

FILE NO. 070081

RESOLUTION NO.

1 [Interim Zoning requiring conditional use for demolition of a residential structure.]

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3 **Resolution imposing interim zoning controls to require conditional use authorization**  
4 **for demolition of a residential structure for a six (6) month period and making a**  
5 **determination of consistency with the priority policies of Planning Code Section 101.1.**

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7 WHEREAS, Planning Code Section 306.7 provides for the imposition of interim zoning  
8 controls to accomplish several objectives, including preservation of residential neighborhoods,  
9 the existing character of neighborhoods, and the City's rental housing stock; and,

10 WHEREAS, Affordable housing is a paramount statewide concern. In 1980, the State  
11 Legislature declared in Government Code Section 65580 that:

12 (a) The availability of housing is of vital statewide importance, and the early  
13 attainment of decent housing and a suitable living environment for every California family is a  
14 priority of the highest order.

15 (b) The early attainment of this goal requires the cooperative participation of  
16 government and the private sector in an effort to expand housing opportunities and  
17 accommodate the housing needs of Californians of all economic levels.

18 (c) The provision of housing affordable to low- and moderate-income  
19 households requires the cooperation of all levels of government.

20 (d) Local and state governments have a responsibility to use the powers vested  
21 in them to facilitate the improvement and development of housing to make adequate provision  
22 for the housing needs of all economic segments of the community; and,

23 WHEREAS, The Legislature further stated in Government Code Section 65581 that is  
24 was the intent of the Legislature to:

25

1 (a) Assure that counties and cities recognize their responsibilities in contributing  
2 to the attainment of the state housing goal.

3 (b) Assure that counties and cities will prepare and implement housing  
4 elements that will move toward attainment of the state housing goal.

5 (c) Recognize that each locality is best capable of determining what efforts are  
6 required by it to contribute to the attainment of the state housing goal; and,

7 WHEREAS, The California Legislature requires each local government agency to  
8 develop a comprehensive long-term general plan establishing policies for future development.  
9 As specified in the Government Code the plan must "conserve and improve the condition of  
10 the existing affordable housing stock, which may include addressing ways to mitigate the loss  
11 of dwelling units demolished by public or private action;" and,

12 WHEREAS, San Francisco faces a continuing shortage of affordable housing for very  
13 low and low-income residents. The San Francisco Planning Department reported that for the  
14 past ten years, 3,199 units of low and very low-income housing were built in San Francisco  
15 out of a total need of 15,103 units for the same period. According to the state Department of  
16 Housing and Community Development, there will be a regional need for 230,743 new housing  
17 units in the nine Bay Area counties from 1999—2006. Of that amount, at least 58 percent, or  
18 133,164 units, are needed for moderate, low and very low-income households. The  
19 Association of Bay Area Governments (ABAG) is responsible for dividing the total regional  
20 need numbers among its member governments which includes both counties and cities.  
21 ABAG estimates that San Francisco's low and very low-income housing production need  
22 through 2006 is 7,370 units out of a total new housing need of 20,372 units. Within the past  
23 ten years, less than 25% of the previously projected housing need was produced in San  
24 Francisco; and,

1           WHEREAS, The 2000 Consolidated Plan for July 1, 2000 - June 30, 2005, issued by  
2 the Mayor's Office of Community Development and the Mayor's Office of Housing establishes  
3 that extreme housing pressures face San Francisco, particularly in regard to low-and  
4 moderate-income residents. Many elements constrain housing production in the City. This is  
5 especially true of affordable housing. San Francisco is largely built out, and its geographical  
6 location at the northern end of a peninsula inherently prevents substantial new development.  
7 Because the cities located on San Francisco's southern border are also dense urban areas,  
8 San Francisco has no available adjacent land to be annexed. Thus, new construction of  
9 housing is limited to areas of the City not previously designated as residential areas, infill  
10 sites, or to areas with increased density. New market-rate housing absorbs a significant  
11 amount of the remaining supply of land and other resources available for development and  
12 thus limits the supply of affordable housing, including rental housing; and,

13           WHEREAS, There is a great need for affordable rental and owner-occupied housing in  
14 the City. The vacancy rate for residential rental property has dropped significantly since 1990  
15 when the U.S. Census showed a 6.9 percent vacancy rate . Data from the 2000 US Census  
16 showed a residential rental vacancy rate of 2.5 percent. Data from the San Francisco rental  
17 market from RealFacts for 2000 indicates a vacancy rate of 1.9 percent. Rents on newly  
18 occupied residential units have risen dramatically. Housing cost burden is one of the major  
19 standards for determining whether a locality is experiencing inadequate housing conditions.  
20 The Consolidated Plan defines a household expending 30 percent or more of its gross income  
21 for housing costs as experiencing a cost burden. According to the 2000 Census, 35 percent  
22 of San Franciscans experienced a cost burden in 2000; and,

23           WHEREAS, The San Francisco residential real estate market is one of the most  
24 expensive in the United States. The National Association of Realtors has found that San  
25 Francisco has one of the highest median prices of existing homes in the United States. In the

1 1980's average home prices in San Francisco rose nearly three times as fast as the overall  
2 cost of living in San Francisco according to data from the Bay Area Council and 1990 Census.  
3 Available data on housing sales demonstrates that the majority of market-rate homes for sale  
4 in San Francisco are priced out of the reach of low and moderate-income household; and,

5 WHEREAS, The Board readopts the findings of Planning Code Section 313.2 for the  
6 Jobs-Housing Linkage Program, Planning Code Sections 313 et seq., and Section 315.2 for  
7 the Residential Inclusionary Affordable Housing Program, Planning Code Sections 315 et  
8 seq., including those that relate to the shortage of affordable housing, the low vacancy rate of  
9 housing affordable to persons of lower and moderate income, and the decrease in  
10 construction of affordable housing in the City; and,

11 WHEREAS, A substantial portion of residential rental buildings contain affordable  
12 housing that is subject to the City's Residential Rent Stabilization and Arbitration Ordinance  
13 (Administrative Code Chapter 37). New housing, however, is not subject to the Residential  
14 Rent Stabilization and Arbitration Ordinance. Accordingly, the demolition of residential  
15 buildings in the absence of Planning Commission review and oversight could lead to the  
16 elimination or continuing loss of affordable housing; and,

17 WHEREAS, The City also has an interest in avoiding or minimizing blighting conditions,  
18 such as litter, unsightly conditions, growth and spread of weeds, and airborne dust, that result  
19 when a building is demolished and the underlying property remains vacant. For this reason,  
20 the City believes consideration of the replacement structure as part of its evaluation of the  
21 demolition of the existing residential structure allows the property owner, neighborhood, and  
22 community stakeholders greater certainty as to future use of the property; and,

23 WHEREAS, The Planning Commission on December 11, 2003, adopted Resolution  
24 No. 16700, which established a policy requiring mandatory discretionary review of  
25 applications for demolition of residential structures. A copy of said Resolution is on file with

1 the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and its findings are  
2 incorporated herein by reference; and,

3 WHEREAS, The Planning Department and Planning Commission currently are  
4 evaluating and considering adoption and recommendation of legislation to address demolition  
5 of residential structures and codify some of the Commission policies as set forth in various  
6 Commission resolutions and departmental policies; and,

7 WHEREAS, These controls are intended and designed to deal with and ameliorate  
8 the problems and conditions associated with demolition of residential structures during the  
9 next six (6) months while the Planning Department and Commission complete their  
10 consideration of pending legislative proposals on this subject; and,

11 WHEREAS, This Board has considered the impact on the public health, safety, peace,  
12 and general welfare, including, but not limited to, the impacts on neighborhood character,  
13 residential neighborhoods, the City's rental housing stock, pedestrian and vehicular traffic,  
14 and public transit, if the interim controls proposed herein were not imposed; and,

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

19 RESOLVED, Pursuant to Planning Code Section 306.7, the Board of Supervisors, by  
20 this resolution, hereby requires conditional use authorization prior to demolition of a residential  
21 structure; and, be it

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

25 (1) the design and use of the replacement structure;

1 (2) any shift in traffic and public transit patterns that may result demolition of the  
2 existing structure and replacement by a new structure; and,

3 (3) all applicable criteria from existing Planning Commission resolution(s) on  
4 residential demolitions; and, be it

5 FURTHER RESOLVED, these interim controls shall not apply to projects where, as of  
6 the date this resolution is approved by the Board of Supervisors, notice pursuant to section  
7 311 of the Planning Code has been issued, or the Planning Commission has taken action, or  
8 an appeal is pending before the Board of Appeals.

9 FURTHER RESOLVED, That these interim controls shall remain in effect for six (6)  
10 months or until the adoption of permanent legislation regulating demolition of residential  
11 structures, whichever first occurs; and, be it

12 FURTHER RESOLVED, That these interim controls advance and are consistent with  
13 Priority Policies 2, 3, and 4 of the Planning Code Section 101.1 in that they attempt to  
14 conserve cultural and economic diversity of our neighborhoods, to preserve and enhance the  
15 City's supply of affordable housing, and to ensure that commuter traffic not impeded MUNI  
16 transit service or overburden our streets or neighborhoods parking. With respect to Priority  
17 Policies 1, 5, 6, 7 and 8, the Board finds that the interim zoning controls will have no effect  
18 upon these policies, and thus, will not conflict with said policies.

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20 APPROVED AS TO FORM:  
21 DENNIS J. HERRERA, City Attorney  
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23 By: \_\_\_\_\_  
24 John D. Malamut  
25 Deputy City Attorney