

BOARD of SUPERVISORS



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February 11, 2021

File No. 210116

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

Dear Ms. Gibson:

On February 2, 2021, Supervisor Mandelman submitted the following legislation:

File No. 210116

Ordinance amending the Planning Code to require Conditional Use Authorization for certain large residence developments in Residential, House (RH) zoning districts; 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 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 - Review of Large Residence Developments]

2

3 **Ordinance amending the Planning Code to require Conditional Use Authorization for**
 4 **certain large residence developments in Residential, House (RH) zoning districts;**
 5 **affirming the Planning Department’s determination under the California Environmental**
 6 **Quality Act; and making findings of consistency with the General Plan, and the eight**
 7 **priority policies of Planning Code, Section 101.1, and findings of public convenience,**
 8 **necessity, and welfare under Planning Code, Section 302.**

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

13

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

15

16 Section 1. Environmental and Land Use Findings.

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

22 (b) On _____, the Planning Commission, in Resolution No. _____,
 23 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
 24 with the City’s General Plan and eight priority policies of Planning Code Section 101.1. The
 25 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of

1 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

2 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
3 ordinance will serve the public necessity, convenience, and welfare for the reasons stated in
4 Planning Commission Resolution No. _____.

5
6 Section 2. The Planning Code is hereby amended by adding Section 319, to read as
7 follows:

8
9 **SEC. 319. REVIEW OF LARGE RESIDENCE DEVELOPMENTS.**

10 (a) Purpose. The purpose of this Section 319 is to protect and enhance existing
11 neighborhood character, encourage new infill housing at compatible densities and scale, and provide
12 for thorough assessment of proposed large single-family residences that could adversely impact
13 neighborhood character and affordable housing opportunities.

14 (b) Applicability.

15 (1) This Section 319 applies to all Residential Buildings in Residential, House (RH)
16 zoning districts, in those instances where a complete Development Application was submitted on or
17 after February 2, 2021.

18 (2) All applicable provisions of the Planning Code shall continue to apply to
19 Residential Buildings, except as otherwise stated in this Section 319.

20 (c) Conditional Use Authorizations. In all RH zoning districts, the following
21 developments shall require a Conditional Use authorization:

22 (1) New Construction. Residential development on a vacant lot, or demolition and new
23 construction, where the development will result in only one Dwelling Unit on the lot or in any Dwelling
24 Unit with a gross floor area exceeding 2,500 square feet.

25 ///

1 (2) **Expansion of Existing Development.** On a developed lot where no existing
2 Dwelling Unit exceeds 2,500 square feet of gross floor area, expansion of the Residential Use that
3 would result in an increase of more than 50% of gross floor area to any Dwelling Unit or in a Dwelling
4 Unit exceeding 2,500 square feet of gross floor area, except where the total increase of gross floor area
5 of any existing Dwelling Unit is not more than 10%. The calculation of total gross floor area increase
6 shall include all development performed on the lot within the last 10 years.

7 (3) **Expansion of Existing Large Residence Development.** On a developed lot where
8 any existing Dwelling Unit exceeds 2,500 square feet of gross floor area, expansion of the Residential
9 Use that would result in an increase of more than 10% of gross floor area of any Dwelling Unit. The
10 calculation of total gross floor area increase shall include all development performed on the lot within
11 the last 10 years.

12 (d) **Exceptions.** Notwithstanding subsections (c)(2) and (c)(3) above, developments that
13 increase the number of Dwelling Units on the lot shall not require Conditional Use authorization
14 provided that: 1) no Dwelling Unit exceeds 2,500 square feet of gross floor area as a result of the
15 development, 2) no proposed Dwelling Unit is less than one-third the gross floor area of the largest
16 Dwelling Unit resulting on the lot, and 3) neither the property or any existing structure on the
17 property: i) is listed on or formally eligible for listing in the California Register of Historic Resources;
18 ii) has been adopted as a local landmark or a contributor to a local historic district under Articles 10
19 or 11, or iii) has been determined to appear eligible for listing in the California Register of Historic
20 Resources.

21 (e) **Conditional Use Findings.** In addition to the criteria outlined in Planning Code Section
22 303(c)(1), the Planning Commission shall also consider the following factors when deciding whether to
23 approve Conditional Use applications under this Section 319:

24 (1) whether the development increases the number of Dwelling Units on the lot;

25 ///

1 (2) whether the property or any existing structure on the lot is listed in or formally
2 eligible for listing in the California Register of Historic Resources or has been determined to appear
3 eligible for listing in the California Register of Historic Resources; whether the property or any
4 existing structure on the property is an "historical resource" under CEQA;

5 (3) whether any existing structure on the lot has been adopted as a local landmark or a
6 contributor to a local historic district under Articles 10 or 11 of this Code, and whether the proposed
7 development would render the property ineligible for historic designation as an individual or
8 contributing resource;

9 (4) whether the proposed development preserves or enhances the neighborhood
10 character by retaining existing design elements and meeting applicable Residential Design Guidelines;

11 (5) whether the development proposes to remove more than 50% of the existing front
12 façade; and

13 (6) whether the project removes rental units subject to the Residential Rent Stabilization
14 and Arbitration Ordinance.

15
16 Section 3. Effective Date. This ordinance shall become effective 30 days after
17 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
18 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
19 of Supervisors overrides the Mayor's veto of the ordinance.

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

22 By: /s/ KRISTEN A. JENSEN
23 KRISTEN A. JENSEN
24 Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Review of Large Residence Developments]

Ordinance amending the Planning Code to require Conditional Use Authorization for certain large residence developments in Residential, House (RH) zoning districts; 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 convenience, necessity, and welfare under Planning Code, Section 302.

Existing Law

Planning Code Section 317 currently requires a Conditional Use authorization 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, with limited exceptions. Section 317 does not require Conditional Use authorization for projects that do not eliminate existing Residential Units.

Amendments to Current Law

The proposed legislation would amend the Planning Code by adding new Section 319, requiring Conditional Use authorization for permits for Residential projects proposing new construction in RH zoning districts that will result in only one Dwelling Unit on the lot, or in any Dwelling Unit with a gross floor area exceeding 2,500 square feet, or in expansion of certain existing Residential developments that would result in an increase of more than 50% of gross floor area to any single Dwelling Unit or in a Dwelling Unit exceeding 2,500 square feet of gross floor area, with certain exceptions.

The legislation would except developments from the Conditional Use authorization requirement of Section 319(a) where a complete Development Application was submitted before December 15, 2020. The legislation would also except developments that increase the number of Dwelling Units on the lot provided that no Dwelling Unit exceeds 2,500 square feet of gross floor area as a result of the development, no proposed Dwelling Unit is less than one-third the gross floor area of the largest Dwelling Unit resulting on the lot, and that neither the property or any existing structure on the property: i) is listed on or formally eligible for listing in the California Register of Historic Resources; ii) has been adopted as a local landmark or a contributor to a local historic district under Articles 10 or 11, or iii) has been determined to appear eligible for listing in the California Register of Historic Resources.

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

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

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

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

Sponsor(s):

Mandelman

Subject:

[Planning Code - Review of Large Residence Developments]

The text is listed:

Ordinance amending the Planning Code to require Conditional Use Authorization for certain large residence developments in Residential, House (RH) zoning districts; 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 convenience, necessity, and welfare under Planning Code, Section 302.

Signature of Sponsoring Supervisor: []

For Clerk's Use Only