BOARD of SUPERVISORS

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MEMORANDUM

Date: May 22, 2023

To: Planning Department / Commission

From: Erica Major, Clerk of the Land Use and Transportation Committee

Subject: Board of Supervisors Legislation Referral - File No. 230026-2
Planning, Subdivision, and Administrative Codes and Zoning Map - Family Housing Opportunity Special Use District

☒ California Environmental Quality Act (CEQA) Determination
(California Public Resources Code, Sections 21000 et seq.)
- ☒ Ordinance / Resolution
- ☐ Ballot Measure

☒ Amendment to the Planning Code, including the following Findings:
(Planning Code, Section 302(b): 90 days for Planning Commission review)
☐ General Plan ☒ Planning Code, Section 101.1 ☒ Planning Code, Section 302

☐ Amendment to the Administrative Code, involving Land Use/Planning
(Board Rule 3.23: 30 days for possible Planning Department review)

☐ General Plan Referral for Non-Planning Code Amendments
(Charter, Section 4.105, and Administrative Code, Section 2A.53)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

☐ Historic Preservation Commission
- ☐ Landmark *(Planning Code, Section 1004.3)*
- ☐ Cultural Districts *(Charter, Section 4.135 & Board Rule 3.23)*
- ☐ Mills Act Contract *(Government Code, Section 50280)*
- ☐ Designation for Significant/Contributory Buildings *(Planning Code, Article 11)*

Please send the Planning Department/Commission recommendation/determination to Erica Major at Erica.Major@sfgov.org.

[Planning, Subdivision, and Administrative Codes and Zoning Map - Family Housing Opportunity Special Use District]

Ordinance amending 1) the Planning Code to create the Family Housing Opportunity Special Use District; 2) the Planning Code to authorize up to four units on individual lots, up to twelve units on merged lots in RH-1 (Residential-House, One Family) districts, and Group Housing in RH-1 districts for eligible projects in the Special Use District; 3) the Planning Code to exempt eligible projects in the Special Use District from certain height, open space, dwelling unit exposure, and rear-yard setback requirements, conditional use authorizations, and neighborhood notification requirements; 4) amending the Subdivision Code to authorize eligible projects in the Special Use District to qualify for condominium conversion or a condominium map that includes the existing dwelling units and the new dwelling units that constitute the project; 5) amending the Administrative Code to require new dwelling or group housing units constructed pursuant to the density limit exception to be subject to the rent increase limitations of the Rent Ordinance; 6) amending the Zoning Map to show the Family Housing Opportunity Special Use District; and affirming the Planning Department's determination under the California Environmental Quality Act, and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, 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. CEQA 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 Section 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) On _____, the Planning Commission, in Resolution No. _____, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. _____, and is incorporated herein by reference.

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

Section 2. General Findings.

(a) California faces a severe crisis of housing affordability and availability, prompting the Legislature to declare, in Section 65589.5 of the Government Code, that the state has "a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing

future generations of a chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives."

(b) This crisis of housing affordability and availability is particularly severe in San Francisco. It is characterized by dramatic increases in rent and home sale prices over recent years.

(c) According to the Planning Department's 2020 Housing Inventory, the cost of housing in San Francisco has increased dramatically since the Great Recession of 2008-2009, with the median sale price for a two-bedroom house more than tripling from 2011 to 2021, from $493,000 to $1,580,000. This includes a 9% increase from 2019 to 2020 alone, even in the face of the COVID-19 pandemic. The median rental price for a two-bedroom apartment saw similar although slightly smaller increases, nearly doubling from $2,570 to $4,500 per month, from 2011 to 2019, before declining in 2020 due to the pandemic.

(d) These housing cost trends come after decades of underproduction of housing in the Bay Area. The City's Chief Economist has estimated that approximately 5,000 new market-rate housing units per year would be required to keep housing prices in San Francisco constant with the general rate of inflation. To this end, the City's COVID-19 Economic Recovery Task Force included a recommendation in its October 2020 report to support construction of small multifamily buildings in low density areas to support "missing middle" housing opportunities.

(e) Moreover, San Francisco will be challenged to meet increased Regional Housing Needs Allocation ("RHNA") goals in the 2023-2031 Housing Element cycle, which total 82,069 units over eight years, more than 2.5 times the goal of the previous eight-year cycle. At the same time, relatively new State laws like Senate Bill 35 (2017) would limit San Francisco's

local zoning control and discretion if the City does not meet these RHNA housing production goals.

(f) San Francisco's new housing production in recent years has been heavily concentrated in the eastern and southeastern parts of the City, with 90% of all new housing produced in just ten eastside and central neighborhoods, according to the 2019 Housing Affordability Strategies Report. These neighborhoods are home to many of the City's most established communities of color and communities most vulnerable to displacement pressures.

(g) The California Fair Housing Task Force annually updates the Tax Credit Allocation Committee/Department of Housing and Community Development Opportunity Map ("TCAC/HCD Opportunity Map"). The TCAC/HCD Opportunity Map identifies high-resource and highest-resource areas in the state whose concentration of resources have been shown to support positive economic, educational, and health outcomes for low-income families — particularly long-term outcomes for children. The 2020 TCAC/HCD Opportunity Map is the basis for the Well-Resourced Neighborhoods Map in the 2023-2031 Housing Element, on file with the Clerk of the Board of Supervisors in File No. 230001. The Well-Resourced Neighborhoods Map is also on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by reference.

(h) Since 2005, just 10% of all new housing in San Francisco and 10% of new affordable housing in San Francisco has been built in high- and highest-resource neighborhoods, though these areas cover nearly 52% of the residential land in the city. In these high-resource neighborhoods, 65% of the land is limited to one or two units. Permitting additional units in high-resource areas will increase the supply of available housing, including the supply of modestly-sized family units that are more affordable than large, single-family homes.

(i) While recent legislation has authorized multi-family homes in these neighborhoods, additional procedural requirements may render them too expensive to deliver. Streamlining and simplifying permit processes will help provide more equitable access to the application process and improve certainty of development outcomes for small multifamily buildings in high- and highest-resource neighborhoods.

(j) This ordinance creates the Family Housing Opportunity Special Use District (SUD), whose boundaries are generally coterminous with the Well-Resourced Neighborhoods Map in the 2023-2031 Housing Element. This legislation expands upon and complements recently enacted state legislation, such as SB 9, that aims to promote multifamily housing development in single-family neighborhoods. To this end, the legislation provides project sponsors flexibility to choose from a menu of incentives to fit their project needs – be it relief from procedural requirements like conditional use authorizations, neighborhood notification, and public-initiated discretionary review, relief from development standards like density, or a combination of the two.

(k) The Family Housing Opportunity SUD permits development of up to four units on an individual parcel in an RH District, provided that the proposed project complies with the heights and bulk specified in the City's Zoning Maps (Height & Bulk Maps HT01 through HT14), in addition to other eligibility criteria detailed in this ordinance. The SUD also permits up to one Group Housing unit per 415 square feet of lot area in RH-1, RH-1(D), and RH-1(S) districts. In those same districts, the SUD permits up to 12 units if the lot is the result of a merger of three lots, or eight units if the lot is the result of a merger of two lots. This ordinance also streamlines approval by exempting eligible projects from conditional use authorization and neighborhood notification requirements and public-initiated discretionary review hearings in Planning Code Section 311.

(l) All parcels affected by this ordinance are considered urban infill sites under California Government Code Section 65913(e)(3). This Board therefore declares that this ordinance is enacted pursuant to California Government Code Section 65913(e)(3).

(m) This Board finds that this ordinance is consistent with San Francisco's obligation to affirmatively further fair housing pursuant to California Government Code Section 8899.50, by increasing density for projects that enter into regulatory agreements with the City acknowledging that, in consideration for the density exceptions, the new units shall be subject to local rent control notwithstanding the Costa-Hawkins Rental Housing Act (California Civil Code Section 1954.50 *et seq.*). Increasing density in this manner meaningfully addresses significant disparities in housing needs and access to opportunity. Additionally, this ordinance streamlines the approval process to promote certainty in development outcomes in high- and highest-resource neighborhoods.

(n) This Board finds that it is in the public interest to encourage the production of a variety of unit types, sizes, and tenure to accommodate people in different living situations, including a mix of smaller units that can help young adults secure housing and seniors to downsize, and larger units that can help growing or multi-generational families stay adequately housed.

(o) This Board recognizes that additional development opportunities may lead to speculative real estate investments that may seek to displace current residents, demolish existing housing stock, build new units, and quickly sell those units. To discourage such speculation, demolition of existing units, and displacement of current residents, this ordinance makes the benefit of the streamlining and development incentives available only to persons who have owned their properties for one year prior to the date of their application, including the ownership duration of their Eligible Predecessor, as defined herein, subject to exceptions for multiple ownership structures and vacant buildings described further in the ordinance.

Section 3. Article 2 of the Planning Code is hereby amended by adding Section 249.94, to read as follows:

SEC. 249.94. FAMILY HOUSING OPPORTUNITY SPECIAL USE DISTRICT.

*(a) **Purpose**. To incentivize the development of multifamily housing in the City's well-resourced neighborhoods, a special use district entitled "Family Housing Opportunity Special Use District" is hereby established.*

*(b) **Boundaries**. The boundaries of the Family Housing Opportunity Special Use District are shown on Special Use District Maps Sheets SU 1, SU 2, SU 3, SU 4, SU 5, SU 6, SU 7, SU 11, SU 12, and SU 13. These boundaries consist generally of the areas designated as high-resource and highest-resource on the Well-Resourced Neighborhoods Map of the 2023-2031 Housing Element.*

*(c) **Eligibility**. An eligible project under this Section 249.94 shall be a project that complies with all the following criteria:*

(1) is located in an RH District in the Family Housing Opportunity Special Use District;

(2) is not seeking or receiving approval under the provisions of Planning Code Sections 206.3, 206.5, or 206.6;

(3) is not located on a parcel resulting from a lot split under California Government Code Section 66411.7;

(4) proposes any of the following project types:

*(A) **Single-Lot Development Project.** The construction, including through the alteration of an existing structure, of at least two and no more than four dwelling units on a single lot, inclusive of any existing dwelling units on the site. For a project proposing four dwelling units, the fourth dwelling unit shall be constructed in the rear yard pursuant to subsection (d)(3) of this Section*

249.94. For a project proposing fewer than four dwelling units, up to one unit may be located in the rear yard pursuant to subsection (d)(3) of this Section 249.94.

*(B) **Lot-Merger Development Project in RH-1 Districts.** A merger of up to three lots in RH-1, RH-1(D), or RH-1(S) districts and the construction on the resulting lot of at least nine and no more than 12 dwelling units for a three-lot merger project, or at least six and no more than eight dwelling units for a two-lot merger project. A project proposing a lot merger shall not be eligible to construct a rear-yard unit pursuant to subsection (d)(3) of this Section 249.94.*

*(C) **Group Housing Development Project.** A single-lot project pursuant to subsection (c)(4)(A) of this Section 249.94 and a lot-merger project pursuant to subsection (c)(4)(B) of this Section 249.94 may also propose the construction of Group Housing up to the density limits prescribed in subsection (d)(1)(C) of this Section 249.94 or currently permitted under the Planning Code, whichever is greater. Projects proposing Group Housing units shall not be eligible for condominium subdivision, including but not limited to conversion pursuant to Subdivision Code Section 1396.7.*

(5) contains at least two dwelling units with two or more bedrooms. This provision does not apply to projects where all of the units qualify as Group Housing;

(6) includes more dwelling units than are existing on the site at the time of application. In the case of Group Housing, projects utilizing this Section 249.94 shall provide more bedrooms than are existing on the site at the time of application;

(7) does not propose the demolition of a building that is:

(A) listed as a Contributor to Article 10 Historic Districts;

(B) listed as a Landmark under Article 10;

(C) located in an Article 11 Conservation District, where the building has a rating of Category I, II, III or IV

(D) listed in or determined eligible for listing in the California Register of Historical Resources; or,

(E) listed in or determined eligible for listing in the National Register of Historic Places;

(8) complies with the Planning Code and any applicable design guidelines, including but not limited to the provisions of this Section 249.94. Notwithstanding the previous sentence, an eligible project shall strive for consistency with the Residential Design Guidelines to the extent feasible;

(9) complies with the requirements of Section 66300(d) of the California Government Code, as may be amended from time to time, including but not limited to requirements to replace all protected units and to offer existing occupants of any protected units that are lower income households relocation benefits and a right of first refusal for a comparable unit, as those terms are defined therein; and

(10) demonstrates that the project sponsor has owned the subject lot for a minimum of one year prior to the time of the submittal of their application, subject to the following:

*(A) **Eligible Predecessor**. A property owner who has inherited the subject lot, including any inheritance in or through a trust, from a blood, adoptive, or step family relationship, specifically from either (i) a grandparent, parent, sibling, child, or grandchild, or (ii) the spouse or registered domestic partner of such relations, or (iii) the property owner's spouse or registered domestic partner (each an "Eligible Predecessor"), may add an Eligible Predecessor's duration of ownership of the subject lot to the property owner's duration of ownership of the same lot.*

*(B) **Multiple Ownership**. Whenever property proposed for development is jointly owned, owned as common property or is otherwise subject to multiple ownership, the durational requirements of this subsection (c)(10) must be satisfied by: (i) the majority ownership, whether represented by stock, membership interest, partnership interest, co-tenancy interest, or otherwise, in*

the case of projects proposed under subsection (c)(4)(A); or (ii) the majority ownership of each lot to be merged, whether represented by stock, membership interest, partnership interest, co-tenancy interest, or otherwise, in the case of projects proposed under subsection (c)(4)(B).

*(C) **Vacant or Abandoned Property**. The requirement in this subsection (c)(10) that the project sponsor has owned the subject lot for a minimum of one year prior to the time of the submittal of their application shall not apply if the property has been vacant for one or more years at the time of application, or if the property has been registered as a vacant or abandoned building pursuant to Building Code Section 103A.4 et seq.*

*(d) **Other Controls**.*

*(1) **Density Exceptions**. Projects that meet the eligibility criteria in subsection (c) of this Section 249.94 are exempt from residential density limits, calculation of which shall not include any Accessory Dwelling Units permitted under Section 207, as follows:*

*(A) **Single-Lot Density Exception.** For projects eligible under subsection (c)(4)(A), up to four dwelling units per lot are allowable;*

*(B) **Lot-Merger Density Exception**. For projects eligible under subsection (c)(4)(B), up to twelve dwelling units per lot are allowable, if the lot is the result of a merger of three lots, or up to eight dwelling units per lot are allowable, if the lot is the result of a merger of two lots;*

*(C) **Group Housing Density Exception.** For both Single-Lot and Lot-Merger Development Projects under subsection (c)(4)(A) or (B), up to one Group Housing unit per 415 square feet of lot area is allowable in RH-1, RH-1(D), and RH-1(S) districts.*

*(2) **Height**. Notwithstanding any other provision of this Code, including but not limited to Section 261, the height limit for a project that meets the eligibility criteria in subsection (c) of this Section 249.94 shall be 40 feet, if 40 feet is authorized by the Height Map of the Zoning Map.*

*(3) **Construction of Rear-Yard Unit**. Construction of a rear-yard unit shall be governed by the following standards:*

(A) The subject parcel must be at least 2,400 square feet;

(B) The rear-yard unit shall be located at least four feet from the side and rear lot lines and shall not share structural walls with any other structure on the lot;

(C) Compliance with minimum rear-yard requirements shall not be required, except that a minimum 25 feet separation shall be provided between the facades that face each other;

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

(E) The rear-yard building height shall be limited to 20 feet measured from existing grade at any given point to either i) the highest point of a finished roof in the case of a flat roof or ii) the average height of a pitched roof or stepped roof, or similarly sculptured roof form. The rear-yard building shall not be eligible for any height exemptions in subsection (d)(2) of this Section 249.94 or in Section 260(b); and

(F) Each dwelling unit shall have at least 100 square feet of usable open space if private, and 133 square feet if common.

*(4) **Rear-Yard Setback Requirements**. For projects that do not construct a rear-yard unit pursuant to subsection (d)(3) of this Section 249.94, the basic rear yard setback shall be equal to 30% of the total depth of the lot on which the building is situated, but in no case less than 15 feet.*

*(5) **Open Space Requirements for Lot-Merger Projects**. For projects eligible under subsection (c)(4)(B) of this Section 249.94, each dwelling unit shall have at least 100 square feet of usable open space if private, and 133 square feet if common.*

*(6) **Minimum Density Requirement on Merged Lots.** For lots merged pursuant to subsection (c)(4)(B) of this Section 249.94, any development on the resulting lot shall be subject to the following minimum densities:*

(A) six units per lot, if the lot results from a two-lot merger, or

(B) nine units per lot, if the lot results from a three-lot merger.

(e) ***Applicability of Rent Ordinance; Regulatory Agreements.***

(1) Sponsors of projects utilizing any of the density exceptions in subsection (d)(1) of this Section 249.94 shall enter into a regulatory agreement with the City subjecting the new units created pursuant to such density exception, except for any required Affordable Units as defined in Planning Code Section 401, to the Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code), as a condition of approval of the density exception ("Regulatory Agreement").

(2) The property owner and the Planning Director, or the Director's designee, on behalf of the City, will execute the Regulatory Agreement, which is subject to review and approval by the City Attorney's Office. The Regulatory Agreement shall be executed prior to the City's issuance of the First Construction Document for the project, as defined in Section 107 A.13.1 of the Building Code. Following execution of the Regulatory Agreement by all parties and approval by the City Attorney, the Regulatory Agreement or a memorandum thereof shall be recorded in the title records in the Office of the Assessor-Recorder against the property and shall be binding on all future owners and successors in interest.

(3) At a minimum, the Regulatory Agreement shall contain the following:

(A) A description of the total number of units approved, including the number of units subject to the Rent Stabilization and Arbitration Ordinance and other restricted units, if any, and the location, square footage of dwelling units, and number of bedrooms in each unit;

(B) A statement that the new units created pursuant to the density exception are not subject to the Costa-Hawkins Rental Housing Act (California Civil Code Section 1954.50 et seq.) because under Section 1954.52(b), the property owner has entered into and agreed to the terms of the agreement with the City in consideration for an exception from residential density limits, or other

direct financial contribution or other forms of assistance specified in California Government Code Section 65915 et seq.;

(C) A description of the residential density exception or other direct financial contribution or forms of assistance provided to the property owner; and

(D) A description of the remedies for breach of the agreement and other provisions to ensure implementation and compliance with the agreement.

*(f) **Review and Approvals**. Notwithstanding any other provision of this Code and irrespective of whether a project is utilizing a density exception pursuant to subsection (d)(1) of this Section 249.94, for any project that meets the eligibility criteria in subsection (c) of this Section 249.94 the following shall apply:*

(1) No conditional use authorization shall be required, including but not limited to the requirements of Sections 303 and 317 of this Code;

(2) Compliance with Section 311 of this Code shall not be required; and

(3) A Notice of Special Restrictions ("NSR") shall be recorded on the title of any property receiving approval under this Section 249.94. The NSR shall:

(A) Describe the uses, restrictions, and development controls approved under Planning Code Section 249.94, including but not limited to the minimum density restrictions set forth in subsection (d)(6);

(B) State that the NSR runs with the land and is binding on all future owners and successors in interest;

(C) Provide the Planning Department with the ability to enforce the provisions of this Section 249.94;

(D) Describe any other conditions that the Planning Director deems appropriate to ensure compliance with this Section 249.94; and

(E) Be signed by the City and recorded prior to issuance of the building permit for the project receiving approval under this Section 249.94.

(g) ***Review of Program****. The Planning Department shall include the location and number of units of projects using this Section 249.94 in the Housing Inventory Report. Prior to December 31, 2030, the Planning Department shall prepare a report containing recommendations for modifications to this Section 249.94, including modifications to the boundaries described in subsection (b), to further the goals of the City's Seventh Housing Element Cycle.*

Section 4. Pursuant to Sections 106 and 302(c) of the Planning Code, Sheets SU 1, SU 2, SU 3, SU 4, SU 5, SU 6, SU 7, SU 11, SU 12, and SU 13 of the Zoning Map of the City and County of San Francisco are hereby amended, as follows:

Description of Property	Special Use District Hereby Approved
All parcels within the westernmost boundary of the Great Highway; the northernmost boundary of the City; and the area bounded by Leavenworth between Jefferson and North Point; Columbus between North Point and Chestnut; Chestnut between Taylor and Montgomery; Montgomery between Chestnut and Greenwich; Greenwich between Montgomery and Sansome; Sansome between Greenwich and Vallejo; Vallejo between Sansome and Kearny;	Family Housing Opportunity Special Use District

Kearny between Vallejo and Filbert; Filbert between Kearny and Columbus; Columbus between Filbert and Greenwich; Mason between Greenwich and Green; Green between Mason and Leavenworth; Leavenworth between Green and Washington; Washington between Leavenworth and Powell; Powell between Washington and California; California between Powell and Leavenworth; Leavenworth between California and Bush; Bush between Leavenworth and Van Ness; Van Ness between Bush and California; California between Van Ness and Steiner; Steiner between California and Sutter; Sutter between Steiner and Gough; Gough between Sutter and Geary; Geary between Gough and Baker; St. Joseph's Avenue between Geary and Turk; Turk between St. Joseph's Avenue and Scott; Scott between Turk and McAllister; McAllister between Scott and Steiner; Steiner between McAllister and Fulton; Fulton between Steiner and Laguna; Laguna between Fulton and Oak; Oak between Laguna and	

Fillmore; Fillmore between Oak and Page; Page between Fillmore and Webster; Webster between Page and Haight; Haight between Webster and Laguna; Laguna between Haight and Market; Market between Laguna and Castro; Castro between Market and 21st Street; 21st Street between Castro and Dolores; Dolores between 21st Street and Cesar Chavez; Cesar Chavez between Dolores and Noe; Noe between Cesar Chavez and Laidley; Harry Street Stairs between Laidley and Beacon; Beacon between Harry Street Stairs and Miguel; Miguel between Beacon and Bemis; Bemis between Miguel and Castro; Sussex between Castro and Diamond; Diamond between Sussex and Surrey; Surrey between Diamond and Bosworth; Bosworth between Surrey and San Jose; San Jose between Bosworth and Ocean; Ocean between San Jose and Howth; Howth between Ocean and Mt. Vernon; Mt. Vernon between Howth and Harrold; Grafton between Harold and Capitol; Capitol between Grafton and Lakeview; Lakeview	

between Capitol and Ashton; Ashton between Lakeview and Holloway; Holloway between Ashton and Junipero Serra; Junipero Serra between Holloway and 19th Avenue; 19th Avenue between Junipero Serra and Eucalyptus; Eucalyptus between 19th Avenue and Middlefield; Middlefield between Eucalyptus and Lake Merced Boulevard; Lake Merced Boulevard between Middlefield and Skyline Boulevard; Skyline between Lake Merced Boulevard and Sloat; Sloat between Skyline and the Great Highway.	

Section 5. Article 9 of the Subdivision Code is hereby amended by amending Sections 1359, 1396.4,1396.5 and adding Section 1396.7, to read as follows:

SEC. 1359. PARCEL MAP.

* * * *

(c) In the case of Conversions where a Tentative Map is not required, the requirements of Section 1314 and the requirements of Article 9 on Conversions shall apply, provided that hearings as provided in Sections 1313 and 1332 shall not be required, and provided further that Article 9 shall not be applied to two-unit buildings where both units are owner-occupied for one year prior to the application for Conversion. This exemption for

owner-occupied two-unit buildings shall not apply to units legalized pursuant to Section 207.3 of the Planning Code *or units constructed pursuant to Section 249.94 of the Planning Code*.

* * * *

SEC. 1396.4. CONDOMINIUM CONVERSION FEE AND EXPEDITED CONVERSION PROGRAM.

(a) Findings. The findings of Planning Code Section 415.1 concerning the City's inclusionary affordable housing program are incorporated herein by reference and support the basis for charging the fee set forth herein as it relates to the conversion of dwelling units into condominiums.

(b) Any building may be exempted from the annual lottery provisions of Section 1396 if the building owners for said building comply with either: (1) Section 1396.3(g)(1) and all the requirements of this Section 1396.4; ~~or~~ (2) all the requirements of Section 1396.6; *or (3) all the requirements of Section 1396.7*. Notwithstanding the foregoing sentence, no property or applicant subject to any of the prohibitions on conversions set forth in Section 1396.2, in particular a property with the eviction(s) set forth in Section 1396.2(b), is eligible for the Expedited Conversion program under this Section 1396.4. Eligible buildings as set forth in this subsection (b) may exercise their option to participate in this program according to the following requirements:

* * * *

SEC. 1396.5. SUSPENSION OF THE LOTTERY PENDING PRODUCTION OF REPLACEMENT UNITS FOR EXPEDITED CONVERSION UNITS.

* * * *

(c) Except as otherwise authorized under Section 1396.6 *or Section 1396.7*, the Department shall not accept an application for the conversion of residential units under Section 1396 nor conduct a lottery under this Article prior to January 1, 2024. Thereafter, the lottery shall resume upon the earlier of the following: (1) the first February following the Mayor's Office of Housing and Community Development report pursuant to subsection (b) showing that the total number of Conversion Replacement Units produced in the City of San Francisco exceeded the total number of units converted as identified in the Department's report prepared pursuant to Subsection (a); or (2) completion of the "Maximum Suspension Period" as defined below.

* * * *

SEC. 1396.7. CONDOMINIUM CONVERSION ASSOCIATED WITH PROJECTS CONSTRUCTED PURSUANT TO PLANNING CODE SECTION 249.94.

*(a) **Findings**. The findings of Planning Code Section 415.1 concerning the City's inclusionary affordable housing program are incorporated herein by reference and support the basis for charging the fee set forth herein as it relates to the conversion of dwelling units into condominiums.*

*(b) **Definition**. "Existing Dwelling Unit" shall mean the dwelling unit in existence on a lot at the time of the submittal of an application to construct a new dwelling unit pursuant to Planning Code Section 249.94.*

(c) Notwithstanding Section 1396.4 of this Code and Ordinance No. 117-13, a subdivider of a one-unit building that has obtained a permit to build one or more new dwelling units pursuant to Planning Code Section 249.94, which results in two or more dwelling units, and that has signed an affidavit stating the subdivider's intent to reside in one of those resulting dwelling units, or in the Existing Dwelling Unit, for a period of three years after the approval of the Certificate of Final Completion and Occupancy for the new dwelling units, shall (1) be exempt from the annual lottery

provisions of Section 1396 of this Code with respect to the dwelling units built as part of the Project and (2) be eligible to submit a condominium conversion application for the Existing Dwelling Units and/or include the Existing Dwelling Units in a condominium map application for the project approved pursuant to Planning Code Section 249.94. Notwithstanding the foregoing sentence, no property or applicant subject to any of the prohibitions on conversions set forth in Section 1396.2 of this Code, including but not limited to a property with the eviction(s) set forth in Section 1396.2(b), shall be eligible for condominium conversion under this Section 1396.7. Eligible buildings as set forth in this subsection (c) may exercise their option to participate in this program according to the following requirements:

(1) The applicant(s) for the subject building seeking to convert dwelling units to condominiums or subdivide dwelling units into condominiums under this subsection shall pay the fee specified in Section 1315 of this Code.

(2) In addition to all other provisions of this Section 1396.7, the applicant(s) shall comply with all of the following:

(A) The requirements of Subdivision Code Article 9, Sections 1381, 1382, 1383, 1386, 1387, 1388, 1389, 1390, 1391(a) and (b), 1392, 1393, 1394, and 1395.

(B) The applicant(s) must certify that within the 60 months preceding the date of the subject application, no tenant resided at the property.

(C) The applicant(s) must certify that to the extent any tenant vacated their unit after March 31, 2013, and before recordation of the final parcel or subdivision map, such tenant did so voluntarily or if an eviction or eviction notice occurred it was not pursuant to Administrative Code Sections 37.9(a)(8)-(12) and 37.9(a)(14). If a temporary eviction occurred under Sections 37.9(a)(11) or 37.9(a)(14), then the applicant(s) shall certify that the original tenant reoccupied the unit after the temporary eviction.

(3) If the Department finds that a violation of this Section 1396.7 occurred prior to recordation of the final map or final parcel map, the Department shall disapprove the application or subject map. If the Department finds that a violation of this Section occurred after recordation of the final map or parcel map, the Department shall take such enforcement actions as are available and within its authority to address the violation.

(4) This Section 1396.7 shall not prohibit a subdivider who has lawfully exercised the subdivider's rights under Administrative Code Section 37.9(a)(13) from submitting a condominium conversion application under this Section 1396.7.

(d) Decisions and Hearing on the Application.

(1) The applicant shall obtain a final and effective tentative map or tentative parcel map approval for the condominium subdivision or parcel map within one year of paying the fee specified in subsection (e) of this Section 1396.7. The Director of the Department of Public Works or the Director's designee is authorized to waive the time limits set forth in this subsection (d)(1) as it applies to a particular building due to extenuating or unique circumstances. Such waiver may be granted only after a public hearing and in no case shall the time limit extend beyond two years after submission of the application.

(2) No less than 20 days prior to the Department's proposed decision on a tentative map or tentative parcel map, the Department shall publish the addresses of buildings being considered for approval and post such information on its website. During this time, any interested party may file a written objection to an application and submit information to the Department contesting the eligibility of a building. In addition, the Department may elect to hold a public hearing on said tentative map or tentative parcel map to consider the information presented by the public, other City department, or an applicant. If the Department elects to hold such a hearing it shall post notice of such hearing and provide written notice to the applicant, all tenants of such building, any member of the public who submitted information to the Department, and any interested party who has requested such notice. In

the event that an objection to the conversion application is filed in accordance with this subsection (d)(2), and based upon all the facts available to the Department, the Department shall approve, conditionally approve, or disapprove an application and state the reasons in support of that decision.

(3) Any map application subject to a Departmental public hearing on the subdivision or a subdivision appeal shall receive a six-month extension on the time limit set forth in subsection (d)(1) of this Section 1396.7.

(e) Should the subdivision application be denied or be rejected as untimely in accordance with the dates specified in subsection (d)(1) of this Section 1396.7, or should the tentative subdivision map or tentative parcel map be disapproved, the City shall refund the entirety of the application fee.

(f) Conversion of buildings pursuant to this Section 1396.7 shall have no effect on the terms and conditions applicable to such buildings under Section 1385A or 1396 of this Code.

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

SEC. 37.2. DEFINITIONS.

* * * *

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

* * * *

The term "rental units" shall not include:

* * * *

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

* * * *

(E) The term "rental units" shall include any new dwelling units created pursuant to the density exception<u>s</u> set forth in Section<u>s</u> 207(c)(8) <u>*and 249.94*</u> of the Planning Code.

SEC. 37.3. RENT LIMITATIONS.

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

* * * *

(d) **Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.).** Consistent with the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.) and regardless of whether otherwise provided under Chapter 37:

(1) **Property Owner Rights to Establish Initial and All Subsequent Rental Rates for Separately Alienable Parcels**.

(A) An owner or residential real property may establish the initial and all subsequent rental rates for a dwelling or a unit which is alienable separate from the title to any

other dwelling unit or is a subdivided interest in a subdivision as specified in subdivision (b), (d), or (f) of Section 11004.5 of the California Business and Professions Code. The owner's right to establish subsequent rental rates under this paragraph shall not apply to a dwelling or unit where the preceding tenancy has been terminated by the owner by notice pursuant to California Civil Code Section 1946 or has been terminated upon a change in the terms of the tenancy noticed pursuant to California Civil Code Section 827; in such instances, the rent increase limitation provisions of Chapter 37 shall continue to apply for the duration of the new tenancy in that dwelling or unit.

* * * *

(D) An owner's right to establish subsequent rental rates under subsection 37.3(d)(1) shall not apply to a dwelling or unit that is a new dwelling unit created pursuant to the density exception*s* set forth in Section*s* 207(c)(8) *and 249.94* of the Planning Code.

* * * *

Section 7. The Planning Department, the Department of Public Works, and the Rent Board are authorized to adopt regulations to implement this ordinance.

Section 8. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

Section 8. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.

Section 9. No Conflict with Federal or State Law. Nothing in this ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

Section 10. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ Giulia Gualco-Nelson
GIULIA GUALCO-NELSON
Deputy City Attorney

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FILE NO. 230026

REVISED LEGISLATIVE DIGEST

(Substituted, 5/16/2023)

[Planning, Subdivision, and Administrative Codes and Zoning Map - Family Housing Opportunity Special Use District]

Ordinance amending 1) the Planning Code to create the Family Housing Opportunity Special Use District; 2) the Planning Code to authorize up to four units on individual lots, up to twelve units on merged lots in RH-1 (Residential-House, One Family) districts, and Group Housing in RH-1 districts for eligible projects in the Special Use District; 3) the Planning Code to exempt eligible projects in the Special Use District from certain height, open space, dwelling unit exposure, and rear-yard setback requirements, conditional use authorizations, and neighborhood notification requirements; 4) amending the Subdivision Code to authorize eligible projects in the Special Use District to qualify for condominium conversion or a condominium map that includes the existing dwelling units and the new dwelling units that constitute the project; 5) amending the Administrative Code to require new dwelling or group housing units constructed pursuant to the density limit exception to be subject to the rent increase limitations of the Rent Ordinance; 6) amending the Zoning Map to show the Family Housing Opportunity Special Use District; and affirming the Planning Department's determination under the California Environmental Quality Act, and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

The General Plan consists of goals, policies and programs for the future physical development of San Francisco. The Housing Element is a component of the General Plan and serves as the City's plan for accommodating its Regional Housing Needs Allocation during an eight-year planning cycle. The 2023-2031 Housing Element identifies Well-Resourced Neighborhoods, comprised of high-resource and highest-resource areas, as defined by the California Tax Credit Allocation Committee and the Department of Housing and Community Development's Fair Housing Taskforce.

The Planning Code sets forth different zoning districts, including Special Use Districts, throughout the City, where different uses are permitted, conditionally permitted, or prohibited, and where various controls (such as density, height and bulk standards, rear yard setback, and open space requirements) apply.

The Planning Code prescribes a process to grant conditional use authorizations, which may be required in a variety of circumstances, including but not limited to the demolition, removal, or merger of dwelling units (Planning Code Section 317). The Planning Code also sets forth

the procedures for neighborhood notification for building permit applications and the process for members of the public to initiate discretionary review (Section 311).

Amendments to Current Law

This ordinance amends the Planning Code and Zoning Map to create the Family Housing Opportunity Special Use District (SUD). The boundaries of the SUD are generally coterminous with the Well-Resourced Neighborhoods identified in the 2023-2031 Housing Element.

This ordinance exempts qualifying development projects in the SUD from all conditional use authorizations, including, but not limited to, demolition, removal, or merger of dwelling units (Section 317). Qualifying projects are also exempt from neighborhood notification procedures and public-initiated discretionary review (Section 311).

A qualifying project is one that meets all of the following criteria:

- located in an RH zone in the Family Housing Opportunity SUD;
- is not seeking or receiving a density bonus under the provisions of Planning Code Sections 206.3, 206.5, or 206.6;
- is not located on a parcel resulting from a lot split under California Government Code Section 66411.7;
- proposes the construction, including the alteration of an existing structure, of one of the following project types:
    - a "Single-Lot Development Project" of at least two and no more than four dwelling units on a single lot, inclusive of any existing dwelling units on the site. For a project proposing four dwelling units, the fourth dwelling unit shall be constructed in the rear yard. For a project proposing fewer than four dwelling units, up to one unit may be located in the rear yard.
    - a "Lot-Merger Development Project" of up to three merged lots in the RH-1, RH-1(D), and RH-1(S) districts and the construction on the resulting lot of at least nine and no more than 12 dwelling units for a three-lot merger project, or at least six and no more than eight dwelling units for a two-lot merger project.
    - a "Group Housing Development Project" consisting of a single-lot project or a lot-merger project that proposes the construction of Group Housing up to the density limit prescribed in the SUD or currently permitted under the Planning Code, whichever is greater.
- includes more dwelling units than are existing on site at the time of application, or in the case of Group Housing, at least as many bedrooms as exist on site at the time of application;
- does not propose the demolition of certain historic buildings, as defined in the SUD;
- complies with the Planning Code and any applicable design guidelines;
- complies with the requirements of Section 66300(d) of the California Government Code, as may be amended from time to time;

- demonstrates that the project sponsor has owned the subject lot for a minimum of one year prior to the time of the submittal of their application, subject to certain exceptions, as defined in the SUD.

Qualifying projects shall receive a density exception of up to four dwelling units per lot, eight units on a lot resulting from a two-lot merger, or 12 units on a lot resulting from a three-lot merger. Qualifying projects shall also receive a density exception of up to one Group Housing unit per 415 square feet of lot area in RH-1, RH-1(D), and RH-1(S) districts. These density exceptions are not inclusive of any accessory dwelling units.

The height limit for a qualifying project is 40 feet, provided that 40 feet is permitted in the Height Map of the Planning Code. Qualifying projects must provide rear yard setbacks equal to 30% of the total depth of the lot. Qualifying projects that construct a dwelling unit in the rear yard are subject to reduced rear yard setback, dwelling unit exposure, and open space requirements.

In addition, special requirements apply to lot-merger projects. Lot-merger projects are eligible for reduced open space requirements. Lots that are merged pursuant to this ordinance are subject to minimum densities that govern future development on the merged lot. These minimum densities are six units per lot, if the lot results from a two-lot merger, or nine units per lot, if the lot results from a three-lot merger.

Projects that utilize the density exceptions must subject the units created pursuant to those exceptions to rent control, minus any affordable units required by Planning Code Section 415. Project sponsors must enter into a regulatory agreement with the City, agreeing that the incentives they are receiving constitutes adequate consideration to waive their rights under the Costa-Hawkins Rental Housing Act. (California Civil Code Sections 1954.50 et seq.) The ordinance makes parallel amendments to the Administrative Code.

The ordinance also amends the Subdivision Code to authorize a subdivider of a one-unit building that has obtained a permit to build one or more new dwelling units under the SUD, resulting in two or more dwelling units, to submit an application for condominium conversion or a condominium map that includes the existing dwelling unit as well as the new dwelling units created under the SUD. This conversion program does not include projects that propose Group Housing units. Applicants must meet certain requirements specified in the ordinance. Eligible projects in the SUD that propose Group Housing units are not eligible for condominium maps or the conversion procedures set forth in the ordinance.

The ordinance provides incentives for property owners who sign an affidavit stating their intent to reside on their properties for three years after the issuance of the Certificate of Final Completion and Occupancy for the new dwelling units.

This ordinance requires the Planning Department to report on the outcomes of this SUD in the Housing Inventory Report, in addition to a report containing recommendations for modifications to the SUD to further the goals of the next Housing Element Cycle.

Background Information

The ordinance contains findings setting forth the need to promote housing development in San Francisco's well-resourced neighborhoods. It states that the City faces a severe crisis of housing affordability and availability, characterized by dramatic increases in rent and home sale prices over recent years and historic underproduction of new housing units across income levels, particularly in the City's well-resourced neighborhoods. This ordinance also contains findings setting forth the need to affirmatively further fair housing, by increasing density in a manner that meaningfully addresses significant disparities in housing needs and access to opportunity, in addition to streamlining the approval process to promote certainty in development outcomes in these well-resourced neighborhoods.

The ordinance also includes findings to support consideration and approval of the ordinance with respect to the California Environmental Quality Act ("CEQA"), as authorized under Senate Bill 10 (Wiener) ("SB 10").

This ordinance is a substitute for an ordinance that was introduced on January 10, 2023. This substitute ordinance contains new eligibility criteria and refined development standards for eligible projects. This substitute ordinance also includes an obligation to rent restrict units created pursuant to the density exception and authorizes certain property owners to apply for condominium conversion or condominium maps that include existing residential units as well as new units created under the SUD.

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Introduction Form

(by a Member of the Board of Supervisors or the Mayor)

I hereby submit the following item for introduction (select only one):

- ☐ 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- ☐ 2. Request for next printed agenda (For Adoption Without Committee Reference)
  (Routine, non-controversial and/or commendatory matters only)
- ☐ 3. Request for Hearing on a subject matter at Committee
- ☐ 4. Request for Letter beginning with "Supervisor _____ inquires…"
- ☐ 5. City Attorney Request
- ☐ 6. Call File No. _____ from Committee.
- ☐ 7. Budget and Legislative Analyst Request (attached written Motion)
- ■ 8. Substitute Legislation File No. 230026
- ☐ 9. Reactivate File No. _____
- ☐ 10. Topic submitted for Mayoral Appearance before the Board on _____

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

■ Planning Commission ☐ Building Inspection Commission ☐ Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

☐ Yes ☐ No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Melgar

Subject:

[Planning, Subdivision, and Administrative Codes and Zoning Map - Family Housing Opportunity Special Use District]

Long Title or text listed:

Ordinance amending 1) the Planning Code to create the Family Housing Opportunity Special Use District; 2) the Planning Code to authorize up to four units on individual lots, up to twelve units on merged lots in RH-1 districts, and Group Housing in RH-1 districts for eligible projects in the Special Use District; 3) the Planning Code to exempt eligible projects in the Special Use District from certain height, open space, dwelling unit exposure, and rear-yard setback requirements, conditional use authorizations, and neighborhood notification requirements; 4) amending the Subdivision Code to authorize eligible projects in the Special Use District to qualify for condominium conversion or a condominium map that includes the existing dwelling units and the new dwelling units that constitute the project; 5) amending the Administrative Code to require new dwelling or group housing units constructed pursuant to the density limit exception to be subject to the rent increase limitations of the Rent Ordinance; 6) amending the Zoning Map to show the Family Housing Opportunity Special Use District; and affirming the Planning Department's determination under the California Environmental Quality Act, and making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Signature of Sponsoring Supervisor: /MM