



# EXECUTIVE SUMMARY

## PLANNING CODE TEXT AMENDMENT

**HEARING DATE:** July 21, 2022

**90-Day Deadline:** September 20, 2022

**Project Name:** Conditional Use Appeals  
**Case Number:** 2022-001032PCA [Board File No. 220130]  
**Initiated by:** Supervisor Melgar/Introduced February 1, 2022  
**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 Ordinance would amend the Planning Code to allow the signatures of Verified Tenants to count towards the threshold needed to permit an appeal of a Conditional Use authorization and change/create/clarify timelines applicable to appeals of Conditional Use authorizations.

#### The Way It Is Now:

1. Section 308.1 permits appeals where the notice of appeal is subscribed to by either (i) the owners of at least 20% of the property affected by the proposed amendment or Conditional Use or (ii) five members of the Board of Supervisors. Under existing law, tenants of affected properties who do not also own the property may not appeal Conditional Use authorization decisions.
2. Section 308.1 sets time limits for setting and holding hearings on covered appeals, and states that failure of the Board of Supervisors to act within the prescribed time limit shall be deemed an approval action by the Board of the action of the Planning Commission.

## The Way It Would Be:

1. “Verified Tenants” would be eligible to file CUA appeals (aka their signatures would count towards the 20% threshold). A “Verified Tenant” would be defined as a residential or commercial tenant who occupies the entire property or a unit within the property with a lease for at least 32 consecutive days who holds a lease for at least 32 days.
2. Section 308.1 would be amended to clarify/modify/create time limits for setting and holding hearings on covered appeals, including creating a new time limit for the transmittal of all Planning Commission Conditional Use actions to the Clerk of the Board.

## Background

Planning Code Section 308.1 provides the right of appeal, notice, hearing procedures, and decision requirements for appeals of amendments to the Planning Code and decisions on Conditional Use authorizations to the Board of Supervisors. Currently, the Department of Public Works (DPW) determines whether an appeal application has obtained enough signatories for the appeal to move forward. Appeals with at least 20% of land area owners’ signatures, or at least 5 Board of Supervisors’ signatures will be scheduled for a hearing in front of the Board of Supervisors. The Planning Department is tasked with writing an appeal response, which responds to the issues brought up in the appeal and explains and defends the Commission’s decision. The Board may either uphold, overturn, or partially overturn the Planning Commission’s decision, however overturning the Commission’s decision requires a 2/3 majority vote of the Board.

## Issues and Considerations

### San Francisco is a City of Renters

San Francisco is a majority renter city with 62% of households renting (over 226,000 in 2018) and 38% owning their homes (approximately 136,000 in 2018). Homeowner households tend to be larger with an average of 2.7 people compared to 2.1 people for renters. This statistic has stayed stable over the past decade. In 2010, 63% of households reported renting their properties (over 212,000) and 37% reported owning their homes (approximately 123,000). In contrast, the majority of the Bay Area region is an owner city with 56% of households owning their homes (over 1.5 million in 2018) and 44% of households renting (over 1.2 million in 2018).

San Francisco is a majority renter city with 62% of households renting and 38% owning their homes.

### Verified Tenants

The proposed ordinance would allow only “Verified Tenants” to sign on to Conditional Use authorization (CUA) appeals. A “Verified Tenant” is a current residential or commercial tenant of either the entire building, or a unit within the building, who possesses a lease with a term of at least 32 consecutive days (no short-term rental tenants). The Ordinance would codify the Department of Public Works (DPW) as the agency responsible for verifying proof of tenancy and may request that tenants produce their lease, Driver’s License, tax returns, or

utility bill to verify their tenancy. The tenant may choose which of these forms to submit to DPW. The Ordinance does not currently address whether tenants of illegal dwelling units count as “Verified”. It is Supervisor Melgar’s intention to include tenants of illegal dwelling units, and their office plans to introduce clarifying amendments to that affect.

### Weight of Signatures

The proposed Ordinance lays out a new formula for calculating the weight of tenant signatures versus property owner signatures. Calculating how much weight a property owner’s signature has towards the 20% of surrounding land area is based on the square footage of that parcel the owner individually owns. For instance, if a parcel has one owner, 100% of that parcel’s square footage would count towards the 20% of land area needed. For Tenancy in Common buildings, Condominiums, and other shared/joint ownership properties, the amount of land each owner’s signature represents is divided by how much of the building the person owns, based on a ratio of square footage. Or illustrated:

<b>Unit 6</b> 3 BDRM 2,000 SQFT (owns 25%)	
<b>Unit 5</b> 3 BDRM 2,000 SQFT (owns 25%)	
<b>Unit 4</b> 2 BDRM 1,000 SQFT (owns 12.5%)	<b>Unit 3</b> 2 BDRM 1,000 SQFT (owns 12.5%)
<b>Unit 2</b> STUDIO 500 SQFT (owns 6.25%)	<b>Unit 1</b> 1 BDRM 1,500 SQFT (owns 18.75%)

### SCENARIO: 6 Unit, Condominium Building parcel area = 3,000 sqft

Owners of Unit 1, Unit 3 & Unit 4 sign on to CUA appeal

**TOTAL = 56.25% of 3,000sqft parcel (1,687.5sqft)**

In the above scenario, three units’ owners have signed on to a CUA appeal within a 6-unit condo building. Their combined shares of the building accounts for 56.25% of the building’s total square footage. Appeals need 20% of owners of the surrounding *land* to sign on, therefore 56.25% of the 3,000sqft parcel (or 1,687.5sqft) will count towards the appeal, as illustrated by the red in the map on the following page:

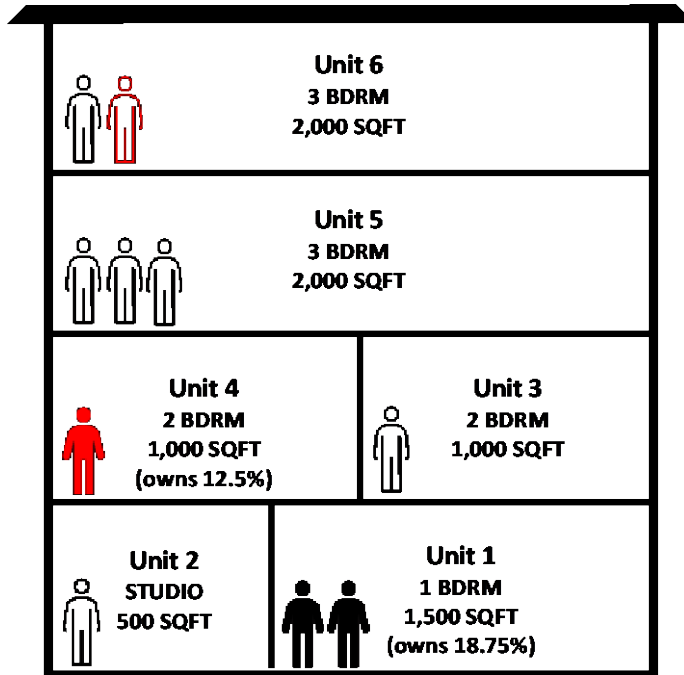


*To file an appeal, at least 20% of the land area in blue must sign on.*

The proposed Ordinance would calculate tenants who sign on to an appeal differently than owners. In properties with more than one unit, “Verified Tenants” would be weighted as follows:

- One tenant of each unit shall count for the entire unit in the building.
- Each unit that signs on to an appeal shall count as a percentage of the land for that parcel, divided equally among the number of units on the parcel.
- If an owner of a 100% tenant occupied property and at least one verified tenant signs the appeal, it counts as 100% of that property (aka the total cannot count for more than 100% of the land area).

If a joint owner of land held in joint ownership and one or more Verified Tenants of the same property signs the appeal, it will count as the ratio of land the owner has, plus one unit (divided by number of total units in the building), not to exceed 100% of the land area, even if the tenant who signs on is a tenant of the same unit of the property owner who signs on. Or as illustrated on the following page:



**SCENARIO:  
6 Unit, Condominium Building  
parcel area = 3,000 sqft**

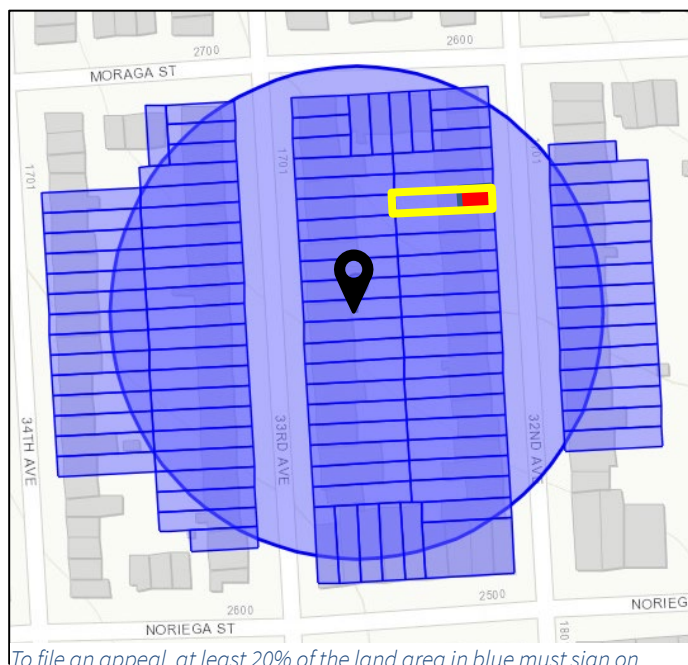
One tenant (Unit 6) signs on to CUA appeal  
One owner (Unit 4) signs on to CUA appeal

Tenant share = 16.67% of total (1/6)  
Owner share = 12.5% of total

**TOTAL = 29.17% of 3,000sqft parcel (875.1sqft)**



Illustrated as the proportion of the total land area:



In examining whether the legislation will result in a large increase in the number of CUA appeals filed, it is important to consider the above illustrated scenarios. The illustrations show that in a typical San Francisco neighborhood tract, a fairly large number of residents must sign on to an appeal before the 20% threshold is reached. It is also important to consider the current number of CUA appeals the City sees. Between 2019-2021, 28 CUA appeals were filed. Of those, 14 appeals obtained enough signatures to move forward to a hearing (and 4 of the 14 were Board signatory appeals). So far in 2022, only 2 CUA appeals have been filed, neither of which obtained enough signatures to move forward. Even if the legislation results in some additional appeals, it should not create an excess burden on the Department.

### Roles of Planning and the Department of Public Works

When an appeal of a Conditional Use authorization (CUA) decision is filed with the Clerk of the Board, the Clerk will forward the signatories on to the Department of Public Works (DPW). DPW will calculate each signatory's weight as a percentage of the total surrounding land (300ft) to the parcel that is the subject of the CUA. If the signatories represent at least 20% of the surrounding land, DPW will certify the appeal and inform the Clerk and the Planning Department. Planning's only role in appeals of CUA's is to prepare a response to the appeal defending the Commission's decision, and to present that defense to the Board of Supervisors at the appeal hearing. The proposed legislation would codify this process. The legislation would add intricacies to DPW's process of calculating whether an appeal is valid, however the Planning Department's role would not change.

Planning's only role in appeals of CUA's is to prepare a response to the appeal defending the Commission's decision, and present that response to the Board of Supervisors at the appeal hearing.

The proposed legislation would also alter CUA appeal timelines for all departments involved, as well as the Board of Supervisors. All but one of these alterations would not affect the Planning Department. The change in timeline that *would* affect the Department is the creation of a deadline for transmitting certain Commission actions to the Clerk. Under the Ordinance, the following Commission actions would be subject to a 10-business day transmittal deadline to the Clerk of the Board:

- Commission *disapproval* of Planning Code Amendments and/or Map Amendments initiated by members of the public, property owners, lessees, or their authorized agents
- *All* Commission actions of CUA applications, including Planned Unit Development decisions

This deadline would apply whether or not there was a known intent to appeal the Commission's decision.

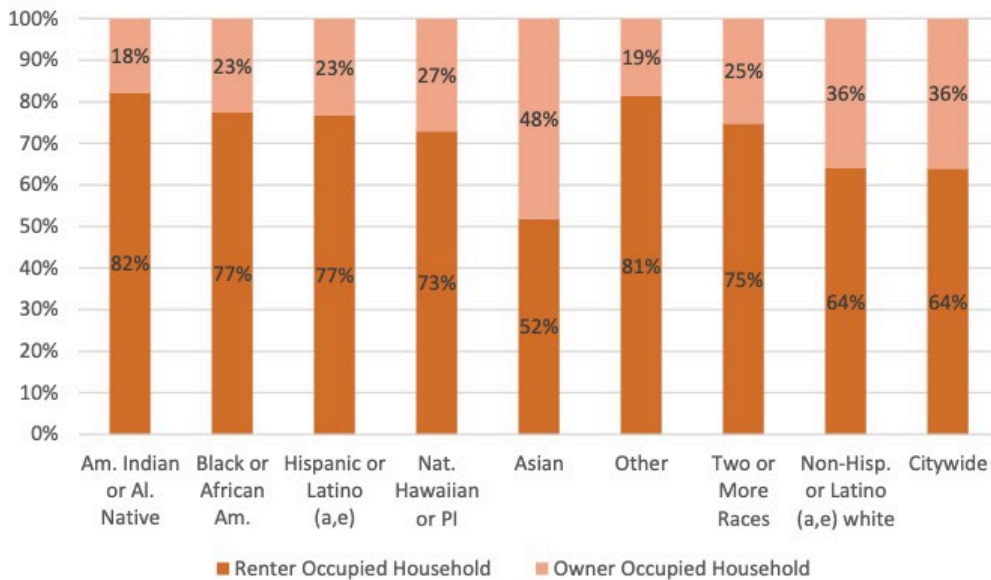
### General Plan Compliance

The proposed ordinance is in line with Policy 1.4 of the Housing Element which is to "Ensure community-based planning processes are used to generate changes to land use controls." Including residential and commercial tenants in the signatories that count towards filing an appeal of Conditional Use authorization decisions ensures the entire community, rather than just owners, have a say in the shaping of their neighborhoods.

### Racial and Social Equity Analysis

The Planning Code amendments in the proposed Ordinance will make the Conditional Use appeal process more equitable by allowing tenants to sign on to appeals. Although all racial and ethnic groups in the City are majority renter, Black, American Indian, and Latinx householders have the lowest rates of homeownership.

Tenure by Race and/or Ethnicity (2015-2019)



Source: ACS 2019 5-Year Estimates; IPUMS USA

Additionally, renters are markedly lower income than owners in San Francisco. Renters report a median income at \$94,739 while homeowners reported a median income of \$145,860. Additionally, approximately 16% of owners are very low income, while 34% of renters are very low income. Owners are more likely to be moderate or high income than renters, though there are far more renter households overall. Likely due to lower incomes, renters tend to have higher rates of cost burden and overcrowding.

Renters being unable to sign on to CUA appeals means a disproportionate number of Black, American Indian and Latinx residents are unable to have a say in changes to their neighborhood that occur through CUA decisions. The same is true for lower income households, who are more likely to be renters. The inability for renters to sign on to CUA appeals further reduces the influence of many San Francisco residents who already face difficulties having their voices heard. The Ordinance will help to level the playing field between renters and owners in shaping their neighborhoods.

### Implementation

The Department has determined that this ordinance will impact our current implementation procedures in the following ways:

The new 10-day deadline to transmit all CUA actions by the Commission places a burden on the Department's administrative and clerical staff. The Department currently has one staff member to handle transmittals, notices, and mailings for Current Planning cases. Required mailings and notices have strict deadlines and therefore must remain staff's priority. The Department believes that it needs at least 20 business days to transmit CUA actions to the Clerk of the Board.

## 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. Modify the Ordinance to increase the deadline to transmit certain Commission actions from 10 business days to 20 business days.

## Basis for Recommendation

In a city with far more renters than owners, it is rational that tenants should have a stake in the ability to appeal CUA decisions in addition to owners. Adopting this ordinance will help advance racial and social equity in San Francisco by giving BIPOC residents more equitable representation in land use decisions. Further, the tenants of San Francisco are often long-term residents who are invested in their neighborhoods, and as such should have a voice in the shaping of it. Although complicated, the formula for determining a tenant's share in meeting the appeal threshold ensures no matter the size of their individual unit, their voice carries equal weight among their fellow building tenants.

**Recommendation 1: Modify the Ordinance to increase the deadline to transmit certain Commission actions from 10 business days to 20 business days.** Staff recommends increasing the transmittal deadline for CUA decisions and disapproval of certain Planning Code and Map amendments because additional time is needed given the Department's current resources and increasing the time to transmit these decisions ensures staff can continue to prioritize notices and mailings. This may also require adjusting the deadlines that follow as the sponsor or City Attorney see fit.

## 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. 220130



**EXHIBIT A**

# PLANNING COMMISSION DRAFT RESOLUTION

**HEARING DATE: July 21, 2022**

**Project Name:** Conditional Use Appeals  
**Case Number:** 2022-001032PCA [Board File No. 220130]  
**Initiated by:** Supervisor Melgar / Introduced February 1, 2022  
**Staff Contact:** Audrey Merlone, Legislative Affairs  
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**Reviewed by:** Aaron Starr, Manager of Legislative Affairs  
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**RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO ALLOW SIGNATURES OF VERIFIED TENANTS TO COUNT TOWARDS THE THRESHOLD NEEDED TO PERMIT AN APPEAL OF A CONDITIONAL USE AUTHORIZATION; CLARIFYING TIMELINES APPLICABLE TO APPEALS OF CONDITIONAL USE AUTHORIZATIONS; 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 February 1, 2022 Supervisor Melgar introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 220130, which would amend the Planning Code to allow the signatures of Verified Tenants to count towards the threshold needed to permit an appeal of a Conditional Use authorization; clarifying timelines applicable to appeals of Conditional Use authorizations;

WHEREAS, The Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on July 21, 2022; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance. The Commission's proposed recommendation(s) is/are as follows:

1. **Modify the Ordinance to increase the deadline to transmit certain Commission actions from 10 business days to 20 business days.**

## 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:

In a city with far more renters than owners, it is rational that tenants should have a stake in the ability to appeal CUA decisions in addition to owners. Adopting this ordinance will help advance racial and social equity in San Francisco by giving BIPOC residents more equitable representation in land use decisions. Further, the tenants of San Francisco are often long-term residents who are invested in their neighborhoods, and as such should have a voice in the shaping of it. Although complicated, the formula for determining a tenant's share in meeting the appeal threshold ensures no matter the size of their individual unit, their voice carries equal weight among their fellow building tenants.

The Commission recommends increasing the transmittal deadline for CUA decisions and disapproval of certain Planning Code and Map amendments because additional time is needed given the Department's current resources and increasing the time to transmit these decisions ensures staff can continue to prioritize notices and mailings. This may also require adjusting the deadlines that follow as the sponsor or City Attorney see fit.

## 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 1.4

Ensure community based planning processes are used to generate changes to land use controls

*Including residential and commercial tenants in the signatories that count towards filing an appeal of Conditional Use authorization decisions ensures the entire community, rather than just owners, have a say in the shaping of their neighborhoods.*

**OBJECTIVE 11**

**SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.**

Policy 11.9

Foster development that strengthens local culture sense of place and history.

*The inability for renters to sign on to CUA appeals further reduces the influence of many San Francisco residents who already face difficulties having their voices heard. The Ordinance will help to level the playing field between renters and owners in shaping their neighborhoods.*

**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 July 21, 2022.

Jonas P. Ionin  
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: July 21, 2022

[Planning Code - Conditional Use Appeals]

**Ordinance amending the Planning Code to allow the signatures of Verified Tenants to count towards the threshold needed to permit an appeal of a Conditional Use authorization; clarifying timelines applicable to appeals of Conditional Use authorizations; affirming the Planning Department’s determination under the California Environmental Quality Act; and making findings of public convenience, necessity, and welfare under Planning Code, Section 302.**

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

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

Section 1. Environmental and Land Use Findings.

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

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

1 Supervisors in File No. \_\_\_\_\_.

2  
3 Section 2. The Planning Code is hereby amended by revising Section 308.1, to read  
4 as follows:

5 **SEC. 308.1. APPEALS: AMENDMENTS TO THE PLANNING CODE AND**  
6 **CONDITIONAL USES.**

7 (a) **Right of Appeal.** The action of the Planning Commission, in disapproving in  
8 whole or in part an amendment to the Planning Code initiated by application as described in  
9 Section 302 and Sections 306 through 306.5, or in approving or disapproving in whole or in  
10 part an application for Conditional Use authorization as described in Sections 303 and 304  
11 and Sections 306 through 306.5 ~~of this Code~~, shall be transmitted to the Office of the Clerk of the  
12 Board in final and signed form within ten business days of Commission's action to approve or  
13 disapprove in whole or part the application, and subject to appeal to the Board of Supervisors in  
14 accordance with this Section 308.1. An action of the Commission so appealed from shall not  
15 become effective unless and until approved by the Board of Supervisors in accordance with  
16 this Section 308.1.

17 (b) **Notice of Appeal.** Any appeal under this Section 308.1 shall be taken by filing  
18 written notice of appeal with the Board of Supervisors no earlier than ten business days after the  
19 date of action by the Planning Commission, and no later than 30 days after the date of action by  
20 the Planning Commission. The appeal shall be filed with the Office of the Clerk of the Board in a  
21 manner prescribed by the Clerk of the Board and in accordance with the Planning Fee Schedule. The  
22 notice of appeal shall be subscribed by either (i) the owners or Verified Tenants of at least 20%  
23 of the property affected by the proposed amendment or Conditional Use or (ii) five members  
24 of the Board of Supervisors. The signature on the appeal of members of the Board shall not  
25 be deemed to be any indication of their position on the merits of the appeal but rather shall

1 indicate only that they believe there is sufficient public interest and concern in the matter to  
2 warrant a hearing by the Board of Supervisors. Upon receipt of a notice of appeal, the Office of  
3 the Clerk of the Board shall transmit the notice of appeal and subscribed signatures to Public Works  
4 within five business days for its determination of the 20% threshold of the property referenced above.  
5 For the purposes of this Section 308.1, the property affected, and the determination of the 20%  
6 threshold, shall be calculated by Public Works within five business days from when the Office of the  
7 Clerk of the Board requests a determination on the 20% threshold of the property referenced, as  
8 follows:

9 (1) When a proposed amendment or Conditional Use has been disapproved by  
10 the Planning Commission, the property affected shall be deemed to be all property within the  
11 area that is the subject of the application for amendment or Conditional Use, and within 300  
12 feet of all exterior boundaries of the property that is the subject of the application;

13 (2) When a proposed Conditional Use has been approved by the Planning  
14 Commission, the property affected shall be deemed to be all property within 300 feet of all  
15 exterior boundaries of the property for which the Conditional Use has been approved by the  
16 Planning Commission, excluding the property for which the approval has been given;

17 (3) In either of the above cases, when any property is owned by the City and  
18 County of San Francisco, the United States Government or the State of California, or any  
19 department or agency thereof, or by any special district, and is located within 300 feet of the  
20 area that is the subject of the application for amendment or Conditional Use, such property  
21 shall be excluded in determining the property affected unless such owner shall itself be a  
22 subscriber of the notice of appeal; and

23 (4) Wherever a property is held in joint ownership, the signatures of joint  
24 owners shall be calculated as representing affected property in direct proportion to the amount  
25 of the total ownership of that property attributable to the joint owner or owners subscribing to



1 the notice of appeal. For the purposes of this calculation, the term “joint ownership” shall  
2 include joint tenancies, interests in common, community property, partnerships, stock  
3 cooperatives, condominiums, community apartments and planned unit developments. Where  
4 each owner has exclusive rights to a portion of the property, the proportion of the total  
5 ownership attributable to that owner shall be calculated in terms of a ratio of the floor area and  
6 land area in which that owner has exclusive, joint, and common rights to the total floor area  
7 and land area of that property. Under these calculations, the land area of an affected property  
8 in joint ownership shall be given the same weight as the land area of an affected property not  
9 in joint ownership, in determining whether 20% of the property affected is represented by  
10 signatures to the notice of appeal.

11 (5) For purposes of this Section 308.1, a “Verified Tenant” is a residential or  
12 commercial tenant of a property who declares, under penalty of perjury of the laws of the State of  
13 California, that the tenant occupies the entire property or at least one separate unit on the property  
14 pursuant to a lease with a term exceeding 32 days. Each Verified Tenant who signs an appeal pursuant  
15 to this Section 308.1 must maintain proof of tenancy including either an executed lease reflecting a  
16 term of more than 32 days, or at least one of the following forms of records reflecting that the tenant  
17 has occupied the property for more than 32 consecutive days as of the date of signature: (a) state or  
18 federal income tax records, (b) department of motor vehicle records including license, registration or  
19 California identification, or (c) utility bills. A Verified Tenant who signs an appeal pursuant to this  
20 Section may be required by Public Works to provide such proof of tenancy. A “Verified Tenant” shall  
21 not include occupants of property who rent the property for less than 32 consecutive days, or for  
22 Tourist or Transient Use, or as a Short-Term Residential Rental, as those terms are defined in Section  
23 41A.4 of the Administrative Code.

24 (6) Where a property contains more than one rental unit, the signatures of Verified  
25 Tenants shall be calculated as representing the percentage of affected property in the same proportion

1 of the number of rental units on the property represented by the Verified Tenants subscribing to the  
2 appeal to the total number of rental units in that property. Only one Verified Tenant for each  
3 Residential Unit or commercial unit shall be counted for each such unit; if more than one Verified  
4 Tenant occupying a single rental unit subscribes to the appeal, that unit will only be given the weight of  
5 a single unit in the property. Under these calculations, an affected property rented by multiple Verified  
6 Tenants shall be given the same weight as an affected property owned by a single owner or occupied by  
7 a single tenant, in determining whether 20% of the property affected is represented by signatures to the  
8 notice of appeal.

9 (7) If an owner of 100% of a tenant-occupied property and one or more Verified  
10 Tenants of the same property subscribe to the appeal, the land area of the affected property shall be  
11 given the same weight as the land area of an affected property owned by a single owner in determining  
12 whether 20% of the property affected is represented by signatures to the appeal. If a joint owner of  
13 land held in joint ownership property and one or more Verified Tenants of the same property subscribe  
14 to the appeal, the total land area of the affected property shall be calculated by adding the land areas  
15 calculated pursuant to subsections (3) through (6), above, and may total, but not exceed 100% of the  
16 land area of the property in determining whether 20% of the property affected is represented by  
17 signatures to the appeal.

18 (c) **Hearing.** Upon the filing of such written notice of appeal so subscribed, the  
19 Board of Supervisors or the Clerk thereof shall set a time and place for hearing such appeal,  
20 which ~~may~~ be not less than ~~1021~~ nor more than 45 days after such filing. If there is not a  
21 Board meeting scheduled during that time, the Clerk may schedule the hearing at the next regularly  
22 scheduled Board meeting more than 50 days after the filing. The hearing may be held no more than 60  
23 days from the date of filing, unless the parties consent to a later date as provided in subsection (f)  
24 below. Provided, that if the Board of Supervisors does not conduct at least three regular Board  
25 meetings during the 30 day period referred to in the previous sentence, the Board of Supervisors or the

1 ~~Clerk shall schedule the appeal not more than 40 days (rather than 30 days) after the filing of such~~  
2 ~~written notice of appeal.~~

3 (d) **Decision.** The Board of Supervisors ~~must~~ shall hear and decide the appeal within 90  
4 days of the filing of the written notice of appeal, unless the parties consent to a later date as provided in  
5 subsection (f) below. The Board's decision on the appeal is final upon adjournment of the meeting at  
6 which the hearing was held and at which the Board votes to approve or deny such appeal. ~~such appeal~~  
7 within 30 days of the time set for the hearing thereon, provided that, if the full membership of the Board  
8 is not present on the last day on which said appeal is set or continued for hearing within said period,  
9 the Board may postpone said hearing and decision thereon until, but not later than, the full  
10 membership of the Board is present; provided further, that the latest date to which said hearing and  
11 decision may be so postponed shall be not more than 90 days from the date of filing of the appeal.  
12 Provided, that if the Board of Supervisors does not conduct at least three regular Board meetings  
13 during the 30-day period referred to in the previous sentence, the Board of Supervisors 40 days (rather  
14 than 30 days) of the time set for the hearing thereon Failure of the Board of Supervisors to act  
15 within such time limit shall be deemed to constitute approval by the Board of the action of the  
16 Planning Commission.

17 (e) **Findings.** The Board of Supervisors shall adopt findings supporting its decision to  
18 uphold or deny an appeal under this Section 308.1 within 60 days after making its decision on the  
19 appeal. Notwithstanding the foregoing sentence, failure of the Board to approve findings within the  
20 time specified will not affect the finality of the Board's decision on the appeal.

21 (f) **Continuances.** Any continuance of the time periods specified in this section 308.1 shall  
22 require a written request from the party or parties seeking continuance in such form as may be  
23 provided by the Clerk of the Board for the Board of Supervisors' consideration.

24 (dg) **Decision Votes Required.** In acting upon an appeal of a Planning Commission  
25 determination on a request for reclassification by an interested party, the Board of Supervisors

1 may disapprove the action of the Planning Commission only by a vote of not less than 2/3 of  
2 all members of the Board. In acting upon any other appeal of a Planning Commission  
3 determination on a Planning Code amendment, the Board of Supervisors may disapprove the  
4 action of the Planning Commission by a majority vote of the Board. In both cases, in the  
5 event that one or more of the full membership of the Board is disqualified or excused from  
6 voting because of an interest prohibited by general law or the San Francisco Charter, any  
7 such disapproval shall be by a vote of all members of the Board that are not disqualified or  
8 excused; provided, however, that in the event that a quorum of all members of the Board is  
9 disqualified or excused from voting because of an interest prohibited by general law or the  
10 Charter, the action of the Planning Commission shall be deemed approved. In the event the  
11 Board disapproves the action of the Commission when the Commission has disapproved in  
12 whole or in part a proposed amendment, the Board shall, not later than its next regularly  
13 scheduled meeting, adopt the proposed ordinance. In the event the Board disapproves the  
14 action of the Commission when the Commission has disapproved in whole or in part a  
15 proposed conditional use, the Board shall prescribe in its ~~resolution~~motion such conditions as  
16 are in its opinion necessary to secure the objectives of this Code, in accordance with Section  
17 303(d).

18

19 Section 3. Effective Date. This ordinance shall become effective 30 days after  
20 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
21 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
22 of Supervisors overrides the Mayor's veto of the ordinance.

23

24 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
25 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 APPROVED AS TO FORM:  
7 DAVID CHIU, City Attorney

8 By: /s/ KRISTEN A. JENSEN  
9 KRISTEN A. JENSEN  
10 Deputy City Attorney

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