestyle with these technologically advanced buildings? Yes, with great partners, I think we can."*

Forge's financial Partners, Bridge Investment Group and Freddie Mac, are helping make this vision for technologically advance buildings at middle income price points a reality. Under their aegis, TL 361 and TL 145 will deliver a minimum of 51% of units to be rented to those earning a maximum of 80% of the area median income (AMI) thanks to a unique Freddie Mac Multifamily unfunded forward commitment.

This will help keep rents affordable for 240 residents in the highest-cost market in the United States. Furthermore, Forge used CrowdStreet, one of the leading Financial Tech Platforms, to raise the initial equity for the project allowing accredited investors to invest in the next generation of multifamily real estate.

A model apartment will be available on site at TL 361 development at 361 Turk Street in San Francisco in early 2022.

*Image courtesy of Forge Development Partners.*

[See Forge Development Partners website.](#)

[See Bridge Investment Group website.](#)

---

#### PREVIOUS ARTICLE



STATE ALLOCATES \$3 BILLION FOR  
INFRASTRUCTURE PROJECTS THAT  
RECONNECT & REVITALIZE MINORITY  
NEIGHBORHOODS DAMAGED BY  
URBAN PLANNERS

#### NEXT ARTICLE

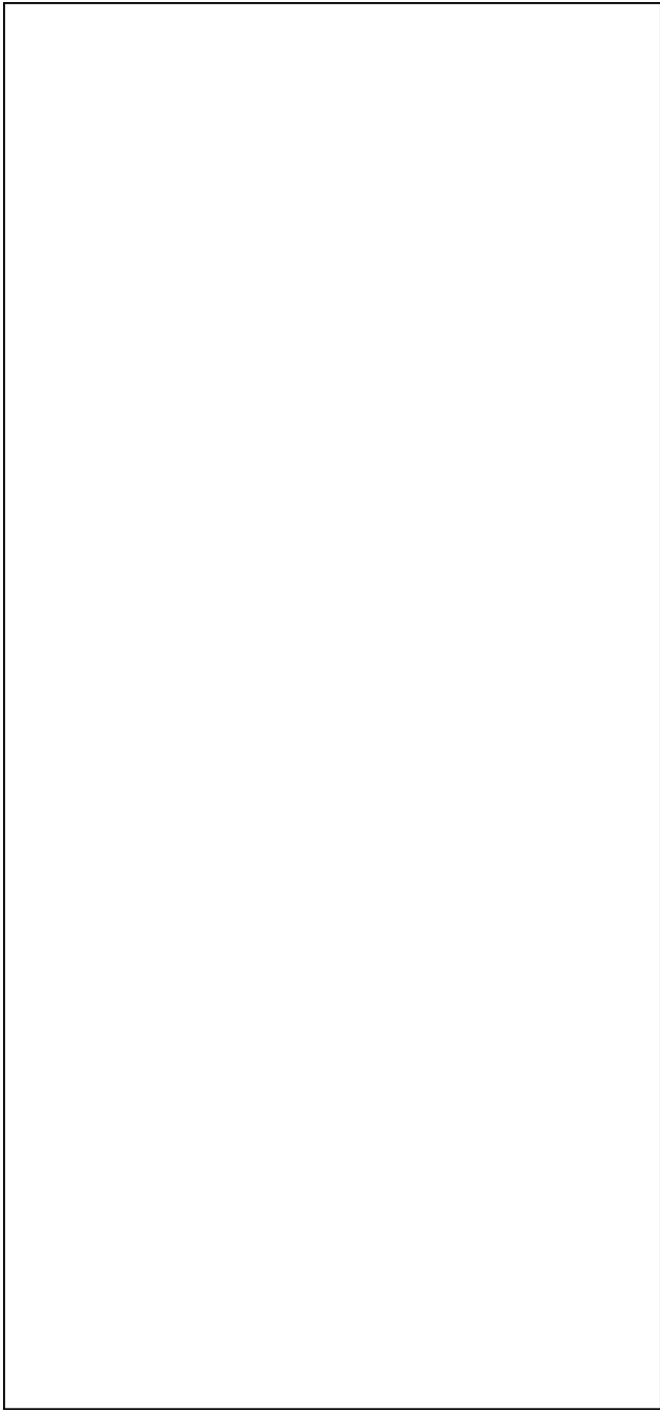


RESTORATION ECONOMY: GREEN  
RETROFITS FOR BUILDINGS IS A HUGE  
GROWTH INDUSTRY, AND A \$13  
BILLION CANADIAN FIRM JUST  
ACCELERATED IT

---

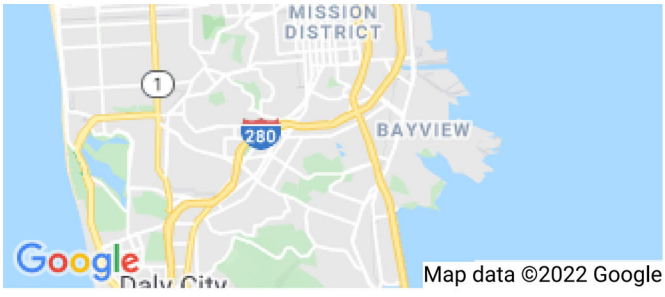
YOU MUST BE LOGGED IN TO POST A COMMENT

---



**LOCATION:**





© COPYRIGHT 2015-2021, RECONOMICS INSTITUTE. ALL RIGHTS RESERVED.



February 10, 2022

President Tanner and Members of the Planning Commission

We appreciate the opportunity to again speak to the Commission in support of Group Occupancy and Workforce Housing in San Francisco.

**The current zoning, designated Group Occupancy, offers the most innovative and flexible housing solution available in the City. As seen in the attached article, it is the state of the art in Workforce housing. As a demonstration of best practices under the current code, we invite you to visit the only GO housing of its type in the City at our project called TL361, nearing completion at 361 Turk St. Please visit the project before a decision is made. See what you are being asked to vote against.**

Group Occupancy zoning, as currently written, provides a path to delivering workforce housing to small families that is privately financed and significantly more sustainable than other housing solutions available under any other zoning in SF. This is a complex typology and the modifications by Planning, none of which have been seen by the public, will eliminate this product currently being successfully delivered in the Tenderloin. The negative impact on housing delivery for the missing middle is significant but avoidable. Based on the proposed changes in policy, the housing being delivered at 361 Turk this summer could not be developed. The effect is to eliminate the product option from the City's very constrained pipeline for new housing.

**The recommendations from Planning have not been adequately made available for review and we ask for a continuance to allow further study of the impacts and offer comment and alternatives to better address the expressed concerns.**

Our team has been actively working with planning since 2013 to create new applications of the Group Occupancy code to address workforce housing in the City. Analysis undertaken by Forge in 2017, supported by Panasonic (largest builder of small space housing in the world) and IBM studied this housing typology. Through this ideation process we identified "independent living" models as the most beneficial to the largest demographic. Private spaces supporting a community focused living experience were preferred. This was counter to the assumptions of many who pressed the concept of co-living similar to the Planning recommendations. Co-living, which has become popular in SF and promoted by Starcity, Common and others, involves having a sleeping room but sharing bath and cooking facilities with between 4 and 15 others. We rejected this college suite style, opting for privacy and independence but in association with significant shared facilities. It is an "opt in" program allowing flexibility and personal choice.

**Only by being free to not join can you join freely in community.**

The solution we identified delivers true **independent living within a supportive community** with options for all, especially those in mid income ranges who do not qualify for subsidy or agency and look to Affordable by Design solutions.

A viable independent living solution called for the combination of both in unit cooking and community kitchens. The ratio we found to be most effective is lower than the legislation is proposing but the model is similar. Our study indicates that when mixed, the use will be about 1/3 what the ordinance is projecting. Group Occupancy falls under congregate housing in the CBC which carefully



defines these requirements. . We suggest a correlation with the CBC on the requirement for community kitchens. For the ordinance, we suggest not more than 1/50 units. The managing operators we work with do not project greater actual use on a scheduled basis. It is important to understand that a large percentage of residents will never use the facility, a small group will use it occasionally and a few will use it often. As in many food environments, use is reserved with management. As an example, there are several “slots” for “dinner” preparation, and these are scheduled by both the managers and users.

#### **Space allocation:**

**We agree with the space allocation proposed in the legislation.** , The project at TL 361 was guided by extensive input from Planning regarding the overall need and use of common space in support of small units. There were no guidelines but the results of responsible design show similar areas of allocation. TL361 is delivering a total of 15,000 sf of shared common area inclusive of this requirement. The total is approximately equal to the proposed 0.25 per foot of GO unit (14,400sf per this legislation). To make this more clear to Planning, it could be defined as all area and service area that is not used as mechanical or common circulation or hallways. It should be clear that this does not include outdoor area required to meet outdoor space requirements shown elsewhere in the Group Occupancy code as it stands today.

#### **Energy and Sustainability Advantages:**

California laws that govern utilities allow for a single house meter for projects that are considered to be congregate and have the opportunity for a length of stay of **under 30 days**. Per PG&E, there is only one project of this type in California today, developed by Forge and located at 361 Turk, which has been approved for this service option. The same is true for the Water service.

**TL361 is the first multifamily project post 1970 which has successfully navigated and implemented this approach and is supported by PG&E and SDG&E. The cost and operational benefits are being realized in real time at this project.**

#### **Length of Stay (LOS):**

As noted above, LOS is a key component that unlocks one of the largest opportunities to impact both cost of construction and sustainability. **By setting the time at less than 30 days**, and by designating the project as a **congregate housing** solution under CBC, TL361 successfully received approval for a single meter solution for both electrical (PG&E) and water service (PUC). This one item reduced the initial cost of construction by upwards of \$50,000 per key. It reduces the size of PG&E services to the building by 30% or more. It reduces the ongoing cost of energy and water to residents proportionally.

Current Group Occupancy zoning allows 7 days as a minimum length of stay. **There currently is no outside limit of term of stay**. Once someone is in place for more than 30 days, other housing rules apply and their occupancy becomes grandfathered. We recognize the desire for GO units to be available for longer occupancy and suggest an alternative that could address concerns and maintain the benefits. If it were possible to amend the legislation to provide that a tenant(resident) may, at their discretion, extend their agreement for a consecutive period. That extension, if our initial period is 15 days, would bring them under the current ordinances addressing the rights of residents under other San Francisco codes. **If the legislation set the LOS at 15 days, as a whereas, all of the desired benefits unlocked at TL361 would be in effect and the residents could avail themselves of the protections under the housing code.**

#### **Key elements of GO zoning make it the most viable code for WF housing**

There is a collection of overlaid codes that derive from SF Planning Code (and 2017 Housing for Families) California Building Code, PUC requirements, and Energy Codes. Together they provide a



platform that allows the delivery of privately financed workforce housing. Change any aspect of how these interact and the opportunity to build this housing is eliminated.

Group Occupancy provides:

- Length of Stay: Less than 30 days: GO provides for a 7 day minimum stay. There is no upper limit. Because this is less than 30 days, it allows interpretation of the unit as “transient” for the short period. This links to both Electrical and Plumbing Code interpretations.
- It recognizes the reality that residents will deploy appliances in their units and codifies what is allowed. The definition links to the CBC code requirements and has material favorable impact on the cost of delivery. GO allows limited cooking defined by ZA and CBC as not including a traditional “Oven”.
  - This dovetails with CBC as Congregate housing and with the PUC for energy load calculations, and provides basis for sustainable practices in water and power distribution and use. This element results in savings per unit estimated at \$50,000 per key.
  - CBC defines the number and area requirements for shared kitchen facilities. Planning expanded this interpretation in the most recent clarifications by the ZA in 2020. Although not codified, it indicates a distribution of 1/50 units.
- The size of units allowed under current ZA interpretations provides a mix of larger sizes that meet the defined needs of the 2017 Housing for Families study.

CBC provides:

- GO is defined in CBC as Congregate Housing. This sets standards for ADA, Cooking and food preparation requirements including space allocations per unit.
  - ADA: Buildings may be categorized as either 11A or 11B. This has impact on the cost and delivery of the private bathrooms in each unit.
  - Under CBC, units may have either a private bath or a kitchen but not both. The definition of Kitchen is the same as GO: no Oven allowed. CBC is more flexible on the size of the refrigerator which we think is important to amend in GO.

#### **Benefits of Group Occupancy Zoning:**

- Deeper Affordability: BMR units in GO housing are governed by the Avalos legislation which lowers rents on a per unit basis by 25%. This effectively lowers the income requirements from 55% AMI to +/- 40% AMI. This concession by GO developers increases the affordability significantly and is unique to the current zoning.
- Units are restricted in size to 250-875 sf. This is exactly in the range projected by Planning in the 2017 publication on family housing. It is also the range of housing that meets criteria for Affordable by Design.
- Single Meter Electrical and Water service: This benefit is available to GO housing exclusively. The combined impact reduces energy use by 30% and water can be reduced by up to 50%. The combined impact on the cost per unit is a reduction of initial cost of approximately \$50,000 and a reduction in on going operating costs that benefit residents directly.
- A principally permitted use that, because of ZA interpretations in 2021 is size controlled to match the recommendations in the 2017 Housing for Families.

**False Narrative:** Proponents of eliminating Group Occupancy as an effective housing solution claim the typology does not support “kids”. This is simply untrue and it is sad if the drumbeat of misinformation has been allowed to influence this policy process.

In 2021 the Zoning Administrator amended his interpretation of GO unit sizes to include apartments up to 875sf. This size falls into the exact middle range of 2 BR housing units as proposed by Planning in the 2017 Housing for Families with Children. Our proposed project at 450 O’Farrell included a mix of units that are specifically designed to meet the needs of small families as defined in the 2017 study and address the economic and social needs of the actual demographic to be served per the study. This shows that the current code, a principally permitted use, adequately addresses the defined need of the City. **The Planning recommendation is silent on this aspect of current code.**

**Planning description:**

The language provided by planning as Background is limited and does not adequately describe the history and nature of the existing product. We ask that this be further detailed for the Commission to make these decisions.

**Background:**

It is stated that the developers created a loophole in the interpretation of the GO code. As a developer **delivering** housing under this code we are not aware of any loophole. Forge worked diligently with Planning and their representatives Kate Connor and Carly Grob to craft a set of design parameters that are much aligned with the onsite requirements presented in the proposed legislation on items such as the kitchenettes, amenity and community spaces, shared kitchens and open space allocations. Based on the recent interpretations of the current code by the Zoning Administrator, there is a wide variety of unit sizes and users served. Although there is no current mix requirement, this does not preclude an approach similar to the Avalos legislation that brought GO under the Inclusionary Housing policies and applying that to a mix model. The statements made in the Background are misleading and should be revisited to reflect the actual condition. We agree that there is much to be clarified in the margins regarding GO including new rules of interpretation for BMR designations with MOH to make the application clear and more seamless. That work should be undertaken before such material change is contemplated.

This section talks about the use of the kitchenette to prepare meals by the residents. That is and has been the standard. Misrepresentations by proponents of this legislation claim that the kitchenettes are effectively non effective but in this section this is specifically how they are seen by planning policy. The ability to privately prepare meals in your space in a long term stay is an important aspect of the user experience in support of independent living and should not be abandoned. The descriptions of this existing situation appear to be conflicting within the text and confuse the issue.

**Group Housing: A Different Form of Housing.**

We feel the description inaccurately presents the difference between Group Housing and Dwelling Units. Dwelling units are described as a “complete unit” and include both a bath and full kitchen. This is consistent at the CBC level as well as all associated plumbing and electrical codes. There is no limit to the size of a DU and once they are above 1000sf, they become unaffordable to the majority of households in the City.

GO is built under the Congregate Housing per CBC. Per the current interpretations of the Zoning Administrator, they may have a limited cooking capability and a private bath and closet. They are limited in size to not exceed 875sf and, in that interpretation, were created to allow for small families consistent with the 2017 Planning study. GO is intended to be smaller, affordable by design, units. CBC sets standards for GO units to include community gathering spaces and kitchens where DU projects do not.

The ongoing assessment of the cooking capabilities of the kitchenette solution and the actual use of community kitchens is exaggerated in our experience. Proponents of the policy changes repeatedly misstate the impact and total cooking currently proposed in the only actually delivered GO projects. To require 1/15 full kitchens will create significant unused facilities that can be better tasked for other uses. The proposed increase in common area by the Department, effectively doubling that proposed in the legislation, creates a substantial burden on development. Dwelling Units have no common use area requirement. This burden of additional space per unit will undermine the feasibility of the projects. The area proposed by the legislation, as opposed to the Planning proposal, is consistent with the designs and studies done with Planning to create TL36. Note that CBC also stipulates the scale and use of common areas and shared kitchens.



**If implemented without amendment, ALL of the sustainability benefits of the current code will be lost. The alternative proposals we identify will not negatively affect the apparent goals but will maintain the significant benefits available to the City. Please allow time to better understand the myriad of impacts such a sweeping change will cause and support a continuation for this Planning response.**

**We appreciate your consideration and look forward to continuing our work with the City to deliver privately financed Workforce housing to our community.**

**Richard Hannum  
CEO  
Forge Development Partners**



**From:** Ryan Patterson <[ryan@zfplaw.com](mailto:ryan@zfplaw.com)>  
**Sent:** Monday, February 28, 2022 2:31 PM  
**To:** Board of Supervisors, (BOS) <[board.of.supervisors@sfgov.org](mailto:board.of.supervisors@sfgov.org)>  
**Subject:** FW: Agenda Item # 5 - File No. 211299 - Group Housing Definition

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

Good afternoon,

I am copying the Clerk's Office on my email below.

Thank you,

Ryan J. Patterson  
Zacks, Freedman & Patterson, PC  
601 Montgomery Street, Suite 400  
San Francisco, CA 94111  
Telephone: (415) 956-8100  
Facsimile: (415) 288-9755  
Email: [ryan@zfplaw.com](mailto:ryan@zfplaw.com)  
[www.zfplaw.com](http://www.zfplaw.com)

Zacks, Freedman & Patterson proudly announces the opening of two additional offices, one in the East Bay and one in Monterey Bay. Please see our [website](#) for further details.

This communication and its contents may contain confidential and/or privileged material for the sole use of the intended recipient. Any review or distribution by others is strictly prohibited. If you are not the intended recipient, please contact the sender and delete all copies. Unless expressly stated, nothing in this communication should be regarded as tax advice.

---

**From:** Ryan Patterson  
**Sent:** Monday, February 28, 2022 1:00 PM  
**To:** [myrna.melgar@sfgov.org](mailto:myrna.melgar@sfgov.org); [erica.major@sfgov.org](mailto:erica.major@sfgov.org); [Aaron.Peskin@sfgov.org](mailto:Aaron.Peskin@sfgov.org);  
[Dean.Preston@sfgov.org](mailto:Dean.Preston@sfgov.org)  
**Cc:** Bryan Tapia <[bryan@zfplaw.com](mailto:bryan@zfplaw.com)>  
**Subject:** Agenda Item # 5 - File No. 211299 - Group Housing Definition

Honorable Supervisors:

Please find an objection letter attached for the above-captioned file.

Thank you,

Ryan J. Patterson  
Zacks, Freedman & Patterson, PC  
601 Montgomery Street, Suite 400  
San Francisco, CA 94111  
Telephone: (415) 956-8100  
Facsimile: (415) 288-9755  
Email: [ryan@zfplaw.com](mailto:ryan@zfplaw.com)  
[www.zfplaw.com](http://www.zfplaw.com)

Zacks, Freedman & Patterson proudly announces the opening of two additional offices, one in the East Bay and one in Monterey Bay. Please see our [website](#) for further details.

This communication and its contents may contain confidential and/or privileged material for the sole use of the intended recipient. Any review or distribution by others is strictly prohibited. If you are not the intended recipient, please contact the sender and delete all copies. Unless expressly stated, nothing in this communication should be regarded as tax advice.

# ZACKS, FREEDMAN & PATTERSON

A PROFESSIONAL CORPORATION

601 Montgomery Street, Suite 400  
San Francisco, California 94111  
Telephone (415) 956-8100  
Facsimile (415) 288-9755  
[www.zfplaw.com](http://www.zfplaw.com)

February 28, 2022

## VIA EMAIL

Land Use and Transportation Committee  
c/o Erica Major  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, CA 94102

Re: Agenda Item #5 – February 28, 2022 Hearing  
BOS File No. 211299 [Planning Code – Group Housing Definition]

Dear Chair Melgar and Honorable Members of the Land Use and Transportation Committee:

Our office represents the San Francisco SRO Hotel Coalition and numerous individual owners of SROs, as well as developers of group housing (collectively, “Owners”). The Owners object both substantively and procedurally to Board of Supervisors File No. 211299 (the “Ordinance”).

The proposed Ordinance represents a dramatic change to the City’s Hotel Conversion Ordinance, via a “back door” amendment to the Planning Code. It would prohibit weekly room rentals – which have always been lawful *and encouraged* in San Francisco. **It is unclear whether the Ordinance’s restrictions are intended to apply to existing group housing units or only to newly proposed group housing units, and we respectfully request clarification of this issue.**

To the extent the Ordinance is applied to existing group housing units, it would take away the Owners’ family businesses without compensation. Worst of all, the Ordinance would harm the City’s most vulnerable residents: group housing occupants who cannot afford to rent a group housing unit on a monthly basis.

### **1. The Ordinance does not include an amortization period.**

To the extent the proposed Ordinance applies to existing units, it would make the Owners’ longstanding weekly rental businesses illegal as of the effective date, including their existing right to expand and alter existing units, *inter alia* by adding kitchen facilities. There is no amortization period. It is well-established in California law that an amortization period is required and must be “reasonable” in light of the investment in the use, and its remaining economic life, order to pass constitutional muster. (See Tahoe Regional Planning Agency v. King (1991) 233 Cal. App. 3d 1365; United Business Com. v. City of San Diego (4th Dist. 1979) 91 Cal. App. 3d 156.)

The Ordinance would also violate the holding in San Francisco Superior Court Case No. CPF-17-515656 by eliminating Owners' lawful use without proper amortization.

## **2. The lack of notice violates Due Process rights.**

The Owners were given no notice of this proposed Amendment or notice of today's hearing, despite their property rights being particularly and significantly affected by it.

## **3. Proper CEQA review must occur.**

This Ordinance constitutes a citywide rezoning, which may have significant adverse impacts on the environment. The Amendment prohibits lawful weekly rentals, which will disrupt occupancy patterns and shift occupancy and housing construction to other parts of the City and region. (BOS File No. 211300 notes that SRO uses are presently concentrated in two neighborhoods: the Tenderloin and Chinatown.) The impacts of this disruption must be studied pursuant to the California Environmental Quality Act ("CEQA").

If a Project's economic or social effects directly or indirectly lead to adverse physical changes in the environment, CEQA requires disclosure, analysis, and mitigation of the resulting physical impacts. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184; *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173.) Preliminarily, "an agency that proposes project changes . . . must determine whether the previous environmental document retains any relevance in light of the proposed changes and, if so, whether major revisions to the previous environmental document are nevertheless required due to the involvement of new, previously unstudied significant environmental impacts." (*Friends of the College of San Mateo Gardens v. San Mateo County Community College Dist.* ("FOCSMG") (2016) 1 Cal.5th 937, 944.)

The City has not properly studied the potentially significant physical effects of the proposed Ordinance, including, but not limited to, displacement of weekly group housing renters who would be unable to come up with security and rent deposits for the 30-day minimum (apartment-rental length) that would be compelled by the Ordinance. The unstudied, but reasonably foreseeable, potential environmental impacts resulting from displacement of hundreds and hundreds of tenants, who could end up homeless and living on the City's streets and public places, include, *inter alia*, the resultant public trash, human feces and urination, pollution of waterways, waters, and City public and private spaces, and the adverse impacts to the displaced human beings themselves from lack of water and livable accommodations, exposure, cold, suffering and disease. Such reasonably foreseeable potential adverse environmental impacts of potential tenant displacement resulting from the enactment of the proposed Ordinance requires CEQA review. See, e.g., Pub. Resources Code, § 21065, CEQA Guidelines, § 15378 [defining "project" as any activity that may cause direct or reasonably foreseeable indirect change in the environment]; *Muzzy Ranch v. Solano County Airport Land Use Commission* (2007) 41 Cal.4th 372 [holding development displaced by density limits is not too speculative of an impact to require CEQA analysis].

Because the monthly rental value of the group housing units that would be effectively converted to apartments by the proposed Ordinance will in most cases be beyond the means of the very low income, disabled, elderly and “transient” users the law is purportedly intended to benefit, units remaining vacant under the Ordinance will also foreseeably lead to significant reductions in the housing stock and increases in physical blight and crime – impacts that have not been properly analyzed.

Proper environmental review clearly has not been completed. If the Ordinance is enacted without further review in accordance with law, CEQA will be violated.

#### **4. The Ordinance violates SB 330.**

The Ordinance is prohibited by SB 330, the Housing Crisis Act of 2019, because it lessens the intensity of residential use. Under the Ordinance, group housing units can no longer contain their own cooking facilities, and fewer units can be built on a lot because much more space must be dedicated to shared amenities.

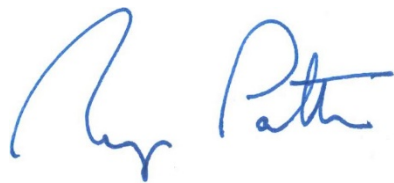
#### **Conclusion**

OWNERS HAVE PREVIOUSLY SUBMITTED FOR THE BOARD’S RECORD EVIDENCE AND ARGUMENTS, INCLUDING THE EXTENSIVE BRIEFING FROM THE TRIAL AND APPELLATE COURTS IN OPPOSITION TO THE PRIOR SRO AMENDMENTS (BOS FILE NOS. 161291, 190049, 190946, AND 191258; SUPERIOR COURT CASE NO. CPF-17-515656). WE REINCORPORATE THOSE MATERIALS AND ARGUMENTS HERE BY REFERENCE AND OFFER TO LODGE HARD COPIES UPON REQUEST.

The Ordinance is unlawful for a host of reasons, and it will cause serious harm to those who are most in need of our City’s protection. We urge you to oppose this misconceived proposal.

Very truly yours,

ZACKS, FREEDMAN & PATTERSON, PC



---

Ryan J. Patterson