

1 [Interim Zoning Requiring Conditional Use Authorization for Large Retail Uses]

2

3 **Resolution imposing interim zoning controls establishing a requirement for conditional**
4 **use authorization for large retail uses in C-2, C-M, M-1, M-2, RSD, SLR, SLI, SPD and**
5 **SSO zones, subject to certain exclusions, but including, where permissible, lots under**
6 **the jurisdiction of the San Francisco Port Commission, for a one year period and**
7 **making a determination of consistency with the priority policies of Planning Code**
8 **Section 101.1.**

9

10 WHEREAS, Planning Code Section 306.7 provides for the imposition of interim zoning
11 controls to accomplish several objectives, including development and conservation of the
12 City’s commerce and industry to maintain the City’s economic vitality, provide its citizens with
13 adequate jobs and business opportunities and maintain adequate services for its residents,
14 visitors, businesses and institutions; preservation of neighborhoods and areas of mixed
15 residential and commercial uses and their existing character; and control of uses that
16 generate an adverse impact on vehicular traffic; and

17 WHEREAS, Land zoned for industrial and mixed residential and commercial uses
18 constitute a small portion of the City’s total supply of land and is well-utilized at present; and

19 WHEREAS, Retention of a mix of industrial and commercial uses in certain
20 commercial, industrial, and mixed-use areas of the City is critical to maintaining the City’s
21 economic vitality and providing adequate jobs, business opportunities and services for
22 residents and businesses; and

23 WHEREAS, Development of any one large retail use in the City’s limited industrial
24 areas, specific commercial areas, and mixed use areas may result in the location of fewer

25

1 other industrial and commercial uses within the commercial, industrial, and mixed-use areas
2 of the City and discourage a diverse industrial and commercial base; and

3 WHEREAS, Given the mixed nature of development in certain commercial, industrial,
4 and mixed-use areas of the City, development of any one large retail use in these areas may
5 result in a scale of development which is inappropriate and incompatible with nearby and
6 adjacent buildings; and

7 WHEREAS, Development of any one large retail use may impair the preservation and
8 enhancement of neighborhood-serving retail and discourage a diverse commercial base; and

9 WHEREAS, Development of any one large retail use in a neighborhood designated as
10 a Project Survey Area under the California Community Redevelopment Law will have
11 significant impacts on the ability of the duly elected members of the Project Area Committee
12 (PAC) to formulate appropriate zoning uses and designations for such Survey Area as
13 contemplated by State law; and

14 WHEREAS, Development of any one large retail use designed primarily for customers
15 arriving at the establishment by private motor vehicle will tend to attract customers from
16 outside the immediate neighborhood and encourage more vehicular traffic and concentrate
17 vehicular traffic in one location; and

18 WHEREAS, Development of any one large retail use may adversely affect the demand
19 in the City for housing, public transit, childcare, and other social services; and

20 WHEREAS, These controls are intended and designed to deal with and ameliorate
21 the problems and conditions associated with the location of a large retail use in certain
22 commercial, industrial, and specified mixed-use zones by requiring conditional use
23 authorization for specified retail uses during the next year; and

24 WHEREAS, This Board has considered the impact on the public health, safety, peace,
25 and general welfare if the interim controls proposed herein were not imposed; and

1 WHEREAS, This Board has determined that the public interest will be best served by
2 imposition of these interim controls at this time in order to ensure that the legislative scheme
3 which may be ultimately adopted is not undermined during the planning and legislative
4 process for permanent controls; now, therefore, be it

5 RESOLVED, Pursuant to Planning Code Section 306.7, the Board of Supervisors, by
6 this resolution, hereby prohibits any City agency, board, commission, officer or employee from
7 approving any site permit, building permit or any other permit or license authorizing the
8 construction or establishment of any retail sales and personal services use, as defined in
9 Planning Code Section 218(b), for a single user that is larger than 50,000 square feet of gross
10 floor area, unless the action would conform both to the existing provisions of the Planning
11 Code and this resolution imposing interim controls; and, be it

12 FURTHER RESOLVED, That for the purpose of these interim controls “gross floor
13 area” shall have the meaning in Planning Code Section 102.9 and additionally shall include
14 floor space in open or roofed exterior or partially enclosed areas used for retail sales or
15 personal services, and, be it

16 FURTHER RESOLVED, That a conditional use authorization is hereby required to
17 establish any retail sales and personal services use for a single user that is larger than 50,000
18 square feet of gross floor area in the C-2, C-M, M-1, M-2, RSD, SLR, SLI, SPD and SSO
19 zoning districts, including lots with such zoning designations that are under the jurisdiction of
20 the San Francisco Port Commission where such controls may be imposed; and, be it

21 FURTHER RESOLVED, That the interim controls described herein shall not be
22 applicable to an individual retail sales and personal services use that is larger than 50,000
23 square feet of gross floor area if such single use:

24 (1) devotes at least 75% of its gross floor area to general grocery or specialty grocery
25 merchandise;

1 (2) is located in the Northeast China Basin Special Use District as defined in Planning
2 Code Section 249.18 or in the Candlestick Point Special Use District as defined in Planning
3 Code Section 249.19; or

4 (3) had a permit application on file with the Planning Department on or before March 1,
5 2002; and, be it

6 FURTHER RESOLVED, That for purposes of these interim controls “conditional use”
7 shall have the meaning given that term in Planning Code Section 303; and, be it

8 FURTHER RESOLVED, That for purposes of these interim controls, the Planning
9 Commission, as part of its decision on a conditional use application for any use subject to
10 these controls, shall consider the following additional criteria:

11 (1) the market demand for the proposed use and the extent to which the proposed use
12 may result in the displacement or closure of similar retail sales and personal services uses in
13 neighborhood commercial districts and elsewhere in the City. Such information shall be
14 documented in a report prepared by a professional expert who is independent of the project
15 applicant; provided, however, that the project applicant shall bear the cost of such report;

16 (2) the shift in traffic patterns that may result from drawing traffic to the location of the
17 proposed use; and,

18 (3) the impact that the employees at the proposed use will have on the demand in the
19 City for housing, public transit, childcare, and other social services. To the extent relevant,
20 the Commission also shall consider the seasonal and part-time nature of employment at the
21 proposed use; and, be it

22 FURTHER RESOLVED, That if any use subject to these controls is located in a Project
23 Survey Area pursuant to California Community Redevelopment Law (California Health and
24 Safety Code Sections 33000 et seq.), the following additional provisions shall apply:
25

1 (1) The project sponsor shall offer to meet, with the Project Area Committee (PAC),
2 prior to application submittal and at least three weeks prior to the Planning Commission
3 hearing on the conditional use authorization to discuss the PAC's recommendations for the
4 use;

5 (2) The Planning Department staff shall be available to meet with members of the
6 PAC, at least two weeks prior to the Planning Commission hearing on the conditional use
7 authorization to discuss the PAC's recommendations for the use;

8 (3) The Planning Department shall request in writing that the PAC submit written
9 recommendations for the use to the Planning Commission at least one week prior to the
10 Planning Commission hearing on the conditional use authorization;

11 (4) The Planning Commission shall duly consider the recommendations of the PAC
12 and, if said Commission determines that any or all of the PAC's recommendations are not
13 applicable, the Commission shall make findings as to why such recommendations are not
14 appropriate; and,

15 (5) Notwithstanding the above requirements, these controls shall not prohibit a project
16 sponsor from entering into any contractual or other agreement with the PAC; and, be it

17 FURTHER RESOLVED, That these interim controls shall remain in effect for one year
18 or until the adoption of permanent legislation regulating retail sales and personal services use
19 for a single user that is larger than 50,000 square feet of gross floor area, whichever first
20 occurs; and, be it

21 FURTHER RESOLVED, That these interim controls advance and are consistent with
22 Priority Policies 1, 2 and 5 of the Planning Code section 101.1 in that they attempt to conserve
23 a diverse economic base and existing neighborhood-serving retail and neighborhood
24 character. With respect to Priority Policies 3, 4, 6, 7 and 8, the Board finds that the interim
25

1 zoning controls will have no effect upon these policies, and thus, will not conflict with said
2 policies.

3

4

5

APPROVED AS TO FORM:

6

DENNIS J. HERRERA, City Attorney

7

8

By:

John D. Malamut
Deputy City Attorney

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25