



SAN FRANCISCO PLANNING DEPARTMENT

Memo to the Planning Commission

INFORMATIONAL PRESENTATION

Update on the status of Tantamount to Demolition (Section 317) Changes

Date: June 1, 2017
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BACKGROUND

In the fall of 2016, Planning Department staff initiated an effort to eliminate the tantamount to demolition thresholds in Planning Code Section 317. These thresholds determine whether or not a building is a demolition based on how much of the existing structure is retained through a major alteration. Adopted in 2008, these controls were created with the intent to retain existing housing stock, presumed to be more affordable and more in-keeping with neighborhood character. Nearly 10 years later, it is evident to Department staff that the controls lack clarity, increase uncertainty, and do not achieve their initial policy goals. Furthermore, the tantamount to demolition review process can often be a lengthy and iterative process between applicants and the Department, thereby increasing the time and cost of projects, and often resulting in projects that are challenging to build in the field.

In response, Department staff initially proposed eliminating the tantamount to demolition thresholds and replacing them with controls that would focus on the size of the final project, rather than focusing on the construction methods. The Department's initial proposal was to establish a size threshold of 3000 square feet that would trigger an automatic Planning Commission hearing. After a series of meetings with the public starting in August 2016 and two informational presentations to the Planning Commission on September 22, 2016 and October 27, 2016, the feedback provided was generally in support of the removal of the tantamount to demolition provisions of the Code; however, there lacked support for the "one size fits all" size solution. As a result, the Department received direction to look at developing controls that would encourage density – including the provision of ADUs – within the permissible zoning, maintain existing equitably sized units, establish a clear and easy to understand regulation, and to establish a context specific size threshold that would trigger a Commission hearing.

CURRENT APPROACH AND OUTREACH

The Department's current proposal is based on feedback we received at a community meeting last fall. It eliminates the tantamount to demolition requirements from Planning Code 317 but replaces them with controls for the RH Zoning Districts that use a Floor Area Ratio metric as a trigger for requiring a Planning Commission hearing, whether a project is an alteration or demolition (with the exception of demolitions of rent controlled buildings, which would continue to require a Conditional Use

Authorization). Floor Area Ratio (FAR) is the ratio of a building’s total floor area to the size of the lot upon which it is built. FAR is a common zoning tool and already applies to non-residential uses per Section 124 of the San Francisco Planning Code. Department staff has found that other cities also apply FAR limits to residential uses as a means to enable different levels of review for large residential projects.

Over the first quarter of 2017, Department staff has developed a proposal to focus on an FAR threshold, that if exceeded would trigger Planning Commission review. It includes provisions that strive to incentivize density within the allowable zoning, encourage the addition of Accessory Dwelling Units, maintain proportionality between existing units (size and location), adjust for neighborhood context by relating directly to lot size, and place an emphasis on high-quality architecture for those projects that exceed the FAR trigger. The controls focus on these policy goals while being simple to implement. Applicants and neighbors should know at the initial submittal whether or not a project will require a Commission hearing.

The FAR trigger would vary based on the number of units proposed and the zoning district. A minimum unit size of 1,000 sf would be required when multiple units are proposed to ensure unit proportionality.

Zoning	FAR Trigger per Unit			Total Lot FAR
RH-1(D)	1.4 – one unit			1.4
RH-1	1.2 – one unit			1.2
RH-2	.9 – one unit	1.8 – two units		1.8
RH-3	.7 – one unit	1.4 – two units	2.1 – three units	2.1

Additionally, the proposal would also eliminate the existing provision in Planning Code Section 317 that allows the administrative approval for the demolition of single family dwellings that are either demonstrably unaffordable or unsound. Removing this provision simplifies the rules and ensures equitable rules across the City. Further, in an effort to not overly restrict relatively minor expansions of existing large homes, the proposal would also allow for minor expansions – up to 10% of the largest existing unit – for buildings that would be noncomplying upon adoption of these new rules.

For those project that will trigger a Commission hearing, the Department proposes that those projects follow a similar hearing process and structure that currently exists for Large Project Authorizations in the Eastern Neighborhoods (Section 329). At these hearings, the Commission would consider the following criteria when granting an exception to exceed the base FAR listed above:

1. High-quality architectural design.
2. Contextual and compatible building siting, orientation, massing, scale, and fenestration pattern.
3. Compatibility with surrounding density.
4. Family friendly units.

5. Whether existing units have been reconfigured, and if they have, whether the redesign results in a family-friendly unit layout.
6. Access to and quality of open space.

FEEDBACK

The Department has presented the proposal outlined above to the public at two community meetings held on May 3, and May 8, 2017. The Department received significant and varied feedback from these two community outreach meetings, summarized in the points below:

- *Goals:* There is concern over the lack of alignment between the Department recommendations and the Commission actions on small residential projects. Applicants would like to see more certainty at the outset of a project, especially if the project won't trigger the FAR hearing, that the project will not be significantly reduced by the Commission should a public DR be filed.
- *Volume of projects:* There is concern that the FAR triggers are too low and would result in a large volume of projects going to the Planning Commission which are otherwise not currently subject to a public hearing. Does the Commission have the capacity to hear more cases? Should there be a Commission subcommittee just for small residential projects? Also, if hearings become more prevalent, developers prefer the status-quo process of tantamount to demolition.
- *Neighborhood Context:* The FAR trigger should be more neighborhood-focused by being based on the Assessor's information and then averaged by neighborhood. The current thresholds are too high.
- *Parking:* Parking should be excluded from the FAR calculation; the current thresholds are too low when parking is included.
- *Building Code Constraints:* For three-unit buildings, the Building Code requirements for additional egress will result in less usable gross floor area, thereby incentivizing a lower density in the RH-3 Districts.
- *Minimum Unit Size:* The minimum unit size should be a proportional percentage instead of a minimum square footage. The limits should encourage the creation of "missing middle" units which range from 1200-1800 sf and 2-3 bedrooms. Promoting density and equity among units will also help the "missing middle" objective.
- *Minor Subsequent Expansions:* Five years is too short of a time frame to review cumulative additions; it should be 10 years from the date of the Certificate of Final Completion (CFC). A 'minor' expansion should be 10 percent of the existing unit or 500 sf, whichever is less. Also, how can this limitation be communicated to potential buyers?
- *Nonconforming Sites:* The proposal needs to be further developed to better respond to unauthorized units, legally existing non-conforming units, and ADUs.
- *Grandfathering:* There should be a grandfathering provision for Building Permit Applications that are filed before the legislation is adopted.
- *Criteria:* Design is too subjective to be a criterion for Commission consideration. There should be a criterion that requires retention of the front façade and/or preservation of the existing structure in order to preserve neighborhood character.

- *Public Notice/Hearing Process:* Plans should be available when the notice goes out, just like they are for a Section 311 Notification or a Variance. The hearing proceedings should follow the DR process, with each side having an opportunity to speak and pose a rebuttal to the project. The hearing voting should mimic the DR process, with three votes needed for approval, because the project is otherwise Code-compliant. If the project is above the FAR limit, but meets the criteria, it should be exempt from the hearing process or placed on the consent calendar.
- *Alternative proposals:* (1) Rezone RH-1 to a higher density (RH-4). (2) Apply a form based code approach by clarifying what massing is appropriate throughout all neighborhoods and then make density irrelevant if the massing is acceptable. (3) With regard to multi-unit projects, a hearing should be required if one unit is reduced by 25 percent and another is increased by more than 25 percent.

NEXT STEPS

The objective of this hearing is to gather additional feedback from the public and the Commission. Specifically, staff would like feedback on the following topics:

1. Is the use of FAR the right approach to regulate large units in the City's low-density Residential Zoning Districts?
 - If yes, are the proposed FAR triggers too low, too high, or just right?
 - Should we use the Planning Code Definition of Gross Floor Area?
 - Should we exempt garages from the FAR trigger?
2. Does the Commission support a hearing process similar to that for Eastern Neighborhoods Large Projects?
 - If yes, are the proposed criteria for the Commission to use in evaluating these projects comprehensive?
3. Is the 10% expansion allowance for what would be noncomplying units should this proposal be adopted too low, too high, or just right?
4. Should an FAR bonus be provided if an ADU is added within the existing building?
 - If yes, is 25% the size of the largest unit or 750sf, whichever is less, the right metric?

REQUIRED COMMISSION ACTION

None. This is only an informational presentation and does not require Commission action.