

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

MEMORANDUM

LAND USE AND TRANSPORTATION COMMITTEE SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Aaron Peskin, Chair, Land Use and Transportation Committee

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

DATE: December 10, 2019

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, December 10, 2019

The following file should be presented as a **COMMITTEE REPORT** at the Board meeting, Tuesday, December 10, 2019. This item was acted upon at the Committee Meeting on Monday, December 9, 2019, at 1:30 p.m., by the votes indicated.

Item No. 48 **File No. 191085**

Resolution modifying interim zoning controls established in Resolution No. 430-19, which require a Conditional Use authorization for Residential Care Facilities, to clarify that those interim zoning controls apply to certain Residential Care Facilities, including facilities lacking required permits; 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.

RECOMMENDED AS A COMMITTEE REPORT

Vote: Supervisor Aaron Peskin - Aye
Supervisor Ahsha Safai - Aye
Supervisor Matt Haney - Aye

c: Board of Supervisors
Angela Calvillo, Clerk of the Board
Alisa Somera, Legislative Deputy
Jon Givner, Deputy City Attorney

File No. 191085 Committee Item No. 3
 Board Item No. 48

COMMITTEE/BOARD OF SUPERVISORS
 AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date December 9, 2019

Board of Supervisors Meeting Date December 10, 2019

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>CEQA Determination 111819</u> |
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Completed by: Erica Major Date December 6, 2019
 Completed by: Erica Major Date December 10, 2019

1 [Interim Zoning Controls - Conditional Use Authorization for Conversion of Unpermitted
2 Residential Care Facilities]

3 **Resolution modifying interim zoning controls established in Resolution No. 430-19,**
4 **which require a Conditional Use authorization for Residential Care Facilities, to clarify**
5 **that those interim zoning controls apply to certain Residential Care Facilities, including**
6 **facilities lacking required permits; affirming the Planning Department's determination**
7 **under the California Environmental Quality Act; and making findings of consistency**
8 **with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**
9

10 WHEREAS, In Resolution No. 430-19, the Board of Supervisors approved interim
11 controls regarding Residential Care Facilities for 18 months, to require a Conditional Use
12 authorization and specified findings for any proposed change of use from a Residential Care
13 Facility; and

14 WHEREAS, Planning Code, Section 306.7, authorizes the Board of Supervisors to
15 impose interim zoning controls to provide time for the orderly completion of a planning study
16 and the adoption of appropriate legislation, and to ensure that the legislative scheme which
17 may be ultimately adopted is not undermined during the planning and legislative process by
18 changes of use or approval actions which will conflict with that scheme; and

19 WHEREAS, Residential Care Facilities, as defined in Planning Code, Sections 102 and
20 890.50(e) and established with or without the benefit of any permits required under City law,
21 provide lodging, board, and care for 24 hours or more to persons in need of specialized aid by
22 State-licensed personnel, and include board and care homes, family care homes, long-term
23 nurseries, orphanages, rest homes or homes for the treatment of addictive, contagious or
24 other diseases, or psychological disorders; and
25

1 WHEREAS, The Department of Public Health, the Human Services Agency, the
2 Department of Aging and Adult Services, and the San Francisco Long-Term Care
3 Coordinating Council are actively assessing the current availability of Residential Care
4 Facilities in San Francisco for aging populations and those in need of long-term mental health
5 care; developing strategies to establish additional, economically sustainable Residential Care
6 Facilities for City residents; and considering potential zoning amendments as one of the policy
7 approaches to address these issues; and

8 WHEREAS, It is necessary for the City to further study and assess the establishment
9 and sustainability of Residential Care Facilities as a critical component of the City's ability to
10 serve populations with additional, long-term needs, as part of the City's future development;
11 and

12 WHEREAS, San Francisco has the highest percentage of seniors and adults with
13 disabilities of any urban area in California, and the number of seniors is steadily increasing,
14 especially those over the age of 85; and

15 WHEREAS, Over 40% of San Francisco's seniors live without adequate support
16 networks, in part because their families cannot find affordable housing in the City or because
17 they do not have children; and

18 WHEREAS, In January 2019, the San Francisco Long-Term Care Coordinating
19 Council's Assisted Living Workgroup issued a report regarding affordable assisted living in the
20 City, which is on file with the Clerk of the Board of Supervisors in File No. 190908, and which
21 found:

- 22 • There are 101 assisted living facilities with a total of 2,518 assisted living beds
23 and since 2012, the City has lost 43 assisted living facilities which had provided
24 243 assisted living facility beds;

- 1 • The number of assisted living facilities in the City has decreased, and the
2 decrease has primarily occurred through the closure of small facilities,
3 particularly the board and care homes with six or fewer beds, that are generally
4 more affordable;
- 5 • Assisted living facilities in the City face economic challenges, such as slim profit
6 margins and difficulty in finding employees that make it difficult for them to
7 continue to operate; and
- 8 • There is unmet need for affordable assisted living facility placements, and that
9 as of January 2019, available waitlist data indicates that at least 103 persons
10 require such placements; and

11 WHEREAS, The Board of Supervisors (“Board”) has considered the impact on the
12 public health, safety, and general welfare if the interim zoning controls proposed in this
13 resolution are not imposed; and

14 WHEREAS, The Board has determined that the public interest will best be served by
15 imposition of these interim zoning controls at this time, to ensure that any legislative scheme
16 that may ultimately be adopted to regulate conversion of Residential Care Facility Uses will
17 not be undermined during the planning and legislative process; and

18 WHEREAS, The Board finds that these interim controls are consistent with the General
19 Plan, in that they satisfy Objective 4 to “foster a housing stock that meets the needs of all
20 residents across lifecycles” and that they do not conflict with any other aspects of the General
21 Plan; and

22 WHEREAS, The Board finds that these interim zoning controls advance Planning
23 Code, Section 101.1(b)’s Priority Policy No. 2, “That existing housing and neighborhood
24 character be conserved and protected in order to preserve the cultural and economic diversity
25 of our neighborhoods,” and Priority Policy No. 3, “That the City’s supply of affordable housing

1 be preserved and enhanced,” in that these interim zoning controls seek to control the
2 conversion of Residential Care Facility Uses, which would provide City policy-makers with the
3 opportunity to develop legislative proposals that would allow seniors and other populations
4 with needs to find affordable housing options in San Francisco, thus preserving the cultural
5 and economic diversity of the City’s neighborhoods; and the Board also finds that these
6 interim zoning controls do not have an effect on and therefore are consistent with Priority
7 Policy Nos. 1, 4, 5, 6, 7, and 8 of Planning Code, Section 101.1; and

8 WHEREAS, The Planning Department has determined that the actions contemplated in
9 this resolution comply with the California Environmental Quality Act (Pub. Res. Code Sections
10 21000 *et seq.*), which determination is on file with the Clerk of the Board in File No. 191085
11 and is incorporated herein by reference, and the Board affirms this determination; now,
12 therefore, be it

13 RESOLVED, That any proposed change of use from a Residential Care Facility, as
14 defined in Sections 102 and 890.50(e) of the Planning Code, shall require Conditional Use
15 Authorization while these interim zoning controls are in effect, if the Residential Care Facility
16 (a) is properly licensed by the State of California, (b) provides services using personnel that
17 are properly licensed by the State of California, (c) is or has been licensed to provide care for
18 six or more people within the three years immediately prior to submitting any application to
19 change the use, and (d) was established with or without the benefit of any permits required
20 under City law; and be it

21 FURTHER RESOLVED, That, in addition to the findings required pursuant to Planning
22 Code, Section 303, any consideration of a Conditional Use Authorization for a change of use
23 from a Residential Care Facility to another use shall take into account the following factors:

24 1) Any findings by the Department of Public Health, the Human Services Agency,
25 the Department of Aging and Adult Services, or the San Francisco Long-Term Care

1 Coordinating Council regarding the capacity of the existing Residential Care Facility Use, the
2 population served, and the nature and quality of services provided;

3 2) The impact of the change of use on the neighborhood and community;

4 3) Whether there are sufficient available beds at a licensed Residential Care
5 Facility within a one-mile radius of the site; and

6 4) Whether the Residential Care Facility Use to be converted will be relocated or
7 replaced with another Residential Care Facility Use; and be it


8 FURTHER RESOLVED, That these interim controls shall remain in effect for 18
9 months from the effective date of Resolution No. 430-19, or until the adoption of permanent
10 legislation, whichever first occurs; and be it

11 FURTHER RESOLVED, That these interim zoning controls become effective when the
12 Mayor signs this resolution, the Mayor returns the resolution unsigned, or the Board overrides
13 the Mayor's veto of the resolution.

14
15 APPROVED AS TO FORM:

16 DENNIS J. HERRERA
17 City Attorney

18 By


19 ANDREW SHEN
Deputy City Attorney

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25

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MEMORANDUM

SAN FRANCISCO BOARD OF SUPERVISORS LAND USE AND TRANSPORTATION COMMITTEE

TO: Supervisor Aaron Peskin, Chair, Land Use and Transportation Committee

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

DATE: December 10, 2019

SUBJECT: Interim Zoning Controls - Conditional Use Authorization for Conversion of Unpermitted Residential Care Facilities (File No. 191085)

Pursuant to the City Planning Code Section 306.7, when Interim Zoning Controls are imposed by the Board of Supervisors and a hearing is held before a committee of the Board, the Committee shall report to the Board of Supervisors a summary of matters presented at the hearing and its recommendation. The following summary is being provided to the Committee Chair to present to the Board of Supervisors.

On December 9, 2019, the Land Use and Transportation Committee met and held a hearing on File No. 191085 regarding Interim Zoning Controls - Conditional Use Authorization for Conversion of Unpermitted Residential Care Facilities. Supervisors Peskin, Safai, and Haney were noted present for the meeting.

The primary sponsor of the Resolution, Supervisor Rafael Mandelman, presented information on how the legislation is a follow up response to Board of Supervisors Resolution No. 430-19 that was approved in October, in efforts to slow the loss of San Francisco residential board and care facilities. Supervisor Mandelman noted that the extension would be for an 18 month period and require a conditional use authorization prior to a change of use from a residential care facility to a different use. He noted that the previous legislation did not encompass certain residential care facilities in the October version. As the current proposed version, the legislation would update characteristics that would add that certain projects would be subject to the interim zoning controls if it is properly licensed by the State of California, provides services using personnel that are properly licensed in the State of California, and is or has been licensed to provide care for six or more people within the three years immediately prior to submitting an application to change the use, and was established with or without the benefit of any permits required under City law.

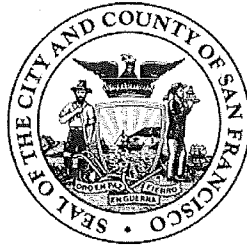
Supervisor Mandelman closed respectfully requesting the Committee to move the Resolution forward with a positive recommendation as a committee report.

There were no members of the public of who testified during public comment. Before the vote, Supervisor Safai requested to be added as a co-sponsor to the proposed legislation.

The Land Use and Transportation Committee unanimously RECOMMENDED this matter to the Board of Supervisors meeting on Tuesday, December 10, 2019, by the following vote:

Supervisor Aaron Peskin - Aye
Supervisor Ahsha Safai - Aye
Supervisor Matt Haney - Aye

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October 28, 2019

File No. 191085

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

Dear Ms. Gibson:

On October 22, 2019, Supervisor Mandelman introduced the following proposed legislation:

File No. 191085

Resolution modifying interim zoning controls established in Resolution No. 430-19, which require a Conditional Use authorization for Residential Care Facilities, to clarify that those interim zoning controls apply to certain Residential Care Facilities, including facilities lacking required permits; 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.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in black ink, 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

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.

joy navarrete

Digitally signed by Joy Navarrete
DN: dc=org, dc=sfgov, dc=cityplanning,
ou=CityPlanning, ou=Environmental
Planning, cn=joy navarrete,
email=joy.navarrete@sfgov.org
Date: 2019.11.18 09:28:49 -0800

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NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO LAND USE AND TRANSPORTATION COMMITTEE

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:


Date: Monday, December 9, 2019

Time: 1:30 p.m.

Location: Legislative Chamber, Room 250, located at City Hall
1 Dr. Carlton B. Goodlett Place, San Francisco, CA

Subjects: **File No. 191085.** Resolution modifying interim zoning controls established in Resolution No. 430-19, which require a Conditional Use authorization for Residential Care Facilities, to clarify that those interim zoning controls apply to certain Residential Care Facilities, including facilities lacking required permits; 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.

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter can be found in the Legislative Research Center at sfgov.legistar.com/legislation. Meeting agenda information relating to this matter will be available for public review on Friday, December 6, 2019.


Angela Calvillo
Clerk of the Board

POSTED/DATED: November 15, 2019

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October 28, 2019

File No. 191085

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

Dear Ms. Gibson:

On October 22, 2019, Supervisor Mandelman introduced the following proposed legislation:

File No. 191085

Resolution modifying interim zoning controls established in Resolution No. 430-19, which require a Conditional Use authorization for Residential Care Facilities, to clarify that those interim zoning controls apply to certain Residential Care Facilities, including facilities lacking required permits; 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.

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

Member, Board of Supervisors
District 3



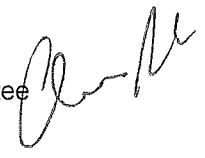
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BOARD OF SUPERVISORS
SAN FRANCISCO
City and County of San Francisco
2019 DEC -5 AM 9:29

Corr
Leg. Dep.
Committee clerk

BY: 

AARON PESKIN
佩斯金 市參事

DATE: December 2, 2019
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Supervisor Aaron Peskin, Chair, Land Use and Transportation Committee
RE: Land Use and Transportation Committee
COMMITTEE REPORTS



Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matters are of an urgent nature and request they be considered by the full Board on Tuesday, December 10, 2019, as Committee Reports:

191085 Interim Zoning Controls - Conditional Use Authorization for Conversion of Unpermitted Residential Care Facilities

Resolution modifying interim zoning controls established in Resolution No. 430-19, which require a Conditional Use authorization for Residential Care Facilities, to clarify that those interim zoning controls apply to certain Residential Care Facilities, including facilities lacking required permits; 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.

191016 Planning Code - 100% Affordable Housing and Educator Housing Streamlining Program

Ordinance amending the Planning Code to require at least half of residential units in Educator Housing projects to have two or more bedrooms, to eliminate the requirement that Educator Housing projects have a minimum amount of three-bedroom units, conditioned on the passage of Proposition E in the November 5, 2019, Municipal Consolidated Election; 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.

191106 Administrative Code - Annual Report on Job Growth and Housing Production

Ordinance amending the Administrative Code to require an annual report analyzing the fit between housing needs associated with job growth by wages in San Francisco and housing production by affordability in the City.

COMMITTEE REPORT MEMORANDUM

Land Use and Transportation Committee

191107 Business and Tax Regulations Code - Extending Temporary Suspension of Business Registration and Fee for Transportation Network Company Drivers and Taxi Drivers

Ordinance amending the Business and Tax Regulations Code to extend through FY2020-2021 the temporary suspension of the application of the business registration and fee requirements to transportation network company drivers and taxi drivers.

191017 Housing Code - Heat Requirements in Residential Rental Units

Ordinance amending the Housing Code to revise the requirements for heating in residential rental units; and affirming the Planning Department's determination under the California Environmental Quality Act.

190973 Health Code - Approving a New Location for a Permittee's Medical Cannabis Dispensary Permit

Ordinance amending the Health Code to authorize the Director of the Department of Public Health to allow an existing Medical Cannabis Dispensary permittee to operate under that permit at a new location, provided the permittee has been verified by the Office of Cannabis as an Equity Applicant under the Police Code, the permittee has been evicted from the location associated with the permit or been notified by the landlord that the lease would be terminated or not renewed, the new location has an existing authorization for Medical Cannabis Dispensary Use, the permittee has complied with all requirements of Article 33 of the Health Code (the Medical Cannabis Act) with respect to the new location, and the permittee satisfies the provisions of Article 33 regarding authorization by the Office of Cannabis to sell Adult Use Cannabis; and affirming the Planning Department's determination under the California Environmental Quality Act.

These matters will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, December 9, 2019, at 1:30 p.m.

RECEIVED
10/22/19 @ 6:28pm
Q

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):

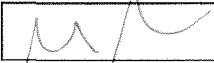
Supervisor Rafael Mandelman

Subject:

Interim Zoning Controls - Conditional Use Authorization for Conversion of Unpermitted Residential Care Facilities

The text is listed:

Resolution modifying interim zoning controls established in Resolution No. 430-19, which requires a Conditional Use authorization for Residential Care Facilities, to clarify that those interim zoning controls apply to certain Residential Care Facilities, including facilities lacking required permits; 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.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only