FILE NO. 230026

REVISED LEGISLATIVE DIGEST
(Amended in Committee, 7/24/2023)

[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 in the RH (Residential, House) District, excluding lots located in the Telegraph Hill - North Beach Residential Special Use District and the North Beach Special Use District, the greater of up to twelve units or one unit per 1,000 square feet of lot area on three merged lots and the greater of up to eight units or one unit per 1,000 square feet of lot area on two 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 requirements, and exempt eligible projects that do not propose the demolition of any units subject to the rent increase limitations of the Rent Ordinance from conditional use authorizations and neighborhood notification requirements; 4) 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) 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) 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, 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 that do not propose the demolition of any units subject to rent increases under the Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) from all conditional use authorizations, including, but not limited to, demolition, removal, or merger of dwelling units (Section 317), unless a Conditional Use Authorization is required under Planning Code Sections 249.77 and 249.92. 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 and is not located in the Telegraph Hill - North Beach Residential Special Use District or the North Beach Special Use District;
- 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, 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 the greater of 12 dwelling units or one dwelling unit per 1,000 square feet of a lot area for a three-lot merger project, or at least six and

no more than the greater of eight dwelling units or one dwelling unit per 1,000 square feet of lot area 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 otherwise 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;
- contains required bedroom configurations, as detailed further in the ordinance;
- 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. The ordinance provides that if California Government Code Section 66300 becomes inoperative, the project shall comply with the last operative version of Section 66300 before it became inoperative;
- 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 where the lot is vacant or contains an existing single-family home, including a single-family home with an Unauthorized Unit, or five years where the lot contains two or more dwelling units, subject to certain exceptions, as defined in the SUD;
- does not propose the demolition of three or more dwelling units that are or were:
    - subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income within the past five years; or
    - subject to limits on rent increases under the Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) within the past five years; or
    - rented by lower or very low income households within the past five years; or
- does not propose the demolition of a dwelling unit occupied by a tenant at the time of application; and
- does not propose the demolition of a dwelling unit from which a tenant has been evicted under Administrative Code Sections 37.9(a)(8)-(12) or 37.9(a)(14)-(16) within the past five years or a dwelling unit that has been vacated within the past five years pursuant to a Buyout Agreement, as defined in Administrative Code Section 37.9E, as it may be amended from time to time; and
- conducts at least one pre-application meeting prior to submission of a development application, subject to further criteria in the ordinance.

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. For lot merger projects, the density exception shall be increased to one unit per 1,000 square feet of lot area where that calculation would yield more units than the numerical

limits. 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 are also eligible for other development incentives, such as a reduced rear yard requirement and open space requirement. Qualifying projects that construct a dwelling unit in the rear yard are subject to reduced rear yard, 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.

This legislative digest reflects amendments made at the Land Use and Transportation Committee on July 10, 2023. Those amendments:

- reinstated that Conditional Use Authorization requirement under Planning Code Section 317 for projects demolishing two or more units subject to rent control;
- added eligibility criteria to restrict demolition of units with certain eviction histories and prevent displacement of tenants; and
- adopted recommendations from the Planning Commission, including increasing the density limits to the greater of the numerical limits or one unit per 1,000 square feet of lot area, requiring additional minimum bedrooms for lot merger projects, and clarifying that projects cannot propose both group housing and dwelling units.

This legislative digest reflects amendments made at the Land Use and Transportation Committee on July 17, 2023. Those amendments:

- reinstated the Conditional Use Authorization requirement under Planning Code Sections 249.77 and 249.92 for certain projects located in the Corona Heights Large Residence SUD and the Central Neighborhoods Large Residence SUD, respectively;
- added a pre-application meeting as an eligibility requirement; and
- made clerical revisions to Chapter 37 of the Administrative Code.

This legislative digest reflects amendments made at the Land Use and Transportation Committee on July 24, 2023. Those amendments:

- deleted the one unit per 1,000 square feet of lot area density computation for single-lot developments and clarified that a single-lot project that does not construct a rear-yard unit is limited to three units in the primary structure;
- reinstated the Conditional Use Authorization and Planning Code Section 311 requirements for projects that demolish any units subject to rent control;
- provided that projects located in the Telegraph Hill - North Beach Residential Special Use District or the North Beach Special Use District are ineligible for the development and streamlining incentives in the SUD;
- imposed a five-year ownership requirement for projects that contain two or more existing dwelling units and applied the one-year ownership requirement to vacant lots and existing single-family homes, including single-family homes that contain an Unauthorized Unit;

- clarified that existing units, for the purposes of calculating maximum density and unit replacement obligations, include Unauthorized Units that have been occupied by a tenant within the five years preceding the development application;
- clarified that existing units, for the purposes of unit replacement obligations, include Accessory Dwelling Units,
- clarified that the density limits in the Planning Code apply to eligible Group Housing development projects in RH-2 and RH-3 districts in the SUD;
- eliminated the bedroom configuration requirements for single-lot projects that propose the addition of a single unit to three existing dwelling units;
- augmented notice requirements for projects utilizing the condominium conversion procedures set forth in the legislation;
- clarified that the restriction on demolition of units with prior Buyout Agreement applies regardless of whether the Buyout Agreement was filed and registered with the Rent Board; and
- made other clarifying edits, including requiring that project sponsor declarations be made under penalty of perjury.

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