

BOARD of SUPERVISORS




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MEMORANDUM

Date: October 14, 2022

To: Rich Hillis, Director, Planning Department

From:  Angela Calvillo, Clerk of the Board, Office of the Clerk of the Board

Subject: Interim Zoning Controls - Extending and Modifying Requirements for Large Residential Projects in RC, RM, and RTO Districts (File No. 220895)

On September 20, 2022, the Board of Supervisors adopted Resolution No. 404-22, sponsored by Supervisors Peskin and Chan approved by Mayor London N. Breed on September 29, 2022.

A copy of the Resolution is being forwarded to you for your consideration and pursuant to Planning Code, Section 306.7 (i).

If you have any questions or concerns, please contact Erica Major, Assistant Clerk, at (415) 554-4441 or by email at: Erica.Major@sfgov.org.

cc: Corey Teague, Zoning Administrator
Dan Sider, Chief of Staff
Lisa Gibson, Environmental Review Officer
AnMarie Rodgers, Director of Citywide Planning
Tina Tam, Deputy Zoning Administrator
Devyani Jain, Deputy Environmental Review Officer
Aaron Starr, Manager of Legislative Affairs
Joy Navarrete, Environmental Planning
Elizabeth Watty, Current Planning Division

[Interim Zoning Controls - Extending and Modifying Requirements for Large Residential Projects in RC, RM, and RTO Districts]

Resolution extending and modifying interim zoning controls enacted in Resolution No. 10-21 for parcels in Residential-Commercial Combined (RC), Residential-Mixed (RM) and Residential-Transit Oriented (RTO) districts, requiring Conditional Use Authorization for certain residential developments that do not maximize the number of units allowed by applicable density restrictions; 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.

WHEREAS, Planning Code, Section 306.7, authorizes the Board of Supervisors to impose interim zoning controls to allow time for the orderly completion of a planning study and for the adoption of appropriate legislation, which are necessary to ensure that the legislative scheme that may be ultimately adopted is not undermined during the planning and legislative process by the approval or issuance of permits authorizing changes of use that could conflict with that scheme; and

WHEREAS, In recent decades, the rate of production of housing in San Francisco has failed to keep pace with an influx of jobs and increased demand for housing in San Francisco and in the broader region, which has contributed to increased unaffordability and repeat waves of evictions and displacement, largely to the detriment of long-term residents and communities and lower-income communities, in particular; and

WHEREAS, Policymakers at the City and state level have sought to increase housing density across the state, including through the implementation of a Citywide Accessory Dwelling Unit Program in San Francisco that applies to existing structures and to new

1 construction and which allows for the increased densification of residential and mixed-use
2 neighborhoods and zoning districts; and

3 WHEREAS, While significant emphasis has been placed on increasing the capacity for
4 increased housing density in residential and mixed use zoning districts, and to remove various
5 substantive and procedural restrictions on the construction of affordable housing in particular,
6 comparatively little emphasis has been placed on setting density minimums and creating
7 disincentives for low-density projects in zoning districts that allow for greater density; and

8 WHEREAS, The construction of large residences is indicative of a market preference
9 for demonstrably unaffordable housing, even in zoning districts that permit greater capacity for
10 housing density and which tend to be characterized by higher density, more affordable, and
11 rent-stabilized housing; and

12 WHEREAS, The construction of large residences in zoning districts that permit greater
13 capacity for housing density, such as Residential-Commercial Combined (RC), Residential-
14 Mixed (RM), or Residential-Transit Oriented (RTO) districts, forgoes opportunities for more
15 affordable housing, and frequently results in the loss or conversion of housing protected by
16 rent stabilization provisions of the San Francisco Rent Ordinance; and

17 WHEREAS, Objective 2 of San Francisco's 2014 Housing Element states that
18 "conserving and improving the existing (housing) stock is critical to San Francisco's long term
19 housing strategy"; and

20 WHEREAS, The 2020 Housing Balance Report, produced by the Planning Department
21 pursuant to Section 103 of the Planning Code, indicates that for the period from 2010 Quarter
22 1 - 2019 Quarter 4, 7,081 units of net new affordable housing have been built in San
23 Francisco while 3,951 units have been removed from protected status, a ratio of just 1.79
24 units built for every 1 unit lost; and

1 WHEREAS, The loss of affordable and rent controlled housing is driven in part by the
2 demolition, merger, and conversion of those homes and their replacement with market rate
3 housing and, notably, large single family homes in zoning districts that permit increased
4 capacity for housing density; and

5 WHEREAS, Planning Commission Resolution No. 20024, also known as the
6 "Residential Flat Removal Policy," defines a "Residential Flat" as a common San Francisco
7 housing typology consisting of a single dwelling unit, generally occupying an entire story
8 within a building, and having exposure onto open areas at the front and rear of the property;
9 and

10 WHEREAS, Planning Commission Resolution No. 20024 ensconces a preference for
11 the Residential Flat housing typology by subjecting any project that proposes to remove a
12 Residential Flat to mandatory discretionary review before the Planning Commission; and

13 WHEREAS, On January 22, 2021, the City adopted Resolution No. 10-21 which
14 imposed interim controls for an 18-month period to require conditional use authorization for
15 certain residential projects in RM, RC, and RTO districts that did not maximize the principally
16 permitted residential density; and,

17 WHEREAS, The circumstances that caused the Board to adopt the interim controls in
18 Resolution No. 10-21 continue to exist; and,

19 WHEREAS, The extension of the interim controls established by this Resolution will
20 allow time for the orderly completion of a planning study and for the adoption of appropriate
21 legislation; and

22 WHEREAS, Planning Code, Section 306.7(h), authorizes the body that imposed the
23 interim controls to extend the interim controls up to a time period not to exceed 24 months;
24 and,
25

1 WHEREAS, The Board of Supervisors (Board) has considered the impact on the public
2 health, safety, peace, and general welfare if these interim controls are not extended and
3 modified; and

4 WHEREAS, The Board has determined that the public interest will best be served by
5 imposition and modification of these interim controls to ensure that the legislative scheme
6 which may be ultimately adopted is not undermined during the planning and legislative
7 process for permanent controls; and

8 WHEREAS, The Board makes the following findings of consistency with the Priority
9 Policies set forth in Planning Code, Section 101.1: by requiring Conditional Use authorization
10 for any residential development in an RC, RM, or RTO district that does not maximize the
11 number of units that could be constructed based on the applicable density limits, the
12 extension and modification of these interim controls advance Priority Policy 2, that existing
13 housing and neighborhood character be conserved and protected to preserve the cultural and
14 economic diversity of our neighborhoods, and these interim controls as extended and
15 modified do not conflict with the other Priority Policies of Section 101.1; and

16 WHEREAS, Unlike parcels in RC, RM, and RTO districts, parcels in RTO-M districts do
17 not have any density limit but instead density is regulated by permitted height, bulk, and other
18 standards; and

19 WHEREAS, The Planning Department has determined that the actions contemplated in
20 this Resolution comply with the California Environmental Quality Act (California Public
21 Resources Code, Section 21000 et seq.); said determination is on file with the Clerk of the
22 Board of Supervisors in File No. 220895 and is incorporated herein by reference; and the
23 Board hereby affirms this determination; now, therefore be it
24
25

1 RESOLVED, That the interim controls imposed by Resolution No. 10-21 are hereby
2 extended and modified as set forth herein, and shall remain in effect until January 22, 2023, or
3 until the adoption of permanent legislation, whichever first occurs; and be it

4 FURTHER RESOLVED, That in multi-unit residential (R) districts, and in single family
5 home zoning districts that allow for the construction of an Accessory Dwelling Unit, the City
6 hereby reiterates its preference for multi-unit buildings consisting of equitably-sized
7 Residential Flats, as that housing typology is defined in Planning Commission Resolution No.
8 20024; and, be it

9 FURTHER RESOLVED, That as to the proposed new construction of a residential
10 building in RC, RM, and RTO zoning districts or as to any proposed alteration that would
11 result in the expansion of a residential building in RC, RM and RTO zoning districts,
12 Conditional Use Authorization under Planning Code, Section 303, shall be required if the
13 residential building does not maximize the principally permitted residential density, not
14 including any additional residential density permitted under state law or Planning Code
15 Sections 206 et seq, while adhering to the minimum unit size requirements set forth in
16 Planning Code Section 206.3; and, be it

17 FURTHER RESOLVED, That for purposes of this Resolution, RTO zoning districts
18 shall not include parcels zoned RTO-M; and, be it

19 FURTHER RESOLVED, That if existing lot conditions or form-based restrictions on
20 development (e.g., height, bulk, rear yard requirements) are such that a proposed project
21 cannot maximize density without seeking a variance or subdividing existing units on the lot,
22 and while adhering to the minimum unit size requirements set forth in Planning Code, Section
23 206.3, Conditional Use Authorization under Planning Code, Section 303, shall not be required
24 if a proposed project increases density on a subject lot, does not include any single unit
25

1 greater than 2000 square feet in size, and would not be subject to Conditional Use
2 Authorization under any other provision of the Planning Code; and, be it

3 FURTHER RESOLVED, That Conditional Use Authorization shall not be required for
4 expansions of existing residential buildings in RC, RM, and RTO districts, wherein the
5 proposed expansion is 25% or less of the existing residential building, provided that the
6 proposed expansion (1) does not increase the size of any unit that is already larger than 2000
7 square feet in size; (2) does not create any new unit that is greater than 2000 square feet in
8 size; and (3) does not cause an existing unit that is less than 2000 square feet in size to be
9 larger than 2000 square feet in size; and, be it

10 FURTHER RESOLVED, That Conditional Use Authorization shall not be required for
11 expansions of existing residential buildings in RC, RM, and RTO districts, wherein the
12 proposed expansion is to a building of two or more units, no resulting individual unit would be
13 greater than 3000 square feet, and no resulting individual unit would be less than 50% of the
14 size of the largest unit in the building; and, be it

15 FURTHER RESOLVED, That the Planning Department shall continue its study of the
16 contemplated zoning proposal and propose permanent legislation to address the issues
17 posed by large residential development that does not maximize the allowable density; and, be
18 it

19 FURTHER RESOLVED, That these interim controls shall apply to all applications for
20 residential development where a final site or building permit has not been issued as of the
21 effective date of this Resolution extending the interim controls adopted in Resolution 10-21, to
22 the extent allowed by law; and, be it

23 FURTHER RESOLVED, That for projects scheduled for a hearing at the Planning
24 Commission under a Discretionary Review as of the effective date of this Resolution
25 extending the interim controls adopted in Resolution No. 10-21, the Planning Department is

1 requested to expedite the processing and calendaring of any required Conditional Use
2 authorization under these controls; and, be it

3 FURTHER RESOLVED, That these interim controls as modified shall remain in effect
4 for until January 22, 2023, or until the adoption of permanent legislation that addresses
5 substantially the same issues, whichever first occurs; and, be it

6 FURTHER RESOLVED, That the Planning Department shall provide reports to the
7 Board pursuant to Planning Code, Section 306.7(i).

8
9 APPROVED AS TO FORM:
10 DAVID CHIU, City Attorney

11 By: /s/
12 AUDREY PEARSON
Deputy City Attorney

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City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 220895

Date Passed: September 20, 2022

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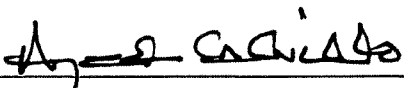
September 12, 2022 Land Use and Transportation Committee - RECOMMENDED


September 20, 2022 Board of Supervisors - ADOPTED

Ayes: 11 - Chan, Dorsey, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 220895

I hereby certify that the foregoing
Resolution was ADOPTED on 9/20/2022 by
the Board of Supervisors of the City and
County of San Francisco.


Angela Calvillo
Clerk of the Board


London N. Breed
Mayor

9/29/22
Date Approved