



July 25, 2023

Ms. Angela Calvillo, Clerk
Honorable Supervisor Peskin
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Transmittal of Planning Department Case Number 2023-005238PCA:
Conditional Use for Residential Projects in RM, RC, and RTO Districts
Board File No. 230596

Planning Commission Recommendation: Approval with Modification

Dear Ms. Calvillo and Supervisor Peskin,

On July 20, 2023, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Peskin, that would amend the Planning Code to require Conditional Use authorization for residential housing developments that do not maximize residential density in Residential-Mixed (RM), Residential Commercial (RC), and Residential Transit Oriented (RTO) Districts. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

1. Modify the Ordinance to replace the Conditional Use authorization requirement with objective, minimum density standards for new construction projects in the RM, RC, and RTO (except RTO-M) districts as follows:
 - **RM-1:** *at least 75%* of the maximum density. Max density is 1 unit per 800sqft of lot area.
 - **RM-2:** 3 units per lot or *at least 75%* density of maximum density. Max density is 1 unit per 600sqft of lot area.
 - **RM-3 & RC-3:** 3 units per lot or *at least 75%* of the maximum density. Max density is 1 unit per 400sqft of lot area.

- **RM-4:** 3 units per lot or *at least* 75% of the maximum density. Max density is 1 unit per 200sqft of lot area.
 - **RC-4:** 3 units per lot or *at least* 75% of the maximum density. Max density is 1 unit per 200sqft of lot area. No density limit in Van Ness SUD.
 - **RTO:** *at least* 75% density of maximum density. Max density is 1 unit per 600sqft of lot area.
2. For new construction projects in the subject zoning districts, require that no unit be smaller than 1/3 the size of the largest unit in the building.
 3. Replace the Ordinance's proposed list of exceptions to minimum densities and unit sizes with a simplified, single exception to the Department's recommended objective standard for minimum densities and on minimum unit sizes as follows: Expansions of single-family homes may expand their Gross Floor Area by no more than 25% measured over 10 years, or to result in a home no more than 3,000sqft, whichever is greater.
 4. Incentivize projects in the subject zoning districts to build "ideal" projects by removing the Conditional Use authorization for demolition (Sec. 317), public-initiated Discretionary Review (DR), and only applying objective residential design standards for projects that:
 - a. Maximize allowable density (not including Accessory Dwelling Units);
 - b. Meet the 1/3-unit proportionality requirements;
 - c. Do not propose demolition of a previously identified (known) Historic Resource;
 - d. Do not propose demolition of a building subject to the Ellis Act within the previous 10 years;
 - e. Do not require any exceptions or waivers from Planning Code requirements (other than a CUA under Sec. 317);
 - f. Does not propose the demolition of more than two dwelling units that are subject to limits on rent increases under the Residential Rent Stabilization and Arbitration Ordinance;
 - g. Does not propose demolition of a Dwelling Unit occupied by a tenant within the last 5 years from the date of application, and;
 - h. Does not propose demolition of a Dwelling Unit where there was a registered buyout of the tenant within the last 5 years from the date of the application.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron D. Starr". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Aaron D. Starr
Manager of Legislative Affairs

cc: Audrey Pearson, Deputy City Attorney
Sunny Angulo, Aide to Supervisor Peskin
Erica Major, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution
Planning Department Executive Summary



PLANNING COMMISSION RESOLUTION NO. 21364

HEARING DATE: JULY 20, 2023

Project Name: Conditional Use for Residential Projects in RM, RC, and RTO Districts
Case Number: 2023-005238PCA [Board File No. 230596]
Initiated by: Supervisor Peskin / Introduced May 23, 2023
Staff Contact: Audrey Merlone, Legislative Affairs
Audrey.Merlone@sfgov.org, 628-652-7534
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, (628) 652-7533

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND 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; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on May 23, 2023, Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 230596, which would amend 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;

WHEREAS, the Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on July 20, 2023; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15378 and 15060(c)(2); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of

Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance. The Commission's proposed recommendation(s) is/are as follows:

1. Modify the Ordinance to replace the Conditional Use authorization requirement with objective, minimum density standards for new construction projects in the RM, RC, and RTO (except RTO-M) districts as follows:
 - **RM-1:** *at least 75%* of the maximum density. Max density is 1 unit per 800sqft of lot area.
 - **RM-2:** 3 units per lot or *at least 75%* density of maximum density. Max density is 1 unit per 600sqft of lot area.
 - **RM-3 & RC-3:** 3 units per lot or *at least 75%* of the maximum density. Max density is 1 unit per 400sqft of lot area.
 - **RM-4:** 3 units per lot or *at least 75%* of the maximum density. Max density is 1 unit per 200sqft of lot area.
 - **RC-4:** 3 units per lot or *at least 75%* of the maximum density. Max density is 1 unit per 200sqft of lot area. No density limit in Van Ness SUD.
 - **RTO:** *at least 75%* density of maximum density. Max density is 1 unit per 600sqft of lot area.
2. For new construction projects in the subject zoning districts, require that no unit be smaller than 1/3 the size of the largest unit in the building.
3. Replace the Ordinance's proposed list of exceptions to minimum densities and unit sizes with a simplified, single exception to the Department's recommended objective standard for minimum densities and on minimum unit sizes as follows: Expansions of single-family homes may expand their Gross Floor Area by no more than 25% measured over 10 years, or to result in a home no more than 3,000sqft, whichever is greater.
4. Incentivize projects in the subject zoning districts to build "ideal" projects by removing the Conditional Use authorization for demolition (Sec. 317), public-initiated Discretionary Review (DR), and only

applying objective residential design standards for projects that:

- a. Maximize allowable density (not including Accessory Dwelling Units);
- b. Meet the 1/3-unit proportionality requirements;
- c. Do not propose demolition of a previously identified (known) Historic Resource;
- d. Do not propose demolition of a building subject to the Ellis Act within the previous 10 years;
- e. Do not require any exceptions or waivers from Planning Code requirements (other than a CUA under Sec. 317);
- f. Does not propose the demolition of more than two dwelling units that are subject to limits on rent increases under the Residential Rent Stabilization and Arbitration Ordinance;
- g. Does not propose demolition of a Dwelling Unit occupied by a tenant within the last 5 years from the date of application, and;
- h. Does not propose demolition of a Dwelling Unit where there was a registered buyout of the tenant within the last 5 years from the date of the application.

Findings

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

The Commission finds that on balance, the proposed Ordinance is consistent with the General Plan; specifically Housing Element Policy No. 31. Housing Element Policy No. 31 is to: *“Facilitate small and mid-rise multi-family buildings that private development can deliver to serve middle-income households without deed restriction, including through adding units in lower density areas or by adding Accessory Dwelling Units (ADUs).”* The proposed Ordinance would create density minimums across Residential districts that were designed with greater density in mind. The proposed Ordinance, *with* all recommended modifications, additionally aligns with the Housing Element’s Policies 25 and 26, which focus on reducing governmental constraints to enable small and mid-rise multi-family buildings and simplifying permit processes to provide more equitable access to the application process. The Ordinance, with the Commission’s recommended modifications, accomplishes this by adopting *objective* density minimums across Residential zoning districts that were created with greater Residential density in mind, and by removing additional subjective processes for projects that the City considers ideal.

General Plan Compliance

The proposed Ordinance and the Commission’s recommended modifications are consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 4.B

EXPAND SMALL AND MID-RISE MULTI-FAMILY HOUSING PRODUCTION TO SERVE OUR WORKFORCE, PRIORITIZING MIDDLE-INCOME HOUSEHOLDS.

Policy 25

Reduce governmental constraints on development in Well-resourced Neighborhoods to enable small and mid-rise multi-family buildings providing improved housing choice and affordability.

Policy 26

Streamline and simplify permit processes to provide more equitable access to the application process, improve certainty of outcomes, and ensure meeting State- and local-required timelines, especially for 100% affordable housing and shelter projects.

Policy 31

Facilitate small and mid-rise multi-family buildings that private development can deliver to serve middle-income households without deed restriction, including through adding units in lower density areas or by adding Accessory Dwelling Units (ADUs).

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

Planning Code Section 302 Findings.

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on July 20, 2023.



Jonas P. Ionin
Commission Secretary

Jonas P Ionin

Digitally signed by Jonas P Ionin
Date: 2023.07.20 18:56:39
-07'00'

AYES: Braun, Ruiz, Diamond, Imperial, Koppel, Tanner

NOES: None

ABSENT: Moore

ADOPTED: July 20, 2023



EXECUTIVE SUMMARY

PLANNING CODE TEXT AMENDMENT

HEARING DATE: July 20, 2023

90-Day Deadline: August 28, 2023

Project Name: Conditional Use for Residential Projects in RM, RC, and RTO Districts
Case Number: 2023-005238PCA Board File No. 230596
Initiated by: Supervisor Peskin / Introduced May 23, 2023
Staff Contact: Audrey Merlone, Legislative Affairs
Audrey.Merlone@sfgov.org, 628-652-7534
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

Recommendation: Approval with Modifications

Planning Code Amendment

The proposed Ordinance would amend 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.

The Way It Is Now:

1. In RC, RM, or RTO Districts, the Planning Code does not require Conditional Use authorization for projects that do not maximize the district’s underlying residential density limits.

The Way It Would Be:

- In all RC, RM, and RTO Districts (except RTO-M) the following controls would apply:
 - a) Proposed new construction of a residential building, or any proposed alteration that would result in the expansion of a residential building shall require a Conditional Use authorization if the residential building does not maximize the principally permitted residential density. For the

purposes of this requirement, “maximum density” shall not include any additional residential density permitted under state law or Planning Code, Section 206. Projects must also adhere to the minimum unit size requirements set forth in Planning Code Section 415.6(f)(2) *except* as set forth in a new section (Sec. 303(cc)(1)). Density minimums would be as follows:

- **RM-1:** 3 units per lot or *at least* 1 unit per 800sqft of lot area (*whichever is greater*)
 - **RM-2:** 3 units per lot or *at least* 1 unit per 600sqft of lot area (*whichever is greater*)
 - **RM-3 & RC-3:** 3 units per lot or *at least* 1 unit per 400sqft of lot area (*whichever is greater*)
 - **RM-4:** 3 units per lot or *at least* 1 unit per 200sqft of lot area (*whichever is greater*)
 - **RC-4:** 3 units per lot or *at least* 1 unit per 200sqft of lot area (*whichever is greater*). No density limit in Van Ness SUD.
 - **RTO:** *at least* 1 unit per 600sqft of lot area
- b) A newly created subsection would specify the conditions that must be present for a project to be exempt from either the minimum density, minimum/maximum unit size, or both. The conditions that must be present are as follows:
- If the project proposes new construction or alteration of an existing building:
 - 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 without seeking a variance or subdividing existing units on the lot, (and while adhering to the minimum unit size requirements set forth in Planning Code), AND;
 - The project will create more units on the lot, AND;
 - The project does not include any single unit greater than 2,000 Gross Square Feet (gsf), AND;
 - The project is not subject to a Conditional Use authorization under any other Code section.
 - If the project proposes expansion of an existing residential building by less than 25%, it must additionally:
 - Not increase the size of any unit already over 2,000sqft, AND;
 - Not expand any unit currently under 2,000sqft to be over 2,000sqft, AND;
 - Not create any new unit greater than 2,000sqft.
 - If the project proposes an expansion of an existing building with two or more units:
 - No resulting unit may be greater than 3,000sqft, AND;
 - No individual unit may be less than 50% the size of the largest unit in the building.
 - The project is proposing an expansion to an existing building of 600sqft or less.
 - Projects where maximizing density would be inconsistent with the preservation of a

historic resource or would prevent the issuance of a Certificate of Appropriateness.

- c) For projects subject to the Conditional Use authorization (CUA), the Commission would be required to make the following findings (in addition to Sec. 303(c) findings):
- The project proposes the maximum physically feasible density based on existing lot conditions or form-based restrictions on development (e.g. height, bulk, rear yard requirements), AND;
 - The project proposes additional density equal to that of adjacent buildings, AND;
 - Maximizing density is financially or physically infeasible.

Background

On December 15, 2020, Supervisor Peskin introduced a resolution¹ imposing interim zoning controls for an 18-month period for parcels in RC, RM and RTO districts, requiring Conditional Use authorization for any residential development that does not maximize the number of units allowed by applicable density restrictions. On July 26, 2022, Supervisor Peskin introduced a resolution² that extended and modified the interim controls, setting a new expiration date of January 22, 2023. This resolution was enacted on September 29, 2022.

The final interim controls were like the proposed permanent controls that are the subject of this report, except that they did not require additional Commission findings beyond those required under Sec. 303(c). The effect of the interim controls is discussed later in this report.

Issues and Considerations

RM, RC, & RTO Districts

The RM, RC, and RTO districts differ from the City's Residential, House (RH) districts in that they are designed to accommodate greater density through a variety of unit types, including apartments, single-family homes, group housing, student housing, senior housing, and single-room occupancy units.

Residential, Mixed Districts (RM):

RM districts are intended to recognize, protect, conserve and enhance areas characterized by a mixture of houses and apartment buildings, covering a range of densities and building forms according to the individual district designations. Despite the range of densities and building sizes, most structures are of a scale that respects the traditional lot patterns, open spaces and articulation of façades typical of San Francisco neighborhoods. These Districts provide unit sizes and types suitable for a variety of households and contain supporting nonresidential uses.

¹ [201370 - Leg Ver2 \(legistar.com\)](#)

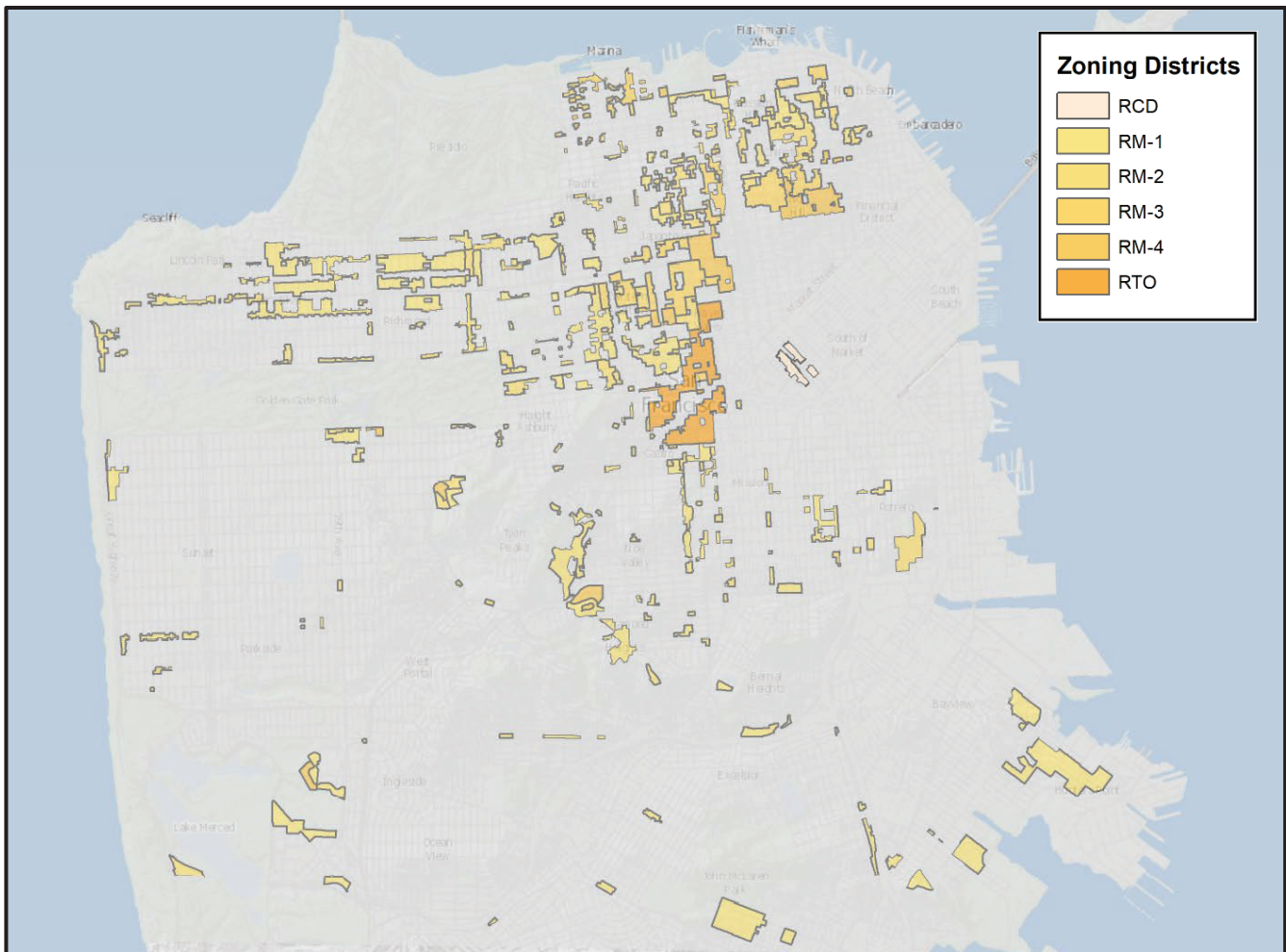
² [Final Leg Ver 4 \(legistar.com\) BF 201370](#)

Residential-Commercial Districts (RC):

RC Districts are intended to recognize, protect, conserve, and enhance areas characterized by structures combining Residential uses with neighborhood-serving Commercial uses. The predominant Residential uses are preserved, while provision is made for supporting Commercial uses, usually in or below the ground story, that meet the frequent needs of nearby residents without generating excessive vehicular traffic. The compact, walkable, transit-oriented and mixed-use nature of these Districts is recognized by no off-street parking requirements.

Residential Transit Oriented Districts (RTO):

RTO Districts are intended to recognize, protect, conserve, and enhance areas characterized by a mixture of houses and apartment buildings, covering a range of densities and building forms. RTO and RTO-M Districts are composed of multi-family moderate-density areas, primarily areas formerly designated RM and RH-3, and are well served within short walking distance, generally less than one-quarter mile, of transit and neighborhood commercial areas. Transit available on nearby streets is frequent and/or provides multiple lines serving different parts of the City or region. Limited small-scale neighborhood-oriented retail and services is common and permitted throughout the neighborhood on Corner Lots only to provide goods and services to residents within walking distance, but the districts are otherwise residential. Only retail compatible with housing, generally those



permitted in NC-1 Districts, is permitted and auto-oriented uses are not permitted. Hours of operation are restricted and off-street parking is not permitted for these very locally oriented uses.

Interim Controls

Affected Projects:

The Planning Department monitored and produced reports on the interim controls during their tenure. Through that study, the Department identified six projects that were affected by the interim controls.

Two of the affected projects consisted of additions to existing single-family homes already over the 2,000sqft threshold that were not adding density. Both projects chose to not modify their project, but instead chose to wait until the interim controls expired to move forward (they are both still in progress). One of these two projects is proposing an addition of approximately 150sqft. The project would not require a CUA under the proposed Ordinance because the expansion is less than 600sqft. The other project is proposing to add an Accessory Dwelling Unit (ADU) approximately 600sqft in size and add a vertical story to the main unit. The addition to the main unit would increase the home from approximately 4,000sqft to 4,700sqft. Under the proposed Ordinance, this project would require a Conditional Use authorization.

Only one of the seven projects proposed to increase the size of a single-family home that was under 2,000sqft. This project sought to expand an approximately 1,900sqft single-family home by 380sqft and add an Accessory Dwelling Unit. The Commission approved that project because adding additional density would have been infeasible without multiple variances (very little buildable area exists on the lot).

Why Interim Controls Applied	Number of Projects	Result
Expansion of Existing Single-Family Home already <2,000sqft	2	-Neither project was modified to comply with controls
Expansion of Existing Single-Family Home to be <2,000sqft	1	-Unmodified project approved by Commission
New Construction of a Single-Family Home <2,000sqft	1	-Project modified to add density due to controls
Expansion of Existing Multi-Unit Building resulting in at least 1 unit <2,000sqft	1	-Project was not modified to comply with controls
Expansion of Existing Multi-Unit Building expanding a unit already <2,000sqft	1	-Project was not modified to comply with controls and was approved by Commission & ZA

The most successful application of the interim controls was on a project at 1263 Clay Street. The original project proposed to demolish the adjacent garage of an existing 2-unit building, and construct a single-family home over 2,000sqft. Due to the presence of the interim controls, as well as a Discretionary Review application filed on the project, the sponsors amended the project to instead build a 2-unit condo building on the garage site and add an ADU to the ground floor of the existing 2-unit building.

Of the two multi-unit projects that were subject to the interim controls, one sought to expand at least one unit of a multi-unit building where at least one of the existing units was less than 2,000sqft, without maximizing density. This project sought to expand one unit of a two-unit flat building. Upon learning of the interim controls, the sponsor chose to wait to pursue the project, and as of the date of this report, has not moved forward with any project.

The second multi-unit project proposed a vertical addition of a mixed-use building which would increase the size of the existing dwelling unit that was already more than 2,000sqft. The project additionally would add a second dwelling unit. The project sponsors chose to wait until the interim controls expired before pursuing other entitlements needed for the project, as originally proposed. The project's CUA for a curb cut and rear yard variance were both approved unanimously.

This project described above illustrates how including expansion of existing, multi-unit buildings in minimum density controls can capture relatively minor and supportable projects. The project in question was in an RM-4 district, where the maximum residential density is 12 units. The site contained one office unit with a residential unit above. The project sought to expand the existing dwelling unit to accommodate a new bathroom and add a new dwelling unit through a vertical addition. The existing dwelling unit was approximately 2,300sqft (*the proposed vertical addition would make the unit approximately 4,000sqft*) and the proposed new dwelling unit would be 2,054 square feet. Both the expansion of the existing unit, and the proposal for a new dwelling unit over 2,000sqft triggered the interim controls. To avoid the Conditional Use process, the project would need to maximize density, which would require adding 10 units. Since the building is also a historic resource, the alteration of the building to add 10 additional dwelling units was not only difficult, but also prohibitively expensive. This project sought to expand the unit the current owners live in to accommodate their family, while also adding density. This project would likely require a demolition to accommodate the density required by the interim controls, which would force the family living in the residence, and the business operating on the ground floor, to be displaced.

Analysis of Interim Controls:

A finding in the interim control's adoption resolution indicates that one of the primary purposes of the controls was to create disincentives "for low-density projects in zoning districts that allow for greater density." Staff has found that the projects the interim controls most sought to dissuade (expansions of existing homes) have largely decided to move forward with the Conditional Use authorization, rather than maximize density or reduce their expansion.

The reasons for pursuing this route rather than altering the project to add density appears to be three-fold. The first reason is some of the projects proposed smaller additions (less than 500sqft) with no other proposed work. The second is that some of the projects would require either a Certificate of Appropriateness or Variance to maximize density and avoid a Conditional Use hearing. These additional processes would delay the application on their own, making avoiding a Conditional Use authorization to expedite their application moot. Finally, at

least two of the projects have found that maximizing density on their lot would either be financially or physically infeasible.

The interim controls appeared to be most successful at accomplishing their goal of incentivizing density for proposed new construction projects.

The interim controls appeared to be most successful at accomplishing their goal of incentivizing density for proposed new construction projects. New construction projects are better able to accommodate denser buildings, as they can be designed from the ground up, versus having to work within the existing building's physical constraints.

The interim controls did not include criteria for the Planning Commission to consider when evaluating Conditional Use applications; therefore, the standard, subjective criteria in Planning Code Section 303 were used by staff and the Commission to evaluate these projects. Subjective criteria are problematic because they don't provide an objective means to deny an otherwise code complying project. Objective criteria also identify what types of housing in a particular zoning district we want to encourage or discourage. Further, if objective criteria are developed, a Conditional Use hearing can be avoided entirely, removing a process barrier to building housing and reducing the burden on the Planning Commission's calendar.

Objective vs Subjective Standards

The Commission's discretion to deny Conditional Use authorizations for Code-compliant development projects is limited by state law. Additionally, Conditional Use authorizations for small-scale residential projects are a significant strain on both the Department's and Commission's time and resources; and prevent the City from accomplishing the Mayor's Objective Directive to streamline housing production.

The Department seeks to encourage projects to maximize density using objective criteria, while allowing for modest expansions of existing non-compliant housing units.

The goal of the interim controls and the proposed legislation is to encourage projects to maximize density in the affected districts, and to discourage projects that seek to build large single-family homes. The Department believes this goal is better served through an objective process, rather than the Conditional Use process, which is subjective and wherein the Commission's discretion is limited. The Department seeks to encourage projects to maximize density using objective criteria, while allowing for modest expansions of existing non-compliant housing units. It is also important to create an easier path for projects that the City considers "ideal" by creating a clear and direct process for their approval.

General Plan Compliance

The Department finds that on balance, the proposed Ordinance is consistent with the General Plan; specifically Housing Element Policy No. 31. Housing Element Policy No. 31 is to: "*Facilitate small and mid-rise multi-family*

buildings that private development can deliver to serve middle-income households without deed restriction, including through adding units in lower density areas or by adding Accessory Dwelling Units (ADUs).” The proposed Ordinance would create density minimums across Residential districts that were designed with greater density in mind. The proposed Ordinance, *with all recommended modifications*, additionally aligns with the Housing Element’s Policies 25 and 26, which focus on reducing governmental constraints to enable small and mid-rise multi-family buildings and simplifying permit processes to provide more equitable access to the application process. The Ordinance, *with staff’s recommended modifications*, accomplishes this by adopting *objective* density minimums across Residential zoning districts that were created with greater Residential density in mind, and by removing additional subjective processes for projects that the City considers ideal.

Racial and Social Equity Analysis

The proposed Ordinance is a positive step in furthering racial and social equity across our denser Residential districts by encouraging the production of multi-unit housing over the construction of new, and expansion of, existing single-family homes. The Housing Element’s overarching goal is to build “housing for all”. The objective standards proposed by the Department create simpler rules that affect housing approvals, which in turn reduces the specific or institutional knowledge needed by City staff, applicants, and members of the public; thereby increasing accessibility. The new minimum density requirements facilitate the building of small and mid-rise multi-family buildings that private development can deliver to serve middle-income households without deed restriction, including through adding units in lower density areas. Furthermore, many of the RM, RC, and RTO districts are in historically exclusive areas. The proposed minimum density requirements in the Ordinance will enable more people, especially marginalized communities, to access neighborhoods that were previously inaccessible to them.

Implementation

The Department has determined that this ordinance will not have a substantial impact on our current implementation procedures.

Recommendation

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department’s proposed recommendations are as follows:

1. Modify the Ordinance to replace the Conditional Use authorization requirement with objective, minimum density standards for new construction projects in the RM, RC, and RTO (except RTO-M) districts as follows:
 - **RM-1:** *at least 75%* of the maximum density. Max density is 1 unit per 800sqft of lot area.
 - **RM-2:** 3 units per lot or *at least 75%* density of maximum density. Max density is 1 unit per 600sqft of lot area.
 - **RM-3 & RC-3:** 3 units per lot or *at least 75%* of the maximum density. Max density is 1 unit per 400sqft of lot area.

- **RM-4:** 3 units per lot or *at least* 75% of the maximum density. Max density is 1 unit per 200sqft of lot area.
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 - **RTO:** *at least* 75% density of maximum density. Max density is 1 unit per 600sqft of lot area.
2. For new construction projects in the subject zoning districts, require that no unit be smaller than 1/3 the size of the largest unit in the building.
 3. Replace the Ordinance’s proposed list of exceptions to minimum densities and unit sizes with a simplified, single exception to the Department’s recommended objective standard for minimum densities and on minimum unit sizes as follows: Expansions of single-family homes may expand their Gross Floor Area by no more than 25% measured over 10 years, or to result in a home more than 3,000sqft, whichever is greater.
 4. Incentivize projects in the subject zoning districts to build “ideal” projects by removing the Conditional Use authorization for demolition (Sec. 317), public-initiated Discretionary Review (DR), and only applying objective residential design standards for projects that:
 - a. Maximize allowable density (not including Accessory Dwelling Units);
 - b. Meet the 1/3-unit proportionality requirements;
 - c. Do not propose demolition of a previously identified (known) Historic Resource;
 - d. Do not propose demolition of a building subject to the Ellis Act within the previous 10 years, and;
 - e. Do not require any exceptions or waivers from Planning Code requirements (other than a CUA under Sec. 317).

Basis for Recommendation

The Department supports the goals of the proposed Ordinance to facilitate and encourage the development of multi-family housing; however, staff believes this goal is better accomplished through a set of objective standards and simplified permit processes for the projects the City considers ideal. Objective minimum densities will curtail the expansion of single-family homes in zoning districts designed to accommodate denser housing typologies and make the City’s vision of moderate-density housing in these districts clear to developers. Removing additional subjective processes like Residential Design Guidelines and CUA’s for demolition for the most ideal projects will further encourage developers to build the maximum density, while keeping units at a more affordable size.

Recommendation 1: Modify the Ordinance to replace the Conditional Use authorization requirement with objective, minimum density standards for new construction projects in the RM, RC, and RTO (except RTO-M) districts. The creation of objective minimum densities not only removes processes wherein the Commission has little discretion, but also makes the City’s goals of added density clear.

Recommendation 2: For new construction projects in the subject zoning districts, require that no unit be smaller than 1/3 the size of the largest unit in the building. Requiring unit proportionality in addition to the proposed

Ordinance's minimum unit sizes ensures that the density that is added are real, livable units, rather than small, non-functional units that will be used as accessory to a larger unit on the property.

Recommendation 3: Replace the Ordinance's proposed list of exceptions to minimum densities and unit sizes with a simplified, single exception to the Department's recommended objective standard for minimum densities and on minimum unit sizes. The Department's analysis of the projects affected by the interim controls supports allowing for modest expansions to existing units. Modest additions do not dramatically affect the affordability of housing and are often to accommodate modern amenities, expanding families, or needed updates. Tracking expansions over the course of a 10-year period will also ensure that homes are not expanded over the allowable threshold through serial permitting.

Recommendation 4: Incentivize projects in the subject zoning districts to build "ideal" projects by removing the Conditional Use authorization for demolition (Sec. 317), public-initiated Discretionary Review (DR), and only applying objective residential design standards for said projects. The City is actively working to remove governmental constraints to buildings the types of housing projects that add modest density to lower density districts, especially those that have been considered historically exclusive. Removing the additional discretionary processes will add certainty, clarity, and time and cost savings to projects, further incentivizing their development.

Required Commission Action

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

Environmental Review

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a direct or indirect physical change in the environment.

Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.