

LEGISLATIVE DIGEST

[Planning Code - Conditional Use for Residential Projects in RM, RC, and RTO Districts]

Ordinance amending the Planning Code to require conditional use authorization for residential housing developments that do not maximize residential density, as defined, in Residential-Mixed (RM), Residential Commercial (RC), and Residential Transit Oriented (RTO) Districts except for Residential-Transit Oriented - Mixed (RTO-M) 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

Existing Law

Existing law limits the density of residential buildings in RC, RM, and RTO districts, to generally, three units per lot, or one unit for every 200-800 square feet depending on the district. The code does not prescribe a minimum number of units that must be constructed on a lot. Residential projects that do not exceed the maximum number of units are principally permitted, and generally do not need a conditional use authorization.

Amendments to Current Law

This ordinance would require a conditional use authorization for residential development projects in RC, RM and RTO (but not RTO-M) districts that do not construct the maximum allowable density on a lot, except in specified circumstances. "Maximize density" is defined as the greater of three units per lot, or one unit for every 200-800 square feet of lot area depending on the district, while meeting specified minimum unit sizes.

However, projects would not need a conditional use authorization if they met certain requirements:

- Projects in which: (i) existing lot conditions or form-based restrictions on development (e.g., height, bulk, rear yard requirements) are such that a proposed project cannot maximize density because it is physically infeasible without seeking a variance or subdividing existing units on the lot; (ii) the proposed project will create more units on a subject lot; (iii) the project does not include any single unit greater than 2000 square feet in size; and, (iv) the project is not subject to Conditional Use Authorization under any other provision of the Planning Code.
- Projects that consist of an expansion of an existing residential building that is 25% or less of the square footage of the existing residential building, and (i) the expansion does not increase the size of any unit that is already larger than 2000 square feet; (ii)

the expansion does not create any new unit that is greater than 2000 square feet; and (iii) the expansion would not cause an existing unit that is less than 2000 square feet to be larger than 2000 square feet;

- Projects consisting of an expansion to a building with two or more units, no resulting individual unit would be greater than 3000 square feet, and no resulting individual unit would be less than 50% of the size of the largest unit in the building.
- Projects consisting of an expansion to an existing building of 600 square feet or less.
- Projects where maximizing density would be inconsistent with the preservation of an historic resource or would preclude issuance of a Certificate of Appropriateness under Article 10 of the Planning Code.

Background Information

This ordinance is intended to encourage the construction of multi-family housing developments, rather than single-family “monster homes,” in zoning districts that allow multi-family housing developments.

The Board of Supervisors adopted interim controls similar to the controls in this ordinance in January 2021, and renewed the controls in September 2022. The interim controls expired in January 2023.

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