

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

February 18, 2020

File No. 200142

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On February 11, 2020, Supervisor Mandelman submitted the following legislation:

File No. 200142

Ordinance amending the Planning Code to require Conditional Use authorization for applications to demolish a Single-Family Residential Building on a site zoned as RH-1 (Residential, House District, One Family) or RH-1(D) (Residential, House District, One Family-Detached), when the building is demonstrably not affordable or financially accessible housing; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public convenience, necessity, and welfare under Planning Code, Section 302.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Don Lewis, Environmental Planning

1 [Planning Code - Conditional Use Authorizations for Demonstrably Unaffordable Housing]

2
3 **Ordinance amending the Planning Code to require conditional use authorization for**
4 **applications to demolish a single-family residential building on a site zoned as RH-1**
5 **(Residential, House District, One Family) or RH-1(D) (Residential, House District, One**
6 **Family-Detached), when the building is demonstrably not affordable or financially**
7 **accessible housing; affirming the Planning Department’s determination under the**
8 **California Environmental Quality Act; making findings of consistency with the General**
9 **Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting**
10 **findings of public convenience, necessity, and welfare under Planning Code, Section**
11 **302.**

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

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

20 Section 1. Findings.

21 (a) The Planning Department has determined that the actions contemplated in this
22 ordinance comply with the California Environmental Quality Act (California Public Resources
23 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
24 Supervisors in File No. _____ and is incorporated herein by reference. The Board
25 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

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
4 amendment will serve the public necessity, convenience, and welfare for the reasons set forth
5 in Planning Commission Resolution No. _____, and the Board incorporates such reasons
6 herein by reference. A copy of said Resolution is on file with the Board of Supervisors in File
7 No. _____.

8
9 Section 2. Article 3 of the Planning Code is hereby amended by revising Section 317
10 to read as follows:

11
12 **SEC. 317. LOSS OF RESIDENTIAL AND UNAUTHORIZED UNITS THROUGH**
13 **DEMOLITION, MERGER, AND CONVERSION.**

14 * * * *

15 (c) **Applicability; Exemptions.**

16 (1) Any application for a permit that would result in the Removal of one or more
17 Residential Units or Unauthorized Units is required to obtain Conditional Use authorization.
18 For Unauthorized Units, this Conditional Use authorization will not be required for Removal if
19 the Zoning Administrator has determined in writing that the unit cannot be legalized under any
20 applicable provision of this Code. The application for a replacement building or alteration
21 permit shall also be subject to Conditional Use requirements.

22 * * * *

23 ~~(5) — The Demolition of a Single-Family Residential Building that meets the~~
24 ~~requirements of Subsection (d)(3) below may be approved by the Department without requiring a~~
25 ~~Conditional Use authorization.~~

1 (d) **Demolition.**

2 * * * *

3 (3) ~~—An application to demolish a Single Family Residential Building on a site in a~~
4 ~~RH-1 or RH-1(D) District that is demonstrably not affordable or financially accessible housing is~~
5 ~~exempt from the Conditional Use authorization requirement of Subsection (c)(1). Specific numerical~~
6 ~~criteria for such analyses shall be adopted by the Planning Commission in the Code Implementation~~
7 ~~Document, in accordance with this Section 317, and shall be adjusted periodically by the Zoning~~
8 ~~Administrator based on established economic real estate and construction indicators.~~

9 ~~_____ (A) —The Planning Commission shall determine a level of affordability or~~
10 ~~financial accessibility, such that Single Family Residential Buildings on sites in RH-1 and RH-1(D)~~
11 ~~Districts that are demonstrably not affordable or financially accessible, that is, housing that has a~~
12 ~~value greater than at least 80% of the combined land and structure values of single family homes in~~
13 ~~San Francisco as determined by a credible appraisal, made within six months of the application to~~
14 ~~demolish, are not subject to a Conditional Use hearing. The demolition and replacement building~~
15 ~~applications shall undergo notification as required by other sections of this Code. The Planning~~
16 ~~Commission, in the Code Implementation Document, may increase the numerical criterion in this~~
17 ~~Subsection by up to 10% of its value should it deem that adjustment is necessary to implement the intent~~
18 ~~of this Section 317, to conserve existing housing and preserve affordable housing.~~

19 ~~_____ (B) —~~ The Planning Commission, in the Code Implementation
20 Document, shall adopt criteria and procedures for determining the soundness of a structure
21 proposed for demolition, where "soundness" is an economic measure of the feasibility of
22 upgrading a residence that is deficient with respect to habitability and Housing Code
23 requirements, due to its original construction. The "soundness factor" for a structure shall be
24 the ratio of a construction upgrade cost (i.e., an estimate of the cost to repair specific
25 habitability deficiencies) to the replacement cost (i.e., an estimate of the current cost of

1 building a structure the same size as the existing building proposed for demolition), expressed
2 as a percentage. A building is unsound if its soundness factor exceeds 50%. A Residential
3 Building that is unsound may be approved for demolition without requiring a Conditional Use
4 authorization.

5 * * * *

6
7 Section 3. Effective Date. This ordinance shall become effective 30 days after
8 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
9 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
10 of Supervisors overrides the Mayor's veto of the ordinance
11

12 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
13 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
14 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
15 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
16 additions, and Board amendment deletions in accordance with the "Note" that appears under
17 the official title of the ordinance.
18

19
20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By: 
23

24 KRISTEN A. JENSEN
Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Conditional Use Authorizations for Demonstrably Unaffordable Housing]

Ordinance amending the Planning Code to require conditional use authorization for applications to demolish a single-family residential building on a site zoned as RH-1 (Residential, House District, One Family) or RH-1(D) (Residential, House District, One Family-Detached), when the building is demonstrably not affordable or financially accessible housing; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public convenience, necessity, and welfare under Planning Code, Section 302.

Existing Law

Planning Code Section 317 currently requires a Conditional Use permit for any building permit application that proposes elimination of one or more Residential Units or Unauthorized Units through Conversion, Demolition or Merger of Residential Units. Existing law provides limited exceptions, including an exception for permits to demolish single family homes in an RH-1 or RH-1(D) district that are not demonstrably affordable or financially accessible housing.

Amendments to Current Law

The proposed legislation would amend Planning Code Section 317 to eliminate the prior exception, and require Conditional Use authorization, for permits to demolish single family homes in an RH-1 or RH-1(D) district that are not demonstrably affordable or financially accessible housing.